ACTS

OF THE

GENERAL ASSEMBLY

2023 REGULAR SESSION

VOLUME I

VOLUME II

ACTS

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF VIRGINIA

2023 REGULAR SESSION

which met at the State Capitol, Richmond

Convened Wednesday, January 11, 2023

Adjourned sine die Saturday, February 25, 2023

Reconvened Wednesday, April 12, 2023

Adjourned sine die Wednesday, April 12, 2023

VOLUME I

CHAPTERS 1-633

COMMONWEALTH OF VIRGINIA
RICHMOND
2023

Compiled by the Clerk's Office

The House of Delegates

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ACTS OF THE GENERAL ASSEMBLY

2023 REGULAR SESSION

CHAPTER 1

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

[S 882]

Approved February 27, 2023

Be it enacted by the General Assembly of Virginia:

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

§ 58.1-301. Conformity to Internal Revenue Code.

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

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as they existed on December 31, ~~2021~~ *2022*, except for:

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

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

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

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

5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation on itemized deductions under § 68(f) of the Internal Revenue Code;

6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross income;

7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the limitation on business interest; and

10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2), 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9673(2), 9673(3), 9672(2), and 9672(3) of the federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax attributes, and basis increases for certain loan forgiveness and other business financial assistance.

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

2. That the provisions of Chapters 6 and 18 of the Acts of Assembly of 2022, Special Session I, shall become effective upon passage of this act.
3. That an emergency exists and this act is in force from its passage.

CHAPTER 2

An Act to amend the Code of Virginia by adding in Chapter 2 of Title 54.1 a section numbered 54.1-205, relating to Department of Professional and Occupational Regulation; universal license recognition.

[H 2180]

Approved March 3, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 2 of Title 54.1 a section numbered 54.1-205 as follows:

§ 54.1-205. Universal license recognition.

A. The regulatory boards within the Department of Professional and Occupational Regulation shall, upon application by an individual, recognize licenses or certificates issued by another state as fulfillment of qualifications for licensure or government certification in the Commonwealth if the following conditions are met:

1. The individual holds a current and valid professional or occupational license or government certification in another state in a profession or occupation with a similar scope of practice, as determined by the board in the Commonwealth;

2. The individual has held the professional or occupational license or government certification in the other state for at least three years;

3. The board in the other state or state of original licensure required the individual to pass an examination and to meet certain standards related to education, training, or experience;

4. There are no pending investigations or unresolved complaints against the individual, and the board in the other state holds the individual in good standing;

5. The individual does not have a disqualifying criminal record as determined by the board in the Commonwealth in accordance with § 54.1-204;

6. No board in another state has imposed discipline on the licensee, except for discipline involving only a financial penalty and no harm to the health or economic well-being of the public; and

7. The individual pays all applicable fees.

B. The regulatory boards within the Department of Professional and Occupational Regulation shall, upon application by an individual, recognize work experience in another state as fulfillment of qualifications for licensure or government certification in the Commonwealth if the following conditions are met:

1. The individual worked in another state that does not use a professional or occupational license or government certification to regulate a profession or occupation, but the Commonwealth uses a professional or occupational license or government certification to regulate a profession or occupation with a similar scope of practice, as determined by the board;

2. The individual has worked in the profession or occupation for at least three years;

3. The individual passes any examination required by the board of applicants for licensure or certification; and

4. The individual satisfies the conditions outlined in subdivisions A 5, 6, and 7.

C. The regulatory boards within the Department of Professional and Occupational Regulation may require an individual seeking a professional or occupational licensure or government certification pursuant to this section to pass a jurisprudential examination specific to relevant state laws and administrative rules that regulate such profession or occupation if such an examination is required of other applicants for the same license or certification.

D. For purposes of this section, "other state" or "another state" means any state, territory, possession, or jurisdiction of the United States.

E. This section shall not apply to any professional services, as defined in § 2.2-4301.

CHAPTER 3

An Act to amend the Code of Virginia by adding in Chapter 2 of Title 54.1 a section numbered 54.1-205, relating to Department of Professional and Occupational Regulation; universal license recognition.

[S 1213]

Approved March 3, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 2 of Title 54.1 a section numbered 54.1-205 as follows:

§ 54.1-205. Universal license recognition.

A. The regulatory boards within the Department of Professional and Occupational Regulation shall, upon application by an individual, recognize licenses or certificates issued by another state as fulfillment of qualifications for licensure or government certification in the Commonwealth if the following conditions are met:

1. The individual holds a current and valid professional or occupational license or government certification in another state in a profession or occupation with a similar scope of practice, as determined by the board in the Commonwealth;

2. The individual has held the professional or occupational license or government certification in the other state for at least three years;

3. The board in the other state or state of original licensure required the individual to pass an examination and to meet certain standards related to education, training, or experience;

4. There are no pending investigations or unresolved complaints against the individual, and the board in the other state holds the individual in good standing;

5. The individual does not have a disqualifying criminal record as determined by the board in the Commonwealth in accordance with § 54.1-204;

6. No board in another state has imposed discipline on the licensee, except for discipline involving only a financial penalty and no harm to the health or economic well-being of the public; and

7. The individual pays all applicable fees.

B. The regulatory boards within the Department of Professional and Occupational Regulation shall, upon application by an individual, recognize work experience in another state as fulfillment of qualifications for licensure or government certification in the Commonwealth if the following conditions are met:

1. The individual worked in another state that does not use a professional or occupational license or government certification to regulate a profession or occupation, but the Commonwealth uses a professional or occupational license or government certification to regulate a profession or occupation with a similar scope of practice, as determined by the board;

2. The individual has worked in the profession or occupation for at least three years;

3. The individual passes any examination required by the board of applicants for licensure or certification; and

4. The individual satisfies the conditions outlined in subdivisions A 5, 6, and 7.

C. The regulatory boards within the Department of Professional and Occupational Regulation may require an individual seeking a professional or occupational licensure or government certification pursuant to this section to pass a jurisprudential examination specific to relevant state laws and administrative rules that regulate such profession or occupation if such an examination is required of other applicants for the same license or certification.

D. For purposes of this section, "other state" or "another state" means any state, territory, possession, or jurisdiction of the United States.

E. This section shall not apply to any professional services, as defined in § 2.2-4301.

CHAPTER 4

An Act to require the Board of Education to amend certain regulations relating to the evaluation of a child to determine whether the child is in need of special education and related services.

[H 1492]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The Board of Education shall amend subdivisions B 1 g and h of 8VAC20-81-60 and subdivisions H 2 and 3 of 8VAC20-81-70 of the Virginia Administrative Code to permit local educational agencies to shorten the deadline of 65 business days from the date of receipt of referral for an initial evaluation or a reevaluation of a child to determine eligibility for special education and related services.*

CHAPTER 5

An Act to amend and reenact § 23.1-627.4 of the Code of Virginia, relating to certain institutions of higher education; noncredit workforce training program; student grants; reimbursement.

[H 2194]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-627.4 of the Code of Virginia is amended and reenacted as follows:

§ 23.1-627.4. Student grants.

A. Subject to the availability of funds, any eligible student who enrolls in a noncredit workforce training program offered by an eligible institution pursuant to the Program may apply for and be awarded a grant to cover two-thirds of the cost of the noncredit workforce training program, provided that at the time of enrollment the eligible student pays one-third of the cost of the noncredit workforce training program and signs an agreement to complete the noncredit workforce training program or pay an additional one-third of the program cost in the event of noncompletion. Upon the presentation of satisfactory proof of completion of the noncredit workforce training program by the eligible student, the Council shall reimburse the institution in an amount equal to one-third of the cost of the program. Upon the presentation of satisfactory

proof of the attainment of a noncredit workforce credential by the eligible student, the Council shall reimburse the institution in an amount equal to one-third of the cost of the program. However, the Council shall not reimburse any eligible institution more than ~~$3,000~~ *$4,000* per completed noncredit workforce training program per eligible student pursuant to the Program.

B. Grants shall not be reduced by an eligible student's concurrent receipt of financial aid from any other source except in cases in which the grant and such other financial aid would result in total assistance in excess of tuition, fees, books, and other allowable costs of completing the noncredit workforce credential program.

CHAPTER 6

An Act to amend and reenact § 23.1-627.4 of the Code of Virginia, relating to certain institutions of higher education; noncredit workforce training program; student grants; reimbursement.

[S 1422]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-627.4 of the Code of Virginia is amended and reenacted as follows:

§ 23.1-627.4. Student grants.

A. Subject to the availability of funds, any eligible student who enrolls in a noncredit workforce training program offered by an eligible institution pursuant to the Program may apply for and be awarded a grant to cover two-thirds of the cost of the noncredit workforce training program, provided that at the time of enrollment the eligible student pays one-third of the cost of the noncredit workforce training program and signs an agreement to complete the noncredit workforce training program or pay an additional one-third of the program cost in the event of noncompletion. Upon the presentation of satisfactory proof of completion of the noncredit workforce training program by the eligible student, the Council shall reimburse the institution in an amount equal to one-third of the cost of the program. Upon the presentation of satisfactory proof of the attainment of a noncredit workforce credential by the eligible student, the Council shall reimburse the institution in an amount equal to one-third of the cost of the program. However, the Council shall not reimburse any eligible institution more than ~~$3,000~~ *$4,000* per completed noncredit workforce training program per eligible student pursuant to the Program.

B. Grants shall not be reduced by an eligible student's concurrent receipt of financial aid from any other source except in cases in which the grant and such other financial aid would result in total assistance in excess of tuition, fees, books, and other allowable costs of completing the noncredit workforce credential program.

CHAPTER 7

An Act to amend and reenact § 22.1-253.13:4 of the Code of Virginia, relating to deceased high school seniors; waiver of graduation requirements and award of posthumous high school diplomas.

[H 1514]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:4 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-253.13:4. Standard 4. Student achievement and graduation requirements.

A. Each local school board shall award diplomas to all secondary school students, including students who transfer from nonpublic schools or from home instruction, who meet the requirements prescribed by the Board and meet such other requirements as may be prescribed by the local school board and approved by the Board. Provisions shall be made to facilitate the transfer and appropriate grade placement of students from other public secondary schools, from nonpublic schools, or from home instruction as outlined in the standards for accreditation. The standards for accreditation shall include provisions relating to the completion of graduation requirements through Virtual Virginia. Further, reasonable accommodation to meet the requirements for diplomas shall be provided for otherwise qualified students with disabilities as needed.

In addition, each local school board may devise, vis-a-vis the award of diplomas to secondary school students, a mechanism for calculating class rankings that takes into consideration whether the student has taken a required class more than one time and has had any prior earned grade for such required class expunged.

Each local school board shall notify the parents of rising eleventh and twelfth grade students of (i) the requirements for graduation pursuant to the standards for accreditation and (ii) the requirements that have yet to be completed by the individual student.

B. Students identified as disabled who complete the requirements of their individualized education programs and meet certain requirements prescribed by the Board pursuant to regulations but do not meet the requirements for any named diploma shall be awarded Applied Studies diplomas by local school boards. The Board shall develop and implement

statewide requirements for earning an Applied Studies diploma for implementation at the beginning of the 2022-2023 school year.

Each local school board shall notify the parent of such students with disabilities who have an individualized education program and who fail to meet the graduation requirements of the student's right to a free and appropriate education to age 21, inclusive, pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter 13.

The Department shall develop guidance, in multiple languages, for students and parents conveying (i) the limitations of the applied studies diploma, (ii) key curriculum and testing decisions that reduce the likelihood that a student will be able to obtain a standard diploma, and (iii) a statement that the pursuit of an applied studies diploma may preclude a student's ability to pursue a standard diploma.

Each local school board shall provide guidance from the Department to parents of students with disabilities regarding the Applied Studies diploma and its limitations at a student's annual individualized education program meeting corresponding to grades three through 12 when curriculum or statewide assessment decisions are being made that impact the type of diploma for which the student can qualify.

C. Students who have completed a prescribed course of study as defined by the local school board shall be awarded certificates of program completion by local school boards if they are not eligible to receive a Board-approved diploma.

Each local school board shall provide notification of the right to a free public education for students who have not reached 20 years of age on or before August 1 of the school year, pursuant to Chapter 1 (§ 22.1-1 et seq.), to the parent of students who fail to graduate or who have failed to achieve graduation requirements as provided in the standards for accreditation. If such student who does not graduate or complete such requirements is a student for whom English is a second language, the local school board shall notify the parent of the student's opportunity for a free public education in accordance with § 22.1-5.

D. In establishing graduation requirements, the Board shall:

1. Develop and implement, in consultation with stakeholders representing elementary and secondary education, higher education, and business and industry in the Commonwealth and including parents, policymakers, and community leaders in the Commonwealth, a Profile of a Virginia Graduate that identifies the knowledge and skills that students should attain during high school in order to be successful contributors to the economy of the Commonwealth, giving due consideration to critical thinking, creative thinking, collaboration, communication, and citizenship.

2. Emphasize the development of core skill sets in the early years of high school.

3. Establish multiple paths toward college and career readiness for students to follow in the later years of high school. Each such pathway shall include opportunities for internships, externships, and credentialing.

4. Provide for the selection of integrated learning courses meeting the Standards of Learning and approved by the Board to satisfy graduation requirements, which shall include Standards of Learning testing, as necessary.

5. Require students to complete at least one course in fine or performing arts or career and technical education, one course in United States and Virginia history, and two sequential elective courses chosen from a concentration of courses selected from a variety of options that may be planned to ensure the completion of a focused sequence of elective courses that provides a foundation for further education or training or preparation for employment.

6. Require that students (i) complete an Advanced Placement, honors, International Baccalaureate, or dual enrollment course; (ii) complete a high-quality work-based learning experience, as defined by the Board; or (iii) earn a career and technical education credential that has been approved by the Board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to earn credit. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment. The Department shall develop, maintain, and make available to each local school board a catalogue of the testing accommodations available to English language learners for each such certification, examination, assessment, and battery. Each local school board shall develop and implement policies to require each high school principal or his designee to notify each English language learner of the availability of such testing accommodations prior to the student's participation in any such certification, examination, assessment, or battery.

7. Require students to be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation.

8. Make provision in its regulations for students with disabilities to earn a diploma.

9. Require students to complete one virtual course, which may be a noncredit-bearing course.

10. Provide that students who complete elective classes into which the Standards of Learning for any required course have been integrated and achieve a passing score on the relevant Standards of Learning test for the relevant required course receive credit for such elective class.

11. Establish a procedure to facilitate the acceleration of students that allows qualified students, with the recommendation of the division superintendent, without completing the 140-hour class, to obtain credit for such class upon demonstrating mastery of the course content and objectives and receiving a passing score on the relevant Standards of Learning assessment. Nothing in this section shall preclude relevant school division personnel from enforcing compulsory attendance in public schools.

12. Provide for the award of credit for passing scores on industry certifications, state licensure examinations, and national occupational competency assessments approved by the Board.

School boards shall report annually to the Board the number of Board-approved industry certifications obtained, state licensure examinations passed, national occupational competency assessments passed, Armed Services Vocational Aptitude Battery assessments passed, and Virginia workplace readiness skills assessments passed, and the number of career and technical education completers who graduated. These numbers shall be reported as separate categories on the School Performance Report Card.

For the purposes of this subdivision, "career and technical education completer" means a student who has met the requirements for a career and technical concentration or specialization and all requirements for high school graduation or an approved alternative education program.

In addition, the Board may:

a. For the purpose of awarding credit, approve the use of additional or substitute tests for the correlated Standards of Learning assessment, such as academic achievement tests, industry certifications, or state licensure examinations; and

b. Permit students completing career and technical education programs designed to enable such students to pass such industry certification examinations or state licensure examinations to be awarded, upon obtaining satisfactory scores on such industry certification or licensure examinations, appropriate credit for one or more career and technical education classes into which relevant Standards of Learning for various classes taught at the same level have been integrated. Such industry certification and state licensure examinations may cover relevant Standards of Learning for various required classes and may, at the discretion of the Board, address some Standards of Learning for several required classes.

13. Provide for the waiver of certain graduation requirements *and the subsequent award of a high school diploma* (i) upon the Board's initiative ~~or~~, (ii) at the request of a local school board*, or (iii) upon the request of the parent of any high school senior who died in good standing prior to graduation during the student's senior year*. Such waivers shall be granted only for good cause and shall be considered on a case-by-case basis.

14. Consider all computer science course credits earned by students to be science course credits, mathematics course credits, or career and technical education credits. The Board shall develop guidelines addressing how computer science courses can satisfy graduation requirements.

15. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction upon providing the Board with satisfactory proof, based on Board guidelines, that the students for whom such requirements are waived have learned the content and skills included in the relevant Standards of Learning.

16. Provide for the award of verified units of credit for a satisfactory score, as determined by the Board, on the Preliminary ACT (PreACT) or Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT) examination.

17. Permit students to exceed a full course load in order to participate in courses offered by an institution of higher education that lead to a degree, certificate, or credential at such institution.

18. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction after the student has completed the course curriculum and relevant Standards of Learning end-of-course assessment, or Board-approved substitute, provided that such student subsequently receives instruction, coursework, or study toward an industry certification approved by the local school board.

19. Permit any English language learner who previously earned a sufficient score on an Advanced Placement or International Baccalaureate foreign language examination or an SAT II Subject Test in a foreign language to substitute computer coding course credit for any foreign language course credit required to graduate, except in cases in which such foreign language course credit is required to earn an advanced diploma offered by a nationally recognized provider of college-level courses.

20. Permit a student who is pursuing an advanced diploma and whose individualized education program specifies a credit accommodation for world language to substitute two standard units of credit in computer science for two standard units of credit in a world language. For any student that elects to substitute a credit in computer science for credit in world language, his or her school counselor must provide notice to the student and parent or guardian of possible impacts related to college entrance requirements.

E. In the exercise of its authority to recognize exemplary performance by providing for diploma seals:

1. The Board shall develop criteria for recognizing exemplary performance in career and technical education programs by students who have completed the requirements for a Board of Education-approved diploma and shall award seals on the diplomas of students meeting such criteria.

2. The Board shall establish criteria for awarding a diploma seal for science, technology, engineering, and mathematics (STEM) for the Board-approved diplomas. The Board shall consider including criteria for (i) relevant coursework; (ii) technical writing, reading, and oral communication skills; (iii) relevant training; and (iv) industry, professional, and trade association national certifications.

3. The Board shall establish criteria for awarding a diploma seal for excellence in civics education and understanding of our state and federal constitutions and the democratic model of government for the Board-approved diplomas. The Board shall consider including criteria for (i) successful completion of history, government, and civics courses, including courses that incorporate character education; (ii) voluntary participation in community service or extracurricular activities that includes the types of activities that shall qualify as community service and the number of hours required; and (iii) related requirements as it deems appropriate.

4. The Board shall establish criteria for awarding a diploma seal of biliteracy to any student who demonstrates proficiency in English and at least one other language for the Board-approved diplomas. The Board shall consider criteria including the student's (i) score on a College Board Advanced Placement foreign language examination, (ii) score on an SAT II Subject Test in a foreign language, (iii) proficiency level on an ACTFL Assessment of Performance toward Proficiency in Languages (AAPPL) measure or another nationally or internationally recognized language proficiency test, or (iv) cumulative grade point average in a sequence of foreign language courses approved by the Board.

F. The Board shall establish, by regulation, requirements for the award of a general achievement adult high school diploma for those persons who are not subject to the compulsory school attendance requirements of § 22.1-254 and have (i) achieved a passing score on a high school equivalency examination approved by the Board; (ii) successfully completed an education and training program designated by the Board; (iii) earned a Board-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment; and (iv) satisfied other requirements as may be established by the Board for the award of such diploma.

G. To ensure the uniform assessment of high school graduation rates, the Board shall collect, analyze, report, and make available to the public high school graduation and dropout data using a formula prescribed by the Board.

H. The Board shall also collect, analyze, report, and make available to the public high school graduation and dropout data using a formula that excludes any student who fails to graduate because such student is in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement. For the purposes of the Standards of Accreditation, the Board shall use the graduation rate required by this subsection.

I. The Board may promulgate such regulations as may be necessary and appropriate for the collection, analysis, and reporting of such data required by subsections G and H.

CHAPTER 8

An Act to amend and reenact § 2.2-208.1 of the Code of Virginia, relating to the School Readiness Committee; renaming as Commission on Early Childhood Care and Education; purpose; membership; powers and duties.

[H 1423]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-208.1 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-208.1. Commission on Early Childhood Care and Education.

A. In recognition of the fact that early care and education of young children is linked to academic success and workforce readiness, the ~~Secretary of Education, in consultation with the Secretary of Health and Human Resources, and upon receiving recommendations for appointments from the Virginia Education Association, the Virginia School Boards Association, the Virginia Association of Elementary School Principals, the Virginia Council for Private Education, the Virginia Child Care Association, the Virginia Association for Early Childhood Education, the Virginia Head Start Association, the Virginia Alliance for Family Child Care Associations, and the Virginia Chamber of Commerce, shall establish and appoint members to the School Readiness Committee (the Committee)~~ *Commission on Early Childhood Care and Education (the Commission) is hereby established for the purpose of providing recommendations for and tracking progress on the financing of a comprehensive birth-to-five early childhood care and education system as established in § 22.1-289.03 that provides stable, high-quality early childhood care and education services for families who need them the most, empowers parents with choices that meet their needs and preferences, and supports both school readiness and workforce participation*.

B. The ~~Committee~~ *Commission* shall have a total membership of no fewer than ~~27~~ *31* members that shall consist of ~~seven~~ *nine* legislative members, no fewer than ~~16~~ *18* nonlegislative citizen members, and four ex officio members. Members shall be appointed as follows: ~~four~~ *five* members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; ~~three~~ *four* members of the Senate to be appointed by the Senate Committee on Rules on the recommendation of the Chair of the Senate Committee on Education and Health; and no fewer than ~~16~~ *18* nonlegislative citizen members to be appointed by the Secretary of Education. *The Secretary of Education, upon receiving recommendations for appointments from the Virginia Council for Private Education, the Virginia Child Care Association, the Virginia Head Start Association, the Virginia Alliance for Family Child Care Associations, and the Virginia Chamber of Commerce, shall appoint nonlegislative citizen members to the Commission in a manner that ensures representation from each of the nine Ready Regions identified by the Virginia Early Childhood Foundation (Ready Regions).* Nonlegislative citizen members shall include ~~at least three representatives of the office of the Secretary of Education, one representative of the State Council of Higher Education for Virginia, one representative of a baccalaureate public institution of higher education in the Commonwealth with a teacher education program, one representative of an associate-degree-granting public institution of higher education in the Commonwealth with a teacher education program,~~ one representative of the Virginia Early Childhood Foundation, one representative of the Virginia Association of School Superintendents, ~~four~~ *one representative of the Virginia Economic Development Partnership, three executive-level* representatives of the private business sector *who*

each represent different Ready Regions, one ~~early childhood education teacher from a public early childhood education program, one early childhood education teacher from a private early childhood education program~~ *local government representative recommended by the Virginia Association of Counties and the Virginia Municipal League*, one administrator from a public early childhood education program, one administrator from a *faith-based* private early childhood education program, *one administrator from a non-faith-based private early childhood education program,* one administrator from a Head Start program, one administrator from a family child care program*, one representative from an organization advocating for children with disabilities*, ~~and one parent~~ *three parents* or ~~guardian~~ *guardians* of ~~a child~~ *children* who ~~is participating~~ *are age-eligible or who were recently age-eligible to participate* in early childhood care and education in the Commonwealth*, one educator from a public early childhood education program, and one educator from a private early childhood education program*. The ~~Commissioner of Social Services or his designee, the~~ Secretary of Education ~~or his designee, the Secretary of Health and Human Resources or his designee, and~~*, the Secretary of Labor,* the Superintendent of Public Instruction ~~or his designee~~*, and the Commissioner of Social Services, or their designees,* shall serve ex officio with voting privileges.

C. ~~In recognition of the fact that one~~ *The Commission shall have the following powers and duties:*

1. Expand access to and the quality of child care in all regions of the Commonwealth;

2. Analyze all existing and potential new opportunities for financing early childhood care and education programs with a focus on outcomes that are verifiable by data;

3. Retain, grow, and strengthen the quality of the Commonwealth's early childhood care and education workforce;

4. Gather and study information and data to accomplish its purposes as set forth in this section;

5. Gather and analyze data on the current and the projected five-year availability, quality, cost, and affordability of early childhood care and education throughout the Commonwealth for children from birth to age five, determine needs and priorities for early childhood care and education, and develop funding recommendations focused on family choice, access, affordability, and quality, giving due consideration to potential unforeseen impacts of funding and policy changes on the early childhood care and education sector;

6. Annually report on specific expenditures, outcomes, and impact, including the number of children served, demographics, child-level assessment data via the Virginia Kindergarten Readiness Program (VKRP), classroom-level assessment data via the Unified Virginia Quality Birth to Five System (VQB5), teacher turnover and retention data, and parental employment data;

7. Support the development of an integrated early childhood longitudinal data process to capture and link access, quality, and educator data with preschool growth and school readiness outcome data through third grade and facilitate the sharing and use of such data and the seamless integration of the early childhood longitudinal data process with other student longitudinal data systems and processes; and

8. Monitor and support ongoing research and evaluation conducted by the Department of Education, the University of Virginia, and the Virginia Early Childhood Foundation, and any other higher education or research institutions as deemed relevant, to continuously improve the quality of early childhood care and education services in the Commonwealth.

D. One of the most important factors in learning outcomes for young children is ~~the capabilities,~~ *exposure to high-quality teacher-student interactions made possible through the hiring, training, and retention of skilled educators who support their growth and learning. In recognizing the importance of strong professional* supports~~,~~ and *competitive* compensation ~~of the~~ *to retaining skilled* educators ~~who support their growth and learning~~, the ~~primary goal of the Committee is to provide recommendations for and track progress on the financing of a comprehensive birth-to-five early childhood care and education system in the Commonwealth that addresses both affordability for families and adequate compensation for educators~~ *Commission shall prioritize financing early childhood care and education services using the Department of Education's cost of quality estimation model. Adoption of this model will ensure that early childhood care and education programs are resourced to attract and retain talented educators and consistently deliver high-quality services, yielding strong school readiness and literacy outcomes for participating young children*. As part of this effort, the ~~Committee~~ *Commission* should consider best practices and innovations in the private and public sector from across the Commonwealth and the country. The ~~Committee~~ *Commission* should consider different sources of revenue and establish long-term goals and targets for affordable access to quality care and education for all birth-to-five children in the Commonwealth. Based on disparities in school readiness outcomes, the ~~Committee~~ *Commission* should ensure that all recommendations ~~address societal inequities and~~ address the needs of the Commonwealth's ~~more~~ *most* vulnerable children, families, and early childhood educators. The ~~Committee~~ *Commission* shall ~~periodically~~ review the goals set forth in this subsection and other priorities within the early childhood care and education ~~systems~~ *system* and ~~make~~ *submit no later than October 1 of each year* recommendations to ~~the Board of Education, the State Council of Higher Education for Virginia, the Department of Social Services, and the Chairmen of the House Committee on Education, the Senate Committee on Education and Health, the House Committee on Health, Welfare and Institutions, and the Senate Committee on Rehabilitation and Social Services. The Board of Education shall review the recommendations of the Committee and submit to~~ *the Governor and* the Chairmen of the House Committee on *Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on Commerce and Energy, the Senate Committee on Commerce and Labor, the House Committee on* Education, and the Senate Committee on Education and Health~~, in advance of the next regular session of the General Assembly, any comments on such recommendations that the Board of Education deems appropriate~~. *The*

Commission shall also post such recommendations on its website in a manner and format that ensure ease of access by interested parents and other members of the public.

~~D.~~ *E.* Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All legislative members and nonlegislative citizen members may be reappointed.

~~E.~~ *F.* After the initial staggering of terms, legislative members and nonlegislative citizen members shall be appointed for terms of three years.

~~F.~~ *G.* No legislative member or nonlegislative citizen member shall serve more than two consecutive three-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

~~G.~~ *H.* The ~~Committee~~ *Commission* shall elect a chairman and vice-chairman from among its membership. *The chairman shall be a legislative member. The vice-chairman shall be a nonlegislative citizen member who is an executive-level representative of the private business sector.* A majority of the members shall constitute a quorum. The meetings of the ~~Committee~~ *Commission* shall be held *at least four times per year* at the call of the chairman or whenever the majority of the members so request.

~~H.~~ *I. Recommendations and other actions by the Commission shall require an affirmative vote of a majority of the members of the Commission.*

J. The Virginia Early Childhood Foundation shall provide for the facilitation of the work of the ~~Committee~~ *Commission* under the direction of the Secretary of Education or his designee and with the guidance of a steering ~~subcommittee~~ *committee* that includes the Secretary of Education, the Secretary of ~~Health and Human Resources~~ *Labor*, one legislative member, one *executive-level* representative of the private business sector, one representative of the Virginia Early Childhood Foundation, and one ~~early childhood education teacher or administrator from a private early childhood education program~~ *parent or guardian of a child who is age-eligible or was recently age-eligible to participate in early childhood care and education in the Commonwealth*.

~~I.~~ *K.* The chairman may request and access the expertise of additional representatives and organizations relating to the ~~Committee's~~ *Commission's* goals and priorities. ~~In order to meet the federally mandated requirements for early childhood advisory councils, the chairman may establish and appoint additional members to advisory subcommittees to address areas of special concern and priority.~~

~~J. The Department of Education and the Department of Social Services shall provide staff support to the Committee. All agencies of the Commonwealth shall provide assistance to the Committee, upon request~~

L. The Commission may appoint, employ, and remove an executive director and such other persons as it deems necessary, and determine their duties and fix their salaries or compensation within the amounts appropriated therefor. The Commission may also employ experts who have special knowledge of the issues before it.

M. The Commission may request and shall receive from every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is party, or from any political subdivision of the Commonwealth, cooperation and assistance in the performance of its duties.

2. That the initial appointments of nonlegislative citizen members by the Secretary of Education shall be staggered as follows: five members for a term of one year, six members for a term of two years, and seven members for a term of three years.

3. That the terms of the current members of the School Readiness Committee shall expire on the effective date of this act.

CHAPTER 9

An Act to amend and reenact § 2.2-208.1 of the Code of Virginia, relating to the School Readiness Committee; renaming as Commission on Early Childhood Care and Education; purpose; membership; powers and duties.

[S 1404]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-208.1 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-208.1. Commission on Early Childhood Care and Education.

A. In recognition of the fact that early care and education of young children is linked to academic success and workforce readiness, the ~~Secretary of Education, in consultation with the Secretary of Health and Human Resources, and upon receiving recommendations for appointments from the Virginia Education Association, the Virginia School Boards Association, the Virginia Association of Elementary School Principals, the Virginia Council for Private Education, the Virginia Child Care Association, the Virginia Association for Early Childhood Education, the Virginia Head Start Association, the Virginia Alliance for Family Child Care Associations, and the Virginia Chamber of Commerce, shall establish and appoint members to the School Readiness Committee (the Committee)~~ *Commission on Early Childhood Care and Education (the Commission) is hereby established for the purpose of providing recommendations for and tracking progress on the financing of a comprehensive birth-to-five early childhood care and education system as established in*

§ 22.1-289.03 that provides stable, high-quality early childhood care and education services for families who need them the most, empowers parents with choices that meet their needs and preferences, and supports both school readiness and workforce participation.

B. The ~~Committee~~ *Commission* shall have a total membership of no fewer than ~~27~~ *31* members that shall consist of ~~seven~~ *nine* legislative members, no fewer than ~~16~~ *18* nonlegislative citizen members, and four ex officio members. Members shall be appointed as follows: ~~four~~ *five* members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; ~~three~~ *four* members of the Senate to be appointed by the Senate Committee on Rules on the recommendation of the Chair of the Senate Committee on Education and Health; and no fewer than ~~16~~ *18* nonlegislative citizen members to be appointed by the Secretary of Education. *The Secretary of Education, upon receiving recommendations for appointments from the Virginia Council for Private Education, the Virginia Child Care Association, the Virginia Head Start Association, the Virginia Alliance for Family Child Care Associations, and the Virginia Chamber of Commerce, shall appoint nonlegislative citizen members to the Commission in a manner that ensures representation from each of the nine Ready Regions identified by the Virginia Early Childhood Foundation (Ready Regions).* Nonlegislative citizen members shall include ~~at least three representatives of the office of the Secretary of Education, one representative of the State Council of Higher Education for Virginia, one representative of a baccalaureate public institution of higher education in the Commonwealth with a teacher education program, one representative of an associate degree-granting public institution of higher education in the Commonwealth with a teacher education program,~~ one representative of the Virginia Early Childhood Foundation, one representative of the Virginia Association of School Superintendents, ~~four~~ *one representative of the Virginia Economic Development Partnership, three executive-level* representatives of the private business sector *who each represent different Ready Regions*, one ~~early childhood education teacher from a public early childhood education program, one early childhood education teacher from a private early childhood education program~~ *local government representative recommended by the Virginia Association of Counties and the Virginia Municipal League*, one administrator from a public early childhood education program, one administrator from a *faith-based* private early childhood education program, *one administrator from a non-faith-based private early childhood education program,* one administrator from a Head Start program, one administrator from a family child care program*, one representative from an organization advocating for children with disabilities*, ~~and one parent~~ *three parents* or ~~guardian~~ *guardians* of ~~a child~~ *children* who ~~is participating~~ *are age-eligible or who were recently age-eligible to participate* in early childhood care and education in the Commonwealth*, one educator from a public early childhood education program, and one educator from a private early childhood education program*. The ~~Commissioner of Social Services or his designee, the~~ Secretary of Education ~~or his designee, the Secretary of Health and Human Resources or his designee, and~~*, the Secretary of Labor,* the Superintendent of Public Instruction ~~or his designee~~*, and the Commissioner of Social Services, or their designees,* shall serve ex officio with voting privileges.

C. ~~In recognition of the fact that one~~ *The Commission shall have the following powers and duties:*

1. Expand access to and the quality of child care in all regions of the Commonwealth;

2. Analyze all existing and potential new opportunities for financing early childhood care and education programs with a focus on outcomes that are verifiable by data;

3. Retain, grow, and strengthen the quality of the Commonwealth's early childhood care and education workforce;

4. Gather and study information and data to accomplish its purposes as set forth in this section;

5. Gather and analyze data on the current and the projected five-year availability, quality, cost, and affordability of early childhood care and education throughout the Commonwealth for children from birth to age five, determine needs and priorities for early childhood care and education, and develop funding recommendations focused on family choice, access, affordability, and quality, giving due consideration to potential unforeseen impacts of funding and policy changes on the early childhood care and education sector;

6. Annually report on specific expenditures, outcomes, and impact, including the number of children served, demographics, child-level assessment data via the Virginia Kindergarten Readiness Program (VKRP), classroom-level assessment data via the Unified Virginia Quality Birth to Five System (VQB5), teacher turnover and retention data, and parental employment data;

7. Support the development of an integrated early childhood longitudinal data process to capture and link access, quality, and educator data with preschool growth and school readiness outcome data through third grade and facilitate the sharing and use of such data and the seamless integration of the early childhood longitudinal data process with other student longitudinal data systems and processes; and

8. Monitor and support ongoing research and evaluation conducted by the Department of Education, the University of Virginia, and the Virginia Early Childhood Foundation, and any other higher education or research institutions as deemed relevant, to continuously improve the quality of early childhood care and education services in the Commonwealth.

D. One of the most important factors in learning outcomes for young children is ~~the capabilities,~~ *exposure to high-quality teacher-student interactions made possible through the hiring, training, and retention of skilled educators who support their growth and learning. In recognizing the importance of strong professional* supports~~,~~ and *competitive* compensation ~~of the~~ *to retaining skilled* educators ~~who support their growth and learning~~, the ~~primary goal of the Committee is to provide recommendations for and track progress on the financing of a comprehensive birth-to-five early childhood care and education system in the Commonwealth that addresses both affordability for families and adequate~~

~~compensation for educators~~ *Commission shall prioritize financing early childhood care and education services using the Department of Education's cost of quality estimation model. Adoption of this model will ensure that early childhood care and education programs are resourced to attract and retain talented educators and consistently deliver high-quality services, yielding strong school readiness and literacy outcomes for participating young children.* As part of this effort, the ~~Committee~~ *Commission* should consider best practices and innovations in the private and public sector from across the Commonwealth and the country. The ~~Committee~~ *Commission* should consider different sources of revenue and establish long-term goals and targets for affordable access to quality care and education for all birth-to-five children in the Commonwealth. Based on disparities in school readiness outcomes, the ~~Committee~~ *Commission* should ensure that all recommendations ~~address societal inequities and~~ address the needs of the Commonwealth's ~~more~~ *most* vulnerable children, families, and early childhood educators. The ~~Committee~~ *Commission* shall ~~periodically~~ review the goals set forth in this subsection and other priorities within the early childhood care and education ~~systems~~ *system* and ~~make~~ *submit no later than October 1 of each year* recommendations to ~~the Board of Education, the State Council of Higher Education for Virginia, the Department of Social Services, and the Chairmen of the House Committee on Education, the Senate Committee on Education and Health, the House Committee on Health, Welfare and Institutions, and the Senate Committee on Rehabilitation and Social Services. The Board of Education shall review the recommendations of the Committee and submit to~~ *the Governor and* the Chairmen of the House Committee on *Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on Commerce and Energy, the Senate Committee on Commerce and Labor, the House Committee on* Education, and the Senate Committee on Education and Health~~, in advance of the next regular session of the General Assembly, any comments on such recommendations that the Board of Education deems appropriate~~. *The Commission shall also post such recommendations on its website in a manner and format that ensure ease of access by interested parents and other members of the public.*

~~D.~~ *E.* Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All legislative members and nonlegislative citizen members may be reappointed.

~~E.~~ *F.* After the initial staggering of terms, legislative members and nonlegislative citizen members shall be appointed for terms of three years.

~~F.~~ *G.* No legislative member or nonlegislative citizen member shall serve more than two consecutive three-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

~~G.~~ *H.* The ~~Committee~~ *Commission* shall elect a chairman and vice-chairman from among its membership. *The chairman shall be a legislative member. The vice-chairman shall be a nonlegislative citizen member who is an executive-level representative of the private business sector.* A majority of the members shall constitute a quorum. The meetings of the ~~Committee~~ *Commission* shall be held *at least four times per year* at the call of the chairman or whenever the majority of the members so request.

~~H.~~ *I. Recommendations and other actions by the Commission shall require an affirmative vote of a majority of the members of the Commission.*

J. The Virginia Early Childhood Foundation shall provide for the facilitation of the work of the ~~Committee~~ *Commission* under the direction of the Secretary of Education or his designee and with the guidance of a steering ~~subcommittee~~ *committee* that includes the Secretary of Education, the Secretary of ~~Health and Human Resources~~ *Labor*, one legislative member, one *executive-level* representative of the private business sector, one representative of the Virginia Early Childhood Foundation, and one ~~early childhood education teacher or administrator from a private early childhood education program~~ *parent or guardian of a child who is age-eligible or was recently age-eligible to participate in early childhood care and education in the Commonwealth.*

~~I.~~ *K.* The chairman may request and access the expertise of additional representatives and organizations relating to the ~~Committee's~~ *Commission's* goals and priorities. ~~In order to meet the federally mandated requirements for early childhood advisory councils, the chairman may establish and appoint additional members to advisory subcommittees to address areas of special concern and priority.~~

~~J. The Department of Education and the Department of Social Services shall provide staff support to the Committee. All agencies of the Commonwealth shall provide assistance to the Committee, upon request~~ *L. The Commission may appoint, employ, and remove an executive director and such other persons as it deems necessary, and determine their duties and fix their salaries or compensation within the amounts appropriated therefor. The Commission may also employ experts who have special knowledge of the issues before it.*

M. The Commission may request and shall receive from every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is party, or from any political subdivision of the Commonwealth, cooperation and assistance in the performance of its duties.

2. That the initial appointments of nonlegislative citizen members by the Secretary of Education shall be staggered as follows: five members for a term of one year, six members for a term of two years, and seven members for a term of three years.

3. That the terms of the current members of the School Readiness Committee shall expire on the effective date of this act.

CHAPTER 10

An Act to amend and reenact § 22.1-289.030 of the Code of Virginia, relating to child day programs; exemption from licensure; certain programs offered by local school divisions.

[H 1698]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-289.030 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-289.030. Exemptions from licensure.

A. The following programs are not child day programs and shall not be required to be licensed:

1. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

2. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances, and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.

3. Instructional programs offered by private schools that serve school-age children and that satisfy compulsory attendance laws or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

4. Instructional programs offered by public schools that serve preschool-age children, satisfy compulsory attendance laws, or provide services under the Individuals with Disabilities Education Act *(20 U.S.C. § 1400 et seq.)*, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

5. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act *(20 U.S.C. § 1431 et seq.)*, as amended, wherein no child attends for more than a total of six hours per week.

6. Practice or competition in organized competitive sports leagues.

7. Programs of religious instruction, such as Sunday schools, vacation Bible schools, Bar Mitzvah or Bat Mitzvah classes, and nurseries offered by religious institutions and provided for the duration of specified religious services or related activities to allow parents or guardians or their designees who are on site to attend such religious services and activities.

8. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.

B. The following child day programs shall not be required to be licensed:

1. A child day center that has obtained an exemption pursuant to § 22.1-289.031.

2. A program where, by written policy given to and signed by a parent or guardian, school-age children are free to enter and leave the premises without permission. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection, and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

3. A program that operates no more than a total of 20 program days in the course of a calendar year, provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.

4. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) can be contacted and can resume responsibility for the child's supervision within 30 minutes and (ii) is receiving or providing services or participating in activities offered by the establishment.

5. A certified preschool or nursery school program operated by an accredited private school as set forth in § 22.1-19 and administered by the Virginia Council for Private Education that complies with the provisions of § 22.1-289.032.

6. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by the local government offering the program.

7. A program offered by a local school division, operated for no more than four hours per day *on full instructional days or for more than four hours per day on shortened instructional days or noninstructional days*, staffed by local school division employees, and attended by children who are at least three years of age and are enrolled in public school or a preschool program within such school division. Such programs shall be subject to safety and supervisory standards established by the local school division offering the program.

8. Child-minding services offered by a business on the premises of the business to no more than four children under the age of 13 at any given time and for no more than eight hours per day, provided that the parent or guardian of every child receiving care is an employee of the business who is on the premises of the business and can resume responsibility for the child's supervision within 30 minutes upon request.

9. A program offered by a private school accredited by and in good standing with the Virginia Council for Private Education, operated for no more than four hours per day, staffed by the accredited private school's employees, and attended by children who are at least five years of age and are enrolled in the accredited private school. Such programs shall be subject to safety and supervisory standards established by the Virginia Council for Private Education.

C. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1 or 5, shall:

1. File with the Superintendent annually and prior to beginning operation of a child day program a statement indicating the intent to operate a child day program, identifying the specific provision of this section relied upon for exemption from licensure, and certifying that the child day program has disclosed in writing to the parents or guardians of the children in the program the fact that it is exempt from licensure;

2. Report to the Superintendent all incidents involving serious physical injury to or death of children attending the child day program. Reports of serious physical injuries, which shall include any physical injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the death occurred; and

3. Post in a visible location on the premises notice that the child day program is operating as a program exempt from licensure with basic health and safety requirements but has no direct oversight by the Department.

D. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1, 5, 6, or 7 shall:

1. Have a person trained and certified in first aid and cardiopulmonary resuscitation present at the child day program whenever children are present or at any other location in which children attending the child day program are present;

2. Maintain daily attendance records that document the arrival and departure of all children;

3. Have an emergency preparedness plan in place;

4. Comply with all applicable laws and regulations governing transportation of children; and

5. Comply with all safe sleep guidelines recommended by the American Academy of Pediatrics.

E. The Superintendent shall inspect child day programs that are exempt from licensure pursuant to subsection B to determine compliance with the provisions of this section only upon receipt of a complaint, except as otherwise provided by law.

F. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Superintendent.

CHAPTER 11

An Act for the relief of Michael Haas, relating to claims; compensation for wrongful incarceration.

[H 1463]

Approved March 16, 2023

Whereas, Michael Haas (Mr. Haas) was convicted in the Circuit Court of Powhatan County on July 22, 1994, of the felony offenses of forcibly sodomizing his two sons, crimes that he did not commit; and

Whereas, Mr. Haas was sentenced to two terms of life imprisonment, to be served concurrently for such conviction; and

Whereas, Mr. Haas served 23 years and six months in the custody of the Virginia Department of Corrections; and

Whereas, Mr. Haas's sons testified at his trial that he sexually abused them on multiple occasions and forensic evidence presented at the time substantiated such claims; and

Whereas, both sons of Mr. Haas recanted their accusations of forcible sodomy shortly after the trial and conviction; and

Whereas, Mr. Haas began pursuing exoneration at that time; and

Whereas, Mr. Haas secured the assistance of the Mid-Atlantic Innocence Project beginning in 2014 to investigate his case; and

Whereas, Mr. Haas was released from prison on December 19, 2017, placed on parole, and was required to register as a sex offender; and

Whereas, the Mid-Atlantic Innocence Project obtained further recanting affidavits from Mr. Haas's sons and uncovered evidence that his sons were coerced to testify as to the forcible sodomy by their mother and their counselor, rendering their accusations and trial testimony unreliable; and

Whereas, in the time since Mr. Haas's conviction, advances in the field of sexual abuse pediatrics have developed; and

Whereas, under currently accepted sexual abuse pediatric standards, the physical examinations of Mr. Haas's sons evidenced no indicia of abuse; and

Whereas, Mr. Haas pursued a writ of actual innocence in the Virginia Court of Appeals on July 30, 2020; and

Whereas, former Attorney General Mark Herring and current Attorney General Jason Miyares both investigated Mr. Haas's case and determined that Mr. Haas is innocent of the crimes for which he was convicted, had been wrongfully convicted, and should be entitled to a writ of actual innocence; and

Whereas, the Virginia Court of Appeals granted Mr. Haas's petition and issued a writ of actual innocence based on nonbiological evidence, vacating his convictions on April 19, 2022, pursuant to Chapter 19.3 (§ 19.2-327.10 et seq.) of Title 19.2 of the Code of Virginia; and

Whereas, Mr. Haas, as a result of his wrongful incarceration, lost 23 years and six months of his freedom and countless life experiences and opportunities, including family relations, the opportunity to further his education, and the opportunity to earn potential income from gainful employment during his years of incarceration; and

Whereas, Mr. Haas has no other means to obtain adequate relief except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That there is hereby appropriated from the general fund of the state treasury the sum of $1,530,653 for the relief of Michael Haas, to be paid by check issued by the State Treasurer on warrant of the Comptroller upon execution of a release of all claims Mr. Haas may have against the Commonwealth or any agency, instrumentality, office, employee, or political subdivision in connection with the aforesaid occurrence.*

As Mr. Haas is older than 60 years of age, the compensation, subject to the execution of the release described herein, shall be paid in one lump sum of $1,530,653 by check issued by the State Treasurer on warrant of the Comptroller within 60 days immediately following the execution of such release.

§ 2. That Mr. Haas shall receive a transition assistance grant of $15,000 within 30 days of receipt of the written request for the disbursement of such transition assistance grant to the Executive Secretary of the Supreme Court of Virginia. Any amount paid to Mr. Haas as a transition assistance grant pursuant to subsection D of § 8.01-195.11 of the Code of Virginia shall be deducted from any award received pursuant to § 1 of this act.

§ 3. That Mr. Haas shall be entitled to receive career and technical training within the Virginia Community College System free of tuition charges, up to a maximum of $10,000. The tuition benefit shall be paid by the community college at which the career or technical training is provided. The tuition benefit provided by this section shall expire on January 1, 2027.

2. That the provisions of § 8.01-195.12 of the Code of Virginia shall apply to any compensation awarded under this act.

CHAPTER 12

An Act for the relief of Michael Haas, relating to claims; compensation for wrongful incarceration.

[S 928]

Approved March 16, 2023

Whereas, Michael Haas (Mr. Haas) was convicted in the Circuit Court of Powhatan County on July 22, 1994, of the felony offenses of forcibly sodomizing his two sons, crimes that he did not commit; and

Whereas, Mr. Haas was sentenced to two terms of life imprisonment, to be served concurrently for such conviction; and

Whereas, Mr. Haas served 23 years and six months in the custody of the Virginia Department of Corrections; and

Whereas, Mr. Haas's sons testified at his trial that he sexually abused them on multiple occasions and forensic evidence presented at the time substantiated such claims; and

Whereas, both sons of Mr. Haas recanted their accusations of forcible sodomy shortly after the trial and conviction; and

Whereas, Mr. Haas began pursuing exoneration at that time; and

Whereas, Mr. Haas secured the assistance of the Mid-Atlantic Innocence Project beginning in 2014 to investigate his case; and

Whereas, Mr. Haas was released from prison on December 19, 2017, placed on parole, and was required to register as a sex offender; and

Whereas, the Mid-Atlantic Innocence Project obtained further recanting affidavits from Mr. Haas's sons and uncovered evidence that his sons were coerced to testify as to the forcible sodomy by their mother and their counselor, rendering their accusations and trial testimony unreliable; and

Whereas, in the time since Mr. Haas's conviction, advances in the field of sexual abuse pediatrics have developed; and

Whereas, under currently accepted sexual abuse pediatric standards, the physical examinations of Mr. Haas's sons evidenced no indicia of abuse; and

Whereas, Mr. Haas pursued a writ of actual innocence in the Virginia Court of Appeals on July 30, 2020; and

Whereas, former Attorney General Mark Herring and current Attorney General Jason Miyares both investigated Mr. Haas's case and determined that Mr. Haas is innocent of the crimes for which he was convicted, had been wrongfully convicted, and should be entitled to a writ of actual innocence; and

Whereas, the Virginia Court of Appeals granted Mr. Haas's petition and issued a writ of actual innocence based on nonbiological evidence, vacating his convictions on April 19, 2022, pursuant to Chapter 19.3 (§ 19.2-327.10 et seq.) of Title 19.2 of the Code of Virginia; and

Whereas, Mr. Haas, as a result of his wrongful incarceration, lost 23 years and six months of his freedom and countless life experiences and opportunities, including family relations, the opportunity to further his education, and the opportunity to earn potential income from gainful employment during his years of incarceration; and

Whereas, Mr. Haas has no other means to obtain adequate relief except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That there is hereby appropriated from the general fund of the state treasury the sum of $1,530,653 for the relief of Michael Haas, to be paid by check issued by the State Treasurer on warrant of the Comptroller upon execution of a release of all claims Mr. Haas may have against the Commonwealth or any agency, instrumentality, office, employee, or political subdivision in connection with the aforesaid occurrence.*

As Mr. Haas is older than 60 years of age, the compensation, subject to the execution of the release described herein, shall be paid in one lump sum of $1,530,653 by check issued by the State Treasurer on warrant of the Comptroller within 60 days immediately following the execution of such release.

§ 2. That Mr. Haas shall receive a transition assistance grant of $15,000 within 30 days of receipt of the written request for the disbursement of such transition assistance grant to the Executive Secretary of the Supreme Court of Virginia. Any amount paid to Mr. Haas as a transition assistance grant pursuant to subsection D of § 8.01-195.11 of the Code of Virginia shall be deducted from any award received pursuant to § 1 of this act.

§ 3. That Mr. Haas shall be entitled to receive career and technical training within the Virginia Community College System free of tuition charges, up to a maximum of $10,000. The tuition benefit shall be paid by the community college at which the career or technical training is provided. The tuition benefit provided by this section shall expire on January 1, 2027.

2. That the provisions of § 8.01-195.12 of the Code of Virginia shall apply to any compensation awarded under this act.

CHAPTER 13

An Act for the relief of David Wayne Kingrea, relating to claims; compensation for wrongful incarceration.

[H 1582]

Approved March 16, 2023

Whereas, David Wayne Kingrea (Mr. Kingrea) was convicted in 2014 in the Montgomery County Circuit Court of the felony offense of taking indecent liberties with Mr. Smith, the minor son of his then-girlfriend, a crime that he did not commit; and

Whereas, Mr. Kingrea was sentenced to 12 months in jail for such conviction and was required to register as a sex offender; and

Whereas, Mr. Kingrea served 12 months in the custody of the Virginia Department of Corrections; and

Whereas, Mr. Smith testified at Mr. Kingrea's trial that Mr. Kingrea sexually abused him on multiple occasions; and

Whereas, Mr. Smith recanted his testimony in October 2020; and

Whereas, Mr. Kingrea began pursuing exoneration at that time; and

Whereas, Mr. Kingrea pursued a writ of actual innocence in the Virginia Court of Appeals on August 19, 2021; and

Whereas, the Virginia Court of Appeals granted Mr. Kingrea's petition and issued a writ of actual innocence, vacating his convictions on June 6, 2022, pursuant to Chapter 19.3 (§ 19.2-327.10 et seq.) of Title 19.2 of the Code of Virginia; and

Whereas, Mr. Kingrea, as a result of his wrongful incarceration, lost 12 months of his freedom and countless life experiences and opportunities, including family relations, the opportunity to further his education, and the opportunity to earn potential income from gainful employment during the year of his incarceration; and

Whereas, Mr. Kingrea has no other means to obtain adequate relief except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That there is hereby appropriated from the general fund of the state treasury the sum of $58,942 for the relief of David Wayne Kingrea, to be paid by check issued by the State Treasurer on warrant of the Comptroller upon execution of a release of all claims Mr. Kingrea may have against the Commonwealth or any agency, instrumentality, office, employee, or political subdivision in connection with the aforesaid occurrence.*

The compensation, subject to the execution of the release described herein, shall be paid in (i) an initial lump sum of $30,353 by check issued by the State Treasurer on warrant of the Comptroller within 60 days immediately following the execution of such release and (ii) the sum of $28,589 to purchase an annuity no later than one year after the effective date of the appropriation for compensation, for the primary benefit of Mr. Kingrea, the terms of such annuity structured in Mr. Kingrea's best interests based on consultation among Mr. Kingrea or his representatives, the State Treasurer, and other necessary parties.

The State Treasurer shall purchase the annuity at the lowest cost available from any A+ rated company authorized to sell annuities in the Commonwealth, including any A+ rated company from which the State Lottery Department may purchase an annuity. The annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages. The annuity shall, however, contain beneficiary provisions providing for the annuity's continued disbursement in the event of Mr. Kingrea's death.

§ 2. That Mr. Kingrea shall receive a transition assistance grant of $15,000 within 30 days of receipt of the written request for the disbursement of such transition assistance grant to the Executive Secretary of the Supreme Court of Virginia. Any amount paid to Mr. Kingrea as a transition assistance grant pursuant to subsection D of § 8.01-195.11 of the Code of Virginia shall be deducted from the initial lump sum amount of any award received pursuant to § 1 of this act.

§ 3. That Mr. Kingrea shall be entitled to receive career and technical training within the Virginia Community College System free of tuition charges, up to a maximum of $10,000. The tuition benefit shall be paid by the community college at which the career or technical training is provided. The tuition benefit provided by this section shall expire on January 1, 2027.

2. That the provisions of § 8.01-195.12 of the Code of Virginia shall apply to any compensation awarded under this act.

CHAPTER 14

An Act to amend and reenact §§ 58.1-3703.1 and 58.1-3916 of the Code of Virginia, relating to local business taxes; penalties.

[H 1685]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3703.1 and 58.1-3916 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3703.1. Uniform ordinance provisions.

A. Every ordinance levying a license tax pursuant to this chapter shall include provisions substantially similar to this subsection. As they apply to license taxes, the provisions required by this section shall override any limitations or requirements in Chapter 39 (§ 58.1-3900 et seq.) to the extent that they are in conflict.

1. License requirement. Every person shall apply for a license for each business or profession when engaging in a business in this jurisdiction if (i) the person has a definite place of business in this jurisdiction; (ii) there is no definite place of business anywhere and the person resides in this jurisdiction; or (iii) there is no definite place of business in this jurisdiction but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to § 58.1-3715, or public service corporation. A separate license shall be required for each definite place of business and for each business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: (a) each business or profession is subject to licensure at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of this jurisdiction; (b) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (c) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

Notwithstanding the foregoing, the governing body of any county, city, or town with a population greater than 50,000 may waive the license requirements provided herein for businesses with gross receipts of $200,000 or less.

2. Due dates and penalties.

a. Each person subject to a license tax shall apply for a license prior to beginning business if he was not subject to licensure in this jurisdiction on or before January 1 of the license year, or no later than March 1 of the license year if he had been issued a license for the preceding year. Any locality is authorized to adopt a later application date that is on or before May 1 of the license year. The application shall be on forms prescribed by the assessing official*, which forms and accompanying communications shall clearly set out the due date for the application and the amount of any penalty to be charged for late filing of the application, the underpayment of estimated tax, and late payment of tax*.

b. The tax shall be paid with the application in the case of any license not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before the locality's fixed due date for filing license applications or a later date, including installment payment dates, or 30 or more days after beginning business, at the locality's option.

c. The assessing official may grant an extension of time in which to file an application for a license, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax; the tax is then subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of 10 percent of the portion paid after the due date.

d. A penalty of 10 percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days, the treasurer or other collecting official may

impose a 10 percent late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

"Acted responsibly" means that (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

"Events beyond the taxpayer's control" include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

e. Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and any penalties charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any BPOL tax from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under § 58.1-3916.

No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, provided the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

f. Any bill issued by the treasurer or other collecting official that includes, and any communication from the assessing official that imposes, a penalty pursuant to subdivision c or d or interest pursuant to subdivision e shall separately state the total amount of tax owed, the amount of any interest assessed, and the amount of the penalty imposed.

3. Situs of gross receipts.

a. General rule. Whenever the tax imposed by this ordinance is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a privilege subject to licensure at a definite place of business within this jurisdiction. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of § 58.1-3715;

(2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the Department of Taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality;

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then to the definite place of business at which the rental of such property is managed; and

(4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then to the definite place of business from which the services are directed or controlled.

b. Apportionment. If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to this jurisdiction solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

c. Agreements. The assessor may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of its gross receipts

from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the assessor or taxpayer may seek an advisory opinion from the Department of Taxation pursuant to § 58.1-3701; notice of the request shall be given to the other party. Notwithstanding the provisions of § 58.1-3993, when a taxpayer has demonstrated to a court that two or more political subdivisions of Virginia have assessed taxes on gross receipts that may create a double assessment within the meaning of § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

4. Limitations and extensions.

a. Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this ordinance, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

b. Notwithstanding § 58.1-3903, the assessing official shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding license years.

c. The period for collecting any local license tax shall not expire prior to the period specified in § 58.1-3940, two years after the date of assessment if the period for assessment has been extended pursuant to this subdivision ~~of the ordinance~~, two years after the final determination of an appeal for which collection has been stayed pursuant to subdivision 5 b or ~~5~~ d ~~of this ordinance~~, or two years after the final decision in a court application pursuant to § 58.1-3984 or a similar law for which collection has been stayed, whichever is later.

5. Administrative appeals to commissioner of the revenue or other assessing official.

a. Definitions. For purposes of this section:

"Amount in dispute," when used with respect to taxes due or assessed, means the amount specifically identified in the administrative appeal or application for judicial review as disputed by the party filing such appeal or application.

"Appealable event" means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the local assessing official's (i) examination of records, financial statements, books of account, or other information for the purpose of determining the correctness of an assessment; (ii) determination regarding the rate or classification applicable to the licensable business; (iii) assessment of a local license tax when no return has been filed by the taxpayer; or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

An appealable event shall include a taxpayer's appeal of the classification applicable to a business, including whether the business properly falls within a business license subclassification established by the locality, regardless of whether the taxpayer's appeal is in conjunction with an assessment, examination, audit, or any other action taken by the locality.

"Frivolous" means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is (i) not well grounded in fact; (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or (iv) otherwise frivolous.

"Jeopardized by delay" means a finding, based upon specific facts, that a taxpayer designs to (i) depart quickly from the locality; (ii) remove his property therefrom; (iii) conceal himself or his property therein; or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

b. Filing and contents of administrative appeal. Any person assessed with a local license tax as a result of an appealable event as defined in this section may file an administrative appeal of the assessment within one year from the last day of the tax year for which such assessment is made, or within one year from the date of the appealable event, whichever is later, with the commissioner of the revenue or other local assessing official. The appeal must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the amount in dispute, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the appeal. The assessment placed at issue in the appeal shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a written determination to the taxpayer setting forth the facts and arguments in support of his decision.

The taxpayer may at any time also file an administrative appeal of the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the locality. However, the appeal of the classification of the business shall not apply to any license year for which the Tax Commissioner has previously issued a final determination relating to any license fee or license tax imposed upon the taxpayer's business for the year. In addition, any appeal of the classification of a business shall in no way affect or change any limitations period prescribed by law for appealing an assessment.

c. Notice of right of appeal and procedures. Every assessment made by a commissioner of the revenue or other assessing official pursuant to an appealable event shall include or be accompanied by a written explanation of the taxpayer's right to file an administrative appeal and the specific procedures to be followed in the jurisdiction, the name and address to

which the appeal should be directed, an explanation of the required content of the appeal, and the deadline for filing the appeal.

For purposes of facilitating an administrative appeal of the classification applicable to a taxpayer's business, each locality imposing a tax or fee under this chapter shall maintain on its website the specific procedures to be followed in the jurisdiction with regard to such appeal and the name and address to which the appeal should be directed.

d. Suspension of collection activity during appeal. Provided a timely and complete administrative appeal is filed, collection activity with respect to the amount in dispute relating to any assessment by the commissioner of the revenue or other assessing official shall be suspended until a final determination is issued by the commissioner of the revenue or other assessing official, unless the treasurer or other official responsible for the collection of such tax (i) determines that collection would be jeopardized by delay as defined in this section; (ii) is advised by the commissioner of the revenue or other assessing official that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) is advised by the commissioner of the revenue or other assessing official that the appeal is frivolous as defined in this section. Interest shall accrue in accordance with the provisions of subdivision ~~2~~ e ~~of this subsection~~, but no further penalty shall be imposed while collection action is suspended.

e. Procedure in event of nondecision. Any taxpayer whose administrative appeal to the commissioner of the revenue or other assessing official pursuant to the provisions of *this* subdivision 5 ~~of this subsection~~ has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the commissioner of the revenue or other assessing official, elect to treat the appeal as denied and appeal the assessment or classification of the taxpayer's business to the Tax Commissioner in accordance with the provisions of subdivision 6 ~~of this subsection~~. The Tax Commissioner shall not consider an appeal filed pursuant to the provisions of this subsection if he finds that the absence of a final determination on the part of the commissioner of the revenue or other assessing official was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the commissioner or other assessing official to make his determination.

6. Administrative appeal to the Tax Commissioner.

a. Any person assessed with a local license tax as a result of a determination or that has received a determination with regard to the person's appeal of the license classification or subclassification applicable to the person's business, upon an administrative appeal to the commissioner of the revenue or other assessing official pursuant to subdivision 5 ~~of this subsection~~, that is adverse to the position asserted by the taxpayer in such appeal may appeal such assessment or determination to the Tax Commissioner within 90 days of the date of the determination by the commissioner of the revenue or other assessing official. The appeal shall be in such form as the Tax Commissioner may prescribe and the taxpayer shall serve a copy of the appeal upon the commissioner of the revenue or other assessing official. The Tax Commissioner shall permit the commissioner of the revenue or other assessing official to participate in the proceedings, and shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The appeal shall proceed in the same manner as an application pursuant to § 58.1-1821, and the Tax Commissioner pursuant to § 58.1-1822 may issue an order correcting such assessment or correcting the license classification or subclassification of the business and the related license tax or fee liability.

b. Suspension of collection activity during appeal. On receipt of a notice of intent to file an appeal to the Tax Commissioner under subdivision ~~6~~ a ~~of this subsection~~, collection activity with respect to the amount in dispute relating to any assessment by the commissioner of the revenue or other assessing official shall be suspended until a final determination is issued by the Tax Commissioner, unless the treasurer or other official responsible for the collection of such tax (i) determines that collection would be jeopardized by delay as defined in this section; (ii) is advised by the commissioner of the revenue or other assessing official, or the Tax Commissioner, that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) is advised by the commissioner of the revenue or other assessing official that the appeal is frivolous as defined in this section. Interest shall accrue in accordance with the provisions of subdivision 2 e ~~of this subsection~~, but no further penalty shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal pursuant to subdivision ~~6~~ a ~~of this subsection~~ is filed and served on the necessary parties within 30 days of the service of notice of intent to file such appeal.

c. Implementation of determination of Tax Commissioner. Promptly upon receipt of the final determination of the Tax Commissioner with respect to an appeal pursuant to subdivision ~~6~~ a ~~of this subsection~~, the commissioner of the revenue or other assessing official shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer consistent with the Tax Commissioner's determination and shall provide that information to the taxpayer and to the treasurer or other official responsible for collection in accordance with the provisions of this subdivision.

(1) If the determination of the Tax Commissioner sets forth a specific amount of tax due, the commissioner of the revenue or other assessing official shall certify the amount to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a bill to the taxpayer for such amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the determination of the Tax Commissioner.

(2) If the determination of the Tax Commissioner sets forth a specific amount of refund due, the commissioner of the revenue or other assessing official shall certify the amount to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a payment to the taxpayer for such amount due, together with interest accrued pursuant to this section, within 30 days of the date of the determination of the Tax Commissioner.

(3) If the determination of the Tax Commissioner does not set forth a specific amount of tax due, or otherwise requires the commissioner of the revenue or other assessing official to undertake a new or revised assessment that will result in an obligation to pay a tax that has not previously been paid in full, the commissioner of the revenue or other assessing official shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The commissioner of the revenue or other assessing official shall certify the new assessment to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the new assessment.

(4) If the determination of the Tax Commissioner does not set forth a specific amount of refund due, or otherwise requires the commissioner of the revenue or other assessing official to undertake a new or revised assessment that will result in an obligation on the part of the locality to make a refund of taxes previously paid, the commissioner of the revenue or other assessing official shall promptly commence the steps necessary to undertake such new or revised assessment or to determine the amount of refund due in the case of a correction to the license classification or subclassification of the business, and provide the same to the taxpayer within 60 days of the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The commissioner of the revenue or other assessing official shall certify the new assessment or refund amount to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days of the date of the new assessment or determination of the amount of the refund.

7. Judicial review of determination of Tax Commissioner.

a. Judicial review. Following the issuance of a final determination of the Tax Commissioner pursuant to subdivision 6 a ~~of this subsection~~, the taxpayer or commissioner of the revenue or other assessing official may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to § 58.1-3984. In any such proceeding for judicial review of a determination of the Tax Commissioner, the burden shall be on the party challenging the determination of the Tax Commissioner, or any part thereof, to show that the ruling of the Tax Commissioner is erroneous with respect to the part challenged. Neither the Tax Commissioner nor the Department of Taxation shall be made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.

b. Suspension of payment of disputed amount of tax due upon taxpayer's notice of intent to initiate judicial review.

(1) On receipt of a notice of intent to file an application for judicial review, pursuant to § 58.1-3984, of a determination of the Tax Commissioner pursuant to subdivision 6 a ~~of this subsection~~, and upon payment of the amount of the tax relating to any assessment by the commissioner of the revenue or other assessing official that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the treasurer or other collection official shall further suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that (i) the taxpayer's application for judicial review is frivolous, as defined in this section; (ii) collection would be jeopardized by delay, as defined in this section; or (iii) suspension of collection would cause substantial economic hardship to the locality. For purposes of determining whether substantial economic hardship to the locality would arise from a suspension of collection activity, the court shall consider the cumulative effect of then-pending appeals filed within the locality by different taxpayers that allege common claims or theories of relief.

(2) Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspension of collection would result in substantial economic hardship to the locality, the court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the court.

(3) No suspension of collection activity shall be required if the application for judicial review fails to identify with particularity the amount in dispute or the application does not relate to any assessment by the commissioner of the revenue or other assessing official.

(4) The requirement that collection activity be suspended shall cease unless an application for judicial review pursuant to § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

(5) The suspension of collection activity authorized by this subdivision shall not be applicable to any appeal of a local license tax that is initiated by the direct filing of an action pursuant to § 58.1-3984 without prior exhaustion of the appeals provided by subdivisions 5 and 6 ~~of this subsection~~.

c. Suspension of payment of disputed amount of refund due upon locality's notice of intent to initiate judicial review.

(1) Payment of any refund determined to be due pursuant to the determination of the Tax Commissioner of an appeal pursuant to subdivision 6 a ~~of this subsection~~ shall be suspended if the locality assessing the tax serves upon the taxpayer, within 60 days of the date of the determination of the Tax Commissioner, a notice of intent to file an application for judicial review of the Tax Commissioner's determination pursuant to § 58.1-3984 and pays the amount of the refund not in dispute, including tax and accrued interest. Payment of such refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the locality's application for judicial review is frivolous, as defined in this section.

(2) No suspension of refund activity shall be permitted if the locality's application for judicial review fails to identify with particularity the amount in dispute.

(3) The suspension of the obligation to make a refund shall cease unless an application for judicial review pursuant to § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

d. Accrual of interest on unpaid amount of tax. Interest shall accrue in accordance with the provisions of subdivision 2 e ~~of this subsection~~, but no further penalty shall be imposed while collection action is suspended.

8. Rulings.

Any taxpayer or authorized representative of a taxpayer may request a written ruling regarding the application of a local license tax to a specific situation from the commissioner of the revenue or other assessing official. Any person requesting such a ruling must provide all facts relevant to the situation placed at issue and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. In addition, the taxpayer or authorized representative may request a written ruling with regard to the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the locality.

Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or the guidelines issued by the Department of Taxation upon which the ruling was based or (ii) the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

9. ~~Record keeping~~ *Recordkeeping* and audits. Every person who is assessable with a local license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for the license years assessable and to enable the assessor to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within this jurisdiction. The assessor shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside this jurisdiction, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

B. Transitional provisions.

1. A locality which changes its license year from a fiscal year to a calendar year and adopts a due date for license applications between March 1 and May 1, inclusive, shall not be required to prorate any license tax to reflect a license year of less than 12 months, whether the tax is a flat amount or measured by gross receipts, provided that no change is made in the taxable year for measuring gross receipts.

2. The provisions of this section relating to penalties, interest, and administrative and judicial review of an assessment shall be applicable to assessments made on and after January 1, 1997, even if for an earlier license year. The provisions relating to agreements extending the period for assessing tax shall be effective for agreements entered into on and after July 1, 1996. The provisions permitting an assessment of a license tax for up to six preceding years in certain circumstances shall not be construed to permit the assessment of tax for a license year beginning before January 1, 1997.

3. Every locality shall adopt a fixed due date for license applications between March 1 and May 1, inclusive, no later than the 2007 license year.

§ 58.1-3916. Counties, cities, and towns may provide dates for filing returns and set penalties, interest, etc.

Notwithstanding provisions contained in §§ 58.1-3518, 58.1-3900, 58.1-3913, 58.1-3915, and 58.1-3918, the governing body of any county, city, or town may provide by ordinance the time for filing local license applications and annual returns of taxable tangible personal property, machinery and tools, and merchants' capital. The governing body may also by ordinance establish due dates for the payment of local taxes; may provide that payment be made in a single installment or in two equal installments; may offer options, which may include coupon books and payroll deductions, which allow the taxpayer to determine whether to pay the tangible personal property tax through monthly, bimonthly, quarterly, or semiannual installments or in a lump sum, provided such taxes are paid in full by the final due date; may provide by ordinance penalties for failure to file such applications and returns and for nonpayment in time; may provide for payment of interest on delinquent taxes; and may provide for the recovery of reasonable attorney's or collection agency's fees actually contracted for, not to exceed 20 percent of the delinquent taxes and other charges so collected. A locality that provides for payment of interest on delinquent taxes shall provide for interest at the same rate on overpayments due to erroneously assessed taxes to be paid to the taxpayer, provided that no interest shall be required to be paid on such refund if (i) the amount of the refund is $10 or less or (ii) the refund is the result of proration pursuant to § 58.1-3516. A court that finds that an overpayment of local taxes has been made in an action brought pursuant to § 58.1-3984 shall award interest at the appropriate rate, notwithstanding the failure of the locality to conform its ordinance to the requirements of this section.

Notwithstanding any contrary provision of law, the local governing body shall allow an automatic extension on real property taxes imposed upon a primary residence and personal property taxes imposed upon a qualifying vehicle, as defined in § 58.1-3523, owed by members of the armed services of the United States deployed outside of the United States. Such extension shall end and the taxes shall be due 90 days following the completion of such member's deployment. For purposes

of this section, "the armed services of the United States" includes active duty service with the regular Armed Forces of the United States or the National Guard or other reserve component.

No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under § 58.1-3980, so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal, provided that nothing in this paragraph shall be construed to preclude the assessment or refund, following the final determination of such appeal, of such interest as otherwise may be provided by general law as to that portion of a tax bill that has remained unpaid or was overpaid during the pendency of such appeal and is determined in such appeal to be properly due and owing.

Interest may commence not earlier than the first day following the day such taxes are due by ordinance to be filed, at a rate not to exceed 10 percent per year. The governing body may impose interest at a rate not to exceed the rate of interest established pursuant to § 6621 of the Internal Revenue Code of 1954, as amended, or 10 percent annually, whichever is greater, for the second and subsequent years of delinquency. No penalty for failure to pay a tax or installment shall exceed (i) 10 percent of the tax past due on such property; (ii) in the case of delinquent tangible personal property tax more than 30 days past due on property classified pursuant to subdivision A 15, ~~A~~ 16, or ~~A~~ 20 of § 58.1-3506, which remains unpaid after 10 days' written notice sent by United States mail to the taxpayer of the intention to impose a penalty pursuant hereto, the penalty shall not exceed an amount equal to the difference between the tax due and owing with respect to such property and the tax that would have been due and owing if the property in question had been classified as general tangible personal property pursuant to § 58.1-3503; (iii) in the case of delinquent tangible personal property tax more than 30 days past due, 25 percent of the tax past due on such tangible personal property; (iv) in the case of delinquent remittance of excise taxes on meals, lodging, or admissions collected from consumers, 10 percent for the first month the taxes are past due, and five percent for each month thereafter, up to a maximum of 25 percent of the taxes collected but not remitted; or (v) $10, whichever is greater, provided, however, that the penalty shall in no case exceed the amount of the tax assessable. No penalty for failure to file a return shall be greater than 10 percent of the tax assessable on such return or $10, whichever is greater~~;~~, provided, however, that the penalty shall in no case exceed the amount of the tax assessable. The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failing to make return of taxable property as may be required by law or ordinance. Penalty for failure to file an application or return may be assessed on the day after such return or application is due; penalty for failure to pay any tax may be assessed on the day after the first installment is due. Any such penalty when so assessed shall become a part of the tax. *Any bill issued by the treasurer imposing a penalty or interest for taxes owed on machinery and tools or tangible personal property owned by a business shall separately state the total amount of tax owed, the amount of any interest assessed, and the amount of the penalty imposed.*

No penalty for failure to pay any tax shall be imposed for any assessment made later than two weeks prior to the day on which the taxes are due, if such assessment is made thereafter through the fault of a local official, and if such assessment is paid within two weeks after the notice thereof is mailed.

In the event a transfer of real property ownership occurs after January 1 of a tax year and a real estate tax bill has been mailed pursuant to §§ 58.1-3281 and 58.1-3912, the treasurer or other appropriate local official designated by ordinance of the local governing body in jurisdictions not having a treasurer, upon ascertaining that a property transfer has occurred, may invalidate a bill sent to the prior owner and reissue the bill to the new owner as permitted by § 58.1-3912, and no penalty for failure to pay any tax for any such assessment shall be imposed if the tax is paid within two weeks after the notice thereof is mailed.

Penalty and interest for failure to file a return or to pay a tax shall not be imposed if such failure was not the fault of the taxpayer, or was the fault of the commissioner of revenue or the treasurer, as the case may be. The failure to file a return or to pay a tax due to the death of the taxpayer or a medically determinable physical or mental impairment on the date the return or tax is due shall be presumptive proof of lack of fault on the taxpayer's part, provided the return is filed or the taxes are paid within 30 days of the due date; however, if there is a committee, legal guardian, conservator or other fiduciary handling the individual's affairs, such return shall be filed or such taxes paid within 120 days after the fiduciary qualifies or begins to act on behalf of the taxpayer. Interest on such taxes shall accrue until paid in full. Any such fiduciary shall, on behalf of the taxpayer, by the due date, file any required returns and pay any taxes that come due after the 120-day period. The treasurer shall make determinations of fault relating exclusively to failure to pay a tax, and the commissioner of the revenue shall make determinations of fault relating exclusively to failure to file a return. In jurisdictions not having a treasurer or commissioner of the revenue, the governing body may delegate to the appropriate local tax officials the responsibility to make the determination of fault.

The governing body may further provide by resolution for reasonable extensions of time, not to exceed 90 days, for the payment of real estate and personal property taxes and for filing returns on tangible personal property, machinery and tools, and merchants' capital, and the business, professional, and occupational license tax, whenever good cause exists. The official granting such extension shall keep a record of every such extension. If any taxpayer who has been granted an extension of time for filing his return fails to file his return within the extended time, his case shall be treated the same as if no extension had been granted.

This section shall be the sole authority for local ordinances setting due dates of local taxes and penalty and interest thereon, and shall supersede the provisions of any charter or special act.

CHAPTER 15

An Act to direct the Secretary of Health and Human Resources to consider adopting a process to allow emergency medical services providers to administer prescription medication to persons under certain circumstances.

[H 1449]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Secretary of Health and Human Resources, in collaboration with the State Emergency Medical Services Advisory Board, shall consider adopting a process to allow an emergency medical services provider to administer prescription medication to a person who has a valid prescription for that medication and is receiving medical care from the emergency medical services provider but is unable to consent to the administration of the medication due to a medical emergency.*

CHAPTER 16

An Act to amend and reenact §§ 64.2-2002 and 64.2-2005 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 64.2-2000.1, relating to guardianship and conservatorship; identifying information; separate confidential addendum.

[H 2383]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 64.2-2002 and 64.2-2005 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 64.2-2000.1 as follows:

§ 64.2-2000.1. Identifying information; separate confidential addendum.

Any petition, pleading, motion, order, or report filed under this chapter, including any transcripts, shall not contain any financial information relating to the financial resources of the respondent, including the respondent's anticipated annual gross income, other receipts, or debts, nor any other financial information that provides identifying account numbers for any asset, liability, account, or credit card of the respondent. Such information shall be contained in a separate confidential addendum filed by (i) a guardian ad litem appointed pursuant to § 64.2-2003, (ii) an attorney, or (iii) a party.

Such separate confidential addendum shall be used to distribute the information only as required by law. Such addendum shall otherwise be made available only to the parties, including any adult individual or entity that becomes a party by filing a pleading with the circuit court in which the guardianship or conservatorship case is pending; their attorneys; the guardian ad litem appointed pursuant to § 64.2-2003 to represent the respondent; the commissioner of accounts or assistant commissioner of accounts for the circuit court that has jurisdiction over the guardianship or conservatorship; and such other persons as the court in its discretion may allow for good cause shown. The attorney, party, or guardian ad litem who prepares or submits a petition, pleading, motion, order, or report shall ensure that any information protected pursuant to this section is removed prior to filing with the clerk and that any separate confidential addendum is incorporated by reference into the petition, pleading, motion, order, or report.

§ 64.2-2002. Who may file petition; contents.

A. Any person, including a community services board and any other local or state governmental agency, may file a petition for the appointment of a guardian, a conservator, or both.

B. A petition for the appointment of a guardian, a conservator, or both, shall state the petitioner's name, place of residence, post office address, and relationship, if any, to the respondent and, to the extent known as of the date of filing, shall include the following:

1. The respondent's name, date of birth, place of residence or location, post office address, and the sealed filing of the social security number;

2. The basis for the court's jurisdiction under the provisions of Article 2 (§ 64.2-2105 et seq.) of Chapter 21;

3. The names and post office addresses of the respondent's spouse, adult children, parents, and adult siblings or, if no such relatives are known to the petitioner, at least three other known relatives of the respondent, including stepchildren. If a total of three such persons cannot be identified and located, the petitioner shall certify that fact in the petition, and the court shall set forth such finding in the final order;

4. The name, place of residence or location, and post office address of the individual or facility, if any, that is responsible for or has assumed responsibility for the respondent's care or custody;

5. The name, place of residence or location, and post office address of any agent designated under a durable power of attorney or an advance directive of which the respondent is the principal, and any guardian, committee, or conservator currently acting, whether in this state or elsewhere, and the petitioner shall attach a copy of any such durable power of attorney, advance directive, or order appointing the guardian, committee, or conservator, if available;

6. The type of guardianship or conservatorship requested and a brief description of the nature and extent of the respondent's alleged incapacity;

7. When the petition requests appointment of a guardian, a brief description of the services currently being provided for the respondent's health, care, safety, or rehabilitation and, where appropriate, a recommendation as to living arrangements and treatment plan;

8. If the appointment of a limited guardian is requested, the specific areas of protection and assistance to be included in the order of appointment and, if the appointment of a limited conservator is requested, the specific areas of management and assistance to be included in the order of appointment;

9. The name and post office address of any proposed guardian or conservator or any guardian or conservator nominated by the respondent and that person's relationship to the respondent;

10. The native language of the respondent and any necessary alternative mode of communication;

11. A statement of the financial resources of the respondent that shall, to the extent known, list the approximate value of the respondent's property and the respondent's anticipated annual gross income, other receipts, and debts*, contained in a separate confidential addendum, pursuant to § 64.2-2000.1*;

12. A statement of whether the petitioner believes that the respondent's attendance at the hearing would be detrimental to the respondent's health, care, or safety; and

13. A request for appointment of a guardian ad litem.

§ 64.2-2005. Evaluation report; filed in separate confidential addendum.

A. A report evaluating the condition of the respondent shall be filed~~, under seal,~~ with the court *in a separate confidential addendum* and provided*, within a reasonable time prior to the hearing on the petition,* to the guardian ad litem, the respondent, and ~~all adult individuals and all entities to whom notice is required under subsection C of § 64.2-2004 within a reasonable time prior to the hearing on the petition~~ *any other person or entity that becomes a party to the action*. The report shall be prepared by one or more licensed physicians or psychologists or licensed professionals skilled in the assessment and treatment of the physical or mental conditions of the respondent as alleged in the petition. If a report is not available, the court may proceed to hold the hearing without the report for good cause shown, absent any objection by the guardian ad litem, or may order a report and delay the hearing until the report is prepared, filed, and provided.

B. The report shall evaluate the condition of the respondent and shall contain, to the best information and belief of its signatory:

1. A description of the nature, type, and extent of the respondent's incapacity, including the respondent's specific functional impairments;

2. A diagnosis or assessment of the respondent's mental and physical condition, including a statement as to whether the individual is on any medications that may affect his actions or demeanor, and, where appropriate and consistent with the scope of the evaluator's license, an evaluation of the respondent's ability to learn self-care skills, adaptive behavior, and social skills and a prognosis for improvement;

3. The date or dates of the examinations, evaluations, and assessments upon which the report is based; and

4. The signature of the person conducting the evaluation and the nature of the professional license held by that person.

C. In the absence of bad faith or malicious intent, a person performing the evaluation shall be immune from civil liability for any breach of patient confidentiality made in furtherance of his duties under this section.

D. A report prepared pursuant to this section shall be admissible as evidence in open court of the facts stated in the report and the results of the examination or evaluation referred to in the report, unless counsel for the respondent or the guardian ad litem objects.

CHAPTER 17

An Act to amend and reenact §§ 16.1-278.15 and 20-103 of the Code of Virginia, relating to child custody, visitation, or support proceedings; educational seminars or other like programs approved by Office of the Executive Secretary of the Supreme Court of Virginia.

[H 1581]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-278.15 and 20-103 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-278.15. Custody or visitation, child or spousal support generally.

A. In cases involving the custody, visitation or support of a child pursuant to subdivision A 3 of § 16.1-241, the court may make any order of disposition to protect the welfare of the child and family as may be made by the circuit court. The parties to any petition where a child whose custody, visitation, or support is contested shall show proof that they have attended within the 12 months prior to their court appearance or that they shall attend within 45 days thereafter an educational seminar or other like program conducted by a qualified person or organization approved by the ~~court~~ *Office of the Executive Secretary of the Supreme Court of Virginia*. The court may require the parties to attend such seminar or program in uncontested cases only if the court finds good cause. The seminar or other program shall be a minimum of four hours in length and shall address the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities. Once a party has completed one educational seminar or other like program, the required completion of additional programs shall be at the court's discretion. Parties under this section shall include

natural or adoptive parents of the child, or any person with a legitimate interest as defined in § 20-124.1. The fee charged a party for participation in such program shall be based on the party's ability to pay; however, no fee in excess of $50 may be charged. Whenever possible, before participating in mediation or alternative dispute resolution to address custody, visitation or support, each party shall have attended the educational seminar or other like program. The court may grant an exemption from attendance of such program for good cause shown or if there is no program reasonably available. Other than statements or admissions by a party admitting criminal activity or child abuse or neglect, no statement or admission by a party in such seminar or program shall be admissible into evidence in any subsequent proceeding. If support is ordered for a child, the order shall also provide that support will continue to be paid for a child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or receiving child support, until the child reaches the age of 19 or graduates from high school, whichever occurs first. The court may also order that support be paid or continue to be paid for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of the parent seeking or receiving child support. Upon request of either party, the court may also order that support payments be made to a special needs trust or an ABLE savings trust account as defined in § 23.1-700.

B. In any case involving the custody or visitation of a child, the court may award custody upon petition to any party with a legitimate interest therein, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members. The term "legitimate interest" shall be broadly construed to accommodate the best interest of the child. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the custody of the child has previously been awarded to a local board of social services.

C. In any determination of support obligation under this section, the support obligation as it becomes due and unpaid creates a judgment by operation of law. Such judgment becomes a lien against real estate only when docketed in the county or city where such real estate is located. Nothing herein shall be construed to alter or amend the process of attachment of any lien on personal property.

D. Orders entered prior to July 1, 2008, shall not be deemed void or voidable solely because the petition or motion that resulted in the order was completed, signed and filed by a nonattorney employee of the Department of Social Services.

E. In cases involving charges for desertion, abandonment or failure to provide support by any person in violation of law, disposition shall be made in accordance with Chapter 5 (§ 20-61 et seq.) of Title 20.

F. In cases involving a spouse who seeks spousal support after having separated from his spouse, the court may enter any appropriate order to protect the welfare of the spouse seeking support.

G. In any case or proceeding involving the custody or visitation of a child, the court shall consider the best interest of the child, including the considerations for determining custody and visitation set forth in Chapter 6.1 (§ 20-124.1 et seq.) of Title 20.

G1. In any case or proceeding involving the custody or visitation of a child, as to a parent, the court may, in its discretion, use the phrase "parenting time" to be synonymous with the term "visitation."

H. In any proceeding before the court for custody or visitation of a child, the court may order a custody or a psychological evaluation of any parent, guardian, legal custodian or person standing in loco parentis to the child, if the court finds such evaluation would assist it in its determination. The court may enter such orders as it deems appropriate for the payment of the costs of the evaluation by the parties.

I. When deemed appropriate by the court in any custody or visitation matter, the court may order drug testing of any parent, guardian, legal custodian or person standing in loco parentis to the child. The court may enter such orders as it deems appropriate for the payment of the costs of the testing by the parties.

J. In any custody or visitation case or proceeding wherein an order prohibiting a party from picking the child up from school is entered pursuant to this section, the court shall order a party to such case or proceeding to provide a copy of such custody or visitation order to the school at which the child is enrolled within three business days of such party's receipt of such custody or visitation order.

If a custody determination affects the school enrollment of the child subject to such custody order and prohibits a party from picking the child up from school, the court shall order a party to provide a copy of such custody order to the school at which the child will be enrolled within three business days of such party's receipt of such order. Such order directing a party to provide a copy of such custody or visitation order shall further require such party, upon any subsequent change in the child's school enrollment, to provide a copy of such custody or visitation order to the new school at which the child is subsequently enrolled within three business days of such enrollment.

If the court determines that a party is unable to deliver the custody or visitation order to the school, such party shall provide the court with the name of the principal and address of the school, and the court shall cause the order to be mailed by first class mail to such school principal.

Nothing in this section shall be construed to require any school staff to interpret or enforce the terms of such custody or visitation order.

§ 20-103. Court may make orders pending suit for divorce, custody or visitation, etc.

A. In suits for divorce, annulment and separate maintenance, and in proceedings arising under subdivision A 3 or subsection L of § 16.1-241, the court having jurisdiction of the matter may, at any time pending a suit pursuant to this chapter, in the discretion of such court, make any order that may be proper (i) to compel a spouse to pay any sums necessary

for the maintenance and support of the petitioning spouse, including (a) an order that the other spouse provide health care coverage for the petitioning spouse, unless it is shown that such coverage cannot be obtained, or (b) an order that a party pay secured or unsecured debts incurred jointly or by either party, (ii) to enable such spouse to carry on the suit, (iii) to prevent either spouse from imposing any restraint on the personal liberty of the other spouse, (iv) to provide for the custody and maintenance of the minor children of the parties, including an order that either party or both parties provide health care coverage or cash medical support, or both, for the children, (v) to provide support, calculated in accordance with § 20-108.2, for any child of the parties to whom a duty of support is owed and to pay or continue to pay support for any child over the age of 18 who meets the requirements set forth in subsection C of § 20-124.2, (vi) for the exclusive use and possession of the family residence during the pendency of the suit, (vii) to preserve the estate of either spouse, so that it be forthcoming to meet any decree which may be made in the suit, (viii) to compel either spouse to give security to abide such decree, or (ix)(a) to compel a party to maintain any existing policy owned by that party insuring the life of either party or to require a party to name as a beneficiary of the policy the other party or an appropriate person for the exclusive use and benefit of the minor children of the parties and (b) to allocate the premium cost of such life insurance between the parties, provided that all premiums are billed to the policyholder. Nothing in clause (ix) shall be construed to create an independent cause of action on the part of any beneficiary against the insurer or to require an insurer to provide information relating to such policy to any person other than the policyholder without the written consent of the policyholder. The parties to any petition where a child whose custody, visitation, or support is contested shall show proof that they have attended within the 12 months prior to their court appearance or that they shall attend within 45 days thereafter an educational seminar or other like program conducted by a qualified person or organization approved by the ~~court~~ *Office of the Executive Secretary of the Supreme Court of Virginia,* except that the court may require the parties to attend such seminar or program in uncontested cases only if the court finds good cause. The seminar or other program shall be a minimum of four hours in length and shall address the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities. Once a party has completed one educational seminar or other like program, the required completion of additional programs shall be at the court's discretion. Parties under this section shall include natural or adoptive parents of the child, or any person with a legitimate interest as defined in § 20-124.1. The fee charged a party for participation in such program shall be based on the party's ability to pay; however, no fee in excess of $50 may be charged. Whenever possible, before participating in mediation or alternative dispute resolution to address custody, visitation or support, each party shall have attended the educational seminar or other like program. The court may grant an exemption from attendance of such program for good cause shown or if there is no program reasonably available. Other than statements or admissions by a party admitting criminal activity or child abuse, no statement or admission by a party in such seminar or program shall be admissible into evidence in any subsequent proceeding.

A1. Any award or order made by the court pursuant to subsection A shall be paid from the post-separation income of the obligor unless the court, for good cause shown, orders otherwise. Upon the request of either party, the court may identify and state in such order or award the specific source from which the financial obligation imposed is to be paid.

A2. In any case in which the jurisdiction of the juvenile and domestic relations district court has been divested pursuant to § 16.1-244 and no final support order has been entered, any award for child support or spousal support in the circuit court pursuant to subsection A shall be retroactive to the date on which the proceeding was commenced by the filing of the action in the juvenile and domestic relations district court, provided that the petitioner exercised due diligence in the service of the respondent.

B. In addition to the terms provided in subsection A, upon a showing by a party of reasonable apprehension of physical harm to that party by such party's family or household member as that term is defined in § 16.1-228, and consistent with rules of the Supreme Court of Virginia, the court may enter an order excluding that party's family or household member from the jointly owned or jointly rented family dwelling. In any case where an order is entered under this paragraph, pursuant to an ex parte hearing, the order shall not exclude a family or household member from the family dwelling for a period in excess of 15 days from the date the order is served, in person, upon the person so excluded. The order may provide for an extension of time beyond the 15 days, to become effective automatically. The person served may at any time file a written motion in the clerk's office requesting a hearing to dissolve or modify the order. Nothing in this section shall be construed to prohibit the court from extending an order entered under this subsection for such longer period of time as is deemed appropriate, after a hearing on notice to the parties. If the party subject to the order fails to appear at this hearing, the court may extend the order for a period not to exceed six months.

C. In cases other than those for divorce in which a custody or visitation arrangement for a minor child is sought, the court may enter an order providing for custody, visitation or maintenance pending the suit as provided in subsection A. The order shall be directed to either parent or any person with a legitimate interest who is a party to the suit.

D. Orders entered pursuant to this section which provide for custody or visitation arrangements pending the suit shall be made in accordance with the standards set out in Chapter 6.1 (§ 20-124.1 et seq.). Orders entered pursuant to subsection B shall be certified by the clerk and forwarded as soon as possible to the local police department or sheriff's office which shall, on the date of receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia crime information network system established and maintained by the Department of State Police pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. If the order is later dissolved or modified, a copy of the dissolution or modification shall also be certified, forwarded and entered in the system as described above.

E. There shall be a presumption in any judicial proceeding for pendente lite spousal support and maintenance under this section that the amount of the award that would result from the application of the formula set forth in this section is the correct amount of spousal support to be awarded. The court may deviate from the presumptive amount as provided in subsection H.

F. If the court is determining both an award of pendente lite spousal support and maintenance and an award of child support, the court shall first make a determination of the amount of the award of pendente lite spousal support, if any, owed by one party to the other under this section.

G. If the parties have minor children in common, the presumptive amount of an award of pendente lite spousal support and maintenance shall be the difference between 26 percent of the payor spouse's monthly gross income and 58 percent of the payee spouse's monthly gross income. If the parties have no minor children in common, the presumptive amount of the award shall be the difference between 27 percent of the payor spouse's monthly gross income and 50 percent of the payee spouse's monthly gross income. For the purposes of this section, monthly gross income shall have the same meaning as it does in section § 20-108.2.

H. The court may deviate from the presumptive amount for good cause shown, including any relevant evidence relating to the parties' current financial circumstances or the impact of any tax exemption and any credits resulting from such exemptions that indicates the presumptive amount is inappropriate.

I. The presumptive formula set forth in this section shall only apply to cases where the parties' combined monthly gross income does not exceed $10,000.

J. An order entered pursuant to this section shall have no presumptive effect and shall not be determinative when adjudicating the underlying cause.

CHAPTER 18

An Act to direct health regulatory boards within the Department of Health Professions to amend language related to mental health conditions and impairment in licensure, certification, and registration applications; emergency.

[H 1573]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That each health regulatory board within the Department of Health Professions shall amend its licensure, certification, and registration applications to remove any existing questions pertaining to mental health conditions and impairment and to include the following questions: (i) Do you have any reason to believe that you would pose a risk to the safety or well-being of your patients or clients? and (ii) Are you able to perform the essential functions of a practitioner in your area of practice with or without reasonable accommodation?*

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

CHAPTER 19

An Act to direct health regulatory boards within the Department of Health Professions to amend language related to mental health conditions and impairment in licensure, certification, and registration applications; emergency.

[S 970]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That each health regulatory board within the Department of Health Professions shall amend its licensure, certification, and registration applications to remove any existing questions pertaining to mental health conditions and impairment and to include the following questions: (i) Do you have any reason to believe that you would pose a risk to the safety or well-being of your patients or clients? and (ii) Are you able to perform the essential functions of a practitioner in your area of practice with or without reasonable accommodation?*

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

CHAPTER 20

An Act to amend and reenact §§ 54.1-2354.3 and 54.1-2354.4 of the Code of Virginia, relating to the Common Interest Community Board; enforcement power over continuing violations of common interest community associations.

[H 1627]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2354.3 and 54.1-2354.4 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2354.3. Common Interest Community Ombudsman; appointment; powers and duties.

A. The Director in accordance with § 54.1-303 shall appoint a Common Interest Community Ombudsman (the Ombudsman) and shall establish the Office of the Common Interest Community Ombudsman (the Office). The Ombudsman shall be a member in good standing in the Virginia State Bar. All state agencies shall assist and cooperate with the Office in the performance of its duties under this article.

B. The Office shall:

1. Assist members in understanding rights and the processes available to them according to the laws and regulations governing common interest communities and respond to general inquiries;

2. Make available, either separately or through an existing website, information concerning common interest communities and such additional information as may be deemed appropriate;

3. Receive notices of final adverse decisions *and may either (i) refer such decision to the Board for further review of whether such decision is in conflict with laws or Board regulations governing common interest communities or interpretations thereof by the Board or (ii) make a determination of whether a final adverse decision is in conflict with laws or Board regulations governing common interest communities or interpretations thereof by the Board and promptly notify the complainant of such determination. If the Office determines that such conflict exists, the Office shall promptly notify the governing board, and if applicable the common interest community manager, of the association that issued the final adverse decision that such decision is in conflict with laws or Board regulations governing common interest communities or interpretations thereof by the Board. If within 365 days of issuing such determination the Ombudsman receives a subsequent notice of final adverse decision for the same violation, the Office shall refer the matter to the Board*;

4. Upon request, assist members in understanding the rights and processes available under the laws and regulations governing common interest communities and provide referrals to public and private agencies offering alternative dispute resolution services, with a goal of reducing and resolving conflicts among associations and their members;

5. Ensure that members have access to the services provided through the Office and that the members receive timely responses from the representatives of the Office to the inquiries;

6. Maintain data on inquiries received, *referrals made to the Board,* types of assistance requested, notices of final adverse decisions received, actions taken, and the disposition of each such matter;

7. Upon request to the Director by (i) any of the standing committees of the General Assembly having jurisdiction over common interest communities or (ii) the Housing Commission, provide to the Director for dissemination to the requesting parties assessments of proposed and existing common interest community laws and other studies of common interest community issues;

8. Monitor changes in federal and state laws relating to common interest communities;

9. Provide information to the Director that will permit the Director to report annually on the activities of the Office of the Common Interest Community Ombudsman to the standing committees of the General Assembly having jurisdiction over common interest communities and to the Housing Commission. The Director's report shall be filed by December 1 of each year and shall include a summary of significant new developments in federal and state laws relating to common interest communities each year; and

10. Carry out activities as the Board determines to be appropriate.

§ 54.1-2354.4. Association complaint procedures; final adverse decisions.

A. The Board shall establish by regulation a requirement that each association shall establish reasonable procedures for the resolution of written complaints from the members of the association and other citizens. Each association shall adhere to the written procedures established pursuant to this subsection when resolving association member and citizen complaints. The procedures shall include the following:

1. A record of each complaint shall be maintained for no less than one year after the association acts upon the complaint.

2. Such association shall provide complaint forms or written procedures to be given to persons who wish to register written complaints. The forms or procedures shall include the address and telephone number of the association or its common interest community manager to which complaints shall be directed and the mailing address, telephone number, and electronic mailing address of the Office. The forms and written procedures shall include a clear and understandable description of the complainant's right to give notice of adverse decisions pursuant to this section.

B. A complainant may give notice to the ~~Board~~ *Ombudsman* of any final adverse decision in accordance with regulations promulgated by the Board. The notice shall be filed within 30 days of the final adverse decision, shall be in writing on forms prescribed by the Board, shall include copies of all records pertinent to the decision, and shall be accompanied by a $25 filing fee. The fee shall be collected by the Director and paid directly into the state treasury and credited to the Common Interest Community Management Information Fund pursuant to § 54.1-2354.2. The Board may, for good cause shown, waive or refund the filing fee upon a finding that payment of the filing fee will cause undue financial hardship for the member. The ~~Director~~ *Ombudsman* shall provide a copy of the written notice to the *governing board, and if applicable the common interest community manager, of the* association that made the final adverse decision.

C. The Director or his designee may request additional information concerning any notice of final adverse decision from the association that made the final adverse decision. The association shall provide such information to the Director within a reasonable time upon request. If the Director upon review determines that the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the Board, the Director ~~may, in his sole discretion,~~ *shall* provide the complainant and the *governing board, and if applicable the common*

interest community manager, of the association with information concerning such laws or regulations governing common interest communities or interpretations thereof by the Board. The determination of whether the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the Board shall be ~~a matter within the sole discretion of the Director, whose decision is~~ final and not subject to further review. ~~The determination of the Director shall not be binding upon the complainant or the association that made the final adverse decision~~ *If within 365 days of issuing a determination that an adverse decision is in conflict with laws or Board regulations governing common interest communities or interpretations thereof by the Board the Director receives a subsequent notice of final adverse decision for the same violation, the Director shall refer the repeat violation to the Board, which shall take action in accordance with § 54.1-2351 or 54.1-2352, as deemed appropriate by the Board*.

CHAPTER 21

An Act to amend and reenact §§ 54.1-2354.3 and 54.1-2354.4 of the Code of Virginia, relating to the Common Interest Community Board; enforcement power over continuing violations of common interest community associations.

[S 1042]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2354.3 and 54.1-2354.4 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2354.3. Common Interest Community Ombudsman; appointment; powers and duties.

A. The Director in accordance with § 54.1-303 shall appoint a Common Interest Community Ombudsman (the Ombudsman) and shall establish the Office of the Common Interest Community Ombudsman (the Office). The Ombudsman shall be a member in good standing in the Virginia State Bar. All state agencies shall assist and cooperate with the Office in the performance of its duties under this article.

B. The Office shall:

1. Assist members in understanding rights and the processes available to them according to the laws and regulations governing common interest communities and respond to general inquiries;

2. Make available, either separately or through an existing website, information concerning common interest communities and such additional information as may be deemed appropriate;

3. Receive notices of final adverse decisions *and may either (i) refer such decision to the Board for further review of whether such decision is in conflict with laws or Board regulations governing common interest communities or interpretations thereof by the Board or (ii) make a determination of whether a final adverse decision is in conflict with laws or Board regulations governing common interest communities or interpretations thereof by the Board and promptly notify the complainant of such determination. If the Office determines that such conflict exists, the Office shall promptly notify the governing board, and if applicable the common interest community manager, of the association that issued the final adverse decision that such decision is in conflict with laws or Board regulations governing common interest communities or interpretations thereof by the Board. If within 365 days of issuing such determination the Ombudsman receives a subsequent notice of final adverse decision for the same violation, the Office shall refer the matter to the Board*;

4. Upon request, assist members in understanding the rights and processes available under the laws and regulations governing common interest communities and provide referrals to public and private agencies offering alternative dispute resolution services, with a goal of reducing and resolving conflicts among associations and their members;

5. Ensure that members have access to the services provided through the Office and that the members receive timely responses from the representatives of the Office to the inquiries;

6. Maintain data on inquiries received, *referrals made to the Board,* types of assistance requested, notices of final adverse decisions received, actions taken, and the disposition of each such matter;

7. Upon request to the Director by (i) any of the standing committees of the General Assembly having jurisdiction over common interest communities or (ii) the Housing Commission, provide to the Director for dissemination to the requesting parties assessments of proposed and existing common interest community laws and other studies of common interest community issues;

8. Monitor changes in federal and state laws relating to common interest communities;

9. Provide information to the Director that will permit the Director to report annually on the activities of the Office of the Common Interest Community Ombudsman to the standing committees of the General Assembly having jurisdiction over common interest communities and to the Housing Commission. The Director's report shall be filed by December 1 of each year and shall include a summary of significant new developments in federal and state laws relating to common interest communities each year; and

10. Carry out activities as the Board determines to be appropriate.

§ 54.1-2354.4. Association complaint procedures; final adverse decisions.

A. The Board shall establish by regulation a requirement that each association shall establish reasonable procedures for the resolution of written complaints from the members of the association and other citizens. Each association shall adhere to the written procedures established pursuant to this subsection when resolving association member and citizen complaints. The procedures shall include the following:

1. A record of each complaint shall be maintained for no less than one year after the association acts upon the complaint.

2. Such association shall provide complaint forms or written procedures to be given to persons who wish to register written complaints. The forms or procedures shall include the address and telephone number of the association or its common interest community manager to which complaints shall be directed and the mailing address, telephone number, and electronic mailing address of the Office. The forms and written procedures shall include a clear and understandable description of the complainant's right to give notice of adverse decisions pursuant to this section.

B. A complainant may give notice to the ~~Board~~ *Ombudsman* of any final adverse decision in accordance with regulations promulgated by the Board. The notice shall be filed within 30 days of the final adverse decision, shall be in writing on forms prescribed by the Board, shall include copies of all records pertinent to the decision, and shall be accompanied by a $25 filing fee. The fee shall be collected by the Director and paid directly into the state treasury and credited to the Common Interest Community Management Information Fund pursuant to § 54.1-2354.2. The Board may, for good cause shown, waive or refund the filing fee upon a finding that payment of the filing fee will cause undue financial hardship for the member. The ~~Director~~ *Ombudsman* shall provide a copy of the written notice to the *governing board, and if applicable the common interest community manager, of the* association that made the final adverse decision.

C. The Director or his designee may request additional information concerning any notice of final adverse decision from the association that made the final adverse decision. The association shall provide such information to the Director within a reasonable time upon request. If the Director upon review determines that the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the Board, the Director ~~may, in his sole discretion,~~ *shall* provide the complainant and the *governing board, and if applicable the common interest community manager, of the* association with information concerning such laws or regulations governing common interest communities or interpretations thereof by the Board. The determination of whether the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the Board shall be ~~a matter within the sole discretion of the Director, whose decision is~~ final and not subject to further review. ~~The determination of the Director shall not be binding upon the complainant or the association that made the final adverse decision~~ *If within 365 days of issuing a determination that an adverse decision is in conflict with laws or Board regulations governing common interest communities or interpretations thereof by the Board the Director receives a subsequent notice of final adverse decision for the same violation, the Director shall refer the repeat violation to the Board, which shall take action in accordance with § 54.1-2351 or 54.1-2352, as deemed appropriate by the Board.*

CHAPTER 22

An Act to amend and reenact § 15.2-1716.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-461.1, relating to emergency response; false information by device; penalty.

[H 1572]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-1716.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-461.1 as follows:

§ 15.2-1716.1. Reimbursement of expenses incurred in responding to terrorism hoax incident, bomb threat, or malicious activation of fire alarm.

Any locality may provide by ordinance that any person who is convicted of a violation of subsection B or C of § 18.2-46.6, a felony violation of § 18.2-83 or 18.2-84, or a violation of § 18.2-212 *or 18.2-461.1*, when his violation of such section is the proximate cause of any incident resulting in an appropriate emergency response, shall be liable at the time of sentencing or in a separate civil action to the locality*, the Virginia State Police,* or ~~to~~ any volunteer emergency medical services agency, or ~~both~~ *any combination thereof*, which may provide such emergency response for the reasonable expense thereof, in an amount not to exceed $2,500 in the aggregate for a particular incident occurring in such locality. In determining the "reasonable expense," a locality may bill a flat fee of $250 or a minute-by-minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, firefighting, and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the Commonwealth, to the locality, or to any volunteer emergency medical services agency to recover the reasonable expenses of an emergency response to an incident not involving a terroristic hoax or an act undertaken in violation of § 18.2-83, 18.2-84, ~~or~~ 18.2-212*, or 18.2-461.1* as set forth herein.

§ 18.2-461.1. False emergency communication to emergency personnel; penalties.

A. As used in this section:

"Emergency communication" means a communication of any type to report a fire or to summon a firefighter, as defined in § 65.2-107, law-enforcement officer, as defined in § 9.1-101, or emergency medical services personnel, as defined in § 32.1-111.1, in a situation where human life, health, or property is reported to be in jeopardy and the prompt summoning of aid is essential.

"Emergency personnel" means the same as that term is defined in § 18.2-426.

"Emergency response" means a response by a firefighter, law-enforcement officer, or emergency medical services personnel to a situation where human life, health, or property is in jeopardy and the prompt provision of aid is essential to protect human life, health, or property.

B. Any person who knowingly reports, or causes another to report in reliance on intentionally false information provided by such person, a false emergency communication to any emergency personnel that results in an emergency response is guilty of a Class 1 misdemeanor.

C. Any person who knowingly reports, or causes another to report in reliance on intentionally false information provided by such person, a false emergency communication to any emergency personnel that results in an emergency response and any person suffers serious bodily injury, as defined in § 18.2-51.4, as a direct and proximate result of the false emergency communication to emergency personnel is guilty of a Class 6 felony.

D. Any person who reports, or causes another to report in reliance on intentionally false information provided by such person, a false emergency communication to any emergency personnel that results in an emergency response and any person is killed as a direct and proximate result of the false emergency communication to personnel is guilty of a Class 5 felony.

E. Any person violating this section may be prosecuted in the county or city where the emergency communication was made, in the county or city where the emergency communication was received, or in the county or city where the emergency response occurred.

F. A violation of this section shall constitute a separate and distinct offense. The provisions of this section shall not preclude prosecution under any other statute.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 23

An Act to amend and reenact § 15.2-1716.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-461.1, relating to emergency response; false information by device; penalty.

[S 1291]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-1716.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-461.1 as follows:

§ 15.2-1716.1. Reimbursement of expenses incurred in responding to terrorism hoax incident, bomb threat, or malicious activation of fire alarm.

Any locality may provide by ordinance that any person who is convicted of a violation of subsection B or C of § 18.2-46.6, a felony violation of § 18.2-83 or 18.2-84, or a violation of § 18.2-212 *or 18.2-461.1*, when his violation of such section is the proximate cause of any incident resulting in an appropriate emergency response, shall be liable at the time of sentencing or in a separate civil action to the locality*, the Virginia State Police,* or ~~to~~ any volunteer emergency medical services agency, or ~~both~~ *any combination thereof*, which may provide such emergency response for the reasonable expense thereof, in an amount not to exceed $2,500 in the aggregate for a particular incident occurring in such locality. In determining the "reasonable expense," a locality may bill a flat fee of $250 or a minute-by-minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, firefighting, and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the Commonwealth, to the locality, or to any volunteer emergency medical services agency to recover the reasonable expenses of an emergency response to an incident not involving a terroristic hoax or an act undertaken in violation of § 18.2-83, 18.2-84, ~~or~~ 18.2-212*, or 18.2-461.1* as set forth herein.

§ 18.2-461.1. False emergency communication to emergency personnel; penalties.

A. As used in this section:

"Emergency communication" means a communication of any type to report a fire or to summon a firefighter, as defined in § 65.2-107, law-enforcement officer, as defined in § 9.1-101, or emergency medical services personnel, as defined in § 32.1-111.1, in a situation where human life, health, or property is reported to be in jeopardy and the prompt summoning of aid is essential.

"Emergency personnel" means the same as that term is defined in § 18.2-426.

"Emergency response" means a response by a firefighter, law-enforcement officer, or emergency medical services personnel to a situation where human life, health, or property is in jeopardy and the prompt provision of aid is essential to protect human life, health, or property.

B. Any person who knowingly reports, or causes another to report in reliance on intentionally false information provided by such person, a false emergency communication to any emergency personnel that results in an emergency response is guilty of a Class 1 misdemeanor.

C. Any person who knowingly reports, or causes another to report in reliance on intentionally false information provided by such person, a false emergency communication to any emergency personnel that results in an emergency response and any person suffers serious bodily injury, as defined in § 18.2-51.4, as a direct and proximate result of the false emergency communication to emergency personnel is guilty of a Class 6 felony.

D. Any person who reports, or causes another to report in reliance on intentionally false information provided by such person, a false emergency communication to any emergency personnel that results in an emergency response and any person is killed as a direct and proximate result of the false emergency communication to personnel is guilty of a Class 5 felony.

E. Any person violating this section may be prosecuted in the county or city where the emergency communication was made, in the county or city where the emergency communication was received, or in the county or city where the emergency response occurred.

F. A violation of this section shall constitute a separate and distinct offense. The provisions of this section shall not preclude prosecution under any other statute.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 24

An Act to amend and reenact § 18.2-121.3 of the Code of Virginia, relating to unmanned aircraft systems; trespass over correctional facilities; penalty.

[H 2020]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-121.3 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-121.3. Trespass with an unmanned aircraft system; penalty.

A. Any person who knowingly and intentionally causes an unmanned aircraft system to (i) enter the property of another and come within 50 feet of a dwelling house (a) to coerce, intimidate, or harass another person or (b) after having been given actual notice to desist, for any other reason~~, or~~*;* (ii) take off or land in violation of current Federal Aviation Administration Special Security Instructions or UAS Security Sensitive Airspace Restrictions*; or (iii) (a) drop any item within the boundaries of or (b) obtain any videographic or still image of any identifiable inmate or resident at any state or local correctional facility, as defined in § 53.1-1, or juvenile correctional center* is guilty of a Class 1 misdemeanor.

B. This section shall not apply to any person who causes an unmanned aircraft system to enter the property as set forth in subsection A if (i) consent is given to the entry by any person with legal authority to consent or by any person who is lawfully present on such property or (ii) such person is authorized by federal regulations to operate an unmanned aircraft system and is operating such system in an otherwise lawful manner and consistent with federal regulations.

CHAPTER 25

An Act to amend and reenact § 18.2-121.3 of the Code of Virginia, relating to unmanned aircraft systems; trespass over correctional facilities; penalty.

[S 1073]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-121.3 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-121.3. Trespass with an unmanned aircraft system; penalty.

A. Any person who knowingly and intentionally causes an unmanned aircraft system to (i) enter the property of another and come within 50 feet of a dwelling house (a) to coerce, intimidate, or harass another person or (b) after having been given actual notice to desist, for any other reason~~, or~~*;* (ii) take off or land in violation of current Federal Aviation Administration Special Security Instructions or UAS Security Sensitive Airspace Restrictions*; or (iii) (a) drop any item within the boundaries of or (b) obtain any videographic or still image of any identifiable inmate or resident at any state or local correctional facility, as defined in § 53.1-1, or juvenile correctional center* is guilty of a Class 1 misdemeanor.

B. This section shall not apply to any person who causes an unmanned aircraft system to enter the property as set forth in subsection A if (i) consent is given to the entry by any person with legal authority to consent or by any person who is lawfully present on such property or (ii) such person is authorized by federal regulations to operate an unmanned aircraft system and is operating such system in an otherwise lawful manner and consistent with federal regulations.

CHAPTER 26

An Act to amend and reenact § 9.1-1000 of the Code of Virginia, relating to retired state law-enforcement officers; retention of badge.

[H 1459]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-1000 of the Code of Virginia is amended and reenacted as follows:

§ 9.1-1000. Retired and former law-enforcement officers; photo identification cards; retention of badge.

A. Upon the retirement of a law-enforcement officer, as defined in § 9.1-101, the employing department or agency shall, upon request of the retiree, issue the individual a photo identification card indicating that such individual is a retired law-enforcement officer of that department or agency. Upon request, such a card shall also be issued to any law-enforcement officer who retired before July 1, 2004.

B. Upon request of a former law-enforcement officer with at least 10 years of service who has been diagnosed with post-traumatic stress disorder, as defined in § 65.2-107, by a mental health professional, as defined in § 65.2-107, or who is disabled, the employing department or agency shall issue the individual a photo identification card indicating that such individual is a former law-enforcement officer of that department or agency who honorably served. However, prior to issuing the photo identification card, the employing department or agency shall have it mounted in such a manner that it will be impossible for anyone to carry it on his person. The employing department or agency may deny, for cause, any request made under this subsection, provided that it gives a written explanation to the requester of the grounds for denial. Any individual issued a photo identification card under this subsection shall be ineligible to receive a photo identification card pursuant to subsection A. The provisions of this subsection shall not apply to any individual who was decertified pursuant to § 15.2-1707.

C. Notwithstanding the provisions of § 52-9.1:1 or any other provision of law to the contrary, on and after July 1, 2023, upon the retirement of a law-enforcement officer who is employed by an agency of the Commonwealth as a law-enforcement officer at the time of his retirement, the employing department or agency shall, upon request of the retiree, award the retiree his badge or other insignia of his office for permanent keeping, provided, however, that the employing department or agency, prior to tendering such badge or insignia, shall have the same mounted in such a manner that it will be impossible for anyone to display such badge or insignia upon his person.

CHAPTER 27

An Act to amend and reenact § 8.01-243 of the Code of Virginia, relating to civil cause of action; sexual abuse by person of authority; limitations period.

[H 1647]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-243 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-243. Personal action for injury to person or property generally; extension in actions for malpractice against health care provider.

A. Unless otherwise provided in this section or by other statute, every action for personal injuries, whatever the theory of recovery, and every action for damages resulting from fraud, shall be brought within two years after the cause of action accrues.

B. Every action for injury to property, including actions by a parent or guardian of an infant against a tort-feasor for expenses of curing or attempting to cure such infant from the result of a personal injury or loss of services of such infant, shall be brought within five years after the cause of action accrues. An infant's claim for medical expenses pursuant to subsection B of § 8.01-36 accruing on or after July 1, 2013, shall be governed by the applicable statute of limitations that applies to the infant's cause of action.

C. The two-year limitations period specified in subsection A shall be extended in actions for malpractice against a health care provider as follows:

1. In cases arising out of a foreign object having no therapeutic or diagnostic effect being left in a patient's body, for a period of one year from the date the object is discovered or reasonably should have been discovered;

2. In cases in which fraud, concealment, or intentional misrepresentation prevented discovery of the injury within the two-year period, for one year from the date the injury is discovered or, by the exercise of due diligence, reasonably should have been discovered; and

3. In a claim for the negligent failure to diagnose a malignant tumor, cancer, or an intracranial, intraspinal, or spinal schwannoma, for a period of one year from the date the diagnosis of a malignant tumor, cancer, or an intracranial, intraspinal, or spinal schwannoma is communicated to the patient by a health care provider, provided that the health care provider's underlying act or omission was on or after July 1, 2008, in the case of a malignant tumor or cancer or on or after July 1, 2016, in the case of an intracranial, intraspinal, or spinal schwannoma. Claims under this section for the negligent failure to diagnose a malignant tumor or cancer, where the health care provider's underlying act or omission occurred prior to July 1, 2008, shall be governed by the statute of limitations that existed prior to July 1, 2008. Claims under this section for the negligent failure to diagnose an intracranial, intraspinal, or spinal schwannoma, where the health care provider's underlying act or omission occurred prior to July 1, 2016, shall be governed by the statute of limitations that existed prior to July 1, 2016.

However, the provisions of this subsection shall not apply to extend the limitations period beyond 10 years from the date the cause of action accrues, except that the provisions of subdivision A 2 of § 8.01-229 shall apply to toll the statute of limitations in actions brought by or on behalf of a person under a disability.

D. Every action for injury to the person, whatever the theory of recovery, resulting from sexual abuse occurring during the infancy or incapacity of the person as set forth in subdivision 6 of § 8.01-249 shall be brought within 20 years after the cause of action accrues.

D1. For a cause of action accruing on or after July 1, 2020, every action for injury to the person, whatever the theory of recovery, resulting from sexual abuse, other than those actions specified in subsection D, shall be brought within 10 years after the cause of action accrues.

D2. Notwithstanding the provisions of subsections D and D1, every action for injury to the person, whatever the theory of recovery, resulting from sexual abuse occurring when the person was 18 years old or older by a person of authority over a victim shall be brought within 15 years after the cause of action accrues. For the purposes of this subsection, "person of authority" means a person in a position of trust having influence over the victim's life.

E. Every action for injury to property brought by the Commonwealth against a tort-feasor for expenses arising out of the negligent operation of a motor vehicle shall be brought within five years after the cause of action accrues.

CHAPTER 28

An Act to amend and reenact § 19.2-390.3 of the Code of Virginia, relating to Child Pornography Registry; required information.

[H 1838]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

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

§ 19.2-390.3. Child Pornography Registry; maintenance; access; required information.

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

B. The Registry shall include ~~copies~~ *hash values or other applicable identification method* of all known or suspected "child pornography," as that term is defined in subsection A of § 18.2-374.1, obtained during the course of a criminal investigation, or presented as evidence and used in any conviction for any offense enumerated in §§ 18.2-374.1 and 18.2-374.1:1.

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

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

CHAPTER 29

An Act to amend and reenact § 19.2-390.3 of the Code of Virginia, relating to Child Pornography Registry; required information.

[S 1241]

Approved March 16, 2023

Be it enacted by the General Assembly of Virginia:

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

§ 19.2-390.3. Child Pornography Registry; maintenance; access; required information.

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

B. The Registry shall include ~~copies~~ *hash values or other applicable identification method* of all known or suspected "child pornography," as that term is defined in subsection A of § 18.2-374.1, obtained during the course of a criminal investigation, or presented as evidence and used in any conviction for any offense enumerated in §§ 18.2-374.1 and 18.2-374.1:1.

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

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

CHAPTER 30

An Act to amend the Code of Virginia by adding in Article 2 of Chapter 8 of Title 23.1 a section numbered 23.1-808.1, relating to institutions of higher education; human trafficking awareness and prevention training required.

[H 1555]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 8 of Title 23.1 a section numbered 23.1-808.1 as follows:

§ 23.1-808.1. Human trafficking awareness and prevention training; first-year orientation.

A. The governing board of each public institution of higher education shall develop and implement policies requiring that a human trafficking awareness and prevention training program be provided to and completed by all first-year students as a part of such institution's first-year orientation program. Such training program shall include trauma-informed training on the recognition, prevention, and reporting of human trafficking.

B. The Council shall encourage private institutions of higher education to develop and implement policies to provide such a human trafficking awareness and prevention training program as a part of their first-year orientation programs.

CHAPTER 31

An Act to amend the Code of Virginia by adding in Article 2 of Chapter 8 of Title 23.1 a section numbered 23.1-808.1, relating to institutions of higher education; human trafficking awareness and prevention training required.

[S 1373]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 8 of Title 23.1 a section numbered 23.1-808.1 as follows:

§ 23.1-808.1. Human trafficking awareness and prevention training; first-year orientation.

A. The governing board of each public institution of higher education shall develop and implement policies requiring that a human trafficking awareness and prevention training program be provided to and completed by all first-year students

as a part of such institution's first-year orientation program. Such training program shall include trauma-informed training on the recognition, prevention, and reporting of human trafficking.

B. The Council shall encourage private institutions of higher education to develop and implement policies to provide such a human trafficking awareness and prevention training program as a part of their first-year orientation programs.

CHAPTER 32

An Act to amend and reenact § 18.2-246.6 of the Code of Virginia, relating to cigarette delivery sale requirements; definition of cigarette.

[H 1404]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-246.6 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-246.6. Definitions.

For purposes of this article:

"Adult" means a person who is at least the legal minimum purchasing age.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Consumer" means an individual who is not permitted as a wholesaler pursuant to § 58.1-1011 or who is not a retailer.

"Cigarette" means the same as that term is defined in § 3.2-4200.

"Delivery sale" means any sale of cigarettes to a consumer in the Commonwealth regardless of whether the seller is located in the Commonwealth where either (i) the purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, or the Internet or other online service; or (ii) the cigarettes are delivered by use of the mails or a delivery service. A sale of cigarettes not for personal consumption to a person who is a wholesale dealer or retail dealer, as such terms are defined in § 58.1-1000, shall not be a delivery sale. A delivery of cigarettes, not through the mail or by a common carrier, to a consumer performed by the owner, employee or other individual acting on behalf of a retailer authorized to sell such cigarettes shall not be a delivery sale.

"Delivery service" means any person who is engaged in the commercial delivery of letters, packages, or other containers.

"Legal minimum purchasing age" is the minimum age at which an individual may legally purchase cigarettes in the Commonwealth.

"Mails" or "mailing" means the shipment of cigarettes through the United States Postal Service.

"Shipping container" means a container in which cigarettes are shipped in connection with a delivery sale.

"Shipping documents" means bills of lading, airbills, or any other documents used to evidence the undertaking by a delivery service to deliver letters, packages, or other containers.

CHAPTER 33

An Act to require certain public institutions of higher education to provide university housing at no cost to certain students during scheduled intersessions.

[H 1403]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. Any public institution of higher education that maintains and operates university housing during scheduled intersessions shall provide access to such housing at no cost to any student who is eligible for a grant pursuant to § 23.1-601 of the Code of Virginia, provided that the student (i) is a registered student for the immediately following academic term and (ii) meets the definitions and conditions of the federal McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. § 11431 et seq.).*

CHAPTER 34

An Act to amend and reenact § 19.2-298.01 of the Code of Virginia, relating to review of discretionary sentencing guidelines; deferred disposition.

[H 2019]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-298.01 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-298.01. Use of discretionary sentencing guidelines.

A. In all felony cases, other than Class 1 felonies, the court shall (i) have presented to it the appropriate discretionary sentencing guidelines worksheets and (ii) review and consider the suitability of the applicable discretionary sentencing guidelines established pursuant to Chapter 8 (§ 17.1-800 et seq.) of Title 17.1. Before imposing sentence *or deferring disposition as authorized by § 18.2-251, 18.2-258.1, 19.2-298.02, or 19.2-303.6*, the court shall state for the record that such review and consideration have been accomplished and shall make the completed worksheets a part of the record of the case and open for inspection. In cases tried by a jury, the jury shall not be presented any information regarding sentencing guidelines.

B. In any felony case, other than Class 1 felonies, in which the court imposes a sentence which is either greater or less than that indicated by the discretionary sentencing guidelines, the court shall file with the record of the case a written explanation of such departure.

C. In felony cases, other than Class 1 felonies, tried by a jury and in felony cases tried by the court without a jury upon a plea of not guilty, the court shall direct a probation officer of such court to prepare the discretionary sentencing guidelines worksheets. In felony cases tried upon a plea of guilty, including cases which are the subject of a plea agreement, the court shall direct a probation officer of such court to prepare the discretionary sentencing guidelines worksheets, or, with the concurrence of the accused, the court and the attorney for the Commonwealth, the worksheets shall be prepared by the attorney for the Commonwealth.

D. Except as provided in subsection E, discretionary sentencing guidelines worksheets prepared pursuant to this section shall be subject to the same distribution as presentence investigation reports prepared pursuant to subsection A of § 19.2-299.

E. Following the entry of a final order of conviction and sentence in a felony case, *or following a deferred disposition as authorized by § 18.2-251, 18.2-258.1, 19.2-298.02, or 19.2-303.6,* the clerk of the circuit court in which the case was tried shall cause a copy of such order or orders, the original of the discretionary sentencing guidelines worksheets prepared in the case, and a copy of any departure explanation prepared pursuant to subsection B to be forwarded to the Virginia Criminal Sentencing Commission within five days. Similarly, the statement required by §§ 19.2-295 and 19.2-303 and regarding departure from or modification of a sentence fixed by a jury shall be forwarded to the Virginia Criminal Sentencing Commission.

F. The failure to follow any or all of the provisions of this section or the failure to follow any or all of the provisions of this section in the prescribed manner shall not be reviewable on appeal or the basis of any other post-conviction relief.

G. The provisions of this section shall apply only to felony cases in which the offense is committed on or after January 1, 1995, and for which there are discretionary sentencing guidelines. For purposes of the discretionary sentencing guidelines only, a person sentenced to a community corrections alternative program pursuant to § 19.2-316.4 shall be deemed to be sentenced to a term of incarceration.

CHAPTER 35

An Act to amend and reenact § 58.1-609.5 of the Code of Virginia, relating to retail sales and use tax; service exemptions.

[H 1677]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-609.5 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-609.5. Service exemptions.

The tax imposed by this chapter or pursuant to the authority granted in § 58.1-605 or 58.1-606 shall not apply to the following:

1. Professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made; services rendered by repairmen for which a separate charge is made; and services not involving an exchange of tangible personal property which provide access to or use of the Internet and any other related electronic communication service, including software, data, content and other information services delivered electronically via the Internet.

2. An amount separately charged for labor or services rendered in installing, applying, remodeling, or repairing property sold or rented.

3. Transportation charges separately stated.

4. Separately stated charges for alterations to apparel, clothing and garments.

5. Charges for gift wrapping services performed by a nonprofit organization.

6. An amount separately charged for labor or services rendered in connection with the modification of prewritten programs as defined in § 58.1-602.

7. Custom programs as defined in § 58.1-602.

8. *An amount separately charged for labor rendered in connection with diagnostic work for automotive repair and emergency roadside service for motor vehicles, as defined by § 46.2-100, regardless of whether there is a sale of a repair or replacement part or a shop supply charge.*

9. The sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for more than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space or accommodations are regularly furnished to transients for a consideration.

~~9.~~ *10.* Beginning January 1, 1996, maintenance contracts, the terms of which provide for both repair or replacement parts and repair labor, shall be subject to tax upon one-half of the total charge for such contracts only. Persons providing maintenance pursuant to such a contract may purchase repair or replacement parts under a resale certificate of exemption. Warranty plans issued by an insurance company, which constitute insurance transactions, are subject to the provisions of subdivision 1 above.

CHAPTER 36

An Act to amend and reenact §§ 62.1-44.38 and 62.1-44.38:1 of the Code of Virginia, relating to plans and programs; drought evaluation and response plans; Potomac River.

[H 2095]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-44.38 and 62.1-44.38:1 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-44.38. Plans and programs; registration of certain data by water users; advisory committees; committee membership for federal, state, and local agencies; water supply planning assistance.

A. The Board shall prepare plans and programs for the management of the water resources of the Commonwealth in such a manner as to encourage, promote, and secure the maximum beneficial use and control thereof. These plans and programs shall be prepared for each major river basin of the Commonwealth, and appropriate subbasins therein, including specifically the Potomac-Shenandoah River Basin, the Rappahannock River Basin, the York River Basin, the James River Basin, the Chowan River Basin, the Roanoke River Basin, the New River Basin, and the Tennessee-Big Sandy River Basin, and for those areas in the Tidewater and elsewhere in the Commonwealth not within these major river basins. Reports for each basin shall be published by the Board.

B. 1. In preparing river basin plan and program reports enumerated in subsection A, the Board shall (i) estimate current water withdrawals and use for agriculture, industry, domestic use, and other significant categories of water users; (ii) project water withdrawals and use by agriculture, industry, domestic use, and other significant categories of water users; (iii) estimate, for each major river and stream, the minimum instream flows necessary during drought conditions to maintain water quality and avoid permanent damage to aquatic life in streams, bays, and estuaries; (iv) evaluate, to the extent practicable, the ability of existing subsurface and surface waters to meet current and future water uses, including minimum instream flows, during drought conditions; (v) evaluate, in cooperation with the Virginia Department of Health and local water supply managers, the current and future capability of public water systems to provide adequate quantity and quality of water; (vi) estimate, using a data-driven method that includes multiple reasonable assumptions about supply and demand over varying time frames, the risk that each locality and region will experience water supply shortfalls; and (vii) evaluate hydrologic, environmental, economic, social, legal, jurisdictional, and other aspects of each alternative management strategy identified.

2. The Board shall direct the Department of Environmental Quality (the Department) in its facilitation of regional water planning efforts. The Department shall (i) ensure that localities coordinate sufficiently in the development of regional water plans; (ii) provide planning, policy, and technical assistance to each regional planning area, differentiated according to each area's water supply challenges, existing resources, and other factors; and (iii) ensure that each regional plan clearly identifies the region's water supply risks and proposes strategies to address those risks.

3. When preparing drought evaluation and response plans pursuant to subdivision 1, the Board shall recognize the localities that include any portion of the service area of a water supply utility in the Commonwealth that uses the Potomac River as a water supply source as a distinct drought evaluation region. Such plans shall incorporate the provisions of the Metropolitan Washington Water Supply and Drought Awareness Response Plan: Potomac River System (2000), including provisions related to triggers, actions, and messages for the Potomac River drought evaluation region. Nothing in this subdivision regarding the incorporation of such provisions shall be construed to limit the authority of the Governor during a declared drought emergency.

C. The Board may, by regulation, require each water user withdrawing surface or subsurface water or both during each year to register, by a date to be established by the Board, water withdrawal and use data for the previous year including the estimated average daily withdrawal, maximum daily withdrawal, sources of water withdrawn, and volume of wastewater discharge, provided that the withdrawal exceeds one million gallons in any single month for use for crop irrigation, or that the daily average during any single month exceeds 10,000 gallons per day for any other user. Location data shall be provided by each user in a coordinate system specified by the Board.

D. The Board shall establish advisory committees to assist it in the formulation of such plans or programs and in formulating recommendations called for in subsection E. In this connection, the Board may include committee membership for branches or agencies of the federal government, branches or agencies of the Commonwealth, branches or agencies of the government of any state in a river basin located within that state and Virginia, the political subdivisions of the

Commonwealth, and all persons and corporations interested in or directly affected by any proposed or existing plan or program.

E. The Board shall prepare plans or programs and shall include in reports prepared under subsection A recommended actions to be considered by the General Assembly, the agencies of the Commonwealth and local political subdivisions, the agencies of the federal government, or any other persons that the Board may deem necessary or desirable for the accomplishment of plans or programs prepared under subsection B.

F. In addition to the preparation of plans called for in subsection A, the Board, upon written request of a political subdivision of the Commonwealth, shall provide water supply planning assistance to such political subdivision, including assistance in preparing drought management strategies, water conservation programs, evaluation of alternative water sources, state enabling legislation to facilitate a specific situation, applications for federal grants or permits, or other such planning activities to facilitate intergovernmental cooperation and coordination.

§ 62.1-44.38:1. Comprehensive water supply planning process; state, regional, and local water supply plans.

A. The Board, with advice and guidance from the Commissioner of Health, local governments, public service authorities, and other interested parties, shall establish a comprehensive water supply planning process for the development of local, regional, and state water supply plans consistent with the provisions of this chapter. This process shall be designed to (i) ensure that adequate and safe drinking water is available to all citizens of the Commonwealth; (ii) encourage, promote, and protect all other beneficial uses of the Commonwealth's water resources; (iii) encourage, promote, and develop incentives for alternative water sources, including desalinization; and (iv) encourage the development of cross-jurisdictional water supply projects.

B. The Board shall adopt regulations designating regional planning areas based primarily on river basins as appropriate based on water supply sources. The Board shall consider existing interjurisdictional arrangements in designating regional planning areas. The Board may, as appropriate, designate multiple regional planning areas within a single river basin in order to enhance the manageability of planning within such basin. The regulations shall identify the particular regional planning area in which each locality shall participate and shall state which local stakeholder groups, including local governments, industrial and agricultural water users, public water suppliers, developers and economic development organizations, and conservation and environmental organizations, shall or may participate in coordinated water resource planning. The regulations shall ~~further~~ provide a mechanism for a locality to request a change of its designated regional planning area to an adjoining planning area that is based on water supply source, river basin, or existing or planned cross-jurisdictional relationship, which change shall be effective upon approval of the Department, notwithstanding the provisions of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. *The regulations shall further recognize the localities that include any portion of the service area of a water supply utility in the Commonwealth that uses the Potomac River as a water supply source as a distinct regional planning area. Such plan shall incorporate the provisions of the Metropolitan Washington Water Supply and Drought Awareness Response Plan: Potomac River System (2000), including provisions related to triggers, actions, and messages for the Potomac River drought evaluation region. Nothing in this subsection regarding the incorporation of such provisions shall be construed to limit the authority of the Governor during a declared drought emergency.*

C. 1. Each locality in a regional planning area shall participate in cross-jurisdictional, coordinated water resource planning. Such local coordination shall accommodate existing regional groups that have already developed water supply plans, including planning district commissions, and other regional planning entities as appropriate.

2. Each locality in a regional planning area shall develop and submit, with the other localities in that planning area, a single jointly produced regional water supply plan to the Department of Environmental Quality (the Department). Such regional water supply plan shall (i) clearly identify the region's water supply risks and (ii) propose regional strategies to address those water supply risks.

3. Each regional water supply plan also shall comply with applicable criteria and guidelines developed by the Board. Such criteria and guidelines shall take into account existing local and regional water supply planning efforts and requirements imposed under other state or federal laws. The criteria and guidelines established by the Board shall not prohibit a town from entering into a regional water supply plan with an adjacent county in the same regional planning area.

4. This section is intended to inform any regional water resource planning being done in the Commonwealth pursuant to interstate compacts.

D. The Board and the Department shall prioritize the allocation of planning funds and other funds to localities that sufficiently participate in regional planning.

E. In accordance with subdivision B 2 of § 62.1-44.38, the Department shall facilitate regional planning and provide assistance to each regional planning area as needed.

CHAPTER 37

An Act to amend and reenact §§ 62.1-44.38 and 62.1-44.38:1 of the Code of Virginia, relating to plans and programs; drought evaluation and response plans; Potomac River.

[S 1149]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-44.38 and 62.1-44.38:1 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-44.38. Plans and programs; registration of certain data by water users; advisory committees; committee membership for federal, state, and local agencies; water supply planning assistance.

A. The Board shall prepare plans and programs for the management of the water resources of the Commonwealth in such a manner as to encourage, promote, and secure the maximum beneficial use and control thereof. These plans and programs shall be prepared for each major river basin of the Commonwealth, and appropriate subbasins therein, including specifically the Potomac-Shenandoah River Basin, the Rappahannock River Basin, the York River Basin, the James River Basin, the Chowan River Basin, the Roanoke River Basin, the New River Basin, and the Tennessee-Big Sandy River Basin, and for those areas in the Tidewater and elsewhere in the Commonwealth not within these major river basins. Reports for each basin shall be published by the Board.

B. 1. In preparing river basin plan and program reports enumerated in subsection A, the Board shall (i) estimate current water withdrawals and use for agriculture, industry, domestic use, and other significant categories of water users; (ii) project water withdrawals and use by agriculture, industry, domestic use, and other significant categories of water users; (iii) estimate, for each major river and stream, the minimum instream flows necessary during drought conditions to maintain water quality and avoid permanent damage to aquatic life in streams, bays, and estuaries; (iv) evaluate, to the extent practicable, the ability of existing subsurface and surface waters to meet current and future water uses, including minimum instream flows, during drought conditions; (v) evaluate, in cooperation with the Virginia Department of Health and local water supply managers, the current and future capability of public water systems to provide adequate quantity and quality of water; (vi) estimate, using a data-driven method that includes multiple reasonable assumptions about supply and demand over varying time frames, the risk that each locality and region will experience water supply shortfalls; and (vii) evaluate hydrologic, environmental, economic, social, legal, jurisdictional, and other aspects of each alternative management strategy identified.

2. The Board shall direct the Department of Environmental Quality (the Department) in its facilitation of regional water planning efforts. The Department shall (i) ensure that localities coordinate sufficiently in the development of regional water plans; (ii) provide planning, policy, and technical assistance to each regional planning area, differentiated according to each area's water supply challenges, existing resources, and other factors; and (iii) ensure that each regional plan clearly identifies the region's water supply risks and proposes strategies to address those risks.

3. When preparing drought evaluation and response plans pursuant to subdivision 1, the Board shall recognize the localities that include any portion of the service area of a water supply utility in the Commonwealth that uses the Potomac River as a water supply source as a distinct drought evaluation region. Such plans shall incorporate the provisions of the Metropolitan Washington Water Supply and Drought Awareness Response Plan: Potomac River System (2000), including provisions related to triggers, actions, and messages for the Potomac River drought evaluation region. Nothing in this subdivision regarding the incorporation of such provisions shall be construed to limit the authority of the Governor during a declared drought emergency.

C. The Board may, by regulation, require each water user withdrawing surface or subsurface water or both during each year to register, by a date to be established by the Board, water withdrawal and use data for the previous year including the estimated average daily withdrawal, maximum daily withdrawal, sources of water withdrawn, and volume of wastewater discharge, provided that the withdrawal exceeds one million gallons in any single month for use for crop irrigation, or that the daily average during any single month exceeds 10,000 gallons per day for any other user. Location data shall be provided by each user in a coordinate system specified by the Board.

D. The Board shall establish advisory committees to assist it in the formulation of such plans or programs and in formulating recommendations called for in subsection E. In this connection, the Board may include committee membership for branches or agencies of the federal government, branches or agencies of the Commonwealth, branches or agencies of the government of any state in a river basin located within that state and Virginia, the political subdivisions of the Commonwealth, and all persons and corporations interested in or directly affected by any proposed or existing plan or program.

E. The Board shall prepare plans or programs and shall include in reports prepared under subsection A recommended actions to be considered by the General Assembly, the agencies of the Commonwealth and local political subdivisions, the agencies of the federal government, or any other persons that the Board may deem necessary or desirable for the accomplishment of plans or programs prepared under subsection B.

F. In addition to the preparation of plans called for in subsection A, the Board, upon written request of a political subdivision of the Commonwealth, shall provide water supply planning assistance to such political subdivision, including assistance in preparing drought management strategies, water conservation programs, evaluation of alternative water sources, state enabling legislation to facilitate a specific situation, applications for federal grants or permits, or other such planning activities to facilitate intergovernmental cooperation and coordination.

§ 62.1-44.38:1. Comprehensive water supply planning process; state, regional, and local water supply plans.

A. The Board, with advice and guidance from the Commissioner of Health, local governments, public service authorities, and other interested parties, shall establish a comprehensive water supply planning process for the development of local, regional, and state water supply plans consistent with the provisions of this chapter. This process shall be designed to (i) ensure that adequate and safe drinking water is available to all citizens of the Commonwealth; (ii) encourage, promote,

and protect all other beneficial uses of the Commonwealth's water resources; (iii) encourage, promote, and develop incentives for alternative water sources, including desalinization; and (iv) encourage the development of cross-jurisdictional water supply projects.

B. The Board shall adopt regulations designating regional planning areas based primarily on river basins as appropriate based on water supply sources. The Board shall consider existing interjurisdictional arrangements in designating regional planning areas. The Board may, as appropriate, designate multiple regional planning areas within a single river basin in order to enhance the manageability of planning within such basin. The regulations shall identify the particular regional planning area in which each locality shall participate and shall state which local stakeholder groups, including local governments, industrial and agricultural water users, public water suppliers, developers and economic development organizations, and conservation and environmental organizations, shall or may participate in coordinated water resource planning. The regulations shall ~~further~~ provide a mechanism for a locality to request a change of its designated regional planning area to an adjoining planning area that is based on water supply source, river basin, or existing or planned cross-jurisdictional relationship, which change shall be effective upon approval of the Department, notwithstanding the provisions of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. *The regulations shall further recognize the localities that include any portion of the service area of a water supply utility in the Commonwealth that uses the Potomac River as a water supply source as a distinct regional planning area. Such plan shall incorporate the provisions of the Metropolitan Washington Water Supply and Drought Awareness Response Plan: Potomac River System (2000), including provisions related to triggers, actions, and messages for the Potomac River drought evaluation region. Nothing in this subsection regarding the incorporation of such provisions shall be construed to limit the authority of the Governor during a declared drought emergency.*

C. 1. Each locality in a regional planning area shall participate in cross-jurisdictional, coordinated water resource planning. Such local coordination shall accommodate existing regional groups that have already developed water supply plans, including planning district commissions, and other regional planning entities as appropriate.

2. Each locality in a regional planning area shall develop and submit, with the other localities in that planning area, a single jointly produced regional water supply plan to the Department of Environmental Quality (the Department). Such regional water supply plan shall (i) clearly identify the region's water supply risks and (ii) propose regional strategies to address those water supply risks.

3. Each regional water supply plan also shall comply with applicable criteria and guidelines developed by the Board. Such criteria and guidelines shall take into account existing local and regional water supply planning efforts and requirements imposed under other state or federal laws. The criteria and guidelines established by the Board shall not prohibit a town from entering into a regional water supply plan with an adjacent county in the same regional planning area.

4. This section is intended to inform any regional water resource planning being done in the Commonwealth pursuant to interstate compacts.

D. The Board and the Department shall prioritize the allocation of planning funds and other funds to localities that sufficiently participate in regional planning.

E. In accordance with subdivision B 2 of § 62.1-44.38, the Department shall facilitate regional planning and provide assistance to each regional planning area as needed.

CHAPTER 38

An Act to amend and reenact § 58.1-422.1 of the Code of Virginia, relating to taxable income apportionment; retail companies.

[H 1978]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-422.1 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-422.1. Retail companies; apportionment.

A. For taxable years beginning on or after July 1, 2012, the Virginia taxable income of a retail company, excluding income allocable under § 58.1-407, shall be apportioned within and without the Commonwealth as follows:

1. From July 1, 2012, until July 1, 2014, by multiplying such income by a fraction, the numerator of which is the property factor plus the payroll factor plus triple the sales factor and the denominator of which is five, except that when the sales factor does not exist, the denominator of the fraction shall be the number of existing factors, and when the sales factor exists but the payroll factor or property factor does not exist, the denominator of the fraction shall be the number of existing factors plus two;

2. From July 1, 2014, until July 1, 2015, by multiplying such income by a fraction, the numerator of which is the property factor plus the payroll factor plus quadruple the sales factor and the denominator of which is six, except that when the sales factor does not exist, the denominator of the fraction shall be the number of existing factors, and when the sales factor exists but the payroll factor or property factor does not exist, the denominator of the fraction shall be the number of existing factors plus three; and

3. From July 1, 2015, and thereafter, by multiplying such income by the sales factor.

B. As used in this section, "retail company" means a domestic or foreign corporation primarily engaged in activities that, in accordance with the North American Industry Classification System (NAICS), United States Manual, United States Office of Management and Budget, 1997 Edition, would be included in Sectors 44-45.

C. Any eligible company, as defined in § 58.1-405.1, may subtract the value of its sales in the Commonwealth during the taxable year from the numerator of the ratio in subdivision A 3. Such eligible company may make such modification for the taxable year in which it first becomes eligible and for the six subsequent, consecutive taxable years, except for any year in which the eligible company's (i) total, cumulative new capital investment falls below the applicable initial threshold or (ii) number of new jobs falls below the applicable initial threshold.

D. For taxable years beginning on or after January 1, 2023, corporations that are affiliated within the meaning of § 58.1-302 and filing on a consolidated basis may elect to apportion the taxable income of all members of such affiliated group using the sales factor alone notwithstanding that one or more members of such affiliated group would be required to use different apportionment factors if separate returns were filed. Such an election shall be valid only with respect to taxable years in which 80 percent or more of the sales of such affiliated group after consolidation and eliminations is derived from activities of a retail company. Such an election, once made, shall not be changed without permission of the Department.

CHAPTER 39

An Act to amend and reenact § 58.1-422.1 of the Code of Virginia, relating to taxable income apportionment; retail companies.

[S 1346]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-422.1 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-422.1. Retail companies; apportionment.

A. For taxable years beginning on or after July 1, 2012, the Virginia taxable income of a retail company, excluding income allocable under § 58.1-407, shall be apportioned within and without the Commonwealth as follows:

1. From July 1, 2012, until July 1, 2014, by multiplying such income by a fraction, the numerator of which is the property factor plus the payroll factor plus triple the sales factor and the denominator of which is five, except that when the sales factor does not exist, the denominator of the fraction shall be the number of existing factors, and when the sales factor exists but the payroll factor or property factor does not exist, the denominator of the fraction shall be the number of existing factors plus two;

2. From July 1, 2014, until July 1, 2015, by multiplying such income by a fraction, the numerator of which is the property factor plus the payroll factor plus quadruple the sales factor and the denominator of which is six, except that when the sales factor does not exist, the denominator of the fraction shall be the number of existing factors, and when the sales factor exists but the payroll factor or property factor does not exist, the denominator of the fraction shall be the number of existing factors plus three; and

3. From July 1, 2015, and thereafter, by multiplying such income by the sales factor.

B. As used in this section, "retail company" means a domestic or foreign corporation primarily engaged in activities that, in accordance with the North American Industry Classification System (NAICS), United States Manual, United States Office of Management and Budget, 1997 Edition, would be included in Sectors 44-45.

C. Any eligible company, as defined in § 58.1-405.1, may subtract the value of its sales in the Commonwealth during the taxable year from the numerator of the ratio in subdivision A 3. Such eligible company may make such modification for the taxable year in which it first becomes eligible and for the six subsequent, consecutive taxable years, except for any year in which the eligible company's (i) total, cumulative new capital investment falls below the applicable initial threshold or (ii) number of new jobs falls below the applicable initial threshold.

D. For taxable years beginning on or after January 1, 2023, corporations that are affiliated within the meaning of § 58.1-302 and filing on a consolidated basis may elect to apportion the taxable income of all members of such affiliated group using the sales factor alone notwithstanding that one or more members of such affiliated group would be required to use different apportionment factors if separate returns were filed. Such an election shall be valid only with respect to taxable years in which 80 percent or more of the sales of such affiliated group after consolidation and eliminations is derived from activities of a retail company. Such an election, once made, shall not be changed without permission of the Department.

CHAPTER 40

An Act to amend and reenact § 52-46 of the Code of Virginia, relating to Applicant Fingerprint Database; participation in FBI Next Generation Identification Rap Back Service, through Virginia Rap Back Service, for fingerprint-based criminal history record monitoring; penalty.

[H 1859]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 52-46 of the Code of Virginia is amended and reenacted as follows:

§ 52-46. Virginia Rap Back Service; criminal history record monitoring; maintenance; dissemination; penalty.

A. The Department of State Police*, through the Virginia Record of Arrest and Prosecution (Rap) Back Service,* shall ~~keep and maintain an Applicant Fingerprint Database separate and apart from all other records maintained by the Department~~ *participate in the Federal Bureau of Investigation's (FBI) Next Generation Identification (NGI) Rap Back Service*. The purpose of the ~~database~~ *Virginia Rap Back Service* shall be to allow ~~those agencies and~~ *governmental* entities ~~who~~ *that* require a *fingerprint-based* criminal background check as a condition of *(i) providing care to (a) children, (b) the disabled, or (c) the elderly or (ii) (a)* licensure, *(b)* certification, *(c)* employment, or *(d)* volunteer service to be advised when an individual subject to such screening is arrested for, or convicted of, a criminal offense ~~which would disqualify that individual from licensure, certification, employment or volunteer service with that entity~~. The Department is authorized to submit fingerprints and accompanying records to the ~~Federal Bureau of Investigation (~~FBI~~)~~ to be *retained in and* advised through the FBI's ~~Next Generation Identification~~ *NGI* Rap Back ~~service~~ *Service* when an *enrolled* individual ~~subject to a criminal background check~~ is arrested for, or convicted of, a criminal offense ~~not reported to the Department which would disqualify that individual from licensure, certification, employment, or volunteer service with that entity~~. *Fingerprints submitted to the FBI may be used for future searches, including latent searches.*

B. As used in this section:

"Individual" means any person who has submitted to a fingerprint-based background check in order to (i) care for (a) children, (b) the disabled, or (c) the elderly or (ii) (a) be licensed, (b) be certified, (c) be employed, or (d) perform volunteer service with a participating entity and who has been enrolled by that participating entity in the Virginia Rap Back Service.

"Participating entity" means ~~an agency or organization~~ *a governmental entity* that requires a ~~fingerprint~~ *fingerprint-based* background check as a condition of *(i) caring for (a) children, (b) the disabled, or (c) the elderly or (ii) (a)* licensure, *(b)* certification, *(c)* employment, or *(d)* volunteer service~~,~~ and that has elected to ~~participate~~ *enroll individuals* in the ~~database~~ *Virginia Rap Back Service*.

~~"Individual" means any person who has submitted fingerprints to a participating entity in order to be licensed, certified, employed, or to perform volunteer service with that entity.~~

C. The Department of State Police shall ~~notify~~ *ensure that notification is made* forthwith *to* the participating entity that ~~employs, certifies, licenses, or accepts the volunteer services of~~ *enrolls* an individual ~~whose prints are maintained in the database upon receipt of a~~ *in the Virginia Rap Back Service when an FBI Rap Back* report ~~that the individual has been arrested for or convicted of an offense that would disqualify that individual from licensure, certification, employment or volunteer service with that entity~~ *is received*. The information contained in the notification shall be used by the *participating* entity for purposes of determining the eligibility of the continued service of the individual and shall not be further disseminated.

D. Use of the information ~~contained in the database or received from the database~~ *submitted to the Virginia Rap Back Service* for purposes not authorized by this section is prohibited, and a willful violation of this section with the intent to harass or intimidate another shall be punished as a Class 1 misdemeanor.

E. No liability shall be imposed upon any law-enforcement official who disseminates information or fails to disseminate information in good faith compliance with the requirements of this section, but this provision shall not be construed to grant immunity for gross negligence or willful misconduct.

F. The Department of State Police shall promulgate regulations governing the operation and maintenance of the ~~database~~ *Virginia Rap Back Service* and the ~~expungement~~ *removal and destruction* of records on ~~persons~~ *individuals* who are deceased~~,~~ or who are no longer ~~employed, licensed, certified, or in volunteer service for the entity that submitted the fingerprints~~ *individuals as defined in this section. Such regulations shall provide that a participating entity shall disenroll any individual who is deceased or is no longer an individual as defined in this section within 30 days of death or such event that no longer requires such individual to be enrolled in the Virginia Rap Back Service, in order to ensure the prompt removal and destruction of records from the Virginia Rap Back Service.*

G. The Department of State Police may charge an annual fee not to exceed ~~$10~~ *$12* per individual ~~entered into~~ *enrolled in* the ~~database~~ *Virginia Rap Back Service*. The fee shall be paid ~~no later than July 15 of each year~~ by ~~the~~ *any* participating entity ~~or entities submitting fingerprints to the database or by the entity or entities requesting notification regarding an individual~~ *enrolling an individual in the Virginia Rap Back Service*. An individual ~~whose licensure, certification, employment, or volunteer service~~ *who* moves from one *participating* entity to another need not be reprinted. When more than one participating entity ~~licenses, certifies, employs, or accepts the volunteer services of an~~ *enrolls the same* individual

in the ~~database~~ *Virginia Rap Back Service*, both *participating* entities shall be responsible for paying the full cost for maintenance and notification. Any fees collected shall be deposited in a special account to be used to offset the costs of ~~enhancing and administering~~ *subscription fees, maintenance fees, and enhancements related to* the ~~database~~ *Criminal and Rap Back Information System*.

H. The Department of State Police shall make the ~~database~~ *Virginia Rap Back Service* available no later than ~~January~~ *July* 1, ~~2005~~ *2025*, unless funds necessary to develop and operate the ~~database~~ *Virginia Rap Back Service* are unavailable.

I. No *participating* entity authorized to submit fingerprints shall be considered negligent per se in a civil action solely because the entity elected not to ~~submit~~ *enroll* an ~~individual's fingerprints to~~ *individual in* the ~~database~~ *Virginia Rap Back Service* pursuant to this section.

CHAPTER 41

An Act to amend and reenact § 52-46 of the Code of Virginia, relating to Applicant Fingerprint Database; participation in FBI Next Generation Identification Rap Back Service, through Virginia Rap Back Service, for fingerprint-based criminal history record monitoring; penalty.

[S 1183]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 52-46 of the Code of Virginia is amended and reenacted as follows:

§ 52-46. Virginia Rap Back Service; criminal history record monitoring; maintenance; dissemination; penalty.

A. The Department of State Police*, through the Virginia Record of Arrest and Prosecution (Rap) Back Service,* shall ~~keep and maintain an Applicant Fingerprint Database separate and apart from all other records maintained by the Department~~ *participate in the Federal Bureau of Investigation's (FBI) Next Generation Identification (NGI) Rap Back Service*. The purpose of the ~~database~~ *Virginia Rap Back Service* shall be to allow ~~those agencies and~~ *governmental* entities ~~who~~ *that* require a *fingerprint-based* criminal background check as a condition of *(i) providing care to (a) children, (b) the disabled, or (c) the elderly or (ii) (a)* licensure, *(b)* certification, *(c)* employment, or *(d)* volunteer service to be advised when an individual subject to such screening is arrested for, or convicted of, a criminal offense ~~which would disqualify that individual from licensure, certification, employment or volunteer service with that entity~~. The Department is authorized to submit fingerprints and accompanying records to the ~~Federal Bureau of Investigation (~~FBI~~)~~ to be *retained in and* advised through the FBI's ~~Next Generation Identification~~ *NGI* Rap Back ~~service~~ *Service* when an *enrolled* individual ~~subject to a criminal background check~~ is arrested for, or convicted of, a criminal offense ~~not reported to the Department which would disqualify that individual from licensure, certification, employment, or volunteer service with that entity~~. *Fingerprints submitted to the FBI may be used for future searches, including latent searches.*

B. As used in this section:

"Individual" means any person who has submitted to a fingerprint-based background check in order to (i) care for (a) children, (b) the disabled, or (c) the elderly or (ii) (a) be licensed, (b) be certified, (c) be employed, or (d) perform volunteer service with a participating entity and who has been enrolled by that participating entity in the Virginia Rap Back Service.

"Participating entity" means ~~an agency or organization~~ *a governmental entity* that requires a ~~fingerprint~~ *fingerprint-based* background check as a condition of *(i) caring for (a) children, (b) the disabled, or (c) the elderly or (ii) (a)* licensure, *(b)* certification, *(c)* employment, or *(d)* volunteer service~~,~~ and that has elected to ~~participate~~ *enroll individuals* in the ~~database~~ *Virginia Rap Back Service*.

~~"Individual" means any person who has submitted fingerprints to a participating entity in order to be licensed, certified, employed, or to perform volunteer service with that entity.~~

C. The Department of State Police shall ~~notify~~ *ensure that notification is made* forthwith *to* the participating entity that ~~employs, certifies, licenses, or accepts the volunteer services of~~ *enrolls* an individual ~~whose prints are maintained in the database upon receipt of a~~ *in the Virginia Rap Back Service when an FBI Rap Back* report ~~that the individual has been arrested for or convicted of an offense that would disqualify that individual from licensure, certification, employment or volunteer service with that entity~~ *is received*. The information contained in the notification shall be used by the *participating* entity for purposes of determining the eligibility of the continued service of the individual and shall not be further disseminated.

D. Use of the information ~~contained in the database or received from the database~~ *submitted to the Virginia Rap Back Service* for purposes not authorized by this section is prohibited, and a willful violation of this section with the intent to harass or intimidate another shall be punished as a Class 1 misdemeanor.

E. No liability shall be imposed upon any law-enforcement official who disseminates information or fails to disseminate information in good faith compliance with the requirements of this section, but this provision shall not be construed to grant immunity for gross negligence or willful misconduct.

F. The Department of State Police shall promulgate regulations governing the operation and maintenance of the ~~database~~ *Virginia Rap Back Service* and the ~~expungement~~ *removal and destruction* of records on ~~persons~~ *individuals* who are deceased~~,~~ or who are no longer ~~employed, licensed, certified, or in volunteer service for the entity that submitted the~~

~~fingerprints~~ *individuals as defined in this section. Such regulations shall provide that a participating entity shall disenroll any individual who is deceased or is no longer an individual as defined in this section within 30 days of death or such event that no longer requires such individual to be enrolled in the Virginia Rap Back Service, in order to ensure the prompt removal and destruction of records from the Virginia Rap Back Service.*

G. The Department of State Police may charge an annual fee not to exceed ~~$10~~ *$12* per individual ~~entered into~~ *enrolled in* the ~~database~~ *Virginia Rap Back Service*. The fee shall be paid ~~no later than July 15 of each year~~ by ~~the~~ *any* participating entity ~~or entities submitting fingerprints to the database or by the entity or entities requesting notification regarding an individual~~ *enrolling an individual in the Virginia Rap Back Service*. An individual ~~whose licensure, certification, employment, or volunteer service~~ *who* moves from one *participating* entity to another need not be reprinted. When more than one participating entity ~~licenses, certifies, employs, or accepts the volunteer services of an~~ *enrolls the same* individual in the ~~database~~ *Virginia Rap Back Service*, both *participating* entities shall be responsible for paying the full cost for maintenance and notification. Any fees collected shall be deposited in a special account to be used to offset the costs of ~~enhancing and administering~~ *subscription fees, maintenance fees, and enhancements related to* the ~~database~~ *Criminal and Rap Back Information System.*

H. The Department of State Police shall make the ~~database~~ *Virginia Rap Back Service* available no later than ~~January~~ *July* 1, ~~2005~~ *2025*, unless funds necessary to develop and operate the ~~database~~ *Virginia Rap Back Service* are unavailable.

I. No *participating* entity authorized to submit fingerprints shall be considered negligent per se in a civil action solely because the entity elected not to ~~submit~~ *enroll* an ~~individual's fingerprints to~~ *individual in* the ~~database~~ *Virginia Rap Back Service* pursuant to this section.

CHAPTER 42

An Act to amend and reenact § 19.2-389 of the Code of Virginia, relating to criminal history record information; dissemination.

[H 2313]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-389 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-389. Dissemination of criminal history record information.

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

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a

person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

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

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

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

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

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

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

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

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

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

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

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

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

19. The Commissioner of Behavioral Health and Developmental Services *(the Commissioner) or his designees* for ~~those~~ individuals who are committed to the custody of *or being evaluated by* the Commissioner pursuant to §§ *19.2-168.1, 19.2-169.1,* 19.2-169.2, *19.2-169.5,* 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 *where such information may be beneficial* for the purpose of placement, evaluation, ~~and~~ treatment*, or discharge* planning;

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

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

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

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

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

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

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506 and 37.2-607;

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

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

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

31. The Chairman of the Senate Committee on the Judiciary or the House Committee for Courts of Justice for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

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

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

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

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

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

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

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange

pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

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

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

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

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

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

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

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

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039; and

47. Other entities as otherwise provided by law.

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

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

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 46.

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

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

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

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

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

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

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

CHAPTER 43

An Act to amend and reenact § 19.2-389 of the Code of Virginia, relating to criminal history record information; dissemination.

[S 1132]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-389 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-389. Dissemination of criminal history record information.

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

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

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

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

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

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

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

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

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

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

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

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

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

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

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

19. The Commissioner of Behavioral Health and Developmental Services *(the Commissioner) or his designees* for ~~those~~ individuals who are committed to the custody of *or being evaluated by* the Commissioner pursuant to §§ *19.2-168.1, 19.2-169.1,* 19.2-169.2, *19.2-169.5,* 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 *where such information may be beneficial* for the purpose of placement, evaluation, ~~and~~ treatment*, or discharge* planning;

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

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

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

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

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

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

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506 and 37.2-607;

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

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

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

31. The Chairman of the Senate Committee on the Judiciary or the House Committee for Courts of Justice for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

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

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

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

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

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

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

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

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

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering

comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

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

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

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

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

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

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039; and

47. Other entities as otherwise provided by law.

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

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

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 46.

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

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

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

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

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

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of

such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

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

CHAPTER 44

An Act to designate the U.S. Route 211 westbound bridge that crosses over the South Fork of the Shenandoah River in Page County the "Dominic 'Nick' J. Winum Memorial Bridge."

[S 1220]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The U.S. Route 211 westbound bridge that crosses over the South Fork of the Shenandoah River in Page County is hereby designated the "Dominic 'Nick' J. Winum Memorial Bridge." The Department of Transportation shall place and maintain appropriate markers indicating the designation of this bridge. This designation shall not affect any other designation heretofore or hereafter applied to this bridge.*

CHAPTER 45

An Act to amend and reenact § 51.5-154 of the Code of Virginia, relating to Department for Aging and Rehabilitative Services; Alzheimer's Disease and Related Disorders Commission; membership; sunset.

[S 952]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 51.5-154 of the Code of Virginia is amended and reenacted as follows:

§ 51.5-154. (Expires July 1, 2023) Alzheimer's Disease and Related Disorders Commission; report.

A. The Alzheimer's Disease and Related Disorders Commission (the Commission) is established as an advisory commission in the executive branch of state government. The purpose of the entity is to assist people with Alzheimer's disease and related disorders and their caregivers.

B. The Commission shall ~~consist~~ *have a total membership of 20 members, consisting* of 15 nonlegislative citizen members *and five ex officio members*. ~~Members~~ *Nonlegislative citizen members* shall be appointed as follows: three members to be appointed by the Speaker of the House of Delegates; two members to be appointed by the Senate Committee on Rules; and 10 members to be appointed by the Governor, of whom seven shall be from among the boards, staffs, and volunteers of the Virginia chapters of the Alzheimer's Disease and Related Disorders Association and three shall be from the public at large. *The Commissioner of the Department for Aging and Rehabilitative Services, the Commissioner of Health, the Director of the Department of Medical Assistance Services, the Commissioner of the Department of Behavioral Health and Developmental Services, and the Commissioner of the Department of Social Services, or their designees, shall serve ex officio with nonvoting privileges, for a term coincident with their term of office.*

Nonlegislative citizen members shall be *citizens of the Commonwealth and shall be* appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall elect a chairman and vice-chairman from among its membership. A majority of the voting members shall constitute a quorum. The Commission shall meet at least four times each year. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the voting members so request.

C. Members shall receive such compensation for the discharge of their duties as provided in § 2.2-2813. All members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department.

D. The Commission shall have the power and duty to:

1. Examine the needs of persons with Alzheimer's disease and related disorders, as well as the needs of their caregivers, and ways that state government can most effectively and efficiently assist in meeting those needs;

2. Develop and promote strategies to encourage brain health and reduce cognitive decline;

3. Advise the Governor and General Assembly on policy, funding, regulatory, and other issues related to persons suffering from Alzheimer's disease and related disorders and their caregivers;

4. Develop the Commonwealth's plan for meeting the needs of patients with Alzheimer's disease and related disorders and their caregivers, and advocate for such plan;

5. Submit to the Governor, General Assembly, and Department by October 1 of each year an electronic report regarding the activities and recommendations of the Commission, which shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website and the Department's website; and

6. Establish priorities for programs among state agencies related to Alzheimer's disease and related disorders and criteria to evaluate these programs.

E. The Department shall provide staff support to the Commission. All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

F. The Commission may apply for and expend such grants, gifts, or bequests from any source as may become available in connection with its duties under this section and may comply with such conditions and requirements as may be imposed in connections therewith.

G. This section shall expire on July 1, ~~2023~~ *2026*.

CHAPTER 46

An Act to amend and reenact § 2.2-203.2:4, as it is currently effective, of the Code of Virginia and to repeal the third enactment of Chapter 314 of the Acts of Assembly of 2021, Special Session I, relating to the Office of Data Governance and Analytics; Chief Data Officer.

[H 1591]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-203.2:4, as it is currently effective, of the Code of Virginia is amended and reenacted as follows:

§ 2.2-203.2:4. (Effective until July 1, 2023) Office of Data Governance and Analytics; Chief Data Officer; creation; report.

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

"Board" means the Executive Data Board.

"CDO" means the Chief Data Officer of the Commonwealth.

"Commonwealth Data Trust" means a secure, multi-stakeholder data exchange and analytics platform with common rules for data security, privacy, and confidentiality. The Commonwealth Data Trust shall include data from state, regional, and local governments, from public institutions of higher education, and from any other sources deemed necessary and appropriate.

"Council" means the Data Governance Council.

"Group" means the Data Stewards Group.

"Office" means the Office of Data Governance and Analytics.

"Open data" means data that is collected by an agency that is not prohibited from being made available to the public by applicable laws or regulations or other restrictions, requirements, or rights associated with such data.

B. There is created in the Office of the Secretary of Administration the Office of Data Governance and Analytics to foster and oversee the effective sharing of data among state, regional, and local public entities and public institutions of higher education, implement effective data governance strategies to maintain data integrity and security, and promote access to Commonwealth data. The purpose of the Office shall be to (i) improve compliance with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.); (ii) increase access to and sharing of Commonwealth data, including open data, between state, regional and local public entities and public institutions of higher education across all levels of government; (iii) Increase the use of data and data analytics to improve the efficiency and efficacy of government services and improve stakeholder outcomes; and (iv) establish the Commonwealth as a national leader in data-driven policy, evidence-based decision making, and outcome-based performance management.

C. The Office shall have the following powers and duties:

1. To support the collection, dissemination, analysis, and proper use of data by state agencies and public entities as defined in the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.);

2. To facilitate and guide data-sharing efforts between state, regional, and local public entities and public institutions of higher education;

3. To develop innovative data analysis and intelligence methodologies and best practices to promote data-driven policy making, decision making, research, and analysis;

4. To manage and administer the Commonwealth Data Trust;

5. To assist the Chief Data Officer and the Chief Information Officer of the Commonwealth in the development of a comprehensive six-year Commonwealth strategic plan for information technology;

6. In cooperation with the Chief Information Officer of the Commonwealth, to provide technical assistance to state agencies, local governments, and regional entities to establish and promote data sharing and analytics projects including

data storage, data security, privacy, compliance with federal law, the de-identification of data for research purposes, and the appropriate access to and presentation of open data and datasets to the public;

7. To develop measures and targets related to the performance of the Commonwealth's data governance, sharing, analytics, and intelligence program;

8. To undertake, identify, coordinate, and oversee studies linking government services to stakeholder outcomes;

9. To implement a website dedicated to (i) hosting open data from state, regional, and local public entities and public institutions of higher education and (ii) providing links to any other additional open data websites in the Commonwealth;

10. To provide staff and operational support to the Virginia Data Commission, Executive Data Board, Data Governance Council, and Data Stewards Group;

11. To apply for and accept grants from the United States government and agencies and instrumentalities thereof and any other source. To those ends, the Office shall have the power to comply with such conditions and execute such agreements as may be necessary or desirable;

12. To solicit, receive, and consider proposals for funding projects or initiatives from any state or federal agency, local or regional government, public institution of higher education, nonprofit organization, or private person or corporation;

13. To enter into public-private partnerships and agreements with public institutions of higher education in the Commonwealth to conduct data sharing and analytics projects;

14. To solicit and accept funds, goods, and in-kind services that are part of any accepted project proposal;

15. To establish ad hoc committees or project teams to investigate related technology or technical issues and provide results and recommendations for Office action; and

16. To establish such bureaus, sections, or units as the Office deems appropriate to carry out its goals and responsibilities.

D. There is created in the Office of the Secretary of Administration the position of Chief Data Officer of the Commonwealth to oversee the operation of the Office. The CDO shall exercise and perform the duties conferred or imposed upon him by law and perform such other duties as may be required by the Governor and the Secretary of Administration. The CDO shall not be considered the custodian of any public records in or derived from the Commonwealth Data Trust. The CDO shall:

1. Establish business rules, guidelines, and best practices for the use of data, including open data, in the Commonwealth. Such rules, guidelines, and best practices shall address, at a minimum, (i) the sharing of data between state, regional, and local public entities and public institutions of higher education, and, when appropriate, private entities; (ii) data storage; (iii) data security; (iv) privacy; (v) compliance with federal law; (vi) the de-identification of data for research purposes; and (vii) the appropriate access to and presentation of open data and datasets to the public;

2. Assist state, regional, and local public entities, public institutions of higher education, and employees thereof, with the application of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et. seq.) and understanding the applicability of federal laws governing privacy and access to data to the data sharing practices of the Commonwealth;

3. Assist the Chief Information Officer of the Commonwealth with matters related to the creation, storage, and dissemination of data upon request;

4. Encourage and coordinate efforts of state, regional, and local public entities and public institutions of higher education to access and share data, including open data, across all levels of government in an effort to improve the efficiency and efficacy of services, improve outcomes, and promote data-driven policy making, decision making, research, and analysis;

5. Oversee the implementation of a website dedicated to (i) hosting open data from state, regional, and local public entities and public institutions of higher education and (ii) providing links to any other additional open data websites in the Commonwealth;

6. Enter into contracts for the purpose of carrying out the provisions of this section;

7. Rent office space and procure equipment, goods, and services necessary to carry out the provisions of this section; and

8. Report on the activities of the Office, the Commonwealth Data Trust, and the Virginia Data Commission established pursuant to Article 13 (§ 2.2-2558 et seq.) of Chapter 25 annually by December 1 to the Governor and the General Assembly.

E. The Commonwealth Data Trust shall be governed by a multi-level governance structure as follows:

1. The Executive Data Board shall consist of the directors or chief executives, or their designees, of executive branch agencies engaged in data sharing and analytics projects with the Commonwealth Data Trust. The CDO shall chair the Board. Members of the Board shall (i) translate the Commonwealth's data-driven policy goals and objectives into performance targets at their respective agencies; (ii) allocate appropriate resources at their respective agencies to support data governance, sharing, and analytics initiatives; and (iii) provide any reports to the Office regarding their respective agencies' data analytics work and implementation of recommendations.

2. The Data Governance Council shall consist of employees of the agencies represented on the Board, selected by the Board members from their respective agencies. The CDO, or his designee, shall chair the Council. The Council shall (i) liaise between state agency operations and the CDO; (ii) advise the CDO on data technology, policy, and governance structure; (iii) administer data governance policies, standards, and best practices, as set by the Board; (iv) oversee data sharing and analytics projects; (v) review open data assets prior to publication; (vi) provide to the Board any reports on the Council's recommendations and work as required by the Board; (vii) develop necessary privacy and ethical standards and

policies for Commonwealth Data Trust resources; (viii) monitor the sharing of Commonwealth Data Trust member-contributed data resources; (ix) review and approve new Commonwealth Data Trust-managed data resources; and (x) conduct any other business the CDO deems necessary for Commonwealth Data Trust governance.

3. The Data Stewards Group shall consist of employees from executive branch agencies with technical experience in data management or data analytics. Executive branch agencies shall be encouraged to designate at least one agency data steward to serve on the Group and may designate multiple data stewards as appropriate based upon organizational or data system responsibilities. The Group shall (i) provide the Board and Council with technical subject matter expertise in support of data policies, standards, and best practices; (ii) implement data sharing and analytics projects promoting data accessibility, sharing, and reuse, thereby reducing redundancy across the Commonwealth; (iii) coordinate and resolve technical stewardship issues for standardized data; (iv) ensure data quality processes and standards are implemented consistently by agencies in the Commonwealth; (v) provide communication and education to data users on the appropriate use, sharing, and protection of the Commonwealth's data assets; (vi) promote the collection and sharing of metadata by registering data assets in the Virginia Data Catalog; (vii) liaise with agency project managers and information technology investment staff to ensure adherence to Commonwealth data standards and data sharing requirements; and (viii) support informed, data-driven decision making through compliance with Commonwealth data policies, standards, and best practices.

F. In carrying out the provisions of this section, the Office shall coordinate and collaborate with, to the fullest extent authorized by federal law and notwithstanding any state law to the contrary, all agencies set forth in subsection A of § 2.2-212 and subsection A of § 2.2-221; any other state, regional, and local public bodies, including community services boards; local law-enforcement agencies; any health and human services-related entity of a political subdivision that receives state funds; public institutions of higher education; and, when appropriate, private entities.

G. The Office shall be considered an agent of any state agency in the executive branch of government that shares information or data with the office, and shall be an authorized recipient of information under any statutory or administrative law governing the information or data. Interagency data shared pursuant to this section shall not constitute a disclosure or release of information or data under any statutory or administrative law governing the information or data.

H. The Office shall be responsible for overseeing and supporting any workforce development data systems authorized under the Secretary of Labor to ensure the interoperability of the systems, to facilitate data sharing, to identify innovative technology solutions, and to support processes that create data-informed decisions.

2. That the third enactment of Chapter 314 of the Acts of Assembly of 2021, Special Session I, is repealed.

CHAPTER 47

An Act to amend and reenact § 2.2-203.2:4, as it is currently effective, of the Code of Virginia and to repeal the third enactment of Chapter 314 of the Acts of Assembly of 2021, Special Session I, relating to the Office of Data Governance and Analytics; Chief Data Officer.

[S 914]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-203.2:4, as it is currently effective, of the Code of Virginia is amended and reenacted as follows:

§ 2.2-203.2:4. (Effective until July 1, 2023) Office of Data Governance and Analytics; Chief Data Officer; creation; report.

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

"Board" means the Executive Data Board.

"CDO" means the Chief Data Officer of the Commonwealth.

"Commonwealth Data Trust" means a secure, multi-stakeholder data exchange and analytics platform with common rules for data security, privacy, and confidentiality. The Commonwealth Data Trust shall include data from state, regional, and local governments, from public institutions of higher education, and from any other sources deemed necessary and appropriate.

"Council" means the Data Governance Council.

"Group" means the Data Stewards Group.

"Office" means the Office of Data Governance and Analytics.

"Open data" means data that is collected by an agency that is not prohibited from being made available to the public by applicable laws or regulations or other restrictions, requirements, or rights associated with such data.

B. There is created in the Office of the Secretary of Administration the Office of Data Governance and Analytics to foster and oversee the effective sharing of data among state, regional, and local public entities and public institutions of higher education, implement effective data governance strategies to maintain data integrity and security, and promote access to Commonwealth data. The purpose of the Office shall be to (i) improve compliance with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.); (ii) increase access to and sharing of Commonwealth data, including open data, between state, regional and local public entities and public institutions of higher education across all levels of government; (iii) Increase the use of data and data analytics to improve the efficiency and efficacy of government services

and improve stakeholder outcomes; and (iv) establish the Commonwealth as a national leader in data-driven policy, evidence-based decision making, and outcome-based performance management.

C. The Office shall have the following powers and duties:

1. To support the collection, dissemination, analysis, and proper use of data by state agencies and public entities as defined in the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.);

2. To facilitate and guide data-sharing efforts between state, regional, and local public entities and public institutions of higher education;

3. To develop innovative data analysis and intelligence methodologies and best practices to promote data-driven policy making, decision making, research, and analysis;

4. To manage and administer the Commonwealth Data Trust;

5. To assist the Chief Data Officer and the Chief Information Officer of the Commonwealth in the development of a comprehensive six-year Commonwealth strategic plan for information technology;

6. In cooperation with the Chief Information Officer of the Commonwealth, to provide technical assistance to state agencies, local governments, and regional entities to establish and promote data sharing and analytics projects including data storage, data security, privacy, compliance with federal law, the de-identification of data for research purposes, and the appropriate access to and presentation of open data and datasets to the public;

7. To develop measures and targets related to the performance of the Commonwealth's data governance, sharing, analytics, and intelligence program;

8. To undertake, identify, coordinate, and oversee studies linking government services to stakeholder outcomes;

9. To implement a website dedicated to (i) hosting open data from state, regional, and local public entities and public institutions of higher education and (ii) providing links to any other additional open data websites in the Commonwealth;

10. To provide staff and operational support to the Virginia Data Commission, Executive Data Board, Data Governance Council, and Data Stewards Group;

11. To apply for and accept grants from the United States government and agencies and instrumentalities thereof and any other source. To those ends, the Office shall have the power to comply with such conditions and execute such agreements as may be necessary or desirable;

12. To solicit, receive, and consider proposals for funding projects or initiatives from any state or federal agency, local or regional government, public institution of higher education, nonprofit organization, or private person or corporation;

13. To enter into public-private partnerships and agreements with public institutions of higher education in the Commonwealth to conduct data sharing and analytics projects;

14. To solicit and accept funds, goods, and in-kind services that are part of any accepted project proposal;

15. To establish ad hoc committees or project teams to investigate related technology or technical issues and provide results and recommendations for Office action; and

16. To establish such bureaus, sections, or units as the Office deems appropriate to carry out its goals and responsibilities.

D. There is created in the Office of the Secretary of Administration the position of Chief Data Officer of the Commonwealth to oversee the operation of the Office. The CDO shall exercise and perform the duties conferred or imposed upon him by law and perform such other duties as may be required by the Governor and the Secretary of Administration. The CDO shall not be considered the custodian of any public records in or derived from the Commonwealth Data Trust. The CDO shall:

1. Establish business rules, guidelines, and best practices for the use of data, including open data, in the Commonwealth. Such rules, guidelines, and best practices shall address, at a minimum, (i) the sharing of data between state, regional, and local public entities and public institutions of higher education, and, when appropriate, private entities; (ii) data storage; (iii) data security; (iv) privacy; (v) compliance with federal law; (vi) the de-identification of data for research purposes; and (vii) the appropriate access to and presentation of open data and datasets to the public;

2. Assist state, regional, and local public entities, public institutions of higher education, and employees thereof, with the application of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et. seq.) and understanding the applicability of federal laws governing privacy and access to data to the data sharing practices of the Commonwealth;

3. Assist the Chief Information Officer of the Commonwealth with matters related to the creation, storage, and dissemination of data upon request;

4. Encourage and coordinate efforts of state, regional, and local public entities and public institutions of higher education to access and share data, including open data, across all levels of government in an effort to improve the efficiency and efficacy of services, improve outcomes, and promote data-driven policy making, decision making, research, and analysis;

5. Oversee the implementation of a website dedicated to (i) hosting open data from state, regional, and local public entities and public institutions of higher education and (ii) providing links to any other additional open data websites in the Commonwealth;

6. Enter into contracts for the purpose of carrying out the provisions of this section;

7. Rent office space and procure equipment, goods, and services necessary to carry out the provisions of this section; and

8. Report on the activities of the Office, the Commonwealth Data Trust, and the Virginia Data Commission established pursuant to Article 13 (§ 2.2-2558 et seq.) of Chapter 25 annually by December 1 to the Governor and the General Assembly.

E. The Commonwealth Data Trust shall be governed by a multi-level governance structure as follows:

1. The Executive Data Board shall consist of the directors or chief executives, or their designees, of executive branch agencies engaged in data sharing and analytics projects with the Commonwealth Data Trust. The CDO shall chair the Board. Members of the Board shall (i) translate the Commonwealth's data-driven policy goals and objectives into performance targets at their respective agencies; (ii) allocate appropriate resources at their respective agencies to support data governance, sharing, and analytics initiatives; and (iii) provide any reports to the Office regarding their respective agencies' data analytics work and implementation of recommendations.

2. The Data Governance Council shall consist of employees of the agencies represented on the Board, selected by the Board members from their respective agencies. The CDO, or his designee, shall chair the Council. The Council shall (i) liaise between state agency operations and the CDO; (ii) advise the CDO on data technology, policy, and governance structure; (iii) administer data governance policies, standards, and best practices, as set by the Board; (iv) oversee data sharing and analytics projects; (v) review open data assets prior to publication; (vi) provide to the Board any reports on the Council's recommendations and work as required by the Board; (vii) develop necessary privacy and ethical standards and policies for Commonwealth Data Trust resources; (viii) monitor the sharing of Commonwealth Data Trust member-contributed data resources; (ix) review and approve new Commonwealth Data Trust-managed data resources; and (x) conduct any other business the CDO deems necessary for Commonwealth Data Trust governance.

3. The Data Stewards Group shall consist of employees from executive branch agencies with technical experience in data management or data analytics. Executive branch agencies shall be encouraged to designate at least one agency data steward to serve on the Group and may designate multiple data stewards as appropriate based upon organizational or data system responsibilities. The Group shall (i) provide the Board and Council with technical subject matter expertise in support of data policies, standards, and best practices; (ii) implement data sharing and analytics projects promoting data accessibility, sharing, and reuse, thereby reducing redundancy across the Commonwealth; (iii) coordinate and resolve technical stewardship issues for standardized data; (iv) ensure data quality processes and standards are implemented consistently by agencies in the Commonwealth; (v) provide communication and education to data users on the appropriate use, sharing, and protection of the Commonwealth's data assets; (vi) promote the collection and sharing of metadata by registering data assets in the Virginia Data Catalog; (vii) liaise with agency project managers and information technology investment staff to ensure adherence to Commonwealth data standards and data sharing requirements; and (viii) support informed, data-driven decision making through compliance with Commonwealth data policies, standards, and best practices.

F. In carrying out the provisions of this section, the Office shall coordinate and collaborate with, to the fullest extent authorized by federal law and notwithstanding any state law to the contrary, all agencies set forth in subsection A of § 2.2-212 and subsection A of § 2.2-221; any other state, regional, and local public bodies, including community services boards; local law-enforcement agencies; any health and human services-related entity of a political subdivision that receives state funds; public institutions of higher education; and, when appropriate, private entities.

G. The Office shall be considered an agent of any state agency in the executive branch of government that shares information or data with the office, and shall be an authorized recipient of information under any statutory or administrative law governing the information or data. Interagency data shared pursuant to this section shall not constitute a disclosure or release of information or data under any statutory or administrative law governing the information or data.

H. The Office shall be responsible for overseeing and supporting any workforce development data systems authorized under the Secretary of Labor to ensure the interoperability of the systems, to facilitate data sharing, to identify innovative technology solutions, and to support processes that create data-informed decisions.

2. That the third enactment of Chapter 314 of the Acts of Assembly of 2021, Special Session I, is repealed.

CHAPTER 48

An Act to amend and reenact §§ 62.1-44.15:24 and 62.1-44.15:28, as they are currently effective and as they may become effective, 62.1-44.15:34, as it may become effective, and 62.1-44.15:51, 62.1-44.15:55, and 62.1-44.15:58, as they are currently effective and as they may become effective, of the Code of Virginia, relating to stormwater management; streamlining; federal conformity.

[H 1848]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-44.15:24 and 62.1-44.15:28, as they are currently effective and as they may become effective, 62.1-44.15:34, as it may become effective, and 62.1-44.15:51, 62.1-44.15:55, and 62.1-44.15:58, as they are currently effective and as they may become effective, of the Code of Virginia are amended and reenacted as follows:

§ 62.1-44.15:24. (For expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Definitions.

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

"Agreement in lieu of a stormwater management plan" means a contract between the VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of a VSMP for the construction of a *(i)* single-family residence *or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent*; such contract may be executed by the VSMP authority in lieu of a stormwater management plan.

"Chesapeake Bay Preservation Act land-disturbing activity" means a land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal to or greater than 2,500 square feet and less than one acre in all areas of jurisdictions designated as subject to the regulations adopted pursuant to the Chesapeake Bay Preservation provisions of this chapter.

"CWA" means the federal Clean Water Act (33 U.S.C. § 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500, as amended by P.L. 95-217, P.L. 95-576, P.L. 96-483, and P.L. 97-117, or any subsequent revisions thereto.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Farm building or structure" means the same as that term is defined in § 36-97 and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400, and any related impervious surfaces including roads, driveways, and parking areas.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body, or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

"Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include those exemptions specified in § 62.1-44.15:34.

"Municipal separate storm sewer" means a conveyance or system of conveyances otherwise known as a municipal separate storm sewer system or "MS4," including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains:

1. Owned or operated by a federal, state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction or delegated authority for erosion and sediment control and stormwater management, or a designated and approved management agency under § 208 of the CWA that discharges to surface waters;

2. Designed or used for collecting or conveying stormwater;

3. That is not a combined sewer; and

4. That is not part of a publicly owned treatment works.

"Municipal Separate Storm Sewer System Management Program" means a management program covering the duration of a state permit for a municipal separate storm sewer system that includes a comprehensive planning process that involves public participation and intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the CWA and regulations, and this article and its attendant regulations, using management practices, control techniques, and system, design, and engineering methods, and such other provisions that are appropriate.

"Nonpoint source pollution" means pollution such as sediment, nitrogen, phosphorus, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater runoff.

"Peak flow rate" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Permit" or "VSMP authority permit" means an approval to conduct a land-disturbing activity issued by the VSMP authority for the initiation of a land-disturbing activity after evidence of state VSMP general permit coverage has been provided where applicable.

"Permittee" means the person to which the permit or state permit is issued.

"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

"Rural Tidewater locality" means any locality that is (i) subject to the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) and (ii) eligible to join the Rural Coastal Virginia Community Enhancement Authority established by Chapter 76 (§ 15.2-7600 et seq.) of Title 15.2.

"Small construction activity" means:

1. A construction activity, including clearing, grading, or excavating, that results in land disturbance of equal to or greater than one acre and less than five acres. "Small construction activity" also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb an area equal to or greater than one acre and less than five acres. "Small construction activity" does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

The Board may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on an approved total maximum daily load (TMDL) that addresses the pollutants of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutants of concern or that

determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutants of concern include sediment or a parameter that addresses sediment, such as total suspended solids, turbidity, or siltation, and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator shall certify to the Board that the construction activity will take place, and that stormwater discharges will occur, within the drainage area addressed by the TMDL or provide an equivalent analysis.

As of the start date in the table of start dates for electronic submissions of Virginia Pollutant Discharge Elimination System (VPDES) information within the regulation governing the implementation of electronic reporting requirements for certain VPDES permittees, facilities, and entities, all certifications submitted in support of such waiver shall be submitted electronically by the owner or operator to the Department in compliance with (i) this subdivision; (ii) 40 C.F.R. Part 3, including, in all cases, 40 C.F.R. Part 3 Subpart D; (iii) the regulation addressing signatories to state permit applications and reports; and (iv) regulations addressing the VPDES electronic reporting requirements. Such regulations addressing the VPDES electronic reporting requirements shall not undo existing requirements for electronic reporting. Prior to such date, and independent of the regulations addressing the VPDES electronic reporting requirements, a permittee shall be required to report electronically if specified by a particular permit.

2. Any other construction activity designated by either the Board or the Regional Administrator of the U.S. Environmental Protection Agency, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

"State permit" means an approval to conduct a land-disturbing activity issued by the Board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the Board for stormwater discharges from an MS4. Under these permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations and this article and its attendant regulations.

"Stormwater" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater management plan" means a document containing material describing methods for complying with the requirements of a VSMP.

"Subdivision" means the same as defined in § 15.2-2201.

"Virginia Stormwater Management Program" or "VSMP" means a program approved by the Soil and Water Conservation Board after September 13, 2011, and until June 30, 2013, or the State Water Control Board on and after June 30, 2013, that has been established by a VSMP authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

"Virginia Stormwater Management Program authority" or "VSMP authority" means an authority approved by the Board after September 13, 2011, to operate a Virginia Stormwater Management Program or the Department. An authority may include a locality; state entity, including the Department; federal entity; or, for linear projects subject to annual standards and specifications in accordance with subsection B of § 62.1-44.15:31, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102.

"Water quality volume" means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

"Water quantity technical criteria" means standards set forth in regulations adopted pursuant to this article that establish minimum design criteria for measures to control localized flooding and stream channel erosion.

"Watershed" means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which water drains may be considered the single outlet for the watershed.

§ 62.1-44.15:24. (For effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Definitions.

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

"Agreement in lieu of a plan" means a contract between the VESMP authority or the Board acting as a VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of this article for the construction of a *(i)* single-family detached residential structure *or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent*; such contract may be executed by the VESMP authority in lieu of a soil erosion control and stormwater management plan or by the Board acting as a VSMP authority in lieu of a stormwater management plan.

"Applicant" means any person submitting a soil erosion control and stormwater management plan to a VESMP authority, or a stormwater management plan to the Board when it is serving as a VSMP authority, for approval in order to obtain authorization to commence a land-disturbing activity.

"CWA" means the federal Clean Water Act (33 U.S.C. § 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500, as amended by P.L. 95-217, P.L. 95-576, P.L. 96-483, and P.L. 97-117, or any subsequent revisions thereto.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Erosion impact area" means an area of land that is not associated with a current land-disturbing activity but is subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or any shoreline where the erosion results from wave action or other coastal processes.

"Farm building or structure" means the same as that term is defined in § 36-97 and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400, and any related impervious surfaces including roads, driveways, and parking areas.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body, or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

"Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including construction activity such as the clearing, grading, excavating, or filling of land.

"Land-disturbance approval" means the same as that term is defined in § 62.1-44.3.

"Municipal separate storm sewer" or "MS4" means the same as that term is defined in § 62.1-44.3.

"Municipal Separate Storm Sewer System Management Program" means a management program covering the duration of a permit for a municipal separate storm sewer system that includes a comprehensive planning process that involves public participation and intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the CWA and regulations, and this article and its attendant regulations, using management practices, control techniques, and system, design, and engineering methods, and such other provisions that are appropriate.

"Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

"Nonpoint source pollution" means pollution such as sediment, nitrogen, phosphorus, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater.

"Owner" means the same as that term is defined in § 62.1-44.3. For a regulated land-disturbing activity that does not require a permit, "owner" also means the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Permit" means a Virginia Pollutant Discharge Elimination System (VPDES) permit issued by the Board pursuant to § 62.1-44.15 for stormwater discharges from a land-disturbing activity or MS4.

"Permittee" means the person to whom the permit is issued.

"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

"Rural Tidewater locality" means any locality that is (i) subject to the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) and (ii) eligible to join the Rural Coastal Virginia Community Enhancement Authority established by Chapter 76 (§ 15.2-7600 et seq.) of Title 15.2.

"Small construction activity" means:

1. A construction activity, including clearing, grading, or excavating, that results in land disturbance of equal to or greater than one acre and less than five acres. "Small construction activity" also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb an area equal to or greater than one acre and less than five acres. "Small construction activity" does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

The Board may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on an approved total maximum daily load (TMDL) that addresses the pollutants of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutants of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutants of concern include sediment or a parameter that addresses sediment, such as total suspended solids, turbidity, or siltation, and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator shall certify to the Board that the construction activity will take place, and that stormwater discharges will occur, within the drainage area addressed by the TMDL or provide an equivalent analysis.

As of the start date in the table of start dates for electronic submissions of Virginia Pollutant Discharge Elimination System (VPDES) information within the regulation governing the implementation of electronic reporting requirements for certain VPDES permittees, facilities, and entities, all certifications submitted in support of such waiver shall be submitted electronically by the owner or operator to the Department in compliance with (i) this subdivision; (ii) 40 C.F.R. Part 3, including, in all cases, 40 C.F.R. Part 3 Subpart D; (iii) the regulation addressing signatories to state permit applications and reports; and (iv) regulations addressing the VPDES electronic reporting requirements. Such regulations addressing the VPDES electronic reporting requirements shall not undo existing requirements for electronic reporting. Prior to such date, and independent of the regulations addressing the VPDES electronic reporting requirements, a permittee shall be required to report electronically if specified by a particular permit.

2. Any other construction activity designated by either the Board or the Regional Administrator of the U.S. Environmental Protection Agency, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

"Soil erosion" means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

"Soil Erosion Control and Stormwater Management plan" or "plan" means a document describing methods for controlling soil erosion and managing stormwater in accordance with the requirements adopted pursuant to this article.

"Stormwater," for the purposes of this article, means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater management plan" means a document containing material describing methods for complying with the requirements of a VSMP.

"Subdivision" means the same as that term is defined in § 15.2-2201.

"Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the Board that is established by a VESCP authority pursuant to Article 2.4 (§ 62.1-44.15:51 et seq.) for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The VESCP shall include, where applicable, such items as local ordinances, rules, policies and guidelines, technical materials, and requirements for plan review, inspection, and evaluation consistent with the requirements of Article 2.4 (§ 62.1-44.15:51 et seq.).

"Virginia Erosion and Sediment Control Program authority" or "VESCP authority" means a locality that is approved by the Board to operate a Virginia Erosion and Sediment Control Program in accordance with Article 2.4 (§ 62.1-44.15:51 et seq.). Only a locality for which the Department administered a Virginia Stormwater Management Program as of July 1, 2017, is authorized to choose to operate a VESCP pursuant to Article 2.4 (§ 62.1-44.15:51 et seq.).

"Virginia Erosion and Stormwater Management Program" or "VESMP" means a program established by a VESMP authority for the effective control of soil erosion and sediment deposition and the management of the quality and quantity of runoff resulting from land-disturbing activities to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The program shall include such items as local ordinances, rules, requirements for permits and land-disturbance approvals, policies and guidelines, technical materials, and requirements for plan review, inspection, and enforcement consistent with the requirements of this article.

"Virginia Erosion and Stormwater Management Program authority" or "VESMP authority" means the Board or a locality approved by the Board to operate a Virginia Erosion and Stormwater Management Program. For state agency or federal entity land-disturbing activities and land-disturbing activities subject to approved standards and specifications, the Board shall serve as the VESMP authority.

"Virginia Stormwater Management Program" or "VSMP" means a program established by the Board pursuant to § 62.1-44.15:27.1 on behalf of a locality on or after July 1, 2014, to manage the quality and quantity of runoff resulting from any land-disturbing activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or more of land disturbance.

"Virginia Stormwater Management Program authority" or "VSMP authority" means the Board when administering a VSMP on behalf of a locality that, pursuant to subdivision B 3 of § 62.1-44.15:27, has chosen not to adopt and administer a VESMP.

"Water quality technical criteria" means standards set forth in regulations adopted pursuant to this article that establish minimum design criteria for measures to control nonpoint source pollution.

"Water quantity technical criteria" means standards set forth in regulations adopted pursuant to this article that establish minimum design criteria for measures to control localized flooding and stream channel erosion.

"Watershed" means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which water drains may be considered the single outlet for the watershed.

§ 62.1-44.15:28. (For expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Development of regulations.

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

1. Establish standards and procedures for administering a VSMP;

2. Establish minimum design criteria for measures to control nonpoint source pollution and localized flooding, and incorporate the stormwater management regulations adopted pursuant to the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), as they relate to the prevention of stream channel erosion. These criteria shall be periodically modified as required in order to reflect current engineering methods;

3. Require the provision of long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;

4. Require as a minimum the inclusion in VSMPs of certain administrative procedures that include, but are not limited to, specifying the time period within which a VSMP authority shall grant land-disturbing activity approval, the conditions and processes under which approval shall be granted, the procedures for communicating disapproval, the conditions under which an approval may be changed, and requirements for inspection of approved projects;

5. Establish by regulations a statewide permit fee schedule to cover all costs associated with the implementation of a VSMP related to land-disturbing activities of one acre or greater. Such fee attributes include the costs associated with plan review, VSMP registration statement review, permit issuance, state-coverage verification, inspections, reporting, and compliance activities associated with the land-disturbing activities as well as program oversight costs. The fee schedule shall also include a provision for a reduced fee for land-disturbing activities between 2,500 square feet and up to one acre in Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) localities. The fee schedule shall be governed by the following:

a. The revenue generated from the statewide stormwater permit fee shall be collected utilizing, where practicable, an online payment system, and the Department's portion shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund established pursuant to § 62.1-44.15:29. However, whenever the Board has approved a VSMP, no more than 30 percent of the total revenue generated by the statewide stormwater permit fees collected shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund, with the balance going to the VSMP authority.

b. Fees collected pursuant to this section shall be in addition to any general fund appropriation made to the Department or other supporting revenue from a VSMP; however, the fees shall be set at a level sufficient for the Department and the VSMP to fully carry out their responsibilities under this article and its attendant regulations and local ordinances or standards and specifications where applicable. When establishing a VSMP, the VSMP authority shall assess the statewide fee schedule and shall have the authority to reduce or increase such fees, and to consolidate such fees with other program-related charges, but in no case shall such fee changes affect the amount established in the regulations as available to the Department for program oversight responsibilities pursuant to subdivision 5 a. A VSMP's portion of the fees shall be used solely to carry out the VSMP's responsibilities under this article and its attendant regulations, ordinances, or annual standards and specifications.

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

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

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

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

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

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

8. Notwithstanding the provisions of subdivision 5, establish a procedure by which ~~neither a registration statement nor~~ payment of the Department's portion of the statewide permit fee established pursuant to that subdivision shall *not* be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale;

9. Provide for the certification and use of a proprietary best management practice only if another state, regional, or national program has verified its nutrient or sediment removal effectiveness and all of such program's established test protocol requirements were met or exceeded. As used in this subdivision and any regulations or guidance adopted pursuant to this subdivision, "certification" means a determination by the Department that a proprietary best management practice is approved for use in accordance with this article;

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

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

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

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

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

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

16. Require the owner of property that is zoned for residential use and on which is located a privately owned stormwater management facility serving one or more residential properties to record the long-term maintenance and inspection requirements for such facility with the deed for the owner's property; ~~and~~

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

18. Establish a procedure by which a registration statement shall not be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for a small construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale.

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

§ 62.1-44.15:28. (For effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Development of regulations.

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

1. Establish standards and procedures for administering a VESMP;

2. Establish minimum standards of effectiveness of the VESMP and criteria and procedures for reviewing and evaluating its effectiveness. The minimum standards of program effectiveness established by the Board shall provide that (i) no soil erosion control and stormwater management plan shall be approved until it is reviewed by a plan reviewer certified pursuant to § 62.1-44.15:30, (ii) each inspection of a land-disturbing activity shall be conducted by an inspector certified pursuant to § 62.1-44.15:30, and (iii) each VESMP shall contain a program administrator, a plan reviewer, and an inspector, each of whom is certified pursuant to § 62.1-44.15:30 and all of whom may be the same person;

3. Be based upon relevant physical and developmental information concerning the watersheds and drainage basins of the Commonwealth, including data relating to land use, soils, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services;

4. Include any survey of lands and waters as the Board deems appropriate or as any applicable law requires to identify areas, including multijurisdictional and watershed areas, with critical soil erosion and sediment problems;

5. Contain conservation standards for various types of soils and land uses, which shall include criteria, techniques, and methods for the control of soil erosion and sediment resulting from land-disturbing activities;

6. Establish water quality and water quantity technical criteria. These criteria shall be periodically modified as required in order to reflect current engineering methods;

7. Require the provision of long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;

8. Require as a minimum the inclusion in VESMPs of certain administrative procedures that include, but are not limited to, specifying the time period within which a VESMP authority shall grant land-disturbance approval, the conditions and processes under which such approval shall be granted, the procedures for communicating disapproval, the conditions under which an approval may be changed, and requirements for inspection of approved projects;

9. Establish a statewide fee schedule to cover all costs associated with the implementation of a VESMP related to land-disturbing activities where permit coverage is required, and for land-disturbing activities where the Board serves as a VESMP authority or VSMP authority. Such fee attributes include the costs associated with plan review, permit registration statement review, permit issuance, permit coverage verification, inspections, reporting, and compliance activities associated with the land-disturbing activities as well as program oversight costs. The fee schedule shall also include a provision for a reduced fee for a land-disturbing activity that disturbs 2,500 square feet or more but less than one acre in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.). The fee schedule shall be governed by the following:

a. The revenue generated from the statewide fee shall be collected utilizing, where practicable, an online payment system, and the Department's portion shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund established pursuant to § 62.1-44.15:29. However, whenever the Board has approved a VESMP, no more than 30 percent of the total revenue generated by the statewide fees collected shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund, with the balance going to the VESMP authority;

b. Fees collected pursuant to this section shall be in addition to any general fund appropriation made to the Department or other supporting revenue from a VESMP; however, the fees shall be set at a level sufficient for the Department, the Board, and the VESMP to fully carry out their responsibilities under this article and local ordinances or standards and specifications where applicable. When establishing a VESMP, the VESMP authority shall assess the statewide fees pursuant to the schedule and shall have the authority to reduce or increase such fees, and to consolidate such fees with other program-related charges, but in no case shall such fee changes affect the amount established in the regulations as available to the Department for program oversight responsibilities pursuant to subdivision a. A VESMP's portion of the fees shall be used solely to carry out the VESMP's responsibilities under this article and associated ordinances;

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

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

e. Notwithstanding the other provisions of this subdivision 9, establish a procedure by which ~~neither a registration statement nor~~ payment of the Department's portion of the statewide fee established pursuant to this subdivision 9 shall *not* be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale;

f. Establish a procedure by which a registration statement shall not be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for a small construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale;

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

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

12. Provide for the certification and use of a proprietary best management practice only if another state, regional, or national program has verified its nutrient or sediment removal effectiveness and all of such program's established test protocol requirements were met or exceeded. As used in this subdivision and any regulations or guidance adopted pursuant to this subdivision, "certification" means a determination by the Department that a proprietary best management practice is approved for use in accordance with this article;

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

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

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

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

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

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

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

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

19. Require the owner of property that is zoned for residential use and on which is located a privately owned stormwater management facility serving one or more residential properties to record the long-term maintenance and inspection requirements for such facility with the deed for the owner's property; and

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

§ 62.1-44.15:34. (For effective date, see notes) Regulated activities; submission and approval of a permit application; security for performance; exemptions.

A. A person shall not conduct any land-disturbing activity until (i) he has submitted to the appropriate VESMP authority an application that includes a permit registration statement, if required, a soil erosion control and stormwater management plan or an executed agreement in lieu of a plan, if required, and (ii) the VESMP authority has issued its land-disturbance approval. In addition, as a prerequisite to engaging in an approved land-disturbing activity, the name of the individual who will be assisting the owner in carrying out the activity and holds a Responsible Land Disturber certificate pursuant to § 62.1-44.15:30 shall be submitted to the VESMP authority. Any VESMP authority may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan ~~for construction of a single-family detached residential structure~~; however, if a violation occurs during the land-disturbing activity ~~for the single-family detached residential structure~~, then the owner shall correct the violation and provide the name of the individual holding a Responsible Land Disturber certificate as provided by § 62.1-14:30. Failure to provide the name of an individual holding a Responsible Land Disturber certificate prior to engaging in land-disturbing activities may result in revocation of the land-disturbance approval and shall subject the owner to the penalties provided in this article.

1. A VESMP authority that is implementing its program pursuant to subsection A of § 62.1-44.15:27 or subdivision B 1 of § 62.1-44.15:27 shall determine the completeness of any application within 15 days after receipt, and shall act on any application within 60 days after it has been determined by the VESMP authority to be complete. The VESMP authority shall issue either land-disturbance approval or denial and provide written rationale for any denial. Prior to issuing a land-disturbance approval, a VESMP authority shall be required to obtain evidence of permit coverage when such coverage is required. The VESMP authority also shall determine whether any resubmittal of a previously disapproved application is complete within 15 days after receipt and shall act on the resubmitted application within 45 days after receipt.

2. A VESMP authority implementing its program in coordination with the Department pursuant to subdivision B 2 of § 62.1-44.15:27 shall determine the completeness of any application within 15 days after receipt, and shall act on any application within 60 days after it has been determined by the VESMP authority to be complete. The VESMP authority shall forward a soil erosion control and stormwater management plan to the Department for review within five days of receipt. If the plan is incomplete, the Department shall return the plan to the locality immediately and the application

process shall start over. If the plan is complete, the Department shall review it for compliance with the water quality and water quantity technical criteria and provide its recommendation to the VESMP authority. The VESMP authority shall either (i) issue the land-disturbance approval or (ii) issue a denial and provide a written rationale for the denial. In no case shall a locality have more than 60 days for its decision on an application after it has been determined to be complete. Prior to issuing a land-disturbance approval, a VESMP authority shall be required to obtain evidence of permit coverage when such coverage is required.

The VESMP authority also shall forward to the Department any resubmittal of a previously disapproved application within five days after receipt, and the VESMP authority shall determine whether the plan is complete within 15 days of its receipt of the plan. The Department shall review the plan for compliance with the water quality and water quantity technical criteria and provide its recommendation to the VESMP authority, and the VESMP authority shall act on the resubmitted application within 45 days after receipt.

3. When a state agency or federal entity submits a soil erosion control and stormwater management plan for a project, land disturbance shall not commence until the Board has reviewed and approved the plan and has issued permit coverage when it is required.

a. The Board shall not approve a soil erosion control and stormwater management plan submitted by a state agency or federal entity for a project involving a land-disturbing activity (i) in any locality that has not adopted a local program with more stringent ordinances than those of the state program or (ii) in multiple jurisdictions with separate local programs, unless the plan is consistent with the requirements of the state program.

b. The Board shall not approve a soil erosion control and stormwater management plan submitted by a state agency or federal entity for a project involving a land-disturbing activity in one locality with a local program with more stringent ordinances than those of the state program, unless the plan is consistent with the requirements of the local program.

c. If onsite changes occur, the state agency or federal entity shall submit an amended soil erosion control and stormwater management plan to the Department.

d. The state agency or federal entity responsible for the land-disturbing activity shall ensure compliance with the approved plan. As necessary, the Board shall provide project oversight and enforcement.

4. Prior to issuance of any land-disturbance approval, the VESMP authority may also require an applicant, excluding state agencies and federal entities, to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the VESMP authority, to ensure that measures could be taken by the VESMP authority at the applicant's expense should he fail, after proper notice, within the time specified to comply with the conditions imposed by the VESMP authority as a result of his land-disturbing activity. If the VESMP authority takes such action upon such failure by the applicant, the VESMP authority may collect from the applicant the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within 60 days of the completion of the VESMP authority's conditions, such bond, cash escrow, letter of credit, or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.

B. The VESMP authority may require changes to an approved soil erosion control and stormwater management plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations or ordinances; or

2. Where the owner finds that because of changed circumstances or for other reasons the plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article, are agreed to by the VESMP authority and the owner.

C. In order to prevent further erosion, a VESMP authority may require approval of a soil erosion control and stormwater management plan for any land identified as an erosion impact area by the VESMP authority.

D. A VESMP authority may enter into an agreement with an adjacent VESMP authority regarding the administration of multijurisdictional projects, specifying who shall be responsible for all or part of the administrative procedures. Should adjacent VESMP authorities fail to reach such an agreement, each shall be responsible for administering the area of the multijurisdictional project that lies within its jurisdiction.

E. The following requirements shall apply to land-disturbing activities in the Commonwealth:

1. Any land-disturbing activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or greater of land disturbance may, in accordance with regulations adopted by the Board, be required to obtain permit coverage.

2. For a land-disturbing activity occurring in an area not designated as a Chesapeake Bay Preservation Area subject to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.):

a. Soil erosion control requirements and water quantity technical criteria adopted pursuant to this article shall apply to any activity that disturbs 10,000 square feet or more, although the locality may reduce this regulatory threshold to a smaller area of disturbed land. A plan addressing these requirements shall be submitted to the VESMP authority in accordance with subsection A. This subdivision shall also apply to additions or modifications to existing single-family detached residential structures.

b. Soil erosion control requirements and water quantity and water quality technical criteria shall apply to any activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or greater of land disturbance, although the locality may reduce this regulatory

threshold to a smaller area of disturbed land. A plan addressing these requirements shall be submitted to the VESMP authority in accordance with subsection A.

3. For a land-disturbing activity occurring in an area designated as a Chesapeake Bay Preservation Area subject to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.):

a. Soil erosion control and water quantity and water quality technical criteria shall apply to any land-disturbing activity that disturbs 2,500 square feet or more of land, other than a single-family detached residential structure. However, the governing body of any affected locality may reduce this regulatory threshold to a smaller area of disturbed land. A plan addressing these requirements shall be submitted to the VESMP authority in accordance with subsection A.

b. For land-disturbing activities for single-family detached residential structures, soil erosion control and water quantity technical criteria shall apply to any land-disturbing activity that disturbs 2,500 square feet or more of land, and the locality also may require compliance with the water quality technical criteria. A plan addressing these requirements shall be submitted to the VESMP authority in accordance with subsection A.

F. Notwithstanding any other provisions of this article, the following activities are not required to comply with the requirements of this article unless otherwise required by federal law:

1. Minor land-disturbing activities, including home gardens and individual home landscaping, repairs, and maintenance work;

2. Installation, maintenance, or repair of any individual service connection;

3. Installation, maintenance, or repair of any underground utility line when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;

4. Installation, maintenance, or repair of any septic tank line or drainage field unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

5. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2;

6. Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; agricultural engineering operations, including construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; or as additionally set forth by the Board in regulations. However, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;

7. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

8. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto;

9. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;

10. Land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VESMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsection A is required within 30 days of commencing the land-disturbing activity; and

11. Discharges to a sanitary sewer or a combined sewer system that are not from a land-disturbing activity.

G. Notwithstanding any other provision of this article, the following activities are required to comply with the soil erosion control requirements but are not required to comply with the water quantity and water quality technical criteria, unless otherwise required by federal law:

1. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;

2. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and

3. Discharges from a land-disturbing activity to a sanitary sewer or a combined sewer system.

§ 62.1-44.15:51. (For expiration date, see notes) Definitions.

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

"Agreement in lieu of a plan" means a contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a *(i)* single-family residence *or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent*; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

"Applicant" means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

"Certified inspector" means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.

"Certified plan reviewer" means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, landscape architect, land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1, or professional soil scientist as defined in § 54.1-2200.

"Certified program administrator" means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"District" or "soil and water conservation district" means a political subdivision of the Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

"Erosion and sediment control plan" or "plan" means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

"Erosion impact area" means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

"Farm building or structure" means the same as that term is defined in § 36-97 and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400, and any related impervious surfaces including roads, driveways, and parking areas.

"Land-disturbing activity" means any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:

1. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work;

2. Individual service connections;

3. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;

4. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

5. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2;

6. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;

7. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;

8. Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (§ 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;

9. Disturbed land areas of less than 10,000 square feet in size or 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations; however, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;

10. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

11. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of

Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and

12. Emergency work to protect life, limb, or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the VESCP authority.

"Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

"Owner" means the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a given storm condition at a particular location.

"Permittee" means the person to whom the local permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

"Town" means an incorporated town.

"Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in this article, and evaluation consistent with the requirements of this article and its associated regulations.

"Virginia Erosion and Sediment Control Program authority" or "VESCP authority" means an authority approved by the Board to operate a Virginia Erosion and Sediment Control Program. An authority may include a state entity, including the Department; a federal entity; a district, county, city, or town; or for linear projects subject to annual standards and specifications, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102.

"Water quality volume" means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

§ 62.1-44.15:51. (For effective date, see notes) Definitions.

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

"Agreement in lieu of a plan" means a contract between the VESCP authority and the owner that specifies conservation measures that must be implemented in the construction of a *(i)* single-family detached residential structure *or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent*; this contract may be executed by the VESCP authority in lieu of a formal site plan.

"Applicant" means any person submitting an erosion and sediment control plan for approval in order to obtain authorization for land-disturbing activities to commence.

"Certified inspector" means an employee or agent of a VESCP authority who (i) holds a certification from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.

"Certified plan reviewer" means an employee or agent of a VESCP authority who (i) holds a certification from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, landscape architect, land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1, or professional soil scientist as defined in § 54.1-2200.

"Certified program administrator" means an employee or agent of a VESCP authority who (i) holds a certification from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"District" or "soil and water conservation district" means a political subdivision of the Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

"Erosion and sediment control plan" or "plan" means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation

treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

"Erosion impact area" means an area of land that is not associated with a current land-disturbing activity but is subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

"Farm building or structure" means the same as that term is defined in § 36-97 and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400, and any related impervious surfaces including roads, driveways, and parking areas.

"Land disturbance" or "land-disturbing activity" means any man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including the clearing, grading, excavating, transporting, and filling of land.

"Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

"Owner" means the same as provided in § 62.1-44.3. For a land-disturbing activity that is regulated under this article, "owner" also includes the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a given storm condition at a particular location.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

"Soil erosion" means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

"Town" means an incorporated town.

"Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, policies and guidelines, technical materials, and requirements for plan review, inspection, and evaluation consistent with the requirements of this article.

"Virginia Erosion and Sediment Control Program authority" or "VESCP authority" means a locality approved by the Board to operate a Virginia Erosion and Sediment Control Program. A locality that has chosen not to establish a Virginia Erosion and Stormwater Management Program pursuant to subdivision B 3 of § 62.1-44.15:27 is required to become a VESCP authority in accordance with this article.

"Virginia Stormwater Management Program" or "VSMP" means a program established by the Board pursuant to § 62.1-44.15:27.1 on behalf of a locality on or after July 1, 2014, to manage the quality and quantity of runoff resulting from any land-disturbing activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or greater of land disturbance.

§ 62.1-44.15:55. (For expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Regulated land-disturbing activities; submission and approval of erosion and sediment control plan.

A. Except as provided in § 62.1-44.15:56 for state agency and federal entity land-disturbing activities, no person shall engage in any land-disturbing activity until he has submitted to the VESCP authority an erosion and sediment control plan for the land-disturbing activity and the plan has been reviewed and approved. Upon the development of an online reporting system by the Department, but no later than July 1, 2014, a VESCP authority shall then be required to obtain evidence of Virginia Stormwater Management Program permit coverage where it is required prior to providing approval to begin land disturbance. Where land-disturbing activities involve lands under the jurisdiction of more than one VESCP, an erosion and sediment control plan may, at the request of one or all of the VESCP authorities, be submitted to the Department for review and approval rather than to each jurisdiction concerned. The Department may charge the jurisdictions requesting the review a fee sufficient to cover the cost associated with conducting the review. A VESCP may enter into an agreement with an adjacent VESCP regarding the administration of multijurisdictional projects whereby the jurisdiction that contains the greater portion of the project shall be responsible for all or part of the administrative procedures. Where the land-disturbing activity results from the construction of a *(i)* single-family residence *or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent*, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the VESCP authority.

B. The VESCP authority shall review erosion and sediment control plans submitted to it and grant written approval within 60 days of the receipt of the plan if it determines that the plan meets the requirements of this article and the Board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and shall comply with the provisions of this article. In addition, as a

prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence to the VESCP authority, as provided by § 62.1-44.15:52, who will be in charge of and responsible for carrying out the land-disturbing activity. However, any VESCP authority may waive the certificate of competence requirement for an agreement in lieu of a plan ~~for construction of a single-family residence~~. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by § 62.1-44.15:52. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this article.

When a plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within 45 days. The notice shall specify the modifications, terms, and conditions that will permit approval of the plan. If no action is taken by the VESCP authority within the time specified in this subsection, the plan shall be deemed approved and the person authorized to proceed with the proposed activity. The VESCP authority shall act on any erosion and sediment control plan that has been previously disapproved within 45 days after the plan has been revised, resubmitted for approval, and deemed adequate.

C. The VESCP authority may require changes to an approved plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; or

2. Where the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article and associated regulations, are agreed to by the VESCP authority and the person responsible for carrying out the plan.

D. Electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, and railroad companies shall, and authorities created pursuant to § 15.2-5102 may, file general erosion and sediment control standards and specifications annually with the Department for review and approval. Such standards and specifications shall be consistent with the requirements of this article and associated regulations and the Stormwater Management Act (§ 62.1-44.15:24 et seq.) and associated regulations where applicable. The specifications shall apply to:

1. Construction, installation, or maintenance of electric transmission, natural gas, and telephone utility lines and pipelines, and water and sewer lines; and

2. Construction of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of the railroad company.

The Department shall have 60 days in which to approve the standards and specifications. If no action is taken by the Department within 60 days, the standards and specifications shall be deemed approved. Individual approval of separate projects within subdivisions 1 and 2 is not necessary when approved specifications are followed. Projects not included in subdivisions 1 and 2 shall comply with the requirements of the appropriate VESCP. The Board shall have the authority to enforce approved specifications and charge fees equal to the lower of (i) $1,000 or (ii) an amount sufficient to cover the costs associated with standard and specification review and approval, project inspections, and compliance.

E. Any person engaging, in more than one jurisdiction, in the creation and operation of a wetland mitigation or stream restoration bank or banks, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of (i) wetlands mitigation or stream restoration banks, pursuant to a mitigation banking instrument signed by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, or (ii) a stream restoration project for purposes of reducing nutrients or sediment entering state waters may, at the option of that person, file general erosion and sediment control standards and specifications for wetland mitigation or stream restoration banks annually with the Department for review and approval consistent with guidelines established by the Board.

The Department shall have 60 days in which to approve the specifications. If no action is taken by the Department within 60 days, the specifications shall be deemed approved. Individual approval of separate projects under this subsection is not necessary when approved specifications are implemented through a project-specific erosion and sediment control plan. Projects not included in this subsection shall comply with the requirements of the appropriate local erosion and sediment control program. The Board shall have the authority to enforce approved specifications and charge fees equal to the lower of (i) $1,000 or (ii) an amount sufficient to cover the costs associated with standard and specification review and approval, projection inspections, and compliance. Approval of general erosion and sediment control specifications by the Department does not relieve the owner or operator from compliance with any other local ordinances and regulations including requirements to submit plans and obtain permits as may be required by such ordinances and regulations.

F. In order to prevent further erosion, a VESCP authority may require approval of an erosion and sediment control plan for any land identified by the VESCP authority as an erosion impact area.

G. For the purposes of subsections A and B, when land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

§ 62.1-44.15:55. (For effective date, see notes) Regulated land-disturbing activities; submission and approval of erosion and sediment control plan.

A. Except as provided in § 62.1-44.15:31 for a land-disturbing activity conducted by a state agency, federal entity, or other specified entity, no person shall engage in any land-disturbing activity until he has submitted to the VESCP authority an erosion and sediment control plan for the land-disturbing activity and the plan has been reviewed and approved. Where Virginia Pollutant Discharge Elimination System permit coverage is required, a VESCP authority shall be required to obtain evidence of such coverage from the Department's online reporting system prior to approving the erosion and sediment control plan. A VESCP authority may enter into an agreement with an adjacent VESCP or VESMP authority regarding the administration of multijurisdictional projects specifying who shall be responsible for all or part of the administrative procedures. Should adjacent authorities fail to come to such an agreement, each shall be responsible for administering the area of the multijurisdictional project that lies within its jurisdiction. Where the land-disturbing activity results from the construction of a *(i)* single-family residence *or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent*, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the VESCP authority.

B. The VESCP authority shall review erosion and sediment control plans submitted to it and grant written approval within 60 days of the receipt of the plan if it determines that the plan meets the requirements of this article and the Board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and shall comply with the provisions of this article. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate to the VESCP authority, as provided by § 62.1-44.15:52, who will be in charge of and responsible for carrying out the land-disturbing activity. However, any VESCP authority may waive the certificate requirement for an agreement in lieu of a plan ~~for construction of a single-family residence~~. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate, as provided by § 62.1-44.15:52. Failure to provide the name of an individual holding a certificate prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this article.

When a plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within 45 days. The notice shall specify the modifications, terms, and conditions that will permit approval of the plan. If no action is taken by the VESCP authority within the time specified in this subsection, the plan shall be deemed approved and the person authorized to proceed with the proposed activity. The VESCP authority shall act on any erosion and sediment control plan that has been previously disapproved within 45 days after the plan has been revised, resubmitted for approval, and deemed adequate.

C. The VESCP authority may require changes to an approved plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; or

2. Where the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article and associated regulations, are agreed to by the VESCP authority and the person responsible for carrying out the plan.

D. In order to prevent further erosion, a VESCP authority may require approval of an erosion and sediment control plan for any land identified by the VESCP authority as an erosion impact area.

E. For the purposes of subsections A and B, when land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

F. Notwithstanding any other provisions of this article, the following activities are not required to comply with the requirements of this article unless otherwise required by federal law:

1. Disturbance of a land area of less than 10,000 square feet in size or less than 2,500 square feet in an area designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.). However, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;

2. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work;

3. Installation, maintenance, or repair of any individual service connection;

4. Installation, maintenance, or repair of any underground utility line when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;

5. Installation, maintenance, or repair of any septic tank line or drainage field unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

6. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2;

7. Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; agricultural engineering operations, including

construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; or as additionally set forth by the Board in regulations. However, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;

8. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

9. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto;

10. Land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VESMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsection A is required within 30 days of commencing the land-disturbing activity;

11. Discharges to a sanitary sewer or a combined sewer system that are not from a land-disturbing activity; and

12. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company.

§ 62.1-44.15:58. (For contingent expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Monitoring, reports, and inspections.

A. The VESCP authority (i) shall provide for periodic inspections of the land-disturbing activity and require that an individual holding a certificate of competence, as provided by § 62.1-44.15:52, who will be in charge of and responsible for carrying out the land-disturbing activity and (ii) may require monitoring and reports from the person responsible for carrying out the erosion and sediment control plan, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. However, any VESCP authority may waive the certificate of competence requirement for an agreement in lieu of a plan ~~for construction of a single-family residence~~. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection. If the VESCP authority, where authorized to enforce this article, or the Department determines that there is a failure to comply with the plan following an inspection, notice shall be served upon the permittee or person responsible for carrying out the plan by mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the VESCP authority, where authorized to enforce this article, the Department, or the Board may pursue enforcement as provided by § 62.1-44.15:63.

B. Notwithstanding the provisions of subsection A, a VESCP authority is authorized to enter into agreements or contracts with districts, adjacent localities, or other public or private entities to assist with the responsibilities of this article, including but not limited to the review and determination of adequacy of erosion and sediment control plans submitted for land-disturbing activities as well as monitoring, reports, inspections, and enforcement where an authority is granted such powers by this article.

C. Upon issuance of an inspection report denoting a violation of this section, § 62.1-44.15:55 or 62.1-44.15:56, in conjunction with or subsequent to a notice to comply as specified in subsection A, a VESCP authority, where authorized to enforce this article, or the Department may issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken or, if land-disturbing activities have commenced without an approved plan as provided in § 62.1-44.15:55, requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved erosion and sediment control plan or any required permits, such an order may be issued whether or not the alleged violator has been issued a notice to comply as specified in subsection A. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply. The order for noncompliance with a plan shall be served in the same manner as a notice to comply, and shall remain in effect for seven days from the date of service pending application by the VESCP authority, the Department, or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court. The order for disturbance without an approved plan or permits shall be served upon the owner by mailing with confirmation of delivery to the address specified in the land records of the locality, shall be posted on the site where the disturbance is occurring, and shall remain in effect until such time as permits and plan approvals are secured, except in such situations where an agricultural exemption applies. If the alleged violator has not obtained an approved erosion and sediment control plan or any required permit within seven days from the date of service of the order, the Department or the chief administrative officer or his designee on behalf of the VESCP authority may issue a subsequent order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved erosion and sediment control plan and any required permits have been obtained. The subsequent order shall be served upon the owner by mailing with confirmation of delivery to the address specified in the permit application or the land records of the locality in which the site is located. The owner may appeal the issuance of any order to

the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court. Any person violating or failing, neglecting, or refusing to obey an order issued by the Department or the chief administrative officer or his designee on behalf of the VESCP authority may be compelled in a proceeding instituted in the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court to obey same and to comply therewith by injunction, mandamus, or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted. Nothing in this section shall prevent the Department, the Board, or the chief administrative officer or his designee on behalf of the VESCP authority from taking any other action specified in § 62.1-44.15:63.

§ 62.1-44.15:58. (For contingent effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Monitoring, reports, and inspections.

A. The VESCP authority (i) shall provide for periodic inspections of the land-disturbing activity and require that an individual holding a certificate, as provided by § 62.1-44.15:52, will be in charge of and responsible for carrying out the land-disturbing activity and (ii) may require monitoring and reports from the person responsible for carrying out the erosion and sediment control plan, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. However, any VESCP authority may waive the certificate requirement for an agreement in lieu of a plan ~~for construction of a single-family detached residential structure~~. The owner shall be given notice of the inspection. When the VESCP authority or the Board determines that there is a failure to comply with the conditions of land-disturbance approval or to obtain an approved plan or a land-disturbance approval prior to commencing land-disturbing activity, the VESCP authority or the Board may serve a notice to comply upon the owner or person responsible for carrying out the land-disturbing activity. Such notice to comply shall be served by delivery by facsimile, e-mail, or other technology; by mailing with confirmation of delivery to the address specified in the plan or land-disturbance application, if available, or in the land records of the locality; or by delivery at the site to a person previously identified to the VESCP authority by the owner. The notice to comply shall specify the measures needed to comply with the land-disturbance approval conditions or shall identify the plan approval or land-disturbance approval needed to comply with this article and shall specify a reasonable time within which such measures shall be completed. In any instance in which a required land-disturbance approval has not been obtained, the VESCP authority or the Board may require immediate compliance. In any other case, the VESCP authority or the Board may establish the time for compliance by taking into account the risk of damage to natural resources and other relevant factors. Notwithstanding any other provision in this subsection, a VESCP authority or the Board may count any days of noncompliance as days of violation should the VESCP authority or the Board take an enforcement action. The issuance of a notice to comply by the Board shall not be considered a case decision as defined in § 2.2-4001. Upon failure to comply within the time specified, any plan approval or land-disturbance approval may be revoked and the VESCP authority or the Board may pursue enforcement as provided by § 62.1-44.15:63.

B. Notwithstanding the provisions of subsection A, a VESCP authority is authorized to enter into agreements or contracts with districts, adjacent localities, or other public or private entities to assist with the responsibilities of this article, including but not limited to the review and determination of adequacy of erosion and sediment control plans submitted for land-disturbing activities as well as monitoring, reports, inspections, and enforcement.

C. Upon issuance of an inspection report denoting a violation of this section or § 62.1-44.15:55, in conjunction with or subsequent to a notice to comply as specified in subsection A, a VESCP authority or the Board may issue a stop work order requiring that all or part of the land-disturbing activities on the site be stopped until the specified corrective measures have been taken or, if land-disturbing activities have commenced without an approved plan as provided in § 62.1-44.15:55, requiring that all of the land-disturbing activities be stopped until an approved plan is obtained. When such an order is issued by the Board, it shall be issued in accordance with the procedures of the Administrative Process Act (§ 2.2-4000 et seq.). Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved erosion and sediment control plan, such a stop work order may be issued whether or not the alleged violator has been issued a notice to comply as specified in subsection A. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply. The order for noncompliance with a plan shall be served in the same manner as a notice to comply, and shall remain in effect for seven days from the date of service pending application by the VESCP authority, the Board, or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court. The stop work order for disturbance without an approved plan shall be served upon the owner by mailing with confirmation of delivery to the address specified in the land records of the locality, shall be posted on the site where the disturbance is occurring, and shall remain in effect until such time as plan approvals are secured, except in such situations where an agricultural exemption applies. If the alleged violator has not obtained an approved erosion and sediment control plan within seven days from the date of service of the stop work order, the Board or the chief administrative officer or his designee on behalf of the VESCP authority may issue a subsequent order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved erosion and sediment control plan has been obtained. The subsequent order shall be served upon the owner by mailing with confirmation of delivery to the address specified in the plan or the land records of the locality in which the site is located. The owner may appeal the issuance of any order to the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court. Any person violating or

failing, neglecting, or refusing to obey an order issued by the Board or the chief administrative officer or his designee on behalf of the VESCP authority may be compelled in a proceeding instituted in the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court to obey same and to comply therewith by injunction, mandamus, or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan, the order shall immediately be lifted. Nothing in this section shall prevent the Board or the chief administrative officer or his designee on behalf of the VESCP authority from taking any other action specified in § 62.1-44.15:63.

CHAPTER 49

An Act to amend and reenact §§ 62.1-44.15:24 and 62.1-44.15:28, as they are currently effective and as they may become effective, 62.1-44.15:34, as it may become effective, and 62.1-44.15:51, 62.1-44.15:55, and 62.1-44.15:58, as they are currently effective and as they may become effective, of the Code of Virginia, relating to stormwater management; streamlining; federal conformity.

[S 1376]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-44.15:24 and 62.1-44.15:28, as they are currently effective and as they may become effective, 62.1-44.15:34, as it may become effective, and 62.1-44.15:51, 62.1-44.15:55, and 62.1-44.15:58, as they are currently effective and as they may become effective, of the Code of Virginia are amended and reenacted as follows:

§ 62.1-44.15:24. (For expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Definitions.

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

"Agreement in lieu of a stormwater management plan" means a contract between the VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of a VSMP for the construction of a *(i)* single-family residence *or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent*; such contract may be executed by the VSMP authority in lieu of a stormwater management plan.

"Chesapeake Bay Preservation Act land-disturbing activity" means a land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal to or greater than 2,500 square feet and less than one acre in all areas of jurisdictions designated as subject to the regulations adopted pursuant to the Chesapeake Bay Preservation provisions of this chapter.

"CWA" means the federal Clean Water Act (33 U.S.C. § 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500, as amended by P.L. 95-217, P.L. 95-576, P.L. 96-483, and P.L. 97-117, or any subsequent revisions thereto.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Farm building or structure" means the same as that term is defined in § 36-97 and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400, and any related impervious surfaces including roads, driveways, and parking areas.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body, or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

"Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include those exemptions specified in § 62.1-44.15:34.

"Municipal separate storm sewer" means a conveyance or system of conveyances otherwise known as a municipal separate storm sewer system or "MS4," including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains:

1. Owned or operated by a federal, state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction or delegated authority for erosion and sediment control and stormwater management, or a designated and approved management agency under § 208 of the CWA that discharges to surface waters;

2. Designed or used for collecting or conveying stormwater;

3. That is not a combined sewer; and

4. That is not part of a publicly owned treatment works.

"Municipal Separate Storm Sewer System Management Program" means a management program covering the duration of a state permit for a municipal separate storm sewer system that includes a comprehensive planning process that involves public participation and intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the CWA and regulations, and this article and its attendant regulations, using management practices, control techniques, and system, design, and engineering methods, and such other provisions that are appropriate.

"Nonpoint source pollution" means pollution such as sediment, nitrogen, phosphorus, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater runoff.

"Peak flow rate" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Permit" or "VSMP authority permit" means an approval to conduct a land-disturbing activity issued by the VSMP authority for the initiation of a land-disturbing activity after evidence of state VSMP general permit coverage has been provided where applicable.

"Permittee" means the person to which the permit or state permit is issued.

"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

"Rural Tidewater locality" means any locality that is (i) subject to the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) and (ii) eligible to join the Rural Coastal Virginia Community Enhancement Authority established by Chapter 76 (§ 15.2-7600 et seq.) of Title 15.2.

"Small construction activity" means:

1. A construction activity, including clearing, grading, or excavating, that results in land disturbance of equal to or greater than one acre and less than five acres. "Small construction activity" also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb an area equal to or greater than one acre and less than five acres. "Small construction activity" does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

The Board may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on an approved total maximum daily load (TMDL) that addresses the pollutants of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutants of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutants of concern include sediment or a parameter that addresses sediment, such as total suspended solids, turbidity, or siltation, and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator shall certify to the Board that the construction activity will take place, and that stormwater discharges will occur, within the drainage area addressed by the TMDL or provide an equivalent analysis.

As of the start date in the table of start dates for electronic submissions of Virginia Pollutant Discharge Elimination System (VPDES) information within the regulation governing the implementation of electronic reporting requirements for certain VPDES permittees, facilities, and entities, all certifications submitted in support of such waiver shall be submitted electronically by the owner or operator to the Department in compliance with (i) this subdivision; (ii) 40 C.F.R. Part 3, including, in all cases, 40 C.F.R. Part 3 Subpart D; (iii) the regulation addressing signatories to state permit applications and reports; and (iv) regulations addressing the VPDES electronic reporting requirements. Such regulations addressing the VPDES electronic reporting requirements shall not undo existing requirements for electronic reporting. Prior to such date, and independent of the regulations addressing the VPDES electronic reporting requirements, a permittee shall be required to report electronically if specified by a particular permit.

2. Any other construction activity designated by either the Board or the Regional Administrator of the U.S. Environmental Protection Agency, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

"State permit" means an approval to conduct a land-disturbing activity issued by the Board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the Board for stormwater discharges from an MS4. Under these permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations and this article and its attendant regulations.

"Stormwater" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater management plan" means a document containing material describing methods for complying with the requirements of a VSMP.

"Subdivision" means the same as defined in § 15.2-2201.

"Virginia Stormwater Management Program" or "VSMP" means a program approved by the Soil and Water Conservation Board after September 13, 2011, and until June 30, 2013, or the State Water Control Board on and after June 30, 2013, that has been established by a VSMP authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

"Virginia Stormwater Management Program authority" or "VSMP authority" means an authority approved by the Board after September 13, 2011, to operate a Virginia Stormwater Management Program or the Department. An authority may include a locality; state entity, including the Department; federal entity; or, for linear projects subject to annual standards and specifications in accordance with subsection B of § 62.1-44.15:31, electric, natural gas, and telephone utility

companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102.

"Water quality volume" means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

"Water quantity technical criteria" means standards set forth in regulations adopted pursuant to this article that establish minimum design criteria for measures to control localized flooding and stream channel erosion.

"Watershed" means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which water drains may be considered the single outlet for the watershed.

§ 62.1-44.15:24. (For effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Definitions.

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

"Agreement in lieu of a plan" means a contract between the VESMP authority or the Board acting as a VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of this article for the construction of a *(i)* single-family detached residential structure *or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent*; such contract may be executed by the VESMP authority in lieu of a soil erosion control and stormwater management plan or by the Board acting as a VSMP authority in lieu of a stormwater management plan.

"Applicant" means any person submitting a soil erosion control and stormwater management plan to a VESMP authority, or a stormwater management plan to the Board when it is serving as a VSMP authority, for approval in order to obtain authorization to commence a land-disturbing activity.

"CWA" means the federal Clean Water Act (33 U.S.C. § 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500, as amended by P.L. 95-217, P.L. 95-576, P.L. 96-483, and P.L. 97-117, or any subsequent revisions thereto.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Erosion impact area" means an area of land that is not associated with a current land-disturbing activity but is subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or any shoreline where the erosion results from wave action or other coastal processes.

"Farm building or structure" means the same as that term is defined in § 36-97 and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400, and any related impervious surfaces including roads, driveways, and parking areas.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body, or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

"Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including construction activity such as the clearing, grading, excavating, or filling of land.

"Land-disturbance approval" means the same as that term is defined in § 62.1-44.3.

"Municipal separate storm sewer" or "MS4" means the same as that term is defined in § 62.1-44.3.

"Municipal Separate Storm Sewer System Management Program" means a management program covering the duration of a permit for a municipal separate storm sewer system that includes a comprehensive planning process that involves public participation and intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the CWA and regulations, and this article and its attendant regulations, using management practices, control techniques, and system, design, and engineering methods, and such other provisions that are appropriate.

"Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

"Nonpoint source pollution" means pollution such as sediment, nitrogen, phosphorus, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater.

"Owner" means the same as that term is defined in § 62.1-44.3. For a regulated land-disturbing activity that does not require a permit, "owner" also means the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Permit" means a Virginia Pollutant Discharge Elimination System (VPDES) permit issued by the Board pursuant to § 62.1-44.15 for stormwater discharges from a land-disturbing activity or MS4.

"Permittee" means the person to whom the permit is issued.

"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

"Rural Tidewater locality" means any locality that is (i) subject to the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) and (ii) eligible to join the Rural Coastal Virginia Community Enhancement Authority established by Chapter 76 (§ 15.2-7600 et seq.) of Title 15.2.

"Small construction activity" means:

1. A construction activity, including clearing, grading, or excavating, that results in land disturbance of equal to or greater than one acre and less than five acres. "Small construction activity" also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb an area equal to or greater than one acre and less than five acres. "Small construction activity" does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

The Board may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on an approved total maximum daily load (TMDL) that addresses the pollutants of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutants of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutants of concern include sediment or a parameter that addresses sediment, such as total suspended solids, turbidity, or siltation, and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator shall certify to the Board that the construction activity will take place, and that stormwater discharges will occur, within the drainage area addressed by the TMDL or provide an equivalent analysis.

As of the start date in the table of start dates for electronic submissions of Virginia Pollutant Discharge Elimination System (VPDES) information within the regulation governing the implementation of electronic reporting requirements for certain VPDES permittees, facilities, and entities, all certifications submitted in support of such waiver shall be submitted electronically by the owner or operator to the Department in compliance with (i) this subdivision; (ii) 40 C.F.R. Part 3, including, in all cases, 40 C.F.R. Part 3 Subpart D; (iii) the regulation addressing signatories to state permit applications and reports; and (iv) regulations addressing the VPDES electronic reporting requirements. Such regulations addressing the VPDES electronic reporting requirements shall not undo existing requirements for electronic reporting. Prior to such date, and independent of the regulations addressing the VPDES electronic reporting requirements, a permittee shall be required to report electronically if specified by a particular permit.

2. Any other construction activity designated by either the Board or the Regional Administrator of the U.S. Environmental Protection Agency, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

"Soil erosion" means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

"Soil Erosion Control and Stormwater Management plan" or "plan" means a document describing methods for controlling soil erosion and managing stormwater in accordance with the requirements adopted pursuant to this article.

"Stormwater," for the purposes of this article, means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater management plan" means a document containing material describing methods for complying with the requirements of a VSMP.

"Subdivision" means the same as that term is defined in § 15.2-2201.

"Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the Board that is established by a VESCP authority pursuant to Article 2.4 (§ 62.1-44.15:51 et seq.) for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The VESCP shall include, where applicable, such items as local ordinances, rules, policies and guidelines, technical materials, and requirements for plan review, inspection, and evaluation consistent with the requirements of Article 2.4 (§ 62.1-44.15:51 et seq.).

"Virginia Erosion and Sediment Control Program authority" or "VESCP authority" means a locality that is approved by the Board to operate a Virginia Erosion and Sediment Control Program in accordance with Article 2.4 (§ 62.1-44.15:51 et seq.). Only a locality for which the Department administered a Virginia Stormwater Management Program as of July 1, 2017, is authorized to choose to operate a VESCP pursuant to Article 2.4 (§ 62.1-44.15:51 et seq.).

"Virginia Erosion and Stormwater Management Program" or "VESMP" means a program established by a VESMP authority for the effective control of soil erosion and sediment deposition and the management of the quality and quantity of runoff resulting from land-disturbing activities to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The program shall include such items as local ordinances, rules, requirements for permits and land-disturbance approvals, policies and guidelines, technical materials, and requirements for plan review, inspection, and enforcement consistent with the requirements of this article.

"Virginia Erosion and Stormwater Management Program authority" or "VESMP authority" means the Board or a locality approved by the Board to operate a Virginia Erosion and Stormwater Management Program. For state agency or

federal entity land-disturbing activities and land-disturbing activities subject to approved standards and specifications, the Board shall serve as the VESMP authority.

"Virginia Stormwater Management Program" or "VSMP" means a program established by the Board pursuant to § 62.1-44.15:27.1 on behalf of a locality on or after July 1, 2014, to manage the quality and quantity of runoff resulting from any land-disturbing activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or more of land disturbance.

"Virginia Stormwater Management Program authority" or "VSMP authority" means the Board when administering a VSMP on behalf of a locality that, pursuant to subdivision B 3 of § 62.1-44.15:27, has chosen not to adopt and administer a VESMP.

"Water quality technical criteria" means standards set forth in regulations adopted pursuant to this article that establish minimum design criteria for measures to control nonpoint source pollution.

"Water quantity technical criteria" means standards set forth in regulations adopted pursuant to this article that establish minimum design criteria for measures to control localized flooding and stream channel erosion.

"Watershed" means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which water drains may be considered the single outlet for the watershed.

§ 62.1-44.15:28. (For expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Development of regulations.

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

1. Establish standards and procedures for administering a VSMP;

2. Establish minimum design criteria for measures to control nonpoint source pollution and localized flooding, and incorporate the stormwater management regulations adopted pursuant to the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), as they relate to the prevention of stream channel erosion. These criteria shall be periodically modified as required in order to reflect current engineering methods;

3. Require the provision of long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;

4. Require as a minimum the inclusion in VSMPs of certain administrative procedures that include, but are not limited to, specifying the time period within which a VSMP authority shall grant land-disturbing activity approval, the conditions and processes under which approval shall be granted, the procedures for communicating disapproval, the conditions under which an approval may be changed, and requirements for inspection of approved projects;

5. Establish by regulations a statewide permit fee schedule to cover all costs associated with the implementation of a VSMP related to land-disturbing activities of one acre or greater. Such fee attributes include the costs associated with plan review, VSMP registration statement review, permit issuance, state-coverage verification, inspections, reporting, and compliance activities associated with the land-disturbing activities as well as program oversight costs. The fee schedule shall also include a provision for a reduced fee for land-disturbing activities between 2,500 square feet and up to one acre in Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) localities. The fee schedule shall be governed by the following:

a. The revenue generated from the statewide stormwater permit fee shall be collected utilizing, where practicable, an online payment system, and the Department's portion shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund established pursuant to § 62.1-44.15:29. However, whenever the Board has approved a VSMP, no more than 30 percent of the total revenue generated by the statewide stormwater permit fees collected shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund, with the balance going to the VSMP authority.

b. Fees collected pursuant to this section shall be in addition to any general fund appropriation made to the Department or other supporting revenue from a VSMP; however, the fees shall be set at a level sufficient for the Department and the VSMP to fully carry out their responsibilities under this article and its attendant regulations and local ordinances or standards and specifications where applicable. When establishing a VSMP, the VSMP authority shall assess the statewide fee schedule and shall have the authority to reduce or increase such fees, and to consolidate such fees with other program-related charges, but in no case shall such fee changes affect the amount established in the regulations as available to the Department for program oversight responsibilities pursuant to subdivision 5 a. A VSMP's portion of the fees shall be used solely to carry out the VSMP's responsibilities under this article and its attendant regulations, ordinances, or annual standards and specifications.

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

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

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

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

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

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

8. Notwithstanding the provisions of subdivision 5, establish a procedure by which ~~neither a registration statement nor~~ payment of the Department's portion of the statewide permit fee established pursuant to that subdivision shall *not* be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale;

9. Provide for the certification and use of a proprietary best management practice only if another state, regional, or national program has verified its nutrient or sediment removal effectiveness and all of such program's established test protocol requirements were met or exceeded. As used in this subdivision and any regulations or guidance adopted pursuant to this subdivision, "certification" means a determination by the Department that a proprietary best management practice is approved for use in accordance with this article;

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

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

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

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

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

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

16. Require the owner of property that is zoned for residential use and on which is located a privately owned stormwater management facility serving one or more residential properties to record the long-term maintenance and inspection requirements for such facility with the deed for the owner's property; ~~and~~

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

18. Establish a procedure by which a registration statement shall not be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for a small construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale.

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

§ 62.1-44.15:28. (For effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Development of regulations.

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

1. Establish standards and procedures for administering a VESMP;

2. Establish minimum standards of effectiveness of the VESMP and criteria and procedures for reviewing and evaluating its effectiveness. The minimum standards of program effectiveness established by the Board shall provide that (i) no soil erosion control and stormwater management plan shall be approved until it is reviewed by a plan reviewer certified pursuant to § 62.1-44.15:30, (ii) each inspection of a land-disturbing activity shall be conducted by an inspector certified pursuant to § 62.1-44.15:30, and (iii) each VESMP shall contain a program administrator, a plan reviewer, and an inspector, each of whom is certified pursuant to § 62.1-44.15:30 and all of whom may be the same person;

3. Be based upon relevant physical and developmental information concerning the watersheds and drainage basins of the Commonwealth, including data relating to land use, soils, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services;

4. Include any survey of lands and waters as the Board deems appropriate or as any applicable law requires to identify areas, including multijurisdictional and watershed areas, with critical soil erosion and sediment problems;

5. Contain conservation standards for various types of soils and land uses, which shall include criteria, techniques, and methods for the control of soil erosion and sediment resulting from land-disturbing activities;

6. Establish water quality and water quantity technical criteria. These criteria shall be periodically modified as required in order to reflect current engineering methods;

7. Require the provision of long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;

8. Require as a minimum the inclusion in VESMPs of certain administrative procedures that include, but are not limited to, specifying the time period within which a VESMP authority shall grant land-disturbance approval, the conditions and processes under which such approval shall be granted, the procedures for communicating disapproval, the conditions under which an approval may be changed, and requirements for inspection of approved projects;

9. Establish a statewide fee schedule to cover all costs associated with the implementation of a VESMP related to land-disturbing activities where permit coverage is required, and for land-disturbing activities where the Board serves as a VESMP authority or VSMP authority. Such fee attributes include the costs associated with plan review, permit registration statement review, permit issuance, permit coverage verification, inspections, reporting, and compliance activities associated with the land-disturbing activities as well as program oversight costs. The fee schedule shall also include a provision for a reduced fee for a land-disturbing activity that disturbs 2,500 square feet or more but less than one acre in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.). The fee schedule shall be governed by the following:

a. The revenue generated from the statewide fee shall be collected utilizing, where practicable, an online payment system, and the Department's portion shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund established pursuant to § 62.1-44.15:29. However, whenever the Board has approved a VESMP, no more than 30 percent of the total revenue generated by the statewide fees collected shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund, with the balance going to the VESMP authority;

b. Fees collected pursuant to this section shall be in addition to any general fund appropriation made to the Department or other supporting revenue from a VESMP; however, the fees shall be set at a level sufficient for the Department, the Board, and the VESMP to fully carry out their responsibilities under this article and local ordinances or standards and specifications where applicable. When establishing a VESMP, the VESMP authority shall assess the statewide fees pursuant to the schedule and shall have the authority to reduce or increase such fees, and to consolidate such fees with other program-related charges, but in no case shall such fee changes affect the amount established in the regulations as available to the Department for program oversight responsibilities pursuant to subdivision a. A VESMP's portion of the fees shall be used solely to carry out the VESMP's responsibilities under this article and associated ordinances;

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

greater than the VESMP authority portion of the fee for coverage of sites or areas with a land-disturbance acreage of less than one acre within a common plan of development or sale;

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

e. Notwithstanding the other provisions of this subdivision 9, establish a procedure by which ~~neither a registration statement nor~~ payment of the Department's portion of the statewide fee established pursuant to this subdivision 9 shall *not* be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale;

f. Establish a procedure by which a registration statement shall not be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for a small construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale;

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

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

12. Provide for the certification and use of a proprietary best management practice only if another state, regional, or national program has verified its nutrient or sediment removal effectiveness and all of such program's established test protocol requirements were met or exceeded. As used in this subdivision and any regulations or guidance adopted pursuant to this subdivision, "certification" means a determination by the Department that a proprietary best management practice is approved for use in accordance with this article;

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

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

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

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

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

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

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

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

19. Require the owner of property that is zoned for residential use and on which is located a privately owned stormwater management facility serving one or more residential properties to record the long-term maintenance and inspection requirements for such facility with the deed for the owner's property; and

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

§ 62.1-44.15:34. (For effective date, see notes) Regulated activities; submission and approval of a permit application; security for performance; exemptions.

A. A person shall not conduct any land-disturbing activity until (i) he has submitted to the appropriate VESMP authority an application that includes a permit registration statement, if required, a soil erosion control and stormwater management plan or an executed agreement in lieu of a plan, if required, and (ii) the VESMP authority has issued its

land-disturbance approval. In addition, as a prerequisite to engaging in an approved land-disturbing activity, the name of the individual who will be assisting the owner in carrying out the activity and holds a Responsible Land Disturber certificate pursuant to § 62.1-44.15:30 shall be submitted to the VESMP authority. Any VESMP authority may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan ~~for construction of a single-family detached residential structure~~; however, if a violation occurs during the land-disturbing activity ~~for the single-family detached residential structure~~, then the owner shall correct the violation and provide the name of the individual holding a Responsible Land Disturber certificate as provided by § 62.1-14:30. Failure to provide the name of an individual holding a Responsible Land Disturber certificate prior to engaging in land-disturbing activities may result in revocation of the land-disturbance approval and shall subject the owner to the penalties provided in this article.

1. A VESMP authority that is implementing its program pursuant to subsection A of § 62.1-44.15:27 or subdivision B 1 of § 62.1-44.15:27 shall determine the completeness of any application within 15 days after receipt, and shall act on any application within 60 days after it has been determined by the VESMP authority to be complete. The VESMP authority shall issue either land-disturbance approval or denial and provide written rationale for any denial. Prior to issuing a land-disturbance approval, a VESMP authority shall be required to obtain evidence of permit coverage when such coverage is required. The VESMP authority also shall determine whether any resubmittal of a previously disapproved application is complete within 15 days after receipt and shall act on the resubmitted application within 45 days after receipt.

2. A VESMP authority implementing its program in coordination with the Department pursuant to subdivision B 2 of § 62.1-44.15:27 shall determine the completeness of any application within 15 days after receipt, and shall act on any application within 60 days after it has been determined by the VESMP authority to be complete. The VESMP authority shall forward a soil erosion control and stormwater management plan to the Department for review within five days of receipt. If the plan is incomplete, the Department shall return the plan to the locality immediately and the application process shall start over. If the plan is complete, the Department shall review it for compliance with the water quality and water quantity technical criteria and provide its recommendation to the VESMP authority. The VESMP authority shall either (i) issue the land-disturbance approval or (ii) issue a denial and provide a written rationale for the denial. In no case shall a locality have more than 60 days for its decision on an application after it has been determined to be complete. Prior to issuing a land-disturbance approval, a VESMP authority shall be required to obtain evidence of permit coverage when such coverage is required.

The VESMP authority also shall forward to the Department any resubmittal of a previously disapproved application within five days after receipt, and the VESMP authority shall determine whether the plan is complete within 15 days of its receipt of the plan. The Department shall review the plan for compliance with the water quality and water quantity technical criteria and provide its recommendation to the VESMP authority, and the VESMP authority shall act on the resubmitted application within 45 days after receipt.

3. When a state agency or federal entity submits a soil erosion control and stormwater management plan for a project, land disturbance shall not commence until the Board has reviewed and approved the plan and has issued permit coverage when it is required.

a. The Board shall not approve a soil erosion control and stormwater management plan submitted by a state agency or federal entity for a project involving a land-disturbing activity (i) in any locality that has not adopted a local program with more stringent ordinances than those of the state program or (ii) in multiple jurisdictions with separate local programs, unless the plan is consistent with the requirements of the state program.

b. The Board shall not approve a soil erosion control and stormwater management plan submitted by a state agency or federal entity for a project involving a land-disturbing activity in one locality with a local program with more stringent ordinances than those of the state program, unless the plan is consistent with the requirements of the local program.

c. If onsite changes occur, the state agency or federal entity shall submit an amended soil erosion control and stormwater management plan to the Department.

d. The state agency or federal entity responsible for the land-disturbing activity shall ensure compliance with the approved plan. As necessary, the Board shall provide project oversight and enforcement.

4. Prior to issuance of any land-disturbance approval, the VESMP authority may also require an applicant, excluding state agencies and federal entities, to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the VESMP authority, to ensure that measures could be taken by the VESMP authority at the applicant's expense should he fail, after proper notice, within the time specified to comply with the conditions imposed by the VESMP authority as a result of his land-disturbing activity. If the VESMP authority takes such action upon such failure by the applicant, the VESMP authority may collect from the applicant the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within 60 days of the completion of the VESMP authority's conditions, such bond, cash escrow, letter of credit, or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.

B. The VESMP authority may require changes to an approved soil erosion control and stormwater management plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations or ordinances; or

2. Where the owner finds that because of changed circumstances or for other reasons the plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article, are agreed to by the VESMP authority and the owner.

C. In order to prevent further erosion, a VESMP authority may require approval of a soil erosion control and stormwater management plan for any land identified as an erosion impact area by the VESMP authority.

D. A VESMP authority may enter into an agreement with an adjacent VESMP authority regarding the administration of multijurisdictional projects, specifying who shall be responsible for all or part of the administrative procedures. Should adjacent VESMP authorities fail to reach such an agreement, each shall be responsible for administering the area of the multijurisdictional project that lies within its jurisdiction.

E. The following requirements shall apply to land-disturbing activities in the Commonwealth:

1. Any land-disturbing activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or greater of land disturbance may, in accordance with regulations adopted by the Board, be required to obtain permit coverage.

2. For a land-disturbing activity occurring in an area not designated as a Chesapeake Bay Preservation Area subject to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.):

a. Soil erosion control requirements and water quantity technical criteria adopted pursuant to this article shall apply to any activity that disturbs 10,000 square feet or more, although the locality may reduce this regulatory threshold to a smaller area of disturbed land. A plan addressing these requirements shall be submitted to the VESMP authority in accordance with subsection A. This subdivision shall also apply to additions or modifications to existing single-family detached residential structures.

b. Soil erosion control requirements and water quantity and water quality technical criteria shall apply to any activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or greater of land disturbance, although the locality may reduce this regulatory threshold to a smaller area of disturbed land. A plan addressing these requirements shall be submitted to the VESMP authority in accordance with subsection A.

3. For a land-disturbing activity occurring in an area designated as a Chesapeake Bay Preservation Area subject to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.):

a. Soil erosion control and water quantity and water quality technical criteria shall apply to any land-disturbing activity that disturbs 2,500 square feet or more of land, other than a single-family detached residential structure. However, the governing body of any affected locality may reduce this regulatory threshold to a smaller area of disturbed land. A plan addressing these requirements shall be submitted to the VESMP authority in accordance with subsection A.

b. For land-disturbing activities for single-family detached residential structures, soil erosion control and water quantity technical criteria shall apply to any land-disturbing activity that disturbs 2,500 square feet or more of land, and the locality also may require compliance with the water quality technical criteria. A plan addressing these requirements shall be submitted to the VESMP authority in accordance with subsection A.

F. Notwithstanding any other provisions of this article, the following activities are not required to comply with the requirements of this article unless otherwise required by federal law:

1. Minor land-disturbing activities, including home gardens and individual home landscaping, repairs, and maintenance work;

2. Installation, maintenance, or repair of any individual service connection;

3. Installation, maintenance, or repair of any underground utility line when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;

4. Installation, maintenance, or repair of any septic tank line or drainage field unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

5. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2;

6. Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; agricultural engineering operations, including construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; or as additionally set forth by the Board in regulations. However, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;

7. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

8. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto;

9. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;

10. Land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VESMP authority

shall be advised of the disturbance within seven days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsection A is required within 30 days of commencing the land-disturbing activity; and

11. Discharges to a sanitary sewer or a combined sewer system that are not from a land-disturbing activity.

G. Notwithstanding any other provision of this article, the following activities are required to comply with the soil erosion control requirements but are not required to comply with the water quantity and water quality technical criteria, unless otherwise required by federal law:

1. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;

2. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and

3. Discharges from a land-disturbing activity to a sanitary sewer or a combined sewer system.

§ 62.1-44.15:51. (For expiration date, see notes) Definitions.

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

"Agreement in lieu of a plan" means a contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a *(i)* single-family residence *or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent*; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

"Applicant" means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

"Certified inspector" means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.

"Certified plan reviewer" means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, landscape architect, land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1, or professional soil scientist as defined in § 54.1-2200.

"Certified program administrator" means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"District" or "soil and water conservation district" means a political subdivision of the Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

"Erosion and sediment control plan" or "plan" means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

"Erosion impact area" means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

"Farm building or structure" means the same as that term is defined in § 36-97 and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400, and any related impervious surfaces including roads, driveways, and parking areas.

"Land-disturbing activity" means any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:

1. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work;

2. Individual service connections;

3. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;

4. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

5. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2;

6. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;

7. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;

8. Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (§ 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;

9. Disturbed land areas of less than 10,000 square feet in size or 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations; however, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;

10. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

11. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and

12. Emergency work to protect life, limb, or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the VESCP authority.

"Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

"Owner" means the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a given storm condition at a particular location.

"Permittee" means the person to whom the local permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

"Town" means an incorporated town.

"Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in this article, and evaluation consistent with the requirements of this article and its associated regulations.

"Virginia Erosion and Sediment Control Program authority" or "VESCP authority" means an authority approved by the Board to operate a Virginia Erosion and Sediment Control Program. An authority may include a state entity, including the Department; a federal entity; a district, county, city, or town; or for linear projects subject to annual standards and specifications, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102.

"Water quality volume" means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

§ 62.1-44.15:51. (For effective date, see notes) Definitions.

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

"Agreement in lieu of a plan" means a contract between the VESCP authority and the owner that specifies conservation measures that must be implemented in the construction of a *(i)* single-family detached residential structure *or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent*; this contract may be executed by the VESCP authority in lieu of a formal site plan.

"Applicant" means any person submitting an erosion and sediment control plan for approval in order to obtain authorization for land-disturbing activities to commence.

"Certified inspector" means an employee or agent of a VESCP authority who (i) holds a certification from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.

"Certified plan reviewer" means an employee or agent of a VESCP authority who (i) holds a certification from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, landscape architect, land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1, or professional soil scientist as defined in § 54.1-2200.

"Certified program administrator" means an employee or agent of a VESCP authority who (i) holds a certification from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"District" or "soil and water conservation district" means a political subdivision of the Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

"Erosion and sediment control plan" or "plan" means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

"Erosion impact area" means an area of land that is not associated with a current land-disturbing activity but is subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

"Farm building or structure" means the same as that term is defined in § 36-97 and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400, and any related impervious surfaces including roads, driveways, and parking areas.

"Land disturbance" or "land-disturbing activity" means any man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including the clearing, grading, excavating, transporting, and filling of land.

"Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

"Owner" means the same as provided in § 62.1-44.3. For a land-disturbing activity that is regulated under this article, "owner" also includes the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a given storm condition at a particular location.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

"Soil erosion" means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

"Town" means an incorporated town.

"Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, policies and guidelines, technical materials, and requirements for plan review, inspection, and evaluation consistent with the requirements of this article.

"Virginia Erosion and Sediment Control Program authority" or "VESCP authority" means a locality approved by the Board to operate a Virginia Erosion and Sediment Control Program. A locality that has chosen not to establish a Virginia Erosion and Stormwater Management Program pursuant to subdivision B 3 of § 62.1-44.15:27 is required to become a VESCP authority in accordance with this article.

"Virginia Stormwater Management Program" or "VSMP" means a program established by the Board pursuant to § 62.1-44.15:27.1 on behalf of a locality on or after July 1, 2014, to manage the quality and quantity of runoff resulting from any land-disturbing activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or greater of land disturbance.

§ 62.1-44.15:55. (For expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Regulated land-disturbing activities; submission and approval of erosion and sediment control plan.

A. Except as provided in § 62.1-44.15:56 for state agency and federal entity land-disturbing activities, no person shall engage in any land-disturbing activity until he has submitted to the VESCP authority an erosion and sediment control plan for the land-disturbing activity and the plan has been reviewed and approved. Upon the development of an online reporting system by the Department, but no later than July 1, 2014, a VESCP authority shall then be required to obtain evidence of Virginia Stormwater Management Program permit coverage where it is required prior to providing approval to begin land disturbance. Where land-disturbing activities involve lands under the jurisdiction of more than one VESCP, an erosion and sediment control plan may, at the request of one or all of the VESCP authorities, be submitted to the Department for review and approval rather than to each jurisdiction concerned. The Department may charge the jurisdictions requesting the review a fee sufficient to cover the cost associated with conducting the review. A VESCP may enter into an agreement with an adjacent VESCP regarding the administration of multijurisdictional projects whereby the jurisdiction that contains the greater portion of the project shall be responsible for all or part of the administrative procedures. Where the land-disturbing activity results from the construction of a *(i)* single-family residence *or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent*, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the VESCP authority.

B. The VESCP authority shall review erosion and sediment control plans submitted to it and grant written approval within 60 days of the receipt of the plan if it determines that the plan meets the requirements of this article and the Board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and shall comply with the provisions of this article. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence to the VESCP authority, as provided by § 62.1-44.15:52, who will be in charge of and responsible for carrying out the land-disturbing activity. However, any VESCP authority may waive the certificate of competence requirement for an agreement in lieu of a plan ~~for construction of a single-family residence~~. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by § 62.1-44.15:52. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this article.

When a plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within 45 days. The notice shall specify the modifications, terms, and conditions that will permit approval of the plan. If no action is taken by the VESCP authority within the time specified in this subsection, the plan shall be deemed approved and the person authorized to proceed with the proposed activity. The VESCP authority shall act on any erosion and sediment control plan that has been previously disapproved within 45 days after the plan has been revised, resubmitted for approval, and deemed adequate.

C. The VESCP authority may require changes to an approved plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; or

2. Where the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article and associated regulations, are agreed to by the VESCP authority and the person responsible for carrying out the plan.

D. Electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, and railroad companies shall, and authorities created pursuant to § 15.2-5102 may, file general erosion and sediment control standards and specifications annually with the Department for review and approval. Such standards and specifications shall be consistent with the requirements of this article and associated regulations and the Stormwater Management Act (§ 62.1-44.15:24 et seq.) and associated regulations where applicable. The specifications shall apply to:

1. Construction, installation, or maintenance of electric transmission, natural gas, and telephone utility lines and pipelines, and water and sewer lines; and

2. Construction of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of the railroad company.

The Department shall have 60 days in which to approve the standards and specifications. If no action is taken by the Department within 60 days, the standards and specifications shall be deemed approved. Individual approval of separate projects within subdivisions 1 and 2 is not necessary when approved specifications are followed. Projects not included in subdivisions 1 and 2 shall comply with the requirements of the appropriate VESCP. The Board shall have the authority to enforce approved specifications and charge fees equal to the lower of (i) $1,000 or (ii) an amount sufficient to cover the costs associated with standard and specification review and approval, project inspections, and compliance.

E. Any person engaging, in more than one jurisdiction, in the creation and operation of a wetland mitigation or stream restoration bank or banks, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of (i) wetlands mitigation or stream restoration banks, pursuant to a mitigation banking instrument signed by the Department of Environmental Quality, the Marine

Resources Commission, or the U.S. Army Corps of Engineers, or (ii) a stream restoration project for purposes of reducing nutrients or sediment entering state waters may, at the option of that person, file general erosion and sediment control standards and specifications for wetland mitigation or stream restoration banks annually with the Department for review and approval consistent with guidelines established by the Board.

The Department shall have 60 days in which to approve the specifications. If no action is taken by the Department within 60 days, the specifications shall be deemed approved. Individual approval of separate projects under this subsection is not necessary when approved specifications are implemented through a project-specific erosion and sediment control plan. Projects not included in this subsection shall comply with the requirements of the appropriate local erosion and sediment control program. The Board shall have the authority to enforce approved specifications and charge fees equal to the lower of (i) $1,000 or (ii) an amount sufficient to cover the costs associated with standard and specification review and approval, projection inspections, and compliance. Approval of general erosion and sediment control specifications by the Department does not relieve the owner or operator from compliance with any other local ordinances and regulations including requirements to submit plans and obtain permits as may be required by such ordinances and regulations.

F. In order to prevent further erosion, a VESCP authority may require approval of an erosion and sediment control plan for any land identified by the VESCP authority as an erosion impact area.

G. For the purposes of subsections A and B, when land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

§ 62.1-44.15:55. (For effective date, see notes) Regulated land-disturbing activities; submission and approval of erosion and sediment control plan.

A. Except as provided in § 62.1-44.15:31 for a land-disturbing activity conducted by a state agency, federal entity, or other specified entity, no person shall engage in any land-disturbing activity until he has submitted to the VESCP authority an erosion and sediment control plan for the land-disturbing activity and the plan has been reviewed and approved. Where Virginia Pollutant Discharge Elimination System permit coverage is required, a VESCP authority shall be required to obtain evidence of such coverage from the Department's online reporting system prior to approving the erosion and sediment control plan. A VESCP authority may enter into an agreement with an adjacent VESCP or VESMP authority regarding the administration of multijurisdictional projects specifying who shall be responsible for all or part of the administrative procedures. Should adjacent authorities fail to come to such an agreement, each shall be responsible for administering the area of the multijurisdictional project that lies within its jurisdiction. Where the land-disturbing activity results from the construction of a *(i)* single-family residence *or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent*, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the VESCP authority.

B. The VESCP authority shall review erosion and sediment control plans submitted to it and grant written approval within 60 days of the receipt of the plan if it determines that the plan meets the requirements of this article and the Board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and shall comply with the provisions of this article. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate to the VESCP authority, as provided by § 62.1-44.15:52, who will be in charge of and responsible for carrying out the land-disturbing activity. However, any VESCP authority may waive the certificate requirement for an agreement in lieu of a plan ~~for construction of a single-family residence~~. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate, as provided by § 62.1-44.15:52. Failure to provide the name of an individual holding a certificate prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this article.

When a plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within 45 days. The notice shall specify the modifications, terms, and conditions that will permit approval of the plan. If no action is taken by the VESCP authority within the time specified in this subsection, the plan shall be deemed approved and the person authorized to proceed with the proposed activity. The VESCP authority shall act on any erosion and sediment control plan that has been previously disapproved within 45 days after the plan has been revised, resubmitted for approval, and deemed adequate.

C. The VESCP authority may require changes to an approved plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; or

2. Where the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article and associated regulations, are agreed to by the VESCP authority and the person responsible for carrying out the plan.

D. In order to prevent further erosion, a VESCP authority may require approval of an erosion and sediment control plan for any land identified by the VESCP authority as an erosion impact area.

E. For the purposes of subsections A and B, when land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

F. Notwithstanding any other provisions of this article, the following activities are not required to comply with the requirements of this article unless otherwise required by federal law:

1. Disturbance of a land area of less than 10,000 square feet in size or less than 2,500 square feet in an area designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.). However, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;

2. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work;

3. Installation, maintenance, or repair of any individual service connection;

4. Installation, maintenance, or repair of any underground utility line when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;

5. Installation, maintenance, or repair of any septic tank line or drainage field unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

6. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2;

7. Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; agricultural engineering operations, including construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; or as additionally set forth by the Board in regulations. However, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;

8. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

9. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto;

10. Land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VESMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsection A is required within 30 days of commencing the land-disturbing activity;

11. Discharges to a sanitary sewer or a combined sewer system that are not from a land-disturbing activity; and

12. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company.

§ 62.1-44.15:58. (For contingent expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Monitoring, reports, and inspections.

A. The VESCP authority (i) shall provide for periodic inspections of the land-disturbing activity and require that an individual holding a certificate of competence, as provided by § 62.1-44.15:52, who will be in charge of and responsible for carrying out the land-disturbing activity and (ii) may require monitoring and reports from the person responsible for carrying out the erosion and sediment control plan, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. However, any VESCP authority may waive the certificate of competence requirement for an agreement in lieu of a plan ~~for construction of a single-family residence~~. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection. If the VESCP authority, where authorized to enforce this article, or the Department determines that there is a failure to comply with the plan following an inspection, notice shall be served upon the permittee or person responsible for carrying out the plan by mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the VESCP authority, where authorized to enforce this article, the Department, or the Board may pursue enforcement as provided by § 62.1-44.15:63.

B. Notwithstanding the provisions of subsection A, a VESCP authority is authorized to enter into agreements or contracts with districts, adjacent localities, or other public or private entities to assist with the responsibilities of this article, including but not limited to the review and determination of adequacy of erosion and sediment control plans submitted for land-disturbing activities as well as monitoring, reports, inspections, and enforcement where an authority is granted such powers by this article.

C. Upon issuance of an inspection report denoting a violation of this section, § 62.1-44.15:55 or 62.1-44.15:56, in conjunction with or subsequent to a notice to comply as specified in subsection A, a VESCP authority, where authorized to

enforce this article, or the Department may issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken or, if land-disturbing activities have commenced without an approved plan as provided in § 62.1-44.15:55, requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved erosion and sediment control plan or any required permits, such an order may be issued whether or not the alleged violator has been issued a notice to comply as specified in subsection A. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply. The order for noncompliance with a plan shall be served in the same manner as a notice to comply, and shall remain in effect for seven days from the date of service pending application by the VESCP authority, the Department, or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court. The order for disturbance without an approved plan or permits shall be served upon the owner by mailing with confirmation of delivery to the address specified in the land records of the locality, shall be posted on the site where the disturbance is occurring, and shall remain in effect until such time as permits and plan approvals are secured, except in such situations where an agricultural exemption applies. If the alleged violator has not obtained an approved erosion and sediment control plan or any required permit within seven days from the date of service of the order, the Department or the chief administrative officer or his designee on behalf of the VESCP authority may issue a subsequent order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved erosion and sediment control plan and any required permits have been obtained. The subsequent order shall be served upon the owner by mailing with confirmation of delivery to the address specified in the permit application or the land records of the locality in which the site is located. The owner may appeal the issuance of any order to the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court. Any person violating or failing, neglecting, or refusing to obey an order issued by the Department or the chief administrative officer or his designee on behalf of the VESCP authority may be compelled in a proceeding instituted in the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court to obey same and to comply therewith by injunction, mandamus, or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted. Nothing in this section shall prevent the Department, the Board, or the chief administrative officer or his designee on behalf of the VESCP authority from taking any other action specified in § 62.1-44.15:63.

§ 62.1-44.15:58. (For contingent effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Monitoring, reports, and inspections.

A. The VESCP authority (i) shall provide for periodic inspections of the land-disturbing activity and require that an individual holding a certificate, as provided by § 62.1-44.15:52, will be in charge of and responsible for carrying out the land-disturbing activity and (ii) may require monitoring and reports from the person responsible for carrying out the erosion and sediment control plan, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. However, any VESCP authority may waive the certificate requirement for an agreement in lieu of a plan ~~for construction of a single-family detached residential structure~~. The owner shall be given notice of the inspection. When the VESCP authority or the Board determines that there is a failure to comply with the conditions of land-disturbance approval or to obtain an approved plan or a land-disturbance approval prior to commencing land-disturbing activity, the VESCP authority or the Board may serve a notice to comply upon the owner or person responsible for carrying out the land-disturbing activity. Such notice to comply shall be served by delivery by facsimile, e-mail, or other technology; by mailing with confirmation of delivery to the address specified in the plan or land-disturbance application, if available, or in the land records of the locality; or by delivery at the site to a person previously identified to the VESCP authority by the owner. The notice to comply shall specify the measures needed to comply with the land-disturbance approval conditions or shall identify the plan approval or land-disturbance approval needed to comply with this article and shall specify a reasonable time within which such measures shall be completed. In any instance in which a required land-disturbance approval has not been obtained, the VESCP authority or the Board may require immediate compliance. In any other case, the VESCP authority or the Board may establish the time for compliance by taking into account the risk of damage to natural resources and other relevant factors. Notwithstanding any other provision in this subsection, a VESCP authority or the Board may count any days of noncompliance as days of violation should the VESCP authority or the Board take an enforcement action. The issuance of a notice to comply by the Board shall not be considered a case decision as defined in § 2.2-4001. Upon failure to comply within the time specified, any plan approval or land-disturbance approval may be revoked and the VESCP authority or the Board may pursue enforcement as provided by § 62.1-44.15:63.

B. Notwithstanding the provisions of subsection A, a VESCP authority is authorized to enter into agreements or contracts with districts, adjacent localities, or other public or private entities to assist with the responsibilities of this article, including but not limited to the review and determination of adequacy of erosion and sediment control plans submitted for land-disturbing activities as well as monitoring, reports, inspections, and enforcement.

C. Upon issuance of an inspection report denoting a violation of this section or § 62.1-44.15:55, in conjunction with or subsequent to a notice to comply as specified in subsection A, a VESCP authority or the Board may issue a stop work order requiring that all or part of the land-disturbing activities on the site be stopped until the specified corrective measures have

been taken or, if land-disturbing activities have commenced without an approved plan as provided in § 62.1-44.15:55, requiring that all of the land-disturbing activities be stopped until an approved plan is obtained. When such an order is issued by the Board, it shall be issued in accordance with the procedures of the Administrative Process Act (§ 2.2-4000 et seq.). Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved erosion and sediment control plan, such a stop work order may be issued whether or not the alleged violator has been issued a notice to comply as specified in subsection A. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply. The order for noncompliance with a plan shall be served in the same manner as a notice to comply, and shall remain in effect for seven days from the date of service pending application by the VESCP authority, the Board, or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court. The stop work order for disturbance without an approved plan shall be served upon the owner by mailing with confirmation of delivery to the address specified in the land records of the locality, shall be posted on the site where the disturbance is occurring, and shall remain in effect until such time as plan approvals are secured, except in such situations where an agricultural exemption applies. If the alleged violator has not obtained an approved erosion and sediment control plan within seven days from the date of service of the stop work order, the Board or the chief administrative officer or his designee on behalf of the VESCP authority may issue a subsequent order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved erosion and sediment control plan has been obtained. The subsequent order shall be served upon the owner by mailing with confirmation of delivery to the address specified in the plan or the land records of the locality in which the site is located. The owner may appeal the issuance of any order to the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court. Any person violating or failing, neglecting, or refusing to obey an order issued by the Board or the chief administrative officer or his designee on behalf of the VESCP authority may be compelled in a proceeding instituted in the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court to obey same and to comply therewith by injunction, mandamus, or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan, the order shall immediately be lifted. Nothing in this section shall prevent the Board or the chief administrative officer or his designee on behalf of the VESCP authority from taking any other action specified in § 62.1-44.15:63.

CHAPTER 50

An Act to amend and reenact §§ 58.1-1206, 58.1-1207, and 58.1-1212 of the Code of Virginia, relating to bank franchise tax.

[H 1896]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-1206, 58.1-1207, and 58.1-1212 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-1206. Deductions from gross capital.

A. There shall be deducted from the gross capital otherwise ascertainable under § 58.1-1205:

1. The assessed value of real estate if otherwise taxed in ~~this~~ *the* Commonwealth which is owned by such bank, or is used or occupied by such bank, if held in the name of a majority-owned subsidiary of the bank or of a bank holding company which owns a majority of the capital stock of such bank or of any wholly-owned subsidiary of the bank holding company which owns the majority of the capital stock of such bank and the assessed value, up to the amount of the unencumbered equity, of real estate in the nature of improvements which are owned by the bank, or used or occupied by the bank and held by a majority-owned subsidiary or a bank holding company or a wholly-owned subsidiary of a bank holding company, even if assessed in the name of some other person because of the ownership of the underlying land by such person. Real estate used or occupied by a subsidiary or originally conveyed as collateral for loans made by a subsidiary of the bank and reacquired upon foreclosure of mortgage loans will be deemed to be used or occupied by the bank. The deduction for assessed value of real estate shall be the most recent assessment made prior to January 1 of the current bank franchise tax year for real estate owned by the bank or affiliate on January 1 of the current year. *Any locality shall provide electronic access to banks for real estate assessment records for such real estate referenced by this section at their request.*

2. The book value of tangible personal property which shall be held for lease and is otherwise taxed which is owned by such bank or in the name of a majority-owned subsidiary of the bank. If the bank does not own all the stock of such subsidiary, it shall be entitled to deduct only such portion of the assessed value of the real estate and the value of such tangible personal property as the common stock it owns in such subsidiary bears to the whole issue of common stock of such corporation.

3. An amount which shall equal the same percentage of the gross capital account, defined as its capital, surplus and undivided profits as set forth in § 58.1-1205 at December 31 next preceding as the obligations of the United States bear to the total assets of the bank. Such percentage of U.S. obligations shall be determined as of the four most recent (or less in case of a new bank) Reports of Condition and the percentage obtained shall be averaged. For purposes of computing such percentage, total assets shall not include the goodwill described in subdivision 5. The obligations of the United States as

used herein shall include all obligations of the United States exempt from taxation under 31 U.S.C. § 3124, of the United States Constitution or any other statute, or any instrumentality or agency of the United States which obligations shall be exempt from state or local taxation under the United States Constitution or any statute of the United States.

4. The amount of retained earnings and surplus of subsidiaries to the extent included in the gross capital of the bank. In addition, any portion of the amount added to federal taxable income pursuant to subdivision B 9 of § 58.1-402 by a corporation that is for interest expenses and costs paid to the bank for a loan or other obligation made by the bank to such corporation shall be deducted from the gross capital of the bank provided that (i) at the time of payment of such portion to the bank, the bank was a related member of the corporation, and (ii) such portion has not otherwise been deducted from gross capital. For purposes of this subdivision, the terms "interest expenses and costs" and "related member" mean the same as those terms are defined in § 58.1-302.

5. Any amount equal to 90 percent of goodwill created in connection with any acquisition or merger occurring on or after July 1, 2001.

B. For purposes of this section, "goodwill" shall be determined using generally accepted accounting principles.

§ 58.1-1207. Filing of return and payment of tax.

A. Each bank as defined in § 58.1-1201 as of January 1 of each year shall prepare and file *electronically* with the commissioner of the revenue or comparable assessing officer of the county, city or town where the principal office of the bank is located on or before March 1, a return ~~in duplicate which~~ *that* shall set forth the tax on net capital as computed under this chapter. ~~The return shall be in a form prescribed by the Department of Taxation~~ *The Department of Taxation shall maintain a secure online portal to receive returns and other required submissions under this chapter in a manner prescribed by the Department for use by commissioners of the revenue or other assessing officers of any locality in accepting filed returns and certifying and transmitting returns to the Department*. The commissioner of the revenue or comparable assessing officer shall certify a copy of the bank's return and schedules and shall forthwith transmit such certified copy to the Department of Taxation. Additionally, ~~a~~ *an electronic* copy of the real estate deduction schedules and the apportionment under § 58.1-1211 shall be filed with the appropriate assessing officer of each political subdivision imposing a tax on the filing bank. Such return shall set forth the tax on net capital owing to each such political subdivision as computed under this chapter and shall include the listing of the real estate, as assessed for the prior year, as well as a description of the total of the obligations of the United States and the average percentage thereof on the four dates prescribed in subdivision 3 of § 58.1-1206. Every bank, on or before June 1 of each year, shall pay into the state treasury the state taxes assessed under this chapter and into the treasurer's office or other official of the local political subdivisions all taxes assessed by such political subdivision.

B. In accordance with procedures established by the Tax Commissioner, any bank may elect an extension of time within which to file the tax return required under this chapter to the date 60 days after such due date. Such form shall be submitted to the Department of Taxation and the commissioner of the revenue or other assessing officer of any locality in which the bank is required to file.

§ 58.1-1212. Record of deposits through branches required.

Each bank in ~~this~~ *the* Commonwealth that has as of the beginning of any tax year a bank located in any county, incorporated town or city other than the county, incorporated town or city wherein such bank's principal office is located, shall maintain a record of the deposits through each such branch as of the beginning of the tax year. Each bank shall also *electronically* submit to the commissioner of the revenue or other assessing officer of the locality wherein such principal office is located a report of such deposits with the return required under § 58.1-1207.

2. That the provisions of the first enactment of this act shall become effective on January 1, 2025.

3. That the Department of Taxation shall convene a work group to assess potential alternative methods for the filing and allocation of bank franchise tax revenues for consideration in the 2024 Session of the General Assembly. At a minimum, the work group shall evaluate proposals to allow banks to submit their bank franchise tax payments to the Commonwealth, the formula used to redistribute funds to local governments, the impact of the new method of collecting and distributing funds on counties, cities, and towns, the timeline for implementation of any proposed changes, and the cost to the Commonwealth and local governments of implementing these changes. The work group shall include representatives from the Virginia Bankers Association, Virginia Association of Counties, Virginia Municipal League, and Commissioners of the Revenue Association of Virginia and other relevant stakeholders. The work group shall report its findings and recommendations to the General Assembly by December 1, 2023.

CHAPTER 51

An Act to amend and reenact §§ 58.1-1206, 58.1-1207, and 58.1-1212 of the Code of Virginia, relating to bank franchise tax.

[S 1182]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-1206, 58.1-1207, and 58.1-1212 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-1206. Deductions from gross capital.

A. There shall be deducted from the gross capital otherwise ascertainable under § 58.1-1205:

1. The assessed value of real estate if otherwise taxed in ~~this~~ *the* Commonwealth which is owned by such bank, or is used or occupied by such bank, if held in the name of a majority-owned subsidiary of the bank or of a bank holding company which owns a majority of the capital stock of such bank or of any wholly-owned subsidiary of the bank holding company which owns the majority of the capital stock of such bank and the assessed value, up to the amount of the unencumbered equity, of real estate in the nature of improvements which are owned by the bank, or used or occupied by the bank and held by a majority-owned subsidiary or a bank holding company or a wholly-owned subsidiary of a bank holding company, even if assessed in the name of some other person because of the ownership of the underlying land by such person. Real estate used or occupied by a subsidiary or originally conveyed as collateral for loans made by a subsidiary of the bank and reacquired upon foreclosure of mortgage loans will be deemed to be used or occupied by the bank. The deduction for assessed value of real estate shall be the most recent assessment made prior to January 1 of the current bank franchise tax year for real estate owned by the bank or affiliate on January 1 of the current year. *Any locality shall provide electronic access to banks for real estate assessment records for such real estate referenced by this section at their request.*

2. The book value of tangible personal property which shall be held for lease and is otherwise taxed which is owned by such bank or in the name of a majority-owned subsidiary of the bank. If the bank does not own all the stock of such subsidiary, it shall be entitled to deduct only such portion of the assessed value of the real estate and the value of such tangible personal property as the common stock it owns in such subsidiary bears to the whole issue of common stock of such corporation.

3. An amount which shall equal the same percentage of the gross capital account, defined as its capital, surplus and undivided profits as set forth in § 58.1-1205 at December 31 next preceding as the obligations of the United States bear to the total assets of the bank. Such percentage of U.S. obligations shall be determined as of the four most recent (or less in case of a new bank) Reports of Condition and the percentage obtained shall be averaged. For purposes of computing such percentage, total assets shall not include the goodwill described in subdivision 5. The obligations of the United States as used herein shall include all obligations of the United States exempt from taxation under 31 U.S.C. § 3124, of the United States Constitution or any other statute, or any instrumentality or agency of the United States which obligations shall be exempt from state or local taxation under the United States Constitution or any statute of the United States.

4. The amount of retained earnings and surplus of subsidiaries to the extent included in the gross capital of the bank. In addition, any portion of the amount added to federal taxable income pursuant to subdivision B 9 of § 58.1-402 by a corporation that is for interest expenses and costs paid to the bank for a loan or other obligation made by the bank to such corporation shall be deducted from the gross capital of the bank provided that (i) at the time of payment of such portion to the bank, the bank was a related member of the corporation, and (ii) such portion has not otherwise been deducted from gross capital. For purposes of this subdivision, the terms "interest expenses and costs" and "related member" mean the same as those terms are defined in § 58.1-302.

5. Any amount equal to 90 percent of goodwill created in connection with any acquisition or merger occurring on or after July 1, 2001.

B. For purposes of this section, "goodwill" shall be determined using generally accepted accounting principles.

§ 58.1-1207. Filing of return and payment of tax.

A. Each bank as defined in § 58.1-1201 as of January 1 of each year shall prepare and file *electronically* with the commissioner of the revenue or comparable assessing officer of the county, city or town where the principal office of the bank is located on or before March 1, a return ~~in duplicate which~~ *that* shall set forth the tax on net capital as computed under this chapter. ~~The return shall be in a form prescribed by the Department of Taxation~~ *The Department of Taxation shall maintain a secure online portal to receive returns and other required submissions under this chapter in a manner prescribed by the Department for use by commissioners of the revenue or other assessing officers of any locality in accepting filed returns and certifying and transmitting returns to the Department.* The commissioner of the revenue or comparable assessing officer shall certify a copy of the bank's return and schedules and shall forthwith transmit such certified copy to the Department of Taxation. Additionally, ~~a~~ *an electronic* copy of the real estate deduction schedules and the apportionment under § 58.1-1211 shall be filed with the appropriate assessing officer of each political subdivision imposing a tax on the filing bank. Such return shall set forth the tax on net capital owing to each such political subdivision as computed under this chapter and shall include the listing of the real estate, as assessed for the prior year, as well as a description of the total of the obligations of the United States and the average percentage thereof on the four dates prescribed in subdivision 3 of § 58.1-1206. Every bank, on or before June 1 of each year, shall pay into the state treasury the state taxes assessed under this chapter and into the treasurer's office or other official of the local political subdivisions all taxes assessed by such political subdivision.

B. In accordance with procedures established by the Tax Commissioner, any bank may elect an extension of time within which to file the tax return required under this chapter to the date 60 days after such due date. Such form shall be submitted to the Department of Taxation and the commissioner of the revenue or other assessing officer of any locality in which the bank is required to file.

§ 58.1-1212. Record of deposits through branches required.

Each bank in ~~this~~ *the* Commonwealth that has as of the beginning of any tax year a bank located in any county, incorporated town or city other than the county, incorporated town or city wherein such bank's principal office is located, shall maintain a record of the deposits through each such branch as of the beginning of the tax year. Each bank shall also

electronically submit to the commissioner of the revenue or other assessing officer of the locality wherein such principal office is located a report of such deposits with the return required under § 58.1-1207.

2. That the provisions of the first enactment of this act shall become effective on January 1, 2025.

3. That the Department of Taxation shall convene a work group to assess potential alternative methods for the filing and allocation of bank franchise tax revenues for consideration in the 2024 Session of the General Assembly. At a minimum, the work group shall evaluate proposals to allow banks to submit their bank franchise tax payments to the Commonwealth, the formula used to redistribute funds to local governments, the impact of the new method of collecting and distributing funds on counties, cities, and towns, the timeline for implementation of any proposed changes, and the cost to the Commonwealth and local governments of implementing these changes. The work group shall include representatives from the Virginia Bankers Association, Virginia Association of Counties, Virginia Municipal League, and Commissioners of the Revenue Association of Virginia and other relevant stakeholders. The work group shall report its findings and recommendations to the General Assembly by December 1, 2023.

CHAPTER 52

An Act to amend and reenact §§ 55.1-2208 and 55.1-2217 of the Code of Virginia, relating to Virginia Real Estate Time-Share Act; alternative purchases.

[H 1955]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 55.1-2208 and 55.1-2217 of the Code of Virginia are amended and reenacted as follows:

§ 55.1-2208. Instruments.

A. In order to create a time-share program for a time-share estate project, the developer shall execute a time-share instrument prepared and executed in accordance with this chapter and record it in the clerk's office where such time-share project is located. The time-share instrument shall contain the following:

1. The name of the time-share project, which shall include or be followed by a qualifying adjective or term outlined in § 55.1-2205;

2. The name of the locality and the state or situs in which the time-share project is situated;

3. The legal description, street address, or other description sufficient to identify the time-share project;

4. A legally sufficient description of the real estate constituting the time-share project;

5. A statement of the form of time-share program, i.e., whether it is a time-share estate or time-share use;

6. Identification of time periods by letter, name, number, or combination thereof;

7. Identification of time-shares and, where applicable, the method by which additional time-shares may be created or withdrawn;

8. The formula, fraction, or percentage of the common expenses and any voting rights assigned to each time-share;

9. Any restrictions on the use, occupancy, enjoyment, alteration, or alienation of time-shares;

10. The ownership interest, if any, in personal property available to time-share owners;

11. The program by which the managing entity, if any, will provide management of the project;

12. The period for which units are designated and committed to the time-share program and the property classification of the units at the expiration of such period;

13. Any provision for amending the time-share instrument;

14. A description of the events, including condemnation and damage or destruction, upon which the time-share program may or shall be terminated before the expiration of its full term and the consequences of such termination, including the manner in which the time-share project or the proceeds from the disposition of such project shall be held or distributed among owners;

15. A statement of whether or not the developer reserves the right to add to or delete any incidental benefit; *and*

16. ~~A statement of whether or not the developer reserves the right to add to or delete any alternative purchase; and~~

~~17.~~ Such other matters as the developer deems appropriate.

B. In order to create a time-share program for a time-share use project, the developer shall (i) execute and record a time-share instrument as required by subsection A or (ii) execute a time-share instrument that takes the form of and is a part of the contract that contains the information required by subsection A.

C. If the developer explicitly reserves the right to develop additional time-shares, the time-share instrument shall also contain the following:

1. A legally sufficient description of all land that may be added to the time-share project, which shall be referred to as "additional land";

2. A statement outlining the order in which portions of the additional land may be subjected to the exercise of each development right or a statement that no assurances are made in that regard;

3. A statement of the time limit upon which the option to develop shall expire, together with a statement of the circumstances, if any, that will terminate that option prior to the expiration of the specified time limit;

4. A statement of the maximum number of units that may be added to the time-share project, if known, or, if the maximum number of units that may be added to the time-share project is not known, a statement to that effect; and

5. A statement of the property classification of the additional land if the developer fails to exercise the development rights as reserved in the time-share instrument.

§ 55.1-2217. Public offering statement.

A. Prior to the execution of a contract for the purchase of a time-share, the developer shall prepare and distribute to each prospective purchaser a copy of the current public offering statement regarding the time-share program. The public offering statement shall (i) fully and accurately disclose the material characteristics of the time-share program registered under this chapter and such time-share offered and (ii) make known to each prospective purchaser all material circumstances affecting such time-share program. A developer need not make joint disclosures concerning two or more time-share projects owned by the developer or any related entity unless such projects are included in the same time-share program and marketed jointly at any of the time-share projects. The proposed public offering statement shall be filed with the Board and shall be in a form prescribed by its regulations. The public offering statement may limit the information provided for the specific time-share project to which the developer's registration relates. The public offering statement shall include the following only to the extent that a given disclosure is applicable:

1. The name and principal address of the developer, including:

a. The name, principal occupation, and address of every director, partner, limited liability company manager, or trustee of the developer;

b. The name and address of each person owning or controlling an interest of 20 percent or more in each time-share project included in the registration;

c. The particulars of any indictment, conviction, judgment, or order of any court or administrative agency against the developer or managing entity for violation of a federal, state, local, or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements, or any similar or related activity;

d. The nature of each unsatisfied judgment, if any, against the developer or the managing entity, the status of each pending action involving the sale or management of real estate to which the developer, the managing entity, or any general partner, executive officer, director, limited liability company manager, or majority stockholder thereof is a defending party, and the status of each pending action, if any, of significance to any time-share project included in the registration; and

e. The name and address of the developer's agent for service of any notice permitted by this chapter.

2. A general description of the time-share projects included in the time-share program. The description shall include the address of each time-share project, the units, and common elements for each project promised available to purchasers, including the developer's estimated schedule of commencement and completion of all promised and incomplete time-share units and common elements.

3. As to all time-shares offered by the developer:

a. The form of time-share ownership offered in the time-share program;

b. The types, duration, and number of units and time-shares in the time-share program;

c. Identification of time-share units that are subject to the time-share program;

d. The estimated number of time-share units that may become subject to the time-share program;

e. Provisions, if any, that have been made for public utilities in the time-share project including water, electricity, telephone, and sewerage facilities;

f. A statement to the effect of whether or not the developer has reserved the right to add to or delete from the time-share program a time-share project or any incidental benefit; ~~and~~

g. *A statement of whether the developer will offer any alternative purchase; and*

h. If the developer utilizes the possibility of reverter, a statement to that effect referring the purchaser to the reverter deed for an explanation of such possibility of reverter.

4. In a time-share estate program, a copy of the annual report or budget required by § 55.1-2213, which copy may take the form of an exhibit to the public offering statement. In the case where multiple time-share projects are included in the time-share program, the copy or exhibit may be in summary form.

5. In a time-share use program where the developer's net worth is no more than $250,000, a current audited balance sheet and, where the developer's net worth exceeds such amount, a statement by such developer that its equity in the time-share program exceeds that amount.

6. Any initial or special fee due from the purchaser at settlement together with a description of the purpose and method of calculating the fee.

7. A description of any liens, defects, or encumbrances affecting the time-share project and in particular the time-share offered to the purchaser.

8. A general description of any financing offered by or available through the developer.

9. A statement that the purchaser has a nonwaivable right of cancellation, referring such purchaser to that portion of the contract in which such right may be found.

10. If the time-share interest in a condominium unit may be conveyed before that condominium unit is certified as substantially complete in accordance with § 55.1-1920, a statement of the developer's obligation to complete the

condominium unit. Such statement shall include the approximate date by which the condominium unit shall be completed, together with the form and amount of the bond filed in accordance with subsection B of § 55.1-1921.

11. Any restraints on alienation of any number or portion of any time-shares.

12. A description of the insurance coverage provided for the benefit of time-share owners.

13. The extent to which financial arrangements, if any, have been provided for completion of any incomplete but promised time-share unit or common element being then offered for sale, including a statement of the developer's obligation to complete the promised units and common elements that the time-share project comprises that have not begun or that have begun but have not yet been completed.

14. The extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other owners of the same unit.

15. The name and address of the managing entity for each project in the time-share program.

16. Copies of the time-share instrument and the association's articles of incorporation and bylaws, each of which may be a supplement to the public offering statement.

17. Any services that the developer provides or expense it pays and that it expects may become at any subsequent time a time-share expense of the owners, and the projected time-share expense liability attributable to each of those services or expenses for each time-share.

18. A description of the terms of the deposit escrow requirements, including a statement that deposits may be removed from escrow at the termination of the cancellation period.

19. A description of the facilities, if any, provided by the developer to the association in a time-share estate project for the management of the project.

20. Any other information required by the Board to assure full and fair meaningful disclosure to prospective purchasers.

B. If any prospective purchaser is offered the opportunity to subscribe to or participate in any exchange program, the public offering statement shall include, as an exhibit or supplement, the disclosure document prepared by the exchange company in accordance with § 55.1-2219 and a brief narrative description of the exchange program, which shall include the following:

1. A statement of whether membership or participation in the program is voluntary or mandatory;

2. The name and address of the exchange company together with the names of its top three officers and directors;

3. A statement of whether the exchange company or any of its top three officers, directors, or holders of a 10 percent or greater interest in the exchange company has any interest in the developer, the managing entity, or the time-share program;

4. A statement that the purchaser's contract with the exchange company is a contract separate and distinct from the purchaser's contract with the developer; and

5. A brief narrative description of the procedure by which exchanges are conducted.

C. The public offering statement of a conversion time-share project shall also include the following, which may take the form of an exhibit to the public offering statement:

1. A specific statement of the amount of any initial or special fee, if any, due from the purchaser of a time-share on or before settlement of the purchase contract and the basis of such fee occasioned by the fact that the project is a conversion time-share project;

2. Information on the actual expenditures, if available, made on all repairs, maintenance, operation, or upkeep of any building in the time-share project within the last three years. This information shall be set forth in a tabular manner within the proposed budget of the project. If any such building has not been occupied for a period of three years, the information shall be set forth for the period during which such building was occupied;

3. A description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves occasioned by the fact that the project is a conversion time-share project, or, if no provision is made for such reserves, a statement to that effect; and

4. A statement of the present condition of all structural components and major utility installations in the building, which statement shall include the approximate dates of construction, installations, and major repairs as well as the expected useful life of each such item, together with the estimated cost, in current dollars, of replacing each such component.

D. In the case of a conversion time-share project, the developer shall give at least 90 days' notice to each of the tenants of any building that the developer intends to submit to the provisions of this chapter. During the first 60 days of such 90-day period, each of these tenants shall have the exclusive right to contract for the purchase of a time-share from the unit he occupies, but only if such unit is to be retained in the conversion time-share project without substantial alteration in its physical layout. Such notice shall be hand delivered or sent by first-class mail, return receipt requested, and shall inform the tenants of the developer's intent to create a conversion time-share project. Such notice may also constitute the notice to terminate the tenancy as provided for in § 55.1-1410, except that, despite the provisions of § 55.1-1410, a tenancy from month to month may only be terminated upon 120 days' notice as set forth in this subsection when such termination is in regard to the creation of a conversion time-share project. If, however, a tenant so notified remains in possession of the unit he occupies after the expiration of the 120-day period with the permission of the developer, in order to then terminate the tenancy, such developer shall give the tenant a further notice as provided in § 55.1-1410.

The developer of a conversion time-share project shall, in addition to the requirements of § 55.1-2239, include with the application for registration a copy of the notice required by this subsection and a certified statement that such notice that

fully complies with the provisions of this subsection shall be, at the time of the registration, mailed or delivered to each of the tenants in any building for which registration is sought.

E. The developer shall amend the public offering statement to reflect any material change in the time-share program. If the developer has reserved in the time-share instrument the right to add to or delete incidental benefits ~~or alternative purchases~~, the addition or deletion of such benefits ~~or purchases~~ shall not constitute a material change. Prior to distribution, the developer shall file with the Board the public offering statement amended to reflect any material change.

F. The Board may at any time require a developer to alter or supplement the form or substance of the public offering statement to assure full and fair disclosure to prospective purchasers. A developer may prepare and distribute a public offering statement for each time-share program offered or one public offering statement for all time-share programs offered.

G. The developer shall amend the public offering statement to reflect any addition of a time-share project to, or removal of a time-share project from, the existing time-share program.

H. In the case of a time-share project located outside the Commonwealth, similar disclosure statements required by other situs laws governing time-sharing may be accepted by the Board as alternative disclosure statements to satisfy the requirements of this section.

I. The public offering statement may be in any format, including any electronic format, provided that the prospective buyer has available for review, along with ample time for any questions and answers, a copy of the public offering statement prior to his execution of a contract.

CHAPTER 53

An Act to amend and reenact §§ 55.1-2208 and 55.1-2217 of the Code of Virginia, relating to Virginia Real Estate Time-Share Act; alternative purchases.

[S 969]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 55.1-2208 and 55.1-2217 of the Code of Virginia are amended and reenacted as follows:

§ 55.1-2208. Instruments.

A. In order to create a time-share program for a time-share estate project, the developer shall execute a time-share instrument prepared and executed in accordance with this chapter and record it in the clerk's office where such time-share project is located. The time-share instrument shall contain the following:

1. The name of the time-share project, which shall include or be followed by a qualifying adjective or term outlined in § 55.1-2205;

2. The name of the locality and the state or situs in which the time-share project is situated;

3. The legal description, street address, or other description sufficient to identify the time-share project;

4. A legally sufficient description of the real estate constituting the time-share project;

5. A statement of the form of time-share program, i.e., whether it is a time-share estate or time-share use;

6. Identification of time periods by letter, name, number, or combination thereof;

7. Identification of time-shares and, where applicable, the method by which additional time-shares may be created or withdrawn;

8. The formula, fraction, or percentage of the common expenses and any voting rights assigned to each time-share;

9. Any restrictions on the use, occupancy, enjoyment, alteration, or alienation of time-shares;

10. The ownership interest, if any, in personal property available to time-share owners;

11. The program by which the managing entity, if any, will provide management of the project;

12. The period for which units are designated and committed to the time-share program and the property classification of the units at the expiration of such period;

13. Any provision for amending the time-share instrument;

14. A description of the events, including condemnation and damage or destruction, upon which the time-share program may or shall be terminated before the expiration of its full term and the consequences of such termination, including the manner in which the time-share project or the proceeds from the disposition of such project shall be held or distributed among owners;

15. A statement of whether or not the developer reserves the right to add to or delete any incidental benefit; *and*

16. ~~A statement of whether or not the developer reserves the right to add to or delete any alternative purchase; and~~

~~17.~~ Such other matters as the developer deems appropriate.

B. In order to create a time-share program for a time-share use project, the developer shall (i) execute and record a time-share instrument as required by subsection A or (ii) execute a time-share instrument that takes the form of and is a part of the contract that contains the information required by subsection A.

C. If the developer explicitly reserves the right to develop additional time-shares, the time-share instrument shall also contain the following:

1. A legally sufficient description of all land that may be added to the time-share project, which shall be referred to as "additional land";

2. A statement outlining the order in which portions of the additional land may be subjected to the exercise of each development right or a statement that no assurances are made in that regard;

3. A statement of the time limit upon which the option to develop shall expire, together with a statement of the circumstances, if any, that will terminate that option prior to the expiration of the specified time limit;

4. A statement of the maximum number of units that may be added to the time-share project, if known, or, if the maximum number of units that may be added to the time-share project is not known, a statement to that effect; and

5. A statement of the property classification of the additional land if the developer fails to exercise the development rights as reserved in the time-share instrument.

§ 55.1-2217. Public offering statement.

A. Prior to the execution of a contract for the purchase of a time-share, the developer shall prepare and distribute to each prospective purchaser a copy of the current public offering statement regarding the time-share program. The public offering statement shall (i) fully and accurately disclose the material characteristics of the time-share program registered under this chapter and such time-share offered and (ii) make known to each prospective purchaser all material circumstances affecting such time-share program. A developer need not make joint disclosures concerning two or more time-share projects owned by the developer or any related entity unless such projects are included in the same time-share program and marketed jointly at any of the time-share projects. The proposed public offering statement shall be filed with the Board and shall be in a form prescribed by its regulations. The public offering statement may limit the information provided for the specific time-share project to which the developer's registration relates. The public offering statement shall include the following only to the extent that a given disclosure is applicable:

1. The name and principal address of the developer, including:

a. The name, principal occupation, and address of every director, partner, limited liability company manager, or trustee of the developer;

b. The name and address of each person owning or controlling an interest of 20 percent or more in each time-share project included in the registration;

c. The particulars of any indictment, conviction, judgment, or order of any court or administrative agency against the developer or managing entity for violation of a federal, state, local, or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements, or any similar or related activity;

d. The nature of each unsatisfied judgment, if any, against the developer or the managing entity, the status of each pending action involving the sale or management of real estate to which the developer, the managing entity, or any general partner, executive officer, director, limited liability company manager, or majority stockholder thereof is a defending party, and the status of each pending action, if any, of significance to any time-share project included in the registration; and

e. The name and address of the developer's agent for service of any notice permitted by this chapter.

2. A general description of the time-share projects included in the time-share program. The description shall include the address of each time-share project, the units, and common elements for each project promised available to purchasers, including the developer's estimated schedule of commencement and completion of all promised and incomplete time-share units and common elements.

3. As to all time-shares offered by the developer:

a. The form of time-share ownership offered in the time-share program;

b. The types, duration, and number of units and time-shares in the time-share program;

c. Identification of time-share units that are subject to the time-share program;

d. The estimated number of time-share units that may become subject to the time-share program;

e. Provisions, if any, that have been made for public utilities in the time-share project including water, electricity, telephone, and sewerage facilities;

f. A statement to the effect of whether or not the developer has reserved the right to add to or delete from the time-share program a time-share project or any incidental benefit; ~~and~~

g. *A statement of whether the developer will offer any alternative purchase; and*

h. If the developer utilizes the possibility of reverter, a statement to that effect referring the purchaser to the reverter deed for an explanation of such possibility of reverter.

4. In a time-share estate program, a copy of the annual report or budget required by § 55.1-2213, which copy may take the form of an exhibit to the public offering statement. In the case where multiple time-share projects are included in the time-share program, the copy or exhibit may be in summary form.

5. In a time-share use program where the developer's net worth is no more than $250,000, a current audited balance sheet and, where the developer's net worth exceeds such amount, a statement by such developer that its equity in the time-share program exceeds that amount.

6. Any initial or special fee due from the purchaser at settlement together with a description of the purpose and method of calculating the fee.

7. A description of any liens, defects, or encumbrances affecting the time-share project and in particular the time-share offered to the purchaser.

8. A general description of any financing offered by or available through the developer.

9. A statement that the purchaser has a nonwaivable right of cancellation, referring such purchaser to that portion of the contract in which such right may be found.

10. If the time-share interest in a condominium unit may be conveyed before that condominium unit is certified as substantially complete in accordance with § 55.1-1920, a statement of the developer's obligation to complete the condominium unit. Such statement shall include the approximate date by which the condominium unit shall be completed, together with the form and amount of the bond filed in accordance with subsection B of § 55.1-1921.

11. Any restraints on alienation of any number or portion of any time-shares.

12. A description of the insurance coverage provided for the benefit of time-share owners.

13. The extent to which financial arrangements, if any, have been provided for completion of any incomplete but promised time-share unit or common element being then offered for sale, including a statement of the developer's obligation to complete the promised units and common elements that the time-share project comprises that have not begun or that have begun but have not yet been completed.

14. The extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other owners of the same unit.

15. The name and address of the managing entity for each project in the time-share program.

16. Copies of the time-share instrument and the association's articles of incorporation and bylaws, each of which may be a supplement to the public offering statement.

17. Any services that the developer provides or expense it pays and that it expects may become at any subsequent time a time-share expense of the owners, and the projected time-share expense liability attributable to each of those services or expenses for each time-share.

18. A description of the terms of the deposit escrow requirements, including a statement that deposits may be removed from escrow at the termination of the cancellation period.

19. A description of the facilities, if any, provided by the developer to the association in a time-share estate project for the management of the project.

20. Any other information required by the Board to assure full and fair meaningful disclosure to prospective purchasers.

B. If any prospective purchaser is offered the opportunity to subscribe to or participate in any exchange program, the public offering statement shall include, as an exhibit or supplement, the disclosure document prepared by the exchange company in accordance with § 55.1-2219 and a brief narrative description of the exchange program, which shall include the following:

1. A statement of whether membership or participation in the program is voluntary or mandatory;

2. The name and address of the exchange company together with the names of its top three officers and directors;

3. A statement of whether the exchange company or any of its top three officers, directors, or holders of a 10 percent or greater interest in the exchange company has any interest in the developer, the managing entity, or the time-share program;

4. A statement that the purchaser's contract with the exchange company is a contract separate and distinct from the purchaser's contract with the developer; and

5. A brief narrative description of the procedure by which exchanges are conducted.

C. The public offering statement of a conversion time-share project shall also include the following, which may take the form of an exhibit to the public offering statement:

1. A specific statement of the amount of any initial or special fee, if any, due from the purchaser of a time-share on or before settlement of the purchase contract and the basis of such fee occasioned by the fact that the project is a conversion time-share project;

2. Information on the actual expenditures, if available, made on all repairs, maintenance, operation, or upkeep of any building in the time-share project within the last three years. This information shall be set forth in a tabular manner within the proposed budget of the project. If any such building has not been occupied for a period of three years, the information shall be set forth for the period during which such building was occupied;

3. A description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves occasioned by the fact that the project is a conversion time-share project, or, if no provision is made for such reserves, a statement to that effect; and

4. A statement of the present condition of all structural components and major utility installations in the building, which statement shall include the approximate dates of construction, installations, and major repairs as well as the expected useful life of each such item, together with the estimated cost, in current dollars, of replacing each such component.

D. In the case of a conversion time-share project, the developer shall give at least 90 days' notice to each of the tenants of any building that the developer intends to submit to the provisions of this chapter. During the first 60 days of such 90-day period, each of these tenants shall have the exclusive right to contract for the purchase of a time-share from the unit he occupies, but only if such unit is to be retained in the conversion time-share project without substantial alteration in its physical layout. Such notice shall be hand delivered or sent by first-class mail, return receipt requested, and shall inform the tenants of the developer's intent to create a conversion time-share project. Such notice may also constitute the notice to terminate the tenancy as provided for in § 55.1-1410, except that, despite the provisions of § 55.1-1410, a tenancy from month to month may only be terminated upon 120 days' notice as set forth in this subsection when such termination is in regard to the creation of a conversion time-share project. If, however, a tenant so notified remains in possession of the unit

he occupies after the expiration of the 120-day period with the permission of the developer, in order to then terminate the tenancy, such developer shall give the tenant a further notice as provided in § 55.1-1410.

The developer of a conversion time-share project shall, in addition to the requirements of § 55.1-2239, include with the application for registration a copy of the notice required by this subsection and a certified statement that such notice that fully complies with the provisions of this subsection shall be, at the time of the registration, mailed or delivered to each of the tenants in any building for which registration is sought.

E. The developer shall amend the public offering statement to reflect any material change in the time-share program. If the developer has reserved in the time-share instrument the right to add to or delete incidental benefits ~~or alternative purchases~~, the addition or deletion of such benefits ~~or purchases~~ shall not constitute a material change. Prior to distribution, the developer shall file with the Board the public offering statement amended to reflect any material change.

F. The Board may at any time require a developer to alter or supplement the form or substance of the public offering statement to assure full and fair disclosure to prospective purchasers. A developer may prepare and distribute a public offering statement for each time-share program offered or one public offering statement for all time-share programs offered.

G. The developer shall amend the public offering statement to reflect any addition of a time-share project to, or removal of a time-share project from, the existing time-share program.

H. In the case of a time-share project located outside the Commonwealth, similar disclosure statements required by other situs laws governing time-sharing may be accepted by the Board as alternative disclosure statements to satisfy the requirements of this section.

I. The public offering statement may be in any format, including any electronic format, provided that the prospective buyer has available for review, along with ample time for any questions and answers, a copy of the public offering statement prior to his execution of a contract.

CHAPTER 54

An Act to amend and reenact § 3, as amended, § 20, and §§ 22 and 23, as amended, of Chapter 8 of the Acts of Assembly of 1952 Extra Session, which provided a charter for the Town of Kilmarnock in Lancaster County, relating to town council elections; mayor; quorum.

[H 1679]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 3, as amended, § 20, and §§ 22 and 23, as amended, of Chapter 8 of the Acts of Assembly of 1952 Extra Session are amended and reenacted as follows:

§ 3. The Town of Kilmarnock is governed using the "council-manager" form of government. The administration and government of the town is vested in the council composed of ~~a mayor and~~ six ~~councilmen~~ *council members*, all of whom shall be electors of the town.

(a) At the regular municipal election ~~to be held on the first Tuesday in May~~ in 1986, and on the ~~first Tuesday in May~~ *date specified by general law for municipal elections* each four years thereafter, the mayor shall be elected. At the regular municipal election ~~to be held on the first Tuesday in May~~ in 1984 and on the ~~first Tuesday in May~~ *date specified by general law for municipal elections* each two years thereafter, three ~~councilmen~~ *council members* shall be elected for a term of four years each. Terms of office *for those individuals so elected* shall begin on the ~~first day of July succeeding their election~~ *date specified by general law*. Each councilman and the mayor elected as hereinabove provided shall serve for the term stated or until his successor has been elected and qualified. The council shall be a continuing body, and no measure pending before such body shall abate or be discontinued by reason of expiration of term of office or removal of any of its members.

(b) The remaining members of the council shall, by a majority vote thereof, fill any vacancy occurring in the council until the next election, in accordance with § 24.2-228 of the Code of Virginia, for the entire unexpired term.

§ 20. The town council, composed of ~~the mayor and~~ six ~~councilmen~~ *council members* shall be elected at large by the popular vote of the qualified electors of the town.

§ 22. The council shall by ordinance adopt such rules as it may deem proper for the regulation of its proceedings and shall meet at such times as may be prescribed by ordinance, provided, however, that it shall hold at least one regular meeting each month. A majority of the council shall constitute a quorum for the transaction of business.

The mayor, or any two members of the council, may call a special meeting of the council upon at least twelve hours written notice of the time, place and purpose to each member served personally or left at his usual place of business or residence by a town officer, and no business shall be transacted by the council in such special meeting which has not been stated in the notice, provided, however, that these regulations shall not apply when all members of the council attend such meeting or waive notice thereof, nor shall it apply to an adjourned session from a regular meeting. No ordinance or resolution appropriating money exceeding the sum of ~~one~~ *five* hundred dollars shall be passed except by the recorded affirmative vote of a majority of all members elected to the council.

No tax shall be levied or corporate debt contracted, except by a vote of two-thirds of the members of council, which vote shall be by yeas and nays and recorded in the minutes.

Meetings of the council shall be public unless held in executive session as provided by law. Citizens may have access to the minutes and records of the council at any reasonable time.

§ 23. Four councilmen~~, in addition to or in the absence of the mayor,~~ shall constitute a quorum for the transaction of business, except as otherwise provided herein or by the general statutes of this State. But no vote shall be reconsidered or rescinded at any special meeting, unless at such special meeting there be present as large a number of members of the council as were present when such a vote was taken.

CHAPTER 55

An Act to amend and reenact § 3, as amended, § 20, and §§ 22 and 23, as amended, of Chapter 8 of the Acts of Assembly of 1952 Extra Session, which provided a charter for the Town of Kilmarnock in Lancaster County, relating to town council elections; mayor; quorum.

[S 874]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 3, as amended, § 20, and §§ 22 and 23, as amended, of Chapter 8 of the Acts of Assembly of 1952 Extra Session are amended and reenacted as follows:

§ 3. The Town of Kilmarnock is governed using the "council-manager" form of government. The administration and government of the town is vested in the council composed of ~~a mayor and~~ six ~~councilmen~~ *council members*, all of whom shall be electors of the town.

(a) At the regular municipal election ~~to be held on the first Tuesday in May~~ in 1986, and on the ~~first Tuesday in May~~ *date specified by general law for municipal elections* each four years thereafter, the mayor shall be elected. At the regular municipal election ~~to be held on the first Tuesday in May~~ in 1984 and on the ~~first Tuesday in May~~ *date specified by general law for municipal elections* each two years thereafter, three ~~councilmen~~ *council members* shall be elected for a term of four years each. Terms of office *for those individuals so elected* shall begin on the ~~first day of July succeeding their election~~ *date specified by general law*. Each councilman and the mayor elected as hereinabove provided shall serve for the term stated or until his successor has been elected and qualified. The council shall be a continuing body, and no measure pending before such body shall abate or be discontinued by reason of expiration of term of office or removal of any of its members.

(b) The remaining members of the council shall, by a majority vote thereof, fill any vacancy occurring in the council until the next election, in accordance with § 24.2-228 of the Code of Virginia, for the entire unexpired term.

§ 20. The town council, composed of ~~the mayor and~~ six ~~councilmen~~ *council members* shall be elected at large by the popular vote of the qualified electors of the town.

§ 22. The council shall by ordinance adopt such rules as it may deem proper for the regulation of its proceedings and shall meet at such times as may be prescribed by ordinance, provided, however, that it shall hold at least one regular meeting each month. A majority of the council shall constitute a quorum for the transaction of business.

The mayor, or any two members of the council, may call a special meeting of the council upon at least twelve hours written notice of the time, place and purpose to each member served personally or left at his usual place of business or residence by a town officer, and no business shall be transacted by the council in such special meeting which has not been stated in the notice, provided, however, that these regulations shall not apply when all members of the council attend such meeting or waive notice thereof, nor shall it apply to an adjourned session from a regular meeting. No ordinance or resolution appropriating money exceeding the sum of ~~one~~ *five* hundred dollars shall be passed except by the recorded affirmative vote of a majority of all members elected to the council.

No tax shall be levied or corporate debt contracted, except by a vote of two-thirds of the members of council, which vote shall be by yeas and nays and recorded in the minutes.

Meetings of the council shall be public unless held in executive session as provided by law. Citizens may have access to the minutes and records of the council at any reasonable time.

§ 23. Four councilmen~~, in addition to or in the absence of the mayor,~~ shall constitute a quorum for the transaction of business, except as otherwise provided herein or by the general statutes of this State. But no vote shall be reconsidered or rescinded at any special meeting, unless at such special meeting there be present as large a number of members of the council as were present when such a vote was taken.

CHAPTER 56

An Act to repeal Chapter 312 of the Acts of Assembly of 2022, relating to Town of Pound in Wise County; charter.

[H 1641]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That Chapter 312 of the Acts of Assembly of 2022 is repealed.

CHAPTER 57

An Act to repeal Chapter 312 of the Acts of Assembly of 2022, relating to Town of Pound in Wise County; charter.

[S 1537]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That Chapter 312 of the Acts of Assembly of 2022 is repealed.

CHAPTER 58

An Act to provide a new charter for the Town of Farmville in Prince Edward County and to repeal Chapter 315 of the Acts of Assembly of 1956, as amended, which provided a charter for the Town of Farmville.

[H 1539]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1.

CHARTER
FOR THE
TOWN OF FARMVILLE.

Chapter 1. Incorporation, Boundaries, and Powers Generally.

§ 1. Incorporation.

The inhabitants of the territory comprised within the present corporate limits of the Town of Farmville, Virginia, as the same now are or may hereafter be established by law, are hereby declared to be a body politic and corporate under the name of Town of Farmville, and as such shall have perpetual succession, may sue and be sued, contract and be contracted with, and may have a corporate seal that it may alter, renew, or amend at its pleasure.

§ 2. Corporate boundaries.

The boundaries of the town shall remain as now established unless changed in accordance with applicable law.

§ 3. Powers.

The powers set forth in Title 15.2 (§ 15.2-100 et seq.) of the Code of Virginia as in force on the date that this act takes effect, and all acts amendatory thereof, and all other powers that are now or may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth and all other powers pertinent to the conduct of a town government the exercise of which is not expressly prohibited by said Constitution and laws and which, in the opinion of the town council are necessary and desirable to promote the general welfare of the town and the safety, health, peace, good order, comfort, convenience, and morals of its inhabitants, are fully and completely conferred upon the Town of Farmville as though such powers specifically were enumerated in this Charter, and no enumeration of particular powers in this Charter shall be held to be exclusive but shall be held to be in addition to this general grant of powers.

In addition to the powers granted by other sections of this Charter, the town shall have the power to raise annually by taxes and assessments, as permitted by general law, in the town, such sums of money as the council shall deem necessary to pay the debts and defray the expenses of the town, in such manner as the council shall deem expedient. In addition to, but not as a limitation upon, this general grant of power the town shall have power to levy and collect ad valorem taxes on real estate and tangible personal property and machinery and tools; to levy and collect taxes for admission to or other charge for any public amusement, entertainment, performance, exhibition, sport, or athletic event in the town, which taxes may be added to and collected with the price of such admission or other charge; to levy and collect taxes on hotel and motel rooms; to levy and collect privilege taxes, local general retail sales and use taxes as provided by law, and capitation taxes; unless prohibited by general law, to require licenses, prohibit the conduct of any business, profession, vocation, or calling without such a license, and require taxes to be paid on such licenses in respect to all businesses, professions, vocations, and callings that cannot, in the opinion of the council, be reached by the ad valorem system; and to require licenses of all owners of vehicles of all kinds for the privilege of using the streets and other public places of the town, require taxes to be paid on such licenses, and prohibit the use of streets, alleys, and other public places in the town without such license, said town to have the power to require as a condition precedent to the issuance of motor vehicle licenses the exhibiting by the motor vehicle license applicant of adequate proof of the payment of all personal property taxes then due and payable to the town by the license applicant.

In addition to the other powers conferred by law, the Town of Farmville shall have the power to impose, levy, and collect, in such manner as its council may deem expedient, a consumer or subscriber tax upon the amount paid for the use of water, gas, electricity, telephone, and any other public utility service within the town or upon the amount paid for any one or more of such public utility services, and may provide that such tax shall be added to and collected with bills rendered consumers and subscribers for such services.

Chapter 2. Administration and Government.

Article 1. Mayor and Town Council.

§ 4. Powers enumerated.

All powers of the Town of Farmville as a body politic and corporate shall be vested in the town council. The council shall be the policy-determining body of the town and shall be vested with all of the rights and powers conferred by state law on councils in towns, not inconsistent with this Charter. In addition to the foregoing, the council shall have the following powers:

(1) To have full power to inquire into the official conduct of any office or officer under its control and to investigate the accounts, receipts, disbursements, and expenses of such town employees; for these purposes it may subpoena witnesses, administer oaths, and require the production of books, papers, and other evidence; and in case any witness fails or refuses to obey any such lawful order of the council, he shall be deemed guilty of a misdemeanor.

(2) To fix a schedule of compensation for all town officers and employees. The council may define certain classes of town employees whose salaries shall be set by the town manager.

(3) To prescribe the amount and condition of surety bonds to be required of such officers and employees of the town as the council may designate.

The town manager, the clerk of the council, and the town attorney shall serve at the pleasure and will of the town council. Where the selection and tenure in office of officers and employees are otherwise specified in this Charter, the Constitution of Virginia, or state statute, those provisions shall govern.

§ 5. Election, term, and filling of vacancies.

The council and the mayor shall be elected in the manner provided by law as follows:

The terms of the three members of the council who were elected in May 2020 shall expire on December 31, 2024. At the regular municipal election to be held on the first Tuesday in November 2024 and every four years thereafter three councilmen shall be elected for a term of four years each. The term of the mayor and the four members of the council who were elected at the regular municipal election in November 2022 shall expire on December 31, 2026. Terms of office shall begin on the first day of January next following their election. Each council member and the mayor elected as hereinabove provided shall serve for the term stated or until their successor has been elected and qualified.

The council shall have five members elected from wards and two members elected at large. The three members elected in November 2024 and thereafter shall be one from ward D, one from ward E, and one at large. The four members elected in November 2026 and thereafter shall be one from ward A, one from ward B, one from ward C, and one at large. The mayor shall be elected at large. Any vacancy in the office of any council member elected from a ward must be filled by a qualified voter actually residing in the ward in which the vacancy shall have occurred. Each member of the council may receive a salary to be fixed by the council, payable at such times and in such manner as the council may direct. The mayor may receive a salary to be fixed by the council, payable in such manner and at such times as the council may direct.

§ 6. Oath of office.

The mayor and other municipal officers of the town, before entering upon the duties of their respective offices, shall be sworn in according to the laws of the Commonwealth by any one authorized to administer oaths, which said oaths shall be subscribed in writing and filed with the clerk of the council.

The failure of any person elected or appointed to an office under this Charter to qualify within thirty days after the commencement of the term for which he was elected or appointed, or if elected or appointed to fill a vacancy, for thirty days after such election or appointment, shall vacate his office.

§ 7. Duties of mayor generally.

The mayor shall preside over the meetings of the council and shall have the same right to speak therein as other members of the council. The mayor shall not have a vote as other members of the council unless there is a tie but shall have power to veto. The mayor's veto can be overridden by a two-thirds vote of the elected members of the council. The mayor shall have authority to appoint such committees of the council as deemed necessary and expedient in the proper administration of the town government.

The mayor shall be recognized as the head of town government for all ceremonial purposes, the purpose of military law, and the service of civil process. The mayor shall authenticate, by the mayor's signature, such instruments as the council, this Charter, or the laws of the Commonwealth may require.

§ 8. Selection and duties of vice mayor.

At the first meeting of each new and succeeding council elected hereunder, the council shall elect from its membership one of its members to serve as vice mayor. The vice mayor shall preside over meetings of the council in the absence of the mayor and may vote on all matters. The vice mayor shall not have a veto power.

Article 2. Council Procedures.

§ 9. Meetings generally.

The council shall, by ordinance, fix the time and place of its meetings. It shall have authority to adopt such rules as it may deem proper for the regulation of its proceedings. All appropriations of money shall be by roll call vote and the vote shall be recorded in the minutes of the council.

§ 10. Quorum.

The mayor and four council members, or in the absence of the mayor, five council members, shall constitute a quorum for the transaction of business.

§ 11. Special meetings.

The mayor or any three members of the council may call special meetings of the council after a written notice to each member of the council, with the purpose of the meeting stated therein, served personally on each member of the council and the mayor, or left at his usual place of business or residence if he be not found with due diligence, or such meeting may be held at any time, without any service of notice, provided all members of the council attend. No business other than that mentioned in the call shall be considered at such meeting unless all members of the council are present.

§ 12. Clerk of the council.

The council shall appoint a clerk of the council to serve at the pleasure of the council. The clerk shall keep the journal of the council's proceedings and shall record all ordinances in a book kept for the purpose. The clerk shall be the custodian of the corporate seal of the town and shall be the officer authorized to use and authenticate it. The clerk shall receive such compensation as may be determined by the council.

Article 3. Enactments.

§ 13. Ordinances and resolutions.

Except as otherwise provided in this Charter, state law, or the Constitution of Virginia, an affirmative vote of a majority of the members of the council present shall be necessary to adopt any ordinance or resolution. An ordinance or resolution may be presented and enacted at the same meeting.

Article 4. Town Manager.

§ 14. Appointment of town manager; term of office.

There shall be a town manager who shall be responsible to the council for the proper administration of the town government. He shall be appointed for an indefinite period and shall hold office at the pleasure of the council. At the time of his appointment he need not be a resident of the town or the Commonwealth, but during his tenure of office he shall reside within the town unless such requirement is waived by the council.

§ 15. Duties of town manager.

The town manager shall have the following duties:

(1) To see that all laws and ordinances of the town are enforced.

(2) To exercise supervision and control over all administrative departments and divisions, unless otherwise provided by resolution or ordinance of the council.

(3) To attend all regular meetings of the council with the right to take part in the discussion but having no vote.

(4) To recommend to the council for adoption such measures as he may deem necessary or desirable.

(5) To execute all contracts on behalf of the town.

(6) To prepare and submit to the council the annual budget.

(7) To keep the council advised as to the present and future needs of the town and as to all operations of its government.

(8) To perform all such duties as may be prescribed by this Charter or be required of him by the council.

§ 16. Absence or disability.

During the absence or disability of the town manager or in case of a vacancy, the council shall designate some properly qualified person to perform the duties of the office during such absence, disability, or vacancy.

§ 17. Council-town manager relationship.

Except for the purpose of conducting administrative inquiries and hearings by the council or a committee thereof, the mayor and members of the council shall deal with the administrative service solely through the town manager, and neither the council nor any member thereof shall give orders to any subordinates of the town manager, either publicly or privately.

§ 18. Council members and mayor not to succeed to office of town manager.

No council member, or the mayor, shall be appointed as town manager during the term for which he has been elected nor within one year after the expiration of his term.

Article 5. Financial Administration.

§ 19. Fiscal year.

The fiscal year of the town shall be from July 1 through June 30 inclusive.

§ 20. Submission and adoption of budget; hearings and tax levy.

No later than the first day of May annually the town manager shall prepare and submit to the council a budget presenting the financial plan for conducting the affairs of the town for the ensuing fiscal year. Such budget shall be set up in the manner provided by law and shall include such information as the council, by ordinance or resolution, may require.

Hearings on the budget shall be held and notice thereof given and the budget adopted in accordance with general laws of the Commonwealth.

The tax levy for each fiscal year shall be made and a budget for the fiscal year shall be adopted prior to the first day of the fiscal year for which they were made or adopted.

§ 21. Borrowing powers.

The council may, in the name of and for the use of the town, incur indebtedness by issuing its bonds or notes for the purposes, in the manner, and to the extent provided for in this Charter and by the general laws of Virginia.

§ 22. Purpose for which bonds or notes may be issued; manner of issuance.

Bonds and notes in anticipation of bonds when the issuance of bonds has been authorized as hereinafter provided may be issued for any purpose for which towns are authorized to issue bonds by the Constitution or general laws of the Commonwealth.

Notes in anticipation of collection of revenue may be issued when authorized by the council at any time during the fiscal year. Bonds and notes of the town may be issued in any manner provided by general law.

§ 23. Audits generally.

At the close of each fiscal year the council shall cause to be made an independent audit of the accounts, books, records, and financial transactions of the town by the auditor of public accounts of the Commonwealth or by a firm of independent certified public accountants to be selected by the council. The report of such audit shall be filed within such time as the council shall specify, and one copy thereof shall be available for public inspection in the office of the clerk of the council at any time during regular business hours. Upon the death, resignation, or termination of employment of any town officer or employee, council may order an audit of the accounts, books, records, and financial transactions of that office.

Article 6. Town Attorney.

§ 24. Town attorney appointment; qualifications.

There shall be a town attorney appointed by the council, and he shall hold office at the pleasure of the council and shall receive such compensation as council may determine. He shall be an attorney at law licensed to practice under the laws of the Commonwealth. The town attorney shall be the chief legal adviser of the council, the town manager, and all departments, boards, commissions, and agencies of the town in all matters affecting the interest of the town. He shall represent the town in all civil proceedings, except in cases where other counsel is appointed. It shall be his duty to perform all services as may be required by the laws of the Commonwealth, this Charter, or by ordinance.

Chapter 3. General Provisions.

§ 25. Contractual relationships.

The town may enter into contractual relationships with the Commonwealth; the Commonwealth's departments, bureaus, boards, and agencies; neighboring political subdivisions; or private agencies for the performance of all or any part of the functions or purposes of the town, on such terms and for such periods as the council may determine to be in the public interest, where such contractual relationships are not specifically prohibited by the Constitution and general laws of the Commonwealth.

§ 26. Applicability of state law; conflicts with jurisdiction of State Corporation Commission.

If there is omitted from this Charter any provision essential to the valid sale or granting, renewing, extending, or amending of any franchise, privilege, lease, or right of any kind to use any public property in the town, the provisions of the general law with reference to this subject shall supply such omissions, provided that nothing contained in this Charter shall affect any franchise heretofore granted or any contract heretofore made with a public utility corporation, nor shall anything contained in this Charter be construed to conflict with the jurisdiction of the State Corporation Commission.

§ 27. Severability; short title.

If any clause, sentence, paragraph, or part of this Charter shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of said Charter, but shall be confined in its operations to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

This act may for all purposes be referred to or cited as the Town of Farmville Charter of 2023 and shall be effective on July 1, 2023.

CHAPTER 59

An Act to provide a new charter for the Town of Farmville in Prince Edward County and to repeal Chapter 315 of the Acts of Assembly of 1956, as amended, which provided a charter for the Town of Farmville.

[S 961]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1.

CHARTER
FOR THE
TOWN OF FARMVILLE.

Chapter 1. Incorporation, Boundaries, and Powers Generally.

§ 1. Incorporation.

The inhabitants of the territory comprised within the present corporate limits of the Town of Farmville, Virginia, as the same now are or may hereafter be established by law, are hereby declared to be a body politic and corporate under the name of Town of Farmville, and as such shall have perpetual succession, may sue and be sued, contract and be contracted with, and may have a corporate seal that it may alter, renew, or amend at its pleasure.

§ 2. Corporate boundaries.

The boundaries of the town shall remain as now established unless changed in accordance with applicable law.

§ 3. Powers.

The powers set forth in Title 15.2 (§ 15.2-100 et seq.) of the Code of Virginia as in force on the date that this act takes effect, and all acts amendatory thereof, and all other powers that are now or may be conferred upon or delegated to towns

under the Constitution and laws of the Commonwealth and all other powers pertinent to the conduct of a town government the exercise of which is not expressly prohibited by said Constitution and laws and which, in the opinion of the town council are necessary and desirable to promote the general welfare of the town and the safety, health, peace, good order, comfort, convenience, and morals of its inhabitants, are fully and completely conferred upon the Town of Farmville as though such powers specifically were enumerated in this Charter, and no enumeration of particular powers in this Charter shall be held to be exclusive but shall be held to be in addition to this general grant of powers.

In addition to the powers granted by other sections of this Charter, the town shall have the power to raise annually by taxes and assessments, as permitted by general law, in the town, such sums of money as the council shall deem necessary to pay the debts and defray the expenses of the town, in such manner as the council shall deem expedient. In addition to, but not as a limitation upon, this general grant of power the town shall have power to levy and collect ad valorem taxes on real estate and tangible personal property and machinery and tools; to levy and collect taxes for admission to or other charge for any public amusement, entertainment, performance, exhibition, sport, or athletic event in the town, which taxes may be added to and collected with the price of such admission or other charge; to levy and collect taxes on hotel and motel rooms; to levy and collect privilege taxes, local general retail sales and use taxes as provided by law, and capitation taxes; unless prohibited by general law, to require licenses, prohibit the conduct of any business, profession, vocation, or calling without such a license, and require taxes to be paid on such licenses in respect to all businesses, professions, vocations, and callings that cannot, in the opinion of the council, be reached by the ad valorem system; and to require licenses of all owners of vehicles of all kinds for the privilege of using the streets and other public places of the town, require taxes to be paid on such licenses, and prohibit the use of streets, alleys, and other public places in the town without such license, said town to have the power to require as a condition precedent to the issuance of motor vehicle licenses the exhibiting by the motor vehicle license applicant of adequate proof of the payment of all personal property taxes then due and payable to the town by the license applicant.

In addition to the other powers conferred by law, the Town of Farmville shall have the power to impose, levy, and collect, in such manner as its council may deem expedient, a consumer or subscriber tax upon the amount paid for the use of water, gas, electricity, telephone, and any other public utility service within the town or upon the amount paid for any one or more of such public utility services, and may provide that such tax shall be added to and collected with bills rendered consumers and subscribers for such services.

Chapter 2. Administration and Government.

Article 1. Mayor and Town Council.

§ 4. Powers enumerated.

All powers of the Town of Farmville as a body politic and corporate shall be vested in the town council. The council shall be the policy-determining body of the town and shall be vested with all of the rights and powers conferred by state law on councils in towns, not inconsistent with this Charter. In addition to the foregoing, the council shall have the following powers:

(1) To have full power to inquire into the official conduct of any office or officer under its control and to investigate the accounts, receipts, disbursements, and expenses of such town employees; for these purposes it may subpoena witnesses, administer oaths, and require the production of books, papers, and other evidence; and in case any witness fails or refuses to obey any such lawful order of the council, he shall be deemed guilty of a misdemeanor.

(2) To fix a schedule of compensation for all town officers and employees. The council may define certain classes of town employees whose salaries shall be set by the town manager.

(3) To prescribe the amount and condition of surety bonds to be required of such officers and employees of the town as the council may designate.

The town manager, the clerk of the council, and the town attorney shall serve at the pleasure and will of the town council. Where the selection and tenure in office of officers and employees are otherwise specified in this Charter, the Constitution of Virginia, or state statute, those provisions shall govern.

§ 5. Election, term, and filling of vacancies.

The council and the mayor shall be elected in the manner provided by law as follows:

The terms of the three members of the council who were elected in May 2020 shall expire on December 31, 2024. At the regular municipal election to be held on the first Tuesday in November 2024 and every four years thereafter three councilmen shall be elected for a term of four years each. The term of the mayor and the four members of the council who were elected at the regular municipal election in November 2022 shall expire on December 31, 2026. Terms of office shall begin on the first day of January next following their election. Each council member and the mayor elected as hereinabove provided shall serve for the term stated or until their successor has been elected and qualified.

The council shall have five members elected from wards and two members elected at large. The three members elected in November 2024 and thereafter shall be one from ward D, one from ward E, and one at large. The four members elected in November 2026 and thereafter shall be one from ward A, one from ward B, one from ward C, and one at large. The mayor shall be elected at large. Any vacancy in the office of any council member elected from a ward must be filled by a qualified voter actually residing in the ward in which the vacancy shall have occurred. Each member of the council may receive a salary to be fixed by the council, payable at such times and in such manner as the council may direct. The mayor may receive a salary to be fixed by the council, payable in such manner and at such times as the council may direct.

§ 6. Oath of office.

The mayor and other municipal officers of the town, before entering upon the duties of their respective offices, shall be sworn in according to the laws of the Commonwealth by any one authorized to administer oaths, which said oaths shall be subscribed in writing and filed with the clerk of the council.

The failure of any person elected or appointed to an office under this Charter to qualify within thirty days after the commencement of the term for which he was elected or appointed, or if elected or appointed to fill a vacancy, for thirty days after such election or appointment, shall vacate his office.

§ 7. Duties of mayor generally.

The mayor shall preside over the meetings of the council and shall have the same right to speak therein as other members of the council. The mayor shall not have a vote as other members of the council unless there is a tie but shall have power to veto. The mayor's veto can be overridden by a two-thirds vote of the elected members of the council. The mayor shall have authority to appoint such committees of the council as deemed necessary and expedient in the proper administration of the town government.

The mayor shall be recognized as the head of town government for all ceremonial purposes, the purpose of military law, and the service of civil process. The mayor shall authenticate, by the mayor's signature, such instruments as the council, this Charter, or the laws of the Commonwealth may require.

§ 8. Selection and duties of vice mayor.

At the first meeting of each new and succeeding council elected hereunder, the council shall elect from its membership one of its members to serve as vice mayor. The vice mayor shall preside over meetings of the council in the absence of the mayor and may vote on all matters. The vice mayor shall not have a veto power.

Article 2. Council Procedures.

§ 9. Meetings generally.

The council shall, by ordinance, fix the time and place of its meetings. It shall have authority to adopt such rules as it may deem proper for the regulation of its proceedings. All appropriations of money shall be by roll call vote and the vote shall be recorded in the minutes of the council.

§ 10. Quorum.

The mayor and four council members, or in the absence of the mayor, five council members, shall constitute a quorum for the transaction of business.

§ 11. Special meetings.

The mayor or any three members of the council may call special meetings of the council after a written notice to each member of the council, with the purpose of the meeting stated therein, served personally on each member of the council and the mayor, or left at his usual place of business or residence if he be not found with due diligence, or such meeting may be held at any time, without any service of notice, provided all members of the council attend. No business other than that mentioned in the call shall be considered at such meeting unless all members of the council are present.

§ 12. Clerk of the council.

The council shall appoint a clerk of the council to serve at the pleasure of the council. The clerk shall keep the journal of the council's proceedings and shall record all ordinances in a book kept for the purpose. The clerk shall be the custodian of the corporate seal of the town and shall be the officer authorized to use and authenticate it. The clerk shall receive such compensation as may be determined by the council.

Article 3. Enactments.

§ 13. Ordinances and resolutions.

Except as otherwise provided in this Charter, state law, or the Constitution of Virginia, an affirmative vote of a majority of the members of the council present shall be necessary to adopt any ordinance or resolution. An ordinance or resolution may be presented and enacted at the same meeting.

Article 4. Town Manager.

§ 14. Appointment of town manager; term of office.

There shall be a town manager who shall be responsible to the council for the proper administration of the town government. He shall be appointed for an indefinite period and shall hold office at the pleasure of the council. At the time of his appointment he need not be a resident of the town or the Commonwealth, but during his tenure of office he shall reside within the town unless such requirement is waived by the council.

§ 15. Duties of town manager.

The town manager shall have the following duties:

(1) To see that all laws and ordinances of the town are enforced.

(2) To exercise supervision and control over all administrative departments and divisions, unless otherwise provided by resolution or ordinance of the council.

(3) To attend all regular meetings of the council with the right to take part in the discussion but having no vote.

(4) To recommend to the council for adoption such measures as he may deem necessary or desirable.

(5) To execute all contracts on behalf of the town.

(6) To prepare and submit to the council the annual budget.

(7) To keep the council advised as to the present and future needs of the town and as to all operations of its government.

(8) To perform all such duties as may be prescribed by this Charter or be required of him by the council.

§ 16. Absence or disability.

During the absence or disability of the town manager or in case of a vacancy, the council shall designate some properly qualified person to perform the duties of the office during such absence, disability, or vacancy.

§ 17. Council-town manager relationship.

Except for the purpose of conducting administrative inquiries and hearings by the council or a committee thereof, the mayor and members of the council shall deal with the administrative service solely through the town manager, and neither the council nor any member thereof shall give orders to any subordinates of the town manager, either publicly or privately.

§ 18. Council members and mayor not to succeed to office of town manager.

No council member, or the mayor, shall be appointed as town manager during the term for which he has been elected nor within one year after the expiration of his term.

Article 5. Financial Administration.

§ 19. Fiscal year.

The fiscal year of the town shall be from July 1 through June 30 inclusive.

§ 20. Submission and adoption of budget; hearings and tax levy.

No later than the first day of May annually the town manager shall prepare and submit to the council a budget presenting the financial plan for conducting the affairs of the town for the ensuing fiscal year. Such budget shall be set up in the manner provided by law and shall include such information as the council, by ordinance or resolution, may require.

Hearings on the budget shall be held and notice thereof given and the budget adopted in accordance with general laws of the Commonwealth.

The tax levy for each fiscal year shall be made and a budget for the fiscal year shall be adopted prior to the first day of the fiscal year for which they were made or adopted.

§ 21. Borrowing powers.

The council may, in the name of and for the use of the town, incur indebtedness by issuing its bonds or notes for the purposes, in the manner, and to the extent provided for in this Charter and by the general laws of Virginia.

§ 22. Purpose for which bonds or notes may be issued; manner of issuance.

Bonds and notes in anticipation of bonds when the issuance of bonds has been authorized as hereinafter provided may be issued for any purpose for which towns are authorized to issue bonds by the Constitution or general laws of the Commonwealth.

Notes in anticipation of collection of revenue may be issued when authorized by the council at any time during the fiscal year. Bonds and notes of the town may be issued in any manner provided by general law.

§ 23. Audits generally.

At the close of each fiscal year the council shall cause to be made an independent audit of the accounts, books, records, and financial transactions of the town by the auditor of public accounts of the Commonwealth or by a firm of independent certified public accountants to be selected by the council. The report of such audit shall be filed within such time as the council shall specify, and one copy thereof shall be available for public inspection in the office of the clerk of the council at any time during regular business hours. Upon the death, resignation, or termination of employment of any town officer or employee, council may order an audit of the accounts, books, records, and financial transactions of that office.

Article 6. Town Attorney.

§ 24. Town attorney appointment; qualifications.

There shall be a town attorney appointed by the council, and he shall hold office at the pleasure of the council and shall receive such compensation as council may determine. He shall be an attorney at law licensed to practice under the laws of the Commonwealth. The town attorney shall be the chief legal adviser of the council, the town manager, and all departments, boards, commissions, and agencies of the town in all matters affecting the interest of the town. He shall represent the town in all civil proceedings, except in cases where other counsel is appointed. It shall be his duty to perform all services as may be required by the laws of the Commonwealth, this Charter, or by ordinance.

Chapter 3. General Provisions.

§ 25. Contractual relationships.

The town may enter into contractual relationships with the Commonwealth; the Commonwealth's departments, bureaus, boards, and agencies; neighboring political subdivisions; or private agencies for the performance of all or any part of the functions or purposes of the town, on such terms and for such periods as the council may determine to be in the public interest, where such contractual relationships are not specifically prohibited by the Constitution and general laws of the Commonwealth.

§ 26. Applicability of state law; conflicts with jurisdiction of State Corporation Commission.

If there is omitted from this Charter any provision essential to the valid sale or granting, renewing, extending, or amending of any franchise, privilege, lease, or right of any kind to use any public property in the town, the provisions of the general law with reference to this subject shall supply such omissions, provided that nothing contained in this Charter shall affect any franchise heretofore granted or any contract heretofore made with a public utility corporation, nor shall anything contained in this Charter be construed to conflict with the jurisdiction of the State Corporation Commission.

§ 27. Severability; short title.

If any clause, sentence, paragraph, or part of this Charter shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of said Charter, but shall be

confined in its operations to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

This act may for all purposes be referred to or cited as the Town of Farmville Charter of 2023 and shall be effective on July 1, 2023.

CHAPTER 60

An Act to amend and reenact § 1-510 of the Code of Virginia, relating to official emblems and designations; state pony.

[H 1951]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

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

§ 1-510. Official emblems and designations.

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

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

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

Beverage — Milk.

Bird — Northern Cardinal (Cardinalis cardinalis).

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

Boat — "Chesapeake Bay Deadrise."

Cabin Capital of Virginia — Page County.

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

Covered Bridge Capital of the Commonwealth — Patrick County.

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

Dog — American Foxhound.

Fish (Freshwater) — Brook Trout.

Fish (Saltwater) — Striped Bass.

Flag of Remembrance of September 11, 2001 — Freedom Flag, designed by a Virginian, as the flag of remembrance of September 11, 2001.

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

Flower — American Dogwood (Cornus florida).

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

Fossil — Chesapecten jeffersonius.

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

Insect — Tiger Swallowtail Butterfly (Papilio glaucus Linne).

Maple Festival — The Highland County Maple Festival.

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

Opry — The Virginia Opry.

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

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

Pony — Chincoteague Pony.

Rock — Nelsonite.

Salamander — Red Salamander (Pseudotriton ruber).

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

Shell — Oyster shell (Crassostrea virginica).

Snake — Eastern Garter Snake (Thamnophis sirtalis sirtalis).

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

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

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

Spirit — George Washington's rye whiskey produced at Mount Vernon, Virginia.

Sports hall of fame — "Virginia Sports Hall of Fame," located in the City of Portsmouth.

Television series — "Song of the Mountains."

Tree — American Dogwood (Cornus florida).

War memorial museum — "Virginia War Museum," (formerly known as the War Memorial Museum of Virginia), located in the City of Newport News.

CHAPTER 61

An Act to amend and reenact § 1-510 of the Code of Virginia, relating to official emblems and designations; state pony.

[S 1478]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

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

§ 1-510. Official emblems and designations.

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

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

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

Beverage — Milk.

Bird — Northern Cardinal (Cardinalis cardinalis).

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

Boat — "Chesapeake Bay Deadrise."

Cabin Capital of Virginia — Page County.

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

Covered Bridge Capital of the Commonwealth — Patrick County.

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

Dog — American Foxhound.

Fish (Freshwater) — Brook Trout.

Fish (Saltwater) — Striped Bass.

Flag of Remembrance of September 11, 2001 — Freedom Flag, designed by a Virginian, as the flag of remembrance of September 11, 2001.

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

Flower — American Dogwood (Cornus florida).

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

Fossil — Chesapecten jeffersonius.

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

Insect — Tiger Swallowtail Butterfly (Papilio glaucus Linne).

Maple Festival — The Highland County Maple Festival.

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

Opry — The Virginia Opry.

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

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

Pony — Chincoteague Pony.

Rock — Nelsonite.

Salamander — Red Salamander (Pseudotriton ruber).

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

Shell — Oyster shell (Crassostrea virginica).

Snake — Eastern Garter Snake (Thamnophis sirtalis sirtalis).

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

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

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

Spirit — George Washington's rye whiskey produced at Mount Vernon, Virginia.

Sports hall of fame — "Virginia Sports Hall of Fame," located in the City of Portsmouth.

Television series — "Song of the Mountains."

Tree — American Dogwood (Cornus florida).

War memorial museum — "Virginia War Museum," (formerly known as the War Memorial Museum of Virginia), located in the City of Newport News.

CHAPTER 62

An Act to amend and reenact § 1.2, § 3.4, as amended, §§ 3.7, 4.1, and 4.9, and § 5.2, as amended, of Chapter 134 of the Acts of Assembly of 1988, which provided a charter for the City of Norton, relating to municipal elections; boundaries; school board.

[H 1509]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 1.2, § 3.4, as amended, §§ 3.7, 4.1, and 4.9, and § 5.2, as amended, of Chapter 134 of the Acts of Assembly of 1988 are amended and reenacted as follows:

§ 1.2. Boundaries.

The boundaries of the City of Norton shall be as described in § 1.3 of Chapter 565 of the Acts of Assembly of 1954 as modified by decrees of the Circuit Court of Wise County, Virginia, in the annexation proceedings styled City of Norton, Virginia versus Wise County, Virginia, Case No. 22042, by an order dated 10-10-62; in the annexation proceedings styled City of Norton versus Wise County, Case No. 20,000 by an order dated 12-28-74; ~~and~~ in the annexation proceedings styled Boco, Ltd., et al. versus City of Norton, et al., Case No. C83-134 by an order dated 4-19-84*; and in the boundary line adjustment by order entered in Case No. C04-07 of record as Wise County and City of Norton Land Instrument No. 200400372*, as the same from time to time may be amended.

§ 3.4. Elections.

~~A.~~ The members of council in office at the time of the adoption of this charter shall continue in office until the expiration of the term for which they were elected, or until their successors are elected and qualified. ~~An election for two council members shall be held on the first Tuesday in May, 1988, and every four years thereafter, and for three council members on the first Tuesday in May 1990 and every four years thereafter. Elections shall be held on the first Tuesday in May every two years thereafter.~~ *An election for two council members shall be held on the first Tuesday following the first Monday in November 2024, and every four years thereafter, and for three council members on the first Tuesday following the first Monday in November 2026, and every four years thereafter. Elections shall be held on the first Tuesday following the first Monday in November every two years thereafter.* The council members shall serve for a term of four years, or until their successors are elected and qualified. The term of each person elected under this section shall begin on the first day of ~~July~~ *January* next following their election. No candidate for election to city council shall be identified on the ballot by political affiliation.

~~B. Notwithstanding the provisions of this charter, the city may by ordinance, and in accordance with the provisions of general law, elect its city council and school board at the November general election. Such ordinance shall detail the method and timing by which the city shall make the transition to November elections.~~

§ 3.7. Mayor and vice-mayor.

At its first meeting in ~~July, 1988~~ *January 2025*, and biennially thereafter following the regular municipal election, the council shall elect on a majority vote one of its members as mayor and another as vice-mayor. Vacancies hereunder shall be filled for the unexpired term by council from its membership. The mayor shall preside over the meetings of the council, have the right to speak therein as other members and shall have a vote, but no veto. In the absence of the mayor the vice-mayor shall carry out the duties of the mayor.

§ 4.1. Generally.

All powers of the city and the determination of all matters of policy shall be vested in the council. Except as otherwise provided in this charter, the council shall:

1. Exercise all powers granted to the city by general law and this charter.

2. Appoint the city manager who shall be the chief administrative officer of the city to supervise the administration of the affairs of the city and to perform such duties as prescribed by council.

3. Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs through the city manager.

4. ~~Appoint the members of the city school board and fill any vacancy thereon.~~ *[Reserved]*

5. Provide for the performance of all the governmental functions of the city, and to that end provide for and set up all departments and agencies of government that shall be necessary.

6. Pass all ordinances relating to its municipal affairs, subject to the Constitution and general laws of the Commonwealth and of this charter and may from time to time amend, reamend, or repeal any or all of its ordinances for the proper regulation, management, and government of the city and impose fines and penalties for the violation or nonobservance thereof.

7. Compel the attendance of its members and suspend or expel its members for improper behavior by vote of two-thirds majority of the whole council.

8. Fix salaries and wages of all officers and employees of the city, unless otherwise provided by this charter or by the general laws of the Commonwealth.

§ 4.9. When certain officers appointed; provisions particularly applicable to city manager.

At the first meeting in ~~July~~ *January* following each councilmanic election, or as soon thereafter as practicable, the council shall appoint the officers provided for in this charter and general laws.

§ 5.2. Election of school board members; terms ~~and compensation~~.

The school division shall have a board of five members elected at large by the qualified voters of the city for staggered terms of four years. The election and terms of school board members shall coincide with those of council members such that two school board members shall be elected at the general election in ~~May 1996~~ *November 2024*, and every four years thereafter, and three school board members shall be elected at the general election in ~~May 1998~~ *November 2026*, and every four years thereafter.

~~The appointed members whose terms expire on June 30, 1996, shall be replaced by the members elected in May 1996. The remaining appointed members shall have their terms extended until June 30, 1998, and will be replaced by the members elected in May 1998.~~

All candidates shall be nominated only by petition as provided by general law. No employee of the school board shall be eligible to serve as a school board member.

CHAPTER 63

An Act to amend and reenact § 1.2, § 3.4, as amended, §§ 3.7, 4.1, and 4.9, and § 5.2, as amended, of Chapter 134 of the Acts of Assembly of 1988, which provided a charter for the City of Norton, relating to municipal elections; boundaries; school board.

[S 1536]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 1.2, § 3.4, as amended, §§ 3.7, 4.1, and 4.9, and § 5.2, as amended, of Chapter 134 of the Acts of Assembly of 1988 are amended and reenacted as follows:

§ 1.2. Boundaries.

The boundaries of the City of Norton shall be as described in § 1.3 of Chapter 565 of the Acts of Assembly of 1954 as modified by decrees of the Circuit Court of Wise County, Virginia, in the annexation proceedings styled City of Norton, Virginia versus Wise County, Virginia, Case No. 22042, by an order dated 10-10-62; in the annexation proceedings styled City of Norton versus Wise County, Case No. 20,000 by an order dated 12-28-74; ~~and~~ in the annexation proceedings styled Boco, Ltd., et al. versus City of Norton, et al., Case No. C83-134 by an order dated 4-19-84*; and in the boundary line adjustment by order entered in Case No. C04-07 of record as Wise County and City of Norton Land Instrument No. 200400372*, as the same from time to time may be amended.

§ 3.4. Elections.

~~A.~~ The members of council in office at the time of the adoption of this charter shall continue in office until the expiration of the term for which they were elected, or until their successors are elected and qualified. ~~An election for two council members shall be held on the first Tuesday in May, 1988, and every four years thereafter, and for three council members on the first Tuesday in May 1990 and every four years thereafter. Elections shall be held on the first Tuesday in May every two years thereafter.~~ *An election for two council members shall be held on the first Tuesday following the first Monday in November 2024, and every four years thereafter, and for three council members on the first Tuesday following the first Monday in November 2026, and every four years thereafter. Elections shall be held on the first Tuesday following the first Monday in November every two years thereafter.* The council members shall serve for a term of four years, or until their successors are elected and qualified. The term of each person elected under this section shall begin on the first day of ~~July~~ *January* next following their election. No candidate for election to city council shall be identified on the ballot by political affiliation.

~~B. Notwithstanding the provisions of this charter, the city may by ordinance, and in accordance with the provisions of general law, elect its city council and school board at the November general election. Such ordinance shall detail the method and timing by which the city shall make the transition to November elections.~~

§ 3.7. Mayor and vice-mayor.

At its first meeting in ~~July, 1988~~ *January 2025*, and biennially thereafter following the regular municipal election, the council shall elect on a majority vote one of its members as mayor and another as vice-mayor. Vacancies hereunder shall be filled for the unexpired term by council from its membership. The mayor shall preside over the meetings of the council, have the right to speak therein as other members and shall have a vote, but no veto. In the absence of the mayor the vice-mayor shall carry out the duties of the mayor.

§ 4.1. Generally.

All powers of the city and the determination of all matters of policy shall be vested in the council. Except as otherwise provided in this charter, the council shall:

1. Exercise all powers granted to the city by general law and this charter.

2. Appoint the city manager who shall be the chief administrative officer of the city to supervise the administration of the affairs of the city and to perform such duties as prescribed by council.

3. Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs through the city manager.

4. ~~Appoint the members of the city school board and fill any vacancy thereon.~~ *[Reserved]*

5. Provide for the performance of all the governmental functions of the city, and to that end provide for and set up all departments and agencies of government that shall be necessary.

6. Pass all ordinances relating to its municipal affairs, subject to the Constitution and general laws of the Commonwealth and of this charter and may from time to time amend, reamend, or repeal any or all of its ordinances for the proper regulation, management, and government of the city and impose fines and penalties for the violation or nonobservance thereof.

7. Compel the attendance of its members and suspend or expel its members for improper behavior by vote of two-thirds majority of the whole council.

8. Fix salaries and wages of all officers and employees of the city, unless otherwise provided by this charter or by the general laws of the Commonwealth.

§ 4.9. When certain officers appointed; provisions particularly applicable to city manager.

At the first meeting in ~~July~~ *January* following each councilmanic election, or as soon thereafter as practicable, the council shall appoint the officers provided for in this charter and general laws.

§ 5.2. Election of school board members; terms ~~and compensation~~.

The school division shall have a board of five members elected at large by the qualified voters of the city for staggered terms of four years. The election and terms of school board members shall coincide with those of council members such that two school board members shall be elected at the general election in ~~May 1996~~ *November 2024*, and every four years thereafter, and three school board members shall be elected at the general election in ~~May 1998~~ *November 2026*, and every four years thereafter.

~~The appointed members whose terms expire on June 30, 1996, shall be replaced by the members elected in May 1996. The remaining appointed members shall have their terms extended until June 30, 1998, and will be replaced by the members elected in May 1998.~~

All candidates shall be nominated only by petition as provided by general law. No employee of the school board shall be eligible to serve as a school board member.

CHAPTER 64

An Act to amend and reenact §§ 12.03, 12.04, and 12.05 of Chapter 576 of the Acts of Assembly of 1978, which provided a charter for the City of Newport News, relating to real estate assessment.

[H 1962]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 12.03, 12.04, and 12.05 of Chapter 576 of the Acts of Assembly of 1978 are amended and reenacted as follows:

§ 12.03. Board of review; composition; appointment, term and compensation of members; vacancies.

~~Notwithstanding any provision of §§ 58-895 to 58-902 and 58-914~~ *Pursuant to § 58.1-3370* of the Code of Virginia, as amended, the courts of record en banc of the city or the judges thereof in vacation shall~~,~~ annually~~,~~ appoint for the city, a board of review of real estate assessments to be composed of three members, who shall be freeholders of the city for which they serve. The terms of such members shall commence on September 1 of the year in which they are appointed and shall expire on the thirtieth day of November of the year in which they are appointed, unless their terms are extended. Such courts or the judges thereof in vacation may extend the terms of the members of the board of review and shall fill any vacancy therein for the unexpired term. The members of the board shall receive per diem compensation for the time actually engaged in the duties of the board to be fixed by the council of the city, and to be paid out of the treasury of the city, and the council may limit the per diem compensation to such number of days as, in its judgment, is sufficient for the completion of the work of the board.

§ 12.04. ~~Same~~ *Board of review*; powers; procedural regulations.

Such board of review shall have and may exercise the power to revise, correct and amend any assessment of real estate made in the year in which they serve, and to that end shall have all powers conferred upon boards of equalization by §§ ~~58-903 to 58-912~~ *58.1-3378 through 58.1-3387*, inclusive, of the Code of Virginia, as amended. Notwithstanding any provisions of such sections, however, the board of review may adopt ~~any~~ regulations providing for the ~~oral~~ presentation~~, with formal petitions or other pleadings of requests for review, and looking to the further facilitation and simplifications~~ *of*

oral and written information for the purpose of facilitating the orderly presentation and consideration of proceedings before the board.

§ 12.05. ~~Same~~ *Board of review*; appeal.

Any person, or the city, aggrieved by any assessment made by the board of review may apply for relief in the manner provided by ~~§§ 58-1145 to 58-1171, inclusive,~~ *Article 5 (§ 58.1-3980 et seq.) of Chapter 39 of Title 58.1* of the Code of Virginia, as amended*, for taxable years beginning on or after July 1, 2023; however, no person aggrieved by any assessment made by the assessor may apply for or be entitled to relief from the circuit court pursuant to said sections of the Code of Virginia until the assessment complained of has first been reviewed by and acted upon by the board of review, as permitted by § 58.1-3350 of the Code of Virginia, as amended*.

CHAPTER 65

An Act to amend and reenact §§ 12.03, 12.04, and 12.05 of Chapter 576 of the Acts of Assembly of 1978, which provided a charter for the City of Newport News, relating to real estate assessment.

[S 829]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 12.03, 12.04, and 12.05 of Chapter 576 of the Acts of Assembly of 1978 are amended and reenacted as follows:

§ 12.03. Board of review; composition; appointment, term and compensation of members; vacancies.

~~Notwithstanding any provision of §§ 58-895 to 58-902 and 58-914~~ *Pursuant to § 58.1-3370* of the Code of Virginia, as amended, the courts of record en banc of the city or the judges thereof in vacation shall~~,~~ annually~~,~~ appoint for the city, a board of review of real estate assessments to be composed of three members, who shall be freeholders of the city for which they serve. The terms of such members shall commence on September 1 of the year in which they are appointed and shall expire on the thirtieth day of November of the year in which they are appointed, unless their terms are extended. Such courts or the judges thereof in vacation may extend the terms of the members of the board of review and shall fill any vacancy therein for the unexpired term. The members of the board shall receive per diem compensation for the time actually engaged in the duties of the board to be fixed by the council of the city, and to be paid out of the treasury of the city, and the council may limit the per diem compensation to such number of days as, in its judgment, is sufficient for the completion of the work of the board.

§ 12.04. ~~Same~~ *Board of review*; powers; procedural regulations.

Such board of review shall have and may exercise the power to revise, correct and amend any assessment of real estate made in the year in which they serve, and to that end shall have all powers conferred upon boards of equalization by §§ ~~58-903 to 58-912~~ *58.1-3378 through 58.1-3387*, inclusive, of the Code of Virginia, as amended. Notwithstanding any provisions of such sections, however, the board of review may adopt ~~any~~ regulations providing for the ~~oral~~ presentation~~, with formal petitions or other pleadings of requests for review, and looking to the further facilitation and simplifications~~ *of oral and written information for the purpose of facilitating the orderly presentation and consideration* of proceedings before the board.

§ 12.05. ~~Same~~ *Board of review*; appeal.

Any person, or the city, aggrieved by any assessment made by the board of review may apply for relief in the manner provided by ~~§§ 58-1145 to 58-1171, inclusive,~~ *Article 5 (§ 58.1-3980 et seq.) of Chapter 39 of Title 58.1* of the Code of Virginia, as amended*, for taxable years beginning on or after July 1, 2023; however, no person aggrieved by any assessment made by the assessor may apply for or be entitled to relief from the circuit court pursuant to said sections of the Code of Virginia until the assessment complained of has first been reviewed by and acted upon by the board of review, as permitted by § 58.1-3350 of the Code of Virginia, as amended*.

CHAPTER 66

An Act to amend and reenact § 17.05 of Chapter 576 of the Acts of Assembly of 1978, which provided a charter for the City of Newport News, relating to certain advertising requirements; city waterworks.

[H 1964]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 17.05 of Chapter 576 of the Acts of Assembly of 1978 is amended and reenacted as follows:

§ 17.05. Continuance of Acts 1926, Chapter 530.

All of the provisions, obligations, and directions of Chapter 530, Acts of Assembly, 1926, and all amendments thereto, except as otherwise changed by this chapter, concerning the waterworks system shall continue in full force and effect as though the consolidated city was in the original act the city set forth in such act. *Notwithstanding anything to the contrary in Chapter 530, Acts of Assembly, 1926, or any other provision of law, the city may sell, convey, lease, or otherwise dispose of*

any real property belonging or appertaining to the waterworks system after a descriptive notice of the ordinance proposing to sell, lease, or otherwise dispose of said real property is advertised once a week for two successive weeks in a newspaper having general circulation in the city.

CHAPTER 67

An Act to amend and reenact § 17.05 of Chapter 576 of the Acts of Assembly of 1978, which provided a charter for the City of Newport News, relating to certain advertising requirements; city waterworks.

[S 822]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 17.05 of Chapter 576 of the Acts of Assembly of 1978 is amended and reenacted as follows:

§ 17.05. Continuance of Acts 1926, Chapter 530.

All of the provisions, obligations, and directions of Chapter 530, Acts of Assembly, 1926, and all amendments thereto, except as otherwise changed by this chapter, concerning the waterworks system shall continue in full force and effect as though the consolidated city was in the original act the city set forth in such act. *Notwithstanding anything to the contrary in Chapter 530, Acts of Assembly, 1926, or any other provision of law, the city may sell, convey, lease, or otherwise dispose of any real property belonging or appertaining to the waterworks system after a descriptive notice of the ordinance proposing to sell, lease, or otherwise dispose of said real property is advertised once a week for two successive weeks in a newspaper having general circulation in the city.*

CHAPTER 68

An Act to authorize the Department of Conservation and Recreation to grant and convey an easement at Shenandoah River State Park.

[H 2285]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That in accordance with and as evidence of approval of the General Assembly, the Department of Conservation and Recreation (the Department) is hereby authorized to grant a permanent, nonexclusive easement for ingress and egress (Easement) to Front Royal Parcel 1, LLC (Grantee) over and across the portion of the Shenandoah River State Park (Park) that adjoins the lands of the Grantee located in Warren County, identified as Tax Map Numbers 36-26 and 36-31. The purpose of this Easement is to covey a right-of-way on the location of the existing State Route 737 (Thunderbird Road) to the Grantee to provide access to the lands of the Grantee bisected by the Park. The final location of the Easement may vary as necessary to connect the lands of the Grantee bisected by the Park.*

§ 2. The granting and conveying of this Easement shall be made upon the terms the Department deems proper, with the approval of the Department of General Services and the Secretary of Administration, and in a form approved by the Attorney General.

CHAPTER 69

An Act to authorize the Department of Conservation and Recreation to grant and convey an easement at Shenandoah River State Park.

[S 1059]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That in accordance with and as evidence of approval of the General Assembly, the Department of Conservation and Recreation (the Department) is hereby authorized to grant a permanent, nonexclusive easement for ingress and egress (Easement) to Front Royal Parcel 1, LLC (Grantee) over and across the portion of the Shenandoah River State Park (Park) that adjoins the lands of the Grantee located in Warren County, identified as Tax Map Numbers 36-26 and 36-31. The purpose of this Easement is to covey a right-of-way on the location of the existing State Route 737 (Thunderbird Road) to the Grantee to provide access to the lands of the Grantee bisected by the Park. The final location of the Easement may vary as necessary to connect the lands of the Grantee bisected by the Park.*

§ 2. The granting and conveying of this Easement shall be made upon the terms the Department deems proper, with the approval of the Department of General Services and the Secretary of Administration, and in a form approved by the Attorney General.

CHAPTER 70

An Act to amend and reenact § 1 of Article II, § 1 of Article III, as amended, § 1 of Article IX, and § 1 of Article XI of Chapter 540 of the Acts of Assembly of 1950 and to repeal § 2 of Article III, § 1 of Article VIII, and § 1 of Article X of Chapter 540 of the Acts of Assembly of 1950, which provided a charter for the Town of Haymarket in Prince William County, relating to municipal elections; town council; boundaries; obsolete provisions.

[H 2005]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 1 of Article II, § 1 of Article III, as amended, § 1 of Article IX, and § 1 of Article XI of Chapter 540 of the Acts of Assembly of 1950 are amended and reenacted as follows:

Article II. Corporate Limits.

§ 1. (1) ~~The limits of said town shall be as follows:~~

~~Beginning in the center of John Marshall Highway (Virginia State Route 55) a distance of 2,241.57 feet northwesterly from a pipe driven into the said highway where it intersects Carolina Road (State Route 625); thence North 35 degrees 21 minutes 25 seconds East, with Peters, 1,800 feet (passing through a concrete marker at 40.07 feet) to a concrete marker; thence, with Peters, Robinson (or Robertson), Thomas, King, and Jordan, South 57 degrees 31 minutes 39 seconds East, 4,474.04 feet crossing Carolina Road (Virginia State Route 625) and passing through concrete markers at 1,855.82 feet and 1,892.42 feet respectively, to a concrete marker; thence, with Jordan, Prince William County School Board and Stanton, South 35 degrees 21 minutes 25 seconds West, a distance of 3,500 feet crossing John Marshall Highway (Virginia State Route 55) and passing through concrete markers at 1,599.78 feet and 1,680.22 feet respectively to a concrete marker just southwesterly from the Southern Railway Company's right-of-way; thence, with Stanton, Bleight, Tyler, and Rust, South 58 degrees 09 minutes 59 seconds West, 4,476.84 feet crossing Carolina Road (Virginia State Route 625) just northeasterly from a bridge and passing through concrete markers at 1,671.11 feet and 1,711.61 feet, respectively to a concrete marker, and thence with Rust and Fletcher (following the old Clarkson line) North 35 degrees 21 minutes 25 seconds East, a distance of 1,750 feet crossing the Southern Railway Company's right-of-way at about 800 feet and passing through a concrete marker at 1,709.93 feet to the place of beginning, containing 361.59288 acres, more or less, according to a survey based on true bearings made by R. J. Rateliffe, Surveyor of Prince William County, Virginia.~~ *The boundaries of the Town, until altered, shall be as shown in Chapter 540 of the Acts of the General Assembly of 1950 as modified by a boundary line adjustment entered into between the Town of Haymarket and the County of Prince William, approved by Circuit Court order recorded in the Prince William County land records as Instrument number 201402260012836.*

Article III. Administration and Government.

§ 1. (1) The ~~councilmen~~ *council members* and mayor in office on ~~the effective date of this act~~ *April 7, 1950,* shall continue in office until the first day of July of the year following termination of their respective terms or until their respective successors shall have been duly elected and qualified.

(2) On the first Tuesday *after the first Monday* in ~~May~~ *November*, ~~1974~~ *2024*, and every two years thereafter, there shall be elected by the qualified voters of the town, one elector of the town, who shall be denominated mayor, and six other electors, who shall be denominated ~~councilmen~~ *council members*, and the mayor and ~~councilmen~~ *council members* shall constitute the Town council. They shall enter upon the duties of their offices on the first day of ~~July~~ *January* next succeeding their election~~,~~ and shall continue in office until their successors are duly elected and qualified. Every person so elected shall take ~~an~~ *the* oath ~~faithfully to execute and discharge the duties of his office to the best of his judgment, and the mayor shall take the oath prescribed by law for State officers. The failure of any person elected or appointed under the provisions of this charter to qualify or to take the oath required, within the time prescribed for entering upon the discharge of the duties of the office to which he is elected or appointed, shall vacate the said office and the council shall proceed and is hereby vested with power to fill such vacancy in the manner herein prescribed~~ *of office as prescribed by general law.*

(3) ~~There shall be appointed for the town a registrar and officers of election in the manner provided for by general law of Virginia, and all elections held in said town shall be conducted in accordance with said general law; the electorate shall be that prescribed by general law.~~ *[Repealed]*

(4) ~~The council shall judge of the election, qualification, and returns of its members; may fine them for disorderly conduct, and, with the concurrence of two-thirds, expel a member. If any person returned be adjudged disqualified, or be expelled, a new election to fill the vacancy shall be held on such day as the council may prescribe. Any vacancy occurring otherwise during the term for which such person was elected shall be filled by the council by the appointment of any one eligible to such office. A vacancy in the office of mayor shall be filled by the council from the electors of the town, and any member of the council may be eligible to fill such vacancy.~~ *[Repealed]*

(5) A majority of the members of the council shall constitute a quorum for the transaction of business.

(6) Each member of the council may receive a salary to be fixed by the council, payable at such times and in such manner as the council may direct~~, but the salary paid to any one member during any year shall not exceed the sum of one hundred dollars per annum. The mayor may receive a salary to be fixed by the council, payable in such manner and at such times as the council may direct, not to exceed the sum of five hundred dollars per annum; and such salary shall be in lieu of~~

~~any fees he is entitled to enter up as part of the costs and receive in the trial of cases of violation of the ordinances of the town as hereinafter provided for~~.

(7) The mayor shall preside at the meetings of the council and perform such other duties as are prescribed by this charter and by general law, and such as may be imposed by the council consistent with his office. The mayor shall have no right to vote in the council, except in case of a tie ~~he~~ *the mayor* shall have the right *to cast a vote* to break the ~~same by his vote;~~ *tie,* but ~~he~~ *the mayor* shall have the right to veto *as provided in § 1 (8) of this Article III*. ~~He~~ *The mayor* shall *have the following duties: to* take care and see that the bylaws, ordinances, acts and resolutions of the council are faithfully executed and obeyed~~, and shall have and exercise all power and authority conferred by general law on mayors of towns not inconsistent with this charter. He shall be ex officio a conservator of the peace within the town and within one mile of its corporate limits; and shall have jurisdiction to issue process for and try all cases for the violation of the town ordinances, subject to an appeal to the Circuit Court of Prince William County, Virginia, and impose such punishment and/or fines as may be prescribed for violation of the same, and he shall have power to issue executions for all fines and costs imposed by him, or he may require an immediate payment thereof, and in default of such payment he may commit the defaulting party to the Prince William County Jail until such fine and costs shall be paid, such commitment, however, not to be for more than twelve months. He may release persons accused or convicted of the violation of a town ordinance upon the giving of sufficient bail to be fixed by him. He shall~~*; to* see that peace and good order are preserved and that persons and property within the town are protected~~. He shall~~*; to* authenticate ~~by his signature~~ such documents and instruments as the council, this charter, or the laws of this Commonwealth require~~. He shall~~*; and* from time to time recommend to the council such measures as ~~he may deem~~ *seem* needful for the welfare of the town.

(8) ~~Every ordinance, or resolution having the effect of an ordinance, shall, before it becomes operative be presented to the mayor. If he approves, he shall sign it, but if not, he may return it~~ *The mayor may veto an ordinance or a resolution having the effect of an ordinance by transmitting it*, with ~~his objections~~ *the reasons for the veto* in writing, to the town clerk who shall enter the *reasons for the* mayor's ~~objections~~ *veto* at length on the minute ~~books~~ *book* of the council. The council ~~shall~~ *may* thereupon proceed to reconsider such ordinance or resolution. If, after such consideration, two-thirds of all the members elected to the council ~~shall~~ agree to pass the ordinance or resolution, it shall become operative notwithstanding the ~~objection~~ *veto* of the mayor. In all such cases*,* the votes of members of the council upon such reconsideration and the names of the members voting for and against the ordinance or resolution shall be entered on the minute book of the council. If any ordinance or resolution *having the effect of an ordinance* shall not be returned by the mayor within five days (Sunday excepted) after ~~it shall have been presented to him~~ *passage by the council*, it shall become operative ~~in like manner as if he had signed it~~ *without the mayor's signature*, unless ~~his~~ *the mayor's* term of office or that of the council~~, shall expire~~ *expires* within said five days.

(9) The council shall, as soon as practicable after qualification, and biennially thereafter following the regular municipal election, appoint one of its members as vice-mayor. The vice-mayor, during the absence or disability of the mayor, shall perform the duties and be vested with all the powers, authority, and jurisdiction~~,~~ of the mayor *except the power to veto*; and in the event of a vacancy for any reason in the office of mayor~~, he~~ shall act as mayor until a mayor is duly appointed by the Town council or is elected. The member of the council who shall be chosen vice-mayor shall continue to have all of the rights, privileges, powers, duties and obligations of ~~councilman~~ *a council member* even when performing the duties of mayor during the absence or disability of the mayor of the town.

(10) The council shall, by ordinance, fix the time for their regular meetings, which shall be held at least once a month. Special meetings may be called by the clerk at the instance of the mayor or any two members of the council in writing; and no other business shall be transacted at a special meeting except that stated in the call, unless all members be present and consent to the transaction of such other business. The meetings of the council shall be open to the public except when in the judgment of the council the public welfare shall require executive meetings *consistent with the terms of the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia) as then in effect*.

(11) The council shall keep a minute book, in which the clerk shall note the proceedings of the council~~,~~ and shall record proceedings at large on the minute book and keep the same properly indexed.

(12) The council may adopt rules for regulating its proceedings~~, but no tax shall be levied, corporate debt contracted, or appropriation of money exceeding the sum of one hundred dollars be made, except by a recorded affirmative vote of a majority of all the members elected to the council~~.

(13) There shall be appointed by the council at its first meeting in ~~September~~ *March*, or as soon as practicable thereafter, a treasurer, who shall hold office for a term of two years. The council may provide a salary for the treasurer. ~~He~~ *The treasurer* shall give such bond, with surety and in such penalty as the council prescribes. ~~He~~ *The treasurer* shall receive all money belonging to the town~~,~~ and keep correct accounts of all receipts from all sources and of all expenditures of all departments. ~~He~~ *The treasurer* shall be responsible for the collection of all taxes, license fees, levies and charges due to the town~~,~~ and shall disburse the moneys of the town in the manner prescribed by the council as it may by ordinance direct.

(14) The treasurer shall make such reports and at such time as the council may prescribe. The books and accounts of the treasurer shall be examined and audited ~~at least once during the term for which he is elected by a competent accountant selected by the council, such examination and audit to be reported to the council~~ *in accordance with general law*.

(15) The council may in its discretion designate the place of deposit of all town funds, *consistent with state law,* which shall be kept by the treasurer separate and apart from ~~his~~ *the treasurer's* personal funds.

(16) There shall be appointed by the council, at its first regular meeting in ~~September~~ *March* after its election, a clerk of the council, who need not be a resident of the town, and who shall hold office at the pleasure of the council. ~~He~~ *The clerk* shall attend the meetings of the council and keep its minutes and records and have charge of the corporate seal and shall attest the same. ~~He~~ *The clerk* shall keep all papers required to be kept by the council, shall publish such reports and ordinances as are required to be published, and shall perform such other duties as the council may from time to time require. ~~His~~ *The clerk's* compensation shall be fixed by the council. Any vacancy in this office shall be filled by the council.

(17) There shall be appointed by the council at its first regular meeting in ~~September~~ *March* or as soon as practicable thereafter, a town sergeant, who shall also be chief of police~~;~~ *,* and shall hold office at the pleasure of the council. ~~His~~ *The town sergeant's* duties shall be such as the council prescribes. ~~He~~ *The town sergeant* shall be vested with the powers of a conservator of the peace. ~~His~~ *The town sergeant's* compensation shall be fixed by the council.

(18) ~~The council may appoint a trial justice for the town who shall serve at the pleasure of the council and until his successor is appointed by the council and qualifies. He shall be an attorney at law licensed to practice under the laws of the Commonwealth, but he need not be a resident of the town.~~

~~The trial justice is hereby vested with all the power, authority and jurisdiction and charged with all the duties within and for the town of Haymarket, and in criminal matters for one mile beyond the corporate limits thereof, which are or may hereafter be conferred upon the trial justice by the laws of the State of Virginia, so far as the same may be applicable, and not in conflict with the provisions of this charter; and any amendments of the trial justice laws of this State shall be considered as amendments also of this section of this charter if the same are applicable hereto.~~

~~Fees and costs shall be assessed by the trial justice and shall be collected as provided by the laws of the State of Virginia relating to trial justices as the same shall now be or as hereby amended. All fees and costs collected by the said trial justice and all fines collected for violations of all laws and ordinances of the town shall be paid into the town treasury for the use and benefit of the town.~~

~~Removals may be taken, and appeals from the decisions of the trial justice may be taken, to the Circuit Court of Prince William County in the same manner, upon the same terms and shall be tried in the same way as removals or as appeals from the decision of trial justices, as the case may be, are provided to be taken and tried by the laws of the State of Virginia, relating to trial justices as the same shall now be or as hereafter amended.~~

~~The council may also appoint such clerk or clerks as may in their discretion be necessary, provide for just compensation therefor and provide necessary records.~~

~~The council of said town shall provide a salary to compensate such trial justice in such amount and payable at such times as the council shall deem proper, and the council may provide also for a vacation period, either with or without pay, and for such duration, as in the judgment of the council may be proper.~~

~~Like provisions may be made for a substitute justice, and when such substitute acts, he shall receive the compensation which would have been paid him had the principal acted, and which compensation shall be deducted from salary or allowance made to the principal.~~

~~The town of Haymarket may combine with the county of Prince William for the use of one trial justice and one substitute trial justice for such combined town and county, in such manner as may be provided by the laws of the State of Virginia relating to trial justices; and if the town of Haymarket and the county of Prince William shall at any time combine for the use of one trial justice and one substitute trial justice for the said town and the said county, the laws of the State of Virginia relating to trial justices, so far as applicable, shall control and not this section of this charter.~~ *[Repealed]*

(19) The council may appoint or select such other officers as may be necessary, including a business manager for the town, and fix their salaries and define their duties.

(20) All ordinances, resolutions and bylaws passed by the council take effect at the time indicated in such ordinances, resolutions or bylaws, but in event no effective date shall be set forth in any such ordinances, resolutions or bylaws passed by the council, the same shall become effective thirty days from its passage.

Article IX. Additional Powers.

§ 1. In addition to powers elsewhere mentioned in this charter and the powers conferred by general law and the Constitution, the town shall have the following powers:

(1) To compel the abatement and removal of all nuisances within the town or upon property owned by the town without its limits at the expense of the person or persons causing the same or of the owner or occupant of the ground or premises wherein the same may be, and to collect said expense by suit or motion or by distress and sale; to require all lands, lots and other premises within the town to be kept clean and sanitary and free from stagnant water, weeds, filth, and unsightly deposits, or to make them so at the expense of the owners or occupants thereof, and to collect said expense by suit or motion or by distress and sale; to regulate or prevent noisome or offensive business within the said town, or the exercise of any dangerous or unwholesome business, trade, or employment therein; to regulate the transportation of all articles through the streets of the town; to compel the abatement of smoke and dust, and prevent unnecessary noise; to regulate the location of stables and the manner in which the same shall be constructed and kept; to regulate the location, construction, operation, and maintenance of billboards and signs; ~~and~~ generally to define, prohibit, abate, suppress, and prevent all things detrimental to the health, morals, aesthetics, safety, convenience and welfare of the inhabitants of the town; and to require all owners or occupants of property having public sidewalks adjacent thereto to keep the same clean and sanitary, free from weeds, filth, unsightly deposits, ice and snow, and any obstruction.

(2) ~~To extinguish and prevent fires, and to establish, regulate and control a fire department or division; to establish and designate from time to time fire limits, within which limits wooden buildings shall not be constructed, added to, enlarged or repaired, and to direct that any or all future buildings within such limits shall be constructed of stone, natural or artificial, concrete, brick, iron or other fireproof materials; to enact stringent and efficient laws for securing the safety of persons from fires in halls and buildings used for public assemblages, entertainments or amusements.~~ *[Repealed]*

(3) ~~To direct the location and construction of all buildings for storing explosives or combustible substances; to regulate the sale and use of gunpowder, nitroglycerin, fireworks, kerosene, gasoline, and other like material; to regulate or prevent the exhibition of fireworks, the discharge of firearms, and the making of bonfires within the corporate limits of said town.~~ *[Repealed]*

(4) ~~To provide for the preservation of the general health of the inhabitants of said town, make regulations to secure the same, inspect all foodstuffs, and prevent the introduction and sale in said town of any articles or thing intended for human consumption which is adulterated, impure, or otherwise dangerous to health, and to condemn, seize, and destroy or otherwise dispose of any such article or thing without liability to the owner thereof; to prevent the introduction or spread of contagious or infectious diseases, and prevent and suppress disease generally; to provide and regulate hospitals within or without the town limits, and if necessary to the suppression of disease, to enforce the removal of persons affected with contagious or infectious diseases to hospitals provided for them; to provide for the organization of a department or bureau of health, to have the powers of a board of health for the town, with authority necessary for the prompt and efficient performance of its duties, with the power to invest any or all of the officials or employees of such department of health with such powers as the police officers of the town have, to establish quarantine ground within or without the town, and establish and enforce such quarantine regulations against contagious and infectious diseases as the council may see fit, subject to the laws of the State and the United States.~~ *[Repealed]*

(5) ~~To provide for the care, support and maintenance of children and of sick, aged, insane, or poor persons and paupers.~~ *[Repealed]*

(6) To provide and maintain, either within or without the town, charitable, recreative, curative, corrective, detention or penal institutions.

(7) To regulate poultry or other fowl, hogs, dogs or other animals being kept in or running at large in the town, or any thickly populated portion thereof, and to subject the same to such taxes, regulations and penalties as the council may think proper.

(8) ~~To prevent the riding or driving of horses or other animals at an improper speed; to prevent the flying of kites, throwing of stones, the setting off of fireworks or engaging in any sort of employment in the public streets which is dangerous or annoying to passersby, and to prohibit and punish the abuse of animals.~~ *[Repealed]*

(9) To establish markets in the town and regulate the same and to enforce such regulations in regard to the keeping and sale of fresh meats, vegetables, eggs, and other green groceries, and the trade of hucksters and junk dealers as may be deemed advisable.

(10) ~~To prevent any person having no visible means of support, paupers, and persons who may be dangerous to the peace and safety of the town from coming to town from without the same; and to expel therefrom any such person who has been in the town less than twelve months.~~ *[Repealed]*

(11) To exercise full police powers and establish and maintain a department or division of police.

(12) ~~To restrain and punish drunkards, vagrants, and street beggars; to prevent and quell riots, disturbances, and disorderly assemblages; to suppress houses of ill fame and gambling houses and punish operators and inmates of the same; to prohibit and punish the carrying of concealed weapons within the town; to prevent and punish lewd, indecent, and disorderly exhibitions in the town. To prohibit and punish gambling and betting disturbances of the peace, disorderly conduct, and public swearing and cursing, within the town.~~ *[Repealed]*

(13) ~~To prohibit and punish mischievous, wanton, or malicious damage to school, church, and public property, as well as to private property.~~ *[Repealed]*

(14) ~~To prohibit minors from and punish them for frequenting, playing or loitering in any public poolroom, billiard parlor, or bowling alley, and to punish any proprietor or agent thereof for permitting same.~~ *[Repealed]*

(15) ~~To compel persons sentenced to confinement in jail for any violation of the laws or ordinances of the town to work on the public streets, parks, or other public works of the town; and on the requisition of the Mayor it shall be the duty of the sergeant of the town or the sheriff of Prince William County to deliver such persons to the duly authorized agent of the town for such purposes from day to day as they may be required. For the purpose of carrying into effect the police regulations of the town, the town shall have the use of the county jail of Prince William County for the safe keeping and confinement of all persons who shall be sentenced to Imprisonment under the ordinances of the town.~~ *[Repealed]*

(16) To enjoin and restrain the violation of any town ordinance or ordinances, although a penalty is provided upon the conviction of such violation.

(17) To pass and enforce all by-laws, rules, regulations, and ordinances which it may deem necessary for the good order and government of the town, the management of its property, the conduct of its affairs, the peace, comfort, convenience, order, morals, health, and protection of the citizens and their property, and to do such other things and pass such other laws as may be necessary or proper to carry into full effect all powers, authority, capacity or jurisdiction, which is or shall be granted to or vested in said town, or in the council, court of officers, thereof or which may be a necessary incident to a municipal corporation.

(18) To do all things whatsoever necessary or expedient and lawful to be done for promoting or maintaining the general welfare, comfort, education, morals, government, peace, health, trade, commerce, or industries of the town, or its inhabitants.

(19) To offer and pay rewards for the apprehension of criminals.

(20) ~~To provide by ordinance a system of meat and milk inspection, and appoint milk and meat inspectors, agents, or officers to carry the same into effect; to prevent, license, regulate, control, and locate slaughter houses within or without the corporate limits of the town; and for such services of inspection to make reasonable charges; and to provide reasonable penalties for the violation of such ordinances.~~ *[Repealed]*

(21) ~~To establish, organize, administer or contribute to the support of public schools and libraries, subject to the general laws establishing a standard of education for the State.~~ *[Repealed]*

(22) ~~To inspect, test measure and weigh any commodity or commodities or articles of consumption for use within the town; and to establish, regulate, license and inspect weights, meters, measures, and scales.~~ *[Repealed]*

(23) ~~To make and enforce ordinances, insofar as not prohibited by the general laws of this State, to regulate, control, license and/or tax the manufacture, bottling, sale, distribution, transportation, handling, advertising, possession, dispensing, drinking and use of alcohol, brandy, rum, whiskey, gin, wine, beer, lager beer, ale, porter, stout, and all liquids, beverages and articles containing alcohol by distillation, fermentation or otherwise.~~ *[Repealed]*

(24) ~~To require every owner or operator of motor vehicles residing in the town, on a date to be designated by the council, to annually register such motor vehicles and to obtain a license to operate the same by making application to the treasurer of the town, or such other person as may be designated by the council; to issue such license, and to require the owner to pay the annual license fee therefor to be fixed by the council, provided that the license fee shall not exceed the amount charged by the State on such machines. The council shall have the right to require the operator of the motor vehicle to attach a proper license plate on a conspicuous part of the motor vehicle and to keep same thereon in plain view for common observation. The council may prorate such license fee over periods of not less than three months.~~ *[Repealed]*

(25) ~~Insofar as not prohibited by general law, to control, regulate, limit and restrict the operation of motor vehicles carrying passengers for hire upon the streets or alleys of the town; to regulate the use of automobiles and other automotive vehicles upon the streets; to regulate the routes in and through the town to be used by motor vehicle carriers operating in and through the town and to prescribe different routes for different carriers; to prohibit the use of certain streets by motor trucks; and generally to prescribe such regulations respecting motor traffic therein as may be necessary for the general welfare and safety.~~ *[Repealed]*

(26) To make and enforce and effect by ordinances any and all the laws of this State.

(27) ~~To put into force and effect by ordinances any and all the foregoing powers, and any other powers and authority of the council given by this charter, or any State law, or any amendments thereto; and to prescribe punishment for the violation of any town ordinance, rule or regulation, or of any provision of this charter, the penalty not to exceed five hundred dollars ($500.00) fine or twelve months' imprisonment in jail, or both.~~ *[Repealed]*

(28) The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the Town council shall have and may exercise all powers which, under the Constitution and laws of this State, it would be competent for this charter specifically to enumerate.

Article XI. Miscellaneous.

§ 1. (1) If any clause, sentence, paragraph, or part of this act shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of the act, but shall be confined in its operation to the part of the act directly involved in the controversy in which the judgment shall have been rendered.

(2) This act may be referred to or cited as the Haymarket Charter of ~~1950~~ *2022*.

2. That § 2 of Article III, § 1 of Article VIII, and § 1 of Article X of Chapter 540 of the Acts of Assembly of 1950 are repealed.

CHAPTER 71

An Act to amend and reenact § 4, as amended, of Chapter 96 of the Acts of Assembly of 1973, which provided a charter for the Town of White Stone in Lancaster County, relating to time of municipal election.

[H 1678]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 4, as amended, of Chapter 96 of the Acts of Assembly of 1973 is amended and reenacted as follows:

§ 4. Election of council and mayor.

There shall be elected by the qualified voters of the town of White Stone a mayor and seven ~~councilmen~~ *council members*. The mayor and seven ~~councilmen~~ *council members* so elected shall constitute the town council. ~~On the first Tuesday in May, 1975, a mayor shall be elected for a term of three years and three councilmen shall be elected for terms of three years. The mayor and these three councilmen shall serve on the town council together with the four councilmen elected for two-year terms on the first Tuesday in May, 1974. On the first Tuesday in May, 1976, and in every election in~~

~~even-numbered years thereafter, the councilmen shall be elected for terms of four years to fill the vacancies in council. The mayor shall be elected on the first Tuesday in May, 1978 and every four years thereafter.~~ *The council members and the mayor shall be elected in even-numbered years at the time of the November general election for staggered terms of four years. The council members and the mayor whose terms would expire July 1, 2022, or July 1, 2024, shall remain in office until the first business day of January 2023 or January 2025, as applicable, following the general election in November 2022 or November 2024.* The mayor and ~~councilmen~~ *council members* shall enter upon the duties of their respective offices on the first *business* day ~~of July next~~ *in January* succeeding their election and shall continue in office until their successors are elected and qualified.

CHAPTER 72

An Act to amend and reenact § 16.1-69.6:1 of the Code of Virginia, relating to the maximum number of judges in each judicial district.

[H 1412]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-69.6:1 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-69.6:1. Number of judges.

For the several judicial districts there shall be full-time general district court judges and juvenile and domestic relations district court judges, the maximum number as hereinafter set forth, who shall during their service reside within their respective districts, except as provided in § 16.1-69.16, and whose compensation and powers shall be the same as now and hereafter prescribed for general district court judges and juvenile and domestic relations district court judges.

The maximum number of judges of the districts shall be as follows:

	General District Court Judges	Juvenile and Domestic Relations District Court Judges
First	4	4
Second	7	6
Two-A	2	1
Third	2	3
Fourth	6	5
Fifth	3	2
Sixth	5	3
Seventh	4	4
Eighth	3	3
Ninth	3	4
Tenth	3	3
Eleventh	3	3
Twelfth	5	6
Thirteenth	6	5
Fourteenth	5	5
Fifteenth	8	9
Sixteenth	4	6
Seventeenth	3	2
Eighteenth	2	2
Nineteenth	12	8
Twentieth	4	3
Twenty-first	2	2
Twenty-second	~~2~~ *3*	4
Twenty-third	4	5
Twenty-fourth	3	6
Twenty-fifth	4	5

Twenty-sixth	5	7
Twenty-seventh	5	5
Twenty-eighth	3	3
Twenty-ninth	2	3
Thirtieth	2	3
Thirty-first	5	5

The election or appointment of any district judge shall be subject to the provisions of § 16.1-69.9:3.

CHAPTER 73

An Act to amend and reenact § 16.1-69.6:1 of the Code of Virginia, relating to the maximum number of judges in each judicial district.

[S 816]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-69.6:1 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-69.6:1. Number of judges.

For the several judicial districts there shall be full-time general district court judges and juvenile and domestic relations district court judges, the maximum number as hereinafter set forth, who shall during their service reside within their respective districts, except as provided in § 16.1-69.16, and whose compensation and powers shall be the same as now and hereafter prescribed for general district court judges and juvenile and domestic relations district court judges.

The maximum number of judges of the districts shall be as follows:

	General District Court Judges	Juvenile and Domestic Relations District Court Judges
First	4	4
Second	7	6
Two-A	2	1
Third	2	3
Fourth	6	5
Fifth	3	2
Sixth	5	3
Seventh	4	4
Eighth	3	3
Ninth	3	4
Tenth	3	3
Eleventh	3	3
Twelfth	5	6
Thirteenth	6	5
Fourteenth	5	5
Fifteenth	8	9
Sixteenth	4	6
Seventeenth	3	2
Eighteenth	2	2
Nineteenth	12	8
Twentieth	4	3
Twenty-first	2	2
Twenty-second	~~2~~ *3*	4
Twenty-third	4	5
Twenty-fourth	3	6

Twenty-fifth	4	5
Twenty-sixth	5	7
Twenty-seventh	5	5
Twenty-eighth	3	3
Twenty-ninth	2	3
Thirtieth	2	3
Thirty-first	5	5

The election or appointment of any district judge shall be subject to the provisions of § 16.1-69.9:3.

CHAPTER 74

An Act to authorize the Department of Conservation and Recreation to grant and convey an ingress-egress easement at High Bridge Trail State Park.

[H 1662]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That in accordance with and as evidence of General Assembly approval, the Department of Conservation and Recreation (Department) is hereby authorized to grant a permanent, nonexclusive easement for ingress and egress (Easement) to Woodrow R. Jackson, Sr. (Grantee), over and across that portion of the High Bridge Trail State Park (Park) that adjoins the lands of the Grantee located in Prince Edward County, identified as Tax Map Number 44-A-99. The purpose of this Easement is to convey to the Grantee a 15-foot-wide right-of-way on the location of an existing driveway on the Park and a crossing of the trail to serve an adjacent, landlocked parcel owned by the Grantee and to provide access between U.S. Highway 460 (Pamplin Road) and the Grantee's property. The final location of the Easement may vary as necessary to reach the boundary of the Grantee's property.*

§ 2. The granting and conveying of this Easement shall be made upon terms the Department deems proper, with the approval of the Department of General Services and the Secretary of Administration, and in a form approved by the Attorney General.

CHAPTER 75

An Act to authorize the Department of Conservation and Recreation to grant and convey an ingress-egress easement at High Bridge Trail State Park.

[S 1055]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That in accordance with and as evidence of General Assembly approval, the Department of Conservation and Recreation (Department) is hereby authorized to grant a permanent, nonexclusive easement for ingress and egress (Easement) to Woodrow R. Jackson, Sr. (Grantee), over and across that portion of the High Bridge Trail State Park (Park) that adjoins the lands of the Grantee located in Prince Edward County, identified as Tax Map Number 44-A-99. The purpose of this Easement is to convey to the Grantee a 15-foot-wide right-of-way on the location of an existing driveway on the Park and a crossing of the trail to serve an adjacent, landlocked parcel owned by the Grantee and to provide access between U.S. Highway 460 (Pamplin Road) and the Grantee's property. The final location of the Easement may vary as necessary to reach the boundary of the Grantee's property.*

§ 2. The granting and conveying of this Easement shall be made upon terms the Department deems proper, with the approval of the Department of General Services and the Secretary of Administration, and in a form approved by the Attorney General.

CHAPTER 76

An Act to authorize the Department of Conservation and Recreation to grant and convey an ingress-egress easement over Braeburn Lane and a portion of Timberneck Farm Road at Machicomoco State Park.

[H 1675]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That in accordance with and as evidence of General Assembly approval, the Department of Conservation and Recreation (Department) is hereby authorized to grant a permanent, nonexclusive easement for ingress and egress (Easement) to Patrick F. Lemon and Vickie M. Lemon (Lemons), and to Eric James Baldwin and Christy Willet Baldwin (Baldwins), (collectively, Grantees), over and across that portion of the Machicomoco State Park (Park) that adjoins the land of the Lemons located in Gloucester County (Gloucester), identified as Tax Map Number 44-93, and over and across that portion of the Park that adjoins the land of the Baldwins located in Gloucester, identified as Tax Map Number 44-87A. The purpose of this Easement is to convey to the Grantees a 30-foot-wide right-of-way on the location of the existing Braeburn Lane and portions of State Route 1324 (Timberneck Farm Road) to provide access to lands of the Grantees to Timberneck Farm Road.*

§ 2. The granting and conveying of this Easement shall be made upon terms the Department deems proper, with the approval of the Department of General Services and the Secretary of Administration, and in a form approved by the Attorney General.

CHAPTER 77

An Act to amend the Code of Virginia by adding a section numbered 17.1-515.7, relating to twenty-fifth judicial circuit; designation of courtrooms.

[S 1306]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 17.1-515.7 as follows:

§ 17.1-515.7. Designation of certain courtrooms within twenty-fifth circuit for trial of certain cases.

When it appears to one or more of the judges of the twenty-fifth judicial circuit that such use is appropriate, the courthouse of the Circuit Court of Rockbridge County may be used for the trial of civil or criminal cases when venue is laid in the City of Buena Vista or the courthouse of the Circuit Court of the City of Buena Vista may be used for the trial of civil or criminal cases when venue is laid in Rockbridge County. However, jurors summoned to appear in any such courtroom shall reside in the jurisdiction where the venue is laid.

CHAPTER 78

An Act to authorize the Department of Conservation and Recreation to grant and convey an easement and right-of-way over Neabsco Beach Way at Leesylvania State Park.

[H 1828]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That in accordance with and as evidence of General Assembly approval, the Department of Conservation and Recreation (Department) is hereby authorized to grant a permanent, nonexclusive easement for ingress and egress (Easement) to the River Mouth Corporation (Grantee), the owner of the common area parcel of River Mouth Condominium located in Prince William County containing 1.4285 acres and bearing the parcel identification number GPIN: 8390-83-2324 (Condominium Parcel), over and across that portion of Leesylvania State Park upon which a service road known as "Neabsco Beach Way" presently is situated between Daniel K. Ludwig Drive and the CSX Railway right-of-way (said portion of Neabsco Beach Way, the Easement Area). The purpose of this Easement is to convey a 15-foot-wide right-of-way through the Easement Area to the Grantee, which does not have recorded legal access along such portion of the existing roadway that serves their property.*

§ 2. The granting and conveying of this Easement shall be made upon terms the Department deems proper, with the approval of the Department of General Services and the Secretary of Administration, and in a form approved by the Attorney General.

CHAPTER 79

An Act to authorize the Department of Conservation and Recreation to grant and convey an easement and right-of-way over Neabsco Beach Way at Leesylvania State Park.

[S 1065]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That in accordance with and as evidence of General Assembly approval, the Department of Conservation and Recreation (Department) is hereby authorized to grant a permanent, nonexclusive easement for ingress and egress (Easement) to the River Mouth Corporation (Grantee), the owner of the common area parcel of River Mouth Condominium*

located in Prince William County containing 1.4285 acres and bearing the parcel identification number GPIN: 8390-83-2324 (Condominium Parcel), over and across that portion of Leesylvania State Park upon which a service road known as "Neabsco Beach Way" presently is situated between Daniel K. Ludwig Drive and the CSX Railway right-of-way (said portion of Neabsco Beach Way, the Easement Area). The purpose of this Easement is to convey a 15-foot-wide right-of-way through the Easement Area to the Grantee, which does not have recorded legal access along such portion of the existing roadway that serves their property.

§ 2. The granting and conveying of this Easement shall be made upon terms the Department deems proper, with the approval of the Department of General Services and the Secretary of Administration, and in a form approved by the Attorney General.

CHAPTER 80

An Act to authorize the Department of Conservation and Recreation to convey an ingress-egress easement at High Bridge Trail State Park.

[H 1663]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That in accordance with and as evidence of General Assembly approval, the Department of Conservation and Recreation (Department) is hereby authorized to grant a permanent, nonexclusive easement for ingress and egress (Easement) to Roy B. Stanton, Jr., and Pearl J. Stanton (collectively, Grantee), over and across that portion of the High Bridge Trail State Park (Park) that adjoins the lands of the Grantee located in Prince Edward County, identified as Tax Map Numbers 43-A-8, 44-A-20, and 44-A-21 (the Stanton Property). The purpose of this Easement is to convey to the Grantee a 15-foot-wide right-of-way on the location of an existing driveway that encroaches on the Park and that serves to provide access between U.S. Highway 460 (Pamplin Road) and the Stanton Property.*

§ 2. The granting and conveying of this Easement shall be made upon terms the Department deems proper, with the approval of the Department of General Services and the Secretary of Administration, and in a form approved by the Attorney General.

CHAPTER 81

An Act to authorize the Department of Conservation and Recreation to convey an ingress-egress easement at High Bridge Trail State Park.

[S 1056]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That in accordance with and as evidence of General Assembly approval, the Department of Conservation and Recreation (Department) is hereby authorized to grant a permanent, nonexclusive easement for ingress and egress (Easement) to Roy B. Stanton, Jr., and Pearl J. Stanton (collectively, Grantee), over and across that portion of the High Bridge Trail State Park (Park) that adjoins the lands of the Grantee located in Prince Edward County, identified as Tax Map Numbers 43-A-8, 44-A-20, and 44-A-21 (the Stanton Property). The purpose of this Easement is to convey to the Grantee a 15-foot-wide right-of-way on the location of an existing driveway that encroaches on the Park and that serves to provide access between U.S. Highway 460 (Pamplin Road) and the Stanton Property.*

§ 2. The granting and conveying of this Easement shall be made upon terms the Department deems proper, with the approval of the Department of General Services and the Secretary of Administration, and in a form approved by the Attorney General.

CHAPTER 82

An Act to amend and reenact § 60.2-119 of the Code of Virginia, relating to unemployment compensation; venue for prosecution of certain criminal cases.

[H 2009]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 60.2-119 of the Code of Virginia is amended and reenacted as follows:

§ 60.2-119. Criminal cases.

All criminal actions for violation of any provision of this title, or of any rules or regulations issued pursuant to this title, shall be prosecuted by the attorney for the Commonwealth of the county or city in which the offense, or a part thereof, was committed, except that the offense set out in § 60.2-518 or 60.2-632 shall be deemed to be committed and venue for the

prosecution shall lie in the county or city wherein the statement, representation, or nondisclosure *originates or, alternatively,* is received by the Commission. However, if a defendant resides in this Commonwealth and the courthouse of the county or city in which he resides is more than 100 miles from the City of Richmond, venue for such prosecution shall lie in the city or county where he resides, and the offense shall be prosecuted by the attorney for the Commonwealth for the city or county where the defendant resides. If, in the opinion of the Commission, the prosecution should be conducted by the Office of the Attorney General, that office, upon the request of the Commission, shall have authority to conduct or supervise such prosecution.

CHAPTER 83

An Act to amend and reenact § 60.2-119 of the Code of Virginia, relating to unemployment compensation; venue for prosecution of certain criminal cases.

[S 1123]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 60.2-119 of the Code of Virginia is amended and reenacted as follows:

§ 60.2-119. Criminal cases.

All criminal actions for violation of any provision of this title, or of any rules or regulations issued pursuant to this title, shall be prosecuted by the attorney for the Commonwealth of the county or city in which the offense, or a part thereof, was committed, except that the offense set out in § 60.2-518 or 60.2-632 shall be deemed to be committed and venue for the prosecution shall lie in the county or city wherein the statement, representation, or nondisclosure *originates or, alternatively,* is received by the Commission. However, if a defendant resides in this Commonwealth and the courthouse of the county or city in which he resides is more than 100 miles from the City of Richmond, venue for such prosecution shall lie in the city or county where he resides, and the offense shall be prosecuted by the attorney for the Commonwealth for the city or county where the defendant resides. If, in the opinion of the Commission, the prosecution should be conducted by the Office of the Attorney General, that office, upon the request of the Commission, shall have authority to conduct or supervise such prosecution.

CHAPTER 84

An Act to amend and reenact § 46.2-873 of the Code of Virginia, relating to school crossing zones.

[H 2104]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-873 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-873. Maximum speed limits at school crossings; penalty.

A. For the purposes of this section, "school crossing zone" means an area located within the vicinity of a school at or near a highway where the presence of children on such school property or going to and from school reasonably requires a special warning to motorists. Such zones are marked and operated in accordance with the requirements of this section with appropriate warning signs or other traffic control devices indicating that a school crossing is in progress.

B. The maximum speed limit shall be ~~twenty-five~~ *25* miles per hour between portable signs, tilt-over signs, or fixed blinking signs placed in or along any highway and bearing the word "school" or "school crossing." Any signs erected under this section shall be placed not more than ~~600~~ *750* feet from the limits of the school property or crossing in the vicinity of the school. However, "school crossing" signs may be placed in any location if the Department of Transportation or the council of the city or town or the board of supervisors of a county maintaining its own system of secondary roads approves the crossing for such signs. If the portion of the highway to be posted is within the limits of a city or town, such portable signs shall be furnished and delivered by such city or town. If the portion of highway to be posted is outside the limits of a city or town, such portable signs shall be furnished and delivered by the Department of Transportation. The principal or chief administrative officer of each school or a school board designee, preferably not a classroom teacher, shall place such portable signs in the highway at a point not more than ~~600~~ *750* feet from the limits of the school property and remove such signs when their presence is no longer required by this section. Such portable signs, tilt-over signs, or fixed blinking signs shall be placed in a position plainly visible to vehicular traffic approaching from either direction, but shall not be placed so as to obstruct the roadway.

C. Such portable signs, tilt-over signs, or blinking signs shall be in a position, or be turned on, for ~~thirty~~ *30* minutes preceding regular school hours, for ~~thirty~~ *30* minutes thereafter, and during such other times as the presence of children on such school property or going to and from school reasonably requires a special warning to motorists. The governing body of any county, city, or town may, however, decrease the period of time preceding and following regular school hours during which such portable signs, tilt-over signs, or blinking signs shall be in position or lit if it determines that no children will be going to or from school during the period of time that it subtracts from the ~~thirty-minute~~ *30-minute* period.

D. The governing body of any city or town may, if the portion of the highway to be posted is within the limits of such city or town, increase or decrease the speed limit provided in this section only after justification for such increase or decrease has been shown by an engineering and traffic investigation, and no such increase or decrease in speed limit shall be effective unless such increased or decreased speed limit is conspicuously posted on the portable signs, tilt-over signs, or fixed blinking signs required by this section.

E. The governing body of a county within Planning District 8 may, if the portion of the highway to be posted is within the limits of such county, increase or decrease the speed limit provided in this section only after justification for such increase or decrease has been shown by an engineering and traffic investigation, and no such increase or decrease in speed limit shall be effective unless such increased or decreased speed limit is conspicuously posted on the portable signs, tilt-over signs, or fixed blinking signs required by this section.

F. The City of Virginia Beach may establish school zones as provided in this section and mark such zones with flashing warning lights as provided in this section on and along all highways adjacent to Route 58.

G. Any person operating any motor vehicle in excess of a maximum speed limit established specifically for a school crossing zone~~,~~ when such school crossing zone is (i) indicated by appropriately placed signs displaying the maximum speed limit and (ii) in operation pursuant to subsection B ~~of this section~~ shall be guilty of a traffic infraction punishable by a fine of not more than $250, in addition to other penalties provided by law.

H. Notwithstanding the foregoing provisions of this section, the maximum speed limit in school zones in residential areas may be decreased to ~~fifteen~~ *15* miles per hour if (i) the school board having jurisdiction over the school nearest to the affected school zone passes a resolution requesting the reduction of the maximum speed limit for such school zone from ~~twenty-five~~ *25* miles per hour to ~~fifteen~~ *15* miles per hour and (ii) the local governing body of the jurisdiction in which such school is located enacts an ordinance establishing the speed-limit reduction requested by the school board.

CHAPTER 85

An Act to amend and reenact §§ 46.2-665, as it is currently effective and as it shall become effective, 46.2-666, as it is currently effective and as it shall become effective, 46.2-667, 46.2-670, as it is currently effective and as it shall become effective, 46.2-672, as it shall become effective, 46.2-673, as it is currently effective and as it shall become effective, 46.2-684.2, 58.1-2403, and 58.1-3505 of the Code of Virginia and to amend and reenact the second enactment of Chapter 51 and the second enactment of Chapter 52 of the Acts of Assembly of 2022, relating to farm use placards.

[H 1806]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-665, as it is currently effective and as it shall become effective, 46.2-666, as it is currently effective and as it shall become effective, 46.2-667, 46.2-670, as it is currently effective and as it shall become effective, 46.2-672, as it shall become effective, 46.2-673, as it is currently effective and as it shall become effective, 46.2-684.2, 58.1-2403, and 58.1-3505 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-665. (Effective until July 1, 2023) Vehicles used for agricultural or horticultural purposes.

A. No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle, trailer, or semitrailer used exclusively for agricultural or horticultural purposes on lands owned or leased by the vehicle's owner.

B. This exemption shall only apply to (i) pickup or panel trucks~~,~~*;* (ii) sport utility vehicles~~,~~*;* (iii) vehicles *other than pickup or panel trucks, sport utility vehicles, trailers, or semitrailers* having a gross vehicle weight rating greater than 7,500 pounds~~,~~*;* and (iv) trailers and semitrailers that are not operated on or over any public highway in the Commonwealth for any purpose other than:

1. Crossing a highway;

2. Operating along a highway for a distance of no more than 75 miles from one part of the owner's land to another, irrespective of whether the tracts adjoin;

3. Taking the vehicle or attached fixtures to and from a repair shop for repairs;

4. Taking another vehicle exempt from registration under any provision of §§ 46.2-664 through 46.2-668 or 46.2-672, or any part or subcomponent of such a vehicle, to or from a repair shop for repairs, including return trips;

5. Operating along a highway to and from a refuse disposal facility for the purpose of disposing of trash and garbage generated on a farm *and incidental refuse from the farmer's or his employee's home*;

6. Operating along a highway for a distance of no more than 75 miles for the purpose of obtaining supplies for agricultural or horticultural purposes, seeds, fertilizers, chemicals, or animal feed and returning; or

7. Transporting the vehicle's owner between his residence and the lands being used for agricultural or horticultural purposes.

§ 46.2-665. (Effective July 1, 2023) Vehicles used for agricultural or horticultural purposes.

A. No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle, trailer, or semitrailer used exclusively for agricultural or horticultural purposes on lands owned or leased by the vehicle's owner.

B. This exemption shall only apply to (i) pickup or panel trucks~~,~~*;* (ii) sport utility vehicles~~,~~*;* (iii) vehicles *other than pickup or panel trucks, sport utility vehicles, trailers, or semitrailers* having a gross vehicle weight rating greater than 7,500 pounds~~,~~*;* and (iv) trailers and semitrailers that are not operated on or over any public highway in the Commonwealth for any purpose other than:

1. Crossing a highway;

2. Operating along a highway for a distance of no more than 75 miles from one part of the owner's land to another, irrespective of whether the tracts adjoin;

3. Taking the vehicle or attached fixtures to and from a repair shop for repairs;

4. Taking another vehicle exempt from registration under any provision of §§ 46.2-664 through 46.2-668 or 46.2-672, or any part or subcomponent of such a vehicle, to or from a repair shop for repairs, including return trips;

5. Operating along a highway to and from a refuse disposal facility for the purpose of disposing of trash and garbage generated on a farm *and incidental refuse from the farmer's or his employee's home*;

6. Operating along a highway for a distance of no more than 75 miles for the purpose of obtaining supplies for agricultural or horticultural purposes, seeds, fertilizers, chemicals, or animal feed and returning; or

7. Transporting the vehicle's owner between his residence and the lands being used for agricultural or horticultural purposes.

C. The owner or lessee of a ~~vehicle, trailer, or semitrailer~~ *pickup or panel truck or sport utility vehicle* claiming the exemption provided pursuant to this section shall be required to obtain a permanent farm use placard pursuant to § 46.2-684.2.

§ 46.2-666. (Effective until July 1, 2023) Vehicles used for seasonal transportation of farm produce and livestock.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee prescribed for any motor vehicle, trailer, or semitrailer owned by the owner or lessee of a farm and used by him on a seasonal basis in transporting farm produce and livestock along public highways for a distance of no more than 75 miles ~~including the distance to the nearest~~ *or to a* storage house, packing plant, or market. The provisions of this section shall only apply to (i) pickup or panel trucks~~,~~*;* (ii) sport utility vehicles~~,~~*;* (iii) vehicles *other than pickup or panel trucks, sport utility vehicles, trailers, or semitrailers* having a gross vehicle weight rating greater than 7,500 pounds~~,~~*;* and (iv) trailers and semitrailers.

§ 46.2-666. (Effective July 1, 2023) Vehicles used for seasonal transportation of farm produce and livestock.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee prescribed for any motor vehicle, trailer, or semitrailer owned by the owner or lessee of a farm and used by him on a seasonal basis in transporting farm produce and livestock along public highways for a distance of no more than 75 miles ~~including the distance to the nearest~~ *or to a* storage house, packing plant, or market. The provisions of this section shall only apply to (i) pickup or panel trucks~~,~~*;* (ii) sport utility vehicles~~,~~*;* (iii) vehicles *other than pickup or panel trucks, sport utility vehicles, trailers, or semitrailers* having a gross vehicle weight rating greater than 7,500 pounds~~,~~*;* and (iv) trailers and semitrailers. The owner or lessee of a ~~vehicle, trailer, or semitrailer~~ *pickup or panel truck or sport utility vehicle* claiming the exemption provided pursuant to this section shall be required to obtain a permanent farm use placard pursuant to § 46.2-684.2.

§ 46.2-667. Farm machinery and tractors.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay the prescribed fee for any farm machinery or tractor when operated on a highway (i) between one tract of land and another regardless of whether the land is owned by the same person or (ii) to and from a repair shop for repairs.

The owner or lessee of any farm machinery or tractor claiming the exemption provided pursuant to this section shall not be required to obtain a permanent farm use placard pursuant to § 46.2-684.2.

§ 46.2-670. (Effective until July 1, 2023) Vehicles owned by farmers and used to transport certain wood products.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle, trailer, or semitrailer owned by a farm owner when the vehicle is operated or moved along a highway for no more than 75 miles between a sawmill or sawmill site and his farm to transport sawdust, wood shavings, slab wood, and other wood wastes. The provisions of this section shall only apply to (i) pickup or panel trucks~~,~~*;* (ii) sport utility vehicles~~,~~*;* (iii) vehicles *other than pickup or panel trucks, sport utility vehicles, trailers, or semitrailers* having a gross vehicle weight rating greater than 7,500 pounds~~,~~*;* and (iv) trailers and semitrailers.

§ 46.2-670. (Effective July 1, 2023) Vehicles owned by farmers and used to transport certain wood products.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle, trailer, or semitrailer owned by a farm owner when the vehicle is operated or moved along a highway for no more than 75 miles between a sawmill or sawmill site and his farm to transport sawdust, wood shavings, slab wood, and other wood wastes. The provisions of this section shall only apply to (i) pickup or panel trucks~~,~~*;* (ii) sport utility vehicles~~,~~*;* (iii) vehicles *other than pickup or panel trucks, sport utility vehicles, trailers, or semitrailers* having a gross vehicle weight

rating greater than 7,500 pounds~~,~~*;* and (iv) trailers and semitrailers. The owner or lessee of a ~~vehicle, trailer, or semitrailer~~ *pickup or panel truck or sport utility vehicle* claiming the exemption provided pursuant to this section shall be required to obtain a permanent farm use placard pursuant to § 46.2-684.2.

§ 46.2-672. (Effective July 1, 2023) Certain vehicles transporting fertilizer, cotton, or peanuts.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle or trailer, semitrailer, or fertilizer spreader drawn by a farm tractor used by a farmer, his tenant, agent or employee or a cotton ginner, peanut buyer, or fertilizer distributor to transport unginned cotton, peanuts, or fertilizer owned by the farmer, cotton ginner, peanut buyer, or fertilizer distributor from one farm to another, from farm to gin, from farm to dryer, from farm to market, or from fertilizer distributor to farm and on return to the distributor. The owner or lessee of a ~~vehicle, trailer, or semitrailer~~ *pickup or panel truck or sport utility vehicle* claiming the exemption provided pursuant to this section shall be required to obtain a permanent farm use placard pursuant to § 46.2-684.2.

The provisions of this section shall not apply to vehicles operated on a for-hire basis.

§ 46.2-673. (Effective until July 1, 2023) Return trips of exempted farm vehicles.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any farm vehicle exempted from registration under the provisions of this article when that vehicle is:

1. Making a return trip from any marketplace;

2. Transporting back to a farm ordinary and essential food*, including procuring a meal for a farmer or his employees,* and other products for home and farm use *while engaged in activities allowed in this chapter*; or

3. Transporting supplies to the farm.

§ 46.2-673. (Effective July 1, 2023) Return trips of exempted farm vehicles.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any farm vehicle exempted from registration under the provisions of this article when that vehicle is:

1. Making a return trip from any marketplace;

2. Transporting back to a farm ordinary and essential food*, including procuring a meal for a farmer or his employees,* and other products for home and farm use *while engaged in activities allowed in this chapter*; or

3. Transporting supplies to the farm.

The owner or lessee of a ~~vehicle, trailer, or semitrailer~~ *pickup or panel truck or sport utility vehicle* claiming the exemption provided pursuant to this section shall be required to obtain a permanent farm use placard pursuant to § 46.2-684.2.

§ 46.2-684.2. Permanent farm use placards.

A. For the purposes of this section, "farm use placard" means a device containing letters, numerals, or a combination of both attached to a vehicle that is used for one of the exempt purposes set forth in § 46.2-665, 46.2-666, 46.2-670, 46.2-672, or 46.2-673.

B. (Effective until July 1, 2023) ~~Such~~ *All* farm use ~~placard~~ *placards* shall be permanent and valid for so long as the owner or lessee uses the vehicle for an exempt purpose and shall not require renewal.

B. (Effective July 1, 2023) An owner or lessee of a farm vehicle claiming an exemption for a farm vehicle provided pursuant to § 46.2-665, 46.2-666, 46.2-670, 46.2-672, or 46.2-673 shall obtain a farm use placard from the Department and display such placard on the vehicle at all times. *The provisions of this section shall not apply to vehicles having a gross vehicle weight rating greater than 7,500 pounds, trailers, or semitrailers used exclusively as set forth in § 46.2-665, 46.2-666, 46.2-670, 46.2-672, or 46.2-673.* Such farm use placard shall be permanent and valid for so long as the owner or lessee uses the vehicle for an exempt purpose and shall not require renewal.

C. Application for a permanent farm use placard shall be made on a form provided by the Department and shall ~~include~~ *require*:

1. The name of the owner or lessee of the vehicle for which the exemption is claimed;

2. The *approximate* location and acreage of each farm on which the vehicle is to be used;

3. The type of agricultural commodities, poultry, dairy products, or livestock produced on such farms ~~and the approximate amounts produced annually~~;

4. A statement, signed by the owner or lessee, that the vehicle shall only be used for one or more of the exempt purposes set forth in § 46.2-665, 46.2-666, 46.2-670, 46.2-672, or 46.2-673; and

5. A statement, signed by the owner or lessee, that the vehicle is an insured motor vehicle as defined in § 46.2-705 or is insured by a policy authorized pursuant to § 46.2-684.1.

Such application shall not request any additional information not required pursuant to this subsection. Notwithstanding any other provision of law, the Department shall not release, except upon request by the farm use placard applicant, the guardian of such applicant, or the authorized agent of such applicant, or pursuant to a court order, any information obtained pursuant to this section.

D. The Department may charge a fee of $15 for a farm use placard. All fees collected by the Commissioner pursuant to this section shall be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

E. Farm use placards are nontransferable.

F. An owner or lessee of a farm use vehicle shall return the farm use placard to the Department within 30 days of the vehicle ceasing to be used for one or more of the exempt purposes set forth in § 46.2-665, 46.2-666, 46.2-670, 46.2-672, or 46.2-673.

G. The Department shall not limit the number of placards that can be obtained at one time, provided the applicant is lawfully entitled to such placards.

§ 58.1-2403. Exemptions.

No tax shall be imposed as provided in § 58.1-2402 if the vehicle is:

1. Sold to or used by the United States government or any governmental agency thereof;

2. Sold to or used by the Commonwealth of Virginia or any political subdivision thereof;

3. Registered in the name of a volunteer fire department or volunteer emergency medical services agency not operated for profit;

4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any other recognized Indian tribe of the Commonwealth living on the tribal reservation;

5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the lienholder;

6. A manufactured home permanently attached to real estate and included in the sale of real estate;

7. A gift to the spouse, son, daughter, or parent of the transferor. With the exception of a gift to a spouse, this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the transfer;

8. Transferred from an individual or partnership to a corporation or limited liability company or from a corporation or limited liability company to an individual or partnership if the transfer is incidental to the formation, organization or dissolution of a corporation or limited liability company in which the individual or partnership holds the majority interest;

9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent corporation to a wholly owned subsidiary;

10. Being registered for the first time in the Commonwealth and the applicant holds a valid, assignable title or registration issued to him by another state or a branch of the United States Armed Forces and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12 months and provides evidence of a sales tax paid to another state. However, when a vehicle has been purchased by the applicant within the last 12 months and the applicant is unable to provide evidence of a sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the fair market value of the vehicle at the time of registration in Virginia;

11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or

b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except for any commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For purposes of this subdivision, "automotive manufacturer" and "headquarters" means the same as such terms are defined in § 46.2-602.2;

12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one way, on the same day;

13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;

14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for the use of a church conducted not for profit;

15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the instruction of driver's education when such education is a part of such school's curriculum for full-time students;

16. Sold to an insurance company or local government group self-insurance pool, created pursuant to § 15.2-2703, for the sole purpose of disposition when such company or pool has paid the registered owner of such vehicle a total loss claim;

17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of foreign governments, their employees or agents, and members of their families, if such persons are nationals of the state by which they are appointed and are not citizens of the United States;

18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a nonprofit hospital or a cooperative hospital service organization as described in § 501(e) of the United States Internal Revenue Code;

19. A motor vehicle having seats for more than seven passengers and sold to a restricted common carrier or common carrier of passengers;

20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital service organization as described in § 501(e) of the United States Internal Revenue Code, or a nonprofit corporation as defined in § 501(c)(3) of the Internal Revenue Code, established for research in, diagnosis of, or therapy for human ailments;

21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such organization;

22. A motor vehicle sold to an organization which is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing, medicines, and other necessities of life to, and providing shelter for, needy persons in the United States and throughout the world;

23. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a Virginia titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries of the trust may also

be named in the trust instrument, when no consideration has passed between the titleholder and the beneficiaries; and transferred to the original titleholder from the trustees holding title to the motor vehicle;

24. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust following the death of the grantor, when no consideration has passed between the grantor and the beneficiaries in either case;

25. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if the lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with respect to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of the lease upon request of the Department of Motor Vehicles or other evidence that the sales tax has been paid to the Commonwealth by the lessee purchasing the vehicle;

26. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will, of such deceased person;

27. An all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, that:

a. Is being titled for the first time in the Commonwealth and that the applicant (i) has owned for more than 12 months or (ii) has owned for less than 12 months and provides evidence of tax paid pursuant to Chapter 6 (§ 58.1-600 et seq.); or

b. Would otherwise be eligible for an agricultural exemption, as provided in § 58.1-609.2;

28. A motor vehicle that is sold to an organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and that is primarily used by the organization to transport to markets for sale produce that is (i) produced by local farmers and (ii) sold by such farmers to the organization; ~~or~~

29. Transferred from the purchaser of the vehicle back to the seller of the vehicle who (i) accepted the vehicle pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.) or (ii) otherwise agreed to accept the return of the vehicle due to a mechanical defect or failure and refunded to the purchaser the purchase price of the vehicle. Except when the return of the vehicle is pursuant to the Virginia Motor Vehicle Warranty Enforcement Act, the transfer shall occur within 45 days of the date of purchase*; or*

30. Any pickup or panel truck or sport utility vehicle for which the owner is required to obtain a permanent farm use placard pursuant to § 46.2-684.2. However, the tax as provided in § 58.1-2402 shall be imposed upon such vehicle based upon the current market value from the time such vehicle is (i) registered for a nonexempt use as required by § 46.2-600 or (ii) sold to a person who does not qualify for an exemption pursuant to this section.

§ 58.1-3505. Classification of farm animals, certain grains, agricultural products, farm machinery, farm implements and equipment; governing body may exempt.

A. Farm animals, grains and other feeds used for the nurture of farm animals, agricultural products as defined in § 3.2-6400, farm machinery and farm implements are hereby defined as separate items of taxation and classified as follows:

1. Horses, mules and other kindred animals.

2. Cattle.

3. Sheep and goats.

4. Hogs.

5. Poultry.

6. Grains and other feeds used for the nurture of farm animals.

7. Grain; tobacco; wine produced by farm wineries as defined in § 4.1-100 and other agricultural products in the hands of a producer.

8. Farm machinery other than the farm machinery described in subdivision 10, and farm implements, which shall include (i) equipment and machinery used by farm wineries as defined in § 4.1-100 in the production of wine; (ii) equipment and machinery used by a nursery as defined in § 3.2-3800 for the production of horticultural products; and (iii) any farm tractor as defined in § 46.2-100, regardless of whether such farm tractor is used exclusively for agricultural purposes.

9. Equipment used by farmers or farm cooperatives qualifying under § 521 of the Internal Revenue Code to manufacture industrial ethanol, provided that the materials from which the ethanol is derived consist primarily of farm products.

10. Farm machinery designed solely for the planting, production or harvesting of a single product or commodity.

11. Privately owned trailers as defined in § 46.2-100 that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subdivisions 1 through 7.

12. Motor vehicles that are used primarily for agricultural purposes, for which the owner is not required to obtain a registration certificate, license plate, and decal or pay a registration fee pursuant to § 46.2-665, 46.2-666, or 46.2-670*, or pickup or panel trucks or sport utility vehicles for which the owner is required to obtain a permanent farm use placard pursuant to § 46.2-684.2*.

13. Trucks or tractor trucks as defined in § 46.2-100, that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subdivisions 1 through 7 or for the transport of farm-related machinery.

14. Farm machinery and farm implements, other than the farm machinery and farm implements described in subdivisions 8 and 10, which shall include equipment and machinery used for forest harvesting and silvicultural activities.

B. The governing body of any county, city or town may, by ordinance duly adopted, exempt in whole or in part from taxation, or provide a different rate of tax upon, all or any of the above classes of farm animals, grains and feeds used for the nurture of farm animals, farm vehicles, and farm machinery, implements or equipment set forth in subsection A.

C. Grain; tobacco; wine produced by farm wineries as defined in § 4.1-100; and other agricultural products, as defined in § 3.2-6400, shall be exempt from taxation under this chapter while in the hands of a producer.

2. That the second enactment of Chapter 51 and the second enactment of Chapter 52 of the Acts of Assembly of 2022 are amended and reenacted as follows:

2. That the provisions of this act requiring the owner or lessee of a farm vehicle claiming an exemption for a farm vehicle provided pursuant to § 46.2-665, 46.2-666, 46.2-670, 46.2-672, or 46.2-673 of the Code of Virginia, as amended by this act, to obtain a farm use placard from the Department of Motor Vehicles and to display such placard on the vehicle at all times shall become effective on July 1, ~~2023~~ *2024*.

CHAPTER 86

An Act to amend and reenact §§ 46.2-665, as it is currently effective and as it shall become effective, 46.2-666, as it is currently effective and as it shall become effective, 46.2-667, 46.2-670, as it is currently effective and as it shall become effective, 46.2-672, as it shall become effective, 46.2-673, as it is currently effective and as it shall become effective, 46.2-684.2, 58.1-2403, and 58.1-3505 of the Code of Virginia and to amend and reenact the second enactment of Chapter 51 and the second enactment of Chapter 52 of the Acts of Assembly of 2022, relating to farm use placards.

[S 1057]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-665, as it is currently effective and as it shall become effective, 46.2-666, as it is currently effective and as it shall become effective, 46.2-667, 46.2-670, as it is currently effective and as it shall become effective, 46.2-672, as it shall become effective, 46.2-673, as it is currently effective and as it shall become effective, 46.2-684.2, 58.1-2403, and 58.1-3505 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-665. (Effective until July 1, 2023) Vehicles used for agricultural or horticultural purposes.

A. No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle, trailer, or semitrailer used exclusively for agricultural or horticultural purposes on lands owned or leased by the vehicle's owner.

B. This exemption shall only apply to (i) pickup or panel trucks~~,~~*;* (ii) sport utility vehicles~~,~~*;* (iii) vehicles *other than pickup or panel trucks, sport utility vehicles, trailers, or semitrailers* having a gross vehicle weight rating greater than 7,500 pounds~~,~~*;* and (iv) trailers and semitrailers that are not operated on or over any public highway in the Commonwealth for any purpose other than:

1. Crossing a highway;

2. Operating along a highway for a distance of no more than 75 miles from one part of the owner's land to another, irrespective of whether the tracts adjoin;

3. Taking the vehicle or attached fixtures to and from a repair shop for repairs;

4. Taking another vehicle exempt from registration under any provision of §§ 46.2-664 through 46.2-668 or 46.2-672, or any part or subcomponent of such a vehicle, to or from a repair shop for repairs, including return trips;

5. Operating along a highway to and from a refuse disposal facility for the purpose of disposing of trash and garbage generated on a farm *and incidental refuse from the farmer's or his employee's home*;

6. Operating along a highway for a distance of no more than 75 miles for the purpose of obtaining supplies for agricultural or horticultural purposes, seeds, fertilizers, chemicals, or animal feed and returning; or

7. Transporting the vehicle's owner between his residence and the lands being used for agricultural or horticultural purposes.

§ 46.2-665. (Effective July 1, 2023) Vehicles used for agricultural or horticultural purposes.

A. No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle, trailer, or semitrailer used exclusively for agricultural or horticultural purposes on lands owned or leased by the vehicle's owner.

B. This exemption shall only apply to (i) pickup or panel trucks~~,~~*;* (ii) sport utility vehicles~~,~~*;* (iii) vehicles *other than pickup or panel trucks, sport utility vehicles, trailers, or semitrailers* having a gross vehicle weight rating greater than 7,500 pounds~~,~~*;* and (iv) trailers and semitrailers that are not operated on or over any public highway in the Commonwealth for any purpose other than:

1. Crossing a highway;

2. Operating along a highway for a distance of no more than 75 miles from one part of the owner's land to another, irrespective of whether the tracts adjoin;

3. Taking the vehicle or attached fixtures to and from a repair shop for repairs;

4. Taking another vehicle exempt from registration under any provision of §§ 46.2-664 through 46.2-668 or 46.2-672, or any part or subcomponent of such a vehicle, to or from a repair shop for repairs, including return trips;

5. Operating along a highway to and from a refuse disposal facility for the purpose of disposing of trash and garbage generated on a farm *and incidental refuse from the farmer's or his employee's home*;

6. Operating along a highway for a distance of no more than 75 miles for the purpose of obtaining supplies for agricultural or horticultural purposes, seeds, fertilizers, chemicals, or animal feed and returning; or

7. Transporting the vehicle's owner between his residence and the lands being used for agricultural or horticultural purposes.

C. The owner or lessee of a ~~vehicle, trailer, or semitrailer~~ *pickup or panel truck or sport utility vehicle* claiming the exemption provided pursuant to this section shall be required to obtain a permanent farm use placard pursuant to § 46.2-684.2.

§ 46.2-666. (Effective until July 1, 2023) Vehicles used for seasonal transportation of farm produce and livestock.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee prescribed for any motor vehicle, trailer, or semitrailer owned by the owner or lessee of a farm and used by him on a seasonal basis in transporting farm produce and livestock along public highways for a distance of no more than 75 miles ~~including the distance to the nearest~~ *or to a* storage house, packing plant, or market. The provisions of this section shall only apply to (i) pickup or panel trucks~~,~~*;* (ii) sport utility vehicles~~,~~*;* (iii) vehicles *other than pickup or panel trucks, sport utility vehicles, trailers, or semitrailers* having a gross vehicle weight rating greater than 7,500 pounds~~,~~*;* and (iv) trailers and semitrailers.

§ 46.2-666. (Effective July 1, 2023) Vehicles used for seasonal transportation of farm produce and livestock.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee prescribed for any motor vehicle, trailer, or semitrailer owned by the owner or lessee of a farm and used by him on a seasonal basis in transporting farm produce and livestock along public highways for a distance of no more than 75 miles ~~including the distance to the nearest~~ *or to a* storage house, packing plant, or market. The provisions of this section shall only apply to (i) pickup or panel trucks~~,~~*;* (ii) sport utility vehicles~~,~~*;* (iii) vehicles *other than pickup or panel trucks, sport utility vehicles, trailers, or semitrailers* having a gross vehicle weight rating greater than 7,500 pounds~~,~~*;* and (iv) trailers and semitrailers. The owner or lessee of a ~~vehicle, trailer, or semitrailer~~ *pickup or panel truck or sport utility vehicle* claiming the exemption provided pursuant to this section shall be required to obtain a permanent farm use placard pursuant to § 46.2-684.2.

§ 46.2-667. Farm machinery and tractors.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay the prescribed fee for any farm machinery or tractor when operated on a highway (i) between one tract of land and another regardless of whether the land is owned by the same person or (ii) to and from a repair shop for repairs.

The owner or lessee of any farm machinery or tractor claiming the exemption provided pursuant to this section shall not be required to obtain a permanent farm use placard pursuant to § 46.2-684.2.

§ 46.2-670. (Effective until July 1, 2023) Vehicles owned by farmers and used to transport certain wood products.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle, trailer, or semitrailer owned by a farm owner when the vehicle is operated or moved along a highway for no more than 75 miles between a sawmill or sawmill site and his farm to transport sawdust, wood shavings, slab wood, and other wood wastes. The provisions of this section shall only apply to (i) pickup or panel trucks~~,~~*;* (ii) sport utility vehicles~~,~~*;* (iii) vehicles *other than pickup or panel trucks, sport utility vehicles, trailers, or semitrailers* having a gross vehicle weight rating greater than 7,500 pounds~~,~~*;* and (iv) trailers and semitrailers.

§ 46.2-670. (Effective July 1, 2023) Vehicles owned by farmers and used to transport certain wood products.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle, trailer, or semitrailer owned by a farm owner when the vehicle is operated or moved along a highway for no more than 75 miles between a sawmill or sawmill site and his farm to transport sawdust, wood shavings, slab wood, and other wood wastes. The provisions of this section shall only apply to (i) pickup or panel trucks~~,~~*;* (ii) sport utility vehicles~~,~~*;* (iii) vehicles *other than pickup or panel trucks, sport utility vehicles, trailers, or semitrailers* having a gross vehicle weight rating greater than 7,500 pounds~~,~~*;* and (iv) trailers and semitrailers. The owner or lessee of a ~~vehicle, trailer, or semitrailer~~ *pickup or panel truck or sport utility vehicle* claiming the exemption provided pursuant to this section shall be required to obtain a permanent farm use placard pursuant to § 46.2-684.2.

§ 46.2-672. (Effective July 1, 2023) Certain vehicles transporting fertilizer, cotton, or peanuts.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle or trailer, semitrailer, or fertilizer spreader drawn by a farm tractor used by a farmer, his tenant, agent or employee or a cotton ginner, peanut buyer, or fertilizer distributor to transport unginned cotton, peanuts, or fertilizer owned by the farmer, cotton ginner, peanut buyer, or fertilizer distributor from one farm to another, from farm to gin, from farm to dryer, from farm to market, or from fertilizer distributor to farm and on return to the distributor. The owner or lessee of a ~~vehicle, trailer, or semitrailer~~ *pickup or panel truck or sport utility vehicle* claiming the exemption provided pursuant to this section shall be required to obtain a permanent farm use placard pursuant to § 46.2-684.2.

The provisions of this section shall not apply to vehicles operated on a for-hire basis.

§ 46.2-673. (Effective until July 1, 2023) Return trips of exempted farm vehicles.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any farm vehicle exempted from registration under the provisions of this article when that vehicle is:

1. Making a return trip from any marketplace;

2. Transporting back to a farm ordinary and essential food*, including procuring a meal for a farmer or his employees,* and other products for home and farm use *while engaged in activities allowed in this chapter*; or

3. Transporting supplies to the farm.

§ 46.2-673. (Effective July 1, 2023) Return trips of exempted farm vehicles.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any farm vehicle exempted from registration under the provisions of this article when that vehicle is:

1. Making a return trip from any marketplace;

2. Transporting back to a farm ordinary and essential food*, including procuring a meal for a farmer or his employees,* and other products for home and farm use *while engaged in activities allowed in this chapter*; or

3. Transporting supplies to the farm.

The owner or lessee of a ~~vehicle, trailer, or semitrailer~~ *pickup or panel truck or sport utility vehicle* claiming the exemption provided pursuant to this section shall be required to obtain a permanent farm use placard pursuant to § 46.2-684.2.

§ 46.2-684.2. Permanent farm use placards.

A. For the purposes of this section, "farm use placard" means a device containing letters, numerals, or a combination of both attached to a vehicle that is used for one of the exempt purposes set forth in § 46.2-665, 46.2-666, 46.2-670, 46.2-672, or 46.2-673.

B. (Effective until July 1, 2023) ~~Such~~ *All* farm use ~~placard~~ *placards* shall be permanent and valid for so long as the owner or lessee uses the vehicle for an exempt purpose and shall not require renewal.

B. (Effective July 1, 2023) An owner or lessee of a farm vehicle claiming an exemption for a farm vehicle provided pursuant to § 46.2-665, 46.2-666, 46.2-670, 46.2-672, or 46.2-673 shall obtain a farm use placard from the Department and display such placard on the vehicle at all times. *The provisions of this section shall not apply to vehicles having a gross vehicle weight rating greater than 7,500 pounds, trailers, or semitrailers used exclusively as set forth in § 46.2-665, 46.2-666, 46.2-670, 46.2-672, or 46.2-673.* Such farm use placard shall be permanent and valid for so long as the owner or lessee uses the vehicle for an exempt purpose and shall not require renewal.

C. Application for a permanent farm use placard shall be made on a form provided by the Department and shall ~~include~~ *require*:

1. The name of the owner or lessee of the vehicle for which the exemption is claimed;

2. The *approximate* location and acreage of each farm on which the vehicle is to be used;

3. The type of agricultural commodities, poultry, dairy products, or livestock produced on such farms ~~and the approximate amounts produced annually~~;

4. A statement, signed by the owner or lessee, that the vehicle shall only be used for one or more of the exempt purposes set forth in § 46.2-665, 46.2-666, 46.2-670, 46.2-672, or 46.2-673; and

5. A statement, signed by the owner or lessee, that the vehicle is an insured motor vehicle as defined in § 46.2-705 or is insured by a policy authorized pursuant to § 46.2-684.1.

Such application shall not request any additional information not required pursuant to this subsection. Notwithstanding any other provision of law, the Department shall not release, except upon request by the farm use placard applicant, the guardian of such applicant, or the authorized agent of such applicant, or pursuant to a court order, any information obtained pursuant to this section.

D. The Department may charge a fee of $15 for a farm use placard. All fees collected by the Commissioner pursuant to this section shall be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

E. Farm use placards are nontransferable.

F. An owner or lessee of a farm use vehicle shall return the farm use placard to the Department within 30 days of the vehicle ceasing to be used for one or more of the exempt purposes set forth in § 46.2-665, 46.2-666, 46.2-670, 46.2-672, or 46.2-673.

G. The Department shall not limit the number of placards that can be obtained at one time, provided the applicant is lawfully entitled to such placards.

§ 58.1-2403. Exemptions.

No tax shall be imposed as provided in § 58.1-2402 if the vehicle is:

1. Sold to or used by the United States government or any governmental agency thereof;

2. Sold to or used by the Commonwealth of Virginia or any political subdivision thereof;

3. Registered in the name of a volunteer fire department or volunteer emergency medical services agency not operated for profit;

4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any other recognized Indian tribe of the Commonwealth living on the tribal reservation;

5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the lienholder;

6. A manufactured home permanently attached to real estate and included in the sale of real estate;

7. A gift to the spouse, son, daughter, or parent of the transferor. With the exception of a gift to a spouse, this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the transfer;

8. Transferred from an individual or partnership to a corporation or limited liability company or from a corporation or limited liability company to an individual or partnership if the transfer is incidental to the formation, organization or dissolution of a corporation or limited liability company in which the individual or partnership holds the majority interest;

9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent corporation to a wholly owned subsidiary;

10. Being registered for the first time in the Commonwealth and the applicant holds a valid, assignable title or registration issued to him by another state or a branch of the United States Armed Forces and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12 months and provides evidence of a sales tax paid to another state. However, when a vehicle has been purchased by the applicant within the last 12 months and the applicant is unable to provide evidence of a sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the fair market value of the vehicle at the time of registration in Virginia;

11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or

b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except for any commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For purposes of this subdivision, "automotive manufacturer" and "headquarters" means the same as such terms are defined in § 46.2-602.2;

12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one way, on the same day;

13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;

14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for the use of a church conducted not for profit;

15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the instruction of driver's education when such education is a part of such school's curriculum for full-time students;

16. Sold to an insurance company or local government group self-insurance pool, created pursuant to § 15.2-2703, for the sole purpose of disposition when such company or pool has paid the registered owner of such vehicle a total loss claim;

17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of foreign governments, their employees or agents, and members of their families, if such persons are nationals of the state by which they are appointed and are not citizens of the United States;

18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a nonprofit hospital or a cooperative hospital service organization as described in § 501(e) of the United States Internal Revenue Code;

19. A motor vehicle having seats for more than seven passengers and sold to a restricted common carrier or common carrier of passengers;

20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital service organization as described in § 501(e) of the United States Internal Revenue Code, or a nonprofit corporation as defined in § 501(c)(3) of the Internal Revenue Code, established for research in, diagnosis of, or therapy for human ailments;

21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such organization;

22. A motor vehicle sold to an organization which is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing, medicines, and other necessities of life to, and providing shelter for, needy persons in the United States and throughout the world;

23. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a Virginia titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries of the trust may also be named in the trust instrument, when no consideration has passed between the titleholder and the beneficiaries; and transferred to the original titleholder from the trustees holding title to the motor vehicle;

24. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust following the death of the grantor, when no consideration has passed between the grantor and the beneficiaries in either case;

25. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if the lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with respect to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of the lease upon request of the Department of Motor Vehicles or other evidence that the sales tax has been paid to the Commonwealth by the lessee purchasing the vehicle;

26. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will, of such deceased person;

27. An all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, that:

a. Is being titled for the first time in the Commonwealth and that the applicant (i) has owned for more than 12 months or (ii) has owned for less than 12 months and provides evidence of tax paid pursuant to Chapter 6 (§ 58.1-600 et seq.); or

b. Would otherwise be eligible for an agricultural exemption, as provided in § 58.1-609.2;

28. A motor vehicle that is sold to an organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and that is primarily used by the organization to transport to markets for sale produce that is (i) produced by local farmers and (ii) sold by such farmers to the organization; ~~or~~

29. Transferred from the purchaser of the vehicle back to the seller of the vehicle who (i) accepted the vehicle pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.) or (ii) otherwise agreed to accept the return of the vehicle due to a mechanical defect or failure and refunded to the purchaser the purchase price of the vehicle. Except when the return of the vehicle is pursuant to the Virginia Motor Vehicle Warranty Enforcement Act, the transfer shall occur within 45 days of the date of purchase*; or*

30. Any pickup or panel truck or sport utility vehicle for which the owner is required to obtain a permanent farm use placard pursuant to § 46.2-684.2. However, the tax as provided in § 58.1-2402 shall be imposed upon such vehicle based upon the current market value from the time such vehicle is (i) registered for a nonexempt use as required by § 46.2-600 or (ii) sold to a person who does not qualify for an exemption pursuant to this section.

§ 58.1-3505. Classification of farm animals, certain grains, agricultural products, farm machinery, farm implements and equipment; governing body may exempt.

A. Farm animals, grains and other feeds used for the nurture of farm animals, agricultural products as defined in § 3.2-6400, farm machinery and farm implements are hereby defined as separate items of taxation and classified as follows:

1. Horses, mules and other kindred animals.

2. Cattle.

3. Sheep and goats.

4. Hogs.

5. Poultry.

6. Grains and other feeds used for the nurture of farm animals.

7. Grain; tobacco; wine produced by farm wineries as defined in § 4.1-100 and other agricultural products in the hands of a producer.

8. Farm machinery other than the farm machinery described in subdivision 10, and farm implements, which shall include (i) equipment and machinery used by farm wineries as defined in § 4.1-100 in the production of wine; (ii) equipment and machinery used by a nursery as defined in § 3.2-3800 for the production of horticultural products; and (iii) any farm tractor as defined in § 46.2-100, regardless of whether such farm tractor is used exclusively for agricultural purposes.

9. Equipment used by farmers or farm cooperatives qualifying under § 521 of the Internal Revenue Code to manufacture industrial ethanol, provided that the materials from which the ethanol is derived consist primarily of farm products.

10. Farm machinery designed solely for the planting, production or harvesting of a single product or commodity.

11. Privately owned trailers as defined in § 46.2-100 that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subdivisions 1 through 7.

12. Motor vehicles that are used primarily for agricultural purposes, for which the owner is not required to obtain a registration certificate, license plate, and decal or pay a registration fee pursuant to § 46.2-665, 46.2-666, or 46.2-670*, or pickup or panel trucks or sport utility vehicles for which the owner is required to obtain a permanent farm use placard pursuant to § 46.2-684.2.*

13. Trucks or tractor trucks as defined in § 46.2-100, that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subdivisions 1 through 7 or for the transport of farm-related machinery.

14. Farm machinery and farm implements, other than the farm machinery and farm implements described in subdivisions 8 and 10, which shall include equipment and machinery used for forest harvesting and silvicultural activities.

B. The governing body of any county, city or town may, by ordinance duly adopted, exempt in whole or in part from taxation, or provide a different rate of tax upon, all or any of the above classes of farm animals, grains and feeds used for the nurture of farm animals, farm vehicles, and farm machinery, implements or equipment set forth in subsection A.

C. Grain; tobacco; wine produced by farm wineries as defined in § 4.1-100; and other agricultural products, as defined in § 3.2-6400, shall be exempt from taxation under this chapter while in the hands of a producer.

2. That the second enactment of Chapter 51 and the second enactment of Chapter 52 of the Acts of Assembly of 2022 are amended and reenacted as follows:

2. That the provisions of this act requiring the owner or lessee of a farm vehicle claiming an exemption for a farm vehicle provided pursuant to § 46.2-665, 46.2-666, 46.2-670, 46.2-672, or 46.2-673 of the Code of Virginia, as amended by this act, to obtain a farm use placard from the Department of Motor Vehicles and to display such placard on the vehicle at all times shall become effective on July 1, ~~2023~~ *2024*.

CHAPTER 87

An Act to amend and reenact § 9.1-201 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 2 of Title 27 a section numbered 27-23.11, relating to firefighters; training; electric vehicle fires.

[H 2451]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-201 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 2 of Title 27 a section numbered 27-23.11 as follows:

§ 9.1-201. Powers of Executive Director.

The Executive Director shall have the following powers to:

1. Supervise the administration of the Department;

2. Prepare, approve, and submit all requests for appropriations and be responsible for all expenditures pursuant to appropriations;

3. Employ such staff as is necessary to carry out the powers and duties of this chapter, within the limits of available appropriations;

4. Accept on behalf of the Department grants from the United States government and agencies and instrumentalities thereof and any other sources. To these ends, the Executive Director shall have the power to execute such agreements in accordance with any policies of the Virginia Fire Services Board;

5. Do all acts necessary or convenient to carry out the purpose of this chapter and to assist the Board in carrying out its responsibilities and duties;

6. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth;

7. Appoint a director of fire services training;

8. Receive funds as appropriated by the General Assembly collected pursuant to § 38.2-401, on an annual basis to be used as provided in subsection C of § 38.2-401;

9. Administer the Thermal Imaging Camera Grant Funds established pursuant to § 9.1-205; ~~and~~

10. Administer the provisions of the Statewide Fire Prevention Code (§ 27-94 et seq.)*; and*

11. Develop a training program on the risks of fires in electric vehicles and how to safely and effectively manage such fires to be completed by all firefighters, including volunteer firefighters as defined in § 27-42, as required by § 27-23.11.

§ 27-23.11. Firefighter electric vehicles fire training.

All firefighters, including volunteer firefighters as defined in § 27-42, shall complete a training program developed by the Executive Director of the Department of Fire Programs pursuant to § 9.1-201 on the risks of fires in electric vehicles and how to safely and effectively manage such fires.

2. That the Executive Director of the Department of Fire Programs shall develop and make available the training program required pursuant to the provisions of § 9.1-201 of the Code of Virginia, as amended by this act, by July 1, 2024.

3. That the provisions of this act amending the Code of Virginia by adding § 27-23.11 shall become effective on July 1, 2024.

4. That every person engaged in firefighting activities, including volunteer firefighters, on July 1, 2024, shall complete the training program required pursuant to the provisions of § 27-23.11 of the Code of Virginia, as created by this act, by December 1, 2025.

CHAPTER 88

An Act to amend and reenact §§ 46.2-920, 46.2-1023, and 46.2-1030 of the Code of Virginia, relating to flashing red and white warning lights; emergency vehicle exemptions; WMATA Response and Recovery Coordination Branch vehicles.

[H 2423]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-920, 46.2-1023, and 46.2-1030 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-920. Certain vehicles exempt from regulations in certain situations; exceptions and additional requirements.

A. The driver of any emergency vehicle, when such vehicle is being used in the performance of public services, and when such vehicle is operated under emergency conditions, may, without subjecting himself to criminal prosecution:

1. Disregard speed limits, while having due regard for safety of persons and property;

2. Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic light, or device with due regard to the safety of persons and property;

3. Park or stop notwithstanding the other provisions of this chapter;

4. Disregard regulations governing a direction of movement of vehicles turning in specified directions so long as the operator does not endanger life or property;

5. Pass or overtake, with due regard to the safety of persons and property, another vehicle at any intersection;

6. Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going to the left of the stopped or slow-moving vehicle either in a no-passing zone or by crossing the highway centerline; or

7. Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going off the paved or main traveled portion of the roadway on the right. Notwithstanding other provisions of this section, vehicles exempted in this instance will not be required to sound a siren or any device to give automatically intermittent signals.

B. The exemptions granted to emergency vehicles by subsection A in subdivisions A1, A3, A4, A5, and A6 shall apply only when the operator of such vehicle displays a flashing, blinking, or alternating emergency light or lights as provided in §§ 46.2-1022 and 46.2-1023 and sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals, as may be reasonably necessary. The exemption granted under subdivision A 2 shall apply only when the operator of such emergency vehicle displays a flashing, blinking, or alternating emergency light or lights as provided in §§ 46.2-1022 and 46.2-1023 and either (a) sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals or (b) slows the vehicle down to a speed reasonable for the existing conditions, yields right-of-way to the driver of another vehicle approaching or entering the intersection from another direction or, if required for safety, brings the vehicle to a complete stop before proceeding with due regard for the safety of persons and property. In addition, the exemptions granted to emergency vehicles by subsection A shall apply only when there is in force and effect for such vehicle either (i) standard motor vehicle liability insurance covering injury or death to any person in the sum of at least $100,000 because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of $300,000 because of bodily injury to or death of two or more persons in any one accident, and to a limit of $20,000 because of injury to or destruction of property of others in any one accident or (ii) a certificate of self-insurance issued pursuant to § 46.2-368. Such exemptions shall not, however, protect the operator of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property. Nothing in this section shall release the operator of any such vehicle from civil liability for failure to use reasonable care in such operation.

C. For the purposes of this section, the term "emergency vehicle" shall mean:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer (i) in the chase or apprehension of violators of the law or persons charged with or suspected of any such violation or (ii) in response to an emergency call;

2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;

3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;

4. Any emergency medical services vehicle designed or used for the principal purpose of providing emergency medical services where human life is endangered;

5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;

6. Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer;

7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights under the provisions of § 46.2-1029.2; ~~and~~

8. Any Virginia National Guard Civil Support Team vehicle when responding to an emergency*; and*

9. Any vehicle operated by the Response and Recovery Coordination Branch of the Washington Metropolitan Area Transit Authority's Office of Emergency Preparedness, when responding to an emergency, provided that the operator of any such vehicle (i) has completed an initial emergency vehicle operators course from an approved course list prepared by the Department of Fire Programs, the Office of Emergency Medical Services, or an equivalent agency and (ii) recertifies as an emergency vehicle operator every two years.

D. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer may disregard speed limits, while having due regard for safety of persons and property, (i) in testing the accuracy of speedometers of such vehicles, (ii) in testing the accuracy of speed measuring devices specified in § 46.2-882, or (iii) in following another vehicle for the purpose of determining its speed.

E. A Department of Environmental Quality vehicle, while en route to an emergency and with due regard to the safety of persons and property, may overtake and pass stopped or slow-moving vehicles by going off the paved or main traveled portion of the highway on the right or on the left. These Department of Environmental Quality vehicles shall not be required

to sound a siren or any device to give automatically intermittent signals, but shall display red or red and white warning lights when performing such maneuvers.

F. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer while conducting a funeral escort, wide-load escort, dignitary escort, or any other escort necessary for the safe movement of vehicles and pedestrians may, without subjecting himself to criminal prosecution:

1. Disregard speed limits, while having due regard for safety of persons and property;

2. Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic light, or device with due regard for the safety of persons and property;

3. Park or stop notwithstanding the other provisions of this chapter;

4. Disregard regulations governing a direction of movement of vehicles turning in specified directions so long as the operator does not endanger life or property; or

5. Pass or overtake, with due regard for the safety of persons and property, another vehicle.

Notwithstanding other provisions of this section, vehicles exempted in this subsection may sound a siren or any device to give automatically intermittent signals.

§ 46.2-1023. Flashing red or red and white warning lights.

Fire apparatus, forest warden vehicles, emergency medical services vehicles, vehicles of the Department of Emergency Management, vehicles of the Department of Environmental Quality, vehicles of the Virginia National Guard Civil Support Team and the Virginia National Guard Chemical, Biological, Radiological, Nuclear and High Yield Explosive (CBRNE) Enhanced Response Force Package (CERFP) when responding to an emergency, vehicles of county, city, or town Departments of Emergency Management, vehicles of the Office of Emergency Medical Services, animal warden vehicles, *vehicles of the Response and Recovery Coordination Branch of the Washington Metropolitan Area Transit Authority's Office of Emergency Preparedness,* and vehicles used by security personnel of the Huntington Ingalls Industries, Bassett-Walker, Inc., the Winchester Medical Center, the National Aeronautics and Space Administration's Wallops Flight Facility, and, within those areas specified in their orders of appointment, by special conservators of the peace and policemen for certain places appointed pursuant to §§ 19.2-13 and 19.2-17 may be equipped with flashing, blinking, or alternating red or red and white combination warning lights of types approved by the Superintendent. Such warning lights may be of types constructed within turn signal housings or motorcycle headlight housings, subject to approval by the Superintendent.

§ 46.2-1030. When lights to be lighted; number of lights to be lighted at any time; use of warning lights.

A. Every vehicle in operation on a highway in the Commonwealth shall display lighted headlights and illuminating devices as required by this article (i) from sunset to sunrise; (ii) during any other time when, because of rain, smoke, fog, snow, sleet, insufficient light, or other unfavorable atmospheric conditions, visibility is reduced to a degree whereby persons or vehicles on the highway are not clearly discernible at a distance of 500 feet; and (iii) whenever windshield wipers are in use as a result of fog, rain, sleet, or snow. The provisions of this subsection, however, shall not apply to instances when windshield wipers are used intermittently in misting rain, sleet, or snow.

B. Not more than four lights used to provide general illumination ahead of the vehicle, including at least two headlights and any other combination of fog lights or other auxiliary lights approved by the Superintendent, shall be lighted at any time. However, motorcycles may be equipped with and use not more than five approved lights in order to provide general illumination ahead of the motorcycle. These limitations shall not preclude the display of warning lights authorized in §§ 46.2-1020 through 46.2-1027, or other lights as may be authorized by the Superintendent.

C. Vehicles equipped with warning lights authorized in §§ 46.2-1020 through 46.2-1027 shall display lighted warning lights as authorized in such sections at all times when responding to emergency calls, responding to traffic incidents, *responding to metropolitan transit-related incidents,* towing disabled vehicles, or constructing, repairing, and maintaining public highways or utilities on or along public highways, except that amber lights on vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks," need not be lit while the vehicle is in motion unless it is actually towing a vehicle.

D. The failure to display lighted headlights and illuminating devices under the conditions set forth in clause (iii) of subsection A shall not constitute negligence per se, nor shall violation of clause (iii) of subsection A constitute a defense to any claim for personal injury or recovery of medical expenses for injuries sustained in a motor vehicle accident.

E. No demerit points shall be assessed for failure to display lighted headlights and illuminating devices during periods of fog, rain, sleet, or snow in violation of clause (iii) of subsection A.

F. No citation for a violation of clause (iii) of subsection A shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute. No law-enforcement officer shall stop a motor vehicle for a violation of this section, except that a law-enforcement officer may stop a vehicle if it displays no lighted headlights during the time periods set forth in subsection A. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.

CHAPTER 89

An Act to amend and reenact §§ 46.2-920, 46.2-1023, and 46.2-1030 of the Code of Virginia, relating to flashing red and white warning lights; emergency vehicle exemptions; WMATA Response and Recovery Coordination Branch vehicles.

[S 981]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-920, 46.2-1023, and 46.2-1030 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-920. Certain vehicles exempt from regulations in certain situations; exceptions and additional requirements.

A. The driver of any emergency vehicle, when such vehicle is being used in the performance of public services, and when such vehicle is operated under emergency conditions, may, without subjecting himself to criminal prosecution:

1. Disregard speed limits, while having due regard for safety of persons and property;

2. Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic light, or device with due regard to the safety of persons and property;

3. Park or stop notwithstanding the other provisions of this chapter;

4. Disregard regulations governing a direction of movement of vehicles turning in specified directions so long as the operator does not endanger life or property;

5. Pass or overtake, with due regard to the safety of persons and property, another vehicle at any intersection;

6. Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going to the left of the stopped or slow-moving vehicle either in a no-passing zone or by crossing the highway centerline; or

7. Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going off the paved or main traveled portion of the roadway on the right. Notwithstanding other provisions of this section, vehicles exempted in this instance will not be required to sound a siren or any device to give automatically intermittent signals.

B. The exemptions granted to emergency vehicles by subsection A in subdivisions A1, A3, A4, A5, and A6 shall apply only when the operator of such vehicle displays a flashing, blinking, or alternating emergency light or lights as provided in §§ 46.2-1022 and 46.2-1023 and sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals, as may be reasonably necessary. The exemption granted under subdivision A 2 shall apply only when the operator of such emergency vehicle displays a flashing, blinking, or alternating emergency light or lights as provided in §§ 46.2-1022 and 46.2-1023 and either (a) sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals or (b) slows the vehicle down to a speed reasonable for the existing conditions, yields right-of-way to the driver of another vehicle approaching or entering the intersection from another direction or, if required for safety, brings the vehicle to a complete stop before proceeding with due regard for the safety of persons and property. In addition, the exemptions granted to emergency vehicles by subsection A shall apply only when there is in force and effect for such vehicle either (i) standard motor vehicle liability insurance covering injury or death to any person in the sum of at least $100,000 because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of $300,000 because of bodily injury to or death of two or more persons in any one accident, and to a limit of $20,000 because of injury to or destruction of property of others in any one accident or (ii) a certificate of self-insurance issued pursuant to § 46.2-368. Such exemptions shall not, however, protect the operator of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property. Nothing in this section shall release the operator of any such vehicle from civil liability for failure to use reasonable care in such operation.

C. For the purposes of this section, the term "emergency vehicle" shall mean:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer (i) in the chase or apprehension of violators of the law or persons charged with or suspected of any such violation or (ii) in response to an emergency call;

2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;

3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;

4. Any emergency medical services vehicle designed or used for the principal purpose of providing emergency medical services where human life is endangered;

5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;

6. Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer;

7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights under the provisions of § 46.2-1029.2; ~~and~~

8. Any Virginia National Guard Civil Support Team vehicle when responding to an emergency*; and*

9. Any vehicle operated by the Response and Recovery Coordination Branch of the Washington Metropolitan Area Transit Authority's Office of Emergency Preparedness, when responding to an emergency, provided that the operator of any such vehicle (i) has completed an initial emergency vehicle operators course from an approved course list prepared by the Department of Fire Programs, the Office of Emergency Medical Services, or an equivalent agency and (ii) recertifies as an emergency vehicle operator every two years.

D. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer may disregard speed limits, while having due regard for safety of persons and property, (i) in testing the accuracy of speedometers of such vehicles, (ii) in testing the accuracy of speed measuring devices specified in § 46.2-882, or (iii) in following another vehicle for the purpose of determining its speed.

E. A Department of Environmental Quality vehicle, while en route to an emergency and with due regard to the safety of persons and property, may overtake and pass stopped or slow-moving vehicles by going off the paved or main traveled portion of the highway on the right or on the left. These Department of Environmental Quality vehicles shall not be required to sound a siren or any device to give automatically intermittent signals, but shall display red or red and white warning lights when performing such maneuvers.

F. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer while conducting a funeral escort, wide-load escort, dignitary escort, or any other escort necessary for the safe movement of vehicles and pedestrians may, without subjecting himself to criminal prosecution:

1. Disregard speed limits, while having due regard for safety of persons and property;

2. Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic light, or device with due regard for the safety of persons and property;

3. Park or stop notwithstanding the other provisions of this chapter;

4. Disregard regulations governing a direction of movement of vehicles turning in specified directions so long as the operator does not endanger life or property; or

5. Pass or overtake, with due regard for the safety of persons and property, another vehicle.

Notwithstanding other provisions of this section, vehicles exempted in this subsection may sound a siren or any device to give automatically intermittent signals.

§ 46.2-1023. Flashing red or red and white warning lights.

Fire apparatus, forest warden vehicles, emergency medical services vehicles, vehicles of the Department of Emergency Management, vehicles of the Department of Environmental Quality, vehicles of the Virginia National Guard Civil Support Team and the Virginia National Guard Chemical, Biological, Radiological, Nuclear and High Yield Explosive (CBRNE) Enhanced Response Force Package (CERFP) when responding to an emergency, vehicles of county, city, or town Departments of Emergency Management, vehicles of the Office of Emergency Medical Services, animal warden vehicles, *vehicles of the Response and Recovery Coordination Branch of the Washington Metropolitan Area Transit Authority's Office of Emergency Preparedness,* and vehicles used by security personnel of the Huntington Ingalls Industries, Bassett-Walker, Inc., the Winchester Medical Center, the National Aeronautics and Space Administration's Wallops Flight Facility, and, within those areas specified in their orders of appointment, by special conservators of the peace and policemen for certain places appointed pursuant to §§ 19.2-13 and 19.2-17 may be equipped with flashing, blinking, or alternating red or red and white combination warning lights of types approved by the Superintendent. Such warning lights may be of types constructed within turn signal housings or motorcycle headlight housings, subject to approval by the Superintendent.

§ 46.2-1030. When lights to be lighted; number of lights to be lighted at any time; use of warning lights.

A. Every vehicle in operation on a highway in the Commonwealth shall display lighted headlights and illuminating devices as required by this article (i) from sunset to sunrise; (ii) during any other time when, because of rain, smoke, fog, snow, sleet, insufficient light, or other unfavorable atmospheric conditions, visibility is reduced to a degree whereby persons or vehicles on the highway are not clearly discernible at a distance of 500 feet; and (iii) whenever windshield wipers are in use as a result of fog, rain, sleet, or snow. The provisions of this subsection, however, shall not apply to instances when windshield wipers are used intermittently in misting rain, sleet, or snow.

B. Not more than four lights used to provide general illumination ahead of the vehicle, including at least two headlights and any other combination of fog lights or other auxiliary lights approved by the Superintendent, shall be lighted at any time. However, motorcycles may be equipped with and use not more than five approved lights in order to provide general illumination ahead of the motorcycle. These limitations shall not preclude the display of warning lights authorized in §§ 46.2-1020 through 46.2-1027, or other lights as may be authorized by the Superintendent.

C. Vehicles equipped with warning lights authorized in §§ 46.2-1020 through 46.2-1027 shall display lighted warning lights as authorized in such sections at all times when responding to emergency calls, responding to traffic incidents, *responding to metropolitan transit-related incidents,* towing disabled vehicles, or constructing, repairing, and maintaining public highways or utilities on or along public highways, except that amber lights on vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks," need not be lit while the vehicle is in motion unless it is actually towing a vehicle.

D. The failure to display lighted headlights and illuminating devices under the conditions set forth in clause (iii) of subsection A shall not constitute negligence per se, nor shall violation of clause (iii) of subsection A constitute a defense to any claim for personal injury or recovery of medical expenses for injuries sustained in a motor vehicle accident.

E. No demerit points shall be assessed for failure to display lighted headlights and illuminating devices during periods of fog, rain, sleet, or snow in violation of clause (iii) of subsection A.

F. No citation for a violation of clause (iii) of subsection A shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute. No law-enforcement officer shall stop a motor vehicle for a violation of this section, except that a law-enforcement officer may stop a vehicle if it displays no lighted headlights during the time periods set forth in subsection A. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.

CHAPTER 90

An Act to amend and reenact § 18.2-146 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-146.1, relating to possession, purchase, and sale of catalytic converters; penalty.

[H 2372]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-146 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-146.1 as follows:

§ 18.2-146. Breaking, injuring, defacing, destroying, or preventing the operation of vehicle, aircraft, boat, or vessel; penalties.

Any person who shall individually or in association with one or more others willfully break, injure, tamper with, or remove any part or parts of any vehicle, aircraft, boat, or vessel for the purpose of injuring, defacing, or destroying said vehicle, aircraft, boat, or vessel, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle, aircraft, boat, or vessel, or who shall in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat, or vessel, is guilty of a Class 1 misdemeanor, unless such violation of this section involves the breaking, injuring, tampering with, or removal of a catalytic converter or the parts thereof, then he is guilty of a Class 6 felony. A prosecution or proceeding for a felony under this section is a bar to a prosecution or proceeding under § 18.2-137 for the same act.

A judge or jury may make a permissive inference that a person who is in possession of a catalytic converter that has been removed from a motor vehicle to have obtained the catalytic converter in violation of this section unless the person is (i) an authorized agent or employee acting in the performance of his official duties for a motor vehicle dealer, motor vehicle garage or repair shop, or salvage yard that is licensed or registered by the Commonwealth; (ii) a scrap metal purchaser that has adhered to the compliance provisions of subdivisions B 1 or 2 of § 59.1-136.3; or (iii) a person who possesses vehicle registration documentation indicating that the catalytic converter in the person's possession is the result of a replacement of a catalytic converter from a vehicle registered in that person's name.

§ 18.2-146.1. Unlawful purchase or sale of a catalytic converter from a motor vehicle exhaust system that has been detached from a motor vehicle; penalty.

Any person who sells, offers for sale, or purchases a catalytic converter from a motor vehicle exhaust system that has been detached from a motor vehicle, except when such sale, offer for sale, or purchase is made to or by a scrap metal purchaser that has adhered to the compliance provisions of subdivisions B 1 or 2 of § 59.1-136.3, is guilty of a Class 6 felony.

Nothing in this section shall be construed to prohibit the sale, offer for sale, or purchase of a new catalytic converter that has never been installed on a motor vehicle.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 91

An Act to amend and reenact § 18.2-146 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-146.1, relating to possession, purchase, and sale of catalytic converters; penalty.

[S 1135]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-146 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-146.1 as follows:

§ 18.2-146. Breaking, injuring, defacing, destroying, or preventing the operation of vehicle, aircraft, boat, or vessel; penalties.

Any person who shall individually or in association with one or more others willfully break, injure, tamper with, or remove any part or parts of any vehicle, aircraft, boat, or vessel for the purpose of injuring, defacing, or destroying said vehicle, aircraft, boat, or vessel, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle, aircraft, boat, or vessel, or who shall in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat, or vessel, is guilty of a Class 1 misdemeanor, unless such violation of this section involves the breaking, injuring, tampering with, or removal of a catalytic converter or the parts thereof, then he is guilty of a Class 6 felony. A prosecution or proceeding for a felony under this section is a bar to a prosecution or proceeding under § 18.2-137 for the same act.

A judge or jury may make a permissive inference that a person who is in possession of a catalytic converter that has been removed from a motor vehicle to have obtained the catalytic converter in violation of this section unless the person is (i) an authorized agent or employee acting in the performance of his official duties for a motor vehicle dealer, motor vehicle garage or repair shop, or salvage yard that is licensed or registered by the Commonwealth; (ii) a scrap metal purchaser that has adhered to the compliance provisions of subdivisions B 1 or 2 of § 59.1-136.3; or (iii) a person who possesses vehicle registration documentation indicating that the catalytic converter in the person's possession is the result of a replacement of a catalytic converter from a vehicle registered in that person's name.

§ 18.2-146.1. Unlawful purchase or sale of a catalytic converter from a motor vehicle exhaust system that has been detached from a motor vehicle; penalty.

Any person who sells, offers for sale, or purchases a catalytic converter from a motor vehicle exhaust system that has been detached from a motor vehicle, except when such sale, offer for sale, or purchase is made to or by a scrap metal purchaser that has adhered to the compliance provisions of subdivisions B 1 or 2 of § 59.1-136.3, is guilty of a Class 6 felony.

Nothing in this section shall be construed to prohibit the sale, offer for sale, or purchase of a new catalytic converter that has never been installed on a motor vehicle.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 92

An Act to amend and reenact §§ 8.01-407 and 16.1-265 of the Code of Virginia, relating to attorney-issued subpoenas; release of witness.

[H 1756]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-407 and 16.1-265 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-407. How summons for witness issued and to whom directed; how witness released from attorney-issued subpoena; prior permission of court to summon certain officials and judges.

A. A summons may be issued, directed as prescribed in § 8.01-292, commanding the officer to summon any person to attend on the day and at the place that such attendance is desired, to give evidence before a court, grand jury, arbitrators, magistrate, notary, or any commissioner or other person appointed by a court or acting under its process or authority in a judicial or quasi-judicial capacity. The summons may be issued by the clerk of the court if the attendance is desired at a court or in a proceeding pending in a court. The clerk shall not impose any time restrictions limiting the right to properly request a summons up to and including the date of the proceeding:

If attendance is desired before a commissioner in chancery or other commissioner of a court, the summons may be issued by the clerk of the court in which the matter is pending, or by such commissioner in chancery or other commissioner;

If attendance is desired before a notary or other officer taking a deposition, the summons may be issued by such notary or other officer at the instance of the attorney desiring the attendance of the person sought;

If attendance is sought before a grand jury, the summons may be issued by the attorney for the Commonwealth, or the clerk of the court, at the instance of the attorney for the Commonwealth.

Except as otherwise provided in this subsection, if attendance is desired in a civil proceeding pending in a court or at a deposition in connection with such proceeding, including medical malpractice review panels, and a claim before the Workers' Compensation Commission, a summons may be issued by an attorney-at-law who is an active member of the Virginia State Bar at the time of issuance, as an officer of the court. An attorney-issued summons shall be on a form

approved by the Supreme Court, signed by the attorney and shall include the attorney's address. The summons and any transmittal sheet shall be deemed to be a pleading to which the provisions of § 8.01-271.1 shall apply. A copy of the summons and, if served by a sheriff, all service of process fees, shall be mailed or delivered to the clerk's office of the court in which the case is pending or the Workers' Compensation Commission, as applicable, on the day of issuance by the attorney. The law governing summonses issued by a clerk shall apply mutatis mutandis. When an attorney-at-law who is an active member of the Virginia State Bar transmits one or more attorney-issued subpoenas to a sheriff to be served in his jurisdiction, such subpoenas shall be accompanied by a transmittal sheet. The transmittal sheet, which may be in the form of a letter, shall contain for each subpoena (i) the person to be served, (ii) the name of the city or county in which the subpoena is to be served, in parentheses, (iii) the style of the case in which the subpoena was issued, (iv) the court in which the case is pending, and (v) the amount of fees tendered or paid to each clerk in whose court the case is pending together with a photocopy of either (a) the payment instrument and a photocopy of the letter sent to the clerk's office that accompanied such payment instrument or (b) the clerk's receipt. If copies of the same transmittal sheet are used to send subpoenas to more than one sheriff for service of process, then subpoenas shall be grouped by the jurisdiction in which they are to be served. For each person to be served, an original subpoena and copy thereof shall be included. If the attorney desires a return copy of the transmittal sheet as proof of receipt, he shall also enclose an additional copy of the transmittal sheet together with an envelope addressed to the attorney with sufficient first class postage affixed. Upon receipt of such transmittal, the transmittal sheet shall be date-stamped and, if the extra copy and above-described envelope are provided, the copy shall also be date-stamped and returned to the attorney-at-law in the above-described envelope.

However, when such transmittal does not comply with the provisions of this section, the sheriff may promptly return such transmittal if accompanied by a short description of such noncompliance. An attorney may not issue a summons in any of the following civil proceedings: ~~(a)~~ *(1)* habeas corpus under Article 3 (§ 8.01-654 et seq.) of Chapter 25 ~~of this title~~, ~~(b)~~ *(2)* delinquency or abuse and neglect proceedings under Article 3 (§ 16.1-241 et seq.) of Chapter 11 of Title 16.1, ~~(c)~~ *(3)* civil forfeiture proceedings, ~~(d)~~ *(4)* administrative license suspension pursuant to § 46.2-391.2, and ~~(e)~~ *(5)* petition for writs of mandamus or prohibition in connection with criminal proceedings. A sheriff shall not be required to serve an attorney-issued subpoena that is not issued at least five business days prior to the date that attendance is desired.

In other cases, if attendance is desired, the summons may be issued by the clerk of the circuit court of the county or city in which the attendance is desired.

A summons shall express on whose behalf, and in what case or about what matter, the witness is to attend. Failure to respond to any such summons shall be punishable by the court in which the proceeding is pending as for contempt. When any subpoena is served less than five calendar days before appearance is required, the court may, after considering all of the circumstances, refuse to enforce the subpoena for lack of adequate notice. If any subpoena is served less than five calendar days before appearance is required upon any judicial officer generally incompetent to testify pursuant to § 19.2-271, such subpoena shall be without legal force or effect unless the subpoena has been issued by a judge.

Following the issuance of an attorney-issued subpoena, the person to whom such subpoena is directed may be released from compliance with such subpoena by any attorney for the party on whose behalf the subpoena was issued, or a person acting on behalf of such attorney, provided that, in civil cases only, notwithstanding § 19.2-267, such release be in writing and served concurrently on all other parties, or, if any such party is represented by counsel, on the attorney of record, by electronic mail, notwithstanding the requirements of Rule 1:12 of the Rules of Supreme Court of Virginia. A copy of such written release shall also be sent to the clerk of the court via fax or, if available, through the clerk's electronic filing system. For purposes of this paragraph, (A) a release transmitted by electronic mail to the person to whom such subpoena was directed qualifies as a written release from such subpoena and (B) a copy of such written release shall be served contemporaneously on all other parties by electronic mail.

B. No subpoena shall, without permission of the court first obtained, issue for the attendance of the Governor, Lieutenant Governor, or Attorney General of this Commonwealth, a judge of any court thereof; the President or Vice President of the United States; any member of the President's Cabinet; any ambassador or consul; or any military officer on active duty holding the rank of admiral or general.

§ 16.1-265. Subpoena; attorney-issued subpoena.

Upon application of a party and pursuant to the ~~rules~~ *Rules* of ~~the~~ Supreme Court of Virginia for the issuance of subpoenas, the clerk of the court shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing.

Subpoenas duces tecum for medical records shall be subject to the provisions of §§ 8.01-413 and 32.1-127.1:03 except that no separate fee shall be imposed. A subpoena may also be issued in a civil proceeding by an attorney-at-law who is an active member of the Virginia State Bar at the time of issuance, as an officer of the court. Any such subpoena shall be on a form approved by the Committee on District Courts, signed by the attorney as if a pleading, and shall include the attorney's address. A copy, together with the attorney's certificate of service pursuant to Rule 1:12, shall be mailed or delivered to the clerk's office of the court in which the case is pending on the day of issuance by the attorney. The law governing subpoenas issued by a clerk shall apply mutatis mutandis, except that attorneys may not issue subpoenas in those cases in which they may not issue a summons as provided in § 8.01-407. When an attorney-at-law transmits one or more subpoenas or subpoenas duces tecum to a sheriff to be served in his jurisdiction, the provisions in § 8.01-407 regarding such transmittals shall apply. A sheriff shall not be required to serve an attorney-issued subpoena that is not issued at least five business days prior to the date production of evidence is required.

If the time for compliance with a subpoena issued by an attorney is less than 14 days after service of the subpoena, the person to whom it is directed may serve upon the party issuing the subpoena a written objection setting forth any grounds therefor. If objection is made, the party on whose behalf the subpoena was issued and served shall not be entitled to compliance, except pursuant to an order of the court, but may, upon notice to the person to whom the subpoena was directed, move for an order to compel compliance. Upon such timely motion, the court may quash, modify, or sustain the subpoena. *The release of a person to whom an attorney-issued subpoena is directed shall be governed by the provisions of § 8.01-407.*

CHAPTER 93

An Act to amend and reenact §§ 18.2-308.02 and 18.2-308.06 of the Code of Virginia, relating to concealed handgun permit; demonstrated competence.

[H 1422]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-308.02 and 18.2-308.06 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-308.02. Application for a concealed handgun permit; Virginia resident or domiciliary.

A. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States Armed Forces and stationed outside the Commonwealth, the county or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. Additionally, the application shall request but not require that the applicant provide an email or other electronic address where a notice of permit expiration can be sent pursuant to subsection C of § 18.2-308.010. The applicant shall present one valid form of photo identification issued by a governmental agency of the Commonwealth or by the U.S. Department of Defense or U.S. State Department (passport). No information or documentation other than that which is allowed on the application in accordance with this section may be requested or required by the clerk or the court.

B. The court shall require proof that the applicant has demonstrated competence with a handgun in person and the applicant may demonstrate such competence by one of the following, but no applicant shall be required to submit to any additional demonstration of competence, nor shall any proof of demonstrated competence expire:

1. Completing any hunter education or hunter safety course approved by the Department of Wildlife Resources or a similar agency of another state;

2. Completing any National Rifle Association *or United States Concealed Carry Association* firearms safety or training course;

3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, institution of higher education, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association*, the United States Concealed Carry Association,* or the Department of Criminal Justice Services;

4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any in-person firearms training or safety course or class conducted by a state-certified ~~or~~*,* National Rifle Association-certified*, or United States Concealed Carry Association-certified* firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training that the court deems adequate.

A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this subsection.

C. The making of a materially false statement in an application under this article shall constitute perjury, punishable as provided in § 18.2-434.

D. The clerk of court shall withhold from public disclosure the applicant's name and any other information contained in a permit application or any order issuing a concealed handgun permit, except that such information shall not be withheld from any law-enforcement officer acting in the performance of his official duties or from the applicant with respect to his own information. The prohibition on public disclosure of information under this subsection shall not apply to any reference

to the issuance of a concealed handgun permit in any order book before July 1, 2008; however, any other concealed handgun records maintained by the clerk shall be withheld from public disclosure.

E. An application is deemed complete when all information required to be furnished by the applicant, including the fee for a concealed handgun permit as set forth in § 18.2-308.03, is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check.

F. For purposes of this section, a member of the United States Armed Forces is domiciled in the county or city where such member claims his home of record with the United States Armed Forces.

§ 18.2-308.06. Nonresident concealed handgun permits.

A. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the Virginia Department of State Police for a five-year permit to carry a concealed handgun. The applicant shall submit a photocopy of one valid form of photo identification issued by a governmental agency of the applicant's state of residency or by the U.S. Department of Defense or U.S. State Department (passport). Every applicant for a nonresident concealed handgun permit shall also submit two photographs of a type and kind specified by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card provided by the Department of State Police for the purpose of obtaining the applicant's state or national criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting by his local or state law-enforcement agency and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the U.S. Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. The application shall be on a form provided by the Department of State Police, requiring only that information necessary to determine eligibility for the permit. If the permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked and the person shall return the permit after being so notified by the Department of State Police. The permit requirement and restriction provisions of subsection C of § 18.2-308.02 and § 18.2-308.09 shall apply, mutatis mutandis, to the provisions of this subsection.

B. The applicant shall demonstrate competence with a handgun in person by one of the following:

1. Completing a hunter education or hunter safety course approved by the Virginia Department of Wildlife Resources or a similar agency of another state;

2. Completing any National Rifle Association *or United States Concealed Carry Association* firearms safety or training course;

3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, institution of higher education, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association*, the United States Concealed Carry Association,* or the Department of Criminal Justice Services or a similar agency of another state;

4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition approved by the Department of State Police or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any in-person firearms training or safety course or class conducted by a state-certified ~~or~~*,* National Rifle Association-certified*, or United States Concealed Carry Association-certified* firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training that the Virginia Department of State Police deems adequate.

A photocopy of a certificate of completion of any such course or class; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or evidences participation in firearms competition shall satisfy the requirement for demonstration of competence with a handgun.

C. The Department of State Police may charge a fee not to exceed $100 to cover the cost of the background check and issuance of the permit. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the nonresident concealed handgun permit program.

D. The permit to carry a concealed handgun shall contain only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the permittee; the signature of the Superintendent of the Virginia Department of State Police or his designee; the date of issuance; and the expiration date.

E. The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for obtaining a nonresident concealed handgun permit.

CHAPTER 94

An Act to amend and reenact §§ 18.2-308.02 and 18.2-308.06 of the Code of Virginia, relating to concealed handgun permit; demonstrated competence.

[S 898]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-308.02 and 18.2-308.06 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-308.02. Application for a concealed handgun permit; Virginia resident or domiciliary.

A. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States Armed Forces and stationed outside the Commonwealth, the county or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. Additionally, the application shall request but not require that the applicant provide an email or other electronic address where a notice of permit expiration can be sent pursuant to subsection C of § 18.2-308.010. The applicant shall present one valid form of photo identification issued by a governmental agency of the Commonwealth or by the U.S. Department of Defense or U.S. State Department (passport). No information or documentation other than that which is allowed on the application in accordance with this section may be requested or required by the clerk or the court.

B. The court shall require proof that the applicant has demonstrated competence with a handgun in person and the applicant may demonstrate such competence by one of the following, but no applicant shall be required to submit to any additional demonstration of competence, nor shall any proof of demonstrated competence expire:

1. Completing any hunter education or hunter safety course approved by the Department of Wildlife Resources or a similar agency of another state;

2. Completing any National Rifle Association *or United States Concealed Carry Association* firearms safety or training course;

3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, institution of higher education, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association*, the United States Concealed Carry Association,* or the Department of Criminal Justice Services;

4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any in-person firearms training or safety course or class conducted by a state-certified ~~or~~*,* National Rifle Association-certified*, or United States Concealed Carry Association-certified* firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training that the court deems adequate.

A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this subsection.

C. The making of a materially false statement in an application under this article shall constitute perjury, punishable as provided in § 18.2-434.

D. The clerk of court shall withhold from public disclosure the applicant's name and any other information contained in a permit application or any order issuing a concealed handgun permit, except that such information shall not be withheld from any law-enforcement officer acting in the performance of his official duties or from the applicant with respect to his own information. The prohibition on public disclosure of information under this subsection shall not apply to any reference to the issuance of a concealed handgun permit in any order book before July 1, 2008; however, any other concealed handgun records maintained by the clerk shall be withheld from public disclosure.

E. An application is deemed complete when all information required to be furnished by the applicant, including the fee for a concealed handgun permit as set forth in § 18.2-308.03, is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check.

F. For purposes of this section, a member of the United States Armed Forces is domiciled in the county or city where such member claims his home of record with the United States Armed Forces.

§ 18.2-308.06. Nonresident concealed handgun permits.

A. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the Virginia Department of State Police for a five-year permit to carry a concealed handgun. The applicant shall submit a photocopy of one valid form of photo identification issued by a governmental agency of the applicant's state of residency or by the U.S. Department of Defense or U.S. State Department (passport). Every applicant for a nonresident concealed handgun permit shall also submit two photographs of a type and kind specified by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card provided by the Department of State Police for the purpose of obtaining the applicant's state or national criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting by his local or state law-enforcement agency and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the U.S. Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. The application shall be on a form provided by the Department of State Police, requiring only that information necessary to determine eligibility for the permit. If the permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked and the person shall return the permit after being so notified by the Department of State Police. The permit requirement and restriction provisions of subsection C of § 18.2-308.02 and § 18.2-308.09 shall apply, mutatis mutandis, to the provisions of this subsection.

B. The applicant shall demonstrate competence with a handgun in person by one of the following:

1. Completing a hunter education or hunter safety course approved by the Virginia Department of Wildlife Resources or a similar agency of another state;

2. Completing any National Rifle Association *or United States Concealed Carry Association* firearms safety or training course;

3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, institution of higher education, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association*, the United States Concealed Carry Association,* or the Department of Criminal Justice Services or a similar agency of another state;

4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition approved by the Department of State Police or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any in-person firearms training or safety course or class conducted by a state-certified ~~or~~*,* National Rifle Association-certified*, or United States Concealed Carry Association-certified* firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training that the Virginia Department of State Police deems adequate.

A photocopy of a certificate of completion of any such course or class; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or evidences participation in firearms competition shall satisfy the requirement for demonstration of competence with a handgun.

C. The Department of State Police may charge a fee not to exceed $100 to cover the cost of the background check and issuance of the permit. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the nonresident concealed handgun permit program.

D. The permit to carry a concealed handgun shall contain only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the permittee; the signature of the Superintendent of the Virginia Department of State Police or his designee; the date of issuance; and the expiration date.

E. The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for obtaining a nonresident concealed handgun permit.

CHAPTER 95

An Act to amend and reenact § 10.1-2211.2 of the Code of Virginia, relating to Department of Historic Resources; appropriations for historical African American cemeteries and graves.

[H 2244]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-2211.2 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-2211.2. Disbursement of funds appropriated for caring for historical African American cemeteries and graves.

A. For purposes of this section:

"Fund" means the Historical African American Cemeteries and Graves Fund created pursuant to § 10.1-2211.3.

"Historical African American cemetery" means a cemetery that was established prior to January 1, 1948, for interments of African Americans.

"Qualified organization" means a charitable corporation, charitable association, or charitable trust that has been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and whose primary purpose is the preservation of historical cemeteries and graves, any person or locality that owns a historical African American cemetery, or any locality whose purpose for applying for funding pursuant to this section is to maintain a neglected historical African American cemetery, or a portion thereof, that is located within its jurisdictional bounds.

B. At the direction of the Director, the Comptroller of the Commonwealth shall draw an annual warrant upon the State Treasurer from any sum that may be provided to the Department in the general appropriation act for the purpose of maintaining qualifying cemeteries and graves pursuant to this section. Any representative of a qualified organization desiring to receive funding from such appropriation for the maintenance of qualifying cemeteries and graves pursuant to this section shall submit an application to the Department on or before May 30 each year. Such appropriations shall be allocated on the ~~basis~~ *bases* of *both (i)* the number of graves, monuments, and markers in a cemetery of African Americans who were ~~interred in such cemetery prior to January 1, 1948,~~ *alive prior to January 1, 1900, regardless of the date of interment, and (ii) the number of graves, monuments, and markers in a cemetery of African Americans who were born on or after January 1, 1900, and interred in such cemetery prior to January 1, 1948,* the dates to be determined by reference to grave markers or, at the discretion of the Director, other historical records. Such number of graves, monuments, and markers, as documented by the qualified organization, shall be multiplied by the rate of $5 or the average actual cost of routine maintenance of a grave, monument, or marker, whichever is greater, to determine the amount of the allocation. The Department shall determine the average actual cost of routine maintenance of a grave, monument, or marker in a biennial survey of at least four properly maintained cemeteries, each located in a different geographical region of the Commonwealth. The Director shall deposit any appropriated funds that are not disbursed during the same fiscal year into the Fund.

IN THE COUNTY OF:	NUMBER:
Arlington	
Calloway Cemetery	29
Lomax Cemetery	66
Mount Salvation Cemetery	29
Buckingham	
Stanton Family Cemetery	36
Henrico	
East End Cemetery	4,875
Loudoun	
African-American Burial Ground for the Enslaved at Belmont	44
Mt. Zion Old School Baptist Church Cemetery	33
Montgomery	
Wake Forest Cemetery	40
Westview Cemetery	47
Pulaski	
New River Cemetery	33
West Dublin Cemetery	44
IN THE CITY OF:	
Alexandria	
Baptist Cemetery of the African American Heritage Park	28
Contrabands and Freedmen Cemetery	631
Douglass Cemetery	83
Lebanon Union Cemetery	53
Methodist Protestant Cemetery	1,134

Penny Hill Cemetery	14
Charlottesville	
Daughters of Zion Cemetery	192
Chesapeake	
Cuffeytown Cemetery	52
Hampton	
Bassette's Cemetery	212
Elmerton Cemetery	339
Good Samaritan Cemetery	37
Pleasant Shade Cemetery	29
Queen Street Cemetery	14
Tucker Family Cemetery	15
Union Street Cemetery	125
Harrisonburg	
Newtown Cemetery	400
Martinsville	
Matthews Cemetery	8
The People's Cemetery	178
Smith Street Cemetery	9
Portsmouth	
Mt. Calvary Cemetery	266
Radford	
Mountain View Cemetery	91
Richmond	
Evergreen Cemetery	2,100
Suffolk	
Oak Lawn Cemetery	468

C. In addition to any sum provided to a qualified organization as set forth in subsection B, the Director may disburse funds to any qualified organization to fund maintenance and care of additional historical African American graves in the Commonwealth that have been certified by the Department and documented in the Department's cultural resources database. Funds disbursed under this subsection shall be disbursed at the rate set forth in subsection B.

D. A qualified organization receiving funds shall expend the funds for the routine maintenance of its historical African American cemetery, associated graves, and graves certified by the Department and documented in the Department's cultural resources database and the erection of and caring for markers, memorials, and monuments to the memory of such African Americans.

E. Each qualified organization, through its proper officer, shall after July 1 of each year submit to the Director a certified statement that the funds appropriated to the organization during the preceding fiscal year were or will be expended for the purposes set forth in subsection D. No organization that fails to comply with any of the requirements of this section shall receive moneys allocated under this section for any subsequent fiscal year until the organization fully complies with the requirements.

F. In addition to funds that may be provided pursuant to subsection B or C, any organization that receives funds pursuant to subsection B or C may apply to the Director for a grant to perform extraordinary maintenance, renovation, repair, or reconstruction of any of its historical African American cemeteries and graves. However, a locality that is eligible for funding pursuant to subsection B or C may apply to the Director for such a grant without having received funding pursuant to subsection B or C. A locality's application for the grant shall not preclude another qualified organization from applying for funding pursuant to subsection B or C for the same cemetery or grave. A grant made pursuant to this subsection shall be made from any appropriation made available by the General Assembly for such purpose or from the Fund.

G. Any locality may receive and hold funds drawn pursuant to subsection B or C on behalf of any qualified organization until such time as the organization is able to receive or utilize such funds. No local matching funds shall be required for any grants made pursuant to this section.

H. The owner of a historical African American cemetery shall reasonably cooperate with a qualified organization that receives funds pursuant to subsection B or C.

CHAPTER 96

An Act to amend and reenact § 10.1-2211.2 of the Code of Virginia, relating to Department of Historic Resources; appropriations for historical African American cemeteries and graves.

[S 1062]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-2211.2 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-2211.2. Disbursement of funds appropriated for caring for historical African American cemeteries and graves.

A. For purposes of this section:

"Fund" means the Historical African American Cemeteries and Graves Fund created pursuant to § 10.1-2211.3.

"Historical African American cemetery" means a cemetery that was established prior to January 1, 1948, for interments of African Americans.

"Qualified organization" means a charitable corporation, charitable association, or charitable trust that has been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and whose primary purpose is the preservation of historical cemeteries and graves, any person or locality that owns a historical African American cemetery, or any locality whose purpose for applying for funding pursuant to this section is to maintain a neglected historical African American cemetery, or a portion thereof, that is located within its jurisdictional bounds.

B. At the direction of the Director, the Comptroller of the Commonwealth shall draw an annual warrant upon the State Treasurer from any sum that may be provided to the Department in the general appropriation act for the purpose of maintaining qualifying cemeteries and graves pursuant to this section. Any representative of a qualified organization desiring to receive funding from such appropriation for the maintenance of qualifying cemeteries and graves pursuant to this section shall submit an application to the Department on or before May 30 each year. Such appropriations shall be allocated on the ~~basis~~ *bases* of *both (i)* the number of graves, monuments, and markers in a cemetery of African Americans who were ~~interred in such cemetery prior to January 1, 1948,~~ *alive prior to January 1, 1900, regardless of the date of interment, and (ii) the number of graves, monuments, and markers in a cemetery of African Americans who were born on or after January 1, 1900, and interred in such cemetery prior to January 1, 1948,* the dates to be determined by reference to grave markers or, at the discretion of the Director, other historical records. Such number of graves, monuments, and markers, as documented by the qualified organization, shall be multiplied by the rate of $5 or the average actual cost of routine maintenance of a grave, monument, or marker, whichever is greater, to determine the amount of the allocation. The Department shall determine the average actual cost of routine maintenance of a grave, monument, or marker in a biennial survey of at least four properly maintained cemeteries, each located in a different geographical region of the Commonwealth. The Director shall deposit any appropriated funds that are not disbursed during the same fiscal year into the Fund.

IN THE COUNTY OF:	NUMBER:
Arlington	
Calloway Cemetery	29
Lomax Cemetery	66
Mount Salvation Cemetery	29
Buckingham	
Stanton Family Cemetery	36
Henrico	
East End Cemetery	4,875
Loudoun	
African-American Burial Ground for the Enslaved at Belmont	44
Mt. Zion Old School Baptist Church Cemetery	33
Montgomery	
Wake Forest Cemetery	40
Westview Cemetery	47
Pulaski	
New River Cemetery	33
West Dublin Cemetery	44
IN THE CITY OF:	

Alexandria	
Baptist Cemetery of the African American Heritage Park	28
Contrabands and Freedmen Cemetery	631
Douglass Cemetery	83
Lebanon Union Cemetery	53
Methodist Protestant Cemetery	1,134
Penny Hill Cemetery	14
Charlottesville	
Daughters of Zion Cemetery	192
Chesapeake	
Cuffeytown Cemetery	52
Hampton	
Bassette's Cemetery	212
Elmerton Cemetery	339
Good Samaritan Cemetery	37
Pleasant Shade Cemetery	29
Queen Street Cemetery	14
Tucker Family Cemetery	15
Union Street Cemetery	125
Harrisonburg	
Newtown Cemetery	400
Martinsville	
Matthews Cemetery	8
The People's Cemetery	178
Smith Street Cemetery	9
Portsmouth	
Mt. Calvary Cemetery	266
Radford	
Mountain View Cemetery	91
Richmond	
Evergreen Cemetery	2,100
Suffolk	
Oak Lawn Cemetery	468

C. In addition to any sum provided to a qualified organization as set forth in subsection B, the Director may disburse funds to any qualified organization to fund maintenance and care of additional historical African American graves in the Commonwealth that have been certified by the Department and documented in the Department's cultural resources database. Funds disbursed under this subsection shall be disbursed at the rate set forth in subsection B.

D. A qualified organization receiving funds shall expend the funds for the routine maintenance of its historical African American cemetery, associated graves, and graves certified by the Department and documented in the Department's cultural resources database and the erection of and caring for markers, memorials, and monuments to the memory of such African Americans.

E. Each qualified organization, through its proper officer, shall after July 1 of each year submit to the Director a certified statement that the funds appropriated to the organization during the preceding fiscal year were or will be expended for the purposes set forth in subsection D. No organization that fails to comply with any of the requirements of this section shall receive moneys allocated under this section for any subsequent fiscal year until the organization fully complies with the requirements.

F. In addition to funds that may be provided pursuant to subsection B or C, any organization that receives funds pursuant to subsection B or C may apply to the Director for a grant to perform extraordinary maintenance, renovation, repair, or reconstruction of any of its historical African American cemeteries and graves. However, a locality that is eligible for funding pursuant to subsection B or C may apply to the Director for such a grant without having received funding

pursuant to subsection B or C. A locality's application for the grant shall not preclude another qualified organization from applying for funding pursuant to subsection B or C for the same cemetery or grave. A grant made pursuant to this subsection shall be made from any appropriation made available by the General Assembly for such purpose or from the Fund.

G. Any locality may receive and hold funds drawn pursuant to subsection B or C on behalf of any qualified organization until such time as the organization is able to receive or utilize such funds. No local matching funds shall be required for any grants made pursuant to this section.

H. The owner of a historical African American cemetery shall reasonably cooperate with a qualified organization that receives funds pursuant to subsection B or C.

CHAPTER 97

An Act to amend and reenact § 62.1-229 of the Code of Virginia, relating to loans for onsite sewage disposal systems.

[H 1941]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-229 of the Code of Virginia is amended and reenacted as follows:

§ 62.1-229. Loans to local governments or other entities.

Except as otherwise provided in this chapter, money in the Fund shall be used solely to make loans to local governments or other entities as permitted by federal law to finance or refinance the cost of any project. The local governments or other entities to which loans are to be made, the purposes of the loan, the amount of each such loan, the interest rate thereon and the repayment terms thereof, which may vary between loan recipients, shall be designated in writing by the Board to the Authority following consultation with the Authority. No loan from the Fund shall exceed the total cost of the project to be financed or the outstanding principal amount of the indebtedness to be refinanced plus reasonable financing expenses. Loans may also be made from the Fund, in the Board's discretion, to a local government *(i) for the purpose of correcting onsite sewage disposal problems (small water facility projects) to protect or improve water quality and prevent the pollution of state waters or (ii)* which has developed a *funding program to provide* low-interest ~~loan program to provide~~ loans or other incentives to facilitate the correction of onsite sewage disposal problems (small water facility projects), provided that the moneys may be used only for the program and that the onsite sewage disposal systems to be repaired or upgraded are owned by *eligible businesses or* individual citizens of the Commonwealth where ~~(i)~~ *(a)* public health or water quality concerns are present and ~~(ii)~~ *(b)* connection to a public sewer system is not feasible because of location or cost. *To be eligible for loan funding, a business shall be located within a locality that is in the Rural Coastal Virginia Community Enhancement Authority, as defined in § 15.2-7600. Eligible businesses include bed-and-breakfast operations, campgrounds, and restaurants, as those terms are defined in § 35.1-1, and businesses that use working waterfronts, as defined in § 15.2-2201.*

Except as set forth above, the Authority shall determine the terms and conditions of any loan from the Fund, which may vary between loan recipients. Each loan shall be evidenced by appropriate bonds or notes of the local government or other entity payable to the Fund. The bonds or notes shall have been duly authorized by the local government or other entity and executed by its authorized legal representatives. The Authority is authorized to require in connection with any loan from the Fund such documents, instruments, certificates, legal opinions and other information as it may deem necessary or convenient. In addition to any other terms or conditions which the Authority may establish, the Authority may require, as a condition to making any loan from the Fund, that the local government or other entity receiving the loan covenant to perform any of the following:

A. Establish and collect rents, rates, fees and charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of operation, maintenance, replacement, renewal and repairs of the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal of and premium, if any, and interest on the loan from the Fund to the local government or other entity; and (iii) any amounts necessary to create and maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by the Authority to offset the need, in whole or part, for future increases in rents, rates, fees or charges;

B. With respect to local governments, levy and collect ad valorem taxes on all property within the jurisdiction of the local government subject to local taxation sufficient to pay the principal of and premium, if any, and interest on the loan from the Fund to the local government;

C. Create and maintain a special fund or funds for the payment of the principal of and premium, if any, and interest on the loan from the Fund to the local government or other entity and any other amounts becoming due under any agreement entered into in connection with the loan, or for the operation, maintenance, repair or replacement of the project or any portions thereof or other property of the local government or other entity, and deposit into any fund or funds amounts sufficient to make any payments on the loan as they become due and payable;

D. Create and maintain other special funds as required by the Authority; and

E. Perform other acts, including the conveyance of, or the granting of liens on or security interests in, real and personal property, together with all rights, title and interest therein, to the Fund, or take other actions as may be deemed necessary or desirable by the Authority to secure payment of the principal of and premium, if any, and interest on the loan from the Fund

and to provide for the remedies of the Fund in the event of any default in the payment of the loan, including, without limitation, any of the following:

1. The procurement of insurance, guarantees, letters of credit and other forms of collateral, security, liquidity arrangements or credit supports for the loan from any source, public or private, and the payment therefor of premiums, fees or other charges;

2. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, facilities, utilities or systems, for the purpose of operations and financing, and the pledging of the revenues from such combined projects, undertakings, facilities, utilities and systems to secure the loan from the Fund made in connection with such combination or any part or parts thereof;

3. The maintenance, replacement, renewal and repair of the project; and

4. The procurement of casualty and liability insurance.

All local governments or other entities borrowing money from the Fund are authorized to perform any acts, take any action, adopt any proceedings and make and carry out any contracts that are contemplated by this chapter. Such contracts need not be identical among all local governments or other entities, but may be structured as determined by the Authority according to the needs of the contracting local governments or other entities and the Fund.

Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the Authority may consent to and approve any modification in the terms of any loan subject to guidelines adopted by the Board.

CHAPTER 98

An Act to amend and reenact §§ 62.1-69.25, 62.1-69.29, and 62.1-69.30 of the Code of Virginia, relating to Rappahannock River Basin Commission; membership.

[S 1262]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-69.25, 62.1-69.29, and 62.1-69.30 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-69.25. Definitions.

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

"Rappahannock River Basin" means that land area designated as the Rappahannock River Basin by the State Water Control Board pursuant to § 62.1-44.38 and which is also found in the ~~Fourth, Seventeenth, Twenty-fourth, Twenty-sixth,~~ *Twenty-fifth,* Twenty-seventh, ~~and~~ Twenty-eighth*, and Thirty-first* Senatorial Districts or the ~~Eighteenth, Twenty-eighth,~~ Thirtieth, ~~Thirty-first, Fifty-fourth, Fifty-eighth, Eighty-eighth, Ninety-eighth, and Ninety-ninth~~ *Sixty-first, Sixty-second, Sixty-third, Sixty-fourth, Sixty-fifth, Sixty-sixth, Sixty-seventh, and Sixty-eighth* House of Delegates Districts, as those districts exist on January 1, ~~2012~~ *2024*.

§ 62.1-69.29. Membership; terms; vacancies.

The membership of the Commission shall consist of ~~32~~ *30* members, which includes ~~15~~ *13* legislative members and 17 nonlegislative citizen members, to be appointed as follows: nine members of the House of Delegates, one member each of the ~~Eighteenth, Twenty-eighth,~~ Thirtieth, ~~Thirty-first, Fifty-fourth, Fifty-eighth, Eighty-eighth, Ninety-eighth, and Ninety-ninth~~ *Sixty-first, Sixty-second, Sixty-third, Sixty-fourth, Sixty-fifth, Sixty-sixth, Sixty-seventh, and Sixty-eighth* House of Delegates Districts, as those districts ~~existed~~ *exist* on January 1, ~~2012~~ *2024*; ~~six~~ *four* members of the Senate, one member each of the ~~Fourth, Seventeenth, Twenty-fourth, Twenty-sixth,~~ *Twenty-fifth,* Twenty-seventh, ~~and~~ Twenty-eighth*, and Thirty-first* Senatorial Districts, as those districts ~~existed~~ *exist* on January 1, ~~2012~~ *2024*; one member or designee of each of the 16 governing bodies of the jurisdictions in which not less than two percent of the jurisdiction is found wholly or partially within the Rappahannock River Basin, that at any time pass a resolution containing the language required by § 62.1-69.26, to be appointed by the respective local governing body; and one member or designee of a Soil and Water Conservation District found wholly or partially within the Rappahannock River Basin, to be appointed jointly by the Soil and Water Conservation Districts found wholly or partially within the Rappahannock River Basin. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth of Virginia.

All members of the Commission shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. Vacancies shall be filled in the same manner as the original appointments.

For the purposes of this section, "nonlegislative citizen member" means a member of one of the local governing bodies or the Soil and Water Conservation Districts of the jurisdictions found wholly or partially within the Rappahannock River Basin.

§ 62.1-69.30. Chairman and vice-chairman; quorum; meetings.

The Commission shall elect *annually* a chairman and vice-chairman from among its membership. ~~Eleven~~ *Nine* members of the Commission shall constitute a quorum. The Commission shall meet no more than four times each year. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members so request. Each member of the Commission shall have an equal vote.

2. That the provisions of this act shall become effective on January 1, 2024.

CHAPTER 99

An Act to amend and reenact § 28.2-1302 of the Code of Virginia, relating to wetlands zoning permit; notarization requirement.

[S 867]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 28.2-1302 of the Code of Virginia is amended and reenacted as follows:

§ 28.2-1302. Adoption of wetlands zoning ordinance; terms of ordinance.

Any county, city or town may adopt the following ordinance, which, after October 1, 1992, shall serve as the only wetlands zoning ordinance under which any wetlands board is authorized to operate. Any county, city, or town which has adopted the ordinance prior to October 1, 1992, shall amend the ordinance to conform it to the ordinance contained herein by October 1, 1992.

Wetlands Zoning Ordinance

§ 1. The governing body of _____, acting pursuant to Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia, adopts this ordinance regulating the use and development of wetlands.

§ 2. As used in this ordinance, unless the context requires a different meaning:

"Back Bay and its tributaries" means the following, as shown on the United States Geological Survey Quadrangle Sheets for Virginia Beach, North Bay, and Knotts Island: Back Bay north of the Virginia-North Carolina state line; Capsies Creek north of the Virginia-North Carolina state line; Deal Creek; Devil Creek; Nawney Creek; Redhead Bay, Sand Bay, Shipps Bay, North Bay, and the waters connecting them; Beggars Bridge Creek; Muddy Creek; Ashville Bridge Creek; Hells Point Creek; Black Gut; and all coves, ponds and natural waterways adjacent to or connecting with the above-named bodies of water.

"Commission" means the Virginia Marine Resources Commission.

"Commissioner" means the Commissioner of Marine Resources.

"Governmental activity" means any of the services provided by this ____. (county, city, or town) to its citizens for the purpose of maintaining this ____ (county, city, or town), including but not limited to such services as constructing, repairing and maintaining roads; providing sewage facilities and street lights; supplying and treating water; and constructing public buildings.

"Nonvegetated wetlands" means unvegetated lands lying contiguous to mean low water and between mean low water and mean high water, including those unvegetated areas of Back Bay and its tributaries and the North Landing River and its tributaries subject to flooding by normal and wind tides but not hurricane or tropical storm tides.

"North Landing River and its tributaries" means the following, as shown on the United States Geological Survey Quadrangle Sheets for Pleasant Ridge, Creeds, and Fentress: the North Landing River from the Virginia-North Carolina line to Virginia Highway 165 at North Landing Bridge; the Chesapeake and Albemarle Canal from Virginia Highway 165 at North Landing Bridge to the locks at Great Bridge; and all named and unnamed streams, creeks and rivers flowing into the North Landing River and the Chesapeake and Albemarle Canal except West Neck Creek north of Indian River Road, Pocaty River west of Blackwater Road, Blackwater River west of its forks located at a point approximately 6400 feet due west of the point where Blackwater Road crosses the Blackwater River at the village of Blackwater, and Millbank Creek west of Blackwater Road.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

"Vegetated wetlands" means lands lying between and contiguous to mean low water and an elevation above mean low water equal to the factor one and one-half times the mean tide range at the site of the proposed project in the county, city, or town in question, and upon which is growing any of the following species: saltmarsh cordgrass (Spartina alterniflora), saltmeadow hay (Spartina patens), saltgrass (Distichlis spicata), black needlerush (Juncus roemerianus), saltwort (Salicornia spp.), sea lavender (Limonium spp.), marsh elder (Iva frutescens), groundsel bush (Baccharis halimifolia), wax myrtle (Myrica sp.), sea oxeye (Borrichia frutescens), arrow arum (Peltandra virginica), pickerelweed (Pontederia cordata), big cordgrass (Spartina cynosuroides), rice cutgrass (Leersia oryzoides), wildrice (Zizania aquatica), bulrush (Scirpus validus), spikerush (Eleocharis sp.), sea rocket (Cakile edentula), southern wildrice (Zizaniopsis miliacea), cattail (Typha spp.), three-square (Scirpus spp.), buttonbush (Cephalanthus occidentalis), bald cypress (Taxodium distichum), black gum (Nyssa sylvatica), tupelo (Nyssa aquatica), dock (Rumex spp.), yellow pond lily (Nuphar sp.), marsh fleabane (Pluchea purpurascens), royal fern (Osmunda regalis), marsh hibiscus (Hibiscus moscheutos), beggar's tick (Bidens sp.), smartweed (Polygonum sp.), arrowhead (Sagittaria spp.), sweet flag (Acorus calamus), water hemp (Amaranthus cannabinus), reed grass (Phragmites communis), or switch grass (Panicum virgatum).

"Vegetated wetlands of Back Bay and its tributaries" or "vegetated wetlands of the North Landing River and its tributaries" means all marshes subject to flooding by normal and wind tides but not hurricane or tropical storm tides, and upon which is growing any of the following species: saltmarsh cordgrass (Spartina alterniflora), saltmeadow hay (Spartina patens), black needlerush (Juncus roemerianus), marsh elder (Iva frutescens), groundsel bush (Baccharis halimifolia), wax myrtle (Myrica sp.), arrow arum (Peltandra virginica), pickerelweed (Pontederia cordata), big cordgrass (Spartina

cynosuroides), rice cutgrass (Leersia oryzoides), wildrice (Zizania aquatica), bulrush (Scirpus validus), spikerush (Eleocharis sp.), cattail (Typha spp.), three-square (Scirpus spp.), dock (Rumex sp.), smartweed (Polygonum sp.), yellow pond lily (Nuphar sp.), royal fern (Osmunda regalis), marsh hibiscus (Hibiscus moscheutos), beggar's tick (Bidens sp.), arrowhead (Sagittaria sp.), water hemp (Amaranthus cannabinus), reed grass (Phragmites communis), or switch grass (Panicum virgatum).

"Wetlands" means both vegetated and nonvegetated wetlands.

"Wetlands board" or "board" means a board created pursuant to § 28.2-1303 of the Code of Virginia.

§ 3. The following uses of and activities in wetlands are authorized if otherwise permitted by law:

1. The construction and maintenance of noncommercial catwalks, piers, boathouses, boat shelters, fences, duckblinds, wildlife management shelters, footbridges, observation decks and shelters and other similar structures, provided that such structures are so constructed on pilings as to permit the reasonably unobstructed flow of the tide and preserve the natural contour of the wetlands;

2. The cultivation and harvesting of shellfish, and worms for bait;

3. Noncommercial outdoor recreational activities, including hiking, boating, trapping, hunting, fishing, shellfishing, horseback riding, swimming, skeet and trap shooting, and shooting on shooting preserves, provided that no structure shall be constructed except as permitted in subdivision 1 of this section;

4. Other outdoor recreational activities, provided they do not impair the natural functions or alter the natural contour of the wetlands;

5. Grazing, haying, and cultivating and harvesting agricultural, forestry or horticultural products;

6. Conservation, repletion and research activities of the Commission, the Virginia Institute of Marine Science, the Department of Wildlife Resources and other conservation-related agencies;

7. The construction or maintenance of aids to navigation which are authorized by governmental authority;

8. Emergency measures decreed by any duly appointed health officer of a governmental subdivision acting to protect the public health;

9. The normal maintenance and repair of, or addition to, presently existing roads, highways, railroad beds, or facilities abutting on or crossing wetlands, provided that no waterway is altered and no additional wetlands are covered;

10. Governmental activity in wetlands owned or leased by the Commonwealth or a political subdivision thereof;

11. The normal maintenance of man-made drainage ditches, provided that no additional wetlands are covered. This subdivision does not authorize the construction of any drainage ditch; and

12. The construction of living shoreline projects authorized pursuant to a general permit developed under subsection B of § 28.2-104.1.

§ 4. A. Any person who desires to use or develop any wetland within this _____ (county, city, or town), other than for the purpose of conducting the activities specified in § 3 of this ordinance, shall first file an application for a permit directly with the wetlands board or with the Commission.

B. The permit application shall include the following: the name and address of the applicant; a detailed description of the proposed activities; a map, drawn to an appropriate and uniform scale, showing the area of wetlands directly affected, the location of the proposed work thereon, the area of existing and proposed fill and excavation, the location, width, depth and length of any proposed channel and disposal area, and the location of all existing and proposed structures, sewage collection and treatment facilities, utility installations, roadways, and other related appurtenances or facilities, including those on adjacent uplands; a statement indicating whether use of a living shoreline as defined in § 28.2-104.1 for a shoreline management practice is not suitable, including reasons for the determination; a description of the type of equipment to be used and the means of equipment access to the activity site; the names and addresses of owners of record of adjacent land and known claimants of water rights in or adjacent to the wetland of whom the applicant has notice; an estimate of cost; the primary purpose of the project; any secondary purposes of the project, including further projects; the public benefit to be derived from the proposed project; a complete description of measures to be taken during and after the alteration to reduce detrimental offsite effects; the completion date of the proposed work, project, or structure; and such additional materials and documentation as the wetlands board may require.

C. A nonrefundable processing fee shall accompany each permit application. The fee shall be set by the applicable governing body with due regard for the services to be rendered, including the time, skill, and administrator's expense involved.

§ 5. All applications, maps, and documents submitted shall be open for public inspection at the office designated by the applicable governing body and specified in the advertisement for public hearing required under § 6 of this ordinance.

§ 6. Not later than 60 days after receipt of a complete application, the wetlands board shall hold a public hearing on the application. The applicant, local governing body, Commissioner, owner of record of any land adjacent to the wetlands in question, known claimants of water rights in or adjacent to the wetlands in question, the Virginia Institute of Marine Science, the Department of Wildlife Resources, the Water Control Board, the Department of Transportation, and any governmental agency expressing an interest in the application shall be notified of the hearing. The board shall mail these notices not less than 20 days prior to the date set for the hearing. The wetlands board shall also cause notice of the hearing to be published at least once a week for two weeks prior to such hearing in a newspaper of general circulation in this _____ (county, city, or town). The published notice shall specify the place or places within this _____ (county, city, or town) where copies of the application may be examined. The costs of publication shall be paid by the applicant.

§ 7. A. Approval of a permit application shall require the affirmative vote of three members of a five-member board or four members of a seven-member board.

B. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. Any person may testify at the public hearing. Each witness at the hearing may submit a concise written statement of his testimony. The board shall make a record of the proceeding, which shall include the application, any written statements of witnesses, a summary of statements of all witnesses, the findings and decision of the board, and the rationale for the decision.

C. The board shall make its determination within 30 days of the hearing. If the board fails to act within that time, the application shall be deemed approved. Within 48 hours of its determination, the board shall notify the applicant and the Commissioner of its determination. If the board fails to make a determination within the 30-day period, it shall promptly notify the applicant and the Commission that the application is deemed approved. For purposes of this section, "act" means taking a vote on the application. If the application receives less than four affirmative votes from a seven-member board or less than three affirmative votes from a five-member board, the permit shall be denied.

D. If the board's decision is reviewed or appealed, the board shall transmit the record of its hearing to the Commissioner. Upon a final determination by the Commission, the record shall be returned to the board. The record shall be open for public inspection at the same office as was designated under § 5 of this ordinance.

§ 8. The board may require a reasonable bond or letter of credit in an amount and with surety and conditions satisfactory to it, securing to the Commonwealth compliance with the conditions and limitations set forth in the permit. The board may, after a hearing held pursuant to this ordinance, suspend or revoke a permit if the applicant has failed to comply with any of the conditions or limitations set forth in the permit or has exceeded the scope of the work described in the application. The board may, after a hearing, suspend a permit if the applicant fails to comply with the terms and conditions set forth in the application.

§ 9. In fulfilling its responsibilities under this ordinance, the board shall preserve and prevent the despoliation and destruction of wetlands within its jurisdiction while accommodating necessary economic development in a manner consistent with wetlands preservation and any standards set by the Commonwealth in addition to those identified in § 28.2-1308 to ensure protection of shorelines and sensitive coastal habitats from sea level rise and coastal hazards, including the provisions of guidelines and minimum standards promulgated by the Commission pursuant to § 28.2-1301 of the Code of Virginia.

§ 10. A. In deciding whether to grant, grant in modified form or deny a permit, the board shall consider the following:

1. The testimony of any person in support of or in opposition to the permit application;

2. The impact of the proposed development on the public health, safety, and welfare; and

3. The proposed development's conformance with standards prescribed in § 28.2-1308 of the Code of Virginia and guidelines promulgated pursuant to § 28.2-1301 of the Code of Virginia.

B. The board shall grant the permit if all of the following criteria are met:

1. The anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment.

2. The proposed development conforms with the standards prescribed in § 28.2-1308 of the Code of Virginia and guidelines promulgated pursuant to § 28.2-1301 of the Code of Virginia.

3. The proposed activity does not violate the purposes and intent of this ordinance or Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia.

C. If the board finds that any of the criteria listed in subsection B of this section are not met, the board shall deny the permit application but allow the applicant to resubmit the application in modified form.

§ 11. The permit shall be in writing~~,~~ *and* signed by the chairman of the board or his authorized representative~~, and notarized~~. A copy of the permit shall be transmitted to the Commissioner.

§ 12. No permit shall be granted without an expiration date established by the board. Upon proper application, the board may extend the permit expiration date.

§ 13. No permit granted by a wetlands board shall in any way affect the applicable zoning and land use ordinances of this _____ (county, city, or town) or the right of any person to seek compensation for any injury in fact incurred by him because of the proposed activity.

CHAPTER 100

An Act to amend and reenact §§ 40.1-49.4 and 54.1-201 of the Code of Virginia, relating to Department of Labor and Industry; Department of Professional and Occupational Regulation; notice of disciplinary action; method of delivery to allow for confirmation of delivery.

[H 2179]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 40.1-49.4 and 54.1-201 of the Code of Virginia are amended and reenacted as follows:

§ 40.1-49.4. Enforcement of this title and standards, rules or regulations for safety and health; orders of Commissioner; proceedings in circuit court; injunctions; penalties.

A. 1. If the Commissioner has reasonable cause to believe that an employer has violated any safety or health provision of Title 40.1 or any standard, rule or regulation adopted pursuant thereto, he shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation or violations, including a reference to the provision of this title or the appropriate standards, rules or regulations adopted pursuant thereto, and shall include an order of abatement fixing a reasonable time for abatement of each violation.

2. The Commissioner may prescribe procedures for calling to the employer's attention de minimis violations which have no direct or immediate relationship to safety and health.

3. No citation may be issued under this section after the expiration of six months following the occurrence of any alleged violation.

4. (a) The Commissioner shall have the authority to propose civil penalties for cited violations in accordance with subsections G, H, I, and J ~~of this section~~. In determining the amount of any proposed penalty he shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations. In addition, the Commissioner shall have authority to assess interest on all past-due penalties and administrative costs incurred in the collection of penalties for such violations consistent with § 2.2-4805.

(b) After, or concurrent with, the issuance of a citation and order of abatement, and within a reasonable time after the termination of an inspection or investigation, the Commissioner shall notify the employer by certified mail*, by commercial delivery service with signed and dated acknowledgment of delivery,* or by personal service of the proposed penalty or that no penalty is being proposed. The proposed penalty shall be deemed to be the final order of the Commissioner and not subject to review by any court or agency unless, within 15 working days from the date of receipt of such notice, the employer notifies the Commissioner in writing that he intends to contest the citation, order of abatement or the proposed penalty or the employee or representative of employees has filed a notice in accordance with subsection B of this section and any such notice of proposed penalty, citation or order of abatement shall so state.

B. Any employee or representative of employees of an employer to whom a citation and order of abatement has been issued may, within 15 working days from the time of the receipt of the citation and order of abatement by the employer, notify the Commissioner, in writing, that they wish to contest the abatement time before the circuit court.

C. If the Commissioner has reasonable cause to believe that an employer has failed to abate a violation for which a citation has been issued within the time period permitted for its abatement, which time shall not begin to run until the entry of a final order in the case of any contest as provided in subsection E of this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, a citation for failure to abate will be issued to the employer in the same manner as prescribed by subsection A ~~of this section~~. In addition, the Commissioner shall notify the employer by certified mail*, by commercial delivery service with signed and dated acknowledgment of delivery,* or by personal service of such failure and of the penalty proposed to be assessed by reason of such failure. If, within 15 working days from the date of receipt of the notice of the proposed penalty, the employer fails to notify the Commissioner that he intends to contest the citation or proposed assessment of penalty, the citation and assessment as proposed shall be deemed a final order of the Commissioner and not subject to review by any court or agency.

D. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the Treasurer of the Commonwealth. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties which are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

Final orders of the Commissioner or the circuit courts may be recorded, enforced and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner or the court as appropriate.

E. Upon receipt of a notice of contest of a citation, proposed penalty, order of abatement or abatement time pursuant to subdivision A 4 (b)~~,~~ *or* subsection B or C ~~of this section~~, the Commissioner shall immediately notify the attorney for the Commonwealth for the jurisdiction wherein the violation is alleged to have occurred and shall file a civil action with the circuit court. Upon issuance and service of process, the circuit court shall promptly set the matter for hearing without a jury. The circuit court shall thereafter issue a written order, based on findings of fact and conclusions of law, affirming, modifying or vacating the Commissioner's citation or proposed penalty, or directing other appropriate relief, and such order shall become final 21 days after its issuance. The circuit court shall provide affected employees or their representatives and employers an opportunity to participate as parties to hearings under this subsection.

F. 1. In addition to the remedies set forth above, the Commissioner may file a civil action with the clerk of the circuit court having equity jurisdiction over the employer or the place of employment involved asking the court to temporarily or permanently enjoin any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this title. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct or remove such imminent danger or to maintain the capacity of a

continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner. No order issued without prior notice to the employer shall be effective for more than five working days. Whenever and as soon as the Commissioner concludes that conditions or practices described in this subsection exist in any place of employment and that judicial relief shall be sought, he shall immediately inform the affected employer and employees of such proposed course of action.

2. Any court described in this section shall also have jurisdiction, upon petition of the Commissioner or his authorized representative, to enjoin any violations of this title or the standards, rules or regulations promulgated thereunder.

3. If the Commissioner arbitrarily or capriciously fails to seek relief under subdivision 1 of this subsection, any employee who may be injured by reason of such failure, or the representative of such employee, may bring an action against the Commissioner in a circuit court of competent jurisdiction for a writ of mandamus to compel the Commissioner to seek such an order and for such further relief as may be appropriate.

G. Any employer who has received a citation for a violation of any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto and such violation is specifically determined not to be of a serious nature may be assessed a civil penalty of up to $12,471, as such amount may be adjusted as provided in subsection P, for each such violation.

H. Any employer who has received a citation for a violation of any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto and such violation is determined to be a serious violation shall be assessed a civil penalty of up to $12,471, as such amount may be adjusted as provided in subsection P, for each such violation.

I. Any employer who fails to abate a violation for which a citation has been issued within the period permitted for its abatement (which period shall not begin to run until the entry of the final order of the circuit court) may be assessed a civil penalty of not more than $12,471, as such amount may be adjusted as provided in subsection P, for each day during which such violation continues.

J. Any employer who willfully or repeatedly violates any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto may be assessed a civil penalty of not more than $124,709, as such amount may be adjusted as provided in subsection P, for each such violation.

K. Any employer who willfully violates any safety or health provisions of this title or standards, rules or regulations adopted pursuant thereto, and that violation causes death to any employee, shall, upon conviction, be punished by a fine of not more than $70,000 or by imprisonment for not more than six months, or by both such fine and imprisonment. If the conviction is for a violation committed after a first conviction of such person, punishment shall be a fine of not more than $140,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

L. In any proceeding before a judge of a circuit court parties may obtain discovery by the methods provided for in the Rules of Supreme Court of Virginia.

M. No fees or costs shall be charged the Commonwealth by a court or any officer for or in connection with the filing of the complaint, pleadings, or other papers in any action authorized by this section or § 40.1-49.5.

N. Every official act of the circuit court shall be entered of record and all hearings and records shall be open to the public, except any information subject to protection under the provisions of § 40.1-51.4:1.

O. The provisions of Chapter 30 (§ 59.1-406 et seq.) of Title 59.1 shall be considered safety and health standards of the Commonwealth and enforced as to employers pursuant to this section by the Commissioner of Labor and Industry.

P. Beginning in 2018, the Commissioner annually shall adjust the maximum civil penalties stated in subsections G through J each year by the percentage increase, if any, in the United States Average Consumer Price Index for all Urban Consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, from its monthly average for the previous calendar year. The amount of each adjustment to the maximum civil penalties shall be rounded to the nearest whole dollar. The adjustments to the maximum civil penalties shall be effective on each August 1. If the CPI-U is discontinued or revised, such other historical index or computation approved by the Commissioner shall be used for purposes of this section that would obtain substantially the same result as would have been obtained if the CPI-U had not been discontinued or revised.

§ 54.1-201. Powers and duties of regulatory boards.

A. The powers and duties of regulatory boards shall be as follows:

1. To establish the qualifications of applicants for certification or licensure by any such board, provided that all qualifications shall be necessary to ensure either competence or integrity to engage in such profession or occupation.

2. To examine, or cause to be examined, the qualifications of each applicant for certification or licensure within its particular regulatory system, including when necessary the preparation, administration and grading of examinations.

3. To certify or license qualified applicants as practitioners of the particular profession or occupation regulated by such board.

4. To levy and collect fees for certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department of Professional and Occupational Regulation and the Board for Professional and Occupational Regulation.

5. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the

regulatory system administered by the regulatory board. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ 54.1-100 et seq.) and 3 (§ 54.1-300 et seq.) of this title.

6. To ensure that inspections are conducted relating to the practice of each practitioner certified or licensed by the regulatory board to ensure that the practitioner is conducting his practice in a competent manner and within the lawful regulations promulgated by the board.

7. To place a regulant on probation or revoke, suspend or fail to renew a certificate or license for just causes as enumerated in regulations of the board. Conditions of probation may include, but not be limited to the successful completion of remedial education or examination.

8. To receive complaints concerning the conduct of any regulant and to take appropriate disciplinary action if warranted.

9. To provide a regulant subject to a disciplinary action with a notice advising the regulant of his right to be heard at an informal fact-finding conference pursuant to § 2.2-4019 of the Administrative Process Act. The notice shall state that if the regulant does not request an informal fact-finding conference within 30 days of receipt of the notice, the board may issue a case decision as defined in § 2.2-4001, with judicial review of the case decision in accordance with § 2.2-4026. If the regulant asserts his right to be heard prior to the board issuing its case decision, the board shall remand the case to an informal fact-finding conference. The notice required by this subdivision shall be sent ~~by certified mail, return receipt requested~~ *in a manner that allows for confirmation of delivery* or, if agreed to by the parties, *through* electronic means, provided that the board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery.

10. To promulgate canons of ethics under which the professional activities of regulants shall be conducted.

B. A regulant shall furnish, upon the request of a person to whom the regulant is providing or offering to provide service, satisfactory proof that the regulant (i) is duly licensed, certified, or registered under this subtitle and (ii) has obtained any required bond or insurance to engage in his profession or occupation.

C. As used in this section, "regulant" means any person, firm, corporation, association, partnership, joint venture, or any other legal entity required by this subtitle to be licensed, certified, or registered.

CHAPTER 101

An Act to amend and reenact §§ 40.1-49.4 and 54.1-201 of the Code of Virginia, relating to Department of Labor and Industry; Department of Professional and Occupational Regulation; notice of disciplinary action; method of delivery to allow for confirmation of delivery.

[S 1126]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 40.1-49.4 and 54.1-201 of the Code of Virginia are amended and reenacted as follows:

§ 40.1-49.4. Enforcement of this title and standards, rules or regulations for safety and health; orders of Commissioner; proceedings in circuit court; injunctions; penalties.

A. 1. If the Commissioner has reasonable cause to believe that an employer has violated any safety or health provision of Title 40.1 or any standard, rule or regulation adopted pursuant thereto, he shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation or violations, including a reference to the provision of this title or the appropriate standards, rules or regulations adopted pursuant thereto, and shall include an order of abatement fixing a reasonable time for abatement of each violation.

2. The Commissioner may prescribe procedures for calling to the employer's attention de minimis violations which have no direct or immediate relationship to safety and health.

3. No citation may be issued under this section after the expiration of six months following the occurrence of any alleged violation.

4. (a) The Commissioner shall have the authority to propose civil penalties for cited violations in accordance with subsections G, H, I, and J ~~of this section~~. In determining the amount of any proposed penalty he shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations. In addition, the Commissioner shall have authority to assess interest on all past-due penalties and administrative costs incurred in the collection of penalties for such violations consistent with § 2.2-4805.

(b) After, or concurrent with, the issuance of a citation and order of abatement, and within a reasonable time after the termination of an inspection or investigation, the Commissioner shall notify the employer by certified mail*, by commercial delivery service with signed and dated acknowledgment of delivery,* or by personal service of the proposed penalty or that no penalty is being proposed. The proposed penalty shall be deemed to be the final order of the Commissioner and not subject to review by any court or agency unless, within 15 working days from the date of receipt of such notice, the employer notifies the Commissioner in writing that he intends to contest the citation, order of abatement or the proposed penalty or

the employee or representative of employees has filed a notice in accordance with subsection B of this section and any such notice of proposed penalty, citation or order of abatement shall so state.

B. Any employee or representative of employees of an employer to whom a citation and order of abatement has been issued may, within 15 working days from the time of the receipt of the citation and order of abatement by the employer, notify the Commissioner, in writing, that they wish to contest the abatement time before the circuit court.

C. If the Commissioner has reasonable cause to believe that an employer has failed to abate a violation for which a citation has been issued within the time period permitted for its abatement, which time shall not begin to run until the entry of a final order in the case of any contest as provided in subsection E of this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, a citation for failure to abate will be issued to the employer in the same manner as prescribed by subsection A ~~of this section~~. In addition, the Commissioner shall notify the employer by certified mail*, by commercial delivery service with signed and dated acknowledgment of delivery,* or by personal service of such failure and of the penalty proposed to be assessed by reason of such failure. If, within 15 working days from the date of receipt of the notice of the proposed penalty, the employer fails to notify the Commissioner that he intends to contest the citation or proposed assessment of penalty, the citation and assessment as proposed shall be deemed a final order of the Commissioner and not subject to review by any court or agency.

D. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the Treasurer of the Commonwealth. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties which are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

Final orders of the Commissioner or the circuit courts may be recorded, enforced and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner or the court as appropriate.

E. Upon receipt of a notice of contest of a citation, proposed penalty, order of abatement or abatement time pursuant to subdivision A 4 (b)~~,~~ *or* subsection B or C ~~of this section~~, the Commissioner shall immediately notify the attorney for the Commonwealth for the jurisdiction wherein the violation is alleged to have occurred and shall file a civil action with the circuit court. Upon issuance and service of process, the circuit court shall promptly set the matter for hearing without a jury. The circuit court shall thereafter issue a written order, based on findings of fact and conclusions of law, affirming, modifying or vacating the Commissioner's citation or proposed penalty, or directing other appropriate relief, and such order shall become final 21 days after its issuance. The circuit court shall provide affected employees or their representatives and employers an opportunity to participate as parties to hearings under this subsection.

F. 1. In addition to the remedies set forth above, the Commissioner may file a civil action with the clerk of the circuit court having equity jurisdiction over the employer or the place of employment involved asking the court to temporarily or permanently enjoin any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this title. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner. No order issued without prior notice to the employer shall be effective for more than five working days. Whenever and as soon as the Commissioner concludes that conditions or practices described in this subsection exist in any place of employment and that judicial relief shall be sought, he shall immediately inform the affected employer and employees of such proposed course of action.

2. Any court described in this section shall also have jurisdiction, upon petition of the Commissioner or his authorized representative, to enjoin any violations of this title or the standards, rules or regulations promulgated thereunder.

3. If the Commissioner arbitrarily or capriciously fails to seek relief under subdivision 1 of this subsection, any employee who may be injured by reason of such failure, or the representative of such employee, may bring an action against the Commissioner in a circuit court of competent jurisdiction for a writ of mandamus to compel the Commissioner to seek such an order and for such further relief as may be appropriate.

G. Any employer who has received a citation for a violation of any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto and such violation is specifically determined not to be of a serious nature may be assessed a civil penalty of up to $12,471, as such amount may be adjusted as provided in subsection P, for each such violation.

H. Any employer who has received a citation for a violation of any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto and such violation is determined to be a serious violation shall be assessed a civil penalty of up to $12,471, as such amount may be adjusted as provided in subsection P, for each such violation.

I. Any employer who fails to abate a violation for which a citation has been issued within the period permitted for its abatement (which period shall not begin to run until the entry of the final order of the circuit court) may be assessed a civil penalty of not more than $12,471, as such amount may be adjusted as provided in subsection P, for each day during which such violation continues.

J. Any employer who willfully or repeatedly violates any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto may be assessed a civil penalty of not more than $124,709, as such amount may be adjusted as provided in subsection P, for each such violation.

K. Any employer who willfully violates any safety or health provisions of this title or standards, rules or regulations adopted pursuant thereto, and that violation causes death to any employee, shall, upon conviction, be punished by a fine of not more than $70,000 or by imprisonment for not more than six months, or by both such fine and imprisonment. If the conviction is for a violation committed after a first conviction of such person, punishment shall be a fine of not more than $140,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

L. In any proceeding before a judge of a circuit court parties may obtain discovery by the methods provided for in the Rules of Supreme Court of Virginia.

M. No fees or costs shall be charged the Commonwealth by a court or any officer for or in connection with the filing of the complaint, pleadings, or other papers in any action authorized by this section or § 40.1-49.5.

N. Every official act of the circuit court shall be entered of record and all hearings and records shall be open to the public, except any information subject to protection under the provisions of § 40.1-51.4:1.

O. The provisions of Chapter 30 (§ 59.1-406 et seq.) of Title 59.1 shall be considered safety and health standards of the Commonwealth and enforced as to employers pursuant to this section by the Commissioner of Labor and Industry.

P. Beginning in 2018, the Commissioner annually shall adjust the maximum civil penalties stated in subsections G through J each year by the percentage increase, if any, in the United States Average Consumer Price Index for all Urban Consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, from its monthly average for the previous calendar year. The amount of each adjustment to the maximum civil penalties shall be rounded to the nearest whole dollar. The adjustments to the maximum civil penalties shall be effective on each August 1. If the CPI-U is discontinued or revised, such other historical index or computation approved by the Commissioner shall be used for purposes of this section that would obtain substantially the same result as would have been obtained if the CPI-U had not been discontinued or revised.

§ 54.1-201. Powers and duties of regulatory boards.

A. The powers and duties of regulatory boards shall be as follows:

1. To establish the qualifications of applicants for certification or licensure by any such board, provided that all qualifications shall be necessary to ensure either competence or integrity to engage in such profession or occupation.

2. To examine, or cause to be examined, the qualifications of each applicant for certification or licensure within its particular regulatory system, including when necessary the preparation, administration and grading of examinations.

3. To certify or license qualified applicants as practitioners of the particular profession or occupation regulated by such board.

4. To levy and collect fees for certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department of Professional and Occupational Regulation and the Board for Professional and Occupational Regulation.

5. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ 54.1-100 et seq.) and 3 (§ 54.1-300 et seq.) of this title.

6. To ensure that inspections are conducted relating to the practice of each practitioner certified or licensed by the regulatory board to ensure that the practitioner is conducting his practice in a competent manner and within the lawful regulations promulgated by the board.

7. To place a regulant on probation or revoke, suspend or fail to renew a certificate or license for just causes as enumerated in regulations of the board. Conditions of probation may include, but not be limited to the successful completion of remedial education or examination.

8. To receive complaints concerning the conduct of any regulant and to take appropriate disciplinary action if warranted.

9. To provide a regulant subject to a disciplinary action with a notice advising the regulant of his right to be heard at an informal fact-finding conference pursuant to § 2.2-4019 of the Administrative Process Act. The notice shall state that if the regulant does not request an informal fact-finding conference within 30 days of receipt of the notice, the board may issue a case decision as defined in § 2.2-4001, with judicial review of the case decision in accordance with § 2.2-4026. If the regulant asserts his right to be heard prior to the board issuing its case decision, the board shall remand the case to an informal fact-finding conference. The notice required by this subdivision shall be sent ~~by certified mail, return receipt requested~~ *in a manner that allows for confirmation of delivery* or, if agreed to by the parties, *through* electronic means, provided that the board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery.

10. To promulgate canons of ethics under which the professional activities of regulants shall be conducted.

B. A regulant shall furnish, upon the request of a person to whom the regulant is providing or offering to provide service, satisfactory proof that the regulant (i) is duly licensed, certified, or registered under this subtitle and (ii) has obtained any required bond or insurance to engage in his profession or occupation.

C. As used in this section, "regulant" means any person, firm, corporation, association, partnership, joint venture, or any other legal entity required by this subtitle to be licensed, certified, or registered.

CHAPTER 102

An Act to amend and reenact § 60.2-111 of the Code of Virginia, relating to the Virginia Employment Commission; authorized representative or member of Commission; powers.

[H 2010]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 60.2-111 of the Code of Virginia is amended and reenacted as follows:

§ 60.2-111. Duties and powers of Commission; reporting requirements.

A. It shall be the duty of the Commission to administer this title. It shall have power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action, including the appointment of advisory groups, as it deems necessary or suitable to that end. Such rules and regulations shall be subject to the provisions of Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2, except as to the subject matter of subdivisions 2 and 3 of § 60.2-515, which shall become effective in the manner prescribed by § 2.2-4103. The Commission shall determine its own organization and methods of procedure in accordance with provisions of this title, and shall have an official seal which shall be judicially noticed. *In the discharge of the duties imposed by this title, the Commissioner shall have the authority to authorize any attorney employed by the Commission to have the power to issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with the investigation or adjudication of any disputed claim or the administration of this title. Any party who disputes such subpoena may file a motion to quash any subpoena issued pursuant to this section prior to the date production is required in a miscellaneous action in a circuit court for which such motion shall be given priority on the docket.*

B. The Commission shall prepare an annual balance sheet of the moneys in the fund and in the Unemployment Trust Fund to the credit of the Commonwealth in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then-current taxes. That reserve shall be set up by the Commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the Commission believes that a change in tax or benefit rates is necessary to protect the solvency of the Fund, it shall promptly so inform the Governor and the General Assembly and make recommendations with respect thereto.

C. In preparing the annual balance sheet required by subsection B, the Commission shall regularly track metrics related to unemployment insurance benefits, establish a mechanism to help assess the adequacy of benefits, and examine metrics related to recipiency, average benefit levels, and benefit income replacement ratios. The annual balance sheet shall include the following calculations: (i) the average unemployment insurance benefit levels, (ii) the average income replacement of unemployment insurance benefits, and (iii) the recipiency rate for unemployment insurance benefits in the Commonwealth.

D. The Commission, as part of its biennial strategic plan submitted to the Department of Planning and Budget, shall develop and maintain a comprehensive unemployment insurance Resiliency Plan that describes specific actions the Commission will take, depending on the level of increase in unemployment insurance (UI) claims, to address staffing, communications, and other relevant aspects of operations to ensure continued efficient and effective administration of the UI program. The Resiliency Plan shall include proposed actions consistent with the following objectives to effectively prepare for periods of high unemployment:

1. Develop specific strategies or steps the Commission will take to modify staffing levels in response to incidents that increase UI program demand. These strategies or steps shall (i) include a staffing plan for varying levels of UI workload volume, (ii) cover several scenarios that may affect UI assistance services, (iii) explain how existing staff would be reallocated to high-priority functions in response to high demand, and (iv) describe how the Commission's hiring process will be streamlined to fill key vacant positions such as adjudication and appeals staff.

2. Develop specific strategies or steps the Commission will take to modify policies, procedures, or processes in response to high demands on its services.

3. Outline a strategy for clearly communicating key UI program changes to customers. This strategy shall indicate which staff will be responsible for different types of communications and include several communications goals, such as clearly conveying UI program and policy changes.

4. Outline a strategy for clearly communicating important UI information to Commission staff, the public, and the General Assembly.

5. Formalize a policy for prioritizing and assigning claims for adjudication during periods of high claims volume. This policy shall detail how prioritization may change in response to claims volume and state that the policy of the Commission is to generally prioritize resolving older claims before newer claims.

6. Identify other tactical actions to be taken to ensure the continuity of UI claims processing and customer service.

CHAPTER 103

An Act to amend and reenact § 60.2-111 of the Code of Virginia, relating to the Virginia Employment Commission; authorized representative or member of Commission; powers.

[S 1120]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 60.2-111 of the Code of Virginia is amended and reenacted as follows:

§ 60.2-111. Duties and powers of Commission; reporting requirements.

A. It shall be the duty of the Commission to administer this title. It shall have power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action, including the appointment of advisory groups, as it deems necessary or suitable to that end. Such rules and regulations shall be subject to the provisions of Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2, except as to the subject matter of subdivisions 2 and 3 of § 60.2-515, which shall become effective in the manner prescribed by § 2.2-4103. The Commission shall determine its own organization and methods of procedure in accordance with provisions of this title, and shall have an official seal which shall be judicially noticed. *In the discharge of the duties imposed by this title, the Commissioner shall have the authority to authorize any attorney employed by the Commission to have the power to issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with the investigation or adjudication of any disputed claim or the administration of this title. Any party who disputes such subpoena may file a motion to quash any subpoena issued pursuant to this section prior to the date production is required in a miscellaneous action in a circuit court for which such motion shall be given priority on the docket.*

B. The Commission shall prepare an annual balance sheet of the moneys in the fund and in the Unemployment Trust Fund to the credit of the Commonwealth in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then-current taxes. That reserve shall be set up by the Commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the Commission believes that a change in tax or benefit rates is necessary to protect the solvency of the Fund, it shall promptly so inform the Governor and the General Assembly and make recommendations with respect thereto.

C. In preparing the annual balance sheet required by subsection B, the Commission shall regularly track metrics related to unemployment insurance benefits, establish a mechanism to help assess the adequacy of benefits, and examine metrics related to recipiency, average benefit levels, and benefit income replacement ratios. The annual balance sheet shall include the following calculations: (i) the average unemployment insurance benefit levels, (ii) the average income replacement of unemployment insurance benefits, and (iii) the recipiency rate for unemployment insurance benefits in the Commonwealth.

D. The Commission, as part of its biennial strategic plan submitted to the Department of Planning and Budget, shall develop and maintain a comprehensive unemployment insurance Resiliency Plan that describes specific actions the Commission will take, depending on the level of increase in unemployment insurance (UI) claims, to address staffing, communications, and other relevant aspects of operations to ensure continued efficient and effective administration of the UI program. The Resiliency Plan shall include proposed actions consistent with the following objectives to effectively prepare for periods of high unemployment:

1. Develop specific strategies or steps the Commission will take to modify staffing levels in response to incidents that increase UI program demand. These strategies or steps shall (i) include a staffing plan for varying levels of UI workload volume, (ii) cover several scenarios that may affect UI assistance services, (iii) explain how existing staff would be reallocated to high-priority functions in response to high demand, and (iv) describe how the Commission's hiring process will be streamlined to fill key vacant positions such as adjudication and appeals staff.

2. Develop specific strategies or steps the Commission will take to modify policies, procedures, or processes in response to high demands on its services.

3. Outline a strategy for clearly communicating key UI program changes to customers. This strategy shall indicate which staff will be responsible for different types of communications and include several communications goals, such as clearly conveying UI program and policy changes.

4. Outline a strategy for clearly communicating important UI information to Commission staff, the public, and the General Assembly.

5. Formalize a policy for prioritizing and assigning claims for adjudication during periods of high claims volume. This policy shall detail how prioritization may change in response to claims volume and state that the policy of the Commission is to generally prioritize resolving older claims before newer claims.

6. Identify other tactical actions to be taken to ensure the continuity of UI claims processing and customer service.

CHAPTER 104

An Act to amend and reenact § 65.2-402 of the Code of Virginia, relating to workers' compensation; presumption for arson and hazardous materials investigators.

[H 1410]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-402 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.

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

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of any of the following persons who have completed five years of service in their position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, (xiv) campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education, and (xv) salaried or volunteer emergency medical services personnel, as defined in § 32.1-111.1, when such emergency medical services personnel is operating in a locality that has legally adopted a resolution declaring that it will provide one or more of the presumptions under this subsection, shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, or testicular cancer causing the death of, or any health condition or impairment resulting in total or partial disability of, ~~any volunteer or salaried firefighter,~~ *any of the following persons who have completed five years of service in their position as (i) salaried or volunteer firefighters; (ii)* Department of Emergency Management hazardous materials ~~officer,~~ *officers; (iii)* commercial vehicle enforcement ~~officer~~ *officers* or motor carrier safety ~~trooper~~ *troopers* employed by the Department of State Police~~, or~~*; (iv) arson investigators or bomb investigators employed by the Department of State Police; (v)* full-time sworn ~~member~~ *members* of the enforcement division of the Department of Motor Vehicles ~~having completed five years of service~~*; or (vi) members of the State Police Officers' Retirement System who collect, analyze, or handle hazardous materials, as defined in § 44-146.34, infectious biological substances and radiological agents, as defined in § 18.2-52.1, fentanyl or fentanyl analogs, or methamphetamine, its salts, isomers, or salts of its isomers* shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For colon, brain, or testicular cancer, the presumption shall not apply for any individual who was diagnosed with such a condition before July 1, 2020.

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

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

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

directed by the Commission. A qualified physician, selected and compensated by the person entitled to make the claim, may, at the election of such claimant, be present at such postmortem examination.

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

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

CHAPTER 105

An Act to amend and reenact § 65.2-402 of the Code of Virginia, relating to workers' compensation; presumption for arson and hazardous materials investigators.

[S 1038]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-402 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.

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

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of any of the following persons who have completed five years of service in their position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, (xiv) campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education, and (xv) salaried or volunteer emergency medical services personnel, as defined in § 32.1-111.1, when such emergency medical services personnel is operating in a locality that has legally adopted a resolution declaring that it will provide one or more of the presumptions under this subsection, shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, or testicular cancer causing the death of, or any health condition or impairment resulting in total or partial disability of, ~~any volunteer or salaried firefighter,~~ *any of the following persons who have completed five years of service in their position as (i) salaried or volunteer firefighters; (ii)* Department of Emergency Management hazardous materials ~~officer,~~ *officers; (iii)* commercial vehicle enforcement ~~officer~~ *officers* or motor carrier safety ~~trooper~~ *troopers* employed by the Department of State Police~~, or~~*; (iv) arson investigators or bomb investigators employed by the Department of State Police; (v)* full-time sworn ~~member~~ *members* of the enforcement division of the Department of Motor Vehicles ~~having completed five years of service~~*; or (vi) members of the State Police Officers' Retirement System who collect, analyze, or handle hazardous materials, as defined in § 44-146.34, infectious biological substances and radiological agents, as defined in § 18.2-52.1, fentanyl or fentanyl analogs, or methamphetamine, its salts, isomers, or salts of its isomers* shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For colon, brain, or testicular cancer, the presumption shall not apply for any individual who was diagnosed with such a condition before July 1, 2020.

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

E. Persons making claims under this title who rely on such presumptions shall, upon the request of private employers, appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by

physicians selected by such employers, authorities, bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

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

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

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

CHAPTER 106

An Act to amend the Code of Virginia by adding a section numbered 54.1-2013.2, relating to Department of Professional and Occupational Regulation; Real Estate Appraiser Board; appraisal experience.

[H 1418]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 54.1-2013.2 as follows:

§ 54.1-2013.2. Practical Applications of Real Estate Appraisal Program experience accepted.

A. For purposes of this section:

"Appraisal Foundation" means the foundation incorporated as an Illinois Not for Profit Corporation on November 30, 1987, to establish and improve uniform appraisal standards by defining, issuing, and promoting such standards.

"Appraiser Qualifications Board" means the board created by the Appraisal Foundation to (i) establish appropriate criteria for the certification and recertification of qualified appraisers by defining, issuing, and promoting such qualification criteria; (ii) disseminate such qualification criteria to states, governmental entities, and others; and (iii) develop or assist in the development of appropriate examinations for qualified appraisers.

"Certified Residential PAREA Program" or "Licensed Residential PAREA Program" means a Practical Applications of Real Estate Appraisal experience training program approved by the Appraiser Qualifications Board that utilizes simulated experience training and serves as an alternative to the traditional supervisor and trainee method of achieving appraisal experience.

B. The Board shall accept evidence of the successful completion of a Licensed Residential PAREA Program or a Certified Residential PAREA Program to satisfy the experience requirements established in Board regulations promulgated pursuant to § 54.1-2013 as a condition of licensure as a licensed residential real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser.

C. Applicants completing a Licensed Residential PAREA Program shall receive credit for:

1. One-hundred percent of the experience required by Board regulations as a condition of licensure as a licensed residential real estate appraiser;

2. Sixty-seven percent of the experience required by Board regulations as a condition of licensure as a certified residential real estate appraiser; or

3. Thirty-three percent of the experience required by Board regulations as a condition of licensure as a certified general real estate appraiser.

D. Applicants completing a Certified Residential PAREA Program shall receive credit for:

1. One-hundred percent of the experience required by Board regulations as a condition of licensure as a licensed residential real estate appraiser or certified residential real estate appraiser; or

2. Fifty percent of the experience required by Board regulations as a condition of licensure as a certified general real estate appraiser.

CHAPTER 107

An Act to amend and reenact §§ 19.2-12 and 19.2-56 of the Code of Virginia, relating to conservators of the peace; search warrants; military criminal investigative organizations.

[H 1425]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-12 and 19.2-56 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-12. Who are conservators of the peace.

Every judge and attorney for the Commonwealth throughout the Commonwealth and every magistrate within the geographical area for which he is appointed or elected~~,~~ shall be a conservator of the peace. In addition, every commissioner in chancery, while sitting as such commissioner; any special agent or law-enforcement officer of the ~~United States~~ *U.S.* Department of Justice, National Marine Fisheries Service of the ~~United States~~ *U.S.* Department of Commerce, *U.S.* Department of *the* Treasury, *U.S.* Department of Agriculture, *U.S.* Department of Defense, *U.S.* Department of State, Office of the Inspector General of the *U.S.* Department of Transportation, *U.S.* Department of Homeland Security, and *U.S.* Department of *the* Interior; any inspector, law-enforcement official*,* or police personnel of the United States Postal Service; any United States marshal or deputy United States marshal whose duties involve the enforcement of the criminal laws of the United States; any officer of the Virginia Marine Police; any criminal investigator of the Department of Professional and Occupational Regulation~~,~~ who meets the minimum law-enforcement training requirements established by the Department of Criminal Justice Services for in-service training; any criminal investigator of the ~~United States~~ *U.S.* Department of Labor; any special agent of the United States Naval Criminal Investigative Service, *United States Army Criminal Investigation Division, or United States Air Force Office of Special Investigations;* any special agent of the National Aeronautics and Space Administration~~, and~~*;* any sworn municipal park ranger~~,~~ who has completed all requirements under § 15.2-1706; *and* any investigator employed by an attorney for the Commonwealth~~,~~ who within 10 years immediately prior to being employed by the attorney for the Commonwealth was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth and retired or resigned from his position as a law-enforcement officer in good standing~~,~~ shall be a conservator of the peace~~,~~ while engaged in the performance of ~~their~~ *his* official duties.

§ 19.2-56. To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.

A. The judge, magistrate, or other official authorized to issue criminal warrants shall issue a search warrant only if he finds from the facts or circumstances recited in the affidavit that there is probable cause for the issuance thereof.

Every search warrant shall be directed (i) to the sheriff, sergeant, or any policeman of the county, city, or town in which the place to be searched is located; (ii) to any law-enforcement officer or agent employed by the Commonwealth and vested with the powers of sheriffs and police; or (iii) jointly to any such sheriff, sergeant, policeman, or law-enforcement officer or agent and an agent, special agent, or officer of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco ~~and~~*,* Firearms *and Explosives* of the ~~United States Treasury~~ *U.S. Department of Justice*, the United States Naval Criminal Investigative Service, *the United States Army Criminal Investigation Division, the United States Air Force Office of Special Investigations, or* the ~~United States~~ *U.S.* Department of Homeland Security~~,~~ *or* any inspector, law-enforcement official, or police personnel of the United States Postal Service~~,~~ or the *U.S.* Drug Enforcement Administration. The warrant shall (a) name the affiant, (b) recite the offense or the identity of the person to be arrested for whom a warrant or process for arrest has been issued in relation to which the search is to be made, (c) name or describe the place to be searched, (d) describe the property or person to be searched for, and (e) recite that the magistrate has found probable cause to believe that the property or person constitutes evidence of a crime (identified in the warrant) or tends to show that a person (named or described therein) has committed or is committing a crime or that the person to be arrested for whom a warrant or process for arrest has been issued is located at the place to be searched.

The warrant shall command that the place be forthwith searched and that the objects or persons described in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of the offense or over the person to be arrested for whom a warrant or process for arrest has been issued in relation to which the warrant was issued as provided in § 19.2-57.

Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff, sergeant, policeman, or law-enforcement officer or agent of the Commonwealth and a federal agent or officer as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-enforcement officer, or agent into whose hands it is delivered. No other person may be permitted to be present during or participate in the execution of a warrant to search a place except (1) the owners and occupants of the place to be searched when permitted to be present by the officer in charge of the conduct of the search and (2) persons designated by the officer in charge of the conduct of the search to assist or provide expertise in the conduct of the search.

Any search warrant for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service, whether a domestic corporation or foreign corporation, that is transacting or has transacted any business in the Commonwealth, to be executed upon such service provider may be executed within or outside the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the service provider. Notwithstanding the provisions of § 19.2-57, the officer executing a warrant pursuant to this paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the service provider. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was (A) executed, if executed within the Commonwealth, and a copy of the return shall also be delivered to the clerk of the circuit court of the county or city where the warrant was issued or (B) issued, if executed outside the Commonwealth. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period.

Electronic communication service or remote computing service providers, whether a foreign or domestic corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued under this section and § 19.2-70.3 using the same process described in the preceding paragraph.

Notwithstanding the provisions of § 19.2-57, any search warrant for records or other information pertaining to a customer of a financial institution as defined in § 6.2-604, money transmitter as defined in § 6.2-1900, commercial business providing credit history or credit reports, or issuer as defined in § 6.2-424 may be executed within the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The officer executing such warrant shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was executed. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period. For the purposes of this section, the warrant will be considered executed in the jurisdiction where the entity on which the warrant is served is located.

Every search warrant shall contain the date and time it was issued. However, the failure of any such search warrant to contain the date and time it was issued shall not render the warrant void, provided that the date and time of issuing of said warrant is established by competent evidence.

The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of the affidavit required by § 19.2-54, which shall become a part of the search warrant and served therewith. However, this provision shall not be applicable in any case in which the affidavit is made by means of a voice or videotape recording or where the affidavit has been sealed pursuant to § 19.2-54.

Any search warrant not executed within 15 days after issuance thereof shall be returned to, and voided by, the officer who issued such search warrant.

B. No law-enforcement officer shall seek, execute, or participate in the execution of a no-knock search warrant. A search warrant for any place of abode authorized under this section shall require that a law-enforcement officer be recognizable and identifiable as a uniformed law-enforcement officer and provide audible notice of his authority and purpose reasonably designed to be heard by the occupants of such place to be searched prior to the execution of such search warrant.

After entering and securing the place to be searched and prior to undertaking any search or seizure pursuant to the search warrant, the executing law-enforcement officer shall give a copy of the search warrant and affidavit to the person to be searched or the owner of the place to be searched or, if the owner is not present, to at least one adult occupant of the place to be searched. If the place to be searched is unoccupied by an adult, the executing law-enforcement officer shall leave a copy of the search warrant and affidavit in a conspicuous place within or affixed to the place to be searched.

Search warrants authorized under this section for the search of any place of abode shall be executed by initial entry of the abode only in the daytime hours between 8:00 a.m. and 5:00 p.m. unless (i) a judge or a magistrate, if a judge is not available, authorizes the execution of such search warrant at another time for good cause shown by particularized facts in an affidavit or (ii) prior to the issuance of the search warrant, law-enforcement officers lawfully entered and secured the place to be searched and remained at such place continuously.

A law-enforcement officer shall make reasonable efforts to locate a judge before seeking authorization to execute the warrant at another time, unless circumstances require the issuance of the warrant after 5:00 p.m., pursuant to the provisions of this subsection, in which case the law-enforcement officer may seek such authorization from a magistrate without first making reasonable efforts to locate a judge. Such reasonable efforts shall be documented in an affidavit and submitted to a magistrate when seeking such authorization.

Any evidence obtained from a search warrant executed in violation of this subsection shall not be admitted into evidence for the Commonwealth in any prosecution.

C. For the purposes of this section:

"Foreign corporation" means any corporation or other entity, whose primary place of business is located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § 13.1-759 to transact business in the Commonwealth. The making of the contract or terms of service agreement or the issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and effect as if served personally within the Commonwealth.

"Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general manager in the Commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest annual report filed pursuant to § 13.1-775.

CHAPTER 108

An Act to amend and reenact §§ 19.2-12 and 19.2-56 of the Code of Virginia, relating to conservators of the peace; search warrants; military criminal investigative organizations.

[S 801]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-12 and 19.2-56 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-12. Who are conservators of the peace.

Every judge and attorney for the Commonwealth throughout the Commonwealth and every magistrate within the geographical area for which he is appointed or elected~~,~~ shall be a conservator of the peace. In addition, every commissioner in chancery, while sitting as such commissioner; any special agent or law-enforcement officer of the ~~United States~~ *U.S.* Department of Justice, National Marine Fisheries Service of the ~~United States~~ *U.S.* Department of Commerce, *U.S.* Department of *the* Treasury, *U.S.* Department of Agriculture, *U.S.* Department of Defense, *U.S.* Department of State, Office of the Inspector General of the *U.S.* Department of Transportation, *U.S.* Department of Homeland Security, and *U.S.* Department of *the* Interior; any inspector, law-enforcement official, or police personnel of the United States Postal Service; any United States marshal or deputy United States marshal whose duties involve the enforcement of the criminal laws of the United States; any officer of the Virginia Marine Police; any criminal investigator of the Department of Professional and Occupational Regulation~~,~~ who meets the minimum law-enforcement training requirements established by the Department of Criminal Justice Services for in-service training; any criminal investigator of the ~~United States~~ *U.S.* Department of Labor; any special agent of the United States Naval Criminal Investigative Service, *United States Army Criminal Investigation Division, or United States Air Force Office of Special Investigations;* any special agent of the National Aeronautics and Space Administration~~, and~~*;* any sworn municipal park ranger~~,~~ who has completed all requirements under § 15.2-1706; *and* any investigator employed by an attorney for the Commonwealth~~,~~ who within 10 years immediately prior to being employed by the attorney for the Commonwealth was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth and retired or resigned from his position as a law-enforcement officer in good standing~~,~~ shall be a conservator of the peace~~,~~ while engaged in the performance of ~~their~~ *his* official duties.

§ 19.2-56. To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.

A. The judge, magistrate, or other official authorized to issue criminal warrants shall issue a search warrant only if he finds from the facts or circumstances recited in the affidavit that there is probable cause for the issuance thereof.

Every search warrant shall be directed (i) to the sheriff, sergeant, or any policeman of the county, city, or town in which the place to be searched is located; (ii) to any law-enforcement officer or agent employed by the Commonwealth and vested with the powers of sheriffs and police; or (iii) jointly to any such sheriff, sergeant, policeman, or law-enforcement officer or agent and an agent, special agent, or officer of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco ~~and~~, Firearms *and Explosives* of the ~~United States Treasury~~ *U.S. Department of Justice*, the United States Naval Criminal Investigative Service, *the United States Army Criminal Investigation Division, the United States Air Force Office of Special Investigations, or* the ~~United States~~ *U.S.* Department of Homeland Security~~,~~ *or* any inspector, law-enforcement official, or police personnel of the United States Postal Service~~,~~ or the *U.S.* Drug Enforcement Administration. The warrant shall (a) name the affiant, (b) recite the offense or the identity of the person to be arrested for whom a warrant or process for arrest has been issued in relation to which the search is to be made, (c) name or describe the place to be searched, (d) describe the property or person to be searched for, and (e) recite that the magistrate has found probable cause to believe that the property or person constitutes evidence of a crime (identified in the warrant) or tends to show that a person (named or described therein) has committed or is committing a crime or that the person to be arrested for whom a warrant or process for arrest has been issued is located at the place to be searched.

The warrant shall command that the place be forthwith searched and that the objects or persons described in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of the offense or over the person to be arrested for whom a warrant or process for arrest has been issued in relation to which the warrant was issued as provided in § 19.2-57.

Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff, sergeant, policeman, or law-enforcement officer or agent of the Commonwealth and a federal agent or officer as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-enforcement officer, or agent into whose hands it is delivered. No other person may be permitted to be present during or participate in the execution of a warrant to search a place except (1) the owners and occupants of the place to be searched when permitted to be present by the officer in charge of the conduct of the search and (2) persons designated by the officer in charge of the conduct of the search to assist or provide expertise in the conduct of the search.

Any search warrant for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service, whether a domestic corporation or foreign corporation, that is transacting or has transacted any business in the Commonwealth, to be executed upon such service provider may be

executed within or outside the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the service provider. Notwithstanding the provisions of § 19.2-57, the officer executing a warrant pursuant to this paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the service provider. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was (A) executed, if executed within the Commonwealth, and a copy of the return shall also be delivered to the clerk of the circuit court of the county or city where the warrant was issued or (B) issued, if executed outside the Commonwealth. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period.

Electronic communication service or remote computing service providers, whether a foreign or domestic corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued under this section and § 19.2-70.3 using the same process described in the preceding paragraph.

Notwithstanding the provisions of § 19.2-57, any search warrant for records or other information pertaining to a customer of a financial institution as defined in § 6.2-604, money transmitter as defined in § 6.2-1900, commercial business providing credit history or credit reports, or issuer as defined in § 6.2-424 may be executed within the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The officer executing such warrant shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was executed. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period. For the purposes of this section, the warrant will be considered executed in the jurisdiction where the entity on which the warrant is served is located.

Every search warrant shall contain the date and time it was issued. However, the failure of any such search warrant to contain the date and time it was issued shall not render the warrant void, provided that the date and time of issuing of said warrant is established by competent evidence.

The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of the affidavit required by § 19.2-54, which shall become a part of the search warrant and served therewith. However, this provision shall not be applicable in any case in which the affidavit is made by means of a voice or videotape recording or where the affidavit has been sealed pursuant to § 19.2-54.

Any search warrant not executed within 15 days after issuance thereof shall be returned to, and voided by, the officer who issued such search warrant.

B. No law-enforcement officer shall seek, execute, or participate in the execution of a no-knock search warrant. A search warrant for any place of abode authorized under this section shall require that a law-enforcement officer be recognizable and identifiable as a uniformed law-enforcement officer and provide audible notice of his authority and purpose reasonably designed to be heard by the occupants of such place to be searched prior to the execution of such search warrant.

After entering and securing the place to be searched and prior to undertaking any search or seizure pursuant to the search warrant, the executing law-enforcement officer shall give a copy of the search warrant and affidavit to the person to be searched or the owner of the place to be searched or, if the owner is not present, to at least one adult occupant of the place to be searched. If the place to be searched is unoccupied by an adult, the executing law-enforcement officer shall leave a copy of the search warrant and affidavit in a conspicuous place within or affixed to the place to be searched.

Search warrants authorized under this section for the search of any place of abode shall be executed by initial entry of the abode only in the daytime hours between 8:00 a.m. and 5:00 p.m. unless (i) a judge or a magistrate, if a judge is not available, authorizes the execution of such search warrant at another time for good cause shown by particularized facts in an affidavit or (ii) prior to the issuance of the search warrant, law-enforcement officers lawfully entered and secured the place to be searched and remained at such place continuously.

A law-enforcement officer shall make reasonable efforts to locate a judge before seeking authorization to execute the warrant at another time, unless circumstances require the issuance of the warrant after 5:00 p.m., pursuant to the provisions of this subsection, in which case the law-enforcement officer may seek such authorization from a magistrate without first making reasonable efforts to locate a judge. Such reasonable efforts shall be documented in an affidavit and submitted to a magistrate when seeking such authorization.

Any evidence obtained from a search warrant executed in violation of this subsection shall not be admitted into evidence for the Commonwealth in any prosecution.

C. For the purposes of this section:

"Foreign corporation" means any corporation or other entity, whose primary place of business is located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § 13.1-759 to transact business in the Commonwealth. The making of the contract or terms of service agreement or the issuance of a certificate of authority shall be considered to be the agreement of

the foreign corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and effect as if served personally within the Commonwealth.

"Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general manager in the Commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest annual report filed pursuant to § 13.1-775.

CHAPTER 109

An Act to amend the Code of Virginia by adding in Article 3 of Chapter 18 of Title 55.1 a section numbered 55.1-1837 and by adding a section numbered 55.1-1940.1, relating to common interest communities; professionally managed associations.

[H 1519]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 18 of Title 55.1 a section numbered 55.1-1837 and by adding a section numbered 55.1-1940.1 as follows:

§ 55.1-1837. Termination and duration of certain management contracts.

A management contract that contains an automatic renewal provision may be terminated by the association or the common interest community manager at any time without cause upon not less than 60 days' written notice.

§ 55.1-1940.1. Termination and duration of certain management contracts.

A management contract that contains an automatic renewal provision may be terminated by the unit owners' association or the common interest community manager at any time without cause upon not less than 60 days' written notice.

CHAPTER 110

An Act to amend and reenact §§ 59.1-335.2 and 59.1-335.7 of the Code of Virginia, relating to Virginia Credit Services Businesses Act; definitions; credit reports.

[H 1544]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-335.2 and 59.1-335.7 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-335.2. Definitions.

In this chapter the following words have the following meanings:

"Attorney General" means the Office of the Attorney General of Virginia.

"Commissioner" means the Commissioner of Agriculture and Consumer Services, or a member of his staff to whom he may delegate his duties under this chapter.

"Consumer" means any individual who is solicited to purchase or who purchases the services of a credit services business.

"Consumer report" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which (i) is furnished or (ii) is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for:

1. Credit or insurance to be used primarily for personal, family, or household purposes; or

2. Employment purposes; or

3. Other purposes which shall be limited to the following circumstances:

a. In response to the order of a court having jurisdiction to issue the order.

b. In accordance with the written instructions of the consumer to whom the report relates.

c. To a person which the agency has reason to believe:

(i) Intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to or review or collection of an account of, the consumer; or

(ii) Intends to use the information for employment purposes; or

(iii) Intends to use the information in connection with the underwriting of insurance involving the consumer; or

(iv) Intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

(v) Otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

The term "consumer report" does not include:

1. Any report containing information solely as to transactions or experiences between the consumer and the person making the report;

2. Any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or

3. Any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to the request, if the third party advises the consumer of the name and address of the person to whom the request was made and the person makes the disclosures to the consumer as to the exact nature of the request and the effect of the report on its decision to extend credit.

"Consumer reporting agency" means any person ~~which~~ *that*, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties~~,~~ and ~~which~~ *that* uses any means or facility of commerce for the purpose of preparing or furnishing consumer reports. "Consumer reporting agency" does not include a private ~~detective or~~ investigator ~~licensed~~ *registered* under the provisions of Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1.

"Credit services business" means any person ~~who~~ *that*, with respect to the extension of credit by others, sells, provides, or performs, or represents that such person can or will sell, provide, or perform, any of the following services in return for the payment of money or other valuable consideration:

1. Improving a consumer's credit record, history, or rating;

2. Obtaining an extension of credit for a consumer; or

3. Providing advice or assistance to a consumer with regard to either subdivision 1 or 2 ~~herein~~.

"Credit services business" does not include:

(i) ~~The making, arranging, or negotiating for a loan or extension~~ *Any person authorized to make, arrange, or negotiate loans or extensions* of credit under the laws of ~~this~~ *the* Commonwealth or the United States;

(ii) Any bank, trust company, savings bank, or savings institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or other federal insurance agency, or any credit union organized and chartered under the laws of ~~this~~ *the* Commonwealth or the United States;

(iii) Any nonprofit organization exempt from taxation under § 501(c) (3) of the Internal Revenue Code (26 U.S.C. § 501(c) (3));

(iv) Any person licensed as a real estate broker by ~~this~~ *the* Commonwealth where the person is acting within the course and scope of that license;

(v) Any person licensed to practice law in ~~this~~ *the* Commonwealth where the person renders services within the course and scope of that person's practice as a lawyer;

(vi) Any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of that regulation;

(vii) Any consumer reporting agency as defined in the Federal Fair Credit Reporting Act (15 U.S.C. ~~§§ 1681 -1681v~~ *§ 1681 et seq.*); or

(viii) Any person selling personal, family, or household goods to a consumer who, in connection with the seller's sale of its goods to the consumer, assists the consumer in obtaining a loan or extension of credit or extends credit to the consumer.

"Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes.

"File" when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

"Investigative consumer report" means a consumer report or portion of it in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any items of information. However, the information does not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when the information was obtained directly from a creditor of the consumer or from the consumer.

"Person" includes an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, and any other legal or commercial entity.

§ 59.1-335.7. Contents of information statement.

The information statement required under § 59.1-335.6 ~~of this chapter~~ shall include all of the following:

1. a. A complete and accurate statement of the consumer's right to review any file on the consumer maintained by any consumer reporting agency, and the right of the consumer to receive a copy of a consumer report containing all information in that file as provided under the Federal Fair Credit Reporting Act (15 U.S.C. § 1681g);

b. A *complete and accurate statement of the consumer's right to receive a free copy of the consumer's credit report every 12 months from each of the three nationwide consumer reporting agencies, including identification of the website and toll-free telephone number through which the free report may be obtained, as provided under the Federal Fair Credit Reporting Act (15 U.S.C. § 1681j);*

c. A complete and accurate statement that a copy of the consumer report containing all information in the consumer's file will be furnished free of charge by the consumer reporting agency if requested by the consumer within ~~30~~ *60* days of receiving a notice of a denial of credit as provided under the Federal Fair Credit Reporting Act (15 U.S.C. § 1681j); and

~~c.~~ *d.* A *complete and accurate* statement that a nominal charge may be imposed on the consumer by the consumer reporting agency for a copy of the consumer report containing all information in the consumer's file, if the consumer *has already obtained the free credit report to which the consumer is entitled on an annual basis and the consumer* has not been denied credit within ~~30~~ *60* days from receipt of the consumer's request;

2. A complete and accurate statement of the consumer's right to dispute the completeness or accuracy of any item contained in any file on the consumer that is maintained by any consumer reporting agency, as provided under the Federal Fair Credit Reporting Act (15 U.S.C. § 1681i);

3. A complete and detailed description of the services to be performed by the credit services business for or on behalf of the consumer, and the total amount the consumer will have to pay, or become obligated to pay, for the services. Such statement shall include the following notice in at least 10-point bold type:

IMPORTANT NOTICE:

YOU HAVE NO OBLIGATION TO PAY ANY FEES OR CHARGES UNTIL ALL SERVICES HAVE BEEN PERFORMED COMPLETELY FOR YOU, UNLESS YOU ENTER INTO A SUBSCRIPTION AGREEMENT REQUIRING PERIODIC PAYMENTS IN CONSIDERATION FOR ONGOING SERVICES.

; and

4. The notice prescribed by subdivision 3 ~~of this section~~ shall also be posted by means of a conspicuous sign so as to be readily noticeable and readable at the location within the premises of the credit services business where consumers are interviewed by personnel of the business.

CHAPTER 111

An Act to amend and reenact § 22.1-24.1 of the Code of Virginia, relating to Internet Safety Advisory Council; powers and duties.

[H 1575]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-24.1 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-24.1. (Effective until July 1, 2024) Internet Safety Advisory Council.

A. The Superintendent shall establish and appoint members to the Internet Safety Advisory Council (the Council) for the purpose of advancing the goal of safe use of media and technology by students and teachers in public elementary and secondary schools in the Commonwealth.

B. The membership of the Council shall include at least one (i) teacher; (ii) librarian; (iii) representative of a parent-teacher organization who is a parent of a school-age child; (iv) school administrator; (v) student; and (vi) individual with expertise in Internet safety and such other individuals as the Superintendent deems appropriate, provided that the membership of the Council shall not exceed 12. *The Council may collaborate with law-enforcement agencies, criminal justice agencies, and other nongovernmental organizations with expertise in child online safety issues and human trafficking prevention.*

C. The Council shall:

1. Develop and recommend to the Board for adoption, after study and consideration of a variety of sources and perspectives, a model policy for local school boards in the Commonwealth that would enable such school boards to better support the Internet safety of all students and teachers in the local school division;

2. Develop and recommend to the Board for adoption model instructional practices for *and instructional content on* the safe use of media and technology by students and teachers in public elementary and secondary schools in the Commonwealth*, including instruction on (i) safe and responsible use of social networking websites, including Internet chat rooms, email, instant messaging, and other modes of electronic communication; (ii) the risks of transmitting personal information on the Internet and the importance of privacy protection; (iii) copyright laws on written materials, photographs, music, and videos posted or shared online; (iv) the importance of establishing open communication with responsible adults about any online communications or activities; and (v) how to recognize, avoid, and report suspicious, potentially dangerous, or illegal online communications or activities, including (a) potential solicitation by sexual predators, (b) unsolicited or deceptive communications, and (c) harassment and cyberbullying*; and

3. Design and post on the Department's website a page with links to successful instructional practices, curricula, and other teacher resources used in school divisions within and outside of the Commonwealth for the safe use of media and technology by students and teachers*, including resources and assistance programs available for any child or parent who*

may have encountered online solicitation by sexual predators or other illegal online communications or activities, including the National Center for Missing and Exploited Children's CyberTipline.

CHAPTER 112

An Act to amend and reenact § 32.1-325, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to state plan for medical assistance services; telemedicine; in-state presence.

[H 1602]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-325, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 32.1-325. (Effective until date pursuant to Va. Const., Art. IV, § 13) Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of $3,500 for the individual and an amount not in excess of $3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed $5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including

the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions, regardless of whether the student receiving care has an individualized education program or whether the health care service is included in a student's individualized education program. Such services shall include those covered under the state plan for medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for health care services provided through telemedicine services, as defined in § 38.2-3418.16. No health care provider who provides health care services through telemedicine shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3);

26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, a health care provider duly licensed by the Commonwealth who provides health care services exclusively through telemedicine services shall not be required to maintain a physical presence in the Commonwealth to be considered an eligible provider for enrollment as a Medicaid provider.

For the purposes of this subdivision, a telemedicine services provider group with health care providers duly licensed by the Commonwealth shall not be required to have an in-state service address to be eligible to enroll as a Medicaid vendor or Medicaid provider group.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located;

27. A provision for the payment of medical assistance for the dispensing or furnishing of up to a 12-month supply of hormonal contraceptives at one time. Absent clinical contraindications, the Department shall not impose any utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished to an amount less than a 12-month supply. Nothing in this subdivision shall be construed to (i) require a provider to prescribe, dispense, or furnish a 12-month supply of self-administered hormonal contraceptives at one time or (ii) exclude coverage for hormonal contraceptives as prescribed by a prescriber, acting within his scope of practice, for reasons other than contraceptive purposes. As used in this subdivision, "hormonal contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone, that is self-administered, requires a prescription, and is approved by the U.S. Food and Drug Administration for such purpose;

28. A provision for payment of medical assistance for remote patient monitoring services provided via telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons; (ii) medically complex infants and children; (iii) transplant patients; (iv) patients who have undergone surgery, for up to three months following the date of such surgery; and (v) patients with a chronic or acute health condition who have had two or more hospitalizations or emergency department visits related to such health condition in the previous 12 months when there is evidence that the use of remote patient monitoring is likely to prevent readmission of such patient to a hospital or emergency department. For the purposes of this subdivision, "remote patient monitoring services" means the use of digital technologies to collect medical and other forms

of health data from patients in one location and electronically transmit that information securely to health care providers in a different location for analysis, interpretation, and recommendations, and management of the patient. "Remote patient monitoring services" includes monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other patient physiological data, treatment adherence monitoring, and interactive videoconferencing with or without digital image upload;

29. A provision for the payment of medical assistance for provider-to-provider consultations that is no more restrictive than, and is at least equal in amount, duration, and scope to, that available through the fee-for-service program; and

30. A provision for payment of the originating site fee to emergency medical services agencies for facilitating synchronous telehealth visits with a distant site provider delivered to a Medicaid member. As used in this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq., Enforcement of Compliance for Long-Term Care Facilities With Deficiencies.

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

K. When the services provided for by such plan are services related to initiation of treatment with or dispensing or administration of a vaccination by a pharmacist, pharmacy technician, or pharmacy intern in accordance with § 54.1-3303.1, the Department shall provide reimbursement for such service.

§ 32.1-325. (Effective pursuant to Va. Const., Art. IV, § 13) Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of $3,500 for the individual and an amount not in excess of $3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed $5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions, regardless of whether the student receiving care has an individualized education program or whether the health care service is included in a student's individualized education program. Such services shall include those covered under the state plan for medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for health care services provided through telemedicine services, as defined in § 38.2-3418.16. No health care provider who provides health care services through telemedicine shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established

through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3);

26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, a health care provider duly licensed by the Commonwealth who provides health care services exclusively through telemedicine services shall not be required to maintain a physical presence in the Commonwealth to be considered an eligible provider for enrollment as a Medicaid provider.

For the purposes of this subdivision, a telemedicine services provider group with health care providers duly licensed by the Commonwealth shall not be required to have an in-state service address to be eligible to enroll as a Medicaid vendor or Medicaid provider group.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located;

27. A provision for the payment of medical assistance for the dispensing or furnishing of up to a 12-month supply of hormonal contraceptives at one time. Absent clinical contraindications, the Department shall not impose any utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished to an amount less than a 12-month supply. Nothing in this subdivision shall be construed to (i) require a provider to prescribe, dispense, or furnish a 12-month supply of self-administered hormonal contraceptives at one time or (ii) exclude coverage for hormonal contraceptives as prescribed by a prescriber, acting within his scope of practice, for reasons other than contraceptive purposes. As used in this subdivision, "hormonal contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone, that is self-administered, requires a prescription, and is approved by the U.S. Food and Drug Administration for such purpose;

28. A provision for payment of medical assistance for remote patient monitoring services provided via telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons; (ii) medically complex infants and children; (iii) transplant patients; (iv) patients who have undergone surgery, for up to three months following the date of such surgery; and (v) patients with a chronic or acute health condition who have had two or more hospitalizations or emergency department visits related to such health condition in the previous 12 months when there is evidence that the use of remote patient monitoring is likely to prevent readmission of such patient to a hospital or emergency department. For the purposes of this subdivision, "remote patient monitoring services" means the use of digital technologies to collect medical and other forms of health data from patients in one location and electronically transmit that information securely to health care providers in a different location for analysis, interpretation, and recommendations, and management of the patient. "Remote patient monitoring services" includes monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other patient physiological data, treatment adherence monitoring, and interactive videoconferencing with or without digital image upload;

29. A provision for the payment of medical assistance for provider-to-provider consultations that is no more restrictive than, and is at least equal in amount, duration, and scope to, that available through the fee-for-service program;

30. A provision for payment of the originating site fee to emergency medical services agencies for facilitating synchronous telehealth visits with a distant site provider delivered to a Medicaid member. As used in this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located; and

31. A provision for the payment of medical assistance for targeted case management services for individuals with severe traumatic brain injury.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq., Enforcement of Compliance for Long-Term Care Facilities With Deficiencies.

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall

promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

K. When the services provided for by such plan are services related to initiation of treatment with or dispensing or administration of a vaccination by a pharmacist, pharmacy technician, or pharmacy intern in accordance with § 54.1-3303.1, the Department shall provide reimbursement for such service.

CHAPTER 113

An Act to amend and reenact § 32.1-325, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to state plan for medical assistance services; telemedicine; in-state presence.

[S 1418]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-325, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 32.1-325. (Effective until date pursuant to Va. Const., Art. IV, § 13) Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of $3,500 for the individual and an amount not in excess of $3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed $5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society

guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions, regardless of whether the student receiving care has an individualized education program or whether the health care service is included in a student's individualized education program. Such services shall include those covered under the state plan for medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for health care services provided through telemedicine services, as defined in § 38.2-3418.16. No health care provider who provides health care services through telemedicine shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3);

26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, a health care provider duly licensed by the Commonwealth who provides health care services exclusively through telemedicine services shall not be required to maintain a physical presence in the Commonwealth to be considered an eligible provider for enrollment as a Medicaid provider.

For the purposes of this subdivision, a telemedicine services provider group with health care providers duly licensed by the Commonwealth shall not be required to have an in-state service address to be eligible to enroll as a Medicaid vendor or Medicaid provider group.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located;

27. A provision for the payment of medical assistance for the dispensing or furnishing of up to a 12-month supply of hormonal contraceptives at one time. Absent clinical contraindications, the Department shall not impose any utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished to an amount less than a 12-month supply. Nothing in this subdivision shall be construed to (i) require a provider to prescribe, dispense, or furnish a 12-month supply of self-administered hormonal contraceptives at one time or (ii) exclude coverage for hormonal contraceptives as prescribed by a prescriber, acting within his scope of practice, for reasons other than contraceptive purposes. As used in this subdivision, "hormonal contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone, that is self-administered, requires a prescription, and is approved by the U.S. Food and Drug Administration for such purpose;

28. A provision for payment of medical assistance for remote patient monitoring services provided via telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons; (ii) medically complex infants and children; (iii) transplant patients; (iv) patients who have undergone surgery, for up to three months following the date of such surgery; and (v) patients with a chronic or acute health condition who have had two or more hospitalizations or emergency department visits related to such health condition in the previous 12 months when there is evidence that the use of remote patient monitoring is likely to prevent readmission of such patient to a hospital or emergency department. For the purposes of this subdivision, "remote patient monitoring services" means the use of digital technologies to collect medical and other forms of health data from patients in one location and electronically transmit that information securely to health care providers in a different location for analysis, interpretation, and recommendations, and management of the patient. "Remote patient monitoring services" includes monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other patient physiological data, treatment adherence monitoring, and interactive videoconferencing with or without digital image upload;

29. A provision for the payment of medical assistance for provider-to-provider consultations that is no more restrictive than, and is at least equal in amount, duration, and scope to, that available through the fee-for-service program; and

30. A provision for payment of the originating site fee to emergency medical services agencies for facilitating synchronous telehealth visits with a distant site provider delivered to a Medicaid member. As used in this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq., Enforcement of Compliance for Long-Term Care Facilities With Deficiencies.

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible,

including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

K. When the services provided for by such plan are services related to initiation of treatment with or dispensing or administration of a vaccination by a pharmacist, pharmacy technician, or pharmacy intern in accordance with § 54.1-3303.1, the Department shall provide reimbursement for such service.

§ 32.1-325. (Effective pursuant to Va. Const., Art. IV, § 13) Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of $3,500 for the individual and an amount not in excess of $3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed $5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of

Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions, regardless of whether the student receiving care has an individualized education program or whether the health care service is included in a student's individualized education program. Such services shall include those covered under the state plan for medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for health care services provided through telemedicine services, as defined in § 38.2-3418.16. No health care provider who provides health care services through telemedicine shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational;

(iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3);

26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, a health care provider duly licensed by the Commonwealth who provides health care services exclusively through telemedicine services shall not be required to maintain a physical presence in the Commonwealth to be considered an eligible provider for enrollment as a Medicaid provider.

For the purposes of this subdivision, a telemedicine services provider group with health care providers duly licensed by the Commonwealth shall not be required to have an in-state service address to be eligible to enroll as a Medicaid vendor or Medicaid provider group.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located;

27. A provision for the payment of medical assistance for the dispensing or furnishing of up to a 12-month supply of hormonal contraceptives at one time. Absent clinical contraindications, the Department shall not impose any utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished to an amount less than a 12-month supply. Nothing in this subdivision shall be construed to (i) require a provider

to prescribe, dispense, or furnish a 12-month supply of self-administered hormonal contraceptives at one time or (ii) exclude coverage for hormonal contraceptives as prescribed by a prescriber, acting within his scope of practice, for reasons other than contraceptive purposes. As used in this subdivision, "hormonal contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone, that is self-administered, requires a prescription, and is approved by the U.S. Food and Drug Administration for such purpose;

28. A provision for payment of medical assistance for remote patient monitoring services provided via telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons; (ii) medically complex infants and children; (iii) transplant patients; (iv) patients who have undergone surgery, for up to three months following the date of such surgery; and (v) patients with a chronic or acute health condition who have had two or more hospitalizations or emergency department visits related to such health condition in the previous 12 months when there is evidence that the use of remote patient monitoring is likely to prevent readmission of such patient to a hospital or emergency department. For the purposes of this subdivision, "remote patient monitoring services" means the use of digital technologies to collect medical and other forms of health data from patients in one location and electronically transmit that information securely to health care providers in a different location for analysis, interpretation, and recommendations, and management of the patient. "Remote patient monitoring services" includes monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other patient physiological data, treatment adherence monitoring, and interactive videoconferencing with or without digital image upload;

29. A provision for the payment of medical assistance for provider-to-provider consultations that is no more restrictive than, and is at least equal in amount, duration, and scope to, that available through the fee-for-service program;

30. A provision for payment of the originating site fee to emergency medical services agencies for facilitating synchronous telehealth visits with a distant site provider delivered to a Medicaid member. As used in this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located; and

31. A provision for the payment of medical assistance for targeted case management services for individuals with severe traumatic brain injury.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq., Enforcement of Compliance for Long-Term Care Facilities With Deficiencies.

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

K. When the services provided for by such plan are services related to initiation of treatment with or dispensing or administration of a vaccination by a pharmacist, pharmacy technician, or pharmacy intern in accordance with § 54.1-3303.1, the Department shall provide reimbursement for such service.

CHAPTER 114

An Act to amend and reenact § 20-106 of the Code of Virginia, relating to divorce; affidavit; children of the parties.

[H 1385]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 20-106 of the Code of Virginia is amended and reenacted as follows:

§ 20-106. Testimony may be required to be given orally; evidence by affidavit.

A. In any suit for divorce, the trial court may require the whole or any part of the testimony to be given orally in open court, and if either party desires it, such testimony and the rulings of the court on the exceptions thereto, if any, shall be reduced to writing, and the judge shall certify that such evidence was given before him and such rulings made. When so certified the same shall stand on the same footing as a deposition regularly taken in the cause, provided, however, that no such oral evidence shall be given or heard unless and until after such notice to the adverse party as is required by law to be given of the taking of depositions, or when there has been no service of process within the Commonwealth upon, or appearance by the defendant against whom such testimony is sought to be introduced. However, a party may proceed to take evidence in support of a divorce by deposition or affidavit without leave of court only in support of a divorce on the grounds set forth in subdivision A (9) of § 20-91, where (i) the parties have resolved all issues by a written settlement agreement, (ii) there are no issues other than the grounds of the divorce itself to be adjudicated, or (iii) the adverse party has been personally served with the complaint and has failed to file a responsive pleading or to make an appearance as required by law.

B. The affidavit of a party submitted as evidence shall be based on the personal knowledge of the affiant, contain only facts that would be admissible in court, give factual support to the grounds for divorce stated in the complaint or counterclaim, and establish that the affiant is competent to testify to the contents of the affidavit. If either party is incarcerated, neither party shall submit evidence by affidavit without leave of court or the consent in writing of the guardian ad litem for the incarcerated party, or of the incarcerated party if a guardian ad litem is not required pursuant to § 8.01-9. The affidavit shall:

1. Give factual support to the grounds for divorce stated in the complaint or counterclaim, including that the parties are over the age of 18 and not suffering from any condition that renders either party legally incompetent;

2. Verify whether either party is incarcerated;

3. Verify the military status of the opposing party and advise whether the opposing party has filed an answer or a waiver of his rights under the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.);

4. Affirm that at least one party to the suit was at the time of the filing of the suit, and had been for a period in excess of six months immediately preceding the filing of the suit, a bona fide resident and domiciliary of the Commonwealth;

5. Affirm that the parties have lived separate and apart, continuously, without interruption and without cohabitation, and with the intent to remain separate and apart permanently, for the statutory period required by subdivision A (9) of § 20-91;

6. Affirm the affiant's desire to be awarded a divorce pursuant to subdivision A (9) of § 20-91; and

7. State whether there were ~~children born or adopted of the marriage~~ *minor children either born of the parties, born of either party and adopted by the other, or adopted by both parties,* and affirm that neither party is known to be pregnant from the marriage.

C. If a party moves for a divorce pursuant to § 20-121.02, an affidavit may be submitted in support of the grounds for divorce set forth in subdivision A (9) of § 20-91.

D. A verified complaint shall not be deemed an affidavit for purposes of this section.

E. Either party may submit the deposition or affidavit required by this section in support of the grounds for divorce requested by either party pursuant to the terms of this section.

F. In contemplation of or in a suit for a no-fault divorce under subdivision A (9) of § 20-91, the plaintiff or his attorney may take and file, as applicable, the complaint, the affidavit or deposition, any other associated documents, and the

proposed decree contemporaneously, and a divorce may be granted solely on those documents where the defendant has waived service and, where applicable, notice.

CHAPTER 115

An Act to amend and reenact § 54.1-3408 of the Code of Virginia, relating to Department of Corrections; possession and administration of naloxone.

[H 1709]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

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

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine, a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

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

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

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

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

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

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

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

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

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

Pursuant to an order or standing protocol that shall be issued by the local health director within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers or nebulized albuterol may possess or administer an albuterol inhaler and a valved holding chamber or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any nurse at an early childhood care and education entity, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

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

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

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

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

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

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

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

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

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

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

of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

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

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

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

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

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

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

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

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

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

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian;

(c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency, the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency, or the Board of Health has made an emergency order pursuant to § 32.1-13 for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health and for the limited purpose of administering vaccines as an approved countermeasure for such communicable, contagious, and infectious diseases; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

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

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

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

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

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

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

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

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

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated *by the Director of the Department of Corrections or designated* as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant

to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, an employee or other person acting on behalf of a public place who has completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal other than naloxone in an injectable formulation with a hypodermic needle or syringe in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

For the purposes of this subsection, "public place" means any enclosed area that is used or held out for use by the public, whether owned or operated by a public or private interest.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

CHAPTER 116

An Act to amend and reenact § 54.1-3408 of the Code of Virginia, relating to Department of Corrections; possession and administration of naloxone.

[S 1424]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

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

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine, a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

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

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

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

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

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

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

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

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

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

Pursuant to an order or standing protocol that shall be issued by the local health director within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers or nebulized albuterol may possess or administer an albuterol inhaler and a valved holding chamber or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any nurse at an early childhood care and education entity, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

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

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

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

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

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

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

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

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

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

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

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

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

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

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

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

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

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

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

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

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency, the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency, or the Board of Health has made an emergency order pursuant to § 32.1-13 for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health and for the limited purpose of administering vaccines as an approved countermeasure for such communicable, contagious, and infectious diseases; (ii) it is necessary to permit the provision of

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

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

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

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

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

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

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

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

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

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated *by the Director of the Department of Corrections or designated* as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, an employee or other person acting on behalf of a public place who has completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal other

than naloxone in an injectable formulation with a hypodermic needle or syringe in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

For the purposes of this subsection, "public place" means any enclosed area that is used or held out for use by the public, whether owned or operated by a public or private interest.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

CHAPTER 117

An Act to amend and reenact § 46.2-924 of the Code of Virginia, relating to drivers stopping for pedestrians; certain signs; stops.

[S 1069]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-924 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-924. Drivers to stop for pedestrians; installation of certain signs; penalty.

A. The driver of any vehicle on a highway shall ~~yield the right-of-way to~~ *stop when* any pedestrian crossing such highway ~~by stopping and remaining stopped~~ *is within the driver's lane or within an adjacent lane and approaching the driver's lane* until such pedestrian has passed the lane in which the vehicle is stopped:

1. At any clearly marked crosswalk, whether at midblock or at the end of any block;

2. At any regular pedestrian crossing included in the prolongation of the lateral boundary lines of the adjacent sidewalk at the end of a block; or

3. At any intersection when the driver is approaching on a highway where the speed limit is not more than 35 miles per hour.

B. When a vehicle is stopped pursuant to subsection A, the driver of any other vehicle approaching from an adjacent lane or from behind the stopped vehicle shall not overtake and pass such stopped vehicle.

C. Notwithstanding the provisions of subsection A, at intersections or crosswalks where the movement of traffic is being regulated by law-enforcement officers or traffic control devices, the driver shall yield according to the direction of the law-enforcement officer or device.

No pedestrian shall enter or cross an intersection in disregard of approaching traffic.

The drivers of vehicles entering, crossing, or turning at intersections shall change their course, slow down, or stop if necessary to permit pedestrians to cross such intersections safely and expeditiously.

Pedestrians crossing highways at intersections shall at all times have the right-of-way over vehicles making turns into the highways being crossed by the pedestrians.

D. The governing body of Arlington County, Fairfax County, Loudoun County and any town therein, the City of Alexandria, the City of Fairfax, the City of Falls Church, and the Town of Ashland may by ordinance provide for the installation and maintenance of highway signs at marked crosswalks specifically requiring operators of motor vehicles, at the locations where such signs are installed, to yield the right-of-way to *or stop for* pedestrians crossing or attempting to cross the highway. Any operator of a motor vehicle who fails ~~at such locations to yield the right-of-way to pedestrians as required by such~~ *to comply with the* signs *installed pursuant to this subsection* shall be guilty of a traffic infraction punishable by a fine of no less than $100 or more than $500. The Department of Transportation shall develop criteria for the design, location, and installation of such signs. The provisions of this section shall not apply to any limited access highway.

E. Where a shared-use path crosses a highway at a clearly marked crosswalk and there are no traffic control signals at such crossing, the local governing body may by ordinance require pedestrians, cyclists, and any other users of such shared-used path to come to a complete stop prior to entering such crosswalk. Such local ordinance may provide for a fine not to exceed $100 for violations. Any locality adopting such an ordinance shall install and maintain stop signs, consistent with standards adopted by the Commonwealth Transportation Board and to the extent necessary in coordination with the Department of Transportation. At such crosswalks, no user of such shared-use path shall enter the crosswalk in disregard of approaching traffic.

F. A locality adopting an ordinance under subsection E shall coordinate the enforcement and placement of any stop signs affecting a shared-use path owned and operated by a park authority formed under Chapter 57 (§ 15.2-5700 et seq.) of Title 15.2 with such authority.

CHAPTER 118

An Act to amend the Code of Virginia by adding a section numbered 54.1-2409.1:1, relating to interjurisdictional compacts; criminal history record checks.

[H 2157]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 54.1-2409.1:1 as follows:

§ 54.1-2409.1:1. Interjurisdictional compacts; criminal history record checks.

If an interjurisdictional compact requires criminal history record checks as a condition of participation, the applicable health regulatory board shall require each applicant to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information. The cost of fingerprinting and the criminal history record search shall be paid by the applicant.

The Central Criminal Records Exchange shall forward the results of the state and federal criminal history record search to the applicable health regulatory board. If an applicant is denied licensure because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation and the Central Criminal Records Exchange. Information obtained pursuant to this section shall not be disseminated except as provided in this section.

CHAPTER 119

An Act to amend the Code of Virginia by adding a section numbered 54.1-2409.1:1, relating to interjurisdictional compacts; criminal history record checks.

[S 1054]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 54.1-2409.1:1 as follows:

§ 54.1-2409.1:1. Interjurisdictional compacts; criminal history record checks.

If an interjurisdictional compact requires criminal history record checks as a condition of participation, the applicable health regulatory board shall require each applicant to submit to fingerprinting and provide personal descriptive

information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information. The cost of fingerprinting and the criminal history record search shall be paid by the applicant.

The Central Criminal Records Exchange shall forward the results of the state and federal criminal history record search to the applicable health regulatory board. If an applicant is denied licensure because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation and the Central Criminal Records Exchange. Information obtained pursuant to this section shall not be disseminated except as provided in this section.

CHAPTER 120

An Act to require the Department of Health to develop recommendations for reducing the occurrence and impact of tick-borne diseases in the Commonwealth.

[H 2008]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Health shall convene a work group composed of representatives of health care providers, public health experts, organizations representing individuals living with or impacted by tick-borne diseases, and other appropriate stakeholders to study and make recommendations for reducing the occurrence and impact of tick-borne diseases in the Commonwealth. The work group's report shall include recommendations for (i) increasing public awareness of tick-borne diseases and strategies for preventing tick-borne diseases, (ii) educating health care providers and the public about the importance of and need for early diagnosis and treatment of tick-borne diseases, (iii) improving public health surveillance and data collection related to tick-borne diseases, and (iv) developing and implementing strategies to reduce tick populations and reduce the risk of exposure to and transmission of tick-borne diseases in the Commonwealth. The work group shall report its findings and recommendations to the Governor and the General Assembly by November 1, 2023.*

CHAPTER 121

An Act to amend and reenact § 3.2-6522 of the Code of Virginia, relating to rabid animals; quarantine; access by Department of Health.

[H 1577]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 3.2-6522 of the Code of Virginia is amended and reenacted as follows:

§ 3.2-6522. Rabid animals.

A. When there is sufficient reason to believe that the risk of exposure to rabies is elevated, the governing body of any locality may enact, and the local health director may recommend, an emergency ordinance that shall become effective immediately upon passage, requiring owners of all dogs and cats therein to keep the same confined on their premises unless leashed under restraint of the owner in such a manner that persons or animals will not be subject to the danger of being bitten by a rabid animal. Any such emergency ordinance enacted pursuant to the provisions of this section shall be operative for a period not to exceed 30 days unless renewed by the governing body of such locality in consultation with the local health director. The governing body of any locality shall also have the power and authority to pass ordinances restricting the running at large in their respective jurisdiction of dogs and cats that have not been inoculated or vaccinated against rabies and to provide penalties for the violation thereof.

B. Any dog or cat showing active signs of rabies or suspected of having rabies that is not known to have exposed a person, companion animal, or livestock to rabies shall be confined under competent observation for such a time as may be necessary to determine a diagnosis. *The person confining such dog or cat shall allow the local health director or his designee access to the animal during such confinement.* If, in the discretion of the local health director, confinement is impossible or impracticable, such dog or cat shall be euthanized by one of the methods approved by the State Veterinarian as provided in § 3.2-6546. The disposition of other animals showing active signs of rabies shall be determined by the local health director and may include euthanasia and testing.

C. Every person having knowledge of the existence of an animal that is suspected to be rabid and that may have exposed a person, companion animal, or livestock to rabies shall report immediately to the local health department the existence of such animal, the place where seen, the owner's name, if known, and the signs suggesting rabies.

D. Any dog or cat for which no proof of current rabies vaccination is available and that may have been exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal suspected to be rabid shall be isolated in a public animal shelter, kennel, or enclosure approved by the local health department for a period not to exceed six months at the expense of the owner or custodian in a manner and by a date certain

as determined by the local health director. A rabies vaccination shall be administered by a licensed veterinarian prior to release. Inactivated rabies vaccine may be administered at the beginning of isolation. Any dog or cat so bitten, or exposed to rabies through saliva or central nervous system tissue, in a fresh open wound or mucous membrane with proof of current vaccination, shall be revaccinated by a licensed veterinarian immediately following the exposure and shall be confined to the premises of the owner or custodian, or other site as may be approved by the local health department at the expense of the owner or custodian, for a period of 45 days. If the local health director determines that isolation is not feasible or maintained, such dog or cat shall be euthanized by one of the methods approved by the State Veterinarian as provided in § 3.2-6546. The disposition of such dogs or cats not so confined shall be at the discretion of the local health director. *The local health director or his designee shall be granted access to any dog or cat during such isolation or confinement pursuant to this subsection.*

E. At the discretion of the local health director, any animal that may have exposed a person shall be confined under competent observation for 10 days at the expense of the owner or custodian, unless the animal develops active signs of rabies, expires, or is euthanized before that time. *The person confining the animal shall allow the local health director or his designee access to the animal during such confinement.* A seriously injured or sick animal may be euthanized as provided in § 3.2-6546. When determining whether a dog that has bitten a person shall be so confined, the health director shall weigh any proof that the dog has current certificates for both (i) rabies vaccination and (ii) special training for police work, military work, or work as a first responder.

F. When any suspected rabid animal, other than a dog or cat, exposes or may have exposed a person to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, decisions regarding the disposition of that animal shall be at the discretion of a local health director and may include euthanasia as provided in § 3.2-6546, or as directed by the state agency with jurisdiction over that species. When any animal, other than a dog or cat, is exposed or may have been exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal suspected to be rabid, decisions regarding the disposition of that newly exposed animal shall be at the discretion of a local health director. *The local health director or his designee shall be granted access to any animal, other than a dog or cat, during any isolation or confinement of that animal, as may be directed by the local health director.*

G. When any animal may have exposed a person to rabies and subsequently expires due to illness or euthanasia, either within an observation period, where applicable, or as part of a public health investigation, its head or brain shall be sent to the Division of Consolidated Laboratory Services of the Department of General Services or be tested as directed by the local health department.

CHAPTER 122

An Act to amend and reenact § 22.1-289.059 of the Code of Virginia, relating to policies for the possession and administration of epinephrine at early childhood care and education entities; scope.

[H 2140]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-289.059 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-289.059. Possession and administration of an appropriate weight-based dosage of epinephrine by employees.

A. The Board shall amend its regulations to require each ~~early childhood care and education entity~~ *child day center* to implement policies for the possession and administration of epinephrine in every such ~~entity~~ *center* to be administered by any nurse at the ~~entity~~ *center*, employee at the ~~entity~~ *center*, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to any child believed to be having an anaphylactic reaction. Such policies shall require that at least one school nurse, employee at the ~~entity~~ *center*, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine has the means to access at all times during regular facility hours any such appropriate weight-based dosage of epinephrine that is stored in a locked or otherwise generally inaccessible container or area.

B. The Board shall amend its regulations to require each family day home provider or at least one other caregiver employed by such provider in the family day home to be trained in the administration of epinephrine and to notify the parents of each child who receives care in such family day home whether the provider stores an appropriate weight-based dosage of epinephrine in the residence or home in which the family day home operates.

CHAPTER 123

An Act to amend and reenact § 22.1-289.059 of the Code of Virginia, relating to policies for the possession and administration of epinephrine at early childhood care and education entities; scope.

[S 1146]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-289.059 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-289.059. Possession and administration of an appropriate weight-based dosage of epinephrine by employees.

A. The Board shall amend its regulations to require each ~~early childhood care and education entity~~ *child day center* to implement policies for the possession and administration of epinephrine in every such ~~entity~~ *center* to be administered by any nurse at the ~~entity~~ *center*, employee at the ~~entity~~ *center*, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to any child believed to be having an anaphylactic reaction. Such policies shall require that at least one school nurse, employee at the ~~entity~~ *center*, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine has the means to access at all times during regular facility hours any such appropriate weight-based dosage of epinephrine that is stored in a locked or otherwise generally inaccessible container or area.

B. The Board shall amend its regulations to require each family day home provider or at least one other caregiver employed by such provider in the family day home to be trained in the administration of epinephrine and to notify the parents of each child who receives care in such family day home whether the provider stores an appropriate weight-based dosage of epinephrine in the residence or home in which the family day home operates.

CHAPTER 124

An Act to amend and reenact § 22.1-253.13:6, as it shall become effective, of the Code of Virginia, relating to school boards; divisionwide literacy plans; contents; posting.

[H 2137]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:6, as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 22.1-253.13:6. (For effective date, see 2022 Acts, cc. 549, 550, cl. 2) Standard 6. Planning and public involvement.

A. The Board of Education shall adopt a statewide comprehensive, unified, long-range plan based on data collection, analysis, and evaluation. Such plan shall be developed with statewide participation. The Board shall review the plan biennially and adopt any necessary revisions. The Board shall post the plan on the Department of Education's website if practicable, and, in any case, shall make a hard copy of such plan available for public inspection and copying.

This plan shall include the objectives of public education in Virginia, including strategies for first improving student achievement, particularly the achievement of educationally at-risk students, then maintaining high levels of student achievement; an assessment of the extent to which these objectives are being achieved; a forecast of enrollment changes; and an assessment of the needs of public education in the Commonwealth. In the annual report required by § 22.1-18, the Board shall include an analysis of the extent to which these Standards of Quality have been achieved and the objectives of the statewide comprehensive plan have been met. The Board shall also develop, consistent with, or as a part of, its comprehensive plan, a detailed comprehensive, long-range plan to integrate educational technology into the Standards of Learning and the curricula of the public schools in Virginia, including career and technical education programs. The Board shall review and approve the comprehensive plan for educational technology and may require the revision of such plan as it deems necessary.

B. Each local school board shall adopt a divisionwide comprehensive, unified, long-range plan based on data collection, an analysis of the data, and how the data will be utilized to improve classroom instruction and student achievement. The plan shall be developed with staff and community involvement and shall include, or be consistent with, all other divisionwide plans required by state and federal laws and regulations. Each local school board shall review the plan biennially and adopt any necessary revisions. Prior to the adoption of any divisionwide comprehensive plan or revisions thereto, each local school board shall post such plan or revisions on the division's Internet website if practicable, and, in any case, shall make a hard copy of the plan or revisions available for public inspection and copying and shall conduct at least one public hearing to solicit public comment on the divisionwide plan or revisions.

The divisionwide comprehensive plan shall include, but shall not be limited to, (i) the objectives of the school division, including strategies for first improving student achievement, particularly the achievement of educationally at-risk students, then maintaining high levels of student achievement; (ii) an assessment of the extent to which these objectives are being achieved; (iii) a forecast of enrollment changes; (iv) a plan for projecting and managing enrollment changes including

consideration of the consolidation of schools to provide for a more comprehensive and effective delivery of instructional services to students and economies in school operations; (v) an evaluation of the appropriateness of establishing regional programs and services in cooperation with neighboring school divisions; (vi) a plan for implementing such regional programs and services when appropriate; (vii) a technology plan designed to integrate educational technology into the instructional programs of the school division, including the school division's career and technical education programs, consistent with, or as a part of, the comprehensive technology plan for Virginia adopted by the Board of Education; (viii) an assessment of the needs of the school division and evidence of community participation, including parental participation, in the development of the plan; (ix) any corrective action plan required pursuant to § 22.1-253.13:3; and (x) a plan for parent and family involvement to include building successful school and parent partnerships that shall be developed with staff and community involvement, including participation by parents.

The divisionwide comprehensive plan shall also include a divisionwide literacy plan for pre-kindergarten through grade three. The Board shall issue guidance on the contents of such plans. The Department shall develop a template for such plans. Each divisionwide literacy plan shall follow such template and address how the local school board will align (i) literacy professional development, (ii) core reading and literacy curriculum, and (iii) screening, supplemental instruction, and interventions with evidence-based literacy instruction practices aligned with science-based reading research and how the school board will support parents to support the literacy development of their children. When developing such divisionwide literacy plan, each local school board shall use programs from the lists developed by the Department pursuant to subsection C of § 22.1-253.13:5 and subdivision H 2 of § 22.1-253.13:1 or seek approval from the Department for the use of alternative programs that consist of evidence-based literacy instruction and align with science-based reading research. *Each such divisionwide literacy plan shall be submitted to the Department and shall identify which core literacy curricula, supplemental instructional practices and programs, and intervention programs from the list developed by the Department pursuant to subdivision H 2 of § 22.1-253.13:1 or alternative programs approved by the Department that consist of evidence-based literacy instruction and align with science-based reading research will be used in each grade level, kindergarten through 12, at each of the schools within such school division. Each local school board shall post, maintain, and update as necessary on such school board's website a copy of its divisionwide literacy plan and the job description and contact information for any reading specialist employed by such school division pursuant to subsection G of § 22.1-253.13:2 and for any dyslexia specialist employed by such school division The Department shall post each divisionwide literacy plan on its website.*

A report shall be presented by each school board to the public by November 1 of each odd-numbered year on the extent to which the objectives of the divisionwide comprehensive plan have been met during the previous two school years.

C. Each public school shall also prepare a comprehensive, unified, long-range plan, which the relevant school board shall consider in the development of its divisionwide comprehensive plan.

D. The Board of Education shall, in a timely manner, make available to local school boards information about where current Virginia school laws, Board regulations and revisions, and copies of relevant Opinions of the Attorney General of Virginia may be located online.

CHAPTER 125

An Act to amend and reenact § 22.1-79 of the Code of Virginia, relating to school boards; back to school night events and parent-teacher conferences; free or reduced price meals applications.

[H 2021]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-79 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-79. Powers and duties.

~~A~~ *Each* school board shall:

1. See that the school laws are properly explained, enforced, and observed;

2. Secure, by visitation or otherwise, as full information as possible about the conduct of the public schools in the school division and take care that they are conducted according to law and with the utmost efficiency;

3. Care for, manage, and control the property of the school division and provide for the erecting, furnishing, equipping, and noninstructional operating of necessary school buildings and appurtenances and the maintenance thereof by purchase, lease, or other contracts;

4. Provide for the consolidation of schools or redistricting of school boundaries or adopt pupil assignment plans whenever such procedure will contribute to the efficiency of the school division;

5. Insofar as not inconsistent with state statutes and regulations of the Board ~~of Education~~, operate and maintain the public schools in the school division and determine the length of the school term, the studies to be pursued, the methods of teaching, and the government to be employed in the schools;

6. In instances in which no grievance procedure has been adopted prior to January 1, 1991, establish and administer by July 1, 1992, a grievance procedure for all school board employees, except the division superintendent and those employees covered under the provisions of Article 2 (§ 22.1-293 et seq.) and Article 3 (§ 22.1-306 et seq.) of Chapter 15 ~~of this title~~,

who have completed such probationary period as may be required by the school board, not to exceed 18 months. The grievance procedure shall afford a timely and fair method of the resolution of disputes arising between the school board and such employees regarding dismissal or other disciplinary actions, excluding suspensions, and shall be consistent with the provisions of the ~~Board of Education's~~ *Board's* procedures for adjusting grievances. Except in the case of dismissal, suspension, or other disciplinary action, the grievance procedure prescribed by the Board ~~of Education~~ pursuant to § 22.1-308 shall apply to all full-time employees of a school board, except supervisory employees;

7. Perform such other duties as shall be prescribed by the Board ~~of Education~~ or as are imposed by law;

8. Obtain public comment through a public hearing not less than 10 days after reasonable notice to the public in a newspaper of general circulation in the school division prior to providing (i) for the consolidation of schools; (ii) the transfer from the public school system of the administration of all instructional services for any public school classroom or all noninstructional services in the school division pursuant to a contract with any private entity or organization; or (iii) in school divisions having 15,000 pupils or more in average daily membership, for redistricting of school boundaries or adopting any pupil assignment plan affecting the assignment of 15 percent or more of the pupils in average daily membership in the affected school. Such public hearing may be held at the same time and place as the meeting of the school board at which the proposed action is taken if the public hearing is held before the action is taken. If a public hearing has been held prior to the effective date of this provision on a proposed consolidation, redistricting, or pupil assignment plan ~~which~~ *that* is to be implemented after the effective date of this provision, an additional public hearing shall not be required;

9. (Expires July 1, 2025) At least annually, survey the school division to identify critical shortages of (i) teachers and administrative personnel by subject matter and (ii) school bus drivers and report such critical shortages to the Superintendent ~~of Public Instruction~~ and to the Virginia Retirement System; however, the school board may request the division superintendent to conduct such survey and submit such report to the school board, the Superintendent, and the Virginia Retirement System; ~~and~~

10. Ensure that the public schools within the school division are registered with the Department of State Police to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within that school division pursuant to § 9.1-914*; and*

11. Ensure that at any back to school night event in the local school division to which the parents of enrolled students are invited, any such parent in attendance receives prominent notification of and access, in paper or electronic form, or both, to information about application and eligibility for free or reduced price meals for students and a fillable free or reduced price meals application that may be completed and submitted on site.

CHAPTER 126

An Act to amend and reenact § 42.1-78 of the Code of Virginia, relating to the Virginia Public Records Act; confidentiality of certain archived records.

[H 1844]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 42.1-78 of the Code of Virginia is amended and reenacted as follows:

§ 42.1-78. Confidentiality safeguarded.

Any records made confidential by law shall be so treated. Records that by law are required to be closed to the public shall not be deemed to be made open to the public under the provisions of this chapter. Records in the custody of The Library of Virginia that are required to be closed to the public shall be open for public access 75 years after the date of creation of the record. No provision of this chapter shall be construed to authorize or require the opening of any records ordered to be sealed by a court; however, upon a petition filed with the clerk, a judge may enter an order releasing any record sealed prior to January 1, 1901. *Medical and educational records made confidential by law shall remain so after being deposited in the archives.* All records deposited in the archives that are not made confidential by law shall be open to public access.

CHAPTER 127

An Act to amend and reenact § 42.1-78 of the Code of Virginia, relating to the Virginia Public Records Act; confidentiality of certain archived records.

[S 1024]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 42.1-78 of the Code of Virginia is amended and reenacted as follows:

§ 42.1-78. Confidentiality safeguarded.

Any records made confidential by law shall be so treated. Records that by law are required to be closed to the public shall not be deemed to be made open to the public under the provisions of this chapter. Records in the custody of The Library of Virginia that are required to be closed to the public shall be open for public access 75 years after the date of creation of the record. No provision of this chapter shall be construed to authorize or require the opening of any records ordered to be sealed by a court; however, upon a petition filed with the clerk, a judge may enter an order releasing any record sealed prior to January 1, 1901. *Medical and educational records made confidential by law shall remain so after being deposited in the archives.* All records deposited in the archives that are not made confidential by law shall be open to public access.

CHAPTER 128

An Act to amend and reenact § 18.2-371.1 of the Code of Virginia, relating to operating or engaging in the conduct of a child day program or family day system without a license; penalty.

[H 1636]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-371.1 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-371.1. Abuse and neglect of children; penalty; abandoned infant.

A. Any parent, guardian, or other person responsible for the care of a child under the age of 18 who by willful act or willful omission or refusal to provide any necessary care for the child's health causes or permits serious injury to the life or health of such child is guilty of a Class 4 felony. For purposes of this subsection, "serious injury" includes but is not limited to (i) disfigurement, (ii) a fracture, (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, (vi) forced ingestion of dangerous substances, and (vii) life-threatening internal injuries. For purposes of this subsection, "willful act or willful omission" includes operating or engaging in the conduct of a child welfare agency as defined in § 63.2-100 *or a child day program or family day system as defined in § 22.1-289.02* without first obtaining a license such person knows is required by Subtitle IV (§ 63.2-1700 et seq.) of Title 63.2 *or Article 3 (§ 22.1-289.010 et seq.) of Chapter 14.1 of Title 22.1* or after such license has been revoked or has expired and not been renewed.

B. 1. Any parent, guardian, or other person responsible for the care of a child under the age of 18 whose willful act or omission in the care of such child was so gross, wanton, and culpable as to show a reckless disregard for human life is guilty of a Class 6 felony.

2. If a prosecution under this subsection is based solely on the accused parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense to prosecution of a parent under this subsection that such parent safely delivered the child within the first 30 days of the child's life to (i) a hospital that provides 24-hour emergency services, (ii) an attended emergency medical services agency that employs emergency medical services personnel, or (iii) a newborn safety device located at and operated by such hospital or emergency medical services agency. In order for the affirmative defense to apply, the child shall be delivered in a manner reasonably calculated to ensure the child's safety.

C. Any parent, guardian, or other person having care, custody, or control of a minor child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall not, for that reason alone, be considered in violation of this section.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 129

An Act to amend and reenact § 2.2-3114 of the Code of Virginia, relating to the State and Local Government Conflict of Interests Act; statement of economic interests; board of directors of the Commonwealth of Virginia Innovation Partnership Authority.

[H 2223]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3114 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3114. Disclosure by state officers and employees.

A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute

judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, *members of the board of directors of the Commonwealth of Virginia Innovation Partnership Authority,* members of the Board of the Virginia College Savings Plan, and members of the Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions, and councils in the executive branch of state government, other than the *members of the* Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, *members of the board of directors of the Commonwealth of Virginia Innovation Partnership Authority,* members of the Board of the Virginia College Savings Plan, and ~~the~~ *members of the* Virginia Lottery Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen members of other boards, commissions, and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after the filing deadline.

D. Candidates for the offices of Governor, Lieutenant Governor, or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher education in the Commonwealth shall not be required to file the disclosure form prescribed by the Council pursuant to § 2.2-3117 or 2.2-3118.

CHAPTER 130

An Act to amend and reenact §§ 2.2-2292, 15.2-4906, 15.2-4907, and 36-29 of the Code of Virginia, relating to private activity bonds; public hearings.

[S 1061]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2292, 15.2-4906, 15.2-4907, and 36-29 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2292. Public hearing and approval.

Whenever federal law requires public hearings and public approval as a prerequisite to obtaining federal tax exemption for the interest paid on private activity bonds under ~~Section~~ *§* 147(f) of the Internal Revenue Code, unless otherwise specified by federal law or regulation, the public hearing for private activity bonds of the Authority shall be conducted by the Authority and the procedure for the public hearing and public approvals shall be as follows:

1. For a public hearing by the Authority:

a. Notice of the hearing shall be published ~~once a week for two successive weeks~~ *not less than seven days in advance of such hearing* in a newspaper published or having general circulation in the ~~municipality~~ *locality* in which the facility to be financed is to be located ~~of intention to provide financing for a named applicant~~. The applicant shall pay the cost of notification. ~~The notice shall also be mailed or otherwise delivered to the clerk of the local governing body of the municipality.~~ The notice shall specify the time and place of hearing at which persons may appear and present their views. The hearing shall be held not less than ~~six~~ *seven* days ~~nor more than 21 days~~ after the ~~second~~ notice ~~shall appear in such newspaper~~ *has been published*. The hearing may be held at any place within the Commonwealth determined by the Board.

b. The notice shall contain (i) the name and address of the Authority; (ii) the name and address of the principal place of business, if any, of the applicant seeking financing; (iii) the maximum dollar amount of financing sought; and (iv) the type of business and purpose and specific location, if known, of the facility to be financed.

c. ~~Every~~ *The Authority may require any* request for private activity bond financing when submitted to the Authority ~~shall~~ *to* be accompanied by a statement in the following form*, but the absence of any such form shall not affect the validity of a private activity bond*:

Name of Applicant: _____

Facility: _____

Date: _____

Maximum amount of financing sought: $_____

Estimated taxable value of the facility's real property in the municipality in which it is located. $_____

Estimated taxable value of the facility's real property once constructed or expanded. $_____

Estimated real property tax per year using present tax rates on the facility's real property once constructed or expanded. $_____

Estimated personal property tax per year from property to be located in expanded or constructed facility using present tax rate. $_____

Estimated merchants' capital tax per year from property to be located in expanded or constructed facility using present tax rate. $_____

Estimated dollar value per year of goods and services that will be purchased in the Commonwealth during construction or expansion of facility. $_____

Estimated dollar value per year of goods and services that will be purchased in the Commonwealth for the operation of the facility. $_____

Estimated dollar value per year of goods and services that will be produced and sold from the facility. $_____

Estimated number of employees during construction or expansion _____

Estimated number of regular employees on a year round basis during operation of the facility _____

Average annual salary per regular employee during operation of the facility. $_____

Estimated payroll for labor during construction or expansion of the facility. $_____

If any of the above questions do not apply to the eligible business being financed, indicate by writing N/A (not applicable) on the appropriate line.

2. For public approval, the Governor is appointed by this article as the applicable elected representative within the meaning of ~~Section~~ *§* 147(f)(2)(E) of the Internal Revenue Code.

§ 15.2-4906. Public hearing and approval.

A. Whenever federal law requires public hearings and public approval as a prerequisite to obtaining federal tax exemption for the interest paid on ~~industrial development~~ *private activity* bonds, unless otherwise specified by federal law or regulation, the public hearing shall be conducted by the authority and the procedure for the public hearing and public approval shall be in accordance with this section.

B. For a public hearing by the authority, notice of the hearing shall be publ~~ished once a week for two successive~~ weeks *not less than seven days in advance of such hearing* in a newspaper having general circulation in the locality in which the facility to be financed is to be ~~located of intention to provide financing for a named individual or business e~~ntity. The applicant shall pay the cost of publication. The notice shall specify the time and place of hearing at which persons may appear and present their views. The hearing shall be held not less than ~~six~~ *seven* days ~~nor more than twenty-one days~~ after the ~~second~~ notice ~~shall appear in such newspaper~~ *has been published*.

The notice shall contain: (i) the name and address of the authority; (ii) the name and address (principal place of business, if any) of the party seeking financing; (iii) the maximum dollar amount of financing sought; and (iv) the type of business and purpose and specific location, if known, of the facility to be financed.

If after the hearing has been held the authority approves the financing, a reasonably detailed summary of the comments expressed at the hearing shall be conveyed promptly to the locality's governing body together with the recommendation of the authority.

C. For public approval, the governing body of the locality on behalf of which the bonds of the authority are issued shall ~~within sixty calendar days from~~ *no more than one year after* the public hearing held by the authority either approve or disapprove financing of any facility recommended by the authority.

Action of the governing body shall be by a majority of a quorum set out in a resolution. Such vote shall be recorded and disclose how each member voted.

In case of a joint authority the approval required by the governing body of the locality shall be that governing body of the area where the facility will be located, if permitted by federal law or regulation.

The provisions of this section shall not apply to bonds, notes or other obligations issued pursuant to hearings held and governmental approvals obtained prior to the effective date of this act in compliance with federal law or regulation.

§ 15.2-4907. Fiscal impact statement.

~~Every~~ *An authority may require any* request for ~~industrial development (facility)~~ *private activity bond* financing when submitted to the ~~governing body of the locality for approval shall~~ *authority to* be accompanied by a statement in the following form*, but the absence of any such form shall not affect the validity of a private activity bond*:

_____
Date

_____
(Name of Applicant)

_____
(Facility)

1. Maximum amount of financing sought	$_____
2. Estimated taxable value of the facility's real property to be constructed in the locality	$_____
3. Estimated real property tax per year using present tax rates	$_____
4. Estimated personal property tax per year using present tax rates	$_____
5. Estimated merchants' capital tax per year using present tax rates	$_____
6. a. Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality	$_____
b. Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality	$_____
c. Estimated dollar value per year of services that will be purchased from Virginia companies within the locality	$_____
d. Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality	$_____
7. Estimated number of regular employees on year round basis	$_____
8. Average annual salary per employee	$_____

Signature

_____
Authority Chairman

_____
Name of Authority

If one or more of the above questions do not apply to the facility indicate by writing N/A (not applicable) on the appropriate line.

The provisions of this section shall not apply to bonds, notes or other obligations issued pursuant to hearings held and governmental approvals obtained prior to the effective date of this act in compliance with federal law or regulation.

§ 36-29. Power to issue bonds; liability in general.

An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it or for the purpose of refunding loans made by another entity if such loans could have been made by the authority. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing):

(a) Bonds on which the principal and interest are payable:

(1) Exclusively from the income and revenues of the housing project financed with the proceeds of such bonds; or

(2) Exclusively from the income and revenues of certain designated housing projects whether or not they are financed in whole or in part with the proceeds of such bonds; or

(3) From its revenues generally.

(b) Bonds on which the principal is payable solely from annual contributions or grants received from the federal government or received from any other source, public or private.

Any such bonds may be additionally secured by a pledge of any grant or contributions from the federal government or other source, or a pledge of any income or revenues of the authority, or a mortgage of any housing project, projects or other property of the authority.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the county, the Commonwealth or any political subdivision thereof (other than the authority) and neither the city or the county, nor the Commonwealth or any political subdivision thereof (other than the authority) shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of the authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

Whenever federal law requires public hearings and public approval as a prerequisite to obtaining federal tax exemption for the interest paid on private activity bonds authorized by this section, unless otherwise specified by federal law or regulation, the public hearing shall be conducted by the authority and the procedure for the public hearing and public approval shall be consistent with the procedures set forth in § 15.2-4906.

An authority may require any application for private activity bond financing when submitted to the authority to be accompanied by a statement in the form set forth in § 15.2-4907, but the absence of any such form shall not affect the validity of a private activity bond.

CHAPTER 131

An Act to amend and reenact §§ 15.2-1806 and 15.2-1809.1 of the Code of Virginia, relating to local parks; walking trails; liability; property owners.

[H 2041]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1806 and 15.2-1809.1 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-1806. Parks, recreation facilities, playgrounds, etc.

A. A locality may establish parks, recreation facilities and playgrounds; set apart for such use any land or buildings owned or leased by it; and acquire land, buildings and other facilities pursuant to § 15.2-1800 for the aforesaid purposes.

In regard to its parks, recreation facilities and playgrounds, a locality may:

1. Fix, prescribe, and provide for the collection of fees for their use;

2. Levy and collect an annual tax upon all property in the locality subject to local taxation to pay, in whole or in part, the expenses incident to their maintenance and operation;

3. Operate their use through a department or bureau of recreation or delegate the operation thereof to a recreation board created by it, to a school board, or any other appropriate existing board or commission.

B. A locality may also establish, conduct, and regulate a system of *walking,* hiking, biking, and horseback riding trails and may set apart for such use any land or buildings owned or leased by it and may obtain licenses or permits for such use on land not owned or leased by it. A locality may also establish, conduct, and regulate a system of trails for all-terrain vehicles, off-road motorcycles, or both, as those terms are defined in § 46.2-100, and may set apart for such use any land or buildings owned or leased by it and may obtain licenses, easements, leases, or permits for such use on land not owned or leased by it. A locality may also establish, conduct, and regulate a system of boating, canoeing, kayaking, or tubing activities on waterways and may set apart for such use any land or buildings owned or leased by it and may obtain licenses or permits for such use on land not owned or leased by it.

In furtherance of the purposes of this subsection, a locality may provide for the protection of persons whose property interests, or personal liability, may be related to or affected by the use of such trails or waterways. Nothing contained in this subsection shall be construed to interfere with the use and enjoyment of private property.

§ 15.2-1809.1. Liability of localities for the site of trails or waterways.

A locality, or a park authority created by the Park Authorities Act (§ 15.2-5700 et seq.), that establishes, conducts, and regulates a system of *walking,* hiking, biking, or horseback riding trails, a system of trails for all-terrain vehicles, off-road motorcycles, or a system of boating, canoeing, kayaking, or tubing activities on waterways, as provided in subsection B of § 15.2-1806, and the owner or licensor or permit issuer of any property leased ~~or~~, licensed*, or provided by easement* for any such use, shall not be liable for damages resulting from any injury to the person or from a loss of or damage to the property of any person arising from the condition of the property used for such trails or waterways, in the absence of gross negligence or willful misconduct.

CHAPTER 132

An Act to amend and reenact §§ 15.2-1806 and 15.2-1809.1 of the Code of Virginia, relating to local parks; walking trails; liability; property owners.

[S 807]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1806 and 15.2-1809.1 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-1806. Parks, recreation facilities, playgrounds, etc.

A. A locality may establish parks, recreation facilities and playgrounds; set apart for such use any land or buildings owned or leased by it; and acquire land, buildings and other facilities pursuant to § 15.2-1800 for the aforesaid purposes.

In regard to its parks, recreation facilities and playgrounds, a locality may:

1. Fix, prescribe, and provide for the collection of fees for their use;

2. Levy and collect an annual tax upon all property in the locality subject to local taxation to pay, in whole or in part, the expenses incident to their maintenance and operation;

3. Operate their use through a department or bureau of recreation or delegate the operation thereof to a recreation board created by it, to a school board, or any other appropriate existing board or commission.

B. A locality may also establish, conduct, and regulate a system of *walking,* hiking, biking, and horseback riding trails and may set apart for such use any land or buildings owned or leased by it and may obtain licenses or permits for such use on land not owned or leased by it. A locality may also establish, conduct, and regulate a system of trails for all-terrain vehicles, off-road motorcycles, or both, as those terms are defined in § 46.2-100, and may set apart for such use any land or buildings owned or leased by it and may obtain licenses, easements, leases, or permits for such use on land not owned or leased by it. A locality may also establish, conduct, and regulate a system of boating, canoeing, kayaking, or tubing activities on waterways and may set apart for such use any land or buildings owned or leased by it and may obtain licenses or permits for such use on land not owned or leased by it.

In furtherance of the purposes of this subsection, a locality may provide for the protection of persons whose property interests, or personal liability, may be related to or affected by the use of such trails or waterways. Nothing contained in this subsection shall be construed to interfere with the use and enjoyment of private property.

§ 15.2-1809.1. Liability of localities for the site of trails or waterways.

A locality, or a park authority created by the Park Authorities Act (§ 15.2-5700 et seq.), that establishes, conducts, and regulates a system of *walking,* hiking, biking, or horseback riding trails, a system of trails for all-terrain vehicles, off-road motorcycles, or a system of boating, canoeing, kayaking, or tubing activities on waterways, as provided in subsection B of § 15.2-1806, and the owner or licensor or permit issuer of any property leased ~~or~~*,* licensed*, or provided by easement* for any such use, shall not be liable for damages resulting from any injury to the person or from a loss of or damage to the property of any person arising from the condition of the property used for such trails or waterways, in the absence of gross negligence or willful misconduct.

CHAPTER 133

An Act to amend and reenact § 3.2-304 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3.1 of Title 3.2 a section numbered 3.2-312, relating to Blue Catfish Processing, Flash Freezing, and Infrastructure Grant Program; created.

[H 1664]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 3.2-304 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3.1 of Title 3.2 a section numbered 3.2-312 as follows:

§ 3.2-304. Governor's Agriculture and Forestry Industries Development Fund established; purpose; use of funds.

A. There is hereby created in the state treasury a nonreverting fund to be known as the Governor's Agriculture and Forestry Industries Development Fund (the Fund) to be used by the Governor to attract new and expanding *aquaculture,* agriculture and forestry processing or value-added facilities using Virginia-grown products. The Fund shall consist of any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller. The Governor shall report to the Chairmen of the House Committees on Appropriations and Finance and the Senate Committee on Finance and Appropriations as funds are awarded in accordance with this chapter.

B. Funds shall be awarded from the Fund by the Governor as grants or loans to political subdivisions. The criteria for making such grants or loans shall include (i) number of jobs expected to be created, (ii) anticipated amount of private capital investment, (iii) additional state tax revenue expected to accrue to the state and affected localities as a result of the capital investment and jobs created, (iv) anticipated amount of Virginia-grown agricultural and forestal products used by the project, (v) projected impact on agricultural and forestal producers, (vi) a return on investment analysis to determine the appropriate size of any grant or loan, and (vii) an analysis of the impact on competing businesses already located in the area.

C. Funds may be used for public and private utility extension or capacity development on and off site; public and private installation, extension, or capacity development of high-speed or broadband Internet access, whether on or off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; site acquisition; grading, drainage, paving, and any other activity required to prepare a site for construction; construction or build-out of publicly or privately owned buildings; training; or grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision for purposes directly relating to any of the foregoing. However, in no case shall funds from the Fund be used, directly or indirectly, to pay or guarantee the payment for any rental, lease, license, or other contractual right to the use of any property.

D. Funds may be used for grants to political subdivisions through the Agriculture and Forestry Industries Development Planning Grant Program pursuant to § 3.2-310.

E. Moneys in the Fund shall not be used for any economic development project in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality. The Secretary of Agriculture and Forestry shall enforce this policy and for any exception thereto shall promptly provide written notice to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations, which notice shall include a justification for any exception to such policy.

F. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the dollar amount contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the funds the Governor has committed, and the funds shall remain in the Fund for those future fiscal years. No grant shall be payable in the years beyond the existing appropriation act unless the funds are currently available in the Fund.

§ 3.2-312. Blue Catfish Processing, Flash Freezing, and Infrastructure Grant Program.

A. The Governor may award grants from the Fund for the Blue Catfish Processing, Flash Freezing, and Infrastructure Grant Program to encourage efforts by political subdivisions to support the processing, flash freezing, and infrastructure of invasive blue catfish species.

B. Any funds awarded by the Governor pursuant to this section shall be awarded as reimbursable grants of no more than $250,000 per grant to political subdivisions to support blue catfish processing, flash freezing, and infrastructure projects.

C. The Secretary of Agriculture and Forestry shall develop guidelines for the Blue Catfish Processing, Flash Freezing, and Infrastructure Grant Program and administer the Blue Catfish Processing, Flash Freezing, and Infrastructure Grant Program on behalf of the Governor. Such guidelines shall (i) require that grants be awarded on a competitive basis, (ii) state the criteria the Governor will use in evaluating any grant application submitted pursuant to this section, and (iii) favor projects that create processing, flash freezing, and infrastructure capacity in proximity to small-scale blue catfish watermen.

D. The guidelines developed pursuant to subsection C may allow contributions to a project by certain specified entities, such as a nonprofit organization or charitable foundation.

CHAPTER 134

An Act to amend and reenact § 3.2-304 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3.1 of Title 3.2 a section numbered 3.2-312, relating to Blue Catfish Processing, Flash Freezing, and Infrastructure Grant Program; created.

[S 897]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 3.2-304 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3.1 of Title 3.2 a section numbered 3.2-312 as follows:

§ 3.2-304. Governor's Agriculture and Forestry Industries Development Fund established; purpose; use of funds.

A. There is hereby created in the state treasury a nonreverting fund to be known as the Governor's Agriculture and Forestry Industries Development Fund (the Fund) to be used by the Governor to attract new and expanding *aquaculture,* agriculture and forestry processing or value-added facilities using Virginia-grown products. The Fund shall consist of any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not

revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller. The Governor shall report to the Chairmen of the House Committees on Appropriations and Finance and the Senate Committee on Finance and Appropriations as funds are awarded in accordance with this chapter.

B. Funds shall be awarded from the Fund by the Governor as grants or loans to political subdivisions. The criteria for making such grants or loans shall include (i) number of jobs expected to be created, (ii) anticipated amount of private capital investment, (iii) additional state tax revenue expected to accrue to the state and affected localities as a result of the capital investment and jobs created, (iv) anticipated amount of Virginia-grown agricultural and forestal products used by the project, (v) projected impact on agricultural and forestal producers, (vi) a return on investment analysis to determine the appropriate size of any grant or loan, and (vii) an analysis of the impact on competing businesses already located in the area.

C. Funds may be used for public and private utility extension or capacity development on and off site; public and private installation, extension, or capacity development of high-speed or broadband Internet access, whether on or off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; site acquisition; grading, drainage, paving, and any other activity required to prepare a site for construction; construction or build-out of publicly or privately owned buildings; training; or grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision for purposes directly relating to any of the foregoing. However, in no case shall funds from the Fund be used, directly or indirectly, to pay or guarantee the payment for any rental, lease, license, or other contractual right to the use of any property.

D. Funds may be used for grants to political subdivisions through the Agriculture and Forestry Industries Development Planning Grant Program pursuant to § 3.2-310.

E. Moneys in the Fund shall not be used for any economic development project in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality. The Secretary of Agriculture and Forestry shall enforce this policy and for any exception thereto shall promptly provide written notice to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations, which notice shall include a justification for any exception to such policy.

F. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the dollar amount contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the funds the Governor has committed, and the funds shall remain in the Fund for those future fiscal years. No grant shall be payable in the years beyond the existing appropriation act unless the funds are currently available in the Fund.

§ 3.2-312. Blue Catfish Processing, Flash Freezing, and Infrastructure Grant Program.

A. The Governor may award grants from the Fund for the Blue Catfish Processing, Flash Freezing, and Infrastructure Grant Program to encourage efforts by political subdivisions to support the processing, flash freezing, and infrastructure of invasive blue catfish species.

B. Any funds awarded by the Governor pursuant to this section shall be awarded as reimbursable grants of no more than $250,000 per grant to political subdivisions to support blue catfish processing, flash freezing, and infrastructure projects.

C. The Secretary of Agriculture and Forestry shall develop guidelines for the Blue Catfish Processing, Flash Freezing, and Infrastructure Grant Program and administer the Blue Catfish Processing, Flash Freezing, and Infrastructure Grant Program on behalf of the Governor. Such guidelines shall (i) require that grants be awarded on a competitive basis, (ii) state the criteria the Governor will use in evaluating any grant application submitted pursuant to this section, and (iii) favor projects that create processing, flash freezing, and infrastructure capacity in proximity to small-scale blue catfish watermen.

D. The guidelines developed pursuant to subsection C may allow contributions to a project by certain specified entities, such as a nonprofit organization or charitable foundation.

CHAPTER 135

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:10, relating to prohibited use of employee's social security number by employer; civil penalty.

[S 1040]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:10 as follows:

§ 40.1-28.7:10. Prohibited use of employee's social security number; civil penalty.

A. No employer shall (i) use an employee's social security number or any derivative thereof as such employee's identification number or (ii) include an employee's social security number or any number derived thereof on any identification card or badge, any access card or badge, or any other similar card or badge issued to such employee.

B. Any employer that knowingly violates the provisions of this section shall be subject to a civil penalty not to exceed $100 for each violation. The Commissioner shall notify any employer that he alleges has violated any provision of this section by certified mail. Such notice shall contain a description of the alleged violation. Within 15 days of receipt of notice of the alleged violation, the employer may request an informal conference regarding such violation with the Commissioner. In determining the amount of any penalty to be imposed, the Commissioner shall consider the size of the business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be final. Civil penalties under this section shall be assessed by the Commissioner and paid to the Literary Fund. The Commissioner shall prescribe procedures for the payment of proposed penalties that are not contested by employers.

C. The Commissioner or his authorized representative shall have the right to petition a circuit court for injunctive or such other relief as may be necessary for enforcement of this section.

CHAPTER 136

An Act to amend and reenact § 54.1-3482 of the Code of Virginia, relating to practice of physical therapy.

[H 2359]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3482 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3482. Practice of physical therapy; certain experience and referrals required; physical therapist assistants.

A. It shall be unlawful for a person to engage in the practice of physical therapy except as a licensed physical therapist, upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician, except as provided in this section.

B. A physical therapist who has completed a doctor of physical therapy program approved by the Commission on Accreditation of Physical Therapy Education or who has obtained a certificate of authorization pursuant to § 54.1-3482.1 may evaluate and treat a patient ~~for no more than 60 consecutive days after an initial evaluation~~ without a referral under the following conditions: (i) the patient is not receiving care from any licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician for the symptoms giving rise to the presentation at the time of the presentation to the physical therapist for physical therapy services or (ii) the patient is receiving care from a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician at the time of his presentation to the physical therapist for the symptoms giving rise to the presentation for physical therapy services and (a) the patient identifies a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician from whom he is currently receiving care; (b) the patient gives written consent for the physical therapist to release all personal health information and treatment records to the identified practitioner; and (c) the physical therapist notifies the practitioner identified by the patient no later than 14 days after treatment commences and provides the practitioner with a copy of the initial evaluation along with a copy of the patient history obtained by the physical therapist. ~~Treatment for more than 60 consecutive days after evaluation of such patient shall only be upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician. A physical therapist may contact the practitioner identified by the patient at the end of the 60-day period to determine if the practitioner will authorize additional physical therapy services until such time as the patient can be seen by the practitioner. After discharging a patient, a physical therapist shall not perform an initial evaluation of a patient under this subsection without a referral if the physical therapist has performed an initial evaluation of the patient under this subsection for the same condition within the immediately preceding 60 days.~~

C. A physical therapist who has not completed a doctor of physical therapy program approved by the Commission on Accreditation of Physical Therapy Education or who has not obtained a certificate of authorization pursuant to § 54.1-3482.1 may conduct a one-time evaluation that does not include treatment of a patient without the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician; if appropriate, the physical therapist shall immediately refer such patient to the appropriate practitioner.

D. Invasive procedures within the scope of practice of physical therapy*, except for the practice of dry needling,* shall at all times be performed only under the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a

licensed physician assistant acting under the supervision of a licensed physician. *Nothing in this section shall be construed to authorize a physical therapist in the practice of dry needling to fail to comply with the provisions of § 54.1-2956.9.*

E. It shall be unlawful for any licensed physical therapist to fail to immediately refer any patient to a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, or a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957 when such patient's medical condition is determined, at the time of evaluation or treatment, to be beyond the physical therapist's scope of practice. Upon determining that the patient's medical condition is beyond the scope of practice of a physical therapist, a physical therapist shall immediately refer such patient to an appropriate practitioner.

F. Any person licensed as a physical therapist assistant shall perform his duties only under the direction and control of a licensed physical therapist.

G. However, a licensed physical therapist may provide, without referral or supervision, physical therapy services to (i) a student athlete participating in a school-sponsored athletic activity while such student is at such activity in a public, private, or religious elementary, middle or high school, or public or private institution of higher education when such services are rendered by a licensed physical therapist who is certified as an athletic trainer by the National Athletic Trainers' Association Board of Certification or as a sports certified specialist by the American Board of Physical Therapy Specialties; (ii) employees solely for the purpose of evaluation and consultation related to workplace ergonomics; (iii) ~~special education students who, by virtue of their individualized education plans (IEPs), need physical therapy services to fulfill the provisions of their IEPs~~ *infants and toddlers, from birth to age three, who require physical therapy services to fulfill the provisions of their individualized services plan under Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1431 et seq.) and students with disabilities who require physical therapy services to fulfill the provisions of their individualized education plan or physical therapy services provided under § 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.)*; (iv) the public for the purpose of wellness, fitness, and health screenings; (v) the public for the purpose of health promotion and education; and (vi) the public for the purpose of prevention of impairments, functional limitations, and disabilities.

2. That, by December 1, 2024, the Board of Physical Therapy shall report to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions a summary of disciplinary actions taken against physical therapists whose conduct resulted in physical harm to a patient when such patient received dry needling treatment or more than 60 consecutive days of physical therapy treatment without a physician referral.

CHAPTER 137

An Act to amend and reenact § 54.1-3482 of the Code of Virginia, relating to practice of physical therapy.

[S 1005]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3482 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3482. Practice of physical therapy; certain experience and referrals required; physical therapist assistants.

A. It shall be unlawful for a person to engage in the practice of physical therapy except as a licensed physical therapist, upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician, except as provided in this section.

B. A physical therapist who has completed a doctor of physical therapy program approved by the Commission on Accreditation of Physical Therapy Education or who has obtained a certificate of authorization pursuant to § 54.1-3482.1 may evaluate and treat a patient ~~for no more than 60 consecutive days after an initial evaluation~~ without a referral under the following conditions: (i) the patient is not receiving care from any licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician for the symptoms giving rise to the presentation at the time of the presentation to the physical therapist for physical therapy services or (ii) the patient is receiving care from a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician at the time of his presentation to the physical therapist for the symptoms giving rise to the presentation for physical therapy services and (a) the patient identifies a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician from whom he is currently receiving care; (b) the patient gives written consent for the physical therapist to release all personal health information and treatment records to the identified practitioner; and (c) the physical therapist notifies the practitioner identified by the patient no later than 14 days after treatment commences and provides the practitioner with a copy of the initial evaluation along with a copy of the patient history obtained by the physical therapist. ~~Treatment for more than~~

~~60 consecutive days after evaluation of such patient shall only be upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician. A physical therapist may contact the practitioner identified by the patient at the end of the 60-day period to determine if the practitioner will authorize additional physical therapy services until such time as the patient can be seen by the practitioner. After discharging a patient, a physical therapist shall not perform an initial evaluation of a patient under this subsection without a referral if the physical therapist has performed an initial evaluation of the patient under this subsection for the same condition within the immediately preceding 60 days.~~

C. A physical therapist who has not completed a doctor of physical therapy program approved by the Commission on Accreditation of Physical Therapy Education or who has not obtained a certificate of authorization pursuant to § 54.1-3482.1 may conduct a one-time evaluation that does not include treatment of a patient without the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician; if appropriate, the physical therapist shall immediately refer such patient to the appropriate practitioner.

D. Invasive procedures within the scope of practice of physical therapy*, except for the practice of dry needling,* shall at all times be performed only under the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician. *Nothing in this section shall be construed to authorize a physical therapist in the practice of dry needling to fail to comply with the provisions of § 54.1-2956.9.*

E. It shall be unlawful for any licensed physical therapist to fail to immediately refer any patient to a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, or a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957 when such patient's medical condition is determined, at the time of evaluation or treatment, to be beyond the physical therapist's scope of practice. Upon determining that the patient's medical condition is beyond the scope of practice of a physical therapist, a physical therapist shall immediately refer such patient to an appropriate practitioner.

F. Any person licensed as a physical therapist assistant shall perform his duties only under the direction and control of a licensed physical therapist.

G. However, a licensed physical therapist may provide, without referral or supervision, physical therapy services to (i) a student athlete participating in a school-sponsored athletic activity while such student is at such activity in a public, private, or religious elementary, middle or high school, or public or private institution of higher education when such services are rendered by a licensed physical therapist who is certified as an athletic trainer by the National Athletic Trainers' Association Board of Certification or as a sports certified specialist by the American Board of Physical Therapy Specialties; (ii) employees solely for the purpose of evaluation and consultation related to workplace ergonomics; (iii) ~~special education students who, by virtue of their individualized education plans (IEPs), need physical therapy services to fulfill the provisions of their IEPs~~ *infants and toddlers, from birth to age three, who require physical therapy services to fulfill the provisions of their individualized services plan under Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1431 et seq.) and students with disabilities who require physical therapy services to fulfill the provisions of their individualized education plan or physical therapy services provided under § 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.)*; (iv) the public for the purpose of wellness, fitness, and health screenings; (v) the public for the purpose of health promotion and education; and (vi) the public for the purpose of prevention of impairments, functional limitations, and disabilities.

2. That, by December 1, 2024, the Board of Physical Therapy shall report to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions a summary of disciplinary actions taken against physical therapists whose conduct resulted in physical harm to a patient when such patient received dry needling treatment or more than 60 consecutive days of physical therapy treatment without a physician referral.

CHAPTER 138

An Act to amend and reenact §§ 37.2-314, 37.2-416, and 37.2-506 of the Code of Virginia, relating to background checks; peer recovery specialists; barrier crime exceptions.

[H 1525]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-314, 37.2-416, and 37.2-506 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-314. Background check required.

A. As a condition of employment, the Department shall require any applicant who (i) accepts a position of employment at a state facility and was not employed by that state facility prior to July 1, 1996, or (ii) accepts a position with the Department that receives, monitors, or disburses funds of the Commonwealth and was not employed by the Department

prior to July 1, 1996, to submit to fingerprinting and provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant.

B. For purposes of clause (i) of subsection A, the Department shall not hire for compensated employment persons who have been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

C. Notwithstanding the provisions of subsection B, the Department may hire for compensated employment at an adult substance abuse or adult mental health treatment program a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or subsection A of § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282, 18.2-346, or 18.2-346.01; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the Department determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history. *In addition, where the employment at an adult substance abuse treatment program is as a peer recovery specialist, the Department may hire any person eligible under this subsection or who was convicted of any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 if the Department determines, based upon a screening assessment, that the criminal behavior was substantially related to the person's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.*

For the purposes of this subsection, "peer recovery specialist" means any person who has completed a peer recovery specialist training course approved by the Department of Behavioral Health and Developmental Services.

D. The Department and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsection C to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms; shall not be under probation or parole supervision; shall have no pending charges in any locality; shall have paid all fines, restitution, and court costs for any prior convictions; and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the Department or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the Department decides to pay the cost.

E. The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report *or record* to the state facility or to the Department. If an applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the state facility or Department shall not be disseminated except as provided in this section.

F. Those applicants listed in clause (i) of subsection A also shall provide to the state facility or Department a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on them.

G. The Board may adopt regulations to comply with the provisions of this section. Copies of any information received by the state facility or Department pursuant to this section shall be available to the Department and to the applicable state facility but shall not be disseminated further, except as permitted by state or federal law. The cost of obtaining the criminal history record and the central registry information shall be borne by the applicant, unless the Department or state facility decides to pay the cost.

§ 37.2-416. Background checks required.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same licensee licensed pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program licensed pursuant to this article if the person employed prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same licensee licensed pursuant to this article or (b) new employment in any mental health or developmental services

direct care position in another office or program of the same licensee licensed pursuant to this article for which the person has previously worked in an adult substance abuse treatment position.

"Peer recovery specialist" means any person who has completed a peer recovery specialist training course approved by the Department of Behavioral Health and Developmental Services.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every provider licensed pursuant to this article shall require (i) any applicant who accepts employment in any direct care position, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, and (vi) any person under contract with the provider to serve in a direct care position to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no provider licensed pursuant to this article shall:

1. Hire for compensated employment any person who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02;

2. Approve an applicant as a sponsored residential service provider if the applicant, any adult residing in the home of the applicant, or any person employed by the applicant has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date to be a sponsored residential service provider or (b) if such applicant continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02;

3. Permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver any person who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to entering into a shared living arrangement or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02; or

4. Allow any person under contract with the provider to serve in a direct care position who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting authorized officer or director of a provider licensed pursuant to this article. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the authorized officer or director of a provider licensed pursuant to this article shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment or permit any person under contract with the provider to serve in a direct care position or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider at adult substance abuse or adult mental health treatment programs a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or subsection A of § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282, 18.2-346, or 18.2-346.01; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsections H1 and H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history. *In addition, where the employment at an adult substance abuse treatment program is as a peer recovery specialist, the provider may hire any person eligible under this subsection or who was convicted of any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 if the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the person's substance abuse or mental illness and that the person has*

been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment or permit any person under contract with the provider to serve in a direct care position or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider at adult substance abuse treatment facilities a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The hiring provider and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the provider or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a provider may (i) hire for compensated employment, (ii) approve as a sponsored residential service provider, (iii) permit to enter into a shared living arrangement, or (iv) permit any person under contract with the provider to serve in a direct care position on behalf of the provider or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. A provider may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Providers licensed pursuant to this article also shall require, as a condition of employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the provider licensed pursuant to this article decides to pay the cost.

I. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

J. Notwithstanding any other provision of law, a provider licensed pursuant to this article that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.

K. Any person employed by a temporary agency that has entered into a contract with the provider and who will serve in a direct care position on behalf of the provider licensed pursuant to this article shall undergo a background check that shall include:

1. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

2. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

Except as otherwise provided in subsection C, D, or F, no provider licensed pursuant to this article shall permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider if that person has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition

of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

§ 37.2-506. Background checks required.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same community services board or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program of the same community services board if the person employed prior to July 1, 1999, had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same community services board or (b) new employment in any mental health or developmental services direct care position in another office or program of the same community services board for which the person has previously worked in an adult substance abuse treatment position.

"Peer recovery specialist" means any person who has completed a peer recovery specialist training course approved by the Department of Behavioral Health and Developmental Services.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every community services board shall require (i) any applicant who accepts employment in any direct care position with the community services board, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, and (vi) any person under contract to serve in a direct care position on behalf of the community services board to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no community services board shall hire for compensated employment, approve as a sponsored residential service provider, permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permit any person under contract to serve in a direct care position on behalf of the community services board persons who have been convicted of (a) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement or (2) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report *or record* to the requesting executive director or personnel director of the community services board. If any applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the executive director or personnel director of any community services board shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment or permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board at adult substance abuse or adult mental health treatment programs a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1, subsection A of § 18.2-57, or § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282, 18.2-346, or 18.2-346.01; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history. *In addition, where the employment at an adult substance abuse treatment program is as a peer recovery specialist, the community services board may hire any person eligible under*

this subsection or who was convicted of any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 if the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the person's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment or permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board at adult substance abuse treatment programs a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The community services board and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the community services board or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the board decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a community services board may (i) hire for compensated employment, (ii) approve as a sponsored residential service provider, (iii) permit to enter into a shared living arrangement, or (iv) permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. A community services board may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Community services boards also shall require, as a condition of employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract to serve in a direct care position on behalf of the community services board, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the community services board decides to pay the cost.

I. Notwithstanding any other provision of law, a community services board that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.

J. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

K. Any person employed by a temporary agency that has entered into a contract with a community services board and who will serve in a direct care position on behalf of the community services board shall undergo a background check that shall include:

1. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

2. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

Except as otherwise provided in subsection C, D, or F, no community services board shall permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board if that person has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

CHAPTER 139

An Act to amend and reenact §§ 37.2-314, 37.2-416, and 37.2-506 of the Code of Virginia, relating to background checks; peer recovery specialists; barrier crime exceptions.

[S 846]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-314, 37.2-416, and 37.2-506 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-314. Background check required.

A. As a condition of employment, the Department shall require any applicant who (i) accepts a position of employment at a state facility and was not employed by that state facility prior to July 1, 1996, or (ii) accepts a position with the Department that receives, monitors, or disburses funds of the Commonwealth and was not employed by the Department prior to July 1, 1996, to submit to fingerprinting and provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant.

B. For purposes of clause (i) of subsection A, the Department shall not hire for compensated employment persons who have been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

C. Notwithstanding the provisions of subsection B, the Department may hire for compensated employment at an adult substance abuse or adult mental health treatment program a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or subsection A of § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282, 18.2-346, or 18.2-346.01; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the Department determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history. *In addition, where the employment at an adult substance abuse treatment program is as a peer recovery specialist, the Department may hire any person eligible under this subsection or who was convicted of any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 if the Department determines, based upon a screening assessment, that the criminal behavior was substantially related to the person's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.*

For the purposes of this subsection, "peer recovery specialist" means any person who has completed a peer recovery specialist training course approved by the Department of Behavioral Health and Developmental Services.

D. The Department and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsection C to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms; shall not be under probation or parole supervision; shall have no pending charges in any locality; shall have paid all fines, restitution, and court costs for any prior convictions; and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the Department or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the Department decides to pay the cost.

E. The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report *or record* to the state facility or to the Department. If an applicant is denied employment because of

information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the state facility or Department shall not be disseminated except as provided in this section.

F. Those applicants listed in clause (i) of subsection A also shall provide to the state facility or Department a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on them.

G. The Board may adopt regulations to comply with the provisions of this section. Copies of any information received by the state facility or Department pursuant to this section shall be available to the Department and to the applicable state facility but shall not be disseminated further, except as permitted by state or federal law. The cost of obtaining the criminal history record and the central registry information shall be borne by the applicant, unless the Department or state facility decides to pay the cost.

§ 37.2-416. Background checks required.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same licensee licensed pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program licensed pursuant to this article if the person employed prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same licensee licensed pursuant to this article or (b) new employment in any mental health or developmental services direct care position in another office or program of the same licensee licensed pursuant to this article for which the person has previously worked in an adult substance abuse treatment position.

"Peer recovery specialist" means any person who has completed a peer recovery specialist training course approved by the Department of Behavioral Health and Developmental Services.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every provider licensed pursuant to this article shall require (i) any applicant who accepts employment in any direct care position, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, and (vi) any person under contract with the provider to serve in a direct care position to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no provider licensed pursuant to this article shall:

1. Hire for compensated employment any person who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02;

2. Approve an applicant as a sponsored residential service provider if the applicant, any adult residing in the home of the applicant, or any person employed by the applicant has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date to be a sponsored residential service provider or (b) if such applicant continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02;

3. Permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver any person who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to entering into a shared living arrangement or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02; or

4. Allow any person under contract with the provider to serve in a direct care position who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for

employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting authorized officer or director of a provider licensed pursuant to this article. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the authorized officer or director of a provider licensed pursuant to this article shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment or permit any person under contract with the provider to serve in a direct care position or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider at adult substance abuse or adult mental health treatment programs a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or subsection A of § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282, 18.2-346, or 18.2-346.01; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsections H1 and H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history. *In addition, where the employment at an adult substance abuse treatment program is as a peer recovery specialist, the provider may hire any person eligible under this subsection or who was convicted of any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 if the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the person's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.*

D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment or permit any person under contract with the provider to serve in a direct care position or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider at adult substance abuse treatment facilities a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The hiring provider and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the provider or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a provider may (i) hire for compensated employment, (ii) approve as a sponsored residential service provider, (iii) permit to enter into a shared living arrangement, or (iv) permit any person under contract with the provider to serve in a direct care position on behalf of the provider or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. A provider may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Providers licensed pursuant to this article also shall require, as a condition of employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance

services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the provider licensed pursuant to this article decides to pay the cost.

I. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

J. Notwithstanding any other provision of law, a provider licensed pursuant to this article that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.

K. Any person employed by a temporary agency that has entered into a contract with the provider and who will serve in a direct care position on behalf of the provider licensed pursuant to this article shall undergo a background check that shall include:

1. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

2. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

Except as otherwise provided in subsection C, D, or F, no provider licensed pursuant to this article shall permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider if that person has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

§ 37.2-506. Background checks required.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same community services board or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program of the same community services board if the person employed prior to July 1, 1999, had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same community services board or (b) new employment in any mental health or developmental services direct care position in another office or program of the same community services board for which the person has previously worked in an adult substance abuse treatment position.

"Peer recovery specialist" means any person who has completed a peer recovery specialist training course approved by the Department of Behavioral Health and Developmental Services.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every community services board shall require (i) any applicant who accepts employment in any direct care position with the community services board, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, and (vi) any person under contract to serve in a direct care position on behalf of the community services board to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no community services board shall hire for compensated employment, approve as a sponsored residential service provider, permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permit any person under contract to serve in a direct care position on behalf of the community services board persons who have been convicted of (a) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set forth in clause (iv) of the definition of barrier

crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement or (2) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report *or record* to the requesting executive director or personnel director of the community services board. If any applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the executive director or personnel director of any community services board shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment or permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board at adult substance abuse or adult mental health treatment programs a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1, subsection A of § 18.2-57, or § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282, 18.2-346, or 18.2-346.01; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history. *In addition, where the employment at an adult substance abuse treatment program is as a peer recovery specialist, the community services board may hire any person eligible under this subsection or who was convicted of any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 if the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the person's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.*

D. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment or permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board at adult substance abuse treatment programs a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The community services board and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the community services board or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the board decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a community services board may (i) hire for compensated employment, (ii) approve as a sponsored residential service provider, (iii) permit to enter into a shared living arrangement, or (iv) permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. A community services board may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under

§ 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Community services boards also shall require, as a condition of employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract to serve in a direct care position on behalf of the community services board, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the community services board decides to pay the cost.

I. Notwithstanding any other provision of law, a community services board that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.

J. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

K. Any person employed by a temporary agency that has entered into a contract with a community services board and who will serve in a direct care position on behalf of the community services board shall undergo a background check that shall include:

1. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

2. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

Except as otherwise provided in subsection C, D, or F, no community services board shall permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board if that person has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

CHAPTER 140

An Act to create a six-year capital outlay plan for projects to be funded entirely or partially from general fund-supported resources and to repeal Chapters 602 and 603 of the Acts of Assembly of 2022.

[H 1843]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the following capital outlay projects and descriptive information shall constitute the Commonwealth's capital outlay plan, pursuant to § 2.2-1518 of the Code of Virginia, for the capital projects supported entirely or partially from the general fund for the six-year period beginning July 1, 2023. These projects do not include projects that were previously funded and authorized to proceed to construction.*

Agency Code/Agency	*Priority*	*Project Name*	*Cost Category*
123—Department of Military Affairs	*1*	*Renovate Facilities at Camp Pendleton to House Job ChalleNGe Program*	*$0 to $10,000,000*
156—Department of State Police	*1*	*Construct Division Six Headquarters*	*$25,000,001 to $50,000,000*
194—Department of General Services	*1*	*Construct Commonwealth Courts Building*	*Above $100,000,000*
	2	*Construct New State Office Building and Parking Deck*	*Above $100,000,000*
	3	*Construct New State Laboratory Building*	*Above $100,000,000*
199—Department of Conservation and Recreation	*1*	*Renovate Cabins*	*$10,000,001 to $25,000,000*

	2	*Construct Revenue-Generating Facilities*	*$10,000,001 to $25,000,000*
	3	*Construct New Cabins*	*$10,000,001 to $25,000,000*
	4	*State Parks Infrastructure*	*$10,000,001 to $25,000,000*
203—Wilson Workforce and Rehabilitation Center	*1*	*Construct New PERT Facility to Replace Mary Switzer Building*	*$50,000,001 to $75,000,000*
208—Virginia Polytechnic Institute and State University	*1*	*Expand Virginia Tech-Carilion School of Medicine and Fralin Biomedical Research Institute*	*Above $100,000,000*
211—Virginia Military Institute	*1*	*Construct Center for Leadership and Ethics, Phase 2*	*$75,000,001 to $100,000,000*
212—Virginia State University	*1*	*Renovate Virginia Hall*	*$75,000,001 to $100,000,000*
213—Norfolk State University	*1*	*Renovate/Replace Fine Arts Building*	*$75,000,001 to $100,000,000*
218—Virginia School for the Deaf and the Blind	*1*	*Renovate Main Hall and Repair Chapel*	*$25,000,001 to $50,000,000*
229—Virginia Cooperative Extension and Agricultural Experiment Station	*1*	*Relocate Hampton Roads Agricultural Research and Extension Center*	*$75,000,001 to $100,000,000*
234—Cooperative Extension and Agricultural Research Services	*1*	*Renovate Summerseat for Urban Agriculture Center*	*$0 to $10,000,000*
236—Virginia Commonwealth University	*1*	*Construct Interdisciplinary Classroom and Laboratory Building*	*Above $100,000,000*
	2	*Construct New School of Dentistry Building*	*Above $100,000,000*
247—George Mason University	*1*	*Construct Academic VIII - STEM Prince William Campus*	*Above $100,000,000*
	2	*Renovate Space to Accommodate Virtual Online Campus*	*$10,000,001 to $25,000,000*
	3	*Construct and Renovate Advanced Computational Infrastructure and Hybrid Learning Labs*	*$10,000,001 to $25,000,000*
417—Gunston Hall	*1*	*Construct Archaeology and Maintenance Facilities*	*$0 to $10,000,000*
720—Department of Behavioral Health and Developmental Services	*1*	*Renovate Food Services Statewide*	*$25,000,001 to $50,000,000*
	2	*Renovate Eastern State Hospital, Phase IV*	*$25,000,001 to $50,000,000*
799—Department of Corrections	*1*	*Replace Powhatan Infirmary*	*$25,000,001 to $50,000,000*
	2	*Expand Deerfield Correctional Center*	*$25,000,001 to $50,000,000*
942—Virginia Museum of Natural History	*1*	*Construct Satellite Facility in Waynesboro*	*$10,000,001 to $25,000,000*
949—Central Capital	*1*	*Workforce Development Projects*	*$25,000,001 to $50,000,000*

2. That Chapters 602 and 603 of the Acts of Assembly of 2022 are repealed.

CHAPTER 141

An Act to create a six-year capital outlay plan for projects to be funded entirely or partially from general fund-supported resources and to repeal Chapters 602 and 603 of the Acts of Assembly of 2022.

[S 1068]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the following capital outlay projects and descriptive information shall constitute the Commonwealth's capital outlay plan, pursuant to § 2.2-1518 of the Code of Virginia, for the capital projects supported entirely or partially from the general fund for the six-year period beginning July 1, 2023. These projects do not include projects that were previously funded and authorized to proceed to construction.*

Agency Code/Agency	*Priority*	*Project Name*	*Cost Category*
123—Department of Military Affairs	*1*	*Renovate Facilities at Camp Pendleton to House Job ChalleNGe Program*	*$0 to $10,000,000*
156—Department of State Police	*1*	*Construct Division Six Headquarters*	*$25,000,001 to $50,000,000*
194—Department of General Services	*1*	*Construct Commonwealth Courts Building*	*Above $100,000,000*
	2	*Construct New State Office Building and Parking Deck*	*Above $100,000,000*
	3	*Construct New State Laboratory Building*	*Above $100,000,000*
199—Department of Conservation and Recreation	*1*	*Renovate Cabins*	*$10,000,001 to $25,000,000*
	2	*Construct Revenue-Generating Facilities*	*$10,000,001 to $25,000,000*
	3	*Construct New Cabins*	*$10,000,001 to $25,000,000*
	4	*State Parks Infrastructure*	*$10,000,001 to $25,000,000*
203—Wilson Workforce and Rehabilitation Center	*1*	*Construct New PERT Facility to Replace Mary Switzer Building*	*$50,000,001 to $75,000,000*
208—Virginia Polytechnic Institute and State University	*1*	*Expand Virginia Tech-Carilion School of Medicine and Fralin Biomedical Research Institute*	*Above $100,000,000*
211—Virginia Military Institute	*1*	*Construct Center for Leadership and Ethics, Phase 2*	*$75,000,001 to $100,000,000*
212—Virginia State University	*1*	*Renovate Virginia Hall*	*$75,000,001 to $100,000,000*
213—Norfolk State University	*1*	*Renovate/Replace Fine Arts Building*	*$75,000,001 to $100,000,000*
218—Virginia School for the Deaf and the Blind	*1*	*Renovate Main Hall and Repair Chapel*	*$25,000,001 to $50,000,000*
229—Virginia Cooperative Extension and Agricultural Experiment Station	*1*	*Relocate Hampton Roads Agricultural Research and Extension Center*	*$75,000,001 to $100,000,000*
234—Cooperative Extension and Agricultural Research Services	*1*	*Renovate Summerseat for Urban Agriculture Center*	*$0 to $10,000,000*
236—Virginia Commonwealth University	*1*	*Construct Interdisciplinary Classroom and Laboratory Building*	*Above $100,000,000*
	2	*Construct New School of Dentistry Building*	*Above $100,000,000*

247—George Mason University	*1*	*Construct Academic VIII - STEM Prince William Campus*	*Above $100,000,000*
	2	*Renovate Space to Accommodate Virtual Online Campus*	*$10,000,001 to $25,000,000*
	3	*Construct and Renovate Advanced Computational Infrastructure and Hybrid Learning Labs*	*$10,000,001 to $25,000,000*
417—Gunston Hall	*1*	*Construct Archaeology and Maintenance Facilities*	*$0 to $10,000,000*
720—Department of Behavioral Health and Developmental Services	*1*	*Renovate Food Services Statewide*	*$25,000,001 to $50,000,000*
	2	*Renovate Eastern State Hospital, Phase IV*	*$25,000,001 to $50,000,000*
799—Department of Corrections	*1*	*Replace Powhatan Infirmary*	*$25,000,001 to $50,000,000*
	2	*Expand Deerfield Correctional Center*	*$25,000,001 to $50,000,000*
942—Virginia Museum of Natural History	*1*	*Construct Satellite Facility in Waynesboro*	*$10,000,001 to $25,000,000*
949—Central Capital	*1*	*Workforce Development Projects*	*$25,000,001 to $50,000,000*

2. That Chapters 602 and 603 of the Acts of Assembly of 2022 are repealed.

CHAPTER 142

An Act to amend and reenact § 54.1-3467 of the Code of Virginia, relating to Drug Control Act; prohibition of distribution of hypodermic needles; exception.

[H 1409]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3467 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3467. Distribution of hypodermic needles or syringes, gelatin capsules, quinine or any of its salts.

A. Distribution by any method, of any hypodermic needles or syringes, gelatin capsules, quinine or any of its salts, in excess of one-fourth ounce shall be restricted to licensed pharmacists or to others who have received a license or a permit from the Board.

B. Nothing in this section shall prohibit the dispensing or distributing of hypodermic needles and syringes by persons authorized by the State Health Commissioner pursuant to a comprehensive harm reduction program established pursuant to § 32.1-45.4 who are acting in accordance with the standards and protocols of such program for the duration of the declared public health emergency.

C. Nothing in this section shall prohibit the dispensing or distributing of hypodermic needles and syringes by persons authorized to dispense naloxone in accordance with the provisions of subsection Y of § 54.1-3408 and who, in conjunction with such dispensing of naloxone, dispenses or distributes hypodermic needles and syringes. Nothing in this section shall prohibit the dispensing of hypodermic needles and syringes for the administration of prescribed drugs by prescribers licensed to dispense Schedule VI controlled substances at a nonprofit facility pursuant to § 54.1-3304.1.

D. Notwithstanding the provisions of subsection A, nothing in this section shall prohibit the distribution of hypodermic needles that are designed to be used with a reusable injector pen for the administration of insulin.

CHAPTER 143

An Act to amend and reenact § 54.1-3467 of the Code of Virginia, relating to Drug Control Act; prohibition of distribution of hypodermic needles; exception.

[S 1198]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3467 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3467. Distribution of hypodermic needles or syringes, gelatin capsules, quinine or any of its salts.

A. Distribution by any method, of any hypodermic needles or syringes, gelatin capsules, quinine or any of its salts, in excess of one-fourth ounce shall be restricted to licensed pharmacists or to others who have received a license or a permit from the Board.

B. Nothing in this section shall prohibit the dispensing or distributing of hypodermic needles and syringes by persons authorized by the State Health Commissioner pursuant to a comprehensive harm reduction program established pursuant to § 32.1-45.4 who are acting in accordance with the standards and protocols of such program for the duration of the declared public health emergency.

C. Nothing in this section shall prohibit the dispensing or distributing of hypodermic needles and syringes by persons authorized to dispense naloxone in accordance with the provisions of subsection Y of § 54.1-3408 and who, in conjunction with such dispensing of naloxone, dispenses or distributes hypodermic needles and syringes. Nothing in this section shall prohibit the dispensing of hypodermic needles and syringes for the administration of prescribed drugs by prescribers licensed to dispense Schedule VI controlled substances at a nonprofit facility pursuant to § 54.1-3304.1.

D. Notwithstanding the provisions of subsection A, nothing in this section shall prohibit the distribution of hypodermic needles that are designed to be used with a reusable injector pen for the administration of insulin.

CHAPTER 144

An Act to amend and reenact § 58.1-609.3 of the Code of Virginia, relating to sales and use tax; exemption for oil and gas drilling equipment.

[H 2334]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.-609.3 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-609.3. Commercial and industrial exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Personal property purchased by a contractor which is used solely in another state or in a foreign country, which could be purchased by such contractor for such use free from sales tax in such other state or foreign country, and which is stored temporarily in Virginia pending shipment to such state or country.

2. (i) Industrial materials for future processing, manufacturing, refining, or conversion into articles of tangible personal property for resale where such industrial materials either enter into the production of or become a component part of the finished product; (ii) industrial materials that are coated upon or impregnated into the product at any stage of its being processed, manufactured, refined, or converted for resale; (iii) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or supplies, used directly in processing, manufacturing, refining, mining or converting products for sale or resale; (iv) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging tangible personal property for shipment or sale; or (v) equipment, printing or supplies used directly to produce a publication described in subdivision 3 of § 58.1-609.6 whether it is ultimately sold at retail or for resale or distribution at no cost. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in processing, manufacturing, refining, mining or converting products for sale or resale. The provisions of this subsection do not apply to the drilling or extraction of oil, gas, natural gas and coalbed methane gas. In addition, the exemption provided herein shall not be applicable to any machinery, tools, and equipment, or any other tangible personal property used by a public service corporation in the generation of electric power, except for raw materials that are inputs to production of electricity, including fuel, or for machinery, tools, and equipment used to generate energy derived from sunlight or wind. The exemption for machinery, tools, and equipment used to generate energy derived from sunlight or wind shall expire June 30, 2027.

3. Tangible personal property sold or leased to a public service corporation engaged in business as a common carrier of property or passengers by railway, for use or consumption by such common carrier directly in the rendition of its public service.

4. Ships or vessels, or repairs and alterations thereof, used or to be used exclusively or principally in interstate or foreign commerce; fuel and supplies for use or consumption aboard ships or vessels plying the high seas, either in intercoastal trade between ports in the Commonwealth and ports in other states of the United States or its territories or possessions, or in foreign commerce between ports in the Commonwealth and ports in foreign countries, when delivered directly to such ships or vessels; or tangible personal property used directly in the building, conversion or repair of the ships or vessels covered by this subdivision. This exemption shall include dredges, their supporting equipment, attendant vessels, and fuel and supplies for use or consumption aboard such vessels, provided the dredges are used exclusively or principally in interstate or foreign commerce.

5. Tangible personal property purchased for use or consumption directly and exclusively in basic research or research and development in the experimental or laboratory sense.

6. Notwithstanding the provisions of subdivision 20 of § 58.1-609.10, all tangible personal property sold or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier providing scheduled air service on a continuing basis to one or more Virginia airports at least one day per week, for use or consumption by such airline directly in the rendition of its common carrier service.

7. Meals furnished by restaurants or food service operators to employees as a part of wages.

8. Tangible personal property including machinery and tools, repair parts or replacements thereof, and supplies and materials used directly in maintaining and preparing textile products for rental or leasing by an industrial processor engaged in the commercial leasing or renting of laundered textile products.

9. Certified pollution control equipment and facilities as defined in § 58.1-3660, except for any equipment that has not been certified to the Department of Taxation by a state certifying authority or subdivision certifying authority pursuant to such section.

10. Parts, tires, meters and dispatch radios sold or leased to taxicab operators for use or consumption directly in the rendition of their services.

11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or photocopying of products for sale or resale.

12. From July 1, 1994, and ending July 1, ~~2022~~ *2024*, raw materials, fuel, power, energy, supplies, machinery or tools or repair parts therefor or replacements thereof, used directly in the drilling, extraction, or processing of natural gas or oil and the reclamation of the well area. For the purposes of this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane gas" as defined in § 45.2-1600. For the purposes of this section, "drilling," "extraction," and "processing" shall include production, inspection, testing, dewatering, dehydration, or distillation of raw natural gas into a usable condition consistent with commercial practices, and the gathering and transportation of raw natural gas to a facility wherein the gas is converted into such a usable condition. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in the drilling, extraction, refining, or processing of natural gas or oil for sale or resale, or in well area reclamation activities required by state or federal law.

13. Beginning July 1, 1997, (i) the sale, lease, use, storage, consumption, or distribution of an orbital or suborbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind possessing space flight capability, including the components thereof, irrespective of whether such facility, system, vehicle, satellite, or station is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (ii) the sale, lease, use, storage, consumption or distribution of tangible personal property placed on or used aboard any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind, irrespective of whether such tangible personal property is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (iii) fuels of such quality not adapted for use in ordinary vehicles, being produced for, sold and exclusively used for space flight when used to conduct spaceport activities; (iv) the sale, lease, use, storage, consumption or distribution of machinery and equipment purchased, sold, leased, rented or used exclusively for spaceport activities and the sale of goods and services provided to operate and maintain launch facilities, launch equipment, payload processing facilities and payload processing equipment used to conduct spaceport activities.

For purposes of this subdivision, "spaceport activities" means activities directed or sponsored at a facility owned, leased, or operated by or on behalf of the Virginia Commercial Space Flight Authority.

The exemptions provided by this subdivision shall not be denied by reason of a failure, postponement or cancellation of a launch of any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind or the destruction of any launch vehicle or any components thereof.

14. Semiconductor cleanrooms or equipment, fuel, power, energy, supplies, or other tangible personal property used primarily in the integrated process of designing, developing, manufacturing, or testing a semiconductor product, a semiconductor manufacturing process or subprocess, or semiconductor equipment without regard to whether the property is actually contained in or used in a cleanroom environment, touches the product, is used before or after production, or is affixed to or incorporated into real estate.

15. Semiconductor wafers for use or consumption by a semiconductor manufacturer.

16. Railroad rolling stock when sold or leased by the manufacturer thereof.

17. Computer equipment purchased or leased on or before June 30, 2011, used in data centers located in a Virginia locality having an unemployment rate above 4.9 percent for the calendar quarter ending November 2007, for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware when part of a new investment of at least $75 million in such exempt property, when such investment results in the creation of at least 100 new jobs paying at least twice the prevailing average wage in that locality, so long as such investment was made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority entered into or amended between January 1, 2008, and December 31, 2008. The exemption shall also apply to any such computer equipment purchased or leased to upgrade, add to, or replace computer equipment purchased or

leased in the initial investment. The exemption shall not apply to any computer software sold separately from the computer equipment, nor shall it apply to general building improvements or fixtures.

18. a. Beginning July 1, 2010, and ending June 30, 2035, computer equipment or enabling software purchased or leased for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware, including chillers and backup generators used or to be used in the operation of the equipment exempted in this paragraph, provided that such computer equipment or enabling software is purchased or leased for use in a data center, which includes any data center facilities located in the same locality as the data center that are under common ownership or affiliation of the data center operator, that (i) is located in a Virginia locality; (ii) results in a new capital investment on or after January 1, 2009, of at least $150 million; and (iii) results in the creation on or after July 1, 2009, of at least 50 new jobs by the data center operator and the tenants of the data center, collectively, associated with the operation or maintenance of the data center provided that such jobs pay at least one and one-half times the prevailing average wage in that locality. The requirement of at least 50 new jobs is reduced to 10 new jobs if the data center is located in a distressed locality at the time of the execution of a memorandum of understanding with the Virginia Economic Development Partnership Authority. Additionally, the requirement of a $150 million capital investment shall be reduced to $70 million for data centers that qualify for the reduced jobs requirement.

This exemption applies to the data center operator and the tenants of the data center if they collectively meet the requirements listed in this section. Prior to claiming such exemption, any qualifying person claiming the exemption, including a data center operator on behalf of itself and its tenants, must enter into a memorandum of understanding with the Virginia Economic Development Partnership Authority that at a minimum provides the details for determining the amount of capital investment made and the number of new jobs created, the timeline for achieving the capital investment and new job goals, the repayment obligations should those goals not be achieved, and any conditions under which repayment by the qualifying data center or data center tenant claiming the exemption may be required. In addition, the exemption shall apply to any such computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the initial investment. The exemption shall not apply to any other computer software otherwise taxable under Chapter 6 of Title 58.1 that is sold or leased separately from the computer equipment, nor shall it apply to general building improvements or other fixtures.

b. For purposes of this subdivision 18, "distressed locality" means:

1. From July 1, 2021, until July 1, 2023, any locality that had (i) an annual unemployment rate for calendar year 2019 that was greater than the final statewide average unemployment rate for that calendar year and (ii) a poverty rate for calendar year 2019 that exceeded the statewide average poverty rate for that year; and

2. From and after July 1, 2023, any locality that has (i) an annual unemployment rate for the most recent calendar year for which such data is available that is greater than the final statewide average unemployment rate for that calendar year and (ii) a poverty rate for the most recent calendar year for which such data is available that exceeds the statewide average poverty rate for that year.

c. For so long as a data center operator is claiming an exemption pursuant to this subdivision 18, such operator shall be required to submit an annual report to the Virginia Economic Development Partnership Authority on behalf of itself and, if applicable, its participating tenants that includes their employment levels, capital investments, average annual wages, qualifying expenses, and tax benefit, and such other information as the Virginia Economic Development Partnership Authority determines is relevant, pursuant to procedures developed by the Virginia Economic Development Partnership Authority. The annual report shall be submitted by the data center operator in a format prescribed by the Virginia Economic Development Partnership Authority. The Virginia Economic Development Partnership Authority shall share all information collected with the Department.

The Department, in collaboration with the Virginia Economic Development Partnership Authority, shall publish a biennial report on the exemption that shall include aggregate information on qualifying expenses claimed under this exemption, the total value of the tax benefit, a return on investment analysis that includes direct and indirect jobs created by data center investment, state and local tax revenues generated, and any other information the Department and the Virginia Economic Development Partnership Authority deem appropriate to demonstrate the costs and benefits of the exemption. The report shall not include, and the Department and the Virginia Economic Development Partnership Authority shall not publish or disclose, any such information if it is unaggregated or if such report or publication could be used to identify a business or individual. The Department shall submit the report to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committees on Appropriations and Finance. The Virginia Economic Development Partnership Authority may publish on its website and distribute annual information indicating the job creation and ranges of capital investments made by a data center operator and, if applicable, its participating tenants, in a format to be developed in consultation with data center operators.

19. If the preponderance of their use is in the manufacture of beer by a brewer licensed pursuant to subdivision 3 or 4 of § 4.1-206.1, (i) machinery, tools, and equipment, or repair parts therefor or replacements thereof, fuel, power, energy, or supplies; (ii) materials for future processing, manufacturing, or conversion into beer where such materials either enter into the production of or become a component part of the beer; and (iii) materials, including containers, labels, sacks, cans, bottles, kegs, boxes, drums, or bags for future use, for packaging the beer for shipment or sale.

20. If the preponderance of their use is in advanced recycling, as defined in § 58.1-439.7, (i) machinery, tools, and equipment, or repair parts therefor or replacements thereof, fuel, power, energy, or supplies; (ii) materials for processing,

manufacturing, or conversion for resale where such materials either are recycled or recovered; and (iii) materials, including containers, labels, sacks, cans, boxes, drums, or bags used for packaging recycled or recovered material for shipment or resale.

CHAPTER 145

An Act to amend the Code of Virginia by adding a section numbered 22.1-207.8, relating to high school students; academic credit for certain work experience and fine arts programs; guidelines.

[S 1277]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-207.8 as follows:

§ 22.1-207.8. Academic credit for work experience; fine arts programs; guidelines.

The Board shall develop guidelines and policies for permitting any high school student in grades 11 and 12 to earn one-half standard unit of credit per semester for employment in certain fields or industries or participation in certain fine arts programs in which such student works or participates a certain minimum number of hours per week for each week of the semester, as determined by the Board. Such guidelines and policies shall include:

1. Standards and requirements for determining the eligibility of employment and fine arts programs for awarding academic credit, including eligibility criteria and approval procedures for specific employers and programs;

2. Standards for how the one-half unit of credit is to be awarded and policies for monitoring and evaluating student participation in and completion of approved employment or fine arts programs; and

3. Any other policies that the Board deems appropriate.

2. That the Board of Education shall collaborate with and seek input from the Coordinator of Fine Arts for the Department of Education and a representative from the Virginia Coalition for Fine Arts Education in developing and implementing guidelines and policies for awarding academic credit for participation in certain fine arts programs pursuant to this act.

CHAPTER 146

An Act to amend and reenact §§ 3.2-3304 and 3.2-3307 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 3.2-3305.1, relating to Dairy Producer Margin Coverage Premium Assistance Program and Fund.

[H 1660]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-3304 and 3.2-3307 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 3.2-3305.1 as follows:

§ 3.2-3304. (Expires July 1, 2023) Definitions.

For the purposes of this chapter, unless the context requires a different meaning:

"DCR" means the Department of Conservation and Recreation.

"Farm Act" means the federal Agriculture Improvement Act of 2018, P.L. 115-334*, or subsequent federal farm program authorizing legislation*.

"Federal coverage program" means the federal margin coverage program for dairy producers as contained in the Farm Act.

"Fund" means the Dairy Producer Margin Coverage Premium Assistance Program Fund created pursuant to § 3.2-3305.1.

"Program" means the Dairy Producer Margin Coverage Premium Assistance Program created pursuant to this chapter.

§ 3.2-3305.1. Dairy Producer Margin Coverage Premium Assistance Program Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Dairy Producer Margin Coverage Premium Assistance Program Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the provisions of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 3.2-3307. (Expires July 1, 2023) Expiration of chapter.

The provisions of this chapter shall expire on July 1, ~~2023~~ *2028*.

CHAPTER 147

An Act to amend and reenact §§ 3.2-3304 and 3.2-3307 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 3.2-3305.1, relating to Dairy Producer Margin Coverage Premium Assistance Program and Fund.

[S 1239]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-3304 and 3.2-3307 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 3.2-3305.1 as follows:

§ 3.2-3304. (Expires July 1, 2023) Definitions.

For the purposes of this chapter, unless the context requires a different meaning:

"DCR" means the Department of Conservation and Recreation.

"Farm Act" means the federal Agriculture Improvement Act of 2018, P.L. 115-334*, or subsequent federal farm program authorizing legislation*.

"Federal coverage program" means the federal margin coverage program for dairy producers as contained in the Farm Act.

"Fund" means the Dairy Producer Margin Coverage Premium Assistance Program Fund created pursuant to § 3.2-3305.1.

"Program" means the Dairy Producer Margin Coverage Premium Assistance Program created pursuant to this chapter.

§ 3.2-3305.1. Dairy Producer Margin Coverage Premium Assistance Program Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Dairy Producer Margin Coverage Premium Assistance Program Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the provisions of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 3.2-3307. (Expires July 1, 2023) Expiration of chapter.

The provisions of this chapter shall expire on July 1, ~~2023~~ *2028*.

CHAPTER 148

An Act to amend and reenact §§ 2.2-1159, 3.2-6588, 10.1-200.3, 15.2-1805, 15.2-2025, 15.2-2306, 15.2-5201, 15.2-5301, 15.2-5369, 15.2-6314.1, 20-163, 22.1-101.1, 22.1-183, 22.1-213, 22.1-214.3, 22.1-270, 22.1-290.02, 23.1-1000, 23.1-2400, 25.1-400, 29.1-314, 32.1-78, 33.2-613, 36-96.1:1, 36-98.1, 36-99, 38.2-3323, 38.2-3409, 46.2-100, 46.2-221, 46.2-844, 46.2-859, 46.2-917, 46.2-1090, 46.2-1503.2, 51.1-124.27, 51.5-40.1, 54.1-2968, 58.1-609.10, 58.1-2401, 58.1-3210, 58.1-3213.1, 58.1-3503, 58.1-3506, 58.1-3506.1, 58.1-3506.6, 58.1-3833, 58.1-3840, 58.1-4024, 63.2-100, 63.2-319, 63.2-1301, 63.2-1302, and 64.2-745 of the Code of Virginia, relating to individuals with disabilities; terminology.

[H 1450]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1159, 3.2-6588, 10.1-200.3, 15.2-1805, 15.2-2025, 15.2-2306, 15.2-5201, 15.2-5301, 15.2-5369, 15.2-6314.1, 20-163, 22.1-101.1, 22.1-183, 22.1-213, 22.1-214.3, 22.1-270, 22.1-290.02, 23.1-1000, 23.1-2400, 25.1-400, 29.1-314, 32.1-78, 33.2-613, 36-96.1:1, 36-98.1, 36-99, 38.2-3323, 38.2-3409, 46.2-100, 46.2-221, 46.2-844, 46.2-859, 46.2-917, 46.2-1090, 46.2-1503.2, 51.1-124.27, 51.5-40.1, 54.1-2968, 58.1-609.10, 58.1-2401, 58.1-3210, 58.1-3213.1, 58.1-3503, 58.1-3506, 58.1-3506.1, 58.1-3506.6, 58.1-3833, 58.1-3840, 58.1-4024, 63.2-100, 63.2-319, 63.2-1301, 63.2-1302, and 64.2-745 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-1159. Facilities for persons with physical disabilities in certain buildings; definitions; construction standards; waiver; temporary buildings.

A. For the purposes of this section and § 2.2-1160:

"Building" means any building or facility, used by the public, which is constructed in whole or in part or altered by the use of state, county or municipal funds, or the funds of any political subdivision of ~~this~~ *the* Commonwealth. "Building" shall not include public school buildings and facilities, which shall be governed by standards established by the Board of Education pursuant to § 22.1-138.

"Persons with physical disabilities" means persons with:

1. Impairments that, regardless of cause or manifestation, for all practical purposes, confine individuals to wheelchairs;

2. Impairments that cause individuals to walk with difficulty or insecurity;

3. Total blindness or impairments affecting sight to the extent that the individual functioning in public areas is insecure or exposed to dangers;

4. Deafness or hearing ~~handicaps~~ *loss* that might make an individual insecure in public areas because he is unable to communicate or hear warning signals;

5. Faulty coordination or palsy from brain, spinal, or peripheral nerve injury; or

6. Those manifestations of the aging processes that significantly reduce mobility, flexibility, coordination and perceptiveness but are not accounted for in the aforementioned categories.

B. The Division shall prescribe standards for the design, construction, and alteration of buildings constructed in whole or in part or altered by the use of state funds, other than school funds, necessary to ensure that persons with physical disabilities will have ready access to, and use of, such buildings.

C. The governing body of a county, city or town or other political subdivision shall prescribe standards for the design, construction and alteration of buildings, not including public school facilities, constructed in whole or in part or altered by the use of the funds of such locality or political subdivision necessary to ensure that persons with physical disabilities will have ready access to, and use of, such buildings. The Division shall consult with the governing bodies upon request.

D. The Division, with respect to standards issued by it, and the governing body of any county, city or town or other political subdivision with respect to standards issued by it may:

1. Modify or waive any such standard, on a case-by-case basis, upon application made by the head of the department, agency or other instrumentality concerned, upon determining that a modification or waiver is clearly necessary; and

2. Conduct necessary surveys and investigations to ensure compliance with such standards.

E. The provisions of this section and § 2.2-1160 shall apply to temporary and emergency construction as well as permanent buildings.

§ 3.2-6588. Intentional interference with a guide or leader dog; penalty.

A. It is unlawful for a person to, without just cause, willfully impede or interfere with the duties performed by a dog if the person knows or has reason to believe the dog is a guide or leader dog. A violation of this subsection is a Class 3 misdemeanor.

B. It is unlawful for a person to, without just cause, willfully injure a dog if the person knows or has reason to believe the dog is a guide or leader dog. A violation of this subsection is a Class 1 misdemeanor.

"Guide or leader dog" means a dog that: (i) serves as a dog guide for a blind person as defined in § 51.5-60 or for a person with a visual disability; (ii) serves as a listener for a deaf or hard-of-hearing person as defined in § 51.5-111; or (iii) provides support or assistance for ~~a physically disabled or handicapped person~~ *an individual with a physical disability*.

§ 10.1-200.3. Admittance and parking in state parks; prohibitions; civil penalty.

A. No person shall make use of, gain admittance to, or attempt to use or gain admittance to the facilities in any state park for the use of which a charge is assessed by the Department, unless the person pays the charge or price established by the Department.

B. No owner or driver shall cause or permit a vehicle to stand:

1. Anywhere in a state park outside of designated parking spaces, except for a reasonable time in order to receive or discharge passengers; or

2. In any space in a state park designated for use by ~~the handicapped~~ *individuals with disabilities* unless the vehicle displays a license plate or decal issued by the Commissioner of the Department of Motor Vehicles, or a similar identification issued by a similar authority of another state or the District of Columbia, ~~which~~ *that* authorizes parking in a ~~handicap~~ space *designated for use by individuals with disabilities*.

C. Any person violating any provision of this section may, in lieu of any criminal penalty, be assessed a civil penalty of ~~twenty-five dollars~~ *$25* by the Department. Civil penalties assessed under this section shall be paid into the Conservation Resources Fund.

§ 15.2-1805. Permitting individuals with visual impairments to operate stands for sale of newspapers, etc.

A locality, by ordinance or resolution, may authorize any ~~visually handicapped person~~ *individual with a visual impairment* to construct, maintain and operate, under the supervision of the Virginia Department for the Blind and Vision Impaired, in the county or city courthouse or in any other property of the locality, a stand for the sale of newspapers, periodicals, confections, tobacco products and similar articles and may prescribe rules for the operation of such stand.

§ 15.2-2025. Removal of snow and ice; civil penalty.

Notwithstanding the provisions of subsection A of § 15.2-2000, any county in Northern Virginia Planning District 8, or any county outside Planning District 8 that has adopted the county executive form of government, may provide by ordinance reasonable criteria and requirements for the removal of accumulations of snow and ice from public sidewalks, by the owner or other person in charge of any occupied property.

Such ordinance shall include reasonable time frames for compliance and reasonable exceptions for ~~handicapped and~~ *individuals with disabilities,* elderly ~~persons~~ *individuals*, and those otherwise physically incapable of meeting the criteria and requirements for such removal.

Civil penalties not to exceed $100 may be imposed for violation of such ordinance.

§ 15.2-2306. Preservation of historical sites and architectural areas.

A. 1. Any locality may adopt an ordinance setting forth the historic landmarks within the locality as established by the Virginia Board of Historic Resources, and any other buildings or structures within the locality having an important historic,

architectural, archaeological or cultural interest, any historic areas within the locality as defined by § 15.2-2201, and areas of unique architectural value located within designated conservation, rehabilitation or redevelopment districts, amending the existing zoning ordinance and delineating one or more historic districts, adjacent to such landmarks, buildings and structures, or encompassing such areas, or encompassing parcels of land contiguous to arterial streets or highways (as designated pursuant to Title 33.2, including § 33.2-319 ~~of that title~~) found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures or districts therein or in a contiguous locality. A governing body may provide in the ordinance that the applicant must submit documentation that any development in an area of the locality of known historical or archaeological significance will preserve or accommodate the historical or archaeological resources. An amendment of the zoning ordinance and the establishment of a district or districts shall be in accordance with the provisions of Article 7 (§ 15.2-2280 et seq.) ~~of this chapter~~. The governing body may provide for a review board to administer the ordinance and may provide compensation to the board. The ordinance may include a provision that no building or structure, including signs, shall be erected, reconstructed, altered or restored within any such district unless approved by the review board or, on appeal, by the governing body of the locality as being architecturally compatible with the historic landmarks, buildings or structures therein.

2. Subject to the provisions of subdivision 3 ~~of this subsection~~ the governing body may provide in the ordinance that no historic landmark, building or structure within any district shall be razed, demolished or moved until the razing, demolition or moving thereof is approved by the review board, or, on appeal, by the governing body after consultation with the review board.

3. The governing body shall provide by ordinance for appeals to the circuit court for such locality from any final decision of the governing body pursuant to subdivisions 1 and 2 ~~of this subsection~~ and shall specify therein the parties entitled to appeal the decisions, which parties shall have the right to appeal to the circuit court for review by filing a petition at law, setting forth the alleged illegality of the action of the governing body, provided the petition is filed within ~~thirty~~ *30* days after the final decision is rendered by the governing body. The filing of the petition shall stay the decision of the governing body pending the outcome of the appeal to the court, except that the filing of the petition shall not stay the decision of the governing body if the decision denies the right to raze or demolish a historic landmark, building or structure. The court may reverse or modify the decision of the governing body, in whole or in part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the governing body.

In addition to the right of appeal hereinabove set forth, the owner of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions of subdivision 2 ~~of this subsection~~, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) he has applied to the governing body for such right, (ii) the owner has for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the locality or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure. The time schedule for offers to sell shall be as follows: three months when the offering price is less than $25,000; four months when the offering price is $25,000 or more but less than $40,000; five months when the offering price is $40,000 or more but less than $55,000; six months when the offering price is $55,000 or more but less than $75,000; seven months when the offering price is $75,000 or more but less than $90,000; and ~~twelve~~ *12* months when the offering price is $90,000 or more.

4. The governing body is authorized to acquire in any legal manner any historic area, landmark, building or structure, land pertaining thereto, or any estate or interest therein which, in the opinion of the governing body should be acquired, preserved and maintained for the use, observation, education, pleasure and welfare of the people; provide for their renovation, preservation, maintenance, management and control as places of historic interest by a department of the locality or by a board, commission or agency specially established by ordinance for the purpose; charge or authorize the charging of compensation for the use thereof or admission thereto; lease, subject to such regulations as may be established by ordinance, any such area, property, lands or estate or interest therein so acquired upon the condition that the historic character of the area, landmark, building, structure or land shall be preserved and maintained; or to enter into contracts with any person, firm or corporation for the management, preservation, maintenance or operation of any such area, landmark, building, structure, land pertaining thereto or interest therein so acquired as a place of historic interest; however, the locality shall not use the right of condemnation under this subsection unless the historic value of such area, landmark, building, structure, land pertaining thereto, or estate or interest therein is about to be destroyed.

The authority to enter into contracts with any person, firm or corporation as stated above may include the creation, by ordinance, of a resident curator program such that private entities through lease or other contract may be engaged to

manage, preserve, maintain, or operate, including the option to reside in, any such historic area, property, lands, or estate owned or leased by the locality. Any leases or contracts entered into under this provision shall require that all maintenance and improvement be conducted in accordance with established treatment standards for historic landmarks, areas, buildings, and structures. For purposes of this section, leases or contracts that preserve historic landmarks, buildings, structures, or areas are deemed to be consistent with the purposes of use, observation, education, pleasure, and welfare of the people as stated above so long as the lease or contract provides for reasonable public access consistent with the property's nature and use. The Department of Historic Resources shall provide technical assistance to local governments, at their request, to assist in developing resident curator programs.

B. Notwithstanding any contrary provision of law, general or special, in the City of Portsmouth no approval of any governmental agency or review board shall be required for the construction of a ramp to serve ~~the handicapped~~ *individuals with disabilities* at any structure designated pursuant to the provisions of this section.

C. Any locality that establishes or expands a local historic district pursuant to this section shall identify and inventory all landmarks, buildings, or structures in the areas being considered for inclusion within the proposed district. Prior to adoption of an ordinance establishing or expanding a local historic district, the locality shall (i) provide for public input from the community and affected property owners in accordance with § 15.2-2204; (ii) establish written criteria to be used to determine which properties should be included within a local historic district; and (iii) review the inventory and the criteria to determine which properties in the areas being considered for inclusion within the proposed district meet the criteria to be included in a local historic district. Local historic district boundaries may be adjusted to exclude properties along the perimeter that do not meet the criteria. The locality shall include only the geographical areas in a local historic district where a majority of the properties meet the criteria established by the locality in accordance with this section. However, parcels of land contiguous to arterial streets or highways found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures, or districts therein, or in a contiguous locality may be included in a local historic district notwithstanding the provisions of this subsection.

D. Any locality utilizing the urban county executive form of government may include a provision in any ordinance adopted pursuant to this section that would allow public access to any such historic area, landmark, building, or structure, or land pertaining thereto, or providing that no subdivision shall occur within any historic district unless approved by the review board or, on appeal, by the governing body of the locality as being compatible with the historic nature of such area, landmarks, buildings, or structures therein with regard to any parcel or parcels that collectively are (i) adjacent to a navigable river and a national park and (ii) in part or as a whole subject to an easement granted to the National Park Service or Virginia Outdoors Foundation granted on or after January 1, 1973.

§ 15.2-5201. Definitions.

As used in this chapter:

"Bond" includes any interest-bearing obligation, including promissory notes.

"Hospital or health center" means any and all medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all facilities suitable for providing hospital and medical care, including any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in lands, franchises, machinery, equipment, furnishing, landscaping, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto (including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, medical office facilities, clinics, out-patient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of ~~the~~ elderly~~, the handicapped~~ or ~~the~~ chronically ill *individuals or individuals with disabilities*, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention, or palliation of any human illness, injury, disorder, or disability), together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

§ 15.2-5301. Definitions.

As used ~~or referred to~~ in this chapter, unless *the context requires* a different meaning ~~clearly appears from the context~~:

"Authority" or "hospital authority" means a body corporate organized in accordance with the provisions of this chapter for the purposes, with the powers and subject to the restrictions hereinafter set forth.

"Bonds" means any bonds, interim certificates, notes, debentures, or other obligations of the authority issued pursuant to this chapter.

"City," means both cities and counties, and city-specific terms such as "mayor" shall be deemed to also include the equivalent county term.

"Commissioner" means one of the members of an authority appointed in accordance with the provisions of this chapter.

"Contract" means any agreement of an authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

"Cost," as applied to a hospital project, means all or any part of the cost of acquisition, construction, alteration, enlargement, reconstruction and remodeling of a hospital project, including all lands, structures, real or personal property, interest in land and air rights, the cost of demolishing or removing any buildings or structures on land so acquired, including

the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to, during and for a period of time not to exceed two years after completion, provisions for working capital, the cost of architectural engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing the hospital project and such other expenses as may be necessary or incidental to the acquisition and construction of such project, the financing of such acquisition and construction and the placing of the project in operation.

"Federal government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

"Government" means the Commonwealth and the federal government and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

"Hospital project" or "project" means any and all medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all facilities suitable for providing adequate hospital facilities and medical care for concentrated centers of population, and also includes any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, franchises, machinery, equipment, furnishings, landscaping, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, medical office facilities, clinics, out-patient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of ~~the~~ elderly~~, the handicapped~~ or ~~the~~ chronically ill *individuals or individuals with disabilities*, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention or palliation of any human illness, injury, disorder, or disability; together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto; or equipment alone, including, without limitation, parking facilities, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles, and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

"Obligee of the authority" or "obligee" includes any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a hospital project or any assignee or assignees of such lessor's interest or any part thereof, and the United States of America when it is a party to any contract with the authority.

"Real property" includes lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgments, mortgage or otherwise.

"Trust indenture" includes instruments pledging the revenues of real or personal properties but not conveying such properties or conferring a right to foreclose and cause a sale thereof.

§ 15.2-5369. Definitions.

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

"Authority" means any political subdivision, a body politic and corporate, created, organized, and operated pursuant to the provisions of this chapter or, if such Authority is abolished, the board, body, authority, department, or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Bond" includes any interest bearing obligation, including promissory notes.

"Commissioner" means the State Health Commissioner.

"Cooperative agreement" means an agreement among two or more hospitals for the sharing, allocation, consolidation by merger or other combination of assets, or referral of patients, personnel, instructional programs, support services, and facilities or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered by hospitals.

"Hospital" includes any health center and health provider under common ownership with the hospital and means any and all providers of dental, medical, and mental health services, including all related facilities and approaches thereto and appurtenances thereof. Dental, medical, and mental health facilities includes any and all facilities suitable for providing hospital, dental, medical, and mental health care, including any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in lands, franchises, machinery, equipment, furnishing, landscaping, approaches, roadways, and other facilities necessary or desirable in connection therewith or incidental thereto (including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, mental health facilities, wellness and health maintenance centers, medical office facilities, clinics, outpatient surgical centers, alcohol, substance abuse and drug treatment centers, dental care clinics, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of ~~the~~ elderly~~, the handicapped~~ or ~~the~~ chronically ill *individuals or individuals with disabilities*, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention, or palliation of any human illness, injury, disorder, or disability), together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients. Dental,

medical, and mental health facilities also includes facilities for graduate-level instruction in medicine or dentistry and clinics appurtenant thereto offering free or reduced rate dental, medical, or mental health services to the public.

"Participating locality" means any county or city in the LENOWISCO or Cumberland Plateau Planning District Commissions and the Counties of Smyth and Washington and the City of Bristol with respect to which an authority may be organized and in which it is contemplated that the Authority will function.

§ 15.2-6314.1. Applicability of the Virginia Personnel Act and the Virginia Public Procurement Act.

A. Employees of an authority created by a locality shall be exempt from the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) if (i) the locality has personnel policies and procedures that are consistent with the goals, objectives, and policies of the Virginia Personnel Act~~;~~ and (ii) such authority adopts the locality's personnel policies and procedures. In any event, personnel actions shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ *disability*, or political affiliation.

B. Any authority created under this chapter shall be subject to the terms of the Virginia Public Procurement Act (§ 2.2-4300 et seq.). Notwithstanding the foregoing, should the ~~United States~~ *U.S.* Department of Defense place a federal area on a list of installations to be closed or realigned under the authority granted to the ~~United States~~ *U.S.* Department of Defense pursuant to the federal Defense Base Closure And Realignment Act of 1990 (~~United States Public Law~~ *P.L.* 101-501, as amended through the National Defense Authorization Act of Fiscal Year 2003), and such federal area is subject to the jurisdiction of an authority created by a locality, such listing of that installation shall qualify as an "emergency" under subsection F of § 2.2-4303 of the Virginia Public Procurement Act.

§ 20-163. Miscellaneous provisions related to all surrogacy contracts.

A. The surrogate shall be solely responsible for the clinical management of the pregnancy.

B. After the entry of an order under subsection B of § 20-160 or upon the execution of a contract pursuant to § 20-162, the marriage of the surrogate shall not affect the validity of the order or contract, and her spouse shall not be deemed a party to the contract in the absence of his explicit written consent.

C. Following the entry of an order pursuant to subsection D of § 20-160 or upon the relinquishing of the custody of and parental rights to any resulting child and the filing of the surrogate consent and report form as provided in § 20-162, the intended parent shall have the custody of, parental rights to, and full responsibilities for any child resulting from the performance of assisted conception from a surrogacy agreement regardless of the child's health, physical appearance, any mental or physical ~~handicap~~ *disability*, and regardless of whether the child is born alive.

D. A child born to a surrogate within 300 days after assisted conception pursuant to an order under subsection B of § 20-160 or a contract under § 20-162 is presumed to result from the assisted conception. This presumption is conclusive as to all persons who fail to file an action to test its validity within two years after the birth of the child. The child and the parties to the contract shall be named as parties in any such action. The action shall be filed in the court that issued or could have issued an order under § 20-160.

E. Health care providers shall not be liable for recognizing the surrogate as the mother of the resulting child before receipt of a copy of an order entered under § 20-160 or a copy of the contract, or for recognizing the intended parent as the parent of the resulting child after receipt of such order or copy of the contract.

F. Any contract provision requiring or prohibiting an abortion or selective reduction is against the public policy of the Commonwealth and is void and unenforceable.

§ 22.1-101.1. Increase of funds for certain nonresident students; how increase computed and paid; billing of out-of-state placing agencies or persons.

A. To the extent such funds are appropriated by the General Assembly, a school division shall be reimbursed for the cost of educating a child who is not a child with disabilities and who is not a resident of such school division under the following conditions:

1. When such child has been placed in foster care or other custodial care within the geographical boundaries of the school division by a Virginia agency, whether state or local, which is authorized under the laws of ~~this~~ *the* Commonwealth to place children;

2. When such child has been placed within the geographical boundaries of the school division in an orphanage or children's home which exercises legal guardianship rights; or

3. When such child, who is a resident of Virginia, has been placed, not solely for school purposes, in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 which is located within the geographical boundaries of the school division.

B. To the extent such funds are appropriated by the General Assembly, a school division shall be reimbursed for the cost of educating a child with disabilities who is not a resident of such school division under the following conditions:

1. When the child with disabilities has been placed in foster care or other custodial care within the geographical boundaries of the school division by a Virginia agency, whether state or local, which is authorized under the laws of ~~this~~ *the* Commonwealth to place children;

2. When such child with disabilities has been placed within the geographical boundaries of the school division in an orphanage or children's home which exercises legal guardianship rights; or

3. When such child with disabilities, who is a resident of Virginia, has been placed, not solely for school purposes, in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 which is located within the geographical boundaries of the school division.

C. Each school division shall keep an accurate record of the number of days which any child, identified in subsection A or B ~~above~~, was enrolled in its public schools, the required local expenditure per child, the ~~handicapping~~ ~~condition~~ *specific disability*, if applicable, the placing agency or person and the jurisdiction from which the child was sent. Each school division shall certify this information to the Board of Education by July 1 following the end of the school year in order to receive proper reimbursement. No school division shall charge tuition to any such child.

D. When a child who is not a resident of Virginia, whether ~~disabled~~ or not *such child has a disability*, has been placed by an out-of-state agency or a person who is the resident of another state in foster care or other custodial care or in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 located within the geographical boundaries of the school division, the school division shall not be reimbursed for the cost of educating such child from funds appropriated by the General Assembly. The school division in which such child has been enrolled shall bill the sending agency or person for the cost of the education of such child as provided in subsection C of § 22.1-5.

The costs of the support and maintenance of the child shall include the cost of the education provided by the school division; therefore, the sending agency or person shall have the financial responsibility for the educational costs for the child pursuant to Article V of the Interstate Compact on the Placement of Children as set forth in Chapters 10 (§ 63.2-1000 et seq.) and 11 (§ 63.2-1100 et seq.) of Title 63.2. Upon receiving the bill for the educational costs from the school division, the sending agency or person shall reimburse the billing school division for providing the education of the child. Pursuant to Article III of the Interstate Compact on the Placement of Children, no sending agency or person shall send, bring, or cause to be sent or brought into ~~this~~ *the* Commonwealth any child for placement unless the sending agency or person has complied with this section by honoring the financial responsibility for the educational cost as billed by a local school division.

E. To the extent that state funds appropriated by the General Assembly pursuant to subsection A or B or other state funds, such as those provided on the basis of average daily membership, do not cover the full cost of educating a child pursuant to this subsection, a school division shall be reimbursed by (i) the school division in which a child's custodial parent or guardian resides or (ii) in the case of a child who has been placed in the custody of the Department of Social Services, the school division in which the parent or guardian who had custody immediately preceding the placement resides, for any remaining costs of educating such child, whether ~~disabled~~ or not *such child has a disability*, who has been placed, not solely for school purposes, in (a) foster care or other custodial care within the geographical boundaries of the school division to be reimbursed, or (b) a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 that is located within the geographical boundaries of the school division to be reimbursed.

§ 22.1-183. When warning lights and identification to be covered.

It ~~shall~~ ~~be~~ *is* unlawful for a school bus licensed in ~~this~~ *the* Commonwealth to be operated on the public highways of ~~this~~ *the* Commonwealth for the purpose of transporting persons or commodities other than school personnel, school children ~~or~~, elderly *individuals,* or ~~mentally~~ ~~or~~ ~~physically~~ ~~handicapped~~ ~~persons~~ *individuals with mental or physical disabilities* unless the lettered identification and school bus traffic warning lights on the front and rear of such bus are covered with some opaque detachable material. This section shall not apply to any such bus when operated by a salesman or demonstrator in connection with a prospective sale or delivery of a bus.

§ 22.1-213. Definitions.

As used in this article:

"Children with disabilities" means those persons (i) who are age two to 21, inclusive, having reached the age of two by the date specified in § 22.1-254; (ii) who have intellectual disability or serious emotional disturbance, are physically disabled, speech impaired, deaf or hard of hearing, visually impaired, or multiple disabled, are otherwise health impaired, including those who have autism spectrum disorder or a specific learning disability, or are otherwise disabled as defined by the Board of Education; and (iii) who because of such impairments need special education.

"Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a ~~disabled~~ child *with a disability* to benefit from special education, including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. "Related services" also includes school health services, social work services in schools, and parent counseling and training.

"Special education" means specially designed instruction at no cost to the parent to meet the unique needs of a ~~disabled~~ child *with a disability*, including classroom instruction, home instruction, instruction provided in hospitals and institutions, instruction in physical education, and instruction in career and technical education.

"Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. "Specific learning disability" does not include children who have learning problems that are primarily the result of visual, hearing, ~~or~~ motor ~~handicaps~~, ~~of~~ *or* intellectual disability, or of environmental, cultural, or economic disadvantage.

§ 22.1-214.3. Department to develop certain curriculum guidelines; Board to approve.

The Department of Education shall develop curricula for the school-age individuals in state training centers and curriculum guidelines for the school-age individuals in state hospitals operated by the Department of Behavioral Health and Developmental Services in cooperation with the Department of Behavioral Health and Developmental Services and

representatives of the teachers employed to provide instruction to the children. Prior to implementation, the Board of Education shall approve these curricula and curriculum guidelines.

These curricula and curriculum guidelines shall be designed to provide a range of programs and suggested program sequences for different functioning levels and ~~handicaps~~ *disabilities* and shall be reviewed and revised at least every three years. In addition to academic programming, the curriculum guidelines for the school-age individuals in state hospitals operated by the Department of Behavioral Health and Developmental Services shall include affective education and physical education as well as independent living and career and technical education, with particular emphasis on the needs of older adolescents and young adults.

§ 22.1-270. Preschool physical examinations.

A. No pupil shall be admitted for the first time to any public kindergarten or elementary school in a school division unless such pupil shall furnish, prior to admission, (i) a report from a qualified licensed physician, or a licensed nurse practitioner or licensed physician assistant acting under the supervision of a licensed physician, of a comprehensive physical examination of a scope prescribed by the State Health Commissioner performed within the 12 months prior to the date such pupil first enters such public kindergarten or elementary school or (ii) records establishing that such pupil furnished such report upon prior admission to another school or school division and providing the information contained in such report.

If the pupil is a homeless child or youth as defined in subdivision A 7 of § 22.1-3, and for that reason cannot furnish the report or records required by *clause* (i) or (ii) of this subsection, and the person seeking to enroll the pupil furnishes to the school division an affidavit so stating and also indicating that, to the best of his knowledge, such pupil is in good health and free from any communicable or contagious disease, the school division shall immediately refer the student to the local school division liaison, as described in Subtitle VII-B of the federal McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. § 11431 et seq.) (the Act), who shall, as soon as practicable, assist in obtaining the necessary physical examination by the county or city health department or other clinic or physician's office and shall immediately admit the pupil to school, as required by such Act.

B. The physician, or licensed nurse practitioner or licensed physician assistant acting under the supervision of a licensed physician, making a report of a physical examination required by this section shall, at the end of such report, summarize the abnormal physical findings, if any, and shall specifically state what, if any, conditions are found that would identify the child as ~~handicapped~~ *having a disability*.

C. Such physical examination report shall be placed in the child's health record at the school and shall be made available for review by any employee or official of the State Department of Health or any local health department at the request of such employee or official.

D. Such physical examination shall not be required of any child whose parent shall object on religious grounds and who shows no visual evidence of sickness, provided that such parent shall state in writing that, to the best of his knowledge, such child is in good health and free from any communicable or contagious disease.

E. The health departments of all of the counties and cities of the Commonwealth shall conduct such physical examinations for medically indigent children without charge upon request and may provide such examinations to others on such uniform basis as such departments may establish.

F. Parents of entering students shall complete a health information form which shall be distributed by the local school divisions. Such forms shall be developed and provided jointly by the Department of Education and Department of Health, or developed and provided by the school division and approved by the Superintendent of Public Instruction. Such forms shall be returnable within 15 days of receipt unless reasonable extensions have been granted by the superintendent or his designee. Upon failure of the parent to complete such form within the extended time, the superintendent may send to the parent written notice of the date he intends to exclude the child from school; however, no child who is a homeless child or youth as defined in subdivision A 7 of § 22.1-3 shall be excluded from school for such failure to complete such form.

§ 22.1-290.02. Traineeships for education of special education personnel.

A. There are hereby established traineeships that shall be awarded to persons who are interested in working in programs for the education of ~~handicapped~~ children *with disabilities* for either part-time or full-time study in programs designed to qualify them as special education personnel in the public schools. Applicants for such traineeships shall be graduates of a recognized institution of higher education.

B. The award of such traineeships shall be made by the State Board, and the number of awards during any one year shall depend upon the amounts appropriated by the General Assembly for this purpose. The amount awarded for each traineeship shall be $450 for a minimum of six semester hours of course work in areas relating to special education to be taken by the applicant during a single semester or summer session.

C. This program shall be administered by the Department of Education under rules and regulations promulgated by the State Board.

§ 23.1-1000. Definitions.

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

"Bonds, notes, or other obligations" means bonds, notes, commercial paper, bond anticipation notes, revenue certificates, capital leases, lease participation certificates, or other evidences of indebtedness or deferred purchase financing arrangements.

"Capital project" means the acquisition of any interest in land, including (i) capital leases and (ii) improvements on the acquired land consisting of (a) new construction of at least 5,000 square feet, (b) new construction costing at least $2 million, or (c) improvements or renovations costing at least $2 million.

"Covered employee" means any individual who is employed by a covered institution on either a salaried or wage basis.

"Covered institution" means a public institution of higher education that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 (§ 23.1-1004 et seq.).

"Enabling statutes" means each chapter in Subtitle IV (§ 23.1-1300 et seq.), and in the case of the University of Virginia Medical Center §§ 2.2-2817.2, 2.2-2905, 51.1-126.3, and 51.1-1100, creating, continuing, or otherwise setting forth the powers, duties, purposes, and missions of each individual public institution of higher education unless otherwise expressly provided in this chapter.

"Facilities" means all (i) real, personal, tangible, and intangible property, including all (a) infrastructure suitable for supporting a covered institution's mission and ancillary activities and (b) structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches, roadways, and other related and supporting facilities held, possessed, owned, leased, operated, or used, in whole or in part, by a covered institution and (ii) rights in such property.

"Includes" has the same meaning as provided in § 1-218.

"Management agreement" means an agreement between the Commonwealth and a public institution of higher education that enables such institution to be governed by Article 4 (§ 23.1-1004 et seq.).

"Participating covered employee" includes (i) all salaried nonfaculty covered employees who were employed by the covered institution on the day prior to the effective date of the initial management agreement and elect pursuant to § 23.1-1022 to participate in and be governed by the program, plans, policies, and procedures established by the institution pursuant to Article 4 (§ 23.1-1004 et seq.); (ii) all salaried nonfaculty covered employees who are employed by the covered institution on or after the effective date of the initial management agreement; (iii) all nonsalaried nonfaculty covered employees of the covered institution without regard to when they were hired; (iv) all faculty covered employees of the covered institution without regard to when they were hired; and (v) all employees of the University of Virginia Medical Center without regard to when they were hired.

"Project" means (i) any research program, research facility, or educational facility of a covered institution or equipment necessary or convenient to or consistent with the purposes of such institution, whether or not owned by the institution, including (a) research, training, teaching, dormitory, and classroom facilities and all related and supporting facilities and equipment necessary or desirable in connection with such facilities or incidental to such facilities; (b) office, parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational and athletics facilities; (c) hotels and related facilities; (d) power plants and equipment; (e) storage space; (f) hospitals; (g) nursing homes; (h) continuing care facilities; (i) self-care facilities; (j) health maintenance centers; (k) medical office facilities; (l) clinics; (m) outpatient clinics; (n) surgical centers; (o) alcohol, substance abuse, and drug treatment centers; (p) sanitariums; (q) hospices; (r) facilities for the residence or care of ~~the~~ elderly~~, handicapped,~~ or chronically ill *individuals or individuals with disabilities*; (s) residential facilities for nurses, interns, and physicians; (t) other facilities for the treatment of sick, disturbed, or infirm individuals, the prevention of disease, or the maintenance of health; (u) colleges, schools, or divisions offering undergraduate, graduate, professional, or extension programs, or any combination of such programs, for such courses of study as may be appropriate; (v) vehicles, mobile medical facilities, and other transportation equipment; and (w) air transport equipment, including equipment necessary or desirable for the transportation of medical equipment, medical personnel, or patients; and (ii) all lands, buildings, improvements, approaches, and appurtenances necessary or desirable in connection with or incidental to any such program, facility, or equipment.

"Virginia Retirement System" includes any retirement system established or authorized by Title 51.1.

§ 23.1-2400. Definitions.

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

"Authority" means the Virginia Commonwealth University Health System Authority.

"Board" means the board of directors of the Authority.

"Bonds" means bonds, notes, revenue certificates, lease participation certificates, or other evidences of indebtedness or deferred purchase financing arrangements.

"Chief executive officer" means the chief executive officer of the Virginia Commonwealth University Health System Authority.

"Costs" means (i) costs of (a) construction, reconstruction, renovation, site work, and acquisition of lands, structures, rights-of-way, franchises, easements, and other property rights and interests; (b) demolition, removal, or relocation of buildings or structures; (c) labor, materials, machinery, and all other kinds of equipment; (d) engineering and inspections; (e) financial, legal, and accounting services; (f) plans, specifications, studies, and surveys; (g) estimates of costs and of revenues; (h) feasibility studies; and (i) issuance of bonds, including printing, engraving, advertising, legal, and other similar expenses; (ii) financing charges; (iii) administrative expenses, including administrative expenses during the start-up of any project; (iv) credit enhancement and liquidity facility fees; (v) fees for interest rate caps, collars, swaps, or other financial derivative products; (vi) interest on bonds in connection with a project prior to and during construction or acquisition thereof and for a period not exceeding one year thereafter; (vii) provisions for working capital to be used in connection with any project; (viii) redemption premiums, obligations purchased to provide for the payment of bonds being

refunded, and other costs necessary or incident to refunding of bonds; (ix) operating and maintenance reserve funds, debt reserve funds, and other reserves for the payment of principal and interest on bonds; (x) all other expenses necessary, desirable, or incidental to the operation of the Authority's facilities or the construction, reconstruction, renovation, acquisition, or financing of projects, other facilities, or equipment appropriate for carrying out the purposes of this chapter and the placing of the same in operation; or (xi) the refunding of bonds.

"Hospital facilities" means all property or rights in property, real and personal, tangible and intangible, including all facilities suitable for providing hospital and health care services and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches, roadways, and other related and supporting facilities owned, leased, operated, or used, in whole or in part, by Virginia Commonwealth University as part of, or in connection with, MCV Hospitals in the normal course of its operations as a teaching, research, and medical treatment facility.

"Hospital obligations" means all debts or other obligations, contingent or certain, owing to any person or other entity on the transfer date, arising out of the operation of MCV Hospitals as a medical treatment facility or the financing or refinancing of hospital facilities and including all bonds and other debts for the purchase of goods and services, whether or not delivered, and obligations for the delivery of services, whether or not performed.

"Project" means any health care, research, or educational facility or equipment necessary or convenient to or consistent with the purposes of the Authority, whether owned by the Authority, including hospitals; nursing homes; continuing care facilities; self-care facilities; wellness and health maintenance centers; medical office facilities; clinics; outpatient clinics; surgical centers; alcohol, substance abuse, and drug treatment centers; laboratories; sanitariums; hospices; facilities for the residence or care of ~~the~~ elderly~~, the handicapped,~~ or ~~the~~ chronically ill *individuals or individuals with disabilities*; residential facilities for nurses, interns, and physicians; other kinds of facilities for the treatment of sick, disturbed, or infirm individuals, the prevention of disease, or maintenance of health; colleges, schools, or divisions offering undergraduate or graduate programs for the health professions and sciences and such other courses of study as may be appropriate, together with research, training, and teaching facilities; all necessary or desirable related and supporting facilities and equipment or equipment alone, including (i) parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational facilities; (ii) power plants and equipment; (iii) storage space; (iv) mobile medical facilities; (v) vehicles; (vi) air transport equipment; and (vii) other equipment necessary or desirable for the transportation of medical equipment, medical personnel, or patients; and all lands, buildings, improvements, approaches, and appurtenances necessary or desirable in connection with or incidental to any project.

"Transfer date" means a date or dates agreed to by the board of visitors of Virginia Commonwealth University and the Authority for the transfer of employees to the Authority and for the transfer of hospital facilities, or any parts thereof, to and the assumption, directly or indirectly, of hospital obligations by the Authority, which dates for the various transfers and the various assumptions may be different, but in no event shall any date be later than June 30, 1997.

"University" means Virginia Commonwealth University.

§ 25.1-400. Definitions.

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

"Business" means any lawful activity, except a farm operation, conducted primarily:

1. For the purchase, sale, lease and rental of personal and of real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

2. For the sale of services to the public;

3. By a nonprofit organization; or

4. Solely for the purposes of § 25.1-406, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

"Comparable replacement dwelling" means any dwelling that is (i) decent, safe and sanitary; (ii) adequate in size to accommodate the occupants; (iii) within the financial means of the displaced person; (iv) functionally equivalent; (v) in an area not subject to unreasonable adverse environmental conditions; and (vi) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services and the displaced person's place of employment.

"Decent, safe, and sanitary dwelling" means a dwelling that:

1. Is structurally sound, weather tight and in good repair;

2. Has a safe electrical wiring system adequate for lighting and appliances;

3. Contains a heating system capable of maintaining a healthful temperature;

4. Is adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced household;

5. Has a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains sink, toilet, and bathing facilities (shower or bath, or both), all operational and connected to a functional water and sewer disposal system;

6. Provides unobstructed egress to safe open space at ground level. If the unit is above the first floor and served by a common corridor, there must be two means of egress; and

7. Is free of barriers to egress, ingress, and use by a displaced person ~~who is handicapped~~ *with a disability*.

"Displaced person" means:

1. Any person who moves from real property, or moves his personal property from real property (i) as a direct result of a written notice of intent to acquire or the acquisition of such real property, in whole or in part, for any program or project undertaken by a state agency or (ii) on which such person is a residential tenant or conducts a small business, a farm operation or a business described in clause 4 of the definition of "business" in this section as a direct result of rehabilitation, demolition, or other displacing activity as the state agency may prescribe, under a program or project undertaken by the state agency in any case in which the state agency determines that such displacement is permanent;

2. Solely for the purposes of §§ 25.1-406, 25.1-407, and 25.1-411, any person who moves from real property, or moves his personal property from real property: (i) as a direct result of a written notice of intent to acquire or the acquisition of other real property, in whole or in part, on which such person conducts a business or farm operation, for a program or project undertaken by a state agency or (ii) as a direct result of rehabilitation, demolition, or other displacing activity as the state agency may prescribe, of other real property on which such person conducts a business or farm operation, under a program or project undertaken by the state agency in any case in which the state agency determines that such displacement is permanent; and

3. Any person who moves or discontinues his business or moves other personal property, or moves from his dwelling, as the direct result of (i) federally assisted activities for the enforcement of a building code or other similar code or (ii) a program of rehabilitation or demolition of buildings conducted pursuant to a federally assisted governmental program.

The term "displaced person" does not include (i) a person who has been determined, according to criteria established by the state agency, to be either in unlawful occupancy of the displacement dwelling or to have occupied such dwelling for the purpose of obtaining assistance under this chapter or (ii) in any case where the state agency acquires property for a program or project, any person, other than a person who was an occupant of the property at the time it was acquired, who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.

"Dwelling" means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single-family house, a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a nonhousekeeping unit; a mobile home; or any other residential unit.

"Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

"Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, together with the credit instruments, if any, secured thereby.

"Nonprofit organization" means an organization that is exempt from paying federal income taxes under § 501 of the Internal Revenue Code (26 U.S.C. § 501).

"Person" means any (i) individual or (ii) partnership, corporation, limited liability company, association, or other business entity.

"Uneconomic remnant" means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the state agency has determined has little or no value or utility to the owner.

§ 29.1-314. Special fishing permits for certain individuals with disabilities.

A. Upon receipt of an application from an officer or designated representative of any organized group of ~~physically or mentally handicapped persons~~ *individuals with physical or mental disabilities* who meet on a regular basis, including students at schools for the blind or deaf, the Director may issue not more than two permits of one day each, in any calendar year, to such group to fish without licenses in public waters open to fishing. The permits shall not be issued for use in designated waters stocked with trout or in waters where a daily fishing fee has been imposed pursuant to § 29.1-318; however, a permit may be issued to such group to fish without licenses on the second Saturday of May in designated waters stocked with trout.

B. The application for the permit shall state the name and description of the group, the date upon which it will be used, the general area in which it will be used, and the name of the person or organization responsible for the group.

§ 32.1-78. Reporting information about children with health problems or disabilities.

Notwithstanding § 32.1-271 or any other law to the contrary, the Commissioner shall report to the Superintendent of Public Instruction or to the appropriate school division superintendent within the Commonwealth the identity of, and pertinent information about, children with health problems or ~~handicapping conditions which~~ *disabilities that* might affect the child's career in school and his need for special education.

§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.

A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth without the payment of toll while in the performance of their official duties:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;

6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority;

7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control Authority and special agents of the Virginia Alcoholic Beverage Control Authority;

8. The Commissioner of the Department of Motor Vehicles;

9. Employees of the Department of Motor Vehicles;

10. Local police officers;

11. Sheriffs and their deputies;

12. Regional jail officials;

13. Animal wardens;

14. The Director and officers of the Department of Wildlife Resources;

15. Persons operating firefighting equipment and emergency medical services vehicles as defined in § 32.1-111.1;

16. Operators of school buses being used to transport pupils to or from schools;

17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and used to regularly transport workers to and from their places of employment and (ii) public transit buses;

18. Employees of the Department of Rail and Public Transportation;

19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation Act of 1988; and

20. Law-enforcement officers of the Virginia Marine Resources Commission.

B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of concern for public safety on the highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the temporary suspension of toll collection operations on its facilities.

1. The assessment of the threat to public safety shall be performed and the decision temporarily to suspend toll collection operations shall be made by the Commissioner of Highways or his designee.

2. Major incidents that may require the temporary suspension of toll collection operations shall include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety. Any mandatory evacuation during a state of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection operations in affected evacuation zones on routes designated as mass evacuation routes. The Commissioner of Highways shall reinstate toll collection when the mandatory evacuation period ends.

3. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for any incident resulting in the suspension of toll collections as provided in this subsection, the court may assess against the person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that such amount, not to exceed $2,000 for any individual incident, be paid to the Department of Transportation for deposit into the toll road fund.

C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor punishable by a fine of not more than $50 and not less than $2.50. Any person other than those listed in subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.

D. Any vehicle operated by the holder of a valid driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways shall be allowed free use of all toll bridges, toll roads, and other toll facilities in the Commonwealth if:

1. The vehicle is specially equipped to permit its operation by ~~a handicapped person~~ *an individual with a disability*;

2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as ~~being severely physically disabled~~ *having a severe physical disability* and having permanent upper limb mobility or dexterity impairments that substantially impair his ability to deposit coins in toll baskets;

3. The driver has applied for and received from the Department of Transportation a vehicle window sticker identifying him as eligible for such free passage; and

4. Such identifying window sticker is properly displayed on the vehicle.

A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in the Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by those persons exempted from tolls pursuant to this subsection and shall accept any payments made by such persons.

E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the provisions of § 22.1-187.

F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the conduct of official business:

1. The Commissioner of Highways;

2. Members of the Commonwealth Transportation Board;

3. Employees of the Department of Transportation;

4. The Superintendent of the Department of State Police;

5. Officers and employees of the Department of State Police;

6. The Commissioner of the Department of Motor Vehicles;

7. Employees of the Department of Motor Vehicles; and

8. Sheriffs and deputy sheriffs.

However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent with the terms of the applicable comprehensive agreement between the operator and the Department. The Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant to this subsection when the mandatory evacuation period ends or upon the reinstatement of toll collections on other tolled facilities in the same affected area, whichever occurs first.

G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements of subdivisions D 1 through 4.

H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of subdivision B 1 of § 56-543, such vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

§ 36-96.1:1. Definitions.

For the purposes of this chapter, unless the context requires a different meaning:

"Aggrieved person" means any person who (i) claims to have been injured by a discriminatory housing practice or (ii) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. An assistance animal is not required to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals. An assistance animal is not a pet.

"Complainant" means a person, including the Fair Housing Board, who files a complaint under § 36-96.9.

"Conciliation" means the attempted resolution of issues raised by a complainant, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, their respective authorized representatives and the Fair Housing Board.

"Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

"Disability" means, with respect to a person, (i) a physical or mental impairment that substantially limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. The term does not include current, illegal use of or addiction to a controlled substance as defined in Virginia or federal law. ~~For the purposes of this chapter, the terms "disability" and "handicap" shall be interchangeable.~~

"Discriminatory housing practices" means an act that is unlawful under § 36-96.3, 36-96.4, 36-96.5, or 36-96.6.

"Dwelling" means any building, structure, or portion thereof that is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

"Elderliness" means an individual who has attained his fifty-fifth birthday.

"Familial status" means one or more individuals who have not attained the age of 18 years being domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii) the designee of such parent or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. For purposes of this section, "in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

"Family" includes a single individual, whether male or female.

"Lending institution" includes any bank, savings institution, credit union, insurance company or mortgage lender.

"Major life activities" includes any the following functions: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Person" means one or more individuals, whether male or female, corporations, partnerships, associations, labor organizations, fair housing organizations, civil rights organizations, organizations, governmental entities, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

"Physical or mental impairment" includes any of the following: (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine or (ii) any mental or psychological disorder, such as an intellectual or developmental disability, organic brain syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment" includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; human immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug addiction other than addiction caused by current, illegal use of a controlled substance; and alcoholism.

"Religion" includes any outward expression of religious faith, including adherence to religious dressing and grooming practices and the carrying or display of religious items or symbols.

"Respondent" means any person or other entity alleged to have violated the provisions of this chapter, as stated in a complaint filed under the provisions of this chapter and any other person joined pursuant to the provisions of § 36-96.9.

"Restrictive covenant" means any specification in any instrument affecting title to real property that purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, military status, or disability.

"Source of funds" means any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.

"To rent" means to lease, to sublease, to let, or otherwise to grant for consideration the right to occupy premises not owned by the occupant.

§ 36-98.1. State buildings; exception for certain assets owned by the Department of Transportation.

A. The Building Code shall be applicable to all state-owned buildings and structures, and to all buildings and structures built on state-owned property, with the exception that §§ 2.2-1159 through 2.2-1161 shall provide the standards for ready access to and use of state-owned buildings by ~~the physically handicapped~~ *individuals with physical disabilities*.

Any state-owned building or structure, or building or structure built on state-owned property, for which preliminary plans were prepared or on which construction commenced after the initial effective date of the Uniform Statewide Building Code, shall remain subject to the provisions of the Uniform Statewide Building Code that were in effect at the time such plans were completed or such construction commenced. Subsequent reconstruction, renovation or demolition of such building or structure shall be subject to the pertinent provisions of the Building Code.

Acting through the Division of Engineering and Buildings, the Department of General Services shall function as the building official for any state-owned buildings or structures and for all buildings and structures built on state-owned property. The Department shall review and approve plans and specifications, grant modifications, and establish such rules and regulations as may be necessary to implement this section. It may provide for the (i) inspection of state-owned buildings or structures and for all buildings and structures built on state-owned property and (ii) enforcement of the Building Code and standards for access by ~~the physically handicapped~~ *individuals with physical disabilities* by delegating inspection and Building Code enforcement duties to the State Fire Marshal's Office, to other appropriate state agencies having needed expertise, and to local building departments, all of which shall provide such assistance within a reasonable time and in the manner requested. State agencies and institutions occupying buildings shall pay to the local building department the same fees as would be paid by a private citizen for the services rendered when such services are requested by the Department of General Services. The Department of General Services may alter or overrule any decision of the local building department after having first considered the local building department's report or other rationale given for its decision. When altering or overruling any decision of a local building department, the Department of General Services shall provide the local building department with a written summary of its reasons for doing so.

B. Notwithstanding the provisions of subsection A and § 27-99, roadway tunnels and bridges owned by the Department of Transportation shall be exempt from the Building Code and the Statewide Fire Prevention Code Act (§ 27-94 et seq.). The Department of General Services shall not have jurisdiction over such roadway tunnels, bridges, and other limited access highways; provided, however, that the Department of General Services shall have jurisdiction over any occupied buildings within any Department of Transportation rights-of-way that are subject to the Building Code.

Roadway tunnels and bridges shall be designed, constructed, and operated to comply with fire safety standards based on nationally recognized model codes and standards to be developed by the Department of Transportation in consultation with the State Fire Marshal. Emergency response planning and activities related to the standards shall be developed by the Department of Transportation and coordinated with the appropriate local officials and emergency services providers. On an annual basis the Department of Transportation shall provide a report on the maintenance and operability of installed fire protection and detection systems in roadway tunnels and bridges to the State Fire Marshal.

C. Except as provided in subsection E of § 23.1-1016, and notwithstanding the provisions of subsection A, at the request of a public institution of higher education, the Department, as further set forth in this subsection, shall authorize that

institution of higher education to contract with a building official of the locality in which the construction is taking place to perform any inspection and certifications required for the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.). The Department shall publish administrative procedures that shall be followed in contracting with a building official of the locality. The authority granted to a public institution of higher education under this subsection to contract with a building official of the locality shall be subject to the institution meeting the conditions prescribed in subsection A of § 23.1-1002.

D. This section shall not apply to the nonhabitable structures, equipment, and wiring owned by a public service company, a certificated provider of telecommunications services, or a franchised cable operator that are built on rights-of-way owned or controlled by the Commonwealth Transportation Board.

§ 36-99. Provisions of Code; modifications.

A. The Building Code shall prescribe building regulations to be complied with in the construction and rehabilitation of buildings and structures, and the equipment therein as defined in § 36-97, and shall prescribe regulations to ensure that such buildings and structures are properly maintained, and shall also prescribe procedures for the administration and enforcement of such regulations, including procedures to be used by the local building department in the evaluation and granting of modifications for any provision of the Building Code, provided the spirit and functional intent of the Building Code are observed and public health, welfare and safety are assured. The provisions of the Building Code and modifications thereof shall be such as to protect the health, safety and welfare of the residents of the Commonwealth, provided that buildings and structures should be permitted to be constructed, rehabilitated and maintained at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provisions necessary to prevent overcrowding, rodent or insect infestation, and garbage accumulation; and barrier-free provisions for ~~the physically handicapped~~ *individuals with physical disabilities* and aged *individuals*. Such regulations shall be reasonable and appropriate to the objectives of this chapter.

B. In formulating the Code provisions, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations, including, but not limited to, the standards of the International Code Council and the National Fire Protection Association. Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 and licensed as such by the Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable.

C. Where practical, the Code provisions shall be stated in terms of required level of performance, so as to facilitate the prompt acceptance of new building materials and methods. When generally recognized standards of performance are not available, such provisions shall provide for acceptance of materials and methods whose performance has been found by the local building department, on the basis of reliable test and evaluation data, presented by the proponent, to be substantially equal in safety to those specified.

D. The Board, upon a finding that sufficient allegations exist regarding failures noted in several localities of performance standards by either building materials, methods, or design, may conduct hearings on such allegations if it determines that such alleged failures, if proven, would have an adverse impact on the health, safety, or welfare of the citizens of the Commonwealth. After at least 21 days' written notice, the Board shall convene a hearing to consider such allegations. Such notice shall be given to the known manufacturers of the subject building material and as many other interested parties, industry representatives, and trade groups as can reasonably be identified. Following the hearing, the Board, upon finding that (i) the current technical or administrative Code provisions allow use of or result in defective or deficient building materials, methods, or designs, and (ii) immediate action is necessary to protect the health, safety, and welfare of the citizens of the Commonwealth, may issue amended regulations establishing interim performance standards and Code provisions for the installation, application, and use of such building materials, methods or designs in the Commonwealth. Such amended regulations shall become effective upon their publication in the Virginia Register of Regulations. Any amendments to regulations adopted pursuant to this subsection shall become effective upon their publication in the Virginia Register of Regulations and shall be effective for a period of 24 months or until adopted, modified, or repealed by the Board.

§ 38.2-3323. Group life insurance coverages of spouses, dependent children, and other persons.

A. Coverage under a group life insurance policy, except a policy issued pursuant to § 38.2-3318.1 B, may be extended to insure:

1. The spouse and any child who is under the age of 19 years or who is a dependent and a full-time student under 25 years of age, or any class of spouses and dependent children, of each insured group member who so elects; and

2. Any other person in whom the insured group member has an insurable interest as defined in §§ 38.2-301 and 38.2-302 as may mutually be agreed upon by the insurer and the group policyholder.

The amount of insurance on the life of a spouse, child, or other person shall not exceed the amount of insurance for which the insured group member is eligible.

B. A spouse insured under this section shall have the same conversion right to the insurance on his or her life as the insured group member.

C. Notwithstanding the provisions of § 38.2-3331, one certificate may be issued for each insured group member if a statement concerning any spouse's, dependent child's, or other person's coverage is included in the certificate.

D. In addition to the coverages afforded by the provisions of this section, any such plan for group life insurance which includes coverage for children shall afford coverage to any child who is both (i) incapable of self-sustaining employment by reason of intellectual ~~disability~~ or physical ~~handicap~~ *disability* and (ii) chiefly dependent upon the employee for support and maintenance. Upon request of the insurer, proof of incapacity and dependency shall be furnished to the insurer by the insured group member within 31 days of the child's attainment of the specified age. Subsequent proof may be required by the insurer but not more frequently than annually after the two-year period following the child's attainment of the specified age. The insurer shall be allowed to charge a premium at the insurer's then customary rate applicable to such group policy for such extended coverage.

E. 1. Upon termination of such group coverage of a child, the child shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual life insurance policy without disability or other supplementary benefits, if:

a. An application for the individual policy is made, and the first premium paid to the insurer, within 31 days after such termination; and

b. The individual policy, at the option of such person, is on any one of the forms then customarily issued by the insurer at the age and for the amount applied for, except that the group policy may exclude the option to elect term insurance;

c. The individual policy is in an amount not in excess of the amount of life insurance which ceases because of such termination, less the amount of any life insurance for which such person becomes eligible under the same or any other group policy within 31 days after such termination, provided that any amount of insurance which has matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination; and

d. The premium on the individual policy is at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to the individual age attained on the effective date of the individual policy.

2. Subject to the same conditions set forth above, the conversion privilege shall be available (i) to a surviving dependent, if any, at the death of the group member, with respect to the coverage under the group policy which terminates by reason of such death, and (ii) to the dependent of the group member upon termination of coverage of the dependent, while the group member remains insured under the group policy, by reason of the dependent ceasing to be a qualified family member under the group policy.

§ 38.2-3409. Coverage of dependent children.

A. Any group or individual accident and sickness insurance policy or subscription contract delivered or issued for delivery in ~~this~~ *the* Commonwealth which provides that coverage of a dependent child shall terminate upon that child's attainment of a specified age, shall also provide in substance that attainment of the specified age shall not terminate the child's coverage during the continuance of the policy while the dependent child is and continues to be both: (i) incapable of self-sustaining employment by reason of intellectual ~~disability~~ or physical ~~handicap,~~ *disability* and (ii) chiefly dependent upon the policyowner for support and maintenance.

B. Proof of incapacity and dependency shall be furnished to the insurer by the policyowner within 31 days of the child's attainment of the specified age. Subsequent proof may be required by the insurer but not more frequently than annually after the two-year period following the child's attainment of the specified age.

C. The insurer may charge an additional premium for any continuation of coverage beyond the specified age. The additional premium shall be determined by the insurer on the basis of the class of risks applicable to the child.

§ 46.2-100. Definitions.

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

"All-terrain vehicle" means a motor vehicle having three or more wheels that is powered by a motor and is manufactured for off-highway use. "All-terrain vehicle" does not include four-wheeled vehicles commonly known as "go-carts" that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any riding lawn mower.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride and is manufactured to comply with federal safety requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a motorcycle.

"Automobile transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles on their power unit, designed and used exclusively for the transportation of motor vehicles or used to transport cargo or general freight on a backhaul pursuant to the provisions of 49 U.S.C. § 31111(a)(1).

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ 46.2-800 et seq.), a bicycle shall be a vehicle while operated on the highway.

"Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, motorized skateboards or scooters, and mopeds.

"Business district" means the territory contiguous to a highway where 75 percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections include roundabouts, rotaries, and traffic circles.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Converted electric vehicle" means any motor vehicle, other than a motorcycle or autocycle, that has been modified subsequent to its manufacture to replace an internal combustion engine with an electric propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this section unless it has been materially altered from its original construction by the removal, addition, or substitution of new or used essential parts other than those required for the conversion to electric propulsion.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Department of Veterans Affairs. A veteran shall be considered blind if he has a permanent impairment of both eyes to the following extent: central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.) and a driver privilege card issued pursuant to § 46.2-328.3, issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ 46.2-800 et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power, (ii) a seat for the use of the rider, and (iii) an electric motor with an input of no more than 750 watts. Electric power-assisted bicycles shall be classified as follows:

1. "Class one" means an electric power-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of 20 miles per hour;

2. "Class two" means an electric power-assisted bicycle equipped with a motor that may be used exclusively to propel the bicycle and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour; and

3. "Class three" means an electric power-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

For the purposes of Chapter 8 (§ 46.2-800 et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

"Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity of a vehicle.

"Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery and implements, including self-propelled mowers designed and used for mowing lawns.

"Farm utility vehicle" means a vehicle that is powered by a motor and is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle, generally having four or more wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed. "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, or riding lawn mowers.

"Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all administrative regulations and policies adopted pursuant thereto.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in § 46.2-472.

"Foreign market vehicle" means any motor vehicle originally manufactured outside the United States, which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

"Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in the Commonwealth.

"Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as context may require.

"Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load thereon.

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

"Intersection" means (i) the area embraced within the prolongation or connection of the lateral curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of specific lanes of a roadway or to indicate the impending prohibition of such use.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, "law-enforcement officer" also includes city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ 46.2-752, 46.2-753, and 46.2-754 and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically powered or gas-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" does not include a park model recreational vehicle, which is a vehicle that is (i) designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use; (ii) not permanently affixed to real property for use as a permanent dwelling; (iii) built on a single chassis mounted on wheels; and (iv) certified by the manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard.

"Military surplus motor vehicle" means a multipurpose or tactical vehicle that was manufactured by or under the direction of the United States Armed Forces for off-road use and subsequently authorized for sale to civilians. "Military surplus motor vehicle" does not include specialized mobile equipment as defined in § 46.2-700, trailers, or semitrailers.

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. "Moped" does not include an electric power-assisted bicycle or a motorized skateboard or scooter. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ 46.2-800 et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or scooter, moped, or personal delivery device shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. "Motorcycle" does not include any "autocycle," "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or scooter," "utility vehicle," or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) is designed to allow an operator to sit or stand, (ii) has no manufacturer-issued vehicle identification number, (iii) is powered in whole or in part by an electric motor, (iv) weighs less than 100 pounds, and (v) has a speed of no more than 20 miles per hour on a paved level surface when powered solely by the electric motor. "Motorized skateboard or scooter" includes vehicles with or without handlebars but does not include electric personal assistive mobility devices or electric power-assisted bicycles.

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ 46.2-300 et seq.); (iii) a person, other than (a) a nonresident student as defined in this section or (b) a person who is serving a full-time church service or proselyting mission of not more than 36 months and who is not gainfully employed, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration, shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to

possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle or autocycle designed and used primarily for the transportation of no more than 10 persons, including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602 (k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a (1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Personal delivery device" means a powered device operated primarily on sidewalks and crosswalks and intended primarily for the transport of property on public rights-of-way that does not exceed 500 pounds, excluding cargo, and is capable of navigating with or without the active control or monitoring of a natural person. Notwithstanding any other provision of law, a personal delivery device shall not be considered a motor vehicle or a vehicle.

"Personal delivery device operator" means an entity or its agent that exercises direct physical control or monitoring over the navigation system and operation of a personal delivery device. For the purposes of this definition, "agent" means a person not less than 16 years of age charged by an entity with the responsibility of navigating and operating a personal delivery device. "Personal delivery device operator" does not include (i) an entity or person who requests the services of a personal delivery device to transport property or (ii) an entity or person who only arranges for and dispatches the requested services of a personal delivery device.

"Pickup or panel truck" means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

"Private road or driveway" means every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § 46.2-1600, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of ~~the mentally or physically handicapped~~ *individuals with mental or physical disabilities* to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § 46.2-1090. A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users and personal delivery devices.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued vehicle identification number that is designed or used to carry any person or persons, on any number of wheels, bearings, glides, blades, runners, or a cushion of air. "Toy vehicle" does not include electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, motorized skateboards or scooters, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

"Traffic infraction" means a violation of law punishable as provided in § 46.2-113, which is neither a felony nor a misdemeanor.

"Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not include any pickup or panel truck.

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § 46.2-2000; (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include riding lawn mowers.

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except personal delivery devices and devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ 46.2-800 et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motorized skateboards or scooters, and mopeds shall be vehicles while operated on a highway.

"Watercraft transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport watercraft on their power unit, designed and used exclusively for the transportation of watercraft.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. "Wheel chair or wheel chair conveyance" includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § 46.2-677, a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

§ 46.2-221. Certain state agencies to report to Department concerning the blind and nearly blind; use of such information by Department; Department to report names of persons refused licenses for defective vision; reports to law-enforcement agencies concerning certain blind or vision impaired individuals who operate motor vehicles.

Every state agency having knowledge of the blind or ~~visually handicapped~~ *vision impaired*, maintaining any register of the blind *or vision impaired*, or administering either tax deductions or exemptions for or aid to the blind or ~~visually handicapped~~ *vision impaired* shall report in January of each year to the Department the names of all persons so known, registered or benefiting from such deductions or exemptions, for aid to the blind or ~~visually handicapped~~ *vision impaired*. This information shall be used by the Department only for the purpose of determining qualifications of these persons for licensure under Chapter 3 (§ 46.2-300 et seq.). If any such state agency has knowledge that any person so reported continues to operate a motor vehicle, such agency may provide this information to appropriate law-enforcement agencies as otherwise permitted by law.

The Department shall report to the Virginia Department for the Blind and Vision Impaired and the Department for Aging and Rehabilitative Services at least annually the name and address of every person who has been refused a driver's license solely or partly because of failure to pass the Department's visual examination.

If any employee of the Virginia Department for the Blind and Vision Impaired makes a report to the Department of Motor Vehicles or provides information to an appropriate law-enforcement agency as required or permitted by this section concerning any client of the agency, it shall not be deemed to have been made in violation of the client-agency relationship.

§ 46.2-844. Passing stopped school buses; prima facie evidence; penalty.

A. The driver of a motor vehicle approaching from any direction a clearly marked school bus that is stopped on any highway, private road, or school driveway for the purpose of taking on or discharging children, ~~the~~ elderly *individuals*, or ~~mentally or physically handicapped persons~~ *individuals with mental or physical disabilities*, who, in violation of § 46.2-859, fails to stop and remain stopped until all such ~~persons~~ *individuals* are clear of the highway, private road, or school driveway and the bus is put in motion is subject to a civil penalty of $250, and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions.

A prosecution or proceeding under § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act, and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under § 46.2-859 for the same act.

In any prosecution for which a summons charging a violation of this section was issued within 10 days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation, or (iii) a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section is presented prior to the return date established on the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise admissible evidence.

The testimony of the school bus driver, the supervisor of school buses, or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

B. 1. For purposes of this subsection, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of § 46.2-859. All such systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

2. A locality may, by ordinance, authorize the school division of the locality to install and operate a video-monitoring system in or on the school buses operated by the division or to contract with a private vendor to do so on behalf of the school division for the purpose of recording violations of subsection A. Such ordinance may direct that any civil penalty levied for a violation of subsection A shall be payable to the local school division. In any locality that has adopted such an ordinance, a summons for a violation of subsection A may be executed as provided in § 19.2-76.2 and, notwithstanding the provisions of § 19.2-76, the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle contained in the records of the Department. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection A and (ii) instructions for filing such an affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in

§ 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.

3. Any private vendor contracting with a school division pursuant to this subsection may impose and collect an administrative fee in addition to the civil penalty imposed for a violation of subsection A and payable pursuant to this subsection, so as to recover the expenses of collecting any unpaid civil penalty when such penalty remains due more than 30 days after the date of the mailing of the summons and notice. The administrative fee shall be reasonably related to the actual cost of collecting the civil penalty and shall not exceed $100 per violation. The operator of the vehicle shall pay the unpaid civil penalty and any administrative fee detailed in a notice or citation issued by the private vendor. If paid no later than 60 days after the date of the mailing of the summons and notice, the administrative fee shall not exceed $25.

4. Any private vendor contracting with a school division pursuant to this subsection may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 30 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that improperly pass stopped school buses. Information provided to such private vendor shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system and used only for enforcement against individuals who violate the provisions of this section. The school division shall annually certify compliance with this subdivision and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or their designee. Any person who discloses personal information in violation of the provisions of this subdivision shall be subject to a civil penalty of $1,000 per disclosure. Any unauthorized use or disclosure of such personal information shall be grounds for termination of the agreement between the Department of Motor Vehicles and the private vendor.

§ 46.2-859. Passing a stopped school bus; prima facie evidence.

A person driving a motor vehicle shall stop such vehicle when approaching, from any direction, any school bus which is stopped on any highway, private road or school driveway for the purpose of taking on or discharging children, ~~the~~ elderly *individuals*, or ~~mentally or physically handicapped persons~~ *individuals with mental or physical disabilities*, and shall remain stopped until all the ~~persons~~ *individuals* are clear of the highway, private road or school driveway and the bus is put in motion; any ~~person~~ *individual* violating the foregoing is guilty of reckless driving. The driver of a vehicle, however, need not stop when approaching a school bus if the school bus is stopped on the other roadway of a divided highway, on an access road, or on a driveway when the other roadway, access road, or driveway is separated from the roadway on which he is driving by a physical barrier or an unpaved area. The driver of a vehicle also need not stop when approaching a school bus which is loading or discharging passengers from or onto property immediately adjacent to a school if the driver is directed by a law-enforcement officer or other duly authorized uniformed school crossing guard to pass the school bus. This section shall apply to school buses which are equipped with warning devices prescribed in § 46.2-1090 and are painted yellow with the words "School Bus" in black letters at least eight inches high on the front and rear thereof. Only school buses which are painted yellow and equipped with the required lettering and warning devices shall be identified as school buses.

The testimony of the school bus driver, the supervisor of school buses or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

§ 46.2-917. Operation of yellow motor vehicles of certain seating capacity on state highways prohibited; exceptions; penalty.

It shall be unlawful for any motor vehicle licensed in Virginia having a seating capacity of more than 15 persons to be operated on the highways of the Commonwealth if it is yellow, unless it is used in transporting students who attend public, private, or religious schools or used in transporting ~~the~~ elderly *individuals* or ~~mentally or physically handicapped persons~~ *individuals with mental or physical disabilities*.

Any violation of this section shall constitute a Class 1 misdemeanor.

§ 46.2-1090. Warning devices on school buses; other buses; use thereof; penalties.

Every bus used for the principal purpose of transporting school children shall be equipped with a warning device of such type as may be prescribed by the State Board of Education after consultation with the Superintendent of State Police. Such a warning device shall indicate when such bus is either (i) stopped or about to stop to take on or discharge children, ~~the~~ elderly *individuals*, or ~~mentally or physically handicapped persons~~ *individuals with mental or physical disabilities* or (ii) stopped or about to stop for another such bus, when approaching from any direction, that is stopped or about to stop to take on or discharge any such ~~persons~~ *individual*. Such warning device shall be used and in operation for at least 100 feet before any proposed stop of such bus if the lawful speed limit is less than ~~thirty-five~~ *35* miles per hour, and for at least 200 feet before any proposed stop of such bus if the lawful speed limit is ~~thirty-five~~ *35* miles per hour or more.

For any new bus placed into service on or after July 1, 2007, such warning devices, at a minimum, shall include a nonsequential system of red traffic warning lights, a warning sign with flashing lights, and a crossing control arm such that when the bus door is opened, the red warning lights, warning sign with flashing lights, and crossing control arm are automatically activated.

Failure of a warning device to function on any school bus shall not relieve any person operating a motor vehicle from his duty to stop as provided in §§ 46.2-844 and 46.2-859.

Any person operating such bus who fails or refuses to equip such vehicle being driven by him with such equipment, or who fails to use such warning devices in the operation of such vehicle ~~shall be~~ *is* guilty of a Class 3 misdemeanor.

Transit buses used to transport school children in the City of Hampton may be equipped with an advisory sign that extends from the left side of the bus and displays the words: "CAUTION-STUDENTS." Such sign may be equipped with not more than two warning lights of a type approved for use by the Superintendent of State Police.

§ 46.2-1503.2. State Personnel and Public Procurement Acts not applicable.

A. The Executive Director and all staff employed by the Board shall be exempt from the Virginia Personnel Act (§ 2.2-2900 et seq.) of Title 2.2. Personnel actions under this exemption shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ *disability*, or political affiliation.

B. The Board and the Executive Director shall be exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of Title 2.2.

§ 51.1-124.27. Employees of the Retirement System.

The officers and employees of the Virginia Retirement System shall be exempt from the provisions of § 2.2-1202.1 and of the Virginia Personnel Act (§ 2.2-2900 et seq.). Personnel actions shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ *disability*, or political affiliation.

§ 51.5-40.1. Definitions.

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

"Hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

"Mental impairment" means (i) a disability attributable to intellectual disability, autism, or any other ~~neurologically handicapping condition~~ *neurological disability* closely related to intellectual disability and requiring treatment similar to that required by individuals with intellectual disability or (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual.

"Mobility-impaired person" means any person who has completed training to use a dog for service or support because he is unable to move about without the aid of crutches, a wheelchair, or any other form of support or because of limited functional ability to ambulate, climb, descend, sit, rise, or perform any related function.

"Otherwise disabled person" means any person who has a physical, sensory, intellectual, developmental, or mental disability or a mental illness.

"Person with a disability" means any person who has a physical or mental impairment that substantially limits one or more of his major life activities or who has a record of such impairment.

"Physical impairment" means any physical condition, anatomic loss, or cosmetic disfigurement that is caused by bodily injury, birth defect, or illness.

"Service dog" means a dog trained to do work or perform tasks for the benefit of a mobility-impaired or otherwise disabled person. The work or tasks performed by a service dog shall be directly related to the individual's disability or disorder. Examples of work or tasks include providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items, carrying items, providing physical support and assistance with balance and stability, and preventing or interrupting impulsive or destructive behaviors. The provision of emotional support, well-being, comfort, or companionship shall not constitute work or tasks for the purposes of this definition.

"Three-unit service dog team" means a team consisting of a trained service dog, a ~~disabled~~ person *with a disability*, and a person who is an adult and who has been trained to handle the service dog.

§ 54.1-2968. Information about certain individuals with disabilities.

This chapter shall not be construed to prohibit any duly licensed physician from communicating the identity of any person under age ~~twenty-two~~ *22* who has a physical or mental ~~handicapping condition~~ *disability* to appropriate agencies of the Commonwealth or any of its political subdivisions and other information regarding such person or condition which may be helpful to the agency in the planning or conduct of services for ~~handicapped persons~~ *individuals with disabilities*.

§ 58.1-609.10. Miscellaneous exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. The Tax Commissioner shall establish by regulation a system for use by dealers in classifying individual purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil. Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any portion of such purchase for domestic use may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for a refund of the tax paid on the domestic use portion.

2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is eligible to be granted an exemption on its purchases pursuant to § 58.1-609.11, and that is otherwise eligible for the exemption pursuant to this subdivision, shall be exempt pursuant to this subdivision on its sales of (i) food, prepared food and meals and (ii) tickets to events that include the provision of food, prepared food and meals, so long as such sales take place on fewer than 24 occasions in a calendar year.

3. Tangible personal property for future use by a person for taxable lease or rental as an established business or part of an established business, or incidental or germane to such business, including a simultaneous purchase and taxable leaseback.

4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be deemed to be delivery of goods for use or consumption outside of the Commonwealth.

5. Tangible personal property purchased with food coupons issued by the ~~United States~~ *U.S.* Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

6. Tangible personal property purchased for use or consumption in the performance of maintenance and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the Commonwealth.

7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited, reformatted or copied documents, including but not limited to documents stored on or transmitted by electronic media, to its client or to third parties in the course of the professional's rendition of services to its clientele.

8. School lunches sold and served to pupils and employees of schools and subsidized by government; school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use by students attending a college or other institution of learning, when sold (i) by such institution of learning or (ii) by any other dealer, when such textbooks have been certified by a department or instructor of such institution of learning as required textbooks for students attending courses at such institution.

9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases, and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and fitters, nurse practitioners, physician assistants, and veterinarians; controlled drugs purchased for use by a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistant in his professional practice, regardless of whether such practice is organized as a sole proprietorship, partnership, or professional corporation, or any other type of corporation in which the shareholders and operators are all licensed physicians, optometrists, licensed nurse practitioners, or licensed physician assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for use or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise exempt under this section; and samples of prescription drugs and medicines and their packaging distributed free of charge to authorized recipients in accordance with the federal Food, Drug, and Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended).

10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances, catheters, urinary accessories, other durable medical equipment and devices, and related parts and supplies specifically designed for those products; and insulin and insulin syringes, and equipment, devices or chemical reagents that may be used by a diabetic to test or monitor blood or urine, when such items or parts are purchased by or on behalf of an individual for use by such individual. Durable medical equipment is equipment that (i) can withstand repeated use, (ii) is primarily and customarily used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or injury, and (iv) is appropriate for use in the home.

11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

12. Special equipment installed on a motor vehicle when purchased by ~~a handicapped person~~ *an individual with a disability* to enable such ~~person~~ *individual* to operate the motor vehicle.

13. Special typewriters and computers and related parts and supplies specifically designed for those products used by ~~handicapped persons~~ *individuals with disabilities* to communicate when such equipment is prescribed by a licensed physician.

14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and proprietary medicines distributed free of charge by the manufacturer, including packaging materials and constituent elements and ingredients.

b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision shall not apply to cosmetics.

15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code or (ii) the Commonwealth, any political subdivision of the Commonwealth, or any school, agency, or instrumentality thereof.

16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or church membership while meeting together in a single location and (ii) in the libraries, offices, meeting or counseling rooms or other rooms in the public church buildings used in carrying out the work of the church and its related ministries, including kindergarten, elementary and secondary schools. The exemption for such churches shall also include baptistries; bulletins, programs, newspapers and newsletters that do not contain paid advertising and are used in carrying out the work of the church; gifts including food for distribution outside the public church building; food, disposable serving items, cleaning supplies and teaching materials used in the operation of

camps or conference centers by the church or an organization composed of churches that are exempt under this subdivision and which are used in carrying out the work of the church or churches; and property used in caring for or maintaining property owned by the church including, but not limited to, mowing equipment; and building materials installed by the church, and for which the church does not contract with a person or entity to have installed, in the public church buildings used in carrying out the work of the church and its related ministries, including, but not limited to worship services; administrative rooms; and kindergarten, elementary, and secondary schools.

17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings, incontinence products and wound-care products, when purchased by a Medicaid recipient through a Department of Medical Assistance Services provider agreement.

18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and olive pits.

19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies the foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.

20. Beginning July 1, 2018, and ending July 1, 2025, parts, engines, and supplies used for maintaining, repairing, or reconditioning aircraft or any aircraft's avionics system, engine, or component parts. This exemption shall not apply to tools and other equipment not attached to or that does not become a part of the aircraft. For purposes of this subdivision, "aircraft" shall include both manned and unmanned systems. However, for manned systems, "aircraft" shall include only aircraft with a maximum takeoff weight of at least 2,400 pounds.

21. A gun safe with a selling price of $1,500 or less. For purposes of this subdivision, "gun safe" means a safe or vault that is (i) commercially available, (ii) secured with a digital or dial combination locking mechanism or biometric locking mechanism, and (iii) designed for the storage of a firearm or of ammunition for use in a firearm. "Gun safe" does not include a glass-faced cabinet. Any discount, coupon, or other credit offered by the retailer or a vendor of the retailer to reduce the final price to the customer shall be taken into account in determining the selling price for purposes of this exemption.

22. Beginning July 1, 2022, and ending July 1, 2025, prescription medicines and drugs purchased by veterinarians and administered or dispensed to patients within a veterinarian-client-patient relationship as defined in § 54.1-3303.

§ 58.1-2401. Definitions.

As used in this chapter, unless the context ~~clearly shows otherwise, the term or phrase~~ *requires a different meaning*:

"Commissioner" ~~shall mean~~ *means* the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Department" ~~shall mean~~ *means* the Department of Motor Vehicles of ~~this~~ *the* Commonwealth, acting through its duly authorized officers and agents.

"Mobile office" ~~shall mean~~ *means* an industrialized building unit not subject to the federal regulation, which may be constructed on a chassis for the purpose of towing to the point of use and designed to be used with or without a permanent foundation, for commercial use and not for residential use; or two or more such units separately towable, but designed to be joined together at the point of use to form a single commercial structure, and which may be designed for removal to, and installation or erection on other sites.

"Motor vehicle" ~~shall mean~~ *means* every vehicle, except for mobile office as herein defined, ~~which~~ *that* is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a motor vehicle, including all-terrain vehicles, manufactured homes, mopeds, and off-road motorcycles as those terms are defined in § 46.2-100 and every device in, upon and by which any person or property is, or can be, transported or drawn upon a highway, but excepting devices moved by human or animal power, devices used exclusively upon stationary rails or tracks and vehicles, other than manufactured homes, used in ~~this~~ *the* Commonwealth but not required to be licensed by the Commonwealth.

"Sale" ~~shall mean~~ *means* any transfer of ownership or possession, by exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of a motor vehicle. ~~The term shall~~ *"Sale"* also ~~include~~ *includes* a transaction whereby possession is transferred but title is retained by the seller as security. ~~The term shall~~ *"Sale" does* not include a transfer of ownership or possession made to secure payment of an obligation, nor ~~shall~~ *does* it include a refund for, or replacement of, a motor vehicle of equivalent or lesser value pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.). Where the replacement motor vehicle is of greater value than the motor vehicle replaced, only the difference in value shall constitute a sale.

"Sale price" ~~shall mean~~ *means* the total price paid for a motor vehicle and all attachments thereon and accessories thereto, as determined by the Commissioner, exclusive of any federal manufacturers' excise tax, without any allowance or deduction for trade-ins or unpaid liens or encumbrances. However, "sale price" ~~shall~~ *does* not include (i) any manufacturer rebate or manufacturer incentive payment applied to the transaction by the customer or dealer whether as a reduction in the sales price or as payment for the vehicle and (ii) the cost of controls, lifts, automatic transmission, power steering, power brakes or any other equipment installed in or added to a motor vehicle ~~which~~ *that* is required by law or regulation as a condition for operation of a motor vehicle by ~~a handicapped person~~ *an individual with a disability*.

Article 2.

Exemptions for Elderly *Individuals* and ~~Handicapped~~ *Individuals with Disabilities*.

§ 58.1-3210. Exemption or deferral of taxes on property of certain elderly individuals and individuals with disabilities.

A. The governing body of any ~~county, city or town~~ *locality* may, by ordinance, provide for the exemption from, deferral of, or a combination program of exemptions from and deferrals of taxation of real estate and manufactured homes as defined in § 36-85.3, or any portion thereof, and upon such conditions and in such amount as the ordinance may prescribe. Such real estate shall be owned by, and be occupied as the sole dwelling of anyone at least 65 years of age or if provided in the ordinance, anyone found to be permanently and totally disabled as defined in § 58.1-3217. Such ordinance may provide for the exemption from or deferral of that portion of the tax which represents the increase in tax liability since the year such taxpayer reached the age of 65 or became disabled, or the year such ordinance became effective, whichever is later. A dwelling jointly held by married individuals, with no other joint owners, may qualify if either spouse is 65 or over or is permanently and totally disabled, and the proration of the exemption or deferral under § 58.1-3211.1 shall not apply for such dwelling.

B. For purposes of this section, "eligible person" means a person who is at least age 65 or, if provided in the ordinance pursuant to subsection A, permanently and totally disabled. Under subsection A, real property owned and occupied as the sole dwelling of an eligible person includes real property (i) held by the eligible person alone or in conjunction with his spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the eligible person or the eligible person and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which an eligible person alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term "eligible person" does not include any interest held under a leasehold or term of years.

C. For purposes of this article, any reference to:

"Dwelling" ~~shall include~~ *includes* an improvement to real estate exempt pursuant to this article and the land upon which such improvement is situated so long as the improvement is used principally for other than a business purpose and is used to house or cover any motor vehicle classified pursuant to subdivisions A 3 through 10 of § 58.1-3503; household goods classified pursuant to subdivision A 14 of § 58.1-3503; or household goods exempted from personal property tax pursuant to § 58.1-3504.

"Real estate" ~~shall include~~ *includes* manufactured homes.

§ 58.1-3213.1. Notice of local real estate tax exemption or deferral program for elderly individuals and individuals with disabilities.

The treasurer of any county, city, or town shall enclose written notice, in each real estate tax bill, of the terms and conditions of any local real estate tax exemption or deferral program established in the jurisdiction pursuant to § 58.1-3210. The treasurer shall also employ any other reasonable means necessary to notify residents of the county, city, or town about the terms and conditions of the real estate tax exemption or deferral program for elderly *individuals* and ~~handicapped residents of~~ *individuals with disabilities who reside in* the county, city, or town.

§ 58.1-3503. General classification of tangible personal property.

A. Tangible personal property is classified for valuation purposes according to the following separate categories which are not to be considered separate classes for rate purposes:

1. Farm animals, except as exempted under § 58.1-3505.

2. Farm machinery, except as exempted under § 58.1-3505.

3. Automobiles, except those described in subdivisions 7, 8, and 9 of this subsection and in subdivision A 8 of § 58.1-3504, which shall be valued by means of a recognized pricing guide or if the model and year of the individual automobile are not listed in the recognized pricing guide, the individual vehicle may be valued on the basis of percentage or percentages of original cost. In using a recognized pricing guide, the commissioner shall use either of the following two methods. The commissioner may use all applicable adjustments in such guide to determine the value of each individual automobile, or alternatively, if the commissioner does not utilize all applicable adjustments in valuing each automobile, he shall use the base value specified in such guide which may be either average retail, wholesale, or loan value, so long as uniformly applied within classifications of property. If the model and year of the individual automobile are not listed in the recognized pricing guide, the taxpayer may present to the commissioner proof of the original cost, and the basis of the tax for purposes of the motor vehicle sales and use tax as described in § 58.1-2405 shall constitute proof of original cost. If such percentage or percentages of original cost do not accurately reflect fair market value, or if the taxpayer does not supply proof of original cost, then the commissioner may select another method which establishes fair market value.

4. Trucks of less than two tons, which may be valued by means of a recognized pricing guide or, if the model and year of the individual truck are not listed in the recognized pricing guide, on the basis of a percentage or percentages of original cost.

5. Trucks and other vehicles, as defined in § 46.2-100, except those described in subdivisions 4, and 6 through 10 of this subsection, which shall be valued by means of either a recognized pricing guide using the lowest value specified in such guide or a percentage or percentages of original cost.

6. Manufactured homes, as defined in § 36-85.3, which may be valued on the basis of square footage of living space.

7. Antique motor vehicles, as defined in § 46.2-100, which may be used for general transportation purposes as provided in subsection C of § 46.2-730.

8. Taxicabs.

9. Motor vehicles with specially designed equipment for use by ~~the handicapped~~ *individuals with disabilities*, which shall not be valued in relation to their initial cost, but by determining their actual market value if offered for sale on the open market.

10. Motorcycles, mopeds, all-terrain vehicles, and off-road motorcycles as defined in § 46.2-100, campers and other recreational vehicles, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

11. Boats weighing under five tons and boat trailers, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

12. Boats or watercraft weighing five tons or more, which shall be valued by means of a percentage or percentages of original cost.

13. Aircraft, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

14. Household goods and personal effects, except as exempted under § 58.1-3504.

15. Tangible personal property used in a research and development business, which shall be valued by means of a percentage or percentages of original cost.

16. Programmable computer equipment and peripherals used in business which shall be valued by means of a percentage or percentages of original cost to the taxpayer, or by such other method as may reasonably be expected to determine the actual fair market value.

17. Computer equipment and peripherals used in a data center, as defined in subdivision A 43 of § 58.1-3506, which shall be valued by means of a percentage or percentages of original cost, or by such other method as may reasonably be expected to determine the actual fair market value.

18. All tangible personal property employed in a trade or business other than that described in subdivisions 1 through 17, which shall be valued by means of a percentage or percentages of original cost.

19. Outdoor advertising signs regulated under Article 1 (§ 33.2-1200 et seq.) of Chapter 12 of Title 33.2.

20. All other tangible personal property.

B. Methods of valuing property may differ among the separate categories, so long as each method used is uniform within each category, is consistent with requirements of this section and may reasonably be expected to determine actual fair market value as determined by the commissioner of revenue or other assessing official; however, assessment ratios shall only be used with the concurrence of the local governing body. A commissioner of revenue shall upon request take into account the condition of the property. The term "condition of the property" includes, but is not limited to, technological obsolescence of property where technological obsolescence is an appropriate factor for valuing such property. The commissioner of revenue shall make available to taxpayers on request a reasonable description of his valuation methods. Such commissioner, or other assessing officer, or his authorized agent, when using a recognized pricing guide as provided for in this section, may automatically extend the assessment if the pricing information is stored in a computer. For any locality in which the commissioner of revenue or other assessing official adjusts the valuation of property described in subdivision A 3 to account for the amount of mileage on such vehicles, such adjustment shall also be provided to motorcycles described in subdivision A 10.

§ 58.1-3506. Other classifications of tangible personal property for taxation.

A. The items of property set forth below are each declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property provided in this chapter:

1. a. Boats or watercraft weighing five tons or more, not used solely for business purposes;

b. Boats or watercraft weighing less than five tons, not used solely for business purposes;

2. Aircraft having a maximum passenger seating capacity of no more than 50 that are owned and operated by scheduled air carriers operating under certificates of public convenience and necessity issued by the State Corporation Commission or the Civil Aeronautics Board;

3. Aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are not owned or operated by scheduled air carriers recognized under federal law, but not including any aircraft described in subdivision 4;

4. Aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public and otherwise used for educational purposes (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation), or (b) airshow and flight demonstrations (including such flights necessary for testing, maintaining, or preparing such aircraft for safe operation), shall constitute a new class of property. Such class of property shall not include any aircraft used for commercial purposes, including transportation and other services for a fee;

5. All other aircraft not included in subdivision 2, 3, or 4 and flight simulators;

6. Antique motor vehicles as defined in § 46.2-100 which may be used for general transportation purposes as provided in subsection C of § 46.2-730;

7. Tangible personal property used in a research and development business;

8. Heavy construction machinery not used for business purposes, including land movers, bulldozers, front-end loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting and silvicultural activity equipment except as exempted under § 58.1-3505, and ditch and other types of diggers;

9. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any other alternative energy source

for use in manufacturing and any cogeneration equipment purchased to achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment shall include, without limitation, such equipment purchased by firms engaged in the business of generating electricity or steam, or both;

10. Vehicles without motive power, used or designed to be used as manufactured homes as defined in § 36-85.3;

11. Computer hardware used by businesses primarily engaged in providing data processing services to other nonrelated or nonaffiliated businesses;

12. Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes only;

13. Privately owned vans with a seating capacity of not less than seven nor more than 15 persons, including the driver, used exclusively pursuant to a ridesharing arrangement as defined in § 46.2-1400;

14. Motor vehicles specially equipped to provide transportation for ~~physically handicapped~~ individuals *with physical disabilities*;

15. Motor vehicles (i) owned by members of a volunteer emergency medical services agency or a member of a volunteer fire department or (ii) leased by volunteer emergency medical services personnel or a member of a volunteer fire department if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is owned by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member, or leased by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle, may be specially classified under this section, provided the volunteer regularly responds to emergency calls. The volunteer shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or volunteer fire department, that the volunteer is an individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or a member of the volunteer fire department who regularly responds to calls or regularly performs other duties for the emergency medical services agency or fire department, and the motor vehicle owned or leased by the volunteer is identified. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the volunteer, to accept a certification after the January 31 deadline. In any county that prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may be certified and classified pursuant to this subsection when the vehicle certified as of the immediately prior January date is transferred during the tax year;

16. Motor vehicles (i) owned by auxiliary members of a volunteer emergency medical services agency or volunteer fire department or (ii) leased by auxiliary members of a volunteer emergency medical services agency or volunteer fire department if the auxiliary member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary volunteer fire department or emergency medical services agency member may be specially classified under this section. The auxiliary member shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or volunteer fire department, that the volunteer is an auxiliary member of the volunteer emergency medical services agency or fire department who regularly performs duties for the emergency medical services agency or fire department, and the motor vehicle is identified as regularly used for such purpose; however, if a volunteer meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member and an auxiliary member are members of the same household, that household shall be allowed no more than two special classifications under this subdivision or subdivision 15. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the auxiliary member, to accept a certification after the January 31 deadline;

17. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound persons or provide transportation to senior ~~or handicapped~~ citizens *or individuals with disabilities* in the community to carry out the purposes of the nonprofit organization;

18. Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers as defined in § 46.2-1500, which are used for recreational purposes only, and privately owned trailers as defined in § 46.2-100, which are designed and used for the transportation of horses except those trailers described in subdivision A 11 of § 58.1-3505;

19. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written statement to the commissioner of revenue or other assessing officer from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of this section, and that his disability is service-connected. For purposes of this section, a person is blind if he meets the provisions of § 46.2-100;

20. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially classified under this section. In order to qualify for such classification, any auxiliary police officer who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the

commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary police officer or from the official who has appointed such auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

21. Until the first to occur of June 30, 2029, or the date that a special improvements tax is no longer levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District, provided that such business personal property is put into service within the District on or after July 1, 1999;

22. Motor vehicles which use clean special fuels as defined in § 46.2-749.3, which shall not include any vehicle described in subdivision 38 or 40;

23. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility that is properly licensed by the federal government, the Commonwealth, or both, and that is properly zoned for such use. "Wild animals" means any animals that are found in the wild, or in a wild state, within the boundaries of the United States, its territories or possessions. "Exotic animals" means any animals that are found in the wild, or in a wild state, and are native to a foreign country;

24. Furniture, office, and maintenance equipment, exclusive of motor vehicles, that are owned and used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and that is used by that organization for the purpose of maintaining or using the open or common space within a residential development;

25. Motor vehicles, trailers, and semitrailers with a gross vehicle weight of 10,000 pounds or more used to transport property or passengers for hire by a motor carrier engaged in interstate commerce;

26. All tangible personal property employed in a trade or business other than that described in subdivisions A 1 through A 20, except for subdivision A 18, of § 58.1-3503;

27. Programmable computer equipment and peripherals employed in a trade or business;

28. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational purposes only;

29. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for recreational purposes only;

30. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes only;

31. Tangible personal property used in the provision of Internet services. For purposes of this subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables users to access content, information, electronic mail, and the Internet as part of a package of services sold to customers;

32. Motor vehicles (i) owned by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs or (ii) leased by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. For purposes of this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve, volunteer, or special deputy sheriff. One motor vehicle that is regularly used by each auxiliary deputy sheriff to respond to auxiliary deputy sheriff duties may be specially classified under this section. In order to qualify for such classification, any auxiliary deputy sheriff who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary deputy sheriff or from the official who has appointed such auxiliary deputy sheriff. That certification shall state that the applicant is an auxiliary deputy sheriff who regularly uses a motor vehicle to respond to such auxiliary duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

33. Forest harvesting and silvicultural activity equipment, except as exempted under § 58.1-3505;

34. Equipment used primarily for research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including medical, pharmaceutical, nutritional, and other health-related purposes; agricultural purposes; or environmental purposes but not for human cloning purposes as defined in § 32.1-162.21 or for products or purposes related to human embryo stem cells. For purposes of this section, biotechnology equipment means equipment directly used in activities associated with the science of living things;

35. Boats or watercraft weighing less than five tons, used for business purposes only;

36. Boats or watercraft weighing five tons or more, used for business purposes only;

37. Tangible personal property which is owned and operated by a service provider who is not a CMRS provider and is not licensed by the FCC used to provide, for a fee, wireless broadband Internet service. For purposes of this subdivision, "wireless broadband Internet service" means a service that enables customers to access, through a wireless connection at an upload or download bit rate of more than one megabyte per second, Internet service, as defined in § 58.1-602, as part of a package of services sold to customers;

38. Low-speed vehicles as defined in § 46.2-100;

39. Motor vehicles with a seating capacity of not less than 30 persons, including the driver;

40. Motor vehicles powered solely by electricity;

41. Tangible personal property designed and used primarily for the purpose of manufacturing a product from renewable energy as defined in § 56-576;

42. Motor vehicles leased by a county, city, town, or constitutional officer if the locality or constitutional officer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle;

43. Computer equipment and peripherals used in a data center. For purposes of this subdivision, "data center" means a facility whose primary services are the storage, management, and processing of digital data and is used to house (i) computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems; (ii) systems for monitoring and managing infrastructure performance; (iii) equipment used for the transformation, transmission, distribution, or management of at least one megawatt of capacity of electrical power and cooling, including substations, uninterruptible power supply systems, all electrical plant equipment, and associated air handlers; (iv) Internet-related equipment and services; (v) data communications connections; (vi) environmental controls; (vii) fire protection systems; and (viii) security systems and services;

44. Motor vehicles (i) owned by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 or (ii) leased by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by a uniformed member of the Virginia Defense Force to respond to his official duties may be specially classified under this section. In order to qualify for such classification, any person who applies for such classification shall identify the vehicle for which the classification is sought and shall furnish to the commissioner of the revenue or other assessing officer a certification from the Adjutant General of the Department of Military Affairs under § 44-11. That certification shall state that (a) the applicant is a uniformed member of the Virginia Defense Force who regularly uses a motor vehicle to respond to his official duties, and (b) the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of the revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

45. If a locality has adopted an ordinance pursuant to subsection D of § 58.1-3703, tangible personal property of a business that qualifies under such ordinance for the first two tax years in which the business is subject to tax upon its personal property pursuant to this chapter. If a locality has not adopted such ordinance, this classification shall apply to the tangible personal property for such first two tax years of a business that otherwise meets the requirements of subsection D of § 58.1-3703;

46. Miscellaneous and incidental tangible personal property employed in a trade or business that is not classified as machinery and tools pursuant to Article 2 (§ 58.1-3507 et seq.), merchants' capital pursuant to Article 3 (§ 58.1-3509 et seq.), or short-term rental property pursuant to Article 3.1 (§ 58.1-3510.4 et seq.), and has an original cost of less than $500. A county, city, or town shall allow a taxpayer to provide an aggregate estimate of the total cost of all such property owned by the taxpayer that qualifies under this subdivision, in lieu of a specific, itemized list;

47. Commercial fishing vessels and property permanently attached to such vessels; and

48. The following classifications of vehicles:

a. Automobiles as described in subdivision A 3 of § 58.1-3503;

b. Trucks of less than two tons as described in subdivision A 4 of § 58.1-3503;

c. Trucks and other vehicles as described in subdivision A 5 of § 58.1-3503;

d. Motor vehicles with specially designed equipment for use by ~~the handicapped~~ *individuals with disabilities* as described in subdivision A 9 of § 58.1-3503; and

e. Motorcycles, mopeds, all-terrain vehicles, off-road motorcycles, campers, and other recreational vehicles as described in subdivision A 10 of § 58.1-3503.

B. The governing body of any county, city, or town may levy a tax on the property enumerated in subsection A at different rates from the tax levied on other tangible personal property. The rates of tax and the rates of assessment shall (i) for purposes of subdivisions A 1, 2, 3, 4, 5, 6, 8, 11 through 20, 22 through 24, and 26 through 47, not exceed that applicable to the general class of tangible personal property, (ii) for purposes of subdivisions A 7, 9, 21, and 25, not exceed that applicable to machinery and tools, and (iii) for purposes of subdivision A 10, equal that applicable to real property. If an item of personal property is included in multiple classifications under subsection A, then the rate of tax shall be the lowest rate assigned to such classifications.

C. Notwithstanding any other provision of this section, for any qualifying vehicle, as such term is defined in § 58.1-3523, (i) included in any separate class of property in subsection A and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 (§ 58.1-3523 et seq.) for providing tangible personal property tax relief, the county, city, or town may levy the tangible personal property tax on such qualifying vehicle at a rate not to exceed the rates of tax and rates of assessment required under such chapter.

Article 1.01.

Alternative Tax Rates for Elderly *Individuals* and ~~Handicapped~~ *Individuals with Disabilities*.

§ 58.1-3506.1. Other classification for taxation of certain tangible personal property owned by certain elderly individuals and individuals with disabilities.

The governing body of any ~~county, city or town~~ *locality* may, by ordinance, levy a tax on one motor vehicle owned and used primarily by or for anyone at least 65 years of age or anyone found to be permanently and totally disabled, as defined in § 58.1-3506.3, at a different rate from the tax levied on other tangible personal property, upon such conditions as the ordinance may prescribe. Such rate shall not exceed the tangible personal property tax on the general class of tangible personal property. For purposes of this article, the term motor vehicle shall include only automobiles and pickup trucks. Any such motor vehicle owned by married individuals may qualify if either spouse is 65 or over or if either spouse is permanently and totally disabled. Notwithstanding any other provision of this section or article, for any automobile or pickup truck that is (i) a qualifying vehicle, as such term is defined in § 58.1-3523, and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 (§ 58.1-3523 et seq.) for providing tangible personal property tax relief, the rate of tax levied pursuant to this article shall not exceed the rates of tax and rates of assessment required under such chapter.

§ 58.1-3506.6. Notice of local tangible personal property tax relief program for elderly individuals and individuals with disabilities.

The treasurer of any county, city, or town shall enclose written notice, in each tangible personal property tax bill, of the terms and conditions of any local tangible personal property tax relief program established in the jurisdiction pursuant to § 58.1-3506.1. The treasurer shall also employ any other reasonable means necessary to notify residents of the county, city, or town about the terms and conditions of the tangible personal property tax relief program for elderly *individuals* and ~~handicapped residents of~~ *individuals with disabilities who reside in* the county, city, or town.

§ 58.1-3833. County food and beverage tax.

A. 1. Any county is hereby authorized to levy a tax on food and beverages sold, for human consumption, by a restaurant, as such term is defined in § 35.1-1, not to exceed six percent of the amount charged for such food and beverages. Such tax shall not be levied on food and beverages sold through vending machines or by (i) boardinghouses that do not accommodate transients; (ii) cafeterias operated by industrial plants for employees only; (iii) restaurants to their employees as part of their compensation when no charge is made to the employee; (iv) volunteer fire departments and volunteer emergency medical services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations the first three times per calendar year and, beginning with the fourth time, on the first $100,000 of gross receipts per calendar year from sales of food and beverages (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes; (v) churches that serve meals for their members as a regular part of their religious observances; (vi) public or private elementary or secondary schools or institutions of higher education to their students or employees; (vii) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof; (viii) day care centers; (ix) homes for ~~the~~ aged~~,~~ *or* infirm *individuals*, ~~handicapped~~ *individuals with disabilities*, battered women, narcotic addicts, or alcoholics; (x) age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees; or (xi) sellers at local farmers markets and roadside stands, when such sellers' annual income from such sales does not exceed $2,500. For the exemption described in clause (xi), the sellers' annual income shall include income from sales at all local farmers markets and roadside stands, not just those sales occurring in the locality imposing the tax. Also, the tax shall not be levied on food and beverages: (a) when used or consumed and paid for by the Commonwealth, any political subdivision of the Commonwealth, or the United States; (b) provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, ~~blind, handicapped,~~ or needy ~~persons~~ *individuals or individuals with blindness or other disabilities* in their homes, or at central locations; or (c) provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, ~~blind, handicapped,~~ or needy ~~persons~~ *individuals or individuals with blindness or other disabilities* in their homes or at central locations.

2. Grocery stores and convenience stores selling prepared foods ready for human consumption at a delicatessen counter shall be subject to the tax, for that portion of the grocery store or convenience store selling such items.

The term "beverage" as set forth herein ~~shall mean~~ *means* alcoholic beverages as defined in § 4.1-100 and nonalcoholic beverages served as part of a meal. The tax shall be in addition to the sales tax currently imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.). Collection of such tax shall be in a manner prescribed by the governing body.

B. Nothing herein contained shall affect any authority heretofore granted to any county, city, or town to levy a meals tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis. All food and beverage tax collections and all meals tax collections shall be deemed to be held in trust for the county, city, or town imposing the applicable tax. The wrongful and fraudulent use of such collections other than remittance of the same as provided by law shall constitute embezzlement pursuant to § 18.2-111.

C. Notwithstanding any other provision of this section, no locality shall levy any tax under this section upon (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price; or (iii) alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased

for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

§ 58.1-3840. Certain excise taxes permitted.

A. The provisions of Chapter 6 (§ 58.1-600 et seq.) to the contrary notwithstanding, any city or town having general taxing powers established by charter pursuant to or consistent with the provisions of § 15.2-1104 and, to the extent authorized in this chapter, any county may impose excise taxes on cigarettes, admissions, transient room rentals, meals, and travel campgrounds. No such taxes on meals may be imposed on (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price of the meal; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price; or (iii) food and beverages sold through vending machines or on any tangible personal property purchased with food coupons issued by the ~~United States~~ *U.S.* Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children. No such taxes on meals may be imposed when sold or provided by (a) restaurants, as such term is defined in § 35.1-1, to their employees as part of their compensation when no charge is made to the employee; (b) volunteer fire departments and volunteer emergency medical services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations, the first three times per calendar year and, beginning with the fourth time, on the first $100,000 of gross receipts per calendar year from sales of meals (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes; (c) churches that serve meals for their members as a regular part of their religious observances; (d) public or private elementary or secondary schools or institutions of higher education to their students or employees; (e) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof; (f) day care centers; (g) homes for ~~the~~ aged~~,~~ *or* infirm *individuals*, ~~handicapped~~ *individuals with disabilities*, battered women, narcotic addicts, or alcoholics; (h) age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees; or (i) sellers at local farmers markets and roadside stands, when such sellers' annual income from such sales does not exceed $2,500. For the exemption described in clause (i), the sellers' annual income shall include income from sales at all local farmers markets and roadside stands, not just those sales occurring in the locality imposing the tax.

Also, the tax shall not be levied on meals: (1) when used or consumed and paid for by the Commonwealth, any political subdivision of the Commonwealth, or the United States; (2) provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, ~~blind, handicapped,~~ or needy ~~persons~~ *individuals or individuals with blindness or other disabilities* in their homes~~,~~ or at central locations; or (3) provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, ~~blind, handicapped,~~ or needy ~~persons~~ *individuals or individuals with blindness or other disabilities* in their homes or at central locations.

In addition, as set forth in § 51.5-98, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Blind and Vision Impaired and located on property acquired and used by the United States for any military or naval purpose shall be required to collect and remit meals taxes.

B. Notwithstanding any other provision of this section, no city or town shall levy any tax under this section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

C. Any city or town that is authorized to levy a tax on admissions may levy the tax on admissions paid for any event held at facilities that are not owned by the city or town at a lower rate than the rate levied on admissions paid for any event held at its city- or town-owned civic centers, stadiums, and amphitheaters.

D. [Expired.]

§ 58.1-4024. Employees of the Department.

Employees of the Department shall be exempt from the provisions of the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2. Personnel actions shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ *disability*, or political affiliation.

§ 63.2-100. Definitions.

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

"Abused or neglected child" means any child less than 18 years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible

for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care, or an intimate partner of such parent or person, commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this title is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii) an attended emergency medical services agency that employs emergency medical services providers, or (iii) a newborn safety device located at and operated by such hospital or emergency medical services agency. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603.

"Adult day care center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more *adults who are* aged~~,~~ *or* infirm or ~~disabled adults~~ *who have disabilities and* who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more *adults who are* aged~~,~~ *or* infirm or ~~disabled adults~~ *who have disabilities*.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults. "Adult foster care" does not include services or support provided to individuals through the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9.

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be

considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult.

"Adult protective services" means services provided by the local department that are necessary to protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least a moderate level of assistance with activities of daily living.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged~~,~~ *or* infirm or ~~disabled~~ *who have disabilities* and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving *individuals who are* infirm or ~~disabled persons~~ *who have disabilities* between the ages of 18 and 21, or 22 if enrolled in an educational program for ~~the handicapped~~ *individuals with disabilities* pursuant to § 22.1-214, when such facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility not so licensed; and (iv) any housing project for ~~persons~~ *individuals who are* 62 years of age or older or ~~the disabled~~ *individuals with disabilities* that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more *adults who are* aged~~,~~ *or* infirm ~~or disabled adults~~ *or who have disabilities*. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an *individual who is* aged~~,~~ *or* infirm or ~~disabled individual~~ *who has a disability*.

"Auxiliary grants" means cash payments made to certain aged, blind, or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

"Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists parents with the process of delegating parental and legal custodial powers of their children pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child-protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child support services" means any civil, criminal or administrative action taken by the Division of Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child support, or child and spousal support.

"Child-welfare agency" means a child-placing agency, children's residential facility, or independent foster home.

"Children's residential facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;

2. An establishment required to be licensed as a summer camp by § 35.1-18; and

3. A licensed or accredited hospital legally maintained as such.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Department of Health and Human Services" means the Department of Health and Human Services of the United States government or any department or agency thereof that may hereafter be designated as the agency to administer the Social Security Act, as amended.

"Disposable income" means that part of the income due and payable of any individual remaining after the deduction of any amount required by law to be withheld.

"Energy assistance" means benefits to assist low-income households with their home heating and cooling needs, including, but not limited to, purchase of materials or substances used for home heating, repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of ~~Public Law~~ *P.L.* 97-35), as amended.

"Family and permanency team" means the group of individuals assembled by the local department to assist with determining planning and placement options for a child, which shall include, as appropriate, all biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case of a child who is 14 years of age or older, the family and permanency team shall also include any members of the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281.

"Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1305, payments to eligible individuals who have received custody of a child of whom they had been the foster parents.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency. "Foster care placement" does not include placement of a child in accordance with a power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Foster home" means a residence approved by a child-placing agency or local board in which any child, other than a child by birth or adoption of such person or a child who is the subject of a power of attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural person who has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours without compensation, resides as a member of the household.

"General relief" means money payments and other forms of relief made to those persons mentioned in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person; (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8; and (iii) a home in which are received only children who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Independent living" means a planned program of services designed to assist a child age 16 and over and persons who are former foster care children or were formerly committed to the Department of Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development, access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Kinship care" means the full-time care, nurturing, and protection of children by relatives.

"Kinship guardian" means the adult relative of a child in a kinship guardianship established in accordance with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after acting as the child's foster parent.

"Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-1306 between a child and an adult relative of the child who has formerly acted as the child's foster parent that is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult relative of the child of the authority necessary to ensure the protection, education, care and control, and custody of the child and the authority for decision making for the child.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in ~~this~~ *the* Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Merit system plan" means those regulations adopted by the Board in the development and operation of a system of personnel administration meeting requirements of the federal Office of Personnel Management.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the aged, blind, and disabled; medical assistance; energy assistance; food stamps; employment services; child care; and general relief.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a home and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of assisted living facilities, or any hospital that has contracted with the Department of Medical Assistance Services to perform nursing facility pre-admission screenings.

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Sibling" means each of two or more children having one or more parents in common.

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 and adult protective

services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

"State-Funded Kinship Guardianship Assistance program" means a program that provides payments to eligible individuals who have received custody of a relative child subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1306.

"Supervised independent living setting" means the residence of a person 18 years of age or older who is participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 where supervision includes a monthly visit with a service worker or, when appropriate, contracted supervision. "Supervised independent living setting" does not include residential facilities or group homes.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from Virginia Initiative for Education and Work (VIEW) participation under § 63.2-609.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

§ 63.2-319. Child welfare and other services.

Each local board shall provide, either directly or through the purchase of services subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, any or all child welfare services herein described when such services are not available through other agencies serving residents in the locality. For purposes of this section, the term "child welfare services" means public social services that are directed toward:

1. Protecting the welfare of all children including ~~handicapped,~~ homeless, dependent, or neglected children *or children with disabilities*;

2. Preventing or remedying, or assisting in the solution of problems that may result in the neglect, abuse, exploitation or delinquency of children;

3. Preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving these problems and preventing the break up of the family where preventing the removal of a child is desirable and possible;

4. Restoring to their families children who have been removed by providing services to the families and children;

5. Placing children in suitable adoptive homes in cases where restoration to the biological family is not possible or appropriate; and

6. Assuring adequate care of children away from their homes in cases where they cannot be returned home or placed for adoption.

Each local board is also authorized and, as may be provided by regulations of the Board, shall provide rehabilitation and other services to help individuals attain or retain self-care or self-support and such services as are likely to prevent or reduce dependency and, in the case of dependent children, to maintain and strengthen family life.

§ 63.2-1301. Types of adoption assistance payments.

A. Title IV-E maintenance payments shall be made to the adoptive parents on behalf of an adopted child placed if it is determined that the child is a child with special needs as set forth in § 63.2-1300 and the child meets the requirements set forth in § 473 of Title IV-E of the Social Security Act (42 U.S.C. § 673).

B. State-funded maintenance payments may be made to the adoptive parents on behalf of an adopted child if it is determined that the child does not meet the requirements set forth in § 473 of Title IV-E of the Social Security Act (42 U.S.C. § 673) but the child is a child with special needs as set forth in § 63.2-1300. A child with special needs shall receive state-funded maintenance payments if he:

1. Was in the custody of a local board or a licensed child-placing agency at the time of the adoptive placement;

2. Was in the custody of a local board or a licensed child-placing agency at the time of the adoptive placement and met the factors set forth in subdivision B 1 or 2 of § 63.2-1300 at the time of adoption but such factors were not diagnosed until after the final order of adoption and no more than one year has elapsed from the date of diagnosis; or

3. Lived with his foster parents for at least 12 months and has developed significant emotional ties with his foster parents while in their care and the foster parents wish to adopt the child and state-funded maintenance payments are necessary to enable the adoption.

C. Special services payments may be made for the provision of services to the child that are not covered by insurance, Medicaid, or otherwise. Special services include (i) medical, surgical, and dental care; (ii) hospitalization; (iii) individual remedial education services; (iv) psychological and psychiatric treatment; (v) speech and physical therapy; and (vi) special equipment, treatment, and training for physical and mental ~~handicaps~~ *disabilities*. A child is eligible for special services payments if:

1. The child is a child with special needs as set forth in § 63.2-1300;

2. The child is receiving adoption assistance payments pursuant to subsection A or B; and

3. The adoptive parents are capable of providing the permanent family relationships needed by the child in all respects except financial.

D. Nonrecurring expense payments shall be made to the adoptive parents for expenses related to the adoption, including reasonable and necessary adoption fees, court costs, attorney fees and other legal service fees, as well as any other expenses that are directly related to the legal adoption of a child with special needs, including costs related to the adoption study, any health and psychological examinations, supervision of the placement prior to adoption and any transportation costs and reasonable costs of lodging and food for the child and the adoptive parents when necessary to complete the placement or adoption process for which the adoptive parents carry ultimate liability for payment and that have not been reimbursed from any other source, as set forth in 45 C.F.R. § 1356.41. However, the total amount of nonrecurring expense payments made to adoptive parents for the adoption of a child shall not exceed $2,000 or an amount established by federal law.

§ 63.2-1302. Adoption assistance payments; maintenance; special needs; payment agreements; continuation of payments when adoptive parents move to another jurisdiction; procedural requirements.

A. Adoption assistance payments may include Title IV-E or state-funded maintenance payments; however, such payments shall not exceed the foster care payment that would otherwise be made for the child at the time the adoption assistance agreement is signed.

B. Adoption assistance payments shall cease when the child with special needs reaches 18 years of age. However, assistance payments may continue until the child reaches 21 years of age under the following circumstances:

1. The local department determines on or within six months prior to the child's eighteenth birthday that the child has a mental or physical ~~handicap~~ *disability*, or an educational delay resulting from such ~~handicap~~ *disability*, warranting the continuation of assistance; or

2. The initial adoption assistance agreement became effective on or after the child's sixteenth birthday and the child is (i) completing secondary education or an equivalent thereof; (ii) enrolled in an institution that provides postsecondary or vocational education; (iii) employed for at least 80 hours per month; (iv) participating in a program or activity designed to promote employment or remove barriers to employment; or (v) incapable of doing any of the activities set forth in clauses (i) through (iv) due to a medical condition.

C. Adoption assistance payments shall be made on the basis of an adoption assistance agreement entered into by the local board and the adoptive parents or, in cases in which the child is in the custody of a licensed child-placing agency, an agreement between the local board, the licensed child-placing agency and the adoptive parents. A representative of the Department shall negotiate all adoption assistance agreements with both existing and prospective adoptive parents on behalf of local departments.

Prior to entering into an adoption assistance agreement, the local board or licensed child-placing agency shall ensure that adoptive parents have received information about their child's eligibility for adoption assistance; about their child's special needs and, to the extent possible, the current and potential impact of those special needs. The local board or licensed child-placing agency shall also ensure that adoptive parents receive information about the process for appeal in the event of a disagreement between the adoptive parent and the local board or the adoptive parent and the child-placing agency and information about the procedures for renegotiating the adoption assistance agreement.

Adoptive parents shall submit annually to the local board within 30 days of the anniversary date of the approved agreement an affidavit which certifies that (i) the child on whose behalf they are receiving adoption assistance payments remains in their care, (ii) the child's condition requiring adoption assistance continues to exist, and (iii) whether or not changes to the adoption assistance agreement are requested.

Title IV-E maintenance payments made pursuant to this section shall be changed only in accordance with the provisions of § 473 of Title IV-E of the Social Security Act (42 U.S.C. § 673).

D. Responsibility for adoption assistance payments for a child placed for adoption shall be continued by the local board that initiated the agreement in the event that the adoptive parents live in or move to another jurisdiction.

E. Payments may be made under this chapter from appropriations for foster care services for the maintenance and medical or other services for children who have special needs in accordance with § 63.2-1301. Within the limitations of the appropriations to the Department, the Commissioner shall reimburse any agency making payments under this chapter. Any such agency may seek and accept funds from other sources, including federal, state, local, and private sources, to carry out the purposes of this chapter.

§ 64.2-745. Certain claims for reimbursement for public assistance.

A. Notwithstanding any contrary provision in the trust instrument, if a statute or regulation of the United States or Commonwealth requires a beneficiary to reimburse the Commonwealth or any agency or instrumentality thereof, for public assistance, including medical assistance, furnished or to be furnished to the beneficiary, the Attorney General or an attorney acting on behalf of the state agency responsible for the program may file a petition in the circuit court having jurisdiction over the trustee requesting reimbursement. The petition may be filed prior to obtaining a judgment. The beneficiary, the guardian of his estate, his conservator, or his committee shall be made a party.

B. Following its review of the circumstances of the case, the court may:

1. Order the trustee to satisfy all or part of the liability out of all or part of the amounts to which the beneficiary is entitled, whether presently or in the future, to the extent the beneficiary has the right under the trust to compel the trustee to pay income or principal to or for the benefit of the beneficiary; or

2. Regardless of whether the beneficiary has the right to compel the trustee to pay income or principal to or for the benefit of the beneficiary, order the trustee to satisfy all or part of the liability out of all or part of any future payments that the trustee chooses to make to or for the benefit of the beneficiary in the exercise of discretion under the trust.

C. A duty in the trustee under the instrument to make disbursements in a manner designed to avoid rendering the beneficiary ineligible for public assistance to which he might otherwise be entitled, however, shall not be construed as a right possessed by the beneficiary to compel such payments.

D. The court shall not issue an order pursuant to this section if the beneficiary is a person who has a medically determined physical or mental disability that substantially impairs his ability to provide for his care or custody, and constitutes a substantial ~~handicap~~ *disability*.

CHAPTER 149

An Act to amend and reenact §§ 2.2-1159, 3.2-6588, 10.1-200.3, 15.2-1805, 15.2-2025, 15.2-2306, 15.2-5201, 15.2-5301, 15.2-5369, 15.2-6314.1, 20-163, 22.1-101.1, 22.1-183, 22.1-213, 22.1-214.3, 22.1-270, 22.1-290.02, 23.1-1000, 23.1-2400, 25.1-400, 29.1-314, 32.1-78, 33.2-613, 36-96.1:1, 36-98.1, 36-99, 38.2-3323, 38.2-3409, 46.2-100, 46.2-221, 46.2-844, 46.2-859, 46.2-917, 46.2-1090, 46.2-1503.2, 51.1-124.27, 51.5-40.1, 54.1-2968, 58.1-609.10, 58.1-2401, 58.1-3210, 58.1-3213.1, 58.1-3503, 58.1-3506, 58.1-3506.1, 58.1-3506.6, 58.1-3833, 58.1-3840, 58.1-4024, 63.2-100, 63.2-319, 63.2-1301, 63.2-1302, and 64.2-745 of the Code of Virginia, relating to individuals with disabilities; terminology.

[S 798]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1159, 3.2-6588, 10.1-200.3, 15.2-1805, 15.2-2025, 15.2-2306, 15.2-5201, 15.2-5301, 15.2-5369, 15.2-6314.1, 20-163, 22.1-101.1, 22.1-183, 22.1-213, 22.1-214.3, 22.1-270, 22.1-290.02, 23.1-1000, 23.1-2400, 25.1-400, 29.1-314, 32.1-78, 33.2-613, 36-96.1:1, 36-98.1, 36-99, 38.2-3323, 38.2-3409, 46.2-100, 46.2-221, 46.2-844, 46.2-859, 46.2-917, 46.2-1090, 46.2-1503.2, 51.1-124.27, 51.5-40.1, 54.1-2968, 58.1-609.10, 58.1-2401, 58.1-3210, 58.1-3213.1, 58.1-3503, 58.1-3506, 58.1-3506.1, 58.1-3506.6, 58.1-3833, 58.1-3840, 58.1-4024, 63.2-100, 63.2-319, 63.2-1301, 63.2-1302, and 64.2-745 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-1159. Facilities for persons with physical disabilities in certain buildings; definitions; construction standards; waiver; temporary buildings.

A. For the purposes of this section and § 2.2-1160:

"Building" means any building or facility, used by the public, which is constructed in whole or in part or altered by the use of state, county or municipal funds, or the funds of any political subdivision of ~~this~~ *the* Commonwealth. "Building" shall not include public school buildings and facilities, which shall be governed by standards established by the Board of Education pursuant to § 22.1-138.

"Persons with physical disabilities" means persons with:

1. Impairments that, regardless of cause or manifestation, for all practical purposes, confine individuals to wheelchairs;

2. Impairments that cause individuals to walk with difficulty or insecurity;

3. Total blindness or impairments affecting sight to the extent that the individual functioning in public areas is insecure or exposed to dangers;

4. Deafness or hearing ~~handicaps~~ *loss* that might make an individual insecure in public areas because he is unable to communicate or hear warning signals;

5. Faulty coordination or palsy from brain, spinal, or peripheral nerve injury; or

6. Those manifestations of the aging processes that significantly reduce mobility, flexibility, coordination and perceptiveness but are not accounted for in the aforementioned categories.

B. The Division shall prescribe standards for the design, construction, and alteration of buildings constructed in whole or in part or altered by the use of state funds, other than school funds, necessary to ensure that persons with physical disabilities will have ready access to, and use of, such buildings.

C. The governing body of a county, city or town or other political subdivision shall prescribe standards for the design, construction and alteration of buildings, not including public school facilities, constructed in whole or in part or altered by the use of the funds of such locality or political subdivision necessary to ensure that persons with physical disabilities will have ready access to, and use of, such buildings. The Division shall consult with the governing bodies upon request.

D. The Division, with respect to standards issued by it, and the governing body of any county, city or town or other political subdivision with respect to standards issued by it may:

1. Modify or waive any such standard, on a case-by-case basis, upon application made by the head of the department, agency or other instrumentality concerned, upon determining that a modification or waiver is clearly necessary; and

2. Conduct necessary surveys and investigations to ensure compliance with such standards.

E. The provisions of this section and § 2.2-1160 shall apply to temporary and emergency construction as well as permanent buildings.

§ 3.2-6588. Intentional interference with a guide or leader dog; penalty.

A. It is unlawful for a person to, without just cause, willfully impede or interfere with the duties performed by a dog if the person knows or has reason to believe the dog is a guide or leader dog. A violation of this subsection is a Class 3 misdemeanor.

B. It is unlawful for a person to, without just cause, willfully injure a dog if the person knows or has reason to believe the dog is a guide or leader dog. A violation of this subsection is a Class 1 misdemeanor.

"Guide or leader dog" means a dog that: (i) serves as a dog guide for a blind person as defined in § 51.5-60 or for a person with a visual disability; (ii) serves as a listener for a deaf or hard-of-hearing person as defined in § 51.5-111; or (iii) provides support or assistance for ~~a physically disabled or handicapped person~~ *an individual with a physical disability*.

§ 10.1-200.3. Admittance and parking in state parks; prohibitions; civil penalty.

A. No person shall make use of, gain admittance to, or attempt to use or gain admittance to the facilities in any state park for the use of which a charge is assessed by the Department, unless the person pays the charge or price established by the Department.

B. No owner or driver shall cause or permit a vehicle to stand:

1. Anywhere in a state park outside of designated parking spaces, except for a reasonable time in order to receive or discharge passengers; or

2. In any space in a state park designated for use by ~~the handicapped~~ *individuals with disabilities* unless the vehicle displays a license plate or decal issued by the Commissioner of the Department of Motor Vehicles, or a similar identification issued by a similar authority of another state or the District of Columbia, ~~which~~ *that* authorizes parking in a ~~handicap~~ space *designated for use by individuals with disabilities*.

C. Any person violating any provision of this section may, in lieu of any criminal penalty, be assessed a civil penalty of ~~twenty-five dollars~~ *$25* by the Department. Civil penalties assessed under this section shall be paid into the Conservation Resources Fund.

§ 15.2-1805. Permitting individuals with visual impairments to operate stands for sale of newspapers, etc.

A locality, by ordinance or resolution, may authorize any ~~visually handicapped person~~ *individual with a visual impairment* to construct, maintain and operate, under the supervision of the Virginia Department for the Blind and Vision Impaired, in the county or city courthouse or in any other property of the locality, a stand for the sale of newspapers, periodicals, confections, tobacco products and similar articles and may prescribe rules for the operation of such stand.

§ 15.2-2025. Removal of snow and ice; civil penalty.

Notwithstanding the provisions of subsection A of § 15.2-2000, any county in Northern Virginia Planning District 8, or any county outside Planning District 8 that has adopted the county executive form of government, may provide by ordinance reasonable criteria and requirements for the removal of accumulations of snow and ice from public sidewalks, by the owner or other person in charge of any occupied property.

Such ordinance shall include reasonable time frames for compliance and reasonable exceptions for ~~handicapped and~~ *individuals with disabilities,* elderly ~~persons~~ *individuals*, and those otherwise physically incapable of meeting the criteria and requirements for such removal.

Civil penalties not to exceed $100 may be imposed for violation of such ordinance.

§ 15.2-2306. Preservation of historical sites and architectural areas.

A. 1. Any locality may adopt an ordinance setting forth the historic landmarks within the locality as established by the Virginia Board of Historic Resources, and any other buildings or structures within the locality having an important historic, architectural, archaeological or cultural interest, any historic areas within the locality as defined by § 15.2-2201, and areas of unique architectural value located within designated conservation, rehabilitation or redevelopment districts, amending the existing zoning ordinance and delineating one or more historic districts, adjacent to such landmarks, buildings and structures, or encompassing such areas, or encompassing parcels of land contiguous to arterial streets or highways (as designated pursuant to Title 33.2, including § 33.2-319 ~~of that title~~) found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures or districts therein or in a contiguous locality. A governing body may provide in the ordinance that the applicant must submit documentation that any development in an area of the locality of known historical or archaeological significance will preserve or accommodate the historical or archaeological resources. An amendment of the zoning ordinance and the establishment of a district or districts shall be in accordance with the provisions of Article 7 (§ 15.2-2280 et seq.) ~~of this chapter~~. The governing body may provide for a review board to administer the ordinance and may provide compensation to the board. The ordinance may include a provision that no building or structure, including signs, shall be erected, reconstructed, altered or restored within any such district unless approved by the review board or, on appeal, by the governing body of the locality as being architecturally compatible with the historic landmarks, buildings or structures therein.

2. Subject to the provisions of subdivision 3 ~~of this subsection~~ the governing body may provide in the ordinance that no historic landmark, building or structure within any district shall be razed, demolished or moved until the razing, demolition or moving thereof is approved by the review board, or, on appeal, by the governing body after consultation with the review board.

3. The governing body shall provide by ordinance for appeals to the circuit court for such locality from any final decision of the governing body pursuant to subdivisions 1 and 2 ~~of this subsection~~ and shall specify therein the parties entitled to appeal the decisions, which parties shall have the right to appeal to the circuit court for review by filing a petition at law, setting forth the alleged illegality of the action of the governing body, provided the petition is filed within ~~thirty~~

30 days after the final decision is rendered by the governing body. The filing of the petition shall stay the decision of the governing body pending the outcome of the appeal to the court, except that the filing of the petition shall not stay the decision of the governing body if the decision denies the right to raze or demolish a historic landmark, building or structure. The court may reverse or modify the decision of the governing body, in whole or in part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the governing body.

In addition to the right of appeal hereinabove set forth, the owner of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions of subdivision 2 ~~of this subsection~~, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) he has applied to the governing body for such right, (ii) the owner has for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the locality or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure. The time schedule for offers to sell shall be as follows: three months when the offering price is less than $25,000; four months when the offering price is $25,000 or more but less than $40,000; five months when the offering price is $40,000 or more but less than $55,000; six months when the offering price is $55,000 or more but less than $75,000; seven months when the offering price is $75,000 or more but less than $90,000; and ~~twelve~~ *12* months when the offering price is $90,000 or more.

4. The governing body is authorized to acquire in any legal manner any historic area, landmark, building or structure, land pertaining thereto, or any estate or interest therein which, in the opinion of the governing body should be acquired, preserved and maintained for the use, observation, education, pleasure and welfare of the people; provide for their renovation, preservation, maintenance, management and control as places of historic interest by a department of the locality or by a board, commission or agency specially established by ordinance for the purpose; charge or authorize the charging of compensation for the use thereof or admission thereto; lease, subject to such regulations as may be established by ordinance, any such area, property, lands or estate or interest therein so acquired upon the condition that the historic character of the area, landmark, building, structure or land shall be preserved and maintained; or to enter into contracts with any person, firm or corporation for the management, preservation, maintenance or operation of any such area, landmark, building, structure, land pertaining thereto or interest therein so acquired as a place of historic interest; however, the locality shall not use the right of condemnation under this subsection unless the historic value of such area, landmark, building, structure, land pertaining thereto, or estate or interest therein is about to be destroyed.

The authority to enter into contracts with any person, firm or corporation as stated above may include the creation, by ordinance, of a resident curator program such that private entities through lease or other contract may be engaged to manage, preserve, maintain, or operate, including the option to reside in, any such historic area, property, lands, or estate owned or leased by the locality. Any leases or contracts entered into under this provision shall require that all maintenance and improvement be conducted in accordance with established treatment standards for historic landmarks, areas, buildings, and structures. For purposes of this section, leases or contracts that preserve historic landmarks, buildings, structures, or areas are deemed to be consistent with the purposes of use, observation, education, pleasure, and welfare of the people as stated above so long as the lease or contract provides for reasonable public access consistent with the property's nature and use. The Department of Historic Resources shall provide technical assistance to local governments, at their request, to assist in developing resident curator programs.

B. Notwithstanding any contrary provision of law, general or special, in the City of Portsmouth no approval of any governmental agency or review board shall be required for the construction of a ramp to serve ~~the handicapped~~ *individuals with disabilities* at any structure designated pursuant to the provisions of this section.

C. Any locality that establishes or expands a local historic district pursuant to this section shall identify and inventory all landmarks, buildings, or structures in the areas being considered for inclusion within the proposed district. Prior to adoption of an ordinance establishing or expanding a local historic district, the locality shall (i) provide for public input from the community and affected property owners in accordance with § 15.2-2204; (ii) establish written criteria to be used to determine which properties should be included within a local historic district; and (iii) review the inventory and the criteria to determine which properties in the areas being considered for inclusion within the proposed district meet the criteria to be included in a local historic district. Local historic district boundaries may be adjusted to exclude properties along the perimeter that do not meet the criteria. The locality shall include only the geographical areas in a local historic district where a majority of the properties meet the criteria established by the locality in accordance with this section. However, parcels of land contiguous to arterial streets or highways found by the governing body to be significant routes of

tourist access to the locality or to designated historic landmarks, buildings, structures, or districts therein, or in a contiguous locality may be included in a local historic district notwithstanding the provisions of this subsection.

D. Any locality utilizing the urban county executive form of government may include a provision in any ordinance adopted pursuant to this section that would allow public access to any such historic area, landmark, building, or structure, or land pertaining thereto, or providing that no subdivision shall occur within any historic district unless approved by the review board or, on appeal, by the governing body of the locality as being compatible with the historic nature of such area, landmarks, buildings, or structures therein with regard to any parcel or parcels that collectively are (i) adjacent to a navigable river and a national park and (ii) in part or as a whole subject to an easement granted to the National Park Service or Virginia Outdoors Foundation granted on or after January 1, 1973.

§ 15.2-5201. Definitions.

As used in this chapter:

"Bond" includes any interest-bearing obligation, including promissory notes.

"Hospital or health center" means any and all medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all facilities suitable for providing hospital and medical care, including any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in lands, franchises, machinery, equipment, furnishing, landscaping, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto (including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, medical office facilities, clinics, out-patient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of ~~the~~ elderly~~, the handicapped~~ or ~~the~~ chronically ill *individuals or individuals with disabilities*, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention, or palliation of any human illness, injury, disorder, or disability), together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

§ 15.2-5301. Definitions.

As used ~~or referred to~~ in this chapter*,* unless *the context requires* a different meaning ~~clearly appears from the context~~:

"Authority" or "hospital authority" means a body corporate organized in accordance with the provisions of this chapter for the purposes, with the powers and subject to the restrictions hereinafter set forth.

"Bonds" means any bonds, interim certificates, notes, debentures, or other obligations of the authority issued pursuant to this chapter.

"City," means both cities and counties, and city-specific terms such as "mayor" shall be deemed to also include the equivalent county term.

"Commissioner" means one of the members of an authority appointed in accordance with the provisions of this chapter.

"Contract" means any agreement of an authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

"Cost," as applied to a hospital project, means all or any part of the cost of acquisition, construction, alteration, enlargement, reconstruction and remodeling of a hospital project, including all lands, structures, real or personal property, interest in land and air rights, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to, during and for a period of time not to exceed two years after completion, provisions for working capital, the cost of architectural engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing the hospital project and such other expenses as may be necessary or incidental to the acquisition and construction of such project, the financing of such acquisition and construction and the placing of the project in operation.

"Federal government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

"Government" means the Commonwealth and the federal government and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

"Hospital project" or "project" means any and all medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all facilities suitable for providing adequate hospital facilities and medical care for concentrated centers of population, and also includes any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, franchises, machinery, equipment, furnishings, landscaping, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, medical office facilities, clinics, out-patient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of ~~the~~ elderly~~, the handicapped~~ or ~~the~~ chronically ill *individuals or individuals with disabilities*, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention or palliation of any human illness, injury, disorder, or

disability; together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto; or equipment alone, including, without limitation, parking facilities, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles, and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

"Obligee of the authority" or "obligee" includes any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a hospital project or any assignee or assignees of such lessor's interest or any part thereof, and the United States of America when it is a party to any contract with the authority.

"Real property" includes lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgments, mortgage or otherwise.

"Trust indenture" includes instruments pledging the revenues of real or personal properties but not conveying such properties or conferring a right to foreclose and cause a sale thereof.

§ 15.2-5369. Definitions.

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

"Authority" means any political subdivision, a body politic and corporate, created, organized, and operated pursuant to the provisions of this chapter or, if such Authority is abolished, the board, body, authority, department, or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Bond" includes any interest bearing obligation, including promissory notes.

"Commissioner" means the State Health Commissioner.

"Cooperative agreement" means an agreement among two or more hospitals for the sharing, allocation, consolidation by merger or other combination of assets, or referral of patients, personnel, instructional programs, support services, and facilities or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered by hospitals.

"Hospital" includes any health center and health provider under common ownership with the hospital and means any and all providers of dental, medical, and mental health services, including all related facilities and approaches thereto and appurtenances thereof. Dental, medical, and mental health facilities includes any and all facilities suitable for providing hospital, dental, medical, and mental health care, including any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in lands, franchises, machinery, equipment, furnishing, landscaping, approaches, roadways, and other facilities necessary or desirable in connection therewith or incidental thereto (including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, mental health facilities, wellness and health maintenance centers, medical office facilities, clinics, outpatient surgical centers, alcohol, substance abuse and drug treatment centers, dental care clinics, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of ~~the~~ elderly~~,~~ ~~the handicapped~~ or ~~the~~ chronically ill *individuals or individuals with disabilities*, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention, or palliation of any human illness, injury, disorder, or disability), together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients. Dental, medical, and mental health facilities also includes facilities for graduate-level instruction in medicine or dentistry and clinics appurtenant thereto offering free or reduced rate dental, medical, or mental health services to the public.

"Participating locality" means any county or city in the LENOWISCO or Cumberland Plateau Planning District Commissions and the Counties of Smyth and Washington and the City of Bristol with respect to which an authority may be organized and in which it is contemplated that the Authority will function.

§ 15.2-6314.1. Applicability of the Virginia Personnel Act and the Virginia Public Procurement Act.

A. Employees of an authority created by a locality shall be exempt from the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) if (i) the locality has personnel policies and procedures that are consistent with the goals, objectives, and policies of the Virginia Personnel Act~~;~~ and (ii) such authority adopts the locality's personnel policies and procedures. In any event, personnel actions shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ *disability*, or political affiliation.

B. Any authority created under this chapter shall be subject to the terms of the Virginia Public Procurement Act (§ 2.2-4300 et seq.). Notwithstanding the foregoing, should the ~~United States~~ *U.S.* Department of Defense place a federal area on a list of installations to be closed or realigned under the authority granted to the ~~United States~~ *U.S.* Department of Defense pursuant to the federal Defense Base Closure And Realignment Act of 1990 (~~United States Public Law~~ *P.L.* 101-501, as amended through the National Defense Authorization Act of Fiscal Year 2003), and such federal area is subject to the jurisdiction of an authority created by a locality, such listing of that installation shall qualify as an "emergency" under subsection F of § 2.2-4303 of the Virginia Public Procurement Act.

§ 20-163. Miscellaneous provisions related to all surrogacy contracts.

A. The surrogate shall be solely responsible for the clinical management of the pregnancy.

B. After the entry of an order under subsection B of § 20-160 or upon the execution of a contract pursuant to § 20-162, the marriage of the surrogate shall not affect the validity of the order or contract, and her spouse shall not be deemed a party to the contract in the absence of his explicit written consent.

C. Following the entry of an order pursuant to subsection D of § 20-160 or upon the relinquishing of the custody of and parental rights to any resulting child and the filing of the surrogate consent and report form as provided in § 20-162, the intended parent shall have the custody of, parental rights to, and full responsibilities for any child resulting from the performance of assisted conception from a surrogacy agreement regardless of the child's health, physical appearance, any mental or physical ~~handicap~~ *disability*, and regardless of whether the child is born alive.

D. A child born to a surrogate within 300 days after assisted conception pursuant to an order under subsection B of § 20-160 or a contract under § 20-162 is presumed to result from the assisted conception. This presumption is conclusive as to all persons who fail to file an action to test its validity within two years after the birth of the child. The child and the parties to the contract shall be named as parties in any such action. The action shall be filed in the court that issued or could have issued an order under § 20-160.

E. Health care providers shall not be liable for recognizing the surrogate as the mother of the resulting child before receipt of a copy of an order entered under § 20-160 or a copy of the contract, or for recognizing the intended parent as the parent of the resulting child after receipt of such order or copy of the contract.

F. Any contract provision requiring or prohibiting an abortion or selective reduction is against the public policy of the Commonwealth and is void and unenforceable.

§ 22.1-101.1. Increase of funds for certain nonresident students; how increase computed and paid; billing of out-of-state placing agencies or persons.

A. To the extent such funds are appropriated by the General Assembly, a school division shall be reimbursed for the cost of educating a child who is not a child with disabilities and who is not a resident of such school division under the following conditions:

1. When such child has been placed in foster care or other custodial care within the geographical boundaries of the school division by a Virginia agency, whether state or local, which is authorized under the laws of ~~this~~ *the* Commonwealth to place children;

2. When such child has been placed within the geographical boundaries of the school division in an orphanage or children's home which exercises legal guardianship rights; or

3. When such child, who is a resident of Virginia, has been placed, not solely for school purposes, in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 which is located within the geographical boundaries of the school division.

B. To the extent such funds are appropriated by the General Assembly, a school division shall be reimbursed for the cost of educating a child with disabilities who is not a resident of such school division under the following conditions:

1. When the child with disabilities has been placed in foster care or other custodial care within the geographical boundaries of the school division by a Virginia agency, whether state or local, which is authorized under the laws of ~~this~~ *the* Commonwealth to place children;

2. When such child with disabilities has been placed within the geographical boundaries of the school division in an orphanage or children's home which exercises legal guardianship rights; or

3. When such child with disabilities, who is a resident of Virginia, has been placed, not solely for school purposes, in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 which is located within the geographical boundaries of the school division.

C. Each school division shall keep an accurate record of the number of days which any child, identified in subsection A or B ~~above~~, was enrolled in its public schools, the required local expenditure per child, the ~~handicapping condition~~ *specific disability*, if applicable, the placing agency or person and the jurisdiction from which the child was sent. Each school division shall certify this information to the Board of Education by July 1 following the end of the school year in order to receive proper reimbursement. No school division shall charge tuition to any such child.

D. When a child who is not a resident of Virginia, whether ~~disabled~~ or not *such child has a disability*, has been placed by an out-of-state agency or a person who is the resident of another state in foster care or other custodial care or in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 located within the geographical boundaries of the school division, the school division shall not be reimbursed for the cost of educating such child from funds appropriated by the General Assembly. The school division in which such child has been enrolled shall bill the sending agency or person for the cost of the education of such child as provided in subsection C of § 22.1-5.

The costs of the support and maintenance of the child shall include the cost of the education provided by the school division; therefore, the sending agency or person shall have the financial responsibility for the educational costs for the child pursuant to Article V of the Interstate Compact on the Placement of Children as set forth in Chapters 10 (§ 63.2-1000 et seq.) and 11 (§ 63.2-1100 et seq.) of Title 63.2. Upon receiving the bill for the educational costs from the school division, the sending agency or person shall reimburse the billing school division for providing the education of the child. Pursuant to Article III of the Interstate Compact on the Placement of Children, no sending agency or person shall send, bring, or cause to be sent or brought into ~~this~~ *the* Commonwealth any child for placement unless the sending agency or person has complied with this section by honoring the financial responsibility for the educational cost as billed by a local school division.

E. To the extent that state funds appropriated by the General Assembly pursuant to subsection A or B or other state funds, such as those provided on the basis of average daily membership, do not cover the full cost of educating a child pursuant to this subsection, a school division shall be reimbursed by (i) the school division in which a child's custodial parent or guardian resides or (ii) in the case of a child who has been placed in the custody of the Department of Social Services, the school division in which the parent or guardian who had custody immediately preceding the placement resides, for any remaining costs of educating such child, whether ~~disabled~~ or not *such child has a disability*, who has been placed, not solely for school purposes, in (a) foster care or other custodial care within the geographical boundaries of the school division to be reimbursed, or (b) a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 that is located within the geographical boundaries of the school division to be reimbursed.

§ 22.1-183. When warning lights and identification to be covered.

It ~~shall be~~ *is* unlawful for a school bus licensed in ~~this~~ *the* Commonwealth to be operated on the public highways of ~~this~~ *the* Commonwealth for the purpose of transporting persons or commodities other than school personnel, school children ~~or~~, elderly *individuals,* or ~~mentally or physically handicapped persons~~ *individuals with mental or physical disabilities* unless the lettered identification and school bus traffic warning lights on the front and rear of such bus are covered with some opaque detachable material. This section shall not apply to any such bus when operated by a salesman or demonstrator in connection with a prospective sale or delivery of a bus.

§ 22.1-213. Definitions.

As used in this article:

"Children with disabilities" means those persons (i) who are age two to 21, inclusive, having reached the age of two by the date specified in § 22.1-254; (ii) who have intellectual disability or serious emotional disturbance, are physically disabled, speech impaired, deaf or hard of hearing, visually impaired, or multiple disabled, are otherwise health impaired, including those who have autism spectrum disorder or a specific learning disability, or are otherwise disabled as defined by the Board of Education; and (iii) who because of such impairments need special education.

"Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a ~~disabled~~ child *with a disability* to benefit from special education, including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. "Related services" also includes school health services, social work services in schools, and parent counseling and training.

"Special education" means specially designed instruction at no cost to the parent to meet the unique needs of a ~~disabled~~ child *with a disability*, including classroom instruction, home instruction, instruction provided in hospitals and institutions, instruction in physical education, and instruction in career and technical education.

"Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. "Specific learning disability" does not include children who have learning problems that are primarily the result of visual, hearing, ~~or~~ motor ~~handicaps~~, ~~of~~ *or* intellectual disability, or of environmental, cultural, or economic disadvantage.

§ 22.1-214.3. Department to develop certain curriculum guidelines; Board to approve.

The Department of Education shall develop curricula for the school-age individuals in state training centers and curriculum guidelines for the school-age individuals in state hospitals operated by the Department of Behavioral Health and Developmental Services in cooperation with the Department of Behavioral Health and Developmental Services and representatives of the teachers employed to provide instruction to the children. Prior to implementation, the Board of Education shall approve these curricula and curriculum guidelines.

These curricula and curriculum guidelines shall be designed to provide a range of programs and suggested program sequences for different functioning levels and ~~handicaps~~ *disabilities* and shall be reviewed and revised at least every three years. In addition to academic programming, the curriculum guidelines for the school-age individuals in state hospitals operated by the Department of Behavioral Health and Developmental Services shall include affective education and physical education as well as independent living and career and technical education, with particular emphasis on the needs of older adolescents and young adults.

§ 22.1-270. Preschool physical examinations.

A. No pupil shall be admitted for the first time to any public kindergarten or elementary school in a school division unless such pupil shall furnish, prior to admission, (i) a report from a qualified licensed physician, or a licensed nurse practitioner or licensed physician assistant acting under the supervision of a licensed physician, of a comprehensive physical examination of a scope prescribed by the State Health Commissioner performed within the 12 months prior to the date such pupil first enters such public kindergarten or elementary school or (ii) records establishing that such pupil furnished such report upon prior admission to another school or school division and providing the information contained in such report.

If the pupil is a homeless child or youth as defined in subdivision A 7 of § 22.1-3, and for that reason cannot furnish the report or records required by *clause* (i) or (ii) of this subsection, and the person seeking to enroll the pupil furnishes to the school division an affidavit so stating and also indicating that, to the best of his knowledge, such pupil is in good health and free from any communicable or contagious disease, the school division shall immediately refer the student to the local school division liaison, as described in Subtitle VII-B of the federal McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. § 11431 et seq.) (the Act), who shall, as soon as practicable, assist in obtaining the necessary physical

examination by the county or city health department or other clinic or physician's office and shall immediately admit the pupil to school, as required by such Act.

B. The physician, or licensed nurse practitioner or licensed physician assistant acting under the supervision of a licensed physician, making a report of a physical examination required by this section shall, at the end of such report, summarize the abnormal physical findings, if any, and shall specifically state what, if any, conditions are found that would identify the child as ~~handicapped~~ *having a disability*.

C. Such physical examination report shall be placed in the child's health record at the school and shall be made available for review by any employee or official of the State Department of Health or any local health department at the request of such employee or official.

D. Such physical examination shall not be required of any child whose parent shall object on religious grounds and who shows no visual evidence of sickness, provided that such parent shall state in writing that, to the best of his knowledge, such child is in good health and free from any communicable or contagious disease.

E. The health departments of all of the counties and cities of the Commonwealth shall conduct such physical examinations for medically indigent children without charge upon request and may provide such examinations to others on such uniform basis as such departments may establish.

F. Parents of entering students shall complete a health information form which shall be distributed by the local school divisions. Such forms shall be developed and provided jointly by the Department of Education and Department of Health, or developed and provided by the school division and approved by the Superintendent of Public Instruction. Such forms shall be returnable within 15 days of receipt unless reasonable extensions have been granted by the superintendent or his designee. Upon failure of the parent to complete such form within the extended time, the superintendent may send to the parent written notice of the date he intends to exclude the child from school; however, no child who is a homeless child or youth as defined in subdivision A 7 of § 22.1-3 shall be excluded from school for such failure to complete such form.

§ 22.1-290.02. Traineeships for education of special education personnel.

A. There are hereby established traineeships that shall be awarded to persons who are interested in working in programs for the education of ~~handicapped~~ children *with disabilities* for either part-time or full-time study in programs designed to qualify them as special education personnel in the public schools. Applicants for such traineeships shall be graduates of a recognized institution of higher education.

B. The award of such traineeships shall be made by the State Board, and the number of awards during any one year shall depend upon the amounts appropriated by the General Assembly for this purpose. The amount awarded for each traineeship shall be $450 for a minimum of six semester hours of course work in areas relating to special education to be taken by the applicant during a single semester or summer session.

C. This program shall be administered by the Department of Education under rules and regulations promulgated by the State Board.

§ 23.1-1000. Definitions.

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

"Bonds, notes, or other obligations" means bonds, notes, commercial paper, bond anticipation notes, revenue certificates, capital leases, lease participation certificates, or other evidences of indebtedness or deferred purchase financing arrangements.

"Capital project" means the acquisition of any interest in land, including (i) capital leases and (ii) improvements on the acquired land consisting of (a) new construction of at least 5,000 square feet, (b) new construction costing at least $2 million, or (c) improvements or renovations costing at least $2 million.

"Covered employee" means any individual who is employed by a covered institution on either a salaried or wage basis.

"Covered institution" means a public institution of higher education that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 (§ 23.1-1004 et seq.).

"Enabling statutes" means each chapter in Subtitle IV (§ 23.1-1300 et seq.), and in the case of the University of Virginia Medical Center §§ 2.2-2817.2, 2.2-2905, 51.1-126.3, and 51.1-1100, creating, continuing, or otherwise setting forth the powers, duties, purposes, and missions of each individual public institution of higher education unless otherwise expressly provided in this chapter.

"Facilities" means all (i) real, personal, tangible, and intangible property, including all (a) infrastructure suitable for supporting a covered institution's mission and ancillary activities and (b) structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches, roadways, and other related and supporting facilities held, possessed, owned, leased, operated, or used, in whole or in part, by a covered institution and (ii) rights in such property.

"Includes" has the same meaning as provided in § 1-218.

"Management agreement" means an agreement between the Commonwealth and a public institution of higher education that enables such institution to be governed by Article 4 (§ 23.1-1004 et seq.).

"Participating covered employee" includes (i) all salaried nonfaculty covered employees who were employed by the covered institution on the day prior to the effective date of the initial management agreement and elect pursuant to § 23.1-1022 to participate in and be governed by the program, plans, policies, and procedures established by the institution pursuant to Article 4 (§ 23.1-1004 et seq.); (ii) all salaried nonfaculty covered employees who are employed by the covered institution on or after the effective date of the initial management agreement; (iii) all nonsalaried nonfaculty covered

employees of the covered institution without regard to when they were hired; (iv) all faculty covered employees of the covered institution without regard to when they were hired; and (v) all employees of the University of Virginia Medical Center without regard to when they were hired.

"Project" means (i) any research program, research facility, or educational facility of a covered institution or equipment necessary or convenient to or consistent with the purposes of such institution, whether or not owned by the institution, including (a) research, training, teaching, dormitory, and classroom facilities and all related and supporting facilities and equipment necessary or desirable in connection with such facilities or incidental to such facilities; (b) office, parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational and athletics facilities; (c) hotels and related facilities; (d) power plants and equipment; (e) storage space; (f) hospitals; (g) nursing homes; (h) continuing care facilities; (i) self-care facilities; (j) health maintenance centers; (k) medical office facilities; (l) clinics; (m) outpatient clinics; (n) surgical centers; (o) alcohol, substance abuse, and drug treatment centers; (p) sanitariums; (q) hospices; (r) facilities for the residence or care of ~~the~~ elderly~~, handicapped,~~ or chronically ill *individuals or individuals with disabilities*; (s) residential facilities for nurses, interns, and physicians; (t) other facilities for the treatment of sick, disturbed, or infirm individuals, the prevention of disease, or the maintenance of health; (u) colleges, schools, or divisions offering undergraduate, graduate, professional, or extension programs, or any combination of such programs, for such courses of study as may be appropriate; (v) vehicles, mobile medical facilities, and other transportation equipment; and (w) air transport equipment, including equipment necessary or desirable for the transportation of medical equipment, medical personnel, or patients; and (ii) all lands, buildings, improvements, approaches, and appurtenances necessary or desirable in connection with or incidental to any such program, facility, or equipment.

"Virginia Retirement System" includes any retirement system established or authorized by Title 51.1.

§ 23.1-2400. Definitions.

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

"Authority" means the Virginia Commonwealth University Health System Authority.

"Board" means the board of directors of the Authority.

"Bonds" means bonds, notes, revenue certificates, lease participation certificates, or other evidences of indebtedness or deferred purchase financing arrangements.

"Chief executive officer" means the chief executive officer of the Virginia Commonwealth University Health System Authority.

"Costs" means (i) costs of (a) construction, reconstruction, renovation, site work, and acquisition of lands, structures, rights-of-way, franchises, easements, and other property rights and interests; (b) demolition, removal, or relocation of buildings or structures; (c) labor, materials, machinery, and all other kinds of equipment; (d) engineering and inspections; (e) financial, legal, and accounting services; (f) plans, specifications, studies, and surveys; (g) estimates of costs and of revenues; (h) feasibility studies; and (i) issuance of bonds, including printing, engraving, advertising, legal, and other similar expenses; (ii) financing charges; (iii) administrative expenses, including administrative expenses during the start-up of any project; (iv) credit enhancement and liquidity facility fees; (v) fees for interest rate caps, collars, swaps, or other financial derivative products; (vi) interest on bonds in connection with a project prior to and during construction or acquisition thereof and for a period not exceeding one year thereafter; (vii) provisions for working capital to be used in connection with any project; (viii) redemption premiums, obligations purchased to provide for the payment of bonds being refunded, and other costs necessary or incident to refunding of bonds; (ix) operating and maintenance reserve funds, debt reserve funds, and other reserves for the payment of principal and interest on bonds; (x) all other expenses necessary, desirable, or incidental to the operation of the Authority's facilities or the construction, reconstruction, renovation, acquisition, or financing of projects, other facilities, or equipment appropriate for carrying out the purposes of this chapter and the placing of the same in operation; or (xi) the refunding of bonds.

"Hospital facilities" means all property or rights in property, real and personal, tangible and intangible, including all facilities suitable for providing hospital and health care services and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches, roadways, and other related and supporting facilities owned, leased, operated, or used, in whole or in part, by Virginia Commonwealth University as part of, or in connection with, MCV Hospitals in the normal course of its operations as a teaching, research, and medical treatment facility.

"Hospital obligations" means all debts or other obligations, contingent or certain, owing to any person or other entity on the transfer date, arising out of the operation of MCV Hospitals as a medical treatment facility or the financing or refinancing of hospital facilities and including all bonds and other debts for the purchase of goods and services, whether or not delivered, and obligations for the delivery of services, whether or not performed.

"Project" means any health care, research, or educational facility or equipment necessary or convenient to or consistent with the purposes of the Authority, whether owned by the Authority, including hospitals; nursing homes; continuing care facilities; self-care facilities; wellness and health maintenance centers; medical office facilities; clinics; outpatient clinics; surgical centers; alcohol, substance abuse, and drug treatment centers; laboratories; sanitariums; hospices; facilities for the residence or care of ~~the~~ elderly~~, the handicapped,~~ or ~~the~~ chronically ill *individuals or individuals with disabilities*; residential facilities for nurses, interns, and physicians; other kinds of facilities for the treatment of sick, disturbed, or infirm individuals, the prevention of disease, or maintenance of health; colleges, schools, or divisions offering undergraduate or graduate programs for the health professions and sciences and such other courses of study as may be appropriate, together

with research, training, and teaching facilities; all necessary or desirable related and supporting facilities and equipment or equipment alone, including (i) parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational facilities; (ii) power plants and equipment; (iii) storage space; (iv) mobile medical facilities; (v) vehicles; (vi) air transport equipment; and (vii) other equipment necessary or desirable for the transportation of medical equipment, medical personnel, or patients; and all lands, buildings, improvements, approaches, and appurtenances necessary or desirable in connection with or incidental to any project.

"Transfer date" means a date or dates agreed to by the board of visitors of Virginia Commonwealth University and the Authority for the transfer of employees to the Authority and for the transfer of hospital facilities, or any parts thereof, to and the assumption, directly or indirectly, of hospital obligations by the Authority, which dates for the various transfers and the various assumptions may be different, but in no event shall any date be later than June 30, 1997.

"University" means Virginia Commonwealth University.

§ 25.1-400. Definitions.

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

"Business" means any lawful activity, except a farm operation, conducted primarily:

1. For the purchase, sale, lease and rental of personal and of real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

2. For the sale of services to the public;

3. By a nonprofit organization; or

4. Solely for the purposes of § 25.1-406, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

"Comparable replacement dwelling" means any dwelling that is (i) decent, safe and sanitary; (ii) adequate in size to accommodate the occupants; (iii) within the financial means of the displaced person; (iv) functionally equivalent; (v) in an area not subject to unreasonable adverse environmental conditions; and (vi) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services and the displaced person's place of employment.

"Decent, safe, and sanitary dwelling" means a dwelling that:

1. Is structurally sound, weather tight and in good repair;

2. Has a safe electrical wiring system adequate for lighting and appliances;

3. Contains a heating system capable of maintaining a healthful temperature;

4. Is adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced household;

5. Has a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains sink, toilet, and bathing facilities (shower or bath, or both), all operational and connected to a functional water and sewer disposal system;

6. Provides unobstructed egress to safe open space at ground level. If the unit is above the first floor and served by a common corridor, there must be two means of egress; and

7. Is free of barriers to egress, ingress, and use by a displaced person ~~who is handicapped~~ *with a disability*.

"Displaced person" means:

1. Any person who moves from real property, or moves his personal property from real property (i) as a direct result of a written notice of intent to acquire or the acquisition of such real property, in whole or in part, for any program or project undertaken by a state agency or (ii) on which such person is a residential tenant or conducts a small business, a farm operation or a business described in clause 4 of the definition of "business" in this section as a direct result of rehabilitation, demolition, or other displacing activity as the state agency may prescribe, under a program or project undertaken by the state agency in any case in which the state agency determines that such displacement is permanent;

2. Solely for the purposes of §§ 25.1-406, 25.1-407, and 25.1-411, any person who moves from real property, or moves his personal property from real property: (i) as a direct result of a written notice of intent to acquire or the acquisition of other real property, in whole or in part, on which such person conducts a business or farm operation, for a program or project undertaken by a state agency or (ii) as a direct result of rehabilitation, demolition, or other displacing activity as the state agency may prescribe, of other real property on which such person conducts a business or farm operation, under a program or project undertaken by the state agency in any case in which the state agency determines that such displacement is permanent; and

3. Any person who moves or discontinues his business or moves other personal property, or moves from his dwelling, as the direct result of (i) federally assisted activities for the enforcement of a building code or other similar code or (ii) a program of rehabilitation or demolition of buildings conducted pursuant to a federally assisted governmental program.

The term "displaced person" does not include (i) a person who has been determined, according to criteria established by the state agency, to be either in unlawful occupancy of the displacement dwelling or to have occupied such dwelling for the purpose of obtaining assistance under this chapter or (ii) in any case where the state agency acquires property for a program or project, any person, other than a person who was an occupant of the property at the time it was acquired, who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.

"Dwelling" means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single-family house, a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a nonhousekeeping unit; a mobile home; or any other residential unit.

"Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

"Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, together with the credit instruments, if any, secured thereby.

"Nonprofit organization" means an organization that is exempt from paying federal income taxes under § 501 of the Internal Revenue Code (26 U.S.C. § 501).

"Person" means any (i) individual or (ii) partnership, corporation, limited liability company, association, or other business entity.

"Uneconomic remnant" means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the state agency has determined has little or no value or utility to the owner.

§ 29.1-314. Special fishing permits for certain individuals with disabilities.

A. Upon receipt of an application from an officer or designated representative of any organized group of ~~physically or mentally handicapped persons~~ *individuals with physical or mental disabilities* who meet on a regular basis, including students at schools for the blind or deaf, the Director may issue not more than two permits of one day each, in any calendar year, to such group to fish without licenses in public waters open to fishing. The permits shall not be issued for use in designated waters stocked with trout or in waters where a daily fishing fee has been imposed pursuant to § 29.1-318; however, a permit may be issued to such group to fish without licenses on the second Saturday of May in designated waters stocked with trout.

B. The application for the permit shall state the name and description of the group, the date upon which it will be used, the general area in which it will be used, and the name of the person or organization responsible for the group.

§ 32.1-78. Reporting information about children with health problems or disabilities.

Notwithstanding § 32.1-271 or any other law to the contrary, the Commissioner shall report to the Superintendent of Public Instruction or to the appropriate school division superintendent within the Commonwealth the identity of, and pertinent information about, children with health problems or ~~handicapping conditions which~~ *disabilities that* might affect the child's career in school and his need for special education.

§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.

A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth without the payment of toll while in the performance of their official duties:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;
6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority;
7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control Authority and special agents of the Virginia Alcoholic Beverage Control Authority;
8. The Commissioner of the Department of Motor Vehicles;
9. Employees of the Department of Motor Vehicles;
10. Local police officers;
11. Sheriffs and their deputies;
12. Regional jail officials;
13. Animal wardens;
14. The Director and officers of the Department of Wildlife Resources;
15. Persons operating firefighting equipment and emergency medical services vehicles as defined in § 32.1-111.1;
16. Operators of school buses being used to transport pupils to or from schools;
17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and used to regularly transport workers to and from their places of employment and (ii) public transit buses;
18. Employees of the Department of Rail and Public Transportation;
19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation Act of 1988; and
20. Law-enforcement officers of the Virginia Marine Resources Commission.

B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of concern for public safety on the highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the temporary suspension of toll collection operations on its facilities.

1. The assessment of the threat to public safety shall be performed and the decision temporarily to suspend toll collection operations shall be made by the Commissioner of Highways or his designee.

2. Major incidents that may require the temporary suspension of toll collection operations shall include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety. Any mandatory evacuation during a state of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection operations in affected evacuation zones on routes designated as mass evacuation routes. The Commissioner of Highways shall reinstate toll collection when the mandatory evacuation period ends.

3. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for any incident resulting in the suspension of toll collections as provided in this subsection, the court may assess against the person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that such amount, not to exceed $2,000 for any individual incident, be paid to the Department of Transportation for deposit into the toll road fund.

C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor punishable by a fine of not more than $50 and not less than $2.50. Any person other than those listed in subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.

D. Any vehicle operated by the holder of a valid driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways shall be allowed free use of all toll bridges, toll roads, and other toll facilities in the Commonwealth if:

1. The vehicle is specially equipped to permit its operation by ~~a handicapped person~~ *an individual with a disability*;

2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as ~~being severely physically disabled~~ *having a severe physical disability* and having permanent upper limb mobility or dexterity impairments that substantially impair his ability to deposit coins in toll baskets;

3. The driver has applied for and received from the Department of Transportation a vehicle window sticker identifying him as eligible for such free passage; and

4. Such identifying window sticker is properly displayed on the vehicle.

A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in the Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by those persons exempted from tolls pursuant to this subsection and shall accept any payments made by such persons.

E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the provisions of § 22.1-187.

F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the conduct of official business:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;
6. The Commissioner of the Department of Motor Vehicles;
7. Employees of the Department of Motor Vehicles; and
8. Sheriffs and deputy sheriffs.

However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent with the terms of the applicable comprehensive agreement between the operator and the Department. The Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant to this subsection when the mandatory evacuation period ends or upon the reinstatement of toll collections on other tolled facilities in the same affected area, whichever occurs first.

G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements of subdivisions D 1 through 4.

H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of subdivision B 1 of § 56-543, such vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

§ 36-96.1:1. Definitions.

For the purposes of this chapter, unless the context requires a different meaning:

"Aggrieved person" means any person who (i) claims to have been injured by a discriminatory housing practice or (ii) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. An assistance animal is not required to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals. An assistance animal is not a pet.

"Complainant" means a person, including the Fair Housing Board, who files a complaint under § 36-96.9.

"Conciliation" means the attempted resolution of issues raised by a complainant, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, their respective authorized representatives and the Fair Housing Board.

"Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

"Disability" means, with respect to a person, (i) a physical or mental impairment that substantially limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. The term does not include current, illegal use of or addiction to a controlled substance as defined in Virginia or federal law. ~~For the purposes of this chapter, the terms "disability" and "handicap" shall be interchangeable.~~

"Discriminatory housing practices" means an act that is unlawful under § 36-96.3, 36-96.4, 36-96.5, or 36-96.6.

"Dwelling" means any building, structure, or portion thereof that is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

"Elderliness" means an individual who has attained his fifty-fifth birthday.

"Familial status" means one or more individuals who have not attained the age of 18 years being domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii) the designee of such parent or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. For purposes of this section, "in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

"Family" includes a single individual, whether male or female.

"Lending institution" includes any bank, savings institution, credit union, insurance company or mortgage lender.

"Major life activities" includes any the following functions: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Person" means one or more individuals, whether male or female, corporations, partnerships, associations, labor organizations, fair housing organizations, civil rights organizations, organizations, governmental entities, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

"Physical or mental impairment" includes any of the following: (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine or (ii) any mental or psychological disorder, such as an intellectual or developmental disability, organic brain syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment" includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; human immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug addiction other than addiction caused by current, illegal use of a controlled substance; and alcoholism.

"Religion" includes any outward expression of religious faith, including adherence to religious dressing and grooming practices and the carrying or display of religious items or symbols.

"Respondent" means any person or other entity alleged to have violated the provisions of this chapter, as stated in a complaint filed under the provisions of this chapter and any other person joined pursuant to the provisions of § 36-96.9.

"Restrictive covenant" means any specification in any instrument affecting title to real property that purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, military status, or disability.

"Source of funds" means any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.

"To rent" means to lease, to sublease, to let, or otherwise to grant for consideration the right to occupy premises not owned by the occupant.

§ 36-98.1. State buildings; exception for certain assets owned by the Department of Transportation.

A. The Building Code shall be applicable to all state-owned buildings and structures, and to all buildings and structures built on state-owned property, with the exception that §§ 2.2-1159 through 2.2-1161 shall provide the standards for ready access to and use of state-owned buildings by ~~the physically handicapped~~ *individuals with physical disabilities*.

Any state-owned building or structure, or building or structure built on state-owned property, for which preliminary plans were prepared or on which construction commenced after the initial effective date of the Uniform Statewide Building Code, shall remain subject to the provisions of the Uniform Statewide Building Code that were in effect at the time such plans were completed or such construction commenced. Subsequent reconstruction, renovation or demolition of such building or structure shall be subject to the pertinent provisions of the Building Code.

Acting through the Division of Engineering and Buildings, the Department of General Services shall function as the building official for any state-owned buildings or structures and for all buildings and structures built on state-owned property. The Department shall review and approve plans and specifications, grant modifications, and establish such rules and regulations as may be necessary to implement this section. It may provide for the (i) inspection of state-owned buildings or structures and for all buildings and structures built on state-owned property and (ii) enforcement of the Building Code and standards for access by ~~the physically handicapped~~ *individuals with physical disabilities* by delegating inspection and Building Code enforcement duties to the State Fire Marshal's Office, to other appropriate state agencies having needed expertise, and to local building departments, all of which shall provide such assistance within a reasonable time and in the manner requested. State agencies and institutions occupying buildings shall pay to the local building department the same fees as would be paid by a private citizen for the services rendered when such services are requested by the Department of General Services. The Department of General Services may alter or overrule any decision of the local building department after having first considered the local building department's report or other rationale given for its decision. When altering or overruling any decision of a local building department, the Department of General Services shall provide the local building department with a written summary of its reasons for doing so.

B. Notwithstanding the provisions of subsection A and § 27-99, roadway tunnels and bridges owned by the Department of Transportation shall be exempt from the Building Code and the Statewide Fire Prevention Code Act (§ 27-94 et seq.). The Department of General Services shall not have jurisdiction over such roadway tunnels, bridges, and other limited access highways; provided, however, that the Department of General Services shall have jurisdiction over any occupied buildings within any Department of Transportation rights-of-way that are subject to the Building Code.

Roadway tunnels and bridges shall be designed, constructed, and operated to comply with fire safety standards based on nationally recognized model codes and standards to be developed by the Department of Transportation in consultation with the State Fire Marshal. Emergency response planning and activities related to the standards shall be developed by the Department of Transportation and coordinated with the appropriate local officials and emergency services providers. On an annual basis the Department of Transportation shall provide a report on the maintenance and operability of installed fire protection and detection systems in roadway tunnels and bridges to the State Fire Marshal.

C. Except as provided in subsection E of § 23.1-1016, and notwithstanding the provisions of subsection A, at the request of a public institution of higher education, the Department, as further set forth in this subsection, shall authorize that institution of higher education to contract with a building official of the locality in which the construction is taking place to perform any inspection and certifications required for the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.). The Department shall publish administrative procedures that shall be followed in contracting with a building official of the locality. The authority granted to a public institution of higher education under this subsection to contract with a building official of the locality shall be subject to the institution meeting the conditions prescribed in subsection A of § 23.1-1002.

D. This section shall not apply to the nonhabitable structures, equipment, and wiring owned by a public service company, a certificated provider of telecommunications services, or a franchised cable operator that are built on rights-of-way owned or controlled by the Commonwealth Transportation Board.

§ 36-99. Provisions of Code; modifications.

A. The Building Code shall prescribe building regulations to be complied with in the construction and rehabilitation of buildings and structures, and the equipment therein as defined in § 36-97, and shall prescribe regulations to ensure that such buildings and structures are properly maintained, and shall also prescribe procedures for the administration and enforcement of such regulations, including procedures to be used by the local building department in the evaluation and granting of modifications for any provision of the Building Code, provided the spirit and functional intent of the Building Code are observed and public health, welfare and safety are assured. The provisions of the Building Code and modifications thereof shall be such as to protect the health, safety and welfare of the residents of the Commonwealth, provided that buildings and structures should be permitted to be constructed, rehabilitated and maintained at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provisions necessary to prevent overcrowding, rodent or insect infestation, and garbage accumulation; and barrier-free provisions for ~~the physically handicapped~~ *individuals with physical disabilities* and aged *individuals*. Such regulations shall be reasonable and appropriate to the objectives of this chapter.

B. In formulating the Code provisions, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations, including, but not limited to, the standards of the International Code Council and the National Fire Protection Association. Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 and licensed as such by the Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable.

C. Where practical, the Code provisions shall be stated in terms of required level of performance, so as to facilitate the prompt acceptance of new building materials and methods. When generally recognized standards of performance are not available, such provisions shall provide for acceptance of materials and methods whose performance has been found by the local building department, on the basis of reliable test and evaluation data, presented by the proponent, to be substantially equal in safety to those specified.

D. The Board, upon a finding that sufficient allegations exist regarding failures noted in several localities of performance standards by either building materials, methods, or design, may conduct hearings on such allegations if it determines that such alleged failures, if proven, would have an adverse impact on the health, safety, or welfare of the citizens of the Commonwealth. After at least 21 days' written notice, the Board shall convene a hearing to consider such allegations. Such notice shall be given to the known manufacturers of the subject building material and as many other interested parties, industry representatives, and trade groups as can reasonably be identified. Following the hearing, the Board, upon finding that (i) the current technical or administrative Code provisions allow use of or result in defective or deficient building materials, methods, or designs, and (ii) immediate action is necessary to protect the health, safety, and welfare of the citizens of the Commonwealth, may issue amended regulations establishing interim performance standards and Code provisions for the installation, application, and use of such building materials, methods or designs in the Commonwealth. Such amended regulations shall become effective upon their publication in the Virginia Register of Regulations. Any amendments to regulations adopted pursuant to this subsection shall become effective upon their publication in the Virginia Register of Regulations and shall be effective for a period of 24 months or until adopted, modified, or repealed by the Board.

§ 38.2-3323. Group life insurance coverages of spouses, dependent children, and other persons.

A. Coverage under a group life insurance policy, except a policy issued pursuant to § 38.2-3318.1 B, may be extended to insure:

1. The spouse and any child who is under the age of 19 years or who is a dependent and a full-time student under 25 years of age, or any class of spouses and dependent children, of each insured group member who so elects; and

2. Any other person in whom the insured group member has an insurable interest as defined in §§ 38.2-301 and 38.2-302 as may mutually be agreed upon by the insurer and the group policyholder.

The amount of insurance on the life of a spouse, child, or other person shall not exceed the amount of insurance for which the insured group member is eligible.

B. A spouse insured under this section shall have the same conversion right to the insurance on his or her life as the insured group member.

C. Notwithstanding the provisions of § 38.2-3331, one certificate may be issued for each insured group member if a statement concerning any spouse's, dependent child's, or other person's coverage is included in the certificate.

D. In addition to the coverages afforded by the provisions of this section, any such plan for group life insurance which includes coverage for children shall afford coverage to any child who is both (i) incapable of self-sustaining employment by reason of intellectual ~~disability~~ or physical ~~handicap~~ *disability* and (ii) chiefly dependent upon the employee for support and maintenance. Upon request of the insurer, proof of incapacity and dependency shall be furnished to the insurer by the insured group member within 31 days of the child's attainment of the specified age. Subsequent proof may be required by the insurer but not more frequently than annually after the two-year period following the child's attainment of the specified age. The insurer shall be allowed to charge a premium at the insurer's then customary rate applicable to such group policy for such extended coverage.

E. 1. Upon termination of such group coverage of a child, the child shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual life insurance policy without disability or other supplementary benefits, if:

a. An application for the individual policy is made, and the first premium paid to the insurer, within 31 days after such termination; and

b. The individual policy, at the option of such person, is on any one of the forms then customarily issued by the insurer at the age and for the amount applied for, except that the group policy may exclude the option to elect term insurance;

c. The individual policy is in an amount not in excess of the amount of life insurance which ceases because of such termination, less the amount of any life insurance for which such person becomes eligible under the same or any other group policy within 31 days after such termination, provided that any amount of insurance which has matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination; and

d. The premium on the individual policy is at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to the individual age attained on the effective date of the individual policy.

2. Subject to the same conditions set forth above, the conversion privilege shall be available (i) to a surviving dependent, if any, at the death of the group member, with respect to the coverage under the group policy which terminates by reason of such death, and (ii) to the dependent of the group member upon termination of coverage of the dependent, while the group member remains insured under the group policy, by reason of the dependent ceasing to be a qualified family member under the group policy.

§ 38.2-3409. Coverage of dependent children.

A. Any group or individual accident and sickness insurance policy or subscription contract delivered or issued for delivery in ~~this~~ *the* Commonwealth which provides that coverage of a dependent child shall terminate upon that child's attainment of a specified age, shall also provide in substance that attainment of the specified age shall not terminate the child's coverage during the continuance of the policy while the dependent child is and continues to be both: (i) incapable of self-sustaining employment by reason of intellectual ~~disability~~ or physical ~~handicap,~~ *disability* and (ii) chiefly dependent upon the policyowner for support and maintenance.

B. Proof of incapacity and dependency shall be furnished to the insurer by the policyowner within 31 days of the child's attainment of the specified age. Subsequent proof may be required by the insurer but not more frequently than annually after the two-year period following the child's attainment of the specified age.

C. The insurer may charge an additional premium for any continuation of coverage beyond the specified age. The additional premium shall be determined by the insurer on the basis of the class of risks applicable to the child.

§ 46.2-100. Definitions.

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

"All-terrain vehicle" means a motor vehicle having three or more wheels that is powered by a motor and is manufactured for off-highway use. "All-terrain vehicle" does not include four-wheeled vehicles commonly known as "go-carts" that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any riding lawn mower.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride and is manufactured to comply with federal safety requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a motorcycle.

"Automobile transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles on their power unit, designed and used exclusively for the transportation of motor vehicles or used to transport cargo or general freight on a backhaul pursuant to the provisions of 49 U.S.C. § 31111(a)(1).

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ 46.2-800 et seq.), a bicycle shall be a vehicle while operated on the highway.

"Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, motorized skateboards or scooters, and mopeds.

"Business district" means the territory contiguous to a highway where 75 percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections include roundabouts, rotaries, and traffic circles.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Converted electric vehicle" means any motor vehicle, other than a motorcycle or autocycle, that has been modified subsequent to its manufacture to replace an internal combustion engine with an electric propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this section unless it has been materially altered from its original construction by the removal, addition, or substitution of new or used essential parts other than those required for the conversion to electric propulsion.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Department of Veterans Affairs. A veteran shall be considered blind if he has a permanent impairment of both eyes to the following extent: central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.) and a driver privilege card issued pursuant to § 46.2-328.3, issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ 46.2-800 et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power, (ii) a seat for the use of the rider, and (iii) an electric motor with an input of no more than 750 watts. Electric power-assisted bicycles shall be classified as follows:

1. "Class one" means an electric power-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of 20 miles per hour;

2. "Class two" means an electric power-assisted bicycle equipped with a motor that may be used exclusively to propel the bicycle and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour; and

3. "Class three" means an electric power-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

For the purposes of Chapter 8 (§ 46.2-800 et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

"Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity of a vehicle.

"Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery and implements, including self-propelled mowers designed and used for mowing lawns.

"Farm utility vehicle" means a vehicle that is powered by a motor and is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle, generally having four or more wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed. "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, or riding lawn mowers.

"Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all administrative regulations and policies adopted pursuant thereto.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in § 46.2-472.

"Foreign market vehicle" means any motor vehicle originally manufactured outside the United States, which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

"Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in the Commonwealth.

"Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as context may require.

"Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load thereon.

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

"Intersection" means (i) the area embraced within the prolongation or connection of the lateral curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of specific lanes of a roadway or to indicate the impending prohibition of such use.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, "law-enforcement officer" also includes city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ 46.2-752, 46.2-753, and 46.2-754 and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically powered or gas-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" does not include a park model recreational vehicle, which is a vehicle that is (i) designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use; (ii) not permanently affixed to real property for use as a permanent dwelling; (iii) built on a single chassis mounted on wheels; and (iv) certified by the manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard.

"Military surplus motor vehicle" means a multipurpose or tactical vehicle that was manufactured by or under the direction of the United States Armed Forces for off-road use and subsequently authorized for sale to civilians. "Military surplus motor vehicle" does not include specialized mobile equipment as defined in § 46.2-700, trailers, or semitrailers.

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. "Moped" does not include an electric power-assisted bicycle or a motorized skateboard or scooter. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ 46.2-800 et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or scooter, moped, or personal delivery device shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. "Motorcycle" does not include any "autocycle," "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or scooter," "utility vehicle," or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) is designed to allow an operator to sit or stand, (ii) has no manufacturer-issued vehicle identification number, (iii) is powered in whole or in part by an electric motor, (iv) weighs less than 100 pounds, and (v) has a speed of no more than 20 miles per hour on a paved level surface when powered solely by the electric motor. "Motorized skateboard or scooter" includes vehicles with or without handlebars but does not include electric personal assistive mobility devices or electric power-assisted bicycles.

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ 46.2-300 et seq.); (iii) a person, other than (a) a nonresident student as defined in this section or (b) a person who is serving a full-time church service or proselyting mission of not more than 36 months and who is not gainfully employed, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration, shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle or autocycle designed and used primarily for the transportation of no more than 10 persons, including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602 (k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a (1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Personal delivery device" means a powered device operated primarily on sidewalks and crosswalks and intended primarily for the transport of property on public rights-of-way that does not exceed 500 pounds, excluding cargo, and is capable of navigating with or without the active control or monitoring of a natural person. Notwithstanding any other provision of law, a personal delivery device shall not be considered a motor vehicle or a vehicle.

"Personal delivery device operator" means an entity or its agent that exercises direct physical control or monitoring over the navigation system and operation of a personal delivery device. For the purposes of this definition, "agent" means a person not less than 16 years of age charged by an entity with the responsibility of navigating and operating a personal delivery device. "Personal delivery device operator" does not include (i) an entity or person who requests the services of a personal delivery device to transport property or (ii) an entity or person who only arranges for and dispatches the requested services of a personal delivery device.

"Pickup or panel truck" means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

"Private road or driveway" means every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § 46.2-1600, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of ~~the mentally or physically handicapped~~ *individuals with mental or physical disabilities* to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § 46.2-1090. A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users and personal delivery devices.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued vehicle identification number that is designed or used to carry any person or persons, on any number of wheels, bearings, glides, blades, runners, or a cushion of air. "Toy vehicle" does not include electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, motorized skateboards or scooters, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

"Traffic infraction" means a violation of law punishable as provided in § 46.2-113, which is neither a felony nor a misdemeanor.

"Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not include any pickup or panel truck.

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § 46.2-2000; (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include riding lawn mowers.

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except personal delivery devices and devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ 46.2-800 et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motorized skateboards or scooters, and mopeds shall be vehicles while operated on a highway.

"Watercraft transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport watercraft on their power unit, designed and used exclusively for the transportation of watercraft.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. "Wheel chair or wheel chair conveyance" includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § 46.2-677, a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

§ 46.2-221. Certain state agencies to report to Department concerning the blind and nearly blind; use of such information by Department; Department to report names of persons refused licenses for defective vision; reports to law-enforcement agencies concerning certain blind or vision impaired individuals who operate motor vehicles.

Every state agency having knowledge of the blind or ~~visually handicapped~~ *vision impaired*, maintaining any register of the blind *or vision impaired*, or administering either tax deductions or exemptions for or aid to the blind or ~~visually handicapped~~ *vision impaired* shall report in January of each year to the Department the names of all persons so known, registered or benefiting from such deductions or exemptions, for aid to the blind or ~~visually handicapped~~ *vision impaired*. This information shall be used by the Department only for the purpose of determining qualifications of these persons for licensure under Chapter 3 (§ 46.2-300 et seq.). If any such state agency has knowledge that any person so reported continues to operate a motor vehicle, such agency may provide this information to appropriate law-enforcement agencies as otherwise permitted by law.

The Department shall report to the Virginia Department for the Blind and Vision Impaired and the Department for Aging and Rehabilitative Services at least annually the name and address of every person who has been refused a driver's license solely or partly because of failure to pass the Department's visual examination.

If any employee of the Virginia Department for the Blind and Vision Impaired makes a report to the Department of Motor Vehicles or provides information to an appropriate law-enforcement agency as required or permitted by this section concerning any client of the agency, it shall not be deemed to have been made in violation of the client-agency relationship.

§ 46.2-844. Passing stopped school buses; prima facie evidence; penalty.

A. The driver of a motor vehicle approaching from any direction a clearly marked school bus that is stopped on any highway, private road, or school driveway for the purpose of taking on or discharging children, ~~the~~ elderly *individuals*, or ~~mentally or physically handicapped persons~~ *individuals with mental or physical disabilities*, who, in violation of § 46.2-859, fails to stop and remain stopped until all such ~~persons~~ *individuals* are clear of the highway, private road, or school driveway and the bus is put in motion is subject to a civil penalty of $250, and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions.

A prosecution or proceeding under § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act, and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under § 46.2-859 for the same act.

In any prosecution for which a summons charging a violation of this section was issued within 10 days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation, or (iii) a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section is presented prior to the return date established on the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise admissible evidence.

The testimony of the school bus driver, the supervisor of school buses, or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

B. 1. For purposes of this subsection, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of § 46.2-859. All such systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

2. A locality may, by ordinance, authorize the school division of the locality to install and operate a video-monitoring system in or on the school buses operated by the division or to contract with a private vendor to do so on behalf of the school division for the purpose of recording violations of subsection A. Such ordinance may direct that any civil penalty levied for a violation of subsection A shall be payable to the local school division. In any locality that has adopted such an ordinance, a summons for a violation of subsection A may be executed as provided in § 19.2-76.2 and, notwithstanding the provisions of § 19.2-76, the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle contained in the records of the Department. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection A and (ii) instructions for filing such an affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.

3. Any private vendor contracting with a school division pursuant to this subsection may impose and collect an administrative fee in addition to the civil penalty imposed for a violation of subsection A and payable pursuant to this subsection, so as to recover the expenses of collecting any unpaid civil penalty when such penalty remains due more than 30 days after the date of the mailing of the summons and notice. The administrative fee shall be reasonably related to the actual cost of collecting the civil penalty and shall not exceed $100 per violation. The operator of the vehicle shall pay the unpaid civil penalty and any administrative fee detailed in a notice or citation issued by the private vendor. If paid no later than 60 days after the date of the mailing of the summons and notice, the administrative fee shall not exceed $25.

4. Any private vendor contracting with a school division pursuant to this subsection may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 30 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that improperly pass stopped school buses. Information provided to such private vendor shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system and used only for enforcement against individuals who violate the provisions of this section. The school division shall annually certify compliance with this subdivision and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or their designee. Any person who discloses personal information in violation of the provisions of this subdivision shall be subject to a civil penalty of $1,000 per disclosure. Any unauthorized use or disclosure of such personal information shall be grounds for termination of the agreement between the Department of Motor Vehicles and the private vendor.

§ 46.2-859. Passing a stopped school bus; prima facie evidence.

A person driving a motor vehicle shall stop such vehicle when approaching, from any direction, any school bus which is stopped on any highway, private road or school driveway for the purpose of taking on or discharging children, ~~the~~ elderly *individuals*, or ~~mentally or physically handicapped persons~~ *individuals with mental or physical disabilities*, and shall remain stopped until all the ~~persons~~ *individuals* are clear of the highway, private road or school driveway and the bus is put in motion; any ~~person~~ *individual* violating the foregoing is guilty of reckless driving. The driver of a vehicle, however, need not stop when approaching a school bus if the school bus is stopped on the other roadway of a divided highway, on an access road, or on a driveway when the other roadway, access road, or driveway is separated from the roadway on which he is driving by a physical barrier or an unpaved area. The driver of a vehicle also need not stop when approaching a school bus which is loading or discharging passengers from or onto property immediately adjacent to a school if the driver is directed by a law-enforcement officer or other duly authorized uniformed school crossing guard to pass the school bus. This section shall apply to school buses which are equipped with warning devices prescribed in § 46.2-1090 and are painted yellow with the words "School Bus" in black letters at least eight inches high on the front and rear thereof. Only school buses which are painted yellow and equipped with the required lettering and warning devices shall be identified as school buses.

The testimony of the school bus driver, the supervisor of school buses or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

§ 46.2-917. Operation of yellow motor vehicles of certain seating capacity on state highways prohibited; exceptions; penalty.

It shall be unlawful for any motor vehicle licensed in Virginia having a seating capacity of more than 15 persons to be operated on the highways of the Commonwealth if it is yellow, unless it is used in transporting students who attend public, private, or religious schools or used in transporting ~~the~~ elderly *individuals* or ~~mentally or physically handicapped persons~~ *individuals with mental or physical disabilities*.

Any violation of this section shall constitute a Class 1 misdemeanor.

§ 46.2-1090. Warning devices on school buses; other buses; use thereof; penalties.

Every bus used for the principal purpose of transporting school children shall be equipped with a warning device of such type as may be prescribed by the State Board of Education after consultation with the Superintendent of State Police. Such a warning device shall indicate when such bus is either (i) stopped or about to stop to take on or discharge children, ~~the~~ elderly *individuals*, or ~~mentally or physically handicapped persons~~ *individuals with mental or physical disabilities* or (ii) stopped or about to stop for another such bus, when approaching from any direction, that is stopped or about to stop to take on or discharge any such ~~persons~~ *individual*. Such warning device shall be used and in operation for at least 100 feet before any proposed stop of such bus if the lawful speed limit is less than ~~thirty-five~~ *35* miles per hour, and for at least 200 feet before any proposed stop of such bus if the lawful speed limit is ~~thirty-five~~ *35* miles per hour or more.

For any new bus placed into service on or after July 1, 2007, such warning devices, at a minimum, shall include a nonsequential system of red traffic warning lights, a warning sign with flashing lights, and a crossing control arm such that when the bus door is opened, the red warning lights, warning sign with flashing lights, and crossing control arm are automatically activated.

Failure of a warning device to function on any school bus shall not relieve any person operating a motor vehicle from his duty to stop as provided in §§ 46.2-844 and 46.2-859.

Any person operating such bus who fails or refuses to equip such vehicle being driven by him with such equipment, or who fails to use such warning devices in the operation of such vehicle ~~shall be~~ *is* guilty of a Class 3 misdemeanor.

Transit buses used to transport school children in the City of Hampton may be equipped with an advisory sign that extends from the left side of the bus and displays the words: "CAUTION-STUDENTS." Such sign may be equipped with not more than two warning lights of a type approved for use by the Superintendent of State Police.

§ 46.2-1503.2. State Personnel and Public Procurement Acts not applicable.

A. The Executive Director and all staff employed by the Board shall be exempt from the Virginia Personnel Act (§ 2.2-2900 et seq.) of Title 2.2. Personnel actions under this exemption shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ *disability*, or political affiliation.

B. The Board and the Executive Director shall be exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of Title 2.2.

§ 51.1-124.27. Employees of the Retirement System.

The officers and employees of the Virginia Retirement System shall be exempt from the provisions of § 2.2-1202.1 and of the Virginia Personnel Act (§ 2.2-2900 et seq.). Personnel actions shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ *disability*, or political affiliation.

§ 51.5-40.1. Definitions.

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

"Hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

"Mental impairment" means (i) a disability attributable to intellectual disability, autism, or any other ~~neurologically handicapping condition~~ *neurological disability* closely related to intellectual disability and requiring treatment similar to that required by individuals with intellectual disability or (ii) an organic or mental impairment that has substantial adverse

effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual.

"Mobility-impaired person" means any person who has completed training to use a dog for service or support because he is unable to move about without the aid of crutches, a wheelchair, or any other form of support or because of limited functional ability to ambulate, climb, descend, sit, rise, or perform any related function.

"Otherwise disabled person" means any person who has a physical, sensory, intellectual, developmental, or mental disability or a mental illness.

"Person with a disability" means any person who has a physical or mental impairment that substantially limits one or more of his major life activities or who has a record of such impairment.

"Physical impairment" means any physical condition, anatomic loss, or cosmetic disfigurement that is caused by bodily injury, birth defect, or illness.

"Service dog" means a dog trained to do work or perform tasks for the benefit of a mobility-impaired or otherwise disabled person. The work or tasks performed by a service dog shall be directly related to the individual's disability or disorder. Examples of work or tasks include providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items, carrying items, providing physical support and assistance with balance and stability, and preventing or interrupting impulsive or destructive behaviors. The provision of emotional support, well-being, comfort, or companionship shall not constitute work or tasks for the purposes of this definition.

"Three-unit service dog team" means a team consisting of a trained service dog, a ~~disabled~~ person *with a disability*, and a person who is an adult and who has been trained to handle the service dog.

§ 54.1-2968. Information about certain individuals with disabilities.

This chapter shall not be construed to prohibit any duly licensed physician from communicating the identity of any person under age ~~twenty-two~~ *22* who has a physical or mental ~~handicapping~~ ~~condition~~ *disability* to appropriate agencies of the Commonwealth or any of its political subdivisions and other information regarding such person or condition which may be helpful to the agency in the planning or conduct of services for ~~handicapped~~ ~~persons~~ *individuals with disabilities*.

§ 58.1-609.10. Miscellaneous exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. The Tax Commissioner shall establish by regulation a system for use by dealers in classifying individual purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil. Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any portion of such purchase for domestic use may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for a refund of the tax paid on the domestic use portion.

2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is eligible to be granted an exemption on its purchases pursuant to § 58.1-609.11, and that is otherwise eligible for the exemption pursuant to this subdivision, shall be exempt pursuant to this subdivision on its sales of (i) food, prepared food and meals and (ii) tickets to events that include the provision of food, prepared food and meals, so long as such sales take place on fewer than 24 occasions in a calendar year.

3. Tangible personal property for future use by a person for taxable lease or rental as an established business or part of an established business, or incidental or germane to such business, including a simultaneous purchase and taxable leaseback.

4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be deemed to be delivery of goods for use or consumption outside of the Commonwealth.

5. Tangible personal property purchased with food coupons issued by the ~~United States~~ *U.S.* Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

6. Tangible personal property purchased for use or consumption in the performance of maintenance and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the Commonwealth.

7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited, reformatted or copied documents, including but not limited to documents stored on or transmitted by electronic media, to its client or to third parties in the course of the professional's rendition of services to its clientele.

8. School lunches sold and served to pupils and employees of schools and subsidized by government; school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use by students attending a college or other institution of learning, when sold (i) by such institution of learning or (ii) by any other dealer, when such textbooks have been certified by a department or instructor of such institution of learning as required textbooks for students attending courses at such institution.

9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases, and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed free of charge, and hearing aids dispensed by or

sold on prescriptions or work orders of licensed physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and fitters, nurse practitioners, physician assistants, and veterinarians; controlled drugs purchased for use by a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistant in his professional practice, regardless of whether such practice is organized as a sole proprietorship, partnership, or professional corporation, or any other type of corporation in which the shareholders and operators are all licensed physicians, optometrists, licensed nurse practitioners, or licensed physician assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for use or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise exempt under this section; and samples of prescription drugs and medicines and their packaging distributed free of charge to authorized recipients in accordance with the federal Food, Drug, and Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended).

10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances, catheters, urinary accessories, other durable medical equipment and devices, and related parts and supplies specifically designed for those products; and insulin and insulin syringes, and equipment, devices or chemical reagents that may be used by a diabetic to test or monitor blood or urine, when such items or parts are purchased by or on behalf of an individual for use by such individual. Durable medical equipment is equipment that (i) can withstand repeated use, (ii) is primarily and customarily used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or injury, and (iv) is appropriate for use in the home.

11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

12. Special equipment installed on a motor vehicle when purchased by ~~a handicapped person~~ *an individual with a disability* to enable such ~~person~~ *individual* to operate the motor vehicle.

13. Special typewriters and computers and related parts and supplies specifically designed for those products used by ~~handicapped persons~~ *individuals with disabilities* to communicate when such equipment is prescribed by a licensed physician.

14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and proprietary medicines distributed free of charge by the manufacturer, including packaging materials and constituent elements and ingredients.

b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision shall not apply to cosmetics.

15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code or (ii) the Commonwealth, any political subdivision of the Commonwealth, or any school, agency, or instrumentality thereof.

16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or church membership while meeting together in a single location and (ii) in the libraries, offices, meeting or counseling rooms or other rooms in the public church buildings used in carrying out the work of the church and its related ministries, including kindergarten, elementary and secondary schools. The exemption for such churches shall also include baptistries; bulletins, programs, newspapers and newsletters that do not contain paid advertising and are used in carrying out the work of the church; gifts including food for distribution outside the public church building; food, disposable serving items, cleaning supplies and teaching materials used in the operation of camps or conference centers by the church or an organization composed of churches that are exempt under this subdivision and which are used in carrying out the work of the church or churches; and property used in caring for or maintaining property owned by the church including, but not limited to, mowing equipment; and building materials installed by the church, and for which the church does not contract with a person or entity to have installed, in the public church buildings used in carrying out the work of the church and its related ministries, including, but not limited to worship services; administrative rooms; and kindergarten, elementary, and secondary schools.

17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings, incontinence products and wound-care products, when purchased by a Medicaid recipient through a Department of Medical Assistance Services provider agreement.

18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and olive pits.

19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies the foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.

20. Beginning July 1, 2018, and ending July 1, 2025, parts, engines, and supplies used for maintaining, repairing, or reconditioning aircraft or any aircraft's avionics system, engine, or component parts. This exemption shall not apply to tools and other equipment not attached to or that does not become a part of the aircraft. For purposes of this subdivision, "aircraft" shall include both manned and unmanned systems. However, for manned systems, "aircraft" shall include only aircraft with a maximum takeoff weight of at least 2,400 pounds.

21. A gun safe with a selling price of $1,500 or less. For purposes of this subdivision, "gun safe" means a safe or vault that is (i) commercially available, (ii) secured with a digital or dial combination locking mechanism or biometric locking mechanism, and (iii) designed for the storage of a firearm or of ammunition for use in a firearm. "Gun safe" does not include a glass-faced cabinet. Any discount, coupon, or other credit offered by the retailer or a vendor of the retailer to reduce the final price to the customer shall be taken into account in determining the selling price for purposes of this exemption.

22. Beginning July 1, 2022, and ending July 1, 2025, prescription medicines and drugs purchased by veterinarians and administered or dispensed to patients within a veterinarian-client-patient relationship as defined in § 54.1-3303.

§ 58.1-2401. Definitions.

As used in this chapter, unless the context ~~clearly shows otherwise, the term or phrase~~ *requires a different meaning*:

"Commissioner" ~~shall mean~~ *means* the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Department" ~~shall mean~~ *means* the Department of Motor Vehicles of ~~this~~ *the* Commonwealth, acting through its duly authorized officers and agents.

"Mobile office" ~~shall mean~~ *means* an industrialized building unit not subject to the federal regulation, which may be constructed on a chassis for the purpose of towing to the point of use and designed to be used with or without a permanent foundation, for commercial use and not for residential use; or two or more such units separately towable, but designed to be joined together at the point of use to form a single commercial structure, and which may be designed for removal to, and installation or erection on other sites.

"Motor vehicle" ~~shall mean~~ *means* every vehicle, except for mobile office as herein defined, ~~which~~ *that* is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a motor vehicle, including all-terrain vehicles, manufactured homes, mopeds, and off-road motorcycles as those terms are defined in § 46.2-100 and every device in, upon and by which any person or property is, or can be, transported or drawn upon a highway, but excepting devices moved by human or animal power, devices used exclusively upon stationary rails or tracks and vehicles, other than manufactured homes, used in ~~this~~ *the* Commonwealth but not required to be licensed by the Commonwealth.

"Sale" ~~shall mean~~ *means* any transfer of ownership or possession, by exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of a motor vehicle. ~~The term shall~~ *"Sale"* also ~~include~~ *includes* a transaction whereby possession is transferred but title is retained by the seller as security. ~~The term shall~~ *"Sale" does* not include a transfer of ownership or possession made to secure payment of an obligation, nor ~~shall~~ *does* it include a refund for, or replacement of, a motor vehicle of equivalent or lesser value pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.). Where the replacement motor vehicle is of greater value than the motor vehicle replaced, only the difference in value shall constitute a sale.

"Sale price" ~~shall mean~~ *means* the total price paid for a motor vehicle and all attachments thereon and accessories thereto, as determined by the Commissioner, exclusive of any federal manufacturers' excise tax, without any allowance or deduction for trade-ins or unpaid liens or encumbrances. However, "sale price" ~~shall~~ *does* not include (i) any manufacturer rebate or manufacturer incentive payment applied to the transaction by the customer or dealer whether as a reduction in the sales price or as payment for the vehicle and (ii) the cost of controls, lifts, automatic transmission, power steering, power brakes or any other equipment installed in or added to a motor vehicle ~~which~~ *that* is required by law or regulation as a condition for operation of a motor vehicle by ~~a handicapped person~~ *an individual with a disability*.

Article 2.

Exemptions for Elderly *Individuals* and ~~Handicapped~~ *Individuals with Disabilities*.

§ 58.1-3210. Exemption or deferral of taxes on property of certain elderly individuals and individuals with disabilities.

A. The governing body of any ~~county, city or town~~ *locality* may, by ordinance, provide for the exemption from, deferral of, or a combination program of exemptions from and deferrals of taxation of real estate and manufactured homes as defined in § 36-85.3, or any portion thereof, and upon such conditions and in such amount as the ordinance may prescribe. Such real estate shall be owned by, and be occupied as the sole dwelling of anyone at least 65 years of age or if provided in the ordinance, anyone found to be permanently and totally disabled as defined in § 58.1-3217. Such ordinance may provide for the exemption from or deferral of that portion of the tax which represents the increase in tax liability since the year such taxpayer reached the age of 65 or became disabled, or the year such ordinance became effective, whichever is later. A dwelling jointly held by married individuals, with no other joint owners, may qualify if either spouse is 65 or over or is permanently and totally disabled, and the proration of the exemption or deferral under § 58.1-3211.1 shall not apply for such dwelling.

B. For purposes of this section, "eligible person" means a person who is at least age 65 or, if provided in the ordinance pursuant to subsection A, permanently and totally disabled. Under subsection A, real property owned and occupied as the sole dwelling of an eligible person includes real property (i) held by the eligible person alone or in conjunction with his spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the eligible person or the eligible person and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which an eligible person alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term "eligible person" does not include any interest held under a leasehold or term of years.

C. For purposes of this article, any reference to:

"Dwelling" ~~shall include~~ *includes* an improvement to real estate exempt pursuant to this article and the land upon which such improvement is situated so long as the improvement is used principally for other than a business purpose and is used to house or cover any motor vehicle classified pursuant to subdivisions A 3 through 10 of § 58.1-3503; household goods classified pursuant to subdivision A 14 of § 58.1-3503; or household goods exempted from personal property tax pursuant to § 58.1-3504.

"Real estate" ~~shall include~~ *includes* manufactured homes.

§ 58.1-3213.1. Notice of local real estate tax exemption or deferral program for elderly individuals and individuals with disabilities.

The treasurer of any county, city, or town shall enclose written notice, in each real estate tax bill, of the terms and conditions of any local real estate tax exemption or deferral program established in the jurisdiction pursuant to § 58.1-3210. The treasurer shall also employ any other reasonable means necessary to notify residents of the county, city, or town about the terms and conditions of the real estate tax exemption or deferral program for elderly *individuals* and ~~handicapped residents of~~ *individuals with disabilities who reside in* the county, city, or town.

§ 58.1-3503. General classification of tangible personal property.

A. Tangible personal property is classified for valuation purposes according to the following separate categories which are not to be considered separate classes for rate purposes:

1. Farm animals, except as exempted under § 58.1-3505.

2. Farm machinery, except as exempted under § 58.1-3505.

3. Automobiles, except those described in subdivisions 7, 8, and 9 of this subsection and in subdivision A 8 of § 58.1-3504, which shall be valued by means of a recognized pricing guide or if the model and year of the individual automobile are not listed in the recognized pricing guide, the individual vehicle may be valued on the basis of percentage or percentages of original cost. In using a recognized pricing guide, the commissioner shall use either of the following two methods. The commissioner may use all applicable adjustments in such guide to determine the value of each individual automobile, or alternatively, if the commissioner does not utilize all applicable adjustments in valuing each automobile, he shall use the base value specified in such guide which may be either average retail, wholesale, or loan value, so long as uniformly applied within classifications of property. If the model and year of the individual automobile are not listed in the recognized pricing guide, the taxpayer may present to the commissioner proof of the original cost, and the basis of the tax for purposes of the motor vehicle sales and use tax as described in § 58.1-2405 shall constitute proof of original cost. If such percentage or percentages of original cost do not accurately reflect fair market value, or if the taxpayer does not supply proof of original cost, then the commissioner may select another method which establishes fair market value.

4. Trucks of less than two tons, which may be valued by means of a recognized pricing guide or, if the model and year of the individual truck are not listed in the recognized pricing guide, on the basis of a percentage or percentages of original cost.

5. Trucks and other vehicles, as defined in § 46.2-100, except those described in subdivisions 4, and 6 through 10 of this subsection, which shall be valued by means of either a recognized pricing guide using the lowest value specified in such guide or a percentage or percentages of original cost.

6. Manufactured homes, as defined in § 36-85.3, which may be valued on the basis of square footage of living space.

7. Antique motor vehicles, as defined in § 46.2-100, which may be used for general transportation purposes as provided in subsection C of § 46.2-730.

8. Taxicabs.

9. Motor vehicles with specially designed equipment for use by ~~the handicapped~~ *individuals with disabilities*, which shall not be valued in relation to their initial cost, but by determining their actual market value if offered for sale on the open market.

10. Motorcycles, mopeds, all-terrain vehicles, and off-road motorcycles as defined in § 46.2-100, campers and other recreational vehicles, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

11. Boats weighing under five tons and boat trailers, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

12. Boats or watercraft weighing five tons or more, which shall be valued by means of a percentage or percentages of original cost.

13. Aircraft, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

14. Household goods and personal effects, except as exempted under § 58.1-3504.

15. Tangible personal property used in a research and development business, which shall be valued by means of a percentage or percentages of original cost.

16. Programmable computer equipment and peripherals used in business which shall be valued by means of a percentage or percentages of original cost to the taxpayer, or by such other method as may reasonably be expected to determine the actual fair market value.

17. Computer equipment and peripherals used in a data center, as defined in subdivision A 43 of § 58.1-3506, which shall be valued by means of a percentage or percentages of original cost, or by such other method as may reasonably be expected to determine the actual fair market value.

18. All tangible personal property employed in a trade or business other than that described in subdivisions 1 through 17, which shall be valued by means of a percentage or percentages of original cost.

19. Outdoor advertising signs regulated under Article 1 (§ 33.2-1200 et seq.) of Chapter 12 of Title 33.2.

20. All other tangible personal property.

B. Methods of valuing property may differ among the separate categories, so long as each method used is uniform within each category, is consistent with requirements of this section and may reasonably be expected to determine actual fair market value as determined by the commissioner of revenue or other assessing official; however, assessment ratios shall only be used with the concurrence of the local governing body. A commissioner of revenue shall upon request take into account the condition of the property. The term "condition of the property" includes, but is not limited to, technological obsolescence of property where technological obsolescence is an appropriate factor for valuing such property. The commissioner of revenue shall make available to taxpayers on request a reasonable description of his valuation methods. Such commissioner, or other assessing officer, or his authorized agent, when using a recognized pricing guide as provided for in this section, may automatically extend the assessment if the pricing information is stored in a computer. For any locality in which the commissioner of revenue or other assessing official adjusts the valuation of property described in subdivision A 3 to account for the amount of mileage on such vehicles, such adjustment shall also be provided to motorcycles described in subdivision A 10.

§ 58.1-3506. Other classifications of tangible personal property for taxation.

A. The items of property set forth below are each declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property provided in this chapter:

1. a. Boats or watercraft weighing five tons or more, not used solely for business purposes;

b. Boats or watercraft weighing less than five tons, not used solely for business purposes;

2. Aircraft having a maximum passenger seating capacity of no more than 50 that are owned and operated by scheduled air carriers operating under certificates of public convenience and necessity issued by the State Corporation Commission or the Civil Aeronautics Board;

3. Aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are not owned or operated by scheduled air carriers recognized under federal law, but not including any aircraft described in subdivision 4;

4. Aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public and otherwise used for educational purposes (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation), or (b) airshow and flight demonstrations (including such flights necessary for testing, maintaining, or preparing such aircraft for safe operation), shall constitute a new class of property. Such class of property shall not include any aircraft used for commercial purposes, including transportation and other services for a fee;

5. All other aircraft not included in subdivision 2, 3, or 4 and flight simulators;

6. Antique motor vehicles as defined in § 46.2-100 which may be used for general transportation purposes as provided in subsection C of § 46.2-730;

7. Tangible personal property used in a research and development business;

8. Heavy construction machinery not used for business purposes, including land movers, bulldozers, front-end loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting and silvicultural activity equipment except as exempted under § 58.1-3505, and ditch and other types of diggers;

9. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any other alternative energy source for use in manufacturing and any cogeneration equipment purchased to achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment shall include, without limitation, such equipment purchased by firms engaged in the business of generating electricity or steam, or both;

10. Vehicles without motive power, used or designed to be used as manufactured homes as defined in § 36-85.3;

11. Computer hardware used by businesses primarily engaged in providing data processing services to other nonrelated or nonaffiliated businesses;

12. Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes only;

13. Privately owned vans with a seating capacity of not less than seven nor more than 15 persons, including the driver, used exclusively pursuant to a ridesharing arrangement as defined in § 46.2-1400;

14. Motor vehicles specially equipped to provide transportation for ~~physically handicapped~~ individuals *with physical disabilities*;

15. Motor vehicles (i) owned by members of a volunteer emergency medical services agency or a member of a volunteer fire department or (ii) leased by volunteer emergency medical services personnel or a member of a volunteer fire department if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is owned by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member, or leased by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle, may be specially classified under this section, provided the volunteer regularly responds to emergency calls. The volunteer shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical

services agency or volunteer fire department, that the volunteer is an individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or a member of the volunteer fire department who regularly responds to calls or regularly performs other duties for the emergency medical services agency or fire department, and the motor vehicle owned or leased by the volunteer is identified. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the volunteer, to accept a certification after the January 31 deadline. In any county that prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may be certified and classified pursuant to this subsection when the vehicle certified as of the immediately prior January date is transferred during the tax year;

16. Motor vehicles (i) owned by auxiliary members of a volunteer emergency medical services agency or volunteer fire department or (ii) leased by auxiliary members of a volunteer emergency medical services agency or volunteer fire department if the auxiliary member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary volunteer fire department or emergency medical services agency member may be specially classified under this section. The auxiliary member shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or volunteer fire department, that the volunteer is an auxiliary member of the volunteer emergency medical services agency or fire department who regularly performs duties for the emergency medical services agency or fire department, and the motor vehicle is identified as regularly used for such purpose; however, if a volunteer meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member and an auxiliary member are members of the same household, that household shall be allowed no more than two special classifications under this subdivision or subdivision 15. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the auxiliary member, to accept a certification after the January 31 deadline;

17. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound persons or provide transportation to senior ~~or handicapped~~ citizens *or individuals with disabilities* in the community to carry out the purposes of the nonprofit organization;

18. Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers as defined in § 46.2-1500, which are used for recreational purposes only, and privately owned trailers as defined in § 46.2-100, which are designed and used for the transportation of horses except those trailers described in subdivision A 11 of § 58.1-3505;

19. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written statement to the commissioner of revenue or other assessing officer from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of this section, and that his disability is service-connected. For purposes of this section, a person is blind if he meets the provisions of § 46.2-100;

20. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially classified under this section. In order to qualify for such classification, any auxiliary police officer who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary police officer or from the official who has appointed such auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

21. Until the first to occur of June 30, 2029, or the date that a special improvements tax is no longer levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District, provided that such business personal property is put into service within the District on or after July 1, 1999;

22. Motor vehicles which use clean special fuels as defined in § 46.2-749.3, which shall not include any vehicle described in subdivision 38 or 40;

23. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility that is properly licensed by the federal government, the Commonwealth, or both, and that is properly zoned for such use. "Wild animals" means any animals that are found in the wild, or in a wild state, within the boundaries of the United States, its territories or possessions. "Exotic animals" means any animals that are found in the wild, or in a wild state, and are native to a foreign country;

24. Furniture, office, and maintenance equipment, exclusive of motor vehicles, that are owned and used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and that is used by that organization for the purpose of maintaining or using the open or common space within a residential development;

25. Motor vehicles, trailers, and semitrailers with a gross vehicle weight of 10,000 pounds or more used to transport property or passengers for hire by a motor carrier engaged in interstate commerce;

26. All tangible personal property employed in a trade or business other than that described in subdivisions A 1 through A 20, except for subdivision A 18, of § 58.1-3503;

27. Programmable computer equipment and peripherals employed in a trade or business;

28. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational purposes only;

29. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for recreational purposes only;

30. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes only;

31. Tangible personal property used in the provision of Internet services. For purposes of this subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables users to access content, information, electronic mail, and the Internet as part of a package of services sold to customers;

32. Motor vehicles (i) owned by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs or (ii) leased by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. For purposes of this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve, volunteer, or special deputy sheriff. One motor vehicle that is regularly used by each auxiliary deputy sheriff to respond to auxiliary deputy sheriff duties may be specially classified under this section. In order to qualify for such classification, any auxiliary deputy sheriff who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary deputy sheriff or from the official who has appointed such auxiliary deputy sheriff. That certification shall state that the applicant is an auxiliary deputy sheriff who regularly uses a motor vehicle to respond to such auxiliary duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

33. Forest harvesting and silvicultural activity equipment, except as exempted under § 58.1-3505;

34. Equipment used primarily for research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including medical, pharmaceutical, nutritional, and other health-related purposes; agricultural purposes; or environmental purposes but not for human cloning purposes as defined in § 32.1-162.21 or for products or purposes related to human embryo stem cells. For purposes of this section, biotechnology equipment means equipment directly used in activities associated with the science of living things;

35. Boats or watercraft weighing less than five tons, used for business purposes only;

36. Boats or watercraft weighing five tons or more, used for business purposes only;

37. Tangible personal property which is owned and operated by a service provider who is not a CMRS provider and is not licensed by the FCC used to provide, for a fee, wireless broadband Internet service. For purposes of this subdivision, "wireless broadband Internet service" means a service that enables customers to access, through a wireless connection at an upload or download bit rate of more than one megabyte per second, Internet service, as defined in § 58.1-602, as part of a package of services sold to customers;

38. Low-speed vehicles as defined in § 46.2-100;

39. Motor vehicles with a seating capacity of not less than 30 persons, including the driver;

40. Motor vehicles powered solely by electricity;

41. Tangible personal property designed and used primarily for the purpose of manufacturing a product from renewable energy as defined in § 56-576;

42. Motor vehicles leased by a county, city, town, or constitutional officer if the locality or constitutional officer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle;

43. Computer equipment and peripherals used in a data center. For purposes of this subdivision, "data center" means a facility whose primary services are the storage, management, and processing of digital data and is used to house (i) computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems; (ii) systems for monitoring and managing infrastructure performance; (iii) equipment used for the transformation, transmission, distribution, or management of at least one megawatt of capacity of electrical power and cooling, including substations, uninterruptible power supply systems, all electrical plant equipment, and associated air handlers; (iv) Internet-related equipment and services; (v) data communications connections; (vi) environmental controls; (vii) fire protection systems; and (viii) security systems and services;

44. Motor vehicles (i) owned by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 or (ii) leased by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by a

uniformed member of the Virginia Defense Force to respond to his official duties may be specially classified under this section. In order to qualify for such classification, any person who applies for such classification shall identify the vehicle for which the classification is sought and shall furnish to the commissioner of the revenue or other assessing officer a certification from the Adjutant General of the Department of Military Affairs under § 44-11. That certification shall state that (a) the applicant is a uniformed member of the Virginia Defense Force who regularly uses a motor vehicle to respond to his official duties, and (b) the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of the revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

45. If a locality has adopted an ordinance pursuant to subsection D of § 58.1-3703, tangible personal property of a business that qualifies under such ordinance for the first two tax years in which the business is subject to tax upon its personal property pursuant to this chapter. If a locality has not adopted such ordinance, this classification shall apply to the tangible personal property for such first two tax years of a business that otherwise meets the requirements of subsection D of § 58.1-3703;

46. Miscellaneous and incidental tangible personal property employed in a trade or business that is not classified as machinery and tools pursuant to Article 2 (§ 58.1-3507 et seq.), merchants' capital pursuant to Article 3 (§ 58.1-3509 et seq.), or short-term rental property pursuant to Article 3.1 (§ 58.1-3510.4 et seq.), and has an original cost of less than $500. A county, city, or town shall allow a taxpayer to provide an aggregate estimate of the total cost of all such property owned by the taxpayer that qualifies under this subdivision, in lieu of a specific, itemized list;

47. Commercial fishing vessels and property permanently attached to such vessels; and

48. The following classifications of vehicles:

a. Automobiles as described in subdivision A 3 of § 58.1-3503;

b. Trucks of less than two tons as described in subdivision A 4 of § 58.1-3503;

c. Trucks and other vehicles as described in subdivision A 5 of § 58.1-3503;

d. Motor vehicles with specially designed equipment for use by ~~the~~ ~~handicapped~~ *individuals with disabilities* as described in subdivision A 9 of § 58.1-3503; and

e. Motorcycles, mopeds, all-terrain vehicles, off-road motorcycles, campers, and other recreational vehicles as described in subdivision A 10 of § 58.1-3503.

B. The governing body of any county, city, or town may levy a tax on the property enumerated in subsection A at different rates from the tax levied on other tangible personal property. The rates of tax and the rates of assessment shall (i) for purposes of subdivisions A 1, 2, 3, 4, 5, 6, 8, 11 through 20, 22 through 24, and 26 through 47, not exceed that applicable to the general class of tangible personal property, (ii) for purposes of subdivisions A 7, 9, 21, and 25, not exceed that applicable to machinery and tools, and (iii) for purposes of subdivision A 10, equal that applicable to real property. If an item of personal property is included in multiple classifications under subsection A, then the rate of tax shall be the lowest rate assigned to such classifications.

C. Notwithstanding any other provision of this section, for any qualifying vehicle, as such term is defined in § 58.1-3523, (i) included in any separate class of property in subsection A and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 (§ 58.1-3523 et seq.) for providing tangible personal property tax relief, the county, city, or town may levy the tangible personal property tax on such qualifying vehicle at a rate not to exceed the rates of tax and rates of assessment required under such chapter.

Article 1.01.

Alternative Tax Rates for Elderly *Individuals* and ~~Handicapped~~ *Individuals with Disabilities*.

§ 58.1-3506.1. Other classification for taxation of certain tangible personal property owned by certain elderly individuals and individuals with disabilities.

The governing body of any ~~county, city or town~~ *locality* may, by ordinance, levy a tax on one motor vehicle owned and used primarily by or for anyone at least 65 years of age or anyone found to be permanently and totally disabled, as defined in § 58.1-3506.3, at a different rate from the tax levied on other tangible personal property, upon such conditions as the ordinance may prescribe. Such rate shall not exceed the tangible personal property tax on the general class of tangible personal property. For purposes of this article, the term motor vehicle shall include only automobiles and pickup trucks. Any such motor vehicle owned by married individuals may qualify if either spouse is 65 or over or if either spouse is permanently and totally disabled. Notwithstanding any other provision of this section or article, for any automobile or pickup truck that is (i) a qualifying vehicle, as such term is defined in § 58.1-3523, and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 (§ 58.1-3523 et seq.) for providing tangible personal property tax relief, the rate of tax levied pursuant to this article shall not exceed the rates of tax and rates of assessment required under such chapter.

§ 58.1-3506.6. Notice of local tangible personal property tax relief program for elderly individuals and individuals with disabilities.

The treasurer of any county, city, or town shall enclose written notice, in each tangible personal property tax bill, of the terms and conditions of any local tangible personal property tax relief program established in the jurisdiction pursuant to § 58.1-3506.1. The treasurer shall also employ any other reasonable means necessary to notify residents of the county, city,

or town about the terms and conditions of the tangible personal property tax relief program for elderly *individuals* and ~~handicapped residents of~~ *individuals with disabilities who reside in* the county, city*,* or town.

§ 58.1-3833. County food and beverage tax.

A. 1. Any county is hereby authorized to levy a tax on food and beverages sold, for human consumption, by a restaurant, as such term is defined in § 35.1-1, not to exceed six percent of the amount charged for such food and beverages. Such tax shall not be levied on food and beverages sold through vending machines or by (i) boardinghouses that do not accommodate transients; (ii) cafeterias operated by industrial plants for employees only; (iii) restaurants to their employees as part of their compensation when no charge is made to the employee; (iv) volunteer fire departments and volunteer emergency medical services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations the first three times per calendar year and, beginning with the fourth time, on the first $100,000 of gross receipts per calendar year from sales of food and beverages (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes; (v) churches that serve meals for their members as a regular part of their religious observances; (vi) public or private elementary or secondary schools or institutions of higher education to their students or employees; (vii) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof; (viii) day care centers; (ix) homes for ~~the~~ aged~~,~~ *or* infirm *individuals*, ~~handicapped~~ *individuals with disabilities*, battered women, narcotic addicts, or alcoholics; (x) age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees; or (xi) sellers at local farmers markets and roadside stands, when such sellers' annual income from such sales does not exceed $2,500. For the exemption described in clause (xi), the sellers' annual income shall include income from sales at all local farmers markets and roadside stands, not just those sales occurring in the locality imposing the tax. Also, the tax shall not be levied on food and beverages: (a) when used or consumed and paid for by the Commonwealth, any political subdivision of the Commonwealth, or the United States; (b) provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, ~~blind, handicapped,~~ or needy ~~persons~~ *individuals or individuals with blindness or other disabilities* in their homes, or at central locations; or (c) provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, ~~blind, handicapped,~~ or needy ~~persons~~ *individuals or individuals with blindness or other disabilities* in their homes or at central locations.

2. Grocery stores and convenience stores selling prepared foods ready for human consumption at a delicatessen counter shall be subject to the tax, for that portion of the grocery store or convenience store selling such items.

The term "beverage" as set forth herein ~~shall mean~~ *means* alcoholic beverages as defined in § 4.1-100 and nonalcoholic beverages served as part of a meal. The tax shall be in addition to the sales tax currently imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.). Collection of such tax shall be in a manner prescribed by the governing body.

B. Nothing herein contained shall affect any authority heretofore granted to any county, city, or town to levy a meals tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis. All food and beverage tax collections and all meals tax collections shall be deemed to be held in trust for the county, city, or town imposing the applicable tax. The wrongful and fraudulent use of such collections other than remittance of the same as provided by law shall constitute embezzlement pursuant to § 18.2-111.

C. Notwithstanding any other provision of this section, no locality shall levy any tax under this section upon (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price; or (iii) alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

§ 58.1-3840. Certain excise taxes permitted.

A. The provisions of Chapter 6 (§ 58.1-600 et seq.) to the contrary notwithstanding, any city or town having general taxing powers established by charter pursuant to or consistent with the provisions of § 15.2-1104 and, to the extent authorized in this chapter, any county may impose excise taxes on cigarettes, admissions, transient room rentals, meals, and travel campgrounds. No such taxes on meals may be imposed on (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price of the meal; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price; or (iii) food and beverages sold through vending machines or on any tangible personal property purchased with food coupons issued by the ~~United States~~ *U.S.* Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children. No such taxes on meals may be imposed when sold or provided by (a) restaurants, as such term is defined in § 35.1-1, to their employees as part of their compensation when no charge is made to the employee; (b) volunteer fire departments and volunteer emergency medical services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations, the first three times per calendar year and, beginning with the fourth time, on the first $100,000 of gross receipts per calendar year from sales of meals

(excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes; (c) churches that serve meals for their members as a regular part of their religious observances; (d) public or private elementary or secondary schools or institutions of higher education to their students or employees; (e) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof; (f) day care centers; (g) homes for ~~the~~ aged~~,~~ *or* infirm *individuals*, ~~handicapped~~ *individuals with disabilities*, battered women, narcotic addicts, or alcoholics; (h) age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees; or (i) sellers at local farmers markets and roadside stands, when such sellers' annual income from such sales does not exceed $2,500. For the exemption described in clause (i), the sellers' annual income shall include income from sales at all local farmers markets and roadside stands, not just those sales occurring in the locality imposing the tax.

Also, the tax shall not be levied on meals: (1) when used or consumed and paid for by the Commonwealth, any political subdivision of the Commonwealth, or the United States; (2) provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, ~~blind,~~ ~~handicapped,~~ or needy ~~persons~~ *individuals or individuals with blindness or other disabilities* in their homes~~,~~ or at central locations; or (3) provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, ~~blind,~~ ~~handicapped,~~ or needy ~~persons~~ *individuals or individuals with blindness or other disabilities* in their homes or at central locations.

In addition, as set forth in § 51.5-98, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Blind and Vision Impaired and located on property acquired and used by the United States for any military or naval purpose shall be required to collect and remit meals taxes.

B. Notwithstanding any other provision of this section, no city or town shall levy any tax under this section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

C. Any city or town that is authorized to levy a tax on admissions may levy the tax on admissions paid for any event held at facilities that are not owned by the city or town at a lower rate than the rate levied on admissions paid for any event held at its city- or town-owned civic centers, stadiums, and amphitheaters.

D. Expired.

§ 58.1-4024. Employees of the Department.

Employees of the Department shall be exempt from the provisions of the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2. Personnel actions shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ *disability*, or political affiliation.

§ 63.2-100. Definitions.

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

"Abused or neglected child" means any child less than 18 years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care, or an intimate partner of such parent or person, commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this title is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii) an attended emergency medical services agency that employs emergency medical services providers, or (iii) a newborn safety device located at and operated by such hospital or emergency medical services agency. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603.

"Adult day care center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more *adults who are* aged~~,~~ *or* infirm or ~~disabled adults~~ *who have disabilities and* who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more *adults who are* aged~~,~~ *or* infirm or ~~disabled adults~~ *who have disabilities*.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults. "Adult foster care" does not include services or support provided to individuals through the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9.

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult.

"Adult protective services" means services provided by the local department that are necessary to protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least a moderate level of assistance with activities of daily living.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged~~,~~ *or* infirm or ~~disabled~~ *who have disabilities* and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving *individuals who are* infirm or ~~disabled persons~~ *who have disabilities* between the ages of 18 and 21, or 22 if enrolled in an educational program for ~~the handicapped~~ *individuals with disabilities* pursuant to § 22.1-214, when such facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility not so licensed; and (iv) any housing project for ~~persons~~ *individuals who are* 62 years of age or older or ~~the disabled~~ *individuals with disabilities* that provides no more than basic coordination of care services and is funded by

the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more *adults who are* aged~~,~~ *or* infirm ~~or disabled adults~~ *or who have disabilities*. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an *individual who is* aged~~,~~ *or* infirm or ~~disabled individual~~ *who has a disability*.

"Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

"Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists parents with the process of delegating parental and legal custodial powers of their children pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child-protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child support services" means any civil, criminal or administrative action taken by the Division of Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child support, or child and spousal support.

"Child-welfare agency" means a child-placing agency, children's residential facility, or independent foster home.

"Children's residential facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;

2. An establishment required to be licensed as a summer camp by § 35.1-18; and

3. A licensed or accredited hospital legally maintained as such.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Department of Health and Human Services" means the Department of Health and Human Services of the United States government or any department or agency thereof that may hereafter be designated as the agency to administer the Social Security Act, as amended.

"Disposable income" means that part of the income due and payable of any individual remaining after the deduction of any amount required by law to be withheld.

"Energy assistance" means benefits to assist low-income households with their home heating and cooling needs, including, but not limited to, purchase of materials or substances used for home heating, repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of ~~Public Law~~ *P.L.* 97-35), as amended.

"Family and permanency team" means the group of individuals assembled by the local department to assist with determining planning and placement options for a child, which shall include, as appropriate, all biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case of a child who is 14 years of age or older, the family and permanency team shall also include any members of the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281.

"Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1305, payments to eligible individuals who have received custody of a child of whom they had been the foster parents.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency. "Foster care placement" does not include placement of a child in accordance with a power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Foster home" means a residence approved by a child-placing agency or local board in which any child, other than a child by birth or adoption of such person or a child who is the subject of a power of attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural person who has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours without compensation, resides as a member of the household.

"General relief" means money payments and other forms of relief made to those persons mentioned in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person; (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8; and (iii) a home in which are received only children who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Independent living" means a planned program of services designed to assist a child age 16 and over and persons who are former foster care children or were formerly committed to the Department of Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development, access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Kinship care" means the full-time care, nurturing, and protection of children by relatives.

"Kinship guardian" means the adult relative of a child in a kinship guardianship established in accordance with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after acting as the child's foster parent.

"Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-1306 between a child and an adult relative of the child who has formerly acted as the child's foster parent that is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult relative of the child of the authority necessary to ensure the protection, education, care and control, and custody of the child and the authority for decision making for the child.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in ~~this~~ *the* Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Merit system plan" means those regulations adopted by the Board in the development and operation of a system of personnel administration meeting requirements of the federal Office of Personnel Management.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child care; and general relief.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a home and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of assisted living facilities, or any hospital that has contracted with the Department of Medical Assistance Services to perform nursing facility pre-admission screenings.

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Sibling" means each of two or more children having one or more parents in common.

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

"State-Funded Kinship Guardianship Assistance program" means a program that provides payments to eligible individuals who have received custody of a relative child subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1306.

"Supervised independent living setting" means the residence of a person 18 years of age or older who is participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 where supervision includes a monthly visit with a service worker or, when appropriate, contracted supervision. "Supervised independent living setting" does not include residential facilities or group homes.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from Virginia Initiative for Education and Work (VIEW) participation under § 63.2-609.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

§ 63.2-319. Child welfare and other services.

Each local board shall provide, either directly or through the purchase of services subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, any or all child welfare services herein described when such services are not available through other agencies serving residents in the locality. For purposes of this section, the term "child welfare services" means public social services that are directed toward:

1. Protecting the welfare of all children including ~~handicapped,~~ homeless, dependent, or neglected children *or children with disabilities*;

2. Preventing or remedying, or assisting in the solution of problems that may result in the neglect, abuse, exploitation or delinquency of children;

3. Preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving these problems and preventing the break up of the family where preventing the removal of a child is desirable and possible;

4. Restoring to their families children who have been removed by providing services to the families and children;

5. Placing children in suitable adoptive homes in cases where restoration to the biological family is not possible or appropriate; and

6. Assuring adequate care of children away from their homes in cases where they cannot be returned home or placed for adoption.

Each local board is also authorized and, as may be provided by regulations of the Board, shall provide rehabilitation and other services to help individuals attain or retain self-care or self-support and such services as are likely to prevent or reduce dependency and, in the case of dependent children, to maintain and strengthen family life.

§ 63.2-1301. Types of adoption assistance payments.

A. Title IV-E maintenance payments shall be made to the adoptive parents on behalf of an adopted child placed if it is determined that the child is a child with special needs as set forth in § 63.2-1300 and the child meets the requirements set forth in § 473 of Title IV-E of the Social Security Act (42 U.S.C. § 673).

B. State-funded maintenance payments may be made to the adoptive parents on behalf of an adopted child if it is determined that the child does not meet the requirements set forth in § 473 of Title IV-E of the Social Security Act (42 U.S.C. § 673) but the child is a child with special needs as set forth in § 63.2-1300. A child with special needs shall receive state-funded maintenance payments if he:

1. Was in the custody of a local board or a licensed child-placing agency at the time of the adoptive placement;

2. Was in the custody of a local board or a licensed child-placing agency at the time of the adoptive placement and met the factors set forth in subdivision B 1 or 2 of § 63.2-1300 at the time of adoption but such factors were not diagnosed until after the final order of adoption and no more than one year has elapsed from the date of diagnosis; or

3. Lived with his foster parents for at least 12 months and has developed significant emotional ties with his foster parents while in their care and the foster parents wish to adopt the child and state-funded maintenance payments are necessary to enable the adoption.

C. Special services payments may be made for the provision of services to the child that are not covered by insurance, Medicaid, or otherwise. Special services include (i) medical, surgical, and dental care; (ii) hospitalization; (iii) individual remedial education services; (iv) psychological and psychiatric treatment; (v) speech and physical therapy; and (vi) special equipment, treatment, and training for physical and mental ~~handicaps~~ *disabilities*. A child is eligible for special services payments if:

1. The child is a child with special needs as set forth in § 63.2-1300;

2. The child is receiving adoption assistance payments pursuant to subsection A or B; and

3. The adoptive parents are capable of providing the permanent family relationships needed by the child in all respects except financial.

D. Nonrecurring expense payments shall be made to the adoptive parents for expenses related to the adoption, including reasonable and necessary adoption fees, court costs, attorney fees and other legal service fees, as well as any other expenses that are directly related to the legal adoption of a child with special needs, including costs related to the adoption study, any health and psychological examinations, supervision of the placement prior to adoption and any transportation costs and reasonable costs of lodging and food for the child and the adoptive parents when necessary to complete the placement or adoption process for which the adoptive parents carry ultimate liability for payment and that have not been reimbursed from any other source, as set forth in 45 C.F.R. § 1356.41. However, the total amount of nonrecurring expense payments made to adoptive parents for the adoption of a child shall not exceed $2,000 or an amount established by federal law.

§ 63.2-1302. Adoption assistance payments; maintenance; special needs; payment agreements; continuation of payments when adoptive parents move to another jurisdiction; procedural requirements.

A. Adoption assistance payments may include Title IV-E or state-funded maintenance payments; however, such payments shall not exceed the foster care payment that would otherwise be made for the child at the time the adoption assistance agreement is signed.

B. Adoption assistance payments shall cease when the child with special needs reaches 18 years of age. However, assistance payments may continue until the child reaches 21 years of age under the following circumstances:

1. The local department determines on or within six months prior to the child's eighteenth birthday that the child has a mental or physical ~~handicap~~ *disability*, or an educational delay resulting from such ~~handicap~~ *disability*, warranting the continuation of assistance; or

2. The initial adoption assistance agreement became effective on or after the child's sixteenth birthday and the child is (i) completing secondary education or an equivalent thereof; (ii) enrolled in an institution that provides postsecondary or vocational education; (iii) employed for at least 80 hours per month; (iv) participating in a program or activity designed to promote employment or remove barriers to employment; or (v) incapable of doing any of the activities set forth in clauses (i) through (iv) due to a medical condition.

C. Adoption assistance payments shall be made on the basis of an adoption assistance agreement entered into by the local board and the adoptive parents or, in cases in which the child is in the custody of a licensed child-placing agency, an agreement between the local board, the licensed child-placing agency and the adoptive parents. A representative of the Department shall negotiate all adoption assistance agreements with both existing and prospective adoptive parents on behalf of local departments.

Prior to entering into an adoption assistance agreement, the local board or licensed child-placing agency shall ensure that adoptive parents have received information about their child's eligibility for adoption assistance; about their child's special needs and, to the extent possible, the current and potential impact of those special needs. The local board or licensed child-placing agency shall also ensure that adoptive parents receive information about the process for appeal in the event of a disagreement between the adoptive parent and the local board or the adoptive parent and the child-placing agency and information about the procedures for renegotiating the adoption assistance agreement.

Adoptive parents shall submit annually to the local board within 30 days of the anniversary date of the approved agreement an affidavit which certifies that (i) the child on whose behalf they are receiving adoption assistance payments remains in their care, (ii) the child's condition requiring adoption assistance continues to exist, and (iii) whether or not changes to the adoption assistance agreement are requested.

Title IV-E maintenance payments made pursuant to this section shall be changed only in accordance with the provisions of § 473 of Title IV-E of the Social Security Act (42 U.S.C. § 673).

D. Responsibility for adoption assistance payments for a child placed for adoption shall be continued by the local board that initiated the agreement in the event that the adoptive parents live in or move to another jurisdiction.

E. Payments may be made under this chapter from appropriations for foster care services for the maintenance and medical or other services for children who have special needs in accordance with § 63.2-1301. Within the limitations of the appropriations to the Department, the Commissioner shall reimburse any agency making payments under this chapter. Any such agency may seek and accept funds from other sources, including federal, state, local, and private sources, to carry out the purposes of this chapter.

§ 64.2-745. Certain claims for reimbursement for public assistance.

A. Notwithstanding any contrary provision in the trust instrument, if a statute or regulation of the United States or Commonwealth requires a beneficiary to reimburse the Commonwealth or any agency or instrumentality thereof, for public assistance, including medical assistance, furnished or to be furnished to the beneficiary, the Attorney General or an attorney acting on behalf of the state agency responsible for the program may file a petition in the circuit court having jurisdiction over the trustee requesting reimbursement. The petition may be filed prior to obtaining a judgment. The beneficiary, the guardian of his estate, his conservator, or his committee shall be made a party.

B. Following its review of the circumstances of the case, the court may:

1. Order the trustee to satisfy all or part of the liability out of all or part of the amounts to which the beneficiary is entitled, whether presently or in the future, to the extent the beneficiary has the right under the trust to compel the trustee to pay income or principal to or for the benefit of the beneficiary; or

2. Regardless of whether the beneficiary has the right to compel the trustee to pay income or principal to or for the benefit of the beneficiary, order the trustee to satisfy all or part of the liability out of all or part of any future payments that the trustee chooses to make to or for the benefit of the beneficiary in the exercise of discretion under the trust.

C. A duty in the trustee under the instrument to make disbursements in a manner designed to avoid rendering the beneficiary ineligible for public assistance to which he might otherwise be entitled, however, shall not be construed as a right possessed by the beneficiary to compel such payments.

D. The court shall not issue an order pursuant to this section if the beneficiary is a person who has a medically determined physical or mental disability that substantially impairs his ability to provide for his care or custody, and constitutes a substantial ~~handicap~~ *disability*.

CHAPTER 150

An Act to amend and reenact § 54.1-2901 of the Code of Virginia, relating to telemedicine.

[H 1754]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2901 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2901. Exceptions and exemptions generally.

A. The provisions of this chapter shall not prevent or prohibit:

1. Any person entitled to practice his profession under any prior law on June 24, 1944, from continuing such practice within the scope of the definition of his particular school of practice;

2. Any person licensed to practice naturopathy prior to June 30, 1980, from continuing such practice in accordance with regulations promulgated by the Board;

3. Any licensed nurse practitioner from rendering care in accordance with the provisions of §§ 54.1-2957 and 54.1-2957.01, any nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife practicing pursuant to subsection H of § 54.1-2957, or any nurse practitioner licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist practicing pursuant to subsection J of § 54.1-2957 when such services are authorized by regulations promulgated jointly by the Boards of Medicine and Nursing;

4. Any registered professional nurse, licensed nurse practitioner, graduate laboratory technician or other technical personnel who have been properly trained from rendering care or services within the scope of their usual professional activities which shall include the taking of blood, the giving of intravenous infusions and intravenous injections, and the insertion of tubes when performed under the orders of a person licensed to practice medicine or osteopathy, a nurse practitioner, or a physician assistant;

5. Any dentist, pharmacist or optometrist from rendering care or services within the scope of his usual professional activities;

6. Any practitioner licensed or certified by the Board from delegating to personnel supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by practitioners of the healing arts, if such activities or functions are authorized by and performed for such practitioners of the healing arts and responsibility for such activities or functions is assumed by such practitioners of the healing arts;

7. The rendering of medical advice or information through telecommunications from a physician licensed to practice medicine in Virginia or an adjoining state, or from a licensed nurse practitioner, to emergency medical personnel acting in an emergency situation;

8. The domestic administration of family remedies;

9. The giving or use of massages, steam baths, dry heat rooms, infrared heat or ultraviolet lamps in public or private health clubs and spas;

10. The manufacture or sale of proprietary medicines in this Commonwealth by licensed pharmacists or druggists;

11. The advertising or sale of commercial appliances or remedies;

12. The fitting by nonitinerant persons or manufacturers of artificial eyes, limbs or other apparatus or appliances or the fitting of plaster cast counterparts of deformed portions of the body by a nonitinerant bracemaker or prosthetist for the purpose of having a three-dimensional record of the deformity, when such bracemaker or prosthetist has received a prescription from a licensed physician, licensed nurse practitioner, or licensed physician assistant directing the fitting of such casts and such activities are conducted in conformity with the laws of Virginia;

13. Any person from the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter;

14. The practice of the religious tenets of any church in the ministration to the sick and suffering by mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for compensation;

15. Any legally qualified out-of-state or foreign practitioner from meeting in consultation with legally licensed practitioners in this Commonwealth;

16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia temporarily and such practitioner has been issued a temporary authorization by the Board from practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer camp or in conjunction with patients who are participating in recreational activities, (ii) while participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any site any health care services within the limits of his license, voluntarily and without compensation, to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge as provided in § 54.1-106;

17. The performance of the duties of any active duty health care provider in active service in the army, navy, coast guard, marine corps, air force, or public health service of the United States at any public or private health care facility while such individual is so commissioned or serving and in accordance with his official military duties;

18. Any masseur, who publicly represents himself as such, from performing services within the scope of his usual professional activities and in conformance with state law;

19. Any person from performing services in the lawful conduct of his particular profession or business under state law;

20. Any person from rendering emergency care pursuant to the provisions of § 8.01-225;

21. Qualified emergency medical services personnel, when acting within the scope of their certification, and licensed health care practitioners, when acting within their scope of practice, from following Durable Do Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of Health regulations, or licensed health care practitioners from following any other written order of a physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

22. Any commissioned or contract medical officer of the army, navy, coast guard or air force rendering services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-106;

23. Any provider of a chemical dependency treatment program who is certified as an "acupuncture detoxification specialist" by the National Acupuncture Detoxification Association or an equivalent certifying body, from administering auricular acupuncture treatment under the appropriate supervision of a National Acupuncture Detoxification Association certified licensed physician or licensed acupuncturist;

24. Any employee of any assisted living facility who is certified in cardiopulmonary resuscitation (CPR) acting in compliance with the patient's individualized service plan and with the written order of the attending physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

25. Any person working as a health assistant under the direction of a licensed medical or osteopathic doctor within the Department of Corrections, the Department of Juvenile Justice or local correctional facilities;

26. Any employee of a school board, authorized by a prescriber and trained in the administration of insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents as defined in § 22.1-1, assisting with the administration of insulin or administrating glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia;

27. Any practitioner of the healing arts or other profession regulated by the Board from rendering free health care to an underserved population of Virginia who (i) does not regularly practice his profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts whose license or certificate has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a practitioner of the healing arts who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state;

28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division of Consolidated Laboratories or other public health laboratories, designated by the State Health Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in § 32.1-49.1;

29. Any physician of medicine or osteopathy or nurse practitioner from delegating to a registered nurse under his supervision the screening and testing of children for elevated blood-lead levels when such testing is conducted (i) in accordance with a written protocol between the physician or nurse practitioner and the registered nurse and (ii) in compliance with the Board of Health's regulations promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be conducted at the direction of a physician or nurse practitioner;

30. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state or Canada from engaging in the practice of that profession when the practitioner is in Virginia temporarily with an out-of-state athletic team or athlete for the duration of the athletic tournament, game, or event in which the team or athlete is competing;

31. Any person from performing state or federally funded health care tasks directed by the consumer, which are typically self-performed, for an individual who lives in a private residence and who, by reason of disability, is unable to perform such tasks but who is capable of directing the appropriate performance of such tasks;

32. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state from engaging in the practice of that profession in Virginia with a patient who is being transported to or from a Virginia hospital for care;

33. Any doctor of medicine or osteopathy, physician assistant, or nurse practitioner who would otherwise be subject to licensure by the Board who holds an active, unrestricted license in another state, the District of Columbia, or a United States territory or possession and who is in good standing with the applicable regulatory agency in that state, the District of Columbia, or that United States territory or possession who provides behavioral health services, as defined in § 37.2-100, from engaging in the practice of his profession and providing behavioral health services to a patient located in the Commonwealth in accordance with the standard of care when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and (ii) the practitioner has previously established a practitioner-patient relationship with the patient and has performed an in-person evaluation of the patient within the previous year. A practitioner who provides behavioral health services to a patient located in the Commonwealth through use of telemedicine services pursuant to this subdivision may provide such services for a period of no more than one year from the date on which the practitioner began providing such services to such patient;

34. Any employee of a program licensed by the Department of Behavioral Health and Developmental Services who is certified in cardiopulmonary resuscitation from acting in compliance with a program participant's valid written order not to

resuscitate issued in accordance with § 54.1-2987.1 if such valid written order not to resuscitate is included in the program participant's individualized service plan; or

35. Any ~~practitioner of a profession regulated by the Board of Medicine who is licensed~~ *doctor of medicine or osteopathy, physician assistant, respiratory therapist, occupational therapist, or nurse practitioner who would otherwise be subject to licensure by the Board who holds an active, unrestricted license* in another state or the District of Columbia and who is in good standing with the applicable regulatory agency in that state or the District of Columbia from engaging in the practice of that profession in the Commonwealth with a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and (ii) the patient is a current patient of the practitioner with whom the practitioner has previously established a practitioner-patient relationship and the practitioner has performed an in-person examination of the patient within the previous 12 months. *For purposes of this subdivision, if such practitioner with whom the patient has previously established a practitioner-patient relationship is unavailable at the time in which the patient seeks continuity of care, another practitioner of the same subspecialty at the same group practice with access to the patient's treatment history may provide continuity of care using telemedicine services until the practitioner with whom the patient has a previously established relationship becomes available. For the purposes of this subdivision, "practitioner of the same subspecialty" means a practitioner who utilizes the same subspecialty taxonomy code designation for claims processing.* For the purposes of this subdivision, if a patient is (a) an enrollee of a health maintenance organization that contracts with a multispecialty group of practitioners, each of whom is licensed by the Board of Medicine, and (b) a current patient of at least one practitioner who is a member of the multispecialty group with whom such practitioner has previously established a practitioner-patient relationship and of whom such practitioner has performed an in-person examination within the previous 12 months, the patient shall be deemed to be a current patient of each practitioner in the multispecialty group with whom each such practitioner has established a practitioner-patient relationship.

B. Notwithstanding any provision of law or regulation to the contrary, military medical personnel, as defined in § 2.2-2001.4, while participating in a program established by the Department of Veterans Services pursuant to § 2.2-2001.4, may practice under the supervision of a licensed physician or podiatrist or the chief medical officer of an organization participating in such program, or his designee who is a licensee of the Board and supervising within his scope of practice.

CHAPTER 151

An Act to amend and reenact § 54.1-2901 of the Code of Virginia, relating to telemedicine; continuity of care.

[S 1119]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2901 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2901. Exceptions and exemptions generally.

A. The provisions of this chapter shall not prevent or prohibit:

1. Any person entitled to practice his profession under any prior law on June 24, 1944, from continuing such practice within the scope of the definition of his particular school of practice;

2. Any person licensed to practice naturopathy prior to June 30, 1980, from continuing such practice in accordance with regulations promulgated by the Board;

3. Any licensed nurse practitioner from rendering care in accordance with the provisions of §§ 54.1-2957 and 54.1-2957.01, any nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife practicing pursuant to subsection H of § 54.1-2957, or any nurse practitioner licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist practicing pursuant to subsection J of § 54.1-2957 when such services are authorized by regulations promulgated jointly by the Boards of Medicine and Nursing;

4. Any registered professional nurse, licensed nurse practitioner, graduate laboratory technician or other technical personnel who have been properly trained from rendering care or services within the scope of their usual professional activities which shall include the taking of blood, the giving of intravenous infusions and intravenous injections, and the insertion of tubes when performed under the orders of a person licensed to practice medicine or osteopathy, a nurse practitioner, or a physician assistant;

5. Any dentist, pharmacist or optometrist from rendering care or services within the scope of his usual professional activities;

6. Any practitioner licensed or certified by the Board from delegating to personnel supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by practitioners of the healing arts, if such activities or functions are authorized by and performed for such practitioners of the healing arts and responsibility for such activities or functions is assumed by such practitioners of the healing arts;

7. The rendering of medical advice or information through telecommunications from a physician licensed to practice medicine in Virginia or an adjoining state, or from a licensed nurse practitioner, to emergency medical personnel acting in an emergency situation;

8. The domestic administration of family remedies;

9. The giving or use of massages, steam baths, dry heat rooms, infrared heat or ultraviolet lamps in public or private health clubs and spas;

10. The manufacture or sale of proprietary medicines in this Commonwealth by licensed pharmacists or druggists;

11. The advertising or sale of commercial appliances or remedies;

12. The fitting by nonitinerant persons or manufacturers of artificial eyes, limbs or other apparatus or appliances or the fitting of plaster cast counterparts of deformed portions of the body by a nonitinerant bracemaker or prosthetist for the purpose of having a three-dimensional record of the deformity, when such bracemaker or prosthetist has received a prescription from a licensed physician, licensed nurse practitioner, or licensed physician assistant directing the fitting of such casts and such activities are conducted in conformity with the laws of Virginia;

13. Any person from the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter;

14. The practice of the religious tenets of any church in the ministration to the sick and suffering by mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for compensation;

15. Any legally qualified out-of-state or foreign practitioner from meeting in consultation with legally licensed practitioners in this Commonwealth;

16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia temporarily and such practitioner has been issued a temporary authorization by the Board from practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer camp or in conjunction with patients who are participating in recreational activities, (ii) while participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any site any health care services within the limits of his license, voluntarily and without compensation, to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge as provided in § 54.1-106;

17. The performance of the duties of any active duty health care provider in active service in the army, navy, coast guard, marine corps, air force, or public health service of the United States at any public or private health care facility while such individual is so commissioned or serving and in accordance with his official military duties;

18. Any masseur, who publicly represents himself as such, from performing services within the scope of his usual professional activities and in conformance with state law;

19. Any person from performing services in the lawful conduct of his particular profession or business under state law;

20. Any person from rendering emergency care pursuant to the provisions of § 8.01-225;

21. Qualified emergency medical services personnel, when acting within the scope of their certification, and licensed health care practitioners, when acting within their scope of practice, from following Durable Do Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of Health regulations, or licensed health care practitioners from following any other written order of a physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

22. Any commissioned or contract medical officer of the army, navy, coast guard or air force rendering services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-106;

23. Any provider of a chemical dependency treatment program who is certified as an "acupuncture detoxification specialist" by the National Acupuncture Detoxification Association or an equivalent certifying body, from administering auricular acupuncture treatment under the appropriate supervision of a National Acupuncture Detoxification Association certified licensed physician or licensed acupuncturist;

24. Any employee of any assisted living facility who is certified in cardiopulmonary resuscitation (CPR) acting in compliance with the patient's individualized service plan and with the written order of the attending physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

25. Any person working as a health assistant under the direction of a licensed medical or osteopathic doctor within the Department of Corrections, the Department of Juvenile Justice or local correctional facilities;

26. Any employee of a school board, authorized by a prescriber and trained in the administration of insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents as defined in § 22.1-1, assisting with the administration of insulin or administrating glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia;

27. Any practitioner of the healing arts or other profession regulated by the Board from rendering free health care to an underserved population of Virginia who (i) does not regularly practice his profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts whose license or certificate has been previously suspended or revoked, who has been convicted of a felony or

who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a practitioner of the healing arts who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state;

28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division of Consolidated Laboratories or other public health laboratories, designated by the State Health Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in § 32.1-49.1;

29. Any physician of medicine or osteopathy or nurse practitioner from delegating to a registered nurse under his supervision the screening and testing of children for elevated blood-lead levels when such testing is conducted (i) in accordance with a written protocol between the physician or nurse practitioner and the registered nurse and (ii) in compliance with the Board of Health's regulations promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be conducted at the direction of a physician or nurse practitioner;

30. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state or Canada from engaging in the practice of that profession when the practitioner is in Virginia temporarily with an out-of-state athletic team or athlete for the duration of the athletic tournament, game, or event in which the team or athlete is competing;

31. Any person from performing state or federally funded health care tasks directed by the consumer, which are typically self-performed, for an individual who lives in a private residence and who, by reason of disability, is unable to perform such tasks but who is capable of directing the appropriate performance of such tasks;

32. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state from engaging in the practice of that profession in Virginia with a patient who is being transported to or from a Virginia hospital for care;

33. Any doctor of medicine or osteopathy, physician assistant, or nurse practitioner who would otherwise be subject to licensure by the Board who holds an active, unrestricted license in another state, the District of Columbia, or a United States territory or possession and who is in good standing with the applicable regulatory agency in that state, the District of Columbia, or that United States territory or possession who provides behavioral health services, as defined in § 37.2-100, from engaging in the practice of his profession and providing behavioral health services to a patient located in the Commonwealth in accordance with the standard of care when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and (ii) the practitioner has previously established a practitioner-patient relationship with the patient and has performed an in-person evaluation of the patient within the previous year. A practitioner who provides behavioral health services to a patient located in the Commonwealth through use of telemedicine services pursuant to this subdivision may provide such services for a period of no more than one year from the date on which the practitioner began providing such services to such patient;

34. Any employee of a program licensed by the Department of Behavioral Health and Developmental Services who is certified in cardiopulmonary resuscitation from acting in compliance with a program participant's valid written order not to resuscitate issued in accordance with § 54.1-2987.1 if such valid written order not to resuscitate is included in the program participant's individualized service plan; or

35. ~~Any practitioner of a profession regulated by the Board of Medicine who is licensed~~ *Any doctor of medicine or osteopathy, physician assistant, respiratory therapist, occupational therapist, or nurse practitioner who would otherwise be subject to licensure by the Board who holds an active, unrestricted license* in another state or the District of Columbia and who is in good standing with the applicable regulatory agency in that state or the District of Columbia from engaging in the practice of that profession in the Commonwealth with a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and (ii) the patient is a current patient of the practitioner with whom the practitioner has previously established a practitioner-patient relationship and the practitioner has performed an in-person examination of the patient within the previous 12 months.

For purposes of this subdivision, if such practitioner with whom the patient has previously established a practitioner-patient relationship is unavailable at the time in which the patient seeks continuity of care, another practitioner of the same subspecialty at the same practice group with access to the patient's treatment history may provide continuity of care using telemedicine services until the practitioner with whom the patient has a previously established practitioner-patient relationship becomes available. For purposes of this subdivision, "practitioner of the same subspecialty" means a practitioner who utilizes the same subspecialty taxonomy code designation for claims processing.

For the purposes of this subdivision, if a patient is (a) an enrollee of a health maintenance organization that contracts with a multispecialty group of practitioners, each of whom is licensed by the Board of Medicine, and (b) a current patient of at least one practitioner who is a member of the multispecialty group with whom such practitioner has previously established a practitioner-patient relationship and of whom such practitioner has performed an in-person examination within the previous 12 months, the patient shall be deemed to be a current patient of each practitioner in the multispecialty group with whom each such practitioner has established a practitioner-patient relationship.

B. Notwithstanding any provision of law or regulation to the contrary, military medical personnel, as defined in § 2.2-2001.4, while participating in a program established by the Department of Veterans Services pursuant to § 2.2-2001.4,

may practice under the supervision of a licensed physician or podiatrist or the chief medical officer of an organization participating in such program, or his designee who is a licensee of the Board and supervising within his scope of practice.

CHAPTER 152

An Act to direct the State Board of Elections to adopt a policy regarding the counting and reporting of absentee ballots in a central absentee voter precinct.

[H 2266]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The State Board of Elections (the State Board) shall adopt a policy regarding the counting and reporting of absentee ballots in a central absentee voter precinct in order to ensure that (i) the results of absentee ballots cast early in person are reported separately from mailed absentee ballots and are posted promptly on the State Board website and (ii) the results of all absentee ballots cast by voters are reported by precinct in accordance with § 24.2-667.1 of the Code of Virginia and are posted no later than noon on the seventh calendar day following the election on the State Board website.*

Such policy shall be adopted no later than September 1, 2023, and the Chairmen of the House and Senate Committees on Privileges and Elections shall be notified of such policy within seven business days of its adoption.

CHAPTER 153

An Act to amend and reenact §§ 3.2-800, 3.2-802, and 3.2-804 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 1 of Title 10.1 a section numbered 10.1-104.6:2, relating to noxious weeds; invasive plant species.

[H 2096]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-800, 3.2-802, and 3.2-804 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 1 of Title 10.1 a section numbered 10.1-104.6:2 as follows:

§ 3.2-800. Definitions.

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

"Certificate" means a document issued or authorized by the Commissioner indicating that a regulated article is not contaminated with a noxious weed.

"Infested" means the establishment of a noxious weed or exposure to such weed, which would be reasonable cause to believe that establishment could occur.

"Move" means to ship, offer for shipment, receive for transportation, carry, or otherwise transport, move, or allow to be moved*, except for bona fide agricultural purposes including the management, tilling, planting, or harvesting of agricultural products*.

"Noxious weed" means any living plant, or part thereof, declared by the Board through regulations under this chapter to be detrimental to crops, surface waters, including lakes, or other desirable plants, livestock, land, or other property, or to be injurious to public health, the environment, or the economy, except when in-state production of such living plant, or part thereof, is commercially viable or such living plant is commercially propagated in Virginia.

"Permit" means a document issued or authorized by the Commissioner to provide for movement of regulated articles to restricted destinations for limited handling, utilization, processing, or for scientific purposes.

"Person" means the term as defined in § 1-230. The term also means any society.

"Quarantine" means a legal declaration by the Board that specifies: (i) the noxious weed; (ii) the articles to be regulated; (iii) conditions governing movement; and (iv) exemptions.

"Regulated article" means any article of any character as described in this chapter or in the quarantine carrying or capable of carrying a noxious weed against which this chapter or the quarantine is directed.

§ 3.2-802. Powers and duties of Board; quarantine.

A. The Board shall establish by regulation, after a public hearing, those weeds deemed to be noxious weeds not otherwise so declared by the terms of this chapter. Prior to designating a living plant or part thereof as a noxious weed, the Board shall review the recommendations of an advisory committee established by the Commissioner to conduct a scientific risk assessment of the proposed plant. The assessment shall include the degree to which the plant is detrimental to crops; surface waters, including lakes; other desirable plants; livestock; land or other property; public health; the environment; and the economy. The advisory committee shall also include in its recommendations to the Board an analysis of the current and potential in-state commercial viability of the specific plant species and the economic impact on industries affected by the designation of the plant as a noxious weed.

B. The Board may establish a statewide quarantine and adopt regulations pertaining to regulated articles and conditions governing movement, under which the Commissioner shall proceed to eradicate or suppress and prevent the dissemination

of noxious weeds in the Commonwealth, and shall adopt other regulations as are necessary to carry out the purpose of this chapter. *The Board may adopt regulations governing the conditions under which a permit is required to move, transport, deliver, ship, offer for shipment, sell, or offer for sale into or within the Commonwealth any noxious weed or part thereof.* The Board may adopt regulations governing the movement of regulated articles entering the Commonwealth from without. Following the establishment of a quarantine, no person shall move any noxious weed or any regulated article described in the quarantine from any regulated area without a valid permit or certificate*, if required*.

Subsequent to the declaration of a quarantine by the Board, the Commissioner shall limit the application of the regulations pertinent to such quarantine to the infested portion of the Commonwealth and appropriate environs, which would be known as the regulated area and may, without further hearing, extend the regulated area to include additional portions of the Commonwealth upon publication of a notice to that effect in a newspaper distributed in the extended area or by direct written notice to those concerned.

C. The Board shall develop and adopt regulations requiring tradespersons involved with proposing or installing plants to provide written notification to property owners for all plants proposed for installation that are included on the list of invasive plants established in § 10.1-104.6:2.

§ 3.2-804. Prohibited acts; noxious weeds.

No person shall violate any provisions of this chapter or any regulation adopted hereunder. ~~No person shall move, transport, deliver, ship, or offer for shipment into or within the Commonwealth any noxious weed, or part thereof, without first obtaining a permit from the Commissioner.~~ *If the Board requires a person to obtain a permit pursuant to subsection B of § 3.2-802, such person shall obtain such permit prior to moving, transporting, delivering, shipping, offering for shipment, selling, or offering for sale into or within the Commonwealth a noxious weed or part thereof.* Such permit shall be ~~issued only after it has been determined that the noxious weed is generally present already or it is for scientific purposes~~ subject to prescribed safeguards.

§ 10.1-104.6:2. Invasive plant species.

A. The Department shall create a list of invasive plant species no later than January 1, 2024, and shall update such list at least every four years thereafter.

B. No agency of the Commonwealth shall plant, sell, or propagate any plant on the list of invasive plants established in subsection A except when doing so is necessary for scientific or educational purposes or bona fide agricultural purposes including the management, tilling, planting, or harvesting of agricultural products.

2. That the Department of Conservation and Recreation shall convene the Virginia Invasive Species Working Group to develop industry resources and recommendations to be sent to the Chairmen of the Senate Committees on Agriculture, Conservation and Natural Resources and Finance and Appropriations and the House Committees on Agriculture, Chesapeake and Natural Resources and Appropriations for the 2024 Regular Session of the General Assembly to support full implementation of the Virginia Invasive Species Working Group's existing Virginia Invasive Species Management Plan.

CHAPTER 154

An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.20, consisting of a section numbered 59.1-284.41, relating to Precision Plastic Manufacturing Grant Fund; established.

[H 2238]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 22.20, consisting of a section numbered 59.1-284.41, as follows:

CHAPTER 22.20.

PRECISION PLASTIC MANUFACTURING GRANT FUND.

§ 59.1-284.41. Precision Plastic Manufacturing Grant Fund.

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

"Capital investment" means an expenditure by or on behalf of a qualified company on or after June 1, 2022, in real property, tangible personal property, or both, at a facility in an eligible county that is properly chargeable to a capital account or would be so chargeable with a proper election. The purchase or lease of furniture, fixtures, business personal property, machinery and tools, including under an operating lease, and expected building construction and up-fit by or on behalf of a qualified company shall qualify as capital investment.

"Eligible county" means Chesterfield County.

"Facility" means the building, group of buildings, or corporate campus, including any related machinery and tools, furniture, fixtures, and business personal property, that is located at or near a qualified company's operations in an eligible county and is owned, leased, licensed, occupied, or otherwise operated by a qualified company as a temporary or permanent manufacturing and distribution facility for use in the administration, management, and operation of its business.

"Fund" means the Precision Plastic Manufacturing Grant Fund.

"Grants" means the grant payments from the Fund awarded to a qualified company in an aggregate not to exceed $56 million. The proceeds of the grants may be used by the qualified company for payment or reimbursement of the costs of workforce development, costs of construction and development of the facility, or any other lawful purpose.

"Memorandum of understanding" means a performance agreement or related documents entered into on or before June 1, 2022, by a qualified company, the Commonwealth, and VEDP that sets forth the requirements for capital investment and the creation of new full-time jobs by a qualified company in order for a qualified company to be eligible for grants from the Fund.

"New full-time job" means a job position, in which the employee of a qualified company is principally located at a facility, for which the average annual wage for the applicable year is at least equal to the average annual wage for that year required by the memorandum of understanding and the qualified company provides standard fringe benefits. Such position shall require a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the qualified company's operations, which "normal year" shall consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions and positions with construction contractors, vendors, suppliers, and similar multiplier or spin-off jobs shall not qualify as new full-time jobs. The Commonwealth may gauge compliance with the new full-time job requirements for a qualified company by reference to the new payroll generated by a qualified company, if so indicated in the memorandum of understanding.

"Qualified company" means a company, including its affiliates, that engages in the manufacture and distribution of precision plastic products in an eligible county and that between June 1, 2022, and December 31, 2035, is expected to (i) make a capital investment of at least $1 billion and (ii) create at least 1,761 new full-time jobs related to or supportive of its business. A qualified company shall be deemed to be engaged in manufacturing for purposes of Chapter 35 (§ 58.1-3500 et seq.) of Title 58.1.

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

"VEDP" means the Virginia Economic Development Partnership Authority.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Precision Plastic Manufacturing Grant Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated to the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used to pay grants pursuant to this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller pursuant to subsection F.

C. A qualified company shall be eligible to receive grants each fiscal year expected to begin with the Commonwealth's fiscal year starting on July 1, 2027, and ending with the Commonwealth's fiscal year starting on July 1, 2035, unless such timeframe is extended in accordance with a memorandum of understanding. Grants paid pursuant to this section shall be subject to appropriation by the General Assembly during each such fiscal year and are contingent on a qualified company meeting the requirements set forth in this chapter and the memorandum of understanding for the number of new full-time jobs created and maintained and the amount of capital investment made. The first grant payment shall not be awarded until a qualified company has created at least 500 new full-time jobs.

D. The aggregate amount of grants payable under this section shall not exceed $56 million. Grants are anticipated to be paid in nine annual installments, calculated in accordance with a memorandum of understanding as follows:

1. $5,939,900 for the Commonwealth's fiscal year beginning July 1, 2027;

2. $13,422,500, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2028;

3. $19,582,100, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2029;

4. $25,876,700, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2030;

5. $32,774,300, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2031;

6. $40,103,900, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2032;

7. $46,443,500, less the total amount of grants previously awarded pursuant to this subsection for the Commonwealth's fiscal year beginning July 1, 2033;

8. $52,783,100, less the total amount of grants previously awarded pursuant to this subsection for the Commonwealth's fiscal year beginning July 1, 2034; and

9. $56 million, less the total amount of grants previously awarded pursuant to this subsection for the Commonwealth's fiscal year beginning July 1, 2035.

In accordance with a memorandum of understanding, actual payment amounts and fiscal years may differ from the schedule above and may be extended beyond the fiscal year beginning July 1, 2035, but the aggregate amount of grant payments shall not exceed $56 million.

E. A qualified company applying for a grant installment under this section shall provide evidence satisfactory to the Secretary of (i) the aggregate number of new full-time jobs created and maintained as of the last day of the calendar year

preceding the application and (ii) the amount of capital investment made in the calendar year preceding the application. The application and evidence shall be filed with the Secretary in person, by mail, or as otherwise agreed upon in a memorandum of understanding no later than April 1 each year reflecting performance through the last day of the prior calendar year. Failure to meet the filing deadline shall result in a deferral of a scheduled grant installment payment set forth in subsection D. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

F. Within 60 days of receiving an application and evidence pursuant to subsection E, the Secretary shall certify to the Comptroller and the qualified company the amount of grants to which such qualified company is entitled for payment. Payment of such grants shall be made by check issued by the State Treasurer on warrant of the Comptroller in the Commonwealth's fiscal year following the submission of an application. The Comptroller shall not draw any warrant to issue checks for grants without a specific appropriation for the same.

G. As a condition of receipt of grants under this section, a qualified company shall make available to the Secretary for inspection, upon request, all documents relevant and applicable to determining whether the qualified company has met the requirements for receipt of a grant as set forth in this section and subject to the memorandum of understanding. All such documents appropriately identified by a qualified company shall be considered confidential and proprietary.

CHAPTER 155

An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.20, consisting of a section numbered 59.1-284.41, relating to Precision Plastic Manufacturing Grant Fund; established.

[S 1134]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 22.20, consisting of a section numbered 59.1-284.41, as follows:

CHAPTER 22.20.

PRECISION PLASTIC MANUFACTURING GRANT FUND.

§ 59.1-284.41. Precision Plastic Manufacturing Grant Fund.

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

"Capital investment" means an expenditure by or on behalf of a qualified company on or after June 1, 2022, in real property, tangible personal property, or both, at a facility in an eligible county that is properly chargeable to a capital account or would be so chargeable with a proper election. The purchase or lease of furniture, fixtures, business personal property, machinery and tools, including under an operating lease, and expected building construction and up-fit by or on behalf of a qualified company shall qualify as capital investment.

"Eligible county" means Chesterfield County.

"Facility" means the building, group of buildings, or corporate campus, including any related machinery and tools, furniture, fixtures, and business personal property, that is located at or near a qualified company's operations in an eligible county and is owned, leased, licensed, occupied, or otherwise operated by a qualified company as a temporary or permanent manufacturing and distribution facility for use in the administration, management, and operation of its business.

"Fund" means the Precision Plastic Manufacturing Grant Fund.

"Grants" means the grant payments from the Fund awarded to a qualified company in an aggregate not to exceed $56 million. The proceeds of the grants may be used by the qualified company for payment or reimbursement of the costs of workforce development, costs of construction and development of the facility, or any other lawful purpose.

"Memorandum of understanding" means a performance agreement or related documents entered into on or before June 1, 2022, by a qualified company, the Commonwealth, and VEDP that sets forth the requirements for capital investment and the creation of new full-time jobs by a qualified company in order for a qualified company to be eligible for grants from the Fund.

"New full-time job" means a job position, in which the employee of a qualified company is principally located at a facility, for which the average annual wage for the applicable year is at least equal to the average annual wage for that year required by the memorandum of understanding and the qualified company provides standard fringe benefits. Such position shall require a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the qualified company's operations, which "normal year" shall consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions and positions with construction contractors, vendors, suppliers, and similar multiplier or spin-off jobs shall not qualify as new full-time jobs. The Commonwealth may gauge compliance with the new full-time job requirements for a qualified company by reference to the new payroll generated by a qualified company, if so indicated in the memorandum of understanding.

"Qualified company" means a company, including its affiliates, that engages in the manufacture and distribution of precision plastic products in an eligible county and that between June 1, 2022, and December 31, 2035, is expected to (i) make a capital investment of at least $1 billion and (ii) create at least 1,761 new full-time jobs related to or supportive of its business. A qualified company shall be deemed to be engaged in manufacturing for purposes of Chapter 35 (§ 58.1-3500 et seq.) of Title 58.1.

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

"VEDP" means the Virginia Economic Development Partnership Authority.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Precision Plastic Manufacturing Grant Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated to the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used to pay grants pursuant to this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller pursuant to subsection F.

C. A qualified company shall be eligible to receive grants each fiscal year expected to begin with the Commonwealth's fiscal year starting on July 1, 2027, and ending with the Commonwealth's fiscal year starting on July 1, 2035, unless such timeframe is extended in accordance with a memorandum of understanding. Grants paid pursuant to this section shall be subject to appropriation by the General Assembly during each such fiscal year and are contingent on a qualified company meeting the requirements set forth in this chapter and the memorandum of understanding for the number of new full-time jobs created and maintained and the amount of capital investment made. The first grant payment shall not be awarded until a qualified company has created at least 500 new full-time jobs.

D. The aggregate amount of grants payable under this section shall not exceed $56 million. Grants are anticipated to be paid in nine annual installments, calculated in accordance with a memorandum of understanding as follows:

1. $5,939,900 for the Commonwealth's fiscal year beginning July 1, 2027;

2. $13,422,500, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2028;

3. $19,582,100, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2029;

4. $25,876,700, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2030;

5. $32,774,300, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2031;

6. $40,103,900, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2032;

7. $46,443,500, less the total amount of grants previously awarded pursuant to this subsection for the Commonwealth's fiscal year beginning July 1, 2033;

8. $52,783,100, less the total amount of grants previously awarded pursuant to this subsection for the Commonwealth's fiscal year beginning July 1, 2034; and

9. $56 million, less the total amount of grants previously awarded pursuant to this subsection for the Commonwealth's fiscal year beginning July 1, 2035.

In accordance with a memorandum of understanding, actual payment amounts and fiscal years may differ from the schedule above and may be extended beyond the fiscal year beginning July 1, 2035, but the aggregate amount of grant payments shall not exceed $56 million.

E. A qualified company applying for a grant installment under this section shall provide evidence satisfactory to the Secretary of (i) the aggregate number of new full-time jobs created and maintained as of the last day of the calendar year preceding the application and (ii) the amount of capital investment made in the calendar year preceding the application. The application and evidence shall be filed with the Secretary in person, by mail, or as otherwise agreed upon in a memorandum of understanding no later than April 1 each year reflecting performance through the last day of the prior calendar year. Failure to meet the filing deadline shall result in a deferral of a scheduled grant installment payment set forth in subsection D. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

F. Within 60 days of receiving an application and evidence pursuant to subsection E, the Secretary shall certify to the Comptroller and the qualified company the amount of grants to which such qualified company is entitled for payment. Payment of such grants shall be made by check issued by the State Treasurer on warrant of the Comptroller in the Commonwealth's fiscal year following the submission of an application. The Comptroller shall not draw any warrant to issue checks for grants without a specific appropriation for the same.

G. As a condition of receipt of grants under this section, a qualified company shall make available to the Secretary for inspection, upon request, all documents relevant and applicable to determining whether the qualified company has met the requirements for receipt of a grant as set forth in this section and subject to the memorandum of understanding. All such documents appropriately identified by a qualified company shall be considered confidential and proprietary.

CHAPTER 156

An Act to amend and reenact § 22.1-181 of the Code of Virginia, relating to school bus operators; training; remote online and Spanish language options.

[H 1928]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-181 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-181. Training program for school bus operators.

A. The Board shall promulgate regulations requiring persons applying for employment, and employed, to operate school buses to complete a training program developed by the Board.

B. For applicants not currently possessing a commercial driver's license, such regulations shall require (i) a minimum of 24 hours of classroom training administered pursuant to this section and (ii) six hours of behind-the-wheel training on a school bus that contains no pupil passengers. For applicants currently possessing a commercial driver's license, such regulations shall require (a) a minimum of four hours of classroom training administered pursuant to this section and (b) three hours of behind-the-wheel training on a school bus that contains no pupil passengers. Behind-the-wheel training shall be administered under the direct on-board supervision of a designated school bus driver trainer.

C. The training program developed by the Board ~~shall~~*:*

1. Shall include *in-person instruction on* safety protocols for responding to adverse weather conditions, unsafe conditions during loading and unloading of students, students on the wrong bus, and other circumstances, as determined by the Board, where student safety is at risk*;*

2. May offer the option for an applicant for employment to complete all or any portion of the required hours of classroom training in a remote online format, as determined by the local school division, except as otherwise provided in subdivision 1; *and*

3. May offer the option for an applicant for employment to receive instruction in the Spanish language for all or any portion of the required hours of classroom training, as determined by the local school division.

CHAPTER 157

An Act to amend and reenact § 2 of Chapter 760 of the Acts of Assembly of 2022, relating to Department of Education; Standards of Learning assessment revision work group; consideration of effectiveness of assessments for students with disabilities.

[H 1884]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2 of Chapter 760 of the Acts of Assembly of 2022 is amended and reenacted as follows:

1. § 2. In developing such revised assessments and plan, the work group shall consider (i) best practices and innovations in summative assessments of proficiency from across the nation; (ii) alternative approaches to current and new assessment items, including subject areas and methods of grading such items; (iii) assessment items that include open-ended questions, long-form writing, and other tasks, with student responses scored by the Department according to statewide scoring rubrics; (iv) plan for pilot implementation of such assessment items prior to the 2027-2028 school year as necessary to determine the validity of such items; (v) the process for the development of a bank of vetted sample assessment items that include a comprehensive representation of knowledge and skills being assessed; (vi) the legislative and regulatory changes and funding necessary to implement alternative approaches considered by the work group; *(vii) the effectiveness of assessments for students with disabilities, including the Virginia Alternate Assessment Program for those students with the most significant cognitive disabilities, and the use of those assessments to improve and individualize instruction;* and ~~(vii)~~ *(viii)* a proposed timeline for implementation of such new assessments, giving consideration to implementation prior to the 2027-2028 school year. Nothing in this act shall prohibit the work group from looking at all forms of assessment. Such work group shall not be responsible for implementation of such revised assessment items unless there is further action from the General Assembly.

CHAPTER 158

An Act to amend and reenact § 22.1-253.13:3 of the Code of Virginia, relating to certain student assessment results; availability.

[H 2225]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:3 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state regulations.

A. The Board shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include (i) student outcome and growth measures, (ii) requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, (iii) administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, (iv) student services, (v) auxiliary education programs such as library and media services, (vi) requirements for

graduation from high school, (vii) community relations, and (viii) the philosophy, goals, and objectives of public education in the Commonwealth.

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

The Board's regulations establishing standards for accreditation shall ensure that the accreditation process is transparent and based on objective measurements and that any appeal of the accreditation status of a school is heard and decided by the Board.

The Board shall review annually the accreditation status of all schools in the Commonwealth. The Board shall review the accreditation status of a school once every three years if the school has been fully accredited for three consecutive years. Upon such triennial review, the Board shall review the accreditation status of the school for each individual year within that triennial review period. If the Board finds that the school would have been accredited every year of that triennial review period the Board shall accredit the school for another three years. The Board may review the accreditation status of any other school once every two years or once every three years, provided that any school that receives a multiyear accreditation status other than full accreditation shall be covered by a Board-approved multiyear corrective action plan for the duration of the period of accreditation. Such multiyear corrective action plan shall include annual written progress updates to the Board. A multiyear accreditation status shall not relieve any school or division of annual reporting requirements.

Each local school board shall maintain schools that are fully accredited pursuant to the standards for accreditation as prescribed by the Board. Each local school board shall report the accreditation status of all schools in the local school division annually in public session.

The Board shall establish a review process to assist any school that does not meet the standards established by the Board. The relevant school board shall report the results of such review and any annual progress reports in public session and shall implement any actions identified through such review and utilize them for improvement planning.

The Board shall establish a corrective action plan process for any school that does not meet the standards established by the Board. Such process shall require (a) each school board to submit a corrective action plan for any school in the local school division that does not meet the standards established by the Board and (b) any school board that fails to demonstrate progress in developing or implementing any such corrective action plan to enter into a memorandum of understanding with the Board.

When the Board determines through its review process that the failure of schools within a division to meet the standards established by the Board is related to division-level failure to implement the Standards of Quality or other division-level action or inaction, the Board may require a division-level academic review. After the conduct of such review and within the time specified by the Board, each school board shall enter into a memorandum of understanding with the Board and shall subsequently submit to the Board for approval a corrective action plan, consistent with criteria established by the Board setting forth specific actions and a schedule designed to ensure that schools within its school division meet the standards established by the Board. If the Board determines that the proposed corrective action plan is not sufficient to enable all schools within the division to meet the standards established by the Board, the Board may return the plan to the local school board with directions to submit an amended plan pursuant to Board guidance. Such corrective action plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

B. The Superintendent shall develop, subject to revision by the Board, criteria for determining and recognizing educational performance in the Commonwealth's local school divisions and public schools. The portion of such criteria that measures individual student growth shall become an integral part of the accreditation process for schools in which any grade level in the grade three through eight range is taught. The Superintendent shall annually report to the Board on the accreditation status of all school divisions and schools. Such report shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing educational performance and individual student growth in the school divisions, the Board shall include consideration of special school division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and International Baccalaureate courses, and participation in academic year Governor's Schools.

The Superintendent shall assist local school boards in the implementation of action plans for increasing educational performance and individual student growth in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent shall monitor the implementation of and report to the Board on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

C. With such funds as are available for this purpose, the Board shall prescribe assessment methods to determine the level of achievement of the Standards of Learning objectives by all students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board shall, with the assistance of independent testing experts, conduct a regular analysis and validation process for these assessments. In lieu of a one-time end-of-year assessment, the Board shall establish, for the purpose of providing measures of individual student growth over the course of the school year, a through-year growth assessment system, aligned with the Standards of Learning, for the administration of reading and mathematics assessments in grades three through eight. Such through-year growth assessment system shall include at least one beginning-of-year, one mid-year, and one end-of-year assessment in order to provide individual student growth scores over the course of the school year, but the total time scheduled for taking all such assessments shall not exceed 150 percent of the time scheduled for taking a single end-of-year proficiency

assessment. The Department shall ensure adequate training for teachers and principals on how to interpret and use student growth data from such assessments to improve reading and mathematics instruction in grades three through eight throughout the school year. With such funds and content as are available for such purpose, such through-year growth assessment system shall provide accurate measurement of a student's performance, through computer adaptive technology, using test items at, below, and above the student's grade level as necessary.

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

The Department shall make available to school divisions Standards of Learning assessments typically administered by high schools by December 1 of the school year in which such assessments are to be administered or when newly developed assessments are available, whichever is later.

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

The Board shall prescribe alternative methods of Standards of Learning assessment administration for children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the Board to demonstrate achievement of the Standards of Learning. An eligible student's Individual Education Program team shall make the final determination as to whether an alternative method of administration is appropriate for the student.

The Board shall include in the student outcome and growth measures that are required by the standards of accreditation the required assessments for various grade levels and classes, including the completion of the alternative assessments implemented by each local school board, in accordance with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for English, mathematics, science, and history and social science and may be integrated to include multiple subject areas.

The Standards of Learning assessments administered to students in grades three through eight shall not exceed (i) reading and mathematics in grades three and four; (ii) reading, mathematics, and science in grade five; (iii) reading and mathematics in grades six and seven; (iv) reading, writing, and mathematics in grade eight; (v) science after the student receives instruction in the grade six science, life science, and physical science Standards of Learning and before the student completes grade eight; and (vi) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each local school board. The reading and mathematics assessments administered to students in grades three through eight shall be through-year growth assessments.

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

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

The Department shall award recovery credit to any student in grades three through eight who performs below grade level on a Standards of Learning assessment in English reading or mathematics, receives remediation, and subsequently retakes and performs at or above grade level on such an assessment, including any such student who subsequently retakes such an assessment on an expedited basis.

In addition, to assess the educational progress of students, the Board shall (1) develop appropriate assessments, which may include criterion-referenced tests and other assessment instruments that may be used by classroom teachers; (2) select appropriate industry certification and state licensure examinations; and (3) prescribe and provide measures, which may include nationally normed tests to be used to identify students who score in the bottom quartile at selected grade levels.

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

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

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

The Board shall not include in its calculation of the passage rate for a Standards of Learning assessment or the level of achievement of the Standards of Learning objectives for an individual student growth assessment for the purposes of state

accountability any student whose parent has decided to not have his child take such Standards of Learning assessment, unless such exclusions would result in the school's not meeting any required state or federal participation rate.

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

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

Records and other information furnished to or prepared by the Board during the conduct of a review or investigation may be withheld pursuant to subdivision 10 of § 2.2-3705.3. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any local school board or division superintendent receiving such records or other information shall, upon taking personnel action against a relevant employee, place copies of such records or information relating to the specific employee in such person's personnel file.

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

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

F. To assess the educational progress of students as individuals and as groups, each local school board shall require the use of Standards of Learning assessments, alternative assessments, and other relevant data, such as industry certification and state licensure examinations, to evaluate student progress and to determine educational performance. Each local school shall require the administration of appropriate assessments to students, which may include criterion-referenced tests and teacher-made tests and shall include the Standards of Learning assessments, the local school board's alternative assessments, and the National Assessment of Educational Progress state-by-state assessment. *Each school board shall provide teachers, parents, principals, and other school leaders with their students' results on any Standards of Learning assessment or Virginia Alternate Assessment Program assessment as soon as practicable after the assessment is administered.* Each school board shall analyze and report annually, in compliance with any criteria that may be established by the Board, the results from industry certification examinations and the Standards of Learning ~~Assessments~~ *assessments* to the public.

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

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

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

The Board may also grant local school boards waivers of specific requirements in § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the local school board, permitting the local school board to assign instructional personnel to the schools with the greatest needs, so long as the school division employs a

sufficient number of personnel divisionwide to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its request a description of how the waivers from specific Standards of Quality staffing standards are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on student achievement results in the affected school or schools.

CHAPTER 159

An Act to amend and reenact § 22.1-253.13:3 of the Code of Virginia, relating to certain student assessment results; availability.

[S 1253]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:3 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state regulations.

A. The Board shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include (i) student outcome and growth measures, (ii) requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, (iii) administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, (iv) student services, (v) auxiliary education programs such as library and media services, (vi) requirements for graduation from high school, (vii) community relations, and (viii) the philosophy, goals, and objectives of public education in the Commonwealth.

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

The Board's regulations establishing standards for accreditation shall ensure that the accreditation process is transparent and based on objective measurements and that any appeal of the accreditation status of a school is heard and decided by the Board.

The Board shall review annually the accreditation status of all schools in the Commonwealth. The Board shall review the accreditation status of a school once every three years if the school has been fully accredited for three consecutive years. Upon such triennial review, the Board shall review the accreditation status of the school for each individual year within that triennial review period. If the Board finds that the school would have been accredited every year of that triennial review period the Board shall accredit the school for another three years. The Board may review the accreditation status of any other school once every two years or once every three years, provided that any school that receives a multiyear accreditation status other than full accreditation shall be covered by a Board-approved multiyear corrective action plan for the duration of the period of accreditation. Such multiyear corrective action plan shall include annual written progress updates to the Board. A multiyear accreditation status shall not relieve any school or division of annual reporting requirements.

Each local school board shall maintain schools that are fully accredited pursuant to the standards for accreditation as prescribed by the Board. Each local school board shall report the accreditation status of all schools in the local school division annually in public session.

The Board shall establish a review process to assist any school that does not meet the standards established by the Board. The relevant school board shall report the results of such review and any annual progress reports in public session and shall implement any actions identified through such review and utilize them for improvement planning.

The Board shall establish a corrective action plan process for any school that does not meet the standards established by the Board. Such process shall require (a) each school board to submit a corrective action plan for any school in the local school division that does not meet the standards established by the Board and (b) any school board that fails to demonstrate progress in developing or implementing any such corrective action plan to enter into a memorandum of understanding with the Board.

When the Board determines through its review process that the failure of schools within a division to meet the standards established by the Board is related to division-level failure to implement the Standards of Quality or other division-level action or inaction, the Board may require a division-level academic review. After the conduct of such review and within the time specified by the Board, each school board shall enter into a memorandum of understanding with the Board and shall subsequently submit to the Board for approval a corrective action plan, consistent with criteria established by the Board setting forth specific actions and a schedule designed to ensure that schools within its school division meet the standards established by the Board. If the Board determines that the proposed corrective action plan is not sufficient to enable all schools within the division to meet the standards established by the Board, the Board may return the plan to the local school board with directions to submit an amended plan pursuant to Board guidance. Such corrective action plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

B. The Superintendent shall develop, subject to revision by the Board, criteria for determining and recognizing educational performance in the Commonwealth's local school divisions and public schools. The portion of such criteria that measures individual student growth shall become an integral part of the accreditation process for schools in which any grade

level in the grade three through eight range is taught. The Superintendent shall annually report to the Board on the accreditation status of all school divisions and schools. Such report shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing educational performance and individual student growth in the school divisions, the Board shall include consideration of special school division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and International Baccalaureate courses, and participation in academic year Governor's Schools.

The Superintendent shall assist local school boards in the implementation of action plans for increasing educational performance and individual student growth in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent shall monitor the implementation of and report to the Board on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

C. With such funds as are available for this purpose, the Board shall prescribe assessment methods to determine the level of achievement of the Standards of Learning objectives by all students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board shall, with the assistance of independent testing experts, conduct a regular analysis and validation process for these assessments. In lieu of a one-time end-of-year assessment, the Board shall establish, for the purpose of providing measures of individual student growth over the course of the school year, a through-year growth assessment system, aligned with the Standards of Learning, for the administration of reading and mathematics assessments in grades three through eight. Such through-year growth assessment system shall include at least one beginning-of-year, one mid-year, and one end-of-year assessment in order to provide individual student growth scores over the course of the school year, but the total time scheduled for taking all such assessments shall not exceed 150 percent of the time scheduled for taking a single end-of-year proficiency assessment. The Department shall ensure adequate training for teachers and principals on how to interpret and use student growth data from such assessments to improve reading and mathematics instruction in grades three through eight throughout the school year. With such funds and content as are available for such purpose, such through-year growth assessment system shall provide accurate measurement of a student's performance, through computer adaptive technology, using test items at, below, and above the student's grade level as necessary.

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

The Department shall make available to school divisions Standards of Learning assessments typically administered by high schools by December 1 of the school year in which such assessments are to be administered or when newly developed assessments are available, whichever is later.

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

The Board shall prescribe alternative methods of Standards of Learning assessment administration for children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the Board to demonstrate achievement of the Standards of Learning. An eligible student's Individual Education Program team shall make the final determination as to whether an alternative method of administration is appropriate for the student.

The Board shall include in the student outcome and growth measures that are required by the standards of accreditation the required assessments for various grade levels and classes, including the completion of the alternative assessments implemented by each local school board, in accordance with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for English, mathematics, science, and history and social science and may be integrated to include multiple subject areas.

The Standards of Learning assessments administered to students in grades three through eight shall not exceed (i) reading and mathematics in grades three and four; (ii) reading, mathematics, and science in grade five; (iii) reading and mathematics in grades six and seven; (iv) reading, writing, and mathematics in grade eight; (v) science after the student receives instruction in the grade six science, life science, and physical science Standards of Learning and before the student completes grade eight; and (vi) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each local school board. The reading and mathematics assessments administered to students in grades three through eight shall be through-year growth assessments.

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

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

The Department shall award recovery credit to any student in grades three through eight who performs below grade level on a Standards of Learning assessment in English reading or mathematics, receives remediation, and subsequently retakes and performs at or above grade level on such an assessment, including any such student who subsequently retakes such an assessment on an expedited basis.

In addition, to assess the educational progress of students, the Board shall (1) develop appropriate assessments, which may include criterion-referenced tests and other assessment instruments that may be used by classroom teachers; (2) select appropriate industry certification and state licensure examinations; and (3) prescribe and provide measures, which may include nationally normed tests to be used to identify students who score in the bottom quartile at selected grade levels.

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

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

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

The Board shall not include in its calculation of the passage rate for a Standards of Learning assessment or the level of achievement of the Standards of Learning objectives for an individual student growth assessment for the purposes of state accountability any student whose parent has decided to not have his child take such Standards of Learning assessment, unless such exclusions would result in the school's not meeting any required state or federal participation rate.

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

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

Records and other information furnished to or prepared by the Board during the conduct of a review or investigation may be withheld pursuant to subdivision 10 of § 2.2-3705.3. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any local school board or division superintendent receiving such records or other information shall, upon taking personnel action against a relevant employee, place copies of such records or information relating to the specific employee in such person's personnel file.

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

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

F. To assess the educational progress of students as individuals and as groups, each local school board shall require the use of Standards of Learning assessments, alternative assessments, and other relevant data, such as industry certification and state licensure examinations, to evaluate student progress and to determine educational performance. Each local school shall require the administration of appropriate assessments to students, which may include criterion-referenced tests and teacher-made tests and shall include the Standards of Learning assessments, the local school board's alternative assessments, and the National Assessment of Educational Progress state-by-state assessment. *Each school board shall provide teachers, parents, principals, and other school leaders with their students' results on any Standards of Learning assessment or Virginia Alternate Assessment Program assessment as soon as practicable after the assessment is administered.* Each school board shall analyze and report annually, in compliance with any criteria that may be established by the Board, the results from industry certification examinations and the Standards of Learning ~~Assessments~~ *assessments* to the public.

The Board shall include requirements for the reporting of the Standards of Learning assessment data, regardless of accreditation frequency, as part of the Board's requirements relating to the School Performance Report Card. Such scores shall be disaggregated for each school by student subgroups on the Virginia assessment program as appropriate and shall be

reported to the public within three months of their receipt. These reports (i) shall be posted on the portion of the Department's website relating to the School Performance Report Card, in a format and in a manner that allows year-to-year comparisons, and (ii) may include the National Assessment of Educational Progress state-by-state assessment.

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

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

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

CHAPTER 160

An Act to amend and reenact § 23.1-808 of the Code of Virginia, relating to institutions of higher education; immunity from disciplinary action in certain cases involving a good faith report of an act of sexual violence.

[H 1870]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-808 of the Code of Virginia is amended and reenacted as follows:

§ 23.1-808. Sexual violence; policy review; disciplinary immunity for certain individuals who make reports.

A. By October 31 of each year, the System, Richard Bland College, each baccalaureate public institution of higher education, and each nonprofit private institution of higher education shall certify to the Council that it has reviewed its sexual violence policy and updated it as appropriate. The Council and the Department of Criminal Justice Services shall establish criteria for the certification process and may request information relating to the policies for the purposes of sharing best practices and improving campus safety. The Council and the Department of Criminal Justice Services shall report to the Secretary of Education on the certification status of each such institution by November 30 of each year.

B. The governing board of each nonprofit private institution of higher education and each public institution of higher education ~~except~~, *including* the Virginia Military Institute *in accordance with the provisions of subsection C,* shall include as part of its policy, code, rules, or set of standards governing sexual violence a provision for immunity from disciplinary action based on *(i) curfew violation or (ii)* personal consumption of drugs or alcohol ~~where such~~ *in any case in which* disclosure *of such violation or personal consumption* is made in conjunction with a good faith report of an act of sexual violence.

C. The Virginia Military Institute shall be subject to the requirement in subsection B, provided, however, that the Virginia Military Institute may include a provision stipulating that in the event that a cadet discloses personal consumption of drugs or alcohol in conjunction with a good faith report of an act of sexual violence and the superintendent of the Virginia Military Institute determines that such cadet's personal consumption of drugs or alcohol constitutes a threat to the cadet's well-being or the well-being of others, the superintendent may require such cadet to attend drug or substance use disorder counseling.

CHAPTER 161

An Act to amend and reenact § 2.2-2416 of the Code of Virginia, relating to Treasury Board; powers and duties.

[H 1912]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2416 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-2416. Powers and duties of Treasury Board.

The Board shall have the power and duty to:

1. Exercise general supervision over all investments of state funds;

2. Give advice and supervision in the financing of state buildings and ~~to~~ make recommendations, as requested, to the Governor on methods by which capital outlay requirements of the Commonwealth, including its agencies and institutions, may be financed;

3. Control and manage all sinking funds and other funds in possession of the Commonwealth in a fiduciary capacity;

4. Administer the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.);

5. Make recommendations to the Governor, notwithstanding any provisions to the contrary, on proposed bond issues or other financing arrangements; approve the terms and structure of bonds or other financing arrangements executed by or for the benefit of educational institutions and state agencies other than independent state authorities *or covered institutions as defined in § 23.1-1000, including bonds, public-private partnerships, or other financing arrangements executed by private foundations for housing or other capital projects with respect to which an educational institution that is not a covered institution as defined in § 23.1-1000 is obligated to provide financial or other types of support, and* including bonds or other financing arrangements secured by leases, lease purchase agreements, financing leases, capital leases, or other similar agreements; and *approve* agreements relating to the sale of bonds. *Such recommendations to the Governor shall be reported to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations*;

6. Take or cause to be taken and omit to take all actions~~,~~ as to any tax exempt bonds for which it has issuing authority, either by statute or by act of the General Assembly, the taking or omission of which is necessary on behalf of the Commonwealth to prevent such bonds from being or becoming subject to federal income taxation or being considered to be "arbitrage bonds" within the meaning of federal tax laws, including compliance with the arbitrage rebate provisions thereof;

7. Approve, notwithstanding any provisions to the contrary, the terms and structure of bonds or other financing arrangements executed by or for the benefit of state agencies, boards, and authorities where debt service payments on such bonds or other financing arrangements are expected by such agency, board, or authority to be made, in whole or in part, directly or indirectly, from appropriations of the Commonwealth, including bonds or other financing arrangements secured by leases, lease purchase agreements, financing leases, capital leases or other similar agreements, and agreements relating to the sale of bonds;

8. Establish debt structuring guidelines for bonds or other financing arrangements executed by or for the benefit of all state agencies, institutions, boards, and authorities where the debt service payments on such bonds or other financing arrangements are expected to be made, in whole or in part, directly or indirectly, from appropriations of the Commonwealth, in which guidelines the Board may, in its sole discretion, include such items as it deems necessary and appropriate, including, but not limited to, defining terms such as "terms and structure" and "bonds and other financing arrangements" and exempting from its review and approval pursuant to subdivision 5 or 7 ~~(a)~~ *(i)* specific bond issues and other financing arrangements, ~~(b)~~ *(ii)* certain types or classes of bond issues and other financing arrangements, and ~~(c)~~ *(iii)* bond issues and other financing arrangements that are below a stated dollar amount;

9. Do all acts and things necessary or convenient to efficiently carry out and enforce the powers granted to and duties imposed on it by law, including delegating to the State Treasurer or to a committee composed of not less than three members of the Board such powers and duties, as it deems proper, to the extent designated and permitted by the Board;

10. Exercise such other powers and perform such other duties conferred or imposed upon it by law, including the local government investment pool authorized by Chapter 46 (§ 2.2-4600 et seq.) ~~of this title~~; and

11. Do all acts and things necessary or convenient to wind up the affairs of, and protect the Commonwealth's interests in, such matters that may survive the termination of the State Education Assistance Authority, the Virginia Student Assistance Authorities, and the Virginia Education Loan Authority. Nothing herein shall be construed to amend, enhance, or otherwise alter such commitments, security interests, guarantees, or other pledges entered into by the State Education Assistance Authority, the Virginia Student Assistance Authorities, and the Virginia Education Loan Authority, acting in their official capacity and effective on or before March 31, 1997.

CHAPTER 162

An Act to amend and reenact § 2.2-2416 of the Code of Virginia, relating to Treasury Board; powers and duties.

[S 1094]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2416 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-2416. Powers and duties of Treasury Board.

The Board shall have the power and duty to:

1. Exercise general supervision over all investments of state funds;

2. Give advice and supervision in the financing of state buildings and ~~to~~ make recommendations, as requested, to the Governor on methods by which capital outlay requirements of the Commonwealth, including its agencies and institutions, may be financed;

3. Control and manage all sinking funds and other funds in possession of the Commonwealth in a fiduciary capacity;

4. Administer the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.);

5. Make recommendations to the Governor, notwithstanding any provisions to the contrary, on proposed bond issues or other financing arrangements; approve the terms and structure of bonds or other financing arrangements executed by or for the benefit of educational institutions and state agencies other than independent state authorities *or covered institutions as defined in § 23.1-1000, including bonds, public-private partnerships, or other financing arrangements executed by private foundations for housing or other capital projects with respect to which an educational institution that is not a covered institution as defined in § 23.1-1000 is obligated to provide financial or other types of support, and* including bonds or other financing arrangements secured by leases, lease purchase agreements, financing leases, capital leases, or other similar agreements; and *approve* agreements relating to the sale of bonds. *Such recommendations to the Governor shall be reported to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations*;

6. Take or cause to be taken and omit to take all actions~~,~~ as to any tax exempt bonds for which it has issuing authority, either by statute or by act of the General Assembly, the taking or omission of which is necessary on behalf of the Commonwealth to prevent such bonds from being or becoming subject to federal income taxation or being considered to be "arbitrage bonds" within the meaning of federal tax laws, including compliance with the arbitrage rebate provisions thereof;

7. Approve, notwithstanding any provisions to the contrary, the terms and structure of bonds or other financing arrangements executed by or for the benefit of state agencies, boards, and authorities where debt service payments on such bonds or other financing arrangements are expected by such agency, board, or authority to be made, in whole or in part, directly or indirectly, from appropriations of the Commonwealth, including bonds or other financing arrangements secured by leases, lease purchase agreements, financing leases, capital leases or other similar agreements, and agreements relating to the sale of bonds;

8. Establish debt structuring guidelines for bonds or other financing arrangements executed by or for the benefit of all state agencies, institutions, boards, and authorities where the debt service payments on such bonds or other financing arrangements are expected to be made, in whole or in part, directly or indirectly, from appropriations of the Commonwealth, in which guidelines the Board may, in its sole discretion, include such items as it deems necessary and appropriate, including, but not limited to, defining terms such as "terms and structure" and "bonds and other financing arrangements" and exempting from its review and approval pursuant to subdivision 5 or 7 ~~(a)~~ *(i)* specific bond issues and other financing arrangements, ~~(b)~~ *(ii)* certain types or classes of bond issues and other financing arrangements, and ~~(c)~~ *(iii)* bond issues and other financing arrangements that are below a stated dollar amount;

9. Do all acts and things necessary or convenient to efficiently carry out and enforce the powers granted to and duties imposed on it by law, including delegating to the State Treasurer or to a committee composed of not less than three members of the Board such powers and duties, as it deems proper, to the extent designated and permitted by the Board;

10. Exercise such other powers and perform such other duties conferred or imposed upon it by law, including the local government investment pool authorized by Chapter 46 (§ 2.2-4600 et seq.) ~~of this title~~; and

11. Do all acts and things necessary or convenient to wind up the affairs of, and protect the Commonwealth's interests in, such matters that may survive the termination of the State Education Assistance Authority, the Virginia Student Assistance Authorities, and the Virginia Education Loan Authority. Nothing herein shall be construed to amend, enhance, or otherwise alter such commitments, security interests, guarantees, or other pledges entered into by the State Education Assistance Authority, the Virginia Student Assistance Authorities, and the Virginia Education Loan Authority, acting in their official capacity and effective on or before March 31, 1997.

CHAPTER 163

An Act to amend and reenact §§ 58.1-9 and 58.1-3916 of the Code of Virginia, relating to filing of tax returns or payment of taxes by mail.

[H 1927]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-9 and 58.1-3916 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-9. Filing of tax returns or payment of taxes by mail or otherwise; penalty.

A. When remittance of a tax return or a tax payment is made by mail or by means of a recognized commercial delivery service, receipt of such return or payment by the person with whom such return is required to be filed or to whom such

payment is required to be made, in a sealed envelope or container bearing a postmark or a confirmation of shipment on or before midnight of the day such return is required to be filed or such payment made without penalty or interest, shall constitute filing and payment as if such return had been filed or such payment made before the close of business on the last day on which such return may be filed or such tax may be paid without penalty or interest. *However, if through no fault of the taxpayer (i) no such postmark is affixed or (ii) the postmark affixed by the United States Postal Service is illegible or bears no date, such remittance of a tax return or a tax payment shall be deemed to have been timely if received through the United States mail no later than five days following the time of the close of business on the last day on which such return may be filed or such tax may be paid without penalty or interest. Additionally, no penalty or interest shall be imposed if a taxpayer provides evidence that remittance of a tax return or a tax payment was timely by producing a United States Postal Service Certificate of Mailing, or other proof of mailing, showing such return was filed or such payment was made before the close of business on the last day such return may be filed or such tax may be paid without penalty or interest.*

B. When remittance of a tax payment is made by electronic funds transfer, receipt of funds available for withdrawal, in a bank account designated to receive such payments by the person to whom such payment is required to be made, on or before midnight of the day such payment is required to be made without penalty or interest, shall constitute payment as if such payment had been made before the close of business on the last day on which such tax may be paid without penalty or interest.

C. Notwithstanding any provision of law, the Tax Commissioner may allow the electronic filing of any state tax return, statement or document. For purposes of this subsection, the Tax Commissioner may determine alternative methods for the signing, subscribing or verifying of a state tax return, statement or document that shall have the same validity and consequences as the actual signing by the taxpayer. The Tax Commissioner may prescribe methods of execution, recording, reproduction and certification of electronically filed information pursuant § 59.1-496.

The Tax Commissioner shall devise a method by which a taxpayer will only receive bulletins, publications, or other information provided by the Department electronically upon request.

D. If an income tax return preparer prepared 100 or more individual income tax returns for a taxable year that began on or after January 1, 2004, or 50 or more such returns for a taxable year that began on or after January 1, 2010, then for every taxable year thereafter, all individual income tax returns for taxable years prepared by that income tax return preparer shall be filed using electronic means. If an individual tax return shall be accompanied by attachments or schedules that cannot be accepted through electronic means, the income tax preparer shall file the return using software that produces a two dimensional barcode using 2D technology reflecting information contained in the return in a standard format as prescribed by the Tax Commissioner. This subsection shall not apply to an individual income tax return for a taxpayer who has indicated that he does not want his individual income tax return filed using electronic means or 2D technology.

The Tax Commissioner shall have the authority to waive the requirement to file by electronic means upon finding that the requirement would cause an undue hardship. The income tax return preparer otherwise required to file individual income tax returns using electronic means shall request in writing the waiver from the Tax Commissioner and clearly demonstrate the nature of the undue hardship. The Tax Commissioner shall respond to the income tax return preparer within 45 days after receiving the request for waiver.

For purposes of this subsection, "income tax return preparer" means a person who prepares, or employs one or more individuals to prepare, an income tax return for compensation. Preparation of a substantial portion of an individual income tax return shall be deemed preparation of the entire individual income tax return for purposes of this section.

For purposes of this subsection, "income tax return preparer" ~~shall~~ *does* not include volunteers who prepare tax returns for the elderly or poor as part of a nonprofit organization's program.

§ 58.1-3916. Counties, cities and towns may provide dates for filing returns, set penalties, interest, etc.

Notwithstanding provisions contained in §§ 58.1-3518, 58.1-3900, 58.1-3913, 58.1-3915, and 58.1-3918, the governing body of any county, city, or town may provide by ordinance the time for filing local license applications and annual returns of taxable tangible personal property, machinery and tools, and merchants' capital. The governing body may also by ordinance establish due dates for the payment of local taxes; may provide that payment be made in a single installment or in two equal installments; may offer options, which may include coupon books and payroll deductions, which allow the taxpayer to determine whether to pay the tangible personal property tax through monthly, bimonthly, quarterly, or semiannual installments or in a lump sum, provided such taxes are paid in full by the final due date; may provide by ordinance penalties for failure to file such applications and returns and for nonpayment in time; may provide for payment of interest on delinquent taxes; and may provide for the recovery of reasonable attorney's or collection agency's fees actually contracted for, not to exceed 20 percent of the delinquent taxes and other charges so collected. A locality that provides for payment of interest on delinquent taxes shall provide for interest at the same rate on overpayments due to erroneously assessed taxes to be paid to the taxpayer, provided that no interest shall be required to be paid on such refund if (i) the amount of the refund is $10 or less or (ii) the refund is the result of proration pursuant to § 58.1-3516. A court that finds that an overpayment of local taxes has been made in an action brought pursuant to § 58.1-3984 shall award interest at the appropriate rate, notwithstanding the failure of the locality to conform its ordinance to the requirements of this section.

Notwithstanding any contrary provision of law, the local governing body shall allow an automatic extension on real property taxes imposed upon a primary residence and personal property taxes imposed upon a qualifying vehicle, as defined in § 58.1-3523, owed by members of the armed services of the United States deployed outside of the United States. Such extension shall end and the taxes shall be due 90 days following the completion of such member's deployment. For purposes

of this section, "the armed services of the United States" includes active duty service with the regular Armed Forces of the United States or the National Guard or other reserve component.

No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under § 58.1-3980, so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal, provided that nothing in this paragraph shall be construed to preclude the assessment or refund, following the final determination of such appeal, of such interest as otherwise may be provided by general law as to that portion of a tax bill that has remained unpaid or was overpaid during the pendency of such appeal and is determined in such appeal to be properly due and owing.

Interest may commence not earlier than the first day following the day such taxes are due by ordinance to be filed, at a rate not to exceed 10 percent per year. The governing body may impose interest at a rate not to exceed the rate of interest established pursuant to § 6621 of the Internal Revenue Code of 1954, as amended, or 10 percent annually, whichever is greater, for the second and subsequent years of delinquency. No penalty for failure to pay a tax or installment shall exceed (i) 10 percent of the tax past due on such property; (ii) in the case of delinquent tangible personal property tax more than 30 days past due on property classified pursuant to subdivision A 15, A 16, or A 20 of § 58.1-3506, which remains unpaid after 10 days' written notice sent by United States mail to the taxpayer of the intention to impose a penalty pursuant hereto, the penalty shall not exceed an amount equal to the difference between the tax due and owing with respect to such property and the tax that would have been due and owing if the property in question had been classified as general tangible personal property pursuant to § 58.1-3503; (iii) in the case of delinquent tangible personal property tax more than 30 days past due, 25 percent of the tax past due on such tangible personal property; (iv) in the case of delinquent remittance of excise taxes on meals, lodging, or admissions collected from consumers, 10 percent for the first month the taxes are past due, and five percent for each month thereafter, up to a maximum of 25 percent of the taxes collected but not remitted; or (v) $10, whichever is greater, provided, however, that the penalty shall in no case exceed the amount of the tax assessable. No penalty for failure to file a return shall be greater than 10 percent of the tax assessable on such return or $10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable. The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failing to make return of taxable property as may be required by law or ordinance. Penalty for failure to file an application or return may be assessed on the day after such return or application is due; penalty for failure to pay any tax may be assessed on the day after the first installment is due. Any such penalty when so assessed shall become a part of the tax.

No penalty for failure to pay any tax shall be imposed for any assessment made later than two weeks prior to the day on which the taxes are due, if such assessment is made thereafter through the fault of a local official, and if such assessment is paid within two weeks after the notice thereof is mailed.

In the event a transfer of real property ownership occurs after January 1 of a tax year and a real estate tax bill has been mailed pursuant to §§ 58.1-3281 and 58.1-3912, the treasurer or other appropriate local official designated by ordinance of the local governing body in jurisdictions not having a treasurer, upon ascertaining that a property transfer has occurred, may invalidate a bill sent to the prior owner and reissue the bill to the new owner as permitted by § 58.1-3912, and no penalty for failure to pay any tax for any such assessment shall be imposed if the tax is paid within two weeks after the notice thereof is mailed.

Penalty and interest for failure to file a return or to pay a tax shall not be imposed if such failure was not the fault of the taxpayer, or was the fault of the commissioner of *the* revenue ~~or,~~ the treasurer, *or the United States Postal Service when no postmark is properly affixed or if the postmark affixed by the United States Postal Service is illegible or bears no date, and the return or payment is received through the United States mail no later than five days following the time of the close of business on the last day on which such return may be filed or such tax may be paid without penalty or interest,* as the case may be. *No such penalty and interest shall be imposed if a taxpayer provides evidence that a tax return filing or a tax payment was timely by producing a United States Postal Service Certificate of Mailing, or other proof of mailing, showing such return was filed or such payment was made before the close of business on the last day such return may be filed or such tax may be paid without penalty or interest.* The failure to file a return or to pay a tax due to the death of the taxpayer or a medically determinable physical or mental impairment on the date the return or tax is due shall be presumptive proof of lack of fault on the taxpayer's part, provided the return is filed or the taxes are paid within 30 days of the due date; however, if there is a committee, legal guardian, conservator or other fiduciary handling the individual's affairs, such return shall be filed or such taxes paid within 120 days after the fiduciary qualifies or begins to act on behalf of the taxpayer. Interest on such taxes shall accrue until paid in full. Any such fiduciary shall, on behalf of the taxpayer, by the due date, file any required returns and pay any taxes that come due after the 120-day period. The treasurer shall make determinations of fault relating exclusively to failure to pay a tax, and the commissioner of the revenue shall make determinations of fault relating exclusively to failure to file a return. In jurisdictions not having a treasurer or commissioner of the revenue, the governing body may delegate to the appropriate local tax officials the responsibility to make the determination of fault.

The governing body may further provide by resolution for reasonable extensions of time, not to exceed 90 days, for the payment of real estate and personal property taxes and for filing returns on tangible personal property, machinery and tools, and merchants' capital, and the business, professional, and occupational license tax, whenever good cause exists. The official granting such extension shall keep a record of every such extension. If any taxpayer who has been granted an extension of time for filing his return fails to file his return within the extended time, his case shall be treated the same as if no extension had been granted.

This section shall be the sole authority for local ordinances setting due dates of local taxes and penalty and interest thereon~~,~~ and shall supersede the provisions of any charter or special act.

CHAPTER 164

An Act to establish a work group to consider a formalized discussion process for practitioners and the Department of Taxation; report.

[H 1368]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Taxation shall convene a work group to study the Department's current policies and procedures in order to determine options for a mechanism for tax practitioners to provide feedback to the Department on an ongoing basis. Among such options, the work group shall consider the scope, feasibility, and function of an ongoing commission or similar structure to provide regular feedback to the Department. The work group shall include members selected by the Taxation Section of the Virginia Bar Association, the Virginia Society of Certified Public Accountants, and the Virginia Society of Enrolled Agents and may also include members selected by the Commissioners of the Revenue Association of Virginia and representatives from the Low Income Taxpayer Clinics Program. The Division of Legislative Services shall provide legal, research, policy analysis, and other services as requested by the work group. The work group shall complete its meetings by November 1, 2023, and the Department shall submit a report of its findings and recommendations to the Chairmen of the House Committee on Finance, the House Committee on Appropriations, and the Senate Committee on Finance and Appropriations by December 1, 2023.*

CHAPTER 165

An Act to amend and reenact § 58.1-439.12:12 of the Code of Virginia, relating to food donation tax credit.

[H 2445]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-439.12:12 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-439.12:12. Food donation tax credit.

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

"Food crops" means grains, fruits, nuts, or vegetables.

"Nonprofit food bank" means an entity located in the Commonwealth that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code, as amended or renumbered, and organized with a principal purpose of providing food to the needy.

"Wholesome food" means food that meets all quality standards imposed by federal, state, and local laws or regulations, including food that may not be readily marketable due to appearance, age, freshness, grade, surplus, or other condition.

B. For taxable years beginning on or after January 1, ~~2016~~ *2023*, but before January 1, ~~2022~~ *2028*, any person engaged in the business of farming as defined under 26 C.F.R. §1.175-3 that donates food crops grown *or wholesome food produced* by the person in the Commonwealth to a nonprofit food bank shall be allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 for the taxable year of the donation. The person shall be allowed a credit in an amount equal to ~~30~~ *50* percent of the fair market value of such food crops *or wholesome food* donated by the person to a nonprofit food bank during the taxable year but not to exceed an aggregate credit of ~~$5,000~~ *$10,000* for all such donations made by the person during such year.

C. Credit shall be allowed under this section only if (i) the use of the donated food crops *or wholesome food* by the donee nonprofit food bank is related to providing food to the needy, (ii) the donated food crops *or wholesome foods* are not transferred for use outside the Commonwealth or used by the donee nonprofit food bank as consideration for services performed or personal property purchased, and (iii) the donated food crops *or wholesome foods*, if sold by the donee nonprofit food bank, are sold to the needy, other nonprofit food banks, or organizations that intend to use the food crops *or wholesome foods* to provide food to the needy.

D. The Tax Commissioner shall issue tax credits under this section, and in no case shall the Tax Commissioner issue more than $250,000 in tax credits pursuant to this section in any fiscal year of the Commonwealth. For every taxable year for which a person seeks the tax credit under this section, the person shall submit an application to the Department in accordance with the forms, instructions, dates, and procedures prescribed by the Department. In order to claim any credit, for each donation made that is approved by the Department for tax credit, the person making the donation shall attach to the person's income tax return a written certification prepared by the donee nonprofit food bank. The written certification prepared by the donee nonprofit food bank shall identify the donee nonprofit food bank, the person donating food crops *or wholesome food* to it, the date of the donation, the number of pounds of food crops *or wholesome food* donated, and the fair

market value of the food crops *or wholesome food* donated. The certification shall also include a statement by the donee nonprofit food bank that its use and disposition of the food crops *or wholesome food* complies with the requirements under subsection C.

E. The amount of the credit claimed shall not exceed the total amount of tax imposed by this chapter upon the person for the taxable year. Any credit not usable for the taxable year for which the credit was first allowed may be carried over for credit against the income taxes of the person in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

F. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

G. The Tax Commissioner shall develop guidelines implementing the provisions of this section. The guidelines shall include procedures for the allocation of tax credits among participating taxpayers. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

2. That the provisions of this act shall be effective for taxable years beginning on and after January 1, 2023.

CHAPTER 166

An Act to amend and reenact § 58.1-439.12:12 of the Code of Virginia, relating to food donation tax credit.

[S 1525]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-439.12:12 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-439.12:12. Food donation tax credit.

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

"Food crops" means grains, fruits, nuts, or vegetables.

"Nonprofit food bank" means an entity located in the Commonwealth that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code, as amended or renumbered, and organized with a principal purpose of providing food to the needy.

"Wholesome food" means food that meets all quality standards imposed by federal, state, and local laws or regulations, including food that may not be readily marketable due to appearance, age, freshness, grade, surplus, or other condition.

B. For taxable years beginning on or after January 1, ~~2016~~ *2023*, but before January 1, ~~2022~~ *2028*, any person engaged in the business of farming as defined under 26 C.F.R. §1.175-3 that donates food crops grown *or wholesome food produced* by the person in the Commonwealth to a nonprofit food bank shall be allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 for the taxable year of the donation. The person shall be allowed a credit in an amount equal to ~~30~~ *50* percent of the fair market value of such food crops *or wholesome food* donated by the person to a nonprofit food bank during the taxable year but not to exceed an aggregate credit of ~~$5,000~~ *$10,000* for all such donations made by the person during such year.

C. Credit shall be allowed under this section only if (i) the use of the donated food crops *or wholesome food* by the donee nonprofit food bank is related to providing food to the needy, (ii) the donated food crops *or wholesome foods* are not transferred for use outside the Commonwealth or used by the donee nonprofit food bank as consideration for services performed or personal property purchased, and (iii) the donated food crops *or wholesome foods*, if sold by the donee nonprofit food bank, are sold to the needy, other nonprofit food banks, or organizations that intend to use the food crops *or wholesome foods* to provide food to the needy.

D. The Tax Commissioner shall issue tax credits under this section, and in no case shall the Tax Commissioner issue more than $250,000 in tax credits pursuant to this section in any fiscal year of the Commonwealth. For every taxable year for which a person seeks the tax credit under this section, the person shall submit an application to the Department in accordance with the forms, instructions, dates, and procedures prescribed by the Department. In order to claim any credit, for each donation made that is approved by the Department for tax credit, the person making the donation shall attach to the person's income tax return a written certification prepared by the donee nonprofit food bank. The written certification prepared by the donee nonprofit food bank shall identify the donee nonprofit food bank, the person donating food crops *or wholesome food* to it, the date of the donation, the number of pounds of food crops *or wholesome food* donated, and the fair market value of the food crops *or wholesome food* donated. The certification shall also include a statement by the donee nonprofit food bank that its use and disposition of the food crops *or wholesome food* complies with the requirements under subsection C.

E. The amount of the credit claimed shall not exceed the total amount of tax imposed by this chapter upon the person for the taxable year. Any credit not usable for the taxable year for which the credit was first allowed may be carried over for credit against the income taxes of the person in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

F. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

G. The Tax Commissioner shall develop guidelines implementing the provisions of this section. The guidelines shall include procedures for the allocation of tax credits among participating taxpayers. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

2. That the provisions of this act shall be effective for taxable years beginning on and after January 1, 2023.

CHAPTER 167

An Act to direct the Department of Social Services to provide information, resources, and education to food banks regarding outreach opportunities for providing assistance to individuals with completing a SNAP application.

[H 2380]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Social Services (the Department) shall provide information, resources, and education to all food banks located within the Commonwealth regarding outreach opportunities for providing assistance to individuals completing a SNAP application. Such information, resources, and education shall include information regarding the process for organizations to enter into a contract with the Department to provide assistance with completing a SNAP application.*

CHAPTER 168

An Act to amend and reenact §§ 37.2-809 and 37.2-813 of the Code of Virginia, relating to temporary detention; release of individual.

[H 1976]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-809 and 37.2-813 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-809. Involuntary temporary detention; issuance and execution of order.

A. For the purposes of this section:

"Designee of the local community services board" means an examiner designated by the local community services board who (i) is skilled in the assessment and treatment of mental illness, (ii) has completed a certification program approved by the Department, (iii) is able to provide an independent examination of the person, (iv) is not related by blood or marriage to the person being evaluated, (v) has no financial interest in the admission or treatment of the person being evaluated, (vi) has no investment interest in the facility detaining or admitting the person under this article, and (vii) except for employees of state hospitals and of the U.S. Department of Veterans Affairs, is not employed by the facility.

"Employee" means an employee of the local community services board who is skilled in the assessment and treatment of mental illness and has completed a certification program approved by the Department.

"Investment interest" means the ownership or holding of an equity or debt security, including shares of stock in a corporation, interests or units of a partnership, bonds, debentures, notes, or other equity or debt instruments.

B. A magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion and only after an evaluation conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § 37.2-804.1 by an employee or a designee of the local community services board to determine whether the person meets the criteria for temporary detention, a temporary detention order if it appears from all evidence readily available, including any recommendation from a physician, clinical psychologist, clinical social worker, or licensed professional counselor treating the person, that the person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; (ii) is in need of hospitalization or treatment; and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. The magistrate shall also consider, if available, (a) information provided by the person who initiated emergency custody and (b) the recommendations of any treating or examining physician licensed in Virginia either verbally or in writing prior to rendering a decision. Any temporary detention order entered pursuant to this section shall provide for the disclosure of medical records pursuant to § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

C. When considering whether there is probable cause to issue a temporary detention order, the magistrate may, in addition to the petition, consider (i) the recommendations of any treating or examining physician, psychologist, clinical social worker, or licensed professional counselor licensed in Virginia, if available, (ii) any past actions of the person,

(iii) any past mental health treatment of the person, (iv) any relevant hearsay evidence, (v) any medical records available, (vi) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (vii) any other information available that the magistrate considers relevant to the determination of whether probable cause exists to issue a temporary detention order.

D. A magistrate may issue a temporary detention order without an emergency custody order proceeding. A magistrate may issue a temporary detention order without a prior evaluation pursuant to subsection B if (i) the person has been personally examined within the previous 72 hours by an employee or a designee of the local community services board or (ii) there is a significant physical, psychological, or medical risk to the person or to others associated with conducting such evaluation.

E. An employee or a designee of the local community services board shall determine the facility of temporary detention in accordance with the provisions of § 37.2-809.1 for all persons detained pursuant to this section. An employee or designee of the local community services board may change the facility of temporary detention and may designate an alternative facility for temporary detention at any point during the period of temporary detention if it is determined that the alternative facility is a more appropriate facility for temporary detention of the person given the specific security, medical, or behavioral health needs of the person. In cases in which the facility of temporary detention is changed following transfer of custody to an initial facility of temporary custody, transportation of the person to the alternative facility of temporary detention shall be provided in accordance with the provisions of § 37.2-810. The initial facility of temporary detention shall be identified on the preadmission screening report and indicated on the temporary detention order; however, if an employee or designee of the local community services board designates an alternative facility, that employee or designee shall provide written notice forthwith, on a form developed by the Executive Secretary of the Supreme Court of Virginia, to the clerk of the issuing court of the name and address of the alternative facility. Subject to the provisions of § 37.2-809.1, if a facility of temporary detention cannot be identified by the time of the expiration of the period of emergency custody pursuant to § 37.2-808, the person shall be detained in a state facility for the treatment of persons with mental illness and such facility shall be indicated on the temporary detention order. Except as provided in § 37.2-811 for inmates requiring hospitalization in accordance with subdivision A 2 of § 19.2-169.6, the person shall not be detained in a jail or other place of confinement for persons charged with criminal offenses. Except as provided in § 37.2-811 for inmates requiring hospitalization in accordance with subdivision A 2 of § 19.2-169.6 *or in subsection C of § 37.2-813 for persons prior to transfer to the facility of temporary detention*, the person shall remain in the custody of law enforcement until *either* (i) the person is ~~either~~ detained within a secure facility or (ii) custody has been accepted by the appropriate personnel designated by either the initial facility of temporary detention identified in the temporary detention order or by the alternative facility of temporary detention designated by the employee or designee of the local community services board pursuant to this subsection. The person detained or in custody pursuant to this section shall be given a written summary of the temporary detention procedures and the statutory protections associated with those procedures.

F. Any facility caring for a person placed with it pursuant to a temporary detention order is authorized to provide emergency medical and psychiatric services within its capabilities when the facility determines that the services are in the best interests of the person within its care. The costs incurred as a result of the hearings and by the facility in providing services during the period of temporary detention shall be paid and recovered pursuant to § 37.2-804. The maximum costs reimbursable by the Commonwealth pursuant to this section shall be established by the State Board of Medical Assistance Services based on reasonable criteria. The State Board of Medical Assistance Services shall, by regulation, establish a reasonable rate per day of inpatient care for temporary detention.

G. The employee or the designee of the local community services board who is conducting the evaluation pursuant to this section shall determine, prior to the issuance of the temporary detention order, the insurance status of the person. Where coverage by a third party payor exists, the facility seeking reimbursement under this section shall first seek reimbursement from the third party payor. The Commonwealth shall reimburse the facility only for the balance of costs remaining after the allowances covered by the third party payor have been received.

H. The duration of temporary detention shall be sufficient to allow for completion of the examination required by § 37.2-815, preparation of the preadmission screening report required by § 37.2-816, and initiation of mental health treatment to stabilize the person's psychiatric condition to avoid involuntary commitment where possible, but shall not exceed 72 hours prior to a hearing. If the 72-hour period herein specified terminates on a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed, the person may be detained, as herein provided, until the close of business on the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. The person may be released, pursuant to § 37.2-813, before the 72-hour period herein specified has run.

I. If a temporary detention order is not executed within 24 hours of its issuance, or within a shorter period as is specified in the order, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if the office is not open, to any magistrate serving the jurisdiction of the issuing court. Subsequent orders may be issued upon the original petition within 96 hours after the petition is filed. However, a magistrate must again obtain the advice of an employee or a designee of the local community services board prior to issuing a subsequent order upon the original petition. Any petition for which no temporary detention order or other process in connection therewith is served on the subject of the petition within 96 hours after the petition is filed shall be void and shall be returned to the office of the clerk of the issuing court.

J. The Executive Secretary of the Supreme Court of Virginia shall establish and require that a magistrate, as provided by this section, be available seven days a week, 24 hours a day, for the purpose of performing the duties established by this section. Each community services board shall provide to each general district court and magistrate's office within its service area a list of its employees and designees who are available to perform the evaluations required herein.

K. For purposes of this section, a health care provider or designee of a local community services board or behavioral health authority shall not be required to encrypt any email containing information or medical records provided to a magistrate unless there is reason to believe that a third party will attempt to intercept the email.

L. If the employee or designee of the community services board who is conducting the evaluation pursuant to this section recommends that the person should not be subject to a temporary detention order, such employee or designee shall (i) inform the petitioner, the person who initiated emergency custody if such person is present, and an onsite treating physician of his recommendation; (ii) promptly inform such person who initiated emergency custody that the community services board will facilitate communication between the person and the magistrate if the person disagrees with recommendations of the employee or designee of the community services board who conducted the evaluation and the person who initiated emergency custody so requests; and (iii) upon prompt request made by the person who initiated emergency custody, arrange for such person who initiated emergency custody to communicate with the magistrate as soon as is practicable and prior to the expiration of the period of emergency custody. The magistrate shall consider any information provided by the person who initiated emergency custody and any recommendations of the treating or examining physician and the employee or designee of the community services board who conducted the evaluation and consider such information and recommendations in accordance with subsection B in making his determination to issue a temporary detention order. The person who is the subject of emergency custody shall remain in the custody of law enforcement or a designee of law enforcement and shall not be released from emergency custody until communication with the magistrate pursuant to this subsection has concluded and the magistrate has made a determination regarding issuance of a temporary detention order.

M. For purposes of this section, "person who initiated emergency custody" means any person who initiated the issuance of an emergency custody order pursuant to § 37.2-808 or a law-enforcement officer who takes a person into custody pursuant to subsection G of § 37.2-808.

N. In any case in which a person subject to an evaluation pursuant to this section is receiving services in a hospital emergency department, the treating physician or his designee and the employee or designee of the local community services board shall disclose to each other relevant information pertaining to the individual's treatment in the emergency department.

§ 37.2-813. Release of person prior to commitment hearing for involuntary admission.

A. Prior to a hearing as authorized in §§ 37.2-814 through 37.2-819, the district court judge or special justice may release the person on his personal recognizance or bond set by the district court judge or special justice if it appears from all evidence readily available that the person does not meet the commitment criteria specified in subsection C of § 37.2-817.

B. The director of any facility in which the person is detained may release the person prior to a hearing as authorized in §§ 37.2-814 through 37.2-819 if it appears, based on an evaluation conducted by the psychiatrist or clinical psychologist treating the person, that the person would not meet the commitment criteria specified in subsection C of § 37.2-817 if released.

C. For any person under a temporary detention order pursuant to § 37.2-809, prior to transport to the facility of temporary detention, the director of the facility in which the person is located may release the person if an employee or a designee of the local community services board, as those terms are defined in § 37.2-809, in consultation with the person's treating physician, (i) conducts an evaluation of the person, (ii) determines that the person no longer meets the commitment criteria specified in subsection C of § 37.2-817, (iii) authorizes the release of the person, and (iv) provides a discharge plan.

CHAPTER 169

An Act to amend and reenact §§ 37.2-809 and 37.2-813 of the Code of Virginia, relating to temporary detention; release of individual.

[S 1299]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-809 and 37.2-813 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-809. Involuntary temporary detention; issuance and execution of order.

A. For the purposes of this section:

"Designee of the local community services board" means an examiner designated by the local community services board who (i) is skilled in the assessment and treatment of mental illness, (ii) has completed a certification program approved by the Department, (iii) is able to provide an independent examination of the person, (iv) is not related by blood or marriage to the person being evaluated, (v) has no financial interest in the admission or treatment of the person being evaluated, (vi) has no investment interest in the facility detaining or admitting the person under this article, and (vii) except for employees of state hospitals and of the U.S. Department of Veterans Affairs, is not employed by the facility.

"Employee" means an employee of the local community services board who is skilled in the assessment and treatment of mental illness and has completed a certification program approved by the Department.

"Investment interest" means the ownership or holding of an equity or debt security, including shares of stock in a corporation, interests or units of a partnership, bonds, debentures, notes, or other equity or debt instruments.

B. A magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion and only after an evaluation conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § 37.2-804.1 by an employee or a designee of the local community services board to determine whether the person meets the criteria for temporary detention, a temporary detention order if it appears from all evidence readily available, including any recommendation from a physician, clinical psychologist, clinical social worker, or licensed professional counselor treating the person, that the person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; (ii) is in need of hospitalization or treatment; and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. The magistrate shall also consider, if available, (a) information provided by the person who initiated emergency custody and (b) the recommendations of any treating or examining physician licensed in Virginia either verbally or in writing prior to rendering a decision. Any temporary detention order entered pursuant to this section shall provide for the disclosure of medical records pursuant to § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

C. When considering whether there is probable cause to issue a temporary detention order, the magistrate may, in addition to the petition, consider (i) the recommendations of any treating or examining physician, psychologist, clinical social worker, or licensed professional counselor licensed in Virginia, if available, (ii) any past actions of the person, (iii) any past mental health treatment of the person, (iv) any relevant hearsay evidence, (v) any medical records available, (vi) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (vii) any other information available that the magistrate considers relevant to the determination of whether probable cause exists to issue a temporary detention order.

D. A magistrate may issue a temporary detention order without an emergency custody order proceeding. A magistrate may issue a temporary detention order without a prior evaluation pursuant to subsection B if (i) the person has been personally examined within the previous 72 hours by an employee or a designee of the local community services board or (ii) there is a significant physical, psychological, or medical risk to the person or to others associated with conducting such evaluation.

E. An employee or a designee of the local community services board shall determine the facility of temporary detention in accordance with the provisions of § 37.2-809.1 for all persons detained pursuant to this section. An employee or designee of the local community services board may change the facility of temporary detention and may designate an alternative facility for temporary detention at any point during the period of temporary detention if it is determined that the alternative facility is a more appropriate facility for temporary detention of the person given the specific security, medical, or behavioral health needs of the person. In cases in which the facility of temporary detention is changed following transfer of custody to an initial facility of temporary custody, transportation of the person to the alternative facility of temporary detention shall be provided in accordance with the provisions of § 37.2-810. The initial facility of temporary detention shall be identified on the preadmission screening report and indicated on the temporary detention order; however, if an employee or designee of the local community services board designates an alternative facility, that employee or designee shall provide written notice forthwith, on a form developed by the Executive Secretary of the Supreme Court of Virginia, to the clerk of the issuing court of the name and address of the alternative facility. Subject to the provisions of § 37.2-809.1, if a facility of temporary detention cannot be identified by the time of the expiration of the period of emergency custody pursuant to § 37.2-808, the person shall be detained in a state facility for the treatment of persons with mental illness and such facility shall be indicated on the temporary detention order. Except as provided in § 37.2-811 for inmates requiring hospitalization in accordance with subdivision A 2 of § 19.2-169.6, the person shall not be detained in a jail or other place of confinement for persons charged with criminal offenses. Except as provided in § 37.2-811 for inmates requiring hospitalization in accordance with subdivision A 2 of § 19.2-169.6 *or in subsection C of § 37.2-813 for persons prior to transfer to the facility of temporary detention*, the person shall remain in the custody of law enforcement until *either* (i) the person is ~~either~~ detained within a secure facility or (ii) custody has been accepted by the appropriate personnel designated by either the initial facility of temporary detention identified in the temporary detention order or by the alternative facility of temporary detention designated by the employee or designee of the local community services board pursuant to this subsection. The person detained or in custody pursuant to this section shall be given a written summary of the temporary detention procedures and the statutory protections associated with those procedures.

F. Any facility caring for a person placed with it pursuant to a temporary detention order is authorized to provide emergency medical and psychiatric services within its capabilities when the facility determines that the services are in the best interests of the person within its care. The costs incurred as a result of the hearings and by the facility in providing services during the period of temporary detention shall be paid and recovered pursuant to § 37.2-804. The maximum costs reimbursable by the Commonwealth pursuant to this section shall be established by the State Board of Medical Assistance

Services based on reasonable criteria. The State Board of Medical Assistance Services shall, by regulation, establish a reasonable rate per day of inpatient care for temporary detention.

G. The employee or the designee of the local community services board who is conducting the evaluation pursuant to this section shall determine, prior to the issuance of the temporary detention order, the insurance status of the person. Where coverage by a third party payor exists, the facility seeking reimbursement under this section shall first seek reimbursement from the third party payor. The Commonwealth shall reimburse the facility only for the balance of costs remaining after the allowances covered by the third party payor have been received.

H. The duration of temporary detention shall be sufficient to allow for completion of the examination required by § 37.2-815, preparation of the preadmission screening report required by § 37.2-816, and initiation of mental health treatment to stabilize the person's psychiatric condition to avoid involuntary commitment where possible, but shall not exceed 72 hours prior to a hearing. If the 72-hour period herein specified terminates on a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed, the person may be detained, as herein provided, until the close of business on the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. The person may be released, pursuant to § 37.2-813, before the 72-hour period herein specified has run.

I. If a temporary detention order is not executed within 24 hours of its issuance, or within a shorter period as is specified in the order, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if the office is not open, to any magistrate serving the jurisdiction of the issuing court. Subsequent orders may be issued upon the original petition within 96 hours after the petition is filed. However, a magistrate must again obtain the advice of an employee or a designee of the local community services board prior to issuing a subsequent order upon the original petition. Any petition for which no temporary detention order or other process in connection therewith is served on the subject of the petition within 96 hours after the petition is filed shall be void and shall be returned to the office of the clerk of the issuing court.

J. The Executive Secretary of the Supreme Court of Virginia shall establish and require that a magistrate, as provided by this section, be available seven days a week, 24 hours a day, for the purpose of performing the duties established by this section. Each community services board shall provide to each general district court and magistrate's office within its service area a list of its employees and designees who are available to perform the evaluations required herein.

K. For purposes of this section, a health care provider or designee of a local community services board or behavioral health authority shall not be required to encrypt any email containing information or medical records provided to a magistrate unless there is reason to believe that a third party will attempt to intercept the email.

L. If the employee or designee of the community services board who is conducting the evaluation pursuant to this section recommends that the person should not be subject to a temporary detention order, such employee or designee shall (i) inform the petitioner, the person who initiated emergency custody if such person is present, and an onsite treating physician of his recommendation; (ii) promptly inform such person who initiated emergency custody that the community services board will facilitate communication between the person and the magistrate if the person disagrees with recommendations of the employee or designee of the community services board who conducted the evaluation and the person who initiated emergency custody so requests; and (iii) upon prompt request made by the person who initiated emergency custody, arrange for such person who initiated emergency custody to communicate with the magistrate as soon as is practicable and prior to the expiration of the period of emergency custody. The magistrate shall consider any information provided by the person who initiated emergency custody and any recommendations of the treating or examining physician and the employee or designee of the community services board who conducted the evaluation and consider such information and recommendations in accordance with subsection B in making his determination to issue a temporary detention order. The person who is the subject of emergency custody shall remain in the custody of law enforcement or a designee of law enforcement and shall not be released from emergency custody until communication with the magistrate pursuant to this subsection has concluded and the magistrate has made a determination regarding issuance of a temporary detention order.

M. For purposes of this section, "person who initiated emergency custody" means any person who initiated the issuance of an emergency custody order pursuant to § 37.2-808 or a law-enforcement officer who takes a person into custody pursuant to subsection G of § 37.2-808.

N. In any case in which a person subject to an evaluation pursuant to this section is receiving services in a hospital emergency department, the treating physician or his designee and the employee or designee of the local community services board shall disclose to each other relevant information pertaining to the individual's treatment in the emergency department.

§ 37.2-813. Release of person prior to commitment hearing for involuntary admission.

A. Prior to a hearing as authorized in §§ 37.2-814 through 37.2-819, the district court judge or special justice may release the person on his personal recognizance or bond set by the district court judge or special justice if it appears from all evidence readily available that the person does not meet the commitment criteria specified in subsection C of § 37.2-817.

B. The director of any facility in which the person is detained may release the person prior to a hearing as authorized in §§ 37.2-814 through 37.2-819 if it appears, based on an evaluation conducted by the psychiatrist or clinical psychologist treating the person, that the person would not meet the commitment criteria specified in subsection C of § 37.2-817 if released.

C. For any person under a temporary detention order pursuant to § 37.2-809, prior to transport to the facility of temporary detention, the director of the facility in which the person is located may release the person if an employee or a

treating physician, (i) conducts an evaluation of the person, (ii) determines that the person no longer meets the commitment criteria specified in subsection C of § 37.2-817, (iii) authorizes the release of the person, and (iv) provides a discharge plan.

CHAPTER 170

An Act to amend and reenact § 63.2-1505 of the Code of Virginia, relating to child protective services; investigations; interview by child advocacy center; time limits.

[H 1768]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1505 of the Code of Virginia is amended and reenacted as follows:

§ 63.2-1505. Investigations by local departments.

A. An investigation requires the collection of information necessary to determine:

1. The immediate safety needs of the child;

2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;

3. Risk of future harm to the child;

4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services;

5. Whether abuse or neglect has occurred;

6. If abuse or neglect has occurred, who abused or neglected the child; and

7. A finding of either founded or unfounded based on the facts collected during the investigation.

B. If the local department responds to the report or complaint by conducting an investigation, the local department shall:

1. Make immediate investigation and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;

2. Complete a report and enter it into the statewide automation system maintained by the Department;

3. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family;

4. Petition the court for services deemed necessary including, but not limited to, removal of the child or his siblings from their home;

5. Determine within 45 days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the Department and to the person who is the subject of the investigation. However, upon written justification by the local department, the time for such determination may be extended not to exceed a total of 60 days or, in the event that the investigation is being conducted in cooperation with a law-enforcement agency and both parties agree that circumstances so warrant, as stated in the written justification, the time for such determination may be extended not to exceed 90 days. If through the exercise of reasonable diligence the local department is unable to find the child who is the subject of the report, the time the child cannot be found shall not be computed as part of the total time period allowed for the investigation and determination and documentation of such reasonable diligence shall be placed in the record. In cases involving the death of a child or alleged sexual abuse of a child who is the subject of the report, the time during which records necessary for the investigation of the complaint but not created by the local department, including autopsy or medical or forensic records or reports, are not available to the local department due to circumstances beyond the local department's control shall not be computed as part of the total time period allowed for the investigation and determination, and documentation of the circumstances that resulted in the delay shall be placed in the record. In cases in which the subject of the investigation is a full-time, part-time, permanent, or temporary employee of a school division who is suspected of abusing or neglecting a child in the course of his educational employment, the time period for determining whether a report is founded or unfounded and transmitting a report to that effect to the Department and the person who is the subject of the investigation shall be mandatory, and every local department shall make the required determination and report within the specified time period without delay;

6. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant and parent or guardian and the person responsible for the care of the child in those cases where such person was suspected of abuse or neglect;

7. If a report of child abuse and neglect is founded, and the subject of the report is or was at the time of the investigation or the conduct that led to the report a full-time, part-time, permanent, or temporary employee of a school division located within the Commonwealth, notify the relevant school board of the founded complaint without delay; and

8. Upon request, disclose to the child's parent or guardian the location of the child, provided that (i) the investigation has not been completed and a report has not been transmitted pursuant to subdivision 5; (ii) the parent or guardian requesting disclosure of the child's location has not been the subject of a founded report of child abuse or neglect; (iii) the parent or guardian requesting disclosure of the child's location has legal custody of the child and provides to the local department any records or other information necessary to verify such custody; (iv) the local department is not aware of any court order, and has confirmed with the child's other parent or guardian or other person responsible for the care of the child

court order, and has confirmed with the child's other parent or guardian or other person responsible for the care of the child that no court order has been issued, that prohibits or limits contact by the parent or guardian requesting disclosure of the child's location with the child, the child's other parent or guardian or other person responsible for the care of the child, or any member of the household in which the child is located; and (v) disclosure of the child's location to the parent or guardian will not compromise the safety of the child, the child's other parent or guardian, or any other person responsible for the care of the child.

If a local multidisciplinary team has determined that an interview of the child by a child advocacy center recognized by the National Children's Alliance is needed and an interview with a recognized child advocacy center within the jurisdiction cannot be completed within 14 days, the local department may facilitate the interview with a recognized child advocacy center located in another jurisdiction.

Any information exchanged for the purposes of this subsection shall not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.

C. Each local board may obtain and consider, in accordance with regulations adopted by the Board, statewide criminal history record information from the Central Criminal Records Exchange and shall obtain and consider results of a search of the child abuse and neglect central registry of any individual who is the subject of a child abuse or neglect investigation conducted under this section when there is evidence of child abuse or neglect and the local board is evaluating the safety of the home and whether removal will protect a child from harm. The local board shall determine whether the individual has resided in another state within at least the preceding five years and, if he has resided in another state, the local board shall request a search of the child abuse and neglect registry or equivalent registry maintained by such state. The local board also may obtain such a criminal records or registry search on all adult household members residing in the home where the individual who is the subject of the investigation resides and the child resides or visits. If a child abuse or neglect petition is filed in connection with such removal, a court may admit such information as evidence. Where the individual who is the subject of such information contests its accuracy through testimony under oath in hearing before the court, no court shall receive or consider the contested criminal history record information without certified copies of conviction. Further dissemination of the information provided to the local board is prohibited, except as authorized by law.

D. A person who has not previously participated in the investigation of complaints of child abuse or neglect in accordance with this chapter shall not participate in the investigation of any case involving a complaint of alleged sexual abuse of a child unless he (i) has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child or (ii) is under the direct supervision of a person who has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child. No individual may make a determination of whether a case involving a complaint of alleged sexual abuse of a child is founded or unfounded unless he has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child.

E. Any individual who is the subject of a child abuse or neglect investigation conducted under this section shall notify the local department prior to changing his place of residence and provide the local department with the address of his new residence.

CHAPTER 171

An Act to amend and reenact § 54.1-3303.1 of the Code of Virginia, relating to pharmacist scope of practice; initiation of treatment for certain diseases and conditions.

[H 2274]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3303.1 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3303.1. Initiating of treatment with and dispensing and administering of controlled substances by pharmacists.

A. Notwithstanding the provisions of § 54.1-3303, a pharmacist may initiate treatment with, dispense, or administer the following drugs, devices, controlled paraphernalia, and other supplies and equipment to persons 18 years of age or older with whom the pharmacist has a bona fide pharmacist-patient relationship and in accordance with a statewide protocol developed by the Board in collaboration with the Board of Medicine and the Department of Health and set forth in regulations of the Board:

1. Naloxone or other opioid antagonist, including such controlled paraphernalia, as defined in § 54.1-3466, as may be necessary to administer such naloxone or other opioid antagonist;

2. Epinephrine;

3. Injectable or self-administered hormonal contraceptives, provided the patient completes an assessment consistent with the United States Medical Eligibility Criteria for Contraceptive Use;

4. Prenatal vitamins for which a prescription is required;

5. Dietary fluoride supplements, in accordance with recommendations of the American Dental Association for prescribing of such supplements for persons whose drinking water has a fluoride content below the concentration recommended by the U.S. Department of Health and Human Services;

6. Drugs as defined in § 54.1-3401, devices as defined in § 54.1-3401, controlled paraphernalia as defined in § 54.1-3466, and other supplies and equipment available over-the-counter, covered by the patient's health carrier when the patient's out-of-pocket cost is lower than the out-of-pocket cost to purchase an over-the-counter equivalent of the same drug, device, controlled paraphernalia, or other supplies or equipment;

7. Vaccines included on the Immunization Schedule published by the Centers for Disease Control and Prevention and vaccines for COVID-19;

8. Tuberculin purified protein derivative for tuberculosis testing;

9. Controlled substances for the prevention of human immunodeficiency virus, including controlled substances prescribed for pre-exposure and post-exposure prophylaxis pursuant to guidelines and recommendations of the Centers for Disease Control and Prevention;

10. Nicotine replacement and other tobacco cessation therapies, including controlled substances as defined in the Drug Control Act (§ 54.1-3400 et seq.), together with providing appropriate patient counseling; ~~and~~

11. Controlled substances or devices for the initiation of treatment of the following diseases or conditions for which clinical decision making can be guided by a clinical test that is classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988: group A Streptococcus bacteria infection, influenza virus infection, COVID-19 virus infection, and urinary tract infection; and

~~11.~~ *12.* Tests for COVID-19 and other coronaviruses.

B. Notwithstanding the provisions of § 54.1-3303, a pharmacist may initiate treatment with, dispense, or administer the following drugs and devices to persons three years of age or older in accordance with a statewide protocol as set forth in regulations of the Board:

1. (Contingent Effective Date) Vaccines included on the Immunization Schedule published by the Centers for Disease Control and Prevention and vaccines for COVID-19; and

2. (Contingent Effective Date) Tests for COVID-19 and other coronaviruses.

C. A pharmacist who initiates treatment with or dispenses or administers a drug or device pursuant to this section shall notify the patient's primary health care provider that the pharmacist has initiated treatment with such drug or device or that such drug or device has been dispensed or administered to the patient, provided that the patient consents to such notification. No pharmacist shall limit the ability of notification to be sent to the patient's primary care provider by requiring use of electronic mail that is secure or compliant with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.). If the patient does not have a primary health care provider, the pharmacist shall counsel the patient regarding the benefits of establishing a relationship with a primary health care provider and provide information regarding primary health care providers, including federally qualified health centers, free clinics, or local health departments serving the area in which the patient is located. If the pharmacist is initiating treatment with, dispensing, or administering injectable or self-administered hormonal contraceptives, the pharmacist shall counsel the patient regarding seeking preventative care, including (i) routine well-woman visits, (ii) testing for sexually transmitted infections, and (iii) pap smears.

D. A pharmacist who administers a vaccination pursuant to subdivisions A 7 and B 1 shall report such administration to the Virginia Immunization Information System in accordance with the requirements of § 32.1-46.01.

E. A pharmacist who initiates treatment with, dispenses, or administers drugs, devices, controlled paraphernalia, and other supplies and equipment pursuant to this section shall obtain a history from the patient, including questioning the patient for any known allergies, adverse reactions, contraindications, or health diagnoses or conditions that would be adverse to the initiation of treatment, dispensing, or administration.

F. A pharmacist may initiate treatment with, dispense, or administer drugs, devices, controlled paraphernalia, and other supplies and equipment pursuant to this section through telemedicine services, as defined in § 38.2-3418.16, in compliance with all requirements of § 54.1-3303 and consistent with the applicable standard of care.

G. A pharmacist who administers a vaccination to a minor pursuant to subdivision B 1 shall provide written notice to the minor's parent or guardian that the minor should visit a pediatrician annually.

2. That the Board of Pharmacy shall adopt a statewide protocol for the initiation of treatment with and dispensing and administering of drugs and devices by pharmacists in accordance with § 54.1-3303.1 of the Code of Virginia, as amended by this act, by November 1, 2023. Such protocol shall be developed by a work group consisting of representatives from the Board of Pharmacy, the Board of Medicine, and the Department of Health. The work group shall have an equal number of members who are representatives of the Board of Pharmacy and the Board of Medicine.

3. That the Board of Pharmacy shall promulgate regulations to implement the provisions of the first enactment of this act to be effective within 280 days of its enactment. Such regulations shall include provisions for ensuring that physical settings in which treatment is provided pursuant to this act shall be in compliance with the federal Health Insurance Portability and Accountability Act, 42 U.S.C. § 1302d et seq., as amended.

CHAPTER 172

An Act to amend and reenact § 54.1-3303.1 of the Code of Virginia, relating to pharmacist scope of practice; initiation of treatment for certain diseases and conditions.

[S 948]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3303.1 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3303.1. Initiating of treatment with and dispensing and administering of controlled substances by pharmacists.

A. Notwithstanding the provisions of § 54.1-3303, a pharmacist may initiate treatment with, dispense, or administer the following drugs, devices, controlled paraphernalia, and other supplies and equipment to persons 18 years of age or older with whom the pharmacist has a bona fide pharmacist-patient relationship and in accordance with a statewide protocol developed by the Board in collaboration with the Board of Medicine and the Department of Health and set forth in regulations of the Board:

1. Naloxone or other opioid antagonist, including such controlled paraphernalia, as defined in § 54.1-3466, as may be necessary to administer such naloxone or other opioid antagonist;

2. Epinephrine;

3. Injectable or self-administered hormonal contraceptives, provided the patient completes an assessment consistent with the United States Medical Eligibility Criteria for Contraceptive Use;

4. Prenatal vitamins for which a prescription is required;

5. Dietary fluoride supplements, in accordance with recommendations of the American Dental Association for prescribing of such supplements for persons whose drinking water has a fluoride content below the concentration recommended by the U.S. Department of Health and Human Services;

6. Drugs as defined in § 54.1-3401, devices as defined in § 54.1-3401, controlled paraphernalia as defined in § 54.1-3466, and other supplies and equipment available over-the-counter, covered by the patient's health carrier when the patient's out-of-pocket cost is lower than the out-of-pocket cost to purchase an over-the-counter equivalent of the same drug, device, controlled paraphernalia, or other supplies or equipment;

7. Vaccines included on the Immunization Schedule published by the Centers for Disease Control and Prevention and vaccines for COVID-19;

8. Tuberculin purified protein derivative for tuberculosis testing;

9. Controlled substances for the prevention of human immunodeficiency virus, including controlled substances prescribed for pre-exposure and post-exposure prophylaxis pursuant to guidelines and recommendations of the Centers for Disease Control and Prevention;

10. Nicotine replacement and other tobacco cessation therapies, including controlled substances as defined in the Drug Control Act (§ 54.1-3400 et seq.), together with providing appropriate patient counseling; ~~and~~

11. *Controlled substances or devices for the initiation of treatment of the following diseases or conditions for which clinical decision making can be guided by a clinical test that is classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988: group A Streptococcus bacteria infection, influenza virus infection, COVID-19 virus infection, and urinary tract infection; and*

12. Tests for COVID-19 and other coronaviruses.

B. Notwithstanding the provisions of § 54.1-3303, a pharmacist may initiate treatment with, dispense, or administer the following drugs and devices to persons three years of age or older in accordance with a statewide protocol as set forth in regulations of the Board:

1. (Contingent Effective Date) Vaccines included on the Immunization Schedule published by the Centers for Disease Control and Prevention and vaccines for COVID-19; and

2. (Contingent Effective Date) Tests for COVID-19 and other coronaviruses.

C. A pharmacist who initiates treatment with or dispenses or administers a drug or device pursuant to this section shall notify the patient's primary health care provider that the pharmacist has initiated treatment with such drug or device or that such drug or device has been dispensed or administered to the patient, provided that the patient consents to such notification. No pharmacist shall limit the ability of notification to be sent to the patient's primary care provider by requiring use of electronic mail that is secure or compliant with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.). If the patient does not have a primary health care provider, the pharmacist shall counsel the patient regarding the benefits of establishing a relationship with a primary health care provider and provide information regarding primary health care providers, including federally qualified health centers, free clinics, or local health departments serving the area in which the patient is located. If the pharmacist is initiating treatment with, dispensing, or administering injectable or self-administered hormonal contraceptives, the pharmacist shall counsel the patient regarding seeking preventative care, including (i) routine well-woman visits, (ii) testing for sexually transmitted infections, and (iii) pap smears.

D. A pharmacist who administers a vaccination pursuant to subdivisions A 7 and B 1 shall report such administration to the Virginia Immunization Information System in accordance with the requirements of § 32.1-46.01.

E. A pharmacist who initiates treatment with, dispenses, or administers drugs, devices, controlled paraphernalia, and other supplies and equipment pursuant to this section shall obtain a history from the patient, including questioning the patient for any known allergies, adverse reactions, contraindications, or health diagnoses or conditions that would be adverse to the initiation of treatment, dispensing, or administration.

F. A pharmacist may initiate treatment with, dispense, or administer drugs, devices, controlled paraphernalia, and other supplies and equipment pursuant to this section through telemedicine services, as defined in § 38.2-3418.16, in compliance with all requirements of § 54.1-3303 and consistent with the applicable standard of care.

G. A pharmacist who administers a vaccination to a minor pursuant to subdivision B 1 shall provide written notice to the minor's parent or guardian that the minor should visit a pediatrician annually.

2. That the Board of Pharmacy shall adopt a statewide protocol for the initiation of treatment with and dispensing and administering of drugs and devices by pharmacists in accordance with § 54.1-3303.1 of the Code of Virginia, as amended by this act, by November 1, 2023. Such protocol shall be developed by a work group consisting of representatives from the Board of Pharmacy, the Board of Medicine, and the Department of Health. The work group shall have an equal number of members who are representatives of the Board of Pharmacy and the Board of Medicine.

3. That the Board of Pharmacy shall promulgate regulations to implement the provisions of the first enactment of this act to be effective within 280 days of its enactment. Such regulations shall include provisions for ensuring that physical settings in which treatment is provided pursuant to this act shall be in compliance with the federal Health Insurance Portability and Accountability Act, 42 U.S.C. § 1302d et seq., as amended.

CHAPTER 173

An Act to amend and reenact § 58.1-512 of the Code of Virginia, relating to land preservation tax credits.

[H 1834]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-512 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-512. Land preservation tax credits for individuals and corporations.

A. 1. For taxable years beginning on or after January 1, 2000, there shall be allowed as a credit against the tax liability imposed by §§ 58.1-320 and 58.1-400, an amount equal to 50 percent of the fair market value of any land or interest in land located in Virginia that is conveyed for the purpose of agricultural and forestal use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation, as an unconditional donation by the landowner/taxpayer to a public or private conservation agency eligible to hold such land and interests therein for conservation or preservation purposes. For such conveyances made on or after January 1, 2007, the tax credit shall be 40 percent of the fair market value of the land or interest in land so conveyed.

2. a. If the Commonwealth or an instrumentality thereof operates a facility on a conveyance, including charging fees for the use of such facility, such operation shall not disqualify the conveyance from eligibility for the tax credit, so long as any fees are used for conservation or preservation purposes.

b. If the Commonwealth or an instrumentality thereof enters into an agreement with a third party to lease or manage a facility on a conveyance, the fact that such third party is operated primarily as a business with intent for profit shall not disqualify the conveyance from eligibility for the tax credit, so long as such agreement is for conservation or preservation purposes.

B. The fair market value of qualified donations made under this section shall be determined in accordance with § 58.1-512.1 and substantiated by a "qualified appraisal" prepared by a "qualified appraiser," as those terms are defined under applicable federal law and regulations governing charitable contributions. The value of the donated interest in land that qualifies for credit under this section, as determined according to appropriate federal law and regulations, shall be subject to the limits established by United States Internal Revenue Code § 170(e). In order to qualify for a tax credit under this section, the qualified appraisal shall be signed by the qualified appraiser, who must be licensed in the Commonwealth of Virginia as provided in § 54.1-2011, and a copy of the appraisal shall be submitted to the Department. In the event that any appraiser falsely or fraudulently overstates the value of the contributed property in an appraisal that the appraiser has signed, the Department may disallow further appraisals signed by the appraiser and shall refer the appraiser to the Real Estate Appraiser Board for appropriate disciplinary action pursuant to § 54.1-2013, which may include, but need not be limited to, revocation of the appraiser's license. Any appraisal that, upon audit by the Department, is determined to be false or fraudulent, may be disregarded by the Department in determining the fair market value of the property and the amount of tax credit to be allowed under this section.

C. 1. The amount of the credit that may be claimed by each taxpayer, including credit claimed by applying unused credits as provided under subsection C of § 58.1-513, shall not exceed $50,000 for 2000 taxable years; $75,000 for 2001 taxable years; $100,000 for each of 2002 through 2008 taxable years; $50,000 for each of 2009, 2010, and

2011 taxable years; $100,000 for each of 2012, 2013, and 2014 taxable years; $20,000 for each of 2015, 2016, and 2017 taxable years; and $50,000 for 2018 taxable years and for each taxable year thereafter. However, for any fee simple donation of land conveyed to the Commonwealth on or after January 1, 2015, the amount of the credit claimed shall not exceed $100,000 for each taxable year, provided that no part of the charitable contributions deduction under § 170 of the Internal Revenue Code related to such fee simple donation is allowable by reason of a sale or exchange of property. In addition, for each taxpayer, in any one taxable year the credit used may not exceed the amount of individual, fiduciary or corporate income tax otherwise due. Any portion of the credit that is unused in any one taxable year may be carried over for a maximum of 10 consecutive taxable years following the taxable year in which the credit originated until fully expended. A credit shall not be reduced by the amount of unused credit that could have been claimed in a prior year by the taxpayer but was unclaimed. For taxpayers affected by the credit reduction for taxable years 2009, 2010, 2011, and 2015 and thereafter, any portion of the credit that is unused in any one taxable year may be carried over for a maximum of 13 consecutive taxable years following the taxable year in which the credit originated until fully expended.

2. Qualified donations shall include the conveyance of a fee interest in real property or the conveyance in perpetuity of a less-than-fee interest in real property, such as a conservation restriction, preservation restriction, agricultural preservation restriction, or watershed preservation restriction, provided that such less-than-fee interest qualifies as a charitable deduction under § 170(h) of the United States Internal Revenue Code of 1986, as amended.

The Department of Conservation and Recreation shall compile an annual report on qualified donations of less-than-fee interests accepted by any public or private conservation agency in the respective calendar year and shall submit the report by December 1 of each year to the Chairmen of the House Committee on Appropriations, House Committee on Finance, and the Senate Committee on Finance and Appropriations. In preparing such report, the Department of Conservation and Recreation shall consult and coordinate with the Department of Taxation and the Departments of Forestry and Agriculture and Consumer Services to provide an estimate of the number of acres of land currently being used for "production agriculture and silviculture" as defined in § 3.2-300 that have been protected by qualified donations of less-than-fee interests. This report shall include information, when available, on land qualifying for credits being used for "production agriculture and silviculture" that have onsite operational best management practices, which are designed to reduce the amount of nutrients and sediment entering public waters. In addition, the report shall include information, when available, on riparian buffers, both vegetated/forested buffers and no-plow buffers, required by deed restriction on land qualifying for credits in order to protect water quality. This information shall be reported in summary fashion as appropriate to preserve confidentiality of information. Qualified donations shall not include the conveyance of a fee interest, or a less-than-fee interest, in real property by a charitable organization that (i) meets the definition of "holder" in § 10.1-1009 and (ii) holds one or more conservation easements acquired pursuant to the authority conferred on a "holder" by § 10.1-1010.

3. Any fee interest, or a less-than-fee interest, in real property that has been dedicated as open space within, or as part of, a residential subdivision or any other type of residential or commercial development; dedicated as open space in, or as part of, any real estate development plan; or dedicated for the purpose of fulfilling density requirements to obtain approvals for zoning, subdivision, site plan, or building permits shall not be a qualified donation under this article.

4. Qualified donations shall be eligible for the tax credit herein described if such donations are made to the Commonwealth of Virginia, an instrumentality thereof, or a charitable organization described in § 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, if such charitable organization (i) meets the requirements of § 509(a)(2) or (ii) meets the requirements of § 509(a)(3) and is controlled by an organization described in § 509(a)(2).

5. The preservation, agricultural preservation, historic preservation or similar use and purpose of such property shall be assured in perpetuity. In the case of conveyances of a fee interest to a charitable organization that is a "holder" as defined in § 10.1-1009, the credit shall not be allowed until the charitable organization agrees that subsequent conveyances of the fee interest in the property will be (i) subject to a previous conveyance in perpetuity of a conservation easement, as that term is defined in § 10.1-1009, or subject to the conveyance in perpetuity of an open-space easement, as that term is defined in § 10.1-1700, or (ii) conveyed to the Commonwealth of Virginia or to a federal conservation agency. No credit shall be allowed with respect to any subsequent conveyances by the charitable organization.

D. The issuance of tax credits under this article for donations made on and after January 1, 2007, shall be in accordance with procedures and deadlines established by the Department and shall be administered under the following conditions:

1. The taxpayer shall apply for a credit after completing the donation by submitting a form or forms prescribed by the Department in consultation with the Department of Conservation and Recreation. If the application requests a credit of $1 million or more or if the donation meets the conditions of subdivision 3 c, then a copy of the application shall also be filed with the Department of Conservation and Recreation by the taxpayer. The application shall include, but not be limited to:

a. A description of the conservation purpose or purposes being served by the donation;

b. The fair market value of land being donated in the absence of any easement or other restriction;

c. The public benefit derived from the donation;

d. The extent to which water quality best management practices will be implemented on the property; and

e. Whether the property is fully or partially forested and a forest management plan is included in the terms of the donation.

2. Applications for otherwise qualified donations of a less-than-fee interest shall be accompanied by an affidavit describing how the donated interest in land meets the requirements of § 170(h) of the United States Internal Revenue Code

of 1986, as amended, and the regulations adopted thereunder. The application with accompanying affidavit shall be submitted to the Department of Taxation, with a copy also provided to the Department of Conservation and Recreation.

3. a. No credit in the amount of $1 million or more shall be issued with respect to a donation unless the conservation value of the donation has been verified by the Director of the Department of Conservation and Recreation, based on the criteria adopted by the Virginia Land Conservation Foundation for this purpose. Such criteria and subsequent amendments shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.), but the Virginia Land Conservation Foundation shall provide for adequate public participation, including adequate notice and opportunity to provide comments on the proposed criteria. The Director shall act on applications within 90 days of his receipt of a complete application and shall notify the taxpayer and the Department of Taxation of his action.

b. For purposes of determining whether a credit requires verification of the conservation value, the credits allowed under this article with respect to donations of any other portion of a recorded parcel of land within the preceding 11 years shall be aggregated with the credit claimed for the current donation. This subdivision shall not apply if (i) all owners of the parcel who have been allowed credit for a qualified donation are not affiliated with the person or entity seeking credit for the current donation of a different portion of the parcel and (ii) in the case of an individual seeking credit, the individual has not previously made a qualified donation for any portion of the parcel and is not an immediate family member of any such owners.

c. If (i) the real property that is the subject of the donation was partitioned from or part of another parcel of land and any other portion of such parcel, or any land partitioned from such parcel of land, has been allowed a tax credit under this article (or an application for tax credit is pending) within three years of such donation and (ii) the tax credit that would otherwise be allowed to the donor for such donation is at least $250,000, then no credit under this article shall be issued with respect to such donation described in clause (i) unless the conservation value of the donation has been verified by the Director of the Department of Conservation and Recreation. The Director shall act on applications within 90 days of his receipt of a complete application and shall notify the taxpayer and the Department of Taxation of his action. Nothing in this subdivision shall be construed or interpreted (a) as allowing additional tax credit for any land or interest in land previously conveyed for which tax credit has already been allowed under this article or (b) affecting the validity of any tax credit allowed under this article for a prior conveyance of any land or interest in land.

4. a. Tax credits shall be issued on a calendar year basis, and in no case shall the Department issue more than the maximum allowed for the calendar year. The maximum amount of credits that may be issued in a calendar year shall be $100 million plus any credits previously issued under this article but subsequently disallowed or invalidated by the Department. Credits previously issued but subsequently disallowed or invalidated shall be reissued in a subsequent calendar year. All credits shall be issued in the order that each complete application is filed. For filings by mail or a recognized commercial delivery service, the postmark or confirmation of shipment shall determine the date of filing. If within 30 days after an application for credits has been filed the Tax Commissioner provides written notice to the donor that he has determined that the preparation of a second qualified appraisal is warranted, the application shall not be deemed complete until the fair market value of the donation has been finally determined by the Tax Commissioner. The Tax Commissioner shall make a final determination within 180 days of notifying the donor, unless the donor has filed an appeal. The donor shall have the right to appeal any decision of the Department in accordance with the provisions of Chapter 18 (§ 58.1-1800 et seq.). If more than one complete application is filed at the same time, the credits with respect to those applications shall be issued in the order that the conveyances were recorded in the appropriate circuit court of the Commonwealth. In the event that a credit requires verification of the conservation value by the Department of Conservation and Recreation and such verification has not been received at the time the maximum $100 million allowed is reached for the calendar year of the donation, such credit shall not be issued for that calendar year but shall be issued in the calendar year that the conservation value of the credit is verified by the Department of Conservation and Recreation.

No credit shall be allowed for any land or interest in land conveyed unless (i) for a conveyance made before January 1, 2020, a complete application for tax credit with regard to the conveyance has been filed with the Department by December 31 of the third year following the calendar year of the conveyance or (ii) for a conveyance made on or after January 1, 2020, a complete application for tax credit with regard to the conveyance has been filed with the Department by December 31 of the second year following the calendar year of the conveyance. For filings by mail or a recognized commercial delivery service, the postmark or confirmation of shipment shall determine the date of filing. Solely for purposes of this condition, any application for which the Tax Commissioner has given written notice to the donor that the preparation of a second qualified appraisal is warranted shall be deemed timely filed, provided that the application was otherwise complete as of such filing deadline. *For conveyances made on and after January 1, 2017, the deadlines provided by clauses (i) and (ii) of this subdivision shall be extended for any number of days exceeding 90 during which an application for tax credit is being reviewed for verification of conservation value by the Department of Conservation and Recreation, if the application was otherwise complete at the time of the original filing deadline.*

b. Beginning with calendar year 2008, the $100 million amount contained in subdivision 4 a shall be increased by an amount equal to $100 million multiplied by the percentage by which the consumer price index for all-urban consumers published by the United States Department of Labor (CPI-U) for the 12-month period ending August 31 of the preceding year exceeds the CPI-U for the 12-month period ending August 31, 2006.

c. Beginning with calendar year 2015, the maximum amount of credits that may be issued in a calendar year shall not exceed $75 million. In no case shall the Department issue any tax credit for a donation from any allocation or pool of tax

credits attributable to a calendar year prior to the year in which the complete tax credit application for the donation was filed.

Beginning with the submission due on or before December 20, 2015, and in each year thereafter, the Governor shall include in "The Budget Bill" submitted pursuant to subsection A of § 2.2-1509 or in his amendments to the general appropriation act in effect submitted pursuant to subsection E of § 2.2-1509 a recommended appropriation from the general fund equal to the difference between the amount calculated pursuant to subdivision b and $75 million, but not more than $20 million, to be allocated as follows: 80 percent to the Virginia Land Conservation Fund to be used in accordance with § 10.1-1020, with no less than 50 percent of such appropriation to be used for fee simple acquisitions with public access or acquisitions of easements with public access; 10 percent to the Virginia Battlefield Preservation Fund to be used in accordance with § 10.1-2202.4; and 10 percent to the Virginia Farmland Preservation Fund to be used in accordance with § 3.2-201.

5. a. Any taxpayer that has been issued a tax credit by the Department shall be allowed to use such credit for his or its taxable year that begins in the calendar year for which such credit was issued and for succeeding taxable years in accordance with the 10 consecutive taxable year carryforward provisions of this article, except for any taxpayer affected by the credit limitation for taxable years 2009, 2010, 2011, and 2015 and taxable years thereafter. Such a taxpayer shall be allowed to use such credit for his or its taxable year that begins in the calendar year for which such credit was issued and for succeeding taxable years in accordance with the 13 consecutive taxable year carryforward provisions of this article.

b. Any taxpayer to whom a credit has been transferred may use such credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event may such transferred credit be used more than 11 years after it was originally issued by the Department or in any taxable year of such taxpayer that ended prior to the date of transfer, except for any taxpayer affected by the credit limitation for taxable years 2009, 2010, 2011, and 2015 and taxable years thereafter. Such a taxpayer may use such credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event may such transferred credit be used more than 14 years after it was originally issued by the Department or in any taxable year of such taxpayer that ended prior to the date of transfer.

6. Neither the verification of conservation value by the Department of Conservation and Recreation nor the issuance of a credit by the Department of Taxation shall in any way be construed or interpreted as prohibiting the Department of Taxation or the Tax Commissioner from auditing any credit claimed pursuant to the provisions of this article or from assessing tax relating to the claiming of any credit under this article.

E. In any review or appeal before the Tax Commissioner or in any court in the Commonwealth the burden of proof shall be on the taxpayer to show that the fair market value and conservation value at the time of the qualified donation is consistent with this section and that all requirements of this article have been satisfied.

CHAPTER 174

An Act to amend and reenact § 37.2-1104 of the Code of Virginia, relating to temporary detention in hospital for testing, observation, or treatment; mental or physical conditions resulting from intoxication.

[H 1792]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-1104 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-1104. Temporary detention in hospital for testing, observation, or treatment.

~~A. As used in this section, "mental or physical condition" includes intoxication.~~

~~B.~~ *A.* The court or, if the court is unavailable, a magistrate serving the jurisdiction where the respondent is located may, with the advice of a licensed physician who has attempted to obtain informed consent of an adult person to treatment of a mental or physical condition, issue an order authorizing temporary detention of the adult person in a hospital emergency department or other appropriate facility for testing, observation, or treatment upon a finding that (i) probable cause exists to believe the person is incapable of making or communicating an informed decision regarding treatment of a physical or mental condition due to a mental or physical condition*, including intoxication* and (ii) the medical standard of care calls for observation, testing, or treatment within the next 24 hours to prevent injury, disability, death, or other harm to the person resulting from such mental or physical condition.

B. When a mental or physical condition to be treated appears to be a result of intoxication, a licensed physician who has attempted to obtain informed consent of an adult person for treatment of such mental or physical condition appearing to be a result of intoxication may seek an order from the magistrate or court in the jurisdiction where the respondent is located authorizing temporary detention of the adult person in a hospital emergency department or other appropriate facility for testing, observation, or treatment upon a finding that (i) probable cause exists to believe the person's intoxication has rendered the person incapable of making or communicating an informed decision regarding treatment and (ii) the medical standard of care calls for observation, testing, or treatment within the next 24 hours to prevent injury, disability, death, or other harm to the person or another person resulting from such intoxication.

C. The duration of temporary detention pursuant to this section shall not exceed 24 hours, unless extended by the court as part of an order authorizing treatment under § 37.2-1101. If, before completion of authorized testing, observation, or treatment, the physician determines that a person subject to an order under this subsection has become capable of making and communicating an informed decision, the physician shall rely on the person's decision on whether to consent to further testing, observation, or treatment. If, before issuance of an order under this subsection or during its period of effectiveness, the physician learns of an objection by a member of the person's immediate family to the testing, observation, or treatment, he shall so notify the court or magistrate, who shall consider the objection in determining whether to issue, modify, or terminate the order.

D. A court or, if the court is unavailable *or pursuant to subsection B*, a magistrate serving the jurisdiction may issue an order authorizing temporary detention for testing, observation, or treatment for a person who is also the subject of an emergency custody order issued pursuant to § 37.2-808, if such person meets the criteria set forth in subsection *A or* B. In any case in which an order for temporary detention for testing, observation, or treatment is issued for a person who is also the subject of an emergency custody order pursuant to § 37.2-808, the hospital emergency room or other appropriate facility in which the person is detained for testing, observation, or treatment shall notify the nearest community services board when such testing, observation, or treatment is complete, and the designee of the community services board shall, as soon as is practicable and prior to the expiration of the order for temporary detention issued pursuant to subsection *A or* B, conduct an evaluation of the person to determine if he meets the criteria for temporary detention pursuant to § 37.2-809.

CHAPTER 175

An Act to amend and reenact § 37.2-1104 of the Code of Virginia, relating to temporary detention in hospital for testing, observation, or treatment; mental or physical conditions resulting from intoxication.

[S 1302]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-1104 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-1104. Temporary detention in hospital for testing, observation, or treatment.

A. ~~As used in this section, "mental or physical condition" includes intoxication.~~

~~B.~~ The court or, if the court is unavailable, a magistrate serving the jurisdiction where the respondent is located may, with the advice of a licensed physician who has attempted to obtain informed consent of an adult person to treatment of a mental or physical condition, issue an order authorizing temporary detention of the adult person in a hospital emergency department or other appropriate facility for testing, observation, or treatment upon a finding that (i) probable cause exists to believe the person is incapable of making or communicating an informed decision regarding treatment of a physical or mental condition due to a mental or physical condition*, including intoxication* and (ii) the medical standard of care calls for observation, testing, or treatment within the next 24 hours to prevent injury, disability, death, or other harm to the person resulting from such mental or physical condition.

B. When a mental or physical condition to be treated appears to be a result of intoxication, a licensed physician who has attempted to obtain informed consent of an adult person for treatment of such mental or physical condition appearing to be a result of intoxication may seek an order from the magistrate or court in the jurisdiction where the respondent is located authorizing temporary detention of the adult person in a hospital emergency department or other appropriate facility for testing, observation, or treatment upon a finding that (i) probable cause exists to believe the person's intoxication has rendered the person incapable of making or communicating an informed decision regarding treatment and (ii) the medical standard of care calls for observation, testing, or treatment within the next 24 hours to prevent injury, disability, death, or other harm to the person or another person resulting from such intoxication.

C. The duration of temporary detention pursuant to this section shall not exceed 24 hours, unless extended by the court as part of an order authorizing treatment under § 37.2-1101. If, before completion of authorized testing, observation, or treatment, the physician determines that a person subject to an order under this subsection has become capable of making and communicating an informed decision, the physician shall rely on the person's decision on whether to consent to further testing, observation, or treatment. If, before issuance of an order under this subsection or during its period of effectiveness, the physician learns of an objection by a member of the person's immediate family to the testing, observation, or treatment, he shall so notify the court or magistrate, who shall consider the objection in determining whether to issue, modify, or terminate the order.

D. A court or, if the court is unavailable *or pursuant to subsection B*, a magistrate serving the jurisdiction may issue an order authorizing temporary detention for testing, observation, or treatment for a person who is also the subject of an emergency custody order issued pursuant to § 37.2-808, if such person meets the criteria set forth in subsection *A or* B. In any case in which an order for temporary detention for testing, observation, or treatment is issued for a person who is also the subject of an emergency custody order pursuant to § 37.2-808, the hospital emergency room or other appropriate facility in which the person is detained for testing, observation, or treatment shall notify the nearest community services board when such testing, observation, or treatment is complete, and the designee of the community services board shall, as soon as is

practicable and prior to the expiration of the order for temporary detention issued pursuant to subsection *A or* B, conduct an evaluation of the person to determine if he meets the criteria for temporary detention pursuant to § 37.2-809.

CHAPTER 176

An Act to amend and reenact §§ 64.2-2002 and 64.2-2003 of the Code of Virginia, relating to guardianship or conservatorship; primary health care provider of respondent.

[H 1860]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 64.2-2002 and 64.2-2003 of the Code of Virginia are amended and reenacted as follows:

§ 64.2-2002. Who may file petition; contents.

A. Any person, including a community services board and any other local or state governmental agency, may file a petition for the appointment of a guardian, a conservator, or both.

B. A petition for the appointment of a guardian, a conservator, or both, shall state the petitioner's name, place of residence, post office address, and relationship, if any, to the respondent and, to the extent known as of the date of filing, shall include the following:

1. The respondent's name, date of birth, place of residence or location, post office address, and the sealed filing of the social security number;

2. The basis for the court's jurisdiction under the provisions of Article 2 (§ 64.2-2105 et seq.) of Chapter 21;

3. The names and post office addresses of the respondent's spouse, adult children, parents, and adult siblings or, if no such relatives are known to the petitioner, at least three other known relatives of the respondent, including stepchildren. If a total of three such persons cannot be identified and located, the petitioner shall certify that fact in the petition, and the court shall set forth such finding in the final order;

4. The name, place of residence or location, and post office address of the individual or facility, if any, that is responsible for or has assumed responsibility for the respondent's care or custody;

5. The name, place of residence or location, and post office address of any agent designated under a durable power of attorney or an advance directive of which the respondent is the principal, and any guardian, committee, or conservator currently acting, whether in this state or elsewhere, and the petitioner shall attach a copy of any such durable power of attorney, advance directive, or order appointing the guardian, committee, or conservator, if available;

5a. The name, location, and post office address of the respondent's primary health care provider, if any;

6. The type of guardianship or conservatorship requested and a brief description of the nature and extent of the respondent's alleged incapacity;

7. When the petition requests appointment of a guardian, a brief description of the services currently being provided for the respondent's health, care, safety, or rehabilitation and, where appropriate, a recommendation as to living arrangements and treatment plan;

8. If the appointment of a limited guardian is requested, the specific areas of protection and assistance to be included in the order of appointment and, if the appointment of a limited conservator is requested, the specific areas of management and assistance to be included in the order of appointment;

9. The name and post office address of any proposed guardian or conservator or any guardian or conservator nominated by the respondent and that person's relationship to the respondent;

10. The native language of the respondent and any necessary alternative mode of communication;

11. A statement of the financial resources of the respondent that shall, to the extent known, list the approximate value of the respondent's property and the respondent's anticipated annual gross income, other receipts, and debts;

12. A statement of whether the petitioner believes that the respondent's attendance at the hearing would be detrimental to the respondent's health, care, or safety; and

13. A request for appointment of a guardian ad litem.

§ 64.2-2003. Appointment of guardian ad litem.

A. On the filing of every petition for guardianship or conservatorship, the court shall appoint a guardian ad litem to represent the interests of the respondent. The guardian ad litem shall be paid a fee that is fixed by the court to be paid by the petitioner or taxed as costs, as the court directs.

B. Duties of the guardian ad litem include (i) personally visiting the respondent; (ii) advising the respondent of rights pursuant to §§ 64.2-2006 and 64.2-2007 and certifying to the court that the respondent has been so advised; (iii) recommending that legal counsel be appointed for the respondent, pursuant to § 64.2-2006, if the guardian ad litem believes that counsel for the respondent is necessary; (iv) notifying the court as soon as practicable if the respondent requests counsel regardless of whether the guardian ad litem recommends counsel; (v) investigating the petition and evidence, requesting additional evaluation if necessary, considering whether a less restrictive alternative to guardianship or conservatorship is available, including the use of an advance directive, supported decision-making agreement, or durable power of attorney, and filing a report pursuant to subsection C; ~~and~~ (vi) *making a good faith effort to consult directly with the respondent's primary health care provider, if any, unless the evaluation report required by § 64.2-2005 is prepared in*

whole or in part by such provider; and (vii) personally appearing at all court proceedings and conferences. If the respondent is between 17 and a half and 21 years of age and has an Individualized Education Plan (IEP) and transition plan, the guardian ad litem shall review such IEP and transition plan and include the results of his review in the report required by clause (v).

C. In the report required by clause (v) of subsection B, the guardian ad litem shall address the following major areas of concern: (i) whether the court has jurisdiction; (ii) whether a guardian or conservator is needed based on evaluations and reviews conducted pursuant to subsection B; (iii) the extent of the duties and powers of the guardian or conservator; (iv) the propriety and suitability of the person selected as guardian or conservator after consideration of the person's geographic location, familial or other relationship with the respondent, ability to carry out the powers and duties of the office, commitment to promoting the respondent's welfare, any potential conflicts of interests, wishes of the respondent, and recommendations of relatives; (v) a recommendation as to the amount of surety on the conservator's bond, if any; and (vi) consideration of proper residential placement of the respondent. The report shall also contain an explanation by the guardian ad litem as to any (a) decision not to recommend the appointment of counsel for the respondent, (b) determination that a less restrictive alternative to guardianship or conservatorship is not advisable, and (c) determination that appointment of a limited guardian or conservator is not appropriate. *If the guardian ad litem was unable to consult directly with the respondent's primary health care provider, such information shall also be included in such report.*

D. A health care provider and local school division shall disclose or make available to the guardian ad litem, upon request, any information, records, and reports concerning the respondent that the guardian ad litem determines necessary to perform his duties under this section.

CHAPTER 177

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

[H 1839]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

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

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

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

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

C. The general permit shall contain the following:

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

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

3. A requirement that the permittees shall either individually or through the Association submit compliance plans to the Department for approval. The compliance plans shall contain, at a minimum, any capital projects and implementation schedules needed to achieve total nitrogen and phosphorus reductions sufficient to comply with the individual and combined waste load allocations of all the permittees in the tributary. The compliance plans may rely on the exchange of

point source credits in accordance with this article, but not the acquisition of credits through payments authorized by § 62.1-44.19:18, to achieve compliance with the individual and combined waste load allocations in each tributary. The compliance plans shall be updated annually and submitted to the Department no later than February 1 of each year. The compliance plans due beginning February 1, 2023, shall address the requirements of the ENRC Program;

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

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

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

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

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

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

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

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

3. Beginning in 2030, each review also shall consider the following factors for municipal wastewater facilities:

a. Substantial changes in the size or population of a service area;

b. Significant changes in land use resulting from adopted changes to zoning ordinances or comprehensive plans within a service area;

c. Significant establishment of conservation easements or other perpetual instruments that are associated with a deed and that restrict growth or development;

d. Constructed treatment facility capacity;

e. Significant changes in the understanding of the water chemistry or biology of receiving waters that would reasonably result in unused nutrient discharge allocations over an extended period of time;

f. Significant changes in treatment technologies that would reasonably result in unused nutrient discharge allocations over an extended period of time;

g. The ability of the permitted facility to accommodate projected growth under existing nutrient waste load allocations; and

h. Other similarly significant factors that the Board determines reasonably to affect the allocations granted.

The Board shall not reduce allocations based solely on voluntary improvements in nutrient removal technology.

E. The Board shall maintain and make available to the public a current listing, by tributary, of all permittees and permitted facilities under the general permit, together with each permitted facility's total nitrogen and total phosphorus waste load allocations, and total nitrogen and total phosphorus delivery factors.

F. Except as otherwise provided in this article, in the event that there are conflicting or duplicative conditions contained in the general permit and an individual Virginia Pollutant Discharge Elimination System permit, the conditions in the general permit shall control.

G. The Board shall adopt amendments to the Water Quality Management Planning Regulation and modifications to Virginia Pollutant Discharge Elimination System permits or registration lists to establish and implement the Phase III Watershed Implementation Plan Enhanced Nutrient Removal Certainty Program (ENRC Program) as provided in this subsection. The ENRC Program shall consist of the following projects and the following waste load allocation reductions and their respective schedules for compliance.

1. Priority projects for additional nitrogen and phosphorus removal (schedule for compliance):

PROJECT NAME	DESCRIPTION (COMPLIANCE SCHEDULE)
HRSD-Chesapeake/Elizabeth STP	Consolidate into regional system and close treatment facility (1/1/2023)
HRSD-Boat Harbor WWTP	Convey by subaqueous crossing to Nansemond River WWTP for nutrient removal (1/1/2026)
HRSD-Nansemond River WWTP	Upgrade and expand with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
HRSD-Nassawadox WWTP	Convey to regional system for nutrient removal (1/1/2026)
Fredericksburg WWTF	Expand with nutrient removal technology of 3.0 mg/L total nitrogen and 0.22 mg/L total phosphorus (1/1/2026)
Spotsylvania Co.-FMC WWTF	Convey to Massaponax WWTF and close treatment facility (1/1/2026)
Spotsylvania Co.-Massaponax WWTF	Expand with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus to consolidate and close FMC WWTF (1/1/2026)
Spotsylvania Co.-Thornburg STP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus (1/1/2026)
HRRSA-North River WWTP	Phosphorus removal tertiary filtration upgrade (1/1/2026)
South Central Wastewater Authority WWTF	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus (1/1/2026)
HRSD-Williamsburg WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
HRSD-VIP WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
HRSD-James River WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2028)
HRSD-Army Base WWTP	Convey to VIP WWTP for nutrient removal (1/1/2032) or upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)

Each priority project and the associated schedule of compliance shall be incorporated into the applicable Virginia Pollutant Discharge Elimination System permit or registration list. Each priority project facility shall be in compliance *(i)* by complying with applicable annual average total nitrogen and total phosphorus concentrations for compliance years 2026, 2028, and 2032*; (ii) for the South Central Wastewater Authority WWTF, by implementing a phased construction program approved by the Department, and acquiring sufficient point source credits until its phased construction is completed as provided in this subsection;* or, *(iii)* only for a facility subject to an aggregated waste load allocation, by exercising the option of achieving an equivalent discharged load by the date set out in the schedule of compliance based on the applicable total nitrogen and total phosphorus annual average concentrations and actual annual flow treated without the acquisition and use of point source credits generated by permitted facilities not under common ownership. Noncompliance shall be enforceable in the same manner as any other condition of a Virginia Pollutant Discharge Elimination System permit.

The following requirements shall apply to the phased construction program to upgrade the South Central Wastewater Authority WWTF: (a) by August 1, 2023, the South Central Wastewater Authority (SCWWA) shall submit a phased construction program to the Department, which shall review and approve such program by September 1, 2023, or as soon

as possible thereafter; (b) by December 31, 2023, or within 150 days of approval by the Department of the phased construction program, whichever is later, SCWWA shall commence construction of the initial phase of construction; (c) by February 1, 2024, and annually thereafter, SCWWA shall submit a progress report to the Department describing its progress toward completing the phased construction program; (d) within 30 days of substantial completion of each major phase of construction, SCWWA shall submit an application for a certificate to operate to the Department and promptly place the associated treatment units into operation; (e) the phased construction program for the SCWWA WWTF priority project shall be completed as soon as possible on the schedule approved by the Department but no later than January 1, 2030; and (f) for each compliance year during the phased construction program that the facility does not achieve the nutrient removal technology concentration specified in this subsection, the SCWWA WWTF shall be responsible for acquiring sufficient point source credits to comply with its total nitrogen and total phosphorus waste load allocations applicable to that compliance year.

2. Nitrogen waste load allocation reductions — HRSD-York River WWTP:

Reduce the total nitrogen waste load allocation for the HRSD-York River WWTP to 228,444 lbs/year effective January 1, 2026.

3. James River HRSD SWIFT nutrient upgrades:

Reduce total nitrogen waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2026:

FACILITY NAME	TOTAL NITROGEN WASTELOAD ALLOCATION (lbs/year)
HRSD-Army Base WWTP	219,307
HRSD-Boat Harbor STP	304,593
HRSD-James River STP	243,674
HRSD-VIP WWTP	487,348
HRSD-Nansemond STP	365,511
HRSD-Williamsburg STP	274,133

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2026:

FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)
HRSD-Army Base WWTP	27,413
HRSD-Boat Harbor STP	38,074
HRSD-James River STP	30,459
HRSD-VIP WWTP	60,919
HRSD-Nansemond STP	45,689
HRSD-Williamsburg STP	34,267

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2030:

FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)
HRSD-Army Base WWTP	21,931
HRSD-Boat Harbor STP	30,459
HRSD-James River STP	24,367
HRSD-VIP WWTP	48,735
HRSD-Nansemond STP	36,551
HRSD-Williamsburg STP	27,413

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2032:

FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)
HRSD-Army Base WWTP	16,448
HRSD-Boat Harbor STP	22,844
HRSD-James River STP	18,276
HRSD-VIP WWTP	36,551
HRSD-Nansemond STP	27,413
HRSD-Williamsburg STP	20,560

Transfer the total nitrogen (454,596 lbs/year) and total phosphorus (41,450 lbs/year) waste load allocations for the HRSD-Chesapeake/Elizabeth STP to the Nutrient Offset Fund effective January 1, 2026.

Transfer the total nitrogen (153,500 lbs/yr) and total phosphorous (17,437 lbs/yr) waste load allocations for the HRSD-J.H. Miles Facility consolidation to HRSD in accordance with the approved registration list December 21, 2015, transfer.

2. That the Department of Environmental Quality, concurrently with its approval of the phased construction program for the upgrade of the South Central Wastewater Authority Wastewater Treatment Facility listed in subdivision G 1 of § 62.1-44.19:14 of the Code of Virginia, as amended by this act, shall execute corresponding amendments to the water quality improvement agreement pursuant to § 10.1-2131 of the Code of Virginia consistent with the scope and schedule of the approved phased construction program.

3. That the Department of Environmental Quality, by December 31, 2023, or as soon as possible thereafter, shall modify the Virginia Pollutant Discharge Elimination System permit for the South Central Wastewater Authority Wastewater Treatment Facility as listed in subdivision G 1 of § 62.1-44.19:14 of the Code of Virginia, as amended by this act, to include the requirements and compliance schedule established in this act.

CHAPTER 178

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

[S 963]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

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

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

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

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

C. The general permit shall contain the following:

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

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

3. A requirement that the permittees shall either individually or through the Association submit compliance plans to the Department for approval. The compliance plans shall contain, at a minimum, any capital projects and implementation schedules needed to achieve total nitrogen and phosphorus reductions sufficient to comply with the individual and combined waste load allocations of all the permittees in the tributary. The compliance plans may rely on the exchange of point source credits in accordance with this article, but not the acquisition of credits through payments authorized by § 62.1-44.19:18, to achieve compliance with the individual and combined waste load allocations in each tributary. The compliance plans shall be updated annually and submitted to the Department no later than February 1 of each year. The compliance plans due beginning February 1, 2023, shall address the requirements of the ENRC Program;

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

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

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

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

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

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

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

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

3. Beginning in 2030, each review also shall consider the following factors for municipal wastewater facilities:

a. Substantial changes in the size or population of a service area;

b. Significant changes in land use resulting from adopted changes to zoning ordinances or comprehensive plans within a service area;

c. Significant establishment of conservation easements or other perpetual instruments that are associated with a deed and that restrict growth or development;

d. Constructed treatment facility capacity;

e. Significant changes in the understanding of the water chemistry or biology of receiving waters that would reasonably result in unused nutrient discharge allocations over an extended period of time;

f. Significant changes in treatment technologies that would reasonably result in unused nutrient discharge allocations over an extended period of time;

g. The ability of the permitted facility to accommodate projected growth under existing nutrient waste load allocations; and

h. Other similarly significant factors that the Board determines reasonably to affect the allocations granted.

The Board shall not reduce allocations based solely on voluntary improvements in nutrient removal technology.

E. The Board shall maintain and make available to the public a current listing, by tributary, of all permittees and permitted facilities under the general permit, together with each permitted facility's total nitrogen and total phosphorus waste load allocations, and total nitrogen and total phosphorus delivery factors.

F. Except as otherwise provided in this article, in the event that there are conflicting or duplicative conditions contained in the general permit and an individual Virginia Pollutant Discharge Elimination System permit, the conditions in the general permit shall control.

G. The Board shall adopt amendments to the Water Quality Management Planning Regulation and modifications to Virginia Pollutant Discharge Elimination System permits or registration lists to establish and implement the Phase III Watershed Implementation Plan Enhanced Nutrient Removal Certainty Program (ENRC Program) as provided in this subsection. The ENRC Program shall consist of the following projects and the following waste load allocation reductions and their respective schedules for compliance.

1. Priority projects for additional nitrogen and phosphorus removal (schedule for compliance):

PROJECT NAME	DESCRIPTION (COMPLIANCE SCHEDULE)
HRSD-Chesapeake/Elizabeth STP	Consolidate into regional system and close treatment facility (1/1/2023)
HRSD-Boat Harbor WWTP	Convey by subaqueous crossing to Nansemond River WWTP for nutrient removal (1/1/2026)
HRSD-Nansemond River WWTP	Upgrade and expand with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
HRSD-Nassawadox WWTP	Convey to regional system for nutrient removal (1/1/2026)
Fredericksburg WWTF	Expand with nutrient removal technology of 3.0 mg/L total nitrogen and 0.22 mg/L total phosphorus (1/1/2026)
Spotsylvania Co.-FMC WWTF	Convey to Massaponax WWTF and close treatment facility (1/1/2026)
Spotsylvania Co.-Massaponax WWTF	Expand with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus to consolidate and close FMC WWTF (1/1/2026)
Spotsylvania Co.-Thornburg STP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus (1/1/2026)
HRRSA-North River WWTP	Phosphorus removal tertiary filtration upgrade (1/1/2026)
South Central Wastewater Authority WWTF	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen and 0.30 mg/L total phosphorus (1/1/2026)
HRSD-Williamsburg WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
HRSD-VIP WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)
HRSD-James River WWTP	Upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2028)
HRSD-Army Base WWTP	Convey to VIP WWTP for nutrient removal (1/1/2032) or upgrade with nutrient removal technology of 4.0 mg/L total nitrogen (1/1/2026) and 0.30 mg/L total phosphorus (1/1/2032)

Each priority project and the associated schedule of compliance shall be incorporated into the applicable Virginia Pollutant Discharge Elimination System permit or registration list. Each priority project facility shall be in compliance *(i)* by complying with applicable annual average total nitrogen and total phosphorus concentrations for compliance years 2026,

2028, and 2032*; (ii) for the South Central Wastewater Authority WWTF, by implementing a phased construction program approved by the Department, and acquiring sufficient point source credits until its phased construction is completed as provided in this subsection;* or~~,~~ *(iii)* only for a facility subject to an aggregated waste load allocation, by exercising the option of achieving an equivalent discharged load by the date set out in the schedule of compliance based on the applicable total nitrogen and total phosphorus annual average concentrations and actual annual flow treated without the acquisition and use of point source credits generated by permitted facilities not under common ownership. Noncompliance shall be enforceable in the same manner as any other condition of a Virginia Pollutant Discharge Elimination System permit.

The following requirements shall apply to the phased construction program to upgrade the South Central Wastewater Authority WWTF: (a) by August 1, 2023, the South Central Wastewater Authority (SCWWA) shall submit a phased construction program to the Department, which shall review and approve such program by September 1, 2023, or as soon as possible thereafter; (b) by December 31, 2023, or within 150 days of approval by the Department of the phased construction program, whichever is later, SCWWA shall commence construction of the initial phase of construction; (c) by February 1, 2024, and annually thereafter, SCWWA shall submit a progress report to the Department describing its progress toward completing the phased construction program; (d) within 30 days of substantial completion of each major phase of construction, SCWWA shall submit an application for a certificate to operate to the Department and promptly place the associated treatment units into operation; (e) the phased construction program for the SCWWA WWTF priority project shall be completed as soon as possible on the schedule approved by the Department but no later than January 1, 2030; and (f) for each compliance year during the phased construction program that the facility does not achieve the nutrient removal technology concentration specified in this subsection, the SCWWA WWTF shall be responsible for acquiring sufficient point source credits to comply with its total nitrogen and total phosphorus waste load allocations applicable to that compliance year.

2. Nitrogen waste load allocation reductions — HRSD-York River WWTP:

Reduce the total nitrogen waste load allocation for the HRSD-York River WWTP to 228,444 lbs/year effective January 1, 2026.

3. James River HRSD SWIFT nutrient upgrades:

Reduce total nitrogen waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2026:

FACILITY NAME	TOTAL NITROGEN WASTELOAD ALLOCATION (lbs/year)
HRSD-Army Base WWTP	219,307
HRSD-Boat Harbor STP	304,593
HRSD-James River STP	243,674
HRSD-VIP WWTP	487,348
HRSD-Nansemond STP	365,511
HRSD-Williamsburg STP	274,133

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2026:

FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)
HRSD-Army Base WWTP	27,413
HRSD-Boat Harbor STP	38,074
HRSD-James River STP	30,459
HRSD-VIP WWTP	60,919
HRSD-Nansemond STP	45,689
HRSD-Williamsburg STP	34,267

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2030:

FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)

HRSD-Army Base WWTP	21,931
HRSD-Boat Harbor STP	30,459
HRSD-James River STP	24,367
HRSD-VIP WWTP	48,735
HRSD-Nansemond STP	36,551
HRSD-Williamsburg STP	27,413

Reduce total phosphorus waste load allocations for HRSD treatment works in the James River basin to the following allocations effective January 1, 2032:

FACILITY NAME	TOTAL PHOSPHORUS WASTELOAD ALLOCATION (lbs/year)
HRSD-Army Base WWTP	16,448
HRSD-Boat Harbor STP	22,844
HRSD-James River STP	18,276
HRSD-VIP WWTP	36,551
HRSD-Nansemond STP	27,413
HRSD-Williamsburg STP	20,560

Transfer the total nitrogen (454,596 lbs/year) and total phosphorus (41,450 lbs/year) waste load allocations for the HRSD-Chesapeake/Elizabeth STP to the Nutrient Offset Fund effective January 1, 2026.

Transfer the total nitrogen (153,500 lbs/yr) and total phosphorous (17,437 lbs/yr) waste load allocations for the HRSD-J.H. Miles Facility consolidation to HRSD in accordance with the approved registration list December 21, 2015, transfer.

2. That the Department of Environmental Quality, concurrently with its approval of the phased construction program for the upgrade of the South Central Wastewater Authority Wastewater Treatment Facility listed in subdivision G 1 of § 62.1-44.19:14 of the Code of Virginia, as amended by this act, shall execute corresponding amendments to the water quality improvement agreement pursuant to § 10.1-2131 of the Code of Virginia consistent with the scope and schedule of the approved phased construction program.

3. That the Department of Environmental Quality, by December 31, 2023, or as soon as possible thereafter, shall modify the Virginia Pollutant Discharge Elimination System permit for the South Central Wastewater Authority Wastewater Treatment Facility as listed in subdivision G 1 of § 62.1-44.19:14 of the Code of Virginia, as amended by this act, to include the requirements and compliance schedule established in this act.

CHAPTER 179

An Act to amend the Code of Virginia by adding a section numbered 10.1-2210.1, relating to Department of Historic Resources; Green Book historic site designation.

[H 1968]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-2210.1 as follows:

§ 10.1-2210.1. Green Book historic site designation.

A. For purposes of this section, "Green Book" means The Negro Motorist Green Book published by Victor Hugo Green to provide a list of hotels, guest houses, service stations, drug stores, taverns, barbershops, and restaurants known to be safe for traveling Black Americans during the Jim Crow era.

B. The Department, in partnership with the Virginia Tourism Corporation and the Department of Transportation, shall designate or approve historic site signs identifying locations and businesses identified in the Green Book. Such historic site signs shall be permanently affixed to existing markers approved by the Department as provided in § 10.1-2209. The Department shall establish a registry of verified locations and businesses in the Commonwealth identified in the Green Book and determine those locations or businesses that also have a historic site marker approved by the Department on or near such location or business. The Department of Transportation shall print, place, and maintain the Green Book historic site signs. Localities that maintain their own highways shall place and maintain the Green Book historic site signs for those sites within their boundaries. The Virginia Tourism Corporation shall design the signs and maintain an informational website (i) explaining the historical significance of the Green Book in making travel safer for Black Americans and (ii) listing the Green Book locations in the Commonwealth, as identified by the Department, and identifying those locations

that have posted Green Book historic site signs as provided in this section. Such signs shall include an image, outline, or similar depiction of the Green Book and the words "Green Book Location."

CHAPTER 180

An Act to amend and reenact § 55.1-2902 of the Code of Virginia, relating to Virginia Self-Service Storage Act; default by occupant; watercraft vehicles.

[H 1930]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-2902 of the Code of Virginia is amended and reenacted as follows:

§ 55.1-2902. Enforcement of lien.

A. 1. If any occupant is in default under a rental agreement, the owner shall notify the occupant of such default by regular mail at his last known address, or, if expressly provided for in the rental agreement, such notice may be given by electronic means. If such default is not cured within 10 days after its occurrence, then the owner may proceed to enforce such lien by selling the contents of the occupant's unit at public auction, for cash, and apply the proceeds to satisfaction of the lien, with the surplus, if any, to be disbursed as provided in this section. Before conducting such a public auction, the owner shall notify the occupant as prescribed in subsection C. The rental agreement may provide the occupant with the option to designate an alternative contact to receive the notices required by this section. Failure or refusal of an occupant to designate an alternative contact shall not affect the rights or remedies afforded to an occupant or owner pursuant to the provisions of this section or any other provision of law. No alternative contact shall have any right to access the leased space or any personal property stored within unless expressly stated otherwise in the rental agreement.

2. In the case of personal property having a fair market value in excess of $1,000, and against which a creditor has filed a financing statement in the name of the occupant at the State Corporation Commission or in the county or city where the self-service storage facility is located or in the county or city in the Commonwealth shown as the last known address of the occupant, or if such personal property is a watercraft required by the laws of the Commonwealth to be registered and the Department of Wildlife Resources shows a lien on the certificate of title, the owner shall notify the lienholder of record, by certified mail, at the address on the financing statement or certificate of title, at least 10 days prior to the time and place of the proposed public auction.

If the owner of the personal property cannot be ascertained, the name of "John Doe" shall be substituted in the proceedings provided for in this section and no written notice shall be required. Whenever a watercraft is sold pursuant to this subsection, the Department of Wildlife Resources shall issue a certificate of title and registration to the purchaser of such watercraft upon his application containing the serial or motor number of the watercraft purchased, together with an affidavit by the lienholder, or by the person conducting the public auction, evidencing compliance with the provisions of this subsection.

B. Whenever the occupant is in default, the owner shall have the right to deny the occupant access to the leased space.

C. After the occupant has been in default for a period of 10 days, and before the owner can sell the occupant's personal property in accordance with this chapter, the owner shall send a further notice of default, by verified mail, postage prepaid, to the occupant at his last known address, or, if expressly provided for in the rental agreement, such notice may be given by electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery. Such notice of default shall include:

1. An itemized statement of the owner's claim, indicating the charges due on the date of the notice and the date when the charges became due;

2. A demand for payment of the charges due within a specified time not less than 20 days after the date of the notice;

3. A statement that the contents of the occupant's leased space are subject to the owner's lien;

4. A conspicuous statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold at public auction at a specified time and place; and

5. The name, street address, and telephone number of the owner or his designated agent whom the occupant may contact to respond to the notice.

D. At any time prior to the public auction pursuant to this section, the occupant may pay the amount necessary to satisfy the lien and thereby redeem the personal property.

E. In the event of a public auction pursuant to this section, the owner may satisfy his lien from the proceeds of the public auction and shall hold the balance, if any, for delivery on demand to the occupant or other lienholder referred to in this chapter. However, the owner shall not be obligated to hold any balance for a lienholder of record notified pursuant to subdivision A 2, or any other lien creditor, that fails to claim an interest in the balance within 30 days of the public auction. So long as the owner complies with the provisions of this chapter, the owner's liability to the occupant under this chapter shall be limited to the net proceeds received from the public auction of any personal property and, as to other lienholders, shall be limited to the net proceeds received from the public auction of any personal property covered by such superior lien.

F. Any public auction of the personal property shall be held (i) at the self-service storage facility, (ii) at the nearest suitable place to where the personal property is held or stored, or (iii) online.

G. A purchaser in good faith of any personal property sold or otherwise disposed of pursuant to this chapter takes such property free and clear of any rights of persons against whom the lien was valid.

H. Any notice made pursuant to this section shall be presumed delivered when it is (i) deposited with the United States Postal Service and properly addressed to the occupant's last known address with postage prepaid or (ii) sent by electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery. In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of default.

I. In the case of any motor vehicle, so long as the motor vehicle remains stored within such leased space, the owner shall have a lien on such vehicle in accordance with § 46.2-644.01.

J. In the case of any watercraft, if the occupant has been in default for more than 60 days, the owner may have such watercraft towed from the self-service storage facility in lieu of conducting a public sale of such property. Notice shall be sent by verified mail or electronic mail at the occupant's last known address at least 10 days prior to the tow date and shall include the name, address, and telephone number of the company selected to tow such watercraft. Such notice may be sent independently or as part of the notice required by subsection C. The owner shall be immune from civil liability for any damage to such watercraft that occurs after the company selected to tow such watercraft takes possession of the watercraft.

CHAPTER 181

An Act to amend and reenact § 55.1-2902 of the Code of Virginia, relating to Virginia Self-Service Storage Act; default by occupant; watercraft vehicles.

[S 976]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-2902 of the Code of Virginia is amended and reenacted as follows:

§ 55.1-2902. Enforcement of lien.

A. 1. If any occupant is in default under a rental agreement, the owner shall notify the occupant of such default by regular mail at his last known address, or, if expressly provided for in the rental agreement, such notice may be given by electronic means. If such default is not cured within 10 days after its occurrence, then the owner may proceed to enforce such lien by selling the contents of the occupant's unit at public auction, for cash, and apply the proceeds to satisfaction of the lien, with the surplus, if any, to be disbursed as provided in this section. Before conducting such a public auction, the owner shall notify the occupant as prescribed in subsection C. The rental agreement may provide the occupant with the option to designate an alternative contact to receive the notices required by this section. Failure or refusal of an occupant to designate an alternative contact shall not affect the rights or remedies afforded to an occupant or owner pursuant to the provisions of this section or any other provision of law. No alternative contact shall have any right to access the leased space or any personal property stored within unless expressly stated otherwise in the rental agreement.

2. In the case of personal property having a fair market value in excess of $1,000, and against which a creditor has filed a financing statement in the name of the occupant at the State Corporation Commission or in the county or city where the self-service storage facility is located or in the county or city in the Commonwealth shown as the last known address of the occupant, or if such personal property is a watercraft required by the laws of the Commonwealth to be registered and the Department of Wildlife Resources shows a lien on the certificate of title, the owner shall notify the lienholder of record, by certified mail, at the address on the financing statement or certificate of title, at least 10 days prior to the time and place of the proposed public auction.

If the owner of the personal property cannot be ascertained, the name of "John Doe" shall be substituted in the proceedings provided for in this section and no written notice shall be required. Whenever a watercraft is sold pursuant to this subsection, the Department of Wildlife Resources shall issue a certificate of title and registration to the purchaser of such watercraft upon his application containing the serial or motor number of the watercraft purchased, together with an affidavit by the lienholder, or by the person conducting the public auction, evidencing compliance with the provisions of this subsection.

B. Whenever the occupant is in default, the owner shall have the right to deny the occupant access to the leased space.

C. After the occupant has been in default for a period of 10 days, and before the owner can sell the occupant's personal property in accordance with this chapter, the owner shall send a further notice of default, by verified mail, postage prepaid, to the occupant at his last known address, or, if expressly provided for in the rental agreement, such notice may be given by electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery. Such notice of default shall include:

1. An itemized statement of the owner's claim, indicating the charges due on the date of the notice and the date when the charges became due;

2. A demand for payment of the charges due within a specified time not less than 20 days after the date of the notice;

3. A statement that the contents of the occupant's leased space are subject to the owner's lien;

4. A conspicuous statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold at public auction at a specified time and place; and

5. The name, street address, and telephone number of the owner or his designated agent whom the occupant may contact to respond to the notice.

D. At any time prior to the public auction pursuant to this section, the occupant may pay the amount necessary to satisfy the lien and thereby redeem the personal property.

E. In the event of a public auction pursuant to this section, the owner may satisfy his lien from the proceeds of the public auction and shall hold the balance, if any, for delivery on demand to the occupant or other lienholder referred to in this chapter. However, the owner shall not be obligated to hold any balance for a lienholder of record notified pursuant to subdivision A 2, or any other lien creditor, that fails to claim an interest in the balance within 30 days of the public auction. So long as the owner complies with the provisions of this chapter, the owner's liability to the occupant under this chapter shall be limited to the net proceeds received from the public auction of any personal property and, as to other lienholders, shall be limited to the net proceeds received from the public auction of any personal property covered by such superior lien.

F. Any public auction of the personal property shall be held (i) at the self-service storage facility, (ii) at the nearest suitable place to where the personal property is held or stored, or (iii) online.

G. A purchaser in good faith of any personal property sold or otherwise disposed of pursuant to this chapter takes such property free and clear of any rights of persons against whom the lien was valid.

H. Any notice made pursuant to this section shall be presumed delivered when it is (i) deposited with the United States Postal Service and properly addressed to the occupant's last known address with postage prepaid or (ii) sent by electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery. In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of default.

I. In the case of any motor vehicle, so long as the motor vehicle remains stored within such leased space, the owner shall have a lien on such vehicle in accordance with § 46.2-644.01.

J. In the case of any watercraft, if the occupant has been in default for more than 60 days, the owner may have such watercraft towed from the self-service storage facility in lieu of conducting a public sale of such property. Notice shall be sent by verified mail or electronic mail at the occupant's last known address at least 10 days prior to the tow date and shall include the name, address, and telephone number of the company selected to tow such watercraft. Such notice may be sent independently or as part of the notice required by subsection C. The owner shall be immune from civil liability for any damage to such watercraft that occurs after the company selected to tow such watercraft takes possession of the watercraft.

CHAPTER 182

An Act to amend and reenact § 2.2-2818 of the Code of Virginia, relating to state employees; health insurance coverage; incapacitated adult children.

[H 2038]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2818 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-2818. Health and related insurance for state employees.

A. The Department of Human Resource Management shall establish a plan, subject to the approval of the Governor, for providing health insurance coverage, including chiropractic treatment, hospitalization, medical, surgical, and major medical coverage, for state employees and retired state employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The same plan shall be offered to all part-time state employees, but the total cost shall be paid by such part-time employees. The Department of Human Resource Management shall administer this section. The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased. Except for part-time employees, the Commonwealth may pay all or a portion of the cost thereof, and for such portion as the Commonwealth does not pay, the employee, including a part-time employee, may purchase the coverage by paying the additional cost over the cost of coverage for an employee.

Such contribution shall be financed through appropriations provided by law.

B. The plan shall:

1. Include coverage for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over and may be limited to a benefit of $50 per mammogram subject to such dollar limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally.

The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

In order to be considered a screening mammogram for which coverage shall be made available under this section:

a. The mammogram shall be (i) ordered by a health care practitioner acting within the scope of his licensure and, in the case of an enrollee of a health maintenance organization, by the health maintenance organization provider; (ii) performed by a registered technologist; (iii) interpreted by a qualified radiologist; and (iv) performed under the direction of a person licensed to practice medicine and surgery and certified by the American Board of Radiology or an equivalent examining body. A copy of the mammogram report shall be sent or delivered to the health care practitioner who ordered it;

b. The equipment used to perform the mammogram shall meet the standards set forth by the Virginia Department of Health in its radiation protection regulations; and

c. The mammography film shall be retained by the radiologic facility performing the examination in accordance with the American College of Radiology guidelines or state law.

2. Include coverage for postpartum services providing inpatient care and a home visit or visits that shall be in accordance with the medical criteria, outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Such coverage shall be provided incorporating any changes in such Guidelines or Standards within six months of the publication of such Guidelines or Standards or any official amendment thereto.

3. Include an appeals process for resolution of complaints that shall provide reasonable procedures for the resolution of such complaints and shall be published and disseminated to all covered state employees. The appeals process shall be compliant with federal rules and regulations governing nonfederal, self-insured governmental health plans. The appeals process shall include a separate expedited emergency appeals procedure that shall provide resolution within time frames established by federal law. For appeals involving adverse decisions as defined in § 32.1-137.7, the Department shall contract with one or more independent review organizations to review such decisions. Independent review organizations are entities that conduct independent external review of adverse benefit determinations. The Department shall adopt regulations to assure that the independent review organization conducting the reviews has adequate standards, credentials and experience for such review. The independent review organization shall examine the final denial of claims to determine whether the decision is objective, clinically valid, and compatible with established principles of health care. The decision of the independent review organization shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy.

Prior to assigning an appeal to an independent review organization, the Department shall verify that the independent review organization conducting the review of a denial of claims has no relationship or association with (i) the covered person or the covered person's authorized representative; (ii) the treating health care provider, or any of its employees or affiliates; (iii) the medical care facility at which the covered service would be provided, or any of its employees or affiliates; or (iv) the development or manufacture of the drug, device, procedure, or other therapy that is the subject of the final denial of a claim. The independent review organization shall not be a subsidiary of, nor owned or controlled by, a health plan, a trade association of health plans, or a professional association of health care providers. There shall be no liability on the part of and no cause of action shall arise against any officer or employee of an independent review organization for any actions taken or not taken or statements made by such officer or employee in good faith in the performance of his powers and duties.

4. Include coverage for early intervention services. For purposes of this section, "early intervention services" means medically necessary speech and language therapy, occupational therapy, physical therapy and assistive technology services and devices for dependents from birth to age three who are certified by the Department of Behavioral Health and Developmental Services as eligible for services under Part H of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). Medically necessary early intervention services for the population certified by the Department of Behavioral Health and Developmental Services shall mean those services designed to help an individual attain or retain the capability to function age-appropriately within his environment, and shall include services that enhance functional ability without effecting a cure.

For persons previously covered under the plan, there shall be no denial of coverage due to the existence of a preexisting condition. The cost of early intervention services shall not be applied to any contractual provision limiting the total amount of coverage paid by the insurer to or on behalf of the insured during the insured's lifetime.

5. Include coverage for prescription drugs and devices approved by the United States Food and Drug Administration for use as contraceptives.

6. Not deny coverage for any drug approved by the United States Food and Drug Administration for use in the treatment of cancer on the basis that the drug has not been approved by the United States Food and Drug Administration for the treatment of the specific type of cancer for which the drug has been prescribed, if the drug has been recognized as safe and effective for treatment of that specific type of cancer in one of the standard reference compendia.

7. Not deny coverage for any drug prescribed to treat a covered indication so long as the drug has been approved by the United States Food and Drug Administration for at least one indication and the drug is recognized for treatment of the covered indication in one of the standard reference compendia or in substantially accepted peer-reviewed medical literature.

8. Include coverage for equipment, supplies, and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes, and noninsulin-using diabetes if prescribed by a health care professional legally authorized to prescribe such items under law. To qualify for coverage under this subdivision, diabetes outpatient self-management training and education shall be provided by a certified, registered, or licensed health care professional.

9. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive breast surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy performed for breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish symmetry between the two breasts. For persons previously covered under the plan, there shall be no denial of coverage due to preexisting conditions.

10. Include coverage for annual pap smears, including coverage, on and after July 1, 1999, for annual testing performed by any FDA-approved gynecologic cytology screening technologies.

11. Include coverage providing a minimum stay in the hospital of not less than 48 hours for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of breast cancer. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate.

12. Include coverage (i) to persons age 50 and over and (ii) to persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen.

13. Permit any individual covered under the plan direct access to the health care services of a participating specialist (i) authorized to provide services under the plan and (ii) selected by the covered individual. The plan shall have a procedure by which an individual who has an ongoing special condition may, after consultation with the primary care physician, receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care related to the initial specialty care referral. If such an individual's care would most appropriately be coordinated by such a specialist, the plan shall refer the individual to a specialist. For the purposes of this subdivision, "special condition" means a condition or disease that is (i) life-threatening, degenerative, or disabling and (ii) requires specialized medical care over a prolonged period of time. Within the treatment period authorized by the referral, such specialist shall be permitted to treat the individual without a further referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services related to the initial referral as the individual's primary care provider would otherwise be permitted to provide or authorize. The plan shall have a procedure by which an individual who has an ongoing special condition that requires ongoing care from a specialist may receive a standing referral to such specialist for the treatment of the special condition. If the primary care provider, in consultation with the plan and the specialist, if any, determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to a specialist. Nothing contained herein shall prohibit the plan from requiring a participating specialist to provide written notification to the covered individual's primary care physician of any visit to such specialist. Such notification may include a description of the health care services rendered at the time of the visit.

14. Include provisions allowing employees to continue receiving health care services for a period of up to 90 days from the date of the primary care physician's notice of termination from any of the plan's provider panels. The plan shall notify any provider at least 90 days prior to the date of termination of the provider, except when the provider is terminated for cause.

For a period of at least 90 days from the date of the notice of a provider's termination from any of the plan's provider panels, except when a provider is terminated for cause, a provider shall be permitted by the plan to render health care services to any of the covered employees who (i) were in an active course of treatment from the provider prior to the notice of termination and (ii) request to continue receiving health care services from the provider.

Notwithstanding the provisions of this subdivision, any provider shall be permitted by the plan to continue rendering health services to any covered employee who has entered the second trimester of pregnancy at the time of the provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue through the provision of postpartum care directly related to the delivery.

Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue rendering health services to any covered employee who is determined to be terminally ill (as defined under § 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue for the remainder of the employee's life for care directly related to the treatment of the terminal illness.

A provider who continues to render health care services pursuant to this subdivision shall be reimbursed in accordance with the carrier's agreement with such provider existing immediately before the provider's termination of participation.

15. Include coverage for patient costs incurred during participation in clinical trials for treatment studies on cancer, including ovarian cancer trials.

The reimbursement for patient costs incurred during participation in clinical trials for treatment studies on cancer shall be determined in the same manner as reimbursement is determined for other medical and surgical procedures. Such

coverage shall have durational limits, dollar limits, deductibles, copayments, and coinsurance factors that are no less favorable than for physical illness generally.

For purposes of this subdivision:

"Cooperative group" means a formal network of facilities that collaborate on research projects and have an established NIH-approved peer review program operating within the group. "Cooperative group" includes (i) the National Cancer Institute Clinical Cooperative Group and (ii) the National Cancer Institute Community Clinical Oncology Program.

"FDA" means the Federal Food and Drug Administration.

"Multiple project assurance contract" means a contract between an institution and the federal Department of Health and Human Services that defines the relationship of the institution to the federal Department of Health and Human Services and sets out the responsibilities of the institution and the procedures that will be used by the institution to protect human subjects.

"NCI" means the National Cancer Institute.

"NIH" means the National Institutes of Health.

"Patient" means a person covered under the plan established pursuant to this section.

"Patient cost" means the cost of a medically necessary health care service that is incurred as a result of the treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not include (i) the cost of nonhealth care services that a patient may be required to receive as a result of the treatment being provided for purposes of a clinical trial, (ii) costs associated with managing the research associated with the clinical trial, or (iii) the cost of the investigational drug or device.

Coverage for patient costs incurred during clinical trials for treatment studies on cancer shall be provided if the treatment is being conducted in a Phase II, Phase III, or Phase IV clinical trial. Such treatment may, however, be provided on a case-by-case basis if the treatment is being provided in a Phase I clinical trial.

The treatment described in the previous paragraph shall be provided by a clinical trial approved by:

a. The National Cancer Institute;

b. An NCI cooperative group or an NCI center;

c. The FDA in the form of an investigational new drug application;

d. The federal Department of Veterans Affairs; or

e. An institutional review board of an institution in the Commonwealth that has a multiple project assurance contract approved by the Office of Protection from Research Risks of the NCI.

The facility and personnel providing the treatment shall be capable of doing so by virtue of their experience, training, and expertise.

Coverage under this subdivision shall apply only if:

(1) There is no clearly superior, noninvestigational treatment alternative;

(2) The available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as effective as the noninvestigational alternative; and

(3) The patient and the physician or health care provider who provides services to the patient under the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to procedures established by the plan.

16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a covered employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered employee following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized guidelines. Nothing in this subdivision shall be construed as requiring the provision of the total hours referenced when the attending physician, in consultation with the covered employee, determines that a shorter hospital stay is appropriate.

17. Include coverage for biologically based mental illness.

For purposes of this subdivision, a "biologically based mental illness" is any mental or nervous condition caused by a biological disorder of the brain that results in a clinically significant syndrome that substantially limits the person's functioning; specifically, the following diagnoses are defined as biologically based mental illness as they apply to adults and children: schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention deficit hyperactivity disorder, autism, and drug and alcoholism addiction.

Coverage for biologically based mental illnesses shall neither be different nor separate from coverage for any other illness, condition, or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

Nothing shall preclude the undertaking of usual and customary procedures to determine the appropriateness of, and medical necessity for, treatment of biologically based mental illnesses under this option, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations made for the treatment of any other illness, condition, or disorder covered by such policy or contract.

18. Offer and make available coverage for the treatment of morbid obesity through gastric bypass surgery or such other methods as may be recognized by the National Institutes of Health as effective for the long-term reversal of morbid obesity. Such coverage shall have durational limits, dollar limits, deductibles, copayments, and coinsurance factors that are no less favorable than for physical illness generally. Access to surgery for morbid obesity shall not be restricted based upon dietary or any other criteria not approved by the National Institutes of Health. For purposes of this subdivision, "morbid obesity"

means (i) a weight that is at least 100 pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables, (ii) a body mass index (BMI) equal to or greater than 35 kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes, or (iii) a BMI of 40 kilograms per meter squared without such comorbidity. As used herein, "BMI" equals weight in kilograms divided by height in meters squared.

19. Include coverage for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations. The coverage for colorectal cancer screening shall not be more restrictive than or separate from coverage provided for any other illness, condition, or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayments and coinsurance factors.

20. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each employee provided coverage pursuant to this section, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide employees covered under the plan such corrective information as may be required to electronically process a prescription claim.

21. Include coverage for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such coverage shall include follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss.

22. Notwithstanding any provision of this section to the contrary, every plan established in accordance with this section shall comply with the provisions of § 2.2-2818.2.

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums, and other payments shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs, and administrative expenses shall be withdrawn from time to time. The funds of the health insurance fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the employees and their beneficiaries. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the health insurance fund.

D. For the purposes of this section:

"Peer-reviewed medical literature" means a scientific study published only after having been critically reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal that has been determined by the International Committee of Medical Journal Editors to have met the Uniform Requirements for Manuscripts submitted to biomedical journals. "Peer-reviewed medical literature" does not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier.

"Standard reference compendia" means:

1. American Hospital Formulary Service — Drug Information;

2. National Comprehensive Cancer Network's Drugs & Biologics Compendium; or

3. Elsevier Gold Standard's Clinical Pharmacology.

"State employee" means state employee as defined in § 51.1-124.3; employee as defined in § 51.1-201; the Governor, Lieutenant Governor and Attorney General; judge as defined in § 51.1-301 and judges, clerks, and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth; interns and residents employed by the School of Medicine and Hospital of the University of Virginia, and interns, residents, and employees of the Virginia Commonwealth University Health System Authority as provided in § 23.1-2415; and employees of the Virginia Alcoholic Beverage Control Authority as provided in § 4.1-101.05.

E. Provisions shall be made for retired employees to obtain coverage under the above plan, including, as an option, coverage for vision and dental care. The Commonwealth may, but shall not be obligated to, pay all or any portion of the cost thereof.

F. Any self-insured group health insurance plan established by the Department of Human Resource Management that utilizes a network of preferred providers shall not exclude any physician solely on the basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the plan criteria established by the Department.

G. The plan shall include, in each planning district, at least two health coverage options, each sponsored by unrelated entities. No later than July 1, 2006, one of the health coverage options to be available in each planning district shall be a high deductible health plan that would qualify for a health savings account pursuant to § 223 of the Internal Revenue Code of 1986, as amended.

In each planning district that does not have an available health coverage alternative, the Department shall voluntarily enter into negotiations at any time with any health coverage provider who seeks to provide coverage under the plan.

This subsection shall not apply to any state agency authorized by the Department to establish and administer its own health insurance coverage plan separate from the plan established by the Department.

H. Any self-insured group health insurance plan established by the Department of Human Resource Management that includes coverage for prescription drugs on an outpatient basis may apply a formulary to the prescription drug benefits provided by the plan if the formulary is developed, reviewed at least annually, and updated as necessary in consultation with and with the approval of a pharmacy and therapeutics committee, a majority of whose members are actively practicing licensed (i) pharmacists, (ii) physicians, and (iii) other health care providers.

If the plan maintains one or more drug formularies, the plan shall establish a process to allow a person to obtain, without additional cost-sharing beyond that provided for formulary prescription drugs in the plan, a specific, medically necessary nonformulary prescription drug if, after reasonable investigation and consultation with the prescriber, the formulary drug is determined to be an inappropriate therapy for the medical condition of the person. The plan shall act on such requests within one business day of receipt of the request.

Any plan established in accordance with this section shall be authorized to provide for the selection of a single mail order pharmacy provider as the exclusive provider of pharmacy services that are delivered to the covered person's address by mail, common carrier, or delivery service. As used in this subsection, "mail order pharmacy provider" means a pharmacy permitted to conduct business in the Commonwealth whose primary business is to dispense a prescription drug or device under a prescriptive drug order and to deliver the drug or device to a patient primarily by mail, common carrier, or delivery service.

I. Any plan established in accordance with this section requiring preauthorization prior to rendering medical treatment shall have personnel available to provide authorization at all times when such preauthorization is required.

J. Any plan established in accordance with this section shall provide to all covered employees written notice of any benefit reductions during the contract period at least 30 days before such reductions become effective.

K. No contract between a provider and any plan established in accordance with this section shall include provisions that require a health care provider or health care provider group to deny covered services that such provider or group knows to be medically necessary and appropriate that are provided with respect to a covered employee with similar medical conditions.

L. The Department of Human Resource Management shall appoint an Ombudsman to promote and protect the interests of covered employees under any state employee's health plan.

The Ombudsman shall:

1. Assist covered employees in understanding their rights and the processes available to them according to their state health plan.

2. Answer inquiries from covered employees by telephone and electronic mail.

3. Provide to covered employees information concerning the state health plans.

4. Develop information on the types of health plans available, including benefits and complaint procedures and appeals.

5. Make available, either separately or through an existing Internet web site utilized by the Department of Human Resource Management, information as set forth in subdivision 4 and such additional information as he deems appropriate.

6. Maintain data on inquiries received, the types of assistance requested, any actions taken and the disposition of each such matter.

7. Upon request, assist covered employees in using the procedures and processes available to them from their health plan, including all appeal procedures. Such assistance may require the review of health care records of a covered employee, which shall be done only in accordance with the federal Health Insurance Portability and Accountability Act privacy rules. The confidentiality of any such medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

8. Ensure that covered employees have access to the services provided by the Ombudsman and that the covered employees receive timely responses from the Ombudsman or his representatives to the inquiries.

9. Report annually on his activities to the standing committees of the General Assembly having jurisdiction over insurance and over health and the Joint Commission on Health Care by December 1 of each year.

M. The plan established in accordance with this section shall not refuse to accept or make reimbursement pursuant to an assignment of benefits made to a dentist or oral surgeon by a covered employee.

For purposes of this subsection, "assignment of benefits" means the transfer of dental care coverage reimbursement benefits or other rights under the plan. The assignment of benefits shall not be effective until the covered employee notifies the plan in writing of the assignment.

N. Beginning July 1, 2006, any plan established pursuant to this section shall provide for an identification number, which shall be assigned to the covered employee and shall not be the same as the employee's social security number.

O. Any group health insurance plan established by the Department of Human Resource Management that contains a coordination of benefits provision shall provide written notification to any eligible employee as a prominent part of its enrollment materials that if such eligible employee is covered under another group accident and sickness insurance policy, group accident and sickness subscription contract, or group health care plan for health care services, that insurance policy,

subscription contract, or health care plan may have primary responsibility for the covered expenses of other family members enrolled with the eligible employee. Such written notification shall describe generally the conditions upon which the other coverage would be primary for dependent children enrolled under the eligible employee's coverage and the method by which the eligible enrollee may verify from the plan that coverage would have primary responsibility for the covered expenses of each family member.

P. Any plan established by the Department of Human Resource Management pursuant to this section shall provide that coverage under such plan for family members enrolled under a participating state employee's coverage shall continue for a period of at least 30 days following the death of such state employee.

Q. The plan established in accordance with this section that follows a policy of sending its payment to the covered employee or covered family member for a claim for services received from a nonparticipating physician or osteopath shall (i) include language in the member handbook that notifies the covered employee of the responsibility to apply the plan payment to the claim from such nonparticipating provider, (ii) include this language with any such payment sent to the covered employee or covered family member, and (iii) include the name and any last known address of the nonparticipating provider on the explanation of benefits statement.

R. *The plan established by the Department of Human Resource Management pursuant to this section shall provide that coverage under such plan for an incapacitated child enrolled under a participating state employee's coverage shall be valid without regard to whether such child lives with the covered employee as a member of the employee's household so long as the child is dependent upon the employee for more than half of the child's financial support and the child is receiving residential support services.*

For purposes of this subsection, "incapacitated child" means an adult child who is incapacitated due to a physical or mental health condition that existed prior to the termination of coverage due to such child attaining the limiting age under the plan for eligible children dependents.

S. The Department of Human Resource Management shall report annually, by November 30 of each year, on cost and utilization information for each of the mandated benefits set forth in subsection B, including any mandated benefit made applicable, pursuant to subdivision B 22, to any plan established pursuant to this section. The report shall be in the same detail and form as required of reports submitted pursuant to § 38.2-3419.1, with such additional information as is required to determine the financial impact, including the costs and benefits, of the particular mandated benefit.

CHAPTER 183

An Act to amend and reenact §§ 2.2-2818, 8.01-401.2, 8.01-581.1, 13.1-543, 13.1-1102, 16.1-336, 18.2-72, 18.2-76, 22.1-178, 22.1-270, 22.1-271.2, 22.1-271.4, 22.1-271.7, 22.1-274, 22.1-274.2, 32.1-19, 32.1-23.2, 32.1-42.1, 32.1-46, 32.1-50, 32.1-60, 32.1-122.6:02, 32.1-134.2, 32.1-134.3, 32.1-134.4, 32.1-138, 32.1-162.15:2, as it shall become effective, 32.1-263, 32.1-282, 32.1-325, as it is currently effective and as it shall become effective, 37.2-815, 38.2-3407.11, 38.2-3408, 38.2-4221, 45.2-548, 45.2-1137, 46.2-208, 46.2-322, 46.2-731, 46.2-739, 46.2-1240, 46.2-1241, 53.1-22, 54.1-2400.01:1, 54.1-2400.9, 54.1-2701, 54.1-2729.2, 54.1-2900, 54.1-2901, 54.1-2904, 54.1-2910.5, as it shall become effective, 54.1-2927, 54.1-2957 through 54.1-2957.04, 54.1-2970.1, 54.1-2972, 54.1-2973.1, 54.1-2983.2, 54.1-2986.2, 54.1-3000, 54.1-3002, 54.1-3005, 54.1-3016.1, 54.1-3300, 54.1-3300.1, 54.1-3301, 54.1-3303, 54.1-3304.1, 54.1-3401, 54.1-3408, 54.1-3408.3, 54.1-3482, 54.1-3482.1, 54.1-3812, 58.1-439.22, 58.1-609.10, 59.1-297, 59.1-298, 59.1-310.4, 63.2-1808, 63.2-1808.1, 63.2-2203, 65.2-402.1, and 65.2-605 of the Code of Virginia, relating to certified nurse midwives, certified registered nurse anesthetists, clinical nurse specialists, and nurse practitioners; designation as advanced practice registered nurses.

[S 975]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2818, 8.01-401.2, 8.01-581.1, 13.1-543, 13.1-1102, 16.1-336, 18.2-72, 18.2-76, 22.1-178, 22.1-270, 22.1-271.2, 22.1-271.4, 22.1-271.7, 22.1-274, 22.1-274.2, 32.1-19, 32.1-23.2, 32.1-42.1, 32.1-46, 32.1-50, 32.1-60, 32.1-122.6:02, 32.1-134.2, 32.1-134.3, 32.1-134.4, 32.1-138, 32.1-162.15:2, as it shall become effective, 32.1-263, 32.1-282, 32.1-325, as it is currently effective and as it shall become effective, 37.2-815, 38.2-3407.11, 38.2-3408, 38.2-4221, 45.2-548, 45.2-1137, 46.2-208, 46.2-322, 46.2-731, 46.2-739, 46.2-1240, 46.2-1241, 53.1-22, 54.1-2400.01:1, 54.1-2400.9, 54.1-2701, 54.1-2729.2, 54.1-2900, 54.1-2901, 54.1-2904, 54.1-2910.5, as it shall become effective, 54.1-2927, 54.1-2957 through 54.1-2957.04, 54.1-2970.1, 54.1-2972, 54.1-2973.1, 54.1-2983.2, 54.1-2986.2, 54.1-3000, 54.1-3002, 54.1-3005, 54.1-3016.1, 54.1-3300, 54.1-3300.1, 54.1-3301, 54.1-3303, 54.1-3304.1, 54.1-3401, 54.1-3408, 54.1-3408.3, 54.1-3482, 54.1-3482.1, 54.1-3812, 58.1-439.22, 58.1-609.10, 59.1-297, 59.1-298, 59.1-310.4, 63.2-1808, 63.2-1808.1, 63.2-2203, 65.2-402.1, and 65.2-605 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2818. Health and related insurance for state employees.

A. The Department of Human Resource Management shall establish a plan, subject to the approval of the Governor, for providing health insurance coverage, including chiropractic treatment, hospitalization, medical, surgical and major medical coverage, for state employees and retired state employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The same plan shall be offered to all part-time state employees, but the total

cost shall be paid by such part-time employees. The Department of Human Resource Management shall administer this section. The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased. Except for part-time employees, the Commonwealth may pay all or a portion of the cost thereof, and for such portion as the Commonwealth does not pay, the employee, including a part-time employee, may purchase the coverage by paying the additional cost over the cost of coverage for an employee.

Such contribution shall be financed through appropriations provided by law.

B. The plan shall:

1. Include coverage for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over and may be limited to a benefit of $50 per mammogram subject to such dollar limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally.

The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

In order to be considered a screening mammogram for which coverage shall be made available under this section:

a. The mammogram shall be (i) ordered by a health care practitioner acting within the scope of his licensure and, in the case of an enrollee of a health maintenance organization, by the health maintenance organization provider; (ii) performed by a registered technologist; (iii) interpreted by a qualified radiologist; and (iv) performed under the direction of a person licensed to practice medicine and surgery and certified by the American Board of Radiology or an equivalent examining body. A copy of the mammogram report shall be sent or delivered to the health care practitioner who ordered it;

b. The equipment used to perform the mammogram shall meet the standards set forth by the Virginia Department of Health in its radiation protection regulations; and

c. The mammography film shall be retained by the radiologic facility performing the examination in accordance with the American College of Radiology guidelines or state law.

2. Include coverage for postpartum services providing inpatient care and a home visit or visits that shall be in accordance with the medical criteria, outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Such coverage shall be provided incorporating any changes in such Guidelines or Standards within six months of the publication of such Guidelines or Standards or any official amendment thereto.

3. Include an appeals process for resolution of complaints that shall provide reasonable procedures for the resolution of such complaints and shall be published and disseminated to all covered state employees. The appeals process shall be compliant with federal rules and regulations governing nonfederal, self-insured governmental health plans. The appeals process shall include a separate expedited emergency appeals procedure that shall provide resolution within time frames established by federal law. For appeals involving adverse decisions as defined in § 32.1-137.7, the Department shall contract with one or more independent review organizations to review such decisions. Independent review organizations are entities that conduct independent external review of adverse benefit determinations. The Department shall adopt regulations to assure that the independent review organization conducting the reviews has adequate standards, credentials and experience for such review. The independent review organization shall examine the final denial of claims to determine whether the decision is objective, clinically valid, and compatible with established principles of health care. The decision of the independent review organization shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy.

Prior to assigning an appeal to an independent review organization, the Department shall verify that the independent review organization conducting the review of a denial of claims has no relationship or association with (i) the covered person or the covered person's authorized representative; (ii) the treating health care provider, or any of its employees or affiliates; (iii) the medical care facility at which the covered service would be provided, or any of its employees or affiliates; or (iv) the development or manufacture of the drug, device, procedure or other therapy that is the subject of the final denial of a claim. The independent review organization shall not be a subsidiary of, nor owned or controlled by, a health plan, a trade association of health plans, or a professional association of health care providers. There shall be no liability on the part of and no cause of action shall arise against any officer or employee of an independent review organization for any actions taken or not taken or statements made by such officer or employee in good faith in the performance of his powers and duties.

4. Include coverage for early intervention services. For purposes of this section, "early intervention services" means medically necessary speech and language therapy, occupational therapy, physical therapy and assistive technology services and devices for dependents from birth to age three who are certified by the Department of Behavioral Health and Developmental Services as eligible for services under Part H of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). Medically necessary early intervention services for the population certified by the Department of Behavioral Health and Developmental Services shall mean those services designed to help an individual attain or retain the capability to function age-appropriately within his environment, and shall include services that enhance functional ability without effecting a cure.

For persons previously covered under the plan, there shall be no denial of coverage due to the existence of a preexisting condition. The cost of early intervention services shall not be applied to any contractual provision limiting the total amount of coverage paid by the insurer to or on behalf of the insured during the insured's lifetime.

5. Include coverage for prescription drugs and devices approved by the United States Food and Drug Administration for use as contraceptives.

6. Not deny coverage for any drug approved by the United States Food and Drug Administration for use in the treatment of cancer on the basis that the drug has not been approved by the United States Food and Drug Administration for the treatment of the specific type of cancer for which the drug has been prescribed, if the drug has been recognized as safe and effective for treatment of that specific type of cancer in one of the standard reference compendia.

7. Not deny coverage for any drug prescribed to treat a covered indication so long as the drug has been approved by the United States Food and Drug Administration for at least one indication and the drug is recognized for treatment of the covered indication in one of the standard reference compendia or in substantially accepted peer-reviewed medical literature.

8. Include coverage for equipment, supplies and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes and noninsulin-using diabetes if prescribed by a health care professional legally authorized to prescribe such items under law. To qualify for coverage under this subdivision, diabetes outpatient self-management training and education shall be provided by a certified, registered or licensed health care professional.

9. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive breast surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy performed for breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish symmetry between the two breasts. For persons previously covered under the plan, there shall be no denial of coverage due to preexisting conditions.

10. Include coverage for annual pap smears, including coverage, on and after July 1, 1999, for annual testing performed by any FDA-approved gynecologic cytology screening technologies.

11. Include coverage providing a minimum stay in the hospital of not less than 48 hours for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of breast cancer. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate.

12. Include coverage (i) to persons age 50 and over and (ii) to persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen.

13. Permit any individual covered under the plan direct access to the health care services of a participating specialist (i) authorized to provide services under the plan and (ii) selected by the covered individual. The plan shall have a procedure by which an individual who has an ongoing special condition may, after consultation with the primary care physician, receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care related to the initial specialty care referral. If such an individual's care would most appropriately be coordinated by such a specialist, the plan shall refer the individual to a specialist. For the purposes of this subdivision, "special condition" means a condition or disease that is (i) life-threatening, degenerative, or disabling and (ii) requires specialized medical care over a prolonged period of time. Within the treatment period authorized by the referral, such specialist shall be permitted to treat the individual without a further referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services related to the initial referral as the individual's primary care provider would otherwise be permitted to provide or authorize. The plan shall have a procedure by which an individual who has an ongoing special condition that requires ongoing care from a specialist may receive a standing referral to such specialist for the treatment of the special condition. If the primary care provider, in consultation with the plan and the specialist, if any, determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to a specialist. Nothing contained herein shall prohibit the plan from requiring a participating specialist to provide written notification to the covered individual's primary care physician of any visit to such specialist. Such notification may include a description of the health care services rendered at the time of the visit.

14. Include provisions allowing employees to continue receiving health care services for a period of up to 90 days from the date of the primary care physician's notice of termination from any of the plan's provider panels. The plan shall notify any provider at least 90 days prior to the date of termination of the provider, except when the provider is terminated for cause.

For a period of at least 90 days from the date of the notice of a provider's termination from any of the plan's provider panels, except when a provider is terminated for cause, a provider shall be permitted by the plan to render health care services to any of the covered employees who (i) were in an active course of treatment from the provider prior to the notice of termination and (ii) request to continue receiving health care services from the provider.

Notwithstanding the provisions of this subdivision, any provider shall be permitted by the plan to continue rendering health services to any covered employee who has entered the second trimester of pregnancy at the time of the provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue through the provision of postpartum care directly related to the delivery.

Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue rendering health services to any covered employee who is determined to be terminally ill (as defined under § 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue for the remainder of the employee's life for care directly related to the treatment of the terminal illness.

A provider who continues to render health care services pursuant to this subdivision shall be reimbursed in accordance with the carrier's agreement with such provider existing immediately before the provider's termination of participation.

15. Include coverage for patient costs incurred during participation in clinical trials for treatment studies on cancer, including ovarian cancer trials.

The reimbursement for patient costs incurred during participation in clinical trials for treatment studies on cancer shall be determined in the same manner as reimbursement is determined for other medical and surgical procedures. Such coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less favorable than for physical illness generally.

For purposes of this subdivision:

"Cooperative group" means a formal network of facilities that collaborate on research projects and have an established NIH-approved peer review program operating within the group. "Cooperative group" includes (i) the National Cancer Institute Clinical Cooperative Group and (ii) the National Cancer Institute Community Clinical Oncology Program.

"FDA" means the Federal Food and Drug Administration.

"Multiple project assurance contract" means a contract between an institution and the federal Department of Health and Human Services that defines the relationship of the institution to the federal Department of Health and Human Services and sets out the responsibilities of the institution and the procedures that will be used by the institution to protect human subjects.

"NCI" means the National Cancer Institute.

"NIH" means the National Institutes of Health.

"Patient" means a person covered under the plan established pursuant to this section.

"Patient cost" means the cost of a medically necessary health care service that is incurred as a result of the treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not include (i) the cost of nonhealth care services that a patient may be required to receive as a result of the treatment being provided for purposes of a clinical trial, (ii) costs associated with managing the research associated with the clinical trial, or (iii) the cost of the investigational drug or device.

Coverage for patient costs incurred during clinical trials for treatment studies on cancer shall be provided if the treatment is being conducted in a Phase II, Phase III, or Phase IV clinical trial. Such treatment may, however, be provided on a case-by-case basis if the treatment is being provided in a Phase I clinical trial.

The treatment described in the previous paragraph shall be provided by a clinical trial approved by:

a. The National Cancer Institute;

b. An NCI cooperative group or an NCI center;

c. The FDA in the form of an investigational new drug application;

d. The federal Department of Veterans Affairs; or

e. An institutional review board of an institution in the Commonwealth that has a multiple project assurance contract approved by the Office of Protection from Research Risks of the NCI.

The facility and personnel providing the treatment shall be capable of doing so by virtue of their experience, training, and expertise.

Coverage under this subdivision shall apply only if:

(1) There is no clearly superior, noninvestigational treatment alternative;

(2) The available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as effective as the noninvestigational alternative; and

(3) The patient and the physician or health care provider who provides services to the patient under the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to procedures established by the plan.

16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a covered employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered employee following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized guidelines. Nothing in this subdivision shall be construed as requiring the provision of the total hours referenced when the attending physician, in consultation with the covered employee, determines that a shorter hospital stay is appropriate.

17. Include coverage for biologically based mental illness.

For purposes of this subdivision, a "biologically based mental illness" is any mental or nervous condition caused by a biological disorder of the brain that results in a clinically significant syndrome that substantially limits the person's functioning; specifically, the following diagnoses are defined as biologically based mental illness as they apply to adults and children: schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention deficit hyperactivity disorder, autism, and drug and alcoholism addiction.

Coverage for biologically based mental illnesses shall neither be different nor separate from coverage for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year

or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

Nothing shall preclude the undertaking of usual and customary procedures to determine the appropriateness of, and medical necessity for, treatment of biologically based mental illnesses under this option, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations made for the treatment of any other illness, condition or disorder covered by such policy or contract.

18. Offer and make available coverage for the treatment of morbid obesity through gastric bypass surgery or such other methods as may be recognized by the National Institutes of Health as effective for the long-term reversal of morbid obesity. Such coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less favorable than for physical illness generally. Access to surgery for morbid obesity shall not be restricted based upon dietary or any other criteria not approved by the National Institutes of Health. For purposes of this subdivision, "morbid obesity" means (i) a weight that is at least 100 pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables, (ii) a body mass index (BMI) equal to or greater than 35 kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes, or (iii) a BMI of 40 kilograms per meter squared without such comorbidity. As used herein, "BMI" equals weight in kilograms divided by height in meters squared.

19. Include coverage for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations. The coverage for colorectal cancer screening shall not be more restrictive than or separate from coverage provided for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayments and coinsurance factors.

20. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each employee provided coverage pursuant to this section, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide employees covered under the plan such corrective information as may be required to electronically process a prescription claim.

21. Include coverage for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such coverage shall include follow-up audiological examinations as recommended by a physician, *a* physician assistant, *an advanced practice registered* nurse ~~practitioner~~, or *an* audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss.

22. Notwithstanding any provision of this section to the contrary, every plan established in accordance with this section shall comply with the provisions of § 2.2-2818.2.

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The funds of the health insurance fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the employees and their beneficiaries. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the health insurance fund.

D. For the purposes of this section:

"Peer-reviewed medical literature" means a scientific study published only after having been critically reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal that has been determined by the International Committee of Medical Journal Editors to have met the Uniform Requirements for Manuscripts submitted to biomedical journals. Peer-reviewed medical literature does not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier.

"Standard reference compendia" means:

1. American Hospital Formulary Service — Drug Information;

2. National Comprehensive Cancer Network's Drugs & Biologics Compendium; or

3. Elsevier Gold Standard's Clinical Pharmacology.

"State employee" means state employee as defined in § 51.1-124.3; employee as defined in § 51.1-201; the Governor, Lieutenant Governor and Attorney General; judge as defined in § 51.1-301 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth; interns and residents employed by the School of Medicine and Hospital of the University of Virginia, and interns, residents, and employees of the Virginia Commonwealth University Health System Authority as provided in § 23.1-2415; and employees of the Virginia Alcoholic Beverage Control Authority as provided in § 4.1-101.05.

E. Provisions shall be made for retired employees to obtain coverage under the above plan, including, as an option, coverage for vision and dental care. The Commonwealth may, but shall not be obligated to, pay all or any portion of the cost thereof.

F. Any self-insured group health insurance plan established by the Department of Human Resource Management that utilizes a network of preferred providers shall not exclude any physician solely on the basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the plan criteria established by the Department.

G. The plan shall include, in each planning district, at least two health coverage options, each sponsored by unrelated entities. No later than July 1, 2006, one of the health coverage options to be available in each planning district shall be a high deductible health plan that would qualify for a health savings account pursuant to § 223 of the Internal Revenue Code of 1986, as amended.

In each planning district that does not have an available health coverage alternative, the Department shall voluntarily enter into negotiations at any time with any health coverage provider who seeks to provide coverage under the plan.

This subsection shall not apply to any state agency authorized by the Department to establish and administer its own health insurance coverage plan separate from the plan established by the Department.

H. Any self-insured group health insurance plan established by the Department of Human Resource Management that includes coverage for prescription drugs on an outpatient basis may apply a formulary to the prescription drug benefits provided by the plan if the formulary is developed, reviewed at least annually, and updated as necessary in consultation with and with the approval of a pharmacy and therapeutics committee, a majority of whose members are actively practicing licensed (i) pharmacists, (ii) physicians, and (iii) other health care providers.

If the plan maintains one or more drug formularies, the plan shall establish a process to allow a person to obtain, without additional cost-sharing beyond that provided for formulary prescription drugs in the plan, a specific, medically necessary nonformulary prescription drug if, after reasonable investigation and consultation with the prescriber, the formulary drug is determined to be an inappropriate therapy for the medical condition of the person. The plan shall act on such requests within one business day of receipt of the request.

Any plan established in accordance with this section shall be authorized to provide for the selection of a single mail order pharmacy provider as the exclusive provider of pharmacy services that are delivered to the covered person's address by mail, common carrier, or delivery service. As used in this subsection, "mail order pharmacy provider" means a pharmacy permitted to conduct business in the Commonwealth whose primary business is to dispense a prescription drug or device under a prescriptive drug order and to deliver the drug or device to a patient primarily by mail, common carrier, or delivery service.

I. Any plan established in accordance with this section requiring preauthorization prior to rendering medical treatment shall have personnel available to provide authorization at all times when such preauthorization is required.

J. Any plan established in accordance with this section shall provide to all covered employees written notice of any benefit reductions during the contract period at least 30 days before such reductions become effective.

K. No contract between a provider and any plan established in accordance with this section shall include provisions that require a health care provider or health care provider group to deny covered services that such provider or group knows to be medically necessary and appropriate that are provided with respect to a covered employee with similar medical conditions.

L. The Department of Human Resource Management shall appoint an Ombudsman to promote and protect the interests of covered employees under any state employee's health plan.

The Ombudsman shall:

1. Assist covered employees in understanding their rights and the processes available to them according to their state health plan.

2. Answer inquiries from covered employees by telephone and electronic mail.

3. Provide to covered employees information concerning the state health plans.

4. Develop information on the types of health plans available, including benefits and complaint procedures and appeals.

5. Make available, either separately or through an existing Internet web site utilized by the Department of Human Resource Management, information as set forth in subdivision 4 and such additional information as he deems appropriate.

6. Maintain data on inquiries received, the types of assistance requested, any actions taken and the disposition of each such matter.

7. Upon request, assist covered employees in using the procedures and processes available to them from their health plan, including all appeal procedures. Such assistance may require the review of health care records of a covered employee, which shall be done only in accordance with the federal Health Insurance Portability and Accountability Act privacy rules. The confidentiality of any such medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

8. Ensure that covered employees have access to the services provided by the Ombudsman and that the covered employees receive timely responses from the Ombudsman or his representatives to the inquiries.

9. Report annually on his activities to the standing committees of the General Assembly having jurisdiction over insurance and over health and the Joint Commission on Health Care by December 1 of each year.

M. The plan established in accordance with this section shall not refuse to accept or make reimbursement pursuant to an assignment of benefits made to a dentist or oral surgeon by a covered employee.

For purposes of this subsection, "assignment of benefits" means the transfer of dental care coverage reimbursement benefits or other rights under the plan. The assignment of benefits shall not be effective until the covered employee notifies the plan in writing of the assignment.

N. Beginning July 1, 2006, any plan established pursuant to this section shall provide for an identification number, which shall be assigned to the covered employee and shall not be the same as the employee's social security number.

O. Any group health insurance plan established by the Department of Human Resource Management that contains a coordination of benefits provision shall provide written notification to any eligible employee as a prominent part of its enrollment materials that if such eligible employee is covered under another group accident and sickness insurance policy, group accident and sickness subscription contract, or group health care plan for health care services, that insurance policy, subscription contract or health care plan may have primary responsibility for the covered expenses of other family members enrolled with the eligible employee. Such written notification shall describe generally the conditions upon which the other coverage would be primary for dependent children enrolled under the eligible employee's coverage and the method by which the eligible enrollee may verify from the plan that coverage would have primary responsibility for the covered expenses of each family member.

P. Any plan established by the Department of Human Resource Management pursuant to this section shall provide that coverage under such plan for family members enrolled under a participating state employee's coverage shall continue for a period of at least 30 days following the death of such state employee.

Q. The plan established in accordance with this section that follows a policy of sending its payment to the covered employee or covered family member for a claim for services received from a nonparticipating physician or osteopath shall (i) include language in the member handbook that notifies the covered employee of the responsibility to apply the plan payment to the claim from such nonparticipating provider, (ii) include this language with any such payment sent to the covered employee or covered family member, and (iii) include the name and any last known address of the nonparticipating provider on the explanation of benefits statement.

R. The Department of Human Resource Management shall report annually, by November 30 of each year, on cost and utilization information for each of the mandated benefits set forth in subsection B, including any mandated benefit made applicable, pursuant to subdivision B 22, to any plan established pursuant to this section. The report shall be in the same detail and form as required of reports submitted pursuant to § 38.2-3419.1, with such additional information as is required to determine the financial impact, including the costs and benefits, of the particular mandated benefit.

§ 8.01-401.2. Chiropractor, advanced practice registered nurse, or physician assistant as expert witness.

A. A doctor of chiropractic, when properly qualified, may testify as an expert witness in a court of law as to etiology, diagnosis, prognosis, treatment, treatment plan, and disability, including anatomical, physiological, and pathological considerations within the scope of the practice of chiropractic as defined in § 54.1-2900.

B. A physician assistant or *an advanced practice registered* nurse ~~practitioner~~, when properly qualified, may testify as an expert witness in a court of law as to etiology, diagnosis, prognosis, treatment, treatment plan, and disability, including anatomical, physiological, and pathological considerations within the scope of his activities as authorized pursuant to § 54.1-2952 or 54.1-2957, respectively. However, no physician assistant or *advanced practice registered* nurse ~~practitioner~~ shall be permitted to testify as an expert witness for or against (i) a defendant doctor of medicine or osteopathic medicine in a medical malpractice action regarding the standard of care of a doctor of medicine or osteopathic medicine or (ii) a defendant health care provider in a medical malpractice action regarding causation.

§ 8.01-581.1. Definitions.

As used in this chapter:

"Health care" means any act, professional services in nursing homes, or treatment performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical diagnosis, care, treatment or confinement.

"Health care provider" means (i) a person, corporation, facility or institution licensed by this Commonwealth to provide health care or professional services as a physician or hospital, *a* dentist, *a* pharmacist, *a* registered nurse or licensed practical nurse or a person who holds a multistate privilege to practice such nursing under the Nurse Licensure Compact, *an advanced practice registered* nurse ~~practitioner~~, *an* optometrist, *a* podiatrist, *a* physician assistant, *a* chiropractor, *a* physical therapist, *a* physical therapy assistant, *a* clinical psychologist, *a* clinical social worker, *a* professional counselor, *a* licensed marriage and family therapist, *a* licensed dental hygienist, *a* health maintenance organization, or *an* emergency medical care attendant or technician who provides services on a fee basis; (ii) a professional corporation, all of whose shareholders or members are so licensed; (iii) a partnership, all of whose partners are so licensed; (iv) a nursing home as defined in § 54.1-3100 except those nursing institutions conducted by and for those who rely upon treatment by spiritual means alone through prayer in accordance with a recognized church or religious denomination; (v) a professional limited liability company comprised of members as described in subdivision A 2 of § 13.1-1102; (vi) a corporation, partnership, limited liability company or any other entity, except a state-operated facility, which employs or engages a licensed health care provider and which primarily renders health care services; or (vii) a director, officer, employee, independent contractor, or agent of the persons or entities referenced herein, acting within the course and scope of his employment or engagement as related to health care or professional services.

"Health maintenance organization" means any person licensed pursuant to Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2 who undertakes to provide or arrange for one or more health care plans.

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

"Impartial attorney" means an attorney who has not represented (i) the claimant, his family, his partners, co-proprietors or his other business interests; or (ii) the health care provider, his family, his partners, co-proprietors or his other business interests.

"Impartial health care provider" means a health care provider who (i) has not examined, treated or been consulted regarding the claimant or his family; (ii) does not anticipate examining, treating, or being consulted regarding the claimant or his family; or (iii) has not been an employee, partner or co-proprietor of the health care provider against whom the claim is asserted.

"Malpractice" means any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or which should have been rendered, by a health care provider, to a patient.

"Patient" means any natural person who receives or should have received health care from a licensed health care provider except those persons who are given health care in an emergency situation which exempts the health care provider from liability for his emergency services in accordance with § 8.01-225 or 44-146.23.

"Physician" means a person licensed to practice medicine or osteopathy in this Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1.

"Professional services in nursing homes" means services provided in a nursing home, as that term is defined in clause (iv) of the definition of health care provider in this section, by a health care provider related to health care, staffing to provide patient care, psycho-social services, personal hygiene, hydration, nutrition, fall assessments or interventions, patient monitoring, prevention and treatment of medical conditions, diagnosis or therapy.

§ 13.1-543. Definitions.

A. As used in this chapter:

"Eligible employee stock ownership plan" means an employee stock ownership plan as such term is defined in § 4975(e)(7) of the Internal Revenue Code of 1986, as amended, sponsored by a professional corporation and with respect to which:

1. All of the trustees of the employee stock ownership plan are individuals who are duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter; however, if a conflict of interest exists for one or more trustees with respect to a specific issue or transaction, such trustees may appoint a special independent trustee or special fiduciary, who is not duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter, which special independent trustee shall be authorized to make decisions only with respect to the specific issue or transaction that is the subject of the conflict;

2. The employee stock ownership plan provides that no shares, fractional shares, or rights or options to purchase shares of the professional corporation shall at any time be issued, sold, or otherwise transferred directly to anyone other than an individual duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter, unless such shares are transferred as a plan distribution to a plan beneficiary and subject to immediate repurchase by the professional corporation, the employee stock ownership plan or another person authorized to hold such shares; however:

a. With respect to a professional corporation rendering the professional services of public accounting or certified public accounting:

(1) The employee stock ownership plan may permit individuals who are not duly licensed or otherwise legally authorized to render these services to participate in such plan, provided such individuals are employees of the corporation and hold less than a majority of the beneficial interests in such plan; and

(2) At least 51 percent of the total of allocated and unallocated equity interests in the corporation sponsoring such employee stock ownership plan are held (i) by the trustees of such employee stock ownership plan for the benefit of persons holding a valid CPA certificate as defined in § 54.1-4400, with unallocated shares allocated for these purposes pursuant to § 409(p) of the Internal Revenue Code of 1986, as amended, or (ii) by individual employees holding a valid CPA certificate separate from any interests held by such employee stock ownership plan; and

b. With respect to a professional corporation rendering the professional services of architects, professional engineers, land surveyors, landscape architects, or certified interior designers, the employee stock ownership plan may permit individuals who are not duly licensed to render the services of architects, professional engineers, land surveyors, or landscape architects, or individuals legally authorized to use the title of certified interior designers to participate in such plan, provided such individuals are employees of the corporation and together hold not more than one-third of the beneficial interests in such plan, and that the total of the shares (i) held by individuals who are employees but not duly licensed to render such services or legally authorized to use a title and (ii) held by the trustees of such employee stock ownership plan for the benefit of individuals who are employees but not duly licensed to render such services or legally authorized to use a title, shall not exceed one-third of the shares of the corporation; and

3. The professional corporation, the trustees of the employee stock ownership plan, and the other shareholders of the professional corporation comply with the foregoing provisions of the plan.

"Professional business entity" means any entity as defined in § 13.1-603 that is duly licensed or otherwise legally authorized under the laws of the Commonwealth or the laws of the jurisdiction under whose laws the entity is formed to render the same professional service as that for which a professional corporation or professional limited liability company may be organized, including, but not limited to, (i) a professional limited liability company as defined in § 13.1-1102, (ii) a professional corporation as defined in this subsection, or (iii) a partnership that is registered as a registered limited liability partnership registered under § 50-73.132, all of the partners of which are duly licensed or otherwise legally authorized to render the same professional services as those for which the partnership was organized.

"Professional corporation" means a corporation whose articles of incorporation set forth a sole and specific purpose permitted by this chapter and that is either (i) organized under this chapter for the sole and specific purpose of rendering professional service other than that of architects, professional engineers, land surveyors, or landscape architects, or using a title other than that of certified interior designers and, except as expressly otherwise permitted by this chapter, that has as its shareholders or members only individuals or professional business entities that are duly licensed or otherwise legally authorized to render the same professional service as the corporation, including the trustees of an eligible employee stock ownership plan or (ii) organized under this chapter for the sole and specific purpose of rendering the professional services of architects, professional engineers, land surveyors, or landscape architects, or using the title of certified interior designers, or any combination thereof, and at least two-thirds of whose shares are held by persons duly licensed within the Commonwealth to perform the services of an architect, professional engineer, land surveyor, or landscape architect, including the trustees of an eligible employee stock ownership plan, or by persons legally authorized within the Commonwealth to use the title of certified interior designer; or (iii) organized under this chapter or under Chapter 10 (§ 13.1-801 et seq.) for the sole and specific purpose of rendering the professional services of one or more practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more ~~nurse practitioners~~ *advanced practice registered nurses*, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more optometrists licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, or one or more physical therapists and physical therapist assistants licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, or one or more practitioners of the behavioral science professions, licensed under the provisions of Chapter 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.) or 37 (§ 54.1-3700 et seq.) of Title 54.1, or one or more practitioners of audiology or speech pathology, licensed under the provisions of Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1, or one or more clinical nurse specialists who render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of Nursing, or any combination of practitioners of the healing arts, optometry, physical therapy, the behavioral science professions, and audiology or speech pathology, and all of whose shares are held by or all of whose members are individuals or professional business entities duly licensed or otherwise legally authorized to perform the services of a practitioner of the healing arts, ~~nurse practitioners~~ *advanced practice registered nursing*, optometry, physical therapy, the behavioral science professions, *or* audiology or speech pathology ~~or of a clinical nurse specialist~~, including the trustees of an eligible employee stock ownership plan; however, nothing herein shall be construed so as to allow any member of the healing arts, optometry, physical therapy, the behavioral science professions, audiology or speech pathology, or *advanced practice registered nursing* ~~nurse practitioner or clinical nurse specialist~~ to conduct his practice in a manner contrary to the standards of ethics of his branch of the healing arts, optometry, physical therapy, the behavioral science professions, audiology or speech pathology, or nursing, as the case may be.

"Professional service" means any type of personal service to the public that requires as a condition precedent to the rendering of such service or use of such title the obtaining of a license, certification, or other legal authorization and shall be limited to the personal services rendered by pharmacists, optometrists, physical therapists and physical therapist assistants, practitioners of the healing arts, ~~nurse practitioners~~ *advanced practice registered nurses*, practitioners of the behavioral science professions, veterinarians, surgeons, dentists, architects, professional engineers, land surveyors, landscape architects, certified interior designers, public accountants, certified public accountants, attorneys-at-law, insurance consultants, *and* audiologists or speech pathologists~~, and clinical nurse specialists~~. For the purposes of this chapter, the following shall be deemed to be rendering the same professional service:

1. Architects, professional engineers, and land surveyors; and

2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; ~~nurse practitioners~~ *advanced practice registered nurses*, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; optometrists, licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1; physical therapists and physical therapist assistants, licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1; *and* practitioners of the behavioral science professions, licensed under the provisions of Chapters 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of Title 54.1~~; and one or more clinical nurse specialists who render mental health services, licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and are registered with the Board of Nursing~~.

B. Persons who practice the healing art of performing professional clinical laboratory services within a hospital pathology laboratory shall be legally authorized to do so for purposes of this chapter if such persons (i) hold a doctorate degree in the biological sciences or a board certification in the clinical laboratory sciences and (ii) are tenured faculty members of an accredited medical school that is an "institution" as that term is defined in § 23.1-1100.

§ 13.1-1102. Definitions.

A. As used in this chapter:

"Professional business entity" means any entity as defined in § 13.1-603 that is duly licensed or otherwise legally authorized under the laws of the Commonwealth or the laws of the jurisdiction under whose laws the entity is formed to render the same professional service as that for which a professional corporation or professional limited liability company may be organized, including, but not limited to, (i) a professional limited liability company as defined in this subsection, (ii) a professional corporation as defined in subsection A of § 13.1-543, or (iii) a partnership that is registered as a registered limited liability partnership under § 50-73.132, all of the partners of which are duly licensed or otherwise legally authorized to render the same professional services as those for which the partnership was organized.

"Professional limited liability company" means a limited liability company whose articles of organization set forth a sole and specific purpose permitted by this chapter and that is either (i) organized under this chapter for the sole and specific purpose of rendering professional service other than that of architects, professional engineers, land surveyors, or landscape architects, or using a title other than that of certified interior designers and, except as expressly otherwise permitted by this chapter, that has as its members only individuals or professional business entities that are duly licensed or otherwise legally authorized to render the same professional service as the professional limited liability company or (ii) organized under this chapter for the sole and specific purpose of rendering professional service of architects, professional engineers, land surveyors, or landscape architects or using the title of certified interior designers, or any combination thereof, and at least two-thirds of whose membership interests are held by persons duly licensed within the Commonwealth to perform the services of an architect, professional engineer, land surveyor, or landscape architect, or by persons legally authorized within the Commonwealth to use the title of certified interior designer; or (iii) organized under this chapter for the sole and specific purpose of rendering the professional services of one or more practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more ~~nurse practitioners~~ *advanced practice registered nurses*, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more optometrists licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, or one or more physical therapists and physical therapist assistants licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, or one or more practitioners of the behavioral science professions, licensed under the provisions of Chapter 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.) or 37 (§ 54.1-3700 et seq.) of Title 54.1, or one or more practitioners of audiology or speech pathology, licensed under the provisions of Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1~~, or one or more clinical nurse specialists who render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of Nursing~~, or any combination of practitioners of the healing arts, ~~of~~ *advanced practice registered nursing,* optometry, physical therapy, the behavioral science professions, and audiology or speech pathology and all of whose members are individuals or professional business entities duly licensed or otherwise legally authorized to perform the services of a practitioner of the healing arts, ~~nurse practitioners~~ *advanced practice registered nursing*, optometry, physical therapy, the behavioral science professions, audiology or speech pathology ~~or of a clinical nurse specialist~~; however, nothing herein shall be construed so as to allow any member of the healing arts, optometry, physical therapy, the behavioral science professions, *or* audiology or speech pathology or ~~a~~ *an advanced practice registered* nurse ~~practitioner or clinical nurse specialist~~ to conduct that person's practice in a manner contrary to the standards of ethics of that person's branch of the healing arts, optometry, physical therapy, the behavioral science professions, ~~or~~ audiology or speech pathology, or *advanced practice registered* nursing*,* as the case may be.

"Professional services" means any type of personal service to the public that requires as a condition precedent to the rendering of that service or the use of that title the obtaining of a license, certification, or other legal authorization and shall be limited to the personal services rendered by pharmacists, optometrists, physical therapists and physical therapist assistants, practitioners of the healing arts, ~~nurse practitioners~~ *advanced practice registered nurses*, practitioners of the behavioral science professions, veterinarians, surgeons, dentists, architects, professional engineers, land surveyors, landscape architects, certified interior designers, public accountants, certified public accountants, attorneys at law, insurance consultants, *and* audiologists or speech pathologists ~~and clinical nurse specialists~~. For the purposes of this chapter, the following shall be deemed to be rendering the same professional services:

1. Architects, professional engineers, and land surveyors; and

2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, ~~nurse practitioners~~ *advanced practice registered nurses*, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, optometrists, licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, physical therapists, licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, *and* practitioners of the behavioral science professions, licensed under the provisions of Chapters 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of Title 54.1~~, and clinical nurse specialists who render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of Nursing~~.

B. Persons who practice the healing art of performing professional clinical laboratory services within a hospital pathology laboratory shall be legally authorized to do so for purposes of this chapter if such persons (i) hold a doctorate degree in the biological sciences or a board certification in the clinical laboratory sciences and (ii) are tenured faculty members of an accredited medical school that is an "institution" as that term is defined in § 23.1-1100.

C. Except as expressly otherwise provided, all terms defined in § 13.1-1002 shall have the same meanings for purposes of this chapter.

§ 16.1-336. Definitions.

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

"Community services board" has the same meaning as provided in § 37.2-100. Whenever the term community services board appears, it shall include behavioral health authority, as that term is defined in § 37.2-100.

"Consent" means the voluntary, express, and informed agreement to treatment in a mental health facility by a minor 14 years of age or older and by a parent or a legally authorized custodian.

"Designee of the local community services board" means an examiner designated by the local community services board who (i) is skilled in the assessment and treatment of mental illness, (ii) has completed a certification program approved by the Department of Behavioral Health and Developmental Services, (iii) is able to provide an independent examination of the minor, (iv) is not related by blood, marriage, or adoption to, or is not the legal guardian of, the minor being evaluated, (v) has no financial interest in the admission or treatment of the minor being evaluated, (vi) has no investment interest in the facility detaining or admitting the minor under this article, and (vii) except for employees of state hospitals and of the U.S. Department of Veterans Affairs, is not employed by the facility.

"Employee" means an employee of the local community services board who is skilled in the assessment and treatment of mental illness and has completed a certification program approved by the Department of Behavioral Health and Developmental Services.

"Incapable of making an informed decision" means unable to understand the nature, extent, or probable consequences of a proposed treatment or unable to make a rational evaluation of the risks and benefits of the proposed treatment as compared with the risks and benefits of alternatives to the treatment. Persons with dysphasia or other communication disorders who are mentally competent and able to communicate shall not be considered incapable of giving informed consent.

"Inpatient treatment" means placement for observation, diagnosis, or treatment of mental illness in a psychiatric hospital or in any other type of mental health facility determined by the Department of Behavioral Health and Developmental Services to be substantially similar to a psychiatric hospital with respect to restrictions on freedom and therapeutic intrusiveness.

"Investment interest" means the ownership or holding of an equity or debt security, including shares of stock in a corporation, interests or units of a partnership, bonds, debentures, notes, or other equity or debt instruments.

"Judge" means a juvenile and domestic relations district judge. In addition, "judge" includes a retired judge sitting by designation pursuant to § 16.1-69.35, substitute judge, or special justice authorized by § 37.2-803 who has completed a training program regarding the provisions of this article, prescribed by the Executive Secretary of the Supreme Court.

"Least restrictive alternative" means the treatment and conditions of treatment which, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit or to protect the minor or others from physical injury.

"Mental health facility" means a public or private facility for the treatment of mental illness operated or licensed by the Department of Behavioral Health and Developmental Services.

"Mental illness" means a substantial disorder of the minor's cognitive, volitional, or emotional processes that demonstrably and significantly impairs judgment or capacity to recognize reality or to control behavior. "Mental illness" may include substance abuse, which is the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional, or physical impairment and cause socially dysfunctional or socially disordering behavior. Intellectual disability, head injury, a learning disability, or a seizure disorder is not sufficient, in itself, to justify a finding of mental illness within the meaning of this article.

"Minor" means a person less than 18 years of age.

"Parent" means (i) a biological or adoptive parent who has legal custody of the minor, including either parent if custody is shared under a joint decree or agreement, (ii) a biological or adoptive parent with whom the minor regularly resides, (iii) a person judicially appointed as a legal guardian of the minor, or (iv) a person who exercises the rights and responsibilities of legal custody by delegation from a biological or adoptive parent, upon provisional adoption or otherwise by operation of law. The director of the local department of social services, or his designee, may stand as the minor's parent when the minor is in the legal custody of the local department of social services.

"Qualified evaluator" means a psychiatrist or a psychologist licensed in Virginia by either the Board of Medicine or the Board of Psychology, or if such psychiatrist or psychologist is unavailable, (i) any mental health professional licensed in Virginia through the Department of Health Professions as a clinical social worker, professional counselor, marriage and family therapist, *or* psychiatric *advanced practice registered* nurse ~~practitioner, or clinical nurse specialist,~~ or (ii) any mental health professional employed by a community services board. All qualified evaluators shall (a) be skilled in the diagnosis and treatment of mental illness in minors, (b) be familiar with the provisions of this article, and (c) have completed a certification program approved by the Department of Behavioral Health and Developmental Services. The qualified evaluator shall (1) not be related by blood, marriage, or adoption to, or is not the legal guardian of, the minor being evaluated, (2) not be responsible for treating the minor, (3) have no financial interest in the admission or treatment of the minor, (4) have no investment interest in the facility detaining or admitting the minor under this article, and (5) except for employees of state hospitals, the U.S. Department of Veterans Affairs, and community services boards, not be employed by the facility.

"Treatment" means any planned intervention intended to improve a minor's functioning in those areas which show impairment as a result of mental illness.

§ 18.2-72. When abortion lawful during first trimester of pregnancy.

Notwithstanding any of the provisions of § 18.2-71, it shall be lawful for (i) any physician licensed by the Board of Medicine to practice medicine and surgery or (ii) any person jointly licensed by the Boards of Medicine and Nursing as ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ and acting within such person's scope of practice to terminate or attempt to terminate a human pregnancy or aid or assist in the termination of a human pregnancy by performing an abortion or causing a miscarriage on any woman during the first trimester of pregnancy.

§ 18.2-76. Informed written consent required.

Before performing any abortion or inducing any miscarriage or terminating a pregnancy as provided in § 18.2-72, 18.2-73, or 18.2-74, the physician or, if such abortion, induction, or termination is to be performed pursuant to § 18.2-72, either the physician or the *advanced practice registered* nurse ~~practitioner~~ authorized pursuant to clause (ii) of § 18.2-72 to perform such abortion, induction, or termination shall obtain the informed written consent of the pregnant woman. However, if the woman has been adjudicated incapacitated by any court of competent jurisdiction or if the physician or, if the abortion, induction, or termination is to be performed pursuant to § 18.2-72, either the physician or the *advanced practice registered* nurse ~~practitioner~~ authorized pursuant to clause (ii) of § 18.2-72 to perform such abortion, induction, or termination knows or has good reason to believe that such woman is incapacitated as adjudicated by a court of competent jurisdiction, then only after permission is given in writing by a parent, guardian, committee, or other person standing in loco parentis to the woman, may the physician or, if the abortion, induction, or termination is to be performed pursuant to § 18.2-72, either the physician or the *advanced practice registered* nurse ~~practitioner~~ authorized pursuant to clause (ii) of § 18.2-72 to perform such abortion, induction, or termination perform the abortion or otherwise terminate the pregnancy.

§ 22.1-178. Requirements for persons employed to drive school buses.

A. No school board shall hire, employ, or enter into any agreement with any person for the purposes of operating a school bus transporting pupils unless the person proposed to so operate such school bus shall:

1. Have a physical examination of a scope prescribed by the Board with the advice of the Medical Society of Virginia and furnish a form prescribed by the Board showing the results of such examination.

2. Furnish a statement or copy of records from the Department of Motor Vehicles showing that the records of such Department do not disclose that the person, within the preceding five years, has been convicted upon a charge of driving under the influence of alcohol or drugs, convicted of a felony or assigned to any alcohol safety action program or driver alcohol rehabilitation program pursuant to § 18.2-271.1 or, within the preceding 12 months, has been convicted of two or more moving traffic violations or required to attend a driver improvement clinic by the Commissioner of the Department of Motor Vehicles pursuant to § 46.2-498.

3. Furnish a statement signed by two reputable persons who reside in the school division or in the applicant's community that the person is of good moral character.

4. Exhibit a license showing the person has successfully undertaken the examination prescribed by § 46.2-339.

5. Have reached the age of 18 by the first day of the school year.

B. Any school board may require proof of current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator as a condition to employment to operate a school bus transporting pupils.

C. School boards may require persons accepting employment as a driver of a school bus transporting pupils to agree, as a condition of employment, to submit to alcohol and controlled substance testing. Any such tests shall be conducted in compliance with Board regulations.

D. The documents required pursuant to subdivisions A 1 and 2 shall be furnished annually prior to the anniversary date of the employment agreement as a condition to continuing employment to operate a school bus.

E. The documents required pursuant to this section shall be filed with, and made a part of, the records of the school board employing such person as a school bus operator.

F. The Department shall furnish to the several division superintendents the necessary forms to be used by applicants in furnishing the information required by this section. Insofar as practicable, such forms shall be designed to limit paperwork, avoid the possibility of mistake, and furnish all parties involved with a complete and accurate record of the information required.

G. The physical examination required by subsection A may be performed and the report of the results signed by a licensed *advanced practice registered* nurse ~~practitioner~~ or physician assistant.

§ 22.1-270. Preschool physical examinations.

A. No pupil shall be admitted for the first time to any public kindergarten or elementary school in a school division unless such pupil shall furnish, prior to admission, (i) a report from a qualified licensed physician, or a licensed *advanced practice registered* nurse ~~practitioner~~ or licensed physician assistant acting under the supervision of a licensed physician, of a comprehensive physical examination of a scope prescribed by the State Health Commissioner performed within the 12 months prior to the date such pupil first enters such public kindergarten or elementary school or (ii) records establishing that such pupil furnished such report upon prior admission to another school or school division and providing the information contained in such report.

If the pupil is a homeless child or youth as defined in subdivision A 7 of § 22.1-3, and for that reason cannot furnish the report or records required by (i) or (ii) of this subsection, and the person seeking to enroll the pupil furnishes to the school division an affidavit so stating and also indicating that, to the best of his knowledge, such pupil is in good health and free

from any communicable or contagious disease, the school division shall immediately refer the student to the local school division liaison, as described in Subtitle VII-B of the federal McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. § 11431 et seq.) (the Act), who shall, as soon as practicable, assist in obtaining the necessary physical examination by the county or city health department or other clinic or physician's office and shall immediately admit the pupil to school, as required by such Act.

B. The physician, or licensed *advanced practice registered* nurse ~~practitioner~~ or licensed physician assistant acting under the supervision of a licensed physician, making a report of a physical examination required by this section shall, at the end of such report, summarize the abnormal physical findings, if any, and shall specifically state what, if any, conditions are found that would identify the child as handicapped.

C. Such physical examination report shall be placed in the child's health record at the school and shall be made available for review by any employee or official of the State Department of Health or any local health department at the request of such employee or official.

D. Such physical examination shall not be required of any child whose parent shall object on religious grounds and who shows no visual evidence of sickness, provided that such parent shall state in writing that, to the best of his knowledge, such child is in good health and free from any communicable or contagious disease.

E. The health departments of all of the counties and cities of the Commonwealth shall conduct such physical examinations for medically indigent children without charge upon request and may provide such examinations to others on such uniform basis as such departments may establish.

F. Parents of entering students shall complete a health information form which shall be distributed by the local school divisions. Such forms shall be developed and provided jointly by the Department of Education and Department of Health, or developed and provided by the school division and approved by the Superintendent of Public Instruction. Such forms shall be returnable within 15 days of receipt unless reasonable extensions have been granted by the superintendent or his designee. Upon failure of the parent to complete such form within the extended time, the superintendent may send to the parent written notice of the date he intends to exclude the child from school; however, no child who is a homeless child or youth as defined in subdivision A 7 of § 22.1-3 shall be excluded from school for such failure to complete such form.

§ 22.1-271.2. Immunization requirements.

A. No student shall be admitted by a school unless at the time of admission the student or his parent submits documentary proof of immunization to the admitting official of the school or unless the student is exempted from immunization pursuant to subsection C or is a homeless child or youth as defined in subdivision A 7 of § 22.1-3. If a student does not have documentary proof of immunization, the school shall notify the student or his parent (i) that it has no documentary proof of immunization for the student; (ii) that it may not admit the student without proof unless the student is exempted pursuant to subsection C, including any homeless child or youth as defined in subdivision A 7 of § 22.1-3; (iii) that the student may be immunized and receive certification by a licensed physician, *a* licensed *advanced practice registered* nurse ~~practitioner~~, *a* registered nurse*,* or an employee of a local health department; and (iv) how to contact the local health department to learn where and when it performs these services. Neither this Commonwealth nor any school or admitting official shall be liable in damages to any person for complying with this section.

Any physician, *advanced practice registered* nurse ~~practitioner~~, registered nurse*,* or local health department employee performing immunizations shall provide to any person who has been immunized or to his parent, upon request, documentary proof of immunizations conforming with the requirements of this section.

B. Any student whose immunizations are incomplete may be admitted conditionally if that student provides documentary proof at the time of enrollment of having received at least one dose of the required immunizations accompanied by a schedule for completion of the required doses within 90 calendar days. If the student requires more than two doses of hepatitis B vaccine, the conditional enrollment period shall be 180 calendar days.

The immunization record of each student admitted conditionally shall be reviewed periodically until the required immunizations have been received.

Any student admitted conditionally and who fails to comply with his schedule for completion of the required immunizations shall be excluded from school until his immunizations are resumed.

C. No certificate of immunization shall be required for the admission to school of any student if (i) the student or his parent submits an affidavit to the admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices; or (ii) the school has written certification from a licensed physician, *a* licensed *advanced practice registered* nurse ~~practitioner~~, or *a* local health department that one or more of the required immunizations may be detrimental to the student's health, indicating the specific nature and probable duration of the medical condition or circumstance that contraindicates immunization.

However, if a student is a homeless child or youth as defined in subdivision A 7 of § 22.1-3 and (a) does not have documentary proof of necessary immunizations or has incomplete immunizations and (b) is not exempted from immunization pursuant to ~~clauses~~ *clause* (i) or (ii) ~~of this subsection~~, the school division shall immediately admit such student and shall immediately refer the student to the local school division liaison, as described in the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001, as amended (42 U.S.C. § 11431 et seq.) (the Act), who shall assist in obtaining the documentary proof of, or completing, immunization and other services required by such Act.

D. The admitting official of a school shall exclude from the school any student for whom he does not have documentary proof of immunization or notice of exemption pursuant to subsection C, including notice that such student is a homeless child or youth as defined in subdivision A 7 of § 22.1-3.

E. Every school shall record each student's immunizations on the school immunization record. The school immunization record shall be a standardized form provided by the State Department of Health, which shall be a part of the mandatory permanent student record. Such record shall be open to inspection by officials of the State Department of Health and the local health departments.

The school immunization record shall be transferred by the school whenever the school transfers any student's permanent academic or scholastic records.

Within 30 calendar days after the beginning of each school year or entrance of a student, each admitting official shall file a report with the local health department. The report shall be filed on forms prepared by the State Department of Health and shall state the number of students admitted to school with documentary proof of immunization, the number of students who have been admitted with a medical or religious exemption and the number of students who have been conditionally admitted, including those students who are homeless children or youths as defined in subdivision A 7 of § 22.1-3.

F. The requirement for Haemophilus Influenzae Type b immunization as provided in § 32.1-46 shall not apply to any child admitted to any grade level, kindergarten through grade 12.

G. The Board of Health shall promulgate rules and regulations for the implementation of this section in congruence with rules and regulations of the Board of Health promulgated under § 32.1-46 and in cooperation with the Board of Education.

§ 22.1-271.4. Health requirements for home-instructed, exempted, and excused children.

In addition to compliance with the requirements of subsection B, D, or I of § 22.1-254 or § 22.1-254.1, any parent, guardian or other person having control or charge of a child being home instructed, exempted or excused from school attendance shall comply with the immunization requirements provided in § 32.1-46 in the same manner and to the same extent as if the child has been enrolled in and is attending school.

Upon request by the division superintendent, the parent shall submit to such division superintendent documentary proof of immunization in compliance with § 32.1-46.

No proof of immunization shall be required of any child upon submission of (i) an affidavit to the division superintendent stating that the administration of immunizing agents conflicts with the parent's or guardian's religious tenets or practices or (ii) a written certification from a licensed physician, licensed *advanced practice registered* nurse ~~practitioner~~, or local health department that one or more of the required immunizations may be detrimental to the child's health, indicating the specific nature of the medical condition or circumstance that contraindicates immunization.

§ 22.1-271.7. Public middle school student-athletes; pre-participation physical examination.

No public middle school student shall be a participant on or try out for any school athletic team or squad with a predetermined roster, regular practices, and scheduled competitions with other middle schools unless such student has submitted to the school principal a signed report from a licensed physician, a licensed *advanced practice registered* nurse ~~practitioner~~ practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician attesting that such student has been examined, within the preceding 12 months, and found to be physically fit for athletic competition.

§ 22.1-274. School health services.

A. A school board shall provide pupil personnel and support services in compliance with § 22.1-253.13:2. A school board may employ school nurses, physicians, physical therapists, occupational therapists, and speech therapists. No such personnel shall be employed unless they meet such standards as may be determined by the Board. Subject to the approval of the appropriate local governing body, a local health department may provide personnel for health services for the school division.

B. In implementing subsection P of § 22.1-253.13:2, relating to providing support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools, each school board may strive to employ, or contract with local health departments for, nursing services consistent with a ratio of at least one nurse per 1,000 students. In those school divisions in which there are more than 1,000 students in average daily membership in school buildings, this section shall not be construed to encourage the employment of more than one nurse per school building. Further, this section shall not be construed to mandate the aspired-to ratios.

C. The Board shall monitor the progress in achieving the ratio set forth in subsection B and any subsequent increase in prevailing statewide costs, and the mechanism for funding health services, pursuant to subsection P of § 22.1-253.13:2 and the appropriation act. The Board shall also determine how school health funds are used and school health services are delivered in each locality.

D. With the exception of school administrative personnel and persons employed by school boards who have the specific duty to deliver health-related services, no licensed instructional employee, instructional aide, or clerical employee shall be disciplined, placed on probation, or dismissed on the basis of such employee's refusal to (i) perform nonemergency health-related services for students or (ii) obtain training in the administration of insulin and glucagon. However, instructional aides and clerical employees may not refuse to dispense oral medications.

For the purposes of this subsection, "health-related services" means those activities that, when performed in a health care facility, must be delivered by or under the supervision of a licensed or certified professional.

E. Each school board shall ensure that in school buildings with an instructional and administrative staff of 10 or more (i) at least three employees have current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator and (ii) if one or more students diagnosed as having diabetes attend such school, at least two employees have been trained in the administration of insulin and glucagon. In school buildings with an instructional and administrative staff of fewer than 10, school boards shall ensure that (a) at least two employees have current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator and (b) if one or more students diagnosed as having diabetes attend such school, at least one employee has been trained in the administration of insulin and glucagon. For purposes of this subsection, "employee" includes any person employed by a local health department who is assigned to the public school pursuant to an agreement between the local health department and the school board. When a registered nurse, *advanced practice registered* nurse ~~practitioner~~, physician, or physician assistant is present, no employee who is not a registered nurse, *advanced practice registered* nurse ~~practitioner~~, physician, or physician assistant shall assist with the administration of insulin or administer glucagon. Prescriber authorization and parental consent shall be obtained for any employee who is not a registered nurse, *advanced practice registered* nurse ~~practitioner~~, physician, or physician assistant to assist with the administration of insulin and administer glucagon.

§ 22.1-274.2. Possession and administration of inhaled asthma medications and epinephrine by certain students or school board employees.

A. Local school boards shall develop and implement policies permitting a student with a diagnosis of asthma or anaphylaxis, or both, to possess and self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be, during the school day, at school-sponsored activities, or while on a school bus or other school property. Such policies shall include, but not be limited to, provisions for:

1. Written consent of the parent, as defined in § 22.1-1, of a student with a diagnosis of asthma or anaphylaxis, or both, that the student may self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be.

2. Written notice from the student's primary care provider or medical specialist, or a licensed physician or licensed *advanced practice registered* nurse ~~practitioner~~, that (i) identifies the student; (ii) states that the student has a diagnosis of asthma or anaphylaxis, or both, and has approval to self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be, that have been prescribed or authorized for the student; (iii) specifies the name and dosage of the medication, the frequency in which it is to be administered and certain circumstances which may warrant the use of inhaled asthma medications or auto-injectable epinephrine, such as before exercising or engaging in physical activity to prevent the onset of asthma symptoms or to alleviate asthma symptoms after the onset of an asthma episode; and (iv) attests to the student's demonstrated ability to safely and effectively self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be.

3. Development of an individualized health care plan, including emergency procedures for any life-threatening conditions.

4. Consultation with the student's parent before any limitations or restrictions are imposed upon a student's possession and self-administration of inhaled asthma medications and auto-injectable epinephrine, and before the permission to possess and self-administer inhaled asthma medications and auto-injectable epinephrine at any point during the school year is revoked.

5. Self-administration of inhaled asthma medications and auto-injectable epinephrine to be consistent with the purposes of the Virginia School Health Guidelines and the Guidelines for Specialized Health Care Procedure Manuals, which are jointly issued by the Department of Education and the Department of Health.

6. Disclosure or dissemination of information pertaining to the health condition of a student to school board employees to comply with §§ 22.1-287 and 22.1-289 and the federal Family Education Rights and Privacy Act of 1974, as amended, 20 U.S.C. § 1232g, which govern the disclosure and dissemination of information contained in student scholastic records.

B. The permission granted a student with a diagnosis of asthma or anaphylaxis, or both, to possess and self-administer inhaled asthma medications or auto-injectable epinephrine, or both, shall be effective for one school year. Permission to possess and self-administer such medications shall be renewed annually. For the purposes of this section, "one school year" means 365 calendar days.

C. Local school boards shall adopt and implement policies for the possession and administration of epinephrine in every school, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to any student believed to be having an anaphylactic reaction. Such policies shall require that at least one school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine has the means to access at all times during regular school hours any such epinephrine that is stored in a locked or otherwise generally inaccessible container or area.

D. Each local school board shall adopt and implement policies for the possession and administration of undesignated stock albuterol inhalers and valved holding chambers in every public school in the local school division, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers for any student believed in good faith to be in need of such medication.

§ 32.1-19. Duties prescribed by Board.

A. The Commissioner shall perform such duties as the Board may require, in addition to the duties required by law.

B. The Commissioner shall, along with the Superintendent of Public Instruction, work to combat childhood obesity and other chronic health conditions that affect school-age children.

C. The Commissioner shall ensure, in the licensure of health care facilities, that quality of care, patient safety, and patient privacy are the overriding goals of such licensure and related enforcement efforts.

D. The Commissioner shall coordinate the Department's emergency preparedness and response efforts.

E. The Commissioner shall ensure that prevention of disease and protection of public health remain the Department's overriding goals.

F. The Commissioner shall designate a senior staff member of the Department, who shall be a licensed physician, to oversee minority health efforts of the Department.

G. The Commissioner shall designate a senior official of the Department, who shall be a licensed physician or *an advanced practice registered* nurse ~~practitioner~~, to coordinate all women's health efforts in the Department including, but not limited to, the "Every Woman's Life Program," and other efforts to prevent, detect, and treat breast cancer, cervical cancer, and other diseases that primarily affect women.

§ 32.1-23.2. Sexual assault nurse examiner information.

A. The Department shall develop and make available on a website maintained by the Department information about the availability of certified sexual assault nurse examiners in the Commonwealth. Such information shall include the name of the hospital at which a certified sexual assault nurse examiner is employed; the location, including street address, of the hospital; and the contact information for the hospital. A link to the information shall be prominently displayed on the Department's website, and such information shall be made available in a format that is easily accessible to and navigable by members of the public.

B. Every hospital licensed by the Department shall quarterly report to the Department, in a form and by such date as shall be designated by the Department, the total number of certified sexual assault ~~nurse practitioners~~ *advanced practice registered nurses* employed by the hospital and the location, including street address, and contact information for each location at which such certified sexual assault *advanced practice registered* nurse ~~practitioner~~ provides services.

§ 32.1-42.1. Administration and dispensing of necessary drugs, devices and vaccines during a declared disaster or emergency.

A. The Commissioner, pursuant to § 54.1-3408, may authorize persons who are not authorized by law to administer or dispense drugs or devices to administer or dispense all necessary drugs or devices in accordance with protocols established by the Commissioner when (i) the Governor has declared a disaster or a state of emergency, the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency, or the Board has made an emergency order pursuant to § 32.1-13 for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health and for the limited purpose of administering vaccines as an approved countermeasure for such communicable, contagious, and infectious diseases; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the Commissioner. For purposes of this section, "administer," "device," "dispense," and "drug" shall have the same meaning as provided in § 54.1-3401. The Commissioner shall develop protocols, in consultation with the Department of Health Professions, that address the required training of such persons and procedures for such persons to use in administering or dispensing drugs or devices.

B. Where the Commissioner, pursuant to subsection A, authorizes persons who are not otherwise authorized by law to administer vaccines, such persons shall include any of the following who, due to their education and training, are qualified to administer drugs: (i) any person licensed by a health regulatory board within the Department of Health Professions whose license is in good standing, or was in good standing within the 20 years immediately prior to lapsing; (ii) any emergency medical services provider licensed or certified by the Department whose license or certification is in good standing, or was in good standing within the 20 years immediately prior to lapsing; and (iii) any health professions student enrolled in an accredited program in the Commonwealth who is in good academic standing with such student's school and provided that the school certifies that the student has been properly trained in the administration of vaccines. A health professions student who administers vaccines pursuant to this section shall be supervised by any eligible health care provider who holds a license issued by a health regulatory board within the Department of Health Professions, and the supervising health care provider shall not be required to be licensed in the same health profession for which the student is studying. A person who is licensed as ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ by the Boards of Medicine and Nursing or licensed as a physician assistant by the Board of Medicine who administers vaccines pursuant to this section may administer such vaccine without a written or electronic practice agreement. In the absence of gross negligence or willful misconduct, any such person authorized by the Commissioner or entity overseeing any such person who administers the vaccine pursuant to this section shall not be liable for (a) any actual or alleged injury or wrongful death or (b) any civil cause of action arising from any act or omission arising out of, related to, or alleged to have resulted in the contraction of or exposure to the communicable, contagious, and infectious disease or to have resulted from the administration of the vaccine.

§ 32.1-46. Immunization of patients against certain diseases.

A. The parent, guardian or person standing in loco parentis of each child within this Commonwealth shall cause such child to be immunized in accordance with the Immunization Schedule developed and published by the Centers for Disease Control and Prevention (CDC), Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP). The required immunizations for attendance at a public or private elementary, middle or secondary school, child care center, nursery school, family day care home, or developmental center shall be those set forth in the State Board of Health Regulations for the Immunization of School Children. The Board's regulations shall at a minimum require:

1. A minimum of three properly spaced doses of hepatitis B vaccine (HepB).

2. A minimum of three or more properly spaced doses of diphtheria toxoid. One dose shall be administered on or after the fourth birthday.

3. A minimum of three or more properly spaced doses of tetanus toxoid. One dose shall be administered on or after the fourth birthday.

4. A minimum of three or more properly spaced doses of acellular pertussis vaccine. One dose shall be administered on or after the fourth birthday. A booster dose shall be administered prior to entry into the seventh grade.

5. Two or three primary doses of Haemophilus influenzae type b (Hib) vaccine, depending on the manufacturer, for children up to 60 months of age.

6. Two properly spaced doses of live attenuated measles (rubeola) vaccine. The first dose shall be administered at age 12 months or older.

7. One dose of live attenuated rubella vaccine shall be administered at age 12 months or older.

8. One dose of live attenuated mumps vaccine shall be administered at age 12 months or older.

9. Two properly spaced doses of varicella vaccine. The first dose shall be administered at age 12 months or older.

10. Three or more properly spaced doses of oral polio vaccine (OPV) or inactivated polio vaccine (IPV). One dose shall be administered on or after the fourth birthday. A fourth dose shall be required if the three dose primary series consisted of a combination of OPV and IPV.

11. One to four doses, dependent on age at first dose, of properly spaced pneumococcal conjugate (PCV) vaccine for children up to 60 months of age.

12. Two doses of properly spaced human papillomavirus (HPV) vaccine. The first dose shall be administered before the child enters the seventh grade.

13. Two or three properly spaced doses of rotavirus vaccine, depending on the manufacturer, for children up to eight months of age.

14. Two properly spaced doses of hepatitis A vaccine (HAV). The first dose shall be administered at age 12 months or older.

15. Two properly spaced doses of meningococcal conjugate vaccine (MenACWY). The first dose shall be administered prior to entry to seventh grade. The second dose shall be administered prior to entry to twelfth grade.

The parent, guardian or person standing in loco parentis may have such child immunized by a physician, *a* physician assistant, *an advanced practice registered* nurse ~~practitioner~~, *a* registered nurse, or *a* licensed practical nurse, or a pharmacist who administers pursuant to a valid prescription, or may present the child to the appropriate local health department, which shall administer the vaccines required by the State Board of Health Regulations for the Immunization of School Children without charge to the parent of or person standing in loco parentis to the child if (i) the child is eligible for the Vaccines for Children Program or (ii) the child is eligible for coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), or 10 U.S.C. § 1071 et seq. (CHAMPUS). In all cases in which a child is covered by a health carrier, Medicare, Medicaid, CHIP, or CHAMPUS, the Department shall seek reimbursement from the health carrier, Medicare, Medicaid, CHIP, or CHAMPUS for all allowable costs associated with the provision of the vaccine. For the purposes of this section, the Department shall be deemed a participating provider with a managed care health insurance plan as defined in § 32.1-137.1.

B. A physician, *a* physician assistant, *an advanced practice registered* nurse ~~practitioner~~, *a* registered nurse, *a* licensed practical nurse, *a* pharmacist, or *a* local health department administering a vaccine required by this section shall provide to the person who presents the child for immunizations a certificate that shall state the diseases for which the child has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated.

C. The vaccines required by this section shall meet the standards prescribed in, and be administered in accordance with, the State Board of Health Regulations for the Immunization of School Children. The State Board of Health shall amend the State Board of Health Regulations for the Immunization of School Children as necessary from time to time to maintain conformity with evidence-based, routinely recommended vaccinations for children. The adoption of such regulations shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.). However, the Department shall (i) provide a Notice of Intended Regulatory Action and (ii) provide for a 60-day public comment period prior to the Board's adoption of the regulations.

D. The provisions of this section shall not apply if:

1. The parent or guardian of the child objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been declared by the Board;

2. The parent or guardian presents a statement from a physician licensed to practice medicine in Virginia, a licensed *advanced practice registered* nurse ~~practitioner~~, or a local health department that states that the physical condition of the child is such that the administration of one or more of the required immunizing agents would be detrimental to the health of the child; or

3. Because the human papillomavirus is not communicable in a school setting, a parent or guardian, at the parent's or guardian's sole discretion, may elect for the parent's or guardian's child not to receive the human papillomavirus vaccine, after having reviewed materials describing the link between the human papillomavirus and cervical cancer approved for such use by the Board.

E. For the purpose of protecting the public health by ensuring that each child receives age-appropriate immunizations, any physician, physician assistant, *advanced practice registered* nurse ~~practitioner~~, licensed institutional health care provider, *or* local or district health department, the Virginia Immunization Information System, and the Department of Health may share immunization and patient locator information without parental authorization, including, but not limited to, the month, day, and year of each administered immunization; the patient's name, address, telephone number, birth date, and social security number; and the parents' names. The immunization information; the patient's name, address, telephone number, birth date, and social security number; and the parents' names shall be confidential and shall only be shared for the purposes set out in this subsection.

F. The State Board of Health shall review this section annually and make recommendations for revision by September 1 to the Governor, the General Assembly, and the Joint Commission on Health Care.

§ 32.1-50. Examination of persons suspected of having active tuberculosis disease; reporting; report forms; report schedule; laboratory reports and required samples.

A. Any local health director may request any person having or reasonably suspected of having active tuberculosis disease to be examined immediately for the purpose of ascertaining the presence or absence of the disease. Such examination may be made by any licensed physician or licensed *advanced practice registered* nurse ~~practitioner~~ selected by such person at his own expense and approved by the local health director or by the local health director at no cost to such person.

B. Each physician or *advanced practice registered* nurse ~~practitioner~~ practicing in the Commonwealth who diagnoses or treats a person for active tuberculosis disease, or a physician assistant who treats a person for active tuberculosis disease, as defined in § 32.1-49.1 and each person in charge of a medical care facility providing inpatient or outpatient diagnosis or treatment for active tuberculosis disease shall report to the local health director within such time period and in such manner as may be prescribed by regulations of the Board. Such report, at a minimum, shall include an initial report when there are reasonable grounds to believe that a person has active tuberculosis disease, and a subsequent report when a person ceases treatment for tuberculosis disease. Cessation of treatment may be inferred when the person (i) fails to keep a scheduled appointment, (ii) relocates without transferring care, or (iii) discontinues care either upon or against the advice of the treating physician, physician assistant, or *advanced practice registered* nurse ~~practitioner~~.

C. The initial disease report shall include the following: the affected person's name; date of birth; gender; address; pertinent clinical, radiographic, microbiologic, and pathologic reports, whether final or pending; such other information as is needed to locate the patient for follow-up; and any other information as prescribed by regulations of the Board.

D. Subsequent reports shall be submitted within such time, at such frequency, and in such manner as may be prescribed by regulations of the Board and shall provide updated clinical status, bacteriologic and radiographic results, assessment of treatment adherence, name of current care provider, and any other information as prescribed by the Board.

E. Every director of any laboratory doing business in the Commonwealth shall, according to the manner and schedule as determined by the Board, report any result diagnostic of or highly correlated with active tuberculosis disease, whether testing is done in-house or referred to an out-of-state laboratory, including cultures positive for tubercle bacilli and smears suggestive of tubercle bacilli, and shall report the results of tests for antimicrobial susceptibility performed on cultures positive for tubercle bacilli. Each director of any laboratory shall also submit a representative and viable sample of the initial culture to the Virginia Division of Consolidated Laboratory Services or other laboratory designated by the Board to receive such specimen in order to (i) ensure testing for antimicrobial susceptibility on each initial isolate from a person with active tuberculosis disease, and (ii) establish a library of such isolates for the purpose of disease strain analysis as indicated by epidemiological investigations.

§ 32.1-60. Prenatal tests required.

Every physician, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ attending a pregnant woman during gestation shall examine and test such woman for such venereal diseases as the Board may designate within 15 days after beginning such attendance. Every other person permitted by law to attend upon pregnant women but not permitted by law to make such examinations and tests~~,~~ shall cause such examinations and tests to be made by a licensed physician, licensed *advanced practice registered* nurse ~~practitioner~~, or clinic. Serological tests required by this section may be performed by the Department of General Services, Division of Consolidated Laboratory Services (DCLS).

§ 32.1-122.6:02. Conditional grants for certain advanced practice registered nursing students.

A. The Board of Health shall establish annual nursing scholarships for students who intend to enter an accredited *advanced practice registered* nurse ~~practitioner or nurse midwife~~ program in designated schools. The amounts and numbers of such scholarships shall be determined annually as provided in the appropriation act. The Commissioner shall act as fiscal agent for the Board in administration of the scholarship program through a nursing scholarship committee.

B. To administer the scholarship program, the Board shall promulgate regulations which shall include, but are not limited to:

1. Qualifications of applicants;

2. Criteria for award of the scholarship to assure that a recipient will fulfill the practice obligations established in this section;

3. Standards to assure that these scholarships increase access to primary health care for individuals who are indigent or who are recipients of public assistance;

4. Assurances that residents of Virginia, as determined by § 23.1-502, minority students and residents of medically underserved areas are given preference in determining scholarship eligibility and awards;

5. Assurances that a scholarship recipient will practice as ~~a~~ *an advanced practice registered* nurse ~~practitioner or nurse midwife~~ in an underserved area of the Commonwealth within two years following completion of training;

6. Designations that students in *advanced practice registered* nurse ~~practitioner~~ specialties, including nurse midwife, receive priority scholarships;

7. Methods for reimbursement to the Commonwealth by a recipient who fails to complete the educational program or who fails to honor the obligation to engage in practice as ~~a~~ *an advanced practice registered* nurse ~~practitioner or nurse midwife~~ for a period of years equal to the number of annual scholarships received;

8. Procedures for reimbursing any recipient who has repaid the Commonwealth for part or all of any scholarship and who later fulfills the terms of his contract; and

9. Methods for reporting data related to the recipients of the scholarships.

C. Until such time as a fully accredited nurse midwife education program is established at any health science center in the Commonwealth, the Board may designate that attendance at an accredited program in a nearby state is acceptable for scholarship eligibility.

D. For purposes of this section, the term "underserved area" shall include those medically underserved areas designated by the Board pursuant to § 32.1-122.5 and health professional shortage areas designated in accordance with the criteria established in 42 C.F.R. Part 5.

E. Any scholarship amounts repaid by recipients pursuant to subdivision B 7, and any interest thereon, shall be used only for the purposes of this section and shall not revert to the general fund.

§ 32.1-134.2. Clinical privileges for certain practitioners.

The grant or denial of clinical privileges to licensed podiatrists and certified nurse midwives licensed as ~~nurse practitioners~~ *advanced practice registered nurses* pursuant to § 54.1-2957 by any hospital licensed in this Commonwealth, and the determination by the hospital of the scope of such privileges, shall be based upon such practitioner's professional license, experience, competence, ability, and judgment, and the reasonable objectives and regulations of the hospital in which such privileges are sought.

§ 32.1-134.3. Response to applications for clinical privileges.

Whenever a podiatrist or certified nurse midwife licensed as ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ makes application to any hospital for clinical privileges, the hospital shall either approve or disapprove the application within 120 calendar days after it has received all necessary information to make a determination as provided in § 32.1-134.2 from the practitioner.

§ 32.1-134.4. Right of podiatrists or advanced practice registered nurses to injunction.

Any licensed podiatrist or certified nurse midwife licensed as ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ in Virginia who is aggrieved by any violation of § 32.1-134.2 or § 32.1-134.3 shall have the right to seek an injunction from the circuit court of the city or county in which the hospital alleged to have committed the violation is located, prohibiting any further such violation. The provisions of this section shall not be deemed to impair or affect any other right or remedy. A violation of this section, however, shall not constitute a violation of the provisions of this article for the purposes of § 32.1-135.

§ 32.1-138. Enumeration; posting of policies; staff training; responsibilities devolving on guardians, etc.; exceptions; certification of compliance.

A. The governing body of a nursing home facility required to be licensed under the provisions of Article 1 (§ 32.1-123 et seq.) of this chapter, through the administrator of such facility, shall cause to be promulgated policies and procedures to ensure that, at the minimum, each patient admitted to such facility:

1. Is fully informed, as evidenced by the patient's written acknowledgment, prior to or at the time of admission and during his stay, of his rights and of all rules and regulations governing patient conduct and responsibilities;

2. Is fully informed, as evidenced by the patient's written acknowledgment, prior to or at the time of admission and during his stay, of services available in the facility, the terms of such services, and related charges, including any charges for services not covered under Titles XVIII or XIX of the United States Social Security Act or not covered by the facility's basic per diem rate;

3. Is fully informed in summary form of the findings concerning the facility in federal Centers for Medicare & Medicaid Services surveys and investigations, if any;

4. Is fully informed by a physician, *a* physician assistant, or *an advanced practice registered* nurse ~~practitioner~~ of his medical condition unless medically contraindicated as documented by a physician, *a* physician assistant, or *an advanced*

practice registered nurse ~~practitioner~~ in his medical record and is afforded the opportunity to participate in the planning of his medical treatment and to refuse to participate in experimental research;

5. Is transferred or discharged only for medical reasons, or for his welfare or that of other patients, or for nonpayment for his stay except as prohibited by Titles XVIII or XIX of the United States Social Security Act, and is given reasonable advance notice as provided in § 32.1-138.1 to ensure orderly transfer or discharge, and such actions are documented in his medical record;

6. Is encouraged and assisted, throughout the period of his stay, to exercise his rights as a patient and as a citizen and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of his choice, free from restraint, interference, coercion, discrimination, or reprisal;

7. May manage his personal financial affairs, or may have access to records of financial transactions made on his behalf at least once a month and is given at least a quarterly accounting of financial transactions made on his behalf should the facility accept his written delegation of this responsibility to the facility for any period of time in conformance with state law;

8. Is free from mental and physical abuse and free from chemical and, except in emergencies, physical restraints except as authorized in writing by a physician for a specified and limited period of time or when necessary to protect the patient from injury to himself or to others;

9. Is assured confidential treatment of his personal and medical records and may approve or refuse their release to any individual outside the facility, except in case of his transfer to another health care institution or as required by law or third-party payment contract;

10. Is treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs;

11. Is not required to perform services for the facility that are not included for therapeutic purposes in his plan of care;

12. May associate and communicate privately with persons of his choice and send and receive his personal mail unopened, unless medically contraindicated as documented by his physician in his medical record;

13. May meet with and participate in activities of social, religious and community groups at his discretion, unless medically contraindicated as documented by his physician, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ in his medical record;

14. May retain and use his personal clothing and possessions as space permits unless to do so would infringe upon rights of other patients and unless medically contraindicated as documented by his physician, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ in his medical record;

15. If married, is assured privacy for visits by his or her spouse and if both are inpatients in the facility, is permitted to share a room with such spouse unless medically contraindicated as documented by the attending physician, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ in the medical record; and

16. Is fully informed, as evidenced by the written acknowledgment of the resident or his legal representative, prior to or at the time of admission and during his stay, that he should exercise whatever due diligence he deems necessary with respect to information on any sexual offenders registered pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including how to obtain such information. Upon request, the nursing home facility shall assist the resident, prospective resident, or the legal representative of the resident or prospective resident in accessing this information and provide the resident, prospective resident, or the legal representative of the resident or prospective resident with printed copies of the requested information.

B. All established policies and procedures regarding the rights and responsibilities of patients shall be printed in at least 12-point type and posted conspicuously in a public place in all nursing home facilities required to be licensed under the provisions of Article 1 (§ 32.1-123 et seq.) of this chapter. These policies and procedures shall include the name and telephone number of the complaint coordinator in the Division of Licensure and Certification of the Virginia Department of Health, the Adult Protective Services' toll-free telephone number, as well as the toll-free telephone number for the Virginia Long-Term Care Ombudsman Program and any substate ombudsman program serving the area. Copies of such policies and procedures shall be given to patients upon admittance to the facility and made available to patients currently in residence, to any guardians, responsible party as defined in regulation, next of kin, or sponsoring agency or agencies, and to the public.

C. The provisions of this section shall not be construed to restrict any right that any patient in residence has under law.

D. Each facility shall provide appropriate staff training to implement each patient's rights included in subsection A hereof.

E. All rights and responsibilities specified in subsection A hereof and § 32.1-138.1 as they pertain to (i) a patient adjudicated incapacitated in accordance with state law, (ii) a patient who is found, by his physician, to be medically incapable of understanding these rights, or (iii) a patient who is unable to communicate with others shall devolve to such patient's guardian, responsible party as defined in regulation, next of kin, sponsoring agency or agencies, or representative payee, except when the facility itself is representative payee, selected pursuant to section 205(j) of Title II of the United States Social Security Act. The persons to whom such rights and responsibilities have devolved shall be deemed to have legal authority to act on the patient's behalf with respect to the matters specified in this section.

F. Nothing in this section shall be construed to prescribe, regulate, or control the remedial care and treatment or nursing service provided to any patient in a nursing institution to which the provisions of § 32.1-128 are applicable.

G. It shall be the responsibility of the Commissioner to insure that the provisions of this section and the provisions of § 32.1-138.1 are observed and implemented by nursing home facilities. Each nursing home facility to which this section and § 32.1-138.1 are applicable shall certify to the Commissioner that it is in compliance with the provisions of this section and the provisions of § 32.1-138.1 as a condition to the issuance or renewal of the license required by Article 1 (§ 32.1-123 et seq.) of this chapter.

§ 32.1-162.15:2. (Effective July 1, 2023) Definitions.

"Anonymous physical evidence recovery kit" has the same meaning as in § 19.2-11.5.

"Approved pediatric health care facility" means a pediatric health care facility for which a plan for the delivery of services to pediatric survivors of sexual assault has been approved pursuant to § 32.1-162.15:6.

"Board" means the Board of Health.

"Department" means the Department of Health.

"Emergency contraception" means medication approved by the U.S. Food and Drug Administration that can significantly reduce the risk of pregnancy if taken within 72 hours after sexual assault.

"Follow-up health care" means any physical examination, laboratory tests to determine the presence of sexually transmitted infection, or appropriate medications, including HIV-prophylaxis, provided to a survivor of sexual assault by a health care provider within 90 days after the date on which treatment or transfer services pursuant to this article are first provided.

"Forensic medical examination" means health care services provided to a survivor of sexual assault that include medical history, physical examination, laboratory testing, assessment for drug-facilitated or alcohol-facilitated sexual assault, collection of evidence in accordance with the requirements of Chapter 1.2 (§ 19.2-11.5 et seq.) of Title 19.2, and discharge and follow-up health care planning necessary to ensure the health, safety, and welfare of the survivor of sexual assault and the collection and preservation of evidence that may be used in a criminal proceeding.

"Hospital" means any hospital licensed by the Department pursuant to this chapter.

"Pediatric health care facility" means a hospital, clinic, or physician's office that provides health care services to pediatric patients.

"Pediatric survivor of sexual assault" means a survivor of sexual assault who is under 18 years of age.

"Physical evidence recovery kit" has the same meaning as in § 19.2-11.5.

"Sexual assault forensic examiner" means a sexual assault nurse examiner, *a* physician, *a* physician assistant, *an advanced practice registered* nurse ~~practitioner~~, or *a* registered nurse who has completed training that meets or is substantially similar to the Sexual Assault Nurse Examiner Education Guidelines established by the International Association of Forensic Nurses.

"Sexual assault survivor transfer services" means an appropriate medical examination and such stabilizing treatment as may be necessary prior to the transfer of a sexual assault survivor from a transfer hospital to a treatment hospital in accordance with the provisions of a transfer plan approved by the Department.

"Sexual assault survivor treatment services" means a forensic medical examination and other health care services provided to a sexual assault survivor by a hospital in accordance with § 32.1-162.15:4 or pediatric health care facility in accordance with § 32.1-162.15:6.

"Transfer hospital" means a hospital with a sexual assault survivor transfer plan approved by the Department.

"Transportation service" means transportation provided to a survivor of sexual assault who is transferred from a transfer hospital, treatment hospital, or approved pediatric health care facility to a treatment hospital or approved pediatric care facility pursuant to a transfer plan approved in accordance with this article.

"Treatment hospital" means a hospital with a sexual assault survivor treatment plan approved by the Department to provide sexual assault survivor treatment services to all survivors of sexual assault who present with a complaint of sexual assault within the previous seven days or who have disclosed past sexual assault by a specific individual and were in the care of that individual within the previous seven days.

§ 32.1-263. Filing death certificates; medical certification; investigation by Office of the Chief Medical Examiner.

A. A death certificate, including, if known, the social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342 of the deceased, shall be filed for each death that occurs in the Commonwealth. Non-electronically filed death certificates shall be filed with the registrar of any district in the Commonwealth within three days after such death and prior to final disposition or removal of the body from the Commonwealth. Electronically filed death certificates shall be filed with the State Registrar of Vital Records through the Electronic Death Registration System within three days after such death and prior to final disposition or removal of the body from the Commonwealth. Any death certificate shall be registered by such registrar if it has been completed and filed in accordance with the following requirements:

1. If the place of death is unknown, but the dead body is found in the Commonwealth, the death shall be registered in the Commonwealth and the place where the dead body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation, taking into consideration all relevant information, including information provided by the immediate family regarding the date and time that the deceased was last seen alive, if the individual died in his home; and

2. When death occurs in a moving conveyance, in the United States of America and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in the Commonwealth and the place where it is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in the Commonwealth but the certificate shall show the actual place of death insofar as can be determined.

B. The licensed funeral director, funeral service licensee, office of the state anatomical program, or next of kin as defined in § 54.1-2800 who first assumes custody of a dead body shall complete the certificate of death. He shall obtain personal data of the deceased necessary to complete the certificate of death, including the social security number of the deceased or control number issued to the deceased by the Department of Motor Vehicles pursuant to § 46.2-342, from the best qualified person or source available and obtain the medical certification from the person responsible therefor.

If a licensed funeral director, funeral service licensee, or representative of the office of the state anatomical program completes the certificate of death, he shall file the certificate of death with the State Registrar of Vital Records electronically using the Electronic Death Registration System and in accordance with the requirements of subsection A. If a member of the next of kin of the deceased completes the certificate of death, he shall file the certificate of death in accordance with the requirements of subsection A but shall not be required to file the certificate of death electronically.

C. The medical certification shall be completed and filed electronically with the State Registrar of Vital Records using the Electronic Death Registration System within 24 hours after death by the physician or autonomous nurse practitioner in charge of the patient's care for the illness or condition that resulted in death except when inquiry or investigation by the Office of the Chief Medical Examiner is required by § 32.1-283 or 32.1-285.1, or by the physician or autonomous nurse practitioner who pronounces death pursuant to § 54.1-2972. If the death occurred while under the care of a hospice provider, the medical certification shall be completed by the decedent's health care provider and filed electronically with the State Registrar of Vital Records using the Electronic Death Registration System for completion of the death certificate.

In the absence of such physician or autonomous nurse practitioner or with his approval, the certificate may be completed and filed by the following: (i) another physician or autonomous nurse practitioner employed or engaged by the same professional practice; (ii) a physician assistant supervised by such physician; (iii) ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ who is not an autonomous nurse practitioner practicing in accordance with the provisions of § 54.1-2957; (iv) the chief medical officer or medical director, or his designee, of the institution, hospice, or nursing home in which death occurred; (v) a physician or autonomous nurse practitioner specializing in the delivery of health care to hospitalized or emergency department patients who is employed by or engaged by the facility where the death occurred; (vi) the physician who performed an autopsy upon the decedent; (vii) an individual to whom the physician or autonomous nurse practitioner has delegated authority to complete and file the certificate, if such individual has access to the medical history of the case and death is due to natural causes; or (viii) a physician who is not licensed by the Board of Medicine who was in charge of the patient's care for the illness or condition that resulted in death. A physician described in clause (viii) who completes a certificate in accordance with this subsection shall not be required to register with the Electronic Death Registration System or complete the certificate electronically.

As used in this subsection, "autonomous nurse practitioner" has the same meaning as provided in § 54.1-2972.

D. When inquiry or investigation by the Office of the Chief Medical Examiner is required by § 32.1-283 or 32.1-285.1, the Chief Medical Examiner shall cause an investigation of the cause of death to be made and the medical certification portion of the death certificate to be completed and filed within 24 hours after being notified of the death. If the Office of the Chief Medical Examiner refuses jurisdiction, the physician last furnishing medical care to the deceased shall prepare and file the medical certification portion of the death certificate.

E. If the death is a natural death and a death certificate is being prepared pursuant to § 54.1-2972 and the physician, *autonomous* nurse practitioner, or physician assistant is uncertain about the cause of death, he shall use his best medical judgment to certify a reasonable cause of death or contact the health district physician director in the district where the death occurred to obtain guidance in reaching a determination as to a cause of death and document the same.

If the cause of death cannot be determined within 24 hours after death, the medical certification shall be completed as provided by regulations of the Board. The attending physician or autonomous nurse practitioner, as defined in § 54.1-2972, or the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282 shall give the funeral director or person acting as such notice of the reason for the delay, and final disposition of the body shall not be made until authorized by the attending physician, autonomous nurse practitioner, the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282.

F. A physician, *autonomous* nurse practitioner, physician assistant, or individual delegated authority to complete and file a certificate of death by a physician who, in good faith, files a certificate of death or determines the cause of death shall be immune from civil liability, only for such filing and determination of causes of death on such certificate, absent gross negligence or willful misconduct.

§ 32.1-282. Medical examiners.

A. The Chief Medical Examiner may appoint for each county and city one or more medical examiners, who shall be licensed as a doctor of medicine or osteopathic medicine, a physician assistant, or ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ in the Commonwealth and appointed as agents of the Commonwealth, to assist the Office of the Chief Medical Examiner with medicolegal death investigations. A physician assistant appointed as a medical examiner shall practice in

accordance with § 54.1-2952. ~~A~~ *An advanced practice registered* nurse ~~practitioner~~ appointed as a medical examiner shall practice in accordance with § 54.1-2957.

B. At the request of the Chief Medical Examiner, the Assistant Chief Medical Examiner, or their designees, medical examiners may assist the Office of the Chief Medical Examiner with cases requiring medicolegal death investigations in accordance with § 32.1-283.

C. The term of each medical examiner appointed, other than an appointment to fill a vacancy, shall begin on the first day of October of the year of appointment. The term of each medical examiner shall be three years; however, an appointment to fill a vacancy shall be for the unexpired term.

§ 32.1-325. (Effective until date pursuant to Va. Const., Art. IV, § 13) Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of $3,500 for the individual and an amount not in excess of $3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed $5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions, regardless of whether the student receiving care has an individualized education program or whether the health care service is included in a student's individualized education program. Such services shall include those covered under the state plan for medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for health care services provided through telemedicine services, as defined in § 38.2-3418.16. No health care provider who provides health care services through telemedicine shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, *advanced practice registered* nurse ~~practitioner~~, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been

screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3);

26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located;

27. A provision for the payment of medical assistance for the dispensing or furnishing of up to a 12-month supply of hormonal contraceptives at one time. Absent clinical contraindications, the Department shall not impose any utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished to an amount less than a 12-month supply. Nothing in this subdivision shall be construed to (i) require a provider to prescribe, dispense, or furnish a 12-month supply of self-administered hormonal contraceptives at one time or (ii) exclude coverage for hormonal contraceptives as prescribed by a prescriber, acting within his scope of practice, for reasons other than contraceptive purposes. As used in this subdivision, "hormonal contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone, that is self-administered, requires a prescription, and is approved by the U.S. Food and Drug Administration for such purpose;

28. A provision for payment of medical assistance for remote patient monitoring services provided via telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons; (ii) medically complex infants and children; (iii) transplant patients; (iv) patients who have undergone surgery, for up to three months following the date of such surgery; and (v) patients with a chronic or acute health condition who have had two or more hospitalizations or emergency department visits related to such health condition in the previous 12 months when there is evidence that the use of remote patient monitoring is likely to prevent readmission of such patient to a hospital or emergency department. For the purposes of this subdivision, "remote patient monitoring services" means the use of digital technologies to collect medical and other forms of health data from patients in one location and electronically transmit that information securely to health care providers in a different location for analysis, interpretation, and recommendations, and management of the patient. "Remote patient monitoring services" includes monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other patient physiological data, treatment adherence monitoring, and interactive videoconferencing with or without digital image upload;

29. A provision for the payment of medical assistance for provider-to-provider consultations that is no more restrictive than, and is at least equal in amount, duration, and scope to, that available through the fee-for-service program; and

30. A provision for payment of the originating site fee to emergency medical services agencies for facilitating synchronous telehealth visits with a distant site provider delivered to a Medicaid member. As used in this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq., Enforcement of Compliance for Long-Term Care Facilities With Deficiencies.

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the

Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

K. When the services provided for by such plan are services related to initiation of treatment with or dispensing or administration of a vaccination by a pharmacist, pharmacy technician, or pharmacy intern in accordance with § 54.1-3303.1, the Department shall provide reimbursement for such service.

§ 32.1-325. (Effective pursuant to Va. Const., Art. IV, § 13) Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of $3,500 for the individual and an amount not in excess of $3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to

Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed $5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions, regardless of whether the student receiving care has an individualized education program or whether the health care service is included in a student's individualized education program. Such services shall include those covered under the state plan for medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for health care services provided through telemedicine services, as defined in § 38.2-3418.16. No health care provider who provides health care services through telemedicine shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, *advanced practice registered* nurse ~~practitioner~~, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3);

26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services

through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located;

27. A provision for the payment of medical assistance for the dispensing or furnishing of up to a 12-month supply of hormonal contraceptives at one time. Absent clinical contraindications, the Department shall not impose any utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished to an amount less than a 12-month supply. Nothing in this subdivision shall be construed to (i) require a provider to prescribe, dispense, or furnish a 12-month supply of self-administered hormonal contraceptives at one time or (ii) exclude coverage for hormonal contraceptives as prescribed by a prescriber, acting within his scope of practice, for reasons other than contraceptive purposes. As used in this subdivision, "hormonal contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone, that is self-administered, requires a prescription, and is approved by the U.S. Food and Drug Administration for such purpose;

28. A provision for payment of medical assistance for remote patient monitoring services provided via telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons; (ii) medically complex infants and children; (iii) transplant patients; (iv) patients who have undergone surgery, for up to three months following the date of such surgery; and (v) patients with a chronic or acute health condition who have had two or more hospitalizations or emergency department visits related to such health condition in the previous 12 months when there is evidence that the use of remote patient monitoring is likely to prevent readmission of such patient to a hospital or emergency department. For the purposes of this subdivision, "remote patient monitoring services" means the use of digital technologies to collect medical and other forms of health data from patients in one location and electronically transmit that information securely to health care providers in a different location for analysis, interpretation, and recommendations, and management of the patient. "Remote patient monitoring services" includes monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other patient physiological data, treatment adherence monitoring, and interactive videoconferencing with or without digital image upload;

29. A provision for the payment of medical assistance for provider-to-provider consultations that is no more restrictive than, and is at least equal in amount, duration, and scope to, that available through the fee-for-service program;

30. A provision for payment of the originating site fee to emergency medical services agencies for facilitating synchronous telehealth visits with a distant site provider delivered to a Medicaid member. As used in this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located; and

31. A provision for the payment of medical assistance for targeted case management services for individuals with severe traumatic brain injury.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq., Enforcement of Compliance for Long-Term Care Facilities With Deficiencies.

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

K. When the services provided for by such plan are services related to initiation of treatment with or dispensing or administration of a vaccination by a pharmacist, pharmacy technician, or pharmacy intern in accordance with § 54.1-3303.1, the Department shall provide reimbursement for such service.

§ 37.2-815. Commitment hearing for involuntary admission; examination required.

A. Notwithstanding § 37.2-814, the district court judge or special justice shall require an examination of the person who is the subject of the hearing by a psychiatrist or a psychologist who is licensed in Virginia by the Board of Medicine or the Board of Psychology and is qualified in the diagnosis of mental illness or, if such a psychiatrist or psychologist is not available, a mental health professional who (i) is licensed in Virginia through the Department of Health Professions as a clinical social worker, professional counselor, marriage and family therapist, *or* psychiatric *advanced practice registered* nurse ~~practitioner, or clinical nurse specialist,~~*;* (ii) is qualified in the assessment of mental illness~~,~~*;* and (iii) has completed a certification program approved by the Department. The examiner chosen shall be able to provide an independent clinical evaluation of the person and recommendations for his placement, care, and treatment. The examiner shall (a) not be related by blood or marriage to the person, (b) not be responsible for treating the person, (c) have no financial interest in the admission or treatment of the person, (d) have no investment interest in the facility detaining or admitting the person under this chapter, and (e) except for employees of state hospitals, the U.S. Department of Veterans Affairs, and community service boards, not be employed by the facility. For purposes of this section, the term "investment interest" shall be as defined in § 37.2-809.

B. The examination conducted pursuant to this section shall be a comprehensive evaluation of the person conducted in-person or, if that is not practicable, by two-way electronic video and audio communication system as authorized in § 37.2-804.1. Translation or interpreter services shall be provided during the evaluation where necessary. The examination shall consist of (i) a clinical assessment that includes a mental status examination; determination of current use of psychotropic and other medications; a medical and psychiatric history; a substance use, abuse, or dependency determination; and a determination of the likelihood that, as a result of mental illness, the person will, in the near future, suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; (ii) a substance abuse screening, when indicated; (iii) a risk assessment that includes an evaluation of the likelihood that, as a result of mental illness, the person will, in the near future, cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any; (iv) an assessment of the person's capacity to consent to treatment, including his ability to maintain and communicate choice, understand relevant information, and comprehend the situation and its consequences; (v) a review of the temporary detention facility's records for the person, including the treating physician's evaluation, any collateral information, reports of any laboratory or toxicology tests conducted, and all admission forms and nurses' notes; (vi) a discussion of treatment preferences expressed by the person or contained in a document provided by the person in support of recovery; (vii) an assessment of whether the person meets the criteria for an order authorizing discharge to mandatory outpatient treatment following a period of inpatient treatment pursuant to subsection c of § 37.2-817.01; (viii) an assessment of alternatives to involuntary inpatient treatment; and (ix) recommendations for the placement, care, and treatment of the person.

C. All such examinations shall be conducted in private. The judge or special justice shall summons the examiner who shall certify that he has personally examined the person and state whether he has probable cause to believe that the person (i) has a mental illness and there is a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, and (ii) requires involuntary inpatient treatment. The judge or special justice shall not render any decision on the petition until the examiner has presented his report. The examiner may report orally at the hearing, but he shall provide a written report of his examination prior to the hearing. The examiner's written certification may be accepted into evidence unless objected to by the person or his attorney, in which case the

examiner shall attend in person or by electronic communication. When the examiner attends the hearing in person or by electronic communication, the examiner shall not be excluded from the hearing pursuant to an order of sequestration of witnesses.

§ 38.2-3407.11. Access to obstetrician-gynecologists.

A. Each (i) insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis, (ii) corporation providing individual or group accident and sickness subscription contracts, and (iii) health maintenance organization providing a health care plan for health care services, whose policies, contracts or plans, including any certificate or evidence of coverage issued in connection with such policies, contracts or plans, include coverage for obstetrical or gynecological services, shall permit any female of age 13 or older covered thereunder direct access, as provided in subsection B, to the health care services of a participating obstetrician-gynecologist (a) authorized to provide services under such policy, contract or plan and (b) selected by such female.

B. An annual examination, and routine health care services incident to and rendered during an annual visit, may be performed without prior authorization from the primary care physician. However, additional health care services may be provided subject to the following:

1. Consultation, which may be by telephone or electronically, with the primary care physician for follow-up care or subsequent visits;

2. Prior consultation and authorization by the primary care physician before the patient may be directed to another specialty provider; and

3. Prior authorization by the insurer, corporation, or health maintenance organization for proposed inpatient hospitalization or outpatient surgical procedures.

C. For the purpose of this section, "health care services" means the full scope of medically necessary services provided by the obstetrician-gynecologist in the care of or related to the female reproductive system and breasts and in performing annual screening and immunization for disorders and diseases in accordance with the most current published recommendations of the American College of Obstetricians and Gynecologists. The term includes services provided by ~~nurse practitioners,~~ *advanced practice registered nurses and* physician assistants~~, and certified nurse midwives~~ in collaboration with the obstetrician-gynecologists providing care to individuals covered under any such policies, contracts or plans.

D. Nothing contained herein shall prohibit an insurer, corporation, or health maintenance organization from requiring a participating obstetrician-gynecologist to provide written notification to the covered female's primary care physician of any visit to such obstetrician-gynecologist. Such notification may include a description of the health care services rendered at the time of the visit.

E. Each insurer, corporation or health maintenance organization subject to the provisions of this section shall inform subscribers of the provisions of this section. Such notice shall be provided in writing.

F. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, renewed, or extended or at any time when any term of any such policy, contract, or plan is changed or any premium adjustment is made. The provisions of this section shall not apply to short-term travel or accident-only policies, or to short-term nonrenewable policies of not more than six months' duration.

G. The provisions of this section shall not apply in any instance in which the provisions of this section are inconsistent or in conflict with a provision of Article 6 (§ 38.2-3438 et seq.) of Chapter 34.

§ 38.2-3408. Policy providing for reimbursement for services that may be performed by certain practitioners other than physicians.

A. If an accident and sickness insurance policy provides reimbursement for any service that may be legally performed by a person licensed in this Commonwealth as a chiropractor, optometrist, optician, professional counselor, psychologist, clinical social worker, podiatrist, physical therapist, chiropodist, clinical nurse specialist, audiologist, speech pathologist, certified nurse midwife or other *advanced practice registered* nurse ~~practitioner~~, marriage and family therapist, athletic trainer, or licensed acupuncturist, reimbursement under the policy shall not be denied because the service is rendered by the licensed practitioner, provided that, for services performed by an athletic trainer, such service is performed in an office setting.

B. If an accident and sickness insurance policy provides reimbursement for a service that may be legally performed by a licensed pharmacist, reimbursement under the policy shall not be denied because the service is rendered by the licensed pharmacist, provided that (i) the service is performed for an insured for a condition under the terms of a collaborative agreement, as defined in § 54.1-3300, (ii) the service is for the administration of vaccines for immunization, or (iii) the service is provided in accordance with § 54.1-3303.1.

C. This section shall not apply to Medicaid, or any state fund.

§ 38.2-4221. Services of certain practitioners other than physicians to be covered.

A. A nonstock corporation shall not fail or refuse, either directly or indirectly, to allow or to pay to a subscriber for all or any part of the health services rendered by any doctor of podiatry, doctor of chiropody, optometrist, optician, chiropractor, professional counselor, psychologist, physical therapist, clinical social worker, clinical nurse specialist, audiologist, speech pathologist, certified nurse midwife or other *advanced practice registered* nurse ~~practitioner~~, marriage and family therapist, athletic trainer, or licensed acupuncturist licensed to practice in Virginia, if the services rendered (i) are

services provided for by the subscription contract; (ii) are services which the doctor of podiatry, doctor of chiropody, optometrist, optician, chiropractor, professional counselor, psychologist, physical therapist, clinical social worker, clinical nurse specialist, audiologist, speech pathologist, certified nurse midwife or other *advanced practice registered* nurse ~~practitioner~~, marriage and family therapist, athletic trainer, or licensed acupuncturist is licensed to render in this Commonwealth; and (iii) are, for any services rendered by an athletic trainer, rendered in an office setting.

B. If a subscription contract provides reimbursement for a service that may be legally performed by a licensed pharmacist, reimbursement under the subscription contract by the nonstock corporation shall not be denied because the service is rendered by the licensed pharmacist provided that (i) the service is performed for a subscriber for a condition under the terms of a collaborative agreement, as defined in § 54.1-3300, between a pharmacist and the physician with whom the subscriber is undergoing a course of treatment or (ii) the service is for the administration of vaccines for immunization. Notwithstanding the provisions of § 38.2-4209, the nonstock corporation may require the pharmacist, any pharmacy or provider that may employ such pharmacist, or the collaborating physician to enter into a written agreement with the nonstock corporation as a condition for reimbursement for such services. In addition, reimbursement to pharmacists acting under the terms of a collaborative agreement under this subsection shall not be subject to the provisions of § 38.2-4209.1.

§ 45.2-548. Qualification for team membership; direction of teams.

A. To qualify for membership in a mine rescue team, an applicant shall be an experienced miner and shall pass a physical examination by a licensed physician, physician assistant, or licensed *advanced practice registered* nurse ~~practitioner~~ at least annually. A record that such examination was taken shall be kept on file by the operator who employs the team member and a copy shall be furnished to the Director.

B. All rescue or recovery work performed by mine rescue teams shall be under the jurisdiction of the Department. The Department shall consult with company officials, representatives of MSHA, and representatives of the miners and all shall be in agreement as far as possible on the proper procedure for rescue and recovery; however, the Chief in his discretion may take full responsibility in directing such work. Procedures for use of apparatus or equipment shall be guided by the manuals for the mine rescue apparatus or auxiliary equipment.

§ 45.2-1137. Qualification for team membership; direction of teams.

A. To qualify for membership in a mine rescue team, an applicant shall (i) be an experienced miner; (ii) be 50 years of age or younger; and (iii) pass a physical examination by a licensed physician, licensed physician assistant, or licensed *advanced practice registered* nurse ~~practitioner~~ at least annually. A record that such examination was taken shall be kept on file by the operator who employs the team member and a copy shall be furnished to the Director.

B. All rescue or recovery work performed by any mine rescue team shall be under the jurisdiction of the Department. The Department shall consult with company officials, representatives of MSHA, and representatives of the miners, and all shall be in agreement as far as possible on the proper procedure for rescue and recovery; however, the Director in his discretion may take full responsibility in directing such work. In every instance, procedures shall be guided by the mine rescue apparatus and auxiliary equipment manuals.

§ 46.2-208. Records of Department; when open for inspection; release of privileged information.

A. The following information shall be considered privileged and unless otherwise provided for in this title shall not be released except as provided in subsection B:

1. Personal information as defined in § 2.2-3801;

2. Driver information, defined as all data that relates to driver's license status and driver activity;

3. Special identification card information, defined as all data that relates to identification card status; and

4. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data, but excluding crash data.

B. The Commissioner shall release such information only under the following conditions:

1. Notwithstanding other provisions of this section, medical information included in personal information shall be released only to a physician, *a* physician assistant, or *an advanced practice registered* nurse ~~practitioner~~ in accordance with a proceeding under §§ 46.2-321 and 46.2-322.

2, 3. [Repealed.]

4. Upon the request of (i) the subject of the information, (ii) the parent of a minor who is the subject of the information, (iii) the guardian of the subject of the information, (iv) the authorized agent or representative of the subject of the information, or (v) the owner of the vehicle that is the subject of the information, the Commissioner shall provide him with the requested information and a complete explanation of it. Requests for such information need not be made in writing or in person and may be made orally or by telephone, provided that the Department is satisfied that there is adequate verification of the requester's identity. When so requested in writing by (a) the subject of the information, (b) the parent of a minor who is the subject of the information, (c) the guardian of the subject of the information, (d) the authorized agent or representative of the subject of the information, or (e) the owner of the vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver, special identification card, or vehicle information. If the requester is requesting such information in the scope of his official business as counsel from a public defender's office or as counsel appointed by a court, such records shall be provided free of charge.

5. Upon the written request of any insurance carrier or surety, or authorized agent of either, the Commissioner shall furnish to such requester information in the record of any person subject to the provisions of this title. The transcript shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or

ownership of a motor vehicle or of any injury or damage in which he was involved and a report filed pursuant to § 46.2-373. No such report of any conviction or crash shall be made after 60 months from the date of the conviction or crash unless the Commissioner or court used the conviction or crash as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or crash pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. The response of the Commissioner under this subdivision shall not be admissible in evidence in any court proceedings.

6. Upon the written request of any business organization or its authorized agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records. Personal information provided under this subdivision shall be used solely for the purpose of pursuing remedies that require locating an individual.

7. Upon the written request of any business organization or its authorized agent, the Commissioner shall provide vehicle information to the requester. Disclosures made under this subdivision shall not include any personal information, driver information, or special identification card information and shall not be subject to the limitations contained in subdivision 6.

8. Upon the written request of any motor vehicle rental or leasing company or its authorized agent, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information of any person subject to the provisions of this title. Such information shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which the subject of the information was involved and a report of which was filed pursuant to § 46.2-373. No such information shall include any record of any conviction or crash more than 60 months after the date of such conviction or crash unless the Commissioner or court used the conviction or crash as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or crash pertaining thereto shall cease to be included in such information after 60 months from the date on which the driver's license or driving privilege was reinstated. The response of the Commissioner under this subdivision shall not be admissible in evidence in any court proceedings.

9. Upon the request of any federal, state, or local governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, or court, or the authorized agent of any of the foregoing, the Commissioner shall compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records. The Commissioner shall also provide driver, special identification card, and vehicle information as requested pursuant to this subdivision. The Commissioner may release other appropriate information to the governmental entity upon request. Upon request in accordance with this subdivision, the Commissioner shall furnish a certificate, under seal of the Department, setting forth a distinguishing number or license plate of a motor vehicle, trailer, or semitrailer, together with the name and address of its owner. The certificate shall be prima facie evidence in any court in the Commonwealth of the ownership of the vehicle, trailer, or semitrailer to which the distinguishing number or license plate has been assigned by the Department. However, the Commissioner shall not release any photographs pursuant to this subdivision unless the requester provides the depicted individual's name and other sufficient identifying information contained on such individual's record. The information in this subdivision shall be provided free of charge.

The Department shall release to a requester information that is required for a requester to carry out the requester's official functions in accordance with this subdivision. If the requester has entered into an agreement with the Department, such agreement shall be in a manner prescribed by the Department, and such agreement shall contain the legal authority that authorizes the performance of the requester's official functions and a description of how such information will be used to carry out such official functions. If the Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which the information shall be used is one of the requester's official functions, the Commissioner shall refuse to enter into any agreement. If the requester submits a request for information in accordance with this subdivision without an existing agreement to receive the information, the request shall be in a manner prescribed by the Department, and such request shall contain the legal authority that authorizes the performance of the requester's official functions and a description of how such information will be used to carry out such official functions. If the Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which such information shall be used is one of the requester's official functions, the Commissioner shall deny such request.

Notwithstanding the provisions of this subdivision, the Department shall not disseminate to any federal, state, or local government entity, law-enforcement officer, or law-enforcement agency any privileged information for any purposes related to civil immigration enforcement unless (i) the subject of the information provides consent or (ii) the requesting agency presents a lawful judicial order, judicial subpoena, or judicial warrant. When responding to a lawful judicial order, judicial subpoena, or judicial warrant, the Department shall disclose only those records or information specifically requested. Within three business days of receiving a request for information for the purpose of civil immigration enforcement, the

Commissioner shall send a notification to the individual about whom such information was requested that such a request was made and the identity of the entity that made such request.

The Department shall not enter into any agreement pursuant to subsection E with a requester pursuant to this subdivision unless the requester certifies that the information obtained will not be used for civil immigration purposes or knowingly disseminated to any third party for any purpose related to civil immigration enforcement.

10. Upon the request of the driver licensing authority in any foreign country, the Commissioner shall provide whatever driver and vehicle information the requesting authority shall require to carry out its official functions. The information shall be provided free of charge.

11. a. For the purpose of obtaining information regarding noncommercial driver's license holders, upon the written request of any employer, prospective employer, or authorized agent of either, and with the written consent of the individual concerned, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information in the form of a transcript of an individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations, or forfeiture, provided that such individual's position or the position that the individual is being considered for involves the operation of a motor vehicle.

b. For the purpose of obtaining information regarding commercial driver's license holders, upon the written request of any employer, prospective employer, or authorized agent of either, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information in the form of a transcript of such individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations, forfeitures, or disqualifications, provided that such individual's position or the position that the individual is being considered for involves the operation of a commercial motor vehicle.

12. Upon the written request of any member of a volunteer fire company or volunteer emergency medical services agency and with written consent of the individual concerned, or upon the request of an applicant for membership in a volunteer fire company or to serve as volunteer emergency medical services personnel, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the request is accompanied by appropriate written evidence that the person is a member of or applicant for membership in a volunteer fire company or a volunteer emergency medical services agency and the transcript is needed by the requester to establish the qualifications of the member, volunteer, or applicant to operate equipment owned by the volunteer fire company or volunteer emergency medical services agency.

13. Upon the written request of a Virginia affiliate of Big Brothers Big Sisters of America, a Virginia affiliate of Compeer, or the Virginia Council of the Girl Scouts of the USA, and with the consent of the individual who is the subject of the information and has applied to be a volunteer with the requester, or on the written request of a Virginia chapter of the American Red Cross, a Virginia chapter of the Civil Air Patrol, or Faith in Action, and with the consent of the individual who is the subject of the information and applied to be a volunteer vehicle operator with the requester, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the applicant's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer or volunteer vehicle operator with the requester as provided in this subdivision.

14. On the written request of any person who has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153, the Commissioner shall provide a transcript of the applicant's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153.

15, 16. [Repealed.]

17. Upon the request of an attorney representing a person involved in a motor vehicle crash, the Commissioner shall provide the vehicle information for any vehicle involved in the crash and the name and address of the owner of any such vehicle.

18. Upon the request, in the course of business, of any authorized agent of an insurance company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform rating and underwriting activities, the Commissioner shall provide (i) all vehicle information, the owner's name and address, descriptive data and title, registration, and vehicle activity data, as requested, or (ii) the driver name, license number and classification, date of birth, and address information for each driver under the age of 22 licensed in the Commonwealth, provided that such request includes the driver's license number or address information of such driver. Use of such information shall be limited to use in connection with insurance claims investigation activities, antifraud activities, rating, or underwriting.

19. [Repealed.]

20. Upon the written request of the compliance agent of a private security services business, as defined in § 9.1-138, which is licensed by the Virginia Department of Criminal Justice Services, the Commissioner shall provide the name and address of the owner of the vehicle under procedures determined by the Commissioner.

21. Upon the request of the operator of a toll facility, a traffic light photo-monitoring system acting on behalf of a government entity, or the Dulles Access Highway, or an authorized agent or employee of a toll facility operator or traffic light photo-monitoring system operator acting on behalf of a government entity or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under subsection M of § 46.2-819.1 or subsection H of § 15.2-968.1 or subsection N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having failed to pay a toll or having failed to comply with a traffic light signal or having improperly used the Dulles Access Highway and the vehicle information, including all descriptive vehicle data and title and registration data of the same vehicle.

22-26. [Repealed.]

27. Upon the written request of the executor or administrator of a deceased person's estate, the Department shall, if the deceased person had been issued a driver's license or special identification card by the Department, supply the requester with a hard copy image of any photograph of the deceased person kept in the Department's records.

28. [Repealed.]

29. a. Upon written agreement, the Commissioner may digitally verify the authenticity and validity of a driver's license, learner's permit, or special identification card to the American Association of Motor Vehicle Administrators, a motor vehicle dealer as defined in § 46.2-1500, or another organization approved by the Commissioner.

b. Upon written agreement, the Commissioner may release minimum information as needed in the Department's record through any American Association of Motor Vehicle Administrators service program created for the purpose of the exchange of information to any business, government agency, or authorized agent who would otherwise be authorized to receive the information requested pursuant to this section.

30. Upon the request of the operator of a video-monitoring system as defined in § 46.2-844 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B of § 46.2-844. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having passed a stopped school bus and the vehicle information, including all descriptive vehicle data and title and registration data for such vehicle.

31. Upon the request of the operator of a photo speed monitoring device as defined in § 46.2-882.1 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B of § 46.2-882.1. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having committed a violation of § 46.2-873 or 46.2-878.1 and the vehicle information, including all descriptive vehicle data and title and registration data, for such vehicle.

32. Notwithstanding the provisions of this section other than subdivision 33, the Department shall not release, except upon request by the subject of the information, the guardian of the subject of the information, the parent of a minor who is the subject of the information, or the authorized agent of the subject of the information, or pursuant to a court order, (i) proof documents submitted for the purpose of obtaining a driving credential or a special identification card, (ii) the information in the Department's records indicating the type of proof documentation that was provided, or (iii) applications relating to the issuance of a driving credential or a special identification card. As used in this subdivision, "proof document" means any document not originally created by the Department that is submitted to the Department for the issuance of any driving credential or special identification card. "Proof document" does not include any information contained on a driving credential or special identification card.

33. Notwithstanding the provisions of this section, the Department may release the information in the Department's records that it deems reasonable and necessary for the purpose of federal compliance audits.

C. Information disclosed or furnished shall be assessed a fee as specified in § 46.2-214, unless as otherwise provided in this section.

D. Upon the receipt of a completed application and payment of applicable processing fees, the Commissioner may enter into an agreement with any governmental authority or business to exchange information specified in this section by electronic or other means.

E. The Department shall not release any privileged information pursuant to this title unless the Department has entered into a written agreement authorizing such release. The Department shall require the requesting entity to specify the purpose authorized pursuant to this title that forms the basis for the request and provide the permissible purpose as defined under 18 U.S.C. § 2721(b). Privileged information requested by an entity that has been altered or aggregated may be used only for

the original purposes specified in the written agreement consistent with this title. The requesting entity shall disseminate privileged information only to third parties subject to the original purpose specified in the written agreement consistent with this title. Any agreement that does not allow third-party distribution shall include a statement that such distribution is prohibited. Such agreement may limit the scope of any authorized distribution consistent with this title. Privileged information distributed to any third party shall only be further distributed by such third party subject to the original purpose specified and consistent with this title, or unless such third party is the subject of the information, the parent of a minor who is the subject of the information, the guardian of the subject of the information, the authorized agent or representative of the subject of the information, or the owner of the vehicle that is the subject of the information.

Any agreement entered into pursuant to this subsection between the Department and the Department of State Police shall specify (i) that privileged information shall be distributed only to authorized personnel of an entity meeting the definition of a criminal justice agency as defined in § 9.1-101 and other comparable local, state, and federal criminal justice agencies and entities issued a Virginia S-Originating Agency Identification (S-ORI) status; (ii) that privileged information shall be accessed, used, and disseminated only for the administration of criminal justice as defined in § 9.1-101; and (iii) that no local, state, or federal government entity, through the Virginia Criminal Information Network (VCIN) or any other method of dissemination controlled by the Department of State Police, has access to information stored by the Department in violation of the protections contained in this section. The Department of State Police shall notify the Department prior to when a new entity is to be granted S-ORI status and provide a copy of the S-ORI application to the Department. The Department of State Police shall not allow any entity to access Department data through VCIN if the Department objects in writing to the entity obtaining such data.

The provisions of this subsection shall not apply to (a) requests for information made pursuant to subdivision B 4; (b) a request made by an entity authorized to receive privileged information pursuant to subsection B, provided that such request is made on a form provided by the Department, other than a written agreement, that requires the requester to certify that such entity is entitled to receive such information pursuant to this title, state the purpose authorized pursuant to subsection B that forms the basis for the request, explain why the information requested is necessary to accomplish the stated purpose, and certify that the information will be used only for the stated purpose and the information received shall not be disseminated to third parties unless there is authorization to do so; or (c) the release of information to a law-enforcement officer or agency during an emergency situation, provided that (1) the requesting entity is authorized to receive such information pursuant to subdivision B 9, (2) the timely release of such information is in the interest of public safety, and (3) the requesting entity completes the form required pursuant to clause (b) within 48 hours of the release of such information.

F. Any person that receives any privileged information that such person knows or has reason to know was received in violation of this title shall not disseminate any such information and shall notify the Department of the receipt of such privileged information.

G. The Department shall conduct audits annually based on a risk assessment to ensure that privileged information released by the Department pursuant to this title is being used as authorized by law and pursuant to the agreements entered into by the Department. If the Department finds that privileged information has been used in a manner contrary to law or the relevant agreement, the Department may revoke access.

H. Any request for privileged information by an authorized agent of a governmental entity shall be governed by the provisions of subdivision B 9.

§ 46.2-322. Examination of licensee believed incompetent; suspension or restriction of license; license application to include questions as to physical or mental conditions of applicant; false answers; examination of applicant; physician's, advanced practice registered nurse's, or physician assistant's statement.

A. If the Department has good cause to believe that a driver is incapacitated and therefore unable to drive a motor vehicle safely, after written notice of at least 15 days to the person, it may require him to submit to an examination to determine his fitness to drive a motor vehicle. If the driver so requests in writing, the Department shall give the Department's reasons for the examination, including the identity of all persons who have supplied information to the Department regarding the driver's fitness to drive a motor vehicle. However, the Department shall not supply the reasons or information if its source is a relative of the driver or a physician, *a* physician assistant, *an advanced practice registered* nurse ~~practitioner~~, *a* pharmacist, or other licensed medical professional as defined in § 38.2-602 treating, or prescribing medications for, the driver.

B. As a part of its examination, the Department may require a physical examination by a licensed physician, licensed *advanced practice registered* nurse ~~practitioner~~, or licensed physician assistant and a report on the results thereof. When it has completed its examination, the Department shall take whatever action may be appropriate and may suspend the license or privilege to drive a motor vehicle in the Commonwealth of the person or permit him to retain his license or privilege to drive a motor vehicle in the Commonwealth, or may issue a license subject to the restrictions authorized by § 46.2-329. Refusal or neglect of the person to submit to the examination or comply with restrictions imposed by the Department shall be grounds for suspension of his license or privilege to drive a motor vehicle in the Commonwealth.

C. The Commissioner shall include, as a part of the application for an original driver's license, or renewal thereof, questions as to the existence of physical or mental conditions that impair the ability of the applicant to drive a motor vehicle safely. Any person knowingly giving a false answer to any such question shall be guilty of a Class 2 misdemeanor. If the answer to any such question indicates the existence of such condition, the Commissioner shall require an examination of the

applicant by a licensed physician, licensed physician assistant, or licensed *advanced practice registered* nurse ~~practitioner~~ as a prerequisite to the issuance of the driver's license. The report of the examination shall contain a statement that, in the opinion of the physician, physician assistant, or *advanced practice registered* nurse ~~practitioner~~, the applicant's physical or mental condition at the time of the examination does or does not preclude his safe driving of motor vehicles.

§ 46.2-731. Disabled parking license plates; owners of vehicles specially equipped and used to transport persons with disabilities; fees.

On receipt of an application, the Commissioner shall issue appropriately designed disabled parking license plates to persons with physical disabilities that limit or impair their ability to walk or that create a concern for his safety while walking or to the parents or legal guardians of such persons. The Commissioner shall request that the application be accompanied by a certification signed by a licensed physician, licensed podiatrist, licensed chiropractor, licensed *advanced practice registered* nurse ~~practitioner~~, or licensed physician assistant that the applicant meets the definition of "person with a disability that limits or impairs his ability to walk" contained in § 46.2-1240. The issuance of a disabled parking license plate shall not preclude the issuance of a permanent removable windshield placard.

On application of an organization, the Commissioner shall issue disabled parking license plates for vehicles registered in the applicant's name if the vehicles are primarily used to transport persons with disabilities. The application shall include a certification by the applicant, under criteria determined by the Commissioner, that the vehicle is primarily used to transport persons with disabilities that limit or impair their ability to walk, as defined in § 46.2-1240.

The fee for the issuance of a disabled parking license plate under this section may not exceed the fee charged for a similar license plate for the same class vehicle.

§ 46.2-739. Special license plates for certain disabled veterans; fees.

A. On receipt of an application, the Commissioner shall issue special license plates to applicants who are veterans who have been certified by the U.S. Department of Veterans Affairs to have a service-connected disability or unremarried surviving spouses of disabled veterans as defined in § 46.2-100. Any special license plate issued to a disabled veteran pursuant to this subsection may be transferred, upon his death, to his unremarried surviving spouse. These license plates shall be special permanent red, white, and blue license plates bearing the letters "DV." The application shall be accompanied by a certification from the U.S. Department of Veterans Affairs that the veteran's disability is service-connected. License plates issued under this subsection shall not permit the vehicles upon which they are displayed to use parking spaces reserved for persons with disabilities that limit or impair their ability to walk.

B. On receipt of an application, the Commissioner shall issue special DV disabled parking license plates displaying the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts to the background to veterans who are also persons with disabilities that limit or impair their ability to walk as defined in § 46.2-100. The Commissioner shall require that such application be accompanied by a certification signed by a licensed physician, licensed podiatrist, licensed chiropractor, licensed *advanced practice registered* nurse ~~practitioner~~, or licensed physician assistant to that effect. Special DV disabled parking license plates issued under this subsection shall authorize the vehicles upon which they are displayed to use parking spaces reserved for persons with disabilities that limit or impair their ability to walk.

C. No annual registration fee, as prescribed in § 46.2-694, and no annual fee, as set forth in subdivision B 3 of § 46.2-725, shall be required for any one motor vehicle owned and used personally by any disabled veteran as defined in § 46.2-100 or the unremarried surviving spouse of such disabled veteran, provided that such vehicle displays license plates issued under this section.

D. The provisions of subdivisions B 1 and 2 of § 46.2-725 shall not apply to license plates issued under this section.

§ 46.2-1240. Definitions.

"Disabled parking sign" means any sign used to identify parking spaces for use by vehicles bearing valid organizational, permanent, or temporary removable windshield placards, disabled parking license plates, or disabled parking license plates issued under § 46.2-739. All disabled parking signs shall be erected and maintained in accordance with signage requirements specified in § 36-99.11.

"Organizational removable windshield placard" means a two-sided, hooked placard which includes on each side: (i) the international symbol of access at least three inches in height, centered on the placard, and shown in white on a green background; (ii) the name of the institution or organization; (iii) an identification number; (iv) an expiration date imprinted on the placard and indicated by a month and year hole-punch system or an alternative system designed by the Department; (v) a misuse hotline number designated by the Department; (vi) a warning of the penalties for placard misuse; and (vii) the seal or identifying symbol of the issuing authority.

"Permanent removable windshield placard" means a two-sided, hooked placard which includes on each side: (i) the international symbol of access at least three inches in height, centered on the placard, and shown in white on a blue background; (ii) an identification number; (iii) an expiration date imprinted on the placard and indicated by a month and year hole-punch system or an alternative system designed by the Department; (iv) a misuse hotline number designated by the Department; (v) a warning of the penalties for placard misuse; and (vi) the seal or other identifying symbol of the issuing authority. All holders of permanent removable windshield placards shall be required to carry the Disabled Parking Placard Identification Card issued with the placard by the Department and present it to law-enforcement officials upon request.

"Person with a disability that limits or impairs his ability to walk or that creates a concern for his safety while walking" means a person who, as determined by a licensed physician, podiatrist, or chiropractor: (i) cannot walk 200 feet without

stopping to rest; (ii) cannot walk without the use of or assistance from a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; (iii) is restricted by lung disease to such an extent that his forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or when at rest, his arterial oxygen tension is less than 60 millimeters of mercury on room air; (iv) uses portable oxygen; (v) has a cardiac condition to the extent that his functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; (vi) is severely limited in his ability to walk due to an arthritic, neurological, or orthopedic condition; (vii) has some other debilitating condition that, in the view of a licensed physician, podiatrist, or chiropractor, limits or impairs his ability to walk; (viii) has been diagnosed with a mental or developmental amentia or delay that impairs judgment including, but not limited to, an autism spectrum disorder; (ix) has been diagnosed with Alzheimer's disease or another form of dementia; (x) is legally blind or deaf; or (xi) has some other condition that, in the view of a licensed physician creates a safety concern while walking because of impaired judgment or other physical, developmental, or mental limitation. For the purposes of this definition, a determination of a disability by a podiatrist or chiropractor shall be limited to those conditions specified in items (i), (ii), (vi) or (vii) of this definition.

Any licensed physician, *advanced practice registered* nurse ~~practitioner~~, physician assistant, podiatrist, or chiropractor who signs a certification that states that an applicant is disabled under clause (vii) of this definition shall specify, in a space provided on the certification form, the medical condition that limits or impairs the applicant's ability to walk. Any licensed physician, licensed *advanced practice registered* nurse ~~practitioner~~, or licensed physician assistant who signs a certification that states that an applicant is disabled under clause (xi) of this definition shall specify, in a space provided on the certification form, the physical, developmental, or mental condition that creates the safety concern.

"Temporary removable windshield placard" means a two-sided, hooked placard which includes on each side: (i) the international symbol of access at least three inches in height, centered on the placard, and shown in white on a red background; (ii) an identification number; (iii) an expiration date imprinted on the placard and indicated by a month and year hole-punch system or an alternative system designed by the Department; (iv) a misuse hotline number; (v) a warning of the penalties for placard misuse; and (vi) the seal or other identifying symbol of the issuing authority.

§ 46.2-1241. Issuance of disabled parking placards.

A. Upon application of a person with a disability that limits or impairs his ability to walk or that creates a concern for his safety while walking, the Commissioner shall issue a permanent removable windshield placard for use on a passenger car or pickup or panel truck. The Commissioner shall require that each original application be accompanied by a certification signed by a licensed physician, licensed podiatrist, licensed chiropractor, licensed *advanced practice registered* nurse ~~practitioner~~, or licensed physician assistant on forms prescribed by the Commissioner that the applicant meets the definition of "person with a disability that limits or impairs his ability to walk or that creates a concern for his safety while walking" contained in § 46.2-1240.

1. The Commissioner shall provide for the renewal of such placards every five years. Applications for renewals may require the applicant to certify that his disability is a permanent disability, but renewal applications need not be accompanied by a physician's, *a* podiatrist's, *a* chiropractor's, ~~nurse practitioner's~~ *an advanced practice registered nurse's*, or *a* physician assistant's certification of the applicant's disability. The Commissioner shall work in consultation with the Medical Advisory Board for the Department to develop a definition of "permanent disability" as used in this subdivision. Notwithstanding any contrary provision of this chapter, no physician's, podiatrist's, chiropractor's, ~~nurse practitioner's~~ *advanced practice registered nurse's*, or physician assistant's certification of an applicant's disability shall be required for the renewal of any disabled parking placard of an applicant to whom disabled parking license plates have been issued under § 46.2-731.

2. The Commissioner shall charge a reasonable fee for each placard, but no fee shall be charged any person exempted from fees in § 46.2-739.

3. The placards shall be of a design approved by the Commissioner pursuant to the specifications and definitions contained in § 46.2-1240.

B. Upon the application of a person with a disability that limits or impairs his ability to walk and whose disability is temporary, the Commissioner shall issue a temporary removable windshield placard. The application for a temporary removable windshield placard shall be accompanied by a certification signed by a licensed physician, *an advanced practice registered* nurse ~~practitioner~~, *a* physician assistant, *a* podiatrist, or *a* chiropractor on forms prescribed by the Commissioner that the applicant meets the definition of "person with a condition that limits or impairs his ability to walk" contained in § 46.2-1240 and shall also include the period of time that the physician, podiatrist, or chiropractor determines the applicant will have the disability, not to exceed six months.

1. A licensed physician, *an advanced practice registered* nurse ~~practitioner~~, *a* physician assistant, *a* podiatrist, or *a* chiropractor may certify up to 15 days in advance of an applicant's medical procedure that an applicant will meet the definition of "person with a condition that limits or impairs his ability to walk" and that the disability will be temporary. Any licensed physician, *advanced practice registered* nurse ~~practitioner~~, physician assistant, podiatrist, or chiropractor who certifies an applicant's disability in advance of a medical procedure shall provide the period of time for which the physician, *advanced practice registered* nurse ~~practitioner~~, physician assistant, podiatrist, or chiropractor has determined that the applicant will have the disability, not to exceed six months. The Commissioner will mail the temporary placard to the applicant.

2. The temporary removable windshield placard shall be valid for the period of time for which the physician, podiatrist, or chiropractor has determined that the applicant will have the disability, not to exceed six months from the date of issuance.

3. The Commissioner shall provide for a reasonable fee to be charged for the placard. The placards shall be of a design approved by the Commissioner pursuant to the specifications and definitions contained in § 46.2-1240.

C. On application, the Commissioner shall issue to hospitals, hospices, nursing homes, and other institutions and organizations meeting criteria determined by the Commissioner organizational removable windshield placards, as provided for in the foregoing provisions of this section, for use by volunteers when transporting disabled persons in passenger vehicles and pickup or panel trucks owned by such volunteers. The provisions of this section relating to other windshield placards issued under this section shall also apply, mutatis mutandis, to windshield placards issued to these institutions and organizations, except that windshield placards issued to institutions and agencies, in addition to their expiration date, shall bear the name of the institution or organization whose volunteers will be using the windshield placards rather than the name, age, and sex of the person to whom issued.

1. The Commissioner shall provide for the renewal of such placards every five years.

2. The placards shall be of a design approved by the Commissioner pursuant to the specifications and definitions contained in § 46.2-1240.

D. No person shall use or display an organizational removable windshield placard, permanent removable windshield placard or temporary removable windshield placard beyond its expiration date.

E. Organizational removable windshield placards, permanent removable windshield placards and temporary removable windshield placards shall be displayed in such a manner that they may be viewed from the front and rear of the vehicle and be hanging from the rearview mirror of a vehicle utilizing a parking space reserved for persons with disabilities that limit or impair their ability to walk. When there is no rearview mirror, the placard shall be displayed on the vehicle's dashboard. No placard shall be displayed from the rearview mirror while a vehicle is in motion.

§ 53.1-22. Misdemeanant suspected of having contagious disease.

Whenever any court shall have reason to believe that a person convicted by it of a misdemeanor who is sentenced to serve time in a local correctional facility is afflicted with any contagious or infectious disease dangerous to the public health, the court shall have such person examined by a licensed physician or licensed *advanced practice registered* nurse ~~practitioner~~. If the examination reveals the person is afflicted with such disease, the court may commit the person directly to the Department.

§ 54.1-2400.01:1. Surgery defined; who may perform surgery.

A. For the purposes of this subtitle, except as used in Chapter 38 (§ 54.1-3800 et seq.) related to veterinary medicine, "surgery" means the structural alteration of the human body by the incision or cutting into of tissue for the purpose of diagnostic or therapeutic treatment of conditions or disease processes by any instrument causing localized alteration or transposition of live human tissue, but does not include the following: procedures for the removal of superficial foreign bodies from the human body, punctures, injections, dry needling, acupuncture, or removal of dead tissue. For the purposes of this section, incision shall not mean the scraping or brushing of live tissue.

B. No person shall perform surgery unless he is (i) licensed by the Board of Medicine as a doctor of medicine, osteopathy, or podiatry; (ii) licensed by the Board of Dentistry as a doctor of dentistry; (iii) jointly licensed by the Boards of Medicine and Nursing as ~~a~~ *an advanced practice registered* nurse ~~practitioner~~; (iv) a physician assistant acting under the supervision of a doctor of medicine, osteopathy, or podiatry; (v) a licensed midwife in the performance of episiotomies during childbirth; (vi) licensed by the Board of Optometry as an optometrist and certified to perform laser surgery pursuant to § 54.1-3225; or (vii) acting pursuant to the orders and under the appropriate supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry.

C. Nothing in this section shall be construed to restrict, limit, change, or expand the scope of practice in effect on January 1, 2012, of any profession licensed by any of the health regulatory boards within the Department of Health Professions.

§ 54.1-2400.9. Reporting disabilities of drivers.

Any (i) doctor of medicine, osteopathy, chiropractic, or podiatry; (ii) *advanced practice registered* nurse ~~practitioner~~; (iii) physician assistant; (iv) optometrist; (v) physical therapist; or (vi) clinical psychologist who reports to the Department of Motor Vehicles the existence, or probable existence, of a mental or physical disability or infirmity of any person licensed to operate a motor vehicle which the reporting practitioner believes affects such person's ability to operate a motor vehicle safely shall not be subject to civil liability under § 32.1-127.1:03 resulting from such report or deemed to have violated the practitioner-patient privilege unless he has acted in bad faith or with malicious intent.

§ 54.1-2701. Exemptions.

This chapter shall not:

1. Apply to a licensed physician or surgeon unless he practices dentistry as a specialty;

2. Apply to ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ certified by the Board of Nursing and the Board of Medicine except that intraoral procedures shall be performed only under the direct supervision of a licensed dentist;

3. Apply to a dentist or a dental hygienist of the United States Army, Navy, Coast Guard, Air Force, Public Health Service, or Department of Veterans Affairs;

4. Apply to any dentist of the United States Army, Navy, Coast Guard, or Air Force rendering services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-106;

5. Apply to any dentist or dental hygienist who (i) does not regularly practice dentistry in Virginia, (ii) holds a current valid license or certificate to practice as a dentist or dental hygienist in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certificate issued in such other jurisdiction with the Board, (v) notifies the Board at least five days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the nonprofit organization on the dates and at the location filed with the Board. Clauses (iv), (v), and (vi) shall not apply to dentists and dental hygienists volunteering to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported nonprofit organization that sponsors the provision of health care to populations of underserved people if they do so for a period not exceeding three consecutive days and if the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state. The Board may deny the right to practice in Virginia to any dentist or dental hygienist whose license has been previously suspended or revoked, who has been convicted of a felony, or who is otherwise found to be in violation of applicable laws or regulations; or

6. Prevent an office assistant from performing usual secretarial duties or other assistance as set forth in regulations promulgated by the Board.

§ 54.1-2729.2. Dialysis patient care technician; definition.

"Dialysis patient care technician" or "dialysis care technician" means a person who has obtained certification from an organization approved by the Board of Health Professions to provide, under the supervision of a licensed practitioner of medicine or a registered nurse, direct care to patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility. Such direct care may include, but need not be limited to, the administration of heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers in accordance with the order of a licensed physician, *an advanced practice registered* nurse ~~practitioner~~, or *a* physician assistant. However, a person who has completed a training program in dialysis patient care may engage in provisional practice to obtain practical experience in providing direct patient care under direct and immediate supervision in accordance with § 54.1-3408, until he has taken and received the results of any examination required by a certifying organization approved by the Board or for 24 months from the date of initial practice, whichever occurs sooner.

§ 54.1-2900. Definitions.

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

"Acupuncturist" means an individual approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Advanced practice registered nurse" means a certified nurse midwife, certified registered nurse anesthetist, clinical nurse specialist, or nurse practitioner who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957, has completed an advanced graduate-level education program in a specialty category of nursing, and has passed a national certifying examination for that specialty.

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the context of a chemical dependency treatment program.

"Birth control" means contraceptive methods that are approved by the U.S. Food and Drug Administration. "Birth control" shall not be considered abortion for the purposes of Title 18.2.

"Board" means the Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ pursuant to § 54.1-2957.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ pursuant to § 54.1-2957, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

"Clinical nurse specialist" means an advanc*ed* practice registered nurse who is certified in the specialty of clinical nurse specialist and who is jointly licensed by the Boards of Medicine and Nursing as ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ pursuant to § 54.1-2957.

"Collaboration" means the communication and decision-making process among health care providers who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care of the patient and includes (i) communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means communicating data and information, exchanging clinical observations and assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Licensed certified midwife" means a person who is licensed as a certified midwife by the Boards of Medicine and Nursing.

"Medical malpractice judgment" means any final order of any court entering judgment against a licensee of the Board that arises out of any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Medical malpractice settlement" means any written agreement and release entered into by or on behalf of a licensee of the Board in response to a written claim for money damages that arises out of any personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Nurse practitioner" means an advanced practice registered nurse*, other than an advanced practice registered nurse licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist,* who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Occupational therapy assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of occupational therapy.

"Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Patient care team podiatrist" means a podiatrist who is actively licensed to practice podiatry in the Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Physician assistant" means a health care professional who has met the requirements of the Board for licensure as a physician assistant.

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

"Practice of behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy, or the administration or prescribing of any drugs, medicines, serums, or vaccines. "Practice of chiropractic" shall include (i) requesting, receiving, and reviewing a patient's medical and physical history, including information related to past surgical and nonsurgical treatment of the patient and controlled substances prescribed to the patient, and (ii) documenting in a patient's record information related to the condition and symptoms of the patient, the examination and evaluation of the patient made by the doctor of chiropractic, and treatment provided to the patient by the doctor of chiropractic. "Practice of chiropractic" shall also include performing the physical examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified Medical Examiners.

"Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management of genetic medical conditions and diseases;

(iii) ordering genetic laboratory tests and other diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's and family's responses to the medical condition or risk of recurrence and providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of medical, genetic, and counseling information for families and health care professionals.

"Practice of licensed certified midwifery" means the provision of primary health care for preadolescents, adolescents, and adults within the scope of practice of a certified midwife established in accordance with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, including (i) providing sexual and reproductive care and care during pregnancy and childbirth, postpartum care, and care for the newborn for up to 28 days following the birth of the child; (ii) prescribing of pharmacological and non-pharmacological therapies within the scope of the practice of midwifery; (iii) consulting or collaborating with or referring patients to such other health care providers as may be appropriate for the care of the patients; and (iv) serving as an educator in the theory and practice of midwifery.

"Practice of medicine or osteopathic medicine" means the prevention, diagnosis, and treatment of human physical or mental ailments, conditions, diseases, pain, or infirmities by any means or method.

"Practice of occupational therapy" means the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the evaluation, analysis, assessment, and delivery of education and training in basic and instrumental activities of daily living; the design, fabrication, and application of orthoses (splints); the design, selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance functional performance; vocational evaluation and training; and consultation concerning the adaptation of physical, sensory, and social environments.

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within the scope of practice of podiatry.

"Practice of radiologic technology" means the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or osteopathic medicine, and shall be performed under qualified medical direction.

"Practice of surgical assisting" means the performance of significant surgical tasks, including manipulation of organs, suturing of tissue, placement of hemostatic agents, injection of local anesthetic, harvesting of veins, implementation of devices, and other duties as directed by a licensed doctor of medicine, osteopathy, or podiatry under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who has specialty training or experience in the management of acute and chronic respiratory disorders and who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the respiratory therapist.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive chemical compounds under the direction of an authorized user as specified by regulations of the Department of Health, or other procedures that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

"Surgical assistant" means an individual who has met the requirements of the Board for licensure as a surgical assistant and who works under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

§ 54.1-2901. Exceptions and exemptions generally.

A. The provisions of this chapter shall not prevent or prohibit:

1. Any person entitled to practice his profession under any prior law on June 24, 1944, from continuing such practice within the scope of the definition of his particular school of practice;

2. Any person licensed to practice naturopathy prior to June 30, 1980, from continuing such practice in accordance with regulations promulgated by the Board;

3. Any licensed *advanced practice registered* nurse ~~practitioner~~ from rendering care in accordance with the provisions of §§ 54.1-2957 and 54.1-2957.01, any *advanced practice registered* nurse ~~practitioner~~ licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife practicing pursuant to subsection H of § 54.1-2957, or any *advanced practice registered* nurse ~~practitioner~~ licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist practicing pursuant to subsection J of § 54.1-2957 when such services are authorized by regulations promulgated jointly by the Boards of Medicine and Nursing;

4. Any registered professional nurse, licensed *advanced practice registered* nurse ~~practitioner~~, graduate laboratory technician or other technical personnel who have been properly trained from rendering care or services within the scope of their usual professional activities which shall include the taking of blood, the giving of intravenous infusions and intravenous injections, and the insertion of tubes when performed under the orders of a person licensed to practice medicine or osteopathy, ~~a~~ *an advanced practice registered* nurse ~~practitioner~~, or a physician assistant;

5. Any dentist, pharmacist or optometrist from rendering care or services within the scope of his usual professional activities;

6. Any practitioner licensed or certified by the Board from delegating to personnel supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by practitioners of the healing arts, if such activities or functions are authorized by and performed for such practitioners of the healing arts and responsibility for such activities or functions is assumed by such practitioners of the healing arts;

7. The rendering of medical advice or information through telecommunications from a physician licensed to practice medicine in Virginia or an adjoining state, or from a licensed *advanced practice registered* nurse ~~practitioner~~, to emergency medical personnel acting in an emergency situation;

8. The domestic administration of family remedies;

9. The giving or use of massages, steam baths, dry heat rooms, infrared heat or ultraviolet lamps in public or private health clubs and spas;

10. The manufacture or sale of proprietary medicines in this Commonwealth by licensed pharmacists or druggists;

11. The advertising or sale of commercial appliances or remedies;

12. The fitting by nonitinerant persons or manufacturers of artificial eyes, limbs or other apparatus or appliances or the fitting of plaster cast counterparts of deformed portions of the body by a nonitinerant bracemaker or prosthetist for the purpose of having a three-dimensional record of the deformity, when such bracemaker or prosthetist has received a prescription from a licensed physician, licensed *advanced practice registered* nurse ~~practitioner~~, or licensed physician assistant directing the fitting of such casts and such activities are conducted in conformity with the laws of Virginia;

13. Any person from the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter;

14. The practice of the religious tenets of any church in the ministration to the sick and suffering by mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for compensation;

15. Any legally qualified out-of-state or foreign practitioner from meeting in consultation with legally licensed practitioners in this Commonwealth;

16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia temporarily and such practitioner has been issued a temporary authorization by the Board from practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer camp or in conjunction with patients who are participating in recreational activities, (ii) while participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any site any health care services within the limits of his license, voluntarily and without compensation, to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge as provided in § 54.1-106;

17. The performance of the duties of any active duty health care provider in active service in the army, navy, coast guard, marine corps, air force, or public health service of the United States at any public or private health care facility while such individual is so commissioned or serving and in accordance with his official military duties;

18. Any masseur, who publicly represents himself as such, from performing services within the scope of his usual professional activities and in conformance with state law;

19. Any person from performing services in the lawful conduct of his particular profession or business under state law;

20. Any person from rendering emergency care pursuant to the provisions of § 8.01-225;

21. Qualified emergency medical services personnel, when acting within the scope of their certification, and licensed health care practitioners, when acting within their scope of practice, from following Durable Do Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of Health regulations, or licensed health care practitioners from following any other written order of a physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

22. Any commissioned or contract medical officer of the army, navy, coast guard or air force rendering services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-106;

23. Any provider of a chemical dependency treatment program who is certified as an "acupuncture detoxification specialist" by the National Acupuncture Detoxification Association or an equivalent certifying body, from administering auricular acupuncture treatment under the appropriate supervision of a National Acupuncture Detoxification Association certified licensed physician or licensed acupuncturist;

24. Any employee of any assisted living facility who is certified in cardiopulmonary resuscitation (CPR) acting in compliance with the patient's individualized service plan and with the written order of the attending physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

25. Any person working as a health assistant under the direction of a licensed medical or osteopathic doctor within the Department of Corrections, the Department of Juvenile Justice or local correctional facilities;

26. Any employee of a school board, authorized by a prescriber and trained in the administration of insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents as defined in § 22.1-1, assisting with the administration of insulin or administrating glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia;

27. Any practitioner of the healing arts or other profession regulated by the Board from rendering free health care to an underserved population of Virginia who (i) does not regularly practice his profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts whose license or certificate has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a practitioner of the healing arts who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state;

28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division of Consolidated Laboratories or other public health laboratories, designated by the State Health Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in § 32.1-49.1;

29. Any physician of medicine or osteopathy or *advanced practice registered* nurse ~~practitioner~~ from delegating to a registered nurse under his supervision the screening and testing of children for elevated blood-lead levels when such testing is conducted (i) in accordance with a written protocol between the physician or *advanced practice registered* nurse ~~practitioner~~ and the registered nurse and (ii) in compliance with the Board of Health's regulations promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be conducted at the direction of a physician or *an advanced practice registered* nurse ~~practitioner~~;

30. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state or Canada from engaging in the practice of that profession when the

practitioner is in Virginia temporarily with an out-of-state athletic team or athlete for the duration of the athletic tournament, game, or event in which the team or athlete is competing;

31. Any person from performing state or federally funded health care tasks directed by the consumer, which are typically self-performed, for an individual who lives in a private residence and who, by reason of disability, is unable to perform such tasks but who is capable of directing the appropriate performance of such tasks;

32. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state from engaging in the practice of that profession in Virginia with a patient who is being transported to or from a Virginia hospital for care;

33. Any doctor of medicine or osteopathy, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ who would otherwise be subject to licensure by the Board who holds an active, unrestricted license in another state, the District of Columbia, or a United States territory or possession and who is in good standing with the applicable regulatory agency in that state, the District of Columbia, or that United States territory or possession who provides behavioral health services, as defined in § 37.2-100, from engaging in the practice of his profession and providing behavioral health services to a patient located in the Commonwealth in accordance with the standard of care when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and (ii) the practitioner has previously established a practitioner-patient relationship with the patient and has performed an in-person evaluation of the patient within the previous year. A practitioner who provides behavioral health services to a patient located in the Commonwealth through use of telemedicine services pursuant to this subdivision may provide such services for a period of no more than one year from the date on which the practitioner began providing such services to such patient;

34. Any employee of a program licensed by the Department of Behavioral Health and Developmental Services who is certified in cardiopulmonary resuscitation from acting in compliance with a program participant's valid written order not to resuscitate issued in accordance with § 54.1-2987.1 if such valid written order not to resuscitate is included in the program participant's individualized service plan; or

35. Any practitioner of a profession regulated by the Board of Medicine who is licensed in another state or the District of Columbia and who is in good standing with the applicable regulatory agency in that state or the District of Columbia from engaging in the practice of that profession in the Commonwealth with a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and (ii) the patient is a current patient of the practitioner with whom the practitioner has previously established a practitioner-patient relationship and the practitioner has performed an in-person examination of the patient within the previous 12 months. For the purposes of this subdivision, if a patient is (a) an enrollee of a health maintenance organization that contracts with a multispecialty group of practitioners, each of whom is licensed by the Board of Medicine, and (b) a current patient of at least one practitioner who is a member of the multispecialty group with whom such practitioner has previously established a practitioner-patient relationship and of whom such practitioner has performed an in-person examination within the previous 12 months, the patient shall be deemed to be a current patient of each practitioner in the multispecialty group with whom each such practitioner has established a practitioner-patient relationship.

B. Notwithstanding any provision of law or regulation to the contrary, military medical personnel, as defined in § 2.2-2001.4, while participating in a program established by the Department of Veterans Services pursuant to § 2.2-2001.4, may practice under the supervision of a licensed physician or podiatrist or the chief medical officer of an organization participating in such program, or his designee who is a licensee of the Board and supervising within his scope of practice.

§ 54.1-2904. Biennial renewal of licenses; copies; fee; lapsed licenses; reinstatement; penalties.

A. Every license granted under the provisions of this chapter shall be renewed biennially as prescribed by the Board. The Board shall send by mail or electronically notice for renewal of a license to every licensee. Failure to receive such notice shall not excuse any licensee from the requirements of renewal. The person receiving such notice shall furnish the information requested and submit the prescribed renewal fee to the Board. Copies of licenses may be obtained as provided in the Board's regulations.

B. Any licensee who allows his license to lapse by failing to renew the license or failing to meet professional activity requirements stipulated in the regulations may be reinstated by the Board upon submission of evidence satisfactory to the Board that he is prepared to resume practice in a competent manner and upon payment of the prescribed fee.

C. Any person practicing during the time his license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties for violation of this chapter.

D. When the Board of Health has issued an emergency order pursuant to § 32.1-13, the Board may waive (i) the requirement for submission of a fee for renewal or reinstatement of a license to practice medicine or osteopathic medicine or as a physician assistant or *an advanced practice registered* nurse ~~practitioner~~ and (ii) the requirement for submission of evidence satisfactory to the Board that a practitioner whose license was allowed to lapse for failure to meet professional activity requirements has satisfied such requirements and is prepared to resume practice in a competent manner for any person who held a valid, unrestricted, active license to practice such profession within the four-year period immediately prior to the application for renewal or reinstatement of such license.

§ 54.1-2910.5. (Effective July 1, 2023) Pediatric sexual assault survivor services; requirements.

Any health care practitioner licensed by the Board to practice medicine or osteopathy or as a physician assistant, or jointly licensed by the Board and the Board of Nursing as ~~a~~ *an advanced practice registered* nurse ~~practitioner~~, who wishes to provide sexual assault survivor treatment services or sexual assault survivor transfer services, as defined in

§ 32.1-162.15:2, to pediatric survivors of sexual assault, as defined in § 32.1-162.15:2, shall comply with the provisions of Article 8 (§ 32.1-162.15:2 et seq.) of Chapter 5 of Title 32.1 applicable to pediatric medical care facilities.

§ 54.1-2927. Applicants from other states without reciprocity; temporary licenses or certificates for certain practitioners of the healing arts.

A. The Board, in its discretion, may issue certificates or licenses to applicants upon endorsement by boards or other appropriate authorities of other states or territories or the District of Columbia with which reciprocal relations have not been established if the credentials of such applicants are satisfactory and the examinations and passing grades required by such other boards are fully equal to those required by the Virginia Board.

The Board may issue certificates or licenses to applicants holding certificates from the national boards of their respective branches of the healing arts if their credentials, schools of graduation and national board examinations and results are acceptable to the Board. The Board shall promulgate regulations in order to carry out the provisions of this section.

The Board of Medicine shall prioritize applicants for licensure as a doctor of medicine or osteopathic medicine, a physician assistant, or ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ from such states that are contiguous with the Commonwealth in processing their applications for licensure by endorsement through a streamlined process, with a final determination regarding qualification to be made within 20 days of the receipt of a completed application.

B. The Board may issue authorization to practice valid for a period not to exceed three months to a practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory agency in the state, District of Columbia, or Canada where the practitioner resides when the practitioner is in Virginia temporarily to practice the healing arts (i) in a summer camp or in conjunction with patients who are participating in recreational activities, (ii) in continuing education programs, or (iii) by rendering at any site any health care services within the limits of his license or certificate, voluntarily and without compensation, to any patient of any clinic that is organized in whole or in part for the delivery of health care services without charge as provided in § 54.1-106. A fee not to exceed $25 may be charged by the Board for the issuance of authorization to practice pursuant to the provisions of this subsection.

§ 54.1-2957. Licensure and practice of advanced practice registered nurses.

A. As used in this section, "clinical experience" means the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of ~~nurse practitioners~~ *advanced practice registered nurses*. It is unlawful for a person to practice as ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ in the Commonwealth unless he holds such a joint license.

C. Every nurse practitioner ~~other than a certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist or a nurse practitioner~~ who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice without a written or electronic practice agreement. A certified nurse midwife shall practice pursuant to subsection H. A ~~nurse practitioner who is licensed by the Boards of Medicine and Nursing as a~~ clinical nurse specialist shall practice pursuant to subsection J. A certified registered nurse anesthetist shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. ~~A~~ *An advanced practice registered* nurse ~~practitioner~~ who is appointed as a medical examiner pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282. Collaboration and consultation among ~~nurse practitioners~~ *advanced practice registered nurses* and patient care team physicians may be provided through telemedicine as described in § 38.2-3418.16.

Physicians on patient care teams may require that ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ be covered by a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

Service on a patient care team by a patient care team member shall not, by the existence of such service alone, establish or create liability for the actions or inactions of other team members.

D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration and consultation among physicians and ~~nurse practitioners~~ *advanced practice registered nurses* working as part of patient care teams that shall include the development of, and periodic review and revision of, a written or electronic practice agreement; guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice agreements shall include provisions for (i) periodic review of health records, which may include visits to the site where health care is delivered, in the manner and at the frequency determined by the *advanced practice registered* nurse ~~practitioner~~ and the patient care team physician and (ii) input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be maintained by ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ and provided to the Boards upon request. For ~~nurse practitioners~~ *advanced practice registered nurses* providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the ~~nurse practitioner's~~ *advanced practice registered nurse's* clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ if the applicant has been licensed as ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of ~~nurse practitioners~~ *advanced practice registered nurses* in the Commonwealth. ~~A~~ *An advanced*

practice registered nurse ~~practitioner~~ to whom a license is issued by endorsement may practice without a practice agreement with a patient care team physician pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least five years of full-time clinical experience, as determined by the Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to ~~nurse practitioners~~ *advanced practice registered nurses*.

G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires from active practice, surrenders his license or has it suspended or revoked by the Board, or relocates his practice such that he is no longer able to serve, and ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ is unable to enter into a new practice agreement with another patient care team physician, the *advanced practice registered* nurse ~~practitioner~~ may continue to practice upon notification to the designee or his alternate of the Boards and receipt of such notification. Such *advanced practice registered* nurse ~~practitioner~~ may continue to treat patients without a patient care team physician for an initial period not to exceed 60 days, provided *that* the *advanced practice registered* nurse ~~practitioner~~ continues to prescribe only those drugs previously authorized by the practice agreement with such physician and to have access to appropriate input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. The designee or his alternate of the Boards shall grant permission for the *advanced practice registered* nurse ~~practitioner~~ to continue practice under this subsection for another 60 days, provided *that* the *advanced practice registered* nurse ~~practitioner~~ provides evidence of efforts made to secure another patient care team physician and of access to physician input.

H. Every certified nurse midwife shall practice in accordance with regulations adopted by the Boards and consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives governing such practice. A certified nurse midwife who has practiced fewer than 1,000 hours shall practice in consultation with a certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or a licensed physician, in accordance with a practice agreement. Such practice agreement shall address the availability of the certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or the licensed physician for routine and urgent consultation on patient care. Evidence of the practice agreement shall be maintained by the certified nurse midwife and provided to the Boards upon request. A certified nurse midwife who has completed 1,000 hours of practice as a certified nurse midwife may practice without a practice agreement upon receipt by the certified nurse midwife of an attestation from the certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or the licensed physician with whom the certified nurse midwife has entered into a practice agreement stating (i) that such certified nurse midwife or licensed physician has provided consultation to the certified nurse midwife pursuant to a practice agreement meeting the requirements of this section and (ii) the period of time for which such certified nurse midwife or licensed physician practiced in collaboration and consultation with the certified nurse midwife pursuant to the practice agreement. A certified nurse midwife authorized to practice without a practice agreement shall consult and collaborate with and refer patients to such other health care providers as may be appropriate for the care of the patient.

I. A nurse practitioner ~~other than a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist,~~ who has completed the equivalent of at least five years of full-time clinical experience ~~as a licensed nurse practitioner~~, as determined by the Boards, may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an attestation from the patient care team physician stating (i) that the patient care team physician has served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category for which the nurse practitioner was certified and licensed; and (iii) the period of time for which the patient care team physician practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall issue to the nurse practitioner a new license that includes a designation indicating that the nurse practitioner is authorized to practice without a practice agreement. In the event that a nurse practitioner is unable to obtain the attestation required by this subsection, the Boards may accept other evidence demonstrating that the applicant has met the requirements of this subsection in accordance with regulations adopted by the Boards.

A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection shall (a) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (b) consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided, and (c) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

J. A *clinical* nurse ~~practitioner~~ *specialist* licensed by the Boards of Medicine and Nursing ~~in the category of clinical nurse specialist~~ who does not prescribe controlled substances or devices may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement. Such *clinical* nurse ~~practitioner~~ *specialist* shall (i) practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (ii) consult and collaborate with other health care providers based on the

clinical condition of the patient to whom health care is provided, and (iii) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

A *clinical* nurse ~~practitioner~~ *specialist* licensed by the Boards ~~in the category of clinical nurse specialist~~ who prescribes controlled substances or devices shall practice in consultation with a licensed physician in accordance with a practice agreement between the *clinical* nurse ~~practitioner~~ *specialist* and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a *clinical* nurse ~~practitioner~~ *specialist* and provided to the Boards upon request. The practice of clinical nurse specialists shall be consistent with the standards of care for the profession and with applicable laws and regulations.

§ 54.1-2957.001. Restricted volunteer license for advanced practice registered nurses.

A. The Board of Medicine and the Board of Nursing may jointly issue a restricted volunteer license to ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ who (i) within the past five years held an unrestricted license as ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ in the Commonwealth or another state that was in good standing at the time the license expired or became inactive and (ii) holds an active license or a volunteer restricted license as a registered nurse or a multistate licensure privilege. ~~Nurse practitioners~~ *Advanced practice registered nurses* holding a restricted volunteer license issued pursuant to this section shall only practice in public health or community free clinics that provide services to underserved populations.

B. An applicant for a restricted volunteer license shall submit an application on a form provided by the Boards of Medicine and Nursing and attest that he will not receive remuneration directly or indirectly for providing nursing services.

C. ~~A~~ *An advanced practice registered* nurse ~~practitioner~~ holding a restricted volunteer license pursuant to this section may obtain prescriptive authority in accordance with the provisions of § 54.1-2957.01.

D. ~~A~~ *An advanced practice registered* nurse ~~practitioner~~ holding a restricted volunteer license pursuant to this section shall not be required to complete continuing competency requirements for the first renewal of such license. For subsequent renewals, ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ holding a restricted volunteer license shall be required to complete the continuing competency requirements required for renewal of an active license.

E. A restricted volunteer license issued pursuant to this section may be renewed biennially in accordance with the renewal schedule established in regulations jointly promulgated by the Boards of Medicine and Nursing.

F. The application and biennial renewal fee for restricted volunteer licenses pursuant to this section shall be one-half of the fee for an active license.

G. ~~A~~ *An advanced practice registered* nurse ~~practitioner~~ holding a restricted volunteer license issued pursuant to this section shall be subject to the provisions of this chapter and all regulations applicable to ~~nurse practitioners~~ *advanced practice registered nurses* practicing in the Commonwealth.

§ 54.1-2957.01. Prescription of certain controlled substances and devices by licensed advanced practice registered nurses.

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed *advanced practice registered* nurse ~~practitioner~~ shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.).

B. ~~A~~ *An advanced practice registered* nurse ~~practitioner~~ who does not meet the requirements for practice without a written or electronic practice agreement set forth in subsection I of § 54.1-2957 shall prescribe controlled substances or devices only if such prescribing is authorized by a written or electronic practice agreement entered into by the *advanced practice registered* nurse ~~practitioner~~ and a patient care team physician or, if the *advanced practice registered* nurse ~~practitioner~~ is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the *advanced practice registered* nurse ~~practitioner~~ and a licensed physician. Such *advanced practice registered* nurse ~~practitioner~~ shall provide to the Boards of Medicine and Nursing such evidence as the Boards may jointly require that the *advanced practice registered* nurse ~~practitioner~~ has entered into and is, at the time of writing a prescription, a party to a written or electronic practice agreement with a patient care team physician, or, if the *advanced practice registered* nurse ~~practitioner~~ is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, a licensed physician, that clearly states the prescriptive practices of the *advanced practice registered* nurse ~~practitioner~~. Such written or electronic practice agreements shall include the controlled substances the *advanced practice registered* nurse ~~practitioner~~ is or is not authorized to prescribe and may restrict such prescriptive authority as described in the practice agreement. Evidence of a practice agreement shall be maintained by ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ pursuant to § 54.1-2957. Practice agreements authorizing ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ to prescribe controlled substances or devices pursuant to this section either shall be signed by the patient care team physician, or, if the *advanced practice registered* nurse ~~practitioner~~ is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, a licensed physician, or shall clearly state the name of the patient care team physician, or, if the *advanced practice registered* nurse ~~practitioner~~ is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the name of the licensed physician, who has entered into the practice agreement with the *advanced practice registered* nurse ~~practitioner~~.

It shall be unlawful for ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ to prescribe controlled substances or devices pursuant to this section unless (i) such prescription is authorized by the written or electronic practice agreement or (ii) the *advanced practice registered* nurse ~~practitioner~~ is authorized to practice without a written or electronic practice agreement pursuant to subsection I of § 54.1-2957.

C. The Boards of Medicine and Nursing shall promulgate regulations governing the prescriptive authority of ~~nurse practitioners~~ *advanced practice registered nurses* as are deemed reasonable and necessary to ensure an appropriate standard of care for patients. Such regulations shall include requirements as may be necessary to ensure continued *advanced practice registered* nurse ~~practitioner~~ competency, which may include continuing education, testing, or any other requirement, and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients.

D. This section shall not limit the functions and procedures of certified registered nurse anesthetists or of any ~~nurse practitioners~~ *advanced practice registered nurses* which are otherwise authorized by law or regulation.

E. The following restrictions shall apply to any *advanced practice registered* nurse ~~practitioner~~ authorized to prescribe drugs and devices pursuant to this section:

1. The *advanced practice registered* nurse ~~practitioner~~ shall disclose to the patient at the initial encounter that he is a licensed *advanced practice registered* nurse ~~practitioner~~. Any party to a practice agreement shall disclose, upon request of a patient or his legal representative, the name of the patient care team physician, or, if the *advanced practice registered* nurse ~~practitioner~~ is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the name of the licensed physician, and information regarding how to contact the patient care team physician or licensed physician.

2. Physicians shall not serve as a patient care team physician on a patient care team or enter into a practice agreement with more than six ~~nurse practitioners~~ *advanced practice registered nurses* at any one time, except that a physician may serve as a patient care team physician on a patient care team with up to 10 ~~nurse practitioners~~ *advanced practice registered nurses* licensed in the category of psychiatric-mental health *advanced practice registered* nurse ~~practitioner~~.

F. This section shall not prohibit a licensed *advanced practice registered* nurse ~~practitioner~~ from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

G. Notwithstanding any provision of law or regulation to the contrary, a *certified* nurse ~~practitioner~~ *midwife* licensed by the Boards of Medicine and Nursing ~~in the category of certified nurse midwife~~ *as such* and holding a license for prescriptive authority may prescribe Schedules II through VI controlled substances. However, if the *certified* nurse ~~practitioner~~ *midwife* licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife is required, pursuant to subsection H of § 54.1-2957, to practice pursuant to a practice agreement, such prescribing shall also be in accordance with any prescriptive authority included in such practice agreement.

H. Notwithstanding any provision of law or regulation to the contrary, a *certified registered* nurse ~~practitioner~~ *anesthetist* licensed by the Boards of Medicine and Nursing as ~~a certified registered nurse anesthetist~~ *such* shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices in accordance with the requirements for practice set forth in subsection C of § 54.1-2957 to a patient requiring anesthesia, as part of the periprocedural care of such patient. As used in this subsection, "periprocedural" means the period beginning prior to a procedure and ending at the time the patient is discharged.

§ 54.1-2957.02. When advanced practice registered nurse signature accepted.

Whenever any law or regulation requires a signature, certification, stamp, verification, affidavit or endorsement by a physician, it shall be deemed to include a signature, certification, stamp, verification, affidavit or endorsement by ~~a~~ *an advanced practice registered* nurse ~~practitioner~~.

§ 54.1-2957.03. Certified nurse midwives; required disclosures; liability.

A. As used in this section, "birthing center" means a facility outside a hospital that provides maternity services.

B. A certified nurse midwife who provides health care services to a patient outside of a hospital or birthing center shall disclose to that patient, when appropriate, information on health risks associated with births outside of a hospital or birthing center, including but not limited to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation.

C. A certified nurse midwife who provides health care to a patient shall be liable for the midwife's negligent, grossly negligent, or willful and wanton acts or omissions. Except as otherwise provided by law, any (i) doctor of medicine or osteopathy who did not collaborate or consult with the midwife regarding the patient and who has not previously treated the patient for this pregnancy, (ii) physician assistant, (iii) *advanced practice registered* nurse ~~practitioner~~, (iv) prehospital emergency medical personnel, or (v) hospital as defined in § 32.1-123, or any employee of, person providing services pursuant to a contract with, or agent of such hospital, that provides screening and stabilization health care services to a patient as a result of a certified nurse midwife's negligent, grossly negligent, or willful and wanton acts or omissions, shall be immune from liability for acts or omissions constituting ordinary negligence.

§ 54.1-2957.04. Licensure as a licensed certified midwife; practice as a licensed certified midwife; use of title; required disclosures.

A. It shall be unlawful for any person to practice or to hold himself out as practicing as a licensed certified midwife or use in connection with his name the words "Licensed Certified Midwife" unless he holds a license as such issued jointly by the Boards of Medicine and Nursing.

B. The Boards of Medicine and Nursing shall jointly adopt regulations for the licensure of licensed certified midwives, which shall include criteria for licensure and renewal of a license as a certified midwife that shall include a requirement that the applicant provide evidence satisfactory to the Boards of current certification as a certified midwife by the American

Midwifery Certification Board and that shall be consistent with the requirements for certification as a certified midwife established by the American Midwifery Certification Board.

C. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a licensed certified midwife if the applicant has been licensed as a certified midwife under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure as a licensed certified midwife in the Commonwealth.

D. Licensed certified midwives shall practice in consultation with a licensed physician in accordance with a practice agreement between the licensed certified midwife and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by the licensed certified midwife and provided to the Board upon request. The Board shall adopt regulations for the practice of licensed certified midwives, which shall be in accordance with regulations jointly adopted by the Boards of Medicine and Nursing, which shall be consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives governing the practice of midwifery.

E. Notwithstanding any provision of law or regulation to the contrary, a licensed certified midwife may prescribe Schedules II through VI controlled substances in accordance with regulations of the Boards of Medicine and Nursing.

F. A licensed certified midwife who provides health care services to a patient outside of a hospital or birthing center shall disclose to that patient, when appropriate, information on health risks associated with births outside of a hospital or birthing center, including but not limited to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation. As used in this subsection, "birthing center" shall have the same meaning as in § 54.1-2957.03.

G. A licensed certified midwife who provides health care to a patient shall be liable for the midwife's negligent, grossly negligent, or willful and wanton acts or omissions. Except as otherwise provided by law, any (i) doctor of medicine or osteopathy who did not collaborate or consult with the midwife regarding the patient and who has not previously treated the patient for this pregnancy, (ii) physician assistant, (iii) *advanced practice registered* nurse ~~practitioner~~, (iv) prehospital emergency medical personnel, or (v) hospital as defined in § 32.1-123, or any employee of, person providing services pursuant to a contract with, or agent of such hospital, that provides screening and stabilization health care services to a patient as a result of a licensed certified midwife's negligent, grossly negligent, or willful and wanton acts or omissions shall be immune from liability for acts or omissions constituting ordinary negligence.

§ 54.1-2970.1. Individual incapable of making informed decision; procedure for physical evidence recovery kit examination; consent by minors.

A. A licensed physician, *a* physician assistant, *an advanced practice registered* nurse ~~practitioner~~, or *a* registered nurse may perform a physical evidence recovery kit examination for a person who is believed to be the victim of a sexual assault and who is incapable of making an informed decision regarding consent to such examination when:

1. There is a need to conduct the examination before the victim is likely to be able to make an informed decision in order to preserve physical evidence of the alleged sexual assault from degradation;

2. No legally authorized representative or other person authorized to consent to medical treatment on the individual's behalf is reasonably available to provide consent within the time necessary to preserve physical evidence of the alleged sexual assault; and

3. A capacity reviewer, as defined in § 54.1-2982, provides written certification that, based upon a personal examination of the individual, the individual is incapable of making an informed decision regarding the physical evidence recovery kit examination and that, given the totality of the circumstances, the examination should be performed. The capacity reviewer who provides such written certification shall not be otherwise currently involved in the treatment of the person assessed, unless an independent capacity reviewer is not reasonably available.

A1. For purposes of this section, if a parent or guardian of a minor refuses to consent to a physical evidence recovery kit examination of the minor, the minor may consent.

B. Any physical evidence recovery kit examination performed pursuant to this section shall be performed in accordance with the requirements of §§ 19.2-11.2 and 19.2-165.1 and shall protect the alleged victim's identity.

C. A licensed physician, *a* physician assistant, *an advanced practice registered* nurse ~~practitioner~~, or *a* registered nurse who exercises due care under the provisions of this act shall not be liable for any act or omission related to performance of an examination in accordance with this section.

§ 54.1-2972. When person deemed medically and legally dead; determination of death; nurses', licensed practical nurses', physician assistants', or advanced practice registered nurses' authority to pronounce death under certain circumstances.

A. As used in this section, "autonomous nurse practitioner" means a nurse practitioner who is authorized to practice without a practice agreement pursuant to subsection I of § 54.1-2957.

B. A person shall be medically and legally dead if:

1. In the opinion of a physician duly authorized to practice medicine in the Commonwealth or autonomous nurse practitioner, based on the ordinary standards of medical practice, there is the absence of spontaneous respiratory and spontaneous cardiac functions and, because of the disease or condition that directly or indirectly caused these functions to cease, or because of the passage of time since these functions ceased, attempts at resuscitation would not, in the opinion of

such physician or autonomous nurse practitioner, be successful in restoring spontaneous life-sustaining functions, and, in such event, death shall be deemed to have occurred at the time these functions ceased; or

2. In the opinion of a physician, who shall be duly licensed to practice medicine in the Commonwealth and board-eligible or board-certified in the field of neurology, neurosurgery, or critical care medicine, when based on the ordinary standards of medical practice, there is irreversible cessation of all functions of the entire brain, including the brain stem, and, in the opinion of such physician, based on the ordinary standards of medical practice and considering the irreversible cessation of all functions of the entire brain, including the brain stem, and the patient's medical record, further attempts at resuscitation or continued supportive maintenance would not be successful in restoring such functions, and, in such event, death shall be deemed to have occurred at the time when all such functions have ceased.

C. A registered nurse, *a* physician assistant, or *an advanced practice registered* nurse ~~practitioner~~ who is not an autonomous nurse practitioner may pronounce death if the following criteria are satisfied: (i) the nurse is employed by or the physician assistant or *advanced practice registered* nurse ~~practitioner~~ who is not an autonomous nurse practitioner works at (a) a home care organization as defined in § 32.1-162.7, (b) a hospice as defined in § 32.1-162.1, (c) a hospital or nursing home as defined in § 32.1-123, including state-operated hospitals for the purposes of this section, (d) the Department of Corrections, or (e) a continuing care retirement community registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2; (ii) the nurse, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ who is not an autonomous nurse practitioner is directly involved in the care of the patient; (iii) the patient's death has occurred; (iv) the patient is under the care of a physician or autonomous nurse practitioner when his death occurs; (v) the patient's death has been anticipated; and (vi) the physician or autonomous nurse practitioner is unable to be present within a reasonable period of time to determine death. A licensed practical nurse may pronounce death for a patient in hospice pursuant to a valid Do Not Resuscitate Order issued in accordance with § 54.1-2987.1. The nurse, licensed practical nurse, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ who is not an autonomous nurse practitioner shall inform the patient's attending and consulting physician or autonomous nurse practitioner of the patient's death as soon as practicable.

The nurse, licensed practical nurse, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ who is not an autonomous nurse practitioner shall have the authority to pronounce death in accordance with such procedural regulations, if any, as may be promulgated by the Board of Medicine; however, if the circumstances of the death are not anticipated or the death requires an investigation by the Office of the Chief Medical Examiner, such nurse, licensed practical nurse, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ shall notify the Office of the Chief Medical Examiner of the death and the body shall not be released to the funeral director.

This subsection shall not authorize a nurse, licensed practical nurse, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ who is not an autonomous nurse practitioner to determine the cause of death. Determination of cause of death shall continue to be the responsibility of the attending physician or autonomous nurse practitioner, except as provided in § 32.1-263. Further, this subsection shall not be construed to impose any obligation to carry out the functions of this subsection.

This subsection shall not relieve any registered nurse, licensed practical nurse, physician assistant, or nurse practitioner who is not an autonomous nurse practitioner from any civil or criminal liability that might otherwise be incurred for failure to follow statutes or Board of Nursing or Board of Medicine regulations.

D. The alternative definitions of death provided in subdivisions B 1 and 2 may be utilized for all purposes in the Commonwealth, including the trial of civil and criminal cases.

§ 54.1-2973.1. Practice of laser hair removal.

The practice of laser hair removal shall be performed by a properly trained person licensed to practice medicine or osteopathic medicine or a physician assistant as authorized pursuant to § 54.1-2952 or ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ as authorized pursuant to § 54.1-2957 or by a properly trained person under the direction and supervision of a licensed doctor of medicine or osteopathic medicine or a physician assistant as authorized pursuant to § 54.1-2952 or ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ as authorized pursuant to § 54.1-2957 who may delegate such practice in accordance with subdivision A 6 of § 54.1-2901.

§ 54.1-2983.2. Capacity; required determinations.

A. Every adult shall be presumed to be capable of making an informed decision unless he is determined to be incapable of making an informed decision in accordance with this article. A determination that a patient is incapable of making an informed decision may apply to a particular health care decision, to a specified set of health care decisions, or to all health care decisions. No person shall be deemed incapable of making an informed decision based solely on a particular clinical diagnosis.

B. Except as provided in subsection C, prior to providing, continuing, withholding, or withdrawing health care pursuant to an authorization that has been obtained or will be sought pursuant to this article and prior to, or as soon as reasonably practicable after initiating health care for which authorization has been obtained or will be sought pursuant to this article, and no less frequently than every 180 days while the need for health care continues, the attending physician shall certify in writing upon personal examination of the patient that the patient is incapable of making an informed decision regarding health care and shall obtain written certification from a capacity reviewer that, based upon a personal examination of the patient, the patient is incapable of making an informed decision. However, certification by a capacity reviewer shall not be required if the patient is unconscious or experiencing a profound impairment of consciousness due to trauma, stroke,

or other acute physiological condition. The capacity reviewer providing written certification that a patient is incapable of making an informed decision, if required, shall not be otherwise currently involved in the treatment of the person assessed, unless an independent capacity reviewer is not reasonably available. The cost of the assessment shall be considered for all purposes a cost of the patient's health care.

C. If a person has executed an advance directive granting an agent the authority to consent to the person's admission to a facility as defined in § 37.2-100 for mental health treatment and if the advance directive so authorizes, the person's agent may exercise such authority after a determination that the person is incapable of making an informed decision regarding such admission has been made by (i) the attending physician, (ii) a psychiatrist or licensed clinical psychologist, (iii) a licensed *advanced practice registered* nurse ~~practitioner~~, (iv) a licensed physician assistant, (v) a licensed clinical social worker, or (vi) a designee of the local community services board as defined in § 37.2-809. Such determination shall be made in writing following an in-person examination of the person and certified by the physician, psychiatrist, licensed clinical psychologist, licensed *advanced practice registered* nurse ~~practitioner~~, licensed physician assistant, licensed clinical social worker, or designee of the local community services board who performed the examination prior to admission or as soon as reasonably practicable thereafter. Admission of a person to a facility as defined in § 37.2-100 for mental health treatment upon the authorization of the person's agent shall be subject to the requirements of § 37.2-805.1. When a person has been admitted to a facility for mental health treatment upon the authorization of an agent following such a determination, such agent may authorize specific health care for the person, consistent with the provisions of the person's advance directive, only upon a determination that the person is incapable of making an informed decision regarding such health care in accordance with subsection B.

D. If, at any time, a patient is determined to be incapable of making an informed decision, the patient shall be notified, as soon as practical and to the extent he is capable of receiving such notice, that such determination has been made before providing, continuing, withholding, or withdrawing health care as authorized by this article. Such notice shall also be provided, as soon as practical, to the patient's agent or person authorized by § 54.1-2986 to make health care decisions on his behalf.

E. A single physician may, at any time, upon personal evaluation, determine that a patient who has previously been determined to be incapable of making an informed decision is now capable of making an informed decision, provided such determination is set forth in writing.

§ 54.1-2986.2. Health care decisions in the event of patient protest.

A. Except as provided in subsection B or C, the provisions of this article shall not authorize providing, continuing, withholding or withdrawing health care if the patient's attending physician knows that such action is protested by the patient.

B. A patient's agent may make a health care decision over the protest of a patient who is incapable of making an informed decision if:

1. The patient's advance directive explicitly authorizes the patient's agent to make the health care decision at issue, even over the patient's later protest, and an attending licensed physician, a licensed clinical psychologist, a licensed physician assistant, a licensed *advanced practice registered* nurse ~~practitioner~~, a licensed professional counselor, or a licensed clinical social worker who is familiar with the patient attested in writing at the time the advance directive was made that the patient was capable of making an informed decision and understood the consequences of the provision;

2. The decision does not involve withholding or withdrawing life-prolonging procedures; and

3. The health care that is to be provided, continued, withheld or withdrawn is determined and documented by the patient's attending physician to be medically appropriate and is otherwise permitted by law.

C. In cases in which a patient has not explicitly authorized his agent to make the health care decision at issue over the patient's later protest, a patient's agent or person authorized to make decisions pursuant to § 54.1-2986 may make a decision over the protest of a patient who is incapable of making an informed decision if:

1. The decision does not involve withholding or withdrawing life-prolonging procedures;

2. The decision does not involve (i) admission to a facility as defined in § 37.2-100 or (ii) treatment or care that is subject to regulations adopted pursuant to § 37.2-400;

3. The health care decision is based, to the extent known, on the patient's religious beliefs and basic values and on any preferences previously expressed by the patient in an advance directive or otherwise regarding such health care or, if they are unknown, is in the patient's best interests;

4. The health care that is to be provided, continued, withheld, or withdrawn has been determined and documented by the patient's attending physician to be medically appropriate and is otherwise permitted by law; and

5. The health care that is to be provided, continued, withheld, or withdrawn has been affirmed and documented as being ethically acceptable by the health care facility's patient care consulting committee, if one exists, or otherwise by two physicians not currently involved in the patient's care or in the determination of the patient's capacity to make health care decisions.

D. A patient's protest shall not revoke the patient's advance directive unless it meets the requirements of § 54.1-2985.

E. If a patient protests the authority of a named agent or any person authorized to make health care decisions by § 54.1-2986, except for the patient's guardian, the protested individual shall have no authority under this article to make health care decisions on his behalf unless the patient's advance directive explicitly confers continuing authority on his agent, even over his later protest. If the protested individual is denied authority under this subsection, authority to make health care

decisions shall be determined by any other provisions of the patient's advance directive, or in accordance with § 54.1-2986 or in accordance with any other provision of law.

§ 54.1-3000. Definitions.

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

"Advanced practice registered nurse" means a ~~registered nurse who~~ *certified nurse midwife, certified registered nurse anesthetist, clinical nurse specialist, or nurse practitioner who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957,* has completed an advanced graduate-level education program in a specialty category of nursing, and has passed a national certifying examination for that specialty.

"Board" means the Board of Nursing.

"Certified nurse aide" means a person who meets the qualifications specified in this article and who is currently certified by the Board.

"Massage therapist" means a person who meets the qualifications specified in this chapter and who is currently licensed by the Board.

"Massage therapy" means the treatment of soft tissues for therapeutic purposes by the application of massage and bodywork techniques based on the manipulation or application of pressure to the muscular structure or soft tissues of the human body. The term "massage therapy" does not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, midwifery, chiropractic, physical therapy, occupational therapy, acupuncture, athletic training, or podiatry is required by law or any service described in subdivision A 18 of § 54.1-3001.

"Massage therapy" shall not include manipulation of the spine or joints.

"Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Practical nurse" or "licensed practical nurse" means a person who is licensed or holds a multistate licensure privilege under the provisions of this chapter to practice practical nursing as defined in this section. Such a licensee shall be empowered to provide nursing services without compensation. The abbreviation "L.P.N." shall stand for such terms.

"Practical nursing" or "licensed practical nursing" means the performance for compensation of selected nursing acts in the care of individuals or groups who are ill, injured, or experiencing changes in normal health processes; in the maintenance of health; in the prevention of illness or disease; or, subject to such regulations as the Board may promulgate, in the teaching of those who are or will be nurse aides. Practical nursing or licensed practical nursing requires knowledge, judgment and skill in nursing procedures gained through prescribed education. Practical nursing or licensed practical nursing is performed under the direction or supervision of a licensed medical practitioner, a professional nurse, registered nurse or registered professional nurse or other licensed health professional authorized by regulations of the Board.

"Practice of a nurse aide" or "nurse aide practice" means the performance of services requiring the education, training, and skills specified in this chapter for certification as a nurse aide. Such services are performed under the supervision of a dentist, physician, podiatrist, professional nurse, licensed practical nurse, or other licensed health care professional acting within the scope of the requirements of his profession.

"Professional nurse," "registered nurse" or "registered professional nurse" means a person who is licensed or holds a multistate licensure privilege under the provisions of this chapter to practice professional nursing as defined in this section. Such a licensee shall be empowered to provide professional services without compensation, to promote health and to teach health to individuals and groups. The abbreviation "R.N." shall stand for such terms.

"Professional nursing," "registered nursing" or "registered professional nursing" means the performance for compensation of any nursing acts in the observation, care and counsel of individuals or groups who are ill, injured or experiencing changes in normal health processes or the maintenance of health; in the prevention of illness or disease; in the supervision and teaching of those who are or will be involved in nursing care; in the delegation of selected nursing tasks and procedures to appropriately trained unlicensed persons as determined by the Board; or in the administration of medications and treatments as prescribed by any person authorized by law to prescribe such medications and treatment. Professional nursing, registered nursing and registered professional nursing require specialized education, judgment, and skill based upon knowledge and application of principles from the biological, physical, social, behavioral and nursing sciences.

§ 54.1-3002. Board of Nursing; membership; terms; meetings; quorum; administrative officer.

The Board of Nursing shall consist of 14 members as follows: eight registered nurses, at least two of whom are licensed ~~nurse practitioners~~ *advanced practice registered nurses*; two licensed practical nurses; three citizen members; and one member who shall be a registered nurse or a licensed practical nurse. The terms of office of the Board shall be four years.

The Board shall meet at least annually and shall elect officers from its membership. It may hold such other meetings as may be necessary to perform its duties. A majority of the Board including one of its officers shall constitute a quorum for the conduct of business at any meeting. Special meetings of the Board shall be called by the administrative officer upon written request of two members.

The Board shall have an administrative officer who shall be a registered nurse.

§ 54.1-3005. Specific powers and duties of Board.

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

1. To prescribe minimum standards and approve curricula for educational programs preparing persons for licensure, certification, or registration under this chapter;

2. To approve programs that meet the requirements of this chapter and of the Board;

3. To provide consultation service for educational programs as requested;

4. To provide for periodic surveys of educational or training programs;

5. To deny or withdraw approval from educational or training programs for failure to meet prescribed standards;

6. To provide consultation regarding nursing practice for institutions and agencies as requested and investigate illegal nursing practices;

7. To keep a record of all its proceedings;

8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations consistent with federal law and regulation. The Board shall require all schools to demonstrate their compliance with § 54.1-3006.2 upon application for approval or reapproval, during an on-site visit, or in response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to § 54.1-2401 for any violation thereof. Such regulations may include standards for the authority of licensed practical nurses to teach nurse aides;

9. To maintain a registry of clinical nurse specialists and to promulgate regulations governing clinical nurse specialists;

10. To license and maintain a registry of all licensed massage therapists and to promulgate regulations governing the criteria for licensure as a massage therapist and the standards of professional conduct for licensed massage therapists;

11. To promulgate regulations for the delegation of certain nursing tasks and procedures not involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by and under the supervision of a registered nurse, who retains responsibility and accountability for such delegation;

12. To develop and revise as may be necessary, in coordination with the Boards of Medicine and Education, guidelines for the training of employees of a school board in the administration of insulin and glucagon for the purpose of assisting with routine insulin injections and providing emergency treatment for life-threatening hypoglycemia. The first set of such guidelines shall be finalized by September 1, 1999, and shall be made available to local school boards for a fee not to exceed the costs of publication;

13. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate regulations for its implementation;

14. To collect, store and make available nursing workforce information regarding the various categories of nurses certified, licensed or registered pursuant to § 54.1-3012.1;

15. To expedite application processing, to the extent possible, pursuant to § 54.1-119 for an applicant for licensure or certification by the Board upon submission of evidence that the applicant, who is licensed or certified in another state, is relocating to the Commonwealth pursuant to a spouse's official military orders;

16. To register medication aides and promulgate regulations governing the criteria for such registration and standards of conduct for medication aides;

17. To approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation;

18. To set guidelines for the collection of data by all approved nursing education programs and to compile this data in an annual report. The data shall include but not be limited to enrollment, graduation rate, attrition rate, and number of qualified applicants who are denied admission;

19. To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees of child day programs as defined in § 22.1-289.02 and regulated by the Board of Education in the administration of prescription drugs as defined in the Drug Control Act (§ 54.1-3400 et seq.). Such training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist;

20. In order to protect the privacy and security of health professionals licensed, registered or certified under this chapter, to promulgate regulations permitting use on identification badges of first name and first letter only of last name and appropriate title when practicing in hospital emergency departments, in psychiatric and mental health units and programs, or in health care facility units offering treatment for patients in custody of state or local law-enforcement agencies;

21. To revise, as may be necessary, guidelines for seizure management, in coordination with the Board of Medicine, including the list of rescue medications for students with epilepsy and other seizure disorders in the public schools. The revised guidelines shall be finalized and made available to the Board of Education by August 1, 2010. The guidelines shall then be posted on the Department of Education's website; and

22. To promulgate, together with the Board of Medicine, regulations governing the licensure of ~~nurse practitioners~~ *advanced practice registered nurses* pursuant to § 54.1-2957 and the licensure of licensed certified midwives pursuant to § 54.1-2957.04.

§ 54.1-3016.1. Correctional health assistants.

Licensed practical nurses, registered nurses, and ~~nurse practitioners~~ *advanced practice registered nurses* may practice as correctional health assistants pursuant to § 54.1-2901.

§ 54.1-3300. Definitions.

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

"Board" means the Board of Pharmacy.

"Collaborative agreement" means a voluntary, written, or electronic arrangement between one pharmacist and his designated alternate pharmacists involved directly in patient care at a single physical location where patients receive services and (i) any person licensed to practice medicine, osteopathy, or podiatry together with any person licensed,

registered, or certified by a health regulatory board of the Department of Health Professions who provides health care services to patients of such person licensed to practice medicine, osteopathy, or podiatry; (ii) a physician's office as defined in § 32.1-276.3, provided that such collaborative agreement is signed by each physician participating in the collaborative agreement; (iii) any licensed physician assistant working under the supervision of a person licensed to practice medicine, osteopathy, or podiatry; or (iv) any licensed *advanced practice registered* nurse ~~practitioner~~ working in accordance with the provisions of § 54.1-2957, involved directly in patient care which authorizes cooperative procedures with respect to patients of such practitioners. Collaborative procedures shall be related to treatment using drug therapy, laboratory tests, or medical devices, under defined conditions or limitations, for the purpose of improving patient outcomes. A collaborative agreement is not required for the management of patients of an inpatient facility.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for delivery.

"Pharmacist" means a person holding a license issued by the Board to practice pharmacy.

"Pharmacy" means every establishment or institution in which drugs, medicines, or medicinal chemicals are dispensed or offered for sale, or a sign is displayed bearing the word or words "pharmacist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "medicine store," "drug sundries," "prescriptions filled," or any similar words intended to indicate that the practice of pharmacy is being conducted.

"Pharmacy intern" means a student currently enrolled in or a graduate of an approved school of pharmacy who is registered with the Board for the purpose of gaining the practical experience required to apply for licensure as a pharmacist.

"Pharmacy technician" means a person registered with the Board to assist a pharmacist under the pharmacist's supervision.

"Pharmacy technician trainee" means a person registered with the Board for the purpose of performing duties restricted to a pharmacy technician as part of a pharmacy technician training program in accordance with the provisions of subsection G of § 54.1-3321.

"Practice of pharmacy" means the personal health service that is concerned with the art and science of selecting, procuring, recommending, administering, preparing, compounding, packaging, and dispensing of drugs, medicines, and devices used in the diagnosis, treatment, or prevention of disease, whether compounded or dispensed on a prescription or otherwise legally dispensed or distributed, and shall include (i) the proper and safe storage and distribution of drugs; (ii) the maintenance of proper records; (iii) the responsibility of providing information concerning drugs and medicines and their therapeutic values and uses in the treatment and prevention of disease; (iv) the management of patient care under the terms of a collaborative agreement as defined in this section; and (v) the initiating of treatment with or dispensing or administering of certain drugs, devices, or controlled paraphernalia in accordance with the provisions of § 54.1-3303.1.

"Supervision" means the direction and control by a pharmacist of the activities of a pharmacy intern or a pharmacy technician whereby the supervising pharmacist is physically present in the pharmacy or in the facility in which the pharmacy is located when the intern or technician is performing duties restricted to a pharmacy intern or technician, respectively, and is available for immediate oral communication.

Other terms used in the context of this chapter shall be defined as provided in Chapter 34 (§ 54.1-3400 et seq.) unless the context requires a different meaning.

§ 54.1-3300.1. Participation in collaborative agreements; regulations to be promulgated by the Boards of Medicine and Pharmacy.

A. A pharmacist and his designated alternate pharmacists involved directly in patient care may participate with (i) any person licensed to practice medicine, osteopathy, or podiatry together with any person licensed, registered, or certified by a health regulatory board of the Department of Health Professions who provides health care services to patients of such person licensed to practice medicine, osteopathy, or podiatry; (ii) a physician's office as defined in § 32.1-276.3, provided that such collaborative agreement is signed by each physician participating in the collaborative agreement; (iii) any licensed physician assistant working in accordance with the provisions of § 54.1-2951.1; or (iv) any licensed *advanced practice registered* nurse ~~practitioner~~ working in accordance with the provisions of § 54.1-2957, involved directly in patient care in collaborative agreements which authorize cooperative procedures related to treatment using drug therapy, laboratory tests, or medical devices, under defined conditions or limitations, for the purpose of improving patient outcomes for patients who meet the criteria set forth in the collaborative agreement. However, no person licensed to practice medicine, osteopathy, or podiatry, or licensed as ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ or physician assistant, shall be required to participate in a collaborative agreement with a pharmacist and his designated alternate pharmacists, regardless of whether a professional business entity on behalf of which the person is authorized to act enters into a collaborative agreement with a pharmacist and his designated alternate pharmacists.

B. A patient who meets the criteria for inclusion in the category of patients whose care is subject to a collaborative agreement and who chooses to not participate in a collaborative procedure shall notify the prescriber of his refusal to participate in such collaborative procedure. A prescriber may elect to have a patient not participate in a collaborative procedure by contacting the pharmacist or his designated alternative pharmacists or by documenting the same on the patient's prescription.

C. Collaborative agreements may include the implementation, modification, continuation, or discontinuation of drug therapy pursuant to written or electronic protocols, provided implementation of drug therapy occurs following diagnosis by

the prescriber; the ordering of laboratory tests; or other patient care management measures related to monitoring or improving the outcomes of drug or device therapy. No such collaborative agreement shall exceed the scope of practice of the respective parties. Any pharmacist who deviates from or practices in a manner inconsistent with the terms of a collaborative agreement shall be in violation of § 54.1-2902; such violation shall constitute grounds for disciplinary action pursuant to §§ 54.1-2400 and 54.1-3316.

D. Collaborative agreements may only be used for conditions which have protocols that are clinically accepted as the standard of care, or are approved by the Boards of Medicine and Pharmacy. The Boards of Medicine and Pharmacy shall jointly develop and promulgate regulations to implement the provisions of this section and to facilitate the development and implementation of safe and effective collaborative agreements between the appropriate practitioners and pharmacists. The regulations shall include guidelines concerning the use of protocols, and a procedure to allow for the approval or disapproval of specific protocols by the Boards of Medicine and Pharmacy if review is requested by a practitioner or pharmacist.

E. Nothing in this section shall be construed to supersede the provisions of § 54.1-3303.

§ 54.1-3301. Exceptions.

This chapter shall not be construed to:

1. Interfere with any legally qualified practitioner of dentistry, or veterinary medicine or any physician acting on behalf of the Virginia Department of Health or local health departments, in the compounding of his prescriptions or the purchase and possession of drugs as he may require;

2. Prevent any legally qualified practitioner of dentistry, or veterinary medicine or any prescriber, as defined in § 54.1-3401, acting on behalf of the Virginia Department of Health or local health departments, from administering or supplying to his patients the medicines that he deems proper under the conditions of § 54.1-3303 or from causing drugs to be administered or dispensed pursuant to §§ 32.1-42.1 and 54.1-3408, except that a veterinarian shall only be authorized to dispense a compounded drug, distributed from a pharmacy, when (i) the animal is his own patient, (ii) the animal is a companion animal as defined in regulations promulgated by the Board of Veterinary Medicine, (iii) the quantity dispensed is no more than a seven-day supply, (iv) the compounded drug is for the treatment of an emergency condition, and (v) timely access to a compounding pharmacy is not available, as determined by the prescribing veterinarian;

3. Prohibit the sale by merchants and retail dealers of proprietary medicines as defined in Chapter 34 (§ 54.1-3400 et seq.) of this title;

4. Prevent the operation of automated drug dispensing systems in hospitals pursuant to Chapter 34 (§ 54.1-3400 et seq.) of this title;

5. Prohibit the employment of ancillary personnel to assist a pharmacist as provided in the regulations of the Board;

6. Interfere with any legally qualified practitioner of medicine, osteopathy, or podiatry from purchasing, possessing or administering controlled substances to his own patients or providing controlled substances to his own patients in a bona fide medical emergency or providing manufacturers' professional samples to his own patients;

7. Interfere with any legally qualified practitioner of optometry, certified or licensed to use diagnostic pharmaceutical agents, from purchasing, possessing or administering those controlled substances as specified in § 54.1-3221 or interfere with any legally qualified practitioner of optometry certified to prescribe therapeutic pharmaceutical agents from purchasing, possessing, or administering to his own patients those controlled substances as specified in § 54.1-3222 and the TPA formulary, providing manufacturers' samples of these drugs to his own patients, or dispensing, administering, or selling ophthalmic devices as authorized in § 54.1-3204;

8. Interfere with any physician assistant with prescriptive authority receiving and dispensing to his own patients manufacturers' professional samples of controlled substances and devices that he is authorized, in compliance with the provisions of § 54.1-2952.1, to prescribe according to his practice setting and a written agreement with a physician or podiatrist;

9. Interfere with any licensed *advanced practice registered* nurse ~~practitioner~~ with prescriptive authority receiving and dispensing to his own patients manufacturers' professional samples of controlled substances and devices that he is authorized, in compliance with the provisions of § 54.1-2957.01, to prescribe;

10. Interfere with any legally qualified practitioner of medicine or osteopathy participating in an indigent patient program offered by a pharmaceutical manufacturer in which the practitioner sends a prescription for one of his own patients to the manufacturer, and the manufacturer donates a stock bottle of the prescription drug ordered at no cost to the practitioner or patient. The practitioner may dispense such medication at no cost to the patient without holding a license to dispense from the Board of Pharmacy. However, the container in which the drug is dispensed shall be labeled in accordance with the requirements of § 54.1-3410, and, unless directed otherwise by the practitioner or the patient, shall meet standards for special packaging as set forth in § 54.1-3426 and Board of Pharmacy regulations. In lieu of dispensing directly to the patient, a practitioner may transfer the donated drug with a valid prescription to a pharmacy for dispensing to the patient. The practitioner or pharmacy participating in the program shall not use the donated drug for any purpose other than dispensing to the patient for whom it was originally donated, except as authorized by the donating manufacturer for another patient meeting that manufacturer's requirements for the indigent patient program. Neither the practitioner nor the pharmacy shall charge the patient for any medication provided through a manufacturer's indigent patient program pursuant to this subdivision. A participating pharmacy, including a pharmacy participating in bulk donation programs, may charge a

reasonable dispensing or administrative fee to offset the cost of dispensing, not to exceed the actual costs of such dispensing. However, if the patient is unable to pay such fee, the dispensing or administrative fee shall be waived;

11. Interfere with any legally qualified practitioner of medicine or osteopathy from providing controlled substances to his own patients in a free clinic without charge when such controlled substances are donated by an entity other than a pharmaceutical manufacturer as authorized by subdivision 10. The practitioner shall first obtain a controlled substances registration from the Board and shall comply with the labeling and packaging requirements of this chapter and the Board's regulations; or

12. Prevent any pharmacist from providing free health care to an underserved population in Virginia who (i) does not regularly practice pharmacy in Virginia, (ii) holds a current valid license or certificate to practice pharmacy in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certificate issued in such other jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any pharmacist whose license has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a pharmacist who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state.

This section shall not be construed as exempting any person from the licensure, registration, permitting and record keeping requirements of this chapter or Chapter 34 of this title.

§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, a licensed *advanced practice registered* nurse ~~practitioner~~ pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32.

B. A prescription shall be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship or veterinarian-client-patient relationship. If a practitioner is providing expedited partner therapy consistent with the recommendations of the Centers for Disease Control and Prevention, then a bona fide practitioner-patient relationship shall not be required.

A bona fide practitioner-patient relationship shall exist if the practitioner has (i) obtained or caused to be obtained a medical or drug history of the patient; (ii) provided information to the patient about the benefits and risks of the drug being prescribed; (iii) performed or caused to be performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; and (iv) initiated additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Except in cases involving a medical emergency, the examination required pursuant to clause (iii) shall be performed by the practitioner prescribing the controlled substance, a practitioner who practices in the same group as the practitioner prescribing the controlled substance, or a consulting practitioner.

A practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to that patient.

A practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to that patient via telemedicine if such prescribing is in compliance with federal requirements for the practice of telemedicine and, in the case of the prescribing of a Schedule II through V controlled substance, the prescriber maintains a practice at a physical location in the Commonwealth or is able to make appropriate referral of patients to a licensed practitioner located in the Commonwealth in order to ensure an in-person examination of the patient when required by the standard of care.

A prescriber may establish a bona fide practitioner-patient relationship for the purpose of prescribing Schedule II through VI controlled substances by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations; (h) the establishment of a bona fide practitioner-patient relationship via telemedicine

is consistent with the standard of care, and the standard of care does not require an in-person examination for the purpose of diagnosis; and (i) the establishment of a bona fide practitioner patient relationship via telemedicine is consistent with federal law and regulations and any waiver thereof. Nothing in this paragraph shall apply to (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

For purposes of this section, a bona fide veterinarian-client-patient relationship is one in which a veterinarian, another veterinarian within the group in which he practices, or a veterinarian with whom he is consulting has assumed the responsibility for making medical judgments regarding the health of and providing medical treatment to an animal as defined in § 3.2-6500, other than an equine as defined in § 3.2-6200, a group of agricultural animals as defined in § 3.2-6500, or bees as defined in § 3.2-4400, and a client who is the owner or other caretaker of the animal, group of agricultural animals, or bees has consented to such treatment and agreed to follow the instructions of the veterinarian. Evidence that a veterinarian has assumed responsibility for making medical judgments regarding the health of and providing medical treatment to an animal, group of agricultural animals, or bees shall include evidence that the veterinarian (A) has sufficient knowledge of the animal, group of agricultural animals, or bees to provide a general or preliminary diagnosis of the medical condition of the animal, group of agricultural animals, or bees; (B) has made an examination of the animal, group of agricultural animals, or bees, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically or has become familiar with the care and keeping of that species of animal or bee on the premises of the client, including other premises within the same operation or production system of the client, through medically appropriate and timely visits to the premises at which the animal, group of agricultural animals, or bees are kept; and (C) is available to provide follow-up care.

C. A prescription shall only be issued for a medicinal or therapeutic purpose in the usual course of treatment or for authorized research. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription. A practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than for medicinal or therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

D. No prescription shall be filled unless a bona fide practitioner-patient-pharmacist relationship exists. A bona fide practitioner-patient-pharmacist relationship shall exist in cases in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to a patient for a medicinal or therapeutic purpose within the course of his professional practice.

In cases in which it is not clear to a pharmacist that a bona fide practitioner-patient relationship exists between a prescriber and a patient, a pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed.

Any person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

E. Notwithstanding any provision of law to the contrary and consistent with recommendations of the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined in subsection B, with the diagnosed patient and (ii) in the practitioner's professional judgment, the practitioner deems there is urgency to begin treatment to prevent the transmission of a communicable disease. In cases in which the practitioner is an employee of or contracted by the Department of Health or a local health department, the bona fide practitioner-patient relationship with the diagnosed patient, as required by clause (i), shall not be required.

F. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state practitioner of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine, ~~a~~ *an advanced practice registered* nurse ~~practitioner~~, or a physician assistant authorized to issue such prescription if the prescription complies with the requirements of this chapter and the Drug Control Act (§ 54.1-3400 et seq.).

G. A licensed *advanced practice registered* nurse ~~practitioner~~ who is authorized to prescribe controlled substances pursuant to § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

H. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

I. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 may issue prescriptions in good faith or provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant to § 54.1-3223, which shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in §§ 54.1-3450 and

54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to relieve ocular pain; (iii) other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human eye and its adnexa; (iv) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act; and (v) intramuscular administration of epinephrine for treatment of emergency cases of anaphylactic shock.

J. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied by a member or committee of a hospital's medical staff when approving a standing order or protocol for the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance with § 32.1-126.4.

K. Notwithstanding any other provision of law, a prescriber may authorize a registered nurse or licensed practical nurse to approve additional refills of a prescribed drug for no more than 90 consecutive days, provided that (i) the drug is classified as a Schedule VI drug; (ii) there are no changes in the prescribed drug, strength, or dosage; (iii) the prescriber has a current written protocol, accessible by the nurse, that identifies the conditions under which the nurse may approve additional refills; and (iv) the nurse documents in the patient's chart any refills authorized for a specific patient pursuant to the protocol and the additional refills are transmitted to a pharmacist in accordance with the allowances for an authorized agent to transmit a prescription orally or by facsimile pursuant to subsection C of § 54.1-3408.01 and regulations of the Board.

§ 54.1-3304.1. Authority to license and regulate practitioners; permits.

A. The Board of Pharmacy shall have the authority to license and regulate the dispensing of controlled substances by practitioners of the healing arts. Except as prescribed in this chapter or by Board regulations, it shall be unlawful for any practitioner of the healing arts to dispense controlled substances within the Commonwealth unless licensed by the Board to sell controlled substances.

B. Facilities from which practitioners of the healing arts dispense controlled substances shall obtain a permit from the Board and comply with the regulations for practitioners of the healing arts to sell controlled substances. Facilities in which only one practitioner of the healing arts is licensed by the Board to sell controlled substances shall be exempt from fees associated with obtaining and renewing such permit.

C. The Board of Pharmacy may issue a limited-use license for the purpose of dispensing Schedule VI controlled substances, excluding the combination of misoprostol and methotrexate, and hypodermic syringes and needles for the administration of prescribed controlled substances to a doctor of medicine, osteopathic medicine, or podiatry, ~~a~~ *an advanced practice registered* nurse ~~practitioner~~, or a physician assistant, provided that such limited-use licensee is practicing at a nonprofit facility. Such facility shall obtain a limited-use permit from the Board and comply with regulations for such a permit.

§ 54.1-3401. Definitions.

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

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed *advanced practice registered* nurse ~~practitioner~~ or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § 54.1-3443.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouser, nonresident warehouser, third-party logistics provider, or nonresident third-party logistics provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, *an advanced practice registered* nurse ~~practitioner~~, *a* physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical

practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic prescription" means a written prescription that is generated on an electronic application and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be transmitted in accordance with 21 C.F.R. Part 1300.

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. Marijuana does not include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. Marijuana does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent, (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990, or (iii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training

and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed *advanced practice registered* nurse ~~practitioner~~ pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning — may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine, a licensed *advanced practice registered* nurse ~~practitioner~~ pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

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

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

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

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

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

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

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

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

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

Pursuant to an order or standing protocol that shall be issued by the local health director within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers or nebulized albuterol may possess or administer an albuterol inhaler and a valved holding

chamber or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any nurse at an early childhood care and education entity, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

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

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

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

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

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

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

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

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been

prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, *an advanced practice registered* nurse ~~practitioner~~, *a* physician, or *a* physician assistant is not present to perform the administration of the medication.

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, *an advanced practice registered* nurse ~~practitioner~~, *a* physician, or *a* physician assistant is not present to perform the administration of the medication.

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

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

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

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

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

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

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

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

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

regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

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

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, *a* licensed practical nurse, *an advanced practice registered* nurse ~~practitioner~~, *a* physician assistant, *a* doctor of medicine or osteopathic medicine, or *a* pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency, the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency, or the Board of Health has made an emergency order pursuant to § 32.1-13 for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health and for the limited purpose of administering vaccines as an approved countermeasure for such communicable, contagious, and infectious diseases; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

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

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

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

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

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

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

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

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

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, an employee or other person acting on behalf of a public place who has completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal other than naloxone in an injectable formulation with a hypodermic needle or syringe in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

For the purposes of this subsection, "public place" means any enclosed area that is used or held out for use by the public, whether owned or operated by a public or private interest.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal

insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, *an advanced practice registered* nurse ~~practitioner~~, *a* physician, or *a* physician assistant is not present to perform the administration of the medication.

§ 54.1-3408.3. Certification for use of cannabis oil for treatment.

A. As used in this section:

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.

"Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical cannabis.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or ~~a~~ *an advanced practice registered* nurse ~~practitioner~~ jointly licensed by the Board of Medicine and the Board of Nursing.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audio-visual technology. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.

C. The written certification shall be on a form provided by the Board of Pharmacy. Such written certification shall contain the name, address, and telephone number of the practitioner; the name and address of the patient issued the written certification; the date on which the written certification was made; and the signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration. A written certification shall not be issued to a patient by more than one practitioner during any given time period.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board and shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients. The Board shall not limit the number of patients to whom a practitioner may issue a written certification. The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.

F. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit, on a monthly basis, all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Board.

G. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant

to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

H. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility, who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications, may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis product to the patient or resident as necessary.

I. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a registered agent, but only with respect to information related to such patient.

§ 54.1-3482. Practice of physical therapy; certain experience and referrals required; physical therapist assistants.

A. It shall be unlawful for a person to engage in the practice of physical therapy except as a licensed physical therapist, upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered* nurse ~~practitioner~~ practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician, except as provided in this section.

B. A physical therapist who has completed a doctor of physical therapy program approved by the Commission on Accreditation of Physical Therapy Education or who has obtained a certificate of authorization pursuant to § 54.1-3482.1 may evaluate and treat a patient for no more than 60 consecutive days after an initial evaluation without a referral under the following conditions: (i) the patient is not receiving care from any licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered* nurse ~~practitioner~~ practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician for the symptoms giving rise to the presentation at the time of the presentation to the physical therapist for physical therapy services or (ii) the patient is receiving care from a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered* nurse ~~practitioner~~ practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician at the time of his presentation to the physical therapist for the symptoms giving rise to the presentation for physical therapy services and (a) the patient identifies a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered* nurse ~~practitioner~~ practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician from whom he is currently receiving care; (b) the patient gives written consent for the physical therapist to release all personal health information and treatment records to the identified practitioner; and (c) the physical therapist notifies the practitioner identified by the patient no later than 14 days after treatment commences and provides the practitioner with a copy of the initial evaluation along with a copy of the patient history obtained by the physical therapist. Treatment for more than 60 consecutive days after evaluation of such patient shall only be upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered* nurse ~~practitioner~~ practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician. A physical therapist may contact the practitioner identified by the patient at the end of the 60-day period to determine if the practitioner will authorize additional physical therapy services until such time as the patient can be seen by the practitioner. After discharging a patient, a physical therapist shall not perform an initial evaluation of a patient under this subsection without a referral if the physical therapist has performed an initial evaluation of the patient under this subsection for the same condition within the immediately preceding 60 days.

C. A physical therapist who has not completed a doctor of physical therapy program approved by the Commission on Accreditation of Physical Therapy Education or who has not obtained a certificate of authorization pursuant to § 54.1-3482.1 may conduct a one-time evaluation that does not include treatment of a patient without the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered* nurse ~~practitioner~~ practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician; if appropriate, the physical therapist shall immediately refer such patient to the appropriate practitioner.

D. Invasive procedures within the scope of practice of physical therapy shall at all times be performed only under the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered* nurse ~~practitioner~~ practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician.

E. It shall be unlawful for any licensed physical therapist to fail to immediately refer any patient to a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, or a licensed *advanced practice registered* nurse ~~practitioner~~ practicing in accordance with the provisions of § 54.1-2957 when such patient's medical condition is determined, at the time

of evaluation or treatment, to be beyond the physical therapist's scope of practice. Upon determining that the patient's medical condition is beyond the scope of practice of a physical therapist, a physical therapist shall immediately refer such patient to an appropriate practitioner.

F. Any person licensed as a physical therapist assistant shall perform his duties only under the direction and control of a licensed physical therapist.

G. However, a licensed physical therapist may provide, without referral or supervision, physical therapy services to (i) a student athlete participating in a school-sponsored athletic activity while such student is at such activity in a public, private, or religious elementary, middle or high school, or public or private institution of higher education when such services are rendered by a licensed physical therapist who is certified as an athletic trainer by the National Athletic Trainers' Association Board of Certification or as a sports certified specialist by the American Board of Physical Therapy Specialties; (ii) employees solely for the purpose of evaluation and consultation related to workplace ergonomics; (iii) special education students who, by virtue of their individualized education plans (IEPs), need physical therapy services to fulfill the provisions of their IEPs; (iv) the public for the purpose of wellness, fitness, and health screenings; (v) the public for the purpose of health promotion and education; and (vi) the public for the purpose of prevention of impairments, functional limitations, and disabilities.

§ 54.1-3482.1. Certain certification required.

A. The Board shall promulgate regulations establishing criteria for certification of physical therapists to provide certain physical therapy services pursuant to subsection B of § 54.1-3482 without referral from a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered* nurse ~~practitioner~~ practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician. The regulations shall include but not be limited to provisions for (i) the promotion of patient safety; (ii) an application process for a one-time certification to perform such procedures; and (iii) minimum education, training, and experience requirements for certification to perform such procedures.

B. The minimum education, training, and experience requirements for certification shall include evidence that the applicant has successfully completed (i) a transitional program in physical therapy as recognized by the Board or (ii) at least three years of active practice with evidence of continuing education relating to carrying out direct access duties under § 54.1-3482.

§ 54.1-3812. Release of records.

A. A veterinarian licensed by the Board shall release or authorize the release of rabies immunization records and other relevant treatment data of an animal under his care to (i) a requesting physician, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ who is contemplating the administration of the rabies treatment protocol to any person under his care who has been the victim of a bite or other possible rabies exposure from such animal; (ii) a requesting animal control officer or law-enforcement officer who needs to identify the owner of such animal or verify the rabies vaccination history of such animal; or (iii) a requesting animal control officer or an official of the Department of Health who is investigating the incident.

B. Any veterinarian licensed by the Board who in good faith releases or authorizes the release of an animal's rabies immunization records and other relevant data pursuant to this section shall not be liable for civil damages resulting from the release of such information.

§ 58.1-439.22. Donations of professional services.

A. A sole proprietor, partnership or limited liability company engaged in the business of providing professional services shall be eligible for a tax credit under this article based on the time spent by the proprietor or a partner or member, respectively, who renders professional services to a program that has received an allocation of tax credits from the Superintendent of Public Instruction or the Commissioner of Social Services. The value of the professional services, for purposes of determining the amount of the tax credit allowable, rendered by the proprietor or a partner or member to an approved program shall not exceed the lesser of (i) the reasonable cost for similar services from other providers or (ii) $125 per hour.

B. A business firm shall be eligible for a tax credit under this article for the time spent by a salaried employee who renders professional services to an approved program. The value of the professional services, for purposes of determining the amount of tax credit allowed to a business firm for time spent by its salaried employee in rendering professional services to an approved project, shall be equal to the salary that such employee was actually paid for the period of time that such employee rendered professional services to the approved program.

C. Notwithstanding any provision of this article limiting eligibility for tax credits to business firms, physicians, chiropractors, dentists, nurses, ~~nurse~~ ~~practitioners~~ *advanced practice registered nurses*, physician assistants, optometrists, dental hygienists, professional counselors, clinical social workers, clinical psychologists, marriage and family therapists, physical therapists, and pharmacists licensed pursuant to Title 54.1 who provide health care services within the scope of their licensure, without charge, to patients of a clinic operated by an organization that has received an allocation of tax credits from the Commissioner of Social Services and such clinic is organized in whole or in part for the delivery of health care services without charge, or to a clinic operated not for profit providing health care services for charges not exceeding those set forth in a scale prescribed by the State Board of Health pursuant to § 32.1-11 for charges to be paid by persons based upon ability to pay, shall be eligible for a tax credit pursuant to § 58.1-439.21 based on the time spent in providing health care services to patients of such clinic, regardless of where the services are delivered.

Notwithstanding any provision of this article limiting eligibility for tax credits, a pharmacist who donates pharmaceutical services to patients of a free clinic, which clinic is an organization exempt from taxation under the provisions of § 501(c)(3) of the Internal Revenue Code, with such pharmaceutical services performed at the direction of an approved neighborhood organization that has received an allocation of tax credits from the Commissioner of Social Services, shall be eligible for tax credits under this article based on the time spent in providing such pharmaceutical services, regardless of where the services are delivered.

Notwithstanding any provision of this article limiting eligibility for tax credits, mediators certified pursuant to guidelines promulgated by the Judicial Council of Virginia who provide services within the scope of such certification, without charge, at the direction of an approved neighborhood organization that provides court-referred mediation services and that has received an allocation of tax credits from the Commissioner of Social Services shall be eligible for tax credits under this article based on the time spent in providing such mediation services, regardless of where the services are delivered.

The value of such services, for purposes of determining the amount of the tax credit allowable, rendered by the physician, chiropractor, dentist, nurse, *advanced practice registered* nurse ~~practitioner~~, physician assistant, optometrist, dental hygienist, professional counselor, clinical social worker, clinical psychologist, marriage and family therapist, physical therapist, pharmacist, or mediator shall not exceed the lesser of (i) the reasonable cost for similar services from other providers or (ii) $125 per hour.

D. Notwithstanding any provision of this article limiting eligibility for tax credits and for tax credit allocations beginning with fiscal year 2015-2016, a physician specialist who donates specialty medical services to patients referred from an approved neighborhood organization (i) that has received an allocation of tax credits from the Commissioner of Social Services, (ii) whose sole purpose is to provide specialty medical referral services to patients of participating clinics or federally qualified health centers, and (iii) that is exempt from taxation under the provisions of § 501(c)(3) of the Internal Revenue Code shall be eligible for tax credits under this article issued to such organization regardless of where the specialty medical services are delivered.

The value of such services, for purposes of determining the amount of tax credit allowable, rendered by the physician specialist shall not exceed the lesser of (a) the reasonable cost for similar services from other providers or (b) $125 per hour.

§ 58.1-609.10. Miscellaneous exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. The Tax Commissioner shall establish by regulation a system for use by dealers in classifying individual purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil. Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any portion of such purchase for domestic use may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for a refund of the tax paid on the domestic use portion.

2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is eligible to be granted an exemption on its purchases pursuant to § 58.1-609.11, and that is otherwise eligible for the exemption pursuant to this subdivision, shall be exempt pursuant to this subdivision on its sales of (i) food, prepared food and meals and (ii) tickets to events that include the provision of food, prepared food and meals, so long as such sales take place on fewer than 24 occasions in a calendar year.

3. Tangible personal property for future use by a person for taxable lease or rental as an established business or part of an established business, or incidental or germane to such business, including a simultaneous purchase and taxable leaseback.

4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be deemed to be delivery of goods for use or consumption outside of the Commonwealth.

5. Tangible personal property purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

6. Tangible personal property purchased for use or consumption in the performance of maintenance and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the Commonwealth.

7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited, reformatted or copied documents, including but not limited to documents stored on or transmitted by electronic media, to its client or to third parties in the course of the professional's rendition of services to its clientele.

8. School lunches sold and served to pupils and employees of schools and subsidized by government; school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use by students attending a college or other institution of learning, when sold (i) by such institution of learning or (ii) by any other dealer, when such textbooks have been certified by a department or instructor of such institution of learning as required textbooks for students attending courses at such institution.

9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases, and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or other devices applicable to the

wearing or maintenance of contact lenses or eyeglasses when distributed free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and fitters, ~~nurse~~ ~~practitioners~~ *advanced practice registered nurses*, physician assistants, and veterinarians; controlled drugs purchased for use by a licensed physician, optometrist, licensed *advanced practice registered* nurse ~~practitioner~~, or licensed physician assistant in his professional practice, regardless of whether such practice is organized as a sole proprietorship, partnership, or professional corporation, or any other type of corporation in which the shareholders and operators are all licensed physicians, optometrists, licensed ~~nurse~~ ~~practitioners~~ *advanced practice registered nurses*, or licensed physician assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for use or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise exempt under this section; and samples of prescription drugs and medicines and their packaging distributed free of charge to authorized recipients in accordance with the federal Food, Drug, and Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended).

10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances, catheters, urinary accessories, other durable medical equipment and devices, and related parts and supplies specifically designed for those products; and insulin and insulin syringes, and equipment, devices or chemical reagents that may be used by a diabetic to test or monitor blood or urine, when such items or parts are purchased by or on behalf of an individual for use by such individual. Durable medical equipment is equipment that (i) can withstand repeated use, (ii) is primarily and customarily used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or injury, and (iv) is appropriate for use in the home.

11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

12. Special equipment installed on a motor vehicle when purchased by a handicapped person to enable such person to operate the motor vehicle.

13. Special typewriters and computers and related parts and supplies specifically designed for those products used by handicapped persons to communicate when such equipment is prescribed by a licensed physician.

14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and proprietary medicines distributed free of charge by the manufacturer, including packaging materials and constituent elements and ingredients.

b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision shall not apply to cosmetics.

15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code or (ii) the Commonwealth, any political subdivision of the Commonwealth, or any school, agency, or instrumentality thereof.

16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or church membership while meeting together in a single location and (ii) in the libraries, offices, meeting or counseling rooms or other rooms in the public church buildings used in carrying out the work of the church and its related ministries, including kindergarten, elementary and secondary schools. The exemption for such churches shall also include baptistries; bulletins, programs, newspapers and newsletters that do not contain paid advertising and are used in carrying out the work of the church; gifts including food for distribution outside the public church building; food, disposable serving items, cleaning supplies and teaching materials used in the operation of camps or conference centers by the church or an organization composed of churches that are exempt under this subdivision and which are used in carrying out the work of the church or churches; and property used in caring for or maintaining property owned by the church including, but not limited to, mowing equipment; and building materials installed by the church, and for which the church does not contract with a person or entity to have installed, in the public church buildings used in carrying out the work of the church and its related ministries, including, but not limited to worship services; administrative rooms; and kindergarten, elementary, and secondary schools.

17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings, incontinence products and wound-care products, when purchased by a Medicaid recipient through a Department of Medical Assistance Services provider agreement.

18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and olive pits.

19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies the foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.

20. Beginning July 1, 2018, and ending July 1, 2025, parts, engines, and supplies used for maintaining, repairing, or reconditioning aircraft or any aircraft's avionics system, engine, or component parts. This exemption shall not apply to tools and other equipment not attached to or that does not become a part of the aircraft. For purposes of this subdivision, "aircraft" shall include both manned and unmanned systems. However, for manned systems, "aircraft" shall include only aircraft with a maximum takeoff weight of at least 2,400 pounds.

21. A gun safe with a selling price of $1,500 or less. For purposes of this subdivision, "gun safe" means a safe or vault that is (i) commercially available, (ii) secured with a digital or dial combination locking mechanism or biometric locking mechanism, and (iii) designed for the storage of a firearm or of ammunition for use in a firearm. "Gun safe" does not include a glass-faced cabinet. Any discount, coupon, or other credit offered by the retailer or a vendor of the retailer to reduce the final price to the customer shall be taken into account in determining the selling price for purposes of this exemption.

22. Beginning July 1, 2022, and ending July 1, 2025, prescription medicines and drugs purchased by veterinarians and administered or dispensed to patients within a veterinarian-client-patient relationship as defined in § 54.1-3303.

§ 59.1-297. Right of cancellation.

A. Every health club contract for the sale of health club services may be cancelled under the following circumstances:

1. A buyer may cancel the contract without penalty within three business days of its making and, upon notice to the health club of the buyer's intent to cancel, shall be entitled to receive a refund of all moneys paid under the contract.

2. A buyer may cancel the contract if the facility relocates or goes out of business and the health club fails to provide comparable alternate facilities within five driving miles of the location designated in the health club contract. Upon receipt of notice of the buyer's intent to cancel, the health club shall refund to the buyer funds paid or accepted in payment of the contract in an amount computed as prescribed in § 59.1-297.1.

3. The contract may be cancelled if the buyer dies or becomes physically unable to use a substantial portion of the services for 30 or more consecutive days. If the buyer becomes physically unable to use a substantial portion of the services for 30 or more consecutive days and wishes to cancel his contract, he must provide the health club with a signed statement from his doctor, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ verifying that he is physically unable to use a substantial portion of the health club services for 30 or more consecutive days. Upon receipt of notice of the buyer's intent to cancel, the health club shall refund to the buyer funds paid or accepted in payment of the contract in an amount computed as prescribed in § 59.1-297.1. In the case of disability, the health club may require the buyer to submit to a physical examination by a doctor, *a* physician assistant, or *an advanced practice registered* nurse ~~practitioner~~ agreeable to the buyer and the health club within 30 days of receipt of notice of the buyer's intent to cancel. The cost of the examination shall be borne by the health club.

B. The buyer shall notify the health club of cancellation in writing, by certified mail, return receipt requested, or personal delivery, to the address of the health club as specified in the health club contract.

C. If the customer has executed any credit or lien agreement with the health club or its representatives or agents to pay for all or part of health club services, any such negotiable instrument executed by the buyer shall be returned to the buyer within 30 days after such cancellation.

D. If the club agrees to allow a consumer to cancel for any other reason not outlined in this section, upon receipt of notice of cancellation by the buyer, the health club shall refund to the buyer funds paid or accepted in payment of the contract in an amount computed as prescribed in § 59.1-297.1.

§ 59.1-298. Notice to buyer.

A copy of the executed health club contract shall be delivered to the buyer at the time the contract is executed. All health club contracts shall (i) be in writing, (ii) state the name and physical address of the health club, (iii) be signed by the buyer, (iv) designate the date on which the buyer actually signed the contract, (v) state the starting and expiration dates of the initial membership period, (vi) separately identify any initiation fee, (vii) either in the contract itself or in a separate notice provided to the buyer at the time the contract is executed, notify each buyer that the buyer should attempt to resolve with the health club any complaint the buyer has with the health club, and that the Virginia Department of Agriculture and Consumer Services regulates health clubs in the Commonwealth pursuant to the provisions of the Virginia Health Club Act, and (viii) contain the provisions set forth in § 59.1-297 under a conspicuous caption: "BUYER'S RIGHT TO CANCEL" that shall read substantially as follows:

If you wish to cancel this contract, you may cancel by making or delivering written notice to this health club. The notice must say that you do not wish to be bound by the contract and must be delivered or mailed before midnight of the third business day after you sign this contract. The notice must be delivered or mailed to _____ (Health club shall insert its name and mailing address).

If canceled within three business days, you will be entitled to a refund of all moneys paid. You may also cancel this contract if this club goes out of business or relocates and fails to provide comparable alternate facilities within five driving miles of the facility designated in this contract. You may also cancel if you become physically unable to use a substantial portion of the health club services for 30 or more consecutive days, and your estate may cancel in the event of your death. You must prove you are unable to use a substantial portion of the health club services by a doctor's, *a* physician assistant's, or ~~nurse practitioner's~~ *an advanced practice registered nurse's* certificate, and the health club may also require that you submit to a physical examination, within 30 days of the notice of cancellation, by a doctor, *a* physician assistant, or *an advanced practice registered* nurse ~~practitioner~~ agreeable to you and the health club. If you cancel after the three business days, the health club may retain or collect a portion of the contract price equal to the proportionate value of the services or use of facilities you have already received. Any refund due to you shall be paid within 30 days of the effective date of cancellation.

§ 59.1-310.4. Warning signs.

A. A tanning facility shall post a warning sign in a conspicuous location where it is readily readable by persons entering the establishment. The sign shall contain the following warning:

DANGER: ULTRAVIOLET RADIATION

Repeated exposure to ultraviolet radiation may cause chronic sun damage to the skin characterized by wrinkling, dryness, fragility, and bruising of the skin, and skin cancer.

Failure to use protective eyewear may result in severe burns or permanent injury to the eyes.

Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician or *an advanced practice registered* nurse ~~practitioner~~ before using a sunlamp if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women taking oral contraceptives who use this product may develop discolored skin.

IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN FROM USE OF AN ULTRAVIOLET SUNLAMP.

B. A tanning facility shall post a warning sign, one sign for each tanning device, in a conspicuous location that is readily readable to a person about to use the device. The sign shall contain the following:

DANGER: ULTRAVIOLET RADIATION

1. Follow the manufacturer's instructions for use of this device.

2. Avoid too frequent or lengthy exposure. As with natural sunlight, exposure can cause serious eye and skin injuries and allergic reactions. Repeated exposure may cause skin cancer.

3. Wear protective eyewear. Failure to use protective eyewear may result in severe burns or permanent damage to the eyes.

4. Do not sunbathe before or after exposure to ultraviolet radiation from sunlamps.

5. Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician or *an advanced practice registered* nurse ~~practitioner~~ before using a sunlamp if you are using medication, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women using oral contraceptives who use this product may develop discolored skin.

IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN FROM USE OF THIS DEVICE.

§ 63.2-1808. Rights and responsibilities of residents of assisted living facilities; certification of licensure.

A. Any resident of an assisted living facility has the rights and responsibilities enumerated in this section. The operator or administrator of an assisted living facility shall establish written policies and procedures to ensure that, at the minimum, each person who becomes a resident of the assisted living facility:

1. Is fully informed, prior to or at the time of admission and during the resident's stay, of his rights and of all rules and expectations governing the resident's conduct, responsibilities, and the terms of the admission agreement; evidence of this shall be the resident's written acknowledgment of having been so informed, which shall be filed in his record;

2. Is fully informed, prior to or at the time of admission and during the resident's stay, of services available in the facility and of any related charges; this shall be reflected by the resident's signature on a current resident's agreement retained in the resident's file;

3. Unless a committee or conservator has been appointed, is free to manage his personal finances and funds regardless of source; is entitled to access to personal account statements reflecting financial transactions made on his behalf by the facility; and is given at least a quarterly accounting of financial transactions made on his behalf when a written delegation of responsibility to manage his financial affairs is made to the facility for any period of time in conformance with state law;

4. Is afforded confidential treatment of his personal affairs and records and may approve or refuse their release to any individual outside the facility except as otherwise provided in law and except in case of his transfer to another care-giving facility;

5. Is transferred or discharged only when provided with a statement of reasons, or for nonpayment for his stay, and is given reasonable advance notice; upon notice of discharge or upon giving reasonable advance notice of his desire to move, shall be afforded reasonable assistance to ensure an orderly transfer or discharge; such actions shall be documented in his record;

6. In the event a medical condition should arise while he is residing in the facility, is afforded the opportunity to participate in the planning of his program of care and medical treatment at the facility and the right to refuse treatment;

7. Is not required to perform services for the facility except as voluntarily contracted pursuant to a voluntary agreement for services that states the terms of consideration or remuneration and is documented in writing and retained in his record;

8. Is free to select health care services from reasonably available resources;

9. Is free to refuse to participate in human subject experimentation or to be party to research in which his identity may be ascertained;

10. Is free from mental, emotional, physical, sexual, and economic abuse or exploitation; is free from forced isolation, threats or other degrading or demeaning acts against him; and his known needs are not neglected or ignored by personnel of the facility;

11. Is treated with courtesy, respect, and consideration as a person of worth, sensitivity, and dignity;

12. Is encouraged, and informed of appropriate means as necessary, throughout the period of stay to exercise his rights as a resident and as a citizen; to this end, he is free to voice grievances and recommend changes in policies and services, free of coercion, discrimination, threats or reprisal;

13. Is permitted to retain and use his personal clothing and possessions as space permits unless to do so would infringe upon rights of other residents;

14. Is encouraged to function at his highest mental, emotional, physical and social potential;

15. Is free of physical or mechanical restraint except in the following situations and with appropriate safeguards:

a. As necessary for the facility to respond to unmanageable behavior in an emergency situation, which threatens the immediate safety of the resident or others;

b. As medically necessary, as authorized in writing by a physician, to provide physical support to a weakened resident;

16. Is free of prescription drugs except where medically necessary, specifically prescribed, and supervised by the attending physician, physician assistant, or *advanced practice registered* nurse ~~practitioner~~;

17. Is accorded respect for ordinary privacy in every aspect of daily living, including but not limited to the following:

a. In the care of his personal needs except as assistance may be needed;

b. In any medical examination or health-related consultations the resident may have at the facility;

c. In communications, in writing or by telephone;

d. During visitations with other persons;

e. In the resident's room or portion thereof; residents shall be permitted to have guests or other residents in their rooms unless to do so would infringe upon the rights of other residents; staff may not enter a resident's room without making their presence known except in an emergency or in accordance with safety oversight requirements included in regulations of the Board;

f. In visits with his spouse; if both are residents of the facility they are permitted but not required to share a room unless otherwise provided in the residents' agreements;

18. Is permitted to meet with and participate in activities of social, religious, and community groups at his discretion unless medically contraindicated as documented by his physician, physician assistant, or *advanced practice registered* nurse ~~practitioner~~ in his medical record;

19. Is fully informed, as evidenced by the written acknowledgment of the resident or his legal representative, prior to or at the time of admission and during his stay, that he should exercise whatever due diligence he deems necessary with respect to information on any sex offenders registered pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including how to obtain such information. Upon request, the assisted living facility shall assist the resident, prospective resident, or the legal representative of the resident or prospective resident in accessing this information and provide the resident, prospective resident, or the legal representative of the resident or prospective resident with printed copies of the requested information; and

20. Is informed, in writing and upon request, of whether the assisted living facility maintains the minimum liability coverage, as established by the Board pursuant to subdivision A 10 of § 63.2-1805.

B. If the resident is unable to fully understand and exercise the rights and responsibilities contained in this section, the facility shall require that a responsible individual, of the resident's choice when possible, designated in writing in the resident's record, be made aware of each item in this section and the decisions that affect the resident or relate to specific items in this section; a resident shall be assumed capable of understanding and exercising these rights unless a physician determines otherwise and documents the reasons for such determination in the resident's record.

C. The rights and responsibilities of residents shall be printed in at least 12-point type and posted conspicuously in a public place in all assisted living facilities. The facility shall also post the name and telephone number of the regional licensing supervisor of the Department, the Adult Protective Services' toll-free telephone number, as well as the toll-free telephone number for the Virginia Long-Term Care Ombudsman Program, any sub-state ombudsman program serving the area, and the toll-free number of the Commonwealth's designated protection and advocacy system.

D. The facility shall make its policies and procedures for implementing this section available and accessible to residents, relatives, agencies, and the general public.

E. The provisions of this section shall not be construed to restrict or abridge any right that any resident has under law.

F. Each facility shall provide appropriate staff training to implement each resident's rights included in this section.

G. The Board shall adopt regulations as necessary to carry out the full intent of this section.

H. It shall be the responsibility of the Commissioner to ensure that the provisions of this section are observed and implemented by assisted living facilities as a condition to the issuance, renewal, or continuation of the license required by this article.

§ 63.2-1808.1. Life-sharing communities.

A. For the purposes of this section:

"Life-sharing community" means a residential setting, operated by a nonprofit organization, that (i) offers a safe environment in free standing, self-contained homes for residents that have been determined by a licensed health-care professional as having at least one developmental disability; (ii) is an environment located in a community setting where residents participate in therapeutic activities including artistic crafts, stewardship of the land, and agricultural activities; (iii) consists of the residents as well as staff and volunteers who live together in residential homes; (iv) operates at a ratio of at least one staff member, volunteer, or supervising personnel for every three residents in each self-contained home household; and (v) has at least one supervisory staff member on premises to be responsible for the care, safety, and supervision of the residents at all times.

"Resident" means an individual who has been determined by a physician or *an advanced practice registered* nurse ~~practitioner~~ to have at least one developmental disability and who resides at the life-sharing community on a full-time basis.

"Volunteer" means an individual who resides in the life-sharing community on a full-time basis and who assists residents with their daily activities and receives no wages. A volunteer may receive a small stipend for personal expenses.

B. Any facility seeking to operate as a life-sharing community shall file with the Commissioner: (i) a statement of intent to operate as a life-sharing community; (ii) a certification that at the time of admission, a contract and written notice was provided to each resident and his legally authorized representative that includes a statement of disclosure that the facility is exempt from licensure as an "assisted living facility," and (iii) documentary evidence that such life-sharing community is a private nonprofit organization in accordance with 501(c)(3) of the Internal Revenue Code of 1954, as amended.

C. Upon filing an initial statement of intent to operate as a life-sharing community, and every two years thereafter, the life-sharing community shall certify that the local health department, building inspector, fire marshal, or other local official designated by the locality to enforce the Statewide Fire Prevention Code, and any other local official required by law to inspect the premises, have inspected the physical facilities of the life-sharing community and have determined that the facility is in compliance with all applicable laws and regulations with regard to food service activities, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code and the Uniform Statewide Building Code.

D. Upon filing an initial statement of intent to operate as a life-sharing community, and every two years thereafter, the life-sharing community shall provide the Commissioner documentary evidence that:

1. Life-sharing community staff and volunteers have completed a training program that includes instruction in personal care of residents, house management, and therapeutic activities;

2. Volunteers and staff have completed first aid and Cardio-Pulmonary Resuscitation training;

3. Each resident's needs are evaluated using the Uniform Assessment Instrument, and Individual Service Plans are developed for each resident annually;

4. The residents of the life-sharing community are each 21 years of age or older;

5. A criminal background check through the Criminal Records Exchange has been completed for each (i) full-time salaried staff member and (ii) volunteer as defined in this section.

E. A residential facility operating as a life-sharing facility shall be exempt from the licensing requirements of Article 1 (§ 63.2-1800 et seq.) of Chapter 18 of Title 63.2 applicable to assisted living facilities.

F. The Commissioner may perform unannounced on-site inspections of a life-sharing community to determine compliance with the provisions of this section and to investigate any complaint that the life-sharing community is not in compliance with the provisions of this section, or to otherwise ensure the health, safety, and welfare of the life-sharing community residents. The Commissioner may revoke the exemption from licensure pursuant to this chapter for any life-sharing community for serious or repeated violation of the requirements of this section and order that the facility cease operations or comply with the licensure requirements of an assisted living facility. If a life-sharing community does not file the statement and documentary evidence required by this section, the Commissioner shall give reasonable notice to such life-sharing community of the nature of its noncompliance and may thereafter take action as he determines appropriate, including a suit to enjoin the operation of the life-sharing community.

G. All life-sharing communities shall provide access to their facilities and residents by staff of community services boards and behavioral health authorities as defined in § 37.2-100 for the purpose of (i) assessing or evaluating, (ii) providing case management or other services or assistance, or (iii) monitoring the care of individuals receiving services who are residing in the facility. Such staff or contractual agents also shall be given reasonable access to other facility residents who have previously requested their services.

H. Any residents of any life-sharing community shall be accorded the same rights and responsibilities as residents in assisted living facilities as provided in subsections A through F of § 63.2-1808.

I. A life-sharing community shall not admit or retain individuals with any of the conditions or care needs as provided in subsection C of § 63.2-1805.

J. Notwithstanding § 63.2-1805, at the request of the resident, hospice care may be provided in a life-sharing community under the same requirements for hospice programs provided in Article 7 (§ 32.1-162.1 et seq.) of Chapter 5 of Title 32.1 if the hospice program determines that such a program is appropriate for the resident.

§ 63.2-2203. Grant application process; administration.

A. Grant applications shall be submitted by caregivers to the Department between February 1 and May 1 of the year following the calendar year in which the care for a mentally or physically impaired person was provided. Failure to meet the application deadline shall render the caregiver ineligible to receive a grant for care provided during such calendar year. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

B. Applications for grants shall include (i) proof of the caregiver's income and that of the caregiver's spouse, if applicable; (ii) certification by the private physician, licensed physician assistant pursuant to § 54.1-2951.2, or *advanced practice registered* nurse ~~practitioner~~ pursuant to § 54.1-2957.02 who has screened the mentally or physically impaired person and found him to be eligible, in accordance with relevant state regulations, for placement in an assisted-living facility or a nursing home or for receiving community long-term care services; (iii) the mentally or physically impaired person's place of residence; and (iv) such other relevant information as the Department may reasonably require. Any caregiver applying for the grant pursuant to this chapter shall affirm, by signing and submitting his application for a grant, that the mentally or physically impaired person for whom he provided care and the care provided meet the criteria set forth in this chapter. As a condition of receipt of a grant, a caregiver shall agree to make available to the Department for inspection, upon request, all relevant and applicable documents to determine whether the caregiver meets the requirements

for the receipt of grants as set forth in this chapter, and to consent to the use by the Department of all relevant information relating to eligibility for the requested grant.

C. The Department shall review applications for grants and determine eligibility and the amount of the grant to be allocated to each eligible caregiver. If the moneys in the Fund are less than the amount of grants to which applicants are eligible for caregiver services provided in the preceding calendar year, the moneys in the Fund shall be apportioned among eligible applicants pro rata, based upon the amount of the grant for which an applicant is eligible and the amount of money in the Fund.

D. The Department shall certify to the Comptroller the amount of grant to be allocated to eligible caregiver applicants. Payments shall be made by check issued by the State Treasurer on warrant of the Comptroller. The Comptroller shall not draw any warrants to issue checks for this program without a specific legislative appropriation as specified in conditions and restrictions on expenditures in the appropriation act.

E. Actions of the Department relating to the review, allocation and awarding of grants shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 4 of § 2.2-4002. Decisions of the Department shall be final and not subject to review or appeal.

§ 65.2-402.1. Presumption as to death or disability from infectious disease.

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter, or salaried or volunteer emergency medical services personnel; (ii) member of the State Police Officers' Retirement System; (iii) member of county, city, or town police departments; (iv) sheriff or deputy sheriff; (v) Department of Emergency Management hazardous materials officer; (vi) city sergeant or deputy city sergeant of the City of Richmond; (vii) Virginia Marine Police officer; (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (ix) Capitol Police officer; (x) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xii) officer of the police force established and maintained by the Norfolk Airport Authority; (xiii) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (xiv) sworn officer of the police force established and maintained by the Virginia Port Authority; (xv) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education; (xvi) correctional officer as defined in § 53.1-1; or (xvii) full-time sworn member of the enforcement division of the Department of Motor Vehicles who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this subsection, an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the person covered under this subsection gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time sworn member of the enforcement division of the Department of Motor Vehicles, the presumption shall not apply if such individual was diagnosed with hepatitis, meningococcal meningitis, or HIV before July 1, 2020.

B. 1. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any health care provider, as defined in § 8.01-581.1, who as part of the provider's employment is directly involved in diagnosing or treating persons known or suspected to have COVID-19, shall be presumed to be an occupational disease that is covered by this title unless such presumptions are overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19 and signs and symptoms of COVID-19 that require medical treatment, as described in subdivision F 2.

2. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) firefighter, as defined in § 65.2-102; (ii) law-enforcement officer, as defined in § 9.1-101; (iii) correctional officer, as defined in § 53.1-1; or (iv) regional jail officer shall be presumed to be an occupational disease, suffered in the line of duty, as applicable, that is covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment.

C. As used in this section:

"Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis, meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons.

"Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.

"HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or type II, causing immunodeficiency syndrome.

"Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV, means an exposure that occurs during the performance of job duties that places a covered employee at risk of infection.

D. Persons covered under this section who test positive for exposure to the enumerated occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical examination to measure the progress of the condition, if any, and any other medical treatment, prophylactic or otherwise.

E. 1. Whenever any standard, medically-recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is established under this section, if medically indicated by the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, a person subject to the provisions of this section may be required by such person's employer to undergo the immunization or prophylaxis unless the person's physician determines in writing that the immunization or prophylaxis would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization or prophylaxis shall disqualify the person from any presumption established by this section.

2. The presumptions described in subdivision B 1 shall not apply to any person offered by such person's employer a vaccine for the prevention of COVID-19 with an Emergency Use Authorization issued by the U.S. Food and Drug Administration, unless the person is immunized or the person's physician determines in writing that the immunization would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization shall disqualify the person from the presumptions described in subdivision B 1.

F. 1. The presumptions described in subsection A shall only apply if persons entitled to invoke them have, if requested by the appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions; (ii) were performed by physicians whose qualifications are as prescribed by the appointing authority or governing body employing such persons; (iii) included such appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may have prescribed; and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or HIV at the time of such examinations. The presumptions described in subsection A shall not be effective until six months following such examinations, unless such persons entitled to invoke such presumption can demonstrate a documented exposure during the six-month period.

2. The presumptions described in subdivision B 1 shall apply to any person entitled to invoke them for any death or disability occurring on or after March 12, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12, 2020, and prior to December 31, 2022, and;

a. Prior to July 1, 2020, the claimant received a positive diagnosis of COVID-19 from a licensed physician, *an advanced practice registered* nurse ~~practitioner~~, or *a* physician assistant after either (i) a presumptive positive test or a laboratory-confirmed test for COVID-19 and presenting with signs and symptoms of COVID-19 that required medical treatment, or (ii) presenting with signs and symptoms of COVID-19 that required medical treatment absent a presumptive positive test or a laboratory-confirmed test for COVID-19; or

b. On or after July 1, 2020, and prior to December 31, 2022, the claimant received a positive diagnosis of COVID-19 from a licensed physician, *an advanced practice registered* nurse ~~practitioner~~, or *a* physician assistant after a presumptive positive test or a laboratory-confirmed test for COVID-19 and presented with signs and symptoms of COVID-19 that required medical treatment.

3. The presumptions described in subdivision B 2 shall apply to any person entitled to invoke them for any death or disability occurring on or after July 1, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after July 1, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment.

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

§ 65.2-605. Liability of employer for medical services ordered by Commission; fee schedules for medical services; malpractice; assistants-at-surgery; coding.

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

"Burn center" means a treatment facility designated as a burn center pursuant to the verification program jointly administered by the American Burn Association and the American College of Surgeons and verified by the Commonwealth.

"Categories of providers of fee scheduled medical services" means:

1. Physicians exclusive of surgeons;

2. Surgeons;

3. Type One teaching hospitals;

4. Hospitals, exclusive of Type One teaching hospitals;

5. Ambulatory surgical centers;

6. Providers of outpatient medical services not covered by subdivision 1, 2, or 5; and

7. Purveyors of miscellaneous items and any other providers not described in subdivisions 1 through 6, as established by the Commission in regulations adopted pursuant to subsection C.

"Codes" means, as applicable, CPT codes, HCPCS codes, DRG classifications, or revenue codes.

"CPT codes" means the medical and surgical identifying codes using the Physicians' Current Procedural Terminology published by the American Medical Association.

"Diagnosis related group" or "DRG" means the system of classifying in-patient hospital stays adopted for use with the Inpatient Prospective Payment System.

"Fee scheduled medical service" means a medical service exclusive of a medical service provided in the treatment of a traumatic injury or serious burn.

"Health Care Common Procedure Coding System codes" or "HCPCS codes" means the medical coding system, including all subsets of codes by alphabetical letter, used to report hospital outpatient and certain physician services as published by the National Uniform Billing Committee, including Temporary National Code (Non-Medicare) S0000-S-9999.

"Level I or Level II trauma center" means a hospital in the Commonwealth designated by the Board of Health as a Level I trauma center or a Level II trauma center pursuant to the Statewide Emergency Medical Services Plan developed in accordance with § 32.1-111.3.

"Medical community" means one of the following six regions of the Commonwealth:

1. Northern region, consisting of the area for which three-digit ZIP code prefixes 201 and 220 through 223 have been assigned by the U.S. Postal Service.

2. Northwest region, consisting of the area for which three-digit ZIP code prefixes 224 through 229 have been assigned by the U.S. Postal Service.

3. Central region, consisting of the area for which three-digit ZIP code prefixes 230, 231, 232, 238, and 239 have been assigned by the U.S. Postal Service.

4. Eastern region, consisting of the area for which three-digit ZIP code prefixes 233 through 237 have been assigned by the U.S. Postal Service.

5. Near Southwest region, consisting of the area for which three-digit ZIP code prefixes 240, 241, 244, and 245 have been assigned by the U.S. Postal Service.

6. Far Southwest region, consisting of the area for which three-digit ZIP code prefixes 242, 243, and 246 have been assigned by the U.S. Postal Service.

The applicable community for providers of medical services rendered in the Commonwealth shall be determined by the zip code of the location where the services were rendered. The applicable community for providers of medical services rendered outside of the Commonwealth shall be determined by the zip code of the principal place of business of the employer if located in the Commonwealth or, if no such location exists, the zip code of the location where the Commission hearing regarding a dispute concerning the services would be conducted.

"Medical service" means any medical, surgical, or hospital service required to be provided to an injured person pursuant to this title.

"Medical service provided for the treatment of a serious burn" includes any professional service rendered during the dates of service of the admission or transfer to a burn center.

"Medical service provided for the treatment of a traumatic injury" includes any professional service rendered during the dates of service of the admission or transfer to a Level I or Level II trauma center.

"Miscellaneous items" means medical services provided under this title that are not included within subdivisions 1 through 6 of the definition of categories of providers of fee scheduled medical services. "Miscellaneous items" does not include (i) pharmaceuticals that are dispensed by providers, other than hospitals or Type One teaching hospitals as part of inpatient or outpatient medical services, or dispensed as part of fee scheduled medical services at an ambulatory surgical center or (ii) durable medical equipment dispensed at retail.

"New type of technology" means an item resulting or derived from an advance in medical technology, including an implantable medical device or an item of medical equipment, that is supplied by a third party, provided that the item has been cleared or approved by the federal Food and Drug Administration (FDA) after the transition date and prior to the date of the provision of the medical service using the item.

"Physician" means a person licensed to practice medicine or osteopathy in the Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1.

"Professional service" means any medical or surgical service required to be provided to an injured person pursuant to this title that is provided by a physician or any health care practitioner licensed, accredited, or certified to perform the service consistent with state law.

"Provider" means a person licensed by the Commonwealth to provide a medical service to a claimant under this title.

"Reimbursement objective" means the average of all reimbursements and other amounts paid to providers in the same category of providers of fee scheduled medical services in the same medical community for providing a fee scheduled

medical service to a claimant under this title during the most recent period preceding the transition date for which statistically reliable data is available as determined by the Commission.

"Revenue codes" means a method of coding used by hospitals or health care systems to identify the department in which medical service was rendered to the patient or the type of item or equipment used in the delivery of medical services.

"Serious burn" means a burn for which admission or transfer to a burn center is medically necessary.

"Transition date" means the date the regulations of the Commission adopting initial Virginia fee schedules for medical services pursuant to subsection C become effective.

"Traumatic injury" means an injury for which admission or transfer to a Level I or Level II trauma center is medically necessary and that is assigned a DRG number of 003, 004, 011, 012, 013, 025 through 029, 082, 085, 453, 454, 455, 459, 460, 463, 464, 465, 474, 475, 483, 500, 507, 510, 515, 516, 570, 856, 857, 862, 901, 904, 907, 908, 955 through 959, 963, 998, or 999. Claimants who die in an emergency room of trauma or burn before admission shall be deemed to be claimants who incurred a traumatic injury.

"Type One teaching hospital" means a hospital that was a state-owned teaching hospital on January 1, 1996.

"Virginia fee schedule" means a schedule of maximum fees for fee scheduled medical services for the medical community where the fee scheduled medical service is provided, as initially adopted by the Commission pursuant to subsection C and as adjusted as provided in subsection D.

B. The pecuniary liability of the employer for a:

1. Medical, surgical, and hospital service herein required when ordered by the Commission that is provided to an injured person prior to the transition date, regardless of the date of injury, shall be limited absent a contract providing otherwise, to such charges as prevail in the same community for similar treatment when such treatment is paid for by the injured person. As used in this subdivision, "same community" for providers of medical services rendered outside of the Commonwealth shall be deemed to be the principal place of business of the employer if located in the Commonwealth or, if no such location exists, the location where the Commission hearing regarding the dispute is conducted;

2. Fee scheduled medical service provided on or after the transition date, regardless of the date of injury, shall be limited to:

a. The amount provided for the payment for the fee scheduled medical service as set forth in a contract under which the provider has agreed to accept a specified amount in payment for the service provided, which amount may be less than or exceed the maximum amount for the service as set forth in the applicable Virginia fee schedule;

b. In the absence of a contract described in subdivision 2 a, the lesser of the billing amount or the amount for the fee scheduled medical service as set forth in the applicable Virginia fee schedule that is in effect on the date the service is provided, subject to an increase approved by the Commission pursuant to subsection H; or

c. In the absence of (i) a contract described in subdivision 2 a and (ii) a provision in a Virginia fee schedule that sets forth a maximum amount for the medical service on the date it is provided, the maximum amount determined by the Commission as provided in subsection E; and

3. Medical service provided on or after the transition date for the treatment of a traumatic injury or serious burn, regardless of the date of injury, shall be limited to:

a. The amount provided for the payment for the medical service provided for the treatment of the traumatic injury or serious burn as set forth in a contract under which the provider has agreed to accept a specified amount in payment for the service provided, which amount may be less than or exceed the maximum amount for the service calculated pursuant to subdivision 3 b; or

b. In the absence of a contract described in subdivision 3 a, an amount equal to 80 percent of the provider's charge for the service based on the provider's charge master or schedule of fees; however, if the compensability under this title of a claim for traumatic injury or serious burn is contested and after a hearing on the claim on its merits or after abandonment of a defense by the employer or insurance carrier, benefits for medical services are awarded and inure to the benefit of a third-party insurance carrier or health care provider and the Commission awards to the claimant's attorney a fee pursuant to subsection B of § 65.2-714, then the pecuniary liability of the employer for the service provided shall be limited to 100 percent of the provider's charge for the service based on the provider's charge master or schedule of fees.

C. The Commission shall adopt regulations establishing initial Virginia fee schedules for fee scheduled medical services as follows:

1. The Commission's regulations that establish the initial Virginia fee schedules shall be effective on January 1, 2018.

2. Separate initial Virginia fee schedules shall be established for fee scheduled medical services (i) provided by each category of providers of fee scheduled medical services and (ii) within each of the medical communities to reflect the variations among the medical communities as provided in subdivision 3, for each category of providers of fee scheduled medical services.

3. The Virginia fee schedules for each medical community shall reflect variations among medical communities in (i) all reimbursements and other amounts paid to providers for fee scheduled medical services among the medical communities and (ii) the extent to which the number of providers within the various medical communities is adequate to meet the needs of injured workers.

4. In establishing the initial Virginia fee schedules for fee scheduled medical services, the Commission shall establish the maximum fee for each fee scheduled medical service at a level that approximates the reimbursement objective for each category of providers of fee scheduled medical services among the medical communities. The Commission shall retain a

firm with nationwide experience and actuarial expertise in the development of workers' compensation fee schedules to assist the Commission in establishing the initial Virginia fee schedules. The Commission shall consult with the regulatory advisory panel established pursuant to subdivision F 2 prior to retaining such firm. Such firm shall be retained to assist the Commission in developing the Virginia fee schedules by recommending a methodology that will provide, at reasonable cost to the Commission, statistically valid estimates of the reimbursement objective for fee scheduled medical services within the medical communities, based on available data or, if the necessary data is not available, by recommending the optimal methodology for obtaining the necessary data. The Commission shall consult with the regulatory advisory panel prior to adopting any such methodology. Such methodology may, but is not required to, be based on applicable codes. The estimates of the reimbursement objective for fee scheduled medical services shall be derived from data on all reimbursements and other amounts paid to providers for fee scheduled medical services provided pursuant to this title during 2014 and 2015, to the extent available.

D. The Commission shall review Virginia fee schedules during the year that follows the transition date and biennially thereafter and, if necessary, adjust the Virginia fee schedules in order to address (i) inflation or deflation as reflected in the medical care component of the Consumer Price Index for All Urban Consumers (CPI-U) for the South as published by the Bureau of Labor Statistics of the U.S. Department of Labor; (ii) access to fee scheduled medical services; (iii) errors in calculations made in preparing the Virginia fee schedules; and (iv) incentives for providers. The Commission shall not adjust a Virginia fee schedule in a manner that reduces fees on an existing schedule unless such a reduction is based on deflation or a finding by the Commission that advances in technology or errors in calculations made in preparing the Virginia fee schedules justify a reduction in fees.

E. The maximum pecuniary liability of the employer for a fee scheduled medical service that is not included in a Virginia fee schedule when it is provided shall be determined by the Commission. The Commission's determination of the employer's maximum pecuniary liability for such fee scheduled medical service shall be effective until the Commission sets a maximum fee for the fee scheduled medical service and incorporates such maximum fee into an adjusted Virginia fee schedule adopted pursuant to subsection D. If the fee scheduled medical service is not included in a Virginia fee schedule because it is:

1. A new type of technology, the employer's maximum pecuniary liability shall not exceed 130 percent of the provider's invoiced cost for such device, as evidenced by a copy of the invoice. If the new type of technology has not been cleared or approved by the FDA prior to such date, then the provider shall not be entitled to payment or reimbursement therefor unless the employer or its insurer agree; or

2. A new type of procedure that has not been assigned a billing code, the employer's maximum pecuniary liability shall not exceed 80 percent of the provider's charge for the service based on the provider's charge master or schedule of fees, provided the employer and the provider mutually agree to the provision of such procedure.

F. The Commission shall:

1. Provide public access to information regarding the Virginia fee schedules for medical services, by categories of providers of fee scheduled medical services and for each medical community, through the Commission's website. No information provided on the website shall be provider-specific or disclose or release the identity of any provider; and

2. Utilize a 10-member regulatory advisory panel to assist in the development of regulations adopting initial Virginia fee schedules pursuant to subsection C, in adjusting initial Virginia fee schedules pursuant to subsection D, and on all matters involving or related to the fee schedule as deemed necessary by the Commission. One member of the regulatory advisory panel shall be selected by the Commission from each of the following: (i) the American Insurance Association; (ii) the Property and Casualty Insurers Association of America; (iii) the Virginia Self-Insurers Association, Inc.; (iv) the Medical Society of Virginia; (v) the Virginia Hospital and Healthcare Association; (vi) a Type One teaching hospital; (vii) the Virginia Orthopaedic Society; (viii) the Virginia Trial Lawyers Association; (ix) a group self-insurance association representing employers; and (x) a local government group self-insurance pool formed under Chapter 27 (§ 15.2-2700 et seq.) of Title 15.2. The Commission shall meet with the regulatory advisory panel and consider the recommendations of its members in its development of the Virginia fee schedules pursuant to subsections C and D.

G. The Commission's retaining of a firm with nationwide experience and actuarial expertise in the development of workers' compensation fee schedules to assist the Commission in developing the Virginia fee schedules pursuant to subsections C and D shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), provided the Commission shall issue a request for proposals that requires submission by a bidder of evidence that it satisfies the conditions for eligibility established in this subsection and in subdivision C 4. Records and information relating to payments or reimbursements to providers that is obtained by or furnished to the Commission by such firm or any other person shall (i) be for the exclusive use of the Commission in the course of the Commission's development of fee schedules and related regulations and (ii) shall remain confidential and shall not be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

H. When the total charges of a hospital or Type One teaching hospital, based on such provider's charge master, for inpatient hospital services covered by a DRG code exceed the charge outlier threshold, then the Commission shall establish the maximum fee for such scheduled inpatient hospital services at an amount equal to the total of (i) the maximum fee for the service as set forth in the applicable fee schedule and (ii) initially equal to 80 percent of the provider's total charges for the service in excess of the charge outlier threshold. The charge outlier threshold for such services initially shall equal 300 percent of the maximum fee for the service set forth in the applicable fee schedule; however, the Commission, in

consultation with the firm retained pursuant to subdivision C 4, is authorized on a biennial basis to adjust such percentage if it finds that the number of such claims for which the total charges of the hospital or Type One teaching hospital exceed the charge outlier threshold is less than five percent or to increase such percentage if such number is greater than 10 percent of all such claims.

I. No provider shall use a different charge master or schedule of fees for any medical service provided under this title than the provider uses for health care services provided to patients who are not claimants under this title.

J. The employer shall not be liable in damages for malpractice by a physician or surgeon furnished by him pursuant to the provisions of § 65.2-603, but the consequences of any such malpractice shall be deemed part of the injury resulting from the accident and shall be compensated for as such.

K. The Commission shall determine the number and geographic area of communities across the Commonwealth. In establishing the communities, the Commission shall consider the ability to obtain relevant data based on geographic area and such other criteria as are consistent with the purposes of this title. The Commission shall use the communities established pursuant to this subsection in determining charges that prevail in the same community for treatment provided prior to the transition date.

L. The pecuniary liability of the employer for treatment of a medical service that is rendered on or after July 1, 2014, by:

1. ~~A~~ *An advanced practice registered* nurse ~~practitioner~~ or physician assistant serving as an assistant-at-surgery shall be limited to no more than 20 percent of the reimbursement due to the physician performing the surgery; and

2. An assistant surgeon in the same specialty as the primary surgeon shall be limited to no more than 50 percent of the reimbursement due to the primary physician performing the surgery.

M. Multiple procedures completed on a single surgical site associated with a medical service rendered on or after July 1, 2014, shall be coded and billed with appropriate CPT codes and modifiers and paid according to the National Correct Coding Initiative rules and the CPT codes as in effect at the time the health care was provided to the claimant.

N. The CPT code and National Correct Coding Initiative rules, as in effect at the time a medical service was provided to the claimant, shall serve as the basis for processing a health care provider's billing form or itemization for such items as global and comprehensive billing and the unbundling of medical services. Hospital in-patient medical services shall be coded and billed through the International Statistical Classification of Diseases and Related Health Problems as in effect at the time the medical service was provided to the claimant.

CHAPTER 184

An Act to amend and reenact § 32.1-330 of the Code of Virginia, relating to long-term services and supports screening; screening after admission; coverage of institutional long-term services and supports.

[H 1681]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-330 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-330. Long-term services and supports screening required.

A. As used in this section, "acute care hospital" includes an acute care hospital, a rehabilitation hospital, a rehabilitation unit in an acute care hospital, or a psychiatric unit in an acute care hospital.

B. Every individual who applies for or requests community or institutional long-term services and supports as defined in the state plan for medical assistance services may choose to receive services in a community or institutional setting. Every individual who applies for or requests community or institutional long-term services and supports shall be afforded the opportunity to choose the setting and provider of long-term services and supports.

C. Every individual who applies for or requests community or institutional long-term services and supports shall be screened prior to admission to such community or institutional long-term services and supports to determine his need for long-term services and supports, including nursing facility services as defined in the state plan for medical assistance services. The type of long-term services and supports screening performed shall not limit the long-term services and supports settings or providers for which the individual is eligible.

D. If an individual who applies for or requests long-term services and supports as defined in the state plan for medical assistance services is residing in a community setting at the time of such application or request, the screening for long-term services and supports required pursuant to subsection C shall be completed by a long-term services and supports screening team that includes a nurse, social worker or other assessor designated by the Department who is an employee of the Department of Health or the local department of social services and a physician who is employed or engaged by the Department of Health.

E. If an individual who applies for or requests long-term services and supports as defined in the state plan for medical assistance services is receiving inpatient services in an acute care hospital at the time of such application or request and will begin receiving long-term services and supports as defined in the state plan for medical assistance services pursuant to a discharge order from an acute care hospital, the screening for long-term services and supports required pursuant to subsection C shall be completed by the acute care hospital in accordance with the screening requirements established by the Department.

F. If an individual who applies for or requests long-term services and supports as defined in the state plan for medical assistance services is receiving skilled nursing services that are not covered by the Commonwealth's program of medical assistance services in an institutional setting following discharge from an acute care hospital, the Department shall require qualified staff of the skilled nursing institution to conduct the long-term services and supports screening in accordance with the requirements established by the Department, with the results certified by a physician prior to the initiation of long-term services and supports under the state plan for medical assistance services.

G. *If an individual is admitted to a skilled nursing facility for skilled nursing services and such individual was not screened but is subsequently determined to have been required to be screened prior to admission to the skilled nursing facility, then the qualified staff designated in subsection F may conduct a screening after admission. Coverage of institutional long-term services and supports under this subsection by the Commonwealth's program of medical assistance services indicated by the screening shall not begin until six months after the initial admission to the skilled nursing facility. During this six-month period, the nursing home in which the individual resides shall be responsible for all costs indicated for institutional long-term services and supports that would otherwise have been covered by the Commonwealth's program of medical assistance services, without accessing patient funds. Six months after the date of admission to the skilled nursing facility, and as indicated through the eligibility determination, the Commonwealth's program of medical assistance services shall assume coverage of such services. To the extent that sufficient evidence is provided to indicate that the admission without screening was of no fault of the skilled nursing facility, the Department shall begin coverage of institutional long-term services and supports under this subsection by the Commonwealth's program of medical assistance services immediately upon the completion of the functional screening indicating nursing facility level of care pending the financial eligibility determination.*

H. In any jurisdiction in which a long-term services and supports screening team described in subsection D or E has failed or is unable to perform the long-term services and supports screenings required by subsection D or E within 30 days of receipt of the individual's application or request for long-term services and supports under the state plan, the Department shall enter into contracts with other public or private entities to conduct such long-term services and supports screenings in addition to or in lieu of the long-term services and supports screening teams described in subsections D and E.

~~H.~~ *I.* The Department shall require all individuals who perform long-term services and supports screenings pursuant to this section to receive training on and be certified in the use of the long-term services and supports screening tool for eligibility for community or institutional long-term services and supports provided in accordance with the state plan for medical assistance services prior to conducting such long-term services and supports screenings.

~~I.~~ *J.* The Department shall report annually by August 1 to the Governor and the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health regarding (i) the number of long-term services and supports screenings for eligibility for community and institutional long-term services and supports conducted pursuant to this section and (ii) the number of cases in which the Department or the public or private entity with which the Department has entered into a contract to conduct such long-term services and supports screenings fails to complete such long-term services and supports screenings within 30 days.

2. That the Department of Medical Assistance Services shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

CHAPTER 185

An Act to amend and reenact § 32.1-330 of the Code of Virginia, relating to long-term services and supports screening; screening after admission; coverage of institutional long-term services and supports.

[S 1457]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-330 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-330. Long-term services and supports screening required.

A. As used in this section, "acute care hospital" includes an acute care hospital, a rehabilitation hospital, a rehabilitation unit in an acute care hospital, or a psychiatric unit in an acute care hospital.

B. Every individual who applies for or requests community or institutional long-term services and supports as defined in the state plan for medical assistance services may choose to receive services in a community or institutional setting. Every individual who applies for or requests community or institutional long-term services and supports shall be afforded the opportunity to choose the setting and provider of long-term services and supports.

C. Every individual who applies for or requests community or institutional long-term services and supports shall be screened prior to admission to such community or institutional long-term services and supports to determine his need for long-term services and supports, including nursing facility services as defined in the state plan for medical assistance services. The type of long-term services and supports screening performed shall not limit the long-term services and supports settings or providers for which the individual is eligible.

D. If an individual who applies for or requests long-term services and supports as defined in the state plan for medical assistance services is residing in a community setting at the time of such application or request, the screening for long-term

services and supports required pursuant to subsection C shall be completed by a long-term services and supports screening team that includes a nurse, social worker or other assessor designated by the Department who is an employee of the Department of Health or the local department of social services and a physician who is employed or engaged by the Department of Health.

E. If an individual who applies for or requests long-term services and supports as defined in the state plan for medical assistance services is receiving inpatient services in an acute care hospital at the time of such application or request and will begin receiving long-term services and supports as defined in the state plan for medical assistance services pursuant to a discharge order from an acute care hospital, the screening for long-term services and supports required pursuant to subsection C shall be completed by the acute care hospital in accordance with the screening requirements established by the Department.

F. If an individual who applies for or requests long-term services and supports as defined in the state plan for medical assistance services is receiving skilled nursing services that are not covered by the Commonwealth's program of medical assistance services in an institutional setting following discharge from an acute care hospital, the Department shall require qualified staff of the skilled nursing institution to conduct the long-term services and supports screening in accordance with the requirements established by the Department, with the results certified by a physician prior to the initiation of long-term services and supports under the state plan for medical assistance services.

G. *If an individual is admitted to a skilled nursing facility for skilled nursing services and such individual was not screened but is subsequently determined to have been required to be screened prior to admission to the skilled nursing facility, then the qualified staff designated in subsection F may conduct a screening after admission. Coverage of institutional long-term services and supports under this subsection by the Commonwealth's program of medical assistance services indicated by the screening shall not begin until six months after the initial admission to the skilled nursing facility. During this six-month period, the nursing home in which the individual resides shall be responsible for all costs indicated for institutional long-term services and supports that would otherwise have been covered by the Commonwealth's program of medical assistance services, without accessing patient funds. Six months after the date of admission to the skilled nursing facility, and as indicated through the eligibility determination, the Commonwealth's program of medical assistance services shall assume coverage of such services. To the extent that sufficient evidence is provided to indicate that the admission without screening was of no fault of the skilled nursing facility, the Department shall begin coverage of institutional long-term services and supports under this subsection by the Commonwealth's program of medical assistance services immediately upon the completion of the functional screening indicating nursing facility level of care pending the financial eligibility determination.*

H. In any jurisdiction in which a long-term services and supports screening team described in subsection D or E has failed or is unable to perform the long-term services and supports screenings required by subsection D or E within 30 days of receipt of the individual's application or request for long-term services and supports under the state plan, the Department shall enter into contracts with other public or private entities to conduct such long-term services and supports screenings in addition to or in lieu of the long-term services and supports screening teams described in subsections D and E.

~~H.~~ *I.* The Department shall require all individuals who perform long-term services and supports screenings pursuant to this section to receive training on and be certified in the use of the long-term services and supports screening tool for eligibility for community or institutional long-term services and supports provided in accordance with the state plan for medical assistance services prior to conducting such long-term services and supports screenings.

~~I.~~ *J.* The Department shall report annually by August 1 to the Governor and the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health regarding (i) the number of long-term services and supports screenings for eligibility for community and institutional long-term services and supports conducted pursuant to this section and (ii) the number of cases in which the Department or the public or private entity with which the Department has entered into a contract to conduct such long-term services and supports screenings fails to complete such long-term services and supports screenings within 30 days.

2. That the Department of Medical Assistance Services shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

CHAPTER 186

An Act to amend and reenact § 38.2-3412.1 of the Code of Virginia, relating to health insurance; coverage for mental health benefits; mobile crisis response services and residential crisis stabilization units.

[H 2216]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3412.1 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3412.1. Coverage for mental health and substance use disorders.

A. As used in this section:

"Adult" means any person who is 19 years of age or older.

"Alcohol or drug rehabilitation facility" means a facility in which a state-approved program for the treatment of alcoholism or drug addiction is provided. The facility shall be either (i) licensed by the State Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 or (ii) a state agency or institution.

"Child or adolescent" means any person under the age of 19 years.

"Inpatient treatment" means mental health or substance abuse services delivered on a 24-hour per day basis in a hospital, alcohol or drug rehabilitation facility, an intermediate care facility or an inpatient unit of a mental health treatment center.

"Intermediate care facility" means a licensed, residential public or private facility that is not a hospital and that is operated primarily for the purpose of providing a continuous, structured 24-hour per day, state-approved program of inpatient substance abuse services.

"Medication management visit" means a visit no more than 20 minutes in length with a licensed physician or other licensed health care provider with prescriptive authority for the sole purpose of monitoring and adjusting medications prescribed for mental health or substance abuse treatment.

"Mental health services" or "mental health benefits" means benefits with respect to items or services for mental health conditions as defined under the terms of the health benefit plan. Any condition defined by the health benefit plan as being or as not being a mental health condition shall be defined to be consistent with generally recognized independent standards of current medical practice.

"Mental health treatment center" means a treatment facility organized to provide care and treatment for mental illness through multiple modalities or techniques pursuant to a written plan approved and monitored by a physician, clinical psychologist, or a psychologist licensed to practice in this Commonwealth. The facility shall be (i) licensed by the Commonwealth, (ii) funded or eligible for funding under federal or state law, or (iii) affiliated with a hospital under a contractual agreement with an established system for patient referral.

"Mobile crisis response services" means services delivered to provide for rapid response to, assessment of, and early intervention for individuals experiencing an acute mental health crisis that are deployed at the location of the individual.

"Network adequacy" means access to services by measure of distance, time, and average length of referral to scheduled visit.

"Outpatient treatment" means mental health or substance abuse treatment services rendered to a person as an individual or part of a group while not confined as an inpatient. Such treatment shall not include services delivered through a partial hospitalization or intensive outpatient program as defined herein.

"Partial hospitalization" means a licensed or approved day or evening treatment program that includes the major diagnostic, medical, psychiatric and psychosocial rehabilitation treatment modalities designed for patients with mental, emotional, or nervous disorders, and alcohol or other drug dependence who require coordinated, intensive, comprehensive and multi-disciplinary treatment. Such a program shall provide treatment over a period of six or more continuous hours per day to individuals or groups of individuals who are not admitted as inpatients. Such term shall also include intensive outpatient programs for the treatment of alcohol or other drug dependence which provide treatment over a period of three or more continuous hours per day to individuals or groups of individuals who are not admitted as inpatients.

"Residential crisis stabilization unit" means a short-term residential program providing support and stabilization for individuals who are experiencing an acute mental health crisis.

"Substance abuse services" or "substance use disorder benefits" means benefits with respect to items or services for substance use disorders as defined under the terms of the health benefit plan. Any disorder defined by the health benefit plan as being or as not being a substance use disorder shall be defined to be consistent with generally recognized independent standards of current medical practice.

"Treatment" means services including diagnostic evaluation, medical, psychiatric and psychological care, and psychotherapy for mental, emotional or nervous disorders or alcohol or other drug dependence rendered by a hospital, alcohol or drug rehabilitation facility, intermediate care facility, mental health treatment center, a physician, psychologist, clinical psychologist, licensed clinical social worker, licensed professional counselor, licensed substance abuse treatment practitioner, licensed marriage and family therapist or clinical nurse specialist. Treatment for physiological or psychological dependence on alcohol or other drugs shall also include the services of counseling and rehabilitation as well as services rendered by a state certified alcoholism, drug, or substance abuse counselor or substance abuse counseling assistant, limited to the scope of practice set forth in § 54.1-3507.1 or 54.1-3507.2, respectively, employed by a facility or program licensed to provide such treatment.

B. Except as provided in subsections C and D, group and individual health insurance coverage, as defined in § 38.2-3431, shall provide *coverage for* mental health and substance use disorder benefits. Such benefits shall be in parity with the medical and surgical benefits contained in the coverage in accordance with the federal Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), P.L. 110-343, even where those requirements would not otherwise apply directly. *Coverage required under this subsection shall include mobile crisis response services and support and stabilization services provided in a residential crisis stabilization unit to the extent that such services are covered in other settings or modalities, regardless of any difference in billing codes.*

C. Any grandfathered plan as defined in § 38.2-3438 in the small group market shall either continue to provide benefits in accordance with subsection B or continue to provide coverage for inpatient and partial hospitalization mental health and substance abuse services as follows:

1. Treatment for an adult as an inpatient at a hospital, inpatient unit of a mental health treatment center, alcohol or drug rehabilitation facility or intermediate care facility for a minimum period of 20 days per policy or contract year.

2. Treatment for a child or adolescent as an inpatient at a hospital, inpatient unit of a mental health treatment center, alcohol or drug rehabilitation facility or intermediate care facility for a minimum period of 25 days per policy or contract year.

3. Up to 10 days of the inpatient benefit set forth in subdivisions 1 and 2 of this subsection may be converted when medically necessary at the option of the person or the parent, as defined in § 16.1-336, of a child or adolescent receiving such treatment to a partial hospitalization benefit applying a formula which shall be no less favorable than an exchange of 1.5 days of partial hospitalization coverage for each inpatient day of coverage. An insurance policy or subscription contract described herein that provides inpatient benefits in excess of 20 days per policy or contract year for adults or 25 days per policy or contract year for a child or adolescent may provide for the conversion of such excess days on the terms set forth in this subdivision.

4. The limits of the benefits set forth in this subsection shall not be more restrictive than for any other illness, except that the benefits may be limited as set out in this subsection.

5. This subsection shall not apply to any excepted benefits policy as defined in § 38.2-3431, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

D. Any grandfathered plan as defined in § 38.2-3438 in the small group market shall also either continue to provide benefits in accordance with subsection B or continue to provide coverage for outpatient mental health and substance abuse services as follows:

1. A minimum of 20 visits for outpatient treatment of an adult, child or adolescent shall be provided in each policy or contract year.

2. The limits of the benefits set forth in this subsection shall be no more restrictive than the limits of benefits applicable to physical illness; however, the coinsurance factor applicable to any outpatient visit beyond the first five of such visits covered in any policy or contract year shall be at least 50 percent.

3. For the purpose of this section, medication management visits shall be covered in the same manner as a medication management visit for the treatment of physical illness and shall not be counted as an outpatient treatment visit in the calculation of the benefit set forth herein.

4. For the purpose of this subsection, if all covered expenses for a visit for outpatient mental health or substance abuse treatment apply toward any deductible required by a policy or contract, such visit shall not count toward the outpatient visit benefit maximum set forth in the policy or contract.

5. This subsection shall not apply to any excepted benefits policy as defined in § 38.2-3431, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

E. The requirements of this section shall apply to all insurance policies and subscription contracts delivered, issued for delivery, reissued, renewed, or extended, or at any time when any term of the policy or contract is changed or any premium adjustment made.

F. The provisions of this section shall not apply in any instance in which the provisions of this section are inconsistent or in conflict with a provision of Article 6 (§ 38.2-3438 et seq.) of Chapter 34.

G. The Bureau of Insurance, in consultation with health carriers providing coverage for mental health and substance use disorder benefits pursuant to this section, shall develop reporting requirements regarding denied claims, complaints, appeals, and network adequacy involving such coverage set forth in this section. By November 1 of each year, the Bureau shall compile the information for the preceding year into a report that ensures the confidentiality of individuals whose information has been reported and is written in nontechnical, readily understandable language. The Bureau shall include in the report a summary of all comparative analyses prepared by health carriers pursuant to 42 U.S.C. § 300gg-26(a)(8) that the Bureau requested during the reporting period. This summary shall include the Bureau's explanation of whether the analyses were accepted as compliant, rejected as noncompliant, or are in process of review. For analyses that were noncompliant, the report shall include the corrective actions that the Bureau required the health carrier to take to come into compliance. The Bureau shall make the report available to the public by, among such other means as the Bureau finds appropriate, posting the reports on the Bureau's website and submit the report to the House Committee on Commerce and Energy and the Senate Committee on Commerce and Labor.

2. That the provisions of this act shall apply to all insurance policies, subscription contracts, and health care plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2024, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

3. That the State Corporation Commission (the Commission), in consultation with the Secretary of Health and Human Resources, shall convene a work group, including the Commissioner of Behavioral Health and Developmental Services or his designee, representatives from the Virginia Association of Community Services Boards, the Virginia Association of Community-Based Providers, and the Virginia Association of Health Plans, and

other stakeholders as determined by the Commission to examine network standards for mobile crisis response services and the current availability of mobile crisis response services in the Commonwealth. The work group shall make recommendations regarding (i) the definition and standards of care for mobile crisis response services and short-term residential crisis stabilization services as they apply to the commercial insurance market, including balance billing protections; (ii) the licensure or accreditation required for such services in the Commonwealth; and (iii) how cost-sharing and deductibles will be addressed as part of accessing such services for commercially insured individuals. The Commission shall report the findings of the work group to the Health Insurance Reform Commission and the Governor no later than September 1, 2023.

CHAPTER 187

An Act to amend and reenact § 38.2-3412.1 of the Code of Virginia, relating to health insurance; coverage for mental health benefits; mobile crisis response services and residential crisis stabilization units.

[S 1347]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3412.1 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3412.1. Coverage for mental health and substance use disorders.

A. As used in this section:

"Adult" means any person who is 19 years of age or older.

"Alcohol or drug rehabilitation facility" means a facility in which a state-approved program for the treatment of alcoholism or drug addiction is provided. The facility shall be either (i) licensed by the State Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 or (ii) a state agency or institution.

"Child or adolescent" means any person under the age of 19 years.

"Inpatient treatment" means mental health or substance abuse services delivered on a 24-hour per day basis in a hospital, alcohol or drug rehabilitation facility, an intermediate care facility or an inpatient unit of a mental health treatment center.

"Intermediate care facility" means a licensed, residential public or private facility that is not a hospital and that is operated primarily for the purpose of providing a continuous, structured 24-hour per day, state-approved program of inpatient substance abuse services.

"Medication management visit" means a visit no more than 20 minutes in length with a licensed physician or other licensed health care provider with prescriptive authority for the sole purpose of monitoring and adjusting medications prescribed for mental health or substance abuse treatment.

"Mental health services" or "mental health benefits" means benefits with respect to items or services for mental health conditions as defined under the terms of the health benefit plan. Any condition defined by the health benefit plan as being or as not being a mental health condition shall be defined to be consistent with generally recognized independent standards of current medical practice.

"Mental health treatment center" means a treatment facility organized to provide care and treatment for mental illness through multiple modalities or techniques pursuant to a written plan approved and monitored by a physician, clinical psychologist, or a psychologist licensed to practice in this Commonwealth. The facility shall be (i) licensed by the Commonwealth, (ii) funded or eligible for funding under federal or state law, or (iii) affiliated with a hospital under a contractual agreement with an established system for patient referral.

"Mobile crisis response services" means services delivered to provide for rapid response to, assessment of, and early intervention for individuals experiencing an acute mental health crisis that are deployed at the location of the individual.

"Network adequacy" means access to services by measure of distance, time, and average length of referral to scheduled visit.

"Outpatient treatment" means mental health or substance abuse treatment services rendered to a person as an individual or part of a group while not confined as an inpatient. Such treatment shall not include services delivered through a partial hospitalization or intensive outpatient program as defined herein.

"Partial hospitalization" means a licensed or approved day or evening treatment program that includes the major diagnostic, medical, psychiatric and psychosocial rehabilitation treatment modalities designed for patients with mental, emotional, or nervous disorders, and alcohol or other drug dependence who require coordinated, intensive, comprehensive and multi-disciplinary treatment. Such a program shall provide treatment over a period of six or more continuous hours per day to individuals or groups of individuals who are not admitted as inpatients. Such term shall also include intensive outpatient programs for the treatment of alcohol or other drug dependence which provide treatment over a period of three or more continuous hours per day to individuals or groups of individuals who are not admitted as inpatients.

"Residential crisis stabilization unit" means a short-term residential program providing support and stabilization for individuals who are experiencing an acute mental health crisis.

"Substance abuse services" or "substance use disorder benefits" means benefits with respect to items or services for substance use disorders as defined under the terms of the health benefit plan. Any disorder defined by the health benefit plan as being or as not being a substance use disorder shall be defined to be consistent with generally recognized independent standards of current medical practice.

"Treatment" means services including diagnostic evaluation, medical, psychiatric and psychological care, and psychotherapy for mental, emotional or nervous disorders or alcohol or other drug dependence rendered by a hospital, alcohol or drug rehabilitation facility, intermediate care facility, mental health treatment center, a physician, psychologist, clinical psychologist, licensed clinical social worker, licensed professional counselor, licensed substance abuse treatment practitioner, licensed marriage and family therapist or clinical nurse specialist. Treatment for physiological or psychological dependence on alcohol or other drugs shall also include the services of counseling and rehabilitation as well as services rendered by a state certified alcoholism, drug, or substance abuse counselor or substance abuse counseling assistant, limited to the scope of practice set forth in § 54.1-3507.1 or 54.1-3507.2, respectively, employed by a facility or program licensed to provide such treatment.

B. Except as provided in subsections C and D, group and individual health insurance coverage, as defined in § 38.2-3431, shall provide *coverage for* mental health and substance use disorder benefits. Such benefits shall be in parity with the medical and surgical benefits contained in the coverage in accordance with the federal Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), P.L. 110-343, even where those requirements would not otherwise apply directly. *Coverage required under this subsection shall include mobile crisis response services and support and stabilization services provided in a residential crisis stabilization unit to the extent that such services are covered in other settings or modalities, regardless of any difference in billing codes.*

C. Any grandfathered plan as defined in § 38.2-3438 in the small group market shall either continue to provide benefits in accordance with subsection B or continue to provide coverage for inpatient and partial hospitalization mental health and substance abuse services as follows:

1. Treatment for an adult as an inpatient at a hospital, inpatient unit of a mental health treatment center, alcohol or drug rehabilitation facility or intermediate care facility for a minimum period of 20 days per policy or contract year.

2. Treatment for a child or adolescent as an inpatient at a hospital, inpatient unit of a mental health treatment center, alcohol or drug rehabilitation facility or intermediate care facility for a minimum period of 25 days per policy or contract year.

3. Up to 10 days of the inpatient benefit set forth in subdivisions 1 and 2 of this subsection may be converted when medically necessary at the option of the person or the parent, as defined in § 16.1-336, of a child or adolescent receiving such treatment to a partial hospitalization benefit applying a formula which shall be no less favorable than an exchange of 1.5 days of partial hospitalization coverage for each inpatient day of coverage. An insurance policy or subscription contract described herein that provides inpatient benefits in excess of 20 days per policy or contract year for adults or 25 days per policy or contract year for a child or adolescent may provide for the conversion of such excess days on the terms set forth in this subdivision.

4. The limits of the benefits set forth in this subsection shall not be more restrictive than for any other illness, except that the benefits may be limited as set out in this subsection.

5. This subsection shall not apply to any excepted benefits policy as defined in § 38.2-3431, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

D. Any grandfathered plan as defined in § 38.2-3438 in the small group market shall also either continue to provide benefits in accordance with subsection B or continue to provide coverage for outpatient mental health and substance abuse services as follows:

1. A minimum of 20 visits for outpatient treatment of an adult, child or adolescent shall be provided in each policy or contract year.

2. The limits of the benefits set forth in this subsection shall be no more restrictive than the limits of benefits applicable to physical illness; however, the coinsurance factor applicable to any outpatient visit beyond the first five of such visits covered in any policy or contract year shall be at least 50 percent.

3. For the purpose of this section, medication management visits shall be covered in the same manner as a medication management visit for the treatment of physical illness and shall not be counted as an outpatient treatment visit in the calculation of the benefit set forth herein.

4. For the purpose of this subsection, if all covered expenses for a visit for outpatient mental health or substance abuse treatment apply toward any deductible required by a policy or contract, such visit shall not count toward the outpatient visit benefit maximum set forth in the policy or contract.

5. This subsection shall not apply to any excepted benefits policy as defined in § 38.2-3431, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

E. The requirements of this section shall apply to all insurance policies and subscription contracts delivered, issued for delivery, reissued, renewed, or extended, or at any time when any term of the policy or contract is changed or any premium adjustment made.

F. The provisions of this section shall not apply in any instance in which the provisions of this section are inconsistent or in conflict with a provision of Article 6 (§ 38.2-3438 et seq.) of Chapter 34.

G. The Bureau of Insurance, in consultation with health carriers providing coverage for mental health and substance use disorder benefits pursuant to this section, shall develop reporting requirements regarding denied claims, complaints, appeals, and network adequacy involving such coverage set forth in this section. By November 1 of each year, the Bureau shall compile the information for the preceding year into a report that ensures the confidentiality of individuals whose information has been reported and is written in nontechnical, readily understandable language. The Bureau shall include in the report a summary of all comparative analyses prepared by health carriers pursuant to 42 U.S.C. § 300gg-26(a)(8) that the Bureau requested during the reporting period. This summary shall include the Bureau's explanation of whether the analyses were accepted as compliant, rejected as noncompliant, or are in process of review. For analyses that were noncompliant, the report shall include the corrective actions that the Bureau required the health carrier to take to come into compliance. The Bureau shall make the report available to the public by, among such other means as the Bureau finds appropriate, posting the reports on the Bureau's website and submit the report to the House Committee on Commerce and Energy and the Senate Committee on Commerce and Labor.

2. That the provisions of this act shall apply to all insurance policies, subscription contracts, and health care plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2024, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

3. That the State Corporation Commission (the Commission), in consultation with the Secretary of Health and Human Resources, shall convene a work group, including the Commissioner of Behavioral Health and Developmental Services or his designee, representatives from the Virginia Association of Community Services Boards, the Virginia Association of Community-Based Providers, and the Virginia Association of Health Plans, and other stakeholders as determined by the Commission to examine network standards for mobile crisis response services and the current availability of mobile crisis response services in the Commonwealth. The work group shall make recommendations regarding (i) the definition and standards of care for mobile crisis response services and short-term residential crisis stabilization services as they apply to the commercial insurance market, including balance billing protections; (ii) the licensure or accreditation required for such services in the Commonwealth; and (iii) how cost-sharing and deductibles will be addressed as part of accessing such services for commercially insured individuals. The Commission shall report the findings of the work group to the Health Insurance Reform Commission and the Governor no later than September 1, 2023.

CHAPTER 188

An Act to amend and reenact § 54.1-3446 of the Code of Virginia, relating to Drug Control Act; Schedule I.

[H 2364]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3446 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3446. Schedule I.

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

1-{1-[1-(4-bromophenyl)ethyl]-4-piperidinyl}-1,3-dihydro-2H-benzimidazol-2-one (other name: Brorphine);

1-[2-methyl-4-(3-phenyl-2-propen-1-yl)-1-piperazinyl]-1-butanone (other name: 2-methyl AP-237);

1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);

1-(4-cinnamyl-2,6-dimethylpiperazin-1-yl)propan-1-one (other name: AP-238);

1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);

2-(4-ethoxybenzyl)-5-nitro-1-[2-(pyrrolidin-1-yl)ethyl]-1H-benzimidazole (other names: N-pyrrolidino etonitazene, etonitazepyne);

2-[(4-methoxyphenyl)methyl]-N,N-diethyl-5-nitro-1H-benzimidazole-1-ethanamine (other name: Metonitazene);

2-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl fentanyl);

3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);

3,4-dichloro-N-{[1-(dimethylamino)cyclohexyl]methyl}benzamide (other name: AH-7921);

Acetyl fentanyl (other name: desmethyl fentanyl);

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Benzethidine;
Betacetylmethadol;
Betameprodine;
Betamethadol;
Betaprodine;
Clonitazene;
Dextromoramide;
Diampromide;
Diethylthiambutene;
Difenoxin;
Dimenoxadol;
Dimepheptanol;
Dimethylthiambutene;
Dioxaphetylbutyrate;
Dipipanone;
Ethylmethylthiambutene;
Etonitazene;
Etoxeridine;
Furethidine;
Hydroxypethidine;
Ketobemidone;
Levomoramide;
Levophenacylmorphan;
Morpheridine;
MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuranyl fentanyl);
N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl);
N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl);
N-{1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl}-N-phenylpropanamide (other name: beta-hydroxythiofentanyl);
N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl);
N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names: 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);
N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: 2-fluorofentanyl, ortho-fluorofentanyl);
N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 3-fluorofentanyl);
N-[3-methyl-1-(2-hydroxy-2-phenylethyl)4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxy-3-methylfentanyl);
N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl);
N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl);
N-(4-chlorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: para-chlorofentanyl, 4-chlorofentanyl);
N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluoroisobutyryl fentanyl);
N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: para-fluorobutyrylfentanyl);
N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluorofentanyl);
N,N-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine (other name: Isotonitazene);
N,N-diethyl-2-{[(4-ethoxyphenyl) methyl]-1H-benzimidazol-1-yl}-ethan-1-amine (other names: Etazene, Desnitroetonitazene);
N,N-diethyl-2-[(4-methoxyphenyl)methyl]-1H-benzimidazole-1-ethanamine (other name: Metodesnitazene);
N-phenyl-N-[1-(2-phenylmethyl)-4-piperidinyl]-2-furancarboxamide (other name: N-benzyl Furanyl norfentanyl);
N-phenyl-N-(4-piperidinyl)-propanamide (other name: Norfentanyl);
Noracymethadol;
Norlevorphanol;
Normethadone;
Norpipanone;
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-furancarboxamide (other name: Furanyl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-propenamide (other name: Acryl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: butyryl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (other name: Pentanoyl fentanyl);
N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide (other name: thiofentanyl);

Phenadoxone;
Phenampromide;
Phenomorphan;
Phenoperidine;
Piritramide;
Proheptazine;
Properidine;
Propiram;
Racemoramide;
Tilidine;
Trimeperidine;
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-1,3-benzodioxole-5-carboxamide (other name: Benzodioxole fentanyl);
3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methylbenzamide (other name: U-49900);
2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-48800);
2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-51754);
N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Ocfentanil);
N-(4-methoxyphenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: 4-methoxybutyrylfentanyl);
N-phenyl-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: Isobutyryl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-cyclopentanecarboxamide (other name: Cyclopentyl fentanyl);
N-phenyl-N-(1-methyl-4-piperidinyl)-propanamide (other name: N-methyl norfentanyl);
N-[2-(dimethylamino)cyclohexyl]-N-methyl-1,3-benzodioxole-5-carboxamide (other names: 3,4-methylenedioxy U-47700 or 3,4-MDO-U-47700);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-butenamide (other name: Crotonyl fentanyl);
N-phenyl-N-[4-phenyl-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 4-phenylfentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-benzamide (other names: Phenyl fentanyl, Benzoyl fentanyl);
N-[2-(dimethylamino)cyclohexyl]-N-phenylfuran-2-carboxamide (other name: Furanyl UF-17);
N-[2-(dimethylamino)cyclohexyl]-N-phenylpropionamide (other name: UF-17);
3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-isopropyl-benzamide (other name: Isopropyl U-47700).

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Acetorphine;
Acetyldihydrocodeine;
Benzylmorphine;
Codeine methylbromide;
Codeine-N-Oxide;
Cyprenorphine;
Desomorphine;
Dihydromorphine;
Drotebanol;
Etorphine;
Heroin;
Hydromorphinol;
Methyldesorphine;
Methyldihydromorphine;
Morphine methylbromide;
Morphine methylsulfonate;
Morphine-N-Oxide;
Myrophine;
Nicocodeine;
Nicomorphine;
Normorphine;
Pholcodine;
Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane;alpha-desmethyl DOB; 2C-B; Nexus);

3,4-methylenedioxy amphetamine;
5-methoxy-3,4-methylenedioxy amphetamine;
3,4,5-trimethoxy amphetamine;
Alpha-methyltryptamine (other name: AMT);
Bufotenine;
Diethyltryptamine;
Dimethyltryptamine;
4-methyl-2,5-dimethoxyamphetamine;
2,5-dimethoxy-4-ethylamphetamine (DOET);
4-fluoro-N-ethylamphetamine;
2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);
Ibogaine;
5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);
Lysergic acid diethylamide;
Mescaline;
Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl);
Peyote;
N-ethyl-3-piperidyl benzilate;
N-methyl-3-piperidyl benzilate;
Psilocybin;
Psilocyn;
Salvinorin A;
Tetrahydrocannabinols, except as present in (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law; (iii) marijuana; (iv) dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration; or (v) industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990;
2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);
3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;
3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);
N-hydroxy-3,4-methylenedioxyamphetamine (some other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);
4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);
4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);
Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);
Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);
Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);
1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);
3,4-methylenedioxypyrovalerone (other name: MDPV);
4-methylmethcathinone (other names: mephedrone, 4-MMC);
3,4-methylenedioxymethcathinone (other name: methylone);
Naphthylpyrovalerone (other name: naphyrone);
4-fluoromethcathinone (other names: flephedrone, 4-FMC);
4-methoxymethcathinone (other names: methedrone; bk-PMMA);
Ethcathinone (other name: N-ethylcathinone);
3,4-methylenedioxyethcathinone (other name: ethylone);
Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);
N,N-dimethylcathinone (other name: metamfepramone);
Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);
4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);
3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);
Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);

6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);
3-fluoromethcathinone (other name: 3-FMC);
4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);
4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);
4-Methylethcathinone (other name: 4-MEC);
4-Ethylmethcathinone (other name: 4-EMC);
N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);
Beta-keto-methylbenzodioxolylpentanamine (other names: Pentylone, bk-MBDP);
Alpha-methylamino-butyrophenone (other name: Buphedrone);
Alpha-methylamino-valerophenone (other name: Pentedrone);
3,4-Dimethylmethcathinone (other name: 3,4-dmmc);
4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);
4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe, 2C-I-NBOMe);
Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);
4-Fluoromethamphetamine (other name: 4-FMA);
4-Fluoroamphetamine (other name: 4-FA);
2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);
2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);
2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);
2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);
2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);
2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);
2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);
(2-aminopropyl)benzofuran (other name: APB);
(2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);
4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-C-NBOMe, 25C-NBOMe, 25C);
4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-B-NBOMe, 25B-NBOMe, 25B);
Acetoxydimethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);
Benocyclidine (other names: BCP, BTCP);
Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);
3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);
4-bromomethcathinone (other name: 4-BMC);
4-chloromethcathinone (other name: 4-CMC);
4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);
Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);
Alpha-Pyrrolidinoheptiophenone (other name: PV8);
5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);
Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);
Beta-keto-4-bromo-2,5-dimethoxyphenethylamine (other name: bk-2C-B);
1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);
1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);
1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);
4-Chloroethcathinone (other name: 4-CEC);
3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);
1-propionyl lysergic acid diethylamide (other name: 1P-LSD);
(2-Methylaminopropyl)benzofuran (other name: MAPB);
1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone, Dipentylone);
1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9);
3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);
4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);
4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);
4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);
4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);
4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);
4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);
4-methyl-alpha-ethylaminopentiophenone;
4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);
5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);

5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);
6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);
6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);
(N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB);
2-(methylamino)-2-phenyl-cyclohexanone (other name: Deschloroketamine);
2-(ethylamino)-2-phenyl-cyclohexanone (other name: deschloro-N-ethyl-ketamine);
2-methyl-1-(4-(methylthio)phenyl)-2-morpholinopropiophenone (other name: MMMP);
Alpha-ethylaminohexanophenone (other name: N-ethylhexedrone);
N-ethyl-1-(3-methoxyphenyl)cyclohexylamine (other name: 3-methoxy-PCE);
4-fluoro-alpha-pyrrolidinohexiophenone (other name: 4-fluoro-alpha-PHP);
N-ethyl-1,2-diphenylethylamine (other name: Ephenidine);
2,5-dimethoxy-4-chloroamphetamine (other name: DOC);
3,4-methylenedioxy-N-tert-butylcathinone;
Alpha-pyrrolidinoisohexiophenone (other name: alpha-PiHP);
1-[1-(3-hydroxyphenyl)cyclohexyl]piperidine (other name: 3-hydroxy PCP);
4-acetyloxy-N,N-diallyltryptamine (other name: 4-AcO-DALT);
4-hydroxy-N,N-methylisopropyltryptamine (other name: 4-hydroxy-MiPT);
3,4-Methylenedioxy-alpha-pyrrolidinohexanophenone (other name: MDPHP);
5-methoxy-N,N-dibutyltryptamine (other name: 5-methoxy-DBT);
1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-butanone (other names: Eutylone, bk-EBDB);
1-(1,3-benzodioxol-5-yl)-2-(butylamino)-1-pentanone (other name: N-butylpentylone);
N-benzyl-3,4-dimethoxyamphetamine (other name: N-benzyl-3,4-DMA);
1-(benzo[d][1,3]dioxol-5-yl)-2-(sec-butylamino)pentan-1-one (other name: N-sec-butyl Pentylone);
1-cyclopropionyl lysergic acid diethylamide (other name: 1cP-LSD);
2-(ethylamino)-1-phenylheptan-1-one (other name: N-ethylheptedrone);
(2-ethylaminopropyl)benzofuran (other name: EAPB);
4-ethyl-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25E-NBOH);
2-fluoro-Deschloroketamine (other name: 2-(2-fluorophenyl)-2-(methylamino)-cyclohexanone);
4-hydroxy-N-ethyl-N-propyltryptamine (other name: 4-hydroxy-EPT);
2-(isobutylamino)-1-phenylhexan-1-one (other names: N-Isobutyl Hexedrone, alpha-isobutylaminohexanphenone);
1-(4-methoxyphenyl)-N-methylpropan-2-amine (other names: para-Methoxymethamphetamine, PMMA);
N-ethyl-1-(3-hydroxyphenyl)cyclohexylamine (other name: 3-hydroxy-PCE);
N-heptyl-3,4-dimethoxyamphetamine (other name: N-heptyl-3,4-DMA);
N-hexyl-3,4-dimethoxyamphetamine (other name: N-hexyl-3,4-DMA);
4-fluoro-3-methyl-alpha-pyrrolidinovalerophenone (other name: 4-fluoro-3-methyl-alpha-PVP);
4-fluoro-alpha-methylamino-valerophenone (other name: 4-fluoropentedrone);
N-(1,4-dimethylpentyl)-3,4-dimethoxyamphetamine (other name: N-(1,4-dimethylpentyl)-3,4-DMA);
4,5-methylenedioxy-N,N-diisopropyltryptamine (other name: 4,5-MDO-DiPT);
Alpha-pyrrolidinocyclohexanophenone (other name: alpha-PCYP);
3,4-methylenedioxy-alpha-pyrrolidinoheptiophenone (other name: MDPV8);
4-chloro-alpha-methylaminobutiophenone (other name: 4-chloro Buphedrone)*;*
1-(1,3-benzodioxol-5-yl)-2-(propylamino)-1-butanone (other names: 3,4-Methylenedioxy-alpha-propylaminobutiophenone; N-propyl butylone);
2-(ethylamino)-1-phenylpentan-1-one (other names: N-ethylpentedrone, alpha-ethylaminopentiophenone);
3,4-methylenedioxy-alpha-cyclohexylaminopropiophenone (other name: Cyputylone);
3,4-methylenedioxy-alpha-cyclohexylmethylaminopropiophenone (other name: 3,4-Methylenedioxy-N,N-cyclohexylmethcathinone);
3,4-methylenedioxy-alpha-isopropylaminobutiophenone (other name: N-isopropyl butylone);
4-chloro-N-butylcathinone (other names: 4-chlorobutylcathinone, para-chloro-N-butylcathinone);
4-hydroxy-N-methyl-N-ethyltryptamine (other names: 4-hydroxy MET, Metocin);
4-methallyloxy-3,5-dimethoxyphenethylamine (other name: Methallylescaline);
Alpha-pyrrolidino-2-phenylacetophenone (other name: alpha-D2PV).

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

5-(2-chlorophenyl)-1,3-dihydro-3-methyl-7-nitro-2H-1,4-benzodiazepin-2-one (other name: Meclonazepam);
7-chloro-5-(2-fluorophenyl)-1,3-dihydro-1,4-benzodiazepin-2-one (other name: Norfludiazepam);
Bromazolam;
Clonazolam;
Deschloroetizolam;

Etizolam;
Flualprazolam;
Flubromazepam;
Flubromazolam;
Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
Mecloqualone;
Methaqualone.

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);
Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline 4,5-dihydro-5-phenyl-2-oxazolamine);
Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;
Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
Ethylamphetamine;
Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);
Fenethylline;
Methcathinone (some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)-propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);
N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);
N,N-dimethylamphetamine (other names: N,N-alpha-trimethyl-benzeneethanamine, N,N-alpha-trimethylphenethylamine);
Methyl 2-(4-fluorophenyl)-2-(2-piperidinyl)acetate (other name: 4-fluoromethylphenidate);
Isopropyl-2-phenyl-2-(2-piperidinyl)acetate (other name: Isopropylphenidate);
4-chloro-N,N-dimethylcathinone;
3,4-methylenedioxy-N-benzylcathinone (other name: BMDP)*;*
4-methylmethamphetamine (other names: N-alpha,4-trimethyl-benzeneethanamine, 4-MMA).

6. Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

a. "Cannabimimetic agents" includes any substance that is within any of the following structural classes:

2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;

3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; and

N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

b. The term "cannabimimetic agents" includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);
5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);
5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);
5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);
1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);
1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);
1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);
1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);
(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tet rahydrobenzo[c]chromen-1-ol (other name: HU-210);
1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);
1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);
1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);
1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);
1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);
1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);
1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);
1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);
1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);
Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);
1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);
1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);
1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);
1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11, 5-fluoro-UR-144);
N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);
N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);
1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);
(8-quinolinyl)(1-pentylindol-3-yl)carboxylate (other name: PB-22);
(8-quinolinyl)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);
(8-quinolinyl)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name: AB-FUBINACA);
1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-PINACA);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AB-PINACA);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names: ADB-CHMINACA, MAB-CHMINACA);
Methyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);
1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);
1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);
1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);
N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (other name: ADB-FUBINACA);
Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: MDMB-FUBINACA);
Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);
Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other names: AMB-FUBINACA, FUB-AMB);
N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other names: FUB-AKB48, 5F-APINACA);
N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);
N-(adamantanyl)-1-(5-chloropentyl) indazole-3-carboxamide (other name: 5-chloro-AKB48);
Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name: AB-CHMICA);
1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);
Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);
Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-ADB-PINACA);
1-(4-cyanobutyl)-N-(1-methyl-1-phenylethyl)-1H-indazole-3-carboxamide (other name: 4-cyano CUMYL-BUTINACA);

Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro MDMB-PICA, 5F-MDMB-PICA);

Ethyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other name: EMB-FUBINACA);

Methyl 2-[1-4-fluorobutyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: 4-fluoro-MDMB-BUTINACA);

1-(5-fluoropentyl)-N-(1-methyl-1-phenylethyl)-1H-indole-3-carboxamide (other name: 5-fluoro CUMYL-PICA);

Methyl 2-[1-(pent-4-enyl)-1H-indazole-3-carboxamindo]-3,3-dimethylbutanoate (other name: MDMB-4en-PINACA);

Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indole-3-carbonyl}amino)-3-methylbutanoate (other names: MMB-FUBICA, AMB-FUBICA);

Methyl 2-[1-(4-penten-1-yl)-1H-indole-3-carboxamido]-3-methylbutanoate (other names: MMB022, MMB-4en-PICA);

Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-methylbutanoate (other name: MMB 2201);

Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-phenylpropanoate (other name: 5-fluoro-MPP-PICA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butylindazole-3-carboxamide (other name: ADB-BUTINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-chloropentyl)indazole-3-carboxamide (other name: 5-chloro-AB-PINACA);

1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (other names: 5F-CUMYL-PINACA, 5-fluoro CUMYL-PINACA, CUMYL-5F-PINACA);

Ethyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5F-EDMB-PINACA, 5-fluoro EDMB-PINACA);

Ethyl-2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3-methylbutanoate (other names: 5-fluoro-EMB-PINACA, 5F-AEB);

Ethyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-methylbutanoate (other name: 5-fluoro-EMB-PICA);

Ethyl-2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other name: 5-fluoro EDMB-PICA);

Methyl 2-[1-(4-fluorobutyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other name: 4-fluoro-MDMB-BUTICA);

Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (other names: MDMB-CHMICA, MMB-CHMINACA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(pent-4-enyl)indazole-3-carboxamide (other name: ADB-4en-PINACA)*;*

Ethyl 2-[1-pentyl-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: EDMB-PINACA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-phenethyl-1H-indazole-3-carboxamide (other name: ADB-PHETINACA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indole-3-acetamide (other names: ADB-FUBIATA, AD-18, FUB-ACADB).

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is $0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 189

An Act to amend and reenact § 54.1-3446 of the Code of Virginia, relating to Drug Control Act; Schedule I.

[S 894]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3446 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3446. Schedule I.

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

1-{1-[1-(4-bromophenyl)ethyl]-4-piperidinyl}-1,3-dihydro-2H-benzimidazol-2-one (other name: Brorphine);

1-[2-methyl-4-(3-phenyl-2-propen-1-yl)-1-piperazinyl]-1-butanone (other name: 2-methyl AP-237);

1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);

1-(4-cinnamyl-2,6-dimethylpiperazin-1-yl)propan-1-one (other name: AP-238);

1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);

2-(4-ethoxybenzyl)-5-nitro-1-[2-(pyrrolidin-1-yl)ethyl]-1H-benzimidazole (other names: N-pyrrolidino etonitazene, etonitazepyne);

2-[(4-methoxyphenyl)methyl]-N,N-diethyl-5-nitro-1H-benzimidazole-1-ethanamine (other name: Metonitazene);
2-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl fentanyl);
3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);
3,4-dichloro-N-{[1-(dimethylamino)cyclohexyl]methyl}benzamide (other name: AH-7921);
Acetyl fentanyl (other name: desmethyl fentanyl);
Acetylmethadol;
Allylprodine;
Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
Alphameprodine;
Alphamethadol;
Benzethidine;
Betacetylmethadol;
Betameprodine;
Betamethadol;
Betaprodine;
Clonitazene;
Dextromoramide;
Diampromide;
Diethylthiambutene;
Difenoxin;
Dimenoxadol;
Dimepheptanol;
Dimethylthiambutene;
Dioxaphetylbutyrate;
Dipipanone;
Ethylmethylthiambutene;
Etonitazene;
Etoxeridine;
Furethidine;
Hydroxypethidine;
Ketobemidone;
Levomoramide;
Levophenacylmorphan;
Morpheridine;
MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuranyl fentanyl);
N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl);
N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl);
N-{1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl}-N-phenylpropanamide (other name: beta-hydroxythiofentanyl);
N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl);
N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names: 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);
N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: 2-fluorofentanyl, ortho-fluorofentanyl);
N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 3-fluorofentanyl);
N-[3-methyl-1-(2-hydroxy-2-phenylethyl)4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxy-3-methylfentanyl);
N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl);
N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl);
N-(4-chlorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: para-chlorofentanyl, 4-chlorofentanyl);
N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluoroisobutyryl fentanyl);
N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: para-fluorobutyrylfentanyl);
N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluorofentanyl);
N,N-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine (other name: Isotonitazene);
N,N-diethyl-2-{[(4-ethoxyphenyl) methyl]-1H-benzimidazol-1-yl}-ethan-1-amine (other names: Etazene, Desnitroetonitazene);
N,N-diethyl-2-[(4-methoxyphenyl)methyl]-1H-benzimidazole-1-ethanamine (other name: Metodesnitazene);

N-phenyl-N-[1-(2-phenylmethyl)-4-piperidinyl]-2-furancarboxamide (other name: N-benzyl Furanyl norfentanyl);
N-phenyl-N-(4-piperidinyl)-propanamide (other name: Norfentanyl);
Noracymethadol;
Norlevorphanol;
Normethadone;
Norpipanone;
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-furancarboxamide (other name: Furanyl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-propenamide (other name: Acryl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: butyryl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (other name: Pentanoyl fentanyl);
N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide (other name: thiofentanyl);
Phenadoxone;
Phenampromide;
Phenomorphan;
Phenoperidine;
Piritramide;
Proheptazine;
Properidine;
Propiram;
Racemoramide;
Tilidine;
Trimeperidine;
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-1,3-benzodioxole-5-carboxamide (other name: Benzodioxole fentanyl);
3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methylbenzamide (other name: U-49900);
2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-48800);
2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-51754);
N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Ocfentanil);
N-(4-methoxyphenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: 4-methoxybutyrylfentanyl);
N-phenyl-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: Isobutyryl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-cyclopentanecarboxamide (other name: Cyclopentyl fentanyl);
N-phenyl-N-(1-methyl-4-piperidinyl)-propanamide (other name: N-methyl norfentanyl);
N-[2-(dimethylamino)cyclohexyl]-N-methyl-1,3-benzodioxole-5-carboxamide (other names: 3,4-methylenedioxy U-47700 or 3,4-MDO-U-47700);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-butenamide (other name: Crotonyl fentanyl);
N-phenyl-N-[4-phenyl-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 4-phenylfentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-benzamide (other names: Phenyl fentanyl, Benzoyl fentanyl);
N-[2-(dimethylamino)cyclohexyl]-N-phenylfuran-2-carboxamide (other name: Furanyl UF-17);
N-[2-(dimethylamino)cyclohexyl]-N-phenylpropionamide (other name: UF-17);
3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-isopropyl-benzamide (other name: Isopropyl U-47700).

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Acetorphine;
Acetyldihydrocodeine;
Benzylmorphine;
Codeine methylbromide;
Codeine-N-Oxide;
Cyprenorphine;
Desomorphine;
Dihydromorphine;
Drotebanol;
Etorphine;
Heroin;
Hydromorphinol;
Methyldesorphine;
Methyldihydromorphine;
Morphine methylbromide;
Morphine methylsulfonate;
Morphine-N-Oxide;
Myrophine;
Nicocodeine;
Nicomorphine;

Normorphine;
Pholcodine;
Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane;alpha-desmethyl DOB; 2C-B; Nexus);

3,4-methylenedioxy amphetamine;
5-methoxy-3,4-methylenedioxy amphetamine;
3,4,5-trimethoxy amphetamine;
Alpha-methyltryptamine (other name: AMT);
Bufotenine;
Diethyltryptamine;
Dimethyltryptamine;
4-methyl-2,5-dimethoxyamphetamine;
2,5-dimethoxy-4-ethylamphetamine (DOET);
4-fluoro-N-ethylamphetamine;
2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);
Ibogaine;
5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);
Lysergic acid diethylamide;
Mescaline;

Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl);

Peyote;
N-ethyl-3-piperidyl benzilate;
N-methyl-3-piperidyl benzilate;
Psilocybin;
Psilocyn;
Salvinorin A;

Tetrahydrocannabinols, except as present in (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law; (iii) marijuana; (iv) dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration; or (v) industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990;

2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);

3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (some other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);

4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);

Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);

Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);

1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);
3,4-methylenedioxypyrovalerone (other name: MDPV);
4-methylmethcathinone (other names: mephedrone, 4-MMC);
3,4-methylenedioxymethcathinone (other name: methylone);

Naphthylpyrovalerone (other name: naphyrone);
4-fluoromethcathinone (other names: flephedrone, 4-FMC);
4-methoxymethcathinone (other names: methedrone; bk-PMMA);
Ethcathinone (other name: N-ethylcathinone);
3,4-methylenedioxyethcathinone (other name: ethylone);
Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);
N,N-dimethylcathinone (other name: metamfepramone);
Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);
4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);
3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);
Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);
6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);
3-fluoromethcathinone (other name: 3-FMC);
4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);
4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);
4-Methylethcathinone (other name: 4-MEC);
4-Ethylmethcathinone (other name: 4-EMC);
N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);
Beta-keto-methylbenzodioxolylpentanamine (other names: Pentylone, bk-MBDP);
Alpha-methylamino-butyrophenone (other name: Buphedrone);
Alpha-methylamino-valerophenone (other name: Pentedrone);
3,4-Dimethylmethcathinone (other name: 3,4-dmmc);
4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);
4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe, 2C-I-NBOMe);
Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);
4-Fluoromethamphetamine (other name: 4-FMA);
4-Fluoroamphetamine (other name: 4-FA);
2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);
2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);
2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);
2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);
2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);
2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);
2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);
(2-aminopropyl)benzofuran (other name: APB);
(2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);
4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-C-NBOMe, 25C-NBOMe, 25C);
4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-B-NBOMe, 25B-NBOMe, 25B);
Acetoxydimethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);
Benocyclidine (other names: BCP, BTCP);
Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);
3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);
4-bromomethcathinone (other name: 4-BMC);
4-chloromethcathinone (other name: 4-CMC);
4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);
Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);
Alpha-Pyrrolidinoheptiophenone (other name: PV8);
5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);
Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);
Beta-keto-4-bromo-2,5-dimethoxyphenethylamine (other name: bk-2C-B);
1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);
1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);
1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);
4-Chloroethcathinone (other name: 4-CEC);
3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);
1-propionyl lysergic acid diethylamide (other name: 1P-LSD);
(2-Methylaminopropyl)benzofuran (other name: MAPB);
1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone, Dipentylone);

1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9);
3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);
4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);
4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);
4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);
4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);
4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);
4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);
4-methyl-alpha-ethylaminopentiophenone;
4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);
5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);
5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);
6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);
6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);
(N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB);
2-(methylamino)-2-phenyl-cyclohexanone (other name: Deschloroketamine);
2-(ethylamino)-2-phenyl-cyclohexanone (other name: deschloro-N-ethyl-ketamine);
2-methyl-1-(4-(methylthio)phenyl)-2-morpholinopropiophenone (other name: MMMP);
Alpha-ethylaminohexanophenone (other name: N-ethylhexedrone);
N-ethyl-1-(3-methoxyphenyl)cyclohexylamine (other name: 3-methoxy-PCE);
4-fluoro-alpha-pyrrolidinohexiophenone (other name: 4-fluoro-alpha-PHP);
N-ethyl-1,2-diphenylethylamine (other name: Ephenidine);
2,5-dimethoxy-4-chloroamphetamine (other name: DOC);
3,4-methylenedioxy-N-tert-butylcathinone;
Alpha-pyrrolidinoisohexiophenone (other name: alpha-PiHP);
1-[1-(3-hydroxyphenyl)cyclohexyl]piperidine (other name: 3-hydroxy PCP);
4-acetyloxy-N,N-diallyltryptamine (other name: 4-AcO-DALT);
4-hydroxy-N,N-methylisopropyltryptamine (other name: 4-hydroxy-MiPT);
3,4-Methylenedioxy-alpha-pyrrolidinohexanophenone (other name: MDPHP);
5-methoxy-N,N-dibutyltryptamine (other name: 5-methoxy-DBT);
1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-butanone (other names: Eutylone, bk-EBDB);
1-(1,3-benzodioxol-5-yl)-2-(butylamino)-1-pentanone (other name: N-butylpentylone);
N-benzyl-3,4-dimethoxyamphetamine (other name: N-benzyl-3,4-DMA);
1-(benzo[d][1,3]dioxol-5-yl)-2-(sec-butylamino)pentan-1-one (other name: N-sec-butyl Pentylone);
1-cyclopropionyl lysergic acid diethylamide (other name: 1cP-LSD);
2-(ethylamino)-1-phenylheptan-1-one (other name: N-ethylheptedrone);
(2-ethylaminopropyl)benzofuran (other name: EAPB);
4-ethyl-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25E-NBOH);
2-fluoro-Deschloroketamine (other name: 2-(2-fluorophenyl)-2-(methylamino)-cyclohexanone);
4-hydroxy-N-ethyl-N-propyltryptamine (other name: 4-hydroxy-EPT);
2-(isobutylamino)-1-phenylhexan-1-one (other names: N-Isobutyl Hexedrone, alpha-isobutylaminohexanphenone);
1-(4-methoxyphenyl)-N-methylpropan-2-amine (other names: para-Methoxymethamphetamine, PMMA);
N-ethyl-1-(3-hydroxyphenyl)cyclohexylamine (other name: 3-hydroxy-PCE);
N-heptyl-3,4-dimethoxyamphetamine (other name: N-heptyl-3,4-DMA);
N-hexyl-3,4-dimethoxyamphetamine (other name: N-hexyl-3,4-DMA);
4-fluoro-3-methyl-alpha-pyrrolidinovalerophenone (other name: 4-fluoro-3-methyl-alpha-PVP);
4-fluoro-alpha-methylamino-valerophenone (other name: 4-fluoropentedrone);
N-(1,4-dimethylpentyl)-3,4-dimethoxyamphetamine (other name: N-(1,4-dimethylpentyl)-3,4-DMA);
4,5-methylenedioxy-N,N-diisopropyltryptamine (other name: 4,5-MDO-DiPT);
Alpha-pyrrolidinocyclohexanophenone (other name: alpha-PCYP);
3,4-methylenedioxy-alpha-pyrrolidinoheptiophenone (other name: MDPV8);
4-chloro-alpha-methylaminobutiophenone (other name: 4-chloro Buphedrone)*;*
1-(1,3-benzodioxol-5-yl)-2-(propylamino)-1-butanone (other names: 3,4-Methylenedioxy-alpha-propylaminobutiophenone; N-propyl butylone);
2-(ethylamino)-1-phenylpentan-1-one (other names: N-ethylpentedrone, alpha-ethylaminopentiophenone);
3,4-methylenedioxy-alpha-cyclohexylaminopropiophenone (other name: Cyputylone);
3,4-methylenedioxy-alpha-cyclohexylmethylaminopropiophenone (other name: 3,4-Methylenedioxy-N,N-cyclohexylmethcathinone);
3,4-methylenedioxy-alpha-isopropylaminobutiophenone (other name: N-isopropyl butylone);
4-chloro-N-butylcathinone (other names: 4-chlorobutylcathinone, para-chloro-N-butylcathinone);
4-hydroxy-N-methyl-N-ethyltryptamine (other names: 4-hydroxy MET, Metocin);

4-methallyloxy-3,5-dimethoxyphenethylamine (other name: Methallylescaline);

Alpha-pyrrolidino-2-phenylacetophenone (other name: alpha-D2PV).

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

5-(2-chlorophenyl)-1,3-dihydro-3-methyl-7-nitro-2H-1,4-benzodiazepin-2-one (other name: Meclonazepam);

7-chloro-5-(2-fluorophenyl)-1,3-dihydro-1,4-benzodiazepin-2-one (other name: Norfludiazepam);

Bromazolam;

Clonazolam;

Deschloroetizolam;

Etizolam;

Flualprazolam;

Flubromazepam;

Flubromazolam;

Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

Mecloqualone;

Methaqualone.

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);

Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine);

Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;

Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

Ethylamphetamine;

Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);

Fenethylline;

Methcathinone (some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)-propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

N,N-dimethylamphetamine (other names: N,N-alpha-trimethyl-benzeneethanamine, N,N-alpha-trimethylphenethylamine);

Methyl 2-(4-fluorophenyl)-2-(2-piperidinyl)acetate (other name: 4-fluoromethylphenidate);

Isopropyl-2-phenyl-2-(2-piperidinyl)acetate (other name: Isopropylphenidate);

4-chloro-N,N-dimethylcathinone;

3,4-methylenedioxy-N-benzylcathinone (other name: BMDP)*;*

4-methylmethamphetamine (other names: N-alpha,4-trimethyl-benzeneethanamine, 4-MMA).

6. Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

a. "Cannabimimetic agents" includes any substance that is within any of the following structural classes:

2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;

3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; and

N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

b. The term "cannabimimetic agents" includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tet rahydrobenzo[c]chromen-1-ol (other name: HU-210);

1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);

1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);

Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);

1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);

1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);

1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);

1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11, 5-fluoro-UR-144);

N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);

N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);

1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);

(8-quinolinyl)(1-pentylindol-3-yl)carboxylate (other name: PB-22);

(8-quinolinyl)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);

(8-quinolinyl)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name: AB-FUBINACA);

1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-PINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AB-PINACA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names: ADB-CHMINACA, MAB-CHMINACA);

Methyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);

1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);

1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);

1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);

N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (other name: ADB-FUBINACA);

Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: MDMB-FUBINACA);

Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);

Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other names: AMB-FUBINACA, FUB-AMB);

N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other names: FUB-AKB48, 5F-APINACA);
N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);
N-(adamantanyl)-1-(5-chloropentyl) indazole-3-carboxamide (other name: 5-chloro-AKB48);
Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name: AB-CHMICA);
1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);
Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);
Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-ADB-PINACA);
1-(4-cyanobutyl)-N-(1-methyl-1-phenylethyl)-1H-indazole-3-carboxamide (other name: 4-cyano CUMYL-BUTINACA);
Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro MDMB-PICA, 5F-MDMB-PICA);
Ethyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other name: EMB-FUBINACA);
Methyl 2-[1-4-fluorobutyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: 4-fluoro-MDMB-BUTINACA);
1-(5-fluoropentyl)-N-(1-methyl-1-phenylethyl)-1H-indole-3-carboxamide (other name: 5-fluoro CUMYL-PICA);
Methyl 2-[1-(pent-4-enyl)-1H-indazole-3-carboxamindo]-3,3-dimethylbutanoate (other name: MDMB-4en-PINACA);
Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indole-3-carbonyl}amino)-3-methylbutanoate (other names: MMB-FUBICA, AMB-FUBICA);
Methyl 2-[1-(4-penten-1-yl)-1H-indole-3-carboxamido]-3-methylbutanoate (other names: MMB022, MMB-4en-PICA);
Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-methylbutanoate (other name: MMB 2201);
Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-phenylpropanoate (other name: 5-fluoro-MPP-PICA);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butylindazole-3-carboxamide (other name: ADB-BUTINACA);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-chloropentyl)indazole-3-carboxamide (other name: 5-chloro-AB-PINACA);
1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (other names: 5F-CUMYL-PINACA, 5-fluoro CUMYL-PINACA, CUMYL-5F-PINACA);
Ethyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5F-EDMB-PINACA, 5-fluoro EDMB-PINACA);
Ethyl-2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3-methylbutanoate (other names: 5-fluoro-EMB-PINACA, 5F-AEB);
Ethyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-methylbutanoate (other name: 5-fluoro-EMB-PICA);
Ethyl-2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other name: 5-fluoro EDMB-PICA);
Methyl 2-[1-(4-fluorobutyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other name: 4-fluoro-MDMB-BUTICA);
Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (other names: MDMB-CHMICA, MMB-CHMINACA);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(pent-4-enyl)indazole-3-carboxamide (other name: ADB-4en-PINACA)*;*
Ethyl 2-[1-pentyl-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: EDMB-PINACA);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-phenethyl-1H-indazole-3-carboxamide (other name: ADB-PHETINACA);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indole-3-acetamide (other names: ADB-FUBIATA, AD-18, FUB-ACADB).

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is $0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 190

An Act to amend and reenact § 51.5-31 of the Code of Virginia, relating to Virginia Board for People with Disabilities; membership; terminology updates.

[H 2492]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 51.5-31 of the Code of Virginia is amended and reenacted as follows:

§ 51.5-31. Board created.

There shall be a Virginia Board for People with Disabilities, responsible to the Secretary of Health and Human Resources. The Board shall be composed of ~~39~~ *40* members, to include the head or a person designated by the head of the Department for Aging and Rehabilitative Services, Department for the Deaf and Hard-of-Hearing, Department of Education, Department of Medical Assistance Services, Department of Behavioral Health and Developmental Services, *Department of Health,* and ~~the~~ Department for the Blind and Vision Impaired; one representative of the protection and advocacy entity; one representative of the university center for excellence in developmental disabilities; one representative each, to be appointed by the Governor, of a local governmental agency, a manufacturing or a retailing industry, a high-technology industry, a public transit interest, and a nongovernmental agency or group of agencies concerned with services for persons with developmental disabilities; a banking executive; one person with disabilities other than developmental disabilities; and 24 persons with developmental disabilities, parents or guardians of children with developmental disabilities, or immediate relatives or guardians of adults with ~~mentally impairing~~ *cognitive* developmental disabilities who cannot advocate for themselves. Of the last 24 persons, one-third shall be persons with developmental disabilities; one-third shall be a combination of (i) parents or guardians of children with developmental disabilities and (ii) immediate relatives or guardians of adults with ~~mentally impairing~~ *cognitive* developmental disabilities who cannot advocate for themselves; and one-third shall be a combination of (a) persons with developmental disabilities, (b) parents or guardians of children with developmental disabilities, and (c) immediate relatives or guardians of adults with ~~mentally impairing~~ *cognitive* developmental disabilities who cannot advocate for themselves. At least one person shall be either (1) an immediate relative or guardian of a person who resides in or previously resided in an institution or (2) a person with a developmental disability who previously resided in an institution. Such persons shall not be employees of the Virginia Board for People with Disabilities or "managing employees," as defined by the Social Security Act (42 U.S.C. § 1320a-5), of any other entity that receives funds or provides services under Subtitle B of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (P.L. 106-402).

Each member appointed by the Governor shall be appointed for a four-year term. Members so appointed shall be subject to removal at the pleasure of the Governor. Any vacancy other than by expiration of a term shall be filled for the unexpired term. No person appointed by the Governor shall serve for more than two successive terms.

The Board shall elect its chairman.

CHAPTER 191

An Act to amend and reenact § 54.1-2400 of the Code of Virginia, relating to health regulatory boards; delegation of authority to conduct informal fact-finding proceedings.

[H 1622]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2400 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2400. General powers and duties of health regulatory boards.

The general powers and duties of health regulatory boards shall be:

1. To establish the qualifications for registration, certification, licensure, permit, or the issuance of a multistate licensure privilege in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.

2. To examine or cause to be examined applicants for certification, licensure, or registration. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.

3. To register, certify, license, or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.

4. To establish schedules for renewals of registration, certification, licensure, permit, and the issuance of a multistate licensure privilege.

5. To levy and collect fees for application processing, examination, registration, certification, permitting, or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions, and the health regulatory boards.

6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system, which shall include provisions for the satisfaction of board-required continuing education for individuals registered, certified, licensed, or issued a multistate licensure privilege by a health regulatory board through delivery of health care services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those health services. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.).

7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate, license, permit, or multistate licensure privilege which such board has authority to issue for causes enumerated in applicable law and regulations.

8. To appoint designees from their membership or immediate staff to coordinate with the Director and the Health Practitioners' Monitoring Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.). Each health regulatory board shall appoint one such designee.

9. To take appropriate disciplinary action for violations of applicable law and regulations, and to accept, in their discretion, the surrender of a license, certificate, registration, permit, or multistate licensure privilege in lieu of disciplinary action.

10. To appoint a special conference committee, composed of not less than two members of a health regulatory board or, when required for special conference committees of the Board of Medicine, not less than two members of the Board and one member of the relevant advisory board, or, when required for special conference committees of the Board of Nursing, not less than one member of the Board and one member of the relevant advisory board, to act in accordance with § 2.2-4019 upon receipt of information that a practitioner or permit holder of the appropriate board may be subject to disciplinary action or to consider an application for a license, certification, registration, permit or multistate licensure privilege in nursing. The special conference committee may (i) exonerate; (ii) reinstate; (iii) place the practitioner or permit holder on probation with such terms as it may deem appropriate; (iv) reprimand; (v) modify a previous order; (vi) impose a monetary penalty pursuant to § 54.1-2401, (vii) deny or grant an application for licensure, certification, registration, permit, or multistate licensure privilege; and (viii) issue a restricted license, certification, registration, permit or multistate licensure privilege subject to terms and conditions. The order of the special conference committee shall become final 30 days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the 30-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 2.2-4020, and the action of the committee shall be vacated. This subdivision shall not be construed to limit the authority of a board to delegate to an appropriately qualified agency subordinate, as defined in § 2.2-4001, the authority to conduct informal fact-finding proceedings in accordance with § 2.2-4019~~, upon receipt of information that a practitioner may be subject to a disciplinary action~~. The recommendation of such subordinate may be considered by a panel consisting of at least five board members, or, if a quorum of the board is less than five members, consisting of a quorum of the members, convened for the purpose of issuing a case decision. Criteria for the appointment of an agency subordinate shall be set forth in regulations adopted by the board.

11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 2.2-4020, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 2.2-4019 shall serve on a panel conducting formal proceedings pursuant to § 2.2-4020 to consider the same matter.

12. To issue inactive licenses or certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of licenses or certificates.

13. To meet by telephone conference call to consider settlement proposals in matters pending before special conference committees convened pursuant to this section, or matters referred for formal proceedings pursuant to § 2.2-4020 to a health regulatory board or a panel of the board or to consider modifications of previously issued board orders when such considerations have been requested by either of the parties.

14. To request and accept from a certified, registered, or licensed practitioner; a facility holding a license, certification, registration, or permit; or a person holding a multistate licensure privilege to practice nursing, in lieu of disciplinary action, a confidential consent agreement. A confidential consent agreement shall be subject to the confidentiality provisions of § 54.1-2400.2 and shall not be disclosed by a practitioner or facility. A confidential consent agreement shall include findings of fact and may include an admission or a finding of a violation. A confidential consent agreement shall not be considered either a notice or order of any health regulatory board, but it may be considered by a board in future disciplinary proceedings. A confidential consent agreement shall be entered into only in cases involving minor misconduct where there is little or no injury to a patient or the public and little likelihood of repetition by the practitioner or facility. A board shall not enter into a confidential consent agreement if there is probable cause to believe the practitioner or facility has (i) demonstrated gross negligence or intentional misconduct in the care of patients or (ii) conducted his practice in such a manner as to be a danger to the health and welfare of his patients or the public. A certified, registered, or licensed practitioner, a facility holding a license, certification, registration, or permit, or a person holding a multistate licensure privilege to practice nursing who has entered into two confidential consent agreements involving a standard of care violation, within the 10-year period immediately preceding a board's receipt of the most recent report or complaint being considered, shall receive public discipline for any subsequent violation within the 10-year period unless the board finds there are sufficient facts and circumstances to rebut the presumption that the disciplinary action be made public.

15. When a board has probable cause to believe a practitioner is unable to practice with reasonable skill and safety to patients because of excessive use of alcohol or drugs or physical or mental illness, the board, after preliminary investigation by an informal fact-finding proceeding, may direct that the practitioner submit to a mental or physical examination. Failure to submit to the examination shall constitute grounds for disciplinary action. Any practitioner affected by this subsection shall be afforded reasonable opportunity to demonstrate that he is competent to practice with reasonable skill and safety to

patients. For the purposes of this subdivision, "practitioner" shall include any person holding a multistate licensure privilege to practice nursing.

CHAPTER 192

An Act to amend and reenact § 54.1-2301 of the Code of Virginia, relating to Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals; membership.

[H 2284]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2301 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2301. Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals; membership; terms; duties.

A. The Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals shall consist of 11 members as follows: the Director of the Office of Water Programs of the State Department of Health, or his designee, the Executive Director of the State Water Control Board, or his designee, a currently employed waterworks operator having a valid license of the highest classification issued by the Board, a currently employed wastewater works operator having a valid license of the highest classification issued by the Board, a ~~faculty member of a public institution of higher education in the Commonwealth whose principal field of teaching is management or operation of waterworks or wastewater works~~ *local or regional representative of the Department of Health*, a representative of an owner of a waterworks, a representative of an owner of a wastewater works, a licensed alternative onsite sewage system operator, a licensed alternative onsite sewage system installer, a licensed onsite soil evaluator, and one *nonlegislative* citizen member. The alternative onsite sewage system operator, alternative onsite sewage system installer, and onsite soil evaluator shall have practiced for at least five consecutive years immediately prior to appointment. No owner shall be represented on the Board by more than one representative or employee operator. The term of Board members shall be four years.

B. The Board shall examine waterworks and wastewater works operators and issue licenses. The licenses may be issued in specific operator classifications to attest to the competency of an operator to supervise and operate waterworks and wastewater works while protecting the public health, welfare, and property and conserving and protecting the water resources of the Commonwealth.

C. The Board shall establish a program for licensing individuals as onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators.

D. The Board, in consultation with the Board of Health, shall adopt regulations for the licensure of (i) onsite soil evaluators; (ii) installers of alternative onsite sewage systems, as defined in § 32.1-163; and (iii) operators of alternative onsite sewage systems, as defined in § 32.1-163. Such regulations shall include requirements for (a) minimum education and training, including approved training courses; (b) relevant work experience; (c) demonstrated knowledge and skill; (d) application fees to cover the costs of the program, renewal fees, and schedules; (e) the division of onsite soil evaluators into classes, one of which shall be restricted to the design of conventional onsite sewage systems; and (f) other criteria the Board deems necessary.

E. The Board shall permit any wastewater works operator to sit for the conventional onsite sewage system operator examination.

CHAPTER 193

An Act to amend and reenact § 2.2-220.2 of the Code of Virginia, relating to native plant species; state agencies.

[H 1998]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-220.2 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-220.2. Invasive species management plan for strategic actions by state agencies and related advisory group; strategic actions by state agencies to prioritize the use of native plant species.

A. The Secretaries of Natural and Historic Resources and Agriculture and Forestry shall coordinate the development of strategic actions to be taken by the Commonwealth, individual state and federal agencies, private businesses, and landowners related to invasive species prevention, early detection and rapid response, control and management, research and risk assessment, and education and outreach. Such strategic actions shall include the development of a state invasive species management plan. The plan shall include a list of invasive species that pose the greatest threat to the Commonwealth. The primary purposes of the plan shall be to address the ~~rising cost~~ *increasing threats* of invasive species, to improve coordination among state and federal agencies' efforts regarding invasive species prevention and management and information exchange, and to educate the public on related matters. The Secretaries of Natural and Historic Resources

and Agriculture and Forestry shall update the state invasive species management plan at least once every four years. The Department of Conservation and Recreation shall provide staff support.

B. The Secretary of Natural and Historic Resources shall establish and serve as chair of an advisory group to develop an invasive species management plan and shall coordinate and implement recommendations of that plan. Other members of the advisory group shall include the Departments of *Agriculture and Consumer Services,* Conservation and Recreation, ~~Wildlife Resources,~~ Environmental Quality, Forestry, ~~Agriculture and Consumer Services,~~ Health, ~~and~~ Transportation*, and Wildlife Resources*; the Marine Resources Commission; the Virginia Cooperative Extension; the Virginia Institute of Marine Science; representatives of the agriculture and forestry industries; the conservation community; interested federal agencies; academic institutions; and commercial interests. The Secretary of Agriculture and Forestry shall serve as the vice-chair of the advisory group. The advisory group shall meet at least twice per year ~~and~~*,* shall utilize ad hoc committees as necessary with special emphasis on working with affected industries, landowners, and citizens, and shall assist the Secretary to:

1. Prevent additional introductions of invasive species to the lands and waters of the Commonwealth;

2. Procure, use, and maintain native species to replace invasive species;

3. Implement targeted control efforts on those invasive species that are present in the Commonwealth but are susceptible to such management actions;

4. Identify and report the appearance of invasive species before they can become established and control becomes less feasible;

5. Implement immediate control measures if a new invasive species is introduced in Virginia, with the aim of eradicating that species from Virginia's lands and waters if feasible given the degree of infestation; and

6. Recommend legislative actions or pursue federal grants to implement the plan.

Nothing in this section shall affect the authorities of any agency represented on the advisory group with respect to invasive species.

C. *The Secretaries of Natural and Historic Resources, Agriculture and Forestry, and Administration shall coordinate the development of strategic actions to be taken by state agencies to prioritize the use of native plant species. Such strategic actions shall (i) identify state properties appropriate to restore to natural communities and native species habitats, (ii) encourage all state agencies to prioritize native plants and trees when planting or propagating on state properties, and (iii) provide guidance to state agencies that manage state properties on restoration of properties degraded by invasive plants by planting more natural communities and native species habitats.*

D. As used in this section, "invasive species" means a species, including its seeds, eggs, spores or other biological material capable of propagating that species, that is not native to the ecosystem and whose introduction causes or is likely to cause economic or environmental harm or harm to human health; however, ~~this definition shall~~ *"invasive species" does* not include (i) any agricultural crop generally recognized by the ~~United States~~ *U.S.* Department of Agriculture or the Virginia Department of Agriculture and Consumer Services as suitable to be grown in the Commonwealth~~,~~ or (ii) any aquacultural organism recognized by the Marine Resources Commission or the Department of Wildlife Resources as suitable to be propagated in the Commonwealth.

~~Nothing in this section shall affect the authorities of any agency represented on the advisory group with respect to invasive species.~~

CHAPTER 194

An Act to amend and reenact §§ 10.1-107 and 10.1-200.1 of the Code of Virginia, relating to state parks; master planning requirements.

[H 2151]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-107 and 10.1-200.1 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-107. General powers and duties of the Board.

A. The Board shall advise the Governor and the Director on activities of the Department. Upon the request of the Governor, or the Director, the Board shall institute investigations and make recommendations.

The Board shall formulate recommendations to the Director concerning:

1. Requests for grants or loans pertaining to outdoor recreation.

2. Designation of recreational sites eligible for recreational access road funds.

3. Designations proposed for scenic rivers, scenic highways, and Virginia byways.

4. Acquisition of real property by fee simple or other interests in property for the Department including, but not limited to, state parks, state recreational areas, state trails, greenways, natural areas and natural area preserves, and other lands of biological, environmental, historical, recreational*,* or scientific interest.

5. Acquisition of bequests, devises*,* and gifts of real and personal property, and the interest and income derived therefrom.

6. Stage one and stage two plans, master plans, and ~~substantial acquisition or improvement~~ amendments to master plans as provided in § 10.1-200.1.

B. The Board shall have the authority to promulgate regulations necessary for the execution of the Public Beach Conservation and Development Act, Article 2 (§ 10.1-705 et seq.) of Chapter 7 of this title.

C. The Board shall assist the Department in the duties and responsibilities described in Subtitle I (§ 10.1-100 et seq.) of Title 10.1.

D. The Board is authorized to conduct fund-raising activities as deemed appropriate and will deposit such revenue into the State Parks Projects Fund pursuant to subsection C of § 10.1-202.

E. The Board shall advise the Governor and the Director concerning the protection or management of the Virginia Scenic Rivers System as defined in § 10.1-400. Upon the request of the Governor, or the Director, the Board shall institute investigations and make recommendations. The Board shall have general powers and duties to (i) advise the Director on the appointment of Scenic River Advisory Committees or other local or regional committees pursuant to § 10.1-401; (ii) formulate recommendations concerning designations for proposed scenic rivers or extensions of existing scenic rivers; (iii) consider and comment to the Director on any federal, state, or local governmental plans to approve, license, fund, or construct facilities that would alter any of the assets that qualified the river for scenic designation; (iv) assist the Director in reviewing and making recommendations regarding all planning for the use and development of water and related land resources including the construction of impoundments, diversions, roadways, crossings, channels, locks, canals, or other uses that change the character of a stream or waterway or destroy its scenic assets, so that full consideration and evaluation of the river as a scenic resource will be given before alternative plans for use and development are approved; (v) assist the Director in preserving and protecting the natural beauty of the scenic rivers, assuring the use and enjoyment of scenic rivers for fish and wildlife, scenic, recreational, geologic, historic, cultural, or other assets, and encouraging the continuance of existing agricultural, horticultural, forestal and open space land and water uses; (vi) advise the Director and the affected local jurisdiction on the impacts of proposed uses of each scenic river and its related land resources; and (vii) assist local governments in solving problems associated with the Virginia Scenic Rivers System, in consultation with the Director.

§ 10.1-200.1. State park master planning.

A. *For purposes of this section, unless the context requires a different meaning:*

"Development of a park" means any substantial physical alterations within the park boundaries other than those necessary for the repair or maintenance of existing resources or necessary for the development of the master plan.

"Substantial improvement" means physical improvements and structures valued at $2 million or more that are not already documented in a park's existing master plan.

B. The Department shall undertake a master planning process (i) for all existing state parks, (ii) following the ~~substantial~~ acquisition of land for a new state park, and (iii) prior to undertaking substantial improvements to state parks *that are not already documented in a park's existing master plan*. A master plan shall be considered a guide for the development, utilization and management of a park and its natural, cultural and historic resources and shall be adhered to closely. Each plan shall be developed in stages allowing for public input.

Stage one of the plan shall include the development of a characterization map indicating, at a minimum, boundaries, inholdings, adjacent property holdings, and other features such as slopes, water resources, soil conditions and types, natural resources, and cultural and historic resources. The stage one plan shall include a characterization of the potential types of uses for different portions of the parks and shall provide a narrative description of the natural, physical, cultural and historic attributes of the park. The stage one plan shall include the specific purposes for the park and goals and objectives to support those purposes.

Upon completion of a stage one plan, a stage two plan shall be developed by the Department which shall include the potential size, types and locations of facilities and the associated infrastructure including roads and utilities, as applicable. Proposed development of any type shall be in keeping with the character of existing improvements, if appropriate, and the natural, cultural and historic heritage and attributes of the park. The stage two plan shall include a proposed plan for phased development of the potential facilities and infrastructure. The Department shall project the development costs and the operational, maintenance, staffing and financial needs necessary for each of the various phases of park development. Projections shall also be made for the park's resource management needs and related costs. The projections shall be made part of the stage two plan.

Upon completion of the stage two plan, the stage one and stage two plans along with supporting documents shall be combined to form a master plan for the park. Development of a park shall not begin until the master plan has been reviewed by the Board of Conservation and Recreation and adopted by the Director.

~~B.~~ *C.* All members of the General Assembly shall be given notice of public meetings and, prior to their adoption, the availability for review of stage one, stage two and master plans and proposed amendments for substantial improvements.

~~C.~~ *D.* The master planning process shall not be considered an impediment to the acquisition of inholdings ~~or~~, adjacent properties *to be incorporated into an existing park, or properties acquired for the development of a new park*. Such properties, when acquired, shall be incorporated into ~~the~~ *a park's existing* master plan ~~and their uses shall be amended into the master plan~~ *as part of that plan's next scheduled 10-year review and update, or for a new park, a master plan shall be initiated within five years of finalizing the acquisition.*

~~D.~~ *E.* Stage one and stage two plans shall be considered complete following review and adoption by the Director. Stage one and stage two plans may only be adopted by the Director following public notice and a public meeting. The Director may make nonsubstantial amendments to master plans following public notice. A master plan or a substantial amendment to

a master plan may only be adopted by the Director after considering the recommendations of the Board of Conservation and Recreation following public notice and a public meeting.

~~E.~~ *F.* The Department shall solicit and consider public comment in the development of the stage one and two plans as well as the master plan and any amendments thereto. Such solicitation shall include reasonable notice to appropriate trade associations and private businesses within a 10-mile radius of the park that offer similar categories of service, including private campgrounds, marinas, and recreational facilities.

~~F.~~ *G.* Master plans shall be reviewed and updated by the Department and the Board of Conservation and Recreation no less frequently than once every 10 years and shall be referenced in the Virginia Outdoors Plan.

~~G.~~ *H.* Materials, documents and public testimony and input produced or taken for purposes of park planning prior to January 1, 1999, may be utilized in lieu of the process established in this section provided that it conforms with the requirements of this section and that a master plan shall be developed that conforms with this section which shall not be deemed complete until reviewed and approved in accordance with subsection ~~D~~ *E*.

~~H.~~ *I.* The planning process contained in this section satisfies the Department of General Services master planning requirements for lands owned or managed by the Department of Conservation and Recreation. The Department of Conservation and Recreation's Facility Development Plans shall continue to meet the Department of General Service's requirements.

~~I. For purposes of this section, unless the context requires a different meaning:~~

~~"Development of a park" means any substantial physical alterations within the park boundaries other than those necessary for the repair or maintenance of existing resources or necessary for the development of the master plan.~~

~~"Substantial acquisition" means the purchase of land valued at $500,000 or more or the acquisition of the major portion of land for a new state park whichever is less.~~

~~"Substantial improvement" means physical improvements and structures valued at $500,000 or more.~~

CHAPTER 195

An Act to amend and reenact §§ 28.2-606, 28.2-1302, and 28.2-1403 of the Code of Virginia, relating to Marine Resources Commission and local wetlands boards; permit applications; public notice.

[S 1160]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-606, 28.2-1302, and 28.2-1403 of the Code of Virginia are amended and reenacted as follows:

§ 28.2-606. Notice of application.

A. Notice of the application shall be posted by the Commission for not less than 30 days on its website *and the Virginia Regulatory Town Hall website*. The Commission shall provide by registered or certified mail written notice of its receipt of the application to (i) the mailing address of the holder of a current lease for any oyster planting ground that is contiguous to the ground applied for~~,~~ and (ii) the last known address, as shown on the current real estate tax assessment book or records, of the owner of any riparian property located within 200 feet of the ground applied for. The provision of notice to the governing board of an association for a common interest community as defined in § 54.1-2345 shall be deemed adequate to notify all associated unit owners or lot owners.

B. The Commission shall publish notice of the application at least once ~~a week for two consecutive weeks~~ in a newspaper of general circulation in the area in which the ground applied for lies. *In the event that the Commission submits a correct and timely notice for publication and the newspaper fails to publish the notice or publishes the notice incorrectly, the Commission shall be deemed to have met the notice requirements of this section so long as the notice is published in the next available edition of such newspaper.*

C. Notice provided pursuant to this section shall invite and provide information about the submission of written comments on the application. The cost of the notice required by this section shall be borne by the applicant.

§ 28.2-1302. Adoption of wetlands zoning ordinance; terms of ordinance.

Any county, city or town may adopt the following ordinance, which, after ~~October~~ *January* 1, ~~1992~~ *2024*, shall serve as the only wetlands zoning ordinance under which any wetlands board is authorized to operate. Any county, city, or town ~~which~~ *that* has adopted the ordinance prior to ~~October~~ *January* 1, ~~1992~~ *2024*, shall amend the ordinance to conform it to the ordinance contained herein by ~~October~~ *January* 1, ~~1992~~ *2024*.

Wetlands Zoning Ordinance

§ 1. The governing body of _____, acting pursuant to Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia, adopts this ordinance regulating the use and development of wetlands.

§ 2. As used in this ordinance, unless the context requires a different meaning:

"Back Bay and its tributaries" means the following, as shown on the United States Geological Survey Quadrangle Sheets for Virginia Beach, North Bay, and Knotts Island: Back Bay north of the Virginia-North Carolina state line; Capsies Creek north of the Virginia-North Carolina state line; Deal Creek; Devil Creek; Nawney Creek; Redhead Bay, Sand Bay, Shipps Bay, North Bay, and the waters connecting them; Beggars Bridge Creek; Muddy Creek; Ashville Bridge Creek;

Hells Point Creek; Black Gut; and all coves, ponds, and natural waterways adjacent to or connecting with the above-named bodies of water.

"Commission" means the Virginia Marine Resources Commission.

"Commissioner" means the Commissioner of Marine Resources.

"Governmental activity" means any of the services provided by this ____. (county, city, or town) to its citizens for the purpose of maintaining this ____ (county, city, or town), including but not limited to such services as constructing, repairing, and maintaining roads; providing sewage facilities and street lights; supplying and treating water; and constructing public buildings.

"Nonvegetated wetlands" means unvegetated lands lying contiguous to mean low water and between mean low water and mean high water, including those unvegetated areas of Back Bay and its tributaries and the North Landing River and its tributaries subject to flooding by normal and wind tides but not hurricane or tropical storm tides.

"North Landing River and its tributaries" means the following, as shown on the United States Geological Survey Quadrangle Sheets for Pleasant Ridge, Creeds, and Fentress: the North Landing River from the Virginia-North Carolina line to Virginia Highway 165 at North Landing Bridge; the Chesapeake and Albemarle Canal from Virginia Highway 165 at North Landing Bridge to the locks at Great Bridge; and all named and unnamed streams, creeks, and rivers flowing into the North Landing River and the Chesapeake and Albemarle Canal except West Neck Creek north of Indian River Road, Pocaty River west of Blackwater Road, Blackwater River west of its forks located at a point approximately 6400 feet due west of the point where Blackwater Road crosses the Blackwater River at the village of Blackwater, and Millbank Creek west of Blackwater Road.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

"Vegetated wetlands" means lands lying between and contiguous to mean low water and an elevation above mean low water equal to the factor one and one-half times the mean tide range at the site of the proposed project in the county, city, or town in question, and upon which is growing any of the following species: saltmarsh cordgrass (Spartina alterniflora), saltmeadow hay (Spartina patens), saltgrass (Distichlis spicata), black needlerush (Juncus roemerianus), saltwort (Salicornia spp.), sea lavender (Limonium spp.), marsh elder (Iva frutescens), groundsel bush (Baccharis halimifolia), wax myrtle (Myrica sp.), sea oxeye (Borrichia frutescens), arrow arum (Peltandra virginica), pickerelweed (Pontederia cordata), big cordgrass (Spartina cynosuroides), rice cutgrass (Leersia oryzoides), wildrice (Zizania aquatica), bulrush (Scirpus validus), spikerush (Eleocharis sp.), sea rocket (Cakile edentula), southern wildrice (Zizaniopsis miliacea), cattail (Typha spp.), three-square (Scirpus spp.), buttonbush (Cephalanthus occidentalis), bald cypress (Taxodium distichum), black gum (Nyssa sylvatica), tupelo (Nyssa aquatica), dock (Rumex spp.), yellow pond lily (Nuphar sp.), marsh fleabane (Pluchea purpurascens), royal fern (Osmunda regalis), marsh hibiscus (Hibiscus moscheutos), beggar's tick (Bidens sp.), smartweed (Polygonum sp.), arrowhead (Sagittaria spp.), sweet flag (Acorus calamus), water hemp (Amaranthus cannabinus), reed grass (Phragmites communis), or switch grass (Panicum virgatum).

"Vegetated wetlands of Back Bay and its tributaries" or "vegetated wetlands of the North Landing River and its tributaries" means all marshes subject to flooding by normal and wind tides but not hurricane or tropical storm tides, and upon which is growing any of the following species: saltmarsh cordgrass (Spartina alterniflora), saltmeadow hay (Spartina patens), black needlerush (Juncus roemerianus), marsh elder (Iva frutescens), groundsel bush (Baccharis halimifolia), wax myrtle (Myrica sp.), arrow arum (Peltandra virginica), pickerelweed (Pontederia cordata), big cordgrass (Spartina cynosuroides), rice cutgrass (Leersia oryzoides), wildrice (Zizania aquatica), bulrush (Scirpus validus), spikerush (Eleocharis sp.), cattail (Typha spp.), three-square (Scirpus spp.), dock (Rumex sp.), smartweed (Polygonum sp.), yellow pond lily (Nuphar sp.), royal fern (Osmunda regalis), marsh hibiscus (Hibiscus moscheutos), beggar's tick (Bidens sp.), arrowhead (Sagittaria sp.), water hemp (Amaranthus cannabinus), reed grass (Phragmites communis), or switch grass (Panicum virgatum).

"Wetlands" means both vegetated and nonvegetated wetlands.

"Wetlands board" or "board" means a board created pursuant to § 28.2-1303 of the Code of Virginia.

§ 3. The following uses of and activities in wetlands are authorized if otherwise permitted by law:

1. The construction and maintenance of noncommercial catwalks, piers, boathouses, boat shelters, fences, duckblinds, wildlife management shelters, footbridges, observation decks, and shelters and other similar structures, provided that such structures are so constructed on pilings as to permit the reasonably unobstructed flow of the tide and preserve the natural contour of the wetlands;

2. The cultivation and harvesting of shellfish, and worms for bait;

3. Noncommercial outdoor recreational activities, including hiking, boating, trapping, hunting, fishing, shellfishing, horseback riding, swimming, skeet and trap shooting, and shooting on shooting preserves, provided that no structure shall be constructed except as permitted in subdivision 1 of this section;

4. Other outdoor recreational activities, provided they do not impair the natural functions or alter the natural contour of the wetlands;

5. Grazing, haying, and cultivating and harvesting agricultural, forestry, or horticultural products;

6. Conservation, repletion, and research activities of the Commission, the Virginia Institute of Marine Science, the Department of Wildlife Resources and other conservation-related agencies;

7. The construction or maintenance of aids to navigation ~~which~~ *that* are authorized by governmental authority;

8. Emergency measures decreed by any duly appointed health officer of a governmental subdivision acting to protect the public health;

9. The normal maintenance and repair of, or addition to, presently existing roads, highways, railroad beds, or facilities abutting on or crossing wetlands, provided that no waterway is altered and no additional wetlands are covered;

10. Governmental activity in wetlands owned or leased by the Commonwealth or a political subdivision thereof;

11. The normal maintenance of man-made drainage ditches, provided that no additional wetlands are covered. This subdivision does not authorize the construction of any drainage ditch; and

12. The construction of living shoreline projects authorized pursuant to a general permit developed under subsection B of § 28.2-104.1.

§ 4. A. Any person who desires to use or develop any wetland within this _____ (county, city, or town), other than for the purpose of conducting the activities specified in § 3 of this ordinance, shall first file an application for a permit directly with the wetlands board or with the Commission.

B. The permit application shall include the following: the name and address of the applicant; a detailed description of the proposed activities; a map, drawn to an appropriate and uniform scale, showing the area of wetlands directly affected, the location of the proposed work thereon, the area of existing and proposed fill and excavation, the location, width, depth, and length of any proposed channel and disposal area, and the location of all existing and proposed structures, sewage collection and treatment facilities, utility installations, roadways, and other related appurtenances or facilities, including those on adjacent uplands; a statement indicating whether use of a living shoreline as defined in § 28.2-104.1 for a shoreline management practice is not suitable, including reasons for the determination; a description of the type of equipment to be used and the means of equipment access to the activity site; the names and addresses of owners of record of adjacent land and known claimants of water rights in or adjacent to the wetland of whom the applicant has notice; an estimate of cost; the primary purpose of the project; any secondary purposes of the project, including further projects; the public benefit to be derived from the proposed project; a complete description of measures to be taken during and after the alteration to reduce detrimental offsite effects; the completion date of the proposed work, project, or structure; and such additional materials and documentation as the wetlands board may require.

C. A nonrefundable processing fee shall accompany each permit application. The fee shall be set by the applicable governing body with due regard for the services to be rendered, including the time, skill, and administrator's expense involved.

§ 5. All applications, maps, and documents submitted shall be open for public inspection at the office designated by the applicable governing body and specified in the ~~advertisement~~ *public notice* for public hearing required under § 6 of this ordinance.

§ 6. Not later than 60 days after receipt of a complete application, the wetlands board shall hold a public hearing on the application. The applicant, local governing body, Commissioner, owner of record of any land adjacent to the wetlands in question, known claimants of water rights in or adjacent to the wetlands in question, the Virginia Institute of Marine Science, the Department of Wildlife Resources, the *State* Water Control Board, the Department of Transportation, and any governmental agency expressing an interest in the application shall be notified of the hearing. The *Commission or* board shall mail *or email* these notices not less than 20 days prior to the date set for the hearing. The ~~wetlands~~ board shall also *(i)* cause notice of the hearing to be published at least once ~~a week for two weeks~~ *in the seven days* prior to such hearing in a newspaper of general circulation in this _____ (county, city, or town)*; (ii) post a notice of the hearing on its website at least 14 days prior to such hearing; and (iii) provide a copy of such notice to the Commission for submittal to the Virginia Regulatory Town Hall*. The published notice shall specify the place or places within this _____ (county, city, or town) where copies of the application may be examined. The costs of publication shall be paid by the applicant. *In the event that the board submits a correct and timely notice for publication and the newspaper fails to publish the notice or publishes the notice incorrectly, the board shall be deemed to have met the notice requirements of this subsection so long as the notice is published in the next available edition of such newspaper.*

§ 7. A. Approval of a permit application shall require the affirmative vote of three members of a five-member board or four members of a seven-member board.

B. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. Any person may testify at the public hearing. Each witness at the hearing may submit a concise written statement of his testimony. The board shall make a record of the proceeding, which shall include the application, any written statements of witnesses, a summary of statements of all witnesses, the findings and decision of the board, and the rationale for the decision.

C. The board shall make its determination within 30 days of the hearing. If the board fails to act within that time, the application shall be deemed approved. Within 48 hours of its determination, the board shall notify the applicant and the Commissioner of its determination. If the board fails to make a determination within the 30-day period, it shall promptly notify the applicant and the Commission that the application is deemed approved. For purposes of this section, "act" means taking a vote on the application. If the application receives less than four affirmative votes from a seven-member board or less than three affirmative votes from a five-member board, the permit shall be denied.

D. If the board's decision is reviewed or appealed, the board shall transmit the record of its hearing to the Commissioner. Upon a final determination by the Commission, the record shall be returned to the board. The record shall be open for public inspection at the same office as was designated under § 5 of this ordinance.

§ 8. The board may require a reasonable bond or letter of credit in an amount and with surety and conditions satisfactory to it, securing to the Commonwealth compliance with the conditions and limitations set forth in the permit. The board may, after a hearing held pursuant to this ordinance, suspend or revoke a permit if the applicant has failed to comply with any of the conditions or limitations set forth in the permit or has exceeded the scope of the work described in the application. The board may, after a hearing, suspend a permit if the applicant fails to comply with the terms and conditions set forth in the application.

§ 9. In fulfilling its responsibilities under this ordinance, the board shall preserve and prevent the despoliation and destruction of wetlands within its jurisdiction while accommodating necessary economic development in a manner consistent with wetlands preservation and any standards set by the Commonwealth in addition to those identified in § 28.2-1308 to ensure protection of shorelines and sensitive coastal habitats from sea level rise and coastal hazards, including the provisions of guidelines and minimum standards promulgated by the Commission pursuant to § 28.2-1301 of the Code of Virginia.

§ 10. A. In deciding whether to grant, grant in modified form*,* or deny a permit, the board shall consider the following:

1. The testimony of any person in support of or in opposition to the permit application;

2. The impact of the proposed development on the public health, safety, and welfare; and

3. The proposed development's conformance with standards prescribed in § 28.2-1308 of the Code of Virginia and guidelines promulgated pursuant to § 28.2-1301 of the Code of Virginia.

B. The board shall grant the permit if all of the following criteria are met:

1. The anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment.

2. The proposed development conforms with the standards prescribed in § 28.2-1308 of the Code of Virginia and guidelines promulgated pursuant to § 28.2-1301 of the Code of Virginia.

3. The proposed activity does not violate the purposes and intent of this ordinance or Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia.

C. If the board finds that any of the criteria listed in subsection B of this section are not met, the board shall deny the permit application but allow the applicant to resubmit the application in modified form.

§ 11. The permit shall be in writing~~,~~ *and* signed by the chairman of the board or his authorized representative~~, and notarized~~. A copy of the permit shall be transmitted to the Commissioner.

§ 12. No permit shall be granted without an expiration date established by the board. Upon proper application, the board may extend the permit expiration date.

§ 13. No permit granted by a wetlands board shall in any way affect the applicable zoning and land use ordinances of this _____ (county, city, or town) or the right of any person to seek compensation for any injury in fact incurred by him because of the proposed activity.

§ 28.2-1403. Certain counties, cities, and towns authorized to adopt coastal primary sand dune ordinance.

Any of the following counties, cities and towns ~~which~~ *that* adopt a wetlands zoning ordinance pursuant to § 28.2-1302 may adopt the coastal primary sand dune zoning ordinance ~~which~~ *that* is set out in this section: the Counties of Accomack, Arlington, Caroline, Charles City, Chesterfield, Essex, Fairfax, Gloucester, Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Prince George, Prince William, Richmond, Spotsylvania, Stafford, Surry, Westmoreland, and York; ~~and~~ the Cities of Alexandria, Chesapeake, Colonial Heights, Fairfax, Falls Church, Fredericksburg, Hampton, Hopewell, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach and Williamsburg; and the Town of Cape Charles. In the event that a locality has not adopted a wetlands zoning ordinance pursuant to Chapter 13 (§ 28.2-1300 et seq.) or repeals it if already adopted, such locality may adopt or continue to administer the ordinance contained herein provided the locality appoints a wetlands board following the procedure specified in § 28.2-1303. Any county or city ~~which~~ *that* has adopted the Coastal Primary Sand Dune Zoning Ordinance prior to ~~October 1, 1992~~ *January 1, 2024*, shall amend the ordinance to conform it to the ordinance contained herein by ~~October 1, 1992~~ *January 1, 2024*. The following ordinance is the only coastal primary sand dune zoning ordinance under which any board shall operate after ~~October 1, 1992~~ *January 1, 2024*.

Coastal Primary Sand Dune Zoning Ordinance

§ 1. The governing body of _____, acting pursuant to Chapter 14 (§ 28.2-1400 et seq.) of Title 28.2 of the Code of Virginia, adopts this ordinance regulating the use and development of coastal primary sand dunes. Whenever coastal primary sand dunes are referred to in this ordinance, such references shall also include beaches.

§ 2. As used in this ordinance, unless the context requires a different meaning:

"Beach" means the shoreline zone comprised of unconsolidated sandy material upon which there is a mutual interaction of the forces of erosion, sediment transport*,* and deposition that extends from the low water line landward to where there is a marked change in either material composition or physiographic form such as a dune, bluff, or marsh, or where no such change can be identified, to the line of woody vegetation (usually the effective limit of stormwaves), or the nearest impermeable man-made structure, such as a bulkhead, revetment, or paved road.

"Coastal primary sand dune" or "dune" means a mound of unconsolidated sandy soil ~~which~~ *that* is contiguous to mean high water, whose landward and lateral limits are marked by a change in grade from ~~ten~~ *10* percent or greater to less than ~~ten~~ *10* percent, and upon which is growing any of the following species: American beach grass (Ammophila breviligulata);

beach heather (Hudsonia tomentosa); dune bean (Strophostyles spp.); dusty miller (Artemisia stelleriana); saltmeadow hay (Spartina patens); seabeach sandwort (Honckenya peploides); sea oats (Uniola paniculata); sea rocket (Cakile edentula); seaside goldenrod (Solidago sempervirens); Japanese sedge or Asiatic sand sedge (Carex kobomugi); Virginia pine (Pinus virginiana); broom sedge (Andropogon virginicus); and short dune grass (Panicum amarum). For purposes of this ordinance, "coastal primary sand dune" shall not include any mound of sand, sandy soil, or dredge spoil deposited by any person for the purpose of temporary storage, beach replenishment, or beach nourishment, nor shall the slopes of any such mound be used to determine the landward or lateral limits of a coastal primary sand dune.

"Commission" means the Virginia Marine Resources Commission.

"Commissioner" means the Commissioner of Marine Resources.

"County, city and town" means the governing body of the county, city and town.

"Governmental activity" means any of the services provided by the Commonwealth or a county, city, or town to its citizens for the purpose of maintaining public facilities, including but not limited to, such services as constructing, repairing, and maintaining roads; providing street lights and sewage facilities; supplying and treating water; and constructing public buildings.

"Wetlands board" or "board" means the board created pursuant to § 28.2-1303 of the Code of Virginia.

§ 3. The following uses of and activities in dunes are authorized if otherwise permitted by law:

1. The construction and maintenance of noncommercial walkways ~~which~~ *that* do not alter the contour of the coastal primary sand dune;

2. The construction and maintenance of observation platforms ~~which~~ *that* are not an integral part of any dwelling and ~~which~~ *that* do not alter the contour of the coastal primary sand dune;

3. The planting of beach grasses or other vegetation for the purpose of stabilizing coastal primary sand dunes;

4. The placement of sand fences or other material on or adjacent to coastal primary sand dunes for the purpose of stabilizing such features, except that this provision shall not be interpreted to authorize the placement of any material ~~which~~ *that* presents a public health or safety hazard;

5. Sand replenishment activities of any private or public concern, provided no sand shall be removed from any coastal primary sand dune unless authorized by lawful permit;

6. The normal maintenance of any groin, jetty, riprap, bulkhead, or other structure designed to control beach erosion ~~which~~ *that* may abut a coastal primary sand dune;

7. The normal maintenance or repair of existing roads, highways, railroad beds, and facilities of the United States, this Commonwealth or any of its counties or cities, or of any person, provided no coastal primary sand dunes are altered;

8. Outdoor recreational activities, provided the activities do not alter the natural contour of the coastal primary sand dune or destroy the vegetation growing thereon;

9. The conservation and research activities of the Commission, Virginia Institute of Marine Science, Department of Wildlife Resources, and other conservation-related agencies;

10. The construction and maintenance of aids to navigation ~~which~~ *that* are authorized by governmental authority;

11. Activities pursuant to any emergency declaration by the governing body of any local government or the Governor of the Commonwealth or any public health officer for the purposes of protecting the public health and safety;

12. Governmental activity in coastal primary sand dunes owned or leased by the Commonwealth or a political subdivision thereof; and

13. The construction of living shoreline projects authorized pursuant to a general permit developed under subsection B of § 28.2-104.1.

§ 4. A. Any person who desires to use or alter any coastal primary sand dune within this _____ (county, city, or town), other than for the purpose of conducting the activities specified in § 3 of this ordinance, shall first file an application directly with the wetlands board or with the Commission.

B. The permit application shall include the following: the name and address of the applicant; a detailed description of the proposed activities and a map, drawn to an appropriate and uniform scale, showing the area of dunes directly affected, the location of the proposed work thereon, the area of any proposed fill and excavation, the location, width, depth, and length of any disposal area, and the location of all existing and proposed structures, sewage collection and treatment facilities, utility installations, roadways, and other related appurtenances or facilities, including those on adjacent uplands; a description of the type of equipment to be used and the means of equipment access to the activity site; the names and addresses of owners of record of adjacent land; an estimate of cost; the primary purpose of the project; any secondary purposes of the project, including further projects; the public benefit to be derived from the proposed project; a complete description of measures to be taken during and after the alteration to reduce detrimental offsite effects; the completion date of the proposed work, project, or structure; and such additional materials and documentation as the wetlands board may require.

C. A nonrefundable processing fee shall accompany each permit application. The fee shall be set by the applicable governing body with due regard for the services to be rendered, including the time, skill, and administrator's expense. No person shall be required to file two separate applications for permits if the proposed project will require permits under this ordinance and Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia. Under those circumstances, the fee shall be established pursuant to this ordinance.

§ 5. All applications, maps, and documents submitted shall be open for public inspection at the office of the recording officer of this _____ (county, city or town).

§ 6. Not later than 60 days after receipt of a complete application, the wetlands board shall hold a public hearing on the application. The applicant, local governing body, Commissioner, owner of record of any land adjacent to the coastal primary sand dunes in question, the Virginia Institute of Marine Science, the Department of Wildlife Resources, the State Water Control Board, the Department of Transportation, and any governmental agency expressing an interest in the application shall be notified of the hearing. The *Commission or* board shall mail *or email* these notices not less than 20 days prior to the date set for the hearing. The ~~wetlands~~ board shall also *(i)* cause notice of the hearing to be published at least once ~~a week for two weeks~~ *in the seven days* prior to such hearing in a newspaper of general circulation in this _____ (county, city or town)*; (ii) post a notice of the hearing on its website at least 14 days prior to such hearing; and (iii) provide a copy of such notice to the Commission for submittal to the Virginia Regulatory Town Hall*. The costs of publication shall be paid by the applicant. *In the event that the board submits a correct and timely notice for publication and the newspaper fails to publish the notice or publishes the notice incorrectly, the board shall be deemed to have met the notice requirements of this subsection so long as the notice is published in the next available edition of such newspaper.*

§ 7. A. Approval of a permit application shall require the affirmative vote of three members of a five-member board or four members of a seven-member board.

B. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. Any person may appear and be heard at the public hearing. Each witness at the hearing may submit a concise written statement of his testimony. The board shall make a record of the proceeding, which shall include the application, any written statements of witnesses, a summary of statements of all witnesses, the findings and decision of the board, and the rationale for the decision.

C. The board shall make its determination within 30 days of the hearing. If the board fails to act within that time, the application shall be deemed approved. Within 48 hours of its determination, the board shall notify the applicant and the Commissioner of its determination. If the board fails to make a determination within the 30-day period, it shall promptly notify the applicant and the Commission that the application is deemed approved.

D. If the board's decision is reviewed or appealed, the board shall transmit the record of its hearing to the Commissioner. Upon a final determination by the Commission, the record shall be returned to the board. The record shall be open for public inspection at the office of the recording officer of this _____ (county, city, or town).

§ 8. The board may require a reasonable bond or letter of credit in an amount and with surety and conditions satisfactory to it, securing to the Commonwealth compliance with the conditions and limitations set forth in the permit. The board may, after a hearing held pursuant to this ordinance, suspend or revoke a permit if the applicant has failed to comply with any of the conditions or limitations set forth in the permit or has exceeded the scope of the work described in the application. The board may, after a hearing, suspend a permit if the applicant fails to comply with the terms and conditions set forth in the application.

§ 9. In fulfilling its responsibilities under this ordinance, the board shall preserve and protect coastal primary sand dunes and beaches and prevent their despoliation and destruction. However, whenever practical, the board shall accommodate necessary economic development in a manner consistent with the protection of these features.

§ 10. A. In deciding whether to grant, grant in modified form, or deny a permit, the board shall consider the following:

1. The testimony of any person in support of or in opposition to the permit application;

2. The impact of the proposed development on the public health, safety, and welfare; and

3. The proposed development's conformance with standards prescribed in § 28.2-1408 of the Code of Virginia and guidelines promulgated pursuant to § 28.2-1401 of the Code of Virginia.

B. The board shall grant the permit if all of the following criteria are met:

1. The anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment.

2. The proposed development conforms with the standards prescribed in § 28.2-1408 of the Code of Virginia and guidelines promulgated pursuant to § 28.2-1401 of the Code of Virginia.

3. The proposed activity does not violate the purposes and intent of this ordinance or Chapter 14 (§ 28.2-1400 et seq.) of Title 28.2 of the Code of Virginia.

C. If the board finds that any of the criteria listed in subsection B of this section are not met, the board shall deny the permit application but allow the applicant to resubmit the application in modified form.

§ 11. The permit shall be in writing~~,~~ *and* signed by the chairman of the board~~, and notarized~~. A copy of the permit shall be transmitted to the Commissioner.

§ 12. No permit shall be granted without an expiration date established by the board. Upon proper application, the board may extend the permit expiration date.

§ 13. No permit granted by a wetlands board shall in any way affect the right of any person to seek compensation for any injury in fact incurred by him because of the permitted activity.

CHAPTER 196

An Act to direct the Department of Environmental Quality to include specifications relating to certain activities for stormwater management and erosion and sediment control related to the installation of permanent gravel access roads by an electric utility in the next publication of the Department of Environmental Quality's Virginia Stormwater Management Handbook.

[H 2126]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. As used in this act, "electric utility" means any person that generates, transmits, or distributes electric energy for use by retail customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or electric utility owned or operated by a municipality.*

§ 2. The Department of Environmental Quality (the Department) shall include specifications for stormwater management and erosion and sediment control for the installation of permanent gravel access roads by an electric utility for the purpose of construction and maintenance of electric transmission lines in the next publication of the Department's Virginia Stormwater Management Handbook (the Handbook). Such specifications shall be developed after seeking input from electric utility representatives. Any electric utility that complies with the Handbook's specifications for stormwater management and erosion and sediment control for the installation of a permanent gravel access road for the purpose of construction and maintenance of electric transmission lines shall be deemed to satisfy the water quantity technical criteria in the Stormwater Management Act pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

An electric utility may provide in its annual standards and specifications reasonable assurance that the specifications in the Handbook will be satisfied. The electric utility may achieve such reasonable assurance by incorporating the applicable specifications from the Handbook into a stormwater management plan and an erosion and sediment control plan developed for a project to install a permanent gravel access road under its annual standards and specifications.

§ 3. Until the effective date of the next publication of the Handbook, any new permanent gravel access road associated with the construction and maintenance of electric transmission lines by an electric utility shall be deemed to have satisfied the required water quantity technical criteria if (i) the maximum width of the permanent gravel access road is no more than 14 feet with passing areas not more than 100 feet in length and 24 feet in width every 2,000 feet, on average; (ii) the permanent gravel access road follows the contour of the natural terrain to the extent possible and slopes should not exceed 10 percent; (iii) the permanent gravel access road is constructed using clean, open-graded, angular aggregate at a depth of no less than six inches; and (iv) the following conditions are met:

1. The project is managed so that during construction of the permanent gravel access road the area of land-disturbing activity is less than one acre;

2. The area where land-disturbing activity has been completed is adequately stabilized prior to initiating construction of the gravel access road on the next area subject to land-disturbing activity. "Adequately stabilized" means compliance with Standard and Specification 3.36 in the 1992 Virginia Erosion and Sediment Control Handbook;

3. The environment is protected from erosion and sedimentation damage associated with the land-disturbing activity; and

4. The project owner or construction activity operator designs, installs, implements, and maintains pollution prevention measures to (i) minimize the discharge of pollutants from equipment and vehicle wash water, wheel wash water, and other wash waters; (ii) minimize the exposure of building materials, building products, construction waste, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on site to precipitation and to stormwater; (iii) minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures; (iv) prohibit the discharge of wastewater from the washout of concrete; (v) prohibit the discharge of wastewater from the washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials; and (vi) prohibit the discharge of fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.

The electric utility shall provide in its annual standards and specifications reasonable assurance that such conditions will be satisfied. The electric utility may achieve such reasonable assurance by incorporating the conditions of this section into an erosion and sediment control plan developed for the project under the utility's annual standards and specifications.

CHAPTER 197

An Act to direct the Department of Environmental Quality to include specifications relating to certain activities for stormwater management and erosion and sediment control related to the installation of permanent gravel access roads

by an electric utility in the next publication of the Department of Environmental Quality's Virginia Stormwater Management Handbook.

[S 1178]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. As used in this act, "electric utility" means any person that generates, transmits, or distributes electric energy for use by retail customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or electric utility owned or operated by a municipality.*

§ 2. The Department of Environmental Quality (the Department) shall include specifications for stormwater management and erosion and sediment control for the installation of permanent gravel access roads by an electric utility for the purpose of construction and maintenance of electric transmission lines in the next publication of the Department's Virginia Stormwater Management Handbook (the Handbook). Such specifications shall be developed after seeking input from electric utility representatives. Any electric utility that complies with the Handbook's specifications for stormwater management and erosion and sediment control for the installation of a permanent gravel access road for the purpose of construction and maintenance of electric transmission lines shall be deemed to satisfy the water quantity technical criteria in the Stormwater Management Act pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

An electric utility may provide in its annual standards and specifications reasonable assurance that the specifications in the Handbook will be satisfied. The electric utility may achieve such reasonable assurance by incorporating the applicable specifications from the Handbook into a stormwater management plan and an erosion and sediment control plan developed for a project to install a permanent gravel access road under its annual standards and specifications.

§ 3. Until the effective date of the next publication of the Handbook, any new permanent gravel access road associated with the construction and maintenance of electric transmission lines by an electric utility shall be deemed to have satisfied the required water quantity technical criteria if (i) the maximum width of the permanent gravel access road is no more than 14 feet with passing areas not more than 100 feet in length and 24 feet in width every 2,000 feet, on average; (ii) the permanent gravel access road follows the contour of the natural terrain to the extent possible and slopes should not exceed 10 percent; (iii) the permanent gravel access road is constructed using clean, open-graded, angular aggregate at a depth of no less than six inches; and (iv) the following conditions are met:

1. The project is managed so that during construction of the permanent gravel access road the area of land-disturbing activity is less than one acre;

2. The area where land-disturbing activity has been completed is adequately stabilized prior to initiating construction of the gravel access road on the next area subject to land-disturbing activity. "Adequately stabilized" means compliance with Standard and Specification 3.36 in the 1992 Virginia Erosion and Sediment Control Handbook;

3. The environment is protected from erosion and sedimentation damage associated with the land-disturbing activity; and

4. The project owner or construction activity operator designs, installs, implements, and maintains pollution prevention measures to (i) minimize the discharge of pollutants from equipment and vehicle wash water, wheel wash water, and other wash waters; (ii) minimize the exposure of building materials, building products, construction waste, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on site to precipitation and to stormwater; (iii) minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures; (iv) prohibit the discharge of wastewater from the washout of concrete; (v) prohibit the discharge of wastewater from the washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials; and (vi) prohibit the discharge of fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.

The electric utility shall provide in its annual standards and specifications reasonable assurance that such conditions will be satisfied. The electric utility may achieve such reasonable assurance by incorporating the conditions of this section into an erosion and sediment control plan developed for the project under the utility's annual standards and specifications.

CHAPTER 198

An Act to amend the Code of Virginia by adding a section numbered 46.2-1231.2, relating to towing and recovery operators; attorney fees and costs.

[H 2392]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 46.2-1231.2 as follows:

§ 46.2-1231.2. Attorney fees and costs; towing and recovery operators.

In any civil action brought by a towing and recovery operator to recover allowable costs pursuant to § 46.2-1212.1 or 46.2-1217 or to enforce a lien pursuant to § 46.2-644.03 related to towing and recovery services rendered as a result of a

request made by any local or state law-enforcement officer or other government official acting in his official capacity, the towing and recovery operator may include reasonable attorney fees and costs for pursuing such civil action as a part of the damages. Such reasonable attorney fees and costs may be awarded if the court finds that the towing and recovery operator is entitled to any monetary award for the underlying claim.

CHAPTER 199

An Act to direct the Secretary of Public Safety and Homeland Security to establish a work group to study existing fire service needs, analyze sustainability of current funding, and review alternative funding models from other states; report.

[H 2175]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Secretary of Public Safety and Homeland Security (the Secretary) shall establish a work group composed of representatives from the Department of Fire Programs, the Department of Planning and Budget, the Office of Emergency Medical Services, the Virginia Fire Services Council, Virginia's Regional EMS Councils, the Virginia Fire Chiefs Association, the Senate Committee on Finance and Appropriations, the House Committee on Appropriations, and such other stakeholders as the Secretary deems appropriate to study existing fire service needs, analyze sustainability of current funding, and review alternative funding models from other states. In conducting its study, the work group may hire an outside consultant and shall create a needs assessment survey that analyzes existing fire service needs, the sustainability of current funding, any gaps in current funding, how other states fund fire and EMS services, and best practices from other states. The Secretary shall report the work group's findings and any recommendations to the Chairmen of the House Committee on General Laws and the Senate Committee on General Laws and Technology on or before October 1, 2023.*

CHAPTER 200

An Act to amend and reenact § 18.2-60 of the Code of Virginia, relating to threats made against health care providers; penalty.

[H 1835]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-60 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-60. Threats of death or bodily injury to a person or member of his family; threats of death or bodily injury to persons on school property; threats of death or bodily injury to health care providers; penalty.

A. 1. Any person who knowingly communicates, in a writing, including an electronically transmitted communication producing a visual or electronic message, a threat to kill or do bodily injury to a person, regarding that person or any member of his family, and the threat places such person in reasonable apprehension of death or bodily injury to himself or his family member, is guilty of a Class 6 felony. However, any person who violates this subsection with the intent to commit an act of terrorism as defined in § 18.2-46.4 is guilty of a Class 5 felony.

2. Any person who communicates a threat, in a writing, including an electronically transmitted communication producing a visual or electronic message, to kill or do bodily harm, (i) on the grounds or premises of any elementary, middle or secondary school property~~,~~*;* (ii) at any elementary, middle or secondary school-sponsored event*;* or (iii) on a school bus to any person or persons, regardless of whether the person who is the object of the threat actually receives the threat, and the threat would place the person who is the object of the threat in reasonable apprehension of death or bodily harm, is guilty of a Class 6 felony.

3. Any person 18 years of age or older who communicates a threat in writing, including an electronically transmitted communication producing a visual or electronic message, to another to kill or to do serious bodily injury to any other person and makes such threat with the intent to (i) intimidate a civilian population at large; (ii) influence the conduct or activities of a government, including the government of the United States, a state, or a locality, through intimidation; or (iii) compel the emergency evacuation, or avoidance, of any place of assembly, any building or other structure, or any means of mass transportation is guilty of a Class 5 felony. Any person younger than 18 years of age who commits such offense is guilty of a Class 1 misdemeanor.

B. Any person who orally makes a threat to kill or to do bodily injury to (i) any employee of any elementary, middle, or secondary school, while on a school bus, on school property, or at a school-sponsored activity or (ii) any health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties ~~in a hospital as defined in § 18.2-57 or in an emergency room~~ *while* on the premises of any ~~clinic or other~~ facility rendering ~~emergency medical care~~ *health care as defined in § 8.01-581.1*, unless the ~~person~~ *health care provider* is on the premises of ~~the hospital or emergency room of the clinic or other~~ *any* facility rendering *health care as defined in § 8.1-581.1 or* emergency medical care as a result of an emergency custody order pursuant to § 37.2-808, involuntary temporary detention order pursuant to § 37.2-809, involuntary

hospitalization order pursuant to § 37.2-817, or emergency custody order of a conditionally released acquittee pursuant to § 19.2-182.9, is guilty of a Class 1 misdemeanor.

C. A prosecution pursuant to this section may be ~~either~~ in *either* the county, city, or town in which the communication was made or received.

CHAPTER 201

An Act to amend and reenact § 18.2-429 of the Code of Virginia, relating to causing a telephone to ring or other device to signal with intent to annoy; emergency communications; penalty.

[H 1590]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-429 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-429. Causing a telephone, digital pager, or other device to ring or signal with intent to annoy; emergency communications; penalties.

A. Any person who, with or without intent to communicate but with intent to annoy any other person, causes any telephone or digital pager, not his own, to ring or to otherwise signal, and any person who permits or condones the use of any telephone under his control for such purpose, is guilty of a Class 3 misdemeanor. A second or subsequent conviction under this subsection is punishable as a Class 2 misdemeanor if such prior conviction occurred before the date of the offense charged.

B. Any person who, with or without intent to ~~converse,~~ *communicate* but with intent to annoy, harass, hinder, or delay emergency personnel in the performance of their duties as such, causes a telephone to ring *or other device to signal*, which is owned or leased for the purpose of receiving ~~emergency calls~~ *communications* by a public or private entity providing fire, police, or emergency medical services, and any person who knowingly permits the use of a telephone *or other device* under his control for such purpose, is guilty of a Class 1 misdemeanor.

CHAPTER 202

An Act to amend and reenact § 18.2-429 of the Code of Virginia, relating to causing a telephone to ring or other device to signal with intent to annoy; emergency communications; penalty.

[S 1034]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-429 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-429. Causing a telephone, digital pager, or other device to ring or signal with intent to annoy; emergency communications; penalties.

A. Any person who, with or without intent to communicate but with intent to annoy any other person, causes any telephone or digital pager, not his own, to ring or to otherwise signal, and any person who permits or condones the use of any telephone under his control for such purpose, is guilty of a Class 3 misdemeanor. A second or subsequent conviction under this subsection is punishable as a Class 2 misdemeanor if such prior conviction occurred before the date of the offense charged.

B. Any person who, with or without intent to ~~converse,~~ *communicate* but with intent to annoy, harass, hinder, or delay emergency personnel in the performance of their duties as such, causes a telephone to ring *or other device to signal*, which is owned or leased for the purpose of receiving ~~emergency calls~~ *communications* by a public or private entity providing fire, police, or emergency medical services, and any person who knowingly permits the use of a telephone *or other device* under his control for such purpose, is guilty of a Class 1 misdemeanor.

CHAPTER 203

An Act to amend and reenact § 59.1-148.3 of the Code of Virginia, relating to purchase of handguns or other weapons of certain officers; Department of State Police.

[S 1433]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-148.3 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.

A. The Department of State Police, the Department of Wildlife Resources, the Virginia Alcoholic Beverage Control Authority, the Virginia Lottery, the Marine Resources Commission, the Capitol Police, the Department of Conservation and

Recreation, the Department of Forestry, any sheriff, any regional jail board or authority, and any local police department may allow any sworn law-enforcement officer, deputy, or regional jail officer, a local fire department may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow any law-enforcement officer, any institution of higher education named in § 23.1-1100 may allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, retiring on or after July 1, 1991, and the Department of Corrections may allow any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as a result of a service-incurred disability or who is receiving long-term disability payments for a service-incurred disability with no expectation of returning to the employment where he incurred the disability to purchase the service handgun issued or previously issued to him by the agency or institution at a price of $1. If the previously issued weapon is no longer available, a weapon of like kind may be substituted for that weapon. This privilege shall also extend to any former Superintendent ~~of the Department~~ of State Police who leaves service after a minimum of five years. This privilege shall also extend to any person listed in this subsection who is eligible for retirement with at least 10 years of service who resigns on or after July 1, 1991, in good standing from one of the agencies listed in this section to accept a position covered by the Virginia Retirement System. Other weapons issued by the agencies listed in this subsection for personal duty use of an officer may, with approval of the agency head, be sold to the officer subject to the qualifications of this section at a fair market price determined as in subsection B, so long as the weapon is a type and configuration that can be purchased at a regular hardware or sporting goods store by a private citizen without restrictions other than the instant background check.

B. The agencies listed in subsection A may allow any sworn law-enforcement officer who retires with five or more years of service, but less than 10, to purchase the service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Any sworn law-enforcement officer employed by any of the agencies listed in subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

C. The agencies listed in subsection A may allow the immediate survivor of any sworn law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least 10 years of service to purchase the service handgun issued to the officer by the agency at a price of $1.

D. The governing board of any institution of higher learning named in § 23.1-1100 may allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

E. Any officer who at the time of his retirement is a sworn law-enforcement officer with a state agency listed in subsection A, when the agency allows purchases of service handguns, and who retires after 10 years of state service, even if a portion of his service was with another state agency, may purchase the service handgun issued to him by the agency from which he retires at a price of $1.

F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a minimum of 10 years of service, upon leaving office, to purchase for $1 the service handgun issued to him.

G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with more than 10 years of service to purchase the service handgun issued to him by the agency at a price that is equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer currently employed by the agency to purchase his service handgun, with the approval of the chief law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the agency has purchased new service handguns for its officers, and the handgun subject to the sale is no longer used by the agency or officer in the course of duty.

I. The Department of State Police may allow any law-enforcement officer formerly employed by the Department who had at least 10 years of service with the Department and has been elected to a constitutional office to purchase his service handgun, with the approval of the Superintendent of State Police, at a fair market price.

CHAPTER 204

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

[H 1408]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-402 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.

A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of Emergency Management hazardous materials officers or (ii) any health condition or impairment of such firefighters or Department of Emergency Management hazardous materials officers resulting in total or partial disability shall be presumed to be

occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of any of the following persons who have completed five years of service in their position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, (xiv) campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education, and (xv) salaried or volunteer emergency medical services personnel, as defined in § 32.1-111.1, when such emergency medical services personnel is operating in a locality that has legally adopted a resolution declaring that it will provide one or more of the presumptions under this subsection, shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, ~~or~~ testicular*, bladder, or thyroid* cancer causing the death of, or any health condition or impairment resulting in total or partial disability of, any volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles having completed five years of service shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For colon, brain, or testicular cancer, the presumption shall not apply for any individual who was diagnosed with such a condition before July 1, 2020. *For bladder or thyroid cancer, the presumption shall not apply for any individual who was diagnosed with such a condition before July 1, 2023.*

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

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

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

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

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

CHAPTER 205

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

[S 906]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-402 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.

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

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of any of the following persons who have completed five years of service in their position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, (xiv) campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education, and (xv) salaried or volunteer emergency medical services personnel, as defined in § 32.1-111.1, when such emergency medical services personnel is operating in a locality that has legally adopted a resolution declaring that it will provide one or more of the presumptions under this subsection, shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, ~~or~~ testicular*, bladder, or thyroid* cancer causing the death of, or any health condition or impairment resulting in total or partial disability of, any volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles having completed five years of service shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For colon, brain, or testicular cancer, the presumption shall not apply for any individual who was diagnosed with such a condition before July 1, 2020. *For bladder or thyroid cancer, the presumption shall not apply for any individual who was diagnosed with such a condition before July 1, 2023.*

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

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

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

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

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

CHAPTER 206

An Act to amend and reenact § 62.1-44.15:23.1 of the Code of Virginia, relating to Wetland and Stream Replacement Fund; availability of credits; use of funds.

[H 1628]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.15:23.1 of the Code of Virginia is amended and reenacted as follows:

§ 62.1-44.15:23.1. Wetland and Stream Replacement Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Wetland and Stream Replacement Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All contributions to the Board pursuant to clause (iii) of subsection B of § 62.1-44.15:21 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Fund shall be administered and utilized by the Department ~~of Environmental Quality~~. The Fund may be used as an additional mechanism for compensatory mitigation for impacts to aquatic resources (i) that result from activities authorized under (a) Section 404 and 401 of the Clean Water Act (33 U.S.C. § 1251 et seq.), (b) the Virginia Water Protection Permit Regulation (9 VAC 25-210 et seq.), or (c) Section 10 of the Rivers and Harbors Act (33 U.S.C. § 403); (ii) that result from unauthorized activities in waters of the United States or state waters; and (iii) in other cases, as the appropriate regulatory agencies deem acceptable. Moneys in the Fund shall be used for the purpose of purchasing mitigation bank credits in compliance with the provisions of subsection B of § 62.1-44.15:23 as soon as practicable ~~if qualifying credits are available~~ *after moneys are collected.* If ~~such~~ *the Department determines within two years after the collection of moneys for a specific impact that* credits ~~are~~ *will* not *be* available within three years of the collection of moneys for ~~a~~ *such* specific impact, then funds ~~shall~~ *may* be utilized either (1) to purchase credits from a Board-approved fund that have met the success criteria, if qualifying credits are available, (2) for the planning, construction, monitoring, and preservation of wetland and stream mitigation projects and preservation, enhancement, or restoration of upland buffers adjacent to wetlands or other state waters when used in conjunction with creation or restoration of wetlands and streams, or (3) for other water quality improvement projects as deemed acceptable by the Department ~~of Environmental Quality~~. Such projects developed under clause (2) shall be developed in accordance with guidelines, responsibilities, and standards established by the Department ~~of Environmental Quality~~ for use, operation, and maintenance consistent with 33 CFR Part 332, governing compensatory mitigation for activities authorized by U.S. Army Corps of Engineer permits. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department ~~of Environmental Quality~~. The Department may charge a reasonable fee to administer the Fund.

CHAPTER 207

An Act to amend and reenact § 3 of Chapter 481 of the Acts of Assembly of 1962, as amended by Chapter 173 of the Acts of Assembly of 1976 and by Chapter 439 of the Acts of Assembly of 2002, relating to Alexandria Historical Restoration and Preservation Commission; surety bonds for membership.

[H 2371]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 3 of Chapter 481 of the Acts of Assembly of 1962, as amended by Chapter 173 of the Acts of Assembly of 1976 and by Chapter 439 of the Acts of Assembly of 2002, is amended and reenacted as follows:

§ 3. The Commission shall consist of five members, three to be appointed by the city council of Alexandria and two to be appointed by the Governor; they shall be appointed within thirty days after the effective date of this act. Members of the original Commission shall be appointed for terms as follows: One for two years, two for three years and two for four years, provided that the members appointed by the Governor shall be appointed for four years, and thereafter members shall be appointed for four-year terms except appointments to fill vacancies for unexpired terms in which event the appointment shall be for the unexpired term only. The members of the Commission, including the chairman, shall receive no compensation for their services but shall be entitled to be reimbursed for per diem and travel expenses incurred in the performance of their official duties as members of the Commission. ~~Each member shall give a surety bond in the sum of ten thousand dollars, executed by a surety company authorized to do business in this State, payable to the Governor and his successors in office, and conditioned upon the faithful performance of his duties.~~

The Commission shall be expanded to nine members beginning July 1, 2002. The additional members shall be appointed by the city council of Alexandria. Thereafter members shall be appointed for four-year terms except appointments to fill vacancies for unexpired terms, in which event the appointment shall be for the unexpired term only.

CHAPTER 208

An Act to amend and reenact § 3 of Chapter 481 of the Acts of Assembly of 1962, as amended by Chapter 173 of the Acts of Assembly of 1976 and by Chapter 439 of the Acts of Assembly of 2002, relating to Alexandria Historical Restoration and Preservation Commission; surety bonds for membership.

[S 942]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 3 of Chapter 481 of the Acts of Assembly of 1962, as amended by Chapter 173 of the Acts of Assembly of 1976 and by Chapter 439 of the Acts of Assembly of 2002, is amended and reenacted as follows:

§ 3. The Commission shall consist of five members, three to be appointed by the city council of Alexandria and two to be appointed by the Governor; they shall be appointed within thirty days after the effective date of this act. Members of the original Commission shall be appointed for terms as follows: One for two years, two for three years and two for four years, provided that the members appointed by the Governor shall be appointed for four years, and thereafter members shall be appointed for four-year terms except appointments to fill vacancies for unexpired terms in which event the appointment shall be for the unexpired term only. The members of the Commission, including the chairman, shall receive no compensation for their services but shall be entitled to be reimbursed for per diem and travel expenses incurred in the performance of their official duties as members of the Commission. ~~Each member shall give a surety bond in the sum of ten thousand dollars, executed by a surety company authorized to do business in this State, payable to the Governor and his successors in office, and conditioned upon the faithful performance of his duties.~~

The Commission shall be expanded to nine members beginning July 1, 2002. The additional members shall be appointed by the city council of Alexandria. Thereafter members shall be appointed for four-year terms except appointments to fill vacancies for unexpired terms, in which event the appointment shall be for the unexpired term only.

CHAPTER 209

An Act to amend and reenact § 2.2-2340 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-2340.1, relating to Fort Monroe Authority; fees; security.

[H 2256]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2340 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-2340.1 as follows:

§ 2.2-2340. Additional declaration of policy; powers of the Authority; penalty.

A. It is the policy of the Commonwealth that the historic, cultural, and natural resources of Fort Monroe be protected in any conveyance or alienation of real property interests by the Authority. Real property in the Area of Operation at Fort Monroe may be maintained as Commonwealth-owned land that is leased, whether by short-term operating/revenue lease or long-term ground lease, to appropriate public, private, or joint venture entities, with such historic, cultural, and natural resources being protected in any such lease, to be approved as to form by the Attorney General of the Commonwealth of Virginia. If sold as provided in this article, real property interests in the Area of Operation at Fort Monroe may only be sold under covenants, historic conservation easements, historic preservation easements, or other appropriate legal restrictions approved as to form by the Attorney General that protect these historic and natural resources. Properties in the Wherry Quarter and Inner Fort areas identified in the Fort Monroe Reuse Plan may only be sold with the consent of both the Governor and the General Assembly, except that any transfer to the National Park Service shall require only the approval of the Governor. The proceeds from the sale or pre-paid lease of any real or personal property within the Area of Operation shall be retained by the Authority and used for infrastructure improvements in the Area of Operation.

B. The Authority shall have the power and duty:

1. To sue and be sued; to adopt and use a common seal and to alter the same as may be deemed expedient; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Authority; and to make and from time to time amend and repeal bylaws, rules, and regulations, not inconsistent with law, to carry into effect the powers and purposes of the Authority;

2. To foster and stimulate the economic and other development of Fort Monroe, including without limitation development for business, employment, housing, commercial, recreational, educational, and other public purposes; to prepare and carry out plans and projects to accomplish such objectives; to provide for the construction, reconstruction, rehabilitation, reuse, improvement, alteration, maintenance, removal, equipping, or repair of any buildings, structures, or land of any kind; to lease or rent to others or to develop, operate, or manage with others in a joint venture or other partnering arrangement, on such terms as it deems proper and which are consistent with the provisions of the Programmatic Agreement, Design Standards, and Reuse Plan governing any lands, dwellings, houses, accommodations, structures, buildings, facilities, or appurtenances embraced within Fort Monroe; to establish, collect, and revise the rents charged and terms and conditions of occupancy thereof; to terminate any such lease or rental obligation upon the failure of the lessee or renter to comply with any of the obligations thereof; to arrange or contract for the furnishing by any person or agency, public or private, of works, services, privileges, or facilities in connection with any activity in which the Authority may engage, provided, however, that if services are provided by the City of Hampton pursuant to § 2.2-2341 for which the City is compensated pursuant to subsection B of § 2.2-2342, then the Authority may provide for additional, more complete, or more timely services than are generally available in the City of Hampton as a whole if deemed necessary or appropriate by the Authority; to acquire, own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, easement, dedication, or otherwise any real or personal property or any interest therein,

which purchase, lease, or acquisition may only be made for less than fair market value if the Board of Trustees determines, upon the advice of the Attorney General, that the transaction is consistent with the fiduciary obligation of the Authority to the Commonwealth and if necessary or appropriate to further the purposes of the Authority; as provided in this article, to sell, lease, exchange, transfer, assign, or pledge any real or personal property or any interest therein, which sale, lease, or other transfer or assignment may be made for less than fair market value; as provided in this article, to dedicate, make a gift of, or lease for a nominal amount any real or personal property or any interest therein to the Commonwealth, the City of Hampton, or other localities or agencies, public or private, within the Area of Operation or adjacent thereto, jointly or severally, for public use or benefit, such as, but not limited to, game preserves, playgrounds, park and recreational areas and facilities, hospitals, clinics, schools, and airports; to acquire, lease, maintain, alter, operate, improve, expand, sell, or otherwise dispose of onsite utility and infrastructure systems or sell any excess service capacity for offsite use; to acquire, lease, construct, maintain, and operate and dispose of tracks, spurs, crossings, terminals, warehouses, and terminal facilities of every kind and description necessary or useful in the transportation and storage of goods, wares, and merchandise; and to insure or provide for the insurance of any real or personal property or operation of the Authority against any risks or hazards;

3. To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursements, in property or security in which fiduciaries may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled;

4. To undertake and carry out examinations, investigations, studies, and analyses of the business, industrial, agricultural, utility, transportation, and other economic development needs, requirements, and potentialities of its Area of Operation or offsite needs, requirements, and potentialities that directly affect the success of the Authority at Fort Monroe, and the manner in which such needs and requirements and potentialities are being met, or should be met, in order to accomplish the purposes for which it is created; to make use of the facts determined in such research and analyses in its own operation; and to make the results of such studies and analyses available to public bodies and to private individuals, groups, and businesses, except as such information may be exempted pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.);

5. To administer, develop, and maintain at Fort Monroe permanent commemorative cultural and historical museums and memorials;

6. To adopt names, flags, seals, and other emblems for use in connection with such shrines and to copyright the same in the name of the Commonwealth;

7. To enter into any contracts not otherwise specifically authorized in this article to further the purposes of the Authority, after approval as to form by the Attorney General;

8. To establish nonprofit corporations as instrumentalities to assist in administering the affairs of the Authority;

9. To exercise the power of eminent domain in the manner provided by Chapter 3 (§ 25.1-300 et seq.) of Title 25.1 within the Authority's Area of Operation; however, eminent domain may only be used to obtain easements across property on Fort Monroe for the provision of water, sewer, electrical, ingress and egress, and other necessary or useful services to further the purposes of the Authority, unless the Governor has expressly granted authority to obtain interests for other purposes;

10. To fix, charge, and collect rents, fees, and charges *(i)* for the use of, or the benefit derived from, the services or facilities provided, owned, operated, or financed by the Authority benefiting property within the Authority's Area of Operation *and (ii) for the consumption within the Area of Operation of goods and services being provided in exchange for value by any person or business located and operating, permanently or temporarily, within the Area of Operation*. Such rents, fees, and charges may be charged to and collected by such persons and in such manner as the Authority may determine from ~~(i)~~ *(a)* any person contracting for the services or using the Authority facilities or ~~(ii)~~ *(b)* the owners, tenants, or customers of the real estate and improvements that are served by, or benefit from the use of, any such services or facilities, in such manner as shall be authorized by the Authority in connection with the provision of such services or facilities. Such rents, fees, and charges shall not be chargeable to the Commonwealth or, where such rents, fees or charges relate to services or facilities utilized by the City of Hampton to provide municipal services, to the City of Hampton except as may be provided by lease or other agreement and may be used to fund the provision of the additional, more complete, or more timely services authorized under subdivision 6 of § 2.2-2339, the payments provided under § 2.2-2342, or for other purposes as the Authority may determine to be appropriate, subject to the provisions of subsection B of § 2.2-2342;

11. To receive and expend gifts, grants, and donations from whatever source derived for the purposes of the Authority;

12. To employ an executive director and such deputies and assistants as may be required;

13. To elect any past chairman of the Board of Trustees to the honorary position of chairman emeritus. Chairmen emeriti shall serve as honorary members for life. Chairmen emeriti shall be elected in addition to the nonlegislative citizen member positions defined in § 2.2-2338;

14. To determine what paintings, statuary, works of art, manuscripts, and artifacts may be acquired by purchase, gift, or loan and to exchange or sell the same if not inconsistent with the terms of such purchase, gift, loan, or other acquisition;

15. To change the form of investment of any funds, securities, or other property, real or personal, provided the same are not inconsistent with the terms of the instrument under which the same were acquired, and to sell, grant, or convey any such property, subject to the provisions of subsection A of § 2.2-2340;

16. To cooperate with the federal government, the Commonwealth, the City of Hampton, or other nearby localities in the discharge of its enumerated powers;

17. To exercise all or any part or combination of powers granted in this article;

18. To do any and all other acts and things that may be reasonably necessary and convenient to carry out its purposes and powers;

19. To adopt, amend or repeal, by the Board of Trustees, or the executive committee thereof, regulations concerning the use of, access to and visitation of properties under the control of the Authority in order to protect or secure such properties and the public enjoyment thereof, with any violation of such regulations being punishable by a civil penalty of up to $100 for the first violation and up to $250 for any subsequent violation, such civil penalty to be paid to the Authority;

20. To provide parking and traffic rules and regulations on property owned by the Authority; and

21. To provide that any person who knowingly violates a regulation of the Authority may be requested by an agent or employee of the Authority to leave the property and upon the failure of such person so to do shall be guilty of a trespass as provided in § 18.2-119.

§ 2.2-2340.1. Use of safety and security enhancement devices.

The Authority shall have the power to install, operate, maintain, repair, and replace, or to cause to be installed, operated, maintained, repaired, and replaced, within the Area of Operation, security cameras and any other devices or sensors that the Authority deems to be useful to enhance the safety and security of persons or property located within the Area of Operation.

CHAPTER 210

An Act to amend and reenact § 2.2-2340 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-2340.1, relating to Fort Monroe Authority Act; powers and duties; collection of fees for goods and services offered by persons operating within the Area of Operation; installation of security cameras.

[S 860]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2340 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-2340.1 as follows:

§ 2.2-2340. Additional declaration of policy; powers of the Authority; penalty.

A. It is the policy of the Commonwealth that the historic, cultural, and natural resources of Fort Monroe be protected in any conveyance or alienation of real property interests by the Authority. Real property in the Area of Operation at Fort Monroe may be maintained as Commonwealth-owned land that is leased, whether by short-term operating/revenue lease or long-term ground lease, to appropriate public, private, or joint venture entities, with such historic, cultural, and natural resources being protected in any such lease, to be approved as to form by the Attorney General of the Commonwealth of Virginia. If sold as provided in this article, real property interests in the Area of Operation at Fort Monroe may only be sold under covenants, historic conservation easements, historic preservation easements, or other appropriate legal restrictions approved as to form by the Attorney General that protect these historic and natural resources. Properties in the Wherry Quarter and Inner Fort areas identified in the Fort Monroe Reuse Plan may only be sold with the consent of both the Governor and the General Assembly, except that any transfer to the National Park Service shall require only the approval of the Governor. The proceeds from the sale or pre-paid lease of any real or personal property within the Area of Operation shall be retained by the Authority and used for infrastructure improvements in the Area of Operation.

B. The Authority shall have the power and duty:

1. To sue and be sued; to adopt and use a common seal and to alter the same as may be deemed expedient; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Authority; and to make and from time to time amend and repeal bylaws, rules, and regulations, not inconsistent with law, to carry into effect the powers and purposes of the Authority;

2. To foster and stimulate the economic and other development of Fort Monroe, including without limitation development for business, employment, housing, commercial, recreational, educational, and other public purposes; to prepare and carry out plans and projects to accomplish such objectives; to provide for the construction, reconstruction, rehabilitation, reuse, improvement, alteration, maintenance, removal, equipping, or repair of any buildings, structures, or land of any kind; to lease or rent to others or to develop, operate, or manage with others in a joint venture or other partnering arrangement, on such terms as it deems proper and which are consistent with the provisions of the Programmatic Agreement, Design Standards, and Reuse Plan governing any lands, dwellings, houses, accommodations, structures, buildings, facilities, or appurtenances embraced within Fort Monroe; to establish, collect, and revise the rents charged and terms and conditions of occupancy thereof; to terminate any such lease or rental obligation upon the failure of the lessee or renter to comply with any of the obligations thereof; to arrange or contract for the furnishing by any person or agency, public or private, of works, services, privileges, or facilities in connection with any activity in which the Authority may engage, provided, however, that if services are provided by the City of Hampton pursuant to § 2.2-2341 for which the City is compensated pursuant to subsection B of § 2.2-2342, then the Authority may provide for additional, more complete, or

more timely services than are generally available in the City of Hampton as a whole if deemed necessary or appropriate by the Authority; to acquire, own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, easement, dedication, or otherwise any real or personal property or any interest therein, which purchase, lease, or acquisition may only be made for less than fair market value if the Board of Trustees determines, upon the advice of the Attorney General, that the transaction is consistent with the fiduciary obligation of the Authority to the Commonwealth and if necessary or appropriate to further the purposes of the Authority; as provided in this article, to sell, lease, exchange, transfer, assign, or pledge any real or personal property or any interest therein, which sale, lease, or other transfer or assignment may be made for less than fair market value; as provided in this article, to dedicate, make a gift of, or lease for a nominal amount any real or personal property or any interest therein to the Commonwealth, the City of Hampton, or other localities or agencies, public or private, within the Area of Operation or adjacent thereto, jointly or severally, for public use or benefit, such as, but not limited to, game preserves, playgrounds, park and recreational areas and facilities, hospitals, clinics, schools, and airports; to acquire, lease, maintain, alter, operate, improve, expand, sell, or otherwise dispose of onsite utility and infrastructure systems or sell any excess service capacity for offsite use; to acquire, lease, construct, maintain, and operate and dispose of tracks, spurs, crossings, terminals, warehouses, and terminal facilities of every kind and description necessary or useful in the transportation and storage of goods, wares, and merchandise; and to insure or provide for the insurance of any real or personal property or operation of the Authority against any risks or hazards;

3. To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursements, in property or security in which fiduciaries may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled;

4. To undertake and carry out examinations, investigations, studies, and analyses of the business, industrial, agricultural, utility, transportation, and other economic development needs, requirements, and potentialities of its Area of Operation or offsite needs, requirements, and potentialities that directly affect the success of the Authority at Fort Monroe, and the manner in which such needs and requirements and potentialities are being met, or should be met, in order to accomplish the purposes for which it is created; to make use of the facts determined in such research and analyses in its own operation; and to make the results of such studies and analyses available to public bodies and to private individuals, groups, and businesses, except as such information may be exempted pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.);

5. To administer, develop, and maintain at Fort Monroe permanent commemorative cultural and historical museums and memorials;

6. To adopt names, flags, seals, and other emblems for use in connection with such shrines and to copyright the same in the name of the Commonwealth;

7. To enter into any contracts not otherwise specifically authorized in this article to further the purposes of the Authority, after approval as to form by the Attorney General;

8. To establish nonprofit corporations as instrumentalities to assist in administering the affairs of the Authority;

9. To exercise the power of eminent domain in the manner provided by Chapter 3 (§ 25.1-300 et seq.) of Title 25.1 within the Authority's Area of Operation; however, eminent domain may only be used to obtain easements across property on Fort Monroe for the provision of water, sewer, electrical, ingress and egress, and other necessary or useful services to further the purposes of the Authority, unless the Governor has expressly granted authority to obtain interests for other purposes;

10. To fix, charge, and collect rents, fees, and charges *(i)* for the use of, or the benefit derived from, the services or facilities provided, owned, operated, or financed by the Authority benefiting property within the Authority's Area of Operation *and (ii) for the consumption within the Area of Operation of goods and services being provided in exchange for value by any person or business located and operating, permanently or temporarily, within the Area of Operation*. Such rents, fees, and charges may be charged to and collected by such persons and in such manner as the Authority may determine from ~~(i)~~ *(a)* any person contracting for the services or using the Authority facilities or ~~(ii)~~ *(b)* the owners, tenants, or customers of the real estate and improvements that are served by, or benefit from the use of, any such services or facilities, in such manner as shall be authorized by the Authority in connection with the provision of such services or facilities. Such rents, fees, and charges shall not be chargeable to the Commonwealth or, where such rents, fees or charges relate to services or facilities utilized by the City of Hampton to provide municipal services, to the City of Hampton except as may be provided by lease or other agreement and may be used to fund the provision of the additional, more complete, or more timely services authorized under subdivision 6 of § 2.2-2339, the payments provided under § 2.2-2342, or for other purposes as the Authority may determine to be appropriate, subject to the provisions of subsection B of § 2.2-2342;

11. To receive and expend gifts, grants, and donations from whatever source derived for the purposes of the Authority;

12. To employ an executive director and such deputies and assistants as may be required;

13. To elect any past chairman of the Board of Trustees to the honorary position of chairman emeritus. Chairmen emeriti shall serve as honorary members for life. Chairmen emeriti shall be elected in addition to the nonlegislative citizen member positions defined in § 2.2-2338;

14. To determine what paintings, statuary, works of art, manuscripts, and artifacts may be acquired by purchase, gift, or loan and to exchange or sell the same if not inconsistent with the terms of such purchase, gift, loan, or other acquisition;

15. To change the form of investment of any funds, securities, or other property, real or personal, provided the same are not inconsistent with the terms of the instrument under which the same were acquired, and to sell, grant, or convey any such property, subject to the provisions of subsection A of § 2.2-2340;

16. To cooperate with the federal government, the Commonwealth, the City of Hampton, or other nearby localities in the discharge of its enumerated powers;

17. To exercise all or any part or combination of powers granted in this article;

18. To do any and all other acts and things that may be reasonably necessary and convenient to carry out its purposes and powers;

19. To adopt, amend or repeal, by the Board of Trustees, or the executive committee thereof, regulations concerning the use of, access to and visitation of properties under the control of the Authority in order to protect or secure such properties and the public enjoyment thereof, with any violation of such regulations being punishable by a civil penalty of up to $100 for the first violation and up to $250 for any subsequent violation, such civil penalty to be paid to the Authority;

20. To provide parking and traffic rules and regulations on property owned by the Authority; and

21. To provide that any person who knowingly violates a regulation of the Authority may be requested by an agent or employee of the Authority to leave the property and upon the failure of such person so to do shall be guilty of a trespass as provided in § 18.2-119.

§ 2.2-2340.1. Use of safety and security enhancement devices.

The Authority shall have the power to install, operate, maintain, repair, and replace, or to cause to be installed, operated, maintained, repaired, and replaced, within the Area of Operation, security cameras and any other devices or sensors that the Authority deems to be useful to enhance the safety and security of persons or property located within the Area of Operation.

CHAPTER 211

An Act to amend and reenact § 2.2-4337 of the Code of Virginia, relating to Virginia Public Procurement Act; certain construction contracts; performance and payment bonds.

[H 1490]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-4337 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-4337. Performance and payment bonds.

A. Upon the award of any (i) nontransportation-related public construction contract exceeding $500,000 awarded to any prime contractor or (ii) transportation-related project authorized pursuant to Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 exceeding $350,000 that is partially or wholly funded by the Commonwealth, the contractor shall furnish to the public body the following bonds:

1. A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications, and conditions of the contract*, unless the contract is an indefinite delivery or quantity contract with a local public body and the local public body adopts an ordinance pursuant to subsection G*.

2. A payment bond in the sum of the contract amount*, unless the contract is an indefinite delivery or quantity contract with a local public body and the local public body adopts an ordinance pursuant to subsection G*. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in furtherance of the work provided for in the contract, and shall be conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the furtherance of the work.

B. Each of the bonds shall be executed by one or more surety companies selected by the contractor that are authorized to do business in Virginia.

C. If the public body is the Commonwealth, or any agency or institution thereof, the bonds shall be payable to the Commonwealth of Virginia, naming also the agency or institution thereof. Bonds required for the contracts of other public bodies shall be payable to such public body.

D. Each of the bonds shall be filed with the public body that awarded the contract, or a designated office or official thereof.

E. Nothing in this section shall preclude a public body from requiring payment or performance bonds for construction contracts below $500,000 for nontransportation-related projects or $350,000 for transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 and partially or wholly funded by the Commonwealth.

F. Nothing in this section shall preclude the contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts that are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

G. For indefinite delivery or quantity contracts awarded pursuant to subsection A, any locality may by ordinance allow the contractor awarded such contract to furnish to the local public body a performance bond and a payment bond, each of

which shall be equal to the dollar amount of the individual tasks identified in the underlying contract. Such contractor shall not be required to pay the performance bond and payment bond in the sum of the contract amount if the contracting locality has adopted such an ordinance pursuant to this subsection. For purposes of this section, "indefinite delivery or quantity contract" means a contract that only requires performance of contractual obligations upon the request of the locality and which establishes an annual cap for the total work that may be authorized for such contract.

CHAPTER 212

An Act to require the Virginia Community College System to establish a standardized core curriculum for all registered nursing (RN) degree or diploma programs in the Commonwealth, the Passport Nursing Program.

[S 1172]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Virginia Community College System, in collaboration with the Board of Nursing, the State Council of Higher Education for Virginia (SCHEV), and representatives from for-profit and private not-for-profit institutions offering registered nursing (RN) degree or diploma programs, shall standardize the core curriculum for all RN degree or diploma programs in the Commonwealth, including those offered at hospitals and for-profit institutions, to be called the Passport Nursing Program, for which the RN core curriculum is standardized in name, content, rigor, and credits such that all classes and credits are stackable, transferrable, and universally accepted by all RN degree or diploma programs in the Commonwealth.*

2. That the Virginia Community College System, in collaboration with the Board of Nursing, the State Council of Higher Education for Virginia (SCHEV), the Virginia Nurses Association, and other relevant stakeholders, shall convene a work group, consisting of representatives from the Virginia Community College System, SCHEV, the Board of Nursing, the Virginia Nurses Association, for-profit and private not-for-profit institutions offering registered nursing (RN) education and diploma programs, the Virginia Hospital and Healthcare Association (VHHA), and Radford University's Nursing Competency Accelerated Pathway (NCAP) program, to develop a system for the standardization of all RN education and diploma programs offered in the Commonwealth, to be called the Passport Nursing Program. The work group shall (i) determine what classes constitute and define the RN core curriculum and (ii) develop a system to standardize the RN core curriculum in name, content, rigor, and credits, including the award of clinical nursing credit hours, opportunity-based and competency-based learning pathways, and fully online learning classes and programs, to ensure that all credits earned toward an RN degree or diploma program are stackable, transferrable, and universally accepted across all such programs. The work group shall submit its report to the Governor, the Chairman of the House Committee on Education, the Chairman of the Senate Committee on Education and Health, and the Board of Nursing no later than November 1, 2023.

CHAPTER 213

An Act to amend and reenact §§ 4.1-209, 4.1-325, and 4.1-325.2 of the Code of Virginia, relating to alcoholic beverage control; displays of wine and beer.

[H 1979]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-209, 4.1-325, and 4.1-325.2 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-209. Wine and beer license privileges; advertising; displays; tastings.

A. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to § 4.1-206.3 may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials (i) otherwise comply with the applicable regulations of the federal Bureau of Alcohol, Tobacco and Firearms and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity, do not depict an athlete consuming alcohol while the athlete is operating or about to operate a motor vehicle or other machinery, and do not imply that the alcoholic beverage so advertised enhances athletic prowess.

B. *Persons granted a license to sell wine and beer for off-premises consumption that display such wine and beer outside a clearly discernible location reserved for alcoholic beverages shall (i) not place wine or beer in an area immediately adjacent to nonalcoholic beverages containing the same or similar brand name, logo, or packaging as an alcoholic beverage and (ii) equip any such display with signage that indicates the product is an alcoholic beverage, is clearly visible to consumers, and is of sufficient size to notify the consumer that the product contains alcohol. Nothing in this subsection shall prohibit the placement of nonalcoholic wine or beer in or near a display of alcoholic beverages that contain the same or similar brand name, logo, or packaging as the nonalcoholic wine or beer.*

C. Persons granted retail on-and-off-premises wine and beer licenses pursuant to the following provisions may conduct wine or beer tastings sponsored by the licensee for its customers for on-premises consumption:

1. Subdivision A 1, 4, 5, 6, 7, 8, or 14 of § 4.1-206.3;

2. Subdivision B 1, 2, 4, 5, 6, 7, or 8 of § 4.1-206.3;

3. Subdivision C 1 or 2 of § 4.1-206.3;

4. Subdivision D 1 a, b, or d or 2 a of § 4.1-206.3; or

5. Subdivision F 4 or 5 of § 4.1-206.3.

Such licensees may sell or give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. No single sample shall exceed four ounces of beer or two ounces of wine, and no more than 12 ounces of beer or five ounces of wine shall be given or sold to any person per day.

§ 4.1-325. Prohibited acts by mixed beverage licensees; penalty.

A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

1. Sell or serve any alcoholic beverage other than as authorized by law;

2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;

3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this subtitle;

4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;

5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;

6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to which spirits may be added, to be served and sold for consumption on the licensed premises;

7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted pursuant to subdivision B 11 of § 4.1-111;

8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;

9. Remove or obliterate any label, mark, or stamp affixed to any container of alcoholic beverages offered for sale;

10. Deliver or sell the contents of any container if the label, mark, or stamp has been removed or obliterated;

11. Allow any obscene conduct, language, literature, pictures, performance, or materials on the licensed premises;

12. Allow any striptease act on the licensed premises;

13. Allow persons connected with the licensed business to appear nude or partially nude;

14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;

15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § 4.1-206.3.

The provisions of this subdivision shall not apply to the delivery of:

a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage distilled from rice, barley or sweet potatoes; or

b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;

16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

17. Conceal any sale or consumption of any alcoholic beverages;

18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;

19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;

20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling;

21. Keep on the licensed premises, except for the premises of a mixed beverage casino licensee, a slot machine or any prohibited gambling or gaming device, machine, or apparatus;

22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subdivision; (iii) pursuant to subsection ~~B~~ *C* of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; (v) by a mixed beverage casino licensee to a patron of such licensee in accordance with the provisions of subdivision A 15 of § 4.1-206.3; or (vi) pursuant to any Board regulation. Any gift permitted by this subdivision shall be subject to the taxes imposed by this subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision; or

23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

B. Any person convicted of a violation of this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

§ 4.1-325.2. Prohibited acts by employees of wine or beer licensees; penalty.

A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.

B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be agents of the retail wine or beer licensee.

C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subsection; (iii) pursuant to subsection ~~B~~ *C* of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall be subject to the taxes imposed by this subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subsection.

D. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed $500.

2. That the Virginia Alcoholic Beverage Control Authority shall report to the Chairmen of the Senate Committee on Rehabilitation and Social Services and the House Committee on General Laws by November 1, 2025, regarding the implementation of the provisions of this act, including the number and nature of any violations and the manner in which such violations were addressed.

CHAPTER 214

An Act to amend and reenact §§ 4.1-209, 4.1-325, and 4.1-325.2 of the Code of Virginia, relating to alcoholic beverage control; displays of wine and beer.

[S 809]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-209, 4.1-325, and 4.1-325.2 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-209. Wine and beer license privileges; advertising; displays; tastings.

A. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to § 4.1-206.3 may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials (i) otherwise comply with the applicable regulations of the federal Bureau of Alcohol, Tobacco and Firearms and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity, do not depict an athlete consuming alcohol while the

athlete is operating or about to operate a motor vehicle or other machinery, and do not imply that the alcoholic beverage so advertised enhances athletic prowess.

B. *Persons granted a license to sell wine and beer for off-premises consumption that display such wine and beer outside a clearly discernible location reserved for alcoholic beverages shall (i) not place wine or beer in an area immediately adjacent to nonalcoholic beverages containing the same or similar brand name, logo, or packaging as an alcoholic beverage and (ii) equip any such display with signage that indicates the product is an alcoholic beverage, is clearly visible to consumers, and is of sufficient size to notify the consumer that the product contains alcohol. Nothing in this subsection shall prohibit the placement of nonalcoholic wine or beer in or near a display of alcoholic beverages that contain the same or similar brand name, logo, or packaging as the nonalcoholic wine or beer.*

C. Persons granted retail on-and-off-premises wine and beer licenses pursuant to the following provisions may conduct wine or beer tastings sponsored by the licensee for its customers for on-premises consumption:

1. Subdivision A 1, 4, 5, 6, 7, 8, or 14 of § 4.1-206.3;
2. Subdivision B 1, 2, 4, 5, 6, 7, or 8 of § 4.1-206.3;
3. Subdivision C 1 or 2 of § 4.1-206.3;
4. Subdivision D 1 a, b, or d or 2 a of § 4.1-206.3; or
5. Subdivision F 4 or 5 of § 4.1-206.3.

Such licensees may sell or give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. No single sample shall exceed four ounces of beer or two ounces of wine, and no more than 12 ounces of beer or five ounces of wine shall be given or sold to any person per day.

§ 4.1-325. Prohibited acts by mixed beverage licensees; penalty.

A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

1. Sell or serve any alcoholic beverage other than as authorized by law;
2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;
3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this subtitle;
4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;
5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;
6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to which spirits may be added, to be served and sold for consumption on the licensed premises;
7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted pursuant to subdivision B 11 of § 4.1-111;
8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;
9. Remove or obliterate any label, mark, or stamp affixed to any container of alcoholic beverages offered for sale;
10. Deliver or sell the contents of any container if the label, mark, or stamp has been removed or obliterated;
11. Allow any obscene conduct, language, literature, pictures, performance, or materials on the licensed premises;
12. Allow any striptease act on the licensed premises;
13. Allow persons connected with the licensed business to appear nude or partially nude;
14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;

15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § 4.1-206.3.

The provisions of this subdivision shall not apply to the delivery of:

a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage distilled from rice, barley or sweet potatoes; or

b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;

16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

17. Conceal any sale or consumption of any alcoholic beverages;

18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;

19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;

20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling;

21. Keep on the licensed premises, except for the premises of a mixed beverage casino licensee, a slot machine or any prohibited gambling or gaming device, machine, or apparatus;

22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subdivision; (iii) pursuant to subsection ~~B~~ *C* of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; (v) by a mixed beverage casino licensee to a patron of such licensee in accordance with the provisions of subdivision A 15 of § 4.1-206.3; or (vi) pursuant to any Board regulation. Any gift permitted by this subdivision shall be subject to the taxes imposed by this subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision; or

23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

B. Any person convicted of a violation of this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

§ 4.1-325.2. Prohibited acts by employees of wine or beer licensees; penalty.

A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.

B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be agents of the retail wine or beer licensee.

C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subsection; (iii) pursuant to subsection ~~B~~ *C* of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall be subject to the taxes imposed by this subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subsection.

D. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed $500.

2. That the Virginia Alcoholic Beverage Control Authority shall report to the Chairmen of the Senate Committee on Rehabilitation and Social Services and the House Committee on General Laws by November 1, 2025, regarding the implementation of the provisions of this act, including the number and nature of any violations and the manner in which such violations were addressed.

CHAPTER 215

An Act to amend and reenact § 27-34.2:1 of the Code of Virginia, relating to police powers of fire marshals; training requirements.

[H 1993]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 27-34.2:1 of the Code of Virginia is amended and reenacted as follows:

§ 27-34.2:1. Police powers of fire marshals.

In addition to such other duties as may be prescribed by law, the local fire marshal and those assistants appointed pursuant to § 27-36 designated by the fire marshal shall, if authorized by the governing body of the county, city, or town appointing the local fire marshal, have the same police powers as a sheriff, police officer, or law-enforcement officer. The investigation and prosecution of all offenses involving hazardous materials, fires, fire bombings, bombings, attempts or threats to commit such offenses, false alarms relating to such offenses, *and* possession and manufacture of explosive devices, substances, and fire bombs shall be the responsibility of the fire marshal or his designee, if authorized by the governing body of the county, city, or town appointing the local fire marshal. The police powers granted in this section shall not be exercised by any local fire marshal or assistant until such person has satisfactorily completed a *basic law-enforcement* course for fire marshals with police powers, *and maintains satisfactory participation in in-service and advanced courses and programs,* designed by the Department of Fire Programs in cooperation with the Department of Criminal Justice Services, which course shall be approved by the Virginia Fire Services Board.

Current or prior certification as a law-enforcement officer, who retired or resigned from his position as a law-enforcement officer in good standing, may satisfy the police powers training requirements upon successful review to determine equivalency by the Department of Fire Programs in cooperation with the Department of Criminal Justice Services.

In addition, fire marshals with police powers shall continue to exercise those powers only upon satisfactory participation in in-service and advanced courses and programs designed by the Department of Fire Programs in cooperation with the Department of Criminal Justice Services, which courses shall be approved by the Virginia Fire Services Board.

CHAPTER 216

An Act to amend and reenact § 27-34.2:1 of the Code of Virginia, relating to police powers of fire marshals; training requirements.

[S 905]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 27-34.2:1 of the Code of Virginia is amended and reenacted as follows:

§ 27-34.2:1. Police powers of fire marshals.

In addition to such other duties as may be prescribed by law, the local fire marshal and those assistants appointed pursuant to § 27-36 designated by the fire marshal shall, if authorized by the governing body of the county, city, or town appointing the local fire marshal, have the same police powers as a sheriff, police officer, or law-enforcement officer. The investigation and prosecution of all offenses involving hazardous materials, fires, fire bombings, bombings, attempts or threats to commit such offenses, false alarms relating to such offenses, *and* possession and manufacture of explosive devices, substances, and fire bombs shall be the responsibility of the fire marshal or his designee, if authorized by the governing body of the county, city, or town appointing the local fire marshal. The police powers granted in this section shall not be exercised by any local fire marshal or assistant until such person has satisfactorily completed a *basic law-enforcement* course for fire marshals with police powers, *and maintains satisfactory participation in in-service and advanced courses and programs,* designed by the Department of Fire Programs in cooperation with the Department of Criminal Justice Services, which course shall be approved by the Virginia Fire Services Board.

Current or prior certification as a law-enforcement officer, who retired or resigned from his position as a law-enforcement officer in good standing, may satisfy the police powers training requirements upon successful review to determine equivalency by the Department of Fire Programs in cooperation with the Department of Criminal Justice Services.

In addition, fire marshals with police powers shall continue to exercise those powers only upon satisfactory participation in in-service and advanced courses and programs designed by the Department of Fire Programs in cooperation with the Department of Criminal Justice Services, which courses shall be approved by the Virginia Fire Services Board.

CHAPTER 217

An Act to amend the Code of Virginia by adding in Article 2 of Chapter 4.1 of Title 16.1 a section numbered 16.1-69.29:1, by adding in Article 9 of Chapter 11 of Title 16.1 a section numbered 16.1-290.2, by adding in Chapter 5 of Title 17.1 a section numbered 17.1-525, and by adding in Chapter 5 of Title 37.2 a section numbered 37.2-513, relating to information to certain defendants; services of community services boards.

[H 2054]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 4.1 of Title 16.1 a section numbered 16.1-69.29:1, by adding in Article 9 of Chapter 11 of Title 16.1 a section numbered 16.1-290.2, by adding in Chapter 5 of Title 17.1 a section numbered 17.1-525, and by adding in Chapter 5 of Title 37.2 a section numbered 37.2-513 as follows:

§ 16.1-69.29:1. Certain information to be made available to certain defendants found not guilty.

In any case in which a defendant is found not guilty of any offense after a trial in a general district court at which evidence of the defendant's mental condition at the time of the alleged offense was introduced in accordance with § 19.2-271.6, the court shall make available to the defendant information provided by the community services board in accordance with § 37.2-513 regarding services provided by the community services board and how such services may be accessed.

§ 16.1-290.2. Certain information to be made available to certain defendants found not guilty.

In any case in which a defendant is found not guilty of any offense after a trial in a juvenile and domestic relations district court at which evidence of the defendant's mental condition at the time of the alleged offense was introduced in accordance with § 19.2-271.6, the court shall make available to the defendant information provided by the community services board in accordance with § 37.2-513 regarding services provided by the community services board and how such services may be accessed.

§ 17.1-525. Certain information to be made available to certain defendants found not guilty.

In any case in which a defendant is found not guilty of any offense after a trial in a circuit court at which evidence of the defendant's mental condition at the time of the alleged offense was introduced in accordance with § 19.2-271.6, the court shall make available to the defendant information provided by the community services board in accordance with § 37.2-513 regarding services provided by the community services board and how such services may be accessed.

§ 37.2-513. Information about services to be made available to courts.

Each community services board shall develop, regularly update, and make available to all juvenile and domestic relations district courts, general district courts, and circuit courts in the locality served by the community services board information regarding the services provided by the community services board, including services for individuals with mental illness, intellectual or developmental disabilities, or autism spectrum disorder, and information about how to access such services.

CHAPTER 218

An Act to amend the Code of Virginia by adding in Article 2 of Chapter 4.1 of Title 16.1 a section numbered 16.1-69.29:1, by adding in Article 9 of Chapter 11 of Title 16.1 a section numbered 16.1-290.2, by adding in Chapter 5 of Title 17.1 a section numbered 17.1-525, and by adding in Chapter 5 of Title 37.2 a section numbered 37.2-513, relating to information to certain defendants; services of community services boards.

[S 1267]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 4.1 of Title 16.1 a section numbered 16.1-69.29:1, by adding in Article 9 of Chapter 11 of Title 16.1 a section numbered 16.1-290.2, by adding in Chapter 5 of Title 17.1 a section numbered 17.1-525, and by adding in Chapter 5 of Title 37.2 a section numbered 37.2-513 as follows:

§ 16.1-69.29:1. Certain information to be made available to certain defendants found not guilty.

In any case in which a defendant is found not guilty of any offense after a trial in a general district court at which evidence of the defendant's mental condition at the time of the alleged offense was introduced in accordance with § 19.2-271.6, the court shall make available to the defendant information provided by the community services board in accordance with § 37.2-513 regarding services provided by the community services board and how such services may be accessed.

§ 16.1-290.2. Certain information to be made available to certain defendants found not guilty.

In any case in which a defendant is found not guilty of any offense after a trial in a juvenile and domestic relations district court at which evidence of the defendant's mental condition at the time of the alleged offense was introduced in accordance with § 19.2-271.6, the court shall make available to the defendant information provided by the community services board in accordance with § 37.2-513 regarding services provided by the community services board and how such services may be accessed.

§ 17.1-525. Certain information to be made available to certain defendants found not guilty.

In any case in which a defendant is found not guilty of any offense after a trial in a circuit court at which evidence of the defendant's mental condition at the time of the alleged offense was introduced in accordance with § 19.2-271.6, the court shall make available to the defendant information provided by the community services board in accordance with § 37.2-513 regarding services provided by the community services board and how such services may be accessed.

§ 37.2-513. Information about services to be made available to courts.

Each community services board shall develop, regularly update, and make available to all juvenile and domestic relations district courts, general district courts, and circuit courts in the locality served by the community services board information regarding the services provided by the community services board, including services for individuals with mental illness, intellectual or developmental disabilities, or autism spectrum disorder, and information about how to access such services.

CHAPTER 219

An Act to amend and reenact § 24.2-802 of the Code of Virginia, relating to recount elections; recount standards; elections for offices to which more than one candidate can be elected.

[H 2324]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-802 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-802. Recount standards.

A. The State Board of Elections shall promulgate standards for (i) the proper handling and security of voting systems, ballots, and other materials required for a recount, (ii) accurate counting of votes based upon objective evidence and taking into account the voting system and form of ballots approved for use in the Commonwealth, and (iii) any other matters that will promote a timely and accurate resolution of the recount.

B. The State Board shall promulgate additional standards and instructions for the conduct of simultaneous recounts of two or more elections in a single election district.

C. *The State Board shall promulgate additional standards and instructions for the conduct of recounts in elections for any office to which more than one candidate can be elected. Such standards and instructions shall include which candidates apparently nominated or elected are required to be named in the petition for a recount or served a copy of the petition for a recount.*

D. The chief judge of the circuit court or the full recount court may, consistent with State Board of Elections standards, resolve disputes over the application of the standards and direct all other appropriate measures to ensure the proper conduct of the recount.

CHAPTER 220

An Act to amend the Code of Virginia by adding a section numbered 58.1-339.14, relating to firearm safety device tax credit.

[H 2387]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 58.1-339.14 as follows:

§ 58.1-339.14. Firearm safety device tax credit.

A. For the purposes of this section:

"Eligible transaction" means a transaction in which a taxpayer purchases one or more firearm safety devices from a dealer that is federally licensed pursuant to 18 U.S.C. § 923. An "eligible transaction" shall not include the purchase of a firearm.

"Firearm" means any handgun, shotgun, rifle, or other firearm that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

"Firearm safety device" means a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

B. For taxable years beginning on and after January 1, 2023, but before January 1, 2028, a taxpayer shall be allowed a nonrefundable credit against the tax levied pursuant to § 58.1-320 for up to $300 for the cost incurred in the purchase of one or more firearm safety devices in an eligible transaction. A taxpayer shall be allowed only one credit under this section per taxable year. The taxpayer shall submit purchase receipts with the income tax return to verify the amount of purchase price paid for the firearm safety device or firearm safety devices. The aggregate amount of credits allowable under this section shall not exceed $5 million per taxable year. Credits shall be allocated by the Department on a first-come, first-served basis.

C. The amount of the credit that may be claimed in any single taxable year shall not exceed the individual's liability for taxes imposed by this chapter for that taxable year. If the amount of the credit allowed under this section exceeds the individual's tax liability for the taxable year in which the eligible transaction occurred, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the individual in the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

D. The Tax Commissioner shall develop guidelines for claiming the credit provided by this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

CHAPTER 221

An Act to amend and reenact § 24.2-673 of the Code of Virginia, relating to certificates of election; persons elected by write-in votes; exception for certain localities.

[H 2443]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-673 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-673. Candidates having highest number of votes to receive certificate of election.

A. Except *as provided in subsection B or* in the case of a recount pursuant to the provisions of Chapter 8 (§ 24.2-800 et seq.) ~~of this title~~, in all elections for the choice of any officer, unless it is otherwise expressly provided, the person having the highest number of votes for any office shall be deemed to have been elected to such office and shall receive the certificate of election.

B. In an election for a local office in a locality with a population of no more than 4,000 persons, if the person having the highest number of votes for the office is elected by write-in votes and is not qualified to hold such office or declines to assume such office, the person having the second highest number of votes shall be deemed to have been elected to such office and shall receive the certificate of election. In the event that the person having the second highest number of votes is not qualified to hold such office or declines to assume such office, the person having the next highest number of votes shall be deemed to have been elected to such office and shall receive the certificate of election. In the event that the person having the next highest number of votes is not qualified to hold such office or declines to assume such office, a vacancy shall be declared and filled by special election.

CHAPTER 222

An Act to amend and reenact § 10.1-1018 of the Code of Virginia, relating to Virginia Land Conservation Board of Trustees; membership.

[S 993]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1018 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-1018. Virginia Land Conservation Board of Trustees; membership; terms; vacancies; compensation and expenses.

A. The Foundation shall be governed and administered by a Board of Trustees *(the Board)*. The Board shall have a total membership of ~~19~~ *20* members that shall consist of ~~17~~ *18* citizen members and two ex officio voting members as follows: four citizen members, who may be members of the House of Delegates, to be appointed by the Speaker of the House of Delegates and, if such members are members of the House of Delegates, in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two citizen members, who may be members of the Senate, to be appointed by the Senate Committee on Rules; ~~11~~ *12* nonlegislative citizen members, one from each *of the 11* congressional ~~district~~ *districts and one member of a state-recognized or federally recognized Virginia Indian Tribe*, to be appointed by the Governor; and the Secretary of Natural and Historic Resources, or his designee, and the Secretary of Agriculture and Forestry, or his designee, to serve ex officio with voting privileges. Nonlegislative citizen members shall be appointed for four-year terms, except that initial appointments shall be made for terms of one to four years in a manner whereby no more than six members shall have terms that expire in the same year. Legislative members and the ex officio member shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. However, no Senate member shall serve more than two consecutive four-year terms, no House member shall serve more than four consecutive two-year terms, and no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Nonlegislative citizen members shall have experience or expertise, professional or personal, in one or more of the following areas: natural resource protection and conservation, construction and real estate development, natural habitat protection, environmental resource inventory and identification, forestry management, farming, farmland preservation, fish and wildlife management, historic preservation, and outdoor recreation. At least one of the nonlegislative citizen members shall be a farmer~~, and at least one shall be a member of a state-recognized or federally recognized Virginia Indian Tribe~~. Members of the Board shall post bond in the penalty of $5,000 with the State Comptroller prior to entering upon the functions of office.

B. The Secretary of Natural and Historic Resources shall serve as the chairman of the Board ~~of Trustees~~. The chairman shall serve until his successor is appointed. The members appointed as provided in subsection A shall elect a vice-chairman annually from among the members of the Board. A majority of the members of the Board serving at any one time shall

constitute a quorum for the transaction of business. The ~~board~~ *Board* shall meet at the call of the chairman or whenever a majority of the members so request.

C. Trustees of the Foundation shall receive no compensation for their services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties on behalf of the Foundation as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members shall be provided by the Department of Conservation and Recreation.

D. The chairman of the Board and any other person designated by the Board to handle the funds of the Foundation shall give bond, with corporate surety, in such penalty as is fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid from funds available to the Foundation for such purpose.

E. The Board shall seek assistance in developing grant criteria and advice on grant priorities and any other appropriate issues from a task force consisting of the following agency heads or their designees: the Director of the Department of Conservation and Recreation, the Commissioner of Agriculture and Consumer Services, the State Forester, the Director of the Department of Historic Resources, the Director of the Department of Wildlife Resources and the Executive Director of the Virginia Outdoors Foundation. The Board may request any other agency head to serve on or appoint a designee to serve on the task force.

CHAPTER 223

An Act to amend the Code of Virginia by adding a section numbered 22.1-287.05 and by adding in Article 1 of Chapter 8 of Title 23.1 a section numbered 23.1-802.1, relating to public schools and public institutions of higher education; student identification cards; 988 Suicide and Crisis Lifeline telephone number required.

[S 1044]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-287.05 and by adding in Article 1 of Chapter 8 of Title 23.1 a section numbered 23.1-802.1 as follows:

§ 22.1-287.05. Student identification cards; 988 Suicide and Crisis Lifeline; requirement.

Each local school division in the Commonwealth that issues student identification cards at any grade level, kindergarten through grade 12, shall print on one side of each student identification card "988 Suicide and Crisis Lifeline." Each local school division shall also:

1. Ensure that "988 Suicide and Crisis Lifeline" is clearly printed and conspicuously labeled on each student identification card; and

2. Annually review the telephone number for the 988 Suicide and Crisis Lifeline being included on each student identification card to ensure such contact information is accurate and current.

§ 23.1-802.1. Student identification cards; 988 Suicide and Crisis Lifeline; requirement.

Each public institution of higher education that issues student identification cards shall print on one side of each student identification card "988 Suicide and Crisis Lifeline." Each public institution of higher education shall also:

1. Ensure that "988 Suicide and Crisis Lifeline" is clearly printed and conspicuously labeled on each student identification card; and

2. Annually review the telephone number for the 988 Suicide and Crisis Lifeline being included on each student identification card to ensure such contact information is accurate and current.

2. The provisions of this act shall apply to each new student identification card and any replacement student identification card issued by any local school division at any grade level or by any public institution of higher education beginning with the 2023–2024 school year.

CHAPTER 224

An Act to amend and reenact § 58.1-3713 of the Code of Virginia, relating to local gas road improvement and Virginia Coalfield Economic Development Authority tax; Coal and Gas Road Improvement Fund uses; sunset.

[H 2401]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

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

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

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

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

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

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

C. No tax shall be imposed under this section on or after January 1, ~~2024~~ *2026*.

CHAPTER 225

An Act to amend and reenact § 58.1-3713 of the Code of Virginia, relating to local gas road improvement and Virginia Coalfield Economic Development Authority tax; Coal and Gas Road Improvement Fund uses; sunset.

[S 1468]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

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

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

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

The moneys collected for each county or city from the taxes imposed under authority of this section and subsection B of § 58.1-3741 shall be paid into a special fund of such county or city to be called the Coal and Gas Road Improvement Fund of such county or city, and shall be spent for such improvements to public roads as the coal and gas road improvement advisory committee and the governing body of such county or city may determine as provided in subsection B of this section. The county may also, in its discretion, elect to improve city or town roads with its funds if consent of the city or town council is obtained. Such funds shall be in addition to those allocated to such counties from state highway funds which allocations shall not be reduced as a result of any revenues received from the tax imposed hereunder. In those localities that comprise the Virginia Coalfield Economic Development Authority, the tax imposed under this section or subsection B of

§ 58.1-3741 shall be paid as follows: (i) three-fourths of the revenue shall be paid to the Coal and Gas Road Improvement Fund and used for the purposes set forth herein; however, one-fourth of such revenue may be used to fund the construction of new water or sewer systems and lines and the repair or enhancement of existing water or sewer systems and lines in areas with natural water supplies that are insufficient from the standpoint of quality or quantity, or the construction of natural gas service lines as authorized by § 15.2-2109.3, and (ii) one-fourth of the revenue shall be paid to the Virginia Coalfield Economic Development Fund. Furthermore, with regard to the portion paid to the Coal and Gas Road Improvement Fund, a county or city may provide for an additional one-fourth allocation for the construction of new systems or lines for water, sewer, or natural gas as authorized by § 15.2-2109.3, or the repair or enhancement of existing water, sewer, or natural gas systems or lines in areas with natural water supplies or existing natural gas services that are insufficient from the standpoint of quality or quantity; however, if this option is initiated by a county or city, it must satisfy the requirements set forth in § 58.1-3713.01. Notwithstanding the foregoing limitations regarding revenues used for water systems, sewer systems, or natural gas systems, such revenues designated for water and water systems, sewer systems, or natural gas systems shall be distributed directly to the local public service authority for such purposes instead of the local governing body. Funds in the Coal and Gas Road Improvement Fund used to construct, repair, or enhance natural gas service lines or systems shall not exceed one-fourth of the revenue paid to the Coal and Gas Road Improvement Fund collected from the severance tax imposed upon the severance of natural gas pursuant to this section and may be so used only upon passage of a local ordinance or resolution of the governing body of the applicable county or city providing for the same. *Furthermore, with regard to the portion paid to the Coal and Gas Road Improvement Fund, such funds may be used to construct flood mitigation measures that would reduce or prevent flooding of any infrastructure listed in this subsection if the construction, repair, or enhancement of such infrastructure is otherwise permissible under this section.*

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

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

C. No tax shall be imposed under this section on or after January 1, ~~2024~~ *2026*.

CHAPTER 226

An Act to amend and reenact § 23.1-805 of the Code of Virginia, relating to public institutions of higher education; threat assessment teams; powers and duties.

[H 1916]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-805 of the Code of Virginia is amended and reenacted as follows:

§ 23.1-805. Violence prevention committee; threat assessment team.

A. Each public institution of higher education shall establish policies and procedures for the prevention of violence on campus, including assessment of and intervention with individuals whose behavior poses a threat to the safety of the campus community.

B. The governing board of each public institution of higher education shall determine a violence prevention committee structure on campus composed of individuals charged with education on and prevention of violence on campus. Each violence prevention committee shall include representatives from student affairs, law enforcement, human resources, counseling services, residence life, and other constituencies as needed and shall consult with legal counsel as needed. Each violence prevention committee shall develop a clear statement of mission, membership, and leadership. Such statement shall be published and made available to the campus community.

C. Each violence prevention committee shall (i) provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a physical threat to the community; (ii) identify members of the campus community to whom threatening behavior should be reported; (iii) establish policies and procedures that outline circumstances under which all faculty and staff are required to report behavior that may represent a physical threat to the community, provided that such report is consistent with state and federal law; and (iv) establish policies and procedures for (a) the assessment of individuals whose behavior may present a threat, (b) appropriate means of intervention with such individuals, and (c) sufficient means of action, including interim suspension, referrals to community services boards or health care providers for evaluation or treatment, medical separation to resolve potential physical threats, and notification of family members or guardians, or both, unless such notification would prove harmful to the individual in question, consistent with state and federal law.

D. The governing board of each public institution of higher education shall establish a threat assessment team that includes members from law enforcement, mental health professionals, *and* representatives of student affairs and human resources~~, and, if available, college~~. *College* or university counsel *shall be invited to provide legal advice. Each such threat assessment team may invite other representatives from campus to participate in individual cases, but no such representative shall be considered a member of the threat assessment team*. Each threat assessment team shall implement the assessment, intervention, and action policies set forth by the violence prevention committee pursuant to subsection C.

E. Each threat assessment team shall establish relationships or utilize existing relationships with mental health agencies and local and state law-enforcement agencies to expedite assessment of and intervention with individuals whose behavior may present a threat to safety. Upon a preliminary determination that an individual poses a threat of violence to self or others or exhibits significantly disruptive behavior or a need for assistance, the threat assessment team may obtain criminal history record information as provided in §§ 19.2-389 and 19.2-389.1 and health records as provided in § 32.1-127.1:03.

F. *Upon a preliminary determination that an individual poses an articulable and significant threat of violence to others, the threat assessment team shall:*

1. Obtain any available criminal history record information as provided in §§ 19.2-389 and 19.2-389.1 and any available health records as provided in § 32.1-127.1:03;

2. Notify in writing within 24 hours upon making such preliminary determination (i) the campus police department, (ii) local law enforcement for the city or county in which the public institution of higher education is located, local law enforcement for the city or county in which the individual resides, and, if known to the threat assessment team, local law enforcement for the city or county in which the individual is located, and (iii) the local attorney for the Commonwealth in any jurisdiction where the threat assessment team has notified local law enforcement; and

3. Disclose any specific threat of violence posed by the individual as part of such notification.

G. The custodians of any criminal history record information or health records shall, upon request from a threat assessment team pursuant to subsections E and F, produce the information or records requested.

H. No member *or invited representative* of a threat assessment team shall redisclose any criminal history record information or health information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which such disclosure was made to the threat assessment team.

I. Each threat assessment team member shall complete a minimum of eight hours of initial training within 12 months of appointment to the threat assessment team and shall complete a minimum of two hours of threat assessment training each academic year thereafter. Training shall be conducted by the Department of Criminal Justice Services (the Department) or an independent entity approved by the Department.

J. When otherwise consistent with applicable state and federal law, in the event that a public institution of higher education has knowledge that a student or employee who was determined pursuant to an investigation by the institution's threat assessment team to pose an articulable and significant threat of violence to others is transferring to another institution of higher education or place of employment, the public institution of higher education from which the individual is transferring shall notify the institution of higher education or place of employment to which the individual is transferring of such investigation and determination.

2. That the Secretary of Education and Secretary of Public Safety and Homeland Security shall convene a task force (the task force) to determine best practices and develop model policies and procedures for all threat assessment teams at public institutions of higher education. The task force shall also consider and make legislative recommendations on the appropriate qualifications of members of such threat assessment teams. The task force shall include representatives from the Office of the Attorney General, campus police departments and local law enforcement, attorneys for the Commonwealth, mental health and student affairs professionals, university counsel, human resources representatives, one student representative, and one faculty representative. The task force shall submit its findings, including all applicable best practices, model policies and procedures, and legislative recommendations, to the Governor and Chairmen of the House Committee for Courts of Justice, the Senate Committee on the Judiciary, the House Committee on Education, and the Senate Committee on Education and Health no later than December 1, 2023.

CHAPTER 227

An Act to amend and reenact § 23.1-805 of the Code of Virginia, relating to public institutions of higher education; threat assessment teams; powers and duties.

[S 910]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-805 of the Code of Virginia is amended and reenacted as follows:

§ 23.1-805. Violence prevention committee; threat assessment team.

A. Each public institution of higher education shall establish policies and procedures for the prevention of violence on campus, including assessment of and intervention with individuals whose behavior poses a threat to the safety of the campus community.

B. The governing board of each public institution of higher education shall determine a violence prevention committee structure on campus composed of individuals charged with education on and prevention of violence on campus. Each violence prevention committee shall include representatives from student affairs, law enforcement, human resources, counseling services, residence life, and other constituencies as needed and shall consult with legal counsel as needed. Each violence prevention committee shall develop a clear statement of mission, membership, and leadership. Such statement shall be published and made available to the campus community.

C. Each violence prevention committee shall (i) provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a physical threat to the community; (ii) identify members of the campus community to whom threatening behavior should be reported; (iii) establish policies and procedures that outline circumstances under which all faculty and staff are required to report behavior that may represent a physical threat to the community, provided that such report is consistent with state and federal law; and (iv) establish policies and procedures for (a) the assessment of individuals whose behavior may present a threat, (b) appropriate means of intervention with such individuals, and (c) sufficient means of action, including interim suspension, referrals to community services boards or health care providers for evaluation or treatment, medical separation to resolve potential physical threats, and notification of family members or guardians, or both, unless such notification would prove harmful to the individual in question, consistent with state and federal law.

D. The governing board of each public institution of higher education shall establish a threat assessment team that includes members from law enforcement, mental health professionals, *and* representatives of student affairs and human resources~~, and, if available, college~~. *College* or university counsel *shall be invited to provide legal advice. Each such threat assessment team may invite other representatives from campus to participate in individual cases, but no such representative shall be considered a member of the threat assessment team*. Each threat assessment team shall implement the assessment, intervention, and action policies set forth by the violence prevention committee pursuant to subsection C.

E. Each threat assessment team shall establish relationships or utilize existing relationships with mental health agencies and local and state law-enforcement agencies to expedite assessment of and intervention with individuals whose behavior may present a threat to safety. Upon a preliminary determination that an individual poses a threat of violence to self or others or exhibits significantly disruptive behavior or a need for assistance, the threat assessment team may obtain criminal history record information as provided in §§ 19.2-389 and 19.2-389.1 and health records as provided in § 32.1-127.1:03.

F. *Upon a preliminary determination that an individual poses an articulable and significant threat of violence to others, the threat assessment team shall:*

1. Obtain any available criminal history record information as provided in §§ 19.2-389 and 19.2-389.1 and any available health records as provided in § 32.1-127.1:03;

2. Notify in writing within 24 hours upon making such preliminary determination (i) the campus police department, (ii) local law enforcement for the city or county in which the public institution of higher education is located, local law enforcement for the city or county in which the individual resides, and, if known to the threat assessment team, local law enforcement for the city or county in which the individual is located, and (iii) the local attorney for the Commonwealth in any jurisdiction where the threat assessment team has notified local law enforcement; and

3. Disclose any specific threat of violence posed by the individual as part of such notification.

G. The custodians of any criminal history record information or health records shall, upon request from a threat assessment team pursuant to subsections E and F, produce the information or records requested.

H. No member *or invited representative* of a threat assessment team shall redisclose any criminal history record information or health information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which such disclosure was made to the threat assessment team.

I. Each threat assessment team member shall complete a minimum of eight hours of initial training within 12 months of appointment to the threat assessment team and shall complete a minimum of two hours of threat assessment training each academic year thereafter. Training shall be conducted by the Department of Criminal Justice Services (the Department) or an independent entity approved by the Department.

J. When otherwise consistent with applicable state and federal law, in the event that a public institution of higher education has knowledge that a student or employee who was determined pursuant to an investigation by the institution's threat assessment team to pose an articulable and significant threat of violence to others is transferring to another institution of higher education or place of employment, the public institution of higher education from which the individual is transferring shall notify the institution of higher education or place of employment to which the individual is transferring of such investigation and determination.

2. That the Secretary of Education and Secretary of Public Safety and Homeland Security shall convene a task force (the task force) to determine best practices and develop model policies and procedures for all threat assessment teams at public institutions of higher education. The task force shall also consider and make legislative recommendations on the appropriate qualifications of members of such threat assessment teams. The task force shall include representatives from the Office of the Attorney General, campus police departments and local law enforcement, attorneys for the Commonwealth, mental health and student affairs professionals, university counsel, human resources representatives, one student representative, and one faculty representative. The task force shall submit its findings, including all applicable best practices, model policies and procedures, and legislative recommendations, to the Governor and Chairmen of the House Committee for Courts of Justice, the Senate

Committee on the Judiciary, the House Committee on Education, and the Senate Committee on Education and Health no later than December 1, 2023.

CHAPTER 228

An Act to amend and reenact § 19.2-163 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-160.1, relating to appointment of counsel; Class 1 felonies.

[H 2016]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-163 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-160.1 as follows:

§ 19.2-160.1. Appointment of counsel in Class 1 felony cases.

A. In any case in which an indigent defendant is charged with a Class 1 felony in a jurisdiction in which a public defender office is established, the court shall, upon request for the appointment of counsel and in the absence of a conflict, appoint such public defender office to represent the defendant. Upon motion of the attorney from a public defender office, the judge of the circuit court shall appoint a competent, qualified, and experienced attorney from the list maintained by the Indigent Defense Commission pursuant to § 19.2-163.01 to serve as co-counsel.

If the public defender notifies the court of a conflict and withdraws from representation, and the court had appointed one additional counsel to assist the public defender's office, then upon the withdrawal of the public defender's office the court shall appoint one additional competent, qualified, and experienced attorney from the list maintained by the Indigent Defense Commission pursuant to § 19.2-163.01 to serve as co-counsel for the defendant.

B. In any case in which an indigent defendant is charged with a Class 1 felony in a jurisdiction in which there is no public defender, upon request for the appointment of counsel, the court shall appoint two competent, qualified, and experienced attorneys, from the list maintained by the Indigent Defense Commission pursuant to § 19.2-163.01 to serve as co-counsels for the defendant.

§ 19.2-163. Compensation of court-appointed counsel.

Upon submission to the court, for which appointed representation is provided, of a detailed accounting of the time expended for that representation, made within 30 days of the completion of all proceedings in that court, counsel appointed to represent an indigent accused in a criminal case shall be compensated for his services on an hourly basis at a rate set by the Supreme Court of Virginia in a total amount not to exceed the amounts specified in the following schedule:

1. In a district court, a sum not to exceed $120, provided that, notwithstanding the foregoing limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, may waive the limitation of fees up to (i) an additional $120 when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; or (ii) an amount up to $650 to defend, in the case of a juvenile, an offense that would be a felony if committed by an adult that may be punishable by confinement in the state correctional facility for a period of more than 20 years, or a charge of violation of probation for such offense, when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; or (iii) such other amount as may be provided by law. Such amount shall be allowed in any case wherein counsel conducts the defense of a single charge against the indigent through to its conclusion or a charge of violation of probation at any hearing conducted under § 19.2-306; thereafter, compensation for additional charges against the same accused also conducted by the same counsel shall be allowed on the basis of additional time expended as to such additional charges;

2. In a circuit court (i) to defend a Class 1 felony charge, *compensation for each appointed attorney in* an amount deemed reasonable by the court; (ii) to defend a felony charge that may be punishable by confinement in the state correctional facility for a period of more than 20 years, or a charge of violation of probation for such offense, a sum not to exceed $1,235, provided that, notwithstanding the foregoing limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, may waive the limitation of fees up to an additional $850 when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; (iii) to defend any other felony charge, or a charge of violation of probation for such offense, a sum not to exceed $445, provided that, notwithstanding the foregoing limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, may waive the limitation of fees up to an additional $155 when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; and (iv) in the circuit court only, to defend any misdemeanor charge punishable by confinement in jail or a charge of violation of probation for such offense, a sum not to exceed $158. In the event any case is required to be retried due to a mistrial for any cause or reversed on appeal, the court may allow an additional fee for each case in an amount not to exceed the amounts allowable in the initial trial. In the event counsel is appointed to defend an indigent charged with a felony that is punishable as a Class 1 felony, ~~such counsel~~ *each attorney appointed* shall continue to receive compensation as provided in this paragraph for defending such a felony, regardless of whether the charge is reduced or amended to a lesser felony, prior to final disposition

of the case. In the event counsel is appointed to defend an indigent charged with any other felony, such counsel shall receive compensation as provided in this paragraph for defending such a felony, regardless of whether the charge is reduced or amended to a misdemeanor or lesser felony prior to final disposition of the case in either the district court or circuit court.

Counsel appointed to represent an indigent accused in a criminal case, who are not public defenders, may request an additional waiver exceeding the amounts provided for in this section. The request for any additional amount shall be submitted to the presiding judge, in writing, with a detailed accounting of the time spent and the justification for the additional amount. The presiding judge shall determine, subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, whether the request for an additional amount is justified in whole or in part, by considering the effort expended and the time reasonably necessary for the particular representation, and, if so, shall forward the request as approved to the chief judge of the circuit court or district court for approval.

If at any time the funds appropriated to pay for waivers under this section become insufficient, the Executive Secretary of the Supreme Court of Virginia shall so certify to the courts and no further waivers shall be approved.

The circuit or district court shall direct the payment of such reasonable expenses incurred by such court-appointed counsel as it deems appropriate under the circumstances of the case. Counsel appointed by the court to represent an indigent charged with repeated violations of the same section of the Code of Virginia, with each of such violations arising out of the same incident, occurrence, or transaction, shall be compensated in an amount not to exceed the fee prescribed for the defense of a single charge, if such offenses are tried as part of the same judicial proceeding. The trial judge shall consider any guidelines established by the Supreme Court but shall have the sole discretion to fix the amount of compensation to be paid counsel appointed by the court to defend a felony charge that is punishable as a Class 1 felony.

The circuit or district court shall direct that the foregoing payments shall be paid out by the Commonwealth, if the defendant is charged with a violation of a statute, or by the county, city or town, if the defendant is charged with a violation of a county, city or town ordinance, to the attorney so appointed to defend such person as compensation for such defense.

Counsel representing a defendant charged with a Class 1 felony may submit to the court, on a monthly basis, a statement of all costs incurred and fees charged by him in the case during that month. Whenever the total charges as are deemed reasonable by the court for which payment has not previously been made or requested exceed $1,000, the court may direct that payment be made as otherwise provided in this section.

When such directive is entered upon the order book of the court, the Commonwealth, county, city or town, as the case may be, shall provide for the payment out of its treasury of the sum of money so specified. If the defendant is convicted, the amount allowed by the court to the attorney appointed to defend him shall be taxed against the defendant as a part of the costs of prosecution and, if collected, the same shall be paid to the Commonwealth, or the county, city or town, as the case may be. In the event that counsel for the defendant requests a waiver of the limitations on compensation, the court shall assess against the defendant an amount equal to the pre-waiver compensation limit specified in this section for each charge for which the defendant was convicted. An abstract of such costs shall be docketed in the judgment docket and execution lien book maintained by such court.

Any statement submitted by an attorney for payments due him for indigent representation or for representation of a child pursuant to § 16.1-266 shall, after the submission of the statement, be forwarded forthwith by the clerk to the Commonwealth, county, city or town, as the case may be, responsible for payment.

For the purposes of this section, the defense of a case may be considered conducted through to its conclusion and an appointed counsel entitled to compensation for his services in the event an indigent accused fails to appear in court subject to a capias for his arrest or a show cause summons for his failure to appear and remains a fugitive from justice for one year following the issuance of the capias or the summons to show cause, and appointed counsel has appeared at a hearing on behalf of the accused.

Effective July 1, 2007, the Executive Secretary of the Supreme Court of Virginia shall track and report the number and category of offenses charged involving adult and juvenile offenders in cases in which court-appointed counsel is assigned. The Executive Secretary shall also track and report the amounts paid by waiver above the initial cap to court-appointed counsel. The Executive Secretary shall provide these reports to the Governor, members of the House Committee on Appropriations, and members of the Senate Committee on Finance and Appropriations on a quarterly basis.

CHAPTER 229

An Act to amend and reenact §§ 19.2-169.1, as it is currently effective, and 19.2-169.2, as it is currently effective, of the Code of Virginia and to repeal the second enactment of Chapter 508 of the Acts of Assembly of 2022, relating to criminal proceedings; disposition when defendant found incompetent; evaluation for temporary detention.

[H 1908]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-169.1, as it is currently effective, and 19.2-169.2, as it is currently effective, of the Code of Virginia are amended and reenacted as follows:

§ 19.2-169.1. (Effective until July 1, 2023) Raising question of competency to stand trial or plead; evaluation and determination of competency.

A. Raising competency issue; appointment of evaluators. — If, at any time after the attorney for the defendant has been retained or appointed and before the end of trial, the court finds, upon hearing evidence or representations of counsel for the defendant or the attorney for the Commonwealth, that there is probable cause to believe that the defendant, whether a juvenile transferred pursuant to § 16.1-269.1 or adult, lacks substantial capacity to understand the proceedings against him or to assist his attorney in his own defense, the court shall order that a competency evaluation be performed by at least one psychiatrist or clinical psychologist who (i) has performed forensic evaluations; (ii) has successfully completed forensic evaluation training recognized by the Commissioner of Behavioral Health and Developmental Services; (iii) has demonstrated to the Commissioner competence to perform forensic evaluations; and (iv) is included on a list of approved evaluators maintained by the Commissioner.

B. Location of evaluation. — The evaluation shall be performed on an outpatient basis at a mental health facility or in jail unless an outpatient evaluation has been conducted and the outpatient evaluator opines that a hospital-based evaluation is needed to reliably reach an opinion or unless the defendant is in the custody of the Commissioner of Behavioral Health and Developmental Services pursuant to § 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, 19.2-182.9, or Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2.

C. Provision of information to evaluators. — The court shall require the attorney for the Commonwealth to provide to the evaluators appointed under subsection A any information relevant to the evaluation, including, but not limited to (i) a copy of the warrant or indictment; (ii) the names and addresses of the attorney for the Commonwealth, the attorney for the defendant, and the judge ordering the evaluation; (iii) information about the alleged crime; and (iv) a summary of the reasons for the evaluation request. The court shall require the attorney for the defendant to provide any available psychiatric records and other information that is deemed relevant. The court shall require that information be provided to the evaluator within 96 hours of the issuance of the court order pursuant to this section.

D. The competency report. — Upon completion of the evaluation, the evaluators shall promptly submit a report in writing to the court and the attorneys of record concerning (i) the defendant's capacity to understand the proceedings against him; (ii) ~~his~~ *the defendant's* ability to assist his attorney; ~~and~~ (iii) ~~his~~ *the defendant's* need for treatment in the event he is found incompetent but restorable~~,~~ or incompetent for the foreseeable future*; and (iv) if the defendant has been charged with a misdemeanor violation of Article 3 (§ 18.2-95 et seq.) of Chapter 5 of Title 18.2 or a misdemeanor violation of § 18.2-119, 18.2-137, 18.2-388, 18.2-415, or 19.2-128, whether the defendant should be evaluated to determine whether he meets the criteria for temporary detention pursuant to § 37.2-809 in the event he is found incompetent but restorable or incompetent for the foreseeable future*.

If a need for restoration treatment is identified pursuant to clause (iii), the report shall state whether inpatient or outpatient treatment (community-based or jail-based) is recommended. Outpatient treatment may occur in a local correctional facility or at a location determined by the appropriate community services board or behavioral health authority. In cases where a defendant is likely to remain incompetent for the foreseeable future due to an ongoing and irreversible medical condition, and where prior medical or educational records are available to support the diagnosis, or if the defendant was previously determined to be unrestorably incompetent in the past two years, the report may recommend that the court find the defendant unrestorably incompetent to stand trial and the court may proceed with the disposition of the case in accordance with § 19.2-169.3. ~~In cases where a defendant has been charged with a misdemeanor violation of Article 3 (§ 18.2-95 et seq.) of Chapter 5 of Title 18.2 or a misdemeanor violation of § 18.2-119, 18.2-137, 18.2-388, 18.2-415, or 19.2-128 and is incompetent, the report may recommend that the court direct the community services board or behavioral health authority for the jurisdiction in which the defendant is located to (a) conduct an evaluation of the defendant in accordance with subsection B of § 37.2-808 to determine whether the defendant meets the criteria for temporary detention and (b) upon determining that the defendant does meet the criteria for temporary detention, file a petition for issuance of an order for temporary detention of the defendant in accordance with § 37.2-809.~~ No statements of the defendant relating to the time period of the alleged offense shall be included in the report. The evaluator shall also send a redacted copy of the report removing references to the defendant's name, date of birth, case number, and court of jurisdiction to the Commissioner of Behavioral Health and Developmental Services for the purpose of peer review to establish and maintain the list of approved evaluators described in subsection A.

E. The competency determination. — After receiving the report described in subsection D, the court shall promptly determine whether the defendant is competent to stand trial. A hearing on the defendant's competency is not required unless one is requested by the attorney for the Commonwealth or the attorney for the defendant, or unless the court has reasonable cause to believe the defendant will be hospitalized under § 19.2-169.2. If a hearing is held, the party alleging that the defendant is incompetent shall bear the burden of proving by a preponderance of the evidence the defendant's incompetency. The defendant shall have the right to notice of the hearing, the right to counsel at the hearing and the right to personally participate in and introduce evidence at the hearing.

The fact that the defendant claims to be unable to remember the time period surrounding the alleged offense shall not, by itself, bar a finding of competency if the defendant otherwise understands the charges against him and can assist in his defense. Nor shall the fact that the defendant is under the influence of medication bar a finding of competency if the defendant is able to understand the charges against him and assist in his defense while medicated.

F. Finding. — If the court finds the defendant competent to stand trial, the case shall be set for trial or a preliminary hearing. If the court finds the defendant either incompetent but restorable or incompetent for the foreseeable future, the court shall proceed pursuant to § 19.2-169.2.

§ 19.2-169.2. (Effective until July 1, 2023) Disposition when defendant found incompetent.

A. Upon finding pursuant to subsection E or F of § 19.2-169.1 that the defendant, including a juvenile transferred pursuant to § 16.1-269.1, is incompetent, the court shall order that the defendant receive treatment to restore his competency on an outpatient basis or, if the court specifically finds that the defendant requires inpatient hospital treatment, at a hospital designated by the Commissioner of Behavioral Health and Developmental Services as appropriate for treatment of persons under criminal charge. Outpatient treatment may occur in a local correctional facility or at a location determined by the appropriate community services board or behavioral health authority. Notwithstanding the provisions of § 19.2-178, if the court orders inpatient hospital treatment, the defendant shall be transferred to and accepted by the hospital designated by the Commissioner as soon as practicable, but no later than 10 days, from the receipt of the court order requiring treatment to restore the defendant's competency. If the 10-day period expires on a Saturday, Sunday, or other legal holiday, the 10 days shall be extended to the next day that is not a Saturday, Sunday, or legal holiday. Any psychiatric records and other information that have been deemed relevant and submitted by the attorney for the defendant pursuant to subsection C of § 19.2-169.1 and any reports submitted pursuant to subsection D of § 19.2-169.1 shall be made available to the director of the community services board or behavioral health authority or his designee or to the director of the treating inpatient facility or his designee within 96 hours of the issuance of the court order requiring treatment to restore the defendant's competency. If the 96-hour period expires on a Saturday, Sunday, or other legal holiday, the 96 hours shall be extended to the next day that is not a Saturday, Sunday, or legal holiday.

B. If, at any time after the defendant is ordered to undergo treatment under subsection A, the director of the community services board or behavioral health authority or his designee or the director of the treating inpatient facility or his designee believes the defendant's competency is restored, the director or his designee shall immediately send a report to the court as prescribed in subsection D of § 19.2-169.1. The court shall make a ruling on the defendant's competency according to the procedures specified in subsection E of § 19.2-169.1.

C. Notwithstanding the provisions of subsection A, in cases in which (i) the defendant has been charged with a misdemeanor violation of Article 3 (§ 18.2-95 et seq.) of Chapter 5 of Title 18.2 or a misdemeanor violation of § 18.2-119, 18.2-137, 18.2-388, 18.2-415, or 19.2-128; (ii) the defendant has been found to be incompetent pursuant to subsection E or F of § 19.2-169.1; and (iii) the competency report described in subsection D of § 19.2-169.1 recommends that the defendant be ~~temporarily detained~~ *evaluated to determine whether he meets the criteria for temporary detention* pursuant to § 37.2-809, the court may ~~dismiss the charges without prejudice against the defendant and, in lieu of ordering the defendant receive treatment to restore his competency,~~ order the community services board or behavioral health authority serving the jurisdiction in which the defendant is located to (a) conduct an evaluation of the defendant and (b) if the community services board or behavioral health authority determines that the defendant meets the criteria for temporary detention, file a petition for issuance of an order for temporary detention pursuant to § 37.2-809. *The community services board or behavioral health authority shall notify the court, in writing, within 72 hours of the completion of the evaluation and, if appropriate, file a petition for issuance of an order for temporary detention. Upon receipt of such notice, the court may dismiss the charges without prejudice against the defendant.* However, the court shall not ~~dismiss charges and~~ enter an order *or dismiss charges against a defendant* pursuant to this subsection if the attorney for the Commonwealth is involved in the prosecution of the case and the attorney for the Commonwealth does not concur in the motion.

D. *If a defendant for whom an evaluation has been ordered pursuant to subsection C fails or refuses to appear for the evaluation, the community services board or behavioral health authority shall notify the court and the court shall issue a mandatory examination order and capias directing the primary law-enforcement agency for the jurisdiction in which the defendant resides to transport the defendant to the location designated by the community services board or behavioral health authority for examination.*

E. The clerk of the court shall certify and forward forthwith to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of an order for treatment issued pursuant to subsection A.

2. That the second enactment of Chapter 508 of the Acts of Assembly of 2022 is repealed.

CHAPTER 230

An Act to amend and reenact §§ 19.2-169.1, as it is currently effective, and 19.2-169.2, as it is currently effective, of the Code of Virginia and to repeal the second enactment of Chapter 508 of the Acts of Assembly of 2022, relating to criminal proceedings; disposition when defendant found incompetent; evaluation for temporary detention.

[S 1507]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-169.1, as it is currently effective, and 19.2-169.2, as it is currently effective, of the Code of Virginia are amended and reenacted as follows:

§ 19.2-169.1. (Effective until July 1, 2023) Raising question of competency to stand trial or plead; evaluation and determination of competency.

A. Raising competency issue; appointment of evaluators. — If, at any time after the attorney for the defendant has been retained or appointed and before the end of trial, the court finds, upon hearing evidence or representations of counsel for the

defendant or the attorney for the Commonwealth, that there is probable cause to believe that the defendant, whether a juvenile transferred pursuant to § 16.1-269.1 or adult, lacks substantial capacity to understand the proceedings against him or to assist his attorney in his own defense, the court shall order that a competency evaluation be performed by at least one psychiatrist or clinical psychologist who (i) has performed forensic evaluations; (ii) has successfully completed forensic evaluation training recognized by the Commissioner of Behavioral Health and Developmental Services; (iii) has demonstrated to the Commissioner competence to perform forensic evaluations; and (iv) is included on a list of approved evaluators maintained by the Commissioner.

B. Location of evaluation. — The evaluation shall be performed on an outpatient basis at a mental health facility or in jail unless an outpatient evaluation has been conducted and the outpatient evaluator opines that a hospital-based evaluation is needed to reliably reach an opinion or unless the defendant is in the custody of the Commissioner of Behavioral Health and Developmental Services pursuant to § 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, 19.2-182.9, or Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2.

C. Provision of information to evaluators. — The court shall require the attorney for the Commonwealth to provide to the evaluators appointed under subsection A any information relevant to the evaluation, including, but not limited to (i) a copy of the warrant or indictment; (ii) the names and addresses of the attorney for the Commonwealth, the attorney for the defendant, and the judge ordering the evaluation; (iii) information about the alleged crime; and (iv) a summary of the reasons for the evaluation request. The court shall require the attorney for the defendant to provide any available psychiatric records and other information that is deemed relevant. The court shall require that information be provided to the evaluator within 96 hours of the issuance of the court order pursuant to this section.

D. The competency report. — Upon completion of the evaluation, the evaluators shall promptly submit a report in writing to the court and the attorneys of record concerning (i) the defendant's capacity to understand the proceedings against him; (ii) ~~his~~ *the defendant's* ability to assist his attorney; ~~and~~ (iii) ~~his~~ *the defendant's* need for treatment in the event he is found incompetent but restorable~~,~~ or incompetent for the foreseeable future*; and (iv) if the defendant has been charged with a misdemeanor violation of Article 3 (§ 18.2-95 et seq.) of Chapter 5 of Title 18.2 or a misdemeanor violation of § 18.2-119, 18.2-137, 18.2-388, 18.2-415, or 19.2-128, whether the defendant should be evaluated to determine whether he meets the criteria for temporary detention pursuant to § 37.2-809 in the event he is found incompetent but restorable or incompetent for the foreseeable future*.

If a need for restoration treatment is identified pursuant to clause (iii), the report shall state whether inpatient or outpatient treatment (community-based or jail-based) is recommended. Outpatient treatment may occur in a local correctional facility or at a location determined by the appropriate community services board or behavioral health authority. In cases where a defendant is likely to remain incompetent for the foreseeable future due to an ongoing and irreversible medical condition, and where prior medical or educational records are available to support the diagnosis, or if the defendant was previously determined to be unrestorably incompetent in the past two years, the report may recommend that the court find the defendant unrestorably incompetent to stand trial and the court may proceed with the disposition of the case in accordance with § 19.2-169.3. ~~In cases where a defendant has been charged with a misdemeanor violation of Article 3 (§ 18.2-95 et seq.) of Chapter 5 of Title 18.2 or a misdemeanor violation of § 18.2-119, 18.2-137, 18.2-388, 18.2-415, or 19.2-128 and is incompetent, the report may recommend that the court direct the community services board or behavioral health authority for the jurisdiction in which the defendant is located to (a) conduct an evaluation of the defendant in accordance with subsection B of § 37.2-808 to determine whether the defendant meets the criteria for temporary detention and (b) upon determining that the defendant does meet the criteria for temporary detention, file a petition for issuance of an order for temporary detention of the defendant in accordance with § 37.2-809.~~ No statements of the defendant relating to the time period of the alleged offense shall be included in the report. The evaluator shall also send a redacted copy of the report removing references to the defendant's name, date of birth, case number, and court of jurisdiction to the Commissioner of Behavioral Health and Developmental Services for the purpose of peer review to establish and maintain the list of approved evaluators described in subsection A.

E. The competency determination. — After receiving the report described in subsection D, the court shall promptly determine whether the defendant is competent to stand trial. A hearing on the defendant's competency is not required unless one is requested by the attorney for the Commonwealth or the attorney for the defendant, or unless the court has reasonable cause to believe the defendant will be hospitalized under § 19.2-169.2. If a hearing is held, the party alleging that the defendant is incompetent shall bear the burden of proving by a preponderance of the evidence the defendant's incompetency. The defendant shall have the right to notice of the hearing, the right to counsel at the hearing and the right to personally participate in and introduce evidence at the hearing.

The fact that the defendant claims to be unable to remember the time period surrounding the alleged offense shall not, by itself, bar a finding of competency if the defendant otherwise understands the charges against him and can assist in his defense. Nor shall the fact that the defendant is under the influence of medication bar a finding of competency if the defendant is able to understand the charges against him and assist in his defense while medicated.

F. Finding. — If the court finds the defendant competent to stand trial, the case shall be set for trial or a preliminary hearing. If the court finds the defendant either incompetent but restorable or incompetent for the foreseeable future, the court shall proceed pursuant to § 19.2-169.2.

§ 19.2-169.2. (Effective until July 1, 2023) Disposition when defendant found incompetent.

A. Upon finding pursuant to subsection E or F of § 19.2-169.1 that the defendant, including a juvenile transferred pursuant to § 16.1-269.1, is incompetent, the court shall order that the defendant receive treatment to restore his competency on an outpatient basis or, if the court specifically finds that the defendant requires inpatient hospital treatment, at a hospital designated by the Commissioner of Behavioral Health and Developmental Services as appropriate for treatment of persons under criminal charge. Outpatient treatment may occur in a local correctional facility or at a location determined by the appropriate community services board or behavioral health authority. Notwithstanding the provisions of § 19.2-178, if the court orders inpatient hospital treatment, the defendant shall be transferred to and accepted by the hospital designated by the Commissioner as soon as practicable, but no later than 10 days, from the receipt of the court order requiring treatment to restore the defendant's competency. If the 10-day period expires on a Saturday, Sunday, or other legal holiday, the 10 days shall be extended to the next day that is not a Saturday, Sunday, or legal holiday. Any psychiatric records and other information that have been deemed relevant and submitted by the attorney for the defendant pursuant to subsection C of § 19.2-169.1 and any reports submitted pursuant to subsection D of § 19.2-169.1 shall be made available to the director of the community services board or behavioral health authority or his designee or to the director of the treating inpatient facility or his designee within 96 hours of the issuance of the court order requiring treatment to restore the defendant's competency. If the 96-hour period expires on a Saturday, Sunday, or other legal holiday, the 96 hours shall be extended to the next day that is not a Saturday, Sunday, or legal holiday.

B. If, at any time after the defendant is ordered to undergo treatment under subsection A, the director of the community services board or behavioral health authority or his designee or the director of the treating inpatient facility or his designee believes the defendant's competency is restored, the director or his designee shall immediately send a report to the court as prescribed in subsection D of § 19.2-169.1. The court shall make a ruling on the defendant's competency according to the procedures specified in subsection E of § 19.2-169.1.

C. Notwithstanding the provisions of subsection A, in cases in which (i) the defendant has been charged with a misdemeanor violation of Article 3 (§ 18.2-95 et seq.) of Chapter 5 of Title 18.2 or a misdemeanor violation of § 18.2-119, 18.2-137, 18.2-388, 18.2-415, or 19.2-128; (ii) the defendant has been found to be incompetent pursuant to subsection E or F of § 19.2-169.1; and (iii) the competency report described in subsection D of § 19.2-169.1 recommends that the defendant be ~~temporarily detained~~ *evaluated to determine whether he meets the criteria for temporary detention* pursuant to § 37.2-809, the court may ~~dismiss the charges without prejudice against the defendant and, in lieu of ordering the defendant receive treatment to restore his competency,~~ order the community services board or behavioral health authority serving the jurisdiction in which the defendant is located to (a) conduct an evaluation of the defendant and (b) if the community services board or behavioral health authority determines that the defendant meets the criteria for temporary detention, file a petition for issuance of an order for temporary detention pursuant to § 37.2-809. *The community services board or behavioral health authority shall notify the court, in writing, within 72 hours of the completion of the evaluation and, if appropriate, file a petition for issuance of an order for temporary detention. Upon receipt of such notice, the court may dismiss the charges without prejudice against the defendant.* However, the court shall not ~~dismiss charges and~~ enter an order *or dismiss charges against a defendant* pursuant to this subsection if the attorney for the Commonwealth is involved in the prosecution of the case and the attorney for the Commonwealth does not concur in the motion.

D. *If a defendant for whom an evaluation has been ordered pursuant to subsection C fails or refuses to appear for the evaluation, the community services board or behavioral health authority shall notify the court and the court shall issue a mandatory examination order and capias directing the primary law-enforcement agency for the jurisdiction in which the defendant resides to transport the defendant to the location designated by the community services board or behavioral health authority for examination.*

E. The clerk of the court shall certify and forward forthwith to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of an order for treatment issued pursuant to subsection A.

2. That the second enactment of Chapter 508 of the Acts of Assembly of 2022 is repealed.

CHAPTER 231

An Act to amend and reenact § 37.2-804 of the Code of Virginia, relating to attorney fees; emergency custody and voluntary and involuntary civil admissions.

[H 2411]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-804 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-804. Fees and expenses.

A. Any special justice, retired judge sitting by designation pursuant to § 16.1-69.35, or any district court substitute judge who presides over hearings pursuant to the provisions of §§ 37.2-809 through 37.2-820, Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1, or § 19.2-169.6 shall receive a fee of $86.25 for each hearing thereunder plus his necessary mileage, parking, tolls, and postage, and $43.25 for each certification hearing and each order under Chapter 11 (§ 37.2-1100 et seq.) ruling on competency or treatment plus his necessary mileage, parking, tolls, and postage.

B. Any physician, psychologist or other mental health professional, or any interpreter, appointed pursuant to § 37.2-802 for persons who are deaf, who is not regularly employed by the Commonwealth and is required to serve as a witness or as an interpreter in any proceeding under this chapter or § 19.2-169.6 shall receive a fee of $75 and his necessary expenses for each commitment hearing for involuntary admission in which he serves and $43.25 and necessary expenses for each certification hearing in which he serves.

C. Other witnesses regularly summoned before a judge or special justice under the provisions of this chapter shall receive the compensation for their attendance and mileage that is allowed witnesses summoned to testify before grand juries.

D. Every attorney appointed under § 37.2-806 or §§ 37.2-809 through 37.2-820 shall receive a fee of ~~$75~~ *$120* and his necessary expenses for each hearing thereunder and ~~$43.25~~ *$70* and his necessary expenses for each certification hearing and each proceeding under Chapter 11 (§ 37.2-1100 et seq.).

E. Except as hereinafter provided, all expenses incurred, including the fees, attendance, and mileage aforesaid, shall be paid by the Commonwealth. When any such fees, costs, and expenses, incurred in connection with an examination or hearing for an admission pursuant to § 37.2-806 or §§ 37.2-809 through 37.2-820, to carry out the provisions of this chapter or in connection with a proceeding under Chapter 11 (§ 37.2-1100 et seq.) or § 19.2-169.6, are paid by the Commonwealth, they shall be recoverable by the Commonwealth from the person who is the subject of the examination, hearing, or proceeding or from his estate. Collection or recovery may be undertaken by the Department. When the fees, costs, and expenses are collected or recovered by the Department, they shall be refunded to the Commonwealth. No fees or costs shall be recovered, however, from the person who is the subject of the examination or hearing or his estate when no good cause for his admission exists or when the recovery would create an undue financial hardship.

CHAPTER 232

An Act to amend and reenact § 17.1-618 of the Code of Virginia, relating to jury duty; allowance increase.

[H 2317]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-618 of the Code of Virginia is amended and reenacted as follows:

§ 17.1-618. Allowances for jurors; expenses of keeping jury together; fees of jury commissioners and commissioner in chancery for drawing of juries.

Every person summoned as a juror in a civil or criminal case shall be entitled to ~~thirty~~ ~~dollars~~ *$50* for each day of attendance upon the court for expenses of travel incident to jury service and other necessary and reasonable costs as the court may direct. Jurors summoned from another political subdivision pursuant to § 8.01-363 may be allowed by the court, in addition to the above allowance, their actual expenses. When kept together overnight under the supervision of the court, the jurors and the sheriff or his deputies keeping the jury shall be furnished suitable board and lodging. Reimbursement for board and lodging shall be set by the judge in an amount not to exceed the amount authorized by travel regulations promulgated pursuant to § 2.2-2823. Allowances and other costs will be allowed a juror in only one case the same day.

Every person serving as a jury commissioner and every person serving as a commissioner in chancery for the drawing of juries for a circuit court of this Commonwealth may be allowed, by the court appointing him, a fee not exceeding ~~thirty dollars~~ *$50* per day for the time actually engaged in such work and such other necessary and reasonable costs as the court may direct.

CHAPTER 233

An Act to amend and reenact § 17.1-618 of the Code of Virginia, relating to jury duty; allowance increase.

[S 789]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-618 of the Code of Virginia is amended and reenacted as follows:

§ 17.1-618. Allowances for jurors; expenses of keeping jury together; fees of jury commissioners and commissioner in chancery for drawing of juries.

Every person summoned as a juror in a civil or criminal case shall be entitled to ~~thirty~~ ~~dollars~~ *$50* for each day of attendance upon the court for expenses of travel incident to jury service and other necessary and reasonable costs as the court may direct. Jurors summoned from another political subdivision pursuant to § 8.01-363 may be allowed by the court, in addition to the above allowance, their actual expenses. When kept together overnight under the supervision of the court, the jurors and the sheriff or his deputies keeping the jury shall be furnished suitable board and lodging. Reimbursement for board and lodging shall be set by the judge in an amount not to exceed the amount authorized by travel regulations promulgated pursuant to § 2.2-2823. Allowances and other costs will be allowed a juror in only one case the same day.

Every person serving as a jury commissioner and every person serving as a commissioner in chancery for the drawing of juries for a circuit court of this Commonwealth may be allowed, by the court appointing him, a fee not exceeding ~~thirty dollars~~ *$50* per day for the time actually engaged in such work and such other necessary and reasonable costs as the court may direct.

CHAPTER 234

An Act to amend and reenact § 54.1-3932 of the Code of Virginia, relating to lien for attorney fees; written notice requirements; validity and amount determinations.

[S 817]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3932 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3932. Lien for fees.

A. Any person having or claiming a ~~right~~ *cause* of action *(i)* sounding in tort, ~~or~~ *(ii)* for liquidated or unliquidated damages on contract, or ~~for a cause of action~~ *(iii)* for annulment or divorce~~,~~ may contract with any attorney to prosecute the same, and ~~the~~*, upon contracting such* attorney*, the attorney* shall have a lien upon the cause of action as security for his fees for any services rendered in relation to the cause of action or claim. When any such contract is made, and written notice of the claim of such lien is given to *the client or former client,* the opposite party~~, his~~ *or such party's* attorney or agent, *and the clerk of court in which a case may be pending,* any settlement or adjustment of the cause of action ~~shall be~~ *is* void against the lien so created, except as proof of liability on such cause of action. *Written notice of the lien shall be given either within 45 days of the end of representation or (a) in causes of action sounding in tort or for liquidated or unliquidated damages on contract, before settlement or adjustment, whichever is earlier or (b) in cases of annulment or divorce, before final judgment is entered, whichever is earlier.* Nothing in this section ~~shall affect~~ *affects* the existing law in respect to champertous contracts. In causes of action for annulment or divorce ~~an attorney~~*, the court* may not ~~exercise his claim~~ *determine the validity or amount of the lien* until the divorce judgment is final and all residual disputes regarding marital property are concluded. Nothing in this section ~~shall affect~~ *affects* the existing law in respect to exemptions from creditor process under federal or state law.

B. Notwithstanding the provisions in subsection A, a court in a case of annulment or divorce may, in its discretion, exclude spousal support and child support from the scope of the attorney's lien.

C. The validity and amount of the lien may be determined either by motion in the case in which the lien is claimed, or by separate action after final judgment has been entered therein or if no case has been filed. The validity and amount of the lien shall be determined by the court without a jury.

2. That the Office of the Executive Secretary of the Supreme Court of Virginia shall promulgate a form to be filed with the clerk of the circuit court.

CHAPTER 235

An Act to amend and reenact § 46.2-1054 of the Code of Virginia, relating to objects obstructing driver's view; dashboard cameras allowed.

[S 1058]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1054 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1054. Suspension of objects or alteration of vehicle so as to obstruct driver's view.

A. It shall be unlawful for any person (i) to drive a motor vehicle on a highway in the Commonwealth with any object or objects, other than a rear view mirror, sun visor, or other equipment of the motor vehicle approved by the Superintendent, suspended from any part of the motor vehicle in such a manner as to substantially obstruct the driver's clear view of the highway through the windshield, the front side windows, or the rear window or (ii) to alter a passenger-carrying vehicle in such a manner as to obstruct the driver's view through the windshield. However, this section shall not apply (a) when the driver's clear view of the highway through the rear window is obstructed if such motor vehicle is equipped with a mirror on each side, so located as to reflect to the driver a view of the highway for at least 200 feet to the rear of such vehicle, (b) to safety devices installed on the windshields of vehicles owned by private waste haulers or local governments and used to transport solid waste, or (c) to bicycle racks installed on the front of any bus operated by any city, county, transit authority, or transit or transportation district. The provisions of clause (ii) shall not apply to the lawful immobilization of vehicles pursuant to § 46.2-1216 or 46.2-1231.

B. No law-enforcement officer shall stop a motor vehicle for a violation of this section. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.

C. The provisions of this section shall not be construed to prohibit the suspension and use of any dashboard camera and any accompanying wires or attachments in or on a motor vehicle provided that (i) such suspension and use are not otherwise prohibited by the provisions of Title 49 of the Code of Federal Regulations and (ii) such camera, wires, and attachments are wholly or mostly concealed behind the rear view mirror without any additional obstruction to the driver's view.

CHAPTER 236

An Act to amend and reenact §§ 19.2-389, 37.2-203.1, 37.2-416, 37.2-506, and 37.2-607 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 37.2-416.1 and 37.2-506.1, relating to background checks; services for children and developmental services; adult substance abuse and mental health services.

[H 2342]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-389, 37.2-203.1, 37.2-416, 37.2-506, and 37.2-607 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 37.2-416.1 and 37.2-506.1 as follows:

§ 19.2-389. Dissemination of criminal history record information.

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

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

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

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

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

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

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

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

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

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

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

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

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

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

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

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

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

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

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

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

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

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

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider,

permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506*, 37.2-506.1,* and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506*, 37.2-506.1,* and 37.2-607;

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

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, *37.2-416.1,* 37.2-506, *37.2-506.1,* and 37.2-607;

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

31. The Chairman of the Senate Committee on the Judiciary or the House Committee for Courts of Justice for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

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

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

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

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

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

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

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

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

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

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

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

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

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

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

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039; and

47. Other entities as otherwise provided by law.

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

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

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 46.

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

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

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

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

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

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

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

§ 37.2-203.1. Licensed provider; statement to prospective employer.

The Board of Behavioral Health and Developmental Services shall amend regulations governing licensed providers to require that every licensed provider provide a statement regarding a current or past employee or other individual currently or previously associated with the provider in a capacity that requires a criminal history background check pursuant to § 37.2-416 ~~or~~*, 37.2-416.1,* 37.2-506*, or 37.2-506.1* to any other licensed provider with which the current or past employee has applied for employment or to fill a role that requires a criminal history background check pursuant to § 37.2-416 ~~or~~*, 37.2-416.1,* 37.2-506*, or 37.2-506.1*. The statement shall address the character, ability, and fitness for employment in or to otherwise fill the role for which the person has applied and shall be provided upon receipt of a request for such information from the other licensed provider and written consent to the disclosure of such information executed by the current or past employee or other individual currently or previously associated with the provider in a capacity that requires a criminal history background check pursuant to § 37.2-416 ~~or~~*, 37.2-416.1,* 37.2-506*, or 37.2-506.1*. Nothing in the amended regulations shall require disclosure of information subject to privilege or confidentiality pursuant to § 8.01-581.16, 8.01-581.17, or 32.1-127.1:03 or federal law.

§ 37.2-416. Background checks required; services for children and developmental services.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual ~~receiving services or~~ *younger than 18 years of age in any program providing mental health or substance abuse services;* (ii) *treatment, case management, health, safety, development, or well-being of an individual in any program providing developmental services; or (iii)* immediately supervising a person in a position ~~with~~ *described in* this ~~responsibility~~ *definition*.

~~"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same licensee licensed pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program licensed pursuant to this article if the person employed prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application date for employment.~~ "Hire for compensated employment" includes ~~(a)~~ *(i)* a promotion or transfer from an adult substance abuse treatment position to any ~~mental health or developmental services~~ direct care position within the same licensee licensed pursuant to this article or ~~(b)~~ *(ii)* new employment in any ~~mental health or developmental services~~ direct care position in another office or program of the same licensee licensed pursuant to this article for which the person has previously worked in an adult substance abuse treatment position.

"Provider" means a provider who is licensed pursuant to this article and who provides (i) mental health or substance abuse services to individuals who are younger than 18 years of age or (ii) developmental services to any individual regardless of age.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every provider ~~licensed pursuant to this article~~ shall require (i) any applicant who accepts employment in any direct care position, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, and (vi) any person under contract with the provider to serve in a direct care position to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C~~, D, or F~~, no provider ~~licensed pursuant to this article~~ shall:

1. Hire for compensated employment any person who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02;

2. Approve an applicant as a sponsored residential service provider if the applicant, any adult residing in the home of the applicant, or any person employed by the applicant has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date to be a sponsored residential service provider or (b) if such applicant continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02;

3. Permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver any person who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to entering into a shared living arrangement or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02; or

4. Allow any person under contract with the provider to serve in a direct care position who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting authorized officer or director of a provider ~~licensed pursuant to this article~~. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the authorized officer or director of a provider ~~licensed pursuant to this article~~ shall not be disseminated except as provided in this section.

C. ~~Notwithstanding the provisions of subsection B, a provider may hire for compensated employment or permit any person under contract with the provider to serve in a direct care position or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider at adult substance abuse or adult mental health treatment programs a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or subsection A of § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282, 18.2-346, or 18.2-346.01; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsections H1 and H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.~~

~~D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment or permit any person under contract with the provider to serve in a direct care position or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider at adult substance abuse treatment facilities a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.~~

~~E. The hiring provider and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the provider or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.~~

~~F.~~ Notwithstanding the provisions of subsection B, a provider may (i) hire for compensated employment, (ii) approve as a sponsored residential service provider, (iii) permit to enter into a shared living arrangement, or (iv) permit any person under contract with the provider to serve in a direct care position on behalf of the provider or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. A provider may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

~~G. Providers licensed pursuant to this article also~~ *D. Every provider* shall require, as a condition of employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

~~H.~~ *E.* The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the provider ~~licensed pursuant to this article~~ decides to pay the cost.

~~I.~~ *F.* A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

~~J.~~ *G.* Notwithstanding any other provision of law, a provider ~~licensed pursuant to this article~~ that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.

~~K.~~ *H.* Any person employed by a temporary agency that has entered into a contract with ~~the~~ *a* provider and who will serve in a direct care position on behalf of ~~the~~ *such* provider ~~licensed pursuant to this article~~ shall undergo a background check that shall include:

1. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

2. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

Except as otherwise provided in subsection C~~, D, or F~~, no provider ~~licensed pursuant to this article~~ shall permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider if that person has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

§ 37.2-416.1. Background checks required; adult substance abuse and mental health services.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an adult receiving substance abuse or mental health services or (ii) immediately supervising a person in a position described in this definition.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same licensee licensed pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program licensed pursuant to this article if the person employed prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same licensee licensed pursuant to this article or (b) new employment in any mental health or developmental services direct care position in another office or program of the same licensee licensed pursuant to this article for which the person has previously worked in an adult substance abuse treatment position.

"Provider" means a provider who is licensed pursuant to this article and who provides substance abuse or mental health services to adults.

B. Every provider shall require (i) any applicant who accepts employment in any direct care position and (ii) any person under contract with the provider to serve in a direct care position to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no provider shall:

1. Hire for compensated employment any person who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02; or

2. Allow any person under contract with the provider to serve in a direct care position who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting authorized officer or director of a provider. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the

procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the authorized officer or director of a provider shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment or permit any person under contract with the provider to serve in a direct care position or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider at adult substance abuse or adult mental health treatment programs a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or subsection A of § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282, 18.2-346, or 18.2-346.01; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsections H1 and H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment or permit any person under contract with the provider to serve in a direct care position or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider at adult substance abuse treatment facilities a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The hiring provider and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the provider or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a provider may (i) hire for compensated employment, (ii) approve as a sponsored residential service provider, (iii) permit to enter into a shared living arrangement, or (iv) permit any person under contract with the provider to serve in a direct care position on behalf of the provider or permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. A provider may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Every provider shall require, as a condition of employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the provider decides to pay the cost.

I. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

J. Notwithstanding any other provision of law, a provider that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for

employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.

K. Any person employed by a temporary agency that has entered into a contract with a provider and who will serve in a direct care position on behalf of such provider shall undergo a background check that shall include:

1. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

2. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

Except as otherwise provided in subsection C, D, or F, no provider shall permit any person employed by a temporary agency that has entered into a contract with the provider to provide direct care services on behalf of the provider if that person has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

§ 37.2-506. Background checks required; services for children and developmental services.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual ~~receiving services or~~ *younger than 18 years of age in any program providing mental health or substance abuse services;* (ii) *treatment, case management, health, safety, development, or well-being of an individual in any program providing developmental services; or (iii)* immediately supervising a person in a position ~~with~~ *described in* this ~~responsibility~~ *definition*.

~~"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same community services board or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program of the same community services board if the person employed prior to July 1, 1999, had no convictions in the five years prior to the application date for employment.~~ "Hire for compensated employment" includes ~~(a)~~ *(i)* a promotion or transfer from an adult substance abuse treatment position to any ~~mental health or developmental services~~ direct care position within the same community services board or ~~(b)~~ *(ii)* new employment in any ~~mental health or developmental services~~ direct care position in another office or program of the same community services board for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every community services board shall require (i) any applicant who accepts employment in any direct care position with the community services board, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, and (vi) any person under contract to serve in a direct care position on behalf of the community services board to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C~~, D, or F~~, no community services board shall hire for compensated employment, approve as a sponsored residential service provider, permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permit any person under contract to serve in a direct care position on behalf of the community services board persons who have been convicted of (a) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement or (2) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting executive director or personnel director of the community services board. If any applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the executive director or personnel director of any community services board shall not be disseminated except as provided in this section.

C. ~~Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment or permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services~~

~~board to provide direct care services on behalf of the community services board at adult substance abuse or adult mental health treatment programs a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1, subsection A of § 18.2-57, or § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282, 18.2-346, or 18.2-346.01; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.~~

~~D. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment or permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board at adult substance abuse treatment programs a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.~~

~~E. The community services board and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the community services board or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the board decides to pay the cost.~~

~~F.~~ Notwithstanding the provisions of subsection B, a community services board may (i) hire for compensated employment, (ii) approve as a sponsored residential service provider, (iii) permit to enter into a shared living arrangement, or (iv) permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. A community services board may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

~~G.~~ *D.* Community services boards also shall require, as a condition of employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract to serve in a direct care position on behalf of the community services board, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

~~H.~~ *E.* The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the community services board decides to pay the cost.

~~I.~~ *F.* Notwithstanding any other provision of law, a community services board that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.

~~J.~~ *G.* A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

~~K.~~ *H.* Any person employed by a temporary agency that has entered into a contract with a community services board and who will serve in a direct care position on behalf of ~~the~~ *such* community services board shall undergo a background check that shall include:

1. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

2. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

Except as otherwise provided in subsection C~~, D, or F~~, no community services board shall permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board if that person has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

§ 37.2-506.1. Background checks required; adult substance abuse and mental health services.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an adult receiving substance abuse or mental health services or (ii) immediately supervising a person in a position described in this definition.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same community services board or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program of the same community services board if the person employed prior to July 1, 1999, had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same community services board or (b) new employment in any mental health or developmental services direct care position in another office or program of the same community services board for which the person has previously worked in an adult substance abuse treatment position.

B. Every community services board shall require (i) any applicant who accepts employment in any direct care position with the community services board and (ii) any person under contract to serve in a direct care position on behalf of the community services board to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no community services board shall hire for compensated employment, approve as a sponsored residential service provider, permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permit any person under contract to serve in a direct care position on behalf of the community services board persons who have been convicted of (a) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement or (2) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting executive director or personnel director of the community services board. If any applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the executive director or personnel director of any community services board shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment or permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board at adult substance abuse or adult mental health treatment programs a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1, subsection A of § 18.2-57, or § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282, 18.2-346, or 18.2-346.01; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment or permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board at adult substance abuse treatment programs a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The community services board and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the community services board or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the board decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a community services board may (i) hire for compensated employment or (ii) permit any person under contract to serve in a direct care position on behalf of the community services board or permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Community services boards also shall require, as a condition of employment or permission for any person under contract to serve in a direct care position on behalf of the community services board, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the community services board decides to pay the cost.

I. Notwithstanding any other provision of law, a community services board that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment.

J. Any person employed by a temporary agency that has entered into a contract with a community services board and who will serve in a direct care position on behalf of such community services board shall undergo a background check that shall include:

1. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

2. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

Except as otherwise provided in subsection C, D, or F, no community services board shall permit any person employed by a temporary agency that has entered into a contract with the community services board to provide direct care services on behalf of the community services board if that person has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

§ 37.2-607. Background check required.

A behavioral health authority shall fulfill the duties of and be subject to the employee background check requirements that are applicable to community services boards, as set forth in ~~§~~ *§§* 37.2-506 *and 37.2-506.1*.

CHAPTER 237

An Act to amend and reenact §§ 27-6.01, 27-8, and 27-10 of the Code of Virginia, relating to fire protection; definition of fire company.

[H 1765]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 27-6.01, 27-8, and 27-10 of the Code of Virginia are amended and reenacted as follows:

§ 27-6.01. Definitions.

For the purposes of this chapter, unless the context requires a different meaning:

"Fire company" means a volunteer firefighting *or firefighter support* organization organized pursuant to § 27-8 in any county, city, or town of the Commonwealth for the purpose of ~~fighting~~ *extinguishing* fires. *Firefighter support group members shall not be included in the provisions of Title 9.1, Title 27, or Title 65.2 unless otherwise designated for inclusion by ordinance or resolution of the governing body of the applicable county, city, or town of the Commonwealth.*

"Fire department" means a firefighting organization established as a department of government of any county, city, or town pursuant to § 27-6.1.

§ 27-8. Who may form a fire company; limit on number of persons in combined companies.

Any number of persons, not less than 20, may form themselves into a *fire* company for extinguishing fires. In any county in which two or more *fire* companies for extinguishing fires join together and singly use one fire station, the number of persons in the combined companies shall be not less than 20.

§ 27-10. Dissolution of fire company.

Whenever the fire department of the county, city, or town to which any fire company belongs ascertains that such company has failed, for three months successively, to consist of 20 effective members, or ascertains that ~~it~~ *such fire company* has failed for the like period to have or keep in good and serviceable condition an engine~~, hose,~~ *or other support apparatus* and equipment and other proper implements, or the governing body of the county, city, or town for any reason deems it advisable, such governing body may dissolve the fire company.

CHAPTER 238

An Act to amend and reenact § 62.1-132.3:2 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 62.1-132.3:2.1, 62.1-132.3:2.2, 62.1-132.3:2.3, 62.1-132.3:5, and 62.1-132.3:6, relating to Virginia Port Authority; tax credits and grants.

[H 1832]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-132.3:2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 62.1-132.3:2.1, 62.1-132.3:2.2, 62.1-132.3:2.3, 62.1-132.3:5, and 62.1-132.3:6 as follows:

§ 62.1-132.3:2. Port of Virginia Economic and Infrastructure Development Grant Fund and Program.

A. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, and any funds transferred at the request of the Executive Director from the Port Opportunity Fund created pursuant to § 62.1-132.3:1, there is hereby created in the state treasury a special nonreverting, permanent fund to be known as the Port of Virginia Economic and Infrastructure Development Grant Fund (the Fund), to be administered by the Virginia Port Authority. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director. Moneys in the Fund shall be used solely for the purpose of grants to qualified applicants to the Port of Virginia Economic and Infrastructure Development Grant Program.

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

"New, permanent full-time position" means a job of an indefinite duration, created by a qualified company as a result of operations within the Commonwealth, requiring a minimum of 35 hours of an employee's time per week for the entire normal year of the company's operations, which normal year shall consist of at least 48 weeks, or a position of indefinite duration that requires a minimum of 35 hours of an employee's time per week for the portion of the taxable year in which the employee was initially hired for the qualified company's location within the Commonwealth. "New, permanent full-time position" includes security positions as required within a foreign trade zone, established pursuant to Foreign Trade Zones Act of 1934, as amended (19 U.S.C. §§ 81a through 81u). "New, permanent full-time position" does not include seasonal or temporary positions, jobs created when a position is shifted from an existing location in the Commonwealth to the qualified company's new or expanded location, or positions in building and grounds maintenance or other positions that are ancillary to the principal activities performed by the employees at the qualified company's location within the Commonwealth.

"Qualified company" means a corporation, limited liability company, partnership, joint venture, or other business entity that (i) locates or expands a facility within the Commonwealth; (ii) creates at least 25 new, permanent full-time positions for qualified full-time employees at a facility within the Commonwealth during its first year of operation or during the year when the expansion occurs; (iii) is involved in maritime commerce or exports or imports manufactured goods through the Port of Virginia; and (iv) is engaged in one or more of the following: the distribution, freight forwarding, freight handling, goods processing, manufacturing, warehousing, crossdocking, transloading, or wholesaling of goods exported and imported through the Port of Virginia; ship building and ship repair; dredging; marine construction; or offshore energy exploration or extraction.

"Qualified full-time employee" means an employee filling a new, permanent full-time position in the qualified company's location within the Commonwealth. A "qualified full-time employee" does not include an employee (i) for whom a tax credit was previously earned pursuant to § 58.1-439 or 58.1-439.12:06 by a related party as listed in § 267(b) of the Internal Revenue Code or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code; (ii) who was previously employed in the same job function at an existing location in the Commonwealth by a related party as listed in § 267(b) of the Internal Revenue Code; or (iii) whose job function was previously performed at a different location in the Commonwealth by an employee of a related party as listed in § 267(b) of the Internal Revenue Code or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code.

C. Beginning January 1, 2014, but not later than ~~June 30, 2025~~ *December 31, 2024*, and subject to appropriation, any qualified company that locates or expands a facility within the Commonwealth shall be eligible to apply for a one-time grant from the Fund, in an amount determined as follows:

1. One thousand dollars per new, permanent full-time position if the qualified company creates at least 25 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs;

2. Fifteen hundred dollars per new, permanent full-time position if the qualified company creates at least 50 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs;

3. Two thousand dollars per new, permanent full-time position if the qualified company creates at least 75 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs; and

4. Three thousand dollars per new, permanent full-time position if the qualified company creates at least 100 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs.

D. The maximum amount of grant allowable per qualified company in any given fiscal year is $500,000. The maximum amount of grants allowable among all qualified companies in any given fiscal year is $5 million.

E. To qualify for a grant pursuant to this section, a qualified company must apply for the grant not later than March 31 in the year immediately following the location or expansion of a facility within the Commonwealth pursuant to an application process developed by the Virginia Port Authority. Within 90 days after the filing deadline, the Executive Director shall certify to the Comptroller and the qualified company the amount of grant to which the qualified company is entitled under this section. Payment of each grant shall be made by check issued by the State Treasurer on warrant of the Comptroller within 60 days of such certification and in the order that each completed eligible application is received. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund or $5 million, such grants shall be paid in the next fiscal year in which funds are available.

F. A qualified company that has received a grant in accordance with the requirements provided in this section shall be eligible for a second grant from the Fund if it (i) locates or expands an additional facility in a separate location, as determined by the Virginia Port Authority, within the Commonwealth; (ii) creates at least 300 new, permanent full-time positions at the additional facility over and above those agreed upon in the qualified company's original memorandum of understanding with the Virginia Port Authority; and (iii) increases cargo volumes through the Port of Virginia by at least five percent, not including any volume increase resulting from the original grant, from the additional facility. If the qualified company satisfies the requirements provided in this subsection and receives a grant consistent with the requirements of this section, then the qualified company shall enter into another separate memorandum of understanding with the Virginia Port Authority as provided in subsection G.

G. Prior to receipt of a grant, the qualified company shall enter into a memorandum of understanding with the Virginia Port Authority establishing the requirements for maintaining the number of new, permanent full-time positions for qualified employees at the qualified company's location within the Commonwealth. If the number of new, permanent full-time positions for any of the three years immediately following receipt of a grant falls below the number of new, permanent full-time positions created during the year for which the grant is claimed, the amount of the grant must be recalculated using the decreased number of new, permanent full-time positions and the qualified company shall repay the difference.

H. No qualified company shall apply for a grant nor shall one be awarded under this section to an otherwise qualified company if (i) a credit pursuant to § 58.1-439 or 58.1-439.12:06 is claimed for the same employees or for capital expenditures at the same facility by the qualified company, by a related party as listed in § 267(b) of the Internal Revenue Code, or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal

Revenue Code or (ii) the qualified company was a party to a reorganization as defined in § 368(b) of the Internal Revenue Code, and any corporation involved in the reorganization as defined in § 368(a) of the Internal Revenue Code previously received a grant under this section for the same facility or operations.

I. The Virginia Port Authority, with the assistance of the Virginia Economic Development Partnership, shall develop guidelines establishing procedures and requirements for qualifying for the grant, including the affirmative determination that each applicant is a qualified company, as defined above, engaged in a port-related business. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.). For the purposes of administering this grant program, the Virginia Port Authority and the Department of Taxation shall exchange information regarding whether a qualified company, a related party as listed in § 267(b) of the Internal Revenue Code, or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code has claimed a credit pursuant to § 58.1-439 or 58.1-439.12:06 for the same employees or for capital expenditures at the same facility.

§ 62.1-132.3:2.1. Port of Virginia Economic Development Grant Program and Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Port of Virginia Economic Development Grant Fund (the Fund), to be administered by the Virginia Port Authority. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of providing grants to qualified applicants to the Program. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director.

B. There is hereby created the Port of Virginia Economic Development Grant Program (the Program). The Program shall consist of the following component programs:

1. The Economic and Infrastructure Development Grant Program established by § 62.1-132.3:2.2.

2. The International Trade Facility Grant Program established by § 62.1-132.3:2.3.

C. 1. Except as provided in subdivision 3, for the Economic and Infrastructure Development Grant Program, the maximum amount of grants allowable among all qualified companies, as that term is defined in § 62.1-132.3:2.2, in any fiscal year shall be $5 million plus any amounts carried over from a prior fiscal year.

2. Except as provided in subdivision 3, for the International Trade Facility Grant Program, the maximum amount of grants allowable among all international trade facilities, as that term is defined in § 62.1-132.3:2.3, in any fiscal year shall be $1.25 million plus any amounts carried over from a prior fiscal year.

3. In the event that the amount of grants claimed for either of the programs described in subdivision 1 or 2 in any fiscal year is less than the maximum allowable amount, the excess amount may (i) be used to provide grants by the other program if that program is oversubscribed or (ii) be carried over to the next fiscal year.

§ 62.1-132.3:2.2. Economic and Infrastructure Development Grant Program.

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

"Fund" means the Port of Virginia Economic Development Grant Fund established by § 62.1-132.3:2.1.

"New, permanent full-time position" means a job of an indefinite duration, created by a qualified company as a result of operations within the Commonwealth, requiring a minimum of 35 hours of an employee's time per week for the entire normal year of the company's operations, which normal year shall consist of at least 48 weeks, or a position of indefinite duration that requires a minimum of 35 hours of an employee's time per week for the portion of the taxable year in which the employee was initially hired for the qualified company's location within the Commonwealth. "New, permanent full-time position" includes security positions as required within a foreign trade zone, established pursuant to the Foreign Trade Zones Act of 1934, as amended (19 U.S.C. §§ 81a through 81u). "New, permanent full-time position" does not include seasonal or temporary positions, jobs created when a position is shifted from an existing location in the Commonwealth to the qualified company's new or expanded location, or positions in building and grounds maintenance or other positions that are ancillary to the principal activities performed by the employees at the qualified company's location within the Commonwealth.

"Qualified company" means a corporation, limited liability company, partnership, joint venture, or other business entity that (i) locates or expands a facility within the Commonwealth; (ii) creates at least 25 new, permanent full-time positions for qualified full-time employees at a facility within the Commonwealth during its first year of operation or during the year when the expansion occurs; (iii) is involved in maritime commerce or exports or imports manufactured goods through the Port of Virginia; (iv) is engaged in the distribution, freight forwarding, freight handling, goods processing, manufacturing, warehousing, crossdocking, transloading, or wholesaling of goods exported and imported through the Port of Virginia; ship building and ship repair; dredging; marine construction; or offshore energy exploration or extraction; and (v) pays a minimum entry-level wage rate per hour of at least 1.2 times the federal minimum wage or the Virginia minimum wage, as required by the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.), whichever is higher. In areas that have an unemployment rate of one and one-half times the statewide average unemployment rate, the wage rate minimum may be waived by the Authority. Only full-time positions that qualify for benefits shall be eligible for assistance.

"Qualified full-time employee" means an employee filling a new, permanent full-time position in the qualified company's location within the Commonwealth. "Qualified full-time employee" does not include an employee (i) for whom a

tax credit was previously earned pursuant to § 58.1-439 or 58.1-439.12:06 by a related party as listed in § 267(b) of the Internal Revenue Code or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code; (ii) who was previously employed in the same job function at an existing location in the Commonwealth by a related party as listed in § 267(b) of the Internal Revenue Code; or (iii) whose job function was previously performed at a different location in the Commonwealth by an employee of a related party as listed in § 267(b) of the Internal Revenue Code or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code.

B. The Port of Virginia shall develop as a component of the Port of Virginia Economic Development Program the Economic and Infrastructure Development Grant Program.

C. Beginning January 1, 2025, and subject to appropriation, any qualified company that locates or expands a facility within the Commonwealth shall be eligible to apply for a one-time grant from the Fund, in an amount determined as follows:

1. If the qualified company creates at least 25 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs, $1,000 per new, permanent full-time position;

2. If the qualified company creates at least 50 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs, $1,500 per new, permanent full-time position;

3. If the qualified company creates at least 75 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs, $2,000 per new, permanent full-time position; and

4. If the qualified company creates at least 100 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs, $3,000 per new, permanent full-time position.

E. To qualify for a grant pursuant to this section, a qualified company must apply for the grant not later than March 31 in the year immediately following the location or expansion of a facility within the Commonwealth pursuant to an application process developed by the Virginia Port Authority. Within 90 days after the filing deadline, the Executive Director shall certify to the Comptroller and the qualified company the amount of grant to which the qualified company is entitled under this section. Payment of each grant shall be made by check issued by the State Treasurer on warrant of the Comptroller within 60 days of such certification and in the order that each completed eligible application is received.

F. A qualified company that has received a grant in accordance with the requirements provided in this section shall be eligible for a second grant from the Fund if it (i) locates or expands an additional facility in a separate location, as determined by the Virginia Port Authority, within the Commonwealth; (ii) creates at least 300 new, permanent full-time positions at the additional facility over and above those agreed upon in the qualified company's original memorandum of understanding with the Virginia Port Authority; and (iii) increases cargo volumes through the Port of Virginia by at least five percent, not including any volume increase resulting from the original grant, from the additional facility. If the qualified company satisfies the requirements provided in this subsection and receives a grant consistent with the requirements of this section, then the qualified company shall enter into another separate memorandum of understanding with the Virginia Port Authority as provided in subsection G.

G. Prior to receipt of a grant, the qualified company shall enter into a memorandum of understanding with the Virginia Port Authority establishing the requirements for maintaining the number of new, permanent full-time positions for qualified employees at the qualified company's location within the Commonwealth. If the number of new, permanent full-time positions for any of the three years immediately following receipt of a grant falls below the number of new, permanent full-time positions created during the year for which the grant is claimed, the amount of the grant shall be recalculated using the decreased number of new, permanent full-time positions, and the qualified company shall repay the difference.

H. No qualified company shall apply for a grant, nor shall one be awarded under this section to an otherwise qualified company, if (i) a credit pursuant to § 58.1-439 or 58.1-439.12:06 or a grant pursuant to § § 62.1-132.3:2.3 is claimed for the same employees or for capital expenditures at the same facility by the qualified company, by a related party as listed in § 267(b) of the Internal Revenue Code, or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code or (ii) the qualified company was a party to a reorganization as defined in § 368(b) of the Internal Revenue Code, and any corporation involved in the reorganization as defined in § 368(a) of the Internal Revenue Code previously received a grant under this section for the same facility or operations.

I. The Virginia Port Authority, with the assistance of the Virginia Economic Development Partnership, shall develop guidelines establishing procedures and requirements for qualifying for the grant, including the affirmative determination that each applicant is a qualified company, as defined above, engaged in a port-related business. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.). For the purposes of administering this grant program, the Virginia Port Authority and the Department of Taxation shall exchange information regarding whether a qualified company, a related party as listed in § 267(b) of the Internal Revenue Code, or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code has claimed a credit pursuant to § 58.1-439 or 58.1-439.12:06 or a grant pursuant to § 62.1-132.3:2.3 for the same employees or for capital expenditures at the same facility.

§ 62.1-132.3:2.3. International Trade Facility Grant Program.

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

"Affiliated companies" means two or more companies related to each other so that (i) one company owns at least 80 percent of the voting power of the other or others or (ii) the same interest owns at least 80 percent of the voting power of two or more companies.

"Capital investment" means the amount properly chargeable to a capital account for improvements to rehabilitate or expand depreciable real property placed in service during the taxable year and the cost of machinery, tools, and equipment used in an international trade facility directly related to the movement of cargo. "Capital investment" includes expenditures associated with any exterior, structural, mechanical, or electrical improvements necessary to expand or rehabilitate a building for commercial or industrial use and excavations, grading, paving, driveways, roads, sidewalks, landscaping, or other land improvements. For purposes of this section, machinery, tools, and equipment shall be deemed to include only that property placed in service by the international trade facility on and after January 1, 2025. Machinery, tools, and equipment excludes property (i) for which a credit under this section was previously granted; (ii) placed in service by the taxpayer, by a related party as defined in § 267(b) of the Internal Revenue Code, as amended, or by a trade or business under common control as defined in § 52(b) of the Internal Revenue Code, as amended; or (iii) previously in service in the Commonwealth that has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom acquired or § 1014(a) of the Internal Revenue Code, as amended.

"Capital investment" does not include:

1. The cost of acquiring any real property or building;

2. The cost of furnishings;

3. Any expenditure associated with appraisal, architectural, engineering, or interior design fees;

4. Loan fees, points, or capitalized interest;

5. Legal, accounting, realtor, sales and marketing, or other professional fees;

6. Closing costs, permit fees, user fees, zoning fees, impact fees, or inspection fees;

7. Bids, insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities costs incurred during construction;

8. Utility hook-up or access fees;

9. Outbuildings; or

10. The cost of any well or septic system.

"Fund" means the Port of Virginia Economic Development Grant Fund established by § 62.1-132.3:2.1.

"Indexing ratio" means the greater of (i) the change in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the previous year, or (ii) zero.

"International trade facility" means a company that:

1. Is engaged in port-related activities, including, warehousing, distribution, freight forwarding and handling, and goods processing;

2. Uses maritime port facilities located in the Commonwealth;

3. Transports at least five percent more cargo through maritime port facilities in the Commonwealth during the calendar year than was transported by the company through such facilities during the preceding calendar year; and

4. Pays a minimum entry-level wage rate per hour of at least 1.2 times the federal minimum wage or the Virginia minimum wage, as required by the Virginia Minimum Wage Act (§ 40.1- 28.8 et seq.), whichever is higher. In areas that have an unemployment rate of one and one-half times the statewide average unemployment rate, the wage rate minimum may be waived by the Authority. Only full-time positions that qualify for benefits shall be eligible for assistance.

"New, permanent full-time position" means a job of an indefinite duration, created by a qualified company as a result of operations within the Commonwealth, requiring a minimum of 35 hours of an employee's time per week for the entire normal year of the company's operations, which normal year shall consist of at least 48 weeks, or a position of indefinite duration that requires a minimum of 35 hours of an employee's time per week for the portion of the taxable year in which the employee was initially hired for the qualified company's location within the Commonwealth. "New, permanent full-time position" includes security positions as required within a foreign trade zone, established pursuant to Foreign Trade Zones Act of 1934, as amended (19 U.S.C. §§ 81a through 81u). "New, permanent full-time position" does not include seasonal or temporary positions, jobs created when a position is shifted from an existing location in the Commonwealth to the qualified company's new or expanded location, or positions in building and grounds maintenance or other positions that are ancillary to the principal activities performed by the employees at the qualified company's location within the Commonwealth.

"Qualified full-time employee" means an employee filling a new, permanent full-time position in the qualified company's location within the Commonwealth. "Qualified full-time employee" does not include an employee (i) for whom a tax credit was previously earned pursuant to § 58.1-439 or 58.1-439.12:06 by a related party as listed in § 267(b) of the Internal Revenue Code or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code; (ii) who was previously employed in the same job function at an existing location in the Commonwealth by a related party as listed in § 267(b) of the Internal Revenue Code; or (iii) whose job function was previously performed at a different location in the Commonwealth by an employee of a related party as listed in § 267(b) of

the Internal Revenue Code or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code.

B. The Port of Virginia shall develop as a component of the Port of Virginia Economic Development Program the International Trade Facility Grant Program.

C. Beginning January 1, 2025, and subject to appropriation, an international trade facility that increases its qualified trade activities shall be eligible to receive a grant from the Fund. The amount of such grant shall be equal to either (i) $3,500, adjusted each year by the indexing ratio, per qualified full-time employee that results from increased qualified trade activities by the applicant or (ii) an amount equal to two percent of the capital investment made by the applicant to facilitate the increased qualified trade activities. The election of which award to apply for shall be the responsibility of the applicant. Both awards shall not be granted for the same activities that occur in a calendar year. The portion of such grant earned under clause (i) with respect to any qualified full-time employee who works in the Commonwealth for less than 12 full months during the credit year shall be determined by multiplying the credit amount by a fraction the numerator of which is the number of full months such employee worked for the international trade facility in the Commonwealth during the credit year and the denominator of which is 12.

D. Prior to receipt of a grant, the international trade facility shall enter into a memorandum of understanding with the Virginia Port Authority establishing the requirements for either a schedule of capital investment or maintaining the number of new, permanent full-time positions for qualified employees at the international trade facility's location within the Commonwealth. If the number of new, permanent full-time positions for any of the three years immediately following receipt of a grant falls below the number of new, permanent full-time positions created during the year for which the grant is claimed, the amount of the grant shall be recalculated using the decreased number of new, permanent full-time positions, and the international trade facility shall repay the difference.

E. No international trade facility shall apply for a grant, nor shall one be awarded under this section to an otherwise qualified international trade facility, if (i) a credit pursuant to § 58.1-439 or 58.1-439.12:06 or a grant pursuant to §§ 62.1-132.3:2.2 is claimed for the same employees or for capital expenditures at the same facility by the international trade facility, by a related party as listed in § 267(b) of the Internal Revenue Code, or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code or (ii) the international trade facility was a party to a reorganization as defined in § 368(b) of the Internal Revenue Code, and any corporation involved in the reorganization as defined in § 368(a) of the Internal Revenue Code previously received a grant under this section for the same facility or operations.

F. The Virginia Port Authority, with the assistance of the Virginia Economic Development Partnership, shall develop guidelines establishing procedures and requirements for qualifying for the grant, including the affirmative determination that each applicant is an international trade facility, engaged in a port-related business. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

§ 62.1-132.3:5. Virginia Port Volume Increase Grant Program and Fund.

A. As used in this section:

"Agricultural entity" means a person engaged in growing or producing wheat, grains, fruits, nuts, or crops; tobacco, nursery, or floral products; forestry products, excluding raw wood fiber or wood fiber processed or manufactured for use as fuel for the generation of electricity; or seafood, meat, dairy, or poultry products.

"Base year port cargo volume" means the total amount of (i) net tons of noncontainerized cargo, (ii) TEUs of cargo, or (iii) units of roll-on/roll-off cargo actually transported by way of a waterborne ship or vehicle through a port facility during the period from January 1, 2023, through December 31, 2024. Base year port cargo volume must be at least 75 net tons of noncontainerized cargo, 10 loaded TEUs, or 10 units of roll-on/roll-off cargo for an eligible entity to be eligible for the grants provided in this section. For an eligible entity that did not ship that amount in the year ending December 31, 2023, including an eligible entity that locates in Virginia after such periods, its base cargo volume shall be measured by the initial January 1 through December 31 calendar year in which it meets the requirements of 75 net tons of noncontainerized cargo, 10 loaded TEUs, or 10 units of roll-on/roll-off cargo. Base year port cargo volume shall be recalculated each calendar year after the initial base year.

"Eligible entity" means an agricultural entity, manufacturing-related entity, or mineral and gas entity.

"Major facility" means a new facility to be located in Virginia that is projected to import or export cargo through a port in excess of 25,000 TEUs in its first calendar year.

"Manufacturing-related entity" means a person engaged in the manufacturing of goods or the distribution of manufactured goods.

"Mineral and gas entity" means a person engaged in severing minerals or gases from the earth.

"Port cargo volume" means the total amount of net tons of noncontainerized cargo, net units of roll-on/roll-off cargo, or containers measured in TEUs of cargo transported by way of a waterborne ship or vehicle through a port facility.

"Port facility" means any publicly or privately owned facility located within the Commonwealth through which cargo is transported by way of a waterborne ship or vehicle to or from destinations outside the Commonwealth and that handles cargo owned by third parties in addition to cargo owned by the port facility's owner.

"TEU" or "20-foot equivalent unit" means a volumetric measure based on the size of a container that is 20 feet long by eight feet wide by eight feet, six inches high.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Port Volume Increase Grant Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of providing grants to eligible entities pursuant to subsections C and D. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director.

C. 1. Beginning January 1, 2025, an eligible entity that uses port facilities in the Commonwealth and increases its port cargo volume at these facilities by a minimum of five percent in a single calendar year over its base year port cargo volume shall be eligible to receive a grant from the Fund in an amount determined by the Virginia Port Authority in accordance with subdivisions 2 and 3. The Virginia Port Authority may waive the requirement that port cargo volume be increased by a minimum of five percent over base year port cargo volume for any eligible entity that qualifies as a major facility.

2. Eligible entities that increase their port cargo volume by a minimum of five percent in a calendar year shall be eligible to receive a grant in the amount of $50 for each TEU, unit of roll-on/roll-off cargo, or 16 net tons of noncontainerized cargo, as applicable, above the base year port cargo volume. An eligible entity that is a major facility as defined in this section shall be eligible to receive a grant in the amount of $50 for each TEU, unit of roll-on/roll-off cargo, or 16 net tons of noncontainerized cargo, as applicable, transported through a port facility during the major facility's first calendar year. An eligible entity may not receive more than $250,000 for each calendar year. The maximum amount of grants allowed for all eligible entities pursuant to this section shall not exceed $3.8 million for each calendar year. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund or $3.8 million, such grants shall be paid in the next fiscal year in which funds are available. The Virginia Port Authority shall allocate the grants pursuant to the provisions of subdivision D.

3. An eligible entity shall be eligible for a grant pursuant to this section only if the eligible entity owns the cargo at the time the port facilities are used.

D. For every year in which an eligible entity is applies for a grant, the eligible entity shall submit an application to the Virginia Port Authority by March 1 of the calendar year after the calendar year in which the increase in port cargo volume occurs. The eligible entity shall attach a schedule to its application with the following information and any other information requested by the Virginia Port Authority:

1. A description of how the base year port cargo volume and the increase in port cargo volume were determined;

2. The amount of the base year port cargo volume; and

3. The amount of the increase in port cargo volume for the calendar year stated both as a percentage increase and as a total increase in net tons of noncontainerized cargo, TEUs of cargo, and units of roll-on/roll-off cargo, as applicable, including information that demonstrates an increase in port cargo volume in excess of the minimum amount required to claim the grants awarded pursuant to this section.

E. The Virginia Port Authority shall not make awards under this section to applicants who are receiving tax credits for under § 58.1-439.12:10 for the same cargo.

F. The Virginia Port Authority shall develop guidelines establishing procedures and requirements for qualifying for grants under this section. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

§ 62.1-132.3:6. Virginia Barge and Rail Usage Grant Program and Fund.

A. As used in this section:

"Barge and rail cargo volume" means the total amount of (i) net tons of noncontainerized cargo, (ii) TEUs of cargo, or (iii) units of roll-on/roll-off cargo actually by barge or rail rather than by trucks or other motor vehicles on the Commonwealth's highways, measured from January 1 through December 31 of each calendar year.

"International trade facility" means a company that:

1. Does business in the Commonwealth and is engaged in port-related activities, including warehousing, distribution, freight forwarding and handling, and goods processing;

2. Has the sole discretion and authority to move cargo originating or terminating in the Commonwealth;

3. Uses maritime port facilities located in the Commonwealth; and

4. Uses barges and rail systems to move cargo through port facilities in the Commonwealth rather than trucks or other motor vehicles on the Commonwealth's highways.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Barge and Rail Usage Grant Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of providing grants to international trade facilities pursuant to subsections C and D. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director.

C. 1. Beginning January 1, 2025, an international trade facility shall be eligible to receive a grant from the Fund in an amount determined by the Virginia Port Authority in accordance with subdivision 2.

2. The amount of the grant shall be $25 per 20-foot equivalent unit (TEU), 16 tons of noncontainerized cargo, or one unit of roll-on/roll-off cargo moved by barge or rail rather than by trucks or other motor vehicles on the Commonwealth's highways.

3. Applicants shall be required to increase their barge and rail cargo volume for a calendar year by at least five percent above the preceding calendar year's volume in order to be eligible for the grant.

D. The Virginia Port Authority shall issue the grants under this section, and in no case shall more than $1 million in grants be issued pursuant to this section in any fiscal year of the Commonwealth. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund or $1 million, such grants shall be paid in the next fiscal year in which funds are available. The international trade facility shall not receive any grant under this section unless it has applied to the Virginia Port Authority for the grant and the Virginia Port Authority has approved the grant. The Virginia Port Authority shall determine the grant amount allowable for the year and shall provide a written certification to the international trade facility, which certification shall report the amount of the grant approved by the Virginia Port Authority.

E. The Virginia Port Authority shall not make awards under this section to applicants who are receiving tax credits for under § 58.1-439.12:09 for the same cargo.

F. The Virginia Port Authority shall develop guidelines establishing procedures and requirements for qualifying for grants under this section. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

CHAPTER 239

An Act to amend and reenact § 62.1-132.3:2 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 62.1-132.3:2.1, 62.1-132.3:2.2, 62.1-132.3:2.3, 62.1-132.3:5, and 62.1-132.3:6, relating to Virginia Port Authority; tax credits and grants.

[S 1345]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-132.3:2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 62.1-132.3:2.1, 62.1-132.3:2.2, 62.1-132.3:2.3, 62.1-132.3:5, and 62.1-132.3:6 as follows:

§ 62.1-132.3:2. Port of Virginia Economic and Infrastructure Development Grant Fund and Program.

A. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, and any funds transferred at the request of the Executive Director from the Port Opportunity Fund created pursuant to § 62.1-132.3:1, there is hereby created in the state treasury a special nonreverting, permanent fund to be known as the Port of Virginia Economic and Infrastructure Development Grant Fund (the Fund), to be administered by the Virginia Port Authority. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director. Moneys in the Fund shall be used solely for the purpose of grants to qualified applicants to the Port of Virginia Economic and Infrastructure Development Grant Program.

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

"New, permanent full-time position" means a job of an indefinite duration, created by a qualified company as a result of operations within the Commonwealth, requiring a minimum of 35 hours of an employee's time per week for the entire normal year of the company's operations, which normal year shall consist of at least 48 weeks, or a position of indefinite duration that requires a minimum of 35 hours of an employee's time per week for the portion of the taxable year in which the employee was initially hired for the qualified company's location within the Commonwealth. "New, permanent full-time position" includes security positions as required within a foreign trade zone, established pursuant to Foreign Trade Zones Act of 1934, as amended (19 U.S.C. §§ 81a through 81u). "New, permanent full-time position" does not include seasonal or temporary positions, jobs created when a position is shifted from an existing location in the Commonwealth to the qualified company's new or expanded location, or positions in building and grounds maintenance or other positions that are ancillary to the principal activities performed by the employees at the qualified company's location within the Commonwealth.

"Qualified company" means a corporation, limited liability company, partnership, joint venture, or other business entity that (i) locates or expands a facility within the Commonwealth; (ii) creates at least 25 new, permanent full-time positions for qualified full-time employees at a facility within the Commonwealth during its first year of operation or during the year when the expansion occurs; (iii) is involved in maritime commerce or exports or imports manufactured goods through the Port of Virginia; and (iv) is engaged in one or more of the following: the distribution, freight forwarding, freight handling, goods processing, manufacturing, warehousing, crossdocking, transloading, or wholesaling of goods exported and imported through the Port of Virginia; ship building and ship repair; dredging; marine construction; or offshore energy exploration or extraction.

"Qualified full-time employee" means an employee filling a new, permanent full-time position in the qualified company's location within the Commonwealth. A "qualified full-time employee" does not include an employee (i) for whom a tax credit was previously earned pursuant to § 58.1-439 or 58.1-439.12:06 by a related party as listed in § 267(b) of the Internal Revenue Code or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code; (ii) who was previously employed in the same job function at an existing location in the Commonwealth by a related party as listed in § 267(b) of the Internal Revenue Code; or (iii) whose job function was previously performed at a different location in the Commonwealth by an employee of a related party as listed in § 267(b) of the Internal Revenue Code or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code.

C. Beginning January 1, 2014, but not later than ~~June 30, 2025~~ *December 31, 2024*, and subject to appropriation, any qualified company that locates or expands a facility within the Commonwealth shall be eligible to apply for a one-time grant from the Fund, in an amount determined as follows:

1. One thousand dollars per new, permanent full-time position if the qualified company creates at least 25 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs;

2. Fifteen hundred dollars per new, permanent full-time position if the qualified company creates at least 50 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs;

3. Two thousand dollars per new, permanent full-time position if the qualified company creates at least 75 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs; and

4. Three thousand dollars per new, permanent full-time position if the qualified company creates at least 100 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs.

D. The maximum amount of grant allowable per qualified company in any given fiscal year is $500,000. The maximum amount of grants allowable among all qualified companies in any given fiscal year is $5 million.

E. To qualify for a grant pursuant to this section, a qualified company must apply for the grant not later than March 31 in the year immediately following the location or expansion of a facility within the Commonwealth pursuant to an application process developed by the Virginia Port Authority. Within 90 days after the filing deadline, the Executive Director shall certify to the Comptroller and the qualified company the amount of grant to which the qualified company is entitled under this section. Payment of each grant shall be made by check issued by the State Treasurer on warrant of the Comptroller within 60 days of such certification and in the order that each completed eligible application is received. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund or $5 million, such grants shall be paid in the next fiscal year in which funds are available.

F. A qualified company that has received a grant in accordance with the requirements provided in this section shall be eligible for a second grant from the Fund if it (i) locates or expands an additional facility in a separate location, as determined by the Virginia Port Authority, within the Commonwealth; (ii) creates at least 300 new, permanent full-time positions at the additional facility over and above those agreed upon in the qualified company's original memorandum of understanding with the Virginia Port Authority; and (iii) increases cargo volumes through the Port of Virginia by at least five percent, not including any volume increase resulting from the original grant, from the additional facility. If the qualified company satisfies the requirements provided in this subsection and receives a grant consistent with the requirements of this section, then the qualified company shall enter into another separate memorandum of understanding with the Virginia Port Authority as provided in subsection G.

G. Prior to receipt of a grant, the qualified company shall enter into a memorandum of understanding with the Virginia Port Authority establishing the requirements for maintaining the number of new, permanent full-time positions for qualified employees at the qualified company's location within the Commonwealth. If the number of new, permanent full-time positions for any of the three years immediately following receipt of a grant falls below the number of new, permanent full-time positions created during the year for which the grant is claimed, the amount of the grant must be recalculated using the decreased number of new, permanent full-time positions and the qualified company shall repay the difference.

H. No qualified company shall apply for a grant nor shall one be awarded under this section to an otherwise qualified company if (i) a credit pursuant to § 58.1-439 or 58.1-439.12:06 is claimed for the same employees or for capital expenditures at the same facility by the qualified company, by a related party as listed in § 267(b) of the Internal Revenue Code, or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code or (ii) the qualified company was a party to a reorganization as defined in § 368(b) of the Internal Revenue Code, and any corporation involved in the reorganization as defined in § 368(a) of the Internal Revenue Code previously received a grant under this section for the same facility or operations.

I. The Virginia Port Authority, with the assistance of the Virginia Economic Development Partnership, shall develop guidelines establishing procedures and requirements for qualifying for the grant, including the affirmative determination that each applicant is a qualified company, as defined above, engaged in a port-related business. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.). For the purposes of administering this grant program, the Virginia Port Authority and the Department of Taxation shall exchange information regarding whether a qualified company,

a related party as listed in § 267(b) of the Internal Revenue Code, or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code has claimed a credit pursuant to § 58.1-439 or 58.1-439.12:06 for the same employees or for capital expenditures at the same facility.

§ 62.1-132.3:2.1. Port of Virginia Economic Development Grant Program and Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Port of Virginia Economic Development Grant Fund (the Fund), to be administered by the Virginia Port Authority. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of providing grants to qualified applicants to the Program. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director.

B. There is hereby created the Port of Virginia Economic Development Grant Program (the Program). The Program shall consist of the following component programs:

1. The Economic and Infrastructure Development Grant Program established by § 62.1-132.3:2.2.

2. The International Trade Facility Grant Program established by § 62.1-132.3:2.3.

C. 1. Except as provided in subdivision 3, for the Economic and Infrastructure Development Grant Program, the maximum amount of grants allowable among all qualified companies, as that term is defined in § 62.1-132.3:2.2, in any fiscal year shall be $5 million plus any amounts carried over from a prior fiscal year.

2. Except as provided in subdivision 3, for the International Trade Facility Grant Program, the maximum amount of grants allowable among all international trade facilities, as that term is defined in § 62.1-132.3:2.3, in any fiscal year shall be $1.25 million plus any amounts carried over from a prior fiscal year.

3. In the event that the amount of grants claimed for either of the programs described in subdivision 1 or 2 in any fiscal year is less than the maximum allowable amount, the excess amount may (i) be used to provide grants by the other program if that program is oversubscribed or (ii) be carried over to the next fiscal year.

§ 62.1-132.3:2.2. Economic and Infrastructure Development Grant Program.

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

"Fund" means the Port of Virginia Economic Development Grant Fund established by § 62.1-132.3:2.1.

"New, permanent full-time position" means a job of an indefinite duration, created by a qualified company as a result of operations within the Commonwealth, requiring a minimum of 35 hours of an employee's time per week for the entire normal year of the company's operations, which normal year shall consist of at least 48 weeks, or a position of indefinite duration that requires a minimum of 35 hours of an employee's time per week for the portion of the taxable year in which the employee was initially hired for the qualified company's location within the Commonwealth. "New, permanent full-time position" includes security positions as required within a foreign trade zone, established pursuant to the Foreign Trade Zones Act of 1934, as amended (19 U.S.C. §§ 81a through 81u). "New, permanent full-time position" does not include seasonal or temporary positions, jobs created when a position is shifted from an existing location in the Commonwealth to the qualified company's new or expanded location, or positions in building and grounds maintenance or other positions that are ancillary to the principal activities performed by the employees at the qualified company's location within the Commonwealth.

"Qualified company" means a corporation, limited liability company, partnership, joint venture, or other business entity that (i) locates or expands a facility within the Commonwealth; (ii) creates at least 25 new, permanent full-time positions for qualified full-time employees at a facility within the Commonwealth during its first year of operation or during the year when the expansion occurs; (iii) is involved in maritime commerce or exports or imports manufactured goods through the Port of Virginia; (iv) is engaged in the distribution, freight forwarding, freight handling, goods processing, manufacturing, warehousing, crossdocking, transloading, or wholesaling of goods exported and imported through the Port of Virginia; ship building and ship repair; dredging; marine construction; or offshore energy exploration or extraction; and (v) pays a minimum entry-level wage rate per hour of at least 1.2 times the federal minimum wage or the Virginia minimum wage, as required by the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.), whichever is higher. In areas that have an unemployment rate of one and one-half times the statewide average unemployment rate, the wage rate minimum may be waived by the Authority. Only full-time positions that qualify for benefits shall be eligible for assistance.

"Qualified full-time employee" means an employee filling a new, permanent full-time position in the qualified company's location within the Commonwealth. "Qualified full-time employee" does not include an employee (i) for whom a tax credit was previously earned pursuant to § 58.1-439 or 58.1-439.12:06 by a related party as listed in § 267(b) of the Internal Revenue Code or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code; (ii) who was previously employed in the same job function at an existing location in the Commonwealth by a related party as listed in § 267(b) of the Internal Revenue Code; or (iii) whose job function was previously performed at a different location in the Commonwealth by an employee of a related party as listed in § 267(b) of the Internal Revenue Code or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code.

B. The Port of Virginia shall develop as a component of the Port of Virginia Economic Development Program the Economic and Infrastructure Development Grant Program.

C. Beginning January 1, 2025, and subject to appropriation, any qualified company that locates or expands a facility within the Commonwealth shall be eligible to apply for a one-time grant from the Fund, in an amount determined as follows:

1. If the qualified company creates at least 25 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs, $1,000 per new, permanent full-time position;

2. If the qualified company creates at least 50 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs, $1,500 per new, permanent full-time position;

3. If the qualified company creates at least 75 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs, $2,000 per new, permanent full-time position; and

4. If the qualified company creates at least 100 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs, $3,000 per new, permanent full-time position.

E. To qualify for a grant pursuant to this section, a qualified company must apply for the grant not later than March 31 in the year immediately following the location or expansion of a facility within the Commonwealth pursuant to an application process developed by the Virginia Port Authority. Within 90 days after the filing deadline, the Executive Director shall certify to the Comptroller and the qualified company the amount of grant to which the qualified company is entitled under this section. Payment of each grant shall be made by check issued by the State Treasurer on warrant of the Comptroller within 60 days of such certification and in the order that each completed eligible application is received.

F. A qualified company that has received a grant in accordance with the requirements provided in this section shall be eligible for a second grant from the Fund if it (i) locates or expands an additional facility in a separate location, as determined by the Virginia Port Authority, within the Commonwealth; (ii) creates at least 300 new, permanent full-time positions at the additional facility over and above those agreed upon in the qualified company's original memorandum of understanding with the Virginia Port Authority; and (iii) increases cargo volumes through the Port of Virginia by at least five percent, not including any volume increase resulting from the original grant, from the additional facility. If the qualified company satisfies the requirements provided in this subsection and receives a grant consistent with the requirements of this section, then the qualified company shall enter into another separate memorandum of understanding with the Virginia Port Authority as provided in subsection G.

G. Prior to receipt of a grant, the qualified company shall enter into a memorandum of understanding with the Virginia Port Authority establishing the requirements for maintaining the number of new, permanent full-time positions for qualified employees at the qualified company's location within the Commonwealth. If the number of new, permanent full-time positions for any of the three years immediately following receipt of a grant falls below the number of new, permanent full-time positions created during the year for which the grant is claimed, the amount of the grant shall be recalculated using the decreased number of new, permanent full-time positions, and the qualified company shall repay the difference.

H. No qualified company shall apply for a grant, nor shall one be awarded under this section to an otherwise qualified company, if (i) a credit pursuant to § 58.1-439 or 58.1-439.12:06 or a grant pursuant to § § 62.1-132.3:2.3 is claimed for the same employees or for capital expenditures at the same facility by the qualified company, by a related party as listed in § 267(b) of the Internal Revenue Code, or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code or (ii) the qualified company was a party to a reorganization as defined in § 368(b) of the Internal Revenue Code, and any corporation involved in the reorganization as defined in § 368(a) of the Internal Revenue Code previously received a grant under this section for the same facility or operations.

I. The Virginia Port Authority, with the assistance of the Virginia Economic Development Partnership, shall develop guidelines establishing procedures and requirements for qualifying for the grant, including the affirmative determination that each applicant is a qualified company, as defined above, engaged in a port-related business. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.). For the purposes of administering this grant program, the Virginia Port Authority and the Department of Taxation shall exchange information regarding whether a qualified company, a related party as listed in § 267(b) of the Internal Revenue Code, or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code has claimed a credit pursuant to § 58.1-439 or 58.1-439.12:06 or a grant pursuant to § 62.1-132.3:2.3 for the same employees or for capital expenditures at the same facility.

§ 62.1-132.3:2.3. International Trade Facility Grant Program.

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

"Affiliated companies" means two or more companies related to each other so that (i) one company owns at least 80 percent of the voting power of the other or others or (ii) the same interest owns at least 80 percent of the voting power of two or more companies.

"Capital investment" means the amount properly chargeable to a capital account for improvements to rehabilitate or expand depreciable real property placed in service during the taxable year and the cost of machinery, tools, and equipment

used in an international trade facility directly related to the movement of cargo. "Capital investment" includes expenditures associated with any exterior, structural, mechanical, or electrical improvements necessary to expand or rehabilitate a building for commercial or industrial use and excavations, grading, paving, driveways, roads, sidewalks, landscaping, or other land improvements. For purposes of this section, machinery, tools, and equipment shall be deemed to include only that property placed in service by the international trade facility on and after January 1, 2025. Machinery, tools, and equipment excludes property (i) for which a credit under this section was previously granted; (ii) placed in service by the taxpayer, by a related party as defined in § 267(b) of the Internal Revenue Code, as amended, or by a trade or business under common control as defined in § 52(b) of the Internal Revenue Code, as amended; or (iii) previously in service in the Commonwealth that has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom acquired or § 1014(a) of the Internal Revenue Code, as amended.

"Capital investment" does not include:

1. The cost of acquiring any real property or building;

2. The cost of furnishings;

3. Any expenditure associated with appraisal, architectural, engineering, or interior design fees;

4. Loan fees, points, or capitalized interest;

5. Legal, accounting, realtor, sales and marketing, or other professional fees;

6. Closing costs, permit fees, user fees, zoning fees, impact fees, or inspection fees;

7. Bids, insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities costs incurred during construction;

8. Utility hook-up or access fees;

9. Outbuildings; or

10. The cost of any well or septic system.

"Fund" means the Port of Virginia Economic Development Grant Fund established by § 62.1-132.3:2.1.

"Indexing ratio" means the greater of (i) the change in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the previous year, or (ii) zero.

"International trade facility" means a company that:

1. Is engaged in port-related activities, including, warehousing, distribution, freight forwarding and handling, and goods processing;

2. Uses maritime port facilities located in the Commonwealth;

3. Transports at least five percent more cargo through maritime port facilities in the Commonwealth during the calendar year than was transported by the company through such facilities during the preceding calendar year; and

4. Pays a minimum entry-level wage rate per hour of at least 1.2 times the federal minimum wage or the Virginia minimum wage, as required by the Virginia Minimum Wage Act (§ 40.1- 28.8 et seq.), whichever is higher. In areas that have an unemployment rate of one and one-half times the statewide average unemployment rate, the wage rate minimum may be waived by the Authority. Only full-time positions that qualify for benefits shall be eligible for assistance.

"New, permanent full-time position" means a job of an indefinite duration, created by a qualified company as a result of operations within the Commonwealth, requiring a minimum of 35 hours of an employee's time per week for the entire normal year of the company's operations, which normal year shall consist of at least 48 weeks, or a position of indefinite duration that requires a minimum of 35 hours of an employee's time per week for the portion of the taxable year in which the employee was initially hired for the qualified company's location within the Commonwealth. "New, permanent full-time position" includes security positions as required within a foreign trade zone, established pursuant to Foreign Trade Zones Act of 1934, as amended (19 U.S.C. §§ 81a through 81u). "New, permanent full-time position" does not include seasonal or temporary positions, jobs created when a position is shifted from an existing location in the Commonwealth to the qualified company's new or expanded location, or positions in building and grounds maintenance or other positions that are ancillary to the principal activities performed by the employees at the qualified company's location within the Commonwealth.

"Qualified full-time employee" means an employee filling a new, permanent full-time position in the qualified company's location within the Commonwealth. "Qualified full-time employee" does not include an employee (i) for whom a tax credit was previously earned pursuant to § 58.1-439 or 58.1-439.12:06 by a related party as listed in § 267(b) of the Internal Revenue Code or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code; (ii) who was previously employed in the same job function at an existing location in the Commonwealth by a related party as listed in § 267(b) of the Internal Revenue Code; or (iii) whose job function was previously performed at a different location in the Commonwealth by an employee of a related party as listed in § 267(b) of the Internal Revenue Code or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code.

B. The Port of Virginia shall develop as a component of the Port of Virginia Economic Development Program the International Trade Facility Grant Program.

C. Beginning January 1, 2025, and subject to appropriation, an international trade facility that increases its qualified trade activities shall be eligible to receive a grant from the Fund. The amount of such grant shall be equal to either (i) $3,500, adjusted each year by the indexing ratio, per qualified full-time employee that results from increased qualified

trade activities by the applicant or (ii) an amount equal to two percent of the capital investment made by the applicant to facilitate the increased qualified trade activities. The election of which award to apply for shall be the responsibility of the applicant. Both awards shall not be granted for the same activities that occur in a calendar year. The portion of such grant earned under clause (i) with respect to any qualified full-time employee who works in the Commonwealth for less than 12 full months during the credit year shall be determined by multiplying the credit amount by a fraction the numerator of which is the number of full months such employee worked for the international trade facility in the Commonwealth during the credit year and the denominator of which is 12.

D. Prior to receipt of a grant, the international trade facility shall enter into a memorandum of understanding with the Virginia Port Authority establishing the requirements for either a schedule of capital investment or maintaining the number of new, permanent full-time positions for qualified employees at the international trade facility's location within the Commonwealth. If the number of new, permanent full-time positions for any of the three years immediately following receipt of a grant falls below the number of new, permanent full-time positions created during the year for which the grant is claimed, the amount of the grant shall be recalculated using the decreased number of new, permanent full-time positions, and the international trade facility shall repay the difference.

E. No international trade facility shall apply for a grant, nor shall one be awarded under this section to an otherwise qualified international trade facility, if (i) a credit pursuant to § 58.1-439 or 58.1-439.12:06 or a grant pursuant to §§ 62.1-132.3:2.2 is claimed for the same employees or for capital expenditures at the same facility by the international trade facility, by a related party as listed in § 267(b) of the Internal Revenue Code, or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code or (ii) the international trade facility was a party to a reorganization as defined in § 368(b) of the Internal Revenue Code, and any corporation involved in the reorganization as defined in § 368(a) of the Internal Revenue Code previously received a grant under this section for the same facility or operations.

F. The Virginia Port Authority, with the assistance of the Virginia Economic Development Partnership, shall develop guidelines establishing procedures and requirements for qualifying for the grant, including the affirmative determination that each applicant is an international trade facility, engaged in a port-related business. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

§ 62.1-132.3:5. Virginia Port Volume Increase Grant Program and Fund.

A. As used in this section:

"Agricultural entity" means a person engaged in growing or producing wheat, grains, fruits, nuts, or crops; tobacco, nursery, or floral products; forestry products, excluding raw wood fiber or wood fiber processed or manufactured for use as fuel for the generation of electricity; or seafood, meat, dairy, or poultry products.

"Base year port cargo volume" means the total amount of (i) net tons of noncontainerized cargo, (ii) TEUs of cargo, or (iii) units of roll-on/roll-off cargo actually transported by way of a waterborne ship or vehicle through a port facility during the period from January 1, 2023, through December 31, 2024. Base year port cargo volume must be at least 75 net tons of noncontainerized cargo, 10 loaded TEUs, or 10 units of roll-on/roll-off cargo for an eligible entity to be eligible for the grants provided in this section. For an eligible entity that did not ship that amount in the year ending December 31, 2023, including an eligible entity that locates in Virginia after such periods, its base cargo volume shall be measured by the initial January 1 through December 31 calendar year in which it meets the requirements of 75 net tons of noncontainerized cargo, 10 loaded TEUs, or 10 units of roll-on/roll-off cargo. Base year port cargo volume shall be recalculated each calendar year after the initial base year.

"Eligible entity" means an agricultural entity, manufacturing-related entity, or mineral and gas entity.

"Major facility" means a new facility to be located in Virginia that is projected to import or export cargo through a port in excess of 25,000 TEUs in its first calendar year.

"Manufacturing-related entity" means a person engaged in the manufacturing of goods or the distribution of manufactured goods.

"Mineral and gas entity" means a person engaged in severing minerals or gases from the earth.

"Port cargo volume" means the total amount of net tons of noncontainerized cargo, net units of roll-on/roll-off cargo, or containers measured in TEUs of cargo transported by way of a waterborne ship or vehicle through a port facility.

"Port facility" means any publicly or privately owned facility located within the Commonwealth through which cargo is transported by way of a waterborne ship or vehicle to or from destinations outside the Commonwealth and that handles cargo owned by third parties in addition to cargo owned by the port facility's owner.

"TEU" or "20-foot equivalent unit" means a volumetric measure based on the size of a container that is 20 feet long by eight feet wide by eight feet, six inches high.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Port Volume Increase Grant Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of providing grants to eligible entities pursuant to subsections C and D. Expenditures and disbursements from the

Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director.

C. 1. Beginning January 1, 2025, an eligible entity that uses port facilities in the Commonwealth and increases its port cargo volume at these facilities by a minimum of five percent in a single calendar year over its base year port cargo volume shall be eligible to receive a grant from the Fund in an amount determined by the Virginia Port Authority in accordance with subdivisions 2 and 3. The Virginia Port Authority may waive the requirement that port cargo volume be increased by a minimum of five percent over base year port cargo volume for any eligible entity that qualifies as a major facility.

2. Eligible entities that increase their port cargo volume by a minimum of five percent in a calendar year shall be eligible to receive a grant in the amount of $50 for each TEU, unit of roll-on/roll-off cargo, or 16 net tons of noncontainerized cargo, as applicable, above the base year port cargo volume. An eligible entity that is a major facility as defined in this section shall be eligible to receive a grant in the amount of $50 for each TEU, unit of roll-on/roll-off cargo, or 16 net tons of noncontainerized cargo, as applicable, transported through a port facility during the major facility's first calendar year. An eligible entity may not receive more than $250,000 for each calendar year. The maximum amount of grants allowed for all eligible entities pursuant to this section shall not exceed $3.8 million for each calendar year. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund or $3.8 million, such grants shall be paid in the next fiscal year in which funds are available. The Virginia Port Authority shall allocate the grants pursuant to the provisions of subdivision D.

3. An eligible entity shall be eligible for a grant pursuant to this section only if the eligible entity owns the cargo at the time the port facilities are used.

D. For every year in which an eligible entity is applies for a grant, the eligible entity shall submit an application to the Virginia Port Authority by March 1 of the calendar year after the calendar year in which the increase in port cargo volume occurs. The eligible entity shall attach a schedule to its application with the following information and any other information requested by the Virginia Port Authority:

1. A description of how the base year port cargo volume and the increase in port cargo volume were determined;

2. The amount of the base year port cargo volume; and

3. The amount of the increase in port cargo volume for the calendar year stated both as a percentage increase and as a total increase in net tons of noncontainerized cargo, TEUs of cargo, and units of roll-on/roll-off cargo, as applicable, including information that demonstrates an increase in port cargo volume in excess of the minimum amount required to claim the grants awarded pursuant to this section.

E. The Virginia Port Authority shall not make awards under this section to applicants who are receiving tax credits for under § 58.1-439.12:10 for the same cargo.

F. The Virginia Port Authority shall develop guidelines establishing procedures and requirements for qualifying for grants under this section. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

§ 62.1-132.3:6. Virginia Barge and Rail Usage Grant Program and Fund.

A. As used in this section:

"Barge and rail cargo volume" means the total amount of (i) net tons of noncontainerized cargo, (ii) TEUs of cargo, or (iii) units of roll-on/roll-off cargo actually by barge or rail rather than by trucks or other motor vehicles on the Commonwealth's highways, measured from January 1 through December 31 of each calendar year.

"International trade facility" means a company that:

1. Does business in the Commonwealth and is engaged in port-related activities, including warehousing, distribution, freight forwarding and handling, and goods processing;

2. Has the sole discretion and authority to move cargo originating or terminating in the Commonwealth;

3. Uses maritime port facilities located in the Commonwealth; and

4. Uses barges and rail systems to move cargo through port facilities in the Commonwealth rather than trucks or other motor vehicles on the Commonwealth's highways.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Barge and Rail Usage Grant Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of providing grants to international trade facilities pursuant to subsections C and D. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director.

C. 1. Beginning January 1, 2025, an international trade facility shall be eligible to receive a grant from the Fund in an amount determined by the Virginia Port Authority in accordance with subdivision 2.

2. The amount of the grant shall be $25 per 20-foot equivalent unit (TEU), 16 tons of noncontainerized cargo, or one unit of roll-on/roll-off cargo moved by barge or rail rather than by trucks or other motor vehicles on the Commonwealth's highways.

3. Applicants shall be required to increase their barge and rail cargo volume for a calendar year by at least five percent above the preceding calendar year's volume in order to be eligible for the grant.

D. The Virginia Port Authority shall issue the grants under this section, and in no case shall more than $1 million in grants be issued pursuant to this section in any fiscal year of the Commonwealth. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund or $1 million, such grants shall be paid in the next fiscal year in which funds are available. The international trade facility shall not receive any grant under this section unless it has applied to the Virginia Port Authority for the grant and the Virginia Port Authority has approved the grant. The Virginia Port Authority shall determine the grant amount allowable for the year and shall provide a written certification to the international trade facility, which certification shall report the amount of the grant approved by the Virginia Port Authority.

E. The Virginia Port Authority shall not make awards under this section to applicants who are receiving tax credits for under § 58.1-439.12:09 for the same cargo.

F. The Virginia Port Authority shall develop guidelines establishing procedures and requirements for qualifying for grants under this section. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

CHAPTER 240

An Act to amend the Code of Virginia by adding a section numbered 46.2-746.24, relating to special license plate; SUPPORT WOMEN VETERANS.

[H 2080]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 46.2-746.24 as follows:

§ 46.2-746.24. Special license plates for supporters of women veterans.

On receipt of an application therefor, the Commissioner shall issue special license plates for supporters of women veterans bearing the legend: SUPPORT WOMEN VETERANS.

CHAPTER 241

An Act to amend the Code of Virginia by adding a section numbered 46.2-746.24, relating to special license plate; SUPPORT WOMEN VETERANS.

[S 1372]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 46.2-746.24 as follows:

§ 46.2-746.24. Special license plates for supporters of women veterans.

On receipt of an application therefor, the Commissioner shall issue special license plates for supporters of women veterans bearing the legend: SUPPORT WOMEN VETERANS.

CHAPTER 242

An Act to amend and reenact § 46.2-2143.1 of the Code of Virginia, relating to motor carriers; financial responsibility.

[S 1238]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-2143.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-2143.1. Insurance requirement for motor carriers.

A. All motor carriers shall keep in force at all times insurance, a bond, or bonds in an amount required by this section. However, motor carriers exempt under subdivision 6 of § 46.2-2101 shall only be required to keep in force insurance, a bond, or bonds in the amount required by this section that provide primary coverage (i) when the motor carrier or person acting on behalf of the motor carrier is available to transport property for compensation and (ii) from the time the motor carrier or a person acting for or on behalf of the motor carrier accepts the request to transport property and the vehicle is en route to pick up the property until the time the property has been removed from the vehicle and delivered to its final destination.

B. The minimum public liability financial responsibility requirements for motor carriers operating in intrastate commerce shall be based on the gross vehicle weight rating of the vehicle as follows: for vehicles with a gross vehicle weight rating in excess of 10,000 pounds, the minimum requirement is $750,000; for vehicles with a gross vehicle weight rating in excess of 7,500 pounds but not in excess of 10,000 pounds, the minimum requirement is $300,000; *and* for passenger cars, motorcycles, autocycles, and vehicles with a gross vehicle weight rating of 7,500 pounds or less, the minimum requirement for clause (i) of subsection A is ~~$25,000 per person, $50,000 per incident for death and bodily injury~~

~~and~~ ~~$20,000~~ ~~for~~ ~~property~~ ~~damage~~ *the financial responsibility requirements set forth in § 46.2-472* and for clause (ii) of subsection A is $100,000 per person and $300,000 per incident for death and bodily injury and at least $50,000 for property damage. The minimum insurance for motor carriers operating in interstate commerce shall equal the minimum required by federal law, rule, or regulation.

C. Notwithstanding subsection B, the minimum public financial responsibility requirements for household goods carriers required to obtain a certificate of fitness pursuant to this chapter shall be $750,000.

D. The minimum cargo insurance required for motor carriers operating in intrastate commerce shall be $50,000. Motor carriers not engaged in the transportation of household goods and those solely operating passenger cars, motorcycles, autocycles, and vehicles with a gross vehicle weight rating of 7,500 pounds or less shall not be required to file any cargo insurance, bond, or bonds for cargo liability.

CHAPTER 243

An Act to amend and reenact § 65.2-107 of the Code of Virginia, relating to workers' compensation; post-traumatic stress disorder, anxiety disorder, or depressive disorder; law-enforcement officers and firefighters.

[H 1775]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-107 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-107. Post-traumatic stress disorder, anxiety disorder, or depressive disorder incurred by law-enforcement officers and firefighters.

A. As used in this section:

"Anxiety disorder" means a disorder that meets the diagnostic criteria for one or more of the anxiety disorders specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Depressive disorder" means a disorder that meets the diagnostic criteria for one or more of the depressive disorders specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Firefighter" means any (i) salaried firefighter, including special forest wardens designated pursuant to § 10.1-1135, emergency medical services personnel, and local or state fire scene investigator and (ii) volunteer firefighter and volunteer emergency medical services personnel.

"In the line of duty" means any action that a law-enforcement officer or firefighter was obligated or authorized to perform by rule, regulation, written condition of employment service, or law.

"Law-enforcement officer" means any (i) member of the State Police Officers' Retirement System; (ii) member of a county, city, or town police department; (iii) sheriff or deputy sheriff; (iv) Department of Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City of Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (viii) Capitol Police officer; (ix) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (x) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xi) officer of the police force established and maintained by the Norfolk Airport Authority; (xii) sworn officer of the police force established and maintained by the Virginia Port Authority; or (xiii) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education.

"Mental health professional" means a board-certified psychiatrist or a psychologist licensed pursuant to Title 54.1 who has experience diagnosing and treating post-traumatic stress disorder.

"Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder as specified in the most recent edition of the ~~American Psychiatric Association's~~ Diagnostic and Statistical Manual of Mental Disorders *published by the American Psychiatric Association*.

"Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1, 2020*, for post-traumatic stress disorder, and for purposes of subdivisions 1 through 4 of this definition, on or after July 1, 2023, for anxiety disorder or depressive disorder*:

1. Resulting in serious bodily injury or death to any person or persons;

2. Involving a minor who has been injured, killed, abused, or exploited;

3. Involving an immediate threat to life of the claimant or another individual;

4. Involving mass casualties; or

5. Responding to crime scenes for investigation.

B. Post-traumatic stress disorder*, anxiety disorder, or depressive disorder* incurred by a law-enforcement officer or firefighter is compensable under this title if:

1. A mental health professional examines a law-enforcement officer or firefighter and diagnoses the law-enforcement officer or firefighter as suffering from post-traumatic stress disorder*, anxiety disorder, or depressive disorder* as a result of the individual's undergoing a qualifying event;

2. The post-traumatic stress disorder*, anxiety disorder, or depressive disorder* resulted from the law-enforcement officer's or firefighter's acting in the line of duty and, in the case of a firefighter, such firefighter complied with federal Occupational Safety and Health Act standards adopted pursuant to 29 C.F.R. 1910.134 and 29 C.F.R. 1910.156;

3. The law-enforcement officer's or firefighter's undergoing a qualifying event was a substantial factor in causing his post-traumatic stress disorder*, anxiety disorder, or depressive disorder*;

4. Such qualifying event, and not another event or source of stress, was the primary cause of the post-traumatic stress disorder*, anxiety disorder, or depressive disorder*; and

5. The post-traumatic stress disorder*, anxiety disorder, or depressive disorder* did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-enforcement officer or firefighter.

Any such mental health professional shall comply with any workers' compensation guidelines for approved medical providers, including guidelines on release of past or contemporaneous medical records.

C. Notwithstanding any provision of this title, workers' compensation benefits for any law-enforcement officer or firefighter payable pursuant to this section shall (i) include any combination of medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total incapacity benefits under § 65.2-500, and temporary partial incapacity benefits under § 65.2-502 and (ii) be provided for a maximum of 52 weeks from the date of diagnosis. No medical treatment, temporary total incapacity benefits under § 65.2-500, or temporary partial incapacity benefits under § 65.2-502 shall be awarded beyond four years from the date of the qualifying event that formed the basis for the claim for benefits under this section. The weekly benefits received by a law-enforcement officer or a firefighter pursuant to § 65.2-500 or 65.2-502, when combined with other benefits, including contributory and noncontributory retirement benefits, Social Security benefits, and benefits under a long-term or short-term disability plan, but not including payments for medical care, shall not exceed the average weekly wage paid to such law-enforcement officer or firefighter.

D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters shall (i) make peer support available to such law-enforcement officers and firefighters and (ii) refer a law-enforcement officer or firefighter seeking mental health care services to a mental health professional.

E. Each fire basic training program conducted or administered by the Department of Fire Programs or a municipal fire department in the Commonwealth shall provide, in consultation with the Department of Behavioral Health and Developmental Services, resilience and self-care technique training for any individual who begins basic training as a firefighter on or after July 1, 2021.

CHAPTER 244

An Act to amend and reenact § 65.2-107 of the Code of Virginia, relating to workers' compensation; post-traumatic stress disorder, anxiety disorder, or depressive disorder; law-enforcement officers and firefighters.

[S 904]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-107 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-107. Post-traumatic stress disorder, anxiety disorder, or depressive disorder incurred by law-enforcement officers and firefighters.

A. As used in this section:

"Anxiety disorder" means a disorder that meets the diagnostic criteria for one or more of the anxiety disorders specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Depressive disorder" means a disorder that meets the diagnostic criteria for one or more of the depressive disorders specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Firefighter" means any (i) salaried firefighter, including special forest wardens designated pursuant to § 10.1-1135, emergency medical services personnel, and local or state fire scene investigator and (ii) volunteer firefighter and volunteer emergency medical services personnel.

"In the line of duty" means any action that a law-enforcement officer or firefighter was obligated or authorized to perform by rule, regulation, written condition of employment service, or law.

"Law-enforcement officer" means any (i) member of the State Police Officers' Retirement System; (ii) member of a county, city, or town police department; (iii) sheriff or deputy sheriff; (iv) Department of Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City of Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (viii) Capitol Police officer; (ix) special agent of the Virginia Alcoholic Beverage Control Authority

appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (x) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xi) officer of the police force established and maintained by the Norfolk Airport Authority; (xii) sworn officer of the police force established and maintained by the Virginia Port Authority; or (xiii) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education.

"Mental health professional" means a board-certified psychiatrist or a psychologist licensed pursuant to Title 54.1 who has experience diagnosing and treating post-traumatic stress disorder.

"Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder as specified in the most recent edition of the ~~American Psychiatric Association's~~ Diagnostic and Statistical Manual of Mental Disorders *published by the American Psychiatric Association*.

"Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1, 2020*, for post-traumatic stress disorder, and for purposes of subdivisions 1 through 4 of this definition, on or after July 1, 2023, for anxiety disorder or depressive disorder*:

1. Resulting in serious bodily injury or death to any person or persons;

2. Involving a minor who has been injured, killed, abused, or exploited;

3. Involving an immediate threat to life of the claimant or another individual;

4. Involving mass casualties; or

5. Responding to crime scenes for investigation.

B. Post-traumatic stress disorder*, anxiety disorder, or depressive disorder* incurred by a law-enforcement officer or firefighter is compensable under this title if:

1. A mental health professional examines a law-enforcement officer or firefighter and diagnoses the law-enforcement officer or firefighter as suffering from post-traumatic stress disorder*, anxiety disorder, or depressive disorder* as a result of the individual's undergoing a qualifying event;

2. The post-traumatic stress disorder*, anxiety disorder, or depressive disorder* resulted from the law-enforcement officer's or firefighter's acting in the line of duty and, in the case of a firefighter, such firefighter complied with federal Occupational Safety and Health Act standards adopted pursuant to 29 C.F.R. 1910.134 and 29 C.F.R. 1910.156;

3. The law-enforcement officer's or firefighter's undergoing a qualifying event was a substantial factor in causing his post-traumatic stress disorder*, anxiety disorder, or depressive disorder*;

4. Such qualifying event, and not another event or source of stress, was the primary cause of the post-traumatic stress disorder*, anxiety disorder, or depressive disorder*; and

5. The post-traumatic stress disorder*, anxiety disorder, or depressive disorder* did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-enforcement officer or firefighter.

Any such mental health professional shall comply with any workers' compensation guidelines for approved medical providers, including guidelines on release of past or contemporaneous medical records.

C. Notwithstanding any provision of this title, workers' compensation benefits for any law-enforcement officer or firefighter payable pursuant to this section shall (i) include any combination of medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total incapacity benefits under § 65.2-500, and temporary partial incapacity benefits under § 65.2-502 and (ii) be provided for a maximum of 52 weeks from the date of diagnosis. No medical treatment, temporary total incapacity benefits under § 65.2-500, or temporary partial incapacity benefits under § 65.2-502 shall be awarded beyond four years from the date of the qualifying event that formed the basis for the claim for benefits under this section. The weekly benefits received by a law-enforcement officer or a firefighter pursuant to § 65.2-500 or 65.2-502, when combined with other benefits, including contributory and noncontributory retirement benefits, Social Security benefits, and benefits under a long-term or short-term disability plan, but not including payments for medical care, shall not exceed the average weekly wage paid to such law-enforcement officer or firefighter.

D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters shall (i) make peer support available to such law-enforcement officers and firefighters and (ii) refer a law-enforcement officer or firefighter seeking mental health care services to a mental health professional.

E. Each fire basic training program conducted or administered by the Department of Fire Programs or a municipal fire department in the Commonwealth shall provide, in consultation with the Department of Behavioral Health and Developmental Services, resilience and self-care technique training for any individual who begins basic training as a firefighter on or after July 1, 2021.

CHAPTER 245

An Act to amend and reenact §§ 28.2-1308, 33.2-247, and 62.1-44.15:23 of the Code of Virginia, relating to tidal wetland mitigation bank credits.

[H 1804]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-1308, 33.2-247, and 62.1-44.15:23 of the Code of Virginia are amended and reenacted as follows:

§ 28.2-1308. Standards for use and development of wetlands; utilization of guidelines.

A. *For the purposes of this section, "river watershed" means the Potomac River Basin, Shenandoah River Basin, James River Basin, Rappahannock River Basin, Roanoke and Yadkin Rivers Basin, Chowan River Basin (including the Dismal Swamp and Albemarle Sound), Tennessee River Basin, Big Sandy River Basin, Chesapeake Bay and its Small Coastal Basins, Atlantic Ocean, York River Basin, and the New River Basin.*

B. The following standards shall apply to the use and development of wetlands and shall be considered in the determination of whether any permit required by this chapter should be granted or denied:

1. Wetlands of primary ecological significance shall not be altered so that the ecological systems in the wetlands are unreasonably disturbed; and

2. Development in Tidewater Virginia, to the maximum extent practical, shall be concentrated in wetlands of lesser ecological significance, in vegetated wetlands which have been irreversibly disturbed before July 1, 1972, in nonvegetated wetlands which have been irreversibly disturbed prior to January 1, 1983, and in areas of Tidewater Virginia outside of wetlands.

~~B.~~ *C.* The provisions of guidelines and minimum standards promulgated by the Commission pursuant to § 28.2-1301 shall be considered in applying the standards listed in subsection ~~A of this section~~ *B*.

~~C.~~ *D.* When any activity authorized by a permit issued pursuant to this chapter is conditioned upon compensatory mitigation for adverse impacts to wetlands, the applicant may be permitted to satisfy all or part of such mitigation requirements by the purchase or use of credits from any wetlands mitigation bank, including any banks owned by the permit applicant, that has been approved and is operating in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use and operation of mitigation banks as long as (i) the bank is in the same fourth order subbasin, as defined by the hydrologic unit boundaries of the National Watershed Boundary Dataset or by the hydrologic unit system or dataset utilized and depicted or described in the bank's approved mitigation banking instrument, as the impacted site, or in an adjacent subbasin within the same river watershed, as the impacted site, or it meets all the conditions found in clauses (a) through (d) and either clause (e) or (f) ~~of this subsection~~; (ii) the bank is ecologically preferable to practicable on-site and off-site individual mitigation options, as defined by federal wetland regulations; and (iii) the banking instrument, if approved after July 1, 1996, has been approved by a process that included public review and comment. When the bank is not located in the same subbasin or adjacent subbasin within the same river watershed as the impacted site, the purchase or use of credits shall not be allowed unless the applicant demonstrates to the satisfaction of the Commission that (a) the impacts will occur as a result of a Virginia Department of Transportation linear project or as the result of a locality project for a locality whose jurisdiction encompasses multiple river watersheds; (b) there is no practical same river watershed mitigation alternative; (c) the impacts are less than one acre in a single and complete project within a subbasin; (d) there is no significant harm to water quality or fish and wildlife resources within the river watershed of the impacted site; and either (e) impacts within the Chesapeake Bay watershed are mitigated within the Chesapeake Bay watershed as close as possible to the impacted site or (f) impacts within subbasins 02080108, 02080208, and 03010205, as defined by the National Watershed Boundary Dataset, are mitigated in-kind within those subbasins as close as possible to the impacted site. After July 1, 2002, the provisions of clause (f) shall apply only to impacts within subdivisions of the listed subbasins where overlapping watersheds exist, as determined by the Department of Environmental Quality, provided the Department has made such a determination by that date. For the purposes of this subsection, the hydrologic unit boundaries of the National Watershed Boundary Dataset or other hydrologic unit system may be adjusted by the Department of Environmental Quality to reflect site-specific geographic or hydrologic information provided by the bank sponsor.

~~D.~~ *E.* Where an agreed-upon permit condition requires the contribution of in-lieu fees to offset permitted wetland losses, the wetlands board shall credit the applicant for any in-lieu fee payments made to the Virginia Aquatic Resources Trust Fund or another dedicated wetlands restoration fund with reference to the same activity.

~~For the purposes of this section, "river watershed" means the Potomac River Basin, Shenandoah River Basin, James River Basin, Rappahannock River Basin, Roanoke and Yadkin Rivers Basin, Chowan River Basin (including the Dismal Swamp and Albemarle Sound), Tennessee River Basin, Big Sandy River Basin, Chesapeake Bay and its Small Coastal Basins, Atlantic Ocean, York River Basin, and the New River Basin.~~

F. Notwithstanding any provision of this section restricting the location of the source of credits, an applicant may be permitted to purchase or use credits from a tidal wetland mitigation bank located in an adjacent river watershed when such bank contains the same plant community type and salinity regime as the impacted wetlands, which shall be the preferred form of compensation. This subsection shall apply only (i) to tidal wetland mitigation banks with a polyhaline salinity regime located in subbasins 02080102, 02080107, 02080108, and 02080208 and (ii) when a tidal wetland mitigation bank with the same plant community type and salinity regime as the impacted wetlands is not available in the same river watershed as the impacted wetland.

§ 33.2-247. Wetlands mitigation banking.

A. For the purposes of this section, "river watershed" means the Potomac River Basin, Shenandoah River Basin, James River Basin, Rappahannock River Basin, Roanoke and Yadkin Rivers Basin, Chowan River Basin (including the Dismal Swamp and Albemarle Sound), Tennessee River Basin, Big Sandy River Basin, Chesapeake Bay and its Small Coastal Basins, Atlantic Ocean, York River Basin, and New River Basin.

B. When authorization is required by federal or state law for any project affecting wetlands and such authorization is conditioned upon compensatory mitigation for adverse impacts to wetlands, the Commissioner of Highways is authorized to expend funds for the purchase of, or is authorized to use, credits from any wetlands mitigation bank, including any owned by the Department of Transportation, that has been approved and is operating in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks as long as (i) the bank is in the same fourth order subbasin, as defined by the hydrologic unit boundaries of the National Watershed Boundary Dataset or by the hydrologic unit system or dataset utilized and depicted or described in the bank's approved mitigation banking instrument, as the impacted site, or in an adjacent subbasin within the same river watershed as the impacted site, or it meets all the conditions found in clauses (a) through (d) and either clause (e) or (f); (ii) the bank is ecologically preferable to practicable on-site and off-site individual mitigation options, as defined by federal wetland regulations; and (iii) the banking instrument, if approved after July 1, 1996, has been approved by a process that included public review and comment. When the bank is not located in the same subbasin or adjacent subbasin within the same river watershed as the impacted site, the purchase or use of credits shall not be allowed unless the Commissioner of Highways demonstrates to the satisfaction of the agency requiring compensatory mitigation that (a) the impacts will occur as a result of a Department of Transportation linear project; (b) there is no practical same river watershed mitigation alternative; (c) the impacts are less than one acre in a single and complete project within a subbasin; (d) there is no significant harm to water quality or fish and wildlife resources within the river watershed of the impacted site; and either (e) impacts within the Chesapeake Bay watershed are mitigated within the Chesapeake Bay watershed as close as possible to the impacted site or (f) impacts within subbasins 02080108, 02080208, and 03010205, as defined by the National Watershed Boundary Dataset, are mitigated in-kind within those subbasins, as close as possible to the impacted site. After July 1, 2002, the provisions of clause (f) shall apply only to impacts within subdivisions of the listed subbasins where overlapping watersheds exist, as determined by the Department of Environmental Quality, provided the Department of Environmental Quality has made such a determination by that date. For the purposes of this subsection, the hydrologic unit boundaries of the National Watershed Boundary Dataset or other hydrologic unit system may be adjusted by the Department of Environmental Quality to reflect site-specific geographic or hydrologic information provided by the bank sponsor.

~~For the purposes of this section, "river watershed" means the Potomac River Basin, Shenandoah River Basin, James River Basin, Rappahannock River Basin, Roanoke and Yadkin Rivers Basin, Chowan River Basin (including the Dismal Swamp and Albemarle Sound), Tennessee River Basin, Big Sandy River Basin, Chesapeake Bay and its Small Coastal Basins, Atlantic Ocean, York River Basin, and New River Basin.~~

C. Notwithstanding any provision of this section restricting the location of the source of credits, the Commissioner of Highways may be permitted to purchase or use credits from a tidal wetland mitigation bank located in an adjacent river watershed when such bank contains the same plant community type and salinity regime as the impacted wetlands, which shall be the preferred form of compensation. This subsection shall apply only (i) to tidal wetland mitigation banks with a polyhaline salinity regime located in subbasins 02080102, 02080107, 02080108, and 02080208 and (ii) when a tidal wetland mitigation bank with the same plant community type and salinity regime as the impacted wetlands is not available in the same river watershed as the impacted wetland.

§ 62.1-44.15:23. Wetland and stream mitigation banks.

A. For purposes of this section:

"Physiographic province" means one of the five physiographic provinces of Virginia designated as the Appalachian Plateaus, Blue Ridge, Coastal Plain, Piedmont, and Ridge and Valley physiographic provinces as identified on Figure 2 in the Overview of the Physiography and Vegetation of Virginia prepared by the Department of Conservation and Recreation, Division of Natural Heritage and dated February 2016. The Department of Environmental Quality may adjust the boundaries of a physiographic province to reflect site-specific boundaries based on relative elevation, relief, geomorphology, and lithology provided by the bank sponsor.

"Primary service area" means the fourth order subbasin in which the bank is located, as defined by the hydrologic unit boundaries of the National Watershed Boundary Dataset or the hydrologic unit system or dataset utilized and depicted or described in the bank's approved mitigation banking instrument, and any adjacent fourth order subbasin within the same river watershed.

"River watershed" means the Potomac River Basin; Shenandoah River Basin; James River Basin; Rappahannock River Basin; Roanoke and Yadkin Rivers Basin; Chowan River Basin, including the Dismal Swamp and Albemarle Sound; Tennessee River Basin/Big Sandy River Basin Complex; Chesapeake Bay and its Small Coastal Basins; Atlantic Ocean; York River Basin; and New River Basin.

"Secondary service area" means the area outside the primary service area but within the same physiographic province in which the bank is located and any adjacent physiographic province within the same river watershed.

"Tree canopy" includes all of the area of canopy coverage by self-supporting and healthy woody plant material exceeding five feet in height.

B. When a Virginia Water Protection Permit is conditioned upon compensatory mitigation for adverse impacts to wetlands or streams, the applicant may be permitted to satisfy all or part of such mitigation requirements by the purchase or use of credits from any wetland or stream mitigation bank in the Commonwealth, or in Maryland on property wholly surrounded by and located in the Potomac River if the mitigation banking instrument provides that the Board shall have the right to enter and inspect the property and that the mitigation bank instrument and the contract for the purchase or use of

such credits may be enforced in the courts of the Commonwealth, including any banks owned by the permit applicant, that has been approved and is operating in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks as long as (i) the impacted site is located in the bank's primary or secondary service area as provided in subsection C or it meets all the conditions found in clauses (a) through (d) and either clause (e) or (f); (ii) the bank is ecologically preferable to practicable onsite and offsite individual mitigation options as defined by federal wetland regulations; and (iii) the banking instrument, if approved after July 1, 1996, has been approved by a process that included public review and comment. When the impacted site is not located in the bank's primary or secondary service area, the purchase or use of credits shall not be allowed unless the applicant demonstrates to the satisfaction of the Department of Environmental Quality that (a) the impacts will occur as a result of a Virginia Department of Transportation linear project or as the result of a locality project for a locality whose jurisdiction encompasses multiple river watersheds; (b) there is no practical same river watershed mitigation alternative; (c) the impacts are less than one acre in a single and complete project within a subbasin; (d) there is no significant harm to water quality or fish and wildlife resources within the river watershed of the impacted site; and either (e) impacts within the Chesapeake Bay watershed are mitigated within the Chesapeake Bay watershed as close as possible to the impacted site or (f) impacts within subbasins 02080108, 02080208, and 03010205, as defined by the National Watershed Boundary Dataset, are mitigated in-kind within those subbasins, as close as possible to the impacted site. For the purposes of this subsection, the hydrologic unit boundaries of the National Watershed Boundary Dataset or other hydrologic unit system may be adjusted by the Department of Environmental Quality to reflect site-specific geographic or hydrologic information provided by the bank sponsor.

C. For impacts to a site for which no credits are available to purchase (i) in the primary service area of any mitigation provider or (ii) at a price below 200 percent of the current price of credits applicable to that site from a Board-approved fund dedicated to achieving no net loss of wetland acreage and functions, a permit applicant may be permitted to purchase or use credits from the secondary service area of a mitigation provider to satisfy all or any part of such applicant's mitigation requirements. For purposes of this subsection, the permit applicant shall provide a determination of credit availability and credit price no later than the time such applicant submits to the Department (a) its proof of credit acquisition or (b) a later change to such proof.

If a permit applicant purchases or uses credits from a secondary service area, the permit applicant shall:

1. Acquire three times the credits it would have had to acquire from a bank in the primary service area for wetland impacts and two times the number of credits it would have had to acquire in the primary service area for stream impacts;

2. When submitting proof of acquisition of credits for a subdivision or development, provide to the Department a plan that the permit applicant will implement that is certified by a licensed professional engineer, surveyor, or landscape architect for the planting, preservation, or replacement of trees on the development site such that the minimum tree canopy percentage 20 years after development is projected to be as follows:

a. Ten percent tree canopy for a site zoned for business, commercial, or industrial use;

b. Ten percent tree canopy for a residential site zoned for 20 or more units per acre;

c. Fifteen percent tree canopy for a residential site zoned for more than eight but fewer than 20 units per acre;

d. Twenty percent tree canopy for a residential site zoned for more than four but not more than eight units per acre;

e. Twenty-five percent tree canopy for a residential site zoned for more than two but not more than four units per acre; and

f. Thirty percent tree canopy for a residential site zoned for two or fewer units per acre.

For a mixed-use development, the tree canopy percentage required pursuant to this subdivision shall be that which is applicable to the predominant use.

The tree canopy requirements established under this subsection shall not supersede any additional requirements imposed by a locality pursuant to § 15.2-961 or 15.2-961.1.

D. The Department is authorized to serve as a signatory to agreements governing the operation of mitigation banks. The Commonwealth and its officials, agencies, and employees shall not be liable for any action taken under any agreement developed pursuant to such authority.

E. State agencies and localities are authorized to purchase credits from mitigation banks.

F. A locality may establish, operate and sponsor wetland or stream single-user mitigation banks within the Commonwealth that have been approved and are operated in accordance with the requirements of subsection B, provided that such single-user banks may only be considered for compensatory mitigation for the sponsoring locality's municipal, joint municipal or governmental projects. For the purposes of this subsection, the term "sponsoring locality's municipal, joint municipal or governmental projects" means projects for which the locality is the named permittee, and for which there shall be no third-party leasing, sale, granting, transfer, or use of the projects or credits. Localities may enter into agreements with private third parties to facilitate the creation of privately sponsored wetland and stream mitigation banks having service areas developed through the procedures of subsection B.

G. Notwithstanding any provision of this section restricting the location of the source of credits, the Department may, for tidal wetland impacts, authorize the use of, including without the application of subsection C, a tidal wetland mitigation bank located in an adjacent river watershed when such bank contains the same plant community type and salinity regime as the impacted wetlands, which shall be the preferred form of compensation. This subsection shall apply only (i) to tidal wetland mitigation banks with a polyhaline salinity regime located in subbasins 02080102, 02080107, 02080108, and

02080208 and (ii) when a tidal wetland mitigation bank with the same plant community type and salinity regime as the impacted wetlands is not available in the same river watershed as the impacted wetland.

CHAPTER 246

An Act to amend and reenact §§ 2.2-2001.1, 2.2-2002.2, and 2.2-2004 of the Code of Virginia, relating to the Department of Veterans Services; mental health and rehabilitative services; Military Spouse Liaison.

[H 1624]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2001.1, 2.2-2002.2, and 2.2-2004 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2001.1. Program for mental health and rehabilitative services.

A. The Department, in cooperation with the Department of Behavioral Health and Developmental Services and the Department for Aging and Rehabilitative Services, shall establish a program to monitor and coordinate mental health and rehabilitative services support for ~~Virginia~~ *military service members transitioning from military to civilian life,* veterans ~~and~~*,* members of the Virginia National Guard ~~and~~*,* Virginia residents in the Armed Forces Reserves ~~not in active federal service. The program shall also support~~*, and their* family members ~~affected by covered military members' service and deployments~~. The purpose of the program is to, in a cost-effective manner, refer *such transitioning service members,* veterans*, members of the Virginia National Guard, Virginia residents in the Armed Forces Reserves, and their family members* to mental health, physical rehabilitation, and other services as needed to help them achieve individually identified goals and to periodically monitor their progress toward achieving those goals.

B. The program shall, subject to the availability of public and private funds appropriated for such purposes, (i) build awareness of veterans' service needs and the availability of the program through marketing, outreach, training for first responders, service providers, and others; (ii) collaborate with relevant agencies of the Commonwealth, localities, and service providers; (iii) develop and implement a consistent method of determining how many veterans in the Commonwealth are in need of mental health, physical rehabilitation, or other services currently or may be in need of such services in the future; (iv) work with veterans to develop a coordinated resources plan that identifies appropriate service providers to meet the veteran's service needs; (v) refer veterans to appropriate and available providers on the basis of needs identified in the coordinated resources plan; and (vi) monitor progress toward individually identified goals in accordance with the coordinated resource plan.

Coordinated resources plans shall be developed and veterans shall be referred to necessary services in a timely manner. The program shall prioritize veterans served on the basis of the immediacy and severity of service needs and the likelihood that those needs are attributable to the veteran's military service or combat experience.

C. The program shall cooperate with localities that may establish special treatment procedures for veterans and active military service members such as authorized by §§ 9.1-173 and 9.1-174. To facilitate local involvement and flexibility in responding to the problem of crime in local communities and to effectively treat, counsel, rehabilitate, and supervise veterans and active military service members who are offenders or defendants in the criminal justice system and who need access to proper treatment for mental illness including major depression, alcohol or drug abuse, post traumatic stress disorder, traumatic brain injury or a combination of these, any city, county, or combination thereof, may develop, establish, and maintain policies, procedures, and treatment services for all such offenders who are convicted and sentenced for misdemeanors or felonies that are not felony acts of violence, as defined in § 19.2-297.1. Such policies, procedures, and treatment services shall be designed to provide:

1. Coordination of treatment and counseling services available to the criminal justice system case processing;

2. Enhanced public safety through offender supervision, counseling, and treatment;

3. Prompt identification and placement of eligible participants;

4. Access to a continuum of treatment, rehabilitation, and counseling services in collaboration with such care providers as are willing and able to provide the services needed;

5. Where appropriate, verified participant abstinence through frequent alcohol and other drug testing;

6. Prompt response to participants' noncompliance with program requirements;

7. Ongoing monitoring and evaluation of program effectiveness and efficiency;

8. Ongoing education and training in support of program effectiveness and efficiency;

9. Ongoing collaboration among public agencies, community-based organizations and the U.S. Department of Veterans Affairs health care networks, the Veterans Benefits Administration, volunteer veteran mentors, and veterans and military family support organizations; and

10. The creation of a veterans and military service members' advisory council to provide input on the operations of such programs. The council shall include individuals responsible for the criminal justice procedures program along with veterans and, if available, active military service members.

D. The ~~Department~~ *Commissioner* shall ~~report annually program results~~ *include the results of the program in the annual report submitted* to the Secretary of Veterans and Defense Affairs, the Governor, and the General Assembly *pursuant to § 2.2-2004*. The report shall include the number of *transitioning service members,* veterans, members of the

Virginia National Guard ~~and~~, Virginia residents in the Armed Forces Reserves ~~not in active federal service~~, and *their* family members affected by covered military members' service and deployments for whom coordinated resources plans are developed and who are referred for services; information about services provided to *transitioning service members,* veterans, members of the Virginia National Guard, ~~members of~~ *Virginia residents in* the Armed Forces Reserves ~~not in active federal service~~, and *their* family members, including information about the types of services provided and the quality of those services; and the number of *transitioning service members,* veterans, members of the Virginia National Guard, ~~members of~~ *Virginia residents in* the Armed Forces Reserves ~~not in active federal service~~, and *their* family members identified by the program as in need of services but not referred for services.

§ 2.2-2002.2. Military Spouse Liaison; position created; duties; report.

A. There is created in the Department of Veterans Services the position of Military Spouse Liaison to conduct outreach and advocate on behalf of military spouses in the Commonwealth.

B. The Military Spouse Liaison shall:

1. Provide assistance and information to military spouses seeking professional licenses and credentials or other employment in the Commonwealth;

2. Coordinate research on issues facing military spouses and create informational materials to assist military spouses and their families;

3. Examine barriers and provide recommendations to assist military spouses in accessing high-quality child care and developing resources in coordination with military installations and the Department of Education to increase access to high-quality child care for military families;

4. Develop, in coordination with the Virginia Employment Commission and employers, a common form for military spouses to complete, highlighting specific skills, education, and training to help military spouses quickly find meaningful employment in relevant economic sectors; and

5. Perform any other duties or responsibilities assigned by the Commissioner.

~~C. The Military Spouse Liaison shall submit an annual report, including any legislative recommendations, through the Commissioner to the Secretary of Veterans and Defense Affairs, the Governor, and the General Assembly on or before December 1 of each year and other reports to the Commissioner as required by the Commissioner.~~

§ 2.2-2004. Additional powers and duties of Commissioner.

The Commissioner shall have the following powers and duties related to veterans services:

1. Perform an annual cost-benefit and value analysis of (i) existing programs and services and (ii) new programs and services before establishing and implementing them and report the results of such analysis to the Secretary of Veterans and Defense Affairs;

2. Seek alternative funding sources for the Department's veterans service programs;

3. Cooperate with all relevant entities of the federal government, including, but not limited to, the U.S. Department of Veterans Affairs, the U.S. Department of Housing and Urban Development, and the U.S. Department of Labor in matters concerning veterans benefits and services;

4. Appoint a full-time coordinator to collaborate with the Joint Leadership Council of Veterans Service Organizations created in § 2.2-2681 on ways to provide both direct and indirect support of ongoing veterans programs, and to determine and address future veterans needs and concerns;

5. Initiate, conduct, and issue special studies on matters pertaining to veterans needs and priorities, as determined necessary by the Commissioner;

6. Evaluate veterans service efforts, practices, and programs of the agencies, political subdivisions or other entities and organizations of the government of the Commonwealth and make recommendations to the Secretary of Veterans and Defense Affairs, the Governor, and the General Assembly on ways to increase awareness of the services available to veterans or improve veterans services;

7. Assist entities of state government and political subdivisions of the Commonwealth in enhancing their efforts to provide services to veterans, those members of the Virginia National Guard, Virginia residents in the Armed Forces Reserves who qualify for veteran status, and their immediate family members, including the dissemination of relevant materials and the rendering of technical or other advice;

8. Assist counties, cities, and towns of the Commonwealth in the development, implementation, and review of local veterans services programs as part of the state program and establish as necessary, in consultation with the Board of Veterans Services and the Joint Leadership Council of Veterans Service Organizations, volunteer local and regional advisory committees to assist and support veterans service efforts;

9. Review the activities, roles, and contributions of various entities and organizations to the Commonwealth's veterans services programs and report on or before December 1 of each year in writing to the Secretary of Veterans and Defense Affairs, the Governor, and the General Assembly on the status, progress, and prospects of veterans services in the Commonwealth, including performance measures and outcomes of veterans services programs;

10. Recommend to the Secretary of Veterans and Defense Affairs, the Governor, and the General Assembly any corrective measures, policies, procedures, plans, and programs to make service to Virginia-domiciled veterans and their eligible spouses, orphans, and dependents as efficient and effective as practicable;

11. Design, implement, administer, and review, in consultation with the Secretary of Veterans and Defense Affairs, special programs or projects needed to promote veterans services in the Commonwealth;

12. Integrate veterans services activities into the framework of economic development activities in general;

13. Manage operational funds using accepted accounting principles and practices in order to provide for a sum sufficient to ensure continued, uninterrupted operations;

14. Engage Department personnel in training and educational activities aimed at enhancing veterans services;

15. Develop a strategic plan to ensure efficient and effective utilization of resources, programs, and services;

16. Certify eligibility for the Virginia Military Survivors and Dependents Education Program and perform other duties related to such Program as outlined in § 23.1-608; ~~and~~

17. Establish and implement a compact with Virginia's veterans, which shall have a goal of making Virginia America's most veteran-friendly state. The compact shall be established in conjunction with the Board of Veterans Services and supported by the Joint Leadership Council of Veterans Service Organizations and shall (i) include specific provisions for technology advances, workforce development, outreach, quality of life enhancement, and other services for veterans and (ii) provide service standards and goals to be attained for each specific provision in clause (i). The provisions of the compact shall be reviewed and updated annually. The Commissioner shall include in the annual report required by this section the progress of veterans services established in the compact*; and*

18. Provide the Secretary of Veterans and Defense Affairs, the Governor, and the General Assembly with an overview of the activities of the Military Spouse Liaison, as outlined in § 2.2-2002.2, including any legislative recommendations, on or before December 1 of each year.

CHAPTER 247

An Act to amend and reenact §§ 2.2-2001.1, 2.2-2002.2, and 2.2-2004 of the Code of Virginia, relating to the Department of Veterans Services; mental health and rehabilitative services; Military Spouse Liaison.

[S 1071]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2001.1, 2.2-2002.2, and 2.2-2004 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2001.1. Program for mental health and rehabilitative services.

A. The Department, in cooperation with the Department of Behavioral Health and Developmental Services and the Department for Aging and Rehabilitative Services, shall establish a program to monitor and coordinate mental health and rehabilitative services support for ~~Virginia~~ *military service members transitioning from military to civilian life,* veterans ~~and~~*,* members of the Virginia National Guard ~~and~~*,* Virginia residents in the Armed Forces Reserves ~~not in active federal service. The program shall also support~~*, and their* family members ~~affected by covered military members' service and deployments~~. The purpose of the program is to, in a cost-effective manner, refer *such transitioning service members,* veterans*, members of the Virginia National Guard, Virginia residents in the Armed Forces Reserves, and their family members* to mental health, physical rehabilitation, and other services as needed to help them achieve individually identified goals and to periodically monitor their progress toward achieving those goals.

B. The program shall, subject to the availability of public and private funds appropriated for such purposes, (i) build awareness of veterans' service needs and the availability of the program through marketing, outreach, training for first responders, service providers, and others; (ii) collaborate with relevant agencies of the Commonwealth, localities, and service providers; (iii) develop and implement a consistent method of determining how many veterans in the Commonwealth are in need of mental health, physical rehabilitation, or other services currently or may be in need of such services in the future; (iv) work with veterans to develop a coordinated resources plan that identifies appropriate service providers to meet the veteran's service needs; (v) refer veterans to appropriate and available providers on the basis of needs identified in the coordinated resources plan; and (vi) monitor progress toward individually identified goals in accordance with the coordinated resource plan.

Coordinated resources plans shall be developed and veterans shall be referred to necessary services in a timely manner. The program shall prioritize veterans served on the basis of the immediacy and severity of service needs and the likelihood that those needs are attributable to the veteran's military service or combat experience.

C. The program shall cooperate with localities that may establish special treatment procedures for veterans and active military service members such as authorized by §§ 9.1-173 and 9.1-174. To facilitate local involvement and flexibility in responding to the problem of crime in local communities and to effectively treat, counsel, rehabilitate, and supervise veterans and active military service members who are offenders or defendants in the criminal justice system and who need access to proper treatment for mental illness including major depression, alcohol or drug abuse, post traumatic stress disorder, traumatic brain injury or a combination of these, any city, county, or combination thereof, may develop, establish, and maintain policies, procedures, and treatment services for all such offenders who are convicted and sentenced for misdemeanors or felonies that are not felony acts of violence, as defined in § 19.2-297.1. Such policies, procedures, and treatment services shall be designed to provide:

1. Coordination of treatment and counseling services available to the criminal justice system case processing;

2. Enhanced public safety through offender supervision, counseling, and treatment;

3. Prompt identification and placement of eligible participants;

4. Access to a continuum of treatment, rehabilitation, and counseling services in collaboration with such care providers as are willing and able to provide the services needed;

5. Where appropriate, verified participant abstinence through frequent alcohol and other drug testing;

6. Prompt response to participants' noncompliance with program requirements;

7. Ongoing monitoring and evaluation of program effectiveness and efficiency;

8. Ongoing education and training in support of program effectiveness and efficiency;

9. Ongoing collaboration among public agencies, community-based organizations and the U.S. Department of Veterans Affairs health care networks, the Veterans Benefits Administration, volunteer veteran mentors, and veterans and military family support organizations; and

10. The creation of a veterans and military service members' advisory council to provide input on the operations of such programs. The council shall include individuals responsible for the criminal justice procedures program along with veterans and, if available, active military service members.

D. The ~~Department~~ *Commissioner* shall ~~report annually program results~~ *include the results of the program in the annual report submitted* to the Secretary of Veterans and Defense Affairs, the Governor, and the General Assembly *pursuant to § 2.2-2004*. The report shall include the number of *transitioning service members,* veterans, members of the Virginia National Guard ~~and~~*,* Virginia residents in the Armed Forces Reserves ~~not in active federal service~~, and *their* family members affected by covered military members' service and deployments for whom coordinated resources plans are developed and who are referred for services; information about services provided to *transitioning service members,* veterans, members of the Virginia National Guard, ~~members of~~ *Virginia residents in* the Armed Forces Reserves ~~not in active federal service~~, and *their* family members, including information about the types of services provided and the quality of those services; and the number of *transitioning service members,* veterans, members of the Virginia National Guard, ~~members of~~ *Virginia residents in* the Armed Forces Reserves ~~not in active federal service~~, and *their* family members identified by the program as in need of services but not referred for services.

§ 2.2-2002.2. Military Spouse Liaison; position created; duties; report.

A. There is created in the Department of Veterans Services the position of Military Spouse Liaison to conduct outreach and advocate on behalf of military spouses in the Commonwealth.

B. The Military Spouse Liaison shall:

1. Provide assistance and information to military spouses seeking professional licenses and credentials or other employment in the Commonwealth;

2. Coordinate research on issues facing military spouses and create informational materials to assist military spouses and their families;

3. Examine barriers and provide recommendations to assist military spouses in accessing high-quality child care and developing resources in coordination with military installations and the Department of Education to increase access to high-quality child care for military families;

4. Develop, in coordination with the Virginia Employment Commission and employers, a common form for military spouses to complete, highlighting specific skills, education, and training to help military spouses quickly find meaningful employment in relevant economic sectors; and

5. Perform any other duties or responsibilities assigned by the Commissioner.

~~C. The Military Spouse Liaison shall submit an annual report, including any legislative recommendations, through the Commissioner to the Secretary of Veterans and Defense Affairs, the Governor, and the General Assembly on or before December 1 of each year and other reports to the Commissioner as required by the Commissioner.~~

§ 2.2-2004. Additional powers and duties of Commissioner.

The Commissioner shall have the following powers and duties related to veterans services:

1. Perform an annual cost-benefit and value analysis of (i) existing programs and services and (ii) new programs and services before establishing and implementing them and report the results of such analysis to the Secretary of Veterans and Defense Affairs;

2. Seek alternative funding sources for the Department's veterans service programs;

3. Cooperate with all relevant entities of the federal government, including, but not limited to, the U.S. Department of Veterans Affairs, the U.S. Department of Housing and Urban Development, and the U.S. Department of Labor in matters concerning veterans benefits and services;

4. Appoint a full-time coordinator to collaborate with the Joint Leadership Council of Veterans Service Organizations created in § 2.2-2681 on ways to provide both direct and indirect support of ongoing veterans programs, and to determine and address future veterans needs and concerns;

5. Initiate, conduct, and issue special studies on matters pertaining to veterans needs and priorities, as determined necessary by the Commissioner;

6. Evaluate veterans service efforts, practices, and programs of the agencies, political subdivisions or other entities and organizations of the government of the Commonwealth and make recommendations to the Secretary of Veterans and Defense Affairs, the Governor, and the General Assembly on ways to increase awareness of the services available to veterans or improve veterans services;

7. Assist entities of state government and political subdivisions of the Commonwealth in enhancing their efforts to provide services to veterans, those members of the Virginia National Guard, Virginia residents in the Armed Forces

Reserves who qualify for veteran status, and their immediate family members, including the dissemination of relevant materials and the rendering of technical or other advice;

8. Assist counties, cities, and towns of the Commonwealth in the development, implementation, and review of local veterans services programs as part of the state program and establish as necessary, in consultation with the Board of Veterans Services and the Joint Leadership Council of Veterans Service Organizations, volunteer local and regional advisory committees to assist and support veterans service efforts;

9. Review the activities, roles, and contributions of various entities and organizations to the Commonwealth's veterans services programs and report on or before December 1 of each year in writing to the Secretary of Veterans and Defense Affairs, the Governor, and the General Assembly on the status, progress, and prospects of veterans services in the Commonwealth, including performance measures and outcomes of veterans services programs;

10. Recommend to the Secretary of Veterans and Defense Affairs, the Governor, and the General Assembly any corrective measures, policies, procedures, plans, and programs to make service to Virginia-domiciled veterans and their eligible spouses, orphans, and dependents as efficient and effective as practicable;

11. Design, implement, administer, and review, in consultation with the Secretary of Veterans and Defense Affairs, special programs or projects needed to promote veterans services in the Commonwealth;

12. Integrate veterans services activities into the framework of economic development activities in general;

13. Manage operational funds using accepted accounting principles and practices in order to provide for a sum sufficient to ensure continued, uninterrupted operations;

14. Engage Department personnel in training and educational activities aimed at enhancing veterans services;

15. Develop a strategic plan to ensure efficient and effective utilization of resources, programs, and services;

16. Certify eligibility for the Virginia Military Survivors and Dependents Education Program and perform other duties related to such Program as outlined in § 23.1-608; ~~and~~

17. Establish and implement a compact with Virginia's veterans, which shall have a goal of making Virginia America's most veteran-friendly state. The compact shall be established in conjunction with the Board of Veterans Services and supported by the Joint Leadership Council of Veterans Service Organizations and shall (i) include specific provisions for technology advances, workforce development, outreach, quality of life enhancement, and other services for veterans and (ii) provide service standards and goals to be attained for each specific provision in clause (i). The provisions of the compact shall be reviewed and updated annually. The Commissioner shall include in the annual report required by this section the progress of veterans services established in the compact*; and*

18. Provide the Secretary of Veterans and Defense Affairs, the Governor, and the General Assembly with an overview of the activities of the Military Spouse Liaison, as outlined in § 2.2-2002.2, including any legislative recommendations, on or before December 1 of each year.

CHAPTER 248

An Act to amend and reenact § 54.1-1120 of the Code of Virginia, relating to Department of Professional and Occupational Regulation; Virginia Contractor Transaction Recovery Fund; recovery; arbitration.

[H 1633]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-1120 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-1120. Recovery from Fund generally.

A. The claimant shall be (i) an individual whose contract with the regulant involved contracting for the claimant's residence located in the Commonwealth or (ii) a property owners' association as defined in § 55.1-1800 whose contract with the regulant involved contracting for improvements to the common areas owned by the association.

The claimant shall not himself be (a) an employee of such judgment debtor, (b) a vendor of such judgment debtor, (c) another licensee, (d) the spouse or child of such judgment debtor or the employee of such spouse or child, or (e) a financial or lending institution or any person whose business involves the construction or development of real property.

B. Whenever any person is awarded a judgment in *a court of competent jurisdiction in the Commonwealth or has a judgment entered in conformity with an order confirming an arbitration award from* a court of competent jurisdiction in the Commonwealth ~~of Virginia~~ against any individual or entity ~~which~~ *that* involves improper or dishonest conduct occurring (i) during a period when such individual or entity was a regulant and (ii) in connection with a transaction involving contracting, the claimant may file a verified claim with the Director to obtain a directive ordering payment from the Fund of the amount unpaid upon the judgment, subject to the following conditions:

1. If ~~any~~ *an* action is instituted against a regulant by any person *in a court of competent jurisdiction in the Commonwealth*, such person shall serve a copy of the complaint upon the Board by certified mail or the equivalent*; however, if a person submits a dispute to arbitration against a regulant, such person shall serve upon the Board a copy of the statement of facts and allegations provided to any assigned arbitrator, as well as the name, address, and contact information for any such arbitrator*.

2. A copy of any pleading or document filed subsequent to the initial service of process in the action against a regulant shall be provided to the Board. *If the dispute is submitted to arbitration, a copy of any document or exhibit subsequently provided to any assigned arbitrator shall be provided to the Board.* The claimant shall submit such copies to the Board by certified mail, or the equivalent, upon his receipt of the pleading ~~or~~, document*, or exhibit*.

3. A verified claim shall be filed with the Director no later than 12 months after the date of entry of the final judgment from which no further right of appeal exists. *In addition to a verified claim, if a claimant is granted an order confirming an arbitration award, a verified copy of the decision of any assigned arbitrator, including a statement of reasoning and any findings of fact regarding any improper or dishonest conduct by the regulant shall be filed with the Director no later than 12 months after the date of entry of the judgment entered in conformity with an order from a court of competent jurisdiction in the Commonwealth confirming an arbitration award from which no further right of appeal exists.*

4. Prior to submitting the verified claim, the claimant shall:

a. Conduct or make a reasonable attempt to conduct debtor's interrogatories to determine whether the judgment debtor has any assets that may be sold or applied in whole or partial satisfaction of the judgment; and

b. Take all legally available actions for the sale or application of any assets disclosed in the debtor's interrogatories.

C. If the regulant has filed bankruptcy, the claimant shall file a claim with the proper bankruptcy court. If no distribution is made, or the distribution ordered fails to satisfy the claim, the claimant may then file a claim with the Board. The verified claim shall be received by the Board within 12 months of the date of bankruptcy discharge or dismissal. In the event the judgment is silent as to the conduct of the regulant, the Board shall determine (i) whether the conduct of the regulant that gave rise to the claim was improper or dishonest and (ii) what amount, if any, such claimant is entitled to recover from the Fund.

CHAPTER 249

An Act to amend and reenact § 54.1-108 of the Code of Virginia, relating to Department of Professional and Occupational Regulation, Department of Health Professions, and health regulatory boards; disclosure of information regarding examinations, licensure, certification, registration, or permitting.

[H 1638]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-108 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-108. Disclosure of official records.

Official records of the Department of Professional and Occupational Regulation or the Department of Health Professions or any board named in this title shall be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except for the following:

1. Examination questions, papers, booklets, and answer sheets, which may be disclosed at the discretion of the board administering or causing to be administered such examinations.

2. Applications for admission to examinations or for licensure, certification, registration, or permitting and the scoring records maintained by any board or by the Departments on individuals or applicants. However, this material may be *(i)* made available during normal working hours for copying by the subject individual or applicant at his expense at the office of the Department or board that possesses the material *or (ii) upon the request of the subject individual or applicant and at his expense, mailed or emailed to such individual or applicant at the address or email address on file with the applicable board or Department*.

3. Records of active investigations being conducted by the Departments or any board.

CHAPTER 250

An Act to amend and reenact § 54.1-108 of the Code of Virginia, relating to Department of Professional and Occupational Regulation, Department of Health Professions, and health regulatory boards; disclosure of information regarding examinations, licensure, certification, registration, or permitting.

[S 1060]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-108 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-108. Disclosure of official records.

Official records of the Department of Professional and Occupational Regulation or the Department of Health Professions or any board named in this title shall be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except for the following:

1. Examination questions, papers, booklets, and answer sheets, which may be disclosed at the discretion of the board administering or causing to be administered such examinations.

2. Applications for admission to examinations or for licensure, certification, registration, or permitting and the scoring records maintained by any board or by the Departments on individuals or applicants. However, this material may be *(i)* made available during normal working hours for copying by the subject individual or applicant at his expense at the office of the Department or board that possesses the material *or (ii) upon the request of the subject individual or applicant and at his expense, mailed or emailed to such individual or applicant at the address or email address on file with the applicable board or Department*.

3. Records of active investigations being conducted by the Departments or any board.

CHAPTER 251

An Act to amend and reenact § 58.1-1709 of the Code of Virginia, relating to litter tax; penalty for failure to timely pay.

[H 1645]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-1709 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-1709. Penalty.

A. A penalty of $100 plus an amount equal to the taxes due, including all delinquent taxes due under this article, and the amount that the Department of Taxation has expended in collecting these delinquent taxes, shall be added to the tax levied in § 58.1-1707 for failure to pay the tax ~~within the time limits established by regulations~~ *by May 1 of each year*.

B. In no event may the Department of Taxation impose any penalty or interest for failure to pay in full the tax imposed by this article without first notifying the taxpayer at least 30 days prior to the due date that a return is required to be filed.

CHAPTER 252

An Act to amend and reenact § 58.1-1709 of the Code of Virginia, relating to litter tax; penalty for failure to timely pay.

[S 996]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-1709 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-1709. Penalty.

A. A penalty of $100 plus an amount equal to the taxes due, including all delinquent taxes due under this article, and the amount that the Department of Taxation has expended in collecting these delinquent taxes, shall be added to the tax levied in § 58.1-1707 for failure to pay the tax ~~within the time limits established by regulations~~ *by May 1 of each year*.

B. In no event may the Department of Taxation impose any penalty or interest for failure to pay in full the tax imposed by this article without first notifying the taxpayer at least 30 days prior to the due date that a return is required to be filed.

CHAPTER 253

An Act to amend and reenact §§ 22.1-289.035 and 22.1-296.3 of the Code of Virginia, relating to certain private schools in the Commonwealth; disclosure of certain employee records for purpose of accreditation.

[H 1701]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-289.035 and 22.1-296.3 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-289.035. Licensed child day centers, family day homes, and family day systems; employment for compensation or use as volunteers of persons convicted of or found to have committed certain offenses prohibited; national background check required; penalty.

A. No child day center, family day home, or family day system licensed in accordance with the provisions of this chapter, child day center exempt from licensure pursuant to § 22.1-289.031, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the Department or its agents or designees to provide child care services funded by the Child Care and Development Block Grant shall hire for compensated employment, continue to employ, or permit to serve as a volunteer who will be alone with, in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment, employees, applicants to serve as volunteers, and volunteers shall undergo a background check in accordance with subsection B prior to employment or beginning to serve as a volunteer and every five years thereafter.

B. Any individual required to undergo a background check in accordance with subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth and whether he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02;

3. Authorize the child day center, family day home, or family day system described in subsection A to obtain a copy of the results of a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect against him; and

4. Authorize the child day center, family day home, or family day system described in subsection A to obtain a copy of the results of a criminal history record information check, a sex offender registry check, and a search of the child abuse and neglect registry or equivalent registry from any state in which the individual has resided in the preceding five years.

The applicant's fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded by the Department or its designee or, in the case of a child day program operated by a local government, may be forwarded by the local law-enforcement agency through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such applicant. Upon receipt of an applicant's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department or its designee, and the Department or its designee shall report to the child day center or family day home whether the applicant is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department or its designee is lacking disposition data, the Department or its designee shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data before reporting to the child day center, family day home, or family day system.

C. The child day center, family day home, or family day system described in subsection A shall inform every individual required to undergo a background check pursuant to this section that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the individual's eligibility to have responsibility for the safety and well-being of children.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

E. Further dissemination of the background check information is prohibited (i) other than to the Superintendent's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination or (ii) except as provided in subsection J.

F. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

G. Notwithstanding the provisions of subsection A, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense while employed in a child day center or the object of the offense was a minor.

H. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state or the local law-enforcement agency of such processing and administration.

I. Any individual required to undergo a background check pursuant to subsection A who is (i) convicted of any barrier crime as defined in § 19.2-392.02 or (ii) found to be the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth shall notify the child day center, family day home, or family day system described in subsection A of such conviction or finding.

J. Notwithstanding the provisions of subsection A, a background check shall not be required for any individual who has completed a background check under the provisions of this section within the previous five years, provided that (i) such background check was conducted after July 1, 2017; (ii) the results of such background check indicated that the individual had not been convicted of any barrier crime as defined in § 19.2-392.02 and was not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and (iii) the individual is currently or has been, within the previous 180 days, employed by or a volunteer at a child day center, family day home, family day system, or child day program described in subsection A. Prior to hiring or allowing to volunteer any individual required to undergo a background check pursuant to subsection A without the completion of a background check under the provisions of subsection B, the child day center, family day home, family day system, or child day program shall, upon the individual's written consent, obtain written certification from the Department or its designee that such individual satisfies all requirements set forth in this subsection and is eligible to serve as an employee or volunteer. If the individual meets all requirements set forth in this subsection and is eligible to serve as an employee or volunteer at the child day center, family day home, family day system, or child day program, the written certification shall also state the next date by which another background check for such person shall be completed in accordance with subsection B. Such written certifications shall not reveal the nature of any disqualifying barrier crime or founded complaint of child abuse or neglect or any other information about the individual.

K. Notwithstanding the provisions of subsection E, the Virginia Council for Private Education (the Council) or its authorized designee may review background check information for current employees of child day centers accredited by the Council for the purposes of seeking or maintaining accreditation by the Council as permitted pursuant to § 22.1-19.

§ 22.1-296.3. Certain private school employees subject to fingerprinting and criminal records checks.

A. As a condition of employment, the governing boards or administrators of private elementary or secondary schools that are accredited pursuant to § 22.1-19 shall require any applicant who accepts employment, whether full time or part time or permanent or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall report to the governing board or administrator, or to a private organization coordinating such records on behalf of such governing board or administrator pursuant to a written agreement with the Department of State Police, that the applicant meets the criteria or does not meet the criteria for employment based on whether or not the applicant has ever been convicted of any barrier crime as defined in § 19.2-392.02.

B. The Central Criminal Records Exchange shall not disclose information to such governing board, administrator, or private organization coordinating such records regarding charges or convictions of any crimes. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon request, furnish the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation. The information provided to the governing board, administrator, or private organization coordinating such records shall not be disseminated except as provided in this section. A governing board or administrator employing or previously employing a temporary teacher or a private organization coordinating such records on behalf of such governing board or administrator pursuant to a written agreement with the Department of State Police may disseminate, at the written request of such temporary teacher, whether such teacher meets the criteria or does not meet the criteria for employment pursuant to subsection A to the governing board or administrator of another accredited private elementary or secondary school in which such teacher has accepted employment. Such governing board, administrator, or private organization transferring criminal records information pursuant to this section shall be immune from civil liability for any official act, decision, or omission done or made in the performance of such transfer, when such acts or omissions are taken in good faith and are not the result of gross negligence or willful misconduct.

Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state of such processing and administration.

C. *The governing board or administrator of a private elementary or secondary school may disclose information in records received pursuant to subsection A to the Virginia Council for Private Education (the Council) or its authorized designee for purposes of seeking or maintaining accreditation by the Council as permitted pursuant to § 22.1-19.*

D. The governing board or administrator of a private elementary or secondary school that is accredited pursuant to § 22.1-19 that operates a child day program or family day system regulated by the Department pursuant to Chapter 14.1 (§ 22.1-289.02 et seq.) shall accept evidence of a background check in accordance with § 22.1-289.035 for individuals who are required to undergo a background check in accordance with that section as a condition of employment in lieu of the background check required by subsection A.

~~D.~~ *E.* The governing boards or administrators of private elementary and secondary schools that are accredited pursuant to § 22.1-19 shall adopt and implement policies prohibiting any individual who is a governing board member, administrator, employee, contractor, or agent of a private elementary or secondary school to assist a governing board member, administrator, employee, contractor, or agent of such private elementary or secondary school in obtaining a new job if such individual knows or has probable cause to believe that the individual seeking new employment engaged in sexual misconduct regarding a minor or student in violation of law.

~~E.~~ *F.* For purposes of this section, "governing board" or "administrator" means the unit or board or person designated to supervise operations of a system of private schools or a private school accredited pursuant to § 22.1-19.

Nothing in this section or § 19.2-389 shall be construed to require any private or religious school that is not so accredited to comply with this section.

CHAPTER 254

An Act to amend and reenact § 22.1-289.030 of the Code of Virginia, relating to certain child day programs exempt from licensure by the Superintendent of Public Instruction; age of children in attendance.

[H 1713]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-289.030 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-289.030. Exemptions from licensure.

A. The following programs are not child day programs and shall not be required to be licensed:

1. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

2. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances, and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.

3. Instructional programs offered by private schools that serve school-age children and that satisfy compulsory attendance laws or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

4. Instructional programs offered by public schools that serve preschool-age children, satisfy compulsory attendance laws, or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

5. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.

6. Practice or competition in organized competitive sports leagues.

7. Programs of religious instruction, such as Sunday schools, vacation Bible schools, Bar Mitzvah or Bat Mitzvah classes, and nurseries offered by religious institutions and provided for the duration of specified religious services or related activities to allow parents or guardians or their designees who are on site to attend such religious services and activities.

8. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.

B. The following child day programs shall not be required to be licensed:

1. A child day center that has obtained an exemption pursuant to § 22.1-289.031.

2. A program where, by written policy given to and signed by a parent or guardian, school-age children are free to enter and leave the premises without permission. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection, and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

3. A program that operates no more than a total of 20 program days in the course of a calendar year, provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.

4. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) can be contacted and can resume responsibility for the child's supervision within 30 minutes and (ii) is receiving or providing services or participating in activities offered by the establishment.

5. A certified preschool or nursery school program operated by an accredited private school as set forth in § 22.1-19 and administered by the Virginia Council for Private Education that complies with the provisions of § 22.1-289.032.

6. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by the local government offering the program.

7. A program offered by a local school division, operated for no more than four hours per day, staffed by local school division employees, and attended by children who are at least three years of age and are enrolled in public school or a preschool program within such school division. Such programs shall be subject to safety and supervisory standards established by the local school division offering the program.

8. Child-minding services offered by a business on the premises of the business to no more than four children under the age of 13 at any given time and for no more than eight hours per day, provided that the parent or guardian of every child receiving care is an employee of the business who is on the premises of the business and can resume responsibility for the child's supervision within 30 minutes upon request.

9. A program offered by a private school accredited by and in good standing with the Virginia Council for Private Education, operated for no more than four hours per day, staffed by the accredited private school's employees, and attended by *school-age* children who ~~are at least five years of age and~~ are enrolled in the accredited private school. Such programs shall be subject to safety and supervisory standards established by the Virginia Council for Private Education.

C. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1 or 5, shall:

1. File with the Superintendent annually and prior to beginning operation of a child day program a statement indicating the intent to operate a child day program, identifying the specific provision of this section relied upon for exemption from

licensure, and certifying that the child day program has disclosed in writing to the parents or guardians of the children in the program the fact that it is exempt from licensure;

2. Report to the Superintendent all incidents involving serious physical injury to or death of children attending the child day program. Reports of serious physical injuries, which shall include any physical injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the death occurred; and

3. Post in a visible location on the premises notice that the child day program is operating as a program exempt from licensure with basic health and safety requirements but has no direct oversight by the Department.

D. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1, 5, 6, or 7 shall:

1. Have a person trained and certified in first aid and cardiopulmonary resuscitation present at the child day program whenever children are present or at any other location in which children attending the child day program are present;

2. Maintain daily attendance records that document the arrival and departure of all children;

3. Have an emergency preparedness plan in place;

4. Comply with all applicable laws and regulations governing transportation of children; and

5. Comply with all safe sleep guidelines recommended by the American Academy of Pediatrics.

E. The Superintendent shall inspect child day programs that are exempt from licensure pursuant to subsection B to determine compliance with the provisions of this section only upon receipt of a complaint, except as otherwise provided by law.

F. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Superintendent.

CHAPTER 255

An Act to amend and reenact § 22.1-289.030 of the Code of Virginia, relating to certain child day programs exempt from licensure by the Superintendent of Public Instruction; age of children in attendance.

[S 964]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-289.030 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-289.030. Exemptions from licensure.

A. The following programs are not child day programs and shall not be required to be licensed:

1. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

2. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances, and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.

3. Instructional programs offered by private schools that serve school-age children and that satisfy compulsory attendance laws or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

4. Instructional programs offered by public schools that serve preschool-age children, satisfy compulsory attendance laws, or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

5. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.

6. Practice or competition in organized competitive sports leagues.

7. Programs of religious instruction, such as Sunday schools, vacation Bible schools, Bar Mitzvah or Bat Mitzvah classes, and nurseries offered by religious institutions and provided for the duration of specified religious services or related activities to allow parents or guardians or their designees who are on site to attend such religious services and activities.

8. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.

B. The following child day programs shall not be required to be licensed:

1. A child day center that has obtained an exemption pursuant to § 22.1-289.031.

2. A program where, by written policy given to and signed by a parent or guardian, school-age children are free to enter and leave the premises without permission. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection, and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

3. A program that operates no more than a total of 20 program days in the course of a calendar year, provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.

4. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) can be contacted and can resume responsibility for the child's supervision within 30 minutes and (ii) is receiving or providing services or participating in activities offered by the establishment.

5. A certified preschool or nursery school program operated by an accredited private school as set forth in § 22.1-19 and administered by the Virginia Council for Private Education that complies with the provisions of § 22.1-289.032.

6. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by the local government offering the program.

7. A program offered by a local school division, operated for no more than four hours per day, staffed by local school division employees, and attended by children who are at least three years of age and are enrolled in public school or a preschool program within such school division. Such programs shall be subject to safety and supervisory standards established by the local school division offering the program.

8. Child-minding services offered by a business on the premises of the business to no more than four children under the age of 13 at any given time and for no more than eight hours per day, provided that the parent or guardian of every child receiving care is an employee of the business who is on the premises of the business and can resume responsibility for the child's supervision within 30 minutes upon request.

9. A program offered by a private school accredited by and in good standing with the Virginia Council for Private Education, operated for no more than four hours per day, staffed by the accredited private school's employees, and attended by *school-age* children who ~~are at least five years of age and~~ are enrolled in the accredited private school. Such programs shall be subject to safety and supervisory standards established by the Virginia Council for Private Education.

C. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1 or 5, shall:

1. File with the Superintendent annually and prior to beginning operation of a child day program a statement indicating the intent to operate a child day program, identifying the specific provision of this section relied upon for exemption from licensure, and certifying that the child day program has disclosed in writing to the parents or guardians of the children in the program the fact that it is exempt from licensure;

2. Report to the Superintendent all incidents involving serious physical injury to or death of children attending the child day program. Reports of serious physical injuries, which shall include any physical injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the death occurred; and

3. Post in a visible location on the premises notice that the child day program is operating as a program exempt from licensure with basic health and safety requirements but has no direct oversight by the Department.

D. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1, 5, 6, or 7 shall:

1. Have a person trained and certified in first aid and cardiopulmonary resuscitation present at the child day program whenever children are present or at any other location in which children attending the child day program are present;

2. Maintain daily attendance records that document the arrival and departure of all children;

3. Have an emergency preparedness plan in place;

4. Comply with all applicable laws and regulations governing transportation of children; and

5. Comply with all safe sleep guidelines recommended by the American Academy of Pediatrics.

E. The Superintendent shall inspect child day programs that are exempt from licensure pursuant to subsection B to determine compliance with the provisions of this section only upon receipt of a complaint, except as otherwise provided by law.

F. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Superintendent.

CHAPTER 256

An Act to amend and reenact §§ 24.2-103, 24.2-109, 24.2-234, and 24.2-235 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-234.1, relating to general registrars; petition for removal.

[H 2471]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-103, 24.2-109, 24.2-234, and 24.2-235 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-234.1 as follows:

§ 24.2-103. Powers and duties in general; report.

A. The State Board, through the Department of Elections, shall supervise and coordinate the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections. Its supervision shall ensure that major risks to election integrity are (i) identified and assessed and (ii) addressed as necessary to promote election uniformity, legality, and purity. It shall make rules and regulations and issue instructions and provide information consistent with the election laws to the electoral boards and registrars to promote the proper administration of election laws. Electoral boards and registrars shall provide information requested by the State Board and shall follow (a) the elections laws and (b) the rules and regulations of the State Board insofar as they do not conflict with Virginia or federal law. The State Board shall post on the Internet within three business days any rules or regulations made by the State Board. Upon request and at a reasonable charge not to exceed the actual cost incurred, the State Board shall provide to any requesting political party or candidate, within three days of the receipt of the request, copies of any instructions or information provided by the State Board to the local electoral boards and registrars.

B. The State Board, through the Department of Elections, shall ensure that the members of the electoral boards are properly trained to carry out their duties by offering training annually, or more often, as it deems appropriate, and without charging any fees to the electoral boards for the training.

C. The State Board, through the Department of Elections, shall conduct a certification program for the general registrars and shall require each general registrar to receive certification through such program from the Department within 12 months of his initial appointment or any subsequent reappointment. The State Board may grant a waiver requested by a local electoral board to extend, on a case-by-case basis, this deadline by up to three months. The State Board shall develop a training curriculum for the certification program and standards for completing the program and maintaining certification, including required hours of annual training. No fees shall be charged to a general registrar for any required training as part of the certification program. The State Board shall review the certification program every four years, or more often as it deems appropriate.

D. The State Board shall set the training standards for the officers of election and shall develop standardized training programs for the officers of election to be conducted by the local electoral boards and the general registrars. Training of the officers of election shall be conducted and certified as provided by § 24.2-115.2. The State Board shall provide standardized training materials for such training and shall also offer on the Department of Elections website a training course for officers of election. The content of the online training course shall be consistent with the standardized training programs developed pursuant to this section. The State Board shall review the standardized training materials and the content of the online training course every two years in the year immediately following a general election for federal office.

E. The State Board may institute proceedings pursuant to § ~~24.2-234~~ *24.2-234.1* for the removal of any member of an electoral board *or general registrar* who fails to discharge the duties of his office in accordance with law. ~~The State Board may petition the local electoral board to remove from office any general registrar who fails to discharge the duties of his office according to law. The State Board may institute proceedings pursuant to § 24.2-234 for the removal of a general registrar if the local electoral board refuses to remove the general registrar and the State Board finds that the failure to remove the general registrar has a material adverse effect upon the conduct of either the registrar's office or any election. Any~~ *Such* action ~~taken by the State Board pursuant to this subsection~~ shall require a recorded majority vote of the Board.

F. The State Board may petition a circuit court or the Supreme Court, whichever is appropriate, for a writ of mandamus or prohibition, or other available legal relief, for the purpose of ensuring that elections are conducted as provided by law.

G. The Department of Elections shall supervise its own staff to assure that no member of its staff shall serve (i) as the chairman of a political party or other officer of a state-, local-, or district-level political party committee or (ii) as a paid or volunteer worker in the campaign of a candidate for nomination or election to an office filled by election in whole or in part by the qualified voters of the Commonwealth.

H. The Department of Elections shall employ a Director of Operations who shall be responsible for managing the day-to-day operations at the Department of Elections and ensuring (i) fulfillment of the Department's mission and responsibilities; (ii) compliance with state and federal election laws and regulations; and (iii) compliance with the Department's business, administrative, and financial policies. This position shall be a full-time classified position subject to the Virginia Personnel Act (§ 2.2-2900 et seq.).

I. The State Board shall adopt a seal for its use and bylaws for its own proceedings.

J. The State Board shall submit an annual report to the Governor and the General Assembly on the activities of the State Board and the Department of Elections in the previous year. Such report shall be governed by the provisions of § 2.2-608.

§ 24.2-109. Appointment and removal of general registrar and officers of election; powers and duties in general.

A. Each electoral board shall appoint the general registrar for its city or county and officers of election for each precinct who shall serve in all elections, including town elections, as provided in this chapter. The secretary of the electoral board shall promptly notify each appointee of his appointment.

The electoral board by a recorded majority vote may *(i) institute proceedings pursuant to § 24.2-234.1 for the removal of any general registrar who fails to discharge the duties of his office according to law or (ii)* remove from office, on notice, any ~~general registrar or~~ officer of election who fails to discharge the duties of his office according to law.

The electoral board shall remove from office, on notice, any general registrar who fails to receive or maintain certification as required by the State Board pursuant to subsection C of § 24.2-103.

B. The electoral board shall perform the duties assigned by this title including, but not limited to, the preparation of ballots, the administration of absentee ballot provisions, the conduct of the election, and the ascertaining of the results of the election.

§ 24.2-234. Removal of officer appointed for a term certain.

Any officer appointed to an office for a term established by law may be removed from office, under the provisions of § 24.2-233, upon a petition filed with the circuit court in whose jurisdiction the officer resides signed by the person or a majority of the members of the authority who appointed him, if the appointing person or authority is not given the unqualified power of removal.

~~The circuit court also shall proceed pursuant to § 24.2-235 for the removal of a member of a local electoral board or general registrar upon a petition signed by a majority of the members of the State Board of Elections as provided in § 24.2-103.~~

§ 24.2-234.1. Removal of members of local electoral boards and general registrars.

A. Any member of a local electoral board may be removed from office by the circuit court in whose jurisdiction he resides upon a petition signed by a majority of the members of the State Board as provided in § 24.2-103. The circuit court shall proceed with such removal in accordance with the provisions of § 24.2-235.

B. Any general registrar may be removed from office by the circuit court in whose jurisdiction he serves upon a petition signed by a majority of the members of the State Board as provided in § 24.2-103 or a majority of the members of his local electoral board as provided in § 24.2-109. The circuit court shall proceed with such removal in accordance with the provisions of § 24.2-235.

C. Any member of a local electoral board or general registrar against whom a petition for removal has been filed may apply to the Virginia Division of Risk Management to assign counsel to his defense and any subsequent appeal. The Division shall assign counsel in accordance with the provisions of § 24.2-121.

§ 24.2-235. Procedure.

A petition for the removal of an officer shall state with reasonable accuracy and detail the grounds or reasons for removal and shall be signed by the person or persons making it under penalties of perjury. The circuit court shall not dismiss the petition solely because of an error or omission in the form of the petition relating to its statement of the grounds or reasons for removal if such error or omission is not material in determining whether the statement of the grounds or reasons for removal provides a reasonable basis under § *24.2-103, 24.2-109, or* 24.2-233 to consider the removal of the officer.

As soon as the petition is filed with the court, the court shall issue a rule requiring the officer to show cause why he should not be removed from office, the rule alleging in general terms the cause or causes for such removal. The rule shall be returnable in not less than five nor more than ten days and shall be served upon the officer with a copy of the petition. Upon return of the rule duly executed, unless good cause is shown for a continuance or postponement to a later day in the term, the case shall be tried on the day named in the rule and take precedence over all other cases on the docket. If upon trial it is determined that the officer is subject to removal under the provisions of § *24.2-103, 24.2-109, or* 24.2-233, he shall be removed from office.

CHAPTER 257

An Act to amend and reenact §§ 24.2-103, 24.2-109, 24.2-234, and 24.2-235 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-234.1, relating to general registrars; petition for removal.

[S 1514]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-103, 24.2-109, 24.2-234, and 24.2-235 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-234.1 as follows:

§ 24.2-103. Powers and duties in general; report.

A. The State Board, through the Department of Elections, shall supervise and coordinate the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections. Its supervision shall ensure that major risks to election integrity are (i) identified and assessed and (ii) addressed as necessary to promote election uniformity, legality, and purity. It shall make rules and regulations and issue instructions and provide information consistent with the election laws to the electoral boards and registrars to promote the proper administration of election laws. Electoral boards and registrars shall provide information requested by the State Board and shall follow (a) the elections laws and (b) the rules and regulations of the State Board insofar as they do not conflict with Virginia or federal law. The State Board shall post on the Internet within three business days any rules or regulations made by the State Board. Upon request and at a reasonable charge not to exceed the actual cost incurred, the State Board shall

provide to any requesting political party or candidate, within three days of the receipt of the request, copies of any instructions or information provided by the State Board to the local electoral boards and registrars.

B. The State Board, through the Department of Elections, shall ensure that the members of the electoral boards are properly trained to carry out their duties by offering training annually, or more often, as it deems appropriate, and without charging any fees to the electoral boards for the training.

C. The State Board, through the Department of Elections, shall conduct a certification program for the general registrars and shall require each general registrar to receive certification through such program from the Department within 12 months of his initial appointment or any subsequent reappointment. The State Board may grant a waiver requested by a local electoral board to extend, on a case-by-case basis, this deadline by up to three months. The State Board shall develop a training curriculum for the certification program and standards for completing the program and maintaining certification, including required hours of annual training. No fees shall be charged to a general registrar for any required training as part of the certification program. The State Board shall review the certification program every four years, or more often as it deems appropriate.

D. The State Board shall set the training standards for the officers of election and shall develop standardized training programs for the officers of election to be conducted by the local electoral boards and the general registrars. Training of the officers of election shall be conducted and certified as provided by § 24.2-115.2. The State Board shall provide standardized training materials for such training and shall also offer on the Department of Elections website a training course for officers of election. The content of the online training course shall be consistent with the standardized training programs developed pursuant to this section. The State Board shall review the standardized training materials and the content of the online training course every two years in the year immediately following a general election for federal office.

E. The State Board may institute proceedings pursuant to § ~~24.2-234~~ *24.2-234.1* for the removal of any member of an electoral board *or general registrar* who fails to discharge the duties of his office in accordance with law. ~~The State Board may petition the local electoral board to remove from office any general registrar who fails to discharge the duties of his office according to law. The State Board may institute proceedings pursuant to § 24.2-234 for the removal of a general registrar if the local electoral board refuses to remove the general registrar and the State Board finds that the failure to remove the general registrar has a material adverse effect upon the conduct of either the registrar's office or any election. Any~~ *Such* action ~~taken by the State Board pursuant to this subsection~~ shall require a recorded majority vote of the Board.

F. The State Board may petition a circuit court or the Supreme Court, whichever is appropriate, for a writ of mandamus or prohibition, or other available legal relief, for the purpose of ensuring that elections are conducted as provided by law.

G. The Department of Elections shall supervise its own staff to assure that no member of its staff shall serve (i) as the chairman of a political party or other officer of a state-, local-, or district-level political party committee or (ii) as a paid or volunteer worker in the campaign of a candidate for nomination or election to an office filled by election in whole or in part by the qualified voters of the Commonwealth.

H. The Department of Elections shall employ a Director of Operations who shall be responsible for managing the day-to-day operations at the Department of Elections and ensuring (i) fulfillment of the Department's mission and responsibilities; (ii) compliance with state and federal election laws and regulations; and (iii) compliance with the Department's business, administrative, and financial policies. This position shall be a full-time classified position subject to the Virginia Personnel Act (§ 2.2-2900 et seq.).

I. The State Board shall adopt a seal for its use and bylaws for its own proceedings.

J. The State Board shall submit an annual report to the Governor and the General Assembly on the activities of the State Board and the Department of Elections in the previous year. Such report shall be governed by the provisions of § 2.2-608.

§ 24.2-109. Appointment and removal of general registrar and officers of election; powers and duties in general.

A. Each electoral board shall appoint the general registrar for its city or county and officers of election for each precinct who shall serve in all elections, including town elections, as provided in this chapter. The secretary of the electoral board shall promptly notify each appointee of his appointment.

The electoral board by a recorded majority vote may *(i) institute proceedings pursuant to § 24.2-234.1 for the removal of any general registrar who fails to discharge the duties of his office according to law or (ii)* remove from office, on notice, any ~~general registrar or~~ officer of election who fails to discharge the duties of his office according to law.

The electoral board shall remove from office, on notice, any general registrar who fails to receive or maintain certification as required by the State Board pursuant to subsection C of § 24.2-103.

B. The electoral board shall perform the duties assigned by this title including, but not limited to, the preparation of ballots, the administration of absentee ballot provisions, the conduct of the election, and the ascertaining of the results of the election.

§ 24.2-234. Removal of officer appointed for a term certain.

Any officer appointed to an office for a term established by law may be removed from office, under the provisions of § 24.2-233, upon a petition filed with the circuit court in whose jurisdiction the officer resides signed by the person or a majority of the members of the authority who appointed him, if the appointing person or authority is not given the unqualified power of removal.

~~The circuit court also shall proceed pursuant to § 24.2-235 for the removal of a member of a local electoral board or general registrar upon a petition signed by a majority of the members of the State Board of Elections as provided in § 24.2-103.~~

§ 24.2-234.1. Removal of members of local electoral boards and general registrars.

A. Any member of a local electoral board may be removed from office by the circuit court in whose jurisdiction he resides upon a petition signed by a majority of the members of the State Board as provided in § 24.2-103. The circuit court shall proceed with such removal in accordance with the provisions of § 24.2-235.

B. Any general registrar may be removed from office by the circuit court in whose jurisdiction he serves upon a petition signed by a majority of the members of the State Board as provided in § 24.2-103 or a majority of the members of his local electoral board as provided in § 24.2-109. The circuit court shall proceed with such removal in accordance with the provisions of § 24.2-235.

C. Any member of a local electoral board or general registrar against whom a petition for removal has been filed may apply to the Virginia Division of Risk Management to assign counsel to his defense and any subsequent appeal. The Division shall assign counsel in accordance with the provisions of § 24.2-121.

§ 24.2-235. Procedure.

A petition for the removal of an officer shall state with reasonable accuracy and detail the grounds or reasons for removal and shall be signed by the person or persons making it under penalties of perjury. The circuit court shall not dismiss the petition solely because of an error or omission in the form of the petition relating to its statement of the grounds or reasons for removal if such error or omission is not material in determining whether the statement of the grounds or reasons for removal provides a reasonable basis under § *24.2-103, 24.2-109, or* 24.2-233 to consider the removal of the officer.

As soon as the petition is filed with the court, the court shall issue a rule requiring the officer to show cause why he should not be removed from office, the rule alleging in general terms the cause or causes for such removal. The rule shall be returnable in not less than five nor more than ten days and shall be served upon the officer with a copy of the petition. Upon return of the rule duly executed, unless good cause is shown for a continuance or postponement to a later day in the term, the case shall be tried on the day named in the rule and take precedence over all other cases on the docket. If upon trial it is determined that the officer is subject to removal under the provisions of § *24.2-103, 24.2-109, or* 24.2-233, he shall be removed from office.

CHAPTER 258

An Act to amend and reenact § 28.2-1203 of the Code of Virginia, relating to use of subaqueous beds; nontidal waters; permit requirements; penalty.

[H 2181]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 28.2-1203 of the Code of Virginia is amended and reenacted as follows:

§ 28.2-1203. Unlawful use of subaqueous beds; penalty.

A. It shall be unlawful for any person to build, dump, trespass or encroach upon or over, or take or use any materials from the beds of the bays, ocean, rivers, streams, or creeks which are the property of the Commonwealth, unless such act is performed pursuant to a permit issued by the Commission or is necessary for the following:

1. Erection of dams, the construction of which has been authorized by proper authority;

2. Uses of subaqueous beds authorized elsewhere in this title;

3. Construction and maintenance of congressionally approved navigation and flood-control projects undertaken by the United States Army Corps of Engineers, the United States Coast Guard, or other federal agency authorized by Congress to regulate navigation, navigable waters, or flood control;

4. Construction of piers, docks, marine terminals, and port facilities owned or leased by or to the Commonwealth or any of its political subdivisions;

5. Except as provided in subsection D of § 28.2-1205, placement, after submission of an application to the Commission for review and processing, of private piers for noncommercial purposes by owners of the riparian lands in the waters opposite those lands, provided that (i) the piers do not extend beyond the navigation line or private pier lines established by the Commission or the United States Army Corps of Engineers, (ii) the piers do not exceed six feet in width and finger piers do not exceed five feet in width, (iii) any L or T head platforms and appurtenant floating docking platforms do not exceed, in the aggregate, 400 square feet, (iv) if prohibited by local ordinance open-sided shelter roofs or gazebo-type structures shall not be placed on platforms as described in clause (iii), but may be placed on such platforms if not prohibited by local ordinance, and (v) the piers are determined not to be a navigational hazard by the Commission. Subject to any applicable local ordinances, such piers may include an attached boat lift and an open-sided roof designed to shelter a single boat slip or boat lift. In cases in which open-sided roofs designed to shelter a single boat, boat slip or boat lift will exceed 700 square feet in coverage or the open-sided shelter roofs or gazebo structures exceed 400 square feet, and in cases in which an adjoining property owner objects to a proposed roof structure, permits shall be required as provided in § 28.2-1204;

6. Maintenance or replacement of a previously authorized pier, provided that it is reconstructed within the footprint of the existing pier;

7. Agricultural, horticultural or silvicultural irrigation on riparian lands or the watering of animals on riparian lands, provided that (i) no permanent structure is placed on or over the subaqueous bed, (ii) the person withdrawing water complies with requirements administered by the Department of Environmental Quality under Title 62.1, and (iii) the activity is conducted without adverse impacts to instream beneficial uses as defined in § 62.1-10; ~~or~~

8. Recreational gold mining, provided that (i) a man-portable suction dredge no larger than four inches in diameter is used, (ii) rights of riparian property owners are not affected, (iii) the activity is conducted without adverse impacts to instream beneficial uses as defined in § 62.1-10, (iv) the activity is conducted without adverse impacts to underwater historic properties and related objects as defined in § 10.1-2214, and (v) the activity is not defined as mining in § 45.2-1200*; or*

9. Any activity conducted in nontidal waters, provided that the person performing such activity obtains a Virginia Water Protection Permit and complies with all requirements of the Virginia Water Resources and Wetlands Protection Program pursuant to Article 2.2 (§ 62.1-44.15:20 et seq.) of Chapter 3.1 of Title 62.1. In determining whether to issue a Virginia Water Protection Permit, the Department of Environmental Quality shall be guided by the factors set forth in subsection A of § 28.2-1205.

B. A violation of this section is a Class 1 misdemeanor.

CHAPTER 259

An Act to amend and reenact § 28.2-1203 of the Code of Virginia, relating to use of subaqueous beds; nontidal waters; permit requirements; penalty.

[S 1074]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 28.2-1203 of the Code of Virginia is amended and reenacted as follows:

§ 28.2-1203. Unlawful use of subaqueous beds; penalty.

A. It shall be unlawful for any person to build, dump, trespass or encroach upon or over, or take or use any materials from the beds of the bays, ocean, rivers, streams, or creeks which are the property of the Commonwealth, unless such act is performed pursuant to a permit issued by the Commission or is necessary for the following:

1. Erection of dams, the construction of which has been authorized by proper authority;

2. Uses of subaqueous beds authorized elsewhere in this title;

3. Construction and maintenance of congressionally approved navigation and flood-control projects undertaken by the United States Army Corps of Engineers, the United States Coast Guard, or other federal agency authorized by Congress to regulate navigation, navigable waters, or flood control;

4. Construction of piers, docks, marine terminals, and port facilities owned or leased by or to the Commonwealth or any of its political subdivisions;

5. Except as provided in subsection D of § 28.2-1205, placement, after submission of an application to the Commission for review and processing, of private piers for noncommercial purposes by owners of the riparian lands in the waters opposite those lands, provided that (i) the piers do not extend beyond the navigation line or private pier lines established by the Commission or the United States Army Corps of Engineers, (ii) the piers do not exceed six feet in width and finger piers do not exceed five feet in width, (iii) any L or T head platforms and appurtenant floating docking platforms do not exceed, in the aggregate, 400 square feet, (iv) if prohibited by local ordinance open-sided shelter roofs or gazebo-type structures shall not be placed on platforms as described in clause (iii), but may be placed on such platforms if not prohibited by local ordinance, and (v) the piers are determined not to be a navigational hazard by the Commission. Subject to any applicable local ordinances, such piers may include an attached boat lift and an open-sided roof designed to shelter a single boat slip or boat lift. In cases in which open-sided roofs designed to shelter a single boat, boat slip or boat lift will exceed 700 square feet in coverage or the open-sided shelter roofs or gazebo structures exceed 400 square feet, and in cases in which an adjoining property owner objects to a proposed roof structure, permits shall be required as provided in § 28.2-1204;

6. Maintenance or replacement of a previously authorized pier, provided that it is reconstructed within the footprint of the existing pier;

7. Agricultural, horticultural or silvicultural irrigation on riparian lands or the watering of animals on riparian lands, provided that (i) no permanent structure is placed on or over the subaqueous bed, (ii) the person withdrawing water complies with requirements administered by the Department of Environmental Quality under Title 62.1, and (iii) the activity is conducted without adverse impacts to instream beneficial uses as defined in § 62.1-10; ~~or~~

8. Recreational gold mining, provided that (i) a man-portable suction dredge no larger than four inches in diameter is used, (ii) rights of riparian property owners are not affected, (iii) the activity is conducted without adverse impacts to instream beneficial uses as defined in § 62.1-10, (iv) the activity is conducted without adverse impacts to underwater historic properties and related objects as defined in § 10.1-2214, and (v) the activity is not defined as mining in § 45.2-1200*; or*

9. Any activity conducted in nontidal waters, provided that the person performing such activity obtains a Virginia Water Protection Permit and complies with all requirements of the Virginia Water Resources and Wetlands Protection

Program pursuant to Article 2.2 (§ 62.1-44.15:20 et seq.) of Chapter 3.1 of Title 62.1. In determining whether to issue a Virginia Water Protection Permit, the Department of Environmental Quality shall be guided by the factors set forth in subsection A of § 28.2-1205.

B. A violation of this section is a Class 1 misdemeanor.

CHAPTER 260

An Act to amend and reenact §§ 6.2-103.1 and 64.2-2003 of the Code of Virginia, relating to appointment of guardian ad litem; requested information, records, or reports from an individual or entity.

[H 2063]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-103.1 and 64.2-2003 of the Code of Virginia are amended and reenacted as follows:

§ 6.2-103.1. Financial institutions to furnish certain information as part of adult protective services investigation.

Notwithstanding any other provision of law, any financial institution subject to the provisions of this title shall cooperate in any investigation of alleged adult abuse, neglect, or exploitation conducted by a local department of social services pursuant to Chapter 16 (§ 63.2-1600 et seq.) of Title 63.2 and shall make any financial records or information relevant to such investigation available to the local department *and to any court-appointed guardian ad litem for the adult who is the subject of such adult protective services investigation* upon request to the extent allowed under the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.) and 12 U.S.C. § 3403. *Absent gross negligence or willful misconduct, any financial institution and its staff shall be immune from civil or criminal liability for providing information or records to the local department of social services or to a court-appointed guardian ad litem pursuant to this section.*

§ 64.2-2003. Appointment of guardian ad litem.

A. On the filing of every petition for guardianship or conservatorship, the court shall appoint a guardian ad litem to represent the interests of the respondent. The guardian ad litem shall be paid a fee that is fixed by the court to be paid by the petitioner or taxed as costs, as the court directs.

B. Duties of the guardian ad litem include (i) personally visiting the respondent; (ii) advising the respondent of rights pursuant to §§ 64.2-2006 and 64.2-2007 and certifying to the court that the respondent has been so advised; (iii) recommending that legal counsel be appointed for the respondent, pursuant to § 64.2-2006, if the guardian ad litem believes that counsel for the respondent is necessary; (iv) notifying the court as soon as practicable if the respondent requests counsel regardless of whether the guardian ad litem recommends counsel; (v) investigating the petition and evidence, requesting additional evaluation if necessary, considering whether a less restrictive alternative to guardianship or conservatorship is available, including the use of an advance directive, supported decision-making agreement, or durable power of attorney, and filing a report pursuant to subsection C; and (vi) personally appearing at all court proceedings and conferences. If the respondent is between 17 and a half and 21 years of age and has an Individualized Education Plan (IEP) and transition plan, the guardian ad litem shall review such IEP and transition plan and include the results of his review in the report required by clause (v).

C. In the report required by clause (v) of subsection B, the guardian ad litem shall address the following major areas of concern: (i) whether the court has jurisdiction; (ii) whether a guardian or conservator is needed based on evaluations and reviews conducted pursuant to subsection B; (iii) the extent of the duties and powers of the guardian or conservator; (iv) the propriety and suitability of the person selected as guardian or conservator after consideration of the person's geographic location, familial or other relationship with the respondent, ability to carry out the powers and duties of the office, commitment to promoting the respondent's welfare, any potential conflicts of interests, wishes of the respondent, and recommendations of relatives; (v) a recommendation as to the amount of surety on the conservator's bond, if any; and (vi) consideration of proper residential placement of the respondent. The report shall also contain an explanation by the guardian ad litem as to any (a) decision not to recommend the appointment of counsel for the respondent, (b) determination that a less restrictive alternative to guardianship or conservatorship is not advisable, and (c) determination that appointment of a limited guardian or conservator is not appropriate.

D. ~~A~~ *Any individual or entity with information, records, or reports relevant to a guardianship or conservatorship proceeding, including any (i)* health care provider ~~and~~*,* local school division*, or local department of social services; (ii) criminal justice agency as that term is defined in § 9.1-101, unless the disclosure of such information, records, or reports would impede an ongoing criminal investigation or proceeding; and (iii) financial institution as that term is defined in § 6.2-100, investment advisor as that term is defined in § 13.1-501, or other financial service provider* shall disclose or make available to the guardian ad litem, upon request, any information, records, and reports concerning the respondent that the guardian ad litem determines necessary to perform his duties under this section *to the extent allowed under the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.) and 12 U.S.C. § 3403. The request from the guardian ad litem shall be accompanied by a copy of the court order (a) appointing the guardian ad litem for the respondent and (b) that allows the release of the respondent's nonpublic personal information to the guardian ad litem. All such information, records, and reports shall be provided to the guardian ad litem at no charge. Disclosures, records, and reports can be provided in*

electronic form to the guardian ad litem and may be accompanied by a statement of expenses or an invoice, which shall be filed with the report of the guardian ad litem to be considered by the court when awarding costs among the parties pursuant to § 64.2-2008. Absent gross negligence or willful misconduct, the person or entity making disclosures, and their staff, shall be immune from civil or criminal liability for providing information or records to a court-appointed guardian ad litem pursuant to this section.

CHAPTER 261

An Act to amend and reenact §§ 6.2-103.1 and 64.2-2003 of the Code of Virginia, relating to appointment of guardian ad litem; requested information, records, or reports from an individual or entity.

[S 1144]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-103.1 and 64.2-2003 of the Code of Virginia are amended and reenacted as follows:

§ 6.2-103.1. Financial institutions to furnish certain information as part of adult protective services investigation.

Notwithstanding any other provision of law, any financial institution subject to the provisions of this title shall cooperate in any investigation of alleged adult abuse, neglect, or exploitation conducted by a local department of social services pursuant to Chapter 16 (§ 63.2-1600 et seq.) of Title 63.2 and shall make any financial records or information relevant to such investigation available to the local department *and to any court-appointed guardian ad litem for the adult who is the subject of such adult protective services investigation* upon request to the extent allowed under the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.) and 12 U.S.C. § 3403. *Absent gross negligence or willful misconduct, any financial institution and its staff shall be immune from civil or criminal liability for providing information or records to the local department of social services or to a court-appointed guardian ad litem pursuant to this section.*

§ 64.2-2003. Appointment of guardian ad litem.

A. On the filing of every petition for guardianship or conservatorship, the court shall appoint a guardian ad litem to represent the interests of the respondent. The guardian ad litem shall be paid a fee that is fixed by the court to be paid by the petitioner or taxed as costs, as the court directs.

B. Duties of the guardian ad litem include (i) personally visiting the respondent; (ii) advising the respondent of rights pursuant to §§ 64.2-2006 and 64.2-2007 and certifying to the court that the respondent has been so advised; (iii) recommending that legal counsel be appointed for the respondent, pursuant to § 64.2-2006, if the guardian ad litem believes that counsel for the respondent is necessary; (iv) notifying the court as soon as practicable if the respondent requests counsel regardless of whether the guardian ad litem recommends counsel; (v) investigating the petition and evidence, requesting additional evaluation if necessary, considering whether a less restrictive alternative to guardianship or conservatorship is available, including the use of an advance directive, supported decision-making agreement, or durable power of attorney, and filing a report pursuant to subsection C; and (vi) personally appearing at all court proceedings and conferences. If the respondent is between 17 and a half and 21 years of age and has an Individualized Education Plan (IEP) and transition plan, the guardian ad litem shall review such IEP and transition plan and include the results of his review in the report required by clause (v).

C. In the report required by clause (v) of subsection B, the guardian ad litem shall address the following major areas of concern: (i) whether the court has jurisdiction; (ii) whether a guardian or conservator is needed based on evaluations and reviews conducted pursuant to subsection B; (iii) the extent of the duties and powers of the guardian or conservator; (iv) the propriety and suitability of the person selected as guardian or conservator after consideration of the person's geographic location, familial or other relationship with the respondent, ability to carry out the powers and duties of the office, commitment to promoting the respondent's welfare, any potential conflicts of interests, wishes of the respondent, and recommendations of relatives; (v) a recommendation as to the amount of surety on the conservator's bond, if any; and (vi) consideration of proper residential placement of the respondent. The report shall also contain an explanation by the guardian ad litem as to any (a) decision not to recommend the appointment of counsel for the respondent, (b) determination that a less restrictive alternative to guardianship or conservatorship is not advisable, and (c) determination that appointment of a limited guardian or conservator is not appropriate.

D. ~~A~~ *Any individual or entity with information, records, or reports relevant to a guardianship or conservatorship proceeding, including any (i)* health care provider ~~and~~, local school division*, or local department of social services; (ii) criminal justice agency as that term is defined in § 9.1-101, unless the disclosure of such information, records, or reports would impede an ongoing criminal investigation or proceeding; and (iii) financial institution as that term is defined in § 6.2-100, investment advisor as that term is defined in § 13.1-501, or other financial service provider* shall disclose or make available to the guardian ad litem, upon request, any information, records, and reports concerning the respondent that the guardian ad litem determines necessary to perform his duties under this section *to the extent allowed under the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.) and 12 U.S.C. § 3403. The request from the guardian ad litem shall be accompanied by a copy of the court order (a) appointing the guardian ad litem for the respondent and (b) that allows the release of the respondent's nonpublic personal information to the guardian ad litem. All such information, records, and*

reports shall be provided to the guardian ad litem at no charge. Disclosures, records, and reports can be provided in electronic form to the guardian ad litem and may be accompanied by a statement of expenses or an invoice, which shall be filed with the report of the guardian ad litem to be considered by the court when awarding costs among the parties pursuant to § 64.2-2008. Absent gross negligence or willful misconduct, the person or entity making disclosures, and their staff, shall be immune from civil or criminal liability for providing information or records to a court-appointed guardian ad litem pursuant to this section.

CHAPTER 262

An Act to amend and reenact § 3.2-1306 of the Code of Virginia, relating to Cattle Industry Board; collection and disposition of assessment by handler.

[H 2297]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 3.2-1306 of the Code of Virginia is amended and reenacted as follows:

§ 3.2-1306. Collection and disposition of assessment by handler; reports.

A. Beginning January 1, 2019, and ending July 1, ~~2023~~ *2028*, every handler shall deduct 50 cents ($0.50) per head from the proceeds of sale owed to the respective owners of all cattle and calves when sold in the Commonwealth, with the exception of dairy cows going back to farms for milk, animals selling for less than $100 per head, or cattle of any type weighing 99 pounds or less. The handler shall remit such assessments to the Tax Commissioner on or before the last day of each month in which the handler sells cattle.

B. Every handler shall complete reports on forms furnished by the Tax Commissioner and submit such reports to the Tax Commissioner along with the assessments collected pursuant to subsection A. Each report shall include a statement of the number of cattle handled and the amount of money collected, and any other information deemed necessary by the Tax Commissioner to carry out his functions. Notwithstanding the provisions of § 58.1-3, upon request, the Tax Commissioner is authorized to provide the Board with a list of taxpayers and amounts paid.

C. Any assessment that is not paid when due shall be collected pursuant to § 3.2-1102.

D. Any producer from whom an assessment has been collected pursuant to subsection A who is dissatisfied with the assessment and the Board's use of the assessment may, within 90 days of the collection of the assessment, make a written demand with documented proof of sale for a refund of the assessment from the Board. The Board shall refund such assessments within 90 days of receiving a written demand for a refund.

CHAPTER 263

An Act to amend and reenact § 3.2-1306 of the Code of Virginia, relating to Cattle Industry Board; collection and disposition of assessment by handler.

[S 795]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 3.2-1306 of the Code of Virginia is amended and reenacted as follows:

§ 3.2-1306. Collection and disposition of assessment by handler; reports.

A. Beginning January 1, 2019, and ending July 1, ~~2023~~ *2028*, every handler shall deduct 50 cents ($0.50) per head from the proceeds of sale owed to the respective owners of all cattle and calves when sold in the Commonwealth, with the exception of dairy cows going back to farms for milk, animals selling for less than $100 per head, or cattle of any type weighing 99 pounds or less. The handler shall remit such assessments to the Tax Commissioner on or before the last day of each month in which the handler sells cattle.

B. Every handler shall complete reports on forms furnished by the Tax Commissioner and submit such reports to the Tax Commissioner along with the assessments collected pursuant to subsection A. Each report shall include a statement of the number of cattle handled and the amount of money collected, and any other information deemed necessary by the Tax Commissioner to carry out his functions. Notwithstanding the provisions of § 58.1-3, upon request, the Tax Commissioner is authorized to provide the Board with a list of taxpayers and amounts paid.

C. Any assessment that is not paid when due shall be collected pursuant to § 3.2-1102.

D. Any producer from whom an assessment has been collected pursuant to subsection A who is dissatisfied with the assessment and the Board's use of the assessment may, within 90 days of the collection of the assessment, make a written demand with documented proof of sale for a refund of the assessment from the Board. The Board shall refund such assessments within 90 days of receiving a written demand for a refund.

CHAPTER 264

An Act to amend and reenact § 51.1-1400 of the Code of Virginia, relating to health insurance credits for retired state employees.

[H 2314]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-1400 of the Code of Virginia is amended and reenacted as follows:

§ 51.1-1400. Health insurance credits for retired state employees.

A. The Commonwealth shall provide a credit toward the cost of health insurance coverage for any former state employee, as defined in § 2.2-2818, who retired under the Virginia Retirement System, State Police Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or any retirement system authorized pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, 51.1-126.7, or 51.1-169 and who (i) rendered at least 15 years of total creditable service under the Retirement System or (ii) rendered service as a temporary employee of the General Assembly in 1972 and became a member of the retirement system from 1972 to 1985 immediately following such temporary service. The amount of each monthly health insurance credit payable under this section shall be *(a)* $4 per year of creditable service *or (b) effective July 1, 2024, $4.25 per year of creditable service*, which amount shall be credited monthly to any retired state employee participating in the state retiree health benefits program pursuant to § 51.1-1405 or an alternative personal health insurance plan as provided herein. However, such credit shall not exceed the health insurance premium for retiree-only coverage as provided under such alternative personal health insurance plan. Any ~~(i)~~ *(1)* employee participant pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, or 51.1-126.7 receiving long-term disability, or ~~(ii)~~ *(2)* retired state employee retired under the provisions of § 51.1-156 or 51.1-307, or ~~(iii)~~ *(3)* any participating employee receiving long-term disability pursuant to § 51.1-1112, 51.1-1123, 51.1-1157, or 51.1-1165 shall receive a maximum monthly credit which is the greater of ~~(i)~~ *(A)* $120, ~~(ii)~~ *(B)* $4 *or, effective July 1, 2024, $4.25* per year for each year of creditable service at the time of disability retirement, or ~~(iii)~~ *(C)* $4 *or, effective July 1, 2024, $4.25* per year for each year of creditable service at the time of eligibility for long-term disability. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) who elects to defer his retirement pursuant to subsection C of § 51.1-153, subsection C of § 51.1-205 or subsection C of § 51.1-305 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

B. For those retired state employees:

1. Participating in the state retiree health benefits program, such credit shall be applied to the monthly premium deducted from benefits payable to retired state employees in accordance with Chapters 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), and 3 (§ 51.1-300 et seq.). In the event that either no benefit is payable or the benefit payable is insufficient to deduct the entire health care premium, the payment of the credit shall be determined in the manner prescribed by the Virginia Retirement System. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System.

2. Not electing or eligible to participate in the state retiree health benefits program and who purchase an alternative personal health insurance policy from a carrier or organization of his own choosing, such retirees shall be eligible to receive a credit in the amount specified in subsection A. Eligibility for the credit and payment for the credit shall be determined in a manner prescribed by the Virginia Retirement System.

C. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) who (i) rendered at least 15 years of total creditable service as a state employee as defined in § 2.2-2818 and (ii) after terminating state service, was employed by a local government that does not elect to provide a health insurance credit under § 51.1-1401 or 51.1-1402, shall be eligible for the credit provided by subsection A, provided that the retired employee is participating in a health insurance plan. The Commonwealth shall be charged with the credit as provided for in subsection D. In such case, the health insurance credit shall be determined based upon the amount of state service or service as a teacher, whichever is greater.

D. The Virginia Retirement System shall actuarially determine the amount necessary to fund all credits provided by this section to reflect the cost of such credits in the employer contribution rate pursuant to § 51.1-145, and prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated with the administration of the health insurance credit program provided for in this section shall be recovered from the health insurance credit trust fund.

E. Notwithstanding anything contained in this section to the contrary, the Virginia Commonwealth University Health System Authority shall pay the cost of coverage for employees of such Authority who (i) retired under the Virginia Retirement System or any retirement system authorized pursuant to § 23.1-2416, 51.1-126, 51.1-126.1, or former § 51.1-126.2; (ii) were employed by such Authority prior to July 1, 1998, and were not subsequently rehired by such Authority on or after July 1, 1998; and (iii) served no less than 15 years of creditable service as regularly employed full-time employees of such Authority or the Commonwealth.

CHAPTER 265

An Act to amend and reenact § 58.1-1802.1 of the Code of Virginia, relating to taxation; period of limitations on collection.
[H 1625]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-1802.1 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-1802.1. Period of limitations on collection; accrual of interest and penalty.

A. Where the assessment of any tax imposed by this subtitle has been made within the period of limitation properly applicable thereto, such tax may be collected by levy, by a proceeding in court, or by any other means available to the Tax Commissioner under the laws of the Commonwealth, but only if such collection effort is made or instituted within seven years from the date of the assessment of such tax. Except as otherwise provided in this section, effective for assessments made on and after July 1, 2016, all collection efforts shall cease after such seven-year period even if initiated during the seven-year period. Prior to the expiration of any period for collection, the period may be extended by a written agreement between the Tax Commissioner and the taxpayer, and subsequent written agreements may likewise extend the period previously agreed upon. The period of limitations provided in this subsection during which a tax may be collected shall not apply to executions, levy or other actions to enforce a lien created before the expiration of the period of limitations by the docketing of a judgment or the filing of a memorandum of lien pursuant to § 58.1-1805; nor shall the period of limitations apply to the provisions of §§ 8.01-251 and 8.01-458.

B. The running of the period of limitations on collection shall be suspended for *(i)* the period *the assessment is the subject of a proceeding pursuant to § 58.1-1807, 58.1-1821, 58.1-1825, or 58.1-1828; (ii) the period* the assets of the taxpayer are in the control or custody of any state or federal court, including the United States Bankruptcy Court; ~~for the period during which a taxpayer is outside the Commonwealth if such period of absence is for a continuous period of at least six months;~~ or ~~during~~ *(iii)* the period that an installment agreement entered into by the taxpayer pursuant to § 58.1-1817 is in effect.

C. If the Department of Taxation has no contact with the delinquent taxpayer for a period of six years and no memorandum of lien has been appropriately filed in a jurisdiction in which such taxpayer owns real estate, interest and penalty shall no longer be added to the delinquent tax liability. The mailing of notices by the Department to the taxpayer's last known address shall constitute contact with the taxpayer.

D. For purposes of this section, the "last known address" of the taxpayer means the address shown on the most recent return filed by or on behalf of the taxpayer or the address provided in correspondence by or on behalf of the taxpayer indicating that it is a change of the taxpayer's address.

CHAPTER 266

An Act to amend and reenact § 32.1-325, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to state plan for medical assistance services; durable medical equipment; complex rehabilitation technology.
[H 1512]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-325, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 32.1-325. (Effective until date pursuant to Va. Const., Art. IV, § 13) Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of $3,500 for the individual and an amount not in excess of $3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed $5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for

mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions, regardless of whether the student receiving care has an individualized education program or whether the health care service is included in a student's individualized education program. Such services shall include those covered under the state plan for medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for health care services provided through telemedicine services, as defined in § 38.2-3418.16. No health care provider who provides health care services through telemedicine shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3);

26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services

through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located;

27. A provision for the payment of medical assistance for the dispensing or furnishing of up to a 12-month supply of hormonal contraceptives at one time. Absent clinical contraindications, the Department shall not impose any utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished to an amount less than a 12-month supply. Nothing in this subdivision shall be construed to (i) require a provider to prescribe, dispense, or furnish a 12-month supply of self-administered hormonal contraceptives at one time or (ii) exclude coverage for hormonal contraceptives as prescribed by a prescriber, acting within his scope of practice, for reasons other than contraceptive purposes. As used in this subdivision, "hormonal contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone, that is self-administered, requires a prescription, and is approved by the U.S. Food and Drug Administration for such purpose;

28. A provision for payment of medical assistance for remote patient monitoring services provided via telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons; (ii) medically complex infants and children; (iii) transplant patients; (iv) patients who have undergone surgery, for up to three months following the date of such surgery; and (v) patients with a chronic or acute health condition who have had two or more hospitalizations or emergency department visits related to such health condition in the previous 12 months when there is evidence that the use of remote patient monitoring is likely to prevent readmission of such patient to a hospital or emergency department. For the purposes of this subdivision, "remote patient monitoring services" means the use of digital technologies to collect medical and other forms of health data from patients in one location and electronically transmit that information securely to health care providers in a different location for analysis, interpretation, and recommendations, and management of the patient. "Remote patient monitoring services" includes monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other patient physiological data, treatment adherence monitoring, and interactive videoconferencing with or without digital image upload;

29. A provision for the payment of medical assistance for provider-to-provider consultations that is no more restrictive than, and is at least equal in amount, duration, and scope to, that available through the fee-for-service program; ~~and~~

30. A provision for payment of the originating site fee to emergency medical services agencies for facilitating synchronous telehealth visits with a distant site provider delivered to a Medicaid member. As used in this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located*; and*

31. A provision for payment of medical assistance for the initial purchase or replacement of complex rehabilitative technology manual and power wheelchair bases and related accessories, as defined by the Department's durable medical equipment program policy, for patients who reside in nursing facilities. Initial purchase or replacement may be contingent upon (i) determination of medical necessity; (ii) requirements in accordance with regulations established through the Department's durable medical equipment program policy; and (iii) exclusive use by the nursing facility resident. Recipients of medical assistance shall not be required to pay any deductible, coinsurance, copayment, or patient costs related to the initial purchase or replacement of complex rehabilitative technology manual and power wheelchair bases and related accessories.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq., Enforcement of Compliance for Long-Term Care Facilities With Deficiencies.

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

K. When the services provided for by such plan are services related to initiation of treatment with or dispensing or administration of a vaccination by a pharmacist, pharmacy technician, or pharmacy intern in accordance with § 54.1-3303.1, the Department shall provide reimbursement for such service.

§ 32.1-325. (Effective pursuant to Va. Const., Art. IV, § 13) Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of $3,500 for the individual and an amount not in excess of $3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed $5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by

such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions, regardless of whether the student receiving care has an individualized education program or whether the health care service is included in a student's individualized education program. Such services shall include those covered under the state plan for medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for health care services provided through telemedicine services, as defined in § 38.2-3418.16. No health care provider who provides health care services through telemedicine shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and

the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3);

26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located;

27. A provision for the payment of medical assistance for the dispensing or furnishing of up to a 12-month supply of hormonal contraceptives at one time. Absent clinical contraindications, the Department shall not impose any utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished to an amount less than a 12-month supply. Nothing in this subdivision shall be construed to (i) require a provider to prescribe, dispense, or furnish a 12-month supply of self-administered hormonal contraceptives at one time or (ii) exclude coverage for hormonal contraceptives as prescribed by a prescriber, acting within his scope of practice, for reasons other than contraceptive purposes. As used in this subdivision, "hormonal contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone, that is self-administered, requires a prescription, and is approved by the U.S. Food and Drug Administration for such purpose;

28. A provision for payment of medical assistance for remote patient monitoring services provided via telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons; (ii) medically complex infants and children; (iii) transplant patients; (iv) patients who have undergone surgery, for up to three months following the date of such surgery; and (v) patients with a chronic or acute health condition who have had two or more hospitalizations or emergency department

visits related to such health condition in the previous 12 months when there is evidence that the use of remote patient monitoring is likely to prevent readmission of such patient to a hospital or emergency department. For the purposes of this subdivision, "remote patient monitoring services" means the use of digital technologies to collect medical and other forms of health data from patients in one location and electronically transmit that information securely to health care providers in a different location for analysis, interpretation, and recommendations, and management of the patient. "Remote patient monitoring services" includes monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other patient physiological data, treatment adherence monitoring, and interactive videoconferencing with or without digital image upload;

29. A provision for the payment of medical assistance for provider-to-provider consultations that is no more restrictive than, and is at least equal in amount, duration, and scope to, that available through the fee-for-service program;

30. A provision for payment of the originating site fee to emergency medical services agencies for facilitating synchronous telehealth visits with a distant site provider delivered to a Medicaid member. As used in this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located; ~~and~~

31. A provision for the payment of medical assistance for targeted case management services for individuals with severe traumatic brain injury*; and*

32. A provision for payment of medical assistance for the initial purchase or replacement of complex rehabilitative technology manual and power wheelchair bases and related accessories, as defined by the Department's durable medical equipment program policy, for patients who reside in nursing facilities. Initial purchase or replacement may be contingent upon (i) determination of medical necessity; (ii) requirements in accordance with regulations established through the Department's durable medical equipment program policy; and (iii) exclusive use by the nursing facility resident. Recipients of medical assistance shall not be required to pay any deductible, coinsurance, copayment, or patient costs related to the initial purchase or replacement of complex rehabilitative technology manual and power wheelchair bases and related accessories.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq., Enforcement of Compliance for Long-Term Care Facilities With Deficiencies.

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

K. When the services provided for by such plan are services related to initiation of treatment with or dispensing or administration of a vaccination by a pharmacist, pharmacy technician, or pharmacy intern in accordance with § 54.1-3303.1, the Department shall provide reimbursement for such service.

2. That the Board of Medical Assistance Services shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

CHAPTER 267

An Act to amend and reenact § 54.1-3408 of the Code of Virginia, relating to administration of controlled substances; emergency service providers or paramedics.

[H 1447]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

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

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine, a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

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

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

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

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

4. *Persons who are employed or engaged at a medical care facility, as defined in § 32.1-3, who have a valid emergency medical services provider certification issued by the Board of Health as a requirement of being employed or engaged at the medical care facility within the scope of such certification, pursuant to an oral or written order or standing protocol to administer drugs and devices at the medical care facility; or*

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

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

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

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

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

Pursuant to an order or standing protocol that shall be issued by the local health director within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers or nebulized albuterol may possess or administer an albuterol inhaler and a valved holding chamber or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any nurse at an early childhood care and education entity, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

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

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

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

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

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

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

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

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

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

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

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

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

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

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

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

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

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

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

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

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency, the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency, or the Board of Health has made an emergency order pursuant to § 32.1-13 for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health and for the limited purpose of administering vaccines as an approved countermeasure for such communicable, contagious, and infectious diseases; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

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

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

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

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

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

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

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

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

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a

prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, an employee or other person acting on behalf of a public place who has completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal other than naloxone in an injectable formulation with a hypodermic needle or syringe in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

For the purposes of this subsection, "public place" means any enclosed area that is used or held out for use by the public, whether owned or operated by a public or private interest.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only

when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

CHAPTER 268

An Act to amend and reenact §§ 54.1-3202, 54.1-3211, 54.1-3213, 54.1-3215, 54.1-3219, 54.1-3221, 54.1-3222, and 54.1-3223 of the Code of Virginia and to repeal § 54.1-3220 of the Code of Virginia, relating to the practice of optometry; licensing; regulations.

[H 1737]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3202, 54.1-3211, 54.1-3213, 54.1-3215, 54.1-3219, 54.1-3221, 54.1-3222, and 54.1-3223 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-3202. Exemptions.

This chapter shall not apply to:

1. Physicians licensed to practice medicine by the Board of Medicine or to prohibit the sale of nonprescription eyeglasses and sunglasses; ~~or~~

2. Any optometrist rendering free health care to an underserved population in ~~Virginia~~ *the Commonwealth* who (i) does not regularly practice optometry in ~~Virginia,~~ *the Commonwealth;* (ii) holds a current valid license or certificate to practice optometry in another state, territory, district, or possession of the United States~~;~~ *;* (iii) volunteers to provide free health care in an underserved area of ~~this~~ *the* Commonwealth under the auspices of a publicly supported, all volunteer~~,~~ nonprofit organization that sponsors the provision of health care to populations of underserved people~~,~~ *;* (iv) files a copy of his license or certification in such other jurisdiction with the Board~~,~~ *;* (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service~~,~~ *;* and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer~~,~~ nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in ~~Virginia~~ *the Commonwealth* to any optometrist whose license or certificate has been previously suspended or revoked, who has been convicted of a felony, or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow an optometrist who meets the ~~above~~ criteria *of this subdivision* to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state*; or*

3. Any student, intern, or trainee in optometry who is performing optometric services under the direct supervision of a licensed optometrist or ophthalmologist as part of a course of study at an accredited institution of higher education.

§ 54.1-3211. Examination.

The Board shall set the necessary standards to be attained in the examinations to entitle the candidate to receive a license to practice optometry.

~~The examination shall be given at least semiannually if there are any candidates who have applied to the Board for examination at least 30 days before the date for the examination.~~

~~The examination shall include anatomy; physiology; pathology; general and ocular pharmacology designed to test knowledge of the proper use, characteristics, pharmacological effects, indications, contraindications and emergency care associated with the use of diagnostic pharmaceutical agents; and the use of the appropriate instruments.~~

The Board may determine a score that it considers satisfactory on any written examination of the National Board of Examiners in Optometry. ~~The Board may waive its examination for a person who achieves a satisfactory score on the examination of the National Board of Examiners in Optometry.~~

Those persons licensed on or before June 30, 1997, to practice optometry in ~~this state~~ *the Commonwealth* but not certified to administer diagnostic pharmaceutical agents may continue to practice optometry but may not administer diagnostic pharmaceutical agents without satisfying the requirements of this section. Those persons licensed after June 30, 1997, shall be considered as certified to administer diagnostic pharmaceutical agents. After June 30, 2004, every person who is initially licensed to practice optometry in ~~Virginia~~ *the Commonwealth* shall meet the qualifications for a TPA-certified optometrist.

§ 54.1-3213. License to practice optometry; requirements; renewal; fees.

A. Every candidate successfully passing the examination shall be licensed by the Board ~~as possessing~~ *if such candidate possesses* the qualifications required by law *and regulation* to practice optometry.

~~The fee for examination and licensure shall be prescribed by the Board and shall be paid to the executive director of the Board by the applicant upon filing his application.~~

B. In order to be qualified for licensure as an optometrist, every applicant shall demonstrate competency for certification to prescribe for and treat diseases or abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents (TPAs). Requirements for TPA certification shall include:

1. Satisfactory completion of such didactic and clinical training programs for the treatment of diseases and abnormal conditions of the eye and its adnexa as are determined to be reasonable and necessary by the Board to ensure an appropriate standard of medical care for patients; and

2. Passage of such examinations as are determined to be reasonable and necessary by the Board to ensure an appropriate standard of medical care for patients.

C. Every license to practice optometry granted under the provisions of this chapter shall be renewed at such time, in such manner, and upon payment of such fees as the Board may prescribe.

§ 54.1-3215. Board actions; reprimand, suspension, revocation, etc.

The Board may ~~revoke or suspend a license or reprimand the licensee~~ *refuse to admit an applicant to any examination; refuse to grant or renew a license or certificate; reprimand, place on probation, or impose a monetary penalty on a licensee; or impose such terms as it may designate, suspend for a stated period of time, or revoke any license or certificate* for any of the following causes:

1. Fraud or deceit in his practice;

2. Conviction of any felony under the laws of the Commonwealth, another state, the District of Columbia, or any United States possession or territory or of any misdemeanor under such laws involving moral turpitude;

3. Conducting his practice in such a manner as to endanger the health and welfare of his patients or the public;

4. Use of alcohol or drugs to the extent such use renders him unsafe to practice optometry or mental or physical illness rendering him unsafe to practice optometry;

5. Knowingly and willfully employing an unlicensed person to do anything for which a license to practice optometry is required;

6. ~~Practicing optometry while suffering from any infectious or contagious disease;~~

~~7.~~ Neglecting or refusing to display his license ~~and the renewal receipt~~ for the current year;

~~8.~~ *7.* Obtaining of any fee by fraud or misrepresentation or the practice of deception or fraud upon any patient;

~~9.~~ *8.* Advertising ~~which~~ *that* directly or indirectly deceives, misleads, or defrauds the public, claims professional superiority, or offers free optometrical services or examinations;

~~10.~~ *9.* Employing, procuring, or inducing a person not licensed to practice optometry to so practice;

~~11.~~ *10.* Aiding or abetting in the practice of optometry any person not duly licensed to practice in ~~this~~ *the* Commonwealth;

~~12.~~ *11.* Advertising, practicing, or attempting to practice optometry under a name other than one's own name as set forth on the license;

~~13.~~ *12.* Lending, leasing, renting, or in any other manner placing his license at the disposal or in the service of any person not licensed to practice optometry in ~~this~~ *the* Commonwealth;

~~14.~~ *13.* Splitting or dividing a fee with any person or persons other than with a licensed optometrist who is a legal partner or comember of a professional limited liability company formed to engage in the practice of optometry;

~~15.~~ *14.* Practicing optometry where any officer, employee, or agent of a commercial or mercantile establishment, as defined in subsection C of § 54.1-3205, who is not licensed in ~~Virginia~~ *the Commonwealth* to practice optometry or medicine directly or indirectly controls, dictates, or influences the professional judgment, including but not limited to the level or type of care or services rendered, of the licensed optometrist;

~~16.~~ *15.* Violating other standards of conduct as adopted by the Board;

~~17.~~ *16.* Violating, assisting, inducing, or cooperating with others in violating any provisions of law relating to the practice of optometry, including the provisions of this chapter~~,~~ or of any regulation of the Board.

§ 54.1-3219. Continuing education.

A. As a prerequisite to renewal of a license or reinstatement of a license, each optometrist shall be required to complete 20 hours of continuing education relating to optometry, as approved by the Board, each year. A licensee who completes more than 20 hours of continuing education in a year shall be allowed to carry forward up to 10 hours of continuing education for the next annual renewal cycle. The courses shall include, but need not be limited to, the utilization and application of new techniques, scientific and clinical advances, and new achievements of research. The Board shall prescribe criteria for approval of courses of study. ~~The Board may approve alternative courses upon timely application of any licensee.~~ Fulfillment of education requirements shall be certified to the Board upon a form provided by the Board and shall be submitted by each licensed optometrist at the time he applies to the Board for the renewal of his license. The Board may waive individual requirements in cases of certified illness or undue hardship.

B. Of the 20 hours of continuing education relating to optometry required pursuant to subsection A:

1. At least 10 hours shall be obtained through real-time, interactive activities, including in-person or electronic presentations, provided that during the course of the presentation, the licensee and the lecturer may communicate with one another;

2. No more than two hours may consist of courses related to recordkeeping, including coding for diagnostic and treatment devices and procedures or the management of an optometry practice, provided that such courses are not primarily for the purpose of augmenting the licensee's income or promoting the sale of specific instruments or products; and

3. For TPA-certified optometrists, at least 10 hours shall be in the areas of ocular and general pharmacology, diagnosis and treatment of the human eye and its adnexa, including treatment with new pharmaceutical agents, or new or advanced clinical devices, techniques, modalities, or procedures.

C. Nothing in this ~~subsection~~ *section* shall prevent or limit the authority of the Board to require additional hours or types of continuing education as part or in lieu of disciplinary action.

Article 4.

~~Certification for Administration of~~ Diagnostic Pharmaceutical Agents.

§ 54.1-3221. "Diagnostic pharmaceutical agents" defined; utilization; acquisition.

A. ~~Certified optometrists~~ *Optometrists certified to administer diagnostic pharmaceutical agents or optometrists licensed after June 30, 1997,* may administer diagnostic pharmaceutical agents only by topical application to the human eye. ~~"Diagnostic~~ *For purposes of this section, "diagnostic* pharmaceutical agents" ~~shall be defined as~~ *means* Schedule VI controlled substances as set forth in the Drug Control Act (§ 54.1-3400 et seq.) that are used for the purpose of examining and determining abnormal or diseased conditions of the human eye or related structures.

B. Any optometrist who utilizes diagnostic pharmaceutical agents without being certified ~~as required by this article~~ *to administer diagnostic pharmaceutical agents or licensed after June 30, 1997,* shall be subject to the disciplinary sanctions provided in this chapter.

C. Licensed drug suppliers or pharmacists are authorized to supply optometrists with diagnostic pharmaceutical agents upon presentation of evidence of Board certification for administration of such drugs *or an optometrist license issued after June 30, 1997*.

§ 54.1-3222. TPA certification; certification for treatment of diseases or abnormal conditions with therapeutic pharmaceutical agents (TPAs).

~~A. The Board shall certify an optometrist to prescribe for and treat diseases or abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents (TPAs), if the optometrist files a written application, accompanied by the fee required by the Board and satisfactory proof that the applicant:~~

~~1. Is licensed by the Board as an optometrist and certified to administer diagnostic pharmaceutical agents pursuant to Article 4 (§ 54.1-3220 et seq.);~~

~~2. Has satisfactorily completed such didactic and clinical training programs for the treatment of diseases and abnormal conditions of the eye and its adnexa as are determined, after consultation with a school or college of optometry and a school of medicine, to be reasonable and necessary by the Board to ensure an appropriate standard of medical care for patients; and~~

~~3. Passes such examinations as are determined to be reasonable and necessary by the Board to ensure an appropriate standard of medical care for patients.~~

~~B.~~ TPA certification shall enable an optometrist to prescribe and administer, within his scope of practice, Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen and Schedules III through VI controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) to treat diseases and abnormal conditions of the human eye and its adnexa as determined by the Board, within the following conditions:

1. Treatment with oral therapeutic pharmaceutical agents shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen, and analgesics included on Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act, which are appropriate to alleviate ocular pain and (ii) other Schedule VI controlled substances as defined in § 54.1-3455 of the Drug Control Act appropriate to treat diseases and abnormal conditions of the human eye and its adnexa.

2. Therapeutic pharmaceutical agents shall include topically applied Schedule VI drugs as defined in § 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.).

3. Administration of therapeutic pharmaceutical agents by injection shall be limited to the treatment of chalazia by means of injection of a steroid included in Schedule VI controlled substances as set forth in § 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.). A TPA-certified optometrist shall provide written evidence to the Board that he has completed a didactic and clinical training course provided by an accredited school or college of optometry that includes training in administration of TPAs by injection prior to administering TPAs by injection pursuant to this subdivision.

4. Treatment of angle closure glaucoma shall be limited to initiation of immediate emergency care.

5. Treatment of infantile or congenital glaucoma shall be prohibited.

6. Treatment through surgery or other invasive modalities shall not be permitted, except as provided in subdivision 3 or for treatment of emergency cases of anaphylactic shock with intramuscular epinephrine.

7. Entities permitted or licensed by the Board of Pharmacy to distribute or dispense drugs, including, but not limited to, wholesale distributors and pharmacists, shall be authorized to supply TPA-certified optometrists with those therapeutic pharmaceutical agents specified by the Board on the TPA-Formulary.

§ 54.1-3223. Regulations relating to therapeutic pharmaceutical agents; TPA-Formulary Committee.

A. The Board shall promulgate such regulations governing the treatment of diseases and abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents by TPA-certified optometrists as are reasonable and necessary to ensure an appropriate standard of medical care for patients, including, but not limited to, determinations of the diseases and abnormal conditions of the human eye and its adnexa that may be treated by TPA-certified optometrists, treatment guidelines, and the drugs specified on the TPA-Formulary.

~~In establishing standards of instruction and training, the Board shall consult with a school or college of optometry and a school or college of medicine and shall set a minimum number of hours of clinical training to be supervised by an~~

~~ophthalmologist. The didactic and clinical training programs may include, but need not be limited to, programs offered or designed either by schools of medicine or schools or colleges of optometry or both or some combination thereof.~~

~~The Board may prepare, administer, and grade appropriate examinations for the certification of optometrists to administer therapeutic pharmaceutical agents or may contract with a school of medicine, school or college of optometry, or other institution or entity to develop, administer, and grade the examinations.~~

In order to maintain a current and appropriate list of therapeutic pharmaceuticals on the TPA-Formulary, current and appropriate treatment guidelines, and current and appropriate determinations of diseases and abnormal conditions of the eye and its adnexa that may be treated by TPA-certified optometrists, the Board may, from time to time, amend such regulations. Such regulations shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.), except to any extent that they may be specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031; the Board's regulations shall, however, comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.). The Board shall, however, conduct a public hearing prior to making amendments to the TPA-Formulary, the treatment guidelines or the determinations of diseases and abnormal conditions of the eye and its adnexa that may be treated by TPA-certified optometrists. Thirty days prior to conducting such hearing, the Board shall give written notice by mail *or electronic means* of the date, time, and place of the hearing to all currently TPA-certified optometrists and any other persons requesting to be notified of the hearings and publish notice of its intention to amend the list in the Virginia Register of Regulations. During the public hearing, interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any TPA-Formulary amendments. Proposed and final amendments of the list shall also be published, pursuant to § 2.2-4031, in the Virginia Register of Regulations. Final amendments to the TPA-Formulary shall become effective upon filing with the Registrar of Regulations. The TPA-Formulary shall be the inclusive list of the therapeutic pharmaceutical agents that a TPA-certified optometrist may prescribe.

B. To assist in the specification of the TPA-Formulary, there shall be a seven-member TPA-Formulary Committee, as follows: three Virginia TPA-certified optometrists to be appointed by the Board of Optometry, one pharmacist appointed by the Board of Pharmacy from among its licensees, two ophthalmologists appointed by the Board of Medicine from among its licensees, and the chairman who shall be appointed by the Board of Optometry from among its members. The ophthalmologists appointed by the Board of Medicine shall have demonstrated, through professional experience, knowledge of the optometric profession. In the event the Board of Pharmacy or the Board of Medicine fails to make appointments to the TPA-Formulary Committee within 30 days following the Board of Optometry's requesting such appointments, or within 30 days following any subsequent vacancy, the Board of Optometry shall appoint such members.

The TPA-Formulary Committee shall recommend to the Board those therapeutic pharmaceutical agents to be included on the TPA-Formulary for the treatment of diseases and abnormal conditions of the eye and its adnexa by TPA-certified optometrists.

2. That § 54.1-3220 of the Code of Virginia is repealed.

CHAPTER 269

An Act to direct the Department of Behavioral Health and Developmental Services, in coordination with the Department of Education and relevant stakeholders, to develop and disseminate best practice standards related to the transition of records and transfer of services for students with disabilities at the age of majority.

[H 1659]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Behavioral Health and Developmental Services (the Department), in coordination with the Department of Education and relevant stakeholders, shall develop and disseminate best practice standards related to the transition of records and transfer of services for students with disabilities at the age of majority. Such best practice standards shall be disseminated to community services boards, behavioral health authorities, local education agencies, and other relevant stakeholders. Such best practice standards shall include information regarding which special education, service, or accommodation records to transfer at the age of majority for those students who are eligible for services, including a student's individualized education program, referrals, evaluations, and assessments. Further, such best practice standards shall include instructional guidance on how and when to transfer records to relevant parties before a student reaches the age of majority. The Department shall utilize existing Department of Education guidance in developing such best practice standards.*

CHAPTER 270

An Act to direct the Department of Behavioral Health and Developmental Services, in coordination with the Department of Education and relevant stakeholders, to develop and disseminate best practice standards related to the transition of records and transfer of services for students with disabilities at the age of majority.

[S 830]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Behavioral Health and Developmental Services (the Department), in coordination with the Department of Education and relevant stakeholders, shall develop and disseminate best practice standards related to the transition of records and transfer of services for students with disabilities at the age of majority. Such best practice standards shall be disseminated to community services boards, behavioral health authorities, local education agencies, and other relevant stakeholders. Such best practice standards shall include information regarding which special education, service, or accommodation records to transfer at the age of majority for those students who are eligible for services, including a student's individualized education program, referrals, evaluations, and assessments. Further, such best practice standards shall include instructional guidance on how and when to transfer records to relevant parties before a student reaches the age of majority. The Department shall utilize existing Department of Education guidance in developing such best practice standards.*

CHAPTER 271

An Act to amend and reenact § 38.2-3418.18 of the Code of Virginia, relating to requiring the Bureau of Insurance to select a new essential health benefits benchmark plan; emergency.

[H 2198]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3418.18 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3418.18. Coverage for formula and enteral nutrition products as medicine.

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services, whose policy, contract, or plan, including any certificate or evidence of coverage issued in connection with such policy, contract, or plan, includes coverage for medicines shall:

1. Classify medically necessary formula and enteral nutrition products as medicine; and

2. Include coverage for medically necessary formula and enteral nutrition products on the same terms and subject to the same conditions imposed on other medicines covered under the policy, contract, or plan.

B. As used in this section:

"Inherited metabolic disorder" means an inherited enzymatic disorder caused by single gene defects involved in the metabolism of amino, organic, or fatty acids.

"Medically necessary formula and enteral nutrition products" means any liquid or solid formulation of formula and enteral nutrition products for covered individuals requiring treatment for an inherited metabolic disorder and for which the covered individual's physician has issued a written order stating that the formula or enteral nutrition product is medically necessary and has been proven effective as a treatment regimen for the covered individual and that the formula or enteral nutrition product is a critical source of nutrition as certified by the physician by diagnosis. The medically necessary formula or enteral products do not need to be the covered individual's primary source of nutrition.

C. The coverage required by this section shall:

1. Apply to the partial or exclusive feeding of a covered individual by means of oral intake or enteral feeding by tube;

2. Include coverage for any medical equipment, supplies, and services that are required to administer the covered formula or enteral nutrition products;

3. Apply only when the formula and enteral nutrition products are (i) furnished pursuant to the prescription or order of a physician or other health care professional qualified to make such prescription or order for the management of an inherited metabolic disorder and (ii) used under medical supervision, which may include a home setting; and

4. Not apply to nutritional supplements taken electively.

D. No insurer, corporation, or health maintenance organization shall impose upon any person receiving benefits for any formula and enteral nutrition products pursuant to this section any (i) copayment, coinsurance payment, or fee that is not equally imposed upon all individuals in the same benefit category, class, coinsurance level, or copayment level receiving benefits for medicines or (ii) reduction in allowable reimbursement for medicine.

E. The provisions of this section shall apply to any policy, contract, or plan delivered, issued for delivery, or renewed in the Commonwealth on and after January 1, 2021.

F. The provisions of this section shall not apply to short-term travel, accident-only, or limited or specified disease policies, contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans, or short-term nonrenewable policies of not more than six months' duration. *The provisions of this section shall not apply to policies, contracts, or plans issued in the individual market or small group markets.*

2. That the provisions of the first enactment of this act shall become effective January 1, 2025, if the federal Centers for Medicare and Medicaid Services approves a new essential health benefits benchmark plan for the 2025 plan year selected by the State Corporation Commission's Bureau of Insurance that includes the coverage described in the third enactment of this act.

3. That the State Corporation Commission's Bureau of Insurance shall select a new essential health benefits benchmark plan for the 2025 plan year that includes, in addition to the essential health benefits package included in the existing benchmark plan, coverage for (i) prosthetic devices and components under the same terms and conditions provided in § 38.2-3418.15:1 of the Code of Virginia and (ii) formula and enteral nutrition products as medicine under the same terms and conditions provided in § 38.2-3418.18 of the Code of Virginia, as amended by this act.

4. That, except as provided in the second enactment of this act, an emergency exists and the provisions of this act are in force from its passage.

CHAPTER 272

An Act to amend and reenact § 38.2-3418.18 of the Code of Virginia, relating to requiring the Bureau of Insurance to select a new essential health benefits benchmark plan; emergency.

[S 1399]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3418.18 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3418.18. Coverage for formula and enteral nutrition products as medicine.

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services, whose policy, contract, or plan, including any certificate or evidence of coverage issued in connection with such policy, contract, or plan, includes coverage for medicines shall:

1. Classify medically necessary formula and enteral nutrition products as medicine; and

2. Include coverage for medically necessary formula and enteral nutrition products on the same terms and subject to the same conditions imposed on other medicines covered under the policy, contract, or plan.

B. As used in this section:

"Inherited metabolic disorder" means an inherited enzymatic disorder caused by single gene defects involved in the metabolism of amino, organic, or fatty acids.

"Medically necessary formula and enteral nutrition products" means any liquid or solid formulation of formula and enteral nutrition products for covered individuals requiring treatment for an inherited metabolic disorder and for which the covered individual's physician has issued a written order stating that the formula or enteral nutrition product is medically necessary and has been proven effective as a treatment regimen for the covered individual and that the formula or enteral nutrition product is a critical source of nutrition as certified by the physician by diagnosis. The medically necessary formula or enteral products do not need to be the covered individual's primary source of nutrition.

C. The coverage required by this section shall:

1. Apply to the partial or exclusive feeding of a covered individual by means of oral intake or enteral feeding by tube;

2. Include coverage for any medical equipment, supplies, and services that are required to administer the covered formula or enteral nutrition products;

3. Apply only when the formula and enteral nutrition products are (i) furnished pursuant to the prescription or order of a physician or other health care professional qualified to make such prescription or order for the management of an inherited metabolic disorder and (ii) used under medical supervision, which may include a home setting; and

4. Not apply to nutritional supplements taken electively.

D. No insurer, corporation, or health maintenance organization shall impose upon any person receiving benefits for any formula and enteral nutrition products pursuant to this section any (i) copayment, coinsurance payment, or fee that is not equally imposed upon all individuals in the same benefit category, class, coinsurance level, or copayment level receiving benefits for medicines or (ii) reduction in allowable reimbursement for medicine.

E. The provisions of this section shall apply to any policy, contract, or plan delivered, issued for delivery, or renewed in the Commonwealth on and after January 1, 2021.

F. The provisions of this section shall not apply to short-term travel, accident-only, or limited or specified disease policies, contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans, or short-term nonrenewable policies of not more than six months' duration. *The provisions of this section shall not apply to policies, contracts, or plans issued in the individual market or small group markets.*

2. That the provisions of the first enactment of this act shall become effective January 1, 2025, if the federal Centers for Medicare and Medicaid Services approves a new essential health benefits benchmark plan for the 2025 plan year selected by the State Corporation Commission's Bureau of Insurance that includes the coverage described in the third enactment of this act.

3. That the State Corporation Commission's Bureau of Insurance shall select a new essential health benefits benchmark plan for the 2025 plan year that includes, in addition to the essential health benefits package included in the existing benchmark plan, coverage for (i) prosthetic devices and components under the same terms and conditions provided in § 38.2-3418.15:1 of the Code of Virginia and (ii) formula and enteral nutrition products as medicine under the same terms and conditions provided in § 38.2-3418.18 of the Code of Virginia, as amended by this act.

4. That, except as provided in the second enactment of this act, an emergency exists and the provisions of this act are in force from its passage.

CHAPTER 273

An Act to amend and reenact §§ 54.1-1500, 54.1-1501, 54.1-1504, and 54.1-1505 of the Code of Virginia, relating to Department of Professional and Occupational Regulation; over-the-counter and prescription hearing aids.

[H 1833]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-1500, 54.1-1501, 54.1-1504, and 54.1-1505 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-1500. Definitions.

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

"Audiologist" means the same as that term is defined in § 54.1-2600.

"Board" means the Board for Hearing Aid Specialists and Opticians.

"Hearing aid" means any wearable instrument or device designed or offered to aid or compensate for impaired human hearing and any parts, attachments, or accessories, including earmolds, but excluding batteries and cords.

"Licensed hearing aid specialist" means any person who is the holder of a hearing aid specialist license issued by the Board for Hearing Aid Specialists and Opticians.

"Licensed optician" means any person who is the holder of an optician license issued by the Board for Hearing Aid Specialists and Opticians.

"Licensed optometrist" means any person authorized by Virginia law to practice optometry.

"Licensed physician" means any person licensed by the Board of Medicine to practice medicine and surgery.

"Optician" means any person not exempted by § 54.1-1506 who prepares or dispenses eyeglasses, spectacles, lenses, or related appurtenances, for the intended wearers or users, on prescriptions from licensed physicians or licensed optometrists, or as duplications or reproductions of previously prepared eyeglasses, spectacles, lenses, or related appurtenances; or who, in accordance with such prescriptions, duplications or reproductions, measures, adapts, fits, and adjusts eyeglasses, spectacles, lenses, or appurtenances, to the human face.

"Over-the-counter hearing aid" means an air-conduction hearing aid that does not require implantation or other surgical intervention and is intended for use by a person age 18 or older to compensate for perceived mild to moderate hearing impairment.

"Practice of audiology" means the same as that term is defined in § 54.1-2600.

"Practice of fitting or dealing in hearing aids" means (i) the measurement of human hearing by means of an audiometer or by any other means solely for the purpose of making selections, adaptations, or sale of hearing aids, (ii) the sale of *prescription* hearing aids, or (iii) the making of impressions for earmolds *for prescription hearing aids*. A practitioner, at the request of a physician or a member of a related profession, may make audiograms for the professional's use in consultation with the hard-of-hearing.

"Prescription hearing aid" means a hearing aid that is not an over-the-counter hearing aid.

"Sell" or "sale" means any transfer of title or of the right to use by lease, bailment, or any other contract, excluding wholesale transactions with distributors or practitioners.

"Temporary permit" means a permit issued while an applicant is in training to become a licensed hearing aid specialist.

§ 54.1-1501. Exemptions; sale of hearing aids by corporations, etc., measuring hearing.

A. Physicians licensed to practice in Virginia and certified by the American Board of Otolaryngology or eligible for such certification shall not be required to pass an examination as a prerequisite to obtaining a license under this chapter.

B. Nothing in this chapter shall prohibit a corporation, partnership, trust, association, or other like organization maintaining an established business address from engaging in the business of selling or offering for sale *prescription* hearing aids at retail without a license, provided that it employs only licensed practitioners in the direct sale and fitting of ~~such products~~ *prescription hearing aids.*

C. Nothing in this chapter shall prohibit any person who does not sell hearing aids or accessories or who is not employed by an organization which sells hearing aids or accessories from engaging in the practice of measuring human hearing for the purpose of selection of hearing aids.

D. Audiologists licensed to practice in Virginia who have earned a doctoral degree in audiology shall not be required to pass an examination as a prerequisite to obtaining a license under this chapter.

§ 54.1-1504. License required.

No person shall engage in the practice of fitting or dealing in *prescription* hearing aids or display a sign or in any other way advertise or represent himself as a person who practices the fitting or dealing of *prescription* hearing aids unless he holds a license as provided in this chapter. *Nothing in this chapter shall be construed as requiring a licensee to engage in the business of selling over-the-counter hearing aids.*

§ 54.1-1505. Return of prescription hearing aid by purchaser or lessee.

A. Within ~~thirty~~ *30* days of the date of delivery, any purchaser or lessee of a *prescription* hearing aid shall be entitled to return ~~the~~ *such* hearing aid for any reason, provided *that* such *hearing* aid is returned in satisfactory condition. Such purchaser or lessee shall be entitled to a replacement or a refund of all charges paid, less a reasonable charge for medical, audiological, and hearing aid evaluation services provided by the hearing aid specialist.

B. The right of a purchaser or lessee to return a *prescription* hearing aid and the charges to be imposed upon the return of such hearing aid, as provided in subsection A of this section, shall be explained and given in writing in at least ~~ten-point~~ *10-point*, bold-faced type to such purchaser or lessee by the hearing aid specialist.

C. The provisions of this section shall be subject to the provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

CHAPTER 274

An Act to amend and reenact §§ 54.1-1500, 54.1-1501, 54.1-1504, and 54.1-1505 of the Code of Virginia, relating to Department of Professional and Occupational Regulation; over-the-counter and prescription hearing aids.

[S 1279]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-1500, 54.1-1501, 54.1-1504, and 54.1-1505 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-1500. Definitions.

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

"Audiologist" means the same as that term is defined in § 54.1-2600.

"Board" means the Board for Hearing Aid Specialists and Opticians.

"Hearing aid" means any wearable instrument or device designed or offered to aid or compensate for impaired human hearing and any parts, attachments, or accessories, including earmolds, but excluding batteries and cords.

"Licensed hearing aid specialist" means any person who is the holder of a hearing aid specialist license issued by the Board for Hearing Aid Specialists and Opticians.

"Licensed optician" means any person who is the holder of an optician license issued by the Board for Hearing Aid Specialists and Opticians.

"Licensed optometrist" means any person authorized by Virginia law to practice optometry.

"Licensed physician" means any person licensed by the Board of Medicine to practice medicine and surgery.

"Optician" means any person not exempted by § 54.1-1506 who prepares or dispenses eyeglasses, spectacles, lenses, or related appurtenances, for the intended wearers or users, on prescriptions from licensed physicians or licensed optometrists, or as duplications or reproductions of previously prepared eyeglasses, spectacles, lenses, or related appurtenances; or who, in accordance with such prescriptions, duplications or reproductions, measures, adapts, fits, and adjusts eyeglasses, spectacles, lenses, or appurtenances, to the human face.

"Over-the-counter hearing aid" means an air-conduction hearing aid that does not require implantation or other surgical intervention and is intended for use by a person age 18 or older to compensate for perceived mild to moderate hearing impairment.

"Practice of audiology" means the same as that term is defined in § 54.1-2600.

"Practice of fitting or dealing in hearing aids" means (i) the measurement of human hearing by means of an audiometer or by any other means solely for the purpose of making selections, adaptations, or sale of hearing aids, (ii) the sale of *prescription* hearing aids, or (iii) the making of impressions for earmolds *for prescription hearing aids*. A practitioner, at the

request of a physician or a member of a related profession, may make audiograms for the professional's use in consultation with the hard-of-hearing.

"Prescription hearing aid" means a hearing aid that is not an over-the-counter hearing aid.

"Sell" or "sale" means any transfer of title or of the right to use by lease, bailment, or any other contract, excluding wholesale transactions with distributors or practitioners.

"Temporary permit" means a permit issued while an applicant is in training to become a licensed hearing aid specialist.

§ 54.1-1501. Exemptions; sale of hearing aids by corporations, etc., measuring hearing.

A. Physicians licensed to practice in Virginia and certified by the American Board of Otolaryngology or eligible for such certification shall not be required to pass an examination as a prerequisite to obtaining a license under this chapter.

B. Nothing in this chapter shall prohibit a corporation, partnership, trust, association, or other like organization maintaining an established business address from engaging in the business of selling or offering for sale *prescription* hearing aids at retail without a license, provided that it employs only licensed practitioners in the direct sale and fitting of ~~such products~~ *prescription hearing aids*.

C. Nothing in this chapter shall prohibit any person who does not sell hearing aids or accessories or who is not employed by an organization which sells hearing aids or accessories from engaging in the practice of measuring human hearing for the purpose of selection of hearing aids.

D. Audiologists licensed to practice in Virginia who have earned a doctoral degree in audiology shall not be required to pass an examination as a prerequisite to obtaining a license under this chapter.

§ 54.1-1504. License required.

No person shall engage in the practice of fitting or dealing in *prescription* hearing aids or display a sign or in any other way advertise or represent himself as a person who practices the fitting or dealing of *prescription* hearing aids unless he holds a license as provided in this chapter. *Nothing in this chapter shall be construed as requiring a licensee to engage in the business of selling over-the-counter hearing aids.*

§ 54.1-1505. Return of prescription hearing aid by purchaser or lessee.

A. Within ~~thirty~~ *30* days of the date of delivery, any purchaser or lessee of a *prescription* hearing aid shall be entitled to return ~~the~~ *such* hearing aid for any reason, provided *that* such *hearing* aid is returned in satisfactory condition. Such purchaser or lessee shall be entitled to a replacement or a refund of all charges paid, less a reasonable charge for medical, audiological, and hearing aid evaluation services provided by the hearing aid specialist.

B. The right of a purchaser or lessee to return a *prescription* hearing aid and the charges to be imposed upon the return of such hearing aid, as provided in subsection A of this section, shall be explained and given in writing in at least ~~ten-point~~ *10-point*, bold-faced type to such purchaser or lessee by the hearing aid specialist.

C. The provisions of this section shall be subject to the provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

CHAPTER 275

An Act to amend and reenact § 40.1-100 of the Code of Virginia, relating to voluntary apprenticeships; persons 16 years of age or older; cosmetology salon.

[S 1363]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 40.1-100 of the Code of Virginia is amended and reenacted as follows:

§ 40.1-100. Certain employment prohibited or limited.

A. No child under 18 years of age shall be employed, permitted, or suffered to work:

1. In any mine, quarry, tunnel, underground scaffolding work; in or about any plant or establishment manufacturing or storing explosives or articles containing explosive components; *or* in any occupation involving exposure to radioactive substances or to ionizing radiations, including X-ray equipment;

2. At operating or assisting to operate any grinding, abrasive, polishing, or buffing machine, any power-driven metal forming, punching, or shearing machine, *any* power-driven bakery machine, *any* power-driven paper products machine, any circular saw, band saw, or guillotine shear, or any power-driven woodworking machine;

3. In oiling or assisting in oiling, wiping, and cleaning any such machinery;

4. In any capacity in preparing any composition in which dangerous or poisonous chemicals are used;

5. In any capacity in the manufacturing of paints, colors, white lead, or brick tile or kindred products, ~~or~~ in any place where goods of alcoholic content are manufactured, bottled, or sold for consumption on the premises, except in places (i) licensed pursuant to subdivision 6 of § 4.1-206.1, provided that a child employed at the premises shall not serve or dispense in any manner alcoholic beverages or (ii) where the sale of alcoholic beverages is merely incidental to the main business actually conducted, or to deliver alcoholic goods;

6. In any capacity in or about excavation, demolition, roofing, wrecking, or shipbreaking operations;

7. As a driver or a helper on an automobile, truck, or commercial vehicle; however, children who are at least 17 years of age may drive automobiles or trucks on public roadways if:

a. The automobile or truck does not exceed 6,000 pounds gross vehicle weight, the vehicle is equipped with seat belts for the driver and any passengers, and the employer requires the employee to use the seatbelts when driving the automobile or truck;

b. Driving is restricted to daylight hours;

c. The employee has a valid ~~State~~ *state* license for the type of driving involved and has no record of any moving violations at the time of hire;

d. The employee has successfully completed a ~~State-approved~~ *state-approved* driver education course;

e. The driving does not involve~~:~~ (i) the towing of vehicles; (ii) route deliveries or route sales; (iii) the transportation for hire of property, goods, or passengers; (iv) urgent, time-sensitive deliveries; or (v) the transporting at any time of more than three passengers, including the employees of the employer;

f. The driving performed by the employee does not involve more than two trips away from the primary place of employment in any single day for the purpose of delivering goods of the employee's employer to a customer;

g. The driving performed by the employee does not involve more than two trips away from the primary place of employment in any single day for the purpose of transporting passengers, other than employees of the employer;

h. The driving takes place within a 30-mile radius of the employee's place of employment; and

i. The driving is only occasional and incidental to the employee's employment and involves no more than one third of the employee's work time in any workday and no more than 20 percent work time in any ~~work week~~ *workweek*;

8. In logging or sawmilling~~,~~ or in any lath mill, shingle mill*,* or cooperage-stock mill~~,~~ or in any occupation involving slaughtering, meatpacking, processing*,* or rendering;

9. In any occupation determined and declared hazardous by rules and regulations promulgated by the Commissioner of Labor and Industry, except as otherwise provided in subsection D.

Notwithstanding the provisions of this section, children 16 years of age or older who are serving a voluntary apprenticeship as provided in Chapter 6 (§ 40.1-117 et seq.) ~~of this title~~ may be employed in any occupation in accordance with rules and regulations promulgated by the Commissioner.

B. Except as part of a regular work-training program in accordance with §§ 40.1-88 and 40.1-89, no child under 16 years of age shall be employed, permitted*,* or suffered to work:

1. In any manufacturing or mechanical establishment~~,~~*;* in any commercial cannery; in the operation of any automatic passenger or freight elevator; in any dance studio; ~~or~~ in any hospital, nursing home, clinic, or other establishment providing care for resident patients as a laboratory helper, therapist, orderly, or nurse's aide; in the service of any veterinarian while treating farm animals or horses; in any warehouse; in processing work in any laundry or dry cleaning establishment; in any undertaking establishment or funeral home; in any curb service restaurant~~,~~*;* in hotel and motel room service; in any brick, coal*,* or lumber yard or ice plant*;* or in ushering in theaters. Children 14 years of age or ~~more~~ *older* may be engaged in office work of a clerical nature in bona fide office rooms in the above types of establishments.

2. In any scaffolding work or construction trade; ~~or~~ in any outdoor theater, cabaret, carnival, fair, floor show, pool hall, club, or roadhouse; or as a lifeguard at a beach.

C. Children 14 years of age or ~~more~~ *older* may be employed by dry cleaning or laundry establishments in branch stores where no processing is done on the premises~~,~~ and in hospitals, nursing homes, and clinics where they may be engaged in kitchen work, tray service*,* or room and hall cleaning. Children 14 years of age or ~~more~~ *older* may be employed in bowling alleys completely equipped with automatic pin setters, but not in or about such machines, and in soda fountains, restaurants*,* and hotel and motel food service departments. Children 14 years of age or ~~more~~ *older* may work as gatekeepers and in concessions at swimming pools and may be employed by concessionaires operating on beaches where their duties and work pertain to the handling and distribution of beach chairs, umbrellas, floats*,* and other similar or related beach equipment.

D. Notwithstanding any other provision of this chapter:

1. Children age 16 years or older employed on farms, in gardens*,* or in orchards may operate, assist in operating, or otherwise perform work involving a truck, excluding a tractor trailer, or farm vehicle*,* as defined in § 46.2-1099, in their employment;

2. Children age 14 years or older employed on farms, in gardens*,* or in orchards may perform work as a helper on a truck or commercial vehicle in their employment, while engaged in such work exclusively on a farm, in a garden*,* or in an orchard;

3. Children age 16 years or older may participate in all activities of a volunteer fire company; however, any such child shall not enter a burning structure or a structure ~~which~~ *that* contains burning materials prior to obtaining certification under National Fire Protection Association 1001, level one, ~~fire fighter~~ *firefighter* standards, pursuant to the provisions of clause (i) of subsection A of § 40.1-79.1, except where entry into a structure that contains burning materials is during training necessary to attain certification under National Fire Protection Association 1001, level one, firefighter standards, as administered by the Department of Fire Programs*;*

4. Children age 16 years or older who are registered apprentices as provided in Chapter 6 (§ 40.1-117 et seq.) may serve in a barbershop or cosmetology salon licensed by the Board for Barbers and Cosmetology in accordance with regulations of the Board for Barbers and Cosmetology.

CHAPTER 276

An Act to amend the Code of Virginia by adding in Article 2 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.15:5.3, relating to requirements to test for PFAS chemicals; publicly owned treatment works.

[H 2189]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.15:5.3 as follows:

§ 62.1-44.15:5.3. Requirements to test for PFAS chemicals; publicly owned treatment works.

A. As used in this section, "PFAS chemical" means (i) Perfluorooctanoic Acid (PFOA), (ii) Perfluorooctane Sulfonate (PFOS), (iii) hexafluoropropylene oxide dimer acid (HFPO-DA), (iv) perfluorobutane sulfonate (PFBS), or (v) any substance in a class of fluorinated organic chemicals containing at least two adjacent fluorinated carbon atoms, where one carbon atom is fully fluorinated and the other atom is at least partially fluorinated, excluding gases and volatile liquids, also referred to as perfluoroalkyl and polyfluoroalkyl substances, identified by a publicly owned treatment works in its pretreatment program for which there is an EPA approved testing method.

B. The pretreatment standards adopted by the Board shall require any industrial user of a publicly owned treatment works that receives and cleans, repairs, refurbishes, or processes any equipment, parts, or media used to treat any water or wastewater from any off-site manufacturing process that the industrial user knows or reasonably should know uses PFAS chemicals to test its wastestream for PFAS chemicals prior to and after cleaning, repairing, refurbishing, or processing such items. The results of such tests shall be transmitted to the receiving publicly owned treatment works within three days of receipt of the test results by the industrial user of the publicly owned treatment works.

CHAPTER 277

An Act to amend and reenact § 28.2-1307 of the Code of Virginia, relating to expedited wetlands permits; Marine Resources Commission.

[S 1152]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 28.2-1307 of the Code of Virginia is amended and reenacted as follows:

§ 28.2-1307. Expedited permits; administrative procedures.

A. The Commission may, in conjunction with local wetlands boards and other affected state and federal agencies, develop administrative procedures to expedite the processing of applications for permits required under this chapter. Whenever an application is received by the Commission for a permit over which a local board has jurisdiction under a wetlands zoning ordinance, the Commission shall forward a copy of the application to that board within seven days.

B. The Commission shall, in conjunction with local wetlands boards and other affected state and federal agencies, develop an expedited process for issuing general wetlands permits to be used by applicants during emergency situations in which a determination has been made that there is a threat to public or private property, or to the health and safety of the public. The development of the general wetlands permit shall be in accordance with subdivision A 8 of § 2.2-4006.

C. The Commission shall, in conjunction with local wetlands boards and other affected state and federal agencies, develop administrative procedures to expedite the processing of applications from agencies of the United States government, including any branch of the Armed Forces of the United States, for permits required under this chapter.

CHAPTER 278

An Act to amend and reenact § 8.01-418 of the Code of Virginia, relating to finding of guilt in absentia; proof of such finding in a civil action.

[H 1440]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-418 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-418. When plea of guilty or nolo contendere, finding of guilt in absentia, or forfeiture in criminal prosecution or traffic case admissible in civil action; proof of such plea, finding, or forfeiture.

Whenever, in any civil action, it is contended that any party thereto pled guilty or nolo contendere ~~or~~*, was found guilty in absentia, or* suffered a forfeiture in a prosecution for a criminal offense or traffic infraction which arose out of the same occurrence upon which the civil action is based, evidence of said plea*, finding,* or forfeiture as shown by the records of the criminal court shall be admissible. Where the records of the court in which such prosecution was had are silent or

ambiguous as to whether or not such plea *or finding* was made or forfeiture occurred, the court hearing the civil case shall admit such evidence on the question of such plea, *finding,* or forfeiture as may be relevant, and the question of whether such plea *or finding* was made or forfeiture suffered shall be a question for the court to determine.

CHAPTER 279

An Act to amend and reenact § 18.2-308.07 of the Code of Virginia, relating to concealed handgun permits; Virginia Criminal Information Network; disclosure of information.

[H 2449]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308.07 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-308.07. Entry of information into the Virginia Criminal Information Network.

A. An order issuing a concealed handgun permit pursuant to § 18.2-308.04, or the copy of the permit application certified by the clerk as a de facto permit pursuant to § 18.2-308.05, shall be provided to the State Police and the law-enforcement agencies of the county or city by the clerk of the court. The State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status will be made known to law-enforcement personnel accessing the Network for investigative purposes.

B. The Department of State Police shall enter the name and description of a person issued a nonresident permit pursuant to § 18.2-308.06 in the Virginia Criminal Information Network so that the permit's existence and current status are known to law-enforcement personnel accessing the Network for investigative purposes.

C. The State Police shall withhold from public disclosure permittee information submitted to the State Police for purposes of entry into the Virginia Criminal Information Network, except that such information shall not be withheld from any law-enforcement agency, officer, or authorized agent thereof acting in the performance of official law-enforcement duties *when such information is related to an ongoing criminal investigation or prosecution*, nor shall such information be withheld from an entity that has a valid contract with any local, state, or federal law-enforcement agency for the purpose of performing official duties of the law-enforcement agency *when such information is related to an ongoing criminal investigation or prosecution*. However, nothing in this subsection shall be construed to prohibit the release of (i) records by the State Police concerning permits issued to nonresidents of the Commonwealth pursuant to § 18.2-308.06 or (ii) statistical summaries, abstracts, or other records containing information in an aggregate form that does not identify any individual permittees.

CHAPTER 280

An Act to amend the Code of Virginia by adding a section numbered 22.1-217.3, relating to public high schools; special education; identification of faculty member responsible for school transition planning and coordination.

[H 1554]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-217.3 as follows:

§ 22.1-217.3. Special education transition; identification of faculty member responsible for school transition and planning coordination.

Each public high school in the Commonwealth shall publicly identify on its official website the faculty member responsible for special education transition planning and coordination at such high school.

CHAPTER 281

An Act to amend the Code of Virginia by adding a section numbered 22.1-217.3, relating to public high schools; special education; identification of faculty member responsible for school transition planning and coordination.

[S 943]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-217.3 as follows:

§ 22.1-217.3. Special education transition; identification of faculty member responsible for school transition and planning coordination.

Each public high school in the Commonwealth shall publicly identify on its official website the faculty member responsible for special education transition planning and coordination at such high school.

CHAPTER 282

An Act to amend and reenact §§ 9.1-184, 19.2-83.1, 19.2-291.1, 22.1-279.8, and 60.2-114 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-299.3, relating to reports of certain arrests and convictions of certain individuals to division safety officials; employment verification; method of submission; compilation.

[H 1704]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-184, 19.2-83.1, 19.2-291.1, 22.1-279.8, and 60.2-114 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-299.3 as follows:

§ 9.1-184. Virginia Center for School and Campus Safety created; duties.

A. From such funds as may be appropriated, the Virginia Center for School and Campus Safety (the Center) is hereby established within the Department. The Center shall:

1. Provide training for Virginia public school personnel in school safety, on evidence-based antibullying tactics based on the definition of bullying in § 22.1-276.01, and in the effective identification of students who may be at risk for violent behavior and in need of special services or assistance;

2. Serve as a resource and referral center for Virginia school divisions by conducting research, sponsoring workshops, and providing information regarding current school safety concerns, such as conflict management and peer mediation, bullying as defined in § 22.1-276.01, school facility design and technology, current state and federal statutory and regulatory school safety requirements, and legal and constitutional issues regarding school safety and individual rights;

3. Maintain and disseminate information to local school divisions on effective school safety initiatives in Virginia and across the nation;

4. Develop a case management tool for the collection and reporting of data by threat assessment teams pursuant to § 22.1-79.4;

5. Collect, analyze, and disseminate various Virginia school safety data, including school safety audit information submitted to it pursuant to § 22.1-279.8, collected by the Department and, in conjunction with the Department of Education, information relating to the activities of school resource officers submitted pursuant to § 22.1-279.10;

6. Encourage the development of partnerships between the public and private sectors to promote school safety in Virginia;

7. Provide technical assistance to Virginia school divisions in the development and implementation of initiatives promoting school safety, including threat assessment-based protocols with such funds as may be available for such purpose;

8. Develop a memorandum of understanding between the Director of the Department of Criminal Justice Services and the Superintendent of Public Instruction to ensure collaboration and coordination of roles and responsibilities in areas of mutual concern, such as school safety audits and crime prevention;

9. Provide training for and certification of school security officers, as defined in § 9.1-101 and consistent with § 9.1-110;

10. Develop, in conjunction with the Department of State Police, the Department of Behavioral Health and Developmental Services, and the Department of Education, a model critical incident response training program for public school personnel and others providing services to schools that shall also be made available to private schools in the Commonwealth;

11. In consultation with the Department of Education, provide schools with a model policy for the establishment of threat assessment teams, including procedures for the assessment of and intervention with students whose behavior poses a threat to the safety of school staff or students; ~~and~~

12. Develop a model memorandum of understanding setting forth the respective roles and responsibilities of local school boards and local law-enforcement agencies regarding the use of school resource officers. Such model memorandum of understanding may be used by local school boards and local law-enforcement agencies to satisfy the requirements of subsection A of § 22.1-280.2:3*; and*

13. Designate an employee of the Center as the school personnel safety official for the Commonwealth whose duty is to compile, maintain, and make publicly available a list of each division safety official designated and the contact information for such individual included in each collated packet of school safety audits received pursuant to subsection B of § 22.1-279.8. Such school personnel safety official for the Commonwealth shall at least annually confirm with each division superintendent that such contact information is up to date and accurate.

B. All agencies of the Commonwealth shall cooperate with the Center and, upon request, assist the Center in the performance of its duties and responsibilities.

§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.

A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or *any* other employee in any ~~public~~ *local* school division in ~~this~~ *the* Commonwealth for a felony or a Class 1 misdemeanor or an equivalent offense in another state*,* shall file

a report of such arrest with the division ~~superintendent of~~ *safety official designated pursuant to subsection F of § 22.1-279.8 in* the ~~employing~~ *school* division *in which such person is employed* as soon as practicable *but no later than 48 hours after such arrest*. The contents of the report required pursuant to this ~~section~~ *subsection* shall be utilized by the local school division solely to implement the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

B. *The report required pursuant to subsection A shall be transmitted to the division safety official (i) via certified mail, return receipt requested, to the mailing address identified by the division superintendent pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and email address identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any certified mail return receipt shall be retained in the case file.*

C. In the event that the law-enforcement agency has existing access to Virginia Employment Commission records, each arresting official shall request in writing that the Virginia Employment Commission provide the name of the current employer of each person arrested for an offense set forth in § 9.1-902 for purposes of determining whether a report is required pursuant to subsection A.

D. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony~~,~~ shall file a report, as soon as practicable, with the division superintendent of the school division in which the student is enrolled upon arresting a person who is known or discovered by the arresting official to be a student age 18 or older in any ~~public~~ *local* school division in ~~this~~ *the* Commonwealth for:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

9. Robbery pursuant to § 18.2-58;

10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

12. An act of violence by a mob pursuant to § 18.2-42.1; or

13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

§ 19.2-291.1. Report of conviction of school employees for certain offenses.

A. The clerk of any circuit court or any district court in the Commonwealth shall report to the Superintendent of Public Instruction and the ~~division superintendent of any employing~~ *division safety official designated pursuant to subsection F of § 22.1-279.8 in the local* school division ~~the~~ *in which the person is employed a felony* conviction of any person~~,~~ known by such clerk to ~~hold a license issued by the Board of Education, for any felony involving the sexual molestation, physical or sexual abuse, or rape of a child or involving drugs pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2~~ *be employed by such local school division as soon as practicable but no later than seven days after the order convicting the defendant is signed.*

B. The report required pursuant to subsection A shall be transmitted to the division safety official (i) via certified mail, return receipt requested, to the mailing address identified by the division superintendent pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and email address identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any certified mail return receipt shall be retained in the case file.

§ 19.2-299.3. Report of arrest and conviction of school employees by probation and parole officers for certain offenses.

A. Any probation and parole officer who is supervising a person employed by a local school division in the Commonwealth, upon discovering that such supervised person has been arrested or convicted of a felony offense or an equivalent offense in another state, shall report such arrest or conviction to the Superintendent of Public Instruction and the division safety official designated pursuant to subsection F of § 22.1-279.8 in the local school division in which such supervised person is employed as soon as practicable.

B. The report required pursuant to subsection A shall be transmitted to the division safety official (i) via certified mail, return receipt requested, to the mailing address identified by the division superintendent pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and email address identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any certified mail return receipt shall be retained in the case file.

§ 22.1-279.8. School safety audits and school crisis, emergency management, and medical emergency response plans required.

A. For the purposes of this section, unless the context requires otherwise:

"School crisis, emergency management, and medical emergency response plan" means the essential procedures, operations, and assignments required to prevent, manage, and respond to a critical event or emergency, including natural disasters involving fire, flood, tornadoes, or other severe weather; loss or disruption of power, water, communications or shelter; bus or other accidents; medical emergencies, including cardiac arrest and other life-threatening medical

emergencies; student or staff member deaths; explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to hazardous substances; the presence of unauthorized persons or trespassers; the loss, disappearance or kidnapping of a student; hostage situations; violence on school property or at school activities; incidents involving acts of terrorism; and other incidents posing a serious threat of harm to students, personnel, or facilities. The plan shall include a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies.

"School safety audit" means a written assessment of the safety conditions in each public school to (i) identify and, if necessary, develop solutions for physical safety concerns, including building security issues, and (ii) identify and evaluate any patterns of student safety concerns occurring on school property or at school-sponsored events. Solutions and responses shall include recommendations for structural adjustments, changes in school safety procedures, and revisions to the school board's standards for student conduct.

B. The Virginia Center for School and Campus Safety, in consultation with the Department of Education, shall develop a list of items to be reviewed and evaluated in the school safety audits required by this section. Such items shall include those incidents reported to school authorities pursuant to § 22.1-279.3:1 and shall include a school inspection walk-through using a standardized checklist provided by the Virginia Center for School and Campus Safety, which shall incorporate crime prevention through environmental design principles.

The Virginia Center for School and Campus Safety shall prescribe a standardized report format for school safety audits, additional reporting criteria, and procedures for report submission, which may include instructions for electronic submission.

Each local school board shall require all schools under its supervisory control to annually conduct school safety audits, as defined in this section, consistent with such list and in collaboration with the chief law-enforcement officer of the locality or his designee. As part of each such audit, the school board shall create a detailed and accurate floor plan for each public school building in the local school division or shall certify that the existing floor plan for each such school is sufficiently detailed and accurate.

The results of such school safety audits shall be made public within 90 days of completion pursuant to this subsection. The local school board shall retain authority to withhold or limit the release of any security plans, walk-through checklists, floor plans, and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The completed walk-through checklist shall be made available to the chief law-enforcement officer of the locality or his designee. Each school shall maintain a copy of the school safety audit, which may exclude such security plans, walk-through checklists, and vulnerability assessment components, within the office of the school principal and shall make a copy of such report available for review upon written request.

Each school shall submit a copy of its school safety audit to the relevant school division superintendent. The division superintendent shall collate and submit all such school safety audits, in the prescribed format and manner of submission, to the Virginia Center for School and Campus Safety and shall make available to the chief law-enforcement officer of the locality the results of such audits for his review and recommendations.

C. The division superintendent shall establish a school safety audit committee to include, if available, representatives of parents, teachers, local law-enforcement, emergency services agencies, local community services boards, and judicial and public safety personnel. The school safety audit committee shall review the completed school safety audits and submit any plans, as needed, for improving school safety to the division superintendent for submission to the local school board.

D. Each school board shall ensure that every school that it supervises shall develop a written school crisis, emergency management, and medical emergency response plan, consistent with the definition provided in this section, and shall include the chief law-enforcement officer, the fire chief, the chief of the emergency medical services agency, the executive director of the relevant regional emergency medical services council, and the emergency management official of the locality, or their designees, in the development of such plans. Each school division shall designate an emergency manager. The Department of Education and the Virginia Center for School and Campus Safety shall provide technical assistance to the school divisions of the Commonwealth in the development of the school crisis, emergency management, and medical emergency response plans that describe the components of a medical emergency response plan developed in coordination with local emergency medical services providers, the training of school personnel and students to respond to a life-threatening emergency, and the equipment required for this emergency response. The local school board, the chief law-enforcement officer, the fire chief, the chief of the emergency medical services agency, the executive director of the relevant regional emergency medical services council, and the emergency management official of the locality, or their designees, shall annually review the written school crisis, emergency management, and medical emergency response plans. The local school board shall have the authority to withhold or limit the review of any security plans and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The local school division superintendent shall certify this review in writing to the Virginia Center for School and Campus Safety no later than August 31 of each year.

Upon consultation with local school boards, division superintendents, the Virginia Center for School and Campus Safety, and the Coordinator of Emergency Management, the Board of Education shall develop, and may revise as it deems necessary, a model school crisis, emergency management, and medical emergency response plan for the purpose of assisting

the public schools in ~~Virginia~~ *the Commonwealth* in developing viable, effective crisis, emergency management, and medical emergency response plans. Such model shall set forth recommended effective procedures and means by which parents can contact the relevant school or school division regarding the location and safety of their school children and by which school officials may contact parents, with parental approval, during a critical event or emergency.

E. Each school board shall ensure that every public school it supervises employs at least one school administrator who has completed, either in-person or online, school safety training for public school personnel conducted by the Virginia Center for School and Campus Safety in accordance with subdivision A 1 of § 9.1-184. However, such requirement shall not apply if such required training is not available online.

F. Each division superintendent shall annually designate an employee in the local school division as the division safety official whose duty is to receive all reports required pursuant to subsection A of § 19.2-83.1 and §§ 19.2-291.1 and 19.2-299.3 and shall include such designation in the collated packet of school safety audits submitted to the Virginia Center for School and Campus Safety pursuant to subsection B. The designation required by this subsection shall include updated contact information for the division safety official, including (i) a current mailing address, (ii) a current working daytime phone number, (iii) a current functional email address, and (iv) a current functional fax number. It shall be the duty of the division superintendent to update contact information required by this subsection within 48 hours of any change to such contact information.

§ 60.2-114. Records and reports.

A. Each employing unit shall keep true and accurate work records, containing such information as the Commission may prescribe. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Commission deems necessary for the effective administration of this title. Information thus obtained shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the employing unit's identity, except as the Commissioner or his delegates deem appropriate, nor shall such information be used in any judicial or administrative proceeding other than one arising out of the provisions of this title; however, the Commission shall make its records about a claimant available to the Workers' Compensation Commission if it requests such records. However, any claimant at a hearing before an appeal tribunal or the Commission shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Notwithstanding other provisions of this section, the Commissioner, or his delegate, may, in his discretion, reveal information when such communication is not inconsistent with the proper administration of this title.

B. Notwithstanding the provisions of subsection A, the Commission shall, on a reimbursable basis, furnish wage and unemployment compensation information contained in its records to the Secretary of Health and Human Services and the Division of Child Support Enforcement of the Department of Social Services for their use as necessary for the purposes of the National Directory of New Hires established under § 453(i) of the Social Security Act.

C. Notwithstanding the provisions of subsection A, the Commission shall, upon written request, furnish:

1. Any agency or political subdivision of the Commonwealth, or its designated agent, such information as it may require for the purpose of collecting fines, penalties, and costs owed to the Commonwealth or its political subdivisions. Such information shall not be published or used in any administrative or judicial proceeding, except in matters arising out of the collection of fines, penalties, and costs owed to the Commonwealth or its political subdivisions; ~~and~~

2. The Virginia Economic Development Partnership Authority such information as it may require to facilitate the administration and enforcement by the Authority of performance agreements with businesses that have received incentive awards. Any information provided to the Authority under this subdivision shall be confidential pursuant to 20 C.F.R. Part 603 and shall only be disclosed to members of the Authority who are public officials or employees of the Authority for the performance of their official duties. No public official or employee shall redisclose any confidential information obtained pursuant to this subdivision to nonlegislative citizen members of the Authority or to the public. Any information so provided shall be used by the Authority solely for the purpose of verifying employment and wage claims of those businesses that have received incentive awards*; and*

3. An arresting official such information as he may require to comply with the provisions of § 19.2-83.1. Such information shall not be published or used in any administrative or judicial proceeding.

D. Each employing unit shall report to the Virginia New Hire Reporting Center the employment of any newly hired employee in compliance with § 63.2-1946.

E. Any member or employee of the Commission and any member, employee, or agent of any agency or political subdivision of the Commonwealth who violates any provision of this section shall be guilty of a Class 2 misdemeanor.

2. That the provisions of subsection C of § 19.2-83.1 and § 60.2-114 of the Code of Virginia, as amended by this act, shall expire on July 1, 2027.

CHAPTER 283

An Act to amend and reenact §§ 9.1-184, 19.2-83.1, 19.2-291.1, 22.1-279.8, and 60.2-114 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-299.3, relating to reports of certain arrests and

convictions of certain individuals to division safety officials; employment verification; method of submission; compilation.

[S 821]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-184, 19.2-83.1, 19.2-291.1, 22.1-279.8, and 60.2-114 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-299.3 as follows:

§ 9.1-184. Virginia Center for School and Campus Safety created; duties.

A. From such funds as may be appropriated, the Virginia Center for School and Campus Safety (the Center) is hereby established within the Department. The Center shall:

1. Provide training for Virginia public school personnel in school safety, on evidence-based antibullying tactics based on the definition of bullying in § 22.1-276.01, and in the effective identification of students who may be at risk for violent behavior and in need of special services or assistance;

2. Serve as a resource and referral center for Virginia school divisions by conducting research, sponsoring workshops, and providing information regarding current school safety concerns, such as conflict management and peer mediation, bullying as defined in § 22.1-276.01, school facility design and technology, current state and federal statutory and regulatory school safety requirements, and legal and constitutional issues regarding school safety and individual rights;

3. Maintain and disseminate information to local school divisions on effective school safety initiatives in Virginia and across the nation;

4. Develop a case management tool for the collection and reporting of data by threat assessment teams pursuant to § 22.1-79.4;

5. Collect, analyze, and disseminate various Virginia school safety data, including school safety audit information submitted to it pursuant to § 22.1-279.8, collected by the Department and, in conjunction with the Department of Education, information relating to the activities of school resource officers submitted pursuant to § 22.1-279.10;

6. Encourage the development of partnerships between the public and private sectors to promote school safety in Virginia;

7. Provide technical assistance to Virginia school divisions in the development and implementation of initiatives promoting school safety, including threat assessment-based protocols with such funds as may be available for such purpose;

8. Develop a memorandum of understanding between the Director of the Department of Criminal Justice Services and the Superintendent of Public Instruction to ensure collaboration and coordination of roles and responsibilities in areas of mutual concern, such as school safety audits and crime prevention;

9. Provide training for and certification of school security officers, as defined in § 9.1-101 and consistent with § 9.1-110;

10. Develop, in conjunction with the Department of State Police, the Department of Behavioral Health and Developmental Services, and the Department of Education, a model critical incident response training program for public school personnel and others providing services to schools that shall also be made available to private schools in the Commonwealth;

11. In consultation with the Department of Education, provide schools with a model policy for the establishment of threat assessment teams, including procedures for the assessment of and intervention with students whose behavior poses a threat to the safety of school staff or students; ~~and~~

12. Develop a model memorandum of understanding setting forth the respective roles and responsibilities of local school boards and local law-enforcement agencies regarding the use of school resource officers. Such model memorandum of understanding may be used by local school boards and local law-enforcement agencies to satisfy the requirements of subsection A of § 22.1-280.2:3*; and*

13. Designate an employee of the Center as the school personnel safety official for the Commonwealth whose duty is to compile, maintain, and make publicly available a list of each division safety official designated and the contact information for such individual included in each collated packet of school safety audits received pursuant to subsection B of § 22.1-279.8. Such school personnel safety official for the Commonwealth shall at least annually confirm with each division superintendent that such contact information is up to date and accurate.

B. All agencies of the Commonwealth shall cooperate with the Center and, upon request, assist the Center in the performance of its duties and responsibilities.

§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.

A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or *any* other employee in any ~~public~~ *local* school division in ~~this~~ *the* Commonwealth for a felony or a Class 1 misdemeanor or an equivalent offense in another state*,* shall file a report of such arrest with the division ~~superintendent of~~ *safety official designated pursuant to subsection F of § 22.1-279.8 in* the ~~employing~~ *school* division *in which such person is employed* as soon as practicable *but no later than 48 hours after such arrest*. The contents of the report required pursuant to this ~~section~~ *subsection* shall be utilized by the local school division solely to implement the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

B. *The report required pursuant to subsection A shall be transmitted to the division safety official (i) via certified mail, return receipt requested, to the mailing address identified by the division superintendent pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and email address identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any certified mail return receipt shall be retained in the case file.*

C. In the event that the law-enforcement agency has existing access to Virginia Employment Commission records, each arresting official shall request in writing that the Virginia Employment Commission provide the name of the current employer of each person arrested for an offense set forth in § 9.1-902 for purposes of determining whether a report is required pursuant to subsection A.

D. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony~~,~~ shall file a report, as soon as practicable, with the division superintendent of the school division in which the student is enrolled upon arresting a person who is known or discovered by the arresting official to be a student age 18 or older in any ~~public~~ *local* school division in ~~this~~ *the* Commonwealth for:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

9. Robbery pursuant to § 18.2-58;

10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

12. An act of violence by a mob pursuant to § 18.2-42.1; or

13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

§ 19.2-291.1. Report of conviction of school employees for certain offenses.

A. The clerk of any circuit court or any district court in the Commonwealth shall report to the Superintendent of Public Instruction and the ~~division superintendent of any employing~~ *division safety official designated pursuant to subsection F of § 22.1-279.8 in the local* school division ~~the~~ *in which the person is employed a felony* conviction of any person~~,~~ known by such clerk to ~~hold a license issued by the Board of Education, for any felony involving the sexual molestation, physical or sexual abuse, or rape of a child or involving drugs pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2~~ *be employed by such local school division as soon as practicable but no later than seven days after the order convicting the defendant is signed.*

B. The report required pursuant to subsection A shall be transmitted to the division safety official (i) via certified mail, return receipt requested, to the mailing address identified by the division superintendent pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and email address identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any certified mail return receipt shall be retained in the case file.

§ 19.2-299.3. Report of arrest and conviction of school employees by probation and parole officers for certain offenses.

A. Any probation and parole officer who is supervising a person employed by a local school division in the Commonwealth, upon discovering that such supervised person has been arrested or convicted of a felony offense or an equivalent offense in another state, shall report such arrest or conviction to the Superintendent of Public Instruction and the division safety official designated pursuant to subsection F of § 22.1-279.8 in the local school division in which such supervised person is employed as soon as practicable.

B. The report required pursuant to subsection A shall be transmitted to the division safety official (i) via certified mail, return receipt requested, to the mailing address identified by the division superintendent pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and email address identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any certified mail return receipt shall be retained in the case file.

§ 22.1-279.8. School safety audits and school crisis, emergency management, and medical emergency response plans required.

A. For the purposes of this section, unless the context requires otherwise:

"School crisis, emergency management, and medical emergency response plan" means the essential procedures, operations, and assignments required to prevent, manage, and respond to a critical event or emergency, including natural disasters involving fire, flood, tornadoes, or other severe weather; loss or disruption of power, water, communications or shelter; bus or other accidents; medical emergencies, including cardiac arrest and other life-threatening medical emergencies; student or staff member deaths; explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to hazardous substances; the presence of unauthorized persons or trespassers; the loss, disappearance or kidnapping of a student; hostage situations; violence on school property or at school activities; incidents involving acts of terrorism; and other incidents posing a serious threat of harm to students, personnel, or facilities. The plan shall include a

provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies.

"School safety audit" means a written assessment of the safety conditions in each public school to (i) identify and, if necessary, develop solutions for physical safety concerns, including building security issues, and (ii) identify and evaluate any patterns of student safety concerns occurring on school property or at school-sponsored events. Solutions and responses shall include recommendations for structural adjustments, changes in school safety procedures, and revisions to the school board's standards for student conduct.

B. The Virginia Center for School and Campus Safety, in consultation with the Department of Education, shall develop a list of items to be reviewed and evaluated in the school safety audits required by this section. Such items shall include those incidents reported to school authorities pursuant to § 22.1-279.3:1 and shall include a school inspection walk-through using a standardized checklist provided by the Virginia Center for School and Campus Safety, which shall incorporate crime prevention through environmental design principles.

The Virginia Center for School and Campus Safety shall prescribe a standardized report format for school safety audits, additional reporting criteria, and procedures for report submission, which may include instructions for electronic submission.

Each local school board shall require all schools under its supervisory control to annually conduct school safety audits, as defined in this section, consistent with such list and in collaboration with the chief law-enforcement officer of the locality or his designee. As part of each such audit, the school board shall create a detailed and accurate floor plan for each public school building in the local school division or shall certify that the existing floor plan for each such school is sufficiently detailed and accurate.

The results of such school safety audits shall be made public within 90 days of completion pursuant to this subsection. The local school board shall retain authority to withhold or limit the release of any security plans, walk-through checklists, floor plans, and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The completed walk-through checklist shall be made available to the chief law-enforcement officer of the locality or his designee. Each school shall maintain a copy of the school safety audit, which may exclude such security plans, walk-through checklists, and vulnerability assessment components, within the office of the school principal and shall make a copy of such report available for review upon written request.

Each school shall submit a copy of its school safety audit to the relevant school division superintendent. The division superintendent shall collate and submit all such school safety audits, in the prescribed format and manner of submission, to the Virginia Center for School and Campus Safety and shall make available to the chief law-enforcement officer of the locality the results of such audits for his review and recommendations.

C. The division superintendent shall establish a school safety audit committee to include, if available, representatives of parents, teachers, local law-enforcement, emergency services agencies, local community services boards, and judicial and public safety personnel. The school safety audit committee shall review the completed school safety audits and submit any plans, as needed, for improving school safety to the division superintendent for submission to the local school board.

D. Each school board shall ensure that every school that it supervises shall develop a written school crisis, emergency management, and medical emergency response plan, consistent with the definition provided in this section, and shall include the chief law-enforcement officer, the fire chief, the chief of the emergency medical services agency, the executive director of the relevant regional emergency medical services council, and the emergency management official of the locality, or their designees, in the development of such plans. Each school division shall designate an emergency manager. The Department of Education and the Virginia Center for School and Campus Safety shall provide technical assistance to the school divisions of the Commonwealth in the development of the school crisis, emergency management, and medical emergency response plans that describe the components of a medical emergency response plan developed in coordination with local emergency medical services providers, the training of school personnel and students to respond to a life-threatening emergency, and the equipment required for this emergency response. The local school board, the chief law-enforcement officer, the fire chief, the chief of the emergency medical services agency, the executive director of the relevant regional emergency medical services council, and the emergency management official of the locality, or their designees, shall annually review the written school crisis, emergency management, and medical emergency response plans. The local school board shall have the authority to withhold or limit the review of any security plans and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The local school division superintendent shall certify this review in writing to the Virginia Center for School and Campus Safety no later than August 31 of each year.

Upon consultation with local school boards, division superintendents, the Virginia Center for School and Campus Safety, and the Coordinator of Emergency Management, the Board of Education shall develop, and may revise as it deems necessary, a model school crisis, emergency management, and medical emergency response plan for the purpose of assisting the public schools in ~~Virginia~~ *the Commonwealth* in developing viable, effective crisis, emergency management, and medical emergency response plans. Such model shall set forth recommended effective procedures and means by which parents can contact the relevant school or school division regarding the location and safety of their school children and by which school officials may contact parents, with parental approval, during a critical event or emergency.

E. Each school board shall ensure that every public school it supervises employs at least one school administrator who has completed, either in-person or online, school safety training for public school personnel conducted by the Virginia Center for School and Campus Safety in accordance with subdivision A 1 of § 9.1-184. However, such requirement shall not apply if such required training is not available online.

F. Each division superintendent shall annually designate an employee in the local school division as the division safety official whose duty is to receive all reports required pursuant to subsection A of § 19.2-83.1 and §§ 19.2-291.1 and 19.2-299.3 and shall include such designation in the collated packet of school safety audits submitted to the Virginia Center for School and Campus Safety pursuant to subsection B. The designation required by this subsection shall include updated contact information for the division safety official, including (i) a current mailing address, (ii) a current working daytime phone number, (iii) a current functional email address, and (iv) a current functional fax number. It shall be the duty of the division superintendent to update contact information required by this subsection within 48 hours of any change to such contact information.

§ 60.2-114. Records and reports.

A. Each employing unit shall keep true and accurate work records, containing such information as the Commission may prescribe. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Commission deems necessary for the effective administration of this title. Information thus obtained shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the employing unit's identity, except as the Commissioner or his delegates deem appropriate, nor shall such information be used in any judicial or administrative proceeding other than one arising out of the provisions of this title; however, the Commission shall make its records about a claimant available to the Workers' Compensation Commission if it requests such records. However, any claimant at a hearing before an appeal tribunal or the Commission shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Notwithstanding other provisions of this section, the Commissioner, or his delegate, may, in his discretion, reveal information when such communication is not inconsistent with the proper administration of this title.

B. Notwithstanding the provisions of subsection A, the Commission shall, on a reimbursable basis, furnish wage and unemployment compensation information contained in its records to the Secretary of Health and Human Services and the Division of Child Support Enforcement of the Department of Social Services for their use as necessary for the purposes of the National Directory of New Hires established under § 453(i) of the Social Security Act.

C. Notwithstanding the provisions of subsection A, the Commission shall, upon written request, furnish:

1. Any agency or political subdivision of the Commonwealth, or its designated agent, such information as it may require for the purpose of collecting fines, penalties, and costs owed to the Commonwealth or its political subdivisions. Such information shall not be published or used in any administrative or judicial proceeding, except in matters arising out of the collection of fines, penalties, and costs owed to the Commonwealth or its political subdivisions; ~~and~~

2. The Virginia Economic Development Partnership Authority such information as it may require to facilitate the administration and enforcement by the Authority of performance agreements with businesses that have received incentive awards. Any information provided to the Authority under this subdivision shall be confidential pursuant to 20 C.F.R. Part 603 and shall only be disclosed to members of the Authority who are public officials or employees of the Authority for the performance of their official duties. No public official or employee shall redisclose any confidential information obtained pursuant to this subdivision to nonlegislative citizen members of the Authority or to the public. Any information so provided shall be used by the Authority solely for the purpose of verifying employment and wage claims of those businesses that have received incentive awards*; and*

3. An arresting official such information as he may require to comply with the provisions of § 19.2-83.1. Such information shall not be published or used in any administrative or judicial proceeding.

D. Each employing unit shall report to the Virginia New Hire Reporting Center the employment of any newly hired employee in compliance with § 63.2-1946.

E. Any member or employee of the Commission and any member, employee, or agent of any agency or political subdivision of the Commonwealth who violates any provision of this section shall be guilty of a Class 2 misdemeanor.

2. That the provisions of subsection C of § 19.2-83.1 and § 60.2-114 of the Code of Virginia, as amended by this act, shall expire on July 1, 2027.

CHAPTER 284

An Act to direct the Virginia Institute of Marine Science to develop plans for studying the ecology, fishery impacts, and economic importance of menhaden populations in the waters of the Commonwealth; report.

[S 1388]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Virginia Institute of Marine Science (VIMS) shall develop plans for studying the ecology, fishery impacts, and economic importance of menhaden populations in the waters of the Commonwealth. Such plans shall (i) include anticipated methodologies, timelines, and costs; (ii) identify relevant stakeholders for participation; and (iii) state whether VIMS is the most appropriate entity to perform the study. In developing the plans, VIMS shall collaborate with and receive input from the Menhaden Management Advisory Committee established in § 28.2-208.2 of the Code of Virginia and the Atlantic Menhaden Technical Committee of the Atlantic States Marine Fisheries Commission and other relevant stakeholders.*

VIMS shall, no later than September 1, 2023, provide a report on its findings to the Chairmen of the Senate Committee on Agriculture, Conservation and Natural Resources and the House Committee on Agriculture, Chesapeake and Natural Resources and the Secretary of Natural and Historic Resources.

CHAPTER 285

An Act to amend and reenact § 22.1-289.055:1 of the Code of Virginia, relating to early childhood care and education; licensure requirements; certain accredited private school exempt.

[H 1700]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-289.055:1 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-289.055:1. Programs offered at certain residential private school.

Programs offered to ~~children~~ *students* who reside at *or who are affiliated with* a private school accredited by the Virginia Council for Private Education, which is located ~~West~~ *west* of Sandy Ridge and on the watersheds of Big Sandy River~~,~~ and to which no contributions are made by the Commonwealth or any agency thereof, shall not be required to obtain a licensure pursuant to ~~Title 63.2 and~~ Title 22.1 *or 63.2*. Such programs shall be subject to the safety and supervisory standards established for such school by the Virginia Council for Private Education.

CHAPTER 286

An Act to amend and reenact § 22.1-289.055:1 of the Code of Virginia, relating to early childhood care and education; licensure requirements; certain accredited private school exempt.

[S 1097]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-289.055:1 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-289.055:1. Programs offered at certain residential private school.

Programs offered to ~~children~~ *students* who reside at *or who are affiliated with* a private school accredited by the Virginia Council for Private Education, which is located ~~West~~ *west* of Sandy Ridge and on the watersheds of Big Sandy River~~,~~ and to which no contributions are made by the Commonwealth or any agency thereof, shall not be required to obtain a licensure pursuant to ~~Title 63.2 and~~ Title 22.1 *or 63.2*. Such programs shall be subject to the safety and supervisory standards established for such school by the Virginia Council for Private Education.

CHAPTER 287

An Act to amend and reenact §§ 6.2-1524 and 6.2-1816 of the Code of Virginia, relating to consumer finance companies; short-term loan providers; licensee requirements.

[H 1907]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-1524 and 6.2-1816 of the Code of Virginia are amended and reenacted as follows:

§ 6.2-1524. Required and prohibited activities and conduct.

A. Each licensee shall maintain at all times the minimum unencumbered liquid assets prescribed by § 6.2-1507.

B. A licensee or other person subject to this chapter shall not advertise, display, distribute or broadcast, or cause or permit to be advertised, displayed, distributed or broadcast, in any manner whatsoever, any false, misleading, or deceptive statement or representation with regard to the rates, terms, or conditions for loans made under this chapter. The Commission may require that charges or rates of charge, if stated by a licensee, be stated fully and clearly in such manner as it deems necessary to prevent misunderstanding by prospective borrowers. The Commission may permit or require licensees to refer in their advertising to the fact that their business is under state supervision, subject to conditions imposed by it to prevent false, misleading, or deceptive impression as to the scope or degree of protection provided by this chapter.

C. A licensee shall not take a lien upon real estate as security for any loan made under the provisions of this chapter, except a lien arising upon rendition of a judgment. Any lien taken in violation of this subsection shall be void.

D. A licensee shall, at the time any loan is made, deliver to the borrower, or if there are two or more borrowers to one of them, a statement disclosing (i) the names and addresses of the licensee and of the principal debtor on the loan contract, and (ii) a statement in compliance with Consumer Financial Protection Bureau Regulation Z (12 C.F.R. Part 1026).

E. A licensee shall give the borrower a receipt for all cash payments. The Commission may specify the form and content of such receipts in keeping with the intent and purpose of this chapter.

F. A licensee shall permit payment to be made in advance in whole, or in part equal to one or more full installments. The licensee may apply the payment first to any amounts that are due and unpaid at the time of such payment.

G. A licensee shall, upon repayment of the loan in full, (i) mark plainly every obligation and security other than a security agreement executed by the borrower with the word "Paid" or "Canceled," (ii) mark satisfied any judgment, (iii) restore any pledge, (iv) cancel and return any note and any assignment given by the borrower to the licensee, and (v) release any security agreement or other form of security instrument that no longer secures an outstanding loan between the borrower and the licensee.

H. In the event of collection by foreclosure sale or otherwise, a licensee shall pay and return to the borrower, or to another person entitled thereto, any surplus arising after the payment of the expenses of collection, sale or foreclosure and satisfaction of the debt.

I. A licensee shall not take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for the borrower in a judicial proceeding. Any such confession of judgment or power of attorney to confess judgment shall be void.

J. A licensee shall not take any note, promise to pay, or instrument of security in which blanks are left to be filled in after execution, or that does not give the amount of the loan, a clear description of the installment payments required, and the rate of interest charged. A licensee may also include the disclosures required by Consumer Financial Protection Bureau Regulation Z (12 C.F.R. Part 1026) in the note, promise to pay, or instrument of security.

K. Every loan contract shall be in writing, be signed by the borrower, provide for repayment of the amount loaned in substantially equal monthly installments of principal and interest, and include the following statement: "This loan is made pursuant to Chapter 15 of Title 6.2 of the Code of Virginia". Nothing contained in this chapter shall prevent (i) a loan being considered a new loan because the proceeds of the loan are used to pay an existing loan contract or (ii) a licensee from entering into a loan contract providing for an odd first payment period of up to 45 days and an odd first payment greater than other monthly payments because of such odd first payment period.

L. A licensee shall include as part of every loan application a question regarding whether the potential borrower has been approached, including via telephone or electronic means, by any person to send money in consideration of receiving money via a government or lottery organization.

§ 6.2-1816. Required and prohibited business methods.

Each licensee shall comply with the following requirements and prohibitions:

1. A licensee shall not make a loan that does not comply with § 6.2-1816.1.

2. A licensee shall not charge, collect, or receive, directly or indirectly, credit insurance premiums, charges for any ancillary product sold, charges for disbursing loan proceeds or refunds including check-cashing charges and any other charges for negotiating forms of payment other than cash, charges for brokering or obtaining a loan, or any fees, interest, or charges in connection with a loan, other than fees and charges permitted by § 6.2-1817.

3. A licensee shall not obtain any agreement from the borrower (i) giving the licensee or any third person power of attorney or authority to confess judgment for the borrower; (ii) authorizing the licensee or any third party to bring suit against the borrower in a court outside the Commonwealth; or (iii) waiving the borrower's right to legal recourse or any other right the borrower has under any otherwise applicable provision of state or federal law.

4. A licensee shall not make a loan to a person if that person is obligated upon any loan to a person licensed under Chapter 22 (§ 6.2-2200 et seq.). Prior to making a loan, a licensee shall make a reasonable attempt to verify the borrower's eligibility under this subsection that includes reviewing the files of any affiliate that is licensed under Chapter 22. Unless the Commission requires otherwise by administrative rule or policy statement, a licensee may rely on the loan applicant's written representations with respect to the applicant's obligations to lenders that are licensed under Chapter 22 (§ 6.2-2200 et seq.) but are not affiliates of the licensee, and a licensee is not subject to any administrative penalty or civil liability if such representations are later determined to be inaccurate.

5. A licensee shall not cause any person to be obligated to the licensee in any capacity at any time in the principal amount of more than $2,500.

6. Except as provided in § 6.2-1818.1, a licensee shall not refinance, renew, or extend any short-term loan or make a loan to a person if the loan would cause the person to have more than one short-term loan from any licensee outstanding at the same time.

7. A licensee shall not cause a borrower to be obligated upon more than one loan at any time.

8. A check accepted by a licensee as security for any loan shall be dated no earlier than the date of the first required loan payment shown in the loan agreement.

9. Notwithstanding any provision of § 8.01-226.10 to the contrary, a licensee shall not threaten, or cause to be instigated, criminal proceedings against a borrower if a check given as security for a loan is dishonored or for any reason related to the borrower's failure to pay any sum due under a loan agreement.

10. A licensee shall not (i) accept the title or registration of a vehicle, real or personal property, or any interest in any property other than a check payable to the licensee as security for a loan; (ii) create or accept any remotely created check, as defined in 12 C.F.R. § 229.2(fff), in connection with a loan; (iii) draft funds electronically from a borrower's account without express written authorization from the borrower; or (iv) fail to stop attempts to draft funds electronically from a borrower's account upon request from the borrower or his agent. Nothing in this section shall prohibit the conversion of a negotiable instrument into an electronic form for processing through the automated clearing house system.

11. A licensee shall not present a check, negotiable order of withdrawal, share draft, or other negotiable instrument that has been previously presented by the licensee and subsequently returned dishonored for any reason, unless the licensee obtains new written authorization from the borrower to present the previously returned item.

12. A licensee shall not attempt to draft funds electronically from a borrower's account after two consecutive attempts have failed, unless the licensee obtains new written authorization from the borrower to transfer or withdraw funds electronically from the borrower's account.

13. A licensee shall not make a loan to a borrower to enable the borrower to (i) pay for any other product or service sold at the licensee's office location or (ii) repay any amount owed to the licensee or an affiliate of the licensee in connection with another credit transaction.

14. Loan proceeds shall be disbursed in cash or by the licensee's business check. No fee shall be charged by the licensee or an affiliate for cashing a loan proceeds check.

15. A check given as security for a loan shall not be negotiated to a third party.

16. Upon receipt of a check given as security for a loan, the licensee shall stamp the check with an endorsement stating: "This check is being negotiated as part of a short-term loan pursuant to Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia, and any holder of this check takes it subject to all claims and defenses of the maker."

17. Before entering into a short-term loan, the licensee shall provide each borrower with a pamphlet, in form consistent with regulations adopted by the Commission, explaining in plain language the rights and responsibilities of the borrower and providing a toll-free number at the Commission for assistance with complaints.

18. Each licensee shall conspicuously post in each approved office (i) a schedule of fees and interest charges, which shall include examples using a $300 loan repaid in three months, a $500 loan repaid in five months, and a $1,000 loan repaid in 10 months, and (ii) a notice containing the following statement: "If you wish to file a complaint against us, you may contact the Bureau of Financial Institutions at [insert contact information]." The Commission shall furnish licensees with the appropriate contact information.

19. A licensee shall not knowingly make a short-term loan to a person who is a member of the military services of the United States or the spouse or other dependent of a member of the military services of the United States. Prior to making a short-term loan, every licensee shall inquire of every prospective borrower if he is a member of the military services of the United States or the spouse or other dependent of a member of the military services of the United States. The loan documents shall include verification that the borrower is not a member of the military services of the United States or the spouse or other dependent of a member of the military services of the United States.

20. In collecting or attempting to collect a short-term loan, a licensee shall comply with the restrictions and prohibitions applicable to debt collectors contained in the Fair Debt Collection Practices Act (15 U.S.C. § 1692 et seq.) regarding harassment or abuse, false or misleading misrepresentations, and unfair practices in collections.

21. A licensee shall not contact a borrower for any reason other than (i) for the borrower's benefit regarding upcoming payments, options for obtaining loans, payment options, payment due dates, the effect of default, or, after default, receiving payments or other actions permitted by the licensee; (ii) to advise the borrower of missed payments or dishonored checks; or (iii) to assist the transmittal of payments via a third-party mechanism.

22. A short-term loan agreement shall not be sold or otherwise assigned to any other person who is not also a licensee, and if a loan agreement or its servicing is sold or assigned to another licensee, the buyer or assignee of the loan agreement shall be subject to the same obligations under this chapter that apply to the selling or assigning licensee. If a licensee sells or assigns a short-term loan or its servicing, the licensee shall provide to the borrower written notice and the information needed to make future payments no later than 10 days before the borrower's next payment due date.

23. A licensee shall not make a loan to a borrower that includes an acceleration clause or demand feature that permits the licensee, in the event the borrower fails to meet the repayment terms for any outstanding balance, to terminate the loan in advance of the original maturity date and to demand repayment of the entire outstanding balance, unless both of the following conditions are met: (i) not earlier than 10 days after the borrower's payment was due, the licensee provides written notice to the borrower of the termination of the loan and (ii) in addition to the outstanding balance, the licensee collects only prorated interest and the fees earned up to termination of the loan. For purposes of this subdivision, the outstanding balance and prorated interest and fees shall be calculated as if the borrower had voluntarily prepaid the loan in full on the date of termination.

24. A licensee may not file or initiate a legal proceeding of any kind against a borrower until 60 days after the date of default on a short-term loan, during which period the licensee and borrower may voluntarily enter into a repayment arrangement.

25. A licensee shall not recommend to a borrower that the borrower obtain a loan for a dollar amount that is higher than the borrower has requested.

26. A licensee may not engage in any unfair, misleading, deceptive, or fraudulent acts or practices in the conduct of its business.

27. A licensee shall include as part of every loan application a question regarding whether the potential borrower has been approached, including via telephone or electronic means, by any person to send money in consideration of receiving money via a government or lottery organization.

2. That the provisions of this act shall become effective on January 1, 2024.

CHAPTER 288

An Act to amend and reenact §§ 59.1-207.45 and 59.1-207.48 of the Code of Virginia, relating to consumer protection; automatic renewal offers and continuous service offers; exemptions.

[S 1540]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-207.45 and 59.1-207.48 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-207.45. Definitions.

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

"Automatic renewal" means a plan or arrangement in which a paid subscription or purchasing agreement is automatically renewed at the end of a definite term for a subsequent term *of more than one month*.

"Automatic renewal offer terms" means the following clear and conspicuous disclosures:

1. That the subscription or purchasing agreement will continue until the consumer cancels;

2. The description of the cancellation policy that applies to the offer;

3. The recurring charges that will be charged to the consumer's credit or debit card or payment account with a third party as part of the automatic renewal plan or arrangement and that the amount of the charge may change, if that is the case, and the amount to which the charge will change, if known;

4. The length of the automatic renewal term or that the service is continuous, unless the length of the term is chosen by the consumer; and

5. The minimum purchase obligation, if any.

"Clear and conspicuous" or "clearly and conspicuously" means in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention to the language. In the case of an audio disclosure, "clear and conspicuous" or "clearly and conspicuously" means in a volume and cadence sufficient to be readily audible and understandable.

"Consumer" means any individual who seeks or acquires, by purchase or lease, any goods, services, money, or credit for personal, family, or household purposes.

"Continuous service" means a plan or arrangement in which a subscription or purchasing agreement continues until the consumer cancels the service.

"Supplier" has the same meaning ascribed thereto in § 59.1-198.

§ 59.1-207.48. Exemptions.

This chapter shall not apply to:

1. Any service provided by a supplier or its affiliate where either the supplier or its affiliate is doing business pursuant to a franchise issued by a political subdivision of the Commonwealth or a license, franchise, certificate, or other authorization issued by the State Corporation Commission to a public service company or public utility pursuant to Title 56;

2. Any service provided by a supplier or its affiliate where either the supplier or its affiliate is regulated by the State Corporation Commission, the Federal Communications Commission, or the Federal Energy Regulatory Commission;

3. Alarm company operators that are regulated pursuant to § 15.2-911;

4. A bank, bank holding company, or the subsidiary or affiliate of either, or a credit union or other financial institution, licensed under federal or state law;

5. Any home protection company regulated by the State Corporation Commission pursuant to Chapter 26 (§ 38.2-2600 et seq.) of Title 38.2;

6. Any home service contract provider regulated by the Department of Agriculture and Consumer Services pursuant to Chapter 33.1 (§ 59.1-434.1 et seq.); ~~or~~

7. *Any extended service contract provider regulated by the Department of Agriculture and Consumer Services pursuant to Chapter 34 (§ 59.1-435 et seq.) or its affiliates;*

8. Any insurer or entity regulated under Title 38.2 or an affiliate of such insurer or entity; or

9. Any health club registered pursuant to the Virginia Health Club Act (59.1-294 et seq.).

CHAPTER 289

An Act to amend and reenact §§ 57-48, 57-51, 57-52, 57-52.1, 57-54, and 57-60 of the Code of Virginia, relating to solicitation of contributions; professional solicitors; definition of "solicitation"; terms of contracts.

[H 1748]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 57-48, 57-51, 57-52, 57-52.1, 57-54, and 57-60 of the Code of Virginia are amended and reenacted as follows:

§ 57-48. Definitions.

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

"Board" means the Board of Agriculture and Consumer Services.

"Charitable organization" means any person that is or holds itself out to be organized or operated for any charitable purpose, or any person that solicits or obtains contributions solicited from the public. "Charitable organization" does not include (i) any church or convention or association of churches, primarily operated for nonsecular purposes and no part of the net income of which inures to the direct benefit of any individual; (ii) any political party as defined in § 24.2-101 or any political campaign committee or political action committee or other political committee required by state or federal law to file a report or statement of contributions and expenditures; or (iii) any authorized individual who solicits, by authority of such organization, solely on behalf of a registered or exempt charitable organization or on behalf of an organization excluded from the definition of charitable organization.

"Charitable purpose" means any charitable, benevolent, humane, philanthropic, patriotic, or eleemosynary purpose and the purposes of influencing legislation or influencing the actions of any public official or instigating, prosecuting, or intervening in litigation.

"Charitable sales promotion" means advertised sales that feature the names of both the commercial co-venturer and the charitable or civic organization and that state that the purchase or use of the goods, services, entertainment, or any other thing of value that the commercial co-venturer normally sells will benefit the charitable or civic organization or its purposes. To qualify as a charitable sales promotion, the consumer must pay the same price for the thing of value as the commercial co-venturer usually charges without the charitable sales promotion and the consumer retains the thing of value.

"Civic organization" means any local service club, veterans post, fraternal society or association, volunteer fire or rescue group, or local civic league or association of 10 or more persons not organized for profit but operated exclusively for educational or charitable purposes as defined in this section, including the promotion of community welfare, and the net earnings of which are devoted exclusively to charitable, educational, recreational, or social welfare purposes.

"Commercial co-venturer" means any person who (i) is organized for profit, (ii) is regularly and primarily engaged in trade or commerce, other than in connection with soliciting for charitable or civic organizations or charitable purposes, and (iii) conducts an advertised charitable sales promotion for a specified limited period of time.

"Commissioner" means the Commissioner of Agriculture and Consumer Services or a member of his staff to whom he may delegate his duties under this chapter.

"Contribution" means any gift, bequest, devise, or other grant of any money, credit, financial assistance, or property of any kind or value, including the promise to contribute, except payments by the membership of an organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, and except money, credit, financial assistance, or property received from any governmental authority. "Contribution" does not include any donation of blood or any gift made pursuant to Article 2 (§ 32.1-291.1 et seq.) of Chapter 8 of Title 32.1.

"Department" means the Department of Agriculture and Consumer Services.

"Federated fund-raising organization" means any federation of independent charitable organizations that have voluntarily joined together, including but not limited to a United Fund or Community Chest, for purposes of raising and distributing money for and among themselves and where membership does not confer operating authority and control of the individual agencies upon the federated group organization.

"File with the Commissioner" means depositing the originals of the documents required to be filed, along with the payment of the appropriate fee and all supporting documents with the Department or submitting the required documents and any appropriate attachments and fees by utilizing an online filing system approved by the Commissioner.

"Fund-raising expenses" means the expenses of all activities that constitute or are an integral and inseparable part of a solicitation.

"Membership" means those persons to whom, for payment of fees, dues, assessments, etc., an organization provides services and confers a bona fide right, privilege, professional standing, honor, or other direct benefit, in addition to the right to vote, elect officers, or hold offices. "Membership" does not include those persons who are granted a membership upon making a contribution as the result of solicitation.

"Parent organization" means that part of a charitable organization that coordinates, supervises, or exercises control over policy, fund raising, and expenditures or assists or advises one or more chapters, branches, or affiliates.

"Person" means any individual, organization, trust, foundation, association, partnership, corporation, society, or other group or combination acting as a unit.

"Professional fund-raising counsel" means any person who for a flat fixed fee under a written agreement plans, conducts, manages, carries on, advises, or acts as a consultant, whether directly or indirectly, in connection with soliciting contributions for, or on behalf of, any charitable or civic organization, but who actually solicits no contributions as a part of such services. A bona fide salaried officer or employee of a registered or exempt charitable organization or the bona fide salaried officer or employee of a registered parent organization shall not be deemed to be a professional fund-raising counsel.

"Professional solicitor" means any person who, for a financial or other consideration, solicits contributions for, or on behalf of, a charitable or civic organization, whether such solicitation is performed personally or through his agents, servants, or employees or through agents, servants, or employees who are specially employed by or for a charitable or civic organization and are engaged in the solicitation of contributions under the direction of such person or any person who, for a financial or other consideration, plans, conducts, manages, carries on, advises, or acts as a consultant to a charitable or civic organization in connection with the solicitation of contributions but does not qualify as a professional fund-raising counsel. A bona fide salaried officer or employee of a registered or exempt charitable organization or a bona fide salaried officer or employee of a registered parent organization shall not be deemed to be a professional solicitor.

"Sale," "sell," and "sold" mean the transfer of any property or the rendition of any service to any person in exchange for consideration, including any purported contribution without which such property would not have been transferred or such services would not have been rendered.

"Solicit" and "solicitation" mean the request or appeal, directly or indirectly, for any contribution on the plea or representation that such contribution will be used for a charitable purpose, including, without limitation, the following methods of requesting such contribution:

1. Any oral or written request;

2. Any announcement to the press, over the radio or television, ~~or~~ by telephone or telegraph*, or by email* concerning an appeal or campaign to which the public is requested to make a contribution for any charitable purpose connected therewith;

3. The distribution, circulation, posting, or publishing of any handbill, written advertisement, or other publication that directly or by implication seeks to obtain public support; or

4. The sale of, offer, or attempt to sell, any advertisement, advertising space, subscription, ticket, or any service or tangible item in connection with which any appeal is made for any charitable purpose or where the name of any charitable or civic organization is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale will be donated to any charitable purpose.

"Solicitation," as defined in this section, shall be deemed to occur when the request is made, at the place the request is received, whether or not the person making the same actually receives any contribution.

"Terrorists and terrorist organizations" means any person, organization, group, or conspiracy who assists or has assisted terrorist organizations, as provided in 18 U.S.C. § 2339B, or who commits or attempts to commit acts of terrorism, as defined in § 18.2-46.4.

§ 57-51. Nonresident registration.

~~(a)~~ *A.* Any unregistered charitable organization, professional fund-raising counsel*,* or professional solicitor, having his or its principal place of business ~~without this~~ *outside of the* Commonwealth or organized under and by virtue of the laws of a foreign state who or which shall solicit contributions from people in ~~this~~ *the* Commonwealth, shall be deemed to have irrevocably appointed the Secretary of the Commonwealth as his or its agent upon whom may be served any summons, subpoena, subpoena duces tecum*,* or other process directed to such charitable organization, or any partner, principal, officer, or director thereof or to such professional fund-raising counsel or professional solicitor. Service shall be made by leaving two copies of the process, notice, order*,* or demand, together with any fee required by law, in the office of the Secretary of the Commonwealth, together with an affidavit giving the last known post-office address of the defendant and such service shall be sufficient if notice of such service and a copy of the process, notice, order*,* or demand are forthwith sent by registered mail, with return receipt requested, by the Secretary of the Commonwealth or one of his staff to the defendant at the specified address. An affidavit by the Secretary of the Commonwealth showing compliance herewith shall be filed with the papers in the suit, action*,* or proceeding.

~~(b)~~ *B.* Any charitable organization, having no office or place of business within ~~this~~ *the* Commonwealth and soliciting in ~~this~~ *the* Commonwealth from ~~without~~ *outside of* the Commonwealth solely by *email,* telephone or telegraph, direct mail*,* or advertising in national media, and any professional fund-raising counsel or professional solicitor engaged by such an organization, shall file with the Commissioner any report ~~which~~ *that* would otherwise be required of it or request the Commissioner to determine that such organization is exempt under § 57-50 or ~~§~~ 57-60.

§ 57-52. Publication of warnings concerning certain charitable and civic organizations.

If the Commissioner determines that any charitable or civic organization not registered with his office and not exempt from registration, irrespective of whether such organization is subject to the jurisdiction of ~~this~~ *the* Commonwealth, has solicited or may be soliciting in ~~this~~ *the* Commonwealth, directly or indirectly, by any means including without limitation, by *email, by* telephone or telegraph, by direct mail*,* or by advertising in national media, he may, after ~~ten~~ *10* days' written notice mailed to the charitable or civic organization, cause to be printed *on the Department's website and* in one or more newspapers published in ~~this~~ *the* Commonwealth a notice in substantially the following form:

WARNING–UNREGISTERED CHARITABLE SOLICITATION

The organization named below has solicited contributions from Virginia citizens for allegedly charitable purposes. It has not registered with or been granted the appropriate exempt status by the Commissioner as required by law. Contributors are cautioned that their contributions to such organization may be used for noncharitable purposes.

§ 57-52.1. Publication of warnings concerning solicitation by professional solicitors.

If the Commissioner determines that any charitable or civic organization has contracted with a professional solicitor to solicit on its behalf and that the professional solicitor may be soliciting or has solicited in ~~this~~ *the* Commonwealth, directly or indirectly, by any means*,* including, without limitation, by *email, by* telephone or telegraph, by direct mail*,* or by advertising in national media, and the professional solicitor has not registered with the Commissioner as required by § 57-61, the Commissioner may, after five days' written notice mailed to the charitable or civic organization, cause to be printed *on the Department's website and* in one or more newspapers published in ~~this~~ *the* Commonwealth a notice on substantially the following form:

WARNING–UNREGISTERED CHARITABLE SOLICITATION BY PROFESSIONAL SOLICITOR

The charitable or civic organization named below has contracted with a professional solicitor to solicit on its behalf. The professional solicitor has not registered with the Commonwealth of Virginia as required by law. Contributors are cautioned that their contributions may be used for noncharitable purposes.

§ 57-54. Contracts between charitable or civic organizations and professional fund-raising counsel or professional solicitors.

A. Every contract or agreement between professional fund-raising counsel and a charitable or civic organization ~~must~~ *shall* be in writing and shall be filed with the Commissioner within ~~ten~~ *10* days after such contract or written agreement is entered into.

B. Every contract, or a written statement of the nature of the arrangement to prevail in the absence of a contract, between a professional solicitor and a charitable or civic organization shall be filed with the Commissioner at least ~~ten~~ *10* days prior to commencement of the contract.

C. All agreements and arrangements between professional fund-raising counsel and charitable or civic organizations ~~must~~ *shall* be reduced to writing before executed or acted upon.

D. Any contract between a professional solicitor and a charitable or civic organization shall specify the percentage of gross contributions that the charitable or civic organization will receive or the terms upon which a determination can be made as to the amount of the gross revenue from the solicitation campaign that the charitable or civic organization will receive. If a reasonable estimate is used to make such determination, the contract shall clearly disclose the assumptions or the formula upon which the estimate is based; however, if a fixed percentage is used, such percentage shall exclude any amount that the charitable or civic organization is to pay as an expense of the solicitation campaign, including the cost of any merchandise or services sold. The professional solicitor shall, at the conclusion of a charitable appeal, provide to the charitable or civic organization a final accounting of all expenditures. Such final accounting may not be used in violation of any state or federal trade secret laws. The contract shall disclose the average percentage of gross contributions collected on behalf of charitable or civic organizations that such organizations received from the professional solicitor for the three years preceding the year in which the contract was formed. The contract shall also specify that at least every 90 days the professional solicitor shall provide the charitable or civic organization with access to and use of all information in the professional solicitor's possession concerning contributors, including the name, mailing address, email address, and telephone number of each contributor and the date and amount of each contribution. A professional solicitor shall not restrict a charitable or civic organization's use of any such contributor information.

§ 57-60. Exemptions.

A. The following persons shall be exempt from the registration requirements of § 57-49, but shall otherwise be subject to the provisions of this chapter:

1. Educational institutions that are accredited by the Board of Education, by a regional accrediting association or by an organization affiliated with the National Commission on Accrediting, the Association Montessori Internationale, the American Montessori Society, the Virginia Independent Schools Association, or the Virginia Association of Independent Schools, any foundation having an established identity with any of the aforementioned educational institutions, and any other educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families.

2. Persons requesting contributions for the relief of any individual specified by name at the time of the solicitation when all of the contributions collected without any deductions whatsoever are turned over to the named beneficiary for his use.

3. Charitable organizations that do not intend to solicit and receive, during a calendar year, and have not actually raised or received, during any of the three next preceding calendar years, contributions from the public in excess of $5,000, if all of their functions, including fund-raising activities, are carried on by persons who are unpaid for their services and if no part of their assets or income inures to the benefit of or is paid to any officer or member. Nevertheless, if the contributions raised from the public, whether all of such are or are not received by any charitable organization during any calendar year, shall be in excess of $5,000, it shall, within 30 days after the date it has received total contributions in excess of $5,000, register with and report to the Commissioner as required by this chapter.

4. Organizations that solicit only within the membership of the organization by the members thereof.

5. Organizations that have no office within the Commonwealth, that solicit in the Commonwealth from ~~without~~ *outside of* the Commonwealth solely by means of *email,* telephone or telegraph, direct mail*,* or advertising in national media, and that have a chapter, branch, or affiliate within the Commonwealth that has registered with the Commissioner.

6. Organizations that have been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and that are organized wholly as Area Health Education Centers in accordance with § 32.1-122.7.

7. Health care institutions defined herein as any facilities that have been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code, and that are (i) licensed by the Department of Health or the Department of Behavioral Health and Developmental Services; (ii) designated by the Health Care Financing Administration (HCFA) as federally qualified health centers; (iii) certified by the HCFA as rural health clinics; or (iv) wholly organized for the delivery of health care services without charge; and any supporting organization that exists solely to support any such health care institutions. For the purposes of clause (iv), "delivery of health care services without charge" includes the delivery of dental, medical or other health services where a reasonable minimum fee is charged to cover administrative costs.

8. Civic organizations as defined herein.

9. Agencies providing or offering to provide debt management plans for consumers that are licensed pursuant to Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2.

10. Agencies designated by the Virginia Department for Aging and Rehabilitative Services pursuant to subdivision A 6 of § 51.5-135 as area agencies on aging.

11. Labor unions, labor associations and labor organizations that have been granted tax-exempt status under § 501(c)(5) of the Internal Revenue Code.

12. Trade associations that have been granted tax-exempt status under § 501(c)(6) of the Internal Revenue Code.

13. Organizations that have been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and that are organized wholly as regional emergency medical services councils in accordance with § 32.1-111.4:2.

14. Nonprofit organizations that have been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and that solicit contributions only through (i) grant proposals submitted to for-profit corporations, (ii) grant proposals submitted to other nonprofit organizations that have been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code, or (iii) grant proposals submitted to organizations determined to be private foundations under § 509(a) of the Internal Revenue Code.

B. A charitable organization shall be subject to the provisions of §§ 57-57 and 57-59, but shall otherwise be exempt from the provisions of this chapter for any year in which it confines its solicitations in the Commonwealth to five or fewer contiguous cities and counties, and in which it has registered under the charitable solicitations ordinance, if any, of each such city and county. No organization shall be exempt under this subsection if, during its next preceding fiscal year, more than 10 percent of its gross receipts were paid to any person or combination of persons, located outside the boundaries of such cities and counties, other than for the purchase of real property, or tangible personal property or personal services to be used within such localities. An organization that is otherwise qualified for exemption under this subsection that solicits by means of a local publication, or radio or television station, shall not be disqualified solely because the circulation or range of such medium extends beyond the boundaries of such cities or counties.

C. No charitable or civic organization shall be exempt under this section unless it submits to the Commissioner, who in his discretion may extend such filing deadline prospectively or retrospectively for good cause shown, on forms to be prescribed by him, the name, address and purpose of the organization and a statement setting forth the reason for the claim for exemption. Parent organizations may file consolidated applications for exemptions for any chapters, branches, or affiliates that they believe to be exempt from the registration provisions of this chapter. If the organization is exempted, the Commissioner shall issue a letter of exemption, which may be exhibited to the public. A registration fee of $10 shall be required of every organization requesting an exemption after June 30, 1984. The letter of exemption shall remain in effect as long as the organization continues to solicit in accordance with its claim for exemption.

D. Nothing in this chapter shall be construed as being applicable to the American Red Cross or any of its local chapters.

CHAPTER 290

An Act to amend and reenact § 2.2-4304 of the Code of Virginia, relating to Virginia Public Procurement Act; cooperative procurement; installation of playground equipment.

[H 1610]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-4304 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-4304. Joint and cooperative procurement.

A. Any public body may participate in, sponsor, conduct, or administer a joint procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, the District of Columbia, the U.S. General Services Administration, or the Metropolitan

Washington Council of Governments, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods, services, or construction.

B. In addition, a public body may purchase from another public body's contract or from the contract of the Metropolitan Washington Council of Governments or the Virginia Sheriffs' Association even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was a cooperative procurement being conducted on behalf of other public bodies, except for:

1. Contracts for architectural or engineering services; or

2. Construction. This subdivision shall not be construed to prohibit sole source or emergency procurements awarded pursuant to subsections E and F of § 2.2-4303.

Subdivision 2 shall not apply to (i) the installation of artificial turf and track surfaces, (ii) stream restoration, ~~or~~ (iii) stormwater management practices, *or (iv) the installation of playground equipment,* including all associated and necessary construction and maintenance.

In instances where any authority, department, agency, or institution of the Commonwealth desires to purchase information technology and telecommunications goods and services from another public body's contract and the procurement was conducted on behalf of other public bodies, such purchase shall be permitted if approved by the Chief Information Officer of the Commonwealth. Any public body that enters into a cooperative procurement agreement with a county, city, or town whose governing body has adopted alternative policies and procedures pursuant to subdivisions A 9 and A 10 of § 2.2-4343 shall comply with the alternative policies and procedures adopted by the governing body of such county, city, or town.

C. Subject to the provisions of §§ 2.2-1110, 2.2-1111, 2.2-1120 and 2.2-2012, any authority, department, agency, or institution of the Commonwealth may participate in, sponsor, conduct, or administer a joint procurement arrangement in conjunction with public bodies, private health or educational institutions or with public agencies or institutions of the several states, territories of the United States, or the District of Columbia, for the purpose of combining requirements to effect cost savings or reduce administrative expense in any acquisition of goods and services, other than professional services, and construction.

A public body may purchase from any authority, department, agency or institution of the Commonwealth's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was a cooperative procurement being conducted on behalf of other public bodies. In such instances, deviation from the procurement procedures set forth in this chapter and the administrative policies and procedures established to implement this chapter shall be permitted, if approved by the Director of the Division of Purchases and Supply.

Pursuant to § 2.2-2012, such approval is not required if the procurement arrangement is for telecommunications and information technology goods and services of every description. In instances where the procurement arrangement is for telecommunications and information technology goods and services, such arrangement shall be permitted if approved by the Chief Information Officer of the Commonwealth. However, such acquisitions shall be procured competitively.

Nothing herein shall prohibit the payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

D. As authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases:

1. Any authority, department, agency, or institution of the Commonwealth may purchase goods and nonprofessional services, other than telecommunications and information technology, from a U.S. General Services Administration contract or a contract awarded by any other agency of the U.S. government, upon approval of the director of the Division of Purchases and Supply of the Department of General Services;

2. Any authority, department, agency, or institution of the Commonwealth may purchase telecommunications and information technology goods and nonprofessional services from a U.S. General Services Administration contract or a contract awarded by any other agency of the U.S. government, upon approval of the Chief Information Officer of the Commonwealth;

3. Any county, city, town, or school board may purchase goods and nonprofessional services from a U.S. General Services Administration contract or a contract awarded by any other agency of the U.S. government; and

4. The Department of General Services and the Virginia Information Technologies Agency shall review and revise their procurement procedures to encourage the use of U.S. General Services Administration contracts or contracts awarded by any other agency of the United States government where appropriate.

CHAPTER 291

An Act to amend and reenact §§ 2.2-3103.1 and 30-103.1 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act; certain gifts prohibited; foreign countries of concern.

[H 1911]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3103.1 and 30-103.1 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3103.1. Certain gifts prohibited.

A. For purposes of this section:

"Foreign country of concern" means any country designated by the Secretary of State to have repeatedly provided support for acts of international terrorism pursuant to the National Defense Authorization Act for Fiscal Year 2019, P.L. 115-232 § 1754(c), Aug. 13, 2018; the Arms Export Control Act § 40, 22 U.S.C. § 2780; or the Foreign Assistance Act of 1961 § 620A, 22 U.S.C. § 2370.

"Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

B. No officer or employee of a local governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of $100 or any combination of gifts with an aggregate value in excess of $100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the local agency of which he is an officer or an employee. Gifts with a value of less than $20 are not subject to aggregation for purposes of this prohibition.

C. No officer or employee of a state governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of $100 or any combination of gifts with an aggregate value in excess of $100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the state governmental or advisory agency of which he is an officer or an employee or over which he has the authority to direct such agency's activities. Gifts with a value of less than $20 are not subject to aggregation for purposes of this prohibition.

D. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of $100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

E. Notwithstanding the provisions of subsections B and C, such officer or employee or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding $100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged *so long as such foreign dignitary is not a representative of a foreign country of concern.* Such gift shall be accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed.

F. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of $100 from a person listed in subsection B or C if such gift was provided to such officer, employee, or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B or C may be a personal friend of such officer, employee, or candidate or his immediate family for purposes of this subsection. In determining whether a person listed in subsection B or C is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

G. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of $100 that is paid for or provided by a person listed in subsection B or C when the officer, employee, or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

H. During the pendency of a civil action in any state or federal court to which the Commonwealth is a party, the Governor or the Attorney General or any employee of the Governor or the Attorney General who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from any person that he knows or has reason to know is a person, organization, or business that is a party to such civil action. A person, organization, or business that is a party to such civil

action shall not knowingly give any gift to the Governor or the Attorney General or any of their employees who are subject to the provisions of this chapter.

I. The $100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

J. The provisions of this section shall not apply to any justice of the Supreme Court of Virginia, judge of the Court of Appeals of Virginia, judge of any circuit court, or judge or substitute judge of any district court. However, nothing in this subsection shall be construed to authorize the acceptance of any gift if such acceptance would constitute a violation of the Canons of Judicial Conduct for the State of Virginia.

§ 30-103.1. Certain gifts prohibited.

A. For purposes of this section:

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

B. No legislator or candidate for the General Assembly required to file the disclosure form prescribed in § 30-111 or a member of his immediate family shall solicit, accept, or receive any single gift for himself or a member of his immediate family with a value in excess of $100 or any combination of gifts with an aggregate value in excess of $100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or (ii) a lobbyist's principal as defined in § 2.2-419. Gifts with a value of less than $20 are not subject to aggregation for purposes of this prohibition.

C. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess in $100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 30-111.

D. Notwithstanding the provisions of subsection B, a legislator or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding $100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged *so long as such foreign dignitary is not a representative of a foreign country of concern, as defined in § 2.2-3103.1.* Such gift shall be accepted on behalf of the Commonwealth and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth, but the value of such gift shall not be required to be disclosed.

E. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of $100 from a person listed in subsection B if such gift was provided to the legislator or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B may be a personal friend of the legislator or candidate or his immediate family for purposes of this subsection. In determining whether a person listed in subsection B is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

F. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of $100 that is paid for or provided by a person listed in subsection B when the legislator or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 30-111.

G. The $100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

CHAPTER 292

An Act to amend and reenact § 58.1-3965 of the Code of Virginia, relating to delinquent tax lands.

[H 2110]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3965 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3965. When land may be sold for delinquent taxes; notice of sale; owner's right of redemption.

A. When any taxes on any real estate in a locality are delinquent on December 31 following the second anniversary of the date on which such taxes have become due, or, in the case of real property upon which is situated (i) any structure that has been condemned by the local building official pursuant to applicable law or ordinance; (ii) any nuisance as that term is defined in § 15.2-900; (iii) any derelict building as that term is defined in § 15.2-907.1; or (iv) any property that has been declared to be blighted as that term is defined in § 36-49.1:1, the first anniversary of the date on which such taxes have become due, such real estate may be sold for the purpose of collecting all delinquent taxes on such property.

However, in a qualifying locality, as defined in § 58.1-3221.6, whenever (a) taxes on any real estate in the locality are delinquent upon the expiration of six months following the date on which such taxes became due and (b) the locality has incurred abatement costs which remain unpaid upon the expiration of six months following the date on which the abatement costs were first incurred, real estate meeting the conditions described in clause (i), (ii), (iii), or (iv) may be sold for the purpose of collecting all delinquent taxes and abatement costs on such property. For the purposes of this section, "abatement costs" means costs incurred by a locality that result from the conditions described in clause (i), (ii), (iii), or (iv).

Upon a finding by the court, on real estate with an assessed value of $100,000 or less in any locality, that (a) any taxes on such real estate are delinquent on December 31 following the first anniversary of the date on which such taxes have become due or (b) there is a lien on such real estate pursuant to § 15.2-900, 15.2-906, 15.2-907, 15.2-907.1, 15.2-908.1, or 36-49.1:1, which lien remains unpaid on December 31 following the first anniversary of the date on which such lien was recorded, the property shall be deemed subject to sale by public auction pursuant to proper notice under this subsection.

The officer charged with the duty of collecting taxes for the locality wherein the real property lies shall, at least 30 days prior to instituting any judicial proceeding pursuant to this section, send a notice to (1) the last known address of the property owner as such owner and address appear in the records of the treasurer, (2) the property address if the property address is different from the owner's address and if the real estate is listed with the post office by a numbered and named street address and (3) the last known address of any trustee under any deed of trust, mortgagee under any mortgage and any other lien creditor, if such trustee, mortgagee or lien creditor is not otherwise made a party defendant under § 58.1-3967, advising such property owner, trustee, mortgagee or other lien creditor of the delinquency and the officer's intention to take action. Such notice shall advise the taxpayer that the taxpayer may request the treasurer to enter into a payment agreement to permit the payment of the delinquent taxes, interest, and penalties over a period not to exceed ~~60~~ *72* months in accordance with the provisions of subsection C. Such officer shall also cause to be published at least once a list of real estate which will be offered for sale under the provisions of this article in a newspaper of general circulation in the locality, at least 30 days prior to the date on which judicial proceedings under the provisions of this article are to be commenced.

The pro rata cost of such publication shall become a part of the tax and together with all other costs, including reasonable ~~attorneys'~~ *attorney* fees set by the court and the costs of any title examination conducted in order to comply with the notice requirements imposed by this section, shall be collected if payment is made by the owner in redemption of the real property described therein whether or not court proceedings have been initiated. A notice substantially in the following form shall be sufficient:

Notice

Judicial Sale of Real Property

On _____ (date) _____ proceedings will be commenced under the authority of § 58.1-3965 et seq. of the Code of Virginia to sell the following parcels for payment of delinquent taxes:

(description of properties)

B. The owner of any property listed may redeem it at any time before the date of the sale by paying all accumulated taxes, penalties, reasonable ~~attorneys'~~ *attorney* fees, interest and costs thereon, including the pro rata cost of publication hereunder. Partial payment of delinquent taxes, penalties, reasonable ~~attorneys'~~ *attorney* fees, interest or costs shall not be sufficient to redeem the property, and shall not operate to suspend, invalidate or make moot any action for judicial sale brought pursuant to this article.

C. Notwithstanding the provisions of subsection B and of § 58.1-3954, the treasurer or other officer responsible for collecting taxes may suspend any action for sale of the property commenced pursuant to this article (i) upon entering into an agreement with the owner of the real property for the payment of all delinquent amounts in installments over a period that is reasonable under the circumstances, but that in no event shall exceed ~~60~~ *72* months, or (ii) upon written notice by an individual, not a party to the action, asserting ownership rights in the property that is the subject of the action arising by virtue of testate or intestate succession, to the treasurer or other officer responsible for collecting taxes. The treasurer or other officer responsible for collecting taxes shall promptly advise the court of such claim and seek leave to add the individual asserting the claim as a party in the action. If the court determines that the individual asserting the claim possesses an ownership interest in the property that is the subject of the action, such individual may, within 30 days of the court's finding, enter into an agreement with the treasurer or other official responsible for collecting taxes for the payment of all delinquent amounts in installments over a period that is reasonable under the circumstances, but that in no event shall exceed ~~60~~ *72* months. Any agreement under this subsection shall provide for the payment of current tax obligations as they come due, which payments shall be credited to current tax obligations notwithstanding the provisions of § 58.1-3913 and shall be secured by the lien of the locality pursuant to § 58.1-3340.

D. During the pendency of any installment agreement permitted under subsection C, any proceeding for a sale previously commenced shall not abate, but shall be continued on the docket of the court in which such action is pending. It

shall be the duty of the treasurer or other officer responsible for collecting taxes to promptly notify the clerk of such court when obligations arising under such an installment agreement have been fully satisfied. Upon the receipt of such notice, the clerk shall cause the action to be stricken from the docket.

E. In the event the owner of the property or other responsible person defaults upon obligations arising under an installment agreement permitted by subsection C, or during the term of any installment agreement, defaults on any current obligation as it becomes due, such agreement shall be voidable by the treasurer or other officer responsible for collecting taxes upon 15 days' written notice to the signatories of such agreement irrespective of the amount remaining due. Any action for the sale previously commenced pursuant to this article may proceed without any requirement that the notice or advertisement required by subsection A, which had previously been made with respect to such property, be repeated. No owner of property which has been the subject of a defaulted installment agreement shall be eligible to enter into a second installment agreement with respect to the same property within three years of such default.

F. Any corporate, partnership or limited liability officer, as those terms are defined in § 58.1-1813, who willfully fails to pay any tax being enforced by this section, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax not paid, to be assessed and collected in the same manner as such taxes are assessed and collected.

G. During the pendency of the action, the circuit court in which the action is pending may, on its own motion or on the motion of any party, refer the parties to a dispute resolution proceeding pursuant to the provisions of Chapter 20.2 (§ 8.01-576.4 et seq.) of Title 8.01.

H. In any case in which real estate subject to delinquent taxes is situated in two or more jurisdictions, a suit to sell the entirety of the real estate pursuant to this article may be brought in a single jurisdiction provided that (i) taxes are delinquent in all jurisdictions for periods not less than the minimum applicable periods set forth in subsection A and (ii) the treasurer of each jurisdiction within which the property is situated consents to the suit.

The suit shall identify the taxes, penalties, interest, and other charges due in each jurisdiction. The publications and notices required pursuant to this section shall identify each of the jurisdictions in which the property is situated. Upon sale of the property, the order confirming the sale shall provide for the payment of taxes, penalties, interest, and other charges to each jurisdiction, and copies of the order confirming the sale and the deed conveying the property to the purchaser shall be recorded among the land records of the clerk's office of the circuit court for each jurisdiction within which the property that is the subject of the suit is situated. No final order confirming sale shall be entered sooner than 90 days following the provision of notice to parties in accordance with subsection A or, if later, 90 days following the receipt of notice by the treasurer or other official responsible for collecting taxes from an individual, not previously made a party to the action, in accordance with clause (ii) of subsection C.

CHAPTER 293

An Act to amend and reenact §§ 2.2-3103.1 and 30-103.1 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act; certain gifts prohibited; foreign countries of concern.

[S 1002]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3103.1 and 30-103.1 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3103.1. Certain gifts prohibited.

A. For purposes of this section:

"Foreign country of concern" means any country designated by the Secretary of State to have repeatedly provided support for acts of international terrorism pursuant to the National Defense Authorization Act for Fiscal Year 2019, P.L. 115-232 § 1754(c), Aug. 13, 2018; the Arms Export Control Act § 40, 22 U.S.C. § 2780; or the Foreign Assistance Act of 1961 § 620A, 22 U.S.C. § 2370.

"Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

B. No officer or employee of a local governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of $100 or any combination of gifts with an aggregate value in excess of $100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the local agency of which he is an officer or an employee. Gifts with a value of less than $20 are not subject to aggregation for purposes of this prohibition.

C. No officer or employee of a state governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of $100 or any combination of gifts with an aggregate value in excess of $100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the state governmental or advisory agency of which he is an officer or an employee or over which he has the authority to direct such agency's activities. Gifts with a value of less than $20 are not subject to aggregation for purposes of this prohibition.

D. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of $100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

E. Notwithstanding the provisions of subsections B and C, such officer or employee or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding $100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged *so long as such foreign dignitary is not a representative of a foreign country of concern.* Such gift shall be accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed.

F. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of $100 from a person listed in subsection B or C if such gift was provided to such officer, employee, or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B or C may be a personal friend of such officer, employee, or candidate or his immediate family for purposes of this subsection. In determining whether a person listed in subsection B or C is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

G. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of $100 that is paid for or provided by a person listed in subsection B or C when the officer, employee, or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

H. During the pendency of a civil action in any state or federal court to which the Commonwealth is a party, the Governor or the Attorney General or any employee of the Governor or the Attorney General who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from any person that he knows or has reason to know is a person, organization, or business that is a party to such civil action. A person, organization, or business that is a party to such civil action shall not knowingly give any gift to the Governor or the Attorney General or any of their employees who are subject to the provisions of this chapter.

I. The $100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

J. The provisions of this section shall not apply to any justice of the Supreme Court of Virginia, judge of the Court of Appeals of Virginia, judge of any circuit court, or judge or substitute judge of any district court. However, nothing in this subsection shall be construed to authorize the acceptance of any gift if such acceptance would constitute a violation of the Canons of Judicial Conduct for the State of Virginia.

§ 30-103.1. Certain gifts prohibited.

A. For purposes of this section:

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

B. No legislator or candidate for the General Assembly required to file the disclosure form prescribed in § 30-111 or a member of his immediate family shall solicit, accept, or receive any single gift for himself or a member of his immediate family with a value in excess of $100 or any combination of gifts with an aggregate value in excess of $100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of

Title 2.2 or (ii) a lobbyist's principal as defined in § 2.2-419. Gifts with a value of less than $20 are not subject to aggregation for purposes of this prohibition.

C. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess in $100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 30-111.

D. Notwithstanding the provisions of subsection B, a legislator or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding $100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged *so long as such foreign dignitary is not a representative of a foreign country of concern, as defined in § 2.2-3103.1.* Such gift shall be accepted on behalf of the Commonwealth and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth, but the value of such gift shall not be required to be disclosed.

E. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of $100 from a person listed in subsection B if such gift was provided to the legislator or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B may be a personal friend of the legislator or candidate or his immediate family for purposes of this subsection. In determining whether a person listed in subsection B is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

F. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of $100 that is paid for or provided by a person listed in subsection B when the legislator or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 30-111.

G. The $100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

CHAPTER 294

An Act to authorize capital outlay funding and to amend and reenact the tenth enactment of Chapter 759 and the tenth enactment of Chapter 769 of the Acts of Assembly of 2016.

[S 1520]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That pursuant to § 2.2-2264 of the Code of Virginia, the General Assembly hereby authorizes the Virginia Public Building Authority (VPBA) to issue revenue bonds in a principal amount not to exceed $21,664,500 for the state share of the approved capital costs as determined by the State Board of local and Regional Jails and authorizes any additional amount of VPBA bonds needed to fund other interest costs as provided in §§ 53.1-80 through 53.1-82.2. The General Assembly hereby appropriates the proceeds from any such bonds for the projects listed in this act and the Commonwealth's share of the capital costs shall not exceed the amount listed for each project. Debt service on projects contained in this act shall be provided from appropriations to the Treasury Board. Reimbursements of the state share of construction costs shall be subject to the approval of the Department of Corrections for the final expenditures.*

Agency Code	*Institution/Agency*	*Project Title*	*Amount*
799	*Department of Corrections*	*Loudoun County Adult Detention Center - Expansion and Renovation*	*$9,975,250*
799	*Department of Corrections*	*Albemarle-Charlottesville Regional Jail - Renovation*	*$11,689,250*

2. That the tenth enactment of Chapter 759 of the Acts of Assembly of 2016 is amended and reenacted as follows:

10. That the appropriations for the capital projects authorized in §§ 1 and 2 of the first enactment of this act are subject to the conditions in § 2-0 F of Chapter 665 of the Acts of Assembly of 2015. In addition, not more than a total aggregate principal amount of $300 million in debt obligations shall be issued excluding refunding bonds in any fiscal year for such capital projects, provided, however, that if less than a total aggregate principal amount of $300 million in debt obligations is incurred in any fiscal year for such capital projects, the unused amount may be

added to any other subsequent fiscal year. Issuance of debt shall proceed so that the projected average annual debt service on all tax-supported debt over the 10-year horizon shall be in accordance with the guidelines established by the Debt Capacity Advisory Committee. The Six-Year Capital Outlay Plan Advisory Committee shall establish procedures to ensure compliance with the annual issuance limits and shall meet at least ~~quarterly~~ *four times annually* to review project progress. The Auditor of Public Accounts shall issue a report annually to the Governor, the Speaker of the House of Delegates, the President pro tempore of the Senate, and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance *and Appropriations*, regarding the adherence to the annual issuance limits.

3. That the tenth enactment of Chapter 769 of the Acts of Assembly of 2016 is amended and reenacted as follows:

10. That the appropriations for the capital projects authorized in §§ 1 and 2 of the first enactment of this act are subject to the conditions in § 2-0 F of Chapter 665 of the Acts of Assembly of 2015. In addition, not more than a total aggregate principal amount of $300 million in debt obligations shall be issued excluding refunding bonds in any fiscal year for such capital projects, provided, however, that if less than a total aggregate principal amount of $300 million in debt obligations is incurred in any fiscal year for such capital projects, the unused amount may be added to any other subsequent fiscal year. Issuance of debt shall proceed so that the projected average annual debt service on all tax-supported debt over the 10-year horizon shall be in accordance with the guidelines established by the Debt Capacity Advisory Committee. The Six-Year Capital Outlay Plan Advisory Committee shall establish procedures to ensure compliance with the annual issuance limits and shall meet at least ~~quarterly~~ *four times annually* to review project progress. The Auditor of Public Accounts shall issue a report annually to the Governor, the Speaker of the House of Delegates, the President pro tempore of the Senate, and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance *and Appropriations*, regarding the adherence to the annual issuance limits.

CHAPTER 295

An Act to amend and reenact § 22.1-79.4 of the Code of Virginia, relating to public elementary and secondary schools; threat assessment team members; training requirement.

[S 1359]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-79.4 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-79.4. Threat assessment teams and oversight committees.

A. Each local school board shall adopt policies for the establishment of threat assessment teams, including the assessment of and intervention with individuals whose behavior may pose a threat to the safety of school staff or students consistent with the model policies developed by the Virginia Center for School and Campus Safety (the Center) in accordance with § 9.1-184. Such policies shall include procedures for referrals to community services boards or health care providers for evaluation or treatment, when appropriate.

B. The superintendent of each school division may establish a committee charged with oversight of the threat assessment teams operating within the division, which may be an existing committee established by the division. The committee shall include individuals with expertise in human resources, education, school administration, mental health, and law enforcement.

C. Each division superintendent shall establish, for each school, a threat assessment team that shall include persons with expertise in counseling, instruction, school administration, and law enforcement and, in the case of any school in which a school resource officer is employed, at least one such school resource officer. *New threat assessment team members shall complete an initial threat assessment training and all threat assessment team members shall be required to complete refresher threat assessment training every three years.* Threat assessment teams may be established to serve one or more schools as determined by the division superintendent. Each team shall (i) provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self; (ii) identify members of the school community to whom threatening behavior should be reported; and (iii) implement policies adopted by the local school board pursuant to subsection A.

D. Upon a preliminary determination that a student poses a threat of violence or physical harm to self or others, a threat assessment team shall immediately report its determination to the division superintendent or his designee. The division superintendent or his designee shall immediately attempt to notify the student's parent or legal guardian. Nothing in this subsection shall preclude school division personnel from acting immediately to address an imminent threat.

E. Each threat assessment team established pursuant to this section shall collect and report to the Center quantitative data on its activities using the case management tool developed by the Center.

F. Upon a preliminary determination by the threat assessment team that an individual poses a threat of violence to self or others or exhibits significantly disruptive behavior or need for assistance, a threat assessment team may obtain criminal history record information, as provided in §§ 19.2-389 and 19.2-389.1, and health records, as provided in § 32.1-127.1:03. No member of a threat assessment team shall redisclose any criminal history record information or health information

obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which such disclosure was made to the threat assessment team.

CHAPTER 296

An Act to amend and reenact § 22.1-279.6 of the Code of Virginia, relating to public schools; codes of student conduct; policies and procedures prohibiting bullying; parental notification.

[H 1592]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-279.6 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include in the regulations on codes of student conduct procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

C. Each school board shall include in its code of student conduct prohibitions against hazing and profane or obscene language or conduct. School boards shall also cite in their codes of student conduct the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, that is, confinement in jail for not more than 12 months and a fine of not more than $2,500, either or both.

D. Each school board shall include in its code of student conduct policies and procedures that include a prohibition against bullying. Such policies and procedures shall (i) be consistent with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A and (ii) direct the principal *or his designee* to notify the parent of any student involved in an alleged incident of bullying ~~of the status of any investigation~~ within ~~five school days~~ *24 hours* of *learning of* the allegation of bullying.

Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of students and are not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school.

E. A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject.

F. Nothing in this section shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and model student conduct policies required by subsection A and the Board's guidelines for student searches required by § 22.1-279.7.

G. The Board of Education shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with § 22.1-277.07.

This subsection shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

H. Each school board shall include in its code of student conduct a prohibition on possessing any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2, on a school bus, on school property, or at an on-site or off-site school-sponsored activity.

I. Any school board may include in its code of student conduct a dress or grooming code. Any dress or grooming code included in a school board's code of student conduct or otherwise adopted by a school board shall (i) permit any student to wear any religiously and ethnically specific or significant head covering or hairstyle, including hijabs, yarmulkes, headwraps, braids, locs, and cornrows; (ii) maintain gender neutrality by subjecting any student to the same set of rules and standards regardless of gender; (iii) not have a disparate impact on students of a particular gender; (iv) be clear, specific, and objective in defining terms, if used; (v) prohibit any school board employee from enforcing the dress or grooming code by direct physical contact with a student or a student's attire; and (vi) prohibit any school board employee from requiring a student to undress in front of any other individual, including the enforcing school board employee, to comply with the dress or grooming code.

CHAPTER 297

An Act to amend and reenact § 22.1-279.6 of the Code of Virginia, relating to public schools; codes of student conduct; policies and procedures prohibiting bullying; parental notification.

[S 1072]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-279.6 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include in the regulations on codes of student conduct procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

C. Each school board shall include in its code of student conduct prohibitions against hazing and profane or obscene language or conduct. School boards shall also cite in their codes of student conduct the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, that is, confinement in jail for not more than 12 months and a fine of not more than $2,500, either or both.

D. Each school board shall include in its code of student conduct policies and procedures that include a prohibition against bullying. Such policies and procedures shall (i) be consistent with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A and (ii) direct the principal *or his designee* to notify the parent of any student involved in an alleged incident of bullying ~~of the status of any investigation~~ within ~~five school days~~ *24 hours* of *learning of* the allegation of bullying.

Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of students and are not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school.

E. A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject.

F. Nothing in this section shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and model student conduct policies required by subsection A and the Board's guidelines for student searches required by § 22.1-279.7.

G. The Board of Education shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with § 22.1-277.07.

This subsection shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

H. Each school board shall include in its code of student conduct a prohibition on possessing any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2, on a school bus, on school property, or at an on-site or off-site school-sponsored activity.

I. Any school board may include in its code of student conduct a dress or grooming code. Any dress or grooming code included in a school board's code of student conduct or otherwise adopted by a school board shall (i) permit any student to wear any religiously and ethnically specific or significant head covering or hairstyle, including hijabs, yarmulkes, headwraps, braids, locs, and cornrows; (ii) maintain gender neutrality by subjecting any student to the same set of rules and standards regardless of gender; (iii) not have a disparate impact on students of a particular gender; (iv) be clear, specific, and objective in defining terms, if used; (v) prohibit any school board employee from enforcing the dress or grooming code by direct physical contact with a student or a student's attire; and (vi) prohibit any school board employee from requiring a student to undress in front of any other individual, including the enforcing school board employee, to comply with the dress or grooming code.

CHAPTER 298

An Act to amend and reenact the second enactment of Chapter 525 of the Acts of Assembly of 2020, as amended and reenacted by Chapter 146 of the Acts of Assembly of 2021, Special Session I, and by Chapter 137 of the Acts of Assembly of 2022, relating to GO Virginia grants; matching funds; sunset.

[H 2220]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the second enactment of Chapter 525 of the Acts of Assembly of 2020, as amended and reenacted by Chapter 146 of the Acts of Assembly of 2021, Special Session I, and by Chapter 137 of the Acts of Assembly of 2022, is amended and reenacted as follows:

2. That the provisions of this act shall expire on July 1, ~~2023~~ *2025*.

CHAPTER 299

An Act to amend and reenact §§ 56-265.15, 56-265.16:1, 56-265.17, 56-265.17:3, 56-265.18, 56-265.19, 56-265.22, 56-265.24, 56-265.31, and 56-265.32 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-265.24:1, relating to Underground Utility Damage Prevention Act; schedule of excavation; stop work authority; penalties.

[H 2132]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-265.15, 56-265.16:1, 56-265.17, 56-265.17:3, 56-265.18, 56-265.19, 56-265.22, 56-265.24, 56-265.31, and 56-265.32 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-265.24:1 as follows:

§ 56-265.15. Definitions; calculation of time periods.

A. As used in this chapter:

"Abandoned" means no longer in service and physically disconnected from a portion of the underground utility line that is in use for storage or conveyance of service.

~~"Commission" means the State Corporation Commission.~~

"Contract locator" means any person contracted by an operator specifically to determine the approximate horizontal location of the operator's utility lines that may exist within the area specified by a ~~notice served on a notification center~~ *locate request.*

"Damage" means any impact upon or removal of support from an underground facility as a result of excavation or demolition which according to the operating practices of the operator would necessitate the repair of such facility.

"Demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved, or removed by means of any tools, equipment, or discharge of explosives which could damage underground utility lines.

"Designer" means any licensed professional designated by the project owner who designs government projects, commercial projects, residential projects consisting of 25 or more units, or industrial projects, which projects require the approval of governmental or regulatory authorities having jurisdiction over the project area.

"Emergency" means a sudden or unexpected occurrence involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.

"Excavate" or "excavation" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or explosives and includes, without limitation, grading, trenching, digging, ditching, dredging, drilling, augering, tunneling, scraping, cable or pipe plowing and driving, wrecking, razing, rendering, moving, or removing any structure or mass of material. "Excavate" or "excavation" ~~shall~~ *does* not include installation of a sign that consists of metal, plastic, or wooden poles placed in the ground by hand or by foot without the use of tools or equipment.

"Exigent circumstances" means circumstances outside of an operator's or contract locator's, as described in subsection D of § 56-265.19, control that necessarily prevent an operator or locator from completing the marking task, including a wrong address provided with the locate request; failure to provide a reasonably specific location of proposed excavation; inaccessibility of the excavation site due to physical barrier or risk of serious bodily injury; a locate request that cannot be carried out by a traditional locating method and requires assistance from the operator; catastrophic technological failure outside of the locator's, operator's, or notification center's control; or the area of excavation does not conform with the requirements of subsection F of § 56-265.17.

"Extraordinary circumstances" means floods, snow, ice storms, tornadoes, earthquakes, or other natural disasters.

"Hand digging" means any excavation involving nonmechanized tools or equipment. Hand digging includes, but is not limited to, digging with shovels, picks, and manual post hole diggers, vacuum excavation or soft digging.

"Locate request" means the completed delivery of information to the notification center requesting markings for a specified area of excavation or demolition and receipt of the same by the notification center in accordance with this chapter.

"Notification center" means an organization whose membership is open to all operators of underground facilities located within the notification center's designated service area, which maintains a data base, provided by its member operators, that includes the geographic areas in which its member operators desire transmissions of notices of proposed excavation, and which has the capability to transmit, within one hour of receipt, notices of proposed excavation to member operators by ~~teletype, telecopy, personal computer, or telephone~~ *electronic means.*

"Notify," "notice" or "notification" means the completed delivery of information to the person to be notified, and the receipt of same by such person in accordance with this chapter. The delivery of information includes~~, but is not limited to,~~ the use of any electronic or technological means of data transfer.

"Operator" means any person who owns, furnishes or transports materials or services by means of a utility line.

"Person" means any individual, operator, firm, joint venture, partnership, corporation, association, municipality, or other political subdivision, governmental unit, department or agency, and includes any trustee, receiver, assignee, or personal representative thereof.

"Positive response" means a code or phrase posted by an operator or locator to the notification center detailing the marking status of a locate request.

"Positive response system" means the excavator-operator information exchange system that is required by subsection E of § 56-265.16:1 and provides the means for operators or their contract locators to respond to and report the marking status of a locate request.

"Private sewer lateral" means a privately owned, legally authorized utility line that transports wastewater from one or more buildings to a sewer system utility line owned by a sewer system operator.

"Private water lateral" means a privately owned, legally authorized utility line that supplies water from a water system utility line owned by a water system operator to one or more buildings or properties.

"Sewer system" means a system of utility lines used for conveying wastewater, and includes sewer system laterals but does not include private sewer laterals.

"Sewer system lateral" means a lateral utility line located in the public right-of-way or public sewer easement, owned by a sewer system operator, and used to transport wastewater to the operator's main sewer line.

"Sewer system operator" means an operator of a sewer system.

"Soft digging" means any excavation using tools or equipment that utilize air or water pressure as the direct means to break up soil or earth for removal by vacuum excavation.

~~"Special project notice" means a valid notice to the notification center by an excavator covering a specific, unique or long-term project.~~

"Utility line" means any item of public or private property which is buried or placed below ground or submerged for use in connection with the storage or conveyance of water, sewage, telecommunications, electric energy, cable television, oil, petroleum products, gas, or other substances, and includes ~~but is not limited to~~ pipes, sewers, combination storm/sanitary sewer systems, conduits, cables, valves, lines, wires, manholes, attachments, and those portions of poles below ground. The term "sewage" ~~as used herein~~ does not include any gravity storm drainage systems. Except for any publicly owned gravity sewer system within a county which has adopted the urban county executive form of government, the term "utility line" does not include any gravity sewer system or any combination gravity storm/sanitary sewer system within any counties, cities, towns or political subdivisions constructed or replaced prior to January 1, 1995. No excavator shall be held liable for the cost to repair damage to any such systems constructed or replaced prior to January 1, 1995, unless such systems are located in accordance with § 56-265.19.

"Water system" means a system of utility lines used for supplying water, and does not include private water laterals.

"Water system operator" means an operator of a water system.

"Willful" means an act done intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently.

"Working day" means every day, except Saturdays, Sundays, and legal state and national holidays.

B. Unless otherwise specified, all time periods used in this chapter shall be calculated from the time of the original ~~notification to the notification center~~ *locate request* as provided in § 56-265.17. In addition, all time periods exclude Saturdays, Sundays, and legal state and national holidays.

§ 56-265.16:1. Operators to join notification centers; certification.

A. Every operator, including counties, cities and towns, but excluding the Department of Transportation, having the right to bury underground utility lines shall join the notification center for the area.

B. Every notification center shall be certified by the Commission. The Commission shall determine the optimum number of notification centers in the Commonwealth. If the Commission determines that there shall be more than one notification center in the Commonwealth, it shall define the geographic area to be served by each notification center.

C. Any corporation desiring to serve as the notification center for an area of the Commonwealth may apply to the Commission to be certified as the notification center for that area. The Commission shall have authority to grant, amend, or revoke certificates under regulations promulgated relating to certification. An application for certification shall include such information as the Commission may reasonably require addressing the applicant's operational plan for the notification center.

D. Every Commission action regarding the optimum number of notification centers, the geographic area to be served by each notification center, the promulgation of notification center certification regulations, and the grant, amendment, or revocation of notification center certifications shall be made in furtherance of the purpose of preventing or mitigating loss of, or damage to, life, health, property or essential public services resulting from damage to underground utility lines. Any action by the Commission to approve or revoke any notification center certification shall:

1. Ensure protection for the public from the hazards that this chapter is intended to prevent or mitigate;

2. Ensure that all persons served by the notification center receive an acceptable level of performance, which level shall be maintained throughout the period of the notification center's certification; and

3. Require the notification center and its agents to demonstrate financial responsibility for any damages that may result from their violation of any provision of this chapter. Such requirement may be met by purchasing and maintaining liability insurance on such terms and in such amount as the Commission deems appropriate.

E. A notification center shall maintain ~~an excavator-operator information exchange~~ *a positive response* system in accordance with notification center certification regulations promulgated by the Commission. The members of a notification center shall be responsible for developing and implementing a public awareness program to ensure that all parties affected by this chapter shall be aware of their responsibilities. There shall be only one notification center certified for each geographic area defined by the Commission.

§ 56-265.17. Notification required prior to excavation or demolition; waiting periods; marking of proposed site.

A. ~~Except as provided in subsection G, no~~ *No* person~~,~~ ~~including operators,~~ shall make or begin any excavation or demolition without first ~~notifying~~ *submitting a locate request to* the notification center ~~for that area~~. ~~Notice to the notification center~~ *Submission of a locate request* shall be deemed to be notice to each operator who is a member of the notification center. The notification center shall provide the excavator with the identity of utilities that will be notified of the proposed excavation or demolition. Except for counties, cities, and towns, an excavator who willfully fails to ~~notify the notification center of~~ *submit a locate request for a* proposed excavation or demolition shall be liable to the operator whose facilities are damaged by that excavator, for three times the cost to repair the damaged property, provided *that* the operator is a member of the notification center. The total amount of punitive damages awarded under this section, as distinguished from actual damages, shall not exceed $10,000 in any single cause of action.

B. Except in the case of an emergency as defined in § 56-265.15 *or in cases subject to subsection C*, the excavator ~~may~~ *shall only* commence work ~~under one of the following conditions~~:

1. After ~~waiting forty-eight hours, beginning 7:00 a.m. the next working day following notice to the notification center;~~

~~2. At any time, if the excavator confirms that all applicable operators have either marked their underground utility lines or reported that no lines are present in the vicinity of the excavation or demolition. The confirmation shall be obtained by contacting or receiving information from the notification center's excavator-operator information exchange system~~ *the*

excavator has confirmed, by reviewing the positive response information posted on the notification center's positive response system, that each operator has marked its utility lines, notified the notification center that its utility lines are not present in the area of proposed excavation, or otherwise posted a positive response indicating excavation may begin; or

~~3.~~ *2.* If informed by the notification center that no operators are to be notified.

If any operator fails to respond to the ~~excavator-operator information exchange~~ *positive response* system as required by this chapter, the notification center shall renotify any operator of its failure. This renotification shall not constitute an exemption from the duties of the operator set forth in § 56-265.19.

C. ~~The excavator shall exercise due care at all times to protect underground utility lines. If, upon arrival at the site of a proposed excavation~~ *after at least 48 hours beginning with 7:00 a.m. the next working day following a locate request or on the date of excavation*, the excavator*, upon arrival at the site of a proposed excavation,* observes clear evidence of the presence of an unmarked utility line in the area of the proposed excavation, the excavator shall not begin excavating until three hours after an additional ~~call~~ *contact* is made to the notification center for the area*, provided that no information has been posted to the positive response system or information posted to the positive response system is inconsistent with the clear evidence observed by the excavator.*

The operator of any unmarked utility line shall respond within three hours of the excavator's ~~call~~ *contact* to the notification center. *After the clear evidence of an unmarked utility line is addressed pursuant to the additional contact to the notification center, excavation may proceed. During any excavation subject to this subsection, the excavator shall exercise reasonable care at all times to protect underground utility lines and shall be liable for any damages.*

D. The excavator's notification shall be valid for ~~fifteen~~ *15* working days from 7:00 a.m. on the next working day following ~~notice to the notification center~~ *a locate request or 15 working days following a scheduled excavation date provided to the notification center, whichever is later*. Three working days before the end of the ~~fifteen-working-day~~ *15-working-day* period, or at any time when line-location markings on the ground become illegible, the excavator intending to excavate shall contact the notification center and request the re-marking of lines. The operator shall re-mark the lines as soon as possible; however, the re-marking of the lines shall be completed within ~~forty-eight~~ *48* hours from 7:00 a.m. on the next working day following the request for the re-mark. Such re-marking shall be valid for an additional ~~fifteen~~ *15* working days from 7:00 a.m. on the next working day following ~~notice to the notification center~~ *a locate request.*

E. ~~In the event~~ *If* a specific location of the excavation cannot be given as required by subdivision 2 of § 56-265.18, prior to notifying the notification center pursuant to subsection A ~~of this section~~, the person proposing to excavate or demolish shall mark the route or boundary of the site of the proposed excavation or demolition by means of white paint, if practical.

F. The extent of the excavator's proposed ~~work~~ *excavation or demolition* shall be a work area that can be excavated within ~~fifteen~~ *15* working days from 7:00 a.m. on the next working day following ~~notice to the notification center~~ *a locate request.* The area covered under each ~~notice~~ *locate request* shall not exceed ~~one~~ *one-third of a* mile.

~~G. An excavator may request a special project notice from the notification center for the purpose of notifying the operators of the excavator's desire to enter into an agreement for locating and protecting the operator's underground utility lines for a specific, unique or long-term project. An excavator using a special project notice shall have complete control over all activities within the project area. The terms and conditions of such agreements must be agreed upon, in writing, by the excavator and the operator before excavation commences. Such agreement and compliance with the terms of the agreement shall constitute an exemption from the requirements of subsections A, B, C, D and E of this section.~~

§ 56-265.17:3. Procedures for operators in response to a designer notice.

An operator, upon notification by a designer in accordance with § 56-265.17:1, shall:

1. Respond to the designer's request for underground utility line information within ~~fifteen~~ *15* working days in accordance with subdivisions 2, 3, and 4 ~~of this section~~;

2. Provide designers with the operator's name, the type of underground utility line, and the approximate horizontal location of the utility line. The foregoing information may be provided to the designer through the means that include~~, but are not limited to,~~ field locates, maps, surveys, installation records or other means. ~~If the designer requests field locates, the operator shall provide field locates in accordance with the accuracy set forth in subsection A of § 56-265.19.~~ Marking shall be done by both paint and flags whenever possible;

3. Provide such information about the location of the utility lines to designers for informational purposes only. Operators will not be liable for any incorrect information provided or for the subsequent use of this information, nor will they be subject to civil penalties for the accuracy of the information or marks provided. Any concerns about the accuracy of information or marks should be directed to the appropriate operator; and

4. Respond to the ~~operator-excavator information exchange~~ *positive response* system by no later than 7:00 a.m. on the sixteenth working day following the designer's ~~notice to the notification center~~ *locate request*.

§ 56-265.18. Notification requirements.

Every *locate request and designer* notice served by any person on ~~a~~ *the* notification center shall contain the following information:

1. The name of the individual serving such notice.

2. The specific location of the proposed ~~work~~ *excavation or demolition*. ~~In the event~~ *If* a specific description of the location of the excavation cannot be given, the person proposing to excavate or demolish shall comply with subsection E of § 56-265.17.

3. The name, *physical* address, telephone number, and ~~telefacsimile number~~ *electronic mailing address,* if available, of the excavator or demolisher, to whom notification can be given.

4. The excavator's or demolisher's field telephone number *and*, if ~~one is~~ available*, electronic mailing address*.

5. The type and extent of the proposed ~~work~~ *excavation or demolition*.

6. The name of the person for whom the proposed ~~work~~ *excavation or demolition* is being performed.

§ 56-265.19. Duties of operator; regulations.

A. If a proposed excavation or demolition is planned in such proximity to the underground utility line that the utility line may be destroyed, damaged, dislocated, or disturbed, the operator shall mark the approximate horizontal location of the underground utility line on the ground to within two feet of either side of the underground utility line by means of stakes, paint, flags, or a combination thereof. The operator *or contract locator* shall mark the underground utility line and report the marking status to the ~~excavator operator information exchange~~ *positive response* system by no later than 7:00 a.m. on the third working day following the excavator's ~~notice to the notification center~~ *locate request*, unless *a scheduled excavation date is provided by the excavator to the notification center or* the operator *or contract locator* is unable to do so due to extraordinary *or exigent* circumstances. *Any scheduled excavation date shall not be less than 48 hours nor more than 12 working days from the date of the locate request. If a scheduled excavation date is provided by the excavator to the notification center, the operator or contract locator shall mark the underground utility line and report the marking status to the positive response system by no later than 7:00 a.m. on the scheduled day of excavation. Any locate request made on a day that is not a working day shall be considered as having been submitted to the notification center on the next working day at 7:00 a.m.* If the operator is unable to mark the location within the time allowed under this section due to extraordinary *or exigent* circumstances, the operator shall notify directly the person who proposes to excavate or demolish and shall, in addition, notify the person of the date and time when the location will be marked. The deferral to mark for extraordinary *or exigent* circumstances shall be no longer than 96 hours from 7:00 a.m. on the next working day following ~~notice to the notification center~~ *the locate request*, unless a longer time is otherwise agreed upon by the operator and excavator. The operator shall also inform the notification center of any deferral.

B. If a proposed excavation or demolition is not planned in such proximity to the operator's underground utility lines that the utility line may be damaged, the operator shall so report to the notification center's ~~excavator operator information exchange~~ *positive response* system no later than 7:00 a.m. on the third working day following the excavator's ~~notice to the notification center~~ *locate request*.

C. An operator shall participate in all preplanning and preconstruction meetings originated by state, county or municipal authorities relating to proposed construction projects which may affect the operator's existing or future utility lines and shall cooperate in implementing decisions reached in such preplanning and preconstruction meetings.

D. Any contract locator acting on behalf of an operator and failing to perform the duties imposed by this chapter shall be subject to the liabilities in § 56-265.25 and the civil penalties in § 56-265.32.

E. Locators shall be trained in applicable locating industry standards and practices no less stringent than the National Utility Locating Contractors Association's locator training standards and practices. Each locator's training shall be documented. Such documents shall be maintained by the operator or contract locator.

F. The Commission shall be authorized to adopt regulations designating: (i) letters for each operator to be used in conjunction with marking of underground utility lines, and (ii) symbols for marking of underground utility lines, in compliance with ~~subsection B~~ *subdivision 2* of § 56-265.17:3. Such letter designation and marking symbols shall be in accordance with industry standards.

G. For underground utility lines abandoned after July 1, 2002, operators shall make a reasonable attempt to keep records of these abandoned utility lines, excluding service lines connected to a single-family dwelling unit. When an operator has knowledge that the operator's abandoned utility lines may be present within the area of the proposed excavation, the operator shall provide a response to the ~~excavator operator information exchange~~ *positive response* system. Such information regarding abandoned lines shall be for informational purposes only. An operator shall not be liable to any person, or subject to civil penalties, as a result of the operator's providing incorrect information regarding abandoned lines or the subsequent use of such information. The ~~excavator operator information exchange~~ *positive response* system may refer any person with concerns about the accuracy of information regarding abandoned lines to the appropriate operator.

H. An operator shall respond to an emergency notice as soon as possible but no later than three hours from the excavator's ~~call~~ *contact* to the notification center.

§ 56-265.22. Duties of notification center upon notification by person intending to excavate; record of notification made by telephone required.

A. The notification center shall, upon receiving notice by a person, notify all member operators whose ~~underground~~ *utility* lines are ~~located~~ *present* in the area of the proposed project, excavation*,* or demolition. The notification center shall also indicate the names of those operators being notified to the person providing notice.

B. If the notification required by this chapter is made by telephone, a record of such notification shall be maintained by the operators or notification center notified to document compliance with the requirements of this chapter, and such records shall be maintained in compliance with the applicable statute of limitations.

C. The notification center shall notify excavators, within the time frame allowed by the law to mark underground utility lines, of any responses placed on the ~~excavator operator information exchange~~ *positive response* system by a locator.

Such notification shall occur by ~~facsimile or other~~ mutually acceptable means of automatically transmitting and receiving this information.

If the excavator cannot provide the notification center with ~~a facsimile number or other~~ mutually acceptable means of automatically transmitting and receiving this information, it shall be the excavator's responsibility to contact the ~~excavator-operator information exchange~~ *positive response* system after the period allowed by law to mark underground facilities and prior to commencing excavation in order to determine if any responses to the notice have been recorded.

§ 56-265.24. Duties of excavator.

A. *No excavator shall begin any excavation or demolition before reviewing and heeding the positive response marking status of the excavation area.* Any person excavating within two feet on either side of the staked or marked location of an operator's underground utility line or demolishing in such proximity to an underground utility line that the utility line may be destroyed, damaged, dislocated or disturbed shall take all reasonable steps necessary to properly protect, support and backfill underground utility lines. For excavations not parallel to an existing underground utility line, such steps shall include, but may not be limited to:

1. Exposing the underground utility line to its extremities by hand digging;

2. Not utilizing mechanized equipment within two feet of the extremities of all exposed utility lines; and

3. Protecting the exposed utility lines from damage.

In addition, for excavations parallel to an existing utility line, such steps shall include, but may not be limited to, hand digging at reasonable distances along the line of excavation. The excavator shall exercise due care at all times to protect underground utility lines when exposing these lines by hand digging.

B. If the markings locating the underground lines become illegible due to time, weather, construction, or any other cause, the person performing the excavation or demolition shall so notify the notification center for the area. Such notification shall constitute an extension under subsection D of § 56-265.17.

C. If, *after at least 48 hours beginning with 7:00 a.m. the next working day following a locate request or on the date of excavation,* upon arrival at the site of a proposed excavation, the excavator observes clear evidence of the presence of an unmarked utility line in the area of the proposed excavation, the excavator shall not begin excavating until *three hours after* an additional ~~call~~ *contact* is made to the notification center for the area pursuant to subsection ~~B~~ *C* of § 56-265.17 *and the excavator has verified that no information has been posted to the positive response system or information posted to the positive response system is inconsistent with the clear evidence observed by the excavator*.

D. In the event of any damage to, or dislocation, or disturbance of any underground utility line including its appurtenances, covering, and coating, in connection with any excavation or demolition, the person responsible for the excavation or demolition operations shall immediately notify the operator of the underground utility line and shall not backfill around the underground utility line until the operator has repaired the damage or has given clearance to backfill. The operator shall either commence repair of the damage or give clearance to backfill within twenty-four hours, and upon his failure to commence or prosecute with diligence such repair or give clearance, the giving of clearance shall be presumed.

E. If the damage, dislocation, or disturbance of the underground utility line creates an emergency, the person responsible for the excavation or demolition shall, in addition to complying with subsection D ~~of this section~~, take immediate steps reasonably calculated to safeguard life, health and property.

F. With the exception of designers requesting marking of a site, in accordance with § 56-265.17, no person, including operators, shall request marking of a site through a notification center unless excavation shall commence within thirty working days from the date of the original notification to the notification center. Except for counties, cities, and towns, any person who willfully fails to comply with this subsection shall be liable to the operator for three times the cost of marking its utility line, not to exceed $1,000.

G. Any person performing excavation or demolition shall provide to the operator of the underground utility line in the area of excavation or to the appropriate regulatory authority having jurisdiction, the number issued by the notification center for that excavation site in response to the excavator's notice, within one hour of a request for the number issued by the notification center.

H. If an excavator discovers an unmarked line, the excavator shall protect this line pursuant to subsection C ~~of this section~~. An excavator shall not remove an abandoned line without first receiving authorization to do so by the operator.

§ 56-265.24:1. Request to cease operation; immediate threat; penalty.

Notwithstanding the provisions of § 56-265.15:1, any person, as defined in § 56-265.15, who knowingly and intentionally excavates after being notified by a representative of the Commission of a determination that such excavation constitutes an immediate threat to safety or property and such representative requests that excavation cease is guilty of a Class 6 felony. The representative of the Commission shall immediately notify the agency with primary law-enforcement authority over the area of excavation, as well as the fire marshal, (i) that such excavation site is a threat to safety or property and (ii) of the request to cease excavation.

§ 56-265.31. Commission to establish advisory committee.

A. The Commission shall establish an advisory committee consisting of representatives of the following entities: Commission staff, utility operator, notification center, excavator, municipality, Virginia Department of Transportation, Board for Contractors, and underground line locator. Persons appointed to the advisory committee by the Commission shall have expertise with the operation of the Underground Utility Damage Prevention Act. The advisory committee shall perform duties which may be assigned by the Commission, including ~~the review of~~ *reviewing* reports of violations of the

chapter, *establishing positive response codes for use by the notification center's positive response system,* and ~~make~~ *making* recommendations to the Commission.

B. The members of the advisory committee shall be immune, individually and jointly, from civil liability for any act or omission done or made in performance of their duties while serving as members of such advisory committee, but only in the absence of willful misconduct.

§ 56-265.32. Commission to impose civil penalties for certain violations; establishment of Underground Utility Damage Prevention Special Fund.

A. The Commission may, by judgment entered after a hearing on notice duly served on any person not less than 30 days before the date of the hearing, impose a civil penalty not exceeding ~~$2,500~~ *$10,000* for each violation *of subsection A of § 56-265.17 and $5,000 for all other violations of this chapter*, if it is proved that the person violated any of the provisions of this chapter as a result of a failure to exercise reasonable care. Any proceeding or civil penalty undertaken pursuant to this section shall not prevent nor preempt the right of any party to obtain civil damages for personal injury or property damage in private causes of action. This subsection shall not authorize the Commission to impose civil penalties on any county, city, town, or other political subdivision. However, the Commission shall inform the counties, cities, towns, and other political subdivisions of reports of alleged violations involving the locality or political subdivision and, at the request of the locality or political subdivision, suggest corrective action.

B. If the Commission asserts there is recurring noncompliance with any of the provisions of this chapter by a county, city, town, or other political subdivision, the Commission, upon written notice to the chairman of such operator's board or, in the case of a city or town, the mayor of such operator's council, and to such operator's chief executive officer, may require a written response by such person or his designee. Such response shall be made within 30 days of the operator's receipt of written notice from the Commission. The response shall confirm that the operator will comply promptly or explain why it disputes any assertion by the Commission of noncompliance. If the operator is not able to return to compliance promptly, the operator shall describe its plan to achieve compliance in a corrective action plan to be submitted to the Commission no later than 60 days after the receipt of the written notice. Following submittal of a corrective action plan, the Commission may convene a hearing for the purpose of receiving additional evidence, determining whether noncompliance has occurred, and determining further suggested corrective action. The Commission may also convene such a hearing if the operator fails to provide a written response or a corrective action plan as required by this subsection, or provides a response that disputes the Commission's assertions. Nothing in this section shall limit the Commission's powers under this chapter with respect to persons who are not counties, cities, towns, or political subdivisions of the Commonwealth.

C. The Underground Utility Damage Prevention Special Fund (hereinafter referred to as Special Fund) is hereby established as a revolving fund to be used by the Commission for administering the regulatory program authorized by this chapter. The Special Fund shall be composed entirely of funds generated by *and for* the enforcement of this chapter. *Enforcement of this chapter also includes education and outreach provided by the Commission for training and educational programs for excavators, operators, utility line locators, and other persons.* Excess funds shall be used to support any one or more of the following: (i) public awareness programs established by a notification center pursuant to subsection B of § 56-265.16:1; (ii) training and education programs for excavators, operators, line locators, and other persons; and (iii) programs providing incentives for excavators, operators, line locators, and other persons to reduce the number and severity of violations of the Act. The Commission shall determine the appropriate allocation of any excess funds among such programs, and shall establish required elements for any program established under clause (ii) or (iii).

D. All civil penalties collected pursuant to this section shall be deposited into the Underground Utility Damage Prevention Special Fund. Interest earned on the fund shall be credited to the Special Fund. The Special Fund shall be established on the books of the Commission comptroller and any funds remaining in the Underground Utility Damage Prevention Special Fund at the end of the fiscal year shall not revert to the general fund, but shall remain in the Special Fund.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 300

An Act to amend and reenact §§ 56-265.15, 56-265.16:1, 56-265.17, 56-265.17:3, 56-265.18, 56-265.19, 56-265.22, 56-265.24, 56-265.31, and 56-265.32 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-265.24:1, relating to Underground Utility Damage Prevention Act; schedule of excavation; stop work authority; penalties.

[S 1145]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-265.15, 56-265.16:1, 56-265.17, 56-265.17:3, 56-265.18, 56-265.19, 56-265.22, 56-265.24, 56-265.31, and 56-265.32 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-265.24:1 as follows:

§ 56-265.15. Definitions; calculation of time periods.

A. As used in this chapter:

"Abandoned" means no longer in service and physically disconnected from a portion of the underground utility line that is in use for storage or conveyance of service.

~~"Commission" means the State Corporation Commission.~~

"Contract locator" means any person contracted by an operator specifically to determine the approximate horizontal location of the operator's utility lines that may exist within the area specified by a ~~notice served on a notification center~~ *locate request.*

"Damage" means any impact upon or removal of support from an underground facility as a result of excavation or demolition which according to the operating practices of the operator would necessitate the repair of such facility.

"Demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved, or removed by means of any tools, equipment, or discharge of explosives which could damage underground utility lines.

"Designer" means any licensed professional designated by the project owner who designs government projects, commercial projects, residential projects consisting of 25 or more units, or industrial projects, which projects require the approval of governmental or regulatory authorities having jurisdiction over the project area.

"Emergency" means a sudden or unexpected occurrence involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.

"Excavate" or "excavation" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or explosives and includes, without limitation, grading, trenching, digging, ditching, dredging, drilling, augering, tunneling, scraping, cable or pipe plowing and driving, wrecking, razing, rendering, moving, or removing any structure or mass of material. "Excavate" or "excavation" ~~shall~~ *does* not include installation of a sign that consists of metal, plastic, or wooden poles placed in the ground by hand or by foot without the use of tools or equipment.

"Exigent circumstances" means circumstances outside of an operator's or contract locator's, as described in subsection D of § 56-265.19, control that necessarily prevent an operator or locator from completing the marking task, including a wrong address provided with the locate request; failure to provide a reasonably specific location of proposed excavation; inaccessibility of the excavation site due to physical barrier or risk of serious bodily injury; a locate request that cannot be carried out by a traditional locating method and requires assistance from the operator; catastrophic technological failure outside of the locator's, operator's, or notification center's control; or the area of excavation does not conform with the requirements of subsection F of § 56-265.17.

"Extraordinary circumstances" means floods, snow, ice storms, tornadoes, earthquakes, or other natural disasters.

"Hand digging" means any excavation involving nonmechanized tools or equipment. Hand digging includes, but is not limited to, digging with shovels, picks, and manual post hole diggers, vacuum excavation or soft digging.

"Locate request" means the completed delivery of information to the notification center requesting markings for a specified area of excavation or demolition and receipt of the same by the notification center in accordance with this chapter.

"Notification center" means an organization whose membership is open to all operators of underground facilities located within the notification center's designated service area, which maintains a data base, provided by its member operators, that includes the geographic areas in which its member operators desire transmissions of notices of proposed excavation, and which has the capability to transmit, within one hour of receipt, notices of proposed excavation to member operators by ~~teletype, telecopy, personal computer, or telephone~~ *electronic means.*

"Notify," "notice" or "notification" means the completed delivery of information to the person to be notified, and the receipt of same by such person in accordance with this chapter. The delivery of information includes~~, but is not limited to,~~ the use of any electronic or technological means of data transfer.

"Operator" means any person who owns, furnishes or transports materials or services by means of a utility line.

"Person" means any individual, operator, firm, joint venture, partnership, corporation, association, municipality, or other political subdivision, governmental unit, department or agency, and includes any trustee, receiver, assignee, or personal representative thereof.

"Positive response" means a code or phrase posted by an operator or locator to the notification center detailing the marking status of a locate request.

"Positive response system" means the excavator-operator information exchange system that is required by subsection E of § 56-265.16:1 and provides the means for operators or their contract locators to respond to and report the marking status of a locate request.

"Private sewer lateral" means a privately owned, legally authorized utility line that transports wastewater from one or more buildings to a sewer system utility line owned by a sewer system operator.

"Private water lateral" means a privately owned, legally authorized utility line that supplies water from a water system utility line owned by a water system operator to one or more buildings or properties.

"Sewer system" means a system of utility lines used for conveying wastewater, and includes sewer system laterals but does not include private sewer laterals.

"Sewer system lateral" means a lateral utility line located in the public right-of-way or public sewer easement, owned by a sewer system operator, and used to transport wastewater to the operator's main sewer line.

"Sewer system operator" means an operator of a sewer system.

"Soft digging" means any excavation using tools or equipment that utilize air or water pressure as the direct means to break up soil or earth for removal by vacuum excavation.

~~"Special project notice" means a valid notice to the notification center by an excavator covering a specific, unique or long-term project.~~

"Utility line" means any item of public or private property which is buried or placed below ground or submerged for use in connection with the storage or conveyance of water, sewage, telecommunications, electric energy, cable television, oil, petroleum products, gas, or other substances, and includes ~~but is not limited to~~ pipes, sewers, combination storm/sanitary sewer systems, conduits, cables, valves, lines, wires, manholes, attachments, and those portions of poles below ground. The term "sewage" ~~as used herein~~ does not include any gravity storm drainage systems. Except for any publicly owned gravity sewer system within a county which has adopted the urban county executive form of government, the term "utility line" does not include any gravity sewer system or any combination gravity storm/sanitary sewer system within any counties, cities, towns or political subdivisions constructed or replaced prior to January 1, 1995. No excavator shall be held liable for the cost to repair damage to any such systems constructed or replaced prior to January 1, 1995, unless such systems are located in accordance with § 56-265.19.

"Water system" means a system of utility lines used for supplying water, and does not include private water laterals.

"Water system operator" means an operator of a water system.

"Willful" means an act done intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently.

"Working day" means every day, except Saturdays, Sundays, and legal state and national holidays.

B. Unless otherwise specified, all time periods used in this chapter shall be calculated from the time of the original ~~notification to the notification center~~ *locate request* as provided in § 56-265.17. In addition, all time periods exclude Saturdays, Sundays, and legal state and national holidays.

§ 56-265.16:1. Operators to join notification centers; certification.

A. Every operator, including counties, cities and towns, but excluding the Department of Transportation, having the right to bury underground utility lines shall join the notification center for the area.

B. Every notification center shall be certified by the Commission. The Commission shall determine the optimum number of notification centers in the Commonwealth. If the Commission determines that there shall be more than one notification center in the Commonwealth, it shall define the geographic area to be served by each notification center.

C. Any corporation desiring to serve as the notification center for an area of the Commonwealth may apply to the Commission to be certified as the notification center for that area. The Commission shall have authority to grant, amend, or revoke certificates under regulations promulgated relating to certification. An application for certification shall include such information as the Commission may reasonably require addressing the applicant's operational plan for the notification center.

D. Every Commission action regarding the optimum number of notification centers, the geographic area to be served by each notification center, the promulgation of notification center certification regulations, and the grant, amendment, or revocation of notification center certifications shall be made in furtherance of the purpose of preventing or mitigating loss of, or damage to, life, health, property or essential public services resulting from damage to underground utility lines. Any action by the Commission to approve or revoke any notification center certification shall:

1. Ensure protection for the public from the hazards that this chapter is intended to prevent or mitigate;

2. Ensure that all persons served by the notification center receive an acceptable level of performance, which level shall be maintained throughout the period of the notification center's certification; and

3. Require the notification center and its agents to demonstrate financial responsibility for any damages that may result from their violation of any provision of this chapter. Such requirement may be met by purchasing and maintaining liability insurance on such terms and in such amount as the Commission deems appropriate.

E. A notification center shall maintain ~~an excavator-operator information exchange~~ *a positive response* system in accordance with notification center certification regulations promulgated by the Commission. The members of a notification center shall be responsible for developing and implementing a public awareness program to ensure that all parties affected by this chapter shall be aware of their responsibilities. There shall be only one notification center certified for each geographic area defined by the Commission.

§ 56-265.17. Notification required prior to excavation or demolition; waiting periods; marking of proposed site.

A. ~~Except as provided in subsection G, no~~ *No* person~~,~~ ~~including operators,~~ shall make or begin any excavation or demolition without first ~~notifying~~ *submitting a locate request to* the notification center ~~for that area~~. ~~Notice to the notification center~~ *Submission of a locate request* shall be deemed to be notice to each operator who is a member of the notification center. The notification center shall provide the excavator with the identity of utilities that will be notified of the proposed excavation or demolition. Except for counties, cities, and towns, an excavator who willfully fails to ~~notify the notification center of~~ *submit a locate request for a* proposed excavation or demolition shall be liable to the operator whose

facilities are damaged by that excavator, for three times the cost to repair the damaged property, provided *that* the operator is a member of the notification center. The total amount of punitive damages awarded under this section, as distinguished from actual damages, shall not exceed $10,000 in any single cause of action.

B. Except in the case of an emergency as defined in § 56-265.15 *or in cases subject to subsection C*, the excavator ~~may~~ *shall only* commence work ~~under one of the following conditions~~:

1. After ~~waiting forty-eight hours, beginning 7:00 a.m. the next working day following notice to the notification center;~~

~~2. At any time, if the excavator confirms that all applicable operators have either marked their underground utility lines or reported that no lines are present in the vicinity of the excavation or demolition. The confirmation shall be obtained by contacting or receiving information from the notification center's excavator-operator information exchange system~~ *the excavator has confirmed, by reviewing the positive response information posted on the notification center's positive response system, that each operator has marked its utility lines, notified the notification center that its utility lines are not present in the area of proposed excavation, or otherwise posted a positive response indicating excavation may begin*; or

~~3.~~ *2.* If informed by the notification center that no operators are to be notified.

If any operator fails to respond to the ~~excavator-operator information exchange~~ *positive response* system as required by this chapter, the notification center shall renotify any operator of its failure. This renotification shall not constitute an exemption from the duties of the operator set forth in § 56-265.19.

C. ~~The excavator shall exercise due care at all times to protect underground utility lines.~~ If, ~~upon arrival at the site of a proposed excavation~~ *after at least 48 hours beginning with 7:00 a.m. the next working day following a locate request or on the date of excavation*, the excavator*, upon arrival at the site of a proposed excavation,* observes clear evidence of the presence of an unmarked utility line in the area of the proposed excavation, the excavator shall not begin excavating until three hours after an additional ~~call~~ *contact* is made to the notification center for the area*, provided that no information has been posted to the positive response system or information posted to the positive response system is inconsistent with the clear evidence observed by the excavator*.

The operator of any unmarked utility line shall respond within three hours of the excavator's ~~call~~ *contact* to the notification center. *After the clear evidence of an unmarked utility line is addressed pursuant to the additional contact to the notification center, excavation may proceed. During any excavation subject to this subsection, the excavator shall exercise reasonable care at all times to protect underground utility lines and shall be liable for any damages.*

D. The excavator's notification shall be valid for ~~fifteen~~ *15* working days from 7:00 a.m. on the next working day following ~~notice to the notification center~~ *a locate request or 15 working days following a scheduled excavation date provided to the notification center, whichever is later*. Three working days before the end of the ~~fifteen-working-day~~ *15-working-day* period, or at any time when line-location markings on the ground become illegible, the excavator intending to excavate shall contact the notification center and request the re-marking of lines. The operator shall re-mark the lines as soon as possible; however, the re-marking of the lines shall be completed within ~~forty-eight~~ *48* hours from 7:00 a.m. on the next working day following the request for the re-mark. Such re-marking shall be valid for an additional ~~fifteen~~ *15* working days from 7:00 a.m. on the next working day following ~~notice to the notification center~~ *a locate request*.

E. ~~In the event~~ *If* a specific location of the excavation cannot be given as required by subdivision 2 of § 56-265.18, prior to notifying the notification center pursuant to subsection A ~~of this section~~, the person proposing to excavate or demolish shall mark the route or boundary of the site of the proposed excavation or demolition by means of white paint, if practical.

F. The extent of the excavator's proposed ~~work~~ *excavation or demolition* shall be a work area that can be excavated within ~~fifteen~~ *15* working days from 7:00 a.m. on the next working day following ~~notice to the notification center~~ *a locate request*. The area covered under each ~~notice~~ *locate request* shall not exceed ~~one~~ *one-third of a* mile.

~~G. An excavator may request a special project notice from the notification center for the purpose of notifying the operators of the excavator's desire to enter into an agreement for locating and protecting the operator's underground utility lines for a specific, unique or long-term project. An excavator using a special project notice shall have complete control over all activities within the project area. The terms and conditions of such agreements must be agreed upon, in writing, by the excavator and the operator before excavation commences. Such agreement and compliance with the terms of the agreement shall constitute an exemption from the requirements of subsections A, B, C, D and E of this section.~~

§ 56-265.17:3. Procedures for operators in response to a designer notice.

An operator, upon notification by a designer in accordance with § 56-265.17:1, shall:

1. Respond to the designer's request for underground utility line information within ~~fifteen~~ *15* working days in accordance with subdivisions 2, 3, and 4 ~~of this section~~;

2. Provide designers with the operator's name, the type of underground utility line, and the approximate horizontal location of the utility line. The foregoing information may be provided to the designer through the means that include~~, but are not limited to,~~ field locates, maps, surveys, installation records or other means. ~~If the designer requests field locates, the operator shall provide field locates in accordance with the accuracy set forth in subsection A of § 56-265.19.~~ Marking shall be done by both paint and flags whenever possible;

3. Provide such information about the location of the utility lines to designers for informational purposes only. Operators will not be liable for any incorrect information provided or for the subsequent use of this information, nor will they be subject to civil penalties for the accuracy of the information or marks provided. Any concerns about the accuracy of information or marks should be directed to the appropriate operator; and

4. Respond to the ~~operator-excavator information exchange~~ *positive response* system by no later than 7:00 a.m. on the sixteenth working day following the designer's ~~notice to the notification center~~ *locate request*.

§ 56-265.18. Notification requirements.

Every *locate request and designer* notice served by any person on ~~a~~ *the* notification center shall contain the following information:

1. The name of the individual serving such notice.

2. The specific location of the proposed ~~work~~ *excavation or demolition*. ~~In the event~~ *If* a specific description of the location of the excavation cannot be given, the person proposing to excavate or demolish shall comply with subsection E of § 56-265.17.

3. The name, *physical* address, telephone number, and ~~telefacsimile number~~ *electronic mailing address,* if available, of the excavator or demolisher, to whom notification can be given.

4. The excavator's or demolisher's field telephone number *and*, if ~~one is~~ available*, electronic mailing address*.

5. The type and extent of the proposed ~~work~~ *excavation or demolition*.

6. The name of the person for whom the proposed ~~work~~ *excavation or demolition* is being performed.

§ 56-265.19. Duties of operator; regulations.

A. If a proposed excavation or demolition is planned in such proximity to the underground utility line that the utility line may be destroyed, damaged, dislocated, or disturbed, the operator shall mark the approximate horizontal location of the underground utility line on the ground to within two feet of either side of the underground utility line by means of stakes, paint, flags, or a combination thereof. The operator *or contract locator* shall mark the underground utility line and report the marking status to the ~~excavator-operator information exchange~~ *positive response* system by no later than 7:00 a.m. on the third working day following the excavator's ~~notice to the notification center~~ *locate request*, unless *a scheduled excavation date is provided by the excavator to the notification center or* the operator *or contract locator* is unable to do so due to extraordinary *or exigent* circumstances. *Any scheduled excavation date shall not be less than 48 hours nor more than 12 working days from the date of the locate request. If a scheduled excavation date is provided by the excavator to the notification center, the operator or contract locator shall mark the underground utility line and report the marking status to the positive response system by no later than 7:00 a.m. on the scheduled day of excavation. Any locate request made on a day that is not a working day shall be considered as having been submitted to the notification center on the next working day at 7:00 a.m.* If the operator is unable to mark the location within the time allowed under this section due to extraordinary *or exigent* circumstances, the operator shall notify directly the person who proposes to excavate or demolish and shall, in addition, notify the person of the date and time when the location will be marked. The deferral to mark for extraordinary *or exigent* circumstances shall be no longer than 96 hours from 7:00 a.m. on the next working day following ~~notice to the notification center~~ *the locate request*, unless a longer time is otherwise agreed upon by the operator and excavator. The operator shall also inform the notification center of any deferral.

B. If a proposed excavation or demolition is not planned in such proximity to the operator's underground utility lines that the utility line may be damaged, the operator shall so report to the notification center's ~~excavator-operator information exchange~~ *positive response* system no later than 7:00 a.m. on the third working day following the excavator's ~~notice to the notification center~~ *locate request*.

C. An operator shall participate in all preplanning and preconstruction meetings originated by state, county or municipal authorities relating to proposed construction projects which may affect the operator's existing or future utility lines and shall cooperate in implementing decisions reached in such preplanning and preconstruction meetings.

D. Any contract locator acting on behalf of an operator and failing to perform the duties imposed by this chapter shall be subject to the liabilities in § 56-265.25 and the civil penalties in § 56-265.32.

E. Locators shall be trained in applicable locating industry standards and practices no less stringent than the National Utility Locating Contractors Association's locator training standards and practices. Each locator's training shall be documented. Such documents shall be maintained by the operator or contract locator.

F. The Commission shall be authorized to adopt regulations designating: (i) letters for each operator to be used in conjunction with marking of underground utility lines, and (ii) symbols for marking of underground utility lines, in compliance with ~~subsection B~~ *subdivision 2* of § 56-265.17:3. Such letter designation and marking symbols shall be in accordance with industry standards.

G. For underground utility lines abandoned after July 1, 2002, operators shall make a reasonable attempt to keep records of these abandoned utility lines, excluding service lines connected to a single-family dwelling unit. When an operator has knowledge that the operator's abandoned utility lines may be present within the area of the proposed excavation, the operator shall provide a response to the ~~excavator-operator information exchange~~ *positive response* system. Such information regarding abandoned lines shall be for informational purposes only. An operator shall not be liable to any person, or subject to civil penalties, as a result of the operator's providing incorrect information regarding abandoned lines or the subsequent use of such information. The ~~excavator-operator information exchange~~ *positive response* system may refer any person with concerns about the accuracy of information regarding abandoned lines to the appropriate operator.

H. An operator shall respond to an emergency notice as soon as possible but no later than three hours from the excavator's ~~call~~ *contact* to the notification center.

§ 56-265.22. Duties of notification center upon notification by person intending to excavate; record of notification made by telephone required.

A. The notification center shall, upon receiving notice by a person, notify all member operators whose ~~underground~~ *utility* lines are ~~located~~ *present* in the area of the proposed project, excavation, or demolition. The notification center shall also indicate the names of those operators being notified to the person providing notice.

B. If the notification required by this chapter is made by telephone, a record of such notification shall be maintained by the operators or notification center notified to document compliance with the requirements of this chapter, and such records shall be maintained in compliance with the applicable statute of limitations.

C. The notification center shall notify excavators, within the time frame allowed by the law to mark underground utility lines, of any responses placed on the ~~excavator-operator information exchange~~ *positive response* system by a locator. Such notification shall occur by ~~facsimile or other~~ mutually acceptable means of automatically transmitting and receiving this information.

If the excavator cannot provide the notification center with ~~a facsimile number or other~~ mutually acceptable means of automatically transmitting and receiving this information, it shall be the excavator's responsibility to contact the ~~excavator-operator information exchange~~ *positive response* system after the period allowed by law to mark underground facilities and prior to commencing excavation in order to determine if any responses to the notice have been recorded.

§ 56-265.24. Duties of excavator.

A. *No excavator shall begin any excavation or demolition before reviewing and heeding the positive response marking status of the excavation area.* Any person excavating within two feet on either side of the staked or marked location of an operator's underground utility line or demolishing in such proximity to an underground utility line that the utility line may be destroyed, damaged, dislocated or disturbed shall take all reasonable steps necessary to properly protect, support and backfill underground utility lines. For excavations not parallel to an existing underground utility line, such steps shall include, but may not be limited to:

1. Exposing the underground utility line to its extremities by hand digging;

2. Not utilizing mechanized equipment within two feet of the extremities of all exposed utility lines; and

3. Protecting the exposed utility lines from damage.

In addition, for excavations parallel to an existing utility line, such steps shall include, but may not be limited to, hand digging at reasonable distances along the line of excavation. The excavator shall exercise due care at all times to protect underground utility lines when exposing these lines by hand digging.

B. If the markings locating the underground lines become illegible due to time, weather, construction, or any other cause, the person performing the excavation or demolition shall so notify the notification center for the area. Such notification shall constitute an extension under subsection D of § 56-265.17.

C. If, *after at least 48 hours beginning with 7:00 a.m. the next working day following a locate request or on the date of excavation,* upon arrival at the site of a proposed excavation, the excavator observes clear evidence of the presence of an unmarked utility line in the area of the proposed excavation, the excavator shall not begin excavating until *three hours after* an additional ~~call~~ *contact* is made to the notification center for the area pursuant to subsection ~~B~~ *C* of § 56-265.17 *and the excavator has verified that no information has been posted to the positive response system or information posted to the positive response system is inconsistent with the clear evidence observed by the excavator*.

D. In the event of any damage to, or dislocation, or disturbance of any underground utility line including its appurtenances, covering, and coating, in connection with any excavation or demolition, the person responsible for the excavation or demolition operations shall immediately notify the operator of the underground utility line and shall not backfill around the underground utility line until the operator has repaired the damage or has given clearance to backfill. The operator shall either commence repair of the damage or give clearance to backfill within twenty-four hours, and upon his failure to commence or prosecute with diligence such repair or give clearance, the giving of clearance shall be presumed.

E. If the damage, dislocation, or disturbance of the underground utility line creates an emergency, the person responsible for the excavation or demolition shall, in addition to complying with subsection D ~~of this section~~, take immediate steps reasonably calculated to safeguard life, health and property.

F. With the exception of designers requesting marking of a site, in accordance with § 56-265.17, no person, including operators, shall request marking of a site through a notification center unless excavation shall commence within thirty working days from the date of the original notification to the notification center. Except for counties, cities, and towns, any person who willfully fails to comply with this subsection shall be liable to the operator for three times the cost of marking its utility line, not to exceed $1,000.

G. Any person performing excavation or demolition shall provide to the operator of the underground utility line in the area of excavation or to the appropriate regulatory authority having jurisdiction, the number issued by the notification center for that excavation site in response to the excavator's notice, within one hour of a request for the number issued by the notification center.

H. If an excavator discovers an unmarked line, the excavator shall protect this line pursuant to subsection C ~~of this section~~. An excavator shall not remove an abandoned line without first receiving authorization to do so by the operator.

§ 56-265.24:1. Request to cease operation; immediate threat; penalty.

Notwithstanding the provisions of § 56-265.15:1, any person, as defined in § 56-265.15, who knowingly and intentionally excavates after being notified by a representative of the Commission of a determination that such excavation constitutes an immediate threat to safety or property and such representative requests that excavation cease is guilty of a Class 6 felony. The representative of the Commission shall immediately notify the agency with primary law-enforcement

authority over the area of excavation, as well as the fire marshal, (i) that such excavation site is a threat to safety or property and (ii) of the request to cease excavation.

§ 56-265.31. Commission to establish advisory committee.

A. The Commission shall establish an advisory committee consisting of representatives of the following entities: Commission staff, utility operator, notification center, excavator, municipality, Virginia Department of Transportation, Board for Contractors, and underground line locator. Persons appointed to the advisory committee by the Commission shall have expertise with the operation of the Underground Utility Damage Prevention Act. The advisory committee shall perform duties which may be assigned by the Commission, including ~~the review of~~ *reviewing* reports of violations of the chapter, *establishing positive response codes for use by the notification center's positive response system,* and ~~make~~ *making* recommendations to the Commission.

B. The members of the advisory committee shall be immune, individually and jointly, from civil liability for any act or omission done or made in performance of their duties while serving as members of such advisory committee, but only in the absence of willful misconduct.

§ 56-265.32. Commission to impose civil penalties for certain violations; establishment of Underground Utility Damage Prevention Special Fund.

A. The Commission may, by judgment entered after a hearing on notice duly served on any person not less than 30 days before the date of the hearing, impose a civil penalty not exceeding ~~$2,500~~ *$10,000* for each violation *of subsection A of § 56-265.17 and $5,000 for all other violations of this chapter*, if it is proved that the person violated any of the provisions of this chapter as a result of a failure to exercise reasonable care. Any proceeding or civil penalty undertaken pursuant to this section shall not prevent nor preempt the right of any party to obtain civil damages for personal injury or property damage in private causes of action. This subsection shall not authorize the Commission to impose civil penalties on any county, city, town, or other political subdivision. However, the Commission shall inform the counties, cities, towns, and other political subdivisions of reports of alleged violations involving the locality or political subdivision and, at the request of the locality or political subdivision, suggest corrective action.

B. If the Commission asserts there is recurring noncompliance with any of the provisions of this chapter by a county, city, town, or other political subdivision, the Commission, upon written notice to the chairman of such operator's board or, in the case of a city or town, the mayor of such operator's council, and to such operator's chief executive officer, may require a written response by such person or his designee. Such response shall be made within 30 days of the operator's receipt of written notice from the Commission. The response shall confirm that the operator will comply promptly or explain why it disputes any assertion by the Commission of noncompliance. If the operator is not able to return to compliance promptly, the operator shall describe its plan to achieve compliance in a corrective action plan to be submitted to the Commission no later than 60 days after the receipt of the written notice. Following submittal of a corrective action plan, the Commission may convene a hearing for the purpose of receiving additional evidence, determining whether noncompliance has occurred, and determining further suggested corrective action. The Commission may also convene such a hearing if the operator fails to provide a written response or a corrective action plan as required by this subsection, or provides a response that disputes the Commission's assertions. Nothing in this section shall limit the Commission's powers under this chapter with respect to persons who are not counties, cities, towns, or political subdivisions of the Commonwealth.

C. The Underground Utility Damage Prevention Special Fund (hereinafter referred to as Special Fund) is hereby established as a revolving fund to be used by the Commission for administering the regulatory program authorized by this chapter. The Special Fund shall be composed entirely of funds generated by *and for* the enforcement of this chapter. *Enforcement of this chapter also includes education and outreach provided by the Commission for training and educational programs for excavators, operators, utility line locators, and other persons.* Excess funds shall be used to support any one or more of the following: (i) public awareness programs established by a notification center pursuant to subsection B of § 56-265.16:1; (ii) training and education programs for excavators, operators, line locators, and other persons; and (iii) programs providing incentives for excavators, operators, line locators, and other persons to reduce the number and severity of violations of the Act. The Commission shall determine the appropriate allocation of any excess funds among such programs, and shall establish required elements for any program established under clause (ii) or (iii).

D. All civil penalties collected pursuant to this section shall be deposited into the Underground Utility Damage Prevention Special Fund. Interest earned on the fund shall be credited to the Special Fund. The Special Fund shall be established on the books of the Commission comptroller and any funds remaining in the Underground Utility Damage Prevention Special Fund at the end of the fiscal year shall not revert to the general fund, but shall remain in the Special Fund.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 301

An Act to amend and reenact § 59.1-21.2 of the Code of Virginia, relating to home solicitation sale; definition.

[H 2422]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-21.2 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-21.2. Definitions.

A. ~~"Home~~ *As used in this chapter, "home* solicitation sale" means:

1. A consumer sale or lease of goods or services in which the seller or a person acting for him engages (i) in a personal solicitation of the sale or lease or (ii) in a solicitation of the sale or lease by ~~telephonic~~ *telephone* or ~~other~~ electronic means at any residence other than that of the seller *without prior invitation or appointment*; and

2. The buyer's agreement or offer to purchase or lease is there given to the seller or a person acting for him.

B. *As used in this chapter:*

1. "Home solicitation sale" ~~shall~~ *does* not mean a consumer sale or lease of farm equipment *or a consumer sale made by an entity regulated by the State Corporation Commission's Bureau of Insurance, an affiliate of any such entity, or a dealer licensed by the Motor Vehicle Dealer Board.*

2. ~~It~~ *"Home solicitation sale"* does not include cash sales of less than ~~twenty-five dollars~~ *$25*, a sale or lease made pursuant to a preexisting revolving charge account, or a sale or lease made pursuant to prior negotiations between the parties.

3. "Home solicitation sale" does not include sales made entirely by telephone or electronic means at the initiation of the buyer and without any other contact between the buyer and the seller or its representative prior to the delivery of goods or performance of services.

C. As used in this chapter, "goods" means tangible personal property and also includes a merchandise certificate whereby a writing is issued by the seller which is not redeemable in cash and is usable in lieu of cash in exchange for goods or services; "seller" means seller or lessor and "buyer" means buyer or lessee.

CHAPTER 302

An Act to amend and reenact § 59.1-21.2 of the Code of Virginia, relating to home solicitation sale; definition.

[S 1509]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-21.2 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-21.2. Definitions.

A. ~~"Home~~ *As used in this chapter, "home* solicitation sale" means:

1. A consumer sale or lease of goods or services in which the seller or a person acting for him engages (i) in a personal solicitation of the sale or lease or (ii) in a solicitation of the sale or lease by ~~telephonic~~ *telephone* or ~~other~~ electronic means at any residence other than that of the seller *without prior invitation or appointment*; and

2. The buyer's agreement or offer to purchase or lease is there given to the seller or a person acting for him.

B. *As used in this chapter:*

1. "Home solicitation sale" ~~shall~~ *does* not mean a consumer sale or lease of farm equipment *or a consumer sale made by an entity regulated by the State Corporation Commission's Bureau of Insurance, an affiliate of any such entity, or a dealer licensed by the Motor Vehicle Dealer Board.*

2. ~~It~~ *"Home solicitation sale"* does not include cash sales of less than ~~twenty-five dollars~~ *$25*, a sale or lease made pursuant to a preexisting revolving charge account, or a sale or lease made pursuant to prior negotiations between the parties.

3. "Home solicitation sale" does not include sales made entirely by telephone or electronic means at the initiation of the buyer and without any other contact between the buyer and the seller or its representative prior to the delivery of goods or performance of services.

C. As used in this chapter, "goods" means tangible personal property and also includes a merchandise certificate whereby a writing is issued by the seller which is not redeemable in cash and is usable in lieu of cash in exchange for goods or services; "seller" means seller or lessor and "buyer" means buyer or lessee.

CHAPTER 303

An Act to amend and reenact § 6.2-1302 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 6.2-1302.1, relating to credit unions; virtual currency custody services.

[H 1727]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 6.2-1302 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 6.2-1302.1 as follows:

§ 6.2-1302. Powers.

In addition to the powers specified or implied elsewhere in this chapter or in the laws of the Commonwealth, a credit union shall have the power to:

1. Enter into contracts;

2. Sue and be sued;

3. Adopt, use, and display a corporate seal;

4. Receive savings from and make loans and extend lines of credit to its members;

5. Individually or jointly with other credit unions acquire, lease as lessor or lessee, hold, assign, pledge, exchange, repair, mortgage, hypothecate, sell, discount, or otherwise dispose of property or assets, either in whole or in part, as necessary or incidental to its operations, including any property or assets obtained as a result of defaults under obligations owing to it;

6. Borrow from any source, provided that (i) a credit union shall notify and obtain prior approval of the Commissioner if the total borrowings will exceed 50 percent of the credit union's outstanding shares and (ii) in no event shall the borrowings exceed 90 percent of the credit union's outstanding shares;

7. Sell all or substantially all of its assets or purchase all or substantially all of the assets of another credit union, subject to the approval of the Commission;

8. Offer related financial services, including electronic fund transfers, share draft accounts, safe deposit boxes, leasing of tangible personal property to its members, and correspondent arrangements with other financial institutions;

9. Hold membership in other credit unions organized under this chapter or other applicable law, and in associations and organizations controlled by or fostering the interest of credit unions, including a central liquidity facility organized under state or federal law;

10. Contract with any licensed insurance company or society to insure the lives of its members to the extent of their loans and share accounts, in whole or in part, and to pay all or a portion of the premium therefor;

11. Engage in activities or programs as requested by any governmental authority, subject to the approval of the Commissioner;

12. Invest its funds, operate a business, manage or deal in property when such actions are reasonably necessary to avoid loss on a loan or investment previously made or an obligation previously created in good faith. Such property or business shall not be held or operated by the credit union for a period longer than is reasonably required to protect the interest of the credit union, unless specifically authorized by the Commissioner;

13. Make contributions to any nonprofit civic, charitable, or service organizations;

14. Make loans to its members and to other credit unions;

15. *Engage in virtual currency custody services in the manner and to the extent provided in § 6.2-1302.1;*

16. Engage in any additional activity, service, or other practice that is authorized for a federally chartered credit union and that has not otherwise been authorized for a state-chartered credit union by the provisions of this chapter or by Commission regulation, including regulations adopted pursuant to subsection B of § 6.2-1303, provided that (i) at least 45 calendar days prior to engaging in any such activity, service, or practice the credit union provides the Commissioner with written notice along with any additional information relating to the activity, service, or practice that the Commissioner may require and (ii) the credit union engages in the activity, service, or practice subject to the same terms, conditions, and limitations that are applicable to a federally chartered credit union. The Commissioner may at any time, based upon supervisory, legal, or safety and soundness considerations, prohibit or further restrict the activity, service, or practice. "Activity, service, or other practice" does not include credit union field of membership or field of membership expansion under §§ 6.2-1327 and 6.2-1328 and any related regulations; and

~~16.~~ *17.* Undertake such other activities relating to the purposes of the credit union as its charter or bylaws may authorize, provided such activities are not inconsistent with this chapter.

§ 6.2-1302.1. Virtual currency custody services.

A. As used in this section:

"Custody services" means the role of a credit union in the safekeeping and custody of various customer assets.

"Virtual currency" has the same meaning as provided in § 6.2-818.1.

B. A credit union may provide its customers with virtual currency custody services so long as the credit union has adequate protocols in place to effectively manage risks and comply with applicable laws and, prior to offering virtual

currency custody services, the credit union has carefully examined the risks in offering such services through a methodical self-assessment process. If a credit union engages in virtual currency custody services, the credit union shall:

1. Implement effective risk management systems and controls to measure, monitor, and control relevant risks associated with custody of digital assets such as virtual currency;

2. Confirm that it has adequate insurance coverage for such services; and

3. Maintain a service provider oversight program, to the extent that the credit union engages with a service provider to provide virtual currency custody services, to address risks to service provider relationships as a result of engaging in virtual currency custody services.

C. A credit union may provide virtual currency custody services in a fiduciary or nonfiduciary capacity. In providing such services in a nonfiduciary capacity, the credit union shall act as a bailee, taking possession of the customer's asset for safekeeping while legal title remains with the customer, such that the customer retains direct control over the keys associated with his virtual currency. To provide such services in a fiduciary capacity, the credit union shall obtain approval from the Commission as required by subsection D. In providing virtual currency custody services in a fiduciary capacity, the credit union shall receive control of the customer's virtual currency, and new private keys shall be created to be held by the credit union. If approved by the Commission to provide virtual currency custody services in a fiduciary capacity, a credit union shall have authority to manage virtual currency assets as it would any other type of asset held in such capacity.

D. No credit union shall provide virtual currency custody services in a fiduciary capacity without first obtaining authorization to do so from the Commission. The Commission shall not grant such authority until it finds that the credit union has satisfied the following requirements:

1. The credit union's capital structure is sufficiently strong to support the undertaking to provide virtual currency custody services;

2. The personnel who will direct the proposed virtual currency custody services have adequate experience, training, and sufficient resources to ensure compliance with laws and regulations and to protect the operations of the credit union; and

3. Granting such authority to the credit union is in the public interest.

E. The Commission may impose conditions on the authority granted to any credit union pursuant to subsection D and may suspend or revoke such authority if it finds that the credit union has failed to comply with any laws or regulations applicable to virtual currency custody services or any existing conditions imposed by the Commission or if the services are otherwise being provided in an unsafe or unsound manner.

CHAPTER 304

An Act to amend and reenact §§ 59.1-200 and 59.1-466.5 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 38.2 of Title 59.1 a section numbered 59.1-466.8, relating to ticket resale; deceptive trade practices.

[H 1857]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-200 and 59.1-466.5 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 38.2 of Title 59.1 a section numbered 59.1-466.8 as follows:

§ 59.1-200. Prohibited practices.

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

1. Misrepresenting goods or services as those of another;

2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;

4. Misrepresenting geographic origin in connection with goods or services;

5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;

6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";

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

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

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

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

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

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

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

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

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

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516, or 3.2-6519 is a violation of this chapter;

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

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

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

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

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

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

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

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

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

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

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

24. Violating any provision of § 54.1-1505;

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

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

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

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

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

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

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

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

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

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

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

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

37. Violating any provision of § 8.01-40.2;

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

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

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

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

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

43. Violating any provision of § 59.1-443.2;

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

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

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

47. Violating any provision of § 18.2-239;

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

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

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

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

52. Violating any provision of § 8.2-317.1;

53. Violating subsection A of § 9.1-149.1;

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

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

56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;

58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);

59. Violating any provision of subsection E of § 32.1-126;

60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

61. Violating any provision of § 2.2-2001.5;

62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;

63. Violating any provision of § 6.2-312;

64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;

65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;

66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);

67. Knowingly violating any provision of § 8.01-27.5;

68. Failing to make available a conspicuous online option to cancel a recurring purchase of a good or service as required by § 59.1-207.46;

69. Selling or offering for sale to a person younger than 21 years of age any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 of Chapter 34 of Title 54.1 of the Code of Virginia;

70. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch

from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 of Chapter 34 of Title 54.1 of the Code of Virginia;

71. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit; ~~and~~

72. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance*; and*

73. Violating any provision of § 59.1-466.8.

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

§ 59.1-466.5. Definitions.

As used in this chapter, ~~"event"~~ *unless the context requires a different meaning:*

"Event" means any professional concert, *live entertainment event,* professional sporting *or athletic* event, or professional theatrical production~~,~~ open to the public for which tickets are ordinarily sold.

"Internet ticketing platform" means a marketplace or exchange that enables consumers to purchase and sell tickets to events.

"Operator" means a person or subsidiary thereof that owns, operates, or controls a place of entertainment.

"Primary ticket provider" means a provider of ticketing services, or an agent of such provider, that engages in the original sale of tickets for an event.

"Purchaser" means an individual who purchases a ticket to an event.

"Resale" means the sale of a ticket other than the original sale of a ticket by a primary ticket provider.

"Reseller" means a person that sells or offers to sell tickets for resale.

"Rights holder" means any person or entity that has the initial ownership rights to sell a ticket to an event for which tickets for entry by the public are required and does not include a primary ticket provider unless the primary ticket provider is also the rights holder.

"URL" means the Uniform Resource Locator associated with an online website.

§ 59.1-466.8. Ticket resale; deceptive trade practices prohibited.

No Internet ticketing platform or reseller shall (i) use or display any trademarked or copyrighted URL, title, designation, image, mark, or any other symbol of an operator, rights holder, or primary ticket provider without the consent of such operator, rights holder, or primary ticket provider or (ii) use or display any combination of text, images, website graphics, website display, or website addresses that is substantially similar to the website of an operator in a manner that could reasonably be expected to mislead a potential purchaser.

CHAPTER 305

An Act to amend and reenact §§ 59.1-200 and 59.1-466.5 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 38.2 of Title 59.1 a section numbered 59.1-466.8, relating to ticket resale; deceptive trade practices.

[S 1249]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-200 and 59.1-466.5 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 38.2 of Title 59.1 a section numbered 59.1-466.8 as follows:

§ 59.1-200. Prohibited practices.

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

1. Misrepresenting goods or services as those of another;

2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;

4. Misrepresenting geographic origin in connection with goods or services;

5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;

6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating

in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";

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

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

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

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

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

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

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

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

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

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516, or 3.2-6519 is a violation of this chapter;

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

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

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

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

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

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

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

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

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

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

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

24. Violating any provision of § 54.1-1505;

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

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

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

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

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

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

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

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

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

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

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

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

37. Violating any provision of § 8.01-40.2;

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

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

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

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

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

43. Violating any provision of § 59.1-443.2;

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

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

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

47. Violating any provision of § 18.2-239;

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

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

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

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

52. Violating any provision of § 8.2-317.1;

53. Violating subsection A of § 9.1-149.1;

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

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

56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;

58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);

59. Violating any provision of subsection E of § 32.1-126;

60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

61. Violating any provision of § 2.2-2001.5;

62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;

63. Violating any provision of § 6.2-312;

64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;

65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;

66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);

67. Knowingly violating any provision of § 8.01-27.5;

68. Failing to make available a conspicuous online option to cancel a recurring purchase of a good or service as required by § 59.1-207.46;

69. Selling or offering for sale to a person younger than 21 years of age any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act

(§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 of Chapter 34 of Title 54.1 of the Code of Virginia;

70. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 of Chapter 34 of Title 54.1 of the Code of Virginia;

71. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit; ~~and~~

72. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance*; and*

73. Violating any provision of § 59.1-466.8.

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

§ 59.1-466.5. Definitions.

As used in this chapter, ~~"event"~~ *unless the context requires a different meaning:*

"Event" means any professional concert, *live entertainment event,* professional sporting *or athletic* event, or professional theatrical production~~,~~ open to the public for which tickets are ordinarily sold.

"Internet ticketing platform" means a marketplace or exchange that enables consumers to purchase and sell tickets to events.

"Operator" means a person or subsidiary thereof that owns, operates, or controls a place of entertainment.

"Primary ticket provider" means a provider of ticketing services, or an agent of such provider, that engages in the original sale of tickets for an event.

"Purchaser" means an individual who purchases a ticket to an event.

"Resale" means the sale of a ticket other than the original sale of a ticket by a primary ticket provider.

"Reseller" means a person that sells or offers to sell tickets for resale.

"Rights holder" means any person or entity that has the initial ownership rights to sell a ticket to an event for which tickets for entry by the public are required and does not include a primary ticket provider unless the primary ticket provider is also the rights holder.

"URL" means the Uniform Resource Locator associated with an online website.

§ 59.1-466.8. Ticket resale; deceptive trade practices prohibited.

No Internet ticketing platform or reseller shall (i) use or display any trademarked or copyrighted URL, title, designation, image, mark, or any other symbol of an operator, rights holder, or primary ticket provider without the consent of such operator, rights holder, or primary ticket provider or (ii) use or display any combination of text, images, website graphics, website display, or website addresses that is substantially similar to the website of an operator in a manner that could reasonably be expected to mislead a potential purchaser.

CHAPTER 306

An Act to amend and reenact § 24.2-216 of the Code of Virginia, relating to elections; filling vacancies in the General Assembly; certain vacancies to be filled between 30 days and 45 days.

[S 944]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-216 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-216. Filling vacancies in the General Assembly.

When a vacancy occurs in the membership of the General Assembly during the recess of the General Assembly or when a member-elect to the next General Assembly dies, resigns, or becomes legally incapacitated to hold office prior to its meeting, the Governor shall issue a writ of election to fill the vacancy. If the vacancy occurs during the session of the General Assembly, the Speaker of the House of Delegates or the President pro tempore of the Senate, as the case may be, shall issue the writ unless the respective house by rule or resolution shall provide otherwise. Upon receipt of written notification by a member or member-elect of his resignation as of a stated date, the Governor, Speaker, or President Pro Tempore, as the case may be, may immediately issue the writ to call the election. *The writ shall be issued within 30 days of the vacancy or receipt of notification of the vacancy, whichever comes first. If the vacancy occurs or will occur between December 10 and March 1, the writ shall order the special election to be held no more than 30 days from the date of such vacancy.* The member's or member-elect's resignation shall not be revocable after the date stated by him for his resignation or after the forty-fifth day before the date set for the special election.

The writ shall be directed to the secretaries of the electoral boards and the general registrars of the respective counties and cities composing the district for which the election is to be held.

Notwithstanding any provision of law to the contrary, no election to fill a vacancy shall be ordered or held if the general or special election at which it is to be called is scheduled within 75 days of the end of the term of the office to be filled.

CHAPTER 307

An Act to amend the Code of Virginia by adding a section numbered 54.1-3900.02, relating to Department of Veterans Services; disclosure of services provided.

[H 2077]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 54.1-3900.02 as follows:

§ 54.1-3900.02. Disclosure of services provided by the Department of Veterans Services.

Attorneys who hold accreditation from the U.S. Department of Veterans Affairs to assist veterans with VA-related claims and appeals processes shall provide a written disclosure informing all clients of the free services provided by the Department of Veterans Services for service members, veterans, and their families.

CHAPTER 308

An Act to amend and reenact §§ 46.2-326.1, 46.2-490, and 46.2-1701 of the Code of Virginia, relating to driver improvement clinics and driver training schools.

[H 2247]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-326.1, 46.2-490, and 46.2-1701 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-326.1. Designation of commercial driver's license skills testing examiners.

A. Notwithstanding the provisions of § 46.2-1702 and unless the Commissioner identifies grounds that would be cause for cancellation of a certification pursuant to subsection D of § 46.2-341.14:5 during the application process, the Department shall certify a licensed Class A driver training school as a third party tester, as defined in § 46.2-341.4, to conduct skills tests if, in addition to the requirements listed in subsections B and C of § 46.2-341.14:1, the school (i) has a program length of 160 hours or more and (ii) maintains a bond in the amount of $100,000 to pay for retesting drivers in the event that the third party tester or one or more of its third party examiners, as defined in § 46.2-341.4, are involved in fraudulent activities related to conducting knowledge or skills testing for applicants.

The bond required by this subsection shall be in lieu of the bond required in subdivision C 5 of § 46.2-341.14:1 but in addition to the bond required for a licensed Class A driver training school.

B. Licensed Class A driver training schools meeting the requirements of subsection A may apply to the Department for certification as a third party tester. Such application shall include the information required in the application in § 46.2-341.14:3 and shall include (i) evidence of the requirements listed in subsection A; (ii) an application for an employee who will act as a third party examiner; (iii) evidence that the licensed Class A driver training school has maintained a place of business in the Commonwealth for at least three years and has maintained its licensure in good standing or that the third party examiner has been licensed as an instructor, as defined in § 46.2-1700, at a licensed Class A driver training school for a minimum of two years and has maintained such licensure in good standing; and (iv) a ~~$100~~ *nonrefundable $150* application fee. Such ~~application must be renewed annually~~ *certification shall be valid for a period of two years.*

The first third party tester certification issued to a licensed Class A driver training school shall expire on the same date as such Class A driver training school's license, and the first application fee may be prorated on a monthly basis. Thereafter, the renewal period for the third party tester certification shall match that of the Class A driver training school license.

For the purposes of this subsection, "good standing" means that the instructor has not had sanctions levied against him by the Department for actions related to his role as an instructor or that the driver training school has not had sanctions levied by the Department for actions related to participation in the Class A driver training school program.

C. If the Department fails to certify a licensed Class A driver training school applicant, the Department shall communicate to the applicant its decision and the reason for denial in writing within 60 days of submission of the application.

D. Licensed Class A driver training schools operating as third party testers shall:

1. Remit $50 per skills test to the Department in accordance with § 46.2-341.13;

2. Submit to the Department the results of each skills test administered in a form prescribed by the Department;

3. Test only individuals receiving instruction and training from that school; and

4. Not require their students to be tested at their driver training school.

E. Individuals intending to act as third party examiners for a licensed Class A driver training school that is operating as a third party tester shall meet the requirements in § 46.2-341.14:2 and submit to the Department an application that includes (i) the information in the application required by § 46.2-341.14:3, (ii) evidence of their employment by a licensed Class A driver training school that is operating as a third party tester, and (iii) a ~~$50~~ *nonrefundable $75* application fee. Such ~~application must be renewed annually~~ *certification shall be valid for a period of two years.*

The first third party examiner certification issued to an individual shall expire on the same date as the third party tester's certification, and the first application fee may be prorated on a monthly basis. Thereafter, the renewal period for the third party examiner certification shall match that of the third party tester certification.

F. The Department shall have the authority to revoke or cancel the third party tester certification of a licensed Class A driver training school permitted to administer skills tests pursuant to the provisions of this section or any third party examiner employed by such Class A driver training school, effective immediately, for any reason enumerated in § 46.2-341.14:5. A licensed Class A driver training school permitted to administer skills tests pursuant to the provisions of this section or any third party examiner employed by such Class A driver training school shall not administer skills tests if its authority to provide training has been revoked, canceled, or suspended by the Department pursuant to § 46.2-1705 or any other provision of law.

§ 46.2-490. Establishment of driver improvement clinic program; application fees.

A. The Commissioner shall, in his discretion, contract with such entities as the Commissioner deems fit, including private or governmental entities, to develop curricula for a statewide driver improvement clinic program. Such program shall include instruction concerning but not limited to (i) alcohol and drug abuse, (ii) aggressive driving, (iii) distracted driving, (iv) motorcycle awareness, and (v) work zone safety. The driver improvement clinic program shall be established for the purpose of instructing persons identified by the Department and the court system as problem drivers in need of driver improvement education and training and for those drivers interested in improved driving safety. The clinics shall be composed of uniform education and training programs designed for the rehabilitation of problem drivers, and for the purpose of creating a lasting and corrective influence on their driving performance. The clinics shall operate in localities based on their geographical location so as to be reasonably accessible to persons attending these clinics.

B. All businesses, organizations, governmental entities or individuals that want to provide driver improvement clinic instruction as a driver improvement clinic or instructor in the Commonwealth using approved curricula shall apply to the Department to be licensed to do so, based on criteria established by the Department. *Such license shall be valid for a period of two years.* A nonrefundable ~~annual~~ license application fee of ~~$100~~ *$150* shall be paid to the Department by all such businesses, organizations, governmental entities or individuals. A nonrefundable ~~annual~~ license fee of ~~$25~~ *$40* shall also be paid for each additional clinic location operated by a clinic. A nonrefundable ~~annual~~ license fee of ~~$50~~ *$75* shall be paid to the Department by a person applying for a clinic instructor license.

The first certification issued for additional clinic locations and clinic instructors shall expire on the same date the original clinic's certification expires, and the first application or license fee may be prorated on a monthly basis. Thereafter, the renewal period for any additional clinic locations and clinic instructors shall match that of the original clinic.

However, neither the ~~annual~~ license *application* fee for each additional clinic location nor the ~~annual~~ license *application* fee for a clinic instructor license shall be required of or collected from the Virginia Association of Volunteer Rescue Squads or its members in connection with clinics that are provided for emergency vehicle operation training. All such application fees collected by the Department shall be paid by the Commissioner into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department.

§ 46.2-1701. Licenses required for school and instructor; fees.

No driver training school shall be established or continue operation unless the school obtains from the Commissioner a license authorizing the school to operate within ~~this~~ *the* Commonwealth.

No instructor shall perform the actions enumerated in the definition of "instructor" in § 46.2-1700 unless he obtains from the Commissioner a license authorizing him to act as driving instructor. *Such license shall be valid for a period of two years. A nonrefundable license fee of $75 shall be paid to the Department by a person applying for an instructor license. The first license issued to an instructor shall expire on the same date the driver training school's license expires, and the first license fee may be prorated on a monthly basis. Thereafter, the renewal period for the instructor shall match that of the school.*

The Commissioner shall have authority to set and collect school and instructor licensing fees. All licensing fees collected by the Commissioner under this chapter shall be paid into the state treasury and set aside as a special fund to meet the expenses of the Department of Motor Vehicles.

Upon application of a driver training school licensed in accordance with this chapter, the Commissioner may license such driver training school using criteria established by the Commissioner pursuant to § 46.2-1702 to provide computer-based driver education courses using curricula approved by the Commissioner.

The Commissioner may issue a two-year license to driver training schools, including computer-based driver education providers. A nonrefundable ~~annual licensing~~ *license* fee of ~~$100~~ *$150* shall be required with each *such* application. Such ~~annual~~ licensing fee shall be in addition to fees permitted under this chapter.

2. That the provisions of the first enactment of this act shall become effective on July 1, 2024.

3. That from July 1, 2023, through June 30, 2024, the Commissioner of the Department of Motor Vehicles shall have the authority to issue licenses and certifications that are valid for a period of between one and 24 months to qualified (i) licensed Class A driver training schools that are also third party testers, (ii) third party examiners for licensed Class A driver training schools, (iii) driver improvement clinics, (iv) driver training instructors, (v) driver improvement clinic instructors, and (vi) driver training schools, including computer-based driver education providers. Such license or certification fee shall be prorated on a monthly basis. The Commissioner shall consider the even distribution of license and certification renewals over a calendar year when determining the validity period of each such license or certification.

CHAPTER 309

An Act to amend and reenact §§ 46.2-326.1, 46.2-490, and 46.2-1701 of the Code of Virginia, relating to driver improvement clinics and driver training schools.

[S 1063]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-326.1, 46.2-490, and 46.2-1701 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-326.1. Designation of commercial driver's license skills testing examiners.

A. Notwithstanding the provisions of § 46.2-1702 and unless the Commissioner identifies grounds that would be cause for cancellation of a certification pursuant to subsection D of § 46.2-341.14:5 during the application process, the Department shall certify a licensed Class A driver training school as a third party tester, as defined in § 46.2-341.4, to conduct skills tests if, in addition to the requirements listed in subsections B and C of § 46.2-341.14:1, the school (i) has a program length of 160 hours or more and (ii) maintains a bond in the amount of $100,000 to pay for retesting drivers in the event that the third party tester or one or more of its third party examiners, as defined in § 46.2-341.4, are involved in fraudulent activities related to conducting knowledge or skills testing for applicants.

The bond required by this subsection shall be in lieu of the bond required in subdivision C 5 of § 46.2-341.14:1 but in addition to the bond required for a licensed Class A driver training school.

B. Licensed Class A driver training schools meeting the requirements of subsection A may apply to the Department for certification as a third party tester. Such application shall include the information required in the application in § 46.2-341.14:3 and shall include (i) evidence of the requirements listed in subsection A; (ii) an application for an employee who will act as a third party examiner; (iii) evidence that the licensed Class A driver training school has maintained a place of business in the Commonwealth for at least three years and has maintained its licensure in good standing or that the third party examiner has been licensed as an instructor, as defined in § 46.2-1700, at a licensed Class A driver training school for a minimum of two years and has maintained such licensure in good standing; and (iv) a ~~$100~~ *nonrefundable $150* application fee. Such ~~application must be renewed annually~~ *certification shall be valid for a period of two years.*

The first third party tester certification issued to a licensed Class A driver training school shall expire on the same date as such Class A driver training school's license, and the first application fee may be prorated on a monthly basis. Thereafter, the renewal period for the third party tester certification shall match that of the Class A driver training school license.

For the purposes of this subsection, "good standing" means that the instructor has not had sanctions levied against him by the Department for actions related to his role as an instructor or that the driver training school has not had sanctions levied by the Department for actions related to participation in the Class A driver training school program.

C. If the Department fails to certify a licensed Class A driver training school applicant, the Department shall communicate to the applicant its decision and the reason for denial in writing within 60 days of submission of the application.

D. Licensed Class A driver training schools operating as third party testers shall:

1. Remit $50 per skills test to the Department in accordance with § 46.2-341.13;

2. Submit to the Department the results of each skills test administered in a form prescribed by the Department;

3. Test only individuals receiving instruction and training from that school; and

4. Not require their students to be tested at their driver training school.

E. Individuals intending to act as third party examiners for a licensed Class A driver training school that is operating as a third party tester shall meet the requirements in § 46.2-341.14:2 and submit to the Department an application that includes (i) the information in the application required by § 46.2-341.14:3, (ii) evidence of their employment by a licensed Class A driver training school that is operating as a third party tester, and (iii) a ~~$50~~ *nonrefundable $75* application fee. Such ~~application must be renewed annually~~ *certification shall be valid for a period of two years*.

The first third party examiner certification issued to an individual shall expire on the same date as the third party tester's certification, and the first application fee may be prorated on a monthly basis. Thereafter, the renewal period for the third party examiner certification shall match that of the third party tester certification.

F. The Department shall have the authority to revoke or cancel the third party tester certification of a licensed Class A driver training school permitted to administer skills tests pursuant to the provisions of this section or any third party examiner employed by such Class A driver training school, effective immediately, for any reason enumerated in § 46.2-341.14:5. A licensed Class A driver training school permitted to administer skills tests pursuant to the provisions of this section or any third party examiner employed by such Class A driver training school shall not administer skills tests if its authority to provide training has been revoked, canceled, or suspended by the Department pursuant to § 46.2-1705 or any other provision of law.

§ 46.2-490. Establishment of driver improvement clinic program; application fees.

A. The Commissioner shall, in his discretion, contract with such entities as the Commissioner deems fit, including private or governmental entities, to develop curricula for a statewide driver improvement clinic program. Such program shall include instruction concerning but not limited to (i) alcohol and drug abuse, (ii) aggressive driving, (iii) distracted driving, (iv) motorcycle awareness, and (v) work zone safety. The driver improvement clinic program shall be established for the purpose of instructing persons identified by the Department and the court system as problem drivers in need of driver improvement education and training and for those drivers interested in improved driving safety. The clinics shall be composed of uniform education and training programs designed for the rehabilitation of problem drivers, and for the purpose of creating a lasting and corrective influence on their driving performance. The clinics shall operate in localities based on their geographical location so as to be reasonably accessible to persons attending these clinics.

B. All businesses, organizations, governmental entities or individuals that want to provide driver improvement clinic instruction as a driver improvement clinic or instructor in the Commonwealth using approved curricula shall apply to the Department to be licensed to do so, based on criteria established by the Department. *Such license shall be valid for a period of two years.* A nonrefundable ~~annual~~ license application fee of ~~$100~~ *$150* shall be paid to the Department by all such businesses, organizations, governmental entities or individuals. A nonrefundable ~~annual~~ license fee of ~~$25~~ *$40* shall also be paid for each additional clinic location operated by a clinic. A nonrefundable ~~annual~~ license fee of ~~$50~~ *$75* shall be paid to the Department by a person applying for a clinic instructor license.

The first certification issued for additional clinic locations and clinic instructors shall expire on the same date the original clinic's certification expires, and the first application or license fee may be prorated on a monthly basis. Thereafter, the renewal period for any additional clinic locations and clinic instructors shall match that of the original clinic.

However, neither the ~~annual~~ license *application* fee for each additional clinic location nor the ~~annual~~ license *application* fee for a clinic instructor license shall be required of or collected from the Virginia Association of Volunteer Rescue Squads or its members in connection with clinics that are provided for emergency vehicle operation training. All such application fees collected by the Department shall be paid by the Commissioner into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department.

§ 46.2-1701. Licenses required for school and instructor; fees.

No driver training school shall be established or continue operation unless the school obtains from the Commissioner a license authorizing the school to operate within ~~this~~ *the* Commonwealth.

No instructor shall perform the actions enumerated in the definition of "instructor" in § 46.2-1700 unless he obtains from the Commissioner a license authorizing him to act as driving instructor. *Such license shall be valid for a period of two years. A nonrefundable license fee of $75 shall be paid to the Department by a person applying for an instructor license. The first license issued to an instructor shall expire on the same date the driver training school's license expires, and the first license fee may be prorated on a monthly basis. Thereafter, the renewal period for the instructor shall match that of the school.*

The Commissioner shall have authority to set and collect school and instructor licensing fees. All licensing fees collected by the Commissioner under this chapter shall be paid into the state treasury and set aside as a special fund to meet the expenses of the Department of Motor Vehicles.

Upon application of a driver training school licensed in accordance with this chapter, the Commissioner may license such driver training school using criteria established by the Commissioner pursuant to § 46.2-1702 to provide computer-based driver education courses using curricula approved by the Commissioner.

The Commissioner may issue a two-year license to driver training schools, including computer-based driver education providers. A nonrefundable ~~annual licensing~~ *license* fee of ~~$100~~ *$150* shall be required with each *such* application. Such ~~annual~~ licensing fee shall be in addition to fees permitted under this chapter.

2. That the provisions of the first enactment of this act shall become effective on July 1, 2024.

3. That from July 1, 2023, through June 30, 2024, the Commissioner of the Department of Motor Vehicles shall have the authority to issue licenses and certifications that are valid for a period of between one and 24 months to qualified

(i) licensed Class A driver training schools that are also third party testers, (ii) third party examiners for licensed Class A driver training schools, (iii) driver improvement clinics, (iv) driver training instructors, (v) driver improvement clinic instructors, and (vi) driver training schools, including computer-based driver education providers. Such license or certification fee shall be prorated on a monthly basis. The Commissioner shall consider the even distribution of license and certification renewals over a calendar year when determining the validity period of each such license or certification.

CHAPTER 310

An Act to amend and reenact §§ 46.2-1569, 46.2-1571, and 46.2-1572 of the Code of Virginia, relating to motor vehicle dealers; franchise agreements; sale or lease of new motor vehicles.

[H 1469]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1569, 46.2-1571, and 46.2-1572 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-1569. Other coercion of dealers; transfer, grant, succession to and cancellation of dealer franchises; delivery of vehicles, parts, and accessories.

Notwithstanding the terms of any franchise agreement, it shall be unlawful for any manufacturer, factory branch, distributor, distributor branch, or affiliate, or any field representative, officer, agent, or their representatives to do any of the following. It shall further be unlawful for any manufacturer, factory branch, distributor, distributor branch, or any field representative, officer, agent, or their representatives to engage in conduct prohibited under this section through an affiliate.

1. To coerce or attempt to coerce any dealer to accept delivery of any motor vehicle or vehicles, parts or accessories therefor, or any other commodities, which have not been ordered by the dealer.

2. To coerce or attempt to coerce any dealer to enter into an agreement with the manufacturer, factory branch, distributor, or distributor branch, or representative thereof by threat to take or by taking any action in violation of the chapter, or by any other act unfair or injurious to the dealer*, including the threat to withhold any incentive payments in whole or in part or to deny the dealer the right to participate in an incentive program in which more than one of the dealers of the line-make in the Commonwealth are eligible to participate and under the same terms as such other dealers. Nothing contained in this section shall require that a dealer be qualified for or entitled to incentive payments or the right to payments or benefits from an incentive program, nor will a manufacturer, factory branch, distributor, or distributor branch be prohibited from informing a dealer thereof, unless the dealer meets all qualifications and performs all applicable requirements and meets all of the applicable standards for such payments or benefits reasonably established by the manufacturer, factory branch, distributor, or distributor branch, or as otherwise provided in this article.* If a manufacturer, factory branch, distributor, or distributor branch conditions the grant of a new franchise to a dealer on the dealer's consent (i) to provide a site control agreement as defined in subdivision 10, (ii) to provide a written agreement containing an option to purchase the franchise of the dealer, provided, however, that agreements pursuant to § 46.2-1569.1 shall be permitted, or (iii) to provide a termination agreement to be held by the manufacturer, factory branch, distributor, or distributor branch for subsequent use, it shall be considered coercion and an act that is unfair and injurious to the dealer; provided, however, that the provisions of § 46.2-1572.3 related to the good faith settlement of disputes shall apply to the agreements described in clauses (i), (ii), and (iii) of this subdivision, mutatis mutandis. This subdivision shall not apply to any agreement the enforcement of which is subject to the jurisdiction of a United States Bankruptcy Court.

2a. To coerce or attempt to coerce any dealer to join, contribute to, or affiliate with any advertising association.

2b. To coerce or require any dealer to establish in connection with the sale of a motor vehicle prices at which the dealer shall sell products or services not manufactured or distributed by the manufacturer, factory branch, distributor, or distributor branch, whether by agreement, program, incentive provision, or otherwise.

2c. To coerce or require any dealer, whether by agreement, program, incentive provision, or otherwise, to construct improvements to its facilities or to install new signs or other franchisor image elements that replace or substantially alter those improvements, signs, or franchisor image elements completed within the preceding 10 years that were required or approved by the manufacturer, factory branch, distributor, or distributor branch or one of its affiliates. If a manufacturer, factory branch, distributor, or distributor branch offers incentives, or other payments under a program offered after the effective date of this subdivision and available to more than one dealer in the Commonwealth that are premised wholly or in part on dealer facility improvements or installation of franchisor signs or other franchisor image elements, a dealer that constructed improvements or installed signs or other franchisor image elements required by or approved by the manufacturer, factory branch, distributor, or distributor branch and completed within the 10 years preceding the program shall be deemed to be in compliance with the program requirements pertaining to construction of facilities or installation of signs or other franchisor image elements that would replace or substantially alter those previously constructed or installed within that 10-year period. This subdivision shall not apply to a program that provides lump sum payments to assist dealers in making facility improvements or to pay for signs or franchisor image elements when such payments are not dependent on the dealer selling or purchasing specific numbers of new vehicles and shall not apply to a program that is in effect with more

than one dealer in the Commonwealth on the effective date of this subdivision, nor to any renewal or modification of such a program.

2d. To coerce or require any dealer, whether by agreement, program, incentive provision, or provision for loss of incentive payments or other benefits, to refrain from selling any used motor vehicle subject to (i) recall, (ii) stop sale directive, (iii) technical service bulletin, or (iv) other manufacturer, factory branch, distributor, or distributor branch notification to perform work on such used motor vehicle, unless the manufacturer, factory branch, distributor, or distributor branch has a remedy and parts available to the dealer to remediate the basis for the coercion or requirement of the dealer to refrain from selling each affected used motor vehicle. If there is no remedy or there are no parts available from the manufacturer, factory branch, distributor, or distributor branch to remediate each affected used motor vehicle in the inventory of the dealer, the manufacturer, factory branch, distributor, or distributor branch shall (a) compensate the dealer for any affected used motor vehicle in the inventory of the dealer that it cannot sell because of such coercion or requirement at least one percent a month or any part thereof of the cost of such used motor vehicle, including repairs and reconditioning expenses based on the financial records of the dealer, and (b) establish a written procedure to compensate dealers under this subdivision that it shall provide to dealers subject to its coercion or requirement and file with the Commissioner as a franchise document pursuant to § 46.2-1566.

Any claim for compensation by a dealer shall be submitted on a monthly basis for the amount owed pursuant to this subdivision. The manufacturer, factory branch, distributor, or distributor branch shall process and pay the claim in the same manner as a claim for warranty reimbursements as provided in § 46.2-1571. This subdivision shall not prevent a manufacturer, factory branch, distributor, or distributor branch from (1) requiring that a motor vehicle not be subject to an open recall or stop sale directive in order to be qualified, remain qualified, or be sold as a certified pre-owned vehicle or similar designation; (2) paying incentives for selling used vehicles with no unremedied recalls; or (3) paying incentives for performing recall repairs on a vehicle in the dealer's inventory.

Nothing in this subdivision shall prevent a manufacturer, factory branch, distributor, or distributor branch from instructing that a dealer repair used vehicles of the line-make for which the dealer holds a franchise with an open recall, provided that the instruction does not involve coercion that imposes a penalty or provision of loss of benefits on the dealer.

2e. To coerce or require any dealer, whether by agreement, program, incentive provision, or provision for loss of incentive payments or other benefits, to amend its franchise agreement or similar agreement governing the sales and leasing of new motor vehicles, or to establish or implement a franchise agreement for the sales and leasing of new motor vehicles, under which the manufacturer, factory branch, distributor, or distributor branch (i) maintains a website or other electronic or digital means of communication for negotiating binding terms of sale or leasing of new motor vehicles directly between the manufacturer, factory branch, distributor, or distributor branch and retail buyers or lessees, including but not limited to agreements on prices or other substantive terms of sale or leasing of new vehicles; (ii) retains ownership of new motor vehicles until they are sold or leased to the retail buyers or lessees thereof; however, a manufacturer, factory branch, distributor, or distributor branch may maintain a common supply of new vehicles of which it maintains ownership until such vehicles are sold to dealers, from which more than one dealer may buy vehicles, provided that the manufacturer, factory branch, distributor, or distributor branch may not use the common supply of new vehicles to engage in the negotiation of binding terms of sales or leases directly with retail buyers or lessees and further provided that a dealer may buy vehicles from the common supply for the dealer's inventory without having reached agreement for sale or lease of any new vehicle with a retail buyer or lessee if the manufacturer, factory branch, distributor, or distributor branch does not otherwise allow its dealers to obtain stock inventory through the vehicle allocation process; (iii) except for the sale or lease of a vehicle to an actual employee of the manufacturer, factory branch, distributor, or distributor branch or in connection with any replacement or buyback under Chapter 17.3 (§ 59.1-207.9 et seq.) of Title 59.1, consigns new motor vehicles to dealers for dealer inventory or for sale or lease to retail buyers or lessees; (iv) reserves the right to negotiate binding terms of sale directly with retail buyers or lessees of new motor vehicles, provided that displaying on a website or other electronic or digital means of communication prices set by dealers, lists of available financing sources provided by dealers, or a conditional trade-in value shall not be considered negotiating; (v) reserves the right to offer or negotiate directly with the retail buyers or lessees in connection with and at the time of sale of a new motor vehicle the sale of any service contract, vehicle maintenance agreement, guaranteed asset protection (GAP) agreement or waiver, or other vehicle-related products and services that are otherwise offered by the dealer; however, a manufacturer, factory branch, distributor, or distributor branch may communicate or negotiate and finalize agreements with vehicle owners or lessees directly concerning any accessory or function of a vehicle that may be initiated, updated, changed, or maintained by the manufacturer, factory branch, distributor, or distributor branch through over-the-air or remote means if the manufacturer, factory branch, distributor, or distributor branch complies with the requirements of subdivision B 10 of § 46.2-1571; or (vi) designates dealers to be only delivery agents for new motor vehicles the binding terms of sale or lease of which are negotiated directly between the manufacturer, factory branch, distributor, or distributor branch and the retail buyers or lessees of the new motor vehicles. No manufacturer, factory branch, distributor, or distributor branch shall engage in any of the activities listed in clauses (i) through (vi). Notwithstanding the foregoing provisions of this subsection, a manufacturer, factory branch, distributor, or distributor branch may engage in fleet sales with a fleet customer that has a designation as such by the manufacturer, factory branch, distributor, or distributor branch because it has purchased or leased or has committed to purchase or lease five or more vehicles under the fleet program. Nothing in this section shall limit a manufacturer, factory branch, distributor, or distributor branch from setting or advertising a manufacturer's suggested retail price.

3. To prevent or refuse to approve the sale or transfer of the ownership of a dealership by the sale of the business, stock transfer, or otherwise, or the transfer, sale, or assignment of a dealer franchise, or a change in the executive management or principal operator of the dealership, unless the franchisor provides written notice to the dealer of its objection and the reasons therefor by certified mail or overnight delivery or other method designed to ensure delivery to the dealer at least 30 days prior to the proposed effective date of the transfer, sale, assignment, or change. No such objection shall be sufficient unless the failure to approve is reasonable. Notwithstanding the provisions of subsection D of § 46.2-1573, the only grounds that may be considered reasonable for a failure to approve are that an individual who is the applicant or is in control of an entity that is an applicant (i) lacks good moral character, (ii) lacks reasonable motor vehicle dealership management experience and qualifications, (iii) lacks financial ability to be the dealer, or (iv) fails to meet the standards otherwise established by this title to be a dealer. No such objection shall be effective to prevent the sale, transfer, assignment, or change if the Commissioner has determined, if requested in writing by the dealer within 30 days after receipt of an objection to the proposed sale, transfer, or change, and after a hearing on the matter, that the failure to permit or honor the sale, transfer, assignment, or change is unreasonable under the circumstances. No franchise may be sold, assigned, or transferred unless (a) the franchisor has been given at least 90 days' prior written notice by the dealer as to the identity, financial ability, and qualifications of the proposed transferee on forms generally utilized by the franchisor to conduct its review, as well as the full agreement for the proposed transaction, and (b) the sale or transfer of the franchise and business will not involve, without the franchisor's consent, a relocation of the business.

3a. To impose a condition on the approval of the sale or transfer of the ownership of a dealership by the sale of the business, stock transfer, or otherwise if the condition would violate the provisions of this title if imposed on the existing dealer.

In the event the manufacturer, factory branch, distributor or distributor branch takes action to prevent or refuse to approve the sale or transfer of the ownership of a dealership by the sale of the business, stock transfer, or otherwise, or the transfer, sale or assignment of a dealer franchise, or a change in the executive management or principal operator of the dealership, without a statement of specific grounds for doing so that is consistent with subdivision 3 hereof or imposes a condition in violation of subdivision 3a hereof, that shall constitute a violation of this section. The existing dealer may request review of the action or imposition of the condition in a hearing by the Commissioner. If the Commissioner finds that the action or the imposition of the condition was a violation of this section, the Commissioner may order that the sale or transfer be approved by the manufacturer, factory branch, distributor, or distributor branch, without imposition of the condition. If the existing dealer does not request a hearing by the Commissioner concerning the action or the condition imposed by the manufacturer, factory branch, distributor, or distributor branch, and the action or condition was the proximate cause of the failure of the contract for the sale or transfer of ownership of the dealership, the applicant for approval of the sale or transfer or the existing dealer, or both, may commence an action at law for violation of this section. The action may be commenced in the circuit court of the city or county in which the dealer is located, or in any other circuit court with permissible venue, within two years following the action or the imposition of the condition by the manufacturer, factory branch, distributor, or distributor branch for the damages suffered by the applicant or the dealer as a result of the violation of this section by the manufacturer, factory branch, distributor, or distributor branch, plus the applicant's or dealer's reasonable attorney fees and costs of litigation. Notwithstanding the foregoing, an exercise of the right of first refusal by the manufacturer, factory branch, distributor, or distributor branch pursuant to § 46.2-1569.1 shall not be considered the imposition of a condition prohibited by this section.

4. To grant an additional franchise for a particular line-make of motor vehicle in a relevant market area in which a dealer or dealers in that line-make are already located unless the franchisor has first advised in writing all other dealers in the line-make in the relevant market area. No such additional franchise may be established at the proposed site unless the Commissioner has determined, if requested by a dealer of the same line-make in the relevant market area within 30 days after receipt of the franchisor's notice of intention to establish the additional franchise, and after a hearing on the matter, that the franchisor can show by a preponderance of the evidence that after the grant of the new franchise, the relevant market area will support all of the dealers in that line-make in the relevant market area. Establishing a franchised dealer in a relevant market area to replace a franchised dealer that has not been in operation for more than two years shall constitute the establishment of a new franchise subject to the terms of this subdivision. The two-year period for replacing a franchised dealer shall begin on the day the franchise was terminated, or, if a termination hearing was held, on the day the franchisor was legally permitted finally to terminate the franchise. The relocation of a franchise in a relevant market area, whether by an existing dealer or by a dealer who is acquiring the franchise, shall constitute the establishment of a new franchise subject to the terms of this subdivision. This subdivision shall not apply to (i) the relocation of an existing dealer within that dealer's relevant market area if the relocation site is to be more than 10 miles distant from any other dealer for the same line-make; (ii) the relocation of an existing dealer within that dealer's relevant market area if the relocation site is to be more distant than the existing site from all other dealers of the same line-make in that relevant market area; or (iii) the relocation of an existing new motor vehicle dealer within two miles of the existing site of the relocating dealer.

5. Except as otherwise provided in this subdivision and notwithstanding the terms of any franchise, to terminate, cancel, or refuse to renew the franchise of any dealer without good cause and unless (i) the dealer and the Commissioner have received written notice of the franchisor's intentions at least 60 days prior to the effective date of such termination, cancellation, or the expiration date of the franchise, setting forth the specific grounds for the action, and (ii) the Commissioner has determined, if requested in writing by the dealer within the 60-day period prior to the effective date of

such termination, cancellation, or the expiration date of the franchise and, after a hearing on the matter, that the franchisor has shown by a preponderance of the evidence that there is good cause for the termination, cancellation, or nonrenewal of the franchise. If any manufacturer, factory branch, distributor, or distributor branch takes action that will have the effect of terminating, canceling, or refusing to renew the franchise of any dealer (a) by use of a termination agreement executed by the dealer and obtained more than 90 days before the purported date of use, (b) by exercise of rights under a written option to purchase the franchise of a dealer, or (c) by exercise of rights under a site control agreement as defined in subdivision 10, that action shall be considered a termination, cancellation, or refusal to renew pursuant to the terms of this subdivision and subject to the rights, provisions, and procedures provided herein. In any case where a petition is made to the Commissioner for a determination as to good cause for the termination, cancellation, or nonrenewal of a franchise, the franchise in question shall continue in effect pending the Commissioner's decision or, if that decision is appealed to the circuit court, pending the decision of the circuit court. Where the termination, cancellation, or nonrenewal of a franchise will result from use of a termination agreement executed by the dealer and obtained more than 90 days before the purported date of use, exercise of rights under a written option to purchase the franchise of a dealer, or exercise of rights under a site control agreement as defined in subdivision 10, such use or exercise shall be stayed pending the Commissioner's decision or, if that decision is appealed to the circuit court, pending the decision of the circuit court, and its use or exercise will be allowed only where the franchisor has shown by a preponderance of the evidence that there is good cause for the termination, cancellation, or nonrenewal of the franchise. In any case in which a franchisor neither advises a dealer that it does not intend to renew a franchise nor takes any action to renew a franchise beyond its expiration date, the franchise in question shall continue in effect on the terms last agreed to by the parties. Notwithstanding the other provisions of this subdivision notice of termination, cancellation, or nonrenewal may be provided to a dealer by a franchisor not less than 15 days prior to the effective date of such termination, cancellation, or nonrenewal when the grounds for such action are any of the following:

a. Insolvency of the franchised motor vehicle dealer or filing of any petition by or against the franchised motor vehicle dealer, under any bankruptcy or receivership law, leading to liquidation or which is intended to lead to liquidation of the franchisee's business.

b. Failure of the franchised motor vehicle dealer to conduct its customary sales and service operations during its posted business hours for seven consecutive business days, except where the failure results from acts of God or circumstances beyond the direct control of the franchised motor vehicle dealer.

c. Revocation of any license which the franchised motor vehicle dealer is required to have to operate a dealership.

d. Conviction of the dealer or any principal of the dealer of a felony.

The change or discontinuance of a marketing or distribution system of a particular line-make product by a manufacturer or distributor, while the name identification of the product is continued in substantial form by the same or a different manufacturer or distributor, may be considered to be a franchise termination, cancellation, or nonrenewal. The provisions of this paragraph shall apply to changes and discontinuances made after January 1, 1989, but they shall not be considered by any court in any case in which such a change or discontinuance occurring prior to that date has been challenged as constituting a termination, cancellation or nonrenewal.

5a. To fail to provide continued parts and service support to a dealer which holds a franchise in a discontinued line-make for at least five years from the date of such discontinuance. This requirement shall not apply to a line-make which was discontinued prior to January 1, 1989.

5b. Upon the involuntary or voluntary termination, nonrenewal, or cancellation of the franchise of any dealer, by either the manufacturer, distributor, or factory branch or by the dealer, notwithstanding the terms of any franchise whether entered into before or after the enactment of this section, to fail to pay the dealer for at least the following:

(1) The dealer cost plus any charges by the franchisor for distribution, delivery, and taxes paid by the dealer, less all allowances paid to the dealer by the franchisor, for new and undamaged motor vehicles in the dealer's inventory acquired from the franchisor or from another dealer of the same line — make in the ordinary course of business within 18 months of termination;

(2) The dealer cost as shown in the price catalog of the franchisor current at the time of repurchase of each new, unused, undamaged, and unsold part or accessory if such part or accessory is in the current parts catalog and is still in the original, resalable merchandising package and in unbroken lots, except that in the case of sheet metal, a comparable substitute for the original package may be used;

(3) The fair market value of each undamaged sign owned by the dealer that bears a trademark, trade name or commercial symbol used or claimed by the franchisor if such sign was purchased from or at the request of the franchisor;

(4) The fair market value of all special tools and automotive service equipment owned by the dealer that were recommended and designated as special tools or equipment by the franchisor, if the tools and equipment are in usable and good condition, normal wear and tear excepted; and

(5) The reasonable cost of transporting, handling, packing, and loading of motor vehicles, parts, signs, tools, and special equipment subject to repurchase hereunder.

The provisions of this subdivision do not apply to a dealer who is unable to convey clear title to the property identified in this subdivision.

For purposes of this subdivision, a voluntary termination shall not include the transfer of the terminating dealer's franchised business in connection with a transfer of that business by means of sale of the equity ownership or assets thereof to another dealer.

5c. If the termination, cancellation, or nonrenewal of the dealer's franchise is the result of the termination, elimination, or cessation of a line-make by the manufacturer, distributor, or factory branch, then, in addition to the payments to the dealer pursuant to subdivision 5b, the manufacturer, distributor, or factory branch shall be liable to the dealer for the following:

(1) An amount at least equivalent to the fair market value of the franchise for the line-make, which shall be the greater of that value determined as of (i) the date the franchisor announces the action that results in termination, cancellation, or nonrenewal, (ii) the date the action that resulted in the termination, cancellation, or nonrenewal first became general knowledge, or (iii) the day 12 months prior to the date on which the notice of termination, cancellation, or nonrenewal is issued. In determining the fair market value of a franchise for a line-make, if the line-make is not the only line-make for which the dealer holds a franchise in the dealership facilities, the dealer shall also be entitled to compensation for the contribution of the line-make to payment of the rent or to covering obligation for the fair rental value of the dealership facilities for the period set forth in subdivision 5c (2). Fair market value of the franchise for the line-make shall only include the goodwill value of the dealer's franchise for that line-make in the dealer's relevant market area.

(2) If the line-make is the only line-make for which the dealer holds a franchise in the dealership facilities, the manufacturer, distributor, or factory branch shall also pay assistance with respect to the dealership facilities leased or owned by the dealer as follows: (i) the manufacturer, distributor, or factory branch shall pay the dealer a sum equivalent to the rent for the unexpired term of the lease or three years' rent, whichever is the lesser, or (ii) if the dealer owns the dealership facilities, the manufacturer, distributor, or factory branch shall pay the dealer a sum equivalent to the reasonable rental value of the dealership facilities for three years.

To be entitled to facilities assistance from the manufacturer, distributor, or factory branch, the dealer shall have the obligation to mitigate damages by listing the dealership facilities for lease or sublease with a licensed real estate agent within 30 days after the effective date of the termination of the franchise and thereafter by reasonably cooperating with such real estate agent in the performance of the agent's duties and responsibilities. If the dealer is able to lease or sublease the dealership facilities on terms that are consistent with local zoning requirements to preserve the right to sell motor vehicles from the dealership facilities and the terms of the dealer's lease, the dealer shall be obligated to pay the manufacturer the net revenue received from such mitigation, but only following receipt of facilities assistance payments pursuant to clause (i) or (ii) of subdivision 5c (2), and only up to the total amount of facilities assistance payments that the dealer has received.

6. To fail to allow a dealer the right at any time to designate a member of his family as a successor to the dealership in the event of the death or incapacity of the dealer. Such designation may be made by the dealer or, in the event of the death or incapacity of the dealer, by the qualified executor or personal representative of the dealer. It shall be unlawful to prevent or refuse to honor the succession to a dealership by a member of the family of a deceased or incapacitated dealer if the franchisor has not provided to the member of the family designated the dealer's successor written notice of its objections to the succession and of such person's right to seek a hearing on the matter before the Commissioner pursuant to this article, and the Commissioner determines, if requested in writing by such member of the family within 30 days of receipt of such notice from the franchisor, and after a hearing on the matter before the Commissioner pursuant to this article, that the failure to permit or honor the succession is unreasonable under the circumstances. No member of the family may succeed to a franchise unless (i) the franchisor has been given written notice as to the identity, financial ability, and qualifications of the member of the family in question, and (ii) the succession to the franchise will not involve, without the franchisor's consent, a relocation of the business.

7. To delay, refuse, or fail to deliver to any dealer, if ordered by the dealer, in reasonable quantities and within a reasonable time, any new vehicles of each series and model sold or distributed by the franchisor as covered by such franchise and which are publicly advertised by the manufacturer, factory branch, distributor, or distributor branch in the Commonwealth to be available for immediate delivery, provided, however, that the failure to deliver any motor vehicle shall not be considered a violation of this chapter if such failure is due to an act of God, a work stoppage or delay due to a strike or labor difficulty, a shortage of materials, a lack of available manufacturing capacity, a freight embargo, or other cause over which the manufacturer, factory branch, distributor, or distributor branch shall have no control. If ordered by a dealer, a franchisor shall deliver an equitable supply of new vehicles during the model year of each series and model under the dealer's franchise in proportion to the sales objectives or goals established by the franchisor for the dealer compared to the sales objectives or goals established by the other same line-make dealers in the Commonwealth, provided, however, that the failure to deliver any motor vehicle shall not be considered a violation of this chapter if such failure is due to a cause over which the manufacturer, factory branch, distributer, or distributer branch shall have no control. Upon the written request of any dealer holding its sales or sales and service franchise, the manufacturer or distributor shall disclose to the dealer in writing the basis upon which new motor vehicles of the same line-make are allocated, scheduled, and delivered to dealers in the Commonwealth, and the basis upon which the current allocation or distribution is being made or will be made to such dealer. In the event that allocation is at issue in a request for a hearing, the dealer may demand the Commissioner to direct that the manufacturer or distributor provide to the dealer, within 30 days of such demand, all records of sales and all records of distribution of all motor vehicles to the same line-make dealers who compete with the dealer requesting the hearing.

7a. To fail or refuse to offer to its same line-make franchised dealers all models manufactured for the line-make, or require a dealer to pay any extra fee, or remodel, renovate, or recondition the dealer's existing facilities, or purchase unreasonable advertising displays or other materials as a prerequisite to receiving a model or a series of vehicles.

7b. To require or otherwise coerce a dealer to underutilize the dealer's facilities by requiring or otherwise coercing a dealer to exclude or remove from the dealer's facilities operations for selling or servicing of a line-make of vehicles for which the dealer has a franchise agreement to utilize the facilities.

7c. To require a dealer to purchase goods or services from a vendor selected, identified, or designated by a manufacturer, factory branch, distributor, distributor branch, or one of its affiliates by agreement, program, incentive provision, or otherwise without making available to the dealer the option to obtain the goods or services of substantially similar quality from a vendor chosen by the dealer. For purposes of this subdivision, the term "goods" does not include moveable displays, brochures, and promotional materials containing material subject to intellectual property rights of, or special tools and training as required by the manufacturer, or parts to be used in repairs under warranty obligations of, a manufacturer, factory branch, distributor, or distributor branch.

7d. To fail to provide a notice to a dealer when notifying it of the requirement to purchase goods or services from a vendor selected, identified, or designated by a manufacturer, factory branch, distributor, or distributor branch of the dealer's rights pursuant to subdivision 7c.

7e. To fail to provide to a dealer, when the manufacturer, factory branch, distributor, or distributor branch claims that a vendor chosen by the dealer cannot supply goods and services of substantially similar quality, a disclosure concerning the vendor selected, identified, or designated by the franchisor stating (i) whether the manufacturer, factory branch, distributor, distributor branch, or one of its affiliates, or any officer, director, or employee of the same, has an ownership interest, actual or beneficial, in the vendor and, if so, the percentage of the ownership interest and (ii) whether the manufacturer, factory branch, distributor, distributor branch, or one of its affiliates has an agreement or arrangement by which the vendor pays to the manufacturer, factory branch, distributor, distributor branch, or one of its affiliates, or any officer, director, or employee of the same, any compensation and, if so, the basis and amount of the compensation to be paid as a result of any purchases by the dealer, whether it is to be paid by direct payment by the vendor or by credit from the vendor for the benefit of the recipient.

7f. To fail to provide to a dealer, if the goods and services to be supplied to the dealer by a vendor selected, identified, or designated by the manufacturer, factory branch, distributor, or distributor branch are signs or other franchisor image elements to be leased to the dealer, the right to purchase the signs or other franchisor image elements of like kind and quality from a vendor selected by the dealer. If the vendor selected by the manufacturer, factory branch, distributor, or distributor branch is the only available vendor, the dealer must be given the opportunity to purchase the signs or other franchisor image elements at a price substantially similar to the capitalized lease costs thereof. This subdivision shall not be construed to allow a dealer to impair or eliminate the intellectual property rights of the manufacturer, factory branch, distributor, or distributor branch, nor to permit a dealer to erect or maintain signs that do not conform to the intellectual property usage guidelines of the manufacturer, factory branch, distributor, or distributor branch.

8. To include in any franchise with a motor vehicle dealer terms that are contrary to, prohibited by, or otherwise inconsistent with the requirements of this chapter.

8a. For any franchise agreement, to require a motor vehicle dealer to pay the attorney fees of the manufacturer or distributor related to hearings and appeals brought under this article.

9. To fail to include in any franchise with a motor vehicle dealer the following language: "If any provision herein contravenes the laws or regulations of any state or other jurisdiction wherein this agreement is to be performed, or denies access to the procedures, forums, or remedies provided for by such laws or regulations, such provision shall be deemed to be modified to conform to such laws or regulations, and all other terms and provisions shall remain in full force," or words to that effect.

9a. To include in any franchise agreement or similar agreement governing the sales, leasing, or service of new motor vehicles, or to enforce or seek to enforce in such franchise agreement or similar agreement, a right for the manufacturer, factory branch, distributor, or distributor branch to unilaterally amend the franchise agreement or similar agreement. Any amendment to a franchise agreement or similar agreement governing the sales, leasing, or service of new vehicles must be agreed by both the manufacturer, factory branch, distributor, or distributor branch and the dealer at the time the franchise agreement or similar agreement is to be amended.

10. To enter into any agreement with a motor vehicle dealer in which the manufacturer, factory branch, distributor, distributor branch, or one of its affiliates is given site control over the premises of a dealer that does not terminate upon the occurrence of any of the following events: (i) the right of the franchisor to manufacture or distribute the line-make of vehicles covered by the dealer's franchise is sold, assigned, or otherwise transferred by the manufacturer, factory branch, distributor, or distributor branch to another; (ii) the final termination of the dealer's franchise for any reason; or (iii) the manufacturer, factory branch, distributor, or distributor branch of its affiliate fails for any reason to exercise its right of first refusal to purchase the assets or ownership of the business of the dealer when given the opportunity to do so by virtue of its franchise agreement, another agreement, or as set forth in § 46.2-1569. For purposes of this subdivision, the term "site control" shall mean the contractual right to control in any way the commercial use and development of the premises upon which a dealer's business operations are located, including the right to approve of additional or different uses for the property beyond those of its franchise, the right to lease or sublease the dealer's property, or the right or option to purchase the dealer's property.

11. To require or coerce a motor vehicle dealer, whether by agreement, program, incentive provision, or otherwise, to submit or to provide a manufacturer, factory branch, distributor, or distributor branch access to consumer data maintained

by the dealer (i) by any method that violates or would violate the dealer's chosen policies and processes for complying with obligations to protect consumer data under laws of the United States or the Commonwealth or (ii) through franchisor access to the computer database of the dealer if the dealer chooses to submit data specified by the franchisor.

The manufacturer, factory branch, distributor, or distributor branch shall provide a dealer the right to cancel the dealer's participation in a program under which the dealer provides consumer data or access to data to the manufacturer, factory branch, distributor, or distributor branch, provided that a manufacturer, factory branch, distributor, or distributor branch may require notice of up to 60 days of the dealer's decision to cancel the dealer's participation.

If a manufacturer, factory branch, distributor, or distributor branch offers incentives or other payments under a program offered after July 1, 2015, excluding any continuation, renewal, or modification of any existing program, and available to more than one dealer in the Commonwealth that are premised wholly or in part on dealer participation in manufacturer, factory branch, distributor, or distributor branch programs under which consumer data is provided to or accessed by the manufacturer, factory branch, distributor, or distributor branch, a dealer that exercises its rights under this subdivision shall be deemed to be in compliance with the program requirements pertaining to providing consumer data, provided that the dealer has otherwise met program requirements to the extent of providing any consumer data that is not nonpublic personal information.

It shall not constitute a violation of this subdivision for a manufacturer, factory branch, distributor, or distributor branch to require a motor vehicle dealer to provide data (a) concerning a new motor vehicle sale or used motor vehicle sale under a manufacturer certification program, (b) to validate a customer or dealer incentive, (c) to calculate dealer or market sales or evaluate service performance or customer satisfaction to facilitate analysis of product quality and market feedback, (d) to facilitate warranty service work on a vehicle, (e) concerning information with respect to recall repairs or information about a recalled vehicle, (f) pursuant to a mutual agreement between a manufacturer, factory branch, distributor, or distributor branch and a dealer, or (g) where consumer data is reasonably necessary to enable a manufacturer, factory branch, distributor, or distributor branch to provide programs, products, or services to a dealer.

A dealer that elects to submit or push data or information to the manufacturer, factory branch, distributor, or distributor branch through any method other than that provided by the manufacturer, factory branch, distributor, or distributor branch shall timely obtain and furnish the requested data in a widely accepted electronic file format. A manufacturer, factory branch, distributor, or distributor branch shall not impose a fee, surcharge, or charge of any type on a dealer that chooses to submit data specified by the manufacturer, factory branch, distributor, or distributor branch rather than provide the manufacturer, factory branch, distributor, or distributor branch access to the dealer's computer database.

§ 46.2-1571. Recall, warranty, maintenance and sales incentive obligations.

A. Each motor vehicle manufacturer, factory branch, distributor, or distributor branch shall (i) specify in writing to each of its motor vehicle dealers licensed in the Commonwealth the dealer's obligations for preparation, delivery, recall, and warranty service on its products and (ii) compensate the dealer for recall or warranty parts, service, and diagnostic work required of the dealer by the manufacturer or distributor as follows:

1. Compensation of a dealer for recall or warranty parts, service, and diagnostic work shall not be less than the amounts charged by the dealer for the manufacturer's or distributor's original parts, service, and diagnostic work to retail customers for nonwarranty service, parts, and diagnostic work installed or performed in the dealer's service department, and the determination of compensation in accordance with the provisions of this section shall be deemed reasonable due to the substantial number of repair orders reviewed, unless the manufacturer can show that the amounts are not reasonable. All manufacturer or distributor compensated parts, service, diagnostic work, updates to a vehicle accessory or function, or initialization or repair of a vehicle part, system, accessory, or function performed by the dealer shall be subject to this subsection. Recall or warranty parts compensation shall be stated as a percentage of markup, which shall be an agreed reasonable approximation of retail markup and which shall be uniformly applied to all of the manufacturer's or distributor's parts unless otherwise provided for in this section. If the dealer and manufacturer or distributor cannot agree on the recall or warranty parts compensation markup to be paid to the dealer, the markup shall be determined by an average of the dealer's retail markup on all of the manufacturer's or distributor's parts as described in subdivisions 2 and 3.

2. For purposes of determining recall or warranty parts and service compensation paid to a dealer by the manufacturer or distributor, including body-shop repairs, only retail repair orders, or the retail portion of repair orders containing retail and non-retail operations, shall be considered. For the purposes of this section, "retail" does not include menu-priced parts or services, services and parts used in internal repairs paid by the dealer, group discounts, special event discounts, special event promotions, and insurance-paid repairs.

3. Increases in dealer recall or warranty parts and service compensation and diagnostic work compensation, pursuant to this section, shall be requested by the dealer in writing, shall be based on 100 consecutive repair orders or all repair orders over a 90-day period, whichever occurs first. If any portion of a retail repair order includes amounts that are not retail, such portion shall be excluded. Compensation for parts shall be stated as a percentage of markup that shall be uniformly applied to all the manufacturer's or distributor's parts.

4. In the case of recall or warranty parts compensation, the provisions of this subsection shall be effective only for model year 1992 and succeeding model years.

5. If a manufacturer or distributor furnishes a part to a dealer at no cost for use by the dealer in performing work for which the manufacturer or distributor is required to compensate the dealer under this section, the manufacturer or distributor shall compensate the dealer for the part in the same manner as recall or warranty parts compensation, less the wholesale costs,

for such part as listed in the manufacturer's current price schedules. A manufacturer or distributor may pay the dealer a reasonable handling fee instead of the compensation otherwise required by this subsection for special high-performance complete engine assemblies in limited production motor vehicles that constitute less than five percent of model production furnished to the dealer at no cost, if the manufacturer or distributor excludes such special high-performance complete engine assemblies in determining whether the amounts requested by the dealer for recall or warranty compensation are consistent with the amounts that the dealer charges its other retail service customers for parts used by the dealer to perform similar work.

6. In the case of service work, manufacturer original parts or parts otherwise specified by the manufacturer or distributor, and parts provided by a dealer either pursuant to an adjustment program as defined in § 59.1-207.34 or as otherwise requested by the manufacturer or distributor, the dealer shall be compensated in the same manner as for recall or warranty service or parts.

This section does not apply to compensation for parts such as components, systems, fixtures, appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for nonvehicular, residential purposes. Recall, warranty, and sales incentive audits of dealer records may be conducted by the manufacturer, factory branch, distributor, or distributor branch on a reasonable basis, and dealer claims for recall, warranty, or sales incentive compensation shall not be denied except for good cause, such as performance of nonwarranty repairs, lack of material documentation, fraud, or misrepresentation. A dealer's failure to comply with the specific requirements of the manufacturer or distributor for processing the claim shall not constitute grounds for the denial of the claim or reduction of the amount of compensation to the dealer as long as reasonable documentation or other evidence has been presented to substantiate the claim. The manufacturer, factory branch, distributor, or distributor branch shall not deny a claim or reduce the amount of compensation to the dealer for recall or warranty repairs to resolve a condition discovered by the dealer during the course of a separate repair requested by the customer or to resolve a condition on the basis of advice or recommendation by the dealer. Claims for dealer compensation shall be paid within 30 days of dealer submission or within 30 days of the end of an incentive program or rejected in writing for stated reasons. The manufacturer, factory branch, distributor, or distributor branch shall reserve the right to reasonable periodic audits to determine the validity of all such paid claims for dealer compensation. Any chargebacks for recall or warranty parts or service compensation and service incentives shall only be for the six-month period immediately following the date of the claim and, in the case of chargebacks for sales compensation only, for the six-month period immediately following the date of claim. However, such limitations shall not be effective if a manufacturer, factory branch, distributor, or distributor branch has reasonable cause to believe that a claim submitted by a dealer is intentionally false or fraudulent. For purposes of this section, "reasonable cause" means a bona fide belief based upon evidence that the material issues of fact are such that a person of ordinary caution, prudence, and judgment could believe that a claim was intentionally false or fraudulent. A dealer shall not be charged back or otherwise liable for sales incentives or charges related to a motor vehicle sold by the dealer to a purchaser other than a licensed, franchised motor vehicle dealer and subsequently exported or resold, unless the manufacturer, factory branch, distributor, or distributor branch can demonstrate by a preponderance of the evidence that the dealer should have known of and did not exercise due diligence in discovering the purchaser's intention to export or resell the motor vehicle.

B. It shall be unlawful for any motor vehicle manufacturer, factory branch, distributor, or distributor branch to:

1. Fail to perform any of its recall or warranty obligations, including tires, with respect to a motor vehicle;

2. Fail to assume all responsibility for any liability resulting from structural or production defects;

3. Fail to include in written notices of factory recalls to vehicle owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of defects;

4. Fail to compensate any of the motor vehicle dealers licensed in the Commonwealth for repairs effected by the dealer of merchandise damaged in manufacture or transit to the dealer where the carrier is designated by the manufacturer, factory branch, distributor, or distributor branch;

5. Fail to fully compensate its motor vehicle dealers licensed in the Commonwealth for recall or warranty parts, work, and service pursuant to subsection A either by reduction in the amount due to the dealer or by separate charge, surcharge, or other imposition by which the motor vehicle manufacturer, factory branch, distributor, or distributor branch seeks to recover its costs of complying with subsection A, or for legal costs and expenses incurred by such dealers in connection with recall or warranty obligations for which the manufacturer, factory branch, distributor, or distributor branch is legally responsible or which the manufacturer, factory branch, distributor, or distributor branch imposes upon the dealer. Failure to fully reimburse a dealer for the cost to the dealer of a rental vehicle provided to a customer as required, offered, advertised as available, or agreed to by the manufacturer or distributor shall be considered a violation of this subsection. Failure to provide compensation consistent with this section to a dealer for assistance requested by a customer whose vehicle was subjected to an ~~over the air~~ *over-the-air* or remote change, repair, or update to any part, system, accessory, or function by the vehicle manufacturer or distributor and performed at the dealership to satisfy the customer shall be considered a violation of this subsection;

6. Misrepresent in any way to purchasers of motor vehicles that warranties with respect to the manufacture, performance, or design of the vehicle are made by the dealer, either as warrantor or co-warrantor;

7. Require the dealer to make warranties to customers in any manner related to the manufacture, performance, or design of the vehicle;

8. Shift or attempt to shift to the motor vehicle dealer, directly or indirectly, any liabilities of the manufacturer, factory branch, distributor or distributor branch under the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.), unless such liability results from the act or omission by the dealer;

9. Deny any dealer the right to return any part or accessory that the dealer has not sold within 12 months where the part or accessory was not obtained through a specific order initiated by the dealer but instead was specified for, sold to and shipped to the dealer pursuant to an automated ordering system, provided that such part or accessory is in the condition required for return to the manufacturer, factory branch, distributor, or distributor branch, and the dealer returns the part within 30 days of it becoming eligible under this subdivision. For purposes of this subdivision, an "automated ordering system" shall be a computerized system that automatically specifies parts and accessories for sale and shipment to the dealer without specific order thereof initiated by the dealer. The manufacturer, factory branch, distributor, or distributor branch shall not charge a restocking or handling fee for any part or accessory being returned under this subdivision. This subdivision shall not apply if the manufacturer, factory branch, distributor, or distributor branch has available to the dealer an alternate system for ordering parts and accessories that provides for shipment of ordered parts and accessories to the dealer within the same time frame as the dealer would receive them when ordered through the automated ordering system; or

10. When providing a new motor vehicle to a dealer for offer or sale to the public, fail to provide to such dealer a written disclosure that may be provided to a potential buyer of the new motor vehicle of each accessory or function of the vehicle that may be initiated, updated, changed, or maintained by the manufacturer or distributor through ~~over the air~~ *over-the-air* or remote means, and the charge to the customer *at the time of the new motor vehicle sale* for such initiation, update, change, or maintenance. A manufacturer or distributor may comply with this subdivision by notifying the dealer that such information is available on a website or by other digital means.

C. Notwithstanding the terms of any franchise, it shall be unlawful for any motor vehicle manufacturer, factory branch, distributor, or distributor branch to fail to indemnify and hold harmless its motor vehicle dealers against any losses or damages arising out of complaints, claims, or suits relating to the manufacture, assembly, or design of motor vehicles, parts, or accessories, or other functions by the manufacturer, factory branch, distributor, or distributor branch beyond the control of the dealer, including, without limitation, the selection by the manufacturer, factory branch, distributor, or distributor branch of parts or components for the vehicle or any damages to merchandise occurring in transit to the dealer where the carrier is designated by the manufacturer, factory branch, distributor, or distributor branch. The dealer shall notify the manufacturer of pending suits in which allegations are made that come within this subsection whenever reasonably practicable to do so. Every motor vehicle dealer franchise issued to, amended, or renewed for motor vehicle dealers in Virginia shall be construed to incorporate provisions consistent with the requirements of this subsection.

D. On any new motor vehicle, any uncorrected damage or any corrected damage exceeding three percent of the manufacturer's or distributor's suggested retail price as defined in 15 U.S.C. §§ 1231 -1233, as measured by retail repair costs, must be disclosed to the dealer in writing prior to delivery. Factory mechanical repair and damage to glass, tires, and bumpers are excluded from the three percent rule when properly replaced by identical manufacturer's or distributor's original equipment or parts. Whenever a new motor vehicle is damaged in transit, when the carrier or means of transportation is determined by the manufacturer or distributor, or whenever a motor vehicle is otherwise damaged prior to delivery to the new motor vehicle dealer, the new motor vehicle dealer shall:

1. Notify the manufacturer or distributor of the damage within three business days from the date of delivery of the new motor vehicle to the new motor vehicle dealership or within the additional time specified in the franchise; and

2. Request from the manufacturer or distributor authorization to replace the components, parts, and accessories damaged or otherwise correct the damage, unless the damage to the vehicle exceeds the three percent rule, in which case the dealer may reject the vehicle within three business days.

E. If the manufacturer or distributor refuses or fails to authorize correction of such damage within 10 days after receipt of notification, or if the dealer rejects the vehicle because damage exceeds the three percent rule, ownership of the new motor vehicle shall revert to the manufacturer or distributor, and the new motor vehicle dealer shall have no obligation, financial or otherwise, with respect to such motor vehicle. Should either the manufacturer, distributor, or the dealer elect to correct the damage or any other damage exceeding the three percent rule, full disclosure shall be made by the dealer in writing to the buyer and an acknowledgement by the buyer is required. If there is less than three percent damage, no disclosure is required, provided the damage has been corrected. Predelivery mechanical work shall not require a disclosure. Failure to disclose any corrected damage within the knowledge of the selling dealer to a new motor vehicle in excess of the three percent rule shall constitute grounds for revocation of the buyer order, provided that, within 30 days of purchase, the motor vehicle is returned to the dealer with an accompanying written notice of the grounds for revocation. In case of revocation pursuant to this section, the dealer shall accept the vehicle and refund any payments made to the dealer in connection with the transaction, less a reasonable allowance for the consumer's use of the vehicle as defined in § 59.1-207.11. Nothing in this section shall be construed to exempt from the provisions of this section damage to a new motor vehicle that occurs following delivery of the vehicle to the dealer.

F. If there is a dispute between the manufacturer, factory branch, distributor, or distributor branch and the dealer with respect to any matter referred to in subsection A, B, or C, either party may petition the Commissioner in writing, within 30 days after either party has given written notice of the dispute to the other, for a hearing. The decision of the Commissioner shall be binding on the parties, subject to rights of judicial review and appeal as provided in Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2. However, nothing contained in this section shall give the Commissioner any authority as to

the content or interpretation of any manufacturer's or distributor's warranty. A manufacturer, factory branch, distributor, or distributor branch may not collect chargebacks, fully or in part, either through direct payment or by charge to the dealer's account, for recall or warranty parts or service compensation, including service incentives, sales incentives, other sales compensation, surcharges, fees, penalties, or any financial imposition of any type arising from an alleged failure of the dealer to comply with a policy of, directive from, or agreement with the manufacturer, factory branch, distributor, or distributor branch until 40 days following final notice of the amount charged to the dealer following all internal processes of the manufacturer, factory, factory branch, distributor, or distributor branch. Within 30 days following receipt of such final notice, the dealer may petition the Commissioner, in writing, for a hearing. If a dealer requests such a hearing, the manufacturer, factory branch, distributor, or distributor branch may not collect the chargeback, fully or in part, either through direct payment or by charge to the dealer's account, until the completion of the hearing and a final decision of the Commissioner concerning the validity of the chargeback.

§ 46.2-1572. Operation of dealership by manufacturer.

It shall be unlawful for any motor vehicle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof~~,~~ to own, operate, or control any motor vehicle dealership in the Commonwealth. *This prohibition includes the ownership, operation, or control of any dealership of a new line-make established by a manufacturer, factory branch, distributor, or distributor branch, licensed as such by the Department, or a subsidiary thereof or a company affiliated through ownership of the manufacturer, factory branch, distributor, or distributor branch of at least 25 percent of the equity of the company.* However, this section shall not prohibit:

1. The operation by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, of a dealership for a temporary period, not to exceed one year, during the transition from one owner or operator to another;

2. The ownership or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership;

3. The ownership, operation, or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, if the manufacturer, factory branch, distributor, distributor branch, or subsidiary has been engaged in the retail sale of motor vehicles through the dealership for a continuous period of three years prior to July 1, 1972, and if the Commissioner determines, after a hearing on the matter at the request of any party, that there is no dealer independent of the manufacturer or distributor, factory branch or distributor branch, or subsidiary thereof available in the community to own and operate the franchise in a manner consistent with the public interest;

4. The ownership, operation, or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof if the Commissioner determines, after a hearing at the request of any party, that there is no dealer independent of the manufacturer or distributor, factory branch or distributor branch, or subsidiary thereof available in the community or trade area to own and operate the franchise in a manner consistent with the public interest;

5. The ownership, operation, or control of a dealership dealing exclusively with school buses by a school bus manufacturer or school bus parts manufacturer or a person who assembles school buses; or

6. The ownership, operation, or control of a dealership dealing exclusively with refined fuels truck tanks by a manufacturer of refined fuels truck tanks or by a person who assembles refined fuels truck tanks. Notwithstanding any contrary provision of this chapter, any manufacturer of fire-fighting equipment who, on or before December 31, 2004, had requested a hearing before the Department or the Commissioner in accordance with subdivision 4 for licensure as a dealer in fire-fighting equipment and/or ambulances may be licensed as a dealer in fire-fighting equipment and/or ambulances.

CHAPTER 311

An Act to amend and reenact §§ 46.2-1569, 46.2-1571, and 46.2-1572 of the Code of Virginia, relating to motor vehicle dealers; franchise agreements; sale or lease of new motor vehicles.

[S 871]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1569, 46.2-1571, and 46.2-1572 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-1569. Other coercion of dealers; transfer, grant, succession to and cancellation of dealer franchises; delivery of vehicles, parts, and accessories.

Notwithstanding the terms of any franchise agreement, it shall be unlawful for any manufacturer, factory branch, distributor, distributor branch, or affiliate, or any field representative, officer, agent, or their representatives to do any of the following. It shall further be unlawful for any manufacturer, factory branch, distributor, distributor branch, or any field representative, officer, agent, or their representatives to engage in conduct prohibited under this section through an affiliate.

1. To coerce or attempt to coerce any dealer to accept delivery of any motor vehicle or vehicles, parts or accessories therefor, or any other commodities, which have not been ordered by the dealer.

2. To coerce or attempt to coerce any dealer to enter into an agreement with the manufacturer, factory branch, distributor, or distributor branch, or representative thereof by threat to take or by taking any action in violation of the chapter, or by any other act unfair or injurious to the dealer*, including the threat to withhold any incentive payments in whole*

or in part or to deny the dealer the right to participate in an incentive program in which more than one of the dealers of the line-make in the Commonwealth are eligible to participate and under the same terms as such other dealers. Nothing contained in this section shall require that a dealer be qualified for or entitled to incentive payments or the right to payments or benefits from an incentive program, nor will a manufacturer, factory branch, distributor, or distributor branch be prohibited from informing a dealer thereof, unless the dealer meets all qualifications and performs all applicable requirements and meets all of the applicable standards for such payments or benefits reasonably established by the manufacturer, factory branch, distributor, or distributor branch, or as otherwise provided in this article. If a manufacturer, factory branch, distributor, or distributor branch conditions the grant of a new franchise to a dealer on the dealer's consent (i) to provide a site control agreement as defined in subdivision 10, (ii) to provide a written agreement containing an option to purchase the franchise of the dealer, provided, however, that agreements pursuant to § 46.2-1569.1 shall be permitted, or (iii) to provide a termination agreement to be held by the manufacturer, factory branch, distributor, or distributor branch for subsequent use, it shall be considered coercion and an act that is unfair and injurious to the dealer; provided, however, that the provisions of § 46.2-1572.3 related to the good faith settlement of disputes shall apply to the agreements described in clauses (i), (ii), and (iii) of this subdivision, mutatis mutandis. This subdivision shall not apply to any agreement the enforcement of which is subject to the jurisdiction of a United States Bankruptcy Court.

2a. To coerce or attempt to coerce any dealer to join, contribute to, or affiliate with any advertising association.

2b. To coerce or require any dealer to establish in connection with the sale of a motor vehicle prices at which the dealer shall sell products or services not manufactured or distributed by the manufacturer, factory branch, distributor, or distributor branch, whether by agreement, program, incentive provision, or otherwise.

2c. To coerce or require any dealer, whether by agreement, program, incentive provision, or otherwise, to construct improvements to its facilities or to install new signs or other franchisor image elements that replace or substantially alter those improvements, signs, or franchisor image elements completed within the preceding 10 years that were required or approved by the manufacturer, factory branch, distributor, or distributor branch or one of its affiliates. If a manufacturer, factory branch, distributor, or distributor branch offers incentives, or other payments under a program offered after the effective date of this subdivision and available to more than one dealer in the Commonwealth that are premised wholly or in part on dealer facility improvements or installation of franchisor signs or other franchisor image elements, a dealer that constructed improvements or installed signs or other franchisor image elements required by or approved by the manufacturer, factory branch, distributor, or distributor branch and completed within the 10 years preceding the program shall be deemed to be in compliance with the program requirements pertaining to construction of facilities or installation of signs or other franchisor image elements that would replace or substantially alter those previously constructed or installed within that 10-year period. This subdivision shall not apply to a program that provides lump sum payments to assist dealers in making facility improvements or to pay for signs or franchisor image elements when such payments are not dependent on the dealer selling or purchasing specific numbers of new vehicles and shall not apply to a program that is in effect with more than one dealer in the Commonwealth on the effective date of this subdivision, nor to any renewal or modification of such a program.

2d. To coerce or require any dealer, whether by agreement, program, incentive provision, or provision for loss of incentive payments or other benefits, to refrain from selling any used motor vehicle subject to (i) recall, (ii) stop sale directive, (iii) technical service bulletin, or (iv) other manufacturer, factory branch, distributor, or distributor branch notification to perform work on such used motor vehicle, unless the manufacturer, factory branch, distributor, or distributor branch has a remedy and parts available to the dealer to remediate the basis for the coercion or requirement of the dealer to refrain from selling each affected used motor vehicle. If there is no remedy or there are no parts available from the manufacturer, factory branch, distributor, or distributor branch to remediate each affected used motor vehicle in the inventory of the dealer, the manufacturer, factory branch, distributor, or distributor branch shall (a) compensate the dealer for any affected used motor vehicle in the inventory of the dealer that it cannot sell because of such coercion or requirement at least one percent a month or any part thereof of the cost of such used motor vehicle, including repairs and reconditioning expenses based on the financial records of the dealer, and (b) establish a written procedure to compensate dealers under this subdivision that it shall provide to dealers subject to its coercion or requirement and file with the Commissioner as a franchise document pursuant to § 46.2-1566.

Any claim for compensation by a dealer shall be submitted on a monthly basis for the amount owed pursuant to this subdivision. The manufacturer, factory branch, distributor, or distributor branch shall process and pay the claim in the same manner as a claim for warranty reimbursements as provided in § 46.2-1571. This subdivision shall not prevent a manufacturer, factory branch, distributor, or distributor branch from (1) requiring that a motor vehicle not be subject to an open recall or stop sale directive in order to be qualified, remain qualified, or be sold as a certified pre-owned vehicle or similar designation; (2) paying incentives for selling used vehicles with no unremedied recalls; or (3) paying incentives for performing recall repairs on a vehicle in the dealer's inventory.

Nothing in this subdivision shall prevent a manufacturer, factory branch, distributor, or distributor branch from instructing that a dealer repair used vehicles of the line-make for which the dealer holds a franchise with an open recall, provided that the instruction does not involve coercion that imposes a penalty or provision of loss of benefits on the dealer.

2e. To coerce or require any dealer, whether by agreement, program, incentive provision, or provision for loss of incentive payments or other benefits, to amend its franchise agreement or similar agreement governing the sales and leasing of new motor vehicles, or to establish or implement a franchise agreement for the sales and leasing of new motor

vehicles, under which the manufacturer, factory branch, distributor, or distributor branch (i) maintains a website or other electronic or digital means of communication for negotiating binding terms of sale or leasing of new motor vehicles directly between the manufacturer, factory branch, distributor, or distributor branch and retail buyers or lessees, including but not limited to agreements on prices or other substantive terms of sale or leasing of new vehicles; (ii) retains ownership of new motor vehicles until they are sold or leased to the retail buyers or lessees thereof; however, a manufacturer, factory branch, distributor, or distributor branch may maintain a common supply of new vehicles of which it maintains ownership until such vehicles are sold to dealers, from which more than one dealer may buy vehicles, provided that the manufacturer, factory branch, distributor, or distributor branch may not use the common supply of new vehicles to engage in the negotiation of binding terms of sales or leases directly with retail buyers or lessees and further provided that a dealer may buy vehicles from the common supply for the dealer's inventory without having reached agreement for sale or lease of any new vehicle with a retail buyer or lessee if the manufacturer, factory branch, distributor, or distributor branch does not otherwise allow its dealers to obtain stock inventory through the vehicle allocation process; (iii) except for the sale or lease of a vehicle to an actual employee of the manufacturer, factory branch, distributor, or distributor branch or in connection with any replacement or buyback under Chapter 17.3 (§ 59.1-207.9 et seq.) of Title 59.1, consigns new motor vehicles to dealers for dealer inventory or for sale or lease to retail buyers or lessees; (iv) reserves the right to negotiate binding terms of sale directly with retail buyers or lessees of new motor vehicles, provided that displaying on a website or other electronic or digital means of communication prices set by dealers, lists of available financing sources provided by dealers, or a conditional trade-in value shall not be considered negotiating; (v) reserves the right to offer or negotiate directly with the retail buyers or lessees in connection with and at the time of sale of a new motor vehicle the sale of any service contract, vehicle maintenance agreement, guaranteed asset protection (GAP) agreement or waiver, or other vehicle-related products and services that are otherwise offered by the dealer; however, a manufacturer, factory branch, distributor, or distributor branch may communicate or negotiate and finalize agreements with vehicle owners or lessees directly concerning any accessory or function of a vehicle that may be initiated, updated, changed, or maintained by the manufacturer, factory branch, distributor, or distributor branch through over-the-air or remote means if the manufacturer, factory branch, distributor, or distributor branch complies with the requirements of subdivision B 10 of § 46.2-1571; or (vi) designates dealers to be only delivery agents for new motor vehicles the binding terms of sale or lease of which are negotiated directly between the manufacturer, factory branch, distributor, or distributor branch and the retail buyers or lessees of the new motor vehicles. No manufacturer, factory branch, distributor, or distributor branch shall engage in any of the activities listed in clauses (i) through (vi). Notwithstanding the foregoing provisions of this subsection, a manufacturer, factory branch, distributor, or distributor branch may engage in fleet sales with a fleet customer that has a designation as such by the manufacturer, factory branch, distributor, or distributor branch because it has purchased or leased or has committed to purchase or lease five or more vehicles under the fleet program. Nothing in this section shall limit a manufacturer, factory branch, distributor, or distributor branch from setting or advertising a manufacturer's suggested retail price.

3. To prevent or refuse to approve the sale or transfer of the ownership of a dealership by the sale of the business, stock transfer, or otherwise, or the transfer, sale, or assignment of a dealer franchise, or a change in the executive management or principal operator of the dealership, unless the franchisor provides written notice to the dealer of its objection and the reasons therefor by certified mail or overnight delivery or other method designed to ensure delivery to the dealer at least 30 days prior to the proposed effective date of the transfer, sale, assignment, or change. No such objection shall be sufficient unless the failure to approve is reasonable. Notwithstanding the provisions of subsection D of § 46.2-1573, the only grounds that may be considered reasonable for a failure to approve are that an individual who is the applicant or is in control of an entity that is an applicant (i) lacks good moral character, (ii) lacks reasonable motor vehicle dealership management experience and qualifications, (iii) lacks financial ability to be the dealer, or (iv) fails to meet the standards otherwise established by this title to be a dealer. No such objection shall be effective to prevent the sale, transfer, assignment, or change if the Commissioner has determined, if requested in writing by the dealer within 30 days after receipt of an objection to the proposed sale, transfer, or change, and after a hearing on the matter, that the failure to permit or honor the sale, transfer, assignment, or change is unreasonable under the circumstances. No franchise may be sold, assigned, or transferred unless (a) the franchisor has been given at least 90 days' prior written notice by the dealer as to the identity, financial ability, and qualifications of the proposed transferee on forms generally utilized by the franchisor to conduct its review, as well as the full agreement for the proposed transaction, and (b) the sale or transfer of the franchise and business will not involve, without the franchisor's consent, a relocation of the business.

3a. To impose a condition on the approval of the sale or transfer of the ownership of a dealership by the sale of the business, stock transfer, or otherwise if the condition would violate the provisions of this title if imposed on the existing dealer.

In the event the manufacturer, factory branch, distributor or distributor branch takes action to prevent or refuse to approve the sale or transfer of the ownership of a dealership by the sale of the business, stock transfer, or otherwise, or the transfer, sale or assignment of a dealer franchise, or a change in the executive management or principal operator of the dealership, without a statement of specific grounds for doing so that is consistent with subdivision 3 hereof or imposes a condition in violation of subdivision 3a hereof, that shall constitute a violation of this section. The existing dealer may request review of the action or imposition of the condition in a hearing by the Commissioner. If the Commissioner finds that the action or the imposition of the condition was a violation of this section, the Commissioner may order that the sale or transfer be approved by the manufacturer, factory branch, distributor, or distributor branch, without imposition of the

condition. If the existing dealer does not request a hearing by the Commissioner concerning the action or the condition imposed by the manufacturer, factory branch, distributor, or distributor branch, and the action or condition was the proximate cause of the failure of the contract for the sale or transfer of ownership of the dealership, the applicant for approval of the sale or transfer or the existing dealer, or both, may commence an action at law for violation of this section. The action may be commenced in the circuit court of the city or county in which the dealer is located, or in any other circuit court with permissible venue, within two years following the action or the imposition of the condition by the manufacturer, factory branch, distributor, or distributor branch for the damages suffered by the applicant or the dealer as a result of the violation of this section by the manufacturer, factory branch, distributor, or distributor branch, plus the applicant's or dealer's reasonable attorney fees and costs of litigation. Notwithstanding the foregoing, an exercise of the right of first refusal by the manufacturer, factory branch, distributor, or distributor branch pursuant to § 46.2-1569.1 shall not be considered the imposition of a condition prohibited by this section.

4. To grant an additional franchise for a particular line-make of motor vehicle in a relevant market area in which a dealer or dealers in that line-make are already located unless the franchisor has first advised in writing all other dealers in the line-make in the relevant market area. No such additional franchise may be established at the proposed site unless the Commissioner has determined, if requested by a dealer of the same line-make in the relevant market area within 30 days after receipt of the franchisor's notice of intention to establish the additional franchise, and after a hearing on the matter, that the franchisor can show by a preponderance of the evidence that after the grant of the new franchise, the relevant market area will support all of the dealers in that line-make in the relevant market area. Establishing a franchised dealer in a relevant market area to replace a franchised dealer that has not been in operation for more than two years shall constitute the establishment of a new franchise subject to the terms of this subdivision. The two-year period for replacing a franchised dealer shall begin on the day the franchise was terminated, or, if a termination hearing was held, on the day the franchisor was legally permitted finally to terminate the franchise. The relocation of a franchise in a relevant market area, whether by an existing dealer or by a dealer who is acquiring the franchise, shall constitute the establishment of a new franchise subject to the terms of this subdivision. This subdivision shall not apply to (i) the relocation of an existing dealer within that dealer's relevant market area if the relocation site is to be more than 10 miles distant from any other dealer for the same line-make; (ii) the relocation of an existing dealer within that dealer's relevant market area if the relocation site is to be more distant than the existing site from all other dealers of the same line-make in that relevant market area; or (iii) the relocation of an existing new motor vehicle dealer within two miles of the existing site of the relocating dealer.

5. Except as otherwise provided in this subdivision and notwithstanding the terms of any franchise, to terminate, cancel, or refuse to renew the franchise of any dealer without good cause and unless (i) the dealer and the Commissioner have received written notice of the franchisor's intentions at least 60 days prior to the effective date of such termination, cancellation, or the expiration date of the franchise, setting forth the specific grounds for the action, and (ii) the Commissioner has determined, if requested in writing by the dealer within the 60-day period prior to the effective date of such termination, cancellation, or the expiration date of the franchise and, after a hearing on the matter, that the franchisor has shown by a preponderance of the evidence that there is good cause for the termination, cancellation, or nonrenewal of the franchise. If any manufacturer, factory branch, distributor, or distributor branch takes action that will have the effect of terminating, canceling, or refusing to renew the franchise of any dealer (a) by use of a termination agreement executed by the dealer and obtained more than 90 days before the purported date of use, (b) by exercise of rights under a written option to purchase the franchise of a dealer, or (c) by exercise of rights under a site control agreement as defined in subdivision 10, that action shall be considered a termination, cancellation, or refusal to renew pursuant to the terms of this subdivision and subject to the rights, provisions, and procedures provided herein. In any case where a petition is made to the Commissioner for a determination as to good cause for the termination, cancellation, or nonrenewal of a franchise, the franchise in question shall continue in effect pending the Commissioner's decision or, if that decision is appealed to the circuit court, pending the decision of the circuit court. Where the termination, cancellation, or nonrenewal of a franchise will result from use of a termination agreement executed by the dealer and obtained more than 90 days before the purported date of use, exercise of rights under a written option to purchase the franchise of a dealer, or exercise of rights under a site control agreement as defined in subdivision 10, such use or exercise shall be stayed pending the Commissioner's decision or, if that decision is appealed to the circuit court, pending the decision of the circuit court, and its use or exercise will be allowed only where the franchisor has shown by a preponderance of the evidence that there is good cause for the termination, cancellation, or nonrenewal of the franchise. In any case in which a franchisor neither advises a dealer that it does not intend to renew a franchise nor takes any action to renew a franchise beyond its expiration date, the franchise in question shall continue in effect on the terms last agreed to by the parties. Notwithstanding the other provisions of this subdivision notice of termination, cancellation, or nonrenewal may be provided to a dealer by a franchisor not less than 15 days prior to the effective date of such termination, cancellation, or nonrenewal when the grounds for such action are any of the following:

a. Insolvency of the franchised motor vehicle dealer or filing of any petition by or against the franchised motor vehicle dealer, under any bankruptcy or receivership law, leading to liquidation or which is intended to lead to liquidation of the franchisee's business.

b. Failure of the franchised motor vehicle dealer to conduct its customary sales and service operations during its posted business hours for seven consecutive business days, except where the failure results from acts of God or circumstances beyond the direct control of the franchised motor vehicle dealer.

c. Revocation of any license which the franchised motor vehicle dealer is required to have to operate a dealership.

d. Conviction of the dealer or any principal of the dealer of a felony.

The change or discontinuance of a marketing or distribution system of a particular line-make product by a manufacturer or distributor, while the name identification of the product is continued in substantial form by the same or a different manufacturer or distributor, may be considered to be a franchise termination, cancellation, or nonrenewal. The provisions of this paragraph shall apply to changes and discontinuances made after January 1, 1989, but they shall not be considered by any court in any case in which such a change or discontinuance occurring prior to that date has been challenged as constituting a termination, cancellation or nonrenewal.

5a. To fail to provide continued parts and service support to a dealer which holds a franchise in a discontinued line-make for at least five years from the date of such discontinuance. This requirement shall not apply to a line-make which was discontinued prior to January 1, 1989.

5b. Upon the involuntary or voluntary termination, nonrenewal, or cancellation of the franchise of any dealer, by either the manufacturer, distributor, or factory branch or by the dealer, notwithstanding the terms of any franchise whether entered into before or after the enactment of this section, to fail to pay the dealer for at least the following:

(1) The dealer cost plus any charges by the franchisor for distribution, delivery, and taxes paid by the dealer, less all allowances paid to the dealer by the franchisor, for new and undamaged motor vehicles in the dealer's inventory acquired from the franchisor or from another dealer of the same line — make in the ordinary course of business within 18 months of termination;

(2) The dealer cost as shown in the price catalog of the franchisor current at the time of repurchase of each new, unused, undamaged, and unsold part or accessory if such part or accessory is in the current parts catalog and is still in the original, resalable merchandising package and in unbroken lots, except that in the case of sheet metal, a comparable substitute for the original package may be used;

(3) The fair market value of each undamaged sign owned by the dealer that bears a trademark, trade name or commercial symbol used or claimed by the franchisor if such sign was purchased from or at the request of the franchisor;

(4) The fair market value of all special tools and automotive service equipment owned by the dealer that were recommended and designated as special tools or equipment by the franchisor, if the tools and equipment are in usable and good condition, normal wear and tear excepted; and

(5) The reasonable cost of transporting, handling, packing, and loading of motor vehicles, parts, signs, tools, and special equipment subject to repurchase hereunder.

The provisions of this subdivision do not apply to a dealer who is unable to convey clear title to the property identified in this subdivision.

For purposes of this subdivision, a voluntary termination shall not include the transfer of the terminating dealer's franchised business in connection with a transfer of that business by means of sale of the equity ownership or assets thereof to another dealer.

5c. If the termination, cancellation, or nonrenewal of the dealer's franchise is the result of the termination, elimination, or cessation of a line-make by the manufacturer, distributor, or factory branch, then, in addition to the payments to the dealer pursuant to subdivision 5b, the manufacturer, distributor, or factory branch shall be liable to the dealer for the following:

(1) An amount at least equivalent to the fair market value of the franchise for the line-make, which shall be the greater of that value determined as of (i) the date the franchisor announces the action that results in termination, cancellation, or nonrenewal, (ii) the date the action that resulted in the termination, cancellation, or nonrenewal first became general knowledge, or (iii) the day 12 months prior to the date on which the notice of termination, cancellation, or nonrenewal is issued. In determining the fair market value of a franchise for a line-make, if the line-make is not the only line-make for which the dealer holds a franchise in the dealership facilities, the dealer shall also be entitled to compensation for the contribution of the line-make to payment of the rent or to covering obligation for the fair rental value of the dealership facilities for the period set forth in subdivision 5c (2). Fair market value of the franchise for the line-make shall only include the goodwill value of the dealer's franchise for that line-make in the dealer's relevant market area.

(2) If the line-make is the only line-make for which the dealer holds a franchise in the dealership facilities, the manufacturer, distributor, or factory branch shall also pay assistance with respect to the dealership facilities leased or owned by the dealer as follows: (i) the manufacturer, distributor, or factory branch shall pay the dealer a sum equivalent to the rent for the unexpired term of the lease or three years' rent, whichever is the lesser, or (ii) if the dealer owns the dealership facilities, the manufacturer, distributor, or factory branch shall pay the dealer a sum equivalent to the reasonable rental value of the dealership facilities for three years.

To be entitled to facilities assistance from the manufacturer, distributor, or factory branch, the dealer shall have the obligation to mitigate damages by listing the dealership facilities for lease or sublease with a licensed real estate agent within 30 days after the effective date of the termination of the franchise and thereafter by reasonably cooperating with such real estate agent in the performance of the agent's duties and responsibilities. If the dealer is able to lease or sublease the dealership facilities on terms that are consistent with local zoning requirements to preserve the right to sell motor vehicles from the dealership facilities and the terms of the dealer's lease, the dealer shall be obligated to pay the manufacturer the net revenue received from such mitigation, but only following receipt of facilities assistance payments pursuant to clause (i) or (ii) of subdivision 5c (2), and only up to the total amount of facilities assistance payments that the dealer has received.

6. To fail to allow a dealer the right at any time to designate a member of his family as a successor to the dealership in the event of the death or incapacity of the dealer. Such designation may be made by the dealer or, in the event of the death or

incapacity of the dealer, by the qualified executor or personal representative of the dealer. It shall be unlawful to prevent or refuse to honor the succession to a dealership by a member of the family of a deceased or incapacitated dealer if the franchisor has not provided to the member of the family designated the dealer's successor written notice of its objections to the succession and of such person's right to seek a hearing on the matter before the Commissioner pursuant to this article, and the Commissioner determines, if requested in writing by such member of the family within 30 days of receipt of such notice from the franchisor, and after a hearing on the matter before the Commissioner pursuant to this article, that the failure to permit or honor the succession is unreasonable under the circumstances. No member of the family may succeed to a franchise unless (i) the franchisor has been given written notice as to the identity, financial ability, and qualifications of the member of the family in question, and (ii) the succession to the franchise will not involve, without the franchisor's consent, a relocation of the business.

7. To delay, refuse, or fail to deliver to any dealer, if ordered by the dealer, in reasonable quantities and within a reasonable time, any new vehicles of each series and model sold or distributed by the franchisor as covered by such franchise and which are publicly advertised by the manufacturer, factory branch, distributor, or distributor branch in the Commonwealth to be available for immediate delivery, provided, however, that the failure to deliver any motor vehicle shall not be considered a violation of this chapter if such failure is due to an act of God, a work stoppage or delay due to a strike or labor difficulty, a shortage of materials, a lack of available manufacturing capacity, a freight embargo, or other cause over which the manufacturer, factory branch, distributor, or distributor branch shall have no control. If ordered by a dealer, a franchisor shall deliver an equitable supply of new vehicles during the model year of each series and model under the dealer's franchise in proportion to the sales objectives or goals established by the franchisor for the dealer compared to the sales objectives or goals established by the other same line-make dealers in the Commonwealth, provided, however, that the failure to deliver any motor vehicle shall not be considered a violation of this chapter if such failure is due to a cause over which the manufacturer, factory branch, distributer, or distributer branch shall have no control. Upon the written request of any dealer holding its sales or sales and service franchise, the manufacturer or distributor shall disclose to the dealer in writing the basis upon which new motor vehicles of the same line-make are allocated, scheduled, and delivered to dealers in the Commonwealth, and the basis upon which the current allocation or distribution is being made or will be made to such dealer. In the event that allocation is at issue in a request for a hearing, the dealer may demand the Commissioner to direct that the manufacturer or distributor provide to the dealer, within 30 days of such demand, all records of sales and all records of distribution of all motor vehicles to the same line-make dealers who compete with the dealer requesting the hearing.

7a. To fail or refuse to offer to its same line-make franchised dealers all models manufactured for the line-make, or require a dealer to pay any extra fee, or remodel, renovate, or recondition the dealer's existing facilities, or purchase unreasonable advertising displays or other materials as a prerequisite to receiving a model or a series of vehicles.

7b. To require or otherwise coerce a dealer to underutilize the dealer's facilities by requiring or otherwise coercing a dealer to exclude or remove from the dealer's facilities operations for selling or servicing of a line-make of vehicles for which the dealer has a franchise agreement to utilize the facilities.

7c. To require a dealer to purchase goods or services from a vendor selected, identified, or designated by a manufacturer, factory branch, distributor, distributor branch, or one of its affiliates by agreement, program, incentive provision, or otherwise without making available to the dealer the option to obtain the goods or services of substantially similar quality from a vendor chosen by the dealer. For purposes of this subdivision, the term "goods" does not include moveable displays, brochures, and promotional materials containing material subject to intellectual property rights of, or special tools and training as required by the manufacturer, or parts to be used in repairs under warranty obligations of, a manufacturer, factory branch, distributor, or distributor branch.

7d. To fail to provide a notice to a dealer when notifying it of the requirement to purchase goods or services from a vendor selected, identified, or designated by a manufacturer, factory branch, distributor, or distributor branch of the dealer's rights pursuant to subdivision 7c.

7e. To fail to provide to a dealer, when the manufacturer, factory branch, distributor, or distributor branch claims that a vendor chosen by the dealer cannot supply goods and services of substantially similar quality, a disclosure concerning the vendor selected, identified, or designated by the franchisor stating (i) whether the manufacturer, factory branch, distributor, distributor branch, or one of its affiliates, or any officer, director, or employee of the same, has an ownership interest, actual or beneficial, in the vendor and, if so, the percentage of the ownership interest and (ii) whether the manufacturer, factory branch, distributor, distributor branch, or one of its affiliates has an agreement or arrangement by which the vendor pays to the manufacturer, factory branch, distributor, distributor branch, or one of its affiliates, or any officer, director, or employee of the same, any compensation and, if so, the basis and amount of the compensation to be paid as a result of any purchases by the dealer, whether it is to be paid by direct payment by the vendor or by credit from the vendor for the benefit of the recipient.

7f. To fail to provide to a dealer, if the goods and services to be supplied to the dealer by a vendor selected, identified, or designated by the manufacturer, factory branch, distributor, or distributor branch are signs or other franchisor image elements to be leased to the dealer, the right to purchase the signs or other franchisor image elements of like kind and quality from a vendor selected by the dealer. If the vendor selected by the manufacturer, factory branch, distributor, or distributor branch is the only available vendor, the dealer must be given the opportunity to purchase the signs or other franchisor image elements at a price substantially similar to the capitalized lease costs thereof. This subdivision shall not be construed to allow a dealer to impair or eliminate the intellectual property rights of the manufacturer, factory branch, distributor, or

distributor branch, nor to permit a dealer to erect or maintain signs that do not conform to the intellectual property usage guidelines of the manufacturer, factory branch, distributor, or distributor branch.

8. To include in any franchise with a motor vehicle dealer terms that are contrary to, prohibited by, or otherwise inconsistent with the requirements of this chapter.

8a. For any franchise agreement, to require a motor vehicle dealer to pay the attorney fees of the manufacturer or distributor related to hearings and appeals brought under this article.

9. To fail to include in any franchise with a motor vehicle dealer the following language: "If any provision herein contravenes the laws or regulations of any state or other jurisdiction wherein this agreement is to be performed, or denies access to the procedures, forums, or remedies provided for by such laws or regulations, such provision shall be deemed to be modified to conform to such laws or regulations, and all other terms and provisions shall remain in full force," or words to that effect.

9a. To include in any franchise agreement or similar agreement governing the sales, leasing, or service of new motor vehicles, or to enforce or seek to enforce in such franchise agreement or similar agreement, a right for the manufacturer, factory branch, distributor, or distributor branch to unilaterally amend the franchise agreement or similar agreement. Any amendment to a franchise agreement or similar agreement governing the sales, leasing, or service of new vehicles must be agreed by both the manufacturer, factory branch, distributor, or distributor branch and the dealer at the time the franchise agreement or similar agreement is to be amended.

10. To enter into any agreement with a motor vehicle dealer in which the manufacturer, factory branch, distributor, distributor branch, or one of its affiliates is given site control over the premises of a dealer that does not terminate upon the occurrence of any of the following events: (i) the right of the franchisor to manufacture or distribute the line-make of vehicles covered by the dealer's franchise is sold, assigned, or otherwise transferred by the manufacturer, factory branch, distributor, or distributor branch to another; (ii) the final termination of the dealer's franchise for any reason; or (iii) the manufacturer, factory branch, distributor, or distributor branch of its affiliate fails for any reason to exercise its right of first refusal to purchase the assets or ownership of the business of the dealer when given the opportunity to do so by virtue of its franchise agreement, another agreement, or as set forth in § 46.2-1569. For purposes of this subdivision, the term "site control" shall mean the contractual right to control in any way the commercial use and development of the premises upon which a dealer's business operations are located, including the right to approve of additional or different uses for the property beyond those of its franchise, the right to lease or sublease the dealer's property, or the right or option to purchase the dealer's property.

11. To require or coerce a motor vehicle dealer, whether by agreement, program, incentive provision, or otherwise, to submit or to provide a manufacturer, factory branch, distributor, or distributor branch access to consumer data maintained by the dealer (i) by any method that violates or would violate the dealer's chosen policies and processes for complying with obligations to protect consumer data under laws of the United States or the Commonwealth or (ii) through franchisor access to the computer database of the dealer if the dealer chooses to submit data specified by the franchisor.

The manufacturer, factory branch, distributor, or distributor branch shall provide a dealer the right to cancel the dealer's participation in a program under which the dealer provides consumer data or access to data to the manufacturer, factory branch, distributor, or distributor branch, provided that a manufacturer, factory branch, distributor, or distributor branch may require notice of up to 60 days of the dealer's decision to cancel the dealer's participation.

If a manufacturer, factory branch, distributor, or distributor branch offers incentives or other payments under a program offered after July 1, 2015, excluding any continuation, renewal, or modification of any existing program, and available to more than one dealer in the Commonwealth that are premised wholly or in part on dealer participation in manufacturer, factory branch, distributor, or distributor branch programs under which consumer data is provided to or accessed by the manufacturer, factory branch, distributor, or distributor branch, a dealer that exercises its rights under this subdivision shall be deemed to be in compliance with the program requirements pertaining to providing consumer data, provided that the dealer has otherwise met program requirements to the extent of providing any consumer data that is not nonpublic personal information.

It shall not constitute a violation of this subdivision for a manufacturer, factory branch, distributor, or distributor branch to require a motor vehicle dealer to provide data (a) concerning a new motor vehicle sale or used motor vehicle sale under a manufacturer certification program, (b) to validate a customer or dealer incentive, (c) to calculate dealer or market sales or evaluate service performance or customer satisfaction to facilitate analysis of product quality and market feedback, (d) to facilitate warranty service work on a vehicle, (e) concerning information with respect to recall repairs or information about a recalled vehicle, (f) pursuant to a mutual agreement between a manufacturer, factory branch, distributor, or distributor branch and a dealer, or (g) where consumer data is reasonably necessary to enable a manufacturer, factory branch, distributor, or distributor branch to provide programs, products, or services to a dealer.

A dealer that elects to submit or push data or information to the manufacturer, factory branch, distributor, or distributor branch through any method other than that provided by the manufacturer, factory branch, distributor, or distributor branch shall timely obtain and furnish the requested data in a widely accepted electronic file format. A manufacturer, factory branch, distributor, or distributor branch shall not impose a fee, surcharge, or charge of any type on a dealer that chooses to submit data specified by the manufacturer, factory branch, distributor, or distributor branch rather than provide the manufacturer, factory branch, distributor, or distributor branch access to the dealer's computer database.

§ 46.2-1571. Recall, warranty, maintenance and sales incentive obligations.

A. Each motor vehicle manufacturer, factory branch, distributor, or distributor branch shall (i) specify in writing to each of its motor vehicle dealers licensed in the Commonwealth the dealer's obligations for preparation, delivery, recall, and warranty service on its products and (ii) compensate the dealer for recall or warranty parts, service, and diagnostic work required of the dealer by the manufacturer or distributor as follows:

1. Compensation of a dealer for recall or warranty parts, service, and diagnostic work shall not be less than the amounts charged by the dealer for the manufacturer's or distributor's original parts, service, and diagnostic work to retail customers for nonwarranty service, parts, and diagnostic work installed or performed in the dealer's service department, and the determination of compensation in accordance with the provisions of this section shall be deemed reasonable due to the substantial number of repair orders reviewed, unless the manufacturer can show that the amounts are not reasonable. All manufacturer or distributor compensated parts, service, diagnostic work, updates to a vehicle accessory or function, or initialization or repair of a vehicle part, system, accessory, or function performed by the dealer shall be subject to this subsection. Recall or warranty parts compensation shall be stated as a percentage of markup, which shall be an agreed reasonable approximation of retail markup and which shall be uniformly applied to all of the manufacturer's or distributor's parts unless otherwise provided for in this section. If the dealer and manufacturer or distributor cannot agree on the recall or warranty parts compensation markup to be paid to the dealer, the markup shall be determined by an average of the dealer's retail markup on all of the manufacturer's or distributor's parts as described in subdivisions 2 and 3.

2. For purposes of determining recall or warranty parts and service compensation paid to a dealer by the manufacturer or distributor, including body-shop repairs, only retail repair orders, or the retail portion of repair orders containing retail and non-retail operations, shall be considered. For the purposes of this section, "retail" does not include menu-priced parts or services, services and parts used in internal repairs paid by the dealer, group discounts, special event discounts, special event promotions, and insurance-paid repairs.

3. Increases in dealer recall or warranty parts and service compensation and diagnostic work compensation, pursuant to this section, shall be requested by the dealer in writing, shall be based on 100 consecutive repair orders or all repair orders over a 90-day period, whichever occurs first. If any portion of a retail repair order includes amounts that are not retail, such portion shall be excluded. Compensation for parts shall be stated as a percentage of markup that shall be uniformly applied to all the manufacturer's or distributor's parts.

4. In the case of recall or warranty parts compensation, the provisions of this subsection shall be effective only for model year 1992 and succeeding model years.

5. If a manufacturer or distributor furnishes a part to a dealer at no cost for use by the dealer in performing work for which the manufacturer or distributor is required to compensate the dealer under this section, the manufacturer or distributor shall compensate the dealer for the part in the same manner as recall or warranty parts compensation, less the wholesale costs, for such part as listed in the manufacturer's current price schedules. A manufacturer or distributor may pay the dealer a reasonable handling fee instead of the compensation otherwise required by this subsection for special high-performance complete engine assemblies in limited production motor vehicles that constitute less than five percent of model production furnished to the dealer at no cost, if the manufacturer or distributor excludes such special high-performance complete engine assemblies in determining whether the amounts requested by the dealer for recall or warranty compensation are consistent with the amounts that the dealer charges its other retail service customers for parts used by the dealer to perform similar work.

6. In the case of service work, manufacturer original parts or parts otherwise specified by the manufacturer or distributor, and parts provided by a dealer either pursuant to an adjustment program as defined in § 59.1-207.34 or as otherwise requested by the manufacturer or distributor, the dealer shall be compensated in the same manner as for recall or warranty service or parts.

This section does not apply to compensation for parts such as components, systems, fixtures, appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for nonvehicular, residential purposes. Recall, warranty, and sales incentive audits of dealer records may be conducted by the manufacturer, factory branch, distributor, or distributor branch on a reasonable basis, and dealer claims for recall, warranty, or sales incentive compensation shall not be denied except for good cause, such as performance of nonwarranty repairs, lack of material documentation, fraud, or misrepresentation. A dealer's failure to comply with the specific requirements of the manufacturer or distributor for processing the claim shall not constitute grounds for the denial of the claim or reduction of the amount of compensation to the dealer as long as reasonable documentation or other evidence has been presented to substantiate the claim. The manufacturer, factory branch, distributor, or distributor branch shall not deny a claim or reduce the amount of compensation to the dealer for recall or warranty repairs to resolve a condition discovered by the dealer during the course of a separate repair requested by the customer or to resolve a condition on the basis of advice or recommendation by the dealer. Claims for dealer compensation shall be paid within 30 days of dealer submission or within 30 days of the end of an incentive program or rejected in writing for stated reasons. The manufacturer, factory branch, distributor, or distributor branch shall reserve the right to reasonable periodic audits to determine the validity of all such paid claims for dealer compensation. Any chargebacks for recall or warranty parts or service compensation and service incentives shall only be for the six-month period immediately following the date of the claim and, in the case of chargebacks for sales compensation only, for the six-month period immediately following the date of claim. However, such limitations shall not be effective if a manufacturer, factory branch, distributor, or distributor branch has reasonable cause to believe that a claim submitted by a dealer is intentionally false or fraudulent. For purposes of this section, "reasonable cause" means a bona fide belief based upon evidence that the material issues of fact are such that a person of ordinary caution, prudence, and judgment could

believe that a claim was intentionally false or fraudulent. A dealer shall not be charged back or otherwise liable for sales incentives or charges related to a motor vehicle sold by the dealer to a purchaser other than a licensed, franchised motor vehicle dealer and subsequently exported or resold, unless the manufacturer, factory branch, distributor, or distributor branch can demonstrate by a preponderance of the evidence that the dealer should have known of and did not exercise due diligence in discovering the purchaser's intention to export or resell the motor vehicle.

B. It shall be unlawful for any motor vehicle manufacturer, factory branch, distributor, or distributor branch to:

1. Fail to perform any of its recall or warranty obligations, including tires, with respect to a motor vehicle;

2. Fail to assume all responsibility for any liability resulting from structural or production defects;

3. Fail to include in written notices of factory recalls to vehicle owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of defects;

4. Fail to compensate any of the motor vehicle dealers licensed in the Commonwealth for repairs effected by the dealer of merchandise damaged in manufacture or transit to the dealer where the carrier is designated by the manufacturer, factory branch, distributor, or distributor branch;

5. Fail to fully compensate its motor vehicle dealers licensed in the Commonwealth for recall or warranty parts, work, and service pursuant to subsection A either by reduction in the amount due to the dealer or by separate charge, surcharge, or other imposition by which the motor vehicle manufacturer, factory branch, distributor, or distributor branch seeks to recover its costs of complying with subsection A, or for legal costs and expenses incurred by such dealers in connection with recall or warranty obligations for which the manufacturer, factory branch, distributor, or distributor branch is legally responsible or which the manufacturer, factory branch, distributor, or distributor branch imposes upon the dealer. Failure to fully reimburse a dealer for the cost to the dealer of a rental vehicle provided to a customer as required, offered, advertised as available, or agreed to by the manufacturer or distributor shall be considered a violation of this subsection. Failure to provide compensation consistent with this section to a dealer for assistance requested by a customer whose vehicle was subjected to an ~~over the air~~ *over-the-air* or remote change, repair, or update to any part, system, accessory, or function by the vehicle manufacturer or distributor and performed at the dealership to satisfy the customer shall be considered a violation of this subsection;

6. Misrepresent in any way to purchasers of motor vehicles that warranties with respect to the manufacture, performance, or design of the vehicle are made by the dealer, either as warrantor or co-warrantor;

7. Require the dealer to make warranties to customers in any manner related to the manufacture, performance, or design of the vehicle;

8. Shift or attempt to shift to the motor vehicle dealer, directly or indirectly, any liabilities of the manufacturer, factory branch, distributor or distributor branch under the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.), unless such liability results from the act or omission by the dealer;

9. Deny any dealer the right to return any part or accessory that the dealer has not sold within 12 months where the part or accessory was not obtained through a specific order initiated by the dealer but instead was specified for, sold to and shipped to the dealer pursuant to an automated ordering system, provided that such part or accessory is in the condition required for return to the manufacturer, factory branch, distributor, or distributor branch, and the dealer returns the part within 30 days of it becoming eligible under this subdivision. For purposes of this subdivision, an "automated ordering system" shall be a computerized system that automatically specifies parts and accessories for sale and shipment to the dealer without specific order thereof initiated by the dealer. The manufacturer, factory branch, distributor, or distributor branch shall not charge a restocking or handling fee for any part or accessory being returned under this subdivision. This subdivision shall not apply if the manufacturer, factory branch, distributor, or distributor branch has available to the dealer an alternate system for ordering parts and accessories that provides for shipment of ordered parts and accessories to the dealer within the same time frame as the dealer would receive them when ordered through the automated ordering system; or

10. When providing a new motor vehicle to a dealer for offer or sale to the public, fail to provide to such dealer a written disclosure that may be provided to a potential buyer of the new motor vehicle of each accessory or function of the vehicle that may be initiated, updated, changed, or maintained by the manufacturer or distributor through ~~over the air~~ *over-the-air* or remote means, and the charge to the customer *at the time of the new motor vehicle sale* for such initiation, update, change, or maintenance. A manufacturer or distributor may comply with this subdivision by notifying the dealer that such information is available on a website or by other digital means.

C. Notwithstanding the terms of any franchise, it shall be unlawful for any motor vehicle manufacturer, factory branch, distributor, or distributor branch to fail to indemnify and hold harmless its motor vehicle dealers against any losses or damages arising out of complaints, claims, or suits relating to the manufacture, assembly, or design of motor vehicles, parts, or accessories, or other functions by the manufacturer, factory branch, distributor, or distributor branch beyond the control of the dealer, including, without limitation, the selection by the manufacturer, factory branch, distributor, or distributor branch of parts or components for the vehicle or any damages to merchandise occurring in transit to the dealer where the carrier is designated by the manufacturer, factory branch, distributor, or distributor branch. The dealer shall notify the manufacturer of pending suits in which allegations are made that come within this subsection whenever reasonably practicable to do so. Every motor vehicle dealer franchise issued to, amended, or renewed for motor vehicle dealers in Virginia shall be construed to incorporate provisions consistent with the requirements of this subsection.

D. On any new motor vehicle, any uncorrected damage or any corrected damage exceeding three percent of the manufacturer's or distributor's suggested retail price as defined in 15 U.S.C. §§ 1231 -1233, as measured by retail repair

costs, must be disclosed to the dealer in writing prior to delivery. Factory mechanical repair and damage to glass, tires, and bumpers are excluded from the three percent rule when properly replaced by identical manufacturer's or distributor's original equipment or parts. Whenever a new motor vehicle is damaged in transit, when the carrier or means of transportation is determined by the manufacturer or distributor, or whenever a motor vehicle is otherwise damaged prior to delivery to the new motor vehicle dealer, the new motor vehicle dealer shall:

1. Notify the manufacturer or distributor of the damage within three business days from the date of delivery of the new motor vehicle to the new motor vehicle dealership or within the additional time specified in the franchise; and

2. Request from the manufacturer or distributor authorization to replace the components, parts, and accessories damaged or otherwise correct the damage, unless the damage to the vehicle exceeds the three percent rule, in which case the dealer may reject the vehicle within three business days.

E. If the manufacturer or distributor refuses or fails to authorize correction of such damage within 10 days after receipt of notification, or if the dealer rejects the vehicle because damage exceeds the three percent rule, ownership of the new motor vehicle shall revert to the manufacturer or distributor, and the new motor vehicle dealer shall have no obligation, financial or otherwise, with respect to such motor vehicle. Should either the manufacturer, distributor, or the dealer elect to correct the damage or any other damage exceeding the three percent rule, full disclosure shall be made by the dealer in writing to the buyer and an acknowledgement by the buyer is required. If there is less than three percent damage, no disclosure is required, provided the damage has been corrected. Predelivery mechanical work shall not require a disclosure. Failure to disclose any corrected damage within the knowledge of the selling dealer to a new motor vehicle in excess of the three percent rule shall constitute grounds for revocation of the buyer order, provided that, within 30 days of purchase, the motor vehicle is returned to the dealer with an accompanying written notice of the grounds for revocation. In case of revocation pursuant to this section, the dealer shall accept the vehicle and refund any payments made to the dealer in connection with the transaction, less a reasonable allowance for the consumer's use of the vehicle as defined in § 59.1-207.11. Nothing in this section shall be construed to exempt from the provisions of this section damage to a new motor vehicle that occurs following delivery of the vehicle to the dealer.

F. If there is a dispute between the manufacturer, factory branch, distributor, or distributor branch and the dealer with respect to any matter referred to in subsection A, B, or C, either party may petition the Commissioner in writing, within 30 days after either party has given written notice of the dispute to the other, for a hearing. The decision of the Commissioner shall be binding on the parties, subject to rights of judicial review and appeal as provided in Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2. However, nothing contained in this section shall give the Commissioner any authority as to the content or interpretation of any manufacturer's or distributor's warranty. A manufacturer, factory branch, distributor, or distributor branch may not collect chargebacks, fully or in part, either through direct payment or by charge to the dealer's account, for recall or warranty parts or service compensation, including service incentives, sales incentives, other sales compensation, surcharges, fees, penalties, or any financial imposition of any type arising from an alleged failure of the dealer to comply with a policy of, directive from, or agreement with the manufacturer, factory branch, distributor, or distributor branch until 40 days following final notice of the amount charged to the dealer following all internal processes of the manufacturer, factory, factory branch, distributor, or distributor branch. Within 30 days following receipt of such final notice, the dealer may petition the Commissioner, in writing, for a hearing. If a dealer requests such a hearing, the manufacturer, factory branch, distributor, or distributor branch may not collect the chargeback, fully or in part, either through direct payment or by charge to the dealer's account, until the completion of the hearing and a final decision of the Commissioner concerning the validity of the chargeback.

§ 46.2-1572. Operation of dealership by manufacturer.

It shall be unlawful for any motor vehicle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof~~,~~ to own, operate, or control any motor vehicle dealership in the Commonwealth. *This prohibition includes the ownership, operation, or control of any dealership of a new line-make established by a manufacturer, factory branch, distributor, or distributor branch, licensed as such by the Department, or a subsidiary thereof or a company affiliated through ownership of the manufacturer, factory branch, distributor, or distributor branch of at least 25 percent of the equity of the company.* However, this section shall not prohibit:

1. The operation by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, of a dealership for a temporary period, not to exceed one year, during the transition from one owner or operator to another;

2. The ownership or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership;

3. The ownership, operation, or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, if the manufacturer, factory branch, distributor, distributor branch, or subsidiary has been engaged in the retail sale of motor vehicles through the dealership for a continuous period of three years prior to July 1, 1972, and if the Commissioner determines, after a hearing on the matter at the request of any party, that there is no dealer independent of the manufacturer or distributor, factory branch or distributor branch, or subsidiary thereof available in the community to own and operate the franchise in a manner consistent with the public interest;

4. The ownership, operation, or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof if the Commissioner determines, after a hearing at the request of any party, that there is no

dealer independent of the manufacturer or distributor, factory branch or distributor branch, or subsidiary thereof available in the community or trade area to own and operate the franchise in a manner consistent with the public interest;

5. The ownership, operation, or control of a dealership dealing exclusively with school buses by a school bus manufacturer or school bus parts manufacturer or a person who assembles school buses; or

6. The ownership, operation, or control of a dealership dealing exclusively with refined fuels truck tanks by a manufacturer of refined fuels truck tanks or by a person who assembles refined fuels truck tanks. Notwithstanding any contrary provision of this chapter, any manufacturer of fire-fighting equipment who, on or before December 31, 2004, had requested a hearing before the Department or the Commissioner in accordance with subdivision 4 for licensure as a dealer in fire-fighting equipment and/or ambulances may be licensed as a dealer in fire-fighting equipment and/or ambulances.

CHAPTER 312

An Act to amend and reenact §§ 19.2-11.5 through 19.2-11.9 and 19.2-11.12 of the Code of Virginia, relating to trace evidence collection kits.

[H 2150]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-11.5 through 19.2-11.9 and 19.2-11.12 of the Code of Virginia are amended and reenacted as follows:

CHAPTER 1.2.

PHYSICAL EVIDENCE RECOVERY KITS *AND TRACE EVIDENCE COLLECTION KITS.*

§ 19.2-11.5. Definitions.

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

"Anonymous physical evidence recovery kit" means a physical evidence recovery kit that is collected from a victim of sexual assault through a forensic medical examination where the victim elects, at the time of the examination, not to report the sexual assault offense to a law-enforcement agency.

"Anonymous trace evidence collection kit" means a trace evidence collection kit that is collected from a victim of strangulation through a forensic medical examination where the victim elects, at the time of the examination, not to report the strangulation to a law-enforcement agency.

"Department" means the Virginia Department of Forensic Science.

"Division" means the Division of Consolidated Laboratory Services of the Virginia Department of General Services.

"Health care provider" means any hospital, clinic, or other medical facility that provides forensic medical examinations to victims of sexual assault.

"Law-enforcement agency" means the state or local law-enforcement agency with the primary responsibility for investigating an alleged sexual assault offense case and includes the employees of that agency.

"Physical evidence recovery kit" means any evidence collection kit supplied by the Department to health care providers for use in collecting evidence from victims of sexual assault during forensic medical examinations or to the Office of the Chief Medical Examiner for use during death investigations to collect evidence from decedents who may be victims of sexual assault.

"Sexual assault offense" means a violation or attempted violation of any offense enumerated in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 or of any offense specified in § 18.2-361, 18.2-370, or 18.2-370.1.

"Trace evidence collection kit" means any evidence collection kit supplied by the Department to health care providers for use in collecting evidence from victims of strangulation during forensic medical examinations or to the Office of the Chief Medical Examiner for use during death investigations to collect evidence from decedents who may be victims of strangulation.

"Victim of sexual assault" means any person who undergoes a forensic medical examination for the collection of a physical evidence recovery kit connected to a sexual assault offense.

"Victim of strangulation" means any person who undergoes a forensic medical examination for the collection of evidence in connection with an alleged strangulation.

§ 19.2-11.6. Anonymous physical evidence recovery kits and anonymous trace evidence collection kits.

A. When a victim of sexual assault *or strangulation* who undergoes a forensic medical examination elects not to report the offense to law enforcement, the health care provider shall inform the victim that the physical evidence recovery kit *or trace evidence collection kit* shall be forwarded to the Division for storage as an anonymous physical evidence recovery kit *or anonymous trace evidence collection kit*. The health care provider shall further inform the victim of the length of time the anonymous physical evidence recovery kit *or anonymous trace evidence collection kit* will be stored by the Division, the victim's right to object to the destruction of the anonymous physical evidence recovery kit *or anonymous trace evidence collection kit*, and how the victim can have the anonymous physical evidence recovery kit *or anonymous trace evidence collection kit* released to a law-enforcement agency at a later date. The health care provider shall forward the anonymous physical evidence recovery kit *or anonymous trace evidence collection kit* to the Division in accordance with the policies and procedures established by the Division.

B. The Division shall store any anonymous physical evidence recovery kit *or anonymous trace evidence collection kit* received for a minimum of two years. The Division shall store the anonymous physical evidence recovery kit *or anonymous trace evidence collection kit* for an additional period of 10 years following the receipt of a written objection to the destruction of the anonymous physical evidence recovery kit *or anonymous trace evidence collection kit* from the victim. After the initial two years or any additional 10-year storage period, the Division, in the absence of the receipt of a written objection from the victim in the most recent 10-year period, may destroy the anonymous physical evidence recovery kit *or anonymous trace evidence collection kit* or, in its discretion or upon request of the victim or the law-enforcement agency, may elect to retain the anonymous physical evidence recovery kit *or anonymous trace evidence collection kit* for a longer period of time. Upon notification from either the law-enforcement agency or the attorney for the Commonwealth that the victim has elected to report the offense to the law-enforcement agency, the Division shall release the anonymous physical evidence recovery kit *or anonymous trace evidence collection kit* to the law-enforcement agency.

§ 19.2-11.7. Law enforcement taking possession of physical evidence recovery kits and trace evidence collection kits.

A. A health care provider that has collected a physical evidence recovery kit from a victim of sexual assault *or a trace evidence collection kit from a victim of strangulation* who has elected to report the offense shall forthwith notify the law-enforcement agency that such kit has been collected.

B. A law-enforcement agency that receives notice from a health care provider that a physical evidence recovery kit *or trace evidence collection kit* has been collected shall forthwith take possession of the physical evidence recovery kit *or trace evidence collection kit.*

§ 19.2-11.8. Submission of physical evidence recovery kits and trace evidence collection kits to the Department.

A. A law-enforcement agency that receives a physical evidence recovery kit shall submit the physical evidence recovery kit to the Department for analysis within 60 days of receipt, except under the following circumstances: (i) it is an anonymous physical evidence recovery kit that shall be forwarded to the Division for storage; (ii) the physical evidence recovery kit was collected by the Office of the Chief Medical Examiner as part of a routine death investigation, and the medical examiner and the law-enforcement agency agree that analysis is not warranted; (iii) the physical evidence recovery kit is connected to an offense that occurred outside of the Commonwealth; (iv) the physical evidence recovery kit was determined by the law-enforcement agency not to be connected to a criminal offense; or (v) another law-enforcement agency has taken over responsibility for the investigation related to the physical evidence recovery kit. When a state or local law-enforcement agency located within the Commonwealth has taken over responsibility for the investigation related to the physical evidence recovery kit as provided in clause (v), unless one of the exceptions in clause (i) through (iv) also applies, the physical evidence recovery kit shall be transferred to such law-enforcement agency and such law-enforcement agency shall submit the physical evidence recovery kit to the Department within 60 days of receipt from the original receiving law-enforcement agency.

B. Upon completion of analysis, the Department shall return the physical evidence recovery kit to the submitting law-enforcement agency. Upon receipt of the physical evidence recovery kit from the Department, the law-enforcement agency shall store the physical evidence recovery kit for a period of 10 years or until 10 years after the victim reaches the age of majority if the victim was a minor at the time of collection, whichever is longer. The law-enforcement agency shall store the physical evidence recovery kit for a period of 10 years following the receipt of a written objection to the destruction of the kit from the victim. After the mandatory retention period or any additional 10-year storage period has lapsed, the law-enforcement agency shall, unless the victim has made a written request not to be contacted for this purpose, make a reasonable effort to notify the victim of the intended destruction of the physical evidence recovery kit no less than 60 days prior to the intended date of such destruction. In the absence of a response from the victim, or with the consent of the victim, the law-enforcement agency may destroy the physical evidence recovery kit or, in its discretion, may elect to retain the physical evidence recovery kit for a longer period of time.

C. For physical evidence recovery kits that meet the exceptions in clause (ii) or (iv) of subsection A or that meet the exception in clause (iii) and (v) of subsection A that are not transferred to the law-enforcement agency outside of the Commonwealth in which the offense occurred or to the law-enforcement agency that has taken over responsibility for the investigation related to the physical evidence recovery kit, the law-enforcement agency that received the physical evidence recovery kit shall store such kit for a period of 10 years or until 10 years after the victim reaches the age of majority if the victim was a minor at the time of collection, whichever is longer. After the mandatory retention period, the law-enforcement agency may destroy the physical evidence recovery kit or, in its discretion, may elect to retain the physical evidence recovery kit for a longer period of time.

D. *A law-enforcement agency that receives a trace evidence collection kit may submit it to the Department for analysis in its discretion to support a prosecution.*

E. The DNA profiles developed from physical evidence recovery kits *or trace evidence collection kits* submitted to the Department for analysis pursuant to this section shall be uploaded into any local, state, or national DNA data bank only if eligible as determined by Department procedures and in accordance with state and federal law.

§ 19.2-11.9. Lack of compliance with procedures.

The failure of a law-enforcement agency to take possession of a physical evidence recovery kit *or trace evidence collection kit* as provided in this chapter or to submit a physical evidence recovery kit *or trace evidence collection kit* to the Department within the time period prescribed under this chapter does not alter the authority of the law-enforcement agency

to take possession of the physical evidence recovery kit *or trace evidence collection kit* or to submit the physical evidence recovery kit *or trace evidence collection kit* to the Department under this chapter or the authority of the Department to accept and analyze the physical evidence recovery kit *or trace evidence collection kit* or to maintain or upload any developed DNA profiles from the physical evidence recovery kit *or trace evidence collection kit* into any local, state, or national DNA data bank if eligible as determined by Department procedures and in accordance with state and federal law.

A person accused or convicted of committing a crime against a sexual assault victim *or strangulation victim* has no standing to object to any failure to comply with the requirements of this chapter, and the failure to comply with the requirements of this chapter is not grounds for challenging the admissibility of the evidence or setting aside the conviction or sentence.

§ 19.2-11.12. Costs of physical evidence recovery kits and trace evidence collection kits.

No victim of sexual assault *or strangulation* shall be charged for the cost of collecting or storing a physical evidence recovery kit ~~or~~, an anonymous physical evidence recovery kit*, a trace evidence collection kit, or an anonymous trace evidence collection kit*.

2. That the provisions of this act shall become effective on July 1, 2025.

CHAPTER 313

An Act to amend and reenact § 17.1-106 of the Code of Virginia, relating to retired Supreme Court justices and Court of Appeals judges under recall; circuit courts.

[H 2012]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-106 of the Code of Virginia is amended and reenacted as follows:

§ 17.1-106. Temporary recall of retired judges; evaluation.

A. The Chief Justice of the Supreme Court may call upon *any justice of the Supreme Court, any judge of the Court of Appeals, or* any judge of a circuit court who is retired under the Judicial Retirement System (§ 51.1-300 et seq.) ~~and~~ ~~who~~ *when such retired justice or judge* has been found qualified within the preceding three years by the House Committee for Courts of Justice and the Senate Committee on the Judiciary to sit in recall either to (i) hear a specific case or cases pursuant to the provisions of § 17.1-105, such designation to continue in effect for the duration of the case or cases, or (ii) perform for a period of time not to exceed 90 days at any one time such judicial duties in any circuit court as the Chief Justice shall deem in the public interest for the expeditious disposition of the business of the courts.

B. It shall be the obligation of any retired *justice or* judge who is recalled to temporary service under this section and who has not attained age 70 to accept the recall and perform the duties assigned. It shall be within the discretion of any *justice or* judge who has attained age 70 to accept such recall.

C. Any *justice or* judge recalled to duty under this section shall have all the powers, duties, and privileges attendant on the position he is recalled to serve.

D. Notwithstanding the provisions of subsection A, the Chief Justice may call upon and authorize any *justice or* judge of a ~~circuit court~~ *court of record* whose retirement becomes effective during the interim period between regularly scheduled sessions of the General Assembly to sit in recall either to (i) hear a specific case or cases pursuant to the provisions of § 17.1-105, and such designation shall continue in effect for the duration of the case or cases, or (ii) perform, for a period of time not to exceed 90 days at any one time, such judicial duties in any circuit court as the Chief Justice shall deem in the public interest for the expeditious disposition of the business of the courts.

E. All retired circuit court judges who have requested to sit in recall shall be evaluated during the final year of the three-year period following qualification by the Senate Committee on the Judiciary and the House Committee for Courts of Justice using an evaluation form prepared and distributed by the Office of the Executive Secretary of the Supreme Court of Virginia. An annual report containing the results of such evaluations conducted that year shall be prepared and transmitted to the Senate Committee on the Judiciary and the House Committee for Courts of Justice by the first day of the next regular session of the General Assembly.

CHAPTER 314

An Act to amend and reenact §§ 2.2-511, 15.2-1627, 17.1-406, 19.2-402, and 19.2-404 of the Code of Virginia, relating to criminal appeals; duties of the Attorney General and attorney for the Commonwealth.

[H 2165]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-511, 15.2-1627, 17.1-406, 19.2-402, and 19.2-404 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-511. Criminal cases.

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (x) of this subsection, (xii) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same, (xiii) with the concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of § 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state correctional facility, and (xvi) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2.

In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney General to appear or participate in the proceedings shall ~~not~~ attach ~~unless and until a notice of appeal has been filed with~~ *when the appellate court receives the record after a notice of appeal has been filed with* the clerk of the circuit court noting an appeal to the Court of Appeals or the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth *upon receipt of the record in the appellate court*, unless, and with the consent of the Attorney General, the attorney for the Commonwealth who prosecuted the underlying criminal case files a notice of appearance to represent the Commonwealth in any such appeal. *However, in an appeal regarding bail, bond, or recognizance pursuant to Article 1 (§ 19.2-119 et seq.) of Chapter 9 of Title 19.2 or subsection B of § 19.2-398, the attorney for the Commonwealth who prosecuted the underlying criminal case shall continue to represent the Commonwealth on appeal.*

B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus proceeding involving the cases in which such person was a victim. For the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct result of the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages against the Commonwealth or any of its political subdivisions, the Attorney General or any of his employees or agents, any other officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.

§ 15.2-1627. Duties of attorneys for the Commonwealth and their assistants.

A. No attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be required to carry out any duties as a part of his office in civil matters of advising the governing body and all boards, departments, agencies, officials and employees of his county or city; of drafting or preparing county or city ordinances; of defending or bringing actions in which the county or city, or any of its boards, departments or agencies, or officials and employees thereof, shall be a party; or in any other manner of advising or representing the county or city, its boards, departments, agencies, officials and employees, except in matters involving the enforcement of the criminal law within the county or city.

B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part of the department of law enforcement of the county or city in which he is elected or appointed, and shall have the duties and powers imposed upon him by general law, including the duty of prosecuting all warrants, indictments or informations charging a felony, and he may in his discretion, prosecute Class 1, 2 and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of confinement in jail, or a fine of $500 or more, or both such confinement and fine. He shall enforce all forfeitures, and carry out all duties imposed upon him by § 2.2-3126. He may enforce the provisions of § 18.2-268.3, 29.1-738.2, 46.2-341.20:7, or 46.2-341.26:3. He may, in his discretion, file a ~~notice of~~ *petition for* appeal ~~with the circuit court for the appeal of a criminal case for which he was the prosecuting attorney~~ *pursuant to Chapter 25 (§ 19.2-398 et seq.) of Title 19.2* and he ~~may appear and~~ *shall continue to* represent the Commonwealth in any ~~criminal case on~~ *such* appeal before the Court of Appeals or the Supreme Court for which he was the prosecuting attorney, ~~provided that the Attorney General consented to such appearance pursuant to § 2.2-511~~ *unless and until the Court of Appeals grants the petition, except that he shall*

remain counsel of record in an appeal regarding bail, bond, or recognizance pursuant to Article 1 (§ 19.2-119 et seq.) of Chapter 9 of Title 19.2 or subsection B of § 19.2-398.

He shall also represent the Commonwealth in an appeal of a civil matter related to the enforcement of a criminal law or a criminal case for which he was the prosecuting attorney, including a petition for expungement of a defendant's criminal record, an action of forfeiture filed in accordance with the provisions of Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2, or any matter which he may enforce pursuant to this section.

§ 17.1-406. Appeals in criminal matters; cases over which Court of Appeals does not have jurisdiction.

A. Any aggrieved party may appeal to the Court of Appeals from any final conviction in a circuit court of a traffic infraction or a crime. The Commonwealth or any county, city, or town may petition the Court of Appeals for an appeal pursuant to this subsection in any case in which such party previously could have petitioned the Supreme Court for a writ of error under § 19.2-317. The Commonwealth may also petition the Court of Appeals for an appeal in a criminal case pursuant to § 19.2-398.

B. In accordance with other applicable provisions of law, appeals lie directly to the Supreme Court from a final decision, judgment, or order of a circuit court involving a petition for a writ of habeas corpus~~,~~*; from any action collaterally attacking a criminal conviction, including a motion filed under § 8.01-428;* from any final finding, decision, order, or judgment of the State Corporation Commission~~,~~*;* and from proceedings under §§ 54.1-3935 and 54.1-3937. Complaints of the Judicial Inquiry and Review Commission shall be filed with the Supreme Court of Virginia. The Court of Appeals shall not have jurisdiction over any cases or proceedings described in this subsection.

§ 19.2-402. Petition for appeal; brief in opposition; time for filing.

A. When a notice of appeal has been filed pursuant to § 19.2-400, the Commonwealth may petition the Court of Appeals for an appeal pursuant to § 19.2-398. The Commonwealth shall be represented by ~~the Attorney General or~~ the attorney for the Commonwealth prosecuting the case ~~if he filed a notice of appearance pursuant to § 2.2-511~~.

B. The provisions of this subsection apply only to pretrial appeals. The petition for a pretrial appeal shall be filed with the clerk of the Court of Appeals not more than 14 days after the notice of transcript or written statement of facts required by § 19.2-405 is filed or, if there are objections thereto, within 14 days after the judge signs the transcript or written statement of facts. The accused may file a brief in opposition with the clerk of the Court of Appeals within 14 days after the filing of the petition for pretrial appeal. If the accused has filed a notice of cross appeal, he shall file a petition for cross appeal to be consolidated with, and filed within the same time period as, his brief in opposition. The Commonwealth may file a brief in opposition to any petition for cross appeal within 10 days after the petition for cross appeal is filed. Except as specifically provided in this section, all other requirements for the petition for pretrial appeal and brief in opposition shall conform as nearly as practicable to Part Five A of the Rules of the Supreme Court of Virginia.

§ 19.2-404. Procedures on awarded pretrial appeal.

This section applies only to pretrial appeals. If the Court of Appeals grants the Commonwealth's petition for a pretrial appeal, the Attorney General shall represent the Commonwealth during that appeal ~~unless the attorney for the Commonwealth prosecuting the case has filed a notice of appearance pursuant to § 2.2-511~~.

The Commonwealth shall file its opening brief in the office of the clerk of the Court of Appeals within 25 days after the date of the certificate awarding the appeal. The brief of the appellee shall be filed in the office of the clerk of the Court of Appeals within 25 days after the filing of the Commonwealth's opening brief. The Commonwealth may then file a reply brief, including its response to any cross appeal, in the office of the clerk of the Court of Appeals within 15 days after the filing of the brief of the accused. With the permission of a judge of the Court of Appeals, the time for filing any brief may be extended for good cause shown. ~~Four copies of each brief shall be filed and three copies shall be mailed or delivered to opposing counsel on or before the date of filing.~~ Except as specifically provided in this section, all other requirements of the brief shall conform as nearly as practicable to Part Five A of the Rules of the Supreme Court of Virginia. The Court of Appeals shall accelerate the appeal on its docket and render its decision not later than 60 days after the filing of the appellee's brief or after the time for filing such brief has expired.

When the opinion is rendered by the Court of Appeals, the mandate shall immediately issue and the clerk of the Court of Appeals shall return the record forthwith to the clerk of the trial court. No petition for rehearing may be filed.

CHAPTER 315

An Act to amend and reenact §§ 2.2-511, 15.2-1627, 17.1-406, 19.2-402, and 19.2-404 of the Code of Virginia, relating to criminal appeals; duties of the Attorney General and attorney for the Commonwealth.

[S 1259]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-511, 15.2-1627, 17.1-406, 19.2-402, and 19.2-404 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-511. Criminal cases.

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the

Alcoholic Beverage Control Act (§ 4.1-100 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (x) of this subsection, (xii) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same, (xiii) with the concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of § 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state correctional facility, and (xvi) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2.

In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney General to appear or participate in the proceedings shall ~~not~~ attach ~~unless and until a notice of appeal has been filed with~~ *when the appellate court receives the record after a notice of appeal has been filed with* the clerk of the circuit court noting an appeal to the Court of Appeals or the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth *upon receipt of the record in the appellate court*, unless, and with the consent of the Attorney General, the attorney for the Commonwealth who prosecuted the underlying criminal case files a notice of appearance to represent the Commonwealth in any such appeal. *However, in an appeal regarding bail, bond, or recognizance pursuant to Article 1 (§ 19.2-119 et seq.) of Chapter 9 of Title 19.2 or subsection B of § 19.2-398, the attorney for the Commonwealth who prosecuted the underlying criminal case shall continue to represent the Commonwealth on appeal.*

B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus proceeding involving the cases in which such person was a victim. For the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct result of the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages against the Commonwealth or any of its political subdivisions, the Attorney General or any of his employees or agents, any other officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.

§ 15.2-1627. Duties of attorneys for the Commonwealth and their assistants.

A. No attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be required to carry out any duties as a part of his office in civil matters of advising the governing body and all boards, departments, agencies, officials and employees of his county or city; of drafting or preparing county or city ordinances; of defending or bringing actions in which the county or city, or any of its boards, departments or agencies, or officials and employees thereof, shall be a party; or in any other manner of advising or representing the county or city, its boards, departments, agencies, officials and employees, except in matters involving the enforcement of the criminal law within the county or city.

B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part of the department of law enforcement of the county or city in which he is elected or appointed, and shall have the duties and powers imposed upon him by general law, including the duty of prosecuting all warrants, indictments or informations charging a felony, and he may in his discretion, prosecute Class 1, 2 and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of confinement in jail, or a fine of $500 or more, or both such confinement and fine. He shall enforce all forfeitures, and carry out all duties imposed upon him by § 2.2-3126. He may enforce the provisions of § 18.2-268.3, 29.1-738.2, 46.2-341.20:7, or 46.2-341.26:3. He may, in his discretion, file a ~~notice of~~ *petition for* appeal ~~with the circuit court for the appeal of a criminal case for which he was the prosecuting attorney~~ *pursuant to Chapter 25 (§ 19.2-398 et seq.) of Title 19.2* and he ~~may appear and~~ *shall continue to* represent the Commonwealth in any ~~criminal case on~~ *such* appeal before the Court of Appeals or the Supreme Court for which he was the prosecuting attorney, ~~provided that the Attorney General consented to such appearance pursuant to § 2.2-511~~ *unless and until the Court of Appeals grants the petition, except that he shall remain counsel of record in an appeal regarding bail, bond, or recognizance pursuant to Article 1 (§ 19.2-119 et seq.) of Chapter 9 of Title 19.2 or subsection B of § 19.2-398*.

He shall also represent the Commonwealth in an appeal of a civil matter related to the enforcement of a criminal law or a criminal case for which he was the prosecuting attorney, including a petition for expungement of a defendant's criminal record, an action of forfeiture filed in accordance with the provisions of Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2, or any matter which he may enforce pursuant to this section.

§ 17.1-406. Appeals in criminal matters; cases over which Court of Appeals does not have jurisdiction.

A. Any aggrieved party may appeal to the Court of Appeals from any final conviction in a circuit court of a traffic infraction or a crime. The Commonwealth or any county, city, or town may petition the Court of Appeals for an appeal pursuant to this subsection in any case in which such party previously could have petitioned the Supreme Court for a writ of error under § 19.2-317. The Commonwealth may also petition the Court of Appeals for an appeal in a criminal case pursuant to § 19.2-398.

B. In accordance with other applicable provisions of law, appeals lie directly to the Supreme Court from a final decision, judgment, or order of a circuit court involving a petition for a writ of habeas corpus~~,~~*; from any action collaterally attacking a criminal conviction, including a motion filed under § 8.01-428;* from any final finding, decision, order, or judgment of the State Corporation Commission~~,~~*;* and from proceedings under §§ 54.1-3935 and 54.1-3937. Complaints of the Judicial Inquiry and Review Commission shall be filed with the Supreme Court of Virginia. The Court of Appeals shall not have jurisdiction over any cases or proceedings described in this subsection.

§ 19.2-402. Petition for appeal; brief in opposition; time for filing.

A. When a notice of appeal has been filed pursuant to § 19.2-400, the Commonwealth may petition the Court of Appeals for an appeal pursuant to § 19.2-398. The Commonwealth shall be represented by ~~the Attorney General or~~ the attorney for the Commonwealth prosecuting the case ~~if he filed a notice of appearance pursuant to § 2.2-511~~.

B. The provisions of this subsection apply only to pretrial appeals. The petition for a pretrial appeal shall be filed with the clerk of the Court of Appeals not more than 14 days after the notice of transcript or written statement of facts required by § 19.2-405 is filed or, if there are objections thereto, within 14 days after the judge signs the transcript or written statement of facts. The accused may file a brief in opposition with the clerk of the Court of Appeals within 14 days after the filing of the petition for pretrial appeal. If the accused has filed a notice of cross appeal, he shall file a petition for cross appeal to be consolidated with, and filed within the same time period as, his brief in opposition. The Commonwealth may file a brief in opposition to any petition for cross appeal within 10 days after the petition for cross appeal is filed. Except as specifically provided in this section, all other requirements for the petition for pretrial appeal and brief in opposition shall conform as nearly as practicable to Part Five A of the Rules of the Supreme Court of Virginia.

§ 19.2-404. Procedures on awarded pretrial appeal.

This section applies only to pretrial appeals. If the Court of Appeals grants the Commonwealth's petition for a pretrial appeal, the Attorney General shall represent the Commonwealth during that appeal ~~unless the attorney for the Commonwealth prosecuting the case has filed a notice of appearance pursuant to § 2.2-511~~.

The Commonwealth shall file its opening brief in the office of the clerk of the Court of Appeals within 25 days after the date of the certificate awarding the appeal. The brief of the appellee shall be filed in the office of the clerk of the Court of Appeals within 25 days after the filing of the Commonwealth's opening brief. The Commonwealth may then file a reply brief, including its response to any cross appeal, in the office of the clerk of the Court of Appeals within 15 days after the filing of the brief of the accused. With the permission of a judge of the Court of Appeals, the time for filing any brief may be extended for good cause shown. ~~Four copies of each brief shall be filed and three copies shall be mailed or delivered to opposing counsel on or before the date of filing.~~ Except as specifically provided in this section, all other requirements of the brief shall conform as nearly as practicable to Part Five A of the Rules of the Supreme Court of Virginia. The Court of Appeals shall accelerate the appeal on its docket and render its decision not later than 60 days after the filing of the appellee's brief or after the time for filing such brief has expired.

When the opinion is rendered by the Court of Appeals, the mandate shall immediately issue and the clerk of the Court of Appeals shall return the record forthwith to the clerk of the trial court. No petition for rehearing may be filed.

CHAPTER 316

An Act to amend and reenact § 33.2-214.3 of the Code of Virginia, relating to joint transportation meeting; National Capital Region Transportation Planning Board.

[H 2034]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-214.3 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-214.3. Transparency in project selection in Planning District 8.

At least annually, the Northern Virginia Transportation Authority, the Northern Virginia Transportation Commission, the Virginia Railway Express, and the Commonwealth Transportation Board shall conduct a joint public meeting for the purposes of presenting to the public, and receiving public comments on, the transportation projects proposed and conducted by each entity in Planning District 8. Such presentation shall include documentation regarding how the combined project selection, timing, and revenue sources employed by the entities represents the most efficient use of revenue sources. Such

presentation shall include any evaluations or analyses conducted by such entities pursuant to § 33.2-214.1 or subdivision 2 of § 33.2-2500 that relate to Planning District 8. Each entity shall have at least one designee physically assembled at such joint public meeting. Nothing herein shall require a quorum of each such entity to participate in such joint public meeting. *The Board shall also invite a Virginia representative of the National Capital Region Transportation Planning Board Steering Committee to participate in and present information during the joint meeting. Nothing herein shall require such representative to participate or be physically present in such joint public meeting. The joint public meeting shall be made available online in a manner that allows the public to contemporaneously view and hear the meeting. However, in the event that online transmission of the meeting to the public fails, nothing herein shall require the meeting to recess until public access is restored online.*

CHAPTER 317

An Act to amend and reenact § 46.2-644.01 of the Code of Virginia, relating to keeper of vehicles; liens; certain towing and recovery drivers and operators.

[S 978]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-644.01 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-644.01. Lien of keeper of vehicles.

A. For purposes of this section, "keeper of vehicles" means a garage keeper; a person keeping any vehicles, including a self-storage facility; and a tow truck driver or towing and recovery operator furnishing services involving the towing and recovery of vehicles *or clean up related to vehicle collisions*.

B. Every keeper of vehicles shall have a lien upon such vehicles for the amount that may be due him for the towing, storage, recovery, and care thereof, until such amount is paid. *In the case of a tow truck driver or towing and recovery operator furnishing services to a truck, tractor truck, or combination of vehicles, any such lien held shall apply to any power unit, tractor, trailer, or semitrailer in the combination.*

Such lien shall be in addition to any lien under § 46.2-644.02. Any garage keeper to whom a vehicle has been delivered pursuant to § 46.2-1209, 46.2-1213, or 46.2-1215 shall, within 30 days from the date of delivery, have a lien upon such vehicle pursuant to this section, provided that action has not been taken pursuant to such sections for the sale of the vehicle.

C. In the case of any vehicle for which the title shows an existing lien, the keeper of vehicles shall have a lien upon the vehicle for his reasonable charges for storage under this section not to exceed $500; however, the keeper of vehicles shall also be entitled to a lien against any proceeds remaining after the satisfaction of all prior security interests or liens. In addition, any tow truck driver or towing and recovery operator shall have a lien for all normal costs incident to any towing and recovery services furnished for the vehicle.

In the case of any vehicle not subject to an existing lien on the title, the keeper of vehicles shall have a lien thereon for his reasonable charges for storage under this section, alone or in combination with a lien under § 46.2-644.02 not to exceed the value of the vehicle as determined by the provisions of § 8.01-419.1.

D. The keeper of vehicles, or the authorized agents of such, shall ascertain from the Department whether the certificate of title for the vehicle shows a lien in accordance with the provisions of § 46.2-644.03 within seven business days of taking possession of the vehicle. The owner or lienholder shall have 10 business days from the date of the notice sent by the Department pursuant to § 46.2-644.03 to reclaim the vehicle. The terms for such reclamation shall be the payment of the amount due to the keeper of the vehicles or other amount as agreed by the parties. If the vehicle remains unclaimed, the keeper of the vehicles may enforce the lien under the provisions of § 46.2-644.03 or relinquish the lien under the provisions of § 46.2-644.04.

For purposes of this subsection, the date of possession for a garage keeper to whom a vehicle has been delivered pursuant to § 46.2-1209, 46.2-1213, or 46.2-1215 shall be the date such lien attaches, and the date of possession for a self-storage facility shall be the date on which the facility owner learns that a leased space subject to default contains a motor vehicle.

E. Any lien created under this section shall not extend to any personal property *or cargo* that is not attached to or considered to be necessary for the proper operation of any motor vehicle, and it shall be the duty of any keeper of vehicles to permit the owner *of the vehicle or cargo* to access the vehicle in order to recover his personal property *or cargo*, provided *that* the owner claims and retrieves the items at least two business days prior to the auction date. The keeper of vehicles may dispose of any unclaimed personal property *or cargo*.

F. For the purposes of this section, in the case of a truck or combination of vehicles, the owner, or in the case of a rented or leased vehicle, the lessee of the truck or tractor truck, shall be liable for the costs of the towing, recovery, and storage of the cargo and of any trailer or semitrailer in the combination*, and the keeper of vehicles of any such vehicle shall have an immediate lien upon any truck, tractor truck, or combination of vehicles, including any power unit, tractor, trailer, or semitrailer in the combination*. Nothing in this subsection, however, shall bar the owner of the truck or tractor truck from subsequently seeking to recover from the owner of any trailer, semitrailer, or cargo all or any portion of these towing, recovery, and storage costs.

CHAPTER 318

An Act to amend and reenact § 56-345.1 of the Code of Virginia, relating to railroad companies; notice of certain action.

[S 1018]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 56-345.1 of the Code of Virginia is amended and reenacted as follows:

§ 56-345.1. Notice; consolidation, merger, abandonments, or discontinuances.

Any railroad company operating in the Commonwealth that submits an application to the federal government for consolidation, merger, abandonment, or discontinuance shall, contemporaneously with such application, notify the Commission ~~and~~, the Governor*, the Secretary of Transportation, the Secretary of Natural and Historic Resources, the Director of the Department of Rail and Public Transportation, and the Executive Director of the Virginia Passenger Rail Authority* of such action.

CHAPTER 319

An Act to authorize the issuance of special license plates for supporters of the Blue Ridge Parkway Foundation bearing the legend BLUE RIDGE PARKWAY FOUNDATION; fees.

[H 1494]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. Special license plates for supporters of the Blue Ridge Parkway Foundation bearing the legend BLUE RIDGE PARKWAY FOUNDATION; fees.*

A. On receipt of an application and payment of the fee prescribed by this section, and following the provisions of § 46.2-725 of the Code of Virginia other than those relating to the fee for the plates and its disposition, the Commissioner of the Department of Motor Vehicles shall issue to the applicant special license plates for supporters of the Blue Ridge Parkway Foundation bearing the legend BLUE RIDGE PARKWAY FOUNDATION.

B. The annual fee for plates issued pursuant to this section shall be $25 in addition to the prescribed fee for state license plates. For each such $25 fee collected in excess of 1,000 registrations pursuant to this section, $15 shall be paid into the state treasury and credited to a special nonreverting fund known as the Blue Ridge Parkway Foundation Fund established within the Department of Accounts. These funds shall be paid annually to the Blue Ridge Parkway Foundation and used to support its operation and programs in Virginia. All other fees imposed under the provisions of this section shall be paid to, and received by, the Commissioner of the Department of Motor Vehicles and paid by him into the state treasury and set aside as a special fund to be used to meet the necessary expenses incurred by the Department of Motor Vehicles.

CHAPTER 320

An Act to authorize the issuance of special license plates for supporters of the Blue Ridge Parkway Foundation bearing the legend BLUE RIDGE PARKWAY FOUNDATION; fees.

[S 1318]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. Special license plates for supporters of the Blue Ridge Parkway Foundation bearing the legend BLUE RIDGE PARKWAY FOUNDATION; fees.*

A. On receipt of an application and payment of the fee prescribed by this section, and following the provisions of § 46.2-725 of the Code of Virginia other than those relating to the fee for the plates and its disposition, the Commissioner of the Department of Motor Vehicles shall issue to the applicant special license plates for supporters of the Blue Ridge Parkway Foundation bearing the legend BLUE RIDGE PARKWAY FOUNDATION.

B. The annual fee for plates issued pursuant to this section shall be $25 in addition to the prescribed fee for state license plates. For each such $25 fee collected in excess of 1,000 registrations pursuant to this section, $15 shall be paid into the state treasury and credited to a special nonreverting fund known as the Blue Ridge Parkway Foundation Fund established within the Department of Accounts. These funds shall be paid annually to the Blue Ridge Parkway Foundation and used to support its operation and programs in Virginia. All other fees imposed under the provisions of this section shall be paid to, and received by, the Commissioner of the Department of Motor Vehicles and paid by him into the state treasury and set aside as a special fund to be used to meet the necessary expenses incurred by the Department of Motor Vehicles.

CHAPTER 321

An Act to amend and reenact §§ 46.2-2099.50 and 46.2-2099.52 of the Code of Virginia and to repeal § 46.2-2099.51 of the Code of Virginia, relating to transportation network companies; uninsured and underinsured motorist coverage.

[H 1495]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-2099.50 and 46.2-2099.52 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-2099.50. Requirements for TNC partner vehicles; trade dress issued by transportation network company.

A. A TNC partner vehicle shall:

1. Be a personal vehicle;

2. Have a seating capacity of no more than eight persons, including the driver;

3. Be validly titled and registered in the Commonwealth or in another state;

4. Not have been issued a certificate of title, either in Virginia or in any other state, branding the vehicle as salvage, nonrepairable, rebuilt, or any equivalent classification;

5. Have a valid Virginia safety inspection or an annual inspection conducted in another state for which the Department of State Police has determined that such motor vehicle safety inspection standards adequately ensure public safety and carry proof of that inspection on or in the vehicle; and

6. Be covered under a TNC insurance policy meeting the requirements of § ~~46.2-2099.51~~ ~~or~~ 46.2-2099.52~~, as applicable~~.

No TNC partner shall operate a TNC partner vehicle unless that vehicle meets the requirements of this subsection.

B. Before authorizing a vehicle to be used as a TNC partner vehicle, a transportation network company shall confirm that the vehicle meets the requirements of subsection A and shall provide each TNC partner with proof of any TNC insurance policy maintained by the transportation network company.

For each TNC partner vehicle it authorizes, a transportation network company shall issue trade dress to the TNC partner associated with that vehicle. The trade dress shall be sufficient to identify the transportation network company or digital platform with which the vehicle is affiliated and shall be displayed in a manner that complies with Virginia law. The trade dress shall be of such size, shape, and color as to be readily identifiable during daylight hours from a distance of 50 feet while the vehicle is not in motion and shall be reflective, illuminated, or otherwise patently visible in darkness. The trade dress may take the form of a removable device that meets the identification and visibility requirements of this subsection.

Notwithstanding any other provision of this title, a TNC partner vehicle may be equipped with no more than two removable, illuminated, interior, TNC-issued, trade dress devices that assist passengers in identifying and communicating with TNC partners. Such devices may use a single steady-burning color while the TNC partner is logged in to a transportation network company's associated digital platform and may change to a different steady-burning color once the TNC partner accepts a request to transport a passenger and is within 0.4 miles of such passenger. The illuminated display on each such device shall not (i) exceed five candlepower or 62.85 lumens; (ii) exceed 20 square inches; (iii) utilize red, blue, or amber lights; (iv) project a glaring or dazzling light; or (v) attach to the windshield.

The transportation network company shall submit to the Department proof that the transportation network company has established the trade dress required under this subsection by filing with the Department an illustration or photograph of the trade dress. Any TNC that issues an illuminated removable interior trade dress device for use in the Commonwealth shall file with the Department the specifications of such device, including the default color.

A TNC partner shall keep the trade dress issued under this subsection visible at all times while the vehicle is being operated as a TNC partner vehicle.

No person shall operate a vehicle bearing trade dress issued under this subsection without the authorization of the transportation network company issuing the trade dress.

§ 46.2-2099.52. TNC insurance.

A. ~~On and after January 1, 2016, at~~ *At* all times during the operation of a TNC partner vehicle, a transportation network company or TNC partner shall keep in force TNC insurance as provided in this section.

B. The following requirements shall apply to TNC insurance from the moment a TNC partner accepts a prearranged ride request on a transportation network company's digital platform until the TNC partner completes the transaction on the digital platform or until the prearranged ride is complete, whichever is later:

1. TNC insurance shall provide motor vehicle liability coverage. Such coverage shall be primary and the minimum amount of liability coverage for death, bodily injury, and property damage shall be $1 million.

2. TNC insurance shall provide uninsured motorist coverage and underinsured motorist coverage *as required by § 38.2-2206.* ~~Such coverage shall apply~~ *With regard to such underinsured motorist coverage that applies solely* from the moment a passenger enters a TNC partner vehicle until the passenger exits the vehicle~~. The minimum amount of uninsured motorist coverage and underinsured motorist coverage for death, bodily injury, and property damage shall be $1 million~~*, it shall be paid without any credit for the bodily injury and property damage coverage available for payment, and neither the*

TNC nor the TNC partner shall elect to refuse the change in underinsured motorist coverage pursuant to subsection C of § 38.2-2202.

3. The requirements of this subsection may be satisfied by any of the following:

a. TNC insurance maintained by a TNC partner;

b. TNC insurance maintained by a transportation network company; or

c. Any combination of subdivisions a and b.

A transportation network company may meet its obligations under this subsection through a policy obtained by a TNC partner under subdivision a or c only if the transportation network company verifies that the policy is maintained by the TNC partner.

4. Insurers providing insurance coverage under this subsection shall have the exclusive duty to defend any liability claim, including any claim against a TNC partner, arising from an accident occurring within the time periods specified in this subsection. Neither the TNC partner's nor the vehicle owner's personal automobile insurance policy shall have the duty to defend or indemnify the TNC partner's activities in connection with the transportation network company, unless the policy expressly provides otherwise for the period of time to which this subsection is applicable or the policy contains an amendment or endorsement to provide that coverage.

5. Coverage under a TNC insurance policy shall not be dependent on a personal automobile insurance policy first denying a claim, nor shall a personal automobile insurance policy be required to first deny a claim.

6. Nothing in this subsection shall be construed to require a personal automobile insurance policy to provide primary or excess coverage. Neither the TNC partner's nor the vehicle owner's personal automobile insurance policy shall provide any coverage to the TNC partner, the vehicle owner, or any third party, unless the policy expressly provides for that coverage during the period of time to which this subsection is applicable or the policy contains an amendment or endorsement to provide that coverage.

C. The following requirements shall apply to TNC insurance (i) from the moment a TNC partner logs on to a transportation network company's associated digital platform until the TNC partner accepts a request to transport a passenger and (ii) from the moment the TNC partner completes the transaction on the digital platform or the prearranged ride is complete, whichever is later, until the TNC partner either accepts another prearranged ride request on the digital platform or logs off the digital platform:

1. TNC insurance shall provide motor vehicle liability coverage. Such coverage shall be primary and shall provide liability coverage of at least $50,000 per person and $100,000 per incident for death and bodily injury and at least $25,000 for property damage. *TNC insurance shall provide uninsured motorist coverage and underinsured motorist coverage as required by § 38.2-2206.*

2. The requirements for the coverage required by this subsection may be satisfied by any of the following:

a. TNC insurance maintained by a TNC partner;

b. TNC insurance maintained by a transportation network company that provides coverage in the event that a TNC partner's insurance policy under subdivision a has ceased to exist or has been canceled or in the event that the TNC partner does not otherwise maintain TNC insurance; or

c. Any combination of subdivisions a and b.

A transportation network company may meet its obligations under this subsection through a policy obtained by a TNC partner pursuant to subdivision a or c only if the transportation network company verifies that the policy is maintained by the TNC partner and is specifically written to cover the TNC partner's use of a vehicle in connection with a transportation network company's digital platform.

D. In the event that the digital platform becomes inaccessible due to failure or malfunction while a TNC partner is en route to or transporting a passenger during a prearranged ride described in subsection B, TNC insurance coverage shall be presumed to be that required in subdivision B 1 until the passenger exits the vehicle.

E. In every instance where TNC insurance maintained by a TNC partner to fulfill the insurance obligations of this section has lapsed or ceased to exist, the transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.

F. This section shall not limit the liability of a transportation network company arising out of an accident involving a TNC partner in any action for damages against a transportation network company for an amount above the required insurance coverage.

G. Any person, or an attorney acting on his behalf, who suffers a loss in an automobile accident with a reasonable belief that the accident involves a TNC partner vehicle driven by a TNC partner in connection with a transportation network company and who provides the transportation network company with the date, approximate time, and location of the accident, and if available the name of the TNC partner and if available the accident report, may request in writing from the transportation network company information relating to the insurance coverage and the company providing the coverage. The transportation network company shall respond electronically or in writing within 30 days. The transportation network company's response shall contain the following information: (i) whether, at the approximate time of the accident, the TNC partner was logged into the transportation network company's digital platform and, if so logged in, whether a trip request had been accepted or a passenger was in the TNC partner vehicle; (ii) the name of the insurance carrier providing primary coverage; and (iii) the identity and last known address of the TNC partner.

H. No contract, receipt, rule, or regulation shall exempt any transportation network company from the liability that would exist had no contract been made or entered into, and no such contract, receipt, rule, or regulation for exemption from liability for injury or loss occasioned by the neglect or misconduct of such transportation network company shall be valid. The liability referred to in this subsection shall mean the liability imposed by law upon a transportation network company for any loss, damage, or injury to passengers in its custody and care as a transportation network company.

I. Any insurance required by this section may be placed with an insurer that has been admitted in Virginia or with an insurer providing surplus lines insurance as defined in § 38.2-4805.2.

J. Any insurance policy required by this section shall satisfy the financial responsibility requirement for a motor vehicle under § 46.2-706 during the period such vehicle is being operated as a TNC partner vehicle.

K. The Department shall not issue the certificate of fitness required under § 46.2-2099.45 to any transportation network company that has not certified to the Department that every TNC partner vehicle it has authorized to operate on its digital platform is covered by an insurance policy that meets the requirements of this section.

L. Each transportation network company shall keep on file with the Department proof of an insurance policy maintained by the transportation network company in accordance with this section. Such proof shall be in a form acceptable to the Commissioner. A record of the policy shall remain in the files of the Department six months after the certificate is revoked or suspended for any cause.

M. The Department may suspend a certificate if the certificate holder fails to comply with the requirements of this section. Any person whose certificate has been suspended pursuant to this subsection may request a hearing as provided in subsection D of § 46.2-2011.26.

N. In a claims coverage investigation, a transportation network company and its insurer shall cooperate with insurers involved in the claims coverage investigation to facilitate the exchange of information, including the dates and times of any accident involving a TNC partner and the precise times that the TNC partner logged in and was logged out of the transportation network company's digital platform.

2. That § 46.2-2099.51 of the Code of Virginia is repealed.

CHAPTER 322

An Act to amend and reenact §§ 46.2-2099.50 and 46.2-2099.52 of the Code of Virginia and to repeal § 46.2-2099.51 of the Code of Virginia, relating to transportation network companies; uninsured and underinsured motorist coverage.

[S 1216]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-2099.50 and 46.2-2099.52 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-2099.50. Requirements for TNC partner vehicles; trade dress issued by transportation network company.

A. A TNC partner vehicle shall:

1. Be a personal vehicle;

2. Have a seating capacity of no more than eight persons, including the driver;

3. Be validly titled and registered in the Commonwealth or in another state;

4. Not have been issued a certificate of title, either in Virginia or in any other state, branding the vehicle as salvage, nonrepairable, rebuilt, or any equivalent classification;

5. Have a valid Virginia safety inspection or an annual inspection conducted in another state for which the Department of State Police has determined that such motor vehicle safety inspection standards adequately ensure public safety and carry proof of that inspection on or in the vehicle; and

6. Be covered under a TNC insurance policy meeting the requirements of § ~~46.2-2099.51 or~~ 46.2-2099.52~~, as applicable~~.

No TNC partner shall operate a TNC partner vehicle unless that vehicle meets the requirements of this subsection.

B. Before authorizing a vehicle to be used as a TNC partner vehicle, a transportation network company shall confirm that the vehicle meets the requirements of subsection A and shall provide each TNC partner with proof of any TNC insurance policy maintained by the transportation network company.

For each TNC partner vehicle it authorizes, a transportation network company shall issue trade dress to the TNC partner associated with that vehicle. The trade dress shall be sufficient to identify the transportation network company or digital platform with which the vehicle is affiliated and shall be displayed in a manner that complies with Virginia law. The trade dress shall be of such size, shape, and color as to be readily identifiable during daylight hours from a distance of 50 feet while the vehicle is not in motion and shall be reflective, illuminated, or otherwise patently visible in darkness. The trade dress may take the form of a removable device that meets the identification and visibility requirements of this subsection.

Notwithstanding any other provision of this title, a TNC partner vehicle may be equipped with no more than two removable, illuminated, interior, TNC-issued, trade dress devices that assist passengers in identifying and communicating with TNC partners. Such devices may use a single steady-burning color while the TNC partner is logged in to a transportation network company's associated digital platform and may change to a different steady-burning color once the

TNC partner accepts a request to transport a passenger and is within 0.4 miles of such passenger. The illuminated display on each such device shall not (i) exceed five candlepower or 62.85 lumens; (ii) exceed 20 square inches; (iii) utilize red, blue, or amber lights; (iv) project a glaring or dazzling light; or (v) attach to the windshield.

The transportation network company shall submit to the Department proof that the transportation network company has established the trade dress required under this subsection by filing with the Department an illustration or photograph of the trade dress. Any TNC that issues an illuminated removable interior trade dress device for use in the Commonwealth shall file with the Department the specifications of such device, including the default color.

A TNC partner shall keep the trade dress issued under this subsection visible at all times while the vehicle is being operated as a TNC partner vehicle.

No person shall operate a vehicle bearing trade dress issued under this subsection without the authorization of the transportation network company issuing the trade dress.

§ 46.2-2099.52. TNC insurance.

A. ~~On and after January 1, 2016, at~~ *At* all times during the operation of a TNC partner vehicle, a transportation network company or TNC partner shall keep in force TNC insurance as provided in this section.

B. The following requirements shall apply to TNC insurance from the moment a TNC partner accepts a prearranged ride request on a transportation network company's digital platform until the TNC partner completes the transaction on the digital platform or until the prearranged ride is complete, whichever is later:

1. TNC insurance shall provide motor vehicle liability coverage. Such coverage shall be primary and the minimum amount of liability coverage for death, bodily injury, and property damage shall be $1 million.

2. TNC insurance shall provide uninsured motorist coverage and underinsured motorist coverage *as required by § 38.2-2206*. ~~Such coverage shall apply~~ *With regard to such underinsured motorist coverage that applies solely* from the moment a passenger enters a TNC partner vehicle until the passenger exits the vehicle~~. The minimum amount of uninsured motorist coverage and underinsured motorist coverage for death, bodily injury, and property damage shall be $1 million~~, *it shall be paid without any credit for the bodily injury and property damage coverage available for payment, and neither the TNC nor the TNC partner shall elect to refuse the change in underinsured motorist coverage pursuant to subsection C of § 38.2-2202*.

3. The requirements of this subsection may be satisfied by any of the following:

a. TNC insurance maintained by a TNC partner;

b. TNC insurance maintained by a transportation network company; or

c. Any combination of subdivisions a and b.

A transportation network company may meet its obligations under this subsection through a policy obtained by a TNC partner under subdivision a or c only if the transportation network company verifies that the policy is maintained by the TNC partner.

4. Insurers providing insurance coverage under this subsection shall have the exclusive duty to defend any liability claim, including any claim against a TNC partner, arising from an accident occurring within the time periods specified in this subsection. Neither the TNC partner's nor the vehicle owner's personal automobile insurance policy shall have the duty to defend or indemnify the TNC partner's activities in connection with the transportation network company, unless the policy expressly provides otherwise for the period of time to which this subsection is applicable or the policy contains an amendment or endorsement to provide that coverage.

5. Coverage under a TNC insurance policy shall not be dependent on a personal automobile insurance policy first denying a claim, nor shall a personal automobile insurance policy be required to first deny a claim.

6. Nothing in this subsection shall be construed to require a personal automobile insurance policy to provide primary or excess coverage. Neither the TNC partner's nor the vehicle owner's personal automobile insurance policy shall provide any coverage to the TNC partner, the vehicle owner, or any third party, unless the policy expressly provides for that coverage during the period of time to which this subsection is applicable or the policy contains an amendment or endorsement to provide that coverage.

C. The following requirements shall apply to TNC insurance (i) from the moment a TNC partner logs on to a transportation network company's associated digital platform until the TNC partner accepts a request to transport a passenger and (ii) from the moment the TNC partner completes the transaction on the digital platform or the prearranged ride is complete, whichever is later, until the TNC partner either accepts another prearranged ride request on the digital platform or logs off the digital platform:

1. TNC insurance shall provide motor vehicle liability coverage. Such coverage shall be primary and shall provide liability coverage of at least $50,000 per person and $100,000 per incident for death and bodily injury and at least $25,000 for property damage. *TNC insurance shall provide uninsured motorist coverage and underinsured motorist coverage as required by § 38.2-2206.*

2. The requirements for the coverage required by this subsection may be satisfied by any of the following:

a. TNC insurance maintained by a TNC partner;

b. TNC insurance maintained by a transportation network company that provides coverage in the event that a TNC partner's insurance policy under subdivision a has ceased to exist or has been canceled or in the event that the TNC partner does not otherwise maintain TNC insurance; or

c. Any combination of subdivisions a and b.

A transportation network company may meet its obligations under this subsection through a policy obtained by a TNC partner pursuant to subdivision a or c only if the transportation network company verifies that the policy is maintained by the TNC partner and is specifically written to cover the TNC partner's use of a vehicle in connection with a transportation network company's digital platform.

D. In the event that the digital platform becomes inaccessible due to failure or malfunction while a TNC partner is en route to or transporting a passenger during a prearranged ride described in subsection B, TNC insurance coverage shall be presumed to be that required in subdivision B 1 until the passenger exits the vehicle.

E. In every instance where TNC insurance maintained by a TNC partner to fulfill the insurance obligations of this section has lapsed or ceased to exist, the transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.

F. This section shall not limit the liability of a transportation network company arising out of an accident involving a TNC partner in any action for damages against a transportation network company for an amount above the required insurance coverage.

G. Any person, or an attorney acting on his behalf, who suffers a loss in an automobile accident with a reasonable belief that the accident involves a TNC partner vehicle driven by a TNC partner in connection with a transportation network company and who provides the transportation network company with the date, approximate time, and location of the accident, and if available the name of the TNC partner and if available the accident report, may request in writing from the transportation network company information relating to the insurance coverage and the company providing the coverage. The transportation network company shall respond electronically or in writing within 30 days. The transportation network company's response shall contain the following information: (i) whether, at the approximate time of the accident, the TNC partner was logged into the transportation network company's digital platform and, if so logged in, whether a trip request had been accepted or a passenger was in the TNC partner vehicle; (ii) the name of the insurance carrier providing primary coverage; and (iii) the identity and last known address of the TNC partner.

H. No contract, receipt, rule, or regulation shall exempt any transportation network company from the liability that would exist had no contract been made or entered into, and no such contract, receipt, rule, or regulation for exemption from liability for injury or loss occasioned by the neglect or misconduct of such transportation network company shall be valid. The liability referred to in this subsection shall mean the liability imposed by law upon a transportation network company for any loss, damage, or injury to passengers in its custody and care as a transportation network company.

I. Any insurance required by this section may be placed with an insurer that has been admitted in Virginia or with an insurer providing surplus lines insurance as defined in § 38.2-4805.2.

J. Any insurance policy required by this section shall satisfy the financial responsibility requirement for a motor vehicle under § 46.2-706 during the period such vehicle is being operated as a TNC partner vehicle.

K. The Department shall not issue the certificate of fitness required under § 46.2-2099.45 to any transportation network company that has not certified to the Department that every TNC partner vehicle it has authorized to operate on its digital platform is covered by an insurance policy that meets the requirements of this section.

L. Each transportation network company shall keep on file with the Department proof of an insurance policy maintained by the transportation network company in accordance with this section. Such proof shall be in a form acceptable to the Commissioner. A record of the policy shall remain in the files of the Department six months after the certificate is revoked or suspended for any cause.

M. The Department may suspend a certificate if the certificate holder fails to comply with the requirements of this section. Any person whose certificate has been suspended pursuant to this subsection may request a hearing as provided in subsection D of § 46.2-2011.26.

N. In a claims coverage investigation, a transportation network company and its insurer shall cooperate with insurers involved in the claims coverage investigation to facilitate the exchange of information, including the dates and times of any accident involving a TNC partner and the precise times that the TNC partner logged in and was logged out of the transportation network company's digital platform.

2. That § 46.2-2099.51 of the Code of Virginia is repealed.

CHAPTER 323

An Act to amend and reenact § 46.2-1233.1 of the Code of Virginia, relating to towing trespassing vehicles; limitations on fees.

[H 1649]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1233.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1233.1. Limitation on charges for towing and storage of certain vehicles.

A. Unless different limits are established by ordinance of the local governing body pursuant to § 46.2-1233, as to vehicles towed or removed from private property, no charges imposed for the towing, storage, and safekeeping of any passenger car removed, towed, or stored without the consent of its owner shall be in excess of the maximum charges

provided for in this section. No hookup and initial towing fee of any passenger car shall exceed $150. For towing a vehicle between 7:00 p.m. and 8:00 a.m. or on any Saturday, Sunday, or holiday, an additional fee of no more than $30 per instance may be charged; however, in no event shall more than two such fees be charged for towing any such vehicle. No charge shall be made for storage and safekeeping for a period of 24 hours or less. Except for fees or charges imposed by this section or a local ordinance adopted pursuant to § 46.2-1233, no other fees or charges shall be imposed during the first 24-hour period.

B. The governing body of any county, city, or town may by ordinance, with the advice of an advisory board established pursuant to § 46.2-1233.2, (i) provide that no towing and recovery business having custody of a vehicle towed without the consent of its owner impose storage charges for that vehicle for any period during which the owner of the vehicle was prevented from recovering the vehicle because the towing and recovery business was closed and (ii) place limits on the amount of fees charged by towing and recovery operators. Any such ordinance limiting fees shall also provide for periodic review of and timely adjustment of such limitations.

C. In addition to the fees authorized pursuant to this section, towing and recovery operators are authorized to charge a fuel surcharge fee of no more than $20 for each vehicle towed or removed from private property without the consent of its owner. Notwithstanding any other provision of this chapter, no local governing body shall limit or prohibit the fee authorized pursuant to this subsection.

2. That the provisions of this act shall expire on July 1, 2024.

CHAPTER 324

An Act to amend and reenact § 46.2-1016 of the Code of Virginia, relating to lights on other vehicles; animal-drawn vehicles.

[S 938]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1016 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1016. Lights on other vehicles; reflectors.

All vehicles*, including animal-drawn vehicles,* or other mobile equipment not otherwise in this article required to be equipped with specified lights shall carry at least one or more white lights to the front and a red light to the rear visible in clear weather from a distance of not less than 500 feet to the front and rear of such vehicles. *Such lights may be battery-operated.*

In lieu of or in addition to the lights, a reflector of a type, size, and color approved by the Superintendent may be permanently affixed to the rear and front of ~~such~~ *any* vehicle *described in this section*.

CHAPTER 325

An Act to amend and reenact § 46.2-208 of the Code of Virginia, relating to toll operators; Department of Motor Vehicles records.

[H 2381]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-208 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-208. Records of Department; when open for inspection; release of privileged information.

A. The following information shall be considered privileged and unless otherwise provided for in this title shall not be released except as provided in subsection B:

1. Personal information as defined in § 2.2-3801;

2. Driver information, defined as all data that relates to driver's license status and driver activity;

3. Special identification card information, defined as all data that relates to identification card status; and

4. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data, but excluding crash data.

B. The Commissioner shall release such information only under the following conditions:

1. Notwithstanding other provisions of this section, medical information included in personal information shall be released only to a physician, physician assistant, or nurse practitioner in accordance with a proceeding under §§ 46.2-321 and 46.2-322.

2, 3. [Repealed.]

4. Upon the request of (i) the subject of the information, (ii) the parent of a minor who is the subject of the information, (iii) the guardian of the subject of the information, (iv) the authorized agent or representative of the subject of the information, or (v) the owner of the vehicle that is the subject of the information, the Commissioner shall provide him with the requested information and a complete explanation of it. Requests for such information need not be made in writing or in

person and may be made orally or by telephone, provided that the Department is satisfied that there is adequate verification of the requester's identity. When so requested in writing by (a) the subject of the information, (b) the parent of a minor who is the subject of the information, (c) the guardian of the subject of the information, (d) the authorized agent or representative of the subject of the information, or (e) the owner of the vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver, special identification card, or vehicle information. If the requester is requesting such information in the scope of his official business as counsel from a public defender's office or as counsel appointed by a court, such records shall be provided free of charge.

5. Upon the written request of any insurance carrier or surety, or authorized agent of either, the Commissioner shall furnish to such requester information in the record of any person subject to the provisions of this title. The transcript shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which he was involved and a report filed pursuant to § 46.2-373. No such report of any conviction or crash shall be made after 60 months from the date of the conviction or crash unless the Commissioner or court used the conviction or crash as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or crash pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. The response of the Commissioner under this subdivision shall not be admissible in evidence in any court proceedings.

6. Upon the written request of any business organization or its authorized agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records. Personal information provided under this subdivision shall be used solely for the purpose of pursuing remedies that require locating an individual.

7. Upon the written request of any business organization or its authorized agent, the Commissioner shall provide vehicle information to the requester. Disclosures made under this subdivision shall not include any personal information, driver information, or special identification card information and shall not be subject to the limitations contained in subdivision 6.

8. Upon the written request of any motor vehicle rental or leasing company or its authorized agent, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information of any person subject to the provisions of this title. Such information shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which the subject of the information was involved and a report of which was filed pursuant to § 46.2-373. No such information shall include any record of any conviction or crash more than 60 months after the date of such conviction or crash unless the Commissioner or court used the conviction or crash as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or crash pertaining thereto shall cease to be included in such information after 60 months from the date on which the driver's license or driving privilege was reinstated. The response of the Commissioner under this subdivision shall not be admissible in evidence in any court proceedings.

9. Upon the request of any federal, state, or local governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, or court, or the authorized agent of any of the foregoing, the Commissioner shall compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records. The Commissioner shall also provide driver, special identification card, and vehicle information as requested pursuant to this subdivision. The Commissioner may release other appropriate information to the governmental entity upon request. Upon request in accordance with this subdivision, the Commissioner shall furnish a certificate, under seal of the Department, setting forth a distinguishing number or license plate of a motor vehicle, trailer, or semitrailer, together with the name and address of its owner. The certificate shall be prima facie evidence in any court in the Commonwealth of the ownership of the vehicle, trailer, or semitrailer to which the distinguishing number or license plate has been assigned by the Department. However, the Commissioner shall not release any photographs pursuant to this subdivision unless the requester provides the depicted individual's name and other sufficient identifying information contained on such individual's record. The information in this subdivision shall be provided free of charge.

The Department shall release to a requester information that is required for a requester to carry out the requester's official functions in accordance with this subdivision. If the requester has entered into an agreement with the Department, such agreement shall be in a manner prescribed by the Department, and such agreement shall contain the legal authority that authorizes the performance of the requester's official functions and a description of how such information will be used to carry out such official functions. If the Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which the information shall be used is one of the requester's official functions, the Commissioner shall refuse to enter into any agreement. If the requester submits a request for information in accordance with this subdivision without an existing agreement to receive the information, the request shall be in a manner prescribed by the Department, and such request shall contain the legal authority that authorizes the performance of the requester's official

functions and a description of how such information will be used to carry out such official functions. If the Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which such information shall be used is one of the requester's official functions, the Commissioner shall deny such request.

Notwithstanding the provisions of this subdivision, the Department shall not disseminate to any federal, state, or local government entity, law-enforcement officer, or law-enforcement agency any privileged information for any purposes related to civil immigration enforcement unless (i) the subject of the information provides consent or (ii) the requesting agency presents a lawful judicial order, judicial subpoena, or judicial warrant. When responding to a lawful judicial order, judicial subpoena, or judicial warrant, the Department shall disclose only those records or information specifically requested. Within three business days of receiving a request for information for the purpose of civil immigration enforcement, the Commissioner shall send a notification to the individual about whom such information was requested that such a request was made and the identity of the entity that made such request.

The Department shall not enter into any agreement pursuant to subsection E with a requester pursuant to this subdivision unless the requester certifies that the information obtained will not be used for civil immigration purposes or knowingly disseminated to any third party for any purpose related to civil immigration enforcement.

10. Upon the request of the driver licensing authority in any foreign country, the Commissioner shall provide whatever driver and vehicle information the requesting authority shall require to carry out its official functions. The information shall be provided free of charge.

11. a. For the purpose of obtaining information regarding noncommercial driver's license holders, upon the written request of any employer, prospective employer, or authorized agent of either, and with the written consent of the individual concerned, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information in the form of a transcript of an individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations, or forfeiture, provided that such individual's position or the position that the individual is being considered for involves the operation of a motor vehicle.

b. For the purpose of obtaining information regarding commercial driver's license holders, upon the written request of any employer, prospective employer, or authorized agent of either, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information in the form of a transcript of such individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations, forfeitures, or disqualifications, provided that such individual's position or the position that the individual is being considered for involves the operation of a commercial motor vehicle.

12. Upon the written request of any member of a volunteer fire company or volunteer emergency medical services agency and with written consent of the individual concerned, or upon the request of an applicant for membership in a volunteer fire company or to serve as volunteer emergency medical services personnel, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the request is accompanied by appropriate written evidence that the person is a member of or applicant for membership in a volunteer fire company or a volunteer emergency medical services agency and the transcript is needed by the requester to establish the qualifications of the member, volunteer, or applicant to operate equipment owned by the volunteer fire company or volunteer emergency medical services agency.

13. Upon the written request of a Virginia affiliate of Big Brothers Big Sisters of America, a Virginia affiliate of Compeer, or the Virginia Council of the Girl Scouts of the USA, and with the consent of the individual who is the subject of the information and has applied to be a volunteer with the requester, or on the written request of a Virginia chapter of the American Red Cross, a Virginia chapter of the Civil Air Patrol, or Faith in Action, and with the consent of the individual who is the subject of the information and applied to be a volunteer vehicle operator with the requester, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the applicant's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer or volunteer vehicle operator with the requester as provided in this subdivision.

14. On the written request of any person who has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153, the Commissioner shall provide a transcript of the applicant's record, including all

convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153.

15, 16. [Repealed.]

17. Upon the request of an attorney representing a person involved in a motor vehicle crash, the Commissioner shall provide the vehicle information for any vehicle involved in the crash and the name and address of the owner of any such vehicle.

18. Upon the request, in the course of business, of any authorized agent of an insurance company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform rating and underwriting activities, the Commissioner shall provide (i) all vehicle information, the owner's name and address, descriptive data and title, registration, and vehicle activity data, as requested, or (ii) the driver name, license number and classification, date of birth, and address information for each driver under the age of 22 licensed in the Commonwealth, provided that such request includes the driver's license number or address information of such driver. Use of such information shall be limited to use in connection with insurance claims investigation activities, antifraud activities, rating, or underwriting.

19. [Repealed.]

20. Upon the written request of the compliance agent of a private security services business, as defined in § 9.1-138, which is licensed by the Virginia Department of Criminal Justice Services, the Commissioner shall provide the name and address of the owner of the vehicle under procedures determined by the Commissioner.

21. Upon the request of the operator of a toll facility, a traffic light photo-monitoring system acting on behalf of a government entity, or the Dulles Access Highway, or an authorized agent or employee of a toll facility operator or traffic light photo-monitoring system operator acting on behalf of a government entity or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under *subsection H of § 15.2-968.1, subsection A of § 33.2-504,* subsection M of § 46.2-819.1 ~~or subsection H of § 15.2-968.1~~*, subsection P of § 46.2-819.3:1,* or subsection N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to the name ~~and~~*, physical* address*, and, if available, email or other electronic address* of the owner of the vehicle having failed to pay a toll or having failed to comply with a traffic light signal or having improperly used the Dulles Access Highway and the vehicle information, including all descriptive vehicle data and title and registration data of the same vehicle.

22-26. [Repealed.]

27. Upon the written request of the executor or administrator of a deceased person's estate, the Department shall, if the deceased person had been issued a driver's license or special identification card by the Department, supply the requester with a hard copy image of any photograph of the deceased person kept in the Department's records.

28. [Repealed.]

29. a. Upon written agreement, the Commissioner may digitally verify the authenticity and validity of a driver's license, learner's permit, or special identification card to the American Association of Motor Vehicle Administrators, a motor vehicle dealer as defined in § 46.2-1500, or another organization approved by the Commissioner.

b. Upon written agreement, the Commissioner may release minimum information as needed in the Department's record through any American Association of Motor Vehicle Administrators service program created for the purpose of the exchange of information to any business, government agency, or authorized agent who would otherwise be authorized to receive the information requested pursuant to this section.

30. Upon the request of the operator of a video-monitoring system as defined in § 46.2-844 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B of § 46.2-844. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having passed a stopped school bus and the vehicle information, including all descriptive vehicle data and title and registration data for such vehicle.

31. Upon the request of the operator of a photo speed monitoring device as defined in § 46.2-882.1 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B of § 46.2-882.1. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having committed a violation of § 46.2-873 or 46.2-878.1 and the vehicle information, including all descriptive vehicle data and title and registration data, for such vehicle.

32. Notwithstanding the provisions of this section other than subdivision 33, the Department shall not release, except upon request by the subject of the information, the guardian of the subject of the information, the parent of a minor who is the subject of the information, or the authorized agent of the subject of the information, or pursuant to a court order, (i) proof documents submitted for the purpose of obtaining a driving credential or a special identification card, (ii) the information in the Department's records indicating the type of proof documentation that was provided, or (iii) applications relating to the issuance of a driving credential or a special identification card. As used in this subdivision, "proof document" means any document not originally created by the Department that is submitted to the Department for the issuance of any driving credential or special identification card. "Proof document" does not include any information contained on a driving credential or special identification card.

33. Notwithstanding the provisions of this section, the Department may release the information in the Department's records that it deems reasonable and necessary for the purpose of federal compliance audits.

C. Information disclosed or furnished shall be assessed a fee as specified in § 46.2-214, unless as otherwise provided in this section.

D. Upon the receipt of a completed application and payment of applicable processing fees, the Commissioner may enter into an agreement with any governmental authority or business to exchange information specified in this section by electronic or other means.

E. The Department shall not release any privileged information pursuant to this title unless the Department has entered into a written agreement authorizing such release. The Department shall require the requesting entity to specify the purpose authorized pursuant to this title that forms the basis for the request and provide the permissible purpose as defined under 18 U.S.C. § 2721(b). Privileged information requested by an entity that has been altered or aggregated may be used only for the original purposes specified in the written agreement consistent with this title. The requesting entity shall disseminate privileged information only to third parties subject to the original purpose specified in the written agreement consistent with this title. Any agreement that does not allow third-party distribution shall include a statement that such distribution is prohibited. Such agreement may limit the scope of any authorized distribution consistent with this title. Privileged information distributed to any third party shall only be further distributed by such third party subject to the original purpose specified and consistent with this title, or unless such third party is the subject of the information, the parent of a minor who is the subject of the information, the guardian of the subject of the information, the authorized agent or representative of the subject of the information, or the owner of the vehicle that is the subject of the information.

Any agreement entered into pursuant to this subsection between the Department and the Department of State Police shall specify (i) that privileged information shall be distributed only to authorized personnel of an entity meeting the definition of a criminal justice agency as defined in § 9.1-101 and other comparable local, state, and federal criminal justice agencies and entities issued a Virginia S-Originating Agency Identification (S-ORI) status; (ii) that privileged information shall be accessed, used, and disseminated only for the administration of criminal justice as defined in § 9.1-101; and (iii) that no local, state, or federal government entity, through the Virginia Criminal Information Network (VCIN) or any other method of dissemination controlled by the Department of State Police, has access to information stored by the Department in violation of the protections contained in this section. The Department of State Police shall notify the Department prior to when a new entity is to be granted S-ORI status and provide a copy of the S-ORI application to the Department. The Department of State Police shall not allow any entity to access Department data through VCIN if the Department objects in writing to the entity obtaining such data.

The provisions of this subsection shall not apply to (a) requests for information made pursuant to subdivision B 4; (b) a request made by an entity authorized to receive privileged information pursuant to subsection B, provided that such request is made on a form provided by the Department, other than a written agreement, that requires the requester to certify that such entity is entitled to receive such information pursuant to this title, state the purpose authorized pursuant to subsection B that forms the basis for the request, explain why the information requested is necessary to accomplish the stated purpose, and certify that the information will be used only for the stated purpose and the information received shall not be disseminated to third parties unless there is authorization to do so; or (c) the release of information to a law-enforcement officer or agency during an emergency situation, provided that (1) the requesting entity is authorized to receive such information pursuant to subdivision B 9, (2) the timely release of such information is in the interest of public safety, and (3) the requesting entity completes the form required pursuant to clause (b) within 48 hours of the release of such information.

F. Any person that receives any privileged information that such person knows or has reason to know was received in violation of this title shall not disseminate any such information and shall notify the Department of the receipt of such privileged information.

G. The Department shall conduct audits annually based on a risk assessment to ensure that privileged information released by the Department pursuant to this title is being used as authorized by law and pursuant to the agreements entered into by the Department. If the Department finds that privileged information has been used in a manner contrary to law or the relevant agreement, the Department may revoke access.

H. Any request for privileged information by an authorized agent of a governmental entity shall be governed by the provisions of subdivision B 9.

CHAPTER 326

An Act to amend and reenact § 46.2-208 of the Code of Virginia, relating to toll operators; Department of Motor Vehicles records.

[S 1473]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-208 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-208. Records of Department; when open for inspection; release of privileged information.

A. The following information shall be considered privileged and unless otherwise provided for in this title shall not be released except as provided in subsection B:

1. Personal information as defined in § 2.2-3801;

2. Driver information, defined as all data that relates to driver's license status and driver activity;

3. Special identification card information, defined as all data that relates to identification card status; and

4. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data, but excluding crash data.

B. The Commissioner shall release such information only under the following conditions:

1. Notwithstanding other provisions of this section, medical information included in personal information shall be released only to a physician, physician assistant, or nurse practitioner in accordance with a proceeding under §§ 46.2-321 and 46.2-322.

2, 3. [Repealed.]

4. Upon the request of (i) the subject of the information, (ii) the parent of a minor who is the subject of the information, (iii) the guardian of the subject of the information, (iv) the authorized agent or representative of the subject of the information, or (v) the owner of the vehicle that is the subject of the information, the Commissioner shall provide him with the requested information and a complete explanation of it. Requests for such information need not be made in writing or in person and may be made orally or by telephone, provided that the Department is satisfied that there is adequate verification of the requester's identity. When so requested in writing by (a) the subject of the information, (b) the parent of a minor who is the subject of the information, (c) the guardian of the subject of the information, (d) the authorized agent or representative of the subject of the information, or (e) the owner of the vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver, special identification card, or vehicle information. If the requester is requesting such information in the scope of his official business as counsel from a public defender's office or as counsel appointed by a court, such records shall be provided free of charge.

5. Upon the written request of any insurance carrier or surety, or authorized agent of either, the Commissioner shall furnish to such requester information in the record of any person subject to the provisions of this title. The transcript shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which he was involved and a report filed pursuant to § 46.2-373. No such report of any conviction or crash shall be made after 60 months from the date of the conviction or crash unless the Commissioner or court used the conviction or crash as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or crash pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. The response of the Commissioner under this subdivision shall not be admissible in evidence in any court proceedings.

6. Upon the written request of any business organization or its authorized agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records. Personal information provided under this subdivision shall be used solely for the purpose of pursuing remedies that require locating an individual.

7. Upon the written request of any business organization or its authorized agent, the Commissioner shall provide vehicle information to the requester. Disclosures made under this subdivision shall not include any personal information, driver information, or special identification card information and shall not be subject to the limitations contained in subdivision 6.

8. Upon the written request of any motor vehicle rental or leasing company or its authorized agent, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information of any person subject to the provisions of this title. Such information shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which the subject of the information was involved and a report of which was filed pursuant to § 46.2-373. No such information shall include any record of any conviction or crash more than 60 months after the date of such conviction or crash unless the Commissioner or court used the conviction or crash as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or crash pertaining thereto shall cease to be included in such information after 60 months from the date on which the driver's license or driving privilege was reinstated. The response of the Commissioner under this subdivision shall not be admissible in evidence in any court proceedings.

9. Upon the request of any federal, state, or local governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, or court, or the authorized agent of any of the foregoing, the Commissioner shall compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records. The Commissioner shall also provide driver, special identification card, and vehicle information as requested pursuant to this subdivision. The Commissioner may release other appropriate information to the governmental entity upon request. Upon request in accordance with this subdivision, the Commissioner shall furnish a certificate, under seal of the Department, setting forth a distinguishing number or license plate of a motor vehicle, trailer, or semitrailer, together with the name and address of its owner. The

certificate shall be prima facie evidence in any court in the Commonwealth of the ownership of the vehicle, trailer, or semitrailer to which the distinguishing number or license plate has been assigned by the Department. However, the Commissioner shall not release any photographs pursuant to this subdivision unless the requester provides the depicted individual's name and other sufficient identifying information contained on such individual's record. The information in this subdivision shall be provided free of charge.

The Department shall release to a requester information that is required for a requester to carry out the requester's official functions in accordance with this subdivision. If the requester has entered into an agreement with the Department, such agreement shall be in a manner prescribed by the Department, and such agreement shall contain the legal authority that authorizes the performance of the requester's official functions and a description of how such information will be used to carry out such official functions. If the Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which the information shall be used is one of the requester's official functions, the Commissioner shall refuse to enter into any agreement. If the requester submits a request for information in accordance with this subdivision without an existing agreement to receive the information, the request shall be in a manner prescribed by the Department, and such request shall contain the legal authority that authorizes the performance of the requester's official functions and a description of how such information will be used to carry out such official functions. If the Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which such information shall be used is one of the requester's official functions, the Commissioner shall deny such request.

Notwithstanding the provisions of this subdivision, the Department shall not disseminate to any federal, state, or local government entity, law-enforcement officer, or law-enforcement agency any privileged information for any purposes related to civil immigration enforcement unless (i) the subject of the information provides consent or (ii) the requesting agency presents a lawful judicial order, judicial subpoena, or judicial warrant. When responding to a lawful judicial order, judicial subpoena, or judicial warrant, the Department shall disclose only those records or information specifically requested. Within three business days of receiving a request for information for the purpose of civil immigration enforcement, the Commissioner shall send a notification to the individual about whom such information was requested that such a request was made and the identity of the entity that made such request.

The Department shall not enter into any agreement pursuant to subsection E with a requester pursuant to this subdivision unless the requester certifies that the information obtained will not be used for civil immigration purposes or knowingly disseminated to any third party for any purpose related to civil immigration enforcement.

10. Upon the request of the driver licensing authority in any foreign country, the Commissioner shall provide whatever driver and vehicle information the requesting authority shall require to carry out its official functions. The information shall be provided free of charge.

11. a. For the purpose of obtaining information regarding noncommercial driver's license holders, upon the written request of any employer, prospective employer, or authorized agent of either, and with the written consent of the individual concerned, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information in the form of a transcript of an individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations, or forfeiture, provided that such individual's position or the position that the individual is being considered for involves the operation of a motor vehicle.

b. For the purpose of obtaining information regarding commercial driver's license holders, upon the written request of any employer, prospective employer, or authorized agent of either, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information in the form of a transcript of such individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations, forfeitures, or disqualifications, provided that such individual's position or the position that the individual is being considered for involves the operation of a commercial motor vehicle.

12. Upon the written request of any member of a volunteer fire company or volunteer emergency medical services agency and with written consent of the individual concerned, or upon the request of an applicant for membership in a volunteer fire company or to serve as volunteer emergency medical services personnel, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the request is accompanied by appropriate written evidence that the person is a member of or applicant for membership in a volunteer fire company or a volunteer emergency medical services agency and the transcript is needed by the requester to establish the qualifications of the member, volunteer, or applicant to operate equipment owned by the volunteer fire company or volunteer emergency medical services agency.

13. Upon the written request of a Virginia affiliate of Big Brothers Big Sisters of America, a Virginia affiliate of Compeer, or the Virginia Council of the Girl Scouts of the USA, and with the consent of the individual who is the subject of the information and has applied to be a volunteer with the requester, or on the written request of a Virginia chapter of the American Red Cross, a Virginia chapter of the Civil Air Patrol, or Faith in Action, and with the consent of the individual who is the subject of the information and applied to be a volunteer vehicle operator with the requester, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the applicant's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer or volunteer vehicle operator with the requester as provided in this subdivision.

14. On the written request of any person who has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153, the Commissioner shall provide a transcript of the applicant's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153.

15, 16. [Repealed.]

17. Upon the request of an attorney representing a person involved in a motor vehicle crash, the Commissioner shall provide the vehicle information for any vehicle involved in the crash and the name and address of the owner of any such vehicle.

18. Upon the request, in the course of business, of any authorized agent of an insurance company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform rating and underwriting activities, the Commissioner shall provide (i) all vehicle information, the owner's name and address, descriptive data and title, registration, and vehicle activity data, as requested, or (ii) the driver name, license number and classification, date of birth, and address information for each driver under the age of 22 licensed in the Commonwealth, provided that such request includes the driver's license number or address information of such driver. Use of such information shall be limited to use in connection with insurance claims investigation activities, antifraud activities, rating, or underwriting.

19. [Repealed.]

20. Upon the written request of the compliance agent of a private security services business, as defined in § 9.1-138, which is licensed by the Virginia Department of Criminal Justice Services, the Commissioner shall provide the name and address of the owner of the vehicle under procedures determined by the Commissioner.

21. Upon the request of the operator of a toll facility, a traffic light photo-monitoring system acting on behalf of a government entity, or the Dulles Access Highway, or an authorized agent or employee of a toll facility operator or traffic light photo-monitoring system operator acting on behalf of a government entity or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under *subsection H of § 15.2-968.1, subsection A of § 33.2-504,* subsection M of § 46.2-819.1 ~~or subsection H of § 15.2-968.1~~*, subsection P of § 46.2-819.3:1,* or subsection N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to the name ~~and~~*, physical* address*, and, if available, email or other electronic address* of the owner of the vehicle having failed to pay a toll or having failed to comply with a traffic light signal or having improperly used the Dulles Access Highway and the vehicle information, including all descriptive vehicle data and title and registration data of the same vehicle.

22-26. [Repealed.]

27. Upon the written request of the executor or administrator of a deceased person's estate, the Department shall, if the deceased person had been issued a driver's license or special identification card by the Department, supply the requester with a hard copy image of any photograph of the deceased person kept in the Department's records.

28. [Repealed.]

29. a. Upon written agreement, the Commissioner may digitally verify the authenticity and validity of a driver's license, learner's permit, or special identification card to the American Association of Motor Vehicle Administrators, a motor vehicle dealer as defined in § 46.2-1500, or another organization approved by the Commissioner.

b. Upon written agreement, the Commissioner may release minimum information as needed in the Department's record through any American Association of Motor Vehicle Administrators service program created for the purpose of the exchange of information to any business, government agency, or authorized agent who would otherwise be authorized to receive the information requested pursuant to this section.

30. Upon the request of the operator of a video-monitoring system as defined in § 46.2-844 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B of § 46.2-844. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having passed a stopped school bus and the vehicle information, including all descriptive vehicle data and title and registration data for such vehicle.

31. Upon the request of the operator of a photo speed monitoring device as defined in § 46.2-882.1 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B of § 46.2-882.1.

Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having committed a violation of § 46.2-873 or 46.2-878.1 and the vehicle information, including all descriptive vehicle data and title and registration data, for such vehicle.

32. Notwithstanding the provisions of this section other than subdivision 33, the Department shall not release, except upon request by the subject of the information, the guardian of the subject of the information, the parent of a minor who is the subject of the information, or the authorized agent of the subject of the information, or pursuant to a court order, (i) proof documents submitted for the purpose of obtaining a driving credential or a special identification card, (ii) the information in the Department's records indicating the type of proof documentation that was provided, or (iii) applications relating to the issuance of a driving credential or a special identification card. As used in this subdivision, "proof document" means any document not originally created by the Department that is submitted to the Department for the issuance of any driving credential or special identification card. "Proof document" does not include any information contained on a driving credential or special identification card.

33. Notwithstanding the provisions of this section, the Department may release the information in the Department's records that it deems reasonable and necessary for the purpose of federal compliance audits.

C. Information disclosed or furnished shall be assessed a fee as specified in § 46.2-214, unless as otherwise provided in this section.

D. Upon the receipt of a completed application and payment of applicable processing fees, the Commissioner may enter into an agreement with any governmental authority or business to exchange information specified in this section by electronic or other means.

E. The Department shall not release any privileged information pursuant to this title unless the Department has entered into a written agreement authorizing such release. The Department shall require the requesting entity to specify the purpose authorized pursuant to this title that forms the basis for the request and provide the permissible purpose as defined under 18 U.S.C. § 2721(b). Privileged information requested by an entity that has been altered or aggregated may be used only for the original purposes specified in the written agreement consistent with this title. The requesting entity shall disseminate privileged information only to third parties subject to the original purpose specified in the written agreement consistent with this title. Any agreement that does not allow third-party distribution shall include a statement that such distribution is prohibited. Such agreement may limit the scope of any authorized distribution consistent with this title. Privileged information distributed to any third party shall only be further distributed by such third party subject to the original purpose specified and consistent with this title, or unless such third party is the subject of the information, the parent of a minor who is the subject of the information, the guardian of the subject of the information, the authorized agent or representative of the subject of the information, or the owner of the vehicle that is the subject of the information.

Any agreement entered into pursuant to this subsection between the Department and the Department of State Police shall specify (i) that privileged information shall be distributed only to authorized personnel of an entity meeting the definition of a criminal justice agency as defined in § 9.1-101 and other comparable local, state, and federal criminal justice agencies and entities issued a Virginia S-Originating Agency Identification (S-ORI) status; (ii) that privileged information shall be accessed, used, and disseminated only for the administration of criminal justice as defined in § 9.1-101; and (iii) that no local, state, or federal government entity, through the Virginia Criminal Information Network (VCIN) or any other method of dissemination controlled by the Department of State Police, has access to information stored by the Department in violation of the protections contained in this section. The Department of State Police shall notify the Department prior to when a new entity is to be granted S-ORI status and provide a copy of the S-ORI application to the Department. The Department of State Police shall not allow any entity to access Department data through VCIN if the Department objects in writing to the entity obtaining such data.

The provisions of this subsection shall not apply to (a) requests for information made pursuant to subdivision B 4; (b) a request made by an entity authorized to receive privileged information pursuant to subsection B, provided that such request is made on a form provided by the Department, other than a written agreement, that requires the requester to certify that such entity is entitled to receive such information pursuant to this title, state the purpose authorized pursuant to subsection B that forms the basis for the request, explain why the information requested is necessary to accomplish the stated purpose, and certify that the information will be used only for the stated purpose and the information received shall not be disseminated to third parties unless there is authorization to do so; or (c) the release of information to a law-enforcement officer or agency during an emergency situation, provided that (1) the requesting entity is authorized to receive such information pursuant to subdivision B 9, (2) the timely release of such information is in the interest of public safety, and (3) the requesting entity completes the form required pursuant to clause (b) within 48 hours of the release of such information.

F. Any person that receives any privileged information that such person knows or has reason to know was received in violation of this title shall not disseminate any such information and shall notify the Department of the receipt of such privileged information.

G. The Department shall conduct audits annually based on a risk assessment to ensure that privileged information released by the Department pursuant to this title is being used as authorized by law and pursuant to the agreements entered into by the Department. If the Department finds that privileged information has been used in a manner contrary to law or the relevant agreement, the Department may revoke access.

H. Any request for privileged information by an authorized agent of a governmental entity shall be governed by the provisions of subdivision B 9.

CHAPTER 327

An Act to amend and reenact §§ 37.2-808 and 37.2-810 of the Code of Virginia, relating to emergency custody; temporary detention; alternative transportation.

[S 872]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-808 and 37.2-810 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-808. Emergency custody; issuance and execution of order.

A. Any magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion, or a court may issue pursuant to § 19.2-271.6, an emergency custody order when he has probable cause to believe that any person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. Any emergency custody order entered pursuant to this section shall provide for the disclosure of medical records pursuant to § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

When considering whether there is probable cause to issue an emergency custody order, the magistrate may, in addition to the petition, or the court may pursuant to § 19.2-271.6, consider (1) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, (2) any past actions of the person, (3) any past mental health treatment of the person, (4) any relevant hearsay evidence, (5) any medical records available, (6) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (7) any other information available that the magistrate or the court considers relevant to the determination of whether probable cause exists to issue an emergency custody order.

B. Any person for whom an emergency custody order is issued shall be taken into custody and transported to a convenient location to be evaluated to determine whether the person meets the criteria for temporary detention pursuant to § 37.2-809 and to assess the need for hospitalization or treatment. The evaluation shall be made by a person designated by the community services board who is skilled in the diagnosis and treatment of mental illness and who has completed a certification program approved by the Department.

C. The magistrate or court issuing an emergency custody order shall specify the primary law-enforcement agency and jurisdiction to execute the emergency custody order and provide transportation. However, the magistrate or court shall ~~consider any request to~~ authorize transportation by an alternative transportation provider in accordance with this section, whenever an alternative transportation provider is identified to the magistrate or court, which may be a person, facility, or agency, including a family member or friend of the person who is the subject of the order, a representative of the community services board, or other transportation provider with personnel trained to provide transportation in a safe manner, upon determining, following consideration of information provided by the petitioner; the community services board or its designee; the local law-enforcement agency, if any; the person's treating physician, if any; or other persons who are available and have knowledge of the person, and, when the magistrate or court deems appropriate, the proposed alternative transportation provider, either in person or via two-way electronic video and audio or telephone communication system, that the proposed alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner.

When transportation is ordered to be provided by an alternative transportation provider, the magistrate or court shall order the specified primary law-enforcement agency to execute the order, to take the person into custody, and to transfer custody of the person to the alternative transportation provider identified in the order. In such cases, a copy of the emergency custody order shall accompany the person being transported pursuant to this section at all times and shall be delivered by the alternative transportation provider to the community services board or its designee responsible for conducting the evaluation. The community services board or its designee conducting the evaluation shall return a copy of the emergency custody order to the court designated by the magistrate or the court that issued the emergency custody order as soon as is practicable. Delivery of an order to a law-enforcement officer or alternative transportation provider and return of an order to the court may be accomplished electronically or by facsimile.

Transportation under this section shall include transportation to a medical facility as may be necessary to obtain emergency medical evaluation or treatment that shall be conducted immediately in accordance with state and federal law. Transportation under this section shall include transportation to a medical facility for a medical evaluation if a physician at the hospital in which the person subject to the emergency custody order may be detained requires a medical evaluation prior to admission.

D. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the magistrate or court shall order the primary law-enforcement agency from the jurisdiction served by the community services board that

designated the person to perform the evaluation required in subsection B to execute the order and, in cases in which transportation is ordered to be provided by the primary law-enforcement agency, provide transportation. If the community services board serves more than one jurisdiction, the magistrate or court shall designate the primary law-enforcement agency from the particular jurisdiction within the community services board's service area where the person who is the subject of the emergency custody order was taken into custody or, if the person has not yet been taken into custody, the primary law-enforcement agency from the jurisdiction where the person is presently located to execute the order and provide transportation.

E. The law-enforcement agency or alternative transportation provider providing transportation pursuant to this section may transfer custody of the person to the facility or location to which the person is transported for the evaluation required in subsection B, G, or H if the facility or location (i) is licensed to provide the level of security necessary to protect both the person and others from harm, (ii) is actually capable of providing the level of security necessary to protect the person and others from harm, and (iii) in cases in which transportation is provided by a law-enforcement agency, has entered into an agreement or memorandum of understanding with the law-enforcement agency setting forth the terms and conditions under which it will accept a transfer of custody, provided, however, that the facility or location may not require the law-enforcement agency to pay any fees or costs for the transfer of custody.

F. A law-enforcement officer may lawfully go or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing an emergency custody order pursuant to this section.

G. A law-enforcement officer who, based upon his observation or the reliable reports of others, has probable cause to believe that a person meets the criteria for emergency custody as stated in this section may take that person into custody and transport that person to an appropriate location to assess the need for hospitalization or treatment without prior authorization. A law-enforcement officer who takes a person into custody pursuant to this subsection or subsection H may lawfully go or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of obtaining the assessment. Such evaluation shall be conducted immediately. The period of custody shall not exceed eight hours from the time the law-enforcement officer takes the person into custody.

H. A law-enforcement officer who is transporting a person who has voluntarily consented to be transported to a facility for the purpose of assessment or evaluation and who is beyond the territorial limits of the county, city, or town in which he serves may take such person into custody and transport him to an appropriate location to assess the need for hospitalization or treatment without prior authorization when the law-enforcement officer determines (i) that the person has revoked consent to be transported to a facility for the purpose of assessment or evaluation, and (ii) based upon his observations, that probable cause exists to believe that the person meets the criteria for emergency custody as stated in this section. The period of custody shall not exceed eight hours from the time the law-enforcement officer takes the person into custody.

I. Nothing herein shall preclude a law-enforcement officer or alternative transportation provider from obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody as provided in this section.

J. A representative of the primary law-enforcement agency specified to execute an emergency custody order or a representative of the law-enforcement agency employing a law-enforcement officer who takes a person into custody pursuant to subsection G or H shall notify the community services board responsible for conducting the evaluation required in subsection B, G, or H as soon as practicable after execution of the emergency custody order or after the person has been taken into custody pursuant to subsection G or H.

K. The person shall remain in custody until (i) a temporary detention order is issued in accordance with § 37.2-809, (ii) an order for temporary detention for observation, testing, or treatment is entered in accordance with § 37.2-1104, ending law enforcement custody, (iii) the person is released, or (iv) the emergency custody order expires. An emergency custody order shall be valid for a period not to exceed eight hours from the time of execution.

L. Nothing in this section shall preclude the issuance of an order for temporary detention for testing, observation, or treatment pursuant to § 37.2-1104 for a person who is also the subject of an emergency custody order issued pursuant to this section. In any case in which an order for temporary detention for testing, observation, or treatment is issued for a person who is also the subject of an emergency custody order, the person may be detained by a hospital emergency room or other appropriate facility for testing, observation, and treatment for a period not to exceed 24 hours, unless extended by the court as part of an order pursuant to § 37.2-1101, in accordance with subsection C of § 37.2-1104. Upon completion of testing, observation, or treatment pursuant to § 37.2-1104, the hospital emergency room or other appropriate facility in which the person is detained shall notify the nearest community services board, and the designee of the community services board shall, as soon as is practicable and prior to the expiration of the order for temporary detention issued pursuant to § 37.2-1104, conduct an evaluation of the person to determine if he meets the criteria for temporary detention pursuant to § 37.2-809.

M. Any person taken into emergency custody pursuant to this section shall be given a written summary of the emergency custody procedures and the statutory protections associated with those procedures.

N. If an emergency custody order is not executed within eight hours of its issuance, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if such office is not open, to any magistrate serving the jurisdiction of the issuing court.

O. In addition to the eight-hour period of emergency custody set forth in subsection G, H, or K, if the individual is detained in a state facility pursuant to subsection E of § 37.2-809, the state facility and an employee or designee of the community services board as defined in § 37.2-809 may, for an additional four hours, continue to attempt to identify an alternative facility that is able and willing to provide temporary detention and appropriate care to the individual.

P. Payments shall be made pursuant to § 37.2-804 to licensed health care providers for medical screening and assessment services provided to persons with mental illnesses while in emergency custody.

Q. *An employee or contractor of an entity providing alternative transportation services pursuant to a contract with the Department who has completed training approved by the Department in the proper and safe use of restraint may use restraint (i) if restraint is necessary to ensure the safety of the person or others or prevent escape and (ii) if less restrictive techniques have been determined to be ineffective to protect the person or others from harm or to prevent escape.*

R. No person who provides alternative transportation pursuant to this section shall be liable to the person being transported for any civil damages for ordinary negligence in acts or omissions that result from providing such alternative transportation.

~~R.~~ *S.* For purposes of this section:

"Law-enforcement agency" includes an auxiliary police force established pursuant to § 15.2-1731.

"Law-enforcement officer" includes an auxiliary police officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, except for the purposes of subsection G.

§ 37.2-810. Transportation of person in the temporary detention process.

A. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in which the person resides, or any other willing law-enforcement agency that has agreed to provide transportation, to execute the order and, in cases in which transportation is ordered to be provided by the primary law-enforcement agency, provide transportation. However, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute the order and provide transportation.

B. The magistrate issuing the temporary detention order shall (i) specify the law-enforcement agency to execute the order and (ii) designate a transportation provider. In determining the transportation provider, the magistrate shall ~~consider any request to~~ authorize transportation by an alternative transportation provider in accordance with this section, whenever an alternative transportation provider is identified to the magistrate, which may be a person, facility, or agency, including a family member or friend of the person who is the subject of the temporary detention order, a representative of the community services board, an employee of or person providing services pursuant to a contract with the Department, or other transportation provider with personnel trained to provide transportation in a safe manner. Upon determining, following consideration of information provided by the petitioner; the community services board or its designee; the local law-enforcement agency, if any; the person's treating physician, if any; or other persons who are available and have knowledge of the person, and, when the magistrate deems appropriate, the proposed alternative transportation provider, either in person or via two-way electronic video and audio or telephone communication system, that an alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner, the magistrate shall designate such alternative transportation provider to provide transportation of the person. If no alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner, the magistrate shall designate the primary law-enforcement agency and jurisdiction designated to execute the temporary detention order to provide transportation of the person.

When transportation is ordered to be provided by an alternative transportation provider, the magistrate shall order the specified law-enforcement agency to execute the order, to take the person into custody, and to transfer custody of the person to the alternative transportation provider identified in the order. The primary law-enforcement agency may transfer custody of the person to the alternative transportation provider immediately upon execution of the temporary detention order based on the availability of alternative transportation providers. The alternative transportation provider shall maintain custody of the person from the time custody is transferred to the alternative transportation provider by the primary law-enforcement agency until such time as custody of the person is transferred to the temporary detention facility, including during any period prior to the initiation of transportation of the person from the facility to which he was transported pursuant to § 37.2-808 and while transportation is being provided pursuant to this section.

In such cases, a copy of the temporary detention order shall accompany the person being transported pursuant to this section at all times and shall be delivered by the alternative transportation provider to the temporary detention facility. The temporary detention facility shall return a copy of the temporary detention order to the court designated by the magistrate as soon as is practicable. Delivery of an order to a law-enforcement officer or alternative transportation provider and return of an order to the court may be accomplished electronically or by facsimile.

The order may include transportation of the person to such other medical facility as may be necessary to obtain further medical evaluation or treatment prior to placement as required by a physician at the admitting temporary detention facility. Nothing herein shall preclude a law-enforcement officer or alternative transportation provider from obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody as provided in this section. Such medical evaluation or treatment shall be conducted immediately in accordance with state and federal law.

C. If an alternative transportation provider providing transportation or maintaining custody of a person who is the subject of a temporary detention order becomes unable to continue providing transportation or maintaining custody of the person at any time after taking custody of the person, the primary law-enforcement agency for the jurisdiction in which the alternative transportation provider is located at the time he becomes unable to continue providing transportation or maintaining custody shall take custody of the person and shall transport the person to the facility of temporary detention. In such cases, a copy of the temporary detention order shall accompany the person being transported and shall be delivered to and returned by the temporary detention facility in accordance with the provisions of subsection B.

D. In cases in which an alternative facility of temporary detention is identified and the law-enforcement agency or alternative transportation provider identified to provide transportation in accordance with subsection B continues to have custody of the person, the local law-enforcement agency or alternative transportation provider shall transport the person to the alternative facility of temporary detention identified by the employee or designee of the community services board. In cases in which an alternative facility of temporary detention is identified and custody of the person has been transferred from the law-enforcement agency or alternative transportation provider that provided transportation in accordance with subsection B to the initial facility of temporary detention, the employee or designee of the community services board shall request, and a magistrate may enter an order specifying, an alternative transportation provider or, if no alternative transportation provider is available, willing, and able to provide transportation in a safe manner, the local law-enforcement agency for the jurisdiction in which the person resides or, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person is located, to provide transportation.

E. The magistrate may change the transportation provider specified in a temporary detention order at any time prior to the initiation of transportation of a person who is the subject of a temporary detention order pursuant to this section. If the designated transportation provider is changed by the magistrate at any time after the temporary detention order has been executed but prior to the initiation of transportation, the transportation provider having custody of the person shall transfer custody of the person to the transportation provider subsequently specified to provide transportation. For the purposes of this subsection, "transportation provider" includes both a law-enforcement agency and an alternative transportation provider.

F. A law-enforcement officer may lawfully go to or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing any temporary detention order pursuant to this section. Law-enforcement agencies may enter into agreements to facilitate the execution of temporary detention orders and provide transportation.

G. *An employee or contractor of an entity providing alternative transportation services pursuant to a contract with the Department who has completed training approved by the Department in the proper and safe use of restraint may use restraint (i) if restraint is necessary to ensure the safety of the person or others or prevent escape and (ii) if less restrictive techniques have been determined to be ineffective to protect the person or others from harm or to prevent escape.*

H. No person who provides alternative transportation pursuant to this section shall be liable to the person being transported for any civil damages for ordinary negligence in acts or omissions that result from providing such alternative transportation.

~~H.~~ *I.* For purposes of this section:

"Law-enforcement agency" includes an auxiliary police force established pursuant to § 15.2-1731.

"Law-enforcement officer" includes an auxiliary police officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733.

CHAPTER 328

An Act to amend and reenact § 17.1-327 of the Code of Virginia, relating to payment for services of retired judges.

[S 1486]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-327 of the Code of Virginia is amended and reenacted as follows:

§ 17.1-327. Payment for services of retired judges; members of the State Corporation Commission and Virginia Workers' Compensation Commission.

Any justice, judge, member of the State Corporation Commission, or member of the Virginia Workers' Compensation Commission who is retired under the Judicial Retirement System (§ 51.1-300 et seq.) and who is temporarily recalled to service shall be reimbursed for actual expenses incurred during such service and shall be paid a per diem of ~~$200~~ *$400* for each day he actually sits, exclusive of travel time.

CHAPTER 329

An Act to amend and reenact § 17.1-913 of the Code of Virginia, relating to the Judicial Inquiry and Review Commission; exception to confidentiality; complainant notification of final decision or action.

[S 1031]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-913 of the Code of Virginia is amended and reenacted as follows:

§ 17.1-913. Confidentiality of papers and proceedings; exception.

A. ~~All~~ *Except as provided in subsection C, all* papers filed with and proceedings before the Commission, and under §§ 17.1-909 and 17.1-910, including the identification of the subject judge as well as all testimony and other evidence and any transcript thereof made by a reporter, shall be confidential and shall not be divulged, other than to the Commission, by any person who (i) either files a complaint with the Commission, or receives such complaint in an official capacity; (ii) investigates such complaint; (iii) is interviewed concerning such complaint by a member, employee or agent of the Commission; or (iv) participates in any proceeding of the Commission or in the official recording or transcription thereof, except that the record of any proceeding filed with the Supreme Court shall lose its confidential character. However, if the Commission finds cause to believe that any witness under oath has willfully and intentionally testified falsely, the Commission may direct the chairman or one of its members to report such finding and the details leading thereto including any transcript thereof to the attorney for the Commonwealth of the city or county where such act occurred for such disposition as to a charge of perjury as the Commonwealth may be advised. In any subsequent prosecution for perjury based thereon, the proceedings before the Commission relevant thereto shall lose their confidential character.

All records of proceedings before the Commission which are not filed with the Supreme Court in connection with a formal complaint filed with that tribunal, shall be kept in the confidential files of the Commission.

However, a judge who is under investigation by the Commission, or any person authorized by him, may divulge information pertaining to a complaint filed against such judge as may be necessary for the judge to investigate the allegations in the complaint in preparation for the proceedings before the Commission.

B. Advice on judicial ethics given by an attorney employed by the Commission to a judge and the records of such advice shall be confidential and not be divulged except as permitted in subsection A. However, the Commission may share such advice, but not the identity of the judge to whom the advice was given, with a committee established by the Supreme Court for the development of formal judicial ethics advisory opinions. Any such shared information shall remain confidential within such committee.

C. The Commission shall notify a complainant of the final decision made or action taken in regards to his filed complaint within 30 days of such decision or action. Such notice shall include the decision made or action taken by the Commission. The confidentiality provisions of subsection A shall not apply to notifications made by the Commission under this subsection.

CHAPTER 330

An Act to amend and reenact § 18.2-178.1 of the Code of Virginia, relating to financial exploitation of vulnerable adults; venue.

[S 1223]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-178.1 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-178.1. Financial exploitation of vulnerable adults; penalty.

A. As used in this section, "vulnerable adult" means the same as that term is defined in § 18.2-369.

B. It is unlawful for any person who knows or should know that another person is a vulnerable adult to, through the use of that other person's impairment, take, obtain, or convert money or other thing of value belonging to that other person with the intent to permanently deprive him thereof. Any person who violates this section shall be deemed guilty of larceny.

C. Venue for the trial of an accused charged with a violation of this section shall be in any county or city in which (i) any act was performed in furtherance of the offense, (ii) the accused resided at the time of the offense, *(iii) the vulnerable adult resides or resided at the time of the offense, or (iv) the vulnerable adult sustained a financial loss as a result of the offense*.

D. This section shall not apply to a transaction or disposition of money or other thing of value in which the accused acted for the benefit of the vulnerable adult or made a good faith effort to assist such person with the management of his money or other thing of value.

CHAPTER 331

An Act to amend and reenact § 9.1-102 of the Code of Virginia, relating to Department of Criminal Justice Services; powers and duties; training for law-enforcement personnel.

[H 2250]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-102 of the Code of Virginia is amended and reenacted as follows:

§ 9.1-102. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions and (ii) temporary or probationary status and establish the time required for completion of such training. Such compulsory minimum training standards shall include crisis intervention training in accordance with clause (i) of § 9.1-188;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. [Repealed];

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies and correctional officers employed by the Department of Corrections under the provisions of Title 53.1. For correctional officers employed by the Department of Corrections, such standards shall include training on the general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing or solitary confinement on pregnant inmates, and the impact of body cavity searches on pregnant inmates;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § 15.2-1731;

12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and institutions of higher education within or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;

13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;

14. Establish and maintain police training programs through such agencies and institutions as the Board deems appropriate;

15. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training academies approved by the Department;

16. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement;

17. Make recommendations concerning any matter within its purview pursuant to this chapter;

18. Coordinate its activities with those of any interstate system for the exchange of criminal history record information, nominate one or more of its members to serve upon the council or committee of any such system, and participate when and as deemed appropriate in any such system's activities and programs;

19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to submit information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit such information, reports, and data as are reasonably required;

20. Conduct audits as required by § 9.1-131;

21. Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information;

22. Advise criminal justice agencies and initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information;

23. Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof;

24. Adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders;

25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal justice information system, produce reports, provide technical assistance to state and local criminal justice data system users, and provide analysis and interpretation of criminal justice statistical information;

26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law enforcement and the administration of criminal justice throughout the Commonwealth, and periodically update that plan;

27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the Commonwealth, and units of general local government, or combinations thereof, including planning district commissions, in planning, developing, and administering programs, projects, comprehensive plans, and other activities for improving law enforcement and the administration of criminal justice throughout the Commonwealth, including allocating and subgranting funds for these purposes;

28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and activities for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal justice at every level throughout the Commonwealth;

29. Review and evaluate programs, projects, and activities, and recommend, where necessary, revisions or alterations to such programs, projects, and activities for the purpose of improving law enforcement and the administration of criminal justice;

30. Coordinate the activities and projects of the state departments, agencies, and boards of the Commonwealth and of the units of general local government, or combination thereof, including planning district commissions, relating to the preparation, adoption, administration, and implementation of comprehensive plans to strengthen and improve law enforcement and the administration of criminal justice;

31. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;

32. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

37. Establish training standards and publish and periodically update model policies for law-enforcement personnel in the following subjects:

a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in subsection A of § 9.1-1301;

b. ~~Communication~~ *The identification of, communication* with, and facilitation of the safe return of individuals diagnosed with Alzheimer's disease *and dementia, which shall include (i) techniques for respectful and effective communication with individuals with Alzheimer's disease and dementia and their caregivers; (ii) techniques for addressing the behavioral symptoms of Alzheimer's disease and dementia, including alternatives to physical restraint; (iii) protocols for identifying and reporting incidents of abuse, neglect, and exploitation of individuals with Alzheimer's disease and dementia to adult protective services; (iv) protocols for contacting caregivers when an individual with Alzheimer's disease or dementia is found wandering or during an emergency or crisis situation; (v) a reference list of local resources available for individuals with Alzheimer's disease and dementia; and (vi) a reference list of local and national organizations that assist law-enforcement personnel with locating missing and wandering individuals with Alzheimer's disease and dementia and returning them to their caregivers*;

c. Sensitivity to and awareness of systemic and individual racism, cultural diversity, and the potential for racially biased policing and bias-based profiling as defined in § 52-30.1, which shall include recognizing implicit biases in interacting with persons who have a mental illness, substance use disorder, or developmental or cognitive disability;

d. Protocols for local and regional sexual assault response teams;

e. Communication of death notifications;

f. The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Virginia Alcoholic Beverage Control Authority;

g. Vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

h. Criminal investigations that embody current best practices for conducting photographic and live lineups;

i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or street patrol duties;

j. The recognition, prevention, and reporting of human trafficking;

k. Missing children, missing adults, and search and rescue protocol; and

l. The handling and use of tear gas or other gases and kinetic impact munitions, as defined in § 19.2-83.3, that embody current best practices for using such items as a crowd control measure or during an arrest or detention of another person;

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure (i) sensitivity to and awareness of systemic and individual racism, cultural diversity, and the potential for racially biased policing and bias-based profiling as defined in § 52-30.1, which shall include recognizing implicit biases in interacting with persons who have a mental illness, substance use disorder, or developmental or cognitive disability; (ii) training in de-escalation techniques; and (iii) training in the lawful use of force, including the use of deadly force, as defined in § 19.2-83.3, only when necessary to protect the law-enforcement officer or another person;

39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards that strengthen and improve such programs, including sensitivity to and awareness of systemic and individual racism, cultural diversity, and the potential for racially biased policing and bias-based profiling as defined in § 52-30.1, which shall include recognizing implicit biases in interacting with persons who have a mental illness, substance use disorder, or developmental or cognitive disability;

40. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

41. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

42. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, including school security officers described in clause (b) of § 22.1-280.2:1, which training and certification shall be administered by the Virginia Center for School and Campus Safety (VCSCS) pursuant to § 9.1-184. Such training standards shall be specific to the role and responsibility of school security officers and shall include (i) relevant state and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school environment; (iv) mediation and conflict resolution, including de-escalation techniques such as a physical alternative to restraint; (v) disaster and emergency response; (vi) awareness of systemic and individual racism, cultural diversity, and implicit bias; (vii) working with students with disabilities, mental health needs, substance use disorders, and past traumatic experiences; and (viii) student behavioral dynamics, including child and adolescent development and brain research. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of the standards and certification requirements in this subdivision. The Department shall require any school security officer who carries a firearm in the performance of his duties to provide proof that he has completed a training course provided by a federal, state, or local law-enforcement agency that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment;

43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ 9.1-185 et seq.);

44. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);

45. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal justice agencies regarding the investigation, registration, and dissemination of information requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and (iii) certification requirements for campus security officers. Such training standards shall include, but not be limited to, the role and responsibility of campus security officers, relevant state and federal laws, school and personal liability issues, security awareness in the campus environment, and disaster and emergency response. The Department shall provide technical support and assistance to campus police departments and campus security departments on the establishment and implementation of policies and procedures, including but not limited to: the management of such departments, investigatory procedures, judicial referrals, the establishment and management of databases for campus safety and security information sharing, and development of uniform record keeping for disciplinary records and statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an advisory committee consisting of college administrators, college police chiefs, college security department chiefs, and local law-enforcement officials to assist in the development of the standards and certification requirements and training pursuant to this subdivision;

47. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established pursuant to § 9.1-187;

48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;

49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of § 46.2-117;

50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional Standards Committee by providing technical assistance and administrative support, including staffing, for the Committee;

51. In accordance with § 9.1-102.1, design and approve the issuance of photo-identification cards to private security services registrants registered pursuant to Article 4 (§ 9.1-138 et seq.);

52. In consultation with the State Council of Higher Education for Virginia and the Virginia Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on trauma-informed sexual assault investigation;

53. In consultation with the Department of Behavioral Health and Developmental Services, develop a model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail officers, administrators, or superintendents in any local or regional jail. Such program shall be based on any existing addiction recovery programs that are being administered by any local or regional jails in the Commonwealth. Participation in the model addiction recovery program shall be voluntary, and such program may address aspects of the recovery process, including medical and clinical recovery, peer-to-peer support, availability of mental health resources, family dynamics, and aftercare aspects of the recovery process;

54. Establish compulsory minimum training standards for certification and recertification of law-enforcement officers serving as school resource officers. Such training shall be specific to the role and responsibility of a law-enforcement officer working with students in a school environment and shall include (i) relevant state and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school environment; (iv) mediation and conflict resolution, including de-escalation techniques; (v) disaster and emergency response; (vi) awareness of systemic and individual racism, cultural diversity, and implicit bias; (vii) working with students with disabilities, mental health needs, substance use disorders, or past traumatic experiences; and (viii) student behavioral dynamics, including current child and adolescent development and brain research;

55. Establish a model policy for the operation of body-worn camera systems as defined in § 15.2-1723.1 that also addresses the storage and maintenance of body-worn camera system records;

56. Establish compulsory minimum training standards for detector canine handlers employed by the Department of Corrections, standards for the training and retention of detector canines used by the Department of Corrections, and a central database on the performance and effectiveness of such detector canines that requires the Department of Corrections to submit comprehensive information on each canine handler and detector canine, including the number and types of calls and searches, substances searched for and whether or not detected, and the number of false positives, false negatives, true positives, and true negatives;

57. Establish compulsory training standards for basic training of law-enforcement officers for recognizing and managing stress, self-care techniques, and resiliency;

58. Establish guidelines and standards for psychological examinations conducted pursuant to subsection C of § 15.2-1705;

59. Establish compulsory in-service training standards, to include frequency of retraining, for law-enforcement officers in the following subjects: (i) relevant state and federal laws; (ii) awareness of cultural diversity and the potential for bias-based profiling as defined in § 52-30.1; (iii) de-escalation techniques; (iv) working with individuals with disabilities, mental health needs, or substance use disorders; and (v) the lawful use of force, including the use of deadly force, as defined in § 19.2-83.3, only when necessary to protect the law-enforcement officer or another person;

60. Develop a uniform curriculum and lesson plans for the compulsory minimum entry-level, in-service, and advanced training standards to be employed by criminal justice training academies approved by the Department when conducting training;

61. Adopt statewide professional standards of conduct applicable to all certified law-enforcement officers and certified jail officers and appropriate due process procedures for decertification based on serious misconduct in violation of those standards;

62. Establish and administer a waiver process, in accordance with §§ 2.2-5515 and 15.2-1721.1, for law-enforcement agencies to use certain military property. Any waivers granted by the Criminal Justice Services Board shall be published by the Department on the Department's website;

63. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to include crisis intervention training in accordance with clause (ii) of § 9.1-188;

64. Advise and assist the Department of Behavioral Health and Developmental Services, and support local law-enforcement cooperation, with the development and implementation of the Marcus alert system, as defined in § 37.2-311.1, including the establishment of local protocols for law-enforcement participation in the Marcus alert system pursuant to § 9.1-193 and for reporting requirements pursuant to §§ 9.1-193 and 37.2-311.1;

65. Develop an online course to train hotel proprietors and their employees to recognize and report instances of suspected human trafficking; and

66. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

CHAPTER 332

An Act to amend and reenact § 19.2-163 of the Code of Virginia, relating to court-appointed counsel; requests for additional compensation; determination by judge.

[S 1304]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-163 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-163. Compensation of court-appointed counsel.

Upon submission to the court, for which appointed representation is provided, of a detailed accounting of the time expended for that representation, made within 30 days of the completion of all proceedings in that court, counsel appointed to represent an indigent accused in a criminal case shall be compensated for his services on an hourly basis at a rate set by the Supreme Court of Virginia in a total amount not to exceed the amounts specified in the following schedule:

1. In a district court, a sum not to exceed $120, provided that, notwithstanding the foregoing limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, may waive the limitation of fees up to (i) an additional $120 when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; or (ii) an amount up to $650 to defend, in the case of a juvenile, an offense that would be a felony if committed by an adult that may be punishable by confinement in the state correctional facility for a period of more than 20 years, or a charge of violation of probation for such offense, when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; or (iii) such other amount as may be provided by law. Such amount shall be allowed in any case wherein counsel conducts the defense of a single charge against the indigent through to its conclusion or a charge of violation of probation at any hearing conducted under § 19.2-306; thereafter, compensation for additional charges against the same accused also conducted by the same counsel shall be allowed on the basis of additional time expended as to such additional charges;

2. In a circuit court (i) to defend a Class 1 felony charge, an amount deemed reasonable by the court; (ii) to defend a felony charge that may be punishable by confinement in the state correctional facility for a period of more than 20 years, or a charge of violation of probation for such offense, a sum not to exceed $1,235, provided that, notwithstanding the foregoing limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, may waive the limitation of fees up to an additional $850 when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; (iii) to defend any other felony charge, or a charge of violation of probation for such offense, a sum not to exceed $445, provided that, notwithstanding the foregoing limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, may waive the limitation of fees up to an additional $155 when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver; and (iv) in the circuit court only, to defend any misdemeanor charge punishable by confinement in jail or a charge of violation of probation for such offense, a sum not to exceed $158. In the event any case is required to be retried due to a mistrial for any cause or reversed on appeal, the court may allow an additional fee for each case in an amount not to exceed the amounts allowable in the initial trial. In the event counsel is appointed to defend an indigent charged with a felony that is punishable as a Class 1 felony, such counsel shall continue to receive compensation as provided in this paragraph for defending such a felony, regardless of whether the charge is reduced or amended to a lesser felony, prior to final disposition of the case. In the event counsel is appointed to defend an indigent charged with any other felony, such counsel shall receive compensation as provided in this paragraph for defending such a felony, regardless of whether the charge is reduced or amended to a misdemeanor or lesser felony prior to final disposition of the case in either the district court or circuit court.

Counsel appointed to represent an indigent accused in a criminal case, who are not public defenders, may request an additional waiver exceeding the amounts provided for in this section. The request for any additional amount shall be submitted to the presiding judge, in writing, with a detailed accounting of the time spent and the justification for the additional amount. The presiding judge shall determine, subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, whether the request for an additional amount is justified in whole or in part, by considering the effort expended and the time reasonably necessary for the particular representation, and, if so, shall forward the request as approved to the chief judge of the circuit court or district court for approval. *If the presiding judge determines that the request for an additional amount is not justified in whole or in part, such presiding judge shall provide to the requesting attorney, in writing, the reasons for such determination and shall, if such request has been approved in part, include a copy of such writing when forwarding the request as approved to the chief judge of the circuit court or district court for approval. If the chief judge of the circuit court or district court, upon review of the request as approved, determines, subject to the guidelines issued by the Executive Secretary of the Supreme Court of Virginia, that any part of the request for an additional amount is not justified, such chief judge shall provide to the requesting attorney and to the presiding judge, in writing, the reason for such determination.*

If at any time the funds appropriated to pay for waivers under this section become insufficient, the Executive Secretary of the Supreme Court of Virginia shall so certify to the courts and no further waivers shall be approved.

The circuit or district court shall direct the payment of such reasonable expenses incurred by such court-appointed counsel as it deems appropriate under the circumstances of the case. Counsel appointed by the court to represent an indigent charged with repeated violations of the same section of the Code of Virginia, with each of such violations arising out of the same incident, occurrence, or transaction, shall be compensated in an amount not to exceed the fee prescribed for the defense of a single charge, if such offenses are tried as part of the same judicial proceeding. The trial judge shall consider any guidelines established by the Supreme Court but shall have the sole discretion to fix the amount of compensation to be paid counsel appointed by the court to defend a felony charge that is punishable as a Class 1 felony.

The circuit or district court shall direct that the foregoing payments shall be paid out by the Commonwealth, if the defendant is charged with a violation of a statute, or by the county, city or town, if the defendant is charged with a violation of a county, city or town ordinance, to the attorney so appointed to defend such person as compensation for such defense.

Counsel representing a defendant charged with a Class 1 felony may submit to the court, on a monthly basis, a statement of all costs incurred and fees charged by him in the case during that month. Whenever the total charges as are deemed reasonable by the court for which payment has not previously been made or requested exceed $1,000, the court may direct that payment be made as otherwise provided in this section.

When such directive is entered upon the order book of the court, the Commonwealth, county, city or town, as the case may be, shall provide for the payment out of its treasury of the sum of money so specified. If the defendant is convicted, the amount allowed by the court to the attorney appointed to defend him shall be taxed against the defendant as a part of the costs of prosecution and, if collected, the same shall be paid to the Commonwealth, or the county, city or town, as the case may be. In the event that counsel for the defendant requests a waiver of the limitations on compensation, the court shall assess against the defendant an amount equal to the pre-waiver compensation limit specified in this section for each charge for which the defendant was convicted. An abstract of such costs shall be docketed in the judgment docket and execution lien book maintained by such court.

Any statement submitted by an attorney for payments due him for indigent representation or for representation of a child pursuant to § 16.1-266 shall, after the submission of the statement, be forwarded forthwith by the clerk to the Commonwealth, county, city or town, as the case may be, responsible for payment.

For the purposes of this section, the defense of a case may be considered conducted through to its conclusion and an appointed counsel entitled to compensation for his services in the event an indigent accused fails to appear in court subject to a capias for his arrest or a show cause summons for his failure to appear and remains a fugitive from justice for one year following the issuance of the capias or the summons to show cause, and appointed counsel has appeared at a hearing on behalf of the accused.

Effective July 1, 2007, the Executive Secretary of the Supreme Court of Virginia shall track and report the number and category of offenses charged involving adult and juvenile offenders in cases in which court-appointed counsel is assigned. The Executive Secretary shall also track and report the amounts paid by waiver above the initial cap to court-appointed counsel. The Executive Secretary shall provide these reports to the Governor, members of the House Committee on Appropriations, and members of the Senate Committee on Finance and Appropriations on a quarterly basis.

CHAPTER 333

An Act to amend and reenact §§ 8.01-81, 8.01-81.1, 8.01-83.3, and 8.01-92 of the Code of Virginia, relating to partition of property.

[H 1755]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-81, 8.01-81.1, 8.01-83.3, and 8.01-92 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-81. Who may compel partition of land; jurisdiction; validation of certain partitions of mineral rights; when shares of two or more laid off together.

A. Tenants in common, joint tenants, executors with the power to sell, and coparceners of real property, including mineral rights east and south of the Clinch River, shall be compellable to make partition and may compel partition, but in the case of an executor only if the power of sale is properly exercisable at that time under the circumstances; and a lien creditor or any owner of undivided estate in real estate may also compel partition for the purpose of subjecting the estate of his debtor or the rents and profits thereof to the satisfaction of his lien. Any court having general equity jurisdiction ~~shall have~~ *has* jurisdiction in cases of partition, and in the exercise of such jurisdiction, shall order partition in kind if the real property in question is susceptible to a practicable division and may take cognizance of all questions of law affecting the legal title that may arise in any proceedings, between such tenants in common, joint tenants, executors with the power to sell, coparceners, and lien creditors.

Any two or more of the parties, if they so elect, may have their shares laid off together when partition can be conveniently made in that way. If the court orders partition in kind, the court may require that one or more parties pay one or more parties' amounts so that the payments, taken together with the court-determined value of the in-kind distributions to the parties, will make the partition in kind just and proportionate in value to the fractional interests held. If the court orders partition in kind, the court shall allocate to the parties that are unknown, unlocatable, or the subject of a default judgment a part of the property representing the combined interests of such parties as determined by the court, and such part of the property shall remain undivided.

B. If the court orders partition in kind, it shall consider:

1. Evidence of the collective duration of ownership or possession of any portion of the property by a party and one or more predecessors in title or predecessors in possession of the property who are or were related to the party;

2. A party's sentimental attachment to any portion of the property, including any attachment arising because such portion of the property has ancestral or other unique or special value to the party;

3. The lawful use being made of any portion of the property by a party and the degree to which the party would be harmed if the party could not continue the same use of such portion of the property;

4. The degree to which a party has contributed to the physical improvement, maintenance, or upkeep of any portion of the property; and

5. Any other relevant factor.

C. All partitions of mineral rights heretofore had are hereby validated.

D. Unless displaced by a provision of this article, the established principles of Virginia partition law supplement this article.

§ 8.01-81.1. Determination of value.

A. Except as otherwise provided in subsections B and C, the court in every partition action shall order an appraisal pursuant to subsection D, and such appraisal shall inform the court's determination of fair market value under subsection F. The expense of the appraisal shall be *advanced by the plaintiff, and such other parties as the court may determine in its discretion, and* taxed as costs *so that such expenses will be shared by the parties to the extent of their respective interest in the property*.

B. If all parties have agreed to the value of the property or to another method of valuation, the court shall adopt such value or the value produced by the agreed-upon method of valuation.

C. If the court determines that the evidentiary value of an appraisal is outweighed by the cost of the appraisal, the court, after an evidentiary hearing, shall enter an order to determine the fair market value for the property.

D. If the court orders an appraisal, the court shall appoint a disinterested real estate appraiser licensed in the Commonwealth to assist the court in determining the fair market value of the property assuming sole ownership of the fee simple estate. Upon completion of the appraisal, the appraiser shall file a sworn or verified appraisal with the court and shall, within three business days of such filing, mail a notice of filing to all counsel of record stating:

1. The appraised fair market value of the property;

2. That the appraisal is available at the clerk's office; and

3. That a party may file with the court an objection to the appraisal not later than 30 days after the notice is sent, stating the grounds for the objection.

E. If an appraisal is filed with the court pursuant to subsection D, the court shall conduct a hearing to determine the fair market value of the property not sooner than 31 days after a copy of the notice of the appraisal is sent to each party under subsection D, whether or not an objection to the appraisal is filed under subdivision D 3. In addition to the court-ordered appraisal, the court may consider any other evidence of value offered by a party*, which may include the opinions of other appraisers retained by a party*.

F. After a hearing under subsection E, but before considering the merits of the partition action, the court shall enter an order determining the fair market value of the property.

§ 8.01-83.3. Commissioners.

If the court appoints commissioners pursuant to Article 11 (§ 8.01-96 et seq.), each commissioner, in addition to the requirements and disqualifications applicable to commissioners in Article 11, shall be disinterested and impartial and not a party to or participant in the action*; however, any counsel for a party may serve as a commissioner unless there is an objection by another party*.

§ 8.01-92. Allowance of attorney fees out of unrepresented shares.

In any partition suit when there are unrepresented shares, the court shall allow reasonable fees to the attorney or attorneys bringing the action on account of the services rendered to the parceners unrepresented by counsel *of record*.

CHAPTER 334

An Act to direct the Virginia Marine Resources Commission to review and update certain guidelines to provide for the generation of vegetated and unvegetated wetland credits from wetland creation, restoration, conversion, and enhancement activities, invasive species control, and the establishment of open water channels.

[H 1950]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The Virginia Marine Resources Commission (the Commission) shall review and update the Commission's "Guidelines for Establishment, Use and Operation of Tidal Wetland Mitigation Banks in Virginia" (January 1, 1998) and its regulations, Wetlands Mitigation-Compensation Policy and Supplemental Guidelines (4VAC20-390) (the Guidelines). Such review and update shall consider provisions relating to the generation of vegetated and unvegetated wetland credits from wetland creation, restoration, conversion, and enhancement activities, invasive species control, and the establishment of open water channels. Such update shall also include making the Guidelines consistent with the Commission's "Tidal Wetlands Guidelines" (May 2021 Update), including updating the wetlands types and properties. The Commission shall form a stakeholder group including representatives from the mitigation banking industry, conservation organizations, the U.S. Army Corps of Engineers, the Department of Environmental Quality, and the Virginia Institute of Marine Science for the purpose of reviewing and updating the Guidelines. The Commission shall complete the review and update by July 1, 2024.*

CHAPTER 335

An Act to require the Department of Medical Assistance Services to include in its contracts with managed care organizations requirements for the collection and reporting of certain data; report.

[H 2190]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Medical Assistance Services (the Department) shall collect and report (i) the number and percentage of claims submitted to managed care organizations that were denied and the reasons for such denials and (ii) the number and percentage of claims submitted to managed care organizations that required resubmission prior to payment and the reasons for such resubmissions. Such data shall be reported for each fiscal year from fiscal year 2018 through fiscal year 2022 and shall be organized by major provider type, including primary care providers and urgent care centers. The Department shall examine such data and identify barriers that providers encounter when accepting and treating patients enrolled in the state plan for medical assistance services. The Department shall report such data and analysis to the Joint Commission on Health Care and the Joint Subcommittee for Health and Human Resources Oversight by November 1, 2023.*

CHAPTER 336

An Act to require the Department of Medical Assistance Services to include in its contracts with managed care organizations requirements for the collection and reporting of certain data; report.

[S 1270]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Medical Assistance Services (the Department) shall collect and report (i) the number and percentage of claims submitted to managed care organizations that were denied and the reasons for such denials and (ii) the number and percentage of claims submitted to managed care organizations that required resubmission prior to payment and the reasons for such resubmissions. Such data shall be reported for each fiscal year from fiscal year 2018 through fiscal year 2022 and shall be organized by major provider type, including primary care providers and urgent care centers. The Department shall examine such data and identify barriers that providers encounter when accepting and treating patients enrolled in the state plan for medical assistance services. The Department shall report such data and analysis to the Joint Commission on Health Care and the Joint Subcommittee for Health and Human Resources Oversight by November 1, 2023.*

CHAPTER 337

An Act to amend the Code of Virginia by adding in Chapter 26 of Title 54.1 an article numbered 2, consisting of sections numbered 54.1-2606 through 54.1-2619, relating to Audiology and Speech-Language Pathology Interstate Compact.

[H 2033]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 26 of Title 54.1 an article numbered 2, consisting of sections numbered 54.1-2606 through 54.1-2619, as follows:

Article 2.

Audiology and Speech-Language Pathology Interstate Compact.

§ 54.1-2606. Audiology and Speech-Language Pathology Interstate Compact; purpose.

The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Audiology and Speech-Language Pathology Interstate Compact with any and all states legally joining therein according to its terms, in the form substantially as follows:

AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT

The purpose of this Compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient/client/student is located at the time of the patient/client/student encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

1. Increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member state licenses;

2. Enhance the states' ability to protect the public's health and safety;

3. Encourage the cooperation of member states in regulating multistate audiology and speech-language pathology practice;

4. Support spouses of relocating active duty military personnel;

5. Enhance the exchange of licensure, investigative, and disciplinary information between member states;

6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and

7. Allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.

§ 54.1-2607. Definitions.

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

"Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

"Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws that is imposed by a licensing board or other authority against an audiologist or speech-language pathologist, including actions against an individual's license or privilege to practice, such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

"Alternative program" means a nondisciplinary monitoring process approved by an audiology or speech-language pathology licensing board to address impaired practitioners.

"Audiologist" means an individual who is licensed by a state to practice audiology.

"Audiology" means the care and services provided by a licensed audiologist as set forth in the member state's statutes and rules.

"Audiology and Speech-Language Pathology Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the Compact.

"Audiology and speech-language pathology licensing board," "audiology licensing board," "speech-language pathology licensing board," or "licensing board" means the agency of a state that is responsible for the licensing and regulation of audiologists and/or speech-language pathologists.

"Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as an audiologist or speech-language pathologist in the remote state under its laws and rules. The practice of audiology or speech-language pathology occurs in the member state where the patient/client/student is located at the time of the patient/client/student encounter.

"Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the audiologist or speech-language pathologist to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

"Data system" means a repository of information about licensees, including, but not limited to, continuing education, examination, licensure, investigative, compact privilege, and adverse action.

"Encumbered license" means a license in which an adverse action restricts the practice of audiology or speech-language pathology by the licensee and said adverse action has been reported to the National Practitioners Data Bank (NPDB).

"Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

"Home state" means the member state that is the licensee's primary state of residence.

"Impaired practitioner" means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

"Licensee" means an individual who currently holds an authorization from the state licensing board to practice as an audiologist or speech-language pathologist.

"Member state" means a state that has enacted the Compact.

"Privilege to practice" means a legal authorization permitting the practice of audiology or speech-language pathology in a remote state.

"Remote state" means a member state other than the home state where a licensee is exercising or seeking to exercise the compact privilege.

"Rule" means a regulation, principle, or directive promulgated by the Commission that has the force of law.

"Single-state license" means an audiology or speech-language pathology license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

"Speech-language pathologist" means an individual who is licensed by a state to practice speech-language pathology.

"Speech-language pathology" means the care and services provided by a licensed speech-language pathologist as set forth in the member state's statutes and rules.

"State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of audiology and speech-language pathology.

"State practice laws" means a member state's laws, rules, and regulations that govern the practice of audiology or speech-language pathology, define the scope of audiology or speech-language pathology practice, and create the methods and grounds for imposing discipline.

"Telehealth" means the application of telecommunication technology to deliver audiology or speech-language pathology services at a distance for assessment, intervention, and/or consultation.

§ 54.1-2608. State participation in the Compact.

A. A license issued to an audiologist or speech-language pathologist by a home state to a resident in that state shall be recognized by each member state as authorizing an audiologist or speech-language pathologist to practice audiology or speech-language pathology, under a privilege to practice, in each member state.

B. A state must implement or utilize procedures for considering the criminal history records of applicants for initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

1. A member state must fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions.

2. Communication between a member state and the Commission and among member states regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544.

C. Upon application for a privilege to practice, the licensing board in the issuing remote state shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or privilege to practice held by the applicant, and whether any adverse action has been taken against any license or privilege to practice held by the applicant.

D. Each member state shall require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws.

E. For an audiologist:

1. Must meet one of the following educational requirements:

a. On or before December 31, 2007, has graduated with a master's degree or doctorate in audiology, or equivalent degree regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and is operated by a college or university accredited by a regional or national accrediting organization recognized by the Board; or

b. On or after January 1, 2008, has graduated with a doctoral degree in audiology, or equivalent degree, regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and is operated by a college or university accredited by a regional or national accrediting organization recognized by the Board; or

c. Has graduated from an audiology program that is housed in an institution of higher education outside of the United States for which (i) the program and institution have been approved by the authorized accrediting body in the applicable country and (ii) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program;

2. Has completed a supervised clinical practicum experience from an accredited educational institution or its cooperating programs as required by the Commission;

3. Has successfully passed a national examination approved by the Commission;

4. Holds an active, unencumbered license;

5. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of audiology, under applicable state or federal criminal law; and

6. Has a valid United States social security number or National Practitioner Identification number.

F. For a speech-language pathologist:

1. Must meet one of the following educational requirements:

a. Has graduated with a master's degree from a speech-language pathology program that is accredited by an organization recognized by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the Board; or

b. Has graduated from a speech-language pathology program that is housed in an institution of higher education outside of the United States for which (i) the program and institution have been approved by the authorized accrediting body in the applicable country and (ii) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program;

2. Has completed a supervised clinical practicum experience from an educational institution or its cooperating programs as required by the Commission;

3. Has completed a supervised postgraduate professional experience as required by the Commission;

4. Has successfully passed a national examination approved by the Commission;

5. Holds an active, unencumbered license;

6. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of speech-language pathology, under applicable state or federal criminal law; and

7. Has a valid United States social security number or National Practitioner Identification number.

G. The privilege to practice is derived from the home state license.

H. An audiologist or speech-language pathologist practicing in a member state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of audiology and speech-language pathology shall include all audiology and speech-language pathology practice as defined by the state practice laws of the member state in which the client is located. The practice of audiology and speech-language pathology in a member state under a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction of the licensing board, the courts, and the laws of the member state in which the client is located at the time service is provided.

I. Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the privilege to practice audiology or speech-language pathology in any other member state. Nothing in this Compact shall affect the requirements established by a member state for the issuance of a single-state license.

J. Member states may charge a fee for granting a compact privilege.

K. Member states must comply with the bylaws and rules and regulations of the Commission.

§ 54.1-2609. Compact privilege.

A. To exercise the compact privilege under the terms and provisions of this Compact, the audiologist or speech-language pathologist shall:

1. Hold an active license in the home state;

2. Have no encumbrance on any state license;

3. Be eligible for a compact privilege in any member state in accordance with § 54.1-2608;

4. Have not had any adverse action against any license or compact privilege within the previous two years from date of application;

5. Notify the Commission that the licensee is seeking the compact privilege within a remote state;

6. Pay any applicable fees, including any state fee, for the compact privilege; and

7. Report to the Commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.

B. For the purposes of the compact privilege, an audiologist or speech-language pathologist shall only hold one home state license at a time.

C. Except as provided in § 54.1-2611, if an audiologist or speech-language pathologist changes his primary state of residence by moving between two-member states, the audiologist or speech-language pathologist must apply for licensure in the new home state, and the license issued by the prior home state shall be deactivated in accordance with applicable rules adopted by the Commission.

D. The audiologist or speech-language pathologist may apply for licensure in advance of a change in his primary state of residence.

E. A license shall not be issued by the new home state until the audiologist or speech-language pathologist provides satisfactory evidence of a change in his primary state of residence to the new home state and satisfies all applicable requirements to obtain a license from the new home state.

F. If an audiologist or speech-language pathologist changes his primary state of residence by moving from a member state to a non-member state, the license issued by the prior home state shall convert to a single-state license, valid only in the former home state.

G. The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection A to maintain the compact privilege in the remote state.

H. A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

I. A licensee providing audiology or speech-language pathology services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and take any other necessary actions to protect the health and safety of its citizens.

J. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

1. The home state license is no longer encumbered; and

2. Two years have elapsed from the date of the adverse action.

K. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection A to obtain a compact privilege in any remote state.

L. Once the requirements of subsection J have been met, the licensee must meet the requirements in subsection A to obtain a compact privilege in a remote state.

§ 54.1-2610. Compact privilege to practice telehealth.

Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with § 54.1-2608 and under rules promulgated by the Commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in this Compact and rules promulgated by the Commission.

§ 54.1-2611. Active duty military personnel or their spouse.

Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change his home state through application for licensure in the new state.

§ 54.1-2612. Adverse actions.

A. In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

1. Take adverse action against an audiologist's or speech-language pathologist's privilege to practice within that member state.

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings

pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

3. Only the home state shall have the power to take adverse action against an audiologist's or speech-language pathologist's license issued by the home state.

B. For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

C. The home state shall complete any pending investigations of an audiologist or speech-language pathologist who changes his primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse actions.

D. If otherwise permitted by state law, the member state may recover from the affected audiologist or speech-language pathologist the costs of investigations and disposition of cases resulting from any adverse action taken against that audiologist or speech-language pathologist.

E. The member state may take adverse action based on the factual findings of the remote state, provided that the member state follows the member state's own procedures for taking the adverse action.

F. Joint Investigations.

1. In addition to the authority granted to a member state by its respective audiology or speech-language pathology practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under this Compact.

G. If adverse action is taken by the home state against an audiologist's or speech language pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an audiologist's or speech-language pathologist's license shall include a statement that the audiologist's or speech-language pathologist's privilege to practice is deactivated in all member states during the pendency of the order.

H. If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

I. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

§ 54.1-2613. Establishment of the Audiology and Speech-Language Pathology Compact Commission.

A. The Compact member states hereby create and establish a joint public agency known as the Audiology and Speech-Language Pathology Compact Commission:

1. The Commission is an instrumentality of the Compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings.

1. Each member state shall have two delegates selected by that member state's licensing board. The delegates shall be current members of the licensing board. One shall be an audiologist and one shall be a speech-language pathologist.

2. An additional five delegates, who are either a public member or board administrator from a state licensing board, shall be chosen by the Executive Committee from a pool of nominees provided by the Commission at large.

3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

4. The member state board shall fill any vacancy occurring on the Commission within 90 days.

5. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

6. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Establish a Code of Ethics;

4. Maintain its financial records in accordance with the bylaws;

5. Meet and take actions as are consistent with the provisions of this Compact and the bylaws;

6. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state audiology or speech-language pathology licensing board to sue or be sued under applicable law shall not be affected;

8. Purchase and maintain insurance and bonds;

9. Borrow, accept, or contract for services of personnel, including employees of a member state;

10. Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of this Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

11. Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same, provided that at all times the Commission shall avoid any appearance of impropriety and conflict of interest;

12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed, provided that at all times the Commission shall avoid any appearance of impropriety;

13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

14. Establish a budget and make expenditures;

15. Borrow money;

16. Appoint committees, including standing committees composed of members and other interested persons as may be designated in this Compact and the bylaws;

17. Provide and receive information from, and cooperate with, law-enforcement agencies;

18. Establish and elect an Executive Committee; and

19. Perform other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of audiology and speech-language pathology licensure and practice.

D. The Executive Committee. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact:

1. The Executive Committee shall be composed of 10 members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission;

b. Two ex-officio members, consisting of one nonvoting member from a recognized national audiology professional association and one nonvoting member from a recognized national speech-language pathology association; and

c. One ex-officio, nonvoting member from the recognized membership organization of the audiology and speech-language pathology licensing boards.

E. The ex-officio members shall be selected by their respective organizations.

1. The Commission may remove any member of the Executive Committee as provided in bylaws.

2. The Executive Committee shall meet at least annually.

3. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any commission Compact fee charged to licensees for the compact privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Perform other duties as provided in rules or bylaws.

4. All meetings of the Commission shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in § 54.1-2615.

5. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, nonpublic meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

a. Noncompliance of a member state with its obligations under the Compact;

b. The employment, compensation, or discipline or other matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusation of any person of a crime or formal censure of any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law-enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or another committee charged with responsibility of investigation or determination of compliance issues pursuant to this Compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

7. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

8. Financing of the Commission.

a. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

b. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

c. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

9. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

10. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

F. Qualified Immunity, Defense, and Indemnification.

1. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing in this paragraph shall be construed to protect any person from suit and liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

§ 54.1-2614. Data system.

A. The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse actions against a license or compact privilege;

4. Nonconfidential information related to alternative program participation;

5. Any denial of application for licensure, and the reason for denial; and

6. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. Investigative information pertaining to a licensee in any member state shall only be available to other member states.

D. The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state shall be available to any other member state.

E. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

§ 54.1-2615. Rulemaking.

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four years of the date of adoption of the rule, the rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least 30 days in advance of the meeting at which the rule shall be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each member state audiology or speech-language pathology licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule shall be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to the adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least 25 persons;

2. A state or federal governmental subdivision or agency; or

3. An association having at least 25 members.

H. If a public hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the public hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the public hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the public hearing not less than five business days before the scheduled date of the public hearing.

2. Public hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All public hearings shall be recorded. A copy of the recording shall be made available on request.

4. Nothing in this section shall be construed as requiring a separate public hearing on each rule. Rules may be grouped for the convenience of the Commission at public hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

K. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or a public hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, and in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or member state funds; or

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

§ 54.1-2616. Dispute resolution and enforcement.

A. Dispute Resolution.

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to this Compact that arise among member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

B. Enforcement.

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of this Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of litigation, including reasonable attorney fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

§ 54.1-2617. Date of implementation of the interstate commission for audiology and speech-language pathology practice and associated rules, withdrawal, and amendment.

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology or speech-language pathology licensing board to comply with the investigative and adverse action reporting requirements of this Compact prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any audiology or speech-language pathology licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

§ 54.1-2618. Construction and severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any member state, the Compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

§ 54.1-2619. Binding effect of the Compact and other laws.

A. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this Compact.

B. All laws in a member state in conflict with this Compact are superseded to the extent of the conflict.

C. All lawful actions of the Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.

D. All agreements between the Commission and the member states are binding in accordance with their terms.

E. In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

CHAPTER 338

An Act to amend and reenact § 38.2-1800 of the Code of Virginia, relating to insurance agents; definitions; private family leave insurance.

[H 1886]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-1800 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-1800. Definitions.

As used in this chapter:

"Agent," "insurance agent," "producer," or "insurance producer," when used without qualification, means an individual or business entity that sells, solicits, or negotiates contracts of insurance or annuity in the Commonwealth.

"Appointed agent," "appointed insurance agent," "appointed producer," or "appointed insurance producer," when used without qualification, means an individual or business entity licensed in the Commonwealth to sell, solicit, or negotiate contracts of insurance or annuity of the classes authorized within the scope of such license and who is appointed by a company licensed in the Commonwealth to sell, solicit, or negotiate on its behalf contracts of insurance of the classes authorized within the scope of such license and, if authorized by the company, may collect premiums on those contracts.

"Business entity" means a partnership, limited partnership, limited liability company, corporation, or other legal entity other than a sole proprietorship.

"Dental plan organization authority" means the authority in the Commonwealth to sell, solicit, or negotiate dental benefit contracts on behalf of dental plan organizations licensed under Chapter 61 (§ 38.2-6100 et seq.).

"Dental services authority" means the authority in the Commonwealth to sell, solicit, or negotiate dental services plan contracts on behalf of dental services plans licensed under Chapter 45 (§ 38.2-4500 et seq.).

"Filed" means received by the Commission.

"Health agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate insurance as defined in §§ *38.2-107.2,* 38.2-108*,* and 38.2-109, and including contracts issued by insurers, health services plans, health maintenance organizations, dental services plans, optometric services plans, and dental plan organizations licensed in the Commonwealth.

"Home protection insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate home protection insurance as defined in § 38.2-129 on behalf of insurers licensed in the Commonwealth.

"Home state" means the District of Columbia and any state or territory of the United States, except Virginia, or any province of Canada, in which an insurance producer maintains such person's principal place of residence or principal place of business and is licensed by that jurisdiction to act as a resident insurance producer.

"Legal services insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate legal services insurance as defined in § 38.2-127 on behalf of insurers licensed in the Commonwealth.

"License" means a document issued by the Commission authorizing an individual or business entity to act as an insurance producer for the lines of authority specified in the document. Except as provided in § 38.2-1833, the license itself does not create any authority, actual, apparent or inherent, in the licensee to represent, commit, or bind an insurer.

"Licensed agent," "licensed insurance agent," "licensed producer," or "licensed insurance producer," when used without qualification, means an individual or business entity licensed in the Commonwealth to sell, solicit, or negotiate contracts of insurance or annuity of the classes authorized within the scope of such license.

"Life and annuities insurance agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate life insurance and annuity contracts as defined in §§ 38.2-102, 38.2-103, 38.2-104, 38.2-105.1, 38.2-106, and 38.2-107.1, respectively, and family leave insurance as defined in § 38.2-107.2, on behalf of insurers licensed in the Commonwealth.

"Limited burial insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate burial insurance society membership where the certificates of membership are used solely to fund preneed funeral contracts on any individual, on behalf of insurers licensed under Chapter 40 (§ 38.2-4000 et seq.); or to represent an association referred to in § 38.2-3318.1, limited to soliciting members of that association for association group life insurance certificates where the funds are used solely to fund preneed funeral contracts.

"Limited lines credit insurance agent" means an agent licensed in the Commonwealth whose authority is restricted to selling, soliciting, or negotiating, on behalf of insurers licensed in the Commonwealth, one or more of the following coverages to individuals through a master, corporate, group or individual policy: (i) credit life insurance and credit accident and sickness insurance, but only to the extent authorized in Chapter 37.1 (§ 38.2-3717 et seq.); (ii) credit involuntary unemployment insurance as defined in § 38.2-122.1; (iii) credit property insurance, as defined in § 38.2-122.2; (iv) mortgage accident and sickness insurance; (v) mortgage redemption insurance; (vi) mortgage guaranty insurance; and (vii) any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that the Commission specifically determines may be sold, solicited, or negotiated by those holding a limited lines credit insurance agent license. Each insurer that sells, solicits or negotiates any of the coverages set forth in this definition shall provide to each individual whose duties will include selling, soliciting or

negotiating such coverages a program of instruction that may, at the discretion of the Commission, be submitted for approval by the Commission or reviewed by the Commission subsequent to its implementation.

"Limited lines life and health agent" means an individual or business entity authorized by the Commission whose license authority to sell, solicit, or negotiate is limited to the following, or any other type of authority that the Commission may deem it necessary to recognize for the purposes of complying with § 38.2-1836: dental services authority; limited burial insurance authority; mutual assessment life and health insurance authority; optometric services authority; and dental plan organization authority. Limited lines life and health insurance shall not include life insurance, health insurance, property insurance, casualty insurance, *private family leave insurance,* and title insurance.

"Limited lines property and casualty agent" means an individual or business entity authorized by the Commission whose license authority to sell, solicit, or negotiate is limited to the following, or any other type of authority that the Commission may deem it necessary to recognize for the purposes of complying with § 38.2-1836: home protection insurance authority; legal services insurance authority; mutual assessment property and casualty insurance authority; ocean marine insurance authority; pet accident, sickness and hospitalization insurance authority; portable electronics insurance authority; self storage insurance authority; and travel insurance. Unless otherwise defined, "limited lines property and casualty insurance" shall not include life insurance, health insurance, property insurance, casualty insurance, *private family leave insurance,* and title insurance.

"Mortgage accident and sickness insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate mortgage accident and sickness insurance on behalf of insurers licensed in the Commonwealth.

"Mortgage guaranty insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate mortgage guaranty insurance on behalf of insurers licensed in the Commonwealth.

"Mortgage redemption insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate mortgage redemption insurance on behalf of insurers licensed in the Commonwealth. As used in this chapter, "mortgage redemption insurance" means a nonrenewable, nonconvertible, decreasing term life insurance policy written in connection with a mortgage transaction for a period of time coinciding with the term of the mortgage. The initial sum shall not exceed the amount of the indebtedness outstanding at the time the insurance becomes effective, rounded up to the next $1,000.

"Motor vehicle rental contract enroller" means an unlicensed hourly or salaried employee of a motor vehicle rental company that is in the business of providing primarily private motor vehicles to the public under a rental agreement for a period of less than six months, and receives no direct or indirect commission from the insurer, the renter or the vehicle rental company.

"Motor vehicle rental contract insurance agent" means a person who (i) is a selling agent of a motor vehicle rental company that is in the business of providing primarily private passenger motor vehicles to the public under a rental agreement for a period of less than six months and (ii) whose license in the Commonwealth is restricted to selling, soliciting, or negotiating only the following insurance coverages, and solely in connection with and incidental to the rental contract:

1. Personal accident insurance that provides benefits in the event of accidental death or injury occurring during the rental period;

2. Liability coverage sold to the renter in excess of the rental company's obligations under § 38.2-2204, 38.2-2205, or Title 46.2, as applicable;

3. Personal effects insurance that provides coverages for the loss of or damage to the personal effects of the renter and other vehicle occupants while such personal effects are in or upon the rental vehicle during the rental period;

4. Roadside assistance and emergency sickness protection programs; and

5. Other travel-related or vehicle-related insurance coverage that a motor vehicle rental company offers in connection with and incidental to the rental of vehicles.

The term "motor vehicle rental contract insurance agent" does not include motor vehicle rental contract enrollers.

"Mutual assessment life and health insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate mutual assessment life and accident and sickness insurance on behalf of insurers licensed under Chapter 39 (§ 38.2-3900 et seq.), but only to the extent permitted under § 38.2-3919.

"Mutual assessment property and casualty insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate mutual assessment property and casualty insurance on behalf of insurers licensed under Chapter 25 (§ 38.2-2500 et seq.), but only to the extent permitted under § 38.2-2525.

"NAIC" means the National Association of Insurance Commissioners.

"Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

"Ocean marine insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate those classes of insurance classified in § 38.2-126, except those classes specifically classified as inland marine insurance, on behalf of insurers licensed in the Commonwealth.

"Optometric services authority" means the authority in the Commonwealth to sell, solicit, or negotiate optometric services plan contracts on behalf of optometric services plans licensed under Chapter 45 (§ 38.2-4500 et seq.).

"Personal lines agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate insurance as defined in §§ 38.2-110 through 38.2-114, 38.2-116, 38.2-117, 38.2-118, 38.2-124, 38.2-125, 38.2-126, 38.2-129, 38.2-130, and 38.2-131 for transactions involving insurance primarily for personal, family, or household needs rather than for business or professional needs.

"Pet accident, sickness and hospitalization insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate pet accident, sickness and hospitalization insurance on behalf of insurers licensed in the Commonwealth.

"Property and casualty insurance agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate both personal and commercial lines of insurance as defined in §§ *38.2-107.2,* 38.2-110 through 38.2-122.2, and ~~§§~~ 38.2-124 through 38.2-134 on behalf of insurers licensed in the Commonwealth.

"Resident" means (i) an individual residing in Virginia; (ii) an individual residing outside of Virginia whose principal place of business is in Virginia, who is able to demonstrate to the satisfaction of the Commission that the laws of his home state prevent him from obtaining a resident agent license in that state, and who affirmatively chooses to qualify as and be treated as a resident of Virginia for purposes of licensing and continuing education, both in Virginia and in the state in which the individual resides, if applicable; (iii) a partnership duly formed and recorded in Virginia; (iv) a corporation incorporated and existing under the laws of Virginia; (v) a limited liability company organized and existing under the laws of Virginia; or (vi) a foreign business entity that is not licensed as a resident agent in any other jurisdiction, and that demonstrates to the satisfaction of the Commission that its principal place of business is within the Commonwealth of Virginia.

"Restricted nonresident health agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a health agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

"Restricted nonresident life and annuities agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a life and annuities agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

"Restricted nonresident personal lines agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a personal lines agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

"Restricted nonresident property and casualty agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a property and casualty agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

"Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

"Settlement agent" means a person licensed as a title insurance agent and registered with the Virginia State Bar pursuant to Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1.

"Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular class of insurance from one or more insurers.

"Surety bail bondsman" means a person licensed as a surety bail bondsman pursuant to Article 11 (§ 9.1-185 et seq.) of Chapter 1 of Title 9.1.

"Surplus lines broker" means a person licensed pursuant to Article 5.1 (§ 38.2-1857.1 et seq.) of this chapter, and who is thereby authorized to engage in the activities set forth in Chapter 48 (§ 38.2-4805.1 et seq.).

"Terminate" means the cancellation of the relationship between an insurance producer and the insurer, or the termination of an insurance producer's authority to transact insurance.

"Title insurance agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate title insurance, and performing all of the services set forth in § 38.2-4601.1, on behalf of title insurance companies licensed under Chapter 46 (§ 38.2-4600 et seq.).

"Uniform Application" means the current version of the NAIC Uniform Application for resident and nonresident producer licensing.

"Uniform Business Entity Application" means the current version of the NAIC Uniform Business Entity Application for resident and nonresident business entities.

"Variable contract agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate variable life insurance and variable annuity contracts on behalf of insurers licensed in the Commonwealth.

"Viatical settlement broker" means a person licensed pursuant to Chapter 60 (§ 38.2-6000 et seq.), in accordance with Article 6.1 (§ 38.2-1865.1 et seq.) of this chapter, and who is thereby authorized to engage in the activities set forth in Chapter 60 (§ 38.2-6000 et seq.).

CHAPTER 339

An Act to amend and reenact § 38.2-1800 of the Code of Virginia, relating to insurance agents; definitions; private family leave insurance.

[S 1000]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-1800 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-1800. Definitions.

As used in this chapter:

"Agent," "insurance agent," "producer," or "insurance producer," when used without qualification, means an individual or business entity that sells, solicits, or negotiates contracts of insurance or annuity in the Commonwealth.

"Appointed agent," "appointed insurance agent," "appointed producer," or "appointed insurance producer," when used without qualification, means an individual or business entity licensed in the Commonwealth to sell, solicit, or negotiate contracts of insurance or annuity of the classes authorized within the scope of such license and who is appointed by a company licensed in the Commonwealth to sell, solicit, or negotiate on its behalf contracts of insurance of the classes authorized within the scope of such license and, if authorized by the company, may collect premiums on those contracts.

"Business entity" means a partnership, limited partnership, limited liability company, corporation, or other legal entity other than a sole proprietorship.

"Dental plan organization authority" means the authority in the Commonwealth to sell, solicit, or negotiate dental benefit contracts on behalf of dental plan organizations licensed under Chapter 61 (§ 38.2-6100 et seq.).

"Dental services authority" means the authority in the Commonwealth to sell, solicit, or negotiate dental services plan contracts on behalf of dental services plans licensed under Chapter 45 (§ 38.2-4500 et seq.).

"Filed" means received by the Commission.

"Health agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate insurance as defined in §§ *38.2-107.2,* 38.2-108*,* and 38.2-109, and including contracts issued by insurers, health services plans, health maintenance organizations, dental services plans, optometric services plans, and dental plan organizations licensed in the Commonwealth.

"Home protection insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate home protection insurance as defined in § 38.2-129 on behalf of insurers licensed in the Commonwealth.

"Home state" means the District of Columbia and any state or territory of the United States, except Virginia, or any province of Canada, in which an insurance producer maintains such person's principal place of residence or principal place of business and is licensed by that jurisdiction to act as a resident insurance producer.

"Legal services insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate legal services insurance as defined in § 38.2-127 on behalf of insurers licensed in the Commonwealth.

"License" means a document issued by the Commission authorizing an individual or business entity to act as an insurance producer for the lines of authority specified in the document. Except as provided in § 38.2-1833, the license itself does not create any authority, actual, apparent or inherent, in the licensee to represent, commit, or bind an insurer.

"Licensed agent," "licensed insurance agent," "licensed producer," or "licensed insurance producer," when used without qualification, means an individual or business entity licensed in the Commonwealth to sell, solicit, or negotiate contracts of insurance or annuity of the classes authorized within the scope of such license.

"Life and annuities insurance agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate life insurance and annuity contracts as defined in §§ 38.2-102, 38.2-103, 38.2-104, 38.2-105.1, 38.2-106, and 38.2-107.1, respectively, and family leave insurance as defined in § 38.2-107.2, on behalf of insurers licensed in the Commonwealth.

"Limited burial insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate burial insurance society membership where the certificates of membership are used solely to fund preneed funeral contracts on any individual, on behalf of insurers licensed under Chapter 40 (§ 38.2-4000 et seq.); or to represent an association referred to in § 38.2-3318.1, limited to soliciting members of that association for association group life insurance certificates where the funds are used solely to fund preneed funeral contracts.

"Limited lines credit insurance agent" means an agent licensed in the Commonwealth whose authority is restricted to selling, soliciting, or negotiating, on behalf of insurers licensed in the Commonwealth, one or more of the following coverages to individuals through a master, corporate, group or individual policy: (i) credit life insurance and credit accident and sickness insurance, but only to the extent authorized in Chapter 37.1 (§ 38.2-3717 et seq.); (ii) credit involuntary unemployment insurance as defined in § 38.2-122.1; (iii) credit property insurance, as defined in § 38.2-122.2; (iv) mortgage accident and sickness insurance; (v) mortgage redemption insurance; (vi) mortgage guaranty insurance; and (vii) any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that the Commission specifically determines may be sold, solicited, or negotiated by those holding a limited lines credit insurance agent license. Each insurer that sells, solicits or negotiates any of the coverages set forth in this definition shall provide to each individual whose duties will include selling, soliciting or

negotiating such coverages a program of instruction that may, at the discretion of the Commission, be submitted for approval by the Commission or reviewed by the Commission subsequent to its implementation.

"Limited lines life and health agent" means an individual or business entity authorized by the Commission whose license authority to sell, solicit, or negotiate is limited to the following, or any other type of authority that the Commission may deem it necessary to recognize for the purposes of complying with § 38.2-1836: dental services authority; limited burial insurance authority; mutual assessment life and health insurance authority; optometric services authority; and dental plan organization authority. Limited lines life and health insurance shall not include life insurance, health insurance, property insurance, casualty insurance, *private family leave insurance,* and title insurance.

"Limited lines property and casualty agent" means an individual or business entity authorized by the Commission whose license authority to sell, solicit, or negotiate is limited to the following, or any other type of authority that the Commission may deem it necessary to recognize for the purposes of complying with § 38.2-1836: home protection insurance authority; legal services insurance authority; mutual assessment property and casualty insurance authority; ocean marine insurance authority; pet accident, sickness and hospitalization insurance authority; portable electronics insurance authority; self storage insurance authority; and travel insurance. Unless otherwise defined, "limited lines property and casualty insurance" shall not include life insurance, health insurance, property insurance, casualty insurance, *private family leave insurance,* and title insurance.

"Mortgage accident and sickness insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate mortgage accident and sickness insurance on behalf of insurers licensed in the Commonwealth.

"Mortgage guaranty insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate mortgage guaranty insurance on behalf of insurers licensed in the Commonwealth.

"Mortgage redemption insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate mortgage redemption insurance on behalf of insurers licensed in the Commonwealth. As used in this chapter, "mortgage redemption insurance" means a nonrenewable, nonconvertible, decreasing term life insurance policy written in connection with a mortgage transaction for a period of time coinciding with the term of the mortgage. The initial sum shall not exceed the amount of the indebtedness outstanding at the time the insurance becomes effective, rounded up to the next $1,000.

"Motor vehicle rental contract enroller" means an unlicensed hourly or salaried employee of a motor vehicle rental company that is in the business of providing primarily private motor vehicles to the public under a rental agreement for a period of less than six months, and receives no direct or indirect commission from the insurer, the renter or the vehicle rental company.

"Motor vehicle rental contract insurance agent" means a person who (i) is a selling agent of a motor vehicle rental company that is in the business of providing primarily private passenger motor vehicles to the public under a rental agreement for a period of less than six months and (ii) whose license in the Commonwealth is restricted to selling, soliciting, or negotiating only the following insurance coverages, and solely in connection with and incidental to the rental contract:

1. Personal accident insurance that provides benefits in the event of accidental death or injury occurring during the rental period;

2. Liability coverage sold to the renter in excess of the rental company's obligations under § 38.2-2204, 38.2-2205, or Title 46.2, as applicable;

3. Personal effects insurance that provides coverages for the loss of or damage to the personal effects of the renter and other vehicle occupants while such personal effects are in or upon the rental vehicle during the rental period;

4. Roadside assistance and emergency sickness protection programs; and

5. Other travel-related or vehicle-related insurance coverage that a motor vehicle rental company offers in connection with and incidental to the rental of vehicles.

The term "motor vehicle rental contract insurance agent" does not include motor vehicle rental contract enrollers.

"Mutual assessment life and health insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate mutual assessment life and accident and sickness insurance on behalf of insurers licensed under Chapter 39 (§ 38.2-3900 et seq.), but only to the extent permitted under § 38.2-3919.

"Mutual assessment property and casualty insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate mutual assessment property and casualty insurance on behalf of insurers licensed under Chapter 25 (§ 38.2-2500 et seq.), but only to the extent permitted under § 38.2-2525.

"NAIC" means the National Association of Insurance Commissioners.

"Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

"Ocean marine insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate those classes of insurance classified in § 38.2-126, except those classes specifically classified as inland marine insurance, on behalf of insurers licensed in the Commonwealth.

"Optometric services authority" means the authority in the Commonwealth to sell, solicit, or negotiate optometric services plan contracts on behalf of optometric services plans licensed under Chapter 45 (§ 38.2-4500 et seq.).

"Personal lines agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate insurance as defined in §§ 38.2-110 through 38.2-114, 38.2-116, 38.2-117, 38.2-118, 38.2-124, 38.2-125, 38.2-126, 38.2-129, 38.2-130, and 38.2-131 for transactions involving insurance primarily for personal, family, or household needs rather than for business or professional needs.

"Pet accident, sickness and hospitalization insurance authority" means the authority in the Commonwealth to sell, solicit, or negotiate pet accident, sickness and hospitalization insurance on behalf of insurers licensed in the Commonwealth.

"Property and casualty insurance agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate both personal and commercial lines of insurance as defined in §§ *38.2-107.2,* 38.2-110 through 38.2-122.2, and ~~§§~~ 38.2-124 through 38.2-134 on behalf of insurers licensed in the Commonwealth.

"Resident" means (i) an individual residing in Virginia; (ii) an individual residing outside of Virginia whose principal place of business is in Virginia, who is able to demonstrate to the satisfaction of the Commission that the laws of his home state prevent him from obtaining a resident agent license in that state, and who affirmatively chooses to qualify as and be treated as a resident of Virginia for purposes of licensing and continuing education, both in Virginia and in the state in which the individual resides, if applicable; (iii) a partnership duly formed and recorded in Virginia; (iv) a corporation incorporated and existing under the laws of Virginia; (v) a limited liability company organized and existing under the laws of Virginia; or (vi) a foreign business entity that is not licensed as a resident agent in any other jurisdiction, and that demonstrates to the satisfaction of the Commission that its principal place of business is within the Commonwealth of Virginia.

"Restricted nonresident health agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a health agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

"Restricted nonresident life and annuities agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a life and annuities agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

"Restricted nonresident personal lines agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a personal lines agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

"Restricted nonresident property and casualty agent" means a nonresident agent whose license authority in his home state does not include all of the authority granted under a property and casualty agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in his home state.

"Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

"Settlement agent" means a person licensed as a title insurance agent and registered with the Virginia State Bar pursuant to Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1.

"Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular class of insurance from one or more insurers.

"Surety bail bondsman" means a person licensed as a surety bail bondsman pursuant to Article 11 (§ 9.1-185 et seq.) of Chapter 1 of Title 9.1.

"Surplus lines broker" means a person licensed pursuant to Article 5.1 (§ 38.2-1857.1 et seq.) of this chapter, and who is thereby authorized to engage in the activities set forth in Chapter 48 (§ 38.2-4805.1 et seq.).

"Terminate" means the cancellation of the relationship between an insurance producer and the insurer, or the termination of an insurance producer's authority to transact insurance.

"Title insurance agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate title insurance, and performing all of the services set forth in § 38.2-4601.1, on behalf of title insurance companies licensed under Chapter 46 (§ 38.2-4600 et seq.).

"Uniform Application" means the current version of the NAIC Uniform Application for resident and nonresident producer licensing.

"Uniform Business Entity Application" means the current version of the NAIC Uniform Business Entity Application for resident and nonresident business entities.

"Variable contract agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate variable life insurance and variable annuity contracts on behalf of insurers licensed in the Commonwealth.

"Viatical settlement broker" means a person licensed pursuant to Chapter 60 (§ 38.2-6000 et seq.), in accordance with Article 6.1 (§ 38.2-1865.1 et seq.) of this chapter, and who is thereby authorized to engage in the activities set forth in Chapter 60 (§ 38.2-6000 et seq.).

CHAPTER 340

An Act to amend and reenact §§ 63.2-900, as it is currently effective and as it shall become effective, 63.2-904, 63.2-1231, and 63.2-1734 of the Code of Virginia, relating to adoption and foster care; home study reciprocity.

[H 1744]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-900, as it is currently effective and as it shall become effective, 63.2-904, 63.2-1231, and 63.2-1734 of the Code of Virginia are amended and reenacted as follows:

§ 63.2-900. (Effective until date pursuant to Va. Const., Art. IV, § 13) Accepting children for placement in homes, facilities, etc., by local boards.

A. Pursuant to § 63.2-319, a local board shall have the right to accept for placement in suitable family homes, children's residential facilities or independent living arrangements, subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, such persons under 18 years of age as may be entrusted to it by the parent, parents or guardian, committed by any court of competent jurisdiction, or placed through an agreement between it and the parent, parents or guardians where legal custody remains with the parent, parents, or guardians.

The Board shall adopt regulations for the provision of foster care services by local boards, which shall be directed toward the prevention of unnecessary foster care placements and towards the immediate care of and permanent planning for children in the custody of or placed by local boards and that shall achieve, as quickly as practicable, permanent placements for such children. The local board shall first seek out kinship care options to keep children out of foster care and as a placement option for those children in foster care, if it is in the child's best interests, pursuant to § 63.2-900.1. In cases in which a child cannot be returned to his prior family or placed for adoption and kinship care is not currently in the best interests of the child, the local board shall consider the placement and services that afford the best alternative for protecting the child's welfare. Placements may include but are not limited to family foster care, treatment foster care and residential care. Services may include but are not limited to assessment and stabilization, diligent family search, intensive in-home, intensive wraparound, respite, mentoring, family mentoring, adoption support, supported adoption, crisis stabilization or other community-based services. The Board shall also approve in foster care policy the language of the agreement required in § 63.2-902. The agreement shall include at a minimum a Code of Ethics and mutual responsibilities for all parties to the agreement.

Within 30 days of accepting for foster care placement a person under 18 years of age whose father is unknown, the local board shall request a search of the Virginia Birth Father Registry established pursuant to Article 7 (§ 63.2-1249 et seq.) of Chapter 12 to determine whether any man has registered as the putative father of the child. If the search results indicate that a man has registered as the putative father of the child, the local board shall contact the man to begin the process to determine paternity.

The local board shall, in accordance with the regulations adopted by the Board and in accordance with the entrustment agreement or other order by which such person is entrusted or committed to its care, have custody and control of the person so entrusted or committed to it until he is lawfully discharged, has been adopted or has attained his majority.

Whenever a local board places a child where legal custody remains with the parent, parents or guardians, the board shall enter into an agreement with the parent, parents or guardians. The agreement shall specify the responsibilities of each for the care and control of the child.

The local board shall have authority to place for adoption, and to consent to the adoption of, any child properly committed or entrusted to its care when the order of commitment or entrustment agreement between the parent or parents and the agency provides for the termination of all parental rights and responsibilities with respect to the child for the purpose of placing and consenting to the adoption of the child.

The local board shall also have the right to accept temporary custody of any person under 18 years of age taken into custody pursuant to subdivision B of § 16.1-246 or § 63.2-1517. The placement of a child in a foster home, whether within or without the Commonwealth, shall not be for the purpose of adoption unless the placement agreement between the foster parents and the local board specifically so stipulates.

B. Prior to the approval of any family for placement of a child, a home study shall be completed and the prospective foster or adoptive parents shall be informed that information about shaken baby syndrome, its effects, and resources for help and support for caretakers is available on a website maintained by the Department as prescribed in regulations adopted by the Board. Home studies by local boards *and licensed child-placing agencies* shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department. *All home studies, including all related approval documentation other than background checks, conducted pursuant to this section, whether by a local board or a licensed child-placing agency, shall be transferable between all localities, local boards, and licensed child-placing agencies within the Commonwealth at the request of the prospective foster parent, subject to any time limitations or other requirements imposed by law or regulation.*

C. Prior to placing any such child in any foster home or children's residential facility, the local board shall enter into a written agreement with the foster parents, pursuant to § 63.2-902, or other appropriate custodian setting forth therein the conditions under which the child is so placed pursuant to § 63.2-902. However, if a child is placed in a children's residential

facility licensed as a temporary emergency shelter, and a verbal agreement for placement is secured within eight hours of the child's arrival at the facility, the written agreement does not need to be entered into prior to placement, but shall be completed and signed by the local board and the facility representative within 24 hours of the child's arrival or by the end of the next business day after the child's arrival.

Agreements entered into pursuant to this subsection shall include a statement by the local board that all reasonably ascertainable background, medical, and psychological records of the child, including whether the child has been the subject of an investigation as the perpetrator of sexual abuse, have been provided to the foster home or children's residential facility.

D. Within 72 hours of placing a child of school age in a foster care placement, as defined in § 63.2-100, the local social services agency making such placement shall, in writing, (i) notify the principal of the school in which the student is to be enrolled and the superintendent of the relevant school division or his designee of such placement, and (ii) inform the principal of the status of the parental rights.

If the documents required for enrollment of the foster child pursuant to § 22.1-3.1, 22.1-270 or 22.1-271.2, are not immediately available upon taking the child into custody, the placing social services agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster child within 30 days after the child's enrollment.

E. Every local board shall submit to the Department through its statewide automated system the names of all foster parents licensed to provide foster care services in the locality served by the local board and update such list quarterly.

§ 63.2-900. (Effective pursuant to Va. Const., Art. IV, § 13) Accepting children for placement in homes, facilities, etc., by local boards.

A. Pursuant to § 63.2-319, a local board shall have the right to accept for placement in suitable family homes, children's residential facilities or independent living arrangements, subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, such persons under 18 years of age as may be entrusted to it by the parent, parents or guardian, committed by any court of competent jurisdiction, or placed through an agreement between it and the parent, parents or guardians where legal custody remains with the parent, parents, or guardians.

The Board shall adopt regulations for the provision of foster care services by local boards, which shall be directed toward the prevention of unnecessary foster care placements and towards the immediate care of and permanent planning for children in the custody of or placed by local boards and that shall achieve, as quickly as practicable, permanent placements for such children. The local board shall first seek out kinship care options to keep children out of foster care and as a placement option for those children in foster care, if it is in the child's best interests, pursuant to § 63.2-900.1. In cases in which a child cannot be returned to his prior family or placed for adoption and kinship care is not currently in the best interests of the child, the local board shall consider the placement and services that afford the best alternative for protecting the child's welfare. Placements may include but are not limited to family foster care, treatment foster care, and residential care; however, the local board shall seek to place the child with a foster family within the locality of the local board or a nearby locality through the collaborative local board placement program set forth in subsection F, provided that such placement is in the best interests of the child. Services may include but are not limited to assessment and stabilization, diligent family search, intensive in-home, intensive wraparound, respite, mentoring, family mentoring, adoption support, supported adoption, crisis stabilization or other community-based services. The Board shall also approve in foster care policy the language of the agreement required in § 63.2-902. The agreement shall include at a minimum a Code of Ethics and mutual responsibilities for all parties to the agreement.

Within 30 days of accepting for foster care placement a person under 18 years of age whose father is unknown, the local board shall request a search of the Virginia Birth Father Registry established pursuant to Article 7 (§ 63.2-1249 et seq.) of Chapter 12 to determine whether any man has registered as the putative father of the child. If the search results indicate that a man has registered as the putative father of the child, the local board shall contact the man to begin the process to determine paternity.

The local board shall, in accordance with the regulations adopted by the Board and in accordance with the entrustment agreement or other order by which such person is entrusted or committed to its care, have custody and control of the person so entrusted or committed to it until he is lawfully discharged, has been adopted or has attained his majority.

Whenever a local board places a child where legal custody remains with the parent, parents or guardians, the board shall enter into an agreement with the parent, parents or guardians. The agreement shall specify the responsibilities of each for the care and control of the child.

The local board shall have authority to place for adoption, and to consent to the adoption of, any child properly committed or entrusted to its care when the order of commitment or entrustment agreement between the parent or parents and the agency provides for the termination of all parental rights and responsibilities with respect to the child for the purpose of placing and consenting to the adoption of the child.

The local board shall also have the right to accept temporary custody of any person under 18 years of age taken into custody pursuant to subdivision B of § 16.1-246 or § 63.2-1517. The placement of a child in a foster home, whether within or without the Commonwealth, shall not be for the purpose of adoption unless the placement agreement between the foster parents and the local board specifically so stipulates.

B. Prior to the approval of any family for placement of a child, a home study shall be completed and the prospective foster or adoptive parents shall be informed that information about shaken baby syndrome, its effects, and resources for help and support for caretakers is available on a website maintained by the Department as prescribed in regulations adopted by the Board. Home studies by local boards *or licensed child-placing agencies* shall be conducted in accordance with the

Mutual Family Assessment home study template and any addenda thereto developed by the Department. *All home studies, including all related approval documentation other than background checks, conducted pursuant to this section, whether by a local board or a licensed child-placing agency, shall be transferable between all localities, local boards, and licensed child-placing agencies within the Commonwealth at the request of the prospective foster parent, subject to any time limitations or other requirements imposed by law or regulation.*

C. Prior to placing any such child in any foster home or children's residential facility, the local board shall enter into a written agreement with the foster parents, pursuant to § 63.2-902, or other appropriate custodian setting forth therein the conditions under which the child is so placed pursuant to § 63.2-902. However, if a child is placed in a children's residential facility licensed as a temporary emergency shelter, and a verbal agreement for placement is secured within eight hours of the child's arrival at the facility, the written agreement does not need to be entered into prior to placement, but shall be completed and signed by the local board and the facility representative within 24 hours of the child's arrival or by the end of the next business day after the child's arrival.

Agreements entered into pursuant to this subsection shall include a statement by the local board that all reasonably ascertainable background, medical, and psychological records of the child, including whether the child has been the subject of an investigation as the perpetrator of sexual abuse, have been provided to the foster home or children's residential facility.

D. Within 72 hours of placing a child of school age in a foster care placement, as defined in § 63.2-100, the local social services agency making such placement shall, in writing, (i) notify the principal of the school in which the student is to be enrolled and the superintendent of the relevant school division or his designee of such placement, and (ii) inform the principal of the status of the parental rights.

If the documents required for enrollment of the foster child pursuant to § 22.1-3.1, 22.1-270 or 22.1-271.2, are not immediately available upon taking the child into custody, the placing social services agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster child within 30 days after the child's enrollment.

E. Every local board shall submit to the Department through its statewide automated system the names of all foster parents licensed to provide foster care services in the locality served by the local board and update such list quarterly.

F. The Department shall establish and implement a collaborative local board placement program to increase kinship placements and the number of locally approved foster homes. Such program shall require local boards within each Department of Social Services region to work collaboratively to (i) facilitate approval of kinship foster parents through engagement, assessment, and training and (ii) expand the pool of available foster homes within and across the localities of such local boards.

§ 63.2-904. Investigation, visitation, and supervision of foster homes or independent living arrangement; removal of child.

A. Before placing or arranging for the placement of any such child in a foster home or independent living arrangement, a local board or licensed child-placing agency shall cause a careful study to be made to determine the suitability of such home or independent living arrangement, and after placement shall cause such home or independent living arrangement and child to be visited as often as necessary to protect the interests of such child. Home studies by local boards *or licensed child-placing agencies* shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department. *All home studies, including all related approval documentation other than background checks, conducted pursuant to this section, whether by a local board or a licensed child-placing agency, shall be transferable between all localities, local boards, and licensed child-placing agencies within the Commonwealth at the request of the prospective foster parent, subject to any time limitations or other requirements imposed by law or regulation.*

B. Every local board or licensed child-placing agency that places a child in a foster home or independent living arrangement shall maintain such supervision over such home or independent living arrangement as shall be required by the standards and policies established by the Board.

C. Whenever any child placed by a local board or licensed child-placing agency and still under its control or supervision is subject, in the home in which he is placed, to unwholesome influences or to neglect or mistreatment, or whenever the Commissioner shall so order, such local board or agency shall cause the child to be removed from such home and shall make for him such arrangements as may be approved by the Commissioner. Notwithstanding any other provision of law, the Commissioner shall have the authority to place, remove, or direct the placement or removal of any child who is under the supervision and control of a local board or licensed child-placing agency. Pursuant to such authority, the Commissioner shall remove or direct the removal of any child placed by a local board or licensed child-placing agency in a foster home or children's residential facility that fails to comply with any state or federal requirements intended to protect the child's health, safety, or well-being.

D. Consistent with the reasonable and prudent parent standard defined in 42 U.S.C. § 675(10)(A), caregivers for children in foster care shall support normalcy for such children. The Board shall adopt regulations to assist local boards and licensed child-placing agencies in carrying out practices that support careful and sensible parental decisions that maintain the health, safety, and best interest of the child while at the same time encouraging his emotional and developmental growth.

§ 63.2-1231. Home study; meeting required; exception.

A. Prior to the consent hearing in the juvenile and domestic relations district court, a home study of the adoptive parent(s) shall be completed by a licensed or duly authorized child-placing agency and the prospective adoptive parents shall be informed that information about shaken baby syndrome, its effects, and resources for help and support for caretakers is available on a website maintained by the Department in accordance with regulations adopted by the Board.

Home studies by local boards *or licensed child-placing agencies* shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department. *All home studies, including all related approval documentation other than background checks, conducted pursuant to this section, whether by a local board or a licensed child-placing agency, shall be transferable between all localities, local boards, and licensed child-placing agencies within the Commonwealth at the request of the prospective adoptive parent, subject to any time limitations set forth in subsection B and any other requirements imposed by law or regulation.*

All home studies conducted pursuant to this section, whether by a local board or a child-placing agency, shall make inquiry as to (i) whether the prospective adoptive parents are financially able, morally suitable, and in satisfactory physical and mental health to enable them to care for the child; (ii) the physical and mental condition of the child, if known; (iii) the circumstances under which the child came to live, or will be living, in the home of the prospective adoptive family, as applicable; (iv) what fees have been paid by the prospective adoptive family or in their behalf in the placement and adoption of the child; (v) whether the requirements of subdivisions A 1, ~~A~~ 2, ~~A~~ 3, and ~~A~~ 5 of § 63.2-1232 have been met; and (vi) any other matters specified by the circuit court. In the course of the home study, the agency social worker, family-services specialist, or other qualified equivalent worker shall meet at least once with the birth parent(s) and at least once with the prospective adoptive parents. Upon agreement of both parties, such meetings may occur simultaneously or separately.

B. Any home study conducted pursuant to this section for the purpose of parental placement or agency placement shall be valid for a period of 36 months from the date of completion of the study. However, the Board may, by regulation, require an additional state criminal background check before finalizing an adoption if more than 18 months have passed from the completion of the home study.

§ 63.2-1734. Regulations for child welfare agencies.

A. The Board shall adopt regulations for the activities, services, and facilities to be employed by persons and agencies required to be licensed under this subtitle, which shall be designed to ensure that such activities, services, and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies.

B. Such regulations shall be developed in consultation with representatives of the affected entities and shall include, but need not be limited to, matters relating to the sex, age, and number of children and other persons to be maintained, cared for, or placed out, as the case may be, and to the buildings and premises to be used, and reasonable standards for the activities, services, and facilities to be employed. Such limitations and standards shall be specified in each license and renewal thereof. Such regulations shall not require the adoption of a specific teaching approach or doctrine or require the membership, affiliation, or accreditation services of any single private accreditation or certification agency.

C. All home studies of prospective adoptive parents by local boards or child-placing agencies licensed for adoption services shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department. Such home studies, including all related approval documentation other than background checks, conducted pursuant to this section, whether by a local board or a licensed child-placing agency, shall be transferable between all localities, local boards, and licensed child-placing agencies within the Commonwealth at the request of the prospective adoptive parent, subject to any time limitations or other requirements imposed by law or regulation.

2. That the provisions of the first enactment of this act shall become effective on January 1, 2024.

3. That the State Board of Social Services (the Board) shall promulgate regulations to implement the provisions of this act, including regulations that establish market rates for home studies conducted by local boards of social services or licensed child-placing agencies for the purpose of foster care, independent living arrangements, or adoption placements. The Board's initial adoption of regulations to implement the provisions of this act shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

CHAPTER 341

An Act to amend and reenact § 54.1-3411 of the Code of Virginia, relating to prescription refills; insulin; authority of pharmacists to refill prescriptions.

[H 2139]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3411 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3411. When prescriptions may be refilled.

Prescriptions may be refilled as follows:

1. A prescription for a drug in Schedule II may not be refilled.

2. A prescription for a drug in Schedules III or IV may not be filled or refilled more than six months after the date on which such prescription was issued and no such prescription may be authorized to be refilled, nor be refilled, more than five times, except that any prescription for such a drug after six months from the date of issue, or after being refilled five times, may be renewed by the prescriber issuing it either in writing, or orally, if promptly reduced to writing and filed by the pharmacist filling it.

3. A prescription in Schedule VI may not be refilled~~,~~ unless authorized by the prescriber either on the face of the original prescription or orally by the prescriber except as provided in subdivision 4 ~~of this section~~. Oral instructions shall be reduced promptly to writing by the pharmacist and filed on or with the original prescription.

4. A prescription for a drug controlled by Schedule VI*, including insulin,* may be refilled without authorization from the prescriber if reasonable effort has been made to communicate with the prescriber, and the pharmacist has determined that he is not available and the patient's health would be in imminent danger without the benefits of the drug. *Authorization to refill under this subdivision also exists when the pharmacist only has access to the label on a prescription container.* The pharmacist shall inform the patient of the prescriber's unavailability and that the refill is being made without his authorization. The pharmacist shall promptly inform the prescriber of such refill. The date and quantity of the refill, the prescriber's unavailability*,* and the rationale for the refill shall be noted on the reverse side of the prescription.

CHAPTER 342

An Act to amend and reenact § 35.1-1 of the Code of Virginia, relating to Department of Health; restaurants; definition; emergency.

[S 1546]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 35.1-1 of the Code of Virginia is amended and reenacted as follows:

§ 35.1-1. Definitions.

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

"Bed-and-breakfast operation" means a residential-type establishment that provides (i) two or more rental accommodations for transient guests and food service to a maximum of 18 transient guests on any single day for five or more days in any calendar year or (ii) at least one rental accommodation for transient guests and food service to a maximum of 18 transient guests on any single day for 30 or more days in any calendar year.

"Board" or "State Board" means the State Board of Health.

"Campground" means any area, place, parcel, or tract of land, by whatever name called, on which three or more campsites are occupied or intended for occupancy, or facilities are established or maintained, wholly or in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the campsites and facilities is granted gratuitously, or by rental fee, lease, or conditional sale, or by covenants, restrictions, and easements, including any travel trailer camp, recreation camp, family campground, camping resort, or camping community. "Campground" does not mean a summer camp, migrant labor camp, or park for manufactured homes as defined in this section and in §§ 32.1-203 and 36-85.3, or a construction camp, storage area for unoccupied camping units, or property upon which the individual owner may choose to camp and not be prohibited or encumbered by covenants, restrictions, and conditions from providing his sanitary facilities within his property lines.

"Camping unit" means any device or vehicular type structure for use as temporary living quarters or shelter during periods of recreation, vacation, leisure time, or travel, including any tent, tent trailer, travel trailer, camping trailer, pickup camper, or motor home.

"Campsite" means any plot of ground within a campground used or intended for occupation by the camping unit.

"Certified food protection manager" means a person who has demonstrated proficiency in food safety issues, regulations, and techniques in maintaining a safe-food environment by passing a test and receiving a certification as part of a program that is accredited by the Board.

"Commissioner" means the State Health Commissioner.

"Department" means the State Department of Health.

"Hotel" means any place offering to the public for compensation transitory lodging or sleeping accommodations, overnight or otherwise, including facilities known by varying nomenclatures or designations as hotels, motels, travel lodges, tourist homes, or hostels.

"Person" means an individual, corporation, partnership, association, or any other legal entity.

"Restaurant" means:

1. Any place where food is prepared for service to the public on or off the premises, or any place where food is served, including lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and institutions of higher education, and kitchen areas of local correctional facilities subject to standards adopted under § 53.1-68.

2. Any place or operation that prepares or stores food for distribution to persons of the same business operation or of a related business operation for service to the public, including operations preparing or storing food for catering services, push cart operations, hotdog stands, and other mobile points of service.

3. Mobile points of service to which food is distributed by a place or operation described in subdivision 2 unless the point of service and of consumption is in a private residence.

4. Any place or operation that prepares or stores food for distribution to child or adult day care centers or schools, regardless of whether the receiving day care center or school holds a restaurant license.

"Restaurant" does not include any place manufacturing packaged or canned foods that are distributed to grocery stores or other similar retailers for sale to the public.

"Summer camp" means any building, tent, or vehicle, or group of buildings, tents, or vehicles, if operated as one place or establishment, or any other place or establishment, public or private, together with the land and waters adjacent thereto, that is operated or used in this Commonwealth for the entertainment, education, recreation, religious instruction or activities, physical education, or health of persons under 18 years of age who are not related to the operator of such place or establishment by blood or marriage within the third degree of consanguinity or affinity, if 12 or more such persons at any one time are accommodated, gratuitously or for compensation, overnight and during any portion of more than two consecutive days.

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

CHAPTER 343

An Act to direct the Department of Medical Assistance Services to evaluate its ability to comply with certain federal requirements; report.

[H 2158]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The Department of Medical Assistance Services (the Department) shall evaluate its ability to comply with the provisions of § 1902(a)(25)(I) of the Social Security Act by the effective compliance date of July 1, 2024. In conducting its evaluation, the Department shall convene a work group, including representatives of the State Corporation Commission, State-Based Exchange, and other stakeholders, to develop a communication plan to notify carriers of the changes required by such federal law. The Department shall report its findings and recommendations to the Chairs of the House Committee on Appropriations and Senate Committee on Finance and Appropriations by November 1, 2023.*

CHAPTER 344

An Act to amend and reenact § 58.1-3505 of the Code of Virginia, relating to personal property tax; farm equipment.

[H 1486]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3505 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3505. Classification of farm animals, certain grains, agricultural products, farm machinery, farm implements and equipment; governing body may exempt.

A. Farm animals, grains and other feeds used for the nurture of farm animals, agricultural products as defined in § 3.2-6400, farm machinery and farm implements are hereby defined as separate items of taxation and classified as follows:

1. Horses, mules and other kindred animals.

2. Cattle.

3. Sheep and goats.

4. Hogs.

5. Poultry.

6. Grains and other feeds used for the nurture of farm animals.

7. Grain; tobacco; wine produced by farm wineries as defined in § 4.1-100 and other agricultural products in the hands of a producer.

8. Farm machinery *and farm implements* other than the farm machinery *and farm implements* described in subdivision 10, ~~and farm implements,~~ which shall include (i) equipment and machinery used by farm wineries as defined in § 4.1-100 in the production of wine; (ii) equipment and machinery used by a nursery ~~as defined in~~ § ~~3.2-3800~~ for the production of horticultural products; ~~and~~ (iii) any farm tractor as defined in § 46.2-100, regardless of whether such farm tractor is used exclusively for agricultural purposes*; (iv) motor vehicles that are used primarily for agricultural purposes, for which the owner is not required to obtain a registration certificate, license plate, and decal or pay a registration fee pursuant to § 46.2-665, 46.2-666, or 46.2-670; and (v) privately owned trailers as defined in § 46.2-100 that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subdivisions 1 through 7. For purposes of this section, "nursery" means any premises where nursery stock is propagated, grown, fumigated, treated, packed, stored, or otherwise prepared for sale or distribution, and "nursery stock" means all trees, shrubs, woody vines (including ornamentals), bush fruits, grapevines, fruit trees, and nut trees offered for sale and distribution; all buds, grafts, scions, and cuttings from such plants; and any container, soil, and other packing material with such plants or plant products. "Nursery stock" also means herbaceous plants and any florist or greenhouse plants*.

9. Equipment used by farmers or farm cooperatives qualifying under § 521 of the Internal Revenue Code to manufacture industrial ethanol, provided that the materials from which the ethanol is derived consist primarily of farm products.

10. Farm machinery designed solely for the planting, production or harvesting of a single product or commodity.

11. ~~Privately~~ *Unless exempted by subdivision 8, privately* owned trailers as defined in § 46.2-100 that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subdivisions 1 through 7.

12. ~~Motor~~ *Unless exempted by subdivision 8, motor* vehicles that are used primarily for agricultural purposes, for which the owner is not required to obtain a registration certificate, license plate, and decal or pay a registration fee pursuant to § 46.2-665, 46.2-666, or 46.2-670.

13. Trucks or tractor trucks as defined in § 46.2-100, that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subdivisions 1 through 7 or for the transport of farm-related machinery.

14. Farm machinery and farm implements, other than the farm machinery and farm implements described in subdivisions 8 and 10, which shall include equipment and machinery used for forest harvesting and silvicultural activities.

15. Farm machinery and farm implements, other than the farm machinery and farm implements described in subdivisions 8, 10, and 14, which shall include season-extending vegetable hoop houses used for in-field production of produce.

B. The governing body of any county, city or town may, by ordinance duly adopted, exempt in whole or in part from taxation, or provide a different rate of tax upon, all or any of the above classes of farm animals, grains and feeds used for the nurture of farm animals, farm vehicles, and farm machinery, implements or equipment set forth in subsection A.

C. Grain; tobacco; wine produced by farm wineries as defined in § 4.1-100; and other agricultural products, as defined in § 3.2-6400, shall be exempt from taxation under this chapter while in the hands of a producer.

2. That any locality that exempts agricultural motor vehicles or trailers from tangible personal property taxation pursuant to subdivision A 8, 10, or 14 of § 58.1-3505 of the Code of Virginia, as amended by this act, shall not collect any unpaid tangible personal property taxes, including any interest, penalties, or other charges owed with respect to such property, that are owed to the locality as of July 1, 2023, and such unpaid taxes shall be deemed uncollectable pursuant to § 58.1-3921 of the Code of Virginia and stricken from the books of the treasurer.

CHAPTER 345

An Act to amend and reenact §§ 58.1-3230 and 58.1-3234 of the Code of Virginia, relating to land use classifications; property qualifications.

[S 1511]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3230 and 58.1-3234 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3230. Special classifications of real estate established and defined.

For the purposes of this article the following special classifications of real estate are established and defined:

"Real estate devoted to agricultural use" shall mean real estate devoted to the bona fide production for sale of plants and animals, or products made from such plants and animals on the real estate, that are useful to man or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to soil and water conservation programs under an agreement with an agency of the state or federal government under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). *"Real estate devoted to agricultural use" shall include a property that formerly participated in such a state or federal soil and water conservation program and continues to meet the qualifications of such program but is no longer receiving payments or compensation.* Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for a profit or otherwise shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to agricultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to agricultural use. In determining whether real property is devoted to agricultural use, zoning designations and special use permits for the property shall not be the sole considerations. *The presence of noxious weeds, as defined in § 3.2-800, or woody growth shall not be the sole basis for the denial of such designation or for the exclusion of such land for the purposes*

of determining minimum acreage if the landowner provides documentation, in the form of receipts or invoices, of a regular or annual control method of such weeds or growth.

"Real estate devoted to horticultural use" shall mean real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; nursery and floral products; and plants or products directly produced from fruits, vegetables, nursery and floral products, or plants on such real estate or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil and water conservation program under an agreement with an agency of the state or federal government under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). *"Real estate devoted to horticultural use" shall include a property that formerly participated in such a state or federal soil and water conservation program and continues to meet the qualifications of such program but is no longer receiving payments or compensation.* Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for profit or otherwise shall be considered real estate devoted to horticultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to horticultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to horticultural use. In determining whether real property is devoted to horticultural use, zoning designations and special use permits for the property shall not be the sole considerations.

"Real estate devoted to forest use" shall mean land, including the standing timber and trees thereon, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester pursuant to the authority set out in § 58.1-3240 and in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the authority set out in § 58.1-3240. Real property that has been designated as devoted to forest use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or is otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to forest use. In determining whether real property is devoted to forest use, zoning designations and special use permits for the property shall not be the sole considerations.

"Real estate devoted to open-space use" shall mean real estate used as, or preserved for, (i) park or recreational purposes, including public or private golf courses, (ii) conservation of land or other natural resources, (iii) floodways, (iv) wetlands as defined in § 58.1-3666, (v) riparian buffers as defined in § 58.1-3666, (vi) historic or scenic purposes, or (vii) assisting in the shaping of the character, direction, and timing of community development or for the public interest and consistent with the local land-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § 58.1-3240 and in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and the local ordinance. Prior, discontinued use of property shall not be considered in determining its current use. Real property that has been designated as devoted to open-space use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or is otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to open-space use. In determining whether real property is devoted to open-space use, zoning designations and special use permits for the property shall not be the sole considerations.

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

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

1. The property owner shall submit an initial application, unless it is a revalidation form, at least 60 days preceding the tax year for which such taxation is sought;

2. In any year in which a general reassessment is being made, the property owner may submit such application until 30 days have elapsed after his notice of increase in assessment is mailed in accordance with § 58.1-3330, or 60 days preceding the tax year, whichever is later; or

3. In any locality which has adopted a fiscal tax year under Chapter 30 (§ 58.1-3000 et seq.), but continues to assess as of January 1, such application shall be submitted for any year at least 60 days preceding the effective date of the assessment for such year.

The governing body, by ordinance, may permit applications to be filed within no more than 60 days after the filing deadline specified herein, upon the payment of a late filing fee to be established by the governing body. In addition, a locality may, by ordinance, permit a further extension of the filing deadline specified herein, upon payment of an extension fee to be established by the governing body in an amount not to exceed the late filing fee, to a date not later than 30 days after notices of assessments are mailed. An individual who is owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors, cannot be located, or represent a minority interest in such parcel. An application shall be submitted whenever the use or acreage of such land previously approved changes; however, no application fee may be required when a change in acreage occurs solely as a result of a conveyance necessitated by governmental action or condemnation of a portion of any land previously approved for taxation on the basis of use assessment. The governing body of any locality may, however, require any such property owner to revalidate at least every six years with such locality, on or before the date on which the last installment of property tax prior to the effective date of the assessment is due, on forms prepared by the Department, any applications previously approved. Each locality that has adopted an ordinance hereunder may provide for the imposition of a revalidation fee every sixth year. Such revalidation fee shall not, however, exceed the application fee currently charged by the locality. The governing body may also provide for late filing of revalidation forms on or before the effective date of the assessment, on payment of a late filing fee. Forms shall be prepared by the Department and supplied to the locality for use of the applicants and applications shall be submitted on such forms. An application fee may be required to accompany all such applications. *The application form shall allow a landowner who received payments or compensation as a result of the former participation of his property in a state or federal soil and water conservation program, and whose property continues to meet the qualifications of such program but is no longer receiving such payments or compensation, to certify that the land continues to meet the requirements of such program for the purposes of classification pursuant to § 58.1-3230.*

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

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

In the event that the locality provides for a sliding scale under an ordinance, the property owner and the locality shall execute a written agreement which sets forth the period of time that the property shall remain within the classes of real estate set forth in § 58.1-3230. The term of the written agreement shall be for a period not exceeding 20 years, and the instrument shall be recorded in the office of the clerk of the circuit court for the locality in which the subject property is located.

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

CHAPTER 346

An Act to amend and reenact §§ 51.1-303 and 51.1-304 of the Code of Virginia, relating to Judicial Retirement System; creditable service and contributions; absence; emergency.

[S 1449]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-303 and 51.1-304 of the Code of Virginia are amended and reenacted as follows:

§ 51.1-303. Creditable service.

A. For those members in service on December 31, 1994, service as a judge shall be multiplied by a factor of 3.5, the weighted years of service factor, to calculate years of creditable service. To calculate years of creditable service for those members appointed or elected to an original term commencing on or after January 1, 1995, service as a judge shall be multiplied by the weighted years of service factor of 2.5. To calculate years of creditable service for those members appointed or elected to an original term commencing on or after July 1, 2010, the following formula shall be used: if (i) the member was less than 45 years old at the time he was appointed or elected to such original term, then service as a judge

shall be multiplied by the weighted years of service factor of 1.5, (ii) the member was at least 45 years old but less than 55 years old at the time he was appointed or elected to such original term, then service as a judge shall be multiplied by the weighted years of service factor of 2.0, and (iii) the member was at least 55 years old at the time he was appointed or elected to such original term, then service as a judge shall be multiplied by the weighted years of service factor of 2.5. For purposes of this section, "original term" means the first term for which the member was appointed or elected to a position covered by the Judicial Retirement System.

B. Service qualifying for credit under the provisions of the Virginia Retirement System, the State Police Officers' Retirement System, and the Virginia Law Officers' Retirement System shall be included as creditable service for the purposes of this chapter, provided the requirements of those systems for crediting service have been complied with. Service purchased in accordance with the provisions of § 51.1-142.2 shall not be considered in determining the actuarial equivalent for early retirement nor shall it be considered twice in determining any disability allowance payable under this chapter.

C. If a member ceases to be a judge, has not received a refund of the accumulated contributions credited to his member's contribution account, and accepts employment in a position covered by a "retirement plan administered by the Virginia Retirement System" as defined under § 51.1-124.3, he shall be entitled to credit for his previous creditable service under this chapter. The amount of service transferred to the credit of the member in such other retirement plan shall not exceed the amount of credit which would provide a benefit of 78 percent of average final compensation determined on the assumption that the member was eligible for normal retirement as of the date of transfer and that he had elected no optional allowance. Future retirement rights shall be as provided under the applicable retirement plan. However, the annual retirement allowance payable to such person accepting employment in a position covered by any other retirement plan administered by the Virginia Retirement System shall not exceed 78 percent of the person's average final compensation, unless the person has been credited with five or more years of creditable service under such other retirement plan for service performed after ceasing to be a judge. In no case shall the annual retirement allowance payable to such person exceed 100 percent of his average final compensation.

D. There shall be subtracted from any creditable service the entire amount of time during which a judge is absent from his duties for a period of greater than three months, unless that absence is due to a medical condition, disability, active duty military leave, or family emergency and the existence of the medical condition, disability, active duty military leave, or family emergency is documented in a written communication signed under penalty of perjury by the judge or other authorized representative and submitted promptly to the Virginia Retirement System and the Executive Secretary of the Supreme Court of Virginia.

§ 51.1-304. Contributions by Commonwealth.

The Commonwealth shall contribute an amount equal to the sum of the normal contribution, any accrued liability contribution, and any supplementary contribution. The amount shall be determined and paid as provided in Chapter 1 (§ 51.1-124.1 et seq.). Notwithstanding the foregoing provisions of this section, member contributions and employer contributions for judges appointed or elected to an original term commencing on or after January 1, 2014, shall be determined under the provisions of the hybrid retirement program described in § 51.1-169. *However, during any period that a judge is absent for a period of greater than three months from his duties, the employer shall not make any contributions otherwise required pursuant to subdivision B 2 of § 51.1-169, unless that absence is due to a medical condition, disability, active duty military leave, or family emergency and the existence of the medical condition, disability, active duty military leave, or family emergency is documented in a written communication signed under penalty of perjury by the judge or other authorized representative and submitted promptly to the Virginia Retirement System and the Executive Secretary of the Supreme Court of Virginia.*

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

CHAPTER 347

An Act to amend and reenact § 22.1-291.1:1 of the Code of Virginia, relating to school counselors; staff time.

[H 2187]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-291.1:1 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-291.1:1. School counselors; staff time.

A. As used in this section:

"Appraisal and advisement" means the act of assisting students in exploring their abilities, interests, skills, and achievement to make decisions and develop immediate and long-range goals and plans.

"Consultation, collaboration, and referrals" means the act of (i) providing information to and receiving information from individuals or teams to support a student's needs; (ii) working and communicating with parents, teachers, administrators, other school staff, and community stakeholders to (a) promote achievement for a specific student or (b) promote systemic change to address the needs of groups of underserved or underrepresented groups of students; and (iii) referring students to outside providers and resources as necessary.

"Crisis counseling" means the act of providing counseling to individual students or small groups of students to help such students navigate critical situations such as emergencies and crises.

"Direct counseling" means school counseling curriculum lessons and activities, individual counseling, small group counseling, crisis counseling, appraisal and advisement, and consultation, collaboration, and referrals. "Direct counseling" does not include program planning and school support.

"Individual counseling" means the act of providing developmentally appropriate, goal-focused, and brief counseling sessions to individual students to address issues relating to mental health and wellness, social and emotional development, academic achievement, and college and career readiness.

"Program planning and school support" means the act of defining, planning, managing, and assessing school counseling activities. "Program planning and school support" includes the act of reviewing data, creating annual student outcome goals, creating action plans and results reports, holding annual administrative conferences, monitoring use-of-time, creating annual and weekly calendars, and facilitating school counseling advisory councils.

"School counseling curriculum lessons and activities" means the act of providing data-informed lessons or activities at the classroom level or on a schoolwide basis to provide students with the knowledge, attitudes, and skills appropriate for their developmental levels.

"Small group counseling" means the act of providing counseling to small groups of students with similar developmental or situational challenges with the goal of improving achievement, attendance, mental health or wellness, or behavioral outcomes.

B. Each school counselor employed by a school board in a public elementary or secondary school shall spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students *and may spend up to 20 percent of his staff time during normal school hours on program planning and school support.*

CHAPTER 348

An Act to amend and reenact § 22.1-253.13:2, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to school psychologists; staffing flexibility.

[H 2124]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:2, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 22.1-253.13:2. (For Expiration Date, see 2022 Acts cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time

equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ the following reading specialists in elementary schools, one full-time in each elementary school at the discretion of the local school board. One reading specialist employed by each local school board that employs a reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board of Education.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training. Local school boards that employ a

sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such individuals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, clinical psychologists licensed by the Board of Psychology, provided that any such individual makes progress toward completing the requirements for full licensure as a school psychologist during such period of employment.

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

§ 22.1-253.13:2. (For Effective Date, see 2022 Acts cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of

Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ one reading specialist for each 550 students in kindergarten through grade three. Each such reading specialist shall have training in science-based reading research and evidence-based literacy instruction practices. In addition, each such reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board of Education.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training. Local school boards that employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such individuals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, clinical psychologists licensed by the Board of Psychology, provided that any such individual makes progress toward completing the requirements for full licensure as a school psychologist during such period of employment.

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

§ 22.1-253.13:2. (Effective pursuant to Va. Const., Art. IV, § 13; for Expiration Date, see Acts 2022, cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ the following reading specialists in elementary schools, one full-time in each elementary school at the discretion of the local school board. One reading specialist employed by each local school board that employs a reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board of Education.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals, one full-time in each elementary school, middle school, and high school, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training. Local school boards that employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such individuals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to

§ 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, clinical psychologists licensed by the Board of Psychology, provided that any such individual makes progress toward completing the requirements for full licensure as a school psychologist during such period of employment.

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

§ 22.1-253.13:2. (Effective pursuant to Va. Const, Art. IV, 13; for Effective Date, see Acts 2022, cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.

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C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that

the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ one reading specialist for each 550 students in kindergarten through grade three. Each such reading specialist shall have training in science-based reading research and evidence-based literacy instruction practices. In addition, each such reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board of Education.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals, one full-time in each elementary school, middle school, and high school, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions

that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training. Local school boards that employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such individuals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, clinical psychologists licensed by the Board of Psychology, provided that any such individual makes progress toward completing the requirements for full licensure as a school psychologist during such period of employment.

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

2. That the Department of Education shall consult the Virginia Academy of School Psychologists, and other stakeholders as necessary, to ensure that the process and criteria for provisionally licensed school psychologists to obtain full licensure as school psychologists appropriately address the challenges that are unique to school psychology training requirements and the school psychology profession generally.

CHAPTER 349

An Act to amend and reenact §§ 22.1-253.13:2, as it is currently effective and as it shall become effective, and 22.1-291.1:1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-272.2, relating to public education; student mental health and counseling; definitions; licensure requirements.

[S 1043]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-253.13:2, as it is currently effective and as it shall become effective, and 22.1-291.1:1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-272.2 as follows:

§ 22.1-253.13:2. (For Expiration Date, see 2022 Acts, cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no

later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board ~~of Education~~.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ the following reading specialists in elementary schools, one full-time in each elementary school at the discretion of the local school board. One reading specialist employed by each local school board that employs a reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high

schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training. Local school boards that employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such individuals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board ~~of Education~~ may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, clinical psychologists licensed by the Board of Psychology, provided that any such individual

makes progress toward completing the requirements for full licensure as a school psychologist during such period of employment.

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

§ 22.1-253.13:2. (For Effective Date, see 2022 Acts, cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time

equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board ~~of Education~~.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ one reading specialist for each 550 students in kindergarten through grade three. Each such reading specialist shall have training in science-based reading research and evidence-based literacy instruction practices. In addition, each such reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training. Local school boards that employ a

sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such individuals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board ~~of Education~~ may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, clinical psychologists licensed by the Board of Psychology, provided that any such individual makes progress toward completing the requirements for full licensure as a school psychologist during such period of employment.

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

§ 22.1-253.13:2. (Effective pursuant to Va. Const., Art. IV, § 13; for Expiration Date, see Acts 2022, cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board ~~of Education~~.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of

Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ the following reading specialists in elementary schools, one full-time in each elementary school at the discretion of the local school board. One reading specialist employed by each local school board that employs a reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals, one full-time in each elementary school, middle school, and high school, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training. Local school boards that employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such individuals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board ~~of Education~~ may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, clinical psychologists licensed by the Board of Psychology, provided that any such individual makes progress toward completing the requirements for full licensure as a school psychologist during such period of employment.

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

§ 22.1-253.13:2. (Effective pursuant to Va. Const, Art. IV, 13; for Effective Date, see Acts 2022, cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board ~~of Education~~.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ one reading specialist for each 550 students in kindergarten through grade three. Each such reading specialist shall have training in science-based reading research and evidence-based literacy instruction practices. In addition, each such reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals, one full-time in each elementary school, middle school, and high school, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training. Local school boards that employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such individuals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board ~~of Education~~ may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to

§ 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, clinical psychologists licensed by the Board of Psychology, provided that any such individual makes progress toward completing the requirements for full licensure as a school psychologist during such period of employment.

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

§ 22.1-272.2. Department; model memorandum of understanding; partnerships with community mental health services providers.

The Department, in consultation with the Department of Behavioral Health and Developmental Services and the Department of Medical Assistance Services, shall develop, adopt, and distribute to each school board a model memorandum of understanding between a school board and a public or private community mental health services provider that sets forth parameters for the provision of mental health services to public school students enrolled in the local school division by such provider, reflects effective practices, and addresses privacy considerations related to the exchange of information between the parties to the memorandum of understanding and relevant laws and regulations. The Department shall maintain and update as necessary the model memorandum of understanding to ensure that it remains current, useful, and relevant.

§ 22.1-291.1:1. School counselors; staff time.

A. As used in this section:

"Appraisal and advisement" means the act of assisting students in exploring their abilities, interests, skills, and achievement to make decisions and develop immediate and long-range goals and plans.

"Consultation, collaboration, and referrals" means the act of (i) providing information to and receiving information from individuals or teams to support a student's needs; (ii) working and communicating with parents, teachers,

administrators, other school staff, and community stakeholders to (a) promote achievement for a specific student or (b) promote systemic change to address the needs of groups of underserved or underrepresented groups of students; and (iii) referring students to outside providers and resources as necessary.

"Crisis counseling" means the act of providing counseling to individual students or small groups of students to help such students navigate critical situations such as emergencies and crises.

"Direct counseling" means school counseling curriculum lessons and activities, individual counseling, small group counseling, crisis counseling, appraisal and advisement, and consultation, collaboration, and referrals. "Direct counseling" does not include program planning and school support.

"Individual counseling" means the act of providing developmentally appropriate, goal-focused, and brief counseling sessions to individual students to address issues relating to mental health and wellness, social and emotional development, academic achievement, and college and career readiness.

"Program planning and school support" means the act of defining, planning, managing, and assessing school counseling activities. "Program planning and school support" includes the act of reviewing data, creating annual student outcome goals, creating action plans and results reports, holding annual administrative conferences, monitoring use-of-time, creating annual and weekly calendars, and facilitating school counseling advisory councils.

"School counseling curriculum lessons and activities" means the act of providing data-informed lessons or activities at the classroom level or on a schoolwide basis to provide students with the knowledge, attitudes, and skills appropriate for their developmental levels.

"Small group counseling" means the act of providing counseling to small groups of students with similar developmental or situational challenges with the goal of improving achievement, attendance, mental health or wellness, or behavioral outcomes.

B. Each school counselor employed by a school board in a public elementary or secondary school shall spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students *and may spend up to 20 percent of his staff time during normal school hours on program planning and school support.*

2. That the Department of Education shall develop and make available to each local school board the model memorandum of understanding required by § 22.1-272.2 of the Code of Virginia, as created by this act, no later than the beginning of the 2023—2024 school year.

3. That the Department of Education shall consult the Virginia Academy of School Psychologists, and other stakeholders as necessary, to ensure that the process and criteria for provisionally licensed school psychologists to obtain full licensure as school psychologists appropriately address the challenges that are unique to school psychology training requirements and the school psychology profession generally.

CHAPTER 350

An Act to amend and reenact §§ 22.1-79 and 63.2-801 of the Code of Virginia, relating to Department of Social Services; school boards; SNAP benefits program parent information sheet; free or reduced price meals application.

[H 2025]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-79 and 63.2-801 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-79. Powers and duties.

~~A~~ *Each* school board shall:

1. See that the school laws are properly explained, enforced and observed;

2. Secure, by visitation or otherwise, as full information as possible about the conduct of the public schools in the school division and take care that they are conducted according to law and with the utmost efficiency;

3. Care for, manage and control the property of the school division and provide for the erecting, furnishing, equipping, and noninstructional operating of necessary school buildings and appurtenances and the maintenance thereof by purchase, lease, or other contracts;

4. Provide for the consolidation of schools or redistricting of school boundaries or adopt pupil assignment plans whenever such procedure will contribute to the efficiency of the school division;

5. Insofar as not inconsistent with state statutes and regulations of the Board ~~of Education~~, operate and maintain the public schools in the school division and determine the length of the school term, the studies to be pursued, the methods of teaching and the government to be employed in the schools;

6. In instances in which no grievance procedure has been adopted prior to January 1, 1991, establish and administer by July 1, 1992, a grievance procedure for all school board employees, except the division superintendent and those employees covered under the provisions of Article 2 (§ 22.1-293 et seq.) and Article 3 (§ 22.1-306 et seq.) of Chapter 15 of this title, who have completed such probationary period as may be required by the school board, not to exceed 18 months. The grievance procedure shall afford a timely and fair method of the resolution of disputes arising between the school board and such employees regarding dismissal or other disciplinary actions, excluding suspensions, and shall be consistent with the provisions of the Board ~~of Education's~~ procedures for adjusting grievances. Except in the case of dismissal, suspension, or

other disciplinary action, the grievance procedure prescribed by the Board ~~of Education~~ pursuant to § 22.1-308 shall apply to all full-time employees of a school board, except supervisory employees;

7. Perform such other duties as shall be prescribed by the Board ~~of Education~~ or as are imposed by law;

8. Obtain public comment through a public hearing not less than 10 days after reasonable notice to the public in a newspaper of general circulation in the school division prior to providing (i) for the consolidation of schools; (ii) the transfer from the public school system of the administration of all instructional services for any public school classroom or all noninstructional services in the school division pursuant to a contract with any private entity or organization; or (iii) in school divisions having 15,000 pupils or more in average daily membership, for redistricting of school boundaries or adopting any pupil assignment plan affecting the assignment of 15 percent or more of the pupils in average daily membership in the affected school. Such public hearing may be held at the same time and place as the meeting of the school board at which the proposed action is taken if the public hearing is held before the action is taken. If a public hearing has been held prior to the effective date of this provision on a proposed consolidation, redistricting or pupil assignment plan which is to be implemented after the effective date of this provision, an additional public hearing shall not be required;

9. (Expires July 1, 2025) At least annually, survey the school division to identify critical shortages of (i) teachers and administrative personnel by subject matter and (ii) school bus drivers and report such critical shortages to the Superintendent ~~of Public Instruction~~ and to the Virginia Retirement System; however, the school board may request the division superintendent to conduct such survey and submit such report to the school board, the Superintendent, and the Virginia Retirement System; ~~and~~

10. Ensure that the public schools within the school division are registered with the Department of State Police to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within that school division pursuant to § 9.1-914*;*

11. Ensure that the information sheet on the SNAP benefits program developed and provided by the Department of Social Services pursuant to subsection D of § 63.2-801 is sent home with each student enrolled in a public elementary or secondary school in the local school division at the beginning of each school year or, in the case of any student who enrolls after the beginning of the school year, as soon as practicable after enrollment; and

12. Ensure that a fillable free or reduced price meals application is sent home with each student enrolled in a public elementary or secondary school in the local school division at the beginning of each school year or, in the case of any student who enrolls after the beginning of the school year, as soon as practicable after enrollment.

§ 63.2-801. SNAP benefits program.

A. The Board is authorized, in accordance with the federal Food Stamp Act, to implement a SNAP benefits program in which each political subdivision in the Commonwealth shall participate. Such program shall include participation in the Restaurant Meals Program and shall be administered in conformity with the Board regulations.

B. To the extent authorized by federal law and regulations, the Board shall (i) establish broad-based categorical eligibility for SNAP benefits in accordance with 7 C.F.R. § 273.2(j)(2), (ii) set the gross income eligibility standard for SNAP benefits at 200 percent of the federal poverty guidelines, and (iii) not impose an asset limit for eligibility for SNAP benefits.

C. The Board shall increase opportunities for self-sufficiency through postsecondary education by allowing SNAP benefits program participants, to the greatest extent allowed by federal law and regulations, to satisfy applicable employment and training requirements through enrollment in an accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia. The Board shall (i) identify postsecondary education opportunities in the Commonwealth that meet the definition of "employment and training program" as set forth in 7 C.F.R. § 271.2 and the definition of "career and technical education" as set forth in 20 U.S.C. § 2302; (ii) average a SNAP benefits program participant's classroom and study hours on a monthly basis to determine whether the SNAP benefits program participant has met applicable education hour requirements; (iii) deem a SNAP benefits program participant who is approved for a federal or state work study position but who has not yet been placed in a work study position to have satisfied applicable employment and training requirements, as permitted under federal law; (iv) create a standardized form and process for SNAP benefits program participants to verify compliance with education requirements; (v) allow accredited public institutions of higher education or other postsecondary schools licensed or certified by the Board of Education or the State Council of Higher Education for Virginia to apply for SNAP ET third party reimbursement designation through the established procurement process; and (vi) establish and make available to SNAP benefits program participants materials that provide clear guidance regarding satisfaction of employment and training requirements through postsecondary education.

D. The Department shall develop, annually update, and provide to each school board in advance of the start of each school year an information sheet on the SNAP benefits program that sets forth the application process and such other information as the Department deems necessary or appropriate in order to properly inform the parents of students enrolled in public elementary and secondary schools of such program and encourage application by those who are eligible.

CHAPTER 351

An Act to amend and reenact §§ 2.2-3106 and 2.2-3132 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act; Virginia Conflict of Interest and Ethics Advisory Council; training for members of appointed school boards.

[H 2122]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3106 and 2.2-3132 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3106. Prohibited contracts by officers and employees of state government and Eastern Virginia Medical School.

A. No officer or employee of any governmental agency of state government or Eastern Virginia Medical School shall have a personal interest in a contract with the governmental agency of which he is an officer or employee, other than his own contract of employment.

B. No officer or employee of any governmental agency of state government or Eastern Virginia Medical School shall have a personal interest in a contract with any other governmental agency of state government unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee's personal interest in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over the employment or the employment activities of the member of his immediate family and the employee is not in a position to influence those activities;

2. The personal interest of an officer or employee of a public institution of higher education or the Eastern Virginia Medical School in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided (i) the officer or employee and the immediate family member are engaged in teaching, research or administrative support positions at the educational institution or the Eastern Virginia Medical School, (ii) the governing board of the educational institution finds that it is in the best interests of the institution or the Eastern Virginia Medical School and the Commonwealth for such dual employment to exist, and (iii) after such finding, the governing board of the educational institution or the Eastern Virginia Medical School ensures that the officer or employee, or the immediate family member, does not have sole authority to supervise, evaluate or make personnel decisions regarding the other;

3. An officer's or employee's personal interest in a contract of employment with any other governmental agency of state government;

4. Contracts for the sale by a governmental agency or the Eastern Virginia Medical School of services or goods at uniform prices available to the general public;

5. An employee's personal interest in a contract between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he has authored or otherwise created such textbooks or materials;

6. An employee's personal interest in a contract with his or her employing public institution of higher education to acquire the collections or scholarly works owned by the employee, including manuscripts, musical scores, poetry, paintings, books or other materials, writings, or papers of an academic, research, or cultural value to the institution, provided the president of the institution approves the acquisition of such collections or scholarly works as being in the best interests of the institution's public mission of service, research, or education;

7. Subject to approval by the board of visitors, an employee's personal interest in a contract between the Eastern Virginia Medical School or a public institution of higher education in the Commonwealth that operates a school of medicine or dentistry and a not-for-profit nonstock corporation that operates a clinical practice within such public institution of higher education or the Eastern Virginia Medical School and of which such employee is a member or employee;

8. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract for research and development or commercialization of intellectual property between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a business in which the employee has a personal interest, if (i) the employee's personal interest has been disclosed to and approved by such public institution of higher education or the Eastern Virginia Medical School prior to the time at which the contract is entered into; (ii) the employee promptly files a disclosure statement pursuant to § 2.2-3117 and thereafter files such statement annually on or before ~~January 15~~ *February 1*; (iii) the institution has established a formal policy regarding such contracts, approved by the State Council of Higher Education or, in the case of the Eastern Virginia Medical School, a formal policy regarding such contracts in conformity with any applicable federal regulations that has been approved by its board of visitors; and (iv) no later than December 31 of each year, the institution or the Eastern Virginia Medical School files an annual report with the Secretary of the Commonwealth disclosing each open contract entered into subject to this provision, the names of the parties to each

contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth; or

9. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a business in which the employee has a personal interest, if (i) the personal interest has been disclosed to the institution or the Eastern Virginia Medical School prior to the time the contract is entered into; (ii) the employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually on or before ~~January 15~~ *February 1*; (iii) the employee does not participate in the institution's or the Eastern Virginia Medical School's decision to contract; (iv) the president of the institution or the Eastern Virginia Medical School finds and certifies in writing that the contract is for goods and services needed for quality patient care, including related medical education or research, by the institution's medical center or the Eastern Virginia Medical School, its affiliated teaching hospitals and other organizations necessary for the fulfillment of its mission, including the acquisition of drugs, therapies and medical technologies; and (v) no later than December 31 of each year, the institution or the Eastern Virginia Medical School files an annual report with the Secretary of the Commonwealth disclosing each open contract entered subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth.

D. Notwithstanding the provisions of subdivisions C 8 and C 9, if the research and development or commercialization of intellectual property or the employee's personal interest in a contract with a business is subject to policies and regulations governing conflicts of interest promulgated by any agency of the United States government, including the adoption of policies requiring the disclosure and management of such conflicts of interests, the policies established by the Eastern Virginia Medical School pursuant to such federal requirements shall constitute compliance with subdivisions C 8 and C 9, upon notification by the Eastern Virginia Medical School to the Secretary of the Commonwealth by January 31 of each year of evidence of their compliance with such federal policies and regulations.

E. The board of visitors may delegate the authority granted under subdivision C 8 to the president of the institution. If the board elects to delegate such authority, the board shall include this delegation of authority in the formal policy required by clause (iii) of subdivision C 8. In those instances where the board has delegated such authority, on or before December 1 of each year, the president of the relevant institution shall file a report with the relevant board of visitors disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, the details of how revenues are to be dispersed, and any other information requested by the board of visitors.

§ 2.2-3132. Training on prohibited conduct and conflicts of interest.

A. The Council shall provide training sessions for local elected officials*, the members of appointed school boards,* and the executive directors and members of industrial development authorities and economic development authorities, as created by the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), on the provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). The Council may provide such training sessions by online means.

B. Each local elected official *and member of an appointed school board,* and the executive director and members of each industrial development authority and economic development authority, as created by the Industrial Development and Revenue Bond Act, shall complete the training session described in subsection A within two months after assuming the local ~~elected~~ office and thereafter at least once during each consecutive period of two calendar years while he holds such office, commencing with the date on which he last completed a training session. No penalty shall be imposed on a local elected official*, a member of an appointed school board,* or an executive director or member of an industrial development authority or an economic development authority for failing to complete a training session.

C. The clerk of the respective governing body or school board shall maintain records indicating local elected officials*, members of appointed school boards,* and executive directors and members of industrial development authorities and economic development authorities subject to the training requirement and the dates of their completion of a training session pursuant to subsection B. Such records shall be maintained as public records for five years in the office of the clerk of the respective governing body or school board.

CHAPTER 352

An Act to amend and reenact §§ 2.2-3106 and 2.2-3132 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act; Virginia Conflict of Interest and Ethics Advisory Council; training for members of appointed school boards.

[S 1460]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3106 and 2.2-3132 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3106. Prohibited contracts by officers and employees of state government and Eastern Virginia Medical School.

A. No officer or employee of any governmental agency of state government or Eastern Virginia Medical School shall have a personal interest in a contract with the governmental agency of which he is an officer or employee, other than his own contract of employment.

B. No officer or employee of any governmental agency of state government or Eastern Virginia Medical School shall have a personal interest in a contract with any other governmental agency of state government unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee's personal interest in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over the employment or the employment activities of the member of his immediate family and the employee is not in a position to influence those activities;

2. The personal interest of an officer or employee of a public institution of higher education or the Eastern Virginia Medical School in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided (i) the officer or employee and the immediate family member are engaged in teaching, research or administrative support positions at the educational institution or the Eastern Virginia Medical School, (ii) the governing board of the educational institution finds that it is in the best interests of the institution or the Eastern Virginia Medical School and the Commonwealth for such dual employment to exist, and (iii) after such finding, the governing board of the educational institution or the Eastern Virginia Medical School ensures that the officer or employee, or the immediate family member, does not have sole authority to supervise, evaluate or make personnel decisions regarding the other;

3. An officer's or employee's personal interest in a contract of employment with any other governmental agency of state government;

4. Contracts for the sale by a governmental agency or the Eastern Virginia Medical School of services or goods at uniform prices available to the general public;

5. An employee's personal interest in a contract between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he has authored or otherwise created such textbooks or materials;

6. An employee's personal interest in a contract with his or her employing public institution of higher education to acquire the collections or scholarly works owned by the employee, including manuscripts, musical scores, poetry, paintings, books or other materials, writings, or papers of an academic, research, or cultural value to the institution, provided the president of the institution approves the acquisition of such collections or scholarly works as being in the best interests of the institution's public mission of service, research, or education;

7. Subject to approval by the board of visitors, an employee's personal interest in a contract between the Eastern Virginia Medical School or a public institution of higher education in the Commonwealth that operates a school of medicine or dentistry and a not-for-profit nonstock corporation that operates a clinical practice within such public institution of higher education or the Eastern Virginia Medical School and of which such employee is a member or employee;

8. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract for research and development or commercialization of intellectual property between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a business in which the employee has a personal interest, if (i) the employee's personal interest has been disclosed to and approved by such public institution of higher education or the Eastern Virginia Medical School prior to the time at which the contract is entered into; (ii) the employee promptly files a disclosure statement pursuant to § 2.2-3117 and thereafter files such statement annually on or before ~~January 15~~ *February 1*; (iii) the institution has established a formal policy regarding such contracts, approved by the State Council of Higher Education or, in the case of the Eastern Virginia Medical School, a formal policy regarding such contracts in conformity with any applicable federal regulations that has been approved by its board of visitors; and (iv) no later than December 31 of each year, the institution or the Eastern Virginia Medical School files an annual report with the Secretary of the Commonwealth disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth; or

9. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a business in which the employee has a personal interest, if (i) the personal interest has been disclosed to the institution or the Eastern Virginia Medical School prior to the time the contract is entered into; (ii) the employee files a disclosure statement pursuant to

§ 2.2-3117 and thereafter annually on or before ~~January 15~~ *February 1*; (iii) the employee does not participate in the institution's or the Eastern Virginia Medical School's decision to contract; (iv) the president of the institution or the Eastern Virginia Medical School finds and certifies in writing that the contract is for goods and services needed for quality patient care, including related medical education or research, by the institution's medical center or the Eastern Virginia Medical School, its affiliated teaching hospitals and other organizations necessary for the fulfillment of its mission, including the acquisition of drugs, therapies and medical technologies; and (v) no later than December 31 of each year, the institution or the Eastern Virginia Medical School files an annual report with the Secretary of the Commonwealth disclosing each open contract entered subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth.

D. Notwithstanding the provisions of subdivisions C 8 and C 9, if the research and development or commercialization of intellectual property or the employee's personal interest in a contract with a business is subject to policies and regulations governing conflicts of interest promulgated by any agency of the United States government, including the adoption of policies requiring the disclosure and management of such conflicts of interests, the policies established by the Eastern Virginia Medical School pursuant to such federal requirements shall constitute compliance with subdivisions C 8 and C 9, upon notification by the Eastern Virginia Medical School to the Secretary of the Commonwealth by January 31 of each year of evidence of their compliance with such federal policies and regulations.

E. The board of visitors may delegate the authority granted under subdivision C 8 to the president of the institution. If the board elects to delegate such authority, the board shall include this delegation of authority in the formal policy required by clause (iii) of subdivision C 8. In those instances where the board has delegated such authority, on or before December 1 of each year, the president of the relevant institution shall file a report with the relevant board of visitors disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, the details of how revenues are to be dispersed, and any other information requested by the board of visitors.

§ 2.2-3132. Training on prohibited conduct and conflicts of interest.

A. The Council shall provide training sessions for local elected officials*, the members of appointed school boards,* and the executive directors and members of industrial development authorities and economic development authorities, as created by the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), on the provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). The Council may provide such training sessions by online means.

B. Each local elected official *and member of an appointed school board,* and the executive director and members of each industrial development authority and economic development authority, as created by the Industrial Development and Revenue Bond Act, shall complete the training session described in subsection A within two months after assuming the local ~~elected~~ office and thereafter at least once during each consecutive period of two calendar years while he holds such office, commencing with the date on which he last completed a training session. No penalty shall be imposed on a local elected official*, a member of an appointed school board,* or an executive director or member of an industrial development authority or an economic development authority for failing to complete a training session.

C. The clerk of the respective governing body or school board shall maintain records indicating local elected officials*, members of appointed school boards,* and executive directors and members of industrial development authorities and economic development authorities subject to the training requirement and the dates of their completion of a training session pursuant to subsection B. Such records shall be maintained as public records for five years in the office of the clerk of the respective governing body or school board.

CHAPTER 353

An Act to amend and reenact § 15.2-2223 of the Code of Virginia, relating to comprehensive plan; strategies to address resilience.

[H 1634]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2223 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2223. Comprehensive plan to be prepared and adopted; scope and purpose.

A. The local planning commission shall prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction and every governing body shall adopt a comprehensive plan for the territory under its jurisdiction.

In the preparation of a comprehensive plan, the commission shall make careful and comprehensive surveys and studies of the existing conditions and trends of growth, and of the probable future requirements of its territory and inhabitants. The

comprehensive plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities.

The comprehensive plan shall be general in nature, in that it shall designate the general or approximate location, character, and extent of each feature, including any road improvement and any transportation improvement, shown on the plan and shall indicate where existing lands or facilities are proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use as the case may be.

B. 1. As part of the comprehensive plan, each locality shall develop a transportation plan that designates a system of transportation infrastructure needs and recommendations that include the designation of new and expanded transportation facilities and that support the planned development of the territory covered by the plan and shall include, as appropriate, but not be limited to, roadways, bicycle accommodations, pedestrian accommodations, railways, bridges, waterways, airports, ports, and public transportation facilities. The plan shall recognize and differentiate among a hierarchy of roads such as expressways, arterials, and collectors. In developing the plan, the locality shall take into consideration how to align transportation infrastructure and facilities with affordable, accessible housing and community services that are located within the territory in order to facilitate community integration of the elderly and persons with disabilities. The Virginia Department of Transportation shall, upon request, provide localities with technical assistance in preparing such transportation plan.

2. The transportation plan shall include a map that shall show road and transportation improvements, including the cost estimates of such road and transportation improvements from the Virginia Department of Transportation, taking into account the current and future needs of residents in the locality while considering the current and future needs of the planning district within which the locality is situated.

3. The transportation plan, and any amendment thereto pursuant to § 15.2-2229, shall be consistent with the Commonwealth Transportation Board's Statewide Transportation Plan developed pursuant to § 33.2-353, the Six-Year Improvement Program adopted pursuant to subsection B of § 33.2-214, and the location of routes to be followed by roads comprising systems of state highways pursuant to subsection A of § 33.2-208. The locality shall consult with the Virginia Department of Transportation to assure such consistency is achieved. The transportation plan need reflect only those changes in the annual update of the Six-Year Improvement Program that are deemed to be significant new, expanded, or relocated roadways.

4. Prior to the adoption of the transportation plan or any amendment to the transportation plan, the locality shall submit such plan or amendment to the Department for review and comment. The Department shall conduct its review and provide written comments to the locality on the consistency of the transportation plan or any amendment to the provisions of subdivision 1. The Department shall provide such written comments to the locality within 90 days of receipt of the plan or amendment, or such other shorter period of time as may be otherwise agreed upon by the Department and the locality.

5. The locality shall submit a copy of the adopted transportation plan or any amendment to the transportation plan to the Department for informational purposes. If the Department determines that the transportation plan or amendment is not consistent with the provisions of subdivision 1, the Department shall notify the Commonwealth Transportation Board so that the Board may take appropriate action in accordance with subsection F of § 33.2-214.

6. If the adopted transportation plan designates corridors planned to be served by mass transit, as defined in § 33.2-100, a portion of its allocation from (i) the Northern Virginia Transportation Authority distribution specified in subdivision B 1 of § 33.2-2510, (ii) the commercial and industrial real property tax revenue specified in § 58.1-3221.3, and (iii) the secondary system road construction program, as described in Article 5 (§ 33.2-351 et seq.) of Chapter 3 of Title 33.2, may be used for the purpose of utility undergrounding in the planned corridor, if the locality matches 100 percent of the state allocation.

7. Each locality's amendments or updates to its transportation plan as required by subdivisions 2 through 5 shall be made on or before its ongoing scheduled date for updating its transportation plan.

C. The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the locality's long-range recommendations for the general development of the territory covered by the plan. It may include, but need not be limited to:

1. The designation of areas for various types of public and private development and use, such as different kinds of residential, including age-restricted, housing; business; industrial; agricultural; mineral resources; conservation; active and passive recreation; public service; flood plain and drainage; and other areas;

2. The designation of a system of community service facilities such as parks, sports playing fields, forests, schools, playgrounds, public buildings and institutions, hospitals, nursing homes, assisted living facilities, community centers, waterworks, sewage disposal or waste disposal areas, and the like;

3. The designation of historical areas and areas for urban renewal or other treatment;

4. The designation of areas for the implementation of reasonable measures to provide for the continued availability, quality, and sustainability of groundwater and surface water;

5. A capital improvements program, a subdivision ordinance, a zoning ordinance and zoning district maps, mineral resource district maps and agricultural and forestal district maps, where applicable;

6. The location of existing or proposed recycling centers;

7. The location of military bases, military installations, and military airports and their adjacent safety areas; and

8. The designation of corridors or routes for electric transmission lines of 150 kilovolts or more.

D. The comprehensive plan shall include the designation of areas and implementation of measures for the construction, rehabilitation and maintenance of affordable housing, which is sufficient to meet the current and future needs of residents of all levels of income in the locality while considering the current and future needs of the planning district within which the locality is situated.

E. The comprehensive plan shall consider strategies to provide broadband infrastructure that is sufficient to meet the current and future needs of residents and businesses in the locality. To this end, local planning commissions may consult with and receive technical assistance from the Center for Innovative Technology, among other resources.

F. The comprehensive plan is encouraged to consider strategies to address resilience. As used in this subsection, "resilience" means the capability to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, health, the economy, and the environment.

CHAPTER 354

An Act to amend and reenact § 15.2-2223 of the Code of Virginia, relating to comprehensive plan; strategies to address resilience.

[S 1187]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2223 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2223. Comprehensive plan to be prepared and adopted; scope and purpose.

A. The local planning commission shall prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction and every governing body shall adopt a comprehensive plan for the territory under its jurisdiction.

In the preparation of a comprehensive plan, the commission shall make careful and comprehensive surveys and studies of the existing conditions and trends of growth, and of the probable future requirements of its territory and inhabitants. The comprehensive plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities.

The comprehensive plan shall be general in nature, in that it shall designate the general or approximate location, character, and extent of each feature, including any road improvement and any transportation improvement, shown on the plan and shall indicate where existing lands or facilities are proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use as the case may be.

B. 1. As part of the comprehensive plan, each locality shall develop a transportation plan that designates a system of transportation infrastructure needs and recommendations that include the designation of new and expanded transportation facilities and that support the planned development of the territory covered by the plan and shall include, as appropriate, but not be limited to, roadways, bicycle accommodations, pedestrian accommodations, railways, bridges, waterways, airports, ports, and public transportation facilities. The plan shall recognize and differentiate among a hierarchy of roads such as expressways, arterials, and collectors. In developing the plan, the locality shall take into consideration how to align transportation infrastructure and facilities with affordable, accessible housing and community services that are located within the territory in order to facilitate community integration of the elderly and persons with disabilities. The Virginia Department of Transportation shall, upon request, provide localities with technical assistance in preparing such transportation plan.

2. The transportation plan shall include a map that shall show road and transportation improvements, including the cost estimates of such road and transportation improvements from the Virginia Department of Transportation, taking into account the current and future needs of residents in the locality while considering the current and future needs of the planning district within which the locality is situated.

3. The transportation plan, and any amendment thereto pursuant to § 15.2-2229, shall be consistent with the Commonwealth Transportation Board's Statewide Transportation Plan developed pursuant to § 33.2-353, the Six-Year Improvement Program adopted pursuant to subsection B of § 33.2-214, and the location of routes to be followed by roads comprising systems of state highways pursuant to subsection A of § 33.2-208. The locality shall consult with the Virginia Department of Transportation to assure such consistency is achieved. The transportation plan need reflect only those changes in the annual update of the Six-Year Improvement Program that are deemed to be significant new, expanded, or relocated roadways.

4. Prior to the adoption of the transportation plan or any amendment to the transportation plan, the locality shall submit such plan or amendment to the Department for review and comment. The Department shall conduct its review and provide written comments to the locality on the consistency of the transportation plan or any amendment to the provisions of

subdivision 1. The Department shall provide such written comments to the locality within 90 days of receipt of the plan or amendment, or such other shorter period of time as may be otherwise agreed upon by the Department and the locality.

5. The locality shall submit a copy of the adopted transportation plan or any amendment to the transportation plan to the Department for informational purposes. If the Department determines that the transportation plan or amendment is not consistent with the provisions of subdivision 1, the Department shall notify the Commonwealth Transportation Board so that the Board may take appropriate action in accordance with subsection F of § 33.2-214.

6. If the adopted transportation plan designates corridors planned to be served by mass transit, as defined in § 33.2-100, a portion of its allocation from (i) the Northern Virginia Transportation Authority distribution specified in subdivision B 1 of § 33.2-2510, (ii) the commercial and industrial real property tax revenue specified in § 58.1-3221.3, and (iii) the secondary system road construction program, as described in Article 5 (§ 33.2-351 et seq.) of Chapter 3 of Title 33.2, may be used for the purpose of utility undergrounding in the planned corridor, if the locality matches 100 percent of the state allocation.

7. Each locality's amendments or updates to its transportation plan as required by subdivisions 2 through 5 shall be made on or before its ongoing scheduled date for updating its transportation plan.

C. The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the locality's long-range recommendations for the general development of the territory covered by the plan. It may include, but need not be limited to:

1. The designation of areas for various types of public and private development and use, such as different kinds of residential, including age-restricted, housing; business; industrial; agricultural; mineral resources; conservation; active and passive recreation; public service; flood plain and drainage; and other areas;

2. The designation of a system of community service facilities such as parks, sports playing fields, forests, schools, playgrounds, public buildings and institutions, hospitals, nursing homes, assisted living facilities, community centers, waterworks, sewage disposal or waste disposal areas, and the like;

3. The designation of historical areas and areas for urban renewal or other treatment;

4. The designation of areas for the implementation of reasonable measures to provide for the continued availability, quality, and sustainability of groundwater and surface water;

5. A capital improvements program, a subdivision ordinance, a zoning ordinance and zoning district maps, mineral resource district maps and agricultural and forestal district maps, where applicable;

6. The location of existing or proposed recycling centers;

7. The location of military bases, military installations, and military airports and their adjacent safety areas; and

8. The designation of corridors or routes for electric transmission lines of 150 kilovolts or more.

D. The comprehensive plan shall include the designation of areas and implementation of measures for the construction, rehabilitation and maintenance of affordable housing, which is sufficient to meet the current and future needs of residents of all levels of income in the locality while considering the current and future needs of the planning district within which the locality is situated.

E. The comprehensive plan shall consider strategies to provide broadband infrastructure that is sufficient to meet the current and future needs of residents and businesses in the locality. To this end, local planning commissions may consult with and receive technical assistance from the Center for Innovative Technology, among other resources.

F. The comprehensive plan is encouraged to consider strategies to address resilience. As used in this subsection, "resilience" means the capability to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, health, the economy, and the environment.

CHAPTER 355

An Act to amend and reenact § 46.2-1213 of the Code of Virginia, relating to removal by locality of unattended or immobile vehicles.

[H 2191]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1213 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1213. Removal and disposition of unattended or immobile vehicles; ordinances in counties, cities, and towns.

A. The governing body of any county, city, or town may by ordinance provide for the removal for safekeeping of motor vehicles, trailers, semitrailers, or parts thereof to a storage area if:

1. It is left unattended on a public highway or other public property and constitutes a traffic hazard;

2. It is illegally parked;

3. It is left unattended for more than 10 days either on public property or on private property without the permission of the property owner, lessee, or occupant; *or*

4. It is immobilized on a public roadway by weather conditions or other emergency situation.

B. Removal shall be carried out by or under the direction of a law-enforcement officer or other uniformed employee of the local law-enforcement agency who specifically is authorized to do so by the chief law-enforcement officer or his designee*, or by or under the direction of the locality's civil code enforcement division*. The ordinance, however, shall not authorize removal of motor vehicles, trailers, semitrailers, and parts thereof from private property without the written request of the owner, lessee, or occupant of the premises. The ordinance may also provide that the person at whose request the motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, or semitrailer is removed from private property shall indemnify the county, city, or town against any loss or expense incurred by reason of removal, storage, or sale thereof. Any such ordinance may also provide that it shall be presumed that such motor vehicle, trailer, semitrailer, or part thereof is abandoned if it (i) lacks either a current license plate; or a current county, city or town license plate or sticker; or a valid state safety inspection certificate or sticker; and (ii) it has been in a specific location for four days without being moved. As promptly as possible, each removal shall be reported to a local governmental office to be designated in the ordinance and to the owner of the motor vehicle, trailer, or semitrailer. Before obtaining possession of the motor vehicle, trailer, semitrailer, or part thereof, the owner shall pay to the parties entitled thereto all costs incidental to its removal and storage and locating the owner. If the owner fails or refuses to pay the cost or if his identity or whereabouts is unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address and to the holder of any lien of record with the office of the Department against the motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, or semitrailer, the vehicle shall be treated as an abandoned vehicle under the provisions of Article 1 (§ 46.2-1200 et seq.).

CHAPTER 356

An Act to amend and reenact § 59.1-372 of the Code of Virginia, relating to Virginia Breeders Fund; disbursements to certain breeders and owners of horses.

[H 1421]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-372 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-372. Virginia Breeders Fund.

There is hereby created within the State Treasury the Virginia Breeders Fund, which Fund, together with the interest thereon, shall be administered in whole or in part by the Commission or by an entity designated by the Commission. The cost of administering and promoting the Fund shall be deducted from the Fund, and the balance shall be disbursed by the Commission or designated entity to the breeders of Virginia-bred horses that ~~win~~ *finish first, second, or third in* races at race meetings designated by the Commission, to the owners of Virginia sires of Virginia-bred horses that ~~win~~ *finish first, second, or third in* races at race meetings designated by the Commission, to the owners of Virginia-bred horses that win or earn purse money in nonrestricted races at racetracks in Virginia licensed by the Commission, to the owners of Virginia-bred horses that win races at race meetings designated by the Commission and for purses for races restricted to Virginia-bred or Virginia-sired horses or both at race meetings designated by the Commission. To assist it in establishing this awards and incentive program to foster the industry of breeding racehorses in Virginia, the Commission shall appoint an advisory committee composed of two members from each of the registered breed associations representing each breed of horse participating in the Fund program, one member representing the owners and operators of racetracks and one member representing all of the meets sanctioned by the National Steeplechase Association.

CHAPTER 357

An Act to amend and reenact §§ 18.2-46.1 and 18.2-513 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.2-511.2 and 18.2-103.1, relating to organized retail theft; report; penalty.

[H 1885]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-46.1 and 18.2-513 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-511.2 and 18.2-103.1 as follows:

§ 2.2-511.2. Organized Retail Crime Fund; report.

There is hereby created in the state treasury a special nonreverting fund to be known as the Organized Retail Crime Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of awarding grants to attorneys for the Commonwealth and law-enforcement agencies to investigate, indict, and prosecute violations of

organized retail theft and associated fraud and property crimes. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Attorney General.

The Attorney General shall establish guidelines and procedures for the proper administration of the Fund including eligibility requirements and procedures for filing a grant application. The Attorney General shall submit an annual report to the General Assembly summarizing the activities of the Fund.

§ 18.2-46.1. Definitions.

As used in this article*,* unless the context requires ~~otherwise or it is otherwise provided~~ *a different meaning*:

"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, *18.2-103.1,* 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101, 18.2-248, or 18.2-248.1 or a conspiracy to commit a felony violation of § 4.1-1101, 18.2-248, or 18.2-248.1; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

§ 18.2-103.1. Organized retail theft; penalty.

A. As used in this section:

"Retail mercantile establishment" means any place where merchandise is displayed, held, stored, or offered for sale to the public.

"Retail property" means any article, product, commodity, item, or component intended to be sold in retail commerce.

"Retail property fence" means a person or business that buys retail property knowing or believing that such retail property has been unlawfully obtained.

B. Any person who conspires or acts in concert with another person to commit simple larceny of retail property from one or more retail mercantile establishments, with a value exceeding $5,000 aggregated over a 90-day period, with the intent to sell such retail property for monetary or other gain, and who takes or causes such retail property to be placed in the control of a retail property fence or other person and either (i) receives or possesses any retail property that has been obtained by simple larceny from one or more retail mercantile establishments while knowing or having reasonable grounds to believe the property was unlawfully obtained or (ii) conspires or acts in concert with two or more other persons as an organizer, supervisor, financier, leader, or manager to engage for profit in a scheme or course of conduct to effectuate the transfer or sale of property obtained by simple larceny from one or more retail mercantile establishments is guilty of organized retail theft.

C. A violation of this section is punishable as a Class 3 felony.

D. Any larceny of retail property occurring in more than one county or city may be aggregated into an alleged violation of this section.

E. Venue for the trial of any person charged with an offense under this section may be in the county or city in which (i) any act was performed in furtherance of the offense or (ii) the person charged with the offense resided at the time of the offense.

§ 18.2-513. Definitions.

As used in this chapter:

"Criminal street gang" means the same as that term is defined in § 18.2-46.1.

"Enterprise" includes any of the following: sole proprietorship, partnership, corporation, business trust, criminal street gang, or other group of three or more individuals associated for the purpose of criminal activity.

"Proceeds" means the same as that term is defined in § 18.2-246.2.

"Racketeering activity" means to commit, attempt to commit, or conspire to commit or to solicit, coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4, § 18.2-460; a felony offense of § 3.2-4212, 3.2-4219, 10.1-1455, 18.2-31, 18.2-32, 18.2-32.1, 18.2-33, or 18.2-35, Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4, § 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-51, 18.2-51.2, 18.2-52, 18.2-53, 18.2-55, 18.2-58, 18.2-59, 18.2-77, 18.2-79, 18.2-80, 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, ~~or~~ 18.2-95, *or 18.2-103.1,* Article 4 (§ 18.2-111 et seq.) of Chapter 5, Article 1 (§ 18.2-168 et seq.) of Chapter 6, § 18.2-178 or 18.2-186, Article 6 (§ 18.2-191 et seq.) of Chapter 6, Article 9 (§ 18.2-246.1 et seq.) of Chapter 6, § 18.2-246.13, Article 1 (§ 18.2-247 et seq.) of Chapter 7, § 18.2-279, 18.2-286.1, 18.2-289, 18.2-300, 18.2-308.2, 18.2-308.2:1, 18.2-328, 18.2-346, 18.2-346.01, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, 18.2-368, 18.2-369, or 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.) of Chapter 9, Article 1 (§ 18.2-434 et seq.) of Chapter 10, Article 2 (§ 18.2-438 et seq.) of Chapter 10, Article 3 (§ 18.2-446 et seq.) of Chapter 10, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12, § 3.2-6571, 18.2-516,

32.1-314, 58.1-1008.2, 58.1-1017, or 58.1-1017.1; or any substantially similar offenses under the laws of any other state, the District of Columbia, or the United States or its territories.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 358

An Act to amend and reenact §§ 18.2-46.1 and 18.2-513 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.2-511.2 and 18.2-103.1, relating to organized retail theft; report; penalty.

[S 1396]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-46.1 and 18.2-513 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-511.2 and 18.2-103.1 as follows:

§ 2.2-511.2. Organized Retail Crime Fund; report.

There is hereby created in the state treasury a special nonreverting fund to be known as the Organized Retail Crime Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of awarding grants to attorneys for the Commonwealth and law-enforcement agencies to investigate, indict, and prosecute violations of organized retail theft and associated fraud and property crimes. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Attorney General.

The Attorney General shall establish guidelines and procedures for the proper administration of the Fund including eligibility requirements and procedures for filing a grant application. The Attorney General shall submit an annual report to the General Assembly summarizing the activities of the Fund.

§ 18.2-46.1. Definitions.

As used in this article, unless the context requires ~~otherwise or it is otherwise provided~~ *a different meaning*:

"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, *18.2-103.1,* 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101, 18.2-248, or 18.2-248.1 or a conspiracy to commit a felony violation of § 4.1-1101, 18.2-248, or 18.2-248.1; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

§ 18.2-103.1. Organized retail theft; penalty.

A. As used in this section:

"Retail mercantile establishment" means any place where merchandise is displayed, held, stored, or offered for sale to the public.

"Retail property" means any article, product, commodity, item, or component intended to be sold in retail commerce.

"Retail property fence" means a person or business that buys retail property knowing or believing that such retail property has been unlawfully obtained.

B. Any person who conspires or acts in concert with another person to commit simple larceny of retail property from one or more retail mercantile establishments, with a value exceeding $5,000 aggregated over a 90-day period, with the intent to sell such retail property for monetary or other gain, and who takes or causes such retail property to be placed in the control of a retail property fence or other person and either (i) receives or possesses any retail property that has been obtained by simple larceny from one or more retail mercantile establishments while knowing or having reasonable grounds

to believe the property was unlawfully obtained or (ii) conspires or acts in concert with two or more other persons as an organizer, supervisor, financier, leader, or manager to engage for profit in a scheme or course of conduct to effectuate the transfer or sale of property obtained by simple larceny from one or more retail mercantile establishments is guilty of organized retail theft.

C. A violation of this section is punishable as a Class 3 felony.

D. Any larceny of retail property occurring in more than one county or city may be aggregated into an alleged violation of this section.

E. Venue for the trial of any person charged with an offense under this section may be in the county or city in which (i) any act was performed in furtherance of the offense or (ii) the person charged with the offense resided at the time of the offense.

§ 18.2-513. Definitions.

As used in this chapter:

"Criminal street gang" means the same as that term is defined in § 18.2-46.1.

"Enterprise" includes any of the following: sole proprietorship, partnership, corporation, business trust, criminal street gang, or other group of three or more individuals associated for the purpose of criminal activity.

"Proceeds" means the same as that term is defined in § 18.2-246.2.

"Racketeering activity" means to commit, attempt to commit, or conspire to commit or to solicit, coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4, § 18.2-460; a felony offense of § 3.2-4212, 3.2-4219, 10.1-1455, 18.2-31, 18.2-32, 18.2-32.1, 18.2-33, or 18.2-35, Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4, § 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-51, 18.2-51.2, 18.2-52, 18.2-53, 18.2-55, 18.2-58, 18.2-59, 18.2-77, 18.2-79, 18.2-80, 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, ~~or~~ 18.2-95, *or 18.2-103.1,* Article 4 (§ 18.2-111 et seq.) of Chapter 5, Article 1 (§ 18.2-168 et seq.) of Chapter 6, § 18.2-178 or 18.2-186, Article 6 (§ 18.2-191 et seq.) of Chapter 6, Article 9 (§ 18.2-246.1 et seq.) of Chapter 6, § 18.2-246.13, Article 1 (§ 18.2-247 et seq.) of Chapter 7, § 18.2-279, 18.2-286.1, 18.2-289, 18.2-300, 18.2-308.2, 18.2-308.2:1, 18.2-328, 18.2-346, 18.2-346.01, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, 18.2-368, 18.2-369, or 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.) of Chapter 9, Article 1 (§ 18.2-434 et seq.) of Chapter 10, Article 2 (§ 18.2-438 et seq.) of Chapter 10, Article 3 (§ 18.2-446 et seq.) of Chapter 10, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12, § 3.2-6571, 18.2-516, 32.1-314, 58.1-1008.2, 58.1-1017, or 58.1-1017.1; or any substantially similar offenses under the laws of any other state, the District of Columbia, or the United States or its territories.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 359

An Act to amend the Code of Virginia by adding a section numbered 18.2-356.1, relating to buying or selling of minors; exceptions; penalties.

[H 1699]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-356.1 as follows:

§ 18.2-356.1. Purchasing or selling of minors; exceptions; penalties.

A. Any person who offers money or other valuable thing to another for the purpose of purchasing or otherwise obtaining custody or control of a minor and thereafter does any substantial act in furtherance thereof is guilty of a Class 5 felony.

B. Any parent, legal guardian, or other person having custody or control of a minor who receives any money or other valuable thing for or on account of selling or otherwise transferring custody or control of such minor, or offers to sell or otherwise transfer custody or control of such minor, is guilty of a Class 5 felony.

C. The provisions of this section shall not apply to any person (i) entering into a surrogacy contract pursuant to the provisions of Chapter 9 (§ 20-156 et seq.) of Title 20, (ii) seeking to adopt a child or place his child for adoption pursuant to the provisions of Chapter 12 (§ 63.2-1200 et seq.) of Title 63.2, or (iii) who is a person with a legitimate interest as defined in § 20-124.1 in such minor.

D. A violation of this section shall constitute a separate and distinct offense. If the acts or activities violating this section also violate another provision of law, a prosecution under this section shall not prohibit or bar any prosecution or proceeding under such other provision or the imposition of any penalties provided for thereby.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for

periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 360

An Act to amend and reenact § 15.2-925 of the Code of Virginia, relating to civil disturbance; local curfew; penalty.

[S 1455]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-925 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-925. Regulation, etc., of assemblies or movement of persons or vehicles under certain circumstances; curfew; penalty.

A. Any locality may empower the chief law-enforcement officer to regulate, restrict, or prohibit any assembly of persons or the movement of persons or vehicles if there exists an imminent threat of any civil commotion or disturbance in the nature of a riot which constitutes a clear and present danger. In such circumstances the governing body may convene immediately in a special meeting and enact an emergency ordinance or ordinances for such purposes, notwithstanding any contrary provisions in any charter or under the general law.

B. Any such action may include a curfew issued by the chief law-enforcement officer, but in cities, such action shall be in concurrence with the city manager and the mayor. Such curfew shall include the following elements:

1. Shall specify the hours of the curfew and the geographic area to which the curfew applies.

2. Shall contain exceptions for:

a. Any person traveling to or from home, work, or a place of worship;

b. Medical personnel;

c. Members of the press;

d. Federal, state, and local employees and volunteers engaged in official business, including emergency response;

e. Military personnel, including but not limited to National Guard troops;

f. Travel to or from public meetings of the local governing body;

g. Persons seeking emergency services or fleeing any emergency or danger or acting to save other persons from an emergency or danger; and

h. Persons who are incapacitated or who are seeking medical care for themselves or others.

The action authorizing the curfew shall provide for reasonable efforts to inform the public in advance of the curfew, which shall be valid for no more than 24 hours. The curfew shall not be extended or renewed unless by recorded vote of the local governing body or by judicial order.

In such circumstances the governing body may convene immediately in a special meeting and enact an emergency ordinance or ordinances, including an extension or renewal of a curfew, for such purposes, notwithstanding any contrary provisions in any charter or under the general law.

C. Any violation of a regulation, restriction, or curfew imposed hereunder shall be a Class 1 misdemeanor.

CHAPTER 361

An Act to amend and reenact §§ 46.2-1190, 46.2-1190.1, 46.2-1190.2, and 46.2-1190.4 of the Code of Virginia, relating to motorcycle rider safety training courses.

[H 2304]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1190, 46.2-1190.1, 46.2-1190.2, and 46.2-1190.4 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-1190. Regional motorcycle rider safety training centers; requirements.

A. Any public or private agency, organization, school, institution of higher education, partnership, corporation, or individual that meets the program requirements set forth in this article shall be eligible for participation in the program and may organize a regional motorcycle rider safety training center and offer motorcycle rider safety training courses.

B. No such agency, organization, business or individual shall operate a motorcycle rider safety training center without a license. Such agencies, organizations, businesses and individuals shall apply to the Department for a license pursuant to § 46.2-1192. The applications for training center licenses shall include, but not be limited to:

1. The address and detailed description of the facility or facilities where the course shall be conducted;

2. The name, address, federal identification number, and telephone number of the agency, organization, school, institution of higher education, partnership, or corporation organized as a training center;

3. The name, address, social security number, and telephone number of the individual who is authorized to obligate the training center;

4. The names, addresses, social security numbers, and telephone numbers of the administrator and the instructors;

5. For those agencies, organizations, businesses, and individuals that apply to receive reimbursement, the names, addresses, social security numbers, and telephone numbers of all individuals who are to receive reimbursement;

6. A planned course schedule including course type, dates, and hours of course conduct;

7. The projected number of students to be trained in the program during the calendar year;

8. Detailed specifications of the curricula intended for use;

9. For those agencies, organizations, businesses, and individuals that apply to receive reimbursement, a planned course budget to include all estimated costs for course operation, administration, instructors' salaries, insurance, advertising, purchase of test books, equipment and materials, and other course-related expenses;

10. For those agencies, organizations, businesses, and individuals that apply to receive reimbursement, estimated course fees to be charged to participants;

11. Verification of adequate insurance coverage to protect both the Commonwealth and the training center and all instructors, aides, and participants in any course conducted under the program, including the following:

a. Minimum employers liability — $100,000;

b. Minimum commercial general liability — $500,000 combined single limit;

c. Minimum automobile liability — $500,000 combined single limit; and

d. Workers' compensation insurance in accordance with § 2.2-4332 and Chapter 8 (§ 65.2-800 et seq.) of Title 65;

12. Verification of proper safety equipment and a sufficient number of training motorcycles for novice rider courses;

13. Verification that the designated classrooms, ranges, and motorcycle and equipment storage areas are available for all training courses offered by the training center at that site and that they comply with all necessary zoning, health, and safety codes;

14. Criminal background checks on all corporate officers, owners, administrators, and all individuals authorized to obligate the training center; and

15. A statement as to the ability and willingness to meet all requirements set forth in this article.

The Department shall issue licenses to applicants whose curricula, facilities, equipment, corporate officers, administrators, instructors, and all individuals authorized to obligate the training center meet the requirements set forth in this article, subject to the provisions of § 46.2-1192.

C. The Commissioner shall act on any application for a license under this article within 30 days after receipt by either granting or denying the application. The Commissioner may, as may be necessary during the initial review and evaluation of an application, request additional information from an applicant, thereby extending the period for granting or denying a license by not more than 30 days from the receipt of such additional information. Any applicant denied a license shall, on his written request made within 30 days of the Commissioner's action, be given a hearing at a time and place determined by the Commissioner or his designee. All hearings under this section shall be public and shall be held as soon as practicable, but in no case later than 30 days from receipt of the hearing request. The applicant may be represented by counsel. Any applicant denied a license may not apply again for the same type of license for 180 calendar days from the date of denial of the application.

D. The facilities, equipment, curriculum, accreditation, and geographic areas in which each training center may offer courses shall be approved by the Department. The location of the training centers shall be in accordance with the Department's administrative districts. No training center shall change its location without the approval of the Department. Training centers shall provide courses for either novice, experienced, or ~~sidecar and~~ three-wheeled motorcyclists or any of the three, depending upon the curricula used. Training centers shall maintain such records and provide such reports as determined by the Department. Training centers shall submit all reports required by the Department for evaluation. The Department shall monitor and evaluate the performance of the training centers and the effectiveness of the program in training motorcyclists.

E. Training centers shall ensure that instructors maintain the minimum qualifications and meet any other instructor requirements established in this article. The Department may, pursuant to subsection C of § 46.2-1190.5, terminate a training course if it finds an instructor in violation of any provision of this article.

Instructors shall meet the requirements of this article, the Department and the public or private agency, organization, school, institution of higher education, partnership, corporation or individual offering the program.

§ 46.2-1190.1. Curricula requirements.

A. The curriculum used in a novice rider-training course to train novice riders shall be approved by the Department. Each participant enrolled in a novice rider-training course shall receive no less than the minimum number of hours of classroom and on-cycle instruction as specified in the current approved curriculum.

All novice rider courses shall include a module on the effects of alcohol and other drugs on motorcycle operation, and a thorough review of Virginia laws and rules of the road applicable to motorcycles. All novice rider course participants shall be provided one copy of the course textbook and one copy of the Virginia Motorcycle Operator Manual. ~~During the on-cycle instruction no more than six students may be under the supervision of any one instructor at any one time. No more than 12 students may operate motorcycles on the same range at the same time.~~

B. The curriculum used to train experienced riders shall be approved by the Department. Each participant enrolled in an experienced rider course shall receive no less than the minimum number of hours of classroom and on-cycle instruction as specified in the current approved curriculum.

All experienced rider courses shall include a module on the effects of alcohol and other drugs on motorcycle operation, and a review of Virginia laws and rules of the road applicable to motorcycles. ~~During on-cycle instruction no more than six students may be under the supervision of any one instructor at any one time, and no more than 12 students may operate motorcycles on the same range at the same time.~~

C. The curriculum used to train ~~sidecar and~~ three-wheeled motorcycle riders shall be approved by the Department. Each participant enrolled in a ~~sidecar and~~ three-wheeled motorcycle course shall receive no less than the minimum number of hours of classroom and on-cycle instruction as specified in the current curriculum.

All ~~sidecar and~~ three-wheeled motorcycle course participants shall include a module on the effects of alcohol and other drugs on motorcycle operation, and a thorough review of Virginia laws and rules of the road applicable to motorcycles. ~~During on-cycle instruction no more than six students may be under the supervision of any one instructor at any one time, and no more than six students may operate sidecars or three-wheeled motorcycles on the same range at the same time.~~

D. All course participants shall be required to wear the following protective gear during on-cycle instruction:

1. A ~~minimum three-quarter shell~~ motorcycle helmet that meets ~~U.S. Department of Transportation Safety standards~~ *the requirements of § 46.2-910*;

2. Eye protection;

3. A pair of boots or shoes that cover and protect the ankles and feet;

4. A long sleeved jacket or long sleeved shirt and long pants of denim or other material of equivalent durability; and

5. A pair of full-fingered gloves of leather or other material with resistance to abrasion.

E. The maximum number of students under the supervision of any one instructor at any one time and the maximum number of students on the same range at the same time shall comply with the recommendations of the Motorcycle Safety Foundation, unless otherwise provided by the Department.

§ 46.2-1190.2. Facilities and equipment; requirements and approval.

A. A training center shall possess or have access to the use of all classroom, range, storage facilities, and equipment. A training center's facilities and equipment shall be approved by the Department and include, but not be limited to:

1. A classroom for the presentation of the off-cycle instructional portion of the novice, experienced, and ~~sidecar and~~ three-wheeled motorcycle rider courses;

2. A paved range area for the on-cycle portion of the novice, experienced rider, and ~~sidecar and~~ three-wheeled motorcycle courses consistent with the minimum range requirements established by the Department-approved curriculum used in the course;

3. For those agencies, organizations, businesses and individuals that apply to receive reimbursement, adequate storage to protect motorcycles and equipment from vandalism, theft, and environmental damage;

4. Audio-visual equipment; and

5. Fire extinguisher and first aid kit.

B. The training center shall be responsible for procuring and providing a minimum of one motorcycle per student. Each such motorcycle shall be of a type that may lawfully be operated on the highways of the Commonwealth and~~, subject to the provisions of subsection D, meets two of the following three criteria: (i) an engine displacement of no more than 500 cubic centimeters, (ii) a weight of less than 400 pounds, and (iii) a seat height of 30 inches or less~~ *shall comply with the specifications recommended by the Motorcycle Safety Foundation, unless otherwise provided by the Department*. Each participant in the experienced rider course shall provide a motorcycle for use in the course. One ~~sidecar rig or~~ three-wheeled motorcycle, provided by either a participant or the training center, shall be required for use by every two students in the ~~sidecar and~~ three-wheeled motorcycle course.

C. The training center shall be responsible for the normal maintenance and repair of all motorcycles it provides for each novice rider and ~~sidecar and~~ three-wheeled motorcycle course participant. All motorcycles used in course instruction shall pass a safety inspection performed by the instructors prior to use in any motorcycle rider-training course.

D. The Department, or its authorized agent, shall inspect and approve each training center's facilities and equipment prior to issuance or renewal of a license. Even if a motorcycle meets the criteria under subsection B, the Department or its authorized agent may deny its use by motorcycle rider safety training centers if it is deemed unsafe by the Department. A motorcycle may be deemed unsafe because of modification, damage, lack of maintenance, nonstandard configuration, or any other substantial safety reason.

§ 46.2-1190.4. Administrative and reporting requirements.

A. Training centers shall be responsible for verifying that all participants are eligible for enrollment in a course under the program, based on the following:

1. Persons enrolling in a novice rider course shall (i) possess a valid learner's permit or valid driver's license; (ii) have written parental or guardian permission if under the age of 18 years of age; and (iii) be physically able to balance and operate a motorcycle.

2. Persons enrolling in an experienced rider course shall (i) possess a valid driver's license endorsed for motorcycle operation; (ii) have written parental or guardian permission if under the age of 18; (iii) use a motorcycle that may lawfully

be operated on the highways of the Commonwealth during course training; and (iv) have valid proof of ownership of such motorcycle, or have its owner's written permission to use it and valid proof of insurance.

3. Persons enrolling in a ~~sidecar and~~ three-wheeled motorcycle course shall (i) possess a valid learner's permit or a valid driver's license; (ii) have written parental or guardian permission if under the age of 18; (iii) use a ~~sidecar rig or~~ three-wheeled motorcycle that may lawfully be operated on the highways of the Commonwealth during course training; and (iv) if providing their own ~~sidecar rig or~~ three-wheeled motorcycle, have valid proof of ownership of such ~~sidecar rig or~~ three-wheeled motorcycle, or have its owner's written permission to use it and valid proof of insurance.

B. Training centers shall provide the following information to the Department on each course within 20 business days of course completion, on forms provided by the Department:

1. The type of course and date of completion;

2. The name, address, social security number, and certification number of each instructor;

3. The name, address, driver's license number, and date of birth of all participants enrolled in each course; and

4. The course completion status of each participant.

C. The training center shall issue a Department-approved certificate of completion to each participant who successfully completes a course in the program.

D. Training centers shall (i) retain a copy of each participant's waiver form and original course evaluation form and (ii) establish and maintain records of course administration, including the information outlined in subsection B ~~of this section~~, for a three-year period following the course completion. The Department may audit course records, and monitor and evaluate any and all aspects of a training center's operation.

CHAPTER 362

An Act to amend and reenact § 33.2-1526.1 of the Code of Virginia and to repeal the eighth enactment of Chapter 854 and the eighth enactment of Chapter 856 of the Acts of Assembly of 2018, relating to the Commonwealth Mass Transit Fund.

[H 1496]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-1526.1 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-1526.1. Use of the Commonwealth Mass Transit Fund.

A. All funds deposited pursuant to § 33.2-1524.1 into the Commonwealth Mass Transit Fund (the Fund), established pursuant to § 33.2-1526, shall be allocated as set forth in this section.

B. From funds available pursuant to subsection D, ~~beginning in fiscal year~~ 2022, up to $50 million shall be allocated to the Washington Metropolitan Area Transit Authority as matching funds to federal and other funds provided by the Federal Transit Administration, the District of Columbia, and the State of Maryland. However, such funds shall only be provided if the District of Columbia and the State of Maryland each provide an amount equal to one-third of the funding provided by the Federal Transit Administration to the Washington Metropolitan Area Transit Authority. The funds provided by the Commonwealth shall not exceed the funds provided by the District of Columbia or the State of Maryland.

C. The Board may establish policies for the implementation of this section, including the determination of the state share of operating, capital, and administrative costs related to mass transit. For purposes of this section, capital costs may include debt service payments on local or agency transit bonds. Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes as set forth in this section. No funds from the Fund shall be allocated without a local match from the recipient.

D. Each year the Director of the Department of Rail and Public Transportation shall make recommendations to the Board for the allocation of funds from the Fund. Such recommendations, and the final allocations approved by the Board, shall adhere to the following*, except as provided in subsection E*:

1. ~~Twenty-seven~~ *Twenty-four and one-half* percent of the funds shall be allocated to support operating costs of transit providers and shall be distributed by the Board on the basis of service delivery factors, based on effectiveness and efficiency as established by the Board. Such measures and their relative weight shall be evaluated every three years ~~and, if redefined by the Board, shall be published and made available for public comment at least one year in advance of being applied~~ *and shall be finalized 6 months prior to the fiscal year of implementation*. The Washington Metropolitan Area Transit Authority (WMATA) *and the commuter rail system jointly operated by the Northern Virginia Transportation Commission (NVTC) and the Potomac and Rappahannock Transportation Commission (PRTC), established pursuant to Chapter 19 (§ 33.2-1900 et seq.)* shall not be eligible for an allocation of funds pursuant to this subdivision.

2. ~~Eighteen~~ *Seventeen* percent of the funds shall be allocated for capital purposes and distributed utilizing the transit capital prioritization process established by the Board pursuant to § 33.2-214.4. ~~The Washington Metropolitan Area Transit Authority~~ *WMATA and the commuter rail system jointly operated by NVTC and PRTC, established pursuant to Chapter 19 (§ 33.2-1900 et seq.)* shall not be eligible for an allocation of funds pursuant to this subdivision.

3. *Three and one-half percent of funds may be allocated to NVTC for distribution to the commuter rail system jointly operated by NVTC and PRTC, established pursuant to Chapter 19 (§ 33.2-1900 et seq.), for operating and capital*

purposes. The amount of funds distributed pursuant to this subdivision and the selection of systems receiving funds pursuant to this subdivision shall be based on service delivery factors including effectiveness and efficiency as established by the Board. Such measures and their relative weight shall be evaluated every three years and shall be finalized six months prior to the fiscal year of implementation. Any funds remaining after such distribution shall be redistributed to subdivision 2.

4. Forty-six and one-half percent of the funds shall be allocated to the ~~Northern Virginia Transportation Commission~~ *NVTC* for distribution to WMATA for capital purposes and operating assistance, as determined by the Commission. *All allocations pursuant to this subdivision shall not exceed 50 percent of the total operating and capital assistance required to be provided by NVTC or other Virginia entities in the approved WMATA budget. If the default allocation pursuant to this subdivision exceeds an amount equal to 50 percent of the total operating and capital assistance required to be provided by NVTC or other Virginia entities in the approved WMATA budget, the remaining funds shall be redistributed to subdivision 2. No contributions made to WMATA pursuant to § 33.2-3401 by the Commonwealth or NVTC shall be relevant for the purposes of administering this subdivision.*

~~4.~~ *5.* Six percent of the funds shall be allocated by the Board for the Transit Ridership Incentive Program established pursuant to § 33.2-1526.3.

~~5.~~ *6.* Two and one-half percent of the funds shall be allocated for special programs, including ridesharing, transportation demand management programs, experimental transit, public transportation promotion, operation studies, and technical assistance, and may be allocated to any local governing body, planning district commission, transportation district commission, or public transit corporation. Remaining funds may also be used directly by the Department of Rail and Public Transportation to (i) finance a program administered by the Department of Rail and Public Transportation designed to promote the use of public transportation and ridesharing throughout the Commonwealth or (ii) finance up to 80 percent of the cost of development and implementation of projects with a purpose of enhancing the provision and use of public transportation services.

E. The Board may consider the transfer of funds from subdivisions D 2 and ~~5~~ *6* to subdivision D 1 in times of statewide economic distress or statewide special need.

F. The Department of Rail and Public Transportation may reserve a balance of up to five percent of the Fund revenues in order to ensure stability in providing operating and capital funding to transit entities from year to year, provided that such balance shall not exceed five percent of revenues in a given biennium.

G. The Board may allocate up to 3.5 percent of the funds set aside for the Fund to support costs of project development, project administration, and project compliance incurred by the Department of Rail and Public Transportation in implementing rail, public transportation, and congestion management grants and programs.

H. Funds allocated to the Northern Virginia Transportation Commission (NVTC) for WMATA pursuant to subdivision D ~~3~~ *4* shall be credited to the Counties of Arlington ~~and~~, Fairfax*, and Loudoun* and the Cities of Alexandria, Fairfax, and Falls Church. ~~Beginning in the fiscal year when service starts on Phase II of the Silver Line, such funds shall also be credited to Loudoun County.~~ Funds allocated pursuant to this subsection shall be credited as follows:

1. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality using WMATA's capital formula shall be paid first by NVTC, which shall use 95 percent state aid for these payments.

2. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall include 20 percent of annual local bus capital expenses. Local transit subsidies and local capital costs of Loudoun County shall not be included. Hold harmless protections and obligations for NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

I. Appropriations from the Fund are intended to provide a stable and reliable source of revenue, as defined by P.L. 96-184.

J. Notwithstanding any other provision of law, funds allocated to WMATA may be disbursed by the Department of Rail and Public Transportation directly to WMATA or to any other transportation entity that has an agreement to provide funding to WMATA.

K. In any year that the total Virginia operating assistance in the approved WMATA budget increases by more than three percent from the total operating assistance in the prior year's approved WMATA budget, the Board shall withhold an amount equal to 35 percent of the funds available under subdivision D ~~3~~ *4*. The following items shall not be included in the calculation of any WMATA budget increase: (i) any service, equipment, or facility that is required by any applicable law, rule, or regulation; (ii) any capital project approved by the WMATA Board before or after the effective date of this provision; (iii) any payments or obligations of any kind arising from or related to legal disputes or proceedings between or among WMATA and any other person or entity; and (iv) any service increases approved by the WMATA Board.

L. The Board shall withhold 20 percent of the funds available pursuant to subdivision D ~~3~~ *4* if (i) any alternate directors participate or take action at an official WMATA Board meeting or committee meeting as Board directors for a WMATA compact member when both directors appointed by that same WMATA compact member are present at the WMATA Board meeting or committee meeting or (ii) the WMATA Board of Directors has not adopted bylaws that would prohibit such participation by alternate directors.

M. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 4 unless (i) WMATA has adopted a detailed capital improvement program covering the current fiscal year and, at a minimum, the next five fiscal years, and at least one public hearing on such capital improvement program has been held in a locality embraced by the Northern Virginia

Transportation Commission (NVTC), and (ii) WMATA has adopted or updated a strategic plan within the preceding 36 months, and at least one public hearing on such plan or updated plan has been held in a locality embraced by NVTC.

The strategic plan shall require (a) an assessment of state of good repair needs; (b) a review of the performance of fixed-route bus service, including schedules, route design, connectivity, and vehicle sizes; (c) an evaluation of opportunities to improve operating efficiency of the transit network, including reliability of trips and travel speed; (d) an examination and identification of opportunities to share services where multiple transit providers' services overlap; and (e) an examination of opportunities to improve service in underserved areas.

N. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 4 unless WMATA prepares and submits a proposed detailed annual operating budget and any proposed capital expenditures and projects for the following fiscal year to the Board by April 1 of each year. The budget shall include information on expenditures, indebtedness, pensions and other liabilities, and other information as prescribed by the Board. Additionally such funds shall be withheld if the Commonwealth's and Northern Virginia Transportation Commission's representatives to the WMATA Board of Directors and the WMATA General Manager fail to annually address the Commonwealth Transportation Board regarding the WMATA budget, system performance, and utilization of the Commonwealth's investment in the WMATA system.

O. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 3 unless the commuter rail system jointly operated by Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission, established pursuant to Chapter 19 (§ 33.2-1900 et seq.), submits a detailed annual operating budget and any proposed capital expenditures and projects for the following fiscal year to the Board by February 1 of each year. The operating plan and budget shall include information on expenditures, indebtedness, and other information as prescribed by the Board.

2. That the eighth enactment of Chapter 854 and the eighth enactment of Chapter 856 of the Acts of Assembly of 2018 are repealed.

3. That for fiscal year 2024, the Director of the Department of Rail and Public Transportation may deviate from the allocation requirements in subsection D of § 33.2-1526.1 of the Code of Virginia, as amended by this act, when making recommendations to the Commonwealth Transportation Board (Board) for allocation of funds from the Commonwealth Mass Transit Fund (the Fund). For fiscal year 2024, the Board may utilize the allocation requirements for the Fund provided for in subsection D of § 33.2-1526.1 of the Code of Virginia, as it was in effect prior to the effective date of this act, for the purpose of transitioning to the allocation requirements of this act.

CHAPTER 363

An Act to amend and reenact § 33.2-1526.1 of the Code of Virginia and to repeal the eighth enactment of Chapter 854 and the eighth enactment of Chapter 856 of the Acts of Assembly of 2018, relating to the Commonwealth Mass Transit Fund.

[S 1079]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-1526.1 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-1526.1. Use of the Commonwealth Mass Transit Fund.

A. All funds deposited pursuant to § 33.2-1524.1 into the Commonwealth Mass Transit Fund (the Fund), established pursuant to § 33.2-1526, shall be allocated as set forth in this section.

B. From funds available pursuant to subsection D, ~~beginning in fiscal year 2022,~~ up to $50 million shall be allocated to the Washington Metropolitan Area Transit Authority as matching funds to federal and other funds provided by the Federal Transit Administration, the District of Columbia, and the State of Maryland. However, such funds shall only be provided if the District of Columbia and the State of Maryland each provide an amount equal to one-third of the funding provided by the Federal Transit Administration to the Washington Metropolitan Area Transit Authority. The funds provided by the Commonwealth shall not exceed the funds provided by the District of Columbia or the State of Maryland.

C. The Board may establish policies for the implementation of this section, including the determination of the state share of operating, capital, and administrative costs related to mass transit. For purposes of this section, capital costs may include debt service payments on local or agency transit bonds. Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes as set forth in this section. No funds from the Fund shall be allocated without a local match from the recipient.

D. Each year the Director of the Department of Rail and Public Transportation shall make recommendations to the Board for the allocation of funds from the Fund. Such recommendations, and the final allocations approved by the Board, shall adhere to the following*, except as provided in subsection E*:

1. ~~Twenty-seven~~ *Twenty-four and one-half* percent of the funds shall be allocated to support operating costs of transit providers and shall be distributed by the Board on the basis of service delivery factors, based on effectiveness and efficiency as established by the Board. Such measures and their relative weight shall be evaluated every three years ~~and, if redefined by the Board, shall be published and made available for public comment at least one year in advance of being applied~~ *and shall be finalized 6 months prior to the fiscal year of implementation*. The Washington Metropolitan Area Transit Authority

(WMATA) *and the commuter rail system jointly operated by the Northern Virginia Transportation Commission (NVTC) and the Potomac and Rappahannock Transportation Commission (PRTC), established pursuant to Chapter 19 (§ 33.2-1900 et seq.)* shall not be eligible for an allocation of funds pursuant to this subdivision.

2. ~~Eighteen~~ *Seventeen* percent of the funds shall be allocated for capital purposes and distributed utilizing the transit capital prioritization process established by the Board pursuant to § 33.2-214.4. ~~The Washington Metropolitan Area Transit Authority~~ *WMATA and the commuter rail system jointly operated by NVTC and PRTC, established pursuant to Chapter 19 (§ 33.2-1900 et seq.)* shall not be eligible for an allocation of funds pursuant to this subdivision.

3. *Three and one-half percent of funds may be allocated to NVTC for distribution to the commuter rail system jointly operated by NVTC and PRTC, established pursuant to Chapter 19 (§ 33.2-1900 et seq.), for operating and capital purposes. The amount of funds distributed pursuant to this subdivision and the selection of systems receiving funds pursuant to this subdivision shall be based on service delivery factors including effectiveness and efficiency as established by the Board. Such measures and their relative weight shall be evaluated every three years and shall be finalized six months prior to the fiscal year of implementation. Any funds remaining after such distribution shall be redistributed to subdivision 2.*

4. Forty-six and one-half percent of the funds shall be allocated to the ~~Northern Virginia Transportation Commission~~ *NVTC* for distribution to WMATA for capital purposes and operating assistance, as determined by the Commission. *All allocations pursuant to this subdivision shall not exceed 50 percent of the total operating and capital assistance required to be provided by NVTC or other Virginia entities in the approved WMATA budget. If the default allocation pursuant to this subdivision exceeds an amount equal to 50 percent of the total operating and capital assistance required to be provided by NVTC or other Virginia entities in the approved WMATA budget, the remaining funds shall be redistributed to subdivision 2. No contributions made to WMATA pursuant to § 33.2-3401 by the Commonwealth or NVTC shall be relevant for the purposes of administering this subdivision.*

~~4.~~ *5.* Six percent of the funds shall be allocated by the Board for the Transit Ridership Incentive Program established pursuant to § 33.2-1526.3.

~~5.~~ *6.* Two and one-half percent of the funds shall be allocated for special programs, including ridesharing, transportation demand management programs, experimental transit, public transportation promotion, operation studies, and technical assistance, and may be allocated to any local governing body, planning district commission, transportation district commission, or public transit corporation. Remaining funds may also be used directly by the Department of Rail and Public Transportation to (i) finance a program administered by the Department of Rail and Public Transportation designed to promote the use of public transportation and ridesharing throughout the Commonwealth or (ii) finance up to 80 percent of the cost of development and implementation of projects with a purpose of enhancing the provision and use of public transportation services.

E. The Board may consider the transfer of funds from subdivisions D 2 and ~~5~~ *6* to subdivision D 1 in times of statewide economic distress or statewide special need.

F. The Department of Rail and Public Transportation may reserve a balance of up to five percent of the Fund revenues in order to ensure stability in providing operating and capital funding to transit entities from year to year, provided that such balance shall not exceed five percent of revenues in a given biennium.

G. The Board may allocate up to 3.5 percent of the funds set aside for the Fund to support costs of project development, project administration, and project compliance incurred by the Department of Rail and Public Transportation in implementing rail, public transportation, and congestion management grants and programs.

H. Funds allocated to the Northern Virginia Transportation Commission (NVTC) for WMATA pursuant to subdivision D ~~3~~ *4* shall be credited to the Counties of Arlington ~~and~~, Fairfax*, and Loudoun* and the Cities of Alexandria, Fairfax, and Falls Church. ~~Beginning in the fiscal year when service starts on Phase II of the Silver Line, such funds shall also be credited to Loudoun County.~~ Funds allocated pursuant to this subsection shall be credited as follows:

1. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality using WMATA's capital formula shall be paid first by NVTC, which shall use 95 percent state aid for these payments.

2. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall include 20 percent of annual local bus capital expenses. Local transit subsidies and local capital costs of Loudoun County shall not be included. Hold harmless protections and obligations for NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

I. Appropriations from the Fund are intended to provide a stable and reliable source of revenue, as defined by P.L. 96-184.

J. Notwithstanding any other provision of law, funds allocated to WMATA may be disbursed by the Department of Rail and Public Transportation directly to WMATA or to any other transportation entity that has an agreement to provide funding to WMATA.

K. In any year that the total Virginia operating assistance in the approved WMATA budget increases by more than three percent from the total operating assistance in the prior year's approved WMATA budget, the Board shall withhold an amount equal to 35 percent of the funds available under subdivision D ~~3~~ *4*. The following items shall not be included in the calculation of any WMATA budget increase: (i) any service, equipment, or facility that is required by any applicable law, rule, or regulation; (ii) any capital project approved by the WMATA Board before or after the effective date of this

provision; (iii) any payments or obligations of any kind arising from or related to legal disputes or proceedings between or among WMATA and any other person or entity; and (iv) any service increases approved by the WMATA Board.

L. The Board shall withhold 20 percent of the funds available pursuant to subdivision D ~~3~~ *4* if (i) any alternate directors participate or take action at an official WMATA Board meeting or committee meeting as Board directors for a WMATA compact member when both directors appointed by that same WMATA compact member are present at the WMATA Board meeting or committee meeting or (ii) the WMATA Board of Directors has not adopted bylaws that would prohibit such participation by alternate directors.

M. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 4 unless (i) WMATA has adopted a detailed capital improvement program covering the current fiscal year and, at a minimum, the next five fiscal years, and at least one public hearing on such capital improvement program has been held in a locality embraced by the Northern Virginia Transportation Commission (NVTC), and (ii) WMATA has adopted or updated a strategic plan within the preceding 36 months, and at least one public hearing on such plan or updated plan has been held in a locality embraced by NVTC.

The strategic plan shall require (a) an assessment of state of good repair needs; (b) a review of the performance of fixed-route bus service, including schedules, route design, connectivity, and vehicle sizes; (c) an evaluation of opportunities to improve operating efficiency of the transit network, including reliability of trips and travel speed; (d) an examination and identification of opportunities to share services where multiple transit providers' services overlap; and (e) an examination of opportunities to improve service in underserved areas.

N. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 4 unless WMATA prepares and submits a proposed detailed annual operating budget and any proposed capital expenditures and projects for the following fiscal year to the Board by April 1 of each year. The budget shall include information on expenditures, indebtedness, pensions and other liabilities, and other information as prescribed by the Board. Additionally such funds shall be withheld if the Commonwealth's and Northern Virginia Transportation Commission's representatives to the WMATA Board of Directors and the WMATA General Manager fail to annually address the Commonwealth Transportation Board regarding the WMATA budget, system performance, and utilization of the Commonwealth's investment in the WMATA system.

O. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 3 unless the commuter rail system jointly operated by Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission, established pursuant to Chapter 19 (§ 33.2-1900 et seq.), submits a detailed annual operating budget and any proposed capital expenditures and projects for the following fiscal year to the Board by February 1 of each year. The operating plan and budget shall include information on expenditures, indebtedness, and other information as prescribed by the Board.

2. That the eighth enactment of Chapter 854 and the eighth enactment of Chapter 856 of the Acts of Assembly of 2018 are repealed.

3. That for fiscal year 2024, the Director of the Department of Rail and Public Transportation may deviate from the allocation requirements in subsection D of § 33.2-1526.1 of the Code of Virginia, as amended by this act, when making recommendations to the Commonwealth Transportation Board (Board) for allocation of funds from the Commonwealth Mass Transit Fund (the Fund). For fiscal year 2024, the Board may utilize the allocation requirements for the Fund provided for in subsection D of § 33.2-1526.1 of the Code of Virginia, as it was in effect prior to the effective date of this act, for the purpose of transitioning to the allocation requirements of this act.

CHAPTER 364

An Act to amend and reenact §§ 46.2-1602.1, 46.2-1603.2, and 46.2-1608.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-1602.3, relating to titling requirements for nonrepairable vehicles; sale to certain auto recyclers.

[H 1661]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1602.1, 46.2-1603.2, and 46.2-1608.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-1602.3 as follows:

§ 46.2-1602.1. Duties of insurance companies upon acquiring certain vehicles.

~~Every~~ *Except as otherwise provided in § 46.2-1602.3, every* insurance company which acquires, as a result of the claims process, any late model vehicle titled in the Commonwealth or any recovered stolen vehicle whose estimated cost of repair exceeds ~~seventy-five~~ *75* percent of its actual cash value shall apply to and obtain from the Department either (i) a salvage certificate or certificate of title as provided in § 46.2-1603 or (ii) a nonrepairable certificate as provided in § 46.2-1603.2 for each such vehicle. An insurance company may apply to and obtain from the Department either a salvage certificate as provided in § 46.2-1603 or a nonrepairable certificate as provided in § 46.2-1603.2 for any other vehicle which is determined to be either a salvage vehicle or a nonrepairable vehicle.

§ 46.2-1602.3. Exception; vehicles sold for recycling parts, dismantling, demolishing, or utilizing for scrap.

A. Notwithstanding any provision of this chapter to the contrary, an insurance company, or authorized agent of an insurance company, may obtain a nonrepairable certificate for a vehicle titled in the Commonwealth and acquired by the

insurance company through the claims process without first obtaining a certificate of title or a salvage certificate, provided that the insurance company or authorized agent of the insurance company electronically files the following with the Department in a manner prescribed by the Commissioner;

1. The insurance company's information, including name, address, federal identification number, and insurance company code number;

2. The claim number and claim payment date;

3. The vehicle information, including year, make, model, and vehicle identification number; and

4. A certification that:

a. The insurance company (i) has acquired the vehicle through the claims process; (ii) is unable to obtain the assigned title or salvage certificate for the vehicle from the insured; and (iii) has determined the vehicle to be a nonrepairable vehicle;

b. Any lien recorded on this title at the time the insurance company acquired the vehicle has been satisfied as a result of the claims process and released by the lien holder; and

c. The insurance company, or authorized agent of the insurance company, is selling the vehicle, either directly or through a salvage pool, to a demolisher, salvage dealer, or scrap metal processor solely for the purpose of recycling parts, dismantling, demolishing, or utilizing for scrap.

B. Upon receipt of the information required in subsection A, the Department shall update its records in accordance with subsection D of § 46.2-1603.2 and electronically deliver to the insurance company, or the authorized agent of the insurance company who filed the information in subsection A, if any, a nonrepairable certificate for the vehicle.

C. The insurance company, or authorized agent of the insurance company, shall provide the purchaser of the vehicle with the nonrepairable certificate and a bill of sale for each vehicle processed through subsection A. Delivery of such nonrepairable certificate and bill of sale to the purchaser may be through electronic means.

D. Each purchaser of a vehicle for which a nonrepairable certificate has been issued pursuant to subsection A shall comply with the notification requirements of subsection B of § 46.2-1608.2 and all applicable recordkeeping requirements of this chapter.

§ 46.2-1603.2. Owner may declare vehicle nonrepairable; insurance company required to obtain a nonrepairable certificate; applicability of certain other laws to nonrepairable certificates; titling and registration of nonrepairable vehicle prohibited.

A. The owner of any vehicle titled in the Commonwealth may declare such vehicle to be a nonrepairable vehicle by applying to the Department for a nonrepairable certificate. The application shall be accompanied by the vehicle's title certificate or salvage certificate.

B. Every insurance company or its authorized agent shall apply to the Department and obtain a nonrepairable certificate for each vehicle acquired by the insurance company as a result of the claims process if such vehicle is titled in the Commonwealth and is (i) a late model nonrepairable vehicle or (ii) a stolen vehicle that has been recovered and determined to be a nonrepairable vehicle. ~~The~~ *Except as provided in § 46.2-1602.3, the* application shall be accompanied by the vehicle's title certificate or salvage certificate. Application for the nonrepairable certificate shall be made within 15 days after payment has been made to the owner, lienholder, or both.

C. Every insurance company or its authorized agent shall notify the Department of each late model vehicle titled in the Commonwealth upon which a claim has been paid if such vehicle is a nonrepairable vehicle that is retained by its owner.

D. The Department, upon receipt of an application for a nonrepairable certificate for a vehicle titled in the Commonwealth, or upon receipt of notification from an insurance company or its authorized agent as provided in subsection C of this section that a vehicle registered in the Commonwealth has become a nonrepairable vehicle, shall cause the title of such vehicle to be cancelled and a nonrepairable certificate issued to the vehicle's owner.

There shall be no fee for the issuance of a nonrepairable certificate. All provisions of this Code applicable to a motor vehicle certificate of title shall apply, mutatis mutandis, to a nonrepairable certificate, except that no registration or license plates shall be issued for the vehicle described in a nonrepairable certificate. Except as otherwise provided in this chapter, no vehicle for which a nonrepairable certificate has been issued shall ever be titled or registered for use on the highways in the Commonwealth.

E. The Department, upon receipt of a title, salvage certificate, or other ownership document from a licensed salvage dealer or demolisher pursuant to subdivision A 1 of § 46.2-1603.1, shall cause the title, salvage certificate, or other ownership document to such vehicle to be cancelled and a nonrepairable certificate issued to the vehicle's owner.

F. For purposes of this chapter, any vehicle for which a brand or indicator has been issued by another state as reported to the National Motor Vehicle Title Information System or has been printed or stamped on the vehicle's out-of-state title or other document proving ownership issued by that state identifying such vehicle as "junk," "for destruction," "for parts only," "not to be repaired," or other similar designation shall be deemed to have been issued a nonrepairable certificate by that state.

§ 46.2-1608.2. Licensees to update records of the Department for motor vehicles that are to be demolished or dismantled.

A. A licensed auto recycler may be exempted from the waiting period in subsection B of § 46.2-1608.1 by:

1. Entering into a contractual agreement with the Department to update records of motor vehicles to be demolished or dismantled if such motor vehicles *either* have ~~either~~ been issued a certificate of title, salvage certificate, or nonrepairable certificate in the Commonwealth or are titled in another state. In addition to the contractual agreement, the licensed auto

recycler shall be required to comply with the Department's procedures for securely accessing and updating the Department's records; and

2. Notifying the Department that a motor vehicle is being demolished or dismantled or of the intention to demolish, dismantle, or reduce the motor vehicle to a state where it can no longer be considered a motor vehicle. Licensed auto recyclers shall electronically notify the Department of the demolished or dismantled vehicle's certificate of title, salvage certificate, or nonrepairable certificate number and vehicle identification number.

B. Licensed auto recyclers in possession of the certificate of title, salvage certificate, or nonrepairable certificate from the Commonwealth may demolish or dismantle the subject motor vehicle. Licensed auto recyclers shall electronically notify the Department *in a manner prescribed by the Commissioner* of the demolished or dismantled vehicle's certificate of title, salvage certificate, or nonrepairable certificate number and vehicle identification number within required time frames pursuant to subsection D of § 46.2-1603.1.

C. Licensed auto recyclers in possession of a certificate of title issued by another state may demolish or dismantle the subject motor vehicle. Licensed auto recyclers shall electronically notify the Department of the demolished or dismantled vehicle's certificate of title number, vehicle identification number, year, make, and model within required time frames pursuant to subsection D of § 46.2-1603.1.

D. Licensed auto recyclers that do not possess a certificate of title, salvage certificate, or nonrepairable certificate may demolish the subject motor vehicle if the motor vehicle is a model year that is at least 10 years older than the current model year. The licensed auto recycler shall provide electronically to the Department the vehicle identification number and the year, make, and model of the motor vehicle and shall remit to the Department the fees set out in § 46.2-627 and an additional $10 transaction fee. Upon receipt of such notification, the Department shall check the records of nationally recognized databases. The licensed auto recycler may not demolish or dismantle the vehicle until the Department has notified the licensed auto recycler of the results of that inquiry. If a licensed auto recycler is not in possession of the certificate of title, salvage certificate, or nonrepairable certificate and the subject motor vehicle is of the current model year or of a model year that is nine years old or less, that vehicle shall be processed in accordance with § 46.2-1202.

E. Nothing in this section shall release a licensed auto recycler from complying with the provisions of §§ 46.2-1603.1, 46.2-1608, and 46.2-1608.1.

CHAPTER 365

An Act to amend and reenact §§ 46.2-1602.1, 46.2-1603.2, and 46.2-1608.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-1602.3, relating to titling requirements for nonrepairable vehicles; sale to certain auto recyclers.

[S 1064]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1602.1, 46.2-1603.2, and 46.2-1608.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-1602.3 as follows:

§ 46.2-1602.1. Duties of insurance companies upon acquiring certain vehicles.

~~Every~~ *Except as otherwise provided in § 46.2-1602.3, every* insurance company which acquires, as a result of the claims process, any late model vehicle titled in the Commonwealth or any recovered stolen vehicle whose estimated cost of repair exceeds ~~seventy-five~~ *75* percent of its actual cash value shall apply to and obtain from the Department either (i) a salvage certificate or certificate of title as provided in § 46.2-1603 or (ii) a nonrepairable certificate as provided in § 46.2-1603.2 for each such vehicle. An insurance company may apply to and obtain from the Department either a salvage certificate as provided in § 46.2-1603 or a nonrepairable certificate as provided in § 46.2-1603.2 for any other vehicle which is determined to be either a salvage vehicle or a nonrepairable vehicle.

§ 46.2-1602.3. Exception; vehicles sold for recycling parts, dismantling, demolishing, or utilizing for scrap.

A. Notwithstanding any provision of this chapter to the contrary, an insurance company, or authorized agent of an insurance company, may obtain a nonrepairable certificate for a vehicle titled in the Commonwealth and acquired by the insurance company through the claims process without first obtaining a certificate of title or a salvage certificate, provided that the insurance company or authorized agent of the insurance company electronically files the following with the Department in a manner prescribed by the Commissioner;

1. The insurance company's information, including name, address, federal identification number, and insurance company code number;

2. The claim number and claim payment date;

3. The vehicle information, including year, make, model, and vehicle identification number; and

4. A certification that:

a. The insurance company (i) has acquired the vehicle through the claims process; (ii) is unable to obtain the assigned title or salvage certificate for the vehicle from the insured; and (iii) has determined the vehicle to be a nonrepairable vehicle;

b. Any lien recorded on this title at the time the insurance company acquired the vehicle has been satisfied as a result of the claims process and released by the lien holder; and

c. The insurance company, or authorized agent of the insurance company, is selling the vehicle, either directly or through a salvage pool, to a demolisher, salvage dealer, or scrap metal processor solely for the purpose of recycling parts, dismantling, demolishing, or utilizing for scrap.

B. Upon receipt of the information required in subsection A, the Department shall update its records in accordance with subsection D of § 46.2-1603.2 and electronically deliver to the insurance company, or the authorized agent of the insurance company who filed the information in subsection A, if any, a nonrepairable certificate for the vehicle.

C. The insurance company, or authorized agent of the insurance company, shall provide the purchaser of the vehicle with the nonrepairable certificate and a bill of sale for each vehicle processed through subsection A. Delivery of such nonrepairable certificate and bill of sale to the purchaser may be through electronic means.

D. Each purchaser of a vehicle for which a nonrepairable certificate has been issued pursuant to subsection A shall comply with the notification requirements of subsection B of § 46.2-1608.2 and all applicable recordkeeping requirements of this chapter.

§ 46.2-1603.2. Owner may declare vehicle nonrepairable; insurance company required to obtain a nonrepairable certificate; applicability of certain other laws to nonrepairable certificates; titling and registration of nonrepairable vehicle prohibited.

A. The owner of any vehicle titled in the Commonwealth may declare such vehicle to be a nonrepairable vehicle by applying to the Department for a nonrepairable certificate. The application shall be accompanied by the vehicle's title certificate or salvage certificate.

B. Every insurance company or its authorized agent shall apply to the Department and obtain a nonrepairable certificate for each vehicle acquired by the insurance company as a result of the claims process if such vehicle is titled in the Commonwealth and is (i) a late model nonrepairable vehicle or (ii) a stolen vehicle that has been recovered and determined to be a nonrepairable vehicle. ~~The~~ *Except as provided in § 46.2-1602.3, the* application shall be accompanied by the vehicle's title certificate or salvage certificate. Application for the nonrepairable certificate shall be made within 15 days after payment has been made to the owner, lienholder, or both.

C. Every insurance company or its authorized agent shall notify the Department of each late model vehicle titled in the Commonwealth upon which a claim has been paid if such vehicle is a nonrepairable vehicle that is retained by its owner.

D. The Department, upon receipt of an application for a nonrepairable certificate for a vehicle titled in the Commonwealth, or upon receipt of notification from an insurance company or its authorized agent as provided in subsection C of this section that a vehicle registered in the Commonwealth has become a nonrepairable vehicle, shall cause the title of such vehicle to be cancelled and a nonrepairable certificate issued to the vehicle's owner.

There shall be no fee for the issuance of a nonrepairable certificate. All provisions of this Code applicable to a motor vehicle certificate of title shall apply, mutatis mutandis, to a nonrepairable certificate, except that no registration or license plates shall be issued for the vehicle described in a nonrepairable certificate. Except as otherwise provided in this chapter, no vehicle for which a nonrepairable certificate has been issued shall ever be titled or registered for use on the highways in the Commonwealth.

E. The Department, upon receipt of a title, salvage certificate, or other ownership document from a licensed salvage dealer or demolisher pursuant to subdivision A 1 of § 46.2-1603.1, shall cause the title, salvage certificate, or other ownership document to such vehicle to be cancelled and a nonrepairable certificate issued to the vehicle's owner.

F. For purposes of this chapter, any vehicle for which a brand or indicator has been issued by another state as reported to the National Motor Vehicle Title Information System or has been printed or stamped on the vehicle's out-of-state title or other document proving ownership issued by that state identifying such vehicle as "junk," "for destruction," "for parts only," "not to be repaired," or other similar designation shall be deemed to have been issued a nonrepairable certificate by that state.

§ 46.2-1608.2. Licensees to update records of the Department for motor vehicles that are to be demolished or dismantled.

A. A licensed auto recycler may be exempted from the waiting period in subsection B of § 46.2-1608.1 by:

1. Entering into a contractual agreement with the Department to update records of motor vehicles to be demolished or dismantled if such motor vehicles *either* have ~~either~~ been issued a certificate of title, salvage certificate, or nonrepairable certificate in the Commonwealth or are titled in another state. In addition to the contractual agreement, the licensed auto recycler shall be required to comply with the Department's procedures for securely accessing and updating the Department's records; and

2. Notifying the Department that a motor vehicle is being demolished or dismantled or of the intention to demolish, dismantle, or reduce the motor vehicle to a state where it can no longer be considered a motor vehicle. Licensed auto recyclers shall electronically notify the Department of the demolished or dismantled vehicle's certificate of title, salvage certificate, or nonrepairable certificate number and vehicle identification number.

B. Licensed auto recyclers in possession of the certificate of title, salvage certificate, or nonrepairable certificate from the Commonwealth may demolish or dismantle the subject motor vehicle. Licensed auto recyclers shall electronically notify the Department *in a manner prescribed by the Commissioner* of the demolished or dismantled vehicle's certificate of title, salvage certificate, or nonrepairable certificate number and vehicle identification number within required time frames pursuant to subsection D of § 46.2-1603.1.

C. Licensed auto recyclers in possession of a certificate of title issued by another state may demolish or dismantle the subject motor vehicle. Licensed auto recyclers shall electronically notify the Department of the demolished or dismantled vehicle's certificate of title number, vehicle identification number, year, make, and model within required time frames pursuant to subsection D of § 46.2-1603.1.

D. Licensed auto recyclers that do not possess a certificate of title, salvage certificate, or nonrepairable certificate may demolish the subject motor vehicle if the motor vehicle is a model year that is at least 10 years older than the current model year. The licensed auto recycler shall provide electronically to the Department the vehicle identification number and the year, make, and model of the motor vehicle and shall remit to the Department the fees set out in § 46.2-627 and an additional $10 transaction fee. Upon receipt of such notification, the Department shall check the records of nationally recognized databases. The licensed auto recycler may not demolish or dismantle the vehicle until the Department has notified the licensed auto recycler of the results of that inquiry. If a licensed auto recycler is not in possession of the certificate of title, salvage certificate, or nonrepairable certificate and the subject motor vehicle is of the current model year or of a model year that is nine years old or less, that vehicle shall be processed in accordance with § 46.2-1202.

E. Nothing in this section shall release a licensed auto recycler from complying with the provisions of §§ 46.2-1603.1, 46.2-1608, and 46.2-1608.1.

CHAPTER 366

An Act to amend and reenact § 2.2-2001 of the Code of Virginia, relating to burial fees for military spouses.

[H 2362]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2001 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-2001. Administrative responsibilities of the Department; annual report.

A. The Department shall be responsible to the Secretary of Veterans and Defense Affairs on behalf of the Governor for the establishment, operation, administration, and maintenance of offices and programs related to services for Virginia-domiciled veterans of the Armed Forces of the United States and their eligible spouses, orphans, and dependents. Such services shall include, but not be limited to, benefits claims processing and all medical care centers and cemeteries for veterans owned and operated by the Commonwealth.

Subject to the availability of sufficient nongeneral fund revenues, including, but not limited to, private donations and federal funds, the Department shall work in concert with applicable state and federal agencies to develop and deploy an automated system for the electronic preparation of veterans' disability claims that ensures the collection of the necessary information to expedite processing of Virginia veterans' disability claims. The Department's development and deployment work shall be appropriately phased to minimize risk and shall include an initial replacement of the Department's existing case management technology, which replacement is required to support highly sophisticated electronic claims preparation. The Commissioner shall ensure that the system is efficient and statutorily compliant.

B. *1.* From such funds as may be appropriated or otherwise received for such purpose, the Department shall provide burial vaults at cost to eligible veterans and their family members interred at state-operated veterans cemeteries.

2. From such funds as may be appropriated or otherwise received for such purpose, the Commonwealth shall pay any burial fee charged for the burial of (i) a member of the National Guard and Reserve or (ii) a deceased spouse of a member or veteran of the United States Armed Forces or of the National Guard and Reserve, regardless of whether such spouse's death precedes or succeeds the death of the member or veteran, at a state-operated veterans cemetery. The Department shall develop guidelines concerning the administration of this subsection.

C. The Department shall establish guidelines for the determination of eligibility for Virginia-domiciled veterans and their spouses, orphans, and dependents for participation in programs and benefits administered by the Department. Such guidelines shall meet the intent of the federal statutes and regulations pertaining to the administration of federal programs supporting U.S. Armed Forces veterans and their spouses, orphans, and dependents.

D. The Department shall adopt reasonable regulations to implement a program to certify, upon request of the small business owner, that he holds a "service disabled veteran" status.

E. The Department shall submit an annual report through the Secretary of Veterans and Defense Affairs to the Governor and the General Assembly on or before December 1 of each year and other reports to the Secretary as required by the Secretary. The annual report to the Governor and the General Assembly shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

CHAPTER 367

An Act to amend and reenact § 2.2-2001 of the Code of Virginia, relating to burial fees for military spouses.

[S 924]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2001 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-2001. Administrative responsibilities of the Department; annual report.

A. The Department shall be responsible to the Secretary of Veterans and Defense Affairs on behalf of the Governor for the establishment, operation, administration, and maintenance of offices and programs related to services for Virginia-domiciled veterans of the Armed Forces of the United States and their eligible spouses, orphans, and dependents. Such services shall include, but not be limited to, benefits claims processing and all medical care centers and cemeteries for veterans owned and operated by the Commonwealth.

Subject to the availability of sufficient nongeneral fund revenues, including, but not limited to, private donations and federal funds, the Department shall work in concert with applicable state and federal agencies to develop and deploy an automated system for the electronic preparation of veterans' disability claims that ensures the collection of the necessary information to expedite processing of Virginia veterans' disability claims. The Department's development and deployment work shall be appropriately phased to minimize risk and shall include an initial replacement of the Department's existing case management technology, which replacement is required to support highly sophisticated electronic claims preparation. The Commissioner shall ensure that the system is efficient and statutorily compliant.

B. *1.* From such funds as may be appropriated or otherwise received for such purpose, the Department shall provide burial vaults at cost to eligible veterans and their family members interred at state-operated veterans cemeteries.

2. From such funds as may be appropriated or otherwise received for such purpose, the Commonwealth shall pay any burial fee charged for the burial of (i) a member of the National Guard and Reserve or (ii) a deceased spouse of a member or veteran of the United States Armed Forces or of the National Guard and Reserve, regardless of whether such spouse's death precedes or succeeds the death of the member or veteran, at a state-operated veterans cemetery. The Department shall develop guidelines concerning the administration of this subsection.

C. The Department shall establish guidelines for the determination of eligibility for Virginia-domiciled veterans and their spouses, orphans, and dependents for participation in programs and benefits administered by the Department. Such guidelines shall meet the intent of the federal statutes and regulations pertaining to the administration of federal programs supporting U.S. Armed Forces veterans and their spouses, orphans, and dependents.

D. The Department shall adopt reasonable regulations to implement a program to certify, upon request of the small business owner, that he holds a "service disabled veteran" status.

E. The Department shall submit an annual report through the Secretary of Veterans and Defense Affairs to the Governor and the General Assembly on or before December 1 of each year and other reports to the Secretary as required by the Secretary. The annual report to the Governor and the General Assembly shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

CHAPTER 368

An Act to amend the Code of Virginia by adding a section numbered 54.1-3420.3, relating to prescriptions; telemedicine; refusal to fill prescription from telemedicine provider; prohibition.

[H 2374]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 54.1-3420.3 as follows:

§ 54.1-3420.3. Prohibition on refusing to fill prescription from telemedicine provider.

A. A pharmacy shall not implement or enforce a policy that prevents a pharmacist from dispensing a prescription solely on the basis of the prescriber's use of a telemedicine platform to provide services.

B. A pharmacist shall not prioritize dispensing a prescription from a prescriber who does not use telemedicine over dispensing a prescription from a prescriber who does use telemedicine solely on the basis of the prescriber's use of a telemedicine platform to provide services.

CHAPTER 369

An Act to amend and reenact § 32.1-283.8 of the Code of Virginia, relating to Maternal Mortality Review Team; annual compilation and release of statistical data.

[S 1254]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-283.8 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-283.8. Maternal Mortality Review Team; duties; membership; confidentiality; penalties; report; etc.

A. As used in this section, "maternal death" means the death of a woman who was pregnant at the time of death or within one year prior to the time of death, regardless of the outcome of the pregnancy, including any death determined to be a natural death, unnatural death, or violent death or for which no cause of death was determined.

B. There is hereby created the Maternal Mortality Review Team (the Team), which shall develop and implement procedures to ensure that certain maternal deaths occurring in the Commonwealth are analyzed in a systematic way. The Team shall review every maternal death in the Commonwealth. The Team shall not initiate a maternal death review until the conclusion of any law-enforcement investigation or criminal prosecution. The Team shall (i) develop and revise as necessary operating procedures for maternal death reviews, including identification of cases to be reviewed and procedures for coordinating among the agencies and professionals involved; (ii) improve the identification of and data collection and record keeping related to causes of maternal deaths; (iii) recommend components of programs to increase awareness and prevention of and education about maternal deaths; and (iv) recommend training to improve the review of maternal deaths. Such operating procedures shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 17 of § 2.2-4002.

C. The Team shall consist of the following persons or their designees: the Chief Medical Examiner, the Director of the Office of Family Health of the Department of Health, the State Registrar of Vital Records, and the Commissioner of Behavioral Health and Developmental Services. In addition, the Governor shall appoint one representative of each of the following entities: local law enforcement, local fire departments, local emergency medical services providers, local departments of social services, community services boards, attorneys for the Commonwealth, the Medical Society of Virginia, the Virginia Hospital and Healthcare Association, the Virginia College of Emergency Physicians, the Virginia Section of the American College of Obstetricians and Gynecologists, the Virginia Affiliate of the American College of Nurse-Midwives, the Virginia Chapter of the Association of Women's Health, Obstetric and Neonatal Nurses, the Virginia Neonatal Perinatal Collaborative, the Virginia Midwives Alliance, and the Virginia Academy of Nutrition and Dietetics. The Chief Medical Examiner and the Director of the Office of Family Health of the Department of Health shall serve as co-chairs of the Team and may appoint additional members of the Team as may be needed to complete maternal death reviews pursuant to this section.

After the initial staggering of terms, members other than the Chief Medical Examiner, the Director of the Office of Family Health of the Department of Health, the State Registrar of Vital Records, the Commissioner of Behavioral Health and Developmental Services, and the Director of the Department of Criminal Justice Services shall be appointed for a term of three years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. The Chief Medical Examiner, the Director of the Office of Family Health of the Department of Health, the State Registrar of Vital Records, the Commissioner of Behavioral Health and Developmental Services, and the Director of the Department of Criminal Justice Services shall serve terms coincident with their terms of office.

D. Upon the request of the Chief Medical Examiner in his capacity as a co-chair of the Team, made after the conclusion of any law-enforcement investigation or prosecution, the Chief Medical Examiner or his designee may inspect and copy information and records regarding a maternal death, including (i) any report of the circumstances of the maternal death maintained by any state or local law-enforcement agency or medical examiner, and (ii) information or records about the woman maintained by any social services agency or court. Information, records, or reports maintained by any attorney for the Commonwealth shall be made available for inspection and copying by the Chief Medical Examiner or his designee pursuant to procedures that shall be developed by the Chief Medical Examiner and the Commonwealth's Attorneys' Services Council established by § 2.2-2617. Any presentence report prepared pursuant to § 19.2-299 for any person convicted of a crime that led to the death of the woman shall be made available for inspection and copying by the Chief Medical Examiner or his designee. In addition, the Chief Medical Examiner or his designee may inspect and copy from any health care provider in the Commonwealth, on behalf of the Team, (a) without obtaining consent, subject to any limitations on disclosure under applicable federal and state law, the health and mental health records of the woman and those prenatal medical records relating to any child born to the woman and (b) upon obtaining consent, from each adult regarding his records.

E. All information and records obtained or created by the Team or on behalf of the Team regarding a review shall be confidential and excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 7 of § 2.2-3705.5. All such information and records shall be used by the Team only in the exercise of its proper purpose and function and shall not be disclosed. In preparing information and records for review by the Team, the Department shall

remove any individually identifiable information or information identifying a health care provider, as those terms are defined in 45 C.F.R. § 160.103. Such information shall not be subject to subpoena, subpoena duces tecum, or discovery, be admissible in any civil or criminal proceeding, or be used as evidence in any disciplinary proceeding or regulatory or licensure action of the Department of Health Professions or any health regulatory board. If available from other sources, however, such information and records shall not be immune from subpoena, discovery, or introduction into evidence when obtained through such other sources solely because the information and records were presented to the Team during a maternal death review. The findings of the Team may be disclosed or published in statistical or other form, but shall not identify any individual. Upon conclusion of the maternal death review, all information and records concerning the woman and the woman's family shall be shredded or otherwise destroyed by the Office of the Chief Medical Examiner in order to ensure confidentiality.

The portions of meetings in which individual maternal deaths are discussed by the Team shall be closed pursuant to subdivision A 21 of § 2.2-3711. In addition to the requirements of § 2.2-3712, all Team members and other persons attending closed Team meetings, including any persons presenting information or records on specific maternal deaths to the Team during closed meetings, shall execute a sworn statement to (i) honor the confidentiality of the information, records, discussions, and opinions disclosed during meetings at which the Team reviews a specific maternal death and (ii) not use any such information, records, discussions, or opinions disclosed during meetings at which the Team reviews a specific maternal death for any purpose other than the exercise of the proper purpose and function of the Team. Violations of this subsection are punishable as a Class 3 misdemeanor.

F. Upon notification of a maternal death, any state or local government agency maintaining records on the woman or the woman's family that are periodically purged shall retain such records for the longer of 12 months or until such time as the Team has completed its review of the case.

G. The Team shall compile ~~triennial~~ *annual* statistical data, which shall be made available to the Governor and the General Assembly. Any statistical compilations prepared by the Team shall be public record and shall not contain any personal identifying information.

H. Members of the Team, as well as their agents and employees, shall be immune from civil liability for any act or omission made in connection with participation in a review by the Team, unless such act or omission was the result of gross negligence or willful misconduct. Any organization, institution, or person furnishing information, data, testimony, reports, or records to the Team as part of such review shall be immune from civil liability for any act or omission in furnishing such information, unless such act or omission was the result of gross negligence or willful misconduct.

CHAPTER 370

An Act to amend and reenact §§ 16.1-253.1 and 16.1-279.1 of the Code of Virginia, relating to family abuse protective orders; relief available; password to electronic device; enjoining surveillance; penalty.

[H 1961]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-253.1 and 16.1-279.1 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-253.1. Preliminary protective orders in cases of family abuse; confidentiality.

A. Upon the filing of a petition alleging that the petitioner is or has been, within a reasonable period of time, subjected to family abuse, the court may issue a preliminary protective order against an allegedly abusing person in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer. If an ex parte order is issued without an affidavit or a completed form as prescribed by subsection D of § 16.1-253.4 being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse has recently occurred shall constitute good cause. Evidence that the petitioner has been subjected to family abuse within a reasonable time and evidence of immediate and present danger of family abuse may be established by a showing that (i) the allegedly abusing person is incarcerated and is to be released from incarceration within 30 days following the petition or has been released from incarceration within 30 days prior to the petition, (ii) the crime for which the allegedly abusing person was convicted and incarcerated involved family abuse against the petitioner, and (iii) the allegedly abusing person has made threatening contact with the petitioner while he was incarcerated, exhibiting a renewed threat to the petitioner of family abuse.

A preliminary protective order may include any one or more of the following conditions to be imposed on the allegedly abusing person:

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property.

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons.

3. Granting the petitioner possession of the premises occupied by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession shall affect title to any real or personal property.

4. Enjoining the respondent from terminating any necessary utility service to a premises that the petitioner has been granted possession of pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to such premises.

5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, exclusive use and possession of a cellular telephone number or electronic device *and the password to such device*. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate *or surveille* the petitioner.

6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession or use shall affect title to the vehicle.

7. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner and any other family or household member and, where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided.

8. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

9. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner.

B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of a preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order, unless the court is closed pursuant to § 16.1-69.35 or 17.1-207 and such closure prevents the hearing from being held within such time period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the preliminary protective order shall remain in full force and effect until it is dissolved by such court, until another preliminary protective order is entered, or until a protective order is entered. If the respondent fails to appear at this hearing because the respondent was not personally served, or if personally served was incarcerated and not transported to the hearing, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served forthwith on the respondent. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the preliminary protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the primary law-enforcement agency, and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described above. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

C. The preliminary order is effective upon personal service on the allegedly abusing person. Except as otherwise provided in § 16.1-253.2, a violation of the order shall constitute contempt of court.

D. At a full hearing on the petition, the court may issue a protective order pursuant to § 16.1-279.1 if the court finds that the petitioner has proven the allegation of family abuse by a preponderance of the evidence.

E. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

F. As used in this section, "copy" includes a facsimile copy.

G. No fee shall be charged for filing or serving any petition or order pursuant to this section.

H. Upon issuance of a preliminary protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

§ 16.1-279.1. Protective order in cases of family abuse.

A. In cases of family abuse, including any case involving an incarcerated or recently incarcerated respondent against whom a preliminary protective order has been issued pursuant to § 16.1-253.1, the court may issue a protective order to protect the health and safety of the petitioner and family or household members of the petitioner. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property;

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons;

3. Granting the petitioner possession of the residence occupied by the parties to the exclusion of the respondent; however, no such grant of possession shall affect title to any real or personal property;

4. Enjoining the respondent from terminating any necessary utility service to the residence to which the petitioner was granted possession pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to that residence;

5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, exclusive use and possession of a cellular telephone number or electronic device *and the password to such device*. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate *or surveille* the petitioner;

6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the respondent and enjoining the respondent from terminating any insurance, registration, or taxes on the motor vehicle and directing the respondent to maintain the insurance, registration, and taxes, as appropriate; however, no such grant of possession or use shall affect title to the vehicle;

7. Requiring that the respondent provide suitable alternative housing for the petitioner and, if appropriate, any other family or household member and where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided;

8. Ordering the respondent to participate in treatment, counseling or other programs as the court deems appropriate;

9. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500; and

10. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner, including a provision for temporary custody or visitation of a minor child.

A1. If a protective order is issued pursuant to subsection A, the court may also issue a temporary child support order for the support of any children of the petitioner whom the respondent has a legal obligation to support. Such order shall terminate upon the determination of support pursuant to § 20-108.1.

B. The protective order may be issued for a specified period of time up to a maximum of two years. The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. If the petitioner was a family or household member of the respondent at the time the initial protective order was issued, the court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

C. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order containing any such identifying

information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

D. Except as otherwise provided in § 16.1-253.2, a violation of a protective order issued under this section shall constitute contempt of court.

E. The court may assess costs and attorneys' fees against either party regardless of whether an order of protection has been issued as a result of a full hearing.

F. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, including any of the conditions specified in subsection A, shall be accorded full faith and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law. A person entitled to protection under such a foreign order may file the order in any juvenile and domestic relations district court by filing with the court an attested or exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer information electronically to the Virginia Criminal Information Network.

Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy available of any foreign order filed with that court. A law-enforcement officer may, in the performance of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been provided to him by any source and may also rely upon the statement of any person protected by the order that the order remains in effect.

G. Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order. Proceedings to dissolve or modify a protective order shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

H. As used in this section:

"Copy" includes a facsimile copy; and

"Protective order" includes an initial, modified or extended protective order.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

J. No fee shall be charged for filing or serving any petition or order pursuant to this section.

K. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

L. An appeal of a protective order issued pursuant to this section shall be given expedited review by the Court of Appeals.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is $0 for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 371

An Act to amend and reenact § 38.2-3610 of the Code of Virginia, relating to Medicare supplement policies for certain individuals under age 65.

[H 1640]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3610 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3610. Medicare supplement policies for persons eligible by reason of disability.

A. An insurer, health services plan, or health maintenance organization issuing Medicare supplement policies or certificates in the Commonwealth, including policies or certificates issued on an individual or group basis or through a group trust, shall offer the opportunity of enrolling in at least one of its issued Medicare supplement policies or certificates to any individual who resides in the Commonwealth, is under 65 years of age, is eligible for Medicare by reason of disability, as defined by 42 U.S.C. § 426(b) *or 42 U.S.C. § 426-1*, and is enrolled in Medicare Part A and B, or will be so enrolled by the effective date of coverage. Such Medicare supplement policies or certificates shall be issued on a guaranteed renewable basis under which the insurer shall be required to continue coverage as long as premiums are paid on the policy or certificate. Such Medicare supplement policies or certificates shall be offered:

1. Upon the request of the individual during the six-month period beginning with the first month in which the individual is eligible for Medicare by reason of a disability. For those persons who are retroactively enrolled in Medicare Part B due to a retroactive eligibility decision made by the Social Security Administration, the application must be submitted within a six-month period beginning with the month in which the person receives notification of the retroactive eligibility decision; or

2. Upon the request of the individual during the 63-day period following voluntary or involuntary termination of coverage under a group health plan.

B. The six-month period to enroll in a Medicare supplement policy or certificate for an individual who is under 65 years of age and is eligible for Medicare by reason of disability *under 42 U.S.C. § 426(b)* and otherwise eligible under subsection A and first enrolled in Medicare Part B before January 1, 2021, shall begin on January 1, 2021. *The six-month period to enroll in a Medicare supplement policy or certificate for an individual who is under 65 years of age and is eligible for Medicare by reason of disability under 42 U.S.C. § 426-1 and otherwise eligible under subsection A and first enrolled in Medicare Part B before January 1, 2024, shall begin on January 1, 2024.*

C. A Medicare supplement policy or certificate issued to an individual under subsection A shall not exclude benefits based on a preexisting condition if the individual has a continuous period of creditable coverage of at least six months as of the effective date of coverage.

D. ~~An~~ *Effective January 1, 2024, an* insurer ~~may develop~~ *shall not charge individuals who become eligible for Medicare by reason of disability and who are under 65 years of age* premium rates ~~specific to the class of individuals described in subsection A~~ *for any Medicare supplement policy or certificate offered by the issuer that exceed the premium rates charged for such plan to individuals who are 65 years of age*.

E. For purposes of this section, "creditable coverage" and "group health plan" have the same meanings ascribed to the terms in § 38.2-3431.

CHAPTER 372

An Act to amend and reenact § 38.2-3610 of the Code of Virginia, relating to Medicare supplement policies for certain individuals under age 65.

[S 1409]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3610 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3610. Medicare supplement policies for persons eligible by reason of disability.

A. An insurer, health services plan, or health maintenance organization issuing Medicare supplement policies or certificates in the Commonwealth, including policies or certificates issued on an individual or group basis or through a group trust, shall offer the opportunity of enrolling in at least one of its issued Medicare supplement policies or certificates to any individual who resides in the Commonwealth, is under 65 years of age, is eligible for Medicare by reason of disability, as defined by 42 U.S.C. § 426(b) *or 42 U.S.C. § 426-1*, and is enrolled in Medicare Part A and B, or will be so enrolled by the effective date of coverage. Such Medicare supplement policies or certificates shall be issued on a guaranteed renewable basis under which the insurer shall be required to continue coverage as long as premiums are paid on the policy or certificate. Such Medicare supplement policies or certificates shall be offered:

1. Upon the request of the individual during the six-month period beginning with the first month in which the individual is eligible for Medicare by reason of a disability. For those persons who are retroactively enrolled in Medicare

Part B due to a retroactive eligibility decision made by the Social Security Administration, the application must be submitted within a six-month period beginning with the month in which the person receives notification of the retroactive eligibility decision; or

2. Upon the request of the individual during the 63-day period following voluntary or involuntary termination of coverage under a group health plan.

B. The six-month period to enroll in a Medicare supplement policy or certificate for an individual who is under 65 years of age and is eligible for Medicare by reason of disability *under 42 U.S.C. § 426(b)* and otherwise eligible under subsection A and first enrolled in Medicare Part B before January 1, 2021, shall begin on January 1, 2021. *The six-month period to enroll in a Medicare supplement policy or certificate for an individual who is under 65 years of age and is eligible for Medicare by reason of disability under 42 U.S.C. § 426-1 and otherwise eligible under subsection A and first enrolled in Medicare Part B before January 1, 2024, shall begin on January 1, 2024.*

C. A Medicare supplement policy or certificate issued to an individual under subsection A shall not exclude benefits based on a preexisting condition if the individual has a continuous period of creditable coverage of at least six months as of the effective date of coverage.

D. ~~An~~ *Effective January 1, 2024, an* insurer ~~may develop~~ *shall not charge individuals who become eligible for Medicare by reason of disability and who are under 65 years of age* premium rates ~~specific to the class of individuals described in subsection A~~ *for any Medicare supplement policy or certificate offered by the issuer that exceed the premium rates charged for such plan to individuals who are 65 years of age.*

E. For purposes of this section, "creditable coverage" and "group health plan" have the same meanings ascribed to the terms in § 38.2-3431.

CHAPTER 373

An Act to amend and reenact §§ 2.2-5206, 37.2-308, and 37.2-605 of the Code of Virginia and to repeal § 37.2-507 of the Code of Virginia, relating to Department of Behavioral Health and Developmental Services; data reporting on children and adolescents; reporting requirements.

[H 1945]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-5206, 37.2-308, and 37.2-605 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-5206. Community policy and management teams; powers and duties.

The community policy and management team shall manage the cooperative effort in each community to better serve the needs of troubled and at-risk youths and their families and to maximize the use of state and community resources. Every such team shall:

1. Develop interagency policies and procedures to govern the provision of services to children and families in its community;

2. Develop interagency fiscal policies governing access to the state pool of funds by the eligible populations including immediate access to funds for emergency services and shelter care;

3. Establish policies to assess the ability of parents or legal guardians to contribute financially to the cost of services to be provided and, when not specifically prohibited by federal or state law or regulation, provide for appropriate parental or legal guardian financial contribution, utilizing a standard sliding fee scale based upon ability to pay;

4. Coordinate long-range, community-wide planning that ensures the development of resources and services needed by children and families in its community including consultation on the development of a community-based system of services established under § 16.1-309.3;

5. Establish policies governing referrals and reviews of children and families to the family assessment and planning teams or a collaborative, multidisciplinary team process approved by the Council, including a process for parents and persons who have primary physical custody of a child to refer children in their care to the teams, and a process to review the teams' recommendations and requests for funding;

6. Establish quality assurance and accountability procedures for program utilization and funds management;

7. Establish procedures for obtaining bids on the development of new services;

8. Manage funds in the interagency budget allocated to the community from the state pool of funds, the trust fund, and any other source;

9. Authorize and monitor the expenditure of funds by each family assessment and planning team or a collaborative, multidisciplinary team process approved by the Council;

10. Submit grant proposals that benefit its community to the state trust fund and enter into contracts for the provision or operation of services upon approval of the participating governing bodies;

11. Serve as its community's liaison to the Office of Children's Services, reporting on its programmatic and fiscal operations and on its recommendations for improving the service system, including consideration of realignment of geographical boundaries for providing human services;

12. Collect and provide uniform data to the Council as requested by the Office of Children's Services in accordance with subdivision D 16 of § 2.2-2648;

13. Review and analyze data in management reports provided by the Office of Children's Services in accordance with subdivision D 18 of § 2.2-2648 to help evaluate child and family outcomes and public and private provider performance in the provision of services to children and families through the Children's Services Act program. Every team shall also review local and statewide data provided in the management reports on the number of children served, children placed out of state, demographics, types of services provided, duration of services, service expenditures, child and family outcomes, and performance measures. Additionally, teams shall track the utilization and performance of residential placements using data and management reports to develop and implement strategies for returning children placed outside of the Commonwealth, preventing placements, and reducing lengths of stay in residential programs for children who can appropriately and effectively be served in their home, relative's homes, family-like setting, or their community;

14. Administer funds pursuant to § 16.1-309.3;

15. Have authority, upon approval of the participating governing bodies, to enter into a contract with another community policy and management team to purchase coordination services provided that funds described as the state pool of funds under § 2.2-5211 are not used;

16. ~~Submit to the Department of Behavioral Health and Developmental Services information on children under the age of 14 and adolescents ages 14 through 17 for whom an admission to an acute care psychiatric or residential treatment facility licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, exclusive of group homes, was sought but was unable to be obtained by the reporting entities. Such information shall be gathered from the family assessment and planning team or participating community agencies authorized in § 2.2-5207. Information to be submitted shall include:~~

~~a. The child or adolescent's date of birth;~~

~~b. Date admission was attempted; and~~

~~c. Reason the patient could not be admitted into the hospital or facility;~~

~~17.~~ Establish policies for providing intensive care coordination services for children who are at risk of entering, or are placed in, residential care through the Children's Services Act program, consistent with guidelines developed pursuant to subdivision D 22 of § 2.2-2648; and

~~18.~~ *17.* Establish policies and procedures for appeals by youth and their families of decisions made by local family assessment and planning teams regarding services to be provided to the youth and family pursuant to an individual family services plan developed by the local family assessment and planning team. Such policies and procedures shall not apply to appeals made pursuant to § 63.2-915 or in accordance with the Individuals with Disabilities Education Act or federal or state laws or regulations governing the provision of medical assistance pursuant to Title XIX of the Social Security Act.

§ 37.2-308. Data reporting on children and adolescents.

A. The Department shall collect and compile the following data:

1. The total number of licensed ~~and staffed~~ *mental health* inpatient ~~acute care~~ psychiatric beds for children ~~under the age of 14~~ and adolescents ~~ages 14 through 17~~; and

2. The total number of licensed ~~and staffed~~ *psychiatric* residential treatment *facility* beds for children ~~under the age of 14~~ and adolescents ~~ages 14 through 17 in residential facilities licensed pursuant to this title, excluding group homes~~.

B. ~~The Department shall collect and compile data obtained from the community policy and management team pursuant to subdivision 16 of § 2.2-5206 and each community services board or behavioral health authority pursuant to § 37.2-507 and subdivision 17 of § 37.2-605. The Department shall ensure that the data reported is not duplicative.~~

~~C.~~ The Department shall report this data on a quarterly basis to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations and to the Virginia Commission on Youth.

§ 37.2-605. Behavioral health authorities; powers and duties.

Every authority shall be deemed to be a public instrumentality, exercising public and essential governmental functions to provide for the public mental health, welfare, convenience, and prosperity of the residents and such other persons who might be served by the authority and to provide behavioral health services to those residents and persons. An authority shall have the following powers and duties:

1. Review and evaluate public and private community mental health, developmental, and substance abuse services and facilities that receive funds from the authority and advise the governing body of the city or county that established it as to its findings.

2. Pursuant to § 37.2-608, submit to the governing body of the city or county that established the authority an annual performance contract for community mental health, developmental, and substance abuse services for its approval prior to submission of the contract to the Department.

3. Within amounts appropriated for this purpose, provide services authorized under the performance contract.

4. In accordance with its approved performance contract, enter into contracts with other providers for the delivery of services or operation of facilities.

5. Make and enter into all other contracts or agreements as the authority may determine that are necessary or incidental to the performance of its duties and to the execution of powers granted by this chapter, including contracts with any federal agency, any subdivision or instrumentality of the Commonwealth, behavioral health providers, insurers, and managed care or health care networks on such terms and conditions as the authority may approve.

6. Make policies or regulations concerning the delivery of services and operation of facilities under its direction or supervision, subject to applicable policies and regulations adopted by the Board.

7. Appoint a chief executive officer of the behavioral health authority, who meets the minimum qualifications established by the Department, and prescribe his duties. The compensation of the chief executive officer shall be fixed by the authority within the amounts made available by appropriation for this purpose. The chief executive officer shall serve at the pleasure of the authority's board of directors and be employed under an annually renewable contract that contains performance objectives and evaluation criteria. The Department shall approve the selection of the chief executive officer for adherence to minimum qualifications established by the Department and the salary range of the chief executive officer.

8. Authorize the chief executive officer to maintain a complement of professional staff to operate the behavioral health authority's service delivery system.

9. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the jurisdiction or supervision of the authority and establish procedures for the collection of those fees. All fees collected shall be included in the performance contract submitted to the local governing body pursuant to subdivision 2 and § 37.2-608 and shall be used only for community mental health, developmental, and substance abuse services purposes. Every authority shall institute a reimbursement system to maximize the collection of fees from individuals receiving services under the jurisdiction or supervision of the authority, consistent with the provisions of § 37.2-612, and from responsible third party payors. Authorities shall not attempt to bill or collect fees for time spent participating in commitment hearings for involuntary admissions pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8.

10. Accept or refuse gifts, donations, bequests, or grants of money or property or other assistance from the federal government, the Commonwealth, any municipality thereof, or any other sources, public or private; utilize them to carry out any of its purposes; and enter into any agreement or contract regarding or relating to the acceptance, use, or repayment of any such grant or assistance.

11. Seek and accept funds through federal grants. In accepting federal grants, the authority shall not bind the governing body of the city or county that established it to any expenditures or conditions of acceptance without the prior approval of that governing body.

12. Notwithstanding any provision of law to the contrary, disburse funds appropriated to it in accordance with applicable regulations.

13. Apply for and accept loans in accordance with regulations established by the board of directors.

14. Develop joint written agreements, consistent with policies adopted by the Board, with local school divisions; health departments; local boards of social services; housing agencies, where they exist; courts; sheriffs; area agencies on aging; and regional offices of the Department for Aging and Rehabilitative Services. The agreements shall specify the services to be provided to individuals. All participating agencies shall develop and implement the agreements and shall review the agreements annually.

15. Take all necessary and appropriate actions to maximize the involvement and participation of individuals receiving services and family members of individuals receiving services in policy formulation and service planning, delivery, and evaluation.

16. Institute, singly or in combination with community services boards or other behavioral health authorities, a dispute resolution mechanism that is approved by the Department and enables individuals receiving services and family members of individuals receiving services to resolve concerns, issues, or disagreements about services without adversely affecting their access to or receipt of appropriate types and amounts of current or future services from the authority.

17. Notwithstanding the provisions of § 37.2-400 and regulations adopted thereunder, release data and information about each individual receiving services to the Department, so long as the Department implements procedures to protect the confidentiality of that data and information. ~~Every authority shall submit data on children and youth in the same manner as community services boards, as set forth in § 37.2-507.~~

18. Fulfill all other duties and be subject to applicable provisions specified in the Code of Virginia pertaining to community services boards.

19. Make loans and provide other assistance to corporations, partnerships, associations, joint ventures, or other entities in carrying out any activities authorized by this chapter.

20. Transact its business, locate its offices and control, directly or through stock or nonstock corporations or other entities, facilities that will assist the authority in carrying out the purposes and intent of this chapter, including without limitations the power to own or operate, directly or indirectly, behavioral health facilities in its service area.

21. Acquire property, real or personal, by purchase, gift, or devise on such terms and conditions and in such manner as it may deem proper and such rights, easements, or estates therein as may be necessary for its purposes and sell, lease, and dispose of the same or any portion thereof or interest therein, whenever it shall become expedient to do so.

22. Participate in joint ventures with persons, corporations, partnerships, associations, or other entities for providing behavioral health care or related services or other activities that the authority may undertake to the extent that such undertakings assist the authority in carrying out the purposes and intent of this chapter.

23. Conduct or engage in any lawful business, activity, effort, or project that is necessary or convenient for the purposes of the authority or for the exercise of any of its powers.

24. As a public instrumentality, establish and operate its administrative management infrastructure in whole or in part independent of the local governing body; however, nothing in the chapter precludes behavioral health authorities from acquiring support services through existing governmental entities.

25. Carry out capital improvements and bonding through existing economic or industrial development authorities.

26. Establish retirement, group life insurance, and group accident and sickness insurance plans or systems for its employees in the same manner as cities, counties, and towns are permitted to do under § 51.1-801.

27. Provide an annual report to the Department of the authority's activities.

28. Ensure a continuation of all services for individuals during any transition period.

2. That § 37.2-507 of the Code of Virginia is repealed.

CHAPTER 374

An Act to amend and reenact § 32.1-225 of the Code of Virginia, relating to bedding and upholstered furniture; exemption from regulation.

[H 2173]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-225 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-225. Exemptions.

A. The provisions of this article shall not apply to:

1. Any items of bedding or upholstered furniture sold under the order of any court or pursuant to § 55.1-2902, any sale of a decedent's estate, or any sale by any individual of his household effects.

2. *Any items of bedding or upholstered furniture that are 75 years old or older.*

3. Any interstate public carrier.

~~3.~~ *4.* Any state institution, agency, or department unless such institution, agency, or department offers for sale to the public items of bedding or upholstered furniture manufactured, reupholstered, or renovated by it.

~~4.~~ *5.* Any retailer who sells, gives away, or rents used upholstered furniture that has been purchased by the retailer as new furniture and has been used in the course of business when such used furniture has been (i) conspicuously identified as used furniture and (ii) reduced in price, sold at auction, donated to charity, or made available for a rental fee, and so tagged.

B. Any person who sells at retail, exclusively on a consignment basis, articles of bedding that are handmade by individuals and whose gross annual receipts from the sale of such articles are not in excess of $2,000 shall be deemed to be the manufacturer of such articles and shall not be required to obtain a license to make such articles. Each such article shall have a label affixed stating the kind of filling materials used in such article but shall be exempt from any other requirement as to tags set forth in this article.

CHAPTER 375

An Act to amend and reenact § 32.1-225 of the Code of Virginia, relating to bedding and upholstered furniture; exemption from regulation.

[S 1016]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-225 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-225. Exemptions.

A. The provisions of this article shall not apply to:

1. Any items of bedding or upholstered furniture sold under the order of any court or pursuant to § 55.1-2902, any sale of a decedent's estate, or any sale by any individual of his household effects.

2. *Any items of bedding or upholstered furniture that are 75 years old or older.*

3. Any interstate public carrier.

~~3.~~ *4.* Any state institution, agency, or department unless such institution, agency, or department offers for sale to the public items of bedding or upholstered furniture manufactured, reupholstered, or renovated by it.

~~4.~~ *5.* Any retailer who sells, gives away, or rents used upholstered furniture that has been purchased by the retailer as new furniture and has been used in the course of business when such used furniture has been (i) conspicuously identified as used furniture and (ii) reduced in price, sold at auction, donated to charity, or made available for a rental fee, and so tagged.

B. Any person who sells at retail, exclusively on a consignment basis, articles of bedding that are handmade by individuals and whose gross annual receipts from the sale of such articles are not in excess of $2,000 shall be deemed to be the manufacturer of such articles and shall not be required to obtain a license to make such articles. Each such article shall have a label affixed stating the kind of filling materials used in such article but shall be exempt from any other requirement as to tags set forth in this article.

CHAPTER 376

An Act to amend and reenact § 38.2-3407.10:1 of the Code of Virginia, relating to health insurance; provider credentialing; processing of new provider applications.

[H 2262]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3407.10:1 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3407.10:1. Processing of new provider applications and reimbursement for services rendered during pendency of a participating provider's credentialing application.

A. As used in this section:

"Carrier" means an entity subject to the insurance laws and regulations of the Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services or mental health services, including an insurer licensed to sell accident and sickness insurance, a health maintenance organization, a health services plan, or any other entity providing a plan of health insurance, health benefits, health care services, or mental health services.

"Covered person" means a policyholder, subscriber, enrollee, participant, or other individual covered by a health benefit plan.

"Health benefit plan" means a policy, contract, certificate, or agreement offered by a carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

"Mental health professional" has the meaning ascribed thereto in § 54.1-2400.1.

"Mental health services" means benefits with respect to items or services provided by mental health professionals for mental health conditions as defined under the terms of a health benefit plan.

"Network" means a group of participating providers who provide health care services under the carrier's health benefit plan that requires or creates incentives for a covered person to use the participating providers.

"New provider applicant" means a physician, mental health professional, or other provider who has submitted a completed credentialing application to a carrier.

"Other provider" means a person, corporation, facility, or institution licensed by the Commonwealth under Title 32.1 or 54.1 to provide health care or professional health-related services on a fee basis.

"Participating mental health professional" means a mental health professional who is managed, under contract with, or employed by a carrier and who has agreed to provide health care services to covered persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly or indirectly from the carrier.

"Participating other provider" means an other provider who is managed, under contract with, or employed by a carrier and who has agreed to provide such health care or professional services to covered persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly or indirectly from the carrier.

"Participating physician" means a physician who is managed, under contract with, or employed by a carrier and who has agreed to provide health care services or mental health services to covered persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly or indirectly from the carrier.

"Participating provider" means a participating physician, participating mental health professional, or participating other provider.

"Physician" means a doctor of medicine or osteopathic medicine holding an active license from the Board of Medicine.

B. A carrier that credentials the physicians, mental health professionals, or other providers in its network shall establish reasonable protocols and procedures for *processing new provider credentialing applications and* reimbursing new provider applicants~~, within 30 days of being credentialed by the carrier,~~ for health care services or mental health services provided to covered persons during the period in which ~~the~~ *an approved* applicant's completed credentialing application ~~is~~ *was* pending. At a minimum, the protocols and procedures shall *require the following*:

1. ~~Apply only if the new provider applicant's credentialing application is approved by the carrier;~~

~~2. Permit reimbursement to a new provider applicant for services rendered from the date the new provider applicant's completed credentialing application is received for consideration by the carrier;~~

~~3. Notwithstanding the provisions of subdivision 1 or 4, if the carrier accepts applications through an online credentialing system, require the carrier to recognize notification to a new provider applicant through the online credentialing system that the provider has submitted and attested to the application as notice by the carrier that the application is received. If the carrier does not accept applications through an online credentialing system, the carrier shall be required, within 10 days of receiving an application, to provide notification to the new provider applicant either by mail or electronic mail, as selected by the applicant, that the application was received;~~ *If the carrier accepts applications through an online credentialing system, the carrier shall notify a new provider applicant through the online credentialing system that the provider has submitted and attested to the application as notice by the carrier that the application is received. If the carrier does not accept applications through an online credentialing system, the carrier shall within 10 days of receiving an application provide notification to the new provider applicant either by mail or electronic mail, as selected by the applicant, that the application was received;*

2. Beginning January 1, 2024, a new provider applicant's application is deemed complete within 30 days of the carrier receiving the application, unless the carrier has provided notice that the application is not complete. Notice shall be provided by electronic mail unless the provider applicant has selected notification by mail;

3. The carrier shall approve or deny new provider applicant credentialing applications within 60 days of receiving a completed application;

4. Claims submitted according to carrier claims submittal policies for services rendered during the period of a pending application shall be adjudicated and paid no later than 40 days after the new provider applicant is credentialed and contracted;

~~4. Apply~~ *5. The protocols and procedures shall apply* only if a contractual relationship exists between the carrier and the new provider applicant or entity for whom the new provider applicant is employed or engaged; and

~~5. Require that any~~ *6. Any* reimbursement *shall* be paid at the in-network rate that the new provider applicant would have received had he been, at the time the covered health care services were provided, a credentialed participating provider in the network for the applicable health benefit plan.

C. Nothing in this section shall require reimbursement of the new provider applicant-rendered services that are not benefits or services covered by the carrier's health benefit plan.

D. Nothing in this section requires a carrier to pay reimbursement at the contracted in-network rate for any covered health care services or mental health services provided by the new provider applicant if the new provider applicant's credentialing application is not approved or the carrier is otherwise not willing to contract with the new provider applicant.

E. Payments made or retroactive denials of payments made under this section shall be governed by § 38.2-3407.15.

F. If a payment is made by the carrier to a new provider applicant or any entity that employs or engages such new provider applicant under this section for a covered service, the patient shall only be responsible for any coinsurance, copayments, or deductibles permitted under the insurance contract with the carrier or participating provider agreement with the physician, mental health professional, or other provider. If the new provider applicant is not credentialed by the carrier, the new provider applicant or any entity that employs or engages such physician, mental health professional, or other provider shall not collect any amount from the patient for health care services or mental health services provided from the date the completed credentialing application was submitted to the carrier until the applicant received notification from the carrier that credentialing was denied.

G. New provider applicants, in order to submit claims to the carrier pursuant to this section, shall provide written or electronic notice to covered persons in advance of treatment that they have submitted a credentialing application to the carrier of the covered person, stating that the carrier is in the process of obtaining and verifying the following pursuant to credentialing regulations:

"Notice of Provider credentialing and re-credentialing.

Your health insurance carrier is required to establish and maintain a comprehensive credentialing verification program to ensure that its physicians, mental health professionals, and other providers meet the minimum standards of professional licensure or certification. Written supporting documentation for (i) physicians, (ii) mental health professionals who have completed their residency or fellowship requirements for their specialty area more than 12 months prior to the credentialing decision, or (iii) other providers shall include:

1. Current valid license and history of licensure or certification;
2. Status of hospital privileges, if applicable;
3. Valid U.S. Drug Enforcement Administration certificate, if applicable;
4. Information from the National Practitioner Data Bank, as available;
5. Education and training, including postgraduate training, if applicable;
6. Specialty board certification status, if applicable;
7. Practice or work history covering at least the past five years; and
8. Current, adequate malpractice insurance and malpractice history covering at least the past five years.

Your health insurance carrier is in the process of obtaining and verifying the above information in order to determine if your physician, mental health professional, or other provider will be credentialed or not."

H. The provisions of this section shall not apply to coverages issued by a Medicare Advantage plan, but shall apply to health maintenance organizations that issue coverage pursuant to Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid).

I. The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.

2. That the Virginia Department of Health shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

CHAPTER 377

An Act to amend and reenact § 38.2-3407.10:1 of the Code of Virginia, relating to health insurance; provider credentialing; processing of new provider applications.

[S 1154]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3407.10:1 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3407.10:1. Processing of new provider applications and reimbursement for services rendered during pendency of a participating provider's credentialing application.

A. As used in this section:

"Carrier" means an entity subject to the insurance laws and regulations of the Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services or mental health services, including an insurer licensed to sell accident and sickness insurance, a health maintenance organization, a health services plan, or any other entity providing a plan of health insurance, health benefits, health care services, or mental health services.

"Covered person" means a policyholder, subscriber, enrollee, participant, or other individual covered by a health benefit plan.

"Health benefit plan" means a policy, contract, certificate, or agreement offered by a carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

"Mental health professional" has the meaning ascribed thereto in § 54.1-2400.1.

"Mental health services" means benefits with respect to items or services provided by mental health professionals for mental health conditions as defined under the terms of a health benefit plan.

"Network" means a group of participating providers who provide health care services under the carrier's health benefit plan that requires or creates incentives for a covered person to use the participating providers.

"New provider applicant" means a physician, mental health professional, or other provider who has submitted a completed credentialing application to a carrier.

"Other provider" means a person, corporation, facility, or institution licensed by the Commonwealth under Title 32.1 or 54.1 to provide health care or professional health-related services on a fee basis.

"Participating mental health professional" means a mental health professional who is managed, under contract with, or employed by a carrier and who has agreed to provide health care services to covered persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly or indirectly from the carrier.

"Participating other provider" means an other provider who is managed, under contract with, or employed by a carrier and who has agreed to provide such health care or professional services to covered persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly or indirectly from the carrier.

"Participating physician" means a physician who is managed, under contract with, or employed by a carrier and who has agreed to provide health care services or mental health services to covered persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly or indirectly from the carrier.

"Participating provider" means a participating physician, participating mental health professional, or participating other provider.

"Physician" means a doctor of medicine or osteopathic medicine holding an active license from the Board of Medicine.

B. A carrier that credentials the physicians, mental health professionals, or other providers in its network shall establish reasonable protocols and procedures for *processing new provider credentialing applications and* reimbursing new provider applicants~~, within 30 days of being credentialed by the carrier,~~ for health care services or mental health services provided to covered persons during the period in which ~~the~~ *an approved* applicant's completed credentialing application ~~is~~ *was* pending. At a minimum, the protocols and procedures shall *require the following*:

1. ~~Apply only if the new provider applicant's credentialing application is approved by the carrier;~~

~~2. Permit reimbursement to a new provider applicant for services rendered from the date the new provider applicant's completed credentialing application is received for consideration by the carrier;~~

~~3. Notwithstanding the provisions of subdivision 1 or 4, if the carrier accepts applications through an online credentialing system, require the carrier to recognize notification to a new provider applicant through the online credentialing system that the provider has submitted and attested to the application as notice by the carrier that the application is received. If the carrier does not accept applications through an online credentialing system, the carrier shall be required, within 10 days of receiving an application, to provide notification to the new provider applicant either by mail or electronic mail, as selected by the applicant, that the application was received;~~ *If the carrier accepts applications through an online credentialing system, the carrier shall notify a new provider applicant through the online credentialing system that the provider has submitted and attested to the application as notice by the carrier that the application is received. If the carrier does not accept applications through an online credentialing system, the carrier shall within 10 days of receiving an application provide notification to the new provider applicant either by mail or electronic mail, as selected by the applicant, that the application was received;*

2. Beginning January 1, 2024, a new provider applicant's application is deemed complete within 30 days of the carrier receiving the application, unless the carrier has provided notice that the application is not complete. Notice shall be provided by electronic mail unless the provider applicant has selected notification by mail;

3. The carrier shall approve or deny new provider applicant credentialing applications within 60 days of receiving a completed application;

4. Claims submitted according to carrier claims submittal policies for services rendered during the period of a pending application shall be adjudicated and paid no later than 40 days after the new provider applicant is credentialed and contracted;

~~4. Apply~~ *5. The protocols and procedures shall apply* only if a contractual relationship exists between the carrier and the new provider applicant or entity for whom the new provider applicant is employed or engaged; and

~~5. Require that any~~ *6. Any* reimbursement *shall* be paid at the in-network rate that the new provider applicant would have received had he been, at the time the covered health care services were provided, a credentialed participating provider in the network for the applicable health benefit plan.

C. Nothing in this section shall require reimbursement of the new provider applicant-rendered services that are not benefits or services covered by the carrier's health benefit plan.

D. Nothing in this section requires a carrier to pay reimbursement at the contracted in-network rate for any covered health care services or mental health services provided by the new provider applicant if the new provider applicant's credentialing application is not approved or the carrier is otherwise not willing to contract with the new provider applicant.

E. Payments made or retroactive denials of payments made under this section shall be governed by § 38.2-3407.15.

F. If a payment is made by the carrier to a new provider applicant or any entity that employs or engages such new provider applicant under this section for a covered service, the patient shall only be responsible for any coinsurance, copayments, or deductibles permitted under the insurance contract with the carrier or participating provider agreement with the physician, mental health professional, or other provider. If the new provider applicant is not credentialed by the carrier, the new provider applicant or any entity that employs or engages such physician, mental health professional, or other provider shall not collect any amount from the patient for health care services or mental health services provided from the date the completed credentialing application was submitted to the carrier until the applicant received notification from the carrier that credentialing was denied.

G. New provider applicants, in order to submit claims to the carrier pursuant to this section, shall provide written or electronic notice to covered persons in advance of treatment that they have submitted a credentialing application to the carrier of the covered person, stating that the carrier is in the process of obtaining and verifying the following pursuant to credentialing regulations:

"Notice of Provider credentialing and re-credentialing.

Your health insurance carrier is required to establish and maintain a comprehensive credentialing verification program to ensure that its physicians, mental health professionals, and other providers meet the minimum standards of professional licensure or certification. Written supporting documentation for (i) physicians, (ii) mental health professionals who have completed their residency or fellowship requirements for their specialty area more than 12 months prior to the credentialing decision, or (iii) other providers shall include:

1. Current valid license and history of licensure or certification;

2. Status of hospital privileges, if applicable;

3. Valid U.S. Drug Enforcement Administration certificate, if applicable;

4. Information from the National Practitioner Data Bank, as available;

5. Education and training, including postgraduate training, if applicable;

6. Specialty board certification status, if applicable;

7. Practice or work history covering at least the past five years; and

8. Current, adequate malpractice insurance and malpractice history covering at least the past five years.

Your health insurance carrier is in the process of obtaining and verifying the above information in order to determine if your physician, mental health professional, or other provider will be credentialed or not."

H. The provisions of this section shall not apply to coverages issued by a Medicare Advantage plan, but shall apply to health maintenance organizations that issue coverage pursuant to Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid).

I. The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.

2. That the Virginia Department of Health shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

CHAPTER 378

An Act to amend the Code of Virginia by adding a section numbered 8.01-396.2, relating to appointment of guardian ad litem for minor witness.

[S 1033]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-396.2 as follows:

§ 8.01-396.2. Minor witness; appointment of guardian ad litem.

A. In any proceeding before a general district court, the court may, if it determines the circumstances so require, appoint a discreet and competent attorney-at-law as guardian ad litem to represent the interests of a minor who is called to testify. It shall be the duty of the court to ensure that the interests of such minor witness are represented and protected.

B. When the guardian ad litem, to the satisfaction of the court, has rendered substantial service in accordance with this section, the court may allow such guardian ad litem reasonable compensation to be paid from the funds appropriated to pay for the compensation of court-appointed counsel according to the rates and procedures set by the Supreme Court of Virginia.

C. If the matter in which a minor witness is called to testify is appealed to a circuit court, such circuit court may continue the appointment of the guardian ad litem or may appoint another discreet and competent attorney-at-law as guardian ad litem.

CHAPTER 379

An Act to amend and reenact § 37.2-912 of the Code of Virginia, relating to civil commitment of sexually violent predators; penalty.

[H 1931]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-912 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-912. Conditional release; criteria; conditions; reports; penalty.

A. At any time the court considers the respondent's need for secure inpatient treatment pursuant to this chapter, it shall place the respondent on conditional release if it finds that (i) he does not need secure inpatient treatment but needs outpatient treatment or monitoring to prevent his condition from deteriorating to a degree that he would need secure inpatient treatment; (ii) appropriate outpatient supervision and treatment are reasonably available; (iii) there is significant reason to believe that the respondent, if conditionally released, would comply with the conditions specified; and (iv) conditional release will not present an undue risk to public safety. In making its determination, the court may consider ~~(i)~~ *(a)* the nature and circumstances of the sexually violent offense for which the respondent was charged or convicted, including the age and maturity of the victim; ~~(ii)~~ *(b)* the results of any actuarial test, including the likelihood of recidivism; ~~(iii)~~ *(c)* the results of any diagnostic tests previously administered to the respondent under this chapter; ~~(iv)~~ *(d)* the respondent's mental history, including treatments for mental illness or mental disorders, participation in and response to therapy or treatment, and any history of previous hospitalizations; ~~(v)~~ *(e)* the respondent's present mental condition; ~~(vi)~~ *(f)* the respondent's response to treatment while in secure inpatient treatment or on conditional release, including his disciplinary record and any infractions; ~~(vii)~~ *(g)* the respondent's living arrangements and potential employment if he were to be placed on conditional release; ~~(viii)~~ *(h)* the availability of transportation and appropriate supervision to ensure participation by the respondent in necessary treatment; and ~~(ix)~~ *(i)* any other factors that the court deems relevant. The court shall subject the respondent to the orders and conditions it deems will best meet his need for treatment and supervision and best serve the interests of justice and society. In all cases of conditional release, the court shall order the respondent to be subject to electronic monitoring of his location by means of a GPS (Global Positioning System) tracking device, or other similar device, at all times while he is on conditional release.

The Department or, if the respondent is on parole or probation, the respondent's parole or probation officer shall implement the court's conditional release orders and shall submit written reports to the court on the respondent's progress and adjustment in the community no less frequently than every six months. The Department of Behavioral Health and Developmental Services is authorized to contract with the Department of Corrections to provide services for the monitoring and supervision of sexually violent predators who are on conditional release.

The Department or, if the respondent is on parole or probation, the respondent's parole or probation officer shall send a copy of each written report submitted to the court and copies of all correspondence with the court pursuant to this section to the Attorney General and the Commissioner.

B. Notwithstanding any other provision of law, when any respondent is placed on conditional release under this article, the Department of Corrections and the Office of the Attorney General shall provide to the Department, or if the respondent is on parole or probation, the respondent's parole or probation officer, all relevant criminal history information, medical and mental health records, presentence and postsentence reports and victim impact statements, and the mental health evaluations performed pursuant to this chapter, for use in the management and treatment of the respondent placed on conditional release. Any information or document provided pursuant to this subsection shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

C. Any person placed on conditional release pursuant to this chapter who tampers with or in any way attempts to circumvent the operation of his GPS equipment is guilty of a Class 6 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of

$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 380

An Act to amend and reenact § 37.2-912 of the Code of Virginia, relating to civil commitment of sexually violent predators; penalty.

[S 973]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-912 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-912. Conditional release; criteria; conditions; reports; penalty.

A. At any time the court considers the respondent's need for secure inpatient treatment pursuant to this chapter, it shall place the respondent on conditional release if it finds that (i) he does not need secure inpatient treatment but needs outpatient treatment or monitoring to prevent his condition from deteriorating to a degree that he would need secure inpatient treatment; (ii) appropriate outpatient supervision and treatment are reasonably available; (iii) there is significant reason to believe that the respondent, if conditionally released, would comply with the conditions specified; and (iv) conditional release will not present an undue risk to public safety. In making its determination, the court may consider ~~(i)~~ *(a)* the nature and circumstances of the sexually violent offense for which the respondent was charged or convicted, including the age and maturity of the victim; ~~(ii)~~ *(b)* the results of any actuarial test, including the likelihood of recidivism; ~~(iii)~~ *(c)* the results of any diagnostic tests previously administered to the respondent under this chapter; ~~(iv)~~ *(d)* the respondent's mental history, including treatments for mental illness or mental disorders, participation in and response to therapy or treatment, and any history of previous hospitalizations; ~~(v)~~ *(e)* the respondent's present mental condition; ~~(vi)~~ *(f)* the respondent's response to treatment while in secure inpatient treatment or on conditional release, including his disciplinary record and any infractions; ~~(vii)~~ *(g)* the respondent's living arrangements and potential employment if he were to be placed on conditional release; ~~(viii)~~ *(h)* the availability of transportation and appropriate supervision to ensure participation by the respondent in necessary treatment; and ~~(ix)~~ *(i)* any other factors that the court deems relevant. The court shall subject the respondent to the orders and conditions it deems will best meet his need for treatment and supervision and best serve the interests of justice and society. In all cases of conditional release, the court shall order the respondent to be subject to electronic monitoring of his location by means of a GPS (Global Positioning System) tracking device, or other similar device, at all times while he is on conditional release.

The Department or, if the respondent is on parole or probation, the respondent's parole or probation officer shall implement the court's conditional release orders and shall submit written reports to the court on the respondent's progress and adjustment in the community no less frequently than every six months. The Department of Behavioral Health and Developmental Services is authorized to contract with the Department of Corrections to provide services for the monitoring and supervision of sexually violent predators who are on conditional release.

The Department or, if the respondent is on parole or probation, the respondent's parole or probation officer shall send a copy of each written report submitted to the court and copies of all correspondence with the court pursuant to this section to the Attorney General and the Commissioner.

B. Notwithstanding any other provision of law, when any respondent is placed on conditional release under this article, the Department of Corrections and the Office of the Attorney General shall provide to the Department, or if the respondent is on parole or probation, the respondent's parole or probation officer, all relevant criminal history information, medical and mental health records, presentence and postsentence reports and victim impact statements, and the mental health evaluations performed pursuant to this chapter, for use in the management and treatment of the respondent placed on conditional release. Any information or document provided pursuant to this subsection shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

C. Any person placed on conditional release pursuant to this chapter who tampers with or in any way attempts to circumvent the operation of his GPS equipment is guilty of a Class 6 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 381

An Act to amend and reenact § 18.2-130.1 of the Code of Virginia, relating to peeping or spying into a dwelling or occupied building by unmanned aircraft system; penalty.

[H 1583]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-130.1 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-130.1. Peeping or spying into dwelling or occupied building by electronic device or unmanned aircraft system; penalty.

A. It is unlawful for any person to knowingly and intentionally cause an electronic device to enter the property of another to secretly or furtively peep or spy or attempt to peep or spy into or through a window, door, or other aperture of any building, structure, or other enclosure occupied or intended for occupancy as a dwelling, whether or not such building, structure, or enclosure is permanently situated or transportable and whether or not such occupancy is permanent or temporary, or to do the same, without just cause, upon property owned by him and leased or rented to another under circumstances that would violate the occupant's reasonable expectation of privacy.

B. It is unlawful for any person to knowingly and intentionally cause an unmanned aircraft system to secretly or furtively peep or spy or attempt to peep or spy into or through a window, door, or other aperture of any building, structure, or other enclosure occupied or intended for occupancy as a dwelling, whether or not such building, structure, or enclosure is permanently situated or transportable and whether or not such occupancy is permanent or temporary, without just cause, under circumstances that would violate the occupant's reasonable expectation of privacy.

C. A violation of this section is a Class 1 misdemeanor. The provisions of this section shall not apply to a lawful criminal investigation.

CHAPTER 382

An Act to amend and reenact §§ 46.2-844 and 46.2-859 of the Code of Virginia, relating to passing stopped school buses; purpose of stop; prima facie evidence.

[H 1723]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-844 and 46.2-859 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-844. Passing stopped school buses; penalty; prima facie evidence; penalty.

A. The driver of a motor vehicle approaching from any direction a clearly marked school bus that is stopped on any highway, private road, or school driveway for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons, who, in violation of § 46.2-859, fails to stop and remain stopped until all such persons are clear of the highway, private road, or school driveway and the bus is put in motion is subject to a civil penalty of $250, and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions.

A prosecution or proceeding under § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act, and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under § 46.2-859 for the same act.

In any prosecution for which a summons charging a violation of this section was issued within 10 days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation, or (iii) a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section is presented prior to the return date established on the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise admissible evidence.

The testimony of the school bus driver, the supervisor of school buses, or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

Recorded images from a video-monitoring system that show the bus was stopped with at least one warning device prescribed in § 46.2-1090 activated shall be considered prima facie evidence that the bus was stopped for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons.

B. 1. For purposes of this ~~subsection~~ *section*, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles

being operated in violation of § 46.2-859. All such systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

2. A locality may, by ordinance, authorize the school division of the locality to install and operate a video-monitoring system in or on the school buses operated by the division or to contract with a private vendor to do so on behalf of the school division for the purpose of recording violations of subsection A. Such ordinance may direct that any civil penalty levied for a violation of subsection A shall be payable to the local school division. In any locality that has adopted such an ordinance, a summons for a violation of subsection A may be executed as provided in § 19.2-76.2 and, notwithstanding the provisions of § 19.2-76, the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle contained in the records of the Department. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection A and (ii) instructions for filing such an affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.

3. Any private vendor contracting with a school division pursuant to this subsection may impose and collect an administrative fee in addition to the civil penalty imposed for a violation of subsection A and payable pursuant to this subsection, so as to recover the expenses of collecting any unpaid civil penalty when such penalty remains due more than 30 days after the date of the mailing of the summons and notice. The administrative fee shall be reasonably related to the actual cost of collecting the civil penalty and shall not exceed $100 per violation. The operator of the vehicle shall pay the unpaid civil penalty and any administrative fee detailed in a notice or citation issued by the private vendor. If paid no later than 60 days after the date of the mailing of the summons and notice, the administrative fee shall not exceed $25.

4. Any private vendor contracting with a school division pursuant to this subsection may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 30 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that improperly pass stopped school buses. Information provided to such private vendor shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system and used only for enforcement against individuals who violate the provisions of this section. The school division shall annually certify compliance with this subdivision and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or their designee. Any person who discloses personal information in violation of the provisions of this subdivision shall be subject to a civil penalty of $1,000 per disclosure. Any unauthorized use or disclosure of such personal information shall be grounds for termination of the agreement between the Department of Motor Vehicles and the private vendor.

§ 46.2-859. Passing a stopped school bus; prima facie evidence.

A person driving a motor vehicle shall stop such vehicle when approaching, from any direction, any school bus which is stopped on any highway, private road or school driveway for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons, and shall remain stopped until all the persons are clear of the highway, private road or school driveway and the bus is put in motion; any person violating the foregoing is guilty of reckless driving. The driver of a vehicle, however, need not stop when approaching a school bus if the school bus is stopped on the other roadway of a divided highway, on an access road, or on a driveway when the other roadway, access road, or driveway is separated from the roadway on which he is driving by a physical barrier or an unpaved area. The driver of a vehicle also need not stop when approaching a school bus which is loading or discharging passengers from or onto property immediately adjacent to a school if the driver is directed by a law-enforcement officer or other duly authorized uniformed school crossing guard to pass the school bus. This section shall apply to school buses which are equipped with warning devices prescribed in § 46.2-1090 and are painted yellow with the words "School Bus" in black letters at least eight inches high on the front and rear thereof. Only school buses which are painted yellow and equipped with the required lettering and warning devices shall be identified as school buses.

The testimony of the school bus driver, the supervisor of school buses or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

Evidence that the bus was stopped with at least one warning device prescribed in § 46.2-1090 activated shall be considered prima facie evidence that the bus was stopped for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons.

CHAPTER 383

An Act to amend and reenact §§ 18.2-46.4 and 18.2-46.6 of the Code of Virginia, relating to weapon of terrorism; definition; penalty.

[H 1682]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-46.4 and 18.2-46.6 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-46.4. Definitions.

As used in this article, unless the context requires otherwise or it is otherwise provided:

"Act of terrorism" means an act of violence as defined in clause (i) of subdivision A of § 19.2-297.1 or an act that would be an act of violence if committed within the Commonwealth committed within or outside the Commonwealth with the intent to (i) intimidate a civilian population at large or (ii) influence the conduct or activities of a government, including the government of the United States, a state, or a locality, through intimidation.

"Base offense" means an act of violence as defined in clause (i) of subdivision A of § 19.2-297.1 committed with the intent required to commit an act of terrorism.

"Weapon of terrorism" means any device or material that is designed, intended or used to cause death, bodily injury or serious bodily harm, through the release, dissemination, or impact of (i) poisonous chemicals; (ii) an infectious biological substance; or (iii) release of radiation or radioactivity. *"Weapon of terrorism" also means any mixture or substance containing a detectable amount of fentanyl, including its isomers, esters, ethers, salts, and salts of isomers, as described in Schedule II of the Drug Control Act (§ 54.1-3400 et seq.), except as authorized in the Drug Control Act.*

§ 18.2-46.6. Possession, manufacture, distribution, etc., of weapon of terrorism or hoax device prohibited; penalty.

A. Any person who, with the intent to commit an act of terrorism, possesses, uses, sells, gives, distributes or manufactures (i) a weapon of terrorism or (ii) a "fire bomb," "explosive material," or "device," as those terms are defined in § 18.2-85, is guilty of a Class 2 felony.

B. Any person who, with the intent to commit an act of terrorism, possesses, uses, sells, gives, distributes or manufactures any device or material that by its design, construction, content or characteristics appears to be or appears to contain a (i) weapon of terrorism or (ii) a "fire bomb," "explosive material," or "device," as those terms are defined in § 18.2-85, but that is an imitation of any such weapon of terrorism, "fire bomb," "explosive material," or "device" is guilty of a Class 3 felony.

C. Any person who, with the intent to (i) intimidate the civilian population, (ii) influence the conduct or activities of the government of the United States, a state or locality through intimidation, (iii) compel the emergency evacuation of any place of assembly, building or other structure or any means of mass transportation, or (iv) place any person in reasonable apprehension of bodily harm, uses, sells, gives, distributes or manufactures any device or material that by its design, construction, content or characteristics appears to be or appears to contain a weapon of terrorism, but that is an imitation of any such weapon of terrorism is guilty of a Class 6 felony.

D. Any person who knowingly and intentionally manufactures or knowingly and intentionally distributes a weapon of terrorism when such person knows that such weapon of terrorism is, or contains, any mixture or substance containing a detectable amount of fentanyl, including its isomers, esters, ethers, salts, and salts of isomers, as described in Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) is guilty of a Class 4 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 384

An Act to amend and reenact §§ 18.2-46.4 and 18.2-46.6 of the Code of Virginia, relating to weapon of terrorism; definition; penalty.

[S 1188]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-46.4 and 18.2-46.6 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-46.4. Definitions.

As used in this article, unless the context requires otherwise or it is otherwise provided:

"Act of terrorism" means an act of violence as defined in clause (i) of subdivision A of § 19.2-297.1 or an act that would be an act of violence if committed within the Commonwealth committed within or outside the Commonwealth with the intent to (i) intimidate a civilian population at large or (ii) influence the conduct or activities of a government, including the government of the United States, a state, or a locality, through intimidation.

"Base offense" means an act of violence as defined in clause (i) of subdivision A of § 19.2-297.1 committed with the intent required to commit an act of terrorism.

"Weapon of terrorism" means any device or material that is designed, intended or used to cause death, bodily injury or serious bodily harm, through the release, dissemination, or impact of (i) poisonous chemicals; (ii) an infectious biological substance; or (iii) release of radiation or radioactivity. *"Weapon of terrorism" also means any mixture or substance containing a detectable amount of fentanyl, including its isomers, esters, ethers, salts, and salts of isomers, as described in Schedule II of the Drug Control Act (§ 54.1-3400 et seq.), except as authorized in the Drug Control Act.*

§ 18.2-46.6. Possession, manufacture, distribution, etc., of weapon of terrorism or hoax device prohibited; penalty.

A. Any person who, with the intent to commit an act of terrorism, possesses, uses, sells, gives, distributes or manufactures (i) a weapon of terrorism or (ii) a "fire bomb," "explosive material," or "device," as those terms are defined in § 18.2-85, is guilty of a Class 2 felony.

B. Any person who, with the intent to commit an act of terrorism, possesses, uses, sells, gives, distributes or manufactures any device or material that by its design, construction, content or characteristics appears to be or appears to contain a (i) weapon of terrorism or (ii) a "fire bomb," "explosive material," or "device," as those terms are defined in § 18.2-85, but that is an imitation of any such weapon of terrorism, "fire bomb," "explosive material," or "device" is guilty of a Class 3 felony.

C. Any person who, with the intent to (i) intimidate the civilian population, (ii) influence the conduct or activities of the government of the United States, a state or locality through intimidation, (iii) compel the emergency evacuation of any place of assembly, building or other structure or any means of mass transportation, or (iv) place any person in reasonable apprehension of bodily harm, uses, sells, gives, distributes or manufactures any device or material that by its design, construction, content or characteristics appears to be or appears to contain a weapon of terrorism, but that is an imitation of any such weapon of terrorism is guilty of a Class 6 felony.

D. Any person who knowingly and intentionally manufactures or knowingly and intentionally distributes a weapon of terrorism when such person knows that such weapon of terrorism is, or contains, any mixture or substance containing a detectable amount of fentanyl, including its isomers, esters, ethers, salts, and salts of isomers, as described in Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) is guilty of a Class 4 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 385

An Act to amend and reenact § 8.01-42.4 of the Code of Virginia, relating to civil action for trafficking in persons; charge or conviction not required.

[H 1374]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-42.4 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-42.4. Civil action for trafficking in persons.

A. Any person injured by reason of (i) a violation of clause (iii), (iv), or (v) of § 18.2-48; (ii) a violation of § 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, or 18.2-368; or (iii) a felony violation of § 18.2-346.01 may sue therefor and recover compensatory damages, punitive damages, and reasonable attorney fees and costs.

B. No action shall be commenced under this section more than seven years after the later of the date on which such person (i) was no longer subject to the conduct prohibited by clause (iii), (iv), or (v) of § 18.2-48 or § 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, or 18.2-368 or under a felony violation of § 18.2-346.01 or (ii) attained 18 years of age.

C. The provisions of this section shall apply whether or not an individual has been charged with or convicted of any of the alleged violations listed in subsection A.

CHAPTER 386

An Act to direct the Department of Health and the Department of General Services to convene a work group to evaluate the current funding model for the Commonwealth's newborn screening program.

[H 2224]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Health and the Department of General Services shall convene a work group to evaluate the current funding model for the Commonwealth's newborn screening program. In conducting its evaluation, the work group shall analyze the appropriateness of the Commonwealth's current fee-for-service funding model for newborn birthing providers. The work group shall survey and evaluate alternative funding models, including those utilized by other states. From its analysis, the work group shall prepare alternative funding models to the current model for review by the Chairmen of the House Committees on Appropriations and Health, Welfare and Institutions and the Chairmen of the Senate Committees on Education and Health and Finance and Appropriations. The work group shall be composed of representatives from the Department of Health and the Department of General Services, the Department of Medical Assistance Services, the Virginia Hospital and Healthcare Association, certified nurse midwife stakeholder groups, and such other stakeholders as deemed appropriate. The Department of Health and the Department of General Services shall report their findings and recommendations to the Chairmen of the House Committees on Appropriations and Health, Welfare and Institutions and the Chairmen of the Senate Committees on Education and Health and Finance and Appropriations by December 1, 2023.*

CHAPTER 387

An Act to amend and reenact §§ 54.1-2130, 54.1-2345.1, 54.1-2349 through 54.1-2352, 55.1-1800, 55.1-1802, 55.1-1805, 55.1-1816, 55.1-1820, 55.1-1820.1, 55.1-1822, 55.1-1823, 55.1-1904, 55.1-1937, 55.1-1951, 55.1-1951.1, 55.1-1972, 55.1-2101, 55.1-2133, 55.1-2133.1, 55.1-2151, and 55.1-2162 of the Code of Virginia; to amend the Code of Virginia by adding in Title 55.1 a chapter numbered 23.1, consisting of sections numbered 55.1-2307 through 55.1-2317; and to repeal Article 2 (§§ 55.1-1808 through 55.1-1814) of Chapter 18 and Article 5 (§§ 55.1-1990 through 55.1-1995) of Chapter 19 of Title 55.1 and § 55.1-2161 of the Code of Virginia, relating to common interest communities; Resale Disclosure Act.

[H 2235]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2130, 54.1-2345.1, 54.1-2349 through 54.1-2352, 55.1-1800, 55.1-1802, 55.1-1805, 55.1-1816, 55.1-1820, 55.1-1820.1, 55.1-1822, 55.1-1823, 55.1-1904, 55.1-1937, 55.1-1951, 55.1-1951.1, 55.1-1972, 55.1-2101, 55.1-2133, 55.1-2133.1, 55.1-2151, and 55.1-2162 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 55.1 a chapter numbered 23.1, consisting of sections numbered 55.1-2307 through 55.1-2317, as follows:

§ 54.1-2130. Definitions.

As used in this article:

"Agency" means every relationship in which a real estate licensee acts for or represents a person as an agent by such person's express authority in a commercial or residential real estate transaction, unless a different legal relationship is intended and is agreed to as part of the brokerage agreement. Nothing in this article shall prohibit a licensee and a client from agreeing in writing to a brokerage relationship under which the licensee acts as an independent contractor or which imposes on a licensee obligations in addition to those provided in this article. If a licensee agrees to additional obligations, however, the licensee shall be responsible for the additional obligations agreed to with the client in the brokerage agreement. A real estate licensee who enters into a brokerage relationship based upon a written brokerage agreement that specifically states that the real estate licensee is acting as an independent contractor and not as an agent shall have the obligations agreed to by the parties in the brokerage agreement, and such real estate licensee and its employees shall comply with the provisions of subdivisions A 3 through 7 and subsections B and E of § 54.1-2131; subdivisions A 3 through 7 and subsections B and E of § 54.1-2132; subdivisions A 3 through 7 and subsections B and E of § 54.1-2133; subdivisions A 3 through 7 and subsections B and E of § 54.1-2134; and subdivisions A 2 through 6 and subsections C and D of § 54.1-2135 but otherwise shall have no obligations under §§ 54.1-2131 through 54.1-2135. Any real estate licensee who acts for or represents a client in an agency relationship in a residential real estate transaction shall either represent such client as a standard agent or a limited service agent.

"Agent" means a real estate licensee who is acting as (i) a standard agent in a residential real estate transaction, (ii) a limited service agent in a residential real estate transaction, or (iii) an agent in a commercial real estate transaction.

"Brokerage agreement" means the written agreement creating a brokerage relationship between a client and a licensee. The brokerage agreement shall state whether the real estate licensee will represent the client as an agent or an independent contractor.

"Brokerage relationship" means the contractual relationship between a client and a real estate licensee who has been engaged by such client for the purpose of procuring a seller, buyer, option, tenant, or landlord ready, able, and willing to sell, buy, option, exchange or rent real estate on behalf of a client.

"Client" means a person who has entered into a brokerage relationship with a licensee.

"Commercial real estate" means any real estate other than (i) real estate containing one to four residential units or (ii) real estate classified for assessment purposes under § 58.1-3230. Commercial real estate shall not include single family residential units, including condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

"Common source information company" means any person, firm, or corporation that is a source, compiler, or supplier of information regarding real estate for sale or lease and other data and includes, but is not limited to, multiple listing services.

"Customer" means a person who has not entered into a brokerage relationship with a licensee but for whom a licensee performs ministerial acts in a real estate transaction. Unless a licensee enters into a brokerage relationship with such person, it shall be presumed that such person is a customer of the licensee rather than a client.

"Designated agent" or "designated representative" means a licensee who has been assigned by a principal or supervising broker to represent a client when a different client is also represented by such principal or broker in the same transaction. A designated representative shall only act as an independent contractor.

"Dual agent" or "dual representative" means a licensee who has a brokerage relationship with both seller and buyer, or both landlord and tenant, in the same real estate transaction. A dual agent has an agency relationship under brokerage agreements with the clients. A dual representative has an independent contractor relationship under brokerage agreements with the clients. A dual representative shall only act as an independent contractor.

"Independent contractor" means a real estate licensee who (i) enters into a brokerage relationship based upon a brokerage agreement that specifically states that the real estate licensee is acting as an independent contractor and not as an agent; (ii) shall have the obligations agreed to by the parties in the brokerage agreement; and (iii) shall comply with the provisions of subdivisions A 3 through 7 and subsections B and E of § 54.1-2131; subdivisions A 3 through 7 and subsections B and E of § 54.1-2132; subdivisions A 3 through 7 and subsections B and E of § 54.1-2133; subdivisions A 3 through 7 and subsections B and E of § 54.1-2134; and subdivisions A 2 through 6 and subsections C and D of § 54.1-2135 but otherwise shall have no obligations under §§ 54.1-2131 through 54.1-2135.

"Licensee" means real estate brokers and salespersons as defined in Article 1 (§ 54.1-2100 et seq.).

"Limited service agent" means a licensee who acts for or represents a client in a residential real estate transaction pursuant to a brokerage agreement that provides that the limited service agent will not provide one or more of the duties set forth in subdivision A 2 of §§ 54.1-2131, 54.1-2132, 54.1-2133, and 54.1-2134, inclusive. A limited service agent shall have the obligations set out in the brokerage agreement, except that a limited service agent shall provide the client, at the time of entering the brokerage agreement, copies of any and all disclosures required by federal or state law, or local disclosures expressly authorized by state law, and shall disclose to the client the following in writing: (i) the rights and obligations of the client under the Virginia Residential Property Disclosure Act (§ 55.1-700 et seq.); (ii) if the client is selling a condominium, the rights and obligations of the client to deliver to the purchasers, or to receive as purchaser, the ~~condominium~~ resale certificate required by § ~~55.1-1990~~ *55.1-2309*; and (iii) if the client is selling a property subject to the Property Owners' Association Act (§ 55.1-1800 et seq.), the rights and obligations of the client to deliver to the purchasers, or to receive as purchaser, the ~~association disclosure packet required by~~ § ~~55.1-1809~~ *resale certificate required by § 55.1-2309*.

"Ministerial acts" means those routine acts which a licensee can perform for a person which do not involve discretion or the exercise of the licensee's own judgment.

"Property management agreement" means the written agreement between a property manager and the owner of real estate for the management of the real estate.

"Residential real estate" means real property containing from one to four residential dwelling units and the sale of lots containing one to four residential dwelling units.

"Standard agent" means a licensee who acts for or represents a client in an agency relationship in a residential real estate transaction. A standard agent shall have the obligations as provided in this article and any additional obligations agreed to by the parties in the brokerage agreement.

§ 54.1-2345.1. Certain real estate arrangements and covenants not deemed to constitute a common interest community.

A. An arrangement between the associations for two or more common interest communities to share the costs of real estate taxes, insurance premiums, services, maintenance, or improvements of real estate, or other activities specified in their arrangement or declarations does not create a separate common interest community, or an arrangement between an association and the owner of real estate that is not part of a common interest community to share the costs of real estate taxes, insurance premiums, services, maintenance, or improvements of real estate, or other activities specified in their arrangement does not create a separate common interest community. Assessments against the lots in the common interest

community required by such arrangement shall be included in the periodic budget for the common interest community, and the arrangement shall be disclosed in all required public offering statements and ~~disclosure packets~~ *resale certificates*.

B. A covenant requiring the owners of separately owned parcels of real estate to share costs or other obligations associated with a party wall, driveway, well, or other similar use does not create a common interest community unless the owners otherwise agree to create such community.

§ 54.1-2349. Powers and duties of the Board.

A. The Board shall administer and enforce the provisions of this article. In addition to the provisions of §§ 54.1-201 and 54.1-202, the Board shall:

1. Promulgate regulations necessary to carry out the requirements of this article in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), including the prescription of fees, procedures, and qualifications for the issuance and renewal of common interest community manager licenses. Upon application for license and each renewal thereof, the applicant shall pay a fee established by the Board, which shall be placed to the credit of the Common Interest Community Management Information Fund established pursuant to § 54.1-2354.2;

2. Establish criteria for the licensure of common interest community managers to ensure the appropriate training and educational credentials for the provision of management services to common interest communities. Such criteria may include experiential requirements and shall include designation as an Accredited Association Management Company by the Community Associations Institute. As an additional alternative to such designation, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program and certifying examination or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of common interest community managers;

3. Establish criteria for the certification of the employees of common interest community managers who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community to ensure the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community. Such criteria shall include designation as a Certified Manager of Community Associations by the Community Association Managers International Certification Board, designation as an Association Management Specialist by the Community Associations Institute, or designation as a Professional Community Association Manager by the Community Associations Institute. As an additional alternative to such designations, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program as developed by the Virginia Association of Realtors or other organization, and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of the employees of common interest community managers who participate directly in the provision of management services to a common interest community. The fee paid to the Board for the issuance of such certificate shall be paid to the Common Interest Community Management Information Fund established pursuant to § 54.1-2354.2;

4. Approve the criteria for accredited common interest community manager training programs;

5. Approve accredited common interest community manager training programs;

6. Establish, by regulation, standards of conduct for common interest community managers and for employees of common interest community managers certified in accordance with the provisions of this article;

7. Establish, by regulation, an education-based certification program for persons who are involved in the business or activity of providing management services for compensation to common interest communities. The Board shall have the authority to approve training courses and instructors in furtherance of the provisions of this article;

8. Issue a certificate of registration to each association that has properly filed in accordance with this chapter; and

9. Develop and publish best practices for the content of declarations consistent with the requirements of the Property Owners' Association Act (§ 55.1-1800 et seq.).

B. 1. The Board shall have the sole responsibility for the administration of this article and for the promulgation of regulations to carry out the requirements thereof.

2. The Board shall also be responsible for the enforcement of this article, provided that the Real Estate Board shall have the sole responsibility for the enforcement of this article with respect to a real estate broker, real estate salesperson, or real estate brokerage firm licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.) who is also licensed as a common interest community manager.

3. For purposes of enforcement of this article or the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), ~~or~~ the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), *or the Resale Disclosure Act (§ 55.1-2307 et seq.),* any requirement for the conduct of a hearing shall be satisfied by an informal fact-finding proceeding convened and conducted pursuant to § 2.2-4019 of the Administrative Process Act (§ 2.2-4000 et seq.).

C. The Board is authorized to obtain criminal history record information from any state or federal law-enforcement agency relating to an applicant for licensure or certification. Any information so obtained is for the exclusive use of the Board and shall not be released to any other person or agency except in furtherance of the investigation of the applicant or with the authorization of the applicant or upon court order.

D. Notwithstanding the provisions of subsection A of § 54.1-2354.4, the Board may receive a complaint directly from any person aggrieved by an association's failure to deliver a resale certificate ~~or disclosure packet within the time period~~

~~required under § 55.1-1809, 55.1-1810, 55.1-1811, 55.1-1900, 55.1-1992, or 55.1-2161~~ *in accordance with Chapter 23.1 (§ 55.1-2307 et seq.) of Title 55.1.*

§ 54.1-2350. Annual report; form to accompany resale certificates.

In addition to the provisions of § 54.1-2349, the Board shall:

1. Administer the provisions of Article 2 (§ 54.1-2354.1 et seq.);

2. Develop and disseminate an association annual report form for use in accordance with §§ 55.1-1835, 55.1-1980, and 55.1-2182; and

3. Develop and disseminate a *standardized resale certificate* form ~~to accompany resale certificates required pursuant to § 55.1-1990 and association disclosure packets required pursuant to § 55.1-1809~~, which ~~form~~ shall ~~summarize the unique characteristics of common interest communities generally that may affect a prospective purchaser's decision to purchase a lot or unit located in a common interest community. The form shall include information on the following, which may or may not be applicable to a particular common interest community: (i) the obligation on the part of an owner to pay regular annual or special assessments to the association; (ii) the penalty for failure or refusal to pay such assessments; (iii) the purposes for which such assessments, if any, may be used, including for the construction or maintenance of stormwater management facilities; (iv) the importance the declaration of restrictive covenants or condominium instruments, as applicable, and other governing documents play in association living; (v) limitations on an owner's ability to rent his lot or unit; (vi) limitations on an owner's ability to park or store certain types of motor vehicles or boats within the common interest community; (vii) limitations on an owner's ability to maintain an animal as a pet within the lot or unit, or in common areas or common elements; (viii) architectural guidelines applicable to an owner's lot or unit; (ix) limitations on an owner's ability to operate a business within a dwelling unit on a lot or within a unit; (x) the period or length of declarant control; and (xi) that the purchase contract for a lot within an association is a legally binding document once it is signed by the prospective purchaser where the purchaser has not elected to cancel the purchase contract in accordance with law~~ *contain disclosure statements in the order listed in § 55.1-2310. The form shall provide for the attachment of reference documents and contain space for an association to indicate those disclosures that pertain to its particular community*. The form shall also provide that ~~(a)~~ the purchaser remains responsible for his own examination of the ~~materials that constitute the~~ resale certificate ~~or disclosure packet~~ and of any ~~table of contents that may be contained therein; (b) the purchaser shall carefully review the entire resale certificate or disclosure packet; and (c) the contents of the resale certificate or disclosure packet shall control to the extent that there are any inconsistencies between the form and the resale certificate or disclosure packet~~ *attached reference documents*.

§ 54.1-2351. General powers and duties of Board concerning associations.

A. The Board may adopt, amend, and repeal rules and regulations and issue orders consistent with and in furtherance of the objectives of this article, but the Board may not intervene in the internal activities of an association except to the extent necessary to prevent or cure violations of this article or of the chapter pursuant to which the association is created. The Board may prescribe forms and procedures for submitting information to the Board.

B. If it appears that any governing board has engaged, is engaging, or is about to engage in any act or practice in violation of this article, the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), ~~or~~ the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), *the Resale Disclosure Act (§ 55.1-2307 et seq.),* or any of the Board's regulations or orders, the Board without prior administrative proceedings may bring an action in the appropriate court to enjoin that act or practice or for other appropriate relief. The Board is not required to post a bond or prove that no adequate remedy at law exists.

C. The Board may intervene in any action involving a violation by a declarant or a developer of a time-share project of this article, the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), ~~or~~ the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), *the Resale Disclosure Act (§ 55.1-2307 et seq.),* or any of the Board's regulations or orders.

D. The Board may accept grants-in-aid from any governmental source and may contract with agencies charged with similar functions in this or other jurisdictions in furtherance of the objectives of this article.

E. The Board may cooperate with agencies performing similar functions in this and other jurisdictions to develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative practices, and may develop information that may be useful in the discharge of the Board's duties.

F. In issuing any cease and desist order, the Board shall state the basis for the adverse determination and the underlying facts.

G. Without limiting the remedies that may be obtained under this article, the Board, without compliance with the Administrative Process Act (§ 2.2-4000 et seq.), shall have the authority to enforce the provisions of this section and may institute proceedings in equity to enjoin any person, partnership, corporation, or any other entity violating this article, the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), ~~or~~ the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), *the Resale Disclosure Act (§ 55.1-2307 et seq.),* or any of the Board's regulations or orders. Such proceedings shall be brought in the name of the Commonwealth by the Board in the circuit court or general district court of the city or county in which the unlawful act occurred or in which the defendant resides.

H. The Board may assess a monetary penalty to be paid to the Common Interest Community Management Information Fund of not more than $1,000 per violation against any governing board that violates any provision of this article, the

Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), ~~or~~ the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), *the Resale Disclosure Act (§ 55.1-2307 et seq.),* or any of the Board's regulations or orders. In determining the amount of the penalty, the Board shall consider the degree and extent of harm caused by the violation. No monetary penalty may be assessed under this article, the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), ~~or~~ the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), *the Resale Disclosure Act (§ 55.1-2307 et seq.),* or any of the Board's regulations or orders unless the governing board has been given notice and an opportunity to be heard pursuant to the Administrative Process Act (§ 2.2-4000 et seq.). The penalty may be sued for and recovered in the name of the Commonwealth.

§ 54.1-2352. Cease and desist orders.

A. The Board may issue an order requiring the governing board of the association to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the Board will carry out the purposes of this article, if the Board determines after notice and hearing that the governing board of an association has:

1. Violated any statute or regulation of the Board governing the association regulated pursuant to this article, including engaging in any act or practice in violation of this article, the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), ~~or~~ the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), *the Resale Disclosure Act (§ 55.1-2307 et seq.),* or any of the Board's regulations or orders;

2. Failed to register as an association or to file an annual report as required by statute or regulation;

3. Materially misrepresented facts in an application for registration or an annual report; or

4. Willfully refused to furnish the Board information or records required or requested pursuant to statute or regulation.

B. If the Board makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary order to cease and desist or to take such affirmative action as may be deemed appropriate by the Board. Prior to issuing the temporary order, the Board shall give notice of the proposal to issue a temporary order to the person. Every temporary order shall include in its terms a provision that upon request a hearing will be held promptly to determine whether or not it becomes permanent.

§ 55.1-1800. Definitions.

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

"Association" means the property owners' association.

"Board of directors" means the executive body of a property owners' association or a committee that is exercising the power of the executive body by resolution or bylaw.

"Capital components" means those items, whether or not a part of the common area, for which the association has the obligation for repair, replacement, or restoration and for which the board of directors determines funding is necessary.

"Common area" means property within a development which is owned, leased, or required by the declaration to be maintained or operated by a property owners' association for the use of its members and designated as a common area in the declaration.

"Common interest community" means the same as that term is defined in § 54.1-2345.

"Common interest community manager" means the same as that term is defined in § 54.1-2345.

"Declarant" means the person or entity signing the declaration and its successors or assigns who may submit property to a declaration.

"Declaration" means any instrument, however denominated, recorded among the land records of the county or city in which the development or any part of such development is located, that either (i) imposes on the association maintenance or operational responsibilities for the common area or (ii) creates the authority in the association to impose on lots, on the owners or occupants of such lots, or on any other entity any mandatory payment of money in connection with the provision of maintenance or services for the benefit of some or all of the lots, the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or supplement to the instruments described in this definition. "Declaration" does not include a declaration of a condominium, real estate cooperative, time-share project, or campground.

"Development" means real property located within the Commonwealth subject to a declaration which contains both lots, at least some of which are residential or are occupied for recreational purposes, and common areas with respect to which any person, by virtue of ownership of a lot, is a member of an association and is obligated to pay assessments provided for in a declaration.

~~"Disclosure packet update" means an update of the financial information referenced in subdivisions A 2 through 9 of § 55.1-1809. The update shall include a copy of the original disclosure packet.~~

"Electronic means" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of such communication. A meeting conducted by electronic means includes a meeting conducted via teleconference, videoconference, Internet exchange, or other electronic methods. Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act shall have the meaning set forth in such section.

~~"Financial update" means an update of the financial information referenced in subdivisions A 2 through 7 of § 55.1-1809.~~

"Lot" means (i) any plot or parcel of land designated for separate ownership or occupancy shown on a recorded subdivision plat for a development or the boundaries of which are described in the declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other than a common area, and (ii) a unit in a condominium association or a unit in a real estate cooperative if the condominium or cooperative is a part of a development.

"Lot owner" means one or more persons who own a lot, including any purchaser of a lot at a foreclosure sale, regardless of whether the deed is recorded in the land records where the lot is located. "Lot owner" does not include any person holding an interest in a lot solely as security for a debt.

"Professionally managed" means a common interest community that has engaged (i) a common interest community manager to provide management services to the community or (ii) a person as an employee for compensation to provide management services to the community, other than a resident of the community who provides bookkeeping, billing, or recordkeeping services for that community.

"Property owners' association" or "association" means an incorporated or unincorporated entity upon which responsibilities are imposed and to which authority is granted in the declaration.

"Resale certificate" means a certificate issued by an association pursuant to §§ 55.1-2309 and 55.1-2310.

"Settlement agent" means the same as that term is defined in § 55.1-1000.

§ 55.1-1802. Developer to register and file annual report; payment of real estate taxes attributable to the common area.

A. Unless control of the association has been transferred to the members, the developer shall register the association with the Common Interest Community Board within 30 days after recordation of the declaration and thereafter shall ensure that the report required pursuant to § 55.1-1835 *and any required update* has been filed.

B. Upon the transfer of the common area to the association, the developer shall pay all real estate taxes attributable to the open or common space as defined in § 58.1-3284.1 through the date of the transfer to the association.

§ 55.1-1805. Association charges.

Except as expressly authorized in this chapter, in the declaration, or otherwise provided by law, no association shall (i) make an assessment or impose a charge against a lot or a lot owner unless the charge is a fee for services provided or related to use of the common area or (ii) charge a fee related to the ~~provisions set out in~~ § ~~55.1-1810 or 55.1-1811 that is not~~ *issuance of a resale certificate pursuant to § 55.1-2309 or 55.1-2311 except as* expressly authorized in ~~those sections~~ *§ 55.1-2316*. Nothing in this chapter shall be construed to authorize an association or common interest community manager to charge an inspection fee for an unimproved or improved lot except as provided in § ~~55.1-1810 or 55.1-1811~~ *55.1-2316*. The Common Interest Community Board may assess a monetary penalty for a violation of this section against any (a) association pursuant to § 54.1-2351 or (b) common interest community manager pursuant to § 54.1-2349, and may issue a cease and desist order pursuant to § 54.1-2352.

§ 55.1-1816. Meetings of the board of directors.

A. All meetings of the board of directors, including any subcommittee or other committee of the board of directors, where the business of the association is discussed or transacted shall be open to all members of record. The board of directors shall not use work sessions or other informal gatherings of the board of directors to circumvent the open meeting requirements of this section. Minutes of the meetings of the board of directors shall be recorded and shall be available as provided in subsection B of § 55.1-1815.

B. Notice of the time, date, and place of each meeting of the board of directors or of any subcommittee or other committee of the board of directors shall be published where it is reasonably calculated to be available to a majority of the lot owners.

A lot owner may make a request to be notified on a continual basis of any such meetings. Such request shall be made at least once a year in writing and include the lot owner's name, address, zip code, and any email address as appropriate. Notice of the time, date, and place shall be sent to any lot owner requesting notice (i) by first-class mail or email in the case of meetings of the board of directors or (ii) by email in the case of meetings of any subcommittee or other committee of the board of directors.

Notice, reasonable under the circumstances, of special or emergency meetings shall be given contemporaneously with the notice provided to members of the association's board of directors or any subcommittee or other committee of the board of directors conducting the meeting.

Unless otherwise exempt as relating to an executive session pursuant to subsection C, at least one copy of all agenda packets and materials furnished to members of an association's board of directors or subcommittee or other committee of the board of directors for a meeting shall be made available for inspection by the membership of the association at the same time such documents are furnished to the members of the board of directors or any subcommittee or committee of the board of directors.

Any member may record any portion of a meeting that is required to be open. The board of directors or subcommittee or other committee of the board of directors conducting the meeting may adopt rules (a) governing the placement and use of equipment necessary for recording a meeting to prevent interference with the proceedings and (b) requiring the member recording the meeting to provide notice that the meeting is being recorded.

Except for the election of officers, voting by secret or written ballot in an open meeting shall be a violation of this chapter.

C. The board of directors or any subcommittee or other committee of the board of directors may (i) convene in executive session to consider personnel matters; (ii) consult with legal counsel; (iii) discuss and consider contracts, pending or probable litigation, and matters involving violations of the declaration or rules and regulations ~~adopted pursuant to such declaration for which a member or his family members, tenants, guests, or other invitees are responsible~~; or (iv) discuss and consider the personal liability of members to the association, upon the affirmative vote in an open meeting to assemble in executive session. The motion shall state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the executive session shall be included in the minutes. The board of directors shall restrict the consideration of matters during such portions of meetings to only those purposes specifically exempted and stated in the motion. No contract, motion, or other action adopted, passed, or agreed to in executive session shall become effective unless the board of directors or subcommittee or other committee of the board of directors, following the executive session, reconvenes in open meeting and takes a vote on such contract, motion, or other action, which shall have its substance reasonably identified in the open meeting. The requirements of this section shall not require the disclosure of information in violation of law.

D. Subject to reasonable rules adopted by the board of directors, the board of directors shall provide a designated period during each meeting to allow members an opportunity to comment on any matter relating to the association. During a meeting at which the agenda is limited to specific topics or at a special meeting, the board of directors may limit the comments of members to the topics listed on the meeting agenda.

§ 55.1-1820. Display of the flag of the United States; necessary supporting structures; affirmative defense.

A. In accordance with the federal Freedom to Display the American Flag Act of 2005 (P.L. 109-243), no association shall prohibit any lot owner from displaying upon property to which the lot owner has a separate ownership interest or a right to exclusive possession or use the flag of the United States whenever such display is in compliance with Chapter 1 of Title 4 of the United States Code (4 U.S.C. § 1 et seq.), or any rule or custom pertaining to the proper display of the flag. The association may, however, establish reasonable restrictions as to the size, place, duration, and manner of placement or display of the flag on such property, provided that such restrictions are necessary to protect a substantial interest of the association.

B. The association may restrict the display of such flag in the common areas.

C. In any action brought by the association under § 55.1-1819 for violation of a flag restriction, the association shall bear the burden of proof that the restrictions as to the size, place, duration, and manner of placement or display of such flag are necessary to protect a substantial interest of the association.

D. In any action brought by the association under § 55.1-1819, the lot owner shall be entitled to assert as an affirmative defense that the required disclosure of any limitations pertaining to the display of flags or any flagpole or similar structure necessary to display such flags was not contained in the ~~disclosure packet~~ *resale certificate as* required ~~pursuant to~~ *by* § ~~55.1-1809~~ *55.1-2310*.

§ 55.1-1820.1. Installation of solar energy collection devices.

A. As used in this section, "solar energy collection device" means any device manufactured and sold for the sole purpose of facilitating the collection and beneficial use of solar energy, including passive heating panels or building components and solar photovoltaic apparatus.

B. No association shall prohibit an owner from installing a solar energy collection device on that owner's property unless the recorded declaration for the association establishes such a prohibition. However, an association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices on property designated and intended for individual ownership and use. Any ~~disclosure packet~~ *resale certificate issued* pursuant to § ~~55.1-1809~~ *55.1-2309* given to a purchaser shall contain a statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on his property.

C. A restriction shall be deemed not to be reasonable if application of the restriction to a particular proposal (i) increases the cost of installation of the solar energy collection device by five percent over the projected cost of the initially proposed installation or (ii) reduces the energy production by the solar energy collection device by 10 percent below the projected energy production of the initially proposed installation. The owner shall provide documentation prepared by an independent solar panel design specialist, who is certified by the North American Board of Certified Energy Practitioners and is licensed in Virginia, that is satisfactory to the association to show that the restriction is not reasonable according to the criteria established in this subsection.

D. The association may prohibit or restrict the installation of solar energy collection devices on the common elements or common area within the real estate development served by the association. An association may establish reasonable restrictions as to the number, size, place, and manner of placement or installation of any solar energy collection device installed on the common elements or common area.

§ 55.1-1822. Use of for sale signs in connection with sale.

Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law, no ~~property owners'~~ association shall require the use of any for sale sign that is (i) an association sign or (ii) a real estate sign that does not comply with the requirements of the Real Estate Board. An association may, however, prohibit the placement of signs in the common area and establish reasonable rules and regulations that regulate (a) the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession, so long as at least one real estate sign is permitted; (b) the geographical location of real estate signs on real property in which the owner

has a separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs complies with the requirements of the Real Estate Board; (c) the manner in which real estate signs are affixed to real property; and (d) the period of time after settlement when the real estate signs on such real property shall be removed.

§ 55.1-1823. Designation of authorized representative.

Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law, no ~~property owners'~~ association shall require any lot owner to execute a formal power of attorney if the lot owner designates a person licensed under the provisions of § 54.1-2106.1 as the lot owner's authorized representative, and the association shall recognize such representation without a formal power of attorney, provided that the association is given a written authorization that includes the designated representative's name, contact information, and license number and the lot owner's signature. Notwithstanding the foregoing, the requirements of § 13.1-849 of the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) and the association's declaration, bylaws, and articles of incorporation shall be satisfied before any such representative may exercise a vote on behalf of a lot owner as a proxy.

§ 55.1-1904. Association charges.

Except as expressly authorized in this chapter, in the condominium instruments, or as otherwise provided by law, no unit owners' association may make an assessment or impose a charge against a unit owner unless the charge is (i) authorized under § 55.1-1964, (ii) a fee for services provided, or (iii) related to the provisions set out in § ~~55.1-1992~~ *55.1-2316*. The Common Interest Community Board may assess a monetary penalty for a violation of this section against any (a) unit owners' association pursuant to § 54.1-2351 or (b) common interest community manager pursuant to § 54.1-2349 and may issue a cease and desist order pursuant to § 54.1-2352.

§ 55.1-1937. Termination of condominium.

A. If there is no unit owner other than the declarant, the declarant may unilaterally terminate the condominium. An instrument terminating a condominium signed by the declarant is effective upon recordation of such instrument. But this section shall not be construed to nullify, limit, or otherwise affect the validity or enforceability of any agreement renouncing or to renounce, in whole or in part, the right hereby conferred.

B. Except in the case of a taking of all the units by eminent domain, if any of the units in the condominium is restricted exclusively to residential use and there is any unit owner other than the declarant, the condominium may be terminated only by the agreement of unit owners of units to which four-fifths of the votes in the unit owners' association appertain, or such larger majority as the condominium instruments may specify. If none of the units in the condominium is restricted exclusively to residential use, the condominium instruments may specify a majority smaller than the minimum specified in this subsection.

C. Agreement of the required majority of unit owners to termination of the condominium shall be evidenced by their execution of a termination agreement, or ratifications of such agreement, and such agreement is effective when a copy of the termination agreement is recorded together with a certification, signed by the principal officer of the unit owners' association or by such other officer as the condominium instruments may specify, that the requisite majority of the unit owners signed the termination agreement or ratifications. Unless the termination agreement otherwise provides, prior to recordation of the termination agreement, a unit owner's prior agreement to terminate the condominium may be revoked only with the approval of unit owners of units to which a majority of the votes in the unit owners' association appertain. Any unit owner acquiring a unit subsequent to approval of a termination agreement but prior to recordation of the termination agreement shall be deemed to have consented to the termination agreement. Upon approval of a termination agreement and until recordation of the termination agreement, a copy of the termination agreement shall be included with the resale certificate required by § ~~55.1-1990~~ *55.1-2309*. The termination agreement shall specify a date after which the termination agreement is void if the termination agreement is not recorded. For the purposes of this section, an instrument terminating a condominium and any ratification of such instrument shall be deemed a condominium instrument subject to the provisions of § 55.1-1911.

D. A termination agreement may provide that all of the common elements and units of the condominium shall be sold or otherwise disposed of following termination. If, pursuant to the termination agreement, any property in the condominium is sold or disposed of following termination, the termination agreement shall set forth the minimum terms of the sale or disposition.

E. In the case of a master condominium that contains a unit that is a part of another condominium, a termination agreement for the master condominium shall not terminate the other condominium.

F. On behalf of the unit owners, the unit owners' association may contract for the disposition of property in the condominium, but the contract shall not be binding on the unit owners until approved pursuant to subsections B and C. If the termination agreement requires that any property in the condominium be sold or otherwise disposed of following termination, title to the property, upon termination, shall vest in the unit owners' association as trustee for the holders of all interest in the units. Thereafter, the unit owners' association shall have powers necessary and appropriate to effect the sale or disposition. Until the termination has been concluded and the proceeds have been distributed, the unit owners' association shall continue in existence with all the powers the unit owners' association had before termination. Proceeds of the sale shall be distributed to unit owners and lien holders as their interests may appear, in proportion to the respective interests of the unit owners as provided in subsection I. Unless otherwise specified in the termination agreement, for as long as the unit owners' association holds title to the property, each unit owner or his successor in interest shall have an exclusive right to occupancy of the portion of the property that formerly constituted his unit. During the period that the unit owner or his

successor in interest has the right to occupancy, each unit owner or his successor in interest shall remain liable for any assessment or other obligation imposed on the unit owner by this chapter or the condominium instruments.

G. If the property that constitutes the condominium is not sold or otherwise disposed of following termination, title to all the property in the condominium shall vest in the unit owners, upon termination, as tenants in common in proportion to the unit owners' respective interests as provided in subsection I. In such an event, any liens on a unit shall shift accordingly, and a lien may be enforced only against a unit owner's tenancy in common interest, but the lien shall not encumber the entire property formerly constituting the condominium. While the tenancy in common exists, each unit owner or his successor in interest shall have the exclusive right to occupancy of the portion of the property that formerly constituted the unit owner's unit.

H. Following termination of the condominium, the proceeds of any sale of property, together with the assets of the unit owners' association, shall be held by the unit owners' association as trustee for unit owners or lien holders on the units as their interests may appear. Following termination, any creditor of the unit owners' association who holds a lien on the unit that was recorded before termination may enforce the lien in the same manner as any lien holder. Any other creditor of the unit owners' association shall be treated as if he had perfected a lien on the units immediately before termination.

I. Unless the condominium instruments as originally recorded or as amended by 100 percent of the unit owners provide otherwise, the respective interests of unit owners referred to in subsections F, G, and H shall be as follows:

1. Except as provided in subdivision 3, the respective interests of the unit owners shall be as set forth in the termination agreement.

2. Except as provided in subdivision 3, if the respective interests of the unit owners are based on the respective fair market values of their units, limited common elements, and common element interests immediately before the termination, the fair market values shall be determined by one or more independent appraisers selected by the unit owners' association. The decision of the independent appraisers shall be distributed to the unit owners and become final unless disapproved within 30 days after distribution by unit owners of units to which one quarter of the votes in the unit owners' association appertain. The proportion of any unit owner's interest to the interest of all unit owners is determined by dividing the fair market value of that unit owner's unit and common element interest by the total fair market values of all the units and their common element interests.

3. If the method of determining the respective interests of the unit owners in the proceeds of sale or disposition is other than the fair market values, then the association shall provide each unit owner with a notice stating the result of that method for his unit and, no later than 30 days after transmission of that notice, if 10 percent of the unit owners dispute the interest to be distributed to their units, those unit owners may require the association to obtain an independent appraisal of the condominium units. If the fair market value of the units of the objecting unit owners is at least 10 percent more than the amount that the unit owners would have received using the method agreed upon by the membership, then the association shall adjust the respective interests of the unit owners so that each unit owner's share is based on the fair market value for each unit. If the fair market value is less than 10 percent more than the amount that the objecting unit owners would have received using the agreed-upon method, then the agreed-upon method shall be implemented and the objecting unit owners shall receive the distribution less their pro rata share of the cost of their appraisal.

4. If the method of determining the respective interests of the unit owners cannot be implemented because any unit or limited common element is destroyed, the interests of all unit owners are the unit owners' respective common element interests immediately before the termination.

5. Unless the termination agreement provides otherwise, each unit owner shall satisfy and cause the release of any mortgage, deed of trust, lease, or other lien or encumbrance on his unit at the time required by the termination agreement.

J. Except as provided in subsection K, foreclosure of any mortgage, deed of trust, or other lien, or enforcement of a mortgage, deed of trust, or other lien or encumbrance against the entire condominium, shall not alone terminate the condominium, and foreclosure or enforcement of a lien or encumbrance against a portion of the condominium, other than withdrawable land, shall not withdraw that portion from the condominium. Foreclosure or enforcement of a lien or encumbrance against withdrawable land shall not alone withdraw the land from the condominium, but the person who takes title to the withdrawable land shall have the right to require from the unit owners' association, upon request, an amendment that excludes the land from the condominium.

K. If a lien or encumbrance against a portion of the property that comprises the condominium has priority over the condominium instruments and the lien or encumbrance has not been partially released, upon foreclosure, the parties foreclosing the lien or encumbrance may record an instrument that excludes the property subject to the lien or encumbrance from the condominium.

§ 55.1-1951. Display of the flag of the United States; necessary supporting structures; affirmative defense.

A. In accordance with the federal Freedom to Display the American Flag Act of 2005 (P.L. 109-243), no unit owners' association shall prohibit or otherwise adopt or enforce any policy restricting a unit owner from displaying upon property to which the unit owner has a separate ownership interest or a right to exclusive possession or use the flag of the United States whenever such display is in compliance with Chapter 1 of Title 4 of the United States Code (4 U.S.C. § 1 et seq.) or any rule or custom pertaining to the proper display of the flag. A unit owners' association may, however, establish reasonable restrictions as to the size, place, duration, and manner of placement or display of the flag on such property, provided that such restrictions are necessary to protect a substantial interest of the unit owners' association.

B. The unit owners' association may restrict the display of such flags in the common elements.

C. In any action brought by the unit owners' association under § 55.1-1959 for a violation of a flag restriction, the unit owners' association shall bear the burden of proof that the restrictions as to the size, place, duration, and manner of placement or display of such flag are necessary to protect a substantial interest of the unit owners' association.

D. In any action brought by the unit owners' association under § 55.1-1959, the unit owner shall be entitled to assert as an affirmative defense that the required disclosure of any limitation pertaining to the flag of the United States or any flagpole or similar structure necessary to display the flag of the United States was not contained in the public offering statement or resale certificate, as appropriate, required pursuant to § 55.1-1976 or ~~55.1-1991~~ *55.1-2309*.

§ 55.1-1951.1. Installation of solar energy collection devices.

A. As used in this section, "solar energy collection device" means any device manufactured and sold for the sole purpose of facilitating the collection and beneficial use of solar energy, including passive heating panels or building components and solar photovoltaic apparatus.

B. No unit owners' association shall prohibit an owner from installing a solar energy collection device on that owner's property unless the recorded declaration for the unit owners' association establishes such a prohibition. However, a unit owners' association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices on property designated and intended for individual ownership and use. Any resale certificate pursuant to § ~~55.1-1990~~ *55.1-2309* given to a purchaser shall contain a statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on his property.

C. A restriction shall be deemed not to be reasonable if application of the restriction to a particular proposal (i) increases the cost of installation of the solar energy collection device by five percent over the projected cost of the initially proposed installation or (ii) reduces the energy production by the solar energy collection device by 10 percent below the projected energy production of the initially proposed installation. The owner shall provide documentation prepared by an independent solar panel design specialist, who is certified by the North American Board of Certified Energy Practitioners and is licensed in Virginia, that is satisfactory to the unit owners' association to show that the restriction is not reasonable according to the criteria established in this subsection.

D. The unit owners' association may prohibit or restrict the installation of solar energy collection devices on the common elements or common area within the real estate development served by the unit owners' association. A unit owners' association may establish reasonable restrictions as to the number, size, place, and manner of placement or installation of any solar energy collection device installed on the common elements or common area.

§ 55.1-1972. Exemptions from certain provisions of article.

A. Unless the method of offer or disposition is adopted for the purpose of evasion of this chapter, the provisions of §§ 55.1-1974 through 55.1-1979, subsections B and D of § 55.1-1982, and §§ ~~55.1-1990~~ ~~and~~ ~~55.1-1991~~ *55.1-2308 and 55.1-2309* do not apply to:

1. Dispositions pursuant to court order;

2. Dispositions by any government or government agency;

3. Offers by the declarant on nonbinding reservation agreements;

4. Dispositions in a residential condominium in which there are three or fewer units, so long as the condominium instruments do not reserve to the declarant the right to create additional condominium units; or

5. A disposition of a unit by a sale at an auction where a current public offering statement or resale certificate was made available as part of an auction package for prospective purchasers prior to the auction sale.

B. In cases of dispositions in a condominium where all units are restricted to nonresidential use, the provisions of §§ 55.1-1974 through 55.1-1983 shall not apply, unless the method of offer or disposition is adopted for the purpose of evasion of this chapter.

§ 55.1-2101. Applicability.

A. This chapter applies to all cooperatives created within the Commonwealth after July 1, 1982. Unless the declaration provides that the entire chapter is applicable, such a cooperative is subject only to §§ 55.1-2104 and 55.1-2105 if the cooperative contains only units restricted to nonresidential use or contains no more than three units and is not subject to any development rights.

B. Except as provided in subsection C, §§ 55.1-2100, 55.1-2104, 55.1-2105, 55.1-2109, 55.1-2114, and 55.1-2131, subdivisions A 1 through 6 and 11 through 17 of § 55.1-2133, and §§ 55.1-2143, 55.1-2148, 55.1-2151, ~~55.1-2161,~~ 55.1-2169, ~~and~~ 55.1-2170*, and 55.1-2309* apply to all cooperatives created in the Commonwealth before July 1, 1982. Those sections apply only with respect to events and circumstances occurring after July 1, 1982, and do not invalidate existing provisions of the cooperative documents of those cooperatives. With regard to any cooperative created before July 1, 1982, § 55.1-2104 applies only to real estate acquired by that cooperative's association on or after that date. For the purposes of this section, a cooperative was created before July 1, 1982, if the cooperative was conveyed to the association before that date.

C. If a cooperative created within the Commonwealth before July 1, 1982, contains no more than three units and is not subject to any development rights, it is subject only to §§ 55.1-2104 and 55.1-2105, unless the declaration is amended to make any or all of the sections enumerated in subsection B apply to that cooperative.

D. This chapter does not apply to cooperatives or cooperative interests located outside the Commonwealth, but the public offering statement provisions as given in §§ 55.1-2153 through 55.1-2160 apply to all contracts for the disposition of cooperative interests signed in the Commonwealth by any party, unless exempt under subsection B of § 55.1-2153. The

Common Interest Community Board regulations provisions under Article 5 (§ 55.1-2173 et seq.) apply to any such offering in the Commonwealth.

E. This chapter does not apply to any cooperatives that receive federal funding pursuant to the public housing or Section 8 program under the United States Housing Act of 1937, as amended.

F. This chapter does not apply to any cooperative that, when acquired by an association, is subject to a mortgage or deed of trust securing an indebtedness owed to any government or governmental authority to which the association has contractual obligations in addition to those set forth in such mortgage or deed of trust.

§ 55.1-2133. Powers of the association.

A. Except as provided in subsection B, and subject to the provisions of the declaration, the association, even if unincorporated, may:

1. Adopt and amend bylaws and rules and regulations;

2. Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from proprietary lessees;

3. Hire and discharge managing agents and other employees, agents, and independent contractors;

4. Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more proprietary lessees on matters affecting the cooperative;

5. Make contracts and incur liabilities;

6. Regulate the use, maintenance, repair, replacement, and modification of common elements;

7. Cause additional improvements to be made as a part of the common elements;

8. Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, but part of the cooperative may be conveyed, or all or part of the cooperative may be subjected to, a security interest only pursuant to § 55.1-2144;

9. Grant easements, leases, licenses, and concessions through or over the common elements;

10. Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements described in subdivisions 2 and 4 of § 55.1-2113, and for services provided to proprietary lessees;

11. Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy fines not to exceed $50 for each instance for violations of the declaration, bylaws, and rules and regulations of the association;

12. Impose reasonable charges for the preparation and recordation of amendments to the declaration, resale certificates required by § ~~55.1-2161~~ *55.1-2309*, or statements of unpaid assessments;

13. Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;

14. Assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration expressly so provides;

15. Exercise any other powers conferred by the declaration or bylaws;

16. Exercise all other powers that may be exercised in the Commonwealth by legal entities of the same type as the association; and

17. Exercise any other powers necessary and proper for the governance and operation of the association.

B. The declaration shall not impose limitations on the power of the association to deal with the declarant that are more restrictive than the limitations imposed on the power of the association to deal with other persons.

§ 55.1-2133.1. Installation of solar energy collection devices.

A. As used in this section, "solar energy collection device" means any device manufactured and sold for the sole purpose of facilitating the collection and beneficial use of solar energy, including passive heating panels or building components and solar photovoltaic apparatus.

B. No association shall prohibit an owner from installing a solar energy collection device on that owner's property unless the recorded declaration for the association establishes such a prohibition. However, an association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices on property designated and intended for individual ownership and use. Any resale certificate pursuant to § ~~55.1-2161~~ *55.1-2309* given to a purchaser shall contain a statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on his property.

C. A restriction shall be deemed not to be reasonable if application of the restriction to a particular proposal (i) increases the cost of installation of the solar energy collection device by five percent over the projected cost of the initially proposed installation or (ii) reduces the energy production by the solar energy collection device by 10 percent below the projected energy production of the initially proposed installation. The owner shall provide documentation prepared by an independent solar panel design specialist, who is certified by the North American Board of Certified Energy Practitioners and is licensed in Virginia, that is satisfactory to the association to show that the restriction is not reasonable according to the criteria established in this subsection.

D. The association may prohibit or restrict the installation of solar energy collection devices on the common elements or common area within the real estate development served by the association. An association may establish reasonable restrictions as to the number, size, place, and manner of placement or installation of any solar energy collection device installed on the common elements or common area.

§ 55.1-2151. Association records.

The association shall keep financial records sufficiently detailed to enable the association to comply with § ~~55.1-2161~~ *55.1-2309*. All financial and other records shall be made reasonably available for examination by any proprietary lessee and his authorized agents.

§ 55.1-2162. Escrow of deposits.

A. Any deposit made in connection with the purchase or reservation of a cooperative interest from a person required to deliver a public offering statement pursuant to subsection C of § 55.1-2154 shall be placed in escrow and held either in the Commonwealth or in the state in which the unit that is a part of that cooperative interest is located in an account designated solely for that purpose by a title insurance company, attorney, or real estate broker licensed under the laws of the Commonwealth, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until (i) delivered to the declarant at closing, (ii) delivered to the declarant because of the purchaser's default under a contract to purchase the cooperative interest, or (iii) refunded to the purchaser.

B. Any deposit made in connection with the purchase of a cooperative interest from a person not required to deliver a public offering statement shall be placed in escrow in the same manner as prescribed in subsection A. Upon receipt of the *resale* certificate called for in § ~~55.1-2161~~ *55.1-2309*, should the purchaser elect to void the contract, the seller may deduct the actual charges by the association for preparation of the certificate. Otherwise, the deposit shall be promptly returned to the purchaser.

CHAPTER 23.1.
RESALE DISCLOSURE ACT.

§ 55.1-2307. Definitions.

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

"Agent" means the authorized agent designated by the purchaser or seller in a ratified real estate contract, listing agreement, or other writing designating such agent.

"Association" means an association created pursuant to the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), or the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or a council of co-owners created pursuant to the Horizontal Property Act (§ 55.1-2000 et seq.).

"Board" means the board of directors or executive board, of an association, except that in the case of a horizontal property regime created pursuant to the Horizontal Property Act (§ 55.1-2000 et seq.), "board" means the council of co-owners.

"Common interest community" means a condominium created pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.) or the Horizontal Property Act (§ 55.1-2000 et seq.), a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or a property owners' association subject to the Property Owners' Association Act (§ 55.1-1800 et seq.).

"Days" means calendar days.

"Declarant" means the same as that term is defined in §§ 55.1-1800 and 55.1-1900.

"Financial update" means updated financial information for the unit, including information required by subdivisions A 4 and 5 of § 55.1-2310.

"Governing documents" means, to the extent applicable, the declaration, bylaws, organizing articles, and any other foundational documents of the association and all amendments to such documents.

"Limited elements" means the limited common elements appurtenant to a condominium unit or cooperative unit or the limited common area appurtenant to a lot.

"Managing agent" means a licensee who performs management services as defined in § 54.1-2345.

"Purchaser" means the person or entity acquiring the unit.

"Ratified real estate contract" or "contract" means the contract to purchase the unit and any addenda to such contract.

"Resale certificate" means the information listed in § 55.1-2310.

"Rules and regulations" means restrictions or limitations adopted by the board or authorized committee addressing the use, operation, appearance, or design of a portion of the common interest community.

"Seller" means the person or entity selling the unit.

"Settlement agent" means the same as that term is defined in § 55.1-1000.

"Unit" means a condominium unit in a condominium, a cooperative unit in a real estate cooperative, or a lot in a community governed by an association.

"Updated resale certificate" means an update of the resale certificate referenced in § 55.1-2311.

§ 55.1-2308. Contract for resale; disclosures.

Unless exempt pursuant to § 55.1-2317, any contract for the resale of a unit in a common interest community shall disclose (i) that the unit is located in a common interest community; (ii) that the seller is required to obtain from the association a resale certificate and provide it to the purchaser; (iii) the purchaser's right to cancel the contract pursuant to § 55.1-2312; (iv) that the purchaser may request an updated resale certificate pursuant to § 55.1-2311; and (v) that the purchaser's right to receive the resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement. If the contract does not contain the disclosures required by this section, the purchaser's sole remedy is to cancel the contract prior to settlement.

§ 55.1-2309. Resale certificate; delivery.

A. The seller shall be required to obtain the resale certificate from the association and provide such resale certificate to the purchaser.

B. Unless exempt pursuant to § 55.1-2317, the association, the association's managing agent, or any third party preparing the resale certificate on behalf of the association shall deliver such resale certificate within 14 days after a written request by a seller or seller's agent.

C. The association, association's managing agent, or any third party preparing the resale certificate on behalf of the association shall deliver the resale certificate to the seller, or to such person as the seller may direct, either printed or in a generally accepted electronic format as the seller may request.

D. The information contained in the resale certificate shall be current as of a date specified on the resale certificate. The seller or purchaser may request an updated resale certificate as provided in § 55.1-2311.

§ 55.1-2310. Resale certificate; form and contents.

A. The association shall include the completed resale certificate form, developed by the common interest community board pursuant to subdivision 3 of § 54.1-2350, with supporting documentation set out in the following order:

1. The name, address, and phone numbers of the preparer of the resale certificate and any managing agent of the association;

2. A copy of the governing documents and any rules and regulations of the association;

3. A statement disclosing any restraint on the alienability of the unit for which the resale certificate is being issued;

4. A statement of the amount and payment schedules of assessments and any unpaid assessments currently due and payable to the association;

5. A statement of any other fees due and payable by an owner of the unit;

6. A statement of any other entity or facility to which the owner of the unit being sold may be liable for assessments, fees, or other charges due to the ownership of the unit;

7. A statement of the amount and payment schedule of any approved additional or special assessment and any unpaid additional or special assessment currently due and payable;

8. A statement of any capital expenditures approved by the association for the current and succeeding fiscal years;

9. A statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects;

10. The most recent balance sheet and income and expense statement, if any, of the association;

11. The current operating budget of the association;

12. The current reserve study, or a summary of such study;

13. A statement of any unsatisfied judgments against the association and the nature and status of any pending actions in which the association is a party and that could have a material impact on the association, the owners, or the unit being sold;

14. A statement describing any insurance coverage provided by the association for the benefit of the owners, including fidelity coverage, and any insurance coverage recommended or required to be obtained by the owners;

15. A statement as to whether the board has given or received written notice that any existing uses, occupancies, alterations, or improvements in or to the unit being sold or to the limited elements assigned thereto violate any provision of the governing documents or rules and regulations together with copies of any notices provided;

16. A statement as to whether the board has received written notice from a governmental agency of any violation of environmental, health, or building codes with respect to the unit being sold, the limited elements assigned thereto, or any other portion of the common interest community that has not been cured;

17. A copy of any approved minutes of meetings of the board held during the last six months;

18. A copy of any approved or draft minutes of the most recent association meeting;

19. A statement of the remaining term of any leasehold estate affecting a common area or common element, as those terms are defined in §§ 55.1-1800, 55.1-1900, and 55.1-2100, in the common interest community and the provisions governing any extension or renewal of such leasehold;

20. A statement of any limitation in the governing documents on the number or age of persons who may occupy a unit as a dwelling;

21. A statement setting forth any restriction, limitation, or prohibition on the right of an owner to display the flag of the United States, including reasonable restrictions as to the size, time, place, and manner of placement or display of such flag;

22. A statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on the owner's unit or limited element;

23. A statement setting forth any restriction, limitation, or prohibition on the size, placement, or duration of display of political, for sale, or any other signs on the property;

24. A statement identifying any parking or vehicle restriction, limitation, or prohibition in the governing documents or rules and regulations;

25. A statement setting forth any restriction, limitation, or prohibition on the operation of a home-based business that otherwise complies with all applicable local ordinances;

26. A statement setting forth any restriction, limitation, or prohibition on an owner's ability to rent the unit;

27. In a cooperative, an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the owner of real estate taxes and interest paid by the association;

28. A statement describing any pending sale or encumbrance of common elements;

29. A statement indicating any known project approvals currently in effect issued by secondary mortgage market agencies; and

30. Certification that the association has filed with the Common Interest Community Board the annual report required by law, which certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing.

§ 55.1-2311. Updated resale certificate.

A. If a resale certificate was issued more than 30 days but less than 12 months before settlement, the seller or the purchaser, upon proof of being the contract purchaser of the unit, may request an updated resale certificate. The updated resale certificate shall be delivered to the person requesting it, or as such person may direct, in the format requested. The updated resale certificate shall be delivered within 10 days after the written request.

B. The updated resale certificate shall contain current information for all items that may have changed from the original resale certificate or a statement that there are no changes.

C. A settlement agent authorized by the seller or purchaser may request a financial update and the association shall provide such information within three business days after the written request.

§ 55.1-2312. Cancellation of contract by purchaser.

A. The purchaser may cancel the contract:

1. Within three days, or up to seven days if extended by the ratified real estate contract, after the ratification date of the contract if the purchaser receives the resale certificate, whether or not complete pursuant to § 55.1-2310, or a notice that the resale certificate is unavailable on or before the date that the contract is ratified;

2. Within three days, or up to seven days if extended by the ratified real estate contract, from the date the purchaser receives the resale certificate, whether or not complete pursuant to § 55.1-2310, or a notice that the resale certificate is unavailable if delivery occurs after the contract is ratified; or

3. At any time prior to settlement if the resale certificate is not delivered to the purchaser.

B. Written notice of cancellation shall be provided to the seller in accordance with the terms of the contract. The purchaser shall have the burden to demonstrate delivery of the notice of cancellation.

C. If the unit is governed by more than one association, the timeframe for the purchaser's right of cancellation shall run from the date of delivery of the last resale certificate.

D. Cancellation shall be without penalty, and the seller shall cause any deposit or escrowed funds to be returned promptly to the purchaser.

§ 55.1-2313. Liability for resale certificate.

A. A seller providing a resale certificate pursuant to § 55.1-2310 or 55.1-2311 shall not be liable to the purchaser for any erroneous information provided by the association and included in the certificate or for the failure or delay of the association to provide the resale certificate in a timely manner.

B. A purchaser shall not be liable for any unpaid assessment or fee greater than the amount set forth in the resale certificate, updated resale certificate, or financial update. The association shall, as to the purchaser, be bound by the information provided in the resale certificate or updated resale certificate as to the amounts of current assessments, including any approved special or additional assessments, and any violation of the governing documents or rules and regulations as of the date of the resale certificate, updated resale certificate, or financial update unless the purchaser had actual knowledge that the contents of the resale certificate were in error.

§ 55.1-2314. Failure to provide resale certificate; no waiver.

A. If an association, the association's managing agent, or any third party preparing a resale certificate fails to comply with § 55.1-2310 or 55.1-2311, the purchaser shall not be required to pay any delinquent assessments or remedy any violation of the governing documents or rules and regulations existing as of the date of the resale certificate or updated resale certificate. The association may only enforce a violation incurred by a previous owner against a purchaser if (i) such violation has been properly noted in the resale certificate or updated resale certificate or (ii) the seller failed to provide the resale certificate to the purchaser as required by § 55.1-2309.

B. The purchaser shall abide by the governing documents and rules and regulations as to all matters arising after acquiring the unit regardless of whether such purchaser received a resale certificate.

C. The preparer of the resale certificate or updated resale certificate shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed $1,000.

D. The Common Interest Community Board may assess a monetary penalty for failure to deliver the resale certificate or updated resale certificate as required against any (i) association pursuant to § 54.1-2351 or (ii) common interest community manager pursuant to § 54.1-2349 and regulations promulgated thereto, and may issue a cease and desist order pursuant to § 54.1-2349 or 54.1-2352.

§ 55.1-2315. Properties subject to more than one declaration.

If the unit is subject to more than one common interest community, each association, the association's managing agent, or any third party preparing a resale certificate on behalf of an association shall provide a resale certificate for that association and may charge the appropriate fees.

§ 55.1-2316. Resale certificate; fees.

A. An association may charge a post-closing fee and fees for preparation, delivery, and expedited delivery of a resale certificate, an updated resale certificate, or financial update and for the inspection of a unit performed to prepare the resale

certificate or updated resale certificate. Unless provided otherwise by the association, the appropriate fees shall be paid when the resale certificate, updated resale certificate, or financial update is requested. The seller shall be responsible for all fees associated with the preparation and delivery of the resale certificate, including any fees for inspection of the unit. The requesting party shall pay any fees for the preparation and delivery of the updated resale certificate or financial update.

B. The Common Interest Community Board shall establish the maximum fees that the association may charge for such post-closing and preparation, delivery, and inspection; such maximum fees shall be commercially reasonable and consistent with the effort required to comply with the resale certificate requirements. The maximum allowable fees, as published by the Common Interest Community Board and effective as of January 12, 2023, shall be adjusted no less than every five years, as of January 1 of that year, in an amount not less than the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor or an equivalent successor index.

C. The association shall publish and make available a schedule of the applicable fees (i) for preparation and delivery of the resale certificate, updated resale certificate, and financial update; (ii) for the inspection of a unit; and (iii) related to any post-closing costs.

D. A post-closing fee to be collected at settlement may be imposed on the purchaser of the property for the purpose of establishing the purchaser as the owner of the property in the records of the association.

E. No association may collect fees authorized by this section unless the association (i) is registered with the Common Interest Community Board; (ii) is current in filing the most recent annual report and fee with the Common Interest Community Board pursuant to § 55.1-1835; (iii) is current in paying any assessment made by the Common Interest Community Board pursuant to § 54.1-2354.5; and (iv) provides the option to receive the disclosure packet electronically.

§ 55.1-2317. Exemptions.

A. The resale certificate required by this chapter need not be provided in the case of:

1. An initial disposition by a declarant;

2. A disposition of a unit by gift;

3. A disposition of a unit pursuant to court order if the court so directs;

4. A disposition of a unit by foreclosure or deed in lieu of foreclosure;

5. A disposition of a unit by a sale at auction, when the resale certificate was made available as part of the auction package for prospective purchasers prior to the auction; or

6. A disposition of a unit in a common interest community containing no residential units.

B. In any transaction in which a resale certificate is required and a trustee acts as the seller in the sale or resale of a unit, the trustee shall obtain the resale certificate from the association and provide the resale certificate to the purchaser.

2. That Article 2 (§§ 55.1-1808 through 55.1-1814) of Chapter 18 and Article 5 (§§ 55.1-1990 through 55.1-1995) of Chapter 19 of Title 55.1 and § 55.1-2161 of the Code of Virginia are repealed.

3. That the provisions of this act shall not apply to any contract ratified prior to July 1, 2023.

CHAPTER 388

An Act to amend and reenact §§ 54.1-2130, 54.1-2345.1, 54.1-2349 through 54.1-2352, 55.1-1800, 55.1-1802, 55.1-1805, 55.1-1816, 55.1-1820, 55.1-1820.1, 55.1-1822, 55.1-1823, 55.1-1904, 55.1-1937, 55.1-1951, 55.1-1951.1, 55.1-1972, 55.1-2101, 55.1-2133, 55.1-2133.1, 55.1-2151, and 55.1-2162 of the Code of Virginia; to amend the Code of Virginia by adding in Title 55.1 a chapter numbered 23.1, consisting of sections numbered 55.1-2307 through 55.1-2317; and to repeal Article 2 (§§ 55.1-1808 through 55.1-1814) of Chapter 18 and Article 5 (§§ 55.1-1990 through 55.1-1995) of Chapter 19 of Title 55.1 and § 55.1-2161 of the Code of Virginia, relating to common interest communities; Resale Disclosure Act.

[S 1222]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2130, 54.1-2345.1, 54.1-2349 through 54.1-2352, 55.1-1800, 55.1-1802, 55.1-1805, 55.1-1816, 55.1-1820, 55.1-1820.1, 55.1-1822, 55.1-1823, 55.1-1904, 55.1-1937, 55.1-1951, 55.1-1951.1, 55.1-1972, 55.1-2101, 55.1-2133, 55.1-2133.1, 55.1-2151, and 55.1-2162 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 55.1 a chapter numbered 23.1, consisting of sections numbered 55.1-2307 through 55.1-2317, as follows:

§ 54.1-2130. Definitions.

As used in this article:

"Agency" means every relationship in which a real estate licensee acts for or represents a person as an agent by such person's express authority in a commercial or residential real estate transaction, unless a different legal relationship is intended and is agreed to as part of the brokerage agreement. Nothing in this article shall prohibit a licensee and a client from agreeing in writing to a brokerage relationship under which the licensee acts as an independent contractor or which imposes on a licensee obligations in addition to those provided in this article. If a licensee agrees to additional obligations, however, the licensee shall be responsible for the additional obligations agreed to with the client in the brokerage

agreement. A real estate licensee who enters into a brokerage relationship based upon a written brokerage agreement that specifically states that the real estate licensee is acting as an independent contractor and not as an agent shall have the obligations agreed to by the parties in the brokerage agreement, and such real estate licensee and its employees shall comply with the provisions of subdivisions A 3 through 7 and subsections B and E of § 54.1-2131; subdivisions A 3 through 7 and subsections B and E of § 54.1-2132; subdivisions A 3 through 7 and subsections B and E of § 54.1-2133; subdivisions A 3 through 7 and subsections B and E of § 54.1-2134; and subdivisions A 2 through 6 and subsections C and D of § 54.1-2135 but otherwise shall have no obligations under §§ 54.1-2131 through 54.1-2135. Any real estate licensee who acts for or represents a client in an agency relationship in a residential real estate transaction shall either represent such client as a standard agent or a limited service agent.

"Agent" means a real estate licensee who is acting as (i) a standard agent in a residential real estate transaction, (ii) a limited service agent in a residential real estate transaction, or (iii) an agent in a commercial real estate transaction.

"Brokerage agreement" means the written agreement creating a brokerage relationship between a client and a licensee. The brokerage agreement shall state whether the real estate licensee will represent the client as an agent or an independent contractor.

"Brokerage relationship" means the contractual relationship between a client and a real estate licensee who has been engaged by such client for the purpose of procuring a seller, buyer, option, tenant, or landlord ready, able, and willing to sell, buy, option, exchange or rent real estate on behalf of a client.

"Client" means a person who has entered into a brokerage relationship with a licensee.

"Commercial real estate" means any real estate other than (i) real estate containing one to four residential units or (ii) real estate classified for assessment purposes under § 58.1-3230. Commercial real estate shall not include single family residential units, including condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

"Common source information company" means any person, firm, or corporation that is a source, compiler, or supplier of information regarding real estate for sale or lease and other data and includes, but is not limited to, multiple listing services.

"Customer" means a person who has not entered into a brokerage relationship with a licensee but for whom a licensee performs ministerial acts in a real estate transaction. Unless a licensee enters into a brokerage relationship with such person, it shall be presumed that such person is a customer of the licensee rather than a client.

"Designated agent" or "designated representative" means a licensee who has been assigned by a principal or supervising broker to represent a client when a different client is also represented by such principal or broker in the same transaction. A designated representative shall only act as an independent contractor.

"Dual agent" or "dual representative" means a licensee who has a brokerage relationship with both seller and buyer, or both landlord and tenant, in the same real estate transaction. A dual agent has an agency relationship under brokerage agreements with the clients. A dual representative has an independent contractor relationship under brokerage agreements with the clients. A dual representative shall only act as an independent contractor.

"Independent contractor" means a real estate licensee who (i) enters into a brokerage relationship based upon a brokerage agreement that specifically states that the real estate licensee is acting as an independent contractor and not as an agent; (ii) shall have the obligations agreed to by the parties in the brokerage agreement; and (iii) shall comply with the provisions of subdivisions A 3 through 7 and subsections B and E of § 54.1-2131; subdivisions A 3 through 7 and subsections B and E of § 54.1-2132; subdivisions A 3 through 7 and subsections B and E of § 54.1-2133; subdivisions A 3 through 7 and subsections B and E of § 54.1-2134; and subdivisions A 2 through 6 and subsections C and D of § 54.1-2135 but otherwise shall have no obligations under §§ 54.1-2131 through 54.1-2135.

"Licensee" means real estate brokers and salespersons as defined in Article 1 (§ 54.1-2100 et seq.).

"Limited service agent" means a licensee who acts for or represents a client in a residential real estate transaction pursuant to a brokerage agreement that provides that the limited service agent will not provide one or more of the duties set forth in subdivision A 2 of §§ 54.1-2131, 54.1-2132, 54.1-2133, and 54.1-2134, inclusive. A limited service agent shall have the obligations set out in the brokerage agreement, except that a limited service agent shall provide the client, at the time of entering the brokerage agreement, copies of any and all disclosures required by federal or state law, or local disclosures expressly authorized by state law, and shall disclose to the client the following in writing: (i) the rights and obligations of the client under the Virginia Residential Property Disclosure Act (§ 55.1-700 et seq.); (ii) if the client is selling a condominium, the rights and obligations of the client to deliver to the purchasers, or to receive as purchaser, the ~~condominium~~ resale certificate required by § ~~55.1-1990~~ *55.1-2309*; and (iii) if the client is selling a property subject to the Property Owners' Association Act (§ 55.1-1800 et seq.), the rights and obligations of the client to deliver to the purchasers, or to receive as purchaser, the ~~association disclosure packet required by § 55.1-1809~~ *resale certificate required by § 55.1-2309*.

"Ministerial acts" means those routine acts which a licensee can perform for a person which do not involve discretion or the exercise of the licensee's own judgment.

"Property management agreement" means the written agreement between a property manager and the owner of real estate for the management of the real estate.

"Residential real estate" means real property containing from one to four residential dwelling units and the sale of lots containing one to four residential dwelling units.

"Standard agent" means a licensee who acts for or represents a client in an agency relationship in a residential real estate transaction. A standard agent shall have the obligations as provided in this article and any additional obligations agreed to by the parties in the brokerage agreement.

§ 54.1-2345.1. Certain real estate arrangements and covenants not deemed to constitute a common interest community.

A. An arrangement between the associations for two or more common interest communities to share the costs of real estate taxes, insurance premiums, services, maintenance, or improvements of real estate, or other activities specified in their arrangement or declarations does not create a separate common interest community, or an arrangement between an association and the owner of real estate that is not part of a common interest community to share the costs of real estate taxes, insurance premiums, services, maintenance, or improvements of real estate, or other activities specified in their arrangement does not create a separate common interest community. Assessments against the lots in the common interest community required by such arrangement shall be included in the periodic budget for the common interest community, and the arrangement shall be disclosed in all required public offering statements and ~~disclosure packets~~ *resale certificates*.

B. A covenant requiring the owners of separately owned parcels of real estate to share costs or other obligations associated with a party wall, driveway, well, or other similar use does not create a common interest community unless the owners otherwise agree to create such community.

§ 54.1-2349. Powers and duties of the Board.

A. The Board shall administer and enforce the provisions of this article. In addition to the provisions of §§ 54.1-201 and 54.1-202, the Board shall:

1. Promulgate regulations necessary to carry out the requirements of this article in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), including the prescription of fees, procedures, and qualifications for the issuance and renewal of common interest community manager licenses. Upon application for license and each renewal thereof, the applicant shall pay a fee established by the Board, which shall be placed to the credit of the Common Interest Community Management Information Fund established pursuant to § 54.1-2354.2;

2. Establish criteria for the licensure of common interest community managers to ensure the appropriate training and educational credentials for the provision of management services to common interest communities. Such criteria may include experiential requirements and shall include designation as an Accredited Association Management Company by the Community Associations Institute. As an additional alternative to such designation, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program and certifying examination or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of common interest community managers;

3. Establish criteria for the certification of the employees of common interest community managers who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community to ensure the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community. Such criteria shall include designation as a Certified Manager of Community Associations by the Community Association Managers International Certification Board, designation as an Association Management Specialist by the Community Associations Institute, or designation as a Professional Community Association Manager by the Community Associations Institute. As an additional alternative to such designations, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program as developed by the Virginia Association of Realtors or other organization, and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of the employees of common interest community managers who participate directly in the provision of management services to a common interest community. The fee paid to the Board for the issuance of such certificate shall be paid to the Common Interest Community Management Information Fund established pursuant to § 54.1-2354.2;

4. Approve the criteria for accredited common interest community manager training programs;

5. Approve accredited common interest community manager training programs;

6. Establish, by regulation, standards of conduct for common interest community managers and for employees of common interest community managers certified in accordance with the provisions of this article;

7. Establish, by regulation, an education-based certification program for persons who are involved in the business or activity of providing management services for compensation to common interest communities. The Board shall have the authority to approve training courses and instructors in furtherance of the provisions of this article;

8. Issue a certificate of registration to each association that has properly filed in accordance with this chapter; and

9. Develop and publish best practices for the content of declarations consistent with the requirements of the Property Owners' Association Act (§ 55.1-1800 et seq.).

B. 1. The Board shall have the sole responsibility for the administration of this article and for the promulgation of regulations to carry out the requirements thereof.

2. The Board shall also be responsible for the enforcement of this article, provided that the Real Estate Board shall have the sole responsibility for the enforcement of this article with respect to a real estate broker, real estate salesperson, or real estate brokerage firm licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.) who is also licensed as a common interest community manager.

3. For purposes of enforcement of this article or the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), ~~or~~ the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), *or the Resale Disclosure Act (§ 55.1-2307 et seq.),* any requirement for the conduct of a hearing shall be satisfied by an informal fact-finding proceeding convened and conducted pursuant to § 2.2-4019 of the Administrative Process Act (§ 2.2-4000 et seq.).

C. The Board is authorized to obtain criminal history record information from any state or federal law-enforcement agency relating to an applicant for licensure or certification. Any information so obtained is for the exclusive use of the Board and shall not be released to any other person or agency except in furtherance of the investigation of the applicant or with the authorization of the applicant or upon court order.

D. Notwithstanding the provisions of subsection A of § 54.1-2354.4, the Board may receive a complaint directly from any person aggrieved by an association's failure to deliver a resale certificate ~~or disclosure packet within the time period required under § 55.1-1809, 55.1-1810, 55.1-1811, 55.1-1900, 55.1-1992, or 55.1-2161~~ *in accordance with Chapter 23.1 (§ 55.1-2307 et seq.) of Title 55.1.*

§ 54.1-2350. Annual report; form to accompany resale certificates.

In addition to the provisions of § 54.1-2349, the Board shall:

1. Administer the provisions of Article 2 (§ 54.1-2354.1 et seq.);

2. Develop and disseminate an association annual report form for use in accordance with §§ 55.1-1835, 55.1-1980, and 55.1-2182; and

3. Develop and disseminate a *standardized resale certificate* form ~~to accompany resale certificates required pursuant to § 55.1-1990 and association disclosure packets required pursuant to § 55.1-1809~~, which ~~form~~ shall ~~summarize the unique characteristics of common interest communities generally that may affect a prospective purchaser's decision to purchase a lot or unit located in a common interest community. The form shall include information on the following, which may or may not be applicable to a particular common interest community: (i) the obligation on the part of an owner to pay regular annual or special assessments to the association; (ii) the penalty for failure or refusal to pay such assessments; (iii) the purposes for which such assessments, if any, may be used, including for the construction or maintenance of stormwater management facilities; (iv) the importance the declaration of restrictive covenants or condominium instruments, as applicable, and other governing documents play in association living; (v) limitations on an owner's ability to rent his lot or unit; (vi) limitations on an owner's ability to park or store certain types of motor vehicles or boats within the common interest community; (vii) limitations on an owner's ability to maintain an animal as a pet within the lot or unit, or in common areas or common elements; (viii) architectural guidelines applicable to an owner's lot or unit; (ix) limitations on an owner's ability to operate a business within a dwelling unit on a lot or within a unit; (x) the period or length of declarant control; and (xi) that the purchase contract for a lot within an association is a legally binding document once it is signed by the prospective purchaser where the purchaser has not elected to cancel the purchase contract in accordance with law~~ *contain disclosure statements in the order listed in § 55.1-2310. The form shall provide for the attachment of reference documents and contain space for an association to indicate those disclosures that pertain to its particular community*. The form shall also provide that ~~(a)~~ the purchaser remains responsible for his own examination of the ~~materials that constitute the~~ resale certificate ~~or disclosure packet~~ and of any ~~table of contents that may be contained therein; (b) the purchaser shall carefully review the entire resale certificate or disclosure packet; and (c) the contents of the resale certificate or disclosure packet shall control to the extent that there are any inconsistencies between the form and the resale certificate or disclosure packet~~ *attached reference documents*.

§ 54.1-2351. General powers and duties of Board concerning associations.

A. The Board may adopt, amend, and repeal rules and regulations and issue orders consistent with and in furtherance of the objectives of this article, but the Board may not intervene in the internal activities of an association except to the extent necessary to prevent or cure violations of this article or of the chapter pursuant to which the association is created. The Board may prescribe forms and procedures for submitting information to the Board.

B. If it appears that any governing board has engaged, is engaging, or is about to engage in any act or practice in violation of this article, the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), ~~or~~ the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), *the Resale Disclosure Act (§ 55.1-2307 et seq.),* or any of the Board's regulations or orders, the Board without prior administrative proceedings may bring an action in the appropriate court to enjoin that act or practice or for other appropriate relief. The Board is not required to post a bond or prove that no adequate remedy at law exists.

C. The Board may intervene in any action involving a violation by a declarant or a developer of a time-share project of this article, the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), ~~or~~ the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), *the Resale Disclosure Act (§ 55.1-2307 et seq.),* or any of the Board's regulations or orders.

D. The Board may accept grants-in-aid from any governmental source and may contract with agencies charged with similar functions in this or other jurisdictions in furtherance of the objectives of this article.

E. The Board may cooperate with agencies performing similar functions in this and other jurisdictions to develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative practices, and may develop information that may be useful in the discharge of the Board's duties.

F. In issuing any cease and desist order, the Board shall state the basis for the adverse determination and the underlying facts.

G. Without limiting the remedies that may be obtained under this article, the Board, without compliance with the Administrative Process Act (§ 2.2-4000 et seq.), shall have the authority to enforce the provisions of this section and may institute proceedings in equity to enjoin any person, partnership, corporation, or any other entity violating this article, the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), ~~or~~ the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), *the Resale Disclosure Act (§ 55.1-2307 et seq.),* or any of the Board's regulations or orders. Such proceedings shall be brought in the name of the Commonwealth by the Board in the circuit court or general district court of the city or county in which the unlawful act occurred or in which the defendant resides.

H. The Board may assess a monetary penalty to be paid to the Common Interest Community Management Information Fund of not more than $1,000 per violation against any governing board that violates any provision of this article, the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), ~~or~~ the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), *the Resale Disclosure Act (§ 55.1-2307 et seq.),* or any of the Board's regulations or orders. In determining the amount of the penalty, the Board shall consider the degree and extent of harm caused by the violation. No monetary penalty may be assessed under this article, the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), ~~or~~ the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), *the Resale Disclosure Act (§ 55.1-2307 et seq.),* or any of the Board's regulations or orders unless the governing board has been given notice and an opportunity to be heard pursuant to the Administrative Process Act (§ 2.2-4000 et seq.). The penalty may be sued for and recovered in the name of the Commonwealth.

§ 54.1-2352. Cease and desist orders.

A. The Board may issue an order requiring the governing board of the association to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the Board will carry out the purposes of this article, if the Board determines after notice and hearing that the governing board of an association has:

1. Violated any statute or regulation of the Board governing the association regulated pursuant to this article, including engaging in any act or practice in violation of this article, the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), ~~or~~ the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), *the Resale Disclosure Act (§ 55.1-2307 et seq.),* or any of the Board's regulations or orders;

2. Failed to register as an association or to file an annual report as required by statute or regulation;

3. Materially misrepresented facts in an application for registration or an annual report; or

4. Willfully refused to furnish the Board information or records required or requested pursuant to statute or regulation.

B. If the Board makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary order to cease and desist or to take such affirmative action as may be deemed appropriate by the Board. Prior to issuing the temporary order, the Board shall give notice of the proposal to issue a temporary order to the person. Every temporary order shall include in its terms a provision that upon request a hearing will be held promptly to determine whether or not it becomes permanent.

§ 55.1-1800. Definitions.

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

"Association" means the property owners' association.

"Board of directors" means the executive body of a property owners' association or a committee that is exercising the power of the executive body by resolution or bylaw.

"Capital components" means those items, whether or not a part of the common area, for which the association has the obligation for repair, replacement, or restoration and for which the board of directors determines funding is necessary.

"Common area" means property within a development which is owned, leased, or required by the declaration to be maintained or operated by a property owners' association for the use of its members and designated as a common area in the declaration.

"Common interest community" means the same as that term is defined in § 54.1-2345.

"Common interest community manager" means the same as that term is defined in § 54.1-2345.

"Declarant" means the person or entity signing the declaration and its successors or assigns who may submit property to a declaration.

"Declaration" means any instrument, however denominated, recorded among the land records of the county or city in which the development or any part of such development is located, that either (i) imposes on the association maintenance or operational responsibilities for the common area or (ii) creates the authority in the association to impose on lots, on the owners or occupants of such lots, or on any other entity any mandatory payment of money in connection with the provision of maintenance or services for the benefit of some or all of the lots, the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or supplement to the instruments described in this definition. "Declaration" does not include a declaration of a condominium, real estate cooperative, time-share project, or campground.

"Development" means real property located within the Commonwealth subject to a declaration which contains both lots, at least some of which are residential or are occupied for recreational purposes, and common areas with respect to

which any person, by virtue of ownership of a lot, is a member of an association and is obligated to pay assessments provided for in a declaration.

~~"Disclosure packet update" means an update of the financial information referenced in subdivisions A 2 through 9 of § 55.1-1809. The update shall include a copy of the original disclosure packet.~~

"Electronic means" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of such communication. A meeting conducted by electronic means includes a meeting conducted via teleconference, videoconference, Internet exchange, or other electronic methods. Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act shall have the meaning set forth in such section.

~~"Financial update" means an update of the financial information referenced in subdivisions A 2 through 7 of § 55.1-1809.~~

"Lot" means (i) any plot or parcel of land designated for separate ownership or occupancy shown on a recorded subdivision plat for a development or the boundaries of which are described in the declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other than a common area, and (ii) a unit in a condominium association or a unit in a real estate cooperative if the condominium or cooperative is a part of a development.

"Lot owner" means one or more persons who own a lot, including any purchaser of a lot at a foreclosure sale, regardless of whether the deed is recorded in the land records where the lot is located. "Lot owner" does not include any person holding an interest in a lot solely as security for a debt.

"Professionally managed" means a common interest community that has engaged (i) a common interest community manager to provide management services to the community or (ii) a person as an employee for compensation to provide management services to the community, other than a resident of the community who provides bookkeeping, billing, or recordkeeping services for that community.

"Property owners' association" or "association" means an incorporated or unincorporated entity upon which responsibilities are imposed and to which authority is granted in the declaration.

"Resale certificate" means a certificate issued by an association pursuant to §§ 55.1-2309 and 55.1-2310.

"Settlement agent" means the same as that term is defined in § 55.1-1000.

§ 55.1-1802. Developer to register and file annual report; payment of real estate taxes attributable to the common area.

A. Unless control of the association has been transferred to the members, the developer shall register the association with the Common Interest Community Board within 30 days after recordation of the declaration and thereafter shall ensure that the report required pursuant to § 55.1-1835 *and any required update* has been filed.

B. Upon the transfer of the common area to the association, the developer shall pay all real estate taxes attributable to the open or common space as defined in § 58.1-3284.1 through the date of the transfer to the association.

§ 55.1-1805. Association charges.

Except as expressly authorized in this chapter, in the declaration, or otherwise provided by law, no association shall (i) make an assessment or impose a charge against a lot or a lot owner unless the charge is a fee for services provided or related to use of the common area or (ii) charge a fee related to the ~~provisions set out in § 55.1-1810 or 55.1-1811 that is not~~ *issuance of a resale certificate pursuant to § 55.1-2309 or 55.1-2311 except as* expressly authorized in ~~those sections~~ *§ 55.1-2316*. Nothing in this chapter shall be construed to authorize an association or common interest community manager to charge an inspection fee for an unimproved or improved lot except as provided in § ~~55.1-1810 or 55.1-1811~~ *55.1-2316*. The Common Interest Community Board may assess a monetary penalty for a violation of this section against any (a) association pursuant to § 54.1-2351 or (b) common interest community manager pursuant to § 54.1-2349, and may issue a cease and desist order pursuant to § 54.1-2352.

§ 55.1-1816. Meetings of the board of directors.

A. All meetings of the board of directors, including any subcommittee or other committee of the board of directors, where the business of the association is discussed or transacted shall be open to all members of record. The board of directors shall not use work sessions or other informal gatherings of the board of directors to circumvent the open meeting requirements of this section. Minutes of the meetings of the board of directors shall be recorded and shall be available as provided in subsection B of § 55.1-1815.

B. Notice of the time, date, and place of each meeting of the board of directors or of any subcommittee or other committee of the board of directors shall be published where it is reasonably calculated to be available to a majority of the lot owners.

A lot owner may make a request to be notified on a continual basis of any such meetings. Such request shall be made at least once a year in writing and include the lot owner's name, address, zip code, and any email address as appropriate. Notice of the time, date, and place shall be sent to any lot owner requesting notice (i) by first-class mail or email in the case of meetings of the board of directors or (ii) by email in the case of meetings of any subcommittee or other committee of the board of directors.

Notice, reasonable under the circumstances, of special or emergency meetings shall be given contemporaneously with the notice provided to members of the association's board of directors or any subcommittee or other committee of the board of directors conducting the meeting.

Unless otherwise exempt as relating to an executive session pursuant to subsection C, at least one copy of all agenda packets and materials furnished to members of an association's board of directors or subcommittee or other committee of the board of directors for a meeting shall be made available for inspection by the membership of the association at the same time such documents are furnished to the members of the board of directors or any subcommittee or committee of the board of directors.

Any member may record any portion of a meeting that is required to be open. The board of directors or subcommittee or other committee of the board of directors conducting the meeting may adopt rules (a) governing the placement and use of equipment necessary for recording a meeting to prevent interference with the proceedings and (b) requiring the member recording the meeting to provide notice that the meeting is being recorded.

Except for the election of officers, voting by secret or written ballot in an open meeting shall be a violation of this chapter.

C. The board of directors or any subcommittee or other committee of the board of directors may (i) convene in executive session to consider personnel matters; (ii) consult with legal counsel; (iii) discuss and consider contracts, pending or probable litigation, and matters involving violations of the declaration or rules and regulations ~~adopted pursuant to such declaration for which a member or his family members, tenants, guests, or other invitees are responsible~~; or (iv) discuss and consider the personal liability of members to the association, upon the affirmative vote in an open meeting to assemble in executive session. The motion shall state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the executive session shall be included in the minutes. The board of directors shall restrict the consideration of matters during such portions of meetings to only those purposes specifically exempted and stated in the motion. No contract, motion, or other action adopted, passed, or agreed to in executive session shall become effective unless the board of directors or subcommittee or other committee of the board of directors, following the executive session, reconvenes in open meeting and takes a vote on such contract, motion, or other action, which shall have its substance reasonably identified in the open meeting. The requirements of this section shall not require the disclosure of information in violation of law.

D. Subject to reasonable rules adopted by the board of directors, the board of directors shall provide a designated period during each meeting to allow members an opportunity to comment on any matter relating to the association. During a meeting at which the agenda is limited to specific topics or at a special meeting, the board of directors may limit the comments of members to the topics listed on the meeting agenda.

§ 55.1-1820. Display of the flag of the United States; necessary supporting structures; affirmative defense.

A. In accordance with the federal Freedom to Display the American Flag Act of 2005 (P.L. 109-243), no association shall prohibit any lot owner from displaying upon property to which the lot owner has a separate ownership interest or a right to exclusive possession or use the flag of the United States whenever such display is in compliance with Chapter 1 of Title 4 of the United States Code (4 U.S.C. § 1 et seq.), or any rule or custom pertaining to the proper display of the flag. The association may, however, establish reasonable restrictions as to the size, place, duration, and manner of placement or display of the flag on such property, provided that such restrictions are necessary to protect a substantial interest of the association.

B. The association may restrict the display of such flag in the common areas.

C. In any action brought by the association under § 55.1-1819 for violation of a flag restriction, the association shall bear the burden of proof that the restrictions as to the size, place, duration, and manner of placement or display of such flag are necessary to protect a substantial interest of the association.

D. In any action brought by the association under § 55.1-1819, the lot owner shall be entitled to assert as an affirmative defense that the required disclosure of any limitations pertaining to the display of flags or any flagpole or similar structure necessary to display such flags was not contained in the ~~disclosure packet~~ *resale certificate as* required ~~pursuant to~~ *by* § ~~55.1-1809~~ *55.1-2310*.

§ 55.1-1820.1. Installation of solar energy collection devices.

A. As used in this section, "solar energy collection device" means any device manufactured and sold for the sole purpose of facilitating the collection and beneficial use of solar energy, including passive heating panels or building components and solar photovoltaic apparatus.

B. No association shall prohibit an owner from installing a solar energy collection device on that owner's property unless the recorded declaration for the association establishes such a prohibition. However, an association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices on property designated and intended for individual ownership and use. Any ~~disclosure packet~~ *resale certificate issued* pursuant to § ~~55.1-1809~~ *55.1-2309* given to a purchaser shall contain a statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on his property.

C. A restriction shall be deemed not to be reasonable if application of the restriction to a particular proposal (i) increases the cost of installation of the solar energy collection device by five percent over the projected cost of the initially proposed installation or (ii) reduces the energy production by the solar energy collection device by 10 percent below the projected energy production of the initially proposed installation. The owner shall provide documentation prepared by an independent solar panel design specialist, who is certified by the North American Board of Certified Energy Practitioners and is licensed in Virginia, that is satisfactory to the association to show that the restriction is not reasonable according to the criteria established in this subsection.

D. The association may prohibit or restrict the installation of solar energy collection devices on the common elements or common area within the real estate development served by the association. An association may establish reasonable restrictions as to the number, size, place, and manner of placement or installation of any solar energy collection device installed on the common elements or common area.

§ 55.1-1822. Use of for sale signs in connection with sale.

Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law, no ~~property owners'~~ association shall require the use of any for sale sign that is (i) an association sign or (ii) a real estate sign that does not comply with the requirements of the Real Estate Board. An association may, however, prohibit the placement of signs in the common area and establish reasonable rules and regulations that regulate (a) the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession, so long as at least one real estate sign is permitted; (b) the geographical location of real estate signs on real property in which the owner has a separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs complies with the requirements of the Real Estate Board; (c) the manner in which real estate signs are affixed to real property; and (d) the period of time after settlement when the real estate signs on such real property shall be removed.

§ 55.1-1823. Designation of authorized representative.

Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law, no ~~property owners'~~ association shall require any lot owner to execute a formal power of attorney if the lot owner designates a person licensed under the provisions of § 54.1-2106.1 as the lot owner's authorized representative, and the association shall recognize such representation without a formal power of attorney, provided that the association is given a written authorization that includes the designated representative's name, contact information, and license number and the lot owner's signature. Notwithstanding the foregoing, the requirements of § 13.1-849 of the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) and the association's declaration, bylaws, and articles of incorporation shall be satisfied before any such representative may exercise a vote on behalf of a lot owner as a proxy.

§ 55.1-1904. Association charges.

Except as expressly authorized in this chapter, in the condominium instruments, or as otherwise provided by law, no unit owners' association may make an assessment or impose a charge against a unit owner unless the charge is (i) authorized under § 55.1-1964, (ii) a fee for services provided, or (iii) related to the provisions set out in § ~~55.1-1992~~ *55.1-2316*. The Common Interest Community Board may assess a monetary penalty for a violation of this section against any (a) unit owners' association pursuant to § 54.1-2351 or (b) common interest community manager pursuant to § 54.1-2349 and may issue a cease and desist order pursuant to § 54.1-2352.

§ 55.1-1937. Termination of condominium.

A. If there is no unit owner other than the declarant, the declarant may unilaterally terminate the condominium. An instrument terminating a condominium signed by the declarant is effective upon recordation of such instrument. But this section shall not be construed to nullify, limit, or otherwise affect the validity or enforceability of any agreement renouncing or to renounce, in whole or in part, the right hereby conferred.

B. Except in the case of a taking of all the units by eminent domain, if any of the units in the condominium is restricted exclusively to residential use and there is any unit owner other than the declarant, the condominium may be terminated only by the agreement of unit owners of units to which four-fifths of the votes in the unit owners' association appertain, or such larger majority as the condominium instruments may specify. If none of the units in the condominium is restricted exclusively to residential use, the condominium instruments may specify a majority smaller than the minimum specified in this subsection.

C. Agreement of the required majority of unit owners to termination of the condominium shall be evidenced by their execution of a termination agreement, or ratifications of such agreement, and such agreement is effective when a copy of the termination agreement is recorded together with a certification, signed by the principal officer of the unit owners' association or by such other officer as the condominium instruments may specify, that the requisite majority of the unit owners signed the termination agreement or ratifications. Unless the termination agreement otherwise provides, prior to recordation of the termination agreement, a unit owner's prior agreement to terminate the condominium may be revoked only with the approval of unit owners of units to which a majority of the votes in the unit owners' association appertain. Any unit owner acquiring a unit subsequent to approval of a termination agreement but prior to recordation of the termination agreement shall be deemed to have consented to the termination agreement. Upon approval of a termination agreement and until recordation of the termination agreement, a copy of the termination agreement shall be included with the resale certificate required by § ~~55.1-1990~~ *55.1-2309*. The termination agreement shall specify a date after which the termination agreement is void if the termination agreement is not recorded. For the purposes of this section, an instrument terminating a condominium and any ratification of such instrument shall be deemed a condominium instrument subject to the provisions of § 55.1-1911.

D. A termination agreement may provide that all of the common elements and units of the condominium shall be sold or otherwise disposed of following termination. If, pursuant to the termination agreement, any property in the condominium is sold or disposed of following termination, the termination agreement shall set forth the minimum terms of the sale or disposition.

E. In the case of a master condominium that contains a unit that is a part of another condominium, a termination agreement for the master condominium shall not terminate the other condominium.

F. On behalf of the unit owners, the unit owners' association may contract for the disposition of property in the condominium, but the contract shall not be binding on the unit owners until approved pursuant to subsections B and C. If the termination agreement requires that any property in the condominium be sold or otherwise disposed of following termination, title to the property, upon termination, shall vest in the unit owners' association as trustee for the holders of all interest in the units. Thereafter, the unit owners' association shall have powers necessary and appropriate to effect the sale or disposition. Until the termination has been concluded and the proceeds have been distributed, the unit owners' association shall continue in existence with all the powers the unit owners' association had before termination. Proceeds of the sale shall be distributed to unit owners and lien holders as their interests may appear, in proportion to the respective interests of the unit owners as provided in subsection I. Unless otherwise specified in the termination agreement, for as long as the unit owners' association holds title to the property, each unit owner or his successor in interest shall have an exclusive right to occupancy of the portion of the property that formerly constituted his unit. During the period that the unit owner or his successor in interest has the right to occupancy, each unit owner or his successor in interest shall remain liable for any assessment or other obligation imposed on the unit owner by this chapter or the condominium instruments.

G. If the property that constitutes the condominium is not sold or otherwise disposed of following termination, title to all the property in the condominium shall vest in the unit owners, upon termination, as tenants in common in proportion to the unit owners' respective interests as provided in subsection I. In such an event, any liens on a unit shall shift accordingly, and a lien may be enforced only against a unit owner's tenancy in common interest, but the lien shall not encumber the entire property formerly constituting the condominium. While the tenancy in common exists, each unit owner or his successor in interest shall have the exclusive right to occupancy of the portion of the property that formerly constituted the unit owner's unit.

H. Following termination of the condominium, the proceeds of any sale of property, together with the assets of the unit owners' association, shall be held by the unit owners' association as trustee for unit owners or lien holders on the units as their interests may appear. Following termination, any creditor of the unit owners' association who holds a lien on the unit that was recorded before termination may enforce the lien in the same manner as any lien holder. Any other creditor of the unit owners' association shall be treated as if he had perfected a lien on the units immediately before termination.

I. Unless the condominium instruments as originally recorded or as amended by 100 percent of the unit owners provide otherwise, the respective interests of unit owners referred to in subsections F, G, and H shall be as follows:

1. Except as provided in subdivision 3, the respective interests of the unit owners shall be as set forth in the termination agreement.

2. Except as provided in subdivision 3, if the respective interests of the unit owners are based on the respective fair market values of their units, limited common elements, and common element interests immediately before the termination, the fair market values shall be determined by one or more independent appraisers selected by the unit owners' association. The decision of the independent appraisers shall be distributed to the unit owners and become final unless disapproved within 30 days after distribution by unit owners of units to which one quarter of the votes in the unit owners' association appertain. The proportion of any unit owner's interest to the interest of all unit owners is determined by dividing the fair market value of that unit owner's unit and common element interest by the total fair market values of all the units and their common element interests.

3. If the method of determining the respective interests of the unit owners in the proceeds of sale or disposition is other than the fair market values, then the association shall provide each unit owner with a notice stating the result of that method for his unit and, no later than 30 days after transmission of that notice, if 10 percent of the unit owners dispute the interest to be distributed to their units, those unit owners may require the association to obtain an independent appraisal of the condominium units. If the fair market value of the units of the objecting unit owners is at least 10 percent more than the amount that the unit owners would have received using the method agreed upon by the membership, then the association shall adjust the respective interests of the unit owners so that each unit owner's share is based on the fair market value for each unit. If the fair market value is less than 10 percent more than the amount that the objecting unit owners would have received using the agreed-upon method, then the agreed-upon method shall be implemented and the objecting unit owners shall receive the distribution less their pro rata share of the cost of their appraisal.

4. If the method of determining the respective interests of the unit owners cannot be implemented because any unit or limited common element is destroyed, the interests of all unit owners are the unit owners' respective common element interests immediately before the termination.

5. Unless the termination agreement provides otherwise, each unit owner shall satisfy and cause the release of any mortgage, deed of trust, lease, or other lien or encumbrance on his unit at the time required by the termination agreement.

J. Except as provided in subsection K, foreclosure of any mortgage, deed of trust, or other lien, or enforcement of a mortgage, deed of trust, or other lien or encumbrance against the entire condominium, shall not alone terminate the condominium, and foreclosure or enforcement of a lien or encumbrance against a portion of the condominium, other than withdrawable land, shall not withdraw that portion from the condominium. Foreclosure or enforcement of a lien or encumbrance against withdrawable land shall not alone withdraw the land from the condominium, but the person who takes title to the withdrawable land shall have the right to require from the unit owners' association, upon request, an amendment that excludes the land from the condominium.

K. If a lien or encumbrance against a portion of the property that comprises the condominium has priority over the condominium instruments and the lien or encumbrance has not been partially released, upon foreclosure, the parties

foreclosing the lien or encumbrance may record an instrument that excludes the property subject to the lien or encumbrance from the condominium.

§ 55.1-1951. Display of the flag of the United States; necessary supporting structures; affirmative defense.

A. In accordance with the federal Freedom to Display the American Flag Act of 2005 (P.L. 109-243), no unit owners' association shall prohibit or otherwise adopt or enforce any policy restricting a unit owner from displaying upon property to which the unit owner has a separate ownership interest or a right to exclusive possession or use the flag of the United States whenever such display is in compliance with Chapter 1 of Title 4 of the United States Code (4 U.S.C. § 1 et seq.) or any rule or custom pertaining to the proper display of the flag. A unit owners' association may, however, establish reasonable restrictions as to the size, place, duration, and manner of placement or display of the flag on such property, provided that such restrictions are necessary to protect a substantial interest of the unit owners' association.

B. The unit owners' association may restrict the display of such flags in the common elements.

C. In any action brought by the unit owners' association under § 55.1-1959 for a violation of a flag restriction, the unit owners' association shall bear the burden of proof that the restrictions as to the size, place, duration, and manner of placement or display of such flag are necessary to protect a substantial interest of the unit owners' association.

D. In any action brought by the unit owners' association under § 55.1-1959, the unit owner shall be entitled to assert as an affirmative defense that the required disclosure of any limitation pertaining to the flag of the United States or any flagpole or similar structure necessary to display the flag of the United States was not contained in the public offering statement or resale certificate, as appropriate, required pursuant to § 55.1-1976 or ~~55.1-1991~~ *55.1-2309*.

§ 55.1-1951.1. Installation of solar energy collection devices.

A. As used in this section, "solar energy collection device" means any device manufactured and sold for the sole purpose of facilitating the collection and beneficial use of solar energy, including passive heating panels or building components and solar photovoltaic apparatus.

B. No unit owners' association shall prohibit an owner from installing a solar energy collection device on that owner's property unless the recorded declaration for the unit owners' association establishes such a prohibition. However, a unit owners' association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices on property designated and intended for individual ownership and use. Any resale certificate pursuant to § ~~55.1-1990~~ *55.1-2309* given to a purchaser shall contain a statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on his property.

C. A restriction shall be deemed not to be reasonable if application of the restriction to a particular proposal (i) increases the cost of installation of the solar energy collection device by five percent over the projected cost of the initially proposed installation or (ii) reduces the energy production by the solar energy collection device by 10 percent below the projected energy production of the initially proposed installation. The owner shall provide documentation prepared by an independent solar panel design specialist, who is certified by the North American Board of Certified Energy Practitioners and is licensed in Virginia, that is satisfactory to the unit owners' association to show that the restriction is not reasonable according to the criteria established in this subsection.

D. The unit owners' association may prohibit or restrict the installation of solar energy collection devices on the common elements or common area within the real estate development served by the unit owners' association. A unit owners' association may establish reasonable restrictions as to the number, size, place, and manner of placement or installation of any solar energy collection device installed on the common elements or common area.

§ 55.1-1972. Exemptions from certain provisions of article.

A. Unless the method of offer or disposition is adopted for the purpose of evasion of this chapter, the provisions of §§ 55.1-1974 through 55.1-1979, subsections B and D of § 55.1-1982, and §§ ~~55.1-1990~~ ~~and~~ ~~55.1-1991~~ *55.1-2308 and 55.1-2309* do not apply to:

1. Dispositions pursuant to court order;

2. Dispositions by any government or government agency;

3. Offers by the declarant on nonbinding reservation agreements;

4. Dispositions in a residential condominium in which there are three or fewer units, so long as the condominium instruments do not reserve to the declarant the right to create additional condominium units; or

5. A disposition of a unit by a sale at an auction where a current public offering statement or resale certificate was made available as part of an auction package for prospective purchasers prior to the auction sale.

B. In cases of dispositions in a condominium where all units are restricted to nonresidential use, the provisions of §§ 55.1-1974 through 55.1-1983 shall not apply, unless the method of offer or disposition is adopted for the purpose of evasion of this chapter.

§ 55.1-2101. Applicability.

A. This chapter applies to all cooperatives created within the Commonwealth after July 1, 1982. Unless the declaration provides that the entire chapter is applicable, such a cooperative is subject only to §§ 55.1-2104 and 55.1-2105 if the cooperative contains only units restricted to nonresidential use or contains no more than three units and is not subject to any development rights.

B. Except as provided in subsection C, §§ 55.1-2100, 55.1-2104, 55.1-2105, 55.1-2109, 55.1-2114, and 55.1-2131, subdivisions A 1 through 6 and 11 through 17 of § 55.1-2133, and §§ 55.1-2143, 55.1-2148, 55.1-2151, ~~55.1-2161,~~ 55.1-2169, ~~and~~ 55.1-2170*, and 55.1-2309* apply to all cooperatives created in the Commonwealth before July 1, 1982.

Those sections apply only with respect to events and circumstances occurring after July 1, 1982, and do not invalidate existing provisions of the cooperative documents of those cooperatives. With regard to any cooperative created before July 1, 1982, § 55.1-2104 applies only to real estate acquired by that cooperative's association on or after that date. For the purposes of this section, a cooperative was created before July 1, 1982, if the cooperative was conveyed to the association before that date.

C. If a cooperative created within the Commonwealth before July 1, 1982, contains no more than three units and is not subject to any development rights, it is subject only to §§ 55.1-2104 and 55.1-2105, unless the declaration is amended to make any or all of the sections enumerated in subsection B apply to that cooperative.

D. This chapter does not apply to cooperatives or cooperative interests located outside the Commonwealth, but the public offering statement provisions as given in §§ 55.1-2153 through 55.1-2160 apply to all contracts for the disposition of cooperative interests signed in the Commonwealth by any party, unless exempt under subsection B of § 55.1-2153. The Common Interest Community Board regulations provisions under Article 5 (§ 55.1-2173 et seq.) apply to any such offering in the Commonwealth.

E. This chapter does not apply to any cooperatives that receive federal funding pursuant to the public housing or Section 8 program under the United States Housing Act of 1937, as amended.

F. This chapter does not apply to any cooperative that, when acquired by an association, is subject to a mortgage or deed of trust securing an indebtedness owed to any government or governmental authority to which the association has contractual obligations in addition to those set forth in such mortgage or deed of trust.

§ 55.1-2133. Powers of the association.

A. Except as provided in subsection B, and subject to the provisions of the declaration, the association, even if unincorporated, may:

1. Adopt and amend bylaws and rules and regulations;

2. Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from proprietary lessees;

3. Hire and discharge managing agents and other employees, agents, and independent contractors;

4. Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more proprietary lessees on matters affecting the cooperative;

5. Make contracts and incur liabilities;

6. Regulate the use, maintenance, repair, replacement, and modification of common elements;

7. Cause additional improvements to be made as a part of the common elements;

8. Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, but part of the cooperative may be conveyed, or all or part of the cooperative may be subjected to, a security interest only pursuant to § 55.1-2144;

9. Grant easements, leases, licenses, and concessions through or over the common elements;

10. Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements described in subdivisions 2 and 4 of § 55.1-2113, and for services provided to proprietary lessees;

11. Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy fines not to exceed $50 for each instance for violations of the declaration, bylaws, and rules and regulations of the association;

12. Impose reasonable charges for the preparation and recordation of amendments to the declaration, resale certificates required by § ~~55.1-2161~~ *55.1-2309*, or statements of unpaid assessments;

13. Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;

14. Assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration expressly so provides;

15. Exercise any other powers conferred by the declaration or bylaws;

16. Exercise all other powers that may be exercised in the Commonwealth by legal entities of the same type as the association; and

17. Exercise any other powers necessary and proper for the governance and operation of the association.

B. The declaration shall not impose limitations on the power of the association to deal with the declarant that are more restrictive than the limitations imposed on the power of the association to deal with other persons.

§ 55.1-2133.1. Installation of solar energy collection devices.

A. As used in this section, "solar energy collection device" means any device manufactured and sold for the sole purpose of facilitating the collection and beneficial use of solar energy, including passive heating panels or building components and solar photovoltaic apparatus.

B. No association shall prohibit an owner from installing a solar energy collection device on that owner's property unless the recorded declaration for the association establishes such a prohibition. However, an association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices on property designated and intended for individual ownership and use. Any resale certificate pursuant to § ~~55.1-2161~~ *55.1-2309* given to a purchaser shall contain a statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on his property.

C. A restriction shall be deemed not to be reasonable if application of the restriction to a particular proposal (i) increases the cost of installation of the solar energy collection device by five percent over the projected cost of the initially proposed installation or (ii) reduces the energy production by the solar energy collection device by 10 percent below the projected energy production of the initially proposed installation. The owner shall provide documentation prepared by an independent solar panel design specialist, who is certified by the North American Board of Certified Energy Practitioners and is licensed in Virginia, that is satisfactory to the association to show that the restriction is not reasonable according to the criteria established in this subsection.

D. The association may prohibit or restrict the installation of solar energy collection devices on the common elements or common area within the real estate development served by the association. An association may establish reasonable restrictions as to the number, size, place, and manner of placement or installation of any solar energy collection device installed on the common elements or common area.

§ 55.1-2151. Association records.

The association shall keep financial records sufficiently detailed to enable the association to comply with § ~~55.1-2161~~ *55.1-2309*. All financial and other records shall be made reasonably available for examination by any proprietary lessee and his authorized agents.

§ 55.1-2162. Escrow of deposits.

A. Any deposit made in connection with the purchase or reservation of a cooperative interest from a person required to deliver a public offering statement pursuant to subsection C of § 55.1-2154 shall be placed in escrow and held either in the Commonwealth or in the state in which the unit that is a part of that cooperative interest is located in an account designated solely for that purpose by a title insurance company, attorney, or real estate broker licensed under the laws of the Commonwealth, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until (i) delivered to the declarant at closing, (ii) delivered to the declarant because of the purchaser's default under a contract to purchase the cooperative interest, or (iii) refunded to the purchaser.

B. Any deposit made in connection with the purchase of a cooperative interest from a person not required to deliver a public offering statement shall be placed in escrow in the same manner as prescribed in subsection A. Upon receipt of the *resale* certificate called for in § ~~55.1-2161~~ *55.1-2309*, should the purchaser elect to void the contract, the seller may deduct the actual charges by the association for preparation of the certificate. Otherwise, the deposit shall be promptly returned to the purchaser.

CHAPTER 23.1.
RESALE DISCLOSURE ACT.

§ 55.1-2307. Definitions.

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

"Agent" means the authorized agent designated by the purchaser or seller in a ratified real estate contract, listing agreement, or other writing designating such agent.

"Association" means an association created pursuant to the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), or the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or a council of co-owners created pursuant to the Horizontal Property Act (§ 55.1-2000 et seq.).

"Board" means the board of directors or executive board, of an association, except that in the case of a horizontal property regime created pursuant to the Horizontal Property Act (§ 55.1-2000 et seq.), "board" means the council of co-owners.

"Common interest community" means a condominium created pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.) or the Horizontal Property Act (§ 55.1-2000 et seq.), a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or a property owners' association subject to the Property Owners' Association Act (§ 55.1-1800 et seq.).

"Days" means calendar days.

"Declarant" means the same as that term is defined in §§ 55.1-1800 and 55.1-1900.

"Financial update" means updated financial information for the unit, including information required by subdivisions A 4 and 5 of § 55.1-2310.

"Governing documents" means, to the extent applicable, the declaration, bylaws, organizing articles, and any other foundational documents of the association and all amendments to such documents.

"Limited elements" means the limited common elements appurtenant to a condominium unit or cooperative unit or the limited common area appurtenant to a lot.

"Managing agent" means a licensee who performs management services as defined in § 54.1-2345.

"Purchaser" means the person or entity acquiring the unit.

"Ratified real estate contract" or "contract" means the contract to purchase the unit and any addenda to such contract.

"Resale certificate" means the information listed in § 55.1-2310.

"Rules and regulations" means restrictions or limitations adopted by the board or authorized committee addressing the use, operation, appearance, or design of a portion of the common interest community.

"Seller" means the person or entity selling the unit.

"Settlement agent" means the same as that term is defined in § 55.1-1000.

"Unit" means a condominium unit in a condominium, a cooperative unit in a real estate cooperative, or a lot in a community governed by an association.

"Updated resale certificate" means an update of the resale certificate referenced in § 55.1-2311.

§ 55.1-2308. Contract for resale; disclosures.

Unless exempt pursuant to § 55.1-2317, any contract for the resale of a unit in a common interest community shall disclose (i) that the unit is located in a common interest community; (ii) that the seller is required to obtain from the association a resale certificate and provide it to the purchaser; (iii) the purchaser's right to cancel the contract pursuant to § 55.1-2312; (iv) that the purchaser may request an updated resale certificate pursuant to § 55.1-2311; and (v) that the purchaser's right to receive the resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement. If the contract does not contain the disclosures required by this section, the purchaser's sole remedy is to cancel the contract prior to settlement.

§ 55.1-2309. Resale certificate; delivery.

A. The seller shall be required to obtain the resale certificate from the association and provide such resale certificate to the purchaser.

B. Unless exempt pursuant to § 55.1-2317, the association, the association's managing agent, or any third party preparing the resale certificate on behalf of the association shall deliver such resale certificate within 14 days after a written request by a seller or seller's agent.

C. The association, association's managing agent, or any third party preparing the resale certificate on behalf of the association shall deliver the resale certificate to the seller, or to such person as the seller may direct, either printed or in a generally accepted electronic format as the seller may request.

D. The information contained in the resale certificate shall be current as of a date specified on the resale certificate. The seller or purchaser may request an updated resale certificate as provided in § 55.1-2311.

§ 55.1-2310. Resale certificate; form and contents.

A. The association shall include the completed resale certificate form, developed by the common interest community board pursuant to subdivision 3 of § 54.1-2350, with supporting documentation set out in the following order:

1. The name, address, and phone numbers of the preparer of the resale certificate and any managing agent of the association;

2. A copy of the governing documents and any rules and regulations of the association;

3. A statement disclosing any restraint on the alienability of the unit for which the resale certificate is being issued;

4. A statement of the amount and payment schedules of assessments and any unpaid assessments currently due and payable to the association;

5. A statement of any other fees due and payable by an owner of the unit;

6. A statement of any other entity or facility to which the owner of the unit being sold may be liable for assessments, fees, or other charges due to the ownership of the unit;

7. A statement of the amount and payment schedule of any approved additional or special assessment and any unpaid additional or special assessment currently due and payable;

8. A statement of any capital expenditures approved by the association for the current and succeeding fiscal years;

9. A statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects;

10. The most recent balance sheet and income and expense statement, if any, of the association;

11. The current operating budget of the association;

12. The current reserve study, or a summary of such study;

13. A statement of any unsatisfied judgments against the association and the nature and status of any pending actions in which the association is a party and that could have a material impact on the association, the owners, or the unit being sold;

14. A statement describing any insurance coverage provided by the association for the benefit of the owners, including fidelity coverage, and any insurance coverage recommended or required to be obtained by the owners;

15. A statement as to whether the board has given or received written notice that any existing uses, occupancies, alterations, or improvements in or to the unit being sold or to the limited elements assigned thereto violate any provision of the governing documents or rules and regulations together with copies of any notices provided;

16. A statement as to whether the board has received written notice from a governmental agency of any violation of environmental, health, or building codes with respect to the unit being sold, the limited elements assigned thereto, or any other portion of the common interest community that has not been cured;

17. A copy of any approved minutes of meetings of the board held during the last six months;

18. A copy of any approved or draft minutes of the most recent association meeting;

19. A statement of the remaining term of any leasehold estate affecting a common area or common element, as those terms are defined in §§ 55.1-1800, 55.1-1900, and 55.1-2100, in the common interest community and the provisions governing any extension or renewal of such leasehold;

20. A statement of any limitation in the governing documents on the number or age of persons who may occupy a unit as a dwelling;

21. A statement setting forth any restriction, limitation, or prohibition on the right of an owner to display the flag of the United States, including reasonable restrictions as to the size, time, place, and manner of placement or display of such flag;

22. A statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on the owner's unit or limited element;

23. A statement setting forth any restriction, limitation, or prohibition on the size, placement, or duration of display of political, for sale, or any other signs on the property;

24. A statement identifying any parking or vehicle restriction, limitation, or prohibition in the governing documents or rules and regulations;

25. A statement setting forth any restriction, limitation, or prohibition on the operation of a home-based business that otherwise complies with all applicable local ordinances;

26. A statement setting forth any restriction, limitation, or prohibition on an owner's ability to rent the unit;

27. In a cooperative, an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the owner of real estate taxes and interest paid by the association;

28. A statement describing any pending sale or encumbrance of common elements;

29. A statement indicating any known project approvals currently in effect issued by secondary mortgage market agencies; and

30. Certification that the association has filed with the Common Interest Community Board the annual report required by law, which certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing.

§ 55.1-2311. Updated resale certificate.

A. If a resale certificate was issued more than 30 days but less than 12 months before settlement, the seller or the purchaser, upon proof of being the contract purchaser of the unit, may request an updated resale certificate. The updated resale certificate shall be delivered to the person requesting it, or as such person may direct, in the format requested. The updated resale certificate shall be delivered within 10 days after the written request.

B. The updated resale certificate shall contain current information for all items that may have changed from the original resale certificate or a statement that there are no changes.

C. A settlement agent authorized by the seller or purchaser may request a financial update and the association shall provide such information within three business days after the written request.

§ 55.1-2312. Cancellation of contract by purchaser.

A. The purchaser may cancel the contract:

1. Within three days, or up to seven days if extended by the ratified real estate contract, after the ratification date of the contract if the purchaser receives the resale certificate, whether or not complete pursuant to § 55.1-2310, or a notice that the resale certificate is unavailable on or before the date that the contract is ratified;

2. Within three days, or up to seven days if extended by the ratified real estate contract, from the date the purchaser receives the resale certificate, whether or not complete pursuant to § 55.1-2310, or a notice that the resale certificate is unavailable if delivery occurs after the contract is ratified; or

3. At any time prior to settlement if the resale certificate is not delivered to the purchaser.

B. Written notice of cancellation shall be provided to the seller in accordance with the terms of the contract. The purchaser shall have the burden to demonstrate delivery of the notice of cancellation.

C. If the unit is governed by more than one association, the timeframe for the purchaser's right of cancellation shall run from the date of delivery of the last resale certificate.

D. Cancellation shall be without penalty, and the seller shall cause any deposit or escrowed funds to be returned promptly to the purchaser.

§ 55.1-2313. Liability for resale certificate.

A. A seller providing a resale certificate pursuant to § 55.1-2310 or 55.1-2311 shall not be liable to the purchaser for any erroneous information provided by the association and included in the certificate or for the failure or delay of the association to provide the resale certificate in a timely manner.

B. A purchaser shall not be liable for any unpaid assessment or fee greater than the amount set forth in the resale certificate, updated resale certificate, or financial update. The association shall, as to the purchaser, be bound by the information provided in the resale certificate or updated resale certificate as to the amounts of current assessments, including any approved special or additional assessments, and any violation of the governing documents or rules and regulations as of the date of the resale certificate, updated resale certificate, or financial update unless the purchaser had actual knowledge that the contents of the resale certificate were in error.

§ 55.1-2314. Failure to provide resale certificate; no waiver.

A. If an association, the association's managing agent, or any third party preparing a resale certificate fails to comply with § 55.1-2310 or 55.1-2311, the purchaser shall not be required to pay any delinquent assessments or remedy any violation of the governing documents or rules and regulations existing as of the date of the resale certificate or updated resale certificate. The association may only enforce a violation incurred by a previous owner against a purchaser if (i) such violation has been properly noted in the resale certificate or updated resale certificate or (ii) the seller failed to provide the resale certificate to the purchaser as required by § 55.1-2309.

B. The purchaser shall abide by the governing documents and rules and regulations as to all matters arising after acquiring the unit regardless of whether such purchaser received a resale certificate.

C. The preparer of the resale certificate or updated resale certificate shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed $1,000.

D. The Common Interest Community Board may assess a monetary penalty for failure to deliver the resale certificate or updated resale certificate as required against any (i) association pursuant to § 54.1-2351 or (ii) common interest community manager pursuant to § 54.1-2349 and regulations promulgated thereto, and may issue a cease and desist order pursuant to § 54.1-2349 or 54.1-2352.

§ 55.1-2315. Properties subject to more than one declaration.

If the unit is subject to more than one common interest community, each association, the association's managing agent, or any third party preparing a resale certificate on behalf of an association shall provide a resale certificate for that association and may charge the appropriate fees.

§ 55.1-2316. Resale certificate; fees.

A. An association may charge a post-closing fee and fees for preparation, delivery, and expedited delivery of a resale certificate, an updated resale certificate, or financial update and for the inspection of a unit performed to prepare the resale certificate or updated resale certificate. Unless provided otherwise by the association, the appropriate fees shall be paid when the resale certificate, updated resale certificate, or financial update is requested. The seller shall be responsible for all fees associated with the preparation and delivery of the resale certificate, including any fees for inspection of the unit. The requesting party shall pay any fees for the preparation and delivery of the updated resale certificate or financial update.

B. The Common Interest Community Board shall establish the maximum fees that the association may charge for such post-closing and preparation, delivery, and inspection; such maximum fees shall be commercially reasonable and consistent with the effort required to comply with the resale certificate requirements. The maximum allowable fees, as published by the Common Interest Community Board and effective as of January 12, 2023, shall be adjusted no less than every five years, as of January 1 of that year, in an amount not less than the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor or an equivalent successor index.

C. The association shall publish and make available a schedule of the applicable fees (i) for preparation and delivery of the resale certificate, updated resale certificate, and financial update; (ii) for the inspection of a unit; and (iii) related to any post-closing costs.

D. A post-closing fee to be collected at settlement may be imposed on the purchaser of the property for the purpose of establishing the purchaser as the owner of the property in the records of the association.

E. No association may collect fees authorized by this section unless the association (i) is registered with the Common Interest Community Board; (ii) is current in filing the most recent annual report and fee with the Common Interest Community Board pursuant to § 55.1-1835; (iii) is current in paying any assessment made by the Common Interest Community Board pursuant to § 54.1-2354.5; and (iv) provides the option to receive the disclosure packet electronically.

§ 55.1-2317. Exemptions.

A. The resale certificate required by this chapter need not be provided in the case of:

1. An initial disposition by a declarant;

2. A disposition of a unit by gift;

3. A disposition of a unit pursuant to court order if the court so directs;

4. A disposition of a unit by foreclosure or deed in lieu of foreclosure;

5. A disposition of a unit by a sale at auction, when the resale certificate was made available as part of the auction package for prospective purchasers prior to the auction; or

6. A disposition of a unit in a common interest community containing no residential units.

B. In any transaction in which a resale certificate is required and a trustee acts as the seller in the sale or resale of a unit, the trustee shall obtain the resale certificate from the association and provide the resale certificate to the purchaser.

2. That Article 2 (§§ 55.1-1808 through 55.1-1814) of Chapter 18 and Article 5 (§§ 55.1-1990 through 55.1-1995) of Chapter 19 of Title 55.1 and § 55.1-2161 of the Code of Virginia are repealed.

3. That the provisions of this act shall not apply to any contract ratified prior to July 1, 2023.

CHAPTER 389

An Act to amend and reenact § 10.1-1801.1 of the Code of Virginia, relating to Open-Space Lands Preservation Trust Fund; use of funds; conservation easements to nonprofit land trust.

[S 1122]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1801.1 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-1801.1. Open-Space Lands Preservation Trust Fund.

A. The Foundation shall establish, administer, manage, including the creation of reserves, and make expenditures and allocations from a special nonreverting fund in the state treasury to be known as the Open-Space Lands Preservation Trust Fund, hereinafter referred to as the Fund. The Foundation shall establish and administer the Fund solely for the purpose of

providing grants in accordance with this section to localities acquiring fee simple title or other rights, interests, or privileges in property*, to localities for persons conveying conservation easements to nonprofit land trusts,* or *to* persons conveying to the Foundation fee simple title or other rights, interests, or privileges in property on agricultural, forestal, or other open-space land pursuant to the Open-Space Land Act (§ 10.1-1700 et seq.) and, if applicable, the Virginia Conservation Easement Act (§ 10.1-1009 et seq.).

B. The Fund shall consist of general fund moneys, gifts, endowments or grants from the United States government, its agencies and instrumentalities, and funds from any other available sources, public or private.

C. Any moneys remaining in the Fund at the end of a biennium shall remain in the Fund, and shall not revert to the general fund. Interest earned on moneys received by the Fund shall remain in the Fund and be credited to it.

D. The purpose of grants made from the Fund shall be to aid *(i)* localities acquiring fee simple title or other rights, interests, or privileges in property ~~or~~*; (ii)* persons conveying to the Foundation fee simple title or other rights, interests, or privileges in property ~~with~~*; or (iii) localities to provide funding for projects approved by the Foundation to persons conveying conservation easements to nonprofit land trusts so long as such easement has a local coholder. Such grants may be used for* the costs associated with the conveyance of the property interest, which may include legal costs, appraisal costs, or all or part of the value of the property interest. In cases where a grant is used to purchase all or part of the value of a property interest, moneys from the Fund may also be used by the Foundation to pay for an appraisal, provided that the appraisal is the only appraisal paid for by the Foundation in the acquisition of a particular property interest. To be eligible for a grant award, the property interest shall be *(a)* compliant with the Open-Space Land Act (§ 10.1-1700 et seq.) *or (b) a conservation easement under the Virginia Conservation Easement Act (§ 10.1-1009 et seq.), so long as the holder of such easement is accredited by the Land Trust Accreditation Commission or its designated subsidiary entity at the time of the grant award. If the Land Trust Accreditation Commission accreditation is not available at the time of the grant application for such holder under clause (b), the Foundation shall evaluate such holder on a case-by-case basis consistent with its established guidelines. For the purposes of this subsection, "local coholder" means the governing body of the locality in which the easement is located, a public recreational facilities authority, any other local entity authorized by statute to hold open-space easements, or a soil and water conservation district, if authorized to hold an easement under the Open-Space Land Act.*

E. The Foundation shall establish guidelines for submittal and evaluation of grant applications. In evaluating grant applications, the Foundation may give priority to applications that:

1. Request a grant to pay only legal and appraisal fees for a property interest that is being donated by the landowner;

2. Request a grant to pay costs associated with conveying a property interest on a family-owned or family-operated farm; or

3. Demonstrate the applicant's financial need for a grant.

F. No open-space land for which a grant has been awarded under this section shall be converted or diverted from open-space land use unless:

1. Such conversion or diversion is in compliance with subsection A of § 10.1-1704; and

2. Any open-space easement on the land substituted for land subject to an easement with respect to which a grant has been made under this section meets the eligibility requirements of this section.

G. Up to $100,000 per year of any interest generated by the Fund may be used for the Foundation's administrative expenses.

CHAPTER 390

An Act to direct that certain guidance documents developed and used by the Department of Wildlife Resources be filed for publication with the Virginia Registrar of Regulations and made available for public comment by November 1, 2023.

[H 2101]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That guidance documents developed prior to the effective date of this act pursuant to Article 6 (§ 29.1-563 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia or guidance documents developed and used by the Department of Wildlife Resources in making comments or providing consultation to the Department of Environmental Quality or the Virginia Marine Resources Commission during such agencies' decision-making processes and in use by the Department of Wildlife Resources as of the effective date of this act shall expire on December 31, 2023, unless such documents are filed for publication with the Virginia Registrar of Regulations and made available for public comment as prescribed in § 2.2-4002.1 of the Code of Virginia by November 1, 2023.*

CHAPTER 391

An Act to amend and reenact § 30-194 of the Code of Virginia, relating to the Capitol Square Preservation Council; powers and duties; review and approval of plans for changes to artifacts contained within the Capitol Building.

[S 1357]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 30-194 of the Code of Virginia is amended and reenacted as follows:

§ 30-194. Powers and duties of the Council; Chief Administrative Officer; annual report.

A. With regard to the architectural, historical, archeological, and landscape features of Capitol Square and antiquities contained therein, the Council shall:

1. Inventory and assess their condition;

2. Develop plans and recommendations for their maintenance and preservation and for the enhancement of their historical and architectural integrity;

3. Develop recommendations for the promotion of activities and efforts that will enhance interpretive and educational opportunities; ~~and~~

4. Review all plans or proposals for alterations, improvements, additions, renovations, or other disposition that is structural or architectural in nature. No implementation of such plans or proposals shall take place prior to review by the Council. The Council shall report its findings on each plan or proposal to the Governor and the agency responsible for the plan or proposal. However, the Council's Chief Administrative Officer and the Director of the Department of General Services shall enter into a memorandum of agreement describing the type of plans and proposals that are of such a routine or operational nature to not require review by the Council*; and*

5. Review and approve all plans or proposals for alterations, improvements, additions, or renovations to, or other disposition of, any monuments, statuary, artwork, or other historical artifacts contained within the Capitol Building, including within the Rotunda, the old Senate chamber, and the old hall of the House of Delegates, and excluding the new Senate chamber and the new hall of the House of Delegates, office space, and any other area designated as legislative space that is not open to the public. Nothing in this subdivision shall apply to the personal belongings of any employee or elected or appointed official working within the Capitol Building.

B. The Council may employ a Chief Administrative Officer and determine his duties and compensation within the amounts appropriated therefor. The Chief Administrative Officer shall be qualified to carry out the duties to which he is assigned and shall work at the pleasure of the Council. The Council may also obtain such assistance as it may deem necessary, and may employ, within the amounts appropriated therefor, experts who have special knowledge of the issues before the Council.

C. The Council may enter into partnerships, joint ventures, and other collaborative relationships with organizations in furtherance of the Council's duties.

D. The Council may, unless otherwise restricted by the Governor or the General Assembly, under terms approved by the Attorney General, accept gifts and grants in furtherance of its duties. This provision shall be deemed to be in addition to and not in conflict with any other powers or authorities related to the acceptance of gifts and grants under other provisions of this Code.

E. The Council may enter into contracts in the furtherance of its duties in accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

F. Neither the Council nor its staff in fulfilling their responsibilities shall act in a manner inconsistent with subsection A of § 2.2-1144.

G. The Council shall make a report on its activities and recommendations, if any, annually by December 1 to the Governor and the General Assembly. The Council shall make such further interim reports to the Governor and the General Assembly as it deems advisable or as required by the General Assembly.

CHAPTER 392

An Act to amend the Code of Virginia by adding a section numbered 53.1-39.2, relating to correctional facilities; use of restorative housing.

[H 2487]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 53.1-39.2 as follows:

§ 53.1-39.2. Restorative housing; restrictions on use.

A. As used in this section:

"Facility administrator" means the superintendent, warden, or person otherwise in charge of the correctional facility.

"Medical evaluation" means an evaluation that is done for the purpose of determining whether the incarcerated person needs medical treatment and shall be done in a manner that is consistent with the signed recommendations of a medical practitioner.

"Medical practitioner" means a physician, physician's assistant, nurse practitioner, or practical nurse licensed in the Commonwealth or in the jurisdiction where the treatment is to be rendered or withheld.

"Mental health evaluation" means an evaluation that is carried out by a mental health professional for the purpose of determining the mental health needs of the incarcerated person and whether it is safe for the person to be placed in restorative housing.

"Mental health professional" means the same as that term is defined in § 54.1-2400.1 who is trained in mental health evaluations.

"Restorative housing" means special purpose bed assignments operated under maximum security regulations and procedures and utilized for the personal protection or custodial management of an incarcerated person.

B. No incarcerated person in a state correctional facility shall be placed in restorative housing unless (i) such incarcerated person requests placement in restorative housing with informed voluntary consent, (ii) such incarcerated person needs such confinement for his own protection, (iii) there is a need to prevent an imminent threat of physical harm to the incarcerated person or another person; or (iv) such person's behavior threatens the orderly operation of the facility, provided that:

1. When an incarcerated person makes a request to be placed in restorative housing for his own protection, the facility shall bear the burden of establishing a basis for refusing the request;

2. An incarcerated person who is in restorative housing for his own protection based on his request or with his informed voluntary consent may opt out of restorative housing by voluntarily removing his consent to remain in restorative housing by providing informed voluntary refusal;

3. An incarcerated person placed in restorative housing for his own protection (i) shall receive similar opportunities for activities, movement, and social interaction, taking into account his safety and the safety of others, as are provided to incarcerated persons in the general population of the facility and (ii) shall have such placement reviewed for assignment into protective custody;

4. An incarcerated person who has been placed in restorative housing for his own protection and is subject to removal from such confinement, not by his own request, shall be provided with a timely and meaningful opportunity to contest the removal; and

5. An incarcerated person who has been placed in restorative housing shall be offered a minimum of four hours of out-of-cell programmatic interventions or other congregate activities per day aimed at promoting personal development or addressing underlying causes of problematic behavior, which may include recreation in a congregate setting, unless exceptional circumstances mean that doing so would create significant and unreasonable risk to the safety and security of other incarcerated persons, the staff, or the facility.

C. If an incarcerated person is placed in restorative housing pursuant to subsection B, (i) such placement shall be reviewed once a week and the reason why a less restrictive setting could not be utilized shall be recorded in writing by the facility administrator and placed in the incarcerated person's institutional file; (ii) the facility administrator shall document an action plan for transitioning the incarcerated person out of restorative housing as soon as safely possible; and (iii) the facility administrator shall document the date and duration of such placement, as well as the statutory basis under this section for such placement, and include all such documentation in the incarcerated person's institutional file.

D. An incarcerated person may be offered less than four hours of out-of-cell programmatic interventions or other congregate activities per day only in the circumstance that the facility administrator determines a lockdown is required to ensure the safety of the incarcerated persons in the facility.

E. The facility administrator shall ensure that any incarcerated person placed in restorative housing, for any reason, is provided with a medical evaluation and a mental health evaluation within one workday of such placement, unless such evaluation was completed within the previous week.

F. The facility administrator shall have a defined and publicly available policy and procedure for the process of transitioning an incarcerated person placed in restorative housing out of such restorative housing and back to the general population of the facility, subject to the approval of the Director.

G. Nothing in this section shall be construed to prevent the placement of incarcerated persons in protective custody settings that do not constitute restorative housing.

H. The Director shall develop policies and procedures to effectuate the provisions of this section.

CHAPTER 393

An Act to amend the Code of Virginia by adding a section numbered 53.1-39.2, relating to correctional facilities; use of restorative housing.

[S 887]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 53.1-39.2 as follows:

§ 53.1-39.2. Restorative housing; restrictions on use.

A. As used in this section:

"Facility administrator" means the superintendent, warden, or person otherwise in charge of the correctional facility.

"Medical evaluation" means an evaluation that is done for the purpose of determining whether the incarcerated person needs medical treatment and shall be done in a manner that is consistent with the signed recommendations of a medical practitioner.

"Medical practitioner" means a physician, physician's assistant, nurse practitioner, or practical nurse licensed in the Commonwealth or in the jurisdiction where the treatment is to be rendered or withheld.

"Mental health evaluation" means an evaluation that is carried out by a mental health professional for the purpose of determining the mental health needs of the incarcerated person and whether it is safe for the person to be placed in restorative housing.

"Mental health professional" means the same as that term is defined in § 54.1-2400.1 who is trained in mental health evaluations.

"Restorative housing" means special purpose bed assignments operated under maximum security regulations and procedures and utilized for the personal protection or custodial management of an incarcerated person.

B. No incarcerated person in a state correctional facility shall be placed in restorative housing unless (i) such incarcerated person requests placement in restorative housing with informed voluntary consent, (ii) such incarcerated person needs such confinement for his own protection, (iii) there is a need to prevent an imminent threat of physical harm to the incarcerated person or another person; or (iv) such person's behavior threatens the orderly operation of the facility, provided that:

1. When an incarcerated person makes a request to be placed in restorative housing for his own protection, the facility shall bear the burden of establishing a basis for refusing the request;

2. An incarcerated person who is in restorative housing for his own protection based on his request or with his informed voluntary consent may opt out of restorative housing by voluntarily removing his consent to remain in restorative housing by providing informed voluntary refusal;

3. An incarcerated person placed in restorative housing for his own protection (i) shall receive similar opportunities for activities, movement, and social interaction, taking into account his safety and the safety of others, as are provided to incarcerated persons in the general population of the facility and (ii) shall have such placement reviewed for assignment into protective custody;

4. An incarcerated person who has been placed in restorative housing for his own protection and is subject to removal from such confinement, not by his own request, shall be provided with a timely and meaningful opportunity to contest the removal; and

5. An incarcerated person who has been placed in restorative housing shall be offered a minimum of four hours of out-of-cell programmatic interventions or other congregate activities per day aimed at promoting personal development or addressing underlying causes of problematic behavior, which may include recreation in a congregate setting, unless exceptional circumstances mean that doing so would create significant and unreasonable risk to the safety and security of other incarcerated persons, the staff, or the facility.

C. If an incarcerated person is placed in restorative housing pursuant to subsection B, (i) such placement shall be reviewed once a week and the reason why a less restrictive setting could not be utilized shall be recorded in writing by the facility administrator and placed in the incarcerated person's institutional file; (ii) the facility administrator shall document an action plan for transitioning the incarcerated person out of restorative housing as soon as safely possible; and (iii) the facility administrator shall document the date and duration of such placement, as well as the statutory basis under this section for such placement, and include all such documentation in the incarcerated person's institutional file.

D. An incarcerated person may be offered less than four hours of out-of-cell programmatic interventions or other congregate activities per day only in the circumstance that the facility administrator determines a lockdown is required to ensure the safety of the incarcerated persons in the facility.

E. The facility administrator shall ensure that any incarcerated person placed in restorative housing, for any reason, is provided with a medical evaluation and a mental health evaluation within one workday of such placement, unless such evaluation was completed within the previous week.

F. The facility administrator shall have a defined and publicly available policy and procedure for the process of transitioning an incarcerated person placed in restorative housing out of such restorative housing and back to the general population of the facility, subject to the approval of the Director.

G. Nothing in this section shall be construed to prevent the placement of incarcerated persons in protective custody settings that do not constitute restorative housing.

H. The Director shall develop policies and procedures to effectuate the provisions of this section.

CHAPTER 394

An Act to amend and reenact § 46.2-1158.01 of the Code of Virginia, relating to vehicle safety inspection; commercial vehicles; exemption.

[H 1619]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1158.01 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1158.01. Exceptions to motor vehicle inspection requirement.

A. The following shall be exempt from inspection as required by § 46.2-1157:

1. Four-wheel vehicles weighing less than 500 pounds and having less than 6 horsepower;

2. Boat, utility, or travel trailers that are not equipped with brakes;

3. Antique motor vehicles or antique trailers as defined in § 46.2-100 and licensed pursuant to § 46.2-730;

4. Any motor vehicle, trailer, or semitrailer that is outside the Commonwealth at the time its inspection expires when operated by the most direct route to the owner's or operator's place of residence or the owner's legal place of business in the Commonwealth;

5. A truck, tractor truck, trailer, or semitrailer for which the period fixed for inspection has expired while the vehicle was outside the Commonwealth (i) from a point outside the Commonwealth to the place where such vehicle is kept or garaged within the Commonwealth or (ii) to a destination within the Commonwealth where such vehicle will be (a) unloaded within 24 hours of entering the Commonwealth, (b) inspected within such 24-hour period, and (c) operated, after being unloaded, only to an inspection station or to the place where it is kept or garaged within the Commonwealth;

6. New motor vehicles, new trailers, or new semitrailers operated upon the highways of the Commonwealth for the purpose of delivery from the place of manufacture to the dealer's or distributor's designated place of business or between places of business if such manufacturer, dealer, or distributor has more than one place of business; dealers or distributors may take delivery and operate upon the highways of the Commonwealth new motor vehicles, new trailers, or new semitrailers from another dealer or distributor provided a motor vehicle, trailer, or semitrailer shall not be considered new if driven upon the highways for any purpose other than the delivery of the vehicle;

7. New motor vehicles, new trailers, or new semitrailers bearing a manufacturer's license operated for test purposes by the manufacturer;

8. Motor vehicles, trailers, or semitrailers operated for test purposes by a certified inspector during the performance of an official inspection;

9. New motor vehicles, new trailers, or new semitrailers operated upon the highways of the Commonwealth over the most direct route to a location for installation of a permanent body;

10. Motor vehicles, trailers, or semitrailers purchased outside the Commonwealth driven to the purchaser's place of residence or the dealer's or distributor's designated place of business;

11. Prior to purchase from auto auctions, motor vehicles, trailers, or semitrailers operated upon the highways not to exceed a 10-mile radius of such auction by prospective purchasers only for the purpose of road testing and motor vehicles, trailers, or semitrailers purchased from auto auctions operated upon the highways from such auction to (i) an official safety inspection station provided that (a) the inspection station is located between the auto auction and the purchaser's residence or place of business or within a 10-mile radius of such residence or business and (b) the vehicle is taken to the inspection station on the same day the purchaser removes the vehicle from the auto auction or (ii) the purchaser's place of residence or business;

12. Motor vehicles, trailers, or semitrailers, after the expiration of a period fixed for the inspection thereof, (i) operated over the most direct route between the place where such vehicle is kept or garaged and an official inspection station or (ii) parked on a highway and that have been submitted for a motor vehicle safety inspection to an official inspection station, for the purpose of having the same inspected pursuant to a prior appointment with such station;

13. Any vehicle for transporting well-drilling machinery and mobile equipment as defined in § 46.2-700;

14. Motor vehicles being towed in a legal manner as exempted under § 46.2-1150;

15. Logtrailers as exempted under § 46.2-1159;

16. Motor vehicles designed or altered and used exclusively for racing or other exhibition purposes as exempted under § 46.2-1160;

17. Any tow dolly or converter gear as defined in § 46.2-1119;

18. A new motor vehicle, as defined in § 46.2-1500, that has been inspected in accordance with an inspection requirement of the manufacturer or distributor of the new motor vehicle by an employee who customarily performs such inspection on behalf of a motor vehicle dealer licensed pursuant to § 46.2-1508. Such inspection shall be deemed to be the first inspection for the purpose of § 46.2-1158, and an inspection approval sticker furnished by the Department of State Police at the uniform price paid by all official inspection stations to the Department of State Police for an inspection approval sticker may be affixed to the vehicle as required by § 46.2-1163;

19. Mopeds;

20. Low-speed vehicles;

21. Vehicles exempt from registration pursuant to Article 6 (§ 46.2-662 et seq.) of Chapter 6; and

22. Military surplus motor vehicles as defined in § 46.2-100 and licensed pursuant to § 46.2-730.1.

B. The following shall be exempt from inspection as required by § 46.2-1157, provided that (i) the commercial motor vehicle operates in interstate commerce; (ii) the commercial motor vehicle ~~is found to meet the federal requirements for annual inspection through a self-inspection, a third-party inspection, a Commercial Vehicle Safety Alliance inspection, or a periodic inspection performed by any state with a program~~ *has been inspected in accordance with the federal requirements for annual inspection by complying with the periodic inspection requirements in 49 C.F.R. § 396.17*; (iii) the inspection has been determined by the Federal Motor Carrier Safety Administration to be comparable to or as effective as the requirements of 49 C.F.R. § 396.3(a); and (iv) documentation of such determination as provided for in 49 C.F.R. § 396.3(b) is available for review by law-enforcement officials to verify that the inspection is current:

1. Any commercial motor vehicle operating in interstate commerce that is subject to the Federal Motor Carrier Safety Regulations;

2. Any trailer or semitrailer being operated in interstate commerce that is subject to the Federal Motor Carrier Safety Regulations.

CHAPTER 395

An Act to amend and reenact § 46.2-1158.01 of the Code of Virginia, relating to vehicle safety inspection; commercial vehicles; exemption.

[S 1027]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1158.01 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1158.01. Exceptions to motor vehicle inspection requirement.

A. The following shall be exempt from inspection as required by § 46.2-1157:

1. Four-wheel vehicles weighing less than 500 pounds and having less than 6 horsepower;

2. Boat, utility, or travel trailers that are not equipped with brakes;

3. Antique motor vehicles or antique trailers as defined in § 46.2-100 and licensed pursuant to § 46.2-730;

4. Any motor vehicle, trailer, or semitrailer that is outside the Commonwealth at the time its inspection expires when operated by the most direct route to the owner's or operator's place of residence or the owner's legal place of business in the Commonwealth;

5. A truck, tractor truck, trailer, or semitrailer for which the period fixed for inspection has expired while the vehicle was outside the Commonwealth (i) from a point outside the Commonwealth to the place where such vehicle is kept or garaged within the Commonwealth or (ii) to a destination within the Commonwealth where such vehicle will be (a) unloaded within 24 hours of entering the Commonwealth, (b) inspected within such 24-hour period, and (c) operated, after being unloaded, only to an inspection station or to the place where it is kept or garaged within the Commonwealth;

6. New motor vehicles, new trailers, or new semitrailers operated upon the highways of the Commonwealth for the purpose of delivery from the place of manufacture to the dealer's or distributor's designated place of business or between places of business if such manufacturer, dealer, or distributor has more than one place of business; dealers or distributors may take delivery and operate upon the highways of the Commonwealth new motor vehicles, new trailers, or new semitrailers from another dealer or distributor provided a motor vehicle, trailer, or semitrailer shall not be considered new if driven upon the highways for any purpose other than the delivery of the vehicle;

7. New motor vehicles, new trailers, or new semitrailers bearing a manufacturer's license operated for test purposes by the manufacturer;

8. Motor vehicles, trailers, or semitrailers operated for test purposes by a certified inspector during the performance of an official inspection;

9. New motor vehicles, new trailers, or new semitrailers operated upon the highways of the Commonwealth over the most direct route to a location for installation of a permanent body;

10. Motor vehicles, trailers, or semitrailers purchased outside the Commonwealth driven to the purchaser's place of residence or the dealer's or distributor's designated place of business;

11. Prior to purchase from auto auctions, motor vehicles, trailers, or semitrailers operated upon the highways not to exceed a 10-mile radius of such auction by prospective purchasers only for the purpose of road testing and motor vehicles, trailers, or semitrailers purchased from auto auctions operated upon the highways from such auction to (i) an official safety inspection station provided that (a) the inspection station is located between the auto auction and the purchaser's residence or place of business or within a 10-mile radius of such residence or business and (b) the vehicle is taken to the inspection station on the same day the purchaser removes the vehicle from the auto auction or (ii) the purchaser's place of residence or business;

12. Motor vehicles, trailers, or semitrailers, after the expiration of a period fixed for the inspection thereof, (i) operated over the most direct route between the place where such vehicle is kept or garaged and an official inspection station or

(ii) parked on a highway and that have been submitted for a motor vehicle safety inspection to an official inspection station, for the purpose of having the same inspected pursuant to a prior appointment with such station;

13. Any vehicle for transporting well-drilling machinery and mobile equipment as defined in § 46.2-700;

14. Motor vehicles being towed in a legal manner as exempted under § 46.2-1150;

15. Logtrailers as exempted under § 46.2-1159;

16. Motor vehicles designed or altered and used exclusively for racing or other exhibition purposes as exempted under § 46.2-1160;

17. Any tow dolly or converter gear as defined in § 46.2-1119;

18. A new motor vehicle, as defined in § 46.2-1500, that has been inspected in accordance with an inspection requirement of the manufacturer or distributor of the new motor vehicle by an employee who customarily performs such inspection on behalf of a motor vehicle dealer licensed pursuant to § 46.2-1508. Such inspection shall be deemed to be the first inspection for the purpose of § 46.2-1158, and an inspection approval sticker furnished by the Department of State Police at the uniform price paid by all official inspection stations to the Department of State Police for an inspection approval sticker may be affixed to the vehicle as required by § 46.2-1163;

19. Mopeds;

20. Low-speed vehicles;

21. Vehicles exempt from registration pursuant to Article 6 (§ 46.2-662 et seq.) of Chapter 6; and

22. Military surplus motor vehicles as defined in § 46.2-100 and licensed pursuant to § 46.2-730.1.

B. The following shall be exempt from inspection as required by § 46.2-1157*,* provided that (i) the commercial motor vehicle operates in interstate commerce; (ii) the commercial motor vehicle ~~is found to meet the federal requirements for annual inspection through a self-inspection, a third-party inspection, a Commercial Vehicle Safety Alliance inspection, or a periodic inspection performed by any state with a program~~ *has been inspected in accordance with the federal requirements for annual inspection by complying with the periodic inspection requirements in 49 C.F.R. § 396.17*; (iii) the inspection has been determined by the Federal Motor Carrier Safety Administration to be comparable to or as effective as the requirements of 49 C.F.R. § 396.3(a); and (iv) documentation of such determination as provided for in 49 C.F.R. § 396.3(b) is available for review by law-enforcement officials to verify that the inspection is current:

1. Any commercial motor vehicle operating in interstate commerce that is subject to the Federal Motor Carrier Safety Regulations;

2. Any trailer or semitrailer being operated in interstate commerce that is subject to the Federal Motor Carrier Safety Regulations.

CHAPTER 396

An Act to amend and reenact §§ 18.2-46.1, 18.2-46.2, 18.2-46.3:1, and 18.2-46.3:3 of the Code of Virginia, relating to crimes by gangs.

[H 1478]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-46.1, 18.2-46.2, 18.2-46.3:1, and 18.2-46.3:3 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-46.1. Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in *subsection C of § 17.1-805 or* subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § ~~18.2-31,~~ 18.2-42, 18.2-46.3, ~~18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55,~~ 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, ~~18.2-89, 18.2-90,~~ 18.2-95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, ~~18.2-279, 18.2-282.1, 18.2-286.1,~~ 18.2-287.4, ~~18.2-289,~~ 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, ~~18.2-355, 18.2-356, 18.2-357,~~ or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101, 18.2-248, or 18.2-248.1 or a conspiracy to commit a felony violation of § 4.1-1101, 18.2-248, or 18.2-248.1; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

§ 18.2-46.2. Prohibited criminal street gang participation; penalty.

A. Any person who actively participates in or is a member of a criminal street gang and who knowingly and willfully participates in any predicate criminal act committed for the benefit of, at the direction of, or in association with any criminal street gang ~~shall be~~ *is* guilty of a Class ~~5~~ *4* felony. However, *(i)* if such participant in or member of a criminal street gang is ~~age eighteen~~ *18* years *of age* or older and knows or has reason to know that such criminal street gang also includes a juvenile member or participant *or (ii) if such predicate criminal act is an act of violence as defined in § 18.2-46.1*, he ~~shall be~~ *is* guilty of a Class ~~4~~ *3* felony.

B. Violation of this section shall constitute a separate and distinct offense. If the acts or activities violating this section also violate another provision of law, a prosecution under this section shall not prohibit or bar any prosecution or proceeding under such other provision or the imposition of any penalties provided for thereby.

§ 18.2-46.3:1. Third or subsequent conviction of criminal street gang crimes.

Upon a felony conviction of § 18.2-46.2 or ~~§~~ 18.2-46.3, where it is alleged in the warrant, information or indictment on which a person is convicted that (i) such person has been previously convicted twice under any combination of § 18.2-46.2 or ~~§~~ 18.2-46.3, within 10 years of the third or subsequent offense, and (ii) each such offense occurred on different dates, such person is guilty of a Class ~~3~~ *2* felony.

§ 18.2-46.3:3. Enhanced punishment for gang activity taking place in a gang-free zone; penalties.

Any person who violates § 18.2-46.2 (i) upon the property, including buildings and grounds, of any public or private elementary, secondary, or postsecondary school or institution of higher education; (ii) upon public property or any property open to public use within 1,000 feet of such school property; (iii) on any school bus as defined in § 46.2-100; or (iv) upon the property, including buildings and grounds, of any publicly owned or operated community center or any publicly owned or operated recreation center is guilty of a felony punishable as specified in § 18.2-46.2, and shall be sentenced to a mandatory minimum term of imprisonment of two years to be served consecutively with any other sentence. A person who violates subsection A of § 18.2-46.3 upon any property listed in this section is guilty of a Class ~~6~~ *5* felony, except that any person 18 years of age or older who violates subsection A of § 18.2-46.3 upon any property listed in this section, when such offense is committed against a juvenile, is guilty of a Class ~~5~~ *4* felony. Any person who violates subsection B of § 18.2-46.3 upon any property listed in this section is guilty of a Class ~~5~~ *4* felony. It is a violation of this section if the person violated § 18.2-46.2 or 18.2-46.3 on the property described in clauses (i) through (iii) regardless of where the person intended to commit such violation.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is at least $437,679 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 397

An Act to amend and reenact §§ 18.2-46.1, 18.2-46.2, 18.2-46.3:1, and 18.2-46.3:3 of the Code of Virginia, relating to crimes by gangs.

[S 1207]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-46.1, 18.2-46.2, 18.2-46.3:1, and 18.2-46.3:3 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-46.1. Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in *subsection C of § 17.1-805 or* subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § ~~18.2-31,~~ 18.2-42, 18.2-46.3, ~~18.2-51, 18.2-51.1,~~ ~~18.2-51.2,~~ ~~18.2-51.3,~~ ~~18.2-51.6,~~ ~~18.2-52,~~ ~~18.2-52.1,~~ ~~18.2-53,~~ ~~18.2-53.1,~~ ~~18.2-55,~~ 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, ~~18.2-89,~~ ~~18.2-90,~~ 18.2-95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, ~~18.2-279,~~ ~~18.2-282.1,~~ ~~18.2-286.1,~~ 18.2-287.4, ~~18.2-289,~~ 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, ~~18.2-355,~~ ~~18.2-356,~~ ~~18.2-357,~~ or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101, 18.2-248, or 18.2-248.1 or a conspiracy to commit a felony violation of § 4.1-1101, 18.2-248, or 18.2-248.1; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

§ 18.2-46.2. Prohibited criminal street gang participation; penalty.

A. Any person who actively participates in or is a member of a criminal street gang and who knowingly and willfully participates in any predicate criminal act committed for the benefit of, at the direction of, or in association with any criminal street gang ~~shall be~~ *is* guilty of a Class ~~5~~ *4* felony. However, *(i)* if such participant in or member of a criminal street gang is ~~age eighteen~~ *18* years *of age* or older and knows or has reason to know that such criminal street gang also includes a juvenile member or participant *or (ii) if such predicate criminal act is an act of violence as defined in § 18.2-46.1*, he ~~shall be~~ *is* guilty of a Class ~~4~~ *3* felony.

B. Violation of this section shall constitute a separate and distinct offense. If the acts or activities violating this section also violate another provision of law, a prosecution under this section shall not prohibit or bar any prosecution or proceeding under such other provision or the imposition of any penalties provided for thereby.

§ 18.2-46.3:1. Third or subsequent conviction of criminal street gang crimes.

Upon a felony conviction of § 18.2-46.2 or ~~§~~ 18.2-46.3, where it is alleged in the warrant, information or indictment on which a person is convicted that (i) such person has been previously convicted twice under any combination of § 18.2-46.2 or ~~§~~ 18.2-46.3, within 10 years of the third or subsequent offense, and (ii) each such offense occurred on different dates, such person is guilty of a Class ~~3~~ *2* felony.

§ 18.2-46.3:3. Enhanced punishment for gang activity taking place in a gang-free zone; penalties.

Any person who violates § 18.2-46.2 (i) upon the property, including buildings and grounds, of any public or private elementary, secondary, or postsecondary school or institution of higher education; (ii) upon public property or any property open to public use within 1,000 feet of such school property; (iii) on any school bus as defined in § 46.2-100; or (iv) upon the property, including buildings and grounds, of any publicly owned or operated community center or any publicly owned or operated recreation center is guilty of a felony punishable as specified in § 18.2-46.2, and shall be sentenced to a mandatory minimum term of imprisonment of two years to be served consecutively with any other sentence. A person who violates subsection A of § 18.2-46.3 upon any property listed in this section is guilty of a Class ~~6~~ *5* felony, except that any person 18 years of age or older who violates subsection A of § 18.2-46.3 upon any property listed in this section, when such offense is committed against a juvenile, is guilty of a Class ~~5~~ *4* felony. Any person who violates subsection B of § 18.2-46.3 upon any property listed in this section is guilty of a Class ~~5~~ *4* felony. It is a violation of this section if the person violated § 18.2-46.2 or 18.2-46.3 on the property described in clauses (i) through (iii) regardless of where the person intended to commit such violation.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is at least $437,679 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 398

An Act to amend the Code of Virginia by adding in Article 3 of Chapter 11 of Title 16.1 a section numbered 16.1-245.2, relating to medical records; custody, visitation, placement, and support cases; affidavits and written statements; juvenile and domestic relations district court.

[H 1541]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 11 of Title 16.1 a section numbered 16.1-245.2 as follows:

§ 16.1-245.2. Evidence of medical reports, statements, or records; testimony of health care provider or custodian of records in juvenile and domestic relations district court; custody, visitation, placement, and support cases.

A. Notwithstanding § 8.01-399, 8.01-400.2, 8.01-401.1, or 8.01-413, and except as provided in § 16.1-245.1, in any civil case heard in a juvenile and domestic relations district court involving the custody, visitation, placement, or support of a child or spouse, any party, including a guardian ad litem, may present evidence as to the extent, nature, and treatment of a party or child and the costs of such treatment and examination by the following:

1. A report or statement from the treating or examining health care provider as defined in § 8.01-581.1 or a health care provider licensed outside of the Commonwealth for his treatment of the party or child outside of the Commonwealth. Such report or statement shall be admitted if the party intending to present such evidence gives the opposing party or parties and, if applicable, guardian ad litem, a copy of such evidence and written notice of such intention 30 days in advance of trial and if attached to or contained in such evidence is a sworn declaration of (i) the treating or examining health care provider that (a) the person named therein was treated or examined by such health care provider, (b) the information contained in the report or statement is true and accurate and fully descriptive as to the nature and extent of the treatment and any conclusions which result therefrom, and (c) any statement of costs contained in the report or statement is true and accurate or (ii) the custodian of such report or statement that the same is a true and accurate copy of the report or statement; or

2. The bills showing the costs of examination or treatment or records of a treating or examining health care provider as defined in § 8.01-581.1 or a health care provider licensed outside of the Commonwealth for its treatment of a party or child outside of the Commonwealth. Such provider's records or bills shall be admitted if (i) the party intending to present

evidence by the use of records or bills gives the opposing party or parties and, if applicable, the guardian ad litem a copy of the records or bills and written notice of such intention 30 days in advance of trial and (ii) attached to the records or bills is a sworn declaration of the custodian thereof that the same is a true and accurate copy of the records or bills of such provider.

If, thereafter, a party or guardian ad litem summons the health care provider or custodian making such statement to testify in proper person, the court shall determine which party shall pay the fee and costs for such appearance or may apportion the same among the parties in such proportions as the ends of justice may require. If such health care provider or custodian is not subject to subpoena for cross-examination in court, then the court shall allow a reasonable opportunity for the party seeking the subpoena for such health care provider or custodian to obtain his testimony as the ends of justice may require.

B. If an opposing party intends to file a pleading in response to the evidence to be presented pursuant to subsection A, such party shall do so at least 15 days in advance of trial.

CHAPTER 399

An Act to amend the Code of Virginia by adding in Article 3 of Chapter 11 of Title 16.1 a section numbered 16.1-245.2, relating to medical records; custody, visitation, placement, and support cases; affidavits and written statements; juvenile and domestic relations district court.

[S 799]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 11 of Title 16.1 a section numbered 16.1-245.2 as follows:

§ 16.1-245.2. Evidence of medical reports, statements, or records; testimony of health care provider or custodian of records in juvenile and domestic relations district court; custody, visitation, placement, and support cases.

A. Notwithstanding § 8.01-399, 8.01-400.2, 8.01-401.1, or 8.01-413, and except as provided in § 16.1-245.1, in any civil case heard in a juvenile and domestic relations district court involving the custody, visitation, placement, or support of a child or spouse, any party, including a guardian ad litem, may present evidence as to the extent, nature, and treatment of a party or child and the costs of such treatment and examination by the following:

1. A report or statement from the treating or examining health care provider as defined in § 8.01-581.1 or a health care provider licensed outside of the Commonwealth for his treatment of the party or child outside of the Commonwealth. Such report or statement shall be admitted if the party intending to present such evidence gives the opposing party or parties and, if applicable, guardian ad litem, a copy of such evidence and written notice of such intention 30 days in advance of trial and if attached to or contained in such evidence is a sworn declaration of (i) the treating or examining health care provider that (a) the person named therein was treated or examined by such health care provider, (b) the information contained in the report or statement is true and accurate and fully descriptive as to the nature and extent of the treatment and any conclusions which result therefrom, and (c) any statement of costs contained in the report or statement is true and accurate or (ii) the custodian of such report or statement that the same is a true and accurate copy of the report or statement; or

2. The bills showing the costs of examination or treatment or records of a treating or examining health care provider as defined in § 8.01-581.1 or a health care provider licensed outside of the Commonwealth for its treatment of a party or child outside of the Commonwealth. Such provider's records or bills shall be admitted if (i) the party intending to present evidence by the use of records or bills gives the opposing party or parties and, if applicable, the guardian ad litem a copy of the records or bills and written notice of such intention 30 days in advance of trial and (ii) attached to the records or bills is a sworn declaration of the custodian thereof that the same is a true and accurate copy of the records or bills of such provider.

If, thereafter, a party or guardian ad litem summons the health care provider or custodian making such statement to testify in proper person, the court shall determine which party shall pay the fee and costs for such appearance or may apportion the same among the parties in such proportions as the ends of justice may require. If such health care provider or custodian is not subject to subpoena for cross-examination in court, then the court shall allow a reasonable opportunity for the party seeking the subpoena for such health care provider or custodian to obtain his testimony as the ends of justice may require.

B. If an opposing party intends to file a pleading in response to the evidence to be presented pursuant to subsection A, such party shall do so at least 15 days in advance of trial.

CHAPTER 400

An Act to amend and reenact § 18.2-47 of the Code of Virginia, relating to abduction of a minor; penalty.

[H 1892]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-47 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-47. Abduction and kidnapping defined; punishment.

A. Any person who, by force, intimidation or deception, and without legal justification or excuse, seizes, takes, transports, detains or secretes another person with the intent to deprive such other person of his personal liberty or to withhold or conceal him from any person, authority or institution lawfully entitled to his charge, shall be deemed guilty of "abduction."

B. Any person who, by force, intimidation or deception, and without legal justification or excuse, seizes, takes, transports, detains or secretes another person with the intent to subject him to forced labor or services shall be deemed guilty of "abduction." For purposes of this subsection, the term "intimidation" shall include destroying, concealing, confiscating, withholding, or threatening to withhold a passport, immigration document, or other governmental identification or threatening to report another as being illegally present in the United States.

C. The provisions of this section shall not apply to any law-enforcement officer in the performance of his duty. The terms "abduction" and "kidnapping" shall be synonymous in this Code. *Except as provided in subsection D, abduction of a minor shall be punished as a Class 2 felony*. Abduction for which no punishment is otherwise prescribed shall be punished as a Class 5 felony.

D. If an offense under subsection A is committed by the parent *or a family or household member, as defined in § 16.1-228, who has been ordered custody or visitation* of the person abducted and punishable as contempt of court in any proceeding then pending, the offense shall be a Class 1 misdemeanor in addition to being punishable as contempt of court. However, such offense, if committed by the parent *or a family or household member, as defined in § 16.1-228, who has been ordered custody or visitation* of the person abducted and punishable as contempt of court in any proceeding then pending and the person abducted is removed from the Commonwealth by the abducting parent *or a family or household member, as defined in § 16.1-228, who has been ordered custody or visitation*, shall be a Class 6 felony in addition to being punishable as contempt of court.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 401

An Act to amend and reenact § 46.2-844 of the Code of Virginia, relating to passing stopped school buses; rebuttable presumption.

[H 1995]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-844 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-844. Passing stopped school buses; penalty; prima facie evidence; penalty.

A. The driver of a motor vehicle approaching from any direction a clearly marked school bus that is stopped on any highway, private road, or school driveway for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons, who, in violation of § 46.2-859, fails to stop and remain stopped until all such persons are clear of the highway, private road, or school driveway and the bus is put in motion is subject to a civil penalty of $250, and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions.

A prosecution or proceeding under § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act, and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under § 46.2-859 for the same act.

In any prosecution for which a summons charging a violation of this section was issued within ~~10~~ *30 business* days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation, or (iii) a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section is presented prior to the return date established on the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise admissible evidence.

The testimony of the school bus driver, the supervisor of school buses, or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

B. 1. For purposes of this subsection, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of § 46.2-859. All such systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

2. A locality may, by ordinance, authorize the school division of the locality to install and operate a video-monitoring system in or on the school buses operated by the division or to contract with a private vendor to do so on behalf of the school division for the purpose of recording violations of subsection A. Such ordinance may direct that any civil penalty levied for a violation of subsection A shall be payable to the local school division. In any locality that has adopted such an ordinance, a summons for a violation of subsection A may be executed as provided in § 19.2-76.2 and, notwithstanding the provisions of § 19.2-76, the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle contained in the records of the Department. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection A and (ii) instructions for filing such an affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.

3. Any private vendor contracting with a school division pursuant to this subsection may impose and collect an administrative fee in addition to the civil penalty imposed for a violation of subsection A and payable pursuant to this subsection, so as to recover the expenses of collecting any unpaid civil penalty when such penalty remains due more than 30 days after the date of the mailing of the summons and notice. The administrative fee shall be reasonably related to the actual cost of collecting the civil penalty and shall not exceed $100 per violation. The operator of the vehicle shall pay the unpaid civil penalty and any administrative fee detailed in a notice or citation issued by the private vendor. If paid no later than 60 days after the date of the mailing of the summons and notice, the administrative fee shall not exceed $25.

4. Any private vendor contracting with a school division pursuant to this subsection may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 30 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that improperly pass stopped school buses. Information provided to such private vendor shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system and used only for enforcement against individuals who violate the provisions of this section. The school division shall annually certify compliance with this subdivision and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or their designee. Any person who discloses personal information in violation of the provisions of this subdivision shall be subject to a civil penalty of $1,000 per disclosure. Any unauthorized use or disclosure of such personal information shall be grounds for termination of the agreement between the Department of Motor Vehicles and the private vendor.

CHAPTER 402

An Act to amend and reenact § 46.2-844 of the Code of Virginia, relating to passing stopped school buses; rebuttable presumption.

[S 868]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-844 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-844. Passing stopped school buses; penalty; prima facie evidence; penalty.

A. The driver of a motor vehicle approaching from any direction a clearly marked school bus that is stopped on any highway, private road, or school driveway for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons, who, in violation of § 46.2-859, fails to stop and remain stopped until all such persons are clear of the highway, private road, or school driveway and the bus is put in motion is subject to a civil penalty of $250, and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions.

A prosecution or proceeding under § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act, and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under § 46.2-859 for the same act.

In any prosecution for which a summons charging a violation of this section was issued within ~~10~~ *30 business* days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by

Chapter 6 (§ 46.2-600 et seq.) shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation, or (iii) a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section is presented prior to the return date established on the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise admissible evidence.

The testimony of the school bus driver, the supervisor of school buses, or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

B. 1. For purposes of this subsection, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of § 46.2-859. All such systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

2. A locality may, by ordinance, authorize the school division of the locality to install and operate a video-monitoring system in or on the school buses operated by the division or to contract with a private vendor to do so on behalf of the school division for the purpose of recording violations of subsection A. Such ordinance may direct that any civil penalty levied for a violation of subsection A shall be payable to the local school division. In any locality that has adopted such an ordinance, a summons for a violation of subsection A may be executed as provided in § 19.2-76.2 and, notwithstanding the provisions of § 19.2-76, the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle contained in the records of the Department. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection A and (ii) instructions for filing such an affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.

3. Any private vendor contracting with a school division pursuant to this subsection may impose and collect an administrative fee in addition to the civil penalty imposed for a violation of subsection A and payable pursuant to this subsection, so as to recover the expenses of collecting any unpaid civil penalty when such penalty remains due more than 30 days after the date of the mailing of the summons and notice. The administrative fee shall be reasonably related to the actual cost of collecting the civil penalty and shall not exceed $100 per violation. The operator of the vehicle shall pay the unpaid civil penalty and any administrative fee detailed in a notice or citation issued by the private vendor. If paid no later than 60 days after the date of the mailing of the summons and notice, the administrative fee shall not exceed $25.

4. Any private vendor contracting with a school division pursuant to this subsection may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 30 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that improperly pass stopped school buses. Information provided to such private vendor shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system and used only for enforcement against individuals who violate the provisions of this section. The school division shall annually certify compliance with this subdivision and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or their designee. Any person who discloses personal information in violation of the provisions of this subdivision shall be subject to a civil penalty of $1,000 per disclosure. Any unauthorized use or disclosure of such personal information shall be grounds for termination of the agreement between the Department of Motor Vehicles and the private vendor.

CHAPTER 403

An Act to amend and reenact § 33.2-1225 of the Code of Virginia, relating to Commissioner of Highways; entering into certain agreements; civil penalties; agents.

[H 1587]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-1225 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-1225. Commissioner of Highways may enter into certain agreements; civil penalties.

A. The Commissioner of Highways may enter into agreements with the local governing body of Fairfax County authorizing local law-enforcement agencies ~~or~~, other local governmental entities*, or contractors* to act as agents of the

Commissioner of Highways for the purpose of (i) enforcing the provisions of § 33.2-1224 and (ii) collecting the civil penalties and costs provided for in that section. However, the local governing body of Fairfax County shall not enter into any such agreement until it has held a public hearing thereon.

B. Notwithstanding the provisions of § 33.2-1224, the penalties and costs collected under this section shall be paid to Fairfax County.

C. Notwithstanding subsections A and B, signs and advertising promoting or providing directions to a special event erected from Saturday through the following Monday shall not be subject to an agreement provided for in subsection A.

D. If Fairfax County acts as an agent of the Commissioner of Highways under this section, then it shall require each of its employees *or contractors* and any volunteers who are authorized to act on behalf of the County to comply with the provisions of this section and any other applicable law. If a lawfully placed sign is confiscated by an employee*, contractor,* or volunteer authorized to act for the County in violation of the authority granted under this section, the sign owner shall have the right to reclaim the sign within five business days of the date of such confiscation.

CHAPTER 404

An Act to direct the Commissioner of the Department of Motor Vehicles to create a process for minors to access driving records on the Department of Motor Vehicles website.

[S 1343]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Commissioner of the Department of Motor Vehicles shall create a process and guidelines by which minors may access their own driving records on the Department of Motor Vehicles website. Such process may make use of the current online services platform by which persons 18 and older may create an account and obtain such information or use other means to achieve such purpose. The process and guidelines shall include the necessary means to verify the identity of the requester. Such process and guidelines shall be implemented by July 1, 2024.*

2. That the provisions of this act shall not become effective unless reenacted by the 2024 Session of the General Assembly.

CHAPTER 405

An Act to amend and reenact § 58.1-416 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-422.5, relating to taxation of corporations; Internet root infrastructure providers.

[H 1481]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-416 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-422.5 as follows:

§ 58.1-416. When certain other sales deemed in the Commonwealth.

A. Sales, other than sales of tangible personal property, are in the Commonwealth if:

1. The income-producing activity is performed in the Commonwealth; or

2. The income-producing activity is performed both in and outside the Commonwealth and a greater proportion of the income-producing activity is performed in the Commonwealth than in any other state, based on costs of performance.

B. 1. For debt buyers, as defined in § 58.1-422.3, sales, other than sales of tangible personal property, are in the Commonwealth if they consist of money recovered on debt that a debt buyer collected from a person who is a resident of the Commonwealth or an entity that has its commercial domicile in the Commonwealth. Such rule shall apply regardless of the location of a debt buyer's business.

2. For property information and analytics firms, as defined in § 58.1-422.4, that meet the requirements set forth in § 58.1-422.4, sales of services are in the Commonwealth if they are derived from transactions with a customer or client who receives the benefit of the services in the Commonwealth. Such rule shall apply regardless of the location of a property information and analytics firm's business operations.

3. For Internet root infrastructure providers, as defined in § 58.1-422.5, sales of services are in the Commonwealth if they are derived from sales transactions with a customer or client who receives the benefit of the services in the Commonwealth. Such rule shall apply regardless of the location of an Internet root infrastructure provider's operations.

C. The taxes under this article on the sales described under subsection B are imposed to the maximum extent permitted under the Constitutions of Virginia and the United States and federal law. For the collection of such taxes on such sales, it is the intent of the General Assembly that the Tax Commissioner and the Department assert the taxpayer's nexus with the Commonwealth to the maximum extent permitted under the Constitutions of Virginia and the United States and federal law.

D. If necessary information is not available to the taxpayer to determine whether a sale other than a sale of tangible personal property is in the Commonwealth pursuant to the provisions of subsections B and C, the taxpayer may estimate the

dollar value or portion of such sale in the Commonwealth, provided that the taxpayer can demonstrate to the satisfaction of the Tax Commissioner that (i) the estimate has been undertaken in good faith, (ii) the estimate is a reasonable approximation of the dollar value or portion of such sale in the Commonwealth, and (iii) in using an estimate the taxpayer did not have as a principal purpose the avoidance of any tax due under this article. The Department may implement procedures for obtaining its approval to use an estimate. The Department shall adopt remedies and corrective procedures for cases in which the Department has determined that the sourcing rules for sales other than sales of tangible personal property have been abused by the taxpayer, which may include reliance on the location of income-producing activity and direct costs of performance as described in subsection A.

§ 58.1-422.5. Internet root infrastructure providers.

A. As used in this section:

"Authority" means the Virginia Economic Development Partnership Authority.

"Eligible planning district" means Planning District 8.

"Internet root infrastructure provider" means an entity and its affiliated entities that is designated to operate one or more of the 13 Internet root servers of the Internet Assigned Names Authority (IANA) root and functions as the authoritative directory for one or more Top-Level Domains. This term does not include an Internet service provider, cable service provider, or similar company.

"Internet root server of the IANA root" means a Domain Name System server for one of the 13 root identities (A. - M.) that answers requests for the Domain Name System root zone of the Internet, redirecting requests for each Top-Level Domain to its respective nameservers.

"Memorandum of understanding" means a performance agreement or related document entered into by an Internet root infrastructure provider and the Authority on or after January 1, 2023, but before December 1, 2023, that sets forth the requirements for commitments to the Commonwealth.

B. 1. For taxable years beginning on or after January 1, 2023, but before January 1, 2030, an Internet root infrastructure provider shall be subject to the provisions of subdivision B 3 of § 58.1-416 only if the Authority certifies to the Department that the taxpayer has at least 550 full-time employees with an average annual salary of $175,000 in an eligible planning district, has entered into a memorandum of understanding with the Authority, and has met the terms of such agreement.

2. For taxable years beginning on or after January 1, 2030, if the Authority certifies to the Department that all requirements of the memorandum of understanding have been satisfied, no additional certifications shall be required, and the Internet root infrastructure provider shall continue to be subject to the provisions of subdivision B 3 of § 58.1-416 in future taxable years.

C. The General Assembly finds that the presence of the Internet root infrastructure provider industry is essential to the continued fiscal health of the Commonwealth. If any provision of this section is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, that provision shall not be deemed severable.

2. That the Department of Taxation shall develop and make publicly available guidelines implementing the provisions of this act. In developing such guidelines, the Department of Taxation shall not be subject to the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) for guidelines promulgated on or before December 31, 2023, but shall cooperate with and seek the counsel of interested groups and shall not promulgate any guidelines, preliminary or final, without first seeking such counsel and conducting a public hearing. Preliminary guidelines shall be promulgated and made publicly available no later than December 31, 2023, and final guidelines shall be promulgated and made publicly available no later than December 31, 2024. After December 31, 2024, the guidelines shall be subject to the Administrative Process Act and accorded the weight of regulations under § 58.1-205 of the Code of Virginia.

3. That the memorandum of understanding, as defined in § 58.1-422.5 of the Code of Virginia, as created by this act, shall include provisions that require, during the term of the memorandum of understanding, an Internet root infrastructure provider (the provider) to report annually to the Virginia Economic Development Partnership Authority and the Secretaries of Commerce and Trade and Finance beginning January 1, 2024, such information as is necessary to demonstrate that the provider is in compliance with the performance criteria set forth in the memorandum of understanding. The annual report shall contain information regarding the new investments made by the provider to satisfy the performance criteria, the anticipated liability of the provider notwithstanding the provisions of this act related to the apportionment of its income, the anticipated liability of the provider pursuant to the apportionment formula under this act, and other such financial information as the Secretaries of Commerce and Trade and Finance deem necessary to demonstrate that the provider will be able to fulfill the obligations of the memorandum of understanding.

4. That the memorandum of understanding, as defined in § 58.1-422.5 of the Code of Virginia, as created by this act, shall contain a provision that, should the Internet root infrastructure provider be out of substantial compliance with the performance criteria set forth in the memorandum of understanding for three consecutive years, then the memorandum of understanding shall terminate. If the memorandum of understanding is terminated pursuant to this enactment and such provision, (i) the Secretary of Finance shall notify the Department of Taxation; (ii) the Internet root infrastructure provider shall thereafter no longer be eligible to utilize the apportionment formula set forth in subdivision B 3 of § 58.1-416 of the Code of Virginia, as amended by this act; and (iii) the Internet root

infrastructure provider shall be required to amend its income tax returns for any taxable year in which it utilized the apportionment formula set forth in subdivision B 3 of § 58.1-416, as amended by this act, and was in substantial noncompliance. The amended tax returns shall instead compute its tax liability for such years using the apportionment formula required if it were not eligible for the apportionment formula set forth in subdivision B 3 of § 58.1-416 of the Code of Virginia, as amended by this act.

5. That any person to whom tax information is divulged pursuant to this act shall be subject to the prohibitions and penalties set forth in § 58.1-3 of the Code of Virginia as though he were a tax official.

6. That the provisions of this act shall not become effective until a memorandum of understanding, as defined in § 58.1-422.5 of the Code of Virginia, as created by this act, is signed. If such memorandum of understanding is not signed by December 1, 2023, the provisions of subsection B 3 of § 58.1-416 of the Code of Virginia, as amended by this act, shall not be applicable in any taxable year beginning on or after January 1, 2023.

7. That the Virginia Economic Development Partnership Authority shall provide, upon signature, a copy of any memorandum of understanding, as defined in § 58.1-422.5 of the Code of Virginia, as created by this act, to the Chairmen of the House Committee on Finance, the House Committee on Appropriations, and the Senate Committee on Finance and Appropriations. The provisions of this act shall expire if copies of such memorandum of understanding are not delivered by December 31, 2023.

CHAPTER 406

An Act to amend and reenact § 58.1-416 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-422.5, relating to taxation of corporations; Internet root infrastructure providers.

[S 1349]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-416 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-422.5 as follows:

§ 58.1-416. When certain other sales deemed in the Commonwealth.

A. Sales, other than sales of tangible personal property, are in the Commonwealth if:

1. The income-producing activity is performed in the Commonwealth; or

2. The income-producing activity is performed both in and outside the Commonwealth and a greater proportion of the income-producing activity is performed in the Commonwealth than in any other state, based on costs of performance.

B. 1. For debt buyers, as defined in § 58.1-422.3, sales, other than sales of tangible personal property, are in the Commonwealth if they consist of money recovered on debt that a debt buyer collected from a person who is a resident of the Commonwealth or an entity that has its commercial domicile in the Commonwealth. Such rule shall apply regardless of the location of a debt buyer's business.

2. For property information and analytics firms, as defined in § 58.1-422.4, that meet the requirements set forth in § 58.1-422.4, sales of services are in the Commonwealth if they are derived from transactions with a customer or client who receives the benefit of the services in the Commonwealth. Such rule shall apply regardless of the location of a property information and analytics firm's business operations.

3. For Internet root infrastructure providers, as defined in § 58.1-422.5, sales of services are in the Commonwealth if they are derived from sales transactions with a customer or client who receives the benefit of the services in the Commonwealth. Such rule shall apply regardless of the location of an Internet root infrastructure provider's operations.

C. The taxes under this article on the sales described under subsection B are imposed to the maximum extent permitted under the Constitutions of Virginia and the United States and federal law. For the collection of such taxes on such sales, it is the intent of the General Assembly that the Tax Commissioner and the Department assert the taxpayer's nexus with the Commonwealth to the maximum extent permitted under the Constitutions of Virginia and the United States and federal law.

D. If necessary information is not available to the taxpayer to determine whether a sale other than a sale of tangible personal property is in the Commonwealth pursuant to the provisions of subsections B and C, the taxpayer may estimate the dollar value or portion of such sale in the Commonwealth, provided that the taxpayer can demonstrate to the satisfaction of the Tax Commissioner that (i) the estimate has been undertaken in good faith, (ii) the estimate is a reasonable approximation of the dollar value or portion of such sale in the Commonwealth, and (iii) in using an estimate the taxpayer did not have as a principal purpose the avoidance of any tax due under this article. The Department may implement procedures for obtaining its approval to use an estimate. The Department shall adopt remedies and corrective procedures for cases in which the Department has determined that the sourcing rules for sales other than sales of tangible personal property have been abused by the taxpayer, which may include reliance on the location of income-producing activity and direct costs of performance as described in subsection A.

§ 58.1-422.5. Internet root infrastructure providers.

A. As used in this section:

"Authority" means the Virginia Economic Development Partnership Authority.

"Eligible planning district" means Planning District 8.

"Internet root infrastructure provider" means an entity and its affiliated entities that is designated to operate one or more of the 13 Internet root servers of the Internet Assigned Names Authority (IANA) root and functions as the authoritative directory for one or more Top-Level Domains. This term does not include an Internet service provider, cable service provider, or similar company.

"Internet root server of the IANA root" means a Domain Name System server for one of the 13 root identities (A. - M.) that answers requests for the Domain Name System root zone of the Internet, redirecting requests for each Top-Level Domain to its respective nameservers.

"Memorandum of understanding" means a performance agreement or related document entered into by an Internet root infrastructure provider and the Authority on or after January 1, 2023, but before December 1, 2023, that sets forth the requirements for commitments to the Commonwealth.

B. 1. For taxable years beginning on or after January 1, 2023, but before January 1, 2030, an Internet root infrastructure provider shall be subject to the provisions of subdivision B 3 of § 58.1-416 only if the Authority certifies to the Department that the taxpayer has at least 550 full-time employees with an average annual salary of $175,000 in an eligible planning district, has entered into a memorandum of understanding with the Authority, and has met the terms of such agreement.

2. For taxable years beginning on or after January 1, 2030, if the Authority certifies to the Department that all requirements of the memorandum of understanding have been satisfied, no additional certifications shall be required, and the Internet root infrastructure provider shall continue to be subject to the provisions of subdivision B 3 of § 58.1-416 in future taxable years.

C. The General Assembly finds that the presence of the Internet root infrastructure provider industry is essential to the continued fiscal health of the Commonwealth. If any provision of this section is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, that provision shall not be deemed severable.

2. That the Department of Taxation shall develop and make publicly available guidelines implementing the provisions of this act. In developing such guidelines, the Department of Taxation shall not be subject to the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) for guidelines promulgated on or before December 31, 2023, but shall cooperate with and seek the counsel of interested groups and shall not promulgate any guidelines, preliminary or final, without first seeking such counsel and conducting a public hearing. Preliminary guidelines shall be promulgated and made publicly available no later than December 31, 2023, and final guidelines shall be promulgated and made publicly available no later than December 31, 2024. After December 31, 2024, the guidelines shall be subject to the Administrative Process Act and accorded the weight of regulations under § 58.1-205 of the Code of Virginia.

3. That the memorandum of understanding, as defined in § 58.1-422.5 of the Code of Virginia, as created by this act, shall include provisions that require, during the term of the memorandum of understanding, an Internet root infrastructure provider (the provider) to report annually to the Virginia Economic Development Partnership Authority and the Secretaries of Commerce and Trade and Finance beginning January 1, 2024, such information as is necessary to demonstrate that the provider is in compliance with the performance criteria set forth in the memorandum of understanding. The annual report shall contain information regarding the new investments made by the provider to satisfy the performance criteria, the anticipated liability of the provider notwithstanding the provisions of this act related to the apportionment of its income, the anticipated liability of the provider pursuant to the apportionment formula under this act, and other such financial information as the Secretaries of Commerce and Trade and Finance deem necessary to demonstrate that the provider will be able to fulfill the obligations of the memorandum of understanding.

4. That the memorandum of understanding, as defined in § 58.1-422.5 of the Code of Virginia, as created by this act, shall contain a provision that, should the Internet root infrastructure provider be out of substantial compliance with the performance criteria set forth in the memorandum of understanding for three consecutive years, then the memorandum of understanding shall terminate. If the memorandum of understanding is terminated pursuant to this enactment and such provision, (i) the Secretary of Finance shall notify the Department of Taxation; (ii) the Internet root infrastructure provider shall thereafter no longer be eligible to utilize the apportionment formula set forth in subdivision B 3 of § 58.1-416 of the Code of Virginia, as amended by this act; and (iii) the Internet root infrastructure provider shall be required to amend its income tax returns for any taxable year in which it utilized the apportionment formula set forth in subdivision B 3 of § 58.1-416, as amended by this act, and was in substantial noncompliance. The amended tax returns shall instead compute its tax liability for such years using the apportionment formula required if it were not eligible for the apportionment formula set forth in subdivision B 3 of § 58.1-416 of the Code of Virginia, as amended by this act.

5. That any person to whom tax information is divulged pursuant to this act shall be subject to the prohibitions and penalties set forth in § 58.1-3 of the Code of Virginia as though he were a tax official.

6. That the provisions of this act shall not become effective until a memorandum of understanding, as defined in § 58.1-422.5 of the Code of Virginia, as created by this act, is signed. If such memorandum of understanding is not signed by December 1, 2023, the provisions of subdivision B 3 of § 58.1-416 of the Code of Virginia, as amended by this act, shall not be applicable in any taxable year beginning on or after January 1, 2023.

7. That the Virginia Economic Development Partnership Authority shall provide, upon signature, a copy of any memorandum of understanding, as defined in § 58.1-422.5 of the Code of Virginia, as created by this act, to the Chairmen of the House Committee on Finance, the House Committee on Appropriations, and the Senate Committee on Finance and Appropriations. The provisions of this act shall expire if copies of such memorandum of understanding are not delivered by December 31, 2023.

CHAPTER 407

An Act to direct the Commissioner of the Department of Veterans Services to convene a work group to study and develop recommendations for implementing a statewide strategic plan to make Virginia the best state for veterans; report.

[H 1759]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Commissioner of the Department of Veterans Services shall convene a work group to study and develop recommendations for implementing a statewide strategic plan to make Virginia the best state for veterans. The work group shall consist of 10 members to be appointed as follows: the Secretary of Veterans and Defense Affairs or his designee; the Commissioner of the Department of Veterans Services or his designee; the Adjutant General of the Virginia National Guard or his designee; one member from the Board of Veterans Services; one additional member from the Joint Leadership Council of Veterans Service Organizations; two current members of the General Assembly who previously served as members of the General Assembly Military and Veterans Caucus, one to be appointed by the Speaker of the House of Delegates and one to be appointed by the Chair of the Senate Committee on Rules; two members who previously served as officers of the General Assembly Military and Veterans Caucus, one to be appointed by the Speaker of the House of Delegates and one to be appointed by the Chair of the Senate Committee on Rules; and one member of a veterans organization focused on issues related to women veterans.*

The responsibilities of the work group shall include (i) developing a statewide strategic plan that will guide legislation and budget decisions for the next five years; (ii) determining and identifying key performance indicators, quantifiable factors that can be compared with those of other states in determining quality of life for veterans in such states; (iii) assessing Virginia's current key performance indicators against those of other states; (iv) identifying legislative and budgetary recommendations; and (v) creating a scorecard of Virginia's key performance indicators to be presented to the General Assembly Military and Veterans Caucus at the first meeting of each regular session.

The Commissioner of the Department of Veterans Services or his designee shall, as applicable, serve as chairman of the work group. As chairman, he shall be responsible for convening meetings, taking and publishing minutes, and reporting the findings and recommendations of the work group in a report to the Governor and the Chairmen of the House Committee on General Laws and the Senate Committee on General Laws and Technology. The work group shall complete its meetings by November 30, 2023 and submit such report by the first day of the 2024 regular session.

CHAPTER 408

An Act to amend and reenact § 4.1-206.3, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to alcoholic beverage control; mixed beverage carrier license; airport passenger lounge; emergency.

[H 1753]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-206.3, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 4.1-206.3. (Effective until July 1, 2024) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in dining areas and other designated areas of such restaurant or off-premises consumption. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for on-premises consumption in such designated

areas, bedrooms, and other private rooms or off-premises consumption and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises or off-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, for off-premises consumption or for on-premises consumption in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

If the restaurant is located on the premises of a mixed beverage casino licensee owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1, such mixed beverage restaurant license shall authorize the licensee to sell alcoholic beverages for on-premises consumption on the licensed premises of the restaurant during all hours of operation of the mixed beverage casino licensee. Any alcoholic beverages purchased from such restaurant may be (I) taken onto the premises of the mixed beverage casino licensee and (II) possessed or consumed in areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, conference rooms, private rooms, hotels, pools, marinas, or green spaces. Alcoholic beverages purchased from a restaurant pursuant to this subdivision shall be contained in glassware or a paper, plastic, or similar disposable container that clearly displays the name or logo of the restaurant from which the alcoholic beverage was purchased.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to *(i)* persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth *and (ii) financial institutions, subsidiaries of a financial institution, or persons approved by the applicable airport authority that have entered into a contract with a financial institution or subsidiary of a financial institution to operate a passenger lounge, which shall authorize the licensee to sell and serve mixed beverages in designated areas of a passenger lounge for ticketed air carrier passengers that is located within an airport in the Commonwealth*. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier

licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall ~~(i)~~ *(a)* designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and ~~(ii)~~ *(b)* maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

For the purposes of this subdivision:

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, or credit union.

"Passenger lounge" means any restricted-access passenger waiting room or lounge leased to persons by the applicable airport authority in which food and beverage services are provided to ticketed passengers.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for on-premises consumption in dining areas of the restaurant or off-premises consumption. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this subtitle and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic

beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Mixed beverage casino licenses, which shall authorize the licensee to (i) sell and serve mixed beverages for on-premises consumption in areas designated by the Board, after consultation with the mixed beverage casino licensee, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) provide complimentary mixed beverages to patrons for on-premises consumption in private areas or restricted access areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, private rooms, conference rooms, hotels, pools, marinas, or green spaces. The granting of a license pursuant to this subdivision shall authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption in accordance with the provisions of this subdivision governing mixed beverages; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Notwithstanding any law or regulation to the contrary, a mixed beverage casino licensee may exercise the privileges of its license as set forth in this subdivision during all hours of operation of the casino gaming establishment; however, such licensee shall not sell wine or beer for off-premises consumption between the hours of 12 a.m. and 6 a.m.

A mixed beverage casino licensee may (a) provide patrons gifts of alcoholic beverages in closed containers for personal consumption off the licensed premises or in areas designated by the Board, after consultation with the mixed beverage casino licensee, and (b) enable patrons who participate in a loyalty or reward credit program to redeem credits for the purchase of alcoholic beverages for on-premises consumption. A summary of the operation of such loyalty or reward credit program shall be provided to the Board upon request.

A mixed beverage casino license may only be issued to a casino gaming establishment owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any

town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this subtitle will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of private banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Designated outdoor refreshment area licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the designated outdoor refreshment area, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the designated outdoor refreshment area, the Board shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events per year, and the duration of any event shall not exceed three consecutive days. However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that

effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this subtitle and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee shall provide adequate security for the event to ensure compliance with the applicable provisions of this subtitle and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-212.2.

§ 4.1-206.3. (Effective July 1, 2024) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

If the restaurant is located on the premises of a mixed beverage casino licensee owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1, such mixed beverage restaurant license shall authorize the licensee to sell alcoholic beverages for on-premises consumption on the licensed premises of the restaurant during all hours of operation of the mixed beverage casino licensee. Any alcoholic beverages purchased from such restaurant may be (I) taken onto the premises of the mixed beverage casino licensee and (II) possessed or consumed in areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, conference rooms, private rooms, hotels, pools, marinas, or green spaces. Alcoholic beverages purchased from a restaurant pursuant to this subdivision shall be contained in glassware or a paper, plastic, or similar disposable container that clearly displays the name or logo of the restaurant from which the alcoholic beverage was purchased.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to *(i)* persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth *and (ii) financial institutions, subsidiaries of a financial institution, or persons approved by the applicable airport authority that have entered into a contract with a financial institution or subsidiary of a financial institution to operate a passenger lounge, which shall authorize the licensee to sell and serve mixed beverages in designated areas of a passenger lounge for ticketed air carrier passengers that is located within an airport in the Commonwealth*. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall ~~(i)~~ *(a)* designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and ~~(ii)~~ *(b)* maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

For the purposes of this subdivision:

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, or credit union.

"Passenger lounge" means any restricted-access passenger waiting room or lounge leased to persons by the applicable airport authority in which food and beverage services are provided to ticketed passengers.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however,

the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic

beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this subtitle and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Mixed beverage casino licenses, which shall authorize the licensee to (i) sell and serve mixed beverages for on-premises consumption in areas designated by the Board, after consultation with the mixed beverage casino licensee, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) provide complimentary mixed beverages to patrons for on-premises consumption in private areas or restricted access areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, private rooms, conference rooms, hotels, pools, marinas, or green spaces. The granting of a license pursuant to this subdivision shall authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption in accordance with the provisions of this subdivision governing mixed beverages; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Notwithstanding any law or regulation to the contrary, a mixed beverage casino licensee may exercise the privileges of its license as set forth in this subdivision during all hours of operation of the casino gaming establishment; however, such licensee shall not sell wine or beer for off-premises consumption between the hours of 12 a.m. and 6 a.m.

A mixed beverage casino licensee may (a) provide patrons gifts of alcoholic beverages in closed containers for personal consumption off the licensed premises or in areas designated by the Board, after consultation with the mixed beverage casino licensee, and (b) enable patrons who participate in a loyalty or reward credit program to redeem credits for the purchase of alcoholic beverages for on-premises consumption. A summary of the operation of such loyalty or reward credit program shall be provided to the Board upon request.

A mixed beverage casino license may only be issued to a casino gaming establishment owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this subtitle will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises

consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of private banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Designated outdoor refreshment area licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the designated outdoor refreshment area, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the designated outdoor refreshment area, the Board shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events per year, and the duration of any event shall not exceed three consecutive days. However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this subtitle and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee shall provide adequate security for the event to ensure compliance with the applicable provisions of this subtitle and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the

licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-212.2.

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

CHAPTER 409

An Act to amend and reenact § 4.1-206.3, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to alcoholic beverage control; mixed beverage carrier license; airport passenger lounge; emergency.

[S 1100]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-206.3, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 4.1-206.3. (Effective until July 1, 2024) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in dining areas and other designated areas of such restaurant or off-premises consumption. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for on-premises consumption in such designated areas, bedrooms, and other private rooms or off-premises consumption and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises or off-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, for off-premises consumption or for on-premises consumption in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

If the restaurant is located on the premises of a mixed beverage casino licensee owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1, such mixed beverage restaurant license shall authorize the licensee to sell alcoholic beverages for on-premises consumption on the licensed premises of the restaurant during all hours of operation of the mixed beverage casino licensee. Any alcoholic beverages purchased from such restaurant may be (I) taken onto the premises of the mixed beverage casino licensee and (II) possessed or consumed in areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, conference rooms, private rooms, hotels, pools, marinas, or green spaces. Alcoholic beverages purchased from a restaurant pursuant to this subdivision shall be contained in glassware or a paper, plastic, or similar disposable container that clearly displays the name or logo of the restaurant from which the alcoholic beverage was purchased.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to *(i)* persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth *and (ii) financial institutions, subsidiaries of a financial institution, or persons approved by the applicable airport authority that have entered into a contract with a financial institution or subsidiary of a financial institution to operate a passenger lounge, which shall authorize the licensee to sell and serve mixed beverages in designated areas of a passenger lounge for ticketed air carrier passengers that is located within an airport in the Commonwealth*. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall ~~(i)~~ *(a)* designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and ~~(ii)~~ *(b)* maintain records of all

alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

For the purposes of this subdivision:

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, or credit union.

"Passenger lounge" means any restricted-access passenger waiting room or lounge leased to persons by the applicable airport authority in which food and beverage services are provided to ticketed passengers.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for on-premises consumption in dining areas of the restaurant or off-premises consumption. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this subtitle and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to

subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Mixed beverage casino licenses, which shall authorize the licensee to (i) sell and serve mixed beverages for on-premises consumption in areas designated by the Board, after consultation with the mixed beverage casino licensee, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) provide complimentary mixed beverages to patrons for on-premises consumption in private areas or restricted access areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, private rooms, conference rooms, hotels, pools, marinas, or green spaces. The granting of a license pursuant to this subdivision shall authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption in accordance with the provisions of this subdivision governing mixed beverages; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Notwithstanding any law or regulation to the contrary, a mixed beverage casino licensee may exercise the privileges of its license as set forth in this subdivision during all hours of operation of the casino gaming establishment; however, such licensee shall not sell wine or beer for off-premises consumption between the hours of 12 a.m. and 6 a.m.

A mixed beverage casino licensee may (a) provide patrons gifts of alcoholic beverages in closed containers for personal consumption off the licensed premises or in areas designated by the Board, after consultation with the mixed beverage casino licensee, and (b) enable patrons who participate in a loyalty or reward credit program to redeem credits for the purchase of alcoholic beverages for on-premises consumption. A summary of the operation of such loyalty or reward credit program shall be provided to the Board upon request.

A mixed beverage casino license may only be issued to a casino gaming establishment owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this subtitle will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional

locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of private banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Designated outdoor refreshment area licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the designated outdoor refreshment area, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the designated outdoor refreshment area, the Board shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events per year, and the duration of any event shall not exceed three consecutive days. However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this subtitle and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the event,

and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee shall provide adequate security for the event to ensure compliance with the applicable provisions of this subtitle and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and

beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-212.2.

§ 4.1-206.3. (Effective July 1, 2024) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

If the restaurant is located on the premises of a mixed beverage casino licensee owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1, such mixed beverage restaurant license shall authorize the licensee to sell alcoholic beverages for on-premises consumption on the licensed premises of the restaurant during all hours of operation of the mixed beverage casino licensee. Any alcoholic beverages purchased from such restaurant may be (I) taken onto the premises of the mixed beverage casino licensee and (II) possessed or consumed in areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, conference rooms, private rooms, hotels, pools, marinas, or green spaces. Alcoholic beverages purchased from a restaurant pursuant to this subdivision shall be contained in glassware or a paper, plastic, or similar disposable container that clearly displays the name or logo of the restaurant from which the alcoholic beverage was purchased.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the

licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to *(i)* persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth *and (ii) financial institutions, subsidiaries of a financial institution, or persons approved by the applicable airport authority that have entered into a contract with a financial institution or subsidiary of a financial institution to operate a passenger lounge, which shall authorize the licensee to sell and serve mixed beverages in designated areas of a passenger lounge for ticketed air carrier passengers that is located within an airport in the Commonwealth*. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall ~~(i)~~ *(a)* designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and ~~(ii)~~ *(b)* maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

For the purposes of this subdivision:

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, or credit union.

"Passenger lounge" means any restricted-access passenger waiting room or lounge leased to persons by the applicable airport authority in which food and beverage services are provided to ticketed passengers.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the

commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this subtitle and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Mixed beverage casino licenses, which shall authorize the licensee to (i) sell and serve mixed beverages for on-premises consumption in areas designated by the Board, after consultation with the mixed beverage casino licensee, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) provide complimentary mixed beverages to patrons for on-premises consumption in private areas or restricted access areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, private rooms, conference rooms, hotels, pools, marinas, or green spaces. The granting of a license pursuant to this subdivision shall authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption in accordance with the provisions of this subdivision governing mixed beverages; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Notwithstanding any law or regulation to the contrary, a mixed beverage casino licensee may exercise the privileges of its license as set forth in this subdivision during all hours of operation of the casino gaming establishment; however, such licensee shall not sell wine or beer for off-premises consumption between the hours of 12 a.m. and 6 a.m.

A mixed beverage casino licensee may (a) provide patrons gifts of alcoholic beverages in closed containers for personal consumption off the licensed premises or in areas designated by the Board, after consultation with the mixed beverage casino licensee, and (b) enable patrons who participate in a loyalty or reward credit program to redeem credits for the purchase of alcoholic beverages for on-premises consumption. A summary of the operation of such loyalty or reward credit program shall be provided to the Board upon request.

A mixed beverage casino license may only be issued to a casino gaming establishment owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex

deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this subtitle will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of

Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of private banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services

agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Designated outdoor refreshment area licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the designated outdoor refreshment area, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the designated outdoor refreshment area, the Board shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events per year, and the duration of any event shall not exceed three consecutive days. However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this subtitle and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee shall provide adequate security for the event to ensure compliance with the applicable provisions of this subtitle and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that

the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-212.2.

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

CHAPTER 410

An Act to amend the Code of Virginia by adding a section numbered 58.1-210.1 and by adding in Article 6 of Chapter 38 of Title 58.1 a section numbered 58.1-3827, relating to transient occupancy tax; administration.

[H 1442]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 58.1-210.1 and by adding in Article 6 of Chapter 38 of Title 58.1 a section numbered 58.1-3827 as follows:

§ 58.1-210.1. Publication of local transient occupancy taxes.

The Department shall annually publish on its website the current rate of the transient occupancy tax imposed in each locality. Every tax-assessing officer of a county, city, or town shall send to the Department, in a manner prescribed by the Department, the information as to his county, city, or town necessary to enable the Department to publish such information. Such information shall be so furnished by such tax-assessing officers as soon as it is available after request by the Department or with at least 30 days' notice prior to the effective date of any change in such rate. Any change in the rate of any local transient occupancy tax shall become effective no earlier than the first day of the calendar quarter following the calendar quarter in which the change in such rate is enacted. Failure to provide notice pursuant to this section shall require the county, city, or town to apply the preceding effective tax rate until 30 days after notification of such change is provided to the Department. If any such tax-assessing officer fails, without good cause, to furnish the same to the Department on demand, he is guilty of nonfeasance in office.

§ 58.1-3827. Administration of transient occupancy tax.

A. The tax-assessing officer of a county, city, or town shall administer and enforce the assessment of, and the treasurer of such county, city, or town shall collect, transient occupancy taxes from accommodations intermediaries.

B. In administering the assessment of transient occupancy taxes from accommodations intermediaries, the tax-assessing officer of a county, city, or town shall provide adequate information to accommodations intermediaries to enable them to identify transient occupancy rates, the applicable jurisdiction, and any discounts, deductions, or exemptions.

C. Every accommodations intermediary required to collect or pay the transient occupancy tax, on or before the twentieth day of the month following the month in which the tax shall become effective, shall transmit to the tax-assessing officer of a county, city, or town a return showing the gross receipts, any allowable discounts, deductions, or exemptions, and the rate applied to the resultant net receipts and shall remit to the treasurer of such locality the total local transient occupancy tax due, as well as any penalties and interest due, arising from all transactions taxable under this chapter during the preceding calendar month. Where applicable, the return shall also include the number of room nights and the room tax rate applied, the total amount of room tax due, and any regional transportation transient occupancy taxes due. Thereafter, a

like return shall be prepared and transmitted to the tax-assessing officer of a county, city, or town by every accommodations intermediary on or before the twentieth day of each month, for the preceding calendar month.

CHAPTER 411

An Act to amend and reenact § 58.1-3303 of the Code of Virginia, relating to recordation; address transfer for taxation.

[S 1389]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3303 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3303. Clerks to forward copies of certain receipts and make certain reports regarding deeds and property transfers to local commissioners and Department.

A. The clerk of every circuit court shall, before the fifteenth of each month, forward to the commissioner of revenue for his county or city and to the Department a copy of the recordation receipt for all deeds for the partition and conveyance of land, other than deeds of trust and mortgages, made to secure the payment of debts, which have been admitted to record in the clerk's office of such court within the month next preceding. In lieu of a printed paper copy of the recordation receipt, the Department shall accept the monthly electronic transfer of the recordation receipt copy on magnetic tape or other media acceptable to the Department. The receipt shall state the date of the deed, when admitted to record, the name of the grantor and grantee, the address of the grantee, given pursuant to § 17.1-223, and the description, quantity and specified value of land conveyed. Such clerk shall, at the same time, forward to the commissioner and the Department a list of all lands acquired in fee simple by the Commonwealth, through condemnation proceedings, and shall give the names of the persons from whom acquired, the dates of confirmation of the commissioners' reports in such proceedings, the quantity of land acquired in each case, the value thereof as specified in the reports and a description of each such tract. In lieu of a printed paper copy of such list, the clerk may provide an electronic list or secure remote electronic access to such list to the commissioner for his county or city and to the Department.

The commissioner shall, upon receipt of any such receipt, promptly and carefully check the same against the records in the office of the clerk who furnished the same and, if he finds any errors in the receipt or list, he shall make proper correction thereof.

B. Upon receipt and review of the recordation receipt in accordance with subsection A, the commissioner shall ensure that the land book is updated to reflect the grantee and property address or any such other address as may be specified in writing by the grantee for the delivery of future tax bills.

CHAPTER 412

An Act to amend and reenact § 32.1-325, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to state plan for medical assistance services; pharmacy services.

[S 1538]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-325, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 32.1-325. (Effective until date pursuant to Va. Const., Art. IV, § 13) Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of $3,500 for the individual and an amount not in excess of $3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to

Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed $5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions, regardless of whether the student receiving care has an individualized education program or whether the health care service is included in a student's individualized education program. Such services shall include those covered under the state plan for medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for health care services provided through telemedicine services, as defined in § 38.2-3418.16. No health care provider who provides health care services through telemedicine shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3);

26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located;

27. A provision for the payment of medical assistance for the dispensing or furnishing of up to a 12-month supply of hormonal contraceptives at one time. Absent clinical contraindications, the Department shall not impose any utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished to an amount less than a 12-month supply. Nothing in this subdivision shall be construed to (i) require a provider to prescribe, dispense, or furnish a 12-month supply of self-administered hormonal contraceptives at one time or (ii) exclude coverage for hormonal contraceptives as prescribed by a prescriber, acting within his scope of practice, for reasons other than contraceptive purposes. As used in this subdivision, "hormonal contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone, that is self-administered, requires a prescription, and is approved by the U.S. Food and Drug Administration for such purpose;

28. A provision for payment of medical assistance for remote patient monitoring services provided via telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons; (ii) medically complex infants and children; (iii) transplant patients; (iv) patients who have undergone surgery, for up to three months following the date of such surgery; and (v) patients with a chronic or acute health condition who have had two or more hospitalizations or emergency department visits related to such health condition in the previous 12 months when there is evidence that the use of remote patient monitoring is likely to prevent readmission of such patient to a hospital or emergency department. For the purposes of this subdivision, "remote patient monitoring services" means the use of digital technologies to collect medical and other forms of health data from patients in one location and electronically transmit that information securely to health care providers in a different location for analysis, interpretation, and recommendations, and management of the patient. "Remote patient monitoring services" includes monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other patient physiological data, treatment adherence monitoring, and interactive videoconferencing with or without digital image upload;

29. A provision for the payment of medical assistance for provider-to-provider consultations that is no more restrictive than, and is at least equal in amount, duration, and scope to, that available through the fee-for-service program; and

30. A provision for payment of the originating site fee to emergency medical services agencies for facilitating synchronous telehealth visits with a distant site provider delivered to a Medicaid member. As used in this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq., Enforcement of Compliance for Long-Term Care Facilities With Deficiencies.

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to

the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from

conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

K. When the services provided for by such plan are services *by a pharmacist, pharmacy technician, or pharmacy intern (i) performed under the terms of a collaborative agreement as defined in § 54.1-3300 and consistent with the terms of a managed care contractor provider contract or the state plan or (ii)* related to ~~initiation of~~ *services and* treatment ~~with or dispensing or administration of a vaccination by a pharmacist, pharmacy technician, or pharmacy intern~~ in accordance with § 54.1-3303.1, the Department shall provide reimbursement for such service.

§ 32.1-325. (Effective pursuant to Va. Const., Art. IV, § 13) Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of $3,500 for the individual and an amount not in excess of $3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed $5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions, regardless of whether the student receiving care has an individualized education program or whether the health care service is included in a student's individualized education program. Such services shall include those covered under the state plan for medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for health care services provided through telemedicine services, as defined in § 38.2-3418.16. No health care provider who provides health care services through telemedicine shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology,

in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines;

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3);

26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located;

27. A provision for the payment of medical assistance for the dispensing or furnishing of up to a 12-month supply of hormonal contraceptives at one time. Absent clinical contraindications, the Department shall not impose any utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished to an amount less than a 12-month supply. Nothing in this subdivision shall be construed to (i) require a provider to prescribe, dispense, or furnish a 12-month supply of self-administered hormonal contraceptives at one time or (ii) exclude coverage for hormonal contraceptives as prescribed by a prescriber, acting within his scope of practice, for reasons other than contraceptive purposes. As used in this subdivision, "hormonal contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone, that is self-administered, requires a prescription, and is approved by the U.S. Food and Drug Administration for such purpose;

28. A provision for payment of medical assistance for remote patient monitoring services provided via telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons; (ii) medically complex infants and children; (iii) transplant patients; (iv) patients who have undergone surgery, for up to three months following the date of such surgery; and (v) patients with a chronic or acute health condition who have had two or more hospitalizations or emergency department visits related to such health condition in the previous 12 months when there is evidence that the use of remote patient monitoring is likely to prevent readmission of such patient to a hospital or emergency department. For the purposes of this subdivision, "remote patient monitoring services" means the use of digital technologies to collect medical and other forms of health data from patients in one location and electronically transmit that information securely to health care providers in a different location for analysis, interpretation, and recommendations, and management of the patient. "Remote patient monitoring services" includes monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry,

blood glucose, and other patient physiological data, treatment adherence monitoring, and interactive videoconferencing with or without digital image upload;

29. A provision for the payment of medical assistance for provider-to-provider consultations that is no more restrictive than, and is at least equal in amount, duration, and scope to, that available through the fee-for-service program;

30. A provision for payment of the originating site fee to emergency medical services agencies for facilitating synchronous telehealth visits with a distant site provider delivered to a Medicaid member. As used in this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located; and

31. A provision for the payment of medical assistance for targeted case management services for individuals with severe traumatic brain injury.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq., Enforcement of Compliance for Long-Term Care Facilities With Deficiencies.

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

K. When the services provided for by such plan are services *by a pharmacist, pharmacy technician, or pharmacy intern (i) performed under the terms of a collaborative agreement as defined in § 54.1-3300 and consistent with the terms of a managed care contractor provider contract or the state plan or (ii)* related to ~~initiation of~~ *services and* treatment ~~with or dispensing or administration of a vaccination by a pharmacist, pharmacy technician, or pharmacy intern~~ in accordance with § 54.1-3303.1, the Department shall provide reimbursement for such service.

CHAPTER 413

An Act to amend the Code of Virginia by adding a section numbered 54.1-2711.2, relating to practice of dentistry; botulinum toxin injections.

[S 1539]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 54.1-2711.2 as follows:

§ 54.1-2711.2. Botulinum toxin injections.

In addition to the possession and administration of botulinum toxin injections for dental purposes, a dentist may possess and administer botulinum toxin injections for cosmetic purposes, provided that the dentist has completed training and continuing education in the administration of botulinum toxin injections for cosmetic purposes, as deemed appropriate by the Board.

2. That the Board of Dentistry, in consultation with the Board of Medicine, shall amend its regulations to establish training and continuing education requirements for dentists related to the administration of botulinum toxin injections for cosmetic purposes. The Board of Dentistry shall amend its regulations related to cosmetic certifications for oral and maxillofacial surgeons to remove from such regulations subdivision B 9 of 18VAC60-21-350.

CHAPTER 414

An Act to amend and reenact § 64.2-604 of the Code of Virginia, relating to Virginia Small Estate Act; funeral expenses and disposition.

[S 870]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 64.2-604 of the Code of Virginia is amended and reenacted as follows:

§ 64.2-604. Payment or delivery of small asset; funeral expenses and disposition.

~~Thirty~~ *A. Notwithstanding the provisions of this article, 30* days after the death of a decedent upon whose estate there shall have been no application for the appointment of a personal representative pending or granted in any jurisdiction, any person ~~holding~~ *having possession of* a small asset belonging to the decedent ~~may~~ *shall*, at the request of a successor, pay or deliver *to the licensed funeral service establishment handling the funeral, if there is one, and the disposition of the decedent* so much of the small asset as does not exceed the amount given priority by § 64.2-528 ~~to the undertaker or mortuary handling the funeral of the decedent, and a receipt of the payee shall be a full and final release of the payor as to such sum~~ *and has not already been so paid upon being presented an affidavit made by the licensed funeral service establishment, at the request of a successor, stating:*

1. That it is the licensed funeral service establishment handling the funeral, if there is one, and the disposition of the decedent;

2. The legal name and business address of the licensed funeral service establishment;

3. The amount given priority by § 64.2-528, or the amount due to it for the funeral, if there is one, and the disposition of the decedent reduced by any other payments it has received or expects to receive;

4. The reasons and supporting evidence that the person to whom the affidavit will be presented is in possession of a small asset belonging to the decedent; and

5. That a successor has represented to it in writing that at least 30 days have elapsed since the decedent's death and no application for the appointment of a personal representative is pending, has been granted, or is expected in any jurisdiction.

B. 1. Any person paying or delivering a small asset pursuant to this section is discharged and released to the same extent as if that person dealt with the personal representative of the decedent and a receipt of the payee shall be a full and final release of the payor as to such sum. Such person is not required to see the application of the small asset or to inquire into the truth of any statement in any affidavit presented pursuant to subsection A.

2. If any person to whom an affidavit is presented pursuant to subsection A refuses to pay or deliver any small asset belonging to the decedent of which he is in possession pursuant to this section, it may be recovered, or its payment or delivery compelled, and damages may be recovered, on proof of rightful claim in a proceeding brought for that purpose by or on behalf of the licensed funeral service establishment. However, no such damages may be recovered if it is established in such proceeding that the refusal to pay or deliver the small asset was made in good faith.

C. Any licensed funeral service establishment to whom payment or delivery of a small asset has been made under this section is answerable and accountable therefor to any personal representative of the decedent's estate or to any successor having an equal or superior right.

CHAPTER 415

An Act to amend and reenact §§ 8.01-384.1 and 19.2-164.1 of the Code of Virginia, relating to interpreters for persons who are deaf or hard of hearing.

[H 2424]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-384.1 and 19.2-164.1 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-384.1. Interpreters for deaf or hard of hearing in civil proceedings.

In any civil proceeding in which a speech-impaired person or a person who is deaf or hard of hearing is a party or witness, the court may appoint a qualified interpreter to assist such person in the proceeding. The court shall appoint an interpreter for any speech-impaired person or person who is deaf or hard of hearing who requests this assistance.

Interpreters for the deaf and hard of hearing in these proceedings shall be procured through the Department for the Deaf and Hard-of-Hearing*; if the Department cannot procure such services, then the court may appoint a readily available interpreter with full certification from the Registry of Interpreters for the Deaf, Inc., or an equivalent national certification. Such court-appointed interpreter's qualifications are subject to review and approval by the Department for the Deaf and Hard-of-Hearing*.

Any person who is eligible for an interpreter pursuant to this section may waive the use of an interpreter appointed by the court for all or a portion of the proceedings. A person who waives his right to an interpreter may provide his own interpreter at his own expense without regard to whether the interpreter is qualified under this section.

The compensation of interpreters appointed pursuant to this section shall be fixed by the court and paid from the general fund of the state treasury or may, in the discretion of the court, be assessed as a part of the cost of the proceedings.

The provisions of this section shall apply in both circuit courts and district courts.

§ 19.2-164.1. Interpreters for the deaf (Supreme Court Rule 2:507 derived in part from this section).

In any criminal case in which a deaf person is the accused, an interpreter for the deaf person shall be appointed. In any criminal case in which a deaf person is the victim or a witness, an interpreter for the deaf person shall be appointed by the court in which the case is to be heard unless the court finds that the deaf person does not require the services of a court-appointed interpreter and the deaf person waives his rights. Such interpreter shall be procured by the judge of the court in which the case is to be heard through the Department for the Deaf and Hard-of-Hearing.

The compensation of an interpreter appointed by the court pursuant to this section shall be fixed by the court and paid from the general fund of the state treasury as part of the expense of trial. Such fee shall not be assessed as part of the costs*; if the Department cannot procure such services, then the court may appoint a readily available interpreter with full certification from the Registry of Interpreters for the Deaf, Inc., or an equivalent national certification. Such court-appointed interpreter's qualifications are subject to review and approval by the Department for the Deaf and Hard-of-Hearing*.

Any person entitled to the services of an interpreter under this section may waive these services for all or a portion of the proceedings. Such a waiver shall be made by the person upon the record after an opportunity to consult with legal counsel. A judicial officer, utilizing an interpreter obtained in accordance with this section, shall explain to the deaf person the nature and effect of any waiver. Any waiver shall be approved in writing by the deaf person's legal counsel. If the person does not have legal counsel, approval shall be made in writing by a judicial officer. A person who waives his right to an interpreter may provide his own interpreter at his own expense without regard to whether the interpreter is qualified under this section.

The provisions of this section shall apply in both circuit courts and district courts.

Whenever a person communicates through an interpreter to any person under such circumstances that the communication would be privileged, and such person could not be compelled to testify as to the communications, this privilege shall also apply to the interpreter.

In any judicial proceeding, the judge on his own motion or on the motion of a party to the proceeding may order all of the testimony of a deaf person and the interpretation thereof to be visually electronically recorded for use in verification of the official transcript of the proceedings.

CHAPTER 416

An Act to amend and reenact §§ 8.01-384.1 and 19.2-164.1 of the Code of Virginia, relating to interpreters for persons who are deaf or hard of hearing.

[S 814]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-384.1 and 19.2-164.1 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-384.1. Interpreters for deaf or hard of hearing in civil proceedings.

In any civil proceeding in which a speech-impaired person or a person who is deaf or hard of hearing is a party or witness, the court may appoint a qualified interpreter to assist such person in the proceeding. The court shall appoint an interpreter for any speech-impaired person or person who is deaf or hard of hearing who requests this assistance.

Interpreters for the deaf and hard of hearing in these proceedings shall be procured through the Department for the Deaf and Hard-of-Hearing*; if the Department cannot procure such services, then the court may appoint a readily available interpreter with full certification from the Registry of Interpreters for the Deaf, Inc., or an equivalent national certification. Such court-appointed interpreter's qualifications are subject to review and approval by the Department for the Deaf and Hard-of-Hearing*.

Any person who is eligible for an interpreter pursuant to this section may waive the use of an interpreter appointed by the court for all or a portion of the proceedings. A person who waives his right to an interpreter may provide his own interpreter at his own expense without regard to whether the interpreter is qualified under this section.

The compensation of interpreters appointed pursuant to this section shall be fixed by the court and paid from the general fund of the state treasury or may, in the discretion of the court, be assessed as a part of the cost of the proceedings.

The provisions of this section shall apply in both circuit courts and district courts.

§ 19.2-164.1. Interpreters for the deaf (Supreme Court Rule 2:507 derived in part from this section).

In any criminal case in which a deaf person is the accused, an interpreter for the deaf person shall be appointed. In any criminal case in which a deaf person is the victim or a witness, an interpreter for the deaf person shall be appointed by the court in which the case is to be heard unless the court finds that the deaf person does not require the services of a court-appointed interpreter and the deaf person waives his rights. Such interpreter shall be procured by the judge of the court in which the case is to be heard through the Department for the Deaf and Hard-of-Hearing.

The compensation of an interpreter appointed by the court pursuant to this section shall be fixed by the court and paid from the general fund of the state treasury as part of the expense of trial. Such fee shall not be assessed as part of the costs*; if the Department cannot procure such services, then the court may appoint a readily available interpreter with full certification from the Registry of Interpreters for the Deaf, Inc., or an equivalent national certification. Such court-appointed interpreter's qualifications are subject to review and approval by the Department for the Deaf and Hard-of-Hearing*.

Any person entitled to the services of an interpreter under this section may waive these services for all or a portion of the proceedings. Such a waiver shall be made by the person upon the record after an opportunity to consult with legal counsel. A judicial officer, utilizing an interpreter obtained in accordance with this section, shall explain to the deaf person the nature and effect of any waiver. Any waiver shall be approved in writing by the deaf person's legal counsel. If the person does not have legal counsel, approval shall be made in writing by a judicial officer. A person who waives his right to an interpreter may provide his own interpreter at his own expense without regard to whether the interpreter is qualified under this section.

The provisions of this section shall apply in both circuit courts and district courts.

Whenever a person communicates through an interpreter to any person under such circumstances that the communication would be privileged, and such person could not be compelled to testify as to the communications, this privilege shall also apply to the interpreter.

In any judicial proceeding, the judge on his own motion or on the motion of a party to the proceeding may order all of the testimony of a deaf person and the interpretation thereof to be visually electronically recorded for use in verification of the official transcript of the proceedings.

CHAPTER 417

An Act to amend and reenact § 32.1-127 of the Code of Virginia, relating to hospital emergency departments; required security and training; regulations.

[S 827]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-127 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-127. Regulations.

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the

Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities;

2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye bank community and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement organization in educating the staff responsible for contacting the organ procurement organization's personnel on donation issues, the proper review of death records to improve identification of potential donors, and the proper procedures for maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, and no donor card or other relevant document, such as an advance directive, can be found;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the other parent of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person

is not available within the period of time specified, co-signed by another physician or other person authorized to give the order;

12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

15. Shall require that each licensed hospital include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including, but not limited to, those related to the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. No family member of a resident or other resident representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of $1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations;

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician and (ii) a patient for whom there is a question regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal communication, either in person or via telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information employed by a poison control center that is accredited by the American Association of Poison Control Centers to review the results of the toxicology screen and determine whether a medical reason for refusing admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the referring physician;

21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision reached by the interdisciplinary medical review committee, which shall be included in the patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee meeting. Nothing in such policy shall prevent the

patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other remedies available at law, including seeking court review, provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days of the date on which the physician's determination that proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department ~~to establish protocols to ensure that security personnel of the emergency department, if any, receive training appropriate to the populations served by the emergency department, which may include training based on a trauma-informed approach in identifying and safely addressing situations involving patients or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis~~ *to establish a security plan. Such security plan shall be developed using standards established by the International Association for Healthcare Security and Safety or other industry standard and shall be based on the results of a security risk assessment of each emergency department location of the hospital and shall include the presence of at least one off-duty law-enforcement officer or trained security personnel who is present in the emergency department at all times as indicated to be necessary and appropriate by the security risk assessment. Such security plan shall be based on identified risks for the emergency department, including trauma level designation, overall volume, volume of psychiatric and forensic patients, incidents of violence against staff, and level of injuries sustained from such violence, and prevalence of crime in the community, in consultation with the emergency department medical director and nurse director. The security plan shall also outline training requirements for security personnel in the potential use of and response to weapons, defensive tactics, de-escalation techniques, appropriate physical restraint and seclusion techniques, crisis intervention, and trauma-informed approaches. Such training shall also include instruction on safely addressing situations involving patients, family members, or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis. Such training requirements may be satisfied through completion of the Department of Criminal Justice Services minimum training standards for auxiliary police officers as required by § 15.2-1731. The Commissioner shall provide a waiver from the requirement that at least one off-duty law-enforcement officer or trained security personnel be present at all times in the emergency department if the hospital demonstrates that a different level of security is necessary and appropriate for any of its emergency departments based upon findings in the security risk assessment*;

23. Shall require that each hospital establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized representative with written or electronic notice that the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan;

24. Shall establish an exemption from the requirement to obtain a license to add temporary beds in an existing hospital or nursing home, including beds located in a temporary structure or satellite location operated by the hospital or nursing home, provided that the ability remains to safely staff services across the existing hospital or nursing home, (i) for a period of no more than the duration of the Commissioner's determination plus 30 days when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds or (ii) for a period of no more than the duration of the emergency order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the Board, pursuant to § 32.1-13, or the Commissioner, pursuant to § 32.1-20, has entered an emergency order for the purpose of suppressing a nuisance dangerous to public health or a communicable, contagious, or infectious disease or other danger to the public life and health;

25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical therapy as a follow-up treatment and (ii) will be required to select a physical therapy provider prior to being discharged from the hospital;

26. Shall permit nursing home staff members who are authorized to possess, distribute, or administer medications to residents to store, dispense, or administer cannabis oil to a resident who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy;

27. Shall require each hospital with an emergency department to establish a protocol for the treatment and discharge of individuals experiencing a substance use-related emergency, which shall include provisions for (i) appropriate screening and assessment of individuals experiencing substance use-related emergencies to identify medical interventions necessary for the treatment of the individual in the emergency department and (ii) recommendations for follow-up care following discharge for any patient identified as having a substance use disorder, depression, or mental health disorder, as appropriate, which may include, for patients who have been treated for substance use-related emergencies, including opioid overdose, or other high-risk patients, (a) the dispensing of naloxone or other opioid antagonist used for overdose reversal pursuant to subsection X of § 54.1-3408 at discharge or (b) issuance of a prescription for and information about accessing naloxone or other opioid antagonist used for overdose reversal, including information about accessing naloxone or other opioid antagonist used for overdose reversal at a community pharmacy, including any outpatient pharmacy operated by the hospital, or through a community organization or pharmacy that may dispense naloxone or other opioid antagonist used for

overdose reversal without a prescription pursuant to a statewide standing order. Such protocols may also provide for referrals of individuals experiencing a substance use-related emergency to peer recovery specialists and community-based providers of behavioral health services, or to providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

28. During a public health emergency related to COVID-19, shall require each nursing home and certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with guidance from the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the conditions, including conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and community, under which in-person visits will be allowed and under which in-person visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be required to comply to protect the health and safety of the patients and staff of the nursing home or certified nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing home or certified nursing facility will take in the event of a technology failure, service interruption, or documented emergency that prevents visits from occurring as required by this subdivision. Such protocol shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided that such waiver or limitation is included in the patient's health record; and (c) a requirement that each nursing home and certified nursing facility publish on its website or communicate to each patient or the patient's authorized representative, in writing or via electronic means, the nursing home's or certified nursing facility's plan for providing visits to patients as required by this subdivision;

29. Shall require each hospital, nursing home, and certified nursing facility to establish and implement policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient, in accordance with such regulations, while receiving inpatient services. Such policies shall ensure protection of health information in accordance with the requirements of the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended. For the purposes of this subdivision, "intelligent personal assistant" means a combination of an electronic device and a specialized software application designed to assist users with basic tasks using a combination of natural language processing and artificial intelligence, including such combinations known as "digital assistants" or "virtual assistants";

30. During a declared public health emergency related to a communicable disease of public health threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for Medicare and Medicaid Services and subject to compliance with any executive order, order of public health, Department guidance, or any other applicable federal or state guidance having the effect of limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits to be conducted virtually using interactive audio or video technology. Any such protocol may require the person visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the hospital, nursing home, or certified nursing facility adopted to protect the health and safety of the person, patients, and staff of the hospital, nursing home, or certified nursing facility; and

31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients who are minors available to such patients through a secure website shall make such health records available to such patient's parent or guardian through such secure website, unless the hospital cannot make such health record available in a manner that prevents disclosure of information, the disclosure of which has been denied pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of § 54.1-2969 has not been provided.

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot that is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for the provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal.

2. That the promulgation of regulations pursuant to this act shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the State Board of Health shall provide an opportunity for public comment prior to adoption.

CHAPTER 418

An Act to amend the Code of Virginia by adding in Article 2 of Chapter 29 of Title 54.1 a section numbered 54.1-2928.3, relating to Board of Medicine; continuing education requirements; human trafficking.

[H 1426]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 29 of Title 54.1 a section numbered 54.1-2928.3 as follows:

§ 54.1-2928.3. Continuing learning activities.

Of the hours of continuing education required for biennial renewal of licensure, any licensee of the Board of Medicine may be required by the Board to complete up to two hours of Type 1 continuing learning activities or courses in a specific subject area. If the Board designates a subject area for continuing learning activities or courses, it shall publish such requirement no later than January 1 of the first year of the term of the license for which the specific learning activity or course is required.

2. That if the Board of Medicine designates a subject area for continuing learning activities or courses pursuant to this act, the first subject area shall be on the topic of human trafficking.

CHAPTER 419

An Act to amend the Code of Virginia by adding in Article 2 of Chapter 29 of Title 54.1 a section numbered 54.1-2928.3, relating to Board of Medicine; continuing education requirements; human trafficking.

[S 1147]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 29 of Title 54.1 a section numbered 54.1-2928.3 as follows:

§ 54.1-2928.3. Continuing learning activities.

Of the hours of continuing education required for biennial renewal of licensure, any licensee of the Board of Medicine may be required by the Board to complete up to two hours of Type 1 continuing learning activities or courses in a specific subject area. If the Board designates a subject area for continuing learning activities or courses, it shall publish such requirement no later than January 1 of the first year of the term of the license for which the specific learning activity or course is required.

2. That if the Board of Medicine designates a subject area for continuing learning activities or courses pursuant to this act, the first subject area shall be on the topic of human trafficking.

CHAPTER 420

An Act to amend and reenact § 2.2-3706 of the Code of Virginia, relating to Virginia Freedom of Information Act; disclosure of personnel records.

[H 1569]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3706 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3706. Disclosure of law-enforcement and criminal records; limitations.

A. Records required to be released. All public bodies engaged in criminal law-enforcement activities shall provide the following records when requested in accordance with the provisions of this chapter:

1. Adult arrestee photographs taken during the initial intake following the arrest and as part of the routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation;

2. Information relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest; and

3. Records of completed unattended death investigations to the parent or spouse of the decedent or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided the person is not a person of interest or a suspect. For the purposes of this subdivision, "unattended death" means a death determined to be a suicide, accidental or natural death where no criminal charges will be initiated, and "immediate family" means the decedent's personal representative or, if no personal representative has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.

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

1. Criminal investigative files, defined as any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence, relating to a criminal investigation or prosecution not required to be disclosed in accordance with § 2.2-3706.1;

2. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments of public institutions of higher education established pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1;

3. Records of local law-enforcement agencies relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such agencies under a promise of anonymity;

4. All records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment;

5. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public;

6. All records of adult persons under (i) investigation or supervision by a local pretrial services agency in accordance with Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2; (ii) investigation, probation supervision, or monitoring by a local community-based probation services agency in accordance with Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or supervision by state probation and parole services in accordance with Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1;

7. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties;

8. Those portions of any records containing information related to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective details. Nothing in this subdivision shall operate to allow the withholding of information concerning the overall costs or expenses associated with undercover operations or protective details;

9. Records of (i) background investigations of applicants for law-enforcement agency employment, (ii) administrative investigations relating to allegations of wrongdoing by employees of a law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement agencies that are made confidential by law;

10. The identity of any victim, witness, or undercover officer, or investigative techniques or procedures. However, the identity of any victim or witness shall be withheld if disclosure is prohibited or restricted under § 19.2-11.2; and

11. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including information obtained from state, local, and regional officials, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913.

C. Prohibited releases. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

D. Noncriminal records. Public bodies (i) engaged in emergency medical services, (ii) engaged in fire protection services, (iii) engaged in criminal law-enforcement activities, or (iv) engaged in processing calls for service or other communications to an emergency 911 system or any other equivalent reporting system may withhold those portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature where the release of such information would jeopardize the safety or privacy of any person. Access to personnel records of persons employed by *a public body engaged in emergency medical services or fire protection services,* a law-enforcement agency*, or an emergency 911 system or any other equivalent reporting system* shall be governed by the provisions of subdivision B 9 ~~of this section~~ and subdivision 1 of § 2.2-3705.1, as applicable.

E. Records of any call for service or other communication to an emergency 911 system or communicated with any other equivalent reporting system shall be subject to the provisions of this chapter.

F. Conflict resolution. In the event of conflict between this section as it relates to requests made under this section and other provisions of law, this section shall control.

CHAPTER 421

An Act directing the Department of Human Resource Management to update certain policies related to the alternative application process for the employment of persons with a disability; policy update.

[H 2153]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Human Resource Management shall update the policy related to the alternative application process for the employment of persons with a disability implemented pursuant to Chapter 218 of the Acts of Assembly of*

2021, Special Session I, to allow individuals currently employed with the Commonwealth of Virginia an equal opportunity to apply for and obtain a Certification of Disability.

CHAPTER 422

An Act to amend and reenact § 15.2-3201 of the Code of Virginia, relating to annexation; extension of current moratorium.

[H 1676]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-3201 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-3201. Temporary restrictions on granting of city charters, filing annexation notices, institutions of annexation proceedings, and county immunity proceedings.

Beginning January 1, 1987, and terminating on the first to occur of (i) July 1, ~~2024~~ *2032*, or (ii) the July 1 next following the expiration of any biennium, other than the 1998-2000, 2000-2002, 2002-2004, 2006-2008, 2008-2010, 2010-2012, 2012-2014, 2014-2016, 2016-2018, 2018-2020, 2020-2022, ~~and~~ 2022-2024*, 2024-2026, 2026-2028, 2028-2030, and 2030-2032* bienniums, during which the General Assembly appropriated for distribution to localities for aid in their law-enforcement expenditures pursuant to Article 8 (§ 9.1-165 et seq.) of Chapter 1 of Title 9.1 an amount that is less than the total amount required to be appropriated for such purpose pursuant to subsection A of § 9.1-169, no city shall file against any county an annexation notice with the Commission on Local Government pursuant to § 15.2-2907, and no city shall institute an annexation court action against any county under any provision of this chapter except a city that filed an annexation notice before the Commission on Local Government prior to January 1, 1987. During the same period, with the exception of a charter for a proposed consolidated city, no city charter shall be granted or come into force and no suit or notice shall be filed to secure a city charter. However, the foregoing shall not prohibit the institution of nor require the stay of an annexation proceeding or the filing of an annexation notice for the purpose of implementing an annexation agreement, the extent, terms and conditions of which have been agreed upon by a county and city; nor shall the foregoing prohibit the institution of or require the stay of an annexation proceeding by a city which, prior to January 1, 1987, commenced a proceeding before the Commission on Local Government to review a proposed voluntary settlement pursuant to § 15.2-3400; nor shall the foregoing prohibit the institution of or require the stay of any annexation proceeding commenced pursuant to § 15.2-2907 or 15.2-3203, except that no such proceeding may be commenced by a city against any county, nor shall any city be a petitioner in any annexation proceeding instituted pursuant to § 15.2-3203.

Beginning January 1, 1988, and terminating on the first to occur of (i) July 1, ~~2024~~ *2032*, or (ii) the July 1 next following the expiration of any biennium, other than the 1998-2000, 2000-2002, 2002-2004, 2006-2008, 2008-2010, 2010-2012, 2012-2014, 2014-2016, 2016-2018, 2018-2020, 2020-2022, ~~and~~ 2022-2024*, 2024-2026, 2026-2028, 2028-2030, and 2030-2032* bienniums, during which the General Assembly appropriated for distribution to localities for aid in their law-enforcement expenditures pursuant to Article 8 (§ 9.1-165 et seq.) of Chapter 1 of Title 9.1 an amount that is less than the total amount required to be appropriated for such purpose pursuant to subsection A of § 9.1-169, no county shall file a notice or petition pursuant to the provisions of Chapter 29 (§ 15.2-2900 et seq.) or Chapter 33 (§ 15.2-3300 et seq.) requesting total or partial immunity from city-initiated annexation and from the incorporation of new cities within its boundaries. However, the foregoing shall not prohibit the institution of nor require the stay of an immunity proceeding or the filing of an immunity notice for the purpose of implementing an immunity agreement, the extent, terms and conditions of which have been agreed upon by a county and city.

CHAPTER 423

An Act to amend and reenact § 15.2-3201 of the Code of Virginia, relating to annexation; extension of current moratorium.

[S 1185]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-3201 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-3201. Temporary restrictions on granting of city charters, filing annexation notices, institutions of annexation proceedings, and county immunity proceedings.

Beginning January 1, 1987, and terminating on the first to occur of (i) July 1, ~~2024~~ *2032*, or (ii) the July 1 next following the expiration of any biennium, other than the 1998-2000, 2000-2002, 2002-2004, 2006-2008, 2008-2010, 2010-2012, 2012-2014, 2014-2016, 2016-2018, 2018-2020, 2020-2022, ~~and~~ 2022-2024*, 2024-2026, 2026-2028, 2028-2030, and 2030-2032* bienniums, during which the General Assembly appropriated for distribution to localities for aid in their law-enforcement expenditures pursuant to Article 8 (§ 9.1-165 et seq.) of Chapter 1 of Title 9.1 an amount that is less than the total amount required to be appropriated for such purpose pursuant to subsection A of § 9.1-169, no city shall file against any county an annexation notice with the Commission on Local Government pursuant to § 15.2-2907, and no city shall institute an annexation court action against any county under any provision of this chapter except a city that filed

an annexation notice before the Commission on Local Government prior to January 1, 1987. During the same period, with the exception of a charter for a proposed consolidated city, no city charter shall be granted or come into force and no suit or notice shall be filed to secure a city charter. However, the foregoing shall not prohibit the institution of nor require the stay of an annexation proceeding or the filing of an annexation notice for the purpose of implementing an annexation agreement, the extent, terms and conditions of which have been agreed upon by a county and city; nor shall the foregoing prohibit the institution of or require the stay of an annexation proceeding by a city which, prior to January 1, 1987, commenced a proceeding before the Commission on Local Government to review a proposed voluntary settlement pursuant to § 15.2-3400; nor shall the foregoing prohibit the institution of or require the stay of any annexation proceeding commenced pursuant to § 15.2-2907 or 15.2-3203, except that no such proceeding may be commenced by a city against any county, nor shall any city be a petitioner in any annexation proceeding instituted pursuant to § 15.2-3203.

Beginning January 1, 1988, and terminating on the first to occur of (i) July 1, ~~2024~~ *2032*, or (ii) the July 1 next following the expiration of any biennium, other than the 1998-2000, 2000-2002, 2002-2004, 2006-2008, 2008-2010, 2010-2012, 2012-2014, 2014-2016, 2016-2018, 2018-2020, 2020-2022, ~~and~~ 2022-2024*, 2024-2026, 2026-2028, 2028-2030, and 2030-2032* bienniums, during which the General Assembly appropriated for distribution to localities for aid in their law-enforcement expenditures pursuant to Article 8 (§ 9.1-165 et seq.) of Chapter 1 of Title 9.1 an amount that is less than the total amount required to be appropriated for such purpose pursuant to subsection A of § 9.1-169, no county shall file a notice or petition pursuant to the provisions of Chapter 29 (§ 15.2-2900 et seq.) or Chapter 33 (§ 15.2-3300 et seq.) requesting total or partial immunity from city-initiated annexation and from the incorporation of new cities within its boundaries. However, the foregoing shall not prohibit the institution of nor require the stay of an immunity proceeding or the filing of an immunity notice for the purpose of implementing an immunity agreement, the extent, terms and conditions of which have been agreed upon by a county and city.

CHAPTER 424

An Act to amend and reenact § 15.2-2223 of the Code of Virginia, relating to comprehensive plan; freight corridors.

[H 1674]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2223 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2223. Comprehensive plan to be prepared and adopted; scope and purpose.

A. The local planning commission shall prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction and every governing body shall adopt a comprehensive plan for the territory under its jurisdiction.

In the preparation of a comprehensive plan, the commission shall make careful and comprehensive surveys and studies of the existing conditions and trends of growth, and of the probable future requirements of its territory and inhabitants. The comprehensive plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities.

The comprehensive plan shall be general in nature, in that it shall designate the general or approximate location, character, and extent of each feature, including any road improvement and any transportation improvement, shown on the plan and shall indicate where existing lands or facilities are proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use as the case may be.

B. 1. As part of the comprehensive plan, each locality shall develop a transportation plan that designates a system of transportation infrastructure needs and recommendations that include the designation of new and expanded transportation facilities and that support the planned development of the territory covered by the plan and shall include, as appropriate, but not be limited to, roadways, bicycle accommodations, pedestrian accommodations, railways, bridges, waterways, airports, ports, *freight corridors,* and public transportation facilities. The plan shall recognize and differentiate among a hierarchy of roads such as expressways, arterials, and collectors. In developing the plan, the locality shall take into consideration how to align transportation infrastructure and facilities with affordable, accessible housing and community services that are located within the territory in order to facilitate community integration of the elderly and persons with disabilities. The Virginia Department of Transportation shall, upon request, provide localities with technical assistance in preparing such transportation plan.

2. The transportation plan shall include a map that shall show road and transportation improvements, including the cost estimates of such road and transportation improvements from the Virginia Department of Transportation, taking into account the current and future needs of residents in the locality while considering the current and future needs of the planning district within which the locality is situated.

3. The transportation plan, and any amendment thereto pursuant to § 15.2-2229, shall be consistent with the Commonwealth Transportation Board's Statewide Transportation Plan developed pursuant to § 33.2-353, the Six-Year Improvement Program adopted pursuant to subsection B of § 33.2-214, and the location of routes to be followed by roads

comprising systems of state highways pursuant to subsection A of § 33.2-208. The locality shall consult with the Virginia Department of Transportation to assure such consistency is achieved. The transportation plan need reflect only those changes in the annual update of the Six-Year Improvement Program that are deemed to be significant new, expanded, or relocated roadways.

4. Prior to the adoption of the transportation plan or any amendment to the transportation plan, the locality shall submit such plan or amendment to the Department for review and comment. The Department shall conduct its review and provide written comments to the locality on the consistency of the transportation plan or any amendment to the provisions of subdivision 1. The Department shall provide such written comments to the locality within 90 days of receipt of the plan or amendment, or such other shorter period of time as may be otherwise agreed upon by the Department and the locality.

5. The locality shall submit a copy of the adopted transportation plan or any amendment to the transportation plan to the Department for informational purposes. If the Department determines that the transportation plan or amendment is not consistent with the provisions of subdivision 1, the Department shall notify the Commonwealth Transportation Board so that the Board may take appropriate action in accordance with subsection F of § 33.2-214.

6. If the adopted transportation plan designates corridors planned to be served by mass transit, as defined in § 33.2-100, a portion of its allocation from (i) the Northern Virginia Transportation Authority distribution specified in subdivision B 1 of § 33.2-2510, (ii) the commercial and industrial real property tax revenue specified in § 58.1-3221.3, and (iii) the secondary system road construction program, as described in Article 5 (§ 33.2-351 et seq.) of Chapter 3 of Title 33.2, may be used for the purpose of utility undergrounding in the planned corridor, if the locality matches 100 percent of the state allocation.

7. Each locality's amendments or updates to its transportation plan as required by subdivisions 2 through 5 shall be made on or before its ongoing scheduled date for updating its transportation plan.

C. The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the locality's long-range recommendations for the general development of the territory covered by the plan. It may include, but need not be limited to:

1. The designation of areas for various types of public and private development and use, such as different kinds of residential, including age-restricted, housing; business; industrial; agricultural; mineral resources; conservation; active and passive recreation; public service; flood plain and drainage; and other areas;

2. The designation of a system of community service facilities such as parks, sports playing fields, forests, schools, playgrounds, public buildings and institutions, hospitals, nursing homes, assisted living facilities, community centers, waterworks, sewage disposal or waste disposal areas, and the like;

3. The designation of historical areas and areas for urban renewal or other treatment;

4. The designation of areas for the implementation of reasonable measures to provide for the continued availability, quality, and sustainability of groundwater and surface water;

5. A capital improvements program, a subdivision ordinance, a zoning ordinance and zoning district maps, mineral resource district maps and agricultural and forestal district maps, where applicable;

6. The location of existing or proposed recycling centers;

7. The location of military bases, military installations, and military airports and their adjacent safety areas; and

8. The designation of corridors or routes for electric transmission lines of 150 kilovolts or more.

D. The comprehensive plan shall include the designation of areas and implementation of measures for the construction, rehabilitation and maintenance of affordable housing, which is sufficient to meet the current and future needs of residents of all levels of income in the locality while considering the current and future needs of the planning district within which the locality is situated.

E. The comprehensive plan shall consider strategies to provide broadband infrastructure that is sufficient to meet the current and future needs of residents and businesses in the locality. To this end, local planning commissions may consult with and receive technical assistance from the Center for Innovative Technology, among other resources.

CHAPTER 425

An Act to direct the Joint Commission on Technology and Science to consider the practice of unwanted telephone solicitation calls and telephone solicitation calls via text message.

[H 1504]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The Joint Commission on Technology and Science shall consider the practice of unwanted telephone solicitation calls and telephone solicitation calls via text message and develop recommendations related to requiring a telephone solicitor to permit any person to opt out of receiving such telephone solicitation calls or text messages. The Joint Commission on Technology and Science shall submit a report on the findings and recommendations of such study to the Chairs of the House Committee on Commerce and Energy and the Senate Committee on Commerce and Labor no later than November 1, 2023.*

CHAPTER 426

An Act to amend and reenact § 65.2-802 of the Code of Virginia, relating to workers' compensation; group self-insurance associations.

[H 2418]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-802 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-802. Requirements for licensure as group self-insurance association; annual assessment.

A. Two or more employers having a common interest may be licensed by the State Corporation Commission as a group self-insurance association and permitted to enter into agreements to pool their liabilities under this title. The members of any such group self-insurance association may also enter into agreements to pool their liabilities for workers' compensation benefits which may arise under the laws of any other jurisdiction and other types of employers' liabilities for the death or disablement of, or injury to, their employees. Benefits payable by any such association for such members' liabilities under the laws of any other jurisdiction shall extend only to employees otherwise eligible for coverage under the provisions of this title.

B. The State Corporation Commission shall not license a group self-insurance association or grant authorization for an employer to become a member of such group unless it receives in such form as it requires satisfactory proof of the solvency of any such employer, the financial ability of each to meet his obligations as a member, and the ability of the group to pay or cause to be paid the compensation in the amount and manner and when due as provided for in this title and as may be agreed upon with respect to other types of employers' liabilities which may be authorized and provided hereunder.

C. Members of a group shall execute a written agreement under which each agrees to jointly and severally assume and discharge any liability under this title of employers party to such agreement. Agreements among the members shall be subject to approval by the State Corporation Commission; however, no such agreement nor membership in a group self-insurance association shall relieve an employer of the liabilities imposed by this title with respect to his employees. In addition to the rights of the association under such agreements, in the event of failure of the association to enforce such rights after reasonable notice to the association, the State Corporation Commission shall have the right independently to enforce on behalf of the association the joint and several liability of its members under this title and the liability of members for any unpaid contributions and assessments. The State Corporation Commission shall be entitled to recover its expenses and attorneys' fees.

D. Any person, firm, or corporation desiring to engage in the business of providing services for a group self-insurance association shall satisfy the State Corporation Commission of its ability to perform the services necessary to fulfill the employer's obligations under this title before it undertakes to provide such services to any group self-insurance association. The State Corporation Commission may from time to time review and alter any decision approving an employer as a member of a group or its approval of a group or of an agency servicing a group. The State Corporation Commission may in its discretion require the deposit of an acceptable security, indemnity, or bond or the purchase of such excess insurance or the ceding of reinsurance on a specific or aggregate excess of loss basis as may be required by the circumstances.

E. The State Corporation Commission may establish reasonable requirements and standards for the approval of a group self-insurance association and the administration of such associations including, without limitation, the quality, amount and accounting of security deposits, bonds, excess insurance and reinsurance, the membership in any group self-insurance association, the amount of advance payments and reserves required of group self-insurance associations, the investment of such funds, the form and content of financial information to be submitted by a group self-insurance association and the frequency of such submissions, and the terms of agreements between members of a group self-insurance association. The State Corporation Commission may, after notice and hearing, embody such requirements and standards and such other requirements as may be reasonably necessary for the purposes of this section in regulations; however, any group self-insurance association entering into a reinsurance transaction pursuant to the provisions of this section shall be deemed an insurer for purposes of such transaction and shall be subject to Article 3.1 (§ 38.2-1316.1 et seq.) of Chapter 13 of Title 38.2.

F. Notwithstanding any provision of this title to the contrary, each licensed group self-insurance association shall be assessed annually by the State Corporation Commission in like manner and amount to that provided by Chapter 4 (§ 38.2-400 et seq.) of Title 38.2 and shall pay such assessment in accordance with the aforesaid provisions of law; however, for the purposes of such assessment "direct gross premium income" of a licensed group self-insurance association shall be the aggregate of the amounts determined to be subject to the tax imposed by § 65.2-1006 on each employer member of such association.

G. Notwithstanding the provisions of § 49-25, neither the State Corporation Commission nor any other entity or person, as obligee under any surety bond required under this section or any regulation adopted hereunder, shall be required to institute suit against an association as a condition precedent to the surety's performance under the bond.

H. Subject to approval of the State Corporation Commission, and with such conditions as the State Corporation Commission may require, two or more group self-insurance associations formed pursuant to this section may merge if the resulting group self-insurance association assumes in full all obligations of the merged group self-insurance associations originally licensed pursuant to this section.

CHAPTER 427

An Act to amend the Code of Virginia by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-977.1, relating to local incentives for urban green space.

[H 1510]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-977.1 as follows:

§ 15.2-977.1. Local incentives for urban green space.

A. For purposes of this section, "urban green space" means urban land, partly or completely covered with grass, trees, shrubs, or other vegetation, that is located in a densely populated area that has a high concentration of residential or commercial structures. "Urban green space" includes street trees, city parks, sports fields, gardens, and greenways. To qualify as urban green space, the use of such land must make a substantive impact on the reduction of the urban heat effect, the offsetting of greenhouse gas emissions, or the mitigation of stormwater. Rural areas and areas of low population density or development shall not be considered urban green space.

B. Any county, city, or town may, by ordinance, establish a program to provide regulatory flexibility to encourage the preservation, restoration, or development of urban green space in the locality. Any such regulatory flexibility provided shall be proportionate to the amount of urban green space that a business or development contains.

C. The regulatory flexibility may include (i) a reduction in permit fees or (ii) a streamlined process for the approval of permits.

CHAPTER 428

An Act to amend and reenact §§ 22.1-346.2 and 23.1-818 of the Code of Virginia, relating to Board of Visitors of the Virginia School for the Deaf and the Blind; authority to establish campus security department.

[S 826]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-346.2 and 23.1-818 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-346.2. Board of Visitors of the Virginia School for the Deaf and the Blind established.

A. There is hereby established the Board of Visitors of the Virginia School for the Deaf and the Blind (Board of Visitors), as a policy agency in the executive branch of state government under the name of the "Virginia School for the Deaf and the Blind," for the purpose of governing the educational programs and services to deaf, blind, and multi-disabled students enrolled at the Virginia School for the Deaf and the Blind.

B. The Board of Visitors shall have a total membership of 11 members that shall consist of four legislative members and seven nonlegislative citizen members. Members shall be appointed as follows: two members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate, to be appointed by the Senate Committee on Rules; and seven nonlegislative citizen members, of whom one shall be a parent of a child who is deaf or blind representing the Eastern region of the Commonwealth, one shall be a parent of a child who is deaf or blind representing the Western region of the Commonwealth, and one shall be a representative of the Virginia School for the Deaf and the Blind Alumni Association, to be appointed by the Governor, subject to confirmation by the General Assembly. Nonlegislative citizen members of the Board of Visitors shall be citizens of the Commonwealth. Legislative members of the Board of Visitors shall serve terms coincident with their terms of office. After the initial staggering of terms, nonlegislative members appointed shall serve for four-year terms. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. However, no House member shall serve more than four consecutive two-year terms, no Senate member shall serve more than two consecutive four-year terms, and no nonlegislative member appointed by the Governor shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

The Board of Visitors shall elect a chairman and vice-chairman from among its membership. The Board of Visitors shall elect a secretary, who shall keep an accurate record of the proceedings of the Board of Visitors and of the executive committee if one is created by the Board of Visitors, and such other officers as the Board deems appropriate. A majority of the members shall constitute a quorum. The Board of Visitors shall meet no more than four times each year. The meetings of the Board of Visitors shall be held at the call of the chairman or whenever the majority of the members so request.

C. Legislative members of the Board of Visitors shall receive such compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their

duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members shall be provided from such funds as may be appropriated to the Board of Visitors, in accordance with the appropriations act.

D. The Superintendent shall designate a member of the staff of the Department to serve as a consultant to the Board of Visitors on matters pertaining to instruction, federal and state special education requirements, and school accreditation, and to provide technical assistance to assist the Board of Visitors in meeting specific instructional and school accreditation needs.

E. The Board of Visitors shall have the following powers and duties:

1. Establish such rules, policies, and regulations for the governance of the Virginia School for the Deaf and the Blind.

2. Prescribe the criteria and procedures governing admissions to the school, and the review of student placement, to ensure the appropriateness of the placement and instructional program of each student admitted to the school, pursuant to § 22.1-348 and in accordance with federal and state special education laws and regulations.

3. Establish a policy governing the transportation of students at the school to permit frequent home visits by students, and to provide to each student transportation to and from the school and the place of residence of such student's parent or guardian whenever the school is officially closed.

4. Prescribe and approve the education programs of the Virginia School for the Deaf and the Blind, in consultation with the Department, the Department for the Deaf and Hard-of-Hearing, and the Department for the Blind and Vision Impaired.

5. Appoint the superintendent, other officers, and the faculty of the school. The superintendent shall be appointed every two years and the other officers and faculty annually. However, the superintendent, with the approval of the chairman of the Board of Visitors, shall be authorized to fill vacancies in positions appointed by the Board of Visitors occurring between meetings of the Board of Visitors. The Board of Visitors may remove at any time the superintendent, other officers, faculty, and employees for cause, subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2.

6. Establish the qualifications, duties, and compensation of the superintendent, other officers, faculty, and employees of the school.

7. Prepare and submit to the Governor and the General Assembly an annual report detailing the curricula and other educational programs and services of the school, including receipts and disbursements pertaining to the operation of the school for each fiscal year ending on June 30.

F. The Board of Visitors is hereby authorized to establish and maintain a campus security department and to employ campus security personnel therein.

§ 23.1-818. Security departments and other security services.

Nothing in this article shall abridge the authority of the governing board of a public institution of higher education or private institution of higher education to establish security departments, whose officers and employees shall not have the powers and duties set forth in § 23.1-815, in place of or in addition to campus police departments, rely upon local or state police forces, or contract for security services from private parties. *Nothing in this article shall abridge the authority of the Board of Visitors of the Virginia School for the Deaf and the Blind to establish and maintain a campus security department and to employ campus security personnel therein in accordance with the provisions of subsection F of § 22.1-346.2.*

CHAPTER 429

An Act to amend the Code of Virginia by adding a section numbered 22.1-290.3, relating to school boards; Teacher Reengagement Program established.

[H 1762]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-290.3 as follows:

§ 22.1-290.3. Teacher Reengagement Program.

A. There is hereby established the Teacher Reengagement Program (the Program) for the purpose of addressing instructional personnel shortages and COVID-19 pandemic-related student learning loss.

B. Any school board may hire an individual pursuant to the Program, subject to the following conditions and limitations:

1. The individual works on a part-time basis;

2. The individual is compensated with part-time pay; with any health, dental, and vision insurance coverage that is available to full-time school board employees; or with some combination of such pay and coverage;

3. In the case of an individual who holds a renewable or provisional teaching license issued by the Board, the individual's duties consist of teaching students, providing one-on-one tutoring services to students, or mentoring teachers, or some combination thereof;

4. In the case of an individual who does not hold a renewable or provisional teaching license issued by the Board, the individual has professional experience or expertise in a certain subject matter area and the individual's duties consist of providing one-on-one tutoring services to students in such subject matter area; and

5. The individual complies with all laws, regulations, and school board policies and procedures applicable to part-time school board employees.

C. Any school board that hires any part-time employee pursuant to the Program shall annually report to the Department such data on the implementation of the Program that the Department deems necessary to evaluate its continued effectiveness at addressing instructional personnel shortages and student learning loss.

2. That the provisions of the first enactment of this act shall expire on July 1, 2028.

3. That the Department of Education shall submit to the General Assembly no later than October 1, 2027, its recommendation for preserving, extending, or eliminating the sunset clause in the second enactment of this act.

CHAPTER 430

An Act to dissolve the Smyth-Washington Regional Industrial Facilities Authority.

[H 2403]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the board of directors of the Smyth-Washington Regional Industrial Facilities Authority, having determined that the purposes for which it was created have been substantially fulfilled, that satisfactory arrangements have been made for the timely payment of all outstanding financial obligations, and that all other requirements set out in § 15.2-6415 of the Code of Virginia for the dissolution of regional industrial facilities authorities have been fulfilled, and having adopted a resolution declaring and finding that the Smyth-Washington Industrial Facilities Authority shall be dissolved and delivered such resolution to the Governor, requests that the Smyth-Washington Regional Industrial Facilities Authority be dissolved.*

CHAPTER 431

An Act to dissolve the Smyth-Washington Regional Industrial Facilities Authority.

[S 1535]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the board of directors of the Smyth-Washington Regional Industrial Facilities Authority, having determined that the purposes for which it was created have been substantially fulfilled, that satisfactory arrangements have been made for the timely payment of all outstanding financial obligations, and that all other requirements set out in § 15.2-6415 of the Code of Virginia for the dissolution of regional industrial facilities authorities have been fulfilled, and having adopted a resolution declaring and finding that the Smyth-Washington Industrial Facilities Authority shall be dissolved and delivered such resolution to the Governor, requests that the Smyth-Washington Regional Industrial Facilities Authority be dissolved.*

CHAPTER 432

An Act to amend the Code of Virginia by adding a section numbered 55.1-1209.1, relating to the Virginia Residential Landlord and Tenant Act; employees of the landlord; rental dwelling unit keys and electronic key codes.

[H 2082]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 55.1-1209.1 as follows:

§ 55.1-1209.1. Employees of the landlord; rental dwelling unit keys and electronic key codes; policies and procedures.

A. As used in this section, "key" means any physical or electronic mechanism used to gain access to a rental dwelling unit.

B. Any landlord who owns more than 200 rental dwelling units that are attached to the same piece of real property in the Commonwealth shall establish:

1. A policy requiring any applicant for employment in any position that will have access to keys for each rental dwelling unit to be subject to a pre-employment criminal history records check; and

2. Written policies and procedures regarding the (i) storage, issuance and return, and security of; (ii) access to; and (iii) if applicable, usage and deactivation of rental dwelling unit keys and electronic key codes.

C. The provisions of this section shall not apply to (i) a financial institution, as defined in § 6.2-100, or (ii) any person who is a real estate licensee pursuant to Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1.

CHAPTER 433

An Act to amend and reenact § 55.1-1226 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; security deposits.

[H 1542]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-1226 of the Code of Virginia is amended and reenacted as follows:

§ 55.1-1226. Security deposits.

A. No landlord may demand or receive a security deposit, however denominated, in an amount or value in excess of two months' periodic rent. Upon termination of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last, such security deposit, whether it is property or money held by the landlord as security as provided in this section, may be applied by the landlord solely to (i) the payment of accrued rent, including the reasonable charges for late payment of rent specified in the rental agreement; (ii) the payment of the amount of damages that the landlord has suffered by reason of the tenant's noncompliance with § 55.1-1227, less reasonable wear and tear; (iii) other damages or charges as provided in the rental agreement; or (iv) actual damages for breach of the rental agreement pursuant to § 55.1-1251. The security deposit and any deductions, damages, and charges shall be itemized by the landlord in a written notice given to the tenant, together with any amount due to the tenant, within 45 days after the termination date of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last. As of the date of the termination of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last, the tenant shall be required to deliver possession of the dwelling unit to the landlord. If the termination date is prior to the expiration of the rental agreement or any renewal thereof, or the tenant has not given proper notice of termination of the rental agreement, the tenant shall be liable for actual damages pursuant to § 55.1-1251, in which case, the landlord shall give written notice of security deposit disposition within the 45-day period but may retain any security balance to apply against any financial obligations of the tenant to the landlord pursuant to this chapter or the rental agreement. If the tenant fails to vacate the dwelling unit as of the termination of the tenancy, the landlord may file an unlawful detainer action pursuant to § 8.01-126.

B. Where there is more than one tenant subject to a rental agreement, unless otherwise agreed to in writing by each of the tenants, disposition of the security deposit shall be made with one check being payable to all such tenants and sent to a forwarding address provided by one of the tenants. The landlord shall make the security deposit disposition within the 45-day time period required by subsection A, but if no forwarding address is provided to the landlord, the landlord may continue to hold such security deposit in escrow. If a tenant fails to provide a forwarding address to the landlord to enable the landlord to make a refund of the security deposit, upon the expiration of one year from the date of the end of the 45-day time period, the landlord may remit such sum to the State Treasurer as unclaimed property on a form prescribed by the administrator that includes the name; social security number, if known; and last known address of each tenant on the rental agreement. If the landlord or managing agent is a real estate licensee, compliance with this subsection shall be deemed compliance with § 54.1-2108 and corresponding regulations of the Real Estate Board.

C. Nothing in this section shall be construed by a court of law or otherwise as entitling the tenant, upon the termination of the tenancy, to an immediate credit against the tenant's delinquent rent account in the amount of the security deposit. The landlord shall apply the security deposit in accordance with this section within the 45-day time period required by subsection A. However, provided that the landlord has given prior written notice in accordance with this section, the landlord may withhold a reasonable portion of the security deposit to cover an amount of the balance due on the water, sewer, or other utility account that is an obligation of the tenant to a third-party provider under the rental agreement for the dwelling unit, and upon payment of such obligations the landlord shall provide written confirmation to the tenant within 10 days, along with payment to the tenant of any balance otherwise due to the tenant. In order to withhold such funds as part of the disposition of the security deposit, the landlord shall have so advised the tenant of his rights and obligations under this section in (i) a termination notice to the tenant in accordance with this chapter, (ii) a written notice to the tenant confirming the vacating date in accordance with this section, or (iii) a separate written notice to the tenant at least 15 days prior to the disposition of the security deposit. Any written notice to the tenant shall be given in accordance with § 55.1-1202.

The tenant may provide the landlord with written confirmation of the payment of the final water, sewer, or other utility bill for the dwelling unit, in which case the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period required by subsection A. If the tenant provides such written confirmation after the expiration of the 45-day period, the landlord shall refund any remaining balance of the security deposit held to the tenant within 10 days following the receipt of such written confirmation provided by the tenant. If the landlord otherwise receives confirmation of payment of the final water, sewer, or other utility bill for the dwelling unit, the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period.

D. Nothing in this section shall be construed to prohibit the landlord from making the disposition of the security deposit prior to the 45-day period required by subsection A and charging an administrative fee to the tenant for such expedited processing, if the rental agreement so provides and the tenant requests expedited processing in a separate written document.

E. The landlord shall notify the tenant in writing of any deductions provided by this section to be made from the tenant's security deposit during the course of the tenancy. Such notification shall be made within 30 days of the date of the determination of the deduction and shall itemize the reasons in the same manner as provided in subsection F. No such notification shall be required for deductions made less than 30 days prior to the termination of the rental agreement. If the landlord willfully fails to comply with this section, the court shall order the return of the security deposit to the tenant, together with actual damages and reasonable attorney fees, unless the tenant owes rent to the landlord, in which case the court shall order an amount equal to the security deposit credited against the rent due to the landlord. In the event that damages to the premises exceed the amount of the security deposit and require the services of a third-party contractor, the landlord shall give written notice to the tenant advising him of that fact within the 45-day period required by subsection A. If notice is given as prescribed in this subsection, the landlord shall have an additional ~~15-day~~ *30-day* period to provide an itemization of the damages and the cost of repair. This section shall not preclude the landlord or tenant from recovering other damages to which he may be entitled under this chapter. The holder of the landlord's interest in the premises at the time of the termination of the tenancy, regardless of how the interest is acquired or transferred, is bound by this section and shall be required to return any security deposit received by the original landlord that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, regardless of any contractual agreements between the original landlord and his successors in interest.

F. The landlord shall:

1. Maintain and itemize records for each tenant of all deductions from security deposits provided for under this section that the landlord has made by reason of a tenant's noncompliance with § 55.1-1227, or for any other reason set out in this section, during the preceding two years; and

2. Permit a tenant or his authorized agent or attorney to inspect such tenant's records of deductions at any time during normal business hours.

G. Upon request by the landlord to a tenant to vacate, or within five days after receipt of notice by the landlord of the tenant's intent to vacate, the landlord shall provide written notice to the tenant of the tenant's right to be present at the landlord's inspection of the dwelling unit for the purpose of determining the amount of security deposit to be returned. If the tenant desires to be present when the landlord makes the inspection, he shall, in writing, so advise the landlord, who in turn shall notify the tenant of the date and time of the inspection, which must be made within 72 hours of delivery of possession. Following the move-out inspection, the landlord shall provide the tenant with a written security deposit disposition statement, including an itemized list of damages. If additional damages are discovered by the landlord after the security deposit disposition has been made, nothing in this section shall be construed to preclude the landlord from recovery of such damages against the tenant, provided, however, that the tenant may present into evidence a copy of the move-out report to support the tenant's position that such additional damages did not exist at the time of the move-out inspection.

H. If the tenant has any assignee or sublessee, the landlord shall be entitled to hold a security deposit from only one party in compliance with the provisions of this section.

I. The landlord may permit a tenant to provide damage insurance coverage in lieu of the payment of a security deposit. Such damage insurance in lieu of a security deposit shall conform to the following criteria:

1. The provider of damage insurance is licensed or approved by the Virginia State Corporation Commission;

2. The coverage is effective upon the payment of the first premium and remains effective for the entire lease term;

3. The coverage provided per claim is no less than the amount the landlord requires for security deposits;

4. The provider of damage insurance agrees to approve or deny payment of a claim; and

5. The provider of damage insurance shall notify the landlord within 10 days if the damage policy lapses or is canceled.

J. A tenant who initially opts to provide damage insurance in lieu of a security deposit may, at any time without consent of the landlord, opt to pay the full security deposit to the landlord in lieu of maintaining a damage insurance policy. The landlord shall not alter the terms of the lease in the event a tenant opts to pay the full amount of the security deposit pursuant to this subsection.

2. That the provisions of this act shall expire on June 30, 2024.

CHAPTER 434

An Act to amend and reenact § 55.1-1226 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; security deposits.

[S 891]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-1226 of the Code of Virginia is amended and reenacted as follows:

§ 55.1-1226. Security deposits.

A. No landlord may demand or receive a security deposit, however denominated, in an amount or value in excess of two months' periodic rent. Upon termination of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last, such security deposit, whether it is property or money held by the landlord as security as provided in this section, may be applied by the landlord solely to (i) the payment of accrued rent, including the reasonable charges for late

payment of rent specified in the rental agreement; (ii) the payment of the amount of damages that the landlord has suffered by reason of the tenant's noncompliance with § 55.1-1227, less reasonable wear and tear; (iii) other damages or charges as provided in the rental agreement; or (iv) actual damages for breach of the rental agreement pursuant to § 55.1-1251. The security deposit and any deductions, damages, and charges shall be itemized by the landlord in a written notice given to the tenant, together with any amount due to the tenant, within 45 days after the termination date of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last. As of the date of the termination of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last, the tenant shall be required to deliver possession of the dwelling unit to the landlord. If the termination date is prior to the expiration of the rental agreement or any renewal thereof, or the tenant has not given proper notice of termination of the rental agreement, the tenant shall be liable for actual damages pursuant to § 55.1-1251, in which case, the landlord shall give written notice of security deposit disposition within the 45-day period but may retain any security balance to apply against any financial obligations of the tenant to the landlord pursuant to this chapter or the rental agreement. If the tenant fails to vacate the dwelling unit as of the termination of the tenancy, the landlord may file an unlawful detainer action pursuant to § 8.01-126.

B. Where there is more than one tenant subject to a rental agreement, unless otherwise agreed to in writing by each of the tenants, disposition of the security deposit shall be made with one check being payable to all such tenants and sent to a forwarding address provided by one of the tenants. The landlord shall make the security deposit disposition within the 45-day time period required by subsection A, but if no forwarding address is provided to the landlord, the landlord may continue to hold such security deposit in escrow. If a tenant fails to provide a forwarding address to the landlord to enable the landlord to make a refund of the security deposit, upon the expiration of one year from the date of the end of the 45-day time period, the landlord may remit such sum to the State Treasurer as unclaimed property on a form prescribed by the administrator that includes the name; social security number, if known; and last known address of each tenant on the rental agreement. If the landlord or managing agent is a real estate licensee, compliance with this subsection shall be deemed compliance with § 54.1-2108 and corresponding regulations of the Real Estate Board.

C. Nothing in this section shall be construed by a court of law or otherwise as entitling the tenant, upon the termination of the tenancy, to an immediate credit against the tenant's delinquent rent account in the amount of the security deposit. The landlord shall apply the security deposit in accordance with this section within the 45-day time period required by subsection A. However, provided that the landlord has given prior written notice in accordance with this section, the landlord may withhold a reasonable portion of the security deposit to cover an amount of the balance due on the water, sewer, or other utility account that is an obligation of the tenant to a third-party provider under the rental agreement for the dwelling unit, and upon payment of such obligations the landlord shall provide written confirmation to the tenant within 10 days, along with payment to the tenant of any balance otherwise due to the tenant. In order to withhold such funds as part of the disposition of the security deposit, the landlord shall have so advised the tenant of his rights and obligations under this section in (i) a termination notice to the tenant in accordance with this chapter, (ii) a written notice to the tenant confirming the vacating date in accordance with this section, or (iii) a separate written notice to the tenant at least 15 days prior to the disposition of the security deposit. Any written notice to the tenant shall be given in accordance with § 55.1-1202.

The tenant may provide the landlord with written confirmation of the payment of the final water, sewer, or other utility bill for the dwelling unit, in which case the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period required by subsection A. If the tenant provides such written confirmation after the expiration of the 45-day period, the landlord shall refund any remaining balance of the security deposit held to the tenant within 10 days following the receipt of such written confirmation provided by the tenant. If the landlord otherwise receives confirmation of payment of the final water, sewer, or other utility bill for the dwelling unit, the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period.

D. Nothing in this section shall be construed to prohibit the landlord from making the disposition of the security deposit prior to the 45-day period required by subsection A and charging an administrative fee to the tenant for such expedited processing, if the rental agreement so provides and the tenant requests expedited processing in a separate written document.

E. The landlord shall notify the tenant in writing of any deductions provided by this section to be made from the tenant's security deposit during the course of the tenancy. Such notification shall be made within 30 days of the date of the determination of the deduction and shall itemize the reasons in the same manner as provided in subsection F. No such notification shall be required for deductions made less than 30 days prior to the termination of the rental agreement. If the landlord willfully fails to comply with this section, the court shall order the return of the security deposit to the tenant, together with actual damages and reasonable attorney fees, unless the tenant owes rent to the landlord, in which case the court shall order an amount equal to the security deposit credited against the rent due to the landlord. In the event that damages to the premises exceed the amount of the security deposit and require the services of a third-party contractor, the landlord shall give written notice to the tenant advising him of that fact within the 45-day period required by subsection A. If notice is given as prescribed in this subsection, the landlord shall have an additional ~~15-day~~ *30-day* period to provide an itemization of the damages and the cost of repair. This section shall not preclude the landlord or tenant from recovering other damages to which he may be entitled under this chapter. The holder of the landlord's interest in the premises at the time of the termination of the tenancy, regardless of how the interest is acquired or transferred, is bound by this section and shall be required to return any security deposit received by the original landlord that is duly owed to the tenant, whether or

not such security deposit is transferred with the landlord's interest by law or equity, regardless of any contractual agreements between the original landlord and his successors in interest.

F. The landlord shall:

1. Maintain and itemize records for each tenant of all deductions from security deposits provided for under this section that the landlord has made by reason of a tenant's noncompliance with § 55.1-1227, or for any other reason set out in this section, during the preceding two years; and

2. Permit a tenant or his authorized agent or attorney to inspect such tenant's records of deductions at any time during normal business hours.

G. Upon request by the landlord to a tenant to vacate, or within five days after receipt of notice by the landlord of the tenant's intent to vacate, the landlord shall provide written notice to the tenant of the tenant's right to be present at the landlord's inspection of the dwelling unit for the purpose of determining the amount of security deposit to be returned. If the tenant desires to be present when the landlord makes the inspection, he shall, in writing, so advise the landlord, who in turn shall notify the tenant of the date and time of the inspection, which must be made within 72 hours of delivery of possession. Following the move-out inspection, the landlord shall provide the tenant with a written security deposit disposition statement, including an itemized list of damages. If additional damages are discovered by the landlord after the security deposit disposition has been made, nothing in this section shall be construed to preclude the landlord from recovery of such damages against the tenant, provided, however, that the tenant may present into evidence a copy of the move-out report to support the tenant's position that such additional damages did not exist at the time of the move-out inspection.

H. If the tenant has any assignee or sublessee, the landlord shall be entitled to hold a security deposit from only one party in compliance with the provisions of this section.

I. The landlord may permit a tenant to provide damage insurance coverage in lieu of the payment of a security deposit. Such damage insurance in lieu of a security deposit shall conform to the following criteria:

1. The provider of damage insurance is licensed or approved by the Virginia State Corporation Commission;

2. The coverage is effective upon the payment of the first premium and remains effective for the entire lease term;

3. The coverage provided per claim is no less than the amount the landlord requires for security deposits;

4. The provider of damage insurance agrees to approve or deny payment of a claim; and

5. The provider of damage insurance shall notify the landlord within 10 days if the damage policy lapses or is canceled.

J. A tenant who initially opts to provide damage insurance in lieu of a security deposit may, at any time without consent of the landlord, opt to pay the full security deposit to the landlord in lieu of maintaining a damage insurance policy. The landlord shall not alter the terms of the lease in the event a tenant opts to pay the full amount of the security deposit pursuant to this subsection.

2. That the provisions of this act shall expire on June 30, 2024.

CHAPTER 435

An Act to amend the Code of Virginia by adding a section numbered 55.1-1234.1, relating to the Virginia Residential Landlord and Tenant Act; uninhabitable dwelling unit.

[H 1635]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 55.1-1234.1 as follows:

§ 55.1-1234.1. Uninhabitable dwelling unit.

A. If, at the beginning of the tenancy, a condition exists in a rental dwelling unit that constitutes a fire hazard or serious threat to the life, health, or safety of tenants or occupants of the premises, including an infestation of rodents or a lack of heat, hot or cold running water, electricity, or adequate sewage disposal facilities, the tenant shall be entitled to terminate the rental agreement and receive a full refund of all deposits and rent paid to the landlord, so long as the tenant provides the landlord with written notice of his intent to terminate the rental agreement within seven days of the date on which possession of the dwelling unit was to have transferred to the tenant. Unless the landlord asserts, pursuant to subsection B, that the tenant's termination of the rental agreement is unjustified, the landlord shall refund all deposits and rent paid by the tenant to the tenant on or before the fifteenth business day following the day on which (i) the termination notice is delivered to the landlord or (ii) the tenant vacates the dwelling unit, whichever occurs later.

B. If a tenant terminates a rental agreement pursuant to subsection A and the landlord asserts that the tenant is unjustified in his termination of the rental agreement, the landlord shall provide written notice to the tenant of his refusal to accept the tenant's termination notice, along with the reasons for such refusal, within 15 business days following the date on which such termination notice is delivered to the landlord.

C. A tenant who has not taken possession or who has vacated the dwelling unit may file an action in a court of competent jurisdiction to contest the landlord's refusal to accept the termination notice, if applicable, and for the return of any deposits and rent paid to the landlord. In any such action, the prevailing party shall be entitled to recover reasonable attorney fees.

CHAPTER 436

An Act to amend and reenact § 15.2-2209.1:1 of the Code of Virginia, relating to local land use approvals; extension of approvals to address the COVID-19 pandemic.

[H 1665]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2209.1:1 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2209.1:1. Extension of approvals to address the COVID-19 pandemic.

A. Notwithstanding any time limits for validity set out in § 15.2-2260 or 15.2-2261, any subdivision plat valid under § 15.2-2260 and outstanding as of July 1, 2020, and any recorded plat or final site plan valid under § 15.2-2261 and outstanding as of July 1, 2020, shall remain valid until July 1, ~~2023~~ *2025*, or such later date as may be provided for by the terms of the locality's approval, local ordinance, resolution, or regulation. Any other plan or permit associated with such plat or site plan extended by this subsection is similarly extended for the same time period.

B. Notwithstanding any other provision of this chapter, for any valid special exception, special use permit, or conditional use permit, or any modifications thereto, outstanding as of July 1, 2020, any deadline in the exception permit, or in the local zoning ordinance that requires the landowner or developer to commence the project or incur significant expenses related to improvements for the project within a certain time, is extended until July 1, ~~2023~~ *2025*, or such longer period as may be agreed to by the locality.

C. Notwithstanding any other provision of this chapter, for any rezoning approved pursuant to § 15.2-2297, 15.2-2298, or 15.2-2303 and valid and outstanding as of July 1, 2020, any proffered condition that requires the landowner or developer to incur significant expenses upon the occurrence of an event related to a stage or level of development is extended until July 1, ~~2023~~ *2025*, or longer as may be agreed to by the locality. However, the extensions in this subsection do not apply (i) to proffered dedications of land or rights-of-way pursuant to § 15.2-2297, 15.2-2298, or 15.2-2303 or (ii) when completion of the event related to the stage or level of development has already occurred.

D. The extension of validity provided in subsection A and the extension of deadlines as provided in subsection B will be effective only if any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force. However, if the locality has enacted a bonding moratorium or deferral program, the performance bonds and agreements or other financial guarantees of completion may be waived or modified by the locality, in which case the provisions of subsections A and B apply. The landowner or developer must comply with the terms of any bonding moratorium or deferral agreement with the locality in order for the extensions referred to in this subsection to be effective.

2. That nothing in this act shall be construed to extend any provision of § 15.2-2209.1 of the Code of Virginia; however, any time limits for validity for any subdivision plat or any recorded plat or final site plan that expired June 30, 2020, pursuant to § 15.2-2209.1 or otherwise, may be extended by the terms of the locality's approval, local ordinance, resolution, or regulation, or by agreement of the locality.

3. That any extension of approvals outstanding as of July 1, 2020, shall apply to any such approvals granted subsequent to July 1, 2020, that expire prior to July 1, 2025. This provision is declarative of existing law.

CHAPTER 437

An Act to amend and reenact § 15.2-2209.1:1 of the Code of Virginia, relating to local land use approvals; extension of approvals to address the COVID-19 pandemic.

[S 1205]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2209.1:1 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2209.1:1. Extension of approvals to address the COVID-19 pandemic.

A. Notwithstanding any time limits for validity set out in § 15.2-2260 or 15.2-2261, any subdivision plat valid under § 15.2-2260 and outstanding as of July 1, 2020, and any recorded plat or final site plan valid under § 15.2-2261 and outstanding as of July 1, 2020, shall remain valid until July 1, ~~2023~~ *2025*, or such later date as may be provided for by the terms of the locality's approval, local ordinance, resolution, or regulation. Any other plan or permit associated with such plat or site plan extended by this subsection is similarly extended for the same time period.

B. Notwithstanding any other provision of this chapter, for any valid special exception, special use permit, or conditional use permit, or any modifications thereto, outstanding as of July 1, 2020, any deadline in the exception permit, or in the local zoning ordinance that requires the landowner or developer to commence the project or incur significant expenses related to improvements for the project within a certain time, is extended until July 1, ~~2023~~ *2025*, or such longer period as may be agreed to by the locality.

C. Notwithstanding any other provision of this chapter, for any rezoning approved pursuant to § 15.2-2297, 15.2-2298, or 15.2-2303 and valid and outstanding as of July 1, 2020, any proffered condition that requires the landowner or developer to incur significant expenses upon the occurrence of an event related to a stage or level of development is extended until July 1, ~~2023~~ *2025*, or longer as may be agreed to by the locality. However, the extensions in this subsection do not apply (i) to proffered dedications of land or rights-of-way pursuant to § 15.2-2297, 15.2-2298, or 15.2-2303 or (ii) when completion of the event related to the stage or level of development has already occurred.

D. The extension of validity provided in subsection A and the extension of deadlines as provided in subsection B will be effective only if any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force. However, if the locality has enacted a bonding moratorium or deferral program, the performance bonds and agreements or other financial guarantees of completion may be waived or modified by the locality, in which case the provisions of subsections A and B apply. The landowner or developer must comply with the terms of any bonding moratorium or deferral agreement with the locality in order for the extensions referred to in this subsection to be effective.

2. That nothing in this act shall be construed to extend any provision of § 15.2-2209.1 of the Code of Virginia; however, any time limits for validity for any subdivision plat or any recorded plat or final site plan that expired June 30, 2020, pursuant to § 15.2-2209.1 or otherwise, may be extended by the terms of the locality's approval, local ordinance, resolution, or regulation, or by agreement of the locality.

3. That any extension of approvals outstanding as of July 1, 2020, shall apply to any such approvals granted subsequent to July 1, 2020, that expire prior to July 1, 2025. This provision is declarative of existing law.

CHAPTER 438

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 22 of Title 15.2 a section numbered 15.2-2209.3, relating to residential land development and construction fee transparency; annual report.

[H 1671]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 22 of Title 15.2 a section numbered 15.2-2209.3 as follows:

§ 15.2-2209.3. Residential land development and construction fee transparency; annual report.

Every locality with a population greater than 3,500 shall submit an annual report no later than March 1 of each year to the Department of Housing and Community Development (the Department) containing the total fee revenue collected by the locality over the preceding calendar year in connection with the processing, reviewing, and permitting of applications for residential land development and construction activities, including the total fee revenue attributable to any individual residential developments that were approved, under construction, or completed during the preceding calendar year.

The report shall be submitted by the locality in accordance with any guidelines and forms developed by the Department and the Commission on Local Government. The Department shall make the reports available on its website.

CHAPTER 439

An Act to amend and reenact §§ 36-96.3:1 and 59.1-200 of the Code of Virginia, relating to Virginia Fair Housing Law; use of assistance animal in a dwelling; penalties.

[H 1725]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-96.3:1 and 59.1-200 of the Code of Virginia are amended and reenacted as follows:

§ 36-96.3:1. Rights and responsibilities with respect to the use of an assistance animal in a dwelling.

A. A person with a disability, or a person associated with such person, who maintains an assistance animal in a dwelling shall comply with the rental agreement or any rules and regulations of the property owner applicable to all residents that do not interfere with an equal opportunity to use and enjoy the dwelling and any common areas of the premises. Such person shall not be required to pay a pet fee or deposit or any additional rent to maintain an assistance animal in a dwelling, but shall be responsible for any physical damages to the dwelling if residents who maintain pets are responsible for such damages in accordance with such documents or state law. Nothing herein shall be construed to affect any cause of action against any resident for other damages under the laws of the Commonwealth.

B. If a person's disability is obvious or otherwise known to the person receiving a request, or if the need for a requested accommodation is readily apparent or known to the person receiving a request, the person receiving a request for reasonable accommodation may not request any additional verification about the requester's disability. If a person's disability is readily apparent or known to the person receiving the request but the disability-related need is not readily apparent or known, the person receiving the request may ask for additional verification to evaluate the requester's disability-related need.

C. A person with a disability, or a person associated with such person, may submit a request for a reasonable accommodation to maintain an assistance animal in a dwelling. Subject to subsection B, the person receiving the request may ask the requester to provide reliable documentation of the disability and the disability-related need for an assistance animal, including documentation from any person with whom the person with a disability has or has had a therapeutic relationship.

D. Subject to subsection B, a person receiving a request for a reasonable accommodation to maintain an assistance animal in a dwelling shall evaluate the request and any reliable supporting documentation ~~to verify~~ *that verifies* the disability and the disability-related need for the reasonable accommodation regarding an assistance animal.

E. For purposes of this section, "therapeutic relationship" means the provision of medical care, program care, or personal care services, in good faith, to the person with a disability by (i) a mental health service provider as defined in § 54.1-2400.1; (ii) an individual or entity with a valid, unrestricted state license, certification, or registration to serve persons with disabilities; (iii) a person from a peer support or similar group that does not charge service recipients a fee or impose any actual or implied financial requirement and who has actual knowledge about the requester's disability; or (iv) a caregiver, reliable third party, or government entity with actual knowledge of the requester's disability.

F. No person listed in clauses (i) through (iv) of subsection E shall provide fraudulent supporting documentation to evince the existence of a disability or disability-related need for a person requesting a reasonable accommodation pursuant to this section. A violation of this subsection constitutes a prohibited practice under the provisions of § 59.1-200 and shall be subject to the provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

§ 59.1-200. Prohibited practices.

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

1. Misrepresenting goods or services as those of another;

2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;

4. Misrepresenting geographic origin in connection with goods or services;

5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;

6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";

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

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

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

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

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

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

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

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

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

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516, or 3.2-6519 is a violation of this chapter;

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

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by

the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

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

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

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

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

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

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

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

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

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

24. Violating any provision of § 54.1-1505;

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

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

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

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

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

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

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

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

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

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

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

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

37. Violating any provision of § 8.01-40.2;

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

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

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

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

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

43. Violating any provision of § 59.1-443.2;

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

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

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

47. Violating any provision of § 18.2-239;

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

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

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

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

52. Violating any provision of § 8.2-317.1;

53. Violating subsection A of § 9.1-149.1;

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

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

56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;

58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);

59. Violating any provision of subsection E of § 32.1-126;

60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

61. Violating any provision of § 2.2-2001.5;

62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;

63. Violating any provision of § 6.2-312;

64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;

65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;

66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);

67. Knowingly violating any provision of § 8.01-27.5;

68. Failing to make available a conspicuous online option to cancel a recurring purchase of a good or service as required by § 59.1-207.46;

69. Selling or offering for sale to a person younger than 21 years of age any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 of Chapter 34 of Title 54.1 of the Code of Virginia;

70. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 *(§ 54.1-3442.5 et seq.)* of Chapter 34 of Title 54.1 ~~of the Code of Virginia~~;

71. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit; ~~and~~

72. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance*; and*

73. Violating subsection F of § 36-96.3:1.

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

2. That if any provision of this act is determined by the U.S. Department of Housing and Urban Development to not be substantially equivalent to or to be otherwise inconsistent with the federal Fair Housing Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, such provision shall be unenforceable but shall not affect, impair, or invalidate the remainder of this act.

CHAPTER 440

An Act to amend and reenact §§ 62.1-198, 62.1-199, 62.1-216, and 62.1-218 of the Code of Virginia, relating to Virginia Resources Authority; purpose; community development and housing projects.

[H 1805]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-198, 62.1-199, 62.1-216, and 62.1-218 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-198. Legislative findings and purposes.

The General Assembly finds that there exists in the Commonwealth a critical need for additional sources of funding to finance the present and future needs of the Commonwealth for water supply; land conservation or land preservation, including land for parks and other recreational purposes; oyster restoration projects, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters; wastewater treatment facilities; drainage facilities; solid waste treatment, disposal, and management facilities; recycling facilities; resource recovery facilities; energy conservation and energy efficiency projects; professional sports facilities; certain heavy rail transportation facilities; public safety facilities; airport facilities; the remediation of brownfields and contaminated properties, including properties contaminated by defective drywall; the design and construction of roads, public parking garages, and other public transportation facilities, and facilities for public transportation by commuter rail; construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure; site acquisition and site development work for economic ~~and~~ *development projects;* community development projects, *to include projects related to the production and preservation of housing, including housing for persons and families of low and moderate income*; recovered gas energy facilities; the location or retention of federal facilities in the Commonwealth and the support of the transition of former federal facilities from use by the federal government to other uses; and renewable energy projects, including solar, wind, biomass, waste-to-energy, and geothermal. This need can be alleviated in part through the creation of a resources authority. Its purpose is to encourage the investment of both public and private funds and to make loans, grants, and credit enhancements available to local governments to finance water and sewer projects~~,~~*;* land conservation or land preservation programs or projects~~,~~*;* oyster restoration projects~~,~~*;* drainage projects~~,~~*;* solid waste treatment, disposal, and management projects~~,~~*;* recycling projects~~,~~*;* energy conservation and energy efficiency projects~~,~~*;* professional sports facilities~~,~~*;* resource recovery projects~~,~~*;* public safety facilities~~,~~*;* airport facilities~~,~~*;* the remediation of brownfields and contaminated properties, including properties contaminated by defective drywall~~,~~*;* the design and construction of roads, public parking garages, and other public transportation facilities, and facilities for public transportation by commuter rail~~,~~*;* site acquisition and site development work for the benefit of economic development projects~~,~~*; community development projects, to include projects related to the production and preservation of housing, including housing for persons and families of low and moderate income;* technology~~,~~*;* construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure~~,~~*;* infrastructure for broadband services~~,~~*;* recovered gas energy facilities~~,~~*;* federal facilities or former federal facilities~~,~~*;* and renewable energy projects. The General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, or prosperity of the people of the Commonwealth.

§ 62.1-199. Definitions.

As used in this chapter, unless ~~a different meaning clearly appears from~~ the context *requires a different meaning*:

"Authority" means the Virginia Resources Authority created by this chapter.

"Board of Directors" means the Board of Directors of the Authority.

"Bonds" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, lease and sale-leaseback transactions, or any other obligations of the Authority for the payment of money.

"Capital Reserve Fund" means the reserve fund created and established by the Authority in accordance with § 62.1-215.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. It includes, without limitation, all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land, buildings or improvements, real estate appraisals, site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment, the reasonable costs of financing incurred by the local government in the course of the development of the project, including the cost of any credit enhancements, carrying charges incurred before placing the project in service, interest on local obligations issued to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, the funding of accounts and reserves which the Authority may require, and the cost of other items which the Authority determines to be reasonable and necessary. It also includes the amount of any contribution, grant, or aid which a local government may make or give to any adjoining state, the District of Columbia or

any department, agency, or instrumentality thereof to pay the costs incident and necessary to the accomplishment of any project, including, without limitation, the items set forth above. ~~The~~ ~~term~~ *"Cost"* also includes interest and principal payments pursuant to any installment purchase agreement.

"Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees, and other forms of collateral or security.

"Defective drywall" means the same as that term is defined in § 36-156.1.

"Federal facility" means any building or infrastructure used or to be used by the federal government, including any building or infrastructure located on lands owned by the federal government.

"Federal government" means the United States of America, or any department, agency, or instrumentality, corporate or otherwise, of the United States of America.

"Former federal facility" means any federal facility formerly used by the federal government or in transition from use by the federal government to a facility all or part of which is to serve any local government.

"Local government" means any county, city, town, municipal corporation, authority, district, commission, or political subdivision created by the General Assembly or pursuant to the Constitution and laws of the Commonwealth or any combination of any two or more of the foregoing.

"Local obligations" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, leases, credit enhancements, or any other obligations of a local government for the payment of money.

"Minimum capital reserve fund requirement" means, as of any particular date of computation, the amount of money designated as the minimum capital reserve fund requirement which may be established in the resolution of the Authority authorizing the issuance of, or the trust indenture securing, any outstanding issue of bonds or credit enhancement.

"Project" means (i) any water supply or wastewater treatment facility, including a facility for receiving and stabilizing septage or a soil drainage management facility, and any solid waste treatment, disposal, or management facility, recycling facility, federal facility or former federal facility, or resource recovery facility located or to be located in the Commonwealth, the District of Columbia, or any adjoining state, all or part of which facility serves or is to serve any local government, and (ii) any federal facility located or to be located in the Commonwealth, provided that both the Board of Directors of the Authority and the governing body of the local government receiving the benefit of the loan, grant, or credit enhancement from the Authority make a determination or finding to be embodied in a resolution or ordinance that the undertaking and financing of such facility is necessary for the location or retention of such facility and the related use by the federal government in the Commonwealth. The term includes, without limitation, water supply and intake facilities; water treatment and filtration facilities; water storage facilities; water distribution facilities; sewage and wastewater (including surface and ground water) collection, treatment, and disposal facilities; drainage facilities and projects; solid waste treatment, disposal, or management facilities; recycling facilities; resource recovery facilities; related office, administrative, storage, maintenance, and laboratory facilities; and interests in land related thereto. The term also includes energy conservation measures and facility technology infrastructure as defined in § 45.2-1702 and other energy objectives as defined in § 45.2-1706.1. The term also means any heavy rail transportation facilities operated by a transportation district created under the Transportation District Act of 1964 (§ 33.2-1900 et seq.) that operates heavy rail freight service, including rolling stock, barge loading facilities, and any related marine or rail equipment. The term also means, without limitation, the design and construction of roads, the construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail. In addition, the term means any project as defined in § 5.1-30.1 or 10.1-603.28 and any professional sports facility, including a major league baseball stadium as defined in § 15.2-5800, provided that the specific professional sports facility projects have been designated by the General Assembly as eligible for assistance from the Authority. The term also means any equipment, facilities, and technology infrastructure designed to provide broadband service. The term also means facilities supporting, related to, or otherwise used for public safety, including but not limited to law-enforcement training facilities and emergency response, fire, rescue, and police stations. The term also means the remediation, redevelopment, and rehabilitation of property contaminated by the release of hazardous substances, hazardous wastes, solid wastes, or petroleum, where such remediation has not clearly been mandated by the United States Environmental Protection Agency, the Department of Environmental Quality, or a court pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of those statutes has been waived. The term also means any program or project for land conservation, parks, park facilities, land for recreational purposes, or land preservation, including but not limited to any program or project involving the acquisition of rights or interests in land for the conservation or preservation of such land. The term also means any dredging program or dredging project undertaken to benefit the economic and community development goals of a local government but does not include any dredging program or dredging project undertaken for or by the Virginia Port Authority. The term also means any oyster restoration project, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters. The term also means any program or project to perform site acquisition or site development work for the benefit of economic and community development projects for any local government. The term also means any undertaking by a local government to build or facilitate the ~~building~~ *production or preservation* of *housing or* a recovered gas energy facility~~,~~ and any local government renewable energy project, including solar, wind, biomass,

waste-to-energy, and geothermal projects. The term also means any undertaking by a local government to facilitate the remediation of residential properties contaminated by the presence of defective drywall. *The term also means any undertaking by a local government to provide grants, loans, financial assistance, or any other incentives pursuant to § 15.2-958.*

"Recovered gas energy facility" means a facility, located at or adjacent to (i) a solid waste management facility permitted by the Department of Environmental Quality or (ii) a sewerage system or sewage treatment work described in § 62.1-44.18 that is constructed and operated for the purpose of treating sewage and wastewater for discharge to state waters, which facility or work is constructed and operated for the purpose of (a) reclaiming or collecting methane or other combustible gas from the biodegradation or decomposition of solid waste, as defined in § 10.1-1400, that has been deposited in the solid waste management facility or sewerage system or sewage treatment work and (b) either using such gas to generate electric energy or upgrading the gas to pipeline quality and transmitting it off premises for sale or delivery to commercial or industrial purchasers or to a public utility or locality.

§ 62.1-216. Purchase and credit enhancements of local obligations.

The Authority shall have the power and authority, with any funds of the Authority available for such a purpose, to purchase and acquire, on terms which the Authority determines, local obligations to finance or refinance the cost of any project. The Authority may pledge to the payment of any bonds all or any portion of the local obligations so purchased. The Authority may also, subject to any such pledge, sell any local obligations so purchased and apply the proceeds of such a sale to the purchase of other local obligations for financing or refinancing the cost of any project or for any other corporate purpose of the Authority.

The Authority shall also have the power and authority to issue credit enhancements, on terms which the Authority determines, to credit enhance local obligations issued to finance or refinance the cost of any project.

The Authority may require, as a condition to the purchase or credit enhancement of any local obligations, that the local government issuing the local obligations covenant to perform any of the following:

A. Establish and collect rents, rates, fees and charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of operation, maintenance, replacement, renewal and repairs of the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal of and premium, if any, and interest on the local obligations; and (iii) any amounts necessary to create and maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by the Authority to offset the need, in whole or part, for future increases in rents, rates, fees or charges;

B. Create and maintain a special fund or funds for the payment of the principal of and premium, if any, and interest on the local obligations and any other amounts becoming due under any agreement entered into in connection with the local obligations, or for the operation, maintenance, repair or replacement of the project or any portions thereof or other property of the local government, and deposit into any fund or funds amounts sufficient to make any payments as they become due and payable;

C. Create and maintain other special funds as required by the Authority; and

D. Perform other acts, including the conveyance of real and personal property together with all right, title and interest therein to the Authority, or take other actions as may be deemed necessary or desirable by the Authority to secure payment of the principal of and premium, if any, and interest on the local obligations or obligations to the Authority with respect to any credit enhancement and to provide for the remedies of the Authority or other holder of the local obligations in the event of any default by the local government in the payment, including, without limitation, any of the following:

1. The procurement of credit enhancements or liquidity arrangements for local obligations from any source, public or private, and the payment therefor of premiums, fees or other charges.

2. The payment of the allocable shares of the local governments, as determined by the Authority, of any costs, fees, charges or expenses attributable to liquidity arrangements incurred in connection with the issuance of bonds by the Authority to acquire local obligations of one or more local governments. The determination of such allocable shares may be made by the Authority on any reasonable basis.

3. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, facilities, utilities or systems, for the purpose of operations and financing, and the pledging of the revenues from such combined projects, undertakings, facilities, utilities and systems to secure local obligations issued in connection with such combination or any part or parts thereof.

4. The payment of the allocable shares of the local governments, as determined by the Authority on any reasonable basis, of rate stabilization funds established or required by the Authority in connection with the issuance of bonds by the Authority to acquire or provide credit enhancement for local obligations of two or more local governments.

All local governments issuing and selling local obligations to the Authority or to be credit enhanced by the Authority are authorized to perform any acts, take any action, adopt any proceedings and make and carry out any contracts with the Authority that are contemplated by this chapter. Such contracts need not be identical among all participants in financings of the Authority, but may be structured as determined by the Authority according to the needs of the contracting local governments and the Authority.

To the extent permitted by law for local obligations issued after July 1, 2003, local governments may enter into agreements with the Authority that provide for a local government to consider and make appropriations ~~of any funds or revenue generated~~ from the following: (i) ~~taxes,~~ funds ~~and assessments~~ *or revenues* from service districts created under

Chapter 24 (§ 15.2-2400 et seq.) of Title 15.2, (ii) funds *or revenues accumulated and* held by the local government, or (iii) any ~~revenue or~~ funds ~~generated from sources other than property taxes imposed under Chapter 32 (§ 58.1-3200 et seq.) or Chapter 35 (§ 58.1-3500 et seq.) of Title 58.1~~ *or revenues to be received or generated by the local government* in amounts sufficient to pay all or a specified portion of the amounts set forth in subsection A or to make deposits into the special fund or funds provided for in subsections B and C and to pledge and apply the amounts so appropriated for such purposes.

§ 62.1-218. Grants to local governments.

The Authority shall have the power and authority, with any funds of the Authority available for this purpose, to make grants to local governments. In determining which local governments are to receive grants, the Department of Environmental Quality, the Department of Health, *the Department of Housing and Community Development,* and the Virginia Waste Management Board shall assist the Authority in determining needs for wastewater treatment facilities~~,~~*;* water supply facilities~~,~~*;* solid waste treatment, disposal*,* or management facilities~~,~~*; housing, including housing for persons and families of low and moderate income;* or recycling facilities, and the method and form of such grants.

CHAPTER 441

An Act to amend and reenact §§ 62.1-198, 62.1-199, 62.1-216, and 62.1-218 of the Code of Virginia, relating to Virginia Resources Authority; purpose; community development and housing projects.

[S 1401]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-198, 62.1-199, 62.1-216, and 62.1-218 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-198. Legislative findings and purposes.

The General Assembly finds that there exists in the Commonwealth a critical need for additional sources of funding to finance the present and future needs of the Commonwealth for water supply; land conservation or land preservation*,* including land for parks and other recreational purposes; oyster restoration projects, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters; wastewater treatment facilities; drainage facilities; solid waste treatment, disposal*,* and management facilities; recycling facilities; resource recovery facilities; energy conservation and energy efficiency projects; professional sports facilities; certain heavy rail transportation facilities; public safety facilities; airport facilities; the remediation of brownfields and contaminated properties, including properties contaminated by defective drywall; the design and construction of roads, public parking garages*,* and other public transportation facilities, and facilities for public transportation by commuter rail; construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure; site acquisition and site development work for economic ~~and~~ *development projects;* community development projects*, to include projects related to the production and preservation of housing, including housing for persons and families of low and moderate income*; recovered gas energy facilities; the location or retention of federal facilities in the Commonwealth and the support of the transition of former federal facilities from use by the federal government to other uses; and renewable energy projects, including solar, wind, biomass, waste-to-energy, and geothermal. This need can be alleviated in part through the creation of a resources authority. Its purpose is to encourage the investment of both public and private funds and to make loans, grants, and credit enhancements available to local governments to finance water and sewer projects~~,~~*;* land conservation or land preservation programs or projects~~,~~*;* oyster restoration projects~~,~~*;* drainage projects~~,~~*;* solid waste treatment, disposal*,* and management projects~~,~~*;* recycling projects~~,~~*;* energy conservation and energy efficiency projects~~,~~*;* professional sports facilities~~,~~*;* resource recovery projects~~,~~*;* public safety facilities~~,~~*;* airport facilities~~,~~*;* the remediation of brownfields and contaminated properties*,* including properties contaminated by defective drywall~~,~~*;* the design and construction of roads, public parking garages*,* and other public transportation facilities, and facilities for public transportation by commuter rail~~,~~*;* site acquisition and site development work for the benefit of economic development projects~~,~~*; community development projects, to include projects related to the production and preservation of housing, including housing for persons and families of low and moderate income;* technology~~,~~*;* construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure~~,~~*;* infrastructure for broadband services~~,~~*;* recovered gas energy facilities~~,~~*;* federal facilities or former federal facilities~~,~~*;* and renewable energy projects. The General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose*,* and will promote the health, safety, welfare, convenience*,* or prosperity of the people of the Commonwealth.

§ 62.1-199. Definitions.

As used in this chapter, unless ~~a different meaning clearly appears from~~ the context *requires a different meaning*:

"Authority" means the Virginia Resources Authority created by this chapter.

"Board of Directors" means the Board of Directors of the Authority.

"Bonds" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, lease and sale-leaseback transactions*,* or any other obligations of the Authority for the payment of money.

"Capital Reserve Fund" means the reserve fund created and established by the Authority in accordance with § 62.1-215.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. It includes, without limitation, all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land, buildings or improvements, real estate appraisals, site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment, the reasonable costs of financing incurred by the local government in the course of the development of the project, including the cost of any credit enhancements, carrying charges incurred before placing the project in service, interest on local obligations issued to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, the funding of accounts and reserves which the Authority may require, and the cost of other items which the Authority determines to be reasonable and necessary. It also includes the amount of any contribution, grant, or aid which a local government may make or give to any adjoining state, the District of Columbia or any department, agency, or instrumentality thereof to pay the costs incident and necessary to the accomplishment of any project, including, without limitation, the items set forth above. ~~The~~ ~~term~~ *"Cost"* also includes interest and principal payments pursuant to any installment purchase agreement.

"Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees, and other forms of collateral or security.

"Defective drywall" means the same as that term is defined in § 36-156.1.

"Federal facility" means any building or infrastructure used or to be used by the federal government, including any building or infrastructure located on lands owned by the federal government.

"Federal government" means the United States of America, or any department, agency, or instrumentality, corporate or otherwise, of the United States of America.

"Former federal facility" means any federal facility formerly used by the federal government or in transition from use by the federal government to a facility all or part of which is to serve any local government.

"Local government" means any county, city, town, municipal corporation, authority, district, commission, or political subdivision created by the General Assembly or pursuant to the Constitution and laws of the Commonwealth or any combination of any two or more of the foregoing.

"Local obligations" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, leases, credit enhancements, or any other obligations of a local government for the payment of money.

"Minimum capital reserve fund requirement" means, as of any particular date of computation, the amount of money designated as the minimum capital reserve fund requirement which may be established in the resolution of the Authority authorizing the issuance of, or the trust indenture securing, any outstanding issue of bonds or credit enhancement.

"Project" means (i) any water supply or wastewater treatment facility, including a facility for receiving and stabilizing septage or a soil drainage management facility, and any solid waste treatment, disposal, or management facility, recycling facility, federal facility or former federal facility, or resource recovery facility located or to be located in the Commonwealth, the District of Columbia, or any adjoining state, all or part of which facility serves or is to serve any local government, and (ii) any federal facility located or to be located in the Commonwealth, provided that both the Board of Directors of the Authority and the governing body of the local government receiving the benefit of the loan, grant, or credit enhancement from the Authority make a determination or finding to be embodied in a resolution or ordinance that the undertaking and financing of such facility is necessary for the location or retention of such facility and the related use by the federal government in the Commonwealth. The term includes, without limitation, water supply and intake facilities; water treatment and filtration facilities; water storage facilities; water distribution facilities; sewage and wastewater (including surface and ground water) collection, treatment, and disposal facilities; drainage facilities and projects; solid waste treatment, disposal, or management facilities; recycling facilities; resource recovery facilities; related office, administrative, storage, maintenance, and laboratory facilities; and interests in land related thereto. The term also includes energy conservation measures and facility technology infrastructure as defined in § 45.2-1702 and other energy objectives as defined in § 45.2-1706.1. The term also means any heavy rail transportation facilities operated by a transportation district created under the Transportation District Act of 1964 (§ 33.2-1900 et seq.) that operates heavy rail freight service, including rolling stock, barge loading facilities, and any related marine or rail equipment. The term also means, without limitation, the design and construction of roads, the construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail. In addition, the term means any project as defined in § 5.1-30.1 or 10.1-603.28 and any professional sports facility, including a major league baseball stadium as defined in § 15.2-5800, provided that the specific professional sports facility projects have been designated by the General Assembly as eligible for assistance from the Authority. The term also means any equipment, facilities, and technology infrastructure designed to provide broadband service. The term also means facilities supporting, related to, or otherwise used for public safety, including but not limited to law-enforcement training facilities and emergency response, fire, rescue, and police stations. The term also means the remediation, redevelopment, and rehabilitation of property contaminated by the release of

hazardous substances, hazardous wastes, solid wastes, or petroleum, where such remediation has not clearly been mandated by the United States Environmental Protection Agency, the Department of Environmental Quality, or a court pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of those statutes has been waived. The term also means any program or project for land conservation, parks, park facilities, land for recreational purposes, or land preservation, including but not limited to any program or project involving the acquisition of rights or interests in land for the conservation or preservation of such land. The term also means any dredging program or dredging project undertaken to benefit the economic and community development goals of a local government but does not include any dredging program or dredging project undertaken for or by the Virginia Port Authority. The term also means any oyster restoration project, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters. The term also means any program or project to perform site acquisition or site development work for the benefit of economic and community development projects for any local government. The term also means any undertaking by a local government to build or facilitate the ~~building~~ *production or preservation* of *housing or* a recovered gas energy facility~~,~~ and any local government renewable energy project, including solar, wind, biomass, waste-to-energy, and geothermal projects. The term also means any undertaking by a local government to facilitate the remediation of residential properties contaminated by the presence of defective drywall. *The term also means any undertaking by a local government to provide grants, loans, financial assistance, or any other incentives pursuant to § 15.2-958.*

"Recovered gas energy facility" means a facility, located at or adjacent to (i) a solid waste management facility permitted by the Department of Environmental Quality or (ii) a sewerage system or sewage treatment work described in § 62.1-44.18 that is constructed and operated for the purpose of treating sewage and wastewater for discharge to state waters, which facility or work is constructed and operated for the purpose of (a) reclaiming or collecting methane or other combustible gas from the biodegradation or decomposition of solid waste, as defined in § 10.1-1400, that has been deposited in the solid waste management facility or sewerage system or sewage treatment work and (b) either using such gas to generate electric energy or upgrading the gas to pipeline quality and transmitting it off premises for sale or delivery to commercial or industrial purchasers or to a public utility or locality.

§ 62.1-216. Purchase and credit enhancements of local obligations.

The Authority shall have the power and authority, with any funds of the Authority available for such a purpose, to purchase and acquire, on terms which the Authority determines, local obligations to finance or refinance the cost of any project. The Authority may pledge to the payment of any bonds all or any portion of the local obligations so purchased. The Authority may also, subject to any such pledge, sell any local obligations so purchased and apply the proceeds of such a sale to the purchase of other local obligations for financing or refinancing the cost of any project or for any other corporate purpose of the Authority.

The Authority shall also have the power and authority to issue credit enhancements, on terms which the Authority determines, to credit enhance local obligations issued to finance or refinance the cost of any project.

The Authority may require, as a condition to the purchase or credit enhancement of any local obligations, that the local government issuing the local obligations covenant to perform any of the following:

A. Establish and collect rents, rates, fees and charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of operation, maintenance, replacement, renewal and repairs of the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal of and premium, if any, and interest on the local obligations; and (iii) any amounts necessary to create and maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by the Authority to offset the need, in whole or part, for future increases in rents, rates, fees or charges;

B. Create and maintain a special fund or funds for the payment of the principal of and premium, if any, and interest on the local obligations and any other amounts becoming due under any agreement entered into in connection with the local obligations, or for the operation, maintenance, repair or replacement of the project or any portions thereof or other property of the local government, and deposit into any fund or funds amounts sufficient to make any payments as they become due and payable;

C. Create and maintain other special funds as required by the Authority; and

D. Perform other acts, including the conveyance of real and personal property together with all right, title and interest therein to the Authority, or take other actions as may be deemed necessary or desirable by the Authority to secure payment of the principal of and premium, if any, and interest on the local obligations or obligations to the Authority with respect to any credit enhancement and to provide for the remedies of the Authority or other holder of the local obligations in the event of any default by the local government in the payment, including, without limitation, any of the following:

1. The procurement of credit enhancements or liquidity arrangements for local obligations from any source, public or private, and the payment therefor of premiums, fees or other charges.

2. The payment of the allocable shares of the local governments, as determined by the Authority, of any costs, fees, charges or expenses attributable to liquidity arrangements incurred in connection with the issuance of bonds by the Authority to acquire local obligations of one or more local governments. The determination of such allocable shares may be made by the Authority on any reasonable basis.

3. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, facilities, utilities or systems, for the purpose of operations and financing, and the pledging of the revenues from such combined projects, undertakings, facilities, utilities and systems to secure local obligations issued in connection with such combination or any part or parts thereof.

4. The payment of the allocable shares of the local governments, as determined by the Authority on any reasonable basis, of rate stabilization funds established or required by the Authority in connection with the issuance of bonds by the Authority to acquire or provide credit enhancement for local obligations of two or more local governments.

All local governments issuing and selling local obligations to the Authority or to be credit enhanced by the Authority are authorized to perform any acts, take any action, adopt any proceedings and make and carry out any contracts with the Authority that are contemplated by this chapter. Such contracts need not be identical among all participants in financings of the Authority, but may be structured as determined by the Authority according to the needs of the contracting local governments and the Authority.

To the extent permitted by law for local obligations issued after July 1, 2003, local governments may enter into agreements with the Authority that provide for a local government to consider and make appropriations ~~of any funds or revenue generated~~ from the following: (i) ~~taxes,~~ funds ~~and assessments~~ *or revenues* from service districts created under Chapter 24 (§ 15.2-2400 et seq.) of Title 15.2, (ii) funds *or revenues accumulated and* held by the local government, or (iii) any ~~revenue or~~ funds ~~generated from sources other than property taxes imposed under Chapter 32 (§ 58.1-3200 et seq.) or Chapter 35 (§ 58.1-3500 et seq.) of Title 58.1~~ *or revenues to be received or generated by the local government* in amounts sufficient to pay all or a specified portion of the amounts set forth in subsection A or to make deposits into the special fund or funds provided for in subsections B and C and to pledge and apply the amounts so appropriated for such purposes.

§ 62.1-218. Grants to local governments.

The Authority shall have the power and authority, with any funds of the Authority available for this purpose, to make grants to local governments. In determining which local governments are to receive grants, the Department of Environmental Quality, the Department of Health, *the Department of Housing and Community Development,* and the Virginia Waste Management Board shall assist the Authority in determining needs for wastewater treatment facilities~~,~~*;* water supply facilities~~,~~*;* solid waste treatment, disposal*,* or management facilities~~,~~*; housing, including housing for persons and families of low and moderate income;* or recycling facilities, and the method and form of such grants.

CHAPTER 442

An Act to amend and reenact § 8.01-471 of the Code of Virginia, relating to writs of eviction; returns to issuing clerk; report.

[H 1836]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-471 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-471. Time period for issuing writs of eviction in unlawful entry and detainer; when returnable.

Writs of eviction, in case of unlawful entry and detainer, shall be issued within 180 days from the date of judgment for possession and shall be made returnable within 30 days from the date of issuing the writ*, and any executed writ shall be returned to the issuing clerk by the sheriff executing such writ*. Notwithstanding any other provision of law, a writ of eviction not executed within 30 days from the date of issuance shall be vacated as a matter of law without further order of the court that entered the order of possession, and no further action shall be taken by the clerk. No writ shall issue, however, in cases under the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.) if, following the entry of judgment for possession, the landlord has entered into a new written rental agreement with the tenant, as described in § 55.1-1250. A writ of eviction may be requested by the plaintiff or the plaintiff's attorney or agent.

2. That the Office of the Executive Secretary of the Supreme Court of Virginia shall report to the Chairmen of the Senate Committee on the Judiciary, the Senate Committee on General Laws and Technology, the House Committee for Courts of Justice, the House Committee on General Laws, and the Virginia Housing Commission on the number of executed writs returned pursuant to the requirements of § 8.01-471 of the Code of Virginia, as amended by this act. The first report shall be made by September 1, 2024, and shall include writs executed between July 1, 2023, and June 30, 2024. Subsequent reports shall be made annually thereafter.

3. That the Virginia Housing Commission shall direct an existing work group to study for a period of one year from the enactment of this act a more comprehensive data collection process to track the resolution of writs of unlawful detainers filed in the Commonwealth.

CHAPTER 443

An Act to amend and reenact § 8.01-471 of the Code of Virginia, relating to writs of eviction; returns to issuing clerk; report.

[S 1089]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-471 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-471. Time period for issuing writs of eviction in unlawful entry and detainer; when returnable.

Writs of eviction, in case of unlawful entry and detainer, shall be issued within 180 days from the date of judgment for possession and shall be made returnable within 30 days from the date of issuing the writ*, and any executed writ shall be returned to the issuing clerk by the sheriff executing such writ*. Notwithstanding any other provision of law, a writ of eviction not executed within 30 days from the date of issuance shall be vacated as a matter of law without further order of the court that entered the order of possession, and no further action shall be taken by the clerk. No writ shall issue, however, in cases under the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.) if, following the entry of judgment for possession, the landlord has entered into a new written rental agreement with the tenant, as described in § 55.1-1250. A writ of eviction may be requested by the plaintiff or the plaintiff's attorney or agent.

2. That the Office of the Executive Secretary of the Supreme Court of Virginia shall report to the Chairmen of the Senate Committee on the Judiciary, the Senate Committee on General Laws and Technology, the House Committee for Courts of Justice, the House Committee on General Laws, and the Virginia Housing Commission on the number of executed writs returned pursuant to the requirements of § 8.01-471 of the Code of Virginia, as amended by this act. The first report shall be made by September 1, 2024, and shall include writs executed between July 1, 2023, and June 30, 2024. Subsequent reports shall be made annually thereafter.

3. That the Virginia Housing Commission shall direct an existing work group to study for a period of one year from the enactment of this act a more comprehensive data collection process to track the resolution of writs of unlawful detainers filed in the Commonwealth.

CHAPTER 444

An Act to amend and reenact § 58.1-339.7 of the Code of Virginia, relating to livable home tax credit.

[H 2099]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-339.7 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-339.7. Livable Home Tax Credit.

A. For taxable years beginning on and after January 1, 2000, any taxpayer who purchases a new residence or retrofits or hires someone to retrofit an existing residence, provided that such new residence or the retrofitting of such existing residence is designed to improve accessibility, provide universal visitability, and meets the eligibility requirements established by guidelines developed by the Department of Housing and Community Development, shall be allowed a credit against the tax imposed pursuant to § 58.1-320 of an amount equal to $500, or $2,000 for taxable years beginning on or after January 1, 2010, for such new residence or 25 percent of the total amount spent for the retrofitting of such existing residence. For taxable years beginning on or after January 1, 2010, the 25 percent shall increase to 50 percent. The amount of the credit allowed for the retrofitting of an existing residence shall not exceed $500, or $2,000 for taxable years beginning on or after January 1, 2010. Such a credit shall require application by the taxpayer as provided in subsection C. For purposes of this section, the purchase of a new residence means a transaction involving the first sale of a residence or dwelling. The provisions of this subsection shall not be applicable for taxable years beginning on or after January 1, 2011.

B. For taxable years beginning on or after January 1, 2011, an individual shall be allowed a credit against the tax imposed by § 58.1-320 for a portion of the total purchase price paid by him for a new residence or the total amount expended by him to retrofit an existing residence, provided that the new residence or the retrofitting of the existing residence is designed to improve accessibility, to provide universal visitability, and it meets the eligibility requirements established by guidelines developed by the Department of Housing and Community Development. In addition, a licensed contractor, as defined in § 54.1-1100, shall be allowed a credit against the tax imposed by § 58.1-320 or 58.1-400 for a portion of the total amount it expended in constructing a new residential structure or unit or retrofitting or renovating an existing residential structure or unit, provided that the new residential structure or unit or the retrofitting or renovating of the existing residential structure or unit is designed to improve accessibility, to provide universal visitability, and it meets the eligibility requirements established by guidelines developed by the Department of Housing and Community Development.

The credit shall be allowed for the taxable year in which the residence has been purchased or construction, retrofitting, or renovation of the residence or residential structure or unit has been completed. ~~The~~ *For taxable years beginning before January 1, 2023, the* credit allowed under this section shall not exceed (i) $5,000 for the purchase of each new residence or

the construction of each new residential structure or unit or (ii) 50 percent of the total amount expended, but not to exceed $5,000, for the retrofitting or renovation of each existing residence or residential structure or unit. *For taxable years beginning on and after January 1, 2023, the credit allowed under this section shall not exceed (i) $6,500 for the purchase of each new residence or the construction of each new residential structure or unit or (ii) 50 percent of the total amount expended, but not to exceed $6,500, for the retrofitting or renovation of each existing residence or residential structure or unit.*

No credit shall be allowed under this section for the purchase, construction, retrofitting, or renovation of residential rental property.

C. Eligible taxpayers shall apply for the credit by making application to the Department of Housing and Community Development. The Department of Housing and Community Development shall issue a certification for an approved application to the taxpayer. The taxpayer shall attach the certification to the applicable income tax return. ~~The~~ *For fiscal years beginning before July 1, 2023, the* total amount of tax credits granted under this section for any fiscal year shall not exceed $1 million. ~~In each year,~~ *For fiscal years beginning on and after July 1, 2023, the total amount of tax credits granted under this section for any fiscal year shall not exceed $2 million. For fiscal years beginning before July 1, 2023,* the Department of Housing and Community Development shall allocate $500,000 in tax credits for the purchase or construction of new residences and $500,000 in tax credits for the retrofitting or renovation of existing residences or residential structures or units. *For fiscal years beginning on and after July 1, 2023, the Department of Housing and Community Development shall allocate $1 million in tax credits for the purchase or construction of new residences and $1 million in tax credits for the retrofitting or renovation of existing residences or residential structures or units.* If the amount of tax credits approved in a fiscal year for the purchase or construction of new residences is less than ~~$500,000~~ *the total amount allocated for such fiscal year*, the Director of the Department of Housing and Community Development shall allocate the remaining balance of such tax credits for the retrofitting or renovation of existing residences or residential structures or units. If the amount of tax credits approved in a fiscal year for the retrofitting or renovation of existing residences or residential structures or units is less than ~~$500,000~~ *the total amount allocated for such fiscal year*, the Director of the Department of Housing and Community Development shall allocate the remaining balance of such tax credits for the purchase or construction of new residences. In the event applications for the tax credit exceed the amount allocated by the Director for the fiscal year, the Department of Housing and Community Development shall issue the tax credits pro rata based upon the amount of tax credit approved for each taxpayer and the amount of tax credits allocated by the Director.

In no case shall the Director issue any tax credit relating to transactions or dealings between affiliated entities. In no case shall the Director issue any tax credit more than once to the same or different persons relating to the same retrofitting, renovation, or construction project.

D. In no case shall the amount of credit taken by a taxpayer pursuant to this section exceed the taxpayer's income tax liability for the taxable year. If the amount of credit allowed for the taxable year in which the residence has been purchased or construction, retrofitting, or renovation of the residence or residential structure or unit has been completed exceeds the taxpayer's income tax liability imposed for such taxable year, then the amount that exceeds the tax liability may be carried over for credit against the income taxes of such taxpayer in the next seven taxable years or until the total amount of the tax credit issued has been taken, whichever is sooner. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

CHAPTER 445

An Act to amend and reenact § 36-139 of the Code of Virginia, relating to Department of Housing and Community Development; powers and duties of the Director; Virginia Residential Sites and Structures Locator.

[S 1114]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 36-139 of the Code of Virginia is amended and reenacted as follows:

§ 36-139. Powers and duties of Director.

The Director of the Department of Housing and Community Development shall have the following responsibilities:

1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their planning and development activities, boundary changes, changes of forms and status of government, intergovernmental agreements and arrangements, and such other information as he may deem necessary.

2. Making information available to communities, planning district commissions, service districts and governmental subdivisions of the Commonwealth.

3. Providing professional and technical assistance to, and cooperating with, any planning agency, planning district commission, service district, and governmental subdivision engaged in the preparation of development plans and programs, service district plans, or consolidation agreements.

4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the General Assembly in accordance with § 15.2-4216.

5. Administering federal grant assistance programs, including funds from the Appalachian Regional Commission, the Economic Development Administration and other such federal agencies, directed at promoting the development of the Commonwealth's communities and regions.

6. Developing state community development policies, goals, plans and programs for the consideration and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the General Assembly.

7. Developing a Consolidated Plan to guide the development and implementation of housing programs and community development in the Commonwealth for the purpose of meeting the housing and community development needs of the Commonwealth and, in particular, those of low-income and moderate-income persons, families and communities.

8. Determining present and future housing requirements of the Commonwealth on an annual basis and revising the Consolidated Plan, as necessary to coordinate the elements of housing production to ensure the availability of housing where and when needed.

9. Assuming administrative coordination of the various state housing programs and cooperating with the various state agencies in their programs as they relate to housing.

10. Establishing public information and educational programs relating to housing; devising and administering programs to inform all citizens about housing and housing-related programs that are available on all levels of government; designing and administering educational programs to prepare families for home ownership and counseling them during their first years as homeowners; and promoting educational programs to assist sponsors in the development of low and moderate income housing as well as programs to lessen the problems of rental housing management.

11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

13. Establishing and operating a Building Code Academy for the training of persons in the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board of Housing and Community Development.

14. Administering, in conjunction with the federal government, and promulgating any necessary regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

15. Identifying and disseminating information to local governments about the availability and utilization of federal and state resources.

16. Administering, with the cooperation of the Department of Health, state assistance programs for public water supply systems.

17. Advising the Board on matters relating to policies and programs of the Virginia Housing Trust Fund.

18. Designing and establishing program guidelines to meet the purposes of the Virginia Housing Trust Fund and to carry out the policies and procedures established by the Board.

19. Preparing agreements and documents for loans and grants to be made from the Virginia Housing Trust Fund; soliciting, receiving, reviewing and selecting the applications for which loans and grants are to be made from such fund; directing the Virginia Housing Development Authority and the Department as to the closing and disbursing of such loans and grants and as to the servicing and collection of such loans; directing the Department as to the regulation and monitoring of the ownership, occupancy and operation of the housing developments and residential housing financed or assisted by such loans and grants; and providing direction and guidance to the Virginia Housing Development Authority as to the investment of moneys in such fund.

20. Establishing and administering program guidelines for a statewide homeless intervention program.

21. Administering 15 percent of the Low Income Home Energy Assistance Program (LIHEAP) Block Grant and any contingency funds awarded and carry over funds, furnishing home weatherization and associated services to low-income households within the Commonwealth in accordance with applicable federal law and regulations.

22. Developing a strategy concerning the expansion of affordable, accessible housing for older Virginians and Virginians with disabilities, including supportive services.

23. Serving as the Executive Director of the Commission on Local Government as prescribed in § 15.2-2901 and perform all other duties of that position as prescribed by law.

24. Developing a strategy, in consultation with the Virginia Housing Development Authority, for the creation and implementation of housing programs and community development for the purpose of meeting the housing needs of persons who have been released from federal, state, and local correctional facilities into communities.

25. Administering the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et seq.) of Title 15.2 jointly with the Virginia Small Business Financing Authority and the Virginia Housing Development Authority.

26. Developing a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and maintain on the Department's website a printable form to be signed by the parties to a written rental agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities as required by § 55.1-1204. The Director may at any time amend the statement of tenant rights and responsibilities and such printable form as the Director deems necessary and appropriate. The statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and responsibilities of tenants in at least 14-point type. The statement shall provide the telephone number and website address

for the statewide legal aid organization and direct tenants with questions about their rights and responsibilities to contact such organization.

27. Developing a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Manufactured Home Lot Rental Act (§ 55.1-1300 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and maintain on the Department's website a printable form to be signed by the parties to a written rental agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities as required by § 55.1-1303. The Director may at any time amend the statement of tenant rights and responsibilities and such printable form as the Director deems necessary and appropriate. The statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and responsibilities in at least 14-point type. The statement shall provide the telephone number and website address for the statewide legal aid organization and direct tenants with questions about their rights and responsibilities to contact such organization.

28. Developing a sample termination notice that includes language referencing acceptance of rent with reservation by a landlord following a breach of a lease by a tenant in accordance with § 55.1-1250. The sample termination notice shall be in at least 14-point type and shall be maintained on the Department's website.

29. *Developing and operating a Virginia Residential Sites and Structures Locator database to assist localities in marketing any structures and parcels determined by the locality to be suitable for future residential or mixed-use development or redevelopment and that are under (i) public ownership, (ii) public and private ownership, or (iii) private ownership if the owner or owners have authorized the locality to market the structure or parcel for future residential or mixed-use development or redevelopment purposes.*

30. Carrying out such other duties as may be necessary and convenient to the exercise of powers granted to the Department.

CHAPTER 446

An Act to amend and reenact § 36-97 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 36-114.1, relating to Uniform Statewide Building Code; stop work orders; appeals of State Building Code Technical Review Board decisions; recovery of costs.

[H 2312]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 36-97 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 36-114.1 as follows:

§ 36-97. Definitions.

As used in this chapter, unless the context ~~or subject matter~~ requires ~~otherwise, the following words or terms shall have the~~ *a different* meaning ~~herein ascribed to them, respectively~~:

"Board" means the Board of Housing and Community Development.

"Building" means a combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons or property. The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. "Building" does not include roadway tunnels and bridges owned by the Department of Transportation, which shall be governed by construction and design standards approved by the Commonwealth Transportation Board.

~~"Review Board" means the State Building Code Technical Review Board.~~

"Building Code" means the Uniform Statewide Building Code and building regulations adopted and promulgated pursuant thereto.

~~"Code provisions" means the provisions of the Uniform Statewide Building Code as adopted and promulgated by the Board, and the amendments thereof as adopted and promulgated by such Board from time to time.~~

"Building regulations" means any law, rule, resolution, regulation, ordinance, or code, general or special, or compilation thereof, ~~heretofore or hereafter~~ enacted or adopted by the Commonwealth or any county or municipality, including departments, boards, bureaus, commissions, or other agencies ~~thereof~~ *of such state or local governments*, relating to construction, reconstruction, alteration, conversion, repair, maintenance, or use of structures and buildings and installation of equipment therein. ~~The term~~ *"Building regulations"* does not include zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the erection, alteration, or repair of a building or structure.

"Code provisions" means the provisions of the Uniform Statewide Building Code as adopted and promulgated by the Board and the amendments thereof as adopted and promulgated by the Board from time to time.

"Construction" means the construction, reconstruction, alteration, repair, or conversion of buildings and structures.

"Department" means the Department of Housing and Community Development.

"Director" means the Director of the Department of Housing and Community Development.

"Equipment" means plumbing, heating, electrical, ventilating, air-conditioning and refrigeration equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

"Farm building or structure" means a building or structure not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:

1. Storage, handling, production, display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced in the farm;

2. Sheltering, raising, handling, processing, or sale of agricultural animals or agricultural animal products;

3. Business or office uses relating to the farm operations;

4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery, or equipment on the farm;

5. Storage or use of supplies and materials used on the farm; or

6. Implementation of best management practices associated with farm operations.

~~"Municipality" means any city or town in this Commonwealth.~~

~~"Local governing body" means the governing body of any city, county or town in this Commonwealth.~~

"Local building department" means the agency or agencies of any local governing body charged with the administration, supervision, or enforcement of the Building Code and regulations, approval of plans, inspection of buildings, or issuance of permits, licenses, certificates, or similar documents.

"Local governing body" means the governing body of any county, city, or town in the Commonwealth.

"Municipality" means any city or town in the Commonwealth.

"Owner" means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, or lessee in control of a building or structure.

"Review Board" means the State Building Code Technical Review Board.

"State agency" means any ~~state~~ department, board, bureau, commission, ~~or~~ agency*, or other unit* of ~~this~~ *state government in the* Commonwealth.

~~"Building" means a combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property. The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. "Building" shall not include roadway tunnels and bridges owned by the Department of Transportation, which shall be governed by construction and design standards approved by the Commonwealth Transportation Board.~~

~~"Equipment" means plumbing, heating, electrical, ventilating, air-conditioning and refrigeration equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.~~

~~"Farm building or structure" means a building or structure not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:~~

~~1. Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced in the farm;~~

~~2. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products;~~

~~3. Business or office uses relating to the farm operations;~~

~~4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm;~~

~~5. Storage or use of supplies and materials used on the farm; or~~

~~6. Implementation of best management practices associated with farm operations.~~

~~"Construction" means the construction, reconstruction, alteration, repair or conversion of buildings and structures.~~

~~"Owner" means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, or lessee in control of a building or structure.~~

~~"Director" means the Director of the Department of Housing and Community Development.~~

"Stop work order" means a legally binding written order to immediately cease work on a building or structure that (i) is issued by a local building official to a property owner, the property owner's agent, or the person performing the work; (ii) identifies the specific violations of the Building Code in regard to the work being performed; and (iii) states the conditions under which such work may be resumed.

"Structure" means an assembly of materials forming a construction for occupancy or use*,* including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, *underground and aboveground* storage tanks ~~(underground and aboveground)~~, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature but excluding water wells. The word "structure" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. "Structure" ~~shall~~ *does* not include roadway tunnels and bridges owned by the Department of Transportation, which shall be governed by construction and design standards approved by the Commonwealth Transportation Board.

~~"Department" means the Department of Housing and Community Development.~~

§ 36-114.1. Appeals of Review Board decisions related to stop work orders.

If, during an appeal pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) of the Review Board's decision with respect to the issuance of a stop work order by a local building official, the court finds in favor of the party that was issued the stop work order, such party shall be entitled to recover its actual costs of litigation, including court costs, attorney fees, and witness fees, from the locality responsible for issuing the stop work order.

CHAPTER 447

An Act to require the Forms and Efiling Subcommittee of the Committee on Self-Represented Litigants of the Supreme Court of Virginia's Access to Justice Commission to develop plain English instructions for interpretation of the Summons for Unlawful Detainer form.

[H 1996]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The Forms and Efiling Subcommittee of the Committee on Self-Represented Litigants of the Supreme Court of Virginia's Access to Justice Commission shall develop plain English instructions that explain to defendants how to interpret Form DC-421 (Summons for Unlawful Detainer/Civil Claim for Eviction). Subject to the approval of the Supreme Court of Virginia, such instructions shall be posted by the Office of the Executive Secretary of the Supreme Court of Virginia on the Virginia Courts website and made available to the public at the clerks' offices of the local general district courts and may be attached to the Summons for Unlawful Detainer served upon defendants at the direction of the chief judge of the general district court. Such instructions shall (i) be printed in no less than 14 point type; (ii) be understandable to persons whose literacy level matches the Virginia literacy level for fourth grade; (iii) explain that failure to appear in court on the hearing date may result in eviction from the defendant's household; and (iv) provide the statewide Legal Aid and Virginia Eviction Reduction Pilot program websites and, if applicable, telephone numbers, directing defendants to contact those programs for more information and assistance. Such instructions may be translated by the local general district courts into languages other than English as necessary. For purposes of this act, "plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession.*

CHAPTER 448

An Act to amend and reenact § 36-97 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 36-114.1, relating to Uniform Statewide Building Code; stop work orders; appeals of State Building Code Technical Review Board decisions; recovery of costs.

[S 1263]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 36-97 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 36-114.1 as follows:

§ 36-97. Definitions.

As used in this chapter, unless the context ~~or subject matter~~ requires ~~otherwise, the following words or terms shall have the~~ *a different* meaning ~~herein ascribed to them, respectively~~:

"Board" means the Board of Housing and Community Development.

"Building" means a combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons or property. The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. "Building" does not include roadway tunnels and bridges owned by the Department of Transportation, which shall be governed by construction and design standards approved by the Commonwealth Transportation Board.

~~"Review Board" means the State Building Code Technical Review Board.~~

"Building Code" means the Uniform Statewide Building Code and building regulations adopted and promulgated pursuant thereto.

~~"Code provisions" means the provisions of the Uniform Statewide Building Code as adopted and promulgated by the Board, and the amendments thereof as adopted and promulgated by such Board from time to time.~~

"Building regulations" means any law, rule, resolution, regulation, ordinance, or code, general or special, or compilation thereof, ~~heretofore or hereafter~~ enacted or adopted by the Commonwealth or any county or municipality, including departments, boards, bureaus, commissions, or other agencies ~~thereof~~ *of such state or local governments*, relating to construction, reconstruction, alteration, conversion, repair, maintenance, or use of structures and buildings and installation of equipment therein. ~~The term~~ *"Building regulations"* does not include zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the erection, alteration, or repair of a building or structure.

"Code provisions" means the provisions of the Uniform Statewide Building Code as adopted and promulgated by the Board and the amendments thereof as adopted and promulgated by the Board from time to time.

"Construction" means the construction, reconstruction, alteration, repair, or conversion of buildings and structures.

"Department" means the Department of Housing and Community Development.

"Director" means the Director of the Department of Housing and Community Development.

"Equipment" means plumbing, heating, electrical, ventilating, air-conditioning and refrigeration equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

"Farm building or structure" means a building or structure not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:

1. Storage, handling, production, display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced in the farm;

2. Sheltering, raising, handling, processing, or sale of agricultural animals or agricultural animal products;

3. Business or office uses relating to the farm operations;

4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery, or equipment on the farm;

5. Storage or use of supplies and materials used on the farm; or

6. Implementation of best management practices associated with farm operations.

~~"Municipality" means any city or town in this Commonwealth.~~

~~"Local governing body" means the governing body of any city, county or town in this Commonwealth.~~

"Local building department" means the agency or agencies of any local governing body charged with the administration, supervision, or enforcement of the Building Code and regulations, approval of plans, inspection of buildings, or issuance of permits, licenses, certificates, or similar documents.

"Local governing body" means the governing body of any county, city, or town in the Commonwealth.

"Municipality" means any city or town in the Commonwealth.

"Owner" means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, or lessee in control of a building or structure.

"Review Board" means the State Building Code Technical Review Board.

"State agency" means any ~~state~~ department, board, bureau, commission, ~~or~~ agency*, or other unit* of ~~this~~ *state government in the* Commonwealth.

~~"Building" means a combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property. The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. "Building" shall not include roadway tunnels and bridges owned by the Department of Transportation, which shall be governed by construction and design standards approved by the Commonwealth Transportation Board.~~

~~"Equipment" means plumbing, heating, electrical, ventilating, air-conditioning and refrigeration equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.~~

~~"Farm building or structure" means a building or structure not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:~~

~~1. Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced in the farm;~~

~~2. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products;~~

~~3. Business or office uses relating to the farm operations;~~

~~4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm;~~

~~5. Storage or use of supplies and materials used on the farm; or~~

~~6. Implementation of best management practices associated with farm operations.~~

~~"Construction" means the construction, reconstruction, alteration, repair or conversion of buildings and structures.~~

~~"Owner" means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, or lessee in control of a building or structure.~~

~~"Director" means the Director of the Department of Housing and Community Development.~~

"Stop work order" means a legally binding written order to immediately cease work on a building or structure that (i) is issued by a local building official to a property owner, the property owner's agent, or the person performing the work; (ii) identifies the specific violations of the Building Code in regard to the work being performed; and (iii) states the conditions under which such work may be resumed.

"Structure" means an assembly of materials forming a construction for occupancy or use*,* including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, *underground and aboveground* storage tanks ~~(underground and aboveground)~~, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature but excluding water wells. The word "structure" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. "Structure" ~~shall~~ *does* not include roadway tunnels and bridges owned by the Department of Transportation, which shall be governed by construction and design standards approved by the Commonwealth Transportation Board.

~~"Department" means the Department of Housing and Community Development.~~

§ 36-114.1. Appeals of Review Board decisions related to stop work orders.

If, during an appeal pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) of the Review Board's decision with respect to the issuance of a stop work order by a local building official, the court finds in favor of the party that was issued the stop work order, such party shall be entitled to recover its actual costs of litigation, including court costs, attorney fees, and witness fees, from the locality responsible for issuing the stop work order.

CHAPTER 449

An Act to amend and reenact § 15.2-2114.01 of the Code of Virginia, relating to local Stormwater Management Fund; condominiums.

[S 1091]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2114.01 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2114.01. Local Stormwater Management Fund; grant moneys.

Any locality may by ordinance create a local Stormwater Management Fund consisting of appropriated local moneys for the purpose of granting funds to an owner of private property or a common interest community for stormwater management and erosion prevention on previously developed lands. Grants from such fund shall be used only for (i) the construction, improvement, or repair of a stormwater management facility; (ii) erosion and sediment control; ~~or~~ (iii) *joint flooding mitigation projects of condominium owners; or (iv)* flood mitigation and protection measures that are part of a comprehensive flood mitigation and protection plan adopted by the locality. Grants made pursuant to clause ~~(iii)~~ *(iv)* shall, where practicable, prioritize projects that include nature-based practices.

CHAPTER 450

An Act to amend and reenact §§ 55.1-1204 and 55.1-1303 of the Code of Virginia, relating to Virginia Residential Landlord and Tenant Act; Manufactured Home Lot Rental Act; statement of tenant rights and responsibilities.

[H 1735]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 55.1-1204 and 55.1-1303 of the Code of Virginia are amended and reenacted as follows:

§ 55.1-1204. Terms and conditions of rental agreement; payment of rent; copy of rental agreement for tenant.

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

B. A landlord shall offer a prospective tenant a written rental agreement containing the terms governing the rental of the dwelling unit and setting forth the terms and conditions of the landlord-tenant relationship and shall provide with it the statement of tenant rights and responsibilities developed by the Department of Housing and Community Development and posted on its website pursuant to § 36-139. The parties to a written rental agreement shall sign the form developed by the Department of Housing and Community Development and posted on its website pursuant to § 36-139 acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities. The written rental agreement shall be effective upon the date signed by the parties.

If a tenant fails to sign the form available pursuant to this subsection, the landlord shall record the date or dates on which he provided the form to the tenant and the fact that the tenant failed to sign such form. Subsequent to the effective date of the tenancy, a landlord may, but shall not be required to, provide a tenant with and allow such tenant an opportunity to sign the form described pursuant to this subsection. The form shall be current as of the date of delivery.

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

1. The provision of this chapter shall be applicable to the dwelling unit that is being rented;

2. The duration of the rental agreement shall be for 12 months and shall not be subject to automatic renewal, except in the event of a month-to-month lease as otherwise provided for under subsection C of § 55.1-1253;

3. Rent shall be paid in 12 equal periodic installments in an amount agreed upon by the landlord and the tenant and if no amount is agreed upon, the installments shall be at fair market rent;

4. Rent payments shall be due on the first day of each month during the tenancy and shall be considered late if not paid by the fifth of the month;

5. If the rent is paid by the tenant after the fifth day of any given month, the landlord shall be entitled to charge a late charge as provided in this chapter;

6. The landlord may collect a security deposit in an amount that does not exceed a total amount equal to two months of rent; and

7. The parties may enter into a written rental agreement at any time during the 12-month tenancy created by this subsection.

D. Except as provided in the written rental agreement, or as provided in subsection C if no written agreement is offered, rent shall be payable without demand or notice at the time and place agreed upon by the parties. Except as provided in the written rental agreement, rent is payable at the place designated by the landlord, and periodic rent is payable at the

beginning of any term of one month or less and otherwise in equal installments at the beginning of each month. If the landlord receives from a tenant a written request for a written statement of charges and payments, he shall provide the tenant with a written statement showing all debits and credits over the tenancy or the past 12 months, whichever is shorter. The landlord shall provide such written statement within 10 business days of receiving the request.

E. A landlord shall not charge a tenant for late payment of rent unless such charge is provided for in the written rental agreement. No such late charge shall exceed the lesser of 10 percent of the periodic rent or 10 percent of the remaining balance due and owed by the tenant.

F. Except as provided in the written rental agreement or, as provided in subsection C if no written agreement is offered, the tenancy shall be week-to-week in the case of a tenant who pays weekly rent and month-to-month in all other cases. Terminations of tenancies shall be governed by § 55.1-1253 unless the rental agreement provides for a different notice period.

G. If the rental agreement contains any provision allowing the landlord to approve or disapprove a sublessee or assignee of the tenant, the landlord shall, within 10 business days of receipt of the written application of the prospective sublessee or assignee on a form to be provided by the landlord, approve or disapprove the sublessee or assignee. Failure of the landlord to act within 10 business days is evidence of his approval.

H. The landlord shall provide a copy of any written rental agreement and the statement of tenant rights and responsibilities to the tenant within one month of the effective date of the written rental agreement. The failure of the landlord to deliver such a rental agreement and statement shall not affect the validity of the agreement. However, the landlord shall not file or maintain an action*, including any summons for unlawful detainer,* against the tenant in a court of law for any alleged lease violation until he has provided the tenant with the statement of tenant rights and responsibilities.

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

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

§ 55.1-1303. Landlord's obligations.

The landlord shall:

1. Comply with applicable laws governing health, zoning, safety, and other matters pertaining to manufactured home parks;

2. Make all repairs and do whatever is necessary to put and keep the manufactured home park in a fit and habitable condition, including maintaining in a clean and safe condition all facilities and common areas provided by the landlord for use by the tenants of two or more manufactured home lots;

3. Maintain in good and working order and condition all electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances supplied or required to be supplied by the landlord;

4. Provide and maintain appropriate receptacles as a manufactured home park facility, except when door-to-door garbage and waste pickup is available within the manufactured home park for the collection and storage of garbage and other waste incidental to the occupancy of the manufactured home park, and arrange for the removal of the garbage and other waste;

5. Provide reasonable access to electric, water, and sewage disposal connections for each manufactured home lot. In the event of a planned disruption by the landlord in electric, water, or sewage disposal services, the landlord shall give written notice to tenants no less than 48 hours prior to the planned disruption in service; and

6. Provide a copy of any written rental agreement and the statement of tenant rights and responsibilities to the tenant within one month of the effective date of the written rental agreement. *The parties to a written rental agreement shall sign the form developed by the Department of Housing and Community Development and posted on its website pursuant to § 36-139 acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities. If a tenant fails to sign the form available pursuant to this subsection, the landlord shall record the date or dates on which he provided the form to the tenant and the fact that the tenant failed to sign such form. Subsequent to the effective date of the tenancy, a landlord may, but shall not be required to, provide a tenant with and allow such tenant an opportunity to sign the form described pursuant to this subsection.* The failure of the landlord to deliver such a rental agreement and statement shall not affect the validity of the agreement. However, the landlord shall not file or maintain an action*, including any summons for unlawful detainer,* against the tenant in a court of law for any alleged lease violation until he has provided the tenant with the statement of tenant rights and responsibilities.

2. That the Director of the Department of Housing and Community Development (the Department) shall update the printable forms created pursuant to subdivisions 26 and 27 of § 36-139 of the Code of Virginia to include the following language: "All parties to a rental agreement are encouraged to consult the Department of Housing and Community Development's website for more information related to landlord and tenant resources." Such language shall be accompanied by the web address or hyperlink that is associated with the Department's "Tenant and Landlord Resources" webpage.

CHAPTER 451

An Act to amend and reenact § 46.2-916.2 of the Code of Virginia, relating to golf carts and utility vehicles; Town of Stony Creek.

[H 1457]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-916.2 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-916.2. Designation of public highways for golf cart and utility vehicle operations.

A. No portion of the public highways may be designated for use by golf carts and utility vehicles unless the governing body of the county, city, or town in which that portion of the highway is located has reviewed and approved such highway usage.

B. The governing body of any county, city, or town may by ordinance authorize the operation of golf carts and utility vehicles on designated public highways within its boundaries after (i) considering the speed, volume, and character of motor vehicle traffic using such highways and (ii) determining that golf cart and utility vehicle operation on particular highways is compatible with state and local transportation plans and consistent with the Commonwealth's Statewide Pedestrian Policy provided for in § 33.2-354.

C. Notwithstanding the other provisions of this section, no town that has not established its own police department, as defined in § 9.1-165, may authorize the operation of golf carts or utility vehicles. The provision of this subsection shall not apply to the Towns of Claremont, Clifton, Dendron, Irvington, Ivor, Jarratt, Saxis, *Stony Creek,* Urbanna, or Wachapreague.

D. No public highway shall be designated for use by golf carts and utility vehicles if such golf cart and utility vehicle operations will impede the safe and efficient flow of motor vehicle traffic.

E. The county, city, or town that has authorized the operation of golf carts or utility vehicles shall be responsible for the installation and continuing maintenance of any signs pertaining to the operation of golf carts or utility vehicles. Such county, city, or town may include in its ordinance for designating highways the ability to recover its costs of the signs and maintenance pertaining thereto from organizations, individuals, or entities requesting the designations. The cost of installation and continuing maintenance of any signs pertaining to the operation of golf carts or utility vehicles shall not be paid by the Virginia Department of Transportation.

F. Notwithstanding the other provisions of this section, employees of the Department of Conservation and Recreation may operate golf carts and utility vehicles on those portions of public highways located within Department of Conservation and Recreation property and on Virginia Department of Transportation-maintained highways that are adjacent to Department of Conservation and Recreation property, provided the golf cart or utility vehicle is being operated on highways with speed limits of no more than 35 miles per hour.

CHAPTER 452

An Act to amend and reenact § 59.1-199 of the Code of Virginia, relating to Virginia Consumer Protection Act; exclusions; residential home sales between natural persons.

[S 988]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-199 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-199. Exclusions.

Nothing in this chapter shall apply to:

~~A.~~ *1.* Any aspect of a consumer transaction which aspect is authorized under laws or regulations of ~~this~~ *the* Commonwealth or the United States, or the formal advisory opinions of any regulatory body or official of ~~this~~ *the* Commonwealth or the United States.

~~B.~~ *2.* Acts done by the publisher, owner, agent, or employee of a newspaper, periodical, or radio or television station, or other advertising media such as outdoor advertising and advertising agencies, in the publication or dissemination of an advertisement in violation of § 59.1-200, unless it be proved that such person knew that the advertisement was of a character prohibited by § 59.1-200.

~~C.~~ *3.* Those aspects of a consumer transaction ~~which~~ *that* are regulated by the Federal Consumer Credit Protection Act, 15 U.S.C. § 1601 et seq.

~~D.~~ *4.* Banks, savings institutions, credit unions, small loan companies, public service corporations, mortgage lenders as defined in § 6.2-1600, broker-dealers as defined in § 13.1-501, gas suppliers as defined in subsection E of § 56-235.8, and insurance companies regulated and supervised by the State Corporation Commission or a comparable federal regulating body.

~~E.~~ *5.* Any aspect of a consumer transaction ~~which~~ *that* is subject to the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.) or Chapter 14 (§ 55.1-1400 et seq.) of Title 55.1, unless the act or practice of a landlord constitutes a misrepresentation or fraudulent act or practice under § 59.1-200.

~~F.~~ *6.* Real estate licensees who are licensed under Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1.

7. Residential home sales between natural persons involving the seller's private residence.

CHAPTER 453

An Act to amend the Code of Virginia by adding a section numbered 22.1-225.1, relating to Department of Education; Virginia-based nonprofit organizations; schools for adults to earn credentials, college credit, and high school diplomas.

[H 1726]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-225.1 as follows:

§ 22.1-225.1. Department; Virginia-based nonprofit organizations; schools for adults to earn credentials, college credit, and high school diplomas.

Notwithstanding any other provision of law to the contrary, the Department shall authorize a Virginia-based nonprofit organization with demonstrated evidence of positive student outcomes to provide schools for adults to earn (i) (a) an industry-recognized credential awarded through a partnership with a Virginia-based community college or an approved training provider or (b) dual college credit awarded through a partnership with a Virginia-based community college and (ii) a high school diploma on one or more diploma pathways set forth in subdivision 3 of 8VAC20-30-20 in which enrollment is open, on a space-available basis, to adults who reside throughout the Commonwealth.

CHAPTER 454

An Act to amend the Code of Virginia by adding a section numbered 22.1-225.1, relating to Department of Education; Virginia-based nonprofit organizations; schools for adults to earn credentials, college credit, and high school diplomas.

[S 1019]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-225.1 as follows:

§ 22.1-225.1. Department; Virginia-based nonprofit organizations; schools for adults to earn credentials, college credit, and high school diplomas.

Notwithstanding any other provision of law to the contrary, the Department shall authorize a Virginia-based nonprofit organization with demonstrated evidence of positive student outcomes to provide schools for adults to earn (i) (a) an industry-recognized credential awarded through a partnership with a Virginia-based community college or an approved training provider or (b) dual college credit awarded through a partnership with a Virginia-based community college and (ii) a high school diploma on one or more diploma pathways set forth in subdivision 3 of 8VAC20-30-20 in which enrollment is open, on a space-available basis, to adults who reside throughout the Commonwealth.

CHAPTER 455

An Act to amend and reenact §§ 2.2-508, 30-395, and 30-396 of the Code of Virginia; to amend the Code of Virginia by adding in Article 2 of Chapter 3 of Title 24.2 a section numbered 24.2-304.05; and to repeal §§ 24.2-302.2, 24.2-303.3, and 24.2-304.03 of the Code of Virginia, relating to obsolescence of 2011 district descriptions; legal boundaries.

[S 1150]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-508, 30-395, and 30-396 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 3 of Title 24.2 a section numbered 24.2-304.05 as follows:

§ 2.2-508. Legal service in certain redistricting proceedings.

Upon notification by a county, city or town of a pending civil action challenging the legality of its election district boundaries as required by § 24.2-304.5, the Attorney General shall review the papers in the civil action and may represent the interests of the Commonwealth in developing an appropriate remedy that is consistent with *the* requirements of ~~law, including but not limited to~~ Article VII, Section 5 of the Constitution of Virginia, Chapter 3 (§ ~~24.2-302.2~~ *24.2-304.04* et seq.) of Title 24.2, or ~~Chapter 39 (§ 30-263 et seq.)~~ *Chapter 62 (§ 30-391 et seq.)* of Title 30.

§ 24.2-304.05. Legal boundaries of congressional and state legislative districts.

A. There shall be 11 Virginia members of the United States House of Representatives elected from 11 congressional districts, and each district is entitled to one representative. The district numbers and boundaries of the 11 congressional

districts shall be those designated in the block equivalency file and resulting shapefile that is the electronic version of the districts established pursuant to Article II, Section 6-A of the Constitution of Virginia and Chapter 62 (§ 30-391 et seq.) of Title 30.

B. There shall be 40 members of the Senate of Virginia elected from 40 senate districts, and each district is entitled to representation by one senator. The district numbers and boundaries of the 40 senate districts shall be those designated in the block equivalency file and resulting shapefile that is the electronic version of the districts established pursuant to Article II, Section 6-A of the Constitution of Virginia and Chapter 62 (§ 30-391 et seq.) of Title 30.

C. There shall be 100 members of the House of Delegates elected from 100 House of Delegates districts and each district is entitled to representation by one delegate. The district numbers and boundaries of the 100 House of Delegates districts shall be those designated in the block equivalency file and resulting shapefile that is the electronic version of the districts established pursuant to Article II, Section 6-A of the Constitution of Virginia and Chapter 62 (§ 30-391 et seq.) of Title 30.

D. The block equivalency files and shapefiles for a congressional, senate, or House of Delegates district shall be controlling in any legal determination of the boundary of such district.

§ 30-395. Staff to Virginia Redistricting Commission; census liaison.

A. The Division of Legislative Services shall provide staff support to the Commission. Staff shall perform those duties assigned to it by the Commission. The Director of the Division of Legislative Services, or his designated representative, shall serve as the state liaison with the United States Bureau of the Census on matters relating to the tabulation of the population for reapportionment purposes pursuant to P.L. 94-171. The governing bodies, electoral boards, and registrars of every county and municipality shall cooperate with the Division of Legislative Services in the exchange of all statistical and other information pertinent to preparation for the census.

B. The Division of Legislative Services shall maintain the current election district and precinct boundaries of each county and city as a part of the Commission's computer-assisted mapping and redistricting system. Whenever a county or city governing body adopts an ordinance that changes an election district or precinct boundary, the local governing body shall provide a copy of its ordinance, along with Geographic Information System (GIS) maps and other evidence documenting the boundary, to the Division of Legislative Services.

~~C. The provisions of Article 2 (§ 24.2-302 et seq.) of Chapter 3 of Title 24.2, including the statistical reports referred to in that article, shall be controlling in any legal determination of a district boundary.~~

§ 30-396. Public participation in redistricting process; publicly available data.

A. All meetings and hearings held by the Commission shall be adequately advertised and planned to ensure the public is able to attend and participate fully. Meetings and hearings shall be advertised in multiple languages as practicable and appropriate.

B. Prior to proposing any plan for districts for the United States House of Representatives, the Senate, or the House of Delegates and prior to voting to submit such plans to the General Assembly, the Commission shall hold at least three public hearings in order to receive and consider comments from the public. Public hearings may be held virtually and any public hearings that are held in person shall be conducted in different parts of the Commonwealth.

C. The Commission shall establish and maintain a website or other equivalent electronic platform. The website shall be available to the general public and shall be used to disseminate information about the Commission's activities. The website shall be capable of receiving comments and proposals by citizens of the Commonwealth. Prior to voting on any proposed plan, the Commission shall publish the proposed plans on the website.

D. All data used by the Commission in the drawing of districts shall be available to the public on its website. Such data, including census data, precinct maps, election results, and shapefiles, shall be posted within three days of receipt by the Commission.

E. The block equivalency files and shapefiles for the congressional, senate, and House of Delegates districts established pursuant to this chapter and Article II, Section 6-A of the Constitution of Virginia shall be maintained and available to the public on the Commission's website. Such block equivalency files and shapefiles shall be controlling in any legal determination of the boundary of a congressional, senate, or House of Delegates district.

2. That §§ 24.2-302.2, 24.2-303.3, and 24.2-304.03 of the Code of Virginia are repealed.

CHAPTER 456

An Act to amend and reenact § 8.01-512.4 of the Code of Virginia and to repeal § 34-28.3 of the Code of Virginia, relating to emergency relief payments; automatic exemption from creditor process; repeal.

[H 1972]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-512.4 of the Code of Virginia is amended as follows:

§ 8.01-512.4. Notice of exemptions from garnishment and lien.

No summons in garnishment shall be issued or served, nor shall any notice of lien be served on a financial institution pursuant to § 8.01-502.1, unless a notice of exemptions and claim for exemption form are attached. The notice shall contain the following statement:

NOTICE TO JUDGMENT DEBTOR

HOW TO CLAIM EXEMPTIONS FROM GARNISHMENT AND LIEN

The attached Summons in Garnishment or Notice of Lien has been issued on request of a creditor who holds a judgment against you. The Summons may cause your property or wages to be held or taken to pay the judgment.

The law provides that certain property and wages cannot be taken in garnishment. Such property is said to be exempted. A summary of some of the major exemptions is set forth in the request for hearing form. There is no exemption solely because you are having difficulty paying your debts.

If you claim an exemption, you should (i) fill out the claim for exemption form and (ii) deliver or mail the form to the clerk's office of this court. You have a right to a hearing within seven business days from the date you file your claim with the court. If the creditor is asking that your wages be withheld, the method of computing the amount of wages that are exempt from garnishment by law is indicated on the Summons in Garnishment attached. You do not need to file a claim for exemption to receive this exemption, but if you believe the wrong amount is being withheld you may file a claim for exemption.

On the day of the hearing you should come to court ready to explain why your property is exempted, and you should bring any documents that may help you prove your case. If you do not come to court at the designated time and prove that your property is exempt, you may lose some of your rights.

It may be helpful to you to seek the advice of an attorney in this matter.

REQUEST FOR HEARING-GARNISHMENT/LIEN EXEMPTION CLAIM

I claim that the exemption(s) from garnishment or lien that are checked below apply in this case:

MAJOR EXEMPTIONS UNDER FEDERAL AND STATE LAW

__ 1. Social Security benefits and Supplemental Security Income (SSI)(42 U.S.C. § 407).

__ 2. Veterans' benefits (38 U.S.C. § 5301).

__ 3. Federal civil service retirement benefits (5 U.S.C. § 8346).

__ 4. Annuities to survivors of federal judges (28 U.S.C. § 376(n)).

__ 5. Longshore and Harbor Workers' Compensation Act (33 U.S.C. § 916).

__ 6. Black lung benefits.

Exemptions listed under 1 through 6 above may not be applicable in child support and alimony cases (42 U.S.C. § 659).

__ 7. Seaman's, master's or fisherman's wages, except for child support or spousal support and maintenance (46 U.S.C. § 11109).

__ 8. Unemployment compensation benefits (§ 60.2-600, Code of Virginia). This exemption may not be applicable in child support cases (§ 60.2-608, Code of Virginia).

__ 9. Portions or amounts of wages subject to garnishment (§ 34-29, Code of Virginia).

__ 10. Public assistance payments (§ 63.2-506, Code of Virginia).

__ 11. Homestead exemption of $5,000, or $10,000 if the debtor is 65 years of age or older, in cash, and, in addition, real or personal property used as the principal residence of the householder or the householder's dependents not exceeding $25,000 in value (§ 34-4, Code of Virginia). This exemption may not be claimed in certain cases, such as payment of spousal or child support (§ 34-5, Code of Virginia).

__ 12. Property of disabled veterans — additional $10,000 cash (§ 34-4.1, Code of Virginia).

__ 13. Workers' Compensation benefits (§ 65.2-531, Code of Virginia).

__ 14. Growing crops (§ 8.01-489, Code of Virginia).

__ 15. Benefits from group life insurance policies (§ 38.2-3339, Code of Virginia).

__ 16. Proceeds from industrial sick benefits insurance (§ 38.2-3549, Code of Virginia).

__ 17. Assignments of certain salary and wages (§ 8.01-525.10, Code of Virginia).

__ 18. Benefits for victims of crime (§ 19.2-368.12, Code of Virginia).

__ 19. Preneed funeral trusts (§ 54.1-2823, Code of Virginia).

__ 20. Certain retirement benefits (§ 34-34, Code of Virginia).

__ 21. Child support payments (§ 20-108.1, Code of Virginia).

__ 22. Support for dependent minor children (§ 34-4.2, Code of Virginia). To claim this exemption, the debtor shall attach to the claim for exemption form an affidavit that complies with the requirements of subsection B of § 34-4.2 and two items of proof showing that the debtor is entitled to this exemption.

__ 23. ~~Emergency relief payments (§ 34-28.3, Code of Virginia).~~

__ ~~24.~~ Other (describe exemption): $_____

I request a court hearing to decide the validity of my claim. Notice of the hearing should be given me at:

_____ _____

(address) (telephone no.)

The statements made in this request are true to the best of my knowledge and belief.

_____ _____

(date) (signature of judgment debtor)

2. That § 34-28.3 of the Code of Virginia is repealed.

CHAPTER 457

An Act to amend and reenact § 8.01-512.4 of the Code of Virginia and to repeal § 34-28.3 of the Code of Virginia, relating to emergency relief payments; automatic exemption from creditor process; repeal.

[S 812]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-512.4 of the Code of Virginia is amended as follows:

§ 8.01-512.4. Notice of exemptions from garnishment and lien.

No summons in garnishment shall be issued or served, nor shall any notice of lien be served on a financial institution pursuant to § 8.01-502.1, unless a notice of exemptions and claim for exemption form are attached. The notice shall contain the following statement:

NOTICE TO JUDGMENT DEBTOR

HOW TO CLAIM EXEMPTIONS FROM GARNISHMENT AND LIEN

The attached Summons in Garnishment or Notice of Lien has been issued on request of a creditor who holds a judgment against you. The Summons may cause your property or wages to be held or taken to pay the judgment.

The law provides that certain property and wages cannot be taken in garnishment. Such property is said to be exempted. A summary of some of the major exemptions is set forth in the request for hearing form. There is no exemption solely because you are having difficulty paying your debts.

If you claim an exemption, you should (i) fill out the claim for exemption form and (ii) deliver or mail the form to the clerk's office of this court. You have a right to a hearing within seven business days from the date you file your claim with the court. If the creditor is asking that your wages be withheld, the method of computing the amount of wages that are exempt from garnishment by law is indicated on the Summons in Garnishment attached. You do not need to file a claim for exemption to receive this exemption, but if you believe the wrong amount is being withheld you may file a claim for exemption.

On the day of the hearing you should come to court ready to explain why your property is exempted, and you should bring any documents that may help you prove your case. If you do not come to court at the designated time and prove that your property is exempt, you may lose some of your rights.

It may be helpful to you to seek the advice of an attorney in this matter.

REQUEST FOR HEARING-GARNISHMENT/LIEN EXEMPTION CLAIM

I claim that the exemption(s) from garnishment or lien that are checked below apply in this case:

MAJOR EXEMPTIONS UNDER FEDERAL AND STATE LAW

__ 1. Social Security benefits and Supplemental Security Income (SSI)(42 U.S.C. § 407).

__ 2. Veterans' benefits (38 U.S.C. § 5301).

__ 3. Federal civil service retirement benefits (5 U.S.C. § 8346).

__ 4. Annuities to survivors of federal judges (28 U.S.C. § 376(n)).

__ 5. Longshore and Harbor Workers' Compensation Act (33 U.S.C. § 916).

__ 6. Black lung benefits.

Exemptions listed under 1 through 6 above may not be applicable in child support and alimony cases (42 U.S.C. § 659).

__ 7. Seaman's, master's or fisherman's wages, except for child support or spousal support and maintenance (46 U.S.C. § 11109).

__ 8. Unemployment compensation benefits (§ 60.2-600, Code of Virginia). This exemption may not be applicable in child support cases (§ 60.2-608, Code of Virginia).

__ 9. Portions or amounts of wages subject to garnishment (§ 34-29, Code of Virginia).

__ 10. Public assistance payments (§ 63.2-506, Code of Virginia).

__ 11. Homestead exemption of $5,000, or $10,000 if the debtor is 65 years of age or older, in cash, and, in addition, real or personal property used as the principal residence of the householder or the householder's dependents not exceeding $25,000 in value (§ 34-4, Code of Virginia). This exemption may not be claimed in certain cases, such as payment of spousal or child support (§ 34-5, Code of Virginia).

__ 12. Property of disabled veterans — additional $10,000 cash (§ 34-4.1, Code of Virginia).

__ 13. Workers' Compensation benefits (§ 65.2-531, Code of Virginia).

__ 14. Growing crops (§ 8.01-489, Code of Virginia).

__ 15. Benefits from group life insurance policies (§ 38.2-3339, Code of Virginia).

__ 16. Proceeds from industrial sick benefits insurance (§ 38.2-3549, Code of Virginia).

__ 17. Assignments of certain salary and wages (§ 8.01-525.10, Code of Virginia).

__ 18. Benefits for victims of crime (§ 19.2-368.12, Code of Virginia).

__ 19. Preneed funeral trusts (§ 54.1-2823, Code of Virginia).

__ 20. Certain retirement benefits (§ 34-34, Code of Virginia).

__ 21. Child support payments (§ 20-108.1, Code of Virginia).

__ 22. Support for dependent minor children (§ 34-4.2, Code of Virginia). To claim this exemption, the debtor shall attach to the claim for exemption form an affidavit that complies with the requirements of subsection B of § 34-4.2 and two items of proof showing that the debtor is entitled to this exemption.

__ 23. ~~Emergency relief payments (§ 34-28.3, Code of Virginia).~~

~~__ 24.~~ Other (describe exemption): $_____

I request a court hearing to decide the validity of my claim. Notice of the hearing should be given me at:

_____ _____

(address) (telephone no.)

The statements made in this request are true to the best of my knowledge and belief.

_____ _____

(date) (signature of judgment debtor)

2. That § 34-28.3 of the Code of Virginia is repealed.

CHAPTER 458

An Act to amend and reenact § 15.2-955 of the Code of Virginia, relating to emergency medical services agencies; ordinances or resolutions; designation as emergency response agencies.

[H 1472]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-955 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-955. Approval by local governing body for the establishment of volunteer emergency medical services agencies and firefighting organizations.

A. No volunteer emergency medical services agency or volunteer firefighting organization shall be established in any locality on or after July 1, 1984, without the prior approval by *ordinance or* resolution of the governing body. *Such ordinance or resolution shall specify the geographic boundaries of the agency's primary service area within the locality.*

B. Each locality shall seek to ensure that *essential* emergency medical services are maintained throughout the entire locality.

C. An emergency medical services agency that responds to medical emergencies for its primary service area as defined by the local emergency medical response plan shall be a designated emergency response agency and recognized as an integral and essential part of the official public safety program of the county, city, or town with responsibility for providing emergency medical response.

CHAPTER 459

An Act to amend and reenact § 15.2-955 of the Code of Virginia, relating to emergency medical services agencies; ordinances or resolutions; designation as emergency response agencies.

[S 1246]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-955 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-955. Approval by local governing body for the establishment of volunteer emergency medical services agencies and firefighting organizations.

A. No volunteer emergency medical services agency or volunteer firefighting organization shall be established in any locality on or after July 1, 1984, without the prior approval by *ordinance or* resolution of the governing body. *Such ordinance or resolution shall specify the geographic boundaries of the agency's primary service area within the locality.*

B. Each locality shall seek to ensure that *essential* emergency medical services are maintained throughout the entire locality.

C. An emergency medical services agency that responds to medical emergencies for its primary service area as defined by the local emergency medical response plan shall be a designated emergency response agency and recognized as an integral and essential part of the official public safety program of the county, city, or town with responsibility for providing emergency medical response.

CHAPTER 460

An Act to amend and reenact §§ 54.1-2986.1, 64.2-2009, and 64.2-2019 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 64.2-2019.1, relating to guardianship; restricted communication procedures.

[H 2027]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2986.1, 64.2-2009, and 64.2-2019 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 64.2-2019.1 as follows:

§ 54.1-2986.1. Duties and authority of agent or person identified in § 54.1-2986.

A. If the declarant appoints an agent in an advance directive, that agent shall have (i) the authority to make health care decisions for the declarant as specified in the advance directive if the declarant is determined to be incapable of making an informed decision and (ii) decision-making priority over any person identified in § 54.1-2986. In no case shall the agent refuse or fail to honor the declarant's wishes in relation to anatomical gifts or organ, tissue or eye donation. Decisions to restrict visitation of the patient may be made by an agent only if the declarant has expressly included provisions for visitation in his advance directive; such visitation decisions shall be subject to physician orders and policies of the institution to which the declarant is admitted. No person authorized to make decisions for a patient under § 54.1-2986 shall have authority to restrict visitation of the patient*, unless such visitation was restricted by a guardian pursuant to the procedures prescribed by § 64.2-2019.1.*

B. Any agent or person authorized to make health care decisions pursuant to this article shall (i) undertake a good faith effort to ascertain the risks and benefits of, and alternatives to any proposed health care, (ii) make a good faith effort to ascertain the religious values, basic values, and previously expressed preferences of the patient, and (iii) to the extent possible, base his decisions on the beliefs, values, and preferences of the patient, or if they are unknown, on the patient's best interests.

§ 64.2-2009. Court order of appointment; limited guardianships and conservatorships.

A. The court's order appointing a guardian or conservator shall (i) state the nature and extent of the person's incapacity; (ii) define the powers and duties of the guardian or conservator so as to permit the incapacitated person to care for himself and manage property to the extent he is capable; (iii) specify whether the appointment of a guardian or conservator is limited to a specified length of time, as the court in its discretion may determine; (iv) specify the legal disabilities, if any, of the person in connection with the finding of incapacity, including but not limited to mental competency for purposes of Article II, § 1 of the Constitution of Virginia or Title 24.2; (v) include any limitations deemed appropriate following consideration of the factors specified in § 64.2-2007; (vi) set the bond of the guardian and the bond and surety, if any, of the conservator; and (vii) where a petition is brought prior to the incapacitated person's eighteenth birthday, pursuant to subsection C of § 64.2-2001, whether the order shall take effect immediately upon entry or on the incapacitated person's eighteenth birthday.

B. The court may appoint a limited guardian for an incapacitated person who is capable of addressing some of the essential requirements for his care for the limited purpose of medical decision making, decisions about place of residency, or other specific decisions regarding his personal affairs. The court may appoint a limited conservator for an incapacitated person who is capable of managing some of his property and financial affairs for limited purposes that are specified in the order.

C. Unless the guardian has a professional relationship with the incapacitated person or is employed by or affiliated with a facility where the person resides, the court's order may authorize the guardian to consent to the admission of the person to a facility pursuant to § 37.2-805.1, upon finding by clear and convincing evidence that (i) the person has severe and persistent mental illness that significantly impairs the person's capacity to exercise judgment or self-control, as confirmed by the evaluation of a licensed psychiatrist; (ii) such condition is unlikely to improve in the foreseeable future; and (iii) the guardian has formulated a plan for providing ongoing treatment of the person's illness in the least restrictive setting suitable for the person's condition.

D. A guardian need not be appointed for a person who has appointed an agent under an advance directive executed in accordance with the provisions of Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, unless the court determines that the agent is not acting in accordance with the wishes of the principal or there is a need for decision making outside the purview of the advance directive. A guardian need not be appointed for a person where a health care decision is made pursuant to, and within the scope of, the Health Care Decisions Act (§ 54.1-2981 et seq.).

A conservator need not be appointed for a person (i) who has appointed an agent under a durable power of attorney, unless the court determines pursuant to the Uniform Power of Attorney Act (§ 64.2-1600 et seq.) that the agent is not acting in the best interests of the principal or there is a need for decision making outside the purview of the durable power of attorney or (ii) whose only or major source of income is from the Social Security Administration or other government program and who has a representative payee.

E. All orders appointing a guardian shall include the following statements in conspicuous bold print in at least 14-point type:

"1. Pursuant to § 64.2-2009 of the Code of Virginia, _____ (name of guardian), is hereby appointed as guardian of _____ (name of respondent) with all duties and powers granted to a guardian pursuant to § 64.2-2019

of the Code of Virginia, including but not limited to: (enter a statement of the rights removed and retained, if any, at the time of appointment; whether the appointment of a guardian is a full guardianship, public guardianship pursuant to § 64.2-2010 of the Code of Virginia, limited guardianship pursuant to § 64.2-2009 of the Code of Virginia, or temporary guardianship; and the duration of the appointment).

2. Pursuant to the provisions of subsection E of § 64.2-2019 of the Code of Virginia, a guardian, to the extent possible, shall encourage the incapacitated person to participate in decisions, shall consider the expressed desires and personal values of the incapacitated person to the extent known, and shall not ~~unreasonably~~ restrict an incapacitated person's ability to communicate with, visit, or interact with other persons with whom the incapacitated person has an established relationship*, unless such restriction is reasonable to prevent physical, mental, or emotional harm to or financial exploitation of such incapacitated person and after consideration of the expressed wishes of the incapacitated person. Such restrictions shall only be imposed pursuant to § 64.2-2019.1*.

3. Pursuant to § 64.2-2020 of the Code of Virginia, an annual report shall be filed by the guardian with the local department of social services for the jurisdiction where the incapacitated person resides.

4. Pursuant to § 64.2-2012 of the Code of Virginia, all guardianship orders are subject to petition for restoration of the incapacitated person to capacity; modification of the type of appointment or areas of protection, management, or assistance granted; or termination of the guardianship."

§ 64.2-2019. Duties and powers of guardian.

A. A guardian stands in a fiduciary relationship to the incapacitated person for whom he was appointed guardian and may be held personally liable for a breach of any fiduciary duty to the incapacitated person. A guardian shall not be liable for the acts of the incapacitated person unless the guardian is personally negligent. A guardian shall not be required to expend personal funds on behalf of the incapacitated person.

B. A guardian's duties and authority shall not extend to decisions addressed in a valid advance directive or durable power of attorney previously executed by the incapacitated person. A guardian may seek court authorization to revoke, suspend, or otherwise modify a durable power of attorney, as provided by the Uniform Power of Attorney Act (§ 64.2-1600 et seq.). Notwithstanding the provisions of the Health Care Decisions Act (§ 54.1-2981 et seq.) and in accordance with the procedures of § 64.2-2012, a guardian may seek court authorization to modify the designation of an agent under an advance directive, but the modification shall not in any way affect the incapacitated person's directives concerning the provision or refusal of specific medical treatments or procedures.

C. A guardian shall maintain sufficient contact with the incapacitated person to know of his capabilities, limitations, needs, and opportunities. The guardian shall visit the incapacitated person as often as necessary.

D. A guardian shall be required to seek prior court authorization to change the incapacitated person's residence to another state, to terminate or consent to a termination of the person's parental rights, or to initiate a change in the person's marital status.

E. A guardian shall, to the extent feasible, encourage the incapacitated person to participate in decisions, to act on his own behalf, and to develop or regain the capacity to manage personal affairs. A guardian, in making decisions, shall consider the expressed desires and personal values of the incapacitated person to the extent known and shall otherwise act in the incapacitated person's best interest and exercise reasonable care, diligence, and prudence. A guardian shall not ~~unreasonably~~ restrict an incapacitated person's ability to communicate with, visit, or interact with other persons with whom the incapacitated person has an established relationship*, unless such restriction is reasonable to prevent physical, mental, or emotional harm to or financial exploitation of such incapacitated person and after consideration of the expressed wishes of the incapacitated person. Such restrictions shall only be imposed pursuant to § 64.2-2019.1*.

F. A guardian shall have authority to make arrangements for the funeral and disposition of remains, including cremation, interment, entombment, memorialization, inurnment, or scattering of the cremains, or some combination thereof, if the guardian is not aware of any person that has been otherwise designated to make such arrangements as set forth in § 54.1-2825. A guardian shall have authority to make arrangements for the funeral and disposition of remains after the death of an incapacitated person if, after the guardian has made a good faith effort to locate the next of kin of the incapacitated person to determine if the next of kin wishes to make such arrangements, the next of kin does not wish to make the arrangements or the next of kin cannot be located. Good faith effort shall include contacting the next of kin identified in the petition for appointment of a guardian. The funeral service licensee, funeral service establishment, registered crematory, cemetery, cemetery operator, or guardian shall be immune from civil liability for any act, decision, or omission resulting from acceptance of any dead body for burial, cremation, or other disposition when the provisions of this section are met, unless such acts, decisions, or omissions resulted from bad faith or malicious intent.

§ 64.2-2019.1. Procedures to restrict communication, visitation, or interaction.

A. A guardian may restrict the ability of a person with whom the incapacitated person has an established relationship to communicate with, visit, or interact with such incapacitated person only when such restriction is reasonable to prevent physical, mental, or emotional harm to or financial exploitation of such incapacitated person and after consideration of the expressed wishes of such incapacitated person. Any such restriction may include (i) limitations on time, duration, location, or method of visits or communication, (ii) supervised visitation, or (iii) prohibition of in-person visitation, and shall be the least restrictive means possible to prevent any such harm or exploitation.

B. The guardian shall provide written notice to the restricted person, on a form developed by the Office of the Executive Secretary of the Supreme Court of Virginia, stating (i) the nature and terms of the restriction, (ii) the reasons why

the guardian believes the restriction is necessary, and (iii) how the restricted person or incapacitated person may challenge such restriction in court pursuant to § 64.2-2012. The guardian shall also inform the incapacitated person of such restriction and provide a copy of such written notice to the incapacitated person, unless the guardian has a good faith belief that such information would be detrimental to the health or safety of such incapacitated person. The guardian shall provide a copy of such written notice to the local department of social services of the jurisdiction where the incapacitated person resides and shall file a copy of such written notice with the circuit court that appointed the guardian. If the incapacitated person is in a hospital, convalescent home, or certified nursing facility licensed by the Department of Health pursuant to § 32.1-123, an assisted living facility as defined in § 63.2-100, or any other similar institution, the guardian shall also inform such hospital, home, facility, or institution of such restriction.

C. If the court finds that a restriction is reasonable to prevent harm to or financial exploitation of such incapacitated person, the court may continue or modify such restriction in its discretion.

D. If the court does not find that a restriction is reasonable to prevent harm to or financial exploitation of such incapacitated person, the court may issue an order terminating, continuing, or modifying any restriction the guardian imposed on the person challenging such restriction.

E. If the court finds that a guardian imposed a restriction in bad faith, primarily for the purposes of harassment, or that was clearly frivolous or vexatious, the court may require the guardian to pay or reimburse, from the guardian's personal funds, all or some of the costs and fees, including attorney fees, incurred by the restricted person in connection with such motion.

F. If the court finds that the claim of a restricted person who filed a motion pursuant to this section was made in bad faith, was brought primarily for the purposes of harassment, or was clearly frivolous or vexatious, the court may require such restricted person to pay or reimburse the guardian all or some of the costs and fees, including attorney fees, incurred by the guardian in connection with such claim.

G. Any court order issued pursuant to the provisions of this section shall be provided to the local department of social services of the jurisdiction where the incapacitated person resides.

CHAPTER 461

An Act to amend and reenact § 2.2-3704.3 of the Code of Virginia, relating to Virginia Freedom of Information Act; training for local officials; members of park authorities' boards.

[H 2498]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3704.3 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3704.3. Training for local officials.

A. The Virginia Freedom of Information Advisory Council (the Council) or the local government attorney shall provide in-person or online training sessions for local elected officials ~~and~~*;* the executive directors and members of industrial development authorities and economic development authorities, as created by the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.)~~,~~*; and members of any boards governing any authority established pursuant to the Park Authorities Act (§ 15.2-5700 et seq.)* on the provisions of this chapter.

B. Each local elected official ~~and~~, the executive director and members of each industrial development authority and economic development authority, as created by the Industrial Development and Revenue Bond Act, *and members of any boards governing any authority established pursuant to the Park Authorities Act (§ 15.2-5700 et seq.)* shall complete a training session described in subsection A within two months after assuming the local elected office and thereafter at least once during each consecutive period of two calendar years commencing with the date on which he last completed a training session, for as long as he holds such office. No penalty shall be imposed on a local elected official or an executive director or member of an industrial development authority or an economic development authority for failing to complete a training session.

C. The clerk of each governing body or school board shall maintain records indicating the names of elected officials ~~and~~, executive directors and members of industrial development authorities and economic development authorities*, and members of any boards governing any authority established pursuant to the Park Authorities Act (§ 15.2-5700 et seq.)* subject to the training requirements in subsection B and the dates on which each such official completed training sessions satisfying such requirements. Such records shall be maintained for five years in the office of the clerk of the respective governing body or school board.

D. For purposes of this section, "local elected officials" shall include constitutional officers.

CHAPTER 462

An Act to amend and reenact § 8.01-223.2 of the Code of Virginia, relating to immunity of persons; tort actions; assertion of immunity; attorney fees and costs.

[H 1757]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-223.2 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-223.2. Immunity of persons for statements made at public hearing or communicated to third party.

A. A person shall be immune from ~~civil~~ *tort* liability ~~for a violation of § 18.2-499, a claim of tortious interference with an existing contract or a business or contractual expectancy, or a claim of defamation~~ *if the tort claim is* based solely on statements (i) regarding matters of public concern that would be protected under the First Amendment to *the Constitution of* the United States ~~Constitution~~ made by that person that are communicated to a third party ~~or~~, (ii) made at a public hearing before*, or otherwise communicated to,* the governing body of any locality or other political subdivision, or the boards, commissions, agencies and authorities thereof, and other governing bodies of any local governmental entity concerning matters properly before such body*, or (iii) made by an employee against an employer where retaliatory action arising from such statements is prohibited by § 40.1-27.3*.

B. The immunity provided by this section shall not apply to any statements ~~made with actual or constructive knowledge~~ that ~~they are~~ *the declarant knew or should have known were* false or *were made* with reckless disregard for whether they ~~are~~ *were* false.

~~B.~~ *C.* Any person who has a suit against him dismissed or a witness subpoena or subpoena duces tecum quashed*, or otherwise prevails in a legal action,* pursuant to the immunity provided by this section may be awarded reasonable attorney fees and costs.

CHAPTER 463

An Act to amend and reenact § 8.01-223.2 of the Code of Virginia, relating to immunity of persons; tort actions; assertion of immunity; attorney fees and costs.

[S 845]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-223.2 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-223.2. Immunity of persons for statements made at public hearing or communicated to third party.

A. A person shall be immune from ~~civil~~ *tort* liability ~~for a violation of § 18.2-499, a claim of tortious interference with an existing contract or a business or contractual expectancy, or a claim of defamation~~ *if the tort claim is* based solely on statements (i) regarding matters of public concern that would be protected under the First Amendment to *the Constitution of* the United States ~~Constitution~~ made by that person that are communicated to a third party ~~or~~, (ii) made at a public hearing before*, or otherwise communicated to,* the governing body of any locality or other political subdivision, or the boards, commissions, agencies and authorities thereof, and other governing bodies of any local governmental entity concerning matters properly before such body*, or (iii) made by an employee against an employer where retaliatory action arising from such statements is prohibited by § 40.1-27.3*.

B. The immunity provided by this section shall not apply to any statements ~~made with actual or constructive knowledge~~ that ~~they are~~ *the declarant knew or should have known were* false or *were made* with reckless disregard for whether they ~~are~~ *were* false.

~~B.~~ *C.* Any person who has a suit against him dismissed or a witness subpoena or subpoena duces tecum quashed*, or otherwise prevails in a legal action,* pursuant to the immunity provided by this section may be awarded reasonable attorney fees and costs.

CHAPTER 464

An Act to amend and reenact § 18.2-308.2:2 of the Code of Virginia, relating to purchase of firearms; special identification without a photograph.

[H 2467]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308.2:2 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-308.2:2. Criminal history record information check required for the transfer of certain firearms.

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social security number and/or any other identification number; the number of firearms by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the applicant been convicted of a felony offense or a misdemeanor offense listed in § 18.2-308.1:8 or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that if committed by an adult would be a felony or a misdemeanor listed in § 18.2-308.1:8; (ii) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other person who is a resident of Virginia until he has (i) obtained written consent and the other information on the consent form specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, citizenship, and social security and/or any other identification number and the number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested criminal history record information by a telephone call to or other communication authorized by the State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal identification and residence in Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-identification form issued by a governmental agency of the Commonwealth or by the United States Department of Defense *or a special identification card without a photograph issued pursuant to § 46.2-345.2* that demonstrates that the prospective purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm purchase, residency of a member of the armed forces shall include both the state in which the member's permanent duty post is located and any nearby state in which the member resides and from which he commutes to the permanent duty post. A member of the armed forces whose photo identification issued by the Department of Defense does not have a Virginia address may establish his Virginia residency with such photo identification and either permanent orders assigning the purchaser to a duty post, including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the ~~photo~~ identification presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued by the Department of Motor Vehicles *or a special identification card without a photograph issued pursuant to § 46.2-345.2*, and such identification form *or card* contains a date of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by the Department of Motor Vehicles *or a renewed special identification card without a photograph issued pursuant to § 46.2-345.2*, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the date of issue of an original or duplicate driver's license *or special identification card without a photograph* unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue of the driver's license was more than 30 days prior to the attempted purchase.

In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence.

Upon receipt of the request for a criminal history record information check, the State Police shall (a) review its criminal history record information to determine if the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law, (b) inform the dealer if its record indicates that the buyer or transferee is so prohibited, and (c) provide the dealer with a unique reference number for that inquiry.

2. The State Police shall provide its response to the requesting dealer during the dealer's request or by return call without delay. A dealer who fulfills the requirements of subdivision 1 and is told by the State Police that a response will not be available by the end of the dealer's fifth business day may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records longer than 30 days, except for multiple handgun transactions for which records shall be maintained for 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law. However, the log on requests made may be maintained for a period of 12 months, and such log shall consist of the name of the purchaser, the dealer identification number, the unique approval number, and the transaction date.

4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or deliver the written consent form required by subsection A to the Department of State Police. The State Police shall immediately initiate a

search of all available criminal history record information to determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited from possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction where the sale or transfer occurred and the dealer without delay.

5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by persons who are citizens of the United States or persons lawfully admitted for permanent residence but residents of other states under the terms of subsections A and B upon furnishing the dealer with one photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification determined to be acceptable by the Department of Criminal Justice Services.

6. For the purposes of this subsection, the phrase "dealer's fifth business day" does not include December 25.

C. No dealer shall sell, rent, trade, or transfer from his inventory any firearm, except when the transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision B 5, to any person who is a dual resident of Virginia and another state pursuant to applicable federal law unless he has first obtained from the Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law.

To establish personal identification and dual resident eligibility for purposes of this subsection, a dealer shall require any prospective purchaser to present one photo-identification form issued by a governmental agency of the prospective purchaser's state of legal residence and other documentation of dual residence within the Commonwealth. The other documentation of dual residence in the Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f) automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of residence determined to be acceptable by the Department of Criminal Justice Services and that corroborates that the prospective purchaser currently resides in Virginia.

D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may exercise his right of access to and review and correction of criminal history record information under § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30 days of such denial.

E. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized in this section, shall be guilty of a Class 2 misdemeanor.

F. For purposes of this section:

"Actual buyer" means a person who executes the consent form required in subsection B or C, or other such firearm transaction records as may be required by federal law.

"Antique firearm" means:

1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade;

3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any combination thereof; or

4. Any curio or relic as defined in this subsection.

"Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.

"Curios or relics" means firearms that are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits firearms to be curios or relics of museum interest; and

3. Any other firearms that derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular

firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collectors' items, or that the value of like firearms available in ordinary commercial channels is substantially less.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

"Handgun" means any pistol or revolver or other firearm originally designed, made and intended to fire single or multiple projectiles by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

G. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity, confidentiality, and security of all records and data provided by the Department of State Police pursuant to this section.

H. The provisions of this section shall not apply to (i) transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii) purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth or any local government, or any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; or (iii) antique firearms or curios or relics.

I. The provisions of this section shall not apply to restrict purchase, trade, or transfer of firearms by a resident of Virginia when the resident of Virginia makes such purchase, trade, or transfer in another state, in which case the laws and regulations of that state and the United States governing the purchase, trade, or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS) check shall be performed prior to such purchase, trade, or transfer of firearms.

J. All licensed firearms dealers shall collect a fee of $2 for every transaction for which a criminal history record information check is required pursuant to this section, except that a fee of $5 shall be collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the Department of State Police by the last day of the month following the sale for deposit in a special fund for use by the State Police to offset the cost of conducting criminal history record information checks under the provisions of this section.

K. Any person willfully and intentionally making a materially false statement on the consent form required in subsection B or C or on such firearm transaction records as may be required by federal law shall be guilty of a Class 5 felony.

L. Except as provided in § 18.2-308.2:1, any dealer who willfully and intentionally sells, rents, trades, or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not apply to a federal law-enforcement officer or a law-enforcement officer as defined in § 9.1-101, in the performance of his official duties, or other person under his direct supervision.

M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be resold or otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to § 18.2-308.7, by his child, grandchild, or individual for whom he is the legal guardian if such child, grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the Commonwealth who solicits, employs, or assists any person in violating subsection M shall be guilty of a Class 4 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

O. Any mandatory minimum sentence imposed under this section shall be served consecutively with any other sentence.

P. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating whether the driver's license is an original, duplicate, or renewed driver's license.

Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his inventory to any other person, a dealer may require such other person to consent to have the dealer obtain criminal history record information to determine if such other person is prohibited from possessing or transporting a firearm by state or federal law. The Department of State Police shall establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the Department of State Police, and the processes established for making such determinations shall conform to the provisions of this section.

R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for a handgun purchased from such seller by the same person seeking the exchange or replacement within the 30-day period immediately preceding the date of exchange or replacement. A violation of this subsection is punishable as a Class 1 misdemeanor.

1. Purchases in excess of one handgun within a 30-day period may be made upon completion of an enhanced background check, as described in this subsection, by special application to the Department of State Police listing the number and type of handguns to be purchased and transferred for lawful business or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar purposes. Such applications shall be signed under oath by the applicant on forms provided by the Department of State Police, shall state the purpose for the purchase above the limit, and shall require satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above the limit.

Upon being satisfied that these requirements have been met, the Department of State Police shall immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to the consummation of such sale and shall be kept on file at the dealer's place of business for inspection as provided in § 54.1-4201 for a period of not less than two years. Upon request of any local law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the Department of State Police, issue certificates immediately pursuant to this subdivision. Applications and certificates issued under this subdivision shall be maintained as records as provided in subdivision B 3. The Department of State Police shall make available to local law-enforcement agencies all records concerning certificates issued pursuant to this subdivision and all records provided for in subdivision B 3.

2. The provisions of this subsection shall not apply to:

a. A law-enforcement agency;

b. An agency duly authorized to perform law-enforcement duties;

c. A state or local correctional facility;

d. A private security company licensed to do business within the Commonwealth;

e. The purchase of antique firearms;

f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun be replaced immediately. Such person may purchase another handgun, even if the person has previously purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with a copy of the official police report or a summary thereof, on forms provided by the Department of State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official police report or summary thereof contains the name and address of the handgun owner, a description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy of the Virginia firearms transaction report completed for the transaction and retain it for the period prescribed by the Department of State Police;

g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of the same transaction, provided that no more than one transaction of this nature is completed per day;

h. A person who holds a valid Virginia permit to carry a concealed handgun;

i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection of curios or relics or who sells all or part of such collection of curios and relics; or

j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth.

CHAPTER 465

An Act to amend the Code of Virginia by adding a section numbered 19.2-392.3:1, relating to motion for the disclosure of expunged police and court records in a civil case.

[S 1413]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 19.2-392.3:1 as follows:

§ 19.2-392.3:1. Motion for the disclosure of expunged police and court records in a civil case.

In action for damages against a locality or a law-enforcement officer arising out of or relating to charges where a petition for the expungement of police and court records for such charges is pending or where the police and court records have been expunged, any party to such action may file a motion in the court in which the action is pending, or in the court where the petition for the expungement of police and court records was or is pending, for the release of the expunged records

for use in the civil litigation, and, upon motion and for good cause shown, such police and court records shall be ordered to be released and the penalties set forth in this chapter relating to disclosure of such expunged records shall not apply.

CHAPTER 466

An Act to amend and reenact §§ 2.2-2101, 2.2-2696, 37.2-203, and 37.2-310 of the Code of Virginia, relating to Substance Abuse Services Council; name change; membership.

[S 824]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2101, 2.2-2696, 37.2-203, and 37.2-310 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2101. Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3126; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3121; to members of the Board of Directors of the New College Institute, who shall be appointed as provided for in § 23.1-3112; to members of the Advisory Board on Teacher Education and Licensure, who shall be appointed as provided for in § 22.1-305.2; to members of the Virginia Interagency Coordinating Council, who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23.1-3117; to members of the Board of Trustees of the Online Virginia Network Authority, who shall be appointed as provided in § 23.1-3136; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Information Technology Advisory Council, who shall be appointed as provided for in § 2.2-2699.5; to members of the Board of Visitors of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members of the ~~Substance Abuse Services~~ *Virginia Addiction Recovery* Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the State Executive Council for Children's Services, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Board of Workforce Development, who shall be appointed as provided for in § 2.2-2471; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure and Resilient Commonwealth Panel, who shall be appointed as provided for in § 2.2-222.3; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; to members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided in § 2.2-2735; to members of the Virginia Growth and Opportunity Board, who shall be appointed as provided in § 2.2-2485; to members of the Henrietta Lacks Commission, who shall be appointed as provided in § 2.2-2538; or to members of the Commission to Study Slavery and Subsequent De Jure and De Facto Racial and Economic Discrimination Against African Americans, who shall be appointed as provided in § 2.2-2552.

§ 2.2-2696. Virginia Addiction Recovery Council.

A. The ~~Substance Abuse Services~~ *Virginia Addiction Recovery* Council (the Council) is established as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council is to advise and make recommendations to the Governor, the General Assembly, and the State Board of Behavioral Health and Developmental Services on broad policies and goals and on the coordination of the Commonwealth's public and private efforts to control substance abuse, as defined in § 37.2-100*, and problem gambling, as defined in § 37.2-314.2*.

B. The Council shall consist of ~~29~~ *32* members. Four members of the House of Delegates shall be appointed by the Speaker of the House of Delegates, in accordance with the principles of proportional representation contained in the Rules of the House of Delegates, and two members of the Senate shall be appointed by the Senate Committee on Rules. The Governor shall appoint one member representing the Virginia Sheriffs' Association, one member representing the Virginia Drug Courts Association, one member representing the Substance Abuse Certification Alliance of Virginia, two members representing the Virginia Association of Community Services Boards, *two members representing the problem gambling recovery community, one member representing the board of directors of the Opioid Abatement Authority established pursuant to § 2.2-2367,* and two members representing statewide consumer and advocacy organizations. The Council shall also include the Commissioner of Behavioral Health and Developmental Services; the Commissioner of Health; the

Commissioner of the Department of Motor Vehicles; the Superintendent of Public Instruction; the Directors of the Departments of Juvenile Justice, Corrections, Criminal Justice Services, Medical Assistance Services, and Social Services; the Chief Executive Officer of the Virginia Alcoholic Beverage Control Authority; the Executive Director of the Virginia Foundation for Healthy Youth or his designee; the Executive Director of the Commission on the Virginia Alcohol Safety Action Program or his designee; and the chairs or their designees of the Virginia Association of Drug and Alcohol Programs, the Virginia Association of Addiction Professionals, and the Substance Abuse Council and the Prevention Task Force of the Virginia Association of Community Services Boards.

C. Appointments of legislative members and heads of agencies or representatives of organizations shall be for terms consistent with their terms of office. Beginning July 1, 2011, the Governor's appointments of the seven nonlegislative citizen members shall be staggered as follows: two members for a term of one year, three members for a term of two years, and two members for a term of three years. Thereafter, appointments of nonlegislative members shall be for terms of three years, except an appointment to fill a vacancy, which shall be for the unexpired term. The Governor shall appoint a chairman from among the members for a two-year term. No member shall be eligible to serve more than two consecutive terms as chairman.

No person shall be eligible to serve more than two successive terms, provided that a person appointed to fill a vacancy may serve two full successive terms.

D. The Council shall meet at least four times annually and more often if deemed necessary or advisable by the chairman.

E. Members of the Council shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the cost of expenses shall be provided by the Department of Behavioral Health and Developmental Services.

F. The duties of the Council shall be:

1. To recommend policies and goals to the Governor, the General Assembly, and the State Board of Behavioral Health and Developmental Services;

2. To coordinate agency programs and activities, to prevent duplication of functions, and to combine all agency plans into a comprehensive interagency state plan for substance abuse *and problem gambling* services;

3. To review and comment on annual state agency budget requests regarding substance abuse *or problem gambling* and on all applications for state or federal funds or services to be used in substance abuse *or problem gambling* programs;

4. To define responsibilities among state agencies for various programs for persons with substance abuse *or problem gambling* and to encourage cooperation among agencies; and

5. To make investigations, issue annual reports to the Governor and the General Assembly, and make recommendations relevant to substance abuse *and problem gambling* upon the request of the Governor.

G. Staff assistance shall be provided to the Council by the Office of Substance Abuse Services of the Department of Behavioral Health and Developmental Services.

§ 37.2-203. Powers and duties of Board.

The Board shall have the following powers and duties:

1. To develop and establish programmatic and fiscal policies governing the operation of state hospitals, training centers, community services boards, and behavioral health authorities;

2. To ensure the development of long-range programs and plans for mental health, developmental, and substance abuse services provided by the Department, community services boards, and behavioral health authorities;

3. To review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Governor and on all applications for federal funds;

4. To monitor the activities of the Department and its effectiveness in implementing the policies of the Board;

5. To advise the Governor, Commissioner, and General Assembly on matters relating to mental health, developmental, and substance abuse services;

6. To adopt regulations that may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Commissioner or the Department;

7. To ensure the development of programs to educate citizens about and elicit public support for the activities of the Department, community services boards, and behavioral health authorities;

8. To ensure that the Department assumes the responsibility for providing for education and training of school-age individuals receiving services in state facilities, pursuant to § 37.2-312;

9. To change the names of state facilities; and

10. To adopt regulations that establish the qualifications, education, and experience for registration of peer recovery specialists by the Board of Counseling.

Prior to the adoption, amendment, or repeal of any regulation regarding substance abuse services, the Board shall, in addition to the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.), present the proposed regulation to the ~~Substance Abuse Services~~ *Virginia Addiction Recovery* Council, established pursuant to § 2.2-2696, at least 30 days prior to the Board's action for the Council's review and comment.

§ 37.2-310. Powers and duties of Department related to substance abuse.

The Department shall have the following powers and duties related to substance abuse:

1. To act as the sole state agency for the planning, coordination, and evaluation of the comprehensive interagency state plan for substance abuse services.

2. To provide staff assistance to the ~~Substance Abuse Services~~ *Virginia Addiction Recovery* Council pursuant to § 2.2-2696.

3. To (i) develop, implement, and promote, in cooperation with federal, state, local, and other publicly-funded agencies, a comprehensive interagency state plan for substance abuse services, consistent with federal guidelines and regulations, for the long-range development of adequate and coordinated programs, services, and facilities for the research, prevention, and control of substance abuse and the treatment and rehabilitation of persons with substance abuse; (ii) review the plan annually; and (iii) make revisions in the plan that are necessary or desirable.

4. To develop, in cooperation with the Department of Corrections, Virginia Parole Board, Department of Juvenile Justice, Department of Criminal Justice Services, Commission on the Virginia Alcohol Safety Action Program, Office of the Executive Secretary of the Supreme Court of Virginia, Department of Education, Department of Health, Department of Social Services, and other appropriate agencies, a section of the comprehensive interagency state plan for substance abuse services that addresses the need for treatment programs for persons with substance abuse who are involved with these agencies.

5. To specify uniform methods for keeping statistical information for inclusion in the comprehensive interagency state plan for substance abuse services.

6. To provide technical assistance and consultation services to state and local agencies in planning, developing, and implementing services for persons with substance abuse.

7. To review and comment on all applications for state or federal funds or services to be used in substance abuse programs in accordance with § 37.2-311 and on all requests by state agencies for appropriations from the General Assembly for use in substance abuse programs.

8. To recommend to the Governor and the General Assembly legislation necessary to implement programs, services, and facilities for the prevention and control of substance abuse and the treatment and rehabilitation of persons with substance abuse.

9. To organize and foster training programs for all persons engaged in the treatment of substance abuse.

10. To identify, coordinate, mobilize, and use the research and public service resources of institutions of higher education, all levels of government, business, industry, and the community at large in the understanding and solution of problems relating to substance abuse.

11. To inspect substance abuse treatment programs at reasonable times and in a reasonable manner.

12. To maintain a current list of substance abuse treatment programs, which shall be made available upon request.

CHAPTER 467

An Act to amend and reenact § 19.2-163.01:1 of the Code of Virginia, relating to supplementing compensation of public defender.

[H 2037]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-163.01:1 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-163.01:1. Supplementing compensation of public defender.

A. The governing body of any county or city may supplement the compensation of the public defender or any of his deputies or employees above the compensation fixed by the executive director, in such amounts as it may deem expedient. Such additional compensation shall be wholly payable from the funds of any such county or city.

B. Due to the privileged and protected nature of the attorney-client relationship and the statutory scope of representation provided in §§ 19.2-157 and 19.2-163.3, no county or city providing a supplement to compensation under this section shall place any condition or requirement upon the receipt of such funds.

C. Funds provided by any county or city under this section ~~shall~~ *may* be paid directly to *the Indigent Defense Commission or to* the employees with notice to the Indigent Defense Commission of any amount so provided. *The Commission shall provide the supplementing funds directly to employees in combination with the compensation fixed by the executive director.*

CHAPTER 468

An Act to amend and reenact § 19.2-3.1 of the Code of Virginia, relating to personal appearance by two-way electronic video and audio communication; waiver of preliminary hearing.

[H 2221]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-3.1 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-3.1. Personal appearance by two-way electronic video and audio communication; standards.

A. Where an appearance is required or permitted before a magistrate, intake officer, or, prior to trial, ~~before a~~ judge, the appearance may be by (i) personal appearance before the magistrate, intake officer, or judge or (ii) use of two-way electronic video and audio communication. With the consent of the court and all parties, an appearance in a court may be made by two-way electronic video and audio communication for the purpose of (a) entry of a plea of guilty or nolo contendere and the related sentencing of the defendant charged with a misdemeanor or felony, (b) entry of a nolle prosequi or dismissal, ~~or~~ (c) a revocation proceeding pursuant to § 19.2-306*, or (d) waiver of a preliminary hearing*.

If two-way electronic video and audio communication is used, a magistrate, intake officer, or judge may exercise all powers conferred by law and all communications and proceedings shall be conducted in the same manner as if the appearance were in person. If two-way electronic video and audio communication is available for use by a district court for the conduct of a hearing to determine bail or to determine representation by counsel, the court shall use such communication in any such proceeding that would otherwise require the transportation of a person from outside the jurisdiction of the court in order to appear in person before the court. Any documents transmitted between the magistrate, intake officer, or judge and the person appearing before the magistrate, intake officer, or judge may be transmitted by electronically transmitted facsimile process or other electronic method. The facsimile or other electronically generated document may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures.

B. Any two-way electronic video and audio communication system used for an appearance shall meet the following standards:

1. The persons communicating must simultaneously see and speak to one another;

2. The signal transmission must be live, real time;

3. The signal transmission must be secure from interception through lawful means by anyone other than the persons communicating; and

4. Any other specifications as may be promulgated by the Chief Justice of the Supreme Court.

C. Nothing in this section shall be construed as requiring a locality to purchase a two-way electronic video and audio communication system. Any decision to purchase such a system is at the discretion of the locality.

CHAPTER 469

An Act to amend and reenact § 6.2-1537 of the Code of Virginia, relating to financial institutions; consumer finance companies; authority of Attorney General to issue civil investigative demand.

[S 974]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 6.2-1537 of the Code of Virginia is amended and reenacted as follows:

§ 6.2-1537. Authority of Attorney General; impoundment of property and receivership.

A. Whenever the Attorney General has reasonable cause to believe that (i) any person, not licensed under this chapter, is violating, has violated, is threatening to violate or intends to violate any provision of this chapter or any order or regulation lawfully made pursuant to the authority of this chapter and (ii) the facts justify it, the Attorney General shall institute and prosecute a lawsuit for monetary or injunctive relief or both in the Circuit Court of the City of Richmond, in the name of the Commonwealth. The court may grant monetary relief or may enjoin and restrain or both any such person from engaging in or continuing any such violation or from doing any act or acts in furtherance thereof. In any such suit a decree or order may be entered awarding such monetary relief or preliminary or final injunctive relief as may be deemed proper.

B. In addition to all other means provided by law for the enforcement of an award of monetary relief, a temporary restraining order, temporary injunction, or final injunction, the court may impound, and appoint a receiver for, (i) the property and business of the defendant, including books, papers, documents, and records pertaining thereto, (ii) so much thereof as the court deems reasonably necessary to prevent further violation of this chapter through or by means of the use of such property and business, or (iii) so much thereof as is necessary to identify borrowers who have been damaged and the amount of their damages, and to refund the amount of any such damages to the borrowers pursuant to subsection C. The receiver, when appointed and qualified, shall have such powers and duties as to custody, collection, administration, payment of debts and liquidation of the property and business as from time to time are conferred upon him by the court.

C. The Attorney General may seek and the circuit court may order or decree such other relief allowed by law, including restitution to the extent available to borrowers under § 6.2-1541.

D. In any action brought by the Attorney General by virtue of the authority granted in this section, the Attorney General shall be entitled to seek attorney fees and costs.

E. Nothing in this section shall be construed to preclude any person who suffers a loss as a result of a violation of § 6.2-1501 from maintaining an action to recover damages or restitution under § 6.2-1541.

F. No individual shall be entitled to refuse to testify in a suit brought under this section because the person's testimony would tend to incriminate such person or subject the individual to penalty or forfeiture. If called to testify by the

Commonwealth or by the court trying the case, the individual may not thereafter be prosecuted for any crime or subjected to any penalty or forfeiture growing out of the transaction concerning which the individual testifies.

G. Whenever the Attorney General has reasonable cause to believe that any person not licensed under this chapter has engaged in, is engaging in, or is about to engage in any violation of the provisions of this chapter or any order or regulation lawfully made pursuant to the authority of this chapter, the Attorney General is empowered to issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply mutatis mutandis to civil investigative demands issued pursuant to this section.

CHAPTER 470

An Act to amend and reenact § 9.1-206 of the Code of Virginia, relating to State Fire Marshal; authority.

[H 2133]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-206 of the Code of Virginia is amended and reenacted as follows:

§ 9.1-206. State Fire Marshal; qualifications; powers and duties; power to arrest, to procure and serve warrants, and to issue summonses; limitation on authority.

The Executive Director of Fire Programs shall employ a State Fire Marshal and other personnel necessary to carry out the provisions of the Statewide Fire Prevention Code (§ 27-94 et seq.). The State Fire Marshal and other personnel employed pursuant to this section shall be selected upon the basis of education or experience in administering laws and regulations designed to prevent and eliminate hazards to life and property arising from fire.

The State Fire Marshal shall have the powers and duties prescribed by the Statewide Fire Prevention Code (§ 27-94 et seq.), by § 27-61, by Board regulation, and by the Director. The State Fire Marshal and those persons duly authorized to enforce the Statewide Fire Prevention Code shall have the authority to arrest, to procure and serve warrants of arrests, and to issue summonses in the manner authorized by general law for violation of the Statewide Fire Prevention Code. The authority granted in this section shall not be construed to authorize the State Fire Marshal to wear or carry firearms. All personnel employed pursuant to this section shall meet the training requirements set forth for local fire marshals in § 27-34.2. *The State Fire Marshal, or his designee, shall be the authority having jurisdiction over state-owned buildings, property, or structures for purposes of fire safety and fire prevention in accordance with Chapter 9 (§ 27-94 et seq.) of Title 27.*

CHAPTER 471

An Act related to antisemitism; adoption of the non-legally binding Working Definition of Antisemitism as a tool and guide for recognizing and combating antisemitic discrimination in the Commonwealth.

[H 1606]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Commonwealth adopts the non-legally binding Working Definition of Antisemitism adopted by the International Holocaust Remembrance Alliance on May 26, 2016, including the contemporary examples of antisemitism set forth therein, exclusively as a tool and guide for training, education, recognizing, and combating antisemitic hate crimes or discrimination and for tracking and reporting antisemitic incidents in the Commonwealth.*

2. That the provisions of this act shall not be construed to diminish or infringe upon any right protected under the First Amendment to the United States Constitution or the Constitution of Virginia.

CHAPTER 472

An Act to amend and reenact § 46.2-832 of the Code of Virginia, relating to damaging or removing temporary work signs; penalty.

[H 1712]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-832 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-832. Damaging or removing traffic control devices, work signs, or street address signs.

Any person who intentionally defaces, damages, knocks down, ~~or~~ without authorization interferes with the effective operation of, or removes any *(i)* traffic control device*, (ii) temporary sign approved by the Department of Transportation warning motorists that work is in progress on or adjacent to the highway or that certain vehicles may be entering the highway,* or ~~a~~ *(iii)* street address sign posted to assist in address identification in connection with enhanced 9-1-1 service as defined in § 56-484.12 is guilty of a Class 1 misdemeanor.

CHAPTER 473

An Act to amend and reenact § 38.2-4319, as it is currently effective and as it may become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3418.21, relating to health insurance coverage for hearing aids for children 18 years of age or younger.

[S 1003]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-4319, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3418.21 as follows:

§ 38.2-3418.21. Coverage for hearing aids and related services.

A. As used in this section:

"Hearing aid" means any wearable, nondisposable instrument or device designed or offered to aid or compensate for impaired human hearing and any parts, attachments, or accessories, including earmolds, but excluding batteries and cords. Hearing aids are not to be considered durable medical equipment.

"Related services" includes earmolds, initial batteries, and other necessary equipment, maintenance, and adaptation training.

B. Notwithstanding the provisions of § 38.2-3419, subdivision A 1 of § 38.2-6506, or any other provision of law, each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for hearing aids and related services for children 18 years of age or younger under any policy, contract, or plan delivered, issued for delivery, or renewed in the Commonwealth. The coverage shall include payment of the cost of one hearing aid per hearing-impaired ear every 24 months, up to $1,500 per hearing aid. The insured may choose a higher-priced hearing aid and may pay the difference in cost above $1,500, with no financial or contractual penalty to the insured or to the provider of the hearing aid.

C. No insurer, corporation, or health maintenance organization shall impose upon any person receiving benefits pursuant to this section any copayment or fee, and no condition may be applied to the person that is not equally imposed upon all individuals in the same benefit category.

D. Coverage shall be available under this section only for services and equipment recommended by an otolaryngologist. Such recommended services and equipment may be provided or dispensed by an otolaryngologist, licensed audiologist, or licensed hearing aid specialist.

E. The provisions of this section shall apply to any policy, contract, or plan delivered, issued for delivery, or renewed in the Commonwealth on and after January 1, 2024.

F. The provisions of this section shall not apply to short-term travel, accident-only, limited or specified disease policies, or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans or to short-term nonrenewable policies of not more than six months' duration.

G. The Commission shall not use any special fund revenues dedicated to its other functions and duties, including revenues from utility consumer taxes or fees from licensees regulated by the Commission or fees paid to the office of the clerk of the Commission, to fund the defrayal of costs for the coverage provided pursuant to subsection B as required by 42 U.S.C. § 18031 or any successor provision. The Commission shall not pay any funds beyond the moneys appropriated for the defrayal of costs related to such coverage. Appropriated funds remaining at year end shall not revert to the general fund but shall remain with the Commission for defrayal of costs related to this coverage.

§ 38.2-4319. (Contingent expiration date) Statutory construction and relationship to other laws.

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, and 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, and Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.20, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.19*, 38.2-3418.21*, 38.2-3419.1, and 38.2-3430.1 through 38.2-3454, Articles 8 (§ 38.2-3461 et seq.) and 9 (§ 38.2-3465 et seq.) of Chapter 34, § 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), § 38.2-3610, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and Chapter 65 (§ 38.2-6500 et seq.) shall be applicable to any health maintenance

organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, and 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, and 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, 2, and 3 of § 38.2-3407.10, §§ 38.2-3407.10:1, 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3418.16, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, and 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), and Chapter 65 (§ 38.2-6500 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health maintenance organization's service area.

F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and B shall be construed to mean and include "health maintenance organizations" unless the section cited clearly applies to health maintenance organizations without such construction.

§ 38.2-4319. (Contingent effective date) Statutory construction and relationship to other laws.

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, and 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, and Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.20, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.19*, 38.2-3418.21*, 38.2-3419.1, and 38.2-3430.1 through 38.2-3454, Articles 8 (§ 38.2-3461 et seq.) and 9 (§ 38.2-3465 et seq.) of Chapter 34, § 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), § 38.2-3610, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), Chapter 65 (§ 38.2-6500 et seq.), and Chapter 66 (§ 38.2-6600 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, and 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, and 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, 2, and 3 of § 38.2-3407.10, §§ 38.2-3407.10:1, 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3418.16, 38.2-3419.1,

38.2-3430.1 through 38.2-3437, and 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), and Chapter 65 (§ 38.2-6500 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health maintenance organization's service area.

F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and B shall be construed to mean and include "health maintenance organizations" unless the section cited clearly applies to health maintenance organizations without such construction.

CHAPTER 474

An Act to amend and reenact § 38.2-3407.15:2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3407.15:7, relating to health insurance; electronic prior authorization and disclosure of certain information; out-of-pocket costs; report.

[H 1471]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3407.15:2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3407.15:7 as follows:

§ 38.2-3407.15:2. Carrier contracts; required provisions regarding prior authorization.

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

"Carrier" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Prior authorization" means the approval process used by a carrier before certain drug benefits may be provided.

"Provider contract" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Supplementation" means a request communicated by the carrier to the prescriber or his designee, for additional information, limited to items specifically requested on the applicable prior authorization request, necessary to approve or deny a prior authorization request.

B. Any provider contract between a carrier and a participating health care provider with prescriptive authority, or its contracting agent, shall contain specific provisions that:

1. Require the carrier to, in a method of its choosing, accept telephonic, facsimile, or electronic submission of prior authorization requests that are delivered from e-prescribing systems, electronic health record systems, and health information exchange platforms that utilize the National Council for Prescription Drug Programs' SCRIPT standards;

2. Require that the carrier communicate to the prescriber or his designee within 24 hours, including weekend hours, of submission of an urgent prior authorization request to the carrier, if submitted telephonically or in an alternate method directed by the carrier, that the request is approved, denied, or requires supplementation;

3. Require that the carrier communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within two business days of submission of a fully completed prior authorization request, that the request is approved, denied, or requires supplementation;

4. Require that the carrier communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within two business days of submission of a properly completed supplementation from the prescriber or his designee, that the request is approved or denied;

5. Require that if the prior authorization request is denied, the carrier shall communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within the timeframes established by subdivision 3 or 4, as applicable, the reasons for the denial;

6. Require that prior authorization approved by another carrier be honored, upon the carrier's receipt from the prescriber or his designee of a record demonstrating the previous carrier's prior authorization approval or any written or electronic evidence of the previous carrier's coverage of such drug, at least for the initial 30 days of a member's prescription drug benefit coverage under a new health plan, subject to the provisions of the new carrier's evidence of coverage;

7. Require that a tracking system be used by the carrier for all prior authorization requests and that the identification information be provided electronically, telephonically, or by facsimile to the prescriber or his designee, upon the carrier's response to the prior authorization request;

8. Require that the carrier's prescription drug formularies, all drug benefits subject to prior authorization by the carrier, all of the carrier's prior authorization procedures, and all prior authorization request forms accepted by the carrier be made available through one central location on the carrier's website and that such information be updated by the carrier within seven days of approved changes;

9. Require a carrier to honor a prior authorization issued by the carrier for a drug, other than an opioid, regardless of changes in dosages of such drug, provided such drug is prescribed consistent with U.S. Food and Drug Administration-labeled dosages;

10. Require a carrier to honor a prior authorization issued by the carrier for a drug regardless of whether the covered person changes plans with the same carrier and the drug is a covered benefit with the current health plan;

11. Require a carrier, when requiring a prescriber to provide supplemental information that is in the covered individual's health record or electronic health record, to identify the specific information required;

12. Require that no prior authorization be required for at least one drug prescribed for substance abuse medication-assisted treatment, provided that (i) the drug is a covered benefit, (ii) the prescription does not exceed the FDA-labeled dosages, and (iii) the drug is prescribed consistent with the regulations of the Board of Medicine;

13. Require that when any carrier has previously approved prior authorization for any drug prescribed for the treatment of a mental disorder listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, no additional prior authorization shall be required by the carrier, provided that (i) the drug is a covered benefit; (ii) the prescription does not exceed the FDA-labeled dosages; (iii) the prescription has been continuously issued for no fewer than three months; and (iv) the prescriber performs an annual review of the patient to evaluate the drug's continued efficacy, changes in the patient's health status, and potential contraindications. Nothing in this subdivision shall prohibit a carrier from requiring prior authorization for any drug that is not listed on its prescription drug formulary at the time the initial prescription for the drug is issued; ~~and~~

14. Require a carrier to honor a prior authorization issued by the carrier for a drug regardless of whether the drug is removed from the carrier's prescription drug formulary after the initial prescription for that drug is issued, provided that the drug and prescription are consistent with the applicable provisions of subdivision 13*;*

15. Require a carrier, beginning July 1, 2025, notwithstanding the provisions of subdivision 1 or any other provision of this section, to establish and maintain an online process that (i) links directly to all e-prescribing systems and electronic health record systems that utilize the National Council for Prescription Drug Programs SCRIPT standard and the National Council for Prescription Drug Programs Real Time Benefit Standard; (ii) can accept electronic prior authorization requests from a provider; (iii) can approve electronic prior authorization requests (a) for which no additional information is needed by the carrier to process the prior authorization request, (b) for which no clinical review is required, and (c) that meet the carrier's criteria for approval; and (iv) links directly to real-time patient out-of-pocket costs for the office visit, considering copayment and deductible, and (v) otherwise meets the requirements of this section. No carrier shall (a) impose a fee or charge on any person for accessing the online process as required by this subdivision or (b) access, absent provider consent, provider data via the online process other than for the enrollee. No later than July 1, 2024, a carrier shall provide contact information of any third-party vendor or other entity the carrier will use to meet the requirements of this subdivision or the requirements of § 38.2-3407.15:7 to any provider that requests such information. A carrier that posts such contact information on its website shall be considered to have met this requirement; and

16. Require a participating health care provider, beginning July 1, 2025, to ensure that any e-prescribing system or electronic health record system owned by or contracted for the provider to maintain an enrollee's health record has the ability to access, at the point of prescribing, the electronic prior authorization process established by a carrier as required by subdivision 15 and the real-time patient-specific benefit information, including out-of-pocket costs and more affordable medication alternatives made available by a carrier pursuant to § 38.2-3407.15:7. A provider may request a waiver of compliance under this subdivision for undue hardship for a period specified by the appropriate regulatory authority with the Health and Human Resources Secretariat.

C. The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.

D. This section shall apply with respect to any contract between a carrier and a participating health care provider, or its contracting agent, that is entered into, amended, extended, or renewed on or after January 1, 2016.

E. Notwithstanding any law to the contrary, the provisions of this section shall not apply to:

1. Coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), 5 U.S.C. § 8901 et seq. (federal employees), or 10 U.S.C. § 1071 et seq. (TRICARE);

2. Accident only, credit or disability insurance, long-term care insurance, TRICARE supplement, Medicare supplement, or workers' compensation coverages;

3. Any dental services plan or optometric services plan as defined in § 38.2-4501; or

4. Any health maintenance organization that (i) contracts with one multispecialty group of physicians who are employed by and are shareholders of the multispecialty group, which multispecialty group of physicians may also contract with health care providers in the community; (ii) provides and arranges for the provision of physician services by such multispecialty group physicians or by such contracted health care providers in the community; and (iii) receives and processes at least 85 percent of prescription drug prior authorization requests in a manner that is interoperable with e-prescribing systems, electronic health records, and health information exchange platforms.

§ 38.2-3407.15:7. Carrier provision of certain information.

A. As used in this section:

"Carrier" has the same meaning as provided in § 38.2-3407.15.

"Enrollee" has the same meaning as provided in § 38.2-3407.10.

"Pharmacy benefits manager" has the same meaning as provided in § 38.2-3465.

"Provider" has the same meaning as provided in § 38.2-3407.10.

B. Beginning July 1, 2025, any carrier or its pharmacy benefits manager shall provide real-time patient-specific benefit information to enrollees and contracted providers for the office visit, including any out-of-pocket costs and more affordable medication alternatives or prior authorization requirements, and shall ensure that the data is accurate. Such cost information data shall be available to the provider at the point of prescribing in an accessible and understandable format, such as through the provider's e-prescribing system or electronic health record system that the carrier or pharmacy benefits manager or its designated subcontractor has adopted that utilizes the National Council for Prescription Drug Programs SCRIPT standard and the National Council for Prescription Drug Programs Real Time Benefit Standard from which the provider makes the request.

2. That the State Corporation Commission's Bureau of Insurance (the Bureau) shall, in coordination with the Secretary of Health and Human Resources, establish a work group to (i) assess progress toward implementing electronic prior authorization and real-time cost benefit information for prescription drugs, as required by this act, including monitoring and evaluating the impact of any state or federal developments; (ii) evaluate and make recommendations to establish a process for electronic prior authorization for surgery and other procedures in order to maximize efficiency and minimize delays; (iii) evaluate and make recommendations to establish an online process for a real-time link at the point of prescribing for any available prescription coupons, and (iv) make recommendations for any additional statutory changes required to facilitate such implementation or to establish such processes. The work group shall include relevant stakeholders, including representatives from the Virginia Association of Health Plans, the Medical Society of Virginia, the Virginia Hospital and Healthcare Association, the Virginia Pharmacists Association, and other parties with an interest in the underlying technology. The work group shall report its findings and recommendations to the Chairmen of the Senate Committees on Commerce and Labor and Education and Health and the House Committees on Commerce and Energy and Health, Welfare and Institutions annually by November 1 and shall make its final report by November 1, 2025.

CHAPTER 475

An Act to amend and reenact § 38.2-3407.15:2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3407.15:7, relating to health insurance; electronic prior authorization and disclosure of certain information; out-of-pocket costs; report.

[S 1261]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3407.15:2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3407.15:7 as follows:

§ 38.2-3407.15:2. Carrier contracts; required provisions regarding prior authorization.

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

"Carrier" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Prior authorization" means the approval process used by a carrier before certain drug benefits may be provided.

"Provider contract" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Supplementation" means a request communicated by the carrier to the prescriber or his designee, for additional information, limited to items specifically requested on the applicable prior authorization request, necessary to approve or deny a prior authorization request.

B. Any provider contract between a carrier and a participating health care provider with prescriptive authority, or its contracting agent, shall contain specific provisions that:

1. Require the carrier to, in a method of its choosing, accept telephonic, facsimile, or electronic submission of prior authorization requests that are delivered from e-prescribing systems, electronic health record systems, and health information exchange platforms that utilize the National Council for Prescription Drug Programs' SCRIPT standards;

2. Require that the carrier communicate to the prescriber or his designee within 24 hours, including weekend hours, of submission of an urgent prior authorization request to the carrier, if submitted telephonically or in an alternate method directed by the carrier, that the request is approved, denied, or requires supplementation;

3. Require that the carrier communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within two business days of submission of a fully completed prior authorization request, that the request is approved, denied, or requires supplementation;

4. Require that the carrier communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within two business days of submission of a properly completed supplementation from the prescriber or his designee, that the request is approved or denied;

5. Require that if the prior authorization request is denied, the carrier shall communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within the timeframes established by subdivision 3 or 4, as applicable, the reasons for the denial;

6. Require that prior authorization approved by another carrier be honored, upon the carrier's receipt from the prescriber or his designee of a record demonstrating the previous carrier's prior authorization approval or any written or electronic evidence of the previous carrier's coverage of such drug, at least for the initial 30 days of a member's prescription drug benefit coverage under a new health plan, subject to the provisions of the new carrier's evidence of coverage;

7. Require that a tracking system be used by the carrier for all prior authorization requests and that the identification information be provided electronically, telephonically, or by facsimile to the prescriber or his designee, upon the carrier's response to the prior authorization request;

8. Require that the carrier's prescription drug formularies, all drug benefits subject to prior authorization by the carrier, all of the carrier's prior authorization procedures, and all prior authorization request forms accepted by the carrier be made available through one central location on the carrier's website and that such information be updated by the carrier within seven days of approved changes;

9. Require a carrier to honor a prior authorization issued by the carrier for a drug, other than an opioid, regardless of changes in dosages of such drug, provided such drug is prescribed consistent with U.S. Food and Drug Administration-labeled dosages;

10. Require a carrier to honor a prior authorization issued by the carrier for a drug regardless of whether the covered person changes plans with the same carrier and the drug is a covered benefit with the current health plan;

11. Require a carrier, when requiring a prescriber to provide supplemental information that is in the covered individual's health record or electronic health record, to identify the specific information required;

12. Require that no prior authorization be required for at least one drug prescribed for substance abuse medication-assisted treatment, provided that (i) the drug is a covered benefit, (ii) the prescription does not exceed the FDA-labeled dosages, and (iii) the drug is prescribed consistent with the regulations of the Board of Medicine;

13. Require that when any carrier has previously approved prior authorization for any drug prescribed for the treatment of a mental disorder listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, no additional prior authorization shall be required by the carrier, provided that (i) the drug is a covered benefit; (ii) the prescription does not exceed the FDA-labeled dosages; (iii) the prescription has been continuously issued for no fewer than three months; and (iv) the prescriber performs an annual review of the patient to evaluate the drug's continued efficacy, changes in the patient's health status, and potential contraindications. Nothing in this subdivision shall prohibit a carrier from requiring prior authorization for any drug that is not listed on its prescription drug formulary at the time the initial prescription for the drug is issued; ~~and~~

14. Require a carrier to honor a prior authorization issued by the carrier for a drug regardless of whether the drug is removed from the carrier's prescription drug formulary after the initial prescription for that drug is issued, provided that the drug and prescription are consistent with the applicable provisions of subdivision 13*;*

15. Require a carrier, beginning July 1, 2025, notwithstanding the provisions of subdivision 1 or any other provision of this section, to establish and maintain an online process that (i) links directly to all e-prescribing systems and electronic health record systems that utilize the National Council for Prescription Drug Programs SCRIPT standard and the National Council for Prescription Drug Programs Real Time Benefit Standard; (ii) can accept electronic prior authorization requests from a provider; (iii) can approve electronic prior authorization requests (a) for which no additional information is needed by the carrier to process the prior authorization request, (b) for which no clinical review is required, and (c) that meet the carrier's criteria for approval; and (iv) links directly to real-time patient out-of-pocket costs for the office visit, considering copayment and deductible, and (v) otherwise meets the requirements of this section. No carrier shall (a) impose a fee or charge on any person for accessing the online process as required by this subdivision or (b) access, absent provider consent, provider data via the online process other than for the enrollee. No later than July 1, 2024, a carrier shall provide contact information of any third-party vendor or other entity the carrier will use to meet the requirements of this subdivision or the requirements of § 38.2-3407.15:7 to any provider that requests such information. A carrier that posts such contact information on its website shall be considered to have met this requirement; and

16. Require a participating health care provider, beginning July 1, 2025, to ensure that any e-prescribing system or electronic health record system owned by or contracted for the provider to maintain an enrollee's health record has the ability to access, at the point of prescribing, the electronic prior authorization process established by a carrier as required by subdivision 15 and the real-time patient-specific benefit information, including out-of-pocket costs and more affordable medication alternatives made available by a carrier pursuant to § 38.2-3407.15:7. A provider may request a waiver of compliance under this subdivision for undue hardship for a period specified by the appropriate regulatory authority with the Health and Human Resources Secretariat.

C. The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.

D. This section shall apply with respect to any contract between a carrier and a participating health care provider, or its contracting agent, that is entered into, amended, extended, or renewed on or after January 1, 2016.

E. Notwithstanding any law to the contrary, the provisions of this section shall not apply to:

1. Coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), 5 U.S.C. § 8901 et seq. (federal employees), or 10 U.S.C. § 1071 et seq. (TRICARE);

2. Accident only, credit or disability insurance, long-term care insurance, TRICARE supplement, Medicare supplement, or workers' compensation coverages;

3. Any dental services plan or optometric services plan as defined in § 38.2-4501; or

4. Any health maintenance organization that (i) contracts with one multispecialty group of physicians who are employed by and are shareholders of the multispecialty group, which multispecialty group of physicians may also contract with health care providers in the community; (ii) provides and arranges for the provision of physician services by such multispecialty group physicians or by such contracted health care providers in the community; and (iii) receives and processes at least 85 percent of prescription drug prior authorization requests in a manner that is interoperable with e-prescribing systems, electronic health records, and health information exchange platforms.

§ 38.2-3407.15:7. Carrier provision of certain information.

A. As used in this section:

"Carrier" has the same meaning as provided in § 38.2-3407.15.

"Enrollee" has the same meaning as provided in § 38.2-3407.10.

"Pharmacy benefits manager" has the same meaning as provided in § 38.2-3465.

"Provider" has the same meaning as provided in § 38.2-3407.10.

B. Beginning July 1, 2025, any carrier or its pharmacy benefits manager shall provide real-time patient-specific benefit information to enrollees and contracted providers for the office visit, including any out-of-pocket costs and more affordable medication alternatives or prior authorization requirements, and shall ensure that the data is accurate. Such cost information data shall be available to the provider at the point of prescribing in an accessible and understandable format, such as through the provider's e-prescribing system or electronic health record system that the carrier or pharmacy benefits manager or its designated subcontractor has adopted that utilizes the National Council for Prescription Drug Programs SCRIPT standard and the National Council for Prescription Drug Programs Real Time Benefit Standard from which the provider makes the request.

2. That the State Corporation Commission's Bureau of Insurance (the Bureau) shall, in coordination with the Secretary of Health and Human Resources, establish a work group to (i) assess progress toward implementing electronic prior authorization and real-time cost benefit information for prescription drugs, as required by this act, including monitoring and evaluating the impact of any state or federal developments; (ii) evaluate and make recommendations to establish a process for electronic prior authorization for surgery and other procedures in order to maximize efficiency and minimize delays; (iii) evaluate and make recommendations to establish an online process for a real-time link at the point of prescribing for any available prescription coupons, and (iv) make recommendations for any additional statutory changes required to facilitate such implementation or to establish such processes. The work group shall include relevant stakeholders, including representatives from the Virginia Association of Health Plans, the Medical Society of Virginia, the Virginia Hospital and Healthcare Association, the Virginia Pharmacists Association, and other parties with an interest in the underlying technology. The work group shall report its findings and recommendations to the Chairmen of the Senate Committees on Commerce and Labor and Education and Health and the House Committees on Commerce and Energy and Health, Welfare and Institutions annually by November 1 and shall make its final report by November 1, 2025.

CHAPTER 476

An Act to amend and reenact §§ 51.5-149.1 and 51.5-151 of the Code of Virginia, relating to Public Guardian and Conservator Advisory Board member terms; local or regional public guardian and conservator programs; staff to client ratio.

[H 2029]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.5-149.1 and 51.5-151 of the Code of Virginia are amended and reenacted as follows:

§ 51.5-149.1. Public Guardian and Conservator Advisory Board; purpose; membership; terms.

A. The Public Guardian and Conservator Advisory Board (the Board) is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Board shall be to report to and advise the Commissioner on the means for effectuating the purposes of this article and shall assist in the coordination and management of the local and regional programs appointed to act as public guardians and conservators pursuant to Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2.

B. The Board shall consist of no more than 15 members who shall be appointed by the Governor as follows: one representative of the Virginia Association of Area Agencies on Aging; one representative of the Virginia State Bar; one active or retired circuit court judge upon recommendation of the Chief Justice of the Supreme Court; one representative of

ARC of Virginia; one representative of the National Alliance on Mental Illness of Virginia; one representative of the Virginia League of Social Service Executives; one representative of the Virginia Association of Community Services Boards; the Commissioner of Social Services or his designee; the Commissioner of Behavioral Health and Developmental Services or his designee; and one person who is a member of the Commonwealth Council on Aging and such other individuals who may be qualified to assist in the duties of the Board, who may include a representative of the Commonwealth's designated protection and advocacy system.

C. The Commissioners of Social Services and Behavioral Health and Developmental Services, or their designees, and the representative of the Commonwealth Council on Aging shall serve terms coincident with their terms of office or, in the case of designees, the term of the Commissioner. ~~Of the~~ *The* other members of the Board~~, five of the appointees~~ shall serve for four-year terms ~~and the remainder shall serve for three-year terms~~. No member shall serve more than two successive terms. A vacancy occurring other than by expiration of term shall be filled for the unexpired term. *The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.*

D. Each year, the Board shall elect a chairman and a vice-chairman from among its members. Five members of the Board shall constitute a quorum.

E. Members shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2823.

§ 51.5-151. Minimum requirements for local programs; authority.

Every local or regional program with which the Department contracts to provide services as a public guardian or conservator shall (i) furnish bond with corporate surety in an amount deemed sufficient by the Department to afford adequate financial protection to the maximum number of incapacitated persons to be served by the program; (ii) have in place a multidisciplinary panel to (a) screen cases for the purpose of ensuring that appointment of a guardian or conservator is appropriate under the circumstances and is the least restrictive alternative available to assist the incapacitated person and (b) continually review cases being handled by the program as required by the Department; (iii) accept only appointments as guardian or conservator that generate no fee or would generate a minimal fee as defined by regulation payable from a public source of funds and not from the estate of the incapacitated person; *and* (iv) have a direct service staff to client ratio that is consistent with that specified by regulation of the Department~~; and (v) develop a plan, in consultation with the local circuit court and sheriffs, where appropriate, to provide advance notice to the court when the program falls below or exceeds the ideal range of staff to client ratios in order to assure continuity of services~~. Volunteers shall not be counted for purposes of ascertaining compliance with the staff to client ratio specified by the Department.

A local or regional program that exceeds the specified staff to client ratio shall not be disqualified from serving as a guardian or conservator except as provided by regulation or if the court or the Department finds that there is an immediate threat to the person or property of any incapacitated person or that exceeding the specified ratio is having or will have a material and adverse effect on the ability of the program to properly serve all of the incapacitated persons it has been designated to serve.

A local or regional program appointed as a guardian or conservator shall have all the powers and duties specified in Article 2 (§ 64.2-2019 et seq.) of Chapter 20 of Title 64.2, except as otherwise specifically limited by the court. In addition, a public guardian or conservator shall have a continuing duty to seek a proper and suitable person who is willing and able to serve as guardian or conservator for the incapacitated person. A public guardian or conservator shall have authority to make arrangements for the funeral and disposition of remains, including cremation, interment, entombment, memorialization, inurnment, or scattering of the cremains, or some combination thereof, if the public guardian or conservator is not aware of any person that has been otherwise designated to make such arrangements as set forth in § 54.1-2825. A public guardian or conservator shall have authority to make arrangements for the funeral and disposition of remains after the death of an incapacitated person if, after the public guardian or conservator has made a good faith effort to locate the next of kin of the incapacitated person to determine if the next of kin wishes to make such arrangements, the next of kin does not wish to make the arrangements or the next of kin cannot be located. Good faith effort shall include contacting the next of kin identified in the petition for appointment of a guardian or conservator. The funeral service licensee, funeral service establishment, registered crematory, cemetery, cemetery operator, public guardian or conservator shall be immune from civil liability for any act, decision, or omission resulting from acceptance of any dead body for burial, cremation, or other disposition when the provisions of this section are met, unless such acts, decisions, or omissions resulted from bad faith or malicious intent.

A public guardian shall not have authority to approve or authorize a sterilization procedure except when specific authority has been given pursuant to a proceeding in the circuit court. A public guardian may authorize admission of an incapacitated person to a mental health facility as provided in subsection B of § 37.2-805.1 and may authorize mental health treatment, including the administration of psychotropic medication, unless the appointing court specifically provides otherwise.

A local or regional program appointed as a guardian or conservator may delegate the powers, duties, and responsibilities to individual volunteers or professional staff as authorized in the contract with the Department.

In addition to funds received from the Department, a local or regional program may accept private funds solely for the purposes of providing public education, supplemental services for incapacitated persons, and support services for private guardians and conservators, consistent with the purposes of this article.

CHAPTER 477

An Act to amend and reenact § 32.1-285 of the Code of Virginia, relating to autopsies; decedents in the custody of Department of Corrections.

[H 1827]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-285 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-285. Autopsies.

A. If, in the opinion of the Office of the Chief Medical Examiner, it is advisable and in the public interest that an autopsy be made as part of the investigation of the death, or if an autopsy is requested by the attorney for the Commonwealth or by a judge of the circuit court of the county or city wherein such body is or where death occurred or wherein any injury contributing to or causing death was sustained, *or if the decedent is an inmate in the custody of the Department of Corrections,* an autopsy shall be performed by the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a pathologist with whom the Commissioner has entered into an agreement in accordance with § 32.1-281. Upon petition of a member of the immediate family or the spouse of the deceased in a case of death by injury, such circuit court may, for good cause shown, order an autopsy, after providing notice and an opportunity to be heard to the attorney for the Commonwealth for the jurisdiction wherein the injury contributing to or causing death was sustained or where death occurred. Further, in all cases of death suspected to be attributable to Sudden Infant Death Syndrome (SIDS), an autopsy shall be advisable and in the public interest and shall be performed as required by § 32.1-285.1. A full record and report of the facts developed by the autopsy and findings of the person making such autopsy shall be promptly made and filed with the Office of the Chief Medical Examiner and a copy furnished the judge or attorney for the Commonwealth requesting such autopsy. In the discretion of the Chief Medical Examiner or an Assistant Chief Medical Examiner, a copy of any autopsy report or findings may be furnished to any appropriate attorney for the Commonwealth and to the appropriate law-enforcement agency investigating the death.

B. In the case of a child death investigation that indicates child abuse or neglect contributed to the death, or that the child suffered from abuse and neglect, the case shall be immediately reported to the child protective services unit of the local Department of Social Services by the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282.

2. That the provisions of this act shall become effective on January 1, 2024.

CHAPTER 478

An Act to amend and reenact § 32.1-285 of the Code of Virginia, relating to autopsies; decedents in the custody of Department of Corrections.

[S 1276]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-285 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-285. Autopsies.

A. If, in the opinion of the Office of the Chief Medical Examiner, it is advisable and in the public interest that an autopsy be made as part of the investigation of the death, or if an autopsy is requested by the attorney for the Commonwealth or by a judge of the circuit court of the county or city wherein such body is or where death occurred or wherein any injury contributing to or causing death was sustained, *or if the decedent is an inmate in the custody of the Department of Corrections,* an autopsy shall be performed by the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a pathologist with whom the Commissioner has entered into an agreement in accordance with § 32.1-281. Upon petition of a member of the immediate family or the spouse of the deceased in a case of death by injury, such circuit court may, for good cause shown, order an autopsy, after providing notice and an opportunity to be heard to the attorney for the Commonwealth for the jurisdiction wherein the injury contributing to or causing death was sustained or where death occurred. Further, in all cases of death suspected to be attributable to Sudden Infant Death Syndrome (SIDS), an autopsy shall be advisable and in the public interest and shall be performed as required by § 32.1-285.1. A full record and report of the facts developed by the autopsy and findings of the person making such autopsy shall be promptly made and filed with the Office of the Chief Medical Examiner and a copy furnished the judge or attorney for the Commonwealth requesting such autopsy. In the discretion of the Chief Medical Examiner or an Assistant Chief Medical Examiner, a copy of any autopsy report or findings may be furnished to any appropriate attorney for the Commonwealth and to the appropriate law-enforcement agency investigating the death.

B. In the case of a child death investigation that indicates child abuse or neglect contributed to the death, or that the child suffered from abuse and neglect, the case shall be immediately reported to the child protective services unit of the

local Department of Social Services by the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282.

2. That the provisions of this act shall become effective on January 1, 2024.

CHAPTER 479

An Act to amend the Code of Virginia by adding a section numbered 22.1-206.3, relating to Board of Education; Passport Program dual enrollment; course credit; guidelines.

[S 1281]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-206.3 as follows:

§ 22.1-206.3. Passport dual enrollment; course credit; guidelines.

The Board shall develop guidelines and policies for prioritizing to the maximum extent practicable dual enrollment programs, including the Passport Program, the Uniform Certificate of General Studies Program, the New Economy Workforce Credential Grant Program, and other such programs that allow high school students to receive credit toward the completion of an undergraduate course, degree, or credential offered in the Virginia Community College System. Such guidelines and policies shall include recommendations and strategies on how to ensure the prioritization of such programs to the maximum extent practicable, including ways to direct prioritization of funding to such programs.

2. That the Department of Education shall convene a work group of appropriate stakeholders, including representatives from the Virginia Education Association, the Virginia Association of School Superintendents, and the local school boards, for the purpose of making recommendations on policies for prioritizing dual enrollment programs as required by this act. The work group shall submit its recommendations to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health by November 1, 2024.

3. That the provisions of this act shall become effective on July 1, 2024.

CHAPTER 480

An Act to require the Department of Education to convene a stakeholder work group to examine and make recommendations on reducing barriers to access to paid work-based learning experiences for English language learner students.

[S 1430]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The Department of Education shall convene a stakeholder work group to make recommendations on reducing barriers to and improving the access of paid work-based learning experiences for English language learner students. In making its recommendations, the work group shall (i) identify best practices that are currently implemented in local school divisions in the Commonwealth to overcome barriers impeding the access of English language learner students to paid work-based learning experiences and (ii) consider strategies to further improve the access of English language learner students to paid work-based learning experiences. The work group shall submit its recommendations to the Governor and the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than November 1, 2023.*

CHAPTER 481

An Act to amend and reenact § 30-405 of the Code of Virginia, relating to Behavioral Health Commission; powers and duties; process to solicit and receive input.

[H 2182]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 30-405 of the Code of Virginia is amended and reenacted as follows:

§ 30-405. (For contingent expiration date, see Acts 2021, Sp. Sess. I, c. 313, cl. 2) Powers and duties of the Commission; report.

The Commission shall have the following powers and duties:

1. To collect and analyze information and data necessary to accomplish the purpose set forth in § 30-402;

2. To monitor and evaluate the jurisdiction, powers and duties, operations, management, and interrelationships of any department, division, board, bureau, commission, authority, or other agency with direct responsibility for the delivery, coordination, management, or financing of behavioral health services in the Commonwealth and develop recommendations for the improvement thereof;

3. To monitor and evaluate the design, implementation, and operation of new behavioral health initiatives in the Commonwealth and develop recommendations for the improvement thereof;

4. To examine matters related to the delivery of behavioral health services in other states and to consult and exchange information with officers and agencies of other states with respect to behavioral health service issues of mutual concern;

5. To maintain offices and hold meetings and functions at any place in the Commonwealth that it deems necessary;

6. To invite other interested parties to sit with the Commission and participate in its deliberations;

7. To appoint any work group or special task force from among its members to study and make recommendations on specific matters before the Commission; ~~and~~

8. *To implement a process to solicit and receive input from (i) individuals who are currently receiving or have received behavioral health services or (ii) individuals with intellectual or developmental disabilities or autism spectrum disorders or the family members of such individuals to inform the work of the Commission; and*

9. To report its recommendations to the General Assembly and the Governor annually and to make such interim reports as it deems advisable or as may be required by the General Assembly and the Governor.

CHAPTER 482

An Act to amend and reenact §§ 32.1-27.1 and 32.1-127 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-27.2, relating to minimum staffing standards for certified nursing facilities; administrative sanctions.

[H 1446]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-27.1 and 32.1-127 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-27.2 as follows:

§ 32.1-27.1. Additional civil penalty or appointment of a receiver.

A. In addition to the remedies provided in ~~§~~ *§§* 32.1-27 *and 32.1-27.2*, the civil penalties set forth in this section may be imposed by the circuit court for the city or county in which the facility is located as follows:

1. A civil penalty for a Class I violation shall not exceed the lesser of $25 per licensed or certified bed or $1,000 for each day the facility is in violation, beginning on the date the facility was first notified of the violation.

2. A civil penalty for a Class II violation shall not exceed the lesser of $5 per licensed or certified bed or $250 per day for each day the facility is in violation, beginning on the date the facility was first notified of the violation.

In the event federal law or regulations require a civil penalty in excess of the amounts set forth above for Class I or Class II violations, then the lowest amounts required by such federal law or regulations shall become the maximum civil penalties under this section. The date of notification under this section shall be deemed to be the date of receipt by the facility of written notice of the alleged Class I or Class II violation, which notice shall include specifics of the violation charged and which notice shall be hand delivered or sent by overnight express mail or by registered or certified mail, return receipt requested.

All civil penalties received pursuant to this subsection shall be paid into a special fund of the Department for the cost of implementation of this section, to be applied to the protection of the health or property of residents or patients of facilities that the Commissioner or the United States Secretary of Health and Human Services finds in violation, including payment for the costs for relocation of patients, maintenance of temporary management or receivership to operate a facility pending correction of a violation, and for reimbursement to residents or patients of lost personal funds.

B. In addition to the remedies provided in ~~§~~ *§§* 32.1-27 *and 32.1-27.2* and the civil penalties set forth in subsection A ~~of this section~~, the Commissioner may petition the circuit court for the jurisdiction in which any nursing home or certified nursing facility as defined in § 32.1-123 is located for the appointment of a receiver in accordance with the provisions of this subsection whenever such nursing home or certified nursing facility shall (i) receive official notice from the Commissioner that its license has been or will be revoked or suspended, or that its Medicare or Medicaid certification has been or will be cancelled or revoked; or (ii) receive official notice from the United States Department of Health and Human Services or the Department of Medical Assistance Services that its provider agreement has been or will be revoked, cancelled, terminated or not renewed; or (iii) advise the Department of its intention to close or not to renew its license or Medicare or Medicaid provider agreement less than ninety days in advance; or (iv) operate at any time under conditions which present a major and continuing threat to the health, safety, security, rights or welfare of the patients, including the threat of imminent abandonment by the owner or operator, or a pattern of failure to meet ongoing financial obligations such as the inability to pay for essential food, pharmaceuticals, personnel, or required insurance; and (v) the Department is unable to make adequate and timely arrangements for relocating all patients who are receiving medical assistance under this chapter and Title XIX of the Social Security Act in order to ensure their continued safety and health care.

Upon the filing of a petition for appointment of a receiver, the court shall hold a hearing within ten days, at which time the Department and the owner or operator of the facility may participate and present evidence. The court may grant the petition if it finds any one of the conditions identified in (i) through (iv) ~~above~~ to exist in combination with the condition

identified in (v) and the court further finds that such conditions will not be remedied and that the patients will not be protected unless the petition is granted.

No receivership established under this subsection shall continue in effect for more than 180 days without further order of the court, nor shall the receivership continue in effect following the revocation of the nursing home's license or the termination of the certified nursing facility's Medicare or Medicaid provider agreement, except to enforce any post-termination duties of the provider as required by the provisions of the Medicare or Medicaid provider agreement.

The appointed receiver shall be a person licensed as nursing home administrator in the Commonwealth pursuant to Title 54.1 or, if not so licensed, shall employ and supervise a person so licensed to administer the day-to-day business of the nursing home or certified nursing facility.

The receiver shall have (i) such powers and duties to manage the nursing home or certified nursing facility as the court may grant and direct, including but not limited to the duty to accomplish the orderly relocation of all patients and the right to refuse to admit new patients during the receivership, (ii) the power to receive, conserve, protect and disburse funds, including Medicare and Medicaid payments on behalf of the owner or operator of the nursing home or certified nursing facility, (iii) the power to execute and avoid executory contracts, (iv) the power to hire and discharge employees, and (v) the power to do all other acts, including the filing of such reports as the court may direct, subject to accounting to the court therefor and otherwise consistent with state and federal law, necessary to protect the patients from the threat or threats set forth in the original petitions, as well as such other threats arising thereafter or out of the same conditions.

The court may grant injunctive relief as it deems appropriate to the Department or to its receiver either in conjunction with or subsequent to the granting of a petition for appointment of a receiver under this section.

The court may terminate the receivership on the motion of the Department, the receiver, or the owner or operator, upon finding, after a hearing, that either (i) the conditions described in the petition have been substantially eliminated or remedied~~,~~ or (ii) all patients in the nursing home or certified nursing facility have been relocated. Within ~~thirty~~ *30* days after such termination, the receiver shall file a complete report of his activities with the court, including an accounting for all property of which he has taken possession and all funds collected.

All costs of administration of a receivership hereunder shall be paid by the receiver out of reimbursement to the nursing home or certified nursing facility from Medicare, Medicaid and other patient care collections. The court, after terminating such receivership, shall enter appropriate orders to ensure such payments upon its approval of the receiver's reports.

A receiver appointed under this section shall be an officer of the court, shall not be liable for conditions at the nursing home or certified nursing facility which existed or originated prior to his appointment and shall not be personally liable, except for his own gross negligence and intentional acts which result in injuries to persons or damage to property at the nursing home or certified nursing facility during his receivership.

The provisions of this subsection shall not be construed to relieve any owner, operator or other party of any duty imposed by law or of any civil or criminal liability incurred by reason of any act or omission of such owner, operator, or other party.

§ 32.1-27.2. Administrative sanctions.

A. Notwithstanding any other provision of law, the Commissioner may impose administrative sanctions in accordance with this section on any certified nursing facility, if that certified nursing facility does not comply with the provisions of regulations promulgated pursuant to subdivision B 32 of § 32.1-127. The Commissioner shall not impose any administrative sanctions authorized under this section until regulations are promulgated pursuant to subsection G.

B. The Commissioner shall have authority to annually determine whether or not to impose any sanctions under subsection C for noncompliance with the provisions of regulations promulgated pursuant to subdivision B 32 of § 32.1-127, if the certified nursing facility:

1. Was affected by a declared emergency, or an act of God, that had an impact on the ability to hire or retain staff at levels required under subdivision B 32 of § 32.1-127. To the extent necessary, the Commissioner may review trended employment data for direct care staff, as provided by the certified nursing facility, to determine the effect of such emergencies or acts of God in assessing this criterion. Failure to provide adequate data may remove this criterion from the Commissioner's consideration;

2. Has made a concerted effort to recruit and retain direct care staff as evidenced through position advertisements, interviews, offers, financial incentives, and nonfinancial incentives. The certified nursing facility shall provide such evidence upon request of the Commissioner for consideration. Failure to provide adequate evidence may remove this criterion from the Commissioner's consideration; or

3. Was located in a medically underserved area and such location severely limited the ability of the certified nursing facility to recruit and retain direct care staff despite a concerted effort to recruit and retain direct care staff. The certified nursing facility shall provide evidence upon request of the Commissioner for consideration. Failure to provide adequate evidence may remove this criterion from the Commissioner's consideration.

C. Prior to restricting or prohibiting new admissions to a certified nursing facility, suspending or refusing to renew or reinstate any nursing home license, or revoking any nursing home license issued pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5, the Commissioner shall first impose the following iterative administrative sanctions:

1. When a certified nursing facility is not in compliance with subdivision B 32 of § 32.1-127 and the conditions under subsection B do not exist, the Commissioner shall require the submission of an annual corrective action plan by a certified

nursing facility and, upon approval of such plan by the Commissioner, compliance with such plan. A corrective action plan shall only articulate strategies to be utilized to increase direct care staffing with the goal of compliance with subdivision B 32 of § 32.1-127 or improvement on the total nurse staffing hours metric, as defined by the Virginia Medicaid Nursing Facility Value-Based Purchasing (VBP) program. The Commissioner shall consider evidence of direct care staff hours provided in addition to the payroll based journal report, if requested by a certified nursing facility, and may or may not impose a corrective action plan under this section. The Commissioner shall consider the following:

a. If the annual measurement immediately subsequent to issuance of the corrective action plan shows compliance with subdivision B 32 of § 32.1-127, no additional administrative sanctions are warranted, and the corrective action plan is deemed inactive but shall be retained by the Commissioner pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.); or

b. If the annual measurement immediately subsequent to issuance of the corrective action plan still shows noncompliance with subdivision B 32 of § 32.1-127, but the VBP program, as administered by the Department of Medical Assistance Services, indicates defined improvement on the total nurse staffing hours metric, the Commissioner shall repeat the provisions of subdivision 1; or

c. If the annual measurement immediately subsequent to issuance of the corrective action plan still shows noncompliance with subdivision B 32 of § 32.1-127, and the VBP program, as administered by the Department of Medical Assistance Services, does not indicate defined improvement on the total nurse staffing hours metric, the Commissioner shall repeat the provisions of subdivision 1 and may, under circumstances described, provide additional sanctions under subdivisions 2 and 3;

2. To the extent that any consecutive annual corrective action plan is required and results articulated in subdivision 1 c are obtained a second consecutive time, the Commissioner may impose a monetary penalty of up to $50,000 for each subsequent consecutive annual period in which compliance with subdivision B 32 of § 32.1-127 or defined improvement on the total nurse staffing hours metric under the VBP program is not attained; and

3. To the extent that a certified nursing facility is out of compliance with subdivision B 32 of § 32.1-127 or fails to show defined improvement on the total nurse staffing hours metric under the VBP program after three consecutive corrective action plans, the Commissioner may place the nursing home or certified nursing facility on probation.

D. A certified nursing facility sanctioned by the Commissioner shall retain responsibility for the health, safety, and welfare of any person under its care, including the timely transfer or relocation of such persons as may be deemed necessary by the Commissioner in compliance with state and federal discharge rights and protections for nursing home residents.

E. After deduction of the administrative costs of the Commissioner and the Department in furtherance of this section, any penalties collected under this section shall be paid to the special fund as set forth in § 32.1-27.1.

F. Prior to imposing administrative sanctions, the Commissioner shall provide the facility with reasonable notice. To the extent that sanctions are imposed, the facility shall be entitled to all rights under the Administrative Process Act (§ 2.2-4000 et seq.) and to a de novo appeal to circuit court.

G. The Board shall promulgate regulations to implement the provisions of this section consistent with the Administrative Process Act (§ 2.2-4000 et seq.).

§ 32.1-127. Regulations.

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities;

2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye

Bank Association of America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye bank community and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement organization in educating the staff responsible for contacting the organ procurement organization's personnel on donation issues, the proper review of death records to improve identification of potential donors, and the proper procedures for maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, and no donor card or other relevant document, such as an advance directive, can be found;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the other parent of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person is not available within the period of time specified, co-signed by another physician or other person authorized to give the order;

12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900

et seq.) of Title 9.1, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

15. Shall require that each licensed hospital include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including, but not limited to, those related to the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. No family member of a resident or other resident representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of $1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations;

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician and (ii) a patient for whom there is a question regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal communication, either in person or via telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information employed by a poison control center that is accredited by the American Association of Poison Control Centers to review the results of the toxicology screen and determine whether a medical reason for refusing admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the referring physician;

21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision reached by the interdisciplinary medical review committee, which shall be included in the patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other remedies available at law, including seeking court review, provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days of the date on which the physician's determination that proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department to establish protocols to ensure that security personnel of the emergency department, if any, receive training appropriate to the populations served by the emergency department, which may include training based on a trauma-informed approach in identifying and safely addressing situations involving patients or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis;

23. Shall require that each hospital establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized representative with written or electronic notice that

the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan;

24. Shall establish an exemption from the requirement to obtain a license to add temporary beds in an existing hospital or nursing home, including beds located in a temporary structure or satellite location operated by the hospital or nursing home, provided that the ability remains to safely staff services across the existing hospital or nursing home, (i) for a period of no more than the duration of the Commissioner's determination plus 30 days when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds or (ii) for a period of no more than the duration of the emergency order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the Board, pursuant to § 32.1-13, or the Commissioner, pursuant to § 32.1-20, has entered an emergency order for the purpose of suppressing a nuisance dangerous to public health or a communicable, contagious, or infectious disease or other danger to the public life and health;

25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical therapy as a follow-up treatment and (ii) will be required to select a physical therapy provider prior to being discharged from the hospital;

26. Shall permit nursing home staff members who are authorized to possess, distribute, or administer medications to residents to store, dispense, or administer cannabis oil to a resident who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy;

27. Shall require each hospital with an emergency department to establish a protocol for the treatment and discharge of individuals experiencing a substance use-related emergency, which shall include provisions for (i) appropriate screening and assessment of individuals experiencing substance use-related emergencies to identify medical interventions necessary for the treatment of the individual in the emergency department and (ii) recommendations for follow-up care following discharge for any patient identified as having a substance use disorder, depression, or mental health disorder, as appropriate, which may include, for patients who have been treated for substance use-related emergencies, including opioid overdose, or other high-risk patients, (a) the dispensing of naloxone or other opioid antagonist used for overdose reversal pursuant to subsection X of § 54.1-3408 at discharge or (b) issuance of a prescription for and information about accessing naloxone or other opioid antagonist used for overdose reversal, including information about accessing naloxone or other opioid antagonist used for overdose reversal at a community pharmacy, including any outpatient pharmacy operated by the hospital, or through a community organization or pharmacy that may dispense naloxone or other opioid antagonist used for overdose reversal without a prescription pursuant to a statewide standing order. Such protocols may also provide for referrals of individuals experiencing a substance use-related emergency to peer recovery specialists and community-based providers of behavioral health services, or to providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

28. During a public health emergency related to COVID-19, shall require each nursing home and certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with guidance from the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the conditions, including conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and community, under which in-person visits will be allowed and under which in-person visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be required to comply to protect the health and safety of the patients and staff of the nursing home or certified nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing home or certified nursing facility will take in the event of a technology failure, service interruption, or documented emergency that prevents visits from occurring as required by this subdivision. Such protocol shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided that such waiver or limitation is included in the patient's health record; and (c) a requirement that each nursing home and certified nursing facility publish on its website or communicate to each patient or the patient's authorized representative, in writing or via electronic means, the nursing home's or certified nursing facility's plan for providing visits to patients as required by this subdivision;

29. Shall require each hospital, nursing home, and certified nursing facility to establish and implement policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient, in accordance with such regulations, while receiving inpatient services. Such policies shall ensure protection of health information in accordance with the requirements of the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended. For the purposes of this subdivision, "intelligent personal assistant" means a combination of an electronic device and a specialized software application designed to assist users with basic tasks using a combination of natural language processing and artificial intelligence, including such combinations known as "digital assistants" or "virtual assistants";

30. During a declared public health emergency related to a communicable disease of public health threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for Medicare and Medicaid Services and subject to compliance with any executive order, order of public health, Department guidance, or any other applicable federal or state guidance having the effect of limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits to be conducted virtually using interactive audio or video technology. Any such protocol may require the person visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the hospital, nursing home, or certified nursing facility adopted to protect the health and safety of the person, patients, and staff of the hospital, nursing home, or certified nursing facility; ~~and~~

31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients who are minors available to such patients through a secure website shall make such health records available to such patient's parent or guardian through such secure website, unless the hospital cannot make such health record available in a manner that prevents disclosure of information, the disclosure of which has been denied pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of § 54.1-2969 has not been provided*; and*

32. Shall require each certified nursing facility eligible to participate in the Virginia Medicaid Nursing Facility Value-Based Purchasing (VBP) program, as referenced in Chapter 2 of the Acts of Assembly of 2022, Special Session I, to provide at least 3.08 hours of case mix-adjusted total nurse staffing hours per resident per day on average as determined annually by the Department of Medical Assistance Services for use in the VBP program, utilizing job codes for the calculation of total nurse staffing hours per resident per day following the Centers for Medicare and Medicaid Services (CMS) definitions as of January 1, 2022, used for similar purposes and including certified nursing assistants, licensed practical nurses, and registered nurses. No additional reporting shall be required by a certified nursing facility under this subdivision.

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot that is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for the provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal.

2. That without initial and ongoing funding for the state share of the cost to implement the provisions of this act, as built in to the calculation and application of the base Medicaid rates, the State Health Commissioner shall not impose administrative sanctions in accordance with § 32.1-27.2 of the Code of Virginia, as created by this act, on any certified nursing home that does not comply with the provisions of regulations promulgated pursuant to subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act. In any period in which the calculated Medicaid Virginia Nursing Home Inflation Index is not fully implemented, administrative sanctions in accordance with § 32.1-27.2 of the Code of Virginia, as created by this act, shall be suspended.

3. That if the funding of the Value-Based Purchasing program is reduced or suspended below levels established in the 2022 Appropriation Act (Chapter 2 of the Acts of Assembly of 2022, Special Session I), as adjusted by the Medicaid Virginia Nursing Home Inflation Index annually thereafter, the State Health Commissioner shall not impose administrative sanctions in accordance with § 32.1-27.2 of the Code of Virginia, as created by this act, on any certified nursing home that does not comply with the provisions of regulations promulgated pursuant to subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act.

4. That in the event that a federal staffing ratio or similar mandate is established, the staffing ratio established pursuant to subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act, shall be repealed. In such an event, authority for administrative sanctions in accordance with § 32.1-27.2 of the Code of Virginia, as created by this act, shall be revoked, with deferral to federal authority to enforce the staffing ratio or similar mandate under federal law.

5. That annually the Department of Medical Assistance Services shall communicate to the State Board of Health the information required by the provisions of subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act, and the State Board of Health shall not include the provisions of subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act, in the state licensure requirements. The information that the Department of Medical Assistance Services is required to communicate to the State Board of Health under this enactment shall apply to the Virginia Medicaid Nursing Facility Value-Based Purchasing program as referenced in Chapter 2 of the Acts of Assembly of 2022, Special Session I, or its successor programs.

6. That in the event that the Centers for Medicare and Medicaid Services amends, revises, or deletes the payroll base journal reporting requirements, forms, and processes after January 1, 2022, to such an extent that it impacts the

ability of the Commissioner to determine compliance, the Department of Medical Assistance Services shall convene with the State Board of Health a stakeholder work group to make recommendations to the Chairman of the House Committee on Health, Welfare and Institutions and the Chairman of the Senate Committee on Education and Health on what process will be used for determining the equivalent staffing ratio to that designated under subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act, relative to the federal methodology changes or reporting to support the ratio established under the previous federal methodology.

7. That in the event that the Department of Medical Assistance Services stops calculating the staffing standard as referenced in subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act, notice shall be given to the State Board of Health and a work group shall be convened by the Department of Medical Assistance Services along with the State Board of Health and stakeholders to make recommendations to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health on what process will be used for determining the equivalent staffing ratio to that designated under subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act, relative to how the calculations can be made and what fiscal implications, if any, may result.

8. That the provisions of the first enactment of this act shall become effective on July 1, 2025.

9. That the State Health Commissioner, in collaboration with the Department of Medical Assistance Services, shall, in consultation with relevant stakeholder groups, review and consider modifications to the minimum nurse staffing standard articulated in subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act, every four years from the effective date of the first enactment of this act. Upon completion of each required review, the State Health Commissioner shall submit his findings and recommendations regarding modification of the minimum nurse staffing standard to the Governor and the Chairmen of the House Committees on Health, Welfare and Institutions and Appropriations and the Senate Committees on Education and Health and Finance and Appropriations prior to the next regular session of the General Assembly.

10. That the State Board of Health shall promulgate regulations consistent with the provisions of the first enactment of this act consistent with its passage.

CHAPTER 483

An Act to amend and reenact §§ 32.1-27.1 and 32.1-127 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-27.2, relating to minimum staffing standards for certified nursing facilities; administrative sanctions.

[S 1339]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-27.1 and 32.1-127 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-27.2 as follows:

§ 32.1-27.1. Additional civil penalty or appointment of a receiver.

A. In addition to the remedies provided in ~~§~~ *§§* 32.1-27 *and 32.1-27.2*, the civil penalties set forth in this section may be imposed by the circuit court for the city or county in which the facility is located as follows:

1. A civil penalty for a Class I violation shall not exceed the lesser of $25 per licensed or certified bed or $1,000 for each day the facility is in violation, beginning on the date the facility was first notified of the violation.

2. A civil penalty for a Class II violation shall not exceed the lesser of $5 per licensed or certified bed or $250 per day for each day the facility is in violation, beginning on the date the facility was first notified of the violation.

In the event federal law or regulations require a civil penalty in excess of the amounts set forth above for Class I or Class II violations, then the lowest amounts required by such federal law or regulations shall become the maximum civil penalties under this section. The date of notification under this section shall be deemed to be the date of receipt by the facility of written notice of the alleged Class I or Class II violation, which notice shall include specifics of the violation charged and which notice shall be hand delivered or sent by overnight express mail or by registered or certified mail, return receipt requested.

All civil penalties received pursuant to this subsection shall be paid into a special fund of the Department for the cost of implementation of this section, to be applied to the protection of the health or property of residents or patients of facilities that the Commissioner or the United States Secretary of Health and Human Services finds in violation, including payment for the costs for relocation of patients, maintenance of temporary management or receivership to operate a facility pending correction of a violation, and for reimbursement to residents or patients of lost personal funds.

B. In addition to the remedies provided in ~~§~~ *§§* 32.1-27 *and 32.1-27.2* and the civil penalties set forth in subsection A ~~of this section~~, the Commissioner may petition the circuit court for the jurisdiction in which any nursing home or certified nursing facility as defined in § 32.1-123 is located for the appointment of a receiver in accordance with the provisions of this subsection whenever such nursing home or certified nursing facility shall (i) receive official notice from the Commissioner that its license has been or will be revoked or suspended, or that its Medicare or Medicaid certification has been or will be cancelled or revoked; or (ii) receive official notice from the United States Department of Health and Human

Services or the Department of Medical Assistance Services that its provider agreement has been or will be revoked, cancelled, terminated or not renewed; or (iii) advise the Department of its intention to close or not to renew its license or Medicare or Medicaid provider agreement less than ninety days in advance; or (iv) operate at any time under conditions which present a major and continuing threat to the health, safety, security, rights or welfare of the patients, including the threat of imminent abandonment by the owner or operator, or a pattern of failure to meet ongoing financial obligations such as the inability to pay for essential food, pharmaceuticals, personnel, or required insurance; and (v) the Department is unable to make adequate and timely arrangements for relocating all patients who are receiving medical assistance under this chapter and Title XIX of the Social Security Act in order to ensure their continued safety and health care.

Upon the filing of a petition for appointment of a receiver, the court shall hold a hearing within ten days, at which time the Department and the owner or operator of the facility may participate and present evidence. The court may grant the petition if it finds any one of the conditions identified in (i) through (iv) ~~above~~ to exist in combination with the condition identified in (v) and the court further finds that such conditions will not be remedied and that the patients will not be protected unless the petition is granted.

No receivership established under this subsection shall continue in effect for more than 180 days without further order of the court, nor shall the receivership continue in effect following the revocation of the nursing home's license or the termination of the certified nursing facility's Medicare or Medicaid provider agreement, except to enforce any post-termination duties of the provider as required by the provisions of the Medicare or Medicaid provider agreement.

The appointed receiver shall be a person licensed as nursing home administrator in the Commonwealth pursuant to Title 54.1 or, if not so licensed, shall employ and supervise a person so licensed to administer the day-to-day business of the nursing home or certified nursing facility.

The receiver shall have (i) such powers and duties to manage the nursing home or certified nursing facility as the court may grant and direct, including but not limited to the duty to accomplish the orderly relocation of all patients and the right to refuse to admit new patients during the receivership, (ii) the power to receive, conserve, protect and disburse funds, including Medicare and Medicaid payments on behalf of the owner or operator of the nursing home or certified nursing facility, (iii) the power to execute and avoid executory contracts, (iv) the power to hire and discharge employees, and (v) the power to do all other acts, including the filing of such reports as the court may direct, subject to accounting to the court therefor and otherwise consistent with state and federal law, necessary to protect the patients from the threat or threats set forth in the original petitions, as well as such other threats arising thereafter or out of the same conditions.

The court may grant injunctive relief as it deems appropriate to the Department or to its receiver either in conjunction with or subsequent to the granting of a petition for appointment of a receiver under this section.

The court may terminate the receivership on the motion of the Department, the receiver, or the owner or operator, upon finding, after a hearing, that either (i) the conditions described in the petition have been substantially eliminated or remedied~~,~~ or (ii) all patients in the nursing home or certified nursing facility have been relocated. Within ~~thirty~~ *30* days after such termination, the receiver shall file a complete report of his activities with the court, including an accounting for all property of which he has taken possession and all funds collected.

All costs of administration of a receivership hereunder shall be paid by the receiver out of reimbursement to the nursing home or certified nursing facility from Medicare, Medicaid and other patient care collections. The court, after terminating such receivership, shall enter appropriate orders to ensure such payments upon its approval of the receiver's reports.

A receiver appointed under this section shall be an officer of the court, shall not be liable for conditions at the nursing home or certified nursing facility which existed or originated prior to his appointment and shall not be personally liable, except for his own gross negligence and intentional acts which result in injuries to persons or damage to property at the nursing home or certified nursing facility during his receivership.

The provisions of this subsection shall not be construed to relieve any owner, operator or other party of any duty imposed by law or of any civil or criminal liability incurred by reason of any act or omission of such owner, operator, or other party.

§ 32.1-27.2. Administrative sanctions.

A. Notwithstanding any other provision of law, the Commissioner may impose administrative sanctions in accordance with this section on any certified nursing facility, if that certified nursing facility does not comply with the provisions of regulations promulgated pursuant to subdivision B 32 of § 32.1-127. The Commissioner shall not impose any administrative sanctions authorized under this section until regulations are promulgated pursuant to subsection G.

B. The Commissioner shall have authority to annually determine whether or not to impose any sanctions under subsection C for noncompliance with the provisions of regulations promulgated pursuant to subdivision B 32 of § 32.1-127, if the certified nursing facility:

1. Was affected by a declared emergency, or an act of God, that had an impact on the ability to hire or retain staff at levels required under subdivision B 32 of § 32.1-127. To the extent necessary, the Commissioner may review trended employment data for direct care staff, as provided by the certified nursing facility, to determine the effect of such emergencies or acts of God in assessing this criterion. Failure to provide adequate data may remove this criterion from the Commissioner's consideration;

2. Has made a concerted effort to recruit and retain direct care staff as evidenced through position advertisements, interviews, offers, financial incentives, and nonfinancial incentives. The certified nursing facility shall provide such

evidence upon request of the Commissioner for consideration. Failure to provide adequate evidence may remove this criterion from the Commissioner's consideration; or

3. Was located in a medically underserved area and such location severely limited the ability of the certified nursing facility to recruit and retain direct care staff despite a concerted effort to recruit and retain direct care staff. The certified nursing facility shall provide evidence upon request of the Commissioner for consideration. Failure to provide adequate evidence may remove this criterion from the Commissioner's consideration.

C. Prior to restricting or prohibiting new admissions to a certified nursing facility, suspending or refusing to renew or reinstate any nursing home license, or revoking any nursing home license issued pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5, the Commissioner shall first impose the following iterative administrative sanctions:

1. When a certified nursing facility is not in compliance with subdivision B 32 of § 32.1-127 and the conditions under subsection B do not exist, the Commissioner shall require the submission of an annual corrective action plan by a certified nursing facility and, upon approval of such plan by the Commissioner, compliance with such plan. A corrective action plan shall only articulate strategies to be utilized to increase direct care staffing with the goal of compliance with subdivision B 32 of § 32.1-127 or improvement on the total nurse staffing hours metric, as defined by the Virginia Medicaid Nursing Facility Value-Based Purchasing (VBP) program. The Commissioner shall consider evidence of direct care staff hours provided in addition to the payroll based journal report, if requested by a certified nursing facility, and may or may not impose a corrective action plan under this section. The Commissioner shall consider the following:

a. If the annual measurement immediately subsequent to issuance of the corrective action plan shows compliance with subdivision B 32 of § 32.1-127, no additional administrative sanctions are warranted, and the corrective action plan is deemed inactive but shall be retained by the Commissioner pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.); or

b. If the annual measurement immediately subsequent to issuance of the corrective action plan still shows noncompliance with subdivision B 32 of § 32.1-127, but the VBP program, as administered by the Department of Medical Assistance Services, indicates defined improvement on the total nurse staffing hours metric, the Commissioner shall repeat the provisions of subdivision 1; or

c. If the annual measurement immediately subsequent to issuance of the corrective action plan still shows noncompliance with subdivision B 32 of § 32.1-127, and the VBP program, as administered by the Department of Medical Assistance Services, does not indicate defined improvement on the total nurse staffing hours metric, the Commissioner shall repeat the provisions of subdivision 1 and may, under circumstances described, provide additional sanctions under subdivisions 2 and 3;

2. To the extent that any consecutive annual corrective action plan is required and results articulated in subdivision 1 c are obtained a second consecutive time, the Commissioner may impose a monetary penalty of up to $50,000 for each subsequent consecutive annual period in which compliance with subdivision B 32 of § 32.1-127 or defined improvement on the total nurse staffing hours metric under the VBP program is not attained; and

3. To the extent that a certified nursing facility is out of compliance with subdivision B 32 of § 32.1-127 or fails to show defined improvement on the total nurse staffing hours metric under the VBP program after three consecutive corrective action plans, the Commissioner may place the nursing home or certified nursing facility on probation.

D. A certified nursing facility sanctioned by the Commissioner shall retain responsibility for the health, safety, and welfare of any person under its care, including the timely transfer or relocation of such persons as may be deemed necessary by the Commissioner in compliance with state and federal discharge rights and protections for nursing home residents.

E. After deduction of the administrative costs of the Commissioner and the Department in furtherance of this section, any penalties collected under this section shall be paid to the special fund as set forth in § 32.1-27.1.

F. Prior to imposing administrative sanctions, the Commissioner shall provide the facility with reasonable notice. To the extent that sanctions are imposed, the facility shall be entitled to all rights under the Administrative Process Act (§ 2.2-4000 et seq.) and to a de novo appeal to circuit court.

G. The Board shall promulgate regulations to implement the provisions of this section consistent with the Administrative Process Act (§ 2.2-4000 et seq.).

§ 32.1-127. Regulations.

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities;

2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye bank community and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement organization in educating the staff responsible for contacting the organ procurement organization's personnel on donation issues, the proper review of death records to improve identification of potential donors, and the proper procedures for maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, and no donor card or other relevant document, such as an advance directive, can be found;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the other parent of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person is not available within the period of time specified, co-signed by another physician or other person authorized to give the order;

12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

15. Shall require that each licensed hospital include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including, but not limited to, those related to the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. No family member of a resident or other resident representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of $1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations;

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician and (ii) a patient for whom there is a question regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal communication, either in person or via telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information employed by a poison control center that is accredited by the American Association of Poison Control Centers to review the results of the toxicology screen and determine whether a medical reason for refusing admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the referring physician;

21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision reached by the interdisciplinary medical review committee, which shall be included in the patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other remedies available at law, including seeking court review, provided that the

patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days of the date on which the physician's determination that proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department to establish protocols to ensure that security personnel of the emergency department, if any, receive training appropriate to the populations served by the emergency department, which may include training based on a trauma-informed approach in identifying and safely addressing situations involving patients or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis;

23. Shall require that each hospital establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized representative with written or electronic notice that the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan;

24. Shall establish an exemption from the requirement to obtain a license to add temporary beds in an existing hospital or nursing home, including beds located in a temporary structure or satellite location operated by the hospital or nursing home, provided that the ability remains to safely staff services across the existing hospital or nursing home, (i) for a period of no more than the duration of the Commissioner's determination plus 30 days when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds or (ii) for a period of no more than the duration of the emergency order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the Board, pursuant to § 32.1-13, or the Commissioner, pursuant to § 32.1-20, has entered an emergency order for the purpose of suppressing a nuisance dangerous to public health or a communicable, contagious, or infectious disease or other danger to the public life and health;

25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical therapy as a follow-up treatment and (ii) will be required to select a physical therapy provider prior to being discharged from the hospital;

26. Shall permit nursing home staff members who are authorized to possess, distribute, or administer medications to residents to store, dispense, or administer cannabis oil to a resident who has been issued a valid written certification for the use of cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy;

27. Shall require each hospital with an emergency department to establish a protocol for the treatment and discharge of individuals experiencing a substance use-related emergency, which shall include provisions for (i) appropriate screening and assessment of individuals experiencing substance use-related emergencies to identify medical interventions necessary for the treatment of the individual in the emergency department and (ii) recommendations for follow-up care following discharge for any patient identified as having a substance use disorder, depression, or mental health disorder, as appropriate, which may include, for patients who have been treated for substance use-related emergencies, including opioid overdose, or other high-risk patients, (a) the dispensing of naloxone or other opioid antagonist used for overdose reversal pursuant to subsection X of § 54.1-3408 at discharge or (b) issuance of a prescription for and information about accessing naloxone or other opioid antagonist used for overdose reversal, including information about accessing naloxone or other opioid antagonist used for overdose reversal at a community pharmacy, including any outpatient pharmacy operated by the hospital, or through a community organization or pharmacy that may dispense naloxone or other opioid antagonist used for overdose reversal without a prescription pursuant to a statewide standing order. Such protocols may also provide for referrals of individuals experiencing a substance use-related emergency to peer recovery specialists and community-based providers of behavioral health services, or to providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

28. During a public health emergency related to COVID-19, shall require each nursing home and certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with guidance from the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the conditions, including conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and community, under which in-person visits will be allowed and under which in-person visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be required to comply to protect the health and safety of the patients and staff of the nursing home or certified nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing home or certified nursing facility will take in the event of a technology failure, service interruption, or documented emergency that prevents visits from occurring as required by this subdivision. Such protocol shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided that such waiver or limitation is included in the patient's health record; and (c) a requirement that each nursing home and certified nursing facility publish on its website or communicate to each patient or the patient's

authorized representative, in writing or via electronic means, the nursing home's or certified nursing facility's plan for providing visits to patients as required by this subdivision;

29. Shall require each hospital, nursing home, and certified nursing facility to establish and implement policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient, in accordance with such regulations, while receiving inpatient services. Such policies shall ensure protection of health information in accordance with the requirements of the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended. For the purposes of this subdivision, "intelligent personal assistant" means a combination of an electronic device and a specialized software application designed to assist users with basic tasks using a combination of natural language processing and artificial intelligence, including such combinations known as "digital assistants" or "virtual assistants";

30. During a declared public health emergency related to a communicable disease of public health threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for Medicare and Medicaid Services and subject to compliance with any executive order, order of public health, Department guidance, or any other applicable federal or state guidance having the effect of limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits to be conducted virtually using interactive audio or video technology. Any such protocol may require the person visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the hospital, nursing home, or certified nursing facility adopted to protect the health and safety of the person, patients, and staff of the hospital, nursing home, or certified nursing facility; ~~and~~

31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients who are minors available to such patients through a secure website shall make such health records available to such patient's parent or guardian through such secure website, unless the hospital cannot make such health record available in a manner that prevents disclosure of information, the disclosure of which has been denied pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of § 54.1-2969 has not been provided*; and*

32. Shall require each certified nursing facility eligible to participate in the Virginia Medicaid Nursing Facility Value-Based Purchasing (VBP) program, as referenced in Chapter 2 of the Acts of Assembly of 2022, Special Session I, to provide at least 3.08 hours of case mix-adjusted total nurse staffing hours per resident per day on average as determined annually by the Department of Medical Assistance Services for use in the VBP program, utilizing job codes for the calculation of total nurse staffing hours per resident per day following the Centers for Medicare and Medicaid Services (CMS) definitions as of January 1, 2022, used for similar purposes and including certified nursing assistants, licensed practical nurses, and registered nurses. No additional reporting shall be required by a certified nursing facility under this subdivision.

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot that is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for the provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal.

2. That without initial and ongoing funding for the state share of the cost to implement the provisions of this act, as built in to the calculation and application of the base Medicaid rates, the State Health Commissioner shall not impose administrative sanctions in accordance with § 32.1-27.2 of the Code of Virginia, as created by this act, on any certified nursing home that does not comply with the provisions of regulations promulgated pursuant to subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act. In any period in which the calculated Medicaid Virginia Nursing Home Inflation Index is not fully implemented, administrative sanctions in accordance with § 32.1-27.2 of the Code of Virginia, as created by this act, shall be suspended.

3. That if the funding of the Value-Based Purchasing program is reduced or suspended below levels established in the 2022 Appropriation Act (Chapter 2 of the Acts of Assembly of 2022, Special Session I), as adjusted by the Medicaid Virginia Nursing Home Inflation Index annually thereafter, the State Health Commissioner shall not impose administrative sanctions in accordance with § 32.1-27.2 of the Code of Virginia, as created by this act, on any certified nursing home that does not comply with the provisions of regulations promulgated pursuant to subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act.

4. That in the event that a federal staffing ratio or similar mandate is established, the staffing ratio established pursuant to subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act, shall be repealed. In such an event, authority for administrative sanctions in accordance with § 32.1-27.2 of the Code of Virginia, as created by

this act, shall be revoked, with deferral to federal authority to enforce the staffing ratio or similar mandate under federal law.

5. That annually the Department of Medical Assistance Services shall communicate to the State Board of Health the information required by the provisions of subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act, and the State Board of Health shall not include the provisions of subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act, in the state licensure requirements. The information that the Department of Medical Assistance Services is required to communicate to the State Board of Health under this enactment shall apply to the Virginia Medicaid Nursing Facility Value-Based Purchasing program as referenced in Chapter 2 of the Acts of Assembly of 2022, Special Session I, or its successor programs.

6. That in the event that the Centers for Medicare and Medicaid Services amends, revises, or deletes the payroll base journal reporting requirements, forms, and processes after January 1, 2022, to such an extent that it impacts the ability of the Commissioner to determine compliance, the Department of Medical Assistance Services shall convene with the State Board of Health a stakeholder work group to make recommendations to the Chairman of the House Committee on Health, Welfare and Institutions and the Chairman of the Senate Committee on Education and Health on what process will be used for determining the equivalent staffing ratio to that designated under subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act, relative to the federal methodology changes or reporting to support the ratio established under the previous federal methodology.

7. That in the event that the Department of Medical Assistance Services stops calculating the staffing standard as referenced in subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act, notice shall be given to the State Board of Health and a work group shall be convened by the Department of Medical Assistance Services along with the State Board of Health and stakeholders to make recommendations to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health on what process will be used for determining the equivalent staffing ratio to that designated under subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act, relative to how the calculations can be made and what fiscal implications, if any, may result.

8. That the provisions of the first enactment of this act shall become effective on July 1, 2025.

9. That the State Health Commissioner, in collaboration with the Department of Medical Assistance Services, shall, in consultation with relevant stakeholder groups, review and consider modifications to the minimum nurse staffing standard articulated in subdivision B 32 of § 32.1-127 of the Code of Virginia, as amended by this act, every four years from the effective date of the first enactment of this act. Upon completion of each required review, the State Health Commissioner shall submit his findings and recommendations regarding modification of the minimum nurse staffing standard to the Governor and the Chairmen of the House Committees on Health, Welfare and Institutions and Appropriations and the Senate Committees on Education and Health and Finance and Appropriations prior to the next regular session of the General Assembly.

10. That the State Board of Health shall promulgate regulations consistent with the provisions of the first enactment of this act consistent with its passage.

CHAPTER 484

An Act to amend and reenact §§ 37.2-203, 37.2-500, 37.2-508, 37.2-601, and 37.2-608 of the Code of Virginia, relating to community services boards; behavioral health authorities; purpose; performance contracts.

[S 1465]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-203, 37.2-500, 37.2-508, 37.2-601, and 37.2-608 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-203. Powers and duties of Board.

The Board shall have the following powers and duties:

1. To develop and establish programmatic and fiscal policies governing the operation of state hospitals, training centers, community services boards, and behavioral health authorities;

2. To ensure the development of long-range programs and plans for mental health, developmental, and substance abuse services provided by the Department, community services boards, and behavioral health authorities;

3. To review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Governor and on all applications for federal funds;

4. To monitor the activities of the Department and its effectiveness in implementing the policies of the Board;

5. To advise the Governor, Commissioner, and General Assembly on matters relating to mental health, developmental, and substance abuse services;

6. To adopt regulations that may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Commissioner or the Department;

7. To ensure the development of programs to educate citizens about and elicit public support for the activities of the Department, community services boards, and behavioral health authorities;

8. To ensure that the Department assumes the responsibility for providing for education and training of school-age individuals receiving services in state facilities, pursuant to § 37.2-312;

9. To change the names of state facilities; ~~and~~

10. To adopt regulations that establish the qualifications, education, and experience for registration of peer recovery specialists by the Board of Counseling*; and*

11. To ensure that the Department develops specific goals and objectives for the delivery of services to individuals with mental illness, developmental disabilities, or substance use disorders by community services boards and behavioral health authorities that are consistent with the purposes set forth in §§ 37.2-508 and 37.2-608 and that would enable the Board to advise the Governor, Commissioner, and General Assembly on matters related to community behavioral health and developmental services.

Prior to the adoption, amendment, or repeal of any regulation regarding substance abuse services, the Board shall, in addition to the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.), present the proposed regulation to the Substance Abuse Services Council, established pursuant to § 2.2-2696, at least 30 days prior to the Board's action for the Council's review and comment.

§ 37.2-500. Purpose; community services board; services to be provided.

A. The Department, for the purposes of establishing, maintaining, and promoting the development of mental health, developmental, and substance abuse services in the Commonwealth, may provide funds to assist any city or county or any combinations of cities or counties or cities and counties in the provision of these services. Every ~~county or~~ city *or county* shall establish a community services board by itself or in any combination with other cities and counties, unless it establishes a behavioral health authority pursuant to Chapter 6 (§ 37.2-600 et seq.). ~~Every county or city or any combination of cities and counties that has established a community services board, in consultation with that board, shall designate it as an operating community services board, an administrative policy community services board or a local government department with a policy-advisory community services board. The governing body of each city or county that established the community services board may change this designation at any time by ordinance. In the case of a community services board established by more than one city or county, the decision to change this designation shall be the unanimous decision of all governing bodies.~~ *In order to provide comprehensive mental health, developmental, and substance abuse services within a continuum of care, the community services board shall function as the single point of entry into publicly funded mental health, developmental, and substance abuse services.*

B. The core of services provided by community services boards within the cities and counties that they serve shall include:

1. Emergency services;

2. Same-day mental health screening services;

3. Outpatient primary care screening and monitoring services for physical health indicators and health risks and follow-up services for individuals identified as being in need of assistance with overcoming barriers to accessing primary health services, including developing linkages to primary health care providers; and

4. Subject to the availability of funds appropriated for them, case management services.

C. Subject to the availability of funds appropriated for them, the core of services may include a comprehensive system of inpatient, outpatient, day support, residential, prevention, early intervention, and other appropriate mental health, developmental, and substance abuse services necessary to provide individualized services and supports to persons with mental illness, developmental disabilities, or substance abuse. Community services boards may establish crisis stabilization units that provide residential crisis stabilization services.

D. ~~In order to provide comprehensive mental health, developmental, and substance abuse services within a continuum of care, the community services board shall function as the single point of entry into publicly funded mental health, developmental, and substance abuse services~~ *The purpose of behavioral health services provided by community services boards shall be to enable individuals who have a mental illness or substance use disorder that significantly impairs their functioning to access effective, timely, and cost-efficient services that help them (i) overcome or manage functional impairments caused by the mental illness or substance use disorder and (ii) remain in the community to the greatest extent possible, consistent with the individual's well-being and public safety.*

E. *Every city or county or any combination of cities and counties that has established a community services board, in consultation with that board, shall designate it as an operating community services board, an administrative policy community services board, or a local government department with a policy-advisory community services board. The governing body of each city or county that established the community services board may change this designation at any time by ordinance. In the case of a community services board established by more than one city or county, the decision to change this designation shall be the unanimous decision of all governing bodies.*

F. A community services board may enter into contracts with private providers to ensure the delivery of services pursuant to this article.

§ 37.2-508. Performance contract for mental health, developmental, and substance abuse services.

A. The Department shall develop and initiate negotiation of the performance contracts through which it provides funds to community services boards to accomplish the purposes set forth in this chapter. In the case of operating boards, the

Department may, notwithstanding any provision of law to the contrary, disburse state and federal funds appropriated to it for mental health, developmental, or substance abuse services directly to the operating board, when that operating board is authorized by the governing body of each city or county that established it to receive such funds. Six months prior to the end of an existing contract or, if no contract exists, six months prior to the beginning of each fiscal year, the Department shall make available to the public the standard performance contract form that it intends to use as the performance contract for that fiscal year and solicit public comments for a period of 60 days. Such contracts shall be for a fixed term and shall provide for annual renewal by the Board if the term exceeds one year.

B. Any community services board may apply for the assistance provided in this chapter by submitting to the Department its proposed performance contract together with (i) the approval of its board of directors for operating and administrative policy boards or the comments of the local government department's policy-advisory board and (ii) the approval of the contract by formal vote of the governing body of each city or county that established it. The community services board shall make its proposed performance contract available for public review and solicit public comments for a period of 30 days prior to submitting its proposed contract for the approval of its board of directors for operating and administrative policy boards or the comments of the local government department's policy-advisory board. To avoid disruptions in service continuity and allow sufficient time to complete public review and comment about the contract and negotiation and approval of the contract, the Department may provide semi-monthly payments of state-controlled funds to the community services board. If the governing body of each city or county does not approve the proposed performance contract by September 30 of each year, the performance contract shall be deemed approved or renewed.

C. The performance contract shall (i) delineate the responsibilities of the Department and the community services board; (ii) specify conditions that must be met for the receipt of state-controlled funds; (iii) identify the groups of individuals to be served with state-controlled funds; (iv) *set forth specific goals and objectives related to the delivery of services to individuals with mental illness, developmental disabilities, or substance use disorders that are consistent with the purposes set forth § 37.2-500; (v)* contain specific ~~outcome~~*, relevant, and measurable performance* measures ~~for~~ *to assess the experiences and outcomes of* individuals receiving services~~, provider performance measures, satisfaction measures for individuals receiving services, and participation and involvement measures for individuals receiving services and their family members~~ *through community services boards*; ~~(v)~~ *(vi) contain relevant benchmarks and monitoring activities for each performance measure; (vii)* contain mechanisms that have been identified or developed jointly by the Department and community services board and that will be employed collaboratively by the community services board and the state hospital to manage the utilization of state hospital beds; ~~(vi)~~ *(viii)* establish an enforcement mechanism~~,~~ should a community services board fail to be in substantial compliance with its performance contract, including notice and appeal processes and provisions for remediation, withholding or reducing funds, methods of repayment of funds, and the Department's exercise of the provisions of subsection E; and ~~(vii)~~ *(ix)* include ~~reporting~~ requirements ~~and~~ *for the community services board to report specific* information about *(a) its* revenues, costs, *and* services *provided*, ~~and~~ *(b)* individuals ~~receiving services~~ *served, and (c) any other information deemed necessary by the Department, which shall be* displayed in a consistent, comparable format ~~determined~~ *developed* by the Department.

The Department may provide for performance monitoring in order to determine whether the community services boards are in substantial compliance with their performance contracts.

D. No community services board shall be eligible to receive state-controlled funds for mental health, developmental, or substance abuse services after September 30 of each year unless (i) its performance contract has been approved or renewed by the governing body of each city or county that established it and by the Department; (ii) it provides service, cost, and revenue data and information and aggregate and individual data and information about individuals receiving services, notwithstanding the provisions of § 37.2-400 or any regulations adopted thereunder, to the Department in the format prescribed by the Department; and (iii) it uses standardized cost accounting and financial management practices approved by the Department.

E. If, after unsuccessful use of a remediation process described in the performance contract, a community services board remains in substantial noncompliance with its performance contract with the Department, the Department may, after affording the community services board an adequate opportunity to use the appeal process described in the performance contract, terminate all or a portion of the contract. Using the state-controlled resources associated with that contract, the Department, after consulting with the governing body of each city or county that established the board, may negotiate a performance contract with another board, a behavioral health authority, or a private nonprofit or for-profit organization or organizations to obtain services that were the subject of the terminated performance contract.

§ 37.2-601. Behavioral health authorities; purpose.

A. The Department, for the purposes of establishing, maintaining, and promoting the development of behavioral health services in the Commonwealth, may provide funds to assist certain cities or counties in the provision of these services. *In order to provide comprehensive mental health, developmental, and substance abuse services within a continuum of care, the behavioral health authority shall function as the single point of entry into publicly funded mental health, developmental, and substance abuse services.*

B. The governing body of the ~~Cities~~ *City* of *Richmond or* Virginia Beach ~~or Richmond~~ or ~~the County of~~ Chesterfield *County* may establish a behavioral health authority and shall declare its intention to do so by resolution.

C. The behavioral health services provided by behavioral health authorities within the cities or counties they serve shall include:

1. Emergency services;

2. Same-day mental health screening services;

3. Outpatient primary care screening and monitoring services for physical health indicators and health risks and follow-up services for individuals identified as being in need of assistance with overcoming barriers to accessing primary health services, including developing linkages to primary health care providers; and

4. Subject to the availability of funds appropriated for them, case management services.

D. Subject to the availability of funds appropriated for them, the behavioral health services may include a comprehensive system of inpatient, outpatient, day support, residential, prevention, early intervention, and other appropriate mental health, developmental, and substance abuse services necessary to provide individualized services and supports to persons with mental illness, developmental disabilities, or substance abuse. Behavioral health authorities may establish crisis stabilization units that provide residential crisis stabilization services.

E. ~~In order to provide comprehensive mental health, developmental, and substance abuse services within a continuum of care, the behavioral health authority shall function as the single point of entry into publicly funded mental health, developmental, and substance abuse services~~ *The purpose of behavioral health services provided by behavioral health authorities shall be to enable individuals who have a mental illness or substance use disorder that significantly impairs their functioning to access effective, timely, and cost-efficient services that help them (i) overcome or manage functional impairments caused by the mental illness or substance use disorder and (ii) remain in the community to the greatest extent possible, consistent with the individual's well-being and public safety.*

§ 37.2-608. Performance contract for mental health, developmental, and substance abuse services.

A. The Department shall develop and initiate negotiation of the performance contracts through which it provides funds to behavioral health authorities to accomplish the purposes set forth in this chapter. The Department may, notwithstanding any provision of law to the contrary, disburse state and federal funds appropriated to it for mental health, developmental, and substance abuse services directly to the behavioral health authority. Six months prior to the beginning of each fiscal year, the Department shall make available to the public the standard performance contract form that it intends to use as the performance contract for that fiscal year and solicit public comments for a period of 60 days.

B. Any behavioral health authority may apply for the assistance provided in this chapter by submitting annually to the Department its proposed performance contract for the next fiscal year together with the approval of its board of directors and the approval by formal vote of the governing body of the city or county that established it. The behavioral health authority shall make its proposed performance contract available for public review and solicit public comments for a period of 30 days prior to submitting its proposed contract for the approval of its board of directors. To avoid disruptions in service continuity and allow sufficient time to complete public review and comment about the contract and negotiation and approval of the contract, the Department may provide up to six semi-monthly payments of state-controlled funds to the authority. If the governing body of the city or county does not approve the proposed performance contract by September 30 of each year, the performance contract shall be deemed approved.

C. The performance contract shall (i) delineate the responsibilities of the Department and the behavioral health authority; (ii) specify conditions that must be met for the receipt of state-controlled funds; (iii) identify the groups of individuals to be served with state-controlled funds; (iv) *set forth specific goals and objectives related to the delivery of services to individuals with mental illness, developmental disabilities, or substance use disorders that are consistent with the purposes set forth in § 37.2-601; (v)* contain specific ~~outcome~~*, relevant, and measurable performance* measures ~~for~~ *to assess the experiences and outcomes of* individuals receiving services~~, provider performance measures, satisfaction measures for individuals receiving services, and participation and involvement measures for individuals receiving services and their family members~~ *through behavioral health authorities*; ~~(v)~~ *(vi) contain relevant benchmarks and monitoring activities for each performance measure; (vii)* contain mechanisms that have been identified or developed jointly by the Department and the behavioral health authority and that will be employed collaboratively by the behavioral health authority and the state hospital to manage the utilization of state hospital beds; ~~(vi)~~ *(viii)* establish an enforcement mechanism~~,~~ should the behavioral health authority fail to be in substantial compliance with its performance contract, including notice and appeal processes and provisions for remediation, withholding or reducing funds, methods of repayment of funds, and the Department's exercise of the provisions of subsection E; and ~~(vii)~~ *(ix)* include ~~reporting~~ requirements ~~and~~ *for the behavioral health authority to report specific* information about *(a) its* revenues, costs, *and* services *provided*, ~~and~~ *(b)* individuals ~~receiving services~~ *served, and (c) any other information deemed necessary by the Department, which shall be* displayed in a consistent, comparable format ~~determined~~ *developed* by the Department.

The Department may provide for performance monitoring to determine whether behavioral health authorities are in substantial compliance with their performance contracts.

D. No behavioral health authority shall be eligible to receive state-controlled funds for mental health, developmental, or substance abuse services after September 30 of each year unless (i) its performance contract has been approved by the governing body of the city or county that established it and by the Department; (ii) it provides service, cost, and revenue data and information, and aggregate and individual data and information about individuals receiving services, notwithstanding § 37.2-400 or any regulations adopted thereunder, to the Department in the format prescribed by the Department; and (iii), it uses standardized cost accounting and financial management practices approved by the Department.

E. If, after unsuccessful use of a remediation process described in the performance contract, a behavioral health authority remains in substantial noncompliance with its performance contract with the Department, the Department may, after affording the authority an adequate opportunity to use the appeal process described in the performance contract, terminate all or a portion of the contract. Using the state-controlled resources associated with that contract, the Department, after consulting with the governing body of the city or county that established the behavioral health authority, may negotiate a performance contract with a community services board, another behavioral health authority, or a private nonprofit or for-profit organization or organizations to obtain services that were the subject of the terminated performance contract.

2. That the provisions of subsection C of §§ 37.2-508 and 37.2-608 of the Code of Virginia, as amended by this act, shall become effective on July 1, 2025.

CHAPTER 485

An Act to direct the Virginia Department of Health Professions to convene a work group to provide recommendations related to regulations on changes to licensure requirements of dentists and dental hygienists to enhance access to quality dental care; report.

[H 2251]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The Virginia Department of Health Professions shall convene a work group consisting of representatives of the Virginia Dental Association, the Virginia Dental Hygienists' Association, the Association of Dental Support Organizations, the Virginia Board of Dentistry, and other relevant stakeholders to analyze licensure requirements for dentists and dental hygienists in the Commonwealth and determine what changes to such requirements may be warranted, if any, to ensure access to affordable, quality dental care throughout the Commonwealth. The work group shall (i) compare licensure requirements for dentists and dental hygienists in the Commonwealth with such requirements in other states and the District of Columbia; (ii) analyze the number of licensed dentists in the Commonwealth relative to population growth and geography; (iii) identify the risks and benefits to the public if a licensure by endorsement pathway were to exist in the Commonwealth; and (iv) identify any other licensure pathways that would serve the public good. The work group shall report its findings along with any recommendations for legislation to the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by October 1, 2023.*

CHAPTER 486

An Act to amend and reenact § 32.1-309.2 of the Code of Virginia, relating to disposition of unclaimed bodies; how disposition expenses paid; seizure of assets.

[H 1817]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-309.2 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-309.2. Disposition of unclaimed dead body; how expenses paid.

A. In any case in which (i) the primary law-enforcement agency of the county or city in which the person or institution having initial custody of the dead body of the decedent is located or the county or city in which the decedent resided, as may be appropriate pursuant to § 32.1-309.1, is unable to identify and notify the next of kin of the decedent or other person authorized by law to make arrangements for disposition of the decedent's remains within 10 days of the date of contact by the person or institution having initial custody of the dead body despite good faith efforts to do so or (ii) the next of kin of the decedent or other person authorized by law to make arrangements for disposition of the decedent's remains fails or refuses to claim the body within 10 days of receipt of notice of the decedent's death, the primary law-enforcement agency shall notify (a) the attorney for the county or city in which the decedent resided at the time of death, if known, or (b) if the decedent's county or city of residence at the time of death is not known, the attorney for the county or city in which the person or institution having initial custody of the dead body is located or, if there is no county or city attorney, the attorney for the Commonwealth in such county or city, and such attorney shall forthwith and without delay request an order to be entered by the court within one business day of receiving such request authorizing the person or institution having initial custody of the dead body to transfer custody of the body to a funeral service establishment for final disposition. Such request shall contain transportation and disposition instructions for the unclaimed dead body. Upon entry of a final order for disposition of the dead body, the person or institution having initial custody of the body shall transfer custody of the body to a funeral service establishment, which shall take possession of the dead body for disposition in accordance with the provisions of such order. In such final order, the court may direct the clerk to forthwith provide a copy of the final order to the attorney who has submitted the request for a final order authorizing the person or institution having initial custody of the dead body to transfer custody of the dead body to a funeral service establishment for final disposition in accordance with this subsection. Except as provided in subsection B or C, the reasonable expenses of disposition of the body shall be borne

(1) by the county or city in which the decedent resided at the time of death if the decedent was a resident of Virginia or (2) by the county or city where death occurred if the decedent was not a resident of Virginia or the location of the decedent's residence cannot reasonably be determined. However, no such expenses shall be paid by such county or city until allowed by an appropriate court in such county or city.

B. In the case of a person who has been received into the state corrections system and died prior to his release, whose body is unclaimed, the Department of Corrections shall accept the body for proper disposition and shall bear the reasonable expenses for cremation or other disposition of the body. In the case of a person who has been received into the state corrections system and died prior to his release and whose claimant is financially unable to pay reasonable expenses of disposition, the expenses shall be borne by the county or city where the claimant resides.

C. In the case of a person who has been committed to the custody of the Department of Behavioral Health and Developmental Services and died prior to his release, whose body is unclaimed, the Department of Behavioral Health and Developmental Services shall bear the reasonable expenses for cremation or other disposition of the body. In the case of a person who has been committed to the custody of the Department of Behavioral Health and Developmental Services and died prior to his release and whose claimant is financially unable to pay reasonable expenses of disposition, the expenses shall be borne by the county or city where the claimant resides.

D. Any person or institution having initial custody of a dead body may enter into an agreement with a local funeral service establishment whereby the funeral service establishment shall take possession of the dead body for the purpose of storing the dead body during such time as the person or institution having initial custody of the body or the primary local law-enforcement agency is engaged in identifying the decedent, attempting to identify and contact the next of kin of the decedent, and making arrangements for the final disposition of the body in accordance with this section, provided that at all times during which the funeral service establishment is providing storage of the body, the person or institution having initial custody of the dead body shall continue to have legal custody of the body until such time as custody is transferred in accordance with this chapter.

E. In cases in which a decedent whose remains are disposed of in accordance with this section has an estate out of which disposition expenses may be paid, in whole or in part, *or the decedent has any nonprobate assets listed in § 64.2-620 out of which disposition expenses may be paid,* such assets shall be seized for such purpose.

F. No dead body that is the subject of an investigation pursuant to § 32.1-283 or autopsy pursuant to § 32.1-285 shall be transferred for purposes of disposition until such investigation or autopsy has been completed.

G. Any sheriff or primary law-enforcement officer, county, city, health care provider, funeral service establishment, or funeral service licensee; the Department of Corrections; or any other person or institution that acts in accordance with the requirements of this chapter shall be immune from civil liability for any act, decision, or omission resulting from acceptance and disposition of the dead body in accordance with this section, unless such act, decision, or omission resulted from bad faith or malicious intent.

H. Nothing in this section shall prevent a law-enforcement agency other than the primary law-enforcement agency from performing the duties established by this section if so requested by the primary law-enforcement agency and agreed to by the other law-enforcement agency.

CHAPTER 487

An Act to amend and reenact § 63.2-1605 of the Code of Virginia, relating to adult protective services; referrals to local law enforcement.

[H 2344]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1605 of the Code of Virginia is amended and reenacted as follows:

§ 63.2-1605. Protective services for adults by local departments.

A. Each local board, to the extent that federal or state matching funds are made available to each locality, shall provide, pursuant to regulations and subject to supervision of the Commissioner for Aging and Rehabilitative Services, adult protective services for adults who are found to be abused, neglected, or exploited and who meet one of the following criteria: (i) the adult is 60 years of age or older or (ii) the adult is 18 years of age or older and is incapacitated. The requirement to provide such services shall not limit the right of any individual to refuse to accept any of the services so offered, except as provided in § 63.2-1608.

B. Upon receipt of the report pursuant to § 63.2-1606, the local department shall determine the validity of such report and shall initiate an investigation within 24 hours of the time the report is received in the local department. Local departments shall consider valid any report meeting all of the following criteria: (i) the subject of the report is an adult as defined in this article, (ii) the report concerns a specific adult and there is enough information to locate the adult, and (iii) the report describes the circumstances of the alleged abuse, neglect, or exploitation.

C. The local department ~~or the adult protective services hotline~~ shall immediately refer the matter and all relevant documentation to the local law-enforcement agency where the adult resides or where the alleged abuse, neglect, or exploitation took place or, if these places are unknown, where the alleged abuse, neglect, or exploitation was discovered for

investigation, upon receipt of an initial report pursuant to § 63.2-1606 involving any of the following or upon determining, during the course of an investigation pursuant to this article, the occurrence of any of the following:

1. Sexual abuse as defined in § 18.2-67.10;

2. Death that is believed to be the result of abuse or neglect;

3. Serious bodily injury or disease as defined in § 18.2-369 that is believed to be the result of abuse or neglect;

4. Suspected financial exploitation of an adult; or

5. Any other criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm.

Local law-enforcement agencies shall provide local departments ~~and the adult protective services hotline~~ with a preferred point of contact for referrals.

D. The local department shall refer any appropriate matter and all relevant documentation, to the appropriate licensing, regulatory, or legal authority for administrative action or criminal investigation.

E. If a local department is denied access to an adult for whom there is reason to suspect the need for adult protective services, then the local department may petition the circuit court for an order allowing access or entry or both. Upon a showing of good cause supported by an affidavit or testimony in person, the court may enter an order permitting such access or entry.

F. In any case of suspected adult abuse, neglect, or exploitation, local departments, with the informed consent of the adult or his legal representative, shall take or cause to be taken photographs, video recordings, or appropriate medical imaging of the adult and his environment as long as such measures are relevant to the investigation and do not conflict with § 18.2-386.1. However, if the adult is determined to be incapable of making an informed decision and of giving informed consent and either has no legal representative or the legal representative is the suspected perpetrator of the adult abuse, neglect, or exploitation, consent may be given by an agent appointed under an advance medical directive or medical power of attorney, or by a person authorized, pursuant to § 54.1-2986. In the event no agent or authorized representative is immediately available, then consent shall be deemed to be given.

G. Local departments shall foster the development, implementation, and coordination of adult protective services to prevent adult abuse, neglect, and exploitation.

H. Local departments shall not investigate allegations of abuse, neglect, or exploitation of adults incarcerated in state correctional facilities.

I. The report and evidence received by the local department and any written findings, evaluations, records, and recommended actions shall be confidential and shall be exempt from disclosure requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that such information may be disclosed to persons having a legitimate interest in the matter in accordance with §§ 63.2-102 and 63.2-104 and pursuant to official interagency agreements or memoranda of understanding between state agencies.

J. All written findings and actions of the local department or its director regarding adult protective services investigations are final and shall not be (i) appealable to the Commissioner for Aging and Rehabilitative Services or (ii) considered a final agency action for purposes of judicial review pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

K. Each local department may foster, when practicable, the creation, maintenance, and coordination of community-based multidisciplinary teams that shall include, where possible, members of the medical, mental health, social work, nursing, education, legal, and law-enforcement professions. Such teams shall:

1. Assist the local department in identifying abused, neglected, and exploited adults as defined in § 63.2-1603.

2. Coordinate medical, social, and legal services for abused, neglected, and exploited adults and their families.

3. Develop innovative programs for detection and prevention of the abuse, neglect, and exploitation of adults.

4. Promote community awareness and action to address the abuse, neglect, and exploitation of adults.

5. Disseminate information to the general public regarding the problem of abuse, neglect, and exploitation of adults, strategies and methods for preventing such abuse, neglect, and exploitation, and treatment options for abused, neglected, and exploited adults.

Such multidisciplinary teams may share information among the parties in the performance of their duties but shall be bound by confidentiality and shall execute a sworn statement to honor the confidentiality of the information they share. A violation of this subsection is punishable as a Class 3 misdemeanor. All such information and records shall be used by the team only in the exercise of its proper function and shall not be disclosed. No person who participated in the team and no member of the team shall be required to make any statement as to what transpired during a meeting or what information was collected during the meeting. Upon the conclusion of a meeting, all information and records concerning the adult shall be returned to the originating agency or destroyed. Any information exchanged in accordance with the multidisciplinary review team shall not be considered to be a violation of any of the provisions of § 63.2-102, 63.2-104, or 63.2-105.

CHAPTER 488

An Act to amend and reenact § 63.2-1605 of the Code of Virginia, relating to adult protective services; referrals to local law enforcement.

[S 1421]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1605 of the Code of Virginia is amended and reenacted as follows:

§ 63.2-1605. Protective services for adults by local departments.

A. Each local board, to the extent that federal or state matching funds are made available to each locality, shall provide, pursuant to regulations and subject to supervision of the Commissioner for Aging and Rehabilitative Services, adult protective services for adults who are found to be abused, neglected, or exploited and who meet one of the following criteria: (i) the adult is 60 years of age or older or (ii) the adult is 18 years of age or older and is incapacitated. The requirement to provide such services shall not limit the right of any individual to refuse to accept any of the services so offered, except as provided in § 63.2-1608.

B. Upon receipt of the report pursuant to § 63.2-1606, the local department shall determine the validity of such report and shall initiate an investigation within 24 hours of the time the report is received in the local department. Local departments shall consider valid any report meeting all of the following criteria: (i) the subject of the report is an adult as defined in this article, (ii) the report concerns a specific adult and there is enough information to locate the adult, and (iii) the report describes the circumstances of the alleged abuse, neglect, or exploitation.

C. The local department ~~or the adult protective services hotline~~ shall immediately refer the matter and all relevant documentation to the local law-enforcement agency where the adult resides or where the alleged abuse, neglect, or exploitation took place or, if these places are unknown, where the alleged abuse, neglect, or exploitation was discovered for investigation, upon receipt of an initial report pursuant to § 63.2-1606 involving any of the following or upon determining, during the course of an investigation pursuant to this article, the occurrence of any of the following:

1. Sexual abuse as defined in § 18.2-67.10;

2. Death that is believed to be the result of abuse or neglect;

3. Serious bodily injury or disease as defined in § 18.2-369 that is believed to be the result of abuse or neglect;

4. Suspected financial exploitation of an adult; or

5. Any other criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm.

Local law-enforcement agencies shall provide local departments ~~and the adult protective services hotline~~ with a preferred point of contact for referrals.

D. The local department shall refer any appropriate matter and all relevant documentation, to the appropriate licensing, regulatory, or legal authority for administrative action or criminal investigation.

E. If a local department is denied access to an adult for whom there is reason to suspect the need for adult protective services, then the local department may petition the circuit court for an order allowing access or entry or both. Upon a showing of good cause supported by an affidavit or testimony in person, the court may enter an order permitting such access or entry.

F. In any case of suspected adult abuse, neglect, or exploitation, local departments, with the informed consent of the adult or his legal representative, shall take or cause to be taken photographs, video recordings, or appropriate medical imaging of the adult and his environment as long as such measures are relevant to the investigation and do not conflict with § 18.2-386.1. However, if the adult is determined to be incapable of making an informed decision and of giving informed consent and either has no legal representative or the legal representative is the suspected perpetrator of the adult abuse, neglect, or exploitation, consent may be given by an agent appointed under an advance medical directive or medical power of attorney, or by a person authorized, pursuant to § 54.1-2986. In the event no agent or authorized representative is immediately available, then consent shall be deemed to be given.

G. Local departments shall foster the development, implementation, and coordination of adult protective services to prevent adult abuse, neglect, and exploitation.

H. Local departments shall not investigate allegations of abuse, neglect, or exploitation of adults incarcerated in state correctional facilities.

I. The report and evidence received by the local department and any written findings, evaluations, records, and recommended actions shall be confidential and shall be exempt from disclosure requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that such information may be disclosed to persons having a legitimate interest in the matter in accordance with §§ 63.2-102 and 63.2-104 and pursuant to official interagency agreements or memoranda of understanding between state agencies.

J. All written findings and actions of the local department or its director regarding adult protective services investigations are final and shall not be (i) appealable to the Commissioner for Aging and Rehabilitative Services or (ii) considered a final agency action for purposes of judicial review pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

K. Each local department may foster, when practicable, the creation, maintenance, and coordination of community-based multidisciplinary teams that shall include, where possible, members of the medical, mental health, social work, nursing, education, legal, and law-enforcement professions. Such teams shall:

1. Assist the local department in identifying abused, neglected, and exploited adults as defined in § 63.2-1603.

2. Coordinate medical, social, and legal services for abused, neglected, and exploited adults and their families.

3. Develop innovative programs for detection and prevention of the abuse, neglect, and exploitation of adults.

4. Promote community awareness and action to address the abuse, neglect, and exploitation of adults.

5. Disseminate information to the general public regarding the problem of abuse, neglect, and exploitation of adults, strategies and methods for preventing such abuse, neglect, and exploitation, and treatment options for abused, neglected, and exploited adults.

Such multidisciplinary teams may share information among the parties in the performance of their duties but shall be bound by confidentiality and shall execute a sworn statement to honor the confidentiality of the information they share. A violation of this subsection is punishable as a Class 3 misdemeanor. All such information and records shall be used by the team only in the exercise of its proper function and shall not be disclosed. No person who participated in the team and no member of the team shall be required to make any statement as to what transpired during a meeting or what information was collected during the meeting. Upon the conclusion of a meeting, all information and records concerning the adult shall be returned to the originating agency or destroyed. Any information exchanged in accordance with the multidisciplinary review team shall not be considered to be a violation of any of the provisions of § 63.2-102, 63.2-104, or 63.2-105.

CHAPTER 489

An Act to amend and reenact § 54.1-3705 of the Code of Virginia, relating to Board of Social Work; powers and duties.

[H 2231]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3705 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3705. Specific powers and duties of the Board.

In addition to the powers granted in § 54.1-2400, the Board shall have the following specific powers and duties:

1. To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.

2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.

3. To designate specialties within the profession.

4. Expired.

5. To license baccalaureate social workers, master's social workers, and clinical social workers to practice consistent with the requirements of the chapter and regulations of the Board.

6. To register persons proposing to obtain supervised post-degree experience in the practice of social work required by the Board for licensure as a clinical social worker.

7. To pursue the establishment of reciprocal agreements with jurisdictions that are contiguous with the Commonwealth for the licensure of baccalaureate social workers, master's social workers, and clinical social workers. Reciprocal agreements shall require that a person hold a comparable, current, unrestricted license in the other jurisdiction and that no grounds exist for denial based on the Code of Virginia and regulations of the Board.

8. To maintain on the Board's website a list of the names and contact information of persons currently approved by the Board to supervise candidates for licensure as a clinical social worker.

9. To allow supervisees pursuing licensure as a clinical social worker to change or add a supervisor from the Board's list of currently approved supervisors without prior approval from the Board.

CHAPTER 490

An Act to amend and reenact §§ 38.2-3407.10 and 38.2-4319, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to health care provider panels; continuity of care.

[H 2354]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-3407.10 and 38.2-4319, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 38.2-3407.10. Health care provider panels.

A. As used in this section:

"Carrier" means:

1. Any insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis;

2. Any corporation providing individual or group accident and sickness subscription contracts;

3. Any health maintenance organization providing health care plans for health care services;

4. Any corporation offering prepaid dental or optometric services plans; or

5. Any other person or organization that provides health benefit plans subject to state regulation, and includes an entity that arranges a provider panel for compensation.

"Enrollee" means any person entitled to health care services from a carrier.

"Provider" means a hospital, physician or any type of provider licensed, certified or authorized by statute to provide a covered service under the health benefit plan.

"Provider panel" means those providers with which a carrier contracts to provide health care services to the carrier's enrollees under the carrier's health benefit plan. However, such term does not include an arrangement between a carrier and providers in which any provider may participate solely on the basis of the provider's contracting with the carrier to provide services at a discounted fee-for-service rate.

B. Any such carrier that offers a provider panel shall establish and use it in accordance with the following requirements:

1. Notice of the development of a provider panel in the Commonwealth or local service area shall be filed with the Department of Health Professions.

2. Carriers shall provide a provider application and the relevant terms and conditions to a provider upon request.

C. A carrier that uses a provider panel shall establish procedures for:

1. Notifying an enrollee of:

a. The termination from the carrier's provider panel of ~~the enrollee's primary care~~ *a* provider who was furnishing health care services to the enrollee *or furnished health care services to the enrollee in the six months prior to the notice*; and

b. The right of an enrollee ~~upon request~~ to continue to receive health care services ~~for a period of up to 90 days from the date of~~ *as provided in subsection E following* the ~~primary care~~ provider's ~~notice of~~ termination from a carrier's provider panel, except when a provider is terminated for cause.

The carrier shall provide notice required by this subdivision 1 prior to the date of the termination of the provider, except when a provider is terminated for cause.

2. Notifying a provider at least 90 days prior to the date of the termination of the provider, except when a provider is terminated for cause.

3. ~~Providing reasonable notice to primary care providers in the carrier's provider panel of the termination of a specialty referral services provider.~~

~~4.~~ Notifying the purchaser of the health benefit plan, whether such purchaser is an individual or an employer providing a health benefit plan, in whole or in part, to its employees and enrollees of the health benefit plan of:

a. A description of all types of payment arrangements that the carrier uses to compensate providers for health care services rendered to enrollees, including~~, but not limited to,~~ withholds, bonus payments, capitation, and fee-for-service discounts; and

b. The terms of the plan in clear and understandable language that reasonably informs the purchaser of the practical application of such terms in the operation of the plan.

For the purposes of subdivisions 1 and 2, "provider" includes a provider group.

D. ~~Whenever a provider voluntarily terminates his contract with a carrier to provide health care services to the carrier's enrollees under a health benefit plan, he shall furnish reasonable notice of such termination to his patients who are enrollees under such plan.~~

~~E.~~ A carrier may not deny an application for participation or terminate participation on its provider panel on the basis of gender, race, age, sexual orientation, gender identity, religion or national origin.

~~F.~~ *E.* 1. ~~For~~ *A provider shall be permitted by the carrier to render health care services to any of the carrier's enrollees for* a period of at least 90 days from the date ~~of the notice~~ of ~~a~~ *such* provider's termination from the carrier's provider panel, except when a provider is terminated for cause~~, the provider shall be permitted by the carrier to render health care services to any of the carrier's enrollees who:~~

~~a. Were in an active course of treatment from the provider prior to the notice of termination; and~~

~~b. Request to continue receiving health care services from the provider~~.

2. Notwithstanding the provisions of subdivision 1, any provider shall be permitted by the carrier to continue rendering health services to any enrollee who has ~~entered the second trimester of pregnancy~~ *been medically confirmed to be pregnant* at the time of a provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the enrollee's option, continue through the provision of postpartum care directly related to the delivery.

3. Notwithstanding the provisions of subdivision 1, any provider shall be permitted by the carrier to continue rendering health services to any enrollee who is determined to be terminally ill (as defined under § 1861 (dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the enrollee's option, continue for the remainder of the enrollee's life for care directly related to the treatment of the terminal illness.

4. *Notwithstanding the provisions of subdivision 1, any provider shall be permitted by the carrier to continue rendering health services to any enrollee who has been determined by a medical professional to have a life-threatening condition at the time of a provider's termination of participation. Such treatment shall, at the enrollee's option, continue for up to 180 days for care directly related to the life-threatening condition.*

5. Notwithstanding the provisions of subdivision 1, any provider shall be permitted by the carrier to continue rendering health services to any enrollee who is admitted to and receiving treatment in any inpatient facility at the time of a provider's termination of participation. Such admission and treatment shall continue until the enrollee is discharged from the inpatient facility.

For any health care services received by an enrollee from a provider after the date the provider has been terminated from the carrier's provider panel:

a. A carrier shall reimburse a provider under this subsection in accordance with the carrier's agreement with such provider existing immediately before the provider's termination of participation*;*

b. The provider shall accept such reimbursement from the carrier and any cost-sharing payment from the enrollee for items and services as payment in full; and

c. The provider shall continue to adhere to all policies and procedures and quality standards imposed by the carrier for an enrollee that were required of the provider immediately before the provider's termination of participation.

For the purposes of this subsection, "provider" includes a provider group.

~~G.~~ *F.* 1. A carrier shall provide to a purchaser upon enrollment and make available to existing enrollees at least once a year a list of members in its provider panel, which list shall also indicate those providers who are not currently accepting new patients. Such list may be made available in a form other than a printed document, provided the purchaser or existing enrollee is given the means to request and receive a printed copy of such list.

2. The information provided under subdivision 1 shall be updated at least once a year if in paper form, and monthly if in electronic form.

~~H.~~ *G.* No contract between a carrier and a provider may require that the provider indemnify the carrier for the carrier's negligence, willful misconduct, or breach of contract, if any.

~~I.~~ *H.* No contract between a carrier and a provider shall require a provider, as a condition of participation on the panel, to waive any right to seek legal redress against the carrier.

~~J.~~ *I.* No contract between a carrier and a provider shall prohibit, impede or interfere in the discussion of medical treatment options between a patient and a provider.

~~K.~~ *J.* A contract between a carrier and a provider shall permit and require the provider to discuss medical treatment options with the patient.

~~L.~~ *K.* Any carrier requiring preauthorization for medical treatment shall have personnel available to provide such preauthorization at all times when such preauthorization is required.

~~M.~~ *L.* Carriers shall provide to their group policyholders written notice of any benefit reductions during the contract period at least 60 days before such benefit reductions become effective. Group policyholders shall, in turn, provide to their enrollees written notice of any benefit reductions during the contract period at least 30 days before such benefit reductions become effective. Such notice shall be provided to the group policyholder as a separate and distinct notification, and may not be combined with any other notification or marketing materials.

~~N.~~ *M.* No contract between a provider and a carrier shall include provisions that require a health care provider or health care provider group to deny covered services that such provider or group knows to be medically necessary and appropriate that are provided with respect to a specific enrollee or group of enrollees with similar medical conditions.

~~O.~~ *N.* If a provider panel contract between a provider and a carrier, or other entity that provides hospital, physician or other health care services to a carrier, includes provisions that require a provider, as a condition of participating in one of the carrier's or other entity's provider panels, to participate in any other provider panel owned or operated by that carrier or other entity, the contract shall contain a provision permitting the provider to refuse participation in one or more such other provider panels at the time the contract is executed. If a provider contracts with a carrier or other entity that subsequently contracts with one or more unaffiliated carriers to include such provider in the provider panels of such unaffiliated carriers, and which permits an unaffiliated carrier to impose participation terms with respect to such provider that differ materially in reimbursement rates or in managed care procedures, such as conducting economic profiling or requiring a patient to obtain primary care physician referral to a specialist, from the terms agreed to by the provider in the original contract, the provider panel contract shall contain a provision permitting the provider to refuse participation with any such unaffiliated carrier. Utilization review pursuant to Article 1.2 (§ 32.1-137.7 et seq.) of Chapter 5 of Title 32.1 shall not constitute a materially different managed care procedure. This subsection shall apply to provider panels utilized by health maintenance organizations and preferred provider organizations. For purposes of this subsection, "preferred provider organization" means a carrier that offers preferred provider contracts or policies as defined in § 38.2-3407 or preferred provider subscription contracts as defined in § 38.2-4209. The status of a physician as a member of or as being eligible for other existing or new provider panels shall not be adversely affected by the exercise of such right to refuse participation. This subsection shall not apply to the Medallion II and children's health insurance plan administered by or pursuant to contract with the Department of Medical Assistance Services.

~~P.~~ *O.* A carrier that rents or leases its provider panel to unaffiliated carriers shall make available, upon request, to its providers a list of unaffiliated carriers that rent or lease its provider panel. Such list if available in electronic format shall be updated monthly. The provider shall be given the means to request and receive a printed copy of such list.

~~Q.~~ *P.* The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

~~R. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended on or after July 1, 1996. However, the 90-day period referred to in subdivisions C 1 b and C 2 of this section, the requirements set forth in subdivisions F 2 and F 3, and the requirements set forth in subsections L, M, and N shall apply to contracts between carriers and providers that are entered into or renewed on or after July 1, 1999, the requirements set forth in subsection O shall apply to contracts between carriers and providers that are entered into, reissued, extended or renewed on or after July 1, 2001, and the requirements set forth in subsection P shall be effective on and after January 1, 2007.~~

§ 38.2-4319. (Contingent expiration date) Statutory construction and relationship to other laws.

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, and 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, and Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.20, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.19, 38.2-3419.1, and 38.2-3430.1 through 38.2-3454, Articles 8 (§ 38.2-3461 et seq.) and 9 (§ 38.2-3465 et seq.) of Chapter 34, § 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), § 38.2-3610, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and Chapter 65 (§ 38.2-6500 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, and 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, and 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions ~~F~~ *E* 1, 2, and 3 of § 38.2-3407.10, §§ 38.2-3407.10:1, 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3418.16, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, and 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), and Chapter 65 (§ 38.2-6500 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health maintenance organization's service area.

F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and B shall be construed to mean and include "health maintenance organizations" unless the section cited clearly applies to health maintenance organizations without such construction.

§ 38.2-4319. (Contingent effective date) Statutory construction and relationship to other laws.

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232,

38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, and 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, and Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.20, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.19, 38.2-3419.1, and 38.2-3430.1 through 38.2-3454, Articles 8 (§ 38.2-3461 et seq.) and 9 (§ 38.2-3465 et seq.) of Chapter 34, § 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), § 38.2-3610, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), Chapter 65 (§ 38.2-6500 et seq.), and Chapter 66 (§ 38.2-6600 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, and 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, and 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions ~~F~~ *E* 1, 2, and 3 of § 38.2-3407.10, §§ 38.2-3407.10:1, 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3418.16, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, and 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), and Chapter 65 (§ 38.2-6500 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health maintenance organization's service area.

F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and B shall be construed to mean and include "health maintenance organizations" unless the section cited clearly applies to health maintenance organizations without such construction.

2. That the provisions of this act shall become effective on January 1, 2024.

CHAPTER 491

An Act to direct the Department of Behavioral Health and Developmental Services to review its regulations that impact licensed providers and identify reforms that increase efficiency, reduce redundancy, and decrease regulatory burdens on providers.

[H 2255]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Behavioral Health and Developmental Services (the Department) shall review its regulations that impact providers licensed by the Department in order to identify reforms to increase efficiency, reduce redundancy, and decrease regulatory burdens on providers. This review shall include consideration of how relief from licensing requirements may be authorized for providers that are accredited by recognized national accreditation bodies. The Department shall also consider adjustments to the frequency of licensing inspections for providers with triennial licenses that have had no health or safety violations or complaints for the previous year. The Department shall collaborate with stakeholders to conduct this*

review and shall report its recommendations to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2023.

CHAPTER 492

An Act to direct the Department of Behavioral Health and Developmental Services to review its regulations that impact licensed providers and identify reforms that increase efficiency, reduce redundancy, and decrease regulatory burdens on providers.

[S 1155]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Behavioral Health and Developmental Services (the Department) shall review its regulations that impact providers licensed by the Department in order to identify reforms to increase efficiency, reduce redundancy, and decrease regulatory burdens on providers. This review shall include consideration of how relief from licensing requirements may be authorized for providers that are accredited by recognized national accreditation bodies. The Department shall also consider adjustments to the frequency of licensing inspections for providers with triennial licenses that have had no health or safety violations or complaints for the previous year. The Department shall collaborate with stakeholders to conduct this review and shall report its recommendations to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2023.*

CHAPTER 493

An Act to amend and reenact §§ 55.1-1006 and 55.1-1007 of the Code of Virginia, relating to real estate settlement agents; fees; informed consent.

[H 1888]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 55.1-1006 and 55.1-1007 of the Code of Virginia are amended and reenacted as follows:

§ 55.1-1006. Choice of settlement agent.

A purchaser or borrower in a transaction related to real estate in the Commonwealth shall have the right to select the settlement agent to provide escrow, closing, or settlement services in connection with the transaction. The seller in such a transaction may not require the use of a particular settlement agent as a condition of the sale of the property. Nothing in this chapter shall prohibit a seller from retaining an attorney licensed pursuant to Chapter 39 (§ 54.1-3900 et seq.) of Title 54.1 to represent his interests and provide legal advice pertaining to escrow, closing, or settlement services. Such representation may include deed preparation, fee negotiation, and review of applicable documents and advising the seller on any legal matters related to the settlement or closing process. *The settlement agent may not collect any fees from a represented seller payable to the settlement agent or its subsidiaries, affiliates, or subcontractors without first obtaining the written consent of the seller's counsel.*

§ 55.1-1007. Disclosure.

All contracts involving the purchase of real estate containing not more than four residential dwelling units shall include in at least 10-point boldface type the following language:

"Choice of Settlement Agent: Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1 of the Code of Virginia provides that the purchaser or borrower has the right to select the settlement agent to handle the closing of this transaction. The settlement agent's role in closing this transaction involves the coordination of numerous administrative and clerical functions relating to the collection of documents and the collection and disbursement of funds required to carry out the terms of the contract between the parties. If part of the purchase price is financed, the lender for the purchaser will instruct the settlement agent as to the signing and recording of loan documents and the disbursement of loan proceeds. No settlement agent can provide legal advice to any party to the transaction except a settlement agent who is engaged in the private practice of law in Virginia and who has been retained or engaged by a party to the transaction for the purpose of providing legal services to that party. *No settlement agent may collect any fees from a represented seller payable to the settlement agent or its subsidiaries, affiliates, or subcontractors without first obtaining the written consent of the seller's counsel.*

"Variation by agreement: The provisions of Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1 of the Code of Virginia may not be varied by agreement, and rights conferred by this chapter may not be waived. The seller may not require the use of a particular settlement agent as a condition of the sale of the property.

"Escrow, closing, and settlement services guidelines: The Virginia State Bar issues guidelines to help settlement agents avoid and prevent the unauthorized practice of law in connection with furnishing escrow, settlement, or closing services. As a party to a real estate transaction, the purchaser or borrower is entitled to receive a copy of these guidelines from his settlement agent, upon request, in accordance with the provisions of Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1 of the Code of Virginia."

CHAPTER 494

An Act to amend and reenact § 64.2-604 of the Code of Virginia, relating to Virginia Small Estate Act; funeral expenses and disposition.

[H 2128]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 64.2-604 of the Code of Virginia is amended and reenacted as follows:

§ 64.2-604. Payment or delivery of small asset; funeral expenses and disposition.

~~Thirty~~ *A. Notwithstanding the provisions of this article, 30* days after the death of a decedent upon whose estate there shall have been no application for the appointment of a personal representative pending or granted in any jurisdiction, any person ~~holding~~ *having possession of* a small asset belonging to the decedent ~~may~~ *shall*, at the request of a successor, pay or deliver *to the licensed funeral service establishment handling the funeral, if there is one, and the disposition of the decedent* so much of the small asset as does not exceed the amount given priority by § 64.2-528 ~~to the undertaker or mortuary handling the funeral of the decedent, and a receipt of the payee shall be a full and final release of the payor as to such sum~~ *and has not already been so paid upon being presented an affidavit made by the licensed funeral service establishment, at the request of a successor, stating:*

1. That it is the licensed funeral service establishment handling the funeral, if there is one, and the disposition of the decedent;

2. The legal name and business address of the licensed funeral service establishment;

3. The amount given priority by § 64.2-528, or the amount due to it for the funeral, if there is one, and the disposition of the decedent reduced by any other payments it has received or expects to receive;

4. The reasons and supporting evidence that the person to whom the affidavit will be presented is in possession of a small asset belonging to the decedent; and

5. That a successor has represented to it in writing that at least 30 days have elapsed since the decedent's death and no application for the appointment of a personal representative is pending, has been granted, or is expected in any jurisdiction.

B. 1. Any person paying or delivering a small asset pursuant to this section is discharged and released to the same extent as if that person dealt with the personal representative of the decedent and a receipt of the payee shall be a full and final release of the payor as to such sum. Such person is not required to see the application of the small asset or to inquire into the truth of any statement in any affidavit presented pursuant to subsection A.

2. If any person to whom an affidavit is presented pursuant to subsection A refuses to pay or deliver any small asset belonging to the decedent of which he is in possession pursuant to this section, it may be recovered, or its payment or delivery compelled, and damages may be recovered, on proof of rightful claim in a proceeding brought for that purpose by or on behalf of the licensed funeral service establishment. However, no such damages may be recovered if it is established in such proceeding that the refusal to pay or deliver the small asset was made in good faith.

C. Any licensed funeral service establishment to whom payment or delivery of a small asset has been made under this section is answerable and accountable therefor to any personal representative of the decedent's estate or to any successor having an equal or superior right.

CHAPTER 495

An Act to direct the Department of Energy to evaluate policy options to encourage the capture and beneficial use of coal mine methane; report.

[H 1643]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That it is the policy of the Commonwealth to encourage the capture and beneficial use of coal mine methane, defined as methane gas captured and produced from an underground gob area associated with a mined-out coal seam that would otherwise escape into the atmosphere. The Department of Energy (the Department) shall evaluate policy options to encourage the capture and beneficial use of coal mine methane. Such evaluation shall include an analysis of federal and state policies, including tax incentives, and programs that incentivize the capture and beneficial use of coal mine methane, impediments to coal mine methane qualifying for carbon offset markets, and the extent to which such policies may result in a net reduction in methane emissions. Such evaluation shall consider the environmental benefits and economic development potential of the capture and use of coal mine methane. The Department may retain a consultant to assist in its evaluation. The Department shall solicit input from interested stakeholders, including coal mine methane producers, other business interests, and environmental groups. The Department shall report its findings and recommendations to the Governor, the Chairmen of the House Committee on Commerce and Energy and the Senate Committee on Commerce and Labor, the Secretary of Commerce and Trade, and the Secretary of Natural and Historic Resources by November 15, 2023.*

CHAPTER 496

An Act to direct the Department of Energy to evaluate policy options to encourage the capture and beneficial use of coal mine methane; report.

[S 1121]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That it is the policy of the Commonwealth to encourage the capture and beneficial use of coal mine methane, defined as methane gas captured and produced from an underground gob area associated with a mined-out coal seam that would otherwise escape into the atmosphere. The Department of Energy (the Department) shall evaluate policy options to encourage the capture and beneficial use of coal mine methane. Such evaluation shall include an analysis of federal and state policies, including tax incentives, and programs that incentivize the capture and beneficial use of coal mine methane, impediments to coal mine methane qualifying for carbon offset markets, and the extent to which such policies may result in a net reduction in methane emissions. Such evaluation shall consider the environmental benefits and economic development potential of the capture and use of coal mine methane. The Department may retain a consultant to assist in its evaluation. The Department shall solicit input from interested stakeholders, including coal mine methane producers, other business interests, and environmental groups. The Department shall report its findings and recommendations to the Governor, the Chairmen of the House Committee on Commerce and Energy and the Senate Committee on Commerce and Labor, the Secretary of Commerce and Trade, and the Secretary of Natural and Historic Resources by November 15, 2023.*

CHAPTER 497

An Act to amend and reenact § 56-581 of the Code of Virginia, relating to Virginia Electric Utility Regulation Act; regulation of rates.

[H 1604]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 56-581 of the Code of Virginia is amended and reenacted as follows:

§ 56-581. Regulation of rates subject to Commission's jurisdiction.

A. ~~After the expiration or termination of capped rates except as provided in § 56-585.1, the~~ *The* Commission shall regulate the rates of investor-owned incumbent electric utilities for the transmission of electric energy, to the extent not prohibited by federal law, and for the generation of electric energy and the distribution of electric energy to retail customers pursuant to *this section and* § 56-585.1.

B. In any proceeding to review base rates for a Phase I Utility that commences after July 1, 2023, if the Commission determines in its sole discretion that the utility's existing base rates will, on a going-forward basis, either produce (i) revenues in excess of the utility's authorized rate of return or (ii) revenues below the utility's authorized rate of return, then, notwithstanding any provision of law governing rate proceedings, the Commission shall order any reductions or increases, as applicable and necessary, to such base rates that it deems appropriate to ensure the resulting base rates (a) are just and reasonable and (b) provide the utility an opportunity to recover its costs of providing services over the rate period ending on December 31 of the year of the utility's succeeding review and earn a fair rate of return authorized pursuant to the provisions governing such review proceeding. Such determination shall be limited to the Phase I Utility's base rates and shall not consider the costs or revenues recovered in any rate adjustment clause authorized pursuant to this chapter.

C. In any proceeding to review base rates for a Phase II Utility that commences after July 1, 2023, if the Commission determines in its sole discretion that the utility's existing base rates will, on a going-forward basis, either produce (i) revenues in excess of the utility's authorized rate of return or (ii) revenues below the utility's authorized rate of return, then, notwithstanding any provision of subdivision A 8 of § 56-585.1, the Commission shall order any reductions or increases, as applicable and necessary, to such base rates that it deems appropriate to ensure the resulting base rates (a) are just and reasonable and (b) provide the utility an opportunity to recover its costs of providing services over the rate period ending on December 31 of the year of the utility's succeeding review and earn a fair rate of return on its base rates as determined in subdivision A 2 of § 56-585.1. Such determination shall be limited to the Phase II Utility's base rates and shall not consider the costs or revenues recovered in any rate adjustment clause authorized pursuant to subdivision A 6 of § 56-585.1 that has not been combined with the utility's base rates. The Commission shall use the most recently ended 12-month test period, along with normalization of nonrecurring test period costs and annualized adjustments for future costs, as the basis for determining the appropriateness of any rate adjustment. In any such filing to review base rates, a Phase II Utility shall separately project future costs over each 12-month period ending on December 31 of the year of the utility's succeeding review period. The Commission may, to the extent it finds such action aligns with the utility's projected cost of service, direct that any reduction or increase to the utility's rates for generation and distribution services be implemented on a staggered basis at the commencement and midpoint of the succeeding rate period.

~~B.~~ *D.* Beginning July 1, 1999, and thereafter, no cooperative that was a member of a power supply cooperative on January 1, 1999, shall be obligated to file any rate rider as a consequence of an increase or decrease in the rates, other than fuel costs, of its wholesale supplier, nor must any adjustment be made to such cooperative's rates as a consequence thereof.

~~C.~~ *E.* Except for the provision of default services under § 56-585 or emergency services in § 56-586, nothing in this chapter shall authorize the Commission to regulate the rates or charges for electric service to the Commonwealth and its municipalities.

F. As used in this section:

"Base rates" means rates for generation and distribution services.

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

CHAPTER 498

An Act to amend and reenact § 56-581 of the Code of Virginia, relating to Virginia Electric Utility Regulation Act; regulation of rates.

[S 1321]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 56-581 of the Code of Virginia is amended and reenacted as follows:

§ 56-581. Regulation of rates subject to Commission's jurisdiction.

A. ~~After the expiration or termination of capped rates except as provided in § 56-585.1, the~~ *The* Commission shall regulate the rates of investor-owned incumbent electric utilities for the transmission of electric energy, to the extent not prohibited by federal law, and for the generation of electric energy and the distribution of electric energy to retail customers pursuant to *this section and* § 56-585.1.

B. In any proceeding to review base rates for a Phase I Utility that commences after July 1, 2023, if the Commission determines in its sole discretion that the utility's existing base rates will, on a going-forward basis, either produce (i) revenues in excess of the utility's authorized rate of return or (ii) revenues below the utility's authorized rate of return, then, notwithstanding any provision of law governing rate proceedings, the Commission shall order any reductions or increases, as applicable and necessary, to such base rates that it deems appropriate to ensure the resulting base rates (a) are just and reasonable and (b) provide the utility an opportunity to recover its costs of providing services over the rate period ending on December 31 of the year of the utility's succeeding review and earn a fair rate of return authorized pursuant to the provisions governing such review proceeding. Such determination shall be limited to the Phase I Utility's base rates and shall not consider the costs or revenues recovered in any rate adjustment clause authorized pursuant to this chapter.

C. In any proceeding to review base rates for a Phase II Utility that commences after July 1, 2023, if the Commission determines in its sole discretion that the utility's existing base rates will, on a going-forward basis, either produce (i) revenues in excess of the utility's authorized rate of return or (ii) revenues below the utility's authorized rate of return, then, notwithstanding any provision of subdivision A 8 of § 56-585.1, the Commission shall order any reductions or increases, as applicable and necessary, to such base rates that it deems appropriate to ensure the resulting base rates (a) are just and reasonable and (b) provide the utility an opportunity to recover its costs of providing services over the rate period ending on December 31 of the year of the utility's succeeding review and earn a fair rate of return on its base rates as determined in subdivision A 2 of § 56-585.1. Such determination shall be limited to the Phase II Utility's base rates and shall not consider the costs or revenues recovered in any rate adjustment clause authorized pursuant to subdivision A 6 of § 56-585.1 that has not been combined with the utility's base rates. The Commission shall use the most recently ended 12-month test period, along with normalization of nonrecurring test period costs and annualized adjustments for future costs, as the basis for determining the appropriateness of any rate adjustment. In any such filing to review base rates, a Phase II Utility shall separately project future costs over each 12-month period ending on December 31 of the year of the utility's succeeding review period. The Commission may, to the extent it finds such action aligns with the utility's projected cost of service, direct that any reduction or increase to the utility's rates for generation and distribution services be implemented on a staggered basis at the commencement and midpoint of the succeeding rate period.

~~B.~~ *D.* Beginning July 1, 1999, and thereafter, no cooperative that was a member of a power supply cooperative on January 1, 1999, shall be obligated to file any rate rider as a consequence of an increase or decrease in the rates, other than fuel costs, of its wholesale supplier, nor must any adjustment be made to such cooperative's rates as a consequence thereof.

~~C.~~ *E.* Except for the provision of default services under § 56-585 or emergency services in § 56-586, nothing in this chapter shall authorize the Commission to regulate the rates or charges for electric service to the Commonwealth and its municipalities.

F. As used in this section:

"Base rates" means rates for generation and distribution services.

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

CHAPTER 499

An Act to amend the Code of Virginia by adding a section numbered 15.2-2209.1:2, relating to extension of land use approvals for solar photovoltaic projects.

[H 1944]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-2209.1:2 as follows:

§ 15.2-2209.1:2. Extension of land use approvals for solar photovoltaic projects.

Notwithstanding any other provision of this chapter, for any valid special exception, special use permit, or conditional use permit, or any modifications thereto, for a solar photovoltaic project outstanding as of July 1, 2023, any deadline in the exception permit, or in the local zoning ordinance that requires the landowner or developer to commence the project within a certain time, may be extended by a resolution of the governing body until July 1, 2026, or such longer period as may be agreed to by the locality.

CHAPTER 500

An Act to amend the Code of Virginia by adding a section numbered 15.2-2209.1:2, relating to extension of land use approvals for solar photovoltaic projects.

[S 1390]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-2209.1:2 as follows:

§ 15.2-2209.1:2. Extension of land use approvals for solar photovoltaic projects.

Notwithstanding any other provision of this chapter, for any valid special exception, special use permit, or conditional use permit, or any modifications thereto, for a solar photovoltaic project outstanding as of July 1, 2023, any deadline in the exception permit, or in the local zoning ordinance that requires the landowner or developer to commence the project within a certain time, may be extended by a resolution of the governing body until July 1, 2026, or such longer period as may be agreed to by the locality.

CHAPTER 501

An Act to direct the State Corporation Commission to issue its final order on certain projects within a certain timeframe.

[H 2482]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The State Corporation Commission (the Commission) shall issue its final order for certificates of public convenience and necessity regarding projects identified by PJM Interconnection, LLC, as part of Baseline Project b3718 no later than 270 days after the filing date by a utility. For such projects filed by a utility prior to January 1, 2023, the Commission shall issue its final order for certificates of public convenience and necessity within 90 days of the effective date of this act.*

CHAPTER 502

An Act to direct the State Corporation Commission to issue its final order on certain projects within a certain timeframe.

[S 1541]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The State Corporation Commission (the Commission) shall issue its final order for certificates of public convenience and necessity regarding projects identified by PJM Interconnection, LLC, as part of Baseline Project b3718 no later than 270 days after the filing date by a utility. For such projects filed by a utility prior to January 1, 2023, the Commission shall issue its final order for certificates of public convenience and necessity within 90 days of the effective date of this act.*

CHAPTER 503

An Act to amend the Code of Virginia by adding a section numbered 10.1-1402.05, relating to permit for coal ash landfill storage; provision of public water supply.

[S 1050]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-1402.05 as follows:

§ 10.1-1402.05. Coal ash landfill storage; provision of public water supply.

A. No application for a new coal ash landfill permit for storing coal combustion residuals in Planning District 8 shall be approved by the Department if the facility boundary is located within one mile of an existing residential area that is not served by municipal water supply, unless the owner or operator of the coal ash landfill has offered to provide, at its expense, (i) municipal water supply service for such residential area and (ii) any requested service connections for residential properties in existence at the time such permit application is filed.

B. Any offer by the owner or operator of a coal ash landfill to provide municipal water supply service or requested service connections pursuant to subsection A shall be made (i) in writing to any resident located within one mile of the facility boundary and (ii) in coordination with the municipal water supply service authority in which the coal ash landfill will be located, notwithstanding the water supply service authority's final schedule for installation.

CHAPTER 504

An Act to amend the Code of Virginia by adding in Chapter 17 of Title 45.2 an article numbered 9, consisting of a section numbered 45.2-1734, relating to Virginia Power Innovation Fund and Program; created.

[H 2386]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 17 of Title 45.2 an article numbered 9, consisting of a section numbered 45.2-1734, as follows:

Article 9.

Virginia Power Innovation Fund and Program.

§ 45.2-1734. Virginia Power Innovation Fund and Program.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Power Innovation Fund, referred to in this section as "the Fund," that shall be administered by the Department. The Fund shall be established on the books of the Comptroller. All amounts appropriated and such other funds as may be made available to the fund from any other source, public or private, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of research and development of innovative energy technologies, including nuclear, hydrogen, carbon capture and utilization, and energy storage. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

B. The Virginia Power Innovation Program (the Program) is hereby established for the purpose of (i) establishing a Virginia nuclear innovation hub from such funds as may be available from the Fund and (ii) awarding grants on a competitive basis from such funds as may be available from the Fund to support energy innovation. The Program shall be administered by the Department. In administering the Program, the Department shall, in collaboration with the Virginia Nuclear Energy Consortium, establish and publish guidelines and criteria for disbursement of funds pursuant to clause (i), including providing grants to support higher education research on advanced nuclear technologies and advanced reactor technologies, to fund nuclear energy workforce development programming, and to assist with site selection for future small modular reactor projects in Virginia. In administering the Program, the Department shall, in collaboration with the Secretary of Commerce and Trade, establish and publish guidelines and criteria for disbursement of funds pursuant to clause (ii). The Department shall oversee each grant awarded through the Program and ensure thorough reporting on each such grant.

CHAPTER 505

An Act to amend the Code of Virginia by adding in Chapter 17 of Title 45.2 an article numbered 9, consisting of a section numbered 45.2-1734, relating to Virginia Power Innovation Fund and Program; created.

[S 1464]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 17 of Title 45.2 an article numbered 9, consisting of a section numbered 45.2-1734, as follows:

Article 9.

Virginia Power Innovation Fund and Program.

§ 45.2-1734. Virginia Power Innovation Fund and Program.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Power Innovation Fund, referred to in this section as "the Fund," that shall be administered by the Department. The Fund shall be established on the books of the Comptroller. All amounts appropriated and such other funds as may be made available to the fund from any other source, public or private, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of research and development of innovative energy technologies, including nuclear, hydrogen, carbon capture and utilization, and energy storage. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

B. The Virginia Power Innovation Program (the Program) is hereby established for the purpose of (i) establishing a Virginia nuclear innovation hub from such funds as may be available from the Fund and (ii) awarding grants on a competitive basis from such funds as may be available from the Fund to support energy innovation. The Program shall be administered by the Department. In administering the Program, the Department shall, in collaboration with the Virginia Nuclear Energy Consortium, establish and publish guidelines and criteria for disbursement of funds pursuant to clause (i), including providing grants to support higher education research on advanced nuclear technologies and advanced reactor technologies, to fund nuclear energy workforce development programming, and to assist with site selection for future small modular reactor projects in Virginia. In administering the Program, the Department shall, in collaboration with the Secretary of Commerce and Trade, establish and publish guidelines and criteria for disbursement of funds pursuant to clause (ii). The Department shall oversee each grant awarded through the Program and ensure thorough reporting on each such grant.

CHAPTER 506

An Act to amend and reenact §§ 15.2-202, 15.2-619, 15.2-716, 15.2-749, 15.2-958.3, 15.2-958.6, 15.2-1236, 15.2-1301, 15.2-1427, 15.2-1702, 15.2-1703, 15.2-2108.7, 15.2-2204, 15.2-2285, 15.2-2400, 15.2-2401, 15.2-2606, 15.2-2653, 15.2-3401, 15.2-3600, 15.2-4309, 15.2-5104, 15.2-5136, 15.2-5156, 15.2-5431.25, 15.2-5602, 15.2-5702, 15.2-5711, 15.2-5806, 15.2-7502, 21-114, 21-117.1, 21-118, 21-146, 21-229, 21-377, 21-393, 21-420, 22.1-29.1, 22.1-37, 22.1-79, 22.1-92, 33.2-331, 33.2-723, 33.2-909, 33.2-2001, 33.2-2101, 33.2-2103, 33.2-2701, 36-23, 36-44, 58.1-3108, 58.1-3245.2, 58.1-3245.8, 58.1-3256, 58.1-3321, 58.1-3378, 58.1-3651, 58.1-3975, 62.1-44.15:33, as it is currently effective and as it shall become effective, and 62.1-44.15:65, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to local government; standardization of public notice requirements for certain intended actions and hearings; report.

[S 1151]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-202, 15.2-619, 15.2-716, 15.2-749, 15.2-958.3, 15.2-958.6, 15.2-1236, 15.2-1301, 15.2-1427, 15.2-1702, 15.2-1703, 15.2-2108.7, 15.2-2204, 15.2-2285, 15.2-2400, 15.2-2401, 15.2-2606, 15.2-2653, 15.2-3401, 15.2-3600, 15.2-4309, 15.2-5104, 15.2-5136, 15.2-5156, 15.2-5431.25, 15.2-5602, 15.2-5702, 15.2-5711, 15.2-5806, 15.2-7502, 21-114, 21-117.1, 21-118, 21-146, 21-229, 21-377, 21-393, 21-420, 22.1-29.1, 22.1-37, 22.1-79, 22.1-92, 33.2-331, 33.2-723, 33.2-909, 33.2-2001, 33.2-2101, 33.2-2103, 33.2-2701, 36-23, 36-44, 58.1-3108, 58.1-3245.2, 58.1-3245.8, 58.1-3256, 58.1-3321, 58.1-3378, 58.1-3651, 58.1-3975, 62.1-44.15:33, as it is currently effective and as it shall become effective, and 62.1-44.15:65, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 15.2-202. Public hearing in lieu of election; procedure when bill not introduced or fails to pass in General Assembly.

In lieu of the election provided for in § 15.2-201, a locality requesting the General Assembly to grant to it a new charter or to amend its existing charter may hold a public hearing with respect thereto, at which citizens shall have an opportunity to be heard to determine if the citizens of the locality desire that the locality request the General Assembly to grant to it a new charter, or to amend its existing charter. At least ~~ten~~ *seven* days' notice of the time and place of such hearing and the text or an informative summary of the new charter or amendment desired shall be published in a newspaper of general circulation in the locality. Such public hearing may be adjourned from time to time, and upon the completion thereof, the locality may request, in the manner provided in § 15.2-201, the General Assembly to grant the new charter or amend the existing charter and the provisions of § 15.2-201 shall be applicable thereto.

If a bill incorporating such charter or amendments is not introduced at the succeeding session of the General Assembly, the authority of the locality to request such charter or amendments by reason of such public hearing shall thereafter be void. If at such session members of the General Assembly fail to enact and do not carry over or pass by indefinitely a bill incorporating such charter or amendments, the charter or amendments may again be submitted to a public hearing in lieu of an election as provided hereinabove before reintroduction in the General Assembly.

The locality requesting a new or amended charter shall provide with such request a publisher's affidavit showing that the public hearing was advertised and a certified copy of the governing body's minutes showing the action taken at the advertised public hearing.

§ 15.2-619. Same; powers of commissioners of revenue; real estate reassessments.

The director of finance shall exercise all the powers conferred and perform all the duties imposed by general law upon commissioners of the revenue, not inconsistent herewith, and shall be subject to the obligations and penalties imposed by general law.

Every general reassessment of real estate in the county, unless some other person is designated for this purpose by the county manager in accordance with § 15.2-612 or unless the board creates a separate department of assessments in accordance with § 15.2-616, shall be made by the director of finance; he shall collect and keep in his office data and devise methods and procedures to be followed in each such general reassessment that will make for uniformity in assessments throughout the county.

In addition to any other method provided by general law or by this article or to certain classified counties, the director of finance may provide for the annual assessment and equalization of real estate and any general reassessment order by the board. The director of finance or his designated agent shall collect data, provide maps and charts, and devise methods and procedures to be followed for such assessment that will make for uniformity in assessments throughout the county.

There shall be a reassessment of all real estate at periods not to exceed six years between such reassessments.

All real estate shall be assessed as of January 1 of each year by the director of finance or such other person designated to make assessment. Such assessment shall provide for the equalization of assessments of real estate, correction of errors in tax assessment records, addition of erroneously omitted properties to the tax rolls, and removal of properties acquired by owners not subject to taxation.

The taxes for each year on the real estate assessed shall be extended on the basis of the last assessment made prior to such year.

This section shall not apply to real estate assessable under the law by the Commonwealth, and the director of finance or his designated agent shall not make any real estate assessments during the life of any general reassessment board.

Any reassessments which change the assessment of real estate shall not be extended for taxation until forty-five days after a written notice is mailed to the person in whose name such property is to be assessed at his last known address, setting forth the amount of the prior assessment and the new assessment.

The board shall establish a continuing board of real estate review and equalization to review all assessments made under authority of this section and to which all appeals by any person aggrieved by any real estate assessment shall first apply for relief. The board of real estate review and equalization shall consist of not fewer than three nor more than five members who shall be freeholders in the county. The appointment, terms of office and compensation of the members of such board shall be prescribed by the board of supervisors. The board of real estate review and equalization shall have all the powers conferred upon boards of equalization by general law. All applications for review to such board shall be made not later than April 1 of the year for which extension of taxes on the assessment is to be made. Such board shall grant a hearing to any person making application at a regular advertised meeting of the board, shall rule on all applications within sixty days after the date of the hearing, and shall thereafter promptly certify its action thereon to the director of finance. The equalization board shall conduct hearings at such times as are convenient, after publishing a notice in a newspaper having a general circulation in the county, ~~ten~~ *seven* days prior to any such hearing at which any person applying for review will be heard.

Any person aggrieved by any reassessment or action of the board of real estate review and equalization may apply for relief to the circuit court of the county in the manner provided by general law.

§ 15.2-716. Referendum for establishment of department of real estate assessments; board of equalization; general reassessments in county where department established.

A referendum may be initiated by a petition signed by 200 or more qualified voters of the county filed with the circuit court, asking that a referendum be held on the question of whether the county shall have a department of real estate assessments. The court shall on or before August 1 enter of record an order requiring the county election officials to open the polls at the regular election to be held in November of such year on the question stated in such order. If the petition seeks the holding of a special election on the question, then the petition hereinabove referred to shall be signed by 1,000 or more qualified voters of the county and the court shall within fifteen days of the date such petition is filed enter an order, in accordance with § 24.2-684, requiring the election officials to open the polls on a date fixed in the order and take the sense of the qualified voters of the county. The clerk of the county shall cause a notice of such election to be published in a newspaper having general circulation in the county once a week for three successive weeks*, with the first notice appearing no more than 21 days before the date on which the referendum is held*, and shall post a copy of such notice at the door of the county courthouse.

If a majority of the voters voting in the referendum vote for the establishment of a department of real estate assessments, the board shall by ordinance establish such department, provide for the compensation of the department head and employees therein, and decide such other matters in relation to the powers and duties of the department, the department head and the employees, as the board deems proper. As used in this section the term "department" refers to the department of real estate assessments and where proper the department head thereof.

Upon the establishment of the department, the county manager shall select the head thereof and provide for such employees and assistants as required. Such department shall be vested with the powers and duties conferred or imposed upon commissioners of the revenue by general law to the extent that such duties and powers are consistent with this section, in relation to the assessment of real estate. All real estate shall be assessed at its fair market value as of January 1 of each year by the department and taxes for each year on such real estate shall be entered on the land book by the department in the name of the owner thereof. Whenever any such assessment is increased over the last assessment made prior to such year, the department shall give written notice to the owner of such real estate or of any interest therein, by mailing such notice to the last known post-office address of such owner. However, the validity of such assessment shall not be affected by any failure to receive such notice.

If a department of real estate assessments is appointed as above provided, a board of equalization of real estate assessments shall be appointed pursuant to § 15.2-716.1. Any person aggrieved by any assessment made under the provisions of this section may apply for relief to such board as therein provided.

When a department of real estate assessments is appointed, the county shall not be required to undertake general reassessments of real estate every six years, but the governing body of the county may, but shall not be required to, request the circuit court of such county to order a general reassessment at such times as the governing body deems proper. Such court shall then enter an order directing a reassessment of real estate in the manner provided by law.

The department of real estate assessments may require that the owners of income-producing real estate in the county subject to local taxation, except property producing income solely from the rental of no more than four dwelling units, furnish to the department on or before a time specified by the director of the department statements of the income and expenses attributable over a specified period of time to each such parcel of real estate. If there is a willful failure to furnish statements of income and expenses in a timely manner to the director, the owner of such parcel of real estate shall be deemed to have waived his right in any proceeding contesting the assessment to utilize such income and expenses as evidence of fair market value. Each such statement shall be certified as to its accuracy by an owner of the real estate for which the statement is furnished, or a duly authorized agent thereof. Any statement required by this section shall be kept confidential as required by § 58.1-3.

§ 15.2-749. Certain referenda in certain counties.

If on or before July 15 of any year in which such referendum is provided for by law a petition signed by 200 or more qualified voters of the county is filed with the circuit court of the county asking that a referendum be held on any question upon which a referendum is provided for by any applicable statute, then such court shall on or before August 1 of such year issue and enter of record an order requiring the county election officials to open the polls at the regular election to be held in November of such year on the question stated in such statute. If the statute providing for such referendum shall authorize or require the referendum to be held at a special election, then the petition hereinabove referred to shall be signed by 1,000 or more voters of the county and the court shall within fifteen days of the date such petition is filed enter an order requiring the election officials to open the polls and take the sense of the voters of the county on a date fixed in his order, which shall be in accordance with § 24.2-682. The clerk of the county shall cause a notice of such election to be published in a newspaper published or having general circulation in the county once a week for three successive weeks*, with the first notice appearing no more than 21 days before the date on which the referendum is held*, and shall post a copy of the notice at the door of the county courthouse.

§ 15.2-958.3. Commercial Property Assessed Clean Energy (C-PACE) financing programs.

A. As used in this section:

"Eligible improvements" means any of the following improvements made to eligible properties:

1. Energy efficiency improvements;
2. Water efficiency and safe drinking water improvements;
3. Renewable energy improvements;
4. Resiliency improvements;
5. Stormwater management improvements;
6. Environmental remediation improvements; and
7. Electric vehicle infrastructure improvements.

A program administrator may include in its C-PACE loan program guide or other administrative documentation definitions, interpretations, and examples of these categories of eligible improvements.

"Eligible properties" means all assessable commercial real estate located within the Commonwealth, with all buildings located or to be located thereon, whether vacant or occupied, whether improved or unimproved, and regardless of whether such real estate is currently subject to taxation by the locality, other than a residential dwelling with fewer than five dwelling units or a condominium as defined in § 55.1-2000 used for residential purposes. Common areas of real estate owned by a cooperative or a property owners' association described in Subtitle IV (§ 55.1-1800 et seq.) of Title 55.1 that have a separate

real property tax identification number are eligible properties. Eligible properties shall be eligible to participate in the C-PACE loan program.

"Program administrator" means a third party that is contracted for professional services to administer a C-PACE loan program.

"Resiliency improvement" means an improvement that increases the capacity of a structure or infrastructure to withstand or recover from natural disasters, the effects of climate change, and attacks and accidents, including, but not limited to:

1. Flood mitigation or the mitigation of the impacts of flooding;

2. Inundation adaptation;

3. Natural or nature-based features and living shorelines, as defined in § 28.2-104.1;

4. Enhancement of fire or wind resistance;

5. Microgrids;

6. Energy storage; and

7. Enhancement of the resilience capacity of a natural system, structure, or infrastructure.

B. Any locality may, by ordinance, authorize contracts to provide C-PACE loans (loans) for the initial acquisition, installation, and refinancing of eligible improvements located on eligible properties by free and willing property owners of such eligible properties. The ordinance may refer to the mode of financing as Commercial Property Assessed Clean Energy (C-PACE) financing and shall include but not be limited to the following:

1. The kinds of eligible improvements that qualify for loans;

2. The proposed arrangement for such C-PACE loan program (loan program), including (i) a statement concerning the source of funding for the C-PACE loan; (ii) the time period during which contracting property owners would repay the C-PACE loan; and (iii) the method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the c-pace loan among the parties to the C-PACE transaction;

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

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

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

6. Identification of any fee that the locality intends to impose on the property owner requesting to participate in the loan program to offset the cost of administering the loan program. The fee may be assessed as a program fee paid by the property owner requesting to participate in the program; and

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

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

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

E. In order to secure the loan authorized pursuant to this section, the locality shall place a voluntary special assessment lien equal in value to the loan against any property where such eligible improvements are being installed. The locality may bundle or package said loans for transfer to private lenders in such a manner that would allow the voluntary special assessment liens to remain in full force to secure the loans. The placement of a voluntary special assessment lien shall not require a new assessment on the value of the real property that is being improved under the loan program.

F. A voluntary special assessment lien imposed on real property under this section:

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

insolvent or in bankruptcy proceedings, and that the title of the benefited property is not in dispute is submitted to the locality prior to recording of the special assessment lien;

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

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

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

G. Prior to the enactment of an ordinance pursuant to this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed loan program or any of its particulars. The public hearing shall be ~~advertised~~ *published* once a week for two successive weeks*, with the first notice appearing no more than 14 days before the hearing,* in a newspaper of general circulation in the locality.

H. The Department of Energy shall serve as a statewide sponsor for a loan program that meets the requirements of this section. The Department of Energy shall engage a private program administrator through a competitive selection process to develop the statewide loan program. A locality, in its adoption or amendment of its C-PACE ordinance described in subsection B, may opt into the statewide C-PACE loan program sponsored by the Department of Energy, and such action shall not require the locality to undertake any competitive procurement process.

§ 15.2-958.6. Financing the repair of failed septic systems.

A. Any locality may, by ordinance, authorize contracts with property owners to provide loans for the repair of septic systems. Such an ordinance shall state:

1. The kinds of septic system repairs for which loans may be offered;

2. The proposed arrangement for such loan program, including (i) the interest rate and time period during which contracting property owners shall repay the loan; (ii) the method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the arrangement among the consenting property owners and the locality; and (iii) the possibility that the locality may partner with a planning district commission (PDC) to coordinate and provide financing for the repairs, including the locality's obligation to reimburse the PDC as the loan is repaid;

3. A minimum and maximum aggregate dollar amount that may be financed;

4. A method for setting requests from property owners for financing in priority order in the event that requests appear likely to exceed the authorization amount of the loan program. Priority shall be given to those requests from property owners who meet established income or assessed property value eligibility requirements;

5. Identification of a local official authorized to enter into contracts on behalf of the locality; and

6. A draft contract specifying the terms and conditions proposed by the locality or by a PDC acting on behalf of the locality.

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

C. In cases in which local property records fail to identify all of the individuals having an ownership interest in a property containing a failing septic system, the locality may set a minimum total ownership interest that it will require a property owner or owners to prove before it will allow the owner or owners to participate in the program.

D. The locality or PDC acting on behalf of the locality shall offer private lending institutions the opportunity to participate in local loan programs established pursuant to this section.

E. In order to secure the loan authorized pursuant to this section, the locality is authorized to place a lien equal in value to the loan against any property where such septic system repair is being undertaken. Such liens shall be subordinate to all liens on the property as of the date loans authorized pursuant to this section are made, except that with the prior written consent of the holders of all liens on the property as of the date loans authorized pursuant to this section are made, the liens securing loans authorized pursuant to this section shall be liens on the property ranking on a parity with liens for unpaid local taxes. The locality may bundle or package such loans for transfer to private lenders in such a manner that would allow the liens to remain in full force to secure the loans.

F. Prior to the enactment of an ordinance pursuant to this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed loan program or any of its particulars. The public hearing shall be ~~advertised~~ *published* once a week for two successive weeks*, with the first notice appearing no more than 14 days before the hearing,* in a newspaper of general circulation in the locality.

§ 15.2-1236. Purchases and sales to be based on competition.

A. All purchases of, and contracts for, supplies and contractual services shall be in accordance with Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2.

B. All sales of any personal property which has become obsolete and unusable shall be based wherever feasible on competitive bids. If the amount of the sale is estimated by the county purchasing agent to exceed $5,000, sealed bids shall, unless the governing body provides otherwise, be solicited by public notice published at least once in a newspaper of countywide circulation at least ~~five~~ *seven* calendar days before the final date of submitting bids.

§ 15.2-1301. Voluntary economic growth-sharing agreements.

A. Any county, city or town, or combination thereof, may enter voluntarily into an agreement with any other county, city or town, or combination thereof, whereby the locality may agree for any purpose otherwise permitted, including the provision on a multi-jurisdictional basis of one or more public services or facilities or any type of economic development project, to enter into binding fiscal arrangements for fixed time periods, to exceed one year, to share in the benefits of the economic growth of their localities. However, if any such agreement contains any provision addressing any issue provided for in Chapter 32 (§ 15.2-3200 et seq.), 33 (§ 15.2-3300 et seq.), 36 (§ 15.2-3600 et seq.), 38 (§ 15.2-3800 et seq.), 39 (§ 15.2-3900 et seq.), or 41 (§ 15.2-4100 et seq.), the agreement shall be subject to the review and implementation process established by Chapter 34 (§ 15.2-3400 et seq.). All such agreements, including those that address any issue provided for in Chapter 32, 33, 36, 38, 39, or 41, shall require, at least annually, a report from each locality that is a recipient of funds pursuant to the agreement to each of the other governing bodies of the participating localities that includes (i) the amount of money transferred among the localities pursuant to the agreement and (ii) the uses of such funds by the localities. The parties to any such agreement that has been in effect for at least 10 years as of July 1, 2018, and pursuant to which annual payments exceed $5 million, shall (a) comply with the reporting requirements of this subsection, notwithstanding whether such requirements are contained in the existing agreement and (b) convene an annual meeting to discuss anticipated future plans for economic growth in the localities.

B. The terms and conditions of the revenue, tax base or economic growth-sharing agreement as provided in subsection A shall be determined by the affected localities and shall be approved by the governing body of each locality participating in the agreement, provided the governing body of each such locality first holds a public hearing which shall be advertised once a week for two successive weeks*, with the first notice appearing no more than 14 days before the hearing,* in a newspaper of general circulation in the locality. However, the public hearing shall not take place until the Commission on Local Government has issued its findings in accordance with subsection D. For purposes of this section, "revenue, tax base, and economic growth-sharing agreements" means any agreement authorized by subsection A which obligates any locality to pay another locality all or any portion of designated taxes or other revenues received by that political subdivision, but shall not include any interlocal service agreement.

C. Any revenue, tax base or economic growth-sharing agreement entered into under the provisions of this section that creates a debt pursuant to Article VII, Section 10 (b) of the Constitution of Virginia, shall require the board of supervisors to hold a special election on the question as provided in § 15.2-3401.

D. Revenue, tax base, and economic growth-sharing agreements drafted under the provisions of this chapter shall be submitted to the Commission on Local Government for review as provided in subdivision 4 of § 15.2-2903. However, no such review shall be required for two or more localities entering into an economic growth-sharing agreement pursuant to this section in order to facilitate the reception of grants for qualified companies in such locality pursuant to the Port of Virginia Economic and Infrastructure Development Grant Fund and Program established pursuant to § 62.1-132.3:2.

§ 15.2-1427. Adoption of ordinances and resolutions generally; amending or repealing ordinances.

A. Unless otherwise specifically provided for by the Constitution or by other general or special law, an ordinance may be adopted by majority vote of those present and voting at any lawful meeting.

B. On final vote on any ordinance or resolution, the name of each member of the governing body voting and how he voted shall be recorded; however, votes on all ordinances and resolutions adopted prior to February 27, 1998, in which an unanimous vote of the governing body was recorded, shall be deemed to have been validly recorded. The governing body may adopt an ordinance or resolution by a recorded voice vote unless otherwise provided by law, or any member calls for a roll call vote. An ordinance shall become effective upon adoption or upon a date fixed by the governing body.

C. All ordinances or resolutions heretofore adopted by a governing body shall be deemed to have been validly adopted, unless some provision of the Constitution of Virginia or the Constitution of the United States has been violated in such adoption.

D. An ordinance may be amended or repealed in the same manner, or by the same procedure, in which, or by which, ordinances are adopted.

E. An amendment or repeal of an ordinance shall be in the form of an ordinance which shall become effective upon adoption or upon a date fixed by the governing body, but, if no effective date is specified, then such ordinance shall become effective upon adoption.

F. In counties, except as otherwise authorized by law, no ordinance shall be passed until after descriptive notice of an intention to propose the ordinance for passage has been published once a week for two successive weeks*, with the first notice appearing no more than 14 days* prior to ~~its~~ *the* passage *of the ordinance,* in a newspaper having a general circulation in the county. The second publication shall not be sooner than one calendar week after the first publication. The publication shall include a statement either that the publication contains the full text of the ordinance or that a copy of the full text of the ordinance is on file in the clerk's office of the circuit court of the county or in the office of the county administrator; or in the case of any county organized under the form of government set out in Chapter 5, 7 or 8 of this title, a statement that a copy

of the full text of the ordinance is on file in the office of the clerk of the county board. Even if the publication contains the full text of the ordinance, a complete copy shall be available for public inspection in the offices named herein.

In counties, emergency ordinances may be adopted without prior notice; however, no such ordinance shall be enforced for more than sixty days unless readopted in conformity with the provisions of this Code.

G. In towns, no tax shall be imposed except by a two-thirds vote of the council members.

§ 15.2-1702. Referendum required prior to establishment of county police force.

A. A county shall not establish a police force unless (i) such action is first approved by the voters of the county in accordance with the provisions of this section and (ii) the General Assembly enacts appropriate authorizing legislation.

B. The governing body of any county shall petition the court, by resolution, asking that a referendum be held on the question, "Shall a police force be established in the county and the sheriff's office be relieved of primary law-enforcement responsibilities?" The court, by order entered of record in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, shall require the regular election officials of the county to open the polls and take the sense of the voters on the question as herein provided.

The clerk of the circuit court for the county shall publish notice of the election in a newspaper of general circulation in the county once a week for three consecutive weeks prior to the election*, with the first notice appearing no more than 21 days before the election*. The notice shall contain the ballot question and a statement of not more than 500 words on the proposed question. The explanation shall be presented in plain English, shall be limited to a neutral explanation, and shall not present arguments by either proponents or opponents of the proposal. The attorney for the county or city or, if there is no county or city attorney, the attorney for the Commonwealth shall prepare the explanation. "Plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession.

C. The county may expend public funds to produce and distribute neutral information concerning the referendum; provided, however, public funds may not be used to promote a particular position on the question, either in the notice called for in subsection B, or in any other distribution of information to the public.

D. The regular election officers of the county shall open the polls on the date specified in such order and conduct the election in the manner provided by law. The election shall be by ballot which shall be prepared by the electoral board of the county and on which shall be printed the following:

"Shall a police force be established in the county and the sheriff's office be relieved of primary law-enforcement responsibilities?

[ ] Yes

[ ] No"

The ballots shall be counted, returns made and canvassed as in other elections, and the results certified by the electoral board to the court ordering the election. If a majority of the voters voting in the election vote "Yes," the court shall enter an order proclaiming the results of the election and a duly certified copy of such order shall be transmitted to the governing body of the county. The governing body shall proceed to establish a police force following the enactment of authorizing legislation by the General Assembly.

E. After a referendum has been conducted pursuant to this section, no subsequent referendum shall be conducted pursuant to this section in the same county for a period of four years from the date of the prior referendum.

§ 15.2-1703. Referendum to abolish county police force.

The police force in any county which established the force subsequent to July 1, 1983, may be abolished and its responsibilities assumed by the sheriff's office after a referendum held pursuant to this section.

Either (i) the voters of the county by petition signed by not less than ten percent of the registered voters therein on the January 1 preceding the filing of the petition or (ii) the governing body of the county, by resolution, may petition the circuit court for the county that a referendum be held on the question, "Shall the county police force be abolished and its responsibilities assumed by the county sheriff's office?" The court, by order entered of record in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, shall require the regular election officials of the county at the next general election held in the county to open the polls and take the sense of the voters on the question as herein provided. The clerk of the circuit court for the county shall publish notice of the election in a newspaper of general circulation in the county once a week for three consecutive weeks prior to the election*, with the first notice appearing no more than 21 days before the election*.

The ballot shall be printed as follows:

"Shall the county police force be abolished and its responsibilities assumed by the county sheriff's office?

[ ] Yes

[ ] No"

The election shall be held and the results certified as provided in § 24.2-684. If a majority of the voters voting in the election vote in favor of the question, the court shall enter an order proclaiming the results of the election, and a duly certified copy of such order shall be transmitted to the governing body of the county. The governing body shall proceed with the necessary action to abolish the police force and transfer its responsibilities to the sheriff's office, to become effective on July 1 following the referendum.

Once a referendum has been held pursuant to this section, no further referendum shall be held pursuant to this section within four years thereafter.

§ 15.2-2108.7. Public hearings on feasibility study; notice.

A. If the results of the feasibility study satisfy the revenue requirements of subsection D of § 15.2-2108.6, the governing body shall, at the next regular meeting after the governing body receives the results of the feasibility study, schedule at least two public hearings to be held at least seven days apart, but both shall be held not more than 60 days from the date of the meeting at which the public hearings are scheduled. The purpose of such public hearings shall be to allow the feasibility consultant to present the results of the feasibility study, and to inform the public about the feasibility study results and offer the public the opportunity to ask questions of the feasibility consultant about the results of the feasibility study.

B. Except as provided in subsection C, the municipality shall publish notice of the public hearings required under subsection A at least once a week for three consecutive weeks in a newspaper of general circulation in the municipality*, with the first notice appearing no more than 21 days before the hearing*. The last publication of notice required under this subsection shall be at least three days before the first public hearing required under subsection A.

C. If there is no newspaper of general circulation in the municipality, for each 1,000 residents the municipality shall post at least one notice of the hearings in a conspicuous place within the municipality that is likely to give notice of the hearings to the greatest number of residents of the municipality. The municipality shall post the notices at least seven days before the first public hearing required under subsection A is held.

D. After holding the public hearings required by this section, if the governing body of the municipality elects to proceed, the municipality shall adopt by resolution the feasibility study.

§ 15.2-2204. Advertisement of plans, ordinances, etc.; joint public hearings; written notice of certain amendments.

A. Plans or ordinances, or amendments thereof, recommended or adopted under the powers conferred by this chapter need not be advertised in full, but may be advertised by reference. Every such advertisement shall ~~contain a descriptive summary of the proposed action and a reference to~~ *identify* the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.

The local planning commission shall not recommend nor the governing body adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the locality*, with the first notice appearing no more than 14 days before the intended adoption*; however, the notice for both the local planning commission and the governing body may be published concurrently. The notice shall specify the time and place of hearing at which persons affected may appear and present their views~~, not less than five days nor more than 21 days after the second advertisement appears in such newspaper~~. The local planning commission and governing body may hold a joint public hearing after public notice as set forth in this subsection. If a joint hearing is held, then public notice as set forth in this subsection need be given only by the governing body. As used in this subsection, "two successive weeks" means that such notice shall be published at least twice in such newspaper, with not less than six days elapsing between the first and second publication. In any instance in which a locality has submitted a correct and timely notice request to such newspaper and the newspaper fails to publish the notice, or publishes the notice incorrectly, such locality shall be deemed to have met the notice requirements of this subsection so long as the notice was published in the next available edition of a newspaper having general circulation in the locality. After enactment of any plan, ordinance or amendment, further publication thereof shall not be required.

B. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as required by subsection A, ~~written~~ *the advertisement shall include the street address or tax map parcel number of the parcels subject to the action. Written* notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels that lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the commission or its agent. However, when a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice required under this chapter shall be taxed to the applicant.

When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, then, in addition to the advertising as required by subsection A, ~~written~~ *the advertisement shall include the street address or tax map parcel number of the parcels as well as the approximate acreage subject to the action. Written* notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a

subdivision plat approved and recorded pursuant to the provisions of Article 6 (§ 15.2-2240 et seq.) where such lots are less than 11,500 square feet. One notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the local commission to give written notice to the owner, owners or their agent of any parcel involved.

The governing body may provide that, in the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

Whenever the notices required hereby are sent by an agency, department or division of the local governing body, or their representative, such notices may be sent by first class mail; however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this section is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

C. When a proposed comprehensive plan or amendment thereto; a proposed change in zoning map classification; or an application for special exception for a change in use or to increase by greater than 50 percent of the bulk or height of an existing or proposed building, but not including renewals of previously approved special exceptions, involves any parcel of land located within one-half mile of a boundary of an adjoining locality of the Commonwealth, then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 10 days before the hearing to the chief administrative officer, or his designee, of such adjoining locality.

D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 30 days before the hearing to the commander of the military base, military installation, military airport, or owner of such public-use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.

E. The adoption or amendment prior to July 1, 1996, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise or give notice as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to such adoption or amendment. Every action contesting a decision of a locality based on a failure to advertise or give notice as may be required by this chapter shall be filed within 30 days of such decision with the circuit court having jurisdiction of the land affected by the decision. However, any litigation pending prior to July 1, 1996, shall not be affected by the 1996 amendment to this section.

F. Notwithstanding any contrary provision of law, general or special, the City of Richmond may cause such notice to be published in any newspaper of general circulation in the city.

G. When a proposed comprehensive plan or amendment of an existing plan designates or alters previously designated corridors or routes for electric transmission lines of 150 kilovolts or more, written notice shall also be given by the local planning commission, or its representative, at least 10 days before the hearing to each electric utility with a certificated service territory that includes all or any part of such designated electric transmission corridors or routes.

H. When any applicant requesting a written order, requirement, decision, or determination from the zoning administrator, other administrative officer, or a board of zoning appeals that is subject to the appeal provisions contained in § 15.2-2311 or 15.2-2314, is not the owner or the agent of the owner of the real property subject to the written order, requirement, decision or determination, written notice shall be given to the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by the zoning administrator or other administrative officer or, at the direction of the administrator or officer, the requesting applicant shall be required to give the owner such notice and to provide satisfactory evidence to the zoning administrator or other administrative officer that the notice has been given. Written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall satisfy the notice requirements of this subsection.

This subsection shall not apply to inquiries from the governing body, planning commission, or employees of the locality made in the normal course of business.

§ 15.2-2285. Preparation and adoption of zoning ordinance and map and amendments thereto; appeal.

A. The planning commission of each locality may, and at the direction of the governing body shall, prepare a proposed zoning ordinance including a map or maps showing the division of the territory into districts and a text setting forth the regulations applying in each district. The commission shall hold at least one public hearing on a proposed ordinance or any amendment of an ordinance, after notice as required by § 15.2-2204, and may make appropriate changes in the proposed ordinance or amendment as a result of the hearing. Upon the completion of its work, the commission shall present the proposed ordinance or amendment including the district maps to the governing body together with its recommendations and appropriate explanatory materials.

B. No zoning ordinance shall be amended or reenacted unless the governing body has referred the proposed amendment or reenactment to the local planning commission for its recommendations. Failure of the commission to report 100 days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, or such shorter period as may be prescribed by the governing body, shall be deemed approval, unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period. The governing body shall hold at least one public hearing on a proposed reduction of the commission's review period. The governing body shall publish a notice of the public hearing in a newspaper having general circulation in the locality at least two weeks prior to the public hearing date and shall also publish the notice on the locality's website, if one exists. In the event of and upon such withdrawal, processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required by this subsection.

C. Before approving and adopting any zoning ordinance or amendment thereof, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by § 15.2-2204, after which the governing body may make appropriate changes or corrections in the ordinance or proposed amendment. ~~In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan.~~ However, no land may be zoned to a more intensive use classification than was contained in the ~~public notice without an additional public hearing after notice required by~~ § ~~15.2-2204.~~ *documentation made available for examination pursuant to subsection A of § 15.2-2204* without an additional public hearing after notice required by § 15.2-2204. Zoning ordinances shall be enacted in the same manner as all other ordinances.

D. Any county which has adopted an urban county executive form of government provided for under Chapter 8 (§ 15.2-800 et seq.) may provide by ordinance for use of plans, profiles, elevations, and other such demonstrative materials in the presentation of requests for amendments to the zoning ordinance.

E. The adoption or amendment prior to March 1, 1968, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise, give notice or conduct more than one public hearing as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to the adoption or amendment.

F. Every action contesting a decision of the local governing body adopting or failing to adopt a proposed zoning ordinance or amendment thereto or granting or failing to grant a special exception shall be filed within thirty days of the decision with the circuit court having jurisdiction of the land affected by the decision. However, nothing in this subsection shall be construed to create any new right to contest the action of a local governing body.

§ 15.2-2400. Creation of service districts.

Any locality may by ordinance, or any two or more localities may by concurrent ordinances, create service districts within the locality or localities in accordance with the provisions of this article. Service districts may be created to provide additional, more complete or more timely services of government than are desired in the locality or localities as a whole.

Any locality seeking to create a service district shall have a public hearing prior to the creation of the service district. Notice of such hearing shall be published once a week for three consecutive weeks in a newspaper of general circulation within the locality, ~~and the hearing shall be held no sooner than ten days after the date the second notice appears in the newspaper~~ *with the first notice appearing no more than 21 days before the hearing*.

§ 15.2-2401. Creation of service districts by court order in consolidated cities.

In any city which results from the consolidation of two or more localities, service districts may, in addition to the method prescribed in § 15.2-2400, be created by order of the circuit court for the city upon the petition of fifty voters of the proposed district, which order shall prescribe the metes and bounds of the district.

Upon the filing of a petition the court shall fix a date for a hearing on the question of the proposed service district, which hearing shall embrace a consideration of whether the property embraced within the proposed district will be benefited by the establishment thereof. Notice of such hearing shall be published once a week for three consecutive weeks in a newspaper of general circulation within the city, ~~and the hearing shall not be held sooner than ten days after the last publication~~ *with the first notice appearing no more than 21 days before the election*. Any person interested may answer the petition and make defense thereto. If upon such hearing the court is of opinion that any property embraced within the limits of such proposed district will not be benefited by the establishment thereof, then such property shall not be embraced therein.

Upon the petition of the city council and of not less than 50 voters of the territory proposed to be added, or if such territory contains less than 100 voters, of fifty percent of the voters of such territory, after notice and hearing as provided above, any service district may be extended and enlarged by order of the circuit court for the city which order shall prescribe the metes and bounds of the territory so added.

§ 15.2-2606. Public hearing before issuance of bonds.

A. Notwithstanding any contrary provision of law, general or special, but subject to subsection B of this section, before the final authorization of the issuance of any bonds by a locality, the governing body of the locality shall hold a public hearing on the proposed bond issue. Notice of the hearing shall be published once a week for two successive weeks in a newspaper published or having general circulation in the locality*, with the first notice appearing no more than 14 days before the hearing*. The notice shall (i) state the estimated maximum amount of the bonds proposed to be issued, (ii) state the proposed use of the bond proceeds, and if there is more than one use, state the proposed uses for which more than

10 percent of the total bond proceeds is expected to be used, and (iii) specify the time and place of the hearing at which persons may appear and present their views. The hearing shall not be held less than six nor more than 21 days after the date the second notice appears in the newspaper.

B. No notice or public hearing shall be required for (i) bonds which have been approved by a majority of the voters of the issuing locality voting on the issuance of such bonds or (ii) obligations issued pursuant to § 15.2-2629, 15.2-2630 or 15.2-2643.

§ 15.2-2653. Contesting issuance of bonds; notice and hearing; service on member of governing body, etc.

Any person, corporation, or association desiring to contest the issuance of any bonds pursuant to the provisions of this chapter, or any other law, general or special, shall proceed by filing a motion for judgment within thirty days after the filing of the resolution or ordinance authorizing the issuance of the bonds with the circuit court having jurisdiction over the issuer, or in contesting the validity of a petition for or the results of a referendum, within thirty days after the date that the result of the election for the issuance of the bonds is certified, in the court having jurisdiction as provided in § 15.2-2651. For bonds which are not authorized pursuant to a referendum, or for which the authorizing resolution or ordinance is not required to be filed with the circuit court, the contestant shall proceed by filing a motion for judgment within thirty days after the adoption of the authorizing resolution or ordinance. Upon the filing of a motion for judgment, the court shall fix a time and place for hearing the proceeding and shall enter an order requiring the publication of the motion for judgment or a summary of it approved by the court, together with the order setting forth the time and place of the hearing, once a week for two consecutive weeks in a newspaper published or having general circulation in the jurisdiction where the issuer is located*, with the first notice appearing no more than 14 days before the hearing*. The date fixed for the hearing shall not be sooner than ten days after the date the second publication of the motion for judgment or summary and the order appears in the newspaper. In addition to such publication, the plaintiff shall secure personal service on at least one member of the governing body of the issuer.

§ 15.2-3401. Referendum on contracting of debt by counties in voluntary settlement agreements.

Before a county, under the terms of a voluntary agreement pursuant to this chapter, contracts a debt pursuant to Article VII, Section 10 (b) of the Constitution of Virginia, the board of supervisors shall, in conformity with Article VII, Section 10 (b) of the Constitution of Virginia, petition the circuit court for the county for an order calling for a special election in the county on the question of contracting such debt.

The question on the ballot shall be as follows, provided that the circuit court in its order calling for the election may substitute alternative language necessary to specify the type of agreement or the particular debt which the county proposes to contract under an agreement:

"Shall (name of county) be authorized to contract a debt by entering into a contract for the payment (describe the debt or payment) to (name of locality to whom payments are to be made) as a part of the proposed voluntary annexation and immunity settlement agreement between the county and (name of other locality)?

[ ] Yes

[ ] No"

The clerk of the county shall cause a notice of the referendum to be published in a newspaper having general circulation in the county once a week for three consecutive weeks, the first such notice of which must be published not more than ~~sixty~~ *21* days prior to the election and shall post a copy of the notice at the door of the county courthouse.

The election shall be held and the results thereof ascertained and certified in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. If a majority of the voters of the county voting in such election approve the contracting of such debt, the county may proceed to adopt, by ordinance, the agreement.

§ 15.2-3600. Petition for incorporation of community; appointment of special court.

A petition signed by 100 voters of any community may be presented to the circuit court for the county in which such community, or the greater part thereof, is situated, requesting that the community be incorporated as a town. A plat showing the boundaries of the community shall be attached to the petition. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) of this title. The plat shall be prepared by a registered surveyor in a form suitable for recording in the clerk's office of the circuit court. A copy of the petition shall be served upon the county attorney or, if there is no county attorney, the attorney for the Commonwealth, and each member of the governing body of the county or counties wherein the area sought to be incorporated lies. The governing body at its option may become a party to the proceeding. The petition shall be accompanied by proof that:

1. The petition has been available for public inspection in the office of the clerk of the circuit court; and

2. The following have been published once a week for ~~four~~ *three* successive weeks in a newspaper having general circulation in the county*, with the first publication appearing no more than 21 days before the petition will be presented*:

a. Notice of the time and place the petition would be presented; and

b. The text of the petition in full; or

c. A descriptive summary of the petition and notice that the petition may be inspected at the circuit court clerk's office.

§ 15.2-4309. Hearing; creation of district; conditions; notice.

A. The local governing body, after receiving the report of the local planning commission and the advisory committee, shall hold a public hearing as provided by law, and after such public hearing, may by ordinance create the district or add land to an existing district as applied for, or with any modifications it deems appropriate.

B. The governing body may require, as a condition to creation of the district, that any parcel in the district shall not, without the prior approval of the governing body, be developed to any more intensive use or to certain more intensive uses, other than uses resulting in more intensive agricultural or forestal production, during the period which the parcel remains within the district. Local governing bodies shall not prohibit as a more intensive use, construction and placement of dwellings for persons who earn a substantial part of their livelihood from a farm or forestry operation on the same property, or for members of the immediate family of the owner, or divisions of parcels for such family members, unless the governing body finds that such use in the particular case would be incompatible with farming or forestry in the district. To further the purposes of this chapter and to promote agriculture and forestry and the creation of districts, the local governing body may adopt programs offering incentives to landowners to impose land use and conservation restrictions on their land within the district. Programs offering such incentives shall not be permitted unless authorized by law. Any conditions to creation of the district and the period before the review of the district shall be described, either in the application or in a notice sent by first-class mail to all landowners in the district and published in a newspaper having a general circulation within the district at least ~~two weeks~~ *seven days* prior to adoption of the ordinance creating the district. The ordinance shall state any conditions to creation of the district and shall prescribe the period before the first review of the district, which shall be no less than four years but not more than ten years from the date of its creation. In prescribing the period before the first review, the local governing body shall consider the period proposed in the application. The ordinance shall remain in effect at least until such time as the district is to be reviewed. In the event of annexation by a city or town of any land within a district, the district shall continue until the time prescribed for review.

C. The local governing body shall act to adopt or reject the application, or any modification of it, no later than 180 days from (i) November 1 or (ii) the other date selected by the locality as provided in § 15.2-4305. Upon the adoption of an ordinance creating a district or adding land to an existing district, the local governing body shall submit a copy of the ordinance with maps to the local commissioner of the revenue, and the State Forester, and the Commissioner of Agriculture and Consumer Services for information purposes. The commissioner of the revenue shall identify the parcels of land in the district in the land book and on the tax map, and the local governing body shall identify such parcels on the zoning map, where applicable and shall designate the districts on the official comprehensive plan map each time the comprehensive plan map is updated.

§ 15.2-5104. Advertisement of ordinance, agreement or resolution and notice of hearing.

The governing body of each participating locality shall cause to be advertised at least one time in a newspaper of general circulation in such locality a copy of the ordinance, agreement or resolution creating an authority, or a descriptive summary of the ordinance, agreement or resolution and a reference to the place within the locality where a copy of the ordinance, agreement or resolution can be obtained, and notice of the day, not less than ~~thirty~~ *seven* days after publication of the advertisement, on which a public hearing will be held on the ordinance, agreement or resolution.

§ 15.2-5136. Rates and charges.

A. The authority may fix and revise rates, fees and other charges (which shall include, but not be limited to, a penalty not to exceed 10 percent on delinquent accounts, and interest on the principal), subject to the provisions of this section, for the use of and for the services furnished or to be furnished by any system, or streetlight system in King George County, or refuse collection and disposal system or facilities incident thereto, owned, operated or maintained by the authority, or facilities incident thereto, for which the authority has issued revenue bonds as authorized by this chapter. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times (i) to pay the cost of maintaining, repairing and operating the system or systems, or facilities incident thereto, for which such bonds were issued, including reserves for such purposes and for replacement and depreciation and necessary extensions, (ii) to pay the principal of and the interest on the revenue bonds as they become due and reserves therefor, and (iii) to provide a margin of safety for making such payments. The authority shall charge and collect the rates, fees and charges so fixed or revised.

B. The rates for water (including fire protection) and sewer service (including disposal) shall be sufficient to cover the expenses necessary or properly attributable to furnishing the class of services for which the charges are made. However, the authority may fix rates and charges for the services and facilities of its water system sufficient to pay all or any part of the cost of operating and maintaining its sewer system (including disposal) and all or any part of the principal of or the interest on the revenue bonds issued for such sewer or sewage disposal system, and may pledge any surplus revenues of its water system, subject to prior pledges thereof, for such purposes.

C. Rates, fees and charges for the services of a sewer or sewage disposal system shall be just and equitable, and may be based upon:

1. The quantity of water used or the number and size of sewer connections;

2. The number and kind of plumbing fixtures in use in the premises connected with the sewer or sewage disposal system;

3. The number or average number of persons residing or working in or otherwise connected with such premises or the type or character of such premises;

4. Any other factor affecting the use of the facilities furnished; or

5. Any combination of the foregoing factors.

However, the authority may fix rates and charges for services of its sewer or sewage disposal system sufficient to pay all or any part of the cost of operating and maintaining its water system, including distribution and disposal, and all or any

part of the principal of or the interest on the revenue bonds issued for such water system, and to pledge any surplus revenues of its water system, subject to prior pledges thereof, for such purposes.

D. Water and sewer rates, fees and charges established by any authority shall be fair and reasonable. An authority may charge fair and reasonable rates, fees, and charges to create reserves for expansion of its water and sewer or sewage disposal systems. Such rates, fees, and charges shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. However, any authority may charge and collect rates, fees, and charges to create a reserve fund for reasonable expansion of its water, sewer, or sewage disposal system. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

E. Rates, fees and charges for the service of a streetlight system shall be just and equitable, and may be based upon:

1. The portion of such system used;

2. The number and size of premises benefiting therefrom;

3. The number or average number of persons residing or working in or otherwise connected with such premises;

4. The type or character of such premises;

5. Any other factor affecting the use of the facilities furnished; or

6. Any combination of the foregoing factors.

However, the authority may fix rates and charges for the service of its streetlight system sufficient to pay all or any part of the cost of operating and maintaining such system.

F. The authority may also fix rates and charges for the services and facilities of a water system or a refuse collection and disposal system sufficient to pay all or any part of the cost of operating and maintaining facilities incident thereto for the generation or transmission of power and all or any part of the principal of or interest upon the revenue bonds issued for any such facilities incident thereto, and to pledge any surplus revenues from any such system, subject to prior pledges thereof, for such purposes. Charges for services to premises, including services to manufacturing and industrial plants, obtaining all or a part of their water supply from sources other than a public water system may be determined by gauging or metering or in any other manner approved by the authority.

G. No rates, fees or charges shall be fixed under subsections A through F of this section or under subdivision 10 of § 15.2-5114 until after a public hearing at which all of the users of the systems or facilities; the owners, tenants or occupants of property served or to be served thereby; and all others interested have had an opportunity to be heard concerning the proposed rates, fees and charges. After the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of a public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, shall be ~~given by two publications, at least six days apart,~~ *published once a week for two successive weeks* in a newspaper having a general circulation in the area to be served by such systems or facilities, with the ~~second notice being published at least 14 days before the date fixed in such notice for the hearing~~ *first notice appearing no more than 14 days before the hearing*. The hearing may be adjourned from time to time. A copy of the notice shall be mailed to the governing bodies of all localities in which such systems or facilities or any part thereof is located. After the hearing the preliminary schedule or schedules, either as originally adopted or as amended, shall be adopted and put into effect.

H. A copy of the schedule or schedules of the final rates, fees and charges fixed in accordance with subsection G shall be kept on file in the office of the clerk or secretary of the governing body of each locality in which such systems or any part thereof is located, and shall be open to inspection by all interested parties. The rates, fees or charges so fixed for any class of users or property served shall be extended to cover any additional properties thereafter served which fall within the same class, without the necessity of a hearing or notice. Any increase in any rates, fees or charges under this section shall be made in the manner provided in subsection G. Any other change or revision of the rates, fees or charges may be made in the same manner as the rates, fees or charges were originally established as provided in subsection G.

I. No rates, fees or charges established, fixed, changed or revised before January 1, 2013, by any authority pursuant to this section or to subdivision 10 of § 15.2-5114 shall be invalidated because of any defect in or failure to publish or provide any notice required under this section or any predecessor provision.

§ 15.2-5156. Hearing; notice.

A. An ordinance or resolution creating a community development authority shall not be adopted or approved until a public hearing has been held by the governing body on the question of its adoption or approval. Notice of the public hearing shall be published once a week for three successive weeks in a newspaper of general circulation within the locality*, with the first notice appearing no more than 21 days before the hearing*. The petitioning landowners shall bear the expense of publishing the notice. The hearing shall not be held sooner than ten days after completion of publication of the notice.

B. After the public hearing and before adoption of the ordinance or resolution, the local governing body shall mail a true copy of its proposed ordinance or resolution creating the development authority to the petitioning landowners or their attorney in fact. Unless waived in writing, any petitioning landowner shall have thirty days from mailing of the proposed ordinance or resolution in which to withdraw his signature from the petition in writing prior to the vote of the local governing body on such ordinance or resolution. If any signatures on the petition are so withdrawn, the local governing body may pass the proposed ordinance or resolution only upon certification by the petitioners that the petition continues to meet the requirements of § 15.2-5152. If all petitioning landowners waive the right to withdraw their signatures from the petition, the local governing body may adopt the ordinance or resolution upon compliance with the provisions of subsection A and any other applicable provisions of law.

§ 15.2-5431.25. Rates and charges.

A. The authority may fix and revise rates, fees and other charges (which shall include, but not be limited to, a penalty not to exceed 10 percent on delinquent accounts, and interest on the principal), subject to the provisions of this section, for the use of a project or any portion thereof and for the services furnished or to be furnished by the authority, or facilities incident thereto, owned, operated or maintained by the authority, or facilities incident thereto, for which the authority has issued revenue bonds as authorized by this chapter or received loan funding from other sources. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times (i) to pay the cost of maintaining, repairing and operating the project or systems, or facilities incident thereto, for which such bonds were issued or loans obtained, including reserves for such purposes and for replacement and depreciation and necessary extensions, (ii) to pay the principal of and the interest on the revenue bonds as they become due and reserves therefor, or other loan principal and interest, and (iii) to provide a margin of safety for making such payments. The authority shall charge and collect the rates, fees and charges so fixed or revised. The authority shall maintain records demonstrating compliance with the requirements of this section concerning the fixing and revision of rates, fees, and charges that shall be made available for inspection and copying by the public pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. No rates, fees or charges shall be fixed under subsection A until after a public hearing at which all of the users of such facilities; the owners, tenants or occupants of property served or to be served thereby; and all others interested have had an opportunity to be heard concerning the proposed rates, fees and charges. After the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of a public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, ~~shall be given by two publications, at least six days apart,~~ *shall be published once a week for two successive weeks* in a newspaper having a general circulation in the area to be served by such systems ~~at least 60 days before the date fixed in such notice for~~*, with the first notice appearing no more than 14 days before* the hearing. The hearing may be adjourned from time to time. A copy of the notice shall be mailed to the governing bodies of all localities in which such systems or any part thereof is located. After the hearing the preliminary schedule or schedules, either as originally adopted or as amended, shall be adopted and put into effect.

C. A copy of the schedule or schedules of the final rates, fees and charges fixed in accordance with subsection B shall be kept on file in the office of the clerk or secretary of the governing body of the locality, and shall be open to inspection by all interested parties. The rates, fees or charges so fixed for any class of users or property served shall be extended to cover any additional properties thereafter served which fall within the same class, without the necessity of a hearing or notice. Any increase in any rates, fees or charges under this section shall be made in the manner provided in subsection B. Any other change or revision of the rates, fees or charges may be made in the same manner as the rates, fees or charges were originally established as provided in subsection B.

D. Connection fees established by any authority shall be fair and reasonable. Such fees shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

§ 15.2-5602. Creation of authorities.

A. A locality may by ordinance or resolution, or two or more localities, may by concurrent ordinances or resolutions, signify their intention to create an authority under an appropriate name and title containing the word "authority." Each participating locality shall hold a public hearing, notice of which shall be given by publication at least once, not less than ~~ten~~ *seven* days prior to the date fixed for the hearing, in a newspaper having general circulation in the locality. The notice shall contain a brief statement of the substance of the proposed authority, shall set forth the proposed articles of incorporation of the authority and shall state the time and place of the public hearing. The locality, by resolution, may call for a referendum on the question of the creation of an authority, which shall be held as provided by § 24.2-681 et seq. When a referendum is to be held in more than one locality, the referendum shall be held on the same date in all of such localities.

B. The articles of incorporation shall set forth:

1. The name of the authority and address of its principal office.
2. A statement that the authority is created under this chapter.
3. The name of each participating locality.
4. The names, addresses and terms of office of the first members of the authority.
5. The purpose or purposes for which the authority is to be created.

C. Passage of such ordinance or resolution by the governing body or governing bodies shall constitute the authority a body politic and corporate of the Commonwealth.

D. Any locality may become a member of an existing authority, and any locality which is a member of an existing authority may withdraw therefrom, but no locality shall be permitted to withdraw from any authority that has outstanding obligations unless United States securities have been deposited for their payment or without the unanimous consent of all holders of the outstanding obligations.

E. Having specified the initial purpose or purposes of the authority in the articles of incorporation, the governing bodies of the participating localities may, from time to time by subsequent ordinance or resolution, after public hearing, modify the articles of incorporation and the purpose or purposes specified therein. Such modification may be made either with or without a referendum.

§ 15.2-5702. Creation of authorities.

A. A locality may by ordinance or resolution, or two or more localities may by concurrent ordinances or resolutions, signify their intention to create a park authority, under an appropriate name and title, containing the word "authority" which shall be a body politic and corporate.

Whenever an authority has been incorporated by two or more localities, any one or more of the localities may withdraw therefrom, but no locality shall be permitted to withdraw from any authority that has outstanding obligations unless United States securities have been deposited for their payment or without unanimous consent of all holders of the outstanding obligations.

Other localities may join the authority as provided in the ordinances or resolutions.

B. Each ordinance or resolution shall include articles of incorporation setting forth:

1. The name of the authority and the address of its principal office.

2. The name of each incorporating locality, together with the names, addresses and terms of office of the first members of the board of the authority.

3. The purpose or purposes for which the authority is created.

C. Each participating locality shall cause to be published at least one time in a newspaper of general circulation in its locality, a copy of the ordinance or resolution together with a notice stating that on a day certain, not less than ~~ten~~ *seven* days after publication of the notice, a public hearing will be held on such ordinance or resolution. If at the hearing substantial opposition to the proposed park authority is heard, the members of the participating localities' governing bodies may in their discretion call for a referendum on the question of establishing such an authority. The request for a referendum shall be initiated by resolution of the governing body and filed with the clerk of the circuit court for the locality. The court shall order the referendum as provided for in § 24.2-681 et seq. Where two or more localities are participating in the formation of an authority the referendum, if any be ordered, shall be held on the same date in all such localities so participating. In any event if ten percent of the registered voters in such locality file a petition with the governing body at the hearing calling for a referendum such governing body shall request a referendum as herein provided.

D. Having specified the initial plan of organization of the authority, and having initiated the program, the localities organizing such authority may, from time to time, by subsequent ordinance or resolution, after public hearing, and with or without referendum, specify further parks to be acquired and maintained by the authority, and no other parks shall be acquired or maintained by the authority than those so specified. However, if the governing bodies of the localities fail to specify any project or projects to be undertaken, and if the governing bodies do not disapprove any project or projects proposed by the authority, then the authority shall be deemed to have all the powers granted by this chapter.

§ 15.2-5711. Conveyance or lease of park to authority; contract for park services; when referendum required before certain contracts made.

Each locality and other public body is hereby authorized and empowered:

1. To convey or lease to any authority created hereunder, with or without consideration, any park upon such terms and conditions as the governing body thereof shall determine to be for the best interests of such locality or other public body; and

2. To contract with any authority created hereunder for park services; provided, that no locality shall enter into any contract with an authority involving payments by such locality to such authority for park services which requires the locality to incur an indebtedness extending beyond one fiscal year, unless the question of entering into such contract shall first be submitted to the voters of the locality for approval or rejection by a majority vote. Nothing herein shall prevent any locality from making a voluntary contribution to any authority.

In the event that a locality shall desire to contract with an authority under this subdivision, such governing body shall adopt a resolution stating in brief and general terms the substance of the proposed contract for park services and requesting the circuit court for the locality to order an election upon the question of entering into such contract. A copy of such resolution, certified by the clerk of the governing body, shall be filed with the judge of the circuit court who shall thereupon enter an order in accordance with § 24.2-681 et seq. Notice of such election entered and paid for by the locality shall be published at least once in a newspaper of general circulation in the locality at least ~~ten~~ *seven* days before the election.

The question to be submitted to the voters for determination shall include the names of the locality and the authority between whom the contract is proposed and the nature, duration and cost of such contract.

§ 15.2-5806. Public hearings; notice; reports.

A. At least sixty days prior to selecting a site for a major league or minor league baseball stadium, the Authority shall hold a public hearing within thirty miles of the site proposed to be acquired for the purpose of soliciting public comment.

B. Except as otherwise provided herein, at least ~~sixty~~ *seven* days prior to the public hearing required by this section, the Authority shall notify the local governing body in which the major league or minor league baseball stadium is proposed to be located and advertise the notice in a newspaper of general circulation in that locality. The notice shall include: (i) a description of the site proposed to be acquired, (ii) the intended use of the site, and (iii) the date, time, and location of the public hearing. After receipt of the notice required by this section, the local governing body in which a major league or minor league baseball stadium is proposed to be located may require that this period be extended for up to sixty additional days or for such other time period as agreed upon by the local governing body and the Authority.

C. At least thirty days before acquiring or entering into a lease involving a major league or minor league baseball stadium and before entering into a construction contract involving a major league or minor league baseball stadium or stadium site, the Authority shall submit a detailed written report and the findings of the Authority that justify the proposed

acquisition, lease, or contract to the General Assembly. The report and findings shall include a detailed plan of the method of funding and the economic necessity of the proposed acquisition, lease, or contract.

D. The time periods in subsections A, B, and C of this section may not run concurrently.

E. The Commonwealth shall not enter into any purchase agreement, lease agreement, lease-purchase agreement, master lease agreement or any other contractual arrangement that creates a direct or contingent financial obligation of the Commonwealth unless such agreement or arrangement has first been submitted to the State Treasurer sufficiently prior to the execution of such agreement or arrangement to allow the State Treasurer to undertake a review for the purposes of determining (i) whether the agreement or arrangement may constitute tax-supported debt of the Commonwealth and (ii) the potential impact of the agreement or arrangement on the debt capacity and credit ratings of the Commonwealth. If after such review the State Treasurer determines that the agreement or arrangement may constitute tax-supported debt of the Commonwealth, or may have an adverse impact on the debt capacity or the credit ratings of the Commonwealth, the agreement or arrangement and any associated financing shall be submitted to the Treasury Board for review and approval of terms and structures in a manner consistent with § 2.2-2416.

F. The Commonwealth shall not enter into any purchase agreement, lease agreement, lease-purchase agreement, master lease agreement or any other contractual arrangement that creates a direct or contingent financial obligation of the Commonwealth unless such agreement or arrangement has first been reviewed and approved as required by subsection E and subsequently approved in writing by the Governor.

§ 15.2-7502. Public hearing required prior to creation or designation of a land bank entity.

The governing body of a locality shall not adopt an ordinance creating a land bank entity pursuant to § 15.2-7501 or designating a planning district commission or an existing nonprofit entity pursuant to § 15.2-7512 until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the locality*, with the first publication appearing no more than 14 days before the hearing*. The notice shall specify the time and place of a hearing at which affected or interested persons may appear and present their views~~, not less than five days nor more than 21 days after the second advertisement appears in such newspaper~~. After the public hearing has been conducted pursuant to this section, the governing body shall be empowered to create a land bank entity or designate a planning district commission or an existing nonprofit entity.

§ 21-114. Hearing and notice thereof.

Upon the filing of the petition, the governing body of a county shall fix a day for a hearing on the question of the proposed sanitary district, which hearing shall embrace a finding of fact of whether creation of the proposed district or enlargement of the existing district is necessary, practical, fiscally responsible, and supported by at least 50 percent of persons who own real property in (i) the proposed district or (ii) in cases of enlargement, the area proposed to be included in an existing district. All interested persons who reside in or who own real property in (a) a proposed district or (b) an existing district in cases of enlargement shall have the right to appear and show cause why the property under consideration should or should not be included in the proposed district or enlargement of same at such hearing. Such hearing shall be subject to minimum standards regarding timeliness; notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of general circulation within the county to be designated by the governing body~~. At least 10 days shall intervene between the completion of the publication and the date set for the hearing, and such publication shall be considered complete on the twenty-first day after the first publication, and no~~*, with the first publication appearing no more than 21 days before the hearing. No* such district shall be created until the notice has been given and the hearing had.

§ 21-117.1. Abolishing sanitary districts.

Any sanitary district heretofore or hereafter created in any county under the provisions of the preceding sections of this article may be abolished by ordinance adopted by the governing body of such county, upon the petition of no less than 50 qualified voters residing within the boundaries of the district desired to be abolished or, if the district contains less than 100 qualified voters, upon petition of 50 percent of the qualified voters residing within the boundaries of such district.

Upon filing of the petition, the governing body of the county shall fix a day for a hearing on the question of abolishing the sanitary district, which hearing shall embrace a consideration of whether the property in the sanitary district will or will not be benefited by the abolition thereof, and the governing body of the county shall be fully informed as to the obligations and functions of the sanitary district. Notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of general circulation within the county to be designated by the governing body of the county~~. At least 10 days shall intervene between the completion of the publication and the date set for hearing, and such publication shall be considered complete on the twenty-first day after the first publication, and no~~*, with the first publication appearing no more than 21 days before the hearing. No* such district shall be abolished until the notice has been given and the hearing had.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 21-146. Notice of hearing on petition for creation.

Upon the presentation of a petition complying with the requirements of this article, praying for the creation of a sanitation district, fixing the boundaries thereof and naming the counties, cities and towns which in whole or in part are to be embraced therein, the circuit court of any such county, or of any county in which any such town is situated, or the corporation court of any such city shall make an order filing such petition and fixing a day for a hearing by such court on such petition and the question of the creation of the proposed sanitation district. Such order shall direct notice of such hearing to be given by publication once a week for at least three consecutive weeks ~~beginning at least twenty-eight days prior to the day of such hearing~~ in some newspaper or newspapers~~, named in such order,~~ having general circulation in the

proposed sanitation district*, with the first publication appearing no more than 21 days before the hearing*. Such notice shall set forth the petition as filed, but need not set forth the signatures or exhibits thereto, and shall state the time and place of hearing and that at such hearing all persons desiring to controvert the allegations of such petition or question the conformity thereof to this article will be heard and all objections to the creation of the proposed sanitation district considered.

§ 21-229. Notice of hearing on petition for creation.

Upon the presentation of a petition complying with the requirements of this article, praying for the creation of a sanitation district, fixing the boundaries thereof and naming the counties, cities and towns which in whole or in part are to be embraced therein, the circuit court of any such county, or of any county in which any such town is situated, or the corporation court of any such city shall make an order filing such petition and fixing a day for a hearing by such court on such petition and the question of the creation of the proposed sanitation district. Such order shall direct notice of such hearing to be given by publication once a week for at least three consecutive weeks ~~beginning at least twenty-eight days prior to the day of such hearing~~ in some newspaper or newspapers~~, named in such order,~~ having general circulation in the proposed sanitation district*, with the first publication appearing no more than 21 days before the hearing*. Such notice shall set forth the petition as filed, but need not set forth the signatures or exhibits thereto, and shall state the time and place of hearing and that at such hearing all persons desiring to controvert the allegations of such petition or question the conformity thereof to this article will be heard and all objections to the creation of the proposed sanitation district considered.

§ 21-377. Notice of sale of delinquent land.

If any assessment is delinquent for more than a year, the treasurer of the county within which the land assessed lies shall, after the expiration of such year, proceed to sell the land by having notice of such intended sale served on the record owner of the land, if he is a resident of this Commonwealth and his whereabouts herein is known, as process is served in actions at law, by publishing the notice of such sale in a newspaper published or having general circulation in his county, and by posting the notice at the courthouse door; such service, publication and posting shall be not less than ~~thirty~~ *seven* days in advance of the date set for the sale. Such publication and posting shall be sufficient notice of the sale to all parties in interest except the owner resident in this Commonwealth. Such notice with the return thereon, if it is served, and the certificate of the treasurer setting forth the date and medium of publication shall be filed by the treasurer in his office.

§ 21-393. Notice of issuance of bonds.

The board of viewers of the county in which the petition was filed shall give notice by publication once a week for three successive weeks in some newspaper published in the county in which the project, or some part thereof, is situated, if there be any such newspaper, *with the first publication appearing no more than 21 days before the hearing,* and also by posting a written or printed notice at the door of the courthouse and at five conspicuous places in the project, reciting that they propose to issue drainage bonds for the total cost of the improvement, giving the amount of the bonds to be issued, the rate of interest that they are to bear, and the time when payable.

§ 21-420. How additional assessments made.

If additional or new assessments are so levied, such assessments shall be made on the same basis as the original assessments, and shall be levied only after all persons interested shall have been given full hearing by the board of viewers on the question of benefits and any other question on which they shall desire to be heard. Notice of such hearing shall be given by publication once a week for two consecutive weeks in a newspaper of general circulation published in a county in which such project is located in whole or in part, ~~and the~~ *with the first publication appearing no more than 14 days before the hearing. The* determination of the board of viewers shall be final.

§ 22.1-29.1. Public hearing before appointment of school board members.

At least seven days prior to the appointment of any school board member pursuant to the provisions of this chapter, of §§ 15.2-410, 15.2-531, 15.2-627 or § 15.2-837, or of any municipal charter, the appointing authority shall hold one or more public hearings to receive the views of citizens within the school division. The appointing authority shall cause public notice to be given at least ~~ten~~ *seven* days prior to any hearing by publication in a newspaper having a general circulation within the school division. No nominee or applicant whose name has not been considered at a public hearing shall be appointed as a school board member.

§ 22.1-37. Notice by commission of meeting for appointment.

Before any appointment is made by the school board selection commission, it shall give notice, by publication once a week for ~~four~~ *three* successive weeks in a newspaper having general circulation in such county, *with the first publication appearing no more than 21 days before the hearing,* of the time and place of any meeting for the purpose of appointing the members of the county school board. Such notice shall be given whether the appointment is of a member or members of the county school board for the full term of office as provided by law or of a member to fill a vacancy occurring in the membership of the county school board or of a member from a new school district.

§ 22.1-79. Powers and duties.

A school board shall:

1. See that the school laws are properly explained, enforced and observed;

2. Secure, by visitation or otherwise, as full information as possible about the conduct of the public schools in the school division and take care that they are conducted according to law and with the utmost efficiency;

3. Care for, manage and control the property of the school division and provide for the erecting, furnishing, equipping, and noninstructional operating of necessary school buildings and appurtenances and the maintenance thereof by purchase, lease, or other contracts;

4. Provide for the consolidation of schools or redistricting of school boundaries or adopt pupil assignment plans whenever such procedure will contribute to the efficiency of the school division;

5. Insofar as not inconsistent with state statutes and regulations of the Board of Education, operate and maintain the public schools in the school division and determine the length of the school term, the studies to be pursued, the methods of teaching and the government to be employed in the schools;

6. In instances in which no grievance procedure has been adopted prior to January 1, 1991, establish and administer by July 1, 1992, a grievance procedure for all school board employees, except the division superintendent and those employees covered under the provisions of Article 2 (§ 22.1-293 et seq.) and Article 3 (§ 22.1-306 et seq.) of Chapter 15 of this title, who have completed such probationary period as may be required by the school board, not to exceed 18 months. The grievance procedure shall afford a timely and fair method of the resolution of disputes arising between the school board and such employees regarding dismissal or other disciplinary actions, excluding suspensions, and shall be consistent with the provisions of the Board of Education's procedures for adjusting grievances. Except in the case of dismissal, suspension, or other disciplinary action, the grievance procedure prescribed by the Board of Education pursuant to § 22.1-308 shall apply to all full-time employees of a school board, except supervisory employees;

7. Perform such other duties as shall be prescribed by the Board of Education or as are imposed by law;

8. Obtain public comment through a public hearing not less than ~~10~~ *seven* days after reasonable notice to the public in a newspaper of general circulation in the school division prior to providing (i) for the consolidation of schools; (ii) the transfer from the public school system of the administration of all instructional services for any public school classroom or all noninstructional services in the school division pursuant to a contract with any private entity or organization; or (iii) in school divisions having 15,000 pupils or more in average daily membership, for redistricting of school boundaries or adopting any pupil assignment plan affecting the assignment of 15 percent or more of the pupils in average daily membership in the affected school. Such public hearing may be held at the same time and place as the meeting of the school board at which the proposed action is taken if the public hearing is held before the action is taken. If a public hearing has been held prior to the effective date of this provision on a proposed consolidation, redistricting or pupil assignment plan which is to be implemented after the effective date of this provision, an additional public hearing shall not be required;

9. (Expires July 1, 2025) At least annually, survey the school division to identify critical shortages of (i) teachers and administrative personnel by subject matter and (ii) school bus drivers and report such critical shortages to the Superintendent of Public Instruction and to the Virginia Retirement System; however, the school board may request the division superintendent to conduct such survey and submit such report to the school board, the Superintendent, and the Virginia Retirement System; and

10. Ensure that the public schools within the school division are registered with the Department of State Police to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within that school division pursuant to § 9.1-914.

§ 22.1-92. Estimate of moneys needed for public schools; notice of costs to be distributed.

A. It shall be the duty of each division superintendent to prepare, with the approval of the school board, and submit to the governing body or bodies appropriating funds for the school division, by the date specified in § 15.2-2503, the estimate of the amount of money deemed to be needed during the next fiscal year for the support of the public schools of the school division. The estimate shall set up the amount of money deemed to be needed for each major classification prescribed by the Board of Education and such other headings or items as may be necessary.

Upon preparing the estimate of the amount of money deemed to be needed during the next fiscal year for the support of the public schools of the school division, each division superintendent shall also prepare and distribute, within a reasonable time as prescribed by the Board of Education, notification of the estimated average per pupil cost for public education in the school division for the coming school year in accordance with the budget estimates provided to the local governing body or bodies. Such notification shall also include actual per pupil state and local education expenditures for the previous school year. The notice may also include federal funds expended for public education in the school division.

The notice shall be made available in a form provided by the Department of Education and shall be published on the school division's website or in hard copy upon request. To promote uniformity and allow for comparisons, the Department of Education shall develop a form for this notice and distribute such form to the school divisions for publication.

B. Before any school board gives final approval to its budget for submission to the governing body, the school board shall hold at least one public hearing to receive the views of citizens within the school division. A school board shall cause public notice to be given at least ~~10~~ *seven* days prior to any hearing by publication in a newspaper having a general circulation within the school division. The passage of the budget by the local government shall be conclusive evidence of compliance with the requirements of this section.

§ 33.2-331. Annual meeting with county officers; six-year plan for secondary state highways; certain reimbursements required.

For purposes of this section, "cancellation" means complete elimination of a highway construction or improvement project from the six-year plan.

The governing body of each county in the secondary state highway system may, jointly with the representatives of the Department as designated by the Commissioner of Highways, prepare a six-year plan for the improvements to the secondary state highway system in that county. Each such six-year plan shall be based upon the best estimate of funds to be available

to the county for expenditure in the six-year period on the secondary state highway system. Each such plan shall list the proposed improvements, together with an estimated cost of each project so listed. Following the preparation of the plan in any year in which a proposed new funding allocation is greater than $100,000, the board of supervisors or other local governing body shall conduct a public hearing after publishing notice in a newspaper published in or having general circulation in the county once a week for two successive weeks*, with the first publication appearing no more than 14 days before the hearing,* and posting notice of the proposed hearing at the front door of the courthouse of such county 10 days before the meeting. At the public hearings, which shall be conducted jointly by the board of supervisors and the representative of the Department, the entire six-year plan shall be discussed with the citizens of the county and their views considered. Following the discussion, the local governing body, together with the representative of the Department, shall finalize and officially adopt the six-year plan, which shall then be considered the official plan of the county.

At least once in each calendar year in which a proposed new funding allocation is greater than $100,000, representatives of the Department in charge of the secondary state highway system in each county, or some representative of the Department designated by the Commissioner of Highways, shall meet with the governing body of each county in a regular or special meeting of the local governing body for the purpose of preparing a budget for the expenditure of improvement funds for the next fiscal year. The representative of the Department shall furnish the local governing body with an updated estimate of funds, and the board and the representative of the Department shall jointly prepare the list of projects to be carried out in that fiscal year taken from the six-year plan by order of priority and following generally the policies of the Board in regard to the statewide improvements to the secondary state highway system. In any year in which a proposed new funding allocation is greater than $100,000, such list of priorities shall then be presented at a public hearing duly advertised in accordance with the procedure outlined in this section, and comments of citizens shall be obtained and considered. Following this public hearing, the board, with the concurrence of the representative of the Department, shall adopt, as official, a priority program for the ensuing year, and the Department shall include such listed projects in its secondary highways budget for the county for that year.

At least once every two years following the adoption of the original six-year plan, the governing body of each county, together with the representative of the Department, may update the six-year plan of the county by adding to it and extending it as necessary so as to maintain it as a plan encompassing six years. Whenever additional funds for secondary highway purposes become available, the local governing body may request a revision in its six-year plan in order that such plan be amended to provide for the expenditure of the additional funds. Such additions and extensions to each six-year plan shall be prepared in the same manner and following the same procedures as outlined herein for its initial preparation. Where the local governing body and the representative of the Department fail to agree upon a priority program, the local governing body may appeal to the Commissioner of Highways. The Commissioner of Highways shall consider all proposed priorities and render a decision establishing a priority program based upon a consideration by the Commissioner of Highways of the welfare and safety of county citizens. Such decision shall be binding.

Nothing in this section shall preclude a local governing body, with the concurrence of the representative of the Department, from combining the public hearing that may be required pursuant to this section for revision of a six-year plan with the public hearing that may be required pursuant to this section for review of the list of priorities, provided that notice of such combined hearing is published in accordance with procedures provided in this section.

All such six-year plans shall consider all existing highways in the secondary state highway system, including those in the towns located in the county that are maintained as a part of the secondary state highway system, and shall be made a public document.

If any county cancels any highway construction or improvement project included in its six-year plan after the location and design for the project has been approved, such county shall reimburse the Department the net amount of all funds expended by the Department for planning, engineering, right-of-way acquisition, demolition, relocation, and construction between the date on which project development was initiated and the date of cancellation. To the extent that funds from secondary highway allocations have been expended to pay for a highway construction or improvement project, all revenues generated from a reimbursement by the county shall be deposited into that same county's secondary highway allocation. The Commissioner of Highways may waive all or any portion of such reimbursement at his discretion.

The provisions of this section shall not apply in instances where less than 100 percent of the right-of-way is available for donation for unpaved highway improvements.

§ 33.2-723. Assumption of district highway indebtedness by counties.

A. Any county may assume the payment of and pay any outstanding indebtedness of any magisterial district or districts thereof incurred for the purpose of constructing public highways that were subsequently taken over by the Commonwealth, provided the assumption thereof is approved by a majority of the qualified voters of the county voting on the question at an election to be held as provided in this section.

B. The governing body of the county may, by a resolution entered of record in its minute book, require the judges of election to open a poll at the next regular election and take the sense of the qualified voters of the county upon the question whether or not the county shall assume the highway indebtedness of _____ district, or _____ districts. The local governing body shall cause notice of such election to be given by the posting of written notice thereof at the front door of the county courthouse at least 30 days prior to the date the same is to be held and by publication thereof once a week for two successive weeks in a newspaper published or having general circulation in the county, ~~which~~ *with the first publication*

appearing no more than 14 days before the election. Such notice shall set forth the date of such election and the question to be voted on.

C. The ballots for use in voting upon the question so submitted shall be prepared, printed, distributed, voted, and counted and the returns made and canvassed in accordance with the provisions of § 24.2-684. The results shall be certified by the commissioners of election to the county clerk, who shall certify the same to the governing body of the county, and such returns shall be entered of record in the minute book of the local governing body.

D. If a majority of the voters voting on the question vote in favor of the assumption by the county of the highway indebtedness of any district of the county, such indebtedness shall become and be an obligation of the county and as binding thereon as if the same had been originally contracted by the county. In such event the governing body of the county is authorized to levy and collect taxes throughout the county for the payment of the district indebtedness so assumed, both as to principal and interest.

E. Nothing contained in this section shall affect the validity of such district highway obligations in the event that the result of such election is against the assumption thereof by the county, but they shall continue to be as valid and binding in all respects as they were in their inception.

§ 33.2-909. Abandonment of highway, landing, or railroad crossing; procedure.

A. The governing body of any county on its own motion or upon petition of any interested landowner may cause any section of the secondary state highway system, or any crossing by the highway of the lines of a railroad company or crossing by the lines of a railroad company of the highway, deemed by it to be no longer necessary for the uses of the secondary state highway system to be abandoned altogether as a public highway, a public landing, or a public railroad crossing by complying substantially with the procedure provided in this section.

B. The governing body of the county shall give notice of its intention to abandon any such highway, landing, or railroad crossing (i) by posting a notice of such intention at least three days before the first day of a regular term of the circuit court at the front door of the courthouse of the county in which the section of the highway, landing, or railroad crossing sought to be abandoned as a public highway, public landing, or public railroad crossing is located or (ii) by posting notice in at least three places on and along the highway, landing, or railroad crossing sought to be abandoned for at least 30 days and in either case by publishing notice of its intention in two or more issues of a newspaper having general circulation in the county. In addition, the governing body of the county shall give notice of its intention to abandon such highway, landing, or railroad crossing to the Board or the Commissioner of Highways. In any case in which the highway, landing, or railroad crossing proposed to be abandoned lies in two or more counties, the governing bodies of such counties shall not abandon such highway, landing, or railroad crossing unless and until all affected governing bodies agree. The procedure in such cases shall conform mutatis mutandis to the procedure prescribed for the abandonment of a highway, landing, or railroad crossing located entirely within a county.

When the governing body of a county gives notice of intention to abandon a public landing, the governing body shall also give such notice to the Department of Wildlife Resources.

C. If one or more landowners in the county whose property abuts the highway, landing, or railroad crossing proposed to be abandoned, or if only a section of a highway, landing, or railroad crossing is proposed to be abandoned, whose property abuts such section, or the Board or the Department of Wildlife Resources, in the case of a public landing, files a petition with the governing body of the county within 30 days after notice is posted and published as provided in this section, the governing body of the county shall hold a public hearing on the proposed abandonment and shall give notice of the time and place of the hearing by publishing such information ~~in at least two issues~~ *once a week for two successive weeks* in a newspaper having general circulation in the county ~~and~~*, with the first publication appearing no more than 14 days before the hearing. The governing body* shall also give notice to the Board or, if a public landing is sought to be abandoned, to the Department of Wildlife Resources.

D. If a petition for a public hearing is not filed as provided in this section, or if after a public hearing is held the governing body of the county is satisfied that no public necessity exists for the continuance of the section of the secondary highway as a public highway or the railroad crossing as a public railroad crossing or the landing as a public landing or that the safety and welfare of the public would be served best by abandoning the section of highway, the landing, or the railroad crossing as a public highway, public landing, or public railroad crossing, the governing body of the county shall (i) within four months of the 30-day period during which notice was posted where no petition for a public hearing was filed or (ii) within four months after the public hearing adopt an ordinance or resolution abandoning the section of highway as a public highway, or the landing as a public landing, or the railroad crossing as a public railroad crossing, and with that ordinance or resolution the section of highway shall cease to be a public highway, a public landing, or a public railroad crossing. If the governing body is not so satisfied, it shall dismiss the application within the applicable four months provided in this subsection.

E. A finding by the governing body of a county that a section of the secondary state highway system is no longer necessary for the uses of the secondary state highway system may be made if the following conditions exist:

1. The highway is located within a residence district as defined in § 46.2-100;

2. The residence district is located within a county having a density of population exceeding 1,000 per square mile;

3. Continued operation of the section of highway in question constitutes a threat to the public safety and welfare; and

4. Alternate routes for use after abandonment of the highway are readily available.

F. In considering the abandonment of any section of highway under the provisions of this section, due consideration shall be given to the historic value, if any, of such highway.

G. Any ordinance or resolution of abandonment issued in compliance with this section shall give rise in subsequent proceedings, if any, to a presumption of adequate justification for the abandonment.

H. No public landing shall be abandoned unless the Board of Wildlife Resources shall by resolution concur in such abandonment.

§ 33.2-2001. Creation of district.

A. A district may be created in a single locality or in two or more contiguous localities. If created in a single locality, a district shall be created by a resolution of the local governing body. If created in two or more contiguous localities, a district shall be created by the resolutions of each of the local governing bodies. Any such resolution shall be considered only upon the petition, to each local governing body of the locality in which the proposed district is to be located, of the owners of at least 51 percent of either the land area or the assessed value of land in each locality that (i) is within the boundaries of the proposed district and (ii) has been zoned for commercial or industrial use or is used for such purposes. Any proposed district within a county or counties may include any land within a town or towns within the boundaries of such county or counties.

B. The petition to the local governing body or bodies shall:

1. Set forth the name and describe the boundaries of the proposed district;

2. Describe the transportation improvements proposed within the district;

3. Propose a plan for providing such transportation improvements within the district and describe specific terms and conditions with respect to all commercial and industrial zoning classifications and uses, densities, and criteria related thereto which the petitioners request for the proposed district;

4. Describe the benefits that can be expected from the provision of such transportation improvements within the district; and

5. Request the local governing body or bodies to establish the proposed district for the purposes set forth in the petition.

C. Upon the filing of such a petition, each local governing body shall fix a day for a hearing on the question of whether the proposed district shall be created. The hearing shall consider whether the residents and owners of real property within the proposed district would benefit from the establishment of the proposed district. All interested persons who either reside in or own taxable real property within the proposed district shall have the right to appear and show cause why any property or properties should not be included in the proposed district. If real property within a town is included in the proposed district, the governing body shall deliver a copy of the petition and notice of the public hearing to the town council at least 30 days prior to the public hearing, and the town council may by resolution determine if it wishes such property located within the town to be included within the proposed district and shall deliver a copy of any such resolution to the local governing body at the public hearing required by this section. Such resolution shall be binding upon the local governing body with respect to the inclusion or exclusion of such properties within the proposed district. The petition shall comply with the provisions of this section with respect to minimum acreage or assessed valuation. Notice of the hearing shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation within the locality~~. At least 10 days shall intervene between the third publication and the date set for the hearing~~, *with the first publication appearing no more than 21 days before the hearing*.

D. If each local governing body finds the creation of the proposed district would be in furtherance of the locality's comprehensive plan for the development of the area, in the best interests of the residents and owners of real property within the proposed district, and in furtherance of the public health, safety, and welfare, then each local governing body may pass a resolution, which shall be reasonably consistent with the petition, creating the district and providing for the appointment of an advisory board in accordance with this chapter. The resolution shall provide a description with specific terms and conditions of all commercial and industrial zoning classifications that shall be in force in the district upon its creation, together with any related criteria and a term of years, not to exceed 20 years, as to which each zoning classification and each related criterion set forth therein shall remain in force within the district without elimination, reduction, or restriction, except (i) upon the written request or approval of the owner of any property affected by a change or (ii) as specifically required to comply with state or federal law.

Each resolution creating a district shall also provide (a) that the district shall expire 35 years from the date upon which the resolution is passed or (b) that the district shall expire when the district is abolished in accordance with § 33.2-2014. After the public hearing, each local governing body shall deliver a certified copy of its proposed resolution creating the district to the petitioning landowners or their attorneys-in-fact. Any petitioning landowner may then withdraw his signature on the petition, in writing, at any time prior to the vote of the local governing body. In the case where any signatures on the petition are withdrawn, the local governing body may pass the proposed resolution only upon certification that the petition continues to meet the provisions of this section. After all local governing bodies have adopted resolutions creating the district, the district shall be established and the name of the district shall be "The _____ Transportation Improvement District."

§ 33.2-2101. Creation of district.

A. A district may be created in a county by a resolution of the governing body. Any such resolution shall be considered only upon the petition, to the governing body, of the owners of at least 51 percent of either the land area or the assessed value of real property that (i) is within the boundaries of the proposed district, (ii) has been zoned for commercial or industrial use or is used for such purposes, and (iii) would be subject to the annual special improvement tax authorized by

§ 33.2-2105 if the proposed district is created. Any proposed district within a county may include any real property within a town or towns within the boundaries of such county.

B. The petition to the governing body shall:

1. Set forth the name and describe the boundaries of the proposed district;

2. Describe the transportation improvements proposed within the district;

3. Propose a plan for providing such transportation improvements within the district and describe specific terms and conditions with respect to all commercial and industrial zoning classifications and uses, densities, and criteria related thereto that the petitioners request for the proposed district;

4. Describe the benefits that can be expected from the provision of such transportation improvements within the district; and

5. Request the governing body to establish the proposed district for the purposes set forth in the petition.

C. Upon the filing of such a petition, the governing body shall fix a day for a hearing on the question of whether the proposed district shall be created. The hearing shall consider whether the residents and owners of real property within the proposed district would benefit from the establishment of the proposed district. All interested persons who either reside in or own taxable real property within the proposed district shall have the right to appear and show cause why any property or properties should not be included in the proposed district. If real property within a town is included in the proposed district, a copy of the petition and notice of the public hearing shall be delivered to the town council at least 30 days prior to the public hearing, and the town council may by resolution determine if the town council wishes any property located within the town to be included within the proposed district and any such resolution shall be delivered to the governing body prior to the public hearing required by this section. Such resolution shall be binding upon the governing body with respect to the inclusion or exclusion of such properties within the proposed district. If that resolution permits any commercial or industrial property located within a town to be included in the proposed district, then if requested to do so by the petition the town council of any town that has adopted a zoning ordinance also shall pass a resolution, to be effective upon creation of the proposed district, that is consistent with the requirements of subsection E with respect to commercial and industrial zoning classifications that shall be in force in that portion of the town included in the district. The petition shall comply with the provisions of this section with respect to minimum acreage or assessed valuation. Notice of the hearing shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation within the locality~~. At least 10 days shall intervene between the third publication and the date set for the hearing~~*, with the first publication appearing no more than 21 days before the hearing*. Such public hearing may be adjourned from time to time.

D. If the governing body finds the creation of the proposed district would be in furtherance of the county's comprehensive plan for the development of the area, in the best interests of the residents and owners of real property within the proposed district, and in furtherance of the public health, safety, and welfare, the governing body may pass a resolution that is reasonably consistent with the petition, that creates the district upon final adoption, and that provides for the appointment of an advisory board in accordance with this chapter upon final adoption. Any such resolution shall be conclusively presumed to be reasonably consistent with the petition if, following the public hearing, as provided in the following provisions of this section, the petition continues to comply with the provisions of this section with respect to the criteria relating to minimum acreage or assessed valuation.

E. The resolution shall provide a description with specific terms and conditions of all commercial and industrial zoning classifications that apply within the district, but not within any town within the district that has adopted a zoning ordinance, that shall be in force in the district upon its creation, together with any related criteria and a term of years, not to exceed 20 years, as to which each such zoning classification and each related criterion set forth therein shall remain in force within the district without elimination, reduction, or restriction, except (i) upon the written request or approval of the owner of any property affected by a change, (ii) as required to comply with the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) or the regulations adopted pursuant thereto, (iii) as required to comply with the provisions of the federal Clean Water Act regarding municipal and industrial stormwater discharges (33 U.S.C. § 1342(p)) and regulations promulgated thereunder by the federal Environmental Protection Agency, or (iv) as specifically required to comply with any other state or federal law.

F. A resolution creating a district shall also provide (i) that the district shall expire 50 years from the date upon which the resolution is passed or (ii) that the district shall expire when the district is abolished in accordance with § 33.2-2115. After the public hearing, the governing body may adopt a proposed resolution creating the district. No later than two business days following the adoption of the proposed resolution, copies of the proposed resolution shall be available in the office of the clerk of the governing body for inspection and copying by the petitioning landowners and their representatives, by members of the public, and by representatives of the news media. No later than seven business days following the adoption of the proposed resolution, any petitioning landowner may notify the clerk of the governing body in writing that the petitioning landowner is withdrawing his signature from the petition. Within the same seven-day period, the owner of any property in the proposed district that will be subject to the annual special improvements tax authorized by § 33.2-2105, if the proposed district is created, or the attorney-in-fact of any such owner may notify the clerk of the governing body in writing that he is adding his signature to the petition. The governing body may then proceed to final adoption of the proposed resolution following that seven-day period. If any petitioner has withdrawn his signature from the petition during that seven-day period, then the governing body may readopt the proposed resolution only if the petition, including any landowners who have added their signatures after adoption of the proposed resolution, continues to meet the provisions of

this section. After the governing body has readopted the resolution creating the district, the district shall be established and the name of the district shall be "The _____ _____ Transportation Improvement District."

§ 33.2-2103. Powers and duties of commission.

The commission may:

1. Expend district revenues to construct, reconstruct, alter, improve, or expand transportation improvements and make loans or otherwise provide for the cost of transportation improvements and for financial assistance to operate transportation improvements in the district for the use and benefit of the public.

2. Acquire by gift, purchase, lease, in-kind contribution to construction costs, or otherwise any transportation improvements in the district and sell, lease as lessor, transfer, or dispose of any part of any transportation improvements in such manner and upon such terms as the commission may determine to be in the best interests of the district. However, prior to disposing of any such property or interest therein, the commission shall conduct a public hearing with respect to such disposition. At the hearing, the residents and owners of property within the district shall have an opportunity to be heard. At least ~~10~~ *seven* days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the district, as prescribed by the commission. Such public hearing may be adjourned from time to time.

3. Negotiate and contract with any person with regard to any matter necessary and proper to provide any transportation improvements, including the financing, acquisition, construction, reconstruction, alteration, improvement, expansion, operation, or maintenance of any transportation improvements in the district. For the purposes of this chapter, transportation improvements are within the district if they are located within the boundaries of the transportation improvement district or are reasonably deemed necessary for the construction or operation of transportation improvements within the boundaries of the transportation improvement district.

4. Enter into a continuing service contract for a purpose authorized by this chapter and make payments of the proceeds received from the special taxes levied pursuant to this chapter, together with any other revenues, for installments due under that service contract. The district may apply such payments annually during the term of that service contract in an amount sufficient to make the installment payments due under that contract, subject to the limitation imposed by this chapter. However, payments for any such service contract shall be conditioned upon the receipt of services pursuant to the contract. Such a contract shall not obligate a county or participating town to make payments for services of the district.

5. Accept the allocations, contributions, or funds of any available source or reimburse from any available source, including any person, for the whole or any part of the costs, expenses, and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, and expansion or the operation of any transportation improvements in the district.

6. Contract for the extension and use of any public mass transit system or highway into territory outside the district on such terms and conditions as the commission determines.

7. Employ and fix the compensation of personnel who may be deemed necessary for the construction, operation, or maintenance of any transportation improvements in the district.

8. Have prepared an annual audit of the district's financial obligations and revenues, and upon review of such audit, request a tax rate adequate to provide tax revenues that, together with all other revenues, are required by the district to fulfill its annual obligations.

§ 33.2-2701. Creation of district.

A. A district may be created in the City of Charlottesville and the County of Albemarle by resolutions of such localities' governing bodies. Such resolutions shall be considered upon the petition to each governing body of a locality in which the proposed district by the owners of at least 51 percent of either the land area or the assessed value of land, in each locality that (i) is within the boundaries of the proposed district and (ii) has been zoned for commercial or industrial use or is used for such purposes.

B. The petition to the local governing bodies shall:

1. Set forth the name and describe the boundaries of the proposed district;

2. Describe the transportation improvements proposed within the district;

3. Propose a plan for providing such transportation improvements within the district and describe specific terms and conditions with respect to all commercial and industrial zoning classifications and uses, densities, and criteria related thereto that the petitioners request for the proposed district;

4. Describe the benefits that can be expected from the provision of such transportation improvements within the district; and

5. Request the local governing bodies to establish the proposed district for the purposes set forth in the petition.

C. Upon the filing of such a petition, each local governing body shall fix a day for a hearing on the question of whether the proposed district shall be created. The hearing shall consider whether the residents and owners of real property within the proposed district would benefit from the establishment of the proposed district. All interested persons who either reside in or own taxable real property within the proposed district shall have the right to appear and show cause why any property or properties should not be included in the proposed district. Such resolution shall be binding upon the local governing body with respect to the inclusion or exclusion of such properties within the proposed district. The petition shall comply with the provisions of this section with respect to minimum acreage or assessed valuation. Notice of the hearing shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation within the locality~~. At least~~

~~10 days shall intervene between the third publication and the date set for the hearing~~*, with the first publication appearing no more than 21 days before the hearing.*

D. If both local governing bodies find the creation of the proposed district would be in furtherance of their comprehensive plans for the development of the area, in the best interests of the residents and owners of real property within the proposed district, and in furtherance of the public health, safety, and welfare, both local governing bodies may pass resolutions that are reasonably consistent with the petition, creating the district and providing for the appointment of an advisory board in accordance with this chapter. The resolutions shall provide a description with specific terms and conditions of all commercial and industrial zoning classifications that shall be in force in the district upon its creation, together with all related criteria and a term of years, not to exceed 20 years, as to which each such zoning classification and each related criterion set forth therein shall remain in force within the district without elimination, reduction, or restriction, except (i) upon the written request or approval of the owner of any property affected by a change or (ii) as specifically required to comply with federal or state law.

Each resolution creating the district shall also provide (a) that the district shall expire 35 years from the date upon which the resolution is passed or (b) that the district shall expire when the district is abolished in accordance with § 33.2-2714. After the public hearing, each local governing body shall deliver a certified copy of its proposed resolution creating the district to the petitioning landowners or their attorneys-in-fact. Any petitioning landowner may then withdraw his signature on the petition, in writing, at any time prior to the vote of the local governing body. In the case where any signature on the petition is withdrawn, the local governing body may pass the proposed resolution only upon certification that the petition continues to meet the provisions of this section. After both local governing bodies have adopted resolutions creating the district, the district shall be established and the name of the district shall be "The Charlottesville-Albemarle Transportation Improvement District."

§ 36-23. Housing authority operations in other municipalities.

In addition to its other powers, any housing authority may exercise any or all of its powers within the territorial boundaries of any municipality not included in the area of operation of such housing authority, for the purpose of planning, undertaking, financing, rehabilitating, constructing and operating a housing project or projects or a multi-family residential building or buildings within such municipality; provided that a resolution shall have been adopted (a) by the governing body of such municipality in which the housing authority is to exercise its powers and (b) by the authority of such municipality (if one has been theretofore established by such municipality and authorized to exercise its powers therein) declaring that there is a need for the aforesaid housing authority to exercise its powers within such municipality. A municipality shall have the same powers to furnish financial and other assistance to such housing authority exercising its powers within such municipality under this section as though the municipality were within the area of operation of such authority.

No governing body of a municipality shall adopt a resolution as provided in this section declaring that there is a need for the housing authority (other than a housing authority established by such municipality) to exercise its powers within such municipality, unless a public hearing has first been held by such governing body and unless such governing body shall have found in substantially the following terms: (a) that insanitary or unsafe inhabited dwelling accommodations exist in such municipality or that there is a shortage of safe or sanitary dwelling accommodations in such municipality available to persons of low income at rentals they can afford; and (b) that these conditions can be best remedied through the exercise of the aforesaid housing authority's powers within the territorial boundaries of such municipality; provided that such findings shall not have the effect of establishing an authority for any such municipality under § 36-4 nor of thereafter preventing such municipality from establishing an authority or joining in the creation of a consolidated housing authority or the increase of the area of operation of a consolidated housing authority. The clerk of the city or other municipality shall give notice of the time, place and purpose of the public hearing at least ~~ten~~ *seven* days prior to the date on which the hearing is to be held, in a newspaper published in such municipality, or if there is no newspaper published in such municipality, then in a newspaper published in the Commonwealth and having a general circulation in such municipality. Upon the date fixed for such public hearing an opportunity to be heard shall be granted to all residents of such municipality and to all other interested persons.

During the time that, pursuant to these findings, the aforesaid housing authority has outstanding (or is under contract to issue) any evidences of indebtedness for a project within the municipality, no other housing authority may undertake a project within such municipality without the consent of the housing authority which has such outstanding indebtedness or obligation.

§ 36-44. Public hearing to create regional authority or change its area of operation, and findings.

The board of supervisors of a county shall not adopt any resolution authorized by §§ 36-40, 36-41 or 36-42 unless a public hearing has first been held. The clerk of such county shall give notice of the time, place, and purpose of the public hearing at least ~~ten~~ *seven* days prior to the day on which the hearing is to be held, in a newspaper published in such county, or if there is no newspaper published in such county, then in a newspaper published in the Commonwealth and having a general circulation in such county. Upon the date fixed for such public hearing an opportunity to be heard shall be granted to all residents of such county and to all other interested persons.

In determining whether dwelling accommodations are unsafe or insanitary the board of supervisors of a county shall take into consideration the safety and sanitation of dwellings, the light and air space available to the inhabitants of such dwellings, the degree of overcrowding, the size and arrangement of the rooms and the extent to which conditions exist in such dwellings which endanger life or property by fire or other causes.

In connection with the issuance of bonds or the incurring of other obligations, a regional housing authority may covenant as to limitations on its right to adopt resolutions relating to the increase or decrease of its area of operation.

§ 58.1-3108. Commissioner to render taxpayer assistance and may go to convenient places to receive returns; advertisement by commissioner.

A. Each commissioner of the revenue shall render such taxpayer assistance as may be necessary for the preparation of any return required by law to be filed with his office. Such commissioners may go to convenient public places within the county or city for the purpose of receiving state and local tax returns. Compliance by the commissioner of the revenue with this section shall not relieve him of the duty to obtain tax returns as required by § 58.1-3107.

B. Each commissioner shall advertise, in some newspaper of general circulation in the city or county, at least once during the ~~thirty~~ *seven* days prior to the time fixed by law for filing returns without penalty, the location of the commissioner's office, the location of such branch offices as he may establish, and the hours of the day, not less than eight hours each day, during which such office or offices shall be open for business. Such advertisement shall state the time when returns of taxpayers must be filed.

§ 58.1-3245.2. Tax increment financing.

A. The governing body of any county, city or town may adopt tax increment financing by passing an ordinance designating a development project area and providing that real estate taxes in the development project area shall be assessed, collected and allocated in the following manner for so long as any obligations or development project cost commitments secured by the Tax Increment Financing Fund, hereinafter authorized, are outstanding and unpaid.

1. The local assessing officer shall record in the land book both the base assessed value and the current assessed value of the real estate in the development project area.

2. Real estate taxes attributable to the lower of the current assessed value or base assessed value of real estate located in a development project area shall be allocated by the treasurer or director of finance pursuant to the provisions of this chapter.

3. Real estate taxes attributable to the increased value between the current assessed value of any parcel of real estate and the base assessed value of such real estate shall be allocated by the treasurer or director of finance and paid into a special fund entitled the "Tax Increment Financing Fund" to pay the principal and interest on obligations issued or development project cost commitments entered into to finance the development project costs.

B. The governing body shall hold a public hearing on the need for tax increment financing in the county, city or town prior to adopting a tax increment financing ordinance. Notice of the public hearing shall be published once each week for three consecutive weeks immediately preceding the public hearing in each newspaper of general circulation in such county, city or town*, with the first publication appearing no more than 21 days before the hearing*. The notice shall include the time, place and purpose of the public hearing, define tax increment financing, indicate the proposed boundaries of the development project area, and propose obligations to be issued to finance the development project area costs.

§ 58.1-3245.8. Adoption of local enterprise zone development taxation program.

A. The governing body of any county, city, or town may adopt a local enterprise zone development taxation program by passing an ordinance designating an enterprise zone located within its boundaries as a local enterprise zone; however, an ordinance may designate an area as a local enterprise zone contingent upon the designation of the area as an enterprise zone pursuant to Chapter 49 (§ 59.1-538 et seq.) of Title 59.1. If the county, city, or town contains more than one enterprise zone, such ordinance may designate one or more as a local enterprise zone. If an enterprise zone is located in more than one county, city, or town, the governing body may designate the portion of the enterprise zone located within its boundaries as a local enterprise zone. An ordinance designating a local enterprise zone shall provide that all or a specified percentage of the real estate taxes, machinery and tools taxes, or both, in the local enterprise zone shall be assessed, collected and allocated in the following manner:

1. The local assessing officer shall record in the appropriate books both the base assessed value and the current assessed value of the real estate or machinery and tools, or both, in the local enterprise zone.

2. Real estate taxes or machinery and tools taxes attributable to the lower of the current assessed value or base assessed value of real estate or machinery and tools located in a local enterprise zone shall be allocated by the treasurer or director of finance as they would be in the absence of such ordinance.

3. All or the specified percentage of the increase in real estate taxes or machinery and tools taxes, or both, attributable to the difference between (i) the current assessed value of such property and (ii) the base assessed value of such property shall be allocated by the treasurer or director of finance and paid into a special fund entitled the "Local Enterprise Zone Development Fund" to be used as provided in § 58.1-3245.10. Such amounts paid into the fund shall not include any additional revenues resulting from an increase in the tax rate on real estate or machinery and tools after the adoption of a local enterprise zone development taxation ordinance, nor shall it include any additional revenues merely resulting from an increase in the assessed value of real estate or machinery and tools which were located in the zone prior to the adoption of a local enterprise zone development taxation ordinance unless such property is improved or enhanced.

B. The governing body shall hold a public hearing on the need for a local enterprise zone development taxation program in the county, city, or town prior to adopting a local enterprise zone development taxation ordinance. Notice of the public hearing shall be published once each week for three consecutive weeks immediately preceding the public hearing in each newspaper of general circulation in such county, city, or town*, with the first publication appearing no more than 21 days before the hearing*. The notice shall include the time, place and purpose of the public hearing; define local enterprise

zone development taxation; indicate the proposed boundaries of the local enterprise zone; state whether all or a specified percentage of real property or machinery or tools, or both, will be subject to local enterprise zone development taxation; and describe the purposes for which funds in the Local Enterprise Zone Development Fund are authorized to be used.

§ 58.1-3256. Reassessment in towns; appeals of assessments.

In any incorporated town there may be for town taxation and debt limitation, a general reassessment of the real estate in any such town in the year designated, and every fourth year thereafter, that the council of such town shall declare by ordinance or resolution the necessity therefor. Every such general reassessment of real estate in any such town shall be made by a board of assessors consisting of three residents, a majority of whom shall be freeholders, who hold no official office or position with the town government, appointed by the council of such town for each general reassessment and the compensation of the person so designated shall be prescribed by the council and paid out of the town treasury. The assessors so designated shall assess the property in accordance with the general law and Constitution of Virginia. If for any cause the board is unable to complete an assessment within the year for which it is appointed, the council shall extend the time therefor for three months. Any vacancy in the membership of the board shall be filled by the council within 30 days after the occurrence thereof, but such vacancy shall not invalidate any assessment. The assessments so made shall be open for public inspection after notice of such inspection shall have been advertised in a newspaper of general circulation within the town at least ~~five~~ *seven* days prior to such date or dates of inspection. Within 30 days after the final date of inspection the assessors shall file the completed reassessments in the office of the town clerk and at the same time forward to the Department of Taxation a copy of the recapitulation sheets of such assessments.

Any person, firm, or corporation claiming to be aggrieved by any assessment may, within 30 days after the filing of reassessments in the office of the town clerk, apply to the town board of equalization for a correction of such assessment by filing with the town clerk a written statement setting forth his grievances. The board of equalization of every such town shall, within 30 days of the filing of such complaint, fix a date for a hearing on such application and, after giving the applicant at least 10 days' notice of the time fixed, shall hear such evidence as may be introduced by interested parties and correct the assessment by increasing or reducing the same. The circuit court having jurisdiction within the town shall, in each tax year immediately following the year in which a general reassessment was conducted, appoint for such town a board of equalization of real estate assessments made up of three to five citizens of the town. Any such town board of equalization shall be subject to the same member composition requirements and limits on terms of service as provided for boards of equalization pursuant to § 58.1-3374. In addition, at least once in every four years of service on a town board of equalization, each member of such board shall take continuing education instruction provided by the Tax Commissioner pursuant to § 58.1-206. In equalizing real property tax assessments, such board of equalization shall hear complaints, including but not limited to, that real property is assessed at more than fair market value. In hearing complaints, the board shall establish the value of real property as provided in § 58.1-3378. The provisions of § 58.1-3379 shall apply to all complaints heard by any town board of equalization.

Town taxes for each year on real estate subject to reassessment shall be extended on the basis of the last general reassessment made prior to such year subject to such changes as may have been lawfully made. The town tax assessor shall make changes required by new construction, subdivision and disaster loss. The council of any town may provide by ordinance that it will have a general reassessment of real estate in the town in the year designated by the town council and every year thereafter. The town council may declare the necessity for such general reassessment by such ordinance, but in all other respects this section shall be controlling. No county or district levies shall be extended on any assessments made under the provisions of this section.

Any town which has failed to conduct a general reassessment within five years shall use only those assessed values assigned by the county.

§ 58.1-3321. Effect on rate when assessment results in tax increase; public hearings; referendum.

A. When any annual assessment, biennial assessment, or general reassessment of real property by a county, city, or town would result in an increase of one percent or more in the total real property tax levied, such county, city, or town shall reduce its rate of levy for the forthcoming tax year so as to cause such rate of levy to produce no more than 101 percent of the previous year's real property tax levies, unless subsection B is complied with, which rate shall be determined by multiplying the previous year's total real property tax levies by 101 percent and dividing the product by the forthcoming tax year's total real property assessed value. An additional assessment or reassessment due to the construction of new or other improvements, including those improvements and changes set forth in § 58.1-3285, to the property shall not be an annual assessment or general reassessment within the meaning of this section, nor shall the assessed value of such improvements be included in calculating the new tax levy for purposes of this section. Special levies shall not be included in any calculations provided for under this section.

B. The governing body of a county, city, or town may, after conducting a public hearing, which shall not be held at the same time as the annual budget hearing, increase the rate above the reduced rate required in subsection A if any such increase is deemed to be necessary by such governing body.

C. Notice of any public hearing held pursuant to this section shall be given at least ~~30~~ *seven* days before the date of such hearing by the publication of a notice in (i) at least one newspaper of general circulation in such county or city and (ii) a prominent public location at which notices are regularly posted in the building where the governing body of the county, city, or town regularly conducts its business, except that such notice shall be given at least 14 days before the date of such hearing in any year in which neither a general appropriation act nor amendments to a general appropriation act

providing appropriations for the immediately following fiscal year have been enacted by April 30 of such year. Additionally, in a county, city, or town that conducts its reassessment more than once every four years, the notice for any public hearing held pursuant to this section shall be published on a different day and in a different notice from any notice published for the annual budget hearing. Any such notice shall be at least the size of one-eighth page of a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18-point. The notice described in clause (i) shall not be placed in that portion, if any, of the newspaper reserved for legal notices and classified advertisements. The notice described in clauses (i) and (ii) shall be in the following form and contain the following information, in addition to such other information as the local governing body may elect to include:

NOTICE OF PROPOSED REAL PROPERTY TAX INCREASE

The (name of the county, city or town) proposes to increase property tax levies.

1. Assessment Increase: Total assessed value of real property, excluding additional assessments due to new construction or improvements to property, exceeds last year's total assessed value of real property by _____ percent.

2. Lowered Rate Necessary to Offset Increased Assessment: The tax rate which would levy the same amount of real estate tax as last year, when multiplied by the new total assessed value of real estate with the exclusions mentioned above, would be $ _____ per $100 of assessed value. This rate will be known as the "lowered tax rate."

3. Effective Rate Increase: The (name of the county, city or town) proposes to adopt a tax rate of $ _____ per $100 of assessed value. The difference between the lowered tax rate and the proposed rate would be $ _____ per $100, or _____ percent. This difference will be known as the "effective tax rate increase."

Individual property taxes may, however, increase at a percentage greater than or less than the above percentage.

4. Proposed Total Budget Increase: Based on the proposed real property tax rate and changes in other revenues, the total budget of (name of county, city or town) will exceed last year's by _____ percent.

A public hearing on the increase will be held on (date and time) at (meeting place).

D. All hearings shall be open to the public. The governing body shall permit persons desiring to be heard an opportunity to present oral testimony within such reasonable time limits as shall be determined by the governing body.

E. The provisions of this section shall not be applicable to the assessment of public service corporation property by the State Corporation Commission.

F. Notwithstanding other provisions of general or special law, the tax rate for taxes due on or before June 30 of each year may be fixed on or before May 15 of that tax year.

§ 58.1-3378. Sittings; notices thereof.

Each board of equalization shall sit at and for such time or times as may be necessary to discharge the duties imposed and to exercise the powers conferred by this chapter. Of each sitting public notice shall be given at least ~~10~~ *seven* days beforehand by publication in a newspaper having general circulation in the county or city and, in a county, also by posting the notice at the courthouse and at each public library, voting precinct or both. Such posting shall be done by the sheriff or his deputy. Such notice shall inform the public that the board shall sit at the place or places and on the days named therein for the purpose of equalizing real estate assessments in such county or city and for the purpose of hearing complaints of inequalities wherein the property owners allege a lack of uniformity in assessment, or errors in acreage in such real estate assessments. The board also shall hear complaints that real property is assessed at more than fair market value. Except as otherwise provided by the Code of Virginia:

1. The fair market value of real property shall be established by the board as of January 1 of the applicable year; or

2. If a county or city has adopted July 1 as its tax day for real property pursuant to § 58.1-3011, then, for other than public service corporation property, the fair market value of real property shall be established by the board as of July 1 of the applicable year.

The governing body of any county or city may provide by ordinance the date by which applications must be made by property owners or lessees for relief. Such date shall not be earlier than 30 days after the termination of the date set by the assessing officer to hear objections to the assessments as provided in § 58.1-3330. If no applications for relief are received by such date, the board of equalization shall be deemed to have discharged its duties. Such governing body may also provide by ordinance the deadline by which all applications must be finally disposed of by the board of equalization. All such deadlines shall be clearly stated on the notice of assessment. Notwithstanding such deadlines, if a taxpayer applies to the commissioner of the revenue or other official performing the duties imposed on commissioners of the revenue for relief from a real property tax assessment prior to such deadlines, and such deadlines occur prior to a final determination on such application for relief, and the taxpayer advises the circuit court that he wishes to appeal the determination to the board of equalization, then the circuit court may require the board of equalization to hear and act on such appeal. The governing body may provide for applications for relief to be made electronically; however, taxpayers retain the right to file applications on traditional paper forms provided by the governing body as long as such forms are submitted prior to the established deadline. If such paper forms are mailed by the applicant, the postmark date shall be considered the date of receipt by the governing body. A hearing for relief before the board of equalization regarding an assessment on residential property shall not be denied on the basis of a lack of information on the application for relief, as long as the application includes the address, the parcel number, and the owner's proposed assessed value for the property. If the application for relief is sent electronically, the date the applicant sends the application shall be considered the date of receipt by the governing body. The application is considered sent when it meets the requirements of subsection (a) of § 59.1-493. A hearing for relief before the board of equalization regarding an assessment on commercial, multi-family residential, or industrial property on the basis of

fair market value shall not be denied on the basis of a lack of information on the application, as long as documentation of any applicable assessment methodologies is submitted with the application, and the application includes the address, the parcel number, and the owner's proposed assessed value for the property.

§ 58.1-3651. Property exempt from taxation by classification or designation by ordinance adopted by local governing body on or after January 1, 2003.

A. Pursuant to subsection 6 (a)(6) of Article X of the Constitution of Virginia, on and after January 1, 2003, any county, city, or town may by designation or classification exempt from real or personal property taxes, or both, by ordinance adopted by the local governing body, the real or personal property, or both, owned by a nonprofit organization, including a single member limited liability company whose sole member is a nonprofit organization, that uses such property for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes. The ordinance shall state the specific use on which the exemption is based, and continuance of the exemption shall be contingent on the continued use of the property in accordance with the purpose for which the organization is classified or designated. No exemption shall be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, sexual orientation, gender identity, or national origin.

B. Any ordinance exempting property by designation pursuant to subsection A shall be adopted only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be heard. The local governing body shall publish notice of the hearing once in a newspaper of general circulation in the county, city, or town where the real property is located. The notice shall include the assessed value of the real and tangible personal property for which an exemption is requested as well as the property taxes assessed against such property. The public hearing shall not be held until at least ~~five~~ *seven* days after the notice is published in the newspaper. The local governing body shall collect the cost of publication from the organization requesting the property tax exemption. Before adopting any such ordinance the governing body shall consider the following questions:

1. Whether the organization is exempt from taxation pursuant to § 501(c) of the Internal Revenue Code of 1954;

2. Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Board of Directors of the Virginia Alcoholic Beverage Control Authority to such organization, for use on such property;

3. Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director, officer, or employee actually renders;

4. Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions, or local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contribution of in-kind or other material services;

5. Whether the organization provides services for the common good of the public;

6. Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office;

7. The revenue impact to the locality and its taxpayers of exempting the property; and

8. Any other criteria, facts and circumstances that the governing body deems pertinent to the adoption of such ordinance.

C. Any ordinance exempting property by classification pursuant to subsection A shall be adopted only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be heard. The local governing body shall publish notice of the hearing once in a newspaper of general circulation in the county, city, or town. The public hearing shall not be held until at least five days after the notice is published in the newspaper.

D. Exemptions of property from taxation under this article shall be strictly construed in accordance with Article X, Section 6 (f) of the Constitution of Virginia.

E. Nothing in this section or in any ordinance adopted pursuant to this section shall affect the validity of either a classification exemption or a designation exemption granted by the General Assembly prior to January 1, 2003, pursuant to Article 2 (§ 58.1-3606 et seq.), 3 (§ 58.1-3609 et seq.) or 4 (§ 58.1-3650 et seq.) of this chapter. An exemption granted pursuant to Article 4 (§ 58.1-3650 et seq.) of this chapter may be revoked in accordance with the provisions of § 58.1-3605.

§ 58.1-3975. Nonjudicial sale of tax delinquent real properties of minimal size and value.

A. Notwithstanding any other provision of this title, the treasurer or other officer responsible for collecting taxes may sell, at public auction, any parcel of real property that is assessed at $10,000 or less, provided that the taxes on such parcel are delinquent on December 31 following the third anniversary of the date on which such taxes have become due.

B. The treasurer or other officer responsible for collecting taxes may in addition sell, at public auction, any parcel of real property that is assessed at more than $10,000 but no more than $25,000, provided that the taxes on such parcel are delinquent on December 31 following the third anniversary of the date on which such taxes have become due, it is not subject to a recorded mortgage or deed of trust lien, and such parcel:

1. Is unimproved and measures no more than 43,560 square feet (1.0 acre);

2. Is unimproved and is determined to be unsuitable for building due to the size, shape, zoning, floodway, or other environmental designations of the parcel made by the locality's zoning administrator or other official designated by the locality to administer its zoning ordinance and carry out the duties set forth in subdivision A 4 of § 15.2-2286;

3. Has a structure on it that has been condemned by the local building official pursuant to applicable law or ordinance;

4. Has been declared by the locality a nuisance as that term is defined in § 15.2-900;

5. Contains a derelict building as that term is defined in § 15.2-907.1; or

6. Has been declared by the locality to be blighted as that term is defined in § 36-3.

For purposes of determining the area of any parcel, the area or acreage found in the locality's land book shall be determinative.

C. At least 30 days prior to conducting a sale under this section, the treasurer or other officer responsible for collecting taxes shall:

1. Send notice by certified or registered mail to the record owner or owners of such property and anyone appearing to have an interest in the property at their last known address as contained in the records of the treasurer or other officer responsible for collecting taxes; and

2. Post notice of such sale at the property location, if such property has frontage on any public or private street, and at the circuit courthouse of the locality.

D. The treasurer or other officer responsible for collecting taxes shall also cause a notice of sale to be published in the legal classified section of a newspaper of general circulation in the locality in which the property is located at least seven days ~~but no more than 21 days~~ prior to the sale; however, if the annual taxes assessed on the property are less than $500, such notice may be placed, in lieu of publication, on the treasurer's or local government's website beginning at least ~~21~~ *seven* days prior to sale and through the date of sale. The pro rata costs of posting notice, publication, and mailing shall become a part of the tax and shall be collected if payment is made in redemption of such real property.

E. The treasurer or other officer responsible for collecting taxes may advertise and sell multiple parcels at the same time and place pursuant to one notice of sale.

F. The treasurer or other officer responsible for collecting taxes may enter into an agreement with the owner of such parcel for payment over time.

G. The owner of any property, or other interested party, may redeem it at any time prior to the date of the sale by paying all accumulated taxes, penalties, interest, and costs thereon, including reasonable attorney fees. Partial payment of delinquent taxes, penalties, interest, or costs shall be insufficient to redeem the property and shall not operate to suspend, invalidate, or nullify any sale brought pursuant to this section.

H. At the time of sale, the treasurer or other officer responsible for collecting taxes shall sell to the highest bidder at public auction each parcel that has not been redeemed by the owner. Such sale shall be free and clear of the locality's tax lien, but shall not affect easements or other rights of record recorded prior to the date of sale or liens recorded prior to the date of sale unless the treasurer has given the lienholder written notice of the sale at least 30 days prior to the sale, at the lienholder's address of record and through his registered agent, if any. The treasurer or other officer responsible for collecting taxes shall tender a special warranty deed pursuant to this section to effectuate the conveyance of the parcel to the highest bidder.

I. If the sale proceeds are insufficient to pay the amounts owed in full, the treasurer or other officer responsible for collecting taxes may remove the unpaid taxes from the books and mark the same as satisfied. The sale proceeds shall be applied first to the costs of sale, then to the taxes, penalty, interest, and fees due on the parcel, and thereafter to any other taxes or other charges owed by the former owner to the jurisdiction.

J. Any excess proceeds shall remain the property of the former owner, subject to claims of creditors, and shall be kept by the treasurer or other officer responsible for collecting taxes in an interest-bearing escrow account. If any petition for excess proceeds is made to the treasurer or other officer responsible for collecting taxes under this section, the treasurer or officer holding the funds shall forward the funds to the locality's circuit court clerk to be interpleaded along with a copy of the claim for excess proceeds. A copy of such transmission shall be forwarded to the claimant. The burden of scheduling a hearing with the circuit court on the claim shall be that of the claimant and shall be made within two years of the date of the sale of the property that generated the excess funds. In the event that funds remain with the court two years after the date of the sale, the locality may petition to have the funds distributed to the locality's general fund. If no claim for payment of excess proceeds is made within two years after the date of sale, the treasurer or other responsible officer shall deposit the excess proceeds in the jurisdiction's general fund.

K. If the sale does not produce a successful bidder, the treasurer or other responsible officer shall add the costs of sale incurred by the jurisdiction to the delinquent real estate account.

§ 62.1-44.15:33. (For expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Authorization for more stringent ordinances.

A. Localities that are VSMP authorities are authorized to adopt more stringent stormwater management ordinances than those necessary to ensure compliance with the Board's minimum regulations, provided that the more stringent ordinances are based upon factual findings of local or regional comprehensive watershed management studies or findings developed through the implementation of a MS4 permit or a locally adopted watershed management study and are determined by the locality to be necessary to prevent any further degradation to water resources, to address TMDL requirements, to protect exceptional state waters, or to address specific existing water pollution including nutrient and sediment loadings, stream channel erosion, depleted groundwater resources, or excessive localized flooding within the watershed and that prior to adopting more stringent ordinances a public hearing is held ~~after giving due notice~~. *Notice of*

such hearing shall be given by publication once a week for two consecutive weeks in a newspaper of general circulation in the locality seeking to adopt the ordinance, with the first publication appearing no more than 14 days before the hearing.

B. Localities that are VSMP authorities shall submit a letter report to the Department when more stringent stormwater management ordinances or more stringent requirements authorized by such ordinances, such as may be set forth in design manuals, policies, or guidance documents developed by the localities, are determined to be necessary pursuant to this section within 30 days after adoption thereof. Any such letter report shall include a summary explanation as to why the more stringent ordinance or requirement has been determined to be necessary pursuant to this section. Upon the request of an affected landowner or his agent submitted to the Department with a copy to be sent to the locality, within 90 days after adoption of any such ordinance or derivative requirement, localities shall submit the ordinance or requirement and all other supporting materials to the Department for a determination of whether the requirements of this section have been met and whether any determination made by the locality pursuant to this section is supported by the evidence. The Department shall issue a written determination setting forth its rationale within 90 days of submission. Such a determination, or a failure by the Department to make such a determination within the 90-day period, may be appealed to the Board.

C. Localities shall not prohibit or otherwise limit the use of any best management practice (BMP) approved for use by the Director or the Board except as follows:

1. When the Director or the Board approves the use of any BMP in accordance with its stated conditions, the locality serving as a VSMP authority shall have authority to preclude the onsite use of the approved BMP, or to require more stringent conditions upon its use, for a specific land-disturbing project based on a review of the stormwater management plan and project site conditions. Such limitations shall be based on site-specific concerns. Any project or site-specific determination purportedly authorized pursuant to this subsection may be appealed to the Department and the Department shall issue a written determination regarding compliance with this section to the requesting party within 90 days of submission. Any such determination, or a failure by the Department to make any such determination within the 90-day period, may be appealed to the Board.

2. When a locality is seeking to uniformly preclude jurisdiction-wide or otherwise limit geographically the use of a BMP approved by the Director or Board, or to apply more stringent conditions to the use of a BMP approved by the Director or Board, upon the request of an affected landowner or his agent submitted to the Department, with a copy submitted to the locality, within 90 days after adoption, such authorizing ordinances, design manuals, policies, or guidance documents developed by the locality that set forth the BMP use policy shall be provided to the Department in such manner as may be prescribed by the Department that includes a written justification and explanation as to why such more stringent limitation or conditions are determined to be necessary. The Department shall review all supporting materials provided by the locality to determine whether the requirements of this section have been met and that any determination made by the locality pursuant to this section is reasonable under the circumstances. The Department shall issue its determination to the locality in writing within 90 days of submission. Such a determination, or a failure by the Department to make such a determination within the 90-day period, may be appealed to the Board.

D. Based on a determination made in accordance with subsection B or C, any ordinance or other requirement enacted or established by a locality that is found to not comply with this section shall be null and void, replaced with state minimum standards, and remanded to the locality for revision to ensure compliance with this section. Any such ordinance or other requirement that has been proposed but neither enacted nor established shall be remanded to the locality for revision to ensure compliance with this section.

E. Any provisions of a local stormwater management program in existence before January 1, 2013, that contains more stringent provisions than this article shall be exempt from the requirements of this section. However, such provisions shall be reported to the Board at the time of the locality's VSMP approval package.

§ 62.1-44.15:33. (For effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Authorization for more stringent ordinances.

A. Localities that are serving as VESMP authorities are authorized to adopt more stringent soil erosion control or stormwater management ordinances than those necessary to ensure compliance with the Board's minimum regulations, provided that the more stringent ordinances are based upon factual findings of local or regional comprehensive watershed management studies or findings developed through the implementation of an MS4 permit or a locally adopted watershed management study and are determined by the locality to be necessary to prevent any further degradation to water resources, to address total maximum daily load requirements, to protect exceptional state waters, or to address specific existing water pollution including nutrient and sediment loadings, stream channel erosion, depleted groundwater resources, or excessive localized flooding within the watershed and that prior to adopting more stringent ordinances a public hearing is held ~~after giving due notice~~. *Notice of such hearing shall be given by publication once a week for two consecutive weeks in a newspaper of general circulation in the locality seeking to adopt the ordinance, with the first publication appearing no more than 14 days before the hearing.* This process shall not be required when a VESMP authority chooses to reduce the threshold for regulating land-disturbing activities to a smaller area of disturbed land pursuant to § 62.1-44.15:34. However, this section shall not be construed to authorize a VESMP authority to impose a more stringent timeframe for land-disturbance review and approval than those provided in this article.

B. Localities that are serving as VESMP authorities shall submit a letter report to the Department when more stringent stormwater management ordinances or more stringent requirements authorized by such stormwater management ordinances, such as may be set forth in design manuals, policies, or guidance documents developed by the localities, are

determined to be necessary pursuant to this section within 30 days after adoption thereof. Any such letter report shall include a summary explanation as to why the more stringent ordinance or requirement has been determined to be necessary pursuant to this section. Upon the request of an affected landowner or his agent submitted to the Department with a copy to be sent to the locality, within 90 days after adoption of any such ordinance or derivative requirement, localities shall submit the ordinance or requirement and all other supporting materials to the Department for a determination of whether the requirements of this section have been met and whether any determination made by the locality pursuant to this section is supported by the evidence. The Department shall issue a written determination setting forth its rationale within 90 days of submission. Such a determination, or a failure by the Department to make such a determination within the 90-day period, may be appealed to the Board.

C. Localities shall not prohibit or otherwise limit the use of any best management practice (BMP) approved for use by the Director or the Board except as follows:

1. When the Director or the Board approves the use of any BMP in accordance with its stated conditions, the locality serving as a VESMP authority shall have authority to preclude the onsite use of the approved BMP, or to require more stringent conditions upon its use, for a specific land-disturbing project based on a review of the stormwater management plan and project site conditions. Such limitations shall be based on site-specific concerns. Any project or site-specific determination purportedly authorized pursuant to this subsection may be appealed to the Department and the Department shall issue a written determination regarding compliance with this section to the requesting party within 90 days of submission. Any such determination, or a failure by the Department to make any such determination within the 90-day period, may be appealed to the Board.

2. When a locality is seeking to uniformly preclude jurisdiction-wide or otherwise limit geographically the use of a BMP approved by the Director or Board, or to apply more stringent conditions to the use of a BMP approved by the Director or Board, upon the request of an affected landowner or his agent submitted to the Department, with a copy submitted to the locality, within 90 days after adoption, such authorizing ordinances, design manuals, policies, or guidance documents developed by the locality that set forth the BMP use policy shall be provided to the Department in such manner as may be prescribed by the Department that includes a written justification and explanation as to why such more stringent limitation or conditions are determined to be necessary. The Department shall review all supporting materials provided by the locality to determine whether the requirements of this section have been met and that any determination made by the locality pursuant to this section is reasonable under the circumstances. The Department shall issue its determination to the locality in writing within 90 days of submission. Such a determination, or a failure by the Department to make such a determination within the 90-day period, may be appealed to the Board.

D. Based on a determination made in accordance with subsection B or C, any ordinance or other requirement enacted or established by a locality that is found to not comply with this section shall be null and void, replaced with state minimum standards, and remanded to the locality for revision to ensure compliance with this section. Any such ordinance or other requirement that has been proposed but neither enacted nor established shall be remanded to the locality for revision to ensure compliance with this section.

E. Any provisions of a local erosion and sediment control or stormwater management program in existence before January 1, 2016, that contains more stringent provisions than this article shall be exempt from the requirements of this section if the locality chooses to retain such provisions when it becomes a VESMP authority. However, such provisions shall be reported to the Board at the time of submission of the locality's VESMP approval package.

§ 62.1-44.15:65. (For expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Authorization for more stringent regulations.

A. As part of a VESCP, a district or locality is authorized to adopt more stringent soil erosion and sediment control regulations or ordinances than those necessary to ensure compliance with the Board's regulations, provided that the more stringent regulations or ordinances are based upon factual findings of local or regional comprehensive watershed management studies or findings developed through the implementation of an MS4 permit or a locally adopted watershed management study and are determined by the district or locality to be necessary to prevent any further degradation to water resources, to address total maximum daily load requirements, to protect exceptional state waters, or to address specific existing water pollution including nutrient and sediment loadings, stream channel erosion, depleted groundwater resources, or excessive localized flooding within the watershed and that prior to adopting more stringent regulations or ordinances, a public hearing is held ~~after giving due notice~~. *Notice of such hearing shall be given by publication once a week for two consecutive weeks in a newspaper of general circulation in the locality seeking to adopt the ordinance, with the first publication appearing no more than 14 days before the hearing.* The VESCP authority shall report to the Board when more stringent stormwater management regulations or ordinances are determined to be necessary pursuant to this section. However, this section shall not be construed to authorize any district or locality to impose any more stringent regulations for plan approval or permit issuance than those specified in §§ 62.1-44.15:55 and 62.1-44.15:57.

B. Any provisions of an erosion and sediment control program in existence before July 1, 2012, that contains more stringent provisions than this article shall be exempt from the analysis requirements of subsection A.

§ 62.1-44.15:65. (For effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Authorization for more stringent ordinances.

A. As part of a VESCP, a locality is authorized to adopt more stringent soil erosion and sediment control ordinances than those necessary to ensure compliance with the Board's regulations, provided that the more stringent ordinances are

based upon factual findings of local or regional comprehensive watershed management studies or findings developed through the implementation of a locally adopted watershed management study and are determined by the locality to be necessary to prevent any further degradation to water resources, to address total maximum daily load requirements, to protect exceptional state waters, or to address specific existing water pollution including nutrient and sediment loadings, stream channel erosion, depleted groundwater resources, or excessive localized flooding within the watershed and that prior to adopting more stringent ordinances, a public hearing is held ~~after giving due notice~~. *Notice of such hearing shall be given by publication once a week for two consecutive weeks in a newspaper of general circulation in the locality seeking to adopt the ordinance, with the first publication appearing no more than 14 days before the hearing*. The VESCP authority shall report to the Board when more stringent erosion and sediment control ordinances are determined to be necessary pursuant to this section. This process shall not be required when a VESCP authority chooses to reduce the threshold for regulating land-disturbing activities to a smaller area of disturbed land pursuant to § 62.1-44.15:55. This section shall not be construed to authorize any VESCP authority to impose any more stringent ordinances for land-disturbance review and approval than those specified in § 62.1-44.15:55.

B. Any provisions of an erosion and sediment control program in existence before July 1, 2012, that contains more stringent provisions than this article shall be exempt from the analysis requirements of subsection A.

2. That the Virginia Code Commission shall convene the work group that met pursuant to Chapters 129 and 130 of the Acts of Assembly of 2022 to review requirements throughout the Code of Virginia for localities to provide notice for meetings, hearings, and other intended actions. In conducting the review, the work group shall examine (i) the varying frequency for publishing notices in newspapers and other print media, (ii) the number of days required to elapse between the publications of notices, and (iii) the amount of information required to be contained in each notice and make recommendations for uniformity and efficiency. The Virginia Code Commission shall submit a report to the Chairmen of the House Committee on General Laws and the Senate Committee on General Laws and Technology summarizing the work and any recommendations of the work group by November 1, 2023.

CHAPTER 507

An Act to amend and reenact §§ 15.2-202, 15.2-619, 15.2-716, 15.2-749, 15.2-958.3, 15.2-958.6, 15.2-1236, 15.2-1301, 15.2-1427, 15.2-1702, 15.2-1703, 15.2-2108.7, 15.2-2204, 15.2-2285, 15.2-2400, 15.2-2401, 15.2-2606, 15.2-2653, 15.2-3401, 15.2-3600, 15.2-4309, 15.2-5104, 15.2-5136, 15.2-5156, 15.2-5431.25, 15.2-5602, 15.2-5702, 15.2-5711, 15.2-5806, 15.2-7502, 21-114, 21-117.1, 21-118, 21-146, 21-229, 21-377, 21-393, 21-420, 22.1-29.1, 22.1-37, 22.1-79, 22.1-92, 33.2-331, 33.2-723, 33.2-909, 33.2-2001, 33.2-2101, 33.2-2103, 33.2-2701, 36-23, 36-44, 58.1-3108, 58.1-3245.2, 58.1-3245.8, 58.1-3256, 58.1-3321, 58.1-3378, 58.1-3651, 58.1-3975, 62.1-44.15:33, as it is currently effective and as it shall become effective, and 62.1-44.15:65, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to local government; standardization of public notice requirements for certain intended actions and hearings; report.

[H 2161]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-202, 15.2-619, 15.2-716, 15.2-749, 15.2-958.3, 15.2-958.6, 15.2-1236, 15.2-1301, 15.2-1427, 15.2-1702, 15.2-1703, 15.2-2108.7, 15.2-2204, 15.2-2285, 15.2-2400, 15.2-2401, 15.2-2606, 15.2-2653, 15.2-3401, 15.2-3600, 15.2-4309, 15.2-5104, 15.2-5136, 15.2-5156, 15.2-5431.25, 15.2-5602, 15.2-5702, 15.2-5711, 15.2-5806, 15.2-7502, 21-114, 21-117.1, 21-118, 21-146, 21-229, 21-377, 21-393, 21-420, 22.1-29.1, 22.1-37, 22.1-79, 22.1-92, 33.2-331, 33.2-723, 33.2-909, 33.2-2001, 33.2-2101, 33.2-2103, 33.2-2701, 36-23, 36-44, 58.1-3108, 58.1-3245.2, 58.1-3245.8, 58.1-3256, 58.1-3321, 58.1-3378, 58.1-3651, 58.1-3975, 62.1-44.15:33, as it is currently effective and as it shall become effective, and 62.1-44.15:65, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 15.2-202. Public hearing in lieu of election; procedure when bill not introduced or fails to pass in General Assembly.

In lieu of the election provided for in § 15.2-201, a locality requesting the General Assembly to grant to it a new charter or to amend its existing charter may hold a public hearing with respect thereto, at which citizens shall have an opportunity to be heard to determine if the citizens of the locality desire that the locality request the General Assembly to grant to it a new charter, or to amend its existing charter. At least ~~ten~~ *seven* days' notice of the time and place of such hearing and the text or an informative summary of the new charter or amendment desired shall be published in a newspaper of general circulation in the locality. Such public hearing may be adjourned from time to time, and upon the completion thereof, the locality may request, in the manner provided in § 15.2-201, the General Assembly to grant the new charter or amend the existing charter and the provisions of § 15.2-201 shall be applicable thereto.

If a bill incorporating such charter or amendments is not introduced at the succeeding session of the General Assembly, the authority of the locality to request such charter or amendments by reason of such public hearing shall thereafter be void. If at such session members of the General Assembly fail to enact and do not carry over or pass by indefinitely a bill

incorporating such charter or amendments, the charter or amendments may again be submitted to a public hearing in lieu of an election as provided hereinabove before reintroduction in the General Assembly.

The locality requesting a new or amended charter shall provide with such request a publisher's affidavit showing that the public hearing was advertised and a certified copy of the governing body's minutes showing the action taken at the advertised public hearing.

§ 15.2-619. Same; powers of commissioners of revenue; real estate reassessments.

The director of finance shall exercise all the powers conferred and perform all the duties imposed by general law upon commissioners of the revenue, not inconsistent herewith, and shall be subject to the obligations and penalties imposed by general law.

Every general reassessment of real estate in the county, unless some other person is designated for this purpose by the county manager in accordance with § 15.2-612 or unless the board creates a separate department of assessments in accordance with § 15.2-616, shall be made by the director of finance; he shall collect and keep in his office data and devise methods and procedures to be followed in each such general reassessment that will make for uniformity in assessments throughout the county.

In addition to any other method provided by general law or by this article or to certain classified counties, the director of finance may provide for the annual assessment and equalization of real estate and any general reassessment order by the board. The director of finance or his designated agent shall collect data, provide maps and charts, and devise methods and procedures to be followed for such assessment that will make for uniformity in assessments throughout the county.

There shall be a reassessment of all real estate at periods not to exceed six years between such reassessments.

All real estate shall be assessed as of January 1 of each year by the director of finance or such other person designated to make assessment. Such assessment shall provide for the equalization of assessments of real estate, correction of errors in tax assessment records, addition of erroneously omitted properties to the tax rolls, and removal of properties acquired by owners not subject to taxation.

The taxes for each year on the real estate assessed shall be extended on the basis of the last assessment made prior to such year.

This section shall not apply to real estate assessable under the law by the Commonwealth, and the director of finance or his designated agent shall not make any real estate assessments during the life of any general reassessment board.

Any reassessments which change the assessment of real estate shall not be extended for taxation until forty-five days after a written notice is mailed to the person in whose name such property is to be assessed at his last known address, setting forth the amount of the prior assessment and the new assessment.

The board shall establish a continuing board of real estate review and equalization to review all assessments made under authority of this section and to which all appeals by any person aggrieved by any real estate assessment shall first apply for relief. The board of real estate review and equalization shall consist of not fewer than three nor more than five members who shall be freeholders in the county. The appointment, terms of office and compensation of the members of such board shall be prescribed by the board of supervisors. The board of real estate review and equalization shall have all the powers conferred upon boards of equalization by general law. All applications for review to such board shall be made not later than April 1 of the year for which extension of taxes on the assessment is to be made. Such board shall grant a hearing to any person making application at a regular advertised meeting of the board, shall rule on all applications within sixty days after the date of the hearing, and shall thereafter promptly certify its action thereon to the director of finance. The equalization board shall conduct hearings at such times as are convenient, after publishing a notice in a newspaper having a general circulation in the county, ~~ten~~ *seven* days prior to any such hearing at which any person applying for review will be heard.

Any person aggrieved by any reassessment or action of the board of real estate review and equalization may apply for relief to the circuit court of the county in the manner provided by general law.

§ 15.2-716. Referendum for establishment of department of real estate assessments; board of equalization; general reassessments in county where department established.

A referendum may be initiated by a petition signed by 200 or more qualified voters of the county filed with the circuit court, asking that a referendum be held on the question of whether the county shall have a department of real estate assessments. The court shall on or before August 1 enter of record an order requiring the county election officials to open the polls at the regular election to be held in November of such year on the question stated in such order. If the petition seeks the holding of a special election on the question, then the petition hereinabove referred to shall be signed by 1,000 or more qualified voters of the county and the court shall within fifteen days of the date such petition is filed enter an order, in accordance with § 24.2-684, requiring the election officials to open the polls on a date fixed in the order and take the sense of the qualified voters of the county. The clerk of the county shall cause a notice of such election to be published in a newspaper having general circulation in the county once a week for three successive weeks*, with the first notice appearing no more than 21 days before the date on which the referendum is held*, and shall post a copy of such notice at the door of the county courthouse.

If a majority of the voters voting in the referendum vote for the establishment of a department of real estate assessments, the board shall by ordinance establish such department, provide for the compensation of the department head and employees therein, and decide such other matters in relation to the powers and duties of the department, the department

head and the employees, as the board deems proper. As used in this section the term "department" refers to the department of real estate assessments and where proper the department head thereof.

Upon the establishment of the department, the county manager shall select the head thereof and provide for such employees and assistants as required. Such department shall be vested with the powers and duties conferred or imposed upon commissioners of the revenue by general law to the extent that such duties and powers are consistent with this section, in relation to the assessment of real estate. All real estate shall be assessed at its fair market value as of January 1 of each year by the department and taxes for each year on such real estate shall be entered on the land book by the department in the name of the owner thereof. Whenever any such assessment is increased over the last assessment made prior to such year, the department shall give written notice to the owner of such real estate or of any interest therein, by mailing such notice to the last known post-office address of such owner. However, the validity of such assessment shall not be affected by any failure to receive such notice.

If a department of real estate assessments is appointed as above provided, a board of equalization of real estate assessments shall be appointed pursuant to § 15.2-716.1. Any person aggrieved by any assessment made under the provisions of this section may apply for relief to such board as therein provided.

When a department of real estate assessments is appointed, the county shall not be required to undertake general reassessments of real estate every six years, but the governing body of the county may, but shall not be required to, request the circuit court of such county to order a general reassessment at such times as the governing body deems proper. Such court shall then enter an order directing a reassessment of real estate in the manner provided by law.

The department of real estate assessments may require that the owners of income-producing real estate in the county subject to local taxation, except property producing income solely from the rental of no more than four dwelling units, furnish to the department on or before a time specified by the director of the department statements of the income and expenses attributable over a specified period of time to each such parcel of real estate. If there is a willful failure to furnish statements of income and expenses in a timely manner to the director, the owner of such parcel of real estate shall be deemed to have waived his right in any proceeding contesting the assessment to utilize such income and expenses as evidence of fair market value. Each such statement shall be certified as to its accuracy by an owner of the real estate for which the statement is furnished, or a duly authorized agent thereof. Any statement required by this section shall be kept confidential as required by § 58.1-3.

§ 15.2-749. Certain referenda in certain counties.

If on or before July 15 of any year in which such referendum is provided for by law a petition signed by 200 or more qualified voters of the county is filed with the circuit court of the county asking that a referendum be held on any question upon which a referendum is provided for by any applicable statute, then such court shall on or before August 1 of such year issue and enter of record an order requiring the county election officials to open the polls at the regular election to be held in November of such year on the question stated in such statute. If the statute providing for such referendum shall authorize or require the referendum to be held at a special election, then the petition hereinabove referred to shall be signed by 1,000 or more voters of the county and the court shall within fifteen days of the date such petition is filed enter an order requiring the election officials to open the polls and take the sense of the voters of the county on a date fixed in his order, which shall be in accordance with § 24.2-682. The clerk of the county shall cause a notice of such election to be published in a newspaper published or having general circulation in the county once a week for three successive weeks*, with the first notice appearing no more than 21 days before the date on which the referendum is held*, and shall post a copy of the notice at the door of the county courthouse.

§ 15.2-958.3. Commercial Property Assessed Clean Energy (C-PACE) financing programs.

A. As used in this section:

"Eligible improvements" means any of the following improvements made to eligible properties:

1. Energy efficiency improvements;
2. Water efficiency and safe drinking water improvements;
3. Renewable energy improvements;
4. Resiliency improvements;
5. Stormwater management improvements;
6. Environmental remediation improvements; and
7. Electric vehicle infrastructure improvements.

A program administrator may include in its C-PACE loan program guide or other administrative documentation definitions, interpretations, and examples of these categories of eligible improvements.

"Eligible properties" means all assessable commercial real estate located within the Commonwealth, with all buildings located or to be located thereon, whether vacant or occupied, whether improved or unimproved, and regardless of whether such real estate is currently subject to taxation by the locality, other than a residential dwelling with fewer than five dwelling units or a condominium as defined in § 55.1-2000 used for residential purposes. Common areas of real estate owned by a cooperative or a property owners' association described in Subtitle IV (§ 55.1-1800 et seq.) of Title 55.1 that have a separate real property tax identification number are eligible properties. Eligible properties shall be eligible to participate in the C-PACE loan program.

"Program administrator" means a third party that is contracted for professional services to administer a C-PACE loan program.

"Resiliency improvement" means an improvement that increases the capacity of a structure or infrastructure to withstand or recover from natural disasters, the effects of climate change, and attacks and accidents, including, but not limited to:

1. Flood mitigation or the mitigation of the impacts of flooding;

2. Inundation adaptation;

3. Natural or nature-based features and living shorelines, as defined in § 28.2-104.1;

4. Enhancement of fire or wind resistance;

5. Microgrids;

6. Energy storage; and

7. Enhancement of the resilience capacity of a natural system, structure, or infrastructure.

B. Any locality may, by ordinance, authorize contracts to provide C-PACE loans (loans) for the initial acquisition, installation, and refinancing of eligible improvements located on eligible properties by free and willing property owners of such eligible properties. The ordinance may refer to the mode of financing as Commercial Property Assessed Clean Energy (C-PACE) financing and shall include but not be limited to the following:

1. The kinds of eligible improvements that qualify for loans;

2. The proposed arrangement for such C-PACE loan program (loan program), including (i) a statement concerning the source of funding for the C-PACE loan; (ii) the time period during which contracting property owners would repay the C-PACE loan; and (iii) the method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the c-pace loan among the parties to the C-PACE transaction;

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

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

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

6. Identification of any fee that the locality intends to impose on the property owner requesting to participate in the loan program to offset the cost of administering the loan program. The fee may be assessed as a program fee paid by the property owner requesting to participate in the program; and

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

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

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

E. In order to secure the loan authorized pursuant to this section, the locality shall place a voluntary special assessment lien equal in value to the loan against any property where such eligible improvements are being installed. The locality may bundle or package said loans for transfer to private lenders in such a manner that would allow the voluntary special assessment liens to remain in full force to secure the loans. The placement of a voluntary special assessment lien shall not require a new assessment on the value of the real property that is being improved under the loan program.

F. A voluntary special assessment lien imposed on real property under this section:

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

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

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

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

G. Prior to the enactment of an ordinance pursuant to this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed loan program or any of its particulars. The public hearing shall be ~~advertised~~ *published* once a week for two successive weeks*, with the first notice appearing no more than 14 days before the hearing,* in a newspaper of general circulation in the locality.

H. The Department of Energy shall serve as a statewide sponsor for a loan program that meets the requirements of this section. The Department of Energy shall engage a private program administrator through a competitive selection process to develop the statewide loan program. A locality, in its adoption or amendment of its C-PACE ordinance described in subsection B, may opt into the statewide C-PACE loan program sponsored by the Department of Energy, and such action shall not require the locality to undertake any competitive procurement process.

§ 15.2-958.6. Financing the repair of failed septic systems.

A. Any locality may, by ordinance, authorize contracts with property owners to provide loans for the repair of septic systems. Such an ordinance shall state:

1. The kinds of septic system repairs for which loans may be offered;

2. The proposed arrangement for such loan program, including (i) the interest rate and time period during which contracting property owners shall repay the loan; (ii) the method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the arrangement among the consenting property owners and the locality; and (iii) the possibility that the locality may partner with a planning district commission (PDC) to coordinate and provide financing for the repairs, including the locality's obligation to reimburse the PDC as the loan is repaid;

3. A minimum and maximum aggregate dollar amount that may be financed;

4. A method for setting requests from property owners for financing in priority order in the event that requests appear likely to exceed the authorization amount of the loan program. Priority shall be given to those requests from property owners who meet established income or assessed property value eligibility requirements;

5. Identification of a local official authorized to enter into contracts on behalf of the locality; and

6. A draft contract specifying the terms and conditions proposed by the locality or by a PDC acting on behalf of the locality.

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

C. In cases in which local property records fail to identify all of the individuals having an ownership interest in a property containing a failing septic system, the locality may set a minimum total ownership interest that it will require a property owner or owners to prove before it will allow the owner or owners to participate in the program.

D. The locality or PDC acting on behalf of the locality shall offer private lending institutions the opportunity to participate in local loan programs established pursuant to this section.

E. In order to secure the loan authorized pursuant to this section, the locality is authorized to place a lien equal in value to the loan against any property where such septic system repair is being undertaken. Such liens shall be subordinate to all liens on the property as of the date loans authorized pursuant to this section are made, except that with the prior written consent of the holders of all liens on the property as of the date loans authorized pursuant to this section are made, the liens securing loans authorized pursuant to this section shall be liens on the property ranking on a parity with liens for unpaid local taxes. The locality may bundle or package such loans for transfer to private lenders in such a manner that would allow the liens to remain in full force to secure the loans.

F. Prior to the enactment of an ordinance pursuant to this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed loan program or any of its particulars. The public hearing shall be ~~advertised~~ *published* once a week for two successive weeks*, with the first notice appearing no more than 14 days before the hearing,* in a newspaper of general circulation in the locality.

§ 15.2-1236. Purchases and sales to be based on competition.

A. All purchases of, and contracts for, supplies and contractual services shall be in accordance with Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2.

B. All sales of any personal property which has become obsolete and unusable shall be based wherever feasible on competitive bids. If the amount of the sale is estimated by the county purchasing agent to exceed $5,000, sealed bids shall, unless the governing body provides otherwise, be solicited by public notice published at least once in a newspaper of countywide circulation at least ~~five~~ *seven* calendar days before the final date of submitting bids.

§ 15.2-1301. Voluntary economic growth-sharing agreements.

A. Any county, city or town, or combination thereof, may enter voluntarily into an agreement with any other county, city or town, or combination thereof, whereby the locality may agree for any purpose otherwise permitted, including the provision on a multi-jurisdictional basis of one or more public services or facilities or any type of economic development project, to enter into binding fiscal arrangements for fixed time periods, to exceed one year, to share in the benefits of the economic growth of their localities. However, if any such agreement contains any provision addressing any issue provided for in Chapter 32 (§ 15.2-3200 et seq.), 33 (§ 15.2-3300 et seq.), 36 (§ 15.2-3600 et seq.), 38 (§ 15.2-3800 et seq.), 39 (§ 15.2-3900 et seq.), or 41 (§ 15.2-4100 et seq.), the agreement shall be subject to the review and implementation process established by Chapter 34 (§ 15.2-3400 et seq.). All such agreements, including those that address any issue provided for in Chapter 32, 33, 36, 38, 39, or 41, shall require, at least annually, a report from each locality that is a recipient of funds pursuant to the agreement to each of the other governing bodies of the participating localities that includes (i) the amount of money transferred among the localities pursuant to the agreement and (ii) the uses of such funds by the localities. The parties to any such agreement that has been in effect for at least 10 years as of July 1, 2018, and pursuant to which annual payments exceed $5 million, shall (a) comply with the reporting requirements of this subsection, notwithstanding whether such requirements are contained in the existing agreement and (b) convene an annual meeting to discuss anticipated future plans for economic growth in the localities.

B. The terms and conditions of the revenue, tax base or economic growth-sharing agreement as provided in subsection A shall be determined by the affected localities and shall be approved by the governing body of each locality participating in the agreement, provided the governing body of each such locality first holds a public hearing which shall be advertised once a week for two successive weeks*, with the first notice appearing no more than 14 days before the hearing,* in a newspaper of general circulation in the locality. However, the public hearing shall not take place until the Commission on Local Government has issued its findings in accordance with subsection D. For purposes of this section, "revenue, tax base, and economic growth-sharing agreements" means any agreement authorized by subsection A which obligates any locality to pay another locality all or any portion of designated taxes or other revenues received by that political subdivision, but shall not include any interlocal service agreement.

C. Any revenue, tax base or economic growth-sharing agreement entered into under the provisions of this section that creates a debt pursuant to Article VII, Section 10 (b) of the Constitution of Virginia, shall require the board of supervisors to hold a special election on the question as provided in § 15.2-3401.

D. Revenue, tax base, and economic growth-sharing agreements drafted under the provisions of this chapter shall be submitted to the Commission on Local Government for review as provided in subdivision 4 of § 15.2-2903. However, no such review shall be required for two or more localities entering into an economic growth-sharing agreement pursuant to this section in order to facilitate the reception of grants for qualified companies in such locality pursuant to the Port of Virginia Economic and Infrastructure Development Grant Fund and Program established pursuant to § 62.1-132.3:2.

§ 15.2-1427. Adoption of ordinances and resolutions generally; amending or repealing ordinances.

A. Unless otherwise specifically provided for by the Constitution or by other general or special law, an ordinance may be adopted by majority vote of those present and voting at any lawful meeting.

B. On final vote on any ordinance or resolution, the name of each member of the governing body voting and how he voted shall be recorded; however, votes on all ordinances and resolutions adopted prior to February 27, 1998, in which an unanimous vote of the governing body was recorded, shall be deemed to have been validly recorded. The governing body may adopt an ordinance or resolution by a recorded voice vote unless otherwise provided by law, or any member calls for a roll call vote. An ordinance shall become effective upon adoption or upon a date fixed by the governing body.

C. All ordinances or resolutions heretofore adopted by a governing body shall be deemed to have been validly adopted, unless some provision of the Constitution of Virginia or the Constitution of the United States has been violated in such adoption.

D. An ordinance may be amended or repealed in the same manner, or by the same procedure, in which, or by which, ordinances are adopted.

E. An amendment or repeal of an ordinance shall be in the form of an ordinance which shall become effective upon adoption or upon a date fixed by the governing body, but, if no effective date is specified, then such ordinance shall become effective upon adoption.

F. In counties, except as otherwise authorized by law, no ordinance shall be passed until after descriptive notice of an intention to propose the ordinance for passage has been published once a week for two successive weeks*, with the first notice appearing no more than 14 days* prior to ~~its~~ *the intended* passage *of the ordinance,* in a newspaper having a general circulation in the county. The second publication shall not be sooner than one calendar week after the first publication. The publication shall include a statement either that the publication contains the full text of the ordinance or that a copy of the full text of the ordinance is on file in the clerk's office of the circuit court of the county or in the office of the county administrator; or in the case of any county organized under the form of government set out in Chapter 5, 7 or 8 of this title, a statement that a copy of the full text of the ordinance is on file in the office of the clerk of the county board. Even if the publication contains the full text of the ordinance, a complete copy shall be available for public inspection in the offices named herein.

In counties, emergency ordinances may be adopted without prior notice; however, no such ordinance shall be enforced for more than sixty days unless readopted in conformity with the provisions of this Code.

G. In towns, no tax shall be imposed except by a two-thirds vote of the council members.

§ 15.2-1702. Referendum required prior to establishment of county police force.

A. A county shall not establish a police force unless (i) such action is first approved by the voters of the county in accordance with the provisions of this section and (ii) the General Assembly enacts appropriate authorizing legislation.

B. The governing body of any county shall petition the court, by resolution, asking that a referendum be held on the question, "Shall a police force be established in the county and the sheriff's office be relieved of primary law-enforcement responsibilities?" The court, by order entered of record in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, shall require the regular election officials of the county to open the polls and take the sense of the voters on the question as herein provided.

The clerk of the circuit court for the county shall publish notice of the election in a newspaper of general circulation in the county once a week for three consecutive weeks prior to the election*, with the first notice appearing no more than 21 days before the election*. The notice shall contain the ballot question and a statement of not more than 500 words on the proposed question. The explanation shall be presented in plain English, shall be limited to a neutral explanation, and shall not present arguments by either proponents or opponents of the proposal. The attorney for the county or city or, if there is no county or city attorney, the attorney for the Commonwealth shall prepare the explanation. "Plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession.

C. The county may expend public funds to produce and distribute neutral information concerning the referendum; provided, however, public funds may not be used to promote a particular position on the question, either in the notice called for in subsection B, or in any other distribution of information to the public.

D. The regular election officers of the county shall open the polls on the date specified in such order and conduct the election in the manner provided by law. The election shall be by ballot which shall be prepared by the electoral board of the county and on which shall be printed the following:

"Shall a police force be established in the county and the sheriff's office be relieved of primary law-enforcement responsibilities?

[ ] Yes

[ ] No"

The ballots shall be counted, returns made and canvassed as in other elections, and the results certified by the electoral board to the court ordering the election. If a majority of the voters voting in the election vote "Yes," the court shall enter an order proclaiming the results of the election and a duly certified copy of such order shall be transmitted to the governing body of the county. The governing body shall proceed to establish a police force following the enactment of authorizing legislation by the General Assembly.

E. After a referendum has been conducted pursuant to this section, no subsequent referendum shall be conducted pursuant to this section in the same county for a period of four years from the date of the prior referendum.

§ 15.2-1703. Referendum to abolish county police force.

The police force in any county which established the force subsequent to July 1, 1983, may be abolished and its responsibilities assumed by the sheriff's office after a referendum held pursuant to this section.

Either (i) the voters of the county by petition signed by not less than ten percent of the registered voters therein on the January 1 preceding the filing of the petition or (ii) the governing body of the county, by resolution, may petition the circuit court for the county that a referendum be held on the question, "Shall the county police force be abolished and its responsibilities assumed by the county sheriff's office?" The court, by order entered of record in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, shall require the regular election officials of the county at the next general election held in the county to open the polls and take the sense of the voters on the question as herein provided. The clerk of the circuit court for the county shall publish notice of the election in a newspaper of general circulation in the county once a week for three consecutive weeks prior to the election*, with the first notice appearing no more than 21days before the election*.

The ballot shall be printed as follows:

"Shall the county police force be abolished and its responsibilities assumed by the county sheriff's office?

[ ] Yes

[ ] No"

The election shall be held and the results certified as provided in § 24.2-684. If a majority of the voters voting in the election vote in favor of the question, the court shall enter an order proclaiming the results of the election, and a duly certified copy of such order shall be transmitted to the governing body of the county. The governing body shall proceed with the necessary action to abolish the police force and transfer its responsibilities to the sheriff's office, to become effective on July 1 following the referendum.

Once a referendum has been held pursuant to this section, no further referendum shall be held pursuant to this section within four years thereafter.

§ 15.2-2108.7. Public hearings on feasibility study; notice.

A. If the results of the feasibility study satisfy the revenue requirements of subsection D of § 15.2-2108.6, the governing body shall, at the next regular meeting after the governing body receives the results of the feasibility study, schedule at least two public hearings to be held at least seven days apart, but both shall be held not more than 60 days from

the date of the meeting at which the public hearings are scheduled. The purpose of such public hearings shall be to allow the feasibility consultant to present the results of the feasibility study, and to inform the public about the feasibility study results and offer the public the opportunity to ask questions of the feasibility consultant about the results of the feasibility study.

B. Except as provided in subsection C, the municipality shall publish notice of the public hearings required under subsection A at least once a week for three consecutive weeks in a newspaper of general circulation in the municipality*, with the first notice appearing no more than 21 days before the hearing*. The last publication of notice required under this subsection shall be at least three days before the first public hearing required under subsection A.

C. If there is no newspaper of general circulation in the municipality, for each 1,000 residents the municipality shall post at least one notice of the hearings in a conspicuous place within the municipality that is likely to give notice of the hearings to the greatest number of residents of the municipality. The municipality shall post the notices at least seven days before the first public hearing required under subsection A is held.

D. After holding the public hearings required by this section, if the governing body of the municipality elects to proceed, the municipality shall adopt by resolution the feasibility study.

§ 15.2-2204. Advertisement of plans, ordinances, etc.; joint public hearings; written notice of certain amendments.

A. Plans or ordinances, or amendments thereof, recommended or adopted under the powers conferred by this chapter need not be advertised in full, but may be advertised by reference. Every such advertisement shall ~~contain a descriptive summary of the proposed action and a reference to~~ *identify* the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.

The local planning commission shall not recommend nor the governing body adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the locality*, with the first notice appearing no more than 14 days before the intended adoption*; however, the notice for both the local planning commission and the governing body may be published concurrently. The notice shall specify the time and place of hearing at which persons affected may appear and present their views~~, not less than five days nor more than 21 days after the second advertisement appears in such newspaper~~. The local planning commission and governing body may hold a joint public hearing after public notice as set forth in this subsection. If a joint hearing is held, then public notice as set forth in this subsection need be given only by the governing body. As used in this subsection, "two successive weeks" means that such notice shall be published at least twice in such newspaper, with not less than six days elapsing between the first and second publication. In any instance in which a locality has submitted a correct and timely notice request to such newspaper and the newspaper fails to publish the notice, or publishes the notice incorrectly, such locality shall be deemed to have met the notice requirements of this subsection so long as the notice was published in the next available edition of a newspaper having general circulation in the locality. After enactment of any plan, ordinance or amendment, further publication thereof shall not be required.

B. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as required by subsection A, ~~written~~ *the advertisement shall include the street address or tax map parcel number of the parcels subject to the action. Written* notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels that lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the commission or its agent. However, when a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice required under this chapter shall be taxed to the applicant.

When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, then, in addition to the advertising as required by subsection A, ~~written~~ *the advertisement shall include the street address or tax map parcel number of the parcels as well as the approximate acreage subject to the action. For more than 100 parcels of land, the advertisement may instead include a description of the boundaries of the area subject to the changes and a link to a map of the subject area. Written* notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Article 6 (§ 15.2-2240 et seq.) where such lots are less than 11,500 square feet. One notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the local commission to give written notice to the owner, owners or their agent of any parcel involved.

The governing body may provide that, in the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

Whenever the notices required hereby are sent by an agency, department or division of the local governing body, or their representative, such notices may be sent by first class mail; however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this section is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

C. When a proposed comprehensive plan or amendment thereto; a proposed change in zoning map classification; or an application for special exception for a change in use or to increase by greater than 50 percent of the bulk or height of an existing or proposed building, but not including renewals of previously approved special exceptions, involves any parcel of land located within one-half mile of a boundary of an adjoining locality of the Commonwealth, then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 10 days before the hearing to the chief administrative officer, or his designee, of such adjoining locality.

D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 30 days before the hearing to the commander of the military base, military installation, military airport, or owner of such public-use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.

E. The adoption or amendment prior to July 1, 1996, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise or give notice as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to such adoption or amendment. Every action contesting a decision of a locality based on a failure to advertise or give notice as may be required by this chapter shall be filed within 30 days of such decision with the circuit court having jurisdiction of the land affected by the decision. However, any litigation pending prior to July 1, 1996, shall not be affected by the 1996 amendment to this section.

F. Notwithstanding any contrary provision of law, general or special, the City of Richmond may cause such notice to be published in any newspaper of general circulation in the city.

G. When a proposed comprehensive plan or amendment of an existing plan designates or alters previously designated corridors or routes for electric transmission lines of 150 kilovolts or more, written notice shall also be given by the local planning commission, or its representative, at least 10 days before the hearing to each electric utility with a certificated service territory that includes all or any part of such designated electric transmission corridors or routes.

H. When any applicant requesting a written order, requirement, decision, or determination from the zoning administrator, other administrative officer, or a board of zoning appeals that is subject to the appeal provisions contained in § 15.2-2311 or 15.2-2314, is not the owner or the agent of the owner of the real property subject to the written order, requirement, decision or determination, written notice shall be given to the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by the zoning administrator or other administrative officer or, at the direction of the administrator or officer, the requesting applicant shall be required to give the owner such notice and to provide satisfactory evidence to the zoning administrator or other administrative officer that the notice has been given. Written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall satisfy the notice requirements of this subsection.

This subsection shall not apply to inquiries from the governing body, planning commission, or employees of the locality made in the normal course of business.

§ 15.2-2285. Preparation and adoption of zoning ordinance and map and amendments thereto; appeal.

A. The planning commission of each locality may, and at the direction of the governing body shall, prepare a proposed zoning ordinance including a map or maps showing the division of the territory into districts and a text setting forth the regulations applying in each district. The commission shall hold at least one public hearing on a proposed ordinance or any amendment of an ordinance, after notice as required by § 15.2-2204, and may make appropriate changes in the proposed ordinance or amendment as a result of the hearing. Upon the completion of its work, the commission shall present the proposed ordinance or amendment including the district maps to the governing body together with its recommendations and appropriate explanatory materials.

B. No zoning ordinance shall be amended or reenacted unless the governing body has referred the proposed amendment or reenactment to the local planning commission for its recommendations. Failure of the commission to report 100 days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, or such shorter period as may be prescribed by the governing body, shall be deemed approval, unless the

proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period. The governing body shall hold at least one public hearing on a proposed reduction of the commission's review period. The governing body shall publish a notice of the public hearing in a newspaper having general circulation in the locality at least two weeks prior to the public hearing date and shall also publish the notice on the locality's website, if one exists. In the event of and upon such withdrawal, processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required by this subsection.

C. Before approving and adopting any zoning ordinance or amendment thereof, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by § 15.2-2204, after which the governing body may make appropriate changes or corrections in the ordinance or proposed amendment. ~~In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan.~~ However, no land may be zoned to a more intensive use classification than was contained in the ~~public notice~~ *documentation made available for examination pursuant to subsection A of § 15.2-2204* without an additional public hearing after notice required by § 15.2-2204. Zoning ordinances shall be enacted in the same manner as all other ordinances.

D. Any county which has adopted an urban county executive form of government provided for under Chapter 8 (§ 15.2-800 et seq.) may provide by ordinance for use of plans, profiles, elevations, and other such demonstrative materials in the presentation of requests for amendments to the zoning ordinance.

E. The adoption or amendment prior to March 1, 1968, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise, give notice or conduct more than one public hearing as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to the adoption or amendment.

F. Every action contesting a decision of the local governing body adopting or failing to adopt a proposed zoning ordinance or amendment thereto or granting or failing to grant a special exception shall be filed within thirty days of the decision with the circuit court having jurisdiction of the land affected by the decision. However, nothing in this subsection shall be construed to create any new right to contest the action of a local governing body.

§ 15.2-2400. Creation of service districts.

Any locality may by ordinance, or any two or more localities may by concurrent ordinances, create service districts within the locality or localities in accordance with the provisions of this article. Service districts may be created to provide additional, more complete or more timely services of government than are desired in the locality or localities as a whole.

Any locality seeking to create a service district shall have a public hearing prior to the creation of the service district. Notice of such hearing shall be published once a week for three consecutive weeks in a newspaper of general circulation within the locality, ~~and the hearing shall be held no sooner than ten days after the date the second notice appears in the newspaper~~ *with the first notice appearing no more than 21 days before the hearing*.

§ 15.2-2401. Creation of service districts by court order in consolidated cities.

In any city which results from the consolidation of two or more localities, service districts may, in addition to the method prescribed in § 15.2-2400, be created by order of the circuit court for the city upon the petition of fifty voters of the proposed district, which order shall prescribe the metes and bounds of the district.

Upon the filing of a petition the court shall fix a date for a hearing on the question of the proposed service district, which hearing shall embrace a consideration of whether the property embraced within the proposed district will be benefited by the establishment thereof. Notice of such hearing shall be published once a week for three consecutive weeks in a newspaper of general circulation within the city, ~~and the hearing shall not be held sooner than ten days after the last publication~~ *with the first notice appearing no more than 21 days before the election*. Any person interested may answer the petition and make defense thereto. If upon such hearing the court is of opinion that any property embraced within the limits of such proposed district will not be benefited by the establishment thereof, then such property shall not be embraced therein.

Upon the petition of the city council and of not less than 50 voters of the territory proposed to be added, or if such territory contains less than 100 voters, of fifty percent of the voters of such territory, after notice and hearing as provided above, any service district may be extended and enlarged by order of the circuit court for the city which order shall prescribe the metes and bounds of the territory so added.

§ 15.2-2606. Public hearing before issuance of bonds.

A. Notwithstanding any contrary provision of law, general or special, but subject to subsection B of this section, before the final authorization of the issuance of any bonds by a locality, the governing body of the locality shall hold a public hearing on the proposed bond issue. Notice of the hearing shall be published once a week for two successive weeks in a newspaper published or having general circulation in the locality*, with the first notice appearing no more than 14 days before the hearing*. The notice shall (i) state the estimated maximum amount of the bonds proposed to be issued, (ii) state the proposed use of the bond proceeds, and if there is more than one use, state the proposed uses for which more than 10 percent of the total bond proceeds is expected to be used, and (iii) specify the time and place of the hearing at which persons may appear and present their views. The hearing shall not be held less than six nor more than 21 days after the date the second notice appears in the newspaper.

B. No notice or public hearing shall be required for (i) bonds which have been approved by a majority of the voters of the issuing locality voting on the issuance of such bonds or (ii) obligations issued pursuant to § 15.2-2629, 15.2-2630 or 15.2-2643.

§ 15.2-2653. Contesting issuance of bonds; notice and hearing; service on member of governing body, etc.

Any person, corporation, or association desiring to contest the issuance of any bonds pursuant to the provisions of this chapter, or any other law, general or special, shall proceed by filing a motion for judgment within thirty days after the filing of the resolution or ordinance authorizing the issuance of the bonds with the circuit court having jurisdiction over the issuer, or in contesting the validity of a petition for or the results of a referendum, within thirty days after the date that the result of the election for the issuance of the bonds is certified, in the court having jurisdiction as provided in § 15.2-2651. For bonds which are not authorized pursuant to a referendum, or for which the authorizing resolution or ordinance is not required to be filed with the circuit court, the contestant shall proceed by filing a motion for judgment within thirty days after the adoption of the authorizing resolution or ordinance. Upon the filing of a motion for judgment, the court shall fix a time and place for hearing the proceeding and shall enter an order requiring the publication of the motion for judgment or a summary of it approved by the court, together with the order setting forth the time and place of the hearing, once a week for two consecutive weeks in a newspaper published or having general circulation in the jurisdiction where the issuer is located*, with the first notice appearing no more than 14 days before the hearing*. The date fixed for the hearing shall not be sooner than ten days after the date the second publication of the motion for judgment or summary and the order appears in the newspaper. In addition to such publication, the plaintiff shall secure personal service on at least one member of the governing body of the issuer.

§ 15.2-3401. Referendum on contracting of debt by counties in voluntary settlement agreements.

Before a county, under the terms of a voluntary agreement pursuant to this chapter, contracts a debt pursuant to Article VII, Section 10 (b) of the Constitution of Virginia, the board of supervisors shall, in conformity with Article VII, Section 10 (b) of the Constitution of Virginia, petition the circuit court for the county for an order calling for a special election in the county on the question of contracting such debt.

The question on the ballot shall be as follows, provided that the circuit court in its order calling for the election may substitute alternative language necessary to specify the type of agreement or the particular debt which the county proposes to contract under an agreement:

"Shall (name of county) be authorized to contract a debt by entering into a contract for the payment (describe the debt or payment) to (name of locality to whom payments are to be made) as a part of the proposed voluntary annexation and immunity settlement agreement between the county and (name of other locality)?

[ ] Yes

[ ] No"

The clerk of the county shall cause a notice of the referendum to be published in a newspaper having general circulation in the county once a week for three consecutive weeks, the first such notice of which must be published not more than ~~sixty~~ *21* days prior to the election and shall post a copy of the notice at the door of the county courthouse.

The election shall be held and the results thereof ascertained and certified in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. If a majority of the voters of the county voting in such election approve the contracting of such debt, the county may proceed to adopt, by ordinance, the agreement.

§ 15.2-3600. Petition for incorporation of community; appointment of special court.

A petition signed by 100 voters of any community may be presented to the circuit court for the county in which such community, or the greater part thereof, is situated, requesting that the community be incorporated as a town. A plat showing the boundaries of the community shall be attached to the petition. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) of this title. The plat shall be prepared by a registered surveyor in a form suitable for recording in the clerk's office of the circuit court. A copy of the petition shall be served upon the county attorney or, if there is no county attorney, the attorney for the Commonwealth, and each member of the governing body of the county or counties wherein the area sought to be incorporated lies. The governing body at its option may become a party to the proceeding. The petition shall be accompanied by proof that:

1. The petition has been available for public inspection in the office of the clerk of the circuit court; and

2. The following have been published once a week for ~~four~~ *three* successive weeks in a newspaper having general circulation in the county*, with the first publication appearing no more than 21 days before the petition will be presented*:

a. Notice of the time and place the petition would be presented; and

b. The text of the petition in full; or

c. A descriptive summary of the petition and notice that the petition may be inspected at the circuit court clerk's office.

§ 15.2-4309. Hearing; creation of district; conditions; notice.

A. The local governing body, after receiving the report of the local planning commission and the advisory committee, shall hold a public hearing as provided by law, and after such public hearing, may by ordinance create the district or add land to an existing district as applied for, or with any modifications it deems appropriate.

B. The governing body may require, as a condition to creation of the district, that any parcel in the district shall not, without the prior approval of the governing body, be developed to any more intensive use or to certain more intensive uses, other than uses resulting in more intensive agricultural or forestal production, during the period which the parcel remains

within the district. Local governing bodies shall not prohibit as a more intensive use, construction and placement of dwellings for persons who earn a substantial part of their livelihood from a farm or forestry operation on the same property, or for members of the immediate family of the owner, or divisions of parcels for such family members, unless the governing body finds that such use in the particular case would be incompatible with farming or forestry in the district. To further the purposes of this chapter and to promote agriculture and forestry and the creation of districts, the local governing body may adopt programs offering incentives to landowners to impose land use and conservation restrictions on their land within the district. Programs offering such incentives shall not be permitted unless authorized by law. Any conditions to creation of the district and the period before the review of the district shall be described, either in the application or in a notice sent by first-class mail to all landowners in the district and published in a newspaper having a general circulation within the district at least ~~two weeks~~ *seven days* prior to adoption of the ordinance creating the district. The ordinance shall state any conditions to creation of the district and shall prescribe the period before the first review of the district, which shall be no less than four years but not more than ten years from the date of its creation. In prescribing the period before the first review, the local governing body shall consider the period proposed in the application. The ordinance shall remain in effect at least until such time as the district is to be reviewed. In the event of annexation by a city or town of any land within a district, the district shall continue until the time prescribed for review.

C. The local governing body shall act to adopt or reject the application, or any modification of it, no later than 180 days from (i) November 1 or (ii) the other date selected by the locality as provided in § 15.2-4305. Upon the adoption of an ordinance creating a district or adding land to an existing district, the local governing body shall submit a copy of the ordinance with maps to the local commissioner of the revenue, and the State Forester, and the Commissioner of Agriculture and Consumer Services for information purposes. The commissioner of the revenue shall identify the parcels of land in the district in the land book and on the tax map, and the local governing body shall identify such parcels on the zoning map, where applicable and shall designate the districts on the official comprehensive plan map each time the comprehensive plan map is updated.

§ 15.2-5104. Advertisement of ordinance, agreement or resolution and notice of hearing.

The governing body of each participating locality shall cause to be advertised at least one time in a newspaper of general circulation in such locality a copy of the ordinance, agreement or resolution creating an authority, or a descriptive summary of the ordinance, agreement or resolution and a reference to the place within the locality where a copy of the ordinance, agreement or resolution can be obtained, and notice of the day, not less than ~~thirty~~ *seven* days after publication of the advertisement, on which a public hearing will be held on the ordinance, agreement or resolution.

§ 15.2-5136. Rates and charges.

A. The authority may fix and revise rates, fees and other charges (which shall include, but not be limited to, a penalty not to exceed 10 percent on delinquent accounts, and interest on the principal), subject to the provisions of this section, for the use of and for the services furnished or to be furnished by any system, or streetlight system in King George County, or refuse collection and disposal system or facilities incident thereto, owned, operated or maintained by the authority, or facilities incident thereto, for which the authority has issued revenue bonds as authorized by this chapter. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times (i) to pay the cost of maintaining, repairing and operating the system or systems, or facilities incident thereto, for which such bonds were issued, including reserves for such purposes and for replacement and depreciation and necessary extensions, (ii) to pay the principal of and the interest on the revenue bonds as they become due and reserves therefor, and (iii) to provide a margin of safety for making such payments. The authority shall charge and collect the rates, fees and charges so fixed or revised.

B. The rates for water (including fire protection) and sewer service (including disposal) shall be sufficient to cover the expenses necessary or properly attributable to furnishing the class of services for which the charges are made. However, the authority may fix rates and charges for the services and facilities of its water system sufficient to pay all or any part of the cost of operating and maintaining its sewer system (including disposal) and all or any part of the principal of or the interest on the revenue bonds issued for such sewer or sewage disposal system, and may pledge any surplus revenues of its water system, subject to prior pledges thereof, for such purposes.

C. Rates, fees and charges for the services of a sewer or sewage disposal system shall be just and equitable, and may be based upon:

1. The quantity of water used or the number and size of sewer connections;

2. The number and kind of plumbing fixtures in use in the premises connected with the sewer or sewage disposal system;

3. The number or average number of persons residing or working in or otherwise connected with such premises or the type or character of such premises;

4. Any other factor affecting the use of the facilities furnished; or

5. Any combination of the foregoing factors.

However, the authority may fix rates and charges for services of its sewer or sewage disposal system sufficient to pay all or any part of the cost of operating and maintaining its water system, including distribution and disposal, and all or any part of the principal of or the interest on the revenue bonds issued for such water system, and to pledge any surplus revenues of its water system, subject to prior pledges thereof, for such purposes.

D. Water and sewer rates, fees and charges established by any authority shall be fair and reasonable. An authority may charge fair and reasonable rates, fees, and charges to create reserves for expansion of its water and sewer or sewage disposal systems. Such rates, fees, and charges shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. However, any authority may charge and collect rates, fees, and charges to create a reserve fund for reasonable expansion of its water, sewer, or sewage disposal system. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

E. Rates, fees and charges for the service of a streetlight system shall be just and equitable, and may be based upon:

1. The portion of such system used;

2. The number and size of premises benefiting therefrom;

3. The number or average number of persons residing or working in or otherwise connected with such premises;

4. The type or character of such premises;

5. Any other factor affecting the use of the facilities furnished; or

6. Any combination of the foregoing factors.

However, the authority may fix rates and charges for the service of its streetlight system sufficient to pay all or any part of the cost of operating and maintaining such system.

F. The authority may also fix rates and charges for the services and facilities of a water system or a refuse collection and disposal system sufficient to pay all or any part of the cost of operating and maintaining facilities incident thereto for the generation or transmission of power and all or any part of the principal of or interest upon the revenue bonds issued for any such facilities incident thereto, and to pledge any surplus revenues from any such system, subject to prior pledges thereof, for such purposes. Charges for services to premises, including services to manufacturing and industrial plants, obtaining all or a part of their water supply from sources other than a public water system may be determined by gauging or metering or in any other manner approved by the authority.

G. No rates, fees or charges shall be fixed under subsections A through F of this section or under subdivision 10 of § 15.2-5114 until after a public hearing at which all of the users of the systems or facilities; the owners, tenants or occupants of property served or to be served thereby; and all others interested have had an opportunity to be heard concerning the proposed rates, fees and charges. After the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of a public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, shall be ~~given by two publications, at least six days apart,~~ *published once a week for two successive weeks* in a newspaper having a general circulation in the area to be served by such systems or facilities, with the ~~second notice being published at least 14 days before the date fixed in such notice for the hearing~~ *first notice appearing no more than 14 days before the hearing*. The hearing may be adjourned from time to time. A copy of the notice shall be mailed to the governing bodies of all localities in which such systems or facilities or any part thereof is located. After the hearing the preliminary schedule or schedules, either as originally adopted or as amended, shall be adopted and put into effect.

H. A copy of the schedule or schedules of the final rates, fees and charges fixed in accordance with subsection G shall be kept on file in the office of the clerk or secretary of the governing body of each locality in which such systems or any part thereof is located, and shall be open to inspection by all interested parties. The rates, fees or charges so fixed for any class of users or property served shall be extended to cover any additional properties thereafter served which fall within the same class, without the necessity of a hearing or notice. Any increase in any rates, fees or charges under this section shall be made in the manner provided in subsection G. Any other change or revision of the rates, fees or charges may be made in the same manner as the rates, fees or charges were originally established as provided in subsection G.

I. No rates, fees or charges established, fixed, changed or revised before January 1, 2013, by any authority pursuant to this section or to subdivision 10 of § 15.2-5114 shall be invalidated because of any defect in or failure to publish or provide any notice required under this section or any predecessor provision.

§ 15.2-5156. Hearing; notice.

A. An ordinance or resolution creating a community development authority shall not be adopted or approved until a public hearing has been held by the governing body on the question of its adoption or approval. Notice of the public hearing shall be published once a week for three successive weeks in a newspaper of general circulation within the locality*, with the first notice appearing no more than 21 days before the hearing*. The petitioning landowners shall bear the expense of publishing the notice. The hearing shall not be held sooner than ten days after completion of publication of the notice.

B. After the public hearing and before adoption of the ordinance or resolution, the local governing body shall mail a true copy of its proposed ordinance or resolution creating the development authority to the petitioning landowners or their attorney in fact. Unless waived in writing, any petitioning landowner shall have thirty days from mailing of the proposed ordinance or resolution in which to withdraw his signature from the petition in writing prior to the vote of the local governing body on such ordinance or resolution. If any signatures on the petition are so withdrawn, the local governing body may pass the proposed ordinance or resolution only upon certification by the petitioners that the petition continues to meet the requirements of § 15.2-5152. If all petitioning landowners waive the right to withdraw their signatures from the petition, the local governing body may adopt the ordinance or resolution upon compliance with the provisions of subsection A and any other applicable provisions of law.

§ 15.2-5431.25. Rates and charges.

A. The authority may fix and revise rates, fees and other charges (which shall include, but not be limited to, a penalty not to exceed 10 percent on delinquent accounts, and interest on the principal), subject to the provisions of this section, for the use of a project or any portion thereof and for the services furnished or to be furnished by the authority, or facilities incident thereto, owned, operated or maintained by the authority, or facilities incident thereto, for which the authority has issued revenue bonds as authorized by this chapter or received loan funding from other sources. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times (i) to pay the cost of maintaining, repairing and operating the project or systems, or facilities incident thereto, for which such bonds were issued or loans obtained, including reserves for such purposes and for replacement and depreciation and necessary extensions, (ii) to pay the principal of and the interest on the revenue bonds as they become due and reserves therefor, or other loan principal and interest, and (iii) to provide a margin of safety for making such payments. The authority shall charge and collect the rates, fees and charges so fixed or revised. The authority shall maintain records demonstrating compliance with the requirements of this section concerning the fixing and revision of rates, fees, and charges that shall be made available for inspection and copying by the public pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. No rates, fees or charges shall be fixed under subsection A until after a public hearing at which all of the users of such facilities; the owners, tenants or occupants of property served or to be served thereby; and all others interested have had an opportunity to be heard concerning the proposed rates, fees and charges. After the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of a public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, ~~shall be given by two publications, at least six days apart,~~ *shall be published once a week for two successive weeks* in a newspaper having a general circulation in the area to be served by such systems ~~at least 60 days before the date fixed in such notice for~~*, with the first notice appearing no more than 14 days before* the hearing. The hearing may be adjourned from time to time. A copy of the notice shall be mailed to the governing bodies of all localities in which such systems or any part thereof is located. After the hearing the preliminary schedule or schedules, either as originally adopted or as amended, shall be adopted and put into effect.

C. A copy of the schedule or schedules of the final rates, fees and charges fixed in accordance with subsection B shall be kept on file in the office of the clerk or secretary of the governing body of the locality, and shall be open to inspection by all interested parties. The rates, fees or charges so fixed for any class of users or property served shall be extended to cover any additional properties thereafter served which fall within the same class, without the necessity of a hearing or notice. Any increase in any rates, fees or charges under this section shall be made in the manner provided in subsection B. Any other change or revision of the rates, fees or charges may be made in the same manner as the rates, fees or charges were originally established as provided in subsection B.

D. Connection fees established by any authority shall be fair and reasonable. Such fees shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

§ 15.2-5602. Creation of authorities.

A. A locality may by ordinance or resolution, or two or more localities, may by concurrent ordinances or resolutions, signify their intention to create an authority under an appropriate name and title containing the word "authority." Each participating locality shall hold a public hearing, notice of which shall be given by publication at least once, not less than ~~ten~~ *seven* days prior to the date fixed for the hearing, in a newspaper having general circulation in the locality. The notice shall contain a brief statement of the substance of the proposed authority, shall set forth the proposed articles of incorporation of the authority and shall state the time and place of the public hearing. The locality, by resolution, may call for a referendum on the question of the creation of an authority, which shall be held as provided by § 24.2-681 et seq. When a referendum is to be held in more than one locality, the referendum shall be held on the same date in all of such localities.

B. The articles of incorporation shall set forth:

1. The name of the authority and address of its principal office.
2. A statement that the authority is created under this chapter.
3. The name of each participating locality.
4. The names, addresses and terms of office of the first members of the authority.
5. The purpose or purposes for which the authority is to be created.

C. Passage of such ordinance or resolution by the governing body or governing bodies shall constitute the authority a body politic and corporate of the Commonwealth.

D. Any locality may become a member of an existing authority, and any locality which is a member of an existing authority may withdraw therefrom, but no locality shall be permitted to withdraw from any authority that has outstanding obligations unless United States securities have been deposited for their payment or without the unanimous consent of all holders of the outstanding obligations.

E. Having specified the initial purpose or purposes of the authority in the articles of incorporation, the governing bodies of the participating localities may, from time to time by subsequent ordinance or resolution, after public hearing, modify the articles of incorporation and the purpose or purposes specified therein. Such modification may be made either with or without a referendum.

§ 15.2-5702. Creation of authorities.

A. A locality may by ordinance or resolution, or two or more localities may by concurrent ordinances or resolutions, signify their intention to create a park authority, under an appropriate name and title, containing the word "authority" which shall be a body politic and corporate.

Whenever an authority has been incorporated by two or more localities, any one or more of the localities may withdraw therefrom, but no locality shall be permitted to withdraw from any authority that has outstanding obligations unless United States securities have been deposited for their payment or without unanimous consent of all holders of the outstanding obligations.

Other localities may join the authority as provided in the ordinances or resolutions.

B. Each ordinance or resolution shall include articles of incorporation setting forth:

1. The name of the authority and the address of its principal office.

2. The name of each incorporating locality, together with the names, addresses and terms of office of the first members of the board of the authority.

3. The purpose or purposes for which the authority is created.

C. Each participating locality shall cause to be published at least one time in a newspaper of general circulation in its locality, a copy of the ordinance or resolution together with a notice stating that on a day certain, not less than ~~ten~~ *seven* days after publication of the notice, a public hearing will be held on such ordinance or resolution. If at the hearing substantial opposition to the proposed park authority is heard, the members of the participating localities' governing bodies may in their discretion call for a referendum on the question of establishing such an authority. The request for a referendum shall be initiated by resolution of the governing body and filed with the clerk of the circuit court for the locality. The court shall order the referendum as provided for in § 24.2-681 et seq. Where two or more localities are participating in the formation of an authority the referendum, if any be ordered, shall be held on the same date in all such localities so participating. In any event if ten percent of the registered voters in such locality file a petition with the governing body at the hearing calling for a referendum such governing body shall request a referendum as herein provided.

D. Having specified the initial plan of organization of the authority, and having initiated the program, the localities organizing such authority may, from time to time, by subsequent ordinance or resolution, after public hearing, and with or without referendum, specify further parks to be acquired and maintained by the authority, and no other parks shall be acquired or maintained by the authority than those so specified. However, if the governing bodies of the localities fail to specify any project or projects to be undertaken, and if the governing bodies do not disapprove any project or projects proposed by the authority, then the authority shall be deemed to have all the powers granted by this chapter.

§ 15.2-5711. Conveyance or lease of park to authority; contract for park services; when referendum required before certain contracts made.

Each locality and other public body is hereby authorized and empowered:

1. To convey or lease to any authority created hereunder, with or without consideration, any park upon such terms and conditions as the governing body thereof shall determine to be for the best interests of such locality or other public body; and

2. To contract with any authority created hereunder for park services; provided, that no locality shall enter into any contract with an authority involving payments by such locality to such authority for park services which requires the locality to incur an indebtedness extending beyond one fiscal year, unless the question of entering into such contract shall first be submitted to the voters of the locality for approval or rejection by a majority vote. Nothing herein shall prevent any locality from making a voluntary contribution to any authority.

In the event that a locality shall desire to contract with an authority under this subdivision, such governing body shall adopt a resolution stating in brief and general terms the substance of the proposed contract for park services and requesting the circuit court for the locality to order an election upon the question of entering into such contract. A copy of such resolution, certified by the clerk of the governing body, shall be filed with the judge of the circuit court who shall thereupon enter an order in accordance with § 24.2-681 et seq. Notice of such election entered and paid for by the locality shall be published at least once in a newspaper of general circulation in the locality at least ~~ten~~ *seven* days before the election.

The question to be submitted to the voters for determination shall include the names of the locality and the authority between whom the contract is proposed and the nature, duration and cost of such contract.

§ 15.2-5806. Public hearings; notice; reports.

A. At least sixty days prior to selecting a site for a major league or minor league baseball stadium, the Authority shall hold a public hearing within thirty miles of the site proposed to be acquired for the purpose of soliciting public comment.

B. Except as otherwise provided herein, at least ~~sixty~~ *seven* days prior to the public hearing required by this section, the Authority shall notify the local governing body in which the major league or minor league baseball stadium is proposed to be located and advertise the notice in a newspaper of general circulation in that locality. The notice shall include: (i) a description of the site proposed to be acquired, (ii) the intended use of the site, and (iii) the date, time, and location of the public hearing. After receipt of the notice required by this section, the local governing body in which a major league or minor league baseball stadium is proposed to be located may require that this period be extended for up to sixty additional days or for such other time period as agreed upon by the local governing body and the Authority.

C. At least thirty days before acquiring or entering into a lease involving a major league or minor league baseball stadium and before entering into a construction contract involving a major league or minor league baseball stadium or stadium site, the Authority shall submit a detailed written report and the findings of the Authority that justify the proposed

acquisition, lease, or contract to the General Assembly. The report and findings shall include a detailed plan of the method of funding and the economic necessity of the proposed acquisition, lease, or contract.

D. The time periods in subsections A, B, and C of this section may not run concurrently.

E. The Commonwealth shall not enter into any purchase agreement, lease agreement, lease-purchase agreement, master lease agreement or any other contractual arrangement that creates a direct or contingent financial obligation of the Commonwealth unless such agreement or arrangement has first been submitted to the State Treasurer sufficiently prior to the execution of such agreement or arrangement to allow the State Treasurer to undertake a review for the purposes of determining (i) whether the agreement or arrangement may constitute tax-supported debt of the Commonwealth and (ii) the potential impact of the agreement or arrangement on the debt capacity and credit ratings of the Commonwealth. If after such review the State Treasurer determines that the agreement or arrangement may constitute tax-supported debt of the Commonwealth, or may have an adverse impact on the debt capacity or the credit ratings of the Commonwealth, the agreement or arrangement and any associated financing shall be submitted to the Treasury Board for review and approval of terms and structures in a manner consistent with § 2.2-2416.

F. The Commonwealth shall not enter into any purchase agreement, lease agreement, lease-purchase agreement, master lease agreement or any other contractual arrangement that creates a direct or contingent financial obligation of the Commonwealth unless such agreement or arrangement has first been reviewed and approved as required by subsection E and subsequently approved in writing by the Governor.

§ 15.2-7502. Public hearing required prior to creation or designation of a land bank entity.

The governing body of a locality shall not adopt an ordinance creating a land bank entity pursuant to § 15.2-7501 or designating a planning district commission or an existing nonprofit entity pursuant to § 15.2-7512 until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the locality*, with the first publication appearing no more than 14 days before the hearing*. The notice shall specify the time and place of a hearing at which affected or interested persons may appear and present their views~~, not less than five days nor more than 21 days after the second advertisement appears in such newspaper~~. After the public hearing has been conducted pursuant to this section, the governing body shall be empowered to create a land bank entity or designate a planning district commission or an existing nonprofit entity.

§ 21-114. Hearing and notice thereof.

Upon the filing of the petition, the governing body of a county shall fix a day for a hearing on the question of the proposed sanitary district, which hearing shall embrace a finding of fact of whether creation of the proposed district or enlargement of the existing district is necessary, practical, fiscally responsible, and supported by at least 50 percent of persons who own real property in (i) the proposed district or (ii) in cases of enlargement, the area proposed to be included in an existing district. All interested persons who reside in or who own real property in (a) a proposed district or (b) an existing district in cases of enlargement shall have the right to appear and show cause why the property under consideration should or should not be included in the proposed district or enlargement of same at such hearing. Such hearing shall be subject to minimum standards regarding timeliness; notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of general circulation within the county to be designated by the governing body~~. At least 10 days shall intervene between the completion of the publication and the date set for the hearing, and such publication shall be considered complete on the twenty-first day after the first publication, and no~~*, with the first publication appearing no more than 21 days before the hearing. No* such district shall be created until the notice has been given and the hearing had.

§ 21-117.1. Abolishing sanitary districts.

Any sanitary district heretofore or hereafter created in any county under the provisions of the preceding sections of this article may be abolished by ordinance adopted by the governing body of such county, upon the petition of no less than 50 qualified voters residing within the boundaries of the district desired to be abolished or, if the district contains less than 100 qualified voters, upon petition of 50 percent of the qualified voters residing within the boundaries of such district.

Upon filing of the petition, the governing body of the county shall fix a day for a hearing on the question of abolishing the sanitary district, which hearing shall embrace a consideration of whether the property in the sanitary district will or will not be benefited by the abolition thereof, and the governing body of the county shall be fully informed as to the obligations and functions of the sanitary district. Notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of general circulation within the county to be designated by the governing body of the county~~. At least 10 days shall intervene between the completion of the publication and the date set for hearing, and such publication shall be considered complete on the twenty-first day after the first publication, and no~~*, with the first publication appearing no more than 21 days before the hearing. No* such district shall be abolished until the notice has been given and the hearing had.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 21-146. Notice of hearing on petition for creation.

Upon the presentation of a petition complying with the requirements of this article, praying for the creation of a sanitation district, fixing the boundaries thereof and naming the counties, cities and towns which in whole or in part are to be embraced therein, the circuit court of any such county, or of any county in which any such town is situated, or the corporation court of any such city shall make an order filing such petition and fixing a day for a hearing by such court on such petition and the question of the creation of the proposed sanitation district. Such order shall direct notice of such hearing to be given by publication once a week for at least three consecutive weeks ~~beginning at least twenty-eight days prior to the day of such hearing~~ in some newspaper or newspapers~~, named in such order,~~ having general circulation in the

proposed sanitation district*, with the first publication appearing no more than 21 days before the hearing*. Such notice shall set forth the petition as filed, but need not set forth the signatures or exhibits thereto, and shall state the time and place of hearing and that at such hearing all persons desiring to controvert the allegations of such petition or question the conformity thereof to this article will be heard and all objections to the creation of the proposed sanitation district considered.

§ 21-229. Notice of hearing on petition for creation.

Upon the presentation of a petition complying with the requirements of this article, praying for the creation of a sanitation district, fixing the boundaries thereof and naming the counties, cities and towns which in whole or in part are to be embraced therein, the circuit court of any such county, or of any county in which any such town is situated, or the corporation court of any such city shall make an order filing such petition and fixing a day for a hearing by such court on such petition and the question of the creation of the proposed sanitation district. Such order shall direct notice of such hearing to be given by publication once a week for at least three consecutive weeks ~~beginning at least twenty-eight days prior to the day of such hearing~~ in some newspaper or newspapers~~, named in such order,~~ having general circulation in the proposed sanitation district*, with the first publication appearing no more than 21 days before the hearing*. Such notice shall set forth the petition as filed, but need not set forth the signatures or exhibits thereto, and shall state the time and place of hearing and that at such hearing all persons desiring to controvert the allegations of such petition or question the conformity thereof to this article will be heard and all objections to the creation of the proposed sanitation district considered.

§ 21-377. Notice of sale of delinquent land.

If any assessment is delinquent for more than a year, the treasurer of the county within which the land assessed lies shall, after the expiration of such year, proceed to sell the land by having notice of such intended sale served on the record owner of the land, if he is a resident of this Commonwealth and his whereabouts herein is known, as process is served in actions at law, by publishing the notice of such sale in a newspaper published or having general circulation in his county, and by posting the notice at the courthouse door; such service, publication and posting shall be not less than ~~thirty~~ *seven* days in advance of the date set for the sale. Such publication and posting shall be sufficient notice of the sale to all parties in interest except the owner resident in this Commonwealth. Such notice with the return thereon, if it is served, and the certificate of the treasurer setting forth the date and medium of publication shall be filed by the treasurer in his office.

§ 21-393. Notice of issuance of bonds.

The board of viewers of the county in which the petition was filed shall give notice by publication once a week for three successive weeks in some newspaper published in the county in which the project, or some part thereof, is situated, if there be any such newspaper, *with the first publication appearing no more than 21 days before the hearing,* and also by posting a written or printed notice at the door of the courthouse and at five conspicuous places in the project, reciting that they propose to issue drainage bonds for the total cost of the improvement, giving the amount of the bonds to be issued, the rate of interest that they are to bear, and the time when payable.

§ 21-420. How additional assessments made.

If additional or new assessments are so levied, such assessments shall be made on the same basis as the original assessments, and shall be levied only after all persons interested shall have been given full hearing by the board of viewers on the question of benefits and any other question on which they shall desire to be heard. Notice of such hearing shall be given by publication once a week for two consecutive weeks in a newspaper of general circulation published in a county in which such project is located in whole or in part, ~~and the~~ *with the first publication appearing no more than 14 days before the hearing. The* determination of the board of viewers shall be final.

§ 22.1-29.1. Public hearing before appointment of school board members.

At least seven days prior to the appointment of any school board member pursuant to the provisions of this chapter, of §§ 15.2-410, 15.2-531, 15.2-627 or § 15.2-837, or of any municipal charter, the appointing authority shall hold one or more public hearings to receive the views of citizens within the school division. The appointing authority shall cause public notice to be given at least ~~ten~~ *seven* days prior to any hearing by publication in a newspaper having a general circulation within the school division. No nominee or applicant whose name has not been considered at a public hearing shall be appointed as a school board member.

§ 22.1-37. Notice by commission of meeting for appointment.

Before any appointment is made by the school board selection commission, it shall give notice, by publication once a week for ~~four~~ *three* successive weeks in a newspaper having general circulation in such county, *with the first publication appearing no more than 21 days before the hearing,* of the time and place of any meeting for the purpose of appointing the members of the county school board. Such notice shall be given whether the appointment is of a member or members of the county school board for the full term of office as provided by law or of a member to fill a vacancy occurring in the membership of the county school board or of a member from a new school district.

§ 22.1-79. Powers and duties.

A school board shall:

1. See that the school laws are properly explained, enforced and observed;

2. Secure, by visitation or otherwise, as full information as possible about the conduct of the public schools in the school division and take care that they are conducted according to law and with the utmost efficiency;

3. Care for, manage and control the property of the school division and provide for the erecting, furnishing, equipping, and noninstructional operating of necessary school buildings and appurtenances and the maintenance thereof by purchase, lease, or other contracts;

4. Provide for the consolidation of schools or redistricting of school boundaries or adopt pupil assignment plans whenever such procedure will contribute to the efficiency of the school division;

5. Insofar as not inconsistent with state statutes and regulations of the Board of Education, operate and maintain the public schools in the school division and determine the length of the school term, the studies to be pursued, the methods of teaching and the government to be employed in the schools;

6. In instances in which no grievance procedure has been adopted prior to January 1, 1991, establish and administer by July 1, 1992, a grievance procedure for all school board employees, except the division superintendent and those employees covered under the provisions of Article 2 (§ 22.1-293 et seq.) and Article 3 (§ 22.1-306 et seq.) of Chapter 15 of this title, who have completed such probationary period as may be required by the school board, not to exceed 18 months. The grievance procedure shall afford a timely and fair method of the resolution of disputes arising between the school board and such employees regarding dismissal or other disciplinary actions, excluding suspensions, and shall be consistent with the provisions of the Board of Education's procedures for adjusting grievances. Except in the case of dismissal, suspension, or other disciplinary action, the grievance procedure prescribed by the Board of Education pursuant to § 22.1-308 shall apply to all full-time employees of a school board, except supervisory employees;

7. Perform such other duties as shall be prescribed by the Board of Education or as are imposed by law;

8. Obtain public comment through a public hearing not less than ~~10~~ *seven* days after reasonable notice to the public in a newspaper of general circulation in the school division prior to providing (i) for the consolidation of schools; (ii) the transfer from the public school system of the administration of all instructional services for any public school classroom or all noninstructional services in the school division pursuant to a contract with any private entity or organization; or (iii) in school divisions having 15,000 pupils or more in average daily membership, for redistricting of school boundaries or adopting any pupil assignment plan affecting the assignment of 15 percent or more of the pupils in average daily membership in the affected school. Such public hearing may be held at the same time and place as the meeting of the school board at which the proposed action is taken if the public hearing is held before the action is taken. If a public hearing has been held prior to the effective date of this provision on a proposed consolidation, redistricting or pupil assignment plan which is to be implemented after the effective date of this provision, an additional public hearing shall not be required;

9. (Expires July 1, 2025) At least annually, survey the school division to identify critical shortages of (i) teachers and administrative personnel by subject matter and (ii) school bus drivers and report such critical shortages to the Superintendent of Public Instruction and to the Virginia Retirement System; however, the school board may request the division superintendent to conduct such survey and submit such report to the school board, the Superintendent, and the Virginia Retirement System; and

10. Ensure that the public schools within the school division are registered with the Department of State Police to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within that school division pursuant to § 9.1-914.

§ 22.1-92. Estimate of moneys needed for public schools; notice of costs to be distributed.

A. It shall be the duty of each division superintendent to prepare, with the approval of the school board, and submit to the governing body or bodies appropriating funds for the school division, by the date specified in § 15.2-2503, the estimate of the amount of money deemed to be needed during the next fiscal year for the support of the public schools of the school division. The estimate shall set up the amount of money deemed to be needed for each major classification prescribed by the Board of Education and such other headings or items as may be necessary.

Upon preparing the estimate of the amount of money deemed to be needed during the next fiscal year for the support of the public schools of the school division, each division superintendent shall also prepare and distribute, within a reasonable time as prescribed by the Board of Education, notification of the estimated average per pupil cost for public education in the school division for the coming school year in accordance with the budget estimates provided to the local governing body or bodies. Such notification shall also include actual per pupil state and local education expenditures for the previous school year. The notice may also include federal funds expended for public education in the school division.

The notice shall be made available in a form provided by the Department of Education and shall be published on the school division's website or in hard copy upon request. To promote uniformity and allow for comparisons, the Department of Education shall develop a form for this notice and distribute such form to the school divisions for publication.

B. Before any school board gives final approval to its budget for submission to the governing body, the school board shall hold at least one public hearing to receive the views of citizens within the school division. A school board shall cause public notice to be given at least ~~10~~ *seven* days prior to any hearing by publication in a newspaper having a general circulation within the school division. The passage of the budget by the local government shall be conclusive evidence of compliance with the requirements of this section.

§ 33.2-331. Annual meeting with county officers; six-year plan for secondary state highways; certain reimbursements required.

For purposes of this section, "cancellation" means complete elimination of a highway construction or improvement project from the six-year plan.

The governing body of each county in the secondary state highway system may, jointly with the representatives of the Department as designated by the Commissioner of Highways, prepare a six-year plan for the improvements to the secondary state highway system in that county. Each such six-year plan shall be based upon the best estimate of funds to be available

to the county for expenditure in the six-year period on the secondary state highway system. Each such plan shall list the proposed improvements, together with an estimated cost of each project so listed. Following the preparation of the plan in any year in which a proposed new funding allocation is greater than $100,000, the board of supervisors or other local governing body shall conduct a public hearing after publishing notice in a newspaper published in or having general circulation in the county once a week for two successive weeks*, with the first publication appearing no more than 14 days before the hearing,* and posting notice of the proposed hearing at the front door of the courthouse of such county 10 days before the meeting. At the public hearings, which shall be conducted jointly by the board of supervisors and the representative of the Department, the entire six-year plan shall be discussed with the citizens of the county and their views considered. Following the discussion, the local governing body, together with the representative of the Department, shall finalize and officially adopt the six-year plan, which shall then be considered the official plan of the county.

At least once in each calendar year in which a proposed new funding allocation is greater than $100,000, representatives of the Department in charge of the secondary state highway system in each county, or some representative of the Department designated by the Commissioner of Highways, shall meet with the governing body of each county in a regular or special meeting of the local governing body for the purpose of preparing a budget for the expenditure of improvement funds for the next fiscal year. The representative of the Department shall furnish the local governing body with an updated estimate of funds, and the board and the representative of the Department shall jointly prepare the list of projects to be carried out in that fiscal year taken from the six-year plan by order of priority and following generally the policies of the Board in regard to the statewide improvements to the secondary state highway system. In any year in which a proposed new funding allocation is greater than $100,000, such list of priorities shall then be presented at a public hearing duly advertised in accordance with the procedure outlined in this section, and comments of citizens shall be obtained and considered. Following this public hearing, the board, with the concurrence of the representative of the Department, shall adopt, as official, a priority program for the ensuing year, and the Department shall include such listed projects in its secondary highways budget for the county for that year.

At least once every two years following the adoption of the original six-year plan, the governing body of each county, together with the representative of the Department, may update the six-year plan of the county by adding to it and extending it as necessary so as to maintain it as a plan encompassing six years. Whenever additional funds for secondary highway purposes become available, the local governing body may request a revision in its six-year plan in order that such plan be amended to provide for the expenditure of the additional funds. Such additions and extensions to each six-year plan shall be prepared in the same manner and following the same procedures as outlined herein for its initial preparation. Where the local governing body and the representative of the Department fail to agree upon a priority program, the local governing body may appeal to the Commissioner of Highways. The Commissioner of Highways shall consider all proposed priorities and render a decision establishing a priority program based upon a consideration by the Commissioner of Highways of the welfare and safety of county citizens. Such decision shall be binding.

Nothing in this section shall preclude a local governing body, with the concurrence of the representative of the Department, from combining the public hearing that may be required pursuant to this section for revision of a six-year plan with the public hearing that may be required pursuant to this section for review of the list of priorities, provided that notice of such combined hearing is published in accordance with procedures provided in this section.

All such six-year plans shall consider all existing highways in the secondary state highway system, including those in the towns located in the county that are maintained as a part of the secondary state highway system, and shall be made a public document.

If any county cancels any highway construction or improvement project included in its six-year plan after the location and design for the project has been approved, such county shall reimburse the Department the net amount of all funds expended by the Department for planning, engineering, right-of-way acquisition, demolition, relocation, and construction between the date on which project development was initiated and the date of cancellation. To the extent that funds from secondary highway allocations have been expended to pay for a highway construction or improvement project, all revenues generated from a reimbursement by the county shall be deposited into that same county's secondary highway allocation. The Commissioner of Highways may waive all or any portion of such reimbursement at his discretion.

The provisions of this section shall not apply in instances where less than 100 percent of the right-of-way is available for donation for unpaved highway improvements.

§ 33.2-723. Assumption of district highway indebtedness by counties.

A. Any county may assume the payment of and pay any outstanding indebtedness of any magisterial district or districts thereof incurred for the purpose of constructing public highways that were subsequently taken over by the Commonwealth, provided the assumption thereof is approved by a majority of the qualified voters of the county voting on the question at an election to be held as provided in this section.

B. The governing body of the county may, by a resolution entered of record in its minute book, require the judges of election to open a poll at the next regular election and take the sense of the qualified voters of the county upon the question whether or not the county shall assume the highway indebtedness of _____ district, or _____ districts. The local governing body shall cause notice of such election to be given by the posting of written notice thereof at the front door of the county courthouse at least 30 days prior to the date the same is to be held and by publication thereof once a week for two successive weeks in a newspaper published or having general circulation in the county, ~~which~~ *with the first publication*

appearing no more than 14 days before the election. Such notice shall set forth the date of such election and the question to be voted on.

C. The ballots for use in voting upon the question so submitted shall be prepared, printed, distributed, voted, and counted and the returns made and canvassed in accordance with the provisions of § 24.2-684. The results shall be certified by the commissioners of election to the county clerk, who shall certify the same to the governing body of the county, and such returns shall be entered of record in the minute book of the local governing body.

D. If a majority of the voters voting on the question vote in favor of the assumption by the county of the highway indebtedness of any district of the county, such indebtedness shall become and be an obligation of the county and as binding thereon as if the same had been originally contracted by the county. In such event the governing body of the county is authorized to levy and collect taxes throughout the county for the payment of the district indebtedness so assumed, both as to principal and interest.

E. Nothing contained in this section shall affect the validity of such district highway obligations in the event that the result of such election is against the assumption thereof by the county, but they shall continue to be as valid and binding in all respects as they were in their inception.

§ 33.2-909. Abandonment of highway, landing, or railroad crossing; procedure.

A. The governing body of any county on its own motion or upon petition of any interested landowner may cause any section of the secondary state highway system, or any crossing by the highway of the lines of a railroad company or crossing by the lines of a railroad company of the highway, deemed by it to be no longer necessary for the uses of the secondary state highway system to be abandoned altogether as a public highway, a public landing, or a public railroad crossing by complying substantially with the procedure provided in this section.

B. The governing body of the county shall give notice of its intention to abandon any such highway, landing, or railroad crossing (i) by posting a notice of such intention at least three days before the first day of a regular term of the circuit court at the front door of the courthouse of the county in which the section of the highway, landing, or railroad crossing sought to be abandoned as a public highway, public landing, or public railroad crossing is located or (ii) by posting notice in at least three places on and along the highway, landing, or railroad crossing sought to be abandoned for at least 30 days and in either case by publishing notice of its intention in two or more issues of a newspaper having general circulation in the county. In addition, the governing body of the county shall give notice of its intention to abandon such highway, landing, or railroad crossing to the Board or the Commissioner of Highways. In any case in which the highway, landing, or railroad crossing proposed to be abandoned lies in two or more counties, the governing bodies of such counties shall not abandon such highway, landing, or railroad crossing unless and until all affected governing bodies agree. The procedure in such cases shall conform mutatis mutandis to the procedure prescribed for the abandonment of a highway, landing, or railroad crossing located entirely within a county.

When the governing body of a county gives notice of intention to abandon a public landing, the governing body shall also give such notice to the Department of Wildlife Resources.

C. If one or more landowners in the county whose property abuts the highway, landing, or railroad crossing proposed to be abandoned, or if only a section of a highway, landing, or railroad crossing is proposed to be abandoned, whose property abuts such section, or the Board or the Department of Wildlife Resources, in the case of a public landing, files a petition with the governing body of the county within 30 days after notice is posted and published as provided in this section, the governing body of the county shall hold a public hearing on the proposed abandonment and shall give notice of the time and place of the hearing by publishing such information ~~in at least two issues~~ *once a week for two successive weeks* in a newspaper having general circulation in the county ~~and~~, *with the first publication appearing no more than 14 days before the hearing. The governing body* shall also give notice to the Board or, if a public landing is sought to be abandoned, to the Department of Wildlife Resources.

D. If a petition for a public hearing is not filed as provided in this section, or if after a public hearing is held the governing body of the county is satisfied that no public necessity exists for the continuance of the section of the secondary highway as a public highway or the railroad crossing as a public railroad crossing or the landing as a public landing or that the safety and welfare of the public would be served best by abandoning the section of highway, the landing, or the railroad crossing as a public highway, public landing, or public railroad crossing, the governing body of the county shall (i) within four months of the 30-day period during which notice was posted where no petition for a public hearing was filed or (ii) within four months after the public hearing adopt an ordinance or resolution abandoning the section of highway as a public highway, or the landing as a public landing, or the railroad crossing as a public railroad crossing, and with that ordinance or resolution the section of highway shall cease to be a public highway, a public landing, or a public railroad crossing. If the governing body is not so satisfied, it shall dismiss the application within the applicable four months provided in this subsection.

E. A finding by the governing body of a county that a section of the secondary state highway system is no longer necessary for the uses of the secondary state highway system may be made if the following conditions exist:

1. The highway is located within a residence district as defined in § 46.2-100;

2. The residence district is located within a county having a density of population exceeding 1,000 per square mile;

3. Continued operation of the section of highway in question constitutes a threat to the public safety and welfare; and

4. Alternate routes for use after abandonment of the highway are readily available.

F. In considering the abandonment of any section of highway under the provisions of this section, due consideration shall be given to the historic value, if any, of such highway.

G. Any ordinance or resolution of abandonment issued in compliance with this section shall give rise in subsequent proceedings, if any, to a presumption of adequate justification for the abandonment.

H. No public landing shall be abandoned unless the Board of Wildlife Resources shall by resolution concur in such abandonment.

§ 33.2-2001. Creation of district.

A. A district may be created in a single locality or in two or more contiguous localities. If created in a single locality, a district shall be created by a resolution of the local governing body. If created in two or more contiguous localities, a district shall be created by the resolutions of each of the local governing bodies. Any such resolution shall be considered only upon the petition, to each local governing body of the locality in which the proposed district is to be located, of the owners of at least 51 percent of either the land area or the assessed value of land in each locality that (i) is within the boundaries of the proposed district and (ii) has been zoned for commercial or industrial use or is used for such purposes. Any proposed district within a county or counties may include any land within a town or towns within the boundaries of such county or counties.

B. The petition to the local governing body or bodies shall:

1. Set forth the name and describe the boundaries of the proposed district;

2. Describe the transportation improvements proposed within the district;

3. Propose a plan for providing such transportation improvements within the district and describe specific terms and conditions with respect to all commercial and industrial zoning classifications and uses, densities, and criteria related thereto which the petitioners request for the proposed district;

4. Describe the benefits that can be expected from the provision of such transportation improvements within the district; and

5. Request the local governing body or bodies to establish the proposed district for the purposes set forth in the petition.

C. Upon the filing of such a petition, each local governing body shall fix a day for a hearing on the question of whether the proposed district shall be created. The hearing shall consider whether the residents and owners of real property within the proposed district would benefit from the establishment of the proposed district. All interested persons who either reside in or own taxable real property within the proposed district shall have the right to appear and show cause why any property or properties should not be included in the proposed district. If real property within a town is included in the proposed district, the governing body shall deliver a copy of the petition and notice of the public hearing to the town council at least 30 days prior to the public hearing, and the town council may by resolution determine if it wishes such property located within the town to be included within the proposed district and shall deliver a copy of any such resolution to the local governing body at the public hearing required by this section. Such resolution shall be binding upon the local governing body with respect to the inclusion or exclusion of such properties within the proposed district. The petition shall comply with the provisions of this section with respect to minimum acreage or assessed valuation. Notice of the hearing shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation within the locality~~. At least 10 days shall intervene between the third publication and the date set for the hearing~~, *with the first publication appearing no more than 21 days before the hearing*.

D. If each local governing body finds the creation of the proposed district would be in furtherance of the locality's comprehensive plan for the development of the area, in the best interests of the residents and owners of real property within the proposed district, and in furtherance of the public health, safety, and welfare, then each local governing body may pass a resolution, which shall be reasonably consistent with the petition, creating the district and providing for the appointment of an advisory board in accordance with this chapter. The resolution shall provide a description with specific terms and conditions of all commercial and industrial zoning classifications that shall be in force in the district upon its creation, together with any related criteria and a term of years, not to exceed 20 years, as to which each zoning classification and each related criterion set forth therein shall remain in force within the district without elimination, reduction, or restriction, except (i) upon the written request or approval of the owner of any property affected by a change or (ii) as specifically required to comply with state or federal law.

Each resolution creating a district shall also provide (a) that the district shall expire 35 years from the date upon which the resolution is passed or (b) that the district shall expire when the district is abolished in accordance with § 33.2-2014. After the public hearing, each local governing body shall deliver a certified copy of its proposed resolution creating the district to the petitioning landowners or their attorneys-in-fact. Any petitioning landowner may then withdraw his signature on the petition, in writing, at any time prior to the vote of the local governing body. In the case where any signatures on the petition are withdrawn, the local governing body may pass the proposed resolution only upon certification that the petition continues to meet the provisions of this section. After all local governing bodies have adopted resolutions creating the district, the district shall be established and the name of the district shall be "The _____ Transportation Improvement District."

§ 33.2-2101. Creation of district.

A. A district may be created in a county by a resolution of the governing body. Any such resolution shall be considered only upon the petition, to the governing body, of the owners of at least 51 percent of either the land area or the assessed value of real property that (i) is within the boundaries of the proposed district, (ii) has been zoned for commercial or industrial use or is used for such purposes, and (iii) would be subject to the annual special improvement tax authorized by

§ 33.2-2105 if the proposed district is created. Any proposed district within a county may include any real property within a town or towns within the boundaries of such county.

B. The petition to the governing body shall:

1. Set forth the name and describe the boundaries of the proposed district;

2. Describe the transportation improvements proposed within the district;

3. Propose a plan for providing such transportation improvements within the district and describe specific terms and conditions with respect to all commercial and industrial zoning classifications and uses, densities, and criteria related thereto that the petitioners request for the proposed district;

4. Describe the benefits that can be expected from the provision of such transportation improvements within the district; and

5. Request the governing body to establish the proposed district for the purposes set forth in the petition.

C. Upon the filing of such a petition, the governing body shall fix a day for a hearing on the question of whether the proposed district shall be created. The hearing shall consider whether the residents and owners of real property within the proposed district would benefit from the establishment of the proposed district. All interested persons who either reside in or own taxable real property within the proposed district shall have the right to appear and show cause why any property or properties should not be included in the proposed district. If real property within a town is included in the proposed district, a copy of the petition and notice of the public hearing shall be delivered to the town council at least 30 days prior to the public hearing, and the town council may by resolution determine if the town council wishes any property located within the town to be included within the proposed district and any such resolution shall be delivered to the governing body prior to the public hearing required by this section. Such resolution shall be binding upon the governing body with respect to the inclusion or exclusion of such properties within the proposed district. If that resolution permits any commercial or industrial property located within a town to be included in the proposed district, then if requested to do so by the petition the town council of any town that has adopted a zoning ordinance also shall pass a resolution, to be effective upon creation of the proposed district, that is consistent with the requirements of subsection E with respect to commercial and industrial zoning classifications that shall be in force in that portion of the town included in the district. The petition shall comply with the provisions of this section with respect to minimum acreage or assessed valuation. Notice of the hearing shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation within the locality. ~~At least 10 days shall intervene between the third publication and the date set for the hearing~~*, with the first publication appearing no more than 21 days before the hearing*. Such public hearing may be adjourned from time to time.

D. If the governing body finds the creation of the proposed district would be in furtherance of the county's comprehensive plan for the development of the area, in the best interests of the residents and owners of real property within the proposed district, and in furtherance of the public health, safety, and welfare, the governing body may pass a resolution that is reasonably consistent with the petition, that creates the district upon final adoption, and that provides for the appointment of an advisory board in accordance with this chapter upon final adoption. Any such resolution shall be conclusively presumed to be reasonably consistent with the petition if, following the public hearing, as provided in the following provisions of this section, the petition continues to comply with the provisions of this section with respect to the criteria relating to minimum acreage or assessed valuation.

E. The resolution shall provide a description with specific terms and conditions of all commercial and industrial zoning classifications that apply within the district, but not within any town within the district that has adopted a zoning ordinance, that shall be in force in the district upon its creation, together with any related criteria and a term of years, not to exceed 20 years, as to which each such zoning classification and each related criterion set forth therein shall remain in force within the district without elimination, reduction, or restriction, except (i) upon the written request or approval of the owner of any property affected by a change, (ii) as required to comply with the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) or the regulations adopted pursuant thereto, (iii) as required to comply with the provisions of the federal Clean Water Act regarding municipal and industrial stormwater discharges (33 U.S.C. § 1342(p)) and regulations promulgated thereunder by the federal Environmental Protection Agency, or (iv) as specifically required to comply with any other state or federal law.

F. A resolution creating a district shall also provide (i) that the district shall expire 50 years from the date upon which the resolution is passed or (ii) that the district shall expire when the district is abolished in accordance with § 33.2-2115. After the public hearing, the governing body may adopt a proposed resolution creating the district. No later than two business days following the adoption of the proposed resolution, copies of the proposed resolution shall be available in the office of the clerk of the governing body for inspection and copying by the petitioning landowners and their representatives, by members of the public, and by representatives of the news media. No later than seven business days following the adoption of the proposed resolution, any petitioning landowner may notify the clerk of the governing body in writing that the petitioning landowner is withdrawing his signature from the petition. Within the same seven-day period, the owner of any property in the proposed district that will be subject to the annual special improvements tax authorized by § 33.2-2105, if the proposed district is created, or the attorney-in-fact of any such owner may notify the clerk of the governing body in writing that he is adding his signature to the petition. The governing body may then proceed to final adoption of the proposed resolution following that seven-day period. If any petitioner has withdrawn his signature from the petition during that seven-day period, then the governing body may readopt the proposed resolution only if the petition, including any landowners who have added their signatures after adoption of the proposed resolution, continues to meet the provisions of

this section. After the governing body has readopted the resolution creating the district, the district shall be established and the name of the district shall be "The _____ _____ Transportation Improvement District."

§ 33.2-2103. Powers and duties of commission.

The commission may:

1. Expend district revenues to construct, reconstruct, alter, improve, or expand transportation improvements and make loans or otherwise provide for the cost of transportation improvements and for financial assistance to operate transportation improvements in the district for the use and benefit of the public.

2. Acquire by gift, purchase, lease, in-kind contribution to construction costs, or otherwise any transportation improvements in the district and sell, lease as lessor, transfer, or dispose of any part of any transportation improvements in such manner and upon such terms as the commission may determine to be in the best interests of the district. However, prior to disposing of any such property or interest therein, the commission shall conduct a public hearing with respect to such disposition. At the hearing, the residents and owners of property within the district shall have an opportunity to be heard. At least ~~10~~ *seven* days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the district, as prescribed by the commission. Such public hearing may be adjourned from time to time.

3. Negotiate and contract with any person with regard to any matter necessary and proper to provide any transportation improvements, including the financing, acquisition, construction, reconstruction, alteration, improvement, expansion, operation, or maintenance of any transportation improvements in the district. For the purposes of this chapter, transportation improvements are within the district if they are located within the boundaries of the transportation improvement district or are reasonably deemed necessary for the construction or operation of transportation improvements within the boundaries of the transportation improvement district.

4. Enter into a continuing service contract for a purpose authorized by this chapter and make payments of the proceeds received from the special taxes levied pursuant to this chapter, together with any other revenues, for installments due under that service contract. The district may apply such payments annually during the term of that service contract in an amount sufficient to make the installment payments due under that contract, subject to the limitation imposed by this chapter. However, payments for any such service contract shall be conditioned upon the receipt of services pursuant to the contract. Such a contract shall not obligate a county or participating town to make payments for services of the district.

5. Accept the allocations, contributions, or funds of any available source or reimburse from any available source, including any person, for the whole or any part of the costs, expenses, and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, and expansion or the operation of any transportation improvements in the district.

6. Contract for the extension and use of any public mass transit system or highway into territory outside the district on such terms and conditions as the commission determines.

7. Employ and fix the compensation of personnel who may be deemed necessary for the construction, operation, or maintenance of any transportation improvements in the district.

8. Have prepared an annual audit of the district's financial obligations and revenues, and upon review of such audit, request a tax rate adequate to provide tax revenues that, together with all other revenues, are required by the district to fulfill its annual obligations.

§ 33.2-2701. Creation of district.

A. A district may be created in the City of Charlottesville and the County of Albemarle by resolutions of such localities' governing bodies. Such resolutions shall be considered upon the petition to each governing body of a locality in which the proposed district by the owners of at least 51 percent of either the land area or the assessed value of land, in each locality that (i) is within the boundaries of the proposed district and (ii) has been zoned for commercial or industrial use or is used for such purposes.

B. The petition to the local governing bodies shall:

1. Set forth the name and describe the boundaries of the proposed district;

2. Describe the transportation improvements proposed within the district;

3. Propose a plan for providing such transportation improvements within the district and describe specific terms and conditions with respect to all commercial and industrial zoning classifications and uses, densities, and criteria related thereto that the petitioners request for the proposed district;

4. Describe the benefits that can be expected from the provision of such transportation improvements within the district; and

5. Request the local governing bodies to establish the proposed district for the purposes set forth in the petition.

C. Upon the filing of such a petition, each local governing body shall fix a day for a hearing on the question of whether the proposed district shall be created. The hearing shall consider whether the residents and owners of real property within the proposed district would benefit from the establishment of the proposed district. All interested persons who either reside in or own taxable real property within the proposed district shall have the right to appear and show cause why any property or properties should not be included in the proposed district. Such resolution shall be binding upon the local governing body with respect to the inclusion or exclusion of such properties within the proposed district. The petition shall comply with the provisions of this section with respect to minimum acreage or assessed valuation. Notice of the hearing shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation within the locality~~. At least~~

~~10 days shall intervene between the third publication and the date set for the hearing~~*, with the first publication appearing no more than 21 days before the hearing.*

D. If both local governing bodies find the creation of the proposed district would be in furtherance of their comprehensive plans for the development of the area, in the best interests of the residents and owners of real property within the proposed district, and in furtherance of the public health, safety, and welfare, both local governing bodies may pass resolutions that are reasonably consistent with the petition, creating the district and providing for the appointment of an advisory board in accordance with this chapter. The resolutions shall provide a description with specific terms and conditions of all commercial and industrial zoning classifications that shall be in force in the district upon its creation, together with all related criteria and a term of years, not to exceed 20 years, as to which each such zoning classification and each related criterion set forth therein shall remain in force within the district without elimination, reduction, or restriction, except (i) upon the written request or approval of the owner of any property affected by a change or (ii) as specifically required to comply with federal or state law.

Each resolution creating the district shall also provide (a) that the district shall expire 35 years from the date upon which the resolution is passed or (b) that the district shall expire when the district is abolished in accordance with § 33.2-2714. After the public hearing, each local governing body shall deliver a certified copy of its proposed resolution creating the district to the petitioning landowners or their attorneys-in-fact. Any petitioning landowner may then withdraw his signature on the petition, in writing, at any time prior to the vote of the local governing body. In the case where any signature on the petition is withdrawn, the local governing body may pass the proposed resolution only upon certification that the petition continues to meet the provisions of this section. After both local governing bodies have adopted resolutions creating the district, the district shall be established and the name of the district shall be "The Charlottesville-Albemarle Transportation Improvement District."

§ 36-23. Housing authority operations in other municipalities.

In addition to its other powers, any housing authority may exercise any or all of its powers within the territorial boundaries of any municipality not included in the area of operation of such housing authority, for the purpose of planning, undertaking, financing, rehabilitating, constructing and operating a housing project or projects or a multi-family residential building or buildings within such municipality; provided that a resolution shall have been adopted (a) by the governing body of such municipality in which the housing authority is to exercise its powers and (b) by the authority of such municipality (if one has been theretofore established by such municipality and authorized to exercise its powers therein) declaring that there is a need for the aforesaid housing authority to exercise its powers within such municipality. A municipality shall have the same powers to furnish financial and other assistance to such housing authority exercising its powers within such municipality under this section as though the municipality were within the area of operation of such authority.

No governing body of a municipality shall adopt a resolution as provided in this section declaring that there is a need for the housing authority (other than a housing authority established by such municipality) to exercise its powers within such municipality, unless a public hearing has first been held by such governing body and unless such governing body shall have found in substantially the following terms: (a) that insanitary or unsafe inhabited dwelling accommodations exist in such municipality or that there is a shortage of safe or sanitary dwelling accommodations in such municipality available to persons of low income at rentals they can afford; and (b) that these conditions can be best remedied through the exercise of the aforesaid housing authority's powers within the territorial boundaries of such municipality; provided that such findings shall not have the effect of establishing an authority for any such municipality under § 36-4 nor of thereafter preventing such municipality from establishing an authority or joining in the creation of a consolidated housing authority or the increase of the area of operation of a consolidated housing authority. The clerk of the city or other municipality shall give notice of the time, place and purpose of the public hearing at least ~~ten~~ *seven* days prior to the date on which the hearing is to be held, in a newspaper published in such municipality, or if there is no newspaper published in such municipality, then in a newspaper published in the Commonwealth and having a general circulation in such municipality. Upon the date fixed for such public hearing an opportunity to be heard shall be granted to all residents of such municipality and to all other interested persons.

During the time that, pursuant to these findings, the aforesaid housing authority has outstanding (or is under contract to issue) any evidences of indebtedness for a project within the municipality, no other housing authority may undertake a project within such municipality without the consent of the housing authority which has such outstanding indebtedness or obligation.

§ 36-44. Public hearing to create regional authority or change its area of operation, and findings.

The board of supervisors of a county shall not adopt any resolution authorized by §§ 36-40, 36-41 or 36-42 unless a public hearing has first been held. The clerk of such county shall give notice of the time, place, and purpose of the public hearing at least ~~ten~~ *seven* days prior to the day on which the hearing is to be held, in a newspaper published in such county, or if there is no newspaper published in such county, then in a newspaper published in the Commonwealth and having a general circulation in such county. Upon the date fixed for such public hearing an opportunity to be heard shall be granted to all residents of such county and to all other interested persons.

In determining whether dwelling accommodations are unsafe or insanitary the board of supervisors of a county shall take into consideration the safety and sanitation of dwellings, the light and air space available to the inhabitants of such dwellings, the degree of overcrowding, the size and arrangement of the rooms and the extent to which conditions exist in such dwellings which endanger life or property by fire or other causes.

In connection with the issuance of bonds or the incurring of other obligations, a regional housing authority may covenant as to limitations on its right to adopt resolutions relating to the increase or decrease of its area of operation.

§ 58.1-3108. Commissioner to render taxpayer assistance and may go to convenient places to receive returns; advertisement by commissioner.

A. Each commissioner of the revenue shall render such taxpayer assistance as may be necessary for the preparation of any return required by law to be filed with his office. Such commissioners may go to convenient public places within the county or city for the purpose of receiving state and local tax returns. Compliance by the commissioner of the revenue with this section shall not relieve him of the duty to obtain tax returns as required by § 58.1-3107.

B. Each commissioner shall advertise, in some newspaper of general circulation in the city or county, at least once during the ~~thirty~~ *seven* days prior to the time fixed by law for filing returns without penalty, the location of the commissioner's office, the location of such branch offices as he may establish, and the hours of the day, not less than eight hours each day, during which such office or offices shall be open for business. Such advertisement shall state the time when returns of taxpayers must be filed.

§ 58.1-3245.2. Tax increment financing.

A. The governing body of any county, city or town may adopt tax increment financing by passing an ordinance designating a development project area and providing that real estate taxes in the development project area shall be assessed, collected and allocated in the following manner for so long as any obligations or development project cost commitments secured by the Tax Increment Financing Fund, hereinafter authorized, are outstanding and unpaid.

1. The local assessing officer shall record in the land book both the base assessed value and the current assessed value of the real estate in the development project area.

2. Real estate taxes attributable to the lower of the current assessed value or base assessed value of real estate located in a development project area shall be allocated by the treasurer or director of finance pursuant to the provisions of this chapter.

3. Real estate taxes attributable to the increased value between the current assessed value of any parcel of real estate and the base assessed value of such real estate shall be allocated by the treasurer or director of finance and paid into a special fund entitled the "Tax Increment Financing Fund" to pay the principal and interest on obligations issued or development project cost commitments entered into to finance the development project costs.

B. The governing body shall hold a public hearing on the need for tax increment financing in the county, city or town prior to adopting a tax increment financing ordinance. Notice of the public hearing shall be published once each week for three consecutive weeks immediately preceding the public hearing in each newspaper of general circulation in such county, city or town*, with the first publication appearing no more than 21 days before the hearing*. The notice shall include the time, place and purpose of the public hearing, define tax increment financing, indicate the proposed boundaries of the development project area, and propose obligations to be issued to finance the development project area costs.

§ 58.1-3245.8. Adoption of local enterprise zone development taxation program.

A. The governing body of any county, city, or town may adopt a local enterprise zone development taxation program by passing an ordinance designating an enterprise zone located within its boundaries as a local enterprise zone; however, an ordinance may designate an area as a local enterprise zone contingent upon the designation of the area as an enterprise zone pursuant to Chapter 49 (§ 59.1-538 et seq.) of Title 59.1. If the county, city, or town contains more than one enterprise zone, such ordinance may designate one or more as a local enterprise zone. If an enterprise zone is located in more than one county, city, or town, the governing body may designate the portion of the enterprise zone located within its boundaries as a local enterprise zone. An ordinance designating a local enterprise zone shall provide that all or a specified percentage of the real estate taxes, machinery and tools taxes, or both, in the local enterprise zone shall be assessed, collected and allocated in the following manner:

1. The local assessing officer shall record in the appropriate books both the base assessed value and the current assessed value of the real estate or machinery and tools, or both, in the local enterprise zone.

2. Real estate taxes or machinery and tools taxes attributable to the lower of the current assessed value or base assessed value of real estate or machinery and tools located in a local enterprise zone shall be allocated by the treasurer or director of finance as they would be in the absence of such ordinance.

3. All or the specified percentage of the increase in real estate taxes or machinery and tools taxes, or both, attributable to the difference between (i) the current assessed value of such property and (ii) the base assessed value of such property shall be allocated by the treasurer or director of finance and paid into a special fund entitled the "Local Enterprise Zone Development Fund" to be used as provided in § 58.1-3245.10. Such amounts paid into the fund shall not include any additional revenues resulting from an increase in the tax rate on real estate or machinery and tools after the adoption of a local enterprise zone development taxation ordinance, nor shall it include any additional revenues merely resulting from an increase in the assessed value of real estate or machinery and tools which were located in the zone prior to the adoption of a local enterprise zone development taxation ordinance unless such property is improved or enhanced.

B. The governing body shall hold a public hearing on the need for a local enterprise zone development taxation program in the county, city, or town prior to adopting a local enterprise zone development taxation ordinance. Notice of the public hearing shall be published once each week for three consecutive weeks immediately preceding the public hearing in each newspaper of general circulation in such county, city, or town*, with the first publication appearing no more than 21 days before the hearing*. The notice shall include the time, place and purpose of the public hearing; define local enterprise

zone development taxation; indicate the proposed boundaries of the local enterprise zone; state whether all or a specified percentage of real property or machinery or tools, or both, will be subject to local enterprise zone development taxation; and describe the purposes for which funds in the Local Enterprise Zone Development Fund are authorized to be used.

§ 58.1-3256. Reassessment in towns; appeals of assessments.

In any incorporated town there may be for town taxation and debt limitation, a general reassessment of the real estate in any such town in the year designated, and every fourth year thereafter, that the council of such town shall declare by ordinance or resolution the necessity therefor. Every such general reassessment of real estate in any such town shall be made by a board of assessors consisting of three residents, a majority of whom shall be freeholders, who hold no official office or position with the town government, appointed by the council of such town for each general reassessment and the compensation of the person so designated shall be prescribed by the council and paid out of the town treasury. The assessors so designated shall assess the property in accordance with the general law and Constitution of Virginia. If for any cause the board is unable to complete an assessment within the year for which it is appointed, the council shall extend the time therefor for three months. Any vacancy in the membership of the board shall be filled by the council within 30 days after the occurrence thereof, but such vacancy shall not invalidate any assessment. The assessments so made shall be open for public inspection after notice of such inspection shall have been advertised in a newspaper of general circulation within the town at least ~~five~~ *seven* days prior to such date or dates of inspection. Within 30 days after the final date of inspection the assessors shall file the completed reassessments in the office of the town clerk and at the same time forward to the Department of Taxation a copy of the recapitulation sheets of such assessments.

Any person, firm, or corporation claiming to be aggrieved by any assessment may, within 30 days after the filing of reassessments in the office of the town clerk, apply to the town board of equalization for a correction of such assessment by filing with the town clerk a written statement setting forth his grievances. The board of equalization of every such town shall, within 30 days of the filing of such complaint, fix a date for a hearing on such application and, after giving the applicant at least 10 days' notice of the time fixed, shall hear such evidence as may be introduced by interested parties and correct the assessment by increasing or reducing the same. The circuit court having jurisdiction within the town shall, in each tax year immediately following the year in which a general reassessment was conducted, appoint for such town a board of equalization of real estate assessments made up of three to five citizens of the town. Any such town board of equalization shall be subject to the same member composition requirements and limits on terms of service as provided for boards of equalization pursuant to § 58.1-3374. In addition, at least once in every four years of service on a town board of equalization, each member of such board shall take continuing education instruction provided by the Tax Commissioner pursuant to § 58.1-206. In equalizing real property tax assessments, such board of equalization shall hear complaints, including but not limited to, that real property is assessed at more than fair market value. In hearing complaints, the board shall establish the value of real property as provided in § 58.1-3378. The provisions of § 58.1-3379 shall apply to all complaints heard by any town board of equalization.

Town taxes for each year on real estate subject to reassessment shall be extended on the basis of the last general reassessment made prior to such year subject to such changes as may have been lawfully made. The town tax assessor shall make changes required by new construction, subdivision and disaster loss. The council of any town may provide by ordinance that it will have a general reassessment of real estate in the town in the year designated by the town council and every year thereafter. The town council may declare the necessity for such general reassessment by such ordinance, but in all other respects this section shall be controlling. No county or district levies shall be extended on any assessments made under the provisions of this section.

Any town which has failed to conduct a general reassessment within five years shall use only those assessed values assigned by the county.

§ 58.1-3321. Effect on rate when assessment results in tax increase; public hearings; referendum.

A. When any annual assessment, biennial assessment, or general reassessment of real property by a county, city, or town would result in an increase of one percent or more in the total real property tax levied, such county, city, or town shall reduce its rate of levy for the forthcoming tax year so as to cause such rate of levy to produce no more than 101 percent of the previous year's real property tax levies, unless subsection B is complied with, which rate shall be determined by multiplying the previous year's total real property tax levies by 101 percent and dividing the product by the forthcoming tax year's total real property assessed value. An additional assessment or reassessment due to the construction of new or other improvements, including those improvements and changes set forth in § 58.1-3285, to the property shall not be an annual assessment or general reassessment within the meaning of this section, nor shall the assessed value of such improvements be included in calculating the new tax levy for purposes of this section. Special levies shall not be included in any calculations provided for under this section.

B. The governing body of a county, city, or town may, after conducting a public hearing, which shall not be held at the same time as the annual budget hearing, increase the rate above the reduced rate required in subsection A if any such increase is deemed to be necessary by such governing body.

C. Notice of any public hearing held pursuant to this section shall be given at least ~~30~~ *seven* days before the date of such hearing by the publication of a notice in (i) at least one newspaper of general circulation in such county or city and (ii) a prominent public location at which notices are regularly posted in the building where the governing body of the county, city, or town regularly conducts its business, except that such notice shall be given at least 14 days before the date of such hearing in any year in which neither a general appropriation act nor amendments to a general appropriation act

providing appropriations for the immediately following fiscal year have been enacted by April 30 of such year. Additionally, in a county, city, or town that conducts its reassessment more than once every four years, the notice for any public hearing held pursuant to this section shall be published on a different day and in a different notice from any notice published for the annual budget hearing. Any such notice shall be at least the size of one-eighth page of a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18-point. The notice described in clause (i) shall not be placed in that portion, if any, of the newspaper reserved for legal notices and classified advertisements. The notice described in clauses (i) and (ii) shall be in the following form and contain the following information, in addition to such other information as the local governing body may elect to include:

NOTICE OF PROPOSED REAL PROPERTY TAX INCREASE

The (name of the county, city or town) proposes to increase property tax levies.

1. Assessment Increase: Total assessed value of real property, excluding additional assessments due to new construction or improvements to property, exceeds last year's total assessed value of real property by _____ percent.

2. Lowered Rate Necessary to Offset Increased Assessment: The tax rate which would levy the same amount of real estate tax as last year, when multiplied by the new total assessed value of real estate with the exclusions mentioned above, would be $ _____ per $100 of assessed value. This rate will be known as the "lowered tax rate."

3. Effective Rate Increase: The (name of the county, city or town) proposes to adopt a tax rate of $ _____ per $100 of assessed value. The difference between the lowered tax rate and the proposed rate would be $ _____ per $100, or _____ percent. This difference will be known as the "effective tax rate increase."

Individual property taxes may, however, increase at a percentage greater than or less than the above percentage.

4. Proposed Total Budget Increase: Based on the proposed real property tax rate and changes in other revenues, the total budget of (name of county, city or town) will exceed last year's by _____ percent.

A public hearing on the increase will be held on (date and time) at (meeting place).

D. All hearings shall be open to the public. The governing body shall permit persons desiring to be heard an opportunity to present oral testimony within such reasonable time limits as shall be determined by the governing body.

E. The provisions of this section shall not be applicable to the assessment of public service corporation property by the State Corporation Commission.

F. Notwithstanding other provisions of general or special law, the tax rate for taxes due on or before June 30 of each year may be fixed on or before May 15 of that tax year.

§ 58.1-3378. Sittings; notices thereof.

Each board of equalization shall sit at and for such time or times as may be necessary to discharge the duties imposed and to exercise the powers conferred by this chapter. Of each sitting public notice shall be given at least ~~10~~ *seven* days beforehand by publication in a newspaper having general circulation in the county or city and, in a county, also by posting the notice at the courthouse and at each public library, voting precinct or both. Such posting shall be done by the sheriff or his deputy. Such notice shall inform the public that the board shall sit at the place or places and on the days named therein for the purpose of equalizing real estate assessments in such county or city and for the purpose of hearing complaints of inequalities wherein the property owners allege a lack of uniformity in assessment, or errors in acreage in such real estate assessments. The board also shall hear complaints that real property is assessed at more than fair market value. Except as otherwise provided by the Code of Virginia:

1. The fair market value of real property shall be established by the board as of January 1 of the applicable year; or

2. If a county or city has adopted July 1 as its tax day for real property pursuant to § 58.1-3011, then, for other than public service corporation property, the fair market value of real property shall be established by the board as of July 1 of the applicable year.

The governing body of any county or city may provide by ordinance the date by which applications must be made by property owners or lessees for relief. Such date shall not be earlier than 30 days after the termination of the date set by the assessing officer to hear objections to the assessments as provided in § 58.1-3330. If no applications for relief are received by such date, the board of equalization shall be deemed to have discharged its duties. Such governing body may also provide by ordinance the deadline by which all applications must be finally disposed of by the board of equalization. All such deadlines shall be clearly stated on the notice of assessment. Notwithstanding such deadlines, if a taxpayer applies to the commissioner of the revenue or other official performing the duties imposed on commissioners of the revenue for relief from a real property tax assessment prior to such deadlines, and such deadlines occur prior to a final determination on such application for relief, and the taxpayer advises the circuit court that he wishes to appeal the determination to the board of equalization, then the circuit court may require the board of equalization to hear and act on such appeal. The governing body may provide for applications for relief to be made electronically; however, taxpayers retain the right to file applications on traditional paper forms provided by the governing body as long as such forms are submitted prior to the established deadline. If such paper forms are mailed by the applicant, the postmark date shall be considered the date of receipt by the governing body. A hearing for relief before the board of equalization regarding an assessment on residential property shall not be denied on the basis of a lack of information on the application for relief, as long as the application includes the address, the parcel number, and the owner's proposed assessed value for the property. If the application for relief is sent electronically, the date the applicant sends the application shall be considered the date of receipt by the governing body. The application is considered sent when it meets the requirements of subsection (a) of § 59.1-493. A hearing for relief before the board of equalization regarding an assessment on commercial, multi-family residential, or industrial property on the basis of

fair market value shall not be denied on the basis of a lack of information on the application, as long as documentation of any applicable assessment methodologies is submitted with the application, and the application includes the address, the parcel number, and the owner's proposed assessed value for the property.

§ 58.1-3651. Property exempt from taxation by classification or designation by ordinance adopted by local governing body on or after January 1, 2003.

A. Pursuant to subsection 6 (a)(6) of Article X of the Constitution of Virginia, on and after January 1, 2003, any county, city, or town may by designation or classification exempt from real or personal property taxes, or both, by ordinance adopted by the local governing body, the real or personal property, or both, owned by a nonprofit organization, including a single member limited liability company whose sole member is a nonprofit organization, that uses such property for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes. The ordinance shall state the specific use on which the exemption is based, and continuance of the exemption shall be contingent on the continued use of the property in accordance with the purpose for which the organization is classified or designated. No exemption shall be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, sexual orientation, gender identity, or national origin.

B. Any ordinance exempting property by designation pursuant to subsection A shall be adopted only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be heard. The local governing body shall publish notice of the hearing once in a newspaper of general circulation in the county, city, or town where the real property is located. The notice shall include the assessed value of the real and tangible personal property for which an exemption is requested as well as the property taxes assessed against such property. The public hearing shall not be held until at least ~~five~~ *seven* days after the notice is published in the newspaper. The local governing body shall collect the cost of publication from the organization requesting the property tax exemption. Before adopting any such ordinance the governing body shall consider the following questions:

1. Whether the organization is exempt from taxation pursuant to § 501(c) of the Internal Revenue Code of 1954;

2. Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Board of Directors of the Virginia Alcoholic Beverage Control Authority to such organization, for use on such property;

3. Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director, officer, or employee actually renders;

4. Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions, or local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contribution of in-kind or other material services;

5. Whether the organization provides services for the common good of the public;

6. Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office;

7. The revenue impact to the locality and its taxpayers of exempting the property; and

8. Any other criteria, facts and circumstances that the governing body deems pertinent to the adoption of such ordinance.

C. Any ordinance exempting property by classification pursuant to subsection A shall be adopted only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be heard. The local governing body shall publish notice of the hearing once in a newspaper of general circulation in the county, city, or town. The public hearing shall not be held until at least five days after the notice is published in the newspaper.

D. Exemptions of property from taxation under this article shall be strictly construed in accordance with Article X, Section 6 (f) of the Constitution of Virginia.

E. Nothing in this section or in any ordinance adopted pursuant to this section shall affect the validity of either a classification exemption or a designation exemption granted by the General Assembly prior to January 1, 2003, pursuant to Article 2 (§ 58.1-3606 et seq.), 3 (§ 58.1-3609 et seq.) or 4 (§ 58.1-3650 et seq.) of this chapter. An exemption granted pursuant to Article 4 (§ 58.1-3650 et seq.) of this chapter may be revoked in accordance with the provisions of § 58.1-3605.

§ 58.1-3975. Nonjudicial sale of tax delinquent real properties of minimal size and value.

A. Notwithstanding any other provision of this title, the treasurer or other officer responsible for collecting taxes may sell, at public auction, any parcel of real property that is assessed at $10,000 or less, provided that the taxes on such parcel are delinquent on December 31 following the third anniversary of the date on which such taxes have become due.

B. The treasurer or other officer responsible for collecting taxes may in addition sell, at public auction, any parcel of real property that is assessed at more than $10,000 but no more than $25,000, provided that the taxes on such parcel are delinquent on December 31 following the third anniversary of the date on which such taxes have become due, it is not subject to a recorded mortgage or deed of trust lien, and such parcel:

1. Is unimproved and measures no more than 43,560 square feet (1.0 acre);

2. Is unimproved and is determined to be unsuitable for building due to the size, shape, zoning, floodway, or other environmental designations of the parcel made by the locality's zoning administrator or other official designated by the locality to administer its zoning ordinance and carry out the duties set forth in subdivision A 4 of § 15.2-2286;

3. Has a structure on it that has been condemned by the local building official pursuant to applicable law or ordinance;

4. Has been declared by the locality a nuisance as that term is defined in § 15.2-900;

5. Contains a derelict building as that term is defined in § 15.2-907.1; or

6. Has been declared by the locality to be blighted as that term is defined in § 36-3.

For purposes of determining the area of any parcel, the area or acreage found in the locality's land book shall be determinative.

C. At least 30 days prior to conducting a sale under this section, the treasurer or other officer responsible for collecting taxes shall:

1. Send notice by certified or registered mail to the record owner or owners of such property and anyone appearing to have an interest in the property at their last known address as contained in the records of the treasurer or other officer responsible for collecting taxes; and

2. Post notice of such sale at the property location, if such property has frontage on any public or private street, and at the circuit courthouse of the locality.

D. The treasurer or other officer responsible for collecting taxes shall also cause a notice of sale to be published in the legal classified section of a newspaper of general circulation in the locality in which the property is located at least seven days ~~but no more than 21 days~~ prior to the sale; however, if the annual taxes assessed on the property are less than $500, such notice may be placed, in lieu of publication, on the treasurer's or local government's website beginning at least ~~21~~ *seven* days prior to sale and through the date of sale. The pro rata costs of posting notice, publication, and mailing shall become a part of the tax and shall be collected if payment is made in redemption of such real property.

E. The treasurer or other officer responsible for collecting taxes may advertise and sell multiple parcels at the same time and place pursuant to one notice of sale.

F. The treasurer or other officer responsible for collecting taxes may enter into an agreement with the owner of such parcel for payment over time.

G. The owner of any property, or other interested party, may redeem it at any time prior to the date of the sale by paying all accumulated taxes, penalties, interest, and costs thereon, including reasonable attorney fees. Partial payment of delinquent taxes, penalties, interest, or costs shall be insufficient to redeem the property and shall not operate to suspend, invalidate, or nullify any sale brought pursuant to this section.

H. At the time of sale, the treasurer or other officer responsible for collecting taxes shall sell to the highest bidder at public auction each parcel that has not been redeemed by the owner. Such sale shall be free and clear of the locality's tax lien, but shall not affect easements or other rights of record recorded prior to the date of sale or liens recorded prior to the date of sale unless the treasurer has given the lienholder written notice of the sale at least 30 days prior to the sale, at the lienholder's address of record and through his registered agent, if any. The treasurer or other officer responsible for collecting taxes shall tender a special warranty deed pursuant to this section to effectuate the conveyance of the parcel to the highest bidder.

I. If the sale proceeds are insufficient to pay the amounts owed in full, the treasurer or other officer responsible for collecting taxes may remove the unpaid taxes from the books and mark the same as satisfied. The sale proceeds shall be applied first to the costs of sale, then to the taxes, penalty, interest, and fees due on the parcel, and thereafter to any other taxes or other charges owed by the former owner to the jurisdiction.

J. Any excess proceeds shall remain the property of the former owner, subject to claims of creditors, and shall be kept by the treasurer or other officer responsible for collecting taxes in an interest-bearing escrow account. If any petition for excess proceeds is made to the treasurer or other officer responsible for collecting taxes under this section, the treasurer or officer holding the funds shall forward the funds to the locality's circuit court clerk to be interpleaded along with a copy of the claim for excess proceeds. A copy of such transmission shall be forwarded to the claimant. The burden of scheduling a hearing with the circuit court on the claim shall be that of the claimant and shall be made within two years of the date of the sale of the property that generated the excess funds. In the event that funds remain with the court two years after the date of the sale, the locality may petition to have the funds distributed to the locality's general fund. If no claim for payment of excess proceeds is made within two years after the date of sale, the treasurer or other responsible officer shall deposit the excess proceeds in the jurisdiction's general fund.

K. If the sale does not produce a successful bidder, the treasurer or other responsible officer shall add the costs of sale incurred by the jurisdiction to the delinquent real estate account.

§ 62.1-44.15:33. (For expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Authorization for more stringent ordinances.

A. Localities that are VSMP authorities are authorized to adopt more stringent stormwater management ordinances than those necessary to ensure compliance with the Board's minimum regulations, provided that the more stringent ordinances are based upon factual findings of local or regional comprehensive watershed management studies or findings developed through the implementation of a MS4 permit or a locally adopted watershed management study and are determined by the locality to be necessary to prevent any further degradation to water resources, to address TMDL requirements, to protect exceptional state waters, or to address specific existing water pollution including nutrient and sediment loadings, stream channel erosion, depleted groundwater resources, or excessive localized flooding within the watershed and that prior to adopting more stringent ordinances a public hearing is held ~~after giving due notice~~. *Notice of*

such hearing shall be given by publication once a week for two consecutive weeks in a newspaper of general circulation in the locality seeking to adopt the ordinance, with the first publication appearing no more than 14 days before the hearing.

B. Localities that are VSMP authorities shall submit a letter report to the Department when more stringent stormwater management ordinances or more stringent requirements authorized by such ordinances, such as may be set forth in design manuals, policies, or guidance documents developed by the localities, are determined to be necessary pursuant to this section within 30 days after adoption thereof. Any such letter report shall include a summary explanation as to why the more stringent ordinance or requirement has been determined to be necessary pursuant to this section. Upon the request of an affected landowner or his agent submitted to the Department with a copy to be sent to the locality, within 90 days after adoption of any such ordinance or derivative requirement, localities shall submit the ordinance or requirement and all other supporting materials to the Department for a determination of whether the requirements of this section have been met and whether any determination made by the locality pursuant to this section is supported by the evidence. The Department shall issue a written determination setting forth its rationale within 90 days of submission. Such a determination, or a failure by the Department to make such a determination within the 90-day period, may be appealed to the Board.

C. Localities shall not prohibit or otherwise limit the use of any best management practice (BMP) approved for use by the Director or the Board except as follows:

1. When the Director or the Board approves the use of any BMP in accordance with its stated conditions, the locality serving as a VSMP authority shall have authority to preclude the onsite use of the approved BMP, or to require more stringent conditions upon its use, for a specific land-disturbing project based on a review of the stormwater management plan and project site conditions. Such limitations shall be based on site-specific concerns. Any project or site-specific determination purportedly authorized pursuant to this subsection may be appealed to the Department and the Department shall issue a written determination regarding compliance with this section to the requesting party within 90 days of submission. Any such determination, or a failure by the Department to make any such determination within the 90-day period, may be appealed to the Board.

2. When a locality is seeking to uniformly preclude jurisdiction-wide or otherwise limit geographically the use of a BMP approved by the Director or Board, or to apply more stringent conditions to the use of a BMP approved by the Director or Board, upon the request of an affected landowner or his agent submitted to the Department, with a copy submitted to the locality, within 90 days after adoption, such authorizing ordinances, design manuals, policies, or guidance documents developed by the locality that set forth the BMP use policy shall be provided to the Department in such manner as may be prescribed by the Department that includes a written justification and explanation as to why such more stringent limitation or conditions are determined to be necessary. The Department shall review all supporting materials provided by the locality to determine whether the requirements of this section have been met and that any determination made by the locality pursuant to this section is reasonable under the circumstances. The Department shall issue its determination to the locality in writing within 90 days of submission. Such a determination, or a failure by the Department to make such a determination within the 90-day period, may be appealed to the Board.

D. Based on a determination made in accordance with subsection B or C, any ordinance or other requirement enacted or established by a locality that is found to not comply with this section shall be null and void, replaced with state minimum standards, and remanded to the locality for revision to ensure compliance with this section. Any such ordinance or other requirement that has been proposed but neither enacted nor established shall be remanded to the locality for revision to ensure compliance with this section.

E. Any provisions of a local stormwater management program in existence before January 1, 2013, that contains more stringent provisions than this article shall be exempt from the requirements of this section. However, such provisions shall be reported to the Board at the time of the locality's VSMP approval package.

§ 62.1-44.15:33. (For effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Authorization for more stringent ordinances.

A. Localities that are serving as VESMP authorities are authorized to adopt more stringent soil erosion control or stormwater management ordinances than those necessary to ensure compliance with the Board's minimum regulations, provided that the more stringent ordinances are based upon factual findings of local or regional comprehensive watershed management studies or findings developed through the implementation of an MS4 permit or a locally adopted watershed management study and are determined by the locality to be necessary to prevent any further degradation to water resources, to address total maximum daily load requirements, to protect exceptional state waters, or to address specific existing water pollution including nutrient and sediment loadings, stream channel erosion, depleted groundwater resources, or excessive localized flooding within the watershed and that prior to adopting more stringent ordinances a public hearing is held ~~after giving due notice~~. *Notice of such hearing shall be given by publication once a week for two consecutive weeks in a newspaper of general circulation in the locality seeking to adopt the ordinance, with the first publication appearing no more than 14 days before the hearing.* This process shall not be required when a VESMP authority chooses to reduce the threshold for regulating land-disturbing activities to a smaller area of disturbed land pursuant to § 62.1-44.15:34. However, this section shall not be construed to authorize a VESMP authority to impose a more stringent timeframe for land-disturbance review and approval than those provided in this article.

B. Localities that are serving as VESMP authorities shall submit a letter report to the Department when more stringent stormwater management ordinances or more stringent requirements authorized by such stormwater management ordinances, such as may be set forth in design manuals, policies, or guidance documents developed by the localities, are

determined to be necessary pursuant to this section within 30 days after adoption thereof. Any such letter report shall include a summary explanation as to why the more stringent ordinance or requirement has been determined to be necessary pursuant to this section. Upon the request of an affected landowner or his agent submitted to the Department with a copy to be sent to the locality, within 90 days after adoption of any such ordinance or derivative requirement, localities shall submit the ordinance or requirement and all other supporting materials to the Department for a determination of whether the requirements of this section have been met and whether any determination made by the locality pursuant to this section is supported by the evidence. The Department shall issue a written determination setting forth its rationale within 90 days of submission. Such a determination, or a failure by the Department to make such a determination within the 90-day period, may be appealed to the Board.

C. Localities shall not prohibit or otherwise limit the use of any best management practice (BMP) approved for use by the Director or the Board except as follows:

1. When the Director or the Board approves the use of any BMP in accordance with its stated conditions, the locality serving as a VESMP authority shall have authority to preclude the onsite use of the approved BMP, or to require more stringent conditions upon its use, for a specific land-disturbing project based on a review of the stormwater management plan and project site conditions. Such limitations shall be based on site-specific concerns. Any project or site-specific determination purportedly authorized pursuant to this subsection may be appealed to the Department and the Department shall issue a written determination regarding compliance with this section to the requesting party within 90 days of submission. Any such determination, or a failure by the Department to make any such determination within the 90-day period, may be appealed to the Board.

2. When a locality is seeking to uniformly preclude jurisdiction-wide or otherwise limit geographically the use of a BMP approved by the Director or Board, or to apply more stringent conditions to the use of a BMP approved by the Director or Board, upon the request of an affected landowner or his agent submitted to the Department, with a copy submitted to the locality, within 90 days after adoption, such authorizing ordinances, design manuals, policies, or guidance documents developed by the locality that set forth the BMP use policy shall be provided to the Department in such manner as may be prescribed by the Department that includes a written justification and explanation as to why such more stringent limitation or conditions are determined to be necessary. The Department shall review all supporting materials provided by the locality to determine whether the requirements of this section have been met and that any determination made by the locality pursuant to this section is reasonable under the circumstances. The Department shall issue its determination to the locality in writing within 90 days of submission. Such a determination, or a failure by the Department to make such a determination within the 90-day period, may be appealed to the Board.

D. Based on a determination made in accordance with subsection B or C, any ordinance or other requirement enacted or established by a locality that is found to not comply with this section shall be null and void, replaced with state minimum standards, and remanded to the locality for revision to ensure compliance with this section. Any such ordinance or other requirement that has been proposed but neither enacted nor established shall be remanded to the locality for revision to ensure compliance with this section.

E. Any provisions of a local erosion and sediment control or stormwater management program in existence before January 1, 2016, that contains more stringent provisions than this article shall be exempt from the requirements of this section if the locality chooses to retain such provisions when it becomes a VESMP authority. However, such provisions shall be reported to the Board at the time of submission of the locality's VESMP approval package.

§ 62.1-44.15:65. (For expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Authorization for more stringent regulations.

A. As part of a VESCP, a district or locality is authorized to adopt more stringent soil erosion and sediment control regulations or ordinances than those necessary to ensure compliance with the Board's regulations, provided that the more stringent regulations or ordinances are based upon factual findings of local or regional comprehensive watershed management studies or findings developed through the implementation of an MS4 permit or a locally adopted watershed management study and are determined by the district or locality to be necessary to prevent any further degradation to water resources, to address total maximum daily load requirements, to protect exceptional state waters, or to address specific existing water pollution including nutrient and sediment loadings, stream channel erosion, depleted groundwater resources, or excessive localized flooding within the watershed and that prior to adopting more stringent regulations or ordinances, a public hearing is held ~~after giving due notice~~. *Notice of such hearing shall be given by publication once a week for two consecutive weeks in a newspaper of general circulation in the locality seeking to adopt the ordinance, with the first publication appearing no more than 14 days before the hearing.* The VESCP authority shall report to the Board when more stringent stormwater management regulations or ordinances are determined to be necessary pursuant to this section. However, this section shall not be construed to authorize any district or locality to impose any more stringent regulations for plan approval or permit issuance than those specified in §§ 62.1-44.15:55 and 62.1-44.15:57.

B. Any provisions of an erosion and sediment control program in existence before July 1, 2012, that contains more stringent provisions than this article shall be exempt from the analysis requirements of subsection A.

§ 62.1-44.15:65. (For effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Authorization for more stringent ordinances.

A. As part of a VESCP, a locality is authorized to adopt more stringent soil erosion and sediment control ordinances than those necessary to ensure compliance with the Board's regulations, provided that the more stringent ordinances are

based upon factual findings of local or regional comprehensive watershed management studies or findings developed through the implementation of a locally adopted watershed management study and are determined by the locality to be necessary to prevent any further degradation to water resources, to address total maximum daily load requirements, to protect exceptional state waters, or to address specific existing water pollution including nutrient and sediment loadings, stream channel erosion, depleted groundwater resources, or excessive localized flooding within the watershed and that prior to adopting more stringent ordinances, a public hearing is held ~~after giving due notice~~. *Notice of such hearing shall be given by publication once a week for two consecutive weeks in a newspaper of general circulation in the locality seeking to adopt the ordinance, with the first publication appearing no more than 14 days before the hearing*. The VESCP authority shall report to the Board when more stringent erosion and sediment control ordinances are determined to be necessary pursuant to this section. This process shall not be required when a VESCP authority chooses to reduce the threshold for regulating land-disturbing activities to a smaller area of disturbed land pursuant to § 62.1-44.15:55. This section shall not be construed to authorize any VESCP authority to impose any more stringent ordinances for land-disturbance review and approval than those specified in § 62.1-44.15:55.

B. Any provisions of an erosion and sediment control program in existence before July 1, 2012, that contains more stringent provisions than this article shall be exempt from the analysis requirements of subsection A.

2. That the Virginia Code Commission shall convene the work group that met pursuant to Chapters 129 and 130 of the Acts of Assembly of 2022 to review requirements throughout the Code of Virginia for localities to provide notice for meetings, hearings, and other intended actions. In conducting the review, the work group shall examine (i) the varying frequency for publishing notices in newspapers and other print media, (ii) the number of days required to elapse between the publications of notices, and (iii) the amount of information required to be contained in each notice and make recommendations for uniformity and efficiency. The Virginia Code Commission shall submit a report to the Chairmen of the House Committee on General Laws and the Senate Committee on General Laws and Technology summarizing the work and any recommendations of the work group by November 1, 2023.

CHAPTER 508

An Act to amend the Code of Virginia by adding in Article 2 of Chapter 2 of Title 23.1 a section numbered 23.1-212.1, relating to Nuclear Education Grant Fund and Program established.

[H 1779]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 2 of Title 23.1 a section numbered 23.1-212.1 as follows:

§ 23.1-212.1. Nuclear Education Grant Fund and Program.

A. As used in this section, "nuclear education program" means an instructional program that leads to a degree or credential that specifically supports the nuclear power industry, including nuclear engineering and nuclear welding.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Nuclear Education Grant Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of awarding grants on a competitive basis pursuant to the Nuclear Education Grant Program established in subsection C. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the chairman of the Council.

C. There is hereby established the Nuclear Education Grant Program (the Program), to be administered by the Council, for the purpose of awarding grants from the Fund on a competitive basis to any public institution of higher education or private institution of higher education that seeks to establish or expand a nuclear education program.

D. The Council shall establish such rules, policies, and procedures as it deems necessary for the administration of the Program, including rules, policies, and procedures for Program applications and grant awards.

CHAPTER 509

An Act to amend and reenact § 58.1-439.12:05 of the Code of Virginia, relating to green job creation tax credit.

[H 2178]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-439.12:05 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-439.12:05. Green and alternative energy job creation tax credit.

A. For taxable years beginning on or after January 1, 2010, but before January 1, 2025, a taxpayer shall be allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 for each new green job created within the Commonwealth by the taxpayer. The amount of the annual credit for each new green job shall be $500 for each annual salary that is $50,000 or more. The credit shall be first allowed for the taxable year in which the job has been filled for at least one year and for each of the four succeeding taxable years provided the job is continuously filled during the respective taxable year. Each taxpayer qualifying under this section shall be allowed the credit for up to 350 green jobs.

B. As used in this section:

"Green job" means employment in industries relating to the field of renewable, alternative energies, including the manufacture and operation of products used to generate electricity and other forms of energy from alternative sources that include hydrogen and fuel cell technology, landfill gas, *methane extracted in Planning District 2,* geothermal heating systems, solar heating systems, hydropower systems, wind systems, and biomass and biofuel systems. The Secretary of Commerce and Trade shall develop a detailed definition and list of jobs that qualify for the credit provided in this section and shall post them on his website.

"Job" means employment of an indefinite duration of an individual whose primary work activity is related directly to the field of renewable, alternative energies and for which the standard fringe benefits are paid by the taxpayer, requiring a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of such taxpayer's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as a job under this section.

C. To qualify for the tax credit provided in subsection A, a taxpayer shall demonstrate that the green job was created by the taxpayer, and that such job was continuously filled in the Commonwealth during the respective taxable year.

D. The amount of the credit that may be claimed in any single taxable year shall not exceed the taxpayer's liability for taxes imposed by this chapter for that taxable year. If the amount of credit allowed under this section exceeds the taxpayer's tax liability for the taxable year in which the green job was continuously filled, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the taxpayer in the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

E. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

F. If the taxpayer is eligible for the tax credits under this section and creates green jobs in an enterprise zone, as defined in § 59.1-539, such taxpayer may also qualify for the benefits under the Enterprise Zone Grant Program (§ 59.1-538 et seq.).

G. A taxpayer shall not be allowed a tax credit pursuant to this section for any green job for which the taxpayer is allowed (i) a major business facility job tax credit pursuant to § 58.1-439 or (ii) a federal tax credit for investments in manufacturing facilities for clean energy technologies that would foster investment and job creation in clean energy manufacturing.

2. That the provisions of this act shall apply to taxable years beginning on and after January 1, 2023.

CHAPTER 510

An Act to amend and reenact §§ 56-585.1:11 and 58.1-400.3 of the Code of Virginia, relating to electric utilities; affiliated interest for certain offshore wind projects; minimum tax for electric utilities.

[S 1477]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-585.1:11 and 58.1-400.3 of the Code of Virginia are amended and reenacted as follows:

§ 56-585.1:11. Development of offshore wind capacity.

A. As used in this section:

"Advanced clean energy buyer" means a commercial or industrial customer of a Phase II Utility, irrespective of generation supplier, (i) with an aggregate load over 100 megawatts; (ii) with an aggregate amount of at least 200 megawatts of solar or wind energy supply under contract with a term of 10 years or more from facilities located within the Commonwealth by January 1, 2024; and (iii) that directly procures from the utility the electric supply and environmental attributes of the offshore wind facility associated with the lesser of 50 megawatts of nameplate capacity or 15 percent of the commercial or industrial customer's annual peak demand for a contract period of 15 years.

"Aggregate load" means the combined electrical load associated with selected accounts of an advanced clean energy buyer with the same legal entity name as, or in the names of affiliated entities that control, are controlled by, or are under common control of, such legal entity or are the names of affiliated entities under a common parent.

"Control" means the legal right, directly or indirectly, to direct or cause the direction of the management, actions, or policies of an affiliated entity, whether through the ability to exercise voting power, by contract, or otherwise. "Control" does not include control of an entity through a franchise or similar contractual agreement.

"Offshore wind affiliate" means a regulated affiliate company of a Phase II Utility subject to the Commission's jurisdiction established by such utility in connection with any project constructed pursuant to subdivision C 1 for the purpose of securing a noncontrolling equity financing partner for the project.

"Qualifying large general service customer" means a customer of a Phase II Utility, irrespective of general supplier, (i) whose peak demand during the most recent calendar year exceeded five megawatts and (ii) that contracts with the utility to directly procure electric supply and environmental attributes associated with the offshore wind facility in amounts commensurate with the customer's electric usage for a contract period of 15 years or more.

B. In order to meet the Commonwealth's clean energy goals, prior to December 31, 2034, the construction or purchase by a public utility of one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth, with an aggregate capacity of up to 5,200 megawatts, is in the public interest and the Commission shall so find, provided that no customers of the utility shall be responsible for costs of any such facility in a proportion greater than the utility's *ownership* share of the facility*, including any ownership share held by an offshore wind affiliate.*

C. 1. Pursuant to subsection B, construction by a Phase II Utility of one or more new utility-owned and utility-operated generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's Atlantic shoreline, with an aggregate rated capacity of not less than 2,500 megawatts and not more than 3,000 megawatts, along with electrical transmission or distribution facilities associated therewith for interconnection is in the public interest. In acting upon any request for cost recovery by a Phase II Utility *or its offshore wind affiliate* for costs associated with such a facility, the Commission shall determine the reasonableness and prudence of any such costs, provided that such costs shall be presumed to be reasonably and prudently incurred if the Commission determines that (i) the utility has complied with the competitive solicitation and procurement requirements pursuant to subsection E; (ii) the project's projected total levelized cost of energy, including any tax credit, on a cost per megawatt hour basis, inclusive of the costs of transmission and distribution facilities associated with the facility's interconnection, does not exceed 1.4 times the comparable cost, on an unweighted average basis, of a conventional simple cycle combustion turbine generating facility as estimated by the U.S. Energy Information Administration in its Annual Energy Outlook 2019; and (iii) the utility has commenced construction of such facilities for U.S. income taxation purposes prior to January 1, 2024, or has a plan for such facility or facilities to be in service prior to January 1, 2028. The Commission shall disallow costs, or any portion thereof, only if they are otherwise unreasonably and imprudently incurred. In its review, the Commission shall give due consideration to (a) the Commonwealth's renewable portfolio standards and carbon reduction requirements, (b) the promotion of new renewable generation resources, and (c) the economic development benefits of the project for the Commonwealth, including capital investments and job creation.

2. Notwithstanding the provisions of § 56-585.1, the Commission shall not grant an enhanced rate of return to a Phase II Utility for the construction of one or more new utility-owned and utility-operated generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's Atlantic shoreline pursuant to this section.

3. Any such costs proposed for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, regardless of the generation supplier of any such customer, other than (i) PIPP eligible utility customers, (ii) advanced clean energy buyers, and (iii) qualifying large general service customers. No electric cooperative customer of the utility shall be assigned, nor shall the utility collect from any such cooperative, any of the costs of such facilities, including electrical transmission or distribution facilities associated therewith for interconnection. The Commission may promulgate such rules, regulations, or other directives necessary to administer the eligibility for these exemptions.

4. The Commission shall permit a portion of the nameplate capacity of any such facility, in the aggregate, to be allocated to (i) advanced clean energy buyers or (ii) qualifying large general service customers, provided that no more than 10 percent of the offshore wind facility's capacity is allocated to qualifying large general service customers. A Phase II Utility *or its offshore wind affiliate* shall petition the Commission for approval of a special contract with any advanced clean energy buyer, or any special rate applicable to qualifying large general service customers, pursuant to § 56-235.2, no later than 15 months prior to the projected commercial operation date of the facility, and all customer enrollments associated with such special contracts or rates shall be completed prior to commercial operation of the facility. Any such special contract or rate may include provisions for levelized rates of service over the duration of the customer's contracted agreement with the utility, and the Commission shall determine that such special contract or rate is designed to hold nonparticipating customers harmless over its term in connection with any petition for approval by the utility. The utility may petition for approval of such special contracts or rates in connection with any petition for approval of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of the facility, and the Commission shall rule upon any such petitions in its final order in such proceeding within nine months from the date of filing.

D. In constructing any such facility contemplated in subsection B, the utility shall develop and submit a plan to the Commission for review that includes the following considerations: (i) options for utilizing local workers; (ii) the economic development benefits of the project for the Commonwealth, including capital investments and job creation; (iii) consultation with the Commonwealth's Chief Workforce Development Officer, the Chief Diversity, Equity, and Inclusion Officer, and the Virginia Economic Development Partnership on opportunities to advance the Commonwealth's workforce and economic development goals, including furtherance of apprenticeship and other workforce training programs; (iv) giving priority to the hiring, apprenticeship, and training of veterans, as that term is defined in § 2.2-2000.1, local workers, and workers from

historically economically disadvantaged communities; and (v) procurement of equipment from Virginia-based or United States-based manufacturers using materials or product components made in Virginia or the United States, if reasonably available and competitively priced.

E. Any project constructed or purchased pursuant to subsection B shall (i) be subject to competitive procurement or solicitation for a substantial majority of the services and equipment, exclusive of interconnection costs, associated with the facility's construction; (ii) involve at least one experienced developer; and (iii) demonstrate the economic development benefits within the Commonwealth, including capital investments and job creation. A utility may give appropriate consideration to suppliers and developers that have demonstrated successful experience in offshore wind.

F. Any project shall include an environmental and fisheries mitigation plan submitted to the Commission for the construction and operation of such offshore wind facilities, provided that such plan includes an explicit description of the best management practices the bidder will employ that considers the latest science at the time the proposal is made to mitigate adverse impacts to wildlife, natural resources, ecosystems, and traditional or existing water-dependent uses. The plan shall include a summary of pre-construction assessment activities, consistent with federal requirements, to determine the spatial and temporal presence and abundance of marine mammals, sea turtles, birds, and bats in the offshore wind lease area.

G. In connection with any project constructed by a Phase II Utility pursuant to subdivision C 1, such utility may, subject to Commission approval pursuant to Chapter 4 (§ 56-76 et seq.), establish an offshore wind affiliate for the purpose of securing a noncontrolling equity financing partner for the project, and such offshore wind affiliate may be permitted to construct, own, or operate such project pursuant to subdivision C 1, or a portion thereof. Notwithstanding the provisions of the Utility Facilities Act (§ 56-265.1 et seq.), an offshore wind affiliate shall be permitted to operate as a public utility in association with the Phase II Utility and shall be entitled to all rights and privileges of a public utility solely in connection with the project. Nothing in this subsection shall prevent the Phase II Utility or its offshore wind affiliate from recovering the prudently incurred costs of constructing or operating the project pursuant to this section or subdivision A 6 of § 56-585.1, regardless of whether such costs are incurred by the utility or its offshore wind affiliate. In acting upon any such request for cost recovery by the Phase II Utility, the Commission shall utilize the capital structure and cost of capital of the utility, consistent with subdivision A 10 of § 56-585.1, and the capital structure and cost of capital of any noncontrolling entity's interest in the offshore wind affiliate shall be disregarded. If any ownership interest in the offshore wind affiliate is transferred to such a noncontrolling entity, the Commission shall ensure, in granting any approval for such transfer pursuant to the Utility Transfers Act (§ 56-88 et seq.), or for cost recovery under this section or subdivision A 6 of § 56-585.1, that any gain on the utility's basis for the project is credited to the utility's customers through a rate adjustment clause credit mechanism and amortized over such period as the Commission determines to be appropriate.

§ 58.1-400.3. Minimum tax on certain electric suppliers.

A. 1. An electric supplier, except for those organized as cooperatives and exempt from federal taxation under § 501 of the Internal Revenue Code of 1986, as amended, shall be subject to a minimum tax imposed by this section, instead of the corporate income tax imposed by § 58.1-400 if applicable, net of any income tax credits that may be used to offset such tax, if the tax imposed by § 58.1-400 is less than the minimum tax imposed by this subsection. An electric supplier that is organized as a limited liability, partnership, corporation that has made an election under subchapter S of the Internal Revenue Code, or other entity treated as a pass-through entity shall be subject to the minimum tax in the manner prescribed by regulation.

2. The minimum tax imposed by this subsection shall be equal to 1.45 percent of such electric supplier's gross receipts for the calendar year that ends during the taxable year minus the state's portion of the electric utility consumption tax billed to consumers.

B. 1. An electric supplier that is organized as a cooperative and exempt from federal taxation under § 501 of the Internal Revenue Code of 1986, as amended, shall be subject to a minimum tax, instead of the tax on modified net income imposed by § 58.1-400.2, if the tax imposed by § 58.1-400.2, net of any credits that may be used to offset such tax, is less than the minimum tax imposed by this subsection.

2. The minimum tax imposed by this subsection shall be equal to 1.45 percent of such electric supplier's gross receipts from sales to nonmembers for the calendar year that ends during the taxable year minus the consumption tax collected from nonmembers.

C. In the case of an income tax return for a period of less than 12 months, the minimum tax shall be based on the gross receipts for the calendar year that ends during the taxable period or, if none, the most recent calendar year that ended before the taxable period. The minimum tax shall be prorated by the number of months in the taxable period.

D. The State Corporation Commission shall calculate and certify to the Department for each tax year as defined in § 58.1-2600 the name, address, and minimum tax for each electric supplier. The Commission shall mail or otherwise deliver a copy of the certification to each affected electric supplier.

E. When an electric supplier subject to the tax imposed by this section is one of several affiliated corporations that file a consolidated or combined income tax return, the portion of the affiliated corporations' tax liability that is attributable to the electric supplier shall be computed as follows:

1. Each corporation included in the consolidated or combined return shall recompute its corporate income tax liability, net of any income tax credits, as if it were filing a separate return. The separate income tax liability of the electric supplier shall then be compared to the affiliated corporations' tax liability, net of any income tax credits, indicated on the

consolidated or combined return. For purposes of this section, the lesser amount shall be deemed to be the corporate income tax imposed by § 58.1-400 and attributable to the electric supplier.

2. a. If such corporate income tax amount is less than the minimum tax of the electric supplier as calculated pursuant to subsection A, the electric supplier shall be subject to the minimum tax in lieu of the corporate income tax imposed by § 58.1-400.

b. If such corporate income tax amount exceeds the minimum tax of the electric supplier as calculated pursuant to subsection A, the electric supplier shall not owe the minimum tax.

F. The requirements imposed under Article 20 (§ 58.1-500 et seq.) of Chapter 3 of this title regarding the filing of a declaration of estimated income taxes and the payment of such estimated taxes, shall be applicable to electric suppliers regardless of whether such taxpayer expects to be subject to the minimum tax imposed herein or to the corporate income tax imposed by § 58.1-400.

For purposes of determining the applicability of the exceptions under which the addition to the tax for the underpayment of any installment of estimated taxes shall not be imposed, it shall be irrelevant whether the tax shown on the return for the preceding taxable year is the corporate income tax or the minimum tax.

G. To the extent that a taxpayer is subject to the minimum tax imposed under this section, there shall be allowed a credit against the separate, combined, or consolidated corporate income tax for the total amount of minimum tax paid by the electric supplier in all previous years that is in excess of the tax imposed by § 58.1-400 on the electric supplier for such years.

H. 1. To the extent an electric supplier or its parent company has remitted estimated income tax payments in excess of its corporate income tax liability for the taxable years beginning on or after January 1, 2001, but before January 1, 2004, such overpayments shall only be utilized to offset any corporate income tax liabilities incurred pursuant to § 58.1-400 for taxable years beginning on and after January 1, 2004, and shall not be claimed as a refund of overpaid taxes, except as provided in subdivision 2 of this subsection. For the purposes of this subsection, estimated income tax payments shall include any overpayments from a prior taxable year carried forward as an estimated payment to be credited towards a future tax liability.

2. If an electric supplier has had a corporate income tax liability of greater than $0 for each taxable year beginning on or after January 1, 2001, but before January 1, 2003, then such electric supplier may claim a refund of any estimated income tax payments in excess of their taxable year 2003 corporate income tax liability.

I. Every electric supplier which owes the minimum tax imposed by this section shall remit such tax payment to the Department of Taxation.

J. Notwithstanding any of the foregoing provisions, an electric supplier may not adjust capped rates pursuant to § 56-582 of the Code of Virginia on any portion of the minimum tax due to the Commonwealth.

K. The following words and terms, for purposes of this section, shall have the following meanings:

"Consumption tax" means the state's portion of the electric utility consumption tax billed pursuant to Chapter 29 (§ 58.1-2900 et seq.) of this title, for which the electric supplier is defined as the "service provider" pursuant to § 58.1-2901 less any amounts billed on behalf of utilities owned and operated by municipalities.

"Electric supplier" means an incumbent electric utility in the Commonwealth that, prior to July 1, 1999, supplied electric energy to retail customers located in an exclusive service territory established by the State Corporation Commission. *However, "electric supplier" also includes an offshore wind affiliate as defined in § 56-585.1:11.*

"Gross receipts" has the same meaning as defined in § 58.1-2600 less receipts from sales to federal, state and local governments for their own use.

"Nonmember" has the same meaning as defined in § 58.1-400.2.

CHAPTER 511

An Act to amend and reenact § 40.1-28.01 of the Code of Virginia, relating to nondisclosure or confidentiality agreement; nondisparagement provisions; claims of sexual harassment.

[H 1895]

Approved March 24, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 40.1-28.01 of the Code of Virginia is amended and reenacted as follows:

§ 40.1-28.01. Nondisclosure or confidentiality agreement; provisions regarding sexual assault or sexual harassment; condition of employment.

A. No employer shall require an employee or a prospective employee to execute or renew any provision in a nondisclosure or confidentiality agreement*, including any provision relating to nondisparagement,* that has the purpose or effect of concealing the details relating to a claim of sexual assault pursuant to § 18.2-61, 18.2-67.1, 18.2-67.3, or 18.2-67.4 *or a claim of sexual harassment as defined in § 30-129.4* as a condition of employment. Any such provision is against public policy and is void and unenforceable.

B. This section shall in no way limit other grounds that exist at law or in equity for the unenforceability of any such agreement or any provision of such agreement.

CHAPTER 512

An Act to direct the Department of Behavioral Health and Developmental Services to review its regulations and make recommendations relating to the required reporting of certain allegations by licensed providers.

[S 1544]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Behavioral Health and Developmental Services (the Department) shall review its regulations that require providers licensed by the Department to report allegations of abuse, neglect, and exploitation and incidents classified as Level II and Level III. The Department shall collaborate with stakeholders to develop solutions to reduce administrative burdens on licensed providers. The Department shall report its recommendations to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2023.*

CHAPTER 513

An Act to amend and reenact § 51.5-40.1 of the Code of Virginia, relating to rights of persons with disabilities; definitions; mobility-impaired person.

[H 2172]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 51.5-40.1 of the Code of Virginia is amended and reenacted as follows:

§ 51.5-40.1. Definitions.

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

"Hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

"Mental impairment" means (i) a disability attributable to intellectual disability, autism, or any other neurologically handicapping condition closely related to intellectual disability and requiring treatment similar to that required by individuals with intellectual disability or (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual.

"Mobility-impaired person" means any person who ~~has completed training to use a dog for service or support because he~~ *(i)* is unable to move about without the aid of crutches, a wheelchair, or any other form of support or ~~because of~~ *(ii) has* limited functional ability to ambulate, climb, descend, sit, rise, or perform any related function.

"Otherwise disabled person" means any person who has a physical, sensory, intellectual, developmental, or mental disability or a mental illness.

"Person with a disability" means any person who has a physical or mental impairment that substantially limits one or more of his major life activities or who has a record of such impairment.

"Physical impairment" means any physical condition, anatomic loss, or cosmetic disfigurement that is caused by bodily injury, birth defect, or illness.

"Service dog" means a dog trained to do work or perform tasks for the benefit of a mobility-impaired or otherwise disabled person. The work or tasks performed by a service dog shall be directly related to the individual's disability or disorder. Examples of work or tasks include providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items, carrying items, providing physical support and assistance with balance and stability, and preventing or interrupting impulsive or destructive behaviors. The provision of emotional support, well-being, comfort, or companionship shall not constitute work or tasks for the purposes of this definition.

"Three-unit service dog team" means a team consisting of a trained service dog, a disabled person, and a person who is an adult and who has been trained to handle the service dog.

CHAPTER 514

An Act to amend and reenact § 38.2-3521.1 of the Code of Virginia, relating to association health plans; base rates based on employer member's risk profile.

[H 2201]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3521.1 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3521.1. Group accident and sickness insurance definitions.

Except as provided in § 38.2-3522.1, no policy of group accident and sickness insurance shall be delivered in this Commonwealth unless it conforms to one of the following descriptions:

A. A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

1. The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

2. The premium for the policy shall be paid either from the employer's funds or from funds contributed by the insured employees, or from both. Except as provided in subdivision 3, a policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, except those who reject such coverage in writing.

3. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer, except as otherwise prohibited in this title.

B. A policy that is:

1. Not subject to Chapter 37.1 (§ 38.2-3727 et seq.): and

2. Issued to a creditor or its parent holding company or to a trustee or trustees or agent designated by two or more creditors, which creditor, holding company, affiliate, trustee, trustees or agent shall be deemed the policyholder, to insure debtors of the creditor or creditors with respect to their indebtedness, subject to the following requirements:

a. The debtors eligible for insurance under the policy shall be all of the debtors of the creditor or creditors, or all of any class or classes thereof. The policy may provide that the term "debtors" shall include:

(1) Borrowers of money or purchasers or lessees of goods, services, or property for which payment is arranged through a credit transaction;

(2) The debtors of one or more subsidiary corporations; and

(3) The debtors of one or more affiliated corporations, proprietorships or partnerships if the business of the policyholder and of such affiliated corporations, proprietorships or partnerships is under common control.

b. The premium for the policy shall be paid either from the creditor's funds, or from charges collected from the insured debtors, or from both. Except as provided in subdivision 3, a policy on which no part of the premium is to be derived from funds contributed by insured debtors specifically for their insurance must insure all eligible debtors.

3. An insurer may exclude any debtors as to whom evidence of individual insurability is not satisfactory to the insurer.

4. The total amount of insurance payable with respect to an indebtedness shall not exceed the greater of the scheduled or actual amount of unpaid indebtedness to the creditor. The insurer may exclude any payments that are delinquent on the date the debtor becomes disabled as defined in the policy.

5. The insurance may be payable to the creditor or any successor to the right, title, and interest of the creditor. Such payment or payments shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of each such payment and any excess of the insurance shall be payable to the insured or the estate of the insured.

6. Notwithstanding the preceding provisions of this section, insurance on agricultural credit transaction commitments may be written up to the amount of the loan commitment. Insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan.

C. A policy issued to a labor union, or similar employee organization, which labor union or organization shall be deemed to be the policyholder, to insure members of such union or organization for the benefit of persons other than the union or organization or any of its officials, representatives, or agents, subject to the following requirements:

1. The members eligible for insurance under the policy shall be all of the members of the union or organization, or all of any class or classes thereof.

2. The premium for the policy shall be paid from either funds of the union or organization, or from funds contributed by the insured members specifically for their insurance, or from both. Except as provided in subdivision 3, a policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, except those who reject such coverage in writing.

3. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer, except as otherwise prohibited in this title.

D. A policy issued (i) to or for a multiple employer welfare arrangement, a rural electric cooperative, or a rural electric telephone cooperative as these terms are defined in 29 U.S.C. § 1002, or (ii) to a trust, or to the trustees of a fund, established or adopted by or for two or more employers, or by one or more labor unions of similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust or trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions or organizations for the benefit of persons other than the employers or the unions or organizations, subject to the following requirements:

1. The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions or organizations, or all of any class or classes thereof. The policy may provide that the term "employee" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

2. The premium for the policy shall be paid from funds contributed by the employer or employers of the insured persons, or by the union or unions or similar employee organizations, or by both, or from funds contributed by the insured persons or from both the insured persons and the employers or unions or similar employee organizations. Except as provided in subdivision 3, a policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing.

3. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer, except as otherwise prohibited in this title.

E. ~~1.~~ A policy issued to an association or to a trust or to the trustees of a fund established, created, or maintained for the benefit of members of one or more associations which association or trust shall be deemed the policyholder.

1. The association or associations shall:

a. Have at the outset a minimum of 100 persons;

b. Have been organized and maintained in good faith for purposes other than that of obtaining insurance;

c. Have been in active existence for at least five years;

d. Have a constitution and bylaws which provide that (i) the association or associations hold regular meetings not less than annually to further purposes of the members, (ii) except for credit unions, the association or associations collect dues or solicit contributions from members, and (iii) the members have voting privileges and representation on the governing board and committees;

e. Does not condition membership in the association on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee);

f. Makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to such members (or individuals eligible for coverage through a member);

g. Does not make health insurance coverage offered through the association available other than in connection with a member of the association; and

h. Meets such additional requirements as may be imposed under the laws of this Commonwealth.

2. The policy shall be subject to the following requirements:

a. The policy may insure members of such association or associations, employees thereof or employees of members, or one or more of the preceding or all of any class or classes thereof for the benefit of persons other than the employee's employer.

b. The premium for the policy shall be paid from funds contributed by the association or associations, or by employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association, associations, or employer members.

3. Except as provided in subdivision 4, a policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing.

4. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer, except as otherwise prohibited in this title.

5. For a policy issued in the large group market and notwithstanding the provisions of § 38.2-3449, an insurer may (i) establish base rates formed on an actuarially sound, modified community rating methodology that considers the pooling of all participant claims and (ii) utilize each employer member's specific risk profile to determine contribution rates for each individual employer member's share of the premium by actuarially adjusting above or below established base rates.

F. A policy issued to a credit union or to a trustee or trustees or agent designated by two or more credit unions, which credit union, trustee, trustees, or agent shall be deemed the policyholder, to insure members of such credit union or credit unions for the benefit of persons other than the credit union or credit unions, trustee or trustees, or agent or any of their officials, subject to the following requirements:

1. The members eligible for insurance shall be all of the members of the credit union or credit unions, or all of any class or classes thereof.

2. The premium for the policy shall be paid by the policyholder from the credit union's funds and, except as provided in subdivision 3, must insure all eligible members.

3. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

G. Notwithstanding the provisions of subsection J, a policy issued to an association of real estate salespersons, as defined in § 54.1-2101, which association shall be deemed the policyholder, to insure members of such association, subject to the following requirements:

1. All of the members of such association shall be eligible for coverage. Members shall include (i) an employer member with at least one employee that is domiciled in the Commonwealth or (ii) a self-employed individual who (a) has an ownership right in a "trade or business," regardless of whether the trade or business is incorporated or unincorporated, (b) earns wages or self-employment income from the trade or business, and (c) works at least 20 hours a week or 80 hours a month providing personal services to the trade or business or earns income from the trade or business that at least equals the self-employed individual's cost of the health coverage.

2. The association shall (i) have at the outset a minimum of 25,000 members, (ii) have been organized and maintained in good faith for purposes other than that of obtaining insurance, (iii) have been in active existence for at least five years, and (iv) have a constitution and bylaws that provide that (a) the association hold regular meetings not less than annually to further purposes of the members, (b) the association collects dues or solicits contributions from members, and (c) the members have voting privileges and representation on the governing board and committees.

3. In no case shall membership in the association be conditioned on any health status-related factor relating to an individual, including an employee of an employer or a dependent of an employee.

4. The health insurance coverage offered through the association shall be available to all members regardless of any health status-related factor relating to such members or individuals eligible for coverage through a member.

5. The association shall not make health insurance coverage offered through the association available other than in connection with a member of the association.

6. The premium for the policy shall be paid from funds contributed by the association or by employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association or employer members.

7. The policy issued to such an association shall (i) be considered a large group market plan subject to all coverage mandates applicable to a large group market plan offered in the Commonwealth and the large group market insurance regulations under the federal Public Health Service Act, P.L. 78-410, as amended; (ii) be subject to the group health plan coverage requirements under the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended; (iii) be prohibited from denying coverage under the policy on the basis of a preexisting condition as set forth in § 38.2-3444; (iv) be guaranteed issue and guaranteed renewable; (v) notwithstanding the provisions of subsection A of § 38.2-3451 providing that a large group market plan is not required to provide coverage for essential health benefits in a manner that exceeds the requirements of the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended, as of January 1, 2019, be subject to the requirements to provide essential health benefits and cost-sharing requirements as set forth in § 38.2-3451; and (vi) offer a minimum level of coverage designed to provide benefits that are actuarially equivalent to 60 percent of the full actuarial value of the benefits provided under the plan.

8. The insurer issuing such a policy shall (i) treat all of the members and employees of employer members who are enrolled in coverage under the policy as a single risk pool; (ii) set premiums on the basis of all of the collective group experience of the members and employees of employer members who are enrolled in coverage under the policy; (iii) be permitted to vary premiums by age, but such rate shall not vary by more than four to one for adults; (iv) be prohibited from varying premiums on the basis of gender; (v) be prohibited from varying premiums on the basis of the health status of an individual employee of an employer member or a self-employed individual member; and (vi) not establish discriminatory rules based on the health status of an employer member, an individual employee of an employer member, or a self-employed individual for eligibility or contribution.

9. A policy that meets the requirements of subdivisions 7 and 8 shall be considered to be compliant with the large group market insurance regulations under the federal Public Health Service Act, P.L. 78-410, as amended, and, as such, the Commonwealth, through the regulation of such policy by the Commission, shall be considered to be substantially enforcing the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended, with regard to such policy. The Commission shall regulate the policy in a manner that is consistent with this subdivision. In any case in which a federal agency renders a decision that is contrary to the provisions of this subdivision, notwithstanding any other provision of law, the Attorney General may resolve any difference between federal law and the laws of the Commonwealth.

H. A policy issued to a health maintenance organization as provided in subsection B of § 38.2-4314.

I. A policy of blanket insurance issued in accordance with § 38.2-3521.2.

J. The provisions of this section shall not apply in any instance in which the provisions of this section are inconsistent or in conflict with a provision of Article 6 (§ 38.2-3438 et seq.) of Chapter 34.

CHAPTER 515

An Act to amend and reenact § 38.2-3521.1 of the Code of Virginia, relating to association health plans; base rates based on employer member's risk profile.

[S 1171]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3521.1 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3521.1. Group accident and sickness insurance definitions.

Except as provided in § 38.2-3522.1, no policy of group accident and sickness insurance shall be delivered in this Commonwealth unless it conforms to one of the following descriptions:

A. A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

1. The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

2. The premium for the policy shall be paid either from the employer's funds or from funds contributed by the insured employees, or from both. Except as provided in subdivision 3, a policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, except those who reject such coverage in writing.

3. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer, except as otherwise prohibited in this title.

B. A policy that is:

1. Not subject to Chapter 37.1 (§ 38.2-3727 et seq.): and

2. Issued to a creditor or its parent holding company or to a trustee or trustees or agent designated by two or more creditors, which creditor, holding company, affiliate, trustee, trustees or agent shall be deemed the policyholder, to insure debtors of the creditor or creditors with respect to their indebtedness, subject to the following requirements:

a. The debtors eligible for insurance under the policy shall be all of the debtors of the creditor or creditors, or all of any class or classes thereof. The policy may provide that the term "debtors" shall include:

(1) Borrowers of money or purchasers or lessees of goods, services, or property for which payment is arranged through a credit transaction;

(2) The debtors of one or more subsidiary corporations; and

(3) The debtors of one or more affiliated corporations, proprietorships or partnerships if the business of the policyholder and of such affiliated corporations, proprietorships or partnerships is under common control.

b. The premium for the policy shall be paid either from the creditor's funds, or from charges collected from the insured debtors, or from both. Except as provided in subdivision 3, a policy on which no part of the premium is to be derived from funds contributed by insured debtors specifically for their insurance must insure all eligible debtors.

3. An insurer may exclude any debtors as to whom evidence of individual insurability is not satisfactory to the insurer.

4. The total amount of insurance payable with respect to an indebtedness shall not exceed the greater of the scheduled or actual amount of unpaid indebtedness to the creditor. The insurer may exclude any payments that are delinquent on the date the debtor becomes disabled as defined in the policy.

5. The insurance may be payable to the creditor or any successor to the right, title, and interest of the creditor. Such payment or payments shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of each such payment and any excess of the insurance shall be payable to the insured or the estate of the insured.

6. Notwithstanding the preceding provisions of this section, insurance on agricultural credit transaction commitments may be written up to the amount of the loan commitment. Insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan.

C. A policy issued to a labor union, or similar employee organization, which labor union or organization shall be deemed to be the policyholder, to insure members of such union or organization for the benefit of persons other than the union or organization or any of its officials, representatives, or agents, subject to the following requirements:

1. The members eligible for insurance under the policy shall be all of the members of the union or organization, or all of any class or classes thereof.

2. The premium for the policy shall be paid from either funds of the union or organization, or from funds contributed by the insured members specifically for their insurance, or from both. Except as provided in subdivision 3, a policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, except those who reject such coverage in writing.

3. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer, except as otherwise prohibited in this title.

D. A policy issued (i) to or for a multiple employer welfare arrangement, a rural electric cooperative, or a rural electric telephone cooperative as these terms are defined in 29 U.S.C. § 1002, or (ii) to a trust, or to the trustees of a fund, established or adopted by or for two or more employers, or by one or more labor unions of similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust or trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions or organizations for the benefit of persons other than the employers or the unions or organizations, subject to the following requirements:

1. The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions or organizations, or all of any class or classes thereof. The policy may provide that the term "employee" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

2. The premium for the policy shall be paid from funds contributed by the employer or employers of the insured persons, or by the union or unions or similar employee organizations, or by both, or from funds contributed by the insured persons or from both the insured persons and the employers or unions or similar employee organizations. Except as provided in subdivision 3, a policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing.

3. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer, except as otherwise prohibited in this title.

E. ~~1.~~ A policy issued to an association or to a trust or to the trustees of a fund established, created, or maintained for the benefit of members of one or more associations which association or trust shall be deemed the policyholder.

1. The association or associations shall:

a. Have at the outset a minimum of 100 persons;

b. Have been organized and maintained in good faith for purposes other than that of obtaining insurance;

c. Have been in active existence for at least five years;

d. Have a constitution and bylaws which provide that (i) the association or associations hold regular meetings not less than annually to further purposes of the members, (ii) except for credit unions, the association or associations collect dues or solicit contributions from members, and (iii) the members have voting privileges and representation on the governing board and committees;

e. Does not condition membership in the association on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee);

f. Makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to such members (or individuals eligible for coverage through a member);

g. Does not make health insurance coverage offered through the association available other than in connection with a member of the association; and

h. Meets such additional requirements as may be imposed under the laws of this Commonwealth.

2. The policy shall be subject to the following requirements:

a. The policy may insure members of such association or associations, employees thereof or employees of members, or one or more of the preceding or all of any class or classes thereof for the benefit of persons other than the employee's employer.

b. The premium for the policy shall be paid from funds contributed by the association or associations, or by employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association, associations, or employer members.

3. Except as provided in subdivision 4, a policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing.

4. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer, except as otherwise prohibited in this title.

5. For a policy issued in the large group market and notwithstanding the provisions of § 38.2-3449, an insurer may (i) establish base rates formed on an actuarially sound, modified community rating methodology that considers the pooling of all participant claims and (ii) utilize each employer member's specific risk profile to determine contribution rates for each individual employer member's share of the premium by actuarially adjusting above or below established base rates.

F. A policy issued to a credit union or to a trustee or trustees or agent designated by two or more credit unions, which credit union, trustee, trustees, or agent shall be deemed the policyholder, to insure members of such credit union or credit unions for the benefit of persons other than the credit union or credit unions, trustee or trustees, or agent or any of their officials, subject to the following requirements:

1. The members eligible for insurance shall be all of the members of the credit union or credit unions, or all of any class or classes thereof.

2. The premium for the policy shall be paid by the policyholder from the credit union's funds and, except as provided in subdivision 3, must insure all eligible members.

3. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

G. Notwithstanding the provisions of subsection J, a policy issued to an association of real estate salespersons, as defined in § 54.1-2101, which association shall be deemed the policyholder, to insure members of such association, subject to the following requirements:

1. All of the members of such association shall be eligible for coverage. Members shall include (i) an employer member with at least one employee that is domiciled in the Commonwealth or (ii) a self-employed individual who (a) has an ownership right in a "trade or business," regardless of whether the trade or business is incorporated or unincorporated, (b) earns wages or self-employment income from the trade or business, and (c) works at least 20 hours a week or 80 hours a month providing personal services to the trade or business or earns income from the trade or business that at least equals the self-employed individual's cost of the health coverage.

2. The association shall (i) have at the outset a minimum of 25,000 members, (ii) have been organized and maintained in good faith for purposes other than that of obtaining insurance, (iii) have been in active existence for at least five years, and (iv) have a constitution and bylaws that provide that (a) the association hold regular meetings not less than annually to further purposes of the members, (b) the association collects dues or solicits contributions from members, and (c) the members have voting privileges and representation on the governing board and committees.

3. In no case shall membership in the association be conditioned on any health status-related factor relating to an individual, including an employee of an employer or a dependent of an employee.

4. The health insurance coverage offered through the association shall be available to all members regardless of any health status-related factor relating to such members or individuals eligible for coverage through a member.

5. The association shall not make health insurance coverage offered through the association available other than in connection with a member of the association.

6. The premium for the policy shall be paid from funds contributed by the association or by employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association or employer members.

7. The policy issued to such an association shall (i) be considered a large group market plan subject to all coverage mandates applicable to a large group market plan offered in the Commonwealth and the large group market insurance regulations under the federal Public Health Service Act, P.L. 78-410, as amended; (ii) be subject to the group health plan coverage requirements under the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended; (iii) be prohibited from denying coverage under the policy on the basis of a preexisting condition as set forth in § 38.2-3444; (iv) be guaranteed issue and guaranteed renewable; (v) notwithstanding the provisions of subsection A of § 38.2-3451 providing that a large group market plan is not required to provide coverage for essential health benefits in a manner that exceeds the requirements of the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended, as of January 1, 2019, be subject to the requirements to provide essential health benefits and cost-sharing requirements as set forth in § 38.2-3451; and (vi) offer a minimum level of coverage designed to provide benefits that are actuarially equivalent to 60 percent of the full actuarial value of the benefits provided under the plan.

8. The insurer issuing such a policy shall (i) treat all of the members and employees of employer members who are enrolled in coverage under the policy as a single risk pool; (ii) set premiums on the basis of all of the collective group experience of the members and employees of employer members who are enrolled in coverage under the policy; (iii) be permitted to vary premiums by age, but such rate shall not vary by more than four to one for adults; (iv) be prohibited from varying premiums on the basis of gender; (v) be prohibited from varying premiums on the basis of the health status of an individual employee of an employer member or a self-employed individual member; and (vi) not establish discriminatory rules based on the health status of an employer member, an individual employee of an employer member, or a self-employed individual for eligibility or contribution.

9. A policy that meets the requirements of subdivisions 7 and 8 shall be considered to be compliant with the large group market insurance regulations under the federal Public Health Service Act, P.L. 78-410, as amended, and, as such, the Commonwealth, through the regulation of such policy by the Commission, shall be considered to be substantially enforcing the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended, with regard to such policy. The Commission shall regulate the policy in a manner that is consistent with this subdivision. In any case in which a federal agency renders a decision that is contrary to the provisions of this subdivision, notwithstanding any other provision of law, the Attorney General may resolve any difference between federal law and the laws of the Commonwealth.

H. A policy issued to a health maintenance organization as provided in subsection B of § 38.2-4314.

I. A policy of blanket insurance issued in accordance with § 38.2-3521.2.

J. The provisions of this section shall not apply in any instance in which the provisions of this section are inconsistent or in conflict with a provision of Article 6 (§ 38.2-3438 et seq.) of Chapter 34.

CHAPTER 516

An Act to amend and reenact §§ 58.1-609.2 and 58.1-610 of the Code of Virginia, relating to sales and use tax; agricultural exemptions.

[H 1563]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-609.2 and 58.1-610 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-609.2. Agricultural exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Commercial feeds; seeds; plants; fertilizers; liming materials; breeding and other livestock; semen; breeding fees; baby chicks; turkey poults; rabbits; quail; llamas; bees; agricultural chemicals; fuel for drying or curing crops; baler twine; containers for fruit and vegetables; farm machinery; medicines and drugs sold to a veterinarian provided they are used or consumed directly in the care, medication, and treatment of agricultural production animals or for resale to a farmer for direct use in producing an agricultural product for market; tangible personal property, except for structural construction materials to be affixed to real property owned or leased by a farmer, necessary for use in agricultural production for market and sold to or purchased by a farmer or contractor; and agricultural supplies provided the same are sold to and purchased by farmers for use in agricultural production, which also includes beekeeping and fish, quail, rabbit and worm farming for market.

2. Every agricultural commodity or kind of seafood sold or distributed by any person to any other person who purchases not for direct consumption but for the purpose of acquiring raw products for use or consumption in the process of preparing, finishing, or manufacturing such agricultural or seafood commodity for the ultimate retail consumer trade, except when such agricultural or seafood commodity is actually sold or distributed as a marketable or finished product to the ultimate consumer. "Agricultural commodity," for the purposes of this subdivision, means horticultural, poultry, and farm products, livestock and livestock products, and products derived from bees and beekeeping.

3. Livestock and livestock products, poultry and poultry products, and farm and agricultural products, when produced by the farmer and used or consumed by him and the members of his family.

4. Machinery, tools, equipment, materials or repair parts therefor or replacement thereof; fuel or supplies; and fishing boats, marine engines installed thereon or outboard motors used thereon, and all replacement or repair parts in connection therewith; provided the same are sold to and purchased by watermen for use by them in extracting fish, bivalves or crustaceans from waters for commercial purposes.

5. Machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy or supplies, and cereal grains and other feed ingredients, including, but not limited to, drugs, vitamins, minerals, nonprotein nitrogen, and other supplements or additives, used directly in making feed for sale or resale. Making of feed shall include the mixing of liquid ingredients.

6. Machinery or tools and repair parts therefor or replacements thereof, fuel, power, energy or supplies, used directly in the harvesting of forest products for sale or for use as a component part of a product to be sold. Harvesting of forest products shall include all operations prior to the transport of the harvested product used for (i) removing timber or other forest products from the harvesting site, (ii) complying with environmental protection and safety requirements applicable to the harvesting of forest products, (iii) obtaining access to the harvesting site, and (iv) loading cut timber or other forest products onto highway vehicles for transportation to storage or processing facilities.

7. Agricultural produce, as defined in § 3.2-4738, and eggs, as described in § 3.2-5305, raised and sold by an individual at local farmers markets and roadside stands, when such individual's annual income from such sales does not exceed $2,500.

8. The following property used directly in producing agricultural products for market in an indoor, closed, controlled-environment commercial agricultural facility:

a. Internal components or materials, whether or not they are affixed to real property, required (i) to create, support, and maintain the necessary growing environment for plants, including towers for growing plants; conveyances for moving such towers; and insulation, partitions, and cladding; (ii) for lighting systems; (iii) for heating, cooling, humidification, dehumidification, and air circulation systems; and (iv) for watering and water treatment systems;

b. External components, machinery, and equipment required (i) for heating, cooling, humidification, dehumidification, and air circulation systems; (ii) for utility upgrades and related distribution infrastructure; and (iii) for creating, supporting, and maintaining the necessary growing environment for plants; and

c. Structural components of (i) insulation, partitions, or cladding used in indoor vertical farming to create and maintain the necessary growing environment for plants or (ii) translucent or transparent elements, including windows, walls, and roofs, that allow sunlight in greenhouses to create and maintain the necessary growing environment for plants.

For purposes of this subdivision, "indoor, closed, controlled-environment commercial agricultural facility" shall include indoor vertical farming or a greenhouse, regardless of whether the greenhouse is affixed to real property and, "agricultural products" shall include any horticultural, floricultural, viticulture, or other farm crops. However, the exemption provided by this subdivision shall not apply to property used in producing cannabis or any derivative of cannabis.

§ 58.1-610. Contractors.

A. Any person who contracts orally, in writing, or by purchase order, to perform construction, reconstruction, installation, repair, or any other service with respect to real estate or fixtures thereon, and in connection therewith to furnish tangible personal property, shall be deemed to have purchased such tangible personal property for use or consumption. Any sale, distribution, or lease to or storage for such person shall be deemed a sale, distribution, or lease to or storage for the ultimate consumer and not for resale, and the dealer making the sale, distribution, or lease to or storage for such person shall be obligated to collect the tax to the extent required by this chapter.

B. Any person who contracts to perform services in this Commonwealth and is furnished tangible personal property for use under the contract by the person, or his agent or representative, for whom the contract is performed, and a sales or use

tax has not been paid to this Commonwealth by the person supplying the tangible personal property, shall be deemed to be the consumer of the tangible personal property so used, and shall pay a use tax based on the fair market value of the tangible personal property so used, irrespective of whether or not any right, title or interest in the tangible personal property becomes vested in the contractor. This subsection, however, shall not apply to the industrial materials exclusion or the other industrial exclusions set out in § 58.1-609.3, including those set out in subdivisions 2, 3 and 4 thereof; the media-related exemptions set out in subdivision 2 of § 58.1-609.6; the governmental exclusions set out in subdivision 4 of § 58.1-609.1; the agricultural exclusions set forth in ~~subdivision~~ *subdivisions* 1 *and 8* of § 58.1-609.2; or the exclusion for baptistries set forth in § 58.1-609.10.

C. Any person who contracts orally, in writing, or by purchase order to perform any service in the nature of equipment rental, and the principal part of that service is the furnishing of equipment or machinery which will not be under the exclusive control of the contractor, shall be liable for the sales or use tax on the gross proceeds from such contract to the same extent as the lessor of tangible personal property.

D. Tangible personal property incorporated in real property construction which loses its identity as tangible personal property shall be deemed to be tangible personal property used or consumed within the meaning of this section.

E. Nothing in this section shall be construed to (i) affect or limit the resale exclusion provided for in this chapter, or the industrial materials and other industrial exclusions set out in § 58.1-609.3, the exclusion for baptistries set out in § 58.1-609.10, or the partial exclusion for the sale of modular buildings as set out in § 58.1-610.1, or (ii) impose any sales or use tax with respect to the use in the performance of contracts with the United States, this Commonwealth, or any political subdivision thereof, of tangible personal property owned by a governmental body which actually is not used or consumed in the performance thereof.

F. Notwithstanding the other provisions of this section, any person engaged in the business of furnishing and installing locks and locking devices shall be deemed a retailer of such items and not a using or consuming contractor with respect to them.

G. Notwithstanding the other provisions of this section, any person or entity primarily engaged in the business of furnishing and installing tangible personal property that provides electronic or physical security on real property for the use of a financial institution, shall be deemed a retailer of such personal property, including when such personal property is installed on real property not for the use of a financial institution.

CHAPTER 517

An Act to amend and reenact §§ 58.1-609.2 and 58.1-610 of the Code of Virginia, relating to sales and use tax; agricultural exemptions.

[S 1240]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-609.2 and 58.1-610 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-609.2. Agricultural exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Commercial feeds; seeds; plants; fertilizers; liming materials; breeding and other livestock; semen; breeding fees; baby chicks; turkey poults; rabbits; quail; llamas; bees; agricultural chemicals; fuel for drying or curing crops; baler twine; containers for fruit and vegetables; farm machinery; medicines and drugs sold to a veterinarian provided they are used or consumed directly in the care, medication, and treatment of agricultural production animals or for resale to a farmer for direct use in producing an agricultural product for market; tangible personal property, except for structural construction materials to be affixed to real property owned or leased by a farmer, necessary for use in agricultural production for market and sold to or purchased by a farmer or contractor; and agricultural supplies provided the same are sold to and purchased by farmers for use in agricultural production, which also includes beekeeping and fish, quail, rabbit and worm farming for market.

2. Every agricultural commodity or kind of seafood sold or distributed by any person to any other person who purchases not for direct consumption but for the purpose of acquiring raw products for use or consumption in the process of preparing, finishing, or manufacturing such agricultural or seafood commodity for the ultimate retail consumer trade, except when such agricultural or seafood commodity is actually sold or distributed as a marketable or finished product to the ultimate consumer. "Agricultural commodity," for the purposes of this subdivision, means horticultural, poultry, and farm products, livestock and livestock products, and products derived from bees and beekeeping.

3. Livestock and livestock products, poultry and poultry products, and farm and agricultural products, when produced by the farmer and used or consumed by him and the members of his family.

4. Machinery, tools, equipment, materials or repair parts therefor or replacement thereof; fuel or supplies; and fishing boats, marine engines installed thereon or outboard motors used thereon, and all replacement or repair parts in connection therewith; provided the same are sold to and purchased by watermen for use by them in extracting fish, bivalves or crustaceans from waters for commercial purposes.

5. Machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy or supplies, and cereal grains and other feed ingredients, including, but not limited to, drugs, vitamins, minerals, nonprotein nitrogen, and other supplements or additives, used directly in making feed for sale or resale. Making of feed shall include the mixing of liquid ingredients.

6. Machinery or tools and repair parts therefor or replacements thereof, fuel, power, energy or supplies, used directly in the harvesting of forest products for sale or for use as a component part of a product to be sold. Harvesting of forest products shall include all operations prior to the transport of the harvested product used for (i) removing timber or other forest products from the harvesting site, (ii) complying with environmental protection and safety requirements applicable to the harvesting of forest products, (iii) obtaining access to the harvesting site, and (iv) loading cut timber or other forest products onto highway vehicles for transportation to storage or processing facilities.

7. Agricultural produce, as defined in § 3.2-4738, and eggs, as described in § 3.2-5305, raised and sold by an individual at local farmers markets and roadside stands, when such individual's annual income from such sales does not exceed $2,500.

8. The following property used directly in producing agricultural products for market in an indoor, closed, controlled-environment commercial agricultural facility:

a. Internal components or materials, whether or not they are affixed to real property, required (i) to create, support, and maintain the necessary growing environment for plants, including towers for growing plants; conveyances for moving such towers; and insulation, partitions, and cladding; (ii) for lighting systems; (iii) for heating, cooling, humidification, dehumidification, and air circulation systems; and (iv) for watering and water treatment systems;

b. External components, machinery, and equipment required (i) for heating, cooling, humidification, dehumidification, and air circulation systems; (ii) for utility upgrades and related distribution infrastructure; and (iii) for creating, supporting, and maintaining the necessary growing environment for plants; and

c. Structural components of (i) insulation, partitions, or cladding used in indoor vertical farming to create and maintain the necessary growing environment for plants or (ii) translucent or transparent elements, including windows, walls, and roofs, that allow sunlight in greenhouses to create and maintain the necessary growing environment for plants.

For purposes of this subdivision, "indoor, closed, controlled-environment commercial agricultural facility" shall include indoor vertical farming or a greenhouse, regardless of whether the greenhouse is affixed to real property and, "agricultural products" shall include any horticultural, floricultural, viticulture, or other farm crops. However, the exemption provided by this subdivision shall not apply to property used in producing cannabis or any derivative of cannabis.

§ 58.1-610. Contractors.

A. Any person who contracts orally, in writing, or by purchase order, to perform construction, reconstruction, installation, repair, or any other service with respect to real estate or fixtures thereon, and in connection therewith to furnish tangible personal property, shall be deemed to have purchased such tangible personal property for use or consumption. Any sale, distribution, or lease to or storage for such person shall be deemed a sale, distribution, or lease to or storage for the ultimate consumer and not for resale, and the dealer making the sale, distribution, or lease to or storage for such person shall be obligated to collect the tax to the extent required by this chapter.

B. Any person who contracts to perform services in this Commonwealth and is furnished tangible personal property for use under the contract by the person, or his agent or representative, for whom the contract is performed, and a sales or use tax has not been paid to this Commonwealth by the person supplying the tangible personal property, shall be deemed to be the consumer of the tangible personal property so used, and shall pay a use tax based on the fair market value of the tangible personal property so used, irrespective of whether or not any right, title or interest in the tangible personal property becomes vested in the contractor. This subsection, however, shall not apply to the industrial materials exclusion or the other industrial exclusions set out in § 58.1-609.3, including those set out in subdivisions 2, 3 and 4 thereof; the media-related exemptions set out in subdivision 2 of § 58.1-609.6; the governmental exclusions set out in subdivision 4 of § 58.1-609.1; the agricultural exclusions set forth in ~~subdivision~~ *subdivisions* 1 *and 8* of § 58.1-609.2; or the exclusion for baptistries set forth in § 58.1-609.10.

C. Any person who contracts orally, in writing, or by purchase order to perform any service in the nature of equipment rental, and the principal part of that service is the furnishing of equipment or machinery which will not be under the exclusive control of the contractor, shall be liable for the sales or use tax on the gross proceeds from such contract to the same extent as the lessor of tangible personal property.

D. Tangible personal property incorporated in real property construction which loses its identity as tangible personal property shall be deemed to be tangible personal property used or consumed within the meaning of this section.

E. Nothing in this section shall be construed to (i) affect or limit the resale exclusion provided for in this chapter, or the industrial materials and other industrial exclusions set out in § 58.1-609.3, the exclusion for baptistries set out in § 58.1-609.10, or the partial exclusion for the sale of modular buildings as set out in § 58.1-610.1, or (ii) impose any sales or use tax with respect to the use in the performance of contracts with the United States, this Commonwealth, or any political subdivision thereof, of tangible personal property owned by a governmental body which actually is not used or consumed in the performance thereof.

F. Notwithstanding the other provisions of this section, any person engaged in the business of furnishing and installing locks and locking devices shall be deemed a retailer of such items and not a using or consuming contractor with respect to them.

G. Notwithstanding the other provisions of this section, any person or entity primarily engaged in the business of furnishing and installing tangible personal property that provides electronic or physical security on real property for the use of a financial institution, shall be deemed a retailer of such personal property, including when such personal property is installed on real property not for the use of a financial institution.

CHAPTER 518

An Act to amend and reenact § 58.1-1902 of the Code of Virginia, relating to worker misclassification; debarment procedures.

[H 1684]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-1902 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-1902. Debarment; civil penalty.

A. Whenever the Department determines~~, after notice to the employer,~~ that an employer failed to properly classify an individual as an employee under the provisions of § 58.1-1900, the Department shall notify ~~all public bodies and covered institutions of the name of the employer~~ *such employer of the determination. This notification shall serve as an action by the Department with respect to debarment that allows the employer to apply for relief pursuant to §§ 58.1-1821 and 58.1-1825*.

B. Upon an employer's subsequent violations of subsection A, *and after all rights of administrative and judicial appeals have been exhausted or the time period for bringing such appeals has expired, the Department shall provide notice to* all public bodies and covered institutions *of the name of such employer. Public bodies and covered institutions* shall not award a contract to such employer or to any firm, corporation, or partnership in which the employer has an interest in the following manner:

1. For a period of up to one year, as determined by the Department, from the date of the notice *provided pursuant to this subsection* for a second offense.

2. For a period of up to three years, as determined by the Department, from the date of the notice *provided pursuant to this subsection* for a third or subsequent offense.

CHAPTER 519

An Act to amend and reenact § 58.1-1902 of the Code of Virginia, relating to worker misclassification; debarment procedures.

[S 1354]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-1902 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-1902. Debarment; civil penalty.

A. Whenever the Department determines~~, after notice to the employer,~~ that an employer failed to properly classify an individual as an employee under the provisions of § 58.1-1900, the Department shall notify ~~all public bodies and covered institutions of the name of the employer~~ *such employer of the determination. This notification shall serve as an action by the Department with respect to debarment that allows the employer to apply for relief pursuant to §§ 58.1-1821 and 58.1-1825*.

B. Upon an employer's subsequent violations of subsection A, *and after all rights of administrative and judicial appeals have been exhausted or the time period for bringing such appeals has expired, the Department shall provide notice to* all public bodies and covered institutions *of the name of such employer. Public bodies and covered institutions* shall not award a contract to such employer or to any firm, corporation, or partnership in which the employer has an interest in the following manner:

1. For a period of up to one year, as determined by the Department, from the date of the notice *provided pursuant to this subsection* for a second offense.

2. For a period of up to three years, as determined by the Department, from the date of the notice *provided pursuant to this subsection* for a third or subsequent offense.

CHAPTER 520

An Act to amend and reenact § 58.1-442 of the Code of Virginia, relating to corporate income tax; filing method for affiliated corporations.

[H 1405]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-442 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-442. Separate, combined, or consolidated returns of affiliated corporations.

A. Corporations that are affiliated within the meaning of § 58.1-302 may, for any taxable year, file separate returns, file a combined return, or file a consolidated return of net income for the purpose of this chapter, and the taxes thereunder shall be computed and determined upon the basis of the type of return filed. Following an election to file on a separate, consolidated, or combined basis all returns thereafter filed shall be upon the same basis unless permission to change is granted by the Department.

B. For the purpose of subsection A:

1. A consolidated return shall mean a single return for a group of corporations affiliated within the meaning of § 58.1-302, prepared in accordance with the principles of § 1502 of the Internal Revenue Code and regulations promulgated thereunder. Permission to file a consolidated return shall not be denied to a group of affiliated corporations filing a consolidated federal return solely because two or more members of such affiliated group would be required to use different apportionment factors if separate returns were filed. The Tax Commissioner shall promulgate regulations setting forth the manner in which such an affiliated group shall compute its Virginia taxable income.

2. A combined return shall mean a single return for a group of corporations affiliated within the meaning of § 58.1-302, in which income or loss is separately determined in accordance with subdivisions a through d:

a. Virginia taxable income or loss is computed separately for each corporation;

b. Allocable income is allocated to the state of commercial domicile separately for each corporation;

c. Apportionable income or loss is computed, utilizing separate apportionment factors for each corporation;

d. Income or loss computed in accordance with subdivisions a, b, and c is combined and reported on a single return for the affiliated group.

C. Notwithstanding subsection A, a group of corporations may apply to the Tax Commissioner for permission to change the basis of the type of return filed (i) from consolidated to separate or (ii) from separate or combined to consolidated, if such corporations are affiliated within the meaning of § 58.1-302 and the affiliated group of which they are members, as it has existed from time to time, has filed on the same basis for at least the preceding 12 years. Permission shall be granted if~~:~~

~~1. For the taxable year immediately preceding the taxable year for which the new election would be applicable, there would have been no decrease in tax liability computed under the proposed election as compared to the affiliated group's former filing method; and~~

~~2. The~~ *the* affiliated group agrees to file returns computing its Virginia income tax liability under both the new filing method and the former method and will pay the greater of the two amounts for the taxable year in which the new election is effective and for the immediately succeeding taxable year.

D. Notwithstanding subsections A and C, for taxable years beginning on and after January 1, 2023, but before January 1, 2025, a group of corporations may elect to change the basis of the type of return filed from combined to consolidated, if (i) such corporations are affiliated within the meaning of § 58.1-302; (ii) the affiliated group of which they are members, as it has existed from time to time, has filed on the same basis for at least the preceding 20 years; and (iii) on or before January 1, 2022, at least one member of the affiliated group of which they are members is a related entity within the meaning of § 58.1-302 to a state or national bank that is exempt from filing a Virginia corporate income tax return under subdivision 3 of § 58.1-401.

Any eligible affiliated group that elects to change the basis of the type of return pursuant to this subsection shall be required to agree to file returns computing its Virginia income tax liability under both the new filing method and the former method and shall pay the greater of the two amounts for the taxable year in which the new election is effective and for the immediately succeeding taxable year. A taxpayer shall provide notification to the Department of Taxation that an election pursuant to this subsection is being made. Such notification shall be submitted on forms as prescribed by the Department of Taxation.

E. If any provision of subsection D is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, then that provision shall not be deemed severable, and all provisions of subsection D shall expire and be unavailable for any affiliated group that has not made the election as of the date of such decision.

CHAPTER 521

An Act to amend and reenact § 58.1-442 of the Code of Virginia, relating to corporate income tax returns; affiliated corporations.

[S 796]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-442 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-442. Separate, combined, or consolidated returns of affiliated corporations.

A. Corporations that are affiliated within the meaning of § 58.1-302 may, for any taxable year, file separate returns, file a combined return, or file a consolidated return of net income for the purpose of this chapter, and the taxes thereunder shall be computed and determined upon the basis of the type of return filed. Following an election to file on a separate, consolidated, or combined basis all returns thereafter filed shall be upon the same basis unless permission to change is granted by the Department.

B. For the purpose of subsection A:

1. A consolidated return shall mean a single return for a group of corporations affiliated within the meaning of § 58.1-302, prepared in accordance with the principles of § 1502 of the Internal Revenue Code and regulations promulgated thereunder. Permission to file a consolidated return shall not be denied to a group of affiliated corporations filing a consolidated federal return solely because two or more members of such affiliated group would be required to use different apportionment factors if separate returns were filed. The Tax Commissioner shall promulgate regulations setting forth the manner in which such an affiliated group shall compute its Virginia taxable income.

2. A combined return shall mean a single return for a group of corporations affiliated within the meaning of § 58.1-302, in which income or loss is separately determined in accordance with subdivisions a through d:

a. Virginia taxable income or loss is computed separately for each corporation;

b. Allocable income is allocated to the state of commercial domicile separately for each corporation;

c. Apportionable income or loss is computed, utilizing separate apportionment factors for each corporation;

d. Income or loss computed in accordance with subdivisions a, b, and c is combined and reported on a single return for the affiliated group.

C. Notwithstanding subsection A, a group of corporations may apply to the Tax Commissioner for permission to change the basis of the type of return filed (i) from consolidated to separate or (ii) from separate or combined to consolidated, if such corporations are affiliated within the meaning of § 58.1-302 and the affiliated group of which they are members, as it has existed from time to time, has filed on the same basis for at least the preceding 12 years. Permission shall be granted if~~:~~

~~1. For the taxable year immediately preceding the taxable year for which the new election would be applicable, there would have been no decrease in tax liability computed under the proposed election as compared to the affiliated group's former filing method; and~~

~~2. The~~ *the* affiliated group agrees to file returns computing its Virginia income tax liability under both the new filing method and the former method and will pay the greater of the two amounts for the taxable year in which the new election is effective and for the immediately succeeding taxable year.

D. Notwithstanding subsections A and C, for taxable years beginning on and after January 1, 2023, but before January 1, 2025, a group of corporations may elect to change the basis of the type of return filed from combined to consolidated, if (i) such corporations are affiliated within the meaning of § 58.1-302; (ii) the affiliated group of which they are members, as it has existed from time to time, has filed on the same basis for at least the preceding 20 years; and (iii) on or before January 1, 2022, at least one member of the affiliated group of which they are members is a related entity within the meaning of § 58.1-302 to a state or national bank that is exempt from filing a Virginia corporate income tax return under subdivision 3 of § 58.1-401.

Any eligible affiliated group that elects to change the basis of the type of return pursuant to this subsection shall be required to agree to file returns computing its Virginia income tax liability under both the new filing method and the former method and shall pay the greater of the two amounts for the taxable year in which the new election is effective and for the immediately succeeding taxable year. A taxpayer shall provide notification to the Department of Taxation that an election pursuant to this subsection is being made. Such notification shall be submitted on forms as prescribed by the Department of Taxation.

E. If any provision of subsection D is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, then that provision shall not be deemed severable, and all provisions of subsection D shall expire and be unavailable for any affiliated group that has not made the election as of the date of such decision.

CHAPTER 522

An Act to amend and reenact §§ 59.1-9.3, 59.1-9.7, and 59.1-9.11 through 59.1-9.15 of the Code of Virginia, relating to Virginia Antitrust Act; disgorgement and other forms of equitable monetary relief.

[H 1546]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-9.3, 59.1-9.7, and 59.1-9.11 through 59.1-9.15 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-9.3. Definitions.

When used in this chapter*, unless the context requires a different meaning*:

~~(a) The term "person"~~ *"Commodity" includes any kind of real or personal property.*

"Person" includes~~, unless the context otherwise requires,~~ any natural person~~,~~*;* any trust or association of persons, formal or otherwise~~,~~*;* or any corporation, partnership, company, or other legal or commercial entity.

~~(b) The terms "trade~~ *"Service" includes any activity that is performed in whole or in part for the purpose of financial gain, including personal service, rental, leasing, or licensing for use.*

"Trade or commerce," "trade," ~~and~~ *or* "commerce~~,"~~ ~~include~~ *includes* all economic activity involving or relating to any commodity, service*,* or business activity.

~~(c) The term "commodity" includes any kind of real or personal property.~~

~~(d) The term "service" includes any activity that is performed in whole or in part for the purpose of financial gain, including but not limited to personal service, rental, leasing or licensing for use.~~

§ 59.1-9.7. Discriminatory practices unlawful; proof; payment or acceptance of certain commissions, etc., unlawful.

~~(a)~~ *A.* It is unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities or services of like grade and quality, where either or any of the purchasers involved in such commerce are in competition, where such commodities or services are sold for use, consumption or resale within the Commonwealth and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them; provided, that nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale or delivery resulting from the different methods or quantities in which such commodities or services are to such purchasers sold or delivered; and provided further, that nothing herein contained shall prevent persons engaged in selling commodities or services in commerce from selecting their own customers in bona fide transactions and not in restraint of trade; and provided further, that nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

~~(b)~~ *B.* Upon proof being made, at any suit on a complaint under this section, that there has been discrimination in price or services or facilities furnished or in payment for services or facilities to be rendered, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section; provided, however, that nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

~~(c)~~ *C.* It is unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for and not exceeding the actual cost of such services rendered in connection with the sale or purchase of goods, wares or merchandise.

~~(d)~~ *D.* It is unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale or offering for sale of any products, commodities or services manufactured, sold or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products, commodities or services.

~~(e)~~ *E.* It is unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

~~(f)~~ *F.* It is unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price that is prohibited by this section.

§ 59.1-9.11. Penalty for flagrant violations.

In any action or proceeding brought under *subsection A of* § 59.1-9.15 ~~(a)~~ the court may assess for the benefit of the Commonwealth a civil penalty of not more than $100,000 for each willful or flagrant violation of this chapter. No civil penalty shall be imposed in connection with any violation for which any fine or penalty is imposed pursuant to federal law.

§ 59.1-9.12. Personal suit for injunction or actual damages.

~~(a)~~ *A.* Any person threatened with injury or damage to his business or property by reason of a violation of this chapter may institute an action or proceeding for injunctive relief*, disgorgement, and other forms of equitable monetary relief as the court deems appropriate* when and under the same conditions and principles as injunctive relief is granted in other cases.

~~(b)~~ *B.* Any person injured in his business or property by reason of a violation of this chapter may recover the actual damages sustained, and, as determined by the court, the costs of suit and reasonable ~~attorney's~~ *attorney* fees. If the trier of facts finds that the violation is willful or flagrant, it may increase damages to an amount not in excess of three times the actual damages sustained.

§ 59.1-9.13. Effect of conviction in other proceedings.

A final judgment or decree to the effect that a defendant has violated this chapter, other than a consent judgment or decree entered before any testimony has been taken, in an action or proceeding brought under *subsection A of* § 59.1-9.15 ~~(a)~~ is prima facie evidence against that defendant in any other action or proceeding against him brought under § 59.1-9.12 or *subsection B of* § 59.1-9.15 ~~(b)~~ as to all matters with respect to which the judgment or decree would be an estoppel between the parties thereto.

§ 59.1-9.14. Limitation of actions.

~~(a)~~ *A.* An action under *subsection A of* § 59.1-9.15 ~~(a)~~ to recover a civil penalty is barred if it is not commenced within four years after the cause of action accrues.

~~(b)~~ *B.* An action under *subsection B of* § 59.1-9.12 ~~(b)~~ or *subsection B of* § 59.1-9.15 ~~(b)~~ to recover damages is barred if it is not commenced within four years after the cause of action accrues, or within one year after the conclusion of any action or proceeding under *subsection A of* § 59.1-9.15 ~~(a)~~ commenced within or before that time based in whole or in part on any matter complained of in the action for damages, whichever is later.

§ 59.1-9.15. Actions on behalf of Commonwealth or localities; injunctive and other equitable relief; damages.

~~(a)~~ *A.* The Attorney General on behalf of the Commonwealth, or the attorney for the Commonwealth or county attorney on behalf of a county, or the city attorney on behalf of a city, or the town attorney on behalf of a town may institute actions and proceedings for injunctive relief*, disgorgement, and other forms of equitable monetary relief as the court deems appropriate,* and civil penalties for violations of this chapter. In any such action or proceeding in which the plaintiff substantially prevails, the court may award the cost of suit, including ~~a~~ reasonable ~~attorney's fee~~ *attorney fees*, to such plaintiff.

~~(b)~~ *B.* The Commonwealth, a political subdivision thereof, or any public agency injured in its business or property by reason of a violation of this chapter, may recover the actual damages sustained, reasonable ~~attorney's~~ *attorney* fees and the costs of suit. If the trier of facts finds that the violation is willful or flagrant, it may increase damages to an amount not in excess of three times the actual damages sustained.

~~(c)~~ *C.* The Attorney General in acting under subsection (a) or (b) of this section may also bring such action on behalf of any political subdivision of the Commonwealth, provided that the Attorney General shall notify each such subdivision of the pendency of the action and give such subdivision the option of exclusion from the action.

~~(d)~~ *D.* The Attorney General may bring a civil action to recover damages and secure other relief as provided by this chapter as parens patriae respecting injury to the general economy of the Commonwealth.

CHAPTER 523

An Act to amend and reenact § 22.1-279.3 of the Code of Virginia, relating to public school principals; parental notification of certain student violations.

[H 1982]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-279.3 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-279.3. Parental responsibility and involvement requirements.

A. Each parent of a student enrolled in a public school has a duty to assist the school in enforcing the standards of student conduct and compulsory school attendance in order that education may be conducted in an atmosphere free of disruption and threat to persons or property, and supportive of individual rights.

B. A school board shall provide opportunities for parental and community involvement in every school in the school division.

C. Within one calendar month of the opening of school, each school board shall, simultaneously with any other materials customarily distributed at that time, send to the parents of each enrolled student (i) a notice of the requirements of this section; (ii) a copy of the school board's standards of student conduct; and (iii) a copy of the compulsory school attendance law. These materials shall include a notice to the parents that by signing the statement of receipt, parents shall not be deemed to waive, but to expressly reserve, their rights protected by the constitutions or laws of the United States or

the Commonwealth and that a parent shall have the right to express disagreement with a school's or school division's policies or decisions.

Each parent of a student shall sign and return to the school in which the student is enrolled a statement acknowledging the receipt of the school board's standards of student conduct, the notice of the requirements of this section, and the compulsory school attendance law. Each school shall maintain records of such signed statements.

D. The school principal may request the student's parent or parents, if both parents have legal and physical custody of such student, to meet with the principal or his designee to review the school board's standards of student conduct and the parent's or parents' responsibility to participate with the school in disciplining the student and maintaining order, to ensure the student's compliance with compulsory school attendance law, and to discuss improvement of the child's behavior, school attendance, and educational progress.

E. In accordance with the due process procedures set forth in this article and the guidelines required by § 22.1-279.6, the school principal ~~may~~ *or his designee shall* notify the parents of any student who violates a school board policy or the compulsory school attendance requirements when such violation ~~could~~ *is likely to* result in the student's suspension or the filing of a court petition, whether or not the school administration has imposed such disciplinary action or filed a petition. The notice shall state (i) the date and particulars of the violation; (ii) the obligation of the parent to take actions to assist the school in improving the student's behavior and ensuring compulsory school attendance compliance; (iii) that, if the student is suspended, the parent may be required to accompany the student to meet with school officials; and (iv) that a petition with the juvenile and domestic relations *district* court may be filed under certain circumstances to declare the student a child in need of supervision.

F. No suspended student shall be admitted to the regular school program until such student and his parent have met with school officials to discuss improvement of the student's behavior, unless the school principal or his designee determines that readmission, without parent conference, is appropriate for the student.

G. Upon the failure of a parent to comply with the provisions of this section, the school board may, by petition to the juvenile and domestic relations *district* court, proceed against such parent for willful and unreasonable refusal to participate in efforts to improve the student's behavior or school attendance, as follows:

1. If the court finds that the parent has willfully and unreasonably failed to meet, pursuant to a request of the principal as set forth in subsection D ~~of this section~~, to review the school board's standards of student conduct and the parent's responsibility to assist the school in disciplining the student and maintaining order, and to discuss improvement of the child's behavior and educational progress, it may order the parent to so meet; or

2. If the court finds that a parent has willfully and unreasonably failed to accompany a suspended student to meet with school officials pursuant to subsection F, or upon the student's receiving a second suspension or being expelled, it may order the student or his parent, or both, to participate in such programs or such treatment, including, but not limited to, extended day programs, summer school, other educational programs and counseling, as the court deems appropriate to improve the student's behavior or school attendance. The order may also require participation in a parenting, counseling, or ~~a~~ mentoring program, as appropriate, or that the student or his parent, or both, shall be subject to such conditions and limitations as the court deems appropriate for the supervision, care, and rehabilitation of the student or his parent. In addition, the court may order the parent to pay a civil penalty not to exceed $500.

H. The civil penalties established pursuant to this section shall be enforceable in the juvenile and domestic relations *district* court in which the student's school is located and shall be paid into a fund maintained by the appropriate local governing body to support programs or treatments designed to improve the behavior of students as described in subdivision G 2. Upon the failure to pay the civil penalties imposed by this section, the attorney for the appropriate county, city, or town shall enforce the collection of such civil penalties.

I. All references in this section to the juvenile and domestic relations *district* court shall be also deemed to mean any successor in interest of such court.

CHAPTER 524

An Act to require the virtual administration of certain through-year growth assessments for students enrolled in certain virtual school programs.

[H 1820]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. Any student enrolled in a virtual school program, as defined in § 22.1-212.23 of the Code of Virginia, may take any beginning-of-year or mid-year growth assessment required pursuant to subsection C of § 22.1-253.13:3 of the Code of Virginia in a virtual setting that best meets the educational needs of the student, subject to the following conditions:*

1. The student takes the assessment on an assigned date and at an assigned time;

2. The student attends a synchronous assessment session initiated and managed by virtual school program personnel;

3. If the Department does not provide for integrated camera proctoring, the student shall use two devices for the duration of the assessment administration: one device on which the student takes the assessment and a second device on which an assessment proctor monitors for the duration of the assessment administration via the camera on the second

device. However, if the Department provides for the proctor to view the student and background, then a second device shall not be required;

4. The device on which the student takes the assessment meets the technical requirements of the assessment platform that ensure functionality and test security and has no other applications in operation for the duration of the assessment administration except for browser lockdown software to eliminate the possibility of Internet browser usage on such device for the duration of the assessment administration;

5. The device on which the student is being monitored has audio capabilities accessible by the assessment administrator;

6. An adult approved in accordance with the terms of the virtual school program, such as the student's parent, is physically present with the student for the duration of the assessment administration. Adults who are present with the student during such assessment administration must sign the Department of Education's current test security agreement;

7. The virtual school program maintains a student assessment taker to assessment proctor ratio not to exceed 10 to one;

8. The student does not exit the assessment administration until instructed to do so by the assigned assessment proctor;

9. The assessment submission is verified by the assessment administrator; and

10. The virtual school program is responsible for all costs associated with such virtual assessment administration.

2. That the Department of Education shall develop guidance to implement the provisions of this act by January 1, 2024.

3. That the provisions of the first enactment of this act shall expire at such time as the Department of Education's current state assessment program contract expires, provided, however, that the vendor selected by the Department of Education for the subsequent state assessment program contract shall provide for the capability of virtual assessment administration.

CHAPTER 525

An Act to amend and reenact Chapter 760 of the Acts of Assembly of 2022, relating to Department of Education; Standards of Learning assessment revision work group; timeline for Request for Proposal for provider of revised assessments.

[H 2469]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That Chapter 760 of the Acts of Assembly of 2022 is amended and reenacted as follows:

1. § 1. That the Secretary of Education and the Virginia Superintendent of Public Instruction shall convene and consult a work group consisting of representatives of the Department of Education and other appropriate stakeholders to revise the Virginia Standards of Learning summative assessments of proficiency that require students to demonstrate that they possess the skills, knowledge, and content necessary for success and to develop a plan for implementation of such revised assessments.

§ 2. In developing such revised assessments and plan, the work group shall consider (i) best practices and innovations in summative assessments of proficiency from across the nation; (ii) alternative approaches to current and new assessment items, including subject areas and methods of grading such items; (iii) assessment items that include open-ended questions, long-form writing, and other tasks, with student responses scored by the Department according to statewide scoring rubrics; (iv) plan for pilot implementation of such assessment items prior to the 2027-2028 school year as necessary to determine the validity of such items; (v) the process for the development of a bank of vetted sample assessment items that include a comprehensive representation of knowledge and skills being assessed; (vi) the legislative and regulatory changes and funding necessary to implement alternative approaches considered by the work group; and (vii) a proposed timeline for implementation of such new assessments, giving consideration to implementation prior to the 2027-2028 school year. Nothing in this act shall prohibit the work group from looking at all forms of assessment. Such work group shall not be responsible for implementation of such revised assessment items unless there is further action from the General Assembly.

§ 3. That the Department of Education shall submit its initial plan for implementation of revised Virginia Standards of Learning summative assessments of proficiency developed pursuant to § 2 of this act to the Chairmen of the House Committee on Education, the Senate Committee on Education and Health, the House Committee on Appropriations, and the Senate Committee on Finance and Appropriations no later than November 1, 2023, and shall provide updates on the implementation of such plan no later than November 1 of each year thereafter through 2027.

§ 4. The Department of Education shall not release a Request for Proposal for a provider of revised Virginia Standards of Learning summative assessments of proficiency until after the work group convened and consulted pursuant to § 1 of this act has submitted its initial plan for implementation of revised Virginia Standards of Learning summative assessments of proficiency pursuant to this act. To ensure continuity in the administration of the state assessment program, and notwithstanding relevant provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia), the Department of Education is permitted to extend the current state assessment contract until December 31, 2025.

CHAPTER 526

An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 56, consisting of sections numbered 59.1-593 through 59.1-602, relating to genetic data privacy; civil penalty.

[S 1087]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 56, consisting of sections numbered 59.1-593 through 59.1-602, as follows:

CHAPTER 56.
GENETIC DATA PRIVACY.

§ 59.1-593. Definitions.

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

"Affirmative authorization" means an action that demonstrates an intentional decision by a consumer.

"Biological sample" means any material part of the human, discharge therefrom, or derivative thereof, such as tissue, blood, urine, or saliva, known to contain deoxyribonucleic acid (DNA).

"Consumer" means a natural person who is a resident of the Commonwealth.

"Deidentified data" means data that cannot be used to infer information about, or otherwise be linked to, a particular individual, provided that the direct-to-consumer genetic testing company (i) takes reasonable measures to ensure that such information cannot be associated with a consumer or household; (ii) publicly commits to maintain and use such information only in deidentified form and not to attempt to reidentify the information, except that the direct-to-consumer genetic testing company may attempt to reidentify the information solely for the purpose of determining whether its deidentification processes satisfy the requirements of this clause, provided that the direct-to-consumer genetic testing company does not use or disclose any information reidentified in this process and destroys the reidentified information upon completion of that assessment; and (iii) contractually obligates any recipients of the information to take reasonable measures to ensure that the information cannot be associated with a consumer or household and to commit to maintaining and using the information only in deidentified form and not to reidentify the information.

"Direct-to-consumer genetic testing company" means an entity that (i) offers consumer-initiated genetic testing products or services directly to a consumer or (ii) collects, uses, or analyzes genetic data that is collected or derived from a direct-to-consumer genetic testing product or service and is directly provided by a consumer. "Direct-to-consumer genetic testing company" does not include an entity when such entity is only engaged in collecting, using, or analyzing genetic data or biological samples in the context of research conducted in accordance with the (a) federal Common Rule, 45 C.F.R. Part 46; (b) International Conference on Harmonization Good Clinical Practice Guideline; or (c) U.S. Food and Drug Administration Policy for the Protection of Human Subjects, 21 C.F.R. Parts 50 and 56.

"Express consent" means a consumer's affirmative authorization to grant permission in response to a clear, meaningful, and prominent notice regarding the collection, use, maintenance, or disclosure of genetic data for a specific purpose.

"Genetic data" means any data, regardless of its format, that results from the analysis of a biological sample from a consumer, or from another element enabling equivalent information to be obtained, and concerns genetic material. Genetic material includes deoxyribonucleic acids (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles, genomes, alterations, or modifications to DNA or RNA, and single nucleotide polymorphisms (SNPs). "Genetic data" includes uninterpreted data that results from the analysis of the biological sample and any information extrapolated, derived, or inferred therefrom. "Genetic data" does not include (i) deidentified data or (ii) data or a biological sample to the extent that data or a biological sample is collected, used, maintained, and disclosed exclusively for scientific research conducted by an investigator with an institution that holds an assurance with the U.S. Department of Health and Human Services pursuant to 45 C.F.R. Part 46, in compliance with all applicable federal and state laws and regulations for the protection of human subjects in research, including the Common Rule pursuant to 45 C.F.R. Part 46, U.S. Food and Drug Administration regulations pursuant to 21 C.F.R. Parts 50 and 56, and the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

"Genetic testing" means any laboratory test of a biological sample from a consumer for the purpose of determining information concerning genetic material contained within the biological sample, or any information extrapolated, derived, or inferred therefrom.

"Service provider" means a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity that is organized or operated for the profit or financial benefit of its shareholders or other owners that is involved in (i) the collection, transportation, and analysis of the consumer's biological sample or extracted genetic material (a) on behalf of the direct-to-consumer genetic testing company or (b) on behalf of any other company that collects, uses, maintains, or discloses genetic data collected or derived from a direct-to-consumer genetic testing product or service or directly provided by a consumer or (ii) the delivery of the results of the analysis of the biological sample or genetic material.

§ 59.1-594. Exclusions.

This chapter shall not apply to any of the following:

1. Protected health information that is collected, maintained, used, or disclosed by a covered entity or business associate governed by the privacy, security, and data breach notification rules issued by the U.S. Department of Health and Human Services, 45 C.F.R. Parts 160 and 164, established pursuant to the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, and the federal Health Information Technology for Economic and Clinical Health Act, Title XIII of the federal American Recovery and Reinvestment Act of 2009, P.L. 111-5;

2. A covered entity governed by the privacy, security, and data breach notification rules issued by the U.S. Department of Health and Human Services, 45 C.F.R. Parts 160 and 164, established pursuant to the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, and the federal Health Information Technology for Economic and Clinical Health Act, Title XIII of the federal American Recovery and Reinvestment Act of 2009, P.L. 111-5, to the extent that the covered entity maintains, uses, and discloses genetic data in the same manner as protected health information, as described in subdivision 1;

3. A business associate of a covered entity governed by the privacy, security, and data breach notification rules issued by the U.S. Department of Health and Human Services, 45 C.F.R. Parts 160 and 164, established pursuant to the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, and the federal Health Information Technology for Economic and Clinical Health Act, Title XIII of the federal American Recovery and Reinvestment Act of 2009, P.L. 111-5, to the extent that the business associate maintains, uses, and discloses genetic data in the same manner as protected health information, as described in subdivision 1;

4. Scientific research or educational activities conducted by a public or private nonprofit institution of higher education that holds an assurance with the U.S. Department of Health and Human Services pursuant to 45 C.F.R. Part 46, to the extent that such scientific research and educational activities comply with all applicable federal and state laws and regulations for the protection of human subjects in research, including the Common Rule pursuant to 45 C.F.R. Part 46, U.S. Food and Drug Administration regulations pursuant to 21 C.F.R. Parts 50 and 56, and the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g;

5. The newborn screening program established pursuant to Article 7 (§ 32.1-65 et seq.) of Chapter 2 of Title 32.1;

6. Tests conducted exclusively to diagnose whether an individual has a specific disease, to the extent that all persons involved in the conduct of the test maintain, use, and disclose genetic data in the same manner as protected health information, as described in subdivision 1; or

7. Genetic data used or maintained by an employer, or disclosed by an employee to an employer, to the extent that the use, maintenance, or disclosure of such data is necessary to comply with a local, state, or federal workplace health and safety ordinance, law, or regulation.

§ 59.1-595. Information to be made available to consumers.

A. Every direct-to-consumer genetic testing company shall provide to consumers:

1. A summary of the company's (i) policies and procedures related to the collection, use, maintenance, retention, disclosure, transfer, deletion, and security of and access to genetic data and (ii) privacy practices;

2. Information regarding the requirement for express consent for the collection, use, and disclosure of genetic data and the process for revoking express consent pursuant to § 59.1-596;

3. Notice that a consumer's deidentified genetic or phenotypic data may be shared with or disclosed to third parties for research purposes in accordance with 45 C.F.R. Part 46; and

4. Information about the process by which a consumer may file a complaint alleging a violation of this chapter.

B. Information required to be made available pursuant to subsection A shall be written in plain language and shall be provided to consumers together with any genetic testing product provided to consumers. Such information shall also be included on any website maintained by the direct-to-consumer genetic testing company in a manner that is easily accessible by the public.

§ 59.1-596. Express consent required; revocation of express consent.

A. Express consent required pursuant to this chapter requires a statement of the nature of the data collection, use, maintenance, or disclosure for which express consent is sought in plain and prominent language that an ordinary consumer would notice and understand and an affirmative authorization by the consumer granting permission in response to such statement. Express consent shall not be inferred from inaction.

B. Every direct-to-consumer genetic testing company shall obtain a consumer's express consent for the collection, use, and disclosure of the consumer's genetic data, including, at a minimum, separate and express consent for each of the following:

1. The use of genetic data collected through the genetic testing product or service offered to the consumer. Express consent for such use of genetic data shall include a statement describing who will receive access to the genetic data, how such genetic data will be shared, and the purposes for which such data shall be collected, used, and disclosed;

2. The storage of a consumer's biological sample after the initial testing required by the consumer has been completed;

3. Each use of genetic data or the biological sample beyond the primary purpose of the genetic testing or service and inherent contextual uses;

4. Each transfer or disclosure of the consumer's genetic data or biological sample to a third party other than a service provider, including the name of the third party to which the consumer's genetic data or biological sample will be transferred or disclosed; and

5. Any marketing or facilitation of marketing to a consumer based on the consumer's genetic data or marketing or facilitation of marketing by a third party based on the consumer's having ordered, purchased, received, or used a genetic testing product or service, except that a direct-to-consumer genetic testing company shall not be required to obtain a consumer's express consent to marketing to the consumer on the company's own website or mobile application based on the consumer having ordered, purchased, received, or used a genetic testing product or service from that company if (i) the advertisement does not depend on any information specific to that consumer other than information regarding the product or service that the consumer ordered, purchased, received, or used; (ii) the placement of the advertisement does not result in disparate exposure to advertising content on the basis of the sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic data, marital status, sexual orientation, citizenship, primary language, or immigration status of the consumer; and (iii) the advertisement of a third-party product or service is clearly labeled as advertising content, is accompanied by the name of the third party that has contributed to the placement of the advertisement, and, if applicable, indicates that the advertised product or service and claims regarding the product or service have not been vetted or endorsed by the direct-to-consumer genetic testing company.

C. Every direct-to-consumer genetic testing company shall provide a mechanism by which a consumer may revoke the express consent required pursuant to subsection B, which shall include an option for revocation of express consent through the primary medium through which the company communicates with consumers.

D. Upon revocation of the express consent required pursuant to subsection B by a consumer, a direct-to-consumer genetic testing company shall (i) honor such revocation of express consent as soon as is practicable but in all cases within 30 days of receipt of such revocation and (ii) destroy the consumer's biological sample within 30 days of receipt of revocation of the consumer's express consent to store such sample.

§ 59.1-597. Other requirements applicable to direct-to-consumer genetic testing companies.

Every direct-to-consumer genetic testing company shall:

1. Implement and maintain reasonable security procedures and practices to protect a consumer's genetic data against unauthorized access, destruction, use, modification, or disclosure; and

2. Develop procedures and practices to allow a consumer to easily (i) access the consumer's genetic data; (ii) delete the consumer's genetic data, except any data required by state or federal law to be retained by the direct-to-consumer genetic testing company and any account the consumer may have created with the direct-to-consumer genetic testing company; and (iii) revoke express consent to storage of the consumer's biological sample and request destruction of such biological sample.

§ 59.1-598. Contracts with service providers.

A. Every direct-to-consumer genetic testing company that enters into a contract with a service provider shall prohibit the service provider from retaining, using, or disclosing the biological sample, extracted genetic material, genetic data, or any information regarding the identity of the consumer, including whether the consumer has solicited or received genetic testing, as applicable, for any purpose other than for the specific purpose of performing the services specified in the contract with the service provider for the business.

B. Every contract between a direct-to-consumer genetic testing company and a service provider shall include:

1. A provision prohibiting the service provider from retaining, using, or disclosing the biological sample, extracted genetic material, genetic data, or any information regarding the identity of the consumer, including whether the consumer has solicited or received genetic testing, as applicable, for a commercial purpose other than providing the services specified in the contract with the service provider with the business; and

2. A provision prohibiting the service provider from associating or combining the biological sample, extracted genetic material, genetic data, or any information regarding the identity of the consumer, including whether the consumer has solicited or received genetic testing, as applicable, with information the service provider has received from or on behalf of another person or has collected from its own interaction with consumers or as required by law.

§ 59.1-599. Certain disclosures of genetic data prohibited.

No direct-to-consumer genetic testing company shall disclose a consumer's genetic data to any entity that is responsible for administering or making decisions regarding health insurance, life insurance, long-term care insurance, disability insurance, or employment or any entity that provides advice to such an entity without the consumer's express consent.

§ 59.1-600. Discrimination prohibited.

No person or public entity shall discriminate against a consumer on the grounds that the consumer has exercised any of the rights granted by this chapter with regard to:

1. Providing or denying any good, service, or benefit to the consumer;

2. Charging any different price or rate for any good or service provided to the consumer, including through the use of discounts or other incentives or imposition of penalties;

3. Providing a different level or quality of goods, services, or benefits to the consumer;

4. Suggesting that the consumer will receive a different price or rate for goods, services, or benefits or a different level or quality of goods, services, or benefits; or

5. Considering the consumer's exercise of rights pursuant to this chapter as a basis or suspicion of criminal wrongdoing or unlawful conduct.

§ 59.1-601. Enforcement; civil penalty.

A. The Attorney General shall have exclusive authority to enforce the provisions of this chapter.

B. Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is engaging in, or is about to engage in any violation of this chapter, the Attorney General is empowered to issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply mutatis mutandis to civil investigative demands issued pursuant to this subsection.

C. Notwithstanding any contrary provision of law, the Attorney General may cause an action to be brought in the appropriate circuit court in the name of the Commonwealth to enjoin any violation of this chapter. The circuit court having jurisdiction may enjoin such violation notwithstanding the existence of an adequate remedy at law. In any action brought pursuant to this subsection, it shall not be necessary that damages be proved.

D. Any person who violates the provisions of this chapter shall be subject to a civil penalty in an amount not to exceed $1,000 plus reasonable attorney fees, expenses, and court costs, as determined by the court. Any person who willfully violates the provisions of this chapter shall be subject to a civil penalty in an amount not less than $1,000 and not more than $10,000 plus reasonable attorney fees, expenses, and court costs, as determined by the court. Such civil penalties shall be paid into the Literary Fund.

E. Each violation of this chapter shall constitute a separate violation and shall be subject to any civil penalties imposed under this section.

§ 59.1-602. Limitations.

A. The provisions of this chapter shall not reduce a direct-to-consumer genetic testing company's duties, obligations, requirements, or standards under any applicable state and federal laws for the protection of privacy and security.

B. In the event of a conflict between the provisions of this chapter and any other provision of law, the provisions of the law that afford the greatest protection for the right of privacy for consumers shall control.

C. Nothing in this chapter shall be construed to affect access to information made available to the public by the consumer.

CHAPTER 527

An Act to direct the State Corporation Commission's Bureau of Insurance to convene a work group to evaluate and develop recommendations related to the implementation of health carrier fair business standards.

[H 1739]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The State Corporation Commission's (the Commission's) Bureau of Insurance (the Bureau) shall convene a work group to develop recommendations for regulatory and legislative changes necessary to improve the process for determining, pursuant to the Commission's jurisdiction under subsection D of § 38.2-3407.15 of the Code of Virginia, if a carrier has failed to implement the minimum fair business standards set out in subdivisions B 1 and 2 of § 38.2-3407.15 of the Code of Virginia in the performance of its provider contracts for the prompt payment of claims. The work group shall (i) evaluate the effectiveness of the current process that the Bureau utilizes when complaints are filed related to prompt payment of claims and (ii) develop recommendations regarding improvements to the process, such as establishing a timeframe and requirements for (a) submission of complaints and acknowledgment of receipt, (b) requests for additional documentation or information needed to make a determination, and (c) completion of a determination about a complaint, including the rationale and explanation of any recommendations for the carrier or complainant to promote accuracy of claims submission and prompt payment of claims. The work group shall also develop recommendations to promote compliance with the Ethics and Fairness in Carrier Business Practices Act (§ 38.2-3407.15 of the Code of Virginia) to ensure prompt payment of claims and other recommendations to improve timeliness of the claims process. In addition to convening the work group, the Bureau shall ensure that the form for submission of complaints is easily accessible to providers and members of the public. The work group shall include representatives of the Virginia Hospital and Healthcare Association, the Virginia Association of Health Plans, the Medical Society of Virginia, and other relevant parties as identified by the Bureau. The Bureau shall submit a report of the findings and recommendations of the work group to the Chairs of the House Committees on Commerce and Energy and Health, Welfare and Institutions and the Senate Committees on Commerce and Labor and Education and Health no later than December 1, 2023.*

CHAPTER 528

An Act to amend and reenact §§ 30-309, 30-310, and 30-312 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 30-310.1, relating to MEI Project Approval Commission; review procedures.

[H 1769]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 30-309, 30-310, and 30-312 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 30-310.1 as follows:

§ 30-309. MEI Project Approval Commission; membership; terms; compensation and expenses; definition.

A. The MEI Project Approval Commission (the Commission) is established as an advisory commission in the legislative branch of state government. The purpose of the Commission shall be to review financing for individual incentive packages, including but not limited to packages offering tax incentives, for economic development, film, and episodic television projects (including but not limited to MEI projects) for which (i) one or more of the incentives in the incentive package is not authorized under current law or an amendment by the General Assembly is being sought to one or more currently existing incentives included as part of the incentive package*, (ii) one of the incentives being sought includes a cash payment to a private sector business of more than $3.5 million from any fund prior to any performance metrics being met by the proposed project,* or ~~(ii)~~ *(iii)* the aggregate amount of incentives to be provided by the Commonwealth in the incentive package including *discretionary* grants, ~~tax incentives such as credits and exemptions related to economic development or the film or television industry,~~ general or nongeneral funds, proceeds from bonds, rights to lease property at below fair market value, or any other incentives from the Commonwealth is in excess of $10 million in value. ~~However,~~ *Except for the value of any sales tax exemption available pursuant to subdivision 18 of § 58.1-609.3 or tax credit available pursuant to § 58.1-439.12:03, the value of any existing nondiscretionary incentives shall not be considered in calculating whether the incentives are in excess of $10 million in value, and* no review shall be required for a project if the only incentives to be provided to a potential project are nondiscretionary ~~tax credits or exemptions available to any qualified taxpayer under existing law~~ *incentives*.

B. The Commission shall consist of 14 members as follows: seven members of the House Committee on Appropriations or the House Committee on Finance appointed by the chair of the House Committee on Appropriations and five members of the Senate Committee on Finance and Appropriations appointed by the chair of the Senate Committee on Finance and Appropriations. In addition, the Secretaries of Finance and Commerce and Trade shall serve as ex officio, nonvoting members of the Commission.

C. Members shall serve terms coincident with their terms of office. Vacancies for unexpired terms shall be filled in the same manner as the original appointments. Members may be reappointed for successive terms.

D. The members of the Commission shall elect a chairman and vice-chairman annually. A majority of the voting members of the Commission shall constitute a quorum. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members so request.

E. Legislative members of the Commission shall receive such compensation as provided in § 30-19.12, and nonlegislative members shall receive such compensation as provided in § 2.2-2813.

F. As used in this chapter, "MEI project" means the same as that term is defined in § 2.2-2260*, and "nondiscretionary incentive" means a tax credit, tax exemption, or grant to which a taxpayer or applicant is entitled if he meets the statutory criteria required for the credit, exemption, or grant.*

§ 30-310. Review of incentive packages.

A. 1. The Commission shall review individual incentive packages, including but not limited to packages offering tax incentives, for economic development, film, and episodic television projects (including but not limited to MEI projects) for which (i) one or more of the incentives in the incentive package is not authorized under current law or an amendment by the General Assembly is being sought to one or more currently existing incentives included as part of the incentive package*, (ii) one of the incentives being sought includes a cash payment to a private sector business of more than $3.5 million from any fund prior to any performance metrics being met by the proposed project,* or ~~(ii)~~ *(iii)* the aggregate amount of incentives to be provided by the Commonwealth in the incentive package including *discretionary* grants, ~~tax incentives such as credits and exemptions,~~ general or nongeneral funds, proceeds from bonds, rights to lease property at below fair market value, or any other incentives from the Commonwealth is in excess of $10 million in value. ~~However,~~ *Except for the value of any sales tax exemption available pursuant to subdivision 18 of § 58.1-609.3 or tax credit available pursuant to § 58.1-439.12:03, the value of any existing nondiscretionary incentives shall not be considered in calculating whether the incentives are in excess of $10 million in value, and* no review shall be required for a project if the only incentives to be provided to a potential project are nondiscretionary ~~tax credits or exemptions available to any qualified taxpayer under existing law~~ *incentives*. The Commission shall also review economic development projects in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality *if the aggregate amount of incentives to be provided by the Commonwealth in the incentive package including discretionary grants, general or nongeneral funds, proceeds from bonds, rights to lease property at below fair market value, or any other incentives from the Commonwealth is in excess of $2.5 million in value*. The Commission shall recommend approval or denial of such packages and projects to the General Assembly. Factors that shall be considered by the Commission in its review shall include but not be limited to (a) return on investment, (b) the time frame for repayment of incentives to the Commonwealth, (c) average wages of the jobs created by the prospective MEI project or other economic development project, (d) the amount of capital investment that is required, and (e) the need for enhanced employment opportunities in the prospective location of the prospective MEI project or other economic development project.

2. a. Any time a proposed individual incentive package is to be considered by the Commission, materials outlining (i) the value of the proposed incentives; (ii) assumed return on investment; (iii) the time frame for repayment of incentives to the Commonwealth; (iv) average wages of the jobs created by the prospective economic development, film, or episodic television project; (v) the amount of capital investment that is required; (vi) the need for enhanced employment

opportunities in the prospective location of the prospective economic development, film, or episodic television project; (vii) the total amount of state incentives received by the sponsor of the economic development, film, or episodic television project in the past; and (viii) a list of all other existing, nondiscretionary *incentives* ~~tax credits or exemptions~~ for which the sponsor of the economic development, film, or episodic television project may qualify shall be provided to the staff of the House Committee on Appropriations and Senate Committee on Finance and Appropriations not less than five business days prior to the scheduled Commission meeting. Staff shall also be provided with an aggregate list of all discretionary incentives currently committed by the Commonwealth for the next 10 years, including anticipated requests for appropriations to satisfy such commitments during that time.

b. The timing of any request for an endorsement of a proposed individual incentive package should be scheduled so that the MEI Commission could, at its discretion, have up to seven days subsequent to the presentation of the incentive package prior to endorsing or rejecting such proposal.

c. State agencies, localities, authorities, or other political subdivisions of the Commonwealth that have significant involvement in a proposed individual incentive package in terms of providing facilities or regulatory support to a project or in developing the proposed individual incentive package shall review the materials required by subdivision 2 and certify the accuracy of such materials prior to consideration by the Commission.

B. An affirmative vote by four of the seven members of the Commission from the House of Delegates and three of the five members of the Commission from the Senate shall be required to endorse any incentive package, including but not limited to packages offering tax incentives, for economic development, film, and episodic television projects (including but not limited to MEI projects) for which (i) one or more of the incentives in the incentive package is not authorized under current law or an amendment by the General Assembly is being sought to one or more currently existing incentives included as part of the incentive package*, (ii) one of the incentives being sought includes a cash payment to a private sector business of more than $3.5 million from any fund prior to any performance metrics being met by the proposed project,* or ~~(ii)~~ *(iii)* the aggregate amount of incentives to be provided by the Commonwealth in the incentive package including *discretionary* grants, ~~tax incentives such as credits and exemptions,~~ general or nongeneral funds, proceeds from bonds, rights to lease property at below fair market value, or any other incentives from the Commonwealth is in excess of $10 million in value. *Except for the value of any sales tax exemption available pursuant to subdivision 18 of § 58.1-609.3 or tax credit available pursuant to § 58.1-439.12:03, the value of any existing nondiscretionary incentives shall not be considered in calculating whether the incentives are in excess of $10 million in value.* Such vote shall also be required to endorse any economic development project in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality *if the aggregate amount of incentives to be provided by the Commonwealth in the incentive package including discretionary grants, general or nongeneral funds, proceeds from bonds, rights to lease property at below fair market value, or any other incentives from the Commonwealth is in excess of $2.5 million in value*. However, no vote shall be required for a project if the only incentives to be provided to a potential project are nondiscretionary ~~tax credits or exemptions~~ *incentives* available to any qualified taxpayer under existing law.

§ 30-310.1. Review of tax financing projects.

In addition to the required review of certain incentive packages pursuant to § 30-310, the Commission may, in its discretion, also review potential economic development projects presented by private sector businesses or state authorities which would be financed through entitlements to sales taxes or through personal or corporate income tax incentives or modifications. The Commission shall not be required to endorse or recommend any such project but may include recommendations in its annual report prepared pursuant to § 30-312.

§ 30-312. Commission report to General Assembly.

The chairman of the Commission shall report annually by the first day of each General Assembly Regular Session on all endorsed incentive packages for which an offer has been made and publicly announced. Staff identified in § 30-311 shall assist the commission in preparing such report, which shall contain the following information: (i) the industrial sector of the MEI project or other economic development project, (ii) known competitor states, (iii) employment creation and capital investment expectations, (iv) anticipated average annual wage of the new jobs, (v) local and state returns on investment as prepared by the Virginia Economic Development Partnership Authority, (vi) expected time frame for repayment of the incentives to the Commonwealth in the form of direct and indirect general tax revenues, (vii) details of the proposed incentive package, including the breakdown of the components into various uses and an expected timeline for payments, and (viii) draft legislation or amendments to the Appropriation Act that propose financing for the endorsed incentive package through the Virginia Public Building Authority or any other proposed funding or financing mechanisms.

To assist in the preparation of the report, the draft legislation or amendments referred to in clause (viii) shall be submitted to the staffs of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations no later than December 15 each year.

CHAPTER 529

An Act to amend and reenact §§ 13.1-604, 13.1-614, and 13.1-661 of the Code of Virginia, relating to corporations; filing and meeting requirements.

[H 1477]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-604, 13.1-614, and 13.1-661 of the Code of Virginia are amended and reenacted as follows:

§ 13.1-604. Filing requirements.

A. A document shall satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to be filed with the Commission.

B. To be entitled to be filed with the Commission, this chapter shall require or permit the document to be filed with the Commission.

C. The document shall contain the information required by this chapter and may contain other information as well.

D. The document shall be typewritten or printed or, if electronically transmitted, shall be in a format that can be retrieved or reproduced in typewritten or printed form. The typewritten or printed portion shall be in black. Photocopies, or other reproduced copies, of typewritten or printed documents may be filed. In every case, information in the document shall be legible and the document shall be capable of being reformatted and reproduced in copies of archival quality.

E. The document shall be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals. The articles of incorporation, duly authenticated by the official having custody of corporate records in the jurisdiction of formation of the foreign corporation, that are required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

F. The document shall be signed in the name of the domestic or foreign corporation:

1. By the chairman or any vice-chairman of the board of directors, the president, or any other of its officers;

2. If directors have not been selected or the corporation has not been formed, by an incorporator; or

3. If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

G. Any annual report required to be filed by § 13.1-775 shall be signed in the name of the corporation by an officer or director listed in the report or, if the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

H. The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which the document is signed. The document may but need not contain a corporate seal, attestation, acknowledgment, or verification.

I. If, pursuant to any provision of this chapter, the Commission has prescribed a mandatory form for the document, the document shall be in or on the prescribed form.

J. The document shall be delivered to the Commission for filing and shall be accompanied by the correct filing fee, and any franchise tax, charter or entrance fee, registration fee, or penalty required by this chapter to be paid at the time of delivery for filing.

K. The Commission may accept the electronic transmission of any document or other information required or permitted to be filed by this chapter and may prescribe the methods of execution, recording, reproduction and certification of electronically transmitted information pursuant to § 59.1-496.

L. Whenever a provision of this chapter permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, the following provisions apply:

1. The plan or filed document shall specify the nationally recognized news or information medium in which the facts can be found or otherwise state the manner in which the facts can be objectively ascertained. The manner in which the facts will operate upon the terms of the plan or filed document shall be set forth in the plan or filed document.

2. The facts may include:

a. Any of the following that is available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data;

b. A determination or action by any person or body, including the corporation or any other party to a plan or filed document; or

c. The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

3. As used in this subsection:

a. "Filed document" means a document filed with the Commission under § 13.1-619 or Article 11 (§ 13.1-705 et seq.), 12 (§ 13.1-715.1 et seq.), 12.1 (§ 13.1-722.1:1 et seq.), 12.2 (§ 13.1-722.8 et seq.), 16 (§ 13.1-742 et seq.), or 22 (§ 13.1-782 et seq.); and

b. "Plan" means a plan of domestication, conversion, merger, or share exchange.

4. The following terms of a plan or filed document may not be made dependent on facts outside the plan or filed document:

a. The name and address of any person required in a filed document;

b. A purpose that is required to be set forth in a filed document;

c. The registered office address of any entity required in a filed document;

d. The name or qualification of the registered agent of any entity required in a filed document;

e. The number of authorized shares and the designation ~~and terms, including the preferences, rights, and limitations~~ of each class or series of shares;

f. The effective date of a filed document; and

g. Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

5. If a term of a filed document is made dependent on a fact objectively ascertainable outside of the filed document, and that fact is not objectively ascertainable by reference to a source described in subdivision 2 a or a document that is a matter of public record, nor has notice of the fact been given by the corporation to the affected shareholders, then the corporation shall file with the Commission articles of amendment setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this subdivision are deemed to be authorized by the authorization of the original filed document or plan to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

6. The provisions of subdivisions 1, 2, and 5 shall not be considered by the Commission in deciding whether the terms of a plan or filed document comply with the requirements of law.

§ 13.1-614. Hearing and finality of Commission action; injunctions.

A. The Commission shall have no power to grant a hearing with respect to any certificate issued by the Commission with respect to any articles filed with the Commission except on a petition by a shareholder filed with the Commission and delivered to the corporation within 30 days after the effective date of the certificate, in which the shareholder asserts that the certification of corporate action contained in the articles contains a misstatement of a material fact as to compliance with statutory requirements, specifying the particulars thereof. After hearing, on notice in writing to the corporation and the shareholder, the Commission shall determine the issues and revoke or refuse to revoke its order accordingly.

B. No court in or outside of the Commonwealth shall have jurisdiction to enjoin or delay the holding of any meeting of directors or shareholders for the purpose of authorizing or consummating any amendment, correction, merger, share exchange, domestication, conversion, dissolution, or termination of corporate existence or the execution or filing with the Commission of any articles or other documents for such purpose, except pursuant to subsection ~~D~~ *C* of § 13.1-661 or for fraud. No court in or outside of the Commonwealth, except the Supreme Court by way of appeal as authorized by law, shall have jurisdiction to review, reverse, correct, or annul any action of the Commission, within the scope of its authority, with regard to any articles, certificate, order, objection, or petition, or to suspend or delay the execution or operation thereof, or to enjoin, restrain, or interfere with the Commission in the performance of its official duties.

C. Notwithstanding any provision of subsection A to the contrary, the Commission shall have the power to act upon articles of correction filed by the corporation pursuant to § 13.1-607 or upon a petition filed by a corporation at any time to correct Commission records so as to eliminate the effects of clerical errors and of filings made by a person or persons without authority to act for the corporation, or on the Commission's own motion to correct Commission records so as to eliminate the effects of clerical errors committed by its staff.

§ 13.1-661. Shareholders' list for meeting.

A. After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. If the board of directors fixes a different record date under subsection E of § 13.1-660 to determine the shareholders entitled to vote at the meeting, a corporation also shall prepare an alphabetical list of the names of all its shareholders who are entitled to vote at the meeting. A list shall be arranged by voting group, and within each voting group by class or series of shares, and show the address of and number of shares held by each shareholder. Nothing contained in this subsection shall require the corporation to include on such list the electronic mail address or other electronic contact information of a shareholder.

B. The shareholders' list for notice shall be available for inspection by any shareholder, beginning ~~two~~ *five* business days after notice of the meeting is given for which the list was prepared and continuing through the *close of business on the last business day before the* meeting, (i) at the corporation's principal office or at a place identified in the meeting notice in the county or city where the meeting will be held or (ii) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to shareholders of the corporation. A shareholders' list for voting shall be similarly available for inspection promptly after the record date for voting. The original share transfer books shall be prima facie evidence as to who are the shareholders entitled to examine such list or to vote at any meeting of shareholders. A shareholder, or the shareholder's agent or attorney, is entitled on written demand to inspect and, subject to the requirements of subsection D of § 13.1-771, to copy a list, during regular business hours and at the shareholder's expense, during the period it is available for inspection.

C. ~~If the meeting is to be held at a place, the corporation shall make the list of shareholders entitled to vote available at the meeting, and any shareholder, or the shareholder's agent or attorney, is entitled to inspect the list at any time during the meeting or any adjournment. If the meeting is to be held solely by means of remote communication, then such list shall also~~

~~be open to such inspection during the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.~~

~~D.~~ If the corporation refuses to allow a shareholder or the shareholder's agent or attorney to inspect a shareholders' list before ~~or at~~ the meeting, or to copy a list as permitted by subsection B, the circuit court of the county or city where the corporation's principal office, or if none in the Commonwealth its registered office, is located, on application of the shareholder, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

~~E.~~ *D.* Refusal or failure to prepare or make available the shareholders' list does not affect the validity of action taken at the meeting.

CHAPTER 530

An Act to amend and reenact §§ 13.1-604, 13.1-614, and 13.1-661 of the Code of Virginia, relating to corporations; filing and meeting requirements.

[S 986]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-604, 13.1-614, and 13.1-661 of the Code of Virginia are amended and reenacted as follows:

§ 13.1-604. Filing requirements.

A. A document shall satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to be filed with the Commission.

B. To be entitled to be filed with the Commission, this chapter shall require or permit the document to be filed with the Commission.

C. The document shall contain the information required by this chapter and may contain other information as well.

D. The document shall be typewritten or printed or, if electronically transmitted, shall be in a format that can be retrieved or reproduced in typewritten or printed form. The typewritten or printed portion shall be in black. Photocopies, or other reproduced copies, of typewritten or printed documents may be filed. In every case, information in the document shall be legible and the document shall be capable of being reformatted and reproduced in copies of archival quality.

E. The document shall be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals. The articles of incorporation, duly authenticated by the official having custody of corporate records in the jurisdiction of formation of the foreign corporation, that are required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

F. The document shall be signed in the name of the domestic or foreign corporation:

1. By the chairman or any vice-chairman of the board of directors, the president, or any other of its officers;

2. If directors have not been selected or the corporation has not been formed, by an incorporator; or

3. If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

G. Any annual report required to be filed by § 13.1-775 shall be signed in the name of the corporation by an officer or director listed in the report or, if the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

H. The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which the document is signed. The document may but need not contain a corporate seal, attestation, acknowledgment, or verification.

I. If, pursuant to any provision of this chapter, the Commission has prescribed a mandatory form for the document, the document shall be in or on the prescribed form.

J. The document shall be delivered to the Commission for filing and shall be accompanied by the correct filing fee, and any franchise tax, charter or entrance fee, registration fee, or penalty required by this chapter to be paid at the time of delivery for filing.

K. The Commission may accept the electronic transmission of any document or other information required or permitted to be filed by this chapter and may prescribe the methods of execution, recording, reproduction and certification of electronically transmitted information pursuant to § 59.1-496.

L. Whenever a provision of this chapter permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, the following provisions apply:

1. The plan or filed document shall specify the nationally recognized news or information medium in which the facts can be found or otherwise state the manner in which the facts can be objectively ascertained. The manner in which the facts will operate upon the terms of the plan or filed document shall be set forth in the plan or filed document.

2. The facts may include:

a. Any of the following that is available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data;

b. A determination or action by any person or body, including the corporation or any other party to a plan or filed document; or

c. The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

3. As used in this subsection:

a. "Filed document" means a document filed with the Commission under § 13.1-619 or Article 11 (§ 13.1-705 et seq.), 12 (§ 13.1-715.1 et seq.), 12.1 (§ 13.1-722.1:1 et seq.), 12.2 (§ 13.1-722.8 et seq.), 16 (§ 13.1-742 et seq.), or 22 (§ 13.1-782 et seq.); and

b. "Plan" means a plan of domestication, conversion, merger, or share exchange.

4. The following terms of a plan or filed document may not be made dependent on facts outside the plan or filed document:

a. The name and address of any person required in a filed document;

b. A purpose that is required to be set forth in a filed document;

c. The registered office address of any entity required in a filed document;

d. The name or qualification of the registered agent of any entity required in a filed document;

e. The number of authorized shares and the designation ~~and terms, including the preferences, rights, and limitations~~ of each class or series of shares;

f. The effective date of a filed document; and

g. Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

5. If a term of a filed document is made dependent on a fact objectively ascertainable outside of the filed document, and that fact is not objectively ascertainable by reference to a source described in subdivision 2 a or a document that is a matter of public record, nor has notice of the fact been given by the corporation to the affected shareholders, then the corporation shall file with the Commission articles of amendment setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this subdivision are deemed to be authorized by the authorization of the original filed document or plan to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

6. The provisions of subdivisions 1, 2, and 5 shall not be considered by the Commission in deciding whether the terms of a plan or filed document comply with the requirements of law.

§ 13.1-614. Hearing and finality of Commission action; injunctions.

A. The Commission shall have no power to grant a hearing with respect to any certificate issued by the Commission with respect to any articles filed with the Commission except on a petition by a shareholder filed with the Commission and delivered to the corporation within 30 days after the effective date of the certificate, in which the shareholder asserts that the certification of corporate action contained in the articles contains a misstatement of a material fact as to compliance with statutory requirements, specifying the particulars thereof. After hearing, on notice in writing to the corporation and the shareholder, the Commission shall determine the issues and revoke or refuse to revoke its order accordingly.

B. No court in or outside of the Commonwealth shall have jurisdiction to enjoin or delay the holding of any meeting of directors or shareholders for the purpose of authorizing or consummating any amendment, correction, merger, share exchange, domestication, conversion, dissolution, or termination of corporate existence or the execution or filing with the Commission of any articles or other documents for such purpose, except pursuant to subsection ~~D~~ *C* of § 13.1-661 or for fraud. No court in or outside of the Commonwealth, except the Supreme Court by way of appeal as authorized by law, shall have jurisdiction to review, reverse, correct, or annul any action of the Commission, within the scope of its authority, with regard to any articles, certificate, order, objection, or petition, or to suspend or delay the execution or operation thereof, or to enjoin, restrain, or interfere with the Commission in the performance of its official duties.

C. Notwithstanding any provision of subsection A to the contrary, the Commission shall have the power to act upon articles of correction filed by the corporation pursuant to § 13.1-607 or upon a petition filed by a corporation at any time to correct Commission records so as to eliminate the effects of clerical errors and of filings made by a person or persons without authority to act for the corporation, or on the Commission's own motion to correct Commission records so as to eliminate the effects of clerical errors committed by its staff.

§ 13.1-661. Shareholders' list for meeting.

A. After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. If the board of directors fixes a different record date under subsection E of § 13.1-660 to determine the shareholders entitled to vote at the meeting, a corporation also shall prepare an alphabetical list of the names of all its shareholders who are entitled to vote at the meeting. A list shall be arranged by voting group, and within each voting group by class or series of shares, and show the address of and number of shares held by each shareholder. Nothing contained in this subsection shall require the corporation to include on such list the electronic mail address or other electronic contact information of a shareholder.

B. The shareholders' list for notice shall be available for inspection by any shareholder, beginning ~~two~~ *five* business days after notice of the meeting is given for which the list was prepared and continuing through the *close of business on the last business day before the* meeting, (i) at the corporation's principal office or at a place identified in the meeting notice in the county or city where the meeting will be held or (ii) on a reasonably accessible electronic network, provided that the

information required to gain access to such list is provided with the notice of the meeting. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to shareholders of the corporation. A shareholders' list for voting shall be similarly available for inspection promptly after the record date for voting. The original share transfer books shall be prima facie evidence as to who are the shareholders entitled to examine such list or to vote at any meeting of shareholders. A shareholder, or the shareholder's agent or attorney, is entitled on written demand to inspect and, subject to the requirements of subsection D of § 13.1-771, to copy a list, during regular business hours and at the shareholder's expense, during the period it is available for inspection.

C. ~~If the meeting is to be held at a place, the corporation shall make the list of shareholders entitled to vote available at the meeting, and any shareholder, or the shareholder's agent or attorney, is entitled to inspect the list at any time during the meeting or any adjournment. If the meeting is to be held solely by means of remote communication, then such list shall also be open to such inspection during the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.~~

~~D.~~ If the corporation refuses to allow a shareholder or the shareholder's agent or attorney to inspect a shareholders' list before ~~or at~~ the meeting, or to copy a list as permitted by subsection B, the circuit court of the county or city where the corporation's principal office, or if none in the Commonwealth its registered office, is located, on application of the shareholder, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

~~E.~~ *D.* Refusal or failure to prepare or make available the shareholders' list does not affect the validity of action taken at the meeting.

CHAPTER 531

An Act to amend and reenact §§ 18.2-493, 18.2-494, and 18.2-495 of the Code of Virginia, relating to filling, refilling, or otherwise delivering of liquefied petroleum gas during a qualifying emergency.

[S 1298]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-493, 18.2-494, and 18.2-495 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-493. Definitions.

As used in this article, unless the ~~text indicates otherwise~~ *context requires a different meaning*:

~~(a) "Person" shall mean any person, firm or corporation.~~

~~(b) "Owner" shall mean any person who holds a written bill of sale under which title or ownership to a container was transferred to such person, or any manufacturer of a container who has not sold or transferred ownership thereof by written bill of sale.~~

~~(c)~~ "Liquefied petroleum gas" ~~shall mean~~ *means* any material ~~which~~ *that* is composed predominately of any of the following hydrocarbons or mixtures of the same: propane, propylene, butanes (normal butane and isobutane) and butylenes.

"Owner" means any person who holds a written bill of sale under which title or ownership to a container was transferred to such person, or any manufacturer of a container who has not sold or transferred ownership thereof by written bill of sale.

"Person" means any person, firm, or corporation.

"Qualifying emergency" means (i) a state of emergency as declared by the Governor pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44; (ii) a local emergency as declared by the local director of emergency management with the consent of the governing body of the political subdivision pursuant to § 44-146.21; (iii) a state of emergency as declared by the President of the United States; (iv) when severe weather or other similar circumstances exist that may result in a person being placed in imminent danger of death or injury or may result in a building or its fixtures being at risk of significant damage due to lack of heat caused by the lack of sufficient liquefied petroleum gas to produce such heat; or (v) when a waiver from delivery limitations affecting the delivery of liquefied petroleum gas has been ordered.

§ 18.2-494. Unlawful use of, filling or refilling, or trafficking in containers.

~~No~~ *A. Unless a qualifying emergency is in effect, no* person except the owner thereof or person authorized in writing by the owner shall fill or refill with liquefied petroleum gas, or any other gas or compound, a liquefied petroleum gas container~~,~~ or buy, sell, offer for sale, give, take, loan, deliver, or permit to be delivered~~,~~ or otherwise use, dispose of, or traffic in a liquefied petroleum gas container or containers if the container bears upon the surface thereof in plainly legible characters the name, initials, mark, or other device of the owner~~; nor~~. *Nor* shall any person other than the owner of a liquefied petroleum gas container or a person authorized in writing by the owner deface, erase, obliterate, cover up, or otherwise remove or conceal any name, mark, initial, or device thereon.

B. When a qualifying emergency is in effect, a residential customer who can demonstrate that he has less than a 24-hour supply of liquefied petroleum gas shall first make a good faith effort to procure delivery of liquefied petroleum gas from the owner of the liquefied petroleum gas container. If the owner of the liquefied petroleum gas container or other person authorized in writing by the owner is unable to make a scheduled delivery or fulfill the residential customer's good

faith request within 24 hours, the customer may have an emergency supplier fill, refill, or otherwise deliver liquefied petroleum gas into the customer's liquefied petroleum gas container, provided that the emergency supplier ensures that such liquefied petroleum gas container, and the devices and pipelines operated in connection with such container, have been inspected and certified as required by law. Within five business days of filling, refilling, or otherwise delivering liquefied petroleum gas to the customer's container, the emergency supplier shall give written notice to the owner of the liquefied petroleum gas container that includes (i) the name and address of the customer; (ii) the date of the filling, refilling, or delivery; and (iii) the amount of liquefied petroleum gas that was placed in the customer's container. The emergency supplier shall assume all responsibility and liability for injury to persons or property related to the emergency refilling of the liquefied petroleum gas container.

When an emergency supplier delivers liquefied petroleum gas to a residential customer pursuant to this subsection, neither such emergency supplier nor the owner of the liquefied petroleum gas container may charge any penalty or fee in addition to the filling, refilling, or delivery fees that are usually charged to other customers in the course of business during a nonemergency.

§ 18.2-495. Presumptive evidence.

The use of a liquefied petroleum gas container or containers by any person other than the person whose name, mark, initial, or device is on the liquefied petroleum gas container or containers, without written consent, or purchase of the marked and distinguished liquefied petroleum gas container for the sale of liquefied petroleum gas or filling or refilling with liquefied petroleum gas, or possession of the liquefied petroleum gas containers by any person other than the person having his name, mark, initial, or other device thereon, without the written consent of such owner, is presumptive evidence of the unlawful use *of*, filling or refilling *of*, or trafficking in ~~of~~ such liquefied petroleum gas containers.

The provisions of this section shall not apply to the filling, refilling, or otherwise delivering of liquefied petroleum gas into a liquefied petroleum gas container when such filling, refilling, or otherwise delivering of liquefied petroleum gas is done in accordance with subsection B of § 18.2-494.

CHAPTER 532

An Act to amend the Code of Virginia by adding in Article 13 of Chapter 65 of Title 3.2 a section numbered 3.2-6593.2, relating to animal testing facilities; public notification.

[H 2348]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 13 of Chapter 65 of Title 3.2 a section numbered 3.2-6593.2 as follows:

§ 3.2-6593.2. Animal testing facilities; public notification.

A. For the purposes of this section:

"Animal" means any live vertebrate nonhuman species except fish.

"Animal testing facility" means any facility of a state agency or institution of higher education that confines and uses animals for research, education, testing, or other experimental, scientific, or medical purposes. "Animal testing facility" does not include any agricultural operation, as that term is defined in § 3.2-300, or any agricultural education event.

"Animal test method" means a process or procedure that uses animals for research, education, testing, or experimental, scientific, or biomedical purposes.

"Animal Welfare Act" means the federal Animal Welfare Act (7 U.S.C. § 2131 et seq.).

"APHIS" means the U.S. Department of Agriculture Animal and Plant Health Inspection Service.

"Contract testing facility" means any partnership, corporation, association, or other legal relationship that conducts research, education, testing, or experimental, scientific, or biomedical studies on behalf of another entity.

"Critical noncompliance" means an instance of noncompliance that resulted in a serious or adverse effect on the health and well-being of one or more animals, as determined by the U.S. Department of Agriculture Animal and Plant Health Inspection Service.

"Federal facility" means any building or infrastructure used or to be used by the federal government, including any building or infrastructure located on lands owned by the federal government.

"Inspection report" means any report issued by the U.S. Department of Agriculture Animal and Plant Health Inspection Service to an animal testing facility.

B. Any animal testing facility, contract testing facility, or manufacturer that uses an animal test method shall display a link to its annual report (APHIS Form 7023), as submitted to the U.S. Department of Agriculture pursuant to the Animal Welfare Act, on the homepage or landing page of the facility's or manufacturer's website on or before December 1 for the preceding federal fiscal year.

C. Any animal testing facility shall, within 30 days of receiving an inspection report, make such inspection report publicly available along with any other relevant U.S. Department of Agriculture incident reports and relevant documents generated from internal reviews by either (i) displaying a link to access such information on the homepage or landing page

of the animal testing facility's website or (ii) if such animal testing facility does not have a website, issuing a press release or other similar publication.

D. If an animal testing facility operated by an institution of higher education in the Commonwealth receives a citation for critical noncompliance under the Animal Welfare Act or regulations adopted thereunder, such animal testing facility shall notify the leadership of such institution of higher education, including the president, dean, and board of visitors or board of trustees.

E. The provisions of this section shall not apply to any federal facility or privately owned licensed veterinary practice.

CHAPTER 533

An Act to amend the Code of Virginia by adding in Article 13 of Chapter 65 of Title 3.2 a section numbered 3.2-6593.2, relating to animal testing facilities; public notification.

[S 1271]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 13 of Chapter 65 of Title 3.2 a section numbered 3.2-6593.2 as follows:

§ 3.2-6593.2. Animal testing facilities; public notification.

A. For the purposes of this section:

"Animal" means any live vertebrate nonhuman species except fish.

"Animal testing facility" means any facility of a state agency or institution of higher education that confines and uses animals for research, education, testing, or other experimental, scientific, or medical purposes. "Animal testing facility" does not include any agricultural operation, as that term is defined in § 3.2-300, or any agricultural education event.

"Animal test method" means a process or procedure that uses animals for research, education, testing, or experimental, scientific, or biomedical purposes.

"Animal Welfare Act" means the federal Animal Welfare Act (7 U.S.C. § 2131 et seq.).

"APHIS" means the U.S. Department of Agriculture Animal and Plant Health Inspection Service.

"Contract testing facility" means any partnership, corporation, association, or other legal relationship that conducts research, education, testing, or experimental, scientific, or biomedical studies on behalf of another entity.

"Critical noncompliance" means an instance of noncompliance that resulted in a serious or adverse effect on the health and well-being of one or more animals, as determined by the U.S. Department of Agriculture Animal and Plant Health Inspection Service.

"Federal facility" means any building or infrastructure used or to be used by the federal government, including any building or infrastructure located on lands owned by the federal government.

"Inspection report" means any report issued by the U.S. Department of Agriculture Animal and Plant Health Inspection Service to an animal testing facility.

B. Any animal testing facility, contract testing facility, or manufacturer that uses an animal test method shall display a link to its annual report (APHIS Form 7023), as submitted to the U.S. Department of Agriculture pursuant to the Animal Welfare Act, on the homepage or landing page of the facility's or manufacturer's website on or before December 1 for the preceding federal fiscal year.

C. Any animal testing facility shall, within 30 days of receiving an inspection report, make such inspection report publicly available along with any other relevant U.S. Department of Agriculture incident reports and relevant documents generated from internal reviews by either (i) displaying a link to access such information on the homepage or landing page of the animal testing facility's website or (ii) if such animal testing facility does not have a website, issuing a press release or other similar publication.

D. If an animal testing facility operated by an institution of higher education in the Commonwealth receives a citation for critical noncompliance under the Animal Welfare Act or regulations adopted thereunder, such animal testing facility shall notify the leadership of such institution of higher education, including the president, dean, and board of visitors or board of trustees.

E. The provisions of this section shall not apply to any federal facility or privately owned licensed veterinary practice.

CHAPTER 534

An Act to amend and reenact § 2.2-3704 of the Code of Virginia, relating to Virginia Freedom of Information Act; public records charges; electronic payment method.

[H 2006]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3704 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to request; charges; transfer of records for storage, etc.

A. Except as otherwise specifically provided by law, all public records shall be open to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall be provided by the custodian in accordance with this chapter by inspection or by providing copies of the requested records, at the option of the requester. The custodian may require the requester to provide his name and legal address. The custodian of such records shall take all necessary precautions for their preservation and safekeeping.

B. A request for public records shall identify the requested records with reasonable specificity. The request need not make reference to this chapter in order to invoke the provisions of this chapter or to impose the time limits for response by a public body. Any public body that is subject to this chapter and that is the custodian of the requested records shall promptly, but in all cases within five working days of receiving a request, provide the requested records to the requester or make one of the following responses in writing:

1. The requested records are being entirely withheld. Such response shall identify with reasonable particularity the volume and subject matter of withheld records, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.

2. The requested records are being provided in part and are being withheld in part. Such response shall identify with reasonable particularity the subject matter of withheld portions, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.

3. The requested records could not be found or do not exist. However, if the public body that received the request knows that another public body has the requested records, the response shall include contact information for the other public body.

4. It is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period. Such response shall specify the conditions that make a response impossible. If the response is made within five working days, the public body shall have an additional seven work days or, in the case of a request for criminal investigative files pursuant to § 2.2-3706.1, 60 work days in which to provide one of the four preceding responses.

C. Any public body may petition the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records or requires an extraordinarily lengthy search, and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with the petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

D. Subject to the provisions of subsection G, no public body shall be required to create a new record if the record does not already exist. However, a public body may abstract or summarize information under such terms and conditions as agreed between the requester and the public body.

E. Failure to respond to a request for records shall be deemed a denial of the request and shall constitute a violation of this chapter.

F. Except with regard to scholastic records requested pursuant to subdivision A 1 of § 2.2-3705.4 that must be made available for inspection pursuant to the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and such requests for scholastic records by a parent or legal guardian of a minor student or by a student who is 18 years of age or older, a public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. The public body may also make a reasonable charge for the cost incurred in supplying records produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than 50 acres. Prior to conducting a search for records, the public body shall notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records. The public body shall provide the requester with a cost estimate if requested. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the cost estimate and the response of the requester. If the public body receives no response from the requester within 30 days of sending the cost estimate, the request shall be deemed to be withdrawn. Any costs incurred by the public body in estimating the cost of supplying the requested records shall be applied toward the overall charges to be paid by the requester for the supplying of such requested records. *Any local public body that charges for the production of records pursuant to this section may provide an electronic method of payment through which all payments for the production of such records to such locality may be made. For purposes of this subsection, "electronic method of payment" means any kind of noncash payment that does not involve a paper check and includes credit cards, debit cards, direct deposit, direct debit, electronic checks, and payment through the use of telephonic or similar communications.*

G. Public records maintained by a public body in an electronic data processing system, computer database, or any other structured collection of data shall be made available to a requester at a reasonable cost, not to exceed the actual cost in accordance with subsection F. When electronic or other databases are combined or contain exempt and nonexempt records, the public body may provide access to the exempt records if not otherwise prohibited by law, but shall provide access to the nonexempt records as provided by this chapter.

Public bodies shall produce nonexempt records maintained in an electronic database in any tangible medium identified by the requester, including, where the public body has the capability, the option of posting the records on a website or delivering the records through an electronic mail address provided by the requester, if that medium is used by the public body in the regular course of business. No public body shall be required to produce records from an electronic database in a format not regularly used by the public body. However, the public body shall make reasonable efforts to provide records in any format under such terms and conditions as agreed between the requester and public body, including the payment of reasonable costs. The excision of exempt fields of information from a database or the conversion of data from one available format to another shall not be deemed the creation, preparation, or compilation of a new public record.

H. In any case where a public body determines in advance that charges for producing the requested records are likely to exceed $200, the public body may, before continuing to process the request, require the requester to pay a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the requester.

I. Before processing a request for records, a public body may require the requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing.

J. In the event a public body has transferred possession of public records to any entity, including but not limited to any other public body, for storage, maintenance, or archiving, the public body initiating the transfer of such records shall remain the custodian of such records for purposes of responding to requests for public records made pursuant to this chapter and shall be responsible for retrieving and supplying such public records to the requester. In the event a public body has transferred public records for storage, maintenance, or archiving and such transferring public body is no longer in existence, any public body that is a successor to the transferring public body shall be deemed the custodian of such records. In the event no successor entity exists, the entity in possession of the public records shall be deemed the custodian of the records for purposes of compliance with this chapter, and shall retrieve and supply such records to the requester. Nothing in this subsection shall be construed to apply to records transferred to the Library of Virginia for permanent archiving pursuant to the duties imposed by the Virginia Public Records Act (§ 42.1-76 et seq.). In accordance with § 42.1-79, the Library of Virginia shall be the custodian of such permanently archived records and shall be responsible for responding to requests for such records made pursuant to this chapter.

CHAPTER 535

An Act to amend and reenact § 24.2-415 of the Code of Virginia, relating to voter registration; final day of registration; notice requirements.

[H 1683]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-415 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-415. Notice of times and locations for registration.

A. The general registrar shall give notice of the date, hours, and locations for registration on the final day of registration at least 10 days before each final day. The notice for the final day shall be posted on the official website of the county or city~~, if applicable,~~ and published at least once in a newspaper of general circulation in the county or city*, if one is available*.

At least three days' advance notice shall be given for other times and locations for voter registration. This notice shall be posted on the official website of the county or city, ~~if applicable,~~ and published at least once in a newspaper of general circulation in the county or city, or announced at least twice on a television station serving the county or city*, if one is available*.

B. Notice shall not be required for (i) the regular office hours for the general registrar's office or any other office normally staffed by one or more registrars, (ii) any office or location offering voter registration services or forms in the normal course of its daily business, or (iii) any other location at which mail applications are offered under Article 3.1 (§ 24.2-416.1 et seq.) of this chapter but no registrar, nor any person authorized to receive voter registration applications pursuant to § 24.2-415.1, is present.

CHAPTER 536

An Act to amend and reenact §§ 2.2-3707, 2.2-3707.2, 15.2-1416, 15.2-2308.1, and 23.1-1303 of the Code of Virginia, relating to the Virginia Freedom of Information Act; state public bodies; meetings; virtual public access.

[H 1738]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3707, 2.2-3707.2, 15.2-1416, 15.2-2308.1, and 23.1-1303 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3707. Meetings to be public; notice of meetings; recordings; minutes.

A. All meetings of public bodies shall be open, except as provided in §§ 2.2-3707.01 and 2.2-3711.

B. All state public bodies subject to the provisions of this chapter:

1. May allow public access to their meetings through electronic communication means, including telephone or videoconferencing, if already used by the state public body;

2. May provide the public with the opportunity to comment through the use of such electronic communication means at such meetings at the point when public comment is customarily received; and

3. Shall otherwise comply with the provisions of this chapter.

No cause of action shall arise against a state public body for accidental or involuntary loss of audio or video signal or inability of the public to comment through the electronic communications means described in this subsection.

~~B.~~ *C.* No meeting shall be conducted through telephonic, video, electronic, or other electronic communication means where the members are not physically assembled to discuss or transact public business, except as provided in §§ 2.2-3708.2 and 2.2-3708.3 or as may be specifically provided in Title 54.1 for the summary suspension of professional licenses.

~~C.~~ *D.* Every public body shall give notice of the date, time, ~~and~~ location*, and remote location, if required,* of its meetings by:

1. Posting such notice on its official public government website, if any;

2. Placing such notice in a prominent public location at which notices are regularly posted; and

3. Placing such notice at the office of the clerk of the public body or, in the case of a public body that has no clerk, at the office of the chief administrator.

All state public bodies subject to the provisions of this chapter shall also post notice of their meetings on a central, publicly available electronic calendar maintained by the Commonwealth. Publication of meeting notices by electronic means by other public bodies shall be encouraged.

The notice shall be posted at least three working days prior to the meeting.

~~D.~~ *E.* Notice, reasonable under the circumstance, of special, emergency, or continued meetings shall be given contemporaneously with the notice provided to the members of the public body conducting the meeting.

~~E.~~ *F.* Any person may annually file a written request for notification with a public body. The request shall include the requester's name, address, zip code, daytime telephone number, electronic mail address, if available, and organization, if any. The public body receiving such request shall provide notice of all meetings directly to each such person. Without objection by the person, the public body may provide electronic notice of all meetings in response to such requests.

~~F.~~ *G.* At least one copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body. The proposed agendas for meetings of state public bodies where at least one member has been appointed by the Governor shall state whether or not public comment will be received at the meeting and, if so, the approximate point during the meeting when public comment will be received.

~~G.~~ *H.* Any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open. The public body conducting the meeting may adopt rules governing the placement and use of equipment necessary for broadcasting, photographing, filming, or recording a meeting to prevent interference with the proceedings, but shall not prohibit or otherwise prevent any person from photographing, filming, recording, or otherwise reproducing any portion of a meeting required to be open. No public body shall conduct a meeting required to be open in any building or facility where such recording devices are prohibited.

~~H.~~ *I.* Minutes shall be taken at all open meetings. However, minutes shall not be required to be taken at deliberations of (i) standing and other committees of the General Assembly; (ii) legislative interim study commissions and committees, including the Virginia Code Commission; (iii) study committees or commissions appointed by the Governor; or (iv) study commissions or study committees, or any other committees or subcommittees appointed by the governing bodies or school boards of counties, cities, and towns, except where the membership of any such commission, committee, or subcommittee includes a majority of the governing body of the county, city, or town or school board.

Minutes, including draft minutes, and all other records of open meetings, including audio or audio/visual records shall be deemed public records and subject to the provisions of this chapter.

Minutes shall be in writing and shall include (a) the date, time, and location of the meeting; (b) the members of the public body recorded as present and absent; and (c) a summary of the discussion on matters proposed, deliberated, or decided, and a record of any votes taken. In addition, for electronic communication meetings conducted in accordance with

§ 2.2-3708.2 or 2.2-3708.3, minutes shall include (1) the identity of the members of the public body who participated in the meeting through electronic communication means, (2) the identity of the members of the public body who were physically assembled at one physical location, and (3) the identity of the members of the public body who were not present at the location identified in clause (2) but who monitored such meeting through electronic communication means.

§ 2.2-3707.2. Posting of minutes for local public bodies.

Except as provided in subsection ~~H~~ *I* of § 2.2-3707, any local public body subject to the provisions of this chapter shall post minutes of its meetings on its official public government website, if any, within seven working days of final approval of the minutes.

If a local public body does not own or maintain an official public government website, such public body shall make copies of all meeting minutes available no later than seven working days after final approval of the minutes (i) at a prominent public location in which meeting notices are regularly posted pursuant to subdivision ~~C~~ *D* 2 of § 2.2-3707; (ii) at the office of the clerk of the public body; or (iii) in the case of a public body that has no clerk, at the office of the chief administrator.

§ 15.2-1416. Regular meetings.

A. The governing body shall assemble at a public place as the governing body may prescribe, in regular session in January for counties and in July for cities and towns. Future meetings shall be held on such days as may be prescribed by resolution of the governing body but in no event shall less than six meetings be held in each fiscal year.

B. The days, times and places of regular meetings to be held during the ensuing months shall be established at the first meeting which meeting may be referred to as the annual or organizational meeting; however, if the governing body subsequently prescribes any public place other than the initial public meeting place, or any day or time other than that initially established, as a meeting day, place or time, the governing body shall pass a resolution as to such future meeting day, place or time. The governing body shall cause a copy of such resolution to be posted on the door of the courthouse or the initial public meeting place and inserted in a newspaper having general circulation in the county or municipality at least seven days prior to the first such meeting at such other day, place or time. Should the day established by the governing body as the regular meeting day fall on any legal holiday, the meeting shall be held on the next following regular business day, without action of any kind by the governing body.

At its annual meeting the governing body may fix the day or days to which a regular meeting shall be continued if the chairman or mayor, or vice-chairman or vice-mayor if the chairman or mayor is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the regular meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement is required.

C. Regular meetings may be adjourned from day to day or from time to time or from place to place, not beyond the time fixed for the next regular meeting, until the business before the governing body is completed. Notice of any regular meeting continued under this section shall be reasonable under the circumstances and be given as provided in subsection ~~D~~ *E* of § 2.2-3707.

D. The governing body shall provide members of the general public with the opportunity for public comment during a regular meeting at least quarterly.

E. Notwithstanding the provisions of this section, any city or town that holds an organizational meeting in compliance with its charter or code shall be deemed to be in compliance with this section.

§ 15.2-2308.1. Boards of zoning appeals, ex parte communications, proceedings.

A. The non-legal staff of the governing body may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication. For purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.

B. Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under § 15.2-2314, as soon as practicable thereafter, but in no event more than three business days of providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under § 15.2-2314 requests additional documents or materials be provided by the locality other than those materials provided to the board, such request shall be made pursuant to § 2.2-3704. Any such materials furnished to a member of the board shall also be made available for public inspection pursuant to subsection ~~F~~ *G* of § 2.2-3707.

C. For the purposes of this section, "non-legal staff of the governing body" means any staff who is not in the office of the attorney for the locality, or for the board, or who is appointed by special law or pursuant to § 15.2-1542. Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff of any attorney where such communication is protected by the attorney-client privilege or other similar privilege or protection of confidentiality.

D. This section shall not apply to cases where an application for a special exception has been filed pursuant to subdivision 6 of § 15.2-2309.

§ 23.1-1303. Governing boards; duties.

A. For purposes of this section, "intellectual property" means (i) a potentially patentable machine, article of manufacture, composition of matter, process, or improvement in any of those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is copyrightable.

B. The governing board of each public institution of higher education shall:

1. Adopt and post conspicuously on its website bylaws for its own governance, including provisions that (i) establish the requirement of transparency, to the extent required by law, in all board actions; (ii) describe the board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), as set forth in subdivision B 10 of § 23.1-1301, including the requirements that (a) the board record minutes of each open meeting and post the minutes on the board's website, in accordance with subsection ~~H~~ *I* of § 2.2-3707 and § 2.2-3707.1, (b) discussions and actions on any topic not specifically exempted by § 2.2-3711 be held in an open meeting, (c) the board give public notice of all meetings, in accordance with subsection ~~C~~ *D* of § 2.2-3707, and (d) any action taken in a closed meeting be approved in an open meeting before it can have any force or effect, in accordance with subsection B of § 2.2-3711; and (iii) require that the board invite the Attorney General's appointee or representative to all meetings of the board, executive committee, and board committees;

2. Establish and maintain on the institution's website (i) a listing of all board members, including the name of the Governor who made each appointment and the date of each appointment; (ii) a listing of all committees created by the board and the membership of each committee; (iii) a schedule of all upcoming meetings of the full board and its committees and instructions for the public to access such meetings; (iv) an archive of agendas and supporting materials for each meeting of the governing board and its committees that was held; and (v) an email address or email addresses that allow board members to receive public communications pertaining to board business;

3. Establish regulations or institution policies for the acceptance and assistance of students that include provisions (i) that specify that individuals who have knowingly and willfully failed to meet the federal requirement to register for the selective service are not eligible to receive any state direct student assistance, (ii) that specify that the accreditation status of a public high school in the Commonwealth shall not be considered in making admissions determinations for students who have earned a diploma pursuant to the requirements established by the Board of Education, and (iii) relating to the admission of certain graduates of comprehensive community colleges as set forth in § 23.1-907;

4. Assist the Council in enforcing the provisions relating to eligibility for financial aid;

5. Notwithstanding any other provision of state law, establish policies and procedures requiring the notification of the parent of a dependent student when such student receives mental health treatment at the institution's student health or counseling center and such treatment becomes part of the student's educational record in accordance with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and may be disclosed without prior consent as authorized by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such notification shall only be required if it is determined that there exists a substantial likelihood that, as a result of mental illness the student will, in the near future, (i) cause serious physical harm to himself or others as evidenced by recent behavior or any other relevant information or (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs. However, notification may be withheld if any person licensed to diagnose and treat mental, emotional, or behavioral disorders by a health regulatory board within the Department of Health Professions who is treating the student has made a part of the student's record a written statement that, in the exercise of his professional judgment, the notification would be reasonably likely to cause substantial harm to the student or another person. No public institution of higher education or employee of a public institution of higher education making a disclosure pursuant to this subsection is civilly liable for any harm resulting from such disclosure unless such disclosure constitutes gross negligence or willful misconduct by the institution or its employees;

6. Establish policies and procedures requiring the release of the educational record of a dependent student, as defined by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), to a parent at his request;

7. Establish programs to seek to ensure that all graduates have the technology skills necessary to compete in the twenty-first century and that all students matriculating in teacher-training programs receive instruction in the effective use of educational technology;

8. Establish policies for the discipline of students who participate in varsity intercollegiate athletics, including a provision requiring an annual report by the administration of the institution to the governing board regarding enforcement actions taken pursuant to such policies;

9. In addition to all meetings prescribed in Chapters 14 (§ 23.1-1400 et seq.) through 29 (§ 23.1-2900 et seq.), meet with the chief executive officer of the institution at least once annually, in a closed meeting pursuant to subdivision A 1 of § 2.2-3711 and deliver an evaluation of the chief executive officer's performance. Any change to the chief executive officer's employment contract during any such meeting or any other meeting of the board shall be made only by a vote of the majority of the board's members;

10. If human research, as defined in § 32.1-162.16, is conducted at the institution, adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research. Such regulations shall require the human research committee to submit to the Governor, the General Assembly, and the chief executive officer of the institution or his designee at least annually a report on the human research projects reviewed and approved by the committee and require the committee to report any significant deviations from approved proposals;

11. Submit and make publicly available on the institution's website the annual financial statements for the fiscal year ending the preceding June 30 and the accounts and status of any ongoing capital projects to the Auditor of Public Accounts for the audit of such statements pursuant to § 30-133;

12. No later than December 1 of each year, report to the Council and make publicly available on the institution's website (i) the value of investments as reflected on the Statement of Net Position as of June 30 of the previous fiscal year, excluding any funds derived from endowment donations, endowment income, or other private philanthropy; (ii) the cash earnings on such balances in the previous fiscal year; and (iii) the use of the cash earnings on such balances. In the event that the commitment of any such investment earnings spans more than one fiscal year, the report shall reflect the commitments made in each future fiscal year. The reports of the Boards of Visitors of Virginia Commonwealth University and the University of Virginia shall exclude the value of and earnings on any investments held by the Virginia Commonwealth University Health System Authority and the University of Virginia Medical Center, respectively. As used in this subdivision, "investments" includes all short-term, long-term, liquid, and illiquid Statement of Net Position accounts, and subaccounts thereof, in which moneys have been invested in securities.*;*

13. Submit to the General Assembly and the Governor and make publicly available on the institution's website an annual executive summary of its interim activity and work no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website;

14. Make available to any interested party upon request a copy of the portion of the most recent report of the Uniform Crime Reporting Section of the Department of State Police entitled "Crime in Virginia" pertaining to institutions of higher education;

15. Adopt policies or institution regulations regarding the ownership, protection, assignment, and use of intellectual property and provide a copy of such policies or institution regulations to the Governor and the Joint Commission on Technology and Science. All employees, including student employees, of public institutions of higher education are bound by the intellectual property policies or institution regulations of the institution employing them;

16. Adopt policies that are supportive of the intellectual property rights of matriculated students who are not employed by such institution; and

17. Solicit the input of representatives of the institution's faculty senate or its equivalent (i) at least twice per academic year on topics of general interest to the faculty and (ii) in advance of decisions to be made on the search for the institution's new chief executive officer.

CHAPTER 537

An Act to amend and reenact § 46.2-772 of the Code of Virginia, relating to highway use fee; reimbursement.

[H 2254]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-772 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-772. (For contingent expiration, see Acts 2020, cc. 1230 and 1275) Highway use fee.

A. Except as provided in subsection C, there is hereby imposed an annual highway use fee on any motor vehicle registered in the Commonwealth under § 46.2-694 or 46.2-697 that is an alternative fuel vehicle, an electric motor vehicle, or a fuel-efficient vehicle. The fee shall be collected by the Department at the time of vehicle registration. If the vehicle is registered for a period of other than one year as provided in § 46.2-646, the highway use fee shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.

B. *1.* For an electric motor vehicle, the highway use fee shall be 85 percent of the amount of taxes paid under subsection A of § 58.1-2217 on fuel used by a vehicle with a combined fuel economy of 23.7 miles per gallon for the average number of miles traveled by a passenger vehicle in the Commonwealth, as determined by the Commissioner. For all other fuel-efficient vehicles, the highway use fee shall be 85 percent of the difference between the tax paid under subsection A of § 58.1-2217 on the fuel used by a vehicle with a combined fuel economy of 23.7 miles per gallon for the average number of miles traveled by a passenger vehicle in the Commonwealth in a year, as determined by the Commissioner, and the tax paid under subsection A of § 58.1-2217 on the fuel used by the vehicle being registered for the average number of miles traveled by a passenger vehicle in the Commonwealth in a year, as determined by the Commissioner.

For purposes of this chapter, the Commissioner shall use combined fuel economy as determined by the manufacturer of the vehicle. If the Commissioner is unable to obtain the manufacturer's fuel economy for a vehicle, then the Commissioner shall use the final estimate of average fuel economy, as determined by the U.S. Environmental Protection Agency, of (i) all trucks having the same model year as the vehicle being registered, if the vehicle has a gross weight between 6,000 pounds and 10,000 pounds, or (ii) all cars having the same model year as the vehicle. If data is not available for the model year of the vehicle being registered, then the Commissioner shall use available data for the model year that is closest to the model year of the vehicle being registered.

The Commissioner shall update the fees calculated under this section by July 1 of each year.

2. The Department shall establish and administer a process whereby a vehicle owner may contest the fee assessed pursuant to this section. The Department shall reimburse the vehicle owner for any contested fee or portion thereof incorrectly collected pursuant to this section.

C. This section shall not apply to:

1. An autocycle, moped, or motorcycle;

2. A vehicle with a gross weight over 10,000 pounds;

3. A vehicle that is owned by a governmental entity as defined in § 58.1-2201; or

4. A vehicle that is registered under the International Registration Plan.

A vehicle shall not be subject to the fee set forth in this section in any year in which such vehicle is registered to participate in the mileage-based user fee program established pursuant to § 46.2-773.

D. In any case where an applicant has requested and is eligible for a refund pursuant to § 46.2-688, the Commissioner shall refund to the applicant the cost of the highway use fee, prorated in six-month increments, if such application is made when six or more months remain in the registration period.

CHAPTER 538

An Act to amend and reenact §§ 8.01-66.1, 46.2-214.3, 46.2-646, 46.2-646.1, 46.2-706, 46.2-707, 46.2-707.1, 46.2-708, 46.2-902.1, and 46.2-1530 of the Code of Virginia, relating to uninsured motorist fee; repeal.

[S 951]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-66.1, 46.2-214.3, 46.2-646, 46.2-646.1, 46.2-706, 46.2-707, 46.2-707.1, 46.2-708, 46.2-902.1, and 46.2-1530 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-66.1. Remedy for arbitrary refusal of motor vehicle insurance claim.

A. Whenever any insurance company licensed in this Commonwealth to write insurance as defined in § 38.2-124 denies, refuses or fails to pay to its insured a claim of $3,500 or less in excess of the deductible, if any, under the provisions of a policy of motor vehicle insurance issued by such company to the insured and it is subsequently found by the judge of a court of proper jurisdiction that such denial, refusal or failure to pay was not made in good faith, the company shall be liable to the insured in an amount double the amount otherwise due and payable under the provisions of the insured's policy of motor vehicle insurance, together with reasonable attorney's fees and expenses.

The provisions of this subsection shall be construed to include an insurance company's refusal or failure to pay medical expenses to persons covered under the terms of any medical payments coverage extended under a policy of motor vehicle insurance, when the amount of the claim therefor is $3,500 or less and the refusal was not made in good faith.

B. Notwithstanding the provisions of subsection A, whenever any insurance company licensed in this Commonwealth to write insurance as defined in § 38.2-124 denies, refuses or fails to pay to a third party claimant, on behalf of an insured to whom such company has issued a policy of motor vehicle liability insurance, a claim of $3,500 or less made by such third party claimant and if the judge of a court of proper jurisdiction finds that the insured is liable for the claim, the third party claimant shall have a cause of action against the insurance company. If the judge finds that such denial, refusal or failure to pay was not made in good faith, the company, in addition to the liability assumed by the company under the provisions of the insured's policy of motor vehicle liability insurance, shall be liable to the third party claimant in an amount double the amount of the judgment awarded the third party claimant, together with reasonable attorney's fees and expenses.

C. Notwithstanding the provisions of subsections A and B, whenever any person who has ~~paid a fee to the Department of Motor Vehicles to register an uninsured motor vehicle pursuant to § 46.2-706 or any person who has~~ furnished proof of financial responsibility in lieu of obtaining a policy or policies of motor vehicle liability insurance pursuant to the provisions of Title 46.2 or any person who is required and has failed ~~either to pay such fee or~~ to furnish such proof pursuant to the provisions of Title 46.2 denies, refuses, or fails to pay to a claimant a claim of $3,500 or less made by such claimant as a result of a motor vehicle accident~~;~~, and if the trial judge of a court of proper jurisdiction finds that such denial, refusal, or failure to pay was not made in good faith, such person shall be liable to the claimant in an amount double the amount otherwise due and payable together with reasonable ~~attorney's~~ *attorney* fees and expenses.

For the purposes of this subsection ~~C~~, "person" ~~shall mean~~ *means* and ~~include~~ *includes* any natural person, firm, partnership, association, or corporation.

D. 1. Whenever a court of proper jurisdiction finds that an insurance company licensed in this Commonwealth to write insurance as defined in § 38.2-124 denies, refuses or fails to pay to its insured a claim of more than $3,500 in excess of the deductible, if any, under the provisions of a policy of motor vehicle insurance issued by such company to the insured and it is subsequently found by the judge of a court of proper jurisdiction that such denial, refusal or failure to pay was not made in good faith, the company shall be liable to the insured in the amount otherwise due and payable under the provisions of the insured's policy of motor vehicle insurance, plus interest on the amount due at double the rate provided in § 6.2-301 from the date that the claim was submitted to the insurer or its authorized agent, together with reasonable attorney's fees and expenses.

2. The provisions of this subsection shall be construed to include an insurance company's refusal or failure to pay medical expenses to persons covered under the terms of any medical payments coverage extended under a policy of motor vehicle insurance when the refusal was not made in good faith.

§ 46.2-214.3. Discount for multiyear registration.

A. Pursuant to subsection C of § 46.2-646, for each motor vehicle, trailer, or semitrailer registered, the Commissioner may offer, at his discretion, a discount for multiyear registrations of such vehicles. The discount shall be equal to $1 for each year of the multiyear registration or fraction thereof. The discount shall not be applicable to any motor vehicle, trailer, or semitrailer registered ~~(i)~~ under the International Registration Plan ~~or (ii) as an uninsured motor vehicle~~. When this option is offered and chosen by the registrant, all annual and 12-month fees due at the time of registration shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.

B. In addition to the discount authorized in subsection A, for the renewal of registration of each motor vehicle, trailer, or semitrailer pursuant to § 46.2-646, the Commissioner shall offer a discount for renewal when such registration renewal is conducted using the Internet. The discount shall be equal to $1. The discount shall not apply to any motor vehicle, trailer, or semitrailer registered ~~(i)~~ under the International Registration Plan ~~or (ii) as an uninsured motor vehicle~~.

§ 46.2-646. Expiration and renewal of registration.

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

B. All motor vehicles, trailers, and semitrailers registered in the Commonwealth shall, at the discretion of the Commissioner, be placed in a system of registration on a monthly basis to distribute the work of registering motor vehicles as uniformly as practicable throughout the 12 months of the year. All such motor vehicles, trailers, and semitrailers, unless otherwise provided, shall be registered for a period of 12 months. The registration shall be extended, at the discretion of the Commissioner, on receipt of appropriate prorated fees, as required by law, for a period of not less than one month nor more than 11 months as is necessary to distribute the registrations as equally as practicable on a monthly basis. The Commissioner shall, on request, assign to any owner or owners of two or more motor vehicles, trailers, or semitrailers the same registration period. The expiration date shall be the last day of the twelfth month or the last day of the designated month. Except for motor vehicles, trailers, and semitrailers registered for more than one year under subsection C of this section, every registration shall be renewed annually on application by the owner and by payment of fees required by law, the renewal to take effect on the first day of the succeeding month.

C. The Commissioner may offer, at his discretion, an optional multi-year registration for all motor vehicles, trailers, and semitrailers except for ~~(i)~~ those registered under the International Registration Plan ~~and (ii) those registered as uninsured motor vehicles~~. When this option is offered and chosen by the registrant, all annual and 12-month fees due at the time of registration shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.

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

E. No law-enforcement officer shall stop a motor vehicle due to an expired registration sticker prior to the first day of the fourth month after the original expiration date. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.

§ 46.2-646.1. Deactivation and reactivation of registration; fees.

A. The owner of a motor vehicle that has been registered in the Commonwealth may apply to the Commissioner to deactivate the registration of such vehicle. The owner of a motor vehicle who has voluntarily deactivated the vehicle's registration pursuant to this section shall not be required, with respect to such vehicle, to carry bodily injury liability insurance or property damage insurance~~, or to pay the uninsured motor vehicle fee as provided under § 46.2-706~~.

It shall be unlawful to operate any motor vehicle whose registration has been deactivated on any highway in the Commonwealth.

B. Any person having a motor vehicle for which registration has been deactivated under subsection A may apply to the Commissioner to reactivate the registration of such vehicle. Every applicant for reactivation of registration shall furnish the Commissioner with such evidence as is required under § 46.2-649 and shall ~~either (i)~~ execute and furnish to the Commissioner his certificate that the motor vehicle for which registration is to be reactivated is an insured motor vehicle as defined in § 46.2-705, or that the Commissioner has issued to its owner, in accordance with § 46.2-368, a certificate of self-insurance applicable to the vehicle ~~or (ii) pay the uninsured motor vehicle fee required by § 46.2-706, which shall be disposed of as provided by § 46.2-710~~. The fee to be paid to the Department for the reactivation of a motor vehicle's registration shall be $10 unless the vehicle's registration has expired or the vehicle is registered under the International Registration Plan.

§ 46.2-706. Proof of insurance required of applicants for registration of motor vehicles; verification of insurance; suspension of driver's license, registration certificates, and license plates for certain violations.

A. ~~In addition to any other fees prescribed by law, every person registering an uninsured motor vehicle, as defined in § 46.2-705, at the time of registering or reregistering the uninsured vehicle, shall pay a fee of $500; however, if the uninsured motor vehicle is being registered for a period of less than a full year, the uninsured motor vehicle fee shall be prorated for the unexpired portion of the registration period. If the vehicle is a motor vehicle being registered as provided in subsection B of § 46.2-697, the fee shall be one-fourth of the annual uninsured motor vehicle fee for each quarter for which the vehicle is registered.~~

~~B. If the owner of a motor vehicle registered under this article as an uninsured motor vehicle, during the period for which such vehicle is registered, obtains insurance coverage adequate to permit such vehicle's registration as an insured motor vehicle and presents evidence satisfactory to the Commissioner of the existence of such insurance coverage, the Commissioner shall amend the Department's records to show such vehicle to be registered as an insured motor vehicle and shall refund to the owner a prorated portion of the additional fee required by this section for registration of an uninsured motor vehicle. Such proration shall be on a monthly basis, except that no such refund shall be made (i) as to any registration during the last three months of its validity or (ii) on any portion of any such fee required to be paid resulting from a determination by the Department or any court that a vehicle was uninsured and no fee had been paid.~~

~~C.~~ Every person applying for registration of a motor vehicle ~~and declaring it to be an insured motor vehicle~~ shall, under the penalties set forth in § 46.2-707, execute and furnish to the Commissioner his certificate that the motor vehicle is an insured motor vehicle as defined in § 46.2-705, or that the Commissioner has issued to its owner, in accordance with § 46.2-368, a certificate of self-insurance applicable to the vehicle sought to be registered. The Commissioner, or his duly authorized agent, may verify that the motor vehicle is properly insured by comparing owner and vehicle identification information on file at the Department of Motor Vehicles with liability information on the owner and vehicle transmitted to the Department by any insurance company licensed to do business in the Commonwealth as provided in § 46.2-706.1. If no record of liability insurance is found, the Department may require the motor vehicle owner to verify insurance in a method prescribed by the Commissioner.

~~D.~~ *B.* The refusal or neglect of any owner within 30 days to submit the liability insurance information when required by the Commissioner or his duly authorized agent, or the electronic notification by the insurance company or surety company that the policy or bond named in the certificate of insurance is not in effect, shall require the Commissioner to suspend any driver's license and all registration certificates and license plates issued to the owner of the motor vehicle until the person (i) has paid to the Commissioner a noncompliance fee of $600 to be disposed of as provided for in § 46.2-710 and (ii) furnishes proof of financial responsibility for the future in the manner prescribed in Article 15 (§ 46.2-435 et seq.) of Chapter 3. No order of suspension required by this section shall become effective until the Commissioner has offered the person an opportunity for an administrative hearing to show cause why the order should not be enforced. Notice of the opportunity for an administrative hearing may be included in the order of suspension. Any request for an administrative hearing made by such person must be received by the Department within 180 days of the issuance date of the order of suspension unless the person presents to the Department evidence of military service as defined by the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.), incarceration, commitment, hospitalization, or physical presence outside the United States at the time the order of suspension was issued. When three years have elapsed from the effective date of the suspension required in this section, the Commissioner may relieve the person of the requirement of furnishing proof of future financial responsibility.

~~E.~~ *C.* The Commissioner shall suspend the driver's license and all registration certificates and license plates of any person on receiving a record of his conviction of a violation of any provisions of § 46.2-707, but the Commissioner shall dispense with the suspension when the person is convicted for a violation of § 46.2-707 and the Department's records show conclusively that the motor vehicle was insured ~~or that the fee applicable to the registration of an uninsured motor vehicle has been paid by the owner~~ prior to the date and time of the alleged offense.

~~F.~~ *D.* The Commissioner may dispense with a suspension for a violation of this section or § 46.2-708 if the person determined to have committed the violation provides to the Commissioner proof that conclusively shows that the motor vehicle in question was insured at the time the Department initiated insurance monitoring under ~~§ 46.2-706~~ *this section or § 46.2-706.1* or at the time of a violation of § 46.2-708.

§ 46.2-707. Operation of uninsured vehicle; false evidence of insurance; penalty.

Any person who owns an uninsured motor vehicle (i) licensed in the Commonwealth, (ii) subject to registration in the Commonwealth, or (iii) displaying temporary license plates provided for in § 46.2-1558 who operates or permits the operation of that motor vehicle ~~without first having paid to the Commissioner the uninsured motor vehicle fee required by § 46.2-706, to be disposed of as provided by § 46.2-710, shall be~~ *is* guilty of a Class 3 misdemeanor.

Any person who is the operator of such an uninsured motor vehicle and not the titled owner~~,~~ *and* who knows that ~~the required fee has not been paid to the Commissioner, shall be~~ *such motor vehicle is uninsured is* guilty of a Class 3 misdemeanor.

The Commissioner or his duly authorized agent, having reason to believe that a motor vehicle is being operated or has been operated on any specified date, may require the owner of such motor vehicle to verify insurance in a method prescribed by the Commissioner as provided for by § 46.2-706. The refusal or neglect of the owner ~~who has not, prior to the date of operation, paid the uninsured motor vehicle fee required by § 46.2-706 as to such motor vehicle,~~ to provide such verification shall be prima facie evidence that the motor vehicle was an uninsured motor vehicle at the time of such operation.

Any person who falsely verifies insurance to the Commissioner or gives false evidence that a motor vehicle sought to be registered is an insured motor vehicle, shall be guilty of a Class 3 misdemeanor.

However, the foregoing portions of this section shall not be applicable if it is established that the owner had good cause to believe and did believe that such motor vehicle was an insured motor vehicle, in which event the provisions of § 46.2-609 shall be applicable.

Any person who owns an uninsured motor vehicle (i) licensed in the Commonwealth, (ii) subject to registration in the Commonwealth, or (iii) displaying temporary license plates provided for in § 46.2-1558~~, and who has not paid the uninsured motor vehicle fee required by § 46.2-706,~~ shall immediately surrender the vehicle's license plates to the Department, unless the vehicle's registration has been deactivated as provided by § 46.2-646.1. Any person who fails to immediately surrender his vehicle's license plates as required by this section is guilty of a Class 3 misdemeanor.

Abstracts of records of conviction, as defined in this title, of any violation of any of the provisions of this section shall be forwarded to the Commissioner as prescribed by § 46.2-383.

The Commissioner shall suspend the driver's license and all registration certificates and license plates of any titled owner of an uninsured motor vehicle upon receiving a record of his conviction of a violation of any provisions of this section, and he shall not thereafter reissue the driver's license and the registration certificates and license plates issued in the name of such person until such person pays a noncompliance fee of $600 to be disposed of as provided for in § 46.2-710 and furnishes proof of future financial responsibility as prescribed by Article 15 (§ 46.2-435 et seq.) of Chapter 3. However, when three years have elapsed from the date of the suspension herein required, the Commissioner may relieve such person of the requirement of furnishing proof of future financial responsibility. When such suspension results from a conviction for presenting or causing to be presented to the Commissioner false verification as to whether a motor vehicle is an insured motor vehicle or false evidence that any motor vehicle sought to be registered is insured, then the Commissioner shall not thereafter reissue the driver's license and the registration certificates and license plates issued in the name of such person so convicted for a period of 180 days from the date of such order of suspension, and only then when all other provisions of law have been complied with by such person.

The Commissioner shall suspend the driver's license of any person who is the operator but not the titled owner of a motor vehicle upon receiving a record of his conviction of a violation of any provisions of this section and he shall not thereafter reissue the driver's license until 30 days from the date of such order of suspension.

§ 46.2-707.1. Noncompliance fee payment plan.

A. The Department may establish a noncompliance fee payment plan to allow individuals to pay the fees for a motor vehicle determined to be uninsured as prescribed in § 46.2-706, 46.2-707, or 46.2-708. Notwithstanding §§ 46.2-706, 46.2-707, and 46.2-708, an individual 18 years of age or older whose driver's license and vehicle registration have been suspended pursuant to § 46.2-706, 46.2-707, or 46.2-708 may apply to the Department to enter into a payment plan agreement with a duration of no more than three years from the agreement date, referred to in this section as the "payment plan period."

B. To be eligible to enter into the payment plan, the individual must (i) have one or more outstanding suspensions of driving privileges pursuant to the provisions of § 46.2-706, 46.2-707, or 46.2-708 and have no other outstanding suspensions or revocations; (ii) meet all other conditions for reinstatement of driving privileges; and (iii) have not defaulted twice on the same uninsured motor vehicle payment plan agreement.

C. An eligible individual who pays a $25 administrative fee when entering into a payment plan agreement or when reentering into a payment plan agreement with the Department, and pays the reinstatement fee pursuant to §§ 46.2-333.1 and 46.2-411, if required, shall be eligible to have his driving privileges reinstated by the Department.

D. The amount and frequency of each payment and the duration of the payment plan shall be described in the payment plan agreement signed by the Department and the individual. Payments may be made in person, online, by telephone, or by mail. The full fee must be paid in no more than three years from the agreement date; however, an individual may repay the balance of the fee at any time during the payment plan period with no penalty.

E. If an individual defaults on the payment plan agreement, the Commissioner shall suspend the driver's license and all registration certificates and license plates issued to the owner of the motor vehicle determined to be uninsured. Such driver's license, registration certificates, and license plates shall remain suspended until the individual pays the balance of the fee applicable to ~~the registration of an uninsured motor vehicle~~ *his offense* as prescribed in § 46.2-706, 46.2-707, or 46.2-708 and furnishes proof of future financial responsibility as prescribed by Article 15 (§ 46.2-435 et seq.) of Chapter 3. An individual is in default if he (i) pays an installment payment late as defined in the payment plan agreement or (ii) fails to make an installment payment as agreed to in the payment plan agreement. If an individual is in default and is ineligible to reenter the payment plan, full payment of the balance of the fee shall be due as agreed to in the payment plan agreement. The Commissioner may extend the due date of any installment payment for not more than 30 days if the Department is unable to process an installment payment due to circumstances beyond its control.

F. When all fees are paid, the individual shall continue to furnish proof of financial responsibility pursuant to Article 15 (§ 46.2-435 et seq.) of Chapter 3 and § 46.2-709.

G. Installment payments of the fee with respect to the motor vehicle determined to be uninsured shall be disposed of pursuant to § 46.2-710. The administrative fee shall be paid to the Commissioner and deposited into the state treasury account set aside in a special fund to be used to meet the necessary expenses incurred by the Department.

§ 46.2-708. Suspension of driver's license and registration when uninsured motor vehicle is involved in reportable accident; hearing prior to suspension.

When it appears to the Commissioner from the records of his office or from a report submitted by an insurance company licensed to do business in the Commonwealth that an uninsured motor vehicle as defined in § 46.2-705, subject to registration in the Commonwealth, is involved in a reportable accident in the Commonwealth resulting in death, injury, or property damage ~~with respect to which motor vehicle the owner thereof has not paid the uninsured motor vehicle fee as prescribed in § 46.2-706~~, the Commissioner shall, in addition to enforcing the applicable provisions of Article 13 (§ 46.2-417 et seq.) of Chapter 3, suspend such owner's driver's license and all of his license plates and registration certificates until such person has complied with Article 13 of Chapter 3 and has paid to the Commissioner a noncompliance fee of $600, to be disposed of as provided by § 46.2-710, with respect to the motor vehicle involved in the accident and furnishes proof of future financial responsibility in the manner prescribed in Article 15 (§ 46.2-435 et seq.) of Chapter 3. However, no order of suspension required by this section shall become effective until the Commissioner has offered the person an opportunity for an administrative hearing to show cause why the order should not be enforced. Notice of the opportunity for an administrative hearing may be included in the order of suspension. Any request for an administrative hearing made by such person must be received by the Department within 180 days of the issuance date of the order of suspension unless the person presents to the Department evidence of military service as defined by the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.), incarceration, commitment, hospitalization, or physical presence outside the United States at the time the order of suspension was issued.

However, when three years have elapsed from the effective date of the suspension herein required, the Commissioner may relieve such person of the requirement of furnishing proof of future financial responsibility. The presentation by a person subject to the provisions of this section of a certificate of insurance, executed by an agent or representative of an insurance company qualified to do business in this Commonwealth, showing that on the date and at the time of the accident the vehicle was an insured motor vehicle as herein defined~~, or, presentation by such person of evidence that the additional fee applicable to the registration of an uninsured motor vehicle had been paid to the Department prior to the date and time of the accident,~~ shall be sufficient bar to the suspension provided for in this section.

§ 46.2-902.1. Officer may require certain motorists to furnish proof of insurance; penalty.

Any law-enforcement officer present at the scene of a motor vehicle accident as to which a law-enforcement officer is required by § 46.2-373 to file an accident report with the Department may require the operator of any motor vehicle involved in such accident to furnish proof that the vehicle he was operating at the time of such accident was ~~either (i)~~ an insured motor vehicle as defined in § 46.2-705 ~~or (ii) a vehicle for which the fee required by § 46.2-706 for registration of an uninsured vehicle had been paid as to that vehicle~~. Failure to furnish proof of insurance ~~or payment of the uninsured vehicle registration fee~~ when required by a law-enforcement officer as provided in this section within thirty days shall constitute a Class 2 misdemeanor.

§ 46.2-1530. Buyer's order.

A. Every motor vehicle dealer shall complete, in duplicate, a buyer's order for each sale or exchange of a motor vehicle. A copy of the buyer's order form shall be made available to a prospective buyer during the negotiating phase of a sale and prior to any sales agreement. The completed original shall be retained for a period of five years in accordance with § 46.2-1529, and a duplicate copy shall be delivered to the purchaser at the time of sale or exchange. A buyer's order shall include:

1. The name and address of the person to whom the vehicle was sold or traded.

2. The date of the sale or trade.

3. The name and address of the motor vehicle dealer selling or trading the vehicle.

4. The make, model year, vehicle identification number and body style of the vehicle.

5. The sale price of the vehicle.

6. The amount of any cash deposit made by the buyer.

7. A description of any vehicle used as a trade-in and the amount credited the buyer for the trade-in. The description of the trade-in shall be the same as outlined in subdivision 4.

8. The amount of any sales and use tax, title fee~~, uninsured motor vehicle fee~~, registration fee, purchaser's online systems filing fee, or other fee required by law for which the buyer is responsible and the dealer has collected. Each tax and fee shall be individually listed and identified.

9. The net balance due at settlement.

10. Any item designated as "processing fee," and the amount charged by the dealer, if any, for processing the transaction. As used in this section, processing includes obtaining title and license plates for the purchaser, but does not include any "purchaser's online systems filing fee," as defined in § 46.2-1530.1, or any "dealer's manual transaction fee," as defined in § 46.2-1530.2.

11. Any item designated as "dealer's business license tax," and the amount charged by the dealer, if any.

12. If the dealer delivers to the customer a vehicle purchased by the customer on or after July 1, 2010, that is conditional on dealer-arranged financing, the following notice, printed in bold type no less than 10 point: "IF YOU ARE FINANCING THIS VEHICLE, PLEASE READ THIS NOTICE: YOU ARE PROPOSING TO ENTER INTO A RETAIL INSTALLMENT SALES CONTRACT WITH THE DEALER. PART OF YOUR CONTRACT INVOLVES FINANCING THE PURCHASE OF YOUR VEHICLE. IF YOU ARE FINANCING THIS VEHICLE AND THE DEALER INTENDS

TO TRANSFER YOUR FINANCING TO A FINANCE PROVIDER SUCH AS A BANK, CREDIT UNION OR OTHER LENDER, YOUR VEHICLE PURCHASE DEPENDS ON THE FINANCE PROVIDER'S APPROVAL OF YOUR PROPOSED RETAIL INSTALLMENT SALES CONTRACT. IF YOUR RETAIL INSTALLMENT SALES CONTRACT IS APPROVED WITHOUT A CHANGE THAT INCREASES THE COST OR RISK TO YOU OR THE DEALER, YOUR PURCHASE CANNOT BE CANCELLED. IF YOUR RETAIL INSTALLMENT SALES CONTRACT IS NOT APPROVED, THE DEALER WILL NOTIFY YOU VERBALLY OR IN WRITING. YOU CAN THEN DECIDE TO PAY FOR THE VEHICLE IN SOME OTHER WAY OR YOU OR THE DEALER CAN CANCEL YOUR PURCHASE. IF THE SALE IS CANCELLED, YOU NEED TO RETURN THE VEHICLE TO THE DEALER WITHIN 24 HOURS OF VERBAL OR WRITTEN NOTICE IN THE SAME CONDITION IT WAS GIVEN TO YOU, EXCEPT FOR NORMAL WEAR AND TEAR. ANY DOWN PAYMENT OR TRADE-IN YOU GAVE THE DEALER WILL BE RETURNED TO YOU. IF YOU DO NOT RETURN THE VEHICLE WITHIN 24 HOURS OF VERBAL OR WRITTEN NOTICE OF CANCELLATION, THE DEALER MAY LOCATE THE VEHICLE AND TAKE IT BACK WITHOUT FURTHER NOTICE TO YOU AS LONG AS THE DEALER FOLLOWS THE LAW AND DOES NOT CAUSE A BREACH OF THE PEACE WHEN TAKING THE VEHICLE BACK. IF THE DEALER DOES NOT RETURN YOUR DOWN PAYMENT AND ANY TRADE-IN WHEN THE DEALER GETS THE VEHICLE BACK IN THE SAME CONDITION IT WAS GIVEN TO YOU, EXCEPT FOR NORMAL WEAR AND TEAR, THE DEALER MAY BE LIABLE TO YOU UNDER THE VIRGINIA CONSUMER PROTECTION ACT."

13. For sales of used motor vehicles, the disclosure required by § 46.2-1529.1.

Except for trailers and travel trailers, if the transaction does not include a policy of motor vehicle liability insurance, the seller shall stamp or mark on the face of the bill of sale in boldface letters no smaller than 18-point type the following words: "No Liability Insurance Included."

A completed buyer's order when signed by both buyer and seller may constitute a bill of sale.

B. The Board shall approve a buyer's order form and each dealer shall file with each original license application its buyer's order form, on which the processing fee amount is stated.

C. If a processing fee is charged, that fact and the amount of the processing fee shall be disclosed by the dealer. Disclosure shall be by placing a clear and conspicuous sign in the public sales area of the dealership. The sign shall be no smaller than eight and one-half inches by 11 inches and the print shall be no smaller than one-half inch, and in a form as approved by the Board.

D. Except for trailers, if the buyer's order is for a new motor vehicle that had accumulated, at the time of the sale, mileage in excess of 750 miles as a demonstrator or as a result of delivery to a prospective purchaser who never took title to the new motor vehicle and returned it, the vehicle may be sold as new, provided the dealer delivers this disclosure in writing on the buyer's order containing type of no smaller than 10 point or in a separate document containing only the disclosure in type of no smaller than 14 point: "Notice: This new motor vehicle has accumulated mileage in excess of 750 miles as the result of use as a demonstrator and/or as the result of delivery to a prior prospective purchaser who never took title to it and who returned it." When delivered as a separate document, this disclosure shall also contain the actual odometer reading for the vehicle and shall be signed by the purchaser.

E. The provisions of this section shall not apply to the sale or exchange of (i) a tractor truck, (ii) a truck having a gross vehicle weight rating of 16,000 pounds or more, or (iii) a semitrailer.

2. That the Commissioner of the Department of Motor Vehicles shall begin verifying the insurance coverage of any vehicle owner who has previously paid the uninsured motorist fee and has not verified insurance pursuant to § 46.2-706 of the Code of Virginia, as amended in this act, or been issued a certificate of self-insurance pursuant to § 46.2-368 of the Code of Virginia.

3. That the provisions of the first and second enactments of this act shall become effective July 1, 2024.

4. That the Commissioner of the Department of Motor Vehicles may continue to register uninsured vehicles as provided in § 46.2-706 of the Code of Virginia prior to the effective date of this act, but any such registration shall expire prior to July 1, 2024. Such registration may be renewed prior to July 1, 2024, if the vehicle owner provides proof of insurance pursuant to § 46.2-706 of the Code of Virginia or has been issued a certificate of self-insurance pursuant to § 46.2-368 of the Code of Virginia.

CHAPTER 539

An Act to amend and reenact §§ 46.2-740, 46.2-741, 46.2-742.4, 46.2-743, 46.2-744, 46.2-746.1, 46.2-746.2:2, 46.2-746.2:3, 46.2-746.2:4, 46.2-746.2:6, 46.2-746.3, 46.2-746.5, and 46.2-749.46 of the Code of Virginia, relating to special license plates; military service; unremarried surviving spouses.

[H 2246]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-740, 46.2-741, 46.2-742.4, 46.2-743, 46.2-744, 46.2-746.1, 46.2-746.2:2, 46.2-746.2:3, 46.2-746.2:4, 46.2-746.2:6, 46.2-746.3, 46.2-746.5, and 46.2-749.46 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-740. Special license plates for survivors of Battle of Chosin Reservoir.

On receipt of an application and written evidence that the applicant is a survivor of the Battle of Chosin Reservoir, the Commissioner shall issue special license plates to the applicant.

The provisions of subdivisions 1 and 2 of subsection B of § 46.2-725 shall not apply to license plates issued under this section.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-741. Special license plates for survivors of attack on Pearl Harbor; fees.

On receipt of an application and written evidence that the applicant is an honorably discharged former member of one of the armed forces of the United States and, while serving in the armed forces of the United States, was present during the attack on the island of Oahu, Territory of Hawaii, on December 7, 1941, between the hours of 7:55 a.m. and 9:45 a.m., Hawaii time, the Commissioner shall issue to the applicant special license plates identifying the vehicle as registered to a Pearl Harbor survivor.

For each set of license plates issued under this section, the Commissioner shall charge, in addition to the prescribed cost of state license plates, a one-time fee of ten dollars at the time the plates are issued.

The provisions of subdivisions 1 and 2 of subsection B of § 46.2-725 shall not apply to license plates issued under this section.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-742.4. Special license plates for persons awarded the Combat Infantryman Badge.

On receipt of an application and written evidence that the applicant has been awarded the Combat Infantryman Badge, the Commissioner shall issue to the applicant special license plates.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-743. Special license plates for active duty members of the armed forces of the United States and certain veterans; fees.

A. On receipt of an application and written evidence that the applicant is an honorably discharged former member of one of the armed forces of the United States, the Commissioner shall issue to the applicant special license plates. *Unremarried surviving spouses of persons eligible to receive special license plates under this subsection may also be issued special license plates under this subsection.*

B. On receipt of an application and written evidence that the applicant is on active duty with, has been honorably discharged after at least six months of active duty service in, or has retired from the United States Marine Corps, the Commissioner shall issue to the applicant special license plates whose design incorporates an emblem of the United States Marine Corps. Unremarried surviving spouses of persons eligible to receive special license plates under this subsection may also be issued special license plates under this subsection.

C. On receipt of an application and written evidence that the applicant is on active duty with, has been honorably discharged after at least six months of active duty service in, or has retired from the United States Army, the Commissioner shall issue to the applicant special license plates whose design incorporates an emblem of the United States Army. *Unremarried surviving spouses of persons eligible to receive special license plates under this subsection may also be issued special license plates under this subsection.*

D. On receipt of an application and written evidence that the applicant is on active duty with, has been honorably discharged after at least six months of active duty service in, or has retired from the United States Coast Guard, the Commissioner shall issue to the applicant special license plates whose design incorporates an emblem of the United States Coast Guard. Unremarried surviving spouses of persons eligible to receive special license plates under this subsection may also be issued special license plates under this subsection.

E. On receipt of an application and written evidence that the applicant is on active duty with, has been honorably discharged after at least six months of active duty service in, or has retired from the United States Navy, the Commissioner shall issue to the applicant special license plates whose design incorporates an emblem of the United States Navy. Unremarried surviving spouses of persons eligible to receive special license plates under this subsection may also be issued special license plates under this subsection. The annual fee for plates issued pursuant to this subsection shall be $25 in addition to the prescribed fee for state license plates. For each such $25 fee collected in excess of 1,000 registrations pursuant to this subsection, $15 shall be paid into the state treasury and credited to a special nonreverting fund known as the Navy-Marine Corps Relief Society Fund established within the Department of Accounts. These funds shall be paid annually to the Navy-Marine Corps Relief Society and used to support its operation and programs in Virginia. All other fees imposed under the provisions of this subsection shall be paid to, and received by, the Commissioner of the Department of Motor Vehicles and paid by him into the state treasury and set aside as a special fund to be used to meet the necessary expenses incurred by the Department of Motor Vehicles.

F. All special license plates that have been developed and issued pursuant to subsection B, C, D, or E shall also be issued to applicants who can provide documentation from the U.S. Department of Veterans Affairs indicating that the applicant has been designated disabled, and that his disability is service-connected, and that he has been honorably discharged from a branch of the armed forces of the United States.

G. On receipt of an application and written evidence that the applicant is a veteran of World War II, the Commissioner shall issue special license plates to veterans of World War II. For each set of license plates issued under this subsection, the Commissioner shall charge, in addition to the prescribed cost of state license plates, a one-time fee of $10 at the time the plates are issued. *Unremarried surviving spouses of persons eligible to receive special license plates under this subsection may also be issued special license plates under this subsection.*

H. On receipt of an application and written evidence that the applicant is a veteran of the Korean War, the Commissioner shall issue special license plates to veterans of the Korean War. *Unremarried surviving spouses of persons eligible to receive special license plates under this subsection may also be issued special license plates under this subsection.*

I. On receipt of an application and written evidence that the applicant is a veteran of the Vietnam War, the Commissioner shall issue special license plates to veterans of the Vietnam War. *Unremarried surviving spouses of persons eligible to receive special license plates under this subsection may also be issued special license plates under this subsection.*

J. On receipt of an application and written evidence that the applicant is a veteran of the Asiatic-Pacific Campaign, the Commissioner shall issue special license plates to veterans of that campaign. For each set of license plates issued under this subsection, the Commissioner shall charge, in addition to the prescribed cost of state license plates, a one-time fee of $10 at the time the plates are issued. *Unremarried surviving spouses of persons eligible to receive special license plates under this subsection may also be issued special license plates under this subsection.*

K. On receipt of an application and written evidence that the applicant is a veteran of Operation Iraqi Freedom, the Commissioner shall issue special license plates to veterans of Operation Iraqi Freedom. *Unremarried surviving spouses of persons eligible to receive special license plates under this subsection may also be issued special license plates under this subsection.*

L. On receipt of an application and written evidence that the applicant is a veteran of Operation Enduring Freedom, the Commissioner shall issue special license plates to veterans of Operation Enduring Freedom. *Unremarried surviving spouses of persons eligible to receive special license plates under this subsection may also be issued special license plates under this subsection.*

M. On receipt of an application and written evidence that the applicant is a member of the Virginia Defense Force, the Commissioner shall issue special license plates to members of the Virginia Defense Force. *Unremarried surviving spouses of persons eligible to receive special license plates under this subsection may also be issued special license plates under this subsection.*

N. On receipt of an application and written evidence that the applicant is a veteran of Operation Desert Shield or Operation Desert Storm, the Commissioner shall issue special license plates to veterans of those military operations. *Unremarried surviving spouses of persons eligible to receive special license plates under this subsection may also be issued special license plates under this subsection.*

O. The provisions of subdivisions B 1 and B 2 of § 46.2-725 shall not apply to license plates issued under subsections G, H, J, K, L, M, and N.

§ 46.2-744. Special license plates for members of National Guard; fees.

On receipt of an application and written confirmation that the applicant is a member of the National Guard, the Commissioner shall issue to the applicant special license plates.

No fee shall be charged for license plates issued under this section to a member of the Virginia National Guard for any one motor vehicle owned and used personally by the applicant, unless the plates bear reserved numbers or letters as provided for in § 46.2-726. In this latter case, the fee for the issuance of license plates shall be the same as for those issued under § 46.2-726. For each additional set of license plates issued to an applicant under this section, the Commissioner shall charge the prescribed fee for state license plates.

The fee for members of non-Virginia National Guard units shall be ten dollars per year plus the prescribed cost for state license plates, unless the plates bear reserved numbers or letters as provided for in § 46.2-726. In this latter case, such license plates shall be subject to an additional charge of ten dollars per year for the reserved numbers or letters.

The provisions of subdivisions 1 and 2 of subsection B of § 46.2-725 shall not apply to license plates issued under this section.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-746.1. Special license plates for members of military assault forces.

On receipt of an application and written evidence that the applicant is or has been, while serving in the armed forces of the United States, a member of a military assault force, the Commissioner shall issue to the applicant special license plates. For the purposes of this section, a military assault force is a unit or element of the armed forces of the United States engaged in or charged with the invasion or capture of territory under the control of enemy forces.

The provisions of subdivisions 1 and 2 of subsection B of § 46.2-725 shall not apply to license plates issued under this section.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-746.2:2. Special license plates; members and former members of the 173rd Airborne Brigade.

On receipt of an application therefor and presentation of written evidence that the applicant is a member or former member of the 173rd Airborne Brigade, the Commissioner shall issue to the applicant special license plates.

The provisions of subdivisions 1 and 2 of subsection B of § 46.2-725 shall not apply to license plates issued under this section.

No license plates shall be issued under this section unless and until a one-time fee of $3,500 shall have been paid to the Commissioner.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-746.2:3. Members and former members of the 3rd Infantry Regiment (Old Guard).

On receipt of an application therefor and presentation of written evidence that the applicant is a member or former member of the 3rd Infantry Regiment (Old Guard), the Commissioner shall issue special license plates to members and former members of the 3rd Infantry Regiment (Old Guard).

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-746.2:4. Members of the Special Forces Association; fee.

On receipt of an application therefor and presentation of written evidence that the applicant is a member of the Special Forces Association, the Commissioner shall issue to the applicant special license plates.

The provisions of subdivisions B 1 and 2 of § 46.2-725 shall not apply to license plates issued under this section.

No license plates provided for in this section shall be issued unless and until the Commissioner receives at least 50 prepaid applications therefor and payment of a one-time fee of $3,500, less the total amount of $10 annual fees collected from the prepaid applications received.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-746.2:6. Special license plates; members of the Veterans of Foreign Wars of the United States organization.

On receipt of an application therefor and presentation of written evidence that the applicant is a member of the Veterans of Foreign Wars of the United States organization, the Commissioner shall issue special license plates to the applicant.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-746.3. Special license plates for members or veterans of certain military reserve organizations.

The Commissioner, on application therefor, shall issue special license plates to members or veterans of the Air Force Reserve, the Army Reserve, the Coast Guard Reserve, the Marine Reserve, and the Naval Reserve. Such special license plates may, when feasible, bear decals or stickers identifying the reserve organization of which the applicant is or was a member.

The provisions of subdivision B 2 of § 46.2-725 shall not apply to license plates issued under this section.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-746.5. Special license plates for National Guard retirees; fees.

On receipt of an application and written evidence that the applicant is a retired member of the National Guard, the Commissioner shall issue special license plates to National Guard retirees.

No fee shall be charged for license plates issued under the provisions of this section to retired members of the Virginia National Guard.

The fee for non-Virginia National Guard retirees shall be $10 per year plus the prescribed cost for state license plates, unless the plates bear reserved numbers or letters as provided for in § 46.2-726. In this latter case, such license plates shall be subject to an additional charge of $10 per year for the reserved numbers or letters.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

§ 46.2-749.46. Special license plates; naval aviators.

On receipt of an application and written evidence that the applicant is or has been a naval aviator, the Commissioner shall issue to the applicant special license plates.

Unremarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.

CHAPTER 540

An Act to amend and reenact §§ 64.2-2019 and 64.2-2020 of the Code of Virginia, relating to guardianship; duties of guardian; visitation requirements.

[H 2028]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 64.2-2019 and 64.2-2020 of the Code of Virginia are amended and reenacted as follows:

§ 64.2-2019. Duties and powers of guardian.

A. A guardian stands in a fiduciary relationship to the incapacitated person for whom he was appointed guardian and may be held personally liable for a breach of any fiduciary duty to the incapacitated person. A guardian shall not be liable for the acts of the incapacitated person unless the guardian is personally negligent. A guardian shall not be required to expend personal funds on behalf of the incapacitated person.

B. A guardian's duties and authority shall not extend to decisions addressed in a valid advance directive or durable power of attorney previously executed by the incapacitated person. A guardian may seek court authorization to revoke, suspend, or otherwise modify a durable power of attorney, as provided by the Uniform Power of Attorney Act (§ 64.2-1600 et seq.). Notwithstanding the provisions of the Health Care Decisions Act (§ 54.1-2981 et seq.) and in accordance with the procedures of § 64.2-2012, a guardian may seek court authorization to modify the designation of an agent under an advance directive, but the modification shall not in any way affect the incapacitated person's directives concerning the provision or refusal of specific medical treatments or procedures.

C. A guardian shall maintain sufficient contact with the incapacitated person to know of his capabilities, limitations, needs, and opportunities *and as needed to comply with the duties imposed upon him pursuant to the order of appointment and this section and any other provision of law*. The guardian shall visit the incapacitated person as often as necessary *and at least three times per year, with at least one visit occurring every 120 days. Except as otherwise provided in subsection C1, of the three required visits, at least two visits shall be conducted by the guardian. The guardian shall conduct at least one of such visits in person; the second such visit may be conducted by the guardian via virtual conference or video call between the guardian and incapacitated person, provided that the technological means by which such conference or call can take place are readily available.*

The remaining visit may be conducted (i) by the guardian; (ii) by a person other than the guardian, including (a) a family member or friend monitored by the guardian or (b) a skilled professional retained by the guardian to perform guardianship duties on behalf of the guardian and who is experienced in the care of individuals, including older adults or adults with disabilities; or (iii) via virtual conference or video call between either the guardian or such family member or friend monitored by the guardian or skilled professional and the incapacitated person, provided that the technological means by which such conference or call can take place are readily available. If a person other than the guardian conducts any such visit, he shall provide a written report to the guardian regarding any visit conducted by such person.

A telephone call shall meet the requirements of this subsection only if such technological means are not readily available.

C1. If for reasons outside the guardian's control the guardian cannot make an in-person visit to an incapacitated person, then such visit may be conducted in person by an individual designated by the guardian pursuant to subsection C. If either the guardian or such individual designated by the guardian is unable to conduct an in-person visit, then such visit may be conducted virtually through electronic means such as a virtual conference or video call, or, if such technological means are not readily available, by telephone.

C2. In the event of a state of emergency or public health crisis in which a facility in which the incapacitated person resides is not allowing in-person visitation, visitation requirements required pursuant to subsection C may be met via a virtual conference or video call between the guardian and incapacitated person, to the extent feasible for the facility to provide the technological means by which such conference or call can take place. A telephone call shall meet the requirements of this subsection only if such technological means are not readily available.

D. A guardian shall be required to seek prior court authorization to change the incapacitated person's residence to another state, to terminate or consent to a termination of the person's parental rights, or to initiate a change in the person's marital status.

E. A guardian shall, to the extent feasible, encourage the incapacitated person to participate in decisions, to act on his own behalf, and to develop or regain the capacity to manage personal affairs. A guardian, in making decisions, shall consider the expressed desires and personal values of the incapacitated person to the extent known and shall otherwise act in the incapacitated person's best interest and exercise reasonable care, diligence, and prudence. A guardian shall not unreasonably restrict an incapacitated person's ability to communicate with, visit, or interact with other persons with whom the incapacitated person has an established relationship.

F. A guardian shall have authority to make arrangements for the funeral and disposition of remains, including cremation, interment, entombment, memorialization, inurnment, or scattering of the cremains, or some combination thereof, if the guardian is not aware of any person that has been otherwise designated to make such arrangements as set forth in § 54.1-2825. A guardian shall have authority to make arrangements for the funeral and disposition of remains after the death of an incapacitated person if, after the guardian has made a good faith effort to locate the next of kin of the incapacitated person to determine if the next of kin wishes to make such arrangements, the next of kin does not wish to make the arrangements or the next of kin cannot be located. Good faith effort shall include contacting the next of kin identified in the petition for appointment of a guardian. The funeral service licensee, funeral service establishment, registered crematory, cemetery, cemetery operator, or guardian shall be immune from civil liability for any act, decision, or omission resulting from acceptance of any dead body for burial, cremation, or other disposition when the provisions of this section are met, unless such acts, decisions, or omissions resulted from bad faith or malicious intent.

§ 64.2-2020. Annual reports by guardians.

A. A guardian shall file an annual report in compliance with the filing deadlines in § 64.2-1305 with the local department of social services for the jurisdiction where the incapacitated person then resides. The annual report shall be on a form prepared by the Office of the Executive Secretary of the Supreme Court and shall be accompanied by a filing fee of $5. To the extent practicable, the annual report shall be formatted in a manner to encourage standardized and detailed responses from guardians. The local department shall retain the fee in the jurisdiction where the fee is collected for use in the provision of services to adults in need of protection. Within 60 days of receipt of the annual report, the local department shall file a copy of the annual report with the clerk of the circuit court that appointed the guardian, to be placed with the court papers pertaining to the guardianship case. Twice each year the local department shall file with the clerk of the circuit court a list of all guardians who are more than 90 days delinquent in filing an annual report as required by this section. If the guardian is also a conservator, a settlement of accounts shall also be filed with the commissioner of accounts as provided in § 64.2-1305.

B. The annual report to the local department of social services shall include:

1. A description of the current mental, physical, and social condition of the incapacitated person, including any change in diagnosis or assessment of any such condition of such incapacitated person by any medical provider since the last report;

2. A description of the incapacitated person's living arrangements during the reported period, including a specific assessment of the adequacy of such living arrangement;

3. The medical, educational, vocational, social, recreational, and any other professional services and activities provided to the incapacitated person and the guardian's opinion as to the adequacy of the incapacitated person's care. The information required by this subdivision shall include (i) the specific names of the medical providers that have treated the incapacitated person and a description of the frequency or number of times the incapacitated person was seen by such providers; (ii) the date and location of and reason for any hospitalization of such incapacitated person; and (iii) a description of the educational, vocational, social, and recreational activities in which such incapacitated person participated;

4. A statement of whether the guardian agrees with the current treatment or habilitation plan;

5. A statement of whether the incapacitated person has been an alleged victim in a report of abuse, neglect, or exploitation made pursuant to Article 2 (§ 63.2-1603 et seq.) of Chapter 16 of Title 63.2, to the extent known, and whether there are any other indications of abuse, neglect, or exploitation of such incapacitated person;

6. A recommendation as to the need for continued guardianship and any recommended changes in the scope of the guardianship;

7. The name of any persons whose access to communicate, visit, or interact with the incapacitated person has been restricted and the reasons for such restriction;

8. A self-assessment by the guardian as to whether he feels he is able to continue to carry out the powers and duties imposed upon him by § 64.2-2019 and as specified in the court's order of appointment pursuant to § 64.2-2009;

9. Unless the incapacitated person resides with the guardian, a statement of the frequency and nature of any (i) in-person visits from the guardian with the incapacitated person over the course of the previous year and (ii) visits over the course of the previous year from a designee who is directly supervised or contracted by the guardian, including the name of the designee performing such visit. If any visit described in this section is made virtually, the guardian shall include such information in the annual report;

10. If no visit is made within a ~~six-month~~ *120-day* period, the guardian shall describe any challenges or limitations in completing such visit;

11. A general description of the activities taken on by the guardian for the benefit of the incapacitated person during the past year;

12. Any other information deemed necessary by the Office of the Executive Secretary of the Supreme Court of Virginia or the Department for Aging and Rehabilitative Services to understand the condition, treatment, and well-being of the incapacitated person;

13. Any other information useful in the opinion of the guardian; and

14. The compensation requested and the reasonable and necessary expenses incurred by the guardian.

The guardian shall certify by signing under oath that the information contained in the annual report is true and correct to the best of his knowledge. If a guardian makes a false entry or statement in the annual report, he shall be subject to a civil penalty of not more than $500. Such penalty shall be collected by the attorney for the Commonwealth or the county or city attorney, and the proceeds shall be deposited into the general fund.

C. If the local department of social services files notice that the annual report has not been timely filed in accordance with subsection A with the clerk of the circuit court, the court may issue a summons or rule to show cause why the guardian has failed to file such annual report.

CHAPTER 541

An Act to amend and reenact §§ 57-18 and 57-21 of the Code of Virginia, relating to unincorporated bodies, societies, groups, associations, or posts; appointment of trustees.

[S 1341]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 57-18 and 57-21 of the Code of Virginia are amended and reenacted as follows:

§ 57-18. Conveyance for charitable purpose to unincorporated bodies, societies, groups, associations, or posts.

In any case where, since June 18, 1914, there has been, or at any time hereafter there may be, *(i)* any gift, grant, or devise of real estate *or personal property* for charitable purposes to an unincorporated body ~~or~~, society, *group, association, or post, including those referenced in § 57-19,* whether such gift, grant, or devise be directly to such body ~~or~~, society, *group, association, or post* or to it in trust for charitable uses, *or (ii) a need for appointment or confirmation of election of trustees for such unincorporated body, society, group, association, or post to effect and promote the purpose and object of such unincorporated body, society, group, association, or post,* trustees ~~to hold the same~~ may, if such unincorporated body ~~or~~, society, *group, association, or post* so elects, be appointed in accordance with the procedure prescribed by § 57-8, and such trustees shall hold the trust subject in accordance with the provisions of §§ 57-11, 57-13, 57-14 ~~and~~, 57-15, *57-15.1, 57-16, and 57-17* in like manner as if such sections had been made expressly applicable to such unincorporated body ~~or~~, society, *group, association, or post*. For the purposes of this section, the words church, society, denomination, congregation, religious congregation, religious body, religious denomination, and religious congregation or organization, appearing in the aforesaid sections, shall be interpreted to refer to such unincorporated body ~~or~~, society, *group, association, or post*.

§ 57-21. May hold personal property through trustees.

Any such *unincorporated body, society, group,* association, *or post referenced in § 57-18 or 57-19* may acquire personal property for its use, and hold the same and any such as it may have heretofore acquired, through the intervention of trustees in whom the legal title shall be vested for its benefit; and the circuit court of the ~~county, or the circuit court of the city,~~ *locality* in which the meetings of such *unincorporated body, society, group,* association, *or post* are usually held, or the judge of such court in vacation, may, on the application of the proper authorities of the *unincorporated body, society, group,* association, *or post,* from time to time, appoint trustees, either where there were or are none, or in place of former trustees, and change those so appointed, as may seem to the court or judge to be proper; and the legal title to such personal property shall be vested in the trustees, for the time being, and their successors, for the use and benefit of the *unincorporated body, society, group,* association, *or post*.

CHAPTER 542

An Act to amend and reenact § 23.1-2904 of the Code of Virginia, relating to Virginia Community College System; duties of State Board for Community Colleges; standardization of health care-related programs.

[S 1286]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-2904 of the Code of Virginia is amended and reenacted as follows:

§ 23.1-2904. State Board; duties.

In addition to the duties of governing boards of public institutions of higher education set forth in Chapter 13 (§ 23.1-1300 et seq.), the State Board shall:

1. Be the state agency with primary responsibility for coordinating workforce training at the postsecondary through the associate degree level, exclusive of the career and technical education programs provided through and administered by the public school system. This responsibility shall not preclude other agencies from also providing such services as appropriate, but these activities shall be coordinated with the comprehensive community colleges;

2. Report on actions that comprehensive community colleges have taken to meet the requirements of § 23.1-2906 in its annual report to the General Assembly on workforce development activities required by the general appropriation act;

3. Prepare and administer a plan providing standards and policies for the establishment, development, and administration of comprehensive community colleges under its authority. It shall determine the need for comprehensive community colleges and develop a statewide plan for their location and a time schedule for their establishment. In the development of such plan, a principal objective is to provide and maintain a system of comprehensive community colleges, as that term is defined in § 23.1-100 to make appropriate educational opportunities and programs available throughout the Commonwealth. In providing these offerings, the State Board shall recognize the need for excellence in all curricula and shall establish and maintain standards appropriate to the various purposes the respective programs are designed to serve;

4. Establish policies providing for the creation of a local community college board for each comprehensive community college established under this chapter and the procedures and regulations under which such local boards shall operate. These boards shall assist in ascertaining educational needs and enlisting community involvement and support and shall perform such other duties as may be prescribed by the State Board;

5. Adhere to the policies of the Council for the coordination of higher education as required by law;

6. Develop a mental health referral policy directing comprehensive community colleges to designate at least one individual at each college to serve as a point of contact with an emergency services system clinician at a local community services board, or another qualified mental health services provider, for the purposes of facilitating screening and referral of students who may have emergency or urgent mental health needs and of assisting the college in carrying out the duties specified by §§ 23.1-802 and 23.1-805. Each comprehensive community college may establish relationships with

community services boards or other mental health providers for referral and treatment of persons with less serious mental health needs;

7. Develop and implement, in coordination with the Council, the Department of Education, and the Virginia Association of School Superintendents, (i) a plan to achieve and maintain the same standards regarding quality, consistency, and level of evaluation and review for dual enrollment courses offered by local school divisions pursuant to § 23.1-907 as are required for all courses taught in the System and (ii) a process and criteria for determining whether any dual enrollment course offered in the Commonwealth that meets or exceeds such standards is transferable to a public institution of higher education as (a) a uniform certificate of general studies program or passport program course credit, (b) a general elective course credit, or (c) a course credit meeting other academic requirements of a public institution of higher education;

8. Prepare and administer a plan to standardize *across all comprehensive community colleges* the courses offered~~,~~ and the quality and content of such courses, ~~offered across all comprehensive community colleges,~~ as well as to standardize the application and registration process at all comprehensive community colleges. Such plan shall allow for a comprehensive community college to provide additional courses, beyond the standard class content offered across the System, that meet specific regional interests and needs. Regional courses shall be subject to the standards of quality applied to all courses offered in the System; ~~and~~

9. *Develop and implement a plan to standardize across all comprehensive community colleges the courses offered for health care-related degree, credential, or licensure programs, excluding any registered nursing programs. Such plan shall include procedures and criteria for (i) standardizing such courses by name, curriculum, coursework, quality, academic rigor, and standard of evaluation; (ii) awarding credit toward the completion of any such health care-related program for any student enrolled in a comprehensive community college; and (iii) standardizing the manner in which academic and clinical hour credits are awarded for such courses to ensure that they are stackable and transferrable across the System; and*

10. Develop and implement accountability measures to periodically, but in no case less than every three years, review the performance of each comprehensive community college to ensure that all standards established by the Board are being met, with a goal of ensuring a consistent quality of education and opportunity across the System. If it is found that such standards are not being met at a particular institution, the Board shall develop a plan for corrective action specific to the issues presented at that institution.

CHAPTER 543

An Act to amend and reenact §§ 6.2-800 and 6.2-874 of the Code of Virginia, relating to financial institutions; certain investments by banks permitted.

[H 1778]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-800 and 6.2-874 of the Code of Virginia are amended and reenacted as follows:

§ 6.2-800. Definitions.

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

"Bank" means a corporation authorized by statute to accept deposits and to hold itself out to the public as engaged in the banking business in the Commonwealth.

"Bankers' bank" means a bank whose shares are owned exclusively by either (i) financial institutions that have or are eligible for insurance of deposits by a federal agency or (ii) financial institution holding companies as defined in § 6.2-700 or savings institution holding companies as defined in § 6.2-1100 owning any financial institution described in clause (i), provided that no such financial institution or holding company owns, directly or indirectly, more than five percent of the issued and outstanding voting shares of any bankers' bank.

"Bank holding company" means any corporation (i) that directly or indirectly owns, controls, or holds with power to vote, 25 percent or more of the voting shares of one or more banks or of a corporation that is or becomes a bank holding company by virtue of this definition, (ii) that controls in any manner the election of a majority of the directors of one or more banks, or (iii) for the benefit of whose shareholders or members 25 percent or more of the voting shares of one or more banks or bank holding companies is held by trustees. For the purpose of this definition, any successor to any such corporation shall be deemed to be a bank holding company from the date as of which such successor corporation becomes a bank holding company. Notwithstanding the foregoing, (a) a bank shall not be a bank holding company by virtue of its ownership or control of shares in a fiduciary capacity except where such shares are held for the benefit of the shareholders of such banks, (b) a corporation shall not be a bank holding company by virtue of its ownership or control of its shares acquired by it in connection with its underwriting of securities and which are held only for such period of time as will permit the sale thereof upon a reasonable basis, (c) a corporation formed for the sole purpose of participating in a proxy solicitation shall not be a bank holding company by virtue of its control of voting rights or shares acquired in the course of such solicitation, and (d) a corporation shall not be a bank holding company if at least 80 percent of its total assets are composed of holdings in the field of agriculture.

"Community and economic development entity" has the meaning assigned to it in 12 C.F.R. § 24.2.

"Community-based economic development" means activities that (i) seek to address economic development through affordable housing development or the rehabilitation of qualified rehabilitated buildings or certified historic structures or (ii) seek to address economic causes of poverty in specific geographic areas by revitalizing the economic and social base of low-income communities through activities that include (a) small business and micro-enterprise support; (b) commercial, industrial, and retail revitalization, retention, and expansion; (c) capacity development and technical assistance support for community development corporations; (d) employment and training efforts; (e) human resource development; and (f) social service enterprises.

"Community development corporation" means a private, nonprofit corporation whose board of directors is composed primarily of community representatives or business, civic, and community leaders and whose principal purpose includes the provision of housing, community-based economic development projects, and social services that primarily benefit low-income individuals and communities.

"Community development project" has the meaning assigned to it in 12 C.F.R. § 24.2.

"FDIC" means the Federal Deposit Insurance Corporation.

"International banking facility" means a set of assets and liability accounts segregated on the books and records of the bank, or an adjacent or other subsidiary that includes only international banking facility time deposits and international banking facility extensions of credit. The facility may either be located within Virginia or outside the territorial United States. "International banking facility" has the meaning assigned to it by the laws of the United States or the regulations of the Board of Governors for the Federal Reserve System.

"Public welfare investment" means any investment permitted by 12 C.F.R. § 24.3.

"Rural business investment company" means a company that has been granted final approval by the U.S. Secretary of Agriculture and has entered a participation agreement with the Secretary under 7 U.S.C. § 2009cc-3(e).

"State bank" means a bank incorporated under the laws of the Commonwealth and that has its principal place of business in the Commonwealth.

"Tax equity finance transaction" has the meaning assigned to it in 12 C.F.R. § 7.1025(b).

"Trust business" has the meaning assigned to it in § 6.2-1000.

"Trust company" has the meaning assigned to it in § 6.2-1000.

§ 6.2-874. Prohibited uses of bank's own stock; other investments or loans.

A. No bank shall:

1. Acquire or own its own stock except to protect itself against loss from debts previously contracted, in which case the stock shall be disposed of within 12 months after it is acquired, and except as herein permitted;

2. Make loans collaterally secured by the stock of the bank, except that this section shall not affect the validity of any such security agreement between the bank and its borrower; or

3. Invest any of its funds in:

a. Shares of stock of any other corporation;

b. Any security of a limited liability company; or

c. Any notes or other obligations that are secured by real estate on which the bank is prohibited by § 6.2-878 from making any loans secured thereby.

B. The prohibitions in subsection A shall not prevent any bank from:

1. Acquiring any such stock, notes, or other obligations to protect itself or any fund in its custody or possession against loss from debts theretofore contracted;

2. Acquiring, owning, and holding stock of a building corporation or security of a limited liability company of the character and to the amount provided by § 6.2-870;

3. Acquiring, owning, and holding stock of an agricultural credit corporation organized under the laws of the Commonwealth, provided that the total amount of such stock shall not exceed 20 percent of the amount of the capital stock of the bank actually paid in and unimpaired, plus the amount of its unimpaired surplus fund;

4. Acquiring, owning, and holding stock of the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation;

5. Acquiring, holding, and owning stock in any corporations or securities of limited liability companies which have as their purpose the operation of parking lots or parking garages, provided that no bank shall own, at any one time, stock in such corporations exceeding two percent of the amount of the capital stock of such bank actually paid in and unimpaired, plus the amount of its unimpaired surplus fund;

6. Acquiring, owning, and holding stock of a small business investment company as defined by the Federal Small Business Investment Act of 1958;

7. Acquiring, owning, and holding stock of an industrial development company organized under the provisions of the Virginia Industrial Development Corporation Act (§ 13.1-981 et seq.);

8. Acquiring, owning, and holding stock of a bank service corporation or security of a controlled subsidiary corporation, subject to § 6.2-871 or 6.2-885, or from investing in a limited liability company, provided such investment conforms to § 6.2-871 or 6.2-885;

9. Acquiring, owning, and holding stock of the Student Loan Marketing Association, a corporation organized under the Higher Education Act of 1965, as amended;

10. Acquiring, owning, and holding stock of a "clearing corporation" as defined in § 8.8A-102;

11. Acquiring, owning, and holding stock of a trust subsidiary as defined in § 6.2-1000;

12. Investing up to four percent of its capital and surplus, including undivided profits, in shares of any bankers' bank organized under § 6.2-809 or in any bank holding company wherein the ownership of shares in such bank holding company is restricted to (i) financial institutions which have or are eligible for insurance of deposits by a federal agency or (ii) a financial institution holding company as defined in § 6.2-700 or a savings institution holding company as defined in § 6.2-1100;

13. Acquiring its own stock, with the book value of all such stock held not to exceed in the aggregate five percent of the book value of all shares issued and outstanding, including capital, surplus, and undivided profits as of the time of the purchase being made. In computing such capital surplus and undivided profits for purposes of this section, amounts received for resale of any repurchased stock shall be added back to capital, surplus, and undivided profits for purposes of computation of the five percent limitation. Such purchase may be without the written consent of the Commission, unless the Commission or Commissioner has previously notified the bank in writing that it may not utilize this subdivision until further notice. The Commission may further allow purchases of such stock in excess of such five percent criterion if the Commission finds that the purchase (i) will not impair the safety and solvency of the bank and (ii) is otherwise appropriate. The Commission may require the divestiture of any shares held if deemed necessary and appropriate;

14. Acquiring, owning, and holding, subject to such conditions as the Commissioner may prescribe, shares of investment companies;

15. Acquiring, *investing in,* owning, and holding, *directly or indirectly,* subject to such conditions as the Commissioner may prescribe, ~~shares of stock in~~ *equity investments in a corporation, a limited partnership, a limited liability company, or another entity organized as (i)* a community development corporation*; (ii) an entity formed primarily to support community-based economic development; (iii) an entity qualifying for the new markets tax credit under 26 U.S.C. § 45D; (iv) an entity formed for a predominantly civic, community, or public purpose that (a) primarily benefits low-income and moderate-income individuals, (b) primarily benefits low-income and moderate-income areas, (c) primarily benefits areas targeted for redevelopment by a government entity, or (d) is a qualified investment under 12 C.F.R. § 25.23 for the purposes of the Community Reinvestment Act of 1977, 12 U.S.C. § 2901 et seq.; or (v) an entity making qualified rehabilitation expenditures with respect to a qualified rehabilitated building or certified historic structure, as such terms are defined in 26 U.S.C § 47, or a similar state historic tax credit program, as provided for in § 619(d)(1)(E) of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 1851(d)(1)(E)*;

16. Acquiring, owning, and holding shares of the Federal Agricultural Mortgage Corporation; ~~or~~

17. Acquiring, owning, and holding shares of a Federal Home Loan Bank*;*

18. Establishing, acquiring, investing in, owning, and holding shares of a rural business investment company or any entity established to invest solely in a rural business investment company as permissible under 7 U.S.C. § 2009cc-9(a)(1)(A) and 7 U.S.C. § 2009cc-9(b);

19. Engaging, directly or indirectly, in any tax equity finance transaction permissible for a national bank or federal savings association under 12 C.F.R. § 7.1025. The authority to engage in tax equity finance transactions under this section is separate from and does not limit any investment authorities available to a bank. A tax equity finance transaction is subject to the substantive legal requirements of a loan; or

20. Acquiring, investing in, owning, and holding shares, directly or indirectly, subject to such conditions as the Commissioner may prescribe, in any community and economic development entity, community development project, or other public welfare investment, provided that the investment is in compliance with 12 C.F.R. Part 24.

C. The provisions of this section shall not be construed to require a bank to dispose of any preferred stocks lawfully acquired as an investment prior to January 1, 1940.

CHAPTER 544

An Act to amend and reenact §§ 6.2-800 and 6.2-874 of the Code of Virginia, relating to financial institutions; certain investments by banks permitted.

[S 1153]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-800 and 6.2-874 of the Code of Virginia are amended and reenacted as follows:

§ 6.2-800. Definitions.

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

"Bank" means a corporation authorized by statute to accept deposits and to hold itself out to the public as engaged in the banking business in the Commonwealth.

"Bankers' bank" means a bank whose shares are owned exclusively by either (i) financial institutions that have or are eligible for insurance of deposits by a federal agency or (ii) financial institution holding companies as defined in § 6.2-700 or savings institution holding companies as defined in § 6.2-1100 owning any financial institution described in clause (i), provided that no such financial institution or holding company owns, directly or indirectly, more than five percent of the issued and outstanding voting shares of any bankers' bank.

"Bank holding company" means any corporation (i) that directly or indirectly owns, controls, or holds with power to vote, 25 percent or more of the voting shares of one or more banks or of a corporation that is or becomes a bank holding company by virtue of this definition, (ii) that controls in any manner the election of a majority of the directors of one or more banks, or (iii) for the benefit of whose shareholders or members 25 percent or more of the voting shares of one or more banks or bank holding companies is held by trustees. For the purpose of this definition, any successor to any such corporation shall be deemed to be a bank holding company from the date as of which such successor corporation becomes a bank holding company. Notwithstanding the foregoing, (a) a bank shall not be a bank holding company by virtue of its ownership or control of shares in a fiduciary capacity except where such shares are held for the benefit of the shareholders of such banks, (b) a corporation shall not be a bank holding company by virtue of its ownership or control of its shares acquired by it in connection with its underwriting of securities and which are held only for such period of time as will permit the sale thereof upon a reasonable basis, (c) a corporation formed for the sole purpose of participating in a proxy solicitation shall not be a bank holding company by virtue of its control of voting rights or shares acquired in the course of such solicitation, and (d) a corporation shall not be a bank holding company if at least 80 percent of its total assets are composed of holdings in the field of agriculture.

"Community and economic development entity" has the meaning assigned to it in 12 C.F.R. § 24.2.

"Community-based economic development" means activities that (i) seek to address economic development through affordable housing development or the rehabilitation of qualified rehabilitated buildings or certified historic structures or (ii) seek to address economic causes of poverty in specific geographic areas by revitalizing the economic and social base of low-income communities through activities that include (a) small business and micro-enterprise support; (b) commercial, industrial, and retail revitalization, retention, and expansion; (c) capacity development and technical assistance support for community development corporations; (d) employment and training efforts; (e) human resource development; and (f) social service enterprises.

"Community development corporation" means a private, nonprofit corporation whose board of directors is composed primarily of community representatives or business, civic, and community leaders and whose principal purpose includes the provision of housing, community-based economic development projects, and social services that primarily benefit low-income individuals and communities.

"Community development project" has the meaning assigned to it in 12 C.F.R. § 24.2.

"FDIC" means the Federal Deposit Insurance Corporation.

"International banking facility" means a set of assets and liability accounts segregated on the books and records of the bank, or an adjacent or other subsidiary that includes only international banking facility time deposits and international banking facility extensions of credit. The facility may either be located within Virginia or outside the territorial United States. "International banking facility" has the meaning assigned to it by the laws of the United States or the regulations of the Board of Governors for the Federal Reserve System.

"Public welfare investment" means any investment permitted by 12 C.F.R. § 24.3.

"Rural business investment company" means a company that has been granted final approval by the U.S. Secretary of Agriculture and has entered a participation agreement with the Secretary under 7 U.S.C. § 2009cc-3(e).

"State bank" means a bank incorporated under the laws of the Commonwealth and that has its principal place of business in the Commonwealth.

"Tax equity finance transaction" has the meaning assigned to it in 12 C.F.R. § 7.1025(b).

"Trust business" has the meaning assigned to it in § 6.2-1000.

"Trust company" has the meaning assigned to it in § 6.2-1000.

§ 6.2-874. Prohibited uses of bank's own stock; other investments or loans.

A. No bank shall:

1. Acquire or own its own stock except to protect itself against loss from debts previously contracted, in which case the stock shall be disposed of within 12 months after it is acquired, and except as herein permitted;

2. Make loans collaterally secured by the stock of the bank, except that this section shall not affect the validity of any such security agreement between the bank and its borrower; or

3. Invest any of its funds in:

a. Shares of stock of any other corporation;

b. Any security of a limited liability company; or

c. Any notes or other obligations that are secured by real estate on which the bank is prohibited by § 6.2-878 from making any loans secured thereby.

B. The prohibitions in subsection A shall not prevent any bank from:

1. Acquiring any such stock, notes, or other obligations to protect itself or any fund in its custody or possession against loss from debts theretofore contracted;

2. Acquiring, owning, and holding stock of a building corporation or security of a limited liability company of the character and to the amount provided by § 6.2-870;

3. Acquiring, owning, and holding stock of an agricultural credit corporation organized under the laws of the Commonwealth, provided that the total amount of such stock shall not exceed 20 percent of the amount of the capital stock of the bank actually paid in and unimpaired, plus the amount of its unimpaired surplus fund;

4. Acquiring, owning, and holding stock of the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation;

5. Acquiring, holding, and owning stock in any corporations or securities of limited liability companies which have as their purpose the operation of parking lots or parking garages, provided that no bank shall own, at any one time, stock in such corporations exceeding two percent of the amount of the capital stock of such bank actually paid in and unimpaired, plus the amount of its unimpaired surplus fund;

6. Acquiring, owning, and holding stock of a small business investment company as defined by the Federal Small Business Investment Act of 1958;

7. Acquiring, owning, and holding stock of an industrial development company organized under the provisions of the Virginia Industrial Development Corporation Act (§ 13.1-981 et seq.);

8. Acquiring, owning, and holding stock of a bank service corporation or security of a controlled subsidiary corporation, subject to § 6.2-871 or 6.2-885, or from investing in a limited liability company, provided such investment conforms to § 6.2-871 or 6.2-885;

9. Acquiring, owning, and holding stock of the Student Loan Marketing Association, a corporation organized under the Higher Education Act of 1965, as amended;

10. Acquiring, owning, and holding stock of a "clearing corporation" as defined in § 8.8A-102;

11. Acquiring, owning, and holding stock of a trust subsidiary as defined in § 6.2-1000;

12. Investing up to four percent of its capital and surplus, including undivided profits, in shares of any bankers' bank organized under § 6.2-809 or in any bank holding company wherein the ownership of shares in such bank holding company is restricted to (i) financial institutions which have or are eligible for insurance of deposits by a federal agency or (ii) a financial institution holding company as defined in § 6.2-700 or a savings institution holding company as defined in § 6.2-1100;

13. Acquiring its own stock, with the book value of all such stock held not to exceed in the aggregate five percent of the book value of all shares issued and outstanding, including capital, surplus, and undivided profits as of the time of the purchase being made. In computing such capital surplus and undivided profits for purposes of this section, amounts received for resale of any repurchased stock shall be added back to capital, surplus, and undivided profits for purposes of computation of the five percent limitation. Such purchase may be without the written consent of the Commission, unless the Commission or Commissioner has previously notified the bank in writing that it may not utilize this subdivision until further notice. The Commission may further allow purchases of such stock in excess of such five percent criterion if the Commission finds that the purchase (i) will not impair the safety and solvency of the bank and (ii) is otherwise appropriate. The Commission may require the divestiture of any shares held if deemed necessary and appropriate;

14. Acquiring, owning, and holding, subject to such conditions as the Commissioner may prescribe, shares of investment companies;

15. Acquiring, *investing in,* owning, and holding, *directly or indirectly,* subject to such conditions as the Commissioner may prescribe, ~~shares of stock in~~ *equity investments in a corporation, a limited partnership, a limited liability company, or another entity organized as (i)* a community development corporation*; (ii) an entity formed primarily to support community-based economic development; (iii) an entity qualifying for the new markets tax credit under 26 U.S.C. § 45D; (iv) an entity formed for a predominantly civic, community, or public purpose that (a) primarily benefits low-income and moderate-income individuals, (b) primarily benefits low-income and moderate-income areas, (c) primarily benefits areas targeted for redevelopment by a government entity, or (d) is a qualified investment under 12 C.F.R. § 25.23 for the purposes of the Community Reinvestment Act of 1977, 12 U.S.C. § 2901 et seq.; or (v) an entity making qualified rehabilitation expenditures with respect to a qualified rehabilitated building or certified historic structure, as such terms are defined in 26 U.S.C § 47, or a similar state historic tax credit program, as provided for in § 619(d)(1)(E) of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 1851(d)(1)(E)*;

16. Acquiring, owning, and holding shares of the Federal Agricultural Mortgage Corporation; ~~or~~

17. Acquiring, owning, and holding shares of a Federal Home Loan Bank*;*

18. Establishing, acquiring, investing in, owning, and holding shares of a rural business investment company or any entity established to invest solely in a rural business investment company as permissible under 7 U.S.C. § 2009cc-9(a)(1)(A) and 7 U.S.C. § 2009cc-9(b);

19. Engaging, directly or indirectly, in any tax equity finance transaction permissible for a national bank or federal savings association under 12 C.F.R. § 7.1025. The authority to engage in tax equity finance transactions under this section is separate from and does not limit any investment authorities available to a bank. A tax equity finance transaction is subject to the substantive legal requirements of a loan; or

20. Acquiring, investing in, owning, and holding shares, directly or indirectly, subject to such conditions as the Commissioner may prescribe, in any community and economic development entity, community development project, or other public welfare investment, provided that the investment is in compliance with 12 C.F.R. Part 24.

C. The provisions of this section shall not be construed to require a bank to dispose of any preferred stocks lawfully acquired as an investment prior to January 1, 1940.

CHAPTER 545

An Act to allow the Department of Veterans Services to contract with any hyperbaric clinic or any hospital in the Commonwealth that furnishes a comprehensive treatment program to any veteran who has been certified by the U.S. Department of Veterans Affairs or any branch of the United States Armed Forces as having post-traumatic stress disorder or traumatic brain injury.

[S 1082]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Veterans Services may contract with any hyperbaric clinic providing medical-grade 100 percent oxygen in U.S. Food and Drug Administration-approved chambers in the Commonwealth or any hospital that furnishes a comprehensive treatment program that may include medication, psychotherapy, and hyperbaric oxygen therapy, from an accredited program, to any veteran in the Commonwealth who has been certified by the U.S. Department of Veterans Affairs or any branch of the United States Armed Forces as having post-traumatic stress disorder or traumatic brain injury. The Department of Veterans Services shall include in any contract with such clinic or hospital the requirement that data be collected to assess the efficacy of such treatments for such veterans and any other information deemed relevant by the Department of Veterans Services.*

CHAPTER 546

An Act to amend and reenact § 33.2-1529.1 of the Code of Virginia and to amend and reenact the seventh enactment of Chapter 726 of the Acts of Assembly of 2014, relating to Transportation Partnership Opportunity Fund.

[H 2302]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-1529.1 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-1529.1. Transportation Partnership Opportunity Fund.

A. There is hereby created the Transportation Partnership Opportunity Fund (the Fund) to be used by the Governor to provide funds to address the transportation aspects of economic development opportunities *or to enhance the economic development opportunities of the Commonwealth's transportation programs*. The Fund shall consist of (i) funds pursuant to subdivision B 3 of § 33.2-1524 and (ii) any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. All interest and dividends that are earned on the Fund shall be credited to the Fund. The Governor shall report to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Appropriations and on Transportation as funds are awarded in accordance with this section.

B. The Fund shall be a subfund of the Transportation Trust Fund. Provisions of this title and Title 58.1 relating to the allocations or disbursements of proceeds of the Commonwealth Transportation Fund, the Transportation Trust Fund, or the Highway Maintenance and Operating Fund shall not apply to the Fund.

C. *1.* Funds shall be awarded from the Fund by the Governor as grants, revolving loans, or other financing tools and equity contributions to an agency or political subdivision of the Commonwealth. Loans shall be approved by the Governor and made in accordance with procedures established by the Board and approved by the Comptroller. Loans shall be interest-free and shall be repaid to the Fund. The Governor may establish the duration of any loan, but such term shall not exceed seven years. The Department shall be responsible for monitoring repayment of such loans and reporting the receivables to the Comptroller as required.

2. The Governor may direct funds from the Fund to the Board for transportation projects determined to be necessary to support major economic development initiatives or to enhance the economic development opportunities of the Commonwealth's transportation programs when recommended by the Secretary of Transportation and Secretary of Commerce and Trade. Upon the direction of funds pursuant to this subdivision in excess of $5 million, the Secretary of Transportation shall within 30 days submit a report on such direction of funds to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations. Such report shall be sent to the Chairmen and the staff directors of such committees. Such report shall include the name of the transportation project to which the funds are being directed, the locality in which the transportation project is being developed, the amount of the grant or loan made or committed to the transportation project from the Fund and the purpose for which it will be used, the number of jobs retained or created or projected to be retained or created by the transportation project, the expected rate of return on investment of the transportation project, and the amount of a company's investment in the Commonwealth. Any direction of funds pursuant to this subdivision in a cumulative amount in excess of $35 million on any one project shall be submitted for review to the MEI Project Approval Commission (the Commission) established pursuant to § 30-309. The Commission shall complete such review within 14 days. In the event that the Commission does not recommend such direction of funds, such

direction of funds shall not be made unless subsequently authorized by the General Assembly. Absent a recommendation within such 14-day period that the funds should not be directed, or in the event that the Commission does not provide a recommendation within such 14-day period, the funds shall be directed.

D. Grants*, funds directed to the Board,* or revolving loans may be used for transportation capacity development on and off site; road, rail, mass transit, or other transportation access costs beyond the funding capability of existing programs; studies of transportation projects, including environmental analysis, geotechnical assessment, survey, design and engineering, advance right-of-way acquisition, traffic analysis, toll sensitivity studies, and financial analysis; *property acquisition and new or improved infrastructure to support economic development opportunities of the Commonwealth's transportation programs;* or anything else permitted by law. Funds may be used for any transportation project or any transportation facility. Any transportation infrastructure completed with moneys from the Fund shall not become private property, and the results of any studies or analysis completed as a result of a grant or loan from the Fund shall be property of the Commonwealth.

E. The Board, in consultation with the Secretary of Transportation and the Secretary of Commerce and Trade, shall develop guidelines and criteria that shall be used in awarding grants or making loans from the Fund; however, no grant *provided pursuant to subdivision C 1* shall exceed $5 million and no loan *provided pursuant to subdivision C 1* shall exceed $30 million. No grant or loan shall be awarded until the Governor has provided copies of the guidelines and criteria to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Appropriations and on Transportation. The guidelines and criteria shall include provisions including the number of jobs and amounts of investment that must be committed in the event moneys are being used for an economic development project, a statement of how the studies and analysis to be completed using moneys from the Fund will advance the development of a transportation facility, a process for the application for and review of grant and loan requests, a timeframe for completion of any work, the comparative benefit resulting from the development of a transportation project, assessment of the ability of the recipient to repay any loan funds, and other criteria as necessary to support the timely development of transportation projects. The criteria shall also include incentives to encourage matching funds from any other local, federal, or private source.

F. Within 30 days of each six-month period ending June 30 and December 31, the Governor shall provide a report to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Appropriations and on Transportation that shall include the following information: the locality in which the project is being developed, the amount of the grant or loan made or committed from the Fund and the purpose for which it will be used, the number of jobs created or projected to be created, and the amount of a company's investment in the Commonwealth if the project is part of an economic development opportunity.

G. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the total value of the moneys contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the funds the Governor has committed, and the funds set aside and reserved shall remain in the Fund for those future fiscal years. No grant or loan shall be payable in the years beyond the existing appropriation act unless the funds are currently available in the Fund.

H. Nothing herein shall be construed to authorize the use of eminent domain for any purposes prohibited by § 1-219.1 or Article I, Section 11 of the Constitution of Virginia.

2. That the seventh enactment of Chapter 726 of the Acts of Assembly of 2014 is amended and reenacted as follows:

7. That notwithstanding § 33.1-23.5:5 as created by this act, the Commonwealth Transportation Board shall ensure that no project shall be undertaken ~~primarily~~ *exclusively* for economic development purposes.

CHAPTER 547

An Act to amend and reenact § 33.2-1529.1 of the Code of Virginia and to amend and reenact the seventh enactment of Chapter 726 of the Acts of Assembly of 2014, relating to Transportation Partnership Opportunity Fund.

[S 1106]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-1529.1 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-1529.1. Transportation Partnership Opportunity Fund.

A. There is hereby created the Transportation Partnership Opportunity Fund (the Fund) to be used by the Governor to provide funds to address the transportation aspects of economic development opportunities *or to enhance the economic development opportunities of the Commonwealth's transportation programs*. The Fund shall consist of (i) funds pursuant to subdivision B 3 of § 33.2-1524 and (ii) any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. All interest and dividends that are earned on the Fund shall be credited to the Fund. The Governor shall report to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Appropriations and on Transportation as funds are awarded in accordance with this section.

B. The Fund shall be a subfund of the Transportation Trust Fund. Provisions of this title and Title 58.1 relating to the allocations or disbursements of proceeds of the Commonwealth Transportation Fund, the Transportation Trust Fund, or the Highway Maintenance and Operating Fund shall not apply to the Fund.

C. *1.* Funds shall be awarded from the Fund by the Governor as grants, revolving loans, or other financing tools and equity contributions to an agency or political subdivision of the Commonwealth. Loans shall be approved by the Governor and made in accordance with procedures established by the Board and approved by the Comptroller. Loans shall be interest-free and shall be repaid to the Fund. The Governor may establish the duration of any loan, but such term shall not exceed seven years. The Department shall be responsible for monitoring repayment of such loans and reporting the receivables to the Comptroller as required.

2. The Governor may direct funds from the Fund to the Board for transportation projects determined to be necessary to support major economic development initiatives or to enhance the economic development opportunities of the Commonwealth's transportation programs when recommended by the Secretary of Transportation and Secretary of Commerce and Trade. Upon the direction of funds pursuant to this subdivision in excess of $5 million, the Secretary of Transportation shall within 30 days submit a report on such direction of funds to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations. Such report shall be sent to the Chairmen and the staff directors of such committees. Such report shall include the name of the transportation project to which the funds are being directed, the locality in which the transportation project is being developed, the amount of the grant or loan made or committed to the transportation project from the Fund and the purpose for which it will be used, the number of jobs retained or created or projected to be retained or created by the transportation project, the expected rate of return on investment of the transportation project, and the amount of a company's investment in the Commonwealth. Any direction of funds pursuant to this subdivision in a cumulative amount in excess of $35 million on any one project shall be submitted for review to the MEI Project Approval Commission (the Commission) established pursuant to § 30-309. The Commission shall complete such review within 14 days. In the event that the Commission does not recommend such direction of funds, such direction of funds shall not be made unless subsequently authorized by the General Assembly. Absent a recommendation within such 14-day period that the funds should not be directed, or in the event that the Commission does not provide a recommendation within such 14-day period, the funds shall be directed.

D. Grants*, funds directed to the Board,* or revolving loans may be used for transportation capacity development on and off site; road, rail, mass transit, or other transportation access costs beyond the funding capability of existing programs; studies of transportation projects, including environmental analysis, geotechnical assessment, survey, design and engineering, advance right-of-way acquisition, traffic analysis, toll sensitivity studies, and financial analysis; *property acquisition and new or improved infrastructure to support economic development opportunities of the Commonwealth's transportation programs;* or anything else permitted by law. Funds may be used for any transportation project or any transportation facility. Any transportation infrastructure completed with moneys from the Fund shall not become private property, and the results of any studies or analysis completed as a result of a grant or loan from the Fund shall be property of the Commonwealth.

E. The Board, in consultation with the Secretary of Transportation and the Secretary of Commerce and Trade, shall develop guidelines and criteria that shall be used in awarding grants or making loans from the Fund; however, no grant *provided pursuant to subdivision C 1* shall exceed $5 million and no loan *provided pursuant to subdivision C 1* shall exceed $30 million. No grant or loan shall be awarded until the Governor has provided copies of the guidelines and criteria to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Appropriations and on Transportation. The guidelines and criteria shall include provisions including the number of jobs and amounts of investment that must be committed in the event moneys are being used for an economic development project, a statement of how the studies and analysis to be completed using moneys from the Fund will advance the development of a transportation facility, a process for the application for and review of grant and loan requests, a timeframe for completion of any work, the comparative benefit resulting from the development of a transportation project, assessment of the ability of the recipient to repay any loan funds, and other criteria as necessary to support the timely development of transportation projects. The criteria shall also include incentives to encourage matching funds from any other local, federal, or private source.

F. Within 30 days of each six-month period ending June 30 and December 31, the Governor shall provide a report to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Appropriations and on Transportation that shall include the following information: the locality in which the project is being developed, the amount of the grant or loan made or committed from the Fund and the purpose for which it will be used, the number of jobs created or projected to be created, and the amount of a company's investment in the Commonwealth if the project is part of an economic development opportunity.

G. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the total value of the moneys contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the funds the Governor has committed, and the funds set aside and reserved shall remain in the Fund for those future fiscal years. No grant or loan shall be payable in the years beyond the existing appropriation act unless the funds are currently available in the Fund.

H. Nothing herein shall be construed to authorize the use of eminent domain for any purposes prohibited by § 1-219.1 or Article I, Section 11 of the Constitution of Virginia.

2. That the seventh enactment of Chapter 726 of the Acts of Assembly of 2014 is amended and reenacted as follows:

7. That notwithstanding § 33.1-23.5:5 as created by this act, the Commonwealth Transportation Board shall ensure that no project shall be undertaken ~~primarily~~ *exclusively* for economic development purposes.

CHAPTER 548

An Act to amend and reenact § 46.2-772 of the Code of Virginia, relating to highway use fee; exemptions; low-speed vehicles.

[S 865]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-772 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-772. (For contingent expiration, see Acts 2020, cc. 1230 and 1275) Highway use fee.

A. Except as provided in subsection C, there is hereby imposed an annual highway use fee on any motor vehicle registered in the Commonwealth under § 46.2-694 or 46.2-697 that is an alternative fuel vehicle, an electric motor vehicle, or a fuel-efficient vehicle. The fee shall be collected by the Department at the time of vehicle registration. If the vehicle is registered for a period of other than one year as provided in § 46.2-646, the highway use fee shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.

B. For an electric motor vehicle, the highway use fee shall be 85 percent of the amount of taxes paid under subsection A of § 58.1-2217 on fuel used by a vehicle with a combined fuel economy of 23.7 miles per gallon for the average number of miles traveled by a passenger vehicle in the Commonwealth, as determined by the Commissioner. For all other fuel-efficient vehicles, the highway use fee shall be 85 percent of the difference between the tax paid under subsection A of § 58.1-2217 on the fuel used by a vehicle with a combined fuel economy of 23.7 miles per gallon for the average number of miles traveled by a passenger vehicle in the Commonwealth in a year, as determined by the Commissioner, and the tax paid under subsection A of § 58.1-2217 on the fuel used by the vehicle being registered for the average number of miles traveled by a passenger vehicle in the Commonwealth in a year, as determined by the Commissioner.

For purposes of this chapter, the Commissioner shall use combined fuel economy as determined by the manufacturer of the vehicle. If the Commissioner is unable to obtain the manufacturer's fuel economy for a vehicle, then the Commissioner shall use the final estimate of average fuel economy, as determined by the U.S. Environmental Protection Agency, of (i) all trucks having the same model year as the vehicle being registered, if the vehicle has a gross weight between 6,000 pounds and 10,000 pounds, or (ii) all cars having the same model year as the vehicle. If data is not available for the model year of the vehicle being registered, then the Commissioner shall use available data for the model year that is closest to the model year of the vehicle being registered.

The Commissioner shall update the fees calculated under this section by July 1 of each year.

C. This section shall not apply to:

1. An autocycle, moped, or motorcycle;

2. A vehicle with a gross weight over 10,000 pounds;

3. A vehicle that is owned by a governmental entity as defined in § 58.1-2201; or

4. A vehicle that is registered under the International Registration Plan.

Notwithstanding the provisions of this section, the annual highway use fee for a low-speed vehicle that is registered under Chapter 6 (§ 46.2-600 et seq.) shall be $25.

A vehicle shall not be subject to the fee set forth in this section in any year in which such vehicle is registered to participate in the mileage-based user fee program established pursuant to § 46.2-773.

D. In any case where an applicant has requested and is eligible for a refund pursuant to § 46.2-688, the Commissioner shall refund to the applicant the cost of the highway use fee, prorated in six-month increments, if such application is made when six or more months remain in the registration period.

CHAPTER 549

An Act to amend and reenact §§ 18.2-57 and 18.2-160.2 of the Code of Virginia, relating to assault and battery; public transportation service vehicle operators; penalty.

[H 2330]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-57 and 18.2-160.2 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-57. Assault and battery; penalty.

A. Any person who commits a simple assault or assault and battery is guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction,

gender, disability, gender identity, sexual orientation, color, or national origin, the penalty upon conviction shall include a term of confinement of at least six months.

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

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

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

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

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

F. *In addition, any person who commits an assault or an assault and battery against another knowing or having reason to know that such individual is an operator of a vehicle operated by a public transportation service as defined in § 18.2-160.2 who is engaged in the performance of his duties is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall also prohibit such person from entering or riding in any vehicle operated by the public transportation service that employed such operator for a period of not less than six months as a term and condition of such sentence.*

G. As used in this section:

"Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities.

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

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

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

"School security officer" means the same as that term is defined in § 9.1-101.

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

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

§ 18.2-160.2. Trespassing on public transportation; penalty.

A. Any person who enters or remains upon or within a vehicle operated by a public transportation service without the permission of, or after having been forbidden to do so by, the owner, lessee, or authorized operator thereof is guilty of a Class 4 misdemeanor.

B. Any person who enters or rides in a vehicle operated by a public transportation service who has been prohibited to do so pursuant to subsection F of § 18.2-57 is guilty of a Class 1 misdemeanor.

C. "Public transportation service" means passenger transportation service provided by bus, rail, or other surface conveyance that provides transportation to the general public on a regular and continuing basis.

CHAPTER 550

An Act to amend the Code of Virginia by adding in Title 55.1 a chapter numbered 31, consisting of sections numbered 55.1-3100 through 55.1-3104, relating to judgment liens; release of specific property.

[H 2184]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 55.1 a chapter numbered 31, consisting of sections numbered 55.1-3100 through 55.1-3104, as follows:

CHAPTER 31.

RELEASE OF SPECIFIC PROPERTY FROM JUDGMENT LIENS.

§ 55.1-3100. Definitions.

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

"Date of notice" means the date the notice is dispatched by one of the enumerated methods of notice.

"Judgment lien" includes a judgment lien pursuant to § 8.01-458 but does not include any lien in favor of the federal, state, or local government, or any political subdivision thereof, or a lien arising from a judgment in excess of $25,000, exclusive of interest and costs, as of the date of the award, or any judgement lien that was created or recorded within the immediately preceding three years.

"Lien creditor" or "creditor" means the holder, payee, or obligee of a judgment lien and includes the lien creditor as noted on the recorded judgment or abstract of judgment and his successor in interest, including any assignee noted on a recorded assignment or notice of assignment.

"Notice" means notice given in writing and sent by (i) certified mail, return receipt requested; (ii) commercial overnight delivery service for same day or next business day delivery; or (iii) the United States Postal Service for next business day delivery. The date of notice shall be stated in such notice.

"Property" means the piece or pieces of real property that are the subject of the settlement and cited on the notice and release.

"Settlement agent" means the same as it is defined in § 55.1-1000.

§ 55.1-3101. Release of judgment lien by settlement agent; notice to lien creditor.

A. A settlement agent may release property from a judgment lien in accordance with the provisions of this section if (i) the settlement agent has made a written request for a payoff amount from the lien creditor and his counsel of record, if any, as reflected in the judgment, judgment abstract, or any certificate of extension filed in the land records; (ii) the lien creditor (a) has not responded to such request within 15 days or (b) is unable to be located by the settlement agent after attempts at notice are made as provided in subsection B; (iii) the settlement agent has delivered or attempted to deliver a notice of intent to release pursuant to subsection C and the lien creditor has not responded as required by this section; and (iv) the owner of the property attests in an affidavit that (a) the owner has paid all or a portion of the judgment but in good faith does not have knowledge of the judgment balance or (b) the owner is not the judgment debtor and has no knowledge of the judgment balance. In such affidavit, such owner shall attest that he has exercised due diligence to locate the creditor and obtain a payoff amount, if the judgment is outstanding, and that all attempts to reach such creditor have been unsuccessful.

B. A settlement agent intending to release a specific piece of property from a judgment lien pursuant to this section shall deliver or attempt to deliver to the lien creditor and his counsel of record, if any, by certified mail, commercial overnight delivery service, or the United States Postal Service, a notice of intent to release and a copy of the release to be recorded.

C. The notice of intent to release shall contain (i) the name and current contact information of the settlement agent; (ii) a copy of the recorded judgment or judgment abstract and a copy of any related recorded assignment or notice of assignment of the judgment; and (iii) the street address, tax parcel number, or other identifying information for the property that is the subject of the release. The notice of intent to release shall conform substantially to the following form:

NOTICE OF INTENT TO RELEASE

(Date of notice)

Notice is hereby given to you concerning the judgment lien described on the certificate of release, a copy of which is attached to this notice, as follows:

1. The settlement agent identified below made a written request more than 15 days ago for payoff amounts related to the judgment lien cited in the attached recorded abstract of judgment incident to the conveyance or encumbrance of certain property identified below. Said payoff has not been provided as of the date of this notice.

2. The undersigned will release only the property from the judgment lien described in this notice unless, within 30 days from the date of notice, the lien creditor sends to the undersigned by (i) certified mail, return receipt requested; (ii) commercial delivery service for same day or next business day delivery; (iii) the United States Postal Service for next business day delivery; or (iv) electronic mail or facsimile transmittal to the electronic mail address or fax number provided by the settlement agent a notice stating that the lien creditor objects to the release of the property from the judgment lien without payment to the lien creditor and provides a complete payoff amount. Notice shall be sent to the address stated on this form.

(Name of settlement agent)

(Virginia RESA registration number of settlement agent)

(Address of settlement agent)

(Telephone number, fax number, and email address of settlement agent)

D. For the purposes of this chapter, a settlement agent shall maintain, for the lifetime of the judgement lien, all documents related to exercising due diligence to locate the creditor.

§ 55.1-3102. Certificate of release and affidavit of settlement agent.

A. If, within 30 days following the date of notice of the notice of intent to release pursuant to § 55.1-3101, the lien creditor has not sent by (i) certified mail, return receipt requested, (ii) commercial delivery service for same day or next business day delivery, (iii) the United States Postal Service for next business day delivery, or (iv) electronic mail or facsimile transmittal to the electronic mail address or fax number provided by the settlement agent a complete payoff amount, the settlement agent may execute, acknowledge, and file with the clerk of court of the jurisdiction in which the property is located a certificate of release. Such certificate of release shall include (a) an affidavit pursuant to subsection B, (b) a copy of the notice of intent to release in accordance with § 55.1-3101, and (c) the owner's affidavit pursuant to § 55.1-3101. The certificate of release shall include the settlement agent's registration number issued by a licensing authority as defined in § 55.1-1000. The certificate of release shall note that the settlement agent has the authority to execute the certificate of release pursuant to this section. After filing or recording the certificate of release, the settlement agent shall mail a copy of such certificate of release to the lien creditor. Failure to mail a copy of the recorded certificate of release to the lien creditor shall not affect the validity of a certificate of release that otherwise satisfies the requirements of this section and shall release the property from the judgment lien as provided by this section.

B. The certificate of release shall include an affidavit that certifies that (i) the settlement agent has not received a payoff amount as shown on the recorded abstract of judgment from the lien creditor, his assignee, or his representative, nor has the settlement agent received any objection to the release of the property from the judgment lien; (ii) the person executing the certificate of release is the settlement agent; (iii) the notice of intent to release was delivered to the lien creditor or delivery was attempted at the address shown on the recorded abstract of judgment and the settlement agent has received evidence of such delivery or attempted delivery; and (iv) the property is released from the judgment lien. The certificate of release and accompanying affidavit shall conform substantially to the following form:

CERTIFICATE OF RELEASE and AFFIDAVIT OF SETTLEMENT AGENT

The undersigned hereby certifies and affirms that, in accordance with the provisions of § 55.1-3101 of the Code of Virginia of 1950, as amended and in force on the date hereof (the Code), (a) the undersigned is a settlement agent as defined in subsection A of § 55.1-3100 of the Code or a duly authorized officer, director, member, partner, or employee of such settlement agent; (b) the settlement agent, after exercising due diligence to locate the creditor, has sent to the lien creditor in the manner specified in subsection B of § 55.1-3101 of the Code the notice of intent to release the property from the lien of the below referenced judgment lien and possesses evidence of receipt of such notice by the lien creditor or evidence of failed attempts; (c) the settlement agent has not received a payoff amount from the lien creditor shown on the recorded abstract of judgment or any assignee or representative thereof or any objection to the release of the property from the lien of the judgment lien; and (d) the lien of the judgment lien is hereby released as to the subject property.

(Name of judgment debtor(s))

(Name of judgment lien creditor shown on recorded abstract of judgment)

(Recordation information for recorded judgment lien)
(Property subject to the release)
(Name of settlement agent)
(Virginia RESA registration number of settlement agent)
(Authorized signer and title)
(Notary clause)

§ 55.1-3103. Effect of filing of certificate of release.

A certificate of release filed or recorded with the clerk of court in the jurisdiction in which the property is located, provided that such certificate of release satisfies all the requirements prescribed in § 55.1-3102, shall operate as a release of a judgment lien of the specified property. Such certificate of release shall not be construed to release any other real property owned by the judgment debtor or judgment debtors at the time of filing or any future interest in real property acquired by such judgment debtor or judgment debtors. In the absence of gross negligence or willful misconduct, the clerk of the circuit court of any jurisdiction shall be immune from civil liability arising from any act or omission relating to such clerk's compliance with the provisions of this chapter.

§ 55.1-3104. Liability for execution, filing, recording wrongful or erroneous certificate.

A. A certificate of release executed and filed or recorded wrongfully or erroneously by a settlement agent shall not relieve a party or his successor, assignee, or representative from obligation or liability for the debt or other obligations secured by the judgment lien.

B. A settlement agent who negligently executes and files or records an erroneous certificate of release shall be liable to the lien creditor for actual damages sustained due to the recording of such certificate of release. The minimum amount of such actual damages shall be the amount received by the owner of the property in the settlement and shall not exceed the outstanding balance of the unpaid judgment at the time of the sale of the property, plus attorney fees.

C. The procedure authorized by this chapter for the release of a judgment lien shall constitute an optional method of accomplishing a release of a judgment lien secured by property in the Commonwealth. The nonuse of the procedure authorized by this subsection for the release of a judgment lien shall not give rise to any liability or any cause of action whatsoever against a settlement agent by any obligated party or anyone succeeding to or assuming the interest of the obligated party.

2. That the provisions of this act may be applied to a judgment lien created or recorded prior to July 1, 2023.

CHAPTER 551

An Act to amend and reenact §§ 4.1-231.1 and 4.1-233.1 of the Code of Virginia, relating to alcoholic beverage control; marketplace license fees.

[H 2336]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-231.1 and 4.1-233.1 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-231.1. Fees on state licenses.

A. (Contingent expiration date) The annual fees on state licenses shall be as follows:

1. Manufacturer licenses. For each:

a. Distiller's license and limited distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, $490; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, $2,725; and if more than 36,000 gallons manufactured during such year, $4,060;

b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, $380; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, $2,350; and if more than 10,000 barrels manufactured during such year, $4,690;

c. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, $215, and if more than 5,000 gallons manufactured during such year, $4,210;

d. Farm winery license, $245 for any Class A license and $4,730 for any Class B license;

e. Wine importer's license, $460; and

f. Beer importer's license, $460.

2. Wholesale licenses. For each:

a. (1) Wholesale beer license, $1,005 for any wholesaler who sells 300,000 cases of beer a year or less, $1,545 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and $2,010 for any wholesaler who sells more than 600,000 cases of beer a year; and

(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision a (1), multiplied by the number of separate locations covered by the license;

b. (1) Wholesale wine license, $240 for any wholesaler who sells 30,000 gallons of wine or less per year, $1,200 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, $1,845 for

any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and $2,400 for any wholesaler who sells more than 300,000 gallons of wine per year; and

(2) Wholesale wine license, including that granted pursuant to subdivision 3 of § 4.1-206.2, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license.

3. Retail licenses — mixed beverage. For each:

a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants located on premises of and operated by casinos, hotels or motels, or other persons:

(1) With a seating capacity at tables for up to 100 persons, $1,050;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, $1,495;

(3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, $1,980;

(4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, $2,500; and

(5) With a seating capacity at tables for more than 1,000 persons, $3,100;

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(1) With an average yearly membership of not more than 200 resident members, $1,250;

(2) With an average yearly membership of more than 200 but not more than 500 resident members, $2,440; and

(3) With an average yearly membership of more than 500 resident members, $3,410;

c. Mixed beverage casino license, $3,100 plus an additional $5 for each gaming station located on the premises of the casino gaming establishment. For the purposes of this subdivision, "gaming station" means each slot machine and each casino gaming table that is in active use, as determined annually on December 31;

d. Mixed beverage caterer's license, $1,990;

e. Mixed beverage limited caterer's license, $550;

f. Mixed beverage carrier license:

(1) $520 for each of the average number of dining cars, buffet cars, or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(2) $910 for each common carrier of passengers by boat;

(3) $520 for each common carrier of passengers by bus; and

(4) $2,360 for each license granted to a common carrier of passengers by airplane;

g. Annual mixed beverage motor sports facility license, $630;

h. Limited mixed beverage restaurant license:

(1) With a seating capacity at tables for up to 100 persons, $945;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, $1,385; and

(3) With a seating capacity at tables for more than 150 persons, $1,875;

i. Annual mixed beverage performing arts facility license, $630;

j. Bed and breakfast license, $100;

k. Museum license, $260;

l. Motor car sporting event facility license, $300;

m. Commercial lifestyle center license, $300;

n. Mixed beverage port restaurant license, $1,050; and

o. Annual mixed beverage special events license, $630.

4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer license, $450.

5. Retail licenses — off-premises wine and beer. For each:

a. Retail off-premises wine and beer license, $300;

b. Gourmet brewing shop license, $320; and

c. Confectionery license, $170.

6. Retail licenses — banquet, special event, and tasting licenses.

a. Per-day event licenses. For each:

(1) Banquet license, $40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be $100 per license;

(2) Mixed beverage special events license, $45 for each day of each event;

(3) Mixed beverage club events license, $35 for each day of each event; and

(4) Tasting license, $40.

b. Annual licenses. For each:

(1) Annual banquet license, $300;

(2) Banquet facility license, $260;

(3) Designated outdoor refreshment area license, $300. However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee shall be $3,000;

(4) Annual mixed beverage banquet license, $630;

(5) Equine sporting event license, $300; and

(6) Annual arts venue event license, $300.

7. Retail licenses — marketplace. For each marketplace license, $1,000. *However, if the license privileges are exercised during a period of six or less consecutive months and such period is specified prior to the beginning of the license year, the annual fee shall be $500.*

8. Retail licenses — shipper, bottler, and related licenses. For each:

a. Wine and beer shipper's license, $230;

b. Internet wine and beer retailer license, $240;

c. Bottler license, $1,500;

d. Fulfillment warehouse license, $210;

e. Marketing portal license, $285; and

f. Third-party delivery license, $7,500, unless the licensee provides written certification to the Board that the licensee has no more than 25 delivery personnel, including employees, agents, and independent contractors that engage in direct-to-consumer alcoholic beverage delivery, in which case the license fee shall be $2,500.

9. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first $163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first $163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of $5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

§ 4.1-233.1. Fees on local licenses.

A. In addition to the state license taxes, the annual local license taxes that may be collected shall not exceed the following sums:

1. Manufacturer licenses. For each:

a. Distiller's license and limited distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, $750; if more than 36,000 gallons manufactured during such year, $1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, $250, and if more than 500 barrels manufactured during such year, $1,000;

c. Winery license, $50; and

d. Farm winery license, $50.

2. Wholesale licenses. For each:

a. Wholesale beer license, in a city, $250, and in a county or town, $75; and

b. Wholesale wine license, $50.

3. Retail licenses — mixed beverage. For each:

a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants located on premises of and operated by casinos, hotels or motels, or other persons:

(1) With a seating capacity at tables for up to 100 persons, $200;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, $350;

(3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, $500;

(4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, $650; and

(5) With a seating capacity at tables for more than 1,000 persons, $800;

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs, $350;

c. Mixed beverage casino license, $800 plus an additional $2 for each gaming station located on the premises of the casino gaming establishment. For the purposes of this subdivision, "gaming station" means each slot machine and each casino gaming table that is in active use, as determined annually on December 31;

d. Mixed beverage caterer's license, $500;

e. Mixed beverage limited caterer's license, $100;

f. Annual mixed beverage motor sports facility license, $300;

g. Limited mixed beverage restaurant license:

(1) With a seating capacity at tables for up to 100 persons, $100;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, $250; or

(3) With a seating capacity at tables for more than 150 persons, $400;

h. Annual mixed beverage performing arts facility license, $300;

i. Bed and breakfast license, $40;

j. Museum license, $10;

k. Motor car sporting event facility license, $10;

l. Commercial lifestyle center license, $60; and

m. Annual mixed beverage special events license, $300.

4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer license issued to:

a. Hotels, restaurants, and clubs, in a city, $150, and in a county or town, $37.50;

b. Hospitals, $10;

c. Rural grocery stores, $37.50; and

d. Historic cinema houses, $20.

5. Retail licenses — off-premises wine and beer. For each:

a. Retail off-premises wine and beer license, in a city, $150, and in a county or town, $37.50;

b. Gourmet brewing shop license, $150; and

c. Confectionery license, $20.

6. Retail licenses — banquet, special event, and tasting licenses. For each:

a. Per-day event licenses. For each:

(1) Banquet license, $5 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be $20 per license;

(2) Mixed beverage special events license, $10 for each day of each event;

(3) Mixed beverage club events license, $10 for each day of each event; and

(4) Tasting license, $10.

b. Annual licenses. For each:

(1) Annual banquet license, $15;

(2) Designated outdoor refreshment area license, $60. However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual ~~fee~~ *tax* shall be $600;

(3) Annual mixed beverage banquet license, $75;

(4) Equine sporting event license, $10; and

(5) Annual arts venue event license, $10.

7. Retail licenses — marketplace. For each marketplace license, $200. *However, if the license privileges are exercised during a period of six or less consecutive months and such period is specified prior to the beginning of the license year, the annual tax shall be $100.*

8. Retail licenses — shipper, bottler, and related licenses. For each:

a. Wine and beer shipper's license, $10; and

b. Bottler license, $500.

B. Common carriers. No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats, buses, or airplanes or (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. The governing body of each county, city, or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city, or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. No county, city, or town shall impose any local alcoholic beverage license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city, or town when such wholesaler maintains no place of business in such county, city, or town.

E. Application of county tax within town. Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town imposes a town license tax on the same privilege.

CHAPTER 552

An Act to amend and reenact § 51.1-309 of the Code of Virginia, relating to Judicial Retirement System; appearance as counsel.

[S 784]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-309 of the Code of Virginia is amended and reenacted as follows:

§ 51.1-309. Appearance as counsel in certain forums prohibited.

A. No former justice or judge of a court of record of the Commonwealth and no former full-time judge of a court not of record of the Commonwealth, who is retired and receiving retirement benefits under the provisions of the Judicial Retirement System, shall appear as counsel in any case in any court of the Commonwealth.

B. No former member of the State Corporation Commission or Virginia Workers' Compensation Commission, who is retired and receiving retirement benefits under the provisions of the Judicial Retirement System, shall appear as counsel in any case before the Commission of which he was formerly a member.

C. The provisions of subsection A shall not be applicable if ~~(i)~~ the retired justice or judge ~~has been retired for at least two years and~~ is not authorized for or assigned to temporary recall by the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals, or the Senate Committee on the Judiciary and the House Committee for Courts of Justice *and either (i) (a) the retired judge or justice has been retired for at least two years*; ~~(ii)~~ *(b)* the retired justice or judge is appearing as counsel, pro bono, for an indigent person in a civil matter; ~~(iii)~~ *(c)* such civil matter is assigned or referred to the retired justice or judge by a nonprofit legal aid program organized under the auspices of the Virginia State Bar; and ~~(iv)~~ *(d)* the retired justice or judge is not an employee, officer, or board member of such nonprofit legal aid program *or (ii) the retired justice or judge is at least 67 years of age and is eligible to receive full Social Security benefits*. Nothing herein shall relieve the retired justice or judge from having obtained any license or meeting any requirement in connection with the appearance as counsel as required by law, rule, or regulation. *A retired justice or judge shall not be eligible to be authorized for or assigned to temporary recall after such time that he appears as private counsel pursuant to this subsection.*

CHAPTER 553

An Act to amend the Code of Virginia by adding a section numbered 15.2-2208.2, relating to local enforcement action; willful disregard for applicable law; damages.

[S 1495]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-2208.2 as follows:

§ 15.2-2208.2. Damages for an enforcement action undertaken by a locality with willful disregard for applicable law.

A. Notwithstanding any other provision of law, general or special, any person against whom an enforcement action is carried out by a locality, of any ordinance or regulation developed pursuant to the authority of the provisions of this chapter, where the enforcement action was based upon a willful disregard for applicable law, regulation, or ordinance, shall be entitled to an award of compensatory damages and to an order remanding the matter to the locality with a direction to carry out any further enforcement in a manner consistent with the law, regulation, or ordinance and may be entitled to reasonable attorney fees and court costs.

B. Any action brought pursuant to this section may be filed with the general district court having jurisdiction of the locality, and the court shall hear and determine the case as soon as practical. Nothing in this section shall be construed to abrogate a claim of qualified immunity.

2. That the provisions of this act shall apply only to enforcement actions taken on or after July 1, 2023.

CHAPTER 554

An Act to amend and reenact §§ 9.1-128, as it shall become effective, 17.1-293.1, as it shall become effective, 19.2-392.2, 19.2-392.3, 19.2-392.5, 19.2-392.6, 19.2-392.7, 19.2-392.10, 19.2-392.11, 19.2-392.12, 19.2-392.13, and 19.2-392.14 and to repeal §§ 19.2-389.3, 19.2-392.2:1, 19.2-392.2:2, and 19.2-392.9 of the Code of Virginia, relating to criminal records; expungement and sealing of records; repeal.

[H 2400]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-128, as it shall become effective, 17.1-293.1, as it shall become effective, 19.2-392.2, 19.2-392.3, 19.2-392.5, 19.2-392.6, 19.2-392.7, 19.2-392.10, 19.2-392.11, 19.2-392.12, 19.2-392.13, and 19.2-392.14 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-128. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Dissemination of criminal history record information; Board to adopt regulations and procedures.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only in accordance with § 19.2-389.

B. The Board shall adopt regulations and procedures for the interstate dissemination of criminal history record information by which criminal justice agencies of the Commonwealth shall ensure that the limitations on dissemination of criminal history record information set forth in § 19.2-389 are accepted by recipients and will remain operative in the event of further dissemination.

C. The Board shall adopt regulations and procedures for the validation of an interstate recipient's right to obtain criminal history record information from criminal justice agencies of the Commonwealth.

D. The Board shall adopt regulations and procedures for the dissemination of sealed criminal history record information, including any records relating to an arrest, charge, or conviction, by which the criminal justice agencies of the Commonwealth and other persons, agencies, and employers can access such sealed records and shall ensure that access to and dissemination of such sealed records are made in accordance with the limitations on dissemination and use set forth in §§ 19.2-389~~, 19.2-389.3,~~ and 19.2-392.13.

§ 17.1-293.1. (For contingent effective date see cc. 524 and 542) Online case information system; exceptions.

A. The Executive Secretary shall make available a publicly viewable online case information system of certain nonconfidential information entered into the case management system for criminal cases in the circuit courts participating in the Executive Secretary's case management system and in the general district courts. Such system shall be searchable by defendant name across all participating courts, and search results shall be viewable free of charge.

B. Upon entry of a sealing order pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12, the Executive Secretary shall not make any offense that was ordered to be sealed available for online public viewing in an appellate court, circuit court, or district court case management system maintained by the Executive Secretary.

C. Upon entry of a sealing order pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12, any circuit court clerk who maintains a viewable online case management or case information system shall not make any offense that was ordered to be sealed available for online public viewing.

§ 19.2-392.2. Expungement of police and court records.

A. If a person is charged with the commission of a crime, a civil offense, or any offense defined in Title 18.2, and

1. Is acquitted, or

2. A nolle prosequi is taken or the charge is otherwise dismissed, including dismissal by accord and satisfaction pursuant to § 19.2-151, he may file a petition setting forth the relevant facts and requesting expungement of the police records and the court records relating to the charge.

B. If any person whose name or other identification has been used without his consent or authorization by another person who has been charged or arrested using such name or identification, he may file a petition with the court disposing of the charge for relief pursuant to this section. Such person shall not be required to pay any fees for the filing of a petition under this subsection. A petition filed under this subsection shall include one complete set of the petitioner's fingerprints obtained from a law-enforcement agency.

C. The petition with a copy of the warrant, summons, or indictment if reasonably available shall be filed in the circuit court of the county or city in which the case was disposed of by acquittal or being otherwise dismissed and shall contain, except ~~where~~ *when* not reasonably available, the date of arrest and the name of the arresting agency. ~~Where~~ *When* this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state the specific criminal charge or civil offense to be expunged, the date of final disposition of the charge as set forth in the petition, the petitioner's date of birth, and the full name used by the petitioner at the time of arrest. *If the petition is filed under this subsection, the petitioner shall request that the Central Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia criminal history record to the circuit court in which the petition was filed. Upon receiving such request, the CCRE shall electronically forward such record to the circuit court; however, if the circuit court is unable to receive an electronic transmission, the CCRE shall forward a copy of such record to the circuit court which shall be maintained under seal by the clerk unless otherwise ordered by the court.*

D. A copy of the petition shall be served on the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 21 days after it is served on him.

E. ~~The~~ *If the petition is filed under subsection B, the* petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's fingerprints and shall provide that agency with a copy of the petition for expungement. The law-enforcement agency shall submit the set of fingerprints to the ~~Central Criminal Records Exchange (CCRE)~~ *CCRE* with a copy of the petition for expungement attached. The CCRE shall forward under seal to the court a copy of the petitioner's criminal history~~, a copy of the source documents that resulted in the CCRE entry that the petitioner wishes to expunge, if applicable,~~ and the set of fingerprints. Upon completion of the hearing, the court shall return the fingerprint card to the petitioner. If no hearing was conducted, upon the entry of an order of expungement or an order denying the petition for

expungement, the court shall cause the fingerprint card to be destroyed unless, within 30 days of the date of the entry of the order, the petitioner requests the return of the fingerprint card in person from the clerk of the court or provides the clerk of the court a self-addressed, stamped envelope for the return of the fingerprint card.

F. After receiving the criminal history record information ~~from the~~ ~~CCRE~~, the court shall conduct a hearing on the petition. If the court finds that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances which constitute a manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police and court records, including electronic records, relating to the charge. Otherwise, it shall deny the petition. However, if the petitioner has no prior criminal record and the arrest was for a misdemeanor violation or the charge was for a civil offense, the petitioner shall be entitled, in the absence of good cause shown to the contrary by the Commonwealth, to expungement of the police and court records relating to the charge, and the court shall enter an order of expungement. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court pursuant to subsection D that he does not object to the petition and (ii) when the charge to be expunged is a felony, stipulates in such written notice that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances which constitute a manifest injustice to the petitioner, the court may enter an order of expungement without conducting a hearing.

G. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

H. Notwithstanding any other provision of this section, when the charge is dismissed because the court finds that the person arrested or charged is not the person named in the summons, warrant, indictment or presentment, the court dismissing the charge shall, upon motion of the person improperly arrested or charged, enter an order requiring expungement of the police and court records relating to the charge. Such order shall contain a statement that the dismissal and expungement are ordered pursuant to this subsection and shall be accompanied by the complete set of the petitioner's fingerprints filed with his petition. Upon the entry of such order, it shall be treated as provided in subsection K.

I. Notwithstanding any other provision of this section, upon receiving a copy pursuant to § 2.2-402 of an absolute pardon for the commission of a crime that a person did not commit, the court shall enter an order requiring expungement of the police and court records relating to the charge and conviction. Such order shall contain a statement that the expungement is ordered pursuant to this subsection. Upon the entry of such order, it shall be treated as provided in subsection K.

J. Upon receiving a copy of a writ vacating a conviction pursuant to § 19.2-327.5 or 19.2-327.13, the court shall enter an order requiring expungement of the police and court records relating to the charge and conviction. Such order shall contain a statement that the expungement is ordered pursuant to this subsection. Upon the entry of the order, it shall be treated as provided in subsection K.

K. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such order to be forwarded to the Department of State Police, which shall, pursuant to rules and regulations adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or removal of such records shall be effected.

L. Costs shall be as provided by § 17.1-275, but shall not be recoverable against the Commonwealth. If the court enters an order of expungement, the clerk of the court shall refund to the petitioner such costs paid by the petitioner.

M. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order of expungement contrary to law, shall be voidable upon motion and notice made within three years of the entry of such order.

N. A petition filed under this section and any responsive pleadings filed by the attorney for the Commonwealth shall be maintained under seal by the clerk unless otherwise ordered by the court. Any order to expunge issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.3 pursuant to regulations and procedures adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

§ 19.2-392.3. Disclosure of expunged records.

A. It shall be unlawful for any person having or acquiring access to an expunged court or police record to open or review it or to disclose to another person any information from it without an order from the court which ordered the record expunged.

B. Upon a verified petition filed by the attorney for the Commonwealth alleging that the record is needed by a law-enforcement agency for purposes of employment application as an employee of a law-enforcement agency or for a pending criminal investigation and that the investigation will be jeopardized or that life or property will be endangered without immediate access to the record, the court may enter an ex parte order, without notice to the person, permitting such access. An ex parte order may permit a review of the record, but may not permit a copy to be made of it.

C. *Upon a verified petition requesting access to an expunged court or police record that is filed by the person who was charged with the offense that was ordered to be expunged, with notice to the attorney for the Commonwealth, the court may enter an order allowing that person and their counsel to review and copy the expunged court or police record. However, no agency or entity shall be required to allow the person or their counsel to review or copy the expunged court or police record if such record has been destroyed.*

D. Any person who willfully violates this section is guilty of a Class 1 misdemeanor. *However, unless otherwise prohibited by law, any person who opens, reviews, or discloses information from an expunged court or police record after being provided a copy of such record by the person who was charged with the offense that was ordered to be expunged, or by counsel for such person, shall not be in violation of this section.*

§ 19.2-392.5. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Sealing defined; effect of sealing.

A. As used in this chapter, unless the context requires a different meaning, "sealing" means to (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13. "Sealing" may be required either by the issuance of a court order following the filing of a petition or automatically by operation of law under the processes set forth in this chapter.

B. The provisions of this chapter shall only apply to adults who were arrested, charged, or convicted of a criminal offense and to juveniles who were tried in circuit court pursuant to § 16.1-269.1.

C. Records relating to an arrest, charge, or conviction that have been sealed may be disseminated only for purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. The court, except as provided in subsection B of § 19.2-392.14, and any law-enforcement agency shall reply to any inquiry that no record exists with respect to an arrest, charge, or conviction that has been sealed, unless such information is permitted to be disclosed pursuant to § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. A clerk of any court and the Executive Secretary of the Supreme Court shall be immune from any cause of action arising from the production of sealed court records, including electronic records, absent gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any cause of action accruing prior to the effective date of this section.

D. Except as otherwise provided in this section, upon entry of an order for sealing, the person who was arrested, charged, or convicted of the offense that was ordered to be sealed may deny or not disclose to any state or local government agency or to any private employer in the Commonwealth that such an arrest, charge, or conviction occurred. Except as otherwise provided in this section, no person as to whom an order for sealing has been entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of that person's denial or failure to disclose any information concerning an arrest, charge, or conviction that has been sealed.

E. A person who is the subject of the order of sealing entered pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12 may not deny or fail to disclose information to any employer or prospective employer about an offense that has been ordered to be sealed if:

1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;

2. This Code requires the employer to make such an inquiry;

3. Federal law requires the employer to make such an inquiry;

4. The position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; or

5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 allow the employer to access such sealed records.

Failure to disclose such sealed arrest, charge, or conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

F. An order to seal an arrest, charge, or conviction entered pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12 shall not relieve the person who was arrested, charged, or convicted of any obligation to pay all fines, costs, forfeitures, penalties, or restitution in relation to the offense that was ordered to be sealed.

G. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12 may be admissible and considered in proceedings relating to the care and custody of a child. A person as to whom an order for sealing has been entered may be required to disclose a sealed arrest, charge, or conviction as part of such proceedings. Failure to disclose such sealed arrest, charge, or conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

H. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12 shall not be (i) disclosed in any sentencing report; (ii) considered when ascertaining the punishment of a defendant; or (iii) considered in any hearing on the issue of bail, release, or detention of a defendant.

I. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12 shall not constitute a barrier crime as defined in § 19.2-392.02, except as otherwise required under federal law.

J. A person shall be required to disclose any felony conviction sealed pursuant to § 19.2-392.12 for purposes of determining that person's eligibility to be empaneled as a member of a jury. Failure to disclose such conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

§ 19.2-392.6. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing of offenses resulting in a deferred and dismissed disposition or conviction; automatic sealing of former possession of marijuana offenses.

A. ~~If a person was charged with an offense in violation of § 4.1-305 or former § 18.2-250.1, and such offense was deferred and dismissed as provided in § 4.1-305 or 18.2-251, such offense, including any records relating to such offense, shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections C and D.~~

~~B.~~ If a person was convicted of a violation of any of the following sections, such conviction, including any records relating to such conviction, shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections ~~C~~ *B* and ~~D~~ *C*: § ~~4.1-305,~~ 18.2-96, 18.2-103, 18.2-119, 18.2-120, or 18.2-134; a misdemeanor violation of § 18.2-248.1; or ~~former § 18.2-250.1 or~~ *§* 18.2-415.

~~C.~~ *B.* Subject to the provisions of subsection ~~D, any offense listed under subsection A and~~ *C,* any conviction listed under subsection ~~B~~ *A* shall be ordered to be automatically sealed if seven years have passed since the date of the ~~dismissal or~~ conviction and the person ~~charged with or~~ convicted of such offense has not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period.

~~D. No offense listed under subsection A shall be automatically sealed if, on the date of the deferral or dismissal, the person was convicted of another offense that is not eligible for automatic sealing under subsection A or B.~~ *C.* No conviction listed under subsection ~~B~~ *A* shall be automatically sealed if, on the date of the conviction, the person was convicted of another offense that is not eligible for automatic sealing under subsection A ~~or B~~.

D. If a person was charged with any criminal offense and such offense concluded with any final disposition as a violation of former § 18.2-250.1, such offense shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7.

E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit court pursuant to the provisions of § 19.2-392.12.

§ 19.2-392.7. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Process for automatic sealing of offenses resulting in a conviction or deferred disposition.

A. ~~On~~ *Except as provided in subsection A1, on* at least a monthly basis, the Department of State Police shall determine which offenses in the Central Criminal Records Exchange meet the criteria for automatic sealing set forth in *subsections A, B, and C of* § 19.2-392.6.

A1. No later than July 1, 2025, the Department of State Police shall determine which offenses in the Central Criminal Records Exchange meet the criteria for automatic sealing set forth in subsection D of § 19.2-392.6.

B. After reviewing the offenses under ~~subsection~~ *subsections* A *and A1*, the Department of State Police shall provide an electronic list of all offenses that meet the criteria for automatic sealing set forth in § 19.2-392.6 to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502.

C. Upon receipt of the electronic list from the Department of State Police provided under subsection B, on at least a monthly basis the Executive Secretary of the Supreme Court shall provide an electronic list of all offenses that meet the criteria for automatic sealing set forth in § 19.2-392.6 to the clerk of each circuit court in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case management system maintained by the Executive Secretary.

D. Upon receipt of the electronic list provided under subsection B or C, on at least a monthly basis the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall enter such order directing that the offenses that meet the criteria for automatic sealing set forth in § 19.2-392.6 be automatically sealed under the process described in § 19.2-392.13. Such order shall contain the names of the persons charged with or convicted of such offenses. *The clerk of each circuit court shall maintain a copy of all orders entered pursuant to this subsection under seal.*

E. The clerk of each circuit court shall provide an electronic ~~copy~~ *notification* of any order entered under subsection D to the Department of State Police on at least a monthly basis. Upon receipt of such ~~order~~ *electronic notification*, the Department of State Police shall proceed as set forth in § 19.2-392.13.

F. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

G. If an offense is automatically sealed contrary to law, the automatic sealing of that particular offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

§ 19.2-392.10. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Process for automatic sealing of offenses resulting in acquittal, nolle prosequi, or dismissal.

A. On at least a monthly basis, the Executive Secretary of the Supreme Court and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 shall provide an electronic ~~list~~ *notification* of all offenses in such case management system to the Department of State Police that were ordered to be automatically sealed pursuant to ~~§§~~ *§* 19.2-392.8 ~~and 19.2-392.9~~.

B. Upon receipt of the electronic ~~lists~~ *notification* under subsection A, the Department of State Police shall proceed as set forth in § 19.2-392.13.

§ 19.2-392.11. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing of misdemeanor offenses resulting in acquittal, nolle prosequi, or dismissal for persons with no convictions or deferred and dismissed offenses on their criminal history record.

A. On at least an annual basis, the Department of State Police shall review the Central Criminal Records Exchange and identify all persons with finalized misdemeanor case dispositions that resulted in (i) an acquittal, (ii) a nolle prosequi, or (iii) a dismissal, excluding any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt, where the criminal history record of such person contains no convictions for any criminal offense for a violation of any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 and where such criminal history record contains no arrests or charges for a violation of any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 in the past three years, excluding traffic infractions under Title 46.2. For purposes of this subsection, any offense on the person's criminal history record that has previously been ordered to be sealed shall not be deemed a conviction.

B. Upon identification of the finalized case dispositions under subsection A, the Department of State Police shall provide an electronic list of such offenses to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502.

C. Upon receipt of the electronic list from the Department of State Police provided under subsection B, on at least an annual basis the Executive Secretary of the Supreme Court shall provide an electronic list of such offenses to the clerk of each circuit court in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case management system maintained by the Executive Secretary.

D. Upon receipt of the electronic list provided under subsection B or C, on at least an annual basis the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall enter such order directing that the offenses be automatically sealed under the process described in § 19.2-392.13. Such order shall contain the names of the persons charged with such offenses. *The clerk of each circuit court shall maintain a copy of all orders entered pursuant to this subsection under seal.*

E. The clerk of each circuit court shall provide an electronic ~~copy~~ *notification* of any order entered under subsection D to the Department of State Police on at least an annual basis. Upon receipt of such ~~order~~ *electronic notification*, the Department of State Police shall proceed as set forth in § 19.2-392.13.

F. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

G. This section shall not be construed as prohibiting a person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2. Entry of a sealing order pursuant to this section shall not prohibit a person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2.

H. If an offense is automatically sealed contrary to law, the automatic sealing of that particular offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

I. If an offense is automatically sealed pursuant to the procedure set forth in this section and such offense was not ordered to be automatically sealed at the time of acquittal, nolle prosequi, or dismissal for one or more of the reasons set forth in § 19.2-392.8, the automatic sealing of such offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

§ 19.2-392.12. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Sealing of offenses resulting in a deferred and dismissed disposition or conviction by petition.

A. Except for a conviction or deferral and dismissal of a violation of § 18.2-36.1, 18.2-36.2, 18.2-51.4, 18.2-51.5, 18.2-57.2, 18.2-266, or 46.2-341.24, a person who has been convicted of or had a charge deferred and dismissed for a (i) misdemeanor offense, (ii) Class 5 or 6 felony, or (iii) violation of § 18.2-95 or any other felony offense in which the defendant is deemed guilty of larceny and punished as provided in § 18.2-95 may file a petition setting forth the relevant facts and requesting sealing of the criminal history record information and court records relating to the charge or conviction, provided that such person has (a) never been convicted of a Class 1 or 2 felony or any other felony punishable by imprisonment for life, (b) not been convicted of a Class 3 or 4 felony within the past 20 years, ~~or~~ *and* (c) not been convicted of any other felony within the past 10 years of his petition.

B. A person shall not be required to pay any fees or costs for filing a petition pursuant to this section if such person files a petition to proceed without the payment of fees and costs, and the court with which such person files his petition finds such person to be indigent pursuant to § 19.2-159.

C. The petition with a copy of the warrant, summons, or indictment, if reasonably available, shall be filed in the circuit court of the county or city in which the case was disposed of and shall contain, except when not reasonably available, the date of arrest, the name of the arresting agency, and the date of conviction. When this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state the charge or conviction to be sealed; the date of final disposition of the charge or conviction as set forth in the petition; the petitioner's date of birth, sex, race, and social security number, if available; and the full name used by the petitioner at the time of arrest or summons.

A petition may request the sealing of the criminal history record information and court records for multiple charges or convictions as set forth in subsection A provided that all such charges and convictions arose out of the same transaction or occurrence and all such charges are eligible for sealing. A petition may not request the sealing of the criminal history record information and court records for multiple charges or convictions that arose out of different transactions or occurrences. A petitioner may only have two petitions granted pursuant to this section within his lifetime. *Any petition that is granted (i) solely to seal a violation of subsection A of § 18.2-265.3 as it relates to marijuana, (ii) solely to seal a violation of § 4.1-305, or (iii) to seal a violation of both subsection A of § 18.2-265.3 as it relates to marijuana and § 4.1-305 arising out of the same transaction or occurrence shall not count against the petitioner's lifetime maximum.*

D. The Commonwealth shall be made party to the proceeding. The petitioner shall provide a copy of the petition by delivery or by first-class mail, postage prepaid, to the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 21 days after it is delivered to him or received in the mail.

E. ~~Upon receipt of the petition, the circuit court shall order that the attorney for the Commonwealth or a law enforcement officer, as defined in § 9.1-101, provide the court with a sealed copy of the criminal history record of the petitioner.~~ *In addition to the filing of the petition under subsection C, the petitioner shall request that the Central Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia criminal history record to the circuit court in which the petition was filed. Upon receiving such request, the CCRE shall electronically forward such record to the circuit court; however, if the circuit court is unable to receive an electronic transmission, the CCRE shall forward a copy of such record to the circuit court which shall be maintained under seal by the clerk unless otherwise ordered by the court.* Upon completion of the hearing, the court shall cause the criminal history record to be destroyed unless, within 30 days of the date of the entry of the final order in the matter, the petitioner or the attorney for the Commonwealth notes an appeal to the Supreme Court of Virginia.

F. After receiving the criminal history record of the petitioner, the court may conduct a hearing on the petition. The court shall enter an order requiring the sealing of the criminal history record information and court records, including electronic records, relating to the charge or conviction, only if the court finds that all criteria in subdivisions 1 through 4 are met, as follows:

1. During a period after the date of (i) dismissal of a deferred charge, (ii) conviction, or (iii) release from incarceration of the charge or conviction set forth in the petition, whichever date occurred later, the person has not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, for:

a. Seven years for any misdemeanor offense; or

b. Ten years for any felony offense;

2. If the records relating to the offense indicate that the occurrence leading to the deferral or conviction involved the use or dependence upon alcohol or any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, the petitioner has demonstrated his rehabilitation;

3. The petitioner has not previously obtained the sealing of two other deferrals or convictions arising out of different sentencing events; and

4. The continued existence and possible dissemination of information relating to the charge or conviction of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner.

G. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court pursuant to subsection D that he does not object to the petition and (ii) stipulates in such written notice that the petitioner is eligible to have such offense sealed, and the continued existence and possible dissemination of information relating to the charge or conviction of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner, the court may enter an order of sealing without conducting a hearing.

H. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

I. Upon the entry of an order of sealing, the clerk of the court *shall maintain a copy of such order under seal and* shall cause an electronic ~~copy~~ *notification* of such order to be forwarded to the Department of State Police. Such electronic ~~order~~ *notification* shall contain the petitioner's full name, date of birth, sex, race, and social security number, if available, *and the full name used by the petitioner at the time of arrest or summons,* as well as the petitioner's state identification number from the criminal history record, the court case number of the charge or conviction to be sealed, if available, and the document control number, if available. Upon receipt of such electronic ~~order~~ *notification*, the Department of State Police shall seal such records in accordance with § 19.2-392.13. When sealing such charge or conviction, the Department of State Police shall include a notation on the criminal history record that such offense was sealed pursuant to this section. The Department of State Police shall also electronically notify the Office of the Executive Secretary of the Supreme Court and any other agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be sealed and may only be disseminated in accordance with § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

J. Costs shall be as provided by § 17.1-275 but shall not be recoverable against the Commonwealth. Any costs collected pursuant to this section shall be deposited in the Sealing Fee Fund created pursuant to § 17.1-205.1.

K. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order for the sealing of records contrary to law shall be voidable upon motion and notice made within two years of the entry of such order.

L. If a petitioner qualifies to file a petition for sealing of records without the payment of fees and costs pursuant to subsection B and has requested court-appointed counsel, the court shall then appoint counsel to file the petition for sealing of records and represent the petitioner in the sealed records proceedings. Counsel appointed to represent such a petitioner shall be compensated for his services subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, in a total amount not to exceed $120, as determined by the court, and such compensation shall be paid from the Sealing Fee Fund as provided in § 17.1-205.1.

M. A petition filed under this section and any responsive pleadings filed by the attorney for the Commonwealth shall be maintained under seal by the clerk unless otherwise ordered by the court. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

N. A conviction or deferral and dismissal of § 18.2-36.1, 18.2-36.2, 18.2-51.4, 18.2-51.5, 18.2-57.2, 18.2-266, or 46.2-341.24 is ineligible for the sealing of records under this section.

O. Nothing in this chapter shall prohibit the circuit court from entering an order to seal a charge or conviction under this section when such charge or conviction is eligible for sealing under some other section of this chapter.

§ 19.2-392.13. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Disposition of records when an offense is sealed; permitted uses of sealed records.

A. Upon electronic notification that a court order for sealing has been entered pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12, the Department of State Police shall not disseminate any criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, that was ordered to be sealed, except for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Upon receipt of such electronic notification, the Department of State Police shall electronically notify those agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be sealed and may only be disseminated for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any records maintained electronically that are transformed or transferred by whatever means to an offline system or to a confidential and secure area inaccessible from normal use within the system in which the record is maintained shall be considered sealed, provided that such records are accessible only to the manager of the records or their designee.

B. Upon entry of a court order for sealing pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12, the Executive Secretary of the Supreme Court and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 shall ensure that the court record of such arrest, charge, or conviction is not available for public online viewing as directed by subsections B and C of § 17.1-293.1. Additionally, upon entry of such an order for sealing, the clerk of court shall not disseminate any court record of such arrest, charge, or conviction, except as provided in subsections D and E.

C. Records relating to an arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12 shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission*, the Virginia State Crime Commission, and the Joint Legislative Audit and Review Commission* for ~~its~~ research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or

restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12*, whether the court or parties failed to strictly comply with sealing procedures, or whether an order for sealing was entered contrary to law*; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was sealed.

D. Upon request from any person to access a paper or a digital image of a court record, the clerk of court shall determine whether such record is open to public access and inspection. If the clerk of court determines that the court record has been sealed, such record shall not be provided to the requestor without an order from the court that entered the order to seal the court record. Any order from a court that allows access to a paper or a digital image of a court record that has been sealed shall only be issued for one or more of the purposes set forth in subsection C. Such order to access a paper or a digital image of a court record that has been sealed shall allow the requestor to photocopy such court record. No fee shall be charged to any person filing a motion to access a paper or a digital image of a court record that has been sealed if the person filing such motion is the same person who was arrested, charged, or convicted of the offense that was sealed.

E. No access shall be provided to electronic records in an appellate court, circuit court, or district court case management system maintained by the Executive Secretary of the Supreme Court or in a case management system maintained by a clerk of the circuit court for any arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12, except to the Virginia Criminal Sentencing Commission*, the Virginia State Crime Commission, and the Joint Legislative Audit and Review Commission* for ~~its~~ research purposes. Such electronic records may be disseminated to the Virginia Criminal Sentencing Commission*, the Virginia State Crime Commission, and the Joint Legislative Audit and Review Commission* without a court order.

F. If a pleading or case document in a court record that was sealed is included among other court records that have not been ordered to be sealed, the clerk of court shall not be required to prohibit dissemination of that record. The Supreme Court, Court of Appeals, and any circuit court shall not be required to prohibit dissemination of any published or unpublished opinion relating to an arrest, charge, or conviction that was ordered to be sealed.

G. The Department of Motor Vehicles shall not seal any conviction or any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a conviction or deferral and dismissal ordered to be sealed. Upon receipt of an order directing that an offense be sealed, the Department of Motor Vehicles shall seal all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot seal an offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be sealed and cite the authority prohibiting sealing at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the sealing is ordered, on which such record can be sealed; (c) seal such record on that date; and (d) notify the Department of State Police when such record has been sealed within the Department of Motor Vehicles' records.

H. No arrest, charge, or conviction that has been sealed may be used to impeach the credibility of a testifying witness at any hearing or trial unless (i) its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect and (ii) the proponent gives an adverse party reasonable written notice of the intent to use it so that the party has a fair opportunity to contest its use.

I. The provisions of this section shall not prohibit the disclosure of sealed criminal history record information or any information from such records among law-enforcement officers and attorneys when such disclosures are made by such officers or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth when related to the prosecution of a separate crime.

§ 19.2-392.14. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Disclosure of sealed records; penalty.

A. It is unlawful for any person having or acquiring access to sealed criminal history record information or a court record, including any records relating to an arrest, charge, or conviction, that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12, to disclose such record or any information from such record to another person, except in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

B. A clerk of court shall not be in violation of this section if such clerk informs a person requesting access to a sealed court record that such court record has been sealed and can only be accessed pursuant to a court order.

C. Any person who willfully violates this section is guilty of a Class 1 misdemeanor. Any person who maliciously and intentionally violates this section is guilty of a Class 6 felony.

2. That §§ 19.2-392.2:1, 19.2-392.2:2, and 19.2-392.9 of the Code of Virginia are repealed.

3. That § 19.2-389.3 of the Code of Virginia is repealed effective on the earlier of (i) the date on which the processes to seal criminal history record information and court records pursuant to Chapters 524 and 542 of the Acts of Assembly of 2021, Special Session I, become effective or (ii) July 1, 2025.

4. That the provisions of §§ 9.1-128, 19.2-392.2, 19.2-392.3, 19.2-392.6, 19.2-392.7, 19.2-392.10, 19.2-392.11, 19.2-392.12, and 19.2-392.13 of the Code of Virginia, as amended by this act, shall become effective on the earlier of (i) the date on which the processes to seal criminal history record information and court records pursuant to Chapters 524 and 542 of the Acts of Assembly of 2021, Special Session I, become effective or (ii) July 1, 2025.

5. That the Department of State Police shall first transmit the lists required under subsection B of § 19.2-392.7 of the Code of Virginia, as amended by this act, not later than the earlier of (i) the first day of the third month following the date on which the processes to seal criminal history record information and court records pursuant to Chapters 524 and 542 of the Acts of Assembly of 2021, Special Session I, become effective or (ii) October 1, 2025.

CHAPTER 555

An Act to amend and reenact §§ 9.1-128, as it shall become effective, 17.1-293.1, as it shall become effective, 19.2-392.2, 19.2-392.3, 19.2-392.5, 19.2-392.6, 19.2-392.7, 19.2-392.10, 19.2-392.11, 19.2-392.12, 19.2-392.13, and 19.2-392.14 and to repeal §§ 19.2-389.3, 19.2-392.2:1, 19.2-392.2:2, and 19.2-392.9 of the Code of Virginia, relating to criminal records; expungement and sealing of records; repeal.

[S 1402]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-128, as it shall become effective, 17.1-293.1, as it shall become effective, 19.2-392.2, 19.2-392.3, 19.2-392.5, 19.2-392.6, 19.2-392.7, 19.2-392.10, 19.2-392.11, 19.2-392.12, 19.2-392.13, and 19.2-392.14 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-128. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Dissemination of criminal history record information; Board to adopt regulations and procedures.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only in accordance with § 19.2-389.

B. The Board shall adopt regulations and procedures for the interstate dissemination of criminal history record information by which criminal justice agencies of the Commonwealth shall ensure that the limitations on dissemination of criminal history record information set forth in § 19.2-389 are accepted by recipients and will remain operative in the event of further dissemination.

C. The Board shall adopt regulations and procedures for the validation of an interstate recipient's right to obtain criminal history record information from criminal justice agencies of the Commonwealth.

D. The Board shall adopt regulations and procedures for the dissemination of sealed criminal history record information, including any records relating to an arrest, charge, or conviction, by which the criminal justice agencies of the Commonwealth and other persons, agencies, and employers can access such sealed records and shall ensure that access to and dissemination of such sealed records are made in accordance with the limitations on dissemination and use set forth in §§ 19.2-389~~, 19.2-389.3,~~ and 19.2-392.13.

§ 17.1-293.1. (For contingent effective date see cc. 524 and 542) Online case information system; exceptions.

A. The Executive Secretary shall make available a publicly viewable online case information system of certain nonconfidential information entered into the case management system for criminal cases in the circuit courts participating in the Executive Secretary's case management system and in the general district courts. Such system shall be searchable by defendant name across all participating courts, and search results shall be viewable free of charge.

B. Upon entry of a sealing order pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12, the Executive Secretary shall not make any offense that was ordered to be sealed available for online public viewing in an appellate court, circuit court, or district court case management system maintained by the Executive Secretary.

C. Upon entry of a sealing order pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12, any circuit court clerk who maintains a viewable online case management or case information system shall not make any offense that was ordered to be sealed available for online public viewing.

§ 19.2-392.2. Expungement of police and court records.

A. If a person is charged with the commission of a crime, a civil offense, or any offense defined in Title 18.2, and

1. Is acquitted, or

2. A nolle prosequi is taken or the charge is otherwise dismissed, including dismissal by accord and satisfaction pursuant to § 19.2-151, he may file a petition setting forth the relevant facts and requesting expungement of the police records and the court records relating to the charge.

B. If any person whose name or other identification has been used without his consent or authorization by another person who has been charged or arrested using such name or identification, he may file a petition with the court disposing of the charge for relief pursuant to this section. Such person shall not be required to pay any fees for the filing of a petition under this subsection. A petition filed under this subsection shall include one complete set of the petitioner's fingerprints obtained from a law-enforcement agency.

C. The petition with a copy of the warrant, summons, or indictment if reasonably available shall be filed in the circuit court of the county or city in which the case was disposed of by acquittal or being otherwise dismissed and shall contain, except ~~where~~ *when* not reasonably available, the date of arrest and the name of the arresting agency. ~~Where~~ *When* this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state the specific criminal charge or civil offense to be expunged, the date of final disposition of the charge as set forth in the petition, the petitioner's date of birth, and the full name used by the petitioner at the time of arrest. *If the petition is filed under this subsection, the petitioner shall request that the Central Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia criminal history record to the circuit court in which the petition was filed. Upon receiving such request, the CCRE shall electronically forward such record to the circuit court; however, if the circuit court is unable to receive an electronic transmission, the CCRE shall forward a copy of such record to the circuit court which shall be maintained under seal by the clerk unless otherwise ordered by the court.*

D. A copy of the petition shall be served on the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 21 days after it is served on him.

E. ~~The~~ *If the petition is filed under subsection B, the* petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's fingerprints and shall provide that agency with a copy of the petition for expungement. The law-enforcement agency shall submit the set of fingerprints to the ~~Central Criminal Records Exchange (CCRE)~~ *CCRE* with a copy of the petition for expungement attached. The CCRE shall forward under seal to the court a copy of the petitioner's criminal history~~, a copy of the source documents that resulted in the CCRE entry that the petitioner wishes to expunge, if applicable,~~ and the set of fingerprints. Upon completion of the hearing, the court shall return the fingerprint card to the petitioner. If no hearing was conducted, upon the entry of an order of expungement or an order denying the petition for expungement, the court shall cause the fingerprint card to be destroyed unless, within 30 days of the date of the entry of the order, the petitioner requests the return of the fingerprint card in person from the clerk of the court or provides the clerk of the court a self-addressed, stamped envelope for the return of the fingerprint card.

F. After receiving the criminal history record information ~~from the CCRE~~, the court shall conduct a hearing on the petition. If the court finds that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances which constitute a manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police and court records, including electronic records, relating to the charge. Otherwise, it shall deny the petition. However, if the petitioner has no prior criminal record and the arrest was for a misdemeanor violation or the charge was for a civil offense, the petitioner shall be entitled, in the absence of good cause shown to the contrary by the Commonwealth, to expungement of the police and court records relating to the charge, and the court shall enter an order of expungement. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court pursuant to subsection D that he does not object to the petition and (ii) when the charge to be expunged is a felony, stipulates in such written notice that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances which constitute a manifest injustice to the petitioner, the court may enter an order of expungement without conducting a hearing.

G. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

H. Notwithstanding any other provision of this section, when the charge is dismissed because the court finds that the person arrested or charged is not the person named in the summons, warrant, indictment or presentment, the court dismissing the charge shall, upon motion of the person improperly arrested or charged, enter an order requiring expungement of the police and court records relating to the charge. Such order shall contain a statement that the dismissal and expungement are ordered pursuant to this subsection and shall be accompanied by the complete set of the petitioner's fingerprints filed with his petition. Upon the entry of such order, it shall be treated as provided in subsection K.

I. Notwithstanding any other provision of this section, upon receiving a copy pursuant to § 2.2-402 of an absolute pardon for the commission of a crime that a person did not commit, the court shall enter an order requiring expungement of the police and court records relating to the charge and conviction. Such order shall contain a statement that the expungement is ordered pursuant to this subsection. Upon the entry of such order, it shall be treated as provided in subsection K.

J. Upon receiving a copy of a writ vacating a conviction pursuant to § 19.2-327.5 or 19.2-327.13, the court shall enter an order requiring expungement of the police and court records relating to the charge and conviction. Such order shall

contain a statement that the expungement is ordered pursuant to this subsection. Upon the entry of the order, it shall be treated as provided in subsection K.

K. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such order to be forwarded to the Department of State Police, which shall, pursuant to rules and regulations adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or removal of such records shall be effected.

L. Costs shall be as provided by § 17.1-275, but shall not be recoverable against the Commonwealth. If the court enters an order of expungement, the clerk of the court shall refund to the petitioner such costs paid by the petitioner.

M. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order of expungement contrary to law, shall be voidable upon motion and notice made within three years of the entry of such order.

N. A petition filed under this section and any responsive pleadings filed by the attorney for the Commonwealth shall be maintained under seal by the clerk unless otherwise ordered by the court. Any order to expunge issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.3 pursuant to regulations and procedures adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

§ 19.2-392.3. Disclosure of expunged records.

A. It shall be unlawful for any person having or acquiring access to an expunged court or police record to open or review it or to disclose to another person any information from it without an order from the court which ordered the record expunged.

B. Upon a verified petition filed by the attorney for the Commonwealth alleging that the record is needed by a law-enforcement agency for purposes of employment application as an employee of a law-enforcement agency or for a pending criminal investigation and that the investigation will be jeopardized or that life or property will be endangered without immediate access to the record, the court may enter an ex parte order, without notice to the person, permitting such access. An ex parte order may permit a review of the record, but may not permit a copy to be made of it.

C. *Upon a verified petition requesting access to an expunged court or police record that is filed by the person who was charged with the offense that was ordered to be expunged, with notice to the attorney for the Commonwealth, the court may enter an order allowing that person and their counsel to review and copy the expunged court or police record. However, no agency or entity shall be required to allow the person or their counsel to review or copy the expunged court or police record if such record has been destroyed.*

D. Any person who willfully violates this section is guilty of a Class 1 misdemeanor. *However, unless otherwise prohibited by law, any person who opens, reviews, or discloses information from an expunged court or police record after being provided a copy of such record by the person who was charged with the offense that was ordered to be expunged, or by counsel for such person, shall not be in violation of this section.*

§ 19.2-392.5. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Sealing defined; effect of sealing.

A. As used in this chapter, unless the context requires a different meaning, "sealing" means to (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13. "Sealing" may be required either by the issuance of a court order following the filing of a petition or automatically by operation of law under the processes set forth in this chapter.

B. The provisions of this chapter shall only apply to adults who were arrested, charged, or convicted of a criminal offense and to juveniles who were tried in circuit court pursuant to § 16.1-269.1.

C. Records relating to an arrest, charge, or conviction that have been sealed may be disseminated only for purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. The court, except as provided in subsection B of § 19.2-392.14, and any law-enforcement agency shall reply to any inquiry that no record exists with respect to an arrest, charge, or conviction that has been sealed, unless such information is permitted to be disclosed pursuant to § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. A clerk of any court and the Executive Secretary of the Supreme Court shall be immune from any cause of action arising from the production of sealed court records, including electronic records, absent gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any cause of action accruing prior to the effective date of this section.

D. Except as otherwise provided in this section, upon entry of an order for sealing, the person who was arrested, charged, or convicted of the offense that was ordered to be sealed may deny or not disclose to any state or local government agency or to any private employer in the Commonwealth that such an arrest, charge, or conviction occurred. Except as otherwise provided in this section, no person as to whom an order for sealing has been entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of that person's denial or failure to disclose any information concerning an arrest, charge, or conviction that has been sealed.

E. A person who is the subject of the order of sealing entered pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12 may not deny or fail to disclose information to any employer or prospective employer about an offense that has been ordered to be sealed if:

1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;

2. This Code requires the employer to make such an inquiry;

3. Federal law requires the employer to make such an inquiry;

4. The position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; or

5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 allow the employer to access such sealed records.

Failure to disclose such sealed arrest, charge, or conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

F. An order to seal an arrest, charge, or conviction entered pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12 shall not relieve the person who was arrested, charged, or convicted of any obligation to pay all fines, costs, forfeitures, penalties, or restitution in relation to the offense that was ordered to be sealed.

G. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12 may be admissible and considered in proceedings relating to the care and custody of a child. A person as to whom an order for sealing has been entered may be required to disclose a sealed arrest, charge, or conviction as part of such proceedings. Failure to disclose such sealed arrest, charge, or conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

H. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12 shall not be (i) disclosed in any sentencing report; (ii) considered when ascertaining the punishment of a defendant; or (iii) considered in any hearing on the issue of bail, release, or detention of a defendant.

I. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12 shall not constitute a barrier crime as defined in § 19.2-392.02, except as otherwise required under federal law.

J. A person shall be required to disclose any felony conviction sealed pursuant to § 19.2-392.12 for purposes of determining that person's eligibility to be empaneled as a member of a jury. Failure to disclose such conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

§ 19.2-392.6. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing of offenses resulting in a deferred and dismissed disposition or conviction; automatic sealing of former possession of marijuana offenses.

A. ~~If a person was charged with an offense in violation of § 4.1-305 or former § 18.2-250.1, and such offense was deferred and dismissed as provided in § 4.1-305 or 18.2-251, such offense, including any records relating to such offense, shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections C and D.~~

~~B.~~ If a person was convicted of a violation of any of the following sections, such conviction, including any records relating to such conviction, shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections ~~C~~ *B* and ~~D~~ *C*: § ~~4.1-305,~~ 18.2-96, 18.2-103, 18.2-119, 18.2-120, or 18.2-134; a misdemeanor violation of § 18.2-248.1; or ~~former § 18.2-250.1 or~~ *§* 18.2-415.

~~C.~~ *B.* Subject to the provisions of subsection ~~D,~~ ~~any offense listed under subsection A and~~ *C,* any conviction listed under subsection ~~B~~ *A* shall be ordered to be automatically sealed if seven years have passed since the date of the ~~dismissal or~~ conviction and the person ~~charged with or~~ convicted of such offense has not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period.

~~D. No offense listed under subsection A shall be automatically sealed if, on the date of the deferral or dismissal, the person was convicted of another offense that is not eligible for automatic sealing under subsection A or B.~~ *C.* No conviction listed under subsection ~~B~~ *A* shall be automatically sealed if, on the date of the conviction, the person was convicted of another offense that is not eligible for automatic sealing under subsection A ~~or B~~.

D. If a person was charged with any criminal offense and such offense concluded with any final disposition as a violation of former § 18.2-250.1, such offense shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7.

E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit court pursuant to the provisions of § 19.2-392.12.

§ 19.2-392.7. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Process for automatic sealing of offenses resulting in a conviction or deferred disposition.

A. ~~On~~ *Except as provided in subsection A1, on* at least a monthly basis, the Department of State Police shall determine which offenses in the Central Criminal Records Exchange meet the criteria for automatic sealing set forth in *subsections A, B, and C of* § 19.2-392.6.

A1. No later than July 1, 2025, the Department of State Police shall determine which offenses in the Central Criminal Records Exchange meet the criteria for automatic sealing set forth in subsection D of § 19.2-392.6.

B. After reviewing the offenses under ~~subsection~~ *subsections* A *and A1*, the Department of State Police shall provide an electronic list of all offenses that meet the criteria for automatic sealing set forth in § 19.2-392.6 to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502.

C. Upon receipt of the electronic list from the Department of State Police provided under subsection B, on at least a monthly basis the Executive Secretary of the Supreme Court shall provide an electronic list of all offenses that meet the criteria for automatic sealing set forth in § 19.2-392.6 to the clerk of each circuit court in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case management system maintained by the Executive Secretary.

D. Upon receipt of the electronic list provided under subsection B or C, on at least a monthly basis the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall enter such order directing that the offenses that meet the criteria for automatic sealing set forth in § 19.2-392.6 be automatically sealed under the process described in § 19.2-392.13. Such order shall contain the names of the persons charged with or convicted of such offenses. *The clerk of each circuit court shall maintain a copy of all orders entered pursuant to this subsection under seal.*

E. The clerk of each circuit court shall provide an electronic ~~copy~~ *notification* of any order entered under subsection D to the Department of State Police on at least a monthly basis. Upon receipt of such ~~order~~ *electronic notification*, the Department of State Police shall proceed as set forth in § 19.2-392.13.

F. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

G. If an offense is automatically sealed contrary to law, the automatic sealing of that particular offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

§ 19.2-392.10. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Process for automatic sealing of offenses resulting in acquittal, nolle prosequi, or dismissal.

A. On at least a monthly basis, the Executive Secretary of the Supreme Court and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 shall provide an electronic ~~list~~ *notification* of all offenses in such case management system to the Department of State Police that were ordered to be automatically sealed pursuant to ~~§§~~ *§* 19.2-392.8 ~~and 19.2-392.9~~.

B. Upon receipt of the electronic ~~lists~~ *notification* under subsection A, the Department of State Police shall proceed as set forth in § 19.2-392.13.

§ 19.2-392.11. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing of misdemeanor offenses resulting in acquittal, nolle prosequi, or dismissal for persons with no convictions or deferred and dismissed offenses on their criminal history record.

A. On at least an annual basis, the Department of State Police shall review the Central Criminal Records Exchange and identify all persons with finalized misdemeanor case dispositions that resulted in (i) an acquittal, (ii) a nolle prosequi, or (iii) a dismissal, excluding any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt, where the criminal history record of such person contains no convictions for any criminal offense for a violation of any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 and where such criminal history record contains no arrests or charges for a violation of any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 in the past three years, excluding traffic infractions under Title 46.2. For purposes of this subsection, any offense on the person's criminal history record that has previously been ordered to be sealed shall not be deemed a conviction.

B. Upon identification of the finalized case dispositions under subsection A, the Department of State Police shall provide an electronic list of such offenses to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502.

C. Upon receipt of the electronic list from the Department of State Police provided under subsection B, on at least an annual basis the Executive Secretary of the Supreme Court shall provide an electronic list of such offenses to the clerk of each circuit court in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case management system maintained by the Executive Secretary.

D. Upon receipt of the electronic list provided under subsection B or C, on at least an annual basis the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall enter such order directing that the offenses be automatically sealed under the process described in § 19.2-392.13. Such order shall contain the names of the persons charged with such offenses. *The clerk of each circuit court shall maintain a copy of all orders entered pursuant to this subsection under seal.*

E. The clerk of each circuit court shall provide an electronic ~~copy~~ *notification* of any order entered under subsection D to the Department of State Police on at least an annual basis. Upon receipt of such ~~order~~ *electronic notification*, the Department of State Police shall proceed as set forth in § 19.2-392.13.

F. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

G. This section shall not be construed as prohibiting a person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2. Entry of a sealing order pursuant to this section shall not prohibit a person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2.

H. If an offense is automatically sealed contrary to law, the automatic sealing of that particular offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

I. If an offense is automatically sealed pursuant to the procedure set forth in this section and such offense was not ordered to be automatically sealed at the time of acquittal, nolle prosequi, or dismissal for one or more of the reasons set forth in § 19.2-392.8, the automatic sealing of such offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

§ 19.2-392.12. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Sealing of offenses resulting in a deferred and dismissed disposition or conviction by petition.

A. Except for a conviction or deferral and dismissal of a violation of § 18.2-36.1, 18.2-36.2, 18.2-51.4, 18.2-51.5, 18.2-57.2, 18.2-266, or 46.2-341.24, a person who has been convicted of or had a charge deferred and dismissed for a (i) misdemeanor offense, (ii) Class 5 or 6 felony, or (iii) violation of § 18.2-95 or any other felony offense in which the defendant is deemed guilty of larceny and punished as provided in § 18.2-95 may file a petition setting forth the relevant facts and requesting sealing of the criminal history record information and court records relating to the charge or conviction, provided that such person has (a) never been convicted of a Class 1 or 2 felony or any other felony punishable by imprisonment for life, (b) not been convicted of a Class 3 or 4 felony within the past 20 years, ~~or~~ *and* (c) not been convicted of any other felony within the past 10 years of his petition.

B. A person shall not be required to pay any fees or costs for filing a petition pursuant to this section if such person files a petition to proceed without the payment of fees and costs, and the court with which such person files his petition finds such person to be indigent pursuant to § 19.2-159.

C. The petition with a copy of the warrant, summons, or indictment, if reasonably available, shall be filed in the circuit court of the county or city in which the case was disposed of and shall contain, except when not reasonably available, the date of arrest, the name of the arresting agency, and the date of conviction. When this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state the charge or conviction to be sealed; the date of final disposition of the charge or conviction as set forth in the petition; the petitioner's date of birth, sex, race, and social security number, if available; and the full name used by the petitioner at the time of arrest or summons. *A petition may request the sealing of the criminal history record information and court records for multiple charges or convictions as set forth in subsection A provided that all such charges and convictions arose out of the same transaction or occurrence and all such charges are eligible for sealing. A petition may not request the sealing of the criminal history record information and court records for multiple charges or convictions that arose out of different transactions or occurrences.* A petitioner may only have two petitions granted pursuant to this section within his lifetime. *Any petition that is granted (i) solely to seal a violation of subsection A of § 18.2-265.3 as it relates to marijuana, (ii) solely to seal a violation of § 4.1-305, or (iii) to seal a violation of both subsection A of § 18.2-265.3 as it relates to marijuana and § 4.1-305 arising out of the same transaction or occurrence shall not count against the petitioner's lifetime maximum.*

D. The Commonwealth shall be made party to the proceeding. The petitioner shall provide a copy of the petition by delivery or by first-class mail, postage prepaid, to the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 21 days after it is delivered to him or received in the mail.

E. ~~Upon receipt of the petition, the circuit court shall order that the attorney for the Commonwealth or a law enforcement officer, as defined in § 9.1-101, provide the court with a sealed copy of the criminal history record of the petitioner.~~ *In addition to the filing of the petition under subsection C, the petitioner shall request that the Central Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia criminal history record to the circuit court in which the petition was filed. Upon receiving such request, the CCRE shall electronically forward such record to the circuit court; however, if the circuit court is unable to receive an electronic transmission, the CCRE shall forward a copy of such record to the circuit court which shall be maintained under seal by the clerk unless otherwise ordered by the court.* Upon completion of the hearing, the court shall cause the criminal history record to be destroyed unless, within 30 days of the date of the entry of the final order in the matter, the petitioner or the attorney for the Commonwealth notes an appeal to the Supreme Court of Virginia.

F. After receiving the criminal history record of the petitioner, the court may conduct a hearing on the petition. The court shall enter an order requiring the sealing of the criminal history record information and court records, including electronic records, relating to the charge or conviction, only if the court finds that all criteria in subdivisions 1 through 4 are met, as follows:

1. During a period after the date of (i) dismissal of a deferred charge, (ii) conviction, or (iii) release from incarceration of the charge or conviction set forth in the petition, whichever date occurred later, the person has not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, for:

a. Seven years for any misdemeanor offense; or

b. Ten years for any felony offense;

2. If the records relating to the offense indicate that the occurrence leading to the deferral or conviction involved the use or dependence upon alcohol or any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, the petitioner has demonstrated his rehabilitation;

3. The petitioner has not previously obtained the sealing of two other deferrals or convictions arising out of different sentencing events; and

4. The continued existence and possible dissemination of information relating to the charge or conviction of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner.

G. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court pursuant to subsection D that he does not object to the petition and (ii) stipulates in such written notice that the petitioner is eligible to have such offense sealed, and the continued existence and possible dissemination of information relating to the charge or conviction of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner, the court may enter an order of sealing without conducting a hearing.

H. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

I. Upon the entry of an order of sealing, the clerk of the court *shall maintain a copy of such order under seal and* shall cause an electronic ~~copy~~ *notification* of such order to be forwarded to the Department of State Police. Such electronic ~~order~~ *notification* shall contain the petitioner's full name, date of birth, sex, race, and social security number, if available, *and the full name used by the petitioner at the time of arrest or summons,* as well as the petitioner's state identification number from the criminal history record, the court case number of the charge or conviction to be sealed, if available, and the document control number, if available. Upon receipt of such electronic ~~order~~ *notification*, the Department of State Police shall seal such records in accordance with § 19.2-392.13. When sealing such charge or conviction, the Department of State Police shall include a notation on the criminal history record that such offense was sealed pursuant to this section. The Department of State Police shall also electronically notify the Office of the Executive Secretary of the Supreme Court and any other agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be sealed and may only be disseminated in accordance with § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

J. Costs shall be as provided by § 17.1-275 but shall not be recoverable against the Commonwealth. Any costs collected pursuant to this section shall be deposited in the Sealing Fee Fund created pursuant to § 17.1-205.1.

K. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order for the sealing of records contrary to law shall be voidable upon motion and notice made within two years of the entry of such order.

L. If a petitioner qualifies to file a petition for sealing of records without the payment of fees and costs pursuant to subsection B and has requested court-appointed counsel, the court shall then appoint counsel to file the petition for sealing of records and represent the petitioner in the sealed records proceedings. Counsel appointed to represent such a petitioner shall be compensated for his services subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, in a total amount not to exceed $120, as determined by the court, and such compensation shall be paid from the Sealing Fee Fund as provided in § 17.1-205.1.

M. A petition filed under this section and any responsive pleadings filed by the attorney for the Commonwealth shall be maintained under seal by the clerk unless otherwise ordered by the court. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

N. A conviction or deferral and dismissal of § 18.2-36.1, 18.2-36.2, 18.2-51.4, 18.2-51.5, 18.2-57.2, 18.2-266, or 46.2-341.24 is ineligible for the sealing of records under this section.

O. Nothing in this chapter shall prohibit the circuit court from entering an order to seal a charge or conviction under this section when such charge or conviction is eligible for sealing under some other section of this chapter.

§ 19.2-392.13. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Disposition of records when an offense is sealed; permitted uses of sealed records.

A. Upon electronic notification that a court order for sealing has been entered pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12, the Department of State Police shall not disseminate any criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, that was ordered to be sealed, except for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Upon receipt of such electronic notification, the Department of State Police shall electronically notify those agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be sealed and may only be disseminated for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to

§ 9.1-134. Any records maintained electronically that are transformed or transferred by whatever means to an offline system or to a confidential and secure area inaccessible from normal use within the system in which the record is maintained shall be considered sealed, provided that such records are accessible only to the manager of the records or their designee.

B. Upon entry of a court order for sealing pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12, the Executive Secretary of the Supreme Court and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 shall ensure that the court record of such arrest, charge, or conviction is not available for public online viewing as directed by subsections B and C of § 17.1-293.1. Additionally, upon entry of such an order for sealing, the clerk of court shall not disseminate any court record of such arrest, charge, or conviction, except as provided in subsections D and E.

C. Records relating to an arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12 shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission*, the Virginia State Crime Commission, and the Joint Legislative Audit and Review Commission* for ~~its~~ research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12*, whether the court or parties failed to strictly comply with sealing procedures, or whether an order for sealing was entered contrary to law*; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was sealed.

D. Upon request from any person to access a paper or a digital image of a court record, the clerk of court shall determine whether such record is open to public access and inspection. If the clerk of court determines that the court record has been sealed, such record shall not be provided to the requestor without an order from the court that entered the order to seal the court record. Any order from a court that allows access to a paper or a digital image of a court record that has been sealed shall only be issued for one or more of the purposes set forth in subsection C. Such order to access a paper or a digital image of a court record that has been sealed shall allow the requestor to photocopy such court record. No fee shall be

charged to any person filing a motion to access a paper or a digital image of a court record that has been sealed if the person filing such motion is the same person who was arrested, charged, or convicted of the offense that was sealed.

E. No access shall be provided to electronic records in an appellate court, circuit court, or district court case management system maintained by the Executive Secretary of the Supreme Court or in a case management system maintained by a clerk of the circuit court for any arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12, except to the Virginia Criminal Sentencing Commission*, the Virginia State Crime Commission, and the Joint Legislative Audit and Review Commission* for ~~its~~ research purposes. Such electronic records may be disseminated to the Virginia Criminal Sentencing Commission*, the Virginia State Crime Commission, and the Joint Legislative Audit and Review Commission* without a court order.

F. If a pleading or case document in a court record that was sealed is included among other court records that have not been ordered to be sealed, the clerk of court shall not be required to prohibit dissemination of that record. The Supreme Court, Court of Appeals, and any circuit court shall not be required to prohibit dissemination of any published or unpublished opinion relating to an arrest, charge, or conviction that was ordered to be sealed.

G. The Department of Motor Vehicles shall not seal any conviction or any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a conviction or deferral and dismissal ordered to be sealed. Upon receipt of an order directing that an offense be sealed, the Department of Motor Vehicles shall seal all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot seal an offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be sealed and cite the authority prohibiting sealing at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the sealing is ordered, on which such record can be sealed; (c) seal such record on that date; and (d) notify the Department of State Police when such record has been sealed within the Department of Motor Vehicles' records.

H. No arrest, charge, or conviction that has been sealed may be used to impeach the credibility of a testifying witness at any hearing or trial unless (i) its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect and (ii) the proponent gives an adverse party reasonable written notice of the intent to use it so that the party has a fair opportunity to contest its use.

I. The provisions of this section shall not prohibit the disclosure of sealed criminal history record information or any information from such records among law-enforcement officers and attorneys when such disclosures are made by such officers or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth when related to the prosecution of a separate crime.

§ 19.2-392.14. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Disclosure of sealed records; penalty.

A. It is unlawful for any person having or acquiring access to sealed criminal history record information or a court record, including any records relating to an arrest, charge, or conviction, that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, ~~19.2-392.9,~~ 19.2-392.11, or 19.2-392.12, to disclose such record or any information from such record to another person, except in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

B. A clerk of court shall not be in violation of this section if such clerk informs a person requesting access to a sealed court record that such court record has been sealed and can only be accessed pursuant to a court order.

C. Any person who willfully violates this section is guilty of a Class 1 misdemeanor. Any person who maliciously and intentionally violates this section is guilty of a Class 6 felony.

2. That §§ 19.2-392.2:1, 19.2-392.2:2, and 19.2-392.9 of the Code of Virginia are repealed.

3. That § 19.2-389.3 of the Code of Virginia is repealed effective on the earlier of (i) the date on which the processes to seal criminal history record information and court records pursuant to Chapters 524 and 542 of the Acts of Assembly of 2021, Special Session I, become effective or (ii) July 1, 2025.

4. That the provisions of §§ 9.1-128, 19.2-392.2, 19.2-392.3, 19.2-392.6, 19.2-392.7, 19.2-392.10, 19.2-392.11, 19.2-392.12, and 19.2-392.13 of the Code of Virginia, as amended by this act, shall become effective on the earlier of (i) the date on which the processes to seal criminal history record information and court records pursuant to Chapters 524 and 542 of the Acts of Assembly of 2021, Special Session I, become effective or (ii) July 1, 2025.

5. That the Department of State Police shall first transmit the lists required under subsection B of § 19.2-392.7 of the Code of Virginia, as amended by this act, not later than the earlier of (i) the first day of the third month following the date on which the processes to seal criminal history record information and court records pursuant to Chapters 524 and 542 of the Acts of Assembly of 2021, Special Session I, become effective or (ii) October 1, 2025.

CHAPTER 556

An Act to require the Department of Criminal Justice Services to administer a two-year pilot program to provide a safe harbor for sex trafficked youth.

[S 1292]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. As used in this act, unless the context requires a different meaning:*

"Department" means the Department of Criminal Justice Services.

"Pilot agency" means the lead agency in the locality chosen by the Department to conduct the pilot program required by § 2 of this act.

§ 2. A. The Department, in consultation with the Virginia State Crime Commission, shall identify a suitable locality to administer a two-year Demand Reduction and Safe Harbor for Domestic Minor Sex Trafficked Youth pilot program beginning July 1, 2023, and ending July 1, 2025. Such program shall consist of the following elements:

1. The pilot agency shall focus on (i) implementing proactive reverse sting operations that target buyers of sex services, with priority given to cases involving sex trafficked youth; (ii) utilizing a multidisciplinary response team to coordinate assessment and treatment for victims of sex trafficking; and (iii) designing an alternative to an arrest protocol that includes a 48–72 hour holding mechanism for youth either in partnership with a local department of social services, a local department of child protective services, or a local hospital or through court services. The stated goal of the pilot program shall be to reduce the arrest of sex trafficking victims, reduce demand for commercial sex exploitation by focusing on buyers, and establish high-quality education, alternative employment opportunities, and life skills for victims;

2. The pilot agency shall report by July 1, 2024, to the Department all state and local laws, ordinances, and regulations initially identified for elimination, amendment, or streamlining. The pilot agency shall identify any law, ordinance, or regulation proposed for elimination or modification that requires a change in state or local law. If the pilot agency is unable to reach this goal, it shall provide a separate report to the Department stating the reasons for not meeting the goal.

B. The Department, in consultation with the Virginia State Crime Commission, shall report annually to the Governor, the General Assembly, and the Attorney General no later than October 1, 2024, and October 1, 2025, on the progress of the pilot program established pursuant to this act.

C. The location of the pilot program shall remain confidential until conclusion of the program. Any reference to location shall be anonymized in published documents.

CHAPTER 557

An Act to amend and reenact § 46.2-818.2 of the Code of Virginia, relating to use of handheld personal communication devices in certain motor vehicles.

[H 2014]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-818.2 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-818.2. Use of handheld personal communications devices in certain motor vehicles; exceptions; penalty.

A. It is unlawful for any person, while driving a moving motor vehicle on the highways in the Commonwealth, to hold a handheld personal communications device.

B. The provisions of this section shall not apply to:

1. The operator of any emergency vehicle while he is engaged in the performance of his official duties;

2. An operator who is lawfully parked or stopped;

3. Any person using a handheld personal communications device to report an emergency;

4. The use of an amateur or a citizens band radio; or

5. The operator of any Department of Transportation vehicle or vehicle operated pursuant to the Department of Transportation safety service patrol program or pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in subsection B of § 46.2-920.1 during the performance of traffic incident management services.

C. A violation of this section is a traffic infraction punishable, for a first offense, by a fine of $125 ~~and~~.

D. A violation of this section is a traffic infraction punishable, for a second or subsequent offense, by a fine of $250.

E. If a violation of this section occurs in a highway work zone, it shall be punishable by a mandatory fine of $250.

~~D.~~ *F.* For the purposes of this section:

"Emergency vehicle" means:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer while engaged in the performance of official duties;

2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;

3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;

4. Any emergency medical services vehicle designed or used for the principal purpose of supplying resuscitation or emergency relief where human life is endangered;

5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;

6. Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer; and

7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights pursuant to § 46.2-1029.2.

"Highway work zone" means a construction or maintenance area that is located on or beside a highway and is marked by appropriate warning signs with attached flashing lights or other traffic control devices indicating that work is in progress.

~~E.~~ *G.* Distracted driving shall be included as a part of the driver's license knowledge examination.

CHAPTER 558

An Act to amend and reenact § 46.2-818.2 of the Code of Virginia, relating to use of handheld personal communication devices in certain motor vehicles.

[S 995]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-818.2 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-818.2. Use of handheld personal communications devices in certain motor vehicles; exceptions; penalty.

A. It is unlawful for any person, while driving a moving motor vehicle on the highways in the Commonwealth, to hold a handheld personal communications device.

B. The provisions of this section shall not apply to:

1. The operator of any emergency vehicle while he is engaged in the performance of his official duties;

2. An operator who is lawfully parked or stopped;

3. Any person using a handheld personal communications device to report an emergency;

4. The use of an amateur or a citizens band radio; or

5. The operator of any Department of Transportation vehicle or vehicle operated pursuant to the Department of Transportation safety service patrol program or pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in subsection B of § 46.2-920.1 during the performance of traffic incident management services.

C. A violation of this section is a traffic infraction punishable, for a first offense, by a fine of $125 ~~and~~.

D. A violation of this section is a traffic infraction punishable, for a second or subsequent offense, by a fine of $250.

E. If a violation of this section occurs in a highway work zone, it shall be punishable by a mandatory fine of $250.

~~D.~~ *F.* For the purposes of this section:

"Emergency vehicle" means:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer while engaged in the performance of official duties;

2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;

3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;

4. Any emergency medical services vehicle designed or used for the principal purpose of supplying resuscitation or emergency relief where human life is endangered;

5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;

6. Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer; and

7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights pursuant to § 46.2-1029.2.

"Highway work zone" means a construction or maintenance area that is located on or beside a highway and is marked by appropriate warning signs with attached flashing lights or other traffic control devices indicating that work is in progress.

~~E.~~ *G.* Distracted driving shall be included as a part of the driver's license knowledge examination.

CHAPTER 559

An Act to amend and reenact § 19.2-11.01 of the Code of Virginia, relating to Crime Victim and Witness Rights Act; notifications to victims; Attorney General.

[S 1244]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-11.01 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-11.01. Crime victim and witness rights.

A. In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of the Commonwealth; that crime victims and witnesses are treated with dignity, respect and sensitivity; and that their privacy is protected to the extent permissible under law. It is the further purpose of this chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws of the Commonwealth; that they receive authorized services as appropriate; and that they have the opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible under law. Unless otherwise stated and subject to the provisions of § 19.2-11.1, it shall be the responsibility of a locality's crime victim and witness assistance program to provide the information and assistance required by this chapter, including verification that the standardized form listing the specific rights afforded to crime victims has been received by the victim.

As soon as practicable after identifying a victim of a crime, the investigating law-enforcement agency shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims, the name, address and telephone number of the office of the attorney for the Commonwealth, the name, address and telephone number of the investigating law-enforcement agency, and a summary of the victim's rights under § 40.1-28.7:2.

1. Victim and witness protection and law-enforcement contacts.

a. In order that victims and witnesses receive protection from harm and threats of harm arising out of their cooperation with law-enforcement, or prosecution efforts, they shall be provided with information as to the level of protection which may be available pursuant to § 52-35 or to any other federal, state or local program providing protection, and shall be assisted in obtaining this protection from the appropriate authorities.

b. Victims and witnesses shall be provided, where available, a separate waiting area during court proceedings that affords them privacy and protection from intimidation, and that does not place the victim in close proximity to the defendant or the defendant's family.

2. Financial assistance.

a. Victims shall be informed of financial assistance and social services available to them as victims of a crime, including information on their possible right to file a claim for compensation from the Crime Victims' Compensation Fund pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) and on other available assistance and services.

b. Victims shall be assisted in having any property held by law-enforcement agencies for evidentiary purposes returned promptly in accordance with §§ 19.2-270.1 and 19.2-270.2.

c. Victims shall be advised that restitution is available for damages or loss resulting from an offense and shall be assisted in seeking restitution in accordance with §§ 19.2-305 and 19.2-305.1, Chapter 21.1 (§ 19.2-368.1 et seq.), Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1, and other applicable laws of the Commonwealth.

3. Notices.

a. Victims and witnesses shall be (i) provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances and (ii) advised that pursuant to § 18.2-465.1 it is unlawful for an employer to penalize an employee for appearing in court pursuant to a summons or subpoena.

b. Victims shall receive advance notification when practicable from the attorney for the Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of any change in court dates in accordance with § 19.2-265.01 if they have provided their names, current addresses and telephone numbers.

c. Victims shall receive notification, if requested, subject to such reasonable procedures as the Attorney General may require pursuant to § 2.2-511, from the Attorney General of the filing and disposition of any appeal or habeas corpus proceeding involving their case.

d. Victims shall be notified by the Department of Corrections or a sheriff or jail superintendent (i) in whose custody an escape, change of name, transfer, release or discharge of a prisoner occurs pursuant to the provisions of §§ 53.1-133.02 and 53.1-160 or (ii) when an accused is released on bail, if they have provided their names, current addresses and telephone numbers in writing. Such notification may be provided through the Virginia Statewide VINE (Victim Information and Notification Everyday) System or other similar electronic or automated system.

e. Victims shall be advised that, in order to protect their right to receive notices and offer input, all agencies and persons having such duties must have current victim addresses and telephone numbers given by the victims. Victims shall also be advised that any such information given shall be confidential as provided by § 19.2-11.2.

f. Victims of sexual assault, as defined in § 19.2-11.5, shall be advised of their rights regarding physical evidence recovery kits as provided in Chapter 1.2 (§ 19.2-11.5 et seq.).

g. Upon the victim's request, the victim shall be notified by the Commissioner of Behavioral Health and Developmental Services or his designee of the release of a defendant (i) who was found to be unrestorably incompetent and was committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, or certified pursuant to § 37.2-806 or (ii) who was acquitted by reason of insanity and committed pursuant to § 19.2-182.3.

4. Victim input.

a. Victims shall be given the opportunity, pursuant to § 19.2-299.1, to prepare a written victim impact statement prior to sentencing of a defendant and may provide information to any individual or agency charged with investigating the social history of a person or preparing a victim impact statement under the provisions of §§ 16.1-273 and 53.1-155 or any other applicable law.

b. Victims shall have the right to remain in the courtroom during a criminal trial or proceeding pursuant to the provisions of § 19.2-265.01.

c. On motion of the attorney for the Commonwealth, victims shall be given the opportunity, pursuant to § 19.2-295.3, to testify prior to sentencing of a defendant regarding the impact of the offense.

d. In a felony case, the attorney for the Commonwealth, upon the victim's written request, shall consult with the victim either verbally or in writing (i) to inform the victim of the contents of a proposed plea agreement and (ii) to obtain the victim's views about the disposition of the case, including the victim's views concerning dismissal, pleas, plea negotiations and sentencing. However, nothing in this section shall limit the ability of the attorney for the Commonwealth to exercise his discretion on behalf of the citizens of the Commonwealth in the disposition of any criminal case. The court shall not accept the plea agreement unless it finds that, except for good cause shown, the Commonwealth has complied with clauses (i) and (ii). Good cause shown shall include, but not be limited to, the unavailability of the victim due to incarceration, hospitalization, failure to appear at trial when subpoenaed, or change of address without notice.

Upon the victim's written request, the victim shall be notified in accordance with subdivision A 3 b of any proceeding in which the plea agreement will be tendered to the court.

The responsibility to consult with the victim under this subdivision shall not confer upon the defendant any substantive or procedural rights and shall not affect the validity of any plea entered by the defendant.

e. Whenever the Attorney General represents the Commonwealth in any criminal appeal, he shall consult with the victim in the manner prescribed by subdivision d.

5. Courtroom assistance.

a. Victims and witnesses shall be informed that their addresses, any telephone numbers, and email addresses may not be disclosed, pursuant to the provisions of §§ 19.2-11.2 and 19.2-269.2, except when necessary for the conduct of the criminal proceeding.

b. Victims and witnesses shall be advised that they have the right to the services of an interpreter in accordance with §§ 19.2-164 and 19.2-164.1.

c. Victims and witnesses of certain sexual offenses shall be advised that there may be a closed preliminary hearing in accordance with § 18.2-67.8 and, if a victim was 14 years of age or younger on the date of the offense and is 16 or under at the time of the trial, or a witness to the offense is 14 years of age or younger at the time of the trial, that two-way closed-circuit television may be used in the taking of testimony in accordance with § 18.2-67.9.

6. Post trial assistance.

a. Within 30 days of receipt of a victim's written request after the final trial court proceeding in the case, the attorney for the Commonwealth shall notify the victim in writing, of (i) the disposition of the case, (ii) the crimes of which the defendant was convicted, (iii) the defendant's right to appeal, if known, and (iv) the telephone number of offices to contact in the event of nonpayment of restitution by the defendant.

b. If the defendant has been released on bail pending the outcome of an appeal, the agency that had custody of the defendant immediately prior to his release shall notify the victim as soon as practicable that the defendant has been released.

c. If the defendant's conviction is overturned, and the attorney for the Commonwealth decides to retry the case or the case is remanded for a new trial, the victim shall be entitled to the same rights as if the first trial did not take place.

B. For purposes of this chapter, "victim" means (i) a person who has suffered physical, psychological, or economic harm as a direct result of the commission of (a) a felony, (b) assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, a violation of a protective order in violation of § 16.1-253.2 or 18.2-60.4, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or maiming or driving while intoxicated in violation of § 18.2-51.4 or 18.2-266, or (c) a delinquent act that would be a felony or a misdemeanor violation of any offense enumerated in clause (b) if committed by an adult; (ii) a spouse or child of such a person; (iii) a parent or legal guardian of such a person who is a minor; (iv) for the purposes of subdivision A 4 only, a current or former foster parent or other person who has or has had physical custody of such a person who is a minor, for six months or more or for the majority of the minor's life; or (v) a spouse, parent, sibling, or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim" does not mean a parent, child, spouse, sibling, or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in clause (i).

C. Officials and employees of the judiciary, including court services units, law-enforcement agencies, the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness assistance program. Each agency, officer or employee who has a responsibility or responsibilities to victims under this chapter or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that victims and witnesses receive such information and services to which they may be entitled under applicable law, provided that no liability or cause of action shall arise from the failure to make such efforts or from the failure of such victims or witnesses to receive any such information or services.

CHAPTER 560

An Act to amend and reenact § 27-23.1 of the Code of Virginia, relating to establishment of fire zones; Augusta County.

[H 1818]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 27-23.1 of the Code of Virginia is amended and reenacted as follows:

§ 27-23.1. Establishment of fire zones or districts; tax levies.

The governing bodies of the several cities or counties of the Commonwealth may create and establish, by designation on a map of the city or county showing current, official parcel boundaries, or by any other description which is legally sufficient for the conveyance of property or the creation of parcels, fire zones or districts in such cities or counties, within which may be located and established one or more fire departments, to be equipped with apparatus for fighting fires and protecting property and human life within such zones or districts from loss or damage by fire, illness or injury.

In the event of the creation of such zones or districts in any city or county, the city or county governing body may acquire, in the name of the city or county, real or personal property to be devoted to the uses aforesaid, and shall prescribe rules and regulations for the proper management, control, and conduct thereof. Such governing body shall also have authority to contract with, or secure the services of, any individual corporation, organization, or municipal corporation, or any volunteer firefighters for such fire protection as may be required.

To raise funds for the purposes aforesaid, the governing body of any city or county in which such zones or districts are established may levy annually a tax on the assessed value of all property real and personal within such zones or districts, subject to local taxation, which tax shall be extended and collected as other city or county taxes are extended and collected. ~~However, any property located in Augusta County that has qualified for an agricultural or forestal use-value assessment pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1 may not be included within such a zone or district and may not be subject to such tax.~~ In any city or county having a population between 25,000 and 25,500, the maximum rate of tax under this section shall be $0.30 on $100 of assessed value.

The amount realized from such levy shall be kept separate from all other moneys of the city or county and shall be applied to no other purpose than the maintenance and operation of the fire departments and companies established under the provisions of this section.

CHAPTER 561

An Act to amend and reenact §§ 18.2-271.1 and 46.2-392 of the Code of Virginia, relating to alcohol safety action programs.

[H 2370]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-271.1 and 46.2-392 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-271.1. Probation, education, and rehabilitation of person charged or convicted; person convicted under law of another state or federal law.

A. Any person convicted of a first or second offense of § 18.2-266, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, shall be required by court order, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district upon such terms and conditions as the court may set forth. However, upon motion of a person convicted of any such offense following an assessment of the person conducted by an alcohol safety action program, the court, for good cause, may decline to order participation in such a program if the assessment by the alcohol safety action program indicates that intervention is not appropriate for such person. In no event shall such persons be permitted to enter any such program which is not certified as meeting minimum standards and criteria established by the Commission on the Virginia Alcohol Safety Action Program (VASAP) pursuant to this section and to § 18.2-271.2. However, any person charged with a violation of a first or second offense of § 18.2-266, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, may, at any time prior

to trial, enter into an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district. Any person who enters into such program prior to trial may pre-qualify with the program to have an ignition interlock system installed on any motor vehicle owned or operated by him. However, no ignition interlock company shall install an ignition interlock system on any such vehicle until a court issues to the person a restricted license with the ignition interlock restriction.

B. The court shall require the person entering such program under the provisions of this section to pay a fee of no less than $250 but no more than $300. A reasonable portion of such fee, as may be determined by the Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to be deposited with the State Treasurer for expenditure by the Commission on VASAP, and the balance shall be held in a separate fund for local administration of driver alcohol rehabilitation programs. Upon a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as may reasonably be required of defendants referred for intervention under any such program may be charged.

C. Upon conviction of a violation of § 18.2-266 or any ordinance of a county, city or town similar to the provisions thereof, or subsection A of § 46.2-341.24, the court shall impose the sentence authorized by § 18.2-270 or 46.2-341.28 and the license revocation as authorized by § 18.2-271. In addition, if the conviction was for a second offense committed within less than 10 years after a first such offense, the court shall order that restoration of the person's license to drive be conditioned upon the installation of an ignition interlock system on each motor vehicle, as defined in § 46.2-100, owned by or registered to the person, in whole or in part, for a period of six months beginning at the end of the three year license revocation, unless such a system has already been installed for six months prior to that time pursuant to a restricted license order under subsection E. Upon a finding that a person so convicted is required to participate in the program described herein, the court shall enter the conviction on the warrant, and shall note that the person so convicted has been referred to such program. The court may then proceed to issue an order in accordance with subsection E, if the court finds that the person so convicted is eligible for a restricted license. If the court finds good cause for a person not to participate in such program or subsequently that such person has violated, without good cause, any of the conditions set forth by the court in entering the program, the court shall dispose of the case as if no program had been entered, in which event the revocation provisions of § 46.2-389 and subsection A of § 46.2-391 shall be applicable to the conviction. The court shall, upon final disposition of the case, send a copy of its order to the Commissioner of the Department of Motor Vehicles. If such order provides for the issuance of a restricted license, the Commissioner of the Department of Motor Vehicles, upon receipt thereof, shall issue a restricted license. The period of time during which the person (i) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system, (ii) is required to have an ignition interlock system installed on each motor vehicle owned by or registered to the person, in whole or in part, or (iii) is required to use a remote alcohol monitoring device shall be calculated from the date the person is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department of Motor Vehicles. Appeals from any such disposition shall be allowed as provided by law. The time within which an appeal may be taken shall be calculated from the date of the final disposition of the case or any motion for rehearing, whichever is later.

D. Any person who has been convicted under the law of another state or the United States of an offense substantially similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24, and whose privilege to operate a motor vehicle in this Commonwealth is subject to revocation under the provisions of § 46.2-389 and subsection A of § 46.2-391, may petition the general district court of the county or city in which he resides that he be given probation and assigned to a program as provided in subsection A and that, upon entry into such program, he be issued an order in accordance with subsection E. If the court finds that such person would have qualified therefor if he had been convicted in this Commonwealth of a violation of § 18.2-266 or subsection A of § 46.2-341.24, the court may grant the petition and may issue an order in accordance with subsection E as to the period of license suspension or revocation imposed pursuant to § 46.2-389 or subsection A of § 46.2-391. The court (i) shall, as a condition of a restricted license, prohibit such person from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for a period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of interlock requirements, and (ii) may, upon request of such person and as a condition of a restricted license, require such person to use a remote alcohol monitoring device in accordance with the provisions of subsection E of § 18.2-270.1. Such order shall be conditioned upon the successful completion of a program by the petitioner. If the court subsequently finds that such person has violated any of the conditions set forth by the court, the court shall dispose of the case as if no program had been entered and shall notify the Commissioner, who shall revoke the person's license in accordance with the provisions of § 46.2-389 or subsection A of § 46.2-391. A copy of the order granting the petition or subsequently revoking or suspending such person's license to operate a motor vehicle shall be forthwith sent to the Commissioner of the Department of Motor Vehicles. The period of time during which the person (a) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system or (b) is required to use a remote alcohol monitoring device shall be calculated from the date the person is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department of Motor Vehicles.

No period of license suspension or revocation shall be imposed pursuant to this subsection which, when considered together with any period of license suspension or revocation previously imposed for the same offense under the law of

another state or the United States, results in such person's license being suspended for a period in excess of the maximum periods specified in this subsection.

E. Except as otherwise provided herein, if a person enters a certified program pursuant to this section, and such person's license to operate a motor vehicle, engine, or train in the Commonwealth has been suspended or revoked, or a person's license to operate a motor vehicle, engine, or train in the Commonwealth has been suspended or revoked pursuant to former § 18.2-259.1 or 46.2-390.1, the court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle for any of the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (v) travel for health care services, including medically necessary transportation of an elderly parent or, as designated by the court, any person residing in the person's household with a serious medical problem upon written verification of need by a licensed health professional; (vi) travel necessary to transport a minor child under the care of such person to and from school, day care, and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child of such person; (viii) travel to a screening, evaluation, and education program entered pursuant to § 18.2-251 or subsection H of § 18.2-258.1; (ix) travel to and from court appearances in which he is a subpoenaed witness or a party and appointments with his probation officer and to and from any programs required by the court or as a condition of probation; (x) travel to and from a place of religious worship one day per week at a specified time and place; (xi) travel to and from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in an administrative or court-ordered intensive case monitoring program for child support for which the participant maintains written proof of the appointment, including written proof of the date and time of the appointment, on his person; (xii) travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement in jail and pursuant to § 53.1-131.1 the time to be served is on weekends or nonconsecutive days; (xiii) travel to and from the facility that installed or monitors the ignition interlock in the person's vehicle; (xiv) travel to and from a job interview for which he maintains on his person written proof from the prospective employer of the date, time, and location of the job interview; or (xv) travel to and from the offices of the Virginia Employment Commission for the purpose of seeking employment. However, (a) any such person who is eligible to receive a restricted license as provided in subsection C of § 18.2-270.1 or (b) any such person ordered to use a remote alcohol monitoring device pursuant to subsection E of § 18.2-270.1 who has a functioning, certified ignition interlock system as required by law may be issued a restricted permit to operate a motor vehicle for any lawful purpose. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of § 18.2-272. Such restricted license shall be conditioned upon enrollment within 15 days in, and successful completion of, a program as described in subsection A. No restricted license shall be issued during the first four months of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within 10 years of a first such offense. No restricted license shall be issued during the first year of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within five years of a first such offense. No restricted license shall be issued during any revocation period imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391. Notwithstanding the provisions of § 46.2-411, the fee charged pursuant to § 46.2-411 for reinstatement of the driver's license of any person whose privilege or license has been suspended or revoked as a result of a violation of § 18.2-266, subsection A of § 46.2-341.24 or of any ordinance of a county, city, or town, or of any federal law or the laws of any other state similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24 shall be $105. Forty dollars of such reinstatement fee shall be retained by the Department of Motor Vehicles as provided in § 46.2-411, $40 shall be transferred to the Commission on VASAP, and $25 shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund. Any person who is otherwise eligible to receive a restricted license issued in accordance with this subsection or as otherwise provided by law shall not be required to pay in full his fines and costs, as defined in § 19.2-354.1, before being issued such restricted license.

F. The court shall have jurisdiction over any person entering such program under any provision of this section*, or under any provision of § 46.2-392,* until such time as the case has been disposed of by either successful completion of the program, or revocation due to ineligibility or violation of a condition or conditions imposed by the court, whichever shall first occur. Revocation proceedings shall be commenced by notice to show cause why the court should not revoke the privilege afforded by this section. Such notice shall be made by first-class mail to the last known address of such person, and shall direct such person to appear before the court in response thereto on a date contained in such notice, which shall not

be less than 10 days from the date of mailing of the notice. Failure to appear in response to such notice shall of itself be grounds for revocation of such privilege. Notice of revocation under this subsection shall be sent forthwith to the Commissioner of the Department of Motor Vehicles.

G. For the purposes of this section, any court ~~which~~ *that* has convicted a person of a violation of § 18.2-266, subsection A of § 46.2-341.24 ~~or~~, any ordinance of a county, city, or town similar to the provisions of § 18.2-266*, or any reckless driving violation under Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 and such person was initially charged with a violation of § 18.2-266, subsection A of § 46.2-341.24, or any ordinance of a county, city, or town similar to the provisions of § 18.2-266* shall have continuing jurisdiction over such person during any period of license revocation related to that conviction, for the limited purposes of (i) referring such person to a certified alcohol safety action program, (ii) providing for a restricted permit for such person in accordance with the provisions of subsection E, and (iii) imposing terms, conditions and limitations for actions taken pursuant to clauses (i) and (ii), whether or not it took either such action at the time of the conviction. This continuing jurisdiction is subject to the limitations of subsection E that provide that no restricted license shall be issued during a revocation imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391 or during the first four months or first year, whichever is applicable, of the revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391. The provisions of this subsection shall apply to a person convicted of a violation of § 18.2-266, subsection A of § 46.2-341.24 ~~or~~, any ordinance of a county, city, or town similar to the provisions of § 18.2-266*, or any reckless driving violation under Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 and such person was initially charged with a violation of § 18.2-266, subsection A of § 46.2-341.24, or any ordinance of a county, city, or town similar to the provisions of § 18.2-266* on, after and at any time prior to July 1, 2003.

H. The State Treasurer, the Commission on VASAP or any city or county is authorized to accept any gifts or bequests of money or property, and any grant, loan, service, payment or property from any source, including the federal government, for the purpose of driver alcohol education. Any such gifts, bequests, grants, loans or payments shall be deposited in the separate fund provided in subsection B.

I. The Commission on VASAP, or any county, city, *or* town, or any combination thereof*,* may establish and, if established, shall operate, in accordance with the standards and criteria required by this subsection, alcohol safety action programs in connection with highway safety. Each such program shall operate under the direction of a local independent policy board*. Such local independent policy board shall be* chosen in accordance with procedures approved and promulgated by the Commission on VASAP*. Such procedures shall provide that the board shall endeavor to select one criminal defense attorney who has specialized knowledge in representing persons charged with driving while intoxicated offenses and one local attorney for the Commonwealth to sit on such local independent policy board.* Local sitting or retired district court judges who regularly hear or heard cases involving driving under the influence and are familiar with their local alcohol safety action programs may serve on such boards. The Commission on VASAP shall establish minimum standards and criteria for the implementation and operation of such programs and shall establish procedures to certify all such programs to ensure that they meet the minimum standards and criteria stipulated by the Commission. The Commission shall also establish criteria for the administration of such programs for public information activities, for accounting procedures, for the auditing requirements of such programs and for the allocation of funds. Funds paid to the Commonwealth hereunder shall be utilized in the discretion of the Commission on VASAP to offset the costs of state programs and local programs run in conjunction with any county, city or town and costs incurred by the Commission. The Commission shall submit an annual report as to actions taken at the close of each calendar year to the Governor and the General Assembly.

J. Notwithstanding any other provisions of this section or of § 18.2-271, nothing in this section shall permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

§ 46.2-392. Suspension of license or issuance of a restricted license on conviction of certain offenses; probationary conditions required; generally.

In addition to the penalties for careless driving and infliction of injury or death on vulnerable road users prescribed in § 46.2-816.1, the penalties for reckless driving prescribed in § 46.2-868, and the penalties for aggressive driving prescribed in § 46.2-868.1, the court may suspend the driver's license issued to a person convicted of careless driving and infliction of injury or death on vulnerable road users, reckless driving, or aggressive driving for a period of not less than 10 days nor more than six months and the court shall require the convicted person to surrender his license so suspended to the court where it will be disposed of in accordance with § 46.2-398.

Additionally, any person convicted of a reckless driving offense which the court has reason to believe is alcohol-related or drug-related may be required as a condition of probation or otherwise to enter into and successfully complete an alcohol safety action program. If the court suspends a person's driver's license for reckless driving and requires the person to enter into and successfully complete an alcohol safety action program, the Commissioner shall not reinstate the driver's license of the person until receipt of certification that the person has enrolled in ~~an~~ *and completed the* alcohol safety action program.

If a person so convicted has not obtained the license required by this chapter, or is a nonresident, the court may direct in the judgment of conviction that he shall not, for a period of not less than 10 days or more than six months as may be prescribed in the judgment, drive any motor vehicle in the Commonwealth. The court or the clerk of court shall transmit the license to the Commissioner along with the report of the conviction required to be sent to the Department.

The court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle during the period of suspension for any of the purposes set forth in subsection E of § 18.2-271.1.

The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the Commissioner a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person who may operate a motor vehicle on the order until receipt from the Commissioner of a restricted license. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be punished as provided in subsection C of § 46.2-301. No restricted license issued pursuant to this section shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

CHAPTER 562

An Act to amend and reenact §§ 18.2-271.1 and 46.2-392 of the Code of Virginia, relating to alcohol safety action programs.

[S 841]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-271.1 and 46.2-392 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-271.1. Probation, education, and rehabilitation of person charged or convicted; person convicted under law of another state or federal law.

A. Any person convicted of a first or second offense of § 18.2-266, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, shall be required by court order, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district upon such terms and conditions as the court may set forth. However, upon motion of a person convicted of any such offense following an assessment of the person conducted by an alcohol safety action program, the court, for good cause, may decline to order participation in such a program if the assessment by the alcohol safety action program indicates that intervention is not appropriate for such person. In no event shall such persons be permitted to enter any such program which is not certified as meeting minimum standards and criteria established by the Commission on the Virginia Alcohol Safety Action Program (VASAP) pursuant to this section and to § 18.2-271.2. However, any person charged with a violation of a first or second offense of § 18.2-266, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, may, at any time prior to trial, enter into an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district. Any person who enters into such program prior to trial may pre-qualify with the program to have an ignition interlock system installed on any motor vehicle owned or operated by him. However, no ignition interlock company shall install an ignition interlock system on any such vehicle until a court issues to the person a restricted license with the ignition interlock restriction.

B. The court shall require the person entering such program under the provisions of this section to pay a fee of no less than $250 but no more than $300. A reasonable portion of such fee, as may be determined by the Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to be deposited with the State Treasurer for expenditure by the Commission on VASAP, and the balance shall be held in a separate fund for local administration of driver alcohol rehabilitation programs. Upon a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as may reasonably be required of defendants referred for intervention under any such program may be charged.

C. Upon conviction of a violation of § 18.2-266 or any ordinance of a county, city or town similar to the provisions thereof, or subsection A of § 46.2-341.24, the court shall impose the sentence authorized by § 18.2-270 or 46.2-341.28 and the license revocation as authorized by § 18.2-271. In addition, if the conviction was for a second offense committed within less than 10 years after a first such offense, the court shall order that restoration of the person's license to drive be conditioned upon the installation of an ignition interlock system on each motor vehicle, as defined in § 46.2-100, owned by or registered to the person, in whole or in part, for a period of six months beginning at the end of the three year license revocation, unless such a system has already been installed for six months prior to that time pursuant to a restricted license order under subsection E. Upon a finding that a person so convicted is required to participate in the program described herein, the court shall enter the conviction on the warrant, and shall note that the person so convicted has been referred to such program. The court may then proceed to issue an order in accordance with subsection E, if the court finds that the person so convicted is eligible for a restricted license. If the court finds good cause for a person not to participate in such program or subsequently that such person has violated, without good cause, any of the conditions set forth by the court in entering the program, the court shall dispose of the case as if no program had been entered, in which event the revocation provisions of § 46.2-389 and subsection A of § 46.2-391 shall be applicable to the conviction. The court shall, upon final disposition of the case, send a copy of its order to the Commissioner of the Department of Motor Vehicles. If such order provides for the issuance of a restricted license, the Commissioner of the Department of Motor Vehicles, upon receipt thereof, shall issue a restricted license. The period of time during which the person (i) is prohibited from operating a motor

vehicle that is not equipped with an ignition interlock system, (ii) is required to have an ignition interlock system installed on each motor vehicle owned by or registered to the person, in whole or in part, or (iii) is required to use a remote alcohol monitoring device shall be calculated from the date the person is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department of Motor Vehicles. Appeals from any such disposition shall be allowed as provided by law. The time within which an appeal may be taken shall be calculated from the date of the final disposition of the case or any motion for rehearing, whichever is later.

D. Any person who has been convicted under the law of another state or the United States of an offense substantially similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24, and whose privilege to operate a motor vehicle in this Commonwealth is subject to revocation under the provisions of § 46.2-389 and subsection A of § 46.2-391, may petition the general district court of the county or city in which he resides that he be given probation and assigned to a program as provided in subsection A and that, upon entry into such program, he be issued an order in accordance with subsection E. If the court finds that such person would have qualified therefor if he had been convicted in this Commonwealth of a violation of § 18.2-266 or subsection A of § 46.2-341.24, the court may grant the petition and may issue an order in accordance with subsection E as to the period of license suspension or revocation imposed pursuant to § 46.2-389 or subsection A of § 46.2-391. The court (i) shall, as a condition of a restricted license, prohibit such person from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for a period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of interlock requirements, and (ii) may, upon request of such person and as a condition of a restricted license, require such person to use a remote alcohol monitoring device in accordance with the provisions of subsection E of § 18.2-270.1. Such order shall be conditioned upon the successful completion of a program by the petitioner. If the court subsequently finds that such person has violated any of the conditions set forth by the court, the court shall dispose of the case as if no program had been entered and shall notify the Commissioner, who shall revoke the person's license in accordance with the provisions of § 46.2-389 or subsection A of § 46.2-391. A copy of the order granting the petition or subsequently revoking or suspending such person's license to operate a motor vehicle shall be forthwith sent to the Commissioner of the Department of Motor Vehicles. The period of time during which the person (a) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system or (b) is required to use a remote alcohol monitoring device shall be calculated from the date the person is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department of Motor Vehicles.

No period of license suspension or revocation shall be imposed pursuant to this subsection which, when considered together with any period of license suspension or revocation previously imposed for the same offense under the law of another state or the United States, results in such person's license being suspended for a period in excess of the maximum periods specified in this subsection.

E. Except as otherwise provided herein, if a person enters a certified program pursuant to this section, and such person's license to operate a motor vehicle, engine, or train in the Commonwealth has been suspended or revoked, or a person's license to operate a motor vehicle, engine, or train in the Commonwealth has been suspended or revoked pursuant to former § 18.2-259.1 or 46.2-390.1, the court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle for any of the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (v) travel for health care services, including medically necessary transportation of an elderly parent or, as designated by the court, any person residing in the person's household with a serious medical problem upon written verification of need by a licensed health professional; (vi) travel necessary to transport a minor child under the care of such person to and from school, day care, and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child of such person; (viii) travel to a screening, evaluation, and education program entered pursuant to § 18.2-251 or subsection H of § 18.2-258.1; (ix) travel to and from court appearances in which he is a subpoenaed witness or a party and appointments with his probation officer and to and from any programs required by the court or as a condition of probation; (x) travel to and from a place of religious worship one day per week at a specified time and place; (xi) travel to and from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in an administrative or court-ordered intensive case monitoring program for child support for which the participant maintains written proof of the appointment, including written proof of the date and time of the appointment, on his person; (xii) travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement in jail and pursuant to § 53.1-131.1 the time to be served is on weekends or nonconsecutive days; (xiii) travel to and from the facility that installed or monitors the ignition interlock in the person's vehicle; (xiv) travel to and from a job interview for which he maintains on his person written proof from the prospective employer of the date, time, and location of the job interview; or (xv) travel to and from the offices of the Virginia Employment Commission for the purpose of seeking employment. However, (a) any such person who is eligible to receive a restricted license as provided in subsection C of § 18.2-270.1 or (b) any such person ordered to use a remote alcohol monitoring device pursuant to subsection E of § 18.2-270.1 who has a functioning, certified ignition interlock system as required by law may be issued a

restricted permit to operate a motor vehicle for any lawful purpose. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of § 18.2-272. Such restricted license shall be conditioned upon enrollment within 15 days in, and successful completion of, a program as described in subsection A. No restricted license shall be issued during the first four months of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within 10 years of a first such offense. No restricted license shall be issued during the first year of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within five years of a first such offense. No restricted license shall be issued during any revocation period imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391. Notwithstanding the provisions of § 46.2-411, the fee charged pursuant to § 46.2-411 for reinstatement of the driver's license of any person whose privilege or license has been suspended or revoked as a result of a violation of § 18.2-266, subsection A of § 46.2-341.24 or of any ordinance of a county, city, or town, or of any federal law or the laws of any other state similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24 shall be $105. Forty dollars of such reinstatement fee shall be retained by the Department of Motor Vehicles as provided in § 46.2-411, $40 shall be transferred to the Commission on VASAP, and $25 shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund. Any person who is otherwise eligible to receive a restricted license issued in accordance with this subsection or as otherwise provided by law shall not be required to pay in full his fines and costs, as defined in § 19.2-354.1, before being issued such restricted license.

F. The court shall have jurisdiction over any person entering such program under any provision of this section*, or under any provision of § 46.2-392,* until such time as the case has been disposed of by either successful completion of the program, or revocation due to ineligibility or violation of a condition or conditions imposed by the court, whichever shall first occur. Revocation proceedings shall be commenced by notice to show cause why the court should not revoke the privilege afforded by this section. Such notice shall be made by first-class mail to the last known address of such person, and shall direct such person to appear before the court in response thereto on a date contained in such notice, which shall not be less than 10 days from the date of mailing of the notice. Failure to appear in response to such notice shall of itself be grounds for revocation of such privilege. Notice of revocation under this subsection shall be sent forthwith to the Commissioner of the Department of Motor Vehicles.

G. For the purposes of this section, any court ~~which~~ *that* has convicted a person of a violation of § 18.2-266, subsection A of § 46.2-341.24 ~~or~~*,* any ordinance of a county, city*,* or town similar to the provisions of § 18.2-266*, or any reckless driving violation under Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 and such person was initially charged with a violation of § 18.2-266, subsection A of § 46.2-341.24, or any ordinance of a county, city, or town similar to the provisions of § 18.2-266* shall have continuing jurisdiction over such person during any period of license revocation related to that conviction, for the limited purposes of (i) referring such person to a certified alcohol safety action program, (ii) providing for a restricted permit for such person in accordance with the provisions of subsection E, and (iii) imposing terms, conditions and limitations for actions taken pursuant to clauses (i) and (ii), whether or not it took either such action at the time of the conviction. This continuing jurisdiction is subject to the limitations of subsection E that provide that no restricted license shall be issued during a revocation imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391 or during the first four months or first year, whichever is applicable, of the revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391. The provisions of this subsection shall apply to a person convicted of a violation of § 18.2-266, subsection A of § 46.2-341.24 ~~or~~*,* any ordinance of a county, city*,* or town similar to the provisions of § 18.2-266*, or any reckless driving violation under Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 and such person was initially charged with a violation of § 18.2-266, subsection A of § 46.2-341.24, or any ordinance of a county, city, or town similar to the provisions of § 18.2-266* on, after and at any time prior to July 1, 2003.

H. The State Treasurer, the Commission on VASAP or any city or county is authorized to accept any gifts or bequests of money or property, and any grant, loan, service, payment or property from any source, including the federal government, for the purpose of driver alcohol education. Any such gifts, bequests, grants, loans or payments shall be deposited in the separate fund provided in subsection B.

I. The Commission on VASAP, or any county, city, *or* town, or any combination thereof*,* may establish and, if established, shall operate, in accordance with the standards and criteria required by this subsection, alcohol safety action programs in connection with highway safety. Each such program shall operate under the direction of a local independent policy board. *Such local independent policy board shall be* chosen in accordance with procedures approved and promulgated by the Commission on VASAP. *Such procedures shall provide that the board shall endeavor to select one criminal defense attorney who has specialized knowledge in representing persons charged with driving while intoxicated*

offenses and one local attorney for the Commonwealth to sit on such local independent policy board. Local sitting or retired district court judges who regularly hear or heard cases involving driving under the influence and are familiar with their local alcohol safety action programs may serve on such boards. The Commission on VASAP shall establish minimum standards and criteria for the implementation and operation of such programs and shall establish procedures to certify all such programs to ensure that they meet the minimum standards and criteria stipulated by the Commission. The Commission shall also establish criteria for the administration of such programs for public information activities, for accounting procedures, for the auditing requirements of such programs and for the allocation of funds. Funds paid to the Commonwealth hereunder shall be utilized in the discretion of the Commission on VASAP to offset the costs of state programs and local programs run in conjunction with any county, city or town and costs incurred by the Commission. The Commission shall submit an annual report as to actions taken at the close of each calendar year to the Governor and the General Assembly.

J. Notwithstanding any other provisions of this section or of § 18.2-271, nothing in this section shall permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

§ 46.2-392. Suspension of license or issuance of a restricted license on conviction of certain offenses; probationary conditions required; generally.

In addition to the penalties for careless driving and infliction of injury or death on vulnerable road users prescribed in § 46.2-816.1, the penalties for reckless driving prescribed in § 46.2-868, and the penalties for aggressive driving prescribed in § 46.2-868.1, the court may suspend the driver's license issued to a person convicted of careless driving and infliction of injury or death on vulnerable road users, reckless driving, or aggressive driving for a period of not less than 10 days nor more than six months and the court shall require the convicted person to surrender his license so suspended to the court where it will be disposed of in accordance with § 46.2-398.

Additionally, any person convicted of a reckless driving offense which the court has reason to believe is alcohol-related or drug-related may be required as a condition of probation or otherwise to enter into and successfully complete an alcohol safety action program. If the court suspends a person's driver's license for reckless driving and requires the person to enter into and successfully complete an alcohol safety action program, the Commissioner shall not reinstate the driver's license of the person until receipt of certification that the person has enrolled in ~~an~~ *and completed the* alcohol safety action program.

If a person so convicted has not obtained the license required by this chapter, or is a nonresident, the court may direct in the judgment of conviction that he shall not, for a period of not less than 10 days or more than six months as may be prescribed in the judgment, drive any motor vehicle in the Commonwealth. The court or the clerk of court shall transmit the license to the Commissioner along with the report of the conviction required to be sent to the Department.

The court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle during the period of suspension for any of the purposes set forth in subsection E of § 18.2-271.1. The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the Commissioner a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person who may operate a motor vehicle on the order until receipt from the Commissioner of a restricted license. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be punished as provided in subsection C of § 46.2-301. No restricted license issued pursuant to this section shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

CHAPTER 563

An Act to amend and reenact § 8.01-267.1 of the Code of Virginia, relating to civil actions; standards governing consolidation and transfer; allocation of attorney fees.

[H 2105]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-267.1 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-267.1. Standards governing consolidation, etc., and transfer.

On motion of any party, a circuit court may enter an order joining, coordinating, consolidating or transferring civil actions as provided in this chapter upon finding that:

1. Separate civil actions brought by six or more plaintiffs involve common questions of law or fact and arise out of the same transaction, occurrence or series of transactions or occurrences;

2. The common questions of law or fact predominate and are significant to the actions; and

3. The order (i) will promote the ends of justice and the just and efficient conduct and disposition of the actions, and (ii) is consistent with each party's right to due process of law, and (iii) does not prejudice each individual party's right to a fair and impartial resolution of each action.

Factors to be considered by the court include, but are not limited to, (i) the nature of the common questions of law or fact; (ii) the convenience of the parties, witnesses and counsel; (iii) the relative stages of the actions and the work of counsel; (iv) the efficient utilization of judicial facilities and personnel; (v) the calendar of the courts; (vi) the likelihood and disadvantages of duplicative and inconsistent rulings, orders or judgments; (vii) the likelihood of prompt settlement of the actions without the entry of the order; and (viii) as to joint trials by jury, the likelihood of prejudice or confusion.

The court may organize and manage the combined litigation and enter further orders consistent with the right of each party to a fair trial as may be appropriate to avoid unnecessary costs, duplicative litigation or delay and to assure fair and efficient conduct and resolution of the litigation, including ~~but not limited to~~ orders ~~which~~ *that* organize the parties into groups with like interest; appoint counsel to have lead responsibility for certain matters; allocate costs and *attorney* fees to separate issues into common questions that require treatment on a consolidated basis and individual cases that do not; and ~~to~~ stay discovery on the issues that are not consolidated.

CHAPTER 564

An Act to amend and reenact § 19.2-368.10 of the Code of Virginia, relating to compensating victims of crime; awards from Criminal Injuries Compensation Fund.

[H 2032]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-368.10 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-368.10. When awards to be made; reporting crime and cooperation with law enforcement.

No award shall be made unless the Commission finds that:

1. A crime was committed;

2. Such crime directly resulted in an individual becoming a victim as defined in § 19.2-368.2, on whose behalf a claim is filed; and

3. Police records show that such crime was promptly reported to the proper authorities. In no case may an award be made where the police records show that such report was made more than 120 hours after the occurrence of such crime, unless the Commission, for good cause shown, finds the delay to have been justified. The provisions of this subdivision shall not apply to claims of sexual abuse.

The Commission, upon finding that any claimant or award recipient has not fully cooperated with all law-enforcement agencies, *unless the law-enforcement agency certifies that the claimant or award recipient was willing but unable to cooperate due to a good faith belief that such cooperation would have endangered such claimant or award recipient and such claimant or award recipient was not provided with any victim or witness protection services when such protection services were requested by a law-enforcement agency,* may deny, reduce*,* or withdraw any award, as the case may be.

CHAPTER 565

An Act to amend and reenact § 16.1-253.1 of the Code of Virginia, relating to family abuse protective orders filed on behalf of minors.

[S 873]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-253.1 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-253.1. Preliminary protective orders in cases of family abuse; confidentiality.

A. Upon the filing of a petition alleging that the petitioner is or has been, within a reasonable period of time, subjected to family abuse, the court may issue a preliminary protective order against an allegedly abusing person in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer. If an ex parte order is issued without an affidavit or a completed form as prescribed by subsection D of § 16.1-253.4 being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse has recently occurred shall constitute good cause. Evidence that the petitioner has been subjected to family abuse within a reasonable time and evidence of immediate and present danger of family abuse may be established by a showing that (i) the allegedly abusing person is incarcerated and is to be released from incarceration within 30 days following the petition or has been released from incarceration within 30 days prior to the petition, (ii) the crime for which the allegedly abusing person was convicted and incarcerated involved family abuse against the petitioner, and (iii) the allegedly abusing person has made threatening contact with the petitioner while he was incarcerated, exhibiting a renewed threat to the petitioner of family abuse.

A preliminary protective order may include any one or more of the following conditions to be imposed on the allegedly abusing person:

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property.

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons.

3. Granting the petitioner possession of the premises occupied by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession shall affect title to any real or personal property.

4. Enjoining the respondent from terminating any necessary utility service to a premises that the petitioner has been granted possession of pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to such premises.

5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, exclusive use and possession of a cellular telephone number or electronic device. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate the petitioner.

6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession or use shall affect title to the vehicle.

7. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner and any other family or household member and, where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided.

8. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

9. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner.

B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of a preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order, unless the court is closed pursuant to § 16.1-69.35 or 17.1-207 and such closure prevents the hearing from being held within such time period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the preliminary protective order shall remain in full force and effect until it is dissolved by such court, until another preliminary protective order is entered, or until a protective order is entered. If the respondent fails to appear at this hearing because the respondent was not personally served, or if personally served was incarcerated and not transported to the hearing, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served forthwith on the respondent. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the preliminary protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the primary law-enforcement agency, and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as

described above. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

C. The preliminary order is effective upon personal service on the allegedly abusing person. Except as otherwise provided in § 16.1-253.2, a violation of the order shall constitute contempt of court.

D. *In the event that the allegedly abused person is a minor and an emergency protective order was issued pursuant to § 16.1-253.4 for the protection of such minor and the respondent is a parent, guardian, or person standing in loco parentis, the attorney for the Commonwealth or a law-enforcement officer may file a petition on behalf of such minor as his next friend before such emergency protective order expires or within 24 hours of the expiration of such emergency protective order.*

E. At a full hearing on the petition, the court may issue a protective order pursuant to § 16.1-279.1 if the court finds that the petitioner has proven the allegation of family abuse by a preponderance of the evidence.

~~E.~~ *F.* Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

~~F.~~ *G.* As used in this section, "copy" includes a facsimile copy.

~~G.~~ *H.* No fee shall be charged for filing or serving any petition or order pursuant to this section.

~~H.~~ *I.* Upon issuance of a preliminary protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

CHAPTER 566

An Act to amend and reenact § 32.1-283 of the Code of Virginia, relating to death investigations; individuals receiving services in a state hospital or training center.

[S 1232]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-283 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-283. Investigation of deaths; obtaining consent to removal of organs, etc.; fees.

A. Upon the death of any person from trauma, injury, violence, poisoning, accident, suicide, or homicide, or suddenly when in apparent good health, or when unattended by a physician, or in jail, prison, *or* other correctional institution, or in police custody, or who ~~is~~ *was at the time of his death, or immediately prior to admission to another hospital,* an individual receiving services in a state hospital or training center operated by the Department of Behavioral Health and Developmental Services *whether the death of such individual was expected or unexpected*, or suddenly as an apparent result of fire, or in any suspicious, unusual, or unnatural manner, or the sudden death of any infant, the Office of the Chief Medical Examiner shall be notified by the physician in attendance, hospital, law-enforcement officer, funeral director, or any other person having knowledge of such death. Good faith efforts shall be made by any person or institution having initial custody of the dead body to identify and to notify the next of kin of the decedent. Notification shall include informing the person presumed to be the next of kin that he has a right to have identification of the decedent confirmed without due delay and without being held financially responsible for any procedures performed for the purpose of the identification. Identity of the next of kin, if determined, shall be provided to the Office of the Chief Medical Examiner upon transfer of the dead body.

B. Upon being notified of a death as provided in subsection A, the Office of the Chief Medical Examiner shall take charge of the dead body and the Chief Medical Examiner shall cause an investigation into the cause and manner of death to be made and a full report, which shall include written findings, to be prepared. In order to facilitate the investigation, the Office of the Chief Medical Examiner is authorized to inspect and copy the pertinent medical records of the decedent whose death is the subject of the investigation. Full directions as to the nature, character, and extent of the investigation to be made in such cases shall be furnished each medical examiner appointed pursuant to § 32.1-282 by the Office of the Chief Medical Examiner, together with appropriate forms for the required reports and instructions for their use. The facilities and personnel of the Office of the Chief Medical Examiner shall be made available to any medical examiner investigating a death in accordance with this section. Reports and findings of the Office of the Chief Medical Examiner shall be confidential and shall not under any circumstance be disclosed or made available for discovery pursuant to a court subpoena or otherwise, except as provided in this chapter. Nothing in this subsection shall prohibit the Office of the Chief Medical Examiner from releasing the cause or manner of death or prohibit disclosure of reports or findings to the parties in a criminal case.

C. A copy of each report pursuant to this section shall be delivered to the appropriate attorney for the Commonwealth and to the appropriate law-enforcement agency investigating the death. A copy of any such report regarding the death of a

victim of a traffic accident shall be furnished upon request to the State Police and the Highway Safety Commission. In addition, a copy of any ~~autopsy~~ report concerning an individual *who was* receiving services*, or who immediately prior to admission to another hospital received services,* in a state hospital or training center operated by the Department of Behavioral Health and Developmental Services shall be delivered to the Commissioner of Behavioral Health and Developmental Services and to the State Inspector General. A copy of any autopsy report concerning a prisoner committed to the custody of the Director of the Department of Corrections shall, upon request of the Director of the Department of Corrections, be delivered to the Director of the Department of Corrections. A copy of any autopsy report concerning a prisoner committed to any local correctional facility shall be delivered to the local sheriff or superintendent. Upon request, the Office of the Chief Medical Examiner shall release such autopsy report to the decedent's attending physician and to the personal representative or executor of the decedent. At the discretion of the Chief Medical Examiner, an autopsy report may be released to the following persons in the following order of priority: (i) the spouse of the decedent, (ii) an adult son or daughter of the decedent, (iii) either parent of the decedent, (iv) an adult sibling of the decedent, (v) any other adult relative of the decedent in order of blood relationship, or (vi) any appropriate health facility quality assurance program.

D. For each investigation under this article, including the making of the required reports, the medical examiner appointed pursuant to § 32.1-282 shall receive a fee established by the Board within the limitations of appropriations for the purpose. Such fee shall be paid by the Commonwealth if the deceased is not a legal resident of the county or city in which his death occurred. In the event the deceased is a legal resident of the county or city in which his death occurred, such county or city shall be responsible for the fee up to $20. If the deceased is an individual who receives services in a state hospital or training center operated by the Department of Behavioral Health and Developmental Services, the fee shall be paid by the Department of Behavioral Health and Developmental Services.

E. Nothing herein shall be construed to interfere with the autopsy procedure or with the routine obtaining of consent for removal of organs as conducted by surgical teams or others.

CHAPTER 567

An Act to amend and reenact §§ 2.2-2648 and 2.2-5201 of the Code of Virginia, relating to the State Executive Council for Children's Services; membership.

[S 1513]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2648 and 2.2-5201 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2648. State Executive Council for Children's Services; membership; meetings; powers and duties.

A. The State Executive Council for Children's Services (the Council) is established as a supervisory council, within the meaning of § 2.2-2100, in the executive branch of state government.

B. The Council shall consist of one member of the House of Delegates to be appointed by the Speaker of the House and one member of the Senate to be appointed by the Senate Committee on Rules; the Commissioners of Health, of Behavioral Health and Developmental Services, and of Social Services; the Superintendent of Public Instruction; the Executive Secretary of the Virginia Supreme Court; the Director of the Department of Juvenile Justice; the Director of the Department of Medical Assistance Services; *the Commissioner of the Department for Aging and Rehabilitative Services;* a juvenile and domestic relations district court judge, to be appointed by the Governor and serve as an ex officio nonvoting member; the chairman of the state and local advisory team established in § 2.2-5201; five local government representatives chosen from members of a county board of supervisors or a city council and a county administrator or city manager, to be appointed by the Governor; two private provider representatives from facilities that maintain membership in an association of providers for children's or family services and receives funding as authorized by the Children's Services Act (§ 2.2-5200 et seq.), to be appointed by the Governor, who may appoint from nominees recommended by the Virginia Coalition of Private Provider Associations; a representative who has previously received services through the Children's Services Act, to be appointed by the Governor with recommendations from entities including the Departments of Education and Social Services and the Virginia Chapter of the National Alliance on Mental Illness; and two parent representatives. The parent representatives shall be appointed by the Governor for a term not to exceed three years and neither shall be an employee of any public or private program that serves children and families. The Governor's appointments shall be for a term not to exceed three years and shall be limited to no more than two consecutive terms, beginning with appointments after July 1, 2009. Legislative members and ex officio members of the Council shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. Legislative members shall not be included for the purposes of constituting a quorum.

C. The Council shall be chaired by the Secretary of Health and Human Resources or a designated deputy who shall be responsible for convening the council. The Council shall meet, at a minimum, quarterly, to oversee the administration of this article and make such decisions as may be necessary to carry out its purposes. Legislative members shall receive compensation as provided in § 30-19.12 and nonlegislative citizen members shall receive compensation for their services as provided in §§ 2.2-2813 and 2.2-2825.

D. The Council shall have the following powers and duties:

1. Hire and supervise a director of the Office of Children's Services;

2. Appoint the members of the state and local advisory team in accordance with the requirements of § 2.2-5201;

3. Provide for the establishment of interagency programmatic and fiscal policies developed by the Office of Children's Services, which support the purposes of the Children's Services Act (§ 2.2-5200 et seq.), through the promulgation of regulations by the participating state boards or by administrative action, as appropriate;

4. Provide for a public participation process for programmatic and fiscal guidelines and dispute resolution procedures developed for administrative actions that support the purposes of the Children's Services Act (§ 2.2-5200 et seq.). The public participation process shall include, at a minimum, 60 days of public comment and the distribution of these guidelines and procedures to all interested parties;

5. Oversee the administration of and consult with the Virginia Municipal League and the Virginia Association of Counties about state policies governing the use, distribution and monitoring of moneys in the state pool of funds and the state trust fund;

6. Provide for the administration of necessary functions that support the work of the Office of Children's Services;

7. Review and take appropriate action on issues brought before it by the Office of Children's Services, Community Policy and Management Teams (CPMTs), local governments, providers and parents;

8. Advise the Governor and appropriate Cabinet Secretaries on proposed policy and operational changes that facilitate interagency service development and implementation, communication and cooperation;

9. Provide administrative support and fiscal incentives for the establishment and operation of local comprehensive service systems;

10. Oversee coordination of early intervention programs to promote comprehensive, coordinated service delivery, local interagency program management, and co-location of programs and services in communities. Early intervention programs include state programs under the administrative control of the state executive council member agencies;

11. Oversee the development and implementation of a mandatory uniform assessment instrument and process to be used by all localities to identify levels of risk of Children's Services Act (CSA) youth;

12. Oversee the development and implementation of uniform guidelines to include initial intake and screening assessment, development and implementation of a plan of care, service monitoring and periodic follow-up, and the formal review of the status of the youth and the family;

13. Oversee the development and implementation of uniform guidelines for documentation for CSA-funded services;

14. Review and approve a request by a CPMT to establish a collaborative, multidisciplinary team process for referral and reviews of children and families pursuant to § 2.2-5209;

15. Oversee the development and implementation of mandatory uniform guidelines for utilization management; each locality receiving funds for activities under the Children's Services Act shall have a locally determined utilization management plan following the guidelines or use of a process approved by the Council for utilization management, covering all CSA-funded services;

16. Oversee the development and implementation of uniform data collection standards and the collection of data, utilizing a secure electronic client-specific database for CSA-funded services, which shall include, but not be limited to, the following client specific information: (i) children served, including those placed out of state; (ii) individual characteristics of youths and families being served; (iii) types of services provided; (iv) service utilization including length of stay; (v) service expenditures; (vi) provider identification number for specific facilities and programs identified by the state in which the child receives services; (vii) a data field indicating the circumstances under which the child ends each service; and (viii) a data field indicating the circumstances under which the child exits the Children's Services Act program. All client-specific information shall remain confidential and only non-identifying aggregate demographic, service, and expenditure information shall be made available to the public;

17. Oversee the development and implementation of a uniform set of performance measures for evaluating the Children's Services Act program, including, but not limited to, the number of youths served in their homes, schools and communities. Performance measures shall be based on information: (i) collected in the client-specific database referenced in subdivision 16, (ii) from the mandatory uniform assessment instrument referenced in subdivision 11, and (iii) from available and appropriate client outcome data that is not prohibited from being shared under federal law and is routinely collected by the state child-serving agencies that serve on the Council. If provided client-specific information, state child serving agencies shall report available and appropriate outcome data in clause (iii) to the Office of Children's Services. Outcome data submitted to the Office of Children's Services shall be used solely for the administration of the Children's Services Act program. Applicable client outcome data shall include, but not be limited to: (a) permanency outcomes by the Virginia Department of Social Services, (b) recidivism outcomes by the Virginia Department of Juvenile Justice, and (c) educational outcomes by the Virginia Department of Education. All client-specific information shall remain confidential and only non-identifying aggregate outcome information shall be made available to the public;

18. Oversee the development and distribution of management reports that provide information to the public and CPMTs to help evaluate child and family outcomes and public and private provider performance in the provision of services to children and families through the Children's Services Act program. Management reports shall include total expenditures on children served through the Children's Services Act program as reported to the Office of Children's Services by state child-serving agencies on the Council and shall include, but not be limited to: (i) client-specific payments for inpatient and outpatient mental health services, treatment foster care services and residential services made through the Medicaid

program and reported by the Virginia Department of Medical Assistance Services and (ii) client-specific payments made through the Title IV-E foster care program reported by the Virginia Department of Social Services. The Office of Children's Services shall provide client-specific information to the state agencies for the sole purpose of the administration of the Children's Services Act program. All client-specific information shall remain confidential and only non-identifying aggregate demographic, service, expenditure, and outcome information shall be made available to the public;

19. Establish and oversee the operation of an informal review and negotiation process with the Director of the Office of Children's Services and a formal dispute resolution procedure before the State Executive Council, which include formal notice and an appeals process, should the Director or Council find, upon a formal written finding, that a CPMT failed to comply with any provision of this Act. "Formal notice" means the Director or Council provides a letter of notification, which communicates the Director's or the Council's finding, explains the effect of the finding, and describes the appeal process, to the chief administrative officer of the local government with a copy to the chair of the CPMT. The dispute resolution procedure shall also include provisions for remediation by the CPMT that shall include a plan of correction recommended by the Council and submitted to the CPMT. If the Council denies reimbursement from the state pool of funds, the Council and the locality shall develop a plan of repayment;

20. Deny state funding to a locality, in accordance with subdivision 19, where the CPMT fails to provide services that comply with the Children's Services Act (§ 2.2-5200 et seq.), any other state law or policy, or any federal law pertaining to the provision of any service funded in accordance with § 2.2-5211;

21. Biennially publish and disseminate to members of the General Assembly and community policy and management teams a state progress report on comprehensive services to children, youth and families and a plan for such services for the next succeeding biennium. The state plan shall:

a. Provide a fiscal profile of current and previous years' federal and state expenditures for a comprehensive service system for children, youth and families;

b. Incorporate information and recommendations from local comprehensive service systems with responsibility for planning and delivering services to children, youth and families;

c. Identify and establish goals for comprehensive services and the estimated costs of implementing these goals, report progress toward previously identified goals and establish priorities for the coming biennium;

d. Report and analyze expenditures associated with children who do not receive pool funding and have emotional and behavioral problems;

e. Identify funding streams used to purchase services in addition to pooled, Medicaid, and Title IV-E funding; and

f. Include such other information or recommendations as may be necessary and appropriate for the improvement and coordinated development of the state's comprehensive services system; and

22. Oversee the development and implementation of mandatory uniform guidelines for intensive care coordination services for children who are at risk of entering, or are placed in, residential care through the Children's Services Act program. The guidelines shall: (i) take into account differences among localities, (ii) specify children and circumstances appropriate for intensive care coordination services, (iii) define intensive care coordination services, and (iv) distinguish intensive care coordination services from the regular case management services provided within the normal scope of responsibility for the child-serving agencies, including the community services board, the local school division, local social services agency, court service unit, and Department of Juvenile Justice. Such guidelines shall address: (a) identifying the strengths and needs of the child and his family through conducting or reviewing comprehensive assessments including, but not limited to, information gathered through the mandatory uniform assessment instrument; (b) identifying specific services and supports necessary to meet the identified needs of the child and his family, building upon the identified strengths; (c) implementing a plan for returning the youth to his home, relative's home, family-like setting, or community at the earliest appropriate time that addresses his needs, including identification of public or private community-based services to support the youth and his family during transition to community-based care; and (d) implementing a plan for regular monitoring and utilization review of the services and residential placement for the child to determine whether the services and placement continue to provide the most appropriate and effective services for the child and his family.

§ 2.2-5201. State and local advisory team; appointment; membership.

The state and local advisory team is established to better serve the needs of troubled and at-risk youths and their families by advising the Council and by managing cooperative efforts at the state level and providing support to community efforts. The team shall be appointed by and be responsible to the Council. The team shall include one representative from each of the following state agencies: the Department of Health, the Department of Juvenile Justice, the Department of Social Services, the Department of Behavioral Health and Developmental Services, the Department of Medical Assistance Services, *the Department for Aging and Rehabilitative Services,* and the Department of Education. The team shall also include a parent representative who is not an employee of any public or private program that serves children and families and who has a child who has received services that are within the purview of the Children's Services Act; a representative of a private organization or association of providers for children's or family services; a local Children's Services Act coordinator or program manager; a juvenile and domestic relations district court judge; a representative who has previously received services through the Children's Services Act, appointed with recommendations from entities including the Departments of Education and Social Services and the Virginia Chapter of the National Alliance on Mental Illness; and one member from each of five different geographical areas of the Commonwealth who is representative of one of the different

participants of community policy and management teams pursuant to § 2.2-5205. The nonstate agency members shall serve staggered terms of not more than three years, such terms to be determined by the Council.

The team shall annually elect a chairman from among the local government representatives who shall be responsible for convening the team. The team shall develop and adopt bylaws to govern its operations that shall be subject to approval by the Council. Any person serving on such team who does not represent a public agency shall file a statement of economic interests as set out in § 2.2-3117 of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). Persons representing public agencies shall file such statements if required to do so pursuant to the State and Local Government Conflict of Interests Act.

CHAPTER 568

An Act to amend and reenact §§ 16.1-228 and 63.2-100 of the Code of Virginia, relating to child abuse or neglect; definition; independent activities.

[S 1367]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-228 and 63.2-100 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-228. Definitions.

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

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. *No child whose parent or other person responsible for his care allows the child to engage in independent activities without adult supervision shall for that reason alone be considered to be an abused or neglected child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly negligent as to endanger the health or safety of the child. Such independent activities include traveling to or from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a reasonable period of time.* Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care, or an intimate partner of such parent or person, commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the federal Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii) an attended emergency medical services agency that employs emergency medical services personnel, or (iii) a newborn safety device located at and operated by such

hospital or emergency medical services agency. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person 18 years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or that constitutes a part of a common scheme or plan with, a delinquent act that would be a felony if committed by an adult.

"Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of Title 63.2, younger than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

"Child in need of services" means (i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or to the life or health of another person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child in need of supervision" means:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular educational needs, (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success, and (iii) the school system has provided documentation that it has complied with the provisions of § 22.1-258; or

2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or deserts or abandons his family or lawful custodian on more than one occasion or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.2-100.

"The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile and domestic relations district court of each county or city.

"Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but does not include an act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child.

"Delinquent child" means a child who has committed a delinquent act or an adult who has committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been terminated under the provisions of § 16.1-269.6.

"Department" means the Department of Juvenile Justice and "Director" means the administrative head in charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties imposed upon him under this law.

"Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

"Family abuse" means any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and

grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293, or (v) is living with a relative participating in the Federal-Funded Kinship Guardianship Assistance program set forth in § 63.2-1305 and developed consistent with 42 U.S.C. § 673 or the State-Funded Kinship Guardianship Assistance program set forth in § 63.2-1306.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. "Independent living services" includes counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of each county or city.

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in

which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

"Secure facility" or "detention home" means a local, regional or state public or private locked residential facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Juvenile Justice.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 when committed by a juvenile 14 years of age or older.

§ 63.2-100. Definitions.

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

"Abused or neglected child" means any child less than 18 years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. *No child whose parent or other person responsible for his care allows the child to engage in independent activities without adult supervision shall for that reason alone be considered to be an abused or neglected child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly negligent as to endanger the health or safety of the child. Such independent activities include traveling to or from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a reasonable period of time.* Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care, or an intimate partner of such parent or person, commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this title is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii) an attended emergency medical services agency that employs emergency medical services providers, or (iii) a newborn safety device located at and operated by such hospital or emergency medical services agency. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603.

"Adult day care center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm or disabled adults.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults. "Adult foster care" does not include services or support provided to individuals through the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9.

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult.

"Adult protective services" means services provided by the local department that are necessary to protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least a moderate level of assistance with activities of daily living.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214, when such facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

"Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

"Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists parents with the process of delegating parental and legal custodial powers of their children pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child-protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child support services" means any civil, criminal or administrative action taken by the Division of Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child support, or child and spousal support.

"Child-welfare agency" means a child-placing agency, children's residential facility, or independent foster home.

"Children's residential facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;

2. An establishment required to be licensed as a summer camp by § 35.1-18; and

3. A licensed or accredited hospital legally maintained as such.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Department of Health and Human Services" means the Department of Health and Human Services of the United States government or any department or agency thereof that may hereafter be designated as the agency to administer the Social Security Act, as amended.

"Disposable income" means that part of the income due and payable of any individual remaining after the deduction of any amount required by law to be withheld.

"Energy assistance" means benefits to assist low-income households with their home heating and cooling needs, including, but not limited to, purchase of materials or substances used for home heating, repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35), as amended.

"Family and permanency team" means the group of individuals assembled by the local department to assist with determining planning and placement options for a child, which shall include, as appropriate, all biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case of a child who is 14 years of age or older, the family and permanency team shall also include any members of the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281.

"Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1305, payments to eligible individuals who have received custody of a child of whom they had been the foster parents.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency. "Foster care placement" does not include placement of a child in accordance with a power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Foster home" means a residence approved by a child-placing agency or local board in which any child, other than a child by birth or adoption of such person or a child who is the subject of a power of attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural person who has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours without compensation, resides as a member of the household.

"General relief" means money payments and other forms of relief made to those persons mentioned in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person; (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8; and (iii) a home in which are received only children who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Independent living" means a planned program of services designed to assist a child age 16 and over and persons who are former foster care children or were formerly committed to the Department of Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development, access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Kinship care" means the full-time care, nurturing, and protection of children by relatives.

"Kinship guardian" means the adult relative of a child in a kinship guardianship established in accordance with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after acting as the child's foster parent.

"Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-1306 between a child and an adult relative of the child who has formerly acted as the child's foster parent that is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult relative of the child of the authority necessary to ensure the protection, education, care and control, and custody of the child and the authority for decision making for the child.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Merit system plan" means those regulations adopted by the Board in the development and operation of a system of personnel administration meeting requirements of the federal Office of Personnel Management.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child care; and general relief.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a home and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of assisted living facilities, or any hospital

that has contracted with the Department of Medical Assistance Services to perform nursing facility pre-admission screenings.

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Sibling" means each of two or more children having one or more parents in common.

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

"State-Funded Kinship Guardianship Assistance program" means a program that provides payments to eligible individuals who have received custody of a relative child subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1306.

"Supervised independent living setting" means the residence of a person 18 years of age or older who is participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 where supervision includes a monthly visit with a service worker or, when appropriate, contracted supervision. "Supervised independent living setting" does not include residential facilities or group homes.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from Virginia Initiative for Education and Work (VIEW) participation under § 63.2-609.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

CHAPTER 569

An Act to amend and reenact §§ 8.01-225, 22.1-274.2, and 54.1-3408 of the Code of Virginia, relating to emergency care; exemption from liability; athletic trainers.

[H 2429]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-225, 22.1-274.2, and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic, or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance. For purposes of this subdivision, emergency care or assistance includes the forcible entry of a motor vehicle in order to remove an unattended minor at risk of serious bodily injury or death, provided the person has attempted to contact a law-enforcement officer, as defined in § 9.1-101, a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, or an emergency 911 system, if feasible under the circumstances.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, including any emergency medical services provider who holds a valid certificate issued by the Commissioner of Health, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, emergency medical services agency, or governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of liquefied petroleum gas, liquefied natural gas, hazardous material, or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical services provider possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance, whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire, or any other place, or while transporting such injured or ill person to, from, or between any hospital, medical facility, medical clinic, doctor's office, or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident, or any other place, or while transporting such person to or from any hospital, clinic, doctor's office, or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Operates an AED at the scene of an emergency, trains individuals to be operators of AEDs, or orders AEDs, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an AED in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or willful or wanton misconduct of the person rendering such emergency care.

8. Maintains an AED located on real property owned or controlled by such person shall be immune from civil liability for any personal injury that results from any act or omission in the use in an emergency of an AED located on such property unless such personal injury results from gross negligence or willful or wanton misconduct of the person who maintains the AED or his agent or employee.

9. Is an employee of a school board or of a local health department approved by the local governing body to provide health services pursuant to § 22.1-274 who, while on school property or at a school-sponsored event, (i) renders emergency care or assistance to any sick or injured person; (ii) renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures that have been approved by the State Board of Health to any sick or injured person; (iii) operates an AED, trains individuals to be operators of AEDs, or orders AEDs; (iv) maintains an AED; or (v) renders care in accordance with a seizure management and action plan pursuant to § 22.1-274.6, shall not be liable for civil damages for ordinary negligence in acts or omissions on the part of such employee while engaged in the acts described in this subdivision.

10. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue, or any other place or while transporting such injured or ill person to a place accessible for transfer to any available emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by him to engage in rescue or recovery work at a resort not owned or operated by him, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but not limited to acts or omissions which involve violations of any state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such emergency care or assistance, unless such act or omission was the result of gross negligence or willful misconduct.

11. Is an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education and is authorized by a prescriber and trained in the administration of insulin and glucagon, who, upon the written request of the parents as defined in § 22.1-1, assists with the administration of insulin or, in the case of a school board employee, with the insertion or reinsertion of an insulin pump or any of its parts pursuant to subsection B of § 22.1-274.01:1 or administers glucagon to a student diagnosed as having diabetes who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the child's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any such employee is covered by the immunity granted herein, the school board or school employing him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

12. Is an employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of insulin and glucagon, who assists with the administration of insulin or administers glucagon to a student diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the student's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee is covered by the immunity granted in this subdivision, the institution shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

13. Is a school nurse, an employee of a school board, an employee of a local governing body, or an employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine and who provides, administers, or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

14. Is an employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or an employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the school shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

15. Is an employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the institution shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

16. Is an employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a participant in the outdoor experience or program for youth believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the organization shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

17. Is an employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1, is authorized by a prescriber and trained in the administration of epinephrine, and provides, administers, or assists in the administration of epinephrine to an individual believed in good faith to be having an anaphylactic reaction on the premises of the restaurant at

which the employee is employed, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

18. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of insulin and glucagon and who administers or assists with the administration of insulin or administers glucagon to a person diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia in accordance with § 54.1-3408 shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered in accordance with the prescriber's instructions or such person has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person who provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services is covered by the immunity granted herein, the provider shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

19. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person believed in good faith to be having an anaphylactic reaction in accordance with the prescriber's instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

20. In good faith prescribes, dispenses, or administers naloxone or other opioid antagonist used for overdose reversal in an emergency to an individual who is believed to be experiencing or about to experience a life-threatening opiate overdose shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if acting in accordance with the provisions of subsection X or Y of § 54.1-3408 or in his role as a member of an emergency medical services agency.

21. In good faith administers naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose in accordance with the provisions of subsection Z of § 54.1-3408 shall not be liable for any civil damages for any personal injury that results from any act or omission in the administration of naloxone or other opioid antagonist used for overdose reversal, unless such act or omission was the result of gross negligence or willful and wanton misconduct.

22. Is an employee of a school board, school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency and who administers or assists in the administration of such medications to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis pursuant to a written order or standing protocol issued by a prescriber within the course of his professional practice and in accordance with the prescriber's instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

23. Is a school nurse, *a licensed athletic trainer under contract with a local school division,* an employee of a school board, an employee of a local governing body, or an employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers or nebulized albuterol and who provides, administers, or assists in the administration of an albuterol inhaler and a valved holding chamber or nebulized albuterol for a student believed in good faith to be in need of such medication, or is the prescriber of such medication, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

24. Is an employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person present in the public place believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the organization shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

25. Is a nurse at an early childhood care and education entity, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine and who provides, administers, or assists in the administration of epinephrine to a child believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

B. Any licensed physician serving without compensation as the operational medical director for an emergency medical services agency that holds a valid license as an emergency medical services agency issued by the Commissioner of Health shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any person serving without compensation as a dispatcher for any licensed public or nonprofit emergency medical services agency in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services provider shall not be liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf of such office unless such act or omission was the result of such emergency medical services instructor's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a medical advisor to an E-911 system in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911 service, as defined in § 58.1-1730, when answering emergency calls unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician who directs the provision of emergency medical services, as authorized by the State Board of Health, through a communications device shall not be liable for any civil damages for any act or omission resulting from the rendering of such emergency medical services unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a supervisor of an AED in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to the owner of the AED relating to personnel training, local emergency medical services coordination, protocol approval, AED deployment strategies, and equipment maintenance plans and records unless such act or omission was the result of such physician's gross negligence or willful misconduct.

C. Any communications services provider, as defined in § 58.1-647, including mobile service, and any provider of Voice-over-Internet Protocol service, in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to emergency calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

Any volunteer engaging in rescue or recovery work at a mine, or any mine operator voluntarily providing personnel to engage in rescue or recovery work at a mine not owned or operated by such operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such rescue or recovery work in good faith unless such act or omission was the result of gross negligence or willful misconduct. For purposes of this subsection, "Voice-over-Internet Protocol service" or "VoIP service" means any Internet protocol-enabled services utilizing a broadband connection, actually originating or terminating in Internet Protocol from either or both ends of a channel of communication offering real time, multidirectional voice functionality, including, but not limited to, services similar to traditional telephone service.

D. Nothing contained in this section shall be construed to provide immunity from liability arising out of the operation of a motor vehicle.

E. For the purposes of this section, "compensation" shall not be construed to include (i) the salaries of police, fire, or other public officials or personnel who render such emergency assistance; (ii) the salaries or wages of employees of a coal producer engaging in emergency medical services or first aid services pursuant to the provisions of § 45.2-531, 45.2-579, 45.2-863 or 45.2-910; (iii) complimentary lift tickets, food, lodging, or other gifts provided as a gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group, or agency; (iv) the salary of any person who (a) owns an AED for the use at the scene of an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate AEDs at the scene of emergencies, (c) orders AEDs for use at the scene of emergencies, or (d) operates an AED at the scene of an emergency; or (v) expenses reimbursed to any person providing care or assistance pursuant to this section.

For the purposes of this section, "emergency medical services provider" shall include a person licensed or certified as such or its equivalent by any other state when he is performing services that he is licensed or certified to perform by such other state in caring for a patient in transit in the Commonwealth, which care originated in such other state.

Further, the public shall be urged to receive training on how to use CPR and an AED in order to acquire the skills and confidence to respond to emergencies using both CPR and an AED.

§ 22.1-274.2. Possession and administration of inhaled asthma medications and epinephrine by certain students or school board employees.

A. Local school boards shall develop and implement policies permitting a student with a diagnosis of asthma or anaphylaxis, or both, to possess and self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be, during the school day, at school-sponsored activities, or while on a school bus or other school property. Such policies shall include, but not be limited to, provisions for:

1. Written consent of the parent, as defined in § 22.1-1, of a student with a diagnosis of asthma or anaphylaxis, or both, that the student may self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be.

2. Written notice from the student's primary care provider or medical specialist, or a licensed physician or licensed nurse practitioner that (i) identifies the student; (ii) states that the student has a diagnosis of asthma or anaphylaxis, or both, and has approval to self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be, that have been prescribed or authorized for the student; (iii) specifies the name and dosage of the medication, the frequency

in which it is to be administered and certain circumstances which may warrant the use of inhaled asthma medications or auto-injectable epinephrine, such as before exercising or engaging in physical activity to prevent the onset of asthma symptoms or to alleviate asthma symptoms after the onset of an asthma episode; and (iv) attests to the student's demonstrated ability to safely and effectively self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be.

3. Development of an individualized health care plan, including emergency procedures for any life-threatening conditions.

4. Consultation with the student's parent before any limitations or restrictions are imposed upon a student's possession and self-administration of inhaled asthma medications and auto-injectable epinephrine, and before the permission to possess and self-administer inhaled asthma medications and auto-injectable epinephrine at any point during the school year is revoked.

5. Self-administration of inhaled asthma medications and auto-injectable epinephrine to be consistent with the purposes of the Virginia School Health Guidelines and the Guidelines for Specialized Health Care Procedure Manuals, which are jointly issued by the Department of Education and the Department of Health.

6. Disclosure or dissemination of information pertaining to the health condition of a student to school board employees to comply with §§ 22.1-287 and 22.1-289 and the federal Family Education Rights and Privacy Act of 1974, as amended, 20 U.S.C. § 1232g, which govern the disclosure and dissemination of information contained in student scholastic records.

B. The permission granted a student with a diagnosis of asthma or anaphylaxis, or both, to possess and self-administer inhaled asthma medications or auto-injectable epinephrine, or both, shall be effective for one school year. Permission to possess and self-administer such medications shall be renewed annually. For the purposes of this section, "one school year" means 365 calendar days.

C. Local school boards shall adopt and implement policies for the possession and administration of epinephrine in every school, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to any student believed to be having an anaphylactic reaction. Such policies shall require that at least one school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine has the means to access at all times during regular school hours any such epinephrine that is stored in a locked or otherwise generally inaccessible container or area.

D. Each local school board shall adopt and implement policies for the possession and administration of undesignated stock albuterol inhalers and valved holding chambers in every public school in the local school division, to be administered by any school nurse, *licensed athletic trainer under contract with a local school division,* employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers for any student believed in good faith to be in need of such medication.

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine, a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

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

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

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

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

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

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

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

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

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

Pursuant to an order or standing protocol that shall be issued by the local health director within the course of his professional practice, any school nurse, *licensed athletic trainer under contract with a local school division,* school board employee, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers or nebulized albuterol may possess or administer an albuterol inhaler and a valved holding chamber or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any nurse at an early childhood care and education entity, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

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

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

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

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

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

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

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

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

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

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

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

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

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

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

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

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

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a

registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

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

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

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency, the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency, or the Board of Health has made an emergency order pursuant to § 32.1-13 for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health and for the limited purpose of administering vaccines as an approved countermeasure for such communicable, contagious, and infectious diseases; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

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

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

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

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or

osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, an employee or other person acting on behalf of a public place who has completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal other than naloxone in an injectable formulation with a hypodermic needle or syringe in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

For the purposes of this subsection, "public place" means any enclosed area that is used or held out for use by the public, whether owned or operated by a public or private interest.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been

dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

CHAPTER 570

An Act to amend and reenact §§ 20-49.8 and 63.2-1913 of the Code of Virginia, relating to judgment or child support order for pregnancy and delivery expenses.

[H 2290]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 20-49.8 and 63.2-1913 of the Code of Virginia are amended and reenacted as follows:

§ 20-49.8. Judgment or order; costs; birth record.

A. *As used in this section, "pregnancy and delivery expenses" means an amount equal to the sum of a pregnant mother's reasonable and necessary medical costs, minus any portion of such sum that a court determines is equitable based on the totality of the circumstances. Any amount paid by either parent may be credited by a court.*

B. A judgment or order establishing parentage may include any provision directed against the appropriate party to the proceeding, concerning the duty of support, including an equitable apportionment of the expenses incurred on behalf of the child from the date the proceeding under this chapter was filed with the court against the alleged parent or, if earlier, the date an order of the Department of Social Services entered pursuant to Title 63.2 and directing payment of support was delivered to the sheriff or process server for service upon the obligor. The judgment or order may be in favor of the natural parent or any other person or agency who incurred such expenses provided the complainant exercised due diligence in the service of the respondent. The judgment or order may also include provisions for the custody and guardianship of the child, visitation privileges with the child, or any other matter in the best interest of the child. In circumstances where the parent is outside the jurisdiction of the court, the court may enter a further order requiring the furnishing of bond or other security for the payment required by the judgment or order. ~~The~~ *In the event that the initial petition for the establishment of parentage is commenced within six months of the live birth of a child, the* judgment or order ~~may direct either party to pay the reasonable and necessary unpaid expenses of~~ *shall, except for good cause shown or as otherwise agreed to by the parties, apportion between the legal parents, in proportion to the legal parents' gross incomes, as used for calculating the monthly child support obligation pursuant to § 20-108.2, (i)* the mother's *unreimbursed* pregnancy and delivery ~~or equitably apportion the unpaid expenses between the parties~~ *expenses and (ii) those reasonable expenses incurred by either parent for the benefit of the child prior to the birth of the child*. However, when the Commonwealth, through the Medicaid program *or other government program*, has paid such expenses, the court may order reimbursement to the Commonwealth for such expenses.

~~B.~~ *C.* A determination of paternity made by any other state shall be given full faith and credit, whether established through voluntary acknowledgment or through administrative or judicial process; provided, however, that, except as may otherwise be required by law, such full faith and credit shall be given only for the purposes of establishing a duty to make payments of support and other payments contemplated by subsection ~~A~~ *B*.

~~C.~~ *D.* For each court determination of parentage made under the provisions of this chapter, a certified copy of the order or judgment shall be transmitted to the State Registrar of Vital Records by the clerk of the court within thirty days after the order becomes final. Such order shall set forth the full name and date and place of birth of the person whose parentage has been determined, the full names of both parents, including the maiden name, if any, of the mother and the name and address of an informant who can furnish the information necessary to complete a new birth record. In addition, when the State Registrar receives a document signed by a man indicating his consent to submit to scientifically reliable genetic tests, including blood tests, to determine paternity and the genetic test results affirming at least a ninety-eight percent probability of paternity, a new birth record shall be completed as provided in § 32.1-261. When the State Registrar receives a copy of a judgment or order for a person born outside of this Commonwealth, such order shall be forwarded to the appropriate registration authority in the state of birth or the appropriate federal agency.

§ 63.2-1913. Administrative establishment of paternity.

The Department may establish the parent and child relationship between a child and a man upon request, verified by oath or affirmation, filed by a child, a parent, a person claiming parentage, a person standing in loco parentis to the child or having legal custody of the child, or a representative of the Department or the Department of Juvenile Justice. The request may be filed at any time before the child attains the age of eighteen years.

Pursuant to subsection F of § 63.2-1903, the Department may summons a parent or putative parent to appear in the office of the Division of Child Support Enforcement to provide such information as may be necessary to the proceeding.

Paternity may be established by a written statement of the father and mother made under oath acknowledging paternity or scientifically reliable genetic tests, including blood tests, which affirm at least a ninety-eight percent probability of paternity. The Department may order genetic testing and shall pay the costs of such tests, subject to recoupment from the father, if paternity is established. Where an original test is contested and additional testing is requested, the Department may require advance payment by the contestant.

Before a voluntary acknowledgment of paternity is accepted by the Department as the basis for establishing paternity, the Department shall provide to both the mother and the putative father a written and oral description of the rights and responsibilities of acknowledging paternity and the consequences that arise from a signed acknowledgment, including the right to rescind the acknowledgment within the earlier of (i) sixty days from the date of signing or (ii) the date of entry of an order in an administrative or judicial proceeding relating to the child in which the signatory is a party.

A genetic test result affirming at least a ninety-eight percent probability of paternity shall have the same legal effect as a judgment entered pursuant to § 20-49.8. When sixty days have elapsed from its signing, a voluntary statement acknowledging paternity shall have the same legal effect as a judgment entered pursuant to § 20-49.8 and shall be binding and conclusive unless, in a subsequent judicial proceeding, the person challenging the statement establishes that the statement resulted from fraud, duress or a material mistake of fact. In any subsequent proceeding in which a statement acknowledging paternity is subject to challenge, the legal responsibilities of any person signing it shall not be suspended during the pendency of the proceeding, except for good cause shown.

The order of the Department in proceedings pursuant to this section shall be served upon the putative father in accordance with the provisions of Chapter 8 (§ 8.01-285 et seq.) or Chapter 9 (§ 8.01-328 et seq.) of Title 8.01. The Department shall file a copy of its order determining paternity, including the information required by subsection ~~C~~ *D* of § 20-49.8, with the State Registrar of Vital Records within thirty days after the acknowledgment becomes binding and conclusive or the order otherwise becomes final. No judicial or administrative proceeding shall be required to ratify an unchallenged acknowledgment of paternity nor shall the Department or the courts have any jurisdiction over proceedings to ratify an unchallenged acknowledgment.

CHAPTER 571

An Act to amend and reenact §§ 20-49.8 and 63.2-1913 of the Code of Virginia, relating to judgment or child support order for pregnancy and delivery expenses.

[S 1314]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 20-49.8 and 63.2-1913 of the Code of Virginia are amended and reenacted as follows:

§ 20-49.8. Judgment or order; costs; birth record.

A. *As used in this section, "pregnancy and delivery expenses" means an amount equal to the sum of a pregnant mother's reasonable and necessary medical costs, minus any portion of such sum that a court determines is equitable based on the totality of the circumstances. Any amount paid by either parent may be credited by a court.*

B. A judgment or order establishing parentage may include any provision directed against the appropriate party to the proceeding, concerning the duty of support, including an equitable apportionment of the expenses incurred on behalf of the child from the date the proceeding under this chapter was filed with the court against the alleged parent or, if earlier, the date an order of the Department of Social Services entered pursuant to Title 63.2 and directing payment of support was delivered to the sheriff or process server for service upon the obligor. The judgment or order may be in favor of the natural parent or any other person or agency who incurred such expenses provided the complainant exercised due diligence in the service of the respondent. The judgment or order may also include provisions for the custody and guardianship of the child, visitation privileges with the child, or any other matter in the best interest of the child. In circumstances where the parent is outside the jurisdiction of the court, the court may enter a further order requiring the furnishing of bond or other security for the payment required by the judgment or order. ~~The~~ *In the event that the initial petition for the establishment of parentage is commenced within six months of the live birth of a child, the* judgment or order ~~may direct either party to pay the reasonable and necessary unpaid expenses of~~ *shall, except for good cause shown or as otherwise agreed to by the parties, apportion between the legal parents, in proportion to the legal parents' gross incomes, as used for calculating the monthly child support obligation pursuant to § 20-108.2, (i)* the mother's *unreimbursed* pregnancy and delivery ~~or equitably apportion the unpaid expenses between the parties~~ *expenses and (ii) those reasonable expenses incurred by either parent for the benefit of the child prior to the birth of the child*. However, when the Commonwealth, through the Medicaid program *or other government program*, has paid such expenses, the court may order reimbursement to the Commonwealth for such expenses.

~~B.~~ *C.* A determination of paternity made by any other state shall be given full faith and credit, whether established through voluntary acknowledgment or through administrative or judicial process; provided, however, that, except as may otherwise be required by law, such full faith and credit shall be given only for the purposes of establishing a duty to make payments of support and other payments contemplated by subsection ~~A~~ *B*.

~~C.~~ *D.* For each court determination of parentage made under the provisions of this chapter, a certified copy of the order or judgment shall be transmitted to the State Registrar of Vital Records by the clerk of the court within thirty days after the order becomes final. Such order shall set forth the full name and date and place of birth of the person whose parentage has been determined, the full names of both parents, including the maiden name, if any, of the mother and the name and address of an informant who can furnish the information necessary to complete a new birth record. In addition, when the State Registrar receives a document signed by a man indicating his consent to submit to scientifically reliable genetic tests, including blood tests, to determine paternity and the genetic test results affirming at least a ninety-eight percent probability of paternity, a new birth record shall be completed as provided in § 32.1-261. When the State Registrar receives a copy of a judgment or order for a person born outside of this Commonwealth, such order shall be forwarded to the appropriate registration authority in the state of birth or the appropriate federal agency.

§ 63.2-1913. Administrative establishment of paternity.

The Department may establish the parent and child relationship between a child and a man upon request, verified by oath or affirmation, filed by a child, a parent, a person claiming parentage, a person standing in loco parentis to the child or having legal custody of the child, or a representative of the Department or the Department of Juvenile Justice. The request may be filed at any time before the child attains the age of eighteen years.

Pursuant to subsection F of § 63.2-1903, the Department may summons a parent or putative parent to appear in the office of the Division of Child Support Enforcement to provide such information as may be necessary to the proceeding.

Paternity may be established by a written statement of the father and mother made under oath acknowledging paternity or scientifically reliable genetic tests, including blood tests, which affirm at least a ninety-eight percent probability of paternity. The Department may order genetic testing and shall pay the costs of such tests, subject to recoupment from the father, if paternity is established. Where an original test is contested and additional testing is requested, the Department may require advance payment by the contestant.

Before a voluntary acknowledgment of paternity is accepted by the Department as the basis for establishing paternity, the Department shall provide to both the mother and the putative father a written and oral description of the rights and responsibilities of acknowledging paternity and the consequences that arise from a signed acknowledgment, including the right to rescind the acknowledgment within the earlier of (i) sixty days from the date of signing or (ii) the date of entry of an order in an administrative or judicial proceeding relating to the child in which the signatory is a party.

A genetic test result affirming at least a ninety-eight percent probability of paternity shall have the same legal effect as a judgment entered pursuant to § 20-49.8. When sixty days have elapsed from its signing, a voluntary statement acknowledging paternity shall have the same legal effect as a judgment entered pursuant to § 20-49.8 and shall be binding and conclusive unless, in a subsequent judicial proceeding, the person challenging the statement establishes that the statement resulted from fraud, duress or a material mistake of fact. In any subsequent proceeding in which a statement acknowledging paternity is subject to challenge, the legal responsibilities of any person signing it shall not be suspended during the pendency of the proceeding, except for good cause shown.

The order of the Department in proceedings pursuant to this section shall be served upon the putative father in accordance with the provisions of Chapter 8 (§ 8.01-285 et seq.) or Chapter 9 (§ 8.01-328 et seq.) of Title 8.01. The Department shall file a copy of its order determining paternity, including the information required by subsection ~~C~~ *D* of § 20-49.8, with the State Registrar of Vital Records within thirty days after the acknowledgment becomes binding and conclusive or the order otherwise becomes final. No judicial or administrative proceeding shall be required to ratify an unchallenged acknowledgment of paternity nor shall the Department or the courts have any jurisdiction over proceedings to ratify an unchallenged acknowledgment.

CHAPTER 572

An Act to require the Department of Education and the Virginia Tiered Systems of Supports Research and Implementation Center to modify the existing Trauma Learning Modules to incorporate certain definitions and concepts relating to childhood trauma and trauma-informed care.

[S 1300]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The Department of Education (the Department) shall collaborate with the Virginia Tiered Systems of Supports Research and Implementation Center (VTSS-RIC) to make modifications to the existing Trauma Learning Modules provided by VTSS-RIC. In making such modifications, the Department and VTSS-RIC shall incorporate:*

1.The following definitions:

"Childhood trauma" means any emotionally disturbing or distressing event or experience occurring during childhood that could have a lasting negative effect on a child's physical, emotional, and behavioral development and health, including

adverse childhood experiences, or childhood physical or emotional abuse or neglect, sexual abuse, alcohol or substance abuse in the home, mental illness in the home, incarceration of a family member, witnessing domestic violence, and parental divorce or separation; and

"Trauma-informed" means an approach to childhood care and education that includes (i) an understanding of the impact childhood trauma has on a child's physical, emotional, and behavioral development and health; (ii) the ability to recognize signs that a child has experienced childhood trauma; (iii) the skills, knowledge, and resources to provide necessary and timely support to a child who has experienced childhood trauma; and (iv) the knowledge to facilitate a safe, stable, and trauma-sensitive classroom environment;

2. Information or guidance on concepts including:

a. Childhood trauma and the impacts of childhood trauma on a child's physical, emotional, and behavioral development and health;

b. The importance of mental health and wellness for both teachers and students;

c. How to handle childhood trauma in the classroom and foster a trauma-informed classroom environment;

d. How to recognize the signs of childhood trauma in students;

e. How to respond when a student discloses or informs a teacher of a traumatic experience or exhibits signs that such student has had a traumatic experience; and

f. When and how to contact support services or other resources outside the classroom to ensure that any student who has experienced trauma receives the support he needs.

§ 2. The Department of Education and the Virginia Tiered Systems of Supports Research and Implementation Center shall provide a report on the modification of the Trauma Learning Modules as required by this act to the Governor and the General Assembly by November 1, 2023.

CHAPTER 573

An Act to amend and reenact §§ 6.2-1600 and 6.2-1607 of the Code of Virginia, relating to remote location requirements for mortgage lending and brokerage entities.

[H 2389]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-1600 and 6.2-1607 of the Code of Virginia are amended and reenacted as follows:

§ 6.2-1600. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Entity" means any corporation, partnership, association, cooperative, limited liability company, trust, joint venture, or other legal or commercial entity.

"Licensee" means a mortgage lender or mortgage broker licensed by the Commission pursuant to this chapter.

"Mortgage broker" means any person who directly or indirectly negotiates, places or finds mortgage loans for others, or offers to negotiate, place or find mortgage loans for others. Any licensed mortgage lender that, pursuant to an executed originating agreement with the Virginia Housing Development Authority, acts or offers to act as an originating agent of the Virginia Housing Development Authority in connection with a mortgage loan shall not be deemed to be acting as a mortgage broker with respect to such mortgage loan but shall be deemed to be acting as a mortgage lender with respect to such mortgage loan, notwithstanding that the Virginia Housing Development Authority is or would be the payee on the note evidencing such mortgage loan and that the Virginia Housing Development Authority provides or would provide the funding of such mortgage loan prior to or at the settlement thereof.

"Mortgage lender" means any person who directly or indirectly originates or makes mortgage loans.

"Mortgage loan" means a loan made to an individual, the proceeds of which are to be used primarily for personal, family or household purposes, which loan is secured by a mortgage or deed of trust upon any interest in one- to four-family residential property located in the Commonwealth, regardless of where made, including the renewal or refinancing of any such loan, but excluding (i) loans to persons related to the lender by blood or marriage and (ii) loans to persons who are bona fide employees of the lender. "Mortgage loan" shall not include any loan secured by a mortgage or deed of trust upon any interest in a more than four-family residential property or property used for a commercial or agricultural purpose.

"Nationwide Mortgage Licensing System and Registry" or "Registry" means the mortgage licensing and registration system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

"Office" means a location other than a licensee's principal place of business where (i) the licensee negotiates, places, finds, or makes Virginia mortgage loans; (ii) the licensee's name, advertising or promotional materials, or signage indicates that the licensee negotiates, places, finds, or makes Virginia mortgage loans from the location; or (iii) the licensee maintains books, accounts, or records of Virginia mortgage loans. A remote location is not an office if the requirements set forth in subsection F of § 6.2-1607 are met.

"Person" means any individual or entity.

"Principal" means any person who, directly or indirectly, owns or controls a 10 percent or greater interest in any entity.

"Remote location" means a location, other than a licensee's principal place of business or office, at which the employees or exclusive agents of a licensee may conduct business if the requirements set forth in subsection F of § 6.2-1607 are met.

"Residential property" means improved real property used or occupied, or intended to be used or occupied, for residential purposes.

§ 6.2-1607. Licenses; places of business; changes.

A. Each license shall state the address of each office at which the business is to be conducted and shall state fully the name of the licensee. Each licensee shall (i) display proof of licensing upon request and (ii) prominently display at any ~~location~~ *office* where the licensee conducts business in person with a borrower or prospective borrower the telephone number and website address for the Commission where borrowers and prospective borrowers may confirm the status of the license. Licenses shall not be transferable or assignable, by operation of law or otherwise. No licensee shall use any name other than the name set forth on the license issued by the Commission.

B. No licensee shall open an additional office without prior approval of the Commission. Applications for such approval shall be made in writing on a form provided by the Commissioner and shall be accompanied by payment of a $150 nonrefundable application fee. The application shall be approved unless the Commission finds that the applicant has not conducted business under this chapter efficiently, fairly, in the public interest, and in accordance with law. The application shall be deemed approved if notice to the contrary has not been mailed by the Commission to the applicant within 30 days of the date the application is received by the Commission.

C. Every licensee shall within 10 days notify the Commissioner, in writing, of the closing of any approved office and of the name, address and position of each new senior officer, member, partner, or director and provide such other information with respect to any such change as the Commissioner may reasonably require.

D. Every license shall remain in force until it expires or has been surrendered, revoked, or suspended. The expiration, surrender, revocation, or suspension of a license shall not affect any preexisting legal right or obligation of such lender or broker.

E. Notwithstanding any other provision of this chapter, a mortgage lender or mortgage broker license shall expire at the end of each calendar year unless it is renewed by a licensee prior to the expiration date. A licensee may renew its license by (i) requesting renewal through the Registry and (ii) complying with any requirements associated with such renewal request that are imposed by the Registry. If a mortgage lender or mortgage broker license has expired, the Commission may by regulation permit the former licensee to seek license reinstatement after the license expiration date by renewing its license in accordance with this subsection and paying a reinstatement fee as prescribed by the Commission.

F. Licensees may allow employees or exclusive agents to work from a remote location if:

1. The licensee has written policies and procedures for the supervision of employees or exclusive agents working from a remote location. Such written policies and procedures shall include all the requirements of this subsection;

2. Access to the licensee's platforms and customer information is in accordance with the licensee's comprehensive written information security plan;

3. The licensee employs appropriate risk-based monitoring and oversight processes, and any employee or exclusive agent who will work from a remote location agrees to comply with the licensee's established practices;

4. No in-person customer interaction occurs at an employee's or exclusive agent's residence, unless such residence is an approved office;

5. Physical records are not maintained at a remote location;

6. Customer interactions and conversations about consumers comply with federal and state information security requirements, including applicable provisions under the Gramm-Leach-Bliley Act and the Safeguards Rule established by the Federal Trade Commission, set forth at 16 C.F.R. Part 314, as such requirements may be amended from time to time;

7. Employees or exclusive agents working at a remote location access the licensee's secure systems directly from an out-of-office device, including a laptop, phone, desktop computer, or tablet, via a virtual private network (VPN) or comparable system that ensures secure connectivity and requires a password or other forms of authentication to access;

8. The licensee ensures that appropriate security updates, patches, or other alterations to the security of all devices used at remote locations are installed and maintained;

9. The licensee has the ability to remotely lock or erase company-related contents of any device or otherwise remotely limit access to a licensee's secure systems; and

10. The Nationwide Mortgage Licensing System and Registry record of a mortgage loan originator working from a remote location designates the principal place of business as the mortgage loan originator's registered location, unless such mortgage loan originator elects an office as a registered location.

CHAPTER 574

An Act to amend and reenact § 15.2-4904 of the Code of Virginia, relating to economic development authorities; appointments; Essex County.

[H 2433]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-4904 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three, and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms, and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies, which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Roanoke County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Mathews County may appoint from five to seven members to serve on the board of the authority; the town council of the Town of Louisa may appoint from five to seven members to serve on the board of the authority, with terms staggered as agreed upon by the town council; the board of supervisors of King William County may appoint nine members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors; the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council; however, the town council of the Town of Saint Paul may at its option return to a seven-member board by removing the last three members appointed; the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow $2 million or more for industrial development, with terms staggered as agreed upon by the board of supervisors, and the town council of the Town of South Boston shall appoint two at-large members; Page County may appoint nine members, with one member from each incorporated town, one member from each magisterial district, and one member at-large, with terms staggered as agreed upon by the board of supervisors; Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority; the board of supervisors of Goochland County may appoint five members to serve on the board of the authority; the board of supervisors of Powhatan County may appoint five members to serve on the board of the authority; the town council of the Town of Coeburn may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council; the town council of the Town of Kenbridge may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council; the town council of the Town of Victoria may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council; the city council of Suffolk may appoint eight members to serve on the board of the authority, with one member from each of the boroughs and one at-large member, with terms staggered as agreed upon by the city council; and the City of Chesapeake may appoint nine members, with terms staggered as agreed upon by the city council; however, in the City of Chesapeake, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Chesapeake Economic Development Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Chesapeake Economic Development Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Chesapeake Economic Development Authority member shall work for the Authority within one year after serving as a member. The city council of the City of Norfolk may appoint 11 members, with terms staggered as agreed upon by the city council, and the board of supervisors of Louisa County may appoint directors to serve on the board of the authority for terms coincident with members of the board of supervisors.

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority or is absent from any four meetings of the authority within any 12-month period or upon unanimous vote of the board of supervisors. In any such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except (i) in a town with a population of less than 3,500 where members of the town governing body may serve as directors provided they do not constitute a majority of the board, (ii) in Buchanan County where a constitutional officer who has previously served on the board of directors may serve as a director provided the governing body of such county approves, (iii) *in Essex County where the board of supervisors may appoint one employee of the locality to the Economic Development Authority of the County of Essex, (iv)* in Frederick

County where the board of supervisors may appoint one of its members to the Economic Development Authority of the County of Frederick, Virginia, and ~~(iv)~~ *(v)* in Mathews County where the board of supervisors may appoint one employee of the locality to the Economic Development Authority of the County of Mathews. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed $200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Except as provided herein, four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. In the case of the Economic Development Authority of Goochland County, the Economic Development Authority of Powhatan County, the Industrial Development Authority of the Town of Kenbridge, and the Industrial Development Authority of the Town of Victoria, three members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the Department of Small Business and Supplier Diversity.

CHAPTER 575

An Act to amend and reenact § 2.2-3705.6 of the Code of Virginia, relating to the Virginia Freedom of Information Act; exclusions; proprietary records and trade secrets; Fort Monroe Authority.

[H 2394]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3705.6 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or

the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Commissioner of Agriculture and Consumer Services related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

28. Information relating to a grant, loan, or investment application, or accompanying a grant, loan, or investment application, submitted to the Commonwealth of Virginia Innovation Partnership Authority (the Authority) established pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22, an advisory committee of the Authority, or any other entity

designated by the Authority to review such applications, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant, loan, or investment application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant, loan, or investment application; and memoranda, staff evaluations, or other information prepared by the Authority or its staff, or a reviewing entity designated by the Authority, exclusively for the evaluation of grant, loan, or investment applications, including any scoring or prioritization documents prepared for and forwarded to the Authority.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services or carbon sequestration agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

32. Information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the appropriations act.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Department:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Department shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or confidential proprietary information of the applicant. The Department shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

33. Financial and proprietary records submitted with a loan application to a locality for the preservation or construction of affordable housing that is related to a competitive application to be submitted to either the U.S. Department of Housing and Urban Development (HUD) or the Virginia Housing Development Authority (VHDA), when the release of such records

would adversely affect the bargaining or competitive position of the applicant. Such records shall not be withheld after they have been made public by HUD or VHDA.

34. Information of a proprietary or confidential nature disclosed by a health carrier or pharmacy benefits manager pursuant to § 38.2-3407.15:6, a wholesale distributor pursuant to § 54.1-3436.1, or a manufacturer pursuant to § 54.1-3442.02.

35. Trade secrets, proprietary information, or financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, supplied by an individual or a private or nongovernmental entity to the Fort Monroe Authority for the purpose of complying with the obligations of any lease, easement, license, permit, or other agreement, whether of a commercial or residential real estate nature, pertaining to the use or occupancy of any portion of Fort Monroe.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the individual or private or nongovernmental entity shall make a written request to the Fort Monroe Authority:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

CHAPTER 576

An Act to amend and reenact § 2.2-3705.6 of the Code of Virginia, relating to the Virginia Freedom of Information Act; exclusions; proprietary records and trade secrets; Fort Monroe Authority.

[S 1497]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3705.6 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Commissioner of Agriculture and Consumer Services related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

28. Information relating to a grant, loan, or investment application, or accompanying a grant, loan, or investment application, submitted to the Commonwealth of Virginia Innovation Partnership Authority (the Authority) established pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22, an advisory committee of the Authority, or any other entity designated by the Authority to review such applications, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant, loan, or investment application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant, loan, or investment application; and memoranda, staff evaluations, or other information prepared by the Authority or its staff, or a reviewing entity designated by the Authority, exclusively for the evaluation of grant, loan, or investment applications, including any scoring or prioritization documents prepared for and forwarded to the Authority.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services or carbon sequestration agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure

or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

32. Information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the appropriations act.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Department:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Department shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or confidential proprietary information of the applicant. The Department shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

33. Financial and proprietary records submitted with a loan application to a locality for the preservation or construction of affordable housing that is related to a competitive application to be submitted to either the U.S. Department of Housing and Urban Development (HUD) or the Virginia Housing Development Authority (VHDA), when the release of such records would adversely affect the bargaining or competitive position of the applicant. Such records shall not be withheld after they have been made public by HUD or VHDA.

34. Information of a proprietary or confidential nature disclosed by a health carrier or pharmacy benefits manager pursuant to § 38.2-3407.15:6, a wholesale distributor pursuant to § 54.1-3436.1, or a manufacturer pursuant to § 54.1-3442.02.

35. Trade secrets, proprietary information, or financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, supplied by an individual or a private or nongovernmental entity to the Fort Monroe Authority for the purpose of complying with the obligations of any lease, easement, license, permit, or other agreement, whether of a commercial or residential real estate nature, pertaining to the use or occupancy of any portion of Fort Monroe.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the individual or private or nongovernmental entity shall make a written request to the Fort Monroe Authority:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

CHAPTER 577

An Act to amend and reenact §§ 38.2-1814.1, 38.2-6002, 38.2-6004, and 38.2-6011 of the Code of Virginia, relating to insurance agents; title insurance and viatical settlement.

[S 1131]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-1814.1, 38.2-6002, 38.2-6004, and 38.2-6011 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-1814.1. License required of resident title insurance agent.

A. No individual who is a resident of the Commonwealth shall obtain a license as a title insurance agent from the Commission unless he has passed an examination in a form and manner prescribed by the Commission. Before registering to take an examination for a license as a title insurance agent, each applicant shall have completed, within the period specified in subsection B, a pre-licensing education course of 16 hours of instruction. The pre-licensing education course may be comprised of or include any form of classroom education or distance education in accordance with an examination content outline approved by the Commission. The applicant shall submit proof of completion of the pre-licensing education course in a form acceptable to the Commission. The proof of completion of the pre-licensing education course shall be:

1. Signed by the applicant ~~and sworn to under oath before a notary public or other official before whom oaths may be taken,~~ ~~stating~~ *affirming* that the applicant completed a course for which the requisite number of classroom or distance education hours were completed. An applicant who is found to have submitted a materially false proof of course completion shall~~, in addition to any applicable civil or criminal penalties for perjury,~~ be deemed to have committed a knowing and willful violation of this section and be subject to the penalties as set forth in § 38.2-218. Upon receipt of acceptable proof that an applicant submitted a materially false proof of course completion, the Commission may administratively terminate any license issued based upon such submission; and

2. Signed by the individual who acted as the instructor for the course, who shall certify that the requisite number of the classroom or distance education hours were completed by the applicant. An instructor who is found to have submitted a materially false certification that an applicant completed the requisite number of classroom or distance education hours shall be deemed to have committed a knowing and willful violation of this section and be subject to the penalties as set forth in § 38.2-218. If the instructor is also a licensed insurance agent or insurance consultant, the Commission may also impose on the instructor the penalties set forth in § 38.2-1831 or 38.2-1843, as applicable.

As used in this subsection:

"Classroom education" means actual hours in a classroom environment with an instructor. Instructors shall have the right to consider an applicant to have met the classroom hour requirement if the applicant was present for not less than 95 percent of the required hours.

"Distance education" means instruction delivered or presented by or under the general supervision of an instructor using a medium other than a classroom setting. "Distance education" shall not include self-study or correspondence courses.

B. An applicant's satisfaction of the education requirement established by subsection A shall be valid only for the one-year period following the date he satisfied the education requirement. However, the Commission may waive this time limit in individual circumstances in accordance with criteria prescribed by the Commission.

C. Officers or employees who are not agents of a title insurance company shall be exempt from the provisions of this section.

D. Agents who, as of January 1, 1987, were authorized agents of title insurance companies licensed to transact title insurance in this Commonwealth shall be exempt from the requirements of subsections A and B of this section.

§ 38.2-6002. Viatical settlement providers, license requirements.

A. No person shall act as a viatical settlement provider with a resident of this Commonwealth without first obtaining a license from the Commission.

1. A person seeking to be licensed as a viatical settlement provider in this Commonwealth shall apply for such license in a form acceptable to the Commission and shall pay to the Commission a nonrefundable application fee in an amount prescribed by the Commission. On and after July 1, 2003, such fee shall be not less than $300 and not more than $1,500. The application fee required by this subdivision shall be collected by the Commission, paid directly into the state treasury, and credited to the "Bureau of Insurance Special Fund — State Corporation Commission" for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

2. A license issued anytime prior to July 1, 2004, shall expire on June 30, 2004, unless renewed as set forth herein.

3. On or before March 1 of each year commencing March 1, 2004, a licensed viatical settlement provider shall remit a renewal application form and nonrefundable renewal fee in the form and amount prescribed by the Commission. Such fee shall be not less than $300 and not more than $1,500. The renewal fee required by this subdivision shall be collected by the

Commission and paid directly into the state treasury and credited to the "Bureau of Insurance Special Fund — State Corporation Commission" for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

4. A viatical settlement provider's license expiring on June 30 may be renewed on July 1 for a one-year period ending on June 30 of the following year if the required renewal application and a nonrefundable renewal fee have been received and the license is not terminated, suspended, or revoked at the time of renewal. The renewal fee required by this subdivision shall be collected by the Commission and paid directly into the state treasury and credited to the "Bureau of Insurance Special Fund — State Corporation Commission" for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

B. The applicant shall provide information on forms required by the Commission. The Commission shall have authority, at any time, to require the applicant to disclose fully the identity of all stockholders, partners, officers, members, and employees, and the Commission may, in the exercise of the Commission's discretion, refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner, or member thereof who may materially influence the applicant's conduct meets the standards of this chapter.

C. A license issued to a legal entity authorizes all partners, officers, members, and designated employees to act as the viatical settlement provider under the license, and all those persons shall be named in the application and any application supplements.

D. Upon the filing of an application and the payment of the nonrefundable application fee, the Commission shall make such investigation of each applicant as the Commission may determine to be appropriate and issue a license if it finds that the applicant: (i) has provided a detailed plan of operation; (ii) is competent and trustworthy; (iii) indicates its intention to act in good faith within the confines of the license; (iv) has a good business reputation; (v) if an individual, has had experience, training or education that qualifies him for licensure; (vi) if a resident partnership, limited liability company, or corporation, has recorded the existence of the partnership, limited liability company, or corporation pursuant to law; (vii) if a corporation, has specific authority to act as a viatical settlement provider in its charter; (viii) if a nonresident partnership, limited liability company, or corporation, has furnished proof of its authority to transact business in Virginia; and (ix) has provided an anti-fraud plan that meets the requirements of subdivision E ~~2~~ *3 b* of § 38.2-6011.

E. If the applicant for a viatical settlement provider license is a nonresident, such applicant, as a condition precedent to receiving or holding a license, shall designate a resident of this Commonwealth as the person upon whom any process, notices, or order required or permitted by law to be served upon such nonresident viatical settlement provider may be served; and such licensee shall promptly notify the clerk of the Commission in writing of every change in its designated agent for service of process, and such change shall not become effective until acknowledged by the Commission. Whenever a nonresident viatical settlement provider transacting business in this Commonwealth fails to appoint or maintain a registered agent in this Commonwealth, or whenever its registered agent cannot with reasonable diligence be found at the registered office, the clerk of the Commission shall be an agent of the nonresident upon whom service may be made in accordance with § 12.1-19.1.

F. A licensed insurer shall be prohibited from transacting the business of a viatical settlement provider.

G. The Commission may suspend, revoke, refuse to issue, or refuse to renew the license of a viatical settlement provider if the Commission finds that the applicant or licensee has (i) made any material misrepresentation in the application; (ii) been guilty of fraudulent or dishonest practices; (iii) been subject to a final administrative action or has otherwise been shown to be untrustworthy or incompetent to act as a viatical settlement provider; (iv) demonstrated a pattern of unreasonable payments to viators; (v) been convicted of a felony or any misdemeanor involving fraud or moral turpitude; (vi) entered into any viatical settlement contract that has not been approved pursuant to this chapter; (vii) failed to honor contractual obligations set out in a viatical settlement contract; (viii) demonstrated or represented that it no longer meets the requirements for initial licensure; (ix) has assigned, transferred, or pledged a viaticated policy to a person other than a viatical settlement provider licensed in this Commonwealth, viatical settlement purchaser, an accredited investor, or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended, financing entity, special purpose entity, or related provider trust; (x) violated any provisions of this chapter or other applicable provisions of this title or has in its employ or organization any officer, partner, member, or key management personnel who has violated any provision of this chapter or other applicable provisions of this title; or (xi) has renewed or requested renewal of its license before implementing the anti-fraud initiatives required by subsection E of § 38.2-6011.

H. No applicant to whom a license is refused after a hearing, nor any licensee whose license is revoked, shall apply again for a license under this chapter until after the expiration of a period of five years from the date of the Commission's order, or such other period of time as the Commission prescribes in its order.

I. A viatical settlement provider shall be bonded as required by the Commission. Rules issued pursuant to § 38.2-6014 may identify other mechanisms for financial accountability.

§ 38.2-6004. Reporting requirements.

A. ~~Each licensee under this chapter~~ *A viatical settlement provider* shall file with the Commission on or before March 1 of each year the certification required by subsection E of § 38.2-6011 and an annual report containing such information as the Commission may prescribe by rule or regulation; however, such information shall be limited to only those transactions where the viator is a resident of this Commonwealth.

B. A viatical settlement provider shall report in writing to the Commission the following:

1. New or revised information about its officers, stockholders owning 10 percent or greater interest in the licensee or an affiliate of the licensee, partners, directors, members, or designated employees within 30 calendar days of the change;

2. Any change in business or residence address or name within 30 calendar days of the change.

C. A licensed viatical settlement provider convicted of a felony shall report within 30 calendar days to the Commission the facts and circumstances regarding the criminal conviction.

§ 38.2-6011. Fraud prevention and control.

A. A person shall not commit a fraudulent viatical settlement act. A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this chapter or Article 6.1 (§ 38.2-1865.1 et seq.) of Chapter 18 of this title or investigations of suspected or actual violations of this chapter or Article 6.1 (§ 38.2-1865.1 et seq.) of Chapter 18 of this title. A person in the business of viatical settlements shall not knowingly or intentionally permit any person convicted of a felony involving dishonesty or breach of trust to participate in the business of viatical settlements.

B. Viatical settlement contracts and applications for viatical settlements, regardless of the form of transmission, shall contain the following statement or a substantially similar statement: "Any person who knowingly presents false information in an application for insurance or viatical settlement contract may be guilty of a crime and subject to prosecution." The lack of the required statement does not constitute a defense in any prosecution for a fraudulent viatical settlement act.

C. Any person engaged in the business of viatical settlements having knowledge or a reasonable belief that a fraudulent viatical settlement act is being, will be, or has been committed shall provide to the Commission the information required by, and in a manner prescribed by, the Commission. Any other person having knowledge or a reasonable belief that a fraudulent viatical settlement act is being, will be, or has been committed may provide to the Commission the information required by, and in a manner prescribed by, the Commission.

D. This chapter shall not:

1. Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine, and prosecute suspected violations of law;

2. Prevent or prohibit a person from disclosing voluntarily information concerning viatical settlement fraud to a law enforcement or regulatory agency other than the insurance department; or

3. Limit the powers granted elsewhere by the laws of this Commonwealth to the Commission or an insurance fraud unit to investigate and examine possible violations of law and to take appropriate action against wrongdoers.

E. *1.* A ~~licensee under this chapter~~ *viatical settlement provider* shall within 60 days of licensure and annually thereafter by March 1 of each year certify to the Commission implementation of anti-fraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent viatical settlement acts.

2. A viatical settlement broker shall within 60 days of licensure affirm to the Commission implementation of fraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent viatical settlement acts. Upon renewal of such license, a viatical settlement broker shall affirm to the Commission that such fraud initiatives remain in place. A viatical settlement broker shall make its anti-fraud plan available to the Commission upon request.

3. Anti-fraud initiatives shall include:

~~1.~~ *a.* Fraud investigators, who may be viatical settlement providers or viatical settlement broker employees or independent contractors; and

~~2.~~ *b.* An anti-fraud plan~~, which shall include, but not be limited to~~ *that includes all of the following*:

~~a.~~ *(1)* A description of the procedures for detecting and investigating possible fraudulent viatical settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications;

~~b.~~ *(2)* A description of the procedures for reporting possible fraudulent viatical settlement acts to the Commission;

~~c.~~ *(3)* A description of the plan for anti-fraud education and training of underwriters and other personnel; and

~~d.~~ *(4)* A description or chart outlining the organizational arrangement of the anti-fraud personnel who are responsible for the investigation and reporting of possible fraudulent viatical settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

F. Anti-fraud plans submitted to or obtained by the Commission and in the control or possession of the Commission shall be privileged and confidential, shall not be subject to inspection or review by the general public, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil or criminal action. However, the Commission is authorized to use the anti-fraud plans in the furtherance of any regulatory or legal action brought as a part of the Commission's duties.

CHAPTER 578

An Act to provide for the operation of the local health department of the City of Alexandria.

[S 1344]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. Notwithstanding any other provision of law to the contrary, the local governing body of the City of Alexandria (the City) may enter into a contract with the State Board of Health (the Board) to provide local health services in the City. If the local governing body enters into a contract with the Board pursuant to this act, the local governing body shall not eliminate*

any service required by law or reduce the level of service below that required by law. In addition, the local governing body shall not eliminate or reduce the level of any service currently delivered in connection with the Commonwealth's program of medical assistance.

Any contract executed between the local governing body and the Board shall set forth the rights and responsibilities of the local governing body for the delivery of health services and shall require that the local director of health services be appointed by the City in accordance with local procedures, with the concurrence of the State Health Commissioner. The local director of health services shall be employed full time as an employee of the City and shall be responsible for directing all state-mandated public health programs. All employees of the local health department operated by the City shall be employees of the City.

The City shall operate the local health department, pursuant to the terms of the contract, with such local appropriations and any state funds as may be made available to it, pursuant to the general appropriation act. State funds for the operation of health services and facilities shall continue to be allocated to the City as if such services were provided in the City without such a contract.

The City shall maintain and submit such financial and statistical records as may be required by the Board.

Upon entering into a contract with the Board pursuant to this act, the City shall be the sole owner of all equipment and supplies, including all equipment and supplies used by the local health department at the time of execution of the contract, that were or are purchased for providing public health services, regardless of the source of the funds for such purchases.

Notwithstanding any other provision of law to the contrary, any person who is transferred from state to local employment in accordance with a contract authorized by this act, and who is a member of the Virginia Retirement System at the time of the transfer, shall continue to be a member of the Virginia Retirement System during the period of local employment.

The power to contract conferred by this act shall not be deemed to confer any additional authority to impose fees for local health services upon the City.

CHAPTER 579

An Act to amend and reenact § 54.1-3017 of the Code of Virginia, relating to graduates of foreign nursing education programs; licensure requirements.

[H 2211]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3017 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3017. Qualifications of applicant for registered nurse's license; examination; graduates of foreign nursing education programs.

A. An applicant for a license to practice professional nursing shall submit evidence satisfactory to the Board that such applicant:

1. Has completed an approved four-year high school course of study or the equivalent as determined by the appropriate educational agency;

2. Has received a diploma or degree from an approved professional nursing education program;

3. Has passed a written examination as required by the Board; and

4. Has committed no acts which are grounds for disciplinary action as set forth in this chapter.

B. The Board shall consider and may accept relevant practical experience and didactic and clinical components of education and training completed by an applicant for licensure as a registered nurse during his service as a member of any branch of the armed forces of the United States as evidence of the satisfaction of the educational requirements for licensure.

C. An applicant who graduated from a nursing education program in a foreign country ~~may~~ *shall* be required to ~~pass the Commission on Graduates of Foreign Nursing Schools Qualifying Examination prior to admission to the examination for licensure in the Commonwealth~~*:*

1. Have (i) graduated or be eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program or (ii) graduated from a foreign RN or LPN/VN prelicensure education program that has been approved by the authorized accrediting body in the applicable country and has been verified by an independent credentials review agency recognized by the Board to be comparable to a U.S. licensing board-approved RN or LPN/VN prelicensure education program; and

2. Have, if a graduate of a foreign RN or LPN/VN prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes reading, speaking, writing, and listening components.

The Board shall identify multiple approved entities to provide language examinations and multiple approved entities to evaluate and verify credentials earned from a nursing education program in a foreign country. The Board shall make the list of approved entities publicly available on its website.

CHAPTER 580

An Act to amend and reenact § 63.2-1805 of the Code of Virginia, relating to assisted living facilities; minimum liability insurance.

[S 1221]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1805 of the Code of Virginia is amended and reenacted as follows:

§ 63.2-1805. Admissions and discharge; mandatory minimum liability insurance.

A. The Board shall adopt regulations:

1. Governing admissions to assisted living facilities;

2. Requiring that each assisted living facility prepare and provide a statement, in a format prescribed by the Department, to any prospective resident and his legal representative, if any, prior to admission and upon request, that discloses information, fully and accurately in plain language, about the (i) services; (ii) fees, including clear information about what services are included in the base fee and any fees for additional services; (iii) admission, transfer, and discharge criteria, including criteria for transfer to another level of care within the same facility or complex; (iv) general number and qualifications of staff on each shift; (v) range, frequency, and number of activities provided for residents; and (vi) ownership structure of the facility;

3. Establishing a process to ensure that each resident admitted or retained in an assisted living facility receives appropriate services and periodic independent reassessments and reassessments when there is a significant change in the resident's condition in order to determine whether a resident's needs can continue to be met by the facility and whether continued placement in the facility is in the best interests of the resident;

4. Governing appropriate discharge planning for residents whose care needs can no longer be met by the facility;

5. Addressing the involuntary discharge of residents. Such regulations shall provide that residents may be involuntarily discharged only (i) in accordance with Board regulations, provided that the assisted living facility has met the requirements of subsection B, as applicable, and the assisted living facility has made reasonable efforts to meet the needs of the resident; (ii) for nonpayment of contracted charges, provided that the resident has been given at least 30 days to cure the delinquency after notice was provided to the resident and the resident's legal representative or designated contact person of such nonpayment; (iii) for the resident's failure to substantially comply with the terms and conditions, as allowed by regulation, of the resident agreement between the resident and assisted living facility; (iv) if the assisted living facility closes in accordance with Board regulations; or (v) when the resident develops a condition or care need that is prohibited by subsection D or Board regulations. Unless an emergency discharge is necessary due to an immediate and serious risk to the health, safety, or welfare of the resident or others, the assisted living facility shall, prior to involuntarily discharging a resident, make reasonable efforts, as appropriate, to resolve any issues with the resident upon which the decision to discharge is based and document such efforts in the resident's file.

In addition to providing the written discharge notice to the resident and the resident's legal representative or designated contact person, the assisted living facility shall provide a copy of the notice to the Department and the State Long-Term Care Ombudsman at least 30 days prior to an involuntary discharge unless an emergency discharge is necessary due to an immediate and serious risk to the health, safety, or welfare of the resident or others. Such notice of discharge shall include the reasons for discharge, the date on which the discharge will occur, and information regarding the resident's right to appeal, within the 30-day notice period, the assisted living facility's decision to discharge the resident.

In cases of an emergency discharge, such notice shall be provided as soon as possible, but no later than five days after the emergency discharge. Within five days after an emergency discharge, the written discharge notice shall be provided to the resident, the resident's legal representative or designated contact person, the Department, and the State Long-Term Care Ombudsman. A resident may appeal any discharge except discharges pursuant to clause (iv).

The Department shall provide the discharge notice form to be used by assisted living facilities to provide notice to a resident of the resident's right to appeal such facility's decision to discharge the resident, which shall also include information regarding the process for initiating an appeal, the number for a toll-free information line, a hearing request form, the facility's obligation to assist the resident in filing an appeal and provide, upon request, a postage prepaid envelope addressed to the Department, and a statement of the resident's right to continue to reside in the facility, free from retaliation, until the appeal has a final Department case decision unless the discharge is an emergency discharge or the resident has developed a condition or care need that is prohibited by subsection D or Board regulations. Where a resident has been removed under an emergency discharge and no longer resides in the facility, the resident retains the right to appeal.

Prior to involuntarily discharging a resident, the assisted living facility shall provide relocation assistance to the resident and the resident's legal representative in accordance with Board regulation. The Board shall adopt regulations that establish a process for appeals filed pursuant to this subdivision;

6. Requiring that residents are informed of their rights pursuant to § 63.2-1808 at the time of admission;

7. Establishing a process to ensure that any resident temporarily detained in a facility pursuant to §§ 37.2-809 through 37.2-813 is accepted back in the assisted living facility if the resident is not involuntarily admitted pursuant to §§ 37.2-814 through 37.2-819;

8. Requiring that each assisted living facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

9. Requiring that each assisted living facility prepare and provide*, upon request,* a statement, in a format prescribed by the Board, to any resident or prospective resident and his legal representative, if any, ~~and upon request,~~ that ~~discloses whether~~ *states* the assisted living facility maintains liability insurance in force to compensate residents or other individuals for injuries and losses from the negligent acts of the facility~~, provided that no facility shall state that liability insurance is in place unless such insurance provides a minimum amount of coverage as established by the Board~~;

10. Establishing the minimum amount of liability insurance coverage to be maintained by an assisted living facility ~~for purposes of disclosure in accordance with subdivision 9~~. *In establishing such minimum amount of liability insurance, the Board shall consider the number of residents for which an assisted living facility is licensed and establish a minimum amount of liability insurance for the following tiers: Tier I, which shall govern assisted living facilities with no more than 25 residents; Tier II, which shall govern assisted living facilities with more than 25 residents but no more than 75 residents; Tier III, which shall govern assisted living facilities with more than 75 residents but no more than 150 residents; and Tier IV, which shall govern assisted living facilities with more than 150 residents*; and

11. Requiring that all assisted living facilities disclose to each prospective resident, or his legal representative, in writing in a document provided to the prospective resident or his legal representative and as evidenced by the written acknowledgment of the resident or his legal representative on the same document, whether the facility has an on-site emergency electrical power source for the provision of electricity during an interruption of the normal electric power supply and, if the assisted living facility does have an on-site emergency electrical power source, (i) the items for which such on-site emergency electrical power source will supply power in the event of an interruption of the normal electric power supply and (ii) whether staff of the assisted living facility have been trained to maintain and operate such on-site emergency electrical power source to ensure the provision of electricity during an interruption of the normal electrical power supply. For the purposes of this subdivision, an on-site emergency electrical power supply shall include both permanent emergency electrical power supply sources and portable emergency electrical power sources, provided that such temporary electrical power supply source remains on the premises of the assisted living facility at all times. Written acknowledgement of the disclosure shall be represented by the signature or initials of the resident or his legal representative immediately following the on-site emergency electrical power source disclosure statement.

B. If there are observed behaviors or patterns of behavior indicative of mental illness, intellectual disability, substance abuse, or behavioral disorders, as documented in the uniform assessment instrument completed pursuant to § 63.2-1804, the facility administrator or designated staff member shall ensure that an evaluation of the individual is or has been conducted by a qualified professional as defined in regulations. If the evaluation indicates a need for mental health, developmental, substance abuse, or behavioral disorder services, the facility shall provide (i) a notification of the resident's need for such services to the authorized contact person of record when available and (ii) a notification of the resident's need for such services to the community services board or behavioral health authority established pursuant to Title 37.2 that serves the city or county in which the facility is located, or other appropriate licensed provider. The Department shall not take adverse action against a facility that has demonstrated and documented a continual good faith effort to meet the requirements of this subsection.

C. The Department shall not order the removal of a resident from an assisted living facility if (i) the resident, the resident's family, the resident's physician, and the facility consent to the resident's continued stay in the assisted living facility and (ii) the facility is capable of providing, obtaining, or arranging for the provision of necessary services for the resident, including, but not limited to, home health care or hospice care.

D. Notwithstanding the provisions of subsection C, assisted living facilities shall not admit or retain an individual with any of the following conditions or care needs:

1. Ventilator dependency.

2. Dermal ulcers III and IV, except those stage III ulcers that are determined by an independent physician to be healing.

3. Intravenous therapy or injections directly into the vein except for intermittent intravenous therapy managed by a health care professional licensed in Virginia or as permitted in subsection E.

4. Airborne infectious disease in a communicable state that requires isolation of the individual or requires special precautions by the caretaker to prevent transmission of the disease, including diseases such as tuberculosis and excluding infections such as the common cold.

5. Psychotropic medications without appropriate diagnosis and treatment plans.

6. Nasogastric tubes.

7. Gastric tubes except when the individual is capable of independently feeding himself and caring for the tube or as permitted in subsection E.

8. An imminent physical threat or danger to self or others is presented by the individual.

9. Continuous licensed nursing care (seven-days-a-week, 24-hours-a-day) is required by the individual.

10. Placement is no longer appropriate as certified by the individual's physician.

11. Maximum physical assistance is required by the individual as documented by the uniform assessment instrument and the individual meets Medicaid nursing facility level-of-care criteria as defined in the State Plan for Medical Assistance, unless the individual's independent physician determines otherwise. Maximum physical assistance means that an individual

has a rating of total dependence in four or more of the seven activities of daily living as documented on the uniform assessment instrument.

12. The assisted living facility determines that it cannot meet the individual's physical or mental health care needs.

13. Other medical and functional care needs that the Board determines cannot be met properly in an assisted living facility.

E. Except for auxiliary grant recipients, at the request of the resident in an assisted living facility and when his independent physician determines that it is appropriate, (i) care for the conditions or care needs defined in subdivisions D 3 and ~~D~~ 7 may be provided to the resident by a licensed physician, a licensed nurse or a nurse holding a multistate licensure privilege under a physician's treatment plan, or a home care organization licensed in Virginia or (ii) care for the conditions or care needs defined in subdivision D 7 may also be provided to the resident by facility staff if the care is delivered in accordance with the regulations of the Board of Nursing for delegation by a registered nurse Part VIII (18VAC90-20-420 et seq.) of 18VAC90-20.

The Board shall adopt regulations to implement the provisions of this subsection.

F. In adopting regulations pursuant to subsections A, B, C, D, and E, the Board shall consult with the Departments of Health and Behavioral Health and Developmental Services.

2. That the Board of Social Services (the Board) shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment. Assisted living facilities shall be exempt from the provisions of this act and regulations promulgated pursuant thereto until 180 days have passed following the effective date of the regulations promulgated by the Board pursuant to this enactment.

CHAPTER 581

An Act to amend and reenact § 51.1-1403 of the Code of Virginia, relating to health insurance credits for certain local officials and employees.

[H 1789]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-1403 of the Code of Virginia is amended and reenacted as follows:

§ 51.1-1403. Health insurance credits for retired constitutional officers, employees of constitutional officers, general registrars, employees of general registrars, and local social service employees.

A. A local officer, as defined in § 51.1-124.3, general registrar, employee of a general registrar, or an employee of a local social services board, retired under the Virginia Retirement System, including the hybrid retirement program described in § 51.1-169, who rendered at least 15 years of total creditable service under the System shall receive a health insurance credit to his monthly retirement allowance, which shall be applied to reduce the retired member's health insurance premium cost. The amount of each monthly health insurance credit payable under this section shall be *(i)* $1.50 for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of $45*, or (ii) beginning July 1, 2024, for a local officer, as defined in § 51.1-124.3, $1.75 for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of $52.50*; however, each former member whose retirement was for disability, a participant receiving long-term disability pursuant to § 51.1-1157 or 51.1-1165, or a member of the hybrid retirement program receiving long-term disability pursuant to coverage under subsection A of § 51.1-1153 shall receive a monthly health insurance credit *in the amount* of *(a) for an individual described in this section other than a local officer, as defined in § 51.1-124.3,* $45 *or (b) beginning July 1, 2024, for a local officer, as defined in § 51.1-124.3, $52.50.* Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System. Any member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement. The cost of such credit shall be borne by the Commonwealth.

B. In addition to the health insurance credit authorized in subsection A, localities ~~which~~ *that* participate in the Virginia Retirement System may elect to provide an additional health insurance credit of $1 per month for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of $30. The costs of such additional health insurance credit shall be borne by the locality.

C. 1. Those retired employees who purchase an alternative personal health insurance policy from a carrier or organization of their own choosing shall be eligible to receive a credit in the amount specified in subdivision C 2. Eligibility for the credit and payment of the credit shall be determined in a manner prescribed by the Virginia Retirement System.

2. The credit shall be in (i) the amount provided in subsection A, or subsection A and subsection B if the additional credit authorized by subsection B is provided or (ii) the amount of premium paid for the personal health insurance policy, whichever is less.

D. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) who (i) rendered at least 15 years of total creditable service as a local officer as defined in § 51.1-124.3 or as an employee of a local social services board or combined service as a general registrar or an employee of a general registrar and (ii) after terminating service as a local officer or employee of a local social services board or general registrar or as an employee of a general registrar, was employed by a local government

that does not elect to provide a health insurance credit under § 51.1-1402, shall be eligible for the credit provided by subsection A, provided that the retired employee is participating in a health insurance plan. The Commonwealth shall be charged with the credit as provided for in subsection A. In such case, the health insurance credit shall be determined based upon the amount of state service or service as a local officer or service as an employee of a local social services board or combined service as a general registrar or an employee of a general registrar, whichever is greater.

E. The Virginia Retirement System shall (i) actuarially determine the amount necessary to fund all credits provided under this section, (ii) reflect the cost of such credits in the applicable employer contribution rate pursuant to § 51.1-145, and (iii) prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated with the administration of the health insurance program provided for in this section shall be recovered from the health insurance credit trust fund.

CHAPTER 582

An Act to direct the Secretary of Health and Human Resources to convene a work group to analyze and review current reimbursement and operational challenges for medical practices that administer anti-cancer drugs in an in-office setting; report.

[H 2200]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Secretary of Health and Human Resources (the Secretary), in collaboration with the Department of Health, shall convene a work group to analyze and review current reimbursement and operational challenges for medical practices that administer anti-cancer drugs in an in-office setting to patients whose costs for such treatment are paid for by Medicare, Medicaid, or TRICARE. The analysis shall consider the impact on and accessibility of such treatment for Medicaid, Medicare, and TRICARE patients. The work group shall include relevant stakeholders, including representatives from the Medical Society of Virginia, the Virginia Association of Hematologists and Oncologists, the Virginia Association of Counties, and the Virginia Municipal League. Assistance shall be provided to the work group by the Department of Medical Assistance Services. The work group shall complete its meetings by October 1, 2023, and submit a report of its findings and recommendations to the Chairmen of the House Committee on Finance, the House Committee on Appropriations, the House Committee on Health, Welfare and Institutions, the Senate Committee on Finance and Appropriations, and the Senate Committee on Education and Health by November 15, 2023.*

CHAPTER 583

An Act to amend and reenact §§ 51.5-127 and 51.5-128 of the Code of Virginia, relating to Department for Aging and Rehabilitative Services; Commonwealth Council on Aging; membership and staff support.

[S 1218]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.5-127 and 51.5-128 of the Code of Virginia are amended and reenacted as follows:

§ 51.5-127. Commonwealth Council on Aging; purpose; membership; terms.

A. The Commonwealth Council on Aging *(the Council)* is established as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the ~~Commonwealth~~ Council ~~on Aging~~ shall be to promote an efficient, coordinated approach by state government to meeting the needs of older Virginians.

B. The ~~Commonwealth~~ Council ~~on Aging~~ shall consist of ~~24~~ *18* members as follows: ~~one member from each of the 11 congressional districts of the Commonwealth~~

1. Eight members to be appointed by the Governor subject to confirmation by the General Assembly*, each of whom shall represent one of the eight regions of the Commonwealth identified by the University of Virginia's Weldon Cooper Center for Public Service in its Virginia Regional Map (2017). Four of such members shall be area agencies on aging directors, and the other four members shall be persons with personal and professional experience in issues specific to aging*; ~~four at-large nonlegislative citizen~~

2. Two members appointed by the Speaker of the House of Delegates*, one of whom shall be an at-large nonlegislative citizen member and one of whom shall be a current member of the House of Delegates*; ~~four at-large nonlegislative citizen~~

3. Two members appointed by the Senate Committee on Rules*, one of whom shall be an at-large nonlegislative citizen member and one of whom shall be a current member of the Senate*; ~~and the~~

4. The Executive Director of the Virginia Center on Aging; and

5. Five members who shall serve as nonvoting ex officio members, including the Commissioner for Aging and Rehabilitative Services *or the Deputy Director, if one has been appointed*, the Director of the Department of Medical Assistance Services, the Commissioner of Social Services, the Secretary of Health and Human Resources, and the President of the Virginia Association of Area Agencies on Aging, or their designees~~, who shall serve as nonvoting ex officio~~

~~members~~. *All ex officio members of the Council shall have demonstrated, through their professional experience, subject matter expertise in at least one issue specifically related to aging.*

Members of the ~~Commonwealth~~ Council ~~on Aging~~ shall be citizens of the Commonwealth appointed at large without regard to political affiliation but with due consideration of geographical representation. Appointees shall be selected for their ability, and all appointments shall be of such nature as to aid the work of the ~~Commonwealth~~ Council ~~on Aging~~ and to inspire the highest degree of cooperation and confidence.

C. After the initial staggering of terms, all appointments shall be for four-year terms. Appointments to fill vacancies shall be for the unexpired term. No person having served on the ~~Commonwealth~~ Council ~~on Aging~~ for two full consecutive terms shall be eligible for reappointment to the ~~Commonwealth~~ Council ~~on Aging~~ for two years thereafter. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility to serve.

D. The ~~Commonwealth~~ Council ~~on Aging~~ shall elect a chairman and a vice-chairman from among its members and shall appoint ~~a secretary and such~~ other officers as it deems necessary and prescribe their duties and terms of office. The ~~Commonwealth~~ Council ~~on Aging~~ may adopt bylaws to govern its operations.

E. Members shall receive compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department.

F. *The Commissioner shall appoint an executive director who shall serve as secretary to the Council but shall not be a member of the Council.* The Department shall provide staff support to the ~~Commonwealth~~ Council ~~on Aging~~.

§ 51.5-128. Duties of the Commonwealth Council on Aging.

A. The Commonwealth Council on Aging *(the Council)* shall have the following duties:

1. Examine the needs of older Virginians and their caregivers and ways in which state government can most effectively and efficiently assist in meeting those needs;

2. Advise the Governor and General Assembly on aging issues and aging policy for the Commonwealth;

3. Advise the Governor on any proposed regulations deemed by the Director of the Department of Planning and Budget to have a substantial and distinct impact on older Virginians and their caregivers. Such advice shall be provided in addition to other regulatory reviews required by the Administrative Process Act (§ 2.2-4000 et seq.);

4. Advocate for and assist in developing the Commonwealth's planning for meeting the needs of the growing number of older Virginians and their caregivers; ~~and~~

5. Assist and advise the Department regarding strategies to improve nutritional health, alleviate hunger, and prevent malnutrition among older adults*;*

6. Recommend budget requests for consideration in the Governor's development of the budget; and

7. Review and provide input as part of the development of the four-year-plan for aging services as defined in § 51.5-136.

B. The ~~Commonwealth~~ Council ~~on Aging~~ may apply for and expend such grants, gifts, or bequests from any source as may become available in connection with its duties under this section, and may comply with such conditions and requirements as may be imposed in connection therewith.

C. The ~~Commonwealth~~ Council ~~on Aging~~ shall submit to the Governor, General Assembly, and Department by October 1 of each year an electronic report regarding the activities and recommendations of the ~~Commonwealth~~ Council ~~on Aging~~, which shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website and the Department's website.

2. That the persons serving on the Commonwealth Council on Aging on the effective date of this act shall continue to serve until the expiration of the term to which they were appointed.

3. That, upon the expiration of terms on June 30, 2024, five persons shall be appointed to the Council for terms of four years as follows: one at-large nonlegislative citizen member and one current member of the House of Delegates shall be appointed by the Speaker of the House of Delegates; one at-large nonlegislative citizen member and one current member of the Senate of Virginia shall be appointed by the Senate Committee on Rules; and the Executive Director of the Virginia Center on Aging. The remaining four seats that expire on June 30, 2024, shall not be filled.

4. That, upon the expiration of terms on June 30, 2025, two persons shall be appointed to the Council for terms of four years. Such persons shall be appointed by the Governor and shall represent the region of the Commonwealth that most closely aligns with the congressional district being represented by the person whom they are succeeding. The remaining two seats that expire on June 30, 2025, shall not be filled.

5. That, upon the expiration of terms on June 30, 2026, six persons shall be appointed to the Council for terms of four years. Such persons shall be appointed by the Governor and shall represent the region of the Commonwealth that most closely aligns with the congressional district being represented by the person whom they are succeeding.

CHAPTER 584

An Act to amend and reenact § 58.1-322.02, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to income tax subtraction; National Guard.

[H 2373]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-322.02, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 58.1-322.02. (Effective until date pursuant to Va. Const., Art. IV, § 13) Virginia taxable income; subtractions.

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States, including, but not limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4. Up to $20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein less than $600 from a prize awarded by the Virginia Lottery.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, *(i) for taxable years beginning before January 1, 2023, not to exceed the amount of income derived from 39 calendar days of such service or $3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the subtractions specified in this clause, and (ii) for taxable years beginning on or after January 1, 2023,* not to exceed the amount of income derived from 39 calendar days of such service or ~~$3,000~~ *$5,500*, whichever amount is less; however, only those persons in the ranks of ~~O3~~ *O6* and below shall be entitled to the ~~deductions~~ *subtractions* specified in this ~~subdivision~~ *clause*.

9. Amounts received by an individual, not to exceed $1,000 for taxable years beginning on or before December 31, 2019, and $5,000 for taxable years beginning on or after January 1, 2020, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of

the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds $15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds $30,000.

16. The first $15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is $15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. a. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

b. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, up to $10,000 of military benefits; for taxable years beginning on and after January 1, 2023, but before January 1, 2024, up to $20,000 of military benefits; for taxable years beginning on and after January 1, 2024, but before January 1, 2025, up to $30,000 of military benefits; and for taxable years beginning on and after January 1, 2025, up to $40,000 of military benefits. For purposes of this subdivision b, "military benefits" means any (i) military retirement income received for service in the Armed Forces of the United States, (ii) qualified military benefits received pursuant to § 134 of the Internal Revenue Code, (iii) benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States under the Survivor Benefit Plan program established by the U.S. Department of Defense, and (iv) military benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States. The subtraction allowed by this subdivision b shall be allowed only for military benefits received by an individual age 55 or older. No subtraction shall be allowed pursuant to this subdivision b if a credit, exemption, subtraction, or deduction is claimed for the same income pursuant to subdivision a or any other provision of Virginia or federal law.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided that the business has its principal office or facility in the Commonwealth and less than $3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

27. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 28:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

30. For taxable years beginning before January 1, 2021, up to $100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.

31. For taxable years beginning on and after January 1, 2022, any compensation for wrongful incarceration awarded pursuant to the procedures established under Article 18.2 (§ 8.01-195.10 et seq.) of Chapter 3 of Title 8.01.

§ 58.1-322.02. (Effective pursuant to Va. Const., Art. IV, § 13) Virginia taxable income; subtractions.

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States, including, but not limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4. Up to $20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein less than $600 from a prize awarded by the Virginia Lottery.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, *(i) for taxable years beginning before January 1, 2023, not to exceed the amount of income derived from 39 calendar days of such service or $3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the subtractions specified in this clause, and (ii) for taxable years beginning on or after January 1, 2023,* not to exceed the amount of income derived from 39 calendar days of such service or ~~$3,000~~ *$5,500*, whichever amount is less; however, only those persons in the ranks of ~~O3~~ *O6* and below shall be entitled to the ~~deductions~~ *subtractions* specified in this ~~subdivision~~ *clause*.

9. Amounts received by an individual, not to exceed $1,000 for taxable years beginning on or before December 31, 2019, and $5,000 for taxable years beginning on or after January 1, 2020, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The

subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds $15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds $30,000.

16. The first $15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is $15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. a. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

b. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, up to $10,000 of military benefits; for taxable years beginning on and after January 1, 2023, but before January 1, 2024, up to $20,000 of military benefits; for taxable years beginning on and after January 1, 2024, but before January 1, 2025, up to $30,000 of military benefits; and for taxable years beginning on and after January 1, 2025, up to $40,000 of military benefits. For purposes of this subdivision b, "military benefits" means any (i) military retirement income received for service in the Armed Forces of the United States, (ii) qualified military benefits received pursuant to § 134 of the Internal Revenue Code, (iii) benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States under the Survivor Benefit Plan program established by the U.S. Department of Defense, and (iv) military benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States. The subtraction allowed by this subdivision b shall be allowed only for military benefits received by an individual age 55 or older. No subtraction shall be allowed pursuant to this subdivision b if a credit, exemption, subtraction, or deduction is claimed for the same income pursuant to subdivision a or any other provision of Virginia or federal law.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a launch, without performing an actual

launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided that the business has its principal office or facility in the Commonwealth and less than $3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

27. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family member or an affiliate of the taxpayer. No

subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 28:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

30. For taxable years beginning before January 1, 2021, up to $100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.

31. For taxable years beginning on and after January 1, 2022, any compensation for wrongful incarceration awarded pursuant to the procedures established under Article 18.2 (§ 8.01-195.10 et seq.) of Chapter 3 of Title 8.01.

CHAPTER 585

An Act to amend and reenact § 58.1-322.02, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to income tax subtraction; National Guard.

[S 1210]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-322.02, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 58.1-322.02. (Effective until date pursuant to Va. Const., Art. IV, § 13) Virginia taxable income; subtractions.

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States, including, but not limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4. Up to $20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein less than $600 from a prize awarded by the Virginia Lottery.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, *(i) for taxable years beginning before January 1, 2023, not to exceed the amount of income derived from 39 calendar days of such service or $3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the subtractions specified in this clause, and (ii) for taxable years beginning on or after January 1, 2023,* not to exceed the amount of income derived from 39 calendar days of such service or ~~$3,000~~ *$5,500*, whichever amount is less; however, only those persons in the ranks of ~~O3~~ *O6* and below shall be entitled to the ~~deductions~~ *subtractions* specified in this ~~subdivision~~ *clause*.

9. Amounts received by an individual, not to exceed $1,000 for taxable years beginning on or before December 31, 2019, and $5,000 for taxable years beginning on or after January 1, 2020, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such

law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds $15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds $30,000.

16. The first $15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is $15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. a. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

b. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, up to $10,000 of military benefits; for taxable years beginning on and after January 1, 2023, but before January 1, 2024, up to $20,000 of military benefits; for taxable years beginning on and after January 1, 2024, but before January 1, 2025, up to $30,000 of military benefits; and for taxable years beginning on and after January 1, 2025, up to $40,000 of military benefits. For purposes of this subdivision b, "military benefits" means any (i) military retirement income received for service in the Armed Forces of the United States, (ii) qualified military benefits received pursuant to § 134 of the Internal Revenue Code, (iii) benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States under the Survivor Benefit Plan program established by the U.S. Department of Defense, and (iv) military benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States. The subtraction allowed by this subdivision b shall be allowed only for military benefits received by an individual age 55 or older. No subtraction shall be allowed pursuant to this subdivision b if a credit, exemption, subtraction, or deduction is claimed for the same income pursuant to subdivision a or any other provision of Virginia or federal law.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the

Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided that the business has its principal office or facility in the Commonwealth and less than $3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

27. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 28:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

30. For taxable years beginning before January 1, 2021, up to $100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.

31. For taxable years beginning on and after January 1, 2022, any compensation for wrongful incarceration awarded pursuant to the procedures established under Article 18.2 (§ 8.01-195.10 et seq.) of Chapter 3 of Title 8.01.

§ 58.1-322.02. (Effective pursuant to Va. Const., Art. IV, § 13) Virginia taxable income; subtractions.

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States, including, but not limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4. Up to $20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein less than $600 from a prize awarded by the Virginia Lottery.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, *(i) for taxable years beginning before January 1, 2023, not to exceed the amount of income derived from 39 calendar days of such service or $3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the subtractions specified in this clause, and (ii) for taxable years beginning on or after January 1, 2023,* not to exceed the amount of income derived from 39 calendar days of such service or ~~$3,000~~ *$5,500*,

whichever amount is less; however, only those persons in the ranks of ~~O3~~ *O6* and below shall be entitled to the ~~deductions~~ *subtractions* specified in this ~~subdivision~~ *clause*.

9. Amounts received by an individual, not to exceed $1,000 for taxable years beginning on or before December 31, 2019, and $5,000 for taxable years beginning on or after January 1, 2020, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds $15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds $30,000.

16. The first $15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is $15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. a. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

b. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, up to $10,000 of military benefits; for taxable years beginning on and after January 1, 2023, but before January 1, 2024, up to $20,000 of military benefits; for taxable years beginning on and after January 1, 2024, but before January 1, 2025, up to $30,000 of military benefits; and for taxable years beginning on and after January 1, 2025, up to $40,000 of military benefits. For purposes of this subdivision b, "military benefits" means any (i) military retirement income received for service in the Armed Forces of the United States, (ii) qualified military benefits received pursuant to § 134 of the Internal Revenue Code, (iii) benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States under the Survivor Benefit Plan program established by the U.S. Department of Defense, and (iv) military benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States. The subtraction allowed by this subdivision b shall be allowed only for military benefits received by an individual age 55 or older. No subtraction shall be allowed pursuant to this subdivision b if a credit, exemption, subtraction, or deduction is claimed for the same income pursuant to subdivision a or any other provision of Virginia or federal law.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided that the business has its principal office or facility in the Commonwealth and less than $3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

27. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 28:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

30. For taxable years beginning before January 1, 2021, up to $100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.

31. For taxable years beginning on and after January 1, 2022, any compensation for wrongful incarceration awarded pursuant to the procedures established under Article 18.2 (§ 8.01-195.10 et seq.) of Chapter 3 of Title 8.01.

CHAPTER 586

An Act to amend and reenact §§ 58.1-4032, 58.1-4033, 58.1-4034, 58.1-4108, 58.1-4114, 58.1-4119, and 58.1-4125, as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 40 of Title 58.1 a section numbered 58.1-4048, relating to sports betting and casino gaming; allocation of funds.

[H 1617]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-4032, 58.1-4033, 58.1-4034, 58.1-4108, 58.1-4114, 58.1-4119, and 58.1-4125, as it shall become effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 40 of Title 58.1 a section numbered 58.1-4048 as follows:

§ 58.1-4032. Application for a sports betting permit; penalty.

A. An applicant for a sports betting permit shall:

1. Submit an application to the Director, on forms prescribed by the Director, containing the information prescribed in subsection B; and

2. Pay to the Department a nonrefundable fee of $50,000 for each principal at the time of filing to defray the costs associated with the background investigations conducted by the Department. If the reasonable costs of the investigation exceed the application fee, the applicant shall pay the additional amount to the Department. The Board may establish regulations calculating the reasonable costs to the Department in performing its functions under this article and allocating

such costs to the applicants for licensure at the time of filing. *The fees for each principal and any additional investigation costs paid to the Department shall be deposited into the Gaming Regulatory Fund established pursuant to § 58.1-4048.*

B. An application for a sports betting permit shall include the following information:

1. The applicant's background in sports betting;

2. The applicant's experience in wagering activities in other jurisdictions, including the applicant's history and reputation of integrity and compliance;

3. The applicant's proposed internal controls, including controls to ensure that no prohibited or voluntarily excluded person will be able to participate in sports betting;

4. The applicant's history of working to prevent compulsive gambling, including training programs for its employees;

5. If applicable, any supporting documentation necessary to establish eligibility for substantial and preferred consideration pursuant to the provisions of this section;

6. The applicant's proposed procedures to detect and report suspicious or illegal betting activity; and

7. Any other information the Director deems necessary.

C. The Department shall conduct a background investigation on the applicant. The background investigation shall include a credit history check, a tax record check, and a criminal history records check.

D. 1. The Director shall not issue any permit pursuant to this article until the Board has established a consumer protection program and published a consumer protection bill of rights pursuant to the provisions of subdivision A 14 of § 58.1-4007.

2. The Director shall issue no fewer than four and no more than 12 permits pursuant to this section; however, if an insufficient number of applicants apply for the Director to satisfy the minimum, this provision shall not be interpreted to direct the Director to issue a permit to an unqualified applicant. A permit shall not count toward the minimum or maximum if it (i) is issued pursuant to subdivision 4 or 5 to a major league sports franchise or to the operator of a facility; (ii) is issued pursuant to subdivision 6 to an applicant that operates or intends to operate a casino gaming establishment; or (iii) is revoked, expires, or otherwise becomes not effective.

3. In issuing permits to operate sports betting platforms and sports betting facilities, the Director shall consider the following factors:

a. The contents of the applicant's application as required by subsection B;

b. The extent to which the applicant demonstrates past experience, financial viability, compliance with applicable laws and regulations, and success with sports betting operations in other states;

c. The extent to which the applicant will be able to meet the duties of a permit holder, as specified in § 58.1-4034;

d. Whether the applicant has demonstrated to the Department that it has made serious, good-faith efforts to solicit and interview a reasonable number of investors that are minority individuals, as defined in § 2.2-1604;

e. The amount of adjusted gross revenue and associated tax revenue that an applicant is expected to generate;

f. The effect of issuing an additional permit on the amount of gross revenue and associated tax revenue generated by all existing permit holders, considered in the aggregate; and

g. Any other factor the Director considers relevant.

4. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall give substantial and preferred consideration to any applicant that is a major league sports franchise headquartered in the Commonwealth that remitted personal state income tax withholdings based on taxable wages in the Commonwealth in excess of $200 million for the 2019 taxable year. Any permit holder granted a permit pursuant to this subdivision shall receive substantial and preferred consideration of its first, second, and third applications for renewal pursuant to the provisions of § 58.1-4033; however, such permit holder shall not receive substantial and preferred consideration of its fourth and subsequent applications for renewal. Any permit granted pursuant to this subdivision shall expire if the permit holder ceases to maintain its headquarters in the Commonwealth.

5. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall give substantial and preferred consideration to any applicant that is a major league sports franchise that plays five or more regular season games per year at a facility in the Commonwealth or that is the operator of a facility in the Commonwealth where a major league sports franchise plays five or more regular season games per year; however, the Director shall give such substantial and preferred consideration only if the applicant (i) is headquartered in the Commonwealth, (ii) has an annualized payroll for taxable wages in the Commonwealth that is in excess of $10 million over the 90-day period prior to the application date, and (iii) the total number of individuals working at the facility in the Commonwealth where the major league sports franchise plays five or more regular season games is in excess of 100.

6. If casino gaming is authorized under the laws of the Commonwealth, then in issuing permits to operate sports betting platforms and sports betting facilities, the Director shall give substantial and preferred consideration to any applicant that (i) has made or intends to make a capital investment of at least $300 million in a casino gaming establishment, including the value of the real property upon which such establishment is located and all furnishings, fixtures, and other improvements; (ii) has had its name submitted as a preferred casino gaming operator to the Department by an eligible host city; and (iii) has been certified by the Department to proceed to a local referendum on whether casino gaming will be allowed in the locality in which the applicant intends to operate a casino gaming establishment.

7. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall give substantial and preferred consideration to any applicant that demonstrates in its application (i) a description of any equity interest owned by

minority individuals or minority-owned businesses, (ii) a detailed plan to achieve increased minority equity investment, (iii) a description of all efforts made to seek equity investment from minority individuals or minority-owned businesses, or (iv) a plan detailing efforts made to solicit participation of minority individuals or minority-owned businesses in the applicant's purchase of goods and services related to the sports betting platform or to provide assistance to a historically disadvantaged community or historically black colleges and universities located within the Commonwealth. As used in this subdivision, "historically black colleges and universities," "minority individual," and "minority-owned business" mean the same as those terms are defined in § 2.2-1604.

8. In a manner as may be required by Board regulation, any entity that applies pursuant to subdivision 4, 5, 6, or 7 may demonstrate compliance with the requirements of an application, the duties of a permit holder, and any other provision of this article through the use of a partner, subcontractor, or other affiliate of the applicant.

E. The Director shall make a determination on an initial application for a sports betting permit within 90 days of receipt. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

F. The following shall be grounds for denial of a permit or renewal of a permit:

1. The Director reasonably believes the applicant will be unable to satisfy the duties of a permit holder as described in subsection A of § 58.1-4034;

2. The Director reasonably believes that the applicant or its directors lack good character, honesty, or integrity;

3. The Director reasonably believes that the applicant's prior activities, criminal record, reputation, or associations are likely to (i) pose a threat to the public interest, (ii) impede the regulation of sports betting, or (iii) promote unfair or illegal activities in the conduct of sports betting;

4. The applicant or its directors knowingly make a false statement of material fact or deliberately fail to disclose information requested by the Director;

5. The applicant or its directors knowingly fail to comply with the provisions of this article or any requirements of the Director;

6. The applicant or its directors were convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust within the 10 years prior to the submission date of the permit application;

7. The applicant's license, registration, or permit to conduct a sports betting operation issued by any other jurisdiction has been suspended or revoked;

8. The applicant defaults in payment of any obligation or debt due to the Commonwealth; or

9. The applicant's application is incomplete.

G. The Director shall have the discretion to waive any of the grounds for denial of a permit or renewal of a permit if he determines that denial would limit the number of applicants or permit holders in a manner contrary to the best interests of the Commonwealth.

H. Prior to issuance of a permit, each permit holder shall either (i) be bonded by a surety company entitled to do business in the Commonwealth in such amount and penalty as may be prescribed by the regulations of the Board or (ii) provide other surety, letter of credit, or reserve as may be satisfactory to the Director. Such surety shall be prescribed by Board regulations and shall not exceed a reasonable amount.

I. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application pursuant to this article is guilty of a Class 1 misdemeanor.

J. In addition to the fee required pursuant to subdivision A 2, any applicant to which the Department issues a permit shall pay a nonrefundable fee of $250,000 to the Department prior to the issuance of such permit. *Such fees shall be deposited by the Department into the Gaming Regulatory Fund established pursuant to § 58.1-4048.*

§ 58.1-4033. Renewals of permits.

A. A permit issued pursuant to § 58.1-4032 shall be valid for three years from the date issued.

B. At least 60 days before the expiration of a permit, the permit holder shall submit a renewal application, on forms prescribed by the Director, with a nonrefundable renewal fee of $200,000. *Such fees shall be deposited into the Gaming Regulatory Fund established pursuant to § 58.1-4048.*

C. The Director may deny a permit renewal if he finds grounds for denial as described in subsection F of § 58.1-4032. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

D. The Director shall make a determination on an application for a renewal of a sports betting permit within 60 days of receipt. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

§ 58.1-4034. Duties of permit holders.

A. A permit holder shall ensure that its sports betting operation takes reasonable measures to:

1. Ensure that only persons physically located in Virginia are able to place bets through its sports betting platform, if applicable;

2. Protect the confidential information of bettors using its sports betting platform or placing bets at its sports betting facility;

3. Prevent betting on events that are prohibited by § 58.1-4039, underage betting as prohibited by § 58.1-4040, and bets by persons who are prohibited from sports betting by § 58.1-4041;

4. Allow persons to restrict themselves from placing bets with the permit holder, including sharing, at the person's request, his request for self-exclusion with the Department for the sole purpose of disseminating the request to other permit holders;

5. Establish procedures to detect suspicious or illegal betting activity, including measures to immediately report such activity to the Department;

6. Provide for the issuance of applicable tax forms to persons who meet the reporting threshold for income from sports betting; and

7. If applicable, allow sports bettors to establish and fund sports betting accounts over the Internet on a sports betting platform, which may be funded through methods including automated clearing house payments, credit cards, debit cards, wire transfers, or any other method approved by the Director under § 58.1-4031.

B. A permit holder shall maintain records on:

1. All bets, including the bettor's personal information, the amount and type of bet, the time and location of the bet, and the outcome of the bet; and

2. Suspicious or illegal betting activity.

C. A permit holder shall disclose the records described in subsection B to the Department upon request and shall maintain such records for at least three years after the related sports event occurs.

D. 1. If a sports governing body notifies the Department that real-time information-sharing for bets placed on its sporting events is necessary and desirable, permit holders shall, as soon as is commercially reasonable, share the information required to be retained pursuant to subdivision B 1 of § 58.1-4034 with the sports governing body or its designee with respect to bets on its sporting events. The information shared pursuant to this subsection shall be shared pseudonymously and shall not include personal information associated with any bettor. A permit holder shall not be required to share any information that is required to be kept confidential under federal or Virginia law.

2. A sports governing body shall use information shared pursuant to this subsection only for the purpose of integrity monitoring and shall not use such information for any commercial purpose. A sports governing body shall provide for security measures with respect to such information so as to prevent unauthorized access and distribution.

E. In advertising its sports betting operations, a permit holder shall ensure that its advertisements:

1. Do not target persons under the age of 21;

2. Disclose the identity of the permit holder;

3. Provide information about or links to resources related to gambling addiction; and

4. Are not misleading to a reasonable person.

F. A permit holder shall not sublicense, convey, concede, or otherwise transfer its permit to a third party unless granted approval by the Director. The Director shall charge a nonrefundable fee of $200,000 for a permit transfer. *Such fees shall be deposited into the Gaming Regulatory Fund established pursuant to § 58.1-4048.*

G. 1. A permit holder may operate its sports betting platform under a brand other than its own but is prohibited from holding itself out to the public as a sports betting operation under more than one brand, and a permit holder shall conspicuously display its utilized brand to sports bettors; however, if a permit holder is a major league sports franchise, it shall not be required to associate the name of its sports betting platform with the name of the major league sports franchise and shall be allowed to hold its sports betting platform out to the public under a separate brand name.

2. A permit holder is prohibited from cooperatively marketing its sports betting platform with any business issued a license pursuant to the provisions of Title 4.1. This prohibition shall not apply to any motor sports facility, major league sports franchise, or operator of a facility issued a permit pursuant to the provisions of subdivision D 4 or D 5 of § 58.1-4032, provided that such motor sports facility, major league sports franchise, or operator of a facility shall be authorized to cooperatively market only on the premises of its stadium. If casino gaming is authorized under the laws of the Commonwealth and a casino gaming operator is licensed by the Department as a permit holder, the prohibition in this subdivision shall not apply to such operator, provided that such operator shall be authorized to cooperatively market only on the premises of its casino gaming establishment. A permit holder shall not be allowed an exemption from the prohibition in this subdivision unless (i) such permit holder complies with any applicable local zoning ordinances and (ii) the local governing body approves by ordinance cooperative marketing with respect to the permit holder's stadium or casino gaming establishment.

H. A permit holder shall not purchase or use any personal biometric data unless the permit holder has received written permission from the athlete's exclusive bargaining representative.

I. Permit holders shall at all times maintain cash reserves in amounts to be established by Board regulation.

§ 58.1-4048. Gaming Regulatory Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Gaming Regulatory Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to offset the Department's costs associated with (i) the conduct of investigations required by § 58.1-4032, 58.1-4043, 58.1-4104, 58.1-4109, 58.1-4116, 58.1-4120, or 58.1-4121 or any other provision of this article or Chapter 41 (§ 58.1-4100 et seq.) and (ii) the enforcement

of regulations promulgated by the Virginia Lottery Board pursuant to subdivisions A 14 and 15 of § 58.1-4007, subdivision 2 of § 58.1-4102, and § 58.1-4103. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

§ 58.1-4108. Operator's license required; capital investment; equity interest; transferability; fee.

A. No person shall operate a casino gaming establishment unless he has obtained an operator's license issued by the Department in accordance with the provisions of this chapter and the regulations promulgated hereunder.

B. To obtain an operator's license issued under the provisions of this chapter, the applicant shall (i) make a capital investment of at least $300 million in a casino gaming establishment, including the value of the real property upon which such establishment is located and all furnishings, fixtures, and other improvements, and (ii) possess an equity interest equal to at least 20 percent of the casino gaming establishment.

C. A license issued under the provisions of this chapter shall be transferable, provided that the Department has approved the proposed transfer and all licensure requirements are satisfied at the time the transfer takes effect.

D. A nonrefundable fee of $15 million shall be paid by the applicant to the Department upon the issuance of a license and upon any subsequent transfer of a license to operate a casino gaming establishment. *Such fees shall be deposited by the Department into the Gaming Regulatory Fund established pursuant to § 58.1-4048.*

E. No person issued a license pursuant to this chapter shall be precluded from obtaining a license for online sports betting pursuant to the Virginia Lottery Law (§ 58.1-4000 et seq.) or any subsequently created online sports betting license.

§ 58.1-4114. Supplier's permits; penalty.

A. The Board may issue a supplier's permit to any person upon application and payment of a nonrefundable application fee set by the Board, a determination by the Board that the applicant is eligible for a supplier's permit, and payment of a $5,000 initial permit fee. A supplier's permit shall be renewed at a fee to be determined by the Department, not to exceed $5,000 per year of licensure. *Such fees shall be deposited by the Department into the Gaming Regulatory Fund established pursuant to § 58.1-4048.* The Board shall prescribe by regulation the criteria for the issuance, duration, and renewal of supplier's permits.

B. The holder of a supplier's permit may sell or lease, or contract to sell or lease, casino gaming equipment and supplies, or provide management services, to any licensee involved in the ownership or management of gaming operations to the extent provided in the permit.

C. Gaming equipment, devices, and supplies shall not be distributed unless such equipment, devices, and supplies conform to standards adopted by the Department.

D. A person is ineligible to receive a supplier's permit if:

1. The person has been convicted of a felony under the laws of the Commonwealth or any other state or of the United States;

2. The person has submitted an application for a license under this chapter that contains false information;

3. The person is a Board member, employee of the Department, or a member of the immediate household of a Board member or Department employee;

4. The person is an entity in which a person described in subdivision 1, 2, or 3 is an officer, director, principal, or managerial employee;

5. The firm or corporation employs a person who participates in the management or operation of casino gaming authorized under this chapter; or

6. A prior permit issued to such person to own or operate casino gaming establishments or supply goods or services to a gaming operation under this chapter or any laws of any other jurisdiction has been revoked.

E. Any person that supplies any casino gaming equipment, devices, or supplies to a licensed gaming operation or manages any operation, including a computerized network, of a casino gaming establishment shall first obtain a supplier's permit. A supplier shall furnish to the Department a list of all management services, equipment, devices, and supplies offered for sale or lease in connection with the games authorized under this chapter. A supplier shall keep books and records for the furnishing of casino gaming equipment, devices, and supplies to gaming operations separate and distinct from any other business that the supplier might operate. A supplier shall file a quarterly return with the Department listing all sales and leases for which a permit is required. A supplier shall permanently affix its name to all its equipment, devices, and supplies for gaming operations. Any supplier's equipment, devices, or supplies that are used by any person in an unauthorized gaming operation shall be forfeited to the Commonwealth.

F. A licensed operator may operate its own equipment, devices, and supplies and may utilize casino gaming equipment, devices, and supplies at such locations as may be approved by the Department for the purpose of training enrollees in a school operated by the licensee to train individuals who desire to become qualified for employment or promotion in gaming operations. The Board may promulgate regulations for the conduct of any such schools.

G. Each holder of an operator's license under this chapter shall file an annual report with the Department listing its inventories of casino gaming equipment, devices, and supplies related to its operations in Virginia.

H. Any person who knowingly makes a false statement on an application for a supplier's permit is guilty of a Class 4 felony.

§ 58.1-4119. Application for service permit.

A. Any person desiring to obtain a service permit as required by this chapter shall apply on a form prescribed by the Department. The application shall be accompanied by a fee prescribed by the Department. *Such fees shall be deposited by the Department into the Gaming Regulatory Fund established pursuant to § 58.1-4048.*

B. Any application filed hereunder shall be verified by the oath or affirmation of the applicant.

§ 58.1-4125. (Effective pursuant to Va. Const. Art. IV, §13) Gaming Proceeds Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Gaming Proceeds Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys required to be deposited into the Fund pursuant to this chapter shall be paid into the state treasury and credited to the Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

B. Revenues from the Fund shall be ~~appropriated by the General Assembly~~ *apportioned by the Comptroller* as follows:

1. The following amounts shall be ~~appropriated~~ *distributed* to the city in which they were collected *by warrants of the Comptroller drawn on the Treasurer of Virginia on a quarterly basis*:

a. An amount equal to a six percent tax on the first $200 million of adjusted gross receipts;

b. An amount equal to a seven percent tax on the adjusted gross receipts that exceed $200 million but do not exceed $400 million; and

c. An amount equal to an eight percent tax on the adjusted gross receipts that exceed $400 million.

2. For any casino gaming establishment operated by a Virginia Indian tribe recognized in House Joint Resolution No. 54 (1983) and acknowledged by the Assistant Secretary-Indian Affairs of the U.S. Department of the Interior as an Indian tribe within the meaning of federal law that has the authority to conduct gaming activities as a matter of claimed inherent authority or under the authority of the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.), an amount equal to a tax of one percent on the adjusted gross receipts of such establishment shall be deposited in the Virginia Indigenous People's Trust Fund established pursuant to § 2.2-401.01.

3. Eight-tenths of one percent of the Fund shall be ~~appropriated to~~ *deposited in* the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2.

4. Two-tenths of one percent of the Fund shall be ~~appropriated to~~ *deposited in* the Family and Children's Trust Fund established pursuant to § 63.2-2100.

5. Any remaining revenues not ~~appropriated~~ *apportioned* pursuant to subdivisions 1 through 4 shall be ~~appropriated to~~ *deposited in* the School Construction Fund established pursuant to § 22.1-140.1.

~~C. As provided in the general appropriation act, funds appropriated pursuant to subdivision B 1 shall be distributed to cities on a quarterly basis.~~

2. That the provisions of Chapters 8 and 9 of the Acts of Assembly of 2022, Special Session I, shall become effective on July 1, 2023.

CHAPTER 587

An Act to amend and reenact §§ 58.1-4032, 58.1-4033, 58.1-4034, 58.1-4108, 58.1-4114, 58.1-4119, and 58.1-4125, as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 40 of Title 58.1 a section numbered 58.1-4048, relating to sports betting and casino gaming; allocation of funds.

[S 1195]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-4032, 58.1-4033, 58.1-4034, 58.1-4108, 58.1-4114, 58.1-4119, and 58.1-4125, as it shall become effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 40 of Title 58.1 a section numbered 58.1-4048 as follows:

§ 58.1-4032. Application for a sports betting permit; penalty.

A. An applicant for a sports betting permit shall:

1. Submit an application to the Director, on forms prescribed by the Director, containing the information prescribed in subsection B; and

2. Pay to the Department a nonrefundable fee of $50,000 for each principal at the time of filing to defray the costs associated with the background investigations conducted by the Department. If the reasonable costs of the investigation exceed the application fee, the applicant shall pay the additional amount to the Department. The Board may establish regulations calculating the reasonable costs to the Department in performing its functions under this article and allocating such costs to the applicants for licensure at the time of filing. *The fees for each principal and any additional investigation costs paid to the Department shall be deposited into the Gaming Regulatory Fund established pursuant to § 58.1-4048.*

B. An application for a sports betting permit shall include the following information:

1. The applicant's background in sports betting;

2. The applicant's experience in wagering activities in other jurisdictions, including the applicant's history and reputation of integrity and compliance;

3. The applicant's proposed internal controls, including controls to ensure that no prohibited or voluntarily excluded person will be able to participate in sports betting;

4. The applicant's history of working to prevent compulsive gambling, including training programs for its employees;

5. If applicable, any supporting documentation necessary to establish eligibility for substantial and preferred consideration pursuant to the provisions of this section;

6. The applicant's proposed procedures to detect and report suspicious or illegal betting activity; and

7. Any other information the Director deems necessary.

C. The Department shall conduct a background investigation on the applicant. The background investigation shall include a credit history check, a tax record check, and a criminal history records check.

D. 1. The Director shall not issue any permit pursuant to this article until the Board has established a consumer protection program and published a consumer protection bill of rights pursuant to the provisions of subdivision A 14 of § 58.1-4007.

2. The Director shall issue no fewer than four and no more than 12 permits pursuant to this section; however, if an insufficient number of applicants apply for the Director to satisfy the minimum, this provision shall not be interpreted to direct the Director to issue a permit to an unqualified applicant. A permit shall not count toward the minimum or maximum if it (i) is issued pursuant to subdivision 4 or 5 to a major league sports franchise or to the operator of a facility; (ii) is issued pursuant to subdivision 6 to an applicant that operates or intends to operate a casino gaming establishment; or (iii) is revoked, expires, or otherwise becomes not effective.

3. In issuing permits to operate sports betting platforms and sports betting facilities, the Director shall consider the following factors:

a. The contents of the applicant's application as required by subsection B;

b. The extent to which the applicant demonstrates past experience, financial viability, compliance with applicable laws and regulations, and success with sports betting operations in other states;

c. The extent to which the applicant will be able to meet the duties of a permit holder, as specified in § 58.1-4034;

d. Whether the applicant has demonstrated to the Department that it has made serious, good-faith efforts to solicit and interview a reasonable number of investors that are minority individuals, as defined in § 2.2-1604;

e. The amount of adjusted gross revenue and associated tax revenue that an applicant is expected to generate;

f. The effect of issuing an additional permit on the amount of gross revenue and associated tax revenue generated by all existing permit holders, considered in the aggregate; and

g. Any other factor the Director considers relevant.

4. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall give substantial and preferred consideration to any applicant that is a major league sports franchise headquartered in the Commonwealth that remitted personal state income tax withholdings based on taxable wages in the Commonwealth in excess of $200 million for the 2019 taxable year. Any permit holder granted a permit pursuant to this subdivision shall receive substantial and preferred consideration of its first, second, and third applications for renewal pursuant to the provisions of § 58.1-4033; however, such permit holder shall not receive substantial and preferred consideration of its fourth and subsequent applications for renewal. Any permit granted pursuant to this subdivision shall expire if the permit holder ceases to maintain its headquarters in the Commonwealth.

5. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall give substantial and preferred consideration to any applicant that is a major league sports franchise that plays five or more regular season games per year at a facility in the Commonwealth or that is the operator of a facility in the Commonwealth where a major league sports franchise plays five or more regular season games per year; however, the Director shall give such substantial and preferred consideration only if the applicant (i) is headquartered in the Commonwealth, (ii) has an annualized payroll for taxable wages in the Commonwealth that is in excess of $10 million over the 90-day period prior to the application date, and (iii) the total number of individuals working at the facility in the Commonwealth where the major league sports franchise plays five or more regular season games is in excess of 100.

6. If casino gaming is authorized under the laws of the Commonwealth, then in issuing permits to operate sports betting platforms and sports betting facilities, the Director shall give substantial and preferred consideration to any applicant that (i) has made or intends to make a capital investment of at least $300 million in a casino gaming establishment, including the value of the real property upon which such establishment is located and all furnishings, fixtures, and other improvements; (ii) has had its name submitted as a preferred casino gaming operator to the Department by an eligible host city; and (iii) has been certified by the Department to proceed to a local referendum on whether casino gaming will be allowed in the locality in which the applicant intends to operate a casino gaming establishment.

7. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall give substantial and preferred consideration to any applicant that demonstrates in its application (i) a description of any equity interest owned by minority individuals or minority-owned businesses, (ii) a detailed plan to achieve increased minority equity investment, (iii) a description of all efforts made to seek equity investment from minority individuals or minority-owned businesses, or (iv) a plan detailing efforts made to solicit participation of minority individuals or minority-owned businesses in the applicant's purchase of goods and services related to the sports betting platform or to provide assistance to a historically disadvantaged community or historically black colleges and universities located within the Commonwealth. As used in this

subdivision, "historically black colleges and universities," "minority individual," and "minority-owned business" mean the same as those terms are defined in § 2.2-1604.

8. In a manner as may be required by Board regulation, any entity that applies pursuant to subdivision 4, 5, 6, or 7 may demonstrate compliance with the requirements of an application, the duties of a permit holder, and any other provision of this article through the use of a partner, subcontractor, or other affiliate of the applicant.

E. The Director shall make a determination on an initial application for a sports betting permit within 90 days of receipt. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

F. The following shall be grounds for denial of a permit or renewal of a permit:

1. The Director reasonably believes the applicant will be unable to satisfy the duties of a permit holder as described in subsection A of § 58.1-4034;

2. The Director reasonably believes that the applicant or its directors lack good character, honesty, or integrity;

3. The Director reasonably believes that the applicant's prior activities, criminal record, reputation, or associations are likely to (i) pose a threat to the public interest, (ii) impede the regulation of sports betting, or (iii) promote unfair or illegal activities in the conduct of sports betting;

4. The applicant or its directors knowingly make a false statement of material fact or deliberately fail to disclose information requested by the Director;

5. The applicant or its directors knowingly fail to comply with the provisions of this article or any requirements of the Director;

6. The applicant or its directors were convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust within the 10 years prior to the submission date of the permit application;

7. The applicant's license, registration, or permit to conduct a sports betting operation issued by any other jurisdiction has been suspended or revoked;

8. The applicant defaults in payment of any obligation or debt due to the Commonwealth; or

9. The applicant's application is incomplete.

G. The Director shall have the discretion to waive any of the grounds for denial of a permit or renewal of a permit if he determines that denial would limit the number of applicants or permit holders in a manner contrary to the best interests of the Commonwealth.

H. Prior to issuance of a permit, each permit holder shall either (i) be bonded by a surety company entitled to do business in the Commonwealth in such amount and penalty as may be prescribed by the regulations of the Board or (ii) provide other surety, letter of credit, or reserve as may be satisfactory to the Director. Such surety shall be prescribed by Board regulations and shall not exceed a reasonable amount.

I. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application pursuant to this article is guilty of a Class 1 misdemeanor.

J. In addition to the fee required pursuant to subdivision A 2, any applicant to which the Department issues a permit shall pay a nonrefundable fee of $250,000 to the Department prior to the issuance of such permit. *Such fees shall be deposited by the Department into the Gaming Regulatory Fund established pursuant to § 58.1-4048.*

§ 58.1-4033. Renewals of permits.

A. A permit issued pursuant to § 58.1-4032 shall be valid for three years from the date issued.

B. At least 60 days before the expiration of a permit, the permit holder shall submit a renewal application, on forms prescribed by the Director, with a nonrefundable renewal fee of $200,000. *Such fees shall be deposited into the Gaming Regulatory Fund established pursuant to § 58.1-4048.*

C. The Director may deny a permit renewal if he finds grounds for denial as described in subsection F of § 58.1-4032. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

D. The Director shall make a determination on an application for a renewal of a sports betting permit within 60 days of receipt. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

§ 58.1-4034. Duties of permit holders.

A. A permit holder shall ensure that its sports betting operation takes reasonable measures to:

1. Ensure that only persons physically located in Virginia are able to place bets through its sports betting platform, if applicable;

2. Protect the confidential information of bettors using its sports betting platform or placing bets at its sports betting facility;

3. Prevent betting on events that are prohibited by § 58.1-4039, underage betting as prohibited by § 58.1-4040, and bets by persons who are prohibited from sports betting by § 58.1-4041;

4. Allow persons to restrict themselves from placing bets with the permit holder, including sharing, at the person's request, his request for self-exclusion with the Department for the sole purpose of disseminating the request to other permit holders;

5. Establish procedures to detect suspicious or illegal betting activity, including measures to immediately report such activity to the Department;

6. Provide for the issuance of applicable tax forms to persons who meet the reporting threshold for income from sports betting; and

7. If applicable, allow sports bettors to establish and fund sports betting accounts over the Internet on a sports betting platform, which may be funded through methods including automated clearing house payments, credit cards, debit cards, wire transfers, or any other method approved by the Director under § 58.1-4031.

B. A permit holder shall maintain records on:

1. All bets, including the bettor's personal information, the amount and type of bet, the time and location of the bet, and the outcome of the bet; and

2. Suspicious or illegal betting activity.

C. A permit holder shall disclose the records described in subsection B to the Department upon request and shall maintain such records for at least three years after the related sports event occurs.

D. 1. If a sports governing body notifies the Department that real-time information-sharing for bets placed on its sporting events is necessary and desirable, permit holders shall, as soon as is commercially reasonable, share the information required to be retained pursuant to subdivision B 1 of § 58.1-4034 with the sports governing body or its designee with respect to bets on its sporting events. The information shared pursuant to this subsection shall be shared pseudonymously and shall not include personal information associated with any bettor. A permit holder shall not be required to share any information that is required to be kept confidential under federal or Virginia law.

2. A sports governing body shall use information shared pursuant to this subsection only for the purpose of integrity monitoring and shall not use such information for any commercial purpose. A sports governing body shall provide for security measures with respect to such information so as to prevent unauthorized access and distribution.

E. In advertising its sports betting operations, a permit holder shall ensure that its advertisements:

1. Do not target persons under the age of 21;

2. Disclose the identity of the permit holder;

3. Provide information about or links to resources related to gambling addiction; and

4. Are not misleading to a reasonable person.

F. A permit holder shall not sublicense, convey, concede, or otherwise transfer its permit to a third party unless granted approval by the Director. The Director shall charge a nonrefundable fee of $200,000 for a permit transfer. *Such fees shall be deposited into the Gaming Regulatory Fund established pursuant to § 58.1-4048.*

G. 1. A permit holder may operate its sports betting platform under a brand other than its own but is prohibited from holding itself out to the public as a sports betting operation under more than one brand, and a permit holder shall conspicuously display its utilized brand to sports bettors; however, if a permit holder is a major league sports franchise, it shall not be required to associate the name of its sports betting platform with the name of the major league sports franchise and shall be allowed to hold its sports betting platform out to the public under a separate brand name.

2. A permit holder is prohibited from cooperatively marketing its sports betting platform with any business issued a license pursuant to the provisions of Title 4.1. This prohibition shall not apply to any motor sports facility, major league sports franchise, or operator of a facility issued a permit pursuant to the provisions of subdivision D 4 or D 5 of § 58.1-4032, provided that such motor sports facility, major league sports franchise, or operator of a facility shall be authorized to cooperatively market only on the premises of its stadium. If casino gaming is authorized under the laws of the Commonwealth and a casino gaming operator is licensed by the Department as a permit holder, the prohibition in this subdivision shall not apply to such operator, provided that such operator shall be authorized to cooperatively market only on the premises of its casino gaming establishment. A permit holder shall not be allowed an exemption from the prohibition in this subdivision unless (i) such permit holder complies with any applicable local zoning ordinances and (ii) the local governing body approves by ordinance cooperative marketing with respect to the permit holder's stadium or casino gaming establishment.

H. A permit holder shall not purchase or use any personal biometric data unless the permit holder has received written permission from the athlete's exclusive bargaining representative.

I. Permit holders shall at all times maintain cash reserves in amounts to be established by Board regulation.

§ 58.1-4048. Gaming Regulatory Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Gaming Regulatory Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to offset the Department's costs associated with (i) the conduct of investigations required by § 58.1-4032, 58.1-4043, 58.1-4104, 58.1-4109, 58.1-4116, 58.1-4120, or 58.1-4121 or any other provision of this article or Chapter 41 (§ 58.1-4100 et seq.) and (ii) the enforcement of regulations promulgated by the Virginia Lottery Board pursuant to subdivisions A 14 and 15 of § 58.1-4007, subdivision 2 of § 58.1-4102, and § 58.1-4103. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

§ 58.1-4108. Operator's license required; capital investment; equity interest; transferability; fee.

A. No person shall operate a casino gaming establishment unless he has obtained an operator's license issued by the Department in accordance with the provisions of this chapter and the regulations promulgated hereunder.

B. To obtain an operator's license issued under the provisions of this chapter, the applicant shall (i) make a capital investment of at least $300 million in a casino gaming establishment, including the value of the real property upon which such establishment is located and all furnishings, fixtures, and other improvements, and (ii) possess an equity interest equal to at least 20 percent of the casino gaming establishment.

C. A license issued under the provisions of this chapter shall be transferable, provided that the Department has approved the proposed transfer and all licensure requirements are satisfied at the time the transfer takes effect.

D. A nonrefundable fee of $15 million shall be paid by the applicant to the Department upon the issuance of a license and upon any subsequent transfer of a license to operate a casino gaming establishment. *Such fees shall be deposited by the Department into the Gaming Regulatory Fund established pursuant to § 58.1-4048.*

E. No person issued a license pursuant to this chapter shall be precluded from obtaining a license for online sports betting pursuant to the Virginia Lottery Law (§ 58.1-4000 et seq.) or any subsequently created online sports betting license.

§ 58.1-4114. Supplier's permits; penalty.

A. The Board may issue a supplier's permit to any person upon application and payment of a nonrefundable application fee set by the Board, a determination by the Board that the applicant is eligible for a supplier's permit, and payment of a $5,000 initial permit fee. A supplier's permit shall be renewed at a fee to be determined by the Department, not to exceed $5,000 per year of licensure. *Such fees shall be deposited by the Department into the Gaming Regulatory Fund established pursuant to § 58.1-4048.* The Board shall prescribe by regulation the criteria for the issuance, duration, and renewal of supplier's permits.

B. The holder of a supplier's permit may sell or lease, or contract to sell or lease, casino gaming equipment and supplies, or provide management services, to any licensee involved in the ownership or management of gaming operations to the extent provided in the permit.

C. Gaming equipment, devices, and supplies shall not be distributed unless such equipment, devices, and supplies conform to standards adopted by the Department.

D. A person is ineligible to receive a supplier's permit if:

1. The person has been convicted of a felony under the laws of the Commonwealth or any other state or of the United States;

2. The person has submitted an application for a license under this chapter that contains false information;

3. The person is a Board member, employee of the Department, or a member of the immediate household of a Board member or Department employee;

4. The person is an entity in which a person described in subdivision 1, 2, or 3 is an officer, director, principal, or managerial employee;

5. The firm or corporation employs a person who participates in the management or operation of casino gaming authorized under this chapter; or

6. A prior permit issued to such person to own or operate casino gaming establishments or supply goods or services to a gaming operation under this chapter or any laws of any other jurisdiction has been revoked.

E. Any person that supplies any casino gaming equipment, devices, or supplies to a licensed gaming operation or manages any operation, including a computerized network, of a casino gaming establishment shall first obtain a supplier's permit. A supplier shall furnish to the Department a list of all management services, equipment, devices, and supplies offered for sale or lease in connection with the games authorized under this chapter. A supplier shall keep books and records for the furnishing of casino gaming equipment, devices, and supplies to gaming operations separate and distinct from any other business that the supplier might operate. A supplier shall file a quarterly return with the Department listing all sales and leases for which a permit is required. A supplier shall permanently affix its name to all its equipment, devices, and supplies for gaming operations. Any supplier's equipment, devices, or supplies that are used by any person in an unauthorized gaming operation shall be forfeited to the Commonwealth.

F. A licensed operator may operate its own equipment, devices, and supplies and may utilize casino gaming equipment, devices, and supplies at such locations as may be approved by the Department for the purpose of training enrollees in a school operated by the licensee to train individuals who desire to become qualified for employment or promotion in gaming operations. The Board may promulgate regulations for the conduct of any such schools.

G. Each holder of an operator's license under this chapter shall file an annual report with the Department listing its inventories of casino gaming equipment, devices, and supplies related to its operations in Virginia.

H. Any person who knowingly makes a false statement on an application for a supplier's permit is guilty of a Class 4 felony.

§ 58.1-4119. Application for service permit.

A. Any person desiring to obtain a service permit as required by this chapter shall apply on a form prescribed by the Department. The application shall be accompanied by a fee prescribed by the Department. *Such fees shall be deposited by the Department into the Gaming Regulatory Fund established pursuant to § 58.1-4048.*

B. Any application filed hereunder shall be verified by the oath or affirmation of the applicant.

§ 58.1-4125. (Effective pursuant to Va. Const. Art. IV, §13) Gaming Proceeds Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Gaming Proceeds Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys required to be deposited into the Fund pursuant to this chapter shall be paid into the state treasury and credited to the Fund. Any

moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

B. Revenues from the Fund shall be ~~appropriated by the General Assembly~~ *apportioned by the Comptroller* as follows:

1. The following amounts shall be ~~appropriated~~ *distributed* to the city in which they were collected *by warrants of the Comptroller drawn on the Treasurer of Virginia on a quarterly basis*:

a. An amount equal to a six percent tax on the first $200 million of adjusted gross receipts;

b. An amount equal to a seven percent tax on the adjusted gross receipts that exceed $200 million but do not exceed $400 million; and

c. An amount equal to an eight percent tax on the adjusted gross receipts that exceed $400 million.

2. For any casino gaming establishment operated by a Virginia Indian tribe recognized in House Joint Resolution No. 54 (1983) and acknowledged by the Assistant Secretary-Indian Affairs of the U.S. Department of the Interior as an Indian tribe within the meaning of federal law that has the authority to conduct gaming activities as a matter of claimed inherent authority or under the authority of the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.), an amount equal to a tax of one percent on the adjusted gross receipts of such establishment shall be deposited in the Virginia Indigenous People's Trust Fund established pursuant to § 2.2-401.01.

3. Eight-tenths of one percent of the Fund shall be ~~appropriated to~~ *deposited in* the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2.

4. Two-tenths of one percent of the Fund shall be ~~appropriated to~~ *deposited in* the Family and Children's Trust Fund established pursuant to § 63.2-2100.

5. Any remaining revenues not ~~appropriated~~ *apportioned* pursuant to subdivisions 1 through 4 shall be ~~appropriated to~~ *deposited in* the School Construction Fund established pursuant to § 22.1-140.1.

~~C. As provided in the general appropriation act, funds appropriated pursuant to subdivision B 1 shall be distributed to cities on a quarterly basis.~~

2. That the provisions of Chapters 8 and 9 of the Acts of Assembly of 2022, Special Session I, shall become effective on July 1, 2023.

CHAPTER 588

An Act to amend and reenact §§ 37.2-304, 58.1-4006, and 59.1-369 of the Code of Virginia, relating to Department of Behavioral Health and Developmental Services; Problem Gambling Treatment and Support Advisory Committee established.

[H 1465]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-304, 58.1-4006, and 59.1-369 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-304. Duties of Commissioner.

The Commissioner shall be the chief executive officer of the Department and shall have the following duties and powers:

1. To supervise and manage the Department and its state facilities.

2. To employ the personnel required to carry out the purposes of this title.

3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.

4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Commissioner shall have the power to comply with conditions and execute agreements that may be necessary, convenient, or desirable, consistent with policies and regulations of the Board.

5. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor.

6. To transfer between state hospitals and training centers school-age individuals who have been identified as appropriate to be placed in public school programs and to negotiate with other school divisions for placements in order to ameliorate the impact on those school divisions located in a jurisdiction in which a state hospital or training center is located.

7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities, within 15 working days of such critical incident or death; (ii) serious incidents and deaths that are required to be reported to the Department through its incident reporting system, as required by regulations adopted by the Board pursuant to Chapter 4 (§ 37.2-400 et seq.), within 15 working days of the date the report is received; and (iii) allegations of abuse or neglect that are required to be reported pursuant to regulations adopted by the

Board pursuant to Chapter 4 (§ 37.2-400 et seq.), within five working days of the date on which the director's final decision on the allegation is reported to the Department.

8. To work with the appropriate state and federal entities to ensure that any individual who has received services in a state facility for more than one year has possession of or receives prior to discharge any of the following documents, when they are needed to obtain the services contained in his discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

9. To work with the Department of Veterans Services and the Department for Aging and Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.

10. To establish and maintain a pharmaceutical and therapeutics committee composed of representatives of the Department of Medical Assistance Services, state facilities operated by the Department, community services boards, at least one health insurance plan, and at least one individual receiving services to develop a drug formulary for use at all community services boards, state facilities operated by the Department, and providers licensed by the Department.

11. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to § 37.2-312.2.

12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and the Chairmen of the House Committee on Appropriations and Senate Committee on Finance and Appropriations that provides information on the operation of Virginia's publicly funded behavioral health and developmental services system. The report shall include a brief narrative and data on the number of individuals receiving state facility services or community services board services, including purchased inpatient psychiatric services; the types and amounts of services received by these individuals; and state facility and community services board service capacities, staffing, revenues, and expenditures. The annual report shall describe major new initiatives implemented during the past year and shall provide information on the accomplishment of systemic outcome and performance measures during the year.

13. To establish a comprehensive program for the prevention and treatment of problem gambling in the Commonwealth and administer the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2.

14. To establish and maintain the Problem Gambling Treatment and Support Advisory Committee (the Advisory Committee) to enable collaboration among prevention and treatment providers and operators of legal gaming in the Commonwealth on efforts to reduce the negative effects of problem gambling. The Advisory Committee shall be composed of (i) the Problem Gambling Prevention Coordinator from the Department; (ii) a representative from the Virginia Council on Problem Gambling; (iii) one representative from each of the state agencies primarily responsible for regulating the lottery, casino gaming, sports betting, live horse racing with pari-mutuel wagering, historical horse racing, charitable gaming, and any other form of legal gaming permitted under state law; (iv) the executive director of a community services board; (v) a casino gaming operator; (vi) a sports betting permit holder; (vii) a historical horse racing operator; and (viii) a charitable gaming permit holder. The Problem Gambling Prevention Coordinator shall be the chairman of the Advisory Committee, and a vice-chairman shall be elected from among the designated membership.

Unless specifically authorized by the Governor to accept or undertake activities for compensation, the Commissioner shall devote his entire time to his duties.

§ 58.1-4006. Powers of the Director.

A. The Director shall supervise and administer:

1. The operation of the lottery in accordance with the provisions of this chapter and with the rules and regulations promulgated hereunder; and

2. The regulation of casino gaming in accordance with Chapter 41 (§ 58.1-4100 et seq.).

B. The Director shall also:

1. Employ such deputy directors, professional, technical and clerical assistants, and other employees as may be required to carry out the functions and duties of the Department.

2. Act as secretary and executive officer of the Board.

3. Require bond or other surety satisfactory to the Director from licensed agents as provided in subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery funds, in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.

4. Confer regularly, but not less than four times each year, with the Board on the operation and administration of the lottery and the regulation of casino gaming; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Department; and advise the Board and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery and the regulation of casino gaming.

5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and regulations adopted hereunder.

6. Suspend, revoke, or refuse to renew any license or permit issued pursuant to Chapter 41 (§ 58.1-4100 et seq.).

7. Eject or exclude from a casino gaming establishment any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Director, reflect negatively on the honesty and integrity of casino gaming or interfere with the orderly gaming operations.

8. Immediately upon the receipt of a credible complaint of an alleged criminal violation of Chapter 41 (§ 58.1-4100 et seq.), report the complaint to the Attorney General and the State Police for appropriate action.

9. Inspect and investigate, and have free access to, the offices, facilities, or other places of business of any licensee or permit holder and may compel the production of any of the books, documents, records, or memoranda of any licensee or permit holder for the purpose of ensuring compliance with Chapter 41 (§ 58.1-4100 et seq.) and Department regulations.

10. Compel any person holding a license or permit pursuant to Chapter 41 (§ 58.1-4100 et seq.) to file with the Department such information as shall appear to the Director to be necessary for the performance of the Department's functions, including financial statements and information relative to principals and all others with any pecuniary interest in such person.

11. Impose a fine or penalty not to exceed $1 million upon any person determined, in proceedings commenced pursuant to § 58.1-4105, to have violated any of the provisions of Chapter 41 (§ 58.1-4100 et seq.) or regulations promulgated by the Board.

12. Enter into arrangements with any foreign or domestic governmental agency for the purposes of exchanging information or performing any other act to better ensure the proper conduct of casino gaming operations or the efficient conduct of the Director's duties.

13. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

14. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month.

15. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate Committee on Finance and Appropriations, House Committee on Finance, and House Committee on Appropriations the total lottery revenues, prize disbursements, and other expenses for the preceding month and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements, and other expenses, as well as a separate financial statement of the expenses incurred in the regulation of casino gaming operations as defined in § 58.1-4100, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this chapter and Chapter 41 (§ 58.1-4100 et seq.) as the Director and Board deem necessary or desirable.

16. Report immediately to the Governor and the General Assembly any matters that require immediate changes in the laws of the Commonwealth in order to prevent abuses and evasions of this chapter and Chapter 41 (§ 58.1-4100 et seq.) or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

17. Notify prize winners and appropriate state and federal agencies of the payment of prizes in excess of $600 in the manner required by the lottery rules and regulations.

18. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for a winning ticket in excess of $5,001.

19. Participate in the Problem Gambling Treatment and Support Advisory Committee established pursuant to § 37.2-304 by the Department of Behavioral Health and Developmental Services to enable collaboration among prevention and treatment providers and operators of legal gaming in the Commonwealth on efforts to reduce the negative effects of problem gambling.

C. The Director and the director of security or investigators appointed by the Director shall be vested with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department and to investigate violations of the statutes and regulations that the Director is required to enforce.

D. The Director may authorize temporary bonus or incentive programs for payments to licensed sales agents that he determines will be cost effective and support increased sales of lottery products.

§ 59.1-369. Powers and duties of the Commission.

The Commission shall have all powers and duties necessary to carry out the provisions of this chapter and to exercise the control of horse racing as set forth in § 59.1-364. Such powers and duties shall include but not be limited to the following:

1. The Commission is vested with jurisdiction and supervision over all horse racing licensed under the provisions of this chapter including all persons conducting, participating in, or attending any race meeting. It shall employ such persons to be present at race meetings as are necessary to ensure that they are conducted with order and the highest degree of integrity. It may eject or exclude from the enclosure or from any part thereof any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing.

2. The Commission, its representatives, and employees shall visit, investigate, and have free access to the office, track, facilities, satellite facilities or other places of business of any license or permit holder, and may compel the production of any of the books, documents, records, or memoranda of any license or permit holder for the purpose of satisfying itself that this chapter and its regulations are strictly complied with. In addition, the Commission may require any person granted a

permit by the Commission and shall require any person licensed by the Commission, the recognized majority horsemen's group, and the nonprofit industry stakeholder organization recognized by the Commission under this chapter to produce an annual balance sheet and operating statement prepared by a certified public accountant approved by the Commission. The Commission may require the production of any contract to which such person is or may be a party.

3. The Commission shall promulgate regulations and conditions under which horse racing with pari-mutuel wagering shall be conducted in the Commonwealth, and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter, including a requirement that licensees post, in a conspicuous place in every place where pari-mutuel wagering is conducted, a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers. Such regulations shall include provisions for affirmative action to assure participation by minority persons in contracts granted by the Commission and its licensees. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any horse racetrack. Such regulations may include penalties for violations. The regulations shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

4. The Commission shall promulgate regulations and conditions under which simulcast horse racing shall be conducted at a licensed horse racetrack or satellite facility in the Commonwealth and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter. Such regulations shall include provisions that all simulcast horse racing shall comply with the Interstate Horse Racing Act of 1978 (15 U.S.C. § 3001 et seq.) and shall require the holder of a license to schedule no more than 125 live racing days in the Commonwealth each calendar year; however, the Commission shall have the authority to alter the required number of live racing days based on what the Commission deems to be in the best interest of the Virginia horse industry. Such regulations shall authorize up to 10 satellite facilities and restrict majority ownership of satellite facilities to an entity licensed by the Commission that is a significant infrastructure limited licensee, or if by August 1, 2015, there is no such licensee or a pending application for such license, then the nonprofit industry stakeholder organization recognized by the Commission may be granted licenses to own or operate satellite facilities. If, however, after the issuance of a license to own or operate a satellite facility to such nonprofit industry stakeholder organization, the Commission grants a license to a significant infrastructure limited licensee pursuant to § 59.1-376, then such limited licensee may own or operate the remaining available satellite facilities authorized in accordance with this subdivision. In no event shall the Commission authorize any such entities to own or operate more than a combined total of 10 satellite facilities. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any satellite facility. Except as authorized pursuant to subdivision 5, wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

5. The Commission shall promulgate regulations and conditions regulating and controlling advance deposit account wagering. Such regulations shall include, but not be limited to, (i) standards, qualifications, and procedures for the issuance of a license to an entity for the operation of pari-mutuel wagering in the Commonwealth; except that the Commission shall not issue a license to, and shall revoke the license of, an entity that, either directly or through an entity under common control with it, withholds the sale at fair market value to a licensee of simulcast horse racing signals that such entity or an entity under common control with it sells to other racetracks, satellite facilities, or advance deposit account wagering providers located in or outside of the Commonwealth; (ii) provisions regarding access to books, records, and memoranda, and submission to investigations and audits, as authorized by subdivisions 2 and 10; and (iii) provisions regarding the collection of all revenues due to the Commonwealth from the placing of such wagers. No pari-mutuel wager may be made on or with any computer owned or leased by the Commonwealth, or any of its subdivisions, or at any public elementary or secondary school or institution of higher education. The Commission also shall ensure that, except for this method of pari-mutuel wagering, all wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

Nothing in this subdivision shall be construed to limit the Commission's authority as set forth elsewhere in this section.

6. The Commission may issue subpoenas for the attendance of witnesses before it, administer oaths, and compel production of records or other documents and testimony of such witnesses whenever, in the judgment of the Commission, it is necessary to do so for the effectual discharge of its duties.

7. The Commission may compel any person holding a license or permit to file with the Commission such data as shall appear to the Commission to be necessary for the performance of its duties including but not limited to financial statements and information relative to stockholders and all others with any pecuniary interest in such person. It may prescribe the manner in which books and records of such persons shall be kept.

8. The Commission may enter into arrangements with any foreign or domestic government or governmental agency, for the purposes of exchanging information or performing any other act to better ensure the proper conduct of horse racing.

9. The Commission shall report annually on or before March 1 to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Commission.

10. The Commission may order such audits, in addition to those required by § 59.1-394, as it deems necessary and desirable.

11. The Commission shall upon the receipt of a complaint of an alleged criminal violation of this chapter immediately report the complaint to the Attorney General of the Commonwealth and the State Police for appropriate action.

12. The Commission shall provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize or pay-off for a winning wager and shall establish the thresholds for such withholdings.

13. The Commission, its representatives and employees may, within the enclosure, stable, or other facility related to the conduct of racing, and during regular or usual business hours, subject any (i) permit holder to personal inspections, including alcohol and drug testing for illegal drugs, inspections of personal property, and inspections of other property or premises under the control of such permit holder and (ii) horse eligible to race at a race meeting licensed by the Commission to testing for substances foreign to the natural horse within the racetrack enclosure or other place where such horse is kept. Any item, document or record indicative of a violation of any provision of this chapter or Commission regulations may be seized as evidence of such violation. All permit holders consent to the searches and seizures authorized by this subdivision, including breath, blood and urine sampling for alcohol and illegal drugs, by accepting the permit issued by the Commission. The Commission may revoke or suspend the permit of any person who fails or refuses to comply with this subdivision or any rules of the Commission. Commission regulations in effect on July 1, 1998, shall continue in full force and effect until modified by the Commission in accordance with law.

14. The Commission shall require the existence of a contract between each licensee and the recognized majority horsemen's group for that licensee. Such contract shall be subject to the approval of the Commission, which shall have the power to approve or disapprove any of its items, including but not limited to the provisions regarding purses and prizes. Such contracts shall provide that on pools generated by wagering on simulcast horse racing from outside the Commonwealth, (i) for the first $75 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of five percent in the horsemen's purse account, (ii) for any amount in excess of $75 million but less than $150 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of six percent in the horsemen's purse account, (iii) for amounts in excess of $150 million for each breed, the licensee shall deposit funds at the minimum rate of seven percent in the horsemen's purse account. Such deposits shall be made in the horsemen's purse accounts of the breed that generated the pools and such deposits shall be made within five days from the date on which the licensee receives wagers. In the absence of the required contract between the licensee and the recognized majority horsemen's group, the Commission may permit wagering to proceed on simulcast horse racing from outside of the Commonwealth, provided that the licensee deposits into the State Racing Operations Fund created pursuant to § 59.1-370.1 an amount equal to the minimum percentage of the total pari-mutuel handles as required in clauses (i), (ii), and (iii) or such lesser amount as the Commission may approve. The deposits shall be made within five days from the date on which the licensee receives wagers. Once a contract between the licensee and the recognized majority horsemen's group is executed and approved by the Commission, the Commission shall transfer these funds to the licensee and the horsemen's purse accounts.

15. Notwithstanding the provisions of § 59.1-391, the Commission may grant provisional limited licenses or provisional unlimited licenses to own or operate racetracks or satellite facilities to an applicant prior to the applicant securing the approval through the local referendum required by § 59.1-391. The provisional licenses issued by the Commission shall only become effective upon the approval of the racetrack or satellite wagering facilities in a referendum conducted pursuant to § 59.1-391 in the jurisdiction in which the racetrack or satellite wagering facility is to be located.

16. The Commission or its representatives shall participate in the Problem Gambling Treatment and Support Advisory Committee established pursuant to § 37.2-304 by the Department of Behavioral Health and Developmental Services to enable collaboration among prevention and treatment providers and operators of legal gaming in the Commonwealth on efforts to reduce the negative effects of problem gambling.

CHAPTER 589

An Act to amend and reenact §§ 37.2-304, 58.1-4006, and 59.1-369 of the Code of Virginia, relating to Department of Behavioral Health and Developmental Services; Problem Gambling Treatment and Support Advisory Committee established.

[S 836]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-304, 58.1-4006, and 59.1-369 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-304. Duties of Commissioner.

The Commissioner shall be the chief executive officer of the Department and shall have the following duties and powers:

1. To supervise and manage the Department and its state facilities.

2. To employ the personnel required to carry out the purposes of this title.

3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.

4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these

ends, the Commissioner shall have the power to comply with conditions and execute agreements that may be necessary, convenient, or desirable, consistent with policies and regulations of the Board.

5. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor.

6. To transfer between state hospitals and training centers school-age individuals who have been identified as appropriate to be placed in public school programs and to negotiate with other school divisions for placements in order to ameliorate the impact on those school divisions located in a jurisdiction in which a state hospital or training center is located.

7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities, within 15 working days of such critical incident or death; (ii) serious incidents and deaths that are required to be reported to the Department through its incident reporting system, as required by regulations adopted by the Board pursuant to Chapter 4 (§ 37.2-400 et seq.), within 15 working days of the date the report is received; and (iii) allegations of abuse or neglect that are required to be reported pursuant to regulations adopted by the Board pursuant to Chapter 4 (§ 37.2-400 et seq.), within five working days of the date on which the director's final decision on the allegation is reported to the Department.

8. To work with the appropriate state and federal entities to ensure that any individual who has received services in a state facility for more than one year has possession of or receives prior to discharge any of the following documents, when they are needed to obtain the services contained in his discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

9. To work with the Department of Veterans Services and the Department for Aging and Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.

10. To establish and maintain a pharmaceutical and therapeutics committee composed of representatives of the Department of Medical Assistance Services, state facilities operated by the Department, community services boards, at least one health insurance plan, and at least one individual receiving services to develop a drug formulary for use at all community services boards, state facilities operated by the Department, and providers licensed by the Department.

11. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to § 37.2-312.2.

12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and the Chairmen of the House Committee on Appropriations and Senate Committee on Finance and Appropriations that provides information on the operation of Virginia's publicly funded behavioral health and developmental services system. The report shall include a brief narrative and data on the number of individuals receiving state facility services or community services board services, including purchased inpatient psychiatric services; the types and amounts of services received by these individuals; and state facility and community services board service capacities, staffing, revenues, and expenditures. The annual report shall describe major new initiatives implemented during the past year and shall provide information on the accomplishment of systemic outcome and performance measures during the year.

13. To establish a comprehensive program for the prevention and treatment of problem gambling in the Commonwealth and administer the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2.

14. To establish and maintain the Problem Gambling Treatment and Support Advisory Committee (the Advisory Committee) to enable collaboration among prevention and treatment providers and operators of legal gaming in the Commonwealth on efforts to reduce the negative effects of problem gambling. The Advisory Committee shall be composed of (i) the Problem Gambling Prevention Coordinator from the Department; (ii) a representative from the Virginia Council on Problem Gambling; (iii) one representative from each of the state agencies primarily responsible for regulating the lottery, casino gaming, sports betting, live horse racing with pari-mutuel wagering, historical horse racing, charitable gaming, and any other form of legal gaming permitted under state law; (iv) the executive director of a community services board; (v) a casino gaming operator; (vi) a sports betting permit holder; (vii) a historical horse racing operator; and (viii) a charitable gaming permit holder. The Problem Gambling Prevention Coordinator shall be the chairman of the Advisory Committee, and a vice-chairman shall be elected from among the designated membership.

Unless specifically authorized by the Governor to accept or undertake activities for compensation, the Commissioner shall devote his entire time to his duties.

§ 58.1-4006. Powers of the Director.

A. The Director shall supervise and administer:

1. The operation of the lottery in accordance with the provisions of this chapter and with the rules and regulations promulgated hereunder; and

2. The regulation of casino gaming in accordance with Chapter 41 (§ 58.1-4100 et seq.).

B. The Director shall also:

1. Employ such deputy directors, professional, technical and clerical assistants, and other employees as may be required to carry out the functions and duties of the Department.

2. Act as secretary and executive officer of the Board.

3. Require bond or other surety satisfactory to the Director from licensed agents as provided in subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery funds, in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.

4. Confer regularly, but not less than four times each year, with the Board on the operation and administration of the lottery and the regulation of casino gaming; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Department; and advise the Board and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery and the regulation of casino gaming.

5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and regulations adopted hereunder.

6. Suspend, revoke, or refuse to renew any license or permit issued pursuant to Chapter 41 (§ 58.1-4100 et seq.).

7. Eject or exclude from a casino gaming establishment any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Director, reflect negatively on the honesty and integrity of casino gaming or interfere with the orderly gaming operations.

8. Immediately upon the receipt of a credible complaint of an alleged criminal violation of Chapter 41 (§ 58.1-4100 et seq.), report the complaint to the Attorney General and the State Police for appropriate action.

9. Inspect and investigate, and have free access to, the offices, facilities, or other places of business of any licensee or permit holder and may compel the production of any of the books, documents, records, or memoranda of any licensee or permit holder for the purpose of ensuring compliance with Chapter 41 (§ 58.1-4100 et seq.) and Department regulations.

10. Compel any person holding a license or permit pursuant to Chapter 41 (§ 58.1-4100 et seq.) to file with the Department such information as shall appear to the Director to be necessary for the performance of the Department's functions, including financial statements and information relative to principals and all others with any pecuniary interest in such person.

11. Impose a fine or penalty not to exceed $1 million upon any person determined, in proceedings commenced pursuant to § 58.1-4105, to have violated any of the provisions of Chapter 41 (§ 58.1-4100 et seq.) or regulations promulgated by the Board.

12. Enter into arrangements with any foreign or domestic governmental agency for the purposes of exchanging information or performing any other act to better ensure the proper conduct of casino gaming operations or the efficient conduct of the Director's duties.

13. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

14. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month.

15. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate Committee on Finance and Appropriations, House Committee on Finance, and House Committee on Appropriations the total lottery revenues, prize disbursements, and other expenses for the preceding month and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements, and other expenses, as well as a separate financial statement of the expenses incurred in the regulation of casino gaming operations as defined in § 58.1-4100, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this chapter and Chapter 41 (§ 58.1-4100 et seq.) as the Director and Board deem necessary or desirable.

16. Report immediately to the Governor and the General Assembly any matters that require immediate changes in the laws of the Commonwealth in order to prevent abuses and evasions of this chapter and Chapter 41 (§ 58.1-4100 et seq.) or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

17. Notify prize winners and appropriate state and federal agencies of the payment of prizes in excess of $600 in the manner required by the lottery rules and regulations.

18. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for a winning ticket in excess of $5,001.

19. Participate in the Problem Gambling Treatment and Support Advisory Committee established pursuant to § 37.2-304 by the Department of Behavioral Health and Developmental Services to enable collaboration among prevention and treatment providers and operators of legal gaming in the Commonwealth on efforts to reduce the negative effects of problem gambling.

C. The Director and the director of security or investigators appointed by the Director shall be vested with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department and to investigate violations of the statutes and regulations that the Director is required to enforce.

D. The Director may authorize temporary bonus or incentive programs for payments to licensed sales agents that he determines will be cost effective and support increased sales of lottery products.

§ 59.1-369. Powers and duties of the Commission.

The Commission shall have all powers and duties necessary to carry out the provisions of this chapter and to exercise the control of horse racing as set forth in § 59.1-364. Such powers and duties shall include but not be limited to the following:

1. The Commission is vested with jurisdiction and supervision over all horse racing licensed under the provisions of this chapter including all persons conducting, participating in, or attending any race meeting. It shall employ such persons to be present at race meetings as are necessary to ensure that they are conducted with order and the highest degree of integrity. It may eject or exclude from the enclosure or from any part thereof any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing.

2. The Commission, its representatives, and employees shall visit, investigate, and have free access to the office, track, facilities, satellite facilities or other places of business of any license or permit holder, and may compel the production of any of the books, documents, records, or memoranda of any license or permit holder for the purpose of satisfying itself that this chapter and its regulations are strictly complied with. In addition, the Commission may require any person granted a permit by the Commission and shall require any person licensed by the Commission, the recognized majority horsemen's group, and the nonprofit industry stakeholder organization recognized by the Commission under this chapter to produce an annual balance sheet and operating statement prepared by a certified public accountant approved by the Commission. The Commission may require the production of any contract to which such person is or may be a party.

3. The Commission shall promulgate regulations and conditions under which horse racing with pari-mutuel wagering shall be conducted in the Commonwealth, and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter, including a requirement that licensees post, in a conspicuous place in every place where pari-mutuel wagering is conducted, a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers. Such regulations shall include provisions for affirmative action to assure participation by minority persons in contracts granted by the Commission and its licensees. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any horse racetrack. Such regulations may include penalties for violations. The regulations shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

4. The Commission shall promulgate regulations and conditions under which simulcast horse racing shall be conducted at a licensed horse racetrack or satellite facility in the Commonwealth and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter. Such regulations shall include provisions that all simulcast horse racing shall comply with the Interstate Horse Racing Act of 1978 (15 U.S.C. § 3001 et seq.) and shall require the holder of a license to schedule no more than 125 live racing days in the Commonwealth each calendar year; however, the Commission shall have the authority to alter the required number of live racing days based on what the Commission deems to be in the best interest of the Virginia horse industry. Such regulations shall authorize up to 10 satellite facilities and restrict majority ownership of satellite facilities to an entity licensed by the Commission that is a significant infrastructure limited licensee, or if by August 1, 2015, there is no such licensee or a pending application for such license, then the nonprofit industry stakeholder organization recognized by the Commission may be granted licenses to own or operate satellite facilities. If, however, after the issuance of a license to own or operate a satellite facility to such nonprofit industry stakeholder organization, the Commission grants a license to a significant infrastructure limited licensee pursuant to § 59.1-376, then such limited licensee may own or operate the remaining available satellite facilities authorized in accordance with this subdivision. In no event shall the Commission authorize any such entities to own or operate more than a combined total of 10 satellite facilities. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any satellite facility. Except as authorized pursuant to subdivision 5, wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

5. The Commission shall promulgate regulations and conditions regulating and controlling advance deposit account wagering. Such regulations shall include, but not be limited to, (i) standards, qualifications, and procedures for the issuance of a license to an entity for the operation of pari-mutuel wagering in the Commonwealth; except that the Commission shall not issue a license to, and shall revoke the license of, an entity that, either directly or through an entity under common control with it, withholds the sale at fair market value to a licensee of simulcast horse racing signals that such entity or an entity under common control with it sells to other racetracks, satellite facilities, or advance deposit account wagering providers located in or outside of the Commonwealth; (ii) provisions regarding access to books, records, and memoranda, and submission to investigations and audits, as authorized by subdivisions 2 and 10; and (iii) provisions regarding the collection of all revenues due to the Commonwealth from the placing of such wagers. No pari-mutuel wager may be made on or with any computer owned or leased by the Commonwealth, or any of its subdivisions, or at any public elementary or secondary school or institution of higher education. The Commission also shall ensure that, except for this method of pari-mutuel wagering, all wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

Nothing in this subdivision shall be construed to limit the Commission's authority as set forth elsewhere in this section.

6. The Commission may issue subpoenas for the attendance of witnesses before it, administer oaths, and compel production of records or other documents and testimony of such witnesses whenever, in the judgment of the Commission, it is necessary to do so for the effectual discharge of its duties.

7. The Commission may compel any person holding a license or permit to file with the Commission such data as shall appear to the Commission to be necessary for the performance of its duties including but not limited to financial statements

and information relative to stockholders and all others with any pecuniary interest in such person. It may prescribe the manner in which books and records of such persons shall be kept.

8. The Commission may enter into arrangements with any foreign or domestic government or governmental agency, for the purposes of exchanging information or performing any other act to better ensure the proper conduct of horse racing.

9. The Commission shall report annually on or before March 1 to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Commission.

10. The Commission may order such audits, in addition to those required by § 59.1-394, as it deems necessary and desirable.

11. The Commission shall upon the receipt of a complaint of an alleged criminal violation of this chapter immediately report the complaint to the Attorney General of the Commonwealth and the State Police for appropriate action.

12. The Commission shall provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize or pay-off for a winning wager and shall establish the thresholds for such withholdings.

13. The Commission, its representatives and employees may, within the enclosure, stable, or other facility related to the conduct of racing, and during regular or usual business hours, subject any (i) permit holder to personal inspections, including alcohol and drug testing for illegal drugs, inspections of personal property, and inspections of other property or premises under the control of such permit holder and (ii) horse eligible to race at a race meeting licensed by the Commission to testing for substances foreign to the natural horse within the racetrack enclosure or other place where such horse is kept. Any item, document or record indicative of a violation of any provision of this chapter or Commission regulations may be seized as evidence of such violation. All permit holders consent to the searches and seizures authorized by this subdivision, including breath, blood and urine sampling for alcohol and illegal drugs, by accepting the permit issued by the Commission. The Commission may revoke or suspend the permit of any person who fails or refuses to comply with this subdivision or any rules of the Commission. Commission regulations in effect on July 1, 1998, shall continue in full force and effect until modified by the Commission in accordance with law.

14. The Commission shall require the existence of a contract between each licensee and the recognized majority horsemen's group for that licensee. Such contract shall be subject to the approval of the Commission, which shall have the power to approve or disapprove any of its items, including but not limited to the provisions regarding purses and prizes. Such contracts shall provide that on pools generated by wagering on simulcast horse racing from outside the Commonwealth, (i) for the first $75 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of five percent in the horsemen's purse account, (ii) for any amount in excess of $75 million but less than $150 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of six percent in the horsemen's purse account, (iii) for amounts in excess of $150 million for each breed, the licensee shall deposit funds at the minimum rate of seven percent in the horsemen's purse account. Such deposits shall be made in the horsemen's purse accounts of the breed that generated the pools and such deposits shall be made within five days from the date on which the licensee receives wagers. In the absence of the required contract between the licensee and the recognized majority horsemen's group, the Commission may permit wagering to proceed on simulcast horse racing from outside of the Commonwealth, provided that the licensee deposits into the State Racing Operations Fund created pursuant to § 59.1-370.1 an amount equal to the minimum percentage of the total pari-mutuel handles as required in clauses (i), (ii), and (iii) or such lesser amount as the Commission may approve. The deposits shall be made within five days from the date on which the licensee receives wagers. Once a contract between the licensee and the recognized majority horsemen's group is executed and approved by the Commission, the Commission shall transfer these funds to the licensee and the horsemen's purse accounts.

15. Notwithstanding the provisions of § 59.1-391, the Commission may grant provisional limited licenses or provisional unlimited licenses to own or operate racetracks or satellite facilities to an applicant prior to the applicant securing the approval through the local referendum required by § 59.1-391. The provisional licenses issued by the Commission shall only become effective upon the approval of the racetrack or satellite wagering facilities in a referendum conducted pursuant to § 59.1-391 in the jurisdiction in which the racetrack or satellite wagering facility is to be located.

16. The Commission or its representatives shall participate in the Problem Gambling Treatment and Support Advisory Committee established pursuant to § 37.2-304 by the Department of Behavioral Health and Developmental Services to enable collaboration among prevention and treatment providers and operators of legal gaming in the Commonwealth on efforts to reduce the negative effects of problem gambling.

CHAPTER 590

An Act to amend and reenact § 59.1-369 of the Code of Virginia, relating to Virginia Racing Commission; powers and duties; ratio of live racing days to number of historical horse racing terminals.

[H 1997]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-369 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-369. Powers and duties of the Commission.

The Commission shall have all powers and duties necessary to carry out the provisions of this chapter and to exercise the control of horse racing as set forth in § 59.1-364. Such powers and duties shall include but not be limited to the following:

1. The Commission is vested with jurisdiction and supervision over all horse racing licensed under the provisions of this chapter including all persons conducting, participating in, or attending any race meeting. It shall employ such persons to be present at race meetings as are necessary to ensure that they are conducted with order and the highest degree of integrity. It may eject or exclude from the enclosure or from any part thereof any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing.

2. The Commission, its representatives, and employees shall visit, investigate, and have free access to the office, track, facilities, satellite facilities or other places of business of any license or permit holder, and may compel the production of any of the books, documents, records, or memoranda of any license or permit holder for the purpose of satisfying itself that this chapter and its regulations are strictly complied with. In addition, the Commission may require any person granted a permit by the Commission and shall require any person licensed by the Commission, the recognized majority horsemen's group, and the nonprofit industry stakeholder organization recognized by the Commission under this chapter to produce an annual balance sheet and operating statement prepared by a certified public accountant approved by the Commission. The Commission may require the production of any contract to which such person is or may be a party.

3. The Commission shall promulgate regulations and conditions under which horse racing with pari-mutuel wagering shall be conducted in the Commonwealth, and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter, including a requirement that licensees post, in a conspicuous place in every place where pari-mutuel wagering is conducted, a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers. Such regulations shall include provisions for affirmative action to assure participation by minority persons in contracts granted by the Commission and its licensees. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any horse racetrack. Such regulations may include penalties for violations. The regulations shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

4. The Commission shall promulgate regulations and conditions under which simulcast horse racing shall be conducted at a licensed horse racetrack or satellite facility in the Commonwealth and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter. Such regulations shall include provisions that all simulcast horse racing shall comply with the Interstate Horse Racing Act of 1978 (15 U.S.C. § 3001 et seq.) and shall require the holder of a license to schedule no more than 125 live racing days in the Commonwealth each calendar year; however, the Commission shall have the authority to alter the required number of live racing days ~~based on what the Commission deems to be in the best interest of the Virginia horse industry~~ *in the event of force majeure*. Such regulations shall authorize up to 10 satellite facilities and restrict majority ownership of satellite facilities to an entity licensed by the Commission that is a significant infrastructure limited licensee, or if by August 1, 2015, there is no such licensee or a pending application for such license, then the nonprofit industry stakeholder organization recognized by the Commission may be granted licenses to own or operate satellite facilities. If, however, after the issuance of a license to own or operate a satellite facility to such nonprofit industry stakeholder organization, the Commission grants a license to a significant infrastructure limited licensee pursuant to § 59.1-376, then such limited licensee may own or operate the remaining available satellite facilities authorized in accordance with this subdivision. In no event shall the Commission authorize any such entities to own or operate more than a combined total of 10 satellite facilities. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any satellite facility. Except as authorized pursuant to subdivision 5, wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility. *For purposes of this subdivision, "force majeure" means an event or events reasonably beyond the ability of the Commission to anticipate and control. "Force majeure" includes acts of God, incidences of terrorism, war or riots, labor strikes or civil disturbances, floods, earthquakes, fire, explosions, epidemics, hurricanes, tornadoes, and governmental actions and restrictions.*

5. The Commission shall promulgate regulations and conditions regulating and controlling advance deposit account wagering. Such regulations shall include, but not be limited to, (i) standards, qualifications, and procedures for the issuance of a license to an entity for the operation of pari-mutuel wagering in the Commonwealth; except that the Commission shall not issue a license to, and shall revoke the license of, an entity that, either directly or through an entity under common control with it, withholds the sale at fair market value to a licensee of simulcast horse racing signals that such entity or an entity under common control with it sells to other racetracks, satellite facilities, or advance deposit account wagering providers located in or outside of the Commonwealth; (ii) provisions regarding access to books, records, and memoranda, and submission to investigations and audits, as authorized by subdivisions 2 and 10; and (iii) provisions regarding the collection of all revenues due to the Commonwealth from the placing of such wagers. No pari-mutuel wager may be made on or with any computer owned or leased by the Commonwealth, or any of its subdivisions, or at any public elementary or secondary school or institution of higher education. The Commission also shall ensure that, except for this method of pari-mutuel wagering, all wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

Nothing in this subdivision shall be construed to limit the Commission's authority as set forth elsewhere in this section.

6. The Commission may issue subpoenas for the attendance of witnesses before it, administer oaths, and compel production of records or other documents and testimony of such witnesses whenever, in the judgment of the Commission, it is necessary to do so for the effectual discharge of its duties.

7. The Commission may compel any person holding a license or permit to file with the Commission such data as shall appear to the Commission to be necessary for the performance of its duties including but not limited to financial statements and information relative to stockholders and all others with any pecuniary interest in such person. It may prescribe the manner in which books and records of such persons shall be kept.

8. The Commission may enter into arrangements with any foreign or domestic government or governmental agency, for the purposes of exchanging information or performing any other act to better ensure the proper conduct of horse racing.

9. The Commission shall report annually on or before March 1 to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Commission.

10. The Commission may order such audits, in addition to those required by § 59.1-394, as it deems necessary and desirable.

11. The Commission shall upon the receipt of a complaint of an alleged criminal violation of this chapter immediately report the complaint to the Attorney General of the Commonwealth and the State Police for appropriate action.

12. The Commission shall provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize or pay-off for a winning wager and shall establish the thresholds for such withholdings.

13. The Commission, its representatives and employees may, within the enclosure, stable, or other facility related to the conduct of racing, and during regular or usual business hours, subject any (i) permit holder to personal inspections, including alcohol and drug testing for illegal drugs, inspections of personal property, and inspections of other property or premises under the control of such permit holder and (ii) horse eligible to race at a race meeting licensed by the Commission to testing for substances foreign to the natural horse within the racetrack enclosure or other place where such horse is kept. Any item, document or record indicative of a violation of any provision of this chapter or Commission regulations may be seized as evidence of such violation. All permit holders consent to the searches and seizures authorized by this subdivision, including breath, blood and urine sampling for alcohol and illegal drugs, by accepting the permit issued by the Commission. The Commission may revoke or suspend the permit of any person who fails or refuses to comply with this subdivision or any rules of the Commission. Commission regulations in effect on July 1, 1998, shall continue in full force and effect until modified by the Commission in accordance with law.

14. The Commission shall require the existence of a contract between each licensee and the recognized majority horsemen's group for that licensee. Such contract shall be subject to the approval of the Commission, which shall have the power to approve or disapprove any of its items, including but not limited to the provisions regarding purses and prizes. Such contracts shall provide that on pools generated by wagering on simulcast horse racing from outside the Commonwealth, (i) for the first $75 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of five percent in the horsemen's purse account, (ii) for any amount in excess of $75 million but less than $150 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of six percent in the horsemen's purse account, (iii) for amounts in excess of $150 million for each breed, the licensee shall deposit funds at the minimum rate of seven percent in the horsemen's purse account. Such deposits shall be made in the horsemen's purse accounts of the breed that generated the pools and such deposits shall be made within five days from the date on which the licensee receives wagers. In the absence of the required contract between the licensee and the recognized majority horsemen's group, the Commission may permit wagering to proceed on simulcast horse racing from outside of the Commonwealth, provided that the licensee deposits into the State Racing Operations Fund created pursuant to § 59.1-370.1 an amount equal to the minimum percentage of the total pari-mutuel handles as required in clauses (i), (ii), and (iii) or such lesser amount as the Commission may approve. The deposits shall be made within five days from the date on which the licensee receives wagers. Once a contract between the licensee and the recognized majority horsemen's group is executed and approved by the Commission, the Commission shall transfer these funds to the licensee and the horsemen's purse accounts.

15. Notwithstanding the provisions of § 59.1-391, the Commission may grant provisional limited licenses or provisional unlimited licenses to own or operate racetracks or satellite facilities to an applicant prior to the applicant securing the approval through the local referendum required by § 59.1-391. The provisional licenses issued by the Commission shall only become effective upon the approval of the racetrack or satellite wagering facilities in a referendum conducted pursuant to § 59.1-391 in the jurisdiction in which the racetrack or satellite wagering facility is to be located.

16. The Commission shall promulgate regulations requiring, for each calendar year, any significant infrastructure limited licensee that offers pari-mutuel wagering on historical horse racing to hold at least one live Thoroughbred horse racing day, consisting of not less than eight races per day, for every 100 historical horse racing terminals installed at its significant infrastructure facility together with any satellite facility owned, operated, controlled, managed, or otherwise directly or indirectly affiliated with such licensee. The regulations shall require any such significant infrastructure limited licensee that holds more than one live Thoroughbred horse racing day in accordance with the provisions of this subdivision to hold at least one of those racing days on a weekend. The number of historical horse racing terminals installed at a significant infrastructure facility shall be calculated as of December 31 of the calendar year in question; however, only historical horse racing terminals that are fully operational shall be included in such calculation.

2. That the provisions of this act shall become effective on July 1, 2024.

CHAPTER 591

An Act to amend and reenact § 59.1-369 of the Code of Virginia, relating to Virginia Racing Commission; powers and duties; ratio of live racing days to number of historical horse racing terminals.

[S 1212]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-369 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-369. Powers and duties of the Commission.

The Commission shall have all powers and duties necessary to carry out the provisions of this chapter and to exercise the control of horse racing as set forth in § 59.1-364. Such powers and duties shall include but not be limited to the following:

1. The Commission is vested with jurisdiction and supervision over all horse racing licensed under the provisions of this chapter including all persons conducting, participating in, or attending any race meeting. It shall employ such persons to be present at race meetings as are necessary to ensure that they are conducted with order and the highest degree of integrity. It may eject or exclude from the enclosure or from any part thereof any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing.

2. The Commission, its representatives, and employees shall visit, investigate, and have free access to the office, track, facilities, satellite facilities or other places of business of any license or permit holder, and may compel the production of any of the books, documents, records, or memoranda of any license or permit holder for the purpose of satisfying itself that this chapter and its regulations are strictly complied with. In addition, the Commission may require any person granted a permit by the Commission and shall require any person licensed by the Commission, the recognized majority horsemen's group, and the nonprofit industry stakeholder organization recognized by the Commission under this chapter to produce an annual balance sheet and operating statement prepared by a certified public accountant approved by the Commission. The Commission may require the production of any contract to which such person is or may be a party.

3. The Commission shall promulgate regulations and conditions under which horse racing with pari-mutuel wagering shall be conducted in the Commonwealth, and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter, including a requirement that licensees post, in a conspicuous place in every place where pari-mutuel wagering is conducted, a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers. Such regulations shall include provisions for affirmative action to assure participation by minority persons in contracts granted by the Commission and its licensees. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any horse racetrack. Such regulations may include penalties for violations. The regulations shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

4. The Commission shall promulgate regulations and conditions under which simulcast horse racing shall be conducted at a licensed horse racetrack or satellite facility in the Commonwealth and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter. Such regulations shall include provisions that all simulcast horse racing shall comply with the Interstate Horse Racing Act of 1978 (15 U.S.C. § 3001 et seq.) and shall require the holder of a license to schedule no more than 125 live racing days in the Commonwealth each calendar year; however, the Commission shall have the authority to alter the required number of live racing days ~~based on what the Commission deems to be in the best interest of the Virginia horse industry~~ *in the event of force majeure*. Such regulations shall authorize up to 10 satellite facilities and restrict majority ownership of satellite facilities to an entity licensed by the Commission that is a significant infrastructure limited licensee, or if by August 1, 2015, there is no such licensee or a pending application for such license, then the nonprofit industry stakeholder organization recognized by the Commission may be granted licenses to own or operate satellite facilities. If, however, after the issuance of a license to own or operate a satellite facility to such nonprofit industry stakeholder organization, the Commission grants a license to a significant infrastructure limited licensee pursuant to § 59.1-376, then such limited licensee may own or operate the remaining available satellite facilities authorized in accordance with this subdivision. In no event shall the Commission authorize any such entities to own or operate more than a combined total of 10 satellite facilities. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any satellite facility. Except as authorized pursuant to subdivision 5, wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility. *For purposes of this subdivision, "force majeure" means an event or events reasonably beyond the ability of the Commission to anticipate and control. "Force majeure" includes acts of God, incidences of terrorism, war or riots, labor strikes or civil disturbances, floods, earthquakes, fire, explosions, epidemics, hurricanes, tornadoes, and governmental actions and restrictions.*

5. The Commission shall promulgate regulations and conditions regulating and controlling advance deposit account wagering. Such regulations shall include, but not be limited to, (i) standards, qualifications, and procedures for the issuance of a license to an entity for the operation of pari-mutuel wagering in the Commonwealth; except that the Commission shall not issue a license to, and shall revoke the license of, an entity that, either directly or through an entity under common control with it, withholds the sale at fair market value to a licensee of simulcast horse racing signals that such entity or an entity under common control with it sells to other racetracks, satellite facilities, or advance deposit account wagering

providers located in or outside of the Commonwealth; (ii) provisions regarding access to books, records, and memoranda, and submission to investigations and audits, as authorized by subdivisions 2 and 10; and (iii) provisions regarding the collection of all revenues due to the Commonwealth from the placing of such wagers. No pari-mutuel wager may be made on or with any computer owned or leased by the Commonwealth, or any of its subdivisions, or at any public elementary or secondary school or institution of higher education. The Commission also shall ensure that, except for this method of pari-mutuel wagering, all wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

Nothing in this subdivision shall be construed to limit the Commission's authority as set forth elsewhere in this section.

6. The Commission may issue subpoenas for the attendance of witnesses before it, administer oaths, and compel production of records or other documents and testimony of such witnesses whenever, in the judgment of the Commission, it is necessary to do so for the effectual discharge of its duties.

7. The Commission may compel any person holding a license or permit to file with the Commission such data as shall appear to the Commission to be necessary for the performance of its duties including but not limited to financial statements and information relative to stockholders and all others with any pecuniary interest in such person. It may prescribe the manner in which books and records of such persons shall be kept.

8. The Commission may enter into arrangements with any foreign or domestic government or governmental agency, for the purposes of exchanging information or performing any other act to better ensure the proper conduct of horse racing.

9. The Commission shall report annually on or before March 1 to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Commission.

10. The Commission may order such audits, in addition to those required by § 59.1-394, as it deems necessary and desirable.

11. The Commission shall upon the receipt of a complaint of an alleged criminal violation of this chapter immediately report the complaint to the Attorney General of the Commonwealth and the State Police for appropriate action.

12. The Commission shall provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize or pay-off for a winning wager and shall establish the thresholds for such withholdings.

13. The Commission, its representatives and employees may, within the enclosure, stable, or other facility related to the conduct of racing, and during regular or usual business hours, subject any (i) permit holder to personal inspections, including alcohol and drug testing for illegal drugs, inspections of personal property, and inspections of other property or premises under the control of such permit holder and (ii) horse eligible to race at a race meeting licensed by the Commission to testing for substances foreign to the natural horse within the racetrack enclosure or other place where such horse is kept. Any item, document or record indicative of a violation of any provision of this chapter or Commission regulations may be seized as evidence of such violation. All permit holders consent to the searches and seizures authorized by this subdivision, including breath, blood and urine sampling for alcohol and illegal drugs, by accepting the permit issued by the Commission. The Commission may revoke or suspend the permit of any person who fails or refuses to comply with this subdivision or any rules of the Commission. Commission regulations in effect on July 1, 1998, shall continue in full force and effect until modified by the Commission in accordance with law.

14. The Commission shall require the existence of a contract between each licensee and the recognized majority horsemen's group for that licensee. Such contract shall be subject to the approval of the Commission, which shall have the power to approve or disapprove any of its items, including but not limited to the provisions regarding purses and prizes. Such contracts shall provide that on pools generated by wagering on simulcast horse racing from outside the Commonwealth, (i) for the first $75 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of five percent in the horsemen's purse account, (ii) for any amount in excess of $75 million but less than $150 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of six percent in the horsemen's purse account, (iii) for amounts in excess of $150 million for each breed, the licensee shall deposit funds at the minimum rate of seven percent in the horsemen's purse account. Such deposits shall be made in the horsemen's purse accounts of the breed that generated the pools and such deposits shall be made within five days from the date on which the licensee receives wagers. In the absence of the required contract between the licensee and the recognized majority horsemen's group, the Commission may permit wagering to proceed on simulcast horse racing from outside of the Commonwealth, provided that the licensee deposits into the State Racing Operations Fund created pursuant to § 59.1-370.1 an amount equal to the minimum percentage of the total pari-mutuel handles as required in clauses (i), (ii), and (iii) or such lesser amount as the Commission may approve. The deposits shall be made within five days from the date on which the licensee receives wagers. Once a contract between the licensee and the recognized majority horsemen's group is executed and approved by the Commission, the Commission shall transfer these funds to the licensee and the horsemen's purse accounts.

15. Notwithstanding the provisions of § 59.1-391, the Commission may grant provisional limited licenses or provisional unlimited licenses to own or operate racetracks or satellite facilities to an applicant prior to the applicant securing the approval through the local referendum required by § 59.1-391. The provisional licenses issued by the Commission shall only become effective upon the approval of the racetrack or satellite wagering facilities in a referendum conducted pursuant to § 59.1-391 in the jurisdiction in which the racetrack or satellite wagering facility is to be located.

16. The Commission shall promulgate regulations requiring, for each calendar year, any significant infrastructure limited licensee that offers pari-mutuel wagering on historical horse racing to hold at least one live Thoroughbred horse

racing day, consisting of not less than eight races per day, for every 100 historical horse racing terminals installed at its significant infrastructure facility together with any satellite facility owned, operated, controlled, managed, or otherwise directly or indirectly affiliated with such licensee. The regulations shall require any such significant infrastructure limited licensee that holds more than one live Thoroughbred horse racing day in accordance with the provisions of this subdivision to hold at least one of those racing days on a weekend. The number of historical horse racing terminals installed at a significant infrastructure facility shall be calculated as of December 31 of the calendar year in question; however, only historical horse racing terminals that are fully operational shall be included in such calculation.

2. That the provisions of this act shall become effective on July 1, 2024.

CHAPTER 592

An Act to amend and reenact §§ 18.2-340.23, 18.2-340.26:2, 18.2-340.30, and 18.2-340.36 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.24:1, relating to charitable gaming; exemptions from certain requirements for specified organizations.

[H 2125]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.23, 18.2-340.26:2, 18.2-340.30, and 18.2-340.36 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-340.24:1 as follows:

§ 18.2-340.23. Organizations exempt from certain fees and reports.

A. No organization that reasonably expects, ~~based~~ on *the basis of* prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of $40,000 or less in any 12-month period from raffles conducted in accordance with the provisions of this article shall be required to (i) notify the Department of its intention to conduct raffles or (ii) comply with Department regulations governing raffles. ~~If any organization's actual gross receipts from raffles for the 12-month period exceed $40,000, the Department shall require the organization to file by a specified date the report required by § 18.2-340.30.~~

B. *Any organization that reasonably expects, on the basis of prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of $40,000 or less from all charitable gaming other than raffles on a total of no more than seven days per calendar year shall be required to register with the Department pursuant to the provisions of § 18.2-340.24:1.*

C. If any organization's actual gross receipts from raffles for the 12-month period exceed $40,000 as described in subsection A or actual gross receipts from all charitable gaming other than raffles conducted on a total of no more than seven days per calendar year exceed $40,000 as described in subsection B, the Department shall require the organization to obtain a permit pursuant to the provisions of § 18.2-340.25 and file by a specified date the report required by § 18.2-340.30.

D. Any (i) organization described in subdivision 15 of the definition of "organization" in § 18.2-340.16 or (ii) volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being part of the safety program of such political subdivision shall be exempt from the payment of application fees required by § 18.2-340.25 and the payment of audit fees required by § 18.2-340.31. Any such organization, department, agency, or unit that conducts electronic gaming shall be subject to such application fees and audit fees for its electronic gaming activities; however, in accordance with the provisions of § 18.2-340.31, any audit fees may be paid by either the organization or the electronic gaming manufacturer whose electronic gaming devices are present on the premises of the organization, department, agency, or unit. Nothing in this subsection shall be construed as exempting any organizations described in subdivision 15 of the definition of "organization" in § 18.2-340.16, volunteer fire departments, or volunteer emergency medical services agencies from any other provisions of this article or other Department regulations.

~~C.~~ *E.* Nothing in this section shall prevent the Department from conducting any investigation or audit it deems appropriate to ensure an organization's compliance with the provisions of this article and, to the extent applicable, Department regulations.

§ 18.2-340.24:1. Registration requirements; certain organizations.

A. Any organization seeking to conduct charitable gaming in accordance with subsection B of § 18.2-340.23 shall first register with the Department on a form prescribed by the Department. The Department shall only require the organization to provide (i) proof of the organization's nonprofit status; (ii) contact information for the chief executive officer of the organization or his designee; (iii) the location, dates, and times of any expected charitable gaming activity; (iv) a description of the general nature of the anticipated charitable gaming activity; and (v) a signed attestation that the organization (a) does not reasonably expect to realize more than $40,000 in gross receipts on a total of no more than seven days per calendar year for the charitable gaming activities listed on the registration form, (b) understands that should the organization exceed the $40,000 threshold, it will be required to file the report in accordance with § 18.2-340.30, and (c) understands it shall be required to comply with the provisions of this article and Department regulations.

B. Any organization that registers with the Department pursuant to this section is subject to random audits of its charitable gaming activities by the Department and is subject to the penalties specified in §§ 18.2-340.36 and 18.2-340.37 for gross violations of this article.

C. The Department may deny, suspend, or revoke the registration of any organization found not to be in compliance with the provisions of this article and Department regulations. The action of the Department in denying, suspending, or revoking any registration shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

D. Any person aggrieved by the denial, suspension, or revocation of a registration or any other action of the Department may seek review of such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

§ 18.2-340.26:2. Sale of instant bingo, pull tabs, or seal cards dispensed by mechanical equipment.

As a part of its annual ~~fund-raising~~ *fundraising* event, any qualified organization ~~that is an athletic association or booster club or a band booster club~~ may sell instant bingo, pull tabs, or seal cards*,* provided that (i) *any such instant bingo, pull tabs, or seal cards are dispensed by mechanical equipment only; (ii)* the sale *of the same* is limited to a single event ~~in a~~ *of no more than seven days per* calendar year ~~and (ii) the~~*; (iii) any such* event is open to the public*; and (iv) no such organization realizes actual gross receipts of more than $40,000 from the conduct of all charitable gaming other than raffles on a total of no more than seven days per calendar year. Notwithstanding the provisions of § 18.2-340.28, an organization authorized under this section shall not be required to sell such instant bingo, pull tabs, or seal cards at such times designated in the permit for regular bingo games or at a location at which the organization is authorized to conduct regular bingo games pursuant to subsections E and F of § 18.2-340.27. If any organization's actual gross receipts from the sale of instant bingo, pull tabs, or seal cards pursuant to this section exceed $40,000, the Department shall require the organization to obtain a permit pursuant to the provisions of § 18.2-340.25 and file by a specified date the report required by § 18.2-340.30.* The Department may require organizations authorized under this section to make such financial reporting as it deems necessary.

Nothing in this section shall be construed as exempting organizations authorized to sell instant bingo, pull tabs, or seal cards under this section from any other provisions of this article or other Department regulations.

§ 18.2-340.30. Reports of gross receipts, electronic gaming adjusted gross receipts, and disbursements required; form of reports; failure to file.

A. 1. Each qualified organization shall keep a complete record of all:

a. Inventory of charitable gaming supplies purchased.

b. Receipts from its charitable gaming operation, including a breakdown of receipts attributable to each type of game offered.

c. Electronic gaming adjusted gross receipts.

d. Disbursements related to charitable gaming and electronic gaming operations, including a breakdown of disbursements for each purpose specified in subdivision 1 of § 18.2-340.33.

2. Except as provided in §§ 18.2-340.23 and 18.2-340.30:2, each qualified organization shall file under penalty of perjury and at least annually, on a form prescribed by the Department, a report of all receipts and disbursements specified in subdivision 1, the amount of money on hand attributable to charitable gaming as of the end of the period covered by the report, and any other information related to its charitable gaming operation that the Department may require. In addition, the Commissioner, by regulation, may require any qualified organization*, except any qualified organization that realizes annual gross receipts of $40,000 or less,* whose net receipts exceed a specified amount during any three-month period to file a report of its receipts and disbursements for such period. All reports filed pursuant to this section shall be a matter of public record.

B. All reports required by this section shall be filed on or before the date prescribed by the Department. The Commissioner, by regulation, shall establish a schedule of late fees to be assessed for any organization that fails to submit required reports by the due date.

C. Except as provided in § 18.2-340.23, each qualified organization shall designate or compensate an outside individual or group who shall be responsible for filing an annual, and, if required, quarterly, financial report if the organization goes out of business or otherwise ceases to conduct charitable gaming activities. The Department shall require such reports as it deems necessary until all proceeds of any charitable gaming have been used for the purposes specified in § 18.2-340.19 or have been disbursed in a manner approved by the Department.

D. Each qualified organization shall maintain for three years a complete written record of (i) all charitable gaming sessions using Department prescribed forms or reasonable facsimiles thereof approved by the Department; (ii) the name and address of each individual to whom is awarded any charitable gaming prize or jackpot that meets or exceeds the requirements of Internal Revenue Service Publication 3079, as well as the amount of the award; and (iii) an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games.

E. The failure to file reports within 30 days of the time such reports are due shall cause the automatic revocation of the permit, and no organization shall conduct any bingo game or raffle thereafter until the report is properly filed and a new permit is obtained. However, the Department may grant an extension of time for filing such reports for a period not to exceed 45 days if requested by an organization, provided the organization requests an extension within 15 days of the time such reports are due and all projected fees are paid. For the term of any such extension, the organization's permit shall not be automatically revoked, such organization may continue to conduct charitable gaming, or electronic gaming if authorized to do so pursuant to the provisions of this article, and no new permit shall be required.

F. For purposes of this section, the requirement to file a report shall also include the payment of any applicable fees required to accompany such report.

§ 18.2-340.36. Suspension of permit and registration.

A. When any officer charged with the enforcement of the charitable gaming laws of the Commonwealth has reasonable cause to believe that the conduct of charitable gaming is being conducted by an organization in violation of this article or Department regulations, he may apply to any judge, magistrate, or other person having authority to issue criminal warrants for the immediate suspension of the permit *or registration* of the organization conducting ~~the bingo game or raffle~~ *charitable gaming*. If the judge, magistrate, or person to whom such application is presented is satisfied that probable cause exists to suspend the permit *or registration*, he shall suspend the permit *or registration*. Immediately upon such suspension, the officer shall notify the organization in writing of such suspension.

B. Written notice specifying the particular basis for the immediate suspension shall be provided by the officer to the organization within one business day of the suspension and a hearing held thereon by the Department or its designated hearing officer within 10 days of the suspension unless the organization consents to a later date. No charitable gaming shall be conducted by the organization until the suspension has been lifted by the Department or a court of competent jurisdiction.

CHAPTER 593

An Act to amend and reenact §§ 18.2-340.23, 18.2-340.26:2, 18.2-340.30, and 18.2-340.36 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.24:1, relating to charitable gaming; exemptions from certain requirements for specified organizations.

[S 1235]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.23, 18.2-340.26:2, 18.2-340.30, and 18.2-340.36 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-340.24:1 as follows:

§ 18.2-340.23. Organizations exempt from certain fees and reports.

A. No organization that reasonably expects, ~~based~~ on *the basis of* prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of $40,000 or less in any 12-month period from raffles conducted in accordance with the provisions of this article shall be required to (i) notify the Department of its intention to conduct raffles or (ii) comply with Department regulations governing raffles. ~~If any organization's actual gross receipts from raffles for the 12-month period exceed $40,000, the Department shall require the organization to file by a specified date the report required by § 18.2-340.30.~~

B. *Any organization that reasonably expects, on the basis of prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of $40,000 or less from all charitable gaming other than raffles on a total of no more than seven days per calendar year shall be required to register with the Department pursuant to the provisions of § 18.2-340.24:1.*

C. If any organization's actual gross receipts from raffles for the 12-month period exceed $40,000 as described in subsection A or actual gross receipts from all charitable gaming other than raffles conducted on a total of no more than seven days per calendar year exceed $40,000 as described in subsection B, the Department shall require the organization to obtain a permit pursuant to the provisions of § 18.2-340.25 and file by a specified date the report required by § 18.2-340.30.

D. Any (i) organization described in subdivision 15 of the definition of "organization" in § 18.2-340.16 or (ii) volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being part of the safety program of such political subdivision shall be exempt from the payment of application fees required by § 18.2-340.25 and the payment of audit fees required by § 18.2-340.31. Any such organization, department, agency, or unit that conducts electronic gaming shall be subject to such application fees and audit fees for its electronic gaming activities; however, in accordance with the provisions of § 18.2-340.31, any audit fees may be paid by either the organization or the electronic gaming manufacturer whose electronic gaming devices are present on the premises of the organization, department, agency, or unit. Nothing in this subsection shall be construed as exempting any organizations described in subdivision 15 of the definition of "organization" in § 18.2-340.16, volunteer fire departments, or volunteer emergency medical services agencies from any other provisions of this article or other Department regulations.

~~C.~~ *E.* Nothing in this section shall prevent the Department from conducting any investigation or audit it deems appropriate to ensure an organization's compliance with the provisions of this article and, to the extent applicable, Department regulations.

§ 18.2-340.24:1. Registration requirements; certain organizations.

A. Any organization seeking to conduct charitable gaming in accordance with subsection B of § 18.2-340.23 shall first register with the Department on a form prescribed by the Department. The Department shall only require the organization to provide (i) proof of the organization's nonprofit status; (ii) contact information for the chief executive officer of the organization or his designee; (iii) the location, dates, and times of any expected charitable gaming activity; (iv) a

description of the general nature of the anticipated charitable gaming activity; and (v) a signed attestation that the organization (a) does not reasonably expect to realize more than $40,000 in gross receipts on a total of no more than seven days per calendar year for the charitable gaming activities listed on the registration form, (b) understands that should the organization exceed the $40,000 threshold, it will be required to file the report in accordance with § 18.2-340.30, and (c) understands it shall be required to comply with the provisions of this article and Department regulations.

B. Any organization that registers with the Department pursuant to this section is subject to random audits of its charitable gaming activities by the Department and is subject to the penalties specified in §§ 18.2-340.36 and 18.2-340.37 for gross violations of this article.

C. The Department may deny, suspend, or revoke the registration of any organization found not to be in compliance with the provisions of this article and Department regulations. The action of the Department in denying, suspending, or revoking any registration shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

D. Any person aggrieved by the denial, suspension, or revocation of a registration or any other action of the Department may seek review of such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

§ 18.2-340.26:2. Sale of instant bingo, pull tabs, or seal cards dispensed by mechanical equipment.

As a part of its annual ~~fund-raising~~ *fundraising* event, any qualified organization ~~that is an athletic association or booster club or a band booster club~~ may sell instant bingo, pull tabs, or seal cards*,* provided that (i) *any such instant bingo, pull tabs, or seal cards are dispensed by mechanical equipment only; (ii)* the sale *of the same* is limited to a single event ~~in a~~ *of no more than seven days per* calendar year ~~and (ii) the~~*; (iii) any such* event is open to the public*; and (iv) no such organization realizes actual gross receipts of more than $40,000 from the conduct of all charitable gaming other than raffles on a total of no more than seven days per calendar year. Notwithstanding the provisions of § 18.2-340.28, an organization authorized under this section shall not be required to sell such instant bingo, pull tabs, or seal cards at such times designated in the permit for regular bingo games or at a location at which the organization is authorized to conduct regular bingo games pursuant to subsections E and F of § 18.2-340.27. If any organization's actual gross receipts from the sale of instant bingo, pull tabs, or seal cards pursuant to this section exceed $40,000, the Department shall require the organization to obtain a permit pursuant to the provisions of § 18.2-340.25 and file by a specified date the report required by § 18.2-340.30.* The Department may require organizations authorized under this section to make such financial reporting as it deems necessary.

Nothing in this section shall be construed as exempting organizations authorized to sell instant bingo, pull tabs, or seal cards under this section from any other provisions of this article or other Department regulations.

§ 18.2-340.30. Reports of gross receipts, electronic gaming adjusted gross receipts, and disbursements required; form of reports; failure to file.

A. 1. Each qualified organization shall keep a complete record of all:

a. Inventory of charitable gaming supplies purchased.

b. Receipts from its charitable gaming operation, including a breakdown of receipts attributable to each type of game offered.

c. Electronic gaming adjusted gross receipts.

d. Disbursements related to charitable gaming and electronic gaming operations, including a breakdown of disbursements for each purpose specified in subdivision 1 of § 18.2-340.33.

2. Except as provided in §§ 18.2-340.23 and 18.2-340.30:2, each qualified organization shall file under penalty of perjury and at least annually, on a form prescribed by the Department, a report of all receipts and disbursements specified in subdivision 1, the amount of money on hand attributable to charitable gaming as of the end of the period covered by the report, and any other information related to its charitable gaming operation that the Department may require. In addition, the Commissioner, by regulation, may require any qualified organization*, except any qualified organization that realizes annual gross receipts of $40,000 or less,* whose net receipts exceed a specified amount during any three-month period to file a report of its receipts and disbursements for such period. All reports filed pursuant to this section shall be a matter of public record.

B. All reports required by this section shall be filed on or before the date prescribed by the Department. The Commissioner, by regulation, shall establish a schedule of late fees to be assessed for any organization that fails to submit required reports by the due date.

C. Except as provided in § 18.2-340.23, each qualified organization shall designate or compensate an outside individual or group who shall be responsible for filing an annual, and, if required, quarterly, financial report if the organization goes out of business or otherwise ceases to conduct charitable gaming activities. The Department shall require such reports as it deems necessary until all proceeds of any charitable gaming have been used for the purposes specified in § 18.2-340.19 or have been disbursed in a manner approved by the Department.

D. Each qualified organization shall maintain for three years a complete written record of (i) all charitable gaming sessions using Department prescribed forms or reasonable facsimiles thereof approved by the Department; (ii) the name and address of each individual to whom is awarded any charitable gaming prize or jackpot that meets or exceeds the requirements of Internal Revenue Service Publication 3079, as well as the amount of the award; and (iii) an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games.

E. The failure to file reports within 30 days of the time such reports are due shall cause the automatic revocation of the permit, and no organization shall conduct any bingo game or raffle thereafter until the report is properly filed and a new

permit is obtained. However, the Department may grant an extension of time for filing such reports for a period not to exceed 45 days if requested by an organization, provided the organization requests an extension within 15 days of the time such reports are due and all projected fees are paid. For the term of any such extension, the organization's permit shall not be automatically revoked, such organization may continue to conduct charitable gaming, or electronic gaming if authorized to do so pursuant to the provisions of this article, and no new permit shall be required.

F. For purposes of this section, the requirement to file a report shall also include the payment of any applicable fees required to accompany such report.

§ 18.2-340.36. Suspension of permit and registration.

A. When any officer charged with the enforcement of the charitable gaming laws of the Commonwealth has reasonable cause to believe that the conduct of charitable gaming is being conducted by an organization in violation of this article or Department regulations, he may apply to any judge, magistrate, or other person having authority to issue criminal warrants for the immediate suspension of the permit *or registration* of the organization conducting ~~the bingo game or raffle~~ *charitable gaming*. If the judge, magistrate, or person to whom such application is presented is satisfied that probable cause exists to suspend the permit *or registration*, he shall suspend the permit *or registration*. Immediately upon such suspension, the officer shall notify the organization in writing of such suspension.

B. Written notice specifying the particular basis for the immediate suspension shall be provided by the officer to the organization within one business day of the suspension and a hearing held thereon by the Department or its designated hearing officer within 10 days of the suspension unless the organization consents to a later date. No charitable gaming shall be conducted by the organization until the suspension has been lifted by the Department or a court of competent jurisdiction.

CHAPTER 594

An Act to amend and reenact §§ 18.2-340.16 and 18.2-340.23 of the Code of Virginia, relating to charitable gaming; definition of "organization."

[H 2419]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.16 and 18.2-340.23 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-340.16. Definitions.

As used in this article, unless the context requires a different meaning:

"Bingo" means a specific game of chance played with (i) individual cards having randomly numbered squares ranging from one to 75, (ii) Department-approved electronic devices that display facsimiles of bingo cards and are used for the purpose of marking and monitoring players' cards as numbers are called, or (iii) Department-approved cards, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random.

"Bona fide member" means an individual who participates in activities of a qualified organization other than such organization's charitable gaming activities.

"Charitable gaming" or "charitable games" means those raffles, Texas Hold'em poker tournaments, and games of chance explicitly authorized by this article. Unless otherwise specified, "charitable gaming" includes electronic gaming authorized by this article.

"Charitable gaming permit" or "permit" means a permit issued by the Department to an organization that authorizes such organization to conduct charitable gaming, and if such organization is qualified as a social organization, electronic gaming.

"Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers, instant bingo cards, pull-tab cards and seal cards, playing cards for Texas Hold'em poker, poker chips, and any other equipment or product manufactured for or intended to be used in the conduct of charitable games. However, for the purposes of this article, charitable gaming supplies shall not include items incidental to the conduct of charitable gaming such as markers, wands, or tape.

"Commissioner" means the Commissioner of the Department of Agriculture and Consumer Services.

"Conduct" means the actions associated with the provision of a gaming operation during and immediately before or after the permitted activity, which may include (i) selling bingo cards or packs, electronic devices, instant bingo or pull-tab cards, or raffle tickets, (ii) calling bingo games, (iii) distributing prizes, and (iv) any other services provided by volunteer workers.

"Department" means the Department of Agriculture and Consumer Services.

"Electronic gaming" or "electronic games" means any instant bingo, pull tabs, or seal card gaming that is conducted primarily by use of an electronic device. "Electronic gaming" does not include (i) the game of chance identified in clause (ii) of the definition of "bingo" or (ii) network bingo.

"Electronic gaming adjusted gross receipts" means the gross receipts derived from electronic gaming less the total amount in prize money paid out to players.

"Electronic gaming manufacturer" means a manufacturer of electronic devices used to conduct electronic gaming.

"Fair market rental value" means the rent that a rental property will bring when offered for lease by a lessor who desires to lease the property but is not obligated to do so and leased by a lessee under no necessity of leasing.

"Gaming expenses" means prizes, supplies, costs of publicizing gaming activities, audit and administration or permit fees, and a portion of the rent, utilities, accounting and legal fees, and such other reasonable and proper expenses as are directly incurred for the conduct of charitable gaming.

"Gross receipts" means the total amount of money generated by an organization from charitable gaming before the deduction of expenses, including prizes.

"Instant bingo," "pull tabs," or "seal cards" means specific games of chance played by the random selection of one or more individually prepacked cards with winners being determined by the preprinted or predetermined appearance of concealed letters, numbers, or symbols that must be exposed by the player to determine wins and losses and may include the use of a seal card that conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by mechanical equipment.

"Jackpot" means a bingo game that the organization has designated on its game program as a jackpot game in which the prize amount is greater than $100.

"Landlord" means any person or his agent, firm, association, organization, partnership, or corporation, employee, or immediate family member thereof, which owns and leases, or leases any premises devoted in whole or in part to the conduct of bingo games or other charitable gaming pursuant to this article, and any person residing in the same household as a landlord.

"Management" means the provision of oversight of a gaming operation, which may include the responsibilities of applying for and maintaining a permit or authorization, compiling, submitting, and maintaining required records and financial reports, and ensuring that all aspects of the operation are in compliance with all applicable statutes and regulations.

"Network bingo" means a specific bingo game in which pari-mutuel play is permitted.

"Network bingo provider" means a person licensed by the Department to operate network bingo.

"Operation" means the activities associated with production of a charitable gaming or electronic gaming activity, which may include (i) the direct on-site supervision of the conduct of charitable gaming and electronic gaming; (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming and electronic gaming designated by the organization's management.

"Organization" means any one of the following:

1. A volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being a part of the safety program of such political subdivision;

2. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code, is operated, and has always been operated, exclusively for educational purposes, and awards scholarships to accredited public institutions of higher education or other postsecondary schools licensed or certified by the Board of Education or the State Council of Higher Education for Virginia;

3. An athletic association or booster club or a band booster club established solely to raise funds for school-sponsored athletic or band activities for a public school or private school accredited pursuant to § 22.1-19 or to provide scholarships to students attending such school;

4. An association of war veterans or auxiliary units thereof organized in the United States;

5. A fraternal association or corporation operating under the lodge system;

6. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to provide services and other resources to older Virginians, as defined in § 51.5-116;

7. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to foster youth amateur sports;

8. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to provide health care services or conduct medical research;

9. An accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

10. A church or religious organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

11. An organization that is exempt from income tax pursuant to § 501(c)(3) or 501(c)(4) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) create and foster a spirit of understanding among the people of the world; (ii) promote the principles of good government and citizenship; (iii) take an active interest in the civic, cultural, social, and moral welfare of the community; (iv) provide a forum for the open discussion of matters of public interest; (v) encourage individuals to serve the community without personal financial reward; and (vi) encourage efficiency and promote high ethical standards in commerce, industries, professions, public works, and private endeavors;

12. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) raise awareness of law-enforcement officers who died in the line

of duty; (ii) raise funds for the National Law Enforcement Officers Memorial and Museum; and (iii) raise funds for the charitable causes of other organizations that are exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

13. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) promote the conservation of the environment, caves, or other natural resources; (ii) promote or develop opportunities for the use of science and technology to advance the conservation of the environment, caves, or other natural resources; and (iii) raise funds for the conservation of the environment, caves, or other natural resources or provide grant opportunities to other nonprofit organizations that are devoted to such conservation efforts;

14. *An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code that manages a museum that is operated, and has always been operated, exclusively for the purposes of musical heritage and the legacy of the "1927 Bristol Sessions";*

15. A local chamber of commerce; or

~~15.~~ *16.* Any other nonprofit organization that is exempt from income tax pursuant to § 501(c) of the Internal Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or seal cards that generate annual gross receipts of $40,000 or less, provided that such gross receipts, less expenses and prizes, are used exclusively for charitable, educational, religious, or community purposes. Notwithstanding § 18.2-340.26:1, proceeds from instant bingo, pull tabs, and seal cards shall be included when calculating an organization's annual gross receipts for the purposes of this subdivision.

"Pari-mutuel play" means an integrated network operated by a licensee of the Department comprised of participating charitable organizations for the conduct of network bingo games in which the purchase of a network bingo card by a player automatically includes the player in a pool with all other players in the network, and where the prize to the winning player is awarded based on a percentage of the total amount of network bingo cards sold in a particular network.

"Qualified organization" means any organization to which a valid permit has been issued by the Department to conduct charitable gaming or any organization that is exempt pursuant to § 18.2-340.23.

"Raffle" means a lottery in which the prize is won by (i) a random drawing of the name or prearranged number of one or more persons purchasing chances or (ii) a random contest in which the winning name or preassigned number of one or more persons purchasing chances is determined by a race involving inanimate objects floating on a body of water, commonly referred to as a "duck race."

"Reasonable and proper business expenses" means business expenses actually incurred by a qualified organization in the conduct of charitable gaming and not otherwise allowed under this article or under Department regulations on real estate and personal property tax payments, travel expenses, payments of utilities and trash collection services, legal and accounting fees, costs of business furniture, fixtures and office equipment and costs of acquisition, maintenance, repair, or construction of an organization's real property. For the purpose of this definition, salaries and wages of employees whose primary responsibility is to provide services for the principal benefit of an organization's members may qualify as a business expense, if so determined by the Department. However, payments made pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund shall be deemed a reasonable and proper business expense.

"Social organization" means any qualified organization that provides certification to the Department that it is:

1. An accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia qualified under § 501(c)(3) of the Internal Revenue Code;

2. A fraternal beneficiary society, order, or association qualified under § 501(c)(8) of the Internal Revenue Code;

3. A domestic fraternal society, order, or association qualified under § 501(c)(10) of the Internal Revenue Code; or

4. A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization qualified under § 501(c)(19) of the Internal Revenue Code.

"Social quarters" means, in addition to any specifications prescribed by the Department, an area at a social organization's primary location that (i) such organization designates to be used predominantly by its members for social and recreational activities, (ii) is accessible exclusively to members of the social organization and their guests, and (iii) is not advertised or open to the general public. It shall not disqualify the area from being considered social quarters if guests occasionally accompany members into the area, so long as such guests do not spend their own funds to participate in charitable gaming or electronic gaming activities conducted in the area. In determining if an area is social quarters for purposes of § 18.2-340.26:3, the Department may rely on publications of the Internal Revenue Service regarding the allowable participation of guests in an organization's social and recreational activities for purposes of § 501 of the Internal Revenue Code.

"Supplier" means any person who offers to sell, sells, or otherwise provides charitable gaming supplies to any qualified organization.

"Texas Hold'em poker game" means a variation of poker in which (i) players receive two cards facedown that may be used individually, (ii) five cards shown face up are shared among all players in the game, (iii) players combine any number of their individual cards with the shared cards to make the highest five-card hand to win the value wagered during the game,

and (iv) the ranking of hands and the rules of the game are governed by the official rules of the Poker Tournament Directors Association.

"Texas Hold'em poker tournament" or "tournament" means an organized competition of players (i) who pay a fixed fee for entry into the competition and for a certain amount of poker chips for use in the competition; (ii) who may be allowed to pay an additional fee, during set preannounced times of the competition, to receive additional poker chips for use in the competition; (iii) who may be seated at one or more tables simultaneously playing Texas Hold'em poker games; (iv) who upon running out of poker chips are eliminated from the competition; and (v) a pre-set number of whom are awarded prizes of value according to how long such players remain in the competition.

§ 18.2-340.23. Organizations exempt from certain fees and reports.

A. No organization that reasonably expects, based on prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of $40,000 or less in any 12-month period from raffles conducted in accordance with the provisions of this article shall be required to (i) notify the Department of its intention to conduct raffles or (ii) comply with Department regulations governing raffles. If any organization's actual gross receipts from raffles for the 12-month period exceed $40,000, the Department shall require the organization to file by a specified date the report required by § 18.2-340.30.

B. Any (i) organization described in subdivision ~~15~~ *16* of the definition of "organization" in § 18.2-340.16 or (ii) volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being part of the safety program of such political subdivision shall be exempt from the payment of application fees required by § 18.2-340.25 and the payment of audit fees required by § 18.2-340.31. Any such organization, department, agency, or unit that conducts electronic gaming shall be subject to such application fees and audit fees for its electronic gaming activities; however, in accordance with the provisions of § 18.2-340.31, any audit fees may be paid by either the organization or the electronic gaming manufacturer whose electronic gaming devices are present on the premises of the organization, department, agency, or unit. Nothing in this subsection shall be construed as exempting any organizations described in subdivision ~~15~~ *16* of the definition of "organization" in § 18.2-340.16, volunteer fire departments, or volunteer emergency medical services agencies from any other provisions of this article or other Department regulations.

C. Nothing in this section shall prevent the Department from conducting any investigation or audit it deems appropriate to ensure an organization's compliance with the provisions of this article and, to the extent applicable, Department regulations.

CHAPTER 595

An Act to amend and reenact § 64.2-2009 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 64.2-2009.1, relating to guardianship and conservatorship; periodic review hearings.

[S 987]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 64.2-2009 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 64.2-2009.1 as follows:

§ 64.2-2009. Court order of appointment; limited guardianships and conservatorships.

A. The court's order appointing a guardian or conservator shall (i) state the nature and extent of the person's incapacity; (ii) define the powers and duties of the guardian or conservator so as to permit the incapacitated person to care for himself and manage property to the extent he is capable; (iii) specify whether the appointment of a guardian or conservator is limited to a specified length of time, as the court in its discretion may determine; (iv) specify the legal disabilities, if any, of the person in connection with the finding of incapacity, including but not limited to mental competency for purposes of Article II, § 1 of the Constitution of Virginia or Title 24.2; (v) include any limitations deemed appropriate following consideration of the factors specified in § 64.2-2007; (vi) set the bond of the guardian and the bond and surety, if any, of the conservator; and (vii) where a petition is brought prior to the incapacitated person's eighteenth birthday, pursuant to subsection C of § 64.2-2001, whether the order shall take effect immediately upon entry or on the incapacitated person's eighteenth birthday.

A1. Beginning July 1, 2023, the court shall set a schedule in the order of appointment for periodic review hearings, to be held no later than one year after the initial appointment and no later than every three years thereafter, unless the court orders that such hearings are to be waived because they are unnecessary or impracticable or that such hearings shall be held on such other schedule as the court shall determine. Any such determination to waive the hearing or use a schedule differing from that prescribed in this subsection shall be supported in the order and address the reason for such determination, including (i) the likelihood that the respondent's condition will improve or the respondent will regain capacity, (ii) whether concerns or questions were raised about the suitability of the person appointed as a guardian or conservator at the time of the initial appointment, and (iii) whether the appointment of a guardian or conservator or the appointment of the specifically appointed guardian or conservator was contested by the respondent or another party.

The court shall not waive the initial periodic review hearing scheduled pursuant to this subsection where the petitioner for guardianship or conservatorship is a hospital, convalescent home, or certified nursing facility licensed by the Department of Health pursuant to § 32.1-123; an assisted living facility, as defined in § 63.2-100, or any other similar institution; or a health care provider other than a family member. If the petitioner is a hospital, convalescent home, or certified nursing facility licensed by the Department of Health pursuant to § 32.1-123 or an assisted living facility as defined in § 63.2-100, nothing in this chapter shall require such petitioner to attend any periodic review hearing.

Any person may file a petition, which may be on a form developed by the Office of the Executive Secretary of the Supreme Court of Virginia, to hold a periodic review hearing prior to the scheduled date set forth in the order of appointment. The court shall hold an earlier hearing upon good cause shown. At such a hearing, the court shall review the schedule set forth in the order of appointment and determine whether future periodic review hearings are necessary or may be waived.

A2. If the court has ordered a hearing pursuant to subsection A1, the court shall appoint a guardian ad litem, who shall conduct an investigation in accordance with the stated purpose of the hearing and file a report. The incapacitated person has a right to be represented by counsel, and the provisions of § 64.2-2006 shall apply, mutatis mutandis. The guardian ad litem shall provide notice of the hearing to the incapacitated person and to all individuals entitled to notice as identified in the court order of appointment. Fees and costs shall be paid in accordance with the provisions of §§ 64.2-2003 and 64.2-2008. The court shall enter an order reflecting any findings made during the review hearing and any modification to the guardianship or conservatorship.

B. The court may appoint a limited guardian for an incapacitated person who is capable of addressing some of the essential requirements for his care for the limited purpose of medical decision making, decisions about place of residency, or other specific decisions regarding his personal affairs. The court may appoint a limited conservator for an incapacitated person who is capable of managing some of his property and financial affairs for limited purposes that are specified in the order.

C. Unless the guardian has a professional relationship with the incapacitated person or is employed by or affiliated with a facility where the person resides, the court's order may authorize the guardian to consent to the admission of the person to a facility pursuant to § 37.2-805.1, upon finding by clear and convincing evidence that (i) the person has severe and persistent mental illness that significantly impairs the person's capacity to exercise judgment or self-control, as confirmed by the evaluation of a licensed psychiatrist; (ii) such condition is unlikely to improve in the foreseeable future; and (iii) the guardian has formulated a plan for providing ongoing treatment of the person's illness in the least restrictive setting suitable for the person's condition.

D. A guardian need not be appointed for a person who has appointed an agent under an advance directive executed in accordance with the provisions of Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, unless the court determines that the agent is not acting in accordance with the wishes of the principal or there is a need for decision making outside the purview of the advance directive. A guardian need not be appointed for a person where a health care decision is made pursuant to, and within the scope of, the Health Care Decisions Act (§ 54.1-2981 et seq.).

A conservator need not be appointed for a person (i) who has appointed an agent under a durable power of attorney, unless the court determines pursuant to the Uniform Power of Attorney Act (§ 64.2-1600 et seq.) that the agent is not acting in the best interests of the principal or there is a need for decision making outside the purview of the durable power of attorney or (ii) whose only or major source of income is from the Social Security Administration or other government program and who has a representative payee.

E. All orders appointing a guardian shall include the following statements in conspicuous bold print in at least 14-point type:

"1. Pursuant to § 64.2-2009 of the Code of Virginia, _____ (name of guardian), is hereby appointed as guardian of _____ (name of respondent) with all duties and powers granted to a guardian pursuant to § 64.2-2019 of the Code of Virginia, including but not limited to: (enter a statement of the rights removed and retained, if any, at the time of appointment; whether the appointment of a guardian is a full guardianship, public guardianship pursuant to § 64.2-2010 of the Code of Virginia, limited guardianship pursuant to § 64.2-2009 of the Code of Virginia, or temporary guardianship; and the duration of the appointment).

2. Pursuant to the provisions of subsection E of § 64.2-2019 of the Code of Virginia, a guardian, to the extent possible, shall encourage the incapacitated person to participate in decisions, shall consider the expressed desires and personal values of the incapacitated person to the extent known, and shall not unreasonably restrict an incapacitated person's ability to communicate with, visit, or interact with other persons with whom the incapacitated person has an established relationship.

3. Pursuant to § 64.2-2020 of the Code of Virginia, an annual report shall be filed by the guardian with the local department of social services for the jurisdiction where the incapacitated person resides.

4. Pursuant to § 64.2-2012 of the Code of Virginia, all guardianship orders are subject to petition for restoration of the incapacitated person to capacity; modification of the type of appointment or areas of protection, management, or assistance granted; or termination of the guardianship."

§ 64.2-2009.1. Periodic review hearings.

A hearing held pursuant to the schedule set forth in subsection A1 of § 64.2-2009 shall include the following assessments by the court: (i) whether the guardian or conservator is fulfilling his duties and (ii) whether continuation of the

guardianship or conservatorship is necessary and, if so, whether the scope of such guardianship or conservatorship warrants modification.

CHAPTER 596

An Act to amend and reenact § 59.1-200 of the Code of Virginia, relating to the Virginia Consumer Protection Act; prohibited practices; kratom products.

[S 1108]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-200 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-200. Prohibited practices.

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;

2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;

4. Misrepresenting geographic origin in connection with goods or services;

5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;

6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";

8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516, or 3.2-6519 is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is

obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of $5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.);

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.);

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.);

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.);

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

37. Violating any provision of § 8.01-40.2;

38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);

40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.);

42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);

43. Violating any provision of § 59.1-443.2;

44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);

45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;

46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;

47. Violating any provision of § 18.2-239;

48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);

49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";

50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);

51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;

52. Violating any provision of § 8.2-317.1;

53. Violating subsection A of § 9.1-149.1;

54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;

55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;

56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;

58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);

59. Violating any provision of subsection E of § 32.1-126;

60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

61. Violating any provision of § 2.2-2001.5;

62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;

63. Violating any provision of § 6.2-312;

64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;

65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;

66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);

67. Knowingly violating any provision of § 8.01-27.5;

68. Failing to make available a conspicuous online option to cancel a recurring purchase of a good or service as required by § 59.1-207.46;

69. Selling or offering for sale to a person younger than 21 years of age any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 of Chapter 34 of Title 54.1 of the Code of Virginia;

70. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 of Chapter 34 of Title 54.1 of the Code of Virginia;

71. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit; ~~and~~

72. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance*; and*

73. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any kratom product that does not include a label listing all ingredients and with the following guidance: "This product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose, treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the plant Mitragyna speciosa or any extract thereof.

B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

CHAPTER 597

An Act to amend and reenact §§ 3.2-102, 4.1-206.2, 4.1-223, 4.1-225.1, 4.1-231.1, and 4.1-310.1 of the Code of Virginia, relating to alcoholic beverage control; beer distribution.

[H 2258]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-102, 4.1-206.2, 4.1-223, 4.1-225.1, 4.1-231.1, and 4.1-310.1 of the Code of Virginia are amended and reenacted as follows:

§ 3.2-102. General powers and duties of the Commissioner.

A. The Commissioner shall be vested with the powers and duties set out in § 2.2-601, the powers and duties herein provided, and such other powers and duties as may be prescribed by law, including those prescribed in Title 59.1. He shall be the executive officer of the Board, and shall see that its orders are carried out. He shall see to the proper execution of laws relating to the Department. Unless the Governor expressly reserves such power to himself, the Commissioner shall promote, protect, and develop the agricultural interests of the Commonwealth. The Commissioner shall develop, implement, and maintain programs within the Department including those that promote the development and marketing of the Commonwealth's agricultural products in domestic and international markets, including promotions, market development and research, marketing assistance, market information, and product grading and certification; promote the creation of new agribusiness including new crops, biotechnology and new uses of agricultural products, and the expansion of existing agribusiness within the Commonwealth; develop, promote, and maintain consumer protection programs that protect the safety and quality of the Commonwealth's food supply through food and dairy inspection activities, industry and consumer education, and information on food safety; preserve the Commonwealth's agricultural lands; ensure animal health and protect the Commonwealth's livestock industries through disease control and surveillance, maintaining animal health diagnostic laboratories, and encouraging the humane treatment and care of animals; protect public health and the environment through regulation and proper handling of pesticides, agricultural stewardship, and protection of endangered plant and insect species; protect crop and plant health and productivity; ensure consumer protection and fair trade practices in commerce; develop plans and emergency response protocols to protect the agriculture industry from bioterrorism, plant and animal diseases, and agricultural pests; assist as directed by the Governor in the Commonwealth's response to natural disasters; develop and implement programs and inspection activities to ensure that the Commonwealth's agricultural products move freely in trade domestically and internationally; and enter into agreements with federal, state, and local governments, land grant universities, and other organizations that include marketing, plant protection, pest control, pesticides, and meat and poultry inspection.

B. In addition, the Commissioner shall:

1. Establish and maintain a farm-to-school website. The purpose of the website shall be to facilitate and promote the purchase of Virginia farm products by schools, universities, and other educational institutions under the jurisdiction of the State Department of Education. The website shall present such current information as the availability of Virginia farm products, including the types and amount of products, and the names of and contact information for farmers, farm organizations, and businesses marketing such products;

2. Establish and operate a nonprofit, nonstock corporation under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 as a public instrumentality exercising public and essential governmental functions to promote, develop, and sustain markets for licensed Virginia wineries and farm wineries, as defined in § 4.1-100. Such corporation shall provide wholesale wine distribution services for wineries and farm wineries licensed in accordance with § 4.1-206.1. The board of directors of such corporation shall be composed of the Commissioner and four members appointed by the Board, including one owner or manager of a winery or farm winery licensee that is not served by a wholesaler when the owner or manager is appointed to the board; one owner or manager of a winery or farm winery licensee that produces no more than 10,000 cases per year; and two owners or managers of wine wholesaler licensees. In making appointments to the board of directors, the Board shall consider nominations of winery and farm winery licensees submitted by the Virginia Wineries Association and wine wholesale licensees submitted by the Virginia Wine Wholesalers Association. The Commissioner shall require such corporation to report to him at least annually on its activities, including reporting the quantity of wine distributed for each winery and farm winery during the preceding year. The provisions of the Virginia Public Procurement Act *(§ 2.2-4300 et seq.)* shall not apply to the establishment of such corporation nor to the exercise of any of its powers granted under this section; ~~and~~

3. *Establish and operate a nonprofit, nonstock corporation under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 as a public instrumentality exercising public and essential governmental functions to promote, develop, and sustain markets for Virginia breweries and limited breweries. Such corporation shall provide wholesale beer distribution services for Virginia breweries and limited breweries licensed in accordance with § 4.1-206.1. The board of directors of such corporation shall be composed of the Commissioner and four members appointed by the Board, (i) two of whom shall be an owner or manager of a Virginia beer wholesale licensee, (ii) one of whom shall be an owner or manager of a brewery or limited brewery licensee, and (iii) one of whom shall be an owner or manager of a brewery or limited brewery licensee that is not served by a wholesaler at the time such owner or manager is appointed to the board of directors. In making appointments to the board of directors, the Board shall consider nominations submitted by the Virginia Beer Wholesalers Association regarding members listed in clause (i) and nominations submitted by the Virginia Craft Brewers Guild regarding members listed in clauses (ii) and (iii). At least annually, such corporation shall be required to report to the Commissioner on its activities, including reporting the quantity of beer distributed for each brewery or limited brewery licensee during the preceding year. The Commissioner shall report such information to the General Assembly. The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the establishment of such corporation nor to the exercise of any of its powers granted under this section; and*

4. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) not inconsistent with the laws of Virginia necessary to carry out the provisions of Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2. Such regulations may include penalties for violations.

§ 4.1-206.2. Wholesale licenses.

The Board may grant the following wholesale licenses:

1. Wholesale beer licenses, *including those granted pursuant to subdivision 2,* which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

2. *Restricted wholesale beer licenses, which shall authorize a nonprofit, nonstock corporation created in accordance with subdivision B 3 of § 3.2-102 to provide wholesale beer distribution services to brewery and limited brewery licensees, provided that no more than 500 barrels of beer shall be distributed by the corporation to each licensee in any one calendar year. The corporation shall provide such distribution services in accordance with the terms of a written agreement with the brewery or limited brewery licensee, which shall comply with the provisions of this subtitle and Board regulations. The corporation shall receive all of the privileges of, and be subject to all laws and regulations governing, wholesale beer licenses granted under subdivision 1. The board of directors of such corporation shall develop procedures and guidelines related to the sale and delivery of beer by the corporation to holders of banquet and special events licenses when such events are located within the exclusive distribution territory of another wholesale beer licensee.*

3. Wholesale wine licenses, including those granted pursuant to subdivision ~~3~~ *4*, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from one or more premises identified in the license, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

~~3.~~ *4.* Restricted wholesale wine licenses, which shall authorize a nonprofit, nonstock corporation created in accordance with subdivision B 2 of § 3.2-102 to provide wholesale wine distribution services to winery and farm winery licensees, provided that no more than 3,000 cases of wine produced by a winery or farm winery licensee shall be distributed by the corporation in any one year. The corporation shall provide such distribution services in accordance with the terms of a written agreement approved by the corporation between it and the winery or farm winery licensee, which shall comply with the provisions of this subtitle and Board regulations. The corporation shall receive all of the privileges of, and be subject to, all laws and regulations governing wholesale wine licenses granted under subdivision ~~2~~ *3*.

§ 4.1-223. Conditions under which Board shall refuse to grant licenses.

The Board shall refuse to grant any:

1. Wholesale beer or wine license to any person, unless such person has established or will establish a place or places of business within the Commonwealth at which will be received and from which will be distributed all alcoholic beverages sold by such person in the Commonwealth. However, in special circumstances, the Board, subject to any regulations it may adopt, may permit alcoholic beverages to be received into or distributed from places other than established places of business.

2. *Wholesale wine license to any entity that is owned, in whole or in part, by any manufacturer of alcoholic beverages, any subsidiary or affiliate of such manufacturer, or any person under common control with such manufacturer. This subdivision, however, shall not apply to (i) any applicant for a wholesale beer or wine license filed pursuant to subdivision B 3 b of § 4.1-216 or (ii) the nonprofit, nonstock corporation established pursuant to subdivision B 2 of § 3.2-102 in exercising any privileges granted under subdivision 4 of § 4.1-206.2.*

3. Wholesale beer license ~~or wholesale wine license~~ to any *(i)* entity that is owned, in whole or in part, by any manufacturer of alcoholic beverages~~, any~~*; (ii)* subsidiary or affiliate of ~~such~~ *a* manufacturer~~,~~ *of alcoholic beverages; (iii) officer, director, or principal stockholder of a manufacturer of alcoholic beverages; (iv) spouse of an officer, director, or principal stockholder of a manufacturer of alcoholic beverages;* or ~~any~~ *(v)* person under common control with ~~such~~ *a* manufacturer *of alcoholic beverages*. This subdivision, however, shall not apply to ~~(i)~~ *(a)* any applicant for a wholesale beer or wine license filed pursuant to subdivision B 3 b of § 4.1-216 or ~~(ii)~~ *(b)* the nonprofit, nonstock corporation established pursuant to subdivision B ~~2~~ *3* of § 3.2-102 in exercising any privileges granted under subdivision ~~3~~ *2* of § 4.1-206.2.

As used in this subdivision, the term "manufacturer" includes any person (i) who brews, vinifies, or distills alcoholic beverages for sale or (ii) engaging in business as a contract brewer, winery, or distillery that owns alcoholic beverage product brand rights, but arranges the manufacture of such products by another person.

~~3.~~ *4.* Mixed beverage license if the Board determines that in the licensed establishment there (i) is entertainment of a lewd, obscene or lustful nature including what is commonly called stripteasing, topless entertaining, and the like, or which has employees who are not clad both above and below the waist, or who uncommonly expose the body or (ii) are employees who solicit the sale of alcoholic beverages.

~~4.~~ *5.* Wholesale wine license until the applicant has filed with the Board a bond payable to the Commonwealth, in a sum not to exceed $10,000, upon a form approved by the Board, signed by the applicant or licensee and a surety company authorized to do business in the Commonwealth as surety, and conditioned upon such person's (i) securing wine only in a manner provided by law, (ii) remitting to the Board the proper tax thereon, (iii) keeping such records as may be required by law or Board regulations, and (iv) abiding by such other laws or Board regulations relative to the handling of wine by wholesale wine licensees. The Board may waive the requirement of both the surety and the bond in cases where the wholesaler has previously demonstrated his financial responsibility.

~~5.~~ *6.* Mixed beverage license to any member, agent, or employee of the Board or to any corporation or other business entity in which such member, agent or employee is a stockholder or has any other economic interest.

Whenever any other elective or appointive official of the Commonwealth or any political subdivision thereof applies for such a license or continuance thereof, he shall state on the application the official position he holds, and whenever a corporation or other business entity in which any such official is a stockholder or has any other economic interests applies for such a license, it shall state on the application the full economic interest of each such official in such corporation or other business entity.

~~6.~~ *7.* License authorized by this chapter until the license tax required by § 4.1-231.1 is paid to the Board.

§ 4.1-225.1. Summary suspension in emergency circumstances; grounds; notice and hearing.

A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act or § 4.1-227 or 4.1-229, the Board may summarily suspend any license or permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises, and the Board finds that there exists a continuing threat to public safety and that summary suspension of the license or permit is justified to protect the health, safety, or welfare of the public.

B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation. Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period, the licensee may petition the Board for a restricted license pending the results of the formal investigation and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the Board shall have discretion to impose appropriate restrictions based on the facts presented.

C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a formal investigation. The formal investigation shall be completed within 10 days of its commencement and the findings reported immediately to the Secretary of the Board. If, following the formal investigation, the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held within five days of the completion of the formal investigation. A decision shall be rendered within 10 days of conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

D. Service of any order of suspension issued pursuant to this section shall be made by a special agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect immediately upon service.

E. This section shall not apply to (i) temporary licenses granted under § 4.1-211 or temporary permits granted under § 4.1-212, either of which may be revoked summarily in accordance with § 4.1-211, or (ii) licenses granted pursuant to subdivision 7 or 8 of § 4.1-206.1 or subdivision 1 or ~~2~~ *3* of § 4.1-206.2.

§ 4.1-231.1. Fees on state licenses.

A. (Contingent expiration date) The annual fees on state licenses shall be as follows:

1. Manufacturer licenses. For each:

a. Distiller's license and limited distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, $490; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, $2,725; and if more than 36,000 gallons manufactured during such year, $4,060;

b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, $380; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, $2,350; and if more than 10,000 barrels manufactured during such year, $4,690;

c. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, $215, and if more than 5,000 gallons manufactured during such year, $4,210;

d. Farm winery license, $245 for any Class A license and $4,730 for any Class B license;

e. Wine importer's license, $460; and

f. Beer importer's license, $460.

2. Wholesale licenses. For each:

a. (1) Wholesale beer license, $1,005 for any wholesaler who sells 300,000 cases of beer a year or less, $1,545 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and $2,010 for any wholesaler who sells more than 600,000 cases of beer a year; and

(2) Wholesale beer license*, including a license granted pursuant to subdivision 2 of § 4.1-206.2,* applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision a (1), multiplied by the number of separate locations covered by the license;

b. (1) Wholesale wine license, $240 for any wholesaler who sells 30,000 gallons of wine or less per year, $1,200 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, $1,845 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and $2,400 for any wholesaler who sells more than 300,000 gallons of wine per year; and

(2) Wholesale wine license, including ~~that~~ *a license* granted pursuant to subdivision ~~3~~ *4* of § 4.1-206.2, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license.

3. Retail licenses — mixed beverage. For each:

a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants located on premises of and operated by casinos, hotels or motels, or other persons:

(1) With a seating capacity at tables for up to 100 persons, $1,050;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, $1,495;

(3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, $1,980;

(4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, $2,500; and

(5) With a seating capacity at tables for more than 1,000 persons, $3,100;

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(1) With an average yearly membership of not more than 200 resident members, $1,250;

(2) With an average yearly membership of more than 200 but not more than 500 resident members, $2,440; and

(3) With an average yearly membership of more than 500 resident members, $3,410;

c. Mixed beverage casino license, $3,100 plus an additional $5 for each gaming station located on the premises of the casino gaming establishment. For the purposes of this subdivision, "gaming station" means each slot machine and each casino gaming table that is in active use, as determined annually on December 31;

d. Mixed beverage caterer's license, $1,990;

e. Mixed beverage limited caterer's license, $550;

f. Mixed beverage carrier license:

(1) $520 for each of the average number of dining cars, buffet cars, or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(2) $910 for each common carrier of passengers by boat;

(3) $520 for each common carrier of passengers by bus; and

(4) $2,360 for each license granted to a common carrier of passengers by airplane;

g. Annual mixed beverage motor sports facility license, $630;

h. Limited mixed beverage restaurant license:

(1) With a seating capacity at tables for up to 100 persons, $945;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, $1,385; and

(3) With a seating capacity at tables for more than 150 persons, $1,875;

i. Annual mixed beverage performing arts facility license, $630;

j. Bed and breakfast license, $100;

k. Museum license, $260;

l. Motor car sporting event facility license, $300;

m. Commercial lifestyle center license, $300;

n. Mixed beverage port restaurant license, $1,050; and

o. Annual mixed beverage special events license, $630.

4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer license, $450.

5. Retail licenses — off-premises wine and beer. For each:

a. Retail off-premises wine and beer license, $300;

b. Gourmet brewing shop license, $320; and

c. Confectionery license, $170.

6. Retail licenses — banquet, special event, and tasting licenses.

a. Per-day event licenses. For each:

(1) Banquet license, $40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be $100 per license;

(2) Mixed beverage special events license, $45 for each day of each event;

(3) Mixed beverage club events license, $35 for each day of each event; and

(4) Tasting license, $40.

b. Annual licenses. For each:

(1) Annual banquet license, $300;

(2) Banquet facility license, $260;

(3) Designated outdoor refreshment area license, $300. However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee shall be $3,000;

(4) Annual mixed beverage banquet license, $630;

(5) Equine sporting event license, $300; and

(6) Annual arts venue event license, $300.

7. Retail licenses — marketplace. For each marketplace license, $1,000.

8. Retail licenses — shipper, bottler, and related licenses. For each:

a. Wine and beer shipper's license, $230;

b. Internet wine and beer retailer license, $240;

c. Bottler license, $1,500;

d. Fulfillment warehouse license, $210;

e. Marketing portal license, $285; and

f. Third-party delivery license, $7,500, unless the licensee provides written certification to the Board that the licensee has no more than 25 delivery personnel, including employees, agents, and independent contractors that engage in direct-to-consumer alcoholic beverage delivery, in which case the license fee shall be $2,500.

9. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first $163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first $163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of $5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

§ 4.1-310.1. Delivery of wine or beer to retail licensee.

Except as otherwise provided in this subtitle or in Board regulation, no wine or beer may be shipped or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to the licensed premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the wholesaler for not less than four hours prior to reloading on a vehicle, and (iii) recorded in the wholesaler's inventory. Any holder of a restricted wholesale wine license issued pursuant to subdivision ~~3~~ *4* of § 4.1-206.2 shall be exempt from the requirement set forth in clause (ii).

2. That the provisions of this act shall become effective on July 1, 2024.

3. That the Commissioner of Agriculture and Consumer Services shall submit to the Alcohol and Tobacco Tax and Trade Bureau a request for a waiver from federal permitting requirements for the corporation established pursuant to subdivision B 3 of § 3.2-102 of the Code of Virginia, as amended by this act.

4. That the board of directors (the Board) of the nonprofit, nonstock corporation established pursuant to subdivision B 3 of § 3.2-102 of the Code of Virginia, as amended by this act, shall establish a transaction fee schedule for transactions completed by such corporation, which may include flat fees or fees based on a percentage of the sale. The Board may provide a transaction fee incentive for any brewery or limited brewery that utilizes materials or ingredients grown or processed in the Commonwealth, including malt, hops, grain, fruit, juice, vegetables, spices, yeast, enzymes, packaging, containers, labeling, and closures. The Board may limit the volume of beer sold per transaction.

5. That the provisions of clause (iv) of subdivision 3 of § 4.1-223 of the Code of Virginia, as amended by this act, shall not apply to the spouse of an officer, director, or principal stockholder of a brewery or limited brewery licensee that was granted such license prior to January 1, 2024.

CHAPTER 598

An Act to amend and reenact § 1-211.1 of the Code of Virginia, as it shall become effective, relating to posting of notices.

[H 2323]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 1-211.1 of the Code of Virginia, as it shall become effective, is amended and reenacted as follows:

§ 1-211.1. (Effective July 1, 2024) Courthouse; posting of notices.

If any notice, summons, order, or other official document of any type is required to be posted *by a circuit court clerk pursuant to a provision of the Code* on or at the front door of a courthouse or on a public bulletin board at a courthouse, it shall constitute compliance with this requirement if the notice, summons, order, or other official document is ~~(i)~~ ~~posted with other such documents where such notice, summons, order or other official document is posted or at or near the principal public entrance to the courthouse in a location that is conspicuous to the public and approved by the chief judge of the circuit in which the courthouse is situated, or both, and (ii)~~ posted on the public government website of the locality served by the court or the website of the circuit court clerk. *The chief judge of the circuit in which the courthouse is situated shall also approve a location, at or near the principal public entrance to the courthouse, that is conspicuous to the public for physical posting of such notice.*

2. That the provisions of this act shall become effective on July 1, 2025.

CHAPTER 599

An Act to amend and reenact § 2.2-3704.1 of the Code of Virginia, relating to the Virginia Freedom of Information Act; posting of fee policy.

[H 2007]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3704.1 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3704.1. Posting of notice of rights and responsibilities by state and local public bodies; assistance by the Freedom of Information Advisory Council.

A. All state public bodies subject to the provisions of this chapter, any county or city, any town with a population of more than 250, and any school board shall make available the following information to the public upon request and shall post a link to such information on the homepage of their respective official public government websites:

1. A plain English explanation of the rights of a requester under this chapter, the procedures to obtain public records from the public body, and the responsibilities of the public body in complying with this chapter. For purposes of this section, "plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession;

2. Contact information for the FOIA officer designated by the public body pursuant to § 2.2-3704.2 to (i) assist a requester in making a request for records or (ii) respond to requests for public records;

3. A general description, summary, list, or index of the types of public records maintained by such public body;

4. A general description, summary, list, or index of any exemptions in law that permit or require such public records to be withheld from release;

5. Any policy the public body has concerning the type of public records it routinely withholds from release as permitted by this chapter or other law; ~~and~~

6. The following statement: "A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. Prior to conducting a search for records, the public body shall notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records as set forth in subsection F of § 2.2-3704 of the Code of Virginia."*; and*

7. A written policy (i) explaining how the public body assesses charges for accessing or searching for requested records and (ii) noting the current fee charged, if any, for accessing and searching for such requested records.

B. Any state public body subject to the provisions of this chapter and any county or city, and any town with a population of more than 250, shall post a link on its official public government website to the online public comment form on the Freedom of Information Advisory Council's website to enable any requester to comment on the quality of assistance provided to the requester by the public body.

C. The Freedom of Information Advisory Council, created pursuant to § 30-178, shall assist in the development and implementation of the provisions of subsection A, upon request.

CHAPTER 600

An Act to amend and reenact § 46.2-118 of the Code of Virginia, relating to towing and recovery operators; vehicle storage.
[H 1516]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-118 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-118. Prohibited acts by tow truck drivers and towing and recovery operators.

A. No tow truck driver shall:

1. Use fraud or deceit in the offering or delivering of towing and recovery services;

2. Conduct his business or offer services in such a manner as to endanger the health and welfare of the public;

3. Use alcohol or drugs to the extent such use renders him unsafe to provide towing and recovery services;

4. Obtain any fee by fraud or misrepresentation;

5. Remove or tow a trespassing vehicle, as provided in § 46.2-1231, or a vehicle towed or removed at the request of a law-enforcement officer to any location outside the Commonwealth; or

6. Violate, or assist, induce, or cooperate with others to violate, any provision of law related to the offering or delivery of towing and recovery services.

B. No towing and recovery operator shall:

1. Use fraud or deceit in the offering or delivering of towing and recovery services;

2. Conduct his business or offer services in such a manner as to endanger the health and welfare of the public;

3. Use alcohol or drugs to the extent such use renders him unsafe to provide towing and recovery services;

4. Neglect to maintain on record at the towing and recovery operator's principal office a list of all drivers employed by the towing and recovery operator;

5. Obtain any fee by fraud or misrepresentation;

6. Advertise services in any manner that deceives, misleads, or defrauds the public;

7. Advertise or offer services under a name other than one's own name;

8. Fail to accept for payment cash, insurance company check, certified check, money order, or at least one of two commonly used, nationally recognized credit cards, except those towing and recovery operators who have an annual gross income of less than $10,000 derived from the performance of towing and recovery services shall not be required to accept credit cards, other than when providing police-requested towing as defined in § 46.2-1217, but shall be required to accept personal checks;

9. Fail to display at the towing and recovery operator's principal office in a conspicuous place a listing of all towing, recovery, and processing fees for vehicles;

10. Fail to have readily available at the towing and recovery operator's principal office, at the customer's request, the maximum fees normally charged by the towing and recovery operator for basic services for towing and initial hookup of vehicles;

11. Knowingly charge excessive fees for towing, storage, or administrative services or charge fees for services not rendered;

12. Fail to maintain all towing records, which shall include itemized fees, for a period of one year from the date of service;

13. Willfully invoice payment for any services not stipulated or otherwise incorporated in a contract for services rendered between the towing and recovery operator and any locality or political subdivision of the Commonwealth;

14. Employ a driver required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;

15. Remove or tow a trespassing vehicle, as provided in § 46.2-1231, or a vehicle towed or removed at the request of a law-enforcement officer to any location outside the Commonwealth;

16. Refuse, at the towing and recovery operator's place of business, to make change, up to $100, for the owner of the vehicle towed without the owner's consent if the owner pays in cash for charges for towing and storage of the vehicle;

17. Violate, or assist, induce, or cooperate with others to violate, any provision of law related to the offering or delivery of towing and recovery services; ~~or~~

18. Fail to provide the owner of a stolen vehicle written notice of his right under law to be reimbursed for towing and storage of his vehicle out of the state treasury from the appropriation for criminal charges as required in § 46.2-1209*; or*

19. Refuse to allow, consistent with the protections detailed in the provisions of subsection E of § 46.2-644.01, the owner of the vehicle towed, upon proof of ownership of the vehicle, to access and recover any personal items without retrieving the vehicle and without paying any fee.

C. No tow truck driver as defined in § 46.2-116 or towing and recovery operator as defined in § 46.2-100 shall knowingly permit another person to occupy a motor vehicle as defined in § 46.2-100 while such motor vehicle is being towed.

CHAPTER 601

An Act to amend and reenact § 46.2-380 of the Code of Virginia, relating to crash reports; inspection by certain persons.

[H 1620]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-380 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-380. Reports made under certain sections open to inspection by certain persons; copies; maintenance of reports and photographs for three-year period.

A. Any report of a crash made pursuant to § 46.2-372, 46.2-373, 46.2-375, or 46.2-377 shall be maintained by the Department in either hard copy or electronic form for a period of at least 36 months from the date of the crash. The report shall be open to the inspection of (i) any person involved or injured in the crash or as a result thereof, or his attorney, or any person ~~owning~~ *who, at the time of the crash, owned* a vehicle or property involved in the crash, or his attorney, (ii) any authorized representative of any insurance carrier reasonably anticipating exposure to civil liability as a consequence of the crash or to which the person has applied for issuance or renewal of a policy of automobile insurance, or (iii) the FMCSA or any authorized agent thereof. The Commissioner shall, upon written request of the person authorized to inspect the report, furnish a copy of the report, in either hard copy or electronic form, at the expense of the requester. Any such report shall also be open to inspection by the personal representative of any person injured or killed in the crash, including his guardian, conservator, executor, committee, next of kin as defined in § 54.1-2800, or administrator, or, if the person injured or killed is under 18 years of age, his parent or guardian. The Commissioner shall only be required to furnish under this section copies of reports required by the provisions of this article to be made directly to the Commissioner. The Commissioner may set a reasonable fee for furnishing a copy of any report, provide to whom payment shall be made, and establish a procedure for payment.

B. The Commissioner or Superintendent of State Police having a copy of any photograph taken by a law-enforcement officer relating to a nonfatal crash shall maintain the negatives for or an electronic record of such photographs in their records for at least 36 months from the date of the crash.

CHAPTER 602

An Act to amend and reenact § 46.2-380 of the Code of Virginia, relating to crash reports; inspection by certain persons.

[S 1028]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-380 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-380. Reports made under certain sections open to inspection by certain persons; copies; maintenance of reports and photographs for three-year period.

A. Any report of a crash made pursuant to § 46.2-372, 46.2-373, 46.2-375, or 46.2-377 shall be maintained by the Department in either hard copy or electronic form for a period of at least 36 months from the date of the crash. The report shall be open to the inspection of (i) any person involved or injured in the crash or as a result thereof, or his attorney, or any person ~~owning~~ *who, at the time of the crash, owned* a vehicle or property involved in the crash, or his attorney, (ii) any authorized representative of any insurance carrier reasonably anticipating exposure to civil liability as a consequence of the crash or to which the person has applied for issuance or renewal of a policy of automobile insurance, or (iii) the FMCSA or any authorized agent thereof. The Commissioner shall, upon written request of the person authorized to inspect the report, furnish a copy of the report, in either hard copy or electronic form, at the expense of the requester. Any such report shall also be open to inspection by the personal representative of any person injured or killed in the crash, including his guardian, conservator, executor, committee, next of kin as defined in § 54.1-2800, or administrator, or, if the person injured or killed is under 18 years of age, his parent or guardian. The Commissioner shall only be required to furnish under this section copies of reports required by the provisions of this article to be made directly to the Commissioner. The Commissioner may set a reasonable fee for furnishing a copy of any report, provide to whom payment shall be made, and establish a procedure for payment.

B. The Commissioner or Superintendent of State Police having a copy of any photograph taken by a law-enforcement officer relating to a nonfatal crash shall maintain the negatives for or an electronic record of such photographs in their records for at least 36 months from the date of the crash.

CHAPTER 603

An Act to amend and reenact § 44-146.17, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to Emergency Services and Disaster Law; religious freedom; goods or services vital to the public good; executive orders.

[H 2171]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 44-146.17, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 44-146.17. (Effective until July 1, 2023) Powers and duties of Governor.

A. The Governor shall be Director of Emergency Management. He shall take such action from time to time as is necessary for the adequate promotion and coordination of state and local emergency services activities relating to the safety and welfare of the Commonwealth in time of disasters.

The Governor shall have, in addition to his powers hereinafter or elsewhere prescribed by law, the following powers and duties:

(1) To proclaim and publish such rules and regulations and to issue such orders as may, in his judgment, be necessary to accomplish the purposes of this chapter including, but not limited to such measures as are in his judgment required to control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resources under any state or federal emergency services programs.

He may adopt and implement the Commonwealth of Virginia Emergency Operations Plan, which provides for state-level emergency operations in response to any type of disaster or large-scale emergency affecting Virginia and that provides the needed framework within which more detailed emergency plans and procedures can be developed and maintained by state agencies, local governments and other organizations.

He may direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life, implement emergency mitigation, preparedness, response or recovery actions; prescribe routes, modes of transportation and destination in connection with evacuation; and control ingress and egress at an emergency area, including the movement of persons within the area and the occupancy of premises therein.

Executive orders, to include those declaring a state of emergency and directing evacuation, shall have the force and effect of law and the violation thereof shall be punishable as a civil penalty of not more than $500 or as a Class 1 misdemeanor in every case where the executive order declares that its violation shall have such force and effect. Where an executive order declares a violation shall be punishable as a civil penalty, such violation shall be charged by summons and may be executed by a law-enforcement officer when such violation is observed by the officer. The summons used by a law-enforcement officer pursuant to this section shall be, in form, the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. The proceeds of such civil penalties collected pursuant to this section shall be paid and collected only in lawful money of the United States and paid into the state treasury to the credit of the Literary Fund.

Such executive orders declaring a state of emergency may address exceptional circumstances that exist relating to an order of quarantine or an order of isolation concerning a communicable disease of public health threat that is issued by the State Health Commissioner for an affected area of the Commonwealth pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1.

No rule, regulation, or order issued under this section shall have any effect beyond 45 days after the date of issuance. Unless the General Assembly takes action on the rule, regulation, or order within the 45 days during which the rule, regulation, or order is effective, the Governor shall thereafter be prohibited from issuing the same or a similar rule, regulation, or order relating to the same emergency;

(2) To appoint a State Coordinator of Emergency Management and authorize the appointment or employment of other personnel as is necessary to carry out the provisions of this chapter, and to remove, in his discretion, any and all persons serving hereunder;

(3) To procure supplies and equipment, to institute training and public information programs relative to emergency management and to take other preparatory steps including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces in time of need;

(4) To make such studies and surveys of industries, resources, and facilities in the Commonwealth as may be necessary to ascertain the capabilities of the Commonwealth and to plan for the most efficient emergency use thereof;

(5) On behalf of the Commonwealth to enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of the Commonwealth. After a state of emergency is declared in another state and the Governor receives a written request for assistance from the executive authority of that state, the Governor may authorize the use in the other state of personnel, equipment, supplies, and materials of the Commonwealth, or of a political subdivision, with the consent of the chief executive officer or governing body of the political subdivision;

(6) To delegate any administrative authority vested in him under this chapter, and to provide for the further delegation of any such authority, as needed;

(7) Whenever, in the opinion of the Governor, the safety and welfare of the people of the Commonwealth require the exercise of emergency measures due to a threatened or actual disaster, to declare a state of emergency to exist;

(8) To request a major disaster declaration from the President, thereby certifying the need for federal disaster assistance and ensuring the expenditure of a reasonable amount of funds of the Commonwealth, its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from the disaster;

(9) To provide incident command system guidelines for state agencies and local emergency response organizations;

(10) Whenever, in the opinion of the Governor or his designee, an employee of a state or local public safety agency responding to a disaster has suffered an extreme personal or family hardship in the affected area, such as the destruction of a personal residence or the existence of living conditions that imperil the health and safety of an immediate family member of the employee, to direct the Comptroller of the Commonwealth to issue warrants not to exceed $2,500 per month, for up to three calendar months, to the employee to assist the employee with the hardship; and

(11) During a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared pursuant to subdivision (7), to establish a program through which the Governor may purchase PPE for private, nongovernmental entities and distribute the PPE to such private, nongovernmental entities. If federal funding is available to establish and fund the program, the Governor, if necessary to comply with any conditions attached to such federal funding, shall be entitled to seek reimbursement for such purchases from the private, nongovernmental entities and may establish and charge fees to recover the cost of administering the program, including the cost of procuring and distributing the PPE. However, if federal funding is not available to establish and fund the program, the Governor shall, prior to making such purchases, receive a contract for payment for purchase from the private nongovernmental entities for the full cost of procuring and distributing the PPE, which shall include any amortized costs of administering the program. Any purchase made by the Governor pursuant to this subdivision shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except the Governor shall be encouraged to comply with the provisions of § 2.2-4310 when possible. The Governor shall also provide for competition where practicable and include a written statement regarding the basis for awarding any contract. Prior to implementing such a program, the Department of Emergency Management shall consult with and survey private, nongovernmental entities in order to assess demand for participation in the program as well as the quantity and types of personal protective equipment such entities would like to procure.

As used in this subdivision, "personal protective equipment" or "PPE" means equipment or supplies worn or employed to minimize exposure to hazards that cause serious workplace injuries and illnesses and may include items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators, coveralls, vests, full body suits, hand sanitizer, plastic shields, or testing for the communicable disease of public health threat.

B. No rule, regulation, or order issued by the Governor or other governmental entity pursuant to this chapter shall impose restrictions on the operation of a place of worship that are more restrictive than the restrictions imposed on any other business, organization, or activity.

§ 44-146.17. (Effective July 1, 2023) Powers and duties of Governor.

A. The Governor shall be Director of Emergency Management. He shall take such action from time to time as is necessary for the adequate promotion and coordination of state and local emergency services activities relating to the safety and welfare of the Commonwealth in time of disasters.

The Governor shall have, in addition to his powers hereinafter or elsewhere prescribed by law, the following powers and duties:

(1) To proclaim and publish such rules and regulations and to issue such orders as may, in his judgment, be necessary to accomplish the purposes of this chapter including, but not limited to such measures as are in his judgment required to control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resources under any state or federal emergency services programs.

He may adopt and implement the Commonwealth of Virginia Emergency Operations Plan, which provides for state-level emergency operations in response to any type of disaster or large-scale emergency affecting Virginia and that provides the needed framework within which more detailed emergency plans and procedures can be developed and maintained by state agencies, local governments and other organizations.

He may direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life, implement emergency mitigation, preparedness, response or recovery actions; prescribe routes, modes of transportation and destination in connection with evacuation; and control ingress and egress at an emergency area, including the movement of persons within the area and the occupancy of premises therein.

Executive orders, to include those declaring a state of emergency and directing evacuation, shall have the force and effect of law and the violation thereof shall be punishable as a Class 1 misdemeanor in every case where the executive order declares that its violation shall have such force and effect.

Such executive orders declaring a state of emergency may address exceptional circumstances that exist relating to an order of quarantine or an order of isolation concerning a communicable disease of public health threat that is issued by the State Health Commissioner for an affected area of the Commonwealth pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1.

No rule, regulation, or order issued under this section shall have any effect beyond 45 days after the date of issuance. Unless the General Assembly takes action on the rule, regulation, or order within the 45 days during which the rule, regulation, or order is effective, the Governor shall thereafter be prohibited from issuing the same or a similar rule, regulation, or order relating to the same emergency;

(2) To appoint a State Coordinator of Emergency Management and authorize the appointment or employment of other personnel as is necessary to carry out the provisions of this chapter, and to remove, in his discretion, any and all persons serving hereunder;

(3) To procure supplies and equipment, to institute training and public information programs relative to emergency management and to take other preparatory steps including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces in time of need;

(4) To make such studies and surveys of industries, resources, and facilities in the Commonwealth as may be necessary to ascertain the capabilities of the Commonwealth and to plan for the most efficient emergency use thereof;

(5) On behalf of the Commonwealth to enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of the Commonwealth. After a state of emergency is declared in another state and the Governor receives a written request for assistance from the executive authority of that state, the Governor may authorize the use in the other state of personnel, equipment, supplies, and materials of the Commonwealth, or of a political subdivision, with the consent of the chief executive officer or governing body of the political subdivision;

(6) To delegate any administrative authority vested in him under this chapter, and to provide for the further delegation of any such authority, as needed;

(7) Whenever, in the opinion of the Governor, the safety and welfare of the people of the Commonwealth require the exercise of emergency measures due to a threatened or actual disaster, to declare a state of emergency to exist;

(8) To request a major disaster declaration from the President, thereby certifying the need for federal disaster assistance and ensuring the expenditure of a reasonable amount of funds of the Commonwealth, its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from the disaster;

(9) To provide incident command system guidelines for state agencies and local emergency response organizations;

(10) Whenever, in the opinion of the Governor or his designee, an employee of a state or local public safety agency responding to a disaster has suffered an extreme personal or family hardship in the affected area, such as the destruction of a personal residence or the existence of living conditions that imperil the health and safety of an immediate family member of the employee, to direct the Comptroller of the Commonwealth to issue warrants not to exceed $2,500 per month, for up to three calendar months, to the employee to assist the employee with the hardship; and

(11) During a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared pursuant to subdivision (7), to establish a program through which the Governor may purchase PPE for private, nongovernmental entities and distribute the PPE to such private, nongovernmental entities. If federal funding is available to establish and fund the program, the Governor, if necessary to comply with any conditions attached to such federal funding, shall be entitled to seek reimbursement for such purchases from the private, nongovernmental entities and may establish and charge fees to recover the cost of administering the program, including the cost of procuring and distributing the PPE. However, if federal funding is not available to establish and fund the program, the Governor shall, prior to making such purchases, receive a contract for payment for purchase from the private nongovernmental entities for the full cost of procuring and distributing the PPE, which shall include any amortized costs of administering the program. Any purchase made by the Governor pursuant to this subdivision shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except the Governor shall be encouraged to comply with the provisions of § 2.2-4310 when possible. The Governor shall also provide for competition where practicable and include a written statement regarding the basis for awarding any contract. Prior to implementing such a program, the Department of Emergency Management shall consult with and survey private, nongovernmental entities in order to assess demand for participation in the program as well as the quantity and types of personal protective equipment such entities would like to procure.

As used in this subdivision, "personal protective equipment" or "PPE" means equipment or supplies worn or employed to minimize exposure to hazards that cause serious workplace injuries and illnesses and may include items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators, coveralls, vests, full body suits, hand sanitizer, plastic shields, or testing for the communicable disease of public health threat.

B. No rule, regulation, or order issued by the Governor or other governmental entity pursuant to this chapter shall impose restrictions on the operation of a place of worship that are more restrictive than the restrictions imposed on any other business, organization, or activity.

CHAPTER 604

An Act to amend and reenact § 15.2-1717.1 of the Code of Virginia, relating to trespass; other person lawfully in charge of the property; locality.

[H 2186]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-1717.1 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-1717.1. Designation of police to enforce trespass violations.

A. Any locality may by ordinance establish a procedure whereby the owner, lessee, custodian, or person lawfully in charge as those terms are used in § 18.2-119, of real property may designate the local law-enforcement agency as a "person lawfully in charge of the property" for the purpose of forbidding another to go or remain upon the lands, buildings or premises as specified in the designation. The ordinance shall require that any such designation be in writing and on file with the local law-enforcement agency.

B. Unless the owner of such property objects, the maintenance code official of a locality shall be considered a person lawfully in charge of real property that has been declared a derelict building as defined in § 15.2-907.1 for the purpose of posting a sign or signs to prohibit any person to go upon or remain upon the premises of such property without the authority of law.

CHAPTER 605

An Act to amend and reenact § 30-231.2 of the Code of Virginia, relating Brown v. Board of Education Scholarship Program; extension of eligibility.

[H 1419]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 30-231.2 of the Code of Virginia is amended and reenacted as follows:

§ 30-231.2. Criteria for awarding and renewal of scholarships; awards made by the Brown v. Board of Education Scholarship Committee; eligible students; Standards of Learning requirements and assessments waived for eligible students.

A. With the funds made available from gifts, grants, donations, bequests, and other funds as may be received for such purpose, scholarships shall be awarded annually. Awards may be granted for part-time or full-time attendance for no more than one year of study for students enrolled in adult education programs for the high school diploma and preparation programs for a high school equivalency examination approved by the Board of Education or the College-Level Examination Program (CLEP) credit, and for no more than the minimum number of credit hours required to complete program requirements, except as approved by the Committee for students enrolled in the following approved education programs: (i) an approved career or technical education or training program at a comprehensive community college, or at an accredited career and technical education postsecondary school in the Commonwealth; (ii) a two-year undergraduate comprehensive community college program; (iii) a four-year undergraduate degree program; (iv) a recognized five-year undergraduate degree program; (v) a masters or doctoral level degree program; and (vi) a professional degree program. Awards granted may also be used for the College-Level Examination Program (CLEP) examinations and costs related to preparation for the tests, transition programs and services, and dual enrollment programs as may be approved by the Committee, in accordance with § 30-231.8. Awards granted to applicants accepted for enrollment at accredited career and technical education postsecondary schools shall be made in accordance with Article VIII, ~~section~~ *Section* 11 of the Constitution of Virginia. In addition, no scholarship under this Program shall be used to obtain multiple baccalaureate, masters, doctoral, or professional degrees.

B. The Standards of Learning requirements and all related assessments shall be waived for any student awarded a scholarship under this Program and enrolled in an adult basic education program to obtain the high school diploma.

C. No student pursuing a course of religious training or theological education or a student enrolled in any institution whose primary purpose is to provide religious training or theological education shall be eligible to receive scholarship awards. However, nothing in this section shall be construed to prohibit a student from taking courses of a religious or theological nature to satisfy undergraduate and graduate elective requirements for a liberal arts nonreligious degree.

D. Only students who are domiciled residents of Virginia as defined by § 23.1-502 shall be eligible to receive such awards. However, to facilitate the purposes of this Program only, the Committee may establish a list of acceptable documents to verify United States citizenship and legal presence in the Commonwealth from among those included in regulations promulgated by the Department of Motor Vehicles governing legal presence in the Commonwealth to obtain a driver's license or identification card, and regulations promulgated by the State Health Department governing requests for and access to vital records.

E. Scholarships shall be awarded to eligible students by the Committee.

F. Scholarships may be renewed, upon request, annually if the recipient:

1. Maintains Virginia domicile and residency;

2. Evidences satisfactory academic achievement and progress toward program completion; and

3. Maintains continuous enrollment in an approved education program until graduation or program completion, in accordance with the provisions of this section and § 30-231.1.

For scholarship renewal purposes, the Committee may extend the period in which satisfactory academic achievement shall be demonstrated for no more than two semesters or the equivalent thereof.

G. For the purpose of this chapter, "eligible student" means a person ~~currently domiciled and residing in the Commonwealth,~~ who resided in a jurisdiction in Virginia between 1954 and 1964 in which the public schools were closed to avoid desegregation~~,~~ and who (i) was unable during such years to (a) begin, continue, or complete his education in the public schools of the Commonwealth, (b) ineligible to attend a private academy or foundation, whether in state or out of state, established to circumvent desegregation, or (c) pursue postsecondary education opportunities or training because of the inability to obtain a high school diploma~~;~~ or (ii) was required to relocate within or outside of the Commonwealth to begin, continue, or complete his public education during such years because public schools were closed to avoid desegregation. *"Eligible student" also means a lineal or collateral descendant of such person. "Eligible student" includes only persons currently domiciled and residing in the Commonwealth.*

CHAPTER 606

An Act to amend and reenact § 30-231.2 of the Code of Virginia, relating Brown v. Board of Education Scholarship Program; extension of eligibility.

[S 1498]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 30-231.2 of the Code of Virginia is amended and reenacted as follows:

§ 30-231.2. Criteria for awarding and renewal of scholarships; awards made by the Brown v. Board of Education Scholarship Committee; eligible students; Standards of Learning requirements and assessments waived for eligible students.

A. With the funds made available from gifts, grants, donations, bequests, and other funds as may be received for such purpose, scholarships shall be awarded annually. Awards may be granted for part-time or full-time attendance for no more than one year of study for students enrolled in adult education programs for the high school diploma and preparation programs for a high school equivalency examination approved by the Board of Education or the College-Level Examination Program (CLEP) credit, and for no more than the minimum number of credit hours required to complete program requirements, except as approved by the Committee for students enrolled in the following approved education programs: (i) an approved career or technical education or training program at a comprehensive community college, or at an accredited career and technical education postsecondary school in the Commonwealth; (ii) a two-year undergraduate comprehensive community college program; (iii) a four-year undergraduate degree program; (iv) a recognized five-year undergraduate degree program; (v) a masters or doctoral level degree program; and (vi) a professional degree program. Awards granted may also be used for the College-Level Examination Program (CLEP) examinations and costs related to preparation for the tests, transition programs and services, and dual enrollment programs as may be approved by the Committee, in accordance with § 30-231.8. Awards granted to applicants accepted for enrollment at accredited career and technical education postsecondary schools shall be made in accordance with Article VIII, ~~section~~ *Section* 11 of the Constitution of Virginia. In addition, no scholarship under this Program shall be used to obtain multiple baccalaureate, masters, doctoral, or professional degrees.

B. The Standards of Learning requirements and all related assessments shall be waived for any student awarded a scholarship under this Program and enrolled in an adult basic education program to obtain the high school diploma.

C. No student pursuing a course of religious training or theological education or a student enrolled in any institution whose primary purpose is to provide religious training or theological education shall be eligible to receive scholarship awards. However, nothing in this section shall be construed to prohibit a student from taking courses of a religious or theological nature to satisfy undergraduate and graduate elective requirements for a liberal arts nonreligious degree.

D. Only students who are domiciled residents of Virginia as defined by § 23.1-502 shall be eligible to receive such awards. However, to facilitate the purposes of this Program only, the Committee may establish a list of acceptable documents to verify United States citizenship and legal presence in the Commonwealth from among those included in regulations promulgated by the Department of Motor Vehicles governing legal presence in the Commonwealth to obtain a driver's license or identification card, and regulations promulgated by the State Health Department governing requests for and access to vital records.

E. Scholarships shall be awarded to eligible students by the Committee.

F. Scholarships may be renewed, upon request, annually if the recipient:

1. Maintains Virginia domicile and residency;

2. Evidences satisfactory academic achievement and progress toward program completion; and

3. Maintains continuous enrollment in an approved education program until graduation or program completion, in accordance with the provisions of this section and § 30-231.1.

For scholarship renewal purposes, the Committee may extend the period in which satisfactory academic achievement shall be demonstrated for no more than two semesters or the equivalent thereof.

G. For the purpose of this chapter, "eligible student" means a person ~~currently domiciled and residing in the Commonwealth,~~ who resided in a jurisdiction in Virginia between 1954 and 1964 in which the public schools were closed to avoid desegregation~~,~~ and who (i) was unable during such years to (a) begin, continue, or complete his education in the

public schools of the Commonwealth, (b) ineligible to attend a private academy or foundation, whether in state or out of state, established to circumvent desegregation, or (c) pursue postsecondary education opportunities or training because of the inability to obtain a high school diploma~~;~~ or (ii) was required to relocate within or outside of the Commonwealth to begin, continue, or complete his public education during such years because public schools were closed to avoid desegregation. *"Eligible student" also means a lineal or collateral descendant of such person. "Eligible student" includes only persons currently domiciled and residing in the Commonwealth.*

CHAPTER 607

An Act to amend and reenact §§ 18.2-513 and 18.2-514 of the Code of Virginia, relating to racketeering offenses; penalty.

[H 2166]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-513 and 18.2-514 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-513. Definitions.

As used in this chapter:

"Criminal street gang" means the same as that term is defined in § 18.2-46.1.

"Enterprise" includes any of the following: sole proprietorship, partnership, corporation, business trust, criminal street gang, or other group of three or more individuals associated for the purpose of criminal activity.

"Proceeds" means the same as that term is defined in § 18.2-246.2.

"Racketeering activity" means to commit, attempt to commit, or conspire to commit or to solicit, coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4, § 18.2-460; a felony offense of § 3.2-4212, 3.2-4219, 10.1-1455, 18.2-31, 18.2-32, 18.2-32.1, 18.2-33, or 18.2-35, Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4, § 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-51, 18.2-51.2, 18.2-52, 18.2-53, 18.2-55, 18.2-58, 18.2-59, 18.2-77, 18.2-79, 18.2-80, 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, ~~or~~ 18.2-95*, or 18.2-96*, Article 4 (§ 18.2-111 et seq.) of Chapter 5, Article 1 (§ 18.2-168 et seq.) of Chapter 6, § 18.2-178 or 18.2-186, Article 6 (§ 18.2-191 et seq.) of Chapter 6, Article 9 (§ 18.2-246.1 et seq.) of Chapter 6, § 18.2-246.13, Article 1 (§ 18.2-247 et seq.) of Chapter 7, § 18.2-279, 18.2-286.1, 18.2-289, 18.2-300, 18.2-308.2, 18.2-308.2:1, 18.2-328, 18.2-346, 18.2-346.01, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, 18.2-368, 18.2-369, or 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.) of Chapter 9, Article 1 (§ 18.2-434 et seq.) of Chapter 10, Article 2 (§ 18.2-438 et seq.) of Chapter 10, Article 3 (§ 18.2-446 et seq.) of Chapter 10, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12, § 3.2-6571, 18.2-516, 32.1-314, 58.1-1008.2, 58.1-1017, or 58.1-1017.1; or any substantially similar offenses under the laws of any other state, the District of Columbia, or the United States or its territories.

§ 18.2-514. Racketeering offenses.

A. It shall be unlawful for an enterprise, ~~or for~~ *any person who is directed by an organizer, supervisor, or manager of an enterprise, or* any person who occupies a position of organizer, supervisor, or manager of an enterprise, to receive *or distribute* any proceeds *or anything of value* known to have been derived directly from racketeering activity and to use or invest an aggregate of $10,000 or more of such proceeds *or such things of value* in the acquisition of any title to, or any right, interest, or equity in, real property, or in the establishment or operation of any enterprise.

B. It shall be unlawful for any enterprise, or for any person who occupies a position of organizer, supervisor, or manager of an enterprise, to directly acquire or maintain any interest in or control of any enterprise or real property through racketeering activity.

C. It shall be unlawful for any person employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through racketeering activity.

D. It shall be unlawful for any person to conspire to violate any of the provisions of subsection A, B, or C.

E. Each violation of this section is a separate and distinct felony punishable in accordance with § 18.2-515.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 608

An Act to amend and reenact §§ 18.2-513 and 18.2-514 of the Code of Virginia, relating to racketeering offenses; penalty.

[S 896]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-513 and 18.2-514 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-513. Definitions.

As used in this chapter:

"Criminal street gang" means the same as that term is defined in § 18.2-46.1.

"Enterprise" includes any of the following: sole proprietorship, partnership, corporation, business trust, criminal street gang, or other group of three or more individuals associated for the purpose of criminal activity.

"Proceeds" means the same as that term is defined in § 18.2-246.2.

"Racketeering activity" means to commit, attempt to commit, or conspire to commit or to solicit, coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4, § 18.2-460; a felony offense of § 3.2-4212, 3.2-4219, 10.1-1455, 18.2-31, 18.2-32, 18.2-32.1, 18.2-33, or 18.2-35, Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4, § 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-51, 18.2-51.2, 18.2-52, 18.2-53, 18.2-55, 18.2-58, 18.2-59, 18.2-77, 18.2-79, 18.2-80, 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, ~~or~~ 18.2-95*, or 18.2-96*, Article 4 (§ 18.2-111 et seq.) of Chapter 5, Article 1 (§ 18.2-168 et seq.) of Chapter 6, § 18.2-178 or 18.2-186, Article 6 (§ 18.2-191 et seq.) of Chapter 6, Article 9 (§ 18.2-246.1 et seq.) of Chapter 6, § 18.2-246.13, Article 1 (§ 18.2-247 et seq.) of Chapter 7, § 18.2-279, 18.2-286.1, 18.2-289, 18.2-300, 18.2-308.2, 18.2-308.2:1, 18.2-328, 18.2-346, 18.2-346.01, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, 18.2-368, 18.2-369, or 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.) of Chapter 9, Article 1 (§ 18.2-434 et seq.) of Chapter 10, Article 2 (§ 18.2-438 et seq.) of Chapter 10, Article 3 (§ 18.2-446 et seq.) of Chapter 10, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12, § 3.2-6571, 18.2-516, 32.1-314, 58.1-1008.2, 58.1-1017, or 58.1-1017.1; or any substantially similar offenses under the laws of any other state, the District of Columbia, or the United States or its territories.

§ 18.2-514. Racketeering offenses.

A. It shall be unlawful for an enterprise, ~~or for~~ *any person who is directed by an organizer, supervisor, or manager of an enterprise, or* any person who occupies a position of organizer, supervisor, or manager of an enterprise, to receive *or distribute* any proceeds known to have been derived directly from racketeering activity and to use or invest an aggregate of $10,000 or more of such proceeds in the acquisition of any title to, or any right, interest, or equity in, real property, or in the establishment or operation of any enterprise.

B. It shall be unlawful for any enterprise, or for any person who occupies a position of organizer, supervisor, or manager of an enterprise, to directly acquire or maintain any interest in or control of any enterprise or real property through racketeering activity.

C. It shall be unlawful for any person employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through racketeering activity.

D. It shall be unlawful for any person to conspire to violate any of the provisions of subsection A, B, or C.

E. Each violation of this section is a separate and distinct felony punishable in accordance with § 18.2-515.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 609

An Act to amend and reenact § 9.1-110 of the Code of Virginia, relating to School Resource Officer Grants Program and Fund.

[H 1691]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-110 of the Code of Virginia is amended and reenacted as follows:

§ 9.1-110. School Resource Officer Grants Program and Fund.

A. From the funds appropriated for such purpose and from the gifts, donations, grants, bequests, and other funds received on its behalf, there is established (i) the School Resource Officer Grants Program, to be administered by the Board, in consultation with the Board of Education, and (ii) a special nonreverting fund within the state treasury known as the School Resource Officer Incentive Grants Fund, hereinafter known as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining in the Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

Subject to the authority of the Board to provide for its disbursement, the Fund shall be disbursed to award matching grants to local law-enforcement agencies and local school boards that have established a collaborative agreement *in accordance with § 22.1-280.2:3* to employ uniformed school resource officers, as defined in § 9.1-101, ~~in middle and high schools~~ *school security officers, as defined in § 9.1-101, and other relevant school safety personnel* within the relevant school division *or law-enforcement agency as determined by the Department. Grants may be awarded for the expenses*

related to the equipment necessary for such uniformed school resource officers, school security officers, and other relevant school safety personnel and the enhancement of the school–law enforcement partnership through training and programming as determined by the Department; provided, however, that such grants shall not be used for any expense related to the purchase of firearms, handcuffs or other wrist restraints, or any stun weapon as defined in § 18.2-308.1.

The Board may disburse annually up to five percent of the Fund for the training of the school resource officers. School resource officers shall be certified law-enforcement officers and shall be employed to help ensure safety and prevent truancy and violence in schools.

B. The Board shall establish criteria for making grants from the Fund, including procedures for determining the amount of a grant and the required local match. Any grant of general funds shall be matched by the locality on the basis of the composite index of local ability to pay. The Board may adopt guidelines governing the Program and the employment and duties of the school resource officers as it deems necessary and appropriate.

CHAPTER 610

An Act to amend and reenact § 9.1-110 of the Code of Virginia, relating to School Resource Officer Grants Program and Fund.

[S 1099]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-110 of the Code of Virginia is amended and reenacted as follows:

§ 9.1-110. School Resource Officer Grants Program and Fund.

A. From the funds appropriated for such purpose and from the gifts, donations, grants, bequests, and other funds received on its behalf, there is established (i) the School Resource Officer Grants Program, to be administered by the Board, in consultation with the Board of Education, and (ii) a special nonreverting fund within the state treasury known as the School Resource Officer Incentive Grants Fund, hereinafter known as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining in the Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

Subject to the authority of the Board to provide for its disbursement, the Fund shall be disbursed to award matching grants to local law-enforcement agencies and local school boards that have established a collaborative agreement *in accordance with § 22.1-280.2:3* to employ uniformed school resource officers, as defined in § 9.1-101, ~~in middle and high schools~~ *school security officers, as defined in § 9.1-101, and other relevant school safety personnel* within the relevant school division *or law-enforcement agency as determined by the Department. Grants may be awarded for the expenses related to the equipment necessary for such uniformed school resource officers, school security officers, and other relevant school safety personnel and the enhancement of the school–law enforcement partnership through training and programming as determined by the Department; provided, however, that such grants shall not be used for any expense related to the purchase of firearms, handcuffs or other wrist restraints, or any stun weapon as defined in § 18.2-308.1.*

The Board may disburse annually up to five percent of the Fund for the training of the school resource officers. School resource officers shall be certified law-enforcement officers and shall be employed to help ensure safety and prevent truancy and violence in schools.

B. The Board shall establish criteria for making grants from the Fund, including procedures for determining the amount of a grant and the required local match. Any grant of general funds shall be matched by the locality on the basis of the composite index of local ability to pay. The Board may adopt guidelines governing the Program and the employment and duties of the school resource officers as it deems necessary and appropriate.

CHAPTER 611

An Act to amend and reenact § 18.2-308 of the Code of Virginia, relating to carrying concealed weapons; exceptions; penalty.

[H 2298]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-308. Carrying concealed weapons; exceptions; penalty.

A. If any person carries about his person, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; (ii) any dirk, bowie knife, ~~switchblade~~ *stiletto* knife, ballistic knife, machete, razor, sling bow, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be

known as a throwing star or oriental dart; or (v) any weapon of like kind as those enumerated in this subsection, he is guilty of a Class 1 misdemeanor. A second violation of this section or a conviction under this section subsequent to any conviction under any substantially similar ordinance of any county, city, or town shall be punishable as a Class 6 felony, and a third or subsequent such violation shall be punishable as a Class 5 felony. For the purpose of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature. It shall be an affirmative defense to a violation of clause (i) regarding a handgun, that a person had been issued, at the time of the offense, a valid concealed handgun permit.

B. This section shall not apply to any person while in his own place of abode or the curtilage thereof.

C. Except as provided in subsection A of § 18.2-308.012, this section shall not apply to:

1. Any person while in his own place of business;

2. Any law-enforcement officer, or retired law-enforcement officer pursuant to § 18.2-308.016, wherever such law-enforcement officer may travel in the Commonwealth;

3. Any person who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;

4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported;

5. Any person carrying such weapons between his place of abode and a place of purchase or repair, provided the weapons are unloaded and securely wrapped while being transported;

6. Any person actually engaged in lawful hunting, as authorized by the Board of Wildlife Resources, under inclement weather conditions necessitating temporary protection of his firearm from those conditions, provided that possession of a handgun while engaged in lawful hunting shall not be construed as hunting with a handgun if the person hunting is carrying a valid concealed handgun permit;

7. Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever such attorney may travel in the Commonwealth;

8. Any person who may lawfully possess a firearm and is carrying a handgun while in a personal, private motor vehicle or vessel and such handgun is secured in a container or compartment in the vehicle or vessel;

9. Any enrolled participant of a firearms training course who is at, or going to or from, a training location, provided that the weapons are unloaded and securely wrapped while being transported; and

10. Any judge or justice of the Commonwealth, wherever such judge or justice may travel in the Commonwealth.

D. This section shall also not apply to any of the following individuals while in the discharge of their official duties, or while in transit to or from such duties:

1. Carriers of the United States mail;

2. Officers or guards of any state correctional institution;

3. Conservators of the peace, except that a judge or justice of the Commonwealth, an attorney for the Commonwealth, or an assistant attorney for the Commonwealth may carry a concealed handgun pursuant to subdivisions C 7 and 10. However, the following conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a permit as provided in this article: (i) notaries public; (ii) registrars; (iii) drivers, operators, or other persons in charge of any motor vehicle carrier of passengers for hire; or (iv) commissioners in chancery; and

4. Noncustodial employees of the Department of Corrections designated to carry weapons by the Director of the Department of Corrections pursuant to § 53.1-29.

CHAPTER 612

An Act to amend the Code of Virginia by adding a section numbered 18.2-59.1, relating to sexual extortion; penalty.

[H 2398]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-59.1 as follows:

§ 18.2-59.1. Sexual extortion; penalty.

A. Any person who maliciously threatens in writing, including an electronically transmitted communication producing a visual or electronic message, (i) to disseminate, sell, or publish a videographic or still image, created by any means whatsoever, or (ii) to not delete, remove, or take back a previously disseminated, sold, or published videographic or still image, created by any means whatsoever, that depicts the complaining witness or such complaining witness's family or household member, as defined in § 16.1-228, as totally nude or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast with the intent to cause the complaining witness to engage in sexual intercourse, cunnilingus, fellatio, anilingus, anal intercourse, inanimate or animate object sexual penetration, or an act of sexual abuse, as defined in § 18.2-67.10, and thereby engages in sexual intercourse, cunnilingus, fellatio, anilingus, anal intercourse, inanimate or animate object sexual penetration, or an act of sexual abuse, as defined in § 18.2-67.10, is guilty of a Class 5 felony. However, any adult who violates this section with a person under the age of 18 is guilty of a felony punishable by

confinement in a state correctional facility for a term of not less than one nor more than 20 years and by a fine of not more than $100,000.

B. A prosecution pursuant to this section may be in the county, city, or town in which the communication was either made or received.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 613

An Act to amend and reenact § 46.2-1025 of the Code of Virginia, relating to amateur radio operators; amber lights.

[H 1376]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1025 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1025. Flashing amber, purple, or green warning lights.

A. The following vehicles may be equipped with flashing, blinking, or alternating amber warning lights of types approved by the Superintendent:

1. Vehicles used for the principal purpose of towing or servicing disabled vehicles;

2. Vehicles used in constructing, maintaining, and repairing highways or utilities on or along public highways, or in assisting with the management of roadside and traffic incidents, or performing traffic management services along public highways;

3. Vehicles used for the principal purpose of removing hazardous or polluting substances from state waters and drainage areas on or along public highways, or state vehicles used to perform other state-required environmental activities, provided that the amber lights are not lit while the vehicle is in motion;

4. Vehicles used for servicing automatic teller machines, provided the amber lights are not lit while the vehicle is in motion;

5. Vehicles used in refuse collection, provided the amber lights are lit only when the vehicles are engaged in refuse collection operations;

6. Vehicles used by individuals for emergency snow-removal purposes;

7. Hi-rail vehicles, provided the amber lights are lit only when the vehicles are operated on railroad rails;

8. Fire apparatus and emergency medical services vehicles, provided the amber lights are used in addition to lights permitted under § 46.2-1023 and are so mounted or installed as to be visible from behind the vehicle;

9. Vehicles owned and used by businesses providing security services, provided the amber lights are not lit while the vehicle is being operated on a public highway;

10. Vehicles used to collect and deliver the United States mail, provided the amber lights are lit only when the vehicle is actually engaged in such collection or delivery;

11. Vehicles used to collect and deliver packages weighing less than 150 pounds by a national package delivery company that delivers such packages in all 50 states, provided that the amber lights are lit only when the vehicle is stopped and its operator is engaged in such collection and delivery;

12. Vehicles used to transport petroleum or propane products, provided the amber light is mounted on the rear of the vehicle and is lit when parked while making a delivery of petroleum or propane products, or when the vehicle's back-up lights are lit and its device producing an audible signal when the vehicle is operated in reverse gear, as provided for in § 46.2-1175.1, is in operation;

13. Vehicles used by law-enforcement agency personnel in the enforcement of laws governing motor vehicle parking;

14. Government-owned law-enforcement vehicles, provided the lights are used for the purpose of giving directional warning to vehicular traffic to move one direction or another and are not lit while the vehicle is in motion;

15. Chase vehicles when used to unload a hot air balloon or used to load a hot air balloon after landing, provided the amber lights are not lit while the vehicle is in motion;

16. Vehicles used for farm, agricultural, or horticultural purposes, or any farm tractor;

17. Vehicles owned and used by construction companies operating under Virginia contractors licenses;

18. Vehicles used to lead or provide escorts for bicycle races authorized by the Department of Transportation or the locality in which the race is being conducted;

19. Vehicles used by radio or television stations for remote broadcasts, provided that the amber lights are not lit while the vehicle is in motion;

20. Vehicles used by municipal safety officers in the performance of their official duties. For the purpose of this subdivision, "municipal safety officers" means municipal employees responsible for managing municipal safety programs and ensuring municipal compliance with safety and environmental regulatory mandates;

21. Vehicles used as pace cars, security vehicles, or firefighting vehicles by any speedway or motor vehicle race track, provided that the amber lights are not lit while the vehicle is being operated on a public highway;

22. Vehicles used in patrol work by members of neighborhood watch groups approved by the chief law-enforcement officer of the locality in their assigned neighborhood watch program area, provided that the vehicles are clearly identified as neighborhood watch vehicles, and the amber lights are not lit while the vehicle is in motion;

23. Vehicles that are not tow trucks as defined in § 46.2-100, but are owned or controlled by a towing and recovery business, provided that the amber lights are lit only when the vehicle is being used at a towing and recovery site;

24. Vehicles used or operated by federally licensed amateur radio operators~~, provided that the amber lights are not lit while the vehicle is in motion,~~ (i) while participating in emergency communications or drills on behalf of federal, state, or local authorities or (ii) while providing communications services to localities for public service events authorized by the Department of Transportation where the event is being conducted;

25. Publicly owned or operated transit buses; and

26. Vehicles used for hauling trees, logs, or any other forest products when hauling such products, provided that the amber lights are mounted or installed so as to be visible from behind the vehicle.

B. Except as otherwise provided in this section, such amber lights shall be lit only when performing the functions which qualify them to be equipped with such lights.

C. Vehicles used to lead or provide escorts for funeral processions may use either amber warning lights or purple warning lights, but amber warning lights and purple warning lights shall not simultaneously be used on the same vehicle. The Superintendent of State Police shall develop standards and specifications for purple lights authorized in this subsection.

D. Vehicles used by police, firefighting, or emergency medical services personnel as command centers at the scene of incidents may be equipped with and use green warning lights of a type approved by the Superintendent. Such lights shall not be activated while the vehicle is operating upon the highway.

CHAPTER 614

An Act to amend and reenact § 19.2-169.3 of the Code of Virginia, relating to disposition of the unrestorably incompetent defendant; aggravated murder charge; sexually violent offense charge.

[H 1959]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-169.3 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-169.3. (Effective October 1, 2022) Disposition of the unrestorably incompetent defendant; aggravated murder charge; sexually violent offense charge.

A. If, at any time after the defendant is ordered to undergo treatment pursuant to subsection A of § 19.2-169.2, the director of the community services board or behavioral health authority or his designee or the director of the treating inpatient facility or his designee concludes that the defendant is likely to remain incompetent for the foreseeable future, *or if the initial evaluator has found that the defendant has an ongoing and irreversible medical condition causing him to likely remain incompetent for the foreseeable future or that the defendant has been found to be unrestorably incompetent in the past two years,* he shall send a report to the court so stating. The report shall also indicate whether, in the *opinion of the director of the* board, authority, or inpatient facility ~~director's~~ or his ~~designee's opinion~~ *designee or the evaluator*, the defendant should be released, committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, or certified pursuant to § 37.2-806 in the event he is found to be unrestorably incompetent. Upon receipt of the report, the court shall make a competency determination according to the procedures specified in subsection *D or* E of § 19.2-169.1. If the court finds that the defendant is incompetent and is likely to remain so for the foreseeable future, it shall order that he be (i) released, (ii) committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, or (iii) certified pursuant to § 37.2-806. However, if the court finds that the defendant is incompetent and is likely to remain so for the foreseeable future and the defendant has been charged with a sexually violent offense, as defined in § 37.2-900, he shall be screened pursuant to the procedures set forth in §§ 37.2-903 and 37.2-904. If the court finds the defendant incompetent but restorable to competency in the foreseeable future, it may order treatment continued until six months have elapsed from the date of the defendant's initial admission under subsection A of § 19.2-169.2.

B. At the end of six months from the date of the defendant's initial admission under subsection A of § 19.2-169.2 if the defendant remains incompetent in the opinion of the board, authority, or inpatient facility director or his designee, the director or his designee shall so notify the court and make recommendations concerning disposition of the defendant as described in subsection A. The court shall hold a hearing according to the procedures specified in subsection E of § 19.2-169.1 and, if it finds the defendant unrestorably incompetent, shall order one of the dispositions described in subsection A. If the court finds the defendant incompetent but restorable to competency, it may order continued treatment

under subsection A of § 19.2-169.2 for additional six-month periods, provided a hearing pursuant to subsection E of § 19.2-169.1 is held at the completion of each such period and the defendant continues to be incompetent but restorable to competency in the foreseeable future.

C. If any defendant has been charged with a misdemeanor in violation of Article 3 (§ 18.2-95 et seq.) of Chapter 5 of Title 18.2 or Article 5 (§ 18.2-119 et seq.) of Chapter 5 of Title 18.2, other than a misdemeanor charge pursuant to § 18.2-130 or Article 2 (§ 18.2-415 et seq.) of Chapter 9 of Title 18.2, and is being treated pursuant to subsection A of § 19.2-169.2, and after 45 days has not been restored to competency, the director of the community service board, behavioral health authority, or the director of the treating inpatient facility, or any of their designees, shall send a report indicating the defendant's status to the court. The report shall also indicate whether the defendant should be released or committed pursuant to § 37.2-817 or 37.2-817.01 or certified pursuant to § 37.2-806. Upon receipt of the report, if the court determines that the defendant is still incompetent, the court shall order that the defendant be released, committed, or certified, and may dismiss the charges against the defendant.

D. Unless an incompetent defendant is charged with aggravated murder or the charges against an incompetent criminal defendant have been previously dismissed, charges against an unrestorably incompetent defendant shall be dismissed on the date upon which his sentence would have expired had he been convicted and received the maximum sentence for the crime charged, or on the date five years from the date of his arrest for such charges, whichever is sooner.

E. If the court orders an unrestorably incompetent defendant to be screened pursuant to the procedures set forth in §§ 37.2-903 and 37.2-904, it shall order the attorney for the Commonwealth in the jurisdiction wherein the defendant was charged and the Commissioner of Behavioral Health and Developmental Services to provide the Director of the Department of Corrections with any information relevant to the review, including, but not limited to: (i) a copy of the warrant or indictment, (ii) a copy of the defendant's criminal record, (iii) information about the alleged crime, (iv) a copy of the competency report completed pursuant to § 19.2-169.1, and (v) a copy of the report prepared by the director of the defendant's community services board, behavioral health authority, or treating inpatient facility or his designee pursuant to this section. The court shall further order that the defendant be held in the custody of the Department of Behavioral Health and Developmental Services for secure confinement and treatment until the Commitment Review Committee's and Attorney General's review and any subsequent hearing or trial are completed. If the court receives notice that the Attorney General has declined to file a petition for the commitment of an unrestorably incompetent defendant as a sexually violent predator after conducting a review pursuant to § 37.2-905, the court shall order that the defendant be released, committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, or certified pursuant to § 37.2-806.

F. In any case when an incompetent defendant is charged with aggravated murder and has been determined to be unrestorably incompetent, notwithstanding any other provision of this section, the charge shall not be dismissed and the court having jurisdiction over the aggravated murder case may order that the defendant receive continued treatment under subsection A of § 19.2-169.2 in a secure facility determined by the Commissioner of the Department of Behavioral Health and Developmental Services where the defendant shall remain until further order of the court, provided that (i) a hearing pursuant to subsection E of § 19.2-169.1 is held at yearly intervals for five years and at biennial intervals thereafter, or at any time that the director of the treating facility or his designee submits a competency report to the court in accordance with subsection D of § 19.2-169.1 that the defendant's competency has been restored, (ii) the defendant remains incompetent, (iii) the court finds continued treatment to be medically appropriate, and (iv) the defendant presents a danger to himself or others. No unrestorably incompetent defendant charged with aggravated murder shall be released except pursuant to a court order.

G. The attorney for the Commonwealth may bring charges that have been dismissed against the defendant when he is restored to competency.

CHAPTER 615

An Act to amend and reenact § 8.01-375 of the Code of Virginia, relating to exclusion of witnesses; governmental agencies and other entities.

[S 1025]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-375 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-375. Exclusion of witnesses in civil cases (Subsection (a) of Supreme Court Rule 2:615 derived in part from this section and subsection (b) of Supreme Court Rule 2:615 derived from this section).

The court trying any civil case may upon its own motion, and shall upon the motion of any party, require the exclusion of every witness. However, the following shall be exempt from the rule of this section as a matter of right: (i) each named party who is an individual~~,~~*;* (ii) one officer or agent of each party that is a *public or private* corporation ~~or~~*, partnership,* association, *governmental agency, or other entity;* (iii) an attorney alleged in a habeas corpus proceeding to have acted ineffectively~~,~~*;* and (iv) in an unlawful detainer action filed in general district court, a managing agent as defined in § 55.1-1200.

Where expert witnesses are to testify in the case, the court may, at the request of all parties, allow one expert witness for each party to remain in the courtroom; however, in cases pertaining to the distribution of marital property pursuant to § 20-107.3 or the determination of child or spousal support pursuant to § 20-108.1, the court may, upon motion of any party, allow one expert witness for each party to remain in the courtroom throughout the hearing.

CHAPTER 616

An Act to amend and reenact § 46.2-861.1 of the Code of Virginia, relating to yielding or reducing speed for stationary vehicles; vehicles displaying hazard lights, caution signs, or road flares.

[H 1932]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-861.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-861.1. Drivers to yield right-of-way or reduce speed when approaching stationary vehicles displaying certain warning lights on highways; penalties.

A. The driver of any motor vehicle, upon approaching a stationary vehicle that is displaying a flashing, blinking, or alternating blue, red, or amber light or lights as provided in § 46.2-1022, 46.2-1023, or 46.2-1024 or subsection B of § 46.2-1026 shall (i) on a highway having at least four lanes, at least two of which are intended for traffic proceeding as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change into a lane not adjacent to the stationary vehicle or (ii) if changing lanes would be unreasonable or unsafe, proceed with due caution and maintain a safe speed for highway conditions. A violation of any provision of this subsection is reckless driving.

B. The driver of any motor vehicle, upon approaching a stationary vehicle that *(i)* is displaying a flashing, blinking, or alternating amber light or lights as provided in subdivision A 1 or 2 of § 46.2-1025*, (ii) has activated the vehicular hazard warning signal flashers, (iii) is displaying caution signs, or (iv) is marked with properly lit flares or torches* shall ~~(i)~~ *(a)* on a highway having at least four lanes, at least two of which are intended for traffic proceeding as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change into a lane not adjacent to the stationary vehicle or ~~(ii)~~ *(b)* if changing lanes would be unreasonable or unsafe, proceed with due caution and maintain a safe speed for highway conditions. A violation of any provision of this subsection shall be punishable as a traffic infraction.

C. If the violation resulted in damage to property of another person, the court may, in addition, order the suspension of the driver's privilege to operate a motor vehicle for not more than one year. If the violation resulted in injury or death to another person, the court may, in addition to any other penalty imposed, order the suspension of the driver's privilege to operate a motor vehicle for not more than two years.

D. The provisions of this section shall not apply in highway work zones as defined in § 46.2-878.1.

CHAPTER 617

An Act to amend and reenact § 46.2-861.1 of the Code of Virginia, relating to yielding or reducing speed for stationary vehicles; vehicles displaying hazard lights, caution signs, or road flares.

[S 982]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-861.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-861.1. Drivers to yield right-of-way or reduce speed when approaching stationary vehicles displaying certain warning lights on highways; penalties.

A. The driver of any motor vehicle, upon approaching a stationary vehicle that is displaying a flashing, blinking, or alternating blue, red, or amber light or lights as provided in § 46.2-1022, 46.2-1023, or 46.2-1024 or subsection B of § 46.2-1026 shall (i) on a highway having at least four lanes, at least two of which are intended for traffic proceeding as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change into a lane not adjacent to the stationary vehicle or (ii) if changing lanes would be unreasonable or unsafe, proceed with due caution and maintain a safe speed for highway conditions. A violation of any provision of this subsection is reckless driving.

B. The driver of any motor vehicle, upon approaching a stationary vehicle that *(i)* is displaying a flashing, blinking, or alternating amber light or lights as provided in subdivision A 1 or 2 of § 46.2-1025*, (ii) has activated the vehicular hazard warning signal flashers, (iii) is displaying caution signs, or (iv) is marked with properly lit flares or torches* shall ~~(i)~~ *(a)* on a highway having at least four lanes, at least two of which are intended for traffic proceeding as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change into a lane not adjacent to the stationary vehicle or ~~(ii)~~ *(b)* if changing lanes would be unreasonable or unsafe,

proceed with due caution and maintain a safe speed for highway conditions. A violation of any provision of this subsection shall be punishable as a traffic infraction.

C. If the violation resulted in damage to property of another person, the court may, in addition, order the suspension of the driver's privilege to operate a motor vehicle for not more than one year. If the violation resulted in injury or death to another person, the court may, in addition to any other penalty imposed, order the suspension of the driver's privilege to operate a motor vehicle for not more than two years.

D. The provisions of this section shall not apply in highway work zones as defined in § 46.2-878.1.

CHAPTER 618

An Act to amend and reenact § 53.1-161 of the Code of Virginia, relating to arrest and return of parolee or felon serving period of postrelease supervision.

[H 2230]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-161 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-161. Arrest and return of parolee or felon serving a period of postrelease supervision; warrant; release pending adjudication of violation.

A. The Chairman or any member of the Board may at any time upon information or a showing of a violation or a probable violation by any parolee ~~or felon serving a period of postrelease supervision~~ of any of the terms or conditions upon which he was released on parole ~~or postrelease period of supervision,~~ issue, or cause to be issued, a warrant for the arrest and return of the parolee ~~or felon serving a period of postrelease supervision~~ to the institution from which he was paroled, or to any other correctional facility ~~which~~ *that* may be designated by the Chairman or member. However, a determination of whether a parolee ~~or felon serving a period of postrelease supervision~~ returned to a correctional facility pursuant to this ~~section~~ *subsection* shall be returned to a state or local correctional facility shall be made based on the length of the parolee's original sentence as set forth in § 53.1-20 ~~or the period of postrelease supervision as set at sentencing~~. Each such warrant shall authorize all officers named therein to arrest and return the parolee to actual custody in the facility from which he was paroled, or to any other facility designated by the Chairman or member.

In any case in which the parolee ~~or felon serving a period of postrelease supervision~~ is charged with the violation of any law, the violation of which caused the issuance of such warrant, upon request of the parolee or his attorney, the Chairman or member shall as soon as practicable consider all the circumstances surrounding the allegations of such violation, including the probability of conviction thereof, and may, after such consideration, release the parolee, pending adjudication of the violation charged.

B. Upon information or a showing of a violation or a probable violation by any felon serving a period of postrelease supervision of any of the terms or conditions upon which he was released on a postrelease period of supervision, the circuit court of the sentencing jurisdiction may issue, or cause to be issued, a warrant for the arrest and return of the felon serving a period of postrelease supervision to the institution from which he was released, or to any other correctional facility that may be designated by the circuit court. However, a determination of whether a felon serving a period of postrelease supervision returned to a correctional facility pursuant to this subsection shall be returned to a state or local correctional facility shall be made based on the length of the period of postrelease supervision as set at sentencing. Each such warrant shall authorize all officers named therein to arrest and return the felon to actual custody in the facility from which he was released, or to any other facility designated by the circuit court.

In any case in which the felon serving a period of postrelease supervision is charged with the violation of any law, the violation of which caused the issuance of such warrant, upon request of the felon or his attorney, the circuit court of the sentencing jurisdiction shall as soon as practicable consider all the circumstances surrounding the allegations of such violation, including the probability of conviction thereof, and may, after such consideration, release the felon, pending adjudication of the violation charged.

CHAPTER 619

An Act to amend and reenact § 9.1-101, as it is currently effective and as it may become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-320.1, relating to appointment of sworn unit investigators to Medicaid Fraud Control Unit.

[H 1452]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-101, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-320.1 as follows:

§ 9.1-101. (For contingent expiration date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; ~~or~~ (xii) private police officer employed by a private police department*; or (xiii) person designated as a sworn unit investigator by the Attorney General pursuant to subsection A of § 32.1-320.1*. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private

police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 9.1-101. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for

all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; ~~or~~ (xii) private police officer employed by a private police department*; or (xiii) person designated as a sworn unit investigator by the Attorney General pursuant to subsection A of § 32.1-320.1*. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Sealing" means (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 32.1-320.1. Powers and duties of sworn unit investigators.

A. The Attorney General may designate up to 30 persons in the unit established under § 32.1-320 as sworn unit investigators. Any individual designated as a sworn unit investigator shall be sworn only to enforce the provisions of this article. Sworn unit investigators shall be designated as law-enforcement officers as defined in § 9.1-101.

B. All sworn unit investigators shall remain subject to the federal requirements authorizing State Medicaid Fraud Control Units pursuant to 42 C.F.R. Part 1007.

C. If a search warrant is issued for any place of abode, a sworn unit investigator shall notify and request assistance from the State Police or the local law-enforcement agency from the locality where such abode is located prior to executing such search warrant. A sworn unit investigator shall not execute any search warrant for the search of any place of abode unless such sworn unit investigator is accompanied by a State Police officer or a local law-enforcement officer from the locality where such abode is located. Any evidence obtained from a search warrant executed in violation of this subsection shall not be admitted into evidence for the Commonwealth in any prosecution.

CHAPTER 620

An Act to amend and reenact §§ 16.1-253.1, 16.1-279.1, 19.2-152.9, and 19.2-152.10 of the Code of Virginia, relating to protective orders; extensions and continuances; other monetary relief; penalty.

[H 1897]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-253.1, 16.1-279.1, 19.2-152.9, and 19.2-152.10 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-253.1. Preliminary protective orders in cases of family abuse; confidentiality.

A. Upon the filing of a petition alleging that the petitioner is or has been, within a reasonable period of time, subjected to family abuse, *or the filing of a written motion requesting a hearing to extend a protective order pursuant to § 16.1-279.1 without alleging that the petitioner is or has been, within a reasonable period of time, subject to family abuse,* the court may issue a preliminary protective order against an allegedly abusing person in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer *or upon the filing of a written motion requesting a hearing to extend a protective order pursuant to § 16.1-279.1 without alleging that the petitioner is or has been, within a reasonable period of time, subject to family abuse*. If an ex parte order is issued without an affidavit or a completed form as prescribed by subsection D of § 16.1-253.4 being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse has recently occurred shall constitute good cause. Evidence that the petitioner has been subjected to family abuse within a reasonable time and evidence of immediate and present danger of family abuse may be established by a showing that (i) the allegedly abusing person is incarcerated and is to be released from incarceration within 30 days following the petition or has been released from incarceration within 30 days prior to the petition, (ii) the crime for which the allegedly abusing person was convicted and incarcerated involved family abuse against the petitioner, and (iii) the allegedly abusing person has made threatening contact with the petitioner while he was incarcerated, exhibiting a renewed threat to the petitioner of family abuse.

A preliminary protective order may include any one or more of the following conditions to be imposed on the allegedly abusing person:

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property.

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons.

3. Granting the petitioner possession of the premises occupied by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession shall affect title to any real or personal property.

4. Enjoining the respondent from terminating any necessary utility service to a premises that the petitioner has been granted possession of pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to such premises.

5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, exclusive use and possession of a cellular telephone number or electronic device. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate the petitioner.

6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession or use shall affect title to the vehicle.

7. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner and any other family or household member and, where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided.

8. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

9. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner.

B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of a preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order, unless the *hearing has been continued pursuant to this subsection or* court is closed pursuant to § 16.1-69.35 or 17.1-207 and such closure prevents the hearing from being held within such time period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the preliminary protective order shall remain in full force and effect until it is dissolved by such court, until another preliminary protective order is entered, or until a protective order is entered. If the respondent fails to appear at this hearing because the respondent was not personally served, or if personally served was incarcerated and not transported to the hearing, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served forthwith on the respondent. However, ~~upon motion of~~ *where* the respondent ~~and for~~ *shows* good cause ~~shown~~, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the preliminary protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the primary law-enforcement agency, and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described above. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders,

and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

C. The preliminary order is effective upon personal service on the allegedly abusing person. Except as otherwise provided in § 16.1-253.2, a violation of the order shall constitute contempt of court.

D. At a full hearing on the petition, the court may issue a protective order pursuant to § 16.1-279.1 if the court finds that the petitioner has proven the allegation of family abuse by a preponderance of the evidence.

E. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

F. As used in this section, "copy" includes a facsimile copy.

G. No fee shall be charged for filing or serving any petition or order pursuant to this section.

H. Upon issuance of a preliminary protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

§ 16.1-279.1. Protective order in cases of family abuse.

A. In cases of family abuse, including any case involving an incarcerated or recently incarcerated respondent against whom a preliminary protective order has been issued pursuant to § 16.1-253.1, the court may issue a protective order to protect the health and safety of the petitioner and family or household members of the petitioner. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property;

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons;

3. Granting the petitioner possession of the residence occupied by the parties to the exclusion of the respondent; however, no such grant of possession shall affect title to any real or personal property;

4. Enjoining the respondent from terminating any necessary utility service to the residence to which the petitioner was granted possession pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to that residence;

5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, exclusive use and possession of a cellular telephone number or electronic device. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate the petitioner;

6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the respondent and enjoining the respondent from terminating any insurance, registration, or taxes on the motor vehicle and directing the respondent to maintain the insurance, registration, and taxes, as appropriate; however, no such grant of possession or use shall affect title to the vehicle;

7. Requiring that the respondent provide suitable alternative housing for the petitioner and, if appropriate, any other family or household member and where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided;

8. Ordering the respondent to participate in treatment, counseling or other programs as the court deems appropriate;

9. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500; and

10. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner, including a provision for temporary custody or visitation of a minor child.

A1. If a protective order is issued pursuant to subsection A, the court may also issue a temporary child support order for the support of any children of the petitioner whom the respondent has a legal obligation to support. Such order shall terminate upon the determination of support pursuant to § 20-108.1.

B. *1.* The protective order may be issued for a specified period of time up to a maximum of two years. The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. *A written motion requesting a hearing to extend the protective order shall be served as soon as possible on the respondent.*

If the petitioner was a family or household member of the respondent at the time the initial protective order was issued, the court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of

the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

2. Upon the filing of a written motion requesting a hearing to extend the protective order, the court may issue an ex parte preliminary protective order pursuant to § 16.1-253.1 until the extension hearing. The ex parte preliminary protective order shall specify a date for the extension hearing, which shall be held within 15 days of the issuance of the ex parte preliminary protective order and may be held after the expiration of the protective order. If the respondent fails to appear at the extension hearing because the respondent was not personally served, the court shall schedule a new date for the extension hearing and may extend the ex parte preliminary protective order until such new date. The extended ex parte preliminary protective order shall be served as soon as possible on the respondent. If the respondent was personally served, where the petitioner shows by clear and convincing evidence that a continuance is necessary to meet the ends of justice or the respondent shows good cause, the court may continue the extension hearing and such ex parte preliminary protective order shall remain in effect until the extension hearing.

C. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

D. Except as otherwise provided in § 16.1-253.2, a violation of a protective order issued under this section shall constitute contempt of court.

E. The court may assess costs and ~~attorneys'~~ *attorney* fees against either party regardless of whether an order of protection has been issued as a result of a full hearing.

F. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, including any of the conditions specified in subsection A, shall be accorded full faith and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law. A person entitled to protection under such a foreign order may file the order in any juvenile and domestic relations district court by filing with the court an attested or exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer information electronically to the Virginia Criminal Information Network.

Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy available of any foreign order filed with that court. A law-enforcement officer may, in the performance of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been provided to him by any source and may also rely upon the statement of any person protected by the order that the order remains in effect.

G. Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order. Proceedings to dissolve or modify a protective order shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

H. As used in this section:

"Copy" includes a facsimile copy~~; and~~.

"Protective order" includes an initial, modified or extended protective order.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of

employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

J. No fee shall be charged for filing or serving any petition or order pursuant to this section.

K. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

L. An appeal of a protective order issued pursuant to this section shall be given expedited review by the Court of Appeals.

§ 19.2-152.9. Preliminary protective orders.

A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable period of time, subjected to an act of violence, force, or threat, or (ii) a petition or warrant has been issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of an act of violence, force, or threat, *or the filing of a written motion requesting a hearing to extend a protective order pursuant to § 19.2-152.10 without alleging that the petitioner is or has been, within a reasonable period of time, subject to an act of violence, force, or threat, or that a petition or warrant has been issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of an act of violence, force, or threat,* the court may issue a preliminary protective order against the alleged perpetrator in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer *or upon the filing of a written motion requesting a hearing to extend a protective order pursuant to § 19.2-152.10*. If an ex parte order is issued without an affidavit or a completed form as prescribed by subsection D of § 19.2-152.8 being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Immediate and present danger of any act of violence, force, or threat or evidence sufficient to establish probable cause that an act of violence, force, or threat has recently occurred shall constitute good cause.

A preliminary protective order may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to person or property;

2. Prohibiting such other contacts by the respondent with the petitioner or the petitioner's family or household members as the court deems necessary for the health and safety of such persons;

3. Such other conditions as the court deems necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other contact of any kind by the respondent; and

4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of a preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided in § 16.1-264, and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order, unless the *hearing has been continued pursuant to this subsection or the* court is closed pursuant to § 16.1-69.35 or 17.1-207 and such closure prevents the hearing from being held within such time period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the preliminary protective order shall remain in full force and effect until it is dissolved by such court, until another preliminary protective order is entered, or until a protective order is entered. If the respondent fails to appear at this hearing because the respondent was not personally served, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served as soon as possible on the respondent. However, ~~upon motion of~~ *where* the

respondent ~~and for~~ *shows* good cause ~~shown~~, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the preliminary protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to primary law-enforcement agency and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described above. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

C. The preliminary order is effective upon personal service on the alleged perpetrator. Except as otherwise provided, a violation of the order shall constitute contempt of court.

D. At a full hearing on the petition, the court may issue a protective order pursuant to § 19.2-152.10 if the court finds that the petitioner has proven the allegation that the petitioner is or has been, within a reasonable period of time, subjected to an act of violence, force, or threat by a preponderance of the evidence.

E. No fees shall be charged for filing or serving petitions pursuant to this section.

F. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

G. As used in this section, "copy" includes a facsimile copy.

H. Upon issuance of a preliminary protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

§ 19.2-152.10. Protective order.

A. The court may issue a protective order pursuant to this chapter to protect the health and safety of the petitioner and family or household members of a petitioner upon (i) the issuance of a petition or warrant for, or a conviction of, any criminal offense resulting from the commission of an act of violence, force, or threat or (ii) a hearing held pursuant to subsection D of § 19.2-152.9. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to person or property;

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons;

3. Any other relief necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other contact of any kind by the respondent; and

4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

B. *1.* Except as provided in subsection C, the protective order may be issued for a specified period of time up to a maximum of two years. The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. *A written motion requesting a hearing to extend the protective order shall be served as soon as possible on the respondent.*

The court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

2. Upon the filing of a written motion requesting a hearing to extend the protective order, the court may issue an ex parte protective order pursuant to § 19.2-152.9 until the extension hearing. The ex parte preliminary protective order shall specify a date for the extension hearing, which shall be held within 15 days of the issuance of the ex parte preliminary protective order and may be held after the expiration of the protective order. If the respondent fails to appear at the extension hearing because the respondent was not personally served, the court shall schedule a new date for the extension

hearing and may extend the ex parte protective order until such new date. The extended ex parte protective order shall be served as soon as possible on the respondent. If the respondent was personally served, where the petitioner shows by clear and convincing evidence that a continuance is necessary to meet the ends of justice or the respondent shows good cause, the court may continue the extension hearing and such ex parte protective order shall remain in effect until the extension hearing.

C. Upon conviction for an act of violence as defined in § 19.2-297.1 and upon the request of the victim or of the attorney for the Commonwealth on behalf of the victim, the court may issue a protective order to the victim pursuant to this chapter to protect the health and safety of the victim. The protective order may be issued for any reasonable period of time, including up to the lifetime of the defendant, that the court deems necessary to protect the health and safety of the victim. The protective order shall expire at 11:59 p.m. on the last day specified in the protective order, if any. Upon a conviction for violation of a protective order issued pursuant to this subsection, the court that issued the original protective order may extend the protective order as the court deems necessary to protect the health and safety of the victim. The extension of the protective order shall expire at 11:59 p.m. on the last day specified, if any. Nothing herein shall limit the number of extensions that may be issued.

D. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order and containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. Upon service, the agency making service shall enter the date and time of service and other appropriate information required into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

E. Except as otherwise provided, a violation of a protective order issued under this section shall constitute contempt of court.

F. The court may assess costs and ~~attorneys'~~ *attorney* fees against either party regardless of whether an order of protection has been issued as a result of a full hearing.

G. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, including any of the conditions specified in subsection A, shall be accorded full faith and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law. A person entitled to protection under such a foreign order may file the order in any appropriate district court by filing with the court, an attested or exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer information electronically to the Virginia Criminal Information Network.

Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy available of any foreign order filed with that court. A law-enforcement officer may, in the performance of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been provided to him by any source and may also rely upon the statement of any person protected by the order that the order remains in effect.

H. Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order. Proceedings to modify or dissolve a protective order shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of

employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

J. No fees shall be charged for filing or serving petitions pursuant to this section.

K. As used in this section:

"Copy" includes a facsimile copy~~; and~~.

"Protective order" includes an initial, modified or extended protective order.

L. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

M. An appeal of a protective order issued pursuant to this section shall be given expedited review by the Court of Appeals.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 621

An Act to amend and reenact §§ 16.1-253.1, 16.1-279.1, 19.2-152.9, and 19.2-152.10 of the Code of Virginia, relating to protective orders; extensions and continuances; other monetary relief; penalty.

[S 1532]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-253.1, 16.1-279.1, 19.2-152.9, and 19.2-152.10 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-253.1. Preliminary protective orders in cases of family abuse; confidentiality.

A. Upon the filing of a petition alleging that the petitioner is or has been, within a reasonable period of time, subjected to family abuse, *or the filing of a written motion requesting a hearing to extend a protective order pursuant to § 16.1-279.1 without alleging that the petitioner is or has been, within a reasonable period of time, subject to family abuse,* the court may issue a preliminary protective order against an allegedly abusing person in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer *or upon the filing of a written motion requesting a hearing to extend a protective order pursuant to § 16.1-279.1 without alleging that the petitioner is or has been, within a reasonable period of time, subject to family abuse*. If an ex parte order is issued without an affidavit or a completed form as prescribed by subsection D of § 16.1-253.4 being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse has recently occurred shall constitute good cause. Evidence that the petitioner has been subjected to family abuse within a reasonable time and evidence of immediate and present danger of family abuse may be established by a showing that (i) the allegedly abusing person is incarcerated and is to be released from incarceration within 30 days following the petition or has been released from incarceration within 30 days prior to the petition, (ii) the crime for which the allegedly abusing person was convicted and incarcerated involved family abuse against the petitioner, and (iii) the allegedly abusing person has made threatening contact with the petitioner while he was incarcerated, exhibiting a renewed threat to the petitioner of family abuse.

A preliminary protective order may include any one or more of the following conditions to be imposed on the allegedly abusing person:

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property.

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons.

3. Granting the petitioner possession of the premises occupied by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession shall affect title to any real or personal property.

4. Enjoining the respondent from terminating any necessary utility service to a premises that the petitioner has been granted possession of pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to such premises.

5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, exclusive use and possession of a cellular telephone number or electronic device. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party

provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate the petitioner.

6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession or use shall affect title to the vehicle.

7. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner and any other family or household member and, where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided.

8. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

9. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner.

B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of a preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order, unless the *hearing has been continued pursuant to this subsection or* court is closed pursuant to § 16.1-69.35 or 17.1-207 and such closure prevents the hearing from being held within such time period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the preliminary protective order shall remain in full force and effect until it is dissolved by such court, until another preliminary protective order is entered, or until a protective order is entered. If the respondent fails to appear at this hearing because the respondent was not personally served, or if personally served was incarcerated and not transported to the hearing, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served forthwith on the respondent. However, ~~upon motion of~~ *where* the respondent ~~and for~~ *shows* good cause ~~shown~~, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the preliminary protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the primary law-enforcement agency, and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described above. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

C. The preliminary order is effective upon personal service on the allegedly abusing person. Except as otherwise provided in § 16.1-253.2, a violation of the order shall constitute contempt of court.

D. At a full hearing on the petition, the court may issue a protective order pursuant to § 16.1-279.1 if the court finds that the petitioner has proven the allegation of family abuse by a preponderance of the evidence.

E. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of

employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

F. As used in this section, "copy" includes a facsimile copy.

G. No fee shall be charged for filing or serving any petition or order pursuant to this section.

H. Upon issuance of a preliminary protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

§ 16.1-279.1. Protective order in cases of family abuse.

A. In cases of family abuse, including any case involving an incarcerated or recently incarcerated respondent against whom a preliminary protective order has been issued pursuant to § 16.1-253.1, the court may issue a protective order to protect the health and safety of the petitioner and family or household members of the petitioner. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property;

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons;

3. Granting the petitioner possession of the residence occupied by the parties to the exclusion of the respondent; however, no such grant of possession shall affect title to any real or personal property;

4. Enjoining the respondent from terminating any necessary utility service to the residence to which the petitioner was granted possession pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to that residence;

5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, exclusive use and possession of a cellular telephone number or electronic device. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate the petitioner;

6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the respondent and enjoining the respondent from terminating any insurance, registration, or taxes on the motor vehicle and directing the respondent to maintain the insurance, registration, and taxes, as appropriate; however, no such grant of possession or use shall affect title to the vehicle;

7. Requiring that the respondent provide suitable alternative housing for the petitioner and, if appropriate, any other family or household member and where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided;

8. Ordering the respondent to participate in treatment, counseling or other programs as the court deems appropriate;

9. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500; and

10. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner, including a provision for temporary custody or visitation of a minor child.

A1. If a protective order is issued pursuant to subsection A, the court may also issue a temporary child support order for the support of any children of the petitioner whom the respondent has a legal obligation to support. Such order shall terminate upon the determination of support pursuant to § 20-108.1.

B. *1.* The protective order may be issued for a specified period of time up to a maximum of two years. The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. *A written motion requesting a hearing to extend the protective order shall be served as soon as possible on the respondent.*

If the petitioner was a family or household member of the respondent at the time the initial protective order was issued, the court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

2. Upon the filing of a written motion requesting a hearing to extend the protective order, the court may issue an ex parte preliminary protective order pursuant to § 16.1-253.1 until the extension hearing. The ex parte preliminary protective order shall specify a date for the extension hearing, which shall be held within 15 days of the issuance of the ex parte preliminary protective order and may be held after the expiration of the protective order. If the respondent fails to appear at the extension hearing because the respondent was not personally served, the court shall schedule a new date for the extension hearing and may extend the ex parte preliminary protective order until such new date. The extended ex parte preliminary protective order shall be served as soon as possible on the respondent. If the respondent was personally served, where the petitioner shows by clear and convincing evidence that a continuance is necessary to meet the ends of justice or

the respondent shows good cause, the court may continue the extension hearing and such ex parte preliminary protective order shall remain in effect until the extension hearing.

C. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

D. Except as otherwise provided in § 16.1-253.2, a violation of a protective order issued under this section shall constitute contempt of court.

E. The court may assess costs and ~~attorneys'~~ *attorney* fees against either party regardless of whether an order of protection has been issued as a result of a full hearing.

F. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, including any of the conditions specified in subsection A, shall be accorded full faith and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law. A person entitled to protection under such a foreign order may file the order in any juvenile and domestic relations district court by filing with the court an attested or exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer information electronically to the Virginia Criminal Information Network.

Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy available of any foreign order filed with that court. A law-enforcement officer may, in the performance of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been provided to him by any source and may also rely upon the statement of any person protected by the order that the order remains in effect.

G. Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order. Proceedings to dissolve or modify a protective order shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

H. As used in this section:

"Copy" includes a facsimile copy~~; and~~.

"Protective order" includes an initial, modified or extended protective order.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

J. No fee shall be charged for filing or serving any petition or order pursuant to this section.

K. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

L. An appeal of a protective order issued pursuant to this section shall be given expedited review by the Court of Appeals.

§ 19.2-152.9. Preliminary protective orders.

A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable period of time, subjected to an act of violence, force, or threat, or (ii) a petition or warrant has been issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of an act of violence, force, or threat, *or the filing of a written motion requesting a hearing to extend a protective order pursuant to § 19.2-152.10 without alleging that the petitioner is or has been, within a reasonable period of time, subject to an act of violence, force, or threat, or that a petition or warrant has been issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of an act of violence, force, or threat,* the court may issue a preliminary protective order against the alleged perpetrator in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer *or upon the filing of a written motion requesting a hearing to extend a protective order pursuant to § 19.2-152.10.* If an ex parte order is issued without an affidavit or a completed form as prescribed by subsection D of § 19.2-152.8 being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings. Immediate and present danger of any act of violence, force, or threat or evidence sufficient to establish probable cause that an act of violence, force, or threat has recently occurred shall constitute good cause.

A preliminary protective order may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to person or property;

2. Prohibiting such other contacts by the respondent with the petitioner or the petitioner's family or household members as the court deems necessary for the health and safety of such persons;

3. Such other conditions as the court deems necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other contact of any kind by the respondent; and

4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of a preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided in § 16.1-264, and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order, unless the *hearing has been continued pursuant to this subsection or the* court is closed pursuant to § 16.1-69.35 or 17.1-207 and such closure prevents the hearing from being held within such time period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the preliminary protective order shall remain in full force and effect until it is dissolved by such court, until another preliminary protective order is entered, or until a protective order is entered. If the respondent fails to appear at this hearing because the respondent was not personally served, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served as soon as possible on the respondent. However, ~~upon motion of~~ *where* the respondent ~~and for~~ *shows* good cause ~~shown~~, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the preliminary protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to primary law-enforcement agency and the agency

shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described above. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

C. The preliminary order is effective upon personal service on the alleged perpetrator. Except as otherwise provided, a violation of the order shall constitute contempt of court.

D. At a full hearing on the petition, the court may issue a protective order pursuant to § 19.2-152.10 if the court finds that the petitioner has proven the allegation that the petitioner is or has been, within a reasonable period of time, subjected to an act of violence, force, or threat by a preponderance of the evidence.

E. No fees shall be charged for filing or serving petitions pursuant to this section.

F. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

G. As used in this section, "copy" includes a facsimile copy.

H. Upon issuance of a preliminary protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

§ 19.2-152.10. Protective order.

A. The court may issue a protective order pursuant to this chapter to protect the health and safety of the petitioner and family or household members of a petitioner upon (i) the issuance of a petition or warrant for, or a conviction of, any criminal offense resulting from the commission of an act of violence, force, or threat or (ii) a hearing held pursuant to subsection D of § 19.2-152.9. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to person or property;

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons;

3. Any other relief necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other contact of any kind by the respondent; and

4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

B. *1.* Except as provided in subsection C, the protective order may be issued for a specified period of time up to a maximum of two years. The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. *A written motion requesting a hearing to extend the protective order shall be served as soon as possible on the respondent.*

The court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

2. Upon the filing of a written motion requesting a hearing to extend the protective order, the court may issue an ex parte protective order pursuant to § 19.2-152.9 until the extension hearing. The ex parte preliminary protective order shall specify a date for the extension hearing, which shall be held within 15 days of the issuance of the ex parte preliminary protective order and may be held after the expiration of the protective order. If the respondent fails to appear at the extension hearing because the respondent was not personally served, the court shall schedule a new date for the extension hearing and may extend the ex parte protective order until such new date. The extended ex parte protective order shall be served as soon as possible on the respondent. If the respondent was personally served, where the petitioner shows by clear and convincing evidence that a continuance is necessary to meet the ends of justice or the respondent shows good cause, the court may continue the extension hearing and such ex parte protective order shall remain in effect until the extension hearing.

C. Upon conviction for an act of violence as defined in § 19.2-297.1 and upon the request of the victim or of the attorney for the Commonwealth on behalf of the victim, the court may issue a protective order to the victim pursuant to this chapter to protect the health and safety of the victim. The protective order may be issued for any reasonable period of time, including up to the lifetime of the defendant, that the court deems necessary to protect the health and safety of the victim. The protective order shall expire at 11:59 p.m. on the last day specified in the protective order, if any. Upon a conviction for

violation of a protective order issued pursuant to this subsection, the court that issued the original protective order may extend the protective order as the court deems necessary to protect the health and safety of the victim. The extension of the protective order shall expire at 11:59 p.m. on the last day specified, if any. Nothing herein shall limit the number of extensions that may be issued.

D. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order and containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. Upon service, the agency making service shall enter the date and time of service and other appropriate information required into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

E. Except as otherwise provided, a violation of a protective order issued under this section shall constitute contempt of court.

F. The court may assess costs and ~~attorneys'~~ *attorney* fees against either party regardless of whether an order of protection has been issued as a result of a full hearing.

G. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, including any of the conditions specified in subsection A, shall be accorded full faith and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law. A person entitled to protection under such a foreign order may file the order in any appropriate district court by filing with the court, an attested or exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer information electronically to the Virginia Criminal Information Network.

Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy available of any foreign order filed with that court. A law-enforcement officer may, in the performance of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been provided to him by any source and may also rely upon the statement of any person protected by the order that the order remains in effect.

H. Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order. Proceedings to modify or dissolve a protective order shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

J. No fees shall be charged for filing or serving petitions pursuant to this section.

K. As used in this section:

"Copy" includes a facsimile copy~~; and~~.

"Protective order" includes an initial, modified or extended protective order.

L. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

M. An appeal of a protective order issued pursuant to this section shall be given expedited review by the Court of Appeals.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 622

An Act to amend and reenact § 16.1-244 of the Code of Virginia, relating to juvenile and domestic relations district courts; concurrent jurisdiction; suits for divorce.

[H 1991]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-244 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-244. Concurrent jurisdiction; exceptions.

A. Nothing contained in this law shall deprive any other court of the concurrent jurisdiction to determine the custody of children upon a writ of habeas corpus under the law, or to determine the custody, guardianship, visitation or support of children when such custody, guardianship, visitation or support is incidental to the determination of causes pending in such courts, nor deprive a circuit court of jurisdiction to determine spousal support in a suit for separate maintenance. However, when a suit for divorce has been filed in a circuit court, in which the custody, guardianship, visitation or support of children of the parties or spousal support is raised by the pleadings and a hearing, including a pendente lite hearing, is set by the circuit court on any such issue for a date certain or *placed* on a motions docket ~~to be heard~~ within 21 days of the filing, *though such hearing itself may occur after such 21-day period,* the juvenile and domestic relations district courts shall be divested of the right to enter any further decrees or orders to determine custody, guardianship, visitation or support when raised for such hearing and such matters shall be determined by the circuit court unless both parties agreed to a referral to the juvenile court. In any case in which the jurisdiction of the juvenile and domestic relations district court has been divested pursuant to this section and no final support order has been entered, any award for child support or spousal support in the circuit court shall be retroactive to the date on which the proceeding was commenced by the filing of the action in the juvenile and domestic relations district court, provided that the petitioner exercised due diligence in the service of the respondent. Nothing in this section shall deprive a circuit court of the authority to refer any such case to a commissioner for a hearing or shall deprive the juvenile and domestic relations district courts of the jurisdiction to enforce its valid orders prior to the entry of a conflicting order of any circuit court for any period during which the order was in effect or to temporarily place a child in the custody of any person when that child has been adjudicated abused, neglected, in need of services or delinquent subsequent to the order of any circuit court.

B. Jurisdiction of cases involving violations of federal law by a child shall be concurrent and shall be assumed only if waived by the federal court or the United States attorney.

CHAPTER 623

An Act to amend and reenact § 16.1-268 of the Code of Virginia, relating to juvenile and domestic relations district courts; appointment of counsel or guardian ad litem; appeals.

[H 1990]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-268 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-268. Order of appointment.

The order of appointment of counsel *or a guardian ad litem or both* pursuant to § 16.1-266 shall be filed with and become a part of the record of such proceeding. ~~The~~ *Any* attorney so appointed shall represent the child or parent, guardian, or other adult at any such hearing and at all other stages of the proceeding unless relieved or replaced in the manner provided by law. *Any attorney appointed to represent the child or parent, guardian, or other adult pursuant to this section may continue to represent such child or parent, guardian, or other adult upon appeal to the circuit court unless relieved or replaced in the manner provided by law.*

CHAPTER 624

An Act to amend and reenact §§ 2.2-214.2, 2.2-214.3, 2.2-435.10, 2.2-2237.3, 2.2-2238, 2.2-2472, 2.2-3711, 2.2-3905, 40.1-100, 54.1-1101, 60.2-105, 60.2-111, and 60.2-631 of the Code of Virginia; to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 20.2, containing articles numbered 1 through 4, consisting of sections numbered 2.2-2035 through 2.2-2057; and to repeal § 2.2-435.8, Chapter 6 (§§ 40.1-117 through 40.1-127) of Title 40.1, §§ 60.2-110, 60.2-113, 60.2-113.1, 60.2-309, and 60.2-310, and Chapter 4 (§§ 60.2-400, 60.2-400.1, and 60.2-401) of Title 60.2 of the Code of Virginia, relating to consolidation of the Commonwealth's workforce development policies and programs; Department of Workforce Development and Advancement created; report.

[H 2195]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-214.2, 2.2-214.3, 2.2-435.10, 2.2-2237.3, 2.2-2238, 2.2-2472, 2.2-3711, 2.2-3905, 40.1-100, 54.1-1101, 60.2-105, 60.2-111, and 60.2-631 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 20.2, containing articles numbered 1 through 4, consisting of sections numbered 2.2-2035 through 2.2-2057 as follows:

§ 2.2-214.2. Position established; agencies for which responsible.

The position of Secretary of Labor (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: the Department of Labor and Industry, the Department of Professional and Occupational Regulation, *the Department of Workforce Development and Advancement,* and the Virginia Employment Commission. The Governor, by executive order, may assign any state executive agency to the Secretary.

§ 2.2-214.3. Responsibilities of the Secretary.

A. The Secretary shall assist the Governor in his capacity as the Chief Workforce Development Officer for the Commonwealth pursuant to § 2.2-435.6. The Secretary shall be responsible for the duties assigned to him pursuant to this article, Chapter 4.2 (§ 2.2-435.6 et seq.), Article 24 (§ 2.2-2470 et seq.) of Chapter 24, and other tasks as may be assigned to him by the Governor.

B. The Chief Workforce Development Officer's responsibilities as carried out by the Secretary of Labor shall include:

1. Developing a strategic plan for the statewide delivery of workforce development and training programs and activities. The strategic plan shall be developed in coordination with the development of the comprehensive economic development policy required by § 2.2-205. The strategic plan shall include *mandatory* performance measures *for all workforce development programs across state government* that link the objectives of such programs and activities to the record of state agencies, local workforce development boards, and other relevant entities in attaining such objectives. *The Secretary shall have the authority to require compliance with such mandatory performance measures by all workforce development program administrators and providers across state government*;

2. Determining the appropriate allocation, to the extent permissible under applicable federal law, of funds and other resources that have been appropriated or are otherwise available for disbursement by the Commonwealth for workforce development programs and activities;

3. Ensuring that the Commonwealth's workforce development efforts are implemented in a coordinated and efficient manner by, among other activities, taking appropriate executive action to this end and recommending to the General Assembly necessary legislative actions to streamline and eliminate duplication in such efforts;

4. ~~Facilitating~~ *Providing oversight and directing* efficient implementation of workforce development and training programs by Cabinet Secretaries and agencies responsible for such programs;

5. Developing, in ~~coordination~~ *consultation* with the Virginia Board of Workforce Development, (i) certification standards *and metrics* for programs and providers and (ii) uniform policies and procedures, including standardized forms and applications, for one-stop centers;

6. Monitoring, in coordination with the Virginia Board of Workforce Development, the effectiveness of each one-stop center and recommending actions needed to improve its effectiveness;

7. Establishing measures to evaluate the effectiveness of the local workforce development boards and conducting annual evaluations of the effectiveness of each local workforce development board. As part of the evaluation process, the Governor shall recommend to such boards specific best management practices;

8. Conducting annual evaluations of the performance of workforce development and training programs and activities *across state government* and their administrators and *service* providers using the performance measures developed through the strategic planning process described in subdivision 1. The evaluations shall include, to the extent feasible, (i) a comparison of the per-person costs for each program or activity~~,~~*;* (ii) a comparative rating of each program or activity based on its success in meeting program objectives~~,~~ *consisting of individuals placed in jobs, jobs retained, and wages or earnings paid, as determined by the Secretary;* and (iii) an explanation of the extent to which each agency's appropriation requests incorporate the data reflected in the cost comparison described in clause (i) and the comparative rating described in clause (ii). These evaluations, including the comparative rankings, shall be considered in allocating resources for workforce development and training programs. These evaluations shall be submitted to the Chairmen of the House Committee on

Labor and Commerce and the Senate Committee on Commerce and Labor and included in the biennial reports pursuant to subdivision 10;

9. Monitoring federal legislation and policy in order to maximize the Commonwealth's effective use of access to federal funding available for workforce development programs; and

10. Submitting biennial reports, which shall be included in the Governor's executive budget submissions to the General Assembly, on improvements in the coordination of workforce development efforts statewide. The reports shall identify (i) program success rates in relation to performance measures established by the *Secretary in consultation with the* Virginia Board of Workforce Development, (ii) obstacles to program and resource coordination, and (iii) strategies for facilitating statewide program and resource coordination.

§ 2.2-435.10. Administration of the Workforce Innovation and Opportunity Act; executive summaries.

A. The Secretary of Labor ~~and the Chancellor of the Virginia Community College System~~ shall ~~enter into a memorandum of understanding that sets forth (i) the roles and responsibilities of each of these entities in administering~~ *administer (i)* a state workforce system and ~~facilitating~~ *facilitate* regional workforce systems that are business-driven, aligned with current and reliable labor market data, and targeted at providing participants with workforce credentials that have demonstrated value to employers and job seekers~~;~~ *and* (ii) a funding mechanism that adequately supports operations under the federal Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128) (WIOA)~~; and (iii) a procedure for the resolution of any disagreements that may arise concerning policy, funding, or administration of the WIOA~~.

B. The Secretary of Labor ~~and the Virginia Community College System~~ shall ~~collaborate to~~ produce an annual executive summary, no later than the first day of each regular session of the General Assembly, of the interim activity undertaken to implement the ~~memorandum of understanding~~ *responsibilities* described in subsection A and to administer the WIOA.

CHAPTER 20.2.

WORKFORCE DEVELOPMENT AND ADVANCEMENT.

Article 1.

General Provisions.

§ 2.2-2035. Department of Workforce Development and Advancement; creation; appointment of Director.

A. There is hereby created in the executive branch the Department of Workforce Development and Advancement (the Department). The Department shall be headed by the Director of Workforce Development and Advancement (the Director) who shall be appointed by the Governor, subject to confirmation by the General Assembly, to serve at the pleasure of the Governor.

B. The Director may establish divisions within the Department and assign to such divisions any duties described in this chapter or otherwise imposed upon the Department.

§ 2.2-2036. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Department" means the Department of Workforce Development and Advancement.

"Director" means the Director of Workforce Development and Advancement.

"Encrypted" means the same as that term is defined in § 18.2-186.6.

"Identifying information" means the same as that term is defined in § 18.2-186.3.

"Virginia Longitudinal Data System" means the multiagency partnership administered by the State Council of Higher Education for Virginia pursuant to subdivision 9 of § 23.1-203.

"Virginia Workforce Data Trust" means a workforce database maintained by the Department in an encrypted state in compliance with § 2.2-2009.

"Workforce development program" means a publicly funded education, training, and support services program designed and administered to prepare and enable participants to enter into and advance in careers. Such program may, but is not required to, lead to nondegree credentials and may fall under the administrative functions of the Department or reside in other agencies.

"Workforce education and training program" means a workforce development program offered by an education provider with the goal of providing an individual with a credential that leads to employment.

"Workforce services program" means a workforce development program that is primarily focused on providing, coordinating, and supporting services to assist individuals in attaining employment, including assistance with locating job opportunities, connecting to workforce education and training programs, and coordinating with other available supportive services.

§ 2.2-2037. Powers and duties of Department.

The Department shall have the power and duty to:

1. Promulgate regulations necessary or incidental to the performance of duties or execution of powers conferred under this chapter.

2. Establish a mission, goals, and objectives for the Department that align with the purpose of this chapter, to create a unified system of workforce development for the Commonwealth.

3. Develop a strategy that shall inform and engage with the business and organized labor communities to coordinate the workforce development programs offered by the Department, identify labor market needs, and ensure alignment of the Department's offerings to the needs of employers and the needs of the Commonwealth.

4. The Department and the State Council of Higher Education for Virginia shall jointly develop and implement strategies, and collaborate with employers and higher education institutions, to grow and expand the Innovative Internship Program established pursuant to § 23.1-903.4. The strategy shall include key measures of success and they shall jointly develop an annual progress report that shall include information on the number of students placed in internship programs, type of internship programs, and the number and type of participating employers. The report shall be delivered to the General Assembly, the Secretary of Education, and the Secretary of Labor annually by September 30.

5. Regularly track metrics relating to workforce development programs and establish a mechanism to help assess the adequacy of Department services and programs.

6. Develop specific strategies or steps the Department will take to modify policies, procedures, or processes to ensure effective and efficient administration of workforce development programs.

7. Develop a strategy for clearly communicating to customers changes to key workforce development programs.

8. Develop a strategy for clearly communicating important workforce development program information to Department staff, the public, and the General Assembly.

9. Identify other tactical actions to be taken to ensure the continuity of workforce development programs and customer service.

§ 2.2-2038. State and federal cooperation.

In the administration of this chapter, the Department shall cooperate with the U.S. Department of Labor to the fullest extent consistent with the provisions of this chapter. The Department shall make such reports, in such form and containing such information, as the U.S. Department of Labor may require and shall comply with such provisions as the U.S. Department of Labor may find necessary to assure the correctness and verification of such reports. The Department shall take such action, through the adoption of appropriate rules, regulations, administrative methods, and standards, as may be necessary to secure to the Commonwealth and its citizens all advantages available under the provisions of the federal Wagner-Peyser Act (29 U.S.C. § 49 et seq.), the federal Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128), and any other federal legislation executed with respect to workforce development and training.

§ 2.2-2039. Reciprocal agreements.

Subject to the approval of the Governor, the Department is authorized to enter into arrangements with the appropriate agencies of other states or the federal government for the purpose of workforce development and training.

§ 2.2-2040. Records and reports.

A. Each workforce development program provider shall keep true and accurate training records containing such information as the Department may prescribe. Such records shall be open to inspection and be subject to being copied by the Department or its authorized representatives at any reasonable time and as often as may be necessary. The Department may require from any workforce development program provider any sworn or unsworn reports, with respect to persons employed by it, that the Department deems necessary for the effective administration of this chapter.

B. Notwithstanding the provisions of subsection A, the Department shall, upon written request, furnish the Virginia Economic Development Partnership Authority (the Authority) such information as it may require to facilitate the administration and enforcement by the Authority of performance agreements with businesses that have received incentive awards. Any information provided to the Authority under this subsection shall be confidential pursuant to 20 C.F.R. Part 603 and shall only be disclosed to members of the Authority who are public officials or employees of the Authority for the performance of their official duties. No public official or employee shall disclose any confidential information obtained pursuant to this subsection to nonlegislative citizen members of the Authority or to the public. Any information so provided shall be used by the Authority solely for the purpose of verifying employment and wage claims of those businesses that have received incentive awards.

Article 2.

Data Collection and Analytics.

§ 2.2-2041. Workforce program evaluations; sharing of certain data; prohibited uses; civil penalty.

A. To the extent permitted under federal law, the agencies specified in subsection D shall share data from within their respective databases to (i) develop meaningful analyses and evaluations of workforce programs required by subdivision B 8 of § 2.2-214.3 and clause (i) of subdivision B 10 of § 2.2-214.3; (ii) meet state and federal reporting requirements; (iii) improve coordination, outcomes, and efficiency across public workforce programs and partner organizations; (iv) enable the development of comprehensive consumer-facing software applications; (v) support requirements for performance-driven contracts; and (vi) support workforce initiatives developed by the General Assembly or the Governor.

B. Data shared pursuant to subsection A shall include only the identifying and attribute information required to match entities across programs, support the coordination of services, and evaluate outcomes, shall be encrypted, and shall be transmitted to the Governor or his designee. Upon receipt of such data, the Governor or his designee shall maintain the data in an encrypted state pursuant to § 2.2-2009 and restrict data sharing according to the Virginia Workforce Data Trust memorandum of understanding.

The agencies specified in subsection D shall enter into a memorandum of understanding supporting the Virginia Workforce Data Trust and the associated application ecosystem. Such memorandum of understanding shall include provisions for authorizing bona fide research requests that are related to the data sharing referenced in subsection A. In accordance with the governance process defined in such memorandum of understanding, the data sharing referenced in

subsection A shall be accomplished by integrating additional organizations, systems, data elements, and functionality into the Virginia Workforce Data Trust.

C. The Governor or his designee and all agencies authorized under this section shall destroy or erase all shared data upon completion of all required evaluations and analyses. The Governor may retain a third-party entity to assist with the evaluation and analysis.

D. The databases from the following agencies relating to the specific programs identified in this subsection may be shared solely to achieve the purposes specified in subsection A:

1. Virginia Employment Commission: Unemployment Insurance;

2. Virginia Community College System: Postsecondary Career and Technical Education;

3. Department for Aging and Rehabilitative Services: Vocational Rehabilitation and Senior Community Services Employment Program;

4. Department for the Blind and Vision Impaired: Vocational Rehabilitation;

5. Department of Education: Special Education and Career and Technical Education;

6. Department of Social Services: Supplemental Nutrition Assistance Program, Virginia Initiative for Education and Work;

7. Virginia Economic Development Partnership Authority: Virginia Jobs Investment Program;

8. Department of Juvenile Justice: Youth Industries and Institutional Work Programs, Career and Technical Education Programs;

9. Department of Corrections: Career and Technical Education Programs;

10. The State Council of Higher Education for Virginia: certifications, certificates, and degrees;

11. Department of Veterans Services: Virginia Values Veterans;

12. Department of Workforce Development and Advancement: Apprenticeship, Job Service, Reemployment Services and Eligibility Assessment program, Trade Adjustment Assistance Program Act, Veterans Employment Training Programs, Innovative Internship Program, Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128) Titles I and III, and other workforce development programs of the Department as determined by the Director; and

13. Any other agencies as deemed necessary by the Secretary of Labor, Chief Data Officer, and Director of the Department of Workforce Development and Advancement.

E. Nothing in this section shall prohibit the inclusion of data from other sources deemed beneficial by the Secretary of Labor, Chief Data Officer, and Director of the Department of Workforce Development and Advancement.

F. Agencies participating in the Virginia Longitudinal Data System and the Virginia Workforce Data Trust shall meet annually and work with the Office of Data Governance and Analytics for the purpose of coordinating responses to changes in data collection of the participating agencies and the needs of the Commonwealth with respect to workforce development and education policy development. Subject to the approval by each participating agency, the Virginia Longitudinal Data System and the Virginia Workforce Data Trust may develop processes to facilitate intersystem operability and communication between the two entities for research and analysis purposes.

G. All agencies providing information to the Virginia Workforce Data Trust shall be prohibited from disclosing any personal information or data, except as required under this section or other state law or federal law, or to accomplish a proper purpose of the agency.

H. Any person alleging a violation of this section may bring a civil action for appropriate injunctive relief. A court rendering judgment in favor of a complainant pursuant to this subsection shall award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, to the complainant.

§ 2.2-2042. Job placement and retention; reporting.

A. The Department shall develop a tool or process for the uniform tracking of successful job placement and job retention outcomes of workforce development program participants.

B. All workforce development program providers shall annually track successful job placement and job retention outcomes for workforce development program participants using the tool or process developed by the Department.

Article 3.

Apprenticeships.

§ 2.2-2043. Definitions.

As used in this article, unless the context requires a different meaning:

"Apprentice" means a person at least 16 years of age who is covered by a written agreement with an employer and approved by the Director. The agreement shall provide for not less than 2,000 hours of reasonably continuous employment for such person, for his participation in an approved schedule of work experience through employment, and for the amount of related instruction required in the occupation.

"Apprenticeable occupation" means a skilled occupation having the following characteristics:

1. It is customarily learned in a practical way through a structured systematic program of on-the-job supervised work experience;

2. It is clearly identifiable and recognized throughout an industry;

3. It involves manual, mechanical, or technical skills that require a minimum of 2,000 hours of on-the-job work experience of new apprenticeable trades not otherwise established; and

4. It requires related instruction to supplement the on-the-job work experience.

"Employer" means any person or organization employing a registered apprentice, whether or not such person or organization is a party to an apprenticeship agreement with a sponsor.

"Joint apprenticeship committee" means a group equally representative of management and labor representatives that works under a bargaining agreement and is established to carry out the administration of an apprenticeship training program.

"Sponsor" means either an individual employer, a group of employers, or an association or organization operating an apprenticeship program and in whose name the program is registered.

§ 2.2-2044. Apprenticeship Council; membership and terms of office; meetings and duties.

A. The Governor shall appoint an Apprenticeship Council composed of four representatives each from employer and employee organizations respectively and all of whom shall be familiar with apprenticeable occupations. The Director, the Chancellor of the Virginia Community College System, or their designated representatives, and a local superintendent from a school division that provides apprenticeship-related instruction shall be ex officio members of the Apprenticeship Council. At the beginning of each year, the Governor shall designate one member to serve as chairman. Each member shall be appointed for a term of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the remainder of such term. All members, including ex officio members, shall have voting privileges.

B. The Apprenticeship Council shall meet at the call of the chairman of the Apprenticeship Council and shall formulate policies for the effective administration of this article.

C. The Apprenticeship Council shall establish standards for apprentice agreements that shall not be lower than those prescribed by this article and those established pursuant to Article 3 (§ 54.1-1128 et seq.) of Chapter 11 of Title 54.1 and shall perform such other functions as may be necessary to carry out the intent and purposes of this article. Not less than once a year, the Apprenticeship Council shall make a report of its activities and findings to the General Assembly and to the public.

§ 2.2-2045. Authority of Council.

The Council may:

1. Determine standards for apprentice agreements, which standards shall not be lower than those prescribed by this article;

2. Appoint the secretary of the Apprenticeship Council to act as secretary of each state joint apprenticeship committee;

3. Review decisions of local joint apprenticeship committees relating to apprenticeship disputes pursuant to subdivision C 3 of § 2.2-2047;

4. Perform such other duties as are necessary to carry out the intent of this article; and

5. Advise the Director on policies to coordinate apprenticeship-related instruction delivered by state and local public education agencies.

§ 2.2-2046. Director to administer article; requirements for certain programs.

A. The Director, with the advice and guidance of the Council, shall be responsible for administering the provisions of this article.

B. The Director shall:

1. Approve, if approval is in the best interests of the apprentice, any apprenticeship agreement that meets the standards established under this article;

2. Terminate or cancel any apprenticeship agreement in accordance with the provisions of such agreement;

3. Keep a record of apprenticeship agreements and their disposition;

4. Issue certificates of completion upon the completion of the apprenticeship;

5. Initiate deregistration proceedings when an apprenticeship program is not conducted, operated, and administered in accordance with the registered provisions, except that deregistration proceedings for violation of equal opportunity requirements shall be processed in accordance with the provisions of the Virginia State Plan for Equal Employment Opportunity in Apprenticeship;

6. Establish policies governing the provision of apprenticeship-related instruction delivered by state and local public education agencies and provide for the administration and supervision of related and supplemental instruction for apprentices; and

7. Perform such other duties as are necessary to carry out the intent of this article.

C. Any apprenticeship program designed to prepare individuals to engage in a career as a tradesman shall be a program of registered apprenticeships that meet or exceed the U.S. Department of Labor standards for registered apprenticeships, and such program shall meet or exceed the standards that were in place with the Apprenticeship Division of the Virginia Department of Labor and Industry as of January 31, 2023. As used in this subsection, "tradesman" means an individual engaged in the electrical, plumbing and heating, ventilation and air conditioning, carpentry, pipe fitting, boiler making, iron working, steel working, painting, or welding profession.

D. No state agency or locality shall sponsor, recognize, or establish any apprenticeship program designed to prepare individuals to engage in a career as a tradesman unless such apprenticeship program meets the requirements established in subsection C.

§ 2.2-2047. Local and state joint apprenticeship committees.

A. A local joint apprenticeship committee may be established in any trade or group of trades in a city or trade area whenever the apprentice training needs of such trade or group of trades justify such establishment.

B. When two or more local joint apprenticeship committees have been established in the Commonwealth for a trade or group of trades or at the request of any trade or group of trades, a state apprenticeship committee may be established for such trade or group of trades. Such local and state joint apprenticeship committees shall be composed of an equal number of employer and employee representatives chosen from names submitted by the respective employer and employee organizations in such trade or group of trades. In a trade or group of trades in which there is no bona fide employer or employee organization, the committee shall be appointed from persons known to represent the interests of employers and of employees respectively.

C. The functions of a local joint apprenticeship committee shall be:

1. To cooperate with school authorities in regard to the education of apprentices;

2. In accordance with standards established by the Apprenticeship Council, to establish local standards of apprenticeship regarding, schedule of operations, application of wage rates, working conditions for apprentices, and the number of apprentices that shall be employed locally in the trade; and

3. To adjust apprenticeship disputes.

D. The functions of a state trade apprenticeship committee shall be to assist in an advisory capacity in the development of statewide standards of apprenticeship and in the development of local standards and local committees.

§ 2.2-2048. Discrimination prohibitions for registered apprenticeship programs.

A. Notwithstanding the provisions of the Virginia Human Rights Act (§ 2.2-3900 et seq.), for purposes of this article a sponsor of a registered apprenticeship program shall not discriminate against an apprentice or applicant for apprenticeship on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, military status, sexual orientation, gender identity, age if the age of the individual is 40 years of age or older, genetic information, or disability.

B. Notwithstanding any provisions of Title 40.1, it shall not be an unlawful practice for an employer to fail or refuse to hire and employ any individual for any position in a registered apprenticeship program, or for any registered apprenticeship program to fail or refuse to accept or admit any individual to any registered apprenticeship program, if:

1. The occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive Order of the President; and

2. Such individual has not fulfilled or has ceased to fulfill any requirement set forth in subdivision 1.

C. The sole remedy for a violation of subsection A shall be as provided in subdivision B 5 of § 2.2-2046.

§ 2.2-2049. Requisites of apprentice agreement.

Every apprentice agreement entered into under this article shall contain:

1. The names, signatures, and addresses of the contracting parties;

2. The date of birth of the apprentice;

3. The contact information of the program sponsor and the Division of Registered Apprenticeship;

4. A statement of the occupation or business that the apprentice is to be taught and the time at which the apprenticeship will begin and end;

5. A statement showing the number of hours to be spent by the apprentice in work and the number of hours to be spent in related or supplemental instruction;

6. A statement setting forth a schedule of the processes in the occupation or industry division in which the apprentice is to be taught and the approximate time to be spent at each process;

7. A statement of the graduated scale of wages to be paid the apprentice and whether the required related instruction shall be compensated;

8. A statement providing for a period of probation of not less than 500 hours of employment and instruction extending over not less than four months, during which time the apprentice agreement shall be terminated by the Director at the request in writing of either party, and providing that after such probationary period the apprentice agreement may be terminated by the Director by mutual agreement of all parties thereto or cancelled by the Director for good and sufficient reason;

9. A reference incorporating as part of the apprentice agreement the standards of the apprenticeship program as they exist on the date of the apprentice agreement and as they may be amended during the period of the apprentice agreement;

10. A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training without discrimination as provided in § 2.2-2048;

11. Contact information, including name, address, phone number, and email if appropriate, of the appropriate authority designated under the program to receive, process, and make disposition of controversies or differences arising out of the apprentice agreement when the controversies or differences cannot be adjusted locally or resolved in accordance with the established procedure or applicable collective bargaining provisions;

12. A provision that an employer who is unable to fulfill his obligation under the apprentice agreement may, with the approval of the Director, transfer such contract to any other employer if (i) the apprentice consents, (ii) such other employer

agrees to assume the obligations of the apprentice agreement, and (iii) the transfer is reported to the registration agency within 30 days of the transfer; and

13. Such additional terms and conditions as may be prescribed or approved by the Director not inconsistent with the provisions of this article.

§ 2.2-2050. Approval of apprentice agreement by Director; signing.

No apprentice agreement under this article shall be effective until approved by the Director. Every apprentice agreement shall be signed by the employer, or by an association of employers or an organization of employees as provided in § 2.2-2052, and by the apprentice, and, if the apprentice is a minor, by the minor's father or mother, provided that if both father and mother are dead or legally incapable of giving consent or have abandoned their children, then by the guardian of the minor.

§ 2.2-2051. Apprentice agreement binding after apprentice's majority.

When a minor enters into an apprentice agreement under this article for a period of training extending into his majority, the apprentice agreement shall likewise be binding for such a period as may be covered during the apprentice's majority.

§ 2.2-2052. Apprentice agreement signed by organization of employers or of employees.

For the purpose of providing greater diversity of training or continuity of employment, any apprentice agreement made under this article may in the discretion of the Director be signed by an association of employers or an organization of employees instead of by an individual employer. In such a case, the apprentice agreement shall expressly provide that the association of employers or organization of employees does not assume the obligation of an employer but agrees to use its best endeavors to procure employment and training for such apprentice with one or more employers that will accept full responsibility, as herein provided, for all the terms and conditions of employment and training set forth in the agreement between the apprentice and employer association or employee organization during the period of each such employment. The apprentice agreement in such a case shall also expressly provide for the transfer of the apprentice, subject to the approval of the Director, to such employer or employers as shall sign a written agreement with the apprentice, and if the apprentice is a minor with his parent or guardian, as specified in § 2.2-2050, contracting to employ the apprentice for the whole or a definite part of the total period of apprenticeship under the terms and conditions of employment and training set forth in the agreement entered into between the apprentice and the employer association or employee organization.

§ 2.2-2053. Operation and application of article.

Nothing in this article or in any apprentice agreement approved under this article shall invalidate any apprenticeship provision in any collective agreement between employers and employees establishing higher apprenticeship standards regarding ratios of apprentices to journeymen, probationary periods, or length of the program. None of the terms or provisions of this article shall apply to any person, firm, corporation, or craft unless, until, and only so long as such person, firm, corporation, or craft voluntarily elects that the terms and provisions of this article shall apply.

Article 4.

Job Services.

§ 2.2-2054. Virginia State Job Service; cooperation with U.S. Employment Service agencies.

A. The Department shall have all rights, powers, and duties with respect to the establishment, maintenance, and operation of free employment offices in the Commonwealth and shall possess, exercise, and perform the same through a division known as the Virginia State Job Service. The Department through the division shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this chapter.

B. The Department, through the Virginia State Job Service, is designated as the state agency and vested with all powers necessary to cooperate with the U.S. Employment Service in accordance with the terms and conditions expressed in 29 U.S.C. § 49 et seq.

C. The Department may cooperate with or enter into agreements with the Railroad Retirement Board, or any other agency of the United States charged with the administration of an unemployment compensation law, with respect to the maintenance and use of free employment service facilities.

D. Chapter 13 of the Acts of Assembly of 1933 providing for cooperation between the Commonwealth and the U.S. Employment Service is, subject to the provisions of this article, continued in effect.

§ 2.2-2055. Veterans Skills Database.

A. For purposes of this section, "veteran" means an individual who has served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable.

B. The Department, in cooperation with the Secretary of Commerce and Trade and the Department of Veterans Services, shall establish the Veterans Skills Database (the Database), an Internet-accessible database of veterans and their workforce skills, for the purpose of marketing and promoting the workforce skills of veterans to potential employers.

C. The Department may contract with one or more third parties to develop, implement, and maintain the Database. The Database provider shall (i) maintain the Database and (ii) take all actions to ensure the protection of the confidentiality and security of the information contained in the Database in accordance with the requirements established by the Department.

D. Any veteran may register with the Department to create a free profile on the Database in order to supply information relating to his workforce skills and experience. Potential employers may register with the Department to create

a free profile in order to gain access to the Database for the purpose of identifying potential employees with relevant workforce skills and experience.

§ 2.2-2056. Employment stabilization.

The Department shall have the following duties relating to employment stabilization:

1. Establish a viable labor exchange system to promote maximum employment for the Commonwealth with priority given to those workers drawing unemployment benefits;

2. Provide Virginia State Job Service services, as described in this article, according to the provisions of the federal Wagner-Peyser Act (29 U.S.C. § 49 et seq.), as amended by the federal Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128);

3. Coordinate and direct all workforce development program services, policies, grant management, and data analytics across state government that lead to conducting activities that target job placement and respond to industry demand;

4. Coordinate and conduct labor market information research services, programs, and operations, including the development, storage, retrieval, and dissemination of information on the social and economic aspects of the Commonwealth, and publish data needed by employers, economic development programs, education and training entities, and government entities and for other users in the public and private sectors;

5. Encourage and assist in the adoption of practical methods of vocational guidance, training, and retraining; and

6. Establish the Interagency Migrant Worker Policy Committee (the Committee), comprised of representatives from appropriate state agencies, including the Virginia Workers' Compensation Commission, whose services and jurisdictions involve migrant and seasonal farmworkers and their employees. All agencies of the Commonwealth shall be required to cooperate with the Committee upon request.

§ 2.2-2057. Human trafficking hotline; posted notice required.

Within each employment office, the Department shall post notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to report crimes or gain assistance. The notice required by this section shall (i) be posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of § 40.1-11.3.

§ 2.2-2237.3. Division of Incentives.

A. Within the Authority shall be created a Division of Incentives that shall be responsible for reviewing, vetting, tracking, and coordinating economic development incentives administered by or through the Authority and for aligning those incentives with economic development incentives offered by other entities in the Commonwealth.

B. No project that includes an offer of economic development incentives by the Commonwealth, including grants or loans from the Commonwealth's Development Opportunity Fund, shall be approved by the Governor until (i) the Division of Incentives has undertaken appropriate due diligence regarding the proposed project and the Secretary of Commerce and Trade has certified that the proposed incentives to be offered are appropriate based on the investment and job creation anticipated to be generated by the project and (ii) when required by § 30-310, the MEI Project Approval Commission has reviewed the proposed incentives.

C. Any contract or memorandum of understanding for the award of economic development incentives by the Commonwealth shall set forth the investment and job creation requirements for the payment of the incentive and shall include a stipulation that the business beneficiary of the incentives shall be liable for the repayment of all or a portion of the incentives to the Commonwealth if the business beneficiary fails to make the required investments or create the required number of jobs. For purposes of this section, an incentive awarded by the Commonwealth shall include an incentive awarded from a fund operated by the Commonwealth, including the Commonwealth's Development Opportunity Fund. If it is determined that a business beneficiary is liable for the repayment of all or a portion of an economic development incentive awarded by the Commonwealth, the Board may refer the matter to the Office of the Attorney General pursuant to § 2.2-518. Prior to the referral to the Office of the Attorney General, the Board shall direct any political subdivision that is a party to the relevant contract or memorandum of understanding to assign its rights to the Commonwealth arising under such contract or memorandum of understanding in which the business beneficiary is liable to repay all or a portion of an economic development incentive awarded by the Commonwealth. In any such matter referred to the Office of the Attorney General, a business beneficiary liable to repay all or a portion of an economic development incentive awarded by the Commonwealth shall also be liable to pay interest, administrative charges, attorney fees, and other applicable fees.

D. Notwithstanding any other provision of law, approval of the Board shall be required to grant an extension for an approved project to meet the investment and job creation requirements set forth in the contract or memorandum of understanding. Notwithstanding any other provision of law, approval of both the Board and the MEI Project Approval Commission shall be required to grant any additional extensions.

E. The Division of Incentives shall provide semiannual updates to the Board of the status and progress of investment and job creation requirements for all projects for which economic development incentives have been awarded, until such time as the investment and job creation requirements are met or the incentives are repaid to the Commonwealth. Updates shall be provided more frequently upon the request of the Board, or if deemed necessary by the Division of Incentives.

F. The Board shall establish a subcommittee, consisting of ex officio members of the Board authorized pursuant to ~~§~~ *§§ 2.2-2040 and* 60.2-114 and federal law to receive and review employment information received from the Virginia Employment Commission *and the Department of Workforce Development and Advancement*, in order to assist the Division of Incentives with the verification of employment and wage claims of those businesses that have received incentive awards.

Such information shall be confidential and shall not be (i) redisclosed to other members of the Board or to the public in accordance with the provisions of *subsection B of § 2.2-2040 and* subdivision C 2 of § 60.2-114 or (ii) subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

G. For purposes of this section, the award of economic development incentives by the Commonwealth shall include an award of funds from the Commonwealth's Development Opportunity Fund, regardless of whether the contract or memorandum of understanding for the disbursement of funds is with the Commonwealth or a political subdivision thereof and the business beneficiary.

§ 2.2-2238. Economic development services.

A. It shall be the duty of the Authority to encourage, stimulate, and support the development and expansion of the economy of the Commonwealth. The Authority is charged with the following duties and responsibilities to:

1. See that there are prepared and carried out effective economic development marketing and promotional programs;

2. Make available, in conjunction and cooperation with localities, chambers of commerce, industrial authorities, and other public and private groups, to prospective new businesses basic information and pertinent factors of interest and concern to such businesses;

3. Formulate, promulgate, and advance programs throughout the Commonwealth for encouraging the location of new businesses in the Commonwealth and the retention and growth of existing businesses;

4. Encourage and solicit private sector involvement, support, and funding for economic development in the Commonwealth;

5. Encourage the coordination of the economic development efforts of public institutions, regions, communities, and private industry and collect and maintain data on the development and utilization of economic development capabilities;

6. Establish such offices within and without the Commonwealth that are necessary to the expansion and development of industries and trade;

7. Encourage the export of products and services from the Commonwealth to international markets;

8. Advise, upon request, the State Board for Community Colleges in designating technical training programs in Virginia's comprehensive community colleges for the Community College Incentive Scholarship Program pursuant to former § 23-220.4;

9. Offer a program for the issuance of export documentation for companies located in Virginia exporting goods and services if no federal agency or other regulatory body or issuing entity will provide export documentation in a form deemed necessary for international commerce; and

10. Establish an Office of Education and Labor Market Alignment (the Office) to coordinate data analysis on workforce and higher education alignment and translate data to partners. The Office shall provide a unified, consistent *and impartial* source of information or analysis for policy development and implementation related to ~~talent development~~ *education, the labor market, and workforce development*. The Office shall partner with the State Council of Higher Education for Virginia, institutions of higher education, the Virginia Department of Education, the Virginia Employment Commission, ~~GO Virginia~~ *the Virginia Growth and Opportunity Board, the Department of Workforce Development and Advancement*, and other relevant entities to offer resources and expertise related to education*, workforce development,* and labor market alignment. *The Office shall communicate relevant information in a clear and concise manner to enable policy and decision makers to navigate the complex connections between education, workforce development, and labor market alignment.*

B. The Authority may develop a site and building assessment program to identify and assess the Commonwealth's industrial sites of at least 100 acres. In developing such a program, the Authority shall establish assessment guidelines and procedures for identification of industrial sites, resource requirements, and development oversight. The Authority shall invite participation by regional and industry stakeholders to assess potential sites, identify product shortfalls, and make recommendations to the Governor and General Assembly for marketing such sites, in alignment with the goals outlined in the Governor's economic development plan.

C. The Authority may encourage the import of products and services from international markets to the Commonwealth.

§ 2.2-2472. Powers and duties of the Board; Virginia Workforce System created.

A. The Board shall implement a Virginia Workforce System that shall undertake the following actions to implement and foster workforce development and training and better align education and workforce programs to meet current and projected skills requirements of an increasingly technological, global workforce:

1. Provide policy advice to the Governor on workforce and workforce development issues in order to create a business-driven system that yields increasing rates of attainment of workforce credentials in demand by business and increasing rates of jobs creation and attainment;

2. Provide policy direction to local workforce development boards;

3. Assist the Governor in the development, implementation, and modification of any combined state plan developed pursuant to the WIOA;

4. Identify current and emerging statewide workforce needs of the business community;

5. Forecast and identify training requirements for the new workforce;

6. Recommend strategies to match trained workers with available jobs to include strategies for increasing business engagement in education and workforce development;

7. Evaluate the extent to which the state's workforce development programs emphasize education and training opportunities that align with employers' workforce needs and labor market statistics and report the findings of this analysis to the Governor every two years;

8. Advise and oversee the development of a strategic workforce dashboard and tools that will inform the Governor, policy makers, system stakeholders, and the public on issues such as state and regional labor market conditions, the relationship between the supply and demand for workers, workforce program outcomes, and projected employment growth or decline. The ~~Virginia Employment Commission~~ *Department of Workforce Development and Advancement*, along with other workforce partners, shall provide data to populate the tools and dashboard;

9. Determine and publish a list of jobs, trades, and professions for which high demand for qualified workers exists or is projected by the ~~Virginia Employment Commission~~ *Department of Workforce Development and Advancement*. The ~~Virginia Employment Commission~~ *Department of Workforce Development and Advancement* shall support the Virginia Board of Workforce Development in making such determination. Such information shall be published biennially and disseminated to employers; education and training entities, including associate-degree-granting and baccalaureate public institutions of higher education; government agencies, including the Department of Education and public libraries; and other users in the public and private sectors;

10. Develop pay-for-performance contract strategy incentives for rapid reemployment services consistent with the WIOA as an alternative model to traditional programs;

11. Conduct a review of budgets, which shall be submitted annually to the Board by each agency conducting federal and state funded career and technical and adult education and workforce development programs, that identify the agency's sources and expenditures of administrative, workforce education and training, and support services for workforce development programs;

12. Review and recommend industry credentials that align with high demand occupations, which credentials shall include a credential that determines career readiness;

13. Define the Board's role in certifying WIOA training providers, including those not subject to the authority expressed in Article 3 (§ 23.1-213 et seq.) of Chapter 2 of Title 23.1;

14. Provide an annual report to the Governor concerning its actions and determinations under subdivisions 1 through 13;

15. Create quality standards, guidelines, and directives applicable to local workforce development boards and the operation of one-stops, as necessary and appropriate to carry out the purposes of this article; ~~and~~

16. *Conduct or cause to be conducted, on a biennial basis, an independent evaluation of the operational and program objectives of the Department of Workforce Development and Advancement and submit a report to the Governor and the General Assembly summarizing such evaluation; and*

17. Perform any act or function in accordance with the purposes of this article.

B. The Board may establish such committees as it deems necessary

C. The Board, the Secretary of Labor, and the Governor's other Cabinet Secretaries shall assist the Governor in complying with the provisions of the WIOA and ensuring the coordination and effectiveness of all federal and state funded career and technical and adult education and workforce development programs and providers within Virginia's Workforce System.

D. The Board shall assist the Governor in the following areas with respect to workforce development: development of any combined state plan developed pursuant to the WIOA; development and continuous improvement of a statewide workforce development system that ensures career readiness and coordinates and aligns career and technical education, adult education, and federal and state workforce programs; development of linkages to ensure coordination and nonduplication among programs and activities; designation of local areas; development of local discretionary allocation formulas; development and continuous improvement of comprehensive state performance measures including, without limitation, performance measures reflecting the degree to which one-stop centers provide comprehensive services with all mandatory partners and the degree to which local workforce development boards have obtained funding from sources other than the WIOA; preparation of the annual report to the U.S. Secretary of Labor; development of a statewide employment statistics system; and development of a statewide system of one-stop centers that provide comprehensive workforce services to employers, employees, and job seekers.

The Board shall share information regarding its meetings and activities with the public.

E. Each local workforce development board shall develop and submit to the Governor and the Board an annual workforce demand plan for its workforce development board area based on a survey of local and regional businesses that reflects the local employers' needs and requirements and the availability of trained workers to meet those needs and requirements. Local boards shall also designate or certify one-stop operators; identify eligible providers of youth activities; develop a budget; conduct local oversight of one-stop operators and training providers in partnership with its local chief elected official; negotiate local performance measures, including incentives for good performance and penalties for inadequate performance; assist in developing statewide employment statistics; coordinate workforce development activities with economic development strategies and the annual demand plan, and develop linkages among them; develop and enter into memoranda of understanding with one-stop partners and implement the terms of such memoranda; promote participation by the private sector; actively seek sources of financing in addition to WIOA funds; report performance statistics to the Board; and certify local training providers in accordance with criteria provided by the Board. Further, a local

training provider certified by any workforce development board has reciprocal certification for all workforce development boards.

F. Each workforce development board shall develop and execute a strategic plan designed to combine public and private resources to support sector strategies, career pathways, and career readiness skills development. Such initiatives shall include or address (i) a regional vision for workforce development; (ii) protocols for planning workforce strategies that anticipate industry needs; (iii) the needs of incumbent and underemployed workers in the region; (iv) the development of partners and guidelines for various forms of on-the-job training, such as registered apprenticeships; (v) the setting of standards and metrics for operational delivery; (vi) alignment of monetary and other resources, including private funds and in-kind contributions, to support the workforce development system; and (vii) the generation of new sources of funding to support workforce development in the region.

G. Local workforce development boards are encouraged to implement pay-for-performance contract strategy incentives for rapid reemployment services consistent within the WIOA as an alternative model to traditional programs. Such incentives shall focus on (i) partnerships that lead to placements of eligible job seekers in unsubsidized employment and (ii) placement in unsubsidized employment for hard-to-serve job seekers. At the discretion of the local workforce development board, funds to the extent permissible under §§ 128(b) and 133(b) of the WIOA may be allocated for pay-for-performance partnerships.

H. Each chief local elected official shall consult with the Governor regarding designation of local workforce development areas; appoint members to the local board in accordance with state criteria; serve as the local grant recipient unless another entity is designated in the local plan; negotiate local performance measures with the Governor; ensure that all mandated partners are active participants in the local workforce development board and one-stop center; and collaborate with the local workforce development board on local plans and program oversight.

I. Each local workforce development board shall develop and enter into a memorandum of understanding concerning the operation of the one-stop delivery system in the local area with each entity that carries out any of the following programs or activities:

1. Programs authorized under Title I of the WIOA;

2. Programs authorized under the Wagner-Peyser Act (29 U.S.C. § 49 et seq.);

3. Adult education and literacy activities authorized under Title II of the WIOA;

4. Programs authorized under Title I of the Rehabilitation Act of 1973 (29 U.S.C. § 720 et seq.);

5. Postsecondary career and technical education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. § 2301 et seq.);

6. Activities authorized under Chapter 2 of Title II of the Trade Act of 1974 (19 U.S.C. § 2271 et seq.);

7. Activities pertaining to employment and training programs for veterans authorized under 38 U.S.C. § 4100 et seq.;

8. Programs authorized under Title 60.2, in accordance with applicable federal law;

9. Workforce development activities or work requirements of the Temporary Assistance to Needy Families (TANF) program known in Virginia as the Virginia Initiative for Education and Work (VIEW) established pursuant to § 63.2-608;

10. Workforce development activities or work programs authorized under the Food Stamp Act of 1977 (7 U.S.C. § 2011 et seq.);

11. Other programs or activities as required by the WIOA; and

12. Programs authorized under Title I of the WIOA.

J. The quorum for a meeting of a local workforce development board shall consist of a majority of both the private sector and public sector members. Each local workforce development board shall share information regarding its meetings and activities with the public.

K. For the purposes of implementing the WIOA, income from service in the Virginia National Guard shall not disqualify unemployed service members from WIOA-related services.

L. The Secretary of Labor shall be responsible for the coordination of the Virginia Workforce System and the implementation of the WIOA.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or

presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the

exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or

conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 *and the Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040*.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 2.2-3905. Nondiscrimination in employment; definitions; exceptions.

A. As used in this section:

"Age" means being an individual who is at least 40 years of age.

"Domestic worker" means an individual who is compensated directly or indirectly for the performance of services of a household nature performed in or about a private home, including services performed by individuals such as companions, babysitters, cooks, waiters, butlers, valets, maids, housekeepers, nannies, nurses, janitors, laundresses, caretakers, handymen, gardeners, home health aides, personal care aides, and chauffeurs of automobiles for family use. "Domestic worker" does not include (i) a family member, friend, or neighbor of a child, or a parent of a child, who provides child care in the child's home; (ii) any child day program as defined in § 22.1-289.02 or an individual who is an employee of a child day program; or (iii) any employee employed on a casual basis in domestic service employment to provide companionship services for individuals who, because of age or infirmity, are unable to care for themselves.

"Employee" means an individual employed by an employer.

"Employer" means a person employing (i) 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person or (ii) one or more domestic workers. However, (a) for purposes of unlawful discharge under subdivision B 1 on the basis of race, color, religion, national origin, military status, sex, sexual orientation, gender identity, marital status, disability, pregnancy, or childbirth or related medical conditions including lactation, "employer" means any person employing more than five persons or one or more domestic workers and (b) for purposes of unlawful discharge under subdivision B 1 on the basis of age, "employer" means any employer employing more than five but fewer than 20 persons.

"Employment agency" means any person, or an agent of such person, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer.

"Joint apprenticeship committee" means the same as that term is defined in § ~~40.1-120~~ *2.2-2043*.

"Labor organization" means an organization engaged in an industry, or an agent of such organization, that exists for the purpose, in whole or in part, of dealing with employers on behalf of employees concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment. "Labor organization" includes employee representation committees, groups, or associations in which employees participate.

"Lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

B. It is an unlawful discriminatory practice for:

1. An employer to:

a. Fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to such individual's compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, military status, disability, or national origin; or

b. Limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, military status, disability, or national origin.

2. An employment agency to:

a. Fail or refuse to refer for employment, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin; or

b. Classify or refer for employment any individual on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin.

3. A labor organization to:

a. Exclude or expel from its membership, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin;

b. Limit, segregate, or classify its membership or applicants for membership, or classify or fail to or refuse to refer for employment any individual, in any way that would deprive or tend to deprive such individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect an individual's status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin; or

c. Cause or attempt to cause an employer to discriminate against an individual in violation of subdivisions a or b.

4. An employer, labor organization, or joint apprenticeship committee to discriminate against any individual in any program to provide apprenticeship or other training program on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin.

5. An employer, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of employment-related tests on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin.

6. Except as otherwise provided in this chapter, an employer to use race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin as a motivating factor for any employment practice, even though other factors also motivate the practice.

7. (i) An employer to discriminate against any employees or applicants for employment, (ii) an employment agency or a joint apprenticeship committee controlling an apprenticeship or other training program to discriminate against any individual, or (iii) a labor organization to discriminate against any member thereof or applicant for membership because such individual has opposed any practice made an unlawful discriminatory practice by this chapter or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

8. An employer, labor organization, employment agency, or joint apprenticeship committee controlling an apprenticeship or other training program to print or publish, or cause to be printed or published, any notice or advertisement relating to (i) employment by such an employer, (ii) membership in or any classification or referral for employment by such a labor organization, (iii) any classification or referral for employment by such an employment agency, or (iv) admission to, or employment in, any program established to provide apprenticeship or other training by such a joint apprenticeship committee that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification,

or discrimination based on religion, sex, age, or national origin when religion, sex, age, or national origin is a bona fide occupational qualification for employment.

C. Notwithstanding any other provision of this chapter, it is not an unlawful discriminatory practice:

1. For (i) an employer to hire and employ employees; (ii) an employment agency to classify, or refer for employment, any individual; (iii) a labor organization to classify its membership or to classify or refer for employment any individual; or (iv) an employer, labor organization, or joint apprenticeship committee to admit or employ any individual in any apprenticeship or other training program on the basis of such individual's religion, sex, or age in those certain instances where religion, sex, or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular employer, employment agency, labor organization, or joint apprenticeship committee;

2. For an elementary or secondary school or institution of higher education to hire and employ employees of a particular religion if such elementary or secondary school or institution of higher education is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society or if the curriculum of such elementary or secondary school or institution of higher education is directed toward the propagation of a particular religion;

3. For an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment, pursuant to a bona fide seniority or merit system, or a system that measures earnings by quantity or quality of production, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin;

4. For an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or an action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin;

5. For an employer to provide reasonable accommodations related to disability, pregnancy, childbirth or related medical conditions, and lactation, when such accommodations are requested by the employee; or

6. For an employer to condition employment or premises access based upon citizenship where the employer is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute or regulation of the federal government or any executive order of the President of the United States.

D. Nothing in this chapter shall be construed to require any employer, employment agency, labor organization, or joint apprenticeship committee to grant preferential treatment to any individual or to any group because of such individual's or group's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin on account of an imbalance that may exist with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin in any community.

E. The provisions of this section shall not apply to the employment of individuals of a particular religion by a religious corporation, association, educational institution, or society to perform work associated with its activities.

§ 40.1-100. Certain employment prohibited or limited.

A. No child under 18 years of age shall be employed, permitted, or suffered to work:

1. In any mine, quarry, tunnel, underground scaffolding work; in or about any plant or establishment manufacturing or storing explosives or articles containing explosive components; in any occupation involving exposure to radioactive substances or to ionizing radiations including X-ray equipment;

2. At operating or assisting to operate any grinding, abrasive, polishing or buffing machine, any power-driven metal forming, punching or shearing machine, power-driven bakery machine, power-driven paper products machine, any circular saw, band saw or guillotine shear, or any power-driven woodworking machine;

3. In oiling or assisting in oiling, wiping and cleaning any such machinery;

4. In any capacity in preparing any composition in which dangerous or poisonous chemicals are used;

5. In any capacity in the manufacturing of paints, colors, white lead, or brick tile or kindred products, or in any place where goods of alcoholic content are manufactured, bottled, or sold for consumption on the premises except in places (i) licensed pursuant to subdivision 6 of § 4.1-206.1, provided that a child employed at the premises shall not serve or dispense in any manner alcoholic beverages or (ii) where the sale of alcoholic beverages is merely incidental to the main business actually conducted, or to deliver alcoholic goods;

6. In any capacity in or about excavation, demolition, roofing, wrecking or shipbreaking operations;

7. As a driver or a helper on an automobile, truck, or commercial vehicle; however, children who are at least 17 years of age may drive automobiles or trucks on public roadways if:

a. The automobile or truck does not exceed 6,000 pounds gross vehicle weight, the vehicle is equipped with seat belts for the driver and any passengers, and the employer requires the employee to use the seatbelts when driving the automobile or truck;

b. Driving is restricted to daylight hours;

c. The employee has a valid State license for the type of driving involved and has no record of any moving violations at the time of hire;

d. The employee has successfully completed a State-approved driver education course;

e. The driving does not involve: (i) the towing of vehicles; (ii) route deliveries or route sales; (iii) the transportation for hire of property, goods, or passengers; (iv) urgent, time-sensitive deliveries; or (v) the transporting at any time of more than three passengers, including the employees of the employer;

f. The driving performed by the employee does not involve more than two trips away from the primary place of employment in any single day for the purpose of delivering goods of the employee's employer to a customer;

g. The driving performed by the employee does not involve more than two trips away from the primary place of employment in any single day for the purpose of transporting passengers, other than employees of the employer;

h. The driving takes place within a 30-mile radius of the employee's place of employment; and

i. The driving is only occasional and incidental to the employee's employment and involves no more than one third of the employee's work time in any workday and no more than 20 percent work time in any work week;

8. In logging or sawmilling, or in any lath mill, shingle mill or cooperage-stock mill, or in any occupation involving slaughtering, meatpacking, processing or rendering;

9. In any occupation determined and declared hazardous by rules and regulations promulgated by the Commissioner of Labor and Industry, except as otherwise provided in subsection D.

Notwithstanding the provisions of this section, children 16 years of age or older who are serving a voluntary apprenticeship as provided in ~~Chapter 6 (§ 40.1-117 et seq.) of this title~~ *Article 3 (§ 2.2-2043 et seq.) of Chapter 20.2 of Title 2.2* may be employed in any occupation in accordance with rules and regulations promulgated by the Commissioner.

B. Except as part of a regular work-training program in accordance with §§ 40.1-88 and 40.1-89, no child under 16 years of age shall be employed, permitted or suffered to work:

1. In any manufacturing or mechanical establishment, in any commercial cannery; in the operation of any automatic passenger or freight elevator; in any dance studio; or in any hospital, nursing home, clinic, or other establishment providing care for resident patients as a laboratory helper, therapist, orderly, or nurse's aide; in the service of any veterinarian while treating farm animals or horses; in any warehouse; in processing work in any laundry or dry cleaning establishment; in any undertaking establishment or funeral home; in any curb service restaurant, in hotel and motel room service; in any brick, coal or lumber yard or ice plant or in ushering in theaters. Children 14 years of age or more may be engaged in office work of a clerical nature in bona fide office rooms in the above types of establishments.

2. In any scaffolding work or construction trade; or in any outdoor theater, cabaret, carnival, fair, floor show, pool hall, club, or roadhouse; or as a lifeguard at a beach.

C. Children 14 years of age or more may be employed by dry cleaning or laundry establishments in branch stores where no processing is done on the premises, and in hospitals, nursing homes, and clinics where they may be engaged in kitchen work, tray service or room and hall cleaning. Children 14 years of age or more may be employed in bowling alleys completely equipped with automatic pin setters, but not in or about such machines, and in soda fountains, restaurants and hotel and motel food service departments. Children 14 years of age or more may work as gatekeepers and in concessions at swimming pools and may be employed by concessionaires operating on beaches where their duties and work pertain to the handling and distribution of beach chairs, umbrellas, floats and other similar or related beach equipment.

D. Notwithstanding any other provision of this chapter:

1. Children age 16 years or older employed on farms, in gardens or in orchards may operate, assist in operating, or otherwise perform work involving a truck, excluding a tractor trailer, or farm vehicle as defined in § 46.2-1099, in their employment;

2. Children age 14 years or older employed on farms, in gardens or in orchards may perform work as a helper on a truck or commercial vehicle in their employment, while engaged in such work exclusively on a farm, in a garden or in an orchard;

3. Children age 16 years or older may participate in all activities of a volunteer fire company; however, any such child shall not enter a burning structure or a structure which contains burning materials prior to obtaining certification under National Fire Protection Association 1001, level one, fire fighter standards, pursuant to the provisions of clause (i) of subsection A of § 40.1-79.1, except where entry into a structure that contains burning materials is during training necessary to attain certification under National Fire Protection Association 1001, level one, firefighter standards, as administered by the Department of Fire Programs.

§ 54.1-1101. Exemptions; failure to obtain certificate of occupancy; penalties.

A. The provisions of this chapter shall not apply to:

1. Any governmental agency performing work with its own forces;

2. Work bid upon or undertaken for the armed services of the United States under the Armed Services Procurement Act;

3. Work bid upon or undertaken for the United States government on land under the exclusive jurisdiction of the federal government either by statute or deed of cession;

4. Work bid upon or undertaken for the Department of Transportation on the construction, reconstruction, repair, or improvement of any highway or bridge;

5. Any other persons who may be specifically excluded by other laws but only to such an extent as such laws provide;

6. Any material supplier who renders advice concerning use of products sold and who does not provide construction or installation services;

7. Any person who performs or supervises the construction, removal, repair, or improvement of no more than one primary residence owned by him and for his own use during any 24-month period;

8. Any person who performs or supervises the construction, removal, repair, or improvement of a house upon his own real property as a bona fide gift to a member of his immediate family provided such member lives in the house. For purposes of this section, "immediate family" includes one's mother, father, son, daughter, brother, sister, grandchild, grandparent, mother-in-law, and father-in-law;

9. Any person who performs or supervises the repair or improvement of industrial or manufacturing facilities, or a commercial or retail building, for his own use;

10. Any person who performs or supervises the repair or improvement of residential dwelling units owned by him that are subject to the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.);

11. Any owner-developer, provided that any third-party purchaser is made a third-party beneficiary to the contract between the owner-developer and a licensed contractor whereby the contractor's obligation to perform the contract extends to both the owner-developer and the third party;

12. Work undertaken by students as part of a career and technical education project as defined in § 22.1-228 established by any school board in accordance with Article 5 (§ 22.1-228 et seq.) of Chapter 13 of Title 22.1 for the construction of portable classrooms or single family homes;

13. Any person who performs the removal of building detritus or provides janitorial, cleaning, or sanitizing services incidental to the construction, removal, repair, or improvement of real property;

14. Any person who is performing work directly under the supervision of a licensed contractor and is (i) a student in good standing and enrolled in a public or private institution of higher education, (ii) a student enrolled in a career training or technical education program, or (iii) an apprentice as defined in § ~~40.1-120~~ *2.2-2043*; and

15. Work undertaken by a person providing construction, remodeling, repair, improvement, removal, or demolition valued at $25,000 or less per project on behalf of a properly licensed contractor, provided that such contractor holds a valid license in the (i) residential building, (ii) commercial building, or (iii) home improvement building contractor classification. However, any construction services that require an individual license or certification shall be rendered only by an individual licensed or certified in accordance with this chapter.

All other contractors performing work for any government or for any governmental agency are subject to the provisions of this chapter and are required to be licensed as provided herein.

B. Any person who is exempt from the provisions of this chapter as a result of subdivision A 7, 10, 11, or 12 shall obtain a certificate of occupancy for any building constructed, repaired or improved by him prior to conveying such property to a third-party purchaser, unless such purchaser has acknowledged in writing that no certificate of occupancy has been issued and that such purchaser consents to acquire the property without a certificate of occupancy.

C. Any person who is exempt from the provisions of this chapter as a result of subdivision 7, 8, 9, 10, 11, 12, or 14 of subsection A shall comply with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

D. Any person who violates the provisions of subsection B or C shall be guilty of a Class 1 misdemeanor. The third or any subsequent conviction of violating subsection B or C during a 36-month period shall constitute a Class 6 felony.

§ 60.2-105. Publication and distribution of law, regulations, etc.

The Commission shall cause to be ~~printed~~ *readily available* for distribution to the public the text of this title, the Commission's regulations and general rules, its annual reports to the Governor, and any other material the Commission deems relevant and suitable. The Commission shall furnish these materials to any person upon request.

§ 60.2-111. Duties and powers of Commission; reporting requirements.

A. It shall be the duty of the Commission to administer this title. *The Commission may establish separate divisions as necessary to carry out the duties and powers prescribed by this section.* It shall have power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action, including the appointment of advisory groups, as it deems necessary or suitable to that end. Such rules and regulations shall be subject to the provisions of Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2, except as to the subject matter of subdivisions 2 and 3 of § 60.2-515, which shall become effective in the manner prescribed by § 2.2-4103. The Commission shall determine its own organization and methods of procedure in accordance with provisions of this title, and shall have an official seal which shall be judicially noticed.

B. *The Commission shall take all necessary steps to maintain a solvent trust fund financed through equitable employer taxes that provides temporary partial income replacement to involuntarily unemployed covered workers.*

C. The Commission shall prepare an annual balance sheet of the moneys in the fund and in the Unemployment Trust Fund to the credit of the Commonwealth in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then-current taxes. That reserve shall be set up by the Commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the Commission believes that a change in tax or benefit rates is necessary to protect the

solvency of the Fund, it shall promptly so inform the Governor and the General Assembly and make recommendations with respect thereto.

~~C.~~ *D.* In preparing the annual balance sheet required by subsection ~~B~~ *C*, the Commission shall regularly track metrics related to unemployment insurance benefits, establish a mechanism to help assess the adequacy of benefits, and examine metrics related to recipiency, average benefit levels, and benefit income replacement ratios. The annual balance sheet shall include the following calculations: (i) the average unemployment insurance benefit levels, (ii) the average income replacement of unemployment insurance benefits, and (iii) the recipiency rate for unemployment insurance benefits in the Commonwealth.

~~D.~~ *E.* The Commission, as part of its biennial strategic plan submitted to the Department of Planning and Budget, shall develop and maintain a comprehensive unemployment insurance Resiliency Plan that describes specific actions the Commission will take, depending on the level of increase in unemployment insurance (UI) claims, to address staffing, communications, and other relevant aspects of operations to ensure continued efficient and effective administration of the UI program. The Resiliency Plan shall include proposed actions consistent with the following objectives to effectively prepare for periods of high unemployment:

1. Develop specific strategies or steps the Commission will take to modify staffing levels in response to incidents that increase UI program demand. These strategies or steps shall (i) include a staffing plan for varying levels of UI workload volume, (ii) cover several scenarios that may affect UI assistance services, (iii) explain how existing staff would be reallocated to high-priority functions in response to high demand, and (iv) describe how the Commission's hiring process will be streamlined to fill key vacant positions such as adjudication and appeals staff.

2. Develop specific strategies or steps the Commission will take to modify policies, procedures, or processes in response to high demands on its services.

3. Outline a strategy for clearly communicating key UI program changes to customers. This strategy shall indicate which staff will be responsible for different types of communications and include several communications goals, such as clearly conveying UI program and policy changes.

4. Outline a strategy for clearly communicating important UI information to Commission staff, the public, and the General Assembly.

5. Formalize a policy for prioritizing and assigning claims for adjudication during periods of high claims volume. This policy shall detail how prioritization may change in response to claims volume and state that the policy of the Commission is to generally prioritize resolving older claims before newer claims.

6. Identify other tactical actions to be taken to ensure the continuity of UI claims processing and customer service.

§ 60.2-631. Board of Review.

A. The Commissioner, in his discretion, is hereby authorized to appoint a Board of Review consisting of three members, one of whom shall be designated chairman for a term of six years. The terms of the members first taking office shall be two, four, and six years, respectively, as designated by the Commissioner at the time of the appointment. Vacancies shall be filled by appointment by the Commissioner for the unexpired term. During his term of membership on the Board no member shall serve as an officer or committee member of any political organization. The members of the Board shall be compensated in a manner determined by the Commission. The Commission shall furnish the Board such stenographic and clerical assistance as the Board may require. All compensation of the members of the Board and all necessary expenses for the operation thereof shall be paid out of the administrative fund provided for in §§ 60.2-306 ~~through~~ ~~60.2-309~~*, 60.2-307, and 60.2-308* and §§ 60.2-311 ~~through~~*, 60.2-312, and* 60.2-313. The Commissioner may at any time, after notice and hearing, remove any member for cause. The Commissioner may, after thirty days' notice to the members of the Board and upon a finding that the Board is no longer needed, abolish the same.

B. 1. The Board shall meet upon the call of the chairman. It shall have the same powers and perform the same functions vested in the Commission in this title for review of decisions by an appeal tribunal, including the power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with disputed claims.

2. The Board may hold its hearings in the county or city where the claimant was last employed, except that hearings involving the provisions of subdivision A 2 of § 60.2-612 shall be held in the county or city where the claimant was last employed. When the same or substantially similar evidence is relevant and material to matters in issue in claims by more than one individual or in claims by a single individual with respect to two or more weeks of unemployment, the same time and place for considering each such claim may be fixed, hearings thereon jointly conducted, and a single record of the proceedings made.

C. The Commission may issue such regulations as it deems necessary for the procedure of the Board in the conduct of its hearings. During the time the Board is organized under authority of the Commissioner, the Commission shall have no jurisdiction under § 60.2-622. Any decision of the Board shall become final ten days after the date of notification or mailing and judicial review shall be permitted the claimant, the Commission or any interested party claiming to be aggrieved. In any judicial action involving any such decision the Commission shall be represented by the Office of the Attorney General. Any decision of the Board from which no judicial review is sought within the time prescribed in § 60.2-625 shall be conclusive against any party to the hearing before the Board and the Commission in any subsequent judicial proceedings involving liability for taxes under this title.

D. Within the time specified in § 60.2-625 the Commission, or any party to the proceedings before the Board, may obtain judicial review by filing in the circuit court of the county or city in which the individual who filed the claim was last employed, in the Commonwealth, a petition for review of such decision. In any such proceeding any other party to the proceeding shall be made a party respondent. The Commission shall be deemed to be a party to any such proceeding. The petition need not be verified. A copy of such petition shall be served upon the Commission and each party to the proceeding held before the Board at least thirty days prior to the placing of the petition upon the docket. The mailing of a copy of such petition to each party at his last known address shall be sufficient service. The Commission shall file along with its petition or answer a certified copy of the record of the case, including all documents and papers and a transcript of all testimony taken in the matter, together with the Board's findings, conclusions and decision therein.

E. In any proceeding under this section the Board's findings of facts, if supported by the evidence and in the absence of fraud, shall be conclusive and the jurisdiction of the court shall be confined to questions of law. The court may order additional evidence to be taken by the Board, which such additional evidence, findings of fact or conclusions, together with the additional transcript of the record, shall be certified by the chairman of the Board and filed by him with the court. Such petition for review shall be heard in a summary manner and shall have preference over all other cases on the docket, except cases in which the Commonwealth is a party.

F. An appeal may be taken from the decision of such court to the Court of Appeals in conformity with Part Five A of the Rules of Supreme Court and other applicable laws. From any such decision involving (i) the provisions of § 60.2-612 or § 60.2-618, (ii) whether an employing unit constitutes an employer or (iii) whether services performed for or in connection with the business of an employing unit constitute employment for such employing unit, the Court of Appeals shall have jurisdiction to review such decision regardless of the amount involved in any claim for benefits. It shall not be necessary, in any proceeding before the Board, to enter exceptions to its ruling, and no bond shall be required upon any appeal to any court. Upon the final determination of such judicial proceeding, the Board shall enter an order in accordance with such determination.

2. That § 2.2-435.8, Chapter 6 (§§ 40.1-117 through 40.1-127) of Title 40.1, §§ 60.2-110, 60.2-113, 60.2-113.1, 60.2-309, and 60.2-310, and Chapter 4 (§§ 60.2-400, 60.2-400.1, and 60.2-401) of Title 60.2 of the Code of Virginia are repealed.

3. That the Governor may transfer appropriations or portions thereof within the Virginia Community College System, the Virginia Employment Commission, the Department of Education, and the Department of Labor and Industry, or from any such agency to another, to support the changes in organization or responsibility resulting from moving the following programs to the Department of Workforce Development and Advancement established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act: (i) the Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128) Titles I and III; (ii) the Trade Adjustment Assistance Program; (iii) the Jobs for Veterans State Grant program; (iv) the Reemployment Services and Eligibility Assessment program; (v) registered apprenticeship programs and other apprenticeship programs; (vi) the Virginia Career Works Referral Portal and Workforce Data Trust; (vii) the Virginia Workforce Connection; (viii) labor market information services; (ix) Virginia Voyager; (x) Network2Work; and (xi) the Hampton Roads Skilled Trades Rapid On-Ramp Network for Growth.

4. That the Governor may transfer any employee within the Virginia Community College System, the Virginia Employment Commission, and the Department of Labor and Industry, or from any such agency to another, to support the changes in organization or responsibility resulting from moving the programs listed in the third enactment of this act to the Department of Workforce Development and Advancement established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act.

5. That during the interim period between July 1, 2023, and the formal establishment of the Department of Workforce Development and Advancement (the Department), established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act, the Virginia Employment Commission shall be responsible for conducting all necessary business functions assigned to the Department pursuant to this act. Formal establishment shall include appointment of the Director of the Department pursuant to § 2.2-2035 of the Code of Virginia, as created by this act, and achievement of staffing levels adequate to allow the Department to independently accomplish such business functions as determined by the Director and the Secretary of Labor.

6. That the Secretaries of Finance and Labor from amounts appropriated to the Department of Workforce Development and Advancement (the Department), established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act, shall approve disbursements prior to expenditure of funds. The Department shall only use such funds for the purpose of paying the costs related to the transition of workforce development programs, services, and functions to the Department in accordance with the provisions of this act.

7. That the regulations of the Virginia Community College System, the Virginia Employment Commission, and the Department of Labor and Industry relating to any program, service, or function be transferred to the Department of Workforce Development and Advancement (the Department), established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act, and shall be administered by the Department and shall remain in full force and effect until the Department promulgates regulations pursuant to this act.

8. That the first report required pursuant to subdivision A 16 of § 2.2-2472 of the Code of Virginia, as amended by this act, shall be submitted to the Governor and the General Assembly no later than December 1, 2025.

9. That the Secretary of Labor shall conduct a comprehensive review of the Commonwealth's workforce development programs and provide recommendations to address a wide range of subjects relating to improving the effectiveness and efficiency of such programs, including (i) the adequacy of collaboration among such programs; (ii) the organization, powers, and duties of the Department of Workforce Development and Advancement, established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act; (iii) the operations of the local workforce investment boards and the geographic areas served by such boards; and (iv) the proper role of the Virginia Community College System in supporting workforce development efforts. The Secretary of Labor shall submit a preliminary report to the Governor and the General Assembly by November 30, 2023. The final report shall be submitted to the Governor and the General Assembly by June 30, 2025.

10. That the Secretary of Labor shall work with the Office of Data Governance and Analytics to assess existing data systems to identify system redundancies and a solution for a proposed "hub" technology.

11. That the Secretary of Labor (the Secretary) shall convene a stakeholder work group consisting of two members of the House of Delegates appointed by the Speaker of the House of Delegates, two members of the Senate of Virginia appointed by the Senate Committee on Rules, representatives from the agencies affected by the transfer of programs pursuant to this act, local workforce boards, the business community, and labor organizations, and any other representatives deemed appropriate by the Secretary, for the purpose of advising the Secretary during the program transition period from July 1, 2023, through September 30, 2024. The Secretary shall provide a progress report on the outcomes of the work group, the progress of the transition, the current and expected costs of transition, and the expected ongoing operational costs of the Department quarterly to the Governor and the General Assembly.

12. That, to the extent practicable, the Director of the Department of Workforce Development and Advancement (the Department), established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act, or the Governance Council of the Workforce Data Trust may enter into a research agreement with the Office of Education and Labor Market Alignment on or before December 1, 2023, for the purposes of assisting the Governor, the Department, the Virginia Board of Workforce Development, and the General Assembly with research on the outcomes and performance of Virginia's workforce programs and their alignment to Virginia's labor market.

13. That the Secretaries of Finance and Labor shall provide periodic updates on the implementation of the provisions of this act to the Chairs of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations.

CHAPTER 625

An Act to amend and reenact §§ 2.2-214.2, 2.2-214.3, 2.2-435.10, 2.2-2237.3, 2.2-2238, 2.2-2472, 2.2-3711, 2.2-3905, 40.1-100, 54.1-1101, 60.2-105, 60.2-111, and 60.2-631 of the Code of Virginia; to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 20.2, containing articles numbered 1 through 4, consisting of sections numbered 2.2-2035 through 2.2-2057; and to repeal § 2.2-435.8, Chapter 6 (§§ 40.1-117 through 40.1-127) of Title 40.1, §§ 60.2-110, 60.2-113, 60.2-113.1, 60.2-309, and 60.2-310, and Chapter 4 (§§ 60.2-400, 60.2-400.1, and 60.2-401) of Title 60.2 of the Code of Virginia, relating to consolidation of the Commonwealth's workforce development policies and programs; Department of Workforce Development and Advancement created; report.

[S 1470]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-214.2, 2.2-214.3, 2.2-435.10, 2.2-2237.3, 2.2-2238, 2.2-2472, 2.2-3711, 2.2-3905, 40.1-100, 54.1-1101, 60.2-105, 60.2-111, and 60.2-631 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 20.2, containing articles numbered 1 through 4, consisting of sections numbered 2.2-2035 through 2.2-2057 as follows:

§ 2.2-214.2. Position established; agencies for which responsible.

The position of Secretary of Labor (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: the Department of Labor and Industry, the Department of Professional and Occupational Regulation, *the Department of Workforce Development and Advancement,* and the Virginia Employment Commission. The Governor, by executive order, may assign any state executive agency to the Secretary.

§ 2.2-214.3. Responsibilities of the Secretary.

A. The Secretary shall assist the Governor in his capacity as the Chief Workforce Development Officer for the Commonwealth pursuant to § 2.2-435.6. The Secretary shall be responsible for the duties assigned to him pursuant to this article, Chapter 4.2 (§ 2.2-435.6 et seq.), Article 24 (§ 2.2-2470 et seq.) of Chapter 24, and other tasks as may be assigned to him by the Governor.

B. The Chief Workforce Development Officer's responsibilities as carried out by the Secretary of Labor shall include:

1. Developing a strategic plan for the statewide delivery of workforce development and training programs and activities. The strategic plan shall be developed in coordination with the development of the comprehensive economic development policy required by § 2.2-205. The strategic plan shall include *mandatory* performance measures *for all workforce development programs across state government* that link the objectives of such programs and activities to the

record of state agencies, local workforce development boards, and other relevant entities in attaining such objectives. *The Secretary shall have the authority to require compliance with such mandatory performance measures by all workforce development program administrators and providers across state government*;

2. Determining the appropriate allocation, to the extent permissible under applicable federal law, of funds and other resources that have been appropriated or are otherwise available for disbursement by the Commonwealth for workforce development programs and activities;

3. Ensuring that the Commonwealth's workforce development efforts are implemented in a coordinated and efficient manner by, among other activities, taking appropriate executive action to this end and recommending to the General Assembly necessary legislative actions to streamline and eliminate duplication in such efforts;

4. ~~Facilitating~~ *Providing oversight and directing* efficient implementation of workforce development and training programs by Cabinet Secretaries and agencies responsible for such programs;

5. Developing, in ~~coordination~~ *consultation* with the Virginia Board of Workforce Development, (i) certification standards *and metrics* for programs and providers and (ii) uniform policies and procedures, including standardized forms and applications, for one-stop centers;

6. Monitoring, in coordination with the Virginia Board of Workforce Development, the effectiveness of each one-stop center and recommending actions needed to improve its effectiveness;

7. Establishing measures to evaluate the effectiveness of the local workforce development boards and conducting annual evaluations of the effectiveness of each local workforce development board. As part of the evaluation process, the Governor shall recommend to such boards specific best management practices;

8. Conducting annual evaluations of the performance of workforce development and training programs and activities *across state government* and their administrators and *service* providers using the performance measures developed through the strategic planning process described in subdivision 1. The evaluations shall include, to the extent feasible, (i) a comparison of the per-person costs for each program or activity~~,~~*;* (ii) a comparative rating of each program or activity based on its success in meeting program objectives~~,~~ *consisting of individuals placed in jobs, jobs retained, and wages or earnings paid, as determined by the Secretary;* and (iii) an explanation of the extent to which each agency's appropriation requests incorporate the data reflected in the cost comparison described in clause (i) and the comparative rating described in clause (ii). These evaluations, including the comparative rankings, shall be considered in allocating resources for workforce development and training programs. These evaluations shall be submitted to the Chairmen of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor and included in the biennial reports pursuant to subdivision 10;

9. Monitoring federal legislation and policy in order to maximize the Commonwealth's effective use of access to federal funding available for workforce development programs; and

10. Submitting biennial reports, which shall be included in the Governor's executive budget submissions to the General Assembly, on improvements in the coordination of workforce development efforts statewide. The reports shall identify (i) program success rates in relation to performance measures established by the *Secretary in consultation with the* Virginia Board of Workforce Development, (ii) obstacles to program and resource coordination, and (iii) strategies for facilitating statewide program and resource coordination.

§ 2.2-435.10. Administration of the Workforce Innovation and Opportunity Act; executive summaries.

A. The Secretary of Labor ~~and the Chancellor of the Virginia Community College System~~ shall ~~enter into a memorandum of understanding that sets forth (i) the roles and responsibilities of each of these entities in administering~~ *administer (i)* a state workforce system and ~~facilitating~~ *facilitate* regional workforce systems that are business-driven, aligned with current and reliable labor market data, and targeted at providing participants with workforce credentials that have demonstrated value to employers and job seekers~~;~~ *and* (ii) a funding mechanism that adequately supports operations under the federal Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128) (WIOA)~~; and (iii) a procedure for the resolution of any disagreements that may arise concerning policy, funding, or administration of the WIOA~~.

B. The Secretary of Labor ~~and the Virginia Community College System~~ shall ~~collaborate to~~ produce an annual executive summary, no later than the first day of each regular session of the General Assembly, of the interim activity undertaken to implement the ~~memorandum of understanding~~ *responsibilities* described in subsection A and to administer the WIOA.

CHAPTER 20.2.

WORKFORCE DEVELOPMENT AND ADVANCEMENT.

Article 1.

General Provisions.

§ 2.2-2035. Department of Workforce Development and Advancement; creation; appointment of Director.

A. There is hereby created in the executive branch the Department of Workforce Development and Advancement (the Department). The Department shall be headed by the Director of Workforce Development and Advancement (the Director) who shall be appointed by the Governor, subject to confirmation by the General Assembly, to serve at the pleasure of the Governor.

B. The Director may establish divisions within the Department and assign to such divisions any duties described in this chapter or otherwise imposed upon the Department.

§ 2.2-2036. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Department" means the Department of Workforce Development and Advancement.

"Director" means the Director of Workforce Development and Advancement.

"Encrypted" means the same as that term is defined in § 18.2-186.6.

"Identifying information" means the same as that term is defined in § 18.2-186.3.

"Virginia Longitudinal Data System" means the multiagency partnership administered by the State Council of Higher Education for Virginia pursuant to subdivision 9 of § 23.1-203.

"Virginia Workforce Data Trust" means a workforce database maintained by the Department in an encrypted state in compliance with § 2.2-2009.

"Workforce development program" means a publicly funded education, training, and support services program designed and administered to prepare and enable participants to enter into and advance in careers. Such program may, but is not required to, lead to nondegree credentials and may fall under the administrative functions of the Department or reside in other agencies.

"Workforce education and training program" means a workforce development program offered by an education provider with the goal of providing an individual with a credential that leads to employment.

"Workforce services program" means a workforce development program that is primarily focused on providing, coordinating, and supporting services to assist individuals in attaining employment, including assistance with locating job opportunities, connecting to workforce education and training programs, and coordinating with other available supportive services.

§ 2.2-2037. Powers and duties of Department.

The Department shall have the power and duty to:

1. Promulgate regulations necessary or incidental to the performance of duties or execution of powers conferred under this chapter.

2. Establish a mission, goals, and objectives for the Department that align with the purpose of this chapter, to create a unified system of workforce development for the Commonwealth.

3. Develop a strategy that shall inform and engage with the business and organized labor communities to coordinate the workforce development programs offered by the Department, identify labor market needs, and ensure alignment of the Department's offerings to the needs of employers and the needs of the Commonwealth.

4. The Department and the State Council of Higher Education for Virginia shall jointly develop and implement strategies, and collaborate with employers and higher education institutions, to grow and expand the Innovative Internship Program established pursuant to § 23.1-903.4. The strategy shall include key measures of success and they shall jointly develop an annual progress report that shall include information on the number of students placed in internship programs, type of internship programs, and the number and type of participating employers. The report shall be delivered to the General Assembly, the Secretary of Education, and the Secretary of Labor annually by September 30.

5. Regularly track metrics relating to workforce development programs and establish a mechanism to help assess the adequacy of Department services and programs.

6. Develop specific strategies or steps the Department will take to modify policies, procedures, or processes to ensure effective and efficient administration of workforce development programs.

7. Develop a strategy for clearly communicating to customers changes to key workforce development programs.

8. Develop a strategy for clearly communicating important workforce development program information to Department staff, the public, and the General Assembly.

9. Identify other tactical actions to be taken to ensure the continuity of workforce development programs and customer service.

§ 2.2-2038. State and federal cooperation.

In the administration of this chapter, the Department shall cooperate with the U.S. Department of Labor to the fullest extent consistent with the provisions of this chapter. The Department shall make such reports, in such form and containing such information, as the U.S. Department of Labor may require and shall comply with such provisions as the U.S. Department of Labor may find necessary to assure the correctness and verification of such reports. The Department shall take such action, through the adoption of appropriate rules, regulations, administrative methods, and standards, as may be necessary to secure to the Commonwealth and its citizens all advantages available under the provisions of the federal Wagner-Peyser Act (29 U.S.C. § 49 et seq.), the federal Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128), and any other federal legislation executed with respect to workforce development and training.

§ 2.2-2039. Reciprocal agreements.

Subject to the approval of the Governor, the Department is authorized to enter into arrangements with the appropriate agencies of other states or the federal government for the purpose of workforce development and training.

§ 2.2-2040. Records and reports.

A. Each workforce development program provider shall keep true and accurate training records containing such information as the Department may prescribe. Such records shall be open to inspection and be subject to being copied by the Department or its authorized representatives at any reasonable time and as often as may be necessary. The Department may require from any workforce development program provider any sworn or unsworn reports, with respect to persons employed by it, that the Department deems necessary for the effective administration of this chapter.

B. Notwithstanding the provisions of subsection A, the Department shall, upon written request, furnish the Virginia Economic Development Partnership Authority (the Authority) such information as it may require to facilitate the administration and enforcement by the Authority of performance agreements with businesses that have received incentive awards. Any information provided to the Authority under this subsection shall be confidential pursuant to 20 C.F.R. Part 603 and shall only be disclosed to members of the Authority who are public officials or employees of the Authority for the performance of their official duties. No public official or employee shall disclose any confidential information obtained pursuant to this subsection to nonlegislative citizen members of the Authority or to the public. Any information so provided shall be used by the Authority solely for the purpose of verifying employment and wage claims of those businesses that have received incentive awards.

Article 2.

Data Collection and Analytics.

§ 2.2-2041. Workforce program evaluations; sharing of certain data; prohibited uses; civil penalty.

A. To the extent permitted under federal law, the agencies specified in subsection D shall share data from within their respective databases to (i) develop meaningful analyses and evaluations of workforce programs required by subdivision B 8 of § 2.2-214.3 and clause (i) of subdivision B 10 of § 2.2-214.3; (ii) meet state and federal reporting requirements; (iii) improve coordination, outcomes, and efficiency across public workforce programs and partner organizations; (iv) enable the development of comprehensive consumer-facing software applications; (v) support requirements for performance-driven contracts; and (vi) support workforce initiatives developed by the General Assembly or the Governor.

B. Data shared pursuant to subsection A shall include only the identifying and attribute information required to match entities across programs, support the coordination of services, and evaluate outcomes, shall be encrypted, and shall be transmitted to the Governor or his designee. Upon receipt of such data, the Governor or his designee shall maintain the data in an encrypted state pursuant to § 2.2-2009 and restrict data sharing according to the Virginia Workforce Data Trust memorandum of understanding.

The agencies specified in subsection D shall enter into a memorandum of understanding supporting the Virginia Workforce Data Trust and the associated application ecosystem. Such memorandum of understanding shall include provisions for authorizing bona fide research requests that are related to the data sharing referenced in subsection A. In accordance with the governance process defined in such memorandum of understanding, the data sharing referenced in subsection A shall be accomplished by integrating additional organizations, systems, data elements, and functionality into the Virginia Workforce Data Trust.

C. The Governor or his designee and all agencies authorized under this section shall destroy or erase all shared data upon completion of all required evaluations and analyses. The Governor may retain a third-party entity to assist with the evaluation and analysis.

D. The databases from the following agencies relating to the specific programs identified in this subsection may be shared solely to achieve the purposes specified in subsection A:

1. Virginia Employment Commission: Unemployment Insurance;

2. Virginia Community College System: Postsecondary Career and Technical Education;

3. Department for Aging and Rehabilitative Services: Vocational Rehabilitation and Senior Community Services Employment Program;

4. Department for the Blind and Vision Impaired: Vocational Rehabilitation;

5. Department of Education: Special Education and Career and Technical Education;

6. Department of Social Services: Supplemental Nutrition Assistance Program, Virginia Initiative for Education and Work;

7. Virginia Economic Development Partnership Authority: Virginia Jobs Investment Program;

8. Department of Juvenile Justice: Youth Industries and Institutional Work Programs, Career and Technical Education Programs;

9. Department of Corrections: Career and Technical Education Programs;

10. The State Council of Higher Education for Virginia: certifications, certificates, and degrees;

11. Department of Veterans Services: Virginia Values Veterans;

12. Department of Workforce Development and Advancement: Apprenticeship, Job Service, Reemployment Services and Eligibility Assessment program, Trade Adjustment Assistance Program Act, Veterans Employment Training Programs, Innovative Internship Program, Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128) Titles I and III, and other workforce development programs of the Department as determined by the Director; and

13. Any other agencies as deemed necessary by the Secretary of Labor, Chief Data Officer, and Director of the Department of Workforce Development and Advancement.

E. Nothing in this section shall prohibit the inclusion of data from other sources deemed beneficial by the Secretary of Labor, Chief Data Officer, and Director of the Department of Workforce Development and Advancement.

F. Agencies participating in the Virginia Longitudinal Data System and the Virginia Workforce Data Trust shall meet annually and work with the Office of Data Governance and Analytics for the purpose of coordinating responses to changes in data collection of the participating agencies and the needs of the Commonwealth with respect to workforce development and education policy development. Subject to the approval by each participating agency, the Virginia Longitudinal Data

System and the Virginia Workforce Data Trust may develop processes to facilitate intersystem operability and communication between the two entities for research and analysis purposes.

G. All agencies providing information to the Virginia Workforce Data Trust shall be prohibited from disclosing any personal information or data, except as required under this section or other state law or federal law, or to accomplish a proper purpose of the agency.

H. Any person alleging a violation of this section may bring a civil action for appropriate injunctive relief. A court rendering judgment in favor of a complainant pursuant to this subsection shall award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, to the complainant.

§ 2.2-2042. Job placement and retention; reporting.

A. The Department shall develop a tool or process for the uniform tracking of successful job placement and job retention outcomes of workforce development program participants.

B. All workforce development program providers shall annually track successful job placement and job retention outcomes for workforce development program participants using the tool or process developed by the Department.

Article 3.

Apprenticeships.

§ 2.2-2043. Definitions.

As used in this article, unless the context requires a different meaning:

"Apprentice" means a person at least 16 years of age who is covered by a written agreement with an employer and approved by the Director. The agreement shall provide for not less than 2,000 hours of reasonably continuous employment for such person, for his participation in an approved schedule of work experience through employment, and for the amount of related instruction required in the occupation.

"Apprenticeable occupation" means a skilled occupation having the following characteristics:

1. It is customarily learned in a practical way through a structured systematic program of on-the-job supervised work experience;

2. It is clearly identifiable and recognized throughout an industry;

3. It involves manual, mechanical, or technical skills that require a minimum of 2,000 hours of on-the-job work experience of new apprenticeable trades not otherwise established; and

4. It requires related instruction to supplement the on-the-job work experience.

"Employer" means any person or organization employing a registered apprentice, whether or not such person or organization is a party to an apprenticeship agreement with a sponsor.

"Joint apprenticeship committee" means a group equally representative of management and labor representatives that works under a bargaining agreement and is established to carry out the administration of an apprenticeship training program.

"Sponsor" means either an individual employer, a group of employers, or an association or organization operating an apprenticeship program and in whose name the program is registered.

§ 2.2-2044. Apprenticeship Council; membership and terms of office; meetings and duties.

A. The Governor shall appoint an Apprenticeship Council composed of four representatives each from employer and employee organizations respectively and all of whom shall be familiar with apprenticeable occupations. The Director, the Chancellor of the Virginia Community College System, or their designated representatives, and a local superintendent from a school division that provides apprenticeship-related instruction shall be ex officio members of the Apprenticeship Council. At the beginning of each year, the Governor shall designate one member to serve as chairman. Each member shall be appointed for a term of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the remainder of such term. All members, including ex officio members, shall have voting privileges.

B. The Apprenticeship Council shall meet at the call of the chairman of the Apprenticeship Council and shall formulate policies for the effective administration of this article.

C. The Apprenticeship Council shall establish standards for apprentice agreements that shall not be lower than those prescribed by this article and those established pursuant to Article 3 (§ 54.1-1128 et seq.) of Chapter 11 of Title 54.1 and shall perform such other functions as may be necessary to carry out the intent and purposes of this article. Not less than once a year, the Apprenticeship Council shall make a report of its activities and findings to the General Assembly and to the public.

§ 2.2-2045. Authority of Council.

The Council may:

1. Determine standards for apprentice agreements, which standards shall not be lower than those prescribed by this article;

2. Appoint the secretary of the Apprenticeship Council to act as secretary of each state joint apprenticeship committee;

3. Review decisions of local joint apprenticeship committees relating to apprenticeship disputes pursuant to subdivision C 3 of § 2.2-2047;

4. Perform such other duties as are necessary to carry out the intent of this article; and

5. Advise the Director on policies to coordinate apprenticeship-related instruction delivered by state and local public education agencies.

§ 2.2-2046. Director to administer article; requirements for certain programs.

A. The Director, with the advice and guidance of the Council, shall be responsible for administering the provisions of this article.

B. The Director shall:

1. Approve, if approval is in the best interests of the apprentice, any apprenticeship agreement that meets the standards established under this article;

2. Terminate or cancel any apprenticeship agreement in accordance with the provisions of such agreement;

3. Keep a record of apprenticeship agreements and their disposition;

4. Issue certificates of completion upon the completion of the apprenticeship;

5. Initiate deregistration proceedings when an apprenticeship program is not conducted, operated, and administered in accordance with the registered provisions, except that deregistration proceedings for violation of equal opportunity requirements shall be processed in accordance with the provisions of the Virginia State Plan for Equal Employment Opportunity in Apprenticeship;

6. Establish policies governing the provision of apprenticeship-related instruction delivered by state and local public education agencies and provide for the administration and supervision of related and supplemental instruction for apprentices; and

7. Perform such other duties as are necessary to carry out the intent of this article.

C. Any apprenticeship program designed to prepare individuals to engage in a career as a tradesman shall be a program of registered apprenticeships that meet or exceed the U.S. Department of Labor standards for registered apprenticeships, and such program shall meet or exceed the standards that were in place with the Apprenticeship Division of the Virginia Department of Labor and Industry as of January 31, 2023. As used in this subsection, "tradesman" means an individual engaged in the electrical, plumbing and heating, ventilation and air conditioning, carpentry, pipe fitting, boiler making, iron working, steel working, painting, or welding profession.

D. No state agency or locality shall sponsor, recognize, or establish any apprenticeship program designed to prepare individuals to engage in a career as a tradesman unless such apprenticeship program meets the requirements established in subsection C.

§ 2.2-2047. Local and state joint apprenticeship committees.

A. A local joint apprenticeship committee may be established in any trade or group of trades in a city or trade area whenever the apprentice training needs of such trade or group of trades justify such establishment.

B. When two or more local joint apprenticeship committees have been established in the Commonwealth for a trade or group of trades or at the request of any trade or group of trades, a state apprenticeship committee may be established for such trade or group of trades. Such local and state joint apprenticeship committees shall be composed of an equal number of employer and employee representatives chosen from names submitted by the respective employer and employee organizations in such trade or group of trades. In a trade or group of trades in which there is no bona fide employer or employee organization, the committee shall be appointed from persons known to represent the interests of employers and of employees respectively.

C. The functions of a local joint apprenticeship committee shall be:

1. To cooperate with school authorities in regard to the education of apprentices;

2. In accordance with standards established by the Apprenticeship Council, to establish local standards of apprenticeship regarding, schedule of operations, application of wage rates, working conditions for apprentices, and the number of apprentices that shall be employed locally in the trade; and

3. To adjust apprenticeship disputes.

D. The functions of a state trade apprenticeship committee shall be to assist in an advisory capacity in the development of statewide standards of apprenticeship and in the development of local standards and local committees.

§ 2.2-2048. Discrimination prohibitions for registered apprenticeship programs.

A. Notwithstanding the provisions of the Virginia Human Rights Act (§ 2.2-3900 et seq.), for purposes of this article a sponsor of a registered apprenticeship program shall not discriminate against an apprentice or applicant for apprenticeship on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, military status, sexual orientation, gender identity, age if the age of the individual is 40 years of age or older, genetic information, or disability.

B. Notwithstanding any provisions of Title 40.1, it shall not be an unlawful practice for an employer to fail or refuse to hire and employ any individual for any position in a registered apprenticeship program, or for any registered apprenticeship program to fail or refuse to accept or admit any individual to any registered apprenticeship program, if:

1. The occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive Order of the President; and

2. Such individual has not fulfilled or has ceased to fulfill any requirement set forth in subdivision 1.

C. The sole remedy for a violation of subsection A shall be as provided in subdivision B 5 of § 2.2-2046.

§ 2.2-2049. Requisites of apprentice agreement.

Every apprentice agreement entered into under this article shall contain:

1. The names, signatures, and addresses of the contracting parties;

2. The date of birth of the apprentice;

3. The contact information of the program sponsor and the Division of Registered Apprenticeship;

4. A statement of the occupation or business that the apprentice is to be taught and the time at which the apprenticeship will begin and end;

5. A statement showing the number of hours to be spent by the apprentice in work and the number of hours to be spent in related or supplemental instruction;

6. A statement setting forth a schedule of the processes in the occupation or industry division in which the apprentice is to be taught and the approximate time to be spent at each process;

7. A statement of the graduated scale of wages to be paid the apprentice and whether the required related instruction shall be compensated;

8. A statement providing for a period of probation of not less than 500 hours of employment and instruction extending over not less than four months, during which time the apprentice agreement shall be terminated by the Director at the request in writing of either party, and providing that after such probationary period the apprentice agreement may be terminated by the Director by mutual agreement of all parties thereto or cancelled by the Director for good and sufficient reason;

9. A reference incorporating as part of the apprentice agreement the standards of the apprenticeship program as they exist on the date of the apprentice agreement and as they may be amended during the period of the apprentice agreement;

10. A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training without discrimination as provided in § 2.2-2048;

11. Contact information, including name, address, phone number, and email if appropriate, of the appropriate authority designated under the program to receive, process, and make disposition of controversies or differences arising out of the apprentice agreement when the controversies or differences cannot be adjusted locally or resolved in accordance with the established procedure or applicable collective bargaining provisions;

12. A provision that an employer who is unable to fulfill his obligation under the apprentice agreement may, with the approval of the Director, transfer such contract to any other employer if (i) the apprentice consents, (ii) such other employer agrees to assume the obligations of the apprentice agreement, and (iii) the transfer is reported to the registration agency within 30 days of the transfer; and

13. Such additional terms and conditions as may be prescribed or approved by the Director not inconsistent with the provisions of this article.

§ 2.2-2050. Approval of apprentice agreement by Director; signing.

No apprentice agreement under this article shall be effective until approved by the Director. Every apprentice agreement shall be signed by the employer, or by an association of employers or an organization of employees as provided in § 2.2-2052, and by the apprentice, and, if the apprentice is a minor, by the minor's father or mother, provided, that if both father and mother are dead or legally incapable of giving consent or have abandoned their children, then by the guardian of the minor.

§ 2.2-2051. Apprentice agreement binding after apprentice's majority.

When a minor enters into an apprentice agreement under this article for a period of training extending into his majority, the apprentice agreement shall likewise be binding for such a period as may be covered during the apprentice's majority.

§ 2.2-2052. Apprentice agreement signed by organization of employers or of employees.

For the purpose of providing greater diversity of training or continuity of employment, any apprentice agreement made under this article may in the discretion of the Director be signed by an association of employers or an organization of employees instead of by an individual employer. In such a case, the apprentice agreement shall expressly provide that the association of employers or organization of employees does not assume the obligation of an employer but agrees to use its best endeavors to procure employment and training for such apprentice with one or more employers that will accept full responsibility, as herein provided, for all the terms and conditions of employment and training set forth in the agreement between the apprentice and employer association or employee organization during the period of each such employment. The apprentice agreement in such a case shall also expressly provide for the transfer of the apprentice, subject to the approval of the Director, to such employer or employers as shall sign a written agreement with the apprentice, and if the apprentice is a minor with his parent or guardian, as specified in § 2.2-2050, contracting to employ the apprentice for the whole or a definite part of the total period of apprenticeship under the terms and conditions of employment and training set forth in the agreement entered into between the apprentice and the employer association or employee organization.

§ 2.2-2053. Operation and application of article.

Nothing in this article or in any apprentice agreement approved under this article shall invalidate any apprenticeship provision in any collective agreement between employers and employees establishing higher apprenticeship standards regarding ratios of apprentices to journeymen, probationary periods, or length of the program. None of the terms or provisions of this article shall apply to any person, firm, corporation, or craft unless, until, and only so long as such person, firm, corporation, or craft voluntarily elects that the terms and provisions of this article shall apply.

Article 4.

Job Services.

§ 2.2-2054. Virginia State Job Service; cooperation with U.S. Employment Service agencies.

A. The Department shall have all rights, powers, and duties with respect to the establishment, maintenance, and operation of free employment offices in the Commonwealth and shall possess, exercise, and perform the same through a division known as the Virginia State Job Service. The Department through the division shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this chapter.

B. The Department, through the Virginia State Job Service, is designated as the state agency and vested with all powers necessary to cooperate with the U.S. Employment Service in accordance with the terms and conditions expressed in 29 U.S.C. § 49 et seq.

C. The Department may cooperate with or enter into agreements with the Railroad Retirement Board, or any other agency of the United States charged with the administration of an unemployment compensation law, with respect to the maintenance and use of free employment service facilities.

D. Chapter 13 of the Acts of Assembly of 1933 providing for cooperation between the Commonwealth and the U.S. Employment Service is, subject to the provisions of this article, continued in effect.

§ 2.2-2055. Veterans Skills Database.

A. For purposes of this section, "veteran" means an individual who has served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable.

B. The Department, in cooperation with the Secretary of Commerce and Trade and the Department of Veterans Services, shall establish the Veterans Skills Database (the Database), an Internet-accessible database of veterans and their workforce skills, for the purpose of marketing and promoting the workforce skills of veterans to potential employers.

C. The Department may contract with one or more third parties to develop, implement, and maintain the Database. The Database provider shall (i) maintain the Database and (ii) take all actions to ensure the protection of the confidentiality and security of the information contained in the Database in accordance with the requirements established by the Department.

D. Any veteran may register with the Department to create a free profile on the Database in order to supply information relating to his workforce skills and experience. Potential employers may register with the Department to create a free profile in order to gain access to the Database for the purpose of identifying potential employees with relevant workforce skills and experience.

§ 2.2-2056. Employment stabilization.

The Department shall have the following duties relating to employment stabilization:

1. Establish a viable labor exchange system to promote maximum employment for the Commonwealth with priority given to those workers drawing unemployment benefits;

2. Provide Virginia State Job Service services, as described in this article, according to the provisions of the federal Wagner-Peyser Act (29 U.S.C. § 49 et seq.), as amended by the federal Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128);

3. Coordinate and direct all workforce development program services, policies, grant management, and data analytics across state government that lead to conducting activities that target job placement and respond to industry demand;

4. Coordinate and conduct labor market information research services, programs, and operations, including the development, storage, retrieval, and dissemination of information on the social and economic aspects of the Commonwealth, and publish data needed by employers, economic development programs, education and training entities, and government entities and for other users in the public and private sectors;

5. Encourage and assist in the adoption of practical methods of vocational guidance, training, and retraining; and

6. Establish the Interagency Migrant Worker Policy Committee (the Committee), comprised of representatives from appropriate state agencies, including the Virginia Workers' Compensation Commission, whose services and jurisdictions involve migrant and seasonal farmworkers and their employees. All agencies of the Commonwealth shall be required to cooperate with the Committee upon request.

§ 2.2-2057. Human trafficking hotline; posted notice required.

Within each employment office, the Department shall post notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to report crimes or gain assistance. The notice required by this section shall (i) be posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of § 40.1-11.3.

§ 2.2-2237.3. Division of Incentives.

A. Within the Authority shall be created a Division of Incentives that shall be responsible for reviewing, vetting, tracking, and coordinating economic development incentives administered by or through the Authority and for aligning those incentives with economic development incentives offered by other entities in the Commonwealth.

B. No project that includes an offer of economic development incentives by the Commonwealth, including grants or loans from the Commonwealth's Development Opportunity Fund, shall be approved by the Governor until (i) the Division of Incentives has undertaken appropriate due diligence regarding the proposed project and the Secretary of Commerce and Trade has certified that the proposed incentives to be offered are appropriate based on the investment and job creation anticipated to be generated by the project and (ii) when required by § 30-310, the MEI Project Approval Commission has reviewed the proposed incentives.

C. Any contract or memorandum of understanding for the award of economic development incentives by the Commonwealth shall set forth the investment and job creation requirements for the payment of the incentive and shall include a stipulation that the business beneficiary of the incentives shall be liable for the repayment of all or a portion of the incentives to the Commonwealth if the business beneficiary fails to make the required investments or create the required number of jobs. For purposes of this section, an incentive awarded by the Commonwealth shall include an incentive awarded from a fund operated by the Commonwealth, including the Commonwealth's Development Opportunity Fund. If it is determined that a business beneficiary is liable for the repayment of all or a portion of an economic development incentive awarded by the Commonwealth, the Board may refer the matter to the Office of the Attorney General pursuant to § 2.2-518. Prior to the referral to the Office of the Attorney General, the Board shall direct any political subdivision that is a party to the relevant contract or memorandum of understanding to assign its rights to the Commonwealth arising under such contract or memorandum of understanding in which the business beneficiary is liable to repay all or a portion of an economic development incentive awarded by the Commonwealth. In any such matter referred to the Office of the Attorney General, a business beneficiary liable to repay all or a portion of an economic development incentive awarded by the Commonwealth shall also be liable to pay interest, administrative charges, attorney fees, and other applicable fees.

D. Notwithstanding any other provision of law, approval of the Board shall be required to grant an extension for an approved project to meet the investment and job creation requirements set forth in the contract or memorandum of understanding. Notwithstanding any other provision of law, approval of both the Board and the MEI Project Approval Commission shall be required to grant any additional extensions.

E. The Division of Incentives shall provide semiannual updates to the Board of the status and progress of investment and job creation requirements for all projects for which economic development incentives have been awarded, until such time as the investment and job creation requirements are met or the incentives are repaid to the Commonwealth. Updates shall be provided more frequently upon the request of the Board, or if deemed necessary by the Division of Incentives.

F. The Board shall establish a subcommittee, consisting of ex officio members of the Board authorized pursuant to ~~§~~ *§§ 2.2-2040 and* 60.2-114 and federal law to receive and review employment information received from the Virginia Employment Commission *and the Department of Workforce Development and Advancement*, in order to assist the Division of Incentives with the verification of employment and wage claims of those businesses that have received incentive awards. Such information shall be confidential and shall not be (i) redisclosed to other members of the Board or to the public in accordance with the provisions of *subsection B of § 2.2-2040 and* subdivision C 2 of § 60.2-114 or (ii) subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

G. For purposes of this section, the award of economic development incentives by the Commonwealth shall include an award of funds from the Commonwealth's Development Opportunity Fund, regardless of whether the contract or memorandum of understanding for the disbursement of funds is with the Commonwealth or a political subdivision thereof and the business beneficiary.

§ 2.2-2238. Economic development services.

A. It shall be the duty of the Authority to encourage, stimulate, and support the development and expansion of the economy of the Commonwealth. The Authority is charged with the following duties and responsibilities to:

1. See that there are prepared and carried out effective economic development marketing and promotional programs;

2. Make available, in conjunction and cooperation with localities, chambers of commerce, industrial authorities, and other public and private groups, to prospective new businesses basic information and pertinent factors of interest and concern to such businesses;

3. Formulate, promulgate, and advance programs throughout the Commonwealth for encouraging the location of new businesses in the Commonwealth and the retention and growth of existing businesses;

4. Encourage and solicit private sector involvement, support, and funding for economic development in the Commonwealth;

5. Encourage the coordination of the economic development efforts of public institutions, regions, communities, and private industry and collect and maintain data on the development and utilization of economic development capabilities;

6. Establish such offices within and without the Commonwealth that are necessary to the expansion and development of industries and trade;

7. Encourage the export of products and services from the Commonwealth to international markets;

8. Advise, upon request, the State Board for Community Colleges in designating technical training programs in Virginia's comprehensive community colleges for the Community College Incentive Scholarship Program pursuant to former § 23-220.4;

9. Offer a program for the issuance of export documentation for companies located in Virginia exporting goods and services if no federal agency or other regulatory body or issuing entity will provide export documentation in a form deemed necessary for international commerce; and

10. Establish an Office of Education and Labor Market Alignment (the Office) to coordinate data analysis on workforce and higher education alignment and translate data to partners. The Office shall provide a unified, consistent *and impartial* source of information or analysis for policy development and implementation related to ~~talent development~~ *education, the labor market, and workforce development*. The Office shall partner with the State Council of Higher Education for Virginia, institutions of higher education, the Virginia Department of Education, the Virginia Employment Commission, ~~GO Virginia~~ *the Virginia Growth and Opportunity Board, the Department of Workforce Development and*

Advancement, and other relevant entities to offer resources and expertise related to education*, workforce development,* and labor market alignment. *The Office shall communicate relevant information in a clear and concise manner to enable policy and decision makers to navigate the complex connections between education, workforce development, and labor market alignment.*

B. The Authority may develop a site and building assessment program to identify and assess the Commonwealth's industrial sites of at least 100 acres. In developing such a program, the Authority shall establish assessment guidelines and procedures for identification of industrial sites, resource requirements, and development oversight. The Authority shall invite participation by regional and industry stakeholders to assess potential sites, identify product shortfalls, and make recommendations to the Governor and General Assembly for marketing such sites, in alignment with the goals outlined in the Governor's economic development plan.

C. The Authority may encourage the import of products and services from international markets to the Commonwealth.

§ 2.2-2472. Powers and duties of the Board; Virginia Workforce System created.

A. The Board shall implement a Virginia Workforce System that shall undertake the following actions to implement and foster workforce development and training and better align education and workforce programs to meet current and projected skills requirements of an increasingly technological, global workforce:

1. Provide policy advice to the Governor on workforce and workforce development issues in order to create a business-driven system that yields increasing rates of attainment of workforce credentials in demand by business and increasing rates of jobs creation and attainment;

2. Provide policy direction to local workforce development boards;

3. Assist the Governor in the development, implementation, and modification of any combined state plan developed pursuant to the WIOA;

4. Identify current and emerging statewide workforce needs of the business community;

5. Forecast and identify training requirements for the new workforce;

6. Recommend strategies to match trained workers with available jobs to include strategies for increasing business engagement in education and workforce development;

7. Evaluate the extent to which the state's workforce development programs emphasize education and training opportunities that align with employers' workforce needs and labor market statistics and report the findings of this analysis to the Governor every two years;

8. Advise and oversee the development of a strategic workforce dashboard and tools that will inform the Governor, policy makers, system stakeholders, and the public on issues such as state and regional labor market conditions, the relationship between the supply and demand for workers, workforce program outcomes, and projected employment growth or decline. The ~~Virginia Employment Commission~~ *Department of Workforce Development and Advancement*, along with other workforce partners, shall provide data to populate the tools and dashboard;

9. Determine and publish a list of jobs, trades, and professions for which high demand for qualified workers exists or is projected by the ~~Virginia Employment Commission~~ *Department of Workforce Development and Advancement*. The ~~Virginia Employment Commission~~ *Department of Workforce Development and Advancement* shall support the Virginia Board of Workforce Development in making such determination. Such information shall be published biennially and disseminated to employers; education and training entities, including associate-degree-granting and baccalaureate public institutions of higher education; government agencies, including the Department of Education and public libraries; and other users in the public and private sectors;

10. Develop pay-for-performance contract strategy incentives for rapid reemployment services consistent with the WIOA as an alternative model to traditional programs;

11. Conduct a review of budgets, which shall be submitted annually to the Board by each agency conducting federal and state funded career and technical and adult education and workforce development programs, that identify the agency's sources and expenditures of administrative, workforce education and training, and support services for workforce development programs;

12. Review and recommend industry credentials that align with high demand occupations, which credentials shall include a credential that determines career readiness;

13. Define the Board's role in certifying WIOA training providers, including those not subject to the authority expressed in Article 3 (§ 23.1-213 et seq.) of Chapter 2 of Title 23.1;

14. Provide an annual report to the Governor concerning its actions and determinations under subdivisions 1 through 13;

15. Create quality standards, guidelines, and directives applicable to local workforce development boards and the operation of one-stops, as necessary and appropriate to carry out the purposes of this article; ~~and~~

16. *Conduct or cause to be conducted, on a biennial basis, an independent evaluation of the operational and program objectives of the Department of Workforce Development and Advancement and submit a report to the Governor and the General Assembly summarizing such evaluation; and*

17. Perform any act or function in accordance with the purposes of this article.

B. The Board may establish such committees as it deems necessary

C. The Board, the Secretary of Labor, and the Governor's other Cabinet Secretaries shall assist the Governor in complying with the provisions of the WIOA and ensuring the coordination and effectiveness of all federal and state funded

career and technical and adult education and workforce development programs and providers within Virginia's Workforce System.

D. The Board shall assist the Governor in the following areas with respect to workforce development: development of any combined state plan developed pursuant to the WIOA; development and continuous improvement of a statewide workforce development system that ensures career readiness and coordinates and aligns career and technical education, adult education, and federal and state workforce programs; development of linkages to ensure coordination and nonduplication among programs and activities; designation of local areas; development of local discretionary allocation formulas; development and continuous improvement of comprehensive state performance measures including, without limitation, performance measures reflecting the degree to which one-stop centers provide comprehensive services with all mandatory partners and the degree to which local workforce development boards have obtained funding from sources other than the WIOA; preparation of the annual report to the U.S. Secretary of Labor; development of a statewide employment statistics system; and development of a statewide system of one-stop centers that provide comprehensive workforce services to employers, employees, and job seekers.

The Board shall share information regarding its meetings and activities with the public.

E. Each local workforce development board shall develop and submit to the Governor and the Board an annual workforce demand plan for its workforce development board area based on a survey of local and regional businesses that reflects the local employers' needs and requirements and the availability of trained workers to meet those needs and requirements. Local boards shall also designate or certify one-stop operators; identify eligible providers of youth activities; develop a budget; conduct local oversight of one-stop operators and training providers in partnership with its local chief elected official; negotiate local performance measures, including incentives for good performance and penalties for inadequate performance; assist in developing statewide employment statistics; coordinate workforce development activities with economic development strategies and the annual demand plan, and develop linkages among them; develop and enter into memoranda of understanding with one-stop partners and implement the terms of such memoranda; promote participation by the private sector; actively seek sources of financing in addition to WIOA funds; report performance statistics to the Board; and certify local training providers in accordance with criteria provided by the Board. Further, a local training provider certified by any workforce development board has reciprocal certification for all workforce development boards.

F. Each workforce development board shall develop and execute a strategic plan designed to combine public and private resources to support sector strategies, career pathways, and career readiness skills development. Such initiatives shall include or address (i) a regional vision for workforce development; (ii) protocols for planning workforce strategies that anticipate industry needs; (iii) the needs of incumbent and underemployed workers in the region; (iv) the development of partners and guidelines for various forms of on-the-job training, such as registered apprenticeships; (v) the setting of standards and metrics for operational delivery; (vi) alignment of monetary and other resources, including private funds and in-kind contributions, to support the workforce development system; and (vii) the generation of new sources of funding to support workforce development in the region.

G. Local workforce development boards are encouraged to implement pay-for-performance contract strategy incentives for rapid reemployment services consistent within the WIOA as an alternative model to traditional programs. Such incentives shall focus on (i) partnerships that lead to placements of eligible job seekers in unsubsidized employment and (ii) placement in unsubsidized employment for hard-to-serve job seekers. At the discretion of the local workforce development board, funds to the extent permissible under §§ 128(b) and 133(b) of the WIOA may be allocated for pay-for-performance partnerships.

H. Each chief local elected official shall consult with the Governor regarding designation of local workforce development areas; appoint members to the local board in accordance with state criteria; serve as the local grant recipient unless another entity is designated in the local plan; negotiate local performance measures with the Governor; ensure that all mandated partners are active participants in the local workforce development board and one-stop center; and collaborate with the local workforce development board on local plans and program oversight.

I. Each local workforce development board shall develop and enter into a memorandum of understanding concerning the operation of the one-stop delivery system in the local area with each entity that carries out any of the following programs or activities:

1. Programs authorized under Title I of the WIOA;

2. Programs authorized under the Wagner-Peyser Act (29 U.S.C. § 49 et seq.);

3. Adult education and literacy activities authorized under Title II of the WIOA;

4. Programs authorized under Title I of the Rehabilitation Act of 1973 (29 U.S.C. § 720 et seq.);

5. Postsecondary career and technical education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. § 2301 et seq.);

6. Activities authorized under Chapter 2 of Title II of the Trade Act of 1974 (19 U.S.C. § 2271 et seq.);

7. Activities pertaining to employment and training programs for veterans authorized under 38 U.S.C. § 4100 et seq.;

8. Programs authorized under Title 60.2, in accordance with applicable federal law;

9. Workforce development activities or work requirements of the Temporary Assistance to Needy Families (TANF) program known in Virginia as the Virginia Initiative for Education and Work (VIEW) established pursuant to § 63.2-608;

10. Workforce development activities or work programs authorized under the Food Stamp Act of 1977 (7 U.S.C. § 2011 et seq.);

11. Other programs or activities as required by the WIOA; and

12. Programs authorized under Title I of the WIOA.

J. The quorum for a meeting of a local workforce development board shall consist of a majority of both the private sector and public sector members. Each local workforce development board shall share information regarding its meetings and activities with the public.

K. For the purposes of implementing the WIOA, income from service in the Virginia National Guard shall not disqualify unemployed service members from WIOA-related services.

L. The Secretary of Labor shall be responsible for the coordination of the Virginia Workforce System and the implementation of the WIOA.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business

development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 *and the Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040*.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 2.2-3905. Nondiscrimination in employment; definitions; exceptions.

A. As used in this section:

"Age" means being an individual who is at least 40 years of age.

"Domestic worker" means an individual who is compensated directly or indirectly for the performance of services of a household nature performed in or about a private home, including services performed by individuals such as companions, babysitters, cooks, waiters, butlers, valets, maids, housekeepers, nannies, nurses, janitors, laundresses, caretakers, handymen, gardeners, home health aides, personal care aides, and chauffeurs of automobiles for family use. "Domestic worker" does not include (i) a family member, friend, or neighbor of a child, or a parent of a child, who provides child care in the child's home; (ii) any child day program as defined in § 22.1-289.02 or an individual who is an employee of a child day program; or (iii) any employee employed on a casual basis in domestic service employment to provide companionship services for individuals who, because of age or infirmity, are unable to care for themselves.

"Employee" means an individual employed by an employer.

"Employer" means a person employing (i) 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person or (ii) one or more domestic workers. However, (a) for purposes of unlawful discharge under subdivision B 1 on the basis of race, color, religion, national origin, military status, sex, sexual orientation, gender identity, marital status, disability, pregnancy, or childbirth or related medical conditions including lactation, "employer" means any person employing more than five persons or one or more domestic workers and (b) for purposes of unlawful discharge under subdivision B 1 on the basis of age, "employer" means any employer employing more than five but fewer than 20 persons.

"Employment agency" means any person, or an agent of such person, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer.

"Joint apprenticeship committee" means the same as that term is defined in § ~~40.1-120~~ *2.2-2043*.

"Labor organization" means an organization engaged in an industry, or an agent of such organization, that exists for the purpose, in whole or in part, of dealing with employers on behalf of employees concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment. "Labor organization" includes employee representation committees, groups, or associations in which employees participate.

"Lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

B. It is an unlawful discriminatory practice for:

1. An employer to:

a. Fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to such individual's compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, military status, disability, or national origin; or

b. Limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, military status, disability, or national origin.

2. An employment agency to:

a. Fail or refuse to refer for employment, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin; or

b. Classify or refer for employment any individual on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin.

3. A labor organization to:

a. Exclude or expel from its membership, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin;

b. Limit, segregate, or classify its membership or applicants for membership, or classify or fail to or refuse to refer for employment any individual, in any way that would deprive or tend to deprive such individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect an individual's status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin; or

c. Cause or attempt to cause an employer to discriminate against an individual in violation of subdivisions a or b.

4. An employer, labor organization, or joint apprenticeship committee to discriminate against any individual in any program to provide apprenticeship or other training program on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin.

5. An employer, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of employment-related tests on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin.

6. Except as otherwise provided in this chapter, an employer to use race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin as a motivating factor for any employment practice, even though other factors also motivate the practice.

7. (i) An employer to discriminate against any employees or applicants for employment, (ii) an employment agency or a joint apprenticeship committee controlling an apprenticeship or other training program to discriminate against any individual, or (iii) a labor organization to discriminate against any member thereof or applicant for membership because such individual has opposed any practice made an unlawful discriminatory practice by this chapter or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

8. An employer, labor organization, employment agency, or joint apprenticeship committee controlling an apprenticeship or other training program to print or publish, or cause to be printed or published, any notice or advertisement relating to (i) employment by such an employer, (ii) membership in or any classification or referral for employment by such a labor organization, (iii) any classification or referral for employment by such an employment agency, or (iv) admission to, or employment in, any program established to provide apprenticeship or other training by such a joint apprenticeship committee that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, age, or national origin when religion, sex, age, or national origin is a bona fide occupational qualification for employment.

C. Notwithstanding any other provision of this chapter, it is not an unlawful discriminatory practice:

1. For (i) an employer to hire and employ employees; (ii) an employment agency to classify, or refer for employment, any individual; (iii) a labor organization to classify its membership or to classify or refer for employment any individual; or (iv) an employer, labor organization, or joint apprenticeship committee to admit or employ any individual in any apprenticeship or other training program on the basis of such individual's religion, sex, or age in those certain instances where religion, sex, or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular employer, employment agency, labor organization, or joint apprenticeship committee;

2. For an elementary or secondary school or institution of higher education to hire and employ employees of a particular religion if such elementary or secondary school or institution of higher education is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society or if the curriculum of such elementary or secondary school or institution of higher education is directed toward the propagation of a particular religion;

3. For an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment, pursuant to a bona fide seniority or merit system, or a system that measures earnings by quantity or quality of production, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin;

4. For an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or an action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin;

5. For an employer to provide reasonable accommodations related to disability, pregnancy, childbirth or related medical conditions, and lactation, when such accommodations are requested by the employee; or

6. For an employer to condition employment or premises access based upon citizenship where the employer is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute or regulation of the federal government or any executive order of the President of the United States.

D. Nothing in this chapter shall be construed to require any employer, employment agency, labor organization, or joint apprenticeship committee to grant preferential treatment to any individual or to any group because of such individual's or group's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin on account of an imbalance that may exist with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership

or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or national origin in any community.

E. The provisions of this section shall not apply to the employment of individuals of a particular religion by a religious corporation, association, educational institution, or society to perform work associated with its activities.

§ 40.1-100. Certain employment prohibited or limited.

A. No child under 18 years of age shall be employed, permitted, or suffered to work:

1. In any mine, quarry, tunnel, underground scaffolding work; in or about any plant or establishment manufacturing or storing explosives or articles containing explosive components; in any occupation involving exposure to radioactive substances or to ionizing radiations including X-ray equipment;

2. At operating or assisting to operate any grinding, abrasive, polishing or buffing machine, any power-driven metal forming, punching or shearing machine, power-driven bakery machine, power-driven paper products machine, any circular saw, band saw or guillotine shear, or any power-driven woodworking machine;

3. In oiling or assisting in oiling, wiping and cleaning any such machinery;

4. In any capacity in preparing any composition in which dangerous or poisonous chemicals are used;

5. In any capacity in the manufacturing of paints, colors, white lead, or brick tile or kindred products, or in any place where goods of alcoholic content are manufactured, bottled, or sold for consumption on the premises except in places (i) licensed pursuant to subdivision 6 of § 4.1-206.1, provided that a child employed at the premises shall not serve or dispense in any manner alcoholic beverages or (ii) where the sale of alcoholic beverages is merely incidental to the main business actually conducted, or to deliver alcoholic goods;

6. In any capacity in or about excavation, demolition, roofing, wrecking or shipbreaking operations;

7. As a driver or a helper on an automobile, truck, or commercial vehicle; however, children who are at least 17 years of age may drive automobiles or trucks on public roadways if:

a. The automobile or truck does not exceed 6,000 pounds gross vehicle weight, the vehicle is equipped with seat belts for the driver and any passengers, and the employer requires the employee to use the seatbelts when driving the automobile or truck;

b. Driving is restricted to daylight hours;

c. The employee has a valid State license for the type of driving involved and has no record of any moving violations at the time of hire;

d. The employee has successfully completed a State-approved driver education course;

e. The driving does not involve: (i) the towing of vehicles; (ii) route deliveries or route sales; (iii) the transportation for hire of property, goods, or passengers; (iv) urgent, time-sensitive deliveries; or (v) the transporting at any time of more than three passengers, including the employees of the employer;

f. The driving performed by the employee does not involve more than two trips away from the primary place of employment in any single day for the purpose of delivering goods of the employee's employer to a customer;

g. The driving performed by the employee does not involve more than two trips away from the primary place of employment in any single day for the purpose of transporting passengers, other than employees of the employer;

h. The driving takes place within a 30-mile radius of the employee's place of employment; and

i. The driving is only occasional and incidental to the employee's employment and involves no more than one third of the employee's work time in any workday and no more than 20 percent work time in any work week;

8. In logging or sawmilling, or in any lath mill, shingle mill or cooperage-stock mill, or in any occupation involving slaughtering, meatpacking, processing or rendering;

9. In any occupation determined and declared hazardous by rules and regulations promulgated by the Commissioner of Labor and Industry, except as otherwise provided in subsection D.

Notwithstanding the provisions of this section, children 16 years of age or older who are serving a voluntary apprenticeship as provided in ~~Chapter 6 (§ 40.1-117 et seq.) of this title~~ *Article 3 (§ 2.2-2043 et seq.) of Chapter 20.2 of Title 2.2* may be employed in any occupation in accordance with rules and regulations promulgated by the Commissioner.

B. Except as part of a regular work-training program in accordance with §§ 40.1-88 and 40.1-89, no child under 16 years of age shall be employed, permitted or suffered to work:

1. In any manufacturing or mechanical establishment, in any commercial cannery; in the operation of any automatic passenger or freight elevator; in any dance studio; or in any hospital, nursing home, clinic, or other establishment providing care for resident patients as a laboratory helper, therapist, orderly, or nurse's aide; in the service of any veterinarian while treating farm animals or horses; in any warehouse; in processing work in any laundry or dry cleaning establishment; in any undertaking establishment or funeral home; in any curb service restaurant, in hotel and motel room service; in any brick, coal or lumber yard or ice plant or in ushering in theaters. Children 14 years of age or more may be engaged in office work of a clerical nature in bona fide office rooms in the above types of establishments.

2. In any scaffolding work or construction trade; or in any outdoor theater, cabaret, carnival, fair, floor show, pool hall, club, or roadhouse; or as a lifeguard at a beach.

C. Children 14 years of age or more may be employed by dry cleaning or laundry establishments in branch stores where no processing is done on the premises, and in hospitals, nursing homes, and clinics where they may be engaged in

kitchen work, tray service or room and hall cleaning. Children 14 years of age or more may be employed in bowling alleys completely equipped with automatic pin setters, but not in or about such machines, and in soda fountains, restaurants and hotel and motel food service departments. Children 14 years of age or more may work as gatekeepers and in concessions at swimming pools and may be employed by concessionaires operating on beaches where their duties and work pertain to the handling and distribution of beach chairs, umbrellas, floats and other similar or related beach equipment.

D. Notwithstanding any other provision of this chapter:

1. Children age 16 years or older employed on farms, in gardens or in orchards may operate, assist in operating, or otherwise perform work involving a truck, excluding a tractor trailer, or farm vehicle as defined in § 46.2-1099, in their employment;

2. Children age 14 years or older employed on farms, in gardens or in orchards may perform work as a helper on a truck or commercial vehicle in their employment, while engaged in such work exclusively on a farm, in a garden or in an orchard;

3. Children age 16 years or older may participate in all activities of a volunteer fire company; however, any such child shall not enter a burning structure or a structure which contains burning materials prior to obtaining certification under National Fire Protection Association 1001, level one, fire fighter standards, pursuant to the provisions of clause (i) of subsection A of § 40.1-79.1, except where entry into a structure that contains burning materials is during training necessary to attain certification under National Fire Protection Association 1001, level one, firefighter standards, as administered by the Department of Fire Programs.

§ 54.1-1101. Exemptions; failure to obtain certificate of occupancy; penalties.

A. The provisions of this chapter shall not apply to:

1. Any governmental agency performing work with its own forces;

2. Work bid upon or undertaken for the armed services of the United States under the Armed Services Procurement Act;

3. Work bid upon or undertaken for the United States government on land under the exclusive jurisdiction of the federal government either by statute or deed of cession;

4. Work bid upon or undertaken for the Department of Transportation on the construction, reconstruction, repair, or improvement of any highway or bridge;

5. Any other persons who may be specifically excluded by other laws but only to such an extent as such laws provide;

6. Any material supplier who renders advice concerning use of products sold and who does not provide construction or installation services;

7. Any person who performs or supervises the construction, removal, repair, or improvement of no more than one primary residence owned by him and for his own use during any 24-month period;

8. Any person who performs or supervises the construction, removal, repair, or improvement of a house upon his own real property as a bona fide gift to a member of his immediate family provided such member lives in the house. For purposes of this section, "immediate family" includes one's mother, father, son, daughter, brother, sister, grandchild, grandparent, mother-in-law, and father-in-law;

9. Any person who performs or supervises the repair or improvement of industrial or manufacturing facilities, or a commercial or retail building, for his own use;

10. Any person who performs or supervises the repair or improvement of residential dwelling units owned by him that are subject to the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.);

11. Any owner-developer, provided that any third-party purchaser is made a third-party beneficiary to the contract between the owner-developer and a licensed contractor whereby the contractor's obligation to perform the contract extends to both the owner-developer and the third party;

12. Work undertaken by students as part of a career and technical education project as defined in § 22.1-228 established by any school board in accordance with Article 5 (§ 22.1-228 et seq.) of Chapter 13 of Title 22.1 for the construction of portable classrooms or single family homes;

13. Any person who performs the removal of building detritus or provides janitorial, cleaning, or sanitizing services incidental to the construction, removal, repair, or improvement of real property;

14. Any person who is performing work directly under the supervision of a licensed contractor and is (i) a student in good standing and enrolled in a public or private institution of higher education, (ii) a student enrolled in a career training or technical education program, or (iii) an apprentice as defined in § ~~40.1-120~~ *2.2-2043*; and

15. Work undertaken by a person providing construction, remodeling, repair, improvement, removal, or demolition valued at $25,000 or less per project on behalf of a properly licensed contractor, provided that such contractor holds a valid license in the (i) residential building, (ii) commercial building, or (iii) home improvement building contractor classification. However, any construction services that require an individual license or certification shall be rendered only by an individual licensed or certified in accordance with this chapter.

All other contractors performing work for any government or for any governmental agency are subject to the provisions of this chapter and are required to be licensed as provided herein.

B. Any person who is exempt from the provisions of this chapter as a result of subdivision A 7, 10, 11, or 12 shall obtain a certificate of occupancy for any building constructed, repaired or improved by him prior to conveying such

property to a third-party purchaser, unless such purchaser has acknowledged in writing that no certificate of occupancy has been issued and that such purchaser consents to acquire the property without a certificate of occupancy.

C. Any person who is exempt from the provisions of this chapter as a result of subdivision 7, 8, 9, 10, 11, 12, or 14 of subsection A shall comply with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

D. Any person who violates the provisions of subsection B or C shall be guilty of a Class 1 misdemeanor. The third or any subsequent conviction of violating subsection B or C during a 36-month period shall constitute a Class 6 felony.

§ 60.2-105. Publication and distribution of law, regulations, etc.

The Commission shall cause to be ~~printed~~ *readily available* for distribution to the public the text of this title, the Commission's regulations and general rules, its annual reports to the Governor, and any other material the Commission deems relevant and suitable. The Commission shall furnish these materials to any person upon request.

§ 60.2-111. Duties and powers of Commission; reporting requirements.

A. It shall be the duty of the Commission to administer this title. *The Commission may establish separate divisions as necessary to carry out the duties and powers prescribed by this section.* It shall have power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action, including the appointment of advisory groups, as it deems necessary or suitable to that end. Such rules and regulations shall be subject to the provisions of Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2, except as to the subject matter of subdivisions 2 and 3 of § 60.2-515, which shall become effective in the manner prescribed by § 2.2-4103. The Commission shall determine its own organization and methods of procedure in accordance with provisions of this title, and shall have an official seal which shall be judicially noticed.

B. *The Commission shall take all necessary steps to maintain a solvent trust fund financed through equitable employer taxes that provides temporary partial income replacement to involuntarily unemployed covered workers.*

C. The Commission shall prepare an annual balance sheet of the moneys in the fund and in the Unemployment Trust Fund to the credit of the Commonwealth in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then-current taxes. That reserve shall be set up by the Commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the Commission believes that a change in tax or benefit rates is necessary to protect the solvency of the Fund, it shall promptly so inform the Governor and the General Assembly and make recommendations with respect thereto.

~~C.~~ *D.* In preparing the annual balance sheet required by subsection ~~B~~ *C*, the Commission shall regularly track metrics related to unemployment insurance benefits, establish a mechanism to help assess the adequacy of benefits, and examine metrics related to recipiency, average benefit levels, and benefit income replacement ratios. The annual balance sheet shall include the following calculations: (i) the average unemployment insurance benefit levels, (ii) the average income replacement of unemployment insurance benefits, and (iii) the recipiency rate for unemployment insurance benefits in the Commonwealth.

~~D.~~ *E.* The Commission, as part of its biennial strategic plan submitted to the Department of Planning and Budget, shall develop and maintain a comprehensive unemployment insurance Resiliency Plan that describes specific actions the Commission will take, depending on the level of increase in unemployment insurance (UI) claims, to address staffing, communications, and other relevant aspects of operations to ensure continued efficient and effective administration of the UI program. The Resiliency Plan shall include proposed actions consistent with the following objectives to effectively prepare for periods of high unemployment:

1. Develop specific strategies or steps the Commission will take to modify staffing levels in response to incidents that increase UI program demand. These strategies or steps shall (i) include a staffing plan for varying levels of UI workload volume, (ii) cover several scenarios that may affect UI assistance services, (iii) explain how existing staff would be reallocated to high-priority functions in response to high demand, and (iv) describe how the Commission's hiring process will be streamlined to fill key vacant positions such as adjudication and appeals staff.

2. Develop specific strategies or steps the Commission will take to modify policies, procedures, or processes in response to high demands on its services.

3. Outline a strategy for clearly communicating key UI program changes to customers. This strategy shall indicate which staff will be responsible for different types of communications and include several communications goals, such as clearly conveying UI program and policy changes.

4. Outline a strategy for clearly communicating important UI information to Commission staff, the public, and the General Assembly.

5. Formalize a policy for prioritizing and assigning claims for adjudication during periods of high claims volume. This policy shall detail how prioritization may change in response to claims volume and state that the policy of the Commission is to generally prioritize resolving older claims before newer claims.

6. Identify other tactical actions to be taken to ensure the continuity of UI claims processing and customer service.

§ 60.2-631. Board of Review.

A. The Commissioner, in his discretion, is hereby authorized to appoint a Board of Review consisting of three members, one of whom shall be designated chairman for a term of six years. The terms of the members first taking office shall be two, four, and six years, respectively, as designated by the Commissioner at the time of the appointment. Vacancies shall be filled by appointment by the Commissioner for the unexpired term. During his term of membership on the Board no

member shall serve as an officer or committee member of any political organization. The members of the Board shall be compensated in a manner determined by the Commission. The Commission shall furnish the Board such stenographic and clerical assistance as the Board may require. All compensation of the members of the Board and all necessary expenses for the operation thereof shall be paid out of the administrative fund provided for in §§ 60.2-306 ~~through 60.2-309~~*, 60.2-307, and 60.2-308* and §§ 60.2-311 ~~through~~*, 60.2-312, and* 60.2-313. The Commissioner may at any time, after notice and hearing, remove any member for cause. The Commissioner may, after thirty days' notice to the members of the Board and upon a finding that the Board is no longer needed, abolish the same.

B. 1. The Board shall meet upon the call of the chairman. It shall have the same powers and perform the same functions vested in the Commission in this title for review of decisions by an appeal tribunal, including the power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with disputed claims.

2. The Board may hold its hearings in the county or city where the claimant was last employed, except that hearings involving the provisions of subdivision A 2 of § 60.2-612 shall be held in the county or city where the claimant was last employed. When the same or substantially similar evidence is relevant and material to matters in issue in claims by more than one individual or in claims by a single individual with respect to two or more weeks of unemployment, the same time and place for considering each such claim may be fixed, hearings thereon jointly conducted, and a single record of the proceedings made.

C. The Commission may issue such regulations as it deems necessary for the procedure of the Board in the conduct of its hearings. During the time the Board is organized under authority of the Commissioner, the Commission shall have no jurisdiction under § 60.2-622. Any decision of the Board shall become final ten days after the date of notification or mailing and judicial review shall be permitted the claimant, the Commission or any interested party claiming to be aggrieved. In any judicial action involving any such decision the Commission shall be represented by the Office of the Attorney General. Any decision of the Board from which no judicial review is sought within the time prescribed in § 60.2-625 shall be conclusive against any party to the hearing before the Board and the Commission in any subsequent judicial proceedings involving liability for taxes under this title.

D. Within the time specified in § 60.2-625 the Commission, or any party to the proceedings before the Board, may obtain judicial review by filing in the circuit court of the county or city in which the individual who filed the claim was last employed, in the Commonwealth, a petition for review of such decision. In any such proceeding any other party to the proceeding shall be made a party respondent. The Commission shall be deemed to be a party to any such proceeding. The petition need not be verified. A copy of such petition shall be served upon the Commission and each party to the proceeding held before the Board at least thirty days prior to the placing of the petition upon the docket. The mailing of a copy of such petition to each party at his last known address shall be sufficient service. The Commission shall file along with its petition or answer a certified copy of the record of the case, including all documents and papers and a transcript of all testimony taken in the matter, together with the Board's findings, conclusions and decision therein.

E. In any proceeding under this section the Board's findings of facts, if supported by the evidence and in the absence of fraud, shall be conclusive and the jurisdiction of the court shall be confined to questions of law. The court may order additional evidence to be taken by the Board, which such additional evidence, findings of fact or conclusions, together with the additional transcript of the record, shall be certified by the chairman of the Board and filed by him with the court. Such petition for review shall be heard in a summary manner and shall have preference over all other cases on the docket, except cases in which the Commonwealth is a party.

F. An appeal may be taken from the decision of such court to the Court of Appeals in conformity with Part Five A of the Rules of Supreme Court and other applicable laws. From any such decision involving (i) the provisions of § 60.2-612 or § 60.2-618, (ii) whether an employing unit constitutes an employer or (iii) whether services performed for or in connection with the business of an employing unit constitute employment for such employing unit, the Court of Appeals shall have jurisdiction to review such decision regardless of the amount involved in any claim for benefits. It shall not be necessary, in any proceeding before the Board, to enter exceptions to its ruling, and no bond shall be required upon any appeal to any court. Upon the final determination of such judicial proceeding, the Board shall enter an order in accordance with such determination.

2. That § 2.2-435.8, Chapter 6 (§§ 40.1-117 through 40.1-127) of Title 40.1, §§ 60.2-110, 60.2-113, 60.2-113.1, 60.2-309, and 60.2-310, and Chapter 4 (§§ 60.2-400, 60.2-400.1, and 60.2-401) of Title 60.2 of the Code of Virginia are repealed.

3. That the Governor may transfer appropriations or portions thereof within the Virginia Community College System, the Virginia Employment Commission, the Department of Education, and the Department of Labor and Industry, or from any such agency to another, to support the changes in organization or responsibility resulting from moving the following programs to the Department of Workforce Development and Advancement established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act: (i) the Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128) Titles I and III; (ii) the Trade Adjustment Assistance Program; (iii) the Jobs for Veterans State Grant program; (iv) the Reemployment Services and Eligibility Assessment program; (v) registered apprenticeship programs and other apprenticeship programs; (vi) the Virginia Career Works Referral Portal and Workforce Data Trust; (vii) the Virginia Workforce Connection; (viii) labor market information services;

(ix) Virginia Voyager; (x) Network2Work; and (xi) the Hampton Roads Skilled Trades Rapid On-Ramp Network for Growth.

4. That the Governor may transfer any employee within the Virginia Community College System, the Virginia Employment Commission, and the Department of Labor and Industry, or from any such agency to another, to support the changes in organization or responsibility resulting from moving the programs listed in the third enactment of this act to the Department of Workforce Development and Advancement established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act.

5. That during the interim period between July 1, 2023, and the formal establishment of the Department of Workforce Development and Advancement (the Department), established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act, the Virginia Employment Commission shall be responsible for conducting all necessary business functions assigned to the Department pursuant to this act. Formal establishment shall include appointment of the Director of the Department pursuant to § 2.2-2035 of the Code of Virginia, as created by this act, and achievement of staffing levels adequate to allow the Department to independently accomplish such business functions as determined by the Director and the Secretary of Labor.

6. That the Secretaries of Finance and Labor from amounts appropriated to the Department of Workforce Development and Advancement (the Department), established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act, shall approve disbursements prior to expenditure of funds. The Department shall only use such funds for the purpose of paying the costs related to the transition of workforce development programs, services, and functions to the Department in accordance with the provisions of this act.

7. That the regulations of the Virginia Community College System, the Virginia Employment Commission, and the Department of Labor and Industry relating to any program, service, or function be transferred to the Department of Workforce Development and Advancement (the Department), established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act, and shall be administered by the Department and shall remain in full force and effect until the Department promulgates regulations pursuant to this act.

8. That the first report required pursuant to subdivision A 16 of § 2.2-2472 of the Code of Virginia, as amended by this act, shall be submitted to the Governor and the General Assembly no later than December 1, 2025.

9. That the Secretary of Labor shall conduct a comprehensive review of the Commonwealth's workforce development programs and provide recommendations to address a wide range of subjects relating to improving the effectiveness and efficiency of such programs, including (i) the adequacy of collaboration among such programs; (ii) the organization, powers, and duties of the Department of Workforce Development and Advancement, established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act; (iii) the operations of the local workforce investment boards and the geographic areas served by such boards; and (iv) the proper role of the Virginia Community College System in supporting workforce development efforts. The Secretary of Labor shall submit a preliminary report to the Governor and the General Assembly by November 30, 2023. The final report shall be submitted to the Governor and the General Assembly by June 30, 2025.

10. That the Secretary of Labor shall work with the Office of Data Governance and Analytics to assess existing data systems to identify system redundancies and a solution for a proposed "hub" technology.

11. That the Secretary of Labor (the Secretary) shall convene a stakeholder work group consisting of two members of the House of Delegates appointed by the Speaker of the House of Delegates, two members of the Senate of Virginia appointed by the Senate Committee on Rules, representatives from the agencies affected by the transfer of programs pursuant to this act, local workforce boards, the business community, and labor organizations, and any other representatives deemed appropriate by the Secretary, for the purpose of advising the Secretary during the program transition period from July 1, 2023, through September 30, 2024. The Secretary shall provide a progress report on the outcomes of the work group, the progress of the transition, the current and expected costs of transition, and the expected ongoing operational costs of the Department quarterly to the Governor and the General Assembly.

12. That, to the extent practicable, the Director of the Department of Workforce Development and Advancement (the Department), established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act, or the Governance Council of the Workforce Data Trust may enter into a research agreement with the Office of Education and Labor Market Alignment on or before December 1, 2023, for the purposes of assisting the Governor, the Department, the Virginia Board of Workforce Development, and the General Assembly with research on the outcomes and performance of Virginia's workforce programs and their alignment to Virginia's labor market.

13. That the Secretaries of Finance and Labor shall provide periodic updates on the implementation of the provisions of this act to the Chairs of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations.

CHAPTER 626

An Act to direct the Secretary of Health and Human Resources to convene a work group with the Virginia Neonatal Perinatal Collaborative to develop recommendations to improve neonatal and perinatal care in the Commonwealth.

[S 1531]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Secretary of Health and Human Resources shall convene a work group to facilitate strengthening collaboration on neonatal and perinatal care of women and infants to positively impact maternal and child health care outcomes in the Commonwealth. The work group shall examine the public-private partnerships supporting the Virginia Neonatal Perinatal Collaborative (the Collaborative) and make recommendations to strengthen the Collaborative's ability to (i) successfully implement Alliance for Innovation on Maternal Health patient safety bundles and other maternal or newborn quality improvement initiatives on a statewide basis; (ii) maximize public and private funding; (iii) distribute grants on an efficient, effective, and equitable basis; and (iv) determine the best structure and placement for the Collaborative. The work group shall include representatives of the Virginia Department of Health, the Department of Medical Assistance Services, the Collaborative's leadership team and partner organizations, the Virginia Hospital and Healthcare Association, the Virginia Association of Health Plans, the Medical Society of Virginia, and any other relevant stakeholders. The work group shall report its recommendations to strengthen the Collaborative's work, including any recommended statutory, budgetary, or state contractual changes to be considered by the 2024 Session of the General Assembly, to the Chairmen of the House Committees on Health, Welfare and Institutions and Appropriations and the Senate Committees on Education and Health and Finance and Appropriations by November 1, 2023.*

CHAPTER 627

An Act to direct the Board of Social Work to convene a workgroup to examine the feasibility of licensure by reciprocity with other jurisdictions; report.

[H 2146]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Virginia Board of Social Work (the Board) shall convene a workgroup to examine the feasibility of licensure by reciprocity with other jurisdictions. The workgroup shall also examine the effectiveness of the Board's current licensure by endorsement provisions and shall examine the possibility of joining the Social Work Compact when that Compact becomes operational. The Board shall submit a report to the General Assembly no later than November 1, 2023.*

CHAPTER 628

An Act to amend and reenact §§ 2.2-3705.5, 32.1-372, 54.1-2523, and 54.1-2525 of the Code of Virginia, relating to Smartchart Network Program.

[H 2345]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.5, 32.1-372, 54.1-2523, and 54.1-2525 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants; information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1; information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that identifies any practitioner who may be, or who is actually, impaired to the extent that disclosure is prohibited by § 54.1-2517; and information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program (Program) pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

3. Reports, documentary evidence, and other information as specified in §§ 51.5-122 and 51.5-184 and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 and information and statistical registries required to be kept confidential pursuant to Chapter 1 (§ 63.2-100 et seq.) of Title 63.2.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Education in connection with an active investigation of an applicant or licensee pursuant to Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. However, nothing in this subdivision shall prevent the disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

5. Information collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review Team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3; (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6; (iv) by a local or regional overdose fatality review team to the extent that such information is made confidential by § 32.1-283.7; (v) during a review of any death conducted by the Maternal Mortality Review Team to the extent that such information is made confidential by § 32.1-283.8; or (vi) during a review of any death conducted by the Developmental Disabilities Mortality Review Committee to the extent that such information is made confidential by § 37.2-314.1.

8. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

9. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

10. Any information copied, recorded, or received by the Commissioner of Health in the course of an examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

11. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

12. Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to prevent the disclosure of statistical summaries, abstracts, or other information in aggregate form.

13. The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

14. Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § 8.01-581.17.

15. Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

16. Records of and information held by the ~~Emergency Department Care Coordination~~ *Smartchart Network* Program required to be kept confidential pursuant to § 32.1-372.

CHAPTER 19.

~~EMERGENCY DEPARTMENT CARE COORDINATION~~ *SMARTCHART NETWORK* PROGRAM.

§ 32.1-372. Smartchart Network Program established; purpose.

A. The ~~Emergency Department Care Coordination~~ *Smartchart Network* Program (the Program) is hereby created to provide a single, statewide technology solution that connects all ~~hospital emergency departments~~ *health care providers, insurance carriers, and other organizations with a treatment, payment, or operations relationship with a patient* in the Commonwealth to facilitate real-time communication and collaboration ~~among physicians, other health care providers, and clinical and care management personnel for patients receiving services in hospital emergency departments, for the purpose of improving~~ *and improve* the quality of patient care services.

B. ~~In developing and implementing the Program, the~~ *The* Commissioner shall ensure that the Program:

1. Receives real-time patient visit information from, and shares such information with, every hospital ~~emergency department~~ in the Commonwealth through integrations that enable receiving information from and delivering information into electronic health records systems utilized by such ~~hospital emergency departments~~ *hospitals*;

2. Requires that all participants in the Program *share patient information and* have fully executed health care data exchange contracts ~~that~~ *to* ensure ~~that~~ the secure and reliable exchange of patient information ~~fully complies~~ *in compliance* with *the* patient privacy and security requirements of applicable state and federal laws and regulations, including the Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.);

3. *Enables health care providers, health care entities, and insurance carriers to access information necessary to evaluate and monitor the care and treatment of a patient in accordance with the patient privacy and security requirements of applicable state and federal laws and regulations, including the Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.);*

4. Allows ~~hospital emergency departments~~ *health care providers* in the Commonwealth to receive real-time alerts triggered by analytics to identify patient-specific risks, to create and share care coordination plans and other care recommendations, and to access other clinically beneficial information related to patients receiving *health care* services ~~in hospital emergency departments~~ in the Commonwealth*, including strategies and methods to continue to improve care coordination in hospital emergency departments and reduce the frequency of visits by high-volume emergency department utilizers*;

~~4.~~ *5.* Provides a patient's designated primary care physician and supporting clinical and care management personnel with treatment and care coordination information about a patient receiving *health care* services ~~in a hospital emergency department~~ in the Commonwealth, including care plans*, lab results, images,* and hospital admissions, transfers, and discharges;

~~5.~~ *6.* Provides a patient's designated managed care organization and supporting clinical and care management personnel with care coordination plans*, lab results, images,* and discharge and other treatment and care coordination information about a member receiving *health care* services ~~in a hospital emergency department~~ in the Commonwealth; and

~~6.~~ *7.* Is integrated with the Prescription Monitoring Program established pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and the Advance Health Care Directive Registry established pursuant to Article 9 (§ 54.1-2994 et seq.) of Chapter 29 of Title 54.1 to enable automated query and automatic delivery of relevant information from such sources into the existing work flow of health care providers ~~in the emergency department~~.

C. The Commissioner shall enter into a contract with a third party to create, operate, maintain, or administer the Program in accordance with this section, which shall include provisions for the protection of patient privacy and data security pursuant to state and federal law and regulations, including the Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.). The third-party contractor shall ~~establish an advisory council~~ *continue and rename the Emergency Department Care Coordination Advisory Council established by Chapter 836 of the Acts of Assembly of 2017 as the Smartchart Network Program Advisory Council (the Advisory Council)*, which shall consist of representatives of the Department, the Department of Medical Assistance Services, the Department of Health Professions, the Virginia Hospital and Healthcare Association, the Virginia Association of Health Plans, the Medical Society of Virginia, the Virginia College of Emergency Physicians, the Virginia Chapter of the American Academy of Pediatricians, and the Virginia Academy of Family Physicians, to advise the Commissioner and the third-party contractor regarding the establishment and operation of the Program, changes to the Program, and outcome measures for the Program.

The Advisory Council established pursuant to this subsection shall continue to ensure that information is shared among emergency departments throughout the Commonwealth and all hospitals operating emergency departments in the Commonwealth, all Medicaid managed care contracted health plans, the state employee health insurance plan, all Medicare plans operating in the Commonwealth, and all commercial plans operating in the Commonwealth, excluding ERISA plans, and shall participate in the emergency department information exchange program to continue to improve care

coordination in hospital emergency departments and reduce the frequency of visits by high-volume emergency department utilizers.

D. Information submitted to the Program shall be confidential and shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 54.1-2523. Confidentiality of data; disclosure of information; discretionary authority of Director.

A. All data, records, and reports relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such data, records, and reports that are in the possession of the Prescription Monitoring Program pursuant to this chapter and any material relating to the operation or security of the program shall be confidential and shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 2 of § 2.2-3705.5. Records in possession of the Prescription Monitoring Program shall not be available for civil subpoena, nor shall such records be disclosed, discoverable, or compelled to be produced in any civil proceeding, nor shall such records be deemed admissible as evidence in any civil proceeding for any reason. Further, the Director shall only have discretion to disclose any such information as provided in subsections B and C.

B. Upon receiving a request for information in accordance with the Department's regulations and in compliance with applicable federal law and regulations, the Director shall disclose the following:

1. Information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber to an agent who has completed the Virginia State Police Drug Diversion School designated by the superintendent of the Department of State Police or designated by the chief law-enforcement officer of any county, city, or town or campus police department to conduct drug diversion investigations pursuant to § 54.1-3405.

2. Information relevant to an investigation or inspection of or allegation of misconduct by a specific person licensed, certified, or registered by or an applicant for licensure, certification, or registration by a health regulatory board; information relevant to a disciplinary proceeding before a health regulatory board or in any subsequent trial or appeal of an action or board order to designated employees of the Department of Health Professions; or to designated persons operating the Health Practitioners' Monitoring Program pursuant to Chapter 25.1 (§ 54.1-2515 et seq.).

3. Information relevant to the proceedings of any investigatory grand jury or special grand jury that has been properly impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2.

4. Information relevant to a specific investigation of a specific recipient, dispenser, or prescriber to an agent of a federal law-enforcement agency with authority to conduct drug diversion investigations.

5. Information relevant to a specific investigation, supervision, or monitoring of a specific recipient for purposes of the administration of criminal justice pursuant to Chapter 1 (§ 9.1-100 et seq.) of Title 9.1 to a probation or parole officer as described in Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1 or a local community-based probation officer as described in § 9.1-176.1 who has completed the Virginia State Police Drug Diversion School designated by the Director of the Department of Corrections or his designee.

6. Information relevant to a specific investigation of a specific individual into a possible delivery of a controlled substance in violation of § 18.2-474.1 to an investigator for the Department of Corrections who has completed the Virginia State Police Drug Diversion School and who has been designated by the Director of the Department of Corrections or his designee.

7. Information about a specific recipient to the ~~Emergency Department Care Coordination~~ *Smartchart Network* Program in accordance with subdivision B ~~6~~ *7* of § 32.1-372.

C. In accordance with the Department's regulations and applicable federal law and regulations, the Director may, in his discretion, disclose:

1. Information in the possession of the Prescription Monitoring Program concerning a recipient who is over the age of 18 to that recipient. The information shall be mailed to the street or mailing address indicated on the recipient request form.

2. Information on a specific recipient to a prescriber, as defined in this chapter, for the purpose of establishing the treatment history of the specific recipient when such recipient is either under care and treatment by the prescriber or the prescriber is consulting on or initiating treatment of such recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the prescriber from the Prescription Monitoring Program.

3. Information on a specific recipient to a dispenser for the purpose of establishing a prescription history to assist the dispenser in (i) determining the validity of a prescription in accordance with § 54.1-3303 or (ii) providing clinical consultation on the care and treatment of the recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the dispenser from the Prescription Monitoring Program.

4. Information relevant to an investigation or regulatory proceeding of a specific dispenser or prescriber to other regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession when such regulatory authority licenses such dispenser or prescriber or such dispenser or prescriber is seeking licensure by such other regulatory authority.

5. Information relevant to an investigation relating to a specific dispenser or prescriber who is a participating provider in the Virginia Medicaid program or information relevant to an investigation relating to a specific recipient who is currently eligible for and receiving or who has been eligible for and has received medical assistance services to the Medicaid Fraud Control Unit of the Office of the Attorney General or to designated employees of the Department of Medical Assistance Services, as appropriate.

6. Information relevant to determination of the cause of death of a specific recipient to the designated employees of the Office of the Chief Medical Examiner.

7. Information for the purpose of bona fide research or education to qualified personnel; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser shall be deleted or redacted from such information prior to disclosure. Further, release of the information shall only be made pursuant to a written agreement between such qualified personnel and the Director in order to ensure compliance with this subdivision.

8. Information relating to prescriptions for covered substances issued by a specific prescriber, which have been dispensed and reported to the Prescription Monitoring Program, to that prescriber.

9. Information about a specific recipient who is a member of a Virginia Medicaid managed care program to a physician or pharmacist licensed in the Commonwealth and employed by the Virginia Medicaid managed care program or to his clinical designee who holds a multistate licensure privilege to practice nursing or a license issued by a health regulatory board within the Department of Health Professions and is employed by the Virginia Medicaid managed care program. Such information shall only be used to determine eligibility for and to manage the care of the specific recipient in a Patient Utilization Management Safety or similar program. Notice shall be given to recipients that information may be requested by a licensed physician or pharmacist employed by the Virginia Medicaid managed care program from the Prescription Monitoring Program.

10. [Expired.]

11. Information about a specific recipient who is currently eligible for and receiving medical assistance from the Department of Medical Assistance Services to a physician or pharmacist licensed in the Commonwealth or to his clinical designee who holds a multistate licensure privilege to practice nursing or a license issued by a health regulatory board within the Department of Health Professions and is employed by the Department of Medical Assistance Services.

Such information shall be used only to determine eligibility for and to manage the care of the specific recipient in a Patient Utilization Management Safety or similar program. Notice shall be given to recipients that information may be requested by a licensed physician or pharmacist employed by the Department of Medical Assistance Services from the Prescription Monitoring Program.

D. The Director may enter into agreements for mutual exchange of information among prescription monitoring programs in other jurisdictions, which shall only use the information for purposes allowed by this chapter.

E. This section shall not be construed to supersede the provisions of § 54.1-3406 concerning the divulging of confidential records relating to investigative information.

F. Confidential information that has been received, maintained or developed by any board or disclosed by the board pursuant to subsection A shall not, under any circumstances, be available for discovery or court subpoena or introduced into evidence in any medical malpractice suit or other action for damages arising out of the provision of or failure to provide services. However, this subsection shall not be construed to inhibit any investigation or prosecution conducted pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

§ 54.1-2525. Unlawful disclosure of information; disciplinary action authorized; penalties.

A. It shall be unlawful for any person having access to the confidential information in the possession of the program or any data or reports produced by the program to disclose such confidential information except as provided in this chapter. Any person having access to the confidential information in the possession of the program or any data or reports produced by the program who discloses such confidential information in violation of this chapter shall be guilty of a Class 1 misdemeanor upon conviction.

B. It shall be unlawful for any person who lawfully receives confidential information from the Prescription Monitoring Program to redisclose or use such confidential information in any way other than the authorized purpose for which the request was made. Any person who lawfully receives information from the Prescription Monitoring Program and discloses such confidential information in violation of this chapter shall be guilty of a Class 1 misdemeanor upon conviction.

C. Nothing in this section shall prohibit (i) a person who prescribes or dispenses a covered substance to a recipient required to be reported to the program from redisclosing information obtained from the Prescription Monitoring Program to another prescriber or dispenser who has responsibility for treating the recipient or (ii) a person who prescribes a covered substance from placing information obtained from the Prescription Monitoring Program in the recipient's medical record.

D. Information obtained from the Prescription Monitoring Program pursuant to subdivision B ~~6~~ *7* of § 32.1-372 shall become part of the patient's medical record.

E. Unauthorized use or disclosure of confidential information received from the Prescription Monitoring Program shall also be grounds for disciplinary action by the relevant health regulatory board.

2. That the provisions of the first enactment of this act shall become effective on January 1, 2024.

3. That the State Health Commissioner (the Commissioner) and the Director of the Department of Health Professions (the Director) shall convene a work group to study and establish a plan to develop and implement a system to share information regarding a patient's prescription history and medication reconciliation. The work group shall include the Department of Medical Assistance Services and relevant stakeholders, including representatives of the Virginia Hospital and Healthcare Association, the Medical Society of Virginia, the Virginia Association of Health Plans, the Virginia Pharmacists Association, Virginia Health Information, and a private sector technology expert with experience in prescription data sharing and controlled substance monitoring. The Commissioner and the Director shall report their findings and recommendations to the Chairmen of the Joint

Commission on Health Care, Senate Committee on Education and Health, and House Committee on Health, Welfare and Institutions by October 1, 2023.

CHAPTER 629

An Act to amend and reenact §§ 2.2-3705.5, 32.1-372, 54.1-2523, and 54.1-2525 of the Code of Virginia, relating to Smartchart Network Program.

[S 1255]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.5, 32.1-372, 54.1-2523, and 54.1-2525 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants; information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1; information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that identifies any practitioner who may be, or who is actually, impaired to the extent that disclosure is prohibited by § 54.1-2517; and information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program (Program) pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

3. Reports, documentary evidence, and other information as specified in §§ 51.5-122 and 51.5-184 and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 and information and statistical registries required to be kept confidential pursuant to Chapter 1 (§ 63.2-100 et seq.) of Title 63.2.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Education in connection with an active investigation of an applicant or licensee pursuant to Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. However, nothing in this subdivision shall prevent the disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

5. Information collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review Team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3; (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6; (iv) by a local or regional overdose fatality review team to the extent that such information is made confidential by § 32.1-283.7; (v) during a review of any death conducted by the Maternal Mortality Review Team to the extent that such information is made confidential by § 32.1-283.8; or (vi) during a review of any death conducted by the Developmental Disabilities Mortality Review Committee to the extent that such information is made confidential by § 37.2-314.1.

8. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

9. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

10. Any information copied, recorded, or received by the Commissioner of Health in the course of an examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

11. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

12. Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to prevent the disclosure of statistical summaries, abstracts, or other information in aggregate form.

13. The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

14. Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § 8.01-581.17.

15. Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

16. Records of and information held by the ~~Emergency Department Care Coordination~~ *Smartchart Network* Program required to be kept confidential pursuant to § 32.1-372.

CHAPTER 19.

~~EMERGENCY DEPARTMENT CARE COORDINATION~~ *SMARTCHART NETWORK* PROGRAM.

§ 32.1-372. Smartchart Network Program established; purpose.

A. The ~~Emergency Department Care Coordination~~ *Smartchart Network* Program (the Program) is hereby created to provide a single, statewide technology solution that connects all ~~hospital emergency departments~~ *health care providers, insurance carriers, and other organizations with a treatment, payment, or operations relationship with a patient* in the Commonwealth to facilitate real-time communication and collaboration ~~among physicians, other health care providers, and clinical and care management personnel for patients receiving services in hospital emergency departments, for the purpose of improving~~ *and improve* the quality of patient care services.

B. ~~In developing and implementing the Program, the~~ *The* Commissioner shall ensure that the Program:

1. Receives real-time patient visit information from, and shares such information with, every hospital ~~emergency department~~ in the Commonwealth through integrations that enable receiving information from and delivering information into electronic health records systems utilized by such ~~hospital emergency departments~~ *hospitals*;

2. Requires that all participants in the Program *share patient information and* have fully executed health care data exchange contracts ~~that~~ *to* ensure ~~that~~ the secure and reliable exchange of patient information ~~fully complies~~ *in compliance* with *the* patient privacy and security requirements of applicable state and federal laws and regulations, including the Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.);

3. *Enables health care providers, health care entities, and insurance carriers to access information necessary to evaluate and monitor the care and treatment of a patient in accordance with the patient privacy and security requirements of applicable state and federal laws and regulations, including the Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.);*

4. Allows ~~hospital emergency departments~~ *health care providers* in the Commonwealth to receive real-time alerts triggered by analytics to identify patient-specific risks, to create and share care coordination plans and other care recommendations, and to access other clinically beneficial information related to patients receiving *health care* services ~~in hospital emergency departments~~ in the Commonwealth*, including strategies and methods to continue to improve care coordination in hospital emergency departments and reduce the frequency of visits by high-volume emergency department utilizers*;

~~4.~~ *5.* Provides a patient's designated primary care physician and supporting clinical and care management personnel with treatment and care coordination information about a patient receiving *health care* services ~~in a hospital emergency department~~ in the Commonwealth, including care plans*, lab results, images,* and hospital admissions, transfers, and discharges;

~~5.~~ *6.* Provides a patient's designated managed care organization and supporting clinical and care management personnel with care coordination plans*, lab results, images,* and discharge and other treatment and care coordination information about a member receiving *health care* services ~~in a hospital emergency department~~ in the Commonwealth; and

~~6.~~ *7.* Is integrated with the Prescription Monitoring Program established pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and the Advance Health Care Directive Registry established pursuant to Article 9 (§ 54.1-2994 et seq.) of Chapter 29 of Title 54.1 to enable automated query and automatic delivery of relevant information from such sources into the existing work flow of health care providers ~~in the emergency department~~.

C. The Commissioner shall enter into a contract with a third party to create, operate, maintain, or administer the Program in accordance with this section, which shall include provisions for the protection of patient privacy and data security pursuant to state and federal law and regulations, including the Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.). The third-party contractor shall ~~establish an advisory council~~ *continue and rename the Emergency Department Care Coordination Advisory Council established by Chapter 836 of the Acts of Assembly of 2017 as the Smartchart Network Program Advisory Council (the Advisory Council)*, which shall consist of representatives of the Department, the Department of Medical Assistance Services, the Department of Health Professions, the Virginia Hospital and Healthcare Association, the Virginia Association of Health Plans, the Medical Society of Virginia, the Virginia College of Emergency Physicians, the Virginia Chapter of the American Academy of Pediatricians, and the Virginia Academy of Family Physicians, to advise the Commissioner and the third-party contractor regarding the establishment and operation of the Program, changes to the Program, and outcome measures for the Program.

The Advisory Council established pursuant to this subsection shall continue to ensure that information is shared among emergency departments throughout the Commonwealth and all hospitals operating emergency departments in the Commonwealth, all Medicaid managed care contracted health plans, the state employee health insurance plan, all Medicare plans operating in the Commonwealth, and all commercial plans operating in the Commonwealth, excluding ERISA plans, and shall participate in the emergency department information exchange program to continue to improve care coordination in hospital emergency departments and reduce the frequency of visits by high-volume emergency department utilizers.

D. Information submitted to the Program shall be confidential and shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 54.1-2523. Confidentiality of data; disclosure of information; discretionary authority of Director.

A. All data, records, and reports relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such data, records, and reports that are in the possession of the Prescription Monitoring Program pursuant to this chapter and any material relating to the operation or security of the program shall be confidential and shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 2 of § 2.2-3705.5. Records in possession of the Prescription Monitoring Program shall not be available for civil subpoena, nor shall such records be disclosed, discoverable, or compelled to be produced in any civil proceeding, nor shall such records be deemed admissible as evidence in any civil proceeding for any reason. Further, the Director shall only have discretion to disclose any such information as provided in subsections B and C.

B. Upon receiving a request for information in accordance with the Department's regulations and in compliance with applicable federal law and regulations, the Director shall disclose the following:

1. Information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber to an agent who has completed the Virginia State Police Drug Diversion School designated by the superintendent of the Department of State Police or designated by the chief law-enforcement officer of any county, city, or town or campus police department to conduct drug diversion investigations pursuant to § 54.1-3405.

2. Information relevant to an investigation or inspection of or allegation of misconduct by a specific person licensed, certified, or registered by or an applicant for licensure, certification, or registration by a health regulatory board; information relevant to a disciplinary proceeding before a health regulatory board or in any subsequent trial or appeal of an action or board order to designated employees of the Department of Health Professions; or to designated persons operating the Health Practitioners' Monitoring Program pursuant to Chapter 25.1 (§ 54.1-2515 et seq.).

3. Information relevant to the proceedings of any investigatory grand jury or special grand jury that has been properly impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2.

4. Information relevant to a specific investigation of a specific recipient, dispenser, or prescriber to an agent of a federal law-enforcement agency with authority to conduct drug diversion investigations.

5. Information relevant to a specific investigation, supervision, or monitoring of a specific recipient for purposes of the administration of criminal justice pursuant to Chapter 1 (§ 9.1-100 et seq.) of Title 9.1 to a probation or parole officer as described in Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1 or a local community-based probation officer as described in § 9.1-176.1 who has completed the Virginia State Police Drug Diversion School designated by the Director of the Department of Corrections or his designee.

6. Information relevant to a specific investigation of a specific individual into a possible delivery of a controlled substance in violation of § 18.2-474.1 to an investigator for the Department of Corrections who has completed the Virginia State Police Drug Diversion School and who has been designated by the Director of the Department of Corrections or his designee.

7. Information about a specific recipient to the ~~Emergency Department Care Coordination~~ *Smartchart Network* Program in accordance with subdivision B ~~6~~ *7* of § 32.1-372.

C. In accordance with the Department's regulations and applicable federal law and regulations, the Director may, in his discretion, disclose:

1. Information in the possession of the Prescription Monitoring Program concerning a recipient who is over the age of 18 to that recipient. The information shall be mailed to the street or mailing address indicated on the recipient request form.

2. Information on a specific recipient to a prescriber, as defined in this chapter, for the purpose of establishing the treatment history of the specific recipient when such recipient is either under care and treatment by the prescriber or the prescriber is consulting on or initiating treatment of such recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the prescriber from the Prescription Monitoring Program.

3. Information on a specific recipient to a dispenser for the purpose of establishing a prescription history to assist the dispenser in (i) determining the validity of a prescription in accordance with § 54.1-3303 or (ii) providing clinical consultation on the care and treatment of the recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the dispenser from the Prescription Monitoring Program.

4. Information relevant to an investigation or regulatory proceeding of a specific dispenser or prescriber to other regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession when such regulatory authority licenses such dispenser or prescriber or such dispenser or prescriber is seeking licensure by such other regulatory authority.

5. Information relevant to an investigation relating to a specific dispenser or prescriber who is a participating provider in the Virginia Medicaid program or information relevant to an investigation relating to a specific recipient who is currently eligible for and receiving or who has been eligible for and has received medical assistance services to the Medicaid Fraud Control Unit of the Office of the Attorney General or to designated employees of the Department of Medical Assistance Services, as appropriate.

6. Information relevant to determination of the cause of death of a specific recipient to the designated employees of the Office of the Chief Medical Examiner.

7. Information for the purpose of bona fide research or education to qualified personnel; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser shall be deleted or redacted from such information prior to disclosure. Further, release of the information shall only be made pursuant to a written agreement between such qualified personnel and the Director in order to ensure compliance with this subdivision.

8. Information relating to prescriptions for covered substances issued by a specific prescriber, which have been dispensed and reported to the Prescription Monitoring Program, to that prescriber.

9. Information about a specific recipient who is a member of a Virginia Medicaid managed care program to a physician or pharmacist licensed in the Commonwealth and employed by the Virginia Medicaid managed care program or to his clinical designee who holds a multistate licensure privilege to practice nursing or a license issued by a health regulatory board within the Department of Health Professions and is employed by the Virginia Medicaid managed care program. Such information shall only be used to determine eligibility for and to manage the care of the specific recipient in a Patient Utilization Management Safety or similar program. Notice shall be given to recipients that information may be requested by a licensed physician or pharmacist employed by the Virginia Medicaid managed care program from the Prescription Monitoring Program.

10. [Expired.]

11. Information about a specific recipient who is currently eligible for and receiving medical assistance from the Department of Medical Assistance Services to a physician or pharmacist licensed in the Commonwealth or to his clinical designee who holds a multistate licensure privilege to practice nursing or a license issued by a health regulatory board within the Department of Health Professions and is employed by the Department of Medical Assistance Services.

Such information shall be used only to determine eligibility for and to manage the care of the specific recipient in a Patient Utilization Management Safety or similar program. Notice shall be given to recipients that information may be requested by a licensed physician or pharmacist employed by the Department of Medical Assistance Services from the Prescription Monitoring Program.

D. The Director may enter into agreements for mutual exchange of information among prescription monitoring programs in other jurisdictions, which shall only use the information for purposes allowed by this chapter.

E. This section shall not be construed to supersede the provisions of § 54.1-3406 concerning the divulging of confidential records relating to investigative information.

F. Confidential information that has been received, maintained or developed by any board or disclosed by the board pursuant to subsection A shall not, under any circumstances, be available for discovery or court subpoena or introduced into evidence in any medical malpractice suit or other action for damages arising out of the provision of or failure to provide services. However, this subsection shall not be construed to inhibit any investigation or prosecution conducted pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

§ 54.1-2525. Unlawful disclosure of information; disciplinary action authorized; penalties.

A. It shall be unlawful for any person having access to the confidential information in the possession of the program or any data or reports produced by the program to disclose such confidential information except as provided in this chapter. Any person having access to the confidential information in the possession of the program or any data or reports produced by the program who discloses such confidential information in violation of this chapter shall be guilty of a Class 1 misdemeanor upon conviction.

B. It shall be unlawful for any person who lawfully receives confidential information from the Prescription Monitoring Program to redisclose or use such confidential information in any way other than the authorized purpose for which the request was made. Any person who lawfully receives information from the Prescription Monitoring Program and discloses such confidential information in violation of this chapter shall be guilty of a Class 1 misdemeanor upon conviction.

C. Nothing in this section shall prohibit (i) a person who prescribes or dispenses a covered substance to a recipient required to be reported to the program from redisclosing information obtained from the Prescription Monitoring Program to another prescriber or dispenser who has responsibility for treating the recipient or (ii) a person who prescribes a covered substance from placing information obtained from the Prescription Monitoring Program in the recipient's medical record.

D. Information obtained from the Prescription Monitoring Program pursuant to subdivision B ~~6~~ *7* of § 32.1-372 shall become part of the patient's medical record.

E. Unauthorized use or disclosure of confidential information received from the Prescription Monitoring Program shall also be grounds for disciplinary action by the relevant health regulatory board.

2. That the provisions of the first enactment of this act shall become effective on January 1, 2024.

3. That the State Health Commissioner (the Commissioner) and the Director of the Department of Health Professions (the Director) shall convene a work group to study and establish a plan to develop and implement a system to share information regarding a patient's prescription history and medication reconciliation. The work group shall include the Department of Medical Assistance Services and relevant stakeholders, including representatives of the Virginia Hospital and Healthcare Association, the Medical Society of Virginia, the Virginia Association of Health Plans, the Virginia Pharmacists Association, Virginia Health Information, and a private sector technology expert with experience in prescription data sharing and controlled substance monitoring. The Commissioner and the Director shall report their findings and recommendations to the Chairmen of the Joint Commission on Health Care, Senate Committee on Education and Health, and House Committee on Health, Welfare and Institutions by October 1, 2023.

CHAPTER 630

An Act to direct the Board of Pharmacy to convene a work group to evaluate the provision of translated directions for use of prescriptions; report.

[H 2147]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Board of Pharmacy (the Board) shall convene a work group of interested stakeholders to evaluate challenges and barriers to requiring or providing translated directions for the use of prescriptions, including the possibility of model directions and necessary changes within pharmacies to ensure patients are aware of the language services available at the pharmacy. The Board shall report the findings of the work group to the Governor and the Chairmen of the House Committee on Health, Welfare, and Institutions and the Senate Committee on Education and Health by December 1, 2023.*

CHAPTER 631

An Act to amend and reenact § 54.1-3408 of the Code of Virginia, relating to opioid impact reduction.

[S 1415]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3408 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine, a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;

2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;

3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or

4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or standing protocol that shall be issued by the local health director within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers or nebulized albuterol may possess or administer an albuterol inhaler and a valved holding chamber or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any nurse at an early childhood care and education entity, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; epinephrine for use in emergency cases of anaphylactic shock; and naloxone or other opioid antagonist for overdose reversal.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, or his remote supervision, as defined in subsection E or F of § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency, the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency, or the Board of Health has made an emergency order pursuant to § 32.1-13 for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health and for the limited purpose of administering vaccines as an approved countermeasure for such communicable, contagious, and infectious diseases; (ii) it is necessary to permit the provision of

needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters ~~who have completed a training program~~ may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, ~~an employee or other person acting on behalf of a public place who has completed a training program~~ *any person* may ~~also~~ possess and administer naloxone or other opioid antagonist used for overdose

reversal, other than naloxone in an injectable formulation with a hypodermic needle or syringe, in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

~~Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.~~

~~For the purposes of this subsection, "public place" means any enclosed area that is used or held out for use by the public, whether owned or operated by a public or private interest.~~

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone ~~to a person who has received instruction on the administration of naloxone for opioid overdose reversal~~, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

2. That the Department of Health, the Department of Behavioral Health and Developmental Services, and the Department of Corrections shall review existing naloxone distribution programs and collaborate to develop a comprehensive statewide plan for the distribution of naloxone throughout the Commonwealth. The plan shall provide guidance to emergency medical services agencies on the distribution of naloxone in high-risk areas and shall ensure that every pharmacy that carries naloxone is provided with a supply of fentanyl test strips to include with every order of naloxone provided to consumers. The plan shall also provide guidance to localities for the implementation of local naloxone distribution plans. The respective departments are authorized to begin implementation of the plan, to the extent the agencies have existing resources to do so. The Department of Health shall provide a report on the statewide naloxone plan, including the resources needed to fully implement the plan, to the Chairs of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by September 1, 2023.

3. That the Department of Health (the Department) shall begin development of a Commonwealth opioid impact reduction registry. The registry shall include a list of nonprofit organizations that work to reduce the impact of opioids in the Commonwealth and shall list the services provided by each such organization and contact information for each such organization to be published on the Department's website. The Department shall develop a process to determine which organizations that work to reduce the impact of opioids in the Commonwealth to include in such registry and what criteria and metrics should be utilized to determine their inclusion in such registry. The Department shall examine administrative burdens on local governments in procuring the services of nonprofit organizations on the registry in a timely manner. The Department, within existing resources, may publish an initial list of known nonprofit organizations that work to reduce the impact of opioids on the Department's website that is searchable by zip code. The Department shall report on the process, criteria, and metrics for the registry, including the verification process to ensure an organization meets the criteria to be listed on the registry, and recommendations on reducing administrative burdens on local governments to contract with organizations on the

registry to the Chairs of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by September 1, 2023.

4. That the Department of Corrections shall amend its regulations to require that training in the administration of naloxone be provided to every inmate prior to release.

CHAPTER 632

An Act to amend and reenact § 54.1-2301 of the Code of Virginia, relating to waterworks and wastewater works operators; license reciprocity.

[H 1940]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2301 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2301. Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals; membership; terms; duties.

A. The Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals shall consist of 11 members as follows: the Director of the Office of Water Programs of the State Department of Health, or his designee, the Executive Director of the State Water Control Board, or his designee, a currently employed waterworks operator having a valid license of the highest classification issued by the Board, a currently employed wastewater works operator having a valid license of the highest classification issued by the Board, a faculty member of a public institution of higher education in the Commonwealth whose principal field of teaching is management or operation of waterworks or wastewater works, a representative of an owner of a waterworks, a representative of an owner of a wastewater works, a licensed alternative onsite sewage system operator, a licensed alternative onsite sewage system installer, a licensed onsite soil evaluator, and one citizen member. The alternative onsite sewage system operator, alternative onsite sewage system installer, and onsite soil evaluator shall have practiced for at least five consecutive years immediately prior to appointment. No owner shall be represented on the Board by more than one representative or employee operator. The term of Board members shall be four years.

B. *1.* The Board shall examine waterworks and wastewater works operators and issue licenses. The licenses may be issued in specific operator classifications to attest to the competency of an operator to supervise and operate waterworks and wastewater works while protecting the public health, welfare, and property and conserving and protecting the water resources of the Commonwealth.

2. The Board shall, upon application by an individual, and without examination pursuant to subdivision 1, recognize licenses or certificates issued by another state as fulfillment of qualifications for licensure in the Commonwealth if the following conditions are met:

a. The individual holds a current and valid professional or occupational license or government certification in another state in a profession or occupation with a similar scope of practice, as determined by the Board;

b. The individual has held the professional or occupational license or government certification in the other state for at least three years;

c. The other state or state of original licensure required the individual to pass an examination and to meet certain standards related to education, training, or experience;

d. There are no pending investigations or unresolved complaints against the individual, and the other state holds the individual in good standing;

e. The individual does not have a disqualifying criminal record as determined by the Board in accordance with § 54.1-204;

f. No other state has imposed discipline on the licensee, except for discipline involving only a financial penalty and no harm to the health or economic well-being of the public; and

g. The individual pays all applicable fees.

3. For the purposes of this subsection, "other state" or "another state" means any state, territory, possession, or jurisdiction of the United States.

C. The Board shall establish a program for licensing individuals as onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators.

D. The Board, in consultation with the Board of Health, shall adopt regulations for the licensure of (i) onsite soil evaluators; (ii) installers of alternative onsite sewage systems, as defined in § 32.1-163; and (iii) operators of alternative onsite sewage systems, as defined in § 32.1-163. Such regulations shall include requirements for (a) minimum education and training, including approved training courses; (b) relevant work experience; (c) demonstrated knowledge and skill; (d) application fees to cover the costs of the program, renewal fees, and schedules; (e) the division of onsite soil evaluators into classes, one of which shall be restricted to the design of conventional onsite sewage systems; and (f) other criteria the Board deems necessary.

E. The Board shall permit any wastewater works operator to sit for the conventional onsite sewage system operator examination.

CHAPTER 633

An Act to amend and reenact § 54.1-2301 of the Code of Virginia, relating to waterworks and wastewater works operators; license reciprocity.

[S 999]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2301 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2301. Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals; membership; terms; duties.

A. The Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals shall consist of 11 members as follows: the Director of the Office of Water Programs of the State Department of Health, or his designee, the Executive Director of the State Water Control Board, or his designee, a currently employed waterworks operator having a valid license of the highest classification issued by the Board, a currently employed wastewater works operator having a valid license of the highest classification issued by the Board, a faculty member of a public institution of higher education in the Commonwealth whose principal field of teaching is management or operation of waterworks or wastewater works, a representative of an owner of a waterworks, a representative of an owner of a wastewater works, a licensed alternative onsite sewage system operator, a licensed alternative onsite sewage system installer, a licensed onsite soil evaluator, and one citizen member. The alternative onsite sewage system operator, alternative onsite sewage system installer, and onsite soil evaluator shall have practiced for at least five consecutive years immediately prior to appointment. No owner shall be represented on the Board by more than one representative or employee operator. The term of Board members shall be four years.

B. *1.* The Board shall examine waterworks and wastewater works operators and issue licenses. The licenses may be issued in specific operator classifications to attest to the competency of an operator to supervise and operate waterworks and wastewater works while protecting the public health, welfare, and property and conserving and protecting the water resources of the Commonwealth.

2. The Board shall, upon application by an individual, and without examination pursuant to subdivision 1, recognize licenses or certificates issued by another state as fulfillment of qualifications for licensure in the Commonwealth if the following conditions are met:

a. The individual holds a current and valid professional or occupational license or government certification in another state in a profession or occupation with a similar scope of practice, as determined by the Board;

b. The individual has held the professional or occupational license or government certification in the other state for at least three years;

c. The other state or state of original licensure required the individual to pass an examination and to meet certain standards related to education, training, or experience;

d. There are no pending investigations or unresolved complaints against the individual, and the other state holds the individual in good standing;

e. The individual does not have a disqualifying criminal record as determined by the Board in accordance with § 54.1-204;

f. No other state has imposed discipline on the licensee, except for discipline involving only a financial penalty and no harm to the health or economic well-being of the public; and

g. The individual pays all applicable fees.

3. For the purposes of this subsection, "other state" or "another state" means any state, territory, possession, or jurisdiction of the United States.

C. The Board shall establish a program for licensing individuals as onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators.

D. The Board, in consultation with the Board of Health, shall adopt regulations for the licensure of (i) onsite soil evaluators; (ii) installers of alternative onsite sewage systems, as defined in § 32.1-163; and (iii) operators of alternative onsite sewage systems, as defined in § 32.1-163. Such regulations shall include requirements for (a) minimum education and training, including approved training courses; (b) relevant work experience; (c) demonstrated knowledge and skill; (d) application fees to cover the costs of the program, renewal fees, and schedules; (e) the division of onsite soil evaluators into classes, one of which shall be restricted to the design of conventional onsite sewage systems; and (f) other criteria the Board deems necessary.

E. The Board shall permit any wastewater works operator to sit for the conventional onsite sewage system operator examination.

ACTS

OF THE

GENERAL ASSEMBLY

2023 REGULAR SESSION

VOLUME I

VOLUME II

ACTS

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF VIRGINIA

2023 REGULAR SESSION

which met at the State Capitol, Richmond

Convened Wednesday, January 11, 2023

Adjourned sine die Saturday, February 25, 2023

Reconvened Wednesday, April 12, 2023

Adjourned sine die Wednesday, April 12, 2023

VOLUME II

CHAPTERS 634-820

COMMONWEALTH OF VIRGINIA
RICHMOND
2023

Compiled by the Clerk's Office

The House of Delegates

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Senate of Virginia,
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and
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CHAPTER 634

An Act to repeal the second enactment of Chapter 313 of the Acts of Assembly of 2021, Special Session I, relating to Behavioral Health Commission; funding; sunset.

[H 2155]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the second enactment of Chapter 313 of the Acts of Assembly of 2021, Special Session I, is repealed.

CHAPTER 635

An Act to repeal the second enactment of Chapter 313 of the Acts of Assembly of 2021, Special Session I, relating to Behavioral Health Commission; funding; sunset.

[S 1381]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the second enactment of Chapter 313 of the Acts of Assembly of 2021, Special Session I, is repealed.

CHAPTER 636

An Act to amend and reenact §§ 16.1-340.1 and 37.2-809 of the Code of Virginia, relating to duration of involuntary temporary detention.

[H 2410]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-340.1 and 37.2-809 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-340.1. Involuntary temporary detention; issuance and execution of order.

A. A magistrate shall issue, upon the sworn petition of a minor's treating physician or parent or, if the parent is not available or is unable or unwilling to file a petition, by any responsible adult, including the person having custody over a minor in detention or shelter care pursuant to an order of a juvenile and domestic relations district court, or upon his own motion and only after an evaluation conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § 16.1-345.1 by an employee or designee of the local community services board to determine whether the minor meets the criteria for temporary detention, a temporary detention order if it appears from all evidence readily available, including any recommendation from a physician, clinical psychologist, clinical social worker, or licensed professional counselor treating the person, that (i) because of mental illness, the minor (a) presents a serious danger to himself or others to the extent that severe or irremediable injury is likely to result, as evidenced by recent acts or threats, or (b) is experiencing a serious deterioration of his ability to care for himself in a developmentally age-appropriate manner, as evidenced by delusionary thinking or by a significant impairment of functioning in hydration, nutrition, self-protection, or self-control; and (ii) the minor is in need of compulsory treatment for a mental illness and is reasonably likely to benefit from the proposed treatment. The magistrate shall also consider the recommendations of the minor's parents and of any treating or examining physician licensed in Virginia if available either verbally or in writing prior to rendering a decision. To the extent possible, the petition shall contain the information required by § 16.1-339.1. Any temporary detention order entered pursuant to this section shall be effective until such time as the juvenile and domestic relations district court serving the jurisdiction in which the minor is located conducts a hearing pursuant to subsection B of § 16.1-341. Any temporary detention order entered pursuant to this section shall provide for the disclosure of medical records pursuant to subsection B of § 16.1-337. This subsection shall not preclude any other disclosures as required or permitted by law.

B. When considering whether there is probable cause to issue a temporary detention order, the magistrate may, in addition to the petition, consider (i) the recommendations of any treating or examining physician, psychologist, clinical social worker, or licensed professional counselor licensed in Virginia, if available, (ii) any past actions of the minor, (iii) any past mental health treatment of the minor, (iv) any relevant hearsay evidence, (v) any medical records available, (vi) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (vii) any other information available that the magistrate considers relevant to the determination of whether probable cause exists to issue a temporary detention order.

C. A magistrate may issue a temporary detention order without an emergency custody order proceeding. A magistrate may issue a temporary detention order without a prior evaluation pursuant to subsection A if (i) the minor has been personally examined within the previous 72 hours by an employee or designee of the local community services board or (ii) there is a significant physical, psychological, or medical risk to the minor or to others associated with conducting such evaluation.

D. An employee or designee of the local community services board shall determine the facility of temporary detention in accordance with the provisions of § 16.1-340.1:1 for all minors detained pursuant to this section. An employee or designee of the local community services board may change the facility of temporary detention and may designate an alternative facility for temporary detention at any point during the period of temporary detention if it is determined that the alternative facility is a more appropriate facility for temporary detention of the minor given the specific security, medical, or behavioral health needs of the minor. In cases in which the facility of temporary detention is changed following transfer of custody to an initial facility of temporary detention, transportation of the minor to the alternative facility of temporary detention shall be provided in accordance with the provisions of § 16.1-340.2. The initial facility of temporary detention shall be identified on the preadmission screening report and indicated on the temporary detention order; however, if an employee or designee of the local community services board designates an alternative facility, that employee or designee shall provide written notice forthwith, on a form developed by the Executive Secretary of the Supreme Court of Virginia, to the clerk of the issuing court of the name and address of the alternative facility. Subject to the provisions of § 16.1-340.1:1, if a facility of temporary detention cannot be identified by the time of the expiration of the period of emergency custody pursuant to § 16.1-340, the minor shall be detained in a state facility for the treatment of minors with mental illness and such facility shall be indicated on the temporary detention order. Except for minors who are detained for a criminal offense by a juvenile and domestic relations district court and who require hospitalization in accordance with this article, the minor shall not be detained in a jail or other place of confinement for persons charged with criminal offenses and shall remain in the custody of law enforcement until the minor is either detained within a secure facility or custody has been accepted by the appropriate personnel designated by either the initial facility of temporary detention identified in the temporary detention order or by the alternative facility of temporary detention designated by the employee or designee of the local community services board pursuant to this subsection.

E. Any facility caring for a minor placed with it pursuant to a temporary detention order is authorized to provide emergency medical and psychiatric services within its capabilities when the facility determines that the services are in the best interests of the minor within its care. The costs incurred as a result of the hearings and by the facility in providing services during the period of temporary detention shall be paid and recovered pursuant to § 37.2-804. The maximum costs reimbursable by the Commonwealth pursuant to this section shall be established by the State Board of Medical Assistance Services based on reasonable criteria. The State Board of Medical Assistance Services shall, by regulation, establish a reasonable rate per day of inpatient care for temporary detention.

F. The employee or designee of the local community services board who is conducting the evaluation pursuant to this section shall determine, prior to the issuance of the temporary detention order, the insurance status of the minor. Where coverage by a third party payor exists, the facility seeking reimbursement under this section shall first seek reimbursement from the third party payor. The Commonwealth shall reimburse the facility only for the balance of costs remaining after the allowances covered by the third party payor have been received.

G. The duration of temporary detention shall be sufficient to allow for completion of the examination required by § 16.1-342, preparation of the preadmission screening report required by § 16.1-340.4, and initiation of mental health treatment to stabilize the minor's psychiatric condition to avoid involuntary commitment where possible, but shall not exceed 96 hours prior to a hearing. If the 96-hour period herein specified terminates on a Saturday, Sunday, ~~or~~ legal holiday*, or, if the minor has been admitted to a facility of temporary detention, day or part of a day on which the clerk's office is lawfully closed*, the minor may be detained, as herein provided, until the close of business on the next day that is not a Saturday, Sunday, ~~or~~ legal holiday*, or, if the minor has been admitted to a facility of temporary detention, day or part of a day on which the clerk's office is lawfully closed*. The minor may be released, pursuant to § 16.1-340.3, before the 96-hour period herein specified has run.

H. If a temporary detention order is not executed within 24 hours of its issuance, or within a shorter period as is specified in the order, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if the office is not open, to any magistrate serving the jurisdiction of the issuing court. Subsequent orders may be issued upon the original petition within 96 hours after the petition is filed. However, a magistrate must again obtain the advice of an employee or designee of the local community services board prior to issuing a subsequent order upon the original petition. Any petition for which no temporary detention order or other process in connection therewith is served on the subject of the petition within 96 hours after the petition is filed shall be void and shall be returned to the office of the clerk of the issuing court.

I. For purposes of this section, a health care provider or an employee or designee of the local community services board shall not be required to encrypt any email containing information or medical records provided to a magistrate unless there is reason to believe that a third party will attempt to intercept the email.

J. The employee or designee of the local community services board who is conducting the evaluation pursuant to this section shall, if he recommends that the minor should not be subject to a temporary detention order, inform the petitioner and an on-site treating physician of his recommendation.

K. Each community services board shall provide to each juvenile and domestic relations district court and magistrate's office within its service area a list of employees and designees who are available to perform the evaluations required herein.

§ 37.2-809. Involuntary temporary detention; issuance and execution of order.

A. For the purposes of this section:

"Designee of the local community services board" means an examiner designated by the local community services board who (i) is skilled in the assessment and treatment of mental illness, (ii) has completed a certification program approved by the Department, (iii) is able to provide an independent examination of the person, (iv) is not related by blood or marriage to the person being evaluated, (v) has no financial interest in the admission or treatment of the person being evaluated, (vi) has no investment interest in the facility detaining or admitting the person under this article, and (vii) except for employees of state hospitals and of the U.S. Department of Veterans Affairs, is not employed by the facility.

"Employee" means an employee of the local community services board who is skilled in the assessment and treatment of mental illness and has completed a certification program approved by the Department.

"Investment interest" means the ownership or holding of an equity or debt security, including shares of stock in a corporation, interests or units of a partnership, bonds, debentures, notes, or other equity or debt instruments.

B. A magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion and only after an evaluation conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § 37.2-804.1 by an employee or a designee of the local community services board to determine whether the person meets the criteria for temporary detention, a temporary detention order if it appears from all evidence readily available, including any recommendation from a physician, clinical psychologist, clinical social worker, or licensed professional counselor treating the person, that the person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; (ii) is in need of hospitalization or treatment; and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. The magistrate shall also consider, if available, (a) information provided by the person who initiated emergency custody and (b) the recommendations of any treating or examining physician licensed in Virginia either verbally or in writing prior to rendering a decision. Any temporary detention order entered pursuant to this section shall provide for the disclosure of medical records pursuant to § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

C. When considering whether there is probable cause to issue a temporary detention order, the magistrate may, in addition to the petition, consider (i) the recommendations of any treating or examining physician, psychologist, clinical social worker, or licensed professional counselor licensed in Virginia, if available, (ii) any past actions of the person, (iii) any past mental health treatment of the person, (iv) any relevant hearsay evidence, (v) any medical records available, (vi) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (vii) any other information available that the magistrate considers relevant to the determination of whether probable cause exists to issue a temporary detention order.

D. A magistrate may issue a temporary detention order without an emergency custody order proceeding. A magistrate may issue a temporary detention order without a prior evaluation pursuant to subsection B if (i) the person has been personally examined within the previous 72 hours by an employee or a designee of the local community services board or (ii) there is a significant physical, psychological, or medical risk to the person or to others associated with conducting such evaluation.

E. An employee or a designee of the local community services board shall determine the facility of temporary detention in accordance with the provisions of § 37.2-809.1 for all persons detained pursuant to this section. An employee or designee of the local community services board may change the facility of temporary detention and may designate an alternative facility for temporary detention at any point during the period of temporary detention if it is determined that the alternative facility is a more appropriate facility for temporary detention of the person given the specific security, medical, or behavioral health needs of the person. In cases in which the facility of temporary detention is changed following transfer of custody to an initial facility of temporary custody, transportation of the person to the alternative facility of temporary detention shall be provided in accordance with the provisions of § 37.2-810. The initial facility of temporary detention shall be identified on the preadmission screening report and indicated on the temporary detention order; however, if an employee or designee of the local community services board designates an alternative facility, that employee or designee shall provide written notice forthwith, on a form developed by the Executive Secretary of the Supreme Court of Virginia, to the clerk of the issuing court of the name and address of the alternative facility. Subject to the provisions of § 37.2-809.1, if a facility of temporary detention cannot be identified by the time of the expiration of the period of emergency custody pursuant to § 37.2-808, the person shall be detained in a state facility for the treatment of persons with mental illness and such facility shall be indicated on the temporary detention order. Except as provided in § 37.2-811 for inmates requiring hospitalization in accordance with subdivision A 2 of § 19.2-169.6, the person shall not be detained in a jail or other place of confinement for persons charged with criminal offenses. Except as provided in § 37.2-811 for inmates requiring hospitalization in accordance with subdivision A 2 of § 19.2-169.6, the person shall remain in the custody of law enforcement until (i) the person is either detained within a secure facility or (ii) custody has been accepted by the appropriate personnel designated by either the initial facility of temporary detention identified in the temporary detention order or by the alternative facility of temporary detention designated by the employee or designee of the local community services board pursuant to this subsection. The person detained or in custody pursuant to this section shall be given a written summary of the temporary detention procedures and the statutory protections associated with those procedures.

F. Any facility caring for a person placed with it pursuant to a temporary detention order is authorized to provide emergency medical and psychiatric services within its capabilities when the facility determines that the services are in the best interests of the person within its care. The costs incurred as a result of the hearings and by the facility in providing services during the period of temporary detention shall be paid and recovered pursuant to § 37.2-804. The maximum costs reimbursable by the Commonwealth pursuant to this section shall be established by the State Board of Medical Assistance Services based on reasonable criteria. The State Board of Medical Assistance Services shall, by regulation, establish a reasonable rate per day of inpatient care for temporary detention.

G. The employee or the designee of the local community services board who is conducting the evaluation pursuant to this section shall determine, prior to the issuance of the temporary detention order, the insurance status of the person. Where coverage by a third party payor exists, the facility seeking reimbursement under this section shall first seek reimbursement from the third party payor. The Commonwealth shall reimburse the facility only for the balance of costs remaining after the allowances covered by the third party payor have been received.

H. The duration of temporary detention shall be sufficient to allow for completion of the examination required by § 37.2-815, preparation of the preadmission screening report required by § 37.2-816, and initiation of mental health treatment to stabilize the person's psychiatric condition to avoid involuntary commitment where possible, but shall not exceed 72 hours prior to a hearing. If the 72-hour period herein specified terminates on a Saturday, Sunday, legal holiday, or*, if the individual has been admitted to a facility of temporary detention,* day *or part of a day* on which the ~~court~~ *clerk's office* is lawfully closed, the person may be detained, as herein provided, until the close of business on the next day that is not a Saturday, Sunday, legal holiday, or*, if the individual has been admitted to a facility of temporary detention,* day *or part of a day* on which the ~~court~~ *clerk's office* is lawfully closed. The person may be released, pursuant to § 37.2-813, before the 72-hour period herein specified has run.

I. If a temporary detention order is not executed within 24 hours of its issuance, or within a shorter period as is specified in the order, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if the office is not open, to any magistrate serving the jurisdiction of the issuing court. Subsequent orders may be issued upon the original petition within 96 hours after the petition is filed. However, a magistrate must again obtain the advice of an employee or a designee of the local community services board prior to issuing a subsequent order upon the original petition. Any petition for which no temporary detention order or other process in connection therewith is served on the subject of the petition within 96 hours after the petition is filed shall be void and shall be returned to the office of the clerk of the issuing court.

J. The Executive Secretary of the Supreme Court of Virginia shall establish and require that a magistrate, as provided by this section, be available seven days a week, 24 hours a day, for the purpose of performing the duties established by this section. Each community services board shall provide to each general district court and magistrate's office within its service area a list of its employees and designees who are available to perform the evaluations required herein.

K. For purposes of this section, a health care provider or designee of a local community services board or behavioral health authority shall not be required to encrypt any email containing information or medical records provided to a magistrate unless there is reason to believe that a third party will attempt to intercept the email.

L. If the employee or designee of the community services board who is conducting the evaluation pursuant to this section recommends that the person should not be subject to a temporary detention order, such employee or designee shall (i) inform the petitioner, the person who initiated emergency custody if such person is present, and an onsite treating physician of his recommendation; (ii) promptly inform such person who initiated emergency custody that the community services board will facilitate communication between the person and the magistrate if the person disagrees with recommendations of the employee or designee of the community services board who conducted the evaluation and the person who initiated emergency custody so requests; and (iii) upon prompt request made by the person who initiated emergency custody, arrange for such person who initiated emergency custody to communicate with the magistrate as soon as is practicable and prior to the expiration of the period of emergency custody. The magistrate shall consider any information provided by the person who initiated emergency custody and any recommendations of the treating or examining physician and the employee or designee of the community services board who conducted the evaluation and consider such information and recommendations in accordance with subsection B in making his determination to issue a temporary detention order. The person who is the subject of emergency custody shall remain in the custody of law enforcement or a designee of law enforcement and shall not be released from emergency custody until communication with the magistrate pursuant to this subsection has concluded and the magistrate has made a determination regarding issuance of a temporary detention order.

M. For purposes of this section, "person who initiated emergency custody" means any person who initiated the issuance of an emergency custody order pursuant to § 37.2-808 or a law-enforcement officer who takes a person into custody pursuant to subsection G of § 37.2-808.

N. In any case in which a person subject to an evaluation pursuant to this section is receiving services in a hospital emergency department, the treating physician or his designee and the employee or designee of the local community services board shall disclose to each other relevant information pertaining to the individual's treatment in the emergency department.

CHAPTER 637

An Act to direct the Virginia Economic Development Partnership Authority to conduct a cost-benefit analysis of establishing a Virginia-Taiwan Trade Office.

[S 1208]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. Pursuant to the powers and duties of the Virginia Economic Development Partnership Authority (the Authority) related to economic development services in subdivisions A 6 and 7 of § 2.2-2238 of the Code of Virginia, the Authority shall conduct a cost-benefit analysis of establishing a Virginia-Taiwan Trade Office to serve as the official representation of the Commonwealth in Taiwan by promoting and offering services relating to economic development and trade.*

CHAPTER 638

An Act to amend and reenact §§ 23.1-508 and 23.1-610 of the Code of Virginia, relating to institutions of higher education; tuition grants; Virginia National Guard.

[S 955]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 23.1-508 and 23.1-610 of the Code of Virginia are amended and reenacted as follows:

§ 23.1-508. Special arrangement contracts; reduced rate tuition charges.

A. Public institutions of higher education may enter into special arrangement contracts with employers in the Commonwealth or authorities controlling federal installations or agencies located in the Commonwealth for the purpose of providing reduced rate tuition charges for the employees of such employers or authorities who are non-Virginia students at such institutions when such employers or authorities assume the liability for paying, to the extent permitted by federal law, the tuition charges for such employees.

B. Such special arrangement contracts may be (i) for group instruction in facilities provided by the employer or federal authority or in the institution's facilities or (ii) on a student-by-student basis for specific employment-related programs.

C. Special arrangement contracts are valid for a period not to exceed two years and shall be reviewed for legal sufficiency by the Office of the Attorney General prior to signing. All tuition charges agreed to by the public institutions shall be at least equal to in-state tuition and shall be granted only by the institution with which the employer or the federal authorities have a valid contract for students for whom the employer or federal authority is paying the tuition charges.

D. All special arrangement contracts with authorities controlling federal installations or agencies shall include a specific number of students to be charged reduced tuition rates.

E. *Subject to the restrictions provided in subdivisions 1, 2, and 3, public institutions of higher education may enter into special arrangement contracts with the Department of Military Affairs for the purpose of providing reduced rate tuition charges for any member of the Virginia National Guard receiving state tuition assistance pursuant to § 23.1-610.*

1. No more than 50 non-Virginia students in any year shall receive reduced rate tuition charges pursuant to this subsection. In the event that the number of eligible students in any year exceeds 50, the Department of Military Affairs shall allocate such reduced rate tuition benefits on a first-come, first-served basis.

2. No non-Virginia student shall receive reduced rate tuition pursuant to this subsection unless he has been enrolled as a non-Virginia student in a public institution of higher education in the Commonwealth for at least two years prior to receiving such reduced rate tuition. Additionally, a non-Virginia student shall be eligible to receive reduced rate tuition pursuant to this subsection for no more than two years.

3. The Department of Military Affairs shall develop guidelines for implementing the provisions of this subsection. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

F. Nothing in this section shall change the domicile of any student for the purposes of enrollment reporting or calculating the proportions of general funds and tuition and fees contributed to the cost of education.

§ 23.1-610. Members of the National Guard; grants.

A. Any individual who (i) is a member of the Virginia National Guard and has a minimum remaining obligation of two years, (ii) has satisfactorily completed required initial active duty service, (iii) is satisfactorily performing duty in accordance with regulations of the National Guard, and (iv) is enrolled in any course or program at any public institution of higher education or accredited nonprofit private institution of higher education whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education is eligible for a grant in the amount of the difference between the full cost of tuition and any other educational benefits for which he is eligible as a member of the National Guard. Grants provided under this section shall be subject to limitation based on the amount of funds appropriated for such purpose. If applications for grants exceed the amount of funding appropriated, the Department of Military Affairs (the Department) shall issue grants to eligible recipients based on the order in which applications were received.

B. Application for a grant shall be made to the Department ~~of Military Affairs (the Department)~~ no later than 30 days prior to the beginning of an academic semester. The Department shall determine whether an applicant is eligible for the grant as described in subsection A and communicate acceptance and any additional requirements determined by the Department in writing no later than 30 days after receipt of an application. Applicants eligible for a grant pursuant to this section shall:

1. Satisfy all financial obligations with the institution of higher education at the beginning of each semester; and

2. Provide written proof of acceptable academic performance and good standing with the institution of higher education for the current term to the Department no later than 30 days following the end of a term or semester. Upon the receipt of proof of academic performance and continued good standing to the Department, the Department shall issue grants in a manner and amount that is consistent with regulations promulgated by the Adjutant General. As used in this subdivision, "academic performance" means (i) achieving a passing grade in each course during the semester and (ii) maintaining a cumulative grade point average of at least 2.0 on a scale of 4.0 or its equivalent, and "good standing" means that the individual has fulfilled all obligations to the institution of higher education.

C. Any member of the Virginia National Guard ~~receiving grants~~ *shall be eligible to receive a grant* under this section ~~shall incur a single two-year~~ *if such member has two years remaining on his* service obligation to the Virginia National Guard~~. The two-year obligation shall commence on~~ *as of* the last day of the last term or semester for which tuition assistance ~~was awarded~~ *is requested*. Service in the inactive National Guard, the active duty or reserve forces of the United States, or the National Guard of any other state shall not count as applicable service toward fulfilling this ~~incurred~~ service obligation. Federal active duty mobilizations occurring while still a member of the Virginia National Guard and state active duty for the Commonwealth shall count toward the two-year service obligation.

D. The Department may utilize grant funding in order to recruit qualified applicants for service in the Virginia National Guard. The yearly funding amount for such recruitment shall be at the discretion of the Adjutant General and the Department and not exceed $50,000 per fiscal year.

CHAPTER 639

An Act to amend the Code of Virginia by adding in Chapter 8 of Title 36 a section numbered 36-140.01, relating to Virginia Community Development Financial Institutions Fund and Program; report.

[H 1411]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 8 of Title 36 a section numbered 36-140.01 as follows:

§ 36-140.01. Virginia Community Development Financial Institutions Fund and Program; report.

A. For the purposes of this section:

"Financing" means (i) loans, grants, or forgivable loans that are used to start, expand, or support small businesses or nonprofit organizations; to provide operating and working capital to small businesses; or for property renovation or development or (ii) ancillary services related to such loans, grants, or forgivable loans, including technical assistance and credit counseling.

"Fund" means the Virginia Community Development Financial Institutions Fund described in subsection B.

"Microfinancing" means providing financing to small businesses in amounts of $100,000 or less.

"Program" means the Virginia Community Development Financial Institutions Program described in subsection C.

"Qualifying institution" means a community development financial institution (CDFI), community development bank (CDB), or community development credit union that the Secretary of Commerce and Trade finds is (i) legally qualified to do business within the Commonwealth, (ii) subject to oversight by the applicable federal or state financial institution or insurance regulatory agencies, and (iii) eligible for certification by the U.S. Department of the Treasury as a CDFI.

B. There is hereby continued in the state treasury a special nonreverting fund known as the Virginia Community Development Financial Institutions Fund, originally established in Item 114, Chapter 552 of the Acts of Assembly of 2021, Special Session I. The Fund shall be continued on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing financing to qualifying institutions as part of the Program established by subsection C. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department of Housing and Community Development.

C. 1. There is hereby created the Virginia Community Development Financial Institutions Program to provide grants and loans to qualifying institutions to provide financing to support small businesses, housing development and rehabilitation projects, and community revitalization real estate projects in the Commonwealth. In providing financing to small businesses, qualifying institutions shall emphasize microfinancing.

2. a. Qualifying institutions shall be required, as a condition of receiving funds from the Program, to use such funds only for the purposes described in this section. Such funds shall be kept segregated by the qualifying institutions from all other funds. In the event that funds provided by the Program are used for any purpose other than those described in this section, the qualifying institution shall repay such funds to the Program.

b. Notwithstanding the provisions of subdivision a, (i) income in the form of interest, fees, or gains earned by a qualifying institution from providing financing and (ii) administrative costs incurred in administering Program funds shall not be subject to the restrictions provided by subdivision a.

D. The Department shall develop appropriate criteria and guidelines for the use of funding provided from the Fund and shall establish monitoring and accountability mechanisms for organizations receiving funding. Additionally, the Department shall (i) identify qualifying institutions based on criteria developed by the Department and in accordance with this section; (ii) ensure that grants and loans provided by the Program are utilized in a manner that aligns with the Program's goal of promoting housing and community development, capital access, housing access, and small business support; (iii) ensure that in using funds provided by the Program, qualifying institutions emphasize microfinancing to small businesses; (iv) establish a mechanism for obtaining repayment of misused funds in accordance with subdivision C 2 a; and (v) utilize Program funds to promote collaborative and cooperative projects with public and private sector partners that align with the purposes of the Program.

E. On or before December 1 of each year, the Department shall submit a report to the Secretary of Commerce and Trade, the Governor, and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations. The report shall describe the number of projects funded; the geographic distribution of the projects; the costs of the Program; and the outcomes, including the number and total amount of loans, grants, and forgivable loans deployed, the number and type of jobs created or retained, and other community revitalization projects associated with the Program. The report shall also provide information on such other matters regarding the Fund as the Department may deem appropriate or other items as may be requested by any of the foregoing persons to whom such report is to be submitted.

CHAPTER 640

An Act to amend the Code of Virginia by adding in Chapter 8 of Title 36 a section numbered 36-140.01, relating to Virginia Community Development Financial Institutions Fund and Program; report.

[S 1320]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 8 of Title 36 a section numbered 36-140.01 as follows:

§ 36-140.01. Virginia Community Development Financial Institutions Fund and Program; report.

A. For the purposes of this section:

"Financing" means (i) loans, grants, or forgivable loans that are used to start, expand, or support small businesses or nonprofit organizations; to provide operating and working capital to small businesses; or for property renovation or development or (ii) ancillary services related to such loans, grants, or forgivable loans, including technical assistance and credit counseling.

"Fund" means the Virginia Community Development Financial Institutions Fund described in subsection B.

"Microfinancing" means providing financing to small businesses in amounts of $100,000 or less.

"Program" means the Virginia Community Development Financial Institutions Program described in subsection C.

"Qualifying institution" means a community development financial institution (CDFI), community development bank (CDB), or community development credit union that the Secretary of Commerce and Trade finds is (i) legally qualified to do business within the Commonwealth, (ii) subject to oversight by the applicable federal or state financial institution or insurance regulatory agencies, and (iii) eligible for certification by the U.S. Department of the Treasury as a CDFI.

B. There is hereby continued in the state treasury a special nonreverting fund known as the Virginia Community Development Financial Institutions Fund, originally established in Item 114, Chapter 552 of the Acts of Assembly of 2021, Special Session I. The Fund shall be continued on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing financing to qualifying institutions as part of the Program established by subsection C. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department of Housing and Community Development.

C. 1. There is hereby created the Virginia Community Development Financial Institutions Program to provide grants and loans to qualifying institutions to provide financing to support small businesses, housing development and rehabilitation projects, and community revitalization real estate projects in the Commonwealth. In providing financing to small businesses, qualifying institutions shall emphasize microfinancing.

2. a. Qualifying institutions shall be required, as a condition of receiving funds from the Program, to use such funds only for the purposes described in this section. Such funds shall be kept segregated by the qualifying institutions from all other funds. In the event that funds provided by the Program are used for any purpose other than those described in this section, the qualifying institution shall repay such funds to the Program.

b. Notwithstanding the provisions of subdivision a, (i) income in the form of interest, fees, or gains earned by a qualifying institution from providing financing and (ii) administrative costs incurred in administering Program funds shall not be subject to the restrictions provided by subdivision a.

D. The Department shall develop appropriate criteria and guidelines for the use of funding provided from the Fund and shall establish monitoring and accountability mechanisms for organizations receiving funding. Additionally, the Department shall (i) identify qualifying institutions based on criteria developed by the Department and in accordance with this section; (ii) ensure that grants and loans provided by the Program are utilized in a manner that aligns with the Program's goal of promoting housing and community development, capital access, housing access, and small business support; (iii) ensure that in using funds provided by the Program, qualifying institutions emphasize microfinancing to small businesses; (iv) establish a mechanism for obtaining repayment of misused funds in accordance with subdivision C 2 a; and (v) utilize Program funds to promote collaborative and cooperative projects with public and private sector partners that align with the purposes of the Program.

E. On or before December 1 of each year, the Department shall submit a report to the Secretary of Commerce and Trade, the Governor, and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations. The report shall describe the number of projects funded; the geographic distribution of the projects; the costs of the Program; and the outcomes, including the number and total amount of loans, grants, and forgivable loans deployed, the number and type of jobs created or retained, and other community revitalization projects associated with the Program. The report shall also provide information on such other matters regarding the Fund as the Department may deem appropriate or other items as may be requested by any of the foregoing persons to whom such report is to be submitted.

CHAPTER 641

An Act to amend the Code of Virginia by adding a section numbered 22.1-298.8, relating to public elementary and secondary school teachers; temporary employment; frequency of certain training activities; report.

[H 2457]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-298.8 as follows:

§ 22.1-298.8. Public elementary and secondary school teachers; certain training activities; frequency.

No public elementary or secondary school teacher shall be required to participate more frequently than once every five years in any training described in clause (iii) of subsection A of § 22.1-279.6 or relating to secure mandatory test violations as set forth in §§ 22.1-19.1 and 22.1-292.1, unless the school board or division superintendent determines that additional training is necessary to comply with federal or state law or to remediate misconduct. Each such teacher who completes any such training shall sign a written attestation that the teacher has been trained in and understands the relevant subject matter.

2. That each local school board shall report to the Board of Education and the General Assembly no later than October 1, 2023, on the frequency with which each public elementary and secondary school teacher in the local school division participates in each required training or professional development activity.

3. That notwithstanding the provisions of § 22.1-302 of the Code of Virginia that permit a school board to employ a temporarily employed teacher to fill a teacher vacancy for a period of time not to exceed 90 days during one school year unless otherwise approved by the Superintendent of Public Instruction on a case-by-case basis, during the 2023–2024 and 2024–2025 school years, any school board may employ such a temporarily employed teacher to fill such a vacancy for a period of time not to exceed 180 days during one school year.

CHAPTER 642

An Act to amend the Code of Virginia by adding a section numbered 15.2-1800.4, relating to restrictive covenants; prohibited; use of Loudoun County recreational property.

[S 1014]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-1800.4 as follows:

§ 15.2-1800.4. Restrictive covenants; prohibited; recreational property; Loudoun County.

A restrictive covenant that limits the use of property for recreation, voluntarily conveyed by a nonprofit recreational association to Loudoun County for recreational purposes, is void and against public policy to the extent that it would prohibit the recreational use of the property by the general public.

CHAPTER 643

An Act to amend and reenact § 58.1-1817 of the Code of Virginia, relating to installment agreements for payment of taxes.

[H 1369]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-1817 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-1817. Installment agreements for the payment of taxes.

A. *1. The Tax Commissioner is required to offer to enter into a written agreement with any taxpayer filing a return for taxes imposed under Article 2 (§ 58.1-320 et seq.) of Chapter 3 under which such taxpayer is allowed to satisfy his tax liability in installment payments over a payment period of up to five years on petition by the taxpayer, if the Tax Commissioner determines such an agreement will facilitate collection.*

~~The~~ *2. Except as identified in subdivision 1, the* Tax Commissioner is authorized to enter into a written agreement with any taxpayer under which such taxpayer is allowed to satisfy his tax liability in installment payments, if the Tax Commissioner determines such an agreement will facilitate collection.

B. Except as otherwise provided in this section, any agreement entered into by the Tax Commissioner under subsection A shall remain in effect for the term of the agreement.

The Tax Commissioner may terminate any installment agreement if:

1. Information ~~which~~ *that* the taxpayer provided prior to the date such agreement was entered into was inaccurate or incomplete; or

2. The Tax Commissioner determines that the collection of any tax to which an agreement relates is in jeopardy.

C. ~~If the Tax Commissioner makes a determination that the financial condition of a taxpayer who has entered into an installment agreement under this section has significantly changed, the Tax Commissioner may alter, modify, or terminate such agreement. Such action may be taken only if (i) notice of the action is provided to the taxpayer no later than thirty days prior to the date of such action and (ii) such notice includes the reasons why the Tax Commissioner believes a significant change in the financial condition of the taxpayer has occurred.~~

~~D.~~ The Tax Commissioner may alter, modify, or terminate an installment agreement in the case of the failure of the taxpayer:

1. To pay any installment at the time it is due;

2. To pay any other tax liability at the time it is due;

~~3. To provide a financial condition update as requested by the Tax Commissioner;~~ or

~~4.~~ *3.* To file with the Department any required tax or information return during the time period such agreement is in effect.

~~E.~~ *D.* The Tax Commissioner may alter, modify, or terminate an installment agreement under other exceptional circumstances as he deems appropriate.

2. That the Department of Taxation (the Department) shall convene a working group to study current federal and state policies concerning installment agreements and to make recommendations regarding how the Commonwealth's policies may better align with the installment agreement policies adopted by the Internal Revenue Service. Such working group shall include two members selected by the Taxation Section of the Virginia Bar Association, two members selected by the Virginia Society of Certified Public Accountants, and two members selected by the Virginia Society of Enrolled Agents. The Division of Legislative Services shall assist the working group. The Department's working group shall complete its meetings by October 1, 2023, and submit a report of its findings and recommendations to the Chairmen of the House Committee on Finance, the House Committee on Appropriations, and the Senate Committee on Finance and Appropriations by November 15, 2023.

CHAPTER 644

An Act to amend and reenact § 36-99 of the Code of Virginia, relating to farm buildings and structures; building code exemptions.

[S 1305]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 36-99 of the Code of Virginia is amended and reenacted as follows:

§ 36-99. Provisions of Code; modifications.

A. The Building Code shall prescribe building regulations to be complied with in the construction and rehabilitation of buildings and structures, and the equipment therein as defined in § 36-97, and shall prescribe regulations to ensure that such buildings and structures are properly maintained, and shall also prescribe procedures for the administration and enforcement of such regulations, including procedures to be used by the local building department in the evaluation and granting of modifications for any provision of the Building Code, provided the spirit and functional intent of the Building Code are observed and public health, welfare and safety are assured. The provisions of the Building Code and modifications thereof shall be such as to protect the health, safety and welfare of the residents of the Commonwealth, provided that buildings and structures should be permitted to be constructed, rehabilitated and maintained at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provisions necessary to prevent overcrowding, rodent or insect infestation, and garbage accumulation; and barrier-free provisions for the physically handicapped and aged. Such regulations shall be reasonable and appropriate to the objectives of this chapter.

B. In formulating the Code provisions, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations, including, but not limited to, the standards of the International Code Council and the National Fire Protection Association. Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 and licensed as such by the Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable. *However, any farm building or structure (i) where the public is invited to enter for an agritourism activity, as that term is defined in § 3.2-6400, for recreational, entertainment, or educational purposes and (ii) that is used for display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced on the farm or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation shall have:*

1. Portable fire extinguishers for the purpose of fire suppression;

2. A simple written plan in case of an emergency, but such plan shall not be construed to be interpreted as a fire evacuation plan under the Uniform Statewide Building Code or any other local requirements; and

3. A sign posted in a conspicuous place upon entry to the farm building or structure that states that "This building is EXEMPT from the Uniform Statewide Building Code. Be alert to exits in the event of a fire or other emergencies." Such sign shall be placed in a clearly visible location near the entrance to such farm building or structure. The notice shall consist of a sign no smaller than 24 inches by 36 inches with clearly legible black letters, with each letter to be a minimum of one inch in height.

C. Where practical, the Code provisions shall be stated in terms of required level of performance, so as to facilitate the prompt acceptance of new building materials and methods. When generally recognized standards of performance are not available, such provisions shall provide for acceptance of materials and methods whose performance has been found by the local building department, on the basis of reliable test and evaluation data, presented by the proponent, to be substantially equal in safety to those specified.

D. The Board, upon a finding that sufficient allegations exist regarding failures noted in several localities of performance standards by either building materials, methods, or design, may conduct hearings on such allegations if it determines that such alleged failures, if proven, would have an adverse impact on the health, safety, or welfare of the citizens of the Commonwealth. After at least 21 days' written notice, the Board shall convene a hearing to consider such allegations. Such notice shall be given to the known manufacturers of the subject building material and as many other interested parties, industry representatives, and trade groups as can reasonably be identified. Following the hearing, the Board, upon finding that (i) the current technical or administrative Code provisions allow use of or result in defective or deficient building materials, methods, or designs, and (ii) immediate action is necessary to protect the health, safety, and welfare of the citizens of the Commonwealth, may issue amended regulations establishing interim performance standards and Code provisions for the installation, application, and use of such building materials, methods or designs in the Commonwealth. Such amended regulations shall become effective upon their publication in the Virginia Register of Regulations. Any amendments to regulations adopted pursuant to this subsection shall become effective upon their publication in the Virginia Register of Regulations and shall be effective for a period of 24 months or until adopted, modified, or repealed by the Board.

2. That the Agritourism Event Structure Technical Advisory Committee (the Committee), established pursuant to § 36-98.4 of the Code of Virginia, shall meet no less than four times between the 2023 and 2024 Regular Sessions of the General Assembly to continue to review and consider the following issues of concern to ensure fire safety and the welfare of the general public at agritourism facilities and to address parity issues between farm and non-farm hospitality establishments: (i) minimum safety standards for any building or structure utilizing the agritourism exemption, including the need to provide fire suppression, proper ingress and egress from buildings in case of emergency, and requirements relating to access roads; (ii) issues relating to standards that appropriately address facilities of all sizes and types; and (iii) the potential need for an administrative organization for inspection, enforcement, and evaluation of any new laws or regulations. Such review shall include publishing or posting proposed recommendations and soliciting input from relevant stakeholders and local governments in order to have a clear understanding of critical public safety concerns. The Committee shall report its findings and recommendations for action to the Board of Housing and Community Development by November 1, 2023.

CHAPTER 645

An Act to amend and reenact §§ 22.1-253.13:1, 22.1-253.13:2, 22.1-253.13:5, and 22.1-253.13:6, as they shall become effective, of the Code of Virginia, relating to student literacy measures; scope; students in grades four through eight.

[H 1526]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-253.13:1, 22.1-253.13:2, 22.1-253.13:5, and 22.1-253.13:6, as they shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 22.1-253.13:1. (For effective date, see 2022 Acts cc. 549, 550, cl. 2) Standard 1. Instructional programs supporting the Standards of Learning and other educational objectives.

A. The General Assembly and the Board ~~of Education~~ believe that the fundamental goal of the public schools of the Commonwealth must be to enable each student to develop the skills that are necessary for success in school, preparation for life, and reaching their full potential. The General Assembly and the Board ~~of Education~~ find that the quality of education is dependent upon the provision of (i) the appropriate working environment, benefits, and salaries necessary to ensure the availability of high-quality instructional personnel; (ii) the appropriate learning environment designed to promote student achievement; (iii) quality instruction that enables each student to become a productive and educated citizen of Virginia and the United States of America; and (iv) the adequate commitment of other resources. In keeping with this goal, the General Assembly shall provide for the support of public education as set forth in Article VIII, Section 1 of the Constitution of Virginia.

B. The Board ~~of Education~~ shall establish educational objectives known as the Standards of Learning, which shall form the core of Virginia's educational program, and other educational objectives, which together are designed to ensure the development of the skills that are necessary for success in school and for preparation for life in the years beyond. At a minimum, the Board shall establish Standards of Learning for English, mathematics, science, and history and social science. The Standards of Learning shall not be construed to be regulations as defined in § 2.2-4001.

The Board shall seek to ensure that the Standards of Learning are consistent with a high-quality foundation educational program. The Standards of Learning shall include, but not be limited to, the basic skills of communication (listening, speaking, reading, and writing); computation and critical reasoning, including problem solving and decision making; proficiency in the use of computers and related technology; computer science and computational thinking, including computer coding; and the skills to manage personal finances and to make sound financial decisions.

The English Standards of Learning for reading in kindergarten through grade ~~three~~ *eight* shall ~~be based on components of effective reading instruction, to include, at a minimum, phonemic awareness, systematic phonics, fluency, vocabulary development, and text comprehension~~ *align with evidence-based literacy instruction and science-based reading research.*

The Standards of Learning in all subject areas shall be subject to regular review and revision to maintain rigor and to reflect a balance between content knowledge and the application of knowledge in preparation for eventual employment and lifelong learning. The Board ~~of Education~~ shall establish a regular schedule, in a manner it deems appropriate, for the review, and revision as may be necessary, of the Standards of Learning in all subject areas. Such review of each subject area shall occur at least once every seven years. Nothing in this section shall be construed to prohibit the Board from conducting such review and revision on a more frequent basis.

To provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board ~~of Education~~ shall conduct public hearings prior to establishing revised Standards of Learning. Thirty days prior to conducting such hearings, the Board shall give notice of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to revise the Standards of Learning in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any revisions of the Standards of Learning.

In addition, the Department ~~of Education~~ shall make available and maintain a website, either separately or through an existing website utilized by the Department ~~of Education~~, enabling public elementary, middle, and high school educators to submit recommendations for improvements relating to the Standards of Learning, when under review by the Board according to its established schedule, and related assessments required by the Standards of Quality pursuant to this chapter. Such website shall facilitate the submission of recommendations by educators.

School boards shall implement the Standards of Learning or objectives specifically designed for their school divisions that are equivalent to or exceed the Board's requirements. Students shall be expected to achieve the educational objectives established by the school division at appropriate age or grade levels. The curriculum adopted by the local school division shall be aligned to the Standards of Learning.

The Board ~~of Education~~ shall include in the Standards of Learning for history and social science the study of contributions to society of diverse people. For the purposes of this subsection, "diverse" includes consideration of disability, ethnicity, race, and gender.

The Board ~~of Education~~ shall include in the Standards of Learning for health instruction in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Such instruction shall be based on the current national evidence-based

emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross. No teacher who is in compliance with subdivision D 3 of § 22.1-298.1 shall be required to be certified as a trainer of cardiopulmonary resuscitation to provide instruction for non-certification.

With such funds as are made available for this purpose, the Board shall regularly review and revise the competencies for career and technical education programs to require the full integration of English, mathematics, science, and history and social science Standards of Learning. Career and technical education programs shall be aligned with industry and professional standard certifications, where they exist.

The Board shall establish content standards and curriculum guidelines for courses in career investigation in elementary school, middle school, and high school. Each school board shall (i) require each middle school student to take at least one course in career investigation or (ii) select an alternate means of delivering the career investigation course to each middle school student, provided that such alternative is equivalent in content and rigor and provides the foundation for such students to develop their academic and career plans. Any school board may require (a) such courses in career investigation at the high school level as it deems appropriate, subject to Board approval as required in subsection A of § 22.1-253.13:4, and (b) such courses in career investigation at the elementary school level as it deems appropriate. The Board shall develop and disseminate to each school board career investigation resource materials that are designed to ensure that students have the ability to further explore interest in career and technical education opportunities in middle and high school. In developing such resource materials, the Board shall consult with representatives of career and technical education, industry, skilled trade associations, chambers of commerce or similar organizations, and contractor organizations.

C. Local school boards shall develop and implement a program of instruction for grades K through 12 that is aligned to the Standards of Learning and meets or exceeds the requirements of the Board ~~of Education~~. The program of instruction shall emphasize reading, writing, speaking, mathematical concepts and computations, proficiency in the use of computers and related technology, computer science and computational thinking, including computer coding, and scientific concepts and processes; essential skills and concepts of citizenship, including knowledge of Virginia history and world and United States history, economics, government, foreign languages, international cultures, health and physical education, environmental issues, and geography necessary for responsible participation in American society and in the international community; fine arts, which may include, but need not be limited to, music and art, and practical arts; knowledge and skills needed to qualify for further education, gainful employment, or training in a career or technical field; and development of the ability to apply such skills and knowledge in preparation for eventual employment and lifelong learning and to achieve economic self-sufficiency.

Local school boards shall also develop and implement programs of prevention, intervention, or remediation for students who are educationally at risk including, but not limited to, those who fail to achieve a passing score on any Standards of Learning assessment in grades three through eight or who fail an end-of-course test required for the award of a verified unit of credit. Such programs shall include components that are research-based.

Any student who achieves a passing score on one or more, but not all, of the Standards of Learning assessments for the relevant grade level in grades three through eight may be required to attend a remediation program.

Any student who fails to achieve a passing score on all of the Standards of Learning assessments for the relevant grade level in grades three through eight or who fails an end-of-course test required for the award of a verified unit of credit shall be required to attend a remediation program or to participate in another form of remediation. Division superintendents shall require such students to take special programs of prevention, intervention, or remediation, which may include attendance in public summer school programs, in accordance with clause (ii) of subsection A of § 22.1-254 and § 22.1-254.01.

Remediation programs shall include, when applicable, a procedure for early identification of students who are at risk of failing the Standards of Learning assessments in grades three through eight or who fail an end-of-course test required for the award of a verified unit of credit. Such programs may also include summer school for all elementary and middle school grades and for all high school academic courses, as defined by regulations promulgated by the Board ~~of Education~~, or other forms of remediation. Summer school remediation programs or other forms of remediation shall be chosen by the division superintendent to be appropriate to the academic needs of the student. Students who are required to attend such summer school programs or to participate in another form of remediation shall not be charged tuition by the school division.

The requirement for remediation may, however, be satisfied by the student's attendance in a program of prevention, intervention or remediation that has been selected by his parent, in consultation with the division superintendent or his designee, and is either (i) conducted by an accredited private school or (ii) a special program that has been determined to be comparable to the required public school remediation program by the division superintendent. The costs of such private school remediation program or other special remediation program shall be borne by the student's parent.

The Board ~~of Education~~ shall establish standards for full funding of summer remedial programs that shall include, but not be limited to, the minimum number of instructional hours or the equivalent thereof required for full funding and an assessment system designed to evaluate program effectiveness. Based on the number of students attending and the Commonwealth's share of the per pupil instructional costs, state funds shall be provided for the full cost of summer and other remediation programs as set forth in the appropriation act, provided such programs comply with such standards as shall be established by the Board, pursuant to § 22.1-199.2.

D. Local school boards shall also implement the following:

1. Programs in grades K through three that emphasize developmentally appropriate learning to enhance success.

2. Programs based on prevention, intervention, or remediation designed to increase the number of students who earn a high school diploma and to prevent students from dropping out of school. Such programs shall include components that are research-based.

3. Career and technical education programs incorporated into the K through 12 curricula that include:

a. Knowledge of careers and all types of employment opportunities, including, but not limited to, apprenticeships, entrepreneurship and small business ownership, the military, and the teaching profession, and emphasize the advantages of completing school with marketable skills;

b. Career exploration opportunities in the middle school grades;

c. Competency-based career and technical education programs that integrate academic outcomes, career guidance, and job-seeking skills for all secondary students. Programs shall be based upon labor market needs and student interest. Career guidance shall include counseling about available employment opportunities and placement services for students exiting school. Each school board shall develop and implement a plan to ensure compliance with the provisions of this subdivision. Such plan shall be developed with the input of area business and industry representatives and local comprehensive community colleges and shall be submitted to the Superintendent ~~of Public Instruction~~ in accordance with the timelines established by federal law;

d. Annual notice on its website to enrolled high school students and their parents of (i) the availability of the postsecondary education and employment data published by the State Council of Higher Education on its website pursuant to § 23.1-204.1 and (ii) the opportunity for such students to obtain a nationally recognized career readiness certificate at a local public high school, comprehensive community college, or workforce center; and

e. As part of each student's academic and career plan, a list of (i) the top 100 professions in the Commonwealth by median pay and the education, training, and skills required for each such profession and (ii) the top 10 degree programs at institutions of higher education in the Commonwealth by median pay of program graduates. The Department ~~of Education~~ shall annually compile such lists and provide them to each local school board.

4. Educational objectives in middle and high school that emphasize economic education and financial literacy pursuant to § 22.1-200.03.

5. Early identification of students with disabilities and enrollment of such students in appropriate instructional programs consistent with state and federal law.

6. Early identification of gifted students and enrollment of such students in appropriately differentiated instructional programs.

7. Educational alternatives for students whose needs are not met in programs prescribed elsewhere in these standards. Such students shall be counted in average daily membership (ADM) in accordance with the regulations of the Board ~~of Education~~.

8. Adult education programs for individuals functioning below the high school completion level. Such programs may be conducted by the school board as the primary agency or through a collaborative arrangement between the school board and other agencies.

9. A plan to make achievements for students who are educationally at risk a divisionwide priority that shall include procedures for measuring the progress of such students.

10. An agreement for postsecondary degree attainment with a comprehensive community college in the Commonwealth specifying the options for students to complete an associate degree or a one-year Uniform Certificate of General Studies from a comprehensive community college concurrent with a high school diploma. Such agreement shall specify the credit available for dual enrollment courses and Advanced Placement courses with qualifying exam scores of three or higher.

11. A plan to notify students and their parents of the availability of dual enrollment and advanced placement classes; career and technical education programs, including internships, externships, apprenticeships, credentialing programs, certification programs, licensure programs, and other work-based learning experiences; the International Baccalaureate Program and Academic Year Governor's School Programs; the qualifications for enrolling in such classes, programs, and experiences; and the availability of financial assistance to low-income and needy students to take the advanced placement and International Baccalaureate examinations. This plan shall include notification to students and parents of the agreement with a comprehensive community college in the Commonwealth to enable students to complete an associate degree or a one-year Uniform Certificate of General Studies concurrent with a high school diploma.

12. Identification of students with limited English proficiency and enrollment of such students in appropriate instructional programs, which programs may include dual language programs whereby such students receive instruction in English and in a second language.

13. Early identification, diagnosis, and assistance for students with mathematics problems and provision of instructional strategies and mathematics practices that benefit the development of mathematics skills for all students.

Local school divisions shall provide algebra readiness intervention services to students in grades six through nine who are at risk of failing the Algebra I end-of-course test, as demonstrated by their individual performance on any diagnostic test that has been approved by the Department ~~of Education~~. Local school divisions shall report the results of the diagnostic tests to the Department ~~of Education~~ on an annual basis, at a time to be determined by the Superintendent ~~of Public Instruction~~. Each student who receives algebra readiness intervention services will be assessed again at the end of that school year.

Funds appropriated for prevention, intervention, and remediation; summer school remediation; at-risk; or algebra readiness intervention services may be used to meet the requirements of this subdivision.

14. Incorporation of art, music, and physical education as a part of the instructional program at the elementary school level.

15. A program of physical activity available to all students in grades kindergarten through five consisting of at least 20 minutes per day or an average of 100 minutes per week during the regular school year and available to all students in grades six through 12 with a goal of at least 150 minutes per week on average during the regular school year. Such program may include any combination of (i) physical education classes, (ii) extracurricular athletics, (iii) recess, or (iv) other programs and physical activities deemed appropriate by the local school board. Each local school board shall implement such program during the regular school year. Any physical education class offered to students in grades seven and eight shall include at least one hour of personal safety training per school year in each such grade level that is developed and delivered in partnership with the local law-enforcement agency and consists of situational safety awareness training and social media education.

16. A program of student services for kindergarten through grade 12 that shall be designed to aid students in their educational, social, and career development.

17. The collection and analysis of data and the use of the results to evaluate and make decisions about the instructional program.

18. A program of instruction in the high school Virginia and U.S. Government course on all information and concepts contained in the civics portion of the U.S. Naturalization Test.

E. From such funds as may be appropriated or otherwise received for such purpose, there shall be established within the Department ~~of Education~~ a unit to (i) conduct evaluative studies; (ii) provide the resources and technical assistance to increase the capacity for school divisions to deliver quality instruction; and (iii) assist school divisions in implementing those programs and practices that will enhance pupil academic performance and improve family and community involvement in the public schools. Such unit shall identify and analyze effective instructional programs and practices and professional development initiatives; evaluate the success of programs encouraging parental and family involvement; assess changes in student outcomes prompted by family involvement; and collect and disseminate among school divisions information regarding effective instructional programs and practices, initiatives promoting family and community involvement, and potential funding and support sources. Such unit may also provide resources supporting professional development for administrators and teachers. In providing such information, resources, and other services to school divisions, the unit shall give priority to those divisions demonstrating a less than 70 percent passing rate on the Standards of Learning assessments.

F. Each local school board may enter into agreements for postsecondary course credit, credential, certification, or license attainment, hereinafter referred to as College and Career Access Pathways Partnerships (Partnerships), with comprehensive community colleges or other public institutions of higher education or educational institutions established pursuant to Title 23.1 that offer a career and technical education curriculum. Such Partnerships shall (i) specify the options for students to take courses as part of the career and technical education curriculum that lead to course credit or an industry-recognized credential, certification, or license concurrent with a high school diploma; (ii) specify the credit, credentials, certifications, or licenses available for such courses; and (iii) specify available options for students to participate in pre-apprenticeship and apprenticeship programs at comprehensive community colleges concurrent with the pursuit of a high school diploma and receive college credit and high school credit for successful completion of any such program.

G. Each local school board shall provide a program of literacy instruction that is aligned with science-based reading research and provides evidenced-based literacy instruction to students in kindergarten through grade ~~three~~ *eight* and is consistent with the school board's literacy plan as required by subsection B of § 22.1-253.13:6. Pursuant to such program:

1. Each local school board shall provide reading intervention services to students in kindergarten through grade ~~three~~ *eight* who demonstrate substantial deficiencies based on their individual performance on the Standards of Learning reading assessment or ~~an early~~ *a* literacy screener provided or approved by the Department. Such reading intervention services shall consist of evidence-based literacy instruction, align with science-based reading research, and be documented for each student in a written student reading plan, consistent with the requirements in subdivision 2 and the list developed by the Department pursuant to subdivision H 2.

2. A reading specialist, in collaboration with the teacher of any student who receives reading intervention services pursuant to subdivision 1, shall develop, oversee implementation of, and monitor student progress on a student reading plan. The parent of each student who receives reading intervention services pursuant to subdivision 1 shall receive notice of and have the opportunity to participate in the development of the student reading plan. Each student reading plan (i) shall follow the Department template created pursuant to subdivision H 3; (ii) shall document such reading intervention services; (iii) shall include, at a minimum, (a) the student's specific, diagnosed reading skill deficiencies as determined or identified by diagnostic assessment data or the ~~early~~ literacy screener provided or approved by the Department; (b) the goals and benchmarks for student growth in reading; (c) a description of the specific measures that will be used to evaluate and monitor the student's reading progress; (d) the specific evidence-based literacy instruction that the student will receive; (e) the strategies, resources, and materials that will be provided to the student's parent to support the student to make reading progress; and (f) any additional services the teacher deems available and appropriate to accelerate the student's reading skill development; and (iv) may include the following services for the student: instruction from a reading specialist, trained aide,

computer-based reading tutorial program, or classroom teacher with support from an aide ~~or~~, extended instructional time in the school day or school year, *or, for students in grades six through eight, a literacy course, in addition to the course required by the Standards of Learning in English, that provides the specific evidence-based literacy instruction identified in the student's reading plan*. In accordance with § 22.1-215.2, the parent of each student shall receive notice before services begin and a copy of the student reading plan.

3. Each student who receives such reading intervention services shall be assessed utilizing either the ~~early~~ literacy screener provided or approved by the Department or the grade-level reading Standards of Learning assessment again at the end of that school year.

4. ~~The local school board shall provide such reading intervention services prior to promoting a student from grade three to grade four.~~

~~5.~~ Funds appropriated for prevention, intervention, and remediation, summer school remediation, the at-risk add-on, or early intervention reading may be used to meet the requirements of this subsection.

H. In order to assist local school boards to implement the provisions of subsection G:

1. The Board shall provide guidance on the content of student reading plans;

2. The Department shall develop a list of core literacy curricula, supplemental instruction practices and programs, and intervention programs that consist of evidence-based literacy instruction aligned with science-based reading research *for students in kindergarten through grade eight*. The list shall be approved by the Board;

3. The Department shall develop a template for student reading plans that aligns with the requirements of subsection G;

4. The Department shall develop and implement a plan for the annual collection and public reporting of division-level and school-level literacy data, at a time to be determined by the Superintendent, to include results on the ~~early~~ literacy ~~screener~~ *screeners* provided or approved by the Department and the reading Standards of Learning assessments; and

5. The Department shall provide free online evidence-based literacy instruction resources that can be accessed by parents and local school boards to support student literacy development at home.

§ 22.1-253.13:2. (For effective date, see 2022 Acts cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board ~~of Education~~.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ one reading specialist for each 550 students in kindergarten through grade ~~three~~ *eight*. Each such reading specialist shall have training in science-based reading research and evidence-based literacy instruction practices. In addition, each such reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training. Local school boards that employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such individuals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board ~~of Education~~ may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

§ 22.1-253.13:2. (Effective pursuant to Va. Const., Art. IV, § 13; for effective date, see Acts 2022, cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board ~~of Education~~.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ one reading specialist for each 550 students in kindergarten through grade ~~three~~ *eight*. Each such reading specialist shall have training in science-based reading research and evidence-based literacy instruction practices. In addition, each such reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at

different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals, one full-time in each elementary school, middle school, and high school, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training. Local school boards that employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such individuals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board ~~of Education~~ may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified.

Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

§ 22.1-253.13:5. (For effective date, see 2022 Acts cc. 549, 550, cl. 2) Standard 5. Quality of classroom instruction and educational leadership.

A. Each member of the Board ~~of Education~~ shall participate in high-quality professional development programs on personnel, curriculum and current issues in education as part of his service on the Board.

B. Consistent with the finding that leadership is essential for the advancement of public education in the Commonwealth, teacher, principal, and superintendent evaluations shall be consistent with the performance standards included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents. Evaluations shall include student academic progress as a significant component and an overall summative rating. Teacher evaluations shall include regular observation and evidence that instruction is aligned with the school's curriculum. Evaluations shall include identification of areas of individual strengths and weaknesses and recommendations for appropriate professional activities. Evaluations shall include an evaluation of cultural competency.

C. The Board ~~of Education~~ shall provide guidance on high-quality professional development for (i) teachers, principals, supervisors, division superintendents, and other school staff; (ii) principals, supervisors, and division superintendents in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel; (iii) school board members on personnel, curriculum and current issues in education; (iv) teachers of the blind and visually impaired, in cooperation with the Virginia Department for the Blind and Vision Impaired, in Braille; ~~and~~ (v) any individual with an endorsement in

early/primary education preschool through grade three, elementary education preschool through grade six, special education general curriculum kindergarten through grade 12, special education deaf and hard of hearing preschool through grade 12, ~~or~~ special education blindness/visual impairments preschool through grade 12*, or English as a second language preschool through grade 12,* or as a reading specialist *that builds proficiency* in science-based reading research and evidence-based literacy instruction*; (vi) each teacher with an endorsement in middle education grades six through eight who teaches English that builds proficiency in evidence-based literacy instruction and science-based reading research; and (vii) each middle school principal and teacher with an endorsement in middle education grades six through eight who teaches mathematics, science, or history and social science that builds an awareness of evidence-based literacy instruction and science-based reading research.*

The Board shall also provide technical assistance on high-quality professional development to local school boards designed to ensure that all instructional personnel are proficient in the use of educational technology consistent with its comprehensive plan for educational technology.

The Department shall provide technical assistance, including literacy coaching, to local school divisions to provide professional development in science-based reading research and evidence-based literacy instruction *for students in kindergarten through grade eight.* The Department shall also create a list of professional development programs aligned with science-based reading research and evidence-based literacy instruction that includes programs that provide training in dyslexia for reading specialists as required by subsection G of § 22.1-253.13:2. The list shall be approved by the Board. The Department shall provide resources to local school divisions to ensure that each division is able to provide professional development to teachers and reading specialists listed in subdivision E 2 ~~of~~ § ~~22.1-253.13:5~~ in one of the programs enumerated in the list approved by the Board pursuant to this subdivision and that such professional development is provided at no cost to the teachers and reading specialists.

D. Each local school board shall require (i) its members to participate annually in high-quality professional development activities at the state, local, or national levels on governance, including, but not limited to, personnel policies and practices; the evaluation of personnel, curriculum, and instruction; use of data in planning and decision making; and current issues in education as part of their service on the local board and (ii) the division superintendent to participate annually in high-quality professional development activities at the local, state, or national levels, including the Standards of Quality, Board ~~of Education~~ regulations, and the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents.

E. Each local school board shall provide a program of high-quality professional development (i) in the use and documentation of performance standards and evaluation criteria based on student academic progress and skills for teachers, principals, and superintendents to clarify roles and performance expectations and to facilitate the successful implementation of instructional programs that promote student achievement at the school and classroom levels; (ii) as part of the license renewal process, to assist teachers and principals in acquiring the skills needed to work with gifted students, students with disabilities, and students who have been identified as having limited English proficiency and to increase student achievement and expand the knowledge and skills students require to meet the standards for academic performance set by the Board ~~of Education~~; (iii) in educational technology for all instructional personnel which is designed to facilitate integration of computer skills and related technology into the curricula; and (iv) for principals and supervisors designed to increase proficiency in instructional leadership and management, including training in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel.

In addition, each local school board shall provide:

1. Teachers and principals with high-quality professional development programs each year in (a) instructional content; (b) the preparation of tests and other assessment measures; (c) methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion-referenced tests that match locally developed objectives; (d) instruction and remediation techniques in English, mathematics, science, and history and social science; (e) interpreting test data for instructional purposes; (f) technology applications to implement the Standards of Learning; and (g) effective classroom management; ~~and~~

2. High-quality professional development and training in science-based reading research and evidence-based literacy instruction, from the list developed and the resources provided by the Department pursuant to subsection C ~~of~~ § ~~22.1-253.13:5~~ or an alternative program that consists of evidence-based literacy instruction and aligns with science-based reading research approved by the Department, for each elementary school principal and each teacher with an endorsement in early/primary education preschool through grade three, elementary education preschool through grade six, special education general curriculum kindergarten through grade 12, special education deaf and hard of hearing preschool through grade 12, ~~or~~ special education blindness/visual impairments preschool through grade 12*, or English as a second language preschool through grade 12,* or as a reading specialist *that builds proficiency in evidence-based literacy instruction and science-based reading research* in order to aid in the licensure renewal process for such individuals*; and*

3. High-quality professional development and training in science-based reading research and evidence-based literacy instruction, from the list developed and the resources provided by the Department pursuant to subsection C, or an alternative program that consists of evidence-based literacy instruction and aligns with science-based reading research approved by the Department, for (i) each teacher with an endorsement in middle education grades six through eight who teaches English that builds proficiency in evidence-based literacy instruction and science-based reading research and

(ii) each middle school principal and teacher with an endorsement in middle education grades six through eight who teaches mathematics, science, or history and social science that builds an awareness of evidence-based literacy instruction and science-based reading research.

F. Schools and school divisions shall include as an integral component of their comprehensive plans required by § 22.1-253.13:6, high-quality professional development programs that support the recruitment, employment, and retention of qualified teachers and principals. Each school board shall require all instructional personnel to participate each year in these professional development programs.

G. Each local school board shall annually review its professional development program for quality, effectiveness, participation by instructional personnel, and relevancy to the instructional needs of teachers and the academic achievement needs of the students in the school division.

§ 22.1-253.13:6. (For effective date, see 2022 Acts cc. 549, 550, cl. 2) Standard 6. Planning and public involvement.

A. The Board ~~of Education~~ shall adopt a statewide comprehensive, unified, long-range plan based on data collection, analysis, and evaluation. Such plan shall be developed with statewide participation. The Board shall review the plan biennially and adopt any necessary revisions. The Board shall post the plan on the Department ~~of Education's~~ website if practicable, and, in any case, shall make a hard copy of such plan available for public inspection and copying.

This plan shall include the objectives of public education in Virginia, including strategies for first improving student achievement, particularly the achievement of educationally at-risk students, then maintaining high levels of student achievement; an assessment of the extent to which these objectives are being achieved; a forecast of enrollment changes; and an assessment of the needs of public education in the Commonwealth. In the annual report required by § 22.1-18, the Board shall include an analysis of the extent to which these Standards of Quality have been achieved and the objectives of the statewide comprehensive plan have been met. The Board shall also develop, consistent with, or as a part of, its comprehensive plan, a detailed comprehensive, long-range plan to integrate educational technology into the Standards of Learning and the curricula of the public schools in Virginia, including career and technical education programs. The Board shall review and approve the comprehensive plan for educational technology and may require the revision of such plan as it deems necessary.

B. Each local school board shall adopt a divisionwide comprehensive, unified, long-range plan based on data collection, an analysis of the data, and how the data will be utilized to improve classroom instruction and student achievement. The plan shall be developed with staff and community involvement and shall include, or be consistent with, all other divisionwide plans required by state and federal laws and regulations. Each local school board shall review the plan biennially and adopt any necessary revisions. Prior to the adoption of any divisionwide comprehensive plan or revisions thereto, each local school board shall post such plan or revisions on the division's Internet website if practicable, and, in any case, shall make a hard copy of the plan or revisions available for public inspection and copying and shall conduct at least one public hearing to solicit public comment on the divisionwide plan or revisions.

The divisionwide comprehensive plan shall include, but shall not be limited to, (i) the objectives of the school division, including strategies for first improving student achievement, particularly the achievement of educationally at-risk students, then maintaining high levels of student achievement; (ii) an assessment of the extent to which these objectives are being achieved; (iii) a forecast of enrollment changes; (iv) a plan for projecting and managing enrollment changes including consideration of the consolidation of schools to provide for a more comprehensive and effective delivery of instructional services to students and economies in school operations; (v) an evaluation of the appropriateness of establishing regional programs and services in cooperation with neighboring school divisions; (vi) a plan for implementing such regional programs and services when appropriate; (vii) a technology plan designed to integrate educational technology into the instructional programs of the school division, including the school division's career and technical education programs, consistent with, or as a part of, the comprehensive technology plan for Virginia adopted by the Board ~~of Education~~; (viii) an assessment of the needs of the school division and evidence of community participation, including parental participation, in the development of the plan; (ix) any corrective action plan required pursuant to § 22.1-253.13:3; and (x) a plan for parent and family involvement to include building successful school and parent partnerships that shall be developed with staff and community involvement, including participation by parents.

The divisionwide comprehensive plan shall also include a divisionwide literacy plan for pre-kindergarten through grade ~~three~~ *eight*. The Board shall issue guidance on the contents of such plans. The Department shall develop a template for such plans. Each divisionwide literacy plan shall follow such template and address how the local school board will align (i) literacy professional development, (ii) core reading and literacy curriculum, and (iii) screening, supplemental instruction, and interventions with evidence-based literacy instruction practices aligned with science-based reading research and how the school board will support parents to support the literacy development of their children. When developing such divisionwide literacy plan, each local school board shall use programs from the lists developed by the Department pursuant to subsection C of § 22.1-253.13:5 and subdivision H 2 of § 22.1-253.13:1 or seek approval from the Department for the use of alternative programs that consist of evidence-based literacy instruction and align with science-based reading research.

A report shall be presented by each school board to the public by November 1 of each odd-numbered year on the extent to which the objectives of the divisionwide comprehensive plan have been met during the previous two school years.

C. Each public school shall also prepare a comprehensive, unified, long-range plan, which the relevant school board shall consider in the development of its divisionwide comprehensive plan.

D. The Board ~~of Education~~ shall, in a timely manner, make available to local school boards information about where current Virginia school laws, Board regulations and revisions, and copies of relevant Opinions of the Attorney General of Virginia may be located online.

CHAPTER 646

An Act to amend and reenact §§ 22.1-253.13:1, 22.1-253.13:2, 22.1-253.13:5, and 22.1-253.13:6, as they shall become effective, of the Code of Virginia, relating to student literacy measures; scope; students in grades four through eight.

[S 1175]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-253.13:1, 22.1-253.13:2, 22.1-253.13:5, and 22.1-253.13:6, as they shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 22.1-253.13:1. (For effective date, see 2022 Acts cc. 549, 550, cl. 2) Standard 1. Instructional programs supporting the Standards of Learning and other educational objectives.

A. The General Assembly and the Board ~~of Education~~ believe that the fundamental goal of the public schools of the Commonwealth must be to enable each student to develop the skills that are necessary for success in school, preparation for life, and reaching their full potential. The General Assembly and the Board ~~of Education~~ find that the quality of education is dependent upon the provision of (i) the appropriate working environment, benefits, and salaries necessary to ensure the availability of high-quality instructional personnel; (ii) the appropriate learning environment designed to promote student achievement; (iii) quality instruction that enables each student to become a productive and educated citizen of Virginia and the United States of America; and (iv) the adequate commitment of other resources. In keeping with this goal, the General Assembly shall provide for the support of public education as set forth in Article VIII, Section 1 of the Constitution of Virginia.

B. The Board ~~of Education~~ shall establish educational objectives known as the Standards of Learning, which shall form the core of Virginia's educational program, and other educational objectives, which together are designed to ensure the development of the skills that are necessary for success in school and for preparation for life in the years beyond. At a minimum, the Board shall establish Standards of Learning for English, mathematics, science, and history and social science. The Standards of Learning shall not be construed to be regulations as defined in § 2.2-4001.

The Board shall seek to ensure that the Standards of Learning are consistent with a high-quality foundation educational program. The Standards of Learning shall include, but not be limited to, the basic skills of communication (listening, speaking, reading, and writing); computation and critical reasoning, including problem solving and decision making; proficiency in the use of computers and related technology; computer science and computational thinking, including computer coding; and the skills to manage personal finances and to make sound financial decisions.

The English Standards of Learning for reading in kindergarten through grade ~~three~~ *eight* shall ~~be based on components of effective reading instruction, to include, at a minimum, phonemic awareness, systematic phonics, fluency, vocabulary development, and text comprehension~~ *align with evidence-based literacy instruction and science-based reading research.*

The Standards of Learning in all subject areas shall be subject to regular review and revision to maintain rigor and to reflect a balance between content knowledge and the application of knowledge in preparation for eventual employment and lifelong learning. The Board ~~of Education~~ shall establish a regular schedule, in a manner it deems appropriate, for the review, and revision as may be necessary, of the Standards of Learning in all subject areas. Such review of each subject area shall occur at least once every seven years. Nothing in this section shall be construed to prohibit the Board from conducting such review and revision on a more frequent basis.

To provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board ~~of Education~~ shall conduct public hearings prior to establishing revised Standards of Learning. Thirty days prior to conducting such hearings, the Board shall give notice of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to revise the Standards of Learning in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any revisions of the Standards of Learning.

In addition, the Department ~~of Education~~ shall make available and maintain a website, either separately or through an existing website utilized by the Department ~~of Education~~, enabling public elementary, middle, and high school educators to submit recommendations for improvements relating to the Standards of Learning, when under review by the Board according to its established schedule, and related assessments required by the Standards of Quality pursuant to this chapter. Such website shall facilitate the submission of recommendations by educators.

School boards shall implement the Standards of Learning or objectives specifically designed for their school divisions that are equivalent to or exceed the Board's requirements. Students shall be expected to achieve the educational objectives established by the school division at appropriate age or grade levels. The curriculum adopted by the local school division shall be aligned to the Standards of Learning.

The Board ~~of Education~~ shall include in the Standards of Learning for history and social science the study of contributions to society of diverse people. For the purposes of this subsection, "diverse" includes consideration of disability, ethnicity, race, and gender.

The Board ~~of Education~~ shall include in the Standards of Learning for health instruction in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Such instruction shall be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross. No teacher who is in compliance with subdivision D 3 of § 22.1-298.1 shall be required to be certified as a trainer of cardiopulmonary resuscitation to provide instruction for non-certification.

With such funds as are made available for this purpose, the Board shall regularly review and revise the competencies for career and technical education programs to require the full integration of English, mathematics, science, and history and social science Standards of Learning. Career and technical education programs shall be aligned with industry and professional standard certifications, where they exist.

The Board shall establish content standards and curriculum guidelines for courses in career investigation in elementary school, middle school, and high school. Each school board shall (i) require each middle school student to take at least one course in career investigation or (ii) select an alternate means of delivering the career investigation course to each middle school student, provided that such alternative is equivalent in content and rigor and provides the foundation for such students to develop their academic and career plans. Any school board may require (a) such courses in career investigation at the high school level as it deems appropriate, subject to Board approval as required in subsection A of § 22.1-253.13:4, and (b) such courses in career investigation at the elementary school level as it deems appropriate. The Board shall develop and disseminate to each school board career investigation resource materials that are designed to ensure that students have the ability to further explore interest in career and technical education opportunities in middle and high school. In developing such resource materials, the Board shall consult with representatives of career and technical education, industry, skilled trade associations, chambers of commerce or similar organizations, and contractor organizations.

C. Local school boards shall develop and implement a program of instruction for grades K through 12 that is aligned to the Standards of Learning and meets or exceeds the requirements of the Board ~~of Education~~. The program of instruction shall emphasize reading, writing, speaking, mathematical concepts and computations, proficiency in the use of computers and related technology, computer science and computational thinking, including computer coding, and scientific concepts and processes; essential skills and concepts of citizenship, including knowledge of Virginia history and world and United States history, economics, government, foreign languages, international cultures, health and physical education, environmental issues, and geography necessary for responsible participation in American society and in the international community; fine arts, which may include, but need not be limited to, music and art, and practical arts; knowledge and skills needed to qualify for further education, gainful employment, or training in a career or technical field; and development of the ability to apply such skills and knowledge in preparation for eventual employment and lifelong learning and to achieve economic self-sufficiency.

Local school boards shall also develop and implement programs of prevention, intervention, or remediation for students who are educationally at risk including, but not limited to, those who fail to achieve a passing score on any Standards of Learning assessment in grades three through eight or who fail an end-of-course test required for the award of a verified unit of credit. Such programs shall include components that are research-based.

Any student who achieves a passing score on one or more, but not all, of the Standards of Learning assessments for the relevant grade level in grades three through eight may be required to attend a remediation program.

Any student who fails to achieve a passing score on all of the Standards of Learning assessments for the relevant grade level in grades three through eight or who fails an end-of-course test required for the award of a verified unit of credit shall be required to attend a remediation program or to participate in another form of remediation. Division superintendents shall require such students to take special programs of prevention, intervention, or remediation, which may include attendance in public summer school programs, in accordance with clause (ii) of subsection A of § 22.1-254 and § 22.1-254.01.

Remediation programs shall include, when applicable, a procedure for early identification of students who are at risk of failing the Standards of Learning assessments in grades three through eight or who fail an end-of-course test required for the award of a verified unit of credit. Such programs may also include summer school for all elementary and middle school grades and for all high school academic courses, as defined by regulations promulgated by the Board ~~of Education~~, or other forms of remediation. Summer school remediation programs or other forms of remediation shall be chosen by the division superintendent to be appropriate to the academic needs of the student. Students who are required to attend such summer school programs or to participate in another form of remediation shall not be charged tuition by the school division.

The requirement for remediation may, however, be satisfied by the student's attendance in a program of prevention, intervention or remediation that has been selected by his parent, in consultation with the division superintendent or his designee, and is either (i) conducted by an accredited private school or (ii) a special program that has been determined to be comparable to the required public school remediation program by the division superintendent. The costs of such private school remediation program or other special remediation program shall be borne by the student's parent.

The Board ~~of Education~~ shall establish standards for full funding of summer remedial programs that shall include, but not be limited to, the minimum number of instructional hours or the equivalent thereof required for full funding and an

assessment system designed to evaluate program effectiveness. Based on the number of students attending and the Commonwealth's share of the per pupil instructional costs, state funds shall be provided for the full cost of summer and other remediation programs as set forth in the appropriation act, provided such programs comply with such standards as shall be established by the Board, pursuant to § 22.1-199.2.

D. Local school boards shall also implement the following:

1. Programs in grades K through three that emphasize developmentally appropriate learning to enhance success.

2. Programs based on prevention, intervention, or remediation designed to increase the number of students who earn a high school diploma and to prevent students from dropping out of school. Such programs shall include components that are research-based.

3. Career and technical education programs incorporated into the K through 12 curricula that include:

a. Knowledge of careers and all types of employment opportunities, including, but not limited to, apprenticeships, entrepreneurship and small business ownership, the military, and the teaching profession, and emphasize the advantages of completing school with marketable skills;

b. Career exploration opportunities in the middle school grades;

c. Competency-based career and technical education programs that integrate academic outcomes, career guidance, and job-seeking skills for all secondary students. Programs shall be based upon labor market needs and student interest. Career guidance shall include counseling about available employment opportunities and placement services for students exiting school. Each school board shall develop and implement a plan to ensure compliance with the provisions of this subdivision. Such plan shall be developed with the input of area business and industry representatives and local comprehensive community colleges and shall be submitted to the Superintendent ~~of Public Instruction~~ in accordance with the timelines established by federal law;

d. Annual notice on its website to enrolled high school students and their parents of (i) the availability of the postsecondary education and employment data published by the State Council of Higher Education on its website pursuant to § 23.1-204.1 and (ii) the opportunity for such students to obtain a nationally recognized career readiness certificate at a local public high school, comprehensive community college, or workforce center; and

e. As part of each student's academic and career plan, a list of (i) the top 100 professions in the Commonwealth by median pay and the education, training, and skills required for each such profession and (ii) the top 10 degree programs at institutions of higher education in the Commonwealth by median pay of program graduates. The Department ~~of Education~~ shall annually compile such lists and provide them to each local school board.

4. Educational objectives in middle and high school that emphasize economic education and financial literacy pursuant to § 22.1-200.03.

5. Early identification of students with disabilities and enrollment of such students in appropriate instructional programs consistent with state and federal law.

6. Early identification of gifted students and enrollment of such students in appropriately differentiated instructional programs.

7. Educational alternatives for students whose needs are not met in programs prescribed elsewhere in these standards. Such students shall be counted in average daily membership (ADM) in accordance with the regulations of the Board ~~of Education~~.

8. Adult education programs for individuals functioning below the high school completion level. Such programs may be conducted by the school board as the primary agency or through a collaborative arrangement between the school board and other agencies.

9. A plan to make achievements for students who are educationally at risk a divisionwide priority that shall include procedures for measuring the progress of such students.

10. An agreement for postsecondary degree attainment with a comprehensive community college in the Commonwealth specifying the options for students to complete an associate degree or a one-year Uniform Certificate of General Studies from a comprehensive community college concurrent with a high school diploma. Such agreement shall specify the credit available for dual enrollment courses and Advanced Placement courses with qualifying exam scores of three or higher.

11. A plan to notify students and their parents of the availability of dual enrollment and advanced placement classes; career and technical education programs, including internships, externships, apprenticeships, credentialing programs, certification programs, licensure programs, and other work-based learning experiences; the International Baccalaureate Program and Academic Year Governor's School Programs; the qualifications for enrolling in such classes, programs, and experiences; and the availability of financial assistance to low-income and needy students to take the advanced placement and International Baccalaureate examinations. This plan shall include notification to students and parents of the agreement with a comprehensive community college in the Commonwealth to enable students to complete an associate degree or a one-year Uniform Certificate of General Studies concurrent with a high school diploma.

12. Identification of students with limited English proficiency and enrollment of such students in appropriate instructional programs, which programs may include dual language programs whereby such students receive instruction in English and in a second language.

13. Early identification, diagnosis, and assistance for students with mathematics problems and provision of instructional strategies and mathematics practices that benefit the development of mathematics skills for all students.

Local school divisions shall provide algebra readiness intervention services to students in grades six through nine who are at risk of failing the Algebra I end-of-course test, as demonstrated by their individual performance on any diagnostic test that has been approved by the Department ~~of Education~~. Local school divisions shall report the results of the diagnostic tests to the Department ~~of Education~~ on an annual basis, at a time to be determined by the Superintendent ~~of Public Instruction~~. Each student who receives algebra readiness intervention services will be assessed again at the end of that school year. Funds appropriated for prevention, intervention, and remediation; summer school remediation; at-risk; or algebra readiness intervention services may be used to meet the requirements of this subdivision.

14. Incorporation of art, music, and physical education as a part of the instructional program at the elementary school level.

15. A program of physical activity available to all students in grades kindergarten through five consisting of at least 20 minutes per day or an average of 100 minutes per week during the regular school year and available to all students in grades six through 12 with a goal of at least 150 minutes per week on average during the regular school year. Such program may include any combination of (i) physical education classes, (ii) extracurricular athletics, (iii) recess, or (iv) other programs and physical activities deemed appropriate by the local school board. Each local school board shall implement such program during the regular school year. Any physical education class offered to students in grades seven and eight shall include at least one hour of personal safety training per school year in each such grade level that is developed and delivered in partnership with the local law-enforcement agency and consists of situational safety awareness training and social media education.

16. A program of student services for kindergarten through grade 12 that shall be designed to aid students in their educational, social, and career development.

17. The collection and analysis of data and the use of the results to evaluate and make decisions about the instructional program.

18. A program of instruction in the high school Virginia and U.S. Government course on all information and concepts contained in the civics portion of the U.S. Naturalization Test.

E. From such funds as may be appropriated or otherwise received for such purpose, there shall be established within the Department ~~of Education~~ a unit to (i) conduct evaluative studies; (ii) provide the resources and technical assistance to increase the capacity for school divisions to deliver quality instruction; and (iii) assist school divisions in implementing those programs and practices that will enhance pupil academic performance and improve family and community involvement in the public schools. Such unit shall identify and analyze effective instructional programs and practices and professional development initiatives; evaluate the success of programs encouraging parental and family involvement; assess changes in student outcomes prompted by family involvement; and collect and disseminate among school divisions information regarding effective instructional programs and practices, initiatives promoting family and community involvement, and potential funding and support sources. Such unit may also provide resources supporting professional development for administrators and teachers. In providing such information, resources, and other services to school divisions, the unit shall give priority to those divisions demonstrating a less than 70 percent passing rate on the Standards of Learning assessments.

F. Each local school board may enter into agreements for postsecondary course credit, credential, certification, or license attainment, hereinafter referred to as College and Career Access Pathways Partnerships (Partnerships), with comprehensive community colleges or other public institutions of higher education or educational institutions established pursuant to Title 23.1 that offer a career and technical education curriculum. Such Partnerships shall (i) specify the options for students to take courses as part of the career and technical education curriculum that lead to course credit or an industry-recognized credential, certification, or license concurrent with a high school diploma; (ii) specify the credit, credentials, certifications, or licenses available for such courses; and (iii) specify available options for students to participate in pre-apprenticeship and apprenticeship programs at comprehensive community colleges concurrent with the pursuit of a high school diploma and receive college credit and high school credit for successful completion of any such program.

G. Each local school board shall provide a program of literacy instruction that is aligned with science-based reading research and provides evidenced-based literacy instruction to students in kindergarten through grade ~~three~~ *eight* and is consistent with the school board's literacy plan as required by subsection B of § 22.1-253.13:6. Pursuant to such program:

1. Each local school board shall provide reading intervention services to students in kindergarten through grade ~~three~~ *eight* who demonstrate substantial deficiencies based on their individual performance on the Standards of Learning reading assessment or ~~an early~~ *a* literacy screener provided or approved by the Department. Such reading intervention services shall consist of evidence-based literacy instruction, align with science-based reading research, and be documented for each student in a written student reading plan, consistent with the requirements in subdivision 2 and the list developed by the Department pursuant to subdivision H 2.

2. A reading specialist, in collaboration with the teacher of any student who receives reading intervention services pursuant to subdivision 1, shall develop, oversee implementation of, and monitor student progress on a student reading plan. The parent of each student who receives reading intervention services pursuant to subdivision 1 shall receive notice of and have the opportunity to participate in the development of the student reading plan. Each student reading plan (i) shall follow the Department template created pursuant to subdivision H 3; (ii) shall document such reading intervention services; (iii) shall include, at a minimum, (a) the student's specific, diagnosed reading skill deficiencies as determined or identified by diagnostic assessment data or the ~~early~~ literacy screener provided or approved by the Department; (b) the goals and

benchmarks for student growth in reading; (c) a description of the specific measures that will be used to evaluate and monitor the student's reading progress; (d) the specific evidence-based literacy instruction that the student will receive; (e) the strategies, resources, and materials that will be provided to the student's parent to support the student to make reading progress; and (f) any additional services the teacher deems available and appropriate to accelerate the student's reading skill development; and (iv) may include the following services for the student: instruction from a reading specialist, trained aide, computer-based reading tutorial program, or classroom teacher with support from an aide ~~or~~*,* extended instructional time in the school day or school year*, or, for students in grades six through eight, a literacy course, in addition to the course required by the Standards of Learning in English, that provides the specific evidence-based literacy instruction identified in the student's reading plan*. In accordance with § 22.1-215.2, the parent of each student shall receive notice before services begin and a copy of the student reading plan.

3. Each student who receives such reading intervention services shall be assessed utilizing either the ~~early~~ literacy screener provided or approved by the Department or the grade-level reading Standards of Learning assessment again at the end of that school year.

4. ~~The local school board shall provide such reading intervention services prior to promoting a student from grade three to grade four.~~

~~5.~~ Funds appropriated for prevention, intervention, and remediation, summer school remediation, the at-risk add-on, or early intervention reading may be used to meet the requirements of this subsection.

H. In order to assist local school boards to implement the provisions of subsection G:

1. The Board shall provide guidance on the content of student reading plans;

2. The Department shall develop a list of core literacy curricula, supplemental instruction practices and programs, and intervention programs that consist of evidence-based literacy instruction aligned with science-based reading research *for students in kindergarten through grade eight*. The list shall be approved by the Board;

3. The Department shall develop a template for student reading plans that aligns with the requirements of subsection G;

4. The Department shall develop and implement a plan for the annual collection and public reporting of division-level and school-level literacy data, at a time to be determined by the Superintendent, to include results on the ~~early~~ literacy ~~screener~~ *screeners* provided or approved by the Department and the reading Standards of Learning assessments; and

5. The Department shall provide free online evidence-based literacy instruction resources that can be accessed by parents and local school boards to support student literacy development at home.

§ 22.1-253.13:2. (For effective date, see 2022 Acts cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board ~~of Education~~.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ one reading specialist for each 550 students in kindergarten through grade ~~three~~ *five and one reading specialist for each 1,100 students in grades six through eight*. Each such reading specialist shall have training in science-based reading research and evidence-based literacy instruction practices. In addition, each such reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~. *Local school divisions that employ a sufficient number of reading specialists to meet this staffing standard may assign reading specialists to grade levels according to grade levels with greatest need, regardless of the individual staffing standards established for grades kindergarten through five and six through eight*.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training. Local school boards that employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such individuals

to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board ~~of Education~~ may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students

and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

§ 22.1-253.13:2. (Effective pursuant to Va. Const., Art. IV, § 13; for effective date, see Acts 2022, cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board ~~of Education~~.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ one reading specialist for each 550 students in kindergarten through grade ~~three~~ *five and one reading specialist for each 1,100 students in grades six through eight*. Each such reading specialist shall have training in science-based reading research and evidence-based literacy instruction practices. In addition, each such reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~. *Local school divisions that employ a sufficient number of reading specialists to meet this staffing standard may assign reading specialists to grade levels according to grade levels with greatest need, regardless of the individual staffing standards established for grades kindergarten through five and six through eight*.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals, one full-time in each elementary school, middle school, and high school, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training. Local school boards that employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such individuals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board ~~of Education~~.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board ~~of~~

~~Education~~ may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

§ 22.1-253.13:5. (For effective date, see 2022 Acts cc. 549, 550, cl. 2) Standard 5. Quality of classroom instruction and educational leadership.

A. Each member of the Board ~~of~~ ~~Education~~ shall participate in high-quality professional development programs on personnel, curriculum and current issues in education as part of his service on the Board.

B. Consistent with the finding that leadership is essential for the advancement of public education in the Commonwealth, teacher, principal, and superintendent evaluations shall be consistent with the performance standards included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents. Evaluations shall include student academic progress as a significant component and an overall summative

rating. Teacher evaluations shall include regular observation and evidence that instruction is aligned with the school's curriculum. Evaluations shall include identification of areas of individual strengths and weaknesses and recommendations for appropriate professional activities. Evaluations shall include an evaluation of cultural competency.

C. The Board ~~of Education~~ shall provide guidance on high-quality professional development for (i) teachers, principals, supervisors, division superintendents, and other school staff; (ii) principals, supervisors, and division superintendents in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel; (iii) school board members on personnel, curriculum and current issues in education; (iv) teachers of the blind and visually impaired, in cooperation with the Virginia Department for the Blind and Vision Impaired, in Braille; ~~and~~ (v) any individual with an endorsement in early/primary education preschool through grade three, elementary education preschool through grade six, special education general curriculum kindergarten through grade 12, special education deaf and hard of hearing preschool through grade 12, ~~or~~ special education blindness/visual impairments preschool through grade 12*, or English as a second language preschool through grade 12,* or as a reading specialist *that builds proficiency* in science-based reading research and evidence-based literacy instruction*; (vi) each teacher with an endorsement in middle education grades six through eight who teaches English that builds proficiency in evidence-based literacy instruction and science-based reading research; and (vii) each middle school principal and teacher with an endorsement in middle education grades six through eight who teaches mathematics, science, or history and social science that builds an awareness of evidence-based literacy instruction and science-based reading research*.

The Board shall also provide technical assistance on high-quality professional development to local school boards designed to ensure that all instructional personnel are proficient in the use of educational technology consistent with its comprehensive plan for educational technology.

The Department shall provide technical assistance, including literacy coaching, to local school divisions to provide professional development in science-based reading research and evidence-based literacy instruction *for students in kindergarten through grade eight*. The Department shall also create a list of professional development programs aligned with science-based reading research and evidence-based literacy instruction that includes programs that provide training in dyslexia for reading specialists as required by subsection G of § 22.1-253.13:2. The list shall be approved by the Board. The Department shall provide resources to local school divisions to ensure that each division is able to provide professional development to teachers and reading specialists listed in subdivision E 2 ~~of~~ § ~~22.1-253.13:5~~ in one of the programs enumerated in the list approved by the Board pursuant to this subdivision and that such professional development is provided at no cost to the teachers and reading specialists.

D. Each local school board shall require (i) its members to participate annually in high-quality professional development activities at the state, local, or national levels on governance, including, but not limited to, personnel policies and practices; the evaluation of personnel, curriculum, and instruction; use of data in planning and decision making; and current issues in education as part of their service on the local board and (ii) the division superintendent to participate annually in high-quality professional development activities at the local, state, or national levels, including the Standards of Quality, Board ~~of Education~~ regulations, and the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents.

E. Each local school board shall provide a program of high-quality professional development (i) in the use and documentation of performance standards and evaluation criteria based on student academic progress and skills for teachers, principals, and superintendents to clarify roles and performance expectations and to facilitate the successful implementation of instructional programs that promote student achievement at the school and classroom levels; (ii) as part of the license renewal process, to assist teachers and principals in acquiring the skills needed to work with gifted students, students with disabilities, and students who have been identified as having limited English proficiency and to increase student achievement and expand the knowledge and skills students require to meet the standards for academic performance set by the Board ~~of Education~~; (iii) in educational technology for all instructional personnel which is designed to facilitate integration of computer skills and related technology into the curricula; and (iv) for principals and supervisors designed to increase proficiency in instructional leadership and management, including training in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel.

In addition, each local school board shall provide:

1. Teachers and principals with high-quality professional development programs each year in (a) instructional content; (b) the preparation of tests and other assessment measures; (c) methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion-referenced tests that match locally developed objectives; (d) instruction and remediation techniques in English, mathematics, science, and history and social science; (e) interpreting test data for instructional purposes; (f) technology applications to implement the Standards of Learning; and (g) effective classroom management; ~~and~~

2. High-quality professional development and training in science-based reading research and evidence-based literacy instruction, from the list developed and the resources provided by the Department pursuant to subsection C ~~of~~ § ~~22.1-253.13:5~~ or an alternative program that consists of evidence-based literacy instruction and aligns with science-based reading research approved by the Department, for each elementary school principal and each teacher with an endorsement in early/primary education preschool through grade three, elementary education preschool through grade six, special

education general curriculum kindergarten through grade 12, special education deaf and hard of hearing preschool through grade 12, ~~or~~ special education blindness/visual impairments preschool through grade 12*, or English as a second language preschool through grade 12,* or as a reading specialist *that builds proficiency in evidence-based literacy instruction and science-based reading research* in order to aid in the licensure renewal process for such individuals*; and*

3. High-quality professional development and training in science-based reading research and evidence-based literacy instruction, from the list developed and the resources provided by the Department pursuant to subsection C, or an alternative program that consists of evidence-based literacy instruction and aligns with science-based reading research approved by the Department, for (i) each teacher with an endorsement in middle education grades six through eight who teaches English that builds proficiency in evidence-based literacy instruction and science-based reading research and (ii) each middle school principal and teacher with an endorsement in middle education grades six through eight who teaches mathematics, science, or history and social science that builds an awareness of evidence-based literacy instruction and science-based reading research.

F. Schools and school divisions shall include as an integral component of their comprehensive plans required by § 22.1-253.13:6, high-quality professional development programs that support the recruitment, employment, and retention of qualified teachers and principals. Each school board shall require all instructional personnel to participate each year in these professional development programs.

G. Each local school board shall annually review its professional development program for quality, effectiveness, participation by instructional personnel, and relevancy to the instructional needs of teachers and the academic achievement needs of the students in the school division.

§ 22.1-253.13:6. (For effective date, see 2022 Acts cc. 549, 550, cl. 2) Standard 6. Planning and public involvement.

A. The Board ~~of Education~~ shall adopt a statewide comprehensive, unified, long-range plan based on data collection, analysis, and evaluation. Such plan shall be developed with statewide participation. The Board shall review the plan biennially and adopt any necessary revisions. The Board shall post the plan on the Department ~~of Education's~~ website if practicable, and, in any case, shall make a hard copy of such plan available for public inspection and copying.

This plan shall include the objectives of public education in Virginia, including strategies for first improving student achievement, particularly the achievement of educationally at-risk students, then maintaining high levels of student achievement; an assessment of the extent to which these objectives are being achieved; a forecast of enrollment changes; and an assessment of the needs of public education in the Commonwealth. In the annual report required by § 22.1-18, the Board shall include an analysis of the extent to which these Standards of Quality have been achieved and the objectives of the statewide comprehensive plan have been met. The Board shall also develop, consistent with, or as a part of, its comprehensive plan, a detailed comprehensive, long-range plan to integrate educational technology into the Standards of Learning and the curricula of the public schools in Virginia, including career and technical education programs. The Board shall review and approve the comprehensive plan for educational technology and may require the revision of such plan as it deems necessary.

B. Each local school board shall adopt a divisionwide comprehensive, unified, long-range plan based on data collection, an analysis of the data, and how the data will be utilized to improve classroom instruction and student achievement. The plan shall be developed with staff and community involvement and shall include, or be consistent with, all other divisionwide plans required by state and federal laws and regulations. Each local school board shall review the plan biennially and adopt any necessary revisions. Prior to the adoption of any divisionwide comprehensive plan or revisions thereto, each local school board shall post such plan or revisions on the division's Internet website if practicable, and, in any case, shall make a hard copy of the plan or revisions available for public inspection and copying and shall conduct at least one public hearing to solicit public comment on the divisionwide plan or revisions.

The divisionwide comprehensive plan shall include, but shall not be limited to, (i) the objectives of the school division, including strategies for first improving student achievement, particularly the achievement of educationally at-risk students, then maintaining high levels of student achievement; (ii) an assessment of the extent to which these objectives are being achieved; (iii) a forecast of enrollment changes; (iv) a plan for projecting and managing enrollment changes including consideration of the consolidation of schools to provide for a more comprehensive and effective delivery of instructional services to students and economies in school operations; (v) an evaluation of the appropriateness of establishing regional programs and services in cooperation with neighboring school divisions; (vi) a plan for implementing such regional programs and services when appropriate; (vii) a technology plan designed to integrate educational technology into the instructional programs of the school division, including the school division's career and technical education programs, consistent with, or as a part of, the comprehensive technology plan for Virginia adopted by the Board ~~of Education~~; (viii) an assessment of the needs of the school division and evidence of community participation, including parental participation, in the development of the plan; (ix) any corrective action plan required pursuant to § 22.1-253.13:3; and (x) a plan for parent and family involvement to include building successful school and parent partnerships that shall be developed with staff and community involvement, including participation by parents.

The divisionwide comprehensive plan shall also include a divisionwide literacy plan for pre-kindergarten through grade ~~three~~ *eight*. The Board shall issue guidance on the contents of such plans. The Department shall develop a template for such plans. Each divisionwide literacy plan shall follow such template and address how the local school board will align (i) literacy professional development, (ii) core reading and literacy curriculum, and (iii) screening, supplemental instruction,

and interventions with evidence-based literacy instruction practices aligned with science-based reading research and how the school board will support parents to support the literacy development of their children. When developing such divisionwide literacy plan, each local school board shall use programs from the lists developed by the Department pursuant to subsection C of § 22.1-253.13:5 and subdivision H 2 of § 22.1-253.13:1 or seek approval from the Department for the use of alternative programs that consist of evidence-based literacy instruction and align with science-based reading research.

A report shall be presented by each school board to the public by November 1 of each odd-numbered year on the extent to which the objectives of the divisionwide comprehensive plan have been met during the previous two school years.

C. Each public school shall also prepare a comprehensive, unified, long-range plan, which the relevant school board shall consider in the development of its divisionwide comprehensive plan.

D. The Board ~~of Education~~ shall, in a timely manner, make available to local school boards information about where current Virginia school laws, Board regulations and revisions, and copies of relevant Opinions of the Attorney General of Virginia may be located online.

CHAPTER 647

An Act to amend the Code of Virginia by adding a section numbered 10.1-202.3, relating to state parks; Virginia National Guard Passport established; free entry and parking.

[H 1388]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-202.3 as follows:

§ 10.1-202.3. Virginia National Guard Passport established; free entry into and parking at state parks.

The Department shall establish a Virginia National Guard Passport (the Passport) that entitles the bearer to enter state parks in the Commonwealth without the payment of a parking or admission fee. The Passport shall be issued upon request to a member of the Virginia National Guard with a letter or other documentation from the Department of Military Affairs. The Passport shall be valid for as long as the bearer is a member of the Virginia National Guard.

CHAPTER 648

An Act to amend the Code of Virginia by adding a section numbered 10.1-202.3, relating to state parks; Virginia National Guard Passport established; free entry and parking.

[S 915]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-202.3 as follows:

§ 10.1-202.3. Virginia National Guard Passport established; free entry into and parking at state parks.

The Department shall establish a Virginia National Guard Passport (the Passport) that entitles the bearer to enter state parks in the Commonwealth without the payment of a parking or admission fee. The Passport shall be issued upon request to a member of the Virginia National Guard with a letter or other documentation from the Department of Military Affairs. The Passport shall be valid for as long as the bearer is a member of the Virginia National Guard.

CHAPTER 649

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.8, relating to Virginia Opioid Use Reduction and Jail-Based Substance Use Disorder Treatment and Transition Fund; established.

[H 1524]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.8 as follows:

§ 9.1-116.8. Virginia Opioid Use Reduction and Jail-Based Substance Use Disorder Treatment and Transition Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Opioid Use Reduction and Jail-Based Substance Use Disorder Treatment and Transition Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the

Fund. Moneys in the Fund shall be used solely for the purposes of funding and supporting the planning and implementation of locally administered jail-based addiction recovery and substance use disorder treatment and transition programs in local and regional jails. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department or his designee.

B. The Fund shall be administered by the Department, and the Department shall adopt guidelines, in consultation with the Virginia Sheriffs' Association and the Virginia Association of Regional Jails, to make funds available to local and regional jails for the planning or operation of substance use disorder treatment services and transition services for persons with substance use disorder who are incarcerated in local and regional jails. The guidelines shall direct the distribution of funds to programs including medical assisted treatment therapies, addiction recovery and other substance use disorder services, or reentry and transitional support.

C. The Department shall establish a grant procedure, in consultation with the Virginia Sheriffs' Association and the Virginia Association of Regional Jails, to govern funds awarded for this purpose. No grant funds shall be used by the grantee to supplant funding for an existing program.

2. That the provisions of this act shall become effective on July 1, 2024.

CHAPTER 650

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.8, relating to Virginia Opioid Use Reduction and Jail-Based Substance Use Disorder Treatment and Transition Fund; established.

[S 820]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.8 as follows:

§ 9.1-116.8. Virginia Opioid Use Reduction and Jail-Based Substance Use Disorder Treatment and Transition Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Opioid Use Reduction and Jail-Based Substance Use Disorder Treatment and Transition Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of funding and supporting the planning and implementation of locally administered jail-based addiction recovery and substance use disorder treatment and transition programs in local and regional jails. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department or his designee.

B. The Fund shall be administered by the Department, and the Department shall adopt guidelines, in consultation with the Virginia Sheriffs' Association and the Virginia Association of Regional Jails, to make funds available to local and regional jails for the planning or operation of substance use disorder treatment services and transition services for persons with substance use disorder who are incarcerated in local and regional jails. The guidelines shall direct the distribution of funds to programs including medical assisted treatment therapies, addiction recovery and other substance use disorder services, or reentry and transitional support.

C. The Department shall establish a grant procedure, in consultation with the Virginia Sheriffs' Association and the Virginia Association of Regional Jails, to govern funds awarded for this purpose. No grant funds shall be used by the grantee to supplant funding for an existing program.

2. That the provisions of this act shall become effective on July 1, 2024.

CHAPTER 651

An Act to amend and reenact § 19.2-389 of the Code of Virginia, relating to dissemination of criminal history record information; National Center for Missing and Exploited Children.

[H 1706]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-389 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-389. Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal

justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House Committee for Courts of Justice for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039; ~~and~~

47. *The National Center for Missing and Exploited Children for the purpose of screening individuals who are offered or accept employment or will be providing volunteer or contractual services with the National Center for Missing and Exploited Children; and*

48. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the

defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 46.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

CHAPTER 652

An Act to amend and reenact §§ 22.1-1, as it is currently effective and as it shall become effective, 22.1-253.13:3, and 22.1-253.13:5, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to Board of Education; creation and maintenance of Virginia Parent Data Portal; report.

[H 1629]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-1, as it is currently effective and as it shall become effective, 22.1-253.13:3, and 22.1-253.13:5, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 22.1-1. (For expiration date, see 2022 Acts cc. 549, 550, cl. 2) Definitions.

As used in this title, unless the context requires a different meaning:

"Board" or "State Board" means the Board of Education.

"Department" means the Department of Education.

"Division superintendent" means the division superintendent of schools of a school division.

"Elementary" includes kindergarten.

"Elementary and secondary" and "elementary or secondary" include elementary, middle, and high school grades.

"Governing body" or "local governing body" means the board of supervisors of a county, council of a city, or council of a town, responsible for appropriating funds for such locality, as the context may require.

"Middle school" means separate schools for early adolescents and the middle school grades that might be housed at elementary or high schools.

"Parent" or "parents" means any parent, guardian, legal custodian, or other person having control or charge of a child.

"Person of school age" means a person who will have reached his fifth birthday on or before September 30 of the school year and who has not reached twenty years of age on or before August 1 of the school year.

"School board" means the school board that governs a school division.

"State-supported assessment" means any assessment made available statewide by the Board for administration by local school divisions to students in pre-kindergarten through grade 12, including any (i) Standards of Learning assessment described in § 22.1-253.13:3, (ii) grades three through eight reading or mathematics through-year growth assessment described in § 22.1-253.13:3, and (iii) screeners provided by the Department.

"Superintendent" means the Superintendent of Public Instruction.

§ 22.1-1. (For effective date, see 2022 Acts cc. 549, 550, cl. 2) Definitions.

As used in this title, unless the context requires a different meaning:

"Board" or "State Board" means the Board of Education.

"Department" means the Department of Education.

"Division superintendent" means the division superintendent of schools of a school division.

"Elementary" includes kindergarten.

"Elementary and secondary" and "elementary or secondary" include elementary, middle, and high school grades.

"Evidence-based literacy instruction" means structured instructional practices, including sequential, systematic, explicit, and cumulative teaching, that (i) are based on reliable, trustworthy, and valid evidence consistent with science-based reading research; (ii) are used in core or general instruction, supplemental instruction, intervention services, and intensive intervention services; (iii) have a demonstrated record of success in adequately increasing students' reading competency, vocabulary, oral language, and comprehension and in building mastery of the foundational reading skills of phonological and phonemic awareness, alphabetic principle, phonics, spelling, and text reading fluency; and (iv) are able to be differentiated in order to meet the individual needs of students.

"Governing body" or "local governing body" means the board of supervisors of a county, council of a city, or council of a town, responsible for appropriating funds for such locality, as the context may require.

"Middle school" means separate schools for early adolescents and the middle school grades that might be housed at elementary or high schools.

"Parent" or "parents" means any parent, guardian, legal custodian, or other person having control or charge of a child.

"Person of school age" means a person who will have reached his fifth birthday on or before September 30 of the school year and who has not reached twenty years of age on or before August 1 of the school year.

"School board" means the school board that governs a school division.

"Science-based reading research" means research that (i) applies rigorous, systematic, and objective observational or experimental procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading and writing difficulties and (ii) explains how proficient reading and writing develop, why some children have difficulties developing key literacy skills, and how schools can best assess and instruct early literacy, including the use of evidence-based literacy instruction practices to promote reading and writing achievement.

"State-supported assessment" means any assessment made available statewide by the Board for administration by local school divisions to students in pre-kindergarten through grade 12, including any (i) Standards of Learning assessment described in § 22.1-253.13:3, (ii) grades three through eight reading or mathematics through-year growth assessment described in § 22.1-253.13:3, and (iii) screeners provided by the Department.

"Superintendent" means the Superintendent of Public Instruction.

§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state regulations.

A. The Board shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include (i) student outcome and growth measures, (ii) requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, (iii) administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, (iv) student services, (v) auxiliary education programs such as library and media services, (vi) requirements for graduation from high school, (vii) community relations, and (viii) the philosophy, goals, and objectives of public education in the Commonwealth.

The Board shall promulgate regulations establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time.

The Board's regulations establishing standards for accreditation shall ensure that the accreditation process is transparent and based on objective measurements and that any appeal of the accreditation status of a school is heard and decided by the Board.

The Board shall review annually the accreditation status of all schools in the Commonwealth. The Board shall review the accreditation status of a school once every three years if the school has been fully accredited for three consecutive years. Upon such triennial review, the Board shall review the accreditation status of the school for each individual year within that

triennial review period. If the Board finds that the school would have been accredited every year of that triennial review period the Board shall accredit the school for another three years. The Board may review the accreditation status of any other school once every two years or once every three years, provided that any school that receives a multiyear accreditation status other than full accreditation shall be covered by a Board-approved multiyear corrective action plan for the duration of the period of accreditation. Such multiyear corrective action plan shall include annual written progress updates to the Board. A multiyear accreditation status shall not relieve any school or division of annual reporting requirements.

Each local school board shall maintain schools that are fully accredited pursuant to the standards for accreditation as prescribed by the Board. Each local school board shall report the accreditation status of all schools in the local school division annually in public session.

The Board shall establish a review process to assist any school that does not meet the standards established by the Board. The relevant school board shall report the results of such review and any annual progress reports in public session and shall implement any actions identified through such review and utilize them for improvement planning.

The Board shall establish a corrective action plan process for any school that does not meet the standards established by the Board. Such process shall require (a) each school board to submit a corrective action plan for any school in the local school division that does not meet the standards established by the Board and (b) any school board that fails to demonstrate progress in developing or implementing any such corrective action plan to enter into a memorandum of understanding with the Board.

When the Board determines through its review process that the failure of schools within a division to meet the standards established by the Board is related to division-level failure to implement the Standards of Quality or other division-level action or inaction, the Board may require a division-level academic review. After the conduct of such review and within the time specified by the Board, each school board shall enter into a memorandum of understanding with the Board and shall subsequently submit to the Board for approval a corrective action plan, consistent with criteria established by the Board setting forth specific actions and a schedule designed to ensure that schools within its school division meet the standards established by the Board. If the Board determines that the proposed corrective action plan is not sufficient to enable all schools within the division to meet the standards established by the Board, the Board may return the plan to the local school board with directions to submit an amended plan pursuant to Board guidance. Such corrective action plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

B. The Superintendent shall develop, subject to revision by the Board, criteria for determining and recognizing educational performance in the Commonwealth's local school divisions and public schools. The portion of such criteria that measures individual student growth shall become an integral part of the accreditation process for schools in which any grade level in the grade three through eight range is taught. The Superintendent shall annually report to the Board on the accreditation status of all school divisions and schools. Such report shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing educational performance and individual student growth in the school divisions, the Board shall include consideration of special school division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and International Baccalaureate courses, and participation in academic year Governor's Schools.

The Superintendent shall assist local school boards in the implementation of action plans for increasing educational performance and individual student growth in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent shall monitor the implementation of and report to the Board on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

C. With such funds as are available for this purpose, the Board shall prescribe assessment methods to determine the level of achievement of the Standards of Learning objectives by all students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board shall, with the assistance of independent testing experts, conduct a regular analysis and validation process for these assessments. In lieu of a one-time end-of-year assessment, the Board shall establish, for the purpose of providing measures of individual student growth over the course of the school year, a through-year growth assessment system, aligned with the Standards of Learning, for the administration of reading and mathematics assessments in grades three through eight. Such through-year growth assessment system shall include at least one beginning-of-year, one mid-year, and one end-of-year assessment in order to provide individual student growth scores over the course of the school year, but the total time scheduled for taking all such assessments shall not exceed 150 percent of the time scheduled for taking a single end-of-year proficiency assessment. The Department shall ensure adequate training for teachers and principals on how to interpret and use student growth data from such assessments to improve reading and mathematics instruction in grades three through eight throughout the school year. With such funds and content as are available for such purpose, such through-year growth assessment system shall provide accurate measurement of a student's performance, through computer adaptive technology, using test items at, below, and above the student's grade level as necessary.

The Board shall also provide the option of industry certification and state licensure examinations as a student-selected credit.

The Department shall make available to school divisions Standards of Learning assessments typically administered by high schools by December 1 of the school year in which such assessments are to be administered or when newly developed assessments are available, whichever is later.

The Board shall make publicly available such assessments in a timely manner and as soon as practicable following the administration of such tests, so long as the release of such assessments does not compromise test security or deplete the bank of assessment questions necessary to construct subsequent tests, or limit the ability to test students on demand and provide immediate results in the web-based assessment system.

The Board shall prescribe alternative methods of Standards of Learning assessment administration for children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the Board to demonstrate achievement of the Standards of Learning. An eligible student's Individual Education Program team shall make the final determination as to whether an alternative method of administration is appropriate for the student.

The Board shall include in the student outcome and growth measures that are required by the standards of accreditation the required assessments for various grade levels and classes, including the completion of the alternative assessments implemented by each local school board, in accordance with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for English, mathematics, science, and history and social science and may be integrated to include multiple subject areas.

The Standards of Learning assessments administered to students in grades three through eight shall not exceed (i) reading and mathematics in grades three and four; (ii) reading, mathematics, and science in grade five; (iii) reading and mathematics in grades six and seven; (iv) reading, writing, and mathematics in grade eight; (v) science after the student receives instruction in the grade six science, life science, and physical science Standards of Learning and before the student completes grade eight; and (vi) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each local school board. The reading and mathematics assessments administered to students in grades three through eight shall be through-year growth assessments.

Each school board shall annually certify that it has provided instruction and administered an alternative assessment, consistent with Board guidelines, to students in grades three through eight in each Standards of Learning subject area in which a Standards of Learning assessment was not administered during the school year. Such guidelines shall (a) incorporate options for age-appropriate, authentic performance assessments and portfolios with rubrics and other methodologies designed to ensure that students are making adequate academic progress in the subject area and that the Standards of Learning content is being taught; (b) permit and encourage integrated assessments that include multiple subject areas; and (c) emphasize collaboration between teachers to administer and substantiate the assessments and the professional development of teachers to enable them to make the best use of alternative assessments.

Local school divisions shall provide targeted mathematics remediation and intervention to students in grades six through eight who show computational deficiencies as demonstrated by their individual performance on any diagnostic test or grade-level Standards of Learning mathematics test that measures non-calculator computational skills.

The Department shall award recovery credit to any student in grades three through eight who performs below grade level on a Standards of Learning assessment in English reading or mathematics, receives remediation, and subsequently retakes and performs at or above grade level on such an assessment, including any such student who subsequently retakes such an assessment on an expedited basis.

In addition, to assess the educational progress of students, the Board shall (1) develop appropriate assessments, which may include criterion-referenced tests and other assessment instruments that may be used by classroom teachers; (2) select appropriate industry certification and state licensure examinations; and (3) prescribe and provide measures, which may include nationally normed tests to be used to identify students who score in the bottom quartile at selected grade levels.

The Standards of Learning requirements, including all related assessments, shall be waived for any student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to § 30-231.2, who is enrolled in a preparation program for a high school equivalency examination approved by the Board or in an adult basic education program or an adult secondary education program to obtain the high school diploma or a high school equivalency certificate.

The Department shall develop processes for informing school divisions of changes in the Standards of Learning.

The Board may adopt special provisions related to the administration and use of any Standards of Learning test or tests in a content area as applied to accreditation ratings for any period during which the Standards of Learning content or assessments in that area are being revised and phased in. Prior to statewide administration of such tests, the Board shall provide notice to local school boards regarding such special provisions.

The Board shall not include in its calculation of the passage rate for a Standards of Learning assessment or the level of achievement of the Standards of Learning objectives for an individual student growth assessment for the purposes of state accountability any student whose parent has decided to not have his child take such Standards of Learning assessment, unless such exclusions would result in the school's not meeting any required state or federal participation rate.

D. The Board may pursue all available civil remedies pursuant to § 22.1-19.1 or administrative action pursuant to § 22.1-292.1 for breaches in test security and unauthorized alteration of test materials or test results.

The Board may initiate or cause to be initiated a review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests, including the exclusion of students from testing who are required to be assessed, by local school board employees responsible for the distribution or administration of the tests.

Records and other information furnished to or prepared by the Board during the conduct of a review or investigation may be withheld pursuant to subdivision 10 of § 2.2-3705.3. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to

consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any local school board or division superintendent receiving such records or other information shall, upon taking personnel action against a relevant employee, place copies of such records or information relating to the specific employee in such person's personnel file.

Notwithstanding any other provision of state law, no test or examination authorized by this section, including the Standards of Learning assessments, shall be released or required to be released as minimum competency tests, if, in the judgment of the Board, such release would breach the security of such test or examination or deplete the bank of questions necessary to construct future secure tests.

E. With such funds as may be appropriated, the Board may provide, through an agreement with vendors having the technical capacity and expertise to provide computerized tests and assessments, and test construction, analysis, and security, for (i) web-based computerized tests and assessments, including computer-adaptive Standards of Learning assessments, for the evaluation of student progress during and after remediation and (ii) the development of a remediation item bank directly related to the Standards of Learning.

F. To assess the educational progress of students as individuals and as groups, each local school board shall require the use of Standards of Learning assessments, alternative assessments, and other relevant data, such as industry certification and state licensure examinations, to evaluate student progress and to determine educational performance. Each local school shall require the administration of appropriate assessments to students, which may include criterion-referenced tests and teacher-made tests and shall include the Standards of Learning assessments, the local school board's alternative assessments, and the National Assessment of Educational Progress state-by-state assessment. Each school board shall analyze and report annually, in compliance with any criteria that may be established by the Board, the results from industry certification examinations and the Standards of Learning Assessments to the public.

The Board shall include requirements for the reporting of the Standards of Learning assessment data, regardless of accreditation frequency, as part of the Board's requirements relating to the School Performance Report Card. Such scores shall be disaggregated for each school by student subgroups on the Virginia assessment program as appropriate and shall be reported to the public within three months of their receipt. These reports (i) shall be posted on the portion of the Department's website relating to the School Performance Report Card, in a format and in a manner that allows year-to-year comparisons, and (ii) may include the National Assessment of Educational Progress state-by-state assessment.

G. Each local school division superintendent shall regularly review the division's submission of data and reports required by state and federal law and regulations to ensure that all information is accurate and submitted in a timely fashion. The Superintendent shall provide a list of the required reports and data to division superintendents annually. The status of compliance with this requirement shall be included in the Board's annual report to the Governor and the General Assembly as required by § 22.1-18.

H. Any school board may request the Board for release from state regulations or, on behalf of one or more of its schools, for approval of an Individual School Accreditation Plan for the evaluation of the performance of one or more of its schools as authorized for certain other schools by the Standards for Accreditation pursuant to 8VAC20-131-280 C of the Virginia Administrative Code. Waivers of regulatory requirements may be granted by the Board based on submission of a request from the division superintendent and chairman of the local school board. The Board may grant, for a period up to five years, a waiver of regulatory requirements that are not (i) mandated by state or federal law or (ii) designed to promote health or safety. The school board shall provide in its waiver request a description of how the releases from state regulations are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The Department shall provide (a) guidance to any local school division that requests releases from state regulations and (b) information about opportunities to form partnerships with other agencies or entities to any local school division in which the school or schools granted releases from state regulations have demonstrated improvement in the quality of instruction and the achievement of students.

The Board may also grant local school boards waivers of specific requirements in § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the local school board, permitting the local school board to assign instructional personnel to the schools with the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its request a description of how the waivers from specific Standards of Quality staffing standards are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on student achievement results in the affected school or schools.

I. The Board shall, on or before July 1, 2025, create and maintain the Virginia Parent Data Portal (the Portal).

The Board shall ensure that the Portal:

1. Displays individualized student assessment data on all state-supported assessments (i) in a format that shows both current and cumulative data over time and (ii) within 45 days of a state-supported assessment window closing for each state-supported assessment;

2. Provides (i) a description of the purpose of each state-supported assessment, (ii) an explanation of how to interpret student data on each state-supported assessment, and (iii) a comparison of a student's performance on each state-supported assessment with the performance of the student's school, the student's school division, and the Commonwealth;

3. Is viewable from a mobile device in addition to a desktop computer;

4. Includes language translation to the extent practicable and accessibility features to ensure universal access;

5. Complies with relevant privacy standards, including §§ 2.2-3802 and 22.1-287.02 and 20 U.S.C. § 1232g;

6. Provides functionality to enable school division personnel to manage and restrict user access to students and their parents as defined in § 22.1-1; and

7. Provides functionality to enable local school divisions to upload additional, non-state-supported assessment data for inclusion in the Portal at the discretion of each local school division.

To support implementation of the Portal:

a. The Board shall provide guidance regarding governance of the Portal, including authorized users, user roles, data security, and division-level user management; and

b. The Department shall within 45 days of a state assessment window closing update the Portal with individualized student assessment results on all state-supported assessments and a comparison of a student's performance on each state-supported assessment with the performance of the student's school, the student's school division, and the Commonwealth.

§ 22.1-253.13:5. (For expiration date, see 2022 Acts cc. 549, 550, cl. 2) Standard 5. Quality of classroom instruction and educational leadership.

A. Each member of the Board ~~of Education~~ shall participate in high-quality professional development programs on personnel, curriculum and current issues in education as part of his service on the Board.

B. Consistent with the finding that leadership is essential for the advancement of public education in the Commonwealth, teacher, principal, and superintendent evaluations shall be consistent with the performance standards included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents. Evaluations shall include student academic progress as a significant component and an overall summative rating. Teacher evaluations shall include regular observation and evidence that instruction is aligned with the school's curriculum. Evaluations shall include identification of areas of individual strengths and weaknesses and recommendations for appropriate professional activities. Evaluations shall include an evaluation of cultural competency.

C. The Board ~~of Education~~ shall provide guidance on high-quality professional development for (i) teachers, principals, supervisors, division superintendents, and other school staff; (ii) principals, supervisors, and division superintendents in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel; (iii) school board members on personnel, curriculum and current issues in education; ~~and~~ (iv) programs in Braille for teachers of the blind and visually impaired, in cooperation with the Virginia Department for the Blind and Vision Impaired*; and (v) teachers and principals in parent engagement on and interpretation of student assessment data for state-supported assessments available through the Virginia Parent Data Portal specified in subsection I § 22.1-253.13:3*.

The Board shall also provide technical assistance on high-quality professional development to local school boards designed to ensure that all instructional personnel are proficient in the use of educational technology consistent with its comprehensive plan for educational technology.

The Department shall provide technical assistance to local school divisions to provide professional development to teachers and principals in parent engagement on and interpretation of student assessment data for state-supported assessments available through the Virginia Parent Data Portal specified in subsection I of § 22.1-253.13:3.

D. Each local school board shall require (i) its members to participate annually in high-quality professional development activities at the state, local, or national levels on governance, including, but not limited to, personnel policies and practices; the evaluation of personnel, curriculum, and instruction; use of data in planning and decision making; and current issues in education as part of their service on the local board and (ii) the division superintendent to participate annually in high-quality professional development activities at the local, state, or national levels, including the Standards of Quality, Board ~~of Education~~ regulations, and the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents.

E. Each local school board shall provide a program of high-quality professional development (i) in the use and documentation of performance standards and evaluation criteria based on student academic progress and skills for teachers, principals, and superintendents to clarify roles and performance expectations and to facilitate the successful implementation of instructional programs that promote student achievement at the school and classroom levels; (ii) as part of the license renewal process, to assist teachers and principals in acquiring the skills needed to work with gifted students, students with disabilities, and students who have been identified as having limited English proficiency and to increase student achievement and expand the knowledge and skills students require to meet the standards for academic performance set by the Board ~~of Education~~; (iii) in educational technology for all instructional personnel which is designed to facilitate integration of computer skills and related technology into the curricula; and (iv) for principals and supervisors designed to increase proficiency in instructional leadership and management, including training in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel.

In addition, each local school board shall also provide teachers and principals with high-quality professional development programs each year in (a) instructional content; (b) the preparation of tests and other assessment measures; (c) methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion-referenced tests that match locally developed objectives; (d) instruction and remediation techniques in English, mathematics, science, and history and social science; (e) interpreting test data for instructional purposes; (f) *parent engagement on and interpretation of student assessment data for state-supported assessments available through the Virginia Parent Data Portal specified in subsection I of § 22.1-253.13:3; (g)* technology applications to implement the Standards of Learning; and ~~(g)~~ *(h)* effective classroom management.

F. Schools and school divisions shall include as an integral component of their comprehensive plans required by § 22.1-253.13:6, high-quality professional development programs that support the recruitment, employment, and retention of qualified teachers and principals. Each school board shall require all instructional personnel to participate each year in these professional development programs.

G. Each local school board shall annually review its professional development program for quality, effectiveness, participation by instructional personnel, and relevancy to the instructional needs of teachers and the academic achievement needs of the students in the school division.

§ 22.1-253.13:5. (For effective date, see 2022 Acts cc. 549, 550, cl. 2) Standard 5. Quality of classroom instruction and educational leadership.

A. Each member of the Board ~~of Education~~ shall participate in high-quality professional development programs on personnel, curriculum and current issues in education as part of his service on the Board.

B. Consistent with the finding that leadership is essential for the advancement of public education in the Commonwealth, teacher, principal, and superintendent evaluations shall be consistent with the performance standards included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents. Evaluations shall include student academic progress as a significant component and an overall summative rating. Teacher evaluations shall include regular observation and evidence that instruction is aligned with the school's curriculum. Evaluations shall include identification of areas of individual strengths and weaknesses and recommendations for appropriate professional activities. Evaluations shall include an evaluation of cultural competency.

C. The Board ~~of Education~~ shall provide guidance on high-quality professional development for (i) teachers, principals, supervisors, division superintendents, and other school staff; (ii) principals, supervisors, and division superintendents in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel; (iii) school board members on personnel, curriculum and current issues in education; (iv) teachers of the blind and visually impaired, in cooperation with the Virginia Department for the Blind and Vision Impaired, in Braille; ~~and~~ (v) any individual with an endorsement in early/primary education preschool through grade three, elementary education preschool through grade six, special education general curriculum kindergarten through grade 12, special education deaf and hard of hearing preschool through grade 12, or special education blindness/visual impairments preschool through grade 12 or as a reading specialist in science-based reading research and evidence-based literacy instruction*; and (vi) teachers and principals in parent engagement on and interpretation of student assessment data for state-supported assessments available through the Virginia Parent Data Portal specified in subsection I § 22.1-253.13:3.*

The Board shall also provide technical assistance on high-quality professional development to local school boards designed to ensure that all instructional personnel are proficient in the use of educational technology consistent with its comprehensive plan for educational technology.

The Department shall provide technical assistance, including literacy coaching, to local school divisions to provide professional development in science-based reading research and evidence-based literacy instruction. The Department shall also create a list of professional development programs aligned with science-based reading research and evidence-based literacy instruction that includes programs that provide training in dyslexia for reading specialists as required by subsection G of § 22.1-253.13:2. The list shall be approved by the Board. The Department shall provide resources to local school divisions to ensure that each division is able to provide professional development to teachers and reading specialists listed in subdivision E 2 of § 22.1-253.13:5 in one of the programs enumerated in the list approved by the Board pursuant to this subdivision and that such professional development is provided at no cost to the teachers and reading specialists.

The Department shall provide technical assistance to local school divisions to provide professional development to teachers and principals in parent engagement on and interpretation of student assessment data for state-supported assessments available through the Virginia Parent Data Portal specified in subsection I of § 22.1-253.13:3.

D. Each local school board shall require (i) its members to participate annually in high-quality professional development activities at the state, local, or national levels on governance, including, but not limited to, personnel policies and practices; the evaluation of personnel, curriculum, and instruction; use of data in planning and decision making; and current issues in education as part of their service on the local board and (ii) the division superintendent to participate annually in high-quality professional development activities at the local, state, or national levels, including the Standards of Quality, Board ~~of Education~~ regulations, and the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents.

E. Each local school board shall provide a program of high-quality professional development (i) in the use and documentation of performance standards and evaluation criteria based on student academic progress and skills for teachers,

principals, and superintendents to clarify roles and performance expectations and to facilitate the successful implementation of instructional programs that promote student achievement at the school and classroom levels; (ii) as part of the license renewal process, to assist teachers and principals in acquiring the skills needed to work with gifted students, students with disabilities, and students who have been identified as having limited English proficiency and to increase student achievement and expand the knowledge and skills students require to meet the standards for academic performance set by the Board ~~of Education~~; (iii) in educational technology for all instructional personnel which is designed to facilitate integration of computer skills and related technology into the curricula; and (iv) for principals and supervisors designed to increase proficiency in instructional leadership and management, including training in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel.

In addition, each local school board shall provide:

1. Teachers and principals with high-quality professional development programs each year in (a) instructional content; (b) the preparation of tests and other assessment measures; (c) methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion-referenced tests that match locally developed objectives; (d) instruction and remediation techniques in English, mathematics, science, and history and social science; (e) interpreting test data for instructional purposes; (f) *parent engagement on and interpretation of student assessment data for state-supported assessments available through the Virginia Parent Data Portal specified in subsection I of § 22.1-253.13:3; (g)* technology applications to implement the Standards of Learning; and ~~(g)~~ *(h)* effective classroom management; and

2. High-quality professional development and training in science-based reading research and evidence-based literacy instruction, from the list developed and the resources provided by the Department pursuant to subsection C of § 22.1-253.13:5 or an alternative program that consists of evidence-based literacy instruction and aligns with science-based reading research approved by the Department, for each elementary school principal and each teacher with an endorsement in early/primary education preschool through grade three, elementary education preschool through grade six, special education general curriculum kindergarten through grade 12, special education deaf and hard of hearing preschool through grade 12, or special education blindness/visual impairments preschool through grade 12 or as a reading specialist in order to aid in the licensure renewal process for such individuals.

F. Schools and school divisions shall include as an integral component of their comprehensive plans required by § 22.1-253.13:6, high-quality professional development programs that support the recruitment, employment, and retention of qualified teachers and principals. Each school board shall require all instructional personnel to participate each year in these professional development programs.

G. Each local school board shall annually review its professional development program for quality, effectiveness, participation by instructional personnel, and relevancy to the instructional needs of teachers and the academic achievement needs of the students in the school division.

2. That the provisions of the first enactment of this act shall not become effective unless reenacted by the 2024 Session of the General Assembly.

3. That a work group is hereby established for the purpose of advising the Board of Education on the criteria for and process of procuring the goods and services necessary to implement the Virginia Parent Data Portal as set forth in the first enactment of this act. The work group shall be composed of representatives from each state-sponsored assessment, including the Virginia Kindergarten Readiness Program, the pre-kindergarten through grade three literacy screener (PALS), and the Standards of Learning; at least six but no more than eight parents of public school students who represent a diverse array of school settings, including by grade level, region of the Commonwealth, availability of technology in the local school division, and Title I status; at least four but no more than six public school teachers who represent a similarly diverse array of school settings; school division-level data managers; a school division-level community or parent engagement representative; representatives of the Department of Education with a focus on technology and assessments; a representative of the Virginia Information Technologies Agency; a representative of the Virginia Longitudinal Data System; a representative of the Office of the Secretary of Education; a representative of the Virginia School Counselor Association; one member of the House of Delegates to be appointed by the Speaker of the House of Delegates, giving preference to a member with a child enrolled in a public elementary or secondary school in the Commonwealth; and one member of the Senate of Virginia to be appointed by the Senate Committee on Rules, giving preference to a member with a child enrolled in a public elementary or secondary school in the Commonwealth. The two members of the work group from the House of Delegates and the Senate shall jointly coordinate the meetings and activities of the work group. The work group shall submit a report containing its findings and any recommendations to the Board of Education and the General Assembly no later than November 1, 2023.

CHAPTER 653

An Act to amend and reenact §§ 22.1-1, as it is currently effective and as it shall become effective, 22.1-253.13:3, and 22.1-253.13:5, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to Board of Education; creation and maintenance of Virginia Parent Data Portal; report.

[S 1329]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-1, as it is currently effective and as it shall become effective, 22.1-253.13:3, and 22.1-253.13:5, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 22.1-1. (For expiration date, see 2022 Acts cc. 549, 550, cl. 2) Definitions.

As used in this title, unless the context requires a different meaning:

"Board" or "State Board" means the Board of Education.

"Department" means the Department of Education.

"Division superintendent" means the division superintendent of schools of a school division.

"Elementary" includes kindergarten.

"Elementary and secondary" and "elementary or secondary" include elementary, middle, and high school grades.

"Governing body" or "local governing body" means the board of supervisors of a county, council of a city, or council of a town, responsible for appropriating funds for such locality, as the context may require.

"Middle school" means separate schools for early adolescents and the middle school grades that might be housed at elementary or high schools.

"Parent" or "parents" means any parent, guardian, legal custodian, or other person having control or charge of a child.

"Person of school age" means a person who will have reached his fifth birthday on or before September 30 of the school year and who has not reached twenty years of age on or before August 1 of the school year.

"School board" means the school board that governs a school division.

"State-supported assessment" means any assessment made available statewide by the Board for administration by local school divisions to students in pre-kindergarten through grade 12, including any (i) Standards of Learning assessment described in § 22.1-253.13:3, (ii) grades three through eight reading or mathematics through-year growth assessment described in § 22.1-253.13:3, and (iii) screeners provided by the Department.

"Superintendent" means the Superintendent of Public Instruction.

§ 22.1-1. (For effective date, see 2022 Acts cc. 549, 550, cl. 2) Definitions.

As used in this title, unless the context requires a different meaning:

"Board" or "State Board" means the Board of Education.

"Department" means the Department of Education.

"Division superintendent" means the division superintendent of schools of a school division.

"Elementary" includes kindergarten.

"Elementary and secondary" and "elementary or secondary" include elementary, middle, and high school grades.

"Evidence-based literacy instruction" means structured instructional practices, including sequential, systematic, explicit, and cumulative teaching, that (i) are based on reliable, trustworthy, and valid evidence consistent with science-based reading research; (ii) are used in core or general instruction, supplemental instruction, intervention services, and intensive intervention services; (iii) have a demonstrated record of success in adequately increasing students' reading competency, vocabulary, oral language, and comprehension and in building mastery of the foundational reading skills of phonological and phonemic awareness, alphabetic principle, phonics, spelling, and text reading fluency; and (iv) are able to be differentiated in order to meet the individual needs of students.

"Governing body" or "local governing body" means the board of supervisors of a county, council of a city, or council of a town, responsible for appropriating funds for such locality, as the context may require.

"Middle school" means separate schools for early adolescents and the middle school grades that might be housed at elementary or high schools.

"Parent" or "parents" means any parent, guardian, legal custodian, or other person having control or charge of a child.

"Person of school age" means a person who will have reached his fifth birthday on or before September 30 of the school year and who has not reached twenty years of age on or before August 1 of the school year.

"School board" means the school board that governs a school division.

"Science-based reading research" means research that (i) applies rigorous, systematic, and objective observational or experimental procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading and writing difficulties and (ii) explains how proficient reading and writing develop, why some children have difficulties developing key literacy skills, and how schools can best assess and instruct early literacy, including the use of evidence-based literacy instruction practices to promote reading and writing achievement.

"State-supported assessment" means any assessment made available statewide by the Board for administration by local school divisions to students in pre-kindergarten through grade 12, including any (i) Standards of Learning assessment

described in § 22.1-253.13:3, (ii) grades three through eight reading or mathematics through-year growth assessment described in § 22.1-253.13:3, and (iii) screeners provided by the Department.

"Superintendent" means the Superintendent of Public Instruction.

§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state regulations.

A. The Board shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include (i) student outcome and growth measures, (ii) requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, (iii) administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, (iv) student services, (v) auxiliary education programs such as library and media services, (vi) requirements for graduation from high school, (vii) community relations, and (viii) the philosophy, goals, and objectives of public education in the Commonwealth.

The Board shall promulgate regulations establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time.

The Board's regulations establishing standards for accreditation shall ensure that the accreditation process is transparent and based on objective measurements and that any appeal of the accreditation status of a school is heard and decided by the Board.

The Board shall review annually the accreditation status of all schools in the Commonwealth. The Board shall review the accreditation status of a school once every three years if the school has been fully accredited for three consecutive years. Upon such triennial review, the Board shall review the accreditation status of the school for each individual year within that triennial review period. If the Board finds that the school would have been accredited every year of that triennial review period the Board shall accredit the school for another three years. The Board may review the accreditation status of any other school once every two years or once every three years, provided that any school that receives a multiyear accreditation status other than full accreditation shall be covered by a Board-approved multiyear corrective action plan for the duration of the period of accreditation. Such multiyear corrective action plan shall include annual written progress updates to the Board. A multiyear accreditation status shall not relieve any school or division of annual reporting requirements.

Each local school board shall maintain schools that are fully accredited pursuant to the standards for accreditation as prescribed by the Board. Each local school board shall report the accreditation status of all schools in the local school division annually in public session.

The Board shall establish a review process to assist any school that does not meet the standards established by the Board. The relevant school board shall report the results of such review and any annual progress reports in public session and shall implement any actions identified through such review and utilize them for improvement planning.

The Board shall establish a corrective action plan process for any school that does not meet the standards established by the Board. Such process shall require (a) each school board to submit a corrective action plan for any school in the local school division that does not meet the standards established by the Board and (b) any school board that fails to demonstrate progress in developing or implementing any such corrective action plan to enter into a memorandum of understanding with the Board.

When the Board determines through its review process that the failure of schools within a division to meet the standards established by the Board is related to division-level failure to implement the Standards of Quality or other division-level action or inaction, the Board may require a division-level academic review. After the conduct of such review and within the time specified by the Board, each school board shall enter into a memorandum of understanding with the Board and shall subsequently submit to the Board for approval a corrective action plan, consistent with criteria established by the Board setting forth specific actions and a schedule designed to ensure that schools within its school division meet the standards established by the Board. If the Board determines that the proposed corrective action plan is not sufficient to enable all schools within the division to meet the standards established by the Board, the Board may return the plan to the local school board with directions to submit an amended plan pursuant to Board guidance. Such corrective action plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

B. The Superintendent shall develop, subject to revision by the Board, criteria for determining and recognizing educational performance in the Commonwealth's local school divisions and public schools. The portion of such criteria that measures individual student growth shall become an integral part of the accreditation process for schools in which any grade level in the grade three through eight range is taught. The Superintendent shall annually report to the Board on the accreditation status of all school divisions and schools. Such report shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing educational performance and individual student growth in the school divisions, the Board shall include consideration of special school division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and International Baccalaureate courses, and participation in academic year Governor's Schools.

The Superintendent shall assist local school boards in the implementation of action plans for increasing educational performance and individual student growth in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent shall monitor the implementation of and report to the Board on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

C. With such funds as are available for this purpose, the Board shall prescribe assessment methods to determine the level of achievement of the Standards of Learning objectives by all students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board shall, with the assistance of independent testing experts, conduct a regular analysis and validation process for these assessments. In lieu of a one-time end-of-year assessment, the Board shall establish, for the purpose of providing measures of individual student growth over the course of the school year, a through-year growth assessment system, aligned with the Standards of Learning, for the administration of reading and mathematics assessments in grades three through eight. Such through-year growth assessment system shall include at least one beginning-of-year, one mid-year, and one end-of-year assessment in order to provide individual student growth scores over the course of the school year, but the total time scheduled for taking all such assessments shall not exceed 150 percent of the time scheduled for taking a single end-of-year proficiency assessment. The Department shall ensure adequate training for teachers and principals on how to interpret and use student growth data from such assessments to improve reading and mathematics instruction in grades three through eight throughout the school year. With such funds and content as are available for such purpose, such through-year growth assessment system shall provide accurate measurement of a student's performance, through computer adaptive technology, using test items at, below, and above the student's grade level as necessary.

The Board shall also provide the option of industry certification and state licensure examinations as a student-selected credit.

The Department shall make available to school divisions Standards of Learning assessments typically administered by high schools by December 1 of the school year in which such assessments are to be administered or when newly developed assessments are available, whichever is later.

The Board shall make publicly available such assessments in a timely manner and as soon as practicable following the administration of such tests, so long as the release of such assessments does not compromise test security or deplete the bank of assessment questions necessary to construct subsequent tests, or limit the ability to test students on demand and provide immediate results in the web-based assessment system.

The Board shall prescribe alternative methods of Standards of Learning assessment administration for children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the Board to demonstrate achievement of the Standards of Learning. An eligible student's Individual Education Program team shall make the final determination as to whether an alternative method of administration is appropriate for the student.

The Board shall include in the student outcome and growth measures that are required by the standards of accreditation the required assessments for various grade levels and classes, including the completion of the alternative assessments implemented by each local school board, in accordance with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for English, mathematics, science, and history and social science and may be integrated to include multiple subject areas.

The Standards of Learning assessments administered to students in grades three through eight shall not exceed (i) reading and mathematics in grades three and four; (ii) reading, mathematics, and science in grade five; (iii) reading and mathematics in grades six and seven; (iv) reading, writing, and mathematics in grade eight; (v) science after the student receives instruction in the grade six science, life science, and physical science Standards of Learning and before the student completes grade eight; and (vi) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each local school board. The reading and mathematics assessments administered to students in grades three through eight shall be through-year growth assessments.

Each school board shall annually certify that it has provided instruction and administered an alternative assessment, consistent with Board guidelines, to students in grades three through eight in each Standards of Learning subject area in which a Standards of Learning assessment was not administered during the school year. Such guidelines shall (a) incorporate options for age-appropriate, authentic performance assessments and portfolios with rubrics and other methodologies designed to ensure that students are making adequate academic progress in the subject area and that the Standards of Learning content is being taught; (b) permit and encourage integrated assessments that include multiple subject areas; and (c) emphasize collaboration between teachers to administer and substantiate the assessments and the professional development of teachers to enable them to make the best use of alternative assessments.

Local school divisions shall provide targeted mathematics remediation and intervention to students in grades six through eight who show computational deficiencies as demonstrated by their individual performance on any diagnostic test or grade-level Standards of Learning mathematics test that measures non-calculator computational skills.

The Department shall award recovery credit to any student in grades three through eight who performs below grade level on a Standards of Learning assessment in English reading or mathematics, receives remediation, and subsequently retakes and performs at or above grade level on such an assessment, including any such student who subsequently retakes such an assessment on an expedited basis.

In addition, to assess the educational progress of students, the Board shall (1) develop appropriate assessments, which may include criterion-referenced tests and other assessment instruments that may be used by classroom teachers; (2) select appropriate industry certification and state licensure examinations; and (3) prescribe and provide measures, which may include nationally normed tests to be used to identify students who score in the bottom quartile at selected grade levels.

The Standards of Learning requirements, including all related assessments, shall be waived for any student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to § 30-231.2, who is enrolled in a

preparation program for a high school equivalency examination approved by the Board or in an adult basic education program or an adult secondary education program to obtain the high school diploma or a high school equivalency certificate.

The Department shall develop processes for informing school divisions of changes in the Standards of Learning.

The Board may adopt special provisions related to the administration and use of any Standards of Learning test or tests in a content area as applied to accreditation ratings for any period during which the Standards of Learning content or assessments in that area are being revised and phased in. Prior to statewide administration of such tests, the Board shall provide notice to local school boards regarding such special provisions.

The Board shall not include in its calculation of the passage rate for a Standards of Learning assessment or the level of achievement of the Standards of Learning objectives for an individual student growth assessment for the purposes of state accountability any student whose parent has decided to not have his child take such Standards of Learning assessment, unless such exclusions would result in the school's not meeting any required state or federal participation rate.

D. The Board may pursue all available civil remedies pursuant to § 22.1-19.1 or administrative action pursuant to § 22.1-292.1 for breaches in test security and unauthorized alteration of test materials or test results.

The Board may initiate or cause to be initiated a review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests, including the exclusion of students from testing who are required to be assessed, by local school board employees responsible for the distribution or administration of the tests.

Records and other information furnished to or prepared by the Board during the conduct of a review or investigation may be withheld pursuant to subdivision 10 of § 2.2-3705.3. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any local school board or division superintendent receiving such records or other information shall, upon taking personnel action against a relevant employee, place copies of such records or information relating to the specific employee in such person's personnel file.

Notwithstanding any other provision of state law, no test or examination authorized by this section, including the Standards of Learning assessments, shall be released or required to be released as minimum competency tests, if, in the judgment of the Board, such release would breach the security of such test or examination or deplete the bank of questions necessary to construct future secure tests.

E. With such funds as may be appropriated, the Board may provide, through an agreement with vendors having the technical capacity and expertise to provide computerized tests and assessments, and test construction, analysis, and security, for (i) web-based computerized tests and assessments, including computer-adaptive Standards of Learning assessments, for the evaluation of student progress during and after remediation and (ii) the development of a remediation item bank directly related to the Standards of Learning.

F. To assess the educational progress of students as individuals and as groups, each local school board shall require the use of Standards of Learning assessments, alternative assessments, and other relevant data, such as industry certification and state licensure examinations, to evaluate student progress and to determine educational performance. Each local school shall require the administration of appropriate assessments to students, which may include criterion-referenced tests and teacher-made tests and shall include the Standards of Learning assessments, the local school board's alternative assessments, and the National Assessment of Educational Progress state-by-state assessment. Each school board shall analyze and report annually, in compliance with any criteria that may be established by the Board, the results from industry certification examinations and the Standards of Learning Assessments to the public.

The Board shall include requirements for the reporting of the Standards of Learning assessment data, regardless of accreditation frequency, as part of the Board's requirements relating to the School Performance Report Card. Such scores shall be disaggregated for each school by student subgroups on the Virginia assessment program as appropriate and shall be reported to the public within three months of their receipt. These reports (i) shall be posted on the portion of the Department's website relating to the School Performance Report Card, in a format and in a manner that allows year-to-year comparisons, and (ii) may include the National Assessment of Educational Progress state-by-state assessment.

G. Each local school division superintendent shall regularly review the division's submission of data and reports required by state and federal law and regulations to ensure that all information is accurate and submitted in a timely fashion. The Superintendent shall provide a list of the required reports and data to division superintendents annually. The status of compliance with this requirement shall be included in the Board's annual report to the Governor and the General Assembly as required by § 22.1-18.

H. Any school board may request the Board for release from state regulations or, on behalf of one or more of its schools, for approval of an Individual School Accreditation Plan for the evaluation of the performance of one or more of its schools as authorized for certain other schools by the Standards for Accreditation pursuant to 8VAC20-131-280 C of the Virginia Administrative Code. Waivers of regulatory requirements may be granted by the Board based on submission of a request from the division superintendent and chairman of the local school board. The Board may grant, for a period up to five years, a waiver of regulatory requirements that are not (i) mandated by state or federal law or (ii) designed to promote health or safety. The school board shall provide in its waiver request a description of how the releases from state regulations

are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The Department shall provide (a) guidance to any local school division that requests releases from state regulations and (b) information about opportunities to form partnerships with other agencies or entities to any local school division in which the school or schools granted releases from state regulations have demonstrated improvement in the quality of instruction and the achievement of students.

The Board may also grant local school boards waivers of specific requirements in § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the local school board, permitting the local school board to assign instructional personnel to the schools with the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its request a description of how the waivers from specific Standards of Quality staffing standards are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on student achievement results in the affected school or schools.

I. The Board shall, on or before July 1, 2025, create and maintain the Virginia Parent Data Portal (the Portal).

The Board shall ensure that the Portal:

1. Displays individualized student assessment data on all state-supported assessments (i) in a format that shows both current and cumulative data over time and (ii) within 45 days of a state-supported assessment window closing for each state-supported assessment;

2. Provides (i) a description of the purpose of each state-supported assessment, (ii) an explanation of how to interpret student data on each state-supported assessment, and (iii) a comparison of a student's performance on each state-supported assessment with the performance of the student's school, the student's school division, and the Commonwealth;

3. Is viewable from a mobile device in addition to a desktop computer;

4. Includes language translation to the extent practicable and accessibility features to ensure universal access;

5. Complies with relevant privacy standards, including §§ 2.2-3802 and 22.1-287.02 and 20 U.S.C. § 1232g;

6. Provides functionality to enable school division personnel to manage and restrict user access to students and their parents as defined in § 22.1-1; and

7. Provides functionality to enable local school divisions to upload additional, non-state-supported assessment data for inclusion in the Portal at the discretion of each local school division.

To support implementation of the Portal:

a. The Board shall provide guidance regarding governance of the Portal, including authorized users, user roles, data security, and division-level user management; and

b. The Department shall within 45 days of a state assessment window closing update the Portal with individualized student assessment results on all state-supported assessments and a comparison of a student's performance on each state-supported assessment with the performance of the student's school, the student's school division, and the Commonwealth.

§ 22.1-253.13:5. (For expiration date, see 2022 Acts cc. 549, 550, cl. 2) Standard 5. Quality of classroom instruction and educational leadership.

A. Each member of the Board ~~of Education~~ shall participate in high-quality professional development programs on personnel, curriculum and current issues in education as part of his service on the Board.

B. Consistent with the finding that leadership is essential for the advancement of public education in the Commonwealth, teacher, principal, and superintendent evaluations shall be consistent with the performance standards included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents. Evaluations shall include student academic progress as a significant component and an overall summative rating. Teacher evaluations shall include regular observation and evidence that instruction is aligned with the school's curriculum. Evaluations shall include identification of areas of individual strengths and weaknesses and recommendations for appropriate professional activities. Evaluations shall include an evaluation of cultural competency.

C. The Board ~~of Education~~ shall provide guidance on high-quality professional development for (i) teachers, principals, supervisors, division superintendents, and other school staff; (ii) principals, supervisors, and division superintendents in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel; (iii) school board members on personnel, curriculum and current issues in education; ~~and~~ (iv) programs in Braille for teachers of the blind and visually impaired, in cooperation with the Virginia Department for the Blind and Vision Impaired*; and (v) teachers and principals in parent engagement on and interpretation of student assessment data for state-supported assessments available through the Virginia Parent Data Portal specified in subsection I § 22.1-253.13:3*.

The Board shall also provide technical assistance on high-quality professional development to local school boards designed to ensure that all instructional personnel are proficient in the use of educational technology consistent with its comprehensive plan for educational technology.

The Department shall provide technical assistance to local school divisions to provide professional development to teachers and principals in parent engagement on and interpretation of student assessment data for state-supported assessments available through the Virginia Parent Data Portal specified in subsection I of § 22.1-253.13:3.

D. Each local school board shall require (i) its members to participate annually in high-quality professional development activities at the state, local, or national levels on governance, including, but not limited to, personnel policies and practices; the evaluation of personnel, curriculum, and instruction; use of data in planning and decision making; and current issues in education as part of their service on the local board and (ii) the division superintendent to participate annually in high-quality professional development activities at the local, state, or national levels, including the Standards of Quality, Board ~~of Education~~ regulations, and the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents.

E. Each local school board shall provide a program of high-quality professional development (i) in the use and documentation of performance standards and evaluation criteria based on student academic progress and skills for teachers, principals, and superintendents to clarify roles and performance expectations and to facilitate the successful implementation of instructional programs that promote student achievement at the school and classroom levels; (ii) as part of the license renewal process, to assist teachers and principals in acquiring the skills needed to work with gifted students, students with disabilities, and students who have been identified as having limited English proficiency and to increase student achievement and expand the knowledge and skills students require to meet the standards for academic performance set by the Board ~~of Education~~; (iii) in educational technology for all instructional personnel which is designed to facilitate integration of computer skills and related technology into the curricula; and (iv) for principals and supervisors designed to increase proficiency in instructional leadership and management, including training in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel.

In addition, each local school board shall also provide teachers and principals with high-quality professional development programs each year in (a) instructional content; (b) the preparation of tests and other assessment measures; (c) methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion-referenced tests that match locally developed objectives; (d) instruction and remediation techniques in English, mathematics, science, and history and social science; (e) interpreting test data for instructional purposes; (f) *parent engagement on and interpretation of student assessment data for state-supported assessments available through the Virginia Parent Data Portal specified in subsection I of § 22.1-253.13:3; (g)* technology applications to implement the Standards of Learning; and ~~(g)~~ *(h)* effective classroom management.

F. Schools and school divisions shall include as an integral component of their comprehensive plans required by § 22.1-253.13:6, high-quality professional development programs that support the recruitment, employment, and retention of qualified teachers and principals. Each school board shall require all instructional personnel to participate each year in these professional development programs.

G. Each local school board shall annually review its professional development program for quality, effectiveness, participation by instructional personnel, and relevancy to the instructional needs of teachers and the academic achievement needs of the students in the school division.

§ 22.1-253.13:5. (For effective date, see 2022 Acts cc. 549, 550, cl. 2) Standard 5. Quality of classroom instruction and educational leadership.

A. Each member of the Board ~~of Education~~ shall participate in high-quality professional development programs on personnel, curriculum and current issues in education as part of his service on the Board.

B. Consistent with the finding that leadership is essential for the advancement of public education in the Commonwealth, teacher, principal, and superintendent evaluations shall be consistent with the performance standards included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents. Evaluations shall include student academic progress as a significant component and an overall summative rating. Teacher evaluations shall include regular observation and evidence that instruction is aligned with the school's curriculum. Evaluations shall include identification of areas of individual strengths and weaknesses and recommendations for appropriate professional activities. Evaluations shall include an evaluation of cultural competency.

C. The Board ~~of Education~~ shall provide guidance on high-quality professional development for (i) teachers, principals, supervisors, division superintendents, and other school staff; (ii) principals, supervisors, and division superintendents in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel; (iii) school board members on personnel, curriculum and current issues in education; (iv) teachers of the blind and visually impaired, in cooperation with the Virginia Department for the Blind and Vision Impaired, in Braille; ~~and~~ (v) any individual with an endorsement in early/primary education preschool through grade three, elementary education preschool through grade six, special education general curriculum kindergarten through grade 12, special education deaf and hard of hearing preschool through grade 12, or special education blindness/visual impairments preschool through grade 12 or as a reading specialist in science-based reading research and evidence-based literacy instruction*; and (vi) teachers and principals in parent engagement on and interpretation of student assessment data for state-supported assessments available through the Virginia Parent Data Portal specified in subsection I § 22.1-253.13:3*.

The Board shall also provide technical assistance on high-quality professional development to local school boards designed to ensure that all instructional personnel are proficient in the use of educational technology consistent with its comprehensive plan for educational technology.

The Department shall provide technical assistance, including literacy coaching, to local school divisions to provide professional development in science-based reading research and evidence-based literacy instruction. The Department shall also create a list of professional development programs aligned with science-based reading research and evidence-based literacy instruction that includes programs that provide training in dyslexia for reading specialists as required by subsection G of § 22.1-253.13:2. The list shall be approved by the Board. The Department shall provide resources to local school divisions to ensure that each division is able to provide professional development to teachers and reading specialists listed in subdivision E 2 of § 22.1-253.13:5 in one of the programs enumerated in the list approved by the Board pursuant to this subdivision and that such professional development is provided at no cost to the teachers and reading specialists.

The Department shall provide technical assistance to local school divisions to provide professional development to teachers and principals in parent engagement on and interpretation of student assessment data for state-supported assessments available through the Virginia Parent Data Portal specified in subsection I of § 22.1-253.13:3.

D. Each local school board shall require (i) its members to participate annually in high-quality professional development activities at the state, local, or national levels on governance, including, but not limited to, personnel policies and practices; the evaluation of personnel, curriculum, and instruction; use of data in planning and decision making; and current issues in education as part of their service on the local board and (ii) the division superintendent to participate annually in high-quality professional development activities at the local, state, or national levels, including the Standards of Quality, Board ~~of Education~~ regulations, and the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents.

E. Each local school board shall provide a program of high-quality professional development (i) in the use and documentation of performance standards and evaluation criteria based on student academic progress and skills for teachers, principals, and superintendents to clarify roles and performance expectations and to facilitate the successful implementation of instructional programs that promote student achievement at the school and classroom levels; (ii) as part of the license renewal process, to assist teachers and principals in acquiring the skills needed to work with gifted students, students with disabilities, and students who have been identified as having limited English proficiency and to increase student achievement and expand the knowledge and skills students require to meet the standards for academic performance set by the Board ~~of Education~~; (iii) in educational technology for all instructional personnel which is designed to facilitate integration of computer skills and related technology into the curricula; and (iv) for principals and supervisors designed to increase proficiency in instructional leadership and management, including training in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel.

In addition, each local school board shall provide:

1. Teachers and principals with high-quality professional development programs each year in (a) instructional content; (b) the preparation of tests and other assessment measures; (c) methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion-referenced tests that match locally developed objectives; (d) instruction and remediation techniques in English, mathematics, science, and history and social science; (e) interpreting test data for instructional purposes; (f) *parent engagement on and interpretation of student assessment data for state-supported assessments available through the Virginia Parent Data Portal specified in subsection I of § 22.1-253.13:3; (g)* technology applications to implement the Standards of Learning; and ~~(g)~~ *(h)* effective classroom management; and

2. High-quality professional development and training in science-based reading research and evidence-based literacy instruction, from the list developed and the resources provided by the Department pursuant to subsection C of § 22.1-253.13:5 or an alternative program that consists of evidence-based literacy instruction and aligns with science-based reading research approved by the Department, for each elementary school principal and each teacher with an endorsement in early/primary education preschool through grade three, elementary education preschool through grade six, special education general curriculum kindergarten through grade 12, special education deaf and hard of hearing preschool through grade 12, or special education blindness/visual impairments preschool through grade 12 or as a reading specialist in order to aid in the licensure renewal process for such individuals.

F. Schools and school divisions shall include as an integral component of their comprehensive plans required by § 22.1-253.13:6, high-quality professional development programs that support the recruitment, employment, and retention of qualified teachers and principals. Each school board shall require all instructional personnel to participate each year in these professional development programs.

G. Each local school board shall annually review its professional development program for quality, effectiveness, participation by instructional personnel, and relevancy to the instructional needs of teachers and the academic achievement needs of the students in the school division.

2. That the provisions of the first enactment of this act shall not become effective unless reenacted by the 2024 Session of the General Assembly.

3. That a work group is hereby established for the purpose of advising the Board of Education on the criteria for and process of procuring the goods and services necessary to implement the Virginia Parent Data Portal as set forth in the first enactment of this act. The work group shall be composed of representatives from each state-sponsored assessment, including the Virginia Kindergarten Readiness Program, the pre-kindergarten through grade three literacy screener (PALS), and the Standards of Learning; at least six but no more than eight parents of public school

students who represent a diverse array of school settings, including by grade level, region of the Commonwealth, availability of technology in the local school division, and Title I status; at least four but no more than six public school teachers who represent a similarly diverse array of school settings; school division-level data managers; a school division-level community or parent engagement representative; representatives of the Department of Education with a focus on technology and assessments; a representative of the Virginia Information Technologies Agency; a representative of the Virginia Longitudinal Data System; a representative of the Office of the Secretary of Education; a representative of the Virginia School Counselor Association; one member of the House of Delegates to be appointed by the Speaker of the House of Delegates, giving preference to a member with a child enrolled in a public elementary or secondary school in the Commonwealth; and one member of the Senate of Virginia to be appointed by the Senate Committee on Rules, giving preference to a member with a child enrolled in a public elementary or secondary school in the Commonwealth. The two members of the work group from the House of Delegates and the Senate shall jointly coordinate the meetings and activities of the work group. The work group shall submit a report containing its findings and any recommendations to the Board of Education and the General Assembly no later than November 1, 2023.

CHAPTER 654

An Act to direct the Department of Health to convene a work group related to expansion of the perinatal health hub model.

[H 1567]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Department of Health, in collaboration with the Virginia Neonatal Perinatal Collaborative, the Virginia Maternal Quality Care Alliance, and Urban Baby Beginnings, shall convene a work group to evaluate strategies to reduce maternal and infant mortality rates and make recommendations to enhance maternal health and public health support systems through expansion of the perinatal health hub model. The work group shall receive guidance from the Virginia Health Care Foundation and shall include representatives from the Department of Medical Assistance Services, managed care organizations, and the Maternal Mortality Review Team, along with licensed and unlicensed providers of maternal and child health services, community health care workers, stakeholder groups, faith-based organizations, and community-based organizations. The work group shall (i) analyze federal and state regulations and funding mechanisms impacting establishment of perinatal health hubs; (ii) review evidence-based strategies for the implementation of perinatal health hubs and the community impact of existing perinatal health hubs; and (iii) project estimated costs of implementing the work group's recommendations for the next five years. The Department of Health shall report on the results and recommendations of the work group to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by December 1, 2023.*

CHAPTER 655

An Act to amend the Code of Virginia by adding in Title 30 a chapter numbered 66, consisting of sections numbered 30-421 through 30-429, and to repeal Article 11 (§§ 2.2-2544 through 2.2-2550) of Chapter 25 of Title 2.2 of the Code of Virginia, relating to the American Revolution 250 Commission; report.

[H 2415]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 30 a chapter numbered 66, consisting of sections numbered 30-421 through 30-429, as follows:

CHAPTER 66.

AMERICAN REVOLUTION 250 COMMISSION.

§ 30-421. American Revolution 250 Commission; purpose.

The American Revolution 250 Commission (the Commission) is established in the legislative branch of state government. The purpose of the Commission is to commemorate the 250th anniversary of the American Revolution, the Revolutionary War, and the independence of the United States.

§ 30-422. Membership; terms; vacancies; chairman and vice-chairman.

A. The Commission shall have a total membership of 27 members that shall consist of five legislative members, 17 nonlegislative citizen members, and five ex officio members. Members shall be appointed as follows:

1. Two members of the Senate, to be appointed by the Senate Committee on Rules;

2. Three members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates;

3. One representative from each of the lead commemoration partners: the Jamestown-Yorktown Foundation, the primary state agency; the Virginia Museum of History & Culture, the primary nonstate agency; and Gunston Hall, the primary representative of Virginia's historic homes and related sites;

4. One representative from the American Battlefield Trust, the secretariat of the United States Semiquincentennial Commission, and one representative from the Virginia Bar Association;

5. Six members appointed by the Governor from a list of 10 provided by the Jamestown-Yorktown Foundation; and

6. Six members appointed by the Governor from a list of 10 provided by the Virginia Museum of History & Culture.

The Secretary of Education, the Librarian of Virginia, the Director of the Department of Historic Resources, the Executive Director of Virginia Humanities, and the Chief Executive Officer of the Virginia Tourism Authority, or their designees, shall serve as ex officio members with voting privileges. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth.

B. The Commission shall elect a chairman and vice-chairman from among its membership.

C. Legislative members of the Commission shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for the duration of the Commission's activities. Appointments to fill vacancies shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

§ 30-423. Quorum; meetings.

A majority of the members shall constitute a quorum. The meetings of the Commission shall be held at the call of the chairman or whenever a majority of the members so request.

§ 30-424. Compensation; expenses.

Legislative members of the Commission shall receive such compensation as provided in § 30-19.12. Nonlegislative citizen members of the Commission shall not receive compensation or reimbursement for travel and other expenses incurred in the performance of their duties.

§ 30-425. Powers and duties of the Commission.

A. The Commission shall have the following powers and duties:

1. Formulate and implement a program for the inclusive observance of the 250th anniversary of the independence of the United States and the Revolutionary War in Virginia, including (i) civic, cultural, and historical education and scholarship concerning the ideals of the American Revolution and their contemporary relevance; (ii) visitation of museums and historic sites, including battlefields; (iii) creation and publication of historical documents and studies; (iv) cooperation with agencies responsible for the preservation or restoration of historic sites, buildings, art, and artifacts; (v) establishment of exhibitions and interpretive and wayfinding signage; (vi) arrangement of appropriate public ceremonies; (vii) a comprehensive marketing and tourism campaign encompassing calendar year 2025 through calendar year 2026; and (viii) the general dissemination of public information regarding Virginia's involvement in the American Revolution and its legacy today;

2. Appoint and establish an advisory council composed of nonlegislative citizen members at large who have a knowledge of relevant history or expertise in areas useful to the work of the Commission, including a representative of the Sons of the Revolution in the Commonwealth of Virginia, a representative of the Virginia Daughters of the American Revolution, and a representative of the National Washington-Rochambeau Revolutionary Route Association. The advisory council shall make recommendations and provide comment as requested by the Commission. The Commission may from time to time appoint, add, or remove members of the advisory council. Members of the advisory council shall serve without compensation or reimbursement;

3. Appoint and establish an executive committee composed of members of the Commission, including the Commission's chairman and vice-chairman and one representative designated by each of the following: the Jamestown-Yorktown Foundation, the Virginia Museum of History & Culture, and Gunston Hall; and

4. Perform such other duties, functions, and activities as may be necessary to facilitate and implement the objectives of the Commission.

B. The Commission may solicit, accept, use, and dispose of gifts, grants, donations, bequests, or other funds or real or personal property for the purpose of aiding or facilitating the work of the Commission. In accordance with the appropriation act, the Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements as it may deem necessary to carry out its duties as set forth in this chapter. No contract, lease, or other legal agreement shall be entered into by the Commission that extends beyond the date of expiration of the Commission.

§ 30-426. Staffing.

The Commission may appoint and employ and, at its pleasure, remove an executive director and such other persons as it deems necessary to assist it in carrying out its duties as set forth in this chapter. The Commission may determine the duties of such staff and fix their salaries or compensation within the amounts appropriated thereof. If funds are not appropriated for staffing, the Joint Rules Committee shall determine the staffing support for the Commission.

Administrative staff support shall be provided by the Office of the Clerk of the Senate or the Office of the Clerk of the House of Delegates as may be appropriate for the house in which the chairman of the Commission serves. The Division of Legislative Services shall serve as fiscal agent and provide legal services as requested by the Commission. All agencies and political subdivisions of the Commonwealth shall provide assistance to the Commission, upon request.

§ 30-427. Chairman's executive summary of activity and work of the Commission; report.

The chairman shall submit to the General Assembly and the Governor an annual executive summary of the interim activity and work of the Commission no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 30-428. Virginia American Revolution 250 Commission Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia American Revolution 250 Commission Fund, hereafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller and shall consist of gifts, grants, donations, bequests, or other funds from any source as may be received by the Commission for its work. Moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of enabling the Commission to perform its duties. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request of the chairman of the Commission.

§ 30-429. Sunset.

This chapter shall expire on July 1, 2032.

2. That Article 11 (§§ 2.2-2544 through 2.2-2550) of Chapter 25 of Title 2.2 of the Code of Virginia is repealed.

3. That any unexpended balances as of June 30, 2023, of the American Revolution 250 Commission, as established by Chapters 914 and 915 of the Acts of Assembly of 2020, that have accrued in the executive department pursuant to a general appropriation act shall be transferred to the American Revolution 250 Commission, as established in the legislative branch by this act.

4. That as of July 1, 2023, the American Revolution 250 Commission established by this act shall be deemed successor in interest to the American Revolution 250 Commission established pursuant to Chapters 914 and 915 of the Acts of Assembly of 2020. All rights, title, and interest in and to any real or tangible personal property vested in the American Revolution 250 Commission established pursuant to Chapters 914 and 915 of the Acts of Assembly of 2020 shall be transferred to and taken as standing in the name of the American Revolution 250 Commission established by this act.

5. That the members of the American Revolution 250 Commission (the Commission) appointed pursuant to Chapters 914 and 915 of the Acts of Assembly of 2020 or Chapters 685 and 687 of the Acts of Assembly of 2022 shall continue to serve on the Commission pursuant to their original appointments.

CHAPTER 656

An Act to amend the Code of Virginia by adding in Title 30 a chapter numbered 66, consisting of sections numbered 30-421 through 30-429, and to repeal Article 11 (§§ 2.2-2544 through 2.2-2550) of Chapter 25 of Title 2.2 of the Code of Virginia, relating to the American Revolution 250 Commission; report.

[S 1412]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 30 a chapter numbered 66, consisting of sections numbered 30-421 through 30-429, as follows:

CHAPTER 66.

AMERICAN REVOLUTION 250 COMMISSION.

§ 30-421. American Revolution 250 Commission; purpose.

The American Revolution 250 Commission (the Commission) is established in the legislative branch of state government. The purpose of the Commission is to commemorate the 250th anniversary of the American Revolution, the Revolutionary War, and the independence of the United States.

§ 30-422. Membership; terms; vacancies; chairman and vice-chairman.

A. The Commission shall have a total membership of 27 members that shall consist of five legislative members, 17 nonlegislative citizen members, and five ex officio members. Members shall be appointed as follows:

1. Two members of the Senate, to be appointed by the Senate Committee on Rules;

2. Three members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates;

3. One representative from each of the lead commemoration partners: the Jamestown-Yorktown Foundation, the primary state agency; the Virginia Museum of History & Culture, the primary nonstate agency; and Gunston Hall, the primary representative of Virginia's historic homes and related sites;

4. One representative from the American Battlefield Trust, the secretariat of the United States Semiquincentennial Commission, and one representative from the Virginia Bar Association;

5. Six members appointed by the Governor from a list of 10 provided by the Jamestown-Yorktown Foundation; and

6. Six members appointed by the Governor from a list of 10 provided by the Virginia Museum of History & Culture.

The Secretary of Education, the Librarian of Virginia, the Director of the Department of Historic Resources, the Executive Director of Virginia Humanities, and the Chief Executive Officer of the Virginia Tourism Authority, or their designees, shall serve as ex officio members with voting privileges. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth.

B. The Commission shall elect a chairman and vice-chairman from among its membership.

C. Legislative members of the Commission shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for the duration of the Commission's activities. Appointments to fill vacancies shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

§ 30-423. Quorum; meetings.

A majority of the members shall constitute a quorum. The meetings of the Commission shall be held at the call of the chairman or whenever a majority of the members so request.

§ 30-424. Compensation; expenses.

Legislative members of the Commission shall receive such compensation as provided in § 30-19.12. Nonlegislative citizen members of the Commission shall not receive compensation or reimbursement for travel and other expenses incurred in the performance of their duties.

§ 30-425. Powers and duties of the Commission.

A. The Commission shall have the following powers and duties:

1. Formulate and implement a program for the inclusive observance of the 250th anniversary of the independence of the United States and the Revolutionary War in Virginia, including (i) civic, cultural, and historical education and scholarship concerning the ideals of the American Revolution and their contemporary relevance; (ii) visitation of museums and historic sites, including battlefields; (iii) creation and publication of historical documents and studies; (iv) cooperation with agencies responsible for the preservation or restoration of historic sites, buildings, art, and artifacts; (v) establishment of exhibitions and interpretive and wayfinding signage; (vi) arrangement of appropriate public ceremonies; (vii) a comprehensive marketing and tourism campaign encompassing calendar year 2025 through calendar year 2026; and (viii) the general dissemination of public information regarding Virginia's involvement in the American Revolution and its legacy today;

2. Appoint and establish an advisory council composed of nonlegislative citizen members at large who have a knowledge of relevant history or expertise in areas useful to the work of the Commission, including a representative of the Sons of the Revolution in the Commonwealth of Virginia, a representative of the Virginia Daughters of the American Revolution, and a representative of the National Washington-Rochambeau Revolutionary Route Association. The advisory council shall make recommendations and provide comment as requested by the Commission. The Commission may from time to time appoint, add, or remove members of the advisory council. Members of the advisory council shall serve without compensation or reimbursement;

3. Appoint and establish an executive committee composed of members of the Commission, including the Commission's chairman and vice-chairman and one representative designated by each of the following: the Jamestown-Yorktown Foundation, the Virginia Museum of History & Culture, and Gunston Hall; and

4. Perform such other duties, functions, and activities as may be necessary to facilitate and implement the objectives of the Commission.

B. The Commission may solicit, accept, use, and dispose of gifts, grants, donations, bequests, or other funds or real or personal property for the purpose of aiding or facilitating the work of the Commission. In accordance with the appropriation act, the Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements as it may deem necessary to carry out its duties as set forth in this chapter. No contract, lease, or other legal agreement shall be entered into by the Commission that extends beyond the date of expiration of the Commission.

§ 30-426. Staffing.

The Commission may appoint and employ and, at its pleasure, remove an executive director and such other persons as it deems necessary to assist it in carrying out its duties as set forth in this chapter. The Commission may determine the duties of such staff and fix their salaries or compensation within the amounts appropriated thereof. If funds are not appropriated for staffing, the Joint Rules Committee shall determine the staffing support for the Commission.

Administrative staff support shall be provided by the Office of the Clerk of the Senate or the Office of the Clerk of the House of Delegates as may be appropriate for the house in which the chairman of the Commission serves. The Division of Legislative Services shall serve as fiscal agent and provide legal services as requested by the Commission. All agencies and political subdivisions of the Commonwealth shall provide assistance to the Commission, upon request.

§ 30-427. Chairman's executive summary of activity and work of the Commission; report.

The chairman shall submit to the General Assembly and the Governor an annual executive summary of the interim activity and work of the Commission no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 30-428. Virginia American Revolution 250 Commission Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia American Revolution 250 Commission Fund, hereafter referred to as the "Fund." The Fund shall be established on the books of the

Comptroller and shall consist of gifts, grants, donations, bequests, or other funds from any source as may be received by the Commission for its work. Moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of enabling the Commission to perform its duties. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request of the chairman of the Commission.

§ 30-429. Sunset.

This chapter shall expire on July 1, 2032.

2. That Article 11 (§§ 2.2-2544 through 2.2-2550) of Chapter 25 of Title 2.2 of the Code of Virginia is repealed.

3. That any unexpended balances as of June 30, 2023, of the American Revolution 250 Commission, as established by Chapters 914 and 915 of the Acts of Assembly of 2020, that have accrued in the executive department pursuant to a general appropriation act shall be transferred to the American Revolution 250 Commission, as established in the legislative branch by this act.

4. That as of July 1, 2023, the American Revolution 250 Commission established by this act shall be deemed successor in interest to the American Revolution 250 Commission established pursuant to Chapters 914 and 915 of the Acts of Assembly of 2020. All rights, title, and interest in and to any real or tangible personal property vested in the American Revolution 250 Commission established pursuant to Chapters 914 and 915 of the Acts of Assembly of 2020 shall be transferred to and taken as standing in the name of the American Revolution 250 Commission established by this act.

5. That the members of the American Revolution 250 Commission (the Commission) appointed pursuant to Chapters 914 and 915 of the Acts of Assembly of 2020 or Chapters 685 and 687 of the Acts of Assembly of 2022 shall continue to serve on the Commission pursuant to their original appointments.

CHAPTER 657

An Act to amend and reenact § 53.1-2 of the Code of Virginia, relating to State Board of Local and Regional Jails; membership.

[H 2438]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-2 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-2. Appointment of members; qualifications; terms and vacancies.

There shall be a State Board of Local and Regional Jails, which shall consist of ~~nine~~ *11* residents of the Commonwealth appointed by the Governor and subject to confirmation by the General Assembly. In making appointments, the Governor shall endeavor to select appointees of such qualifications and experience that the membership of the Board shall include persons suitably qualified to consider and act upon the various matters under the Board's jurisdiction. Members of the Board shall be appointed as follows: (i) one former sheriff ~~or~~*; (ii)* one former ~~warden,~~ superintendent~~, administrator, or operations manager~~ of a ~~state or local correctional~~ *regional jail* facility; ~~(ii)~~ *(iii)* ~~one individual~~ *two individuals* employed by a public mental health services agency with training in or clinical, managerial, or other relevant experience working with individuals subject to the criminal justice system who have mental illness; ~~(iii)~~ *(iv)* one individual with experience overseeing a correctional facility's or mental health facility's compliance with applicable laws, rules, and regulations; ~~(iv)~~ *(v)* one physician licensed in the Commonwealth; ~~(v)~~ *(vi)* one individual with experience in administering educational or vocational programs in state or local correctional facilities; ~~(vi)~~ *(vii)* one individual with experience in financial management or performing audit investigations; ~~(vii)~~ *(viii)* one citizen member who represents community interests; and ~~(viii)~~ *(ix)* two individuals with experience in conducting criminal, civil, or death investigations.

Members of the Board shall serve at the pleasure of the Governor and shall be appointed for terms of four years. A vacancy other than by expiration of *a* term shall be filled by the Governor for the unexpired term.

No person shall be eligible to serve more than two full consecutive four-year terms.

CHAPTER 658

An Act to amend and reenact § 53.1-2 of the Code of Virginia, relating to State Board of Local and Regional Jails; membership.

[S 797]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-2 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-2. Appointment of members; qualifications; terms and vacancies.

There shall be a State Board of Local and Regional Jails, which shall consist of ~~nine~~ *11* residents of the Commonwealth appointed by the Governor and subject to confirmation by the General Assembly. In making appointments, the Governor shall endeavor to select appointees of such qualifications and experience that the membership of the Board shall include persons suitably qualified to consider and act upon the various matters under the Board's jurisdiction. Members of the Board shall be appointed as follows: (i) one former sheriff ~~or~~*; (ii)* one former ~~warden,~~ superintendent~~, administrator, or operations manager~~ of a ~~state or local correctional~~ *regional jail* facility; ~~(ii)~~ *(iii)* ~~one individual~~ *two individuals* employed by a public mental health services agency with training in or clinical, managerial, or other relevant experience working with individuals subject to the criminal justice system who have mental illness; ~~(iii)~~ *(iv)* one individual with experience overseeing a correctional facility's or mental health facility's compliance with applicable laws, rules, and regulations; ~~(iv)~~ *(v)* one physician licensed in the Commonwealth; ~~(v)~~ *(vi)* one individual with experience in administering educational or vocational programs in state or local correctional facilities; ~~(vi)~~ *(vii)* one individual with experience in financial management or performing audit investigations; ~~(vii)~~ *(viii)* one citizen member who represents community interests; and ~~(viii)~~ *(ix)* two individuals with experience in conducting criminal, civil, or death investigations.

Members of the Board shall serve at the pleasure of the Governor and shall be appointed for terms of four years. A vacancy other than by expiration of *a* term shall be filled by the Governor for the unexpired term.

No person shall be eligible to serve more than two full consecutive four-year terms.

CHAPTER 659

An Act to amend and reenact § 58.1-3219.6 of the Code of Virginia, relating to real property tax exemption; disabled veterans.

[H 2414]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3219.6 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3219.6. Application for exemption.

A. The veteran or surviving spouse claiming the exemption under this article shall file with the commissioner of the revenue of the county, city, or town or such other officer as may be designated by the governing body in which the real property is located, on forms to be supplied by the county, city, or town, an affidavit or written statement (i) setting forth the name of the disabled veteran and the name of the spouse, if any, also occupying the real property, (ii) indicating whether the real property is jointly owned by married individuals, and (iii) certifying that the real property is occupied as the veteran's principal place of residence. The veteran shall also provide documentation from the U.S. Department of Veterans Affairs or its successor agency indicating that the veteran has a 100 percent service-connected, permanent, and total disability. The veteran shall be required to refile the information required by this section only if the veteran's principal place of residence changes. In the event of a surviving spouse of a veteran claiming the exemption, the surviving spouse shall also provide documentation that the veteran's death occurred on or after January 1, 2011.

B. The veteran or surviving spouse may claim the exemption under this article prior to purchasing the qualifying dwelling by filing the documentation as required by subsection A and valid documentation of the purchase agreement for the qualifying dwelling. The commissioner of the revenue of the county, city, or town, or such other officer as may be designated by the governing body in which the real property is located, shall, within 20 business days following receipt of such documentation, process the application and send the veteran a letter stating whether the application is approved or denied. If the application is approved, the letter shall also include the amount of the tax exemption for the qualifying property the veteran intends to purchase. However, the exemption described in such a letter shall become effective only after the veteran becomes the owner of the property.

CHAPTER 660

An Act to amend the Code of Virginia by adding a section numbered 46.2-223.1, relating to Department of Motor Vehicles; driving under the influence of alcohol, drugs, or a combination thereof; data collection and reporting.

[H 2204]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 46.2-223.1 as follows:

§ 46.2-223.1. Collection and reporting of data related to driving under the influence of alcohol, drugs, or a combination thereof.

A. The Department shall collect data related to driving under the influence of alcohol, drugs, or a combination thereof, on an annual basis based on the calendar year. The Department may request data and shall be provided such data upon request from (i) every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party, or any political subdivision thereof; (ii) any criminal justice

agency as defined in § 9.1-101; and (iii) the clerk of each circuit court. If the statewide Circuit Court Case Management System is used by the circuit court clerk, the Executive Secretary of the Supreme Court shall provide for the transfer of such data upon request of the Department.

B. The Department shall annually collect the following data based on the calendar year:

1. The number of motor vehicle and commercial motor vehicle crashes, injuries, serious injuries, and fatalities that involved alcohol, drugs, or a combination of alcohol and drugs, as maintained by the Department;

2. The number of drivers, passengers, bicyclists, and pedestrians killed in motor vehicle and commercial motor vehicle crashes, including the blood alcohol content and any drugs identified in the blood of each decedent driver, as maintained by the Office of the Chief Medical Examiner;

3. The number of full-time, sworn officer positions allotted to each law-enforcement agency and the number of full-time, sworn officers employed by each law-enforcement agency, as maintained by the Department of State Police;

4. The number of arrests for violations of §§ 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-268.3, 18.2-270.1, 18.2-272, 46.2-341.24, 46.2-341.26:3, 46.2-341.29, and 46.2-341.31, as maintained by the Department of State Police;

5. The number of charges and convictions for violations of §§ 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-268.3, 18.2-270.1, 18.2-272, 46.2-341.24, 46.2-341.26:3, 46.2-341.29, and 46.2-341.31 across all district and circuit courts, as maintained by the Executive Secretary of the Supreme Court of Virginia or any circuit court clerk who maintains an independent case management system;

6. The number of adults sentenced to a term of incarceration for violations of §§ 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-268.3, 18.2-270.1, 18.2-272, 46.2-341.24, 46.2-341.26:3, 46.2-341.29, and 46.2-341.31, including the active period of incarceration imposed and the length of time that the person was incarcerated, as maintained by the Compensation Board and the Department of Corrections;

7. The number of individuals ordered to report to the Virginia Alcohol Safety Action Program and the number of individuals under the supervision of such program, as maintained by the Virginia Alcohol Safety Action Program;

8. The number of ignition interlock devices installed on motor vehicles and the number of remote alcohol monitoring devices applied to individuals, as maintained by the Virginia Alcohol Safety Action Program;

9. The number of breath alcohol tests administered and the average blood alcohol concentration test results, as maintained by the Department of Forensic Science;

10. The number of driving under the influence-related blood sample submissions and any drugs or drug classes identified in such samples, as maintained by the Department of Forensic Science;

11. The total number of restrictions, suspensions, and revocations of Virginia driver's licenses and commercial driver's licenses for driving under the influence, as maintained by the Department;

12. The number of specific driving under the influence-related enforcement measures conducted by law-enforcement agencies, such as sobriety checkpoints, saturation patrols, and any other relevant measures, as maintained by the Department;

13. The total amount of grant money awarded to Virginia, each law-enforcement agency, and any other entity that is not a law-enforcement agency by the National Highway Traffic Safety Administration, as maintained by the Department; and

14. Any other data deemed relevant and reliable by the Department.

C. The Department shall submit an annual report based on the data collected pursuant to subsection B on or before October 1 to the General Assembly, the Governor, and the Virginia State Crime Commission. The report shall also be made available to the public on the website of the Department. The data set forth in subsection B shall be reported at aggregate statewide level based on the calendar year over a period of at least five years and, to the extent possible, shall also be reported at an aggregate level by locality and by law-enforcement agency over the same time period. Additionally, to the extent possible, the data shall distinguish between alcohol, drug, or alcohol and drug impaired driving. Such report may also include recommendations to improve the enforcement of driving under the influence laws or the collection of relevant data.

D. Nothing in this section shall require any (i) department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party, or any political subdivision thereof; (ii) criminal justice agency as defined in § 9.1-101; or (iii) clerk of circuit court to provide data to the Department if the requested data is not regularly maintained by such entity or if such data is prohibited from such disclosure under any other law or under the Virginia Rules of Professional Conduct.

2. That the Department of Motor Vehicles shall not be required to submit the first annual report required by subsection C of § 46.2-223.1 of the Code of Virginia, as created by this act, prior to October 1, 2024. Such report shall include data from calendar year 2019 through calendar year 2023.

CHAPTER 661

An Act to amend the Code of Virginia by adding a section numbered 46.2-223.1, relating to Department of Motor Vehicles; driving under the influence of alcohol, drugs, or a combination thereof; data collection and reporting.

[S 1398]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 46.2-223.1 as follows:

§ 46.2-223.1. Collection and reporting of data related to driving under the influence of alcohol, drugs, or a combination thereof.

A. The Department shall collect data related to driving under the influence of alcohol, drugs, or a combination thereof, on an annual basis based on the calendar year. The Department may request data and shall be provided such data upon request from (i) every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party, or any political subdivision thereof; (ii) any criminal justice agency as defined in § 9.1-101; and (iii) the clerk of each circuit court. If the statewide Circuit Court Case Management System is used by the circuit court clerk, the Executive Secretary of the Supreme Court shall provide for the transfer of such data upon request of the Department.

B. The Department shall annually collect the following data based on the calendar year:

1. The number of motor vehicle and commercial motor vehicle crashes, injuries, serious injuries, and fatalities that involved alcohol, drugs, or a combination of alcohol and drugs, as maintained by the Department;

2. The number of drivers, passengers, bicyclists, and pedestrians killed in motor vehicle and commercial motor vehicle crashes, including the blood alcohol content and any drugs identified in the blood of each decedent driver, as maintained by the Office of the Chief Medical Examiner;

3. The number of full-time, sworn officer positions allotted to each law-enforcement agency and the number of full-time, sworn officers employed by each law-enforcement agency, as maintained by the Department of State Police;

4. The number of arrests for violations of §§ 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-268.3, 18.2-270.1, 18.2-272, 46.2-341.24, 46.2-341.26:3, 46.2-341.29, and 46.2-341.31, as maintained by the Department of State Police;

5. The number of charges and convictions for violations of §§ 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-268.3, 18.2-270.1, 18.2-272, 46.2-341.24, 46.2-341.26:3, 46.2-341.29, and 46.2-341.31 across all district and circuit courts, as maintained by the Executive Secretary of the Supreme Court of Virginia or any circuit court clerk who maintains an independent case management system;

6. The number of adults sentenced to a term of incarceration for violations of §§ 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-268.3, 18.2-270.1, 18.2-272, 46.2-341.24, 46.2-341.26:3, 46.2-341.29, and 46.2-341.31, including the active period of incarceration imposed and the length of time that the person was incarcerated, as maintained by the Compensation Board and the Department of Corrections;

7. The number of individuals ordered to report to the Virginia Alcohol Safety Action Program and the number of individuals under the supervision of such program, as maintained by the Virginia Alcohol Safety Action Program;

8. The number of ignition interlock devices installed on motor vehicles and the number of remote alcohol monitoring devices applied to individuals, as maintained by the Virginia Alcohol Safety Action Program;

9. The number of breath alcohol tests administered and the average blood alcohol concentration test results, as maintained by the Department of Forensic Science;

10. The number of driving under the influence-related blood sample submissions and any drugs or drug classes identified in such samples, as maintained by the Department of Forensic Science;

11. The total number of restrictions, suspensions, and revocations of Virginia driver's licenses and commercial driver's licenses for driving under the influence, as maintained by the Department;

12. The number of specific driving under the influence-related enforcement measures conducted by law-enforcement agencies, such as sobriety checkpoints, saturation patrols, and any other relevant measures, as maintained by the Department;

13. The total amount of grant money awarded to Virginia, each law-enforcement agency, and any other entity that is not a law-enforcement agency by the National Highway Traffic Safety Administration, as maintained by the Department; and

14. Any other data deemed relevant and reliable by the Department.

C. The Department shall submit an annual report based on the data collected pursuant to subsection B on or before October 1 to the General Assembly, the Governor, and the Virginia State Crime Commission. The report shall also be made available to the public on the website of the Department. The data set forth in subsection B shall be reported at aggregate statewide level based on the calendar year over a period of at least five years and, to the extent possible, shall also be reported at an aggregate level by locality and by law-enforcement agency over the same time period. Additionally, to the extent possible, the data shall distinguish between alcohol, drug, or alcohol and drug impaired driving. Such report may also include recommendations to improve the enforcement of driving under the influence laws or the collection of relevant data.

D. Nothing in this section shall require any (i) department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party, or any political subdivision thereof; (ii) criminal justice agency as defined in § 9.1-101; or (iii) clerk of circuit court to provide data to the Department if the requested data is not regularly maintained by such entity or if such data is prohibited from such disclosure under any other law or under the Virginia Rules of Professional Conduct.

2. That the Department of Motor Vehicles shall not be required to submit the first annual report required by subsection C of § 46.2-223.1 of the Code of Virginia, as created by this act, prior to October 1, 2024. Such report shall include data from calendar year 2019 through calendar year 2023.

CHAPTER 662

An Act to amend and reenact §§ 2.2-2244, 2.2-2325, and 2.2-2364 of the Code of Virginia, relating to Virginia Economic Development Partnership Authority; Virginia Tourism Authority; Commonwealth of Virginia Innovation Partnership Authority; adoption of procurement policies; exemptions.

[H 2113]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2244, 2.2-2325, and 2.2-2364 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2244. Exemption of Authority from personnel and procurement procedures; adoption of procurement policies.

A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) ~~of~~ and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of this title shall not apply to the Authority in the exercise of any power conferred under this article.

B. The governing board of the Authority shall adopt policies for the procurement of goods and services. Such policies shall:

1. Seek competition to the maximum practical degree;

2. Require competitive negotiation for professional services, which includes the requirements of §§ 2.2-4302.2 and 2.2-4303.1, unless there is only one source practically available and the Authority has complied with the requirements of subsection C;

3. Prohibit discrimination against a bidder or offeror based on race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by federal or state law relating to discrimination in employment; and

4. Incorporate the prompt payment principles of § 2.2-4350 and the payment clauses of § 2.2-4354. The Authority shall include provisions for the inspection of public records in § 2.2-4342.

C. For purchases of (i) goods or nonprofessional services under $200,000 or (ii) professional services or non-transportation-related construction under $80,000, the Authority shall not be required to comply with subdivisions B 1 and 2. For purchases of (a) goods or nonprofessional services for $200,000 or more or (b) professional services or non-transportation-related construction of $80,000 or more, the Authority shall not be required to comply with subdivisions B 1 and 2 if the Authority determines in writing that such purchase contributes to the public purpose and mission of the Authority as described in § 2.2-2234. The Authority shall state in such writing (1) an explanation of such determination, (2) that which is being purchased, (3) the contractor selected for such purchase, (4) the date of the award of such contract, and (5) the relationship of such purchase to the public purpose and mission of the Authority. Such notice shall be posted on the Department of General Services' central electronic procurement website or the Authority's website on the day the Authority awards or announces its decision to award such contract, whichever occurs first. The Authority shall incorporate the procedures effectuating the provisions of this subsection in the policies required by subsection B.

D. In case of emergency, the Authority shall not be required to comply with subdivisions B 1 and 2 if the Authority determines in writing that an emergency exists and makes the purchase needed with such competition as is practicable under the circumstances. The Authority shall state in such writing (i) that the contract is being awarded on an emergency basis, (ii) that which is being purchased, (iii) the contractor selected, (iv) the date of the award of such contract, and (v) the relationship between the selection of such contract to the circumstances constituting an emergency. Such notice shall be posted on the Department of General Services' central electronic procurement website or the Authority's website on the day the Authority awards or announces its decision to award such contract, whichever occurs first. The Authority shall incorporate the procedures effectuating the provisions of this subsection in the policies required by subsection B.

E. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive negotiation. The writing shall document the basis for this determination. The Authority shall issue a written notice stating that only one source was determined to be practicably available and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted on the Department of General Services' central electronic procurement website or the Authority's website and may be published in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first.

F. The Authority shall submit the policies established in accordance with subsection B to the Governor, the Department of General Services, and the Chairs of the Senate Committee on General Laws and Technology and the House Committee on General Laws every five years by November 1, beginning November 1, 2024.

§ 2.2-2325. Exemptions from personnel and procurement procedures; adoption of procurement policies.

A. The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and the Virginia Personnel Act (§ 2.2-2900 et seq.) shall not apply to the Authority.

B. The governing board of the Authority shall adopt policies for the procurement of goods and services. Such policies shall:

1. Seek competition to the maximum practical degree;

2. Require competitive negotiation for professional services, which includes the requirements of §§ 2.2-4302.2 and 2.2-4303.1, unless there is only one source practically available and the Authority has complied with the requirements of subsection C;

3. Prohibit discrimination against a bidder or offeror based on race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by federal or state law relating to discrimination in employment; and

4. Incorporate the prompt payment principles of § 2.2-4350 and the payment clauses of § 2.2-4354. The Authority shall include provisions for the inspection of public records in § 2.2-4342.

C. For purchases of (i) goods or nonprofessional services under $200,000 or (ii) professional services or non-transportation-related construction under $80,000, the Authority shall not be required to comply with subdivisions B 1 and 2. For purchases of (i) goods or nonprofessional services for $200,000 or more or (ii) professional services or non-transportation-related construction of $80,000 or more, the Authority shall not be required to comply with subdivisions B 1 and 2 if the Authority determines in writing that such purchase contributes to the public purpose and mission of the Authority as described in § 2.2-2315. The Authority shall state in such writing (a) an explanation of such determination, (b) that which is being purchased, (c) the contractor selected for such purchase, (d) the date of the award of such contract, and (e) the relationship of such purchase to the public purpose and mission of the Authority. Such notice shall be posted on the Department of General Services' central electronic procurement website or the Authority's website on the day the Authority awards or announces its decision to award such contract, whichever occurs first. The Authority shall incorporate the procedures effectuating the provisions of this subsection in the policies required by subsection B.

D. In case of emergency, the Authority shall not be required to comply with subdivisions B 1 and 2 if the Authority determines in writing that an emergency exists and makes the purchase needed with such competition as is practicable under the circumstances. The Authority shall state in such writing (i) that the contract is being awarded on an emergency basis, (ii) that which is being purchased, (iii) the contractor selected, (iv) the date of the award of such contract, (v) and the relationship between the selection of such contract to the circumstances constituting an emergency. Such notice shall be posted on the Department of General Services' central electronic procurement website or the Authority's website on the day the Authority awards or announces its decision to award such contract, whichever occurs first. The Authority shall incorporate the procedures effectuating the provisions of this subsection in the policies required by subsection B.

E. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive negotiation. The writing shall document the basis for this determination. The Authority shall issue a written notice stating that only one source was determined to be practicably available and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted on the Department of General Services' central electronic procurement website or the Authority's website and may be published in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first.

F. The Authority shall submit the policies established in accordance with subsection B to the Governor, the Department of General Services, and the Chairs of the Senate Committee on General Laws and Technology and the House Committee on General Laws every five years by November 1, beginning November 1, 2024.

§ 2.2-2364. Exemption of Authority from personnel and procurement procedures; adoption of procurement policies.

A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this article.

B. The governing board of the Authority shall adopt policies for the procurement of goods and services. Such policies shall:

1. Seek competition to the maximum practical degree;

2. Require competitive negotiation for professional services, which includes the requirements of §§ 2.2-4302.2 and 2.2-4303.1, unless there is only one source practically available and the Authority has complied with the requirements of subsection C;

3. Prohibit discrimination against a bidder or offeror based on race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by federal or state law relating to discrimination in employment; and

4. Incorporate the prompt payment principles of § 2.2-4350 and the payment clauses of § 2.2-4354. The Authority shall include provisions for the inspection of public records in § 2.2-4342.

C. For purchases of (i) goods or nonprofessional services under $200,000 or (ii) professional services or non-transportation-related construction under $80,000, the Authority shall not be required to comply with subdivisions B 1 and 2. For purchases of (a) goods or nonprofessional services for $200,000 or more or (b) professional services or non-transportation-related construction of $80,000 or more, the Authority shall not be required to comply with subdivisions B 1 and 2 if the Authority determines in writing that such purchase contributes to the public purpose and mission of the Authority as described in § 2.2-2351. The Authority shall state in such writing (1) an explanation of such determination, (2) that which is being purchased, (3) the contractor selected for such purchase, (4) the date of the award of such contract, and (5) the relationship of such purchase to the public purpose and mission of the Authority. Such notice shall be posted on the Department of General Services' central electronic procurement website or the Authority's website on

the day the Authority awards or announces its decision to award such contract, whichever occurs first. The Authority shall incorporate the procedures effectuating the provisions of this subsection in the policies required by subsection B.

D. In case of emergency, the Authority shall not be required to comply with subdivisions B 1 and 2 if the Authority determines in writing that an emergency exists and makes the purchase needed with such competition as is practicable under the circumstances. The Authority shall state in such writing (i) that the contract is being awarded on an emergency basis, (ii) that which is being purchased, (iii) the contractor selected, (iv) the date of the award of such contract, and (v) the relationship between the selection of such contract to the circumstances constituting an emergency. Such notice shall be posted on the Department of General Services' central electronic procurement website or the Authority's website on the day the Authority awards or announces its decision to award such contract, whichever occurs first. The Authority shall incorporate the procedures effectuating the provisions of this subsection in the policies required by subsection B.

E. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive negotiation. The writing shall document the basis for this determination. The Authority shall issue a written notice stating that only one source was determined to be practicably available and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted on the Department of General Services' central electronic procurement website or the Authority's website and may be published in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first.

F. The Authority shall submit the policies established in accordance with subsection B to the Governor, the Department of General Services, and the Chairs of the Senate Committee on General Laws and Technology and the House Committee on General Laws every five years by November 1, beginning November 1, 2024.

CHAPTER 663

An Act to amend and reenact §§ 24.2-233, as it is currently effective and as it shall become effective, and 24.2-235 through 24.2-238 of the Code of Virginia, relating to procedure for removal of elected and certain appointed officers by courts.

[H 2289]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-233, as it is currently effective and as it shall become effective, and 24.2-235 through 24.2-238 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-233. (Effective until January 1, 2024) Removal of elected and certain appointed officers by courts.

Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed to fill an elective office, residing within the jurisdiction of the court:

1. For neglect of *a clear, ministerial* duty *of the office*, misuse of *the* office, or incompetence in the performance of *the* duties *of the office* when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the conduct of the office;

2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving the:

a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or distribute a controlled substance or marijuana;

b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug paraphernalia; or

c. Possession of any controlled substance or marijuana and such conviction under subdivision a, b, or c has a material adverse effect upon the conduct of such office;

3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the conduct of such office; or

4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct of such office.

The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer equal to ~~ten~~ *10* percent of the total number of votes cast at the last election for the office that the officer holds.

Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be subsequently subject to the provisions of this section for the same criminal offense.

§ 24.2-233. (Effective January 1, 2024) Removal of elected and certain appointed officers by courts.

Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed to fill an elective office, residing within the jurisdiction of the court:

1. For neglect of *a clear, ministerial* duty *of the office*, misuse of *the* office, or incompetence in the performance of *the* duties *of the office* when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the conduct of the office;

2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving the:

a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or distribute a controlled substance;

b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug paraphernalia; or

c. Possession of any controlled substance and such conviction under subdivision a, b, or c has a material adverse effect upon the conduct of such office;

3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the conduct of such office; or

4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct of such office.

The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer equal to 10 percent of the total number of votes cast at the last election for the office that the officer holds.

Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be subsequently subject to the provisions of this section for the same criminal offense.

§ 24.2-235. Procedure.

A. A petition for the removal of an officer shall *be on a form prescribed by the State Board of Elections and shall* state with reasonable accuracy and detail the grounds or reasons for removal and shall be signed by the person or persons making it under penalties of perjury. ~~The circuit court shall not dismiss the petition solely because of an error or omission in the form of the petition relating to its statement of the grounds or reasons for removal if such error or omission is not material in determining whether the statement of the grounds or reasons for removal provides a reasonable basis under § 24.2-233 to consider the removal of the officer.~~ *The petition shall be filed together with either (i) three paper copies or (ii) an electronic copy. The clerk shall promptly provide a paper or electronic copy of the petition to the officer who is the subject of the removal petition, the attorney for the Commonwealth, and, for a removal petition filed pursuant to § 24.2-233, the general registrar. If the subject of the petition is the attorney for the Commonwealth, the Chief Justice of the Supreme Court of Virginia shall appoint an alternate attorney for the Commonwealth to receive the copy of the petition.*

B. The general registrar shall review a petition filed pursuant to § 24.2-233 and determine its sufficiency in accordance with the uniform standards approved by the State Board of Elections. The general registrar shall certify the petition within 10 business days and promptly file such certification with the clerk of the circuit court. The general registrar may seek an extension of time from the circuit court for good cause shown. The certification shall state the number of signatures required, the number of signatures on the petition, and the number of valid signatures. The certification shall identify those signatures found to be invalid. The certification shall also identify any material omissions in the petition.

C. Upon receipt of the petition, the attorney for the Commonwealth shall promptly review the petition and determine if valid grounds exist to remove the officer pursuant to § 24.2-233. Upon determining that valid grounds exist for removal, the attorney for the Commonwealth shall notify the circuit court. Otherwise, the attorney for the Commonwealth shall request that the court dismiss the petition.

D. As soon as the ~~petition is filed with the court~~ *attorney for the Commonwealth notifies the circuit court that the petition presents valid grounds for removal*, the court shall issue a rule requiring the officer to show cause why he should not be removed from office, the rule alleging in general terms the cause or causes for such removal. The rule shall be returnable in not less than five nor more than ~~ten~~ *10* days and shall be served upon the officer with a copy of the petition.

E. Upon return of the rule duly executed, unless good cause is shown for a continuance or postponement to a later day in the term, the case shall be tried on the day named in the rule and take precedence over all other cases on the docket. *The circuit court shall not dismiss the petition solely because of an error or omission in the form of the petition relating to its statement of the grounds or reasons for removal if such error or omission is not material in determining whether the statement of the grounds or reasons for removal provides a reasonable basis under § 24.2-233 to consider the removal of the officer.* If upon trial it is determined *by clear and convincing evidence* that *removal of* the officer is ~~subject to removal~~ *warranted* under ~~the provisions of~~ § 24.2-233, ~~he~~ *the officer* shall be removed from office.

§ 24.2-236. Suspension from office pending hearing and appeal.

In the event of a judicial proceeding under § 24.2-231, 24.2-232, 24.2-233, or 24.2-234, the circuit court may enter an order suspending the officer pending the hearing. *The court may, in its discretion, continue the suspension until the matter is finally disposed of in the Supreme Court or otherwise.* Any officer ~~convicted of~~ *who pleads guilty or nolo contendere to, or who is found guilty by a judge or jury of,* a felony under the laws of any state or the United States shall be automatically suspended ~~upon such conviction~~, regardless of any appeals, pleadings, delays, or motions. ~~The court may, in its discretion, continue the suspension until the matter is finally disposed of in the Supreme Court or otherwise.~~ During the suspension, the court may appoint some suitable person to act in the officer's place. The officer's compensation shall be withheld and kept in a separate account and paid to him if and when the judicial proceedings result in his favor. Otherwise, it shall be paid back to the county, city, town, or State Treasurer who paid it.

§ 24.2-237. Who to represent Commonwealth; trial by jury; appeal.

The attorney for the Commonwealth shall represent the Commonwealth in ~~any trial~~ *all proceedings* under this article. If the proceeding is against the attorney for the Commonwealth, the court shall appoint an attorney to represent the Commonwealth. *The Commonwealth and the officer shall be the only parties to the action.* Any officer proceeded against shall have the right to demand a trial by jury. The Commonwealth and the ~~defendant~~ *officer* shall each have the right to appeal to the Court of Appeals upon the record made in the trial court and the Court of Appeals shall consider and determine such cases.

§ 24.2-238. Costs.

A. If a judicial proceeding under this article is dismissed in favor of the ~~respondent~~ *officer*, the court in its discretion may require the state agency or political subdivision ~~which~~ *that* the ~~respondent~~ *officer* serves to pay court costs or reasonable attorney fees, or both, for the ~~respondent~~ *officer*.

B. No person who signs a petition for the removal of an official pursuant to § 24.2-233 or who circulates such a petition (i) shall be liable for any costs associated with removal proceedings conducted pursuant to the petition, including attorney fees incurred by any other party or court costs, or (ii) shall have sanctions imposed against him pursuant to § 8.01-271.1.

CHAPTER 664

An Act to amend and reenact §§ 24.2-233, as it is currently effective and as it shall become effective, and 24.2-235 through 24.2-238 of the Code of Virginia, relating to procedure for removal of elected and certain appointed officers by courts.

[S 1431]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-233, as it is currently effective and as it shall become effective, and 24.2-235 through 24.2-238 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-233. (Effective until January 1, 2024) Removal of elected and certain appointed officers by courts.

Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed to fill an elective office, residing within the jurisdiction of the court:

1. For neglect of *a clear, ministerial* duty *of the office*, misuse of *the* office, or incompetence in the performance of *the* duties *of the office* when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the conduct of the office;

2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving the:

a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or distribute a controlled substance or marijuana;

b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug paraphernalia; or

c. Possession of any controlled substance or marijuana and such conviction under subdivision a, b, or c has a material adverse effect upon the conduct of such office;

3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the conduct of such office; or

4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct of such office.

The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer equal to ~~ten~~ *10* percent of the total number of votes cast at the last election for the office that the officer holds.

Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be subsequently subject to the provisions of this section for the same criminal offense.

§ 24.2-233. (Effective January 1, 2024) Removal of elected and certain appointed officers by courts.

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2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving the:

a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or distribute a controlled substance;

b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug paraphernalia; or

c. Possession of any controlled substance and such conviction under subdivision a, b, or c has a material adverse effect upon the conduct of such office;

3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the conduct of such office; or

4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct of such office.

The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer equal to 10 percent of the total number of votes cast at the last election for the office that the officer holds.

Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be subsequently subject to the provisions of this section for the same criminal offense.

§ 24.2-235. Procedure.

A. A petition for the removal of an officer shall *be on a form prescribed by the State Board of Elections and shall* state with reasonable accuracy and detail the grounds or reasons for removal and shall be signed by the person or persons making it under penalties of perjury. ~~The circuit court shall not dismiss the petition solely because of an error or omission in the form of the petition relating to its statement of the grounds or reasons for removal if such error or omission is not material in determining whether the statement of the grounds or reasons for removal provides a reasonable basis under § 24.2-233 to consider the removal of the officer.~~ *The petition shall be filed together with either (i) three paper copies or (ii) an electronic copy. The clerk shall promptly provide a paper or electronic copy of the petition to the officer who is the subject of the removal petition, the attorney for the Commonwealth, and, for a removal petition filed pursuant to § 24.2-233, the general registrar. If the subject of the petition is the attorney for the Commonwealth, the Chief Justice of the Supreme Court of Virginia shall appoint an alternate attorney for the Commonwealth to receive the copy of the petition.*

B. The general registrar shall review a petition filed pursuant to § 24.2-233 and determine its sufficiency in accordance with the uniform standards approved by the State Board of Elections. The general registrar shall certify the petition within 10 business days and promptly file such certification with the clerk of the circuit court. The general registrar may seek an extension of time from the circuit court for good cause shown. The certification shall state the number of signatures required, the number of signatures on the petition, and the number of valid signatures. The certification shall identify those signatures found to be invalid. The certification shall also identify any material omissions in the petition.

C. Upon receipt of the petition, the attorney for the Commonwealth shall promptly review the petition and determine if valid grounds exist to remove the officer pursuant to § 24.2-233. Upon determining that valid grounds exist for removal, the attorney for the Commonwealth shall notify the circuit court. Otherwise, the attorney for the Commonwealth shall request that the court dismiss the petition.

D. As soon as the ~~petition is filed with the court~~ *attorney for the Commonwealth notifies the circuit court that the petition presents valid grounds for removal*, the court shall issue a rule requiring the officer to show cause why he should not be removed from office, the rule alleging in general terms the cause or causes for such removal. The rule shall be returnable in not less than five nor more than ~~ten~~ *10* days and shall be served upon the officer with a copy of the petition.

E. Upon return of the rule duly executed, unless good cause is shown for a continuance or postponement to a later day in the term, the case shall be tried on the day named in the rule and take precedence over all other cases on the docket. *The circuit court shall not dismiss the petition solely because of an error or omission in the form of the petition relating to its statement of the grounds or reasons for removal if such error or omission is not material in determining whether the statement of the grounds or reasons for removal provides a reasonable basis under § 24.2-233 to consider the removal of the officer.* If upon trial it is determined *by clear and convincing evidence* that *removal of* the officer is ~~subject to removal~~ *warranted* under ~~the provisions of~~ § 24.2-233, ~~he~~ *the officer* shall be removed from office.

§ 24.2-236. Suspension from office pending hearing and appeal.

In the event of a judicial proceeding under § 24.2-231, 24.2-232, 24.2-233, or 24.2-234, the circuit court may enter an order suspending the officer pending the hearing. *The court may, in its discretion, continue the suspension until the matter is finally disposed of in the Supreme Court or otherwise.* Any officer ~~convicted of~~ *who pleads guilty or nolo contendere to, or who is found guilty by a judge or jury of,* a felony under the laws of any state or the United States shall be automatically suspended ~~upon such conviction~~, regardless of any appeals, pleadings, delays, or motions. ~~The court may, in its discretion, continue the suspension until the matter is finally disposed of in the Supreme Court or otherwise.~~ During the suspension, the court may appoint some suitable person to act in the officer's place. The officer's compensation shall be withheld and kept in a separate account and paid to him if and when the judicial proceedings result in his favor. Otherwise, it shall be paid back to the county, city, town, or State Treasurer who paid it.

§ 24.2-237. Who to represent Commonwealth; trial by jury; appeal.

The attorney for the Commonwealth shall represent the Commonwealth in ~~any trial~~ *all proceedings* under this article. If the proceeding is against the attorney for the Commonwealth, the court shall appoint an attorney to represent the Commonwealth. *The Commonwealth and the officer shall be the only parties to the action.* Any officer proceeded against shall have the right to demand a trial by jury. The Commonwealth and the ~~defendant~~ *officer* shall each have the right to appeal to the Court of Appeals upon the record made in the trial court and the Court of Appeals shall consider and determine such cases.

§ 24.2-238. Costs.

A. If a judicial proceeding under this article is dismissed in favor of the ~~respondent~~ *officer*, the court in its discretion may require the state agency or political subdivision ~~which~~ *that* the ~~respondent~~ *officer* serves to pay court costs or reasonable attorney fees, or both, for the ~~respondent~~ *officer*.

B. No person who signs a petition for the removal of an official pursuant to § 24.2-233 or who circulates such a petition (i) shall be liable for any costs associated with removal proceedings conducted pursuant to the petition, including attorney fees incurred by any other party or court costs, or (ii) shall have sanctions imposed against him pursuant to § 8.01-271.1.

CHAPTER 665

An Act to amend and reenact the ninth enactments of Chapters 68 and 758 of the Acts of Assembly of 2016 and the tenth enactments of Chapters 68 and 758 of the Acts of Assembly of 2016, as amended by the second enactment of Chapter 345 of the Acts of Assembly of 2017, relating to Virginia Erosion and Stormwater Management Act; regulations; effective date.

[H 2390]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the ninth enactments of Chapters 68 and 758 of the Acts of Assembly of 2016 and the tenth enactments of Chapters 68 and 758 of the Acts of Assembly of 2016, as amended by the second enactment of Chapter 345 of the Acts of Assembly of 2017, are amended and reenacted as follows:

9. That the State Water Control Board (the Board) shall adopt regulations to implement the requirements of this act *before July 1, 2024*. The adoption of such regulations shall *include the reduction of regulations through consolidation of duplicative requirements and* be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.) of the Code of Virginia. However, the Department shall (i) provide a Notice of Intended Regulatory Action, (ii) form a stakeholders advisory group, (iii) provide for a 60-day public comment period prior to the Board's adoption of the regulations, and (iv) provide the Board with a written summary of comments received and responses to comments prior to the Board's adoption of the regulations. *This enactment shall become effective in due course. The regulations shall become effective on July 1, 2024, concurrent with the effective date of the remainder of this act.*

10. That the provisions of this act*, except for the ninth enactment,* shall become effective *on* July 1, ~~2018~~ *2024*, ~~or 30 days after the adoption by the State Water Control Board~~ *concurrent with the effective date* of the regulations required by the ninth enactment of this act~~, whichever occurs later~~.

CHAPTER 666

An Act to amend and reenact the ninth enactments of Chapters 68 and 758 of the Acts of Assembly of 2016 and the tenth enactments of Chapters 68 and 758 of the Acts of Assembly of 2016, as amended by the second enactment of Chapter 345 of the Acts of Assembly of 2017, relating to Virginia Erosion and Stormwater Management Act; regulations; effective date.

[S 1168]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That the ninth enactments of Chapters 68 and 758 of the Acts of Assembly of 2016 and the tenth enactments of Chapters 68 and 758 of the Acts of Assembly of 2016, as amended by the second enactment of Chapter 345 of the Acts of Assembly of 2017, are amended and reenacted as follows:

9. That the State Water Control Board (the Board) shall adopt regulations to implement the requirements of this act *before July 1, 2024*. The adoption of such regulations shall *include the reduction of regulations through consolidation of duplicative requirements and* be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.) of the Code of Virginia. However, the Department shall (i) provide a Notice of Intended Regulatory Action, (ii) form a stakeholders advisory group, (iii) provide for a 60-day public comment period prior to the Board's adoption of the regulations, and (iv) provide the Board with a written summary of comments received and responses to comments prior to the Board's adoption of the regulations. *This enactment shall become effective in due course. The regulations shall become effective on July 1, 2024, concurrent with the effective date of the remainder of this act.*

10. That the provisions of this act*, except for the ninth enactment,* shall become effective *on* July 1, ~~2018~~ *2024*, ~~or 30 days after the adoption by the State Water Control Board~~ *concurrent with the effective date* of the regulations required by the ninth enactment of this act~~, whichever occurs later~~.

CHAPTER 667

An Act to amend and reenact § 58.1-3330 of the Code of Virginia, relating to real property tax; notice of rate and assessment changes.

[H 1942]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3330 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3330. Notice of change in assessment.

A. Whenever in any county, city, or town there is a reassessment of real estate, or any change in the assessed value of any real estate, notice shall be given by mail directly to each property owner, as shown by the land books of the county, city, or town whose assessment has been changed. Such notice shall be sent by postpaid mail at least ~~fifteen~~ *15* days prior to the date of a hearing to protest such change to the address of the property owner as shown on such land books. The governing body of the county, city, or town shall require the officer of such county, city, or town charged with the assessment of real estate to send such notices or it shall provide funds or services to the persons making such reassessment so that such persons can send such notices.

B. Every notice shall, among other matters, show the magisterial or other district, if any, in which the real estate is located, the amount and the new and immediately prior two tax years' final assessed values of land, and the new and immediately prior two tax years' final assessed values of improvements. It shall further set out the time and place at which persons may appear before the officers making such reassessment or change and present objections thereto. The notice shall also inform each property owner of the right to view and make copies of records maintained by the local assessment office pursuant to §§ 58.1-3331 and 58.1-3332~~,~~ and inform each property owner that the records available and the procedure for accessing them are set out in §§ 58.1-3331 and 58.1-3332. In counties that have elected by ordinance to prepare land and personal property books in alphabetical order as authorized by § 58.1-3301 B, such notice may omit reference to districts, as provided herein.

The following requirements shall apply to any notice of change in assessment other than one in which the change arises solely from the construction or addition of new improvements to the real estate. If the tax rate that will apply to the new assessed value has been established, then the notice shall set out such rate. In addition, whether or not the tax rate applicable to the new assessed value has been established, the notice shall set out the tax rates for the immediately prior two tax years, the total amount of the new tax levy, based on the current tax rate at the time the notices are prepared, and the amounts of the total tax levies for the immediately prior two tax years, based on the final tax rates for those tax years multiplied by the final assessed values of land and improvements for those tax years, and the percentage changes in the new tax levy from the tax levies in the immediately prior two tax years.

If the tax rate that will apply to the new assessed value has not been established, then the notice shall set out the time and place of the next meeting of the local governing body at which public testimony will be accepted on any real estate tax rate changes. *Additionally, in any county, city, or town that conducts an annual or biennial reassessment of real estate or in which reassessment of real estate is conducted primarily by employees of the county, city, or town under direction of the commissioner of the revenue, if the proposed rate exceeds the lowered tax rate, as that term is described in subdivision C 2 of § 58.1-3321, the notice shall set out the effective tax rate increase, as that term is described in subdivision C 3 of § 58.1-3321.* If this meeting will be more than 60 days from the date of the reassessment notice, then instead of the date of the meeting, the notice shall include information on when the date of the meeting will be set and where it will be publicized.

C. Any person other than the owner who receives such reassessment notice~~,~~ shall transmit the notice to such owner, at his last known address, immediately on receipt thereof~~,~~ and shall be liable to such owner in an action at law for liquidated damages in the amount of ~~twenty-five dollars~~ *$25*, in the event of a failure to so transmit the notice. Mailing such notice to the last known address of the property owner shall be deemed to satisfy the requirements of this section.

D. Notwithstanding the provisions of this section, if the address of the taxpayer as shown on the tax record is in care of a lender, the lender shall upon request furnish the county, city, or town a list of such property owners, together with their current addresses as they appear on the books of the lender, or the parties may by agreement permit the lender to forward such notices to the property owner, with the cost of postage to be paid by the county, city, or town.

CHAPTER 668

An Act to amend and reenact §§ 2.2-3705.3 and 30-408 of the Code of Virginia, relating to Behavioral Health Commission; information and assistance from state agencies and political subdivisions.

[H 2156]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.3 and 30-408 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Lottery pursuant to Chapter 40 (§ 58.1-4000 et seq.) and Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth pursuant to § 54.1-108.

3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.

4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this subdivision shall prevent the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such information has not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; ~~or~~ (vii) the auditors, appointed by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department, or program of such body*; or (viii) the Behavioral Health Commission*. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is excluded by this subdivision, the information disclosed shall include the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. The names, addresses, and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body.

9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

10. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not

reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

12. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

13. Records of active investigations being conducted by the Department of Behavioral Health and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

§ 30-408. (For contingent expiration date, see Acts 2021, Sp. Sess. I, c. 313, cl. 2) Cooperation of other state agencies and political subdivisions.

The Commission may request *records, including data and information, that it may require for the performance of its duties* and ~~shall, upon such request, receive from~~ every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth or to which the Commonwealth is a party~~,~~ or ~~from~~ any political subdivision of the Commonwealth~~,~~ *shall provide such records, including data and information, to the fullest extent possible and except as prohibited by law. The Commission shall receive* cooperation and assistance in the performance of its duties *from every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth or to which the Commonwealth is a party or from any political subdivision of the Commonwealth upon request.*

Upon request and availability, the Commission shall receive access to the facilities of and ample opportunity to observe the operations of every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth or to which the Commonwealth is a party or of any political subdivision of the Commonwealth.

CHAPTER 669

An Act to amend and reenact §§ 2.2-3705.3 and 30-408 of the Code of Virginia, relating to Behavioral Health Commission; information and assistance from state agencies and political subdivisions.

[S 1170]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.3 and 30-408 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Lottery pursuant to Chapter 40 (§ 58.1-4000 et seq.) and Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth pursuant to § 54.1-108.

3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting

such investigations in confidence, or to any public institution of higher education. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.

4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this subdivision shall prevent the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such information has not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; ~~or~~ (vii) the auditors, appointed by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department, or program of such body*; or (viii) the Behavioral Health Commission*. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is excluded by this subdivision, the information disclosed shall include the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. The names, addresses, and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body.

9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

10. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the

complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

12. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

13. Records of active investigations being conducted by the Department of Behavioral Health and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

§ 30-408. (For contingent expiration date, see Acts 2021, Sp. Sess. I, c. 313, cl. 2) Cooperation of other state agencies and political subdivisions.

The Commission may request *records, including data and information, that it may require for the performance of its duties* and ~~shall, upon such request, receive from~~ every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth or to which the Commonwealth is a party~~,~~ or ~~from~~ any political subdivision of the Commonwealth~~,~~ *shall provide such records, including data and information, to the fullest extent possible and except as prohibited by law. The Commission shall receive* cooperation and assistance in the performance of its duties *from every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth or to which the Commonwealth is a party or from any political subdivision of the Commonwealth upon request.*

Upon request and availability, the Commission shall receive access to the facilities of and ample opportunity to observe the operations of every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth or to which the Commonwealth is a party or of any political subdivision of the Commonwealth.

CHAPTER 670

An Act to amend and reenact §§ 22.1-296.1, 22.1-296.2, and 22.1-349 of the Code of Virginia, relating to public schools; background checks; Virginia School for the Deaf and the Blind.

[S 825]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-296.1, 22.1-296.2, and 22.1-349 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-296.1. Data on convictions for certain crimes and child abuse and neglect required; penalty.

A. As a condition of employment for all of its public school employees, whether full-time or part-time, permanent, or temporary, every school board shall require on its application for employment certification of whether the applicant has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02; any offense involving the sexual molestation, physical or sexual abuse, or rape of a child; or any crime of moral turpitude. Any individual making a materially false statement regarding any such offense is guilty of a Class 1 misdemeanor and, in the case of a teacher, upon conviction, the fact of such conviction is grounds for the Board to revoke his license to teach.

B. No school board shall employ any individual who has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02 or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child.

C. Any school board may employ any individual who has been convicted of any felony or crime of moral turpitude that is not set forth in the definition of barrier crime in subsection A of § 19.2-392.02 and does not involve the sexual molestation, physical or sexual abuse, or rape of a child, provided that in the case of a felony conviction, such individual has had his civil rights restored by the Governor.

D. Every school board shall also require on its application for employment, as a condition of employment requiring direct contact with students, whether full-time or part-time, permanent, or temporary, certification that the applicant has not been the subject of a founded case of child abuse and neglect. Any person making a materially false statement regarding a finding of child abuse and neglect is guilty of a Class 1 misdemeanor and upon conviction, the fact of said conviction is grounds for the Board ~~of Education~~ to revoke such person's license to teach.

E. As a condition of awarding a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities, the school board shall require the contractor to provide certification of whether any individual who will provide such services has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02; any offense involving the sexual molestation, physical or sexual abuse, or rape of a child; or any crime of moral turpitude.

Any individual making a materially false statement regarding any such offense is guilty of a Class 1 misdemeanor and, upon conviction, the fact of such conviction is grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services. School boards shall not be liable for materially false statements regarding the certifications required by this subsection.

This subsection shall not apply to a contractor or his employees providing services to a school division in an emergency or exceptional situation, such as when student health or safety is endangered or when repairs are needed on an urgent basis to ensure that school facilities are safe and habitable, when it is reasonably anticipated that the contractor or his employees will have no direct contact with students.

F. No school board shall award a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities when any individual who provides such services has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02 or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child.

G. Any school board may award a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities when any individual who provides such services has been convicted of any felony or crime of moral turpitude that is not set forth in the definition of barrier crime in subsection A of § 19.2-392.02 and does not involve the sexual molestation, physical or sexual abuse, or rape of a child, provided that in the case of a felony conviction, such individual has had his civil rights restored by the Governor.

H. For the purposes of this section, "school board" includes the Board of Visitors of the Virginia School for the Deaf and the Blind, which, for the purpose of receiving criminal history record information pertaining to an application for employment from the Central Criminal Records Exchange, shall be a governmental entity.

§ 22.1-296.2. Fingerprinting required; reciprocity permitted.

A. As a condition of employment, the school boards of the Commonwealth shall require any applicant who is offered or accepts employment, whether full time or part time or permanent or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The school board may (i) pay for all or a portion of the cost of the fingerprinting or criminal records check or (ii) in its discretion, require the applicant to pay for all or a portion of the cost of such fingerprinting or criminal records check.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall report to the school board*, which shall be a governmental entity,* whether or not the applicant has ever been convicted of a felony or a Class 1 misdemeanor or an equivalent offense in another state.

To conserve the costs of conducting criminal history record checks to applicants and school boards, upon the written request and permission of the applicant, a school board shall inform another school board with which reciprocity has been established, and to which the applicant also has applied for employment, of the results of the criminal history record information conducted within the previous 90 days that it obtained concerning the applicant. Criminal history record information pertaining to an applicant for employment by a school board shall be exchanged only between school boards in the Commonwealth in which a current agreement of reciprocity for the exchange of such information has been established and is in effect. Reciprocity agreements between school boards shall provide for the apportionment of the costs of the fingerprinting or criminal records check between the applicant and the school board, as prescribed in this section. However, school boards that enter into reciprocity agreements shall not each levy the costs of the fingerprinting or criminal records check on the applicant.

B. The division superintendent shall inform the relevant school board of any notification of arrest of a school board employee received pursuant to § 19.2-83.1. The school board shall require such employee, whether full time or part time or permanent or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the employee's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such employee. The school board may (i) pay for all or a portion of the cost of the fingerprinting or criminal records check or (ii) in its discretion, require the applicant to pay for all or a portion of the cost of such fingerprinting or criminal records check.

The Central Criminal Records Exchange, upon receipt of an employee's record or notification that no record exists, shall report to the school board whether or not the employee has been convicted of any of the offenses listed in subsection A. The contents of the employee's record shall be used by the school board solely to implement the provisions of §§ 22.1-307 and 22.1-315.

C. The Central Criminal Records Exchange shall not disclose information to the school board regarding charges or convictions of any crimes not specified in this section. If an applicant is denied employment or a current employee is suspended or dismissed because of information appearing on his criminal history record, the school board shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant or employee. The information provided to the school board shall not be disseminated except as provided in this section.

D. For the purposes of this section, "school board" includes the Board of Visitors of the Virginia School for the Deaf and the Blind, which, for the purpose of receiving criminal history record information pertaining to an application for employment from the Central Criminal Records Exchange, shall be a governmental entity.

§ 22.1-349. Terms of employment of teachers.

For the purpose of retirement and other statutory benefits, teachers employed as full-time instructional personnel by the Board *of Visitors* shall be deemed to be full-time state personnel and shall receive the same benefits as are accorded all other

full-time state personnel. The Board *of Visitors* shall require the teachers at the Virginia School for the Deaf and the Blind to comply with the provisions of §§ 22.1-298.1, 22.1-299, and 22.1-303. *The Board of Visitors shall require any applicant for employment as full-time instructional personnel or other position requiring as a condition of employment direct contact with students to submit to a fingerprinting and criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation, in accordance with the provisions of §§ 22.1-296 and 22.1-296.1. The Board of Visitors shall be deemed a governmental entity for the purpose of receiving from the Central Criminal Records Exchange any criminal history record information pertaining to an application for employment.* Contracts for the employment of teachers shall be in the form prescribed by the school board of the school division in which the school is located. In cases of nonrenewal of contracts of probationary teachers, the decisions shall be appealable to the Board *of Visitors*. For all other purposes, the Virginia Personnel Act (§ 2.2-2900 et seq.) shall apply to the teachers of the Virginia School for the Deaf and the Blind.

The Board *of Visitors* shall establish salary schedules for all professional personnel ~~which~~ *that* are competitive with those in effect for the school divisions in which the facility is located.

CHAPTER 671

An Act to amend and reenact § 58.1-609.3 of the Code of Virginia and to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.20, consisting of a section numbered 59.1-284.41, relating to data centers and cloud computing; sales tax exemption; grant fund.

[S 1522]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-609.3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 22.20, consisting of a section numbered 59.1-284.41, as follows:

§ 58.1-609.3. Commercial and industrial exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Personal property purchased by a contractor which is used solely in another state or in a foreign country, which could be purchased by such contractor for such use free from sales tax in such other state or foreign country, and which is stored temporarily in Virginia pending shipment to such state or country.

2. (i) Industrial materials for future processing, manufacturing, refining, or conversion into articles of tangible personal property for resale where such industrial materials either enter into the production of or become a component part of the finished product; (ii) industrial materials that are coated upon or impregnated into the product at any stage of its being processed, manufactured, refined, or converted for resale; (iii) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or supplies, used directly in processing, manufacturing, refining, mining or converting products for sale or resale; (iv) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging tangible personal property for shipment or sale; or (v) equipment, printing or supplies used directly to produce a publication described in subdivision 3 of § 58.1-609.6 whether it is ultimately sold at retail or for resale or distribution at no cost. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in processing, manufacturing, refining, mining or converting products for sale or resale. The provisions of this subsection do not apply to the drilling or extraction of oil, gas, natural gas and coalbed methane gas. In addition, the exemption provided herein shall not be applicable to any machinery, tools, and equipment, or any other tangible personal property used by a public service corporation in the generation of electric power, except for raw materials that are inputs to production of electricity, including fuel, or for machinery, tools, and equipment used to generate energy derived from sunlight or wind. The exemption for machinery, tools, and equipment used to generate energy derived from sunlight or wind shall expire June 30, 2027.

3. Tangible personal property sold or leased to a public service corporation engaged in business as a common carrier of property or passengers by railway, for use or consumption by such common carrier directly in the rendition of its public service.

4. Ships or vessels, or repairs and alterations thereof, used or to be used exclusively or principally in interstate or foreign commerce; fuel and supplies for use or consumption aboard ships or vessels plying the high seas, either in intercoastal trade between ports in the Commonwealth and ports in other states of the United States or its territories or possessions, or in foreign commerce between ports in the Commonwealth and ports in foreign countries, when delivered directly to such ships or vessels; or tangible personal property used directly in the building, conversion or repair of the ships or vessels covered by this subdivision. This exemption shall include dredges, their supporting equipment, attendant vessels, and fuel and supplies for use or consumption aboard such vessels, provided the dredges are used exclusively or principally in interstate or foreign commerce.

5. Tangible personal property purchased for use or consumption directly and exclusively in basic research or research and development in the experimental or laboratory sense.

6. Notwithstanding the provisions of subdivision 20 of § 58.1-609.10, all tangible personal property sold or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier providing scheduled air service on a continuing basis to one or more Virginia airports at least one day per week, for use or consumption by such airline directly in the rendition of its common carrier service.

7. Meals furnished by restaurants or food service operators to employees as a part of wages.

8. Tangible personal property including machinery and tools, repair parts or replacements thereof, and supplies and materials used directly in maintaining and preparing textile products for rental or leasing by an industrial processor engaged in the commercial leasing or renting of laundered textile products.

9. Certified pollution control equipment and facilities as defined in § 58.1-3660, except for any equipment that has not been certified to the Department of Taxation by a state certifying authority or subdivision certifying authority pursuant to such section.

10. Parts, tires, meters and dispatch radios sold or leased to taxicab operators for use or consumption directly in the rendition of their services.

11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or photocopying of products for sale or resale.

12. From July 1, 1994, and ending July 1, 2022, raw materials, fuel, power, energy, supplies, machinery or tools or repair parts therefor or replacements thereof, used directly in the drilling, extraction, or processing of natural gas or oil and the reclamation of the well area. For the purposes of this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane gas" as defined in § 45.2-1600. For the purposes of this section, "drilling," "extraction," and "processing" shall include production, inspection, testing, dewatering, dehydration, or distillation of raw natural gas into a usable condition consistent with commercial practices, and the gathering and transportation of raw natural gas to a facility wherein the gas is converted into such a usable condition. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in the drilling, extraction, refining, or processing of natural gas or oil for sale or resale, or in well area reclamation activities required by state or federal law.

13. Beginning July 1, 1997, (i) the sale, lease, use, storage, consumption, or distribution of an orbital or suborbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind possessing space flight capability, including the components thereof, irrespective of whether such facility, system, vehicle, satellite, or station is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (ii) the sale, lease, use, storage, consumption or distribution of tangible personal property placed on or used aboard any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind, irrespective of whether such tangible personal property is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (iii) fuels of such quality not adapted for use in ordinary vehicles, being produced for, sold and exclusively used for space flight when used to conduct spaceport activities; (iv) the sale, lease, use, storage, consumption or distribution of machinery and equipment purchased, sold, leased, rented or used exclusively for spaceport activities and the sale of goods and services provided to operate and maintain launch facilities, launch equipment, payload processing facilities and payload processing equipment used to conduct spaceport activities.

For purposes of this subdivision, "spaceport activities" means activities directed or sponsored at a facility owned, leased, or operated by or on behalf of the Virginia Commercial Space Flight Authority.

The exemptions provided by this subdivision shall not be denied by reason of a failure, postponement or cancellation of a launch of any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind or the destruction of any launch vehicle or any components thereof.

14. Semiconductor cleanrooms or equipment, fuel, power, energy, supplies, or other tangible personal property used primarily in the integrated process of designing, developing, manufacturing, or testing a semiconductor product, a semiconductor manufacturing process or subprocess, or semiconductor equipment without regard to whether the property is actually contained in or used in a cleanroom environment, touches the product, is used before or after production, or is affixed to or incorporated into real estate.

15. Semiconductor wafers for use or consumption by a semiconductor manufacturer.

16. Railroad rolling stock when sold or leased by the manufacturer thereof.

17. Computer equipment purchased or leased on or before June 30, 2011, used in data centers located in a Virginia locality having an unemployment rate above 4.9 percent for the calendar quarter ending November 2007, for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware when part of a new investment of at least $75 million in such exempt property, when such investment results in the creation of at least 100 new jobs paying at least twice the prevailing average wage in that locality, so long as such investment was made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority entered into or amended between January 1, 2008, and December 31, 2008. The exemption shall also apply to any such computer equipment purchased or leased to upgrade, add to, or replace computer equipment purchased or leased in the initial investment. The exemption shall not apply to any computer software sold separately from the computer equipment, nor shall it apply to general building improvements or fixtures.

18. a. Beginning July 1, 2010, and ending June 30, 2035, *except as provided in subdivision 19,* computer equipment or enabling software purchased or leased for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware, including chillers and backup generators used or to be used in the operation of the equipment exempted in this paragraph, provided that such computer equipment or enabling software is purchased or leased for use in a data center, which includes any data center facilities located in the same locality as the data center that are under common ownership or affiliation of the data center operator, that (i) is located in a Virginia locality; (ii) results in a new capital investment on or after January 1, 2009, of at least $150 million; and (iii) results in the creation on or after July 1, 2009, of at least 50 new jobs by the data center operator and the tenants of the data center, collectively, associated with the operation or maintenance of the data center provided that such jobs pay at least one and one-half times the prevailing average wage in that locality. The requirement of at least 50 new jobs is reduced to 10 new jobs if the data center is located in a distressed locality at the time of the execution of a memorandum of understanding with the Virginia Economic Development Partnership Authority. Additionally, the requirement of a $150 million capital investment shall be reduced to $70 million for data centers that qualify for the reduced jobs requirement.

This exemption applies to the data center operator and the tenants of the data center if they collectively meet the requirements listed in this section. Prior to claiming such exemption, any qualifying person claiming the exemption, including a data center operator on behalf of itself and its tenants, must enter into a memorandum of understanding with the Virginia Economic Development Partnership Authority that at a minimum provides the details for determining the amount of capital investment made and the number of new jobs created, the timeline for achieving the capital investment and new job goals, the repayment obligations should those goals not be achieved, and any conditions under which repayment by the qualifying data center or data center tenant claiming the exemption may be required. In addition, the exemption shall apply to any such computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the initial investment. The exemption shall not apply to any other computer software otherwise taxable under Chapter 6 of Title 58.1 that is sold or leased separately from the computer equipment, nor shall it apply to general building improvements or other fixtures.

b. For purposes of this subdivision 18, "distressed locality" means:

~~1.~~ *(1)* From July 1, 2021, until July 1, 2023, any locality that had (i) an annual unemployment rate for calendar year 2019 that was greater than the final statewide average unemployment rate for that calendar year and (ii) a poverty rate for calendar year 2019 that exceeded the statewide average poverty rate for that year; and

~~2.~~ *(2)* From and after July 1, 2023, any locality that has (i) an annual unemployment rate for the most recent calendar year for which such data is available that is greater than the final statewide average unemployment rate for that calendar year and (ii) a poverty rate for the most recent calendar year for which such data is available that exceeds the statewide average poverty rate for that year.

c. For so long as a data center operator is claiming an exemption pursuant to this subdivision 18, such operator shall be required to submit an annual report to the Virginia Economic Development Partnership Authority on behalf of itself and, if applicable, its participating tenants that includes their employment levels, capital investments, average annual wages, qualifying expenses, and tax benefit, and such other information as the Virginia Economic Development Partnership Authority determines is relevant, pursuant to procedures developed by the Virginia Economic Development Partnership Authority. The annual report shall be submitted by the data center operator in a format prescribed by the Virginia Economic Development Partnership Authority. The Virginia Economic Development Partnership Authority shall share all information collected with the Department.

The Department, in collaboration with the Virginia Economic Development Partnership Authority, shall publish a biennial report on the exemption that shall include aggregate information on qualifying expenses claimed under this exemption, the total value of the tax benefit, a return on investment analysis that includes direct and indirect jobs created by data center investment, state and local tax revenues generated, and any other information the Department and the Virginia Economic Development Partnership Authority deem appropriate to demonstrate the costs and benefits of the exemption. The report shall not include, and the Department and the Virginia Economic Development Partnership Authority shall not publish or disclose, any such information if it is unaggregated or if such report or publication could be used to identify a business or individual. The Department shall submit the report to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committees on Appropriations and Finance. The Virginia Economic Development Partnership Authority may publish on its website and distribute annual information indicating the job creation and ranges of capital investments made by a data center operator and, if applicable, its participating tenants, in a format to be developed in consultation with data center operators.

19. *a. Notwithstanding any provision of subdivision 18 to the contrary, the exemption set forth in subdivision 18 may be extended for the purchase or lease of computer equipment or enabling software by or on behalf of data center operators for use in data centers in the Commonwealth that are under common ownership or affiliation with the data center operator as set forth in this subdivision 19. For purposes of this subdivision 19, a data center operator shall be considered to own a data center if it is operated on behalf of the data center operator pursuant to a long-term lease of at least ten years.*

b. To qualify for an extension pursuant to this subdivision 19, a data center operator shall enter into a memorandum of understanding with the Virginia Economic Development Partnership Authority on or after January 1, 2023, that at a minimum provides the details for determining the amount of capital investment made and the number of new jobs created; the locality or localities in which the capital investment shall be made and new jobs shall be created in order to qualify for

the extension; and the timeline for making the capital investment and creating the new jobs in each specified locality. A data center operator shall only be required to enter into one memorandum of understanding pursuant to this subdivision 19 in order to qualify for the extension pursuant to both subdivisions c and d.

c. If on or after January 1, 2023, but before July 1, 2035, a data center operator that has entered into a memorandum of understanding pursuant to subdivision b (i) makes or causes to be made a capital investment of at least $35 billion in data centers in localities identified in a memorandum of understanding and (ii) creates at least 1,000 new full-time jobs, as defined in § 59.1-284.41, at such data centers, of which at least 100 of such jobs shall pay at least one and one-half times the prevailing average wage in the Commonwealth, the data center operator shall be eligible to continue to utilize the exemption set forth in subdivision 18 through June 30, 2040.

d. If on or after January 1, 2023, but before July 1, 2040, a data center operator that has entered into a memorandum of understanding pursuant to subdivision b (i) makes a total capital investment of at least $100 billion, inclusive of any investment made pursuant to subdivision c, in data centers in the localities identified in such memorandum of understanding and (ii) creates a total of at least 2,500 new full-time jobs, as defined in § 59.1-284.41, at such data centers, of which at least 100 of such jobs shall pay at least one and one-half times the prevailing average wage in the Commonwealth, inclusive of any new full-time jobs created pursuant to subdivision c, the data center operator shall be eligible to utilize the exemption set forth in subdivision 18 through June 30, 2050.

e. The extension provided in this subdivision 19 shall apply to the computer equipment or enabling software purchased or leased for use in the data centers subject to the capital investment and job requirements set forth herein, as well as to any such computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the initial investment. The extension shall also apply to any computer equipment or software purchased or leased in data centers under common ownership or affiliation with the data center operator for which the data center operator entered into a memorandum of understanding with the Virginia Economic Development Partnership Authority to qualify for the exemption set forth in subdivision 18.

f. The reporting requirements set forth in subdivision 18 shall continue to apply to a data center operator for the duration of any extension granted pursuant to this subdivision 19.

20. If the preponderance of their use is in the manufacture of beer by a brewer licensed pursuant to subdivision 3 or 4 of § 4.1-206.1, (i) machinery, tools, and equipment, or repair parts therefor or replacements thereof, fuel, power, energy, or supplies; (ii) materials for future processing, manufacturing, or conversion into beer where such materials either enter into the production of or become a component part of the beer; and (iii) materials, including containers, labels, sacks, cans, bottles, kegs, boxes, drums, or bags for future use, for packaging the beer for shipment or sale.

~~20.~~ *21.* If the preponderance of their use is in advanced recycling, as defined in § 58.1-439.7, (i) machinery, tools, and equipment, or repair parts therefor or replacements thereof, fuel, power, energy, or supplies; (ii) materials for processing, manufacturing, or conversion for resale where such materials either are recycled or recovered; and (iii) materials, including containers, labels, sacks, cans, boxes, drums, or bags used for packaging recycled or recovered material for shipment or resale.

CHAPTER 22.20.

CLOUD COMPUTING CLUSTER INFRASTRUCTURE GRANT FUND.

§ 59.1-284.41. Cloud Computing Cluster Infrastructure Grant Fund.

A. As used in this chapter, unless the context requires a different meaning:

"Affiliate" means an entity that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with a qualified company.

"Capital investment" means an investment by or on behalf of a qualified company on or after January 1, 2023, but prior to July 1, 2040, in real property, tangible personal property, or both, at a facility that is properly chargeable to a capital account or would be so chargeable with a proper election.

"Construction cost" means any capital investment, except for the purchase of land, by a qualified company on or after January 1, 2023, in real or tangible personal property to develop or support a data center in a locality identified in a memorandum of understanding. "Construction cost" includes infrastructure costs.

"Facility" means the one or more buildings, group of buildings, and ancillary facilities and equipment that are located in a locality or localities identified in a memorandum of understanding and that are owned, occupied, or otherwise operated by or for the qualified company for data center and cloud computing cluster operations.

"Fund" means the Cloud Computing Cluster Infrastructure Grant Fund.

"Grant" means a grant from the Fund awarded to a qualified company that is intended to pay or reimburse the qualified company for (i) infrastructure costs related to the construction and support of facilities and (ii) costs for workforce development, recruiting, and training.

"Infrastructure costs" includes the costs related to fiber, water, wastewater, and stormwater facilities; gas pipelines; electrical transmission and distribution lines; and site clearing, grading, and other improvements to support the construction and development of a facility.

"Locality" means a county or city in the Commonwealth in which a company makes an eligible investment in a facility and creates new full-time jobs, that is identified in a memorandum of understanding, and that has entered into a performance agreement.

"Local match" means the funds committed by a locality identified in a memorandum of understanding to a qualified company related to the construction and operation of a facility. The local match shall be at least twice the amount provided from the Fund to the qualified company related to the construction of, and creation of new full-time jobs at, the facility in such locality, as set forth in a performance agreement. Expenditures by a locality that the Secretary has certified as infrastructure costs incurred by the locality at the request of the qualified company may be counted toward the local match obligation.

"MEI Commission" means the MEI Project Approval Commission established pursuant to Chapter 47 (§ 30-309 et seq.) of Title 30.

"Memorandum of understanding" means a memorandum of understanding entered into on or after January 1, 2023, between a qualified company, the Commonwealth, and VEDP that sets forth (i) the grant amount that the qualified company shall be eligible to receive for each new full-time job created and each $1 million of capital investment in construction costs made; (ii) the total aggregate amount of grants that the qualified company shall be eligible to receive; (iii) the performance date; (iv) the requirements and timing for capital investment and new full-time job creation by the qualified company; (v) the identification of the locality or localities in which such investment and job creation shall take place; and (vi) any other terms and conditions deemed necessary or appropriate to be eligible for grant payments from the Fund.

"New full-time jobs" means job positions created on or after January 1, 2023, but prior to July 1, 2040, in which the employee of a qualified company works at a facility, for which the average annual wage is at least one and one-half times the prevailing wage of the locality where the job is located, and for which the qualified company provides standard fringe benefits. Such position shall require a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the employer's operations, which normal year shall consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions shall not qualify as new full-time jobs. Positions created after January 1, 2023, by contractors that are dedicated full-time to providing operational services after the opening of a facility may constitute new full-time jobs of the qualified company but shall not exceed 20 percent of the number used to meet any performance criteria for the creation of new full-time jobs. A position created when a job function is shifted from an existing location in the Commonwealth to a new facility shall qualify as a new full-time job if the qualified company certifies that it has hired a new employee or contractor to fill substantially the same job at the existing location as that performed by the transferred position. Such jobs shall be in addition to any full-time jobs that a qualified company had in the Commonwealth as of January 1, 2023.

"Performance agreement" means an agreement entered into on or after January 1, 2023, between a qualified company, a locality identified in a memorandum of understanding, and VEDP that commits the locality to provide local funds, either as annual cash grants or via the expenditure of local funds, for infrastructure costs related to the qualified company. The local commitment shall equal at least twice the amount of grants from the Fund committed by the Commonwealth for capital investment and the creation of new full-time jobs in such locality. Such performance agreement may also include commitments related to accelerated permitting, property tax classifications, and other such issues to which the parties agree.

"Performance date" means the date set forth in a memorandum of understanding by which capital investment and new full-time job creation targets shall be met in order to qualify for grants from the Fund.

"Qualification" means the process by which a company becomes a qualified company eligible to enter into a memorandum of understanding and receive grants from the Fund. Qualification shall require:

1. An endorsement by the MEI Commission that the company be approved by the General Assembly to receive grants from the Fund. Such endorsement shall include a recommendation by the MEI Commission as to the grant amount that the company shall receive for each new full-time job created and each $1 million of capital investment in construction costs made, as well as a recommendation as to the total, aggregate amount of grants from the Fund that the company shall be eligible to receive. The recommendation regarding the amount of the grants shall be based upon information provided by VEDP to the MEI Commission based upon a return-on-investment analysis; and

2. Approval by the General Assembly in a general appropriation act, including approval of the specific grant amount that the company shall receive for each new full-time job created and each $1 million of capital investment in construction costs made, as well as the total, aggregate amount of grants from the Fund that the company shall be eligible to receive and the date of endorsement by the MEI Commission.

If the MEI Commission endorses a company to receive grants from the Fund, and legislation to implement the MEI Commission's recommendation is introduced in a subsequent session of the General Assembly, the specific grant amount recommended and any other recommended legislative changes shall become public at such time as the company publicly declares its intention to make or cause to be made a capital investment at facilities of at least $50 billion and to create at least 1,500 new full-time jobs that pay an average annual wage of at least one and one-half times the prevailing wage of the locality where the job is located, but in no case later than the first day of the session of the General Assembly in which approval is sought.

"Qualified company" means a company, including its affiliates, that, after qualification, enters into a memorandum of understanding and is expected by the performance date to (i) make or cause to be made a capital investment at facilities in localities identified in the memorandum of understanding of at least $50 billion and (ii) create at least 1,500 new full-time jobs that pay an average annual wage of at least one and one-half times the prevailing wage of the locality where the job is located.

"Secretary" means the Secretary of Commerce and Trade or his designee.

"VEDP" means the Virginia Economic Development Partnership Authority.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Cloud Computing Cluster Infrastructure Grant Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of making grant payments pursuant to this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller pursuant to subsection F.

C. A qualified company shall be eligible to receive grant payments for each fiscal year beginning with the Commonwealth's fiscal year starting on July 1, 2025, and ending no later than the Commonwealth's fiscal year starting on July 1, 2044, based upon its actual investments and the number of new full-time jobs created prior to the performance date in localities that have entered into a performance agreement. The grant payments under this section shall be paid to the qualified company from the Fund, subject to appropriation by the General Assembly, during each such fiscal year, contingent upon the qualified company meeting the requirements for receiving grant payments set forth in this section and in the memorandum of understanding. The amount of the grant payment in each fiscal year shall be calculated based upon the grant amount approved for the qualified company for each new full-time job created by the qualified company in the prior calendar year and each $1 million of capital investment in construction costs by the qualified company in the prior calendar year, as approved by the General Assembly and included in the memorandum of understanding. The total aggregate amount of all grants paid to a qualified company shall not exceed the amount approved by the General Assembly and included in the memorandum of understanding.

D. Capital investments made by a qualified company and new full-time jobs created in a locality that (i) was not identified in the memorandum of understanding and (ii) did not enter into a performance agreement shall not qualify for grant payments pursuant to this chapter.

E. A qualified company applying for a grant payment pursuant to this chapter shall provide evidence, satisfactory to the Secretary, of (i) the capital investment in construction costs as of the last day of the calendar year that immediately precedes the application date; (ii) the aggregate number of new full-time jobs created and maintained as of the last day of the calendar year that immediately precedes the date of the application; and (iii) an average annual wage of the new full-time jobs of at least one and one-half times the prevailing wage of the locality where the job is located. The application and evidence shall be filed with the Secretary in person, by mail, or as otherwise agreed upon in the memorandum of understanding, by no later than April 1 of each year following the end of the calendar year upon which the evidence set forth is based. Failure to meet the filing deadline shall result in a deferral of a scheduled grant payment. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

F. Within 60 days of receiving the application and evidence pursuant to subsection E, the Secretary shall certify to the Comptroller and the qualified company the verification of the information contained in the application and the resulting amount of the grant payments to which the grant-eligible company may be entitled for payment. Such grant payments shall be made annually by check or electronic payment issued by the State Treasurer on warrant of the Comptroller in each fiscal year following the submission of such application, as provided in the memorandum of understanding. The Comptroller shall not draw any warrants to issue checks or electronic payments for grant payments under this chapter without a specific appropriation for the same.

G. As a condition for the receipt of a grant payment, a qualified company shall make available for inspection to the Secretary, upon request, documents relevant and applicable to determining whether the qualified company has met the requirements for the receipt of a grant payment as set forth in this chapter and subject to the memorandum of understanding. Copies of the performance agreement and a certification by each locality subject to a performance agreement and the qualified company that the provisions of such agreement have been fulfilled shall also be provided to the Secretary.

2. That upon the signing of a memorandum of understanding, as defined in § 59.1-284.41 of the Code of Virginia, as created by this act, the Virginia Economic Development Partnership Authority (VEDP) shall hire a full-time project coordinator to assist each qualified company, as defined in § 59.1-284.41 of the Code of Virginia, as created by this act, with managing projects with the Commonwealth and its agencies and local government entities. Prior to the payment of any grants from the Cloud Computing Cluster Infrastructure Grant Fund, established pursuant to § 59.1-284.41 of the Code of Virginia, as created by this act, to a qualified company, VEDP shall be credited $200,000 annually to reimburse VEDP for the cost of such coordinator. The costs for the coordinator shall count toward the aggregate cap of grants that may be paid to the qualified company.

CHAPTER 672

An Act to amend and reenact § 9.1-101, as it is currently effective and as it shall become effective, relating to definition of law-enforcement officer; fire marshal with police powers.

[S 1046]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-101, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 9.1-101. (For contingent expiration date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office ~~which~~ *that* is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth~~,~~ and ~~shall include~~ *includes* any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; ~~or~~ (xii) private police officer employed by a private police department*; or (xiii) fire marshal appointed pursuant to § 27-30 when such fire marshal has police powers as set out in §§ 27-34.2 and 27-34.2:1*. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 9.1-101. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency

complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office ~~which~~ *that* is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth~~,~~ and ~~shall include~~ *includes* any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; ~~or~~ (xii) private police officer employed by a private police department*; or (xiii) fire marshal appointed pursuant to § 27-30 when such fire marshal has police powers as set out in §§ 27-34.2 and 27-34.2:1*. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Sealing" means (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

2. That the provisions of the first enactment of this act shall not become effective unless reenacted by the 2024 Session of the General Assembly.

3. That the Department of Criminal Justice Services shall convene a work group composed of representatives from the Department of Fire Programs, Virginia Professional Fire Fighters, the Virginia Fire Prevention Association, the Virginia Fire Chiefs Association, the Virginia Association of Chiefs of Police, the Virginia Law Enforcement Sheriffs, the Virginia Sheriffs' Association, a regional fire marshal's office, and other relevant stakeholders to examine and make recommendations on the inclusion of fire marshals with police powers in the definition of law-enforcement officer in § 9.1-101 of the Code of Virginia. The work group shall complete its work and submit its findings and recommendations to the General Assembly no later than November 1, 2023.

CHAPTER 673

An Act to amend and reenact §§ 54.1-2957.9 and 54.1-3408 of the Code of Virginia, relating to midwifery; administration of medication.

[H 1511]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2957.9 and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2957.9. Regulation of the practice of midwifery.

The Board shall adopt regulations governing the practice of midwifery, upon consultation with the Advisory Board on Midwifery. The regulations shall (i) address the requirements for licensure to practice midwifery, including the establishment of standards of care, (ii) be consistent with the North American Registry of Midwives' current job description for the profession and the National Association of Certified Professional Midwives' standards of practice, except that prescriptive authority ~~and the possession and administration of controlled substances~~ shall be prohibited, (iii) ensure independent practice, (iv) require midwives to disclose to their patients, when appropriate, options for consultation and referral to a physician and evidence-based information on health risks associated with birth of a child outside of a hospital or birthing center, as defined in § 54.1-2957.03, including risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation, (v) provide for an appropriate license fee, and (vi) include requirements for licensure renewal and continuing education. Such regulations shall not (a) require any agreement, written or otherwise, with another health care professional or (b) require the assessment of a woman who is seeking midwifery services by another health care professional. *A licensed midwife may obtain, possess, and administer drugs and devices that are used within the licensed midwife's scope of practice as determined by the North American Registry of Midwives Job Analysis. The Board of Medicine shall develop and publish best practice and standards of care guidance for all such drugs. The formulary shall not include any drug, as defined in § 54.1-3401, in Schedule I through V of the Drug Control Act. A licensed midwife may obtain medications and devices to treat conditions within the licensed midwife's scope of practice from entities including a pharmacy, as defined in § 54.1-3300, or a manufacturer, medical equipment supplier, outsourcing facility, warehouser, or wholesale distributor, as these terms are defined in § 54.1-3401. An entity that provides a medication to a licensed midwife in accordance with this section, and who relies in good faith upon the license information provided by the licensed midwife, is not subject to liability for providing the medication.*

Completing all Alliance for Innovation on Maternal Health patient safety bundles advanced by the Virginia Neonatal Perinatal Collaborative shall be required of any licensed midwife who obtains, possesses, and administers drugs and devices within the scope of his practice.

License renewal shall be contingent upon maintaining a Certified Professional Midwife certification.

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine, a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice. *A licensed midwife pursuant to § 54.1-2957.7 shall only obtain, possess, and administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.*

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;

2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;

3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or

4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or standing protocol that shall be issued by the local health director within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers or nebulized albuterol may possess or administer an albuterol inhaler and a valved holding chamber or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any nurse at an early childhood care and education entity, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a

contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; epinephrine for use in emergency cases of anaphylactic shock; and naloxone or other opioid antagonist for overdose reversal.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, or his remote supervision, as defined in subsection E or F of § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency, the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency, or the Board of Health has made an emergency order pursuant to § 32.1-13 for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and

other dangers to the public life and health and for the limited purpose of administering vaccines as an approved countermeasure for such communicable, contagious, and infectious diseases; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of

Medicine and the Department of Health, an employee or other person acting on behalf of a public place who has completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal other than naloxone in an injectable formulation with a hypodermic needle or syringe in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

For the purposes of this subsection, "public place" means any enclosed area that is used or held out for use by the public, whether owned or operated by a public or private interest.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

CHAPTER 674

An Act to amend and reenact §§ 54.1-2957.9 and 54.1-3408 of the Code of Virginia, relating to midwifery; administration of medication.

[S 1275]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2957.9 and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2957.9. Regulation of the practice of midwifery.

The Board shall adopt regulations governing the practice of midwifery, upon consultation with the Advisory Board on Midwifery. The regulations shall (i) address the requirements for licensure to practice midwifery, including the establishment of standards of care, (ii) be consistent with the North American Registry of Midwives' current job description for the profession and the National Association of Certified Professional Midwives' standards of practice, except that prescriptive authority ~~and the possession and administration of controlled substances~~ shall be prohibited, (iii) ensure independent practice, (iv) require midwives to disclose to their patients, when appropriate, options for consultation and referral to a physician and evidence-based information on health risks associated with birth of a child outside of a hospital or birthing center, as defined in § 54.1-2957.03, including risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation, (v) provide for an appropriate license fee, and (vi) include requirements for licensure renewal and continuing education. Such regulations

shall not (a) require any agreement, written or otherwise, with another health care professional or (b) require the assessment of a woman who is seeking midwifery services by another health care professional. *A licensed midwife may obtain, possess, and administer drugs and devices that are used within the licensed midwife's scope of practice as determined by the North American Registry of Midwives Job Analysis. The Board of Medicine shall develop and publish best practice and standards of care guidance for all such drugs. The formulary shall not include any drug, as defined in § 54.1-3401, in Schedule I through V of the Drug Control Act. A licensed midwife may obtain medications and devices to treat conditions within the licensed midwife's scope of practice from entities including a pharmacy, as defined in § 54.1-3300, or a manufacturer, medical equipment supplier, outsourcing facility, warehouser, or wholesale distributor, as these terms are defined in § 54.1-3401. An entity that provides a medication to a licensed midwife in accordance with this section, and who relies in good faith upon the license information provided by the licensed midwife, is not subject to liability for providing the medication.*

Completing all Alliance for Innovation on Maternal Health patient safety bundles advanced by the Virginia Neonatal Perinatal Collaborative shall be required of any licensed midwife who obtains, possesses, and administers drugs and devices within the scope of his practice.

License renewal shall be contingent upon maintaining a Certified Professional Midwife certification.

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine, a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice. *A licensed midwife pursuant to § 54.1-2957.7 shall only obtain, possess, and administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.*

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;

2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;

3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or

4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or standing protocol that shall be issued by the local health director within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers or nebulized albuterol may possess or administer an albuterol inhaler and a valved holding chamber or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any nurse at an early childhood care and education entity, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; epinephrine for use in emergency cases of anaphylactic shock; and naloxone or other opioid antagonist for overdose reversal.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, or his remote supervision, as defined in subsection E or F of § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency, the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency, or the Board of Health has made an emergency order pursuant to § 32.1-13 for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health and for the limited purpose of administering vaccines as an approved countermeasure for such communicable, contagious, and infectious diseases; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, an employee or other person acting on behalf of a public place who has completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal other than naloxone in an injectable formulation with a hypodermic needle or syringe in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

For the purposes of this subsection, "public place" means any enclosed area that is used or held out for use by the public, whether owned or operated by a public or private interest.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

CHAPTER 675

An Act to amend and reenact §§ 2.2-4347, 2.2-4354, and 11-4.6 of the Code of Virginia, relating to construction contracts; payment clauses to be included; right to payment of subcontractors.

[H 2500]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-4347, 2.2-4354, and 11-4.6 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-4347. Definitions.

As used in this article, unless the context requires a different meaning:

"Construction contract" means a contract relating to the construction, alteration, repair, or maintenance of a building, structure, or appurtenance to such building or structure, including moving, demolition, and excavation connected with such building or structure, or any provision contained in any contract relating to the construction of projects other than buildings.

"Contractor" *or "general contractor"* means the entity that has a direct contract with any "state agency" as defined herein~~,~~ or any agency of local government as discussed in § 2.2-4352.

"Debtor" means any individual, business, or group having a delinquent debt or account with any state agency that obligation has not been satisfied or set aside by court order or discharged in bankruptcy.

"Payment date" means either (i) the date on which payment is due under the terms of a contract for provision of goods or services~~;~~ or (ii) if such date has not been established by contract, (a) ~~thirty~~ *30* days after receipt of a proper invoice by the state agency or its agent or ~~forty-five~~ *45* days after receipt by the local government or its agent responsible under the contract for approval of such invoices for the amount of payment due~~,~~ or (b) ~~thirty~~ *30* days after receipt of the goods or services by the state agency or ~~forty-five~~ *45* days after receipt by the local government, whichever is later.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. ~~The term shall~~ *"State agency" does* not include any county, city, or town or any local or regional governmental authority.

"Subcontractor" means any entity that has a contract to supply labor or materials to the contractor to whom the contract was awarded or to any subcontractor in the performance of the work provided for in such contract.

§ 2.2-4354. Payment clauses to be included in contracts.

Any contract awarded by any state agency, or any contract awarded by any agency of local government in accordance with § 2.2-4352, shall include:

1. A payment clause that obligates ~~a~~ *the* contractor on a construction contract*, in the event that the contractor has not received payment from the state agency or local government for work performed by a subcontractor under such contract,* to be liable for the entire amount owed to ~~any~~ *such* subcontractor ~~with which it contracts~~ *and to pay such subcontractor within 60 days of the receipt of an invoice following satisfactory completion of the work for which the subcontractor has invoiced.* Such contractor shall not be liable for amounts otherwise reducible due to the subcontractor's noncompliance with the terms of the contract. However, in the event that the contractor withholds all or a part of the amount ~~promised to~~ *invoiced by* the subcontractor under the *terms of the* contract, the contractor shall notify the subcontractor *within 50 days of the receipt of such invoice*, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment*, specifically identifying the contractual noncompliance, the dollar amount being withheld, and the lower-tier subcontractor responsible for the contractual noncompliance*. Payment by the party contracting with the contractor shall not be a condition precedent to payment to any lower-tier subcontractor, regardless of that ~~contractor~~ *contractor's* receiving payment for amounts owed to that contractor. Any provision in a *construction* contract contrary to this section shall be unenforceable. *Nothing in this subdivision shall be construed to (i) apply to or prohibit the inclusion of any retainage provisions in a construction contract or (ii) apply to contracts awarded solely for professional services as that term is defined in § 2.2-4301 where the public body is contracting directly with an architectural and engineering firm.*

2. A payment clause that obligates the contractor to take one of the two following actions within seven days after receipt of amounts paid to the contractor by the state agency or local government for work performed by the subcontractor under that contract:

a. Pay the subcontractor for the proportionate share of the total payment received from the agency attributable to the work performed by the subcontractor under that contract; or

b. Notify the agency and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

3. A payment clause that requires (i) individual contractors to provide their social security numbers and (ii) proprietorships, partnerships, and corporations to provide their federal employer identification numbers.

4. An interest clause that obligates the contractor to pay interest to the subcontractor on all amounts owed by the contractor that remain unpaid after seven days following receipt by the contractor of payment from the state agency or agency of local government for work performed by the subcontractor under that contract, except for amounts withheld as allowed in subdivision 2.

5. An interest rate clause stating, "Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent per month."

Any such contract awarded shall further require the contractor to include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

A contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of the state agency or agency of local government. A contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

§ 11-4.6. Required contract provisions in construction contracts.

A. As used in this section, unless the context requires a different meaning:

"Construction contract" means ~~a contract between a general contractor and a subcontractor relating to the construction, alteration, repair, or maintenance of a building, structure, or appurtenance thereto, including moving, demolition, and excavation connected therewith, or any provision contained in any contract relating to the construction of projects other than buildings~~ *a contract for the construction, alteration, repair, or maintenance of a building, structure, or appurtenance thereto, including moving, demolition, and excavation connected therewith, or any provision contained in any contract relating to the construction of projects other than buildings, except for contracts awarded solely for professional services as that term is defined in § 2.2-4301*.

"~~General~~ *Contractor" or "general* contractor" ~~and "subcontractor" have the meanings ascribed thereto in § 43-1~~ *means the same as that term is defined in § 54.1-1100*, except that ~~those terms~~ *such term* shall not include persons solely furnishing materials.

"Owner" means a person or entity, other than a public body as defined in § 2.2-4301, responsible for contracting with a general contractor for the procurement of a construction contract.

"Subcontractor" means the same as that term is defined in § 2.2-4347.

B. *1.* In any construction contract between an owner and a general contractor, the parties shall include a provision that requires the owner to pay such general contractor within 60 days of the receipt of an invoice following satisfactory completion of the portion of the work for which the general contractor has invoiced. An owner shall not be ~~required to pay~~ *liable for* amounts ~~invoiced that are subject to withholding pursuant to the contract for~~ *otherwise reducible due to* the general contractor's noncompliance with the terms of the contract. However, in the event that an owner withholds all or a part of the amount invoiced by the general contractor under the terms of the contract, the owner shall notify the general contractor *within 45 days of the receipt of such invoice*, in writing ~~and with reasonable specificity~~, of his intention to withhold all or part of the general contractor's payment with the reason for nonpayment*, specifically identifying the contractual noncompliance and the dollar amount being withheld*. Failure of an owner to make timely payment as provided in this ~~subsection~~ *subdivision* shall result in interest penalties consistent with § 2.2-4355. Nothing in this ~~subsection~~ *subdivision* shall be construed to apply to or prohibit the inclusion of any retainage provisions in a construction contract.

~~C.~~ *2.* Any *construction* contract in which there is at least one general contractor and one subcontractor shall be deemed to include a provision under which any ~~higher-tier~~ *general* contractor is liable to any ~~lower-tier~~ subcontractor with whom the ~~higher-tier~~ *general* contractor contracts for satisfactory performance of the subcontractor's duties under the contract. Such contract shall require such ~~higher-tier~~ *general* contractor to pay such ~~lower-tier~~ subcontractor within the earlier of (i) 60 days of the *receipt of an invoice following* satisfactory completion of the portion of the work for which the subcontractor has invoiced or (ii) seven days after receipt of amounts paid by the owner to the general contractor or by the ~~higher-tier~~ contractor to the ~~lower-tier contractor~~ *subcontractor* for work performed by a subcontractor pursuant to the terms of the contract. Such contractors shall not be liable for amounts otherwise reducible ~~pursuant to a breach of contract by~~ *due to* the ~~subcontractor~~ *subcontractor's noncompliance with the terms of the contract*. However, in the event that a contractor withholds all or a part of the amount invoiced by any ~~lower-tier~~ subcontractor under the contract, the contractor shall notify the subcontractor *within 50 days of the receipt of such invoice*, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment, specifically identifying the contractual noncompliance, the dollar amount being withheld, and the ~~lower-tier~~ subcontractor responsible for the contractual noncompliance. Payment by the party contracting with the contractor shall not be a condition precedent to payment to any ~~lower-tier~~ subcontractor, regardless of that ~~contractor~~ *contractor's* receiving payment for amounts owed to that contractor, unless the party contracting with the contractor is insolvent or a debtor in bankruptcy as defined in § 50-73.79. Any provision in a contract contrary to this section shall be unenforceable. Failure of a contractor to make timely payment as provided in this ~~subsection~~ *subdivision* shall result in interest penalties consistent with § 2.2-4355. Nothing in this ~~subsection~~ *subdivision* shall be construed to apply to or prohibit the inclusion of any retainage provisions in a construction contract. *Every subcontract between a subcontractor and a lower-tier subcontractor or supplier, of any tier, shall contain the identical payment, notice, and interest requirements as those provided in this subdivision if (i) such construction contract is related to a project other than a single-family residential project and (ii) the value of the project, or an aggregate of projects under such construction contract, is greater than $500,000.*

~~D.~~ *C. 1.* Any construction contract between a general contractor and its subcontractor and any lower tier *additional* subcontract entered into on or after July 1, 2020, shall be deemed to include a provision under which the general contractor, its subcontractor, and the *additional* subcontractor at any lower tier are jointly and severally liable to pay the employees of

any *additional* subcontractor at any lower tier the greater of (i) all wages due to a subcontractor's employees or to the lower tier subcontractor's employees at such rate and upon such terms as shall be provided in the employment agreement between the subcontractor and its employees or (ii) the amount of wages that the subcontractor or any lower tier subcontractor is required to pay to its employees under the provisions of applicable law, including the provisions of the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.) and the federal Fair Labor Standards Act (29 U.S.C. § 201 et seq.).

~~E.~~ *2.* A general contractor shall be deemed to be the employer of ~~a~~ *any* subcontractor's employees ~~at any tier~~ for purposes of § 40.1-29. If the wages due to the subcontractor's employees under the terms of the employment agreement between a subcontractor and its employees are not paid, the general contractor shall be subject to all penalties, criminal and civil, to which an employer that fails or refuses to pay wages is subject under § 40.1-29. Any liability of a general contractor pursuant to § 40.1-29 shall be joint and several with the subcontractor that failed or refused to pay the wages to its employees.

~~F.~~ *3.* Except as otherwise provided in a contract between the general contractor and the subcontractor, the subcontractor shall indemnify the general contractor for any wages, damages, interest, penalties, or attorney fees owed as a result of the subcontractor's failure to pay wages to the subcontractor's employees as provided in ~~subsection d~~ *subdivision 1*, unless the subcontractor's failure to pay the wages was due to the general contractor's failure to pay moneys due to the subcontractor in accordance with the terms of their construction contract.

~~G.~~ *4.* The provisions of this ~~section~~ *subsection* shall only apply if (i) it can be demonstrated that the general contractor knew or should have known that the subcontractor was not paying his employees all wages due, (ii) the construction contract is related to a project other than a single family residential project, and (iii) the value of the project, or an aggregate of projects under one construction contract, is greater than $500,000. As evidence a general contractor or *any* subcontractor~~, regardless of tier,~~ may offer a written certification, under oath, from the subcontractor in direct privity of contract with the general contractor or subcontractor stating that (a) the subcontractor and each of his sub-subcontractors has paid all employees all wages due for the period during which the wages are claimed for the work performed on the project and (b) to the subcontractor's knowledge all sub-subcontractors below the subcontractor~~, regardless of tier,~~ have similarly paid their employees all such wages. Any person who falsely signs such certification shall be personally liable to the general contractor or subcontractor for fraud and any damages the general contractor or subcontractor may incur.

CHAPTER 676

An Act to amend and reenact §§ 2.2-4347, 2.2-4354, and 11-4.6 of the Code of Virginia, relating to construction contracts; payment clauses to be included; right to payment of subcontractors.

[S 1313]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-4347, 2.2-4354, and 11-4.6 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-4347. Definitions.

As used in this article, unless the context requires a different meaning:

"Construction contract" means a contract relating to the construction, alteration, repair, or maintenance of a building, structure, or appurtenance to such building or structure, including moving, demolition, and excavation connected with such building or structure, or any provision contained in any contract relating to the construction of projects other than buildings.

"Contractor" *or "general contractor"* means the entity that has a direct contract with any "state agency" as defined herein~~,~~ or any agency of local government as discussed in § 2.2-4352.

"Debtor" means any individual, business, or group having a delinquent debt or account with any state agency that obligation has not been satisfied or set aside by court order or discharged in bankruptcy.

"Payment date" means either (i) the date on which payment is due under the terms of a contract for provision of goods or services~~;~~ or (ii) if such date has not been established by contract, (a) ~~thirty~~ *30* days after receipt of a proper invoice by the state agency or its agent or ~~forty-five~~ *45* days after receipt by the local government or its agent responsible under the contract for approval of such invoices for the amount of payment due~~,~~ or (b) ~~thirty~~ *30* days after receipt of the goods or services by the state agency or ~~forty-five~~ *45* days after receipt by the local government, whichever is later.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. ~~The term shall~~ *"State agency" does* not include any county, city, or town or any local or regional governmental authority.

"Subcontractor" means any entity that has a contract to supply labor or materials to the contractor to whom the contract was awarded or to any subcontractor in the performance of the work provided for in such contract.

§ 2.2-4354. Payment clauses to be included in contracts.

Any contract awarded by any state agency, or any contract awarded by any agency of local government in accordance with § 2.2-4352, shall include:

1. A payment clause that obligates ~~a~~ *the* contractor on a construction contract*, in the event that the contractor has not received payment from the state agency or local government for work performed by a subcontractor under such contract,* to

be liable for the entire amount owed to ~~any~~ *such* subcontractor ~~with which it contracts~~ *and to pay such subcontractor within 60 days of the receipt of an invoice following satisfactory completion of the work for which the subcontractor has invoiced*. Such contractor shall not be liable for amounts otherwise reducible due to the subcontractor's noncompliance with the terms of the contract. However, in the event that the contractor withholds all or a part of the amount ~~promised to~~ *invoiced by* the subcontractor under the *terms of the* contract, the contractor shall notify the subcontractor *within 50 days of the receipt of such invoice*, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment*, specifically identifying the contractual noncompliance, the dollar amount being withheld, and the lower-tier subcontractor responsible for the contractual noncompliance*. Payment by the party contracting with the contractor shall not be a condition precedent to payment to any lower-tier subcontractor, regardless of that ~~contractor~~ *contractor's* receiving payment for amounts owed to that contractor. Any provision in a *construction* contract contrary to this section shall be unenforceable. *Nothing in this subdivision shall be construed to (i) apply to or prohibit the inclusion of any retainage provisions in a construction contract or (ii) apply to contracts awarded solely for professional services as that term is defined in § 2.2-4301 where the public body is contracting directly with an architectural and engineering firm.*

2. A payment clause that obligates the contractor to take one of the two following actions within seven days after receipt of amounts paid to the contractor by the state agency or local government for work performed by the subcontractor under that contract:

a. Pay the subcontractor for the proportionate share of the total payment received from the agency attributable to the work performed by the subcontractor under that contract; or

b. Notify the agency and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

3. A payment clause that requires (i) individual contractors to provide their social security numbers and (ii) proprietorships, partnerships, and corporations to provide their federal employer identification numbers.

4. An interest clause that obligates the contractor to pay interest to the subcontractor on all amounts owed by the contractor that remain unpaid after seven days following receipt by the contractor of payment from the state agency or agency of local government for work performed by the subcontractor under that contract, except for amounts withheld as allowed in subdivision 2.

5. An interest rate clause stating, "Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent per month."

Any such contract awarded shall further require the contractor to include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

A contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of the state agency or agency of local government. A contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

§ 11-4.6. Required contract provisions in construction contracts.

A. As used in this section, unless the context requires a different meaning:

"Construction contract" means ~~a contract between a general contractor and a subcontractor relating to the construction, alteration, repair, or maintenance of a building, structure, or appurtenance thereto, including moving, demolition, and excavation connected therewith, or any provision contained in any contract relating to the construction of projects other than buildings~~ *a contract for the construction, alteration, repair, or maintenance of a building, structure, or appurtenance thereto, including moving, demolition, and excavation connected therewith, or any provision contained in any contract relating to the construction of projects other than buildings, except for contracts awarded solely for professional services as that term is defined in § 2.2-4301*.

"~~General~~ *Contractor" or "general* contractor" ~~and "subcontractor" have the meanings ascribed thereto in § 43-1~~ *means the same as that term is defined in § 54.1-1100*, except that ~~those terms~~ *such term* shall not include persons solely furnishing materials.

"Owner" means a person or entity, other than a public body as defined in § 2.2-4301, responsible for contracting with a general contractor for the procurement of a construction contract.

"Subcontractor" means the same as that term is defined in § 2.2-4347.

B. *1.* In any construction contract between an owner and a general contractor, the parties shall include a provision that requires the owner to pay such general contractor within 60 days of the receipt of an invoice following satisfactory completion of the portion of the work for which the general contractor has invoiced. An owner shall not be ~~required to pay~~ *liable for* amounts ~~invoiced that are subject to withholding pursuant to the contract for~~ *otherwise reducible due to* the general contractor's noncompliance with the terms of the contract. However, in the event that an owner withholds all or a part of the amount invoiced by the general contractor under the terms of the contract, the owner shall notify the general contractor *within 45 days of the receipt of such invoice*, in writing ~~and with reasonable specificity~~, of his intention to withhold all or part of the general contractor's payment with the reason for nonpayment*, specifically identifying the contractual noncompliance and the dollar amount being withheld*. Failure of an owner to make timely payment as provided in this ~~subsection~~ *subdivision* shall result in interest penalties consistent with § 2.2-4355. Nothing in this ~~subsection~~ *subdivision* shall be construed to apply to or prohibit the inclusion of any retainage provisions in a construction contract.

~~C.~~ *2.* Any *construction* contract in which there is at least one general contractor and one subcontractor shall be deemed to include a provision under which any ~~higher-tier~~ *general* contractor is liable to any ~~lower-tier~~ subcontractor with whom the ~~higher-tier~~ *general* contractor contracts for satisfactory performance of the subcontractor's duties under the contract. Such contract shall require such ~~higher-tier~~ *general* contractor to pay such ~~lower-tier~~ subcontractor within the earlier of (i) 60 days of the *receipt of an invoice following* satisfactory completion of the portion of the work for which the subcontractor has invoiced or (ii) seven days after receipt of amounts paid by the owner to the general contractor or by the ~~higher-tier~~ contractor to the ~~lower-tier contractor~~ *subcontractor* for work performed by a subcontractor pursuant to the terms of the contract. Such contractors shall not be liable for amounts otherwise reducible ~~pursuant to a breach of contract by~~ *due to* the ~~subcontractor~~ *subcontractor's noncompliance with the terms of the contract*. However, in the event that a contractor withholds all or a part of the amount invoiced by any ~~lower-tier~~ subcontractor under the contract, the contractor shall notify the subcontractor *within 50 days of the receipt of such invoice*, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment, specifically identifying the contractual noncompliance, the dollar amount being withheld, and the ~~lower-tier~~ subcontractor responsible for the contractual noncompliance. Payment by the party contracting with the contractor shall not be a condition precedent to payment to any ~~lower-tier~~ subcontractor, regardless of that ~~contractor~~ *contractor's* receiving payment for amounts owed to that contractor, unless the party contracting with the contractor is insolvent or a debtor in bankruptcy as defined in § 50-73.79. Any provision in a contract contrary to this section shall be unenforceable. Failure of a contractor to make timely payment as provided in this ~~subsection~~ *subdivision* shall result in interest penalties consistent with § 2.2-4355. Nothing in this ~~subsection~~ *subdivision* shall be construed to apply to or prohibit the inclusion of any retainage provisions in a construction contract. *Every subcontract between a subcontractor and a lower-tier subcontractor or supplier, of any tier, shall contain the identical payment, notice, and interest requirements as those provided in this subdivision if (i) such construction contract is related to a project other than a single-family residential project and (ii) the value of the project, or an aggregate of projects under such construction contract, is greater than $500,000.*

~~D.~~ *C. 1.* Any construction contract between a general contractor and its subcontractor and any lower tier *additional* subcontract entered into on or after July 1, 2020, shall be deemed to include a provision under which the general contractor, its subcontractor, and the *additional* subcontractor at any lower tier are jointly and severally liable to pay the employees of any *additional* subcontractor at any lower tier the greater of (i) all wages due to a subcontractor's employees or to the lower tier subcontractor's employees at such rate and upon such terms as shall be provided in the employment agreement between the subcontractor and its employees or (ii) the amount of wages that the subcontractor or any lower tier subcontractor is required to pay to its employees under the provisions of applicable law, including the provisions of the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.) and the federal Fair Labor Standards Act (29 U.S.C. § 201 et seq.).

~~E.~~ *2.* A general contractor shall be deemed to be the employer of ~~a~~ *any* subcontractor's employees ~~at any tier~~ for purposes of § 40.1-29. If the wages due to the subcontractor's employees under the terms of the employment agreement between a subcontractor and its employees are not paid, the general contractor shall be subject to all penalties, criminal and civil, to which an employer that fails or refuses to pay wages is subject under § 40.1-29. Any liability of a general contractor pursuant to § 40.1-29 shall be joint and several with the subcontractor that failed or refused to pay the wages to its employees.

~~F.~~ *3.* Except as otherwise provided in a contract between the general contractor and the subcontractor, the subcontractor shall indemnify the general contractor for any wages, damages, interest, penalties, or attorney fees owed as a result of the subcontractor's failure to pay wages to the subcontractor's employees as provided in ~~subsection d~~ *subdivision 1*, unless the subcontractor's failure to pay the wages was due to the general contractor's failure to pay moneys due to the subcontractor in accordance with the terms of their construction contract.

~~G.~~ *4.* The provisions of this ~~section~~ *subsection* shall only apply if (i) it can be demonstrated that the general contractor knew or should have known that the subcontractor was not paying his employees all wages due, (ii) the construction contract is related to a project other than a single family residential project, and (iii) the value of the project, or an aggregate of projects under one construction contract, is greater than $500,000. As evidence a general contractor or *any* subcontractor~~, regardless of tier,~~ may offer a written certification, under oath, from the subcontractor in direct privity of contract with the general contractor or subcontractor stating that (a) the subcontractor and each of his sub-subcontractors has paid all employees all wages due for the period during which the wages are claimed for the work performed on the project and (b) to the subcontractor's knowledge all sub-subcontractors below the subcontractor~~, regardless of tier,~~ have similarly paid their employees all such wages. Any person who falsely signs such certification shall be personally liable to the general contractor or subcontractor for fraud and any damages the general contractor or subcontractor may incur.

CHAPTER 677

An Act to amend and reenact § 16.1-309.1 of the Code of Virginia, relating to notifications in juvenile cases; exception to confidentiality.

[S 1264]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-309.1 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-309.1. Exception as to confidentiality.

A. Notwithstanding any other provision of this article, where consideration of public interest requires, the judge shall make available to the public the name and address of a juvenile and the nature of the offense for which a juvenile has been adjudicated delinquent (i) for an act which would be a Class 1, 2, or 3 felony, forcible rape, robbery or burglary or a related offense as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 if committed by an adult or (ii) in any case where a juvenile is sentenced as an adult in circuit court.

B. 1. a. At any time prior to disposition, if a juvenile charged with a delinquent act which would constitute a felony if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the Commonwealth or, upon notice to the Commonwealth's attorney, the Department of Juvenile Justice or a locally operated court services unit, may, with notice to the juvenile's attorney of record, petition the court having jurisdiction of the offense to authorize public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was adjudicated and any other information which may expedite his apprehension. Upon a showing that the juvenile is a fugitive and for good cause, the court shall order release of this information to the public. If a juvenile charged with a delinquent act that would constitute a felony if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice at a time when the court is not in session, the Commonwealth's attorney, the Department of Juvenile Justice, or a locally operated court services unit may, with notice to the juvenile's attorney of record, authorize the public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought, and any other information which may expedite his apprehension.

b. At any time prior to disposition, if a juvenile charged with a delinquent act which would constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the Commonwealth may, with notice to the juvenile's attorney of record, petition the court having jurisdiction of the offense to authorize public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was adjudicated and any other information which may expedite his apprehension. Upon a showing that the juvenile is a fugitive and for good cause, the court shall order release of this information to the public. If a juvenile charged with a delinquent act that would constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice at a time when the court is not in session, the attorney for the Commonwealth may, with notice to the juvenile's attorney of record, authorize the public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought, and any other information which may expedite his apprehension.

2. After final disposition, if a juvenile (i) found to have committed a delinquent act becomes a fugitive from justice or (ii) who has been committed to the Department of Juvenile Justice pursuant to subdivision A 14 of § 16.1-278.8 or § 16.1-285.1 becomes a fugitive from justice by escaping from a facility operated by or under contract with the Department or from the custody of any employee of such facility, the Department may release to the public the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was committed, and any other information which may expedite his apprehension. The Department shall promptly notify the attorney for the Commonwealth of the jurisdiction in which the juvenile was tried whenever information is released pursuant to this subdivision. If a juvenile specified in clause (i) being held after disposition in a secure facility not operated by or under contract with the Department becomes a fugitive by such escape, the attorney for the Commonwealth of the locality in which the facility is located may release the information as provided in this subdivision.

C. Whenever a juvenile 14 years of age or older is charged with a delinquent act that would be a criminal violation of Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2, a felony involving a weapon, a felony violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an "act of violence" as defined in subsection A of § 19.2-297.1 if committed by an adult, the judge may, where consideration of the public interest requires, make the juvenile's name and address available to the public.

D. Upon the request of a victim of a delinquent act that would be a felony or that would be a misdemeanor violation of § 16.1-253.2, 18.2-57, 18.2-57.2, 18.2-60.3, 18.2-60.4, 18.2-67.4, or 18.2-67.5 if committed by an adult, the court may order that such victim be informed of the charge or charges brought, the findings of the court, and the disposition of the case. For purposes of this section, "victim" shall be defined as in § 19.2-11.01.

E. Upon request, the judge or clerk may disclose if an order of emancipation of a juvenile pursuant to § 16.1-333 has been entered, provided (i) the order is not being appealed, (ii) the order has not been terminated, or (iii) there has not been a judicial determination that the order is void ab initio.

F. Notwithstanding any other provision of law, a copy of any court order that imposes a curfew or other restriction on a juvenile may be provided to the chief law-enforcement officer of the county or city wherein the juvenile resides. The chief law-enforcement officer shall only disclose information contained in the court order to other law-enforcement officers in the conduct of official duties.

G. Notwithstanding any other provision of law, where consideration of public safety requires, the Department and locally operated court service unit shall release information relating to a juvenile's criminal street gang involvement, if any,

and the criminal street gang-related activity and membership of others, as criminal street gang is defined in § 18.2-46.1, obtained from an investigation or supervision of a juvenile and shall include the identity or identifying information of the juvenile; however, the Department and local court service unit shall not release the identifying information of a juvenile not affiliated with or involved in a criminal street gang unless that information relates to a specific criminal act. Such information shall be released to any State Police, local police department, sheriff's office, or law-enforcement task force that is a part of or administered by the Commonwealth or any political subdivision thereof, and that is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth. The exchange of information shall be for the purpose of an investigation into criminal street gang activity.

H. Notwithstanding any other provision of Article 12 (§ 16.1-299 et seq.), a clerk of the court shall report to the Bureau of Immigration and Customs Enforcement of the U.S. Department of Homeland Security a juvenile who has been detained in a secure facility but only upon an adjudication of delinquency or finding of guilt for a violent juvenile felony and when there is evidence that the juvenile is in the United States illegally.

I. Notwithstanding any other provision of this article, whenever an intake officer proceeds informally against a juvenile, the Department or local court service unit may disclose only such information as necessary to enforce any provision of the diversion program to any law-enforcement officer, school principal where such juvenile attends school, or known victim. Such information shall remain confidential and not be part of such juvenile's academic record. Additionally, a local court service unit may provide information regarding the availability and ordering of a protective order and restitution and dispositional information to the victim in the case.

CHAPTER 678

An Act to amend and reenact § 58.1-609.3 of the Code of Virginia and to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.20, consisting of a section numbered 59.1-284.41, relating to data centers and cloud computing; sales tax exemption; grant fund.

[H 2479]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-609.3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 22.20, consisting of a section numbered 59.1-284.41, as follows:

§ 58.1-609.3. Commercial and industrial exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Personal property purchased by a contractor which is used solely in another state or in a foreign country, which could be purchased by such contractor for such use free from sales tax in such other state or foreign country, and which is stored temporarily in Virginia pending shipment to such state or country.

2. (i) Industrial materials for future processing, manufacturing, refining, or conversion into articles of tangible personal property for resale where such industrial materials either enter into the production of or become a component part of the finished product; (ii) industrial materials that are coated upon or impregnated into the product at any stage of its being processed, manufactured, refined, or converted for resale; (iii) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or supplies, used directly in processing, manufacturing, refining, mining or converting products for sale or resale; (iv) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging tangible personal property for shipment or sale; or (v) equipment, printing or supplies used directly to produce a publication described in subdivision 3 of § 58.1-609.6 whether it is ultimately sold at retail or for resale or distribution at no cost. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in processing, manufacturing, refining, mining or converting products for sale or resale. The provisions of this subsection do not apply to the drilling or extraction of oil, gas, natural gas and coalbed methane gas. In addition, the exemption provided herein shall not be applicable to any machinery, tools, and equipment, or any other tangible personal property used by a public service corporation in the generation of electric power, except for raw materials that are inputs to production of electricity, including fuel, or for machinery, tools, and equipment used to generate energy derived from sunlight or wind. The exemption for machinery, tools, and equipment used to generate energy derived from sunlight or wind shall expire June 30, 2027.

3. Tangible personal property sold or leased to a public service corporation engaged in business as a common carrier of property or passengers by railway, for use or consumption by such common carrier directly in the rendition of its public service.

4. Ships or vessels, or repairs and alterations thereof, used or to be used exclusively or principally in interstate or foreign commerce; fuel and supplies for use or consumption aboard ships or vessels plying the high seas, either in intercoastal trade between ports in the Commonwealth and ports in other states of the United States or its territories or possessions, or in foreign commerce between ports in the Commonwealth and ports in foreign countries, when delivered directly to such ships or vessels; or tangible personal property used directly in the building, conversion or repair of the ships or vessels covered by this subdivision. This exemption shall include dredges, their supporting equipment, attendant vessels,

and fuel and supplies for use or consumption aboard such vessels, provided the dredges are used exclusively or principally in interstate or foreign commerce.

5. Tangible personal property purchased for use or consumption directly and exclusively in basic research or research and development in the experimental or laboratory sense.

6. Notwithstanding the provisions of subdivision 20 of § 58.1-609.10, all tangible personal property sold or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier providing scheduled air service on a continuing basis to one or more Virginia airports at least one day per week, for use or consumption by such airline directly in the rendition of its common carrier service.

7. Meals furnished by restaurants or food service operators to employees as a part of wages.

8. Tangible personal property including machinery and tools, repair parts or replacements thereof, and supplies and materials used directly in maintaining and preparing textile products for rental or leasing by an industrial processor engaged in the commercial leasing or renting of laundered textile products.

9. Certified pollution control equipment and facilities as defined in § 58.1-3660, except for any equipment that has not been certified to the Department of Taxation by a state certifying authority or subdivision certifying authority pursuant to such section.

10. Parts, tires, meters and dispatch radios sold or leased to taxicab operators for use or consumption directly in the rendition of their services.

11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or photocopying of products for sale or resale.

12. From July 1, 1994, and ending July 1, 2022, raw materials, fuel, power, energy, supplies, machinery or tools or repair parts therefor or replacements thereof, used directly in the drilling, extraction, or processing of natural gas or oil and the reclamation of the well area. For the purposes of this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane gas" as defined in § 45.2-1600. For the purposes of this section, "drilling," "extraction," and "processing" shall include production, inspection, testing, dewatering, dehydration, or distillation of raw natural gas into a usable condition consistent with commercial practices, and the gathering and transportation of raw natural gas to a facility wherein the gas is converted into such a usable condition. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in the drilling, extraction, refining, or processing of natural gas or oil for sale or resale, or in well area reclamation activities required by state or federal law.

13. Beginning July 1, 1997, (i) the sale, lease, use, storage, consumption, or distribution of an orbital or suborbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind possessing space flight capability, including the components thereof, irrespective of whether such facility, system, vehicle, satellite, or station is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (ii) the sale, lease, use, storage, consumption or distribution of tangible personal property placed on or used aboard any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind, irrespective of whether such tangible personal property is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (iii) fuels of such quality not adapted for use in ordinary vehicles, being produced for, sold and exclusively used for space flight when used to conduct spaceport activities; (iv) the sale, lease, use, storage, consumption or distribution of machinery and equipment purchased, sold, leased, rented or used exclusively for spaceport activities and the sale of goods and services provided to operate and maintain launch facilities, launch equipment, payload processing facilities and payload processing equipment used to conduct spaceport activities.

For purposes of this subdivision, "spaceport activities" means activities directed or sponsored at a facility owned, leased, or operated by or on behalf of the Virginia Commercial Space Flight Authority.

The exemptions provided by this subdivision shall not be denied by reason of a failure, postponement or cancellation of a launch of any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind or the destruction of any launch vehicle or any components thereof.

14. Semiconductor cleanrooms or equipment, fuel, power, energy, supplies, or other tangible personal property used primarily in the integrated process of designing, developing, manufacturing, or testing a semiconductor product, a semiconductor manufacturing process or subprocess, or semiconductor equipment without regard to whether the property is actually contained in or used in a cleanroom environment, touches the product, is used before or after production, or is affixed to or incorporated into real estate.

15. Semiconductor wafers for use or consumption by a semiconductor manufacturer.

16. Railroad rolling stock when sold or leased by the manufacturer thereof.

17. Computer equipment purchased or leased on or before June 30, 2011, used in data centers located in a Virginia locality having an unemployment rate above 4.9 percent for the calendar quarter ending November 2007, for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware when part of a new investment of at least $75 million in such exempt property, when such investment results in the creation of at least 100 new jobs paying at least twice the prevailing average wage in that locality, so long as such investment was made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority entered into or amended between January 1, 2008, and December 31, 2008. The exemption shall also

apply to any such computer equipment purchased or leased to upgrade, add to, or replace computer equipment purchased or leased in the initial investment. The exemption shall not apply to any computer software sold separately from the computer equipment, nor shall it apply to general building improvements or fixtures.

18. a. Beginning July 1, 2010, and ending June 30, 2035, *except as provided in subdivision 19,* computer equipment or enabling software purchased or leased for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware, including chillers and backup generators used or to be used in the operation of the equipment exempted in this paragraph, provided that such computer equipment or enabling software is purchased or leased for use in a data center, which includes any data center facilities located in the same locality as the data center that are under common ownership or affiliation of the data center operator, that (i) is located in a Virginia locality; (ii) results in a new capital investment on or after January 1, 2009, of at least $150 million; and (iii) results in the creation on or after July 1, 2009, of at least 50 new jobs by the data center operator and the tenants of the data center, collectively, associated with the operation or maintenance of the data center provided that such jobs pay at least one and one-half times the prevailing average wage in that locality. The requirement of at least 50 new jobs is reduced to 10 new jobs if the data center is located in a distressed locality at the time of the execution of a memorandum of understanding with the Virginia Economic Development Partnership Authority. Additionally, the requirement of a $150 million capital investment shall be reduced to $70 million for data centers that qualify for the reduced jobs requirement.

This exemption applies to the data center operator and the tenants of the data center if they collectively meet the requirements listed in this section. Prior to claiming such exemption, any qualifying person claiming the exemption, including a data center operator on behalf of itself and its tenants, must enter into a memorandum of understanding with the Virginia Economic Development Partnership Authority that at a minimum provides the details for determining the amount of capital investment made and the number of new jobs created, the timeline for achieving the capital investment and new job goals, the repayment obligations should those goals not be achieved, and any conditions under which repayment by the qualifying data center or data center tenant claiming the exemption may be required. In addition, the exemption shall apply to any such computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the initial investment. The exemption shall not apply to any other computer software otherwise taxable under Chapter 6 of Title 58.1 that is sold or leased separately from the computer equipment, nor shall it apply to general building improvements or other fixtures.

b. For purposes of this subdivision 18, "distressed locality" means:

~~1.~~ *(1)* From July 1, 2021, until July 1, 2023, any locality that had (i) an annual unemployment rate for calendar year 2019 that was greater than the final statewide average unemployment rate for that calendar year and (ii) a poverty rate for calendar year 2019 that exceeded the statewide average poverty rate for that year; and

~~2.~~ *(2)* From and after July 1, 2023, any locality that has (i) an annual unemployment rate for the most recent calendar year for which such data is available that is greater than the final statewide average unemployment rate for that calendar year and (ii) a poverty rate for the most recent calendar year for which such data is available that exceeds the statewide average poverty rate for that year.

c. For so long as a data center operator is claiming an exemption pursuant to this subdivision 18, such operator shall be required to submit an annual report to the Virginia Economic Development Partnership Authority on behalf of itself and, if applicable, its participating tenants that includes their employment levels, capital investments, average annual wages, qualifying expenses, and tax benefit, and such other information as the Virginia Economic Development Partnership Authority determines is relevant, pursuant to procedures developed by the Virginia Economic Development Partnership Authority. The annual report shall be submitted by the data center operator in a format prescribed by the Virginia Economic Development Partnership Authority. The Virginia Economic Development Partnership Authority shall share all information collected with the Department.

The Department, in collaboration with the Virginia Economic Development Partnership Authority, shall publish a biennial report on the exemption that shall include aggregate information on qualifying expenses claimed under this exemption, the total value of the tax benefit, a return on investment analysis that includes direct and indirect jobs created by data center investment, state and local tax revenues generated, and any other information the Department and the Virginia Economic Development Partnership Authority deem appropriate to demonstrate the costs and benefits of the exemption. The report shall not include, and the Department and the Virginia Economic Development Partnership Authority shall not publish or disclose, any such information if it is unaggregated or if such report or publication could be used to identify a business or individual. The Department shall submit the report to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committees on Appropriations and Finance. The Virginia Economic Development Partnership Authority may publish on its website and distribute annual information indicating the job creation and ranges of capital investments made by a data center operator and, if applicable, its participating tenants, in a format to be developed in consultation with data center operators.

19. *a. Notwithstanding any provision of subdivision 18 to the contrary, the exemption set forth in subdivision 18 may be extended for the purchase or lease of computer equipment or enabling software by or on behalf of data center operators for use in data centers in the Commonwealth that are under common ownership or affiliation with the data center operator as set forth in this subdivision 19. For purposes of this subdivision 19, a data center operator shall be considered to own a data center if it is operated on behalf of the data center operator pursuant to a long-term lease of at least ten years.*

b. To qualify for an extension pursuant to this subdivision 19, a data center operator shall enter into a memorandum of understanding with the Virginia Economic Development Partnership Authority on or after January 1, 2023, that at a minimum provides the details for determining the amount of capital investment made and the number of new jobs created; the locality or localities in which the capital investment shall be made and new jobs shall be created in order to qualify for the extension; and the timeline for making the capital investment and creating the new jobs in each specified locality. A data center operator shall only be required to enter into one memorandum of understanding pursuant to this subdivision 19 in order to qualify for the extension pursuant to both subdivisions c and d.

c. If on or after January 1, 2023, but before July 1, 2035, a data center operator that has entered into a memorandum of understanding pursuant to subdivision b (i) makes or causes to be made a capital investment of at least $35 billion in data centers in localities identified in a memorandum of understanding and (ii) creates at least 1,000 new full-time jobs, as defined in § 59.1-284.41, at such data centers, of which at least 100 of such jobs shall pay at least one and one-half times the prevailing average wage in the Commonwealth, the data center operator shall be eligible to continue to utilize the exemption set forth in subdivision 18 through June 30, 2040.

d. If on or after January 1, 2023, but before July 1, 2040, a data center operator that has entered into a memorandum of understanding pursuant to subdivision b (i) makes a total capital investment of at least $100 billion, inclusive of any investment made pursuant to subdivision c, in data centers in the localities identified in such memorandum of understanding and (ii) creates a total of at least 2,500 new full-time jobs, as defined in § 59.1-284.41, at such data centers, of which at least 100 of such jobs shall pay at least one and one-half times the prevailing average wage in the Commonwealth, inclusive of any new full-time jobs created pursuant to subdivision c, the data center operator shall be eligible to utilize the exemption set forth in subdivision 18 through June 30, 2050.

e. The extension provided in this subdivision 19 shall apply to the computer equipment or enabling software purchased or leased for use in the data centers subject to the capital investment and job requirements set forth herein, as well as to any such computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the initial investment. The extension shall also apply to any computer equipment or software purchased or leased in data centers under common ownership or affiliation with the data center operator for which the data center operator entered into a memorandum of understanding with the Virginia Economic Development Partnership Authority to qualify for the exemption set forth in subdivision 18.

f. The reporting requirements set forth in subdivision 18 shall continue to apply to a data center operator for the duration of any extension granted pursuant to this subdivision 19.

20. If the preponderance of their use is in the manufacture of beer by a brewer licensed pursuant to subdivision 3 or 4 of § 4.1-206.1, (i) machinery, tools, and equipment, or repair parts therefor or replacements thereof, fuel, power, energy, or supplies; (ii) materials for future processing, manufacturing, or conversion into beer where such materials either enter into the production of or become a component part of the beer; and (iii) materials, including containers, labels, sacks, cans, bottles, kegs, boxes, drums, or bags for future use, for packaging the beer for shipment or sale.

~~20.~~ *21.* If the preponderance of their use is in advanced recycling, as defined in § 58.1-439.7, (i) machinery, tools, and equipment, or repair parts therefor or replacements thereof, fuel, power, energy, or supplies; (ii) materials for processing, manufacturing, or conversion for resale where such materials either are recycled or recovered; and (iii) materials, including containers, labels, sacks, cans, boxes, drums, or bags used for packaging recycled or recovered material for shipment or resale.

CHAPTER 22.20.

CLOUD COMPUTING CLUSTER INFRASTRUCTURE GRANT FUND.

§ 59.1-284.41. Cloud Computing Cluster Infrastructure Grant Fund.

A. As used in this chapter, unless the context requires a different meaning:

"Affiliate" means an entity that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with a qualified company.

"Capital investment" means an investment by or on behalf of a qualified company on or after January 1, 2023, but prior to July 1, 2040, in real property, tangible personal property, or both, at a facility that is properly chargeable to a capital account or would be so chargeable with a proper election.

"Construction cost" means any capital investment, except for the purchase of land, by a qualified company on or after January 1, 2023, in real or tangible personal property to develop or support a data center in a locality identified in a memorandum of understanding. "Construction cost" includes infrastructure costs.

"Facility" means the one or more buildings, group of buildings, and ancillary facilities and equipment that are located in a locality or localities identified in a memorandum of understanding and that are owned, occupied, or otherwise operated by or for the qualified company for data center and cloud computing cluster operations.

"Fund" means the Cloud Computing Cluster Infrastructure Grant Fund.

"Grant" means a grant from the Fund awarded to a qualified company that is intended to pay or reimburse the qualified company for (i) infrastructure costs related to the construction and support of facilities and (ii) costs for workforce development, recruiting, and training.

"Infrastructure costs" includes the costs related to fiber, water, wastewater, and stormwater facilities; gas pipelines; electrical transmission and distribution lines; and site clearing, grading, and other improvements to support the construction and development of a facility.

"Locality" means a county or city in the Commonwealth in which a company makes an eligible investment in a facility and creates new full-time jobs, that is identified in a memorandum of understanding, and that has entered into a performance agreement.

"Local match" means the funds committed by a locality identified in a memorandum of understanding to a qualified company related to the construction and operation of a facility. The local match shall be at least twice the amount provided from the Fund to the qualified company related to the construction of, and creation of new full-time jobs at, the facility in such locality, as set forth in a performance agreement. Expenditures by a locality that the Secretary has certified as infrastructure costs incurred by the locality at the request of the qualified company may be counted toward the local match obligation.

"MEI Commission" means the MEI Project Approval Commission established pursuant to Chapter 47 (§ 30-309 et seq.) of Title 30.

"Memorandum of understanding" means a memorandum of understanding entered into on or after January 1, 2023, between a qualified company, the Commonwealth, and VEDP that sets forth (i) the grant amount that the qualified company shall be eligible to receive for each new full-time job created and each $1 million of capital investment in construction costs made; (ii) the total aggregate amount of grants that the qualified company shall be eligible to receive; (iii) the performance date; (iv) the requirements and timing for capital investment and new full-time job creation by the qualified company; (v) the identification of the locality or localities in which such investment and job creation shall take place; and (vi) any other terms and conditions deemed necessary or appropriate to be eligible for grant payments from the Fund.

"New full-time jobs" means job positions created on or after January 1, 2023, but prior to July 1, 2040, in which the employee of a qualified company works at a facility, for which the average annual wage is at least one and one-half times the prevailing wage of the locality where the job is located, and for which the qualified company provides standard fringe benefits. Such position shall require a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the employer's operations, which normal year shall consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions shall not qualify as new full-time jobs. Positions created after January 1, 2023, by contractors that are dedicated full-time to providing operational services after the opening of a facility may constitute new full-time jobs of the qualified company but shall not exceed 20 percent of the number used to meet any performance criteria for the creation of new full-time jobs. A position created when a job function is shifted from an existing location in the Commonwealth to a new facility shall qualify as a new full-time job if the qualified company certifies that it has hired a new employee or contractor to fill substantially the same job at the existing location as that performed by the transferred position. Such jobs shall be in addition to any full-time jobs that a qualified company had in the Commonwealth as of January 1, 2023.

"Performance agreement" means an agreement entered into on or after January 1, 2023, between a qualified company, a locality identified in a memorandum of understanding, and VEDP that commits the locality to provide local funds, either as annual cash grants or via the expenditure of local funds, for infrastructure costs related to the qualified company. The local commitment shall equal at least twice the amount of grants from the Fund committed by the Commonwealth for capital investment and the creation of new full-time jobs in such locality. Such performance agreement may also include commitments related to accelerated permitting, property tax classifications, and other such issues to which the parties agree.

"Performance date" means the date set forth in a memorandum of understanding by which capital investment and new full-time job creation targets shall be met in order to qualify for grants from the Fund.

"Qualification" means the process by which a company becomes a qualified company eligible to enter into a memorandum of understanding and receive grants from the Fund. Qualification shall require:

1. An endorsement by the MEI Commission that the company be approved by the General Assembly to receive grants from the Fund. Such endorsement shall include a recommendation by the MEI Commission as to the grant amount that the company shall receive for each new full-time job created and each $1 million of capital investment in construction costs made, as well as a recommendation as to the total, aggregate amount of grants from the Fund that the company shall be eligible to receive. The recommendation regarding the amount of the grants shall be based upon information provided by VEDP to the MEI Commission based upon a return-on-investment analysis; and

2. Approval by the General Assembly in a general appropriation act, including approval of the specific grant amount that the company shall receive for each new full-time job created and each $1 million of capital investment in construction costs made, as well as the total, aggregate amount of grants from the Fund that the company shall be eligible to receive and the date of endorsement by the MEI Commission.

If the MEI Commission endorses a company to receive grants from the Fund, and legislation to implement the MEI Commission's recommendation is introduced in a subsequent session of the General Assembly, the specific grant amount recommended and any other recommended legislative changes shall become public at such time as the company publicly declares its intention to make or cause to be made a capital investment at facilities of at least $50 billion and to create at least 1,500 new full-time jobs that pay an average annual wage of at least one and one-half times the prevailing wage of the locality where the job is located, but in no case later than the first day of the session of the General Assembly in which approval is sought.

"Qualified company" means a company, including its affiliates, that, after qualification, enters into a memorandum of understanding and is expected by the performance date to (i) make or cause to be made a capital investment at facilities in

localities identified in the memorandum of understanding of at least $50 billion and (ii) create at least 1,500 new full-time jobs that pay an average annual wage of at least one and one-half times the prevailing wage of the locality where the job is located.

"Secretary" means the Secretary of Commerce and Trade or his designee.

"VEDP" means the Virginia Economic Development Partnership Authority.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Cloud Computing Cluster Infrastructure Grant Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of making grant payments pursuant to this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller pursuant to subsection F.

C. A qualified company shall be eligible to receive grant payments for each fiscal year beginning with the Commonwealth's fiscal year starting on July 1, 2025, and ending no later than the Commonwealth's fiscal year starting on July 1, 2044, based upon its actual investments and the number of new full-time jobs created prior to the performance date in localities that have entered into a performance agreement. The grant payments under this section shall be paid to the qualified company from the Fund, subject to appropriation by the General Assembly, during each such fiscal year, contingent upon the qualified company meeting the requirements for receiving grant payments set forth in this section and in the memorandum of understanding. The amount of the grant payment in each fiscal year shall be calculated based upon the grant amount approved for the qualified company for each new full-time job created by the qualified company in the prior calendar year and each $1 million of capital investment in construction costs by the qualified company in the prior calendar year, as approved by the General Assembly and included in the memorandum of understanding. The total aggregate amount of all grants paid to a qualified company shall not exceed the amount approved by the General Assembly and included in the memorandum of understanding.

D. Capital investments made by a qualified company and new full-time jobs created in a locality that (i) was not identified in the memorandum of understanding and (ii) did not enter into a performance agreement shall not qualify for grant payments pursuant to this chapter.

E. A qualified company applying for a grant payment pursuant to this chapter shall provide evidence, satisfactory to the Secretary, of (i) the capital investment in construction costs as of the last day of the calendar year that immediately precedes the application date; (ii) the aggregate number of new full-time jobs created and maintained as of the last day of the calendar year that immediately precedes the date of the application; and (iii) an average annual wage of the new full-time jobs of at least one and one-half times the prevailing wage of the locality where the job is located. The application and evidence shall be filed with the Secretary in person, by mail, or as otherwise agreed upon in the memorandum of understanding, by no later than April 1 of each year following the end of the calendar year upon which the evidence set forth is based. Failure to meet the filing deadline shall result in a deferral of a scheduled grant payment. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

F. Within 60 days of receiving the application and evidence pursuant to subsection E, the Secretary shall certify to the Comptroller and the qualified company the verification of the information contained in the application and the resulting amount of the grant payments to which the grant-eligible company may be entitled for payment. Such grant payments shall be made annually by check or electronic payment issued by the State Treasurer on warrant of the Comptroller in each fiscal year following the submission of such application, as provided in the memorandum of understanding. The Comptroller shall not draw any warrants to issue checks or electronic payments for grant payments under this chapter without a specific appropriation for the same.

G. As a condition for the receipt of a grant payment, a qualified company shall make available for inspection to the Secretary, upon request, documents relevant and applicable to determining whether the qualified company has met the requirements for the receipt of a grant payment as set forth in this chapter and subject to the memorandum of understanding. Copies of the performance agreement and a certification by each locality subject to a performance agreement and the qualified company that the provisions of such agreement have been fulfilled shall also be provided to the Secretary.

2. That upon the signing of a memorandum of understanding, as defined in § 59.1-284.41 of the Code of Virginia, as created by this act, the Virginia Economic Development Partnership Authority (VEDP) shall hire a full-time project coordinator to assist each qualified company, as defined in § 59.1-284.41 of the Code of Virginia, as created by this act, with managing projects with the Commonwealth and its agencies and local government entities. Prior to the payment of any grants from the Cloud Computing Cluster Infrastructure Grant Fund, established pursuant to § 59.1-284.41 of the Code of Virginia, as created by this act, to a qualified company, VEDP shall be credited $200,000 annually to reimburse VEDP for the cost of such coordinator. The costs for the coordinator shall count toward the aggregate cap of grants that may be paid to the qualified company.

CHAPTER 679

An Act to amend and reenact §§ 55.1-1204 and 55.1-1253 of the Code of Virginia, relating to Virginia Residential Landlord and Tenant Act; termination of multiple month-to-month tenancies by landlord.

[H 2441]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 55.1-1204 and 55.1-1253 of the Code of Virginia are amended and reenacted as follows:

§ 55.1-1204. Terms and conditions of rental agreement; payment of rent; copy of rental agreement for tenant.

A. A landlord and tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other rule of law, including rent, charges for late payment of rent, the term of the agreement, automatic renewal of the rental agreement, requirements for notice of intent to vacate or terminate the rental agreement, and other provisions governing the rights and obligations of the parties.

B. A landlord shall offer a prospective tenant a written rental agreement containing the terms governing the rental of the dwelling unit and setting forth the terms and conditions of the landlord-tenant relationship and shall provide with it the statement of tenant rights and responsibilities developed by the Department of Housing and Community Development and posted on its website pursuant to § 36-139. The parties to a written rental agreement shall sign the form developed by the Department of Housing and Community Development and posted on its website pursuant to § 36-139 acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities. The written rental agreement shall be effective upon the date signed by the parties.

C. If a landlord does not offer a written rental agreement, the tenancy shall exist by operation of law, consisting of the following terms and conditions:

1. The provision of this chapter shall be applicable to the dwelling unit that is being rented;

2. The duration of the rental agreement shall be for 12 months and shall not be subject to automatic renewal, except in the event of a month-to-month lease as otherwise provided for under subsection ~~C~~ *D* of § 55.1-1253;

3. Rent shall be paid in 12 equal periodic installments in an amount agreed upon by the landlord and the tenant and if no amount is agreed upon, the installments shall be at fair market rent;

4. Rent payments shall be due on the first day of each month during the tenancy and shall be considered late if not paid by the fifth of the month;

5. If the rent is paid by the tenant after the fifth day of any given month, the landlord shall be entitled to charge a late charge as provided in this chapter;

6. The landlord may collect a security deposit in an amount that does not exceed a total amount equal to two months of rent; and

7. The parties may enter into a written rental agreement at any time during the 12-month tenancy created by this subsection.

D. Except as provided in the written rental agreement, or as provided in subsection C if no written agreement is offered, rent shall be payable without demand or notice at the time and place agreed upon by the parties. Except as provided in the written rental agreement, rent is payable at the place designated by the landlord, and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal installments at the beginning of each month. If the landlord receives from a tenant a written request for a written statement of charges and payments, he shall provide the tenant with a written statement showing all debits and credits over the tenancy or the past 12 months, whichever is shorter. The landlord shall provide such written statement within 10 business days of receiving the request.

E. A landlord shall not charge a tenant for late payment of rent unless such charge is provided for in the written rental agreement. No such late charge shall exceed the lesser of 10 percent of the periodic rent or 10 percent of the remaining balance due and owed by the tenant.

F. Except as provided in the written rental agreement or, as provided in subsection C if no written agreement is offered, the tenancy shall be week-to-week in the case of a tenant who pays weekly rent and month-to-month in all other cases. Terminations of tenancies shall be governed by § 55.1-1253 unless the rental agreement provides for a different notice period.

G. If the rental agreement contains any provision allowing the landlord to approve or disapprove a sublessee or assignee of the tenant, the landlord shall, within 10 business days of receipt of the written application of the prospective sublessee or assignee on a form to be provided by the landlord, approve or disapprove the sublessee or assignee. Failure of the landlord to act within 10 business days is evidence of his approval.

H. The landlord shall provide a copy of any written rental agreement and the statement of tenant rights and responsibilities to the tenant within one month of the effective date of the written rental agreement. The failure of the landlord to deliver such a rental agreement and statement shall not affect the validity of the agreement. However, the landlord shall not file or maintain an action against the tenant in a court of law for any alleged lease violation until he has provided the tenant with the statement of tenant rights and responsibilities.

I. No unilateral change in the terms of a rental agreement by a landlord or tenant shall be valid unless (i) notice of the change is given in accordance with the terms of the rental agreement or as otherwise required by law and (ii) both parties consent in writing to the change.

J. The landlord shall provide the tenant with a written receipt, upon request from the tenant, whenever the tenant pays rent in the form of cash or money order.

§ 55.1-1253. Periodic tenancy; holdover remedies.

A. The landlord or the tenant may terminate a week-to-week tenancy by serving a written notice on the other at least seven days prior to the next rent due date. The landlord or the tenant may terminate a month-to-month tenancy by serving a written notice on the other at least 30 days prior to the next rent due date, unless the rental agreement provides for a different notice period. The landlord and the tenant may agree in writing to an early termination of a rental agreement. In the event that no such agreement is reached, the provisions of § 55.1-1251 shall control.

B. *Notwithstanding the provisions of subsection A, any owner of a multifamily premises that fails to renew the greater of either 20 or more month-to-month tenancies or 50 percent of the month-to-month tenancies within a consecutive 30-day period in the same multifamily premises shall serve written notice on each such tenant at least 60 days prior to allowing such tenancy to expire. For the purposes of this subsection, 60 days' notice shall not be required to allow a tenancy to expire where the tenant has failed to pay rent in accordance with the rental agreement.*

C. If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and may also recover actual damages, reasonable attorney fees, and court costs, unless the tenant proves by a preponderance of the evidence that the failure of the tenant to vacate the dwelling unit as of the termination date was reasonable. The landlord may include in the rental agreement a reasonable liquidated damage penalty, not to exceed an amount equal to 150 percent of the per diem of the monthly rent, for each day the tenant remains in the dwelling unit after the termination date specified in the landlord's notice. However, if the dwelling unit is a public housing unit or other housing unit subject to regulation by the U.S. Department of Housing and Urban Development, any liquidated damage penalty shall not exceed an amount equal to the per diem of the monthly rent set out in the lease agreement. If the landlord consents to the tenant's continued occupancy, § 55.1-1204 applies.

~~C.~~ *D.* In the event of termination of a rental agreement where the tenant remains in possession with the agreement of the landlord either as a hold-over tenant or a month-to-month tenant and no new rental agreement is entered into, the terms of the terminated agreement shall remain in effect and govern the hold-over or month-to-month tenancy, except that the amount of rent shall be either as provided in the terminated rental agreement or the amount set forth in a written notice to the tenant, provided that such new rent amount shall not take effect until the next rent due date coming 30 days after the notice.

CHAPTER 680

An Act to amend the Code of Virginia by adding a section numbered 18.2-61.1, relating to testing of certain persons for sexually transmitted infections.

[H 1416]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-61.1 as follows:

§ 18.2-61.1. Testing of certain persons for sexually transmitted infections.

A. As soon as practicable following arrest, the attorney for the Commonwealth may request after consultation with a complaining witness, or shall request upon the request of the complaining witness, that any person charged with (i) any crime involving sexual assault pursuant to this article; (ii) any offense against children as prohibited by §§ 18.2-361, 18.2-366, 18.2-370, and 18.2-370.1; or (iii) any assault and battery, and where the complaining witness was exposed to body fluids of the person so charged in a manner that may, according to the then-current guidelines of the Centers for Disease Control and Prevention, transmit a sexually transmitted infection, be requested to submit to diagnostic testing for sexually transmitted infections and any follow-up testing as may be medically appropriate. The person so charged shall be counseled about the meaning of the tests and about the transmission, treatment, and prevention of sexually transmitted infections.

If the person so charged refuses to submit to testing or the competency of the person to consent to testing is at issue, the court with jurisdiction of the case shall hold a hearing in a manner as provided by § 19.2-183, as soon as practicable, to determine whether there is probable cause that the individual has committed the crime with which he is charged and that the complaining witness was exposed to body fluids of the person so charged in a manner that may, according to the then-current guidelines of the Centers for Disease Control and Prevention, transmit a sexually transmitted infection. If the court finds probable cause, the court shall order the person so charged to undergo testing for sexually transmitted infections. The court may enter such an order in the absence of the person so charged if the person so charged is represented at the hearing by counsel or a guardian ad litem. The court's finding shall be without prejudice to either the Commonwealth or the person charged and shall not be evidence in any proceeding, civil or criminal. At any hearing before the court, the person so charged or his counsel may appear.

B. At any point following indictment, arrest by warrant, or service of a petition in the case of a juvenile of any crime involving sexual assault pursuant to this article or any offenses against children as prohibited by §§ 18.2-361, 18.2-366, 18.2-370, and 18.2-370.1, the attorney for the Commonwealth may request after consultation with a complaining witness, or shall request upon the request of the complaining witness, and the court shall order the defendant to submit to diagnostic testing for sexually transmitted infections within 48 hours and any follow-up testing as may be medically appropriate. Any test conducted following indictment, arrest by warrant, or service of a petition shall be in addition to such tests as may have been conducted following arrest pursuant to subsection A.

If the defendant refuses to submit to testing or the competency of the person to consent to testing is at issue, the court with jurisdiction of the case shall hold a hearing, in a manner as provided by § 19.2-183, to determine whether there is probable cause that the complaining witness was exposed to body fluids of the defendant in a manner that may, according to the then-current guidelines of the Centers for Disease Control and Prevention, transmit a sexually transmitted infection. If the court finds probable cause, the court shall order the accused to undergo testing for sexually transmitted infections. The court may enter such an order in the absence of the defendant if the defendant is represented at the hearing by counsel or a guardian ad litem. The court's finding shall be without prejudice to either the Commonwealth or the defendant and shall not be evidence in any proceeding, civil or criminal. At any hearing before the court, the defendant or his counsel may appear.

C. Any person who is subject to a testing order may appeal the order of the general district court to the circuit court of the same jurisdiction within 10 days of receiving notice of the order. Any hearing conducted pursuant to this subsection shall be held in camera as soon as practicable. The record shall be sealed. The order of the circuit court shall be final and nonappealable.

D. Confirmatory tests shall be conducted before any test result shall be determined to be positive. The results of the tests shall be confidential as provided in § 32.1-127.1:03; however, the entity that performed the test shall also disclose the results to any victim and offer appropriate counseling. The Department of Health shall conduct surveillance and investigation in accordance with § 32.1-39.

E. The results of such tests shall not be admissible as evidence in any criminal proceeding. No specimen obtained pursuant to this section shall be tested for any purpose other than for the purpose provided for in this section, nor shall the specimen or the results of any testing pursuant to this section be used for any purpose in any criminal matter or investigation. Any violation of this subsection shall constitute reversible error in any criminal case in which the specimen or results were used.

F. The cost of such tests shall be paid by the Commonwealth and taxed as part of the cost of such criminal proceedings.

G. As used in this section, "sexually transmitted infections" includes chlamydia, gonorrhea, syphilis, human immunodeficiency virus, hepatitis B and C viruses, and any other sexually transmittable disease required to be reported by the Board of Health pursuant to § 32.1-35.

CHAPTER 681

An Act to amend the Code of Virginia by adding a section numbered 18.2-61.1, relating to testing of certain persons for sexually transmitted infections.

[S 1436]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-61.1 as follows:

§ 18.2-61.1. Testing of certain persons for sexually transmitted infections.

A. As soon as practicable following arrest, the attorney for the Commonwealth may request after consultation with a complaining witness, or shall request upon the request of the complaining witness, that any person charged with (i) any crime involving sexual assault pursuant to this article; (ii) any offense against children as prohibited by §§ 18.2-361, 18.2-366, 18.2-370, and 18.2-370.1; or (iii) any assault and battery, and where the complaining witness was exposed to body fluids of the person so charged in a manner that may, according to the then-current guidelines of the Centers for Disease Control and Prevention, transmit a sexually transmitted infection, be requested to submit to diagnostic testing for sexually transmitted infections and any follow-up testing as may be medically appropriate. The person so charged shall be counseled about the meaning of the tests and about the transmission, treatment, and prevention of sexually transmitted infections.

If the person so charged refuses to submit to testing or the competency of the person to consent to testing is at issue, the court with jurisdiction of the case shall hold a hearing in a manner as provided by § 19.2-183, as soon as practicable, to determine whether there is probable cause that the individual has committed the crime with which he is charged and that the complaining witness was exposed to body fluids of the person so charged in a manner that may, according to the then-current guidelines of the Centers for Disease Control and Prevention, transmit a sexually transmitted infection. If the court finds probable cause, the court shall order the person so charged to undergo testing for sexually transmitted infections. The court may enter such an order in the absence of the person so charged if the person so charged is represented at the hearing by counsel or a guardian ad litem. The court's finding shall be without prejudice to either the

Commonwealth or the person charged and shall not be evidence in any proceeding, civil or criminal. At any hearing before the court, the person so charged or his counsel may appear.

B. At any point following indictment, arrest by warrant, or service of a petition in the case of a juvenile of any crime involving sexual assault pursuant to this article or any offenses against children as prohibited by §§ 18.2-361, 18.2-366, 18.2-370, and 18.2-370.1, the attorney for the Commonwealth may request after consultation with a complaining witness, or shall request upon the request of the complaining witness, and the court shall order the defendant to submit to diagnostic testing for sexually transmitted infections within 48 hours and any follow-up testing as may be medically appropriate. Any test conducted following indictment, arrest by warrant, or service of a petition shall be in addition to such tests as may have been conducted following arrest pursuant to subsection A.

If the defendant refuses to submit to testing or the competency of the person to consent to testing is at issue, the court with jurisdiction of the case shall hold a hearing, in a manner as provided by § 19.2-183, to determine whether there is probable cause that the complaining witness was exposed to body fluids of the defendant in a manner that may, according to the then-current guidelines of the Centers for Disease Control and Prevention, transmit a sexually transmitted infection. If the court finds probable cause, the court shall order the accused to undergo testing for sexually transmitted infections. The court may enter such an order in the absence of the defendant if the defendant is represented at the hearing by counsel or a guardian ad litem. The court's finding shall be without prejudice to either the Commonwealth or the defendant and shall not be evidence in any proceeding, civil or criminal. At any hearing before the court, the defendant or his counsel may appear.

C. Any person who is subject to a testing order may appeal the order of the general district court to the circuit court of the same jurisdiction within 10 days of receiving notice of the order. Any hearing conducted pursuant to this subsection shall be held in camera as soon as practicable. The record shall be sealed. The order of the circuit court shall be final and nonappealable.

D. Confirmatory tests shall be conducted before any test result shall be determined to be positive. The results of the tests shall be confidential as provided in § 32.1-127.1:03; however, the entity that performed the test shall also disclose the results to any victim and offer appropriate counseling. The Department of Health shall conduct surveillance and investigation in accordance with § 32.1-39.

E. The results of such tests shall not be admissible as evidence in any criminal proceeding. No specimen obtained pursuant to this section shall be tested for any purpose other than for the purpose provided for in this section, nor shall the specimen or the results of any testing pursuant to this section be used for any purpose in any criminal matter or investigation. Any violation of this subsection shall constitute reversible error in any criminal case in which the specimen or results were used.

F. The cost of such tests shall be paid by the Commonwealth and taxed as part of the cost of such criminal proceedings.

G. As used in this section, "sexually transmitted infections" includes chlamydia, gonorrhea, syphilis, human immunodeficiency virus, hepatitis B and C viruses, and any other sexually transmittable disease required to be reported by the Board of Health pursuant to § 32.1-35.

CHAPTER 682

An Act to amend and reenact § 38.2-3447 of the Code of Virginia, relating to health insurance; tobacco surcharge.

[H 1375]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3447 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3447. Restrictions relating to premium rates.

A. Notwithstanding any provision of § 38.2-3432.2, 38.2-3501, 38.2-4306, or any other section of this title to the contrary, a health carrier offering a health benefit plan providing individual or small group health insurance coverage shall develop its premium rates based on the following:

1. Whether the health benefit plan covers an individual or family;

2. Rating areas, as may be established by the Commission; *and*

3. Age, except that the rate shall not vary by more than 3 to 1 for adults~~; and~~

~~4. Tobacco use, except that the rate shall not vary by more than 1.5 to 1~~.

B. A premium rate shall not vary with respect to any particular health benefit plan by any other factor not described in subsection A.

C. Rating variations for family coverage shall be applied based on the portion of the premium that is attributable to each family member covered under the health benefit plan.

D. If the proposed area rate factors set forth in a rate filing for individual or small group health insurance coverage by a health carrier for a rating area exceed by more than 15 percent the weighted average of the proposed area rate factors among all rating areas in which the health carrier offers health benefit plans in that market, then:

1. The health carrier's rate filing shall include in a publicly available and unredacted form:

a. A comparison of the area rate factor for individual and small group health benefit plans that utilize the same provider network and provider reimbursement levels of the health benefit plans that are subject to the filing;

b. A detailed disclosure of the area rate factor methodology, which disclosure shall include any third-party resources or representations from a person other than the signing actuary, on which the signing actuary relied, provided that disclosure of third-party resources shall address that the source data only reflects differences in unit cost and provider practice patterns; and

c. To the extent that the health carrier is deriving any area rate factor from experience data, by rating area for the experience period used:

(1) The (i) total enrollment; (ii) total premiums; (iii) allowed claims; (iv) incurred claims excluding anticipated or, if available, actual risk adjustment payments or receipts; (v) incurred claims including anticipated or, if available, actual risk adjustment payments or receipts; and (vi) loss ratio for each of their rating areas in that market; and

(2) Aggregated incurred claims for any health system exceeding 30 percent of total incurred claims for that rating area in that market.

2. The Commission shall hold a public hearing on the proposed premium rates prior to the approval of the rate filing.

3. The Commission shall not approve the proposed rate filing if (i) a variance in area rate factors, indexed to the same rating region for both the individual and small group markets, of 15 percent or more exists between health benefit plans a carrier intends to offer in the individual market and health benefit plans intended to be offered in the small group market, when those plans utilize the same provider network and provider reimbursement levels and (ii) the methodologies used to calculate the area rate factors are different between the two markets.

E. Beginning for plan year 2020, a health carrier with an approved rate filing that contains at least one area rate factor that exceeds by more than 25 percent the weighted average of the area rate factors among all rating areas in a market in which the health carrier offers individual or small group health insurance coverage shall file with the Commission for each calendar quarter during that plan year a report that provides, for each rating area within the market in which the health carrier operates, the plan's (i) enrollment; (ii) total premiums; (iii) allowed claims; (iv) incurred claims excluding anticipated or, if available, actual risk adjustment payments or receipts; (v) incurred claims including anticipated or, if available, actual risk adjustment payments or receipts; (vi) loss ratio; and (vii) aggregate incurred claims, for each health system exceeding 25 percent of total incurred claims for that rating area. The health carrier shall make each such quarterly report publicly available, without redaction, not later than 45 days after the end of the calendar quarter.

F. As used in ~~subdivisions~~ *subsections* D and E:

"Allowed claims" means the amount of claims of a covered person for health care services that are owed pursuant to the terms of the covered person's health benefits plan, including payment made by the covered person's health carrier, and cost-sharing obligations owed by or on behalf of the covered person.

"Health system" means an organization that consists of either (i) at least one hospital plus at least one group of physicians or (ii) more than one group of physicians.

"Incurred claims" means allowed claims less copayments, deductible amounts, and other cost-sharing obligations owed by or on behalf of a covered person.

"Methodologies," when referring to the calculation of area rate factors, includes (i) the types of inputs, including experience period claims data, third-party database, other sources of data, and (ii) the series of calculations that are used to derive area rate factors. This definition shall not preclude a health carrier from calculating area rate factors for rates for the individual market, based on the cost and care delivery practices associated with the providers expected to be utilized by covered persons that reside in a given rating area, while calculating area rate factors for rates for the small group market, based on those providers that are expected to be utilized by individuals employed by small employers that are located in the rating area without regard to where the covered persons reside.

"Provider" means a health care provider, as defined in § 38.2-3438, that is affiliated or in-network with a health carrier.

"Weighted average," when referring to area rate factors, means the mean of the area rate factors when weighted based on the projected number of covered persons distributed by rating area.

2. That the provisions of this act shall apply to health benefit plans providing individual or small group health insurance coverage entered into, amended, extended, or renewed on or after January 1, 2024.

3. That the State Corporation Commission shall prepare and deliver an annual report summarizing the reductions in premiums related to the elimination of the tobacco surcharge and the percentage of new enrollees in localities with above-average rates of tobacco use to the Governor and the Chairs of the House Committee on Commerce and Energy and Senate Committee on Commerce and Labor by January 1 of each year.

4. That the provisions of this act shall expire on January 1, 2026.

CHAPTER 683

An Act to amend and reenact § 38.2-3447 of the Code of Virginia, relating to health insurance; tobacco surcharge.

[S 1011]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3447 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3447. Restrictions relating to premium rates.

A. Notwithstanding any provision of § 38.2-3432.2, 38.2-3501, 38.2-4306, or any other section of this title to the contrary, a health carrier offering a health benefit plan providing individual or small group health insurance coverage shall develop its premium rates based on the following:

1. Whether the health benefit plan covers an individual or family;

2. Rating areas, as may be established by the Commission; *and*

3. Age, except that the rate shall not vary by more than 3 to 1 for adults~~; and~~

~~4. Tobacco use, except that the rate shall not vary by more than 1.5 to 1~~.

B. A premium rate shall not vary with respect to any particular health benefit plan by any other factor not described in subsection A.

C. Rating variations for family coverage shall be applied based on the portion of the premium that is attributable to each family member covered under the health benefit plan.

D. If the proposed area rate factors set forth in a rate filing for individual or small group health insurance coverage by a health carrier for a rating area exceed by more than 15 percent the weighted average of the proposed area rate factors among all rating areas in which the health carrier offers health benefit plans in that market, then:

1. The health carrier's rate filing shall include in a publicly available and unredacted form:

a. A comparison of the area rate factor for individual and small group health benefit plans that utilize the same provider network and provider reimbursement levels of the health benefit plans that are subject to the filing;

b. A detailed disclosure of the area rate factor methodology, which disclosure shall include any third-party resources or representations from a person other than the signing actuary, on which the signing actuary relied, provided that disclosure of third-party resources shall address that the source data only reflects differences in unit cost and provider practice patterns; and

c. To the extent that the health carrier is deriving any area rate factor from experience data, by rating area for the experience period used:

(1) The (i) total enrollment; (ii) total premiums; (iii) allowed claims; (iv) incurred claims excluding anticipated or, if available, actual risk adjustment payments or receipts; (v) incurred claims including anticipated or, if available, actual risk adjustment payments or receipts; and (vi) loss ratio for each of their rating areas in that market; and

(2) Aggregated incurred claims for any health system exceeding 30 percent of total incurred claims for that rating area in that market.

2. The Commission shall hold a public hearing on the proposed premium rates prior to the approval of the rate filing.

3. The Commission shall not approve the proposed rate filing if (i) a variance in area rate factors, indexed to the same rating region for both the individual and small group markets, of 15 percent or more exists between health benefit plans a carrier intends to offer in the individual market and health benefit plans intended to be offered in the small group market, when those plans utilize the same provider network and provider reimbursement levels and (ii) the methodologies used to calculate the area rate factors are different between the two markets.

E. Beginning for plan year 2020, a health carrier with an approved rate filing that contains at least one area rate factor that exceeds by more than 25 percent the weighted average of the area rate factors among all rating areas in a market in which the health carrier offers individual or small group health insurance coverage shall file with the Commission for each calendar quarter during that plan year a report that provides, for each rating area within the market in which the health carrier operates, the plan's (i) enrollment; (ii) total premiums; (iii) allowed claims; (iv) incurred claims excluding anticipated or, if available, actual risk adjustment payments or receipts; (v) incurred claims including anticipated or, if available, actual risk adjustment payments or receipts; (vi) loss ratio; and (vii) aggregate incurred claims, for each health system exceeding 25 percent of total incurred claims for that rating area. The health carrier shall make each such quarterly report publicly available, without redaction, not later than 45 days after the end of the calendar quarter.

F. As used in ~~subdivisions~~ *subsections* D and E:

"Allowed claims" means the amount of claims of a covered person for health care services that are owed pursuant to the terms of the covered person's health benefits plan, including payment made by the covered person's health carrier, and cost-sharing obligations owed by or on behalf of the covered person.

"Health system" means an organization that consists of either (i) at least one hospital plus at least one group of physicians or (ii) more than one group of physicians.

"Incurred claims" means allowed claims less copayments, deductible amounts, and other cost-sharing obligations owed by or on behalf of a covered person.

"Methodologies," when referring to the calculation of area rate factors, includes (i) the types of inputs, including experience period claims data, third-party database, other sources of data, and (ii) the series of calculations that are used to derive area rate factors. This definition shall not preclude a health carrier from calculating area rate factors for rates for the individual market, based on the cost and care delivery practices associated with the providers expected to be utilized by covered persons that reside in a given rating area, while calculating area rate factors for rates for the small group market, based on those providers that are expected to be utilized by individuals employed by small employers that are located in the rating area without regard to where the covered persons reside.

"Provider" means a health care provider, as defined in § 38.2-3438, that is affiliated or in-network with a health carrier.

"Weighted average," when referring to area rate factors, means the mean of the area rate factors when weighted based on the projected number of covered persons distributed by rating area.

2. That the provisions of this act shall apply to health benefit plans providing individual or small group health insurance coverage entered into, amended, extended, or renewed on or after January 1, 2024.
3. That the State Corporation Commission shall prepare and deliver an annual report summarizing the reductions in premiums related to the elimination of the tobacco surcharge and the percentage of new enrollees in localities with above-average rates of tobacco use to the Governor and the Chairs of the House Committee on Commerce and Energy and Senate Committee on Commerce and Labor by January 1 of each year.
4. That the provisions of this act shall expire on January 1, 2026.

CHAPTER 684

An Act to amend the Code of Virginia by adding a section numbered 54.1-3500.1, relating to Counseling Compact.

[H 1433]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:
1. That the Code of Virginia is amended by adding a section numbered 54.1-3500.1 as follows:

§ 54.1-3500.1. Counseling Compact.

The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Counseling Compact with any and all states legally joining therein according to its terms, in the form substantially as follows:

COUNSELING COMPACT

Article I.

Purpose.

The purpose of this Compact is to facilitate interstate practice of Licensed Professional Counselors with the goal of improving public access to Professional Counseling services. The practice of Professional Counseling occurs in the State where the client is located at the time of the counseling services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.

This Compact is designed to achieve the following objectives:

1. Increase public access to Professional Counseling services by providing for the mutual recognition of other Member State licenses;

2. Enhance the States' ability to protect the public's health and safety;

3. Encourage the cooperation of Member States in regulating multistate practice for Licensed Professional Counselors;

4. Support spouses of relocating Active Duty Military personnel;

5. Enhance the exchange of licensure, investigative, and disciplinary information among Member States;

6. Allow for the use of Telehealth technology to facilitate increased access to Professional Counseling services;

7. Support the uniformity of Professional Counseling licensure requirements throughout the States to promote public safety and public health benefits;

8. Invest all Member States with the authority to hold a Licensed Professional Counselor accountable for meeting all State practice laws in the State in which the client is located at the time care is rendered through the mutual recognition of Member State licenses;

9. Eliminate the necessity for licenses in multiple States; and

10. Provide opportunities for interstate practice by Licensed Professional Counselors who meet uniform licensure requirements.

Article II.

Definitions.

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

"Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

"Adverse Action" means any administrative, civil, equitable, or criminal action permitted by a State's laws which is imposed by a licensing board or other authority against a Licensed Professional Counselor, including actions against an individual's license or Privilege to Practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other Encumbrance on licensure affecting a Licensed Professional Counselor's authorization to practice, including issuance of a cease and desist action.

"Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a Professional Counseling Licensing Board to address Impaired Practitioners.

"Continuing Competence/Education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

"Counseling Compact Commission" or "Commission" means the national administrative body whose membership consists of all States that have enacted the Compact.

"Current Significant Investigative Information" means:

1. Investigative Information that a Licensing Board, after a preliminary inquiry that includes notification and an opportunity for the Licensed Professional Counselor to respond, if required by State law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

2. Investigative Information that indicates that the Licensed Professional Counselor represents an immediate threat to public health and safety regardless of whether the Licensed Professional Counselor has been notified and had an opportunity to respond.

"Data System" means a repository of information about Licensees, including, but not limited to, continuing education, examination, licensure, investigative, Privilege to Practice, and Adverse Action information.

"Encumbered License" means a license in which an Adverse Action restricts the practice of licensed Professional Counseling by the Licensee and said Adverse Action has been reported to the National Practitioners Data Bank (NPDB).

"Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of Licensed Professional Counseling by a Licensing Board.

"Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

"Home State" means the Member State that is the Licensee's primary State of residence.

"Impaired Practitioner" means an individual who has a condition(s) that may impair their ability to practice as a Licensed Professional Counselor without some type of intervention and may include, but are not limited to, alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

"Investigative Information" means information, records, and documents received or generated by a Professional Counseling Licensing Board pursuant to an investigation.

"Jurisprudence Requirement" if required by a Member State, means the assessment of an individual's knowledge of the laws and Rules governing the practice of Professional Counseling in a State.

"Licensed Professional Counselor" means a counselor licensed by a Member State, regardless of the title used by that State, to independently assess, diagnose, and treat behavioral health conditions.

"Licensee" means an individual who currently holds an authorization from the State to practice as a Licensed Professional Counselor.

"Licensing Board" means the agency of a State, or equivalent, that is responsible for the licensing and regulation of Licensed Professional Counselors.

"Member State" means a State that has enacted the Compact.

"Privilege to Practice" means a legal authorization, which is equivalent to a license, permitting the practice of Professional Counseling in a Remote State.

"Professional Counseling" means the assessment, diagnosis, and treatment of behavioral health conditions by a Licensed Professional Counselor.

"Remote State" means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise the Privilege to Practice.

"Rule" means a regulation promulgated by the Commission that has the force of law.

"Single State License" means a Licensed Professional Counselor license issued by a Member State that authorizes practice only within the issuing State and does not include a Privilege to Practice in any other Member State.

"State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of Professional Counseling.

"Telehealth" means the application of telecommunication technology to deliver Professional Counseling services remotely to assess, diagnose, and treat behavioral health conditions.

"Unencumbered License" means a license that authorizes a Licensed Professional Counselor to engage in the full and unrestricted practice of Professional Counseling.

Article III.

State Participation in the Compact.

A. To Participate in the Compact, a State must currently:

1. License and regulate Licensed Professional Counselors;

2. Require Licensees to pass a nationally recognized exam approved by the Commission;

3. Require Licensees to have a 60 semester-hour (or 90 quarter-hour) master's degree in counseling or 60 semester-hours (or 90 quarter-hours) of graduate course work including the following topic areas:

a. Professional Counseling Orientation and Ethical Practice;

b. Social and Cultural Diversity;

c. Human Growth and Development;

d. Career Development;

e. Counseling and Helping Relationships;

f. Group Counseling and Group Work;

g. Diagnosis and Treatment; Assessment and Testing;

h. Research and Program Evaluation; and

i. Other areas as determined by the Commission.

4. Require Licensees to complete a supervised postgraduate professional experience as defined by the Commission; and

5. Have a mechanism in place for receiving and investigating complaints about Licensees.

B. A Member State shall:

1. Participate fully in the Commission's Data System, including using the Commission's unique identifier as defined in Rules;

2. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Investigative Information regarding a Licensee;

3. Implement or utilize procedures for considering the criminal history records of applicants for an initial Privilege to Practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

a. A member state must fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search and shall use the results in making licensure decisions.

b. Communication between a Member State, the Commission and among Member States regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a Member State under Public Law 92-544.

4. Comply with the Rules of the Commission;

5. Require an applicant to obtain or retain a license in the Home State and meet the Home State's qualifications for licensure or renewal of licensure, as well as all other applicable State laws;

6. Grant the Privilege to Practice to a Licensee holding a valid Unencumbered License in another Member State in accordance with the terms of the Compact and Rules; and

7. Provide for the attendance of the State's commissioner to the Counseling Compact Commission meetings.

C. Member States may charge a fee for granting the Privilege to Practice.

D. Individuals not residing in a Member State shall continue to be able to apply for a Member State's Single State License as provided under the laws of each Member State. However, the Single State License granted to these individuals shall not be recognized as granting a Privilege to Practice Professional Counseling in any other Member State.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

F. A license issued to a Licensed Professional Counselor by a Home State to a resident in that State shall be recognized by each Member State as authorizing a Licensed Professional Counselor to practice Professional Counseling, under a Privilege to Practice, in each Member State.

Article IV.

Privilege to Practice.

A. To exercise the Privilege to Practice under the terms and provisions of the Compact, the Licensee shall:

1. Hold a license in the Home State;

2. Have a valid United States Social Security Number or National Practitioner Identifier;

3. Be eligible for a Privilege to Practice in any Member State in accordance with subsections D, G, and H;

4. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years;

5. Notify the Commission that the Licensee is seeking the Privilege to Practice within a Remote State(s);

6. Pay any applicable fees, including any State fee, for the Privilege to Practice;

7. Meet any Continuing Competence/Education requirements established by the Home State;

8. Meet any Jurisprudence Requirements established by the Remote State(s) in which the Licensee is seeking a Privilege to Practice; and

9. Report to the Commission any Adverse Action, Encumbrance, or restriction on license taken by any non-Member State within 30 days from the date the action is taken.

B. The Privilege to Practice is valid until the expiration date of the Home State license. The Licensee must comply with the requirements of subsection A to maintain the Privilege to Practice in the Remote State.

C. A Licensee providing Professional Counseling in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

D. A Licensee providing Professional Counseling services in a Remote State is subject to that State's regulatory authority. A Remote State may, in accordance with due process and that State's laws, remove a Licensee's Privilege to Practice in the Remote State for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The Licensee may be ineligible for a Privilege to Practice in any Member State until the specific time for removal has passed and all fines are paid.

E. If a Home State license is encumbered, the Licensee shall lose the Privilege to Practice in any Remote State until the following occur:

1. The Home State license is no longer encumbered; and

2. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years.

F. Once an Encumbered License in the Home State is restored to good standing, the Licensee must meet the requirements of subsection A to obtain a Privilege to Practice in any Remote State.

G. If a Licensee's Privilege to Practice in any Remote State is removed, the individual may lose the Privilege to Practice in all other Remote States until the following occur:

1. The specific period of time for which the Privilege to Practice was removed has ended;

2. All fines have been paid; and

3. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years.

H. Once the requirements of subsection G have been met, the Licensee must meet the requirements in subsection A to obtain a Privilege to Practice in a Remote State.

Article V.

Obtaining a New Home State License Based on a Privilege to Practice.

A. A Licensed Professional Counselor may hold a Home State license, which allows for a Privilege to Practice in other Member States, in only one Member State at a time.

B. If a Licensed Professional Counselor changes primary State of residence by moving between two Member States:

1. The Licensed Professional Counselor shall file an application for obtaining a new Home State license based on a Privilege to Practice, pay all applicable fees, and notify the current and new Home State in accordance with applicable Rules adopted by the Commission.

2. Upon receipt of an application for obtaining a new Home State license by virtue of a Privilege to Practice, the new Home State shall verify that the Licensed Professional Counselor meets the pertinent criteria outlined in Article IV via the Data System, without need for primary source verification except for:

a. A Federal Bureau of Investigation fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;

b. Other criminal background check as required by the new Home State; and

c. Completion of any requisite Jurisprudence Requirements of the new Home State.

3. The former Home State shall convert the former Home State license into a Privilege to Practice once the new Home State has activated the new Home State license in accordance with applicable Rules adopted by the Commission.

4. Notwithstanding any other provision of this Compact, if the Licensed Professional Counselor cannot meet the criteria in Article IV, the new Home State may apply its requirements for issuing a new Single State License.

5. The Licensed Professional Counselor shall pay all applicable fees to the new Home State in order to be issued a new Home State license.

C. If a Licensed Professional Counselor changes Primary State of Residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, the State criteria shall apply for issuance of a Single State License in the new State.

D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State License in multiple States, however for the purposes of this Compact, a Licensee shall have only one Home State license.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

Article VI.

Active Duty Military Personnel or their Spouses.

Active Duty Military personnel, or their spouse, shall designate a Home State where the individual has a current license in good standing. The individual may retain the Home State designation during the period the service member is on active duty. Subsequent to designating a Home State, the individual shall only change their Home State through application for licensure in the new State, or through the process outlined in Article V.

Article VII.

Compact Privilege to Practice Telehealth.

A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Article III and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.

B. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

Article VIII.

Adverse Actions.

A. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:

1. Take Adverse Action against a Licensed Professional Counselor's Privilege to Practice within that Member State, and

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings

pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located.

3. Only the Home State shall have the power to take Adverse Action against a Licensed Professional Counselor's license issued by the Home State.

B. For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine appropriate action.

C. The Home State shall complete any pending investigations of a Licensed Professional Counselor who changes primary State of residence during the course of the investigations. The Home State shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the Data System. The administrator of the coordinated licensure information system shall promptly notify the new Home State of any Adverse Actions.

D. A Member State, if otherwise permitted by State law, may recover from the affected Licensed Professional Counselor the costs of investigations and dispositions of cases resulting from any Adverse Action taken against that Licensed Professional Counselor.

E. A Member State may take Adverse Action based on the factual findings of the Remote State, provided that the Member State follows its own procedures for taking the Adverse Action.

F. Joint Investigations:

1. In addition to the authority granted to a Member State by its respective Professional Counseling practice act or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees.

2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. If Adverse Action is taken by the Home State against the license of a Licensed Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the State license. All Home State disciplinary orders that impose Adverse Action against the license of a Licensed Professional Counselor shall include a Statement that the Licensed Professional Counselor's Privilege to Practice is deactivated in all Member States during the pendency of the order.

H. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data System. The administrator of the Data System shall promptly notify the Home State of any Adverse Actions by Remote States.

I. Nothing in this Compact shall override a Member State's decision that participation in an Alternative Program may be used in lieu of Adverse Action.

Article IX.

Establishment of Counseling Compact Commission.

A. The Compact Member States hereby create and establish a joint public agency known as the Counseling Compact Commission:

1. The Commission is an instrumentality of the Compact States.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each Member State shall have and be limited to one (1) delegate selected by that Member State's Licensing Board.

2. The delegate shall be either:

a. A current member of the Licensing Board at the time of appointment, who is a Licensed Professional Counselor or public member; or

b. An administrator of the Licensing Board.

3. Any delegate may be removed or suspended from office as provided by the law of the State from which the delegate is appointed.

4. The Member State Licensing Board shall fill any vacancy occurring on the Commission within 60 days.

5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of Rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

8. The Commission shall by Rule establish a term of office for delegates and may by Rule establish term limits.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Maintain its financial records in accordance with the bylaws;

4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

5. Promulgate Rules which shall be binding to the extent and in the manner provided for in the Compact;

6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Board to sue or be sued under applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;

8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;

9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

12. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

13. Establish a budget and make expenditures;

14. Borrow money;

15. Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

16. Provide and receive information from, and cooperate with, law enforcement agencies;

17. Establish and elect an Executive Committee; and

18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the State regulation of Professional Counseling licensure and practice.

D. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact.

2. The Executive Committee shall be composed of up to eleven (11) members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission; and

b. Up to four (4) ex-officio, nonvoting members from four (4) recognized national professional counselor organizations.

c. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Committee as provided in bylaws.

4. The Executive Committee shall meet at least annually.

5. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the Rules or bylaws, changes to this Compact legislation, fees paid by Compact Member States such as annual dues, and any Commission Compact fee charged to Licensees for the Privilege to Practice;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of Member States and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in Rules or bylaws.

E. Meetings of the Commission

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the Rulemaking provisions in Article XI.

2. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

a. Non-compliance of a Member State with its obligations under the Compact;

b. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or Member State statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a Rule binding upon all Member States.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

Article X.

Data System.

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, Adverse Action, and Investigative Information on all licensed individuals in Member States.

B. Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse Actions against a license or Privilege to Practice;

4. Non-confidential information related to Alternative Program participation;

5. Any denial of application for licensure, and the reason(s) for such denial;

6. Current Significant Investigative Information; and

7. Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

D. The Commission shall promptly notify all Member States of any Adverse Action taken against a Licensee or an individual applying for a license. Adverse Action information pertaining to a Licensee in any Member State will be available to any other Member State.

E. Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

F. Any information submitted to the Data System that is subsequently required to be expunged by the laws of the Member State contributing the information shall be removed from the Data System.

Article XI.

Rulemaking.

A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently achieve the purpose of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its Rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force or effect.

B. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this article and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each Rule or amendment.

C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the Commission.

E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least thirty (30) days in advance of the meeting at which the Rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each Member State Professional Counseling Licensing Board or other publicly accessible platform or the publication in which each State would otherwise publish proposed Rules.

F. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the Rule will be considered and voted upon;

2. The text of the proposed Rule or amendment and the reason for the proposed Rule;

3. A request for comments on the proposed Rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;

2. A State or federal governmental subdivision or agency; or

3. An association having at least twenty-five (25) members.

I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings will be recorded. A copy of the recording will be made available on request.

4. Nothing in this subsection shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this subsection.

J. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed Rule without a public hearing.

L. The Commission shall, by majority vote of all members, take final action on the proposed Rule and shall determine the effective date of the Rule, if any, based on the Rulemaking record and the full text of the Rule.

M. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule without prior notice, opportunity for comment, or hearing, provided that the usual Rulemaking procedures provided in the Compact and in this article shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Member State funds;

3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or

4. Protect public health and safety.

N. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

Article XII.

Oversight, Dispute Resolution, and Enforcement.

A. Oversight

1. The executive, legislative, and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the Rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the Rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Member States, and all rights, privileges, and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

D. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and each of the Member States.

E. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

F. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

G. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

H. Dispute Resolution

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between member and non-Member States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

I. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

Article XIII.

Date of Implementation of the Counseling Compact Commission and Associated Rules, Withdrawal, and Amendment.

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth Member State. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking powers necessary to the implementation and administration of the Compact.

B. Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules shall be subject to the Rules as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

C. Any Member State may withdraw from this Compact by enacting a statute repealing the same.

1. A Member State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Professional Counseling Licensing Board to comply with the investigative and Adverse Action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any Professional Counseling licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

Article XIV.

Construction and Severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any Member State or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

Article XV.

Binding Effect of Compact and Other Laws.

A. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations, including scope of practice, of the Remote State.

B. Nothing herein prevents the enforcement of any other law of a Member State that is not inconsistent with the Compact.

C. Any laws in a Member State in conflict with the Compact are superseded to the extent of the conflict.

D. Any lawful actions of the Commission, including all Rules and bylaws properly promulgated by the Commission, are binding upon the Member States.

E. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

F. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any Member State, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that Member State.

2. That the Board of Counseling shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

3. That the provisions of this act shall become effective on January 1, 2024.

CHAPTER 685

An Act to amend the Code of Virginia by adding a section numbered 54.1-3500.1, relating to Counseling Compact.

[S 802]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 54.1-3500.1 as follows:

§ 54.1-3500.1. Counseling Compact.

The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Counseling Compact with any and all states legally joining therein according to its terms, in the form substantially as follows:

COUNSELING COMPACT

Article I.

Purpose.

The purpose of this Compact is to facilitate interstate practice of Licensed Professional Counselors with the goal of improving public access to Professional Counseling services. The practice of Professional Counseling occurs in the State where the client is located at the time of the counseling services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.

This Compact is designed to achieve the following objectives:

1. Increase public access to Professional Counseling services by providing for the mutual recognition of other Member State licenses;

2. Enhance the States' ability to protect the public's health and safety;

3. Encourage the cooperation of Member States in regulating multistate practice for Licensed Professional Counselors;

4. Support spouses of relocating Active Duty Military personnel;

5. Enhance the exchange of licensure, investigative, and disciplinary information among Member States;

6. Allow for the use of Telehealth technology to facilitate increased access to Professional Counseling services;

7. Support the uniformity of Professional Counseling licensure requirements throughout the States to promote public safety and public health benefits;

8. Invest all Member States with the authority to hold a Licensed Professional Counselor accountable for meeting all State practice laws in the State in which the client is located at the time care is rendered through the mutual recognition of Member State licenses;

9. Eliminate the necessity for licenses in multiple States; and

10. Provide opportunities for interstate practice by Licensed Professional Counselors who meet uniform licensure requirements.

Article II.

Definitions.

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

"Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

"Adverse Action" means any administrative, civil, equitable, or criminal action permitted by a State's laws which is imposed by a licensing board or other authority against a Licensed Professional Counselor, including actions against an individual's license or Privilege to Practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other Encumbrance on licensure affecting a Licensed Professional Counselor's authorization to practice, including issuance of a cease and desist action.

"Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a Professional Counseling Licensing Board to address Impaired Practitioners.

"Continuing Competence/Education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

"Counseling Compact Commission" or "Commission" means the national administrative body whose membership consists of all States that have enacted the Compact.

"Current Significant Investigative Information" means:

1. Investigative Information that a Licensing Board, after a preliminary inquiry that includes notification and an opportunity for the Licensed Professional Counselor to respond, if required by State law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

2. Investigative Information that indicates that the Licensed Professional Counselor represents an immediate threat to public health and safety regardless of whether the Licensed Professional Counselor has been notified and had an opportunity to respond.

"Data System" means a repository of information about Licensees, including, but not limited to, continuing education, examination, licensure, investigative, Privilege to Practice, and Adverse Action information.

"Encumbered License" means a license in which an Adverse Action restricts the practice of licensed Professional Counseling by the Licensee and said Adverse Action has been reported to the National Practitioners Data Bank (NPDB).

"Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of Licensed Professional Counseling by a Licensing Board.

"Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

"Home State" means the Member State that is the Licensee's primary State of residence.

"Impaired Practitioner" means an individual who has a condition(s) that may impair their ability to practice as a Licensed Professional Counselor without some type of intervention and may include, but are not limited to, alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

"Investigative Information" means information, records, and documents received or generated by a Professional Counseling Licensing Board pursuant to an investigation.

"Jurisprudence Requirement" if required by a Member State, means the assessment of an individual's knowledge of the laws and Rules governing the practice of Professional Counseling in a State.

"Licensed Professional Counselor" means a counselor licensed by a Member State, regardless of the title used by that State, to independently assess, diagnose, and treat behavioral health conditions.

"Licensee" means an individual who currently holds an authorization from the State to practice as a Licensed Professional Counselor.

"Licensing Board" means the agency of a State, or equivalent, that is responsible for the licensing and regulation of Licensed Professional Counselors.

"Member State" means a State that has enacted the Compact.

"Privilege to Practice" means a legal authorization, which is equivalent to a license, permitting the practice of Professional Counseling in a Remote State.

"Professional Counseling" means the assessment, diagnosis, and treatment of behavioral health conditions by a Licensed Professional Counselor.

"Remote State" means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise the Privilege to Practice.

"Rule" means a regulation promulgated by the Commission that has the force of law.

"Single State License" means a Licensed Professional Counselor license issued by a Member State that authorizes practice only within the issuing State and does not include a Privilege to Practice in any other Member State.

"State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of Professional Counseling.

"Telehealth" means the application of telecommunication technology to deliver Professional Counseling services remotely to assess, diagnose, and treat behavioral health conditions.

"Unencumbered License" means a license that authorizes a Licensed Professional Counselor to engage in the full and unrestricted practice of Professional Counseling.

Article III.

State Participation in the Compact.

A. To Participate in the Compact, a State must currently:

1. License and regulate Licensed Professional Counselors;

2. Require Licensees to pass a nationally recognized exam approved by the Commission;

3. Require Licensees to have a 60 semester-hour (or 90 quarter-hour) master's degree in counseling or 60 semester-hours (or 90 quarter-hours) of graduate course work including the following topic areas:

a. Professional Counseling Orientation and Ethical Practice;

b. Social and Cultural Diversity;

c. Human Growth and Development;

d. Career Development;

e. Counseling and Helping Relationships;

f. Group Counseling and Group Work;

g. Diagnosis and Treatment; Assessment and Testing;

h. Research and Program Evaluation; and

i. Other areas as determined by the Commission.

4. Require Licensees to complete a supervised postgraduate professional experience as defined by the Commission; and

5. Have a mechanism in place for receiving and investigating complaints about Licensees.

B. A Member State shall:

1. Participate fully in the Commission's Data System, including using the Commission's unique identifier as defined in Rules;

2. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Investigative Information regarding a Licensee;

3. Implement or utilize procedures for considering the criminal history records of applicants for an initial Privilege to Practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

a. A member state must fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search and shall use the results in making licensure decisions.

b. Communication between a Member State, the Commission and among Member States regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a Member State under Public Law 92-544.

4. Comply with the Rules of the Commission;

5. Require an applicant to obtain or retain a license in the Home State and meet the Home State's qualifications for licensure or renewal of licensure, as well as all other applicable State laws;

6. Grant the Privilege to Practice to a Licensee holding a valid Unencumbered License in another Member State in accordance with the terms of the Compact and Rules; and

7. Provide for the attendance of the State's commissioner to the Counseling Compact Commission meetings.

C. Member States may charge a fee for granting the Privilege to Practice.

D. Individuals not residing in a Member State shall continue to be able to apply for a Member State's Single State License as provided under the laws of each Member State. However, the Single State License granted to these individuals shall not be recognized as granting a Privilege to Practice Professional Counseling in any other Member State.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

F. A license issued to a Licensed Professional Counselor by a Home State to a resident in that State shall be recognized by each Member State as authorizing a Licensed Professional Counselor to practice Professional Counseling, under a Privilege to Practice, in each Member State.

Article IV.

Privilege to Practice.

A. To exercise the Privilege to Practice under the terms and provisions of the Compact, the Licensee shall:

1. Hold a license in the Home State;

2. Have a valid United States Social Security Number or National Practitioner Identifier;

3. Be eligible for a Privilege to Practice in any Member State in accordance with subsections D, G, and H;

4. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years;

5. Notify the Commission that the Licensee is seeking the Privilege to Practice within a Remote State(s);

6. Pay any applicable fees, including any State fee, for the Privilege to Practice;

7. Meet any Continuing Competence/Education requirements established by the Home State;

8. Meet any Jurisprudence Requirements established by the Remote State(s) in which the Licensee is seeking a Privilege to Practice; and

9. Report to the Commission any Adverse Action, Encumbrance, or restriction on license taken by any non-Member State within 30 days from the date the action is taken.

B. The Privilege to Practice is valid until the expiration date of the Home State license. The Licensee must comply with the requirements of subsection A to maintain the Privilege to Practice in the Remote State.

C. A Licensee providing Professional Counseling in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

D. A Licensee providing Professional Counseling services in a Remote State is subject to that State's regulatory authority. A Remote State may, in accordance with due process and that State's laws, remove a Licensee's Privilege to Practice in the Remote State for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The Licensee may be ineligible for a Privilege to Practice in any Member State until the specific time for removal has passed and all fines are paid.

E. If a Home State license is encumbered, the Licensee shall lose the Privilege to Practice in any Remote State until the following occur:

1. The Home State license is no longer encumbered; and

2. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years.

F. Once an Encumbered License in the Home State is restored to good standing, the Licensee must meet the requirements of subsection A to obtain a Privilege to Practice in any Remote State.

G. If a Licensee's Privilege to Practice in any Remote State is removed, the individual may lose the Privilege to Practice in all other Remote States until the following occur:

1. The specific period of time for which the Privilege to Practice was removed has ended;

2. All fines have been paid; and

3. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years.

H. Once the requirements of subsection G have been met, the Licensee must meet the requirements in subsection A to obtain a Privilege to Practice in a Remote State.

Article V.

Obtaining a New Home State License Based on a Privilege to Practice.

A. A Licensed Professional Counselor may hold a Home State license, which allows for a Privilege to Practice in other Member States, in only one Member State at a time.

B. If a Licensed Professional Counselor changes primary State of residence by moving between two Member States:

1. The Licensed Professional Counselor shall file an application for obtaining a new Home State license based on a Privilege to Practice, pay all applicable fees, and notify the current and new Home State in accordance with applicable Rules adopted by the Commission.

2. Upon receipt of an application for obtaining a new Home State license by virtue of a Privilege to Practice, the new Home State shall verify that the Licensed Professional Counselor meets the pertinent criteria outlined in Article IV via the Data System, without need for primary source verification except for:

a. A Federal Bureau of Investigation fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;

b. Other criminal background check as required by the new Home State; and

c. Completion of any requisite Jurisprudence Requirements of the new Home State.

3. The former Home State shall convert the former Home State license into a Privilege to Practice once the new Home State has activated the new Home State license in accordance with applicable Rules adopted by the Commission.

4. Notwithstanding any other provision of this Compact, if the Licensed Professional Counselor cannot meet the criteria in Article IV, the new Home State may apply its requirements for issuing a new Single State License.

5. The Licensed Professional Counselor shall pay all applicable fees to the new Home State in order to be issued a new Home State license.

C. If a Licensed Professional Counselor changes Primary State of Residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, the State criteria shall apply for issuance of a Single State License in the new State.

D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State License in multiple States, however for the purposes of this Compact, a Licensee shall have only one Home State license.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

Article VI.

Active Duty Military Personnel or their Spouses.

Active Duty Military personnel, or their spouse, shall designate a Home State where the individual has a current license in good standing. The individual may retain the Home State designation during the period the service member is on active duty. Subsequent to designating a Home State, the individual shall only change their Home State through application for licensure in the new State, or through the process outlined in Article V.

Article VII.

Compact Privilege to Practice Telehealth.

A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Article III and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.

B. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

Article VIII.

Adverse Actions.

A. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:

1. Take Adverse Action against a Licensed Professional Counselor's Privilege to Practice within that Member State, and

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located.

3. Only the Home State shall have the power to take Adverse Action against a Licensed Professional Counselor's license issued by the Home State.

B. For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine appropriate action.

C. The Home State shall complete any pending investigations of a Licensed Professional Counselor who changes primary State of residence during the course of the investigations. The Home State shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the Data System. The administrator of the coordinated licensure information system shall promptly notify the new Home State of any Adverse Actions.

D. A Member State, if otherwise permitted by State law, may recover from the affected Licensed Professional Counselor the costs of investigations and dispositions of cases resulting from any Adverse Action taken against that Licensed Professional Counselor.

E. A Member State may take Adverse Action based on the factual findings of the Remote State, provided that the Member State follows its own procedures for taking the Adverse Action.

F. Joint Investigations:

1. In addition to the authority granted to a Member State by its respective Professional Counseling practice act or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees.

2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. If Adverse Action is taken by the Home State against the license of a Licensed Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the State license. All Home State disciplinary orders that impose Adverse Action against the license of a Licensed Professional Counselor shall include a Statement that the Licensed Professional Counselor's Privilege to Practice is deactivated in all Member States during the pendency of the order.

H. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data System. The administrator of the Data System shall promptly notify the Home State of any Adverse Actions by Remote States.

I. Nothing in this Compact shall override a Member State's decision that participation in an Alternative Program may be used in lieu of Adverse Action.

Article IX.

Establishment of Counseling Compact Commission.

A. The Compact Member States hereby create and establish a joint public agency known as the Counseling Compact Commission:

1. The Commission is an instrumentality of the Compact States.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each Member State shall have and be limited to one (1) delegate selected by that Member State's Licensing Board.

2. The delegate shall be either:

a. A current member of the Licensing Board at the time of appointment, who is a Licensed Professional Counselor or public member; or

b. An administrator of the Licensing Board.

3. Any delegate may be removed or suspended from office as provided by the law of the State from which the delegate is appointed.

4. The Member State Licensing Board shall fill any vacancy occurring on the Commission within 60 days.

5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of Rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

8. The Commission shall by Rule establish a term of office for delegates and may by Rule establish term limits.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Maintain its financial records in accordance with the bylaws;

4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

5. Promulgate Rules which shall be binding to the extent and in the manner provided for in the Compact;

6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Board to sue or be sued under applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;

8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;

9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

12. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

13. Establish a budget and make expenditures;

14. Borrow money;

15. Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

16. Provide and receive information from, and cooperate with, law enforcement agencies;

17. Establish and elect an Executive Committee; and

18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the State regulation of Professional Counseling licensure and practice.

D. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact.

2. The Executive Committee shall be composed of up to eleven (11) members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission; and

b. Up to four (4) ex-officio, nonvoting members from four (4) recognized national professional counselor organizations.

c. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Committee as provided in bylaws.

4. The Executive Committee shall meet at least annually.

5. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the Rules or bylaws, changes to this Compact legislation, fees paid by Compact Member States such as annual dues, and any Commission Compact fee charged to Licensees for the Privilege to Practice;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of Member States and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in Rules or bylaws.

E. Meetings of the Commission

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the Rulemaking provisions in Article XI.

2. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

a. Non-compliance of a Member State with its obligations under the Compact;

b. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or Member State statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The

aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a Rule binding upon all Member States.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

Article X.

Data System.

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, Adverse Action, and Investigative Information on all licensed individuals in Member States.

B. Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse Actions against a license or Privilege to Practice;

4. Non-confidential information related to Alternative Program participation;

5. Any denial of application for licensure, and the reason(s) for such denial;

6. Current Significant Investigative Information; and

7. Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

D. The Commission shall promptly notify all Member States of any Adverse Action taken against a Licensee or an individual applying for a license. Adverse Action information pertaining to a Licensee in any Member State will be available to any other Member State.

E. Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

F. Any information submitted to the Data System that is subsequently required to be expunged by the laws of the Member State contributing the information shall be removed from the Data System.

Article XI.

Rulemaking.

A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently achieve the purpose of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its Rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force or effect.

B. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this article and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each Rule or amendment.

C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the Commission.

E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least thirty (30) days in advance of the meeting at which the Rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each Member State Professional Counseling Licensing Board or other publicly accessible platform or the publication in which each State would otherwise publish proposed Rules.

F. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the Rule will be considered and voted upon;

2. The text of the proposed Rule or amendment and the reason for the proposed Rule;

3. A request for comments on the proposed Rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;

2. A State or federal governmental subdivision or agency; or

3. An association having at least twenty-five (25) members.

I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings will be recorded. A copy of the recording will be made available on request.

4. Nothing in this subsection shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this subsection.

J. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed Rule without a public hearing.

L. The Commission shall, by majority vote of all members, take final action on the proposed Rule and shall determine the effective date of the Rule, if any, based on the Rulemaking record and the full text of the Rule.

M. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule without prior notice, opportunity for comment, or hearing, provided that the usual Rulemaking procedures provided in the Compact and in this article shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Member State funds;

3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or

4. Protect public health and safety.

N. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

Article XII.

Oversight, Dispute Resolution, and Enforcement.

A. Oversight

1. The executive, legislative, and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the Rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the Rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Member States, and all rights, privileges, and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

D. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and each of the Member States.

E. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

F. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

G. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

H. Dispute Resolution

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between member and non-Member States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

I. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

Article XIII.

Date of Implementation of the Counseling Compact Commission and Associated Rules, Withdrawal, and Amendment.

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth Member State. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking powers necessary to the implementation and administration of the Compact.

B. Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules shall be subject to the Rules as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

C. Any Member State may withdraw from this Compact by enacting a statute repealing the same.

1. A Member State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Professional Counseling Licensing Board to comply with the investigative and Adverse Action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any Professional Counseling licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

Article XIV.

Construction and Severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any Member State or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

Article XV.

Binding Effect of Compact and Other Laws.

A. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations, including scope of practice, of the Remote State.

B. Nothing herein prevents the enforcement of any other law of a Member State that is not inconsistent with the Compact.

C. Any laws in a Member State in conflict with the Compact are superseded to the extent of the conflict.

D. Any lawful actions of the Commission, including all Rules and bylaws properly promulgated by the Commission, are binding upon the Member States.

E. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

F. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any Member State, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that Member State.

2. That the Board of Counseling shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

3. That the provisions of this act shall become effective on January 1, 2024.

CHAPTER 686

An Act to amend and reenact §§ 58.1-390.1 and 58.1-390.3 of the Code of Virginia, relating to income tax; pass-through entities.

[H 1456]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-390.1 and 58.1-390.3 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-390.1. Definitions.

The following words and terms, when used in this article, shall have the following meanings unless the context clearly indicates otherwise:

"Eligible owner" means a direct owner of a pass-through entity who is a natural person subject to the tax imposed by Article 2 (§ 58.1-320 et seq.) or an estate or trust subject to the tax imposed by Article 6 (§ 58.1-360 et seq.).

"Owner" means any individual or entity who is treated as a partner, member, or shareholder of a pass-through entity for federal income tax purposes.

"Pass-through entity" means any entity, including a limited partnership, a limited liability partnership, a general partnership, a limited liability company, a professional limited liability company, a business trust, or a Subchapter S corporation, that is recognized as a separate entity for federal income tax purposes, in which the partners, members, or shareholders report their share of the income, gains, losses, deductions, and credits from the entity on their federal income tax returns or make the election and pay the tax levied pursuant to § 58.1-390.3.

~~"Qualifying pass-through entity" means a pass-through entity that is 100 percent owned by natural persons or, in the case of a Subchapter S corporation, 100 percent owned by natural persons or other persons eligible to be shareholders in an S corporation.~~

§ 58.1-390.3. Elective income tax on pass-through entities.

A. 1. For taxable years beginning on and after January 1, 2021, but before January 1, 2022, a ~~qualifying~~ pass-through entity may make an election, in a format and according to such requirements and procedures to be established by the Department, to pay the tax levied by this section at the entity level for the taxable year. Such election shall be made on or before a date to be determined by the Department, which shall be set no earlier than one year after the extended due date for filing the applicable return. Notwithstanding §§ 58.1-1812 and 58.1-1833, no interest shall accrue on underpayments or overpayments solely attributable to such election.

2. For taxable years beginning on and after January 1, 2022, but before January 1, 2026, a ~~qualifying~~ pass-through entity may make an annual election, on its timely filed return pursuant to § 58.1-392, to pay the tax levied by this section at the entity level for the taxable period covered by such return. Such election shall be made on or before the due date for filing the applicable return, including any extensions that have been granted.

B. A tax at the rate of 5.75 percent is hereby annually imposed on the Virginia taxable income, as calculated pursuant to § 58.1-391 *but taking into account only the pro rata or distributive share of each item of income, gain, loss, or deduction attributable to eligible owners*, for each taxable year of every ~~qualifying~~ pass-through entity that makes the election provided under subsection A.

C. *In computing the tax imposed by this section, the pro rata or distributive share of the Virginia taxable income of each nonresident eligible owner shall be limited to income that is attributable to Virginia sources and shall be subject to the modifications to income as described in §§ 58.1-322.01 through 58.1-322.04.*

D. A ~~qualifying~~ pass-through entity that elects to pay the tax levied by subsection B shall be eligible for all credits, deductions, or other adjustments to taxable income under § 58.1-391, provided that a ~~qualifying~~ pass-through entity's taxable income shall be adjusted to eliminate any federal deduction for state and local income taxes.

~~D.~~ *E.* Any person that is subject to the tax imposed under § 58.1-320 or 58.1-360 and is an *eligible* owner of a ~~qualifying~~ pass-through entity making the election pursuant to this section shall be entitled to a credit against the tax imposed, provided that taxable income has been adjusted to add back any deduction for state and local income taxes paid by the ~~qualifying~~ pass-through entity. Such credit shall be in an amount equal to such person's pro rata share of the tax paid under this section by any ~~qualifying~~ pass-through entity of which such person is an owner. If the amount of the credit allowed pursuant to this subsection exceeds such person's tax liability for the tax imposed under § 58.1-320 or 58.1-360, as applicable, such excess shall be treated as an overpayment and refundable pursuant to § 58.1-499.

~~E.~~ *F.* If any ~~qualifying~~ pass-through entity makes an election pursuant to this section, the Department shall assess and collect tax, interest, and penalties as if such tax is a corporate income tax imposed pursuant to the provisions of Article 10 (§ 58.1-400 et seq.).

~~F.~~ *G.* The Department shall develop and make publicly available guidelines implementing the provisions of this section and the credit authorized by subdivision C 2 of § 58.1-332.

2. That the provisions of this act shall apply only to taxable years beginning on and after January 1, 2021.

CHAPTER 687

An Act to amend and reenact §§ 58.1-390.1 and 58.1-390.3 of the Code of Virginia, relating to income tax; pass-through entities.

[S 1476]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-390.1 and 58.1-390.3 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-390.1. Definitions.

The following words and terms, when used in this article, shall have the following meanings unless the context clearly indicates otherwise:

"Eligible owner" means a direct owner of a pass-through entity who is a natural person subject to the tax imposed by Article 2 (§ 58.1-320 et seq.) or an estate or trust subject to the tax imposed by Article 6 (§ 58.1-360 et seq.).

"Owner" means any individual or entity who is treated as a partner, member, or shareholder of a pass-through entity for federal income tax purposes.

"Pass-through entity" means any entity, including a limited partnership, a limited liability partnership, a general partnership, a limited liability company, a professional limited liability company, a business trust, or a Subchapter S corporation, that is recognized as a separate entity for federal income tax purposes, in which the partners, members, or shareholders report their share of the income, gains, losses, deductions, and credits from the entity on their federal income tax returns or make the election and pay the tax levied pursuant to § 58.1-390.3.

~~"Qualifying pass-through entity" means a pass-through entity that is 100 percent owned by natural persons or, in the case of a Subchapter S corporation, 100 percent owned by natural persons or other persons eligible to be shareholders in an S corporation.~~

§ 58.1-390.3. Elective income tax on pass-through entities.

A. 1. For taxable years beginning on and after January 1, 2021, but before January 1, 2022, a ~~qualifying~~ pass-through entity may make an election, in a format and according to such requirements and procedures to be established by the Department, to pay the tax levied by this section at the entity level for the taxable year. Such election shall be made on or before a date to be determined by the Department, which shall be set no earlier than one year after the extended due date for filing the applicable return. Notwithstanding §§ 58.1-1812 and 58.1-1833, no interest shall accrue on underpayments or overpayments solely attributable to such election.

2. For taxable years beginning on and after January 1, 2022, but before January 1, 2026, a ~~qualifying~~ pass-through entity may make an annual election, on its timely filed return pursuant to § 58.1-392, to pay the tax levied by this section at

the entity level for the taxable period covered by such return. Such election shall be made on or before the due date for filing the applicable return, including any extensions that have been granted.

B. A tax at the rate of 5.75 percent is hereby annually imposed on the Virginia taxable income, as calculated pursuant to § 58.1-391 *but taking into account only the pro rata or distributive share of each item of income, gain, loss, or deduction attributable to eligible owners*, for each taxable year of every ~~qualifying~~ pass-through entity that makes the election provided under subsection A.

C. *In computing the tax imposed by this section, the pro rata or distributive share of the Virginia taxable income of each nonresident eligible owner shall be limited to income that is attributable to Virginia sources and shall be subject to the modifications to income as described in §§ 58.1-322.01 through 58.1-322.04.*

D. A ~~qualifying~~ pass-through entity that elects to pay the tax levied by subsection B shall be eligible for all credits, deductions, or other adjustments to taxable income under § 58.1-391, provided that a ~~qualifying~~ pass-through entity's taxable income shall be adjusted to eliminate any federal deduction for state and local income taxes.

~~D.~~ *E.* Any person that is subject to the tax imposed under § 58.1-320 or 58.1-360 and is an *eligible* owner of a ~~qualifying~~ pass-through entity making the election pursuant to this section shall be entitled to a credit against the tax imposed, provided that taxable income has been adjusted to add back any deduction for state and local income taxes paid by the ~~qualifying~~ pass-through entity. Such credit shall be in an amount equal to such person's pro rata share of the tax paid under this section by any ~~qualifying~~ pass-through entity of which such person is an owner. If the amount of the credit allowed pursuant to this subsection exceeds such person's tax liability for the tax imposed under § 58.1-320 or 58.1-360, as applicable, such excess shall be treated as an overpayment and refundable pursuant to § 58.1-499.

~~E.~~ *F.* If any ~~qualifying~~ pass-through entity makes an election pursuant to this section, the Department shall assess and collect tax, interest, and penalties as if such tax is a corporate income tax imposed pursuant to the provisions of Article 10 (§ 58.1-400 et seq.).

~~F.~~ *G.* The Department shall develop and make publicly available guidelines implementing the provisions of this section and the credit authorized by subdivision C 2 of § 58.1-332.

2. That the provisions of this act shall apply only to taxable years beginning on and after January 1, 2021.

CHAPTER 688

An Act to amend and reenact §§ 59.1-200 and 59.1-207.46 of the Code of Virginia, relating to Virginia Consumer Protection Act; automatic renewal or continuous service offers; cancellation reminders; prohibited practices.

[H 1517]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-200 and 59.1-207.46 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-200. Prohibited practices.

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;

2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;

4. Misrepresenting geographic origin in connection with goods or services;

5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;

6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";

8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516, or 3.2-6519 is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of $5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.);

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.);

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.);

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.);

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

37. Violating any provision of § 8.01-40.2;

38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.);
42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
43. Violating any provision of § 59.1-443.2;
44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
47. Violating any provision of § 18.2-239;
48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";
50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
52. Violating any provision of § 8.2-317.1;
53. Violating subsection A of § 9.1-149.1;
54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;
55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
59. Violating any provision of subsection E of § 32.1-126;
60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
61. Violating any provision of § 2.2-2001.5;
62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
63. Violating any provision of § 6.2-312;
64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
67. Knowingly violating any provision of § 8.01-27.5;
68. Failing to*, in accordance with § 59.1-207.46, (i)* make available a conspicuous online option to cancel a recurring purchase of a good or service ~~as required by § 59.1-207.46~~ *or (ii) with respect to a free trial lasting more than 30 days, notify a consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an obligation to pay for the goods or services*;
69. Selling or offering for sale to a person younger than 21 years of age any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 of Chapter 34 of Title 54.1 of the Code of Virginia;
70. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 of Chapter 34 of Title 54.1 of the Code of Virginia;

71. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit; ~~and~~

72. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance*; and*

73. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any such good or provision of any such continuous service.

B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

§ 59.1-207.46. Making automatic renewal or continuous service offer to consumer; affirmative consent required; disclosures; prohibited conduct.

A. No supplier making an automatic renewal or continuous service offer to a consumer in the Commonwealth shall do any of the following:

1. Fail to present the automatic renewal offer terms or continuous service offer terms in a clear and conspicuous manner before the consumer becomes obligated on the automatic renewal or continuous service offer and in visual proximity, or in the case of an offer conveyed by voice, in temporal proximity, to the request for consent to the offer.

2. Charge the consumer's credit or debit card or the consumer's account with a third party for an automatic renewal or continuous service without first obtaining the consumer's affirmative consent to the agreement containing the automatic renewal offer terms or continuous service offer terms.

3. Fail to provide an acknowledgment that includes the automatic renewal or continuous service offer terms, cancellation policy, and information regarding how to cancel in a manner that is capable of being retained by the consumer. If the offer includes a free trial, the supplier shall also disclose in the acknowledgment how to cancel the free trial before the consumer pays or becomes obligated to pay for the goods or services.

B. A supplier making automatic renewal or continuous service offers shall provide a toll-free telephone number, an electronic mail address, a postal address only when the supplier directly bills the consumer, or another cost-effective, timely, and easy-to-use mechanism for cancellation that shall be described in the acknowledgment specified in subdivision A 3. Each supplier making automatic renewal or continuous service offers through an online website shall make available a conspicuous online option to cancel a recurring purchase of a good or service.

C. In the case of a material change in the terms of the automatic renewal or continuous service offer that has been accepted by a consumer in the Commonwealth, the supplier shall provide the consumer with a clear and conspicuous notice of the material change and provide information regarding how to cancel in a manner that is capable of being retained by the consumer.

D. *A supplier making automatic renewal or continuous service offers that include a free trial lasting more than 30 days shall, within 30 days of the end of any such free trial, notify the consumer of his option to cancel the free trial before the end of the trial period to avoid an obligation to pay for the goods or services.*

E. The requirements of this section shall apply only prior to the completion of the initial order for the automatic renewal or continuous service, except:

1. The requirement in subdivision A 3 may be fulfilled after completion of the initial order; and

2. The requirement in subsection C shall be fulfilled prior to implementation of the material change.

CHAPTER 689

An Act to amend and reenact §§ 46.2-1011, 46.2-1012, and 46.2-1015 of the Code of Virginia, relating to headlights; aftermarket modifications; blue lights.

[S 855]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1011, 46.2-1012, and 46.2-1015 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-1011. Headlights on motor vehicles.

Every motor vehicle other than a motorcycle, autocycle, road roller, road machinery, or tractor used on a highway shall be equipped with at least two headlights as approved by the Superintendent~~,~~ at the front of and on opposite sides of the motor vehicle.

Such headlights shall not have any aftermarket modifications that cause the headlights to appear as a blue light; however, such prohibition shall not be construed to prohibit the installation and use of headlights of types approved by the Superintendent.

§ 46.2-1012. Headlights, auxiliary headlights, tail lights, brake lights, auxiliary lights, and illumination of license plates on motorcycles or autocycles.

Every motorcycle or autocycle shall be equipped with at least one headlight which shall be of a type that has been approved by the Superintendent and shall be capable of projecting sufficient light to the front of such motorcycle or autocycle to render discernible a person or object at a distance of 200 feet. ~~However, the lights shall not project a glaring or dazzling light to persons approaching such motorcycles or autocycles.~~ In addition, each motorcycle or autocycle may be equipped with not more than two auxiliary headlights of a type approved by the Superintendent except as otherwise provided in this section. *However, headlights shall not (i) project a glaring or dazzling light to persons approaching such motorcycles or autocycles or (ii) have any aftermarket modifications that cause such headlights to appear as a blue light. Such prohibition shall not be construed to prohibit the installation and use of headlights of types approved by the Superintendent.*

Motorcycles or autocycles may be equipped with means of modulating the high beam of their headlights between high and low beam at a rate of 200 to 280 flashes per minute. Such headlights shall not be so modulated during periods when headlights would ordinarily be required to be lighted under § 46.2-1030.

Notwithstanding § 46.2-1002, motorcycles or autocycles may be equipped with standard bulb running lights or light-emitting diode (LED) pods or strips as auxiliary lighting. Such lighting shall be (i) either red or amber in color, (ii) directed toward the ground in such a manner that no part of the beam will strike the level of the surface on which the motorcycle or autocycle stands at a distance of more than 10 feet from the vehicle, and (iii) designed for vehicular use. Such lighting shall not (a) project a beam of light of an intensity greater than 25 candlepower or 314.25 lumens or its equivalent from a single lamp or bulb; (b) be blinking, flashing, oscillating, or rotating; or (c) be attached to the wheels of the motorcycle or autocycle.

Every motorcycle or autocycle registered in the Commonwealth and operated on the highways of the Commonwealth shall be equipped with at least one brake light of a type approved by the Superintendent. Motorcycles or autocycles may be equipped with one or more auxiliary brake lights of a type approved by the Superintendent. The Superintendent may by regulation prescribe or limit the size, number, location, and configuration of such auxiliary brake lights.

Every motorcycle or autocycle shall carry at the rear at least one or more red lights plainly visible in clear weather from a distance of 500 feet to the rear of such vehicle. Such tail lights shall be constructed and so mounted in their relation to the rear license plate as to illuminate the license plate with a white light so that the same may be read from a distance of 50 feet to the rear of such vehicle. Alternatively, a separate white light shall be so mounted as to illuminate the rear license plate from a distance of 50 feet to the rear of such vehicle. Any such tail lights or special white light shall be of a type approved by the Superintendent.

Motorcycles or autocycles may be equipped with a means of varying the brightness of the vehicle's brake light upon application of the vehicle's brakes.

§ 46.2-1015. Lights on bicycles, electric personal assistive mobility devices, personal delivery devices, electric power-assisted bicycles, mopeds, and motorized skateboards or scooters.

A. Every bicycle, electric personal assistive mobility device, personal delivery device, electric power-assisted bicycle, moped, and motorized skateboard or scooter with handlebars when in use between sunset and sunrise shall be equipped with a headlight on the front emitting a white light visible in clear weather from a distance of at least 500 feet to the front and a red reflector visible from a distance of at least 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. Such lights and reflector shall be of types approved by the Superintendent. *Such headlights shall not have any aftermarket modifications that cause the headlights to appear as a blue light; however, such prohibition shall not be construed to prohibit the installation and use of headlights of types approved by the Superintendent.*

In addition to the foregoing provisions of this section, a bicycle or its rider may be equipped with lights or reflectors. These lights may be steady burning or blinking.

B. Every bicycle, or its rider, shall be equipped with a taillight on the rear emitting a red light plainly visible in clear weather from a distance of at least 500 feet to the rear when in use between sunset and sunrise and operating on any highway with a speed limit of 35 mph or greater. Any such taillight shall be of a type approved by the Superintendent.

CHAPTER 690

An Act to amend and reenact §§ 22.1-23, 22.1-70.3, 22.1-79, and 51.1-155 of the Code of Virginia and to amend and reenact the fifth enactment of Chapter 689 and the fifth enactment of Chapter 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, the first enactment of Chapter 590 of the Acts of Assembly of 2009, the first enactment of Chapter 326 of the Acts of Assembly of 2015, and the first enactment of Chapter 765 of the Acts of Assembly of 2019, and the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapter 607 and Chapter 608 of the Acts of Assembly of 2005, the second enactment of Chapter 590 of the Acts of Assembly of 2009, the second enactment of Chapter 326 of the Acts of Assembly of 2015, and the second enactment of Chapter 765 of the Acts of Assembly of

2019, and to amend Chapter 968 and Chapter 969 of the Acts of Assembly of 2020 by adding a second enactment, relating to Virginia Retirement System; return to work.

[S 1289]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-23, 22.1-70.3, 22.1-79, and 51.1-155 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-23. Duties in general.

The Superintendent of Public Instruction shall:

1. Serve as secretary of the Board of Education;

2. Provide such assistance in his office as shall be necessary for the proper and uniform enforcement of the provisions of the school laws in cooperation with the local school authorities;

3. Prepare and furnish such forms for attendance officers, teachers and other school officials as are required by law;

4. (Expires July 1, 2025) At least annually, survey all local school divisions to identify critical shortages of (i) teachers and administrative personnel by geographic area, by school division, or by subject matter*; (ii) specialized student support positions as that term is described in subsection O of § 22.1-253.13:2;* and ~~(ii)~~ *(iii)* school bus drivers by geographic area and local school division and report such critical shortages to each local school division and to the Virginia Retirement System;

5. Develop and provide to local school divisions a model exit questionnaire for teachers;

6. Along with the State Health Commissioner, work to combat childhood obesity and other chronic health conditions that affect school-age children;

7. Designate an employee of the Department of Education to serve as its liaison to the State Council of Higher Education for Virginia and the State Board for Community Colleges; and

8. Perform such other duties as the Board of Education may prescribe.

§ 22.1-70.3. (Expires July 1, 2025) Designation of teacher shortage areas.

Each division superintendent shall at least annually, if so requested by the local school board pursuant to subdivision 9 of § 22.1-79, survey the relevant local school division to identify critical shortages of (i) teachers and administrative personnel by subject matter*, (ii) specialized student support positions as that term is described in subsection O of § 22.1-253.13:2,* and ~~(ii)~~ *(iii)* school bus drivers and report such critical shortages to the school board, Superintendent of Public Instruction, and to the Virginia Retirement System.

§ 22.1-79. Powers and duties.

A school board shall:

1. See that the school laws are properly explained, enforced and observed;

2. Secure, by visitation or otherwise, as full information as possible about the conduct of the public schools in the school division and take care that they are conducted according to law and with the utmost efficiency;

3. Care for, manage and control the property of the school division and provide for the erecting, furnishing, equipping, and noninstructional operating of necessary school buildings and appurtenances and the maintenance thereof by purchase, lease, or other contracts;

4. Provide for the consolidation of schools or redistricting of school boundaries or adopt pupil assignment plans whenever such procedure will contribute to the efficiency of the school division;

5. Insofar as not inconsistent with state statutes and regulations of the Board of Education, operate and maintain the public schools in the school division and determine the length of the school term, the studies to be pursued, the methods of teaching and the government to be employed in the schools;

6. In instances in which no grievance procedure has been adopted prior to January 1, 1991, establish and administer by July 1, 1992, a grievance procedure for all school board employees, except the division superintendent and those employees covered under the provisions of Article 2 (§ 22.1-293 et seq.) and Article 3 (§ 22.1-306 et seq.) of Chapter 15 of this title, who have completed such probationary period as may be required by the school board, not to exceed 18 months. The grievance procedure shall afford a timely and fair method of the resolution of disputes arising between the school board and such employees regarding dismissal or other disciplinary actions, excluding suspensions, and shall be consistent with the provisions of the Board of Education's procedures for adjusting grievances. Except in the case of dismissal, suspension, or other disciplinary action, the grievance procedure prescribed by the Board of Education pursuant to § 22.1-308 shall apply to all full-time employees of a school board, except supervisory employees;

7. Perform such other duties as shall be prescribed by the Board of Education or as are imposed by law;

8. Obtain public comment through a public hearing not less than 10 days after reasonable notice to the public in a newspaper of general circulation in the school division prior to providing (i) for the consolidation of schools; (ii) the transfer from the public school system of the administration of all instructional services for any public school classroom or all noninstructional services in the school division pursuant to a contract with any private entity or organization; or (iii) in school divisions having 15,000 pupils or more in average daily membership, for redistricting of school boundaries or adopting any pupil assignment plan affecting the assignment of 15 percent or more of the pupils in average daily membership in the affected school. Such public hearing may be held at the same time and place as the meeting of the school board at which the proposed action is taken if the public hearing is held before the action is taken. If a public hearing has

been held prior to the effective date of this provision on a proposed consolidation, redistricting or pupil assignment plan which is to be implemented after the effective date of this provision, an additional public hearing shall not be required;

9. (Expires July 1, 2025) At least annually, survey the school division to identify critical shortages of (i) teachers and administrative personnel by subject matter*, (ii) specialized student support positions as that term is described in subsection O of § 22.1-253.13:2,* and ~~(ii)~~ *(iii)* school bus drivers and report such critical shortages to the Superintendent of Public Instruction and to the Virginia Retirement System; however, the school board may request the division superintendent to conduct such survey and submit such report to the school board, the Superintendent, and the Virginia Retirement System; and

10. Ensure that the public schools within the school division are registered with the Department of State Police to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within that school division pursuant to § 9.1-914.

§ 51.1-155. Service retirement allowance.

A. Retirement allowance. — A member shall receive an annual retirement allowance, payable for life, as follows:

1. Normal retirement. — The allowance shall equal 1.70 percent of his average final compensation multiplied by the amount of his creditable service. Notwithstanding the foregoing, for a member who (i) is a person who becomes a member on or after July 1, 2010, or (ii) does not have at least 60 months of creditable service as of January 1, 2013, the allowance shall equal the sum of (a) 1.65 percent of his average final compensation multiplied by the amount of his creditable service performed or purchased on or after January 1, 2013, and (b) 1.70 percent of his average final compensation multiplied by the amount of all other creditable service.

2. Early retirement; applicable to teachers, state employees, and certain others. — The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has less than 30 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable service. The provisions of this subdivision shall apply to teachers and state employees. These provisions shall also apply to employees of any political subdivision that participates in the retirement system if the political subdivision makes the election provided in subdivision 3.

3. Early retirement; applicable to employees of certain political subdivisions, any person who becomes a member on or after July 1, 2010, and any member who does not have at least 60 months of creditable service as of January 1, 2013. — The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the creditable service of the member equals 30 or more years but the sum of his age at retirement plus his creditable service at retirement is less than 90, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the sum of his then attained age plus his then creditable service would have been equal to 90 or more had he remained in service until such date. If the member has less than 30 years of creditable service, the retirement allowance shall be reduced for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of at least 30 years of creditable service and his then creditable service plus his then attained age would have been equal to 90 or more.

The provisions of this subdivision shall apply to the employees of any political subdivision that participates in the retirement system and any other employees as provided by law. The participating political subdivision may, however, elect to provide its employees with the early retirement allowance set forth in subdivision 2. No such election shall be made for a person who becomes a member on or after July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1, 2013. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare to the Board that, for purposes of this subdivision, subdivisions B 1 and B 3 and subsection D of § 51.1-153, any person who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or is employed as a firefighter or law-enforcement officer as those terms are defined in § 15.2-1512.2 (i) shall not be considered a person who becomes a member on or after July 1, 2010, and (ii) shall be deemed to have at least 60 months of creditable service as of January 1, 2013. Such resolution shall be irrevocable.

4. Additional allowance. — In addition to the allowance payable under subdivisions 1, 2, and 3, a member shall receive an additional allowance which shall be the actuarial equivalent, for his attained age at the time of retirement, of the excess of his accumulated contributions transferred from the abolished system to the retirement system, including interest credited at the rate of two percent compounded annually since the transfer to the date of retirement, over the annual amounts equal to four percent of his annual creditable compensation at the date of abolishment for a period equal to his period of membership in the abolished system.

5. 50/10 retirement. — The allowance shall be payable in a monthly stream of payments equal to the greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's accumulated contributions, including accrued interest.

B. Beneficiary serving in position covered by this title.

1. Except as provided in subdivisions 2, 3, and 4, if a beneficiary of a service retirement allowance under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed. Any member who retires and later returns to covered employment shall not be entitled to select a different retirement option for a subsequent retirement.

2. Active members of the General Assembly who are eligible to receive a retirement allowance under this title, excluding their service as a member of the General Assembly, shall be eligible to receive a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly. Such members of the General Assembly shall continue to be reported as any other members of the retirement system. Upon ceasing to serve in the General Assembly, members of the General Assembly receiving a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly shall have their retirement allowance recomputed prospectively to include their service as a member of the General Assembly. Active members of the General Assembly shall be prohibited from receiving a service retirement allowance under this title based solely on their service as a member of the General Assembly.

3. (Expires July 1, 2025) Any person receiving a service retirement allowance under this chapter, who is hired by a local *public* school board *(i)* as an instructional or administrative employee required to be licensed by the Board of Education*, (ii) in a specialized student support position as that term is described in subsection O of § 22.1-253.13:2,* or *(iii)* as a school bus driver, may elect to continue to receive the retirement allowance during such employment, under the following conditions:

(a) The person ~~has been receiving such retirement allowance for at least 12 calendar months preceding his employment~~ *has a break in service of at least six calendar months between retirement and returning to work full time for a local public school board*;

(b) The person is not receiving a retirement benefit pursuant to an early retirement incentive program from any local *public* school division within the Commonwealth; and

(c) At the time the person is employed, the position to which he is assigned is among those identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local *public* school board, pursuant to subdivision 9 of § 22.1-79.

If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment*, nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in membership payroll subject to employer contributions under § 51.1-145.*

4. Any person receiving a service retirement allowance under this title for service as a sworn law-enforcement officer and who is employed in a local *public* school division as a school security officer, as defined in § 9.1-101, may elect to continue to receive the retirement allowance during such employment under the following conditions: (i) the person has a break in service of at least ~~12~~ *six* calendar months between retirement for service as a sworn law-enforcement officer and employment as a school security officer; (ii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any local *public* school division within the Commonwealth; (iii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any employer, as defined in § 51.1-124.3; and (iv) the person did not participate in any incentive program established under the second or third enactment of Chapters 152 and 811 of the Acts of Assembly of 1995. If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment, nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in membership payroll subject to employer contributions under § 51.1-145.

At least once in each four-year period, in conjunction with the actuarial investigation made under subdivision A 4 of § 51.1-124.22, there shall be an actuarial investigation made of the experience under subdivisions B 3 and 4 of this section, and the retirement system shall submit a report to the General Assembly advising it of the results of such investigation.

2. That the fifth enactment of Chapter 689 and the fifth enactment of Chapter 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, the first enactment of Chapter 590 of the Acts of Assembly of 2009, the first enactment of Chapter 326 of the Acts of Assembly of 2015, and the first enactment of Chapter 765 of the Acts of Assembly of 2019, are amended and reenacted as follows:

5. That the provisions of this act shall expire on July 1, ~~2025~~ *2028*.

3. That the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapter 607 and Chapter 608 of the Acts of Assembly of 2005, the second enactment of Chapter 590 of the Acts of Assembly of 2009, the second enactment of Chapter 326 of the Acts of Assembly of 2015, and the second enactment of Chapter 765 of the Acts of Assembly of 2019, is amended and reenacted as follows:

3. That the provisions of this act shall expire on July 1, ~~2025~~ *2028*.

4. That Chapter 968 and Chapter 969 of the Acts of Assembly of 2020 are amended by adding a second enactment as follows:

2. That the provisions of this act shall expire on July 1, 2028.

5. That the provisions of the first enactment of this act shall expire on July 1, 2028.

6. That the Virginia Retirement System (VRS) shall analyze and review options available to local public school divisions for hiring retired instructional or administrative employees, specialized student support position employees, bus drivers, or school security officers with at least 25 years of service into temporary or other non-full-time positions during the six-month break in service period required by § 51.1-155 of the Code of Virginia, as amended by this act, between retirement and becoming eligible to return to work full-time without impact to their retirement benefits. VRS shall complete its review and submit a report to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by November 1, 2023.

CHAPTER 691

An Act to direct the State Corporation Commission's Bureau of Insurance to convene a work group to evaluate and develop recommendations related to the implementation of health carrier fair business standards.

[S 927]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The State Corporation Commission's (the Commission's) Bureau of Insurance (the Bureau) shall convene a work group to develop recommendations for regulatory and legislative changes necessary to improve the process for determining, pursuant to the Commission's jurisdiction under subsection D of § 38.2-3407.15 of the Code of Virginia, if a carrier has failed to implement the minimum fair business standards set out in subdivisions B 1 and 2 of § 38.2-3407.15 of the Code of Virginia in the performance of its provider contracts for the prompt payment of claims. The work group shall (i) evaluate the effectiveness of the current process that the Bureau utilizes when complaints are filed related to prompt payment of claims and (ii) develop recommendations regarding improvements to the process, such as establishing a timeframe and requirements for (a) submission of complaints and acknowledgment of receipt, (b) requests for additional documentation or information needed to make a determination, and (c) completion of a determination about a complaint, including the rationale and explanation of any recommendations for the carrier or complainant to promote accuracy of claims submission and prompt payment of claims. The work group shall also develop recommendations to promote compliance with the Ethics and Fairness in Carrier Business Practices Act (§ 38.2-3407.15 of the Code of Virginia) to ensure prompt payment of claims and other recommendations to improve timeliness of the claims process. In addition to convening the work group, the Bureau shall ensure that the form for submission of complaints is easily accessible to providers and members of the public. The work group shall include representatives of the Virginia Hospital and Healthcare Association, the Virginia Association of Health Plans, the Medical Society of Virginia, and other relevant parties as identified by the Bureau. The Bureau shall submit a report of the findings and recommendations of the work group to the Chairs of the House Committees on Commerce and Energy and Health, Welfare and Institutions and the Senate Committees on Commerce and Labor and Education and Health no later than December 1, 2023.*

CHAPTER 692

An Act to amend and reenact § 51.1-155 of the Code of Virginia and to amend and reenact the fifth enactment of Chapter 689 and the fifth enactment of Chapter 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, the first enactment of Chapter 590 of the Acts of Assembly of 2009, the first enactment of Chapter 326 of the Acts of Assembly of 2015, and the first enactment of Chapter 765 of the Acts of Assembly of 2019, and the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapter 607 and Chapter 608 of the Acts of Assembly of 2005, the second enactment of Chapter 590 of the Acts of Assembly of 2009, the second enactment of Chapter 326 of the Acts of Assembly of 2015, and the second enactment of Chapter 765 of the Acts of Assembly of 2019, and to amend Chapter 968 and Chapter 969 of the Acts of Assembly of 2020 by adding a second enactment, relating to Virginia Retirement System; return to work.

[S 1107]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-155 of the Code of Virginia is amended and reenacted as follows:

§ 51.1-155. Service retirement allowance.

A. Retirement allowance. — A member shall receive an annual retirement allowance, payable for life, as follows:

1. Normal retirement. — The allowance shall equal 1.70 percent of his average final compensation multiplied by the amount of his creditable service. Notwithstanding the foregoing, for a member who (i) is a person who becomes a member

on or after July 1, 2010, or (ii) does not have at least 60 months of creditable service as of January 1, 2013, the allowance shall equal the sum of (a) 1.65 percent of his average final compensation multiplied by the amount of his creditable service performed or purchased on or after January 1, 2013, and (b) 1.70 percent of his average final compensation multiplied by the amount of all other creditable service.

2. Early retirement; applicable to teachers, state employees, and certain others. — The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has less than 30 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable service. The provisions of this subdivision shall apply to teachers and state employees. These provisions shall also apply to employees of any political subdivision that participates in the retirement system if the political subdivision makes the election provided in subdivision 3.

3. Early retirement; applicable to employees of certain political subdivisions, any person who becomes a member on or after July 1, 2010, and any member who does not have at least 60 months of creditable service as of January 1, 2013. — The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the creditable service of the member equals 30 or more years but the sum of his age at retirement plus his creditable service at retirement is less than 90, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the sum of his then attained age plus his then creditable service would have been equal to 90 or more had he remained in service until such date. If the member has less than 30 years of creditable service, the retirement allowance shall be reduced for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of at least 30 years of creditable service and his then creditable service plus his then attained age would have been equal to 90 or more.

The provisions of this subdivision shall apply to the employees of any political subdivision that participates in the retirement system and any other employees as provided by law. The participating political subdivision may, however, elect to provide its employees with the early retirement allowance set forth in subdivision 2. No such election shall be made for a person who becomes a member on or after July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1, 2013. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare to the Board that, for purposes of this subdivision, subdivisions B 1 and B 3 and subsection D of § 51.1-153, any person who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or is employed as a firefighter or law-enforcement officer as those terms are defined in § 15.2-1512.2 (i) shall not be considered a person who becomes a member on or after July 1, 2010, and (ii) shall be deemed to have at least 60 months of creditable service as of January 1, 2013. Such resolution shall be irrevocable.

4. Additional allowance. — In addition to the allowance payable under subdivisions 1, 2, and 3, a member shall receive an additional allowance which shall be the actuarial equivalent, for his attained age at the time of retirement, of the excess of his accumulated contributions transferred from the abolished system to the retirement system, including interest credited at the rate of two percent compounded annually since the transfer to the date of retirement, over the annual amounts equal to four percent of his annual creditable compensation at the date of abolishment for a period equal to his period of membership in the abolished system.

5. 50/10 retirement. — The allowance shall be payable in a monthly stream of payments equal to the greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's accumulated contributions, including accrued interest.

B. Beneficiary serving in position covered by this title.

1. Except as provided in subdivisions 2, 3, and 4, if a beneficiary of a service retirement allowance under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed. Any member who retires and later returns to covered employment shall not be entitled to select a different retirement option for a subsequent retirement.

2. Active members of the General Assembly who are eligible to receive a retirement allowance under this title, excluding their service as a member of the General Assembly, shall be eligible to receive a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly. Such members of the General Assembly shall continue to be reported as any other members of the retirement system. Upon ceasing to serve in the General Assembly, members of the General Assembly receiving a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly shall have their retirement allowance recomputed prospectively to include their service as a member of the General Assembly. Active members of the General Assembly shall be prohibited from receiving a service retirement allowance under this title based solely on their service as a member of the General Assembly.

3. (Expires July 1, 2025) Any person receiving a service retirement allowance under this chapter, who is hired by a local *public* school board *(i)* as an instructional or administrative employee required to be licensed by the Board of Education*, (ii) in a specialized student support position as that term is described in subsection O of § 22.1-253.13:2,* or *(iii)* as a school bus driver, may elect to continue to receive the retirement allowance during such employment, under the following conditions:

(a) The person ~~has been receiving such retirement allowance for at least 12 calendar months preceding his employment~~ *has a break in service of at least six calendar months between retirement and returning to work full time for a local public school board*;

(b) The person is not receiving a retirement benefit pursuant to an early retirement incentive program from any local *public* school division within the Commonwealth; and

(c) At the time the person is employed, the position to which he is assigned is among those identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local *public* school board, pursuant to subdivision 9 of § 22.1-79.

If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment*, nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in membership payroll subject to employer contributions under § 51.1-145*.

4. Any person receiving a service retirement allowance under this title for service as a sworn law-enforcement officer and who is employed in a local *public* school division as a school security officer, as defined in § 9.1-101, may elect to continue to receive the retirement allowance during such employment under the following conditions: (i) the person has a break in service of at least ~~12~~ *six* calendar months between retirement for service as a sworn law-enforcement officer and employment as a school security officer; (ii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any local *public* school division within the Commonwealth; (iii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any employer, as defined in § 51.1-124.3; and (iv) the person did not participate in any incentive program established under the second or third enactment of Chapters 152 and 811 of the Acts of Assembly of 1995. If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment, nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in membership payroll subject to employer contributions under § 51.1-145.

At least once in each four-year period, in conjunction with the actuarial investigation made under subdivision A 4 of § 51.1-124.22, there shall be an actuarial investigation made of the experience under subdivisions B 3 and 4 of this section, and the retirement system shall submit a report to the General Assembly advising it of the results of such investigation.

2. That the fifth enactment of Chapter 689 and the fifth enactment of Chapter 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, the first enactment of Chapter 590 of the Acts of Assembly of 2009, the first enactment of Chapter 326 of the Acts of Assembly of 2015, and the first enactment of Chapter 765 of the Acts of Assembly of 2019, are amended and reenacted as follows:

5. That the provisions of this act shall expire on July 1, ~~2025~~ *2028*.

3. That the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapter 607 and Chapter 608 of the Acts of Assembly of 2005, the second enactment of Chapter 590 of the Acts of Assembly of 2009, the second enactment of Chapter 326 of the Acts of Assembly of 2015, and the second enactment of Chapter 765 of the Acts of Assembly of 2019, are amended and reenacted as follows:

3. That the provisions of this act shall expire on July 1, ~~2025~~ *2028*.

4. That Chapter 968 and Chapter 969 of the Acts of Assembly of 2020 are amended by adding a second enactment as follows:

2. That the provisions of this act shall expire on July 1, 2028.

5. That the provisions of the first enactment of this act shall expire on July 1, 2028.

6. That the provisions of this act shall become effective on January 1, 2024.

CHAPTER 693

An Act to amend and reenact § 54.1-2957.16 of the Code of Virginia, relating to behavior analysts; assistant behavior analysts; licensure criteria; certifying entities.

[H 1946]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2957.16 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2957.16. Licensure of behavior analysts and assistant behavior analysts; requirements; powers of the Board.

A. It ~~shall be~~ *is* unlawful for any person to practice or to hold himself out as practicing as a behavior analyst or to use the title "Licensed Behavior Analyst" unless he holds a license as a behavior analyst issued by the Board. It ~~shall be~~ *is* unlawful for any person to practice or to hold himself out as practicing as an assistant behavior analyst or to use the title "Licensed Assistant Behavior Analyst" unless he holds a license as an assistant behavior analyst issued by the Board. The Board shall issue licenses to practice as a behavior analyst or an assistant behavior analyst to applicants for licensure who meet the requirements of this chapter and the Board's regulations.

B. The Board shall establish criteria for licensure as a behavior analyst, which shall include, but not be limited to, the following:

1. Documentation that the applicant is currently certified as a Board Certified Behavior Analyst by the Behavior Analyst Certification Board or ~~any other entity that is nationally accredited to certify practitioners of behavior analysis~~ *its successor*;

2. Documentation that the applicant conducts his professional practice in accordance with the Behavior Analyst Certification Board ~~Guidelines for Responsible Conduct and Professional Ethical and Disciplinary Standards~~ *ethics code for behavior analysts* and any other accepted professional and ethical standards the Board deems necessary; and

3. Documentation that the applicant for licensure has not had his license or certification as a behavior analyst or as an assistant behavior analyst suspended or revoked and is not the subject of any disciplinary proceedings by the certifying board or in another jurisdiction.

C. The Board shall establish criteria for licensure as an assistant behavior analyst, which shall include, but not be limited to, the following:

1. Documentation that the applicant is currently certified as a Board Certified Assistant Behavior Analyst by the Behavior Analyst Certification Board or ~~any other entity that is nationally accredited to certify practitioners of behavior analysis~~ *its successor*;

2. Documentation that the applicant conducts his professional practice in accordance with the Behavior Analyst Certification Board ~~Guidelines for Responsible Conduct and Professional Ethical and Disciplinary Standards~~ *ethics code for behavior analysts* and any other accepted professional and ethical standards the Board deems necessary;

3. Documentation that the applicant for licensure has not had his license or certification as an assistant behavior analyst suspended or revoked and is not the subject of any disciplinary proceedings by the certifying board or in another jurisdiction; and

4. Documentation that the applicant's work is supervised by a licensed behavior analyst in accordance with the supervision requirements and procedures established by the Board.

D. The Board shall promulgate such regulations as may be necessary to implement the provisions of this chapter related to (i) application for and issuance of licenses to behavior analysts or assistant behavior analysts, (ii) requirements for licensure as a behavior analyst or an assistant behavior analyst, (iii) standards of practice for licensed behavior analysts or licensed assistant behavior analysts, (iv) requirements and procedures for the supervision of a licensed assistant behavior analyst by a licensed behavior analyst, and (v) requirements and procedures for supervision by licensed behavior analysts and licensed assistant behavior analysts of unlicensed individuals who assist in the provision of applied behavior analysis services.

E. The Board shall establish a fee, determined in accordance with methods used to establish fees for other health professionals licensed by the Board of Medicine, to be paid by all applicants for licensure as a behavior analyst or assistant behavior analyst.

CHAPTER 694

An Act to amend and reenact § 54.1-2957.16 of the Code of Virginia, relating to behavior analysts; assistant behavior analysts; licensure criteria; certifying entities.

[S 1406]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2957.16 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2957.16. Licensure of behavior analysts and assistant behavior analysts; requirements; powers of the Board.

A. It ~~shall be~~ *is* unlawful for any person to practice or to hold himself out as practicing as a behavior analyst or to use the title "Licensed Behavior Analyst" unless he holds a license as a behavior analyst issued by the Board. It ~~shall be~~ *is* unlawful for any person to practice or to hold himself out as practicing as an assistant behavior analyst or to use the title "Licensed Assistant Behavior Analyst" unless he holds a license as an assistant behavior analyst issued by the Board. The Board shall issue licenses to practice as a behavior analyst or an assistant behavior analyst to applicants for licensure who meet the requirements of this chapter and the Board's regulations.

B. The Board shall establish criteria for licensure as a behavior analyst, which shall include, but not be limited to, the following:

1. Documentation that the applicant is currently certified as a Board Certified Behavior Analyst by the Behavior Analyst Certification Board or ~~any other entity that is nationally accredited to certify practitioners of behavior analysis~~ *its successor*;

2. Documentation that the applicant conducts his professional practice in accordance with the Behavior Analyst Certification Board ~~Guidelines for Responsible Conduct and Professional Ethical and Disciplinary Standards~~ *ethics code for behavior analysts* and any other accepted professional and ethical standards the Board deems necessary; and

3. Documentation that the applicant for licensure has not had his license or certification as a behavior analyst or as an assistant behavior analyst suspended or revoked and is not the subject of any disciplinary proceedings by the certifying board or in another jurisdiction.

C. The Board shall establish criteria for licensure as an assistant behavior analyst, which shall include, but not be limited to, the following:

1. Documentation that the applicant is currently certified as a Board Certified Assistant Behavior Analyst by the Behavior Analyst Certification Board or ~~any other entity that is nationally accredited to certify practitioners of behavior analysis~~ *its successor*;

2. Documentation that the applicant conducts his professional practice in accordance with the Behavior Analyst Certification Board ~~Guidelines for Responsible Conduct and Professional Ethical and Disciplinary Standards~~ *ethics code for behavior analysts* and any other accepted professional and ethical standards the Board deems necessary;

3. Documentation that the applicant for licensure has not had his license or certification as an assistant behavior analyst suspended or revoked and is not the subject of any disciplinary proceedings by the certifying board or in another jurisdiction; and

4. Documentation that the applicant's work is supervised by a licensed behavior analyst in accordance with the supervision requirements and procedures established by the Board.

D. The Board shall promulgate such regulations as may be necessary to implement the provisions of this chapter related to (i) application for and issuance of licenses to behavior analysts or assistant behavior analysts, (ii) requirements for licensure as a behavior analyst or an assistant behavior analyst, (iii) standards of practice for licensed behavior analysts or licensed assistant behavior analysts, (iv) requirements and procedures for the supervision of a licensed assistant behavior analyst by a licensed behavior analyst, and (v) requirements and procedures for supervision by licensed behavior analysts and licensed assistant behavior analysts of unlicensed individuals who assist in the provision of applied behavior analysis services.

E. The Board shall establish a fee, determined in accordance with methods used to establish fees for other health professionals licensed by the Board of Medicine, to be paid by all applicants for licensure as a behavior analyst or assistant behavior analyst.

CHAPTER 695

An Act to amend and reenact § 63.2-1707 of the Code of Virginia, relating to assisted living facilities, adult day care centers, and child welfare agencies; provisional license.

[S 1508]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1707 of the Code of Virginia is amended and reenacted as follows:

§ 63.2-1707. Issuance or refusal of license; notification; provisional and conditional licenses.

Upon completion of his investigation, the Commissioner shall issue an appropriate license to the applicant if (i) the applicant has made adequate provision for such activities, services, and facilities as are reasonably conducive to the welfare of the residents, participants, or children over whom he may have custody or control; (ii) at the time of initial application, the applicant has submitted an operating budget and at least one credit reference; (iii) he is, or the officers and agents of the applicant if it is an association, partnership, limited liability company, or corporation are, of good character and reputation; and (iv) the applicant and agents comply with the provisions of this subtitle. Otherwise, the license shall be denied. Immediately upon taking final action, the Commissioner shall notify the applicant of such action.

Upon completion of the investigation for the renewal of a license, the Commissioner may issue a provisional license to any applicant if the applicant is temporarily unable to comply with all of the licensure requirements. The provisional license may be renewed, but the issuance of a provisional license and any renewals thereof shall be for no longer a period than ~~six~~ *12* successive months. A copy of the provisional license shall be prominently displayed by the provider at each public entrance of the subject facility and shall be printed in a clear and legible size and style. In addition, the facility shall be required to prominently display next to the posted provisional license a notice that a description of specific violations of licensing standards to be corrected and the deadline for completion of such corrections is available for inspection at the facility and on the facility's website, if applicable.

At the discretion of the Commissioner, a conditional license may be issued to an applicant to operate a new facility in order to permit the applicant to demonstrate compliance with licensure requirements. Such conditional license may be renewed, but the issuance of a conditional license and any renewals thereof shall be for no longer a period than six successive months.

CHAPTER 696

An Act to amend the Code of Virginia by adding a section numbered 23.1-507.1, relating to Norfolk State University and Virginia State University; reduced rate tuition charges for certain non-Virginia students.

[H 2272]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 23.1-507.1 as follows:

§ 23.1-507.1. Norfolk State University and Virginia State University; reduced rate tuition charges for certain students.

A. The Norfolk State University Board of Visitors and the Virginia State University Board of Visitors may charge reduced rate tuition to any non-Virginia student who has completed at least 30 credit hours of coursework and who is enrolled in a program at the relevant institution that leads to employment in a high-demand field, as determined by the board of visitors of the relevant institution based on data compiled and provided by the Virginia Office of Education Economics.

B. Any non-Virginia student who is charged reduced rate tuition pursuant to subsection A shall forfeit eligibility for such reduced rate tuition charge and shall be charged tuition at the full rate for non-Virginia students in the event that such student withdraws from the program at the relevant institution that leads to employment in a high-demand field and enrolls in a program at the relevant institution that does not lead to employment in a high-demand field according to the criteria set forth in subsection A.

C. Any non-Virginia student who is enrolled in a program at Norfolk State University or Virginia State University that does not lead to employment in a high-demand field and who withdraws from such program and subsequently enrolls in a program at the relevant institution that leads to employment in a high-demand field according to the criteria set forth in subsection A may be charged reduced rate tuition pursuant to subsection A.

CHAPTER 697

An Act to amend the Code of Virginia by adding a section numbered 23.1-507.1, relating to Norfolk State University and Virginia State University; reduced rate tuition charges for certain non-Virginia students.

[S 1448]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 23.1-507.1 as follows:

§ 23.1-507.1. Norfolk State University and Virginia State University; reduced rate tuition charges for certain students.

A. The Norfolk State University Board of Visitors and the Virginia State University Board of Visitors may charge reduced rate tuition to any non-Virginia student who has completed at least 30 credit hours of coursework and who is enrolled in a program at the relevant institution that leads to employment in a high-demand field, as determined by the board of visitors of the relevant institution based on data compiled and provided by the Virginia Office of Education Economics.

B. Any non-Virginia student who is charged reduced rate tuition pursuant to subsection A shall forfeit eligibility for such reduced rate tuition charge and shall be charged tuition at the full rate for non-Virginia students in the event that such student withdraws from the program at the relevant institution that leads to employment in a high-demand field and enrolls in a program at the relevant institution that does not lead to employment in a high-demand field according to the criteria set forth in subsection A.

C. Any non-Virginia student who is enrolled in a program at Norfolk State University or Virginia State University that does not lead to employment in a high-demand field and who withdraws from such program and subsequently enrolls in a program at the relevant institution that leads to employment in a high-demand field according to the criteria set forth in subsection A may be charged reduced rate tuition pursuant to subsection A.

CHAPTER 698

An Act to amend and reenact §§ 30-342 and 30-343 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 30-343.1, relating to the Health Insurance Reform Commission; review of essential health benefits benchmark plan.

[H 2199]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 30-342 and 30-343 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 30-343.1 as follows:

§ 30-342. Powers and duties.

The Commission shall have the following powers and duties:

1. Monitor the work of appropriate federal and state agencies in implementing the provisions of the federal Patient Protection and Affordable Care Act (the Act), including amendments thereto and regulations promulgated thereunder;

2. Receive information provided to the Commission pursuant to § 30-343 and, on the basis of such information, assess the implications of the Act's implementation on residents of the Commonwealth, businesses operating within the Commonwealth, and the general fund of the Commonwealth;

3. Consider the development of a comprehensive strategy for implementing health reform in Virginia, including recommendations for innovative health care solutions independent of the approach embodied in the Act that meet the needs of Virginia's citizens and government by creating an improved health system that will serve as an economic driver for the Commonwealth while allowing for more effective and efficient delivery of high quality care at lower cost;

4. Receive periodic reports from the Bureau of Insurance of the State Corporation Commission *(the Bureau)* pursuant to § 30-343 and recommend*, in accordance with the provisions of § 30-343.1,* health benefits required to be included within the scope of the essential health benefits provided under health insurance products offered in the Commonwealth, including any benefits that are not required to be provided by the terms of the Act;

5. Upon request of the Chairman of the House Committee on Labor and Commerce or Senate Committee on Commerce and Labor, assess proposed mandated benefits and providers as provided in § 30-343 and recommend whether, on the basis of such assessments, mandated benefits and providers be providers under health care plans offered through a health benefit exchange, outside a health benefit exchange, neither, or both;

6. Conduct other studies of mandated benefits and provider issues as requested by the General Assembly; and

7. Develop such recommendations as may be appropriate for legislative and administrative consideration in order to increase access to health insurance coverage, ensure that the costs to business and individual purchasers of health insurance coverage are reasonable, and encourage a robust market for health insurance products in the Commonwealth.

§ 30-343. Standing committees to request Commission assessment.

A. Whenever a legislative measure containing a mandated health insurance benefit or provider is proposed that is not identical or substantially similar to a legislative measure previously reviewed by the Commission within the three-year period immediately preceding the then-current session of the General Assembly, the Chair of the House Committee on Labor and Commerce or Senate Committee on Commerce and Labor having jurisdiction over the proposal shall (i) request that the Commission assess the proposal and (ii) send a copy of such request to the Bureau of Insurance of the State Corporation Commission (the Bureau). The Commission shall be given a period of 24 months to complete and submit its assessment. A report summarizing the Commission's assessment shall be forwarded to the Chairman of the standing committee that requested the assessment. For the purposes of this section, "mandated health insurance benefit or provider" has the same meaning as "state-mandated health benefit" provided in § 38.2-3406.1.

B. Upon receipt of a copy of such a request, the Bureau shall prepare an analysis of the extent to which the proposed mandate is currently available under qualified health plans in the Commonwealth and advise the Commission as to whether~~, on the basis of that analysis,~~ the applicable agency has determined or would likely determine, in accordance with applicable federal rules, that the proposed mandate exceeds the scope of the essential health benefits. The Bureau's analysis shall be advisory only and not binding upon the Commission, the Bureau, the State Corporation Commission, or any other parties. As used in this section, "applicable agency" means the governmental agency that in accordance with applicable federal rules is responsible for identifying state-mandated benefits that are in addition to the essential health benefits. If the applicable federal rules require an agency of the Commonwealth to identify the state-mandated benefits that are in addition to the essential health benefits but do not identify a specific agency that is responsible for making such identification, the Bureau shall be the applicable agency. *Following the Bureau's analysis, the Commission shall determine if the proposed mandate shall be (i) considered as part of an essential health benefits benchmark plan review in accordance with the provisions of § 30-343.1, (ii) assessed jointly by the Bureau and the Joint Legislative Audit and Review Commission in accordance with subsection C, or (iii) considered in another manner by the Commission.*

C. Upon request of the Commission, the Bureau and the Joint Legislative Audit and Review Commission shall jointly assess the social and financial impact and the medical efficacy of the proposed mandate, which assessment shall include an estimate of the effects of enactment of the proposed mandate on the costs of health coverage in the Commonwealth, including any estimated additional costs that the Commonwealth may be responsible for pursuant to § 1311(d)(3)(B) of the

Patient Protection and Affordable Care Act should the proposed mandate ultimately be determined by the applicable agency to be a benefit that exceeds the scope of the essential health benefits. Upon completion of the assessment by the Bureau and the Joint Legislative Audit and Review Commission, the Commission may make a recommendation regarding its support of or opposition to the enactment of the proposed mandate. The Commission's recommendation may address whether the proposed mandate should be provided under health care plans offered through a health benefit exchange or outside a health benefit exchange.

The Commission shall be given a period of 24 months to complete and submit its assessment. A report summarizing the Commission's study shall be forwarded to the Governor and the General Assembly.

D. Whenever a legislative measure containing a mandated health insurance benefit or provider is identical or substantially similar to a legislative measure previously reviewed by the Commission within the three-year period immediately preceding the then-current session of the General Assembly, the standing committee may request the Commission to study the measure as provided in subsection A.

§ 30-343.1. Review of essential health benefits benchmark plan.

A. As used in this section:

"Bureau" means the Bureau of Insurance of the State Corporation Commission.

"Essential health benefits benchmark plan" or "benchmark plan" has the same meaning as "EHB-benchmark plan" provided in 45 C.F.R. § 156.20.

B. The Commission, in coordination with the Bureau, shall conduct a review of the essential health benefits benchmark plan in 2025 and every five years thereafter in accordance with 45 C.F.R. § 156.111 and this section.

C. Prior to any review year, the Bureau shall convene a workgroup of relevant stakeholders to discuss and make recommendations regarding any potential changes to the benchmark plan. Additionally, for any referred legislation the Commission has chosen to be considered in the benchmark plan review, the Bureau shall complete an assessment of such legislation that includes an estimate of the effects of including the proposed mandate as part of the benchmark plan on the costs of health coverage in the Commonwealth. The Bureau shall submit the findings and any recommendations of the workgroup and any assessments of proposed mandates to the Commission by March 31 of the review year.

D. By June 30 of any review year, the Commission shall determine if an application will be made for a change to the benchmark plan and shall identify any potential benefit changes to the benchmark plan for further analysis. In making its determination and identifying any potential benefit changes, the Commission may consider (i) the findings and recommendations of the workgroup, (ii) any referred legislation the Commission has chosen to be considered in the benchmark plan review and the Bureau's assessment of such legislation, and (iii) public comment. If the Commission determines that an application will be made for a change to the benchmark plan, the Commission shall identify any potential benefit changes for further analysis.

E. The Bureau shall conduct an actuarial analysis of any benefit changes identified by the Commission and present such analysis to the Commission by September 30 of such review year.

F. By December 31 of any review year, the Commission shall determine which, if any, potential benefit changes shall be included in a new benchmark plan. The Commission shall make a recommendation to the General Assembly in the form of a bill that directs the Bureau to select a new benchmark plan that includes any such changes at the next regular session of the General Assembly.

G. During the review year, the Commission shall conduct public hearings to solicit feedback from consumers and other interested parties regarding any potential benefit changes to the benchmark plan. At least two public hearings shall be held prior to the Commission's determination required by subsection D. If the Commission has determined that an application for a new benchmark plan will be made for a change to the benchmark plan, at least two additional public hearings shall be held prior to selection of a new benchmark plan required by subsection F. Such hearings shall be adequately advertised and planned and shall include an opportunity for the public to participate both in-person and remotely.

H. The Bureau shall establish and maintain a website to convey relevant information to the public related to any benchmark plan review.

CHAPTER 699

An Act to amend and reenact §§ 30-342 and 30-343 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 30-343.1, relating to the Health Insurance Reform Commission; review of essential health benefits benchmark plan.

[S 1397]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 30-342 and 30-343 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 30-343.1 as follows:

§ 30-342. Powers and duties.

The Commission shall have the following powers and duties:

1. Monitor the work of appropriate federal and state agencies in implementing the provisions of the federal Patient Protection and Affordable Care Act (the Act), including amendments thereto and regulations promulgated thereunder;

2. Receive information provided to the Commission pursuant to § 30-343 and, on the basis of such information, assess the implications of the Act's implementation on residents of the Commonwealth, businesses operating within the Commonwealth, and the general fund of the Commonwealth;

3. Consider the development of a comprehensive strategy for implementing health reform in Virginia, including recommendations for innovative health care solutions independent of the approach embodied in the Act that meet the needs of Virginia's citizens and government by creating an improved health system that will serve as an economic driver for the Commonwealth while allowing for more effective and efficient delivery of high quality care at lower cost;

4. Receive periodic reports from the Bureau of Insurance of the State Corporation Commission *(the Bureau)* pursuant to § 30-343 and recommend*, in accordance with the provisions of § 30-343.1,* health benefits required to be included within the scope of the essential health benefits provided under health insurance products offered in the Commonwealth, including any benefits that are not required to be provided by the terms of the Act;

5. Upon request of the Chairman of the House Committee on Labor and Commerce or Senate Committee on Commerce and Labor, assess proposed mandated benefits and providers as provided in § 30-343 and recommend whether, on the basis of such assessments, mandated benefits and providers be providers under health care plans offered through a health benefit exchange, outside a health benefit exchange, neither, or both;

6. Conduct other studies of mandated benefits and provider issues as requested by the General Assembly; and

7. Develop such recommendations as may be appropriate for legislative and administrative consideration in order to increase access to health insurance coverage, ensure that the costs to business and individual purchasers of health insurance coverage are reasonable, and encourage a robust market for health insurance products in the Commonwealth.

§ 30-343. Standing committees to request Commission assessment.

A. Whenever a legislative measure containing a mandated health insurance benefit or provider is proposed that is not identical or substantially similar to a legislative measure previously reviewed by the Commission within the three-year period immediately preceding the then-current session of the General Assembly, the Chair of the House Committee on Labor and Commerce or Senate Committee on Commerce and Labor having jurisdiction over the proposal shall (i) request that the Commission assess the proposal and (ii) send a copy of such request to the Bureau of Insurance of the State Corporation Commission (the Bureau). The Commission shall be given a period of 24 months to complete and submit its assessment. A report summarizing the Commission's assessment shall be forwarded to the Chairman of the standing committee that requested the assessment. For the purposes of this section, "mandated health insurance benefit or provider" has the same meaning as "state-mandated health benefit" provided in § 38.2-3406.1.

B. Upon receipt of a copy of such a request, the Bureau shall prepare an analysis of the extent to which the proposed mandate is currently available under qualified health plans in the Commonwealth and advise the Commission as to whether~~, on the basis of that analysis,~~ the applicable agency has determined or would likely determine, in accordance with applicable federal rules, that the proposed mandate exceeds the scope of the essential health benefits. The Bureau's analysis shall be advisory only and not binding upon the Commission, the Bureau, the State Corporation Commission, or any other parties. As used in this section, "applicable agency" means the governmental agency that in accordance with applicable federal rules is responsible for identifying state-mandated benefits that are in addition to the essential health benefits. If the applicable federal rules require an agency of the Commonwealth to identify the state-mandated benefits that are in addition to the essential health benefits but do not identify a specific agency that is responsible for making such identification, the Bureau shall be the applicable agency. *Following the Bureau's analysis, the Commission shall determine if the proposed mandate shall be (i) considered as part of an essential health benefits benchmark plan review in accordance with the provisions of § 30-343.1, (ii) assessed jointly by the Bureau and the Joint Legislative Audit and Review Commission in accordance with subsection C, or (iii) considered in another manner by the Commission.*

C. Upon request of the Commission, the Bureau and the Joint Legislative Audit and Review Commission shall jointly assess the social and financial impact and the medical efficacy of the proposed mandate, which assessment shall include an estimate of the effects of enactment of the proposed mandate on the costs of health coverage in the Commonwealth, including any estimated additional costs that the Commonwealth may be responsible for pursuant to § 1311(d)(3)(B) of the Patient Protection and Affordable Care Act should the proposed mandate ultimately be determined by the applicable agency to be a benefit that exceeds the scope of the essential health benefits. Upon completion of the assessment by the Bureau and the Joint Legislative Audit and Review Commission, the Commission may make a recommendation regarding its support of or opposition to the enactment of the proposed mandate. The Commission's recommendation may address whether the proposed mandate should be provided under health care plans offered through a health benefit exchange or outside a health benefit exchange.

The Commission shall be given a period of 24 months to complete and submit its assessment. A report summarizing the Commission's study shall be forwarded to the Governor and the General Assembly.

D. Whenever a legislative measure containing a mandated health insurance benefit or provider is identical or substantially similar to a legislative measure previously reviewed by the Commission within the three-year period immediately preceding the then-current session of the General Assembly, the standing committee may request the Commission to study the measure as provided in subsection A.

§ 30-343.1. Review of essential health benefits benchmark plan.

A. As used in this section:

"Bureau" means the Bureau of Insurance of the State Corporation Commission.

"Essential health benefits benchmark plan" or "benchmark plan" has the same meaning as "EHB-benchmark plan" provided in 45 C.F.R. § 156.20.

B. The Commission, in coordination with the Bureau, shall conduct a review of the essential health benefits benchmark plan in 2025 and every five years thereafter in accordance with 45 C.F.R. § 156.111 and this section.

C. Prior to any review year, the Bureau shall convene a workgroup of relevant stakeholders to discuss and make recommendations regarding any potential changes to the benchmark plan. Additionally, for any referred legislation the Commission has chosen to be considered in the benchmark plan review, the Bureau shall complete an assessment of such legislation that includes an estimate of the effects of including the proposed mandate as part of the benchmark plan on the costs of health coverage in the Commonwealth. The Bureau shall submit the findings and any recommendations of the workgroup and any assessments of proposed mandates to the Commission by March 31 of the review year.

D. By June 30 of any review year, the Commission shall determine if an application will be made for a change to the benchmark plan and shall identify any potential benefit changes to the benchmark plan for further analysis. In making its determination and identifying any potential benefit changes, the Commission may consider (i) the findings and recommendations of the workgroup, (ii) any referred legislation the Commission has chosen to be considered in the benchmark plan review and the Bureau's assessment of such legislation, and (iii) public comment. If the Commission determines that an application will be made for a change to the benchmark plan, the Commission shall identify any potential benefit changes for further analysis.

E. The Bureau shall conduct an actuarial analysis of any benefit changes identified by the Commission and present such analysis to the Commission by September 30 of such review year.

F. By December 31 of any review year, the Commission shall determine which, if any, potential benefit changes shall be included in a new benchmark plan. The Commission shall make a recommendation to the General Assembly in the form of a bill that directs the Bureau to select a new benchmark plan that includes any such changes at the next regular session of the General Assembly.

G. During the review year, the Commission shall conduct public hearings to solicit feedback from consumers and other interested parties regarding any potential benefit changes to the benchmark plan. At least two public hearings shall be held prior to the Commission's determination required by subsection D. If the Commission has determined that an application for a new benchmark plan will be made for a change to the benchmark plan, at least two additional public hearings shall be held prior to selection of a new benchmark plan required by subsection F. Such hearings shall be adequately advertised and planned and shall include an opportunity for the public to participate both in-person and remotely.

H. The Bureau shall establish and maintain a website to convey relevant information to the public related to any benchmark plan review.

CHAPTER 700

An Act to amend and reenact § 17.1-905 of the Code of Virginia, relating to the Judicial Inquiry and Review Commission; annual report; breach of Canons of Judicial Conduct; disciplinary action.

[H 2168]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-905 of the Code of Virginia is amended and reenacted as follows:

§ 17.1-905. Annual report.

On or before December 1 of each year, the Commission shall publish a report detailing the activities of the Commission for the prior year. The report shall include the number of complaints filed with the Commission; the number of complaints originating from attorneys, judges, court employees, or the general public; the number of complaints dismissed based on (i) failure to fall within the jurisdiction of the Commission, (ii) failure to state a violation of the Canons of Judicial Conduct, or (iii) failure of the Commission to reach a conclusion that the Canons were breached; the number of complaints for which the Commission concluded that the Canons of Judicial Conduct were breached; and the number of cases from which the staff or any member of the Commission recused himself due to an actual or possible conflict. *The report shall also include (a) the name of any judge who the Commission concluded breached the Canons of Judicial Conduct and took disciplinary action against as a result of such conclusion, if the date on which the Commission reached such conclusion was after the previous annual report was published; (b) the specific Canons of Judicial Conduct breached by such judge; and (c) the disciplinary action taken against such judge by the Commission.*

2. That the provisions of this act shall apply only to disciplinary actions taken on or after July 1, 2023.

CHAPTER 701

An Act to require the Department of Medical Assistance Services to take steps to amend certain waivers providing services for individuals with developmental disabilities to provide greater financial flexibility for certain services; report.

[H 1963]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. A. The Department of Medical Assistance Services (the Department) shall take steps to amend the Family and Individual Supports, Community Living, and Building Independence waivers and implement regulations to (i) combine the maximum annual allowable amount for assistive technology and electronic home-based support services for an individual receiving waiver services to provide for greater flexibility and better meet the needs of individuals receiving services and (ii) provide that a total of $10,000 shall be available to an eligible individual for assistive technology and electronic home-based support services each year, which may be divided among such services in the manner that best meets the needs of the individual.*

B. The Department shall (i) add the operational design to the proposed Family and Individual Supports, Community Living, and Building Independence waiver amendments to be submitted to the Centers for Medicare and Medicaid Services to obtain federal approval; (ii) conduct a review of payment methodologies to maintain funding for the proposed changes to the Family and Individual Supports, Community Living, and Building Independence waivers in the future; and (iii) undertake such other actions as many be necessary to implement the provisions of this act. The Department shall report on its activities and progress toward implementing the provisions of this act to the Governor and the General Assembly by December 1, 2023.

CHAPTER 702

An Act to require the Department of Medical Assistance Services to take steps to amend certain waivers providing services for individuals with developmental disabilities to provide greater financial flexibility for certain services; report.

[S 945]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. A. The Department of Medical Assistance Services (the Department) shall take steps to amend the Family and Individual Supports, Community Living, and Building Independence waivers and implement regulations to (i) combine the maximum annual allowable amount for assistive technology and electronic home-based support services for an individual receiving waiver services to provide for greater flexibility and better meet the needs of individuals receiving services and (ii) provide that a total of $10,000 shall be available to an eligible individual for assistive technology and electronic home-based support services each year, which may be divided among such services in the manner that best meets the needs of the individual.*

B. The Department shall (i) add the operational design to the proposed Family and Individual Supports, Community Living, and Building Independence waiver amendments to be submitted to the Centers for Medicare and Medicaid Services to obtain federal approval; (ii) conduct a review of payment methodologies to maintain funding for the proposed changes to the Family and Individual Supports, Community Living, and Building Independence waivers in the future; and (iii) undertake such other actions as many be necessary to implement the provisions of this act. The Department shall report on its activities and progress toward implementing the provisions of this act to the Governor and the General Assembly by December 1, 2023.

CHAPTER 703

An Act to amend and reenact § 22.1-296.1 of the Code of Virginia, relating to public school employees; offense involving solicitation of sexual molestation, physical or sexual abuse, or rape of a child; penalty.

[H 1822]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-296.1 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-296.1. Data on convictions for certain crimes and child abuse and neglect required; penalty.

A. As a condition of employment for all of its public school employees, whether full-time or part-time, permanent, or temporary, every school board shall require on its application for employment certification of whether the applicant has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02; any offense involving the sexual molestation, physical or sexual abuse, or rape of a child*, or the solicitation of any such offense*; or any crime of moral turpitude. Any individual making a materially false statement regarding any such offense is guilty of a

Class 1 misdemeanor and, in the case of a teacher, upon conviction, the fact of such conviction is grounds for the Board to revoke his license to teach.

B. No school board shall employ any individual who has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02 or any offense involving the sexual molestation of, physical or sexual abuse, or rape of a child*, or the solicitation of any such offense*.

C. Any school board may employ any individual who has been convicted of any felony or crime of moral turpitude that is not set forth in the definition of barrier crime in subsection A of § 19.2-392.02 and does not involve the sexual molestation, physical or sexual abuse, or rape of a child, *or the solicitation of any such offense,* provided that in the case of a felony conviction, such individual has had his civil rights restored by the Governor.

D. Every school board shall also require on its application for employment, as a condition of employment requiring direct contact with students, whether full-time or part-time, permanent, or temporary, certification that the applicant has not been the subject of a founded case of child abuse and neglect. Any person making a materially false statement regarding a finding of child abuse and neglect is guilty of a Class 1 misdemeanor and upon conviction, the fact of ~~said~~ *such* conviction is grounds for the Board of Education to revoke such person's license to teach.

E. As a condition of awarding a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities, the school board shall require the contractor to provide certification of whether any individual who will provide such services has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02; any offense involving the sexual molestation, physical or sexual abuse, or rape of a child*, or the solicitation of any such offense*; or any crime of moral turpitude.

Any individual making a materially false statement regarding any such offense is guilty of a Class 1 misdemeanor and, upon conviction, the fact of such conviction is grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services. School boards shall not be liable for materially false statements regarding the certifications required by this subsection.

This subsection shall not apply to a contractor or his employees providing services to a school division in an emergency or exceptional situation, such as when student health or safety is endangered or when repairs are needed on an urgent basis to ensure that school facilities are safe and habitable, when it is reasonably anticipated that the contractor or his employees will have no direct contact with students.

F. No school board shall award a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities when any individual who provides such services has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02 or any offense involving the~~,~~ sexual molestation, physical or sexual abuse, or rape of a child*, or the solicitation of any such offense*.

G. Any school board may award a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities when any individual who provides such services has been convicted of any felony or crime of moral turpitude that is not set forth in the definition of barrier crime in subsection A of § 19.2-392.02 and does not involve the sexual molestation, physical or sexual abuse, or rape of a child*, or the solicitation of any such offense*, provided that in the case of a felony conviction, such individual has had his civil rights restored by the Governor.

CHAPTER 704

An Act to amend and reenact §§ 56-585.1 and 56-585.1:10 of the Code of Virginia and to repeal the fourth enactment of Chapter 535 of the Acts of Assembly of 2019, relating to business park electric infrastructure program.

[H 1776]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-585.1 and 56-585.1:10 of the Code of Virginia are amended and reenacted as follows:

§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to

100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase I Utility in 2020, utilizing the three successive 12-month test periods beginning January 1, 2017, and ending December 31, 2019. Thereafter, reviews for a Phase I Utility will be on a triennial basis with subsequent proceedings utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase II Utility in 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and ending December 31, 2020, with subsequent reviews on a triennial basis utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. All such reviews occurring after December 31, 2017, shall be referred to as triennial reviews. For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, the fair rate of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, and for any rate adjustment clauses approved under subdivision 5 or 6, shall be determined by the Commission during each such triennial review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest, but for applications received by the Commission on or after January 1, 2020, such return shall not be set lower than the average of either (i) the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such triennial review or (ii) the authorized returns on common equity that are set by the applicable regulatory commissions for the same selected peer group, nor shall the Commission set such return more than 150 basis points higher than such average.

b. In selecting such majority of peer group investor-owned electric utilities for applications received by the Commission on or after January 1, 2020, the Commission shall first remove from such group the two utilities within such group that have the lowest reported or authorized, as applicable, returns of the group, as well as the two utilities within such group that have the highest reported or authorized, as applicable, returns of the group, and the Commission shall then select a majority of the utilities remaining in such peer group. In its final order regarding such triennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission and distribution services whose facilities and operations are subject to state public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test period subject to such triennial review, and (iv) it is not an affiliate of the utility subject to such triennial review.

c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average

Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this section. The provisions of this subdivision are subject to the provisions of subdivision 8.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent triennial review.

3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021, consisting of the schedules contained in the Commission's rules governing utility rate increase applications. Such filing shall encompass the three successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, except that the filing for a Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending December 31, 2020, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future triennial review proceedings. In a triennial filing under this subdivision that does not result in an overall rate change a utility may propose an adjustment to one or more tariffs that are revenue neutral to the utility.

4. (Expires December 31, 2023) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission;

(ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member; and (iii) costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service; charges for new and existing transmission facilities, including costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park; administrative charges; and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

4. (Effective January 1, 2024) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission~~, and~~*;* (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member*; and (iii) costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park.* Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service, charges for new and existing transmission facilities, administrative charges, and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs or pilot programs. The Commission shall approve such a petition if it finds that the program is in the public interest, provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs or pilot programs. Any such petition shall include a proposed budget for the design, implementation, and operation of the energy efficiency program, including anticipated savings from and spending on each program, and the Commission shall grant a final order on such petitions within eight months of initial filing. The Commission shall only approve such a petition if it finds that the program is in the public interest. If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program that has bearing upon the Commission's determination. Such order shall adhere to existing protocols for extraordinarily sensitive information.

Energy efficiency pilot programs are in the public interest provided that the pilot program is (i) of limited scope, cost, and duration and (ii) intended to determine whether a new or substantially revised program would be cost-effective.

Prior to January 1, 2022, the Commission shall award a margin for recovery on operating expenses for energy efficiency programs and pilot programs, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. Beginning January 1, 2022, and thereafter, if the Commission determines that the utility meets in any year the annual energy efficiency standards set forth in § 56-596.2, in the following year, the Commission shall award a margin on energy efficiency program operating expenses in that year, to be recovered through a rate adjustment clause, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. If the Commission does not approve energy efficiency programs that, in the aggregate, can achieve the annual energy efficiency standards, the Commission shall award a margin on energy efficiency operating expenses in that year for any programs the Commission has approved, to be recovered through a rate adjustment clause under this subdivision, which margin shall equal the general rate of return on common equity determined as described in subdivision 2. Any margin awarded pursuant to this subdivision shall be applied as part of the utility's next rate adjustment clause true-up proceeding. The Commission shall also award an additional 20 basis points for each additional incremental 0.1 percent in annual savings in any year achieved by the utility's energy efficiency programs approved by the Commission pursuant to this subdivision, beyond the annual requirements set forth in § 56-596.2, provided that the total performance incentive awarded in any year shall not exceed 10 percent of that utility's total energy efficiency program spending in that same year.

The Commission shall annually monitor and report to the General Assembly the performance of all programs approved pursuant to this subdivision, including each utility's compliance with the total annual savings required by § 56-596.2, as well as the annual and lifecycle net and gross energy and capacity savings, related emissions reductions, and other

quantifiable benefits of each program; total customer bill savings that the programs produce; utility spending on each program, including any associated administrative costs; and each utility's avoided costs and cost-effectiveness results.

Notwithstanding any other provision of law, unless the Commission finds in its discretion and after consideration of all in-state and regional transmission entity resources that there is a threat to the reliability or security of electric service to the utility's customers, the Commission shall not approve construction of any new utility-owned generating facilities that emit carbon dioxide as a by-product of combusting fuel to generate electricity unless the utility has already met the energy savings goals identified in § 56-596.2 and the Commission finds that supply-side resources are more cost-effective than demand-side or energy storage resources.

As used in this subdivision, "large general service customer" means a customer that has a verifiable history of having used more than one megawatt of demand from a single site.

Large general service customers shall be exempt from requirements that they participate in energy efficiency programs if the Commission finds that the large general service customer has, at the customer's own expense, implemented energy efficiency programs that have produced or will produce measured and verified results consistent with industry standards and other regulatory criteria stated in this section. The Commission shall, no later than June 30, 2021, adopt rules or regulations (a) establishing the process for large general service customers to apply for such an exemption, (b) establishing the administrative procedures by which eligible customers will notify the utility, and (c) defining the standard criteria that shall be satisfied by an applicant in order to notify the utility, including means of evaluation measurement and verification and confidentiality requirements. At a minimum, such rules and regulations shall require that each exempted large general service customer certify to the utility and Commission that its implemented energy efficiency programs have delivered measured and verified savings within the prior five years. In adopting such rules or regulations, the Commission shall also specify the timing as to when a utility shall accept and act on such notice, taking into consideration the utility's integrated resource planning process, as well as its administration of energy efficiency programs that are approved for cost recovery by the Commission. Savings from large general service customers shall be accounted for in utility reporting in the standards in § 56-596.2.

The notice of nonparticipation by a large general service customer shall be for the duration of the service life of the customer's energy efficiency measures. The Commission may on its own motion initiate steps necessary to verify such nonparticipant's achievement of energy efficiency if the Commission has a body of evidence that the nonparticipant has knowingly misrepresented its energy efficiency achievement.

A utility shall not charge such large general service customer for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of compliance with renewable energy portfolio standard requirements pursuant to § 56-585.5 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs incurred as required by § 56-585.5, provided that the Commission does not otherwise find such costs were unreasonably or imprudently incurred;

e. Projected and actual costs of projects that the Commission finds to be necessary to mitigate impacts to marine life caused by construction of offshore wind generating facilities, as described in § 56-585.1:11, or to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load obligations, including the costs of allowances purchased through a market-based trading program for carbon dioxide emissions. The Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations;

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility; and

g. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission to provide incentives to (i) low-income, elderly, and disabled individuals or (ii) organizations providing residential services to low-income, elderly, and disabled individuals for the installation of, or access to, equipment to generate electric energy derived from sunlight, provided the low-income, elderly, and disabled individuals, or organizations providing residential services to low-income, elderly, and disabled individuals, first participate in incentive programs for the installation of measures that reduce heating or cooling costs.

Any rate adjustment clause approved under subdivision 5 c by the Commission shall remain in effect until the utility exhausts the approved budget for the energy efficiency program. The Commission shall have the authority to determine the duration or amortization period for any other rate adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield

region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, including the costs of any system or equipment upgrade, system or equipment replacement, or other cost reasonably appropriate to extend the combined operating license for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, (v) one or more pumped hydroelectricity generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, or (vi) one or more electric distribution grid transformation projects; however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv) or (vi), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv) or (vi), as applicable. As of December 1, 2028, any costs recovered by a utility pursuant to clause (iv) shall be limited to any remaining costs associated with conversions of overhead distribution facilities to underground facilities that have been previously approved or are pending approval by the Commission through a petition by the utility under this subdivision. Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs or makes modifications to any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility that emits carbon dioxide shall demonstrate that it has already met the energy savings goals identified in § 56-596.2 and that the identified need cannot be met more affordably through the deployment or utilization of demand-side resources or energy storage resources and that it has considered and weighed alternative options, including third-party market alternatives, in its selection process.

The costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service. In any application to construct a new generating facility, the utility shall include, and the Commission shall consider, the social cost of carbon, as determined by the Commission, as a benefit or cost, whichever is appropriate. The Commission shall ensure that the development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on historically economically disadvantaged communities. The Commission may adopt any rules it deems necessary to determine the social cost of carbon and shall use the best available science and technology, including the Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, published by the Interagency Working Group on Social Cost of Greenhouse Gases from the United States Government in August 2016, as guidance. The Commission shall include a system to adjust the costs established in this section with inflation.

Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall

reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities or new electric distribution grid transformation projects are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) or (v) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, that use energy derived from sunlight or from onshore wind and are located in the Commonwealth or off the Commonwealth's Atlantic shoreline, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. The replacement of any subset of a utility's existing overhead distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric service reliability is in the public interest. In determining whether to approve petitions for rate adjustment clauses for such new underground facilities that meet this criteria, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title.

The conversion of any such facilities on or after September 1, 2016, is deemed to provide local and system-wide benefits and to be cost beneficial, and the costs associated with such new underground facilities are deemed to be reasonably and prudently incurred and, notwithstanding the provisions of subsection C or D, shall be approved for recovery by the Commission pursuant to this subdivision, provided that the total costs associated with the replacement of any subset of existing overhead distribution tap lines proposed by the utility with new underground facilities, exclusive of financing costs, shall not exceed an average cost per customer of $20,000, with such customers, including those served directly by or downline of the tap lines proposed for conversion, and, further, such total costs shall not exceed an average cost per mile of tap lines converted, exclusive of financing costs, of $750,000. A utility shall, without regard for whether it has petitioned for any rate adjustment clause pursuant to clause (vi), petition the Commission, not more than once annually, for approval of a plan for electric distribution grid transformation projects. Any plan for electric distribution grid transformation projects shall include both measures to facilitate integration of distributed energy resources and measures to enhance physical electric distribution grid reliability and security. In ruling upon such a petition, the Commission shall consider whether the utility's plan for such projects, and the projected costs associated therewith, are reasonable and prudent. Such petition shall be considered on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility; without regard to whether the costs associated with such projects will be recovered through a rate adjustment clause under this subdivision or through the utility's rates for generation and distribution services; and without regard to whether such costs will be the subject of a customer credit offset, as applicable, pursuant to subdivision 8 d. The Commission's final order regarding any such petition for approval of an electric distribution grid transformation plan shall be entered by the Commission not more than six months after the date of filing such petition. The Commission shall likewise enter its final order with respect to any petition by a utility for a certificate to construct and operate a generating facility or facilities utilizing energy derived from sunlight, pursuant to subsection D of § 56-580, within six months after the date of filing such petition. The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years

Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years
Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

Only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014. Thirty percent of all costs of a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore or offshore wind are in the public interest.

Notwithstanding any provision of Chapter 296 of the Acts of Assembly of 2018, construction, purchasing, or leasing activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore wind with an aggregate capacity of 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, together with a utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 3,000 megawatts, are in the public interest. Additionally, energy storage facilities with an aggregate capacity of 2,700 megawatts are in the public interest. To the extent that a utility elects to recover the costs of any such new generation or energy storage facility or facilities through its rates for generation and distribution services and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (ii), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding pursuant to subsection D of § 56-580 or in a triennial review proceeding.

Electric distribution grid transformation projects are in the public interest. To the extent that a utility elects to recover the costs of such electric distribution grid transformation projects through its rates for generation and distribution services, and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (vi), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding for approval of a plan for electric distribution grid transformation projects pursuant to subdivision 6 or in a triennial review proceeding.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.2-1600, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission for such utility pursuant to subdivision 2.

Notwithstanding any other provision of this subdivision, if the Commission finds during the triennial review conducted for a Phase II Utility in 2021 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from the Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or demonstration project involving a generation facility utilizing energy from offshore wind, and such utility has not, as of July 1, 2023, commenced construction as defined for federal income tax purposes of an offshore wind generation facility or facilities with a minimum aggregate capacity of 250 megawatts, then the Commission, if it finds it in the public interest, may direct that the costs associated with any such rate adjustment clause involving said test or demonstration project shall thereafter no longer be recovered through a rate adjustment clause pursuant to subdivision 6 and shall instead be recovered through the utility's rates for generation and distribution services, with no change in such rates for generation and distribution services as a result of the combination of such costs with the other costs, revenues, and investments included in the utility's rates for generation and distribution services. Any such costs shall remain combined with the utility's other costs, revenues, and investments included in its rates for generation and distribution services until such costs are fully recovered.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with respect to triennial filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later.

8. In any triennial review proceeding, for the purposes of reviewing earnings on the utility's rates for generation and distribution services, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review and deemed fully recovered in the period recorded: costs associated with asset impairments related to early retirement determinations made by the utility for utility generation

facilities fueled by coal, natural gas, or oil or for automated meter reading electric distribution service meters; costs associated with projects necessary to comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to coal combustion by-product management that the utility does not petition to recover through a rate adjustment clause pursuant to subdivision 5 e; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such triennial review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a triennial review, for normalization of nonrecurring test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of such triennial review that:

a. Revenue reductions related to energy efficiency measures or programs approved and deployed since the utility's previous triennial review have caused the utility, as verified by the Commission, during the test period or periods under review, considered as a whole, to earn more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates for generation and distribution services necessary to recover such revenue reductions. If the Commission finds, for reasons other than revenue reductions related to energy efficiency measures, that the utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the amount of the rate increase necessary. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, the Commission may not order a rate increase, and in all triennial reviews of a Phase I or Phase II utility, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate increase under the standards of this sentence, and the amount thereof; and provided that, solely in connection with making its determination concerning the necessity for such a rate increase or the amount thereof, the Commission shall, in any triennial review proceeding conducted prior to July 1, 2028, exclude from this most recently ended 12-month test period any remaining investment levels associated with a prior customer credit reinvestment offset pursuant to subdivision d.

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivisions 8 d and 9, direct that 60 percent of the amount of such earnings that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the

discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. In any triennial review proceeding conducted after January 1, 2020, for a Phase I Utility or after January 1, 2021, for a Phase II Utility in which the utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, and the combined aggregate level of capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test periods under review in that triennial review proceeding in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and in electric distribution grid transformation projects, as determined pursuant to subdivision 8 d, does not equal or exceed 100 percent of the earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the combined test periods under review in that triennial review proceeding, the Commission shall, subject to the provisions of subdivision 9 and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, any reduction to the utility's rates ordered by the Commission pursuant to this subdivision shall not exceed $50 million in annual revenues, with any reduction allocated to the utility's rates for generation services, and in each triennial review of a Phase I or Phase II Utility, the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof; and

d. (Expires July 1, 2028) In any triennial review proceeding conducted after December 31, 2017, upon the request of the utility, the Commission shall determine, prior to directing that 70 percent of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the test period or periods under review be credited to customer bills pursuant to subdivision 8 b, the aggregate level of prior capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test period or periods under review in both (i) new utility-owned generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, and (ii) electric distribution grid transformation projects, as determined by the utility's plant in service and construction work in progress balances related to such investments as recorded per books by the utility for financial reporting purposes as of the end of the most recent test period under review. Any such combined capital investment amounts shall offset any customer bill credit amounts, on a dollar for dollar basis, up to the aggregate level of invested or committed capital under clauses (i) and (ii). The aggregate level of qualifying invested or committed capital under clauses (i) and (ii) is referred to in this subdivision as the customer credit reinvestment offset, which offsets the customer bill credit amount that the utility has invested or will invest in new solar or wind generation facilities or electric distribution grid transformation projects for the benefit of customers, in amounts up to 100 percent of earnings that are more than 70 basis points above the utility's fair rate of return on its generation and distribution services, and thereby reduce or eliminate otherwise incremental rate adjustment clause charges and increases to customer bills, which is deemed to be in the public interest. If 100 percent of the amount of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services, as determined in subdivision 2, exceeds the aggregate level of invested capital in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and electric distribution grid transformation projects, as provided in clauses (i) and (ii), during the test period or periods under review, then 70 percent of the amount of such excess shall be credited to customer bills as provided in subdivision 8 b in connection with the triennial review proceeding. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is the subject of any customer credit reinvestment offset pursuant to this subdivision shall not thereafter be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall not thereafter be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 and shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is not the subject of any customer credit reinvestment offset pursuant to this subdivision may be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 until such costs are fully recovered, and if such costs are recovered through the utility's rates for generation and distribution services, they shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. Only the portion of such costs of new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid

transformation projects that has not been included in any customer credit reinvestment offset pursuant to this subdivision, and not otherwise recovered through the utility's rates for generation and distribution services, may be the subject of a rate adjustment clause petition by the utility pursuant to subdivision 6.

The Commission's final order regarding such triennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such triennial review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire three successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent triennial review filing under subdivision 3 and shall apply to applicable rate adjustment clauses under subdivisions 5 and 6 prospectively from the date the Commission's final order in the triennial review proceeding, utilizing rate adjustment clause true-up protocols as the Commission in its discretion may determine.

9. If, as a result of a triennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently ended 12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c, provided that no credits shall be provided pursuant to this subdivision in connection with any triennial review unless such bill credits would be payable pursuant to the provisions of subdivision 8 d, and any credits under this subdivision shall be calculated net of any customer credit reinvestment offset amounts under subdivision 8 d. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, excluding any debt associated with securitized bonds that are the obligation of non-Virginia jurisdictional customers, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by customers.

E. Notwithstanding any other provision of law, the Commission shall determine the amortization period for recovery of any appropriate costs due to the early retirement of any electric generation facilities owned or operated by any Phase I Utility or Phase II Utility. In making such determination, the Commission shall (i) perform an independent analysis of the remaining undepreciated capital costs; (ii) establish a recovery period that best serves ratepayers; and (iii) allow for the recovery of any carrying costs that the Commission deems appropriate.

F. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

§ 56-585.1:10. (Expires December 31, 2023) Program for electric infrastructure serving business parks.

The Virginia Economic Development Partnership shall conduct a ~~pilot~~ program ~~within the certificated service territory of~~ *with* each ~~investor-owned electric utility, other than a utility described in subsection G of § 56-580 (Pilot Utility), or within a business park located in Planning District 19~~ *Phase I and Phase II Utility, as those terms are defined in subsection A of § 56-585, in each such utility's service territory or transmission zone* for the purpose of promoting economic development in areas of the Commonwealth. The ~~pilot~~ program shall allow any ~~Pilot Utility~~ *such utility* to complete the construction phase of a transmission line and *any* associated substation *and other associated facilities* to provide ~~the~~ electric *transmission and distribution* infrastructure to a business park, as defined in § 56-576, located within the ~~Pilot Utility's certificated service territory or within Planning District 19~~ *utility's transmission zone* where investments by a locality or an industrial development authority or a similar political subdivision of the Commonwealth created pursuant to § 15.2-4903 or other act of the General Assembly in the siting, environmental review, pre-engineering design, and transmission right-of-way acquisition have been made prior to the public announcement of a prospective occupant of the business park. Each ~~pilot~~ program shall be subject to the following terms, conditions, and restrictions:

1. The costs incurred by ~~the Pilot Utility~~ *a Phase I or Phase II Utility* after January 1, 2019, to construct, operate, and maintain ~~transmission lines and associated substations installed~~ *the business park electric infrastructure* in order to provide service to a business park participating in the ~~pilot~~ program *outlined by this section* shall be recovered by the ~~Pilot Utility~~ *utility* pursuant to a rate adjustment clause approved by the Commission in subdivision A 4 of § 56-585.1.

2. ~~Qualifying projects shall have revenue sharing agreements between two or more localities.~~

~~3.~~ Each individual qualifying project shall be less than ~~seven~~ *10* miles in length.

~~4.~~ *3.* The role of the Virginia Economic Development Partnership in conducting the ~~pilot~~ program *outlined by this section* is to certify that up to ~~three~~ *two* petitions *per year* for each ~~Pilot Utility~~ *Phase I and Phase II utility* address the eligibility criteria for participation in the ~~pilot~~ program set forth in § 56-576 and in this section.

4. For construction of business park electric infrastructure, a utility shall either (i) obtain a certificate from the Commission pursuant to subdivision A 1 of § 56-265.2, unless such infrastructure is an ordinary extension or improvement in the usual course of business or (ii) obtain approval pursuant to the requirements of § 15.2-2232 and any applicable zoning ordinances by the locality or localities in which the business park electric infrastructure will be located. If the utility seeks a certificate pursuant to subdivision A 1 of § 56-265.2, the Commission shall issue its decision on the expedited certificate application no later than six months from the date of filing. The need for any business park electric infrastructure shall be satisfied if the business park to be served is approved for the program by the Virginia Economic Development Partnership.

2. That the State Corporation Commission shall institute a rulemaking proceeding by September 1, 2023, to allow for the establishment of requirements for applications and expedited certificates and the timeline for Department of Environmental Quality staff to review such applications that are submitted for the construction of business park electric infrastructure pursuant to § 56-585.1:10 of the Code of Virginia, as amended by this act.

3. That the fourth enactment of Chapter 535 of the Acts of Assembly of 2019 is repealed.

CHAPTER 705

An Act to amend and reenact §§ 56-585.1 and 56-585.1:10 of the Code of Virginia and to repeal the fourth enactment of Chapter 535 of the Acts of Assembly of 2019, relating to business park electric infrastructure program.

[S 1420]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-585.1 and 56-585.1:10 of the Code of Virginia are amended and reenacted as follows:

§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase I Utility in 2020, utilizing the three successive 12-month test periods beginning January 1, 2017, and ending December 31, 2019. Thereafter, reviews for a Phase I Utility will be on a triennial basis with subsequent proceedings utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase II Utility in 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and ending December 31, 2020, with subsequent reviews on a triennial basis utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. All such reviews occurring after December 31, 2017, shall be referred to as triennial reviews. For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, the fair rate of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, and for any rate adjustment clauses approved under subdivision 5 or 6, shall be determined by the Commission during each such triennial review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest, but for applications received by the Commission on or after January 1, 2020, such return shall not be set lower than the average of either (i) the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in

subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such triennial review or (ii) the authorized returns on common equity that are set by the applicable regulatory commissions for the same selected peer group, nor shall the Commission set such return more than 150 basis points higher than such average.

b. In selecting such majority of peer group investor-owned electric utilities for applications received by the Commission on or after January 1, 2020, the Commission shall first remove from such group the two utilities within such group that have the lowest reported or authorized, as applicable, returns of the group, as well as the two utilities within such group that have the highest reported or authorized, as applicable, returns of the group, and the Commission shall then select a majority of the utilities remaining in such peer group. In its final order regarding such triennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission and distribution services whose facilities and operations are subject to state public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test period subject to such triennial review, and (iv) it is not an affiliate of the utility subject to such triennial review.

c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this section. The provisions of this subdivision are subject to the provisions of subdivision 8.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent triennial review.

3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021, consisting of the schedules contained in the Commission's rules governing utility rate increase applications. Such filing shall encompass the three successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, except that the filing for a Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending December 31, 2020, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future triennial review proceedings. In a triennial filing under this subdivision that does not result in an overall rate change a utility may propose an adjustment to one or more tariffs that are revenue neutral to the utility.

4. (Expires December 31, 2023) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission; (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member; and (iii) costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service; charges for new and existing transmission facilities, including costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park; administrative charges; and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

4. (Effective January 1, 2024) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission~~, and~~*;* (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member*; and (iii) costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park.* Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service, charges for new and existing transmission facilities, administrative charges, and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs or pilot programs. The Commission shall approve such a petition if it finds that the program is in the public interest, provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs or pilot programs. Any such petition shall include a proposed budget for the design, implementation, and operation of the energy efficiency program, including anticipated savings from and spending on each program, and the Commission shall grant a final order on such petitions within eight months of initial filing. The Commission shall only approve such a petition if it finds that the program is in the public interest. If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program that has bearing upon the Commission's determination. Such order shall adhere to existing protocols for extraordinarily sensitive information.

Energy efficiency pilot programs are in the public interest provided that the pilot program is (i) of limited scope, cost, and duration and (ii) intended to determine whether a new or substantially revised program would be cost-effective.

Prior to January 1, 2022, the Commission shall award a margin for recovery on operating expenses for energy efficiency programs and pilot programs, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. Beginning January 1, 2022, and thereafter, if the Commission determines that the utility meets in any year the annual energy efficiency standards set forth in § 56-596.2, in the following year, the Commission shall award a margin on energy efficiency program operating expenses in that year, to be recovered through a rate adjustment clause, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. If the Commission does not approve energy efficiency programs that, in the aggregate, can achieve the annual energy efficiency standards, the Commission shall award a margin on energy efficiency operating expenses in that year for any programs the Commission has approved, to be recovered through a rate adjustment clause under this subdivision, which margin shall equal the general rate of return on common equity determined as described in subdivision 2. Any margin awarded pursuant to this subdivision shall be applied as part of the utility's next rate adjustment clause true-up proceeding. The Commission shall also award an additional 20 basis points for each additional incremental 0.1 percent in annual savings in any year achieved by the utility's energy efficiency programs approved by the Commission pursuant to this subdivision, beyond the annual requirements set forth in § 56-596.2, provided that the total performance incentive awarded in any year shall not exceed 10 percent of that utility's total energy efficiency program spending in that same year.

The Commission shall annually monitor and report to the General Assembly the performance of all programs approved pursuant to this subdivision, including each utility's compliance with the total annual savings required by § 56-596.2, as well as the annual and lifecycle net and gross energy and capacity savings, related emissions reductions, and other quantifiable benefits of each program; total customer bill savings that the programs produce; utility spending on each program, including any associated administrative costs; and each utility's avoided costs and cost-effectiveness results.

Notwithstanding any other provision of law, unless the Commission finds in its discretion and after consideration of all in-state and regional transmission entity resources that there is a threat to the reliability or security of electric service to the utility's customers, the Commission shall not approve construction of any new utility-owned generating facilities that emit carbon dioxide as a by-product of combusting fuel to generate electricity unless the utility has already met the energy savings goals identified in § 56-596.2 and the Commission finds that supply-side resources are more cost-effective than demand-side or energy storage resources.

As used in this subdivision, "large general service customer" means a customer that has a verifiable history of having used more than one megawatt of demand from a single site.

Large general service customers shall be exempt from requirements that they participate in energy efficiency programs if the Commission finds that the large general service customer has, at the customer's own expense, implemented energy efficiency programs that have produced or will produce measured and verified results consistent with industry standards and other regulatory criteria stated in this section. The Commission shall, no later than June 30, 2021, adopt rules or regulations (a) establishing the process for large general service customers to apply for such an exemption, (b) establishing the administrative procedures by which eligible customers will notify the utility, and (c) defining the standard criteria that shall be satisfied by an applicant in order to notify the utility, including means of evaluation measurement and verification and confidentiality requirements. At a minimum, such rules and regulations shall require that each exempted large general service customer certify to the utility and Commission that its implemented energy efficiency programs have delivered measured and verified savings within the prior five years. In adopting such rules or regulations, the Commission shall also specify the timing as to when a utility shall accept and act on such notice, taking into consideration the utility's integrated resource planning process, as well as its administration of energy efficiency programs that are approved for cost recovery by the Commission. Savings from large general service customers shall be accounted for in utility reporting in the standards in § 56-596.2.

The notice of nonparticipation by a large general service customer shall be for the duration of the service life of the customer's energy efficiency measures. The Commission may on its own motion initiate steps necessary to verify such nonparticipant's achievement of energy efficiency if the Commission has a body of evidence that the nonparticipant has knowingly misrepresented its energy efficiency achievement.

A utility shall not charge such large general service customer for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of compliance with renewable energy portfolio standard requirements pursuant to § 56-585.5 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs incurred as required by § 56-585.5, provided that the Commission does not otherwise find such costs were unreasonably or imprudently incurred;

e. Projected and actual costs of projects that the Commission finds to be necessary to mitigate impacts to marine life caused by construction of offshore wind generating facilities, as described in § 56-585.1:11, or to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load

obligations, including the costs of allowances purchased through a market-based trading program for carbon dioxide emissions. The Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations;

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility; and

g. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission to provide incentives to (i) low-income, elderly, and disabled individuals or (ii) organizations providing residential services to low-income, elderly, and disabled individuals for the installation of, or access to, equipment to generate electric energy derived from sunlight, provided the low-income, elderly, and disabled individuals, or organizations providing residential services to low-income, elderly, and disabled individuals, first participate in incentive programs for the installation of measures that reduce heating or cooling costs.

Any rate adjustment clause approved under subdivision 5 c by the Commission shall remain in effect until the utility exhausts the approved budget for the energy efficiency program. The Commission shall have the authority to determine the duration or amortization period for any other rate adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, including the costs of any system or equipment upgrade, system or equipment replacement, or other cost reasonably appropriate to extend the combined operating license for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, (v) one or more pumped hydroelectricity generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, or (vi) one or more electric distribution grid transformation projects; however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv) or (vi), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv) or (vi), as applicable. As of December 1, 2028, any costs recovered by a utility pursuant to clause (iv) shall be limited to any remaining costs associated with conversions of overhead distribution facilities to underground facilities that have been previously approved or are pending approval by the Commission through a petition by the utility under this subdivision. Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs or makes modifications to any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility that emits carbon dioxide shall demonstrate that it has already met the energy savings goals identified in § 56-596.2 and that the identified need cannot be met more affordably

through the deployment or utilization of demand-side resources or energy storage resources and that it has considered and weighed alternative options, including third-party market alternatives, in its selection process.

The costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service. In any application to construct a new generating facility, the utility shall include, and the Commission shall consider, the social cost of carbon, as determined by the Commission, as a benefit or cost, whichever is appropriate. The Commission shall ensure that the development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on historically economically disadvantaged communities. The Commission may adopt any rules it deems necessary to determine the social cost of carbon and shall use the best available science and technology, including the Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, published by the Interagency Working Group on Social Cost of Greenhouse Gases from the United States Government in August 2016, as guidance. The Commission shall include a system to adjust the costs established in this section with inflation.

Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities or new electric distribution grid transformation projects are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) or (v) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, that use energy derived from sunlight or from onshore wind and are located in the Commonwealth or off the Commonwealth's Atlantic shoreline, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. The replacement of any subset of a utility's existing overhead distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric service reliability is in the public interest. In determining whether to approve petitions for rate adjustment clauses for such new underground facilities that meet this criteria, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title.

The conversion of any such facilities on or after September 1, 2016, is deemed to provide local and system-wide benefits and to be cost beneficial, and the costs associated with such new underground facilities are deemed to be reasonably and prudently incurred and, notwithstanding the provisions of subsection C or D, shall be approved for recovery by the Commission pursuant to this subdivision, provided that the total costs associated with the replacement of any subset of existing overhead distribution tap lines proposed by the utility with new underground facilities, exclusive of financing costs, shall not exceed an average cost per customer of $20,000, with such customers, including those served directly by or downline of the tap lines proposed for conversion, and, further, such total costs shall not exceed an average cost per mile of tap lines converted, exclusive of financing costs, of $750,000. A utility shall, without regard for whether it has petitioned for any rate adjustment clause pursuant to clause (vi), petition the Commission, not more than once annually, for approval of a plan for electric distribution grid transformation projects. Any plan for electric distribution grid transformation projects shall include both measures to facilitate integration of distributed energy resources and measures to enhance physical

electric distribution grid reliability and security. In ruling upon such a petition, the Commission shall consider whether the utility's plan for such projects, and the projected costs associated therewith, are reasonable and prudent. Such petition shall be considered on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility; without regard to whether the costs associated with such projects will be recovered through a rate adjustment clause under this subdivision or through the utility's rates for generation and distribution services; and without regard to whether such costs will be the subject of a customer credit offset, as applicable, pursuant to subdivision 8 d. The Commission's final order regarding any such petition for approval of an electric distribution grid transformation plan shall be entered by the Commission not more than six months after the date of filing such petition. The Commission shall likewise enter its final order with respect to any petition by a utility for a certificate to construct and operate a generating facility or facilities utilizing energy derived from sunlight, pursuant to subsection D of § 56-580, within six months after the date of filing such petition. The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years
Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

Only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014. Thirty percent of all costs of a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore or offshore wind are in the public interest.

Notwithstanding any provision of Chapter 296 of the Acts of Assembly of 2018, construction, purchasing, or leasing activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore wind with an aggregate capacity of 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, together with a utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 3,000 megawatts, are in the public interest. Additionally, energy storage facilities with an aggregate capacity of 2,700 megawatts are in the public interest. To the extent that a utility elects to recover the costs of any such new generation or energy storage facility or facilities through its rates for generation and distribution services and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (ii), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding pursuant to subsection D of § 56-580 or in a triennial review proceeding.

Electric distribution grid transformation projects are in the public interest. To the extent that a utility elects to recover the costs of such electric distribution grid transformation projects through its rates for generation and distribution services, and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (vi), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding for approval of a plan for electric distribution grid transformation projects pursuant to subdivision 6 or in a triennial review proceeding.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.2-1600, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission for such utility pursuant to subdivision 2.

Notwithstanding any other provision of this subdivision, if the Commission finds during the triennial review conducted for a Phase II Utility in 2021 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from the Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or demonstration project involving a generation facility utilizing energy from offshore wind, and such utility has not, as of July 1, 2023, commenced construction as defined for federal income tax purposes of an offshore wind generation facility or facilities with a minimum aggregate capacity of 250 megawatts, then the Commission, if it finds it in the public interest, may direct that the costs associated with any such rate adjustment clause involving said test or demonstration project shall thereafter no longer be recovered through a rate adjustment clause pursuant to subdivision 6 and shall instead be recovered through the utility's rates for generation and distribution services, with no change in such rates for generation and distribution services as a result of the combination of such costs with the other costs, revenues, and investments included in the utility's rates for generation and distribution services. Any such costs shall remain combined with the utility's other costs, revenues, and investments included in its rates for generation and distribution services until such costs are fully recovered.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a regulatory asset for regulatory accounting and

ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with respect to triennial filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later.

8. In any triennial review proceeding, for the purposes of reviewing earnings on the utility's rates for generation and distribution services, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review and deemed fully recovered in the period recorded: costs associated with asset impairments related to early retirement determinations made by the utility for utility generation facilities fueled by coal, natural gas, or oil or for automated meter reading electric distribution service meters; costs associated with projects necessary to comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to coal combustion by-product management that the utility does not petition to recover through a rate adjustment clause pursuant to subdivision 5 e; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such triennial review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a triennial review, for normalization of nonrecurring test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of such triennial review that:

a. Revenue reductions related to energy efficiency measures or programs approved and deployed since the utility's previous triennial review have caused the utility, as verified by the Commission, during the test period or periods under review, considered as a whole, to earn more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates for generation and distribution services necessary to recover such revenue reductions. If the Commission finds, for reasons other than revenue reductions related to energy efficiency measures, that the utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the

amount of the rate increase necessary. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, the Commission may not order a rate increase, and in all triennial reviews of a Phase I or Phase II utility, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate increase under the standards of this sentence, and the amount thereof; and provided that, solely in connection with making its determination concerning the necessity for such a rate increase or the amount thereof, the Commission shall, in any triennial review proceeding conducted prior to July 1, 2028, exclude from this most recently ended 12-month test period any remaining investment levels associated with a prior customer credit reinvestment offset pursuant to subdivision d.

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivisions 8 d and 9, direct that 60 percent of the amount of such earnings that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. In any triennial review proceeding conducted after January 1, 2020, for a Phase I Utility or after January 1, 2021, for a Phase II Utility in which the utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, and the combined aggregate level of capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test periods under review in that triennial review proceeding in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and in electric distribution grid transformation projects, as determined pursuant to subdivision 8 d, does not equal or exceed 100 percent of the earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the combined test periods under review in that triennial review proceeding, the Commission shall, subject to the provisions of subdivision 9 and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, any reduction to the utility's rates ordered by the Commission pursuant to this subdivision shall not exceed $50 million in annual revenues, with any reduction allocated to the utility's rates for generation services, and in each triennial review of a Phase I or Phase II Utility, the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof; and

d. (Expires July 1, 2028) In any triennial review proceeding conducted after December 31, 2017, upon the request of the utility, the Commission shall determine, prior to directing that 70 percent of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the test period or periods under review be credited to customer bills pursuant to subdivision 8 b, the aggregate level of prior capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test period or periods under review in both (i) new utility-owned generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, and (ii) electric distribution grid transformation projects, as determined by the utility's plant in service and construction work in progress balances related to such investments as recorded per books by the utility for financial reporting purposes as of the end of the most recent test period under review. Any such combined capital investment amounts shall offset any customer bill credit amounts, on a dollar for dollar basis, up to the aggregate level of invested or committed capital under clauses (i) and (ii). The aggregate level of qualifying invested or committed capital under clauses (i) and (ii) is referred to in this subdivision as the customer credit reinvestment offset, which offsets the customer bill credit amount that the utility has invested or will invest in new solar or wind generation facilities or electric distribution grid transformation projects for the

benefit of customers, in amounts up to 100 percent of earnings that are more than 70 basis points above the utility's fair rate of return on its generation and distribution services, and thereby reduce or eliminate otherwise incremental rate adjustment clause charges and increases to customer bills, which is deemed to be in the public interest. If 100 percent of the amount of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services, as determined in subdivision 2, exceeds the aggregate level of invested capital in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and electric distribution grid transformation projects, as provided in clauses (i) and (ii), during the test period or periods under review, then 70 percent of the amount of such excess shall be credited to customer bills as provided in subdivision 8 b in connection with the triennial review proceeding. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is the subject of any customer credit reinvestment offset pursuant to this subdivision shall not thereafter be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall not thereafter be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 and shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is not the subject of any customer credit reinvestment offset pursuant to this subdivision may be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 until such costs are fully recovered, and if such costs are recovered through the utility's rates for generation and distribution services, they shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. Only the portion of such costs of new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that has not been included in any customer credit reinvestment offset pursuant to this subdivision, and not otherwise recovered through the utility's rates for generation and distribution services, may be the subject of a rate adjustment clause petition by the utility pursuant to subdivision 6.

The Commission's final order regarding such triennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such triennial review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire three successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent triennial review filing under subdivision 3 and shall apply to applicable rate adjustment clauses under subdivisions 5 and 6 prospectively from the date the Commission's final order in the triennial review proceeding, utilizing rate adjustment clause true-up protocols as the Commission in its discretion may determine.

9. If, as a result of a triennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently ended 12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c, provided that no credits shall be provided pursuant to this subdivision in connection with any triennial review unless such bill credits would be payable pursuant to the provisions of subdivision 8 d, and any credits under this subdivision shall be calculated net of any customer credit reinvestment offset amounts under subdivision 8 d. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of

clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, excluding any debt associated with securitized bonds that are the obligation of non-Virginia jurisdictional customers, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by customers.

E. Notwithstanding any other provision of law, the Commission shall determine the amortization period for recovery of any appropriate costs due to the early retirement of any electric generation facilities owned or operated by any Phase I Utility or Phase II Utility. In making such determination, the Commission shall (i) perform an independent analysis of the remaining undepreciated capital costs; (ii) establish a recovery period that best serves ratepayers; and (iii) allow for the recovery of any carrying costs that the Commission deems appropriate.

F. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

§ 56-585.1:10. (Expires December 31, 2023) Program for electric infrastructure serving business parks.

The Virginia Economic Development Partnership shall conduct a ~~pilot~~ program ~~within the certificated service territory of~~ *with* each ~~investor-owned electric utility, other than a utility described in subsection G of § 56-580 (Pilot Utility), or within a business park located in Planning District 19~~ *Phase I and Phase II Utility, as those terms are defined in subsection A of § 56-585, in each such utility's service territory or transmission zone* for the purpose of promoting economic development in areas of the Commonwealth. The ~~pilot~~ program shall allow any ~~Pilot Utility~~ *such utility* to complete the construction phase of a transmission line and *any* associated substation *and other associated facilities* to provide ~~the~~ electric *transmission and distribution* infrastructure to a business park, as defined in § 56-576, located within the ~~Pilot Utility's certificated service territory or within Planning District 19~~ *utility's transmission zone* where investments by a locality or an industrial development authority or a similar political subdivision of the Commonwealth created pursuant to § 15.2-4903 or other act of the General Assembly in the siting, environmental review, pre-engineering design, and transmission right-of-way acquisition have been made prior to the public announcement of a prospective occupant of the business park. Each ~~pilot~~ program shall be subject to the following terms, conditions, and restrictions:

1. The costs incurred by ~~the Pilot Utility~~ *a Phase I or Phase II Utility* after January 1, 2019, to construct, operate, and maintain ~~transmission lines and associated substations installed~~ *the business park electric infrastructure* in order to provide service to a business park participating in the ~~pilot~~ program *outlined by this section* shall be recovered by the ~~Pilot Utility~~ *utility* pursuant to a rate adjustment clause approved by the Commission in subdivision A 4 of § 56-585.1.

2. ~~Qualifying projects shall have revenue sharing agreements between two or more localities.~~

~~3.~~ Each individual qualifying project shall be less than ~~seven~~ *10* miles in length.

~~4.~~ *3.* The role of the Virginia Economic Development Partnership in conducting the ~~pilot~~ program *outlined by this section* is to certify that up to ~~three~~ *two* petitions *per year* for each ~~Pilot~~ ~~Utility~~ *Phase I and Phase II utility* address the eligibility criteria for participation in the ~~pilot~~ program set forth in § 56-576 and in this section.

4. For construction of business park electric infrastructure, a utility shall either (i) obtain a certificate from the Commission pursuant to subdivision A 1 of § 56-265.2, unless such infrastructure is an ordinary extension or improvement in the usual course of business or (ii) obtain approval pursuant to the requirements of § 15.2-2232 and any applicable zoning ordinances by the locality or localities in which the business park electric infrastructure will be located. If the utility seeks a certificate pursuant to subdivision A 1 of § 56-265.2, the Commission shall issue its decision on the expedited certificate application no later than six months from the date of filing. The need for any business park electric infrastructure shall be satisfied if the business park to be served is approved for the program by the Virginia Economic Development Partnership.

2. That the State Corporation Commission shall institute a rulemaking proceeding by September 1, 2023, to allow for the establishment of requirements for applications and expedited certificates and the timeline for Department of Environmental Quality staff to review such applications that are submitted for the construction of business park electric infrastructure pursuant to § 56-585.1:10 of the Code of Virginia, as amended by this act.

3. That the fourth enactment of Chapter 535 of the Acts of Assembly of 2019 is repealed.

CHAPTER 706

An Act to amend and reenact § 55.1-1204 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; terms and conditions of rental agreement; rent increase; notice.

[H 1702]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-1204 of the Code of Virginia is amended and reenacted as follows:

§ 55.1-1204. Terms and conditions of rental agreement; payment of rent; copy of rental agreement for tenant.

A. A landlord and tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other rule of law, including rent, charges for late payment of rent, the term of the agreement, automatic renewal of the rental agreement, requirements for notice of intent to vacate or terminate the rental agreement, and other provisions governing the rights and obligations of the parties.

B. A landlord shall offer a prospective tenant a written rental agreement containing the terms governing the rental of the dwelling unit and setting forth the terms and conditions of the landlord-tenant relationship and shall provide with it the statement of tenant rights and responsibilities developed by the Department of Housing and Community Development and posted on its website pursuant to § 36-139. The parties to a written rental agreement shall sign the form developed by the Department of Housing and Community Development and posted on its website pursuant to § 36-139 acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities. The written rental agreement shall be effective upon the date signed by the parties.

C. If a landlord does not offer a written rental agreement, the tenancy shall exist by operation of law, consisting of the following terms and conditions:

1. The provision of this chapter shall be applicable to the dwelling unit that is being rented;

2. The duration of the rental agreement shall be for 12 months and shall not be subject to automatic renewal, except in the event of a month-to-month lease as otherwise provided for under subsection C of § 55.1-1253;

3. Rent shall be paid in 12 equal periodic installments in an amount agreed upon by the landlord and the tenant and if no amount is agreed upon, the installments shall be at fair market rent;

4. Rent payments shall be due on the first day of each month during the tenancy and shall be considered late if not paid by the fifth of the month;

5. If the rent is paid by the tenant after the fifth day of any given month, the landlord shall be entitled to charge a late charge as provided in this chapter;

6. The landlord may collect a security deposit in an amount that does not exceed a total amount equal to two months of rent; and

7. The parties may enter into a written rental agreement at any time during the 12-month tenancy created by this subsection.

D. Except as provided in the written rental agreement, or as provided in subsection C if no written agreement is offered, rent shall be payable without demand or notice at the time and place agreed upon by the parties. Except as provided in the written rental agreement, rent is payable at the place designated by the landlord, and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal installments at the beginning of each month. If the landlord receives from a tenant a written request for a written statement of charges and payments, he shall provide the tenant with a written statement showing all debits and credits over the tenancy or the past 12 months, whichever is shorter. The landlord shall provide such written statement within 10 business days of receiving the request.

E. A landlord shall not charge a tenant for late payment of rent unless such charge is provided for in the written rental agreement. No such late charge shall exceed the lesser of 10 percent of the periodic rent or 10 percent of the remaining balance due and owed by the tenant.

F. Except as provided in the written rental agreement or, as provided in subsection C if no written agreement is offered, the tenancy shall be week-to-week in the case of a tenant who pays weekly rent and month-to-month in all other cases. Terminations of tenancies shall be governed by § 55.1-1253 unless the rental agreement provides for a different notice period.

G. If the rental agreement contains any provision allowing the landlord to approve or disapprove a sublessee or assignee of the tenant, the landlord shall, within 10 business days of receipt of the written application of the prospective sublessee or assignee on a form to be provided by the landlord, approve or disapprove the sublessee or assignee. Failure of the landlord to act within 10 business days is evidence of his approval.

H. The landlord shall provide a copy of any written rental agreement and the statement of tenant rights and responsibilities to the tenant within one month of the effective date of the written rental agreement. The failure of the landlord to deliver such a rental agreement and statement shall not affect the validity of the agreement. However, the landlord shall not file or maintain an action against the tenant in a court of law for any alleged lease violation until he has provided the tenant with the statement of tenant rights and responsibilities.

I. No unilateral change in the terms of a rental agreement by a landlord or tenant shall be valid unless (i) notice of the change is given in accordance with the terms of the rental agreement or as otherwise required by law and (ii) both parties consent in writing to the change.

J. The landlord shall provide the tenant with a written receipt, upon request from the tenant, whenever the tenant pays rent in the form of cash or money order.

K. A landlord who owns more than four rental dwelling units or more than a 10 percent interest in more than four rental dwelling units, whether individually or through a business entity, in the Commonwealth, shall be required to provide written notice to any tenant who has the option to renew a rental agreement or whose rental agreement contains an automatic renewal provision of any increase in rent during the subsequent rental agreement term. Such notice shall be provided to the tenant no less than 60 days prior to the end of the rental agreement term. This subsection shall not apply to any periodic tenancy created pursuant to subsection C of § 55.1-1253.

CHAPTER 707

An Act to amend and reenact §§ 22.1-23, 22.1-70.3, 22.1-79, and 51.1-155 of the Code of Virginia and to amend and reenact the fifth enactment of Chapter 689 and the fifth enactment of Chapter 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, the first enactment of Chapter 590 of the Acts of Assembly of 2009, the first enactment of Chapter 326 of the Acts of Assembly of 2015, and the first enactment of Chapter 765 of the Acts of Assembly of 2019, and the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapter 607 and Chapter 608 of the Acts of Assembly of 2005, the second enactment of Chapter 590 of the Acts of Assembly of 2009, the second enactment of Chapter 326 of the Acts of Assembly of 2015, and the second enactment of Chapter 765 of the Acts of Assembly of 2019, and to amend Chapter 968 and Chapter 969 of the Acts of Assembly of 2020 by adding a second enactment, relating to Virginia Retirement System; return to work.

[H 1630]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-23, 22.1-70.3, 22.1-79, and 51.1-155 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-23. Duties in general.

The Superintendent of Public Instruction shall:

1. Serve as secretary of the Board of Education;

2. Provide such assistance in his office as shall be necessary for the proper and uniform enforcement of the provisions of the school laws in cooperation with the local school authorities;

3. Prepare and furnish such forms for attendance officers, teachers and other school officials as are required by law;

4. (Expires July 1, 2025) At least annually, survey all local school divisions to identify critical shortages of (i) teachers and administrative personnel by geographic area, by school division, or by subject matter*; (ii) specialized student support positions as that term is described in subsection O of § 22.1-253.13:2;* and ~~(ii)~~ *(iii)* school bus drivers by geographic area and local school division and report such critical shortages to each local school division and to the Virginia Retirement System;

5. Develop and provide to local school divisions a model exit questionnaire for teachers;

6. Along with the State Health Commissioner, work to combat childhood obesity and other chronic health conditions that affect school-age children;

7. Designate an employee of the Department of Education to serve as its liaison to the State Council of Higher Education for Virginia and the State Board for Community Colleges; and

8. Perform such other duties as the Board of Education may prescribe.

§ 22.1-70.3. (Expires July 1, 2025) Designation of teacher shortage areas.

Each division superintendent shall at least annually, if so requested by the local school board pursuant to subdivision 9 of § 22.1-79, survey the relevant local school division to identify critical shortages of (i) teachers and administrative personnel by subject matter*, (ii) specialized student support positions as that term is described in subsection O of § 22.1-253.13:2,* and ~~(ii)~~ *(iii)* school bus drivers and report such critical shortages to the school board, Superintendent of Public Instruction, and to the Virginia Retirement System.

§ 22.1-79. Powers and duties.

A school board shall:

1. See that the school laws are properly explained, enforced and observed;

2. Secure, by visitation or otherwise, as full information as possible about the conduct of the public schools in the school division and take care that they are conducted according to law and with the utmost efficiency;

3. Care for, manage and control the property of the school division and provide for the erecting, furnishing, equipping, and noninstructional operating of necessary school buildings and appurtenances and the maintenance thereof by purchase, lease, or other contracts;

4. Provide for the consolidation of schools or redistricting of school boundaries or adopt pupil assignment plans whenever such procedure will contribute to the efficiency of the school division;

5. Insofar as not inconsistent with state statutes and regulations of the Board of Education, operate and maintain the public schools in the school division and determine the length of the school term, the studies to be pursued, the methods of teaching and the government to be employed in the schools;

6. In instances in which no grievance procedure has been adopted prior to January 1, 1991, establish and administer by July 1, 1992, a grievance procedure for all school board employees, except the division superintendent and those employees covered under the provisions of Article 2 (§ 22.1-293 et seq.) and Article 3 (§ 22.1-306 et seq.) of Chapter 15 of this title, who have completed such probationary period as may be required by the school board, not to exceed 18 months. The grievance procedure shall afford a timely and fair method of the resolution of disputes arising between the school board and such employees regarding dismissal or other disciplinary actions, excluding suspensions, and shall be consistent with the provisions of the Board of Education's procedures for adjusting grievances. Except in the case of dismissal, suspension, or other disciplinary action, the grievance procedure prescribed by the Board of Education pursuant to § 22.1-308 shall apply to all full-time employees of a school board, except supervisory employees;

7. Perform such other duties as shall be prescribed by the Board of Education or as are imposed by law;

8. Obtain public comment through a public hearing not less than 10 days after reasonable notice to the public in a newspaper of general circulation in the school division prior to providing (i) for the consolidation of schools; (ii) the transfer from the public school system of the administration of all instructional services for any public school classroom or all noninstructional services in the school division pursuant to a contract with any private entity or organization; or (iii) in school divisions having 15,000 pupils or more in average daily membership, for redistricting of school boundaries or adopting any pupil assignment plan affecting the assignment of 15 percent or more of the pupils in average daily membership in the affected school. Such public hearing may be held at the same time and place as the meeting of the school board at which the proposed action is taken if the public hearing is held before the action is taken. If a public hearing has been held prior to the effective date of this provision on a proposed consolidation, redistricting or pupil assignment plan which is to be implemented after the effective date of this provision, an additional public hearing shall not be required;

9. (Expires July 1, 2025) At least annually, survey the school division to identify critical shortages of (i) teachers and administrative personnel by subject matter*, (ii) specialized student support positions as that term is described in subsection O of § 22.1-253.13:2,* and ~~(ii)~~ *(iii)* school bus drivers and report such critical shortages to the Superintendent of Public Instruction and to the Virginia Retirement System; however, the school board may request the division superintendent to conduct such survey and submit such report to the school board, the Superintendent, and the Virginia Retirement System; and

10. Ensure that the public schools within the school division are registered with the Department of State Police to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within that school division pursuant to § 9.1-914.

§ 51.1-155. Service retirement allowance.

A. Retirement allowance. — A member shall receive an annual retirement allowance, payable for life, as follows:

1. Normal retirement. — The allowance shall equal 1.70 percent of his average final compensation multiplied by the amount of his creditable service. Notwithstanding the foregoing, for a member who (i) is a person who becomes a member on or after July 1, 2010, or (ii) does not have at least 60 months of creditable service as of January 1, 2013, the allowance shall equal the sum of (a) 1.65 percent of his average final compensation multiplied by the amount of his creditable service performed or purchased on or after January 1, 2013, and (b) 1.70 percent of his average final compensation multiplied by the amount of all other creditable service.

2. Early retirement; applicable to teachers, state employees, and certain others. — The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has less than 30 years of service at retirement, the amount of the retirement

allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable service. The provisions of this subdivision shall apply to teachers and state employees. These provisions shall also apply to employees of any political subdivision that participates in the retirement system if the political subdivision makes the election provided in subdivision 3.

3. Early retirement; applicable to employees of certain political subdivisions, any person who becomes a member on or after July 1, 2010, and any member who does not have at least 60 months of creditable service as of January 1, 2013. — The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the creditable service of the member equals 30 or more years but the sum of his age at retirement plus his creditable service at retirement is less than 90, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the sum of his then attained age plus his then creditable service would have been equal to 90 or more had he remained in service until such date. If the member has less than 30 years of creditable service, the retirement allowance shall be reduced for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of at least 30 years of creditable service and his then creditable service plus his then attained age would have been equal to 90 or more.

The provisions of this subdivision shall apply to the employees of any political subdivision that participates in the retirement system and any other employees as provided by law. The participating political subdivision may, however, elect to provide its employees with the early retirement allowance set forth in subdivision 2. No such election shall be made for a person who becomes a member on or after July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1, 2013. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare to the Board that, for purposes of this subdivision, subdivisions B 1 and B 3 and subsection D of § 51.1-153, any person who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or is employed as a firefighter or law-enforcement officer as those terms are defined in § 15.2-1512.2 (i) shall not be considered a person who becomes a member on or after July 1, 2010, and (ii) shall be deemed to have at least 60 months of creditable service as of January 1, 2013. Such resolution shall be irrevocable.

4. Additional allowance. — In addition to the allowance payable under subdivisions 1, 2, and 3, a member shall receive an additional allowance which shall be the actuarial equivalent, for his attained age at the time of retirement, of the excess of his accumulated contributions transferred from the abolished system to the retirement system, including interest credited at the rate of two percent compounded annually since the transfer to the date of retirement, over the annual amounts equal to four percent of his annual creditable compensation at the date of abolishment for a period equal to his period of membership in the abolished system.

5. 50/10 retirement. — The allowance shall be payable in a monthly stream of payments equal to the greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's accumulated contributions, including accrued interest.

B. Beneficiary serving in position covered by this title.

1. Except as provided in subdivisions 2, 3, and 4, if a beneficiary of a service retirement allowance under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed. Any member who retires and later returns to covered employment shall not be entitled to select a different retirement option for a subsequent retirement.

2. Active members of the General Assembly who are eligible to receive a retirement allowance under this title, excluding their service as a member of the General Assembly, shall be eligible to receive a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly. Such members of the General Assembly shall continue to be reported as any other members of the retirement system. Upon ceasing to serve in the General Assembly, members of the General Assembly receiving a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly shall have their retirement allowance recomputed prospectively to include their service as a member of the General Assembly. Active members of the General Assembly shall be prohibited from receiving a service retirement allowance under this title based solely on their service as a member of the General Assembly.

3. (Expires July 1, 2025) Any person receiving a service retirement allowance under this chapter, who is hired by a local *public* school board *(i)* as an instructional or administrative employee required to be licensed by the Board of Education*, (ii) in a specialized student support position as that term is described in subsection O of § 22.1-253.13:2,* or *(iii)* as a school bus driver, may elect to continue to receive the retirement allowance during such employment, under the following conditions:

(a) The person ~~has been receiving such retirement allowance for at least 12 calendar months preceding his employment~~ *has a break in service of at least six calendar months between retirement and returning to work full time for a local public school board*;

(b) The person is not receiving a retirement benefit pursuant to an early retirement incentive program from any local *public* school division within the Commonwealth; and

(c) At the time the person is employed, the position to which he is assigned is among those identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local *public* school board, pursuant to subdivision 9 of § 22.1-79.

If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment*, nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in membership payroll subject to employer contributions under § 51.1-145*.

4. Any person receiving a service retirement allowance under this title for service as a sworn law-enforcement officer and who is employed in a local *public* school division as a school security officer, as defined in § 9.1-101, may elect to continue to receive the retirement allowance during such employment under the following conditions: (i) the person has a break in service of at least ~~12~~ *six* calendar months between retirement for service as a sworn law-enforcement officer and employment as a school security officer; (ii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any local *public* school division within the Commonwealth; (iii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any employer, as defined in § 51.1-124.3; and (iv) the person did not participate in any incentive program established under the second or third enactment of Chapters 152 and 811 of the Acts of Assembly of 1995. If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment, nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in membership payroll subject to employer contributions under § 51.1-145.

At least once in each four-year period, in conjunction with the actuarial investigation made under subdivision A 4 of § 51.1-124.22, there shall be an actuarial investigation made of the experience under subdivisions B 3 and 4 of this section, and the retirement system shall submit a report to the General Assembly advising it of the results of such investigation.

2. That the fifth enactment of Chapter 689 and the fifth enactment of Chapter 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, the first enactment of Chapter 590 of the Acts of Assembly of 2009, the first enactment of Chapter 326 of the Acts of Assembly of 2015, and the first enactment of Chapter 765 of the Acts of Assembly of 2019, are amended and reenacted as follows:

5. That the provisions of this act shall expire on July 1, ~~2025~~ *2028*.

3. That the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapter 607 and Chapter 608 of the Acts of Assembly of 2005, the second enactment of Chapter 590 of the Acts of Assembly of 2009, the second enactment of Chapter 326 of the Acts of Assembly of 2015, and the second enactment of Chapter 765 of the Acts of Assembly of 2019, is amended and reenacted as follows:

3. That the provisions of this act shall expire on July 1, ~~2025~~ *2028*.

4. That Chapter 968 and Chapter 969 of the Acts of Assembly of 2020 are amended by adding a second enactment as follows:

2. That the provisions of this act shall expire on July 1, 2028.

5. That the provisions of the first enactment of this act shall expire on July 1, 2028.

6. That the Virginia Retirement System (VRS) shall analyze and review options available to local public school divisions for hiring retired instructional or administrative employees, specialized student support position employees, or bus drivers with at least 25 years of service into temporary or other non-full-time positions during the six-month break in service period required by § 51.1-155 of the Code of Virginia, as amended by this act, between retirement and becoming eligible to return to work full-time without impact to their retirement benefits. VRS shall complete its review and submit a report to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by November 1, 2023.

CHAPTER 708

An Act to amend and reenact §§ 22.1-23, 22.1-70.3, 22.1-79, and 51.1-155 of the Code of Virginia and to amend and reenact the fifth enactment of Chapter 689 and the fifth enactment of Chapter 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, the first enactment of Chapter 590 of the Acts of Assembly of 2009, the first enactment of Chapter 326 of the Acts of Assembly of 2015, and the first enactment of Chapter 765 of the Acts of Assembly of 2019, and the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapter 607 and Chapter 608 of the Acts of Assembly of 2005, the second enactment of Chapter 590 of the Acts of Assembly of 2009, the second enactment of Chapter 326 of the Acts of Assembly of 2015, and the second enactment of Chapter 765 of the Acts of Assembly of

2019, and to amend Chapter 968 and Chapter 969 of the Acts of Assembly of 2020 by adding a second enactment, relating to Virginia Retirement System; return to work.

[S 1479]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-23, 22.1-70.3, 22.1-79, and 51.1-155 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-23. Duties in general.

The Superintendent of Public Instruction shall:

1. Serve as secretary of the Board of Education;

2. Provide such assistance in his office as shall be necessary for the proper and uniform enforcement of the provisions of the school laws in cooperation with the local school authorities;

3. Prepare and furnish such forms for attendance officers, teachers and other school officials as are required by law;

4. (Expires July 1, 2025) At least annually, survey all local school divisions to identify critical shortages of (i) teachers and administrative personnel by geographic area, by school division, or by subject matter*; (ii) specialized student support positions as that term is described in subsection O of § 22.1-253.13:2;* and ~~(ii)~~ *(iii)* school bus drivers by geographic area and local school division and report such critical shortages to each local school division and to the Virginia Retirement System;

5. Develop and provide to local school divisions a model exit questionnaire for teachers;

6. Along with the State Health Commissioner, work to combat childhood obesity and other chronic health conditions that affect school-age children;

7. Designate an employee of the Department of Education to serve as its liaison to the State Council of Higher Education for Virginia and the State Board for Community Colleges; and

8. Perform such other duties as the Board of Education may prescribe.

§ 22.1-70.3. (Expires July 1, 2025) Designation of teacher shortage areas.

Each division superintendent shall at least annually, if so requested by the local school board pursuant to subdivision 9 of § 22.1-79, survey the relevant local school division to identify critical shortages of (i) teachers and administrative personnel by subject matter*, (ii) specialized student support positions as that term is described in subsection O of § 22.1-253.13:2,* and ~~(ii)~~ *(iii)* school bus drivers and report such critical shortages to the school board, Superintendent of Public Instruction, and to the Virginia Retirement System.

§ 22.1-79. Powers and duties.

A school board shall:

1. See that the school laws are properly explained, enforced and observed;

2. Secure, by visitation or otherwise, as full information as possible about the conduct of the public schools in the school division and take care that they are conducted according to law and with the utmost efficiency;

3. Care for, manage and control the property of the school division and provide for the erecting, furnishing, equipping, and noninstructional operating of necessary school buildings and appurtenances and the maintenance thereof by purchase, lease, or other contracts;

4. Provide for the consolidation of schools or redistricting of school boundaries or adopt pupil assignment plans whenever such procedure will contribute to the efficiency of the school division;

5. Insofar as not inconsistent with state statutes and regulations of the Board of Education, operate and maintain the public schools in the school division and determine the length of the school term, the studies to be pursued, the methods of teaching and the government to be employed in the schools;

6. In instances in which no grievance procedure has been adopted prior to January 1, 1991, establish and administer by July 1, 1992, a grievance procedure for all school board employees, except the division superintendent and those employees covered under the provisions of Article 2 (§ 22.1-293 et seq.) and Article 3 (§ 22.1-306 et seq.) of Chapter 15 of this title, who have completed such probationary period as may be required by the school board, not to exceed 18 months. The grievance procedure shall afford a timely and fair method of the resolution of disputes arising between the school board and such employees regarding dismissal or other disciplinary actions, excluding suspensions, and shall be consistent with the provisions of the Board of Education's procedures for adjusting grievances. Except in the case of dismissal, suspension, or other disciplinary action, the grievance procedure prescribed by the Board of Education pursuant to § 22.1-308 shall apply to all full-time employees of a school board, except supervisory employees;

7. Perform such other duties as shall be prescribed by the Board of Education or as are imposed by law;

8. Obtain public comment through a public hearing not less than 10 days after reasonable notice to the public in a newspaper of general circulation in the school division prior to providing (i) for the consolidation of schools; (ii) the transfer from the public school system of the administration of all instructional services for any public school classroom or all noninstructional services in the school division pursuant to a contract with any private entity or organization; or (iii) in school divisions having 15,000 pupils or more in average daily membership, for redistricting of school boundaries or adopting any pupil assignment plan affecting the assignment of 15 percent or more of the pupils in average daily membership in the affected school. Such public hearing may be held at the same time and place as the meeting of the school board at which the proposed action is taken if the public hearing is held before the action is taken. If a public hearing has

been held prior to the effective date of this provision on a proposed consolidation, redistricting or pupil assignment plan which is to be implemented after the effective date of this provision, an additional public hearing shall not be required;

9. (Expires July 1, 2025) At least annually, survey the school division to identify critical shortages of (i) teachers and administrative personnel by subject matter*, (ii) specialized student support positions as that term is described in subsection O of § 22.1-253.13:2,* and ~~(ii)~~ *(iii)* school bus drivers and report such critical shortages to the Superintendent of Public Instruction and to the Virginia Retirement System; however, the school board may request the division superintendent to conduct such survey and submit such report to the school board, the Superintendent, and the Virginia Retirement System; and

10. Ensure that the public schools within the school division are registered with the Department of State Police to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within that school division pursuant to § 9.1-914.

§ 51.1-155. Service retirement allowance.

A. Retirement allowance. — A member shall receive an annual retirement allowance, payable for life, as follows:

1. Normal retirement. — The allowance shall equal 1.70 percent of his average final compensation multiplied by the amount of his creditable service. Notwithstanding the foregoing, for a member who (i) is a person who becomes a member on or after July 1, 2010, or (ii) does not have at least 60 months of creditable service as of January 1, 2013, the allowance shall equal the sum of (a) 1.65 percent of his average final compensation multiplied by the amount of his creditable service performed or purchased on or after January 1, 2013, and (b) 1.70 percent of his average final compensation multiplied by the amount of all other creditable service.

2. Early retirement; applicable to teachers, state employees, and certain others. — The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has less than 30 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable service. The provisions of this subdivision shall apply to teachers and state employees. These provisions shall also apply to employees of any political subdivision that participates in the retirement system if the political subdivision makes the election provided in subdivision 3.

3. Early retirement; applicable to employees of certain political subdivisions, any person who becomes a member on or after July 1, 2010, and any member who does not have at least 60 months of creditable service as of January 1, 2013. — The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the creditable service of the member equals 30 or more years but the sum of his age at retirement plus his creditable service at retirement is less than 90, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the sum of his then attained age plus his then creditable service would have been equal to 90 or more had he remained in service until such date. If the member has less than 30 years of creditable service, the retirement allowance shall be reduced for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of at least 30 years of creditable service and his then creditable service plus his then attained age would have been equal to 90 or more.

The provisions of this subdivision shall apply to the employees of any political subdivision that participates in the retirement system and any other employees as provided by law. The participating political subdivision may, however, elect to provide its employees with the early retirement allowance set forth in subdivision 2. No such election shall be made for a person who becomes a member on or after July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1, 2013. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare to the Board that, for purposes of this subdivision, subdivisions B 1 and B 3 and subsection D of § 51.1-153, any person who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or is employed as a firefighter or law-enforcement officer as those terms are defined in § 15.2-1512.2 (i) shall not be considered a person who becomes a member on or after July 1, 2010, and (ii) shall be deemed to have at least 60 months of creditable service as of January 1, 2013. Such resolution shall be irrevocable.

4. Additional allowance. — In addition to the allowance payable under subdivisions 1, 2, and 3, a member shall receive an additional allowance which shall be the actuarial equivalent, for his attained age at the time of retirement, of the excess of his accumulated contributions transferred from the abolished system to the retirement system, including interest credited at the rate of two percent compounded annually since the transfer to the date of retirement, over the annual amounts equal to four percent of his annual creditable compensation at the date of abolishment for a period equal to his period of membership in the abolished system.

5. 50/10 retirement. — The allowance shall be payable in a monthly stream of payments equal to the greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's accumulated contributions, including accrued interest.

B. Beneficiary serving in position covered by this title.

1. Except as provided in subdivisions 2, 3, and 4, if a beneficiary of a service retirement allowance under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed. Any member who retires and later returns to covered employment shall not be entitled to select a different retirement option for a subsequent retirement.

2. Active members of the General Assembly who are eligible to receive a retirement allowance under this title, excluding their service as a member of the General Assembly, shall be eligible to receive a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly. Such members of the General Assembly shall continue to be reported as any other members of the retirement system. Upon ceasing to serve in the General Assembly, members of the General Assembly receiving a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly shall have their retirement allowance recomputed prospectively to include their service as a member of the General Assembly. Active members of the General Assembly shall be prohibited from receiving a service retirement allowance under this title based solely on their service as a member of the General Assembly.

3. (Expires July 1, 2025) Any person receiving a service retirement allowance under this chapter, who is hired by a local *public* school board *(i)* as an instructional or administrative employee required to be licensed by the Board of Education*, (ii) in a specialized student support position as that term is described in subsection O of § 22.1-253.13:2,* or *(iii)* as a school bus driver, may elect to continue to receive the retirement allowance during such employment, under the following conditions:

(a) The person ~~has been receiving such retirement allowance for at least 12 calendar months preceding his employment~~ *has a break in service of at least six calendar months between retirement and returning to work full time for a local public school board*;

(b) The person is not receiving a retirement benefit pursuant to an early retirement incentive program from any local *public* school division within the Commonwealth; and

(c) At the time the person is employed, the position to which he is assigned is among those identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local *public* school board, pursuant to subdivision 9 of § 22.1-79.

If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment*, nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in membership payroll subject to employer contributions under § 51.1-145.*

4. Any person receiving a service retirement allowance under this title for service as a sworn law-enforcement officer and who is employed in a local *public* school division as a school security officer, as defined in § 9.1-101, may elect to continue to receive the retirement allowance during such employment under the following conditions: (i) the person has a break in service of at least ~~12~~ *six* calendar months between retirement for service as a sworn law-enforcement officer and employment as a school security officer; (ii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any local *public* school division within the Commonwealth; (iii) the person is not receiving a retirement benefit pursuant to an early retirement incentive program from any employer, as defined in § 51.1-124.3; and (iv) the person did not participate in any incentive program established under the second or third enactment of Chapters 152 and 811 of the Acts of Assembly of 1995. If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment, nor shall such person be eligible to receive any retirement benefits available to him pursuant to Chapter 6.1 (§ 51.1-607 et seq.). In addition, the employer shall include the person's compensation in membership payroll subject to employer contributions under § 51.1-145.

At least once in each four-year period, in conjunction with the actuarial investigation made under subdivision A 4 of § 51.1-124.22, there shall be an actuarial investigation made of the experience under subdivisions B 3 and 4 of this section, and the retirement system shall submit a report to the General Assembly advising it of the results of such investigation.

2. That the fifth enactment of Chapter 689 and the fifth enactment of Chapter 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, the first enactment of Chapter 590 of the Acts of Assembly of 2009, the first enactment of Chapter 326 of the Acts of Assembly of 2015, and the first enactment of Chapter 765 of the Acts of Assembly of 2019, are amended and reenacted as follows:

5. That the provisions of this act shall expire on July 1, ~~2025~~ *2028*.

3. That the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapter 607 and Chapter 608 of the Acts of Assembly of 2005, the second enactment of Chapter 590 of the Acts of Assembly of 2009, the second enactment of Chapter 326 of the Acts of Assembly of 2015, and the second enactment of Chapter 765 of the Acts of Assembly of 2019, is amended and reenacted as follows:

3. That the provisions of this act shall expire on July 1, ~~2025~~ *2028*.

4. That Chapter 968 and Chapter 969 of the Acts of Assembly of 2020 are amended by adding a second enactment as follows:

2. That the provisions of this act shall expire on July 1, 2028.

5. That the provisions of the first enactment of this act shall expire on July 1, 2028.

6. That the Virginia Retirement System (VRS) shall analyze and review options available to local public school divisions for hiring retired instructional or administrative employees, specialized student support position employees, bus drivers, or school security officers with at least 25 years of service into temporary or other non-full-time positions during the six-month break in service period required by § 51.1-155 of the Code of Virginia, as amended by this act, between retirement and becoming eligible to return to work full-time without impact to their retirement benefits. VRS shall complete its review and submit a report to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by November 1, 2023.

CHAPTER 709

An Act to amend and reenact § 18.2-51.6 of the Code of Virginia, relating to suffocation by blocking or obstructing the airway of another; penalty.

[H 1673]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-51.6 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-51.6. Strangulation or suffocation of another; penalty.

A. Any person who, without consent, impedes the blood circulation or respiration of another person by knowingly, intentionally, and unlawfully applying pressure to the neck of such person resulting in the wounding or bodily injury of such person is guilty of strangulation, a Class 6 felony.

B. Any person who, without consent, impedes the blood circulation or respiration of another person by knowingly, intentionally, and unlawfully blocking or obstructing the airway of such person resulting in the wounding or bodily injury of such person is guilty of suffocation, a Class 6 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 710

An Act to amend and reenact § 18.2-51.6 of the Code of Virginia, relating to suffocation by blocking or obstructing the airway of another; penalty.

[S 1156]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-51.6 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-51.6. Strangulation or suffocation of another; penalty.

A. Any person who, without consent, impedes the blood circulation or respiration of another person by knowingly, intentionally, and unlawfully applying pressure to the neck of such person resulting in the wounding or bodily injury of such person is guilty of strangulation, a Class 6 felony.

B. Any person who, without consent, impedes the blood circulation or respiration of another person by knowingly, intentionally, and unlawfully blocking or obstructing the airway of such person resulting in the wounding or bodily injury of such person is guilty of suffocation, a Class 6 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 711

An Act to amend the Code of Virginia by adding a section numbered 4.1-1116 and by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1400, 4.1-1401, and 4.1-1402, relating to marijuana; advertising restrictions; penalties.

[H 2428]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 4.1-1116 and by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1400, 4.1-1401, and 4.1-1402 as follows:

§ 4.1-1116. Illegal advertising; penalties; exception.

A. No person shall advertise in or send any advertising material into the Commonwealth regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol other than those that may be legally sold in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with the provisions of this subtitle and Board regulations.

B. Except as provided in subsection C, any person who violates the provisions of subsection A is guilty of a Class 1 misdemeanor.

C. For violations of § 4.1-1405 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this subtitle and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

D. This section shall not apply to advertising conducted by pharmaceutical processors or cannabis dispensing facilities in accordance with Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act and regulations of the Board of Pharmacy.

E. For the purposes of this section, "synthetic derivative" and "tetrahydrocannabinol" mean the same as those terms are defined in § 4.1-1400.

§ 4.1-1400. Definitions.

For the purposes of this chapter, unless the context requires a different meaning:

"Synthetic derivative" means a chemical compound produced by man through a chemical transformation to turn a compound into a different compound by adding or subtracting molecules to or from the original compound.

"Tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and geometric isomers.

§ 4.1-1401. General advertising restrictions.

A. No person shall advertise in or send any advertising material into the Commonwealth regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol other than those that may be legally sold in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

B. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall:

1. Comply with the provisions of this subtitle, Board regulations, Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board, and federal laws and regulations;

2. Accurately and legibly identify the person responsible for its content;

3. Include the following statement: "For use by adults 21 years of age and older"; and

4. If the advertisement involves direct, individualized communication or dialogue, utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in such communication or dialogue.

C. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall not:

1. Be broadcasted (i) through any means unless at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data or (ii) through digital pop-ups;

2. Be misleading, deceptive, or false;

3. Target or appeal particularly to persons younger than 21 years of age, including by use of cartoons;

4. Imply that marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol enhance athletic prowess or are government endorsed;

5. Be displayed on a billboard or at a sporting event;

6. Make any reference to the intoxicating effects of marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol;

7. Promote overconsumption or consumption by persons younger than 21 years of age; or

8. Depict a person consuming marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol or depict any person younger than 21 years of age.

D. The provisions of this section shall not apply to noncommercial speech.

§ 4.1-1402. Outdoor advertising restrictions; limitations; variances.

A. No outdoor advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall be placed within 500 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on the real property of (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use.

B. However, (i) if there is no building or structure on a playground or similar recreational facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the property line of such playground or similar recreational facility and (ii) if a public or private school providing grades K through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on such real property across the road.

C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use, but the circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in no event more than one year from the date of the change in circumstances.

D. The Board may grant a permit authorizing a variance from the distance requirements of this section upon a finding that the placement of the advertisement on a sign will not unduly expose children to advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol.

E. The distance and zoning restrictions contained in this section shall not apply to any sign that is included in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

F. Nothing in this section shall be construed to authorize billboard signs containing outdoor advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol on property zoned agricultural or residential, or on any unzoned property. Nor shall this section be construed to authorize the erection of new billboard signs containing outdoor advertising that would be prohibited under state law or local ordinance.

G. All lawfully erected outdoor signs regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with the provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor directional sign regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol that is located or to be located on highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

CHAPTER 712

An Act to amend the Code of Virginia by adding a section numbered 4.1-1116 and by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1400, 4.1-1401, and 4.1-1402, relating to marijuana; advertising restrictions; penalties.

[S 1233]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 4.1-1116 and by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1400, 4.1-1401, and 4.1-1402 as follows:

§ 4.1-1116. Illegal advertising; penalties; exception.

A. No person shall advertise in or send any advertising material into the Commonwealth regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol other than those that may be legally sold in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with the provisions of this subtitle and Board regulations.

B. Except as provided in subsection C, any person who violates the provisions of subsection A is guilty of a Class 1 misdemeanor.

C. For violations of § 4.1-1405 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this subtitle and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

D. This section shall not apply to advertising conducted by pharmaceutical processors or cannabis dispensing facilities in accordance with Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act and regulations of the Board of Pharmacy.

E. For the purposes of this section, "synthetic derivative" and "tetrahydrocannabinol" mean the same as those terms are defined in § 4.1-1400.

§ 4.1-1400. Definitions.

For the purposes of this chapter, unless the context requires a different meaning:

"Synthetic derivative" means a chemical compound produced by man through a chemical transformation to turn a compound into a different compound by adding or subtracting molecules to or from the original compound.

"Tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and geometric isomers.

§ 4.1-1401. General advertising restrictions.

A. No person shall advertise in or send any advertising material into the Commonwealth regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol other than those that may be legally sold in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

B. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall:

1. Comply with the provisions of this subtitle, Board regulations, Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board, and federal laws and regulations;

2. Accurately and legibly identify the person responsible for its content;

3. Include the following statement: "For use by adults 21 years of age and older"; and

4. If the advertisement involves direct, individualized communication or dialogue, utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in such communication or dialogue.

C. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall not:

1. Be broadcasted (i) through any means unless at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data or (ii) through digital pop-ups;

2. Be misleading, deceptive, or false;

3. Target or appeal particularly to persons younger than 21 years of age, including by use of cartoons;

4. Imply that marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol enhance athletic prowess or are government endorsed;

5. Be displayed on a billboard or at a sporting event;

6. Make any reference to the intoxicating effects of marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol;

7. Promote overconsumption or consumption by persons younger than 21 years of age; or

8. Depict a person consuming marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol or depict any person younger than 21 years of age.

D. The provisions of this section shall not apply to noncommercial speech.

§ 4.1-1402. Outdoor advertising restrictions; limitations; variances.

A. No outdoor advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall be placed within 500 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on the real property of (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use.

B. However, (i) if there is no building or structure on a playground or similar recreational facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the property line of such playground or similar recreational facility and (ii) if a public or private school providing grades K through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on such real property across the road.

C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher

education; (iii) a public or private playground or similar recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use, but the circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in no event more than one year from the date of the change in circumstances.

D. The Board may grant a permit authorizing a variance from the distance requirements of this section upon a finding that the placement of the advertisement on a sign will not unduly expose children to advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol.

E. The distance and zoning restrictions contained in this section shall not apply to any sign that is included in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

F. Nothing in this section shall be construed to authorize billboard signs containing outdoor advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol on property zoned agricultural or residential, or on any unzoned property. Nor shall this section be construed to authorize the erection of new billboard signs containing outdoor advertising that would be prohibited under state law or local ordinance.

G. All lawfully erected outdoor signs regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with the provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor directional sign regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol that is located or to be located on highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

CHAPTER 713

An Act to amend the Code of Virginia by adding a section numbered 56-16.3, relating to public utilities; fiber optic broadband lines crossing railroads.

[H 1752]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-16.3 as follows:

§ 56-16.3. Fiber optic broadband lines crossing railroads.

A. For the purposes of this section:

"Actual flagging expenses" means expenses directly attributable to the cost of maintaining flaggers at the point of the crossing during the period of time construction is actually occurring. "Actual flagging expenses" shall be considered pass-through expenses and shall not exceed the expense incurred by the railroad company.

"Broadband service provider" means (i) an entity that provides broadband service through the utilization of a fiber optic broadband line, coaxial cable, or other wireline system or (ii) a Phase I or Phase II Utility, as those terms are defined in subdivision A 1 of § 56-585.1, or a cooperative, as defined in § 56-231.15, that provides middle-mile infrastructure to Internet service providers.

"Direct expenses" includes (i) the cost of inspecting and monitoring the crossing site; (ii) administrative and engineering costs for review of specifications and for entering a crossing on the railroad's books, maps, and property records, and other reasonable administrative and engineering costs incurred as a result of the crossing; (iii) document and preparation fees associated with a crossing and any engineering specifications related to the crossing; and (iv) actual flagging expenses associated with the crossing.

"Fiber optic broadband line" means (i) a fiber optic cable consisting of one or more thin flexible fibers with a glass core through which light signals can transmit data as pulses, a coaxial cable, or other wireline system of technology used for broadband distribution or (ii) the middle-mile infrastructure to Internet service providers.

"License fee" means the fee to be paid by the broadband service provider to the railroad company for the crossing, including all occupancy or real property rights.

"Railroad company" includes any company, trustee, or other person that owns, leases, or operates a railroad or owns or leases the land upon which a railroad is operated, and any company, trustee, or other person to which a railroad company has granted rights to collect or retain all or a portion of any revenue stream owed by a third party for use of or access to such railroad company's facilities or property.

B. If a broadband service provider deems it necessary in the construction of its systems to cross the works of a railroad company, including its tracks, bridges, facilities, and all railroad company rights of way or easements, then the broadband service provider shall submit an application for such crossing to the railroad company.

C. The procedure for a crossing shall be as follows:

1. The broadband service provider's application shall include (i) the license fee described in subsection G; (ii) engineering design plans, construction plans, bore plans, fraction mitigation plans, dewatering plans, rigging and

lifting plans, and any other pertinent plans deemed necessary and prepared by a registered professional engineer; (iii) the location of the crossing, including whether it is located in a public right-of-way; (iv) the proposed date of commencement of work; (v) the anticipated duration of the work in the crossing; (vi) the areas in which the project personnel will work; and (vii) the contact information of the broadband service provider's point of contact. Notice shall also be provided to the electric utility in whose certificated service territory the crossing is proposed to be located.

2. Upon receipt of the broadband service provider's crossing application, the railroad company shall acknowledge receipt of such application.

3. The railroad company shall review the application and may request additional information or clarification from the broadband service provider within 15 days from receipt of the application. If additional information or clarification is requested, the broadband service provider shall respond within 10 days from the receipt of the request.

4. The railroad company shall approve the broadband service provider's crossing application within 35 days after the application is received unless the railroad company petitions the Commission pursuant to subsection H.

D. Any proposed crossing shall be (i) located, constructed, and operated so as not to impair, impede, or obstruct, in any material degree, the works and operations of the railroad to be crossed; (ii) supported by permanent and proper structures and fixtures; and (iii) controlled by customary and approved appliances, methods, and regulations to prevent damage to the works of the railroad and ensure the safety of its passengers.

E. The railroad company and the broadband service provider shall coordinate to schedule the crossing date, which shall be within 30 days of the approval of the crossing application, or such later date as indicated in the application or mutually agreed upon.

F. The broadband service provider shall be responsible for all aspects of the implementation of the physical crossing, including the construction and installation of the fiber optic broadband lines and all related equipment, conduit, wire masts, poles, towers, attachments, and infrastructure. The railroad company shall be responsible for flagging operations and other protective measures that it deems appropriate during the actual construction of fiber optic broadband lines. The broadband service provider shall be responsible for ensuring that the crossing is constructed and operated in accordance with accepted industry standards, including standards established by the National Electrical Safety Code, good utility practice, and industry-standard joint use processes of electric utilities.

G. The cost of any such crossing shall be borne by the broadband service provider. A broadband service provider that locates its fiber optic broadband line within a railroad right-of-way shall pay the railroad company for the right to make a crossing of the railroad company's works a license fee of $2,000 for each crossing unless (i) otherwise agreed to by the broadband service provider and the railroad company or (ii) the railroad company has petitioned the Commission as described in subsection H and the Commission has issued a subsequent order so stating. The broadband service provider shall reimburse the railroad company for direct expenses in addition to the license fee. Direct expenses shall not exceed $5,000 unless (a) otherwise agreed to by the broadband service provider and the railroad company or (b) the railroad company petitions the Commission for additional reimbursement and the Commission has issued a subsequent order so stating. The railroad company shall substantiate with documentation and other direct evidence of the direct expenses incurred to qualify for reimbursement. The establishment of a license fee cap by the Commonwealth is an exercise of its stated policy to promote the rapid deployment of broadband throughout the Commonwealth.

H. If the railroad company asserts that (i) the license fee is not adequate compensation for the proposed crossing, (ii) the proposed crossing will cause undue hardship on the railroad company, or (iii) the proposed crossing will create the imminent likelihood of danger to public health or safety, then the railroad company may petition the Commission for relief and provide simultaneous notice to the broadband service provider within 35 days from the date of the broadband service provider's application. The Commission may make any necessary findings of fact and determinations related to the adequacy of compensation, the existence of undue hardship on the railroad company, or the imminent likelihood of danger to public health or safety, as well as any relief to be granted, including any amount to which the railroad company is entitled in excess of the license fee prescribed in subsection G. If the railroad company asserts only that the license fee is not adequate compensation for the specified crossing, then the issue of compensation may be considered by the Commission after the commencement or completion of the work. The broadband service provider may petition the Commission for relief if the railroad company does not comply with this section or has otherwise wrongfully rejected or delayed its application. The Commission may, in its discretion, employ expert engineers, to be paid equally by both companies, to advise the Commission or a representative of the Commission in (a) examining the location, plans, specifications, and descriptions of appliances and the methods proposed to be employed; (b) hearing any objections and considering any modifications that the railroad company desires to offer; and (c) within such time as the Commission may determine, rejecting, approving, or modifying such plans and specifications. The Commission shall adjudicate any petition by the railroad company or broadband service provider and issue a final order within 90 days of the petition's initial filing. The Commission shall have sole jurisdiction to hear and resolve claims between railroad companies and broadband service providers concerning crossings and this section.

I. Notwithstanding the provisions of subsection G, if the broadband service provider submits an application to the railroad company to cross a section of track that has been legally abandoned pursuant to an order of a federal or state agency having jurisdiction over the track and is not being used for railroad service, then the license fee shall not exceed $1,000.

J. The Commonwealth shall grant a right-of-way to any broadband service provider seeking to use the right-of-way for broadband deployment to the extent that the Commonwealth owns any interest in any real property crossed by a railroad or manages any real property not owned by the Commonwealth that is crossed by a railroad.

K. Notwithstanding the provisions of subsection G, in no case shall a broadband service provider be required to pay a license fee for the right to make a crossing of the railroad company's works within a public right-of-way.

L. The broadband service provider shall maintain a commercial general liability insurance policy or railroad protective liability insurance policy that (i) does not exclude work within 50 feet of a railroad right-of-way, (ii) includes the railroad company as an additional insured, and (iii) remains in effect during the period of time construction is actually occurring.

M. The provisions of this section shall apply notwithstanding any contrary or other provision of law.

N. The provisions of this section shall be liberally construed and shall be construed in favor of broadband expansion.

CHAPTER 714

An Act to amend the Code of Virginia by adding a section numbered 56-16.3, relating to public utilities; fiber optic broadband lines crossing railroads.

[S 1029]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-16.3 as follows:

§ 56-16.3. Fiber optic broadband lines crossing railroads.

A. For the purposes of this section:

"Actual flagging expenses" means expenses directly attributable to the cost of maintaining flaggers at the point of the crossing during the period of time construction is actually occurring. "Actual flagging expenses" shall be considered pass-through expenses and shall not exceed the expense incurred by the railroad company.

"Broadband service provider" means (i) an entity that provides broadband service through the utilization of a fiber optic broadband line, coaxial cable, or other wireline system or (ii) a Phase I or Phase II Utility, as those terms are defined in subdivision A 1 of § 56-585.1, or a cooperative, as defined in § 56-231.15, that provides middle-mile infrastructure to Internet service providers.

"Direct expenses" includes (i) the cost of inspecting and monitoring the crossing site; (ii) administrative and engineering costs for review of specifications and for entering a crossing on the railroad's books, maps, and property records, and other reasonable administrative and engineering costs incurred as a result of the crossing; (iii) document and preparation fees associated with a crossing and any engineering specifications related to the crossing; and (iv) actual flagging expenses associated with the crossing.

"Fiber optic broadband line" means (i) a fiber optic cable consisting of one or more thin flexible fibers with a glass core through which light signals can transmit data as pulses, a coaxial cable, or other wireline system of technology used for broadband distribution or (ii) the middle-mile infrastructure to Internet service providers.

"License fee" means the fee to be paid by the broadband service provider to the railroad company for the crossing, including all occupancy or real property rights.

"Railroad company" includes any company, trustee, or other person that owns, leases, or operates a railroad or owns or leases the land upon which a railroad is operated, and any company, trustee, or other person to which a railroad company has granted rights to collect or retain all or a portion of any revenue stream owed by a third party for use of or access to such railroad company's facilities or property.

B. If a broadband service provider deems it necessary in the construction of its systems to cross the works of a railroad company, including its tracks, bridges, facilities, and all railroad company rights of way or easements, then the broadband service provider shall submit an application for such crossing to the railroad company.

C. The procedure for a crossing shall be as follows:

1. The broadband service provider's application shall include (i) the license fee described in subsection G; (ii) engineering design plans, construction plans, bore plans, fraction mitigation plans, dewatering plans, rigging and lifting plans, and any other pertinent plans deemed necessary and prepared by a registered professional engineer; (iii) the location of the crossing, including whether it is located in a public right-of-way; (iv) the proposed date of commencement of work; (v) the anticipated duration of the work in the crossing; (vi) the areas in which the project personnel will work; and (vii) the contact information of the broadband service provider's point of contact. Notice shall also be provided to the electric utility in whose certificated service territory the crossing is proposed to be located.

2. Upon receipt of the broadband service provider's crossing application, the railroad company shall acknowledge receipt of such application.

3. The railroad company shall review the application and may request additional information or clarification from the broadband service provider within 15 days from receipt of the application. If additional information or clarification is requested, the broadband service provider shall respond within 10 days from the receipt of the request.

4. The railroad company shall approve the broadband service provider's crossing application within 35 days after the application is received unless the railroad company petitions the Commission pursuant to subsection H.

D. Any proposed crossing shall be (i) located, constructed, and operated so as not to impair, impede, or obstruct, in any material degree, the works and operations of the railroad to be crossed; (ii) supported by permanent and proper structures and fixtures; and (iii) controlled by customary and approved appliances, methods, and regulations to prevent damage to the works of the railroad and ensure the safety of its passengers.

E. The railroad company and the broadband service provider shall coordinate to schedule the crossing date, which shall be within 30 days of the approval of the crossing application, or such later date as indicated in the application or mutually agreed upon.

F. The broadband service provider shall be responsible for all aspects of the implementation of the physical crossing, including the construction and installation of the fiber optic broadband lines and all related equipment, conduit, wire masts, poles, towers, attachments, and infrastructure. The railroad company shall be responsible for flagging operations and other protective measures that it deems appropriate during the actual construction of fiber optic broadband lines. The broadband service provider shall be responsible for ensuring that the crossing is constructed and operated in accordance with accepted industry standards, including standards established by the National Electrical Safety Code, good utility practice, and industry-standard joint use processes of electric utilities.

G. The cost of any such crossing shall be borne by the broadband service provider. A broadband service provider that locates its fiber optic broadband line within a railroad right-of-way shall pay the railroad company for the right to make a crossing of the railroad company's works a license fee of $2,000 for each crossing unless (i) otherwise agreed to by the broadband service provider and the railroad company or (ii) the railroad company has petitioned the Commission as described in subsection H and the Commission has issued a subsequent order so stating. The broadband service provider shall reimburse the railroad company for direct expenses in addition to the license fee. Direct expenses shall not exceed $5,000 unless (a) otherwise agreed to by the broadband service provider and the railroad company or (b) the railroad company petitions the Commission for additional reimbursement and the Commission has issued a subsequent order so stating. The railroad company shall substantiate with documentation and other direct evidence of the direct expenses incurred to qualify for reimbursement. The establishment of a license fee cap by the Commonwealth is an exercise of its stated policy to promote the rapid deployment of broadband throughout the Commonwealth.

H. If the railroad company asserts that (i) the license fee is not adequate compensation for the proposed crossing, (ii) the proposed crossing will cause undue hardship on the railroad company, or (iii) the proposed crossing will create the imminent likelihood of danger to public health or safety, then the railroad company may petition the Commission for relief and provide simultaneous notice to the broadband service provider within 35 days from the date of the broadband service provider's application. The Commission may make any necessary findings of fact and determinations related to the adequacy of compensation, the existence of undue hardship on the railroad company, or the imminent likelihood of danger to public health or safety, as well as any relief to be granted, including any amount to which the railroad company is entitled in excess of the license fee prescribed in subsection G. If the railroad company asserts only that the license fee is not adequate compensation for the specified crossing, then the issue of compensation may be considered by the Commission after the commencement or completion of the work. The broadband service provider may petition the Commission for relief if the railroad company does not comply with this section or has otherwise wrongfully rejected or delayed its application. The Commission may, in its discretion, employ expert engineers, to be paid equally by both companies, to advise the Commission or a representative of the Commission in (a) examining the location, plans, specifications, and descriptions of appliances and the methods proposed to be employed; (b) hearing any objections and considering any modifications that the railroad company desires to offer; and (c) within such time as the Commission may determine, rejecting, approving, or modifying such plans and specifications. The Commission shall adjudicate any petition by the railroad company or broadband service provider and issue a final order within 90 days of the petition's initial filing. The Commission shall have sole jurisdiction to hear and resolve claims between railroad companies and broadband service providers concerning crossings and this section.

I. Notwithstanding the provisions of subsection G, if the broadband service provider submits an application to the railroad company to cross a section of track that has been legally abandoned pursuant to an order of a federal or state agency having jurisdiction over the track and is not being used for railroad service, then the license fee shall not exceed $1,000.

J. The Commonwealth shall grant a right-of-way to any broadband service provider seeking to use the right-of-way for broadband deployment to the extent that the Commonwealth owns any interest in any real property crossed by a railroad or manages any real property not owned by the Commonwealth that is crossed by a railroad.

K. Notwithstanding the provisions of subsection G, in no case shall a broadband service provider be required to pay a license fee for the right to make a crossing of the railroad company's works within a public right-of-way.

L. The broadband service provider shall maintain a commercial general liability insurance policy or railroad protective liability insurance policy that (i) does not exclude work within 50 feet of a railroad right-of-way, (ii) includes the railroad company as an additional insured, and (iii) remains in effect during the period of time construction is actually occurring.

M. The provisions of this section shall apply notwithstanding any contrary or other provision of law.

N. The provisions of this section shall be liberally construed and shall be construed in favor of broadband expansion.

CHAPTER 715

An Act to amend and reenact § 36-139 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 36-139.9, relating to Department of Housing and Community Development; statewide housing needs assessment and plan; annual reports by certain localities.

[H 2046]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 36-139 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 36-139.9 as follows:

§ 36-139. Powers and duties of Director.

The Director of the Department of Housing and Community Development shall have the following responsibilities:

1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their planning and development activities, boundary changes, changes of forms and status of government, intergovernmental agreements and arrangements, and such other information as he may deem necessary.

2. Making information available to communities, planning district commissions, service districts and governmental subdivisions of the Commonwealth.

3. Providing professional and technical assistance to, and cooperating with, any planning agency, planning district commission, service district, and governmental subdivision engaged in the preparation of development plans and programs, service district plans, or consolidation agreements.

4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the General Assembly in accordance with § 15.2-4216.

5. Administering federal grant assistance programs, including funds from the Appalachian Regional Commission, the Economic Development Administration and other such federal agencies, directed at promoting the development of the Commonwealth's communities and regions.

6. Developing state community development policies, goals, plans and programs for the consideration and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the General Assembly.

7. Developing a Consolidated Plan to guide the development and implementation of housing programs and community development in the Commonwealth for the purpose of meeting the housing and community development needs of the Commonwealth and, in particular, those of low-income and moderate-income persons, families and communities.

8. Determining present and future housing requirements of the Commonwealth on an annual basis and revising the Consolidated Plan, as necessary to coordinate the elements of housing production to ensure the availability of housing where and when needed.

9. Assuming administrative coordination of the various state housing programs and cooperating with the various state agencies in their programs as they relate to housing.

10. Establishing public information and educational programs relating to housing; devising and administering programs to inform all citizens about housing and housing-related programs that are available on all levels of government; designing and administering educational programs to prepare families for home ownership and counseling them during their first years as homeowners; and promoting educational programs to assist sponsors in the development of low and moderate income housing as well as programs to lessen the problems of rental housing management.

11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

13. Establishing and operating a Building Code Academy for the training of persons in the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board of Housing and Community Development.

14. Administering, in conjunction with the federal government, and promulgating any necessary regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

15. Identifying and disseminating information to local governments about the availability and utilization of federal and state resources.

16. Administering, with the cooperation of the Department of Health, state assistance programs for public water supply systems.

17. Advising the Board on matters relating to policies and programs of the Virginia Housing Trust Fund.

18. Designing and establishing program guidelines to meet the purposes of the Virginia Housing Trust Fund and to carry out the policies and procedures established by the Board.

19. Preparing agreements and documents for loans and grants to be made from the Virginia Housing Trust Fund; soliciting, receiving, reviewing and selecting the applications for which loans and grants are to be made from such fund; directing the Virginia Housing Development Authority and the Department as to the closing and disbursing of such loans and grants and as to the servicing and collection of such loans; directing the Department as to the regulation and monitoring of the ownership, occupancy and operation of the housing developments and residential housing financed or assisted by

such loans and grants; and providing direction and guidance to the Virginia Housing Development Authority as to the investment of moneys in such fund.

20. Establishing and administering program guidelines for a statewide homeless intervention program.

21. Administering 15 percent of the Low Income Home Energy Assistance Program (LIHEAP) Block Grant and any contingency funds awarded and carry over funds, furnishing home weatherization and associated services to low-income households within the Commonwealth in accordance with applicable federal law and regulations.

22. Developing a strategy concerning the expansion of affordable, accessible housing for older Virginians and Virginians with disabilities, including supportive services.

23. Serving as the Executive Director of the Commission on Local Government as prescribed in § 15.2-2901 and perform all other duties of that position as prescribed by law.

24. Developing a strategy, in consultation with the Virginia Housing Development Authority, for the creation and implementation of housing programs and community development for the purpose of meeting the housing needs of persons who have been released from federal, state, and local correctional facilities into communities.

25. Administering the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et seq.) of Title 15.2 jointly with the Virginia Small Business Financing Authority and the Virginia Housing Development Authority.

26. Developing a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and maintain on the Department's website a printable form to be signed by the parties to a written rental agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities as required by § 55.1-1204. The Director may at any time amend the statement of tenant rights and responsibilities and such printable form as the Director deems necessary and appropriate. The statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and responsibilities of tenants in at least 14-point type. The statement shall provide the telephone number and website address for the statewide legal aid organization and direct tenants with questions about their rights and responsibilities to contact such organization.

27. Developing a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Manufactured Home Lot Rental Act (§ 55.1-1300 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and maintain on the Department's website a printable form to be signed by the parties to a written rental agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities as required by § 55.1-1303. The Director may at any time amend the statement of tenant rights and responsibilities and such printable form as the Director deems necessary and appropriate. The statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and responsibilities in at least 14-point type. The statement shall provide the telephone number and website address for the statewide legal aid organization and direct tenants with questions about their rights and responsibilities to contact such organization.

28. Developing a sample termination notice that includes language referencing acceptance of rent with reservation by a landlord following a breach of a lease by a tenant in accordance with § 55.1-1250. The sample termination notice shall be in at least 14-point type and shall be maintained on the Department's website.

29. *Conducting a comprehensive statewide housing needs assessment at least every five years, which shall include (i) a review of housing cost burden and instability, supply and demand for affordable rental housing, and supply and demand for affordable for-sale housing and (ii) regional or local profiles that focus on specific housing needs of particular regions or localities.*

30. Developing a statewide housing plan that reflects the findings of the statewide housing needs assessment conducted pursuant to subdivision 29, which plan shall include measurable goals and be updated at least every five years to reflect changes in the Commonwealth's housing goals, and providing an annual report to the General Assembly on progress toward meeting the goals identified in such plan and the availability of housing that is accessible to people with disabilities.

31. Collecting reports submitted by localities pursuant to § 36-139.9 in any manner prescribed by the Department, including any forms developed by the Department to collect the information required to be reported by the localities pursuant to such section and publishing such reports on its website.

32. Carrying out such other duties as may be necessary and convenient to the exercise of powers granted to the Department.

§ 36-139.9. Local housing policy; report to Department.

A. Any locality with a population greater than 3,500 shall submit annually to the Department a report summarizing the adoption or amendment of any local policies, ordinances, or processes affecting the development and construction of housing during the preceding fiscal year. Such report shall contain a description of the following items and, if available, a reference to where additional information can be found on the locality's website:

1. Adoption or amendment of a local proffer policy enacted by the locality pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1;

2. Adoption or amendment of any provisions of the zoning ordinance affecting the development, redevelopment, or construction of single-family or multifamily housing;

3. Adoption or amendment of any provisions of the subdivision ordinance affecting the development, redevelopment, or construction of single-family or multifamily housing;

4. Revisions to the comprehensive plan affecting the location, density, or character of single-family or multifamily housing;

5. Adoption or amendment of any ordinances, incentives, or policies designed to encourage the development, redevelopment, or construction of housing, including accessory dwelling unit ordinances, affordable dwelling unit ordinances pursuant to § 15.2-2304, 15.2-2305, or 15.2-2305.1, fee waivers, density bonuses, waiver or reduction of local parking requirements, new construction or rehabilitation tax incentives, and development standard modifications; and

6. Changes to any local fees associated with the reviewing, permitting, and construction of residential development activities.

B. Reports submitted by localities pursuant to this section shall be submitted to the Department annually by September 1 for the preceding fiscal year. Reports shall be submitted in accordance with any forms and requirements developed by the Department, in consultation with stakeholders.

CHAPTER 716

An Act to amend and reenact § 36-139 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 36-139.9, relating to Department of Housing and Community Development; statewide housing needs assessment and plan; annual reports by certain localities.

[S 839]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 36-139 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 36-139.9 as follows:

§ 36-139. Powers and duties of Director.

The Director of the Department of Housing and Community Development shall have the following responsibilities:

1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their planning and development activities, boundary changes, changes of forms and status of government, intergovernmental agreements and arrangements, and such other information as he may deem necessary.

2. Making information available to communities, planning district commissions, service districts and governmental subdivisions of the Commonwealth.

3. Providing professional and technical assistance to, and cooperating with, any planning agency, planning district commission, service district, and governmental subdivision engaged in the preparation of development plans and programs, service district plans, or consolidation agreements.

4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the General Assembly in accordance with § 15.2-4216.

5. Administering federal grant assistance programs, including funds from the Appalachian Regional Commission, the Economic Development Administration and other such federal agencies, directed at promoting the development of the Commonwealth's communities and regions.

6. Developing state community development policies, goals, plans and programs for the consideration and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the General Assembly.

7. Developing a Consolidated Plan to guide the development and implementation of housing programs and community development in the Commonwealth for the purpose of meeting the housing and community development needs of the Commonwealth and, in particular, those of low-income and moderate-income persons, families and communities.

8. Determining present and future housing requirements of the Commonwealth on an annual basis and revising the Consolidated Plan, as necessary to coordinate the elements of housing production to ensure the availability of housing where and when needed.

9. Assuming administrative coordination of the various state housing programs and cooperating with the various state agencies in their programs as they relate to housing.

10. Establishing public information and educational programs relating to housing; devising and administering programs to inform all citizens about housing and housing-related programs that are available on all levels of government; designing and administering educational programs to prepare families for home ownership and counseling them during their first years as homeowners; and promoting educational programs to assist sponsors in the development of low and moderate income housing as well as programs to lessen the problems of rental housing management.

11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

13. Establishing and operating a Building Code Academy for the training of persons in the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board of Housing and Community Development.

14. Administering, in conjunction with the federal government, and promulgating any necessary regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

15. Identifying and disseminating information to local governments about the availability and utilization of federal and state resources.

16. Administering, with the cooperation of the Department of Health, state assistance programs for public water supply systems.

17. Advising the Board on matters relating to policies and programs of the Virginia Housing Trust Fund.

18. Designing and establishing program guidelines to meet the purposes of the Virginia Housing Trust Fund and to carry out the policies and procedures established by the Board.

19. Preparing agreements and documents for loans and grants to be made from the Virginia Housing Trust Fund; soliciting, receiving, reviewing and selecting the applications for which loans and grants are to be made from such fund; directing the Virginia Housing Development Authority and the Department as to the closing and disbursing of such loans and grants and as to the servicing and collection of such loans; directing the Department as to the regulation and monitoring of the ownership, occupancy and operation of the housing developments and residential housing financed or assisted by such loans and grants; and providing direction and guidance to the Virginia Housing Development Authority as to the investment of moneys in such fund.

20. Establishing and administering program guidelines for a statewide homeless intervention program.

21. Administering 15 percent of the Low Income Home Energy Assistance Program (LIHEAP) Block Grant and any contingency funds awarded and carry over funds, furnishing home weatherization and associated services to low-income households within the Commonwealth in accordance with applicable federal law and regulations.

22. Developing a strategy concerning the expansion of affordable, accessible housing for older Virginians and Virginians with disabilities, including supportive services.

23. Serving as the Executive Director of the Commission on Local Government as prescribed in § 15.2-2901 and perform all other duties of that position as prescribed by law.

24. Developing a strategy, in consultation with the Virginia Housing Development Authority, for the creation and implementation of housing programs and community development for the purpose of meeting the housing needs of persons who have been released from federal, state, and local correctional facilities into communities.

25. Administering the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et seq.) of Title 15.2 jointly with the Virginia Small Business Financing Authority and the Virginia Housing Development Authority.

26. Developing a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and maintain on the Department's website a printable form to be signed by the parties to a written rental agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities as required by § 55.1-1204. The Director may at any time amend the statement of tenant rights and responsibilities and such printable form as the Director deems necessary and appropriate. The statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and responsibilities of tenants in at least 14-point type. The statement shall provide the telephone number and website address for the statewide legal aid organization and direct tenants with questions about their rights and responsibilities to contact such organization.

27. Developing a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Manufactured Home Lot Rental Act (§ 55.1-1300 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and maintain on the Department's website a printable form to be signed by the parties to a written rental agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities as required by § 55.1-1303. The Director may at any time amend the statement of tenant rights and responsibilities and such printable form as the Director deems necessary and appropriate. The statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and responsibilities in at least 14-point type. The statement shall provide the telephone number and website address for the statewide legal aid organization and direct tenants with questions about their rights and responsibilities to contact such organization.

28. Developing a sample termination notice that includes language referencing acceptance of rent with reservation by a landlord following a breach of a lease by a tenant in accordance with § 55.1-1250. The sample termination notice shall be in at least 14-point type and shall be maintained on the Department's website.

29. *Conducting a comprehensive statewide housing needs assessment at least every five years, which shall include (i) a review of housing cost burden and instability, supply and demand for affordable rental housing, and supply and demand for affordable for-sale housing and (ii) regional or local profiles that focus on specific housing needs of particular regions or localities.*

30. Developing a statewide housing plan that reflects the findings of the statewide housing needs assessment conducted pursuant to subdivision 29, which plan shall include measurable goals and be updated at least every five years to reflect changes in the Commonwealth's housing goals, and providing an annual report to the General Assembly on progress toward meeting the goals identified in such plan and the availability of housing that is accessible to people with disabilities.

31. Collecting reports submitted by localities pursuant to § 36-139.9 in any manner prescribed by the Department, including any forms developed by the Department to collect the information required to be reported by the localities pursuant to such section and publishing such reports on its website.

32. Carrying out such other duties as may be necessary and convenient to the exercise of powers granted to the Department.

§ 36-139.9. Local housing policy; report to Department.

A. Any locality with a population greater than 3,500 shall submit annually to the Department a report summarizing the adoption or amendment of any local policies, ordinances, or processes affecting the development and construction of housing during the preceding fiscal year. Such report shall contain a description of the following items and, if available, a reference to where additional information can be found on the locality's website:

1. Adoption or amendment of a local proffer policy enacted by the locality pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1;

2. Adoption or amendment of any provisions of the zoning ordinance affecting the development, redevelopment, or construction of single-family or multifamily housing;

3. Adoption or amendment of any provisions of the subdivision ordinance affecting the development, redevelopment, or construction of single-family or multifamily housing;

4. Revisions to the comprehensive plan affecting the location, density, or character of single-family or multifamily housing;

5. Adoption or amendment of any ordinances, incentives, or policies designed to encourage the development, redevelopment, or construction of housing, including accessory dwelling unit ordinances, affordable dwelling unit ordinances pursuant to § 15.2-2304, 15.2-2305, or 15.2-2305.1, fee waivers, density bonuses, waiver or reduction of local parking requirements, new construction or rehabilitation tax incentives, and development standard modifications; and

6. Changes to any local fees associated with the reviewing, permitting, and construction of residential development activities.

B. Reports submitted by localities pursuant to this section shall be submitted to the Department annually by September 1 for the preceding fiscal year. Reports shall be submitted in accordance with any forms and requirements developed by the Department, in consultation with stakeholders.

CHAPTER 717

An Act to amend the Code of Virginia by adding in Article 12 of Chapter 22 of Title 2.2 a section numbered 2.2-2377, relating to Commonwealth Opioid Abatement and Remediation Fund; established.

[S 1414]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 12 of Chapter 22 of Title 2.2 a section numbered 2.2-2377 as follows:

§ 2.2-2377. Commonwealth Opioid Abatement and Remediation Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Commonwealth Opioid Abatement and Remediation Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. All funds received pursuant to a settlement, judgment, verdict, or other court order relating to consumer protection claims regarding the manufacturing, marketing, distribution, or sale of opioids that are intended to be used for opioid abatement or remediation, excluding funds designated for transfer to the Opioid Abatement Authority established under this chapter and funds designated for transfer to participating localities, as defined in § 2.2-2365, pursuant to an agreement between the Attorney General and those participating localities, shall be deposited by the Office of the Attorney General in such amounts into the Fund, or appropriated for such purpose, and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Any moneys in the Fund shall be used solely for the purposes of efforts to treat, prevent, or reduce opioid use disorder or the misuse of opioids or to otherwise abate or remediate the opioid epidemic, or for any other approved purposes to the extent that such purposes are described in a related settlement, judgment, verdict, or other court order. To the degree practicable, the implementation and maintenance of performance measures associated with the use of such funds shall be documented and remitted to the Opioid Abatement Authority upon request. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed pursuant to the appropriation act.

CHAPTER 718

An Act to amend the Code of Virginia by adding a section numbered 10.1-1184.2, relating to Department of Environmental Quality regulations; civil penalties; written notice of violation.

[S 1501]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-1184.2 as follows:

§ 10.1-1184.2. Regulations; civil penalties; written notice of violation.

Prior to assessing any civil penalty pursuant to § 10.1-1309, 10.1-1455, or 62.1-44.15 against any person for an alleged violation of a regulation adopted by a Board or permit issued by the Department, the Department shall inform such person in writing of the alleged violation, the potential penalties for such violation, and the actions necessary to achieve compliance and remediate the alleged violation. The Department may allow the person 30 days to take such actions and to provide any additional, relevant facts to the Department, including facts that demonstrate a good-faith attempt to achieve compliance. If compliance has not been achieved and the alleged violation remediated after the 30 days, the Department or the Board shall proceed in accordance with § 10.1-1309, 10.1-1455, or 62.1-44.15, as applicable.

For purposes of this section, "Board" means the State Air Pollution Control Board, the Virginia Waste Management Board, or the State Water Control Board.

CHAPTER 719

An Act to amend and reenact §§ 19.2-327.10:1 and 19.2-327.11 of the Code of Virginia, relating to writs of actual innocence.

[S 958]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-327.10:1 and 19.2-327.11 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-327.10:1. Petition for writ of actual innocence joined by Attorney General; release of prisoner; bond hearing.

The Attorney General may join in a petition for a writ of actual innocence made pursuant to § 19.2-327.10 *after providing written notice of such intent to the local attorney for the Commonwealth in the jurisdiction of conviction or adjudication of delinquency*. When such petition is so joined, the petitioner may file a copy of the petition and attachments thereto and the Attorney General's answer with the circuit court that entered the felony conviction or adjudication of delinquency and move the court for a hearing to consider release of the person on bail pursuant to Chapter 9 (§ 19.2-119 et seq.). Upon hearing and for good cause shown, the court may order the person released from custody subject to the terms and conditions of bail so established, pending a ruling by the Court of Appeals on the writ under § 19.2-327.13.

§ 19.2-327.11. Contents and form of the petition based on previously unknown or unavailable evidence of actual innocence.

A. The petitioner shall allege categorically and with specificity, under oath, all of the following: (i) the crime for which the petitioner was convicted or the offense for which the petitioner was adjudicated delinquent; (ii) that the petitioner is actually innocent of the crime for which he was convicted or the offense for which he was adjudicated delinquent; (iii) an exact description of (a) the previously unknown or unavailable evidence supporting the allegation of innocence or (b) the previously untested evidence and the scientific testing supporting the allegation of innocence; (iv)(a) that such evidence was previously unknown or unavailable to the petitioner or his trial attorney of record at the time the conviction or adjudication of delinquency became final in the circuit court or (b) if known, the reason that the evidence was not subject to scientific testing set forth in the petition; (v) the date (a) the previously unknown or unavailable evidence became known or available to the petitioner and the circumstances under which it was discovered or (b) the results of the scientific testing of previously untested evidence became known to the petitioner or any attorney of record; (vi)(a) that the previously unknown or unavailable evidence is such as could not, by the exercise of diligence, have been discovered or obtained before the time the conviction or adjudication of delinquency became final in the circuit court or (b) that the testing procedure was not available at the time the conviction or adjudication of delinquency became final in the circuit court; (vii) that the previously unknown, unavailable, or untested evidence is material and, when considered with all of the other evidence in the current record, will prove that no rational trier of fact would have found proof of guilt or delinquency beyond a reasonable doubt; and (viii) that the previously unknown, unavailable, or untested evidence is not merely cumulative, corroborative, or collateral. Nothing in this chapter shall constitute grounds to delay or stay any other appeals following conviction or adjudication of delinquency, or petitions to any court. Human biological evidence may not be used as the sole basis for seeking relief under this writ but may be used in conjunction with other evidence.

B. Such petition shall contain all relevant allegations of facts that are known to the petitioner at the time of filing; shall be accompanied by all relevant documents, affidavits, and test results; and shall enumerate and include all relevant previous

records, applications, petitions, and appeals and their dispositions. The petition shall be filed on a form provided by the Supreme Court. If the petitioner fails to submit a completed form, the Court of Appeals may dismiss the petition or return the petition to the petitioner pending the completion of such form. Any false statement in the petition, if such statement is knowingly or willfully made, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

C. In cases brought by counsel for the petitioner, the Court of Appeals shall not accept the petition unless it is accompanied by a duly executed return of service in the form of a verification that a copy of the petition and all attachments have been served on the attorney for the Commonwealth of the jurisdiction where the conviction or adjudication of delinquency occurred and the Attorney General, or an acceptance of service signed by these officials, or any combination thereof. In cases brought by petitioners pro se, the Court of Appeals shall not accept the petition unless it is accompanied by a certificate that a copy of the petition and all attachments have been sent, by certified mail, to the attorney for the Commonwealth of the jurisdiction where the conviction or adjudication of delinquency occurred and the Attorney General. *The Court of Appeals may summarily dismiss any second or subsequent petition for failure to identify new or different evidence in support of the factual innocence claim or, if new and different grounds are alleged, failure of the petitioner to assert those grounds in a prior petition filed pursuant to this section under circumstances that constitute an abuse of the writ.* If the Court of Appeals does not summarily dismiss the petition, it shall so notify in writing the Attorney General, the attorney for the Commonwealth, and the petitioner. The Attorney General shall have 60 days after receipt of such notice in which to file a response to the petition that may be extended for good cause shown; however, nothing shall prevent the Attorney General from filing an earlier response. The response may contain a proffer of any evidence pertaining to the guilt or delinquency or innocence of the petitioner that is not included in the record of the case, including evidence that was suppressed at trial.

D. The Court of Appeals may inspect the record of any trial or appellate court action, and the Court may, in any case, award a writ of certiorari to the clerk of the respective court below, and have brought before the Court the whole record or any part of any record. If, in the judgment of the Court, the petition fails to state a claim, or if the assertions of previously unknown, unavailable, or untested evidence, even if true, would fail to qualify for the granting of relief under this chapter, the Court may dismiss the petition summarily, without any hearing or a response from the Attorney General.

E. In any petition filed pursuant to this chapter that is not summarily dismissed, the petitioner is entitled to representation by counsel subject to the provisions of Article 3 (§ 19.2-157 et seq.) and Article 4 (§ 19.2-163.3 et seq.) of Chapter 10. The Court of Appeals may, in its discretion, appoint counsel prior to deciding whether a petition should be summarily dismissed.

F. Upon the scheduling of a hearing pursuant to § 19.2-327.12 or any subsequent oral argument, the Attorney General shall notify the victim or the victim's representative of the hearing. The victim or victim's representative shall have the right to attend any such hearing. For purposes of this subsection, "victim" means the same as that term is defined in subsection B of § 19.2-11.01.

CHAPTER 720

An Act to amend and reenact §§ 45.2-1717 and 45.2-1720 of the Code of Virginia, relating to the Southwest Virginia Energy and Research Development Authority; powers and duties; Department of Energy and Department of Environmental Quality; report.

[H 1781]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 45.2-1717 and 45.2-1720 of the Code of Virginia are amended and reenacted as follows:

§ 45.2-1717. (Effective until July 1, 2029) Definitions.

As used in this article, unless the context requires a different meaning:

"Authority" means the Southwest Virginia Energy Research and Development Authority established pursuant to this article.

"Coal mine methane" means methane gas captured and produced from an underground gob area associated with a mined-out coal seam that would otherwise escape into the atmosphere.

"Developer" means any private developer of an energy development project.

"Energy development project" means ~~an electric generation facility~~ *any activity that generates, produces, or stores energy, any energy efficiency system, and any supporting ancillary activities* located within Southwest Virginia and includes interests in land, improvements, and ancillary facilities *and research, development, commercialization, and deployment activities designated by the Authority to the nonprofit collaborative.*

"Nonprofit collaborative" means a multi-site nonprofit innovative energy technology testbed established as a collaborative effort of the Department of Energy, the Authority, and the Authority's business partners to support the Authority's purpose through energy technology research, development, commercialization, and deployment.

"Southwest Virginia" means the region of the Commonwealth designated as Southwest Virginia in § 22.1-350.

"Southwest Virginia Energy Park" means the nonprofit collaborative.

§ 45.2-1720. (Effective until July 1, 2029) Powers and duties of the Authority.

In addition to the other powers and duties established under this article, the Authority has the power and duty to:

1. Adopt, use, and alter at will an official seal;

2. Make bylaws for the management and regulation of its affairs;

3. Maintain an office at any place within the Commonwealth it designates;

4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes for which the Authority is established;

5. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions*, including executing contracts and all other instruments and agreements that the Authority deems necessary with the nonprofit collaborative*;

6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and any other employees and agents necessary and fix their compensation to be payable from funds made available to the Authority;

7. Invest its funds as permitted by applicable law;

8. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, or real or personal property for the benefit of the Authority, and receive and accept from the Commonwealth or any other state, from any municipality, county, or other political subdivision thereof, or from any other source, aid or contributions of either money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made;

9. Enter into agreements with any department, agency, or instrumentality of the United States or of the Commonwealth *and its political subdivisions* and with lenders and enter into loans with contracting parties for the purpose of *conducting research and development, energy project development, and* planning, regulating, and providing for the financing *or leasing* or assisting in the financing *or leasing* of any project;

10. Do any lawful act necessary or appropriate to carry out the powers granted or reasonably implied in this article;

11. Leverage the strength in energy workforce and energy technology research and development of the Commonwealth's public and private institutions of higher education;

12. Support ~~the~~ *energy* development ~~of~~ *projects generally, including* pump storage hydropower ~~in Southwest Virginia and~~, energy storage ~~generally~~*, hydrogen production and uses, carbon capture and storage, geothermal energy, and advanced wind and solar energy*;

13. Promote ~~the~~ *energy* development ~~of renewable energy generation facilities~~ *projects* on *closed power plant sites,* brownfield sites, ~~including~~ *former coal mine sites, reclaimed coal mine sites,* abandoned mine ~~sites~~ *lands, and lands adjacent thereto*;

14. Promote energy workforce development *and energy supply chain development*;

15. Assist energy technology research and development by, among other actions, promoting the development of a Southwest Virginia Energy Park; ~~and~~

16. Identify and work with the Commonwealth's industries and nonprofit partners *and, through mutually agreed collaborations, the Commonwealth's research and development partners,* in advancing efforts related to energy development in Southwest Virginia*; and*

17. Promote the capture and beneficial use of coal mine methane from active, inactive, and abandoned coal mines as a low-carbon intensity feedstock for manufacturing and energy generation projects located in Southwest Virginia.

CHAPTER 721

An Act to amend and reenact §§ 45.2-1717 and 45.2-1720 of the Code of Virginia, relating to the Southwest Virginia Energy and Research Development Authority; powers and duties; Department of Energy and Department of Environmental Quality; report.

[S 1116]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 45.2-1717 and 45.2-1720 of the Code of Virginia are amended and reenacted as follows:

§ 45.2-1717. (Effective until July 1, 2029) Definitions.

As used in this article, unless the context requires a different meaning:

"Authority" means the Southwest Virginia Energy Research and Development Authority established pursuant to this article.

"Coal mine methane" means methane gas captured and produced from an underground gob area associated with a mined-out coal seam that would otherwise escape into the atmosphere.

"Developer" means any private developer of an energy development project.

"Energy development project" means ~~an electric generation facility~~ *any activity that generates, produces, or stores energy, any energy efficiency system, and any supporting ancillary activities* located within Southwest Virginia and includes interests in land, improvements, and ancillary facilities *and research, development, commercialization, and deployment activities designated by the Authority to the nonprofit collaborative*.

"Nonprofit collaborative" means a multi-site nonprofit innovative energy technology testbed established as a collaborative effort of the Department of Energy, the Authority, and the Authority's business partners to support the Authority's purpose through energy technology research, development, commercialization, and deployment.

"Southwest Virginia" means the region of the Commonwealth designated as Southwest Virginia in § 22.1-350.

"Southwest Virginia Energy Park" means the nonprofit collaborative.

§ 45.2-1720. (Effective until July 1, 2029) Powers and duties of the Authority.

In addition to the other powers and duties established under this article, the Authority has the power and duty to:

1. Adopt, use, and alter at will an official seal;

2. Make bylaws for the management and regulation of its affairs;

3. Maintain an office at any place within the Commonwealth it designates;

4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes for which the Authority is established;

5. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions*, including executing contracts and all other instruments and agreements that the Authority deems necessary with the nonprofit collaborative*;

6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and any other employees and agents necessary and fix their compensation to be payable from funds made available to the Authority;

7. Invest its funds as permitted by applicable law;

8. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, or real or personal property for the benefit of the Authority, and receive and accept from the Commonwealth or any other state, from any municipality, county, or other political subdivision thereof, or from any other source, aid or contributions of either money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made;

9. Enter into agreements with any department, agency, or instrumentality of the United States or of the Commonwealth *and its political subdivisions* and with lenders and enter into loans with contracting parties for the purpose of *conducting research and development, energy project development, and* planning, regulating, and providing for the financing *or leasing* or assisting in the financing *or leasing* of any project;

10. Do any lawful act necessary or appropriate to carry out the powers granted or reasonably implied in this article;

11. Leverage the strength in energy workforce and energy technology research and development of the Commonwealth's public and private institutions of higher education;

12. Support ~~the~~ *energy* development ~~of~~ *projects generally, including* pump storage hydropower ~~in Southwest Virginia and~~, energy storage ~~generally~~*, hydrogen production and uses, carbon capture and storage, geothermal energy, and advanced wind and solar energy*;

13. Promote ~~the~~ *energy* development ~~of renewable energy generation facilities~~ *projects* on *closed power plant sites,* brownfield sites, ~~including~~ *former coal mine sites, reclaimed coal mine sites,* abandoned mine ~~sites~~ *lands, and lands adjacent thereto*;

14. Promote energy workforce development *and energy supply chain development*;

15. Assist energy technology research and development by, among other actions, promoting the development of a Southwest Virginia Energy Park; ~~and~~

16. Identify and work with the Commonwealth's industries and nonprofit partners *and, through mutually agreed collaborations, the Commonwealth's research and development partners,* in advancing efforts related to energy development in Southwest Virginia*; and*

17. Promote the capture and beneficial use of coal mine methane from active, inactive, and abandoned coal mines as a low-carbon intensity feedstock for manufacturing and energy generation projects located in Southwest Virginia.

CHAPTER 722

An Act to direct the Virginia Retirement System and the Department of Criminal Justice Services to review and analyze options for allowing law-enforcement officers to return to work after retirement.

[S 1411]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Virginia Retirement System and the Department of Criminal Justice Services, in consultation with the Joint Legislative Audit and Review Commission, shall review and analyze options for allowing law-enforcement officers to return to work as law-enforcement officers after retirement and to continue to receive their retirement allowance during such employment. The review shall include an analysis of (i) the appropriate break in service required before returning to work; (ii) the level of need for retired law-enforcement officers to fill staffing shortages throughout the Commonwealth; (iii) the effectiveness and efficacy of employing retired law-enforcement officers in different law-enforcement positions, including those involving field operations; (iv) the Commonwealth's current return to work provisions for law-enforcement officers*

compared to those of other public employee pension plans; and (v) an actuarial analysis of potential modifications to such return to work provisions. The Virginia Retirement System and the Department of Criminal Justice Services shall complete their review and report their findings to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by November 1, 2023.

CHAPTER 723

An Act to amend and reenact § 62.1-44.19:20, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to nutrient credit calculations outside the Chesapeake Bay watershed.

[S 959]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.19:20, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 62.1-44.19:20. (Contingent expiration date) Nutrient credit certification.

A. The Board may adopt regulations for the purpose of establishing procedures for the certification of point source nutrient credits except that no certification shall be required for point source nitrogen and point source phosphorus credits generated by point sources regulated under the Watershed General Virginia Pollutant Discharge Elimination System Permit issued pursuant to § 62.1-44.19:14. The Board shall adopt regulations for the purpose of establishing procedures for the certification of nonpoint source nutrient credits.

B. Regulations adopted pursuant to this section shall:

1. Establish procedures for the certification and registration of credits, including:

a. Certifying credits that may be generated from effective nutrient controls or removal practices, including activities associated with the types of facilities or practices historically regulated by the Board, such as water withdrawal and treatment and wastewater collection, treatment, and beneficial reuse;

b. Certifying credits that may be generated from agricultural and urban stormwater best management practices, use or management of manures, managed turf, land use conversion, stream or wetlands projects, shellfish aquaculture, algal harvesting, and other established or innovative methods of nutrient control or removal, as appropriate;

c. Establishing a process and standards for wetland or stream credits to be converted to nutrient credits. Such process and standards shall only apply to wetland or stream credits that were established after July 1, 2005, and have not been transferred or used. Under no circumstances shall such credits be used for both wetland or stream credit and nutrient credit purposes;

d. Certifying credits from multiple practices that are bundled as a package by the applicant;

e. Prohibiting the certification of credits generated from activities funded by federal or state water quality grant funds other than controls and practices under subdivision B 1 a; however, baseline levels may be achieved through the use of such grants;

f. Establishing a timely and efficient certification process including application requirements, a reasonable application fee schedule not to exceed $10,000 per application, and review and approval procedures;

g. Requiring public notification of a proposed nutrient credit-generating entity; and

h. Establishing a timeline for the consideration of certification applications for land conversion projects. The timeline shall provide that within 30 days of receipt of an application the Department shall, if warranted, conduct a site visit and that within 45 days of receipt of an application the Department shall either determine that the application is complete or request additional specific information from the applicant. A determination that an application for a land conversion project is complete shall not require the Department to issue the certification. The Department shall deny, approve, or approve with conditions an application within 15 days of the Department's determination that the application is complete. When the request for credit release is made concurrently with the application for a land conversion project certification, the concurrent release shall be processed on the same timeline. When the request for credit release is from a previously approved land conversion project, the Department shall schedule a site visit, if warranted, within 30 days of the request and shall deny, approve, or approve with conditions the release within 15 days of the site visit or determination that a site visit is not warranted. The timelines set out in this subdivision shall be implemented prior to adoption of regulations. The Department shall release credits from a land conversion project after it is satisfied that the applicant has met the criteria for release in an approved nutrient reduction implementation plan.

2. Establish credit calculation procedures for proposed credit-generating practices, including the determination of:

a. Baselines for credits certified under subdivision B 1 a in accordance with any applicable provisions of the Virginia Chesapeake Bay TMDL Watershed Implementation Plan or approved TMDLs;

b. Baselines established for agricultural practices, which shall be those actions necessary to achieve a level of reduction assigned in the Virginia Chesapeake Bay TMDL Watershed Implementation Plan or approved TMDLs as implemented on the tract, field, or other land area under consideration;

c. Baselines for urban practices from new development and redevelopment, which shall be in compliance with postconstruction nutrient loading requirements of the Virginia Stormwater Management Program regulations. Baselines for

all other existing development shall be at a level necessary to achieve the reductions assigned in the urban sector in the Virginia Chesapeake Bay TMDL Watershed Implementation Plan or approved TMDLs;

d. Baselines for land use conversion, which shall be based on the pre-conversion land use and the level of reductions assigned in the Virginia Chesapeake Bay TMDL Watershed Implementation Plan or approved TMDLs applicable to that land use;

e. Baselines for other nonpoint source credit-generating practices, which shall be based on the Virginia Chesapeake Bay TMDL Watershed Implementation Plan or approved TMDLs using the best available scientific and technical information;

f. Unless otherwise established by the Board, for certification within the Chesapeake Bay Watershed a credit-generating practice that involves land use conversion, which shall represent controls beyond those in place as of July 1, 2005. For other waters for which a TMDL has been approved, the practice shall represent controls beyond those in place at the time of TMDL approval;

g. Baseline dates for all other credit-generating practices, which shall be based on the Virginia Chesapeake Bay TMDL Watershed Implementation Plan or approved TMDLs; and

h. Credit quantities, which shall be established using the best available scientific and technical information at the time of certification;

3. Provide certification of credits on an appropriate temporal basis, such as annual, term of years, or perpetual, depending on the nature of the credit-generating practice. A credit shall be certified for a term of no less than 12 months;

4. Establish requirements to reasonably assure the generation of the credit depending on the nature of the credit-generating activity and use, such as legal instruments for perpetual credits, operation and maintenance requirements, and associated financial assurance requirements. Financial assurance requirements may include letters of credit, escrows, surety bonds, insurance, and where the credits are used or generated by a locality, authority, utility, sanitation district, or permittee operating an MS4 or a point source permitted under this article, its existing tax or rate authority. In lieu of long-term management fund financial assurance mechanisms established or required by regulation for projects generating credits from stream restoration, a third-party long-term steward approved by the Department, such as a public agency, nongovernmental organization or private land manager, may hold long-term management funds in a separate interest-bearing account to be used only for the long-term management of the stream restoration project;

5. Establish appropriate reporting requirements;

6. Provide for the ability of the Department to inspect or audit for compliance with the requirements of such regulations;

7. Provide that the option to acquire nutrient credits for compliance purposes shall not eliminate any requirement to comply with local water quality requirements;

8. Establish a credit retirement requirement whereby five percent of nonpoint source credits in the Chesapeake Bay Watershed other than controls and practices under subdivision B 1 a are permanently retired at the time of certification pursuant to this section for the purposes of offsetting growth in unregulated nutrient loads; and

9. Establish such other requirements as the Board deems necessary and appropriate.

C. ~~Prior to the adoption of such regulations, the~~ *The* Board shall certify (i) credits that may be generated from effective nutrient controls or removal practices, including activities associated with the types of facilities or practices historically regulated by the Board, such as water withdrawal and treatment and wastewater collection, treatment, and beneficial reuse, ~~on a case-by-case basis~~ using the best available scientific and technical information and (ii) credits that are located in tributaries outside of the Chesapeake Bay watershed as defined in § 62.1-44.15:35, using an average of the nutrient removal rates for each practice identified in Appendix A of the Department's document "Trading Nutrient Reductions from Nonpoint Source Best Management Practices in the Chesapeake Bay Watershed: Guidance for Agricultural Landowners and Your Potential Trading Partners~~.~~"*; however, in the certification and recertification of credits under this subsection, the Department may substitute a delivery factor that is deemed by the Director to be based on the best available scientific and technical information appropriate for the tributaries located outside of the Chesapeake Bay watershed as an alternative to any delivery factor derived from the application of the Chesapeake Bay Program watershed model.*

D. The Department shall establish and maintain an online Virginia Nutrient Credit Registry of credits as follows:

1. The registry shall include all nonpoint source credits certified pursuant to this article and may include point source nitrogen and point source phosphorus credits generated from point sources covered by the general permit issued pursuant to § 62.1-44.19:14 or point source nutrient credits certified pursuant to this section at the option of the owner. No other credits shall be valid for compliance purposes.

2. Registration of credits on the registry shall not preclude or restrict the right of the owner of such credits from transferring the credits on such commercial terms as may be established by and between the owner and the regulated or unregulated party acquiring the credits.

3. The Department shall establish procedures for the listing and tracking of credits on the registry, including but not limited to (i) notification of the availability of new nutrient credits to the locality where the credit-generating practice is implemented at least five business days prior to listing on the registry to provide the locality an opportunity to acquire such credits at fair market value for compliance purposes and (ii) notification that the listing of credits on the registry does not constitute a representation by the Board or the owner that the credits will satisfy the specific regulatory requirements

applicable to the prospective user's intended use and that the prospective user is encouraged to contact the Board for technical assistance to identify limitations, if any, applicable to the intended use.

4. The registry shall be publicly accessible without charge.

E. The owner or operator of a nonpoint source nutrient credit-generating entity that fails to comply with the provisions of this section shall be subject to the enforcement and penalty provisions of § 62.1-44.19:22.

F. Nutrient credits from stormwater nonpoint nutrient credit-generating facilities in receipt of a Nonpoint Nutrient Offset Authorization for Transfer letter from the Department prior to July 1, 2012, shall be considered certified nutrient credits and shall not be subject to further certification requirements or to the credit retirement requirement under subdivision B 8. However, such facilities shall be subject to the other provisions of this article, including registration, inspection, reporting, and enforcement.

§ 62.1-44.19:20. (Contingent effective date) Nutrient credit certification.

A. The Board may adopt regulations for the purpose of establishing procedures for the certification of point source nutrient credits except that no certification shall be required for point source nitrogen and point source phosphorus credits generated by point sources regulated under the Watershed General Virginia Pollutant Discharge Elimination System Permit issued pursuant to § 62.1-44.19:14. The Board shall adopt regulations for the purpose of establishing procedures for the certification of nonpoint source nutrient credits.

B. Regulations adopted pursuant to this section shall:

1. Establish procedures for the certification and registration of credits, including:

a. Certifying credits that may be generated from effective nutrient controls or removal practices, including activities associated with the types of facilities or practices historically regulated by the Board, such as water withdrawal and treatment and wastewater collection, treatment, and beneficial reuse;

b. Certifying credits that may be generated from agricultural and urban stormwater best management practices, use or management of manures, managed turf, land use conversion, stream or wetlands projects, shellfish aquaculture, algal harvesting, and other established or innovative methods of nutrient control or removal, as appropriate;

c. Establishing a process and standards for wetland or stream credits to be converted to nutrient credits. Such process and standards shall only apply to wetland or stream credits that were established after July 1, 2005, and have not been transferred or used. Under no circumstances shall such credits be used for both wetland or stream credit and nutrient credit purposes;

d. Certifying credits from multiple practices that are bundled as a package by the applicant;

e. Prohibiting the certification of credits generated from activities funded by federal or state water quality grant funds other than controls and practices under subdivision B 1 a; however, baseline levels may be achieved through the use of such grants;

f. Establishing a timely and efficient certification process including application requirements, a reasonable application fee schedule not to exceed $10,000 per application, and review and approval procedures;

g. Requiring public notification of a proposed nutrient credit-generating entity; and

h. Establishing a timeline for the consideration of certification applications for land conversion projects. The timeline shall provide that within 30 days of receipt of an application the Department shall, if warranted, conduct a site visit and that within 45 days of receipt of an application the Department shall either determine that the application is complete or request additional specific information from the applicant. A determination that an application for a land conversion project is complete shall not require the Department to issue the certification. The Department shall deny, approve, or approve with conditions an application within 15 days of the Department's determination that the application is complete. When the request for credit release is made concurrently with the application for a land conversion project certification, the concurrent release shall be processed on the same timeline. When the request for credit release is from a previously approved land conversion project, the Department shall schedule a site visit, if warranted, within 30 days of the request and shall deny, approve, or approve with conditions the release within 15 days of the site visit or determination that a site visit is not warranted. The timelines set out in this subdivision shall be implemented prior to adoption of regulations. The Department shall release credits from a land conversion project after it is satisfied that the applicant has met the criteria for release in an approved nutrient reduction implementation plan.

2. Establish credit calculation procedures for proposed credit-generating practices, including the determination of:

a. Baselines for credits certified under subdivision B 1 a in accordance with any applicable provisions of the Virginia Chesapeake Bay TMDL Watershed Implementation Plan or approved TMDLs;

b. Baselines established for agricultural practices, which shall be those actions necessary to achieve a level of reduction assigned in the Virginia Chesapeake Bay TMDL Watershed Implementation Plan or approved TMDLs as implemented on the tract, field, or other land area under consideration;

c. Baselines for urban practices from new development and redevelopment, which shall be in compliance with postconstruction nutrient loading requirements of the Virginia Stormwater Management Program regulations. Baselines for all other existing development shall be at a level necessary to achieve the reductions assigned in the urban sector in the Virginia Chesapeake Bay TMDL Watershed Implementation Plan or approved TMDLs;

d. Baselines for land use conversion, which shall be based on the pre-conversion land use and the level of reductions assigned in the Virginia Chesapeake Bay TMDL Watershed Implementation Plan or approved TMDLs applicable to that land use;

e. Baselines for other nonpoint source credit-generating practices, which shall be based on the Virginia Chesapeake Bay TMDL Watershed Implementation Plan or approved TMDLs using the best available scientific and technical information;

f. Unless otherwise established by the Board, for certification within the Chesapeake Bay Watershed a credit-generating practice that involves land use conversion, which shall represent controls beyond those in place as of July 1, 2005. For other waters for which a TMDL has been approved, the practice shall represent controls beyond those in place at the time of TMDL approval;

g. Baseline dates for all other credit-generating practices, which shall be based on the Virginia Chesapeake Bay TMDL Watershed Implementation Plan or approved TMDLs; and

h. Credit quantities, which shall be established using the best available scientific and technical information at the time of certification;

3. Provide certification of credits on an appropriate temporal basis, such as annual, term of years, or perpetual, depending on the nature of the credit-generating practice. A credit shall be certified for a term of no less than 12 months;

4. Establish requirements to reasonably assure the generation of the credit depending on the nature of the credit-generating activity and use, such as legal instruments for perpetual credits, operation and maintenance requirements, and associated financial assurance requirements. Financial assurance requirements may include letters of credit, escrows, surety bonds, insurance, and where the credits are used or generated by a locality, authority, utility, sanitation district, or permittee operating an MS4 or a point source permitted under this article, its existing tax or rate authority. In lieu of long-term management fund financial assurance mechanisms established or required by regulation for projects generating credits from stream restoration, a third-party long-term steward approved by the Department, such as a public agency, nongovernmental organization or private land manager, may hold long-term management funds in a separate interest-bearing account to be used only for the long-term management of the stream restoration project. Notwithstanding any release schedule set out in regulations of the Board, the Department may accelerate the release of a maximum of 50 percent of nutrient credits from a stream restoration project based on (i) a determination that the level of risk for restoration failure is low, (ii) the provision of additional financial assurance in an amount adequate to cover the cost of project repair or replacement in the event of failure, and (iii) the experience of the applicant or the applicant's agents who will implement the stream restoration project;

5. Establish appropriate reporting requirements;

6. Provide for the ability of the Department to inspect or audit for compliance with the requirements of such regulations;

7. Provide that the option to acquire nutrient credits for compliance purposes shall not eliminate any requirement to comply with local water quality requirements;

8. Establish a credit retirement requirement whereby five percent of nonpoint source credits in the Chesapeake Bay Watershed other than controls and practices under subdivision B 1 a are permanently retired at the time of certification pursuant to this section for the purposes of offsetting growth in unregulated nutrient loads; and

9. Establish such other requirements as the Board deems necessary and appropriate.

C. ~~Prior to the adoption of such regulations, the~~ *The* Board shall certify (i) credits that may be generated from effective nutrient controls or removal practices, including activities associated with the types of facilities or practices historically regulated by the Board, such as water withdrawal and treatment and wastewater collection, treatment, and beneficial reuse, ~~on a case-by-case basis~~ using the best available scientific and technical information and (ii) credits that are located in tributaries outside of the Chesapeake Bay watershed as defined in § 62.1-44.15:35, using an average of the nutrient removal rates for each practice identified in Appendix A of the Department's document "Trading Nutrient Reductions from Nonpoint Source Best Management Practices in the Chesapeake Bay Watershed: Guidance for Agricultural Landowners and Your Potential Trading Partners~~."~~*; however, in the certification and recertification of credits under this subsection, the Department may substitute a delivery factor that is deemed by the Director to be based on the best available scientific and technical information appropriate for the tributaries located outside of the Chesapeake Bay watershed as an alternative to any delivery factor derived from the application of the Chesapeake Bay Program watershed model.*

D. The Department shall establish and maintain an online Virginia Nutrient Credit Registry of credits as follows:

1. The registry shall include all nonpoint source credits certified pursuant to this article and may include point source nitrogen and point source phosphorus credits generated from point sources covered by the general permit issued pursuant to § 62.1-44.19:14 or point source nutrient credits certified pursuant to this section at the option of the owner. No other credits shall be valid for compliance purposes.

2. Registration of credits on the registry shall not preclude or restrict the right of the owner of such credits from transferring the credits on such commercial terms as may be established by and between the owner and the regulated or unregulated party acquiring the credits.

3. The Department shall establish procedures for the listing and tracking of credits on the registry, including but not limited to (i) notification of the availability of new nutrient credits to the locality where the credit-generating practice is implemented at least five business days prior to listing on the registry to provide the locality an opportunity to acquire such credits at fair market value for compliance purposes and (ii) notification that the listing of credits on the registry does not constitute a representation by the Board or the owner that the credits will satisfy the specific regulatory requirements

applicable to the prospective user's intended use and that the prospective user is encouraged to contact the Board for technical assistance to identify limitations, if any, applicable to the intended use.

4. The registry shall be publicly accessible without charge.

E. The owner or operator of a nonpoint source nutrient credit-generating entity that fails to comply with the provisions of this section shall be subject to the enforcement and penalty provisions of § 62.1-44.19:22.

F. Nutrient credits from stormwater nonpoint nutrient credit-generating facilities in receipt of a Nonpoint Nutrient Offset Authorization for Transfer letter from the Department prior to July 1, 2012, shall be considered certified nutrient credits and shall not be subject to further certification requirements or to the credit retirement requirement under subdivision B 8. However, such facilities shall be subject to the other provisions of this article, including registration, inspection, reporting, and enforcement.

CHAPTER 724

An Act to amend and reenact § 15.2-901 of the Code of Virginia, relating to cutting of grass and weeds on certain property; localities in Planning District 22.

[S 1394]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-901 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-901. Locality may provide for removal or disposal of trash and clutter, cutting of grass, weeds, and running bamboo; penalty in certain counties; penalty.

A. Any locality may, by ordinance, provide that:

1. The owners of property therein shall, at such time or times as the governing body may prescribe, remove therefrom any and all trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, and other substances that might endanger the health or safety of other residents of such locality, or may, whenever the governing body deems it necessary, after reasonable notice, have such trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, and other like substances that might endanger the health of other residents of the locality removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected. For purposes of this section, "clutter" includes mechanical equipment, household furniture, containers, and similar items that may be detrimental to the well-being of a community when they are left in public view for an extended period or are allowed to accumulate.

2. Trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law.

3. The owners of occupied or vacant developed or undeveloped property therein, including such property upon which buildings or other improvements are located, shall cut the grass, weeds, and other foreign growth, including running bamboo as defined in § 15.2-901.1, on such property or any part thereof at such time or times as the governing body shall prescribe, or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds, or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance adopted by any county shall have any force and effect within the corporate limits of any town. No such ordinance adopted by any county having a density of population of less than 500 per square mile shall have any force or effect except within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial, or industrial use. No such ordinance shall be applicable to land zoned for or in active farming operation. However, in any locality located in Planning District 6 *or in Planning District 22*, no such ordinance shall be applicable to land zoned for agricultural use unless such lot is one acre or less in area and used for a residential purpose. In any locality within Planning District 23, such ordinance may also include provisions for cutting overgrown shrubs, trees, and other such vegetation.

4. The owners of any land, regardless of zoning classification, used for the interment of human remains shall cut the grass, weeds, and other foreign growth, including running bamboo as defined in § 15.2-901.1, on such property or any part thereof at such time or times as the governing body shall prescribe, or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds, or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance shall be applicable to land owned by an individual, family, property owners' association as defined in § 55.1-1800, or church.

B. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local real estate

taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, not to exceed $50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed $200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of $3,000 in a 12-month period.

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

CHAPTER 725

An Act to require the Department of Education to convene a stakeholder work group to consider definitions for and calculations of competitive public elementary and secondary school teacher compensation; report.

[S 1215]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The Department of Education (the Department) shall convene a work group no later than August 15, 2023, consisting of school board representatives, division superintendents, public elementary and secondary school teachers, parents of public elementary and secondary school students, representatives of major associations representing public elementary and secondary school staff, and such other stakeholders as the Department deems appropriate to consider and make recommendations in the form of a publicly available report posted on the Department website and addressed and sent to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than November 1, 2023, on the appropriateness, feasibility, potential fiscal impact, and potential unintended consequences of (i) preserving the definition of the term "competitive" contained in § 22.1-289.1 of the Code of Virginia, as applied to the compensation of public elementary and secondary school teachers; (ii) amending such definition to incorporate an alternative metric, including the median annual salary of a Virginia worker who is 25 years of age or older and has a bachelor's degree; and (iii) requiring the Department or another entity to conduct an annual calculation to determine public school teacher compensation and the commensurate flat percentage increase to the state share of salary funding for Standards of Quality-supported positions that is necessary to make such compensation competitive under any such definition.*

CHAPTER 726

An Act to amend and reenact § 2.2-4382 of the Code of Virginia, relating to Virginia Public Procurement Act; construction management; contract requirements.

[H 2450]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-4382 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-4382. Design-build or construction management contracts for local public bodies authorized.

A. Any local public body may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis, provided that the local public body (i) complies with the requirements of this article and (ii) has by ordinance or resolution implemented procedures consistent with the procedures adopted by the Secretary of Administration for utilizing construction management or design-build contracts.

B. Prior to making a determination as to the use of construction management or design-build for a specific construction project, a local public body shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise such public body regarding the use of construction management or design-build for that project and (ii) assist such public body with the preparation of the Request for Proposal and the evaluation of such proposals.

C. A written determination shall be made in advance by the local public body that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to utilize construction

management or design-build. The determination shall be included in the Request for Qualifications and be maintained in the procurement file.

D. Procedures adopted by a local public body for construction management pursuant to this article shall include the following requirements:

1. Construction management may be utilized on projects where the project cost is expected to be less than the project cost threshold established in the procedures adopted by the Secretary of Administration for utilizing construction management contracts, provided that (i) the project is a complex project and (ii) the project procurement method is approved by the local governing body. The written approval of the governing body shall be maintained in the procurement file;

2. Public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;

3. The construction management contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;

4. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, the local public body may consider the experience of each contractor on comparable projects;

5. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable. *The provisions of this subdivision shall not apply to construction management contracts involving infrastructure projects*;

6. The procedures allow for a two-step competitive negotiation process; and

7. Price is a critical basis for award of the contract.

E. Procedures adopted by a local public body for design-build construction projects shall include a two-step competitive negotiation process consistent with the standards established by the Division of Engineering and Buildings of the Department for state public bodies.

CHAPTER 727

An Act to amend and reenact § 2.2-4382 of the Code of Virginia, relating to Virginia Public Procurement Act; construction management; contract requirements.

[S 1491]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-4382 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-4382. Design-build or construction management contracts for local public bodies authorized.

A. Any local public body may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis, provided that the local public body (i) complies with the requirements of this article and (ii) has by ordinance or resolution implemented procedures consistent with the procedures adopted by the Secretary of Administration for utilizing construction management or design-build contracts.

B. Prior to making a determination as to the use of construction management or design-build for a specific construction project, a local public body shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise such public body regarding the use of construction management or design-build for that project and (ii) assist such public body with the preparation of the Request for Proposal and the evaluation of such proposals.

C. A written determination shall be made in advance by the local public body that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to utilize construction management or design-build. The determination shall be included in the Request for Qualifications and be maintained in the procurement file.

D. Procedures adopted by a local public body for construction management pursuant to this article shall include the following requirements:

1. Construction management may be utilized on projects where the project cost is expected to be less than the project cost threshold established in the procedures adopted by the Secretary of Administration for utilizing construction management contracts, provided that (i) the project is a complex project and (ii) the project procurement method is approved by the local governing body. The written approval of the governing body shall be maintained in the procurement file;

2. Public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;

3. The construction management contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;

4. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, the local public body may consider the experience of each contractor on comparable projects;

5. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable. *The provisions of this subdivision shall not apply to construction management contracts involving infrastructure projects*;

6. The procedures allow for a two-step competitive negotiation process; and

7. Price is a critical basis for award of the contract.

E. Procedures adopted by a local public body for design-build construction projects shall include a two-step competitive negotiation process consistent with the standards established by the Division of Engineering and Buildings of the Department for state public bodies.

CHAPTER 728

An Act to direct the State Corporation Commission to establish for certain electric utilities annual energy efficiency savings targets for certain customers.

[S 1323]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The State Corporation Commission (the Commission) shall establish for Phase II Utilities annual energy efficiency savings targets for customers who are low-income, elderly, disabled, or veterans of military service to be achieved through utility energy efficiency programs (low-income energy efficiency savings programs) designed to benefit such customers, provided that each year's target shall be measured by the total combined kilowatt-hour savings achieved by electric utility energy efficiency and demand response programs and measures installed for such customers in that program year, as well as savings still being achieved by measures and programs implemented for such customers in prior years, and that such annual targets shall be at least one percent of the average annual energy retail sales by that utility to those customers, to the extent that the potential exists and is reasonably achievable as determined by the Commission.*

In establishing such targets, the Commission shall seek to optimize energy efficiency and the health and safety benefits of utility energy efficiency programs.

In advance of the effective date of such annual energy efficiency targets, the first of which shall be for 2025, the Commission shall, after notice and opportunity for hearing, initiate proceedings to establish such targets and the appropriate retail sales against which the energy efficiency targets will be measured.

In setting such targets, the Commission shall consider the impact and savings of energy efficiency programs authorized by subdivision C 2 of § 10.1-1330 of the Code of Virginia. The Commission shall also consider federal loan guarantees, grant funds, and rebates made available pursuant to the federal Inflation Reduction Act (P.L. 117-169) or other similar federal legislation that facilitates energy efficiency projects.

The Commission shall, for the period 2028 through 2030, review and, at its discretion, revise such minimum annual targets to ensure continued consistency with the provisions of this section.

All savings from low-income energy efficiency programs shall be applied to the energy efficiency savings set forth in subsection B of § 56-596.2 of the Code of Virginia.

In providing such low-income energy efficiency programs, Phase II Utilities shall make best efforts to coordinate such energy efficiency programs with any health and safety upgrades provided through energy efficiency programs authorized by subdivision C 2 of § 10.1-1330 of the Code of Virginia, when reasonably feasible to do so and at the utility's sole discretion.

For the purposes of this act, "Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1 of the Code of Virginia.

2. That the provisions of this act shall expire on January 1, 2031.

CHAPTER 729

An Act to amend and reenact § 54.1-3408 of the Code of Virginia, relating to administration of controlled substances; emergency service providers or paramedics.

[S 1426]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3408 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine, a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;

2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;

3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; ~~or~~

4. *Persons who are employed or engaged at a medical care facility, as defined in § 32.1-3, who have a valid emergency medical services provider certification issued by the Board of Health as a requirement of being employed or engaged at the medical care facility within the scope of such certification, pursuant to an oral or written order or standing protocol to administer drugs and devices at the medical care facility; or*

5. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or standing protocol that shall be issued by the local health director within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers or nebulized albuterol may possess or administer an albuterol inhaler and a valved holding chamber or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any nurse at an early childhood care and education entity, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; epinephrine for use in emergency cases of anaphylactic shock; and naloxone or other opioid antagonist for overdose reversal.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational

medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, or his remote supervision, as defined in subsection E or F of § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency, the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or

potential public health emergency, or the Board of Health has made an emergency order pursuant to § 32.1-13 for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health and for the limited purpose of administering vaccines as an approved countermeasure for such communicable, contagious, and infectious diseases; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other

opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, an employee or other person acting on behalf of a public place who has completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal other than naloxone in an injectable formulation with a hypodermic needle or syringe in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

For the purposes of this subsection, "public place" means any enclosed area that is used or held out for use by the public, whether owned or operated by a public or private interest.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

CHAPTER 730

An Act to direct the Office of the Children's Ombudsman to make recommendations for the establishment of the Parents Advocacy Commission; report.

[S 1443]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The Office of the Children's Ombudsman shall convene a work group to study the establishment of the Parents Advocacy Commission to provide training, qualification, and oversight for court-appointed counsel who represent parents in child dependency cases. The work group shall review, analyze, and make recommendations for possible models for the Parents Advocacy Commission's standards of practice and training and certification procedures, including the model currently implemented by the Virginia Indigent Defense Commission for court-appointed counsel in criminal proceedings. The work group shall also study and make recommendations for the development of local or regional offices for the Parents Advocacy Commission. The work group shall report such recommendations to the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by November 1, 2023.*

CHAPTER 731

An Act to amend and reenact §§ 4.1-100, 4.1-206.1, as it is currently effective and as it shall become effective, 4.1-219, and 4.1-231.1 of the Code of Virginia, relating to alcoholic beverage control; winery and farm winery licenses; requirements and privileges.

[S 983]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-206.1, as it is currently effective and as it shall become effective, 4.1-219, and 4.1-231.1 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-100. Definitions.

As used in this subtitle unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this subtitle.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this subtitle, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with charging stations at every seat for cellular phones or other portable devices, and (vi) during the transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in this subtitle or Board regulation.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining,

entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a *winery or* farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the *winery or* farm winery licensee. For all purposes of this subtitle, wine produced by a contract winemaking facility for a *winery or* farm winery shall be considered to be wine owned and produced by the *winery or* farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the *winery or* farm winery for its services. *A winery licensee may utilize contract winemaking services only for the manufacture or processing of wine of which no less than 90 percent of the grapes, fruits, and other agricultural products used to make such wine are grown in the Commonwealth.*

"Convenience grocery store" means an establishment that (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and recreational and educational activities related to farming, livestock, and other rural activities.

"Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring little preparation, such as cheeses, salads, cooked meats, and related condiments.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist pursuant to a prescription and other medicines and items for home and general use.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment ~~(a)~~ *or cooperative* located ~~on a farm~~ in the Commonwealth on land zoned agricultural ~~with~~ *that has (a)* a ~~producing~~ vineyard, orchard, or similar growing area *that produces fruits or other agricultural products used to manufacture the wine of such farm winery, subject to the requirements set forth in § 4.1-219,* and ~~with~~ *(b)* facilities for fermenting and bottling wine on the premises where ~~the owner or lessee~~ *such farm winery* manufactures wine that contains not more than 21 percent alcohol by volume ~~or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume~~ or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the ~~terms "owner" and "lessee" shall include~~ *term "cooperative" means* a cooperative formed by an association of individuals for the purpose of manufacturing wine. In ~~the event that such~~ *determining whether a* cooperative ~~is~~ licensed as a farm winery~~,~~ *has met* the ~~term "farm" as used in this definition includes~~ *requirements set forth in clause (i), the Board shall consider* all ~~of the~~ land *in the Commonwealth that is* owned or leased by ~~the individual members~~ *a member* of the cooperative ~~as long as such land is located in the Commonwealth~~. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, and (iii) offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Grocery store" means an establishment that sells food and other items intended for human consumption, including a variety of ingredients commonly used in the preparation of meals.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this subtitle.

"Internet wine and beer retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this subtitle, except that low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the Commonwealth.

"Marina store" means an establishment that is located on the same premises as a marina, is operated by the owner of such marina, and sells food and nautical and fishing supplies.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building that is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities both to its members and to the general public; or (iii) operated by a corporation that operates as a management company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the same locality. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients, but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-206.1. (Effective until July 1, 2024) Manufacturer licenses.

The Board may grant the following manufacturer licenses:

1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated as distillers for all purposes of this subtitle except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in the brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers and other reusable containers, for off-premises consumption.

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this subtitle except as otherwise provided in this subdivision.

5. Winery licenses, which shall authorize the licensee to *(i)* manufacture wine and to sell and deliver or ship ~~the~~ *such* wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth~~. In addition, such license shall authorize the licensee to (i)~~*; (ii)* operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; ~~(ii)~~ *(iii)* operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; ~~(iii)~~ *(iv)* store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and ~~(iv)~~ *(v)* sell wine at retail at the place of business designated in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and ~~any~~ *no less than 20 percent of the* wine sold for on-premises consumption is manufactured on the licensed premises.

6. Farm winery licenses, which shall authorize the licensee to *(i)* manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship ~~the~~ *such* wine, in accordance with Board regulations, in closed containers, to ~~(i)~~ the Board, ~~(ii)~~ persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or ~~(iii)~~ persons outside the Commonwealth~~. In addition, the licensee may (a)~~*; (ii)* acquire and receive deliveries and shipments of wine and sell and deliver or ship ~~this~~ *such* wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; ~~(b)~~ *(iii)* operate a contract winemaking facility on the premises of the licensee in accordance with *the provisions of this subtitle and* Board regulations; *(iv) enter into an agreement with a contract winemaking facility in accordance with the provisions of this subtitle and Board regulations;* and ~~(c)~~ *(v)* store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this subtitle, a farm winery license shall be designated either as a Class ~~A or~~ *I,* Class ~~B~~ *II, Class III, or Class IV* farm winery license in accordance with the limitations set forth in § 4.1-219. ~~A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.~~

Such licenses shall also authorize the licensee to sell wine at retail *for on-premises consumption or in closed containers for off-premises consumption* at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. ~~Wine may be sold~~ *The licensee may sell* at these *places of* business ~~places for~~

~~on-premises consumption and in closed containers for off-premises consumption, provided that any brand of~~ *wine manufactured by such licensee, wine manufactured by a contract winemaking facility with which the licensee has entered into an agreement pursuant to the provisions of this subtitle and Board regulations, and* wine ~~not owned by the farm winery licensee is~~ purchased from a wholesale wine licensee. In addition, ~~wine may be pre-mixed by~~ the licensee ~~to be served and sold for on-premises or off-premises consumption~~ *may pre-mix wine and sell such wine* at these *places of* business ~~places~~.

7. Wine importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. Beer importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to persons outside the Commonwealth for resale outside the Commonwealth.

§ 4.1-206.1. (Effective July 1, 2024) Manufacturer licenses.

The Board may grant the following manufacturer licenses:

1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in the brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers and other reusable containers, for off-premises consumption.

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

5. Winery licenses, which shall authorize the licensee to *(i)* manufacture wine and to sell and deliver or ship ~~the~~ *such* wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth~~. In addition, such license shall authorize the licensee to (i)~~*; (ii)* operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; ~~(ii)~~ *(iii)* operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; ~~(iii)~~ *(iv)* store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and ~~(iv)~~ *(v)* sell wine at retail at the place of business designated in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and ~~any~~ *no less than 20 percent of the* wine sold for on-premises consumption is manufactured on the licensed premises.

6. Farm winery licenses, which shall authorize the licensee to *(i)* manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship ~~the~~ *such* wine, in accordance with Board regulations, in closed containers, to ~~(i)~~ the Board, ~~(ii)~~ persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or ~~(iii)~~ persons outside the Commonwealth~~. In addition, the licensee may (a)~~*; (ii)* acquire and receive deliveries and shipments of wine and sell and deliver or ship ~~this~~ *such* wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; ~~(b)~~ *(iii)* operate a contract winemaking facility on the premises of the licensee in accordance with *the provisions of this subtitle and* Board regulations; *(iv) enter into an agreement with a contract winemaking facility in accordance with the provisions of this subtitle and Board regulations;* and ~~(c)~~ *(v)* store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this title, a farm winery license shall be designated either as a Class ~~A or~~ *I,* Class ~~B~~ *II, Class III, or Class IV* farm winery license in accordance with the limitations set forth in § 4.1-219. ~~A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.~~

Such licenses shall also authorize the licensee to sell wine at retail *for on-premises consumptions or in closed containers for off-premises consumption* at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. ~~Wine may be sold~~ *The licensee may sell* at these *places of* business ~~places for on-premises consumption and in closed containers for off-premises consumption, provided that any brand of~~ *wine manufactured by such licensee, wine manufactured by a contract winemaking facility with which the licensee has entered into an agreement pursuant to the provisions of this subtitle and Board regulations, and* wine ~~not owned by the farm winery licensee is~~ purchased from a wholesale wine licensee. In addition, ~~wine may be pre-mixed by~~ the licensee ~~to be served and sold for on-premises consumption~~ *may pre-mix wine and sell such wine* at these *places of* business ~~places~~.

7. Wine importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. Beer importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to persons outside the Commonwealth for resale outside the Commonwealth.

§ 4.1-219. Limitations on Class I, II, III, and IV farm wineries.

A. For Class ~~A~~ *I* farm winery licensees, *all of the fruits or agricultural products used by the licensee to manufacture wine shall be grown or produced on the licensed premises. Class I farm winery licensees shall have on the licensed premises a growing area no smaller than one and one-half acres that produces fruits or agricultural products used to manufacture the wine of such farm winery. Class I farm winery licensees shall ferment on the licensed premises no less than 2,250 liters of wine per year, and all of the wine sold by such licensee shall be fermented on the licensed premises.*

B. For Class II farm winery licensees, at least 51 percent of the fruits or agricultural products used by the ~~owner or lessee~~ *licensee* to manufacture ~~the~~ wine shall be grown or produced on ~~such farm~~ *property in the Commonwealth that is owned or leased by the licensee* and no more than 25 percent of the fruits~~, fruit juices~~ or ~~other~~ agricultural products *used by the licensee to manufacture wine* shall be grown or produced outside the Commonwealth. *Class II farm winery licensees shall have on the licensed premises a growing area no smaller than three acres that produces fruits or agricultural products used to manufacture the wine of such farm winery.*

~~B.~~ *C.* For Class ~~B~~ *III* farm winery licensees, 75 percent of the fruits or agricultural products used by the ~~owner or lessee~~ *licensee* to manufacture ~~the~~ wine shall be grown or produced in the Commonwealth ~~and no more than 25 percent of the fruits, fruit juices or other agricultural products shall be grown or produced outside the Commonwealth. No~~ Class ~~B~~ *III* farm winery ~~license~~ *licensees* shall ~~be issued to any person who has not operated under an existing Virginia farm winery license for at least seven years~~ *ferment on the licensed premises no less than 4,500 liters of wine per year, and no less than 75 percent of the wine sold by such licensee shall be fermented on the licensed premises.*

~~C. Farm~~ *D. For Class IV farm winery licensees, 75 percent of the fruits or agricultural products used by the licensee to manufacture wine shall be grown or produced in the Commonwealth. Class IV farm winery licensees shall have on the licensed premises a growing area no smaller than 10 acres that produces fruits or agricultural products used to manufacture the wine of such farm winery. No Class IV farm winery license shall be issued to any person that has not operated under an existing farm winery license for at least seven years.*

E. A farm winery ~~licensees~~ *licensee* may trade *with other farm winery licensees* fruits or agricultural products grown or produced on ~~such farms with other~~ *property in the Commonwealth that is owned or leased by such* farm winery licensees. For the purposes of this section, fruit or agricultural products traded or exchanged between farm winery licensees shall be considered grown or produced on the *licensed premises of the* receiving ~~farm~~ *licensee* for the purposes of meeting the fruit sourcing requirement in subsections A ~~and~~, B*, C, and D*, provided that verification is provided to the receiving ~~farm~~ *licensee* that the fruit or agricultural products traded or exchanged were grown or produced in the Commonwealth by the farm winery licensee engaging in such trade or exchange. Both licensees shall maintain complete and accurate records of the quantity and source of any fruit or agricultural products traded or exchanged. Such trades or exchanges shall be bona fide transactions based on the fair market value of the fruits or agricultural products traded or exchanged. For the purposes of

this subsection, "agricultural products" means the raw materials used or intended to be used in the manufacture of wine or cider by farm winery licensees.

~~D.~~ *F.* Notwithstanding the provisions of subsections A ~~and~~, B*, C, and D*, upon petition by the Department of Agriculture and Consumer Services, the Board may permit the use (i) of a greater quantity of out-of-state products if supplies grown or produced in the Commonwealth are insufficient for a farm winery licensee, whether Class ~~A or~~ *I,* Class ~~B~~ *II, Class III, or Class IV*, to achieve the level of production ~~which~~ *that* otherwise could be anticipated during a given license year or (ii) by a Class ~~A~~ *I, Class II, or Class IV* farm winery of a lesser percentage of products grown or produced on the ~~farm~~ *licensed premises or on property in the Commonwealth that is owned or leased by the licensee, as applicable,* if unusually severe weather or disease conditions cause a significant reduction in the availability of fruit or other agricultural products grown or produced on ~~the farm~~ *such property* to manufacture wine during a given license year.

G. As used in this section, the ~~terms "owner" and "lessee"~~ *phrase "property in the Commonwealth that is owned or leased by the licensee"* shall include*, in the case of* a cooperative ~~formed by an association of individuals for the purpose of manufacturing wine. The term "farm" as used in this section includes all of the land~~ *licensed as a farm winery, any property in the Commonwealth that is* owned or leased by ~~the farm winery licensee as long as such land is located in the Commonwealth~~ *a member of such cooperative*.

§ 4.1-231.1. Fees on state licenses.

A. (Contingent expiration date) The annual fees on state licenses shall be as follows:

1. Manufacturer licenses. For each:

a. Distiller's license and limited distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, $490; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, $2,725; and if more than 36,000 gallons manufactured during such year, $4,060;

b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, $380; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, $2,350; and if more than 10,000 barrels manufactured during such year, $4,690;

c. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, $215, and if more than 5,000 gallons manufactured during such year, $4,210;

d. Farm winery license, ~~$245~~ *$275* for any Class ~~A~~ *I or Class II* license ~~and $4,730~~*, $500* for any Class ~~B~~ *III* license*, and $4,000 for any Class IV license*;

e. Wine importer's license, $460; and

f. Beer importer's license, $460.

2. Wholesale licenses. For each:

a. (1) Wholesale beer license, $1,005 for any wholesaler who sells 300,000 cases of beer a year or less, $1,545 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and $2,010 for any wholesaler who sells more than 600,000 cases of beer a year; and

(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision a (1), multiplied by the number of separate locations covered by the license;

b. (1) Wholesale wine license, $240 for any wholesaler who sells 30,000 gallons of wine or less per year, $1,200 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, $1,845 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and $2,400 for any wholesaler who sells more than 300,000 gallons of wine per year; and

(2) Wholesale wine license, including that granted pursuant to subdivision 3 of § 4.1-206.2, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license.

3. Retail licenses — mixed beverage. For each:

a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants located on premises of and operated by casinos, hotels or motels, or other persons:

(1) With a seating capacity at tables for up to 100 persons, $1,050;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, $1,495;

(3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, $1,980;

(4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, $2,500; and

(5) With a seating capacity at tables for more than 1,000 persons, $3,100;

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(1) With an average yearly membership of not more than 200 resident members, $1,250;

(2) With an average yearly membership of more than 200 but not more than 500 resident members, $2,440; and

(3) With an average yearly membership of more than 500 resident members, $3,410;

c. Mixed beverage casino license, $3,100 plus an additional $5 for each gaming station located on the premises of the casino gaming establishment. For the purposes of this subdivision, "gaming station" means each slot machine and each casino gaming table that is in active use, as determined annually on December 31;

d. Mixed beverage caterer's license, $1,990;

e. Mixed beverage limited caterer's license, $550;

f. Mixed beverage carrier license:

(1) $520 for each of the average number of dining cars, buffet cars, or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(2) $910 for each common carrier of passengers by boat;

(3) $520 for each common carrier of passengers by bus; and

(4) $2,360 for each license granted to a common carrier of passengers by airplane;

g. Annual mixed beverage motor sports facility license, $630;

h. Limited mixed beverage restaurant license:

(1) With a seating capacity at tables for up to 100 persons, $945;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, $1,385; and

(3) With a seating capacity at tables for more than 150 persons, $1,875;

i. Annual mixed beverage performing arts facility license, $630;

j. Bed and breakfast license, $100;

k. Museum license, $260;

l. Motor car sporting event facility license, $300;

m. Commercial lifestyle center license, $300;

n. Mixed beverage port restaurant license, $1,050; and

o. Annual mixed beverage special events license, $630.

4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer license, $450.

5. Retail licenses — off-premises wine and beer. For each:

a. Retail off-premises wine and beer license, $300;

b. Gourmet brewing shop license, $320; and

c. Confectionery license, $170.

6. Retail licenses — banquet, special event, and tasting licenses.

a. Per-day event licenses. For each:

(1) Banquet license, $40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be $100 per license;

(2) Mixed beverage special events license, $45 for each day of each event;

(3) Mixed beverage club events license, $35 for each day of each event; and

(4) Tasting license, $40.

b. Annual licenses. For each:

(1) Annual banquet license, $300;

(2) Banquet facility license, $260;

(3) Designated outdoor refreshment area license, $300. However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee shall be $3,000;

(4) Annual mixed beverage banquet license, $630;

(5) Equine sporting event license, $300; and

(6) Annual arts venue event license, $300.

7. Retail licenses — marketplace. For each marketplace license, $1,000.

8. Retail licenses — shipper, bottler, and related licenses. For each:

a. Wine and beer shipper's license, $230;

b. Internet wine and beer retailer license, $240;

c. Bottler license, $1,500;

d. Fulfillment warehouse license, $210;

e. Marketing portal license, $285; and

f. Third-party delivery license, $7,500, unless the licensee provides written certification to the Board that the licensee has no more than 25 delivery personnel, including employees, agents, and independent contractors that engage in direct-to-consumer alcoholic beverage delivery, in which case the license fee shall be $2,500.

9. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first $163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first $163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of $5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

2. That any person that holds a farm winery license that was applied for prior to July 1, 2023, and granted prior to January 1, 2024, by the Board of Directors of the Virginia Alcoholic Beverage Control Authority shall, until July 1, 2028, (i) be exempt from the requirements created by this act in §§ 4.1-219 and 4.1-231.1 of the Code of Virginia and (ii) remain subject to the requirements of §§ 4.1-219 and 4.1-231.1 of the Code of Virginia as those sections were in effect on June 30, 2023.

CHAPTER 732

An Act to require certain electric utilities to demonstrate that certain electrical generating facilities were subject to competitive procurement or solicitation.

[H 2305]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. In any petition by a Phase I or Phase II Utility, as those terms are defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, for a certificate of public convenience and necessity to construct and operate an electrical generating facility that generates electric energy derived from sunlight submitted pursuant to § 56-580 of the Code of Virginia, such utility shall demonstrate that the proposed facility was subject to competitive procurement or solicitation pursuant to subdivision D 3 of § 56-585.5 of the Code of Virginia.*

CHAPTER 733

An Act to amend the Code of Virginia by adding a section numbered 36-139.9, relating to local housing policy; report to Department of Housing and Community Development.

[H 2494]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 36-139.9 as follows:

§ 36-139.9. Local housing policy; report to Department.

A. Any locality with a population greater than 3,500 shall submit annually to the Department a report summarizing the adoption or amendment of any local policies, ordinances, or processes affecting the development and construction of housing during the preceding fiscal year. Such report shall contain a description of the following items and, if available, a reference to where additional information can be found on the locality's website:

1. Adoption or amendment of a local proffer policy enacted by the locality pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1;

2. Adoption or amendment of any provisions of the zoning ordinance affecting the development, redevelopment, or construction of single-family or multifamily housing;

3. Adoption or amendment of any provisions of the subdivision ordinance affecting the development, redevelopment, or construction of single-family or multifamily housing;

4. Revisions to the comprehensive plan affecting the location, density, or character of single-family or multifamily housing;

5. Adoption or amendment of any ordinances, incentives, or policies designed to encourage the development, redevelopment, or construction of housing, including accessory dwelling unit ordinances, affordable dwelling unit ordinances pursuant to § 15.2-2304, 15.2-2305, or 15.2-2305.1, fee waivers, density bonuses, waiver or reduction of local parking requirements, new construction or rehabilitation tax incentives, and development standard modifications; and

6. Changes to any local fees associated with the reviewing, permitting, and construction of residential development activities.

B. Reports submitted by localities pursuant to this section shall be submitted to the Department annually by September 1 for the preceding fiscal year. Reports shall be submitted in accordance with any forms and requirements developed by the Department, in consultation with stakeholders. The Department shall make all reports available to the public on its website.

CHAPTER 734

An Act to amend and reenact § 23.1-2403 of the Code of Virginia, relating to public institutions of higher education; Virginia Commonwealth University Health System Authority; chief executive officer; criteria.

[S 1499]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-2403 of the Code of Virginia is amended and reenacted as follows:

§ 23.1-2403. Chief executive officer of the Authority.

A. The Authority shall be under the immediate supervision and direction of a chief executive officer, subject to the policies and direction established by the board. The chief executive officer ~~shall~~ *may* be the individual who holds the title of Vice-President for Health Sciences of Virginia Commonwealth University, or such other title as subsequently may be established by the board of visitors of the University for the chief academic and administrative officer for the Health Sciences Schools of the University. Notwithstanding any other provision of law to the contrary, the selection and removal of the chief executive officer, and the conditions of appointment, including salary, shall be made jointly by the board and the board of visitors of the University at a joint meeting of the board and the board of visitors of the University upon a vote of a majority of the members of each board present and voting at the aforementioned joint meeting, acting separately in accordance with applicable provisions of law.

B. In the event that a majority of the members of each board do not agree upon the selection, removal, or conditions of appointment, including salary, of the chief executive officer as provided in subsection A, then each board shall appoint a committee of three members of its respective board to consider the matter upon which the boards disagree. The selection, removal, or conditions of appointment shall be made jointly by the two committees at a joint meeting of the committees upon a vote by a majority of the members of each committee present and voting at the joint meeting. In the event that a majority of the members of each committee agree upon the selection, removal, or conditions of appointment of the chief executive officer, then the decision shall be reported to the board and the board of visitors of the University, each of which shall be bound by the decision of the committees. In the event that a majority of the members of each committee do not agree on the selection, removal, or conditions of appointment of the chief executive officer within 30 days of the appointment of the committees by each board, then the president of the University shall decide upon the matter upon which the committees disagree. The president of the University shall report his decision to both boards, each of which shall be bound by the decision of the president.

C. The chief executive officer shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

D. The chief executive officer shall supervise and administer the operation of the Authority in accordance with the provisions of this chapter.

CHAPTER 735

An Act to amend and reenact § 62.1-44.119:1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 3.8 of Title 62.1 sections numbered 62.1-44.119:2, 62.1-44.119:3, and 62.1-44.119:4, relating to Chesapeake Bay Watershed Implementation Plan; effective date.

[H 1485]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.119:1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 3.8 of Title 62.1 sections numbered 62.1-44.119:2, 62.1-44.119:3, and 62.1-44.119:4 as follows:

§ 62.1-44.119:1. Effective date.

A. The provisions of this chapter shall not become effective unless, on or after July 1, ~~2026~~ *2028*, the Secretary of Agriculture and Forestry and the Secretary of Natural and Historic Resources jointly determine that the Commonwealth's commitments in the Chesapeake Bay Total Maximum Daily Load Phase III Watershed Implementation Plan have not been satisfied by a combination of *(i)* agricultural best management conservation practices, including the coverage of a sufficient portion of Chesapeake Bay cropland by nutrient management plans or the installation of a sufficient number of livestock stream exclusion practices*, and (ii) other point or nonpoint source pollution reduction commitments*.

B. In making the determination required in subsection A, the effective date of the provisions of this chapter shall be extended for a period of one calendar year for each calendar year that the Commonwealth has not fully funded the amount calculated pursuant to § 10.1-2128.1 for effective Soil and Water Conservation District technical assistance and implementation of agricultural best management practices pursuant to § 10.1-546.1 from July 1, 2023, through the end of the biennial period in which the Secretary of Agriculture and Forestry and the Secretary of Natural and Historic Resources have made the joint determination required in subsection A. Nothing in this subsection shall prohibit adding funding to the

Virginia Natural Resources Commitment Fund as established in § 10.1-2128.1 in any year from July 1, 2023, to the year the joint determination is made pursuant to subsection A for distribution in another program year in order to achieve full funding.

C. In no case shall the effective date of the provisions of this chapter be extended beyond July 1, 2030, unless sufficient funding for effective Soil and Water Conservation District technical assistance and implementation of agricultural best management practices has not been provided pursuant to § 10.1-2128.1 in any calendar year.

§ 62.1-44.119:2. Agricultural commitments; work group.

The Secretary of Natural and Historic Resources and the Secretary of Agriculture and Forestry shall convene a stakeholder advisory group, hereinafter referred to as the Group, to review annual progress and make recommendations toward the implementation of the Commonwealth's agricultural commitments in the Chesapeake Bay Total Maximum Daily Load Phase III Watershed Implementation Plan. The Group shall develop (i) a process to assist any operator of 50 or more acres of Chesapeake Bay cropland in developing a nutrient management plan that meets the requirements of the goals to be achieved by the target date and (ii) a plan for the stream exclusion program in the Chesapeake Bay watershed. Such plans and progress reports shall include the number of practices completed by river basin in the prior program year and practices needed to complete the agriculture sector nutrient load reductions, including sediment reductions by river basin, identification of priority regions, the number of operators affected within each region, initiatives to enhance progress, an accounting of funding received toward the agricultural commitments, shortfalls remaining, and the consequences of such funding shortfalls. Such progress reports shall also include specific percentages relating to nutrient management plan and stream exclusion adoption compared to the requirements of the Phase III Watershed Implementation Plan.

§ 62.1-44.119:3. Virginia Natural Resources Commitment Fund reporting requirements.

Each soil and water conservation district shall report to the Department of Conservation and Recreation recommendations for improving the disbursement of funding and for program efficiencies that would expedite disbursal of funds provided through the Virginia Natural Resources Commitment Fund established under § 10.1-2128.1.

§ 62.1-44.119:4. Regulatory format on agricultural practices before effective date.

Notwithstanding the provisions of this chapter, no regulatory action pursuant to §§ 62.1-44.121 and 62.1-44.123 shall be imposed on agricultural practices prior to July 1, 2028, provided that reasonable progress is being achieved and a detailed plan to include full funding, as provided under subsection C of § 10.1-2128.1, for reaching the needed number of voluntary incentivized practices has been developed.

2. That the stakeholder advisory group (the Group) created by the Secretary of Agriculture and Forestry and the Secretary of Natural and Historic Resources pursuant to § 62.1-44.119:2 of the Code of Virginia, as created by this act, shall make recommendations to the Governor and the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources to ensure that all of the Commonwealth's agricultural sector commitments are achieved in accordance with the Chesapeake Bay Total Maximum Daily Load Phase III Watershed Implementation Plan. The Group shall develop a year-to-year timeline for achieving specific metrics for the achievement of the Commonwealth's agricultural sector commitments, including the coverage of a sufficient portion of Chesapeake Bay cropland by nutrient management plans or the installation of a sufficient number of livestock stream exclusion practices, in the Chesapeake Bay Total Maximum Daily Load Phase III Watershed Implementation Plan. Such timeline shall include specific annual percentages for nutrient management plan and stream exclusion adoption to meet the requirements of the Phase III Watershed Implementation Plan. The year-to-year timeline for achieving specific metrics shall be used to determine reasonable progress per § 62.1-44.119:4 of the Code of Virginia, as created by this act. The Group shall include representatives from the Department of Conservation and Recreation, soil and water conservation districts, the Virginia Farm Bureau Federation, the Virginia Agribusiness Council, the Shenandoah Riverkeepers, the Chesapeake Bay Commission, the Chesapeake Bay Foundation, the James River Association, the Virginia Cooperative Extension, the Virginia Cattlemen's Association, the Virginia Association of the Commissioners of the Revenue, and the Virginia Association of Counties. The Group shall also include two legislative members, one each from the Senate and the House of Delegates appointed by the Senate Committee on Rules and the Speaker of the House of Delegates, respectively. Such legislative members shall be members of the Virginia delegation of the Chesapeake Bay Commission. A preliminary report from the Group shall be due on December 1, 2023. The first annual report for the Group shall be due on July 1, 2024, and include the timeline with specific metrics. Thereafter, the progress report shall be due on an annual schedule to be determined by the Group.

3. That the Secretary of Agriculture and Forestry and the Secretary of Natural and Historic Resources shall, no later than August 1, 2025, jointly review the July 1, 2025, report of the Group established by the second enactment of this act as well as other relevant information at their disposal and together determine in their judgment whether work accomplished to date as well as planning and resource allocation are sufficient to substantially reach the allocated goals by July 1, 2028, and whether additional initiatives or resources or both will be necessary to continue an incentive-based effort.

4. That the determination made pursuant to subsection A of § 62.1-44.119:1 of the Code of Virginia, as amended by this act, shall consider that municipal wastewater point source reduction should be consistent only with the applicable point source plan for Watershed Implementation Plan Phase III as adopted pursuant to § 62.1-44.19:14 of the Code of Virginia.

CHAPTER 736

An Act to amend and reenact § 62.1-44.119:1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 3.8 of Title 62.1 sections numbered 62.1-44.119:2, 62.1-44.119:3, and 62.1-44.119:4, relating to Chesapeake Bay Watershed Implementation Plan; effective date.

[S 1129]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.119:1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 3.8 of Title 62.1 sections numbered 62.1-44.119:2, 62.1-44.119:3, and 62.1-44.119:4 as follows:

§ 62.1-44.119:1. Effective date.

A. The provisions of this chapter shall not become effective unless, on or after July 1, ~~2026~~ *2028*, the Secretary of Agriculture and Forestry and the Secretary of Natural and Historic Resources jointly determine that the Commonwealth's commitments in the Chesapeake Bay Total Maximum Daily Load Phase III Watershed Implementation Plan have not been satisfied by a combination of *(i)* agricultural best management conservation practices, including the coverage of a sufficient portion of Chesapeake Bay cropland by nutrient management plans or the installation of a sufficient number of livestock stream exclusion practices*, and (ii) other point or nonpoint source pollution reduction commitments*.

B. In making the determination required in subsection A, the effective date of the provisions of this chapter shall be extended for a period of one calendar year for each calendar year that the Commonwealth has not fully funded the amount calculated pursuant to § 10.1-2128.1 for effective Soil and Water Conservation District technical assistance and implementation of agricultural best management practices pursuant to § 10.1-546.1 from July 1, 2023, through the end of the biennial period in which the Secretary of Agriculture and Forestry and the Secretary of Natural and Historic Resources have made the joint determination required in subsection A. Nothing in this subsection shall prohibit adding funding to the Virginia Natural Resources Commitment Fund as established in § 10.1-2128.1 in any year from July 1, 2023, to the year the joint determination is made pursuant to subsection A for distribution in another program year in order to achieve full funding.

C. In no case shall the effective date of the provisions of this chapter be extended beyond July 1, 2030, unless sufficient funding for effective Soil and Water Conservation District technical assistance and implementation of agricultural best management practices has not been provided pursuant to § 10.1-2128.1 in any calendar year.

§ 62.1-44.119:2. Agricultural commitments; work group.

The Secretary of Natural and Historic Resources and the Secretary of Agriculture and Forestry shall convene a stakeholder advisory group, hereinafter referred to as the Group, to review annual progress and make recommendations toward the implementation of the Commonwealth's agricultural commitments in the Chesapeake Bay Total Maximum Daily Load Phase III Watershed Implementation Plan. The Group shall develop (i) a process to assist any operator of 50 or more acres of Chesapeake Bay cropland in developing a nutrient management plan that meets the requirements of the goals to be achieved by the target date and (ii) a plan for the stream exclusion program in the Chesapeake Bay watershed. Such plans and progress reports shall include the number of practices completed by river basin in the prior program year and practices needed to complete the agriculture sector nutrient load reductions, including sediment reductions by river basin, identification of priority regions, the number of operators affected within each region, initiatives to enhance progress, an accounting of funding received toward the agricultural commitments, shortfalls remaining, and the consequences of such funding shortfalls. Such progress reports shall also include specific percentages relating to nutrient management plan and stream exclusion adoption compared to the requirements of the Phase III Watershed Implementation Plan.

§ 62.1-44.119:3. Virginia Natural Resources Commitment Fund reporting requirements.

Each soil and water conservation district shall report to the Department of Conservation and Recreation recommendations for improving the disbursement of funding and for program efficiencies that would expedite disbursal of funds provided through the Virginia Natural Resources Commitment Fund established under § 10.1-2128.1.

§ 62.1-44.119:4. Regulatory format on agricultural practices before effective date.

Notwithstanding the provisions of this chapter, no regulatory action pursuant to §§ 62.1-44.121 and 62.1-44.123 shall be imposed on agricultural practices prior to July 1, 2028, provided that reasonable progress is being achieved and a detailed plan to include full funding, as provided under subsection C of § 10.1-2128.1, for reaching the needed number of voluntary incentivized practices has been developed.

2. That the stakeholder advisory group (the Group) created by the Secretary of Agriculture and Forestry and the Secretary of Natural and Historic Resources pursuant to § 62.1-44.119:2 of the Code of Virginia, as created by this act, shall make recommendations to the Governor and the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources to ensure that all of the Commonwealth's agricultural sector commitments are achieved in accordance with the Chesapeake Bay Total Maximum Daily Load Phase III Watershed Implementation Plan. The Group shall develop a year-to-year timeline for achieving specific metrics for the achievement of the Commonwealth's agricultural sector commitments, including the coverage of a sufficient portion of Chesapeake Bay cropland by nutrient management

plans or the installation of a sufficient number of livestock stream exclusion practices, in the Chesapeake Bay Total Maximum Daily Load Phase III Watershed Implementation Plan. Such timeline shall include specific annual percentages for nutrient management plan and stream exclusion adoption to meet the requirements of the Phase III Watershed Implementation Plan. The year-to-year timeline for achieving specific metrics shall be used to determine reasonable progress per § 62.1-44.119:4 of the Code of Virginia, as created by this act. The Group shall include representatives from the Department of Conservation and Recreation, soil and water conservation districts, the Virginia Farm Bureau Federation, the Virginia Agribusiness Council, the Shenandoah Riverkeepers, the Chesapeake Bay Commission, the Chesapeake Bay Foundation, the James River Association, the Virginia Cooperative Extension, the Virginia Cattlemen's Association, the Virginia Association of the Commissioners of the Revenue, and the Virginia Association of Counties. The Group shall also include two legislative members, one each from the Senate and the House of Delegates appointed by the Senate Committee on Rules and the Speaker of the House of Delegates, respectively. Such legislative members shall be members of the Virginia delegation of the Chesapeake Bay Commission. A preliminary report from the Group shall be due on December 1, 2023. The first annual report for the Group shall be due on July 1, 2024, and include the timeline with specific metrics. Thereafter, the progress report shall be due on an annual schedule to be determined by the Group.

3. That the Secretary of Agriculture and Forestry and the Secretary of Natural and Historic Resources shall, no later than August 1, 2025, jointly review the July 1, 2025, report of the Group established by the second enactment of this act as well as other relevant information at their disposal and together determine in their judgment whether work accomplished to date as well as planning and resource allocation are sufficient to substantially reach the allocated goals by July 1, 2028, and whether additional initiatives or resources or both will be necessary to continue an incentive-based effort.

4. That the determination made pursuant to subsection A of § 62.1-44.119:1 of the Code of Virginia, as amended by this act, shall consider that municipal wastewater point source reduction should be consistent only with the applicable point source plan for Watershed Implementation Plan Phase III as adopted pursuant to § 62.1-44.19:14 of the Code of Virginia.

CHAPTER 737

An Act to amend and reenact § 58.1-608.3 of the Code of Virginia, relating to sales tax revenue; entertainment arena.

[S 1258]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-608.3 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-608.3. Entitlement to certain sales tax revenues.

A. As used in this section, the following words and terms have the following meanings, unless some other meaning is plainly intended:

"Bonds" means any obligations of a municipality for the payment of money.

"Cost," as applied to any public facility or to extensions or additions to any public facility, includes: (i) the purchase price of any public facility acquired by the municipality or the cost of acquiring all of the capital stock of the corporation owning the public facility and the amount to be paid to discharge any obligations in order to vest title to the public facility or any part of it in the municipality; (ii) expenses incident to determining the feasibility or practicability of the public facility; (iii) the cost of plans and specifications, surveys and estimates of costs and of revenues; (iv) the cost of all land, property, rights, easements and franchises acquired; (v) the cost of improvements, property or equipment; (vi) the cost of engineering, legal and other professional services; (vii) the cost of construction or reconstruction; (viii) the cost of all labor, materials, machinery and equipment; (ix) financing charges; (x) interest before and during construction and for up to one year after completion of construction; (xi) start-up costs and operating capital; (xii) payments by a municipality of its share of the cost of any multijurisdictional public facility; (xiii) administrative expense; (xiv) any amounts to be deposited to reserve or replacement funds; and (xv) other expenses as may be necessary or incident to the financing of the public facility. Any obligation or expense incurred by the public facility in connection with any of the foregoing items of cost may be regarded as a part of the cost.

"Municipality" means any county, city, town, authority, commission, or other public entity.

"Public facility" means (i) any auditorium, coliseum, convention center, or conference center, which is owned by a Virginia county, city, town, authority, or other public entity and where exhibits, meetings, conferences, conventions, seminars, or similar public events may be conducted; (ii) any hotel which is owned by a foundation whose sole purpose is to benefit a baccalaureate public institution of higher education in the Commonwealth and which is attached to and is an integral part of such facility, together with any lands reasonably necessary for the conduct of the operation of such events; (iii) any hotel which is attached to and is an integral part of such facility; (iv) any hotel that is adjacent to a convention center owned by a public entity and where the hotel owner enters into a public-private partnership whereby the locality contributes infrastructure, real property, or conference space; (v) a sports complex consisting of a minor league baseball stadium and related tournament, training, and parking facilities, where a municipality owns a component of the sports

complex; or (vi) any *entertainment arena, the primary purpose of which is for the display, presentation, or performance of concerts, sporting events, or other live entertainment, or any* outdoor amphitheater, provided that a locality owns, wholly or partly, and contributes to financing the construction of such *entertainment arena or* amphitheater. However, such public facility must be located in the City of Chesapeake, City of Fredericksburg, City of Hampton, City of Lynchburg, City of Newport News, City of Norfolk, City of Portsmouth, City of Richmond, City of Roanoke, City of Salem, City of Staunton, City of Suffolk, City of Virginia Beach, City of Winchester, or Town of Wise. Any property, real, personal, or mixed, which is necessary or desirable in connection with any such auditorium, coliseum, convention center, *entertainment arena,* sports complex, or conference center, including, without limitation, facilities for food preparation and serving, parking facilities, and office space, is encompassed within this definition. However, structures commonly referred to as "shopping centers" or "malls" shall not constitute a public facility hereunder. A public facility shall not include residential condominiums, townhomes, or other residential units. In addition, only a new public facility, or a public facility which will undergo a substantial and significant renovation or expansion, shall be eligible under subsection C. A new public facility is one whose construction began after December 31, 1991. A substantial and significant renovation entails a project whose cost is at least 50 percent of the original cost of the facility being renovated and shall have begun after December 31, 1991. A substantial and significant expansion entails an increase in floor space of at least 50 percent over that existing in the preexisting facility and shall have begun after December 31, 1991; or an increase in floor space of at least 10 percent over that existing in a public facility that qualified as such under this section and was constructed after December 31, 1991.

"Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), as limited herein. "Sales tax revenues" does not include the revenue generated by (i) the 0.5 percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly which shall be paid to the Commonwealth Transportation Fund established pursuant to § 33.2-1524, (ii) the 1.0 percent of the state sales and use tax revenue distributed among the counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school age population, or (iii) any sales and use tax revenues generated by increases or allocation changes imposed by the 2013 Session of the General Assembly.

B. Notwithstanding the definition of "public facility" in subsection A, a development project that meets the requirements for a "development of regional impact" set forth herein shall be deemed to be a public facility under the provisions of this section. The locality in which the public facility is located shall be entitled to all sales tax revenues generated by transactions taking place at such public facility solely to pay the cost of any bonds issued to pay the cost, or portion thereof, of such public facility pursuant to subsection C. For purposes of this subsection, the development of regional impact must be located in the City of Bristol.

For purposes of this subsection, a "development of regional impact" means a development project (i) towards which the locality contributes infrastructure or real property as part of a public-private partnership with the developer that is equal to at least 20 percent of the aggregate cost of development, (ii) that is reasonably expected to require a capital investment of at least $50 million, (iii) that is reasonably expected to generate at least $5 million annually in state sales and use tax revenue from sales within the development, (iv) that is reasonably expected to attract at least one million visitors annually, (v) that is reasonably expected to create at least 2,000 permanent jobs, (vi) that is located in a locality that had a rate of unemployment at least three percentage points higher than the statewide average in November 2011, and (vii) that is located in a locality that is adjacent to a state that has adopted a Border Region Retail Tourism Development District Act. Within 30 days from the date of notification by a locality that it intends to contribute infrastructure or real property as part of a public-private partnership with the developer of a development of regional impact, the Department of Taxation shall review the findings of the locality with respect to clauses (i) through (vi) and shall file a written report with the Chairmen of the House Committee on Finance, the House Committee on Appropriations, and the Senate Committee on Finance and Appropriations.

C. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1, 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001, but before July 1, 2005, (vi) on or after July 1, 2004, but before July 1, 2007, (vii) on or after July 1, 2009, but before July 1, 2012, (viii) on or after January 1, 2011, but prior to July 1, 2015, ~~or~~ (ix) on or after January 1, 2013, but prior to July 1, 2024, *or (x) on or after July 1, 2023, but prior to July 1, 2026,* to pay the cost, or portion thereof, of any public facility shall be entitled to all sales tax revenues generated by transactions taking place in such public facility. In the case of a public facility described in clause (v) of the definition of public facility, all such sales tax revenues shall be applied solely to repayment of the bonds issued to pay the cost, or portion thereof, of the municipality-owned component of the sports complex. Such entitlement shall continue for the lifetime of such bonds, or any refinancing or refunding thereof, but in no event shall such entitlement exceed 35 years from the initial date that any bonds were issued to pay the cost, or a portion thereof, of any public facility, and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is completed and, in the case of a renovation or expansion, until the governing body of the municipality has certified that the renovation or expansion is completed; however, in the case of any public facility consisting of more than one building or structure, such

remittances shall be made on a quarterly basis beginning with the first quarter in which any sales tax revenue is generated by transactions taking place at any building or structure within such public facility, whether or not construction of all or any portion, phase, building, or structure of such public facility has been completed.

D. Nothing in this section shall be construed as authorizing the pledging of the faith and credit of the Commonwealth of Virginia, or any of its revenues, for the payment of any bonds. Any appropriation made pursuant to this section shall be made only from sales tax revenues derived from the public facility for which bonds may have been issued to pay the cost, in whole or in part, of such public facility.

2. That the provisions of this act shall not become effective unless reenacted by the 2024 Session of the General Assembly.

CHAPTER 738

An Act to amend and reenact §§ 15.2-968.1 and 46.2-208 of the Code of Virginia, relating to traffic control device violation monitoring systems.

[S 861]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-968.1 and 46.2-208 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-968.1. Use of violation monitoring systems to enforce traffic light signals and certain traffic control devices.

A. *For purposes of this section:*

"Owner" means the registered owner on record with the Department of Motor Vehicles.

"Traffic control device" has the same meaning as set forth in § 46.2-100.

"Traffic control device violation monitoring system" means equipment that produces one or more photographs, microphotographs, video, or other recorded images of vehicles used or operated in violation of signs or markings placed in accordance with § 46.2-830. Traffic control device violation monitoring systems shall not be used to enforce violations of traffic light signals or speed limits.

"Traffic light signal violation monitoring system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, video, or other recorded images of each vehicle at the time it is used or operated in violation of § 46.2-833, 46.2-835, or 46.2-836. For each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered the intersection.

B. 1. The governing body of any county, city, or town may provide by ordinance for the establishment of a traffic signal enforcement program imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic light signals in such locality in accordance with the provisions of this section. Each such locality may install and operate traffic light signal ~~photo-monitoring~~ *violation monitoring* systems at no more than one intersection for every 10,000 residents within each county, city, or town at any one time, provided, however, that within planning District 8, each such locality may install and operate traffic light signal ~~photo-monitoring~~ *violation monitoring* systems at no more than 10 intersections, or at no more than one intersection for every 10,000 residents within each county, city, or town, whichever is greater, at any one time.

2. In addition to the authority provided in subdivision 1, the governing body of any locality in Planning District 23 may provide by ordinance for the establishment of a traffic control device violation monitoring system imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic control devices in such locality in accordance with the provisions of this section. Such governing body may install and operate a traffic control device violation monitoring system at any intersection deemed by the governing body to be negatively impacted by traffic due to the Hampton Roads Bridge-Tunnel Express Lanes Hampton Segment (4C) Project (HREL-P).

~~B.~~ *C.* The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to this section if such vehicle is found, *(i)* as evidenced by information obtained from a traffic light signal violation monitoring system, to have failed to comply with a traffic light signal within such locality *or (ii) as evidenced by information obtained from a traffic control device violation monitoring system, to have failed to comply with a traffic control device within such locality. No operator shall be liable for a penalty pursuant to clause (i) and a penalty pursuant to clause (ii) arising out of the same act. No monetary penalty shall be imposed pursuant to this section for a first offense of failing to comply with a traffic control device, as evidenced by information obtained from a traffic control device violation monitoring system, and such operator shall be issued a written warning.*

~~C.~~ *D.* Proof of a violation of this section shall be evidenced by information obtained from a traffic light signal violation monitoring system *or traffic control device violation monitoring system* authorized pursuant to this section. A certificate, sworn to or affirmed by a law-enforcement officer employed by a locality authorized to impose penalties pursuant to this section, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a traffic light signal violation monitoring system *or traffic control device violation monitoring system*, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other

recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to an ordinance adopted pursuant to this section.

~~D.~~ *E.* In the prosecution for a violation of any local ordinance adopted as provided in this section, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of such ordinance, together with proof that the defendant was at the time of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section, is presented, prior to the return date established on the summons issued pursuant to this section, to the court adjudicating the alleged violation.

~~E. For purposes of this section, "owner" means the registered owner of such vehicle on record with the Department of Motor Vehicles. For purposes of this section, "traffic light signal violation monitoring system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, video, or other recorded images of each vehicle at the time it is used or operated in violation of § 46.2-833, 46.2-835, or 46.2-836. For each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered that intersection.~~

F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No monetary penalty imposed under this section shall exceed $50, nor shall it include court costs. Any finding in a district court that an operator has violated an ordinance adopted as provided in this section shall be appealable to the circuit court in a civil proceeding.

G. A summons for a violation of this section may be executed pursuant to § 19.2-76.2. Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed by mailing by first class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of the Department of Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be mailed to the address contained in the records of the lessor or renter. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection ~~D~~ *E* and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for a violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a traffic light signal violation monitoring system *or traffic control device violation monitoring system* in connection with the violation.

H. Information collected by a traffic light signal violation monitoring system *or traffic control device violation monitoring system* installed and operated pursuant to subsection ~~A~~ *B* shall be limited exclusively to that information that is necessary for the enforcement of traffic light *or traffic control device* violations. On behalf of a locality, a private entity that operates a traffic light signal violation monitoring system *or traffic control device violation monitoring system* may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that fail to comply with a traffic light signal *or traffic control device*. Information provided to the operator of a traffic light signal violation monitoring system *or traffic control device violation monitoring system* shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system, and used only for enforcement against individuals who violate the provisions of this section. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other personal information collected by a traffic light signal violation monitoring system *or traffic control device violation monitoring system* shall be used exclusively for enforcing traffic light *or traffic control device* violations and shall not (i) be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the enforcement of a traffic light *or traffic control device* violation or to a vehicle owner or operator as part of a challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of § *46.2-830,* 46.2-833, 46.2-835, or 46.2-836 or requested upon order from a court of competent jurisdiction. Information collected under this section pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of any civil penalties. If a locality does not execute a summons for a violation of this section within 10 business days, all information collected pertaining to that suspected violation shall be purged within two business days. Any locality operating a traffic light signal violation monitoring system *or traffic control device violation monitoring system* shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or his designee. Any person who discloses personal information in violation of the provisions of this subsection shall be subject to a civil penalty of $1,000 per disclosure. Any unauthorized use or disclosure of such personal

information shall be grounds for termination of the agreement between the Department of Motor Vehicles and the private entity.

I. A private entity may enter into an agreement with a locality to be compensated for providing the traffic light signal violation monitoring system or equipment *or traffic control device violation monitoring system or equipment*, and all related support services, to include consulting, operations and administration. However, only a law-enforcement officer employed by a locality may swear to or affirm the certificate required by subsection ~~C~~ *D*. No locality shall enter into an agreement for compensation based on the number of violations or monetary penalties imposed.

J. When selecting potential intersections for a traffic light signal violation monitoring system, a locality shall consider factors such as (i) the accident rate for the intersection, (ii) the rate of red light violations occurring at the intersection (number of violations per number of vehicles), (iii) the difficulty experienced by law-enforcement officers in patrol cars or on foot in apprehending violators, and (iv) the ability of law-enforcement officers to apprehend violators safely within a reasonable distance from the violation. Localities may consider the risk to pedestrians as a factor, if applicable.

K. *1.* Before the implementation of a traffic light signal violation monitoring system at an intersection, the locality shall complete an engineering safety analysis that addresses signal timing and other location-specific safety features. The length of the yellow phase shall be established based on the recommended methodology of the Institute of Transportation Engineers. No traffic light signal violation monitoring system shall be implemented or utilized for a traffic signal having a yellow signal phase length of less than three seconds. All traffic light signal violation monitoring systems shall provide a minimum 0.5-second grace period between the time the signal turns red and the time the first violation is recorded. If recommended by the engineering safety analysis, the locality shall make reasonable location-specific safety improvements, including signs and pavement markings.

2. Before the implementation of a traffic control device violation monitoring system at an intersection, the governing body of the implementing locality shall complete an engineering safety analysis that addresses the impact of the HREL-P on congestion, accident rates, and driver disregard for traffic control devices. If recommended by the engineering safety analysis, the locality shall make reasonable location-specific safety improvements, including signs and pavement markings.

L. Any locality that uses a traffic light signal violation monitoring system *or traffic control device violation monitoring system* shall evaluate the system on a monthly basis to ensure all cameras and traffic signals are functioning properly. Evaluation results shall be made available to the public.

M. Any locality that uses a traffic light signal violation monitoring system to enforce traffic light signals shall place conspicuous signs within 500 feet of the intersection approach at which a traffic light signal violation monitoring system is used. There shall be a rebuttable presumption that such signs were in place at the time of the commission of the traffic light signal violation.

N. Prior to or coincident with the implementation or expansion of a traffic light signal violation monitoring system *or traffic control device violation monitoring system*, a locality shall conduct a public awareness program, advising the public that the locality is implementing or expanding a traffic light signal violation monitoring system *or traffic control device violation monitoring system*.

O. Notwithstanding any other provision of this section, if a vehicle depicted in images recorded by a traffic light signal ~~photo-monitoring system~~ *violation monitoring system or traffic control device violation monitoring system* is owned, leased, or rented by a county, city, or town, then the county, city, or town may access and use the recorded images and associated information for employee disciplinary purposes.

§ 46.2-208. Records of Department; when open for inspection; release of privileged information.

A. The following information shall be considered privileged and unless otherwise provided for in this title shall not be released except as provided in subsection B:

1. Personal information as defined in § 2.2-3801;

2. Driver information, defined as all data that relates to driver's license status and driver activity;

3. Special identification card information, defined as all data that relates to identification card status; and

4. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data, but excluding crash data.

B. The Commissioner shall release such information only under the following conditions:

1. Notwithstanding other provisions of this section, medical information included in personal information shall be released only to a physician, physician assistant, or nurse practitioner in accordance with a proceeding under §§ 46.2-321 and 46.2-322.

2, 3. [Repealed.]

4. Upon the request of (i) the subject of the information, (ii) the parent of a minor who is the subject of the information, (iii) the guardian of the subject of the information, (iv) the authorized agent or representative of the subject of the information, or (v) the owner of the vehicle that is the subject of the information, the Commissioner shall provide him with the requested information and a complete explanation of it. Requests for such information need not be made in writing or in person and may be made orally or by telephone, provided that the Department is satisfied that there is adequate verification of the requester's identity. When so requested in writing by (a) the subject of the information, (b) the parent of a minor who is the subject of the information, (c) the guardian of the subject of the information, (d) the authorized agent or representative of the subject of the information, or (e) the owner of the vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver, special identification card, or

vehicle information. If the requester is requesting such information in the scope of his official business as counsel from a public defender's office or as counsel appointed by a court, such records shall be provided free of charge.

5. Upon the written request of any insurance carrier or surety, or authorized agent of either, the Commissioner shall furnish to such requester information in the record of any person subject to the provisions of this title. The transcript shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which he was involved and a report filed pursuant to § 46.2-373. No such report of any conviction or crash shall be made after 60 months from the date of the conviction or crash unless the Commissioner or court used the conviction or crash as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or crash pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. The response of the Commissioner under this subdivision shall not be admissible in evidence in any court proceedings.

6. Upon the written request of any business organization or its authorized agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records. Personal information provided under this subdivision shall be used solely for the purpose of pursuing remedies that require locating an individual.

7. Upon the written request of any business organization or its authorized agent, the Commissioner shall provide vehicle information to the requester. Disclosures made under this subdivision shall not include any personal information, driver information, or special identification card information and shall not be subject to the limitations contained in subdivision 6.

8. Upon the written request of any motor vehicle rental or leasing company or its authorized agent, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information of any person subject to the provisions of this title. Such information shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which the subject of the information was involved and a report of which was filed pursuant to § 46.2-373. No such information shall include any record of any conviction or crash more than 60 months after the date of such conviction or crash unless the Commissioner or court used the conviction or crash as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or crash pertaining thereto shall cease to be included in such information after 60 months from the date on which the driver's license or driving privilege was reinstated. The response of the Commissioner under this subdivision shall not be admissible in evidence in any court proceedings.

9. Upon the request of any federal, state, or local governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, or court, or the authorized agent of any of the foregoing, the Commissioner shall compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records. The Commissioner shall also provide driver, special identification card, and vehicle information as requested pursuant to this subdivision. The Commissioner may release other appropriate information to the governmental entity upon request. Upon request in accordance with this subdivision, the Commissioner shall furnish a certificate, under seal of the Department, setting forth a distinguishing number or license plate of a motor vehicle, trailer, or semitrailer, together with the name and address of its owner. The certificate shall be prima facie evidence in any court in the Commonwealth of the ownership of the vehicle, trailer, or semitrailer to which the distinguishing number or license plate has been assigned by the Department. However, the Commissioner shall not release any photographs pursuant to this subdivision unless the requester provides the depicted individual's name and other sufficient identifying information contained on such individual's record. The information in this subdivision shall be provided free of charge.

The Department shall release to a requester information that is required for a requester to carry out the requester's official functions in accordance with this subdivision. If the requester has entered into an agreement with the Department, such agreement shall be in a manner prescribed by the Department, and such agreement shall contain the legal authority that authorizes the performance of the requester's official functions and a description of how such information will be used to carry out such official functions. If the Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which the information shall be used is one of the requester's official functions, the Commissioner shall refuse to enter into any agreement. If the requester submits a request for information in accordance with this subdivision without an existing agreement to receive the information, the request shall be in a manner prescribed by the Department, and such request shall contain the legal authority that authorizes the performance of the requester's official functions and a description of how such information will be used to carry out such official functions. If the Commissioner determines that sufficient authority has not been provided by the requester to show that the purpose for which such information shall be used is one of the requester's official functions, the Commissioner shall deny such request.

Notwithstanding the provisions of this subdivision, the Department shall not disseminate to any federal, state, or local government entity, law-enforcement officer, or law-enforcement agency any privileged information for any purposes related

to civil immigration enforcement unless (i) the subject of the information provides consent or (ii) the requesting agency presents a lawful judicial order, judicial subpoena, or judicial warrant. When responding to a lawful judicial order, judicial subpoena, or judicial warrant, the Department shall disclose only those records or information specifically requested. Within three business days of receiving a request for information for the purpose of civil immigration enforcement, the Commissioner shall send a notification to the individual about whom such information was requested that such a request was made and the identity of the entity that made such request.

The Department shall not enter into any agreement pursuant to subsection E with a requester pursuant to this subdivision unless the requester certifies that the information obtained will not be used for civil immigration purposes or knowingly disseminated to any third party for any purpose related to civil immigration enforcement.

10. Upon the request of the driver licensing authority in any foreign country, the Commissioner shall provide whatever driver and vehicle information the requesting authority shall require to carry out its official functions. The information shall be provided free of charge.

11. a. For the purpose of obtaining information regarding noncommercial driver's license holders, upon the written request of any employer, prospective employer, or authorized agent of either, and with the written consent of the individual concerned, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information in the form of a transcript of an individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations, or forfeiture, provided that such individual's position or the position that the individual is being considered for involves the operation of a motor vehicle.

b. For the purpose of obtaining information regarding commercial driver's license holders, upon the written request of any employer, prospective employer, or authorized agent of either, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information in the form of a transcript of such individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations, forfeitures, or disqualifications, provided that such individual's position or the position that the individual is being considered for involves the operation of a commercial motor vehicle.

12. Upon the written request of any member of a volunteer fire company or volunteer emergency medical services agency and with written consent of the individual concerned, or upon the request of an applicant for membership in a volunteer fire company or to serve as volunteer emergency medical services personnel, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the request is accompanied by appropriate written evidence that the person is a member of or applicant for membership in a volunteer fire company or a volunteer emergency medical services agency and the transcript is needed by the requester to establish the qualifications of the member, volunteer, or applicant to operate equipment owned by the volunteer fire company or volunteer emergency medical services agency.

13. Upon the written request of a Virginia affiliate of Big Brothers Big Sisters of America, a Virginia affiliate of Compeer, or the Virginia Council of the Girl Scouts of the USA, and with the consent of the individual who is the subject of the information and has applied to be a volunteer with the requester, or on the written request of a Virginia chapter of the American Red Cross, a Virginia chapter of the Civil Air Patrol, or Faith in Action, and with the consent of the individual who is the subject of the information and applied to be a volunteer vehicle operator with the requester, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the applicant's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer or volunteer vehicle operator with the requester as provided in this subdivision.

14. On the written request of any person who has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153, the Commissioner shall provide a transcript of the applicant's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153.

15, 16. [Repealed.]

17. Upon the request of an attorney representing a person involved in a motor vehicle crash, the Commissioner shall provide the vehicle information for any vehicle involved in the crash and the name and address of the owner of any such vehicle.

18. Upon the request, in the course of business, of any authorized agent of an insurance company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform rating and underwriting activities, the Commissioner shall provide (i) all vehicle information, the owner's name and address, descriptive data and title, registration, and vehicle activity data, as requested, or (ii) the driver name, license number and classification, date of birth, and address information for each driver under the age of 22 licensed in the Commonwealth, provided that such request includes the driver's license number or address information of such driver. Use of such information shall be limited to use in connection with insurance claims investigation activities, antifraud activities, rating, or underwriting.

19. [Repealed.]

20. Upon the written request of the compliance agent of a private security services business, as defined in § 9.1-138, which is licensed by the Virginia Department of Criminal Justice Services, the Commissioner shall provide the name and address of the owner of the vehicle under procedures determined by the Commissioner.

21. Upon the request of the operator of a toll facility, a traffic light ~~photo-monitoring~~ *signal violation monitoring* system acting on behalf of a government entity, *a traffic control device violation monitoring system acting on behalf of a government entity,* or the Dulles Access Highway, or an authorized agent or employee of a toll facility operator ~~or~~, *a* traffic light ~~photo-monitoring~~ *signal violation monitoring* system operator acting on behalf of a government entity*, a traffic control device violation monitoring system operator acting on behalf of a government entity,* or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under ~~subsection M of § 46.2-819.1 or~~ subsection H of § 15.2-968.1*, subsection M of § 46.2-819.1,* or subsection N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to *(i)* the name and address of the owner of the vehicle having failed to pay a toll ~~or having failed to~~, comply with a traffic light signal*, or comply with a traffic control device* or having improperly used the Dulles Access Highway and *(ii)* the vehicle information, including all descriptive vehicle data and title and registration data of the same vehicle.

22-26. [Repealed.]

27. Upon the written request of the executor or administrator of a deceased person's estate, the Department shall, if the deceased person had been issued a driver's license or special identification card by the Department, supply the requester with a hard copy image of any photograph of the deceased person kept in the Department's records.

28. [Repealed.]

29. a. Upon written agreement, the Commissioner may digitally verify the authenticity and validity of a driver's license, learner's permit, or special identification card to the American Association of Motor Vehicle Administrators, a motor vehicle dealer as defined in § 46.2-1500, or another organization approved by the Commissioner.

b. Upon written agreement, the Commissioner may release minimum information as needed in the Department's record through any American Association of Motor Vehicle Administrators service program created for the purpose of the exchange of information to any business, government agency, or authorized agent who would otherwise be authorized to receive the information requested pursuant to this section.

30. Upon the request of the operator of a video-monitoring system as defined in § 46.2-844 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B of § 46.2-844. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having passed a stopped school bus and the vehicle information, including all descriptive vehicle data and title and registration data for such vehicle.

31. Upon the request of the operator of a photo speed monitoring device as defined in § 46.2-882.1 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B of § 46.2-882.1. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having committed a violation of § 46.2-873 or 46.2-878.1 and the vehicle information, including all descriptive vehicle data and title and registration data, for such vehicle.

32. Notwithstanding the provisions of this section other than subdivision 33, the Department shall not release, except upon request by the subject of the information, the guardian of the subject of the information, the parent of a minor who is the subject of the information, or the authorized agent of the subject of the information, or pursuant to a court order, (i) proof documents submitted for the purpose of obtaining a driving credential or a special identification card, (ii) the information in the Department's records indicating the type of proof documentation that was provided, or (iii) applications relating to the issuance of a driving credential or a special identification card. As used in this subdivision, "proof document" means any document not originally created by the Department that is submitted to the Department for the issuance of any driving credential or special identification card. "Proof document" does not include any information contained on a driving credential or special identification card.

33. Notwithstanding the provisions of this section, the Department may release the information in the Department's records that it deems reasonable and necessary for the purpose of federal compliance audits.

C. Information disclosed or furnished shall be assessed a fee as specified in § 46.2-214, unless as otherwise provided in this section.

D. Upon the receipt of a completed application and payment of applicable processing fees, the Commissioner may enter into an agreement with any governmental authority or business to exchange information specified in this section by electronic or other means.

E. The Department shall not release any privileged information pursuant to this title unless the Department has entered into a written agreement authorizing such release. The Department shall require the requesting entity to specify the purpose authorized pursuant to this title that forms the basis for the request and provide the permissible purpose as defined under 18 U.S.C. § 2721(b). Privileged information requested by an entity that has been altered or aggregated may be used only for the original purposes specified in the written agreement consistent with this title. The requesting entity shall disseminate privileged information only to third parties subject to the original purpose specified in the written agreement consistent with this title. Any agreement that does not allow third-party distribution shall include a statement that such distribution is prohibited. Such agreement may limit the scope of any authorized distribution consistent with this title. Privileged information distributed to any third party shall only be further distributed by such third party subject to the original purpose specified and consistent with this title, or unless such third party is the subject of the information, the parent of a minor who is the subject of the information, the guardian of the subject of the information, the authorized agent or representative of the subject of the information, or the owner of the vehicle that is the subject of the information.

Any agreement entered into pursuant to this subsection between the Department and the Department of State Police shall specify (i) that privileged information shall be distributed only to authorized personnel of an entity meeting the definition of a criminal justice agency as defined in § 9.1-101 and other comparable local, state, and federal criminal justice agencies and entities issued a Virginia S-Originating Agency Identification (S-ORI) status; (ii) that privileged information shall be accessed, used, and disseminated only for the administration of criminal justice as defined in § 9.1-101; and (iii) that no local, state, or federal government entity, through the Virginia Criminal Information Network (VCIN) or any other method of dissemination controlled by the Department of State Police, has access to information stored by the Department in violation of the protections contained in this section. The Department of State Police shall notify the Department prior to when a new entity is to be granted S-ORI status and provide a copy of the S-ORI application to the Department. The Department of State Police shall not allow any entity to access Department data through VCIN if the Department objects in writing to the entity obtaining such data.

The provisions of this subsection shall not apply to (a) requests for information made pursuant to subdivision B 4; (b) a request made by an entity authorized to receive privileged information pursuant to subsection B, provided that such request is made on a form provided by the Department, other than a written agreement, that requires the requester to certify that such entity is entitled to receive such information pursuant to this title, state the purpose authorized pursuant to subsection B that forms the basis for the request, explain why the information requested is necessary to accomplish the stated purpose, and certify that the information will be used only for the stated purpose and the information received shall not be disseminated to third parties unless there is authorization to do so; or (c) the release of information to a law-enforcement officer or agency during an emergency situation, provided that (1) the requesting entity is authorized to receive such information pursuant to subdivision B 9, (2) the timely release of such information is in the interest of public safety, and (3) the requesting entity completes the form required pursuant to clause (b) within 48 hours of the release of such information.

F. Any person that receives any privileged information that such person knows or has reason to know was received in violation of this title shall not disseminate any such information and shall notify the Department of the receipt of such privileged information.

G. The Department shall conduct audits annually based on a risk assessment to ensure that privileged information released by the Department pursuant to this title is being used as authorized by law and pursuant to the agreements entered into by the Department. If the Department finds that privileged information has been used in a manner contrary to law or the relevant agreement, the Department may revoke access.

H. Any request for privileged information by an authorized agent of a governmental entity shall be governed by the provisions of subdivision B 9.

2. That the provisions of this act shall expire on July 1, 2027, or upon certification by the Secretary of Transportation that the Hampton Roads Express Lanes Hampton Segment (4C) is complete, whichever is earlier.

CHAPTER 739

SENATE JOINT RESOLUTION NO. 231

Proposing an amendment to Section 6-A of Article X of the Constitution of Virginia, relating to real property tax exemption; surviving spouses of soldiers who died in the line of duty.

Agreed to by the Senate, February 3, 2023
Agreed to by the House of Delegates, February 23, 2023

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to

the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 6-A of Article X of the Constitution of Virginia as follows:

ARTICLE X

TAXATION AND FINANCE

Section 6-A. Property tax exemption ~~for~~*;* certain veterans and their surviving spouses ~~and~~*;* surviving spouses of soldiers ~~killed in action~~ *who died in the line of duty*.

(a) Notwithstanding the provisions of Section 6, the General Assembly by general law, and within the restrictions and conditions prescribed therein, shall exempt from taxation the real property, including the joint real property of husband and wife, of any veteran who has been determined by the United States Department of Veterans Affairs or its successor agency pursuant to federal law to have a one hundred percent service-connected, permanent, and total disability, and who occupies the real property as his or her principal place of residence. The General Assembly shall also provide this exemption from taxation for real property owned by the surviving spouse of a veteran who was eligible for the exemption provided in this subdivision, so long as the surviving spouse does not remarry. This exemption applies to the surviving spouse's principal place of residence without any restriction on the spouse's moving to a different principal place of residence.

(b) Notwithstanding the provisions of Section 6, the General Assembly by general law, and within the restrictions and conditions prescribed therein, may exempt from taxation the real property of the surviving spouse of any member of the armed forces of the United States who ~~was killed in action as determined by~~ *died in the line of duty with a Line of Duty determination from* the United States Department of Defense, who occupies the real property as his or her principal place of residence. The exemption under this subdivision shall cease if the surviving spouse remarries and shall not be claimed thereafter. This exemption applies regardless of whether the spouse was ~~killed in action~~ *determined to have died in the line of duty* prior to the effective date of this subdivision, but the exemption shall not be applicable for any period of time prior to the effective date. This exemption applies to the surviving spouse's principal place of residence without any restriction on the spouse's moving to a different principal place of residence and without any requirement that the spouse reside in the Commonwealth at the time of death of the member of the armed forces.

CHAPTER 740

An Act to amend and reenact §§ 4.1-604, 4.1-605, 4.1-627, 18.2-251.1:1, 18.2-251.1:2, 22.1-277, 32.1-127, 32.1-162.6:1, 40.1-27.4, 46.2-341.20:7, 54.1-2522.1, as it is currently effective and as it shall become effective, 54.1-2903, 54.1-3408.3, 59.1-200, and 63.2-1803.01 of the Code of Virginia; to amend the Code of Virginia by adding in Title 4.1 a chapter numbered 16, consisting of sections numbered 4.1-1600 through 4.1-1605; and to repeal Article 4.2 (§§ 54.1-3442.5 through 54.1-3442.8) of Chapter 34 of Title 54.1 of the Code of Virginia and the twenty-first enactment of Chapter 550 and the twenty-first enactment of Chapter 551 of the Acts of Assembly of 2021, Special Session I, relating to medical cannabis program; transition from Board of Pharmacy to Virginia Cannabis Control Authority.

[S 788]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-604, 4.1-605, 4.1-627, 18.2-251.1:1, 18.2-251.1:2, 22.1-277, 32.1-127, 32.1-162.6:1, 40.1-27.4, 46.2-341.20:7, 54.1-2522.1, as it is currently effective and as it shall become effective, 54.1-2903, 54.1-3408.3, 59.1-200, and 63.2-1803.01 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 4.1 a chapter numbered 16, consisting of sections numbered 4.1-1600 through 4.1-1605, as follows:

§ 4.1-604. Powers and duties of the Board.

The Board shall have the following powers and duties:

1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-606;

2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;

3. Grant, suspend, ~~and~~ *restrict,* revoke ~~licenses for the cultivation, manufacture, distribution, sale, and testing of marijuana and marijuana products as provided by law~~*, or refuse to grant or renew any license or permit issued or authorized pursuant to this subtitle*;

4. Determine the nature, form, and capacity of all containers used for holding marijuana products to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;

5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;

6. Establish standards and implement an online course for employees of retail marijuana stores that trains employees on how to educate consumers on the potential risks of marijuana use;

7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or similar document regarding the potential risks of marijuana use to be prominently displayed and made available to consumers;

8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business Equity and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on matters related to diversity, equity, and inclusion standards in the marijuana industry;

9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop requirements for the creation and submission of diversity, equity, and inclusion plans by persons who wish to possess a license in more than one license category pursuant to subsection C of § 4.1-805, which may include a requirement that the licensee participate in social equity apprenticeship plan, and an approval process and requirements for implementation of such plans; (ii) be responsible for conducting an analysis of potential barriers to entry for small, women-owned, and minority-owned businesses and veteran-owned businesses interested in participating in the marijuana industry and recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with business planning for potential marijuana establishment licensees; (iv) spread awareness of business opportunities related to the marijuana marketplace in areas disproportionately impacted by marijuana prohibition and enforcement; (v) provide technical assistance in navigating the administrative process to potential marijuana establishment licensees; and (vi) conduct other outreach initiatives in areas disproportionately impacted by marijuana prohibition and enforcement as necessary;

10. Establish a position for an individual with professional experience in a health related field who shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the Office of the Secretary of Health and Human Resources and relevant health and human services agencies and organizations, and perform other duties as needed;

11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and the Director of Diversity, Equity, and Inclusion to promote and encourage participation in the marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and to positively impact those communities;

12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

13. Adopt, use, and alter at will a common seal;

14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;

15. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including agreements with any person or federal agency;

16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

17. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;

19. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;

20. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;

21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;

22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such

terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this subtitle;

23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and processing plants;

24. Appoint every agent and employee required for its operations, require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of experts and professionals;

25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers, and other documents before the Board or any agent of the Board, and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant ~~or~~, licensee*, or permittee* a consent agreement in lieu of proceedings on (i) objections to the issuance of a license *or permit* or (ii) disciplinary action. Any such consent agreement *(a)* shall include findings of fact *and provisions regarding whether the terms of the consent agreement are confidential* and *(b)* may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

26. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

27. ~~Assess~~ *Take appropriate disciplinary action and assess* and collect civil penalties and civil charges for violations of this subtitle and Board regulations;

28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this subtitle;

30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with applications for such permits;

31. Develop and make available on its website guidance documents regarding compliance and safe practices for persons who cultivate marijuana at home for personal use, which shall include information regarding cultivation practices that promote personal and public safety, including child protection, and discourage practices that create a nuisance;

32. Develop and make available on its website a resource that provides information regarding (i) responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana consumption, including inability to operate a motor vehicle and other types of transportation and equipment; and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment opportunities. The Board shall require that the web address for such resource be included on the label of all retail marijuana and retail marijuana product as provided in § 4.1-1402; and

33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

§ 4.1-605. Additional powers; mediation; alternative dispute resolution; confidentiality.

A. As used in this section:

"Appropriate case" means any alleged license *or permit* violation or objection to the application for a license *or permit* in which it is apparent that there are significant issues of disagreement among interested persons and for which the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.

"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.

"Mediation" means the same as that term is defined in § 8.01-576.4.

"Neutral" means the same as that term is defined in § 8.01-576.4.

B. The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding may be used for an objection to the issuance of a license *or permit* only with the consent of, and participation by, the applicant for ~~licensure~~ *a license or permit* and shall be terminated at the request of such applicant.

C. Any resolution of a contested issue accepted by the Board under this section shall be considered a consent agreement as provided in § 4.1-604. The decision to use mediation or a dispute resolution proceeding is in the Board's sole discretion and shall not be subject to judicial review.

D. The Board may adopt rules and regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of this section. Such rules and regulations may include (i) standards and procedures for the conduct of mediation and dispute resolution proceedings, including an opportunity for interested persons identified by the Board to participate in the proceeding; (ii) the appointment and function of a neutral to encourage and assist parties to voluntarily compromise or settle contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or other materials.

E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute resolution proceeding shall govern all such proceedings held pursuant to this section except where the Board uses or relies on information obtained in the course of such proceeding in granting ~~a license~~, suspending*, restricting,* or revoking a license *or permit*, or *in* accepting payment of a civil penalty or investigative costs. ~~However,~~ ~~a consent agreement~~ *Consent agreements shall be* signed by ~~the~~ *all* parties *and* shall ~~not be~~ *include provisions regarding whether the terms of the consent agreement are* confidential.

§ 4.1-627. Hearings; representation by counsel.

Any licensee*, permittee,* or applicant for ~~any~~ *a* license ~~granted by the Board~~ *or permit authorized by this subtitle* shall have the right to be represented by counsel at any Board hearing for which he has received notice. The licensee*, permittee,* or applicant shall not be required to be represented by counsel during such hearing. Any officer or director of a corporation may examine, cross-examine, and question witnesses, present evidence on behalf of the corporation, and draw conclusions and make arguments before the Board or hearing officers without being in violation of the provisions of § 54.1-3904.

CHAPTER 16.

MEDICAL CANNABIS PROGRAM.

§ 4.1-1600. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant to § 4.1-1602; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses cannabis products produced by a pharmaceutical processor to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to § 4.1-1602, or a dilution of the resin of the Cannabis plant that contains no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.

"Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical cannabis.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

"Dispense" means the same as that term is defined in § 54.1-3300.

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § 4.1-1602 and (ii) cultivates Cannabis plants intended only for the production of cannabis oil, botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a patient pursuant to a written certification, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Pharmacist" means the same as that term is defined in § 54.1-3300.

"Pharmacy intern" means the same as that term is defined in § 54.1-3300.

"Pharmacy technician" means the same as that term is defined in § 54.1-3300.

"Pharmacy technician trainee" means the same as that term is defined in § 54.1-3300.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Boards of Nursing and Medicine.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection F of § 4.1-1601.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

§ 4.1-1601. Certification for use of cannabis for treatment.

A. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audiovisual technology. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.

B. The written certification shall be on a form provided by the Authority. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection A shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration. A written certification shall not be issued to a patient by more than one practitioner during any given time period.

C. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection A. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

D. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board and shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients. The Board shall not limit the number of patients to whom a practitioner may issue a written certification. The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.

E. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit on a monthly basis all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Authority.

F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis product to the patient or resident as necessary.

H. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a patient's registered agent, but only with respect to information related to such patient.

§ 4.1-1602. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Authority and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling, including the potency of each botanical cannabis product and the amounts recommended by the practitioner or dispensing pharmacist, and packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis oil that provide that each dispensed dose of cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors, between a pharmaceutical processor and a cannabis dispensing facility, and between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection N; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the

pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue written certifications and patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating cannabis plants intended for producing cannabis products, (b) the secure disposal of agricultural waste, and (c) a process for registering cannabis products.

D. The Board shall require pharmaceutical processors, after processing and before dispensing any cannabis products, to make a sample available from each batch of cannabis product for testing by an independent laboratory that is located in Commonwealth and meets Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD), total tetrahydrocannabinol (THC), terpenes, pesticide chemical residue, heavy metals, mycotoxins, moisture, and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or cannabis oil shall be subject to laboratory testing and approved upon satisfaction of applicable testing standards, which shall not be more stringent than initial testing prior to remediation. If a batch of botanical cannabis fails retesting after remediation, it shall be considered usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any cannabis product with an expiration date assigned by the pharmaceutical processor of six months or less from the date of the cannabis product registration approval. Stability testing required for assignment of an expiration date longer than six months shall be limited to microbial testing, on a pass/fail basis, and potency testing, on a 10 percent deviation basis, of active ingredients.

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board of Pharmacy in regulation.

F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. The pharmaceutical processor shall ensure that security measures are adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have concurrent responsibility for preventing diversion from the dispensing area.

Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and production areas of the pharmaceutical processor and shall provide such information to the Board. The Board shall direct all communications related to enforcement of requirements related to cultivation and production of cannabis oil products by the pharmaceutical processor to such designated person.

G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant's material owners. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity.

H. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

I. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a certification recognized by the Board or who has at least two years of experience cultivating plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and (iii) to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician.

J. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

K. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

L. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

M. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's dispensing area or cannabis dispensing facility.

N. A pharmaceutical processor may acquire industrial hemp extracts grown and processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before industrial hemp extracts may be acquired.

O. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

P. The Board shall register all cannabis products that meet testing, labeling, and packaging standards.

§ 4.1-1603. Dispensing cannabis products; report.

A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis products only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia and has been issued a valid written certification; (ii) such patient's registered agent; or (iii) if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or temporarily resides in Virginia. A companion may accompany a patient into a pharmaceutical processor's dispensing area or cannabis dispensing facility. Prior to the initial dispensing of cannabis products pursuant to each written certification, a pharmacist or pharmacy technician employed by the pharmaceutical processor or cannabis dispensing facility shall make and maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view, in person or by audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian; and shall verify current board registration of the practitioner and the corresponding registered agent if applicable. Thereafter, an initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated caregiver facility. Prior to any subsequent dispensing of cannabis products pursuant to each written certification, an employee or delivery agent shall view a current photo identification of the patient, registered agent, parent, or legal guardian and the current board registration issued to the registered agent if applicable. No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply, as determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period. A pharmaceutical processor or cannabis dispensing facility may dispense less than a 90-day supply of a cannabis product for any patient during any 90-day period; however, a pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. The Board shall establish in regulation an amount of cannabis oil that constitutes a 90-day supply to treat or alleviate the symptoms of a patient's diagnosed condition or disease. In determining the appropriate amount of a cannabis product to be dispensed to a patient, a pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the patient and adjust the amount dispensed accordingly.

B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis products produced on the premises of a pharmaceutical processor permitted by the Board or cannabis products that have been formulated with extracts from industrial hemp acquired by a pharmaceutical processor from a registered industrial hemp dealer or processor pursuant to § 4.1-1602. A pharmaceutical processor may begin cultivation upon being issued a permit by the Board.

C. The Board shall report annually by December 1 to the Chairmen of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services on the operation of pharmaceutical processors and cannabis dispensing facilities issued a permit by the Board.

D. The concentration of delta-9-tetrahydrocannabinol in any cannabis product on site may be up to 10 percent greater than or less than the level of delta-9-tetrahydrocannabinol measured for labeling. A pharmaceutical processor and cannabis dispensing facility shall ensure that such concentration in any cannabis product on site is within such range. A pharmaceutical processor producing cannabis products shall establish a stability testing schedule of cannabis products.

§ 4.1-1604. Criminal liability; exceptions.

No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248, 18.2-248.1, or 18.2-250 for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis products, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis products in accordance with the provisions of this chapter and Board regulations or (ii) possessed, manufactured, or distributed such cannabis products that are consistent with generally accepted cannabis industry standards in accordance with the provisions of this chapter and Board regulations.

§ 4.1-1605. Summary suspensions and restrictions.

A. The Board may summarily suspend or restrict a permit issued pursuant to § 4.1-1602 without a hearing if the Board finds that such suspension or restriction is necessary to prevent substantial danger to public health or safety. The Board shall make decisions to summarily suspend or restrict a permit only during an in-person meeting in which a quorum is present; however, if, after a good faith effort, the Board is unable to assemble a quorum and a majority of the Board members determine that continued operation by the permittee constitutes a substantial danger to public health or safety, the Board may summarily suspend the permit during a telephone, video, or other electronic conference. Institution of proceedings for a hearing shall be provided simultaneously with a summary suspension. The Board may summarily restrict a permit without proceeding simultaneously with notification of an informal conference pursuant to § 2.2-4019 or Board regulations. Such hearing or conference shall be held within a reasonable amount of time after the summary suspension or restriction is issued.

B. Allegations of violations of this subtitle shall be submitted to the Board in writing.

§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.

No school nurse employed by a local school board, person employed by a local health department who is assigned to the public school pursuant to an agreement between the local health department and the school board, or other person employed by or contracted with a local school board to deliver health-related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering cannabis oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid written certification for the use of cannabis oil in accordance with ~~subsection B of~~ § ~~54.1-3408.3~~ *4.1-1601*.

§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing facilities; hospice and hospice facilities; assisted living facilities.

No person employed by a nursing home, hospice, hospice facility, or assisted living facility and authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250 for the possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient or resident who has been issued a valid written certification for the use of cannabis oil in accordance with ~~subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy~~ *§ 4.1-1601*.

§ 22.1-277. Suspensions and expulsions of students generally.

A. Students may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

B. Except as provided in subsection C or § 22.1-277.07 or 22.1-277.08, no student in preschool through grade three shall be suspended for more than three school days or expelled from attendance at school, unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department.

C. Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance pursuant to this article.

D. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

E. Notwithstanding the provisions of § 22.1-277.08, no school board shall be required to suspend or expel any student who holds a valid written certification for the use of cannabis oil issued by a practitioner in accordance with ~~subsection B of~~ § ~~54.1-3408.3~~ *4.1-1601* for the possession or use of such oil in accordance with the student's individualized health plan and in compliance with a policy adopted by the school board.

§ 32.1-127. Regulations.

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the

Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities;

2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye bank community and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement organization in educating the staff responsible for contacting the organ procurement organization's personnel on donation issues, the proper review of death records to improve identification of potential donors, and the proper procedures for maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, and no donor card or other relevant document, such as an advance directive, can be found;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the other parent of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person

is not available within the period of time specified, co-signed by another physician or other person authorized to give the order;

12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

15. Shall require that each licensed hospital include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including, but not limited to, those related to the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. No family member of a resident or other resident representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of $1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations;

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician and (ii) a patient for whom there is a question regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal communication, either in person or via telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information employed by a poison control center that is accredited by the American Association of Poison Control Centers to review the results of the toxicology screen and determine whether a medical reason for refusing admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the referring physician;

21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision reached by the interdisciplinary medical review committee, which shall be included in the patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee meeting. Nothing in such policy shall prevent the

patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other remedies available at law, including seeking court review, provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days of the date on which the physician's determination that proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department to establish protocols to ensure that security personnel of the emergency department, if any, receive training appropriate to the populations served by the emergency department, which may include training based on a trauma-informed approach in identifying and safely addressing situations involving patients or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis;

23. Shall require that each hospital establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized representative with written or electronic notice that the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan;

24. Shall establish an exemption from the requirement to obtain a license to add temporary beds in an existing hospital or nursing home, including beds located in a temporary structure or satellite location operated by the hospital or nursing home, provided that the ability remains to safely staff services across the existing hospital or nursing home, (i) for a period of no more than the duration of the Commissioner's determination plus 30 days when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds or (ii) for a period of no more than the duration of the emergency order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the Board, pursuant to § 32.1-13, or the Commissioner, pursuant to § 32.1-20, has entered an emergency order for the purpose of suppressing a nuisance dangerous to public health or a communicable, contagious, or infectious disease or other danger to the public life and health;

25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical therapy as a follow-up treatment and (ii) will be required to select a physical therapy provider prior to being discharged from the hospital;

26. Shall permit nursing home staff members who are authorized to possess, distribute, or administer medications to residents to store, dispense, or administer cannabis oil to a resident who has been issued a valid written certification for the use of cannabis oil in accordance with ~~subsection~~ B ~~of~~ § ~~54.1-3408.3~~ ~~and~~ ~~has~~ ~~registered~~ ~~with~~ ~~the~~ ~~Board~~ ~~of~~ ~~Pharmacy~~ *§ 4.1-1601*;

27. Shall require each hospital with an emergency department to establish a protocol for the treatment and discharge of individuals experiencing a substance use-related emergency, which shall include provisions for (i) appropriate screening and assessment of individuals experiencing substance use-related emergencies to identify medical interventions necessary for the treatment of the individual in the emergency department and (ii) recommendations for follow-up care following discharge for any patient identified as having a substance use disorder, depression, or mental health disorder, as appropriate, which may include, for patients who have been treated for substance use-related emergencies, including opioid overdose, or other high-risk patients, (a) the dispensing of naloxone or other opioid antagonist used for overdose reversal pursuant to subsection X of § 54.1-3408 at discharge or (b) issuance of a prescription for and information about accessing naloxone or other opioid antagonist used for overdose reversal, including information about accessing naloxone or other opioid antagonist used for overdose reversal at a community pharmacy, including any outpatient pharmacy operated by the hospital, or through a community organization or pharmacy that may dispense naloxone or other opioid antagonist used for overdose reversal without a prescription pursuant to a statewide standing order. Such protocols may also provide for referrals of individuals experiencing a substance use-related emergency to peer recovery specialists and community-based providers of behavioral health services, or to providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

28. During a public health emergency related to COVID-19, shall require each nursing home and certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with guidance from the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the conditions, including conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and community, under which in-person visits will be allowed and under which in-person visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be required to comply to protect the health and safety of the patients and staff of the nursing home or certified nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing home or certified nursing facility will take in the event of a technology failure, service interruption, or documented emergency that prevents visits from occurring as required by this subdivision. Such protocol shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where appropriate, will be allowed, which shall be at least once every

10 calendar days for each patient; (b) a provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided that such waiver or limitation is included in the patient's health record; and (c) a requirement that each nursing home and certified nursing facility publish on its website or communicate to each patient or the patient's authorized representative, in writing or via electronic means, the nursing home's or certified nursing facility's plan for providing visits to patients as required by this subdivision;

29. Shall require each hospital, nursing home, and certified nursing facility to establish and implement policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient, in accordance with such regulations, while receiving inpatient services. Such policies shall ensure protection of health information in accordance with the requirements of the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended. For the purposes of this subdivision, "intelligent personal assistant" means a combination of an electronic device and a specialized software application designed to assist users with basic tasks using a combination of natural language processing and artificial intelligence, including such combinations known as "digital assistants" or "virtual assistants";

30. During a declared public health emergency related to a communicable disease of public health threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for Medicare and Medicaid Services and subject to compliance with any executive order, order of public health, Department guidance, or any other applicable federal or state guidance having the effect of limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits to be conducted virtually using interactive audio or video technology. Any such protocol may require the person visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the hospital, nursing home, or certified nursing facility adopted to protect the health and safety of the person, patients, and staff of the hospital, nursing home, or certified nursing facility; and

31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients who are minors available to such patients through a secure website shall make such health records available to such patient's parent or guardian through such secure website, unless the hospital cannot make such health record available in a manner that prevents disclosure of information, the disclosure of which has been denied pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of § 54.1-2969 has not been provided.

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot that is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for the provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal.

§ 32.1-162.6:1. Possession or administration of cannabis oil.

Hospice and hospice facility employees who are authorized to possess, distribute, or administer medications to patients shall be permitted to store, dispense, or administer cannabis oil to a patient who has been issued a valid written certification for the use of cannabis oil in accordance with ~~subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy~~ *§ 4.1-1601*.

§ 40.1-27.4. Discipline for employee's medicinal use of cannabis oil prohibited.

A. As used in this section, "cannabis oil" means the same as that term is defined in § ~~54.1-3408.3~~ *4.1-1600*.

B. No employer shall discharge, discipline, or discriminate against an employee for such employee's lawful use of cannabis oil pursuant to a valid written certification issued by a practitioner for the treatment or to eliminate the symptoms of the employee's diagnosed condition or disease pursuant to § ~~54.1-3408.3~~ *4.1-1601*.

C. Notwithstanding the provisions of subsection B, nothing in this section shall (i) restrict an employer's ability to take any adverse employment action for any work impairment caused by the use of cannabis oil or to prohibit possession during work hours, (ii) require an employer to commit any act that would cause the employer to be in violation of federal law or that would result in the loss of a federal contract or federal funding, or (iii) require any defense industrial base sector employer or prospective employer, as defined by the U.S. Cybersecurity and Infrastructure Security Agency, to hire or retain any applicant or employee who tests positive for tetrahydrocannabinol (THC) in excess of 50 ng/ml for a urine test or 10 pg/mg for a hair test.

§ 46.2-341.20:7. Possession of marijuana in commercial motor vehicle unlawful; civil penalty.

A. It is unlawful for any person to knowingly or intentionally possess marijuana in a commercial motor vehicle as defined in § 46.2-341.4. The attorney for the Commonwealth or the county, city, or town attorney may prosecute such a case.

Upon the prosecution of a person for a violation of this section, ownership or occupancy of the vehicle in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section is subject to a civil penalty of no more than $25. A violation of this section is a civil offence. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. Violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

B. Any violation of this section shall be charged by summons. A summons for a violation of this section may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs shall be assessed for violations of this section. A person's criminal history record information as defined in § 9.1-101 shall not include records of any charges or judgments for a violation of this section, and records of such charges or judgments shall not be reported to the Central Criminal Records Exchange; however, such violation shall be reported to the Department of Motor Vehicles and shall be included on such individual's driving record.

C. The procedure for appeal and trial of any violation of this section shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

D. The provisions of this section shall not apply to members of state, federal, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

E. The provisions of this section involving marijuana in the form of cannabis products as that term is defined in § ~~54.1-3408.3~~ *4.1-1600* shall not apply to any person who possesses such cannabis product pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § ~~54.1-3408.3~~ *4.1-1601* for treatment or to alleviate the symptoms of (i) the person's diagnosed condition or disease, (ii) if such person is the parent or guardian of a minor or of a vulnerable adult as defined in § 18.2-369, such minor's or vulnerable adult's diagnosed condition or disease, or (iii) if such person has been designated as a registered agent pursuant to § ~~54.1-3408.3~~ *4.1-1601*, the diagnosed condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of a vulnerable adult as defined in § 18.2-369, such minor's or vulnerable adult's diagnosed condition or disease.

§ 54.1-2522.1. (Effective until July 1, 2027) Requirements of practitioners.

A. Any prescriber who is licensed in the Commonwealth to treat human patients and is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered with the Prescription Monitoring Program by the Department of Health Professions.

B. A prescriber registered with the Prescription Monitoring Program or a person to whom he has delegated authority to access information in the possession of the Prescription Monitoring Program pursuant to § 54.1-2523.2 shall, at the time of initiating a new course of treatment to a human patient that includes the prescribing of opioids anticipated at the onset of treatment to last more than seven consecutive days, request information from the Director for the purpose of determining what, if any, other covered substances are currently prescribed to the patient. In addition, any prescriber who holds a special identification number from the Drug Enforcement Administration authorizing the prescribing of controlled substances approved for use in opioid addiction therapy shall, prior to or as a part of execution of a treatment agreement with the patient, request information from the Director for the purpose of determining what, if any, other covered substances the patient is currently being prescribed. Nothing in this section shall prohibit prescribers from making additional periodic requests for information from the Director as may be required by routine prescribing practices.

C. A prescriber shall not be required to meet the provisions of subsection B if:

1. The opioid is prescribed to a patient currently receiving hospice or palliative care;

2. The opioid is prescribed to a patient during an inpatient hospital admission or at discharge;

3. The opioid is prescribed to a patient in a nursing home or a patient in an assisted living facility that uses a sole source pharmacy;

4. The Prescription Monitoring Program is not operational or available due to temporary technological or electrical failure or natural disaster; or

5. The prescriber is unable to access the Prescription Monitoring Program due to emergency or disaster and documents such circumstances in the patient's medical record.

D. Prior to issuing a written certification for the use of cannabis oil in accordance with § ~~54.1-3408.3~~ *4.1-1601*, a practitioner shall request information from the Director for the purpose of determining what, if any, other covered substances have been dispensed to the patient.

§ 54.1-2522.1. (Effective July 1, 2027) Requirements of practitioners.

A. Any prescriber who is licensed in the Commonwealth to treat human patients and is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered with the Prescription Monitoring Program by the Department of Health Professions.

B. Prescribers registered with the Prescription Monitoring Program shall, at the time of initiating a new course of treatment to a human patient that includes the prescribing of benzodiazepine or an opiate anticipated at the onset of treatment to last more than 90 consecutive days, request information from the Director for the purpose of determining what, if any, other covered substances are currently prescribed to the patient. In addition, any prescriber who holds a special identification number from the Drug Enforcement Administration authorizing the prescribing of controlled substances approved for use in opioid addiction therapy shall, prior to or as a part of execution of a treatment agreement with the patient, request information from the Director for the purpose of determining what, if any, other covered substances the patient is currently being prescribed. Nothing in this section shall prohibit prescribers from making additional periodic requests for information from the Director as may be required by routine prescribing practices.

C. The Secretary of Health and Human Resources may identify and publish a list of benzodiazepines or opiates that have a low potential for abuse by human patients. Prescribers who prescribe such identified benzodiazepines or opiates shall not be required to meet the provisions of subsection B. In addition, a prescriber shall not be required to meet the provisions of subsection B if the course of treatment arises from pain management relating to dialysis or cancer treatments.

D. Prior to issuing a written certification for the use of cannabis oil in accordance with § ~~54.1-3408.3~~ *4.1-1601*, a practitioner shall request information from the Director for the purpose of determining what, if any, other covered substances have been dispensed to the patient.

§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.

A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

Signing a birth or death certificate, or signing any statement certifying that the person so signing has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the healing arts within the meaning of this chapter except where persons other than physicians are required to sign birth certificates.

B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation or designation, or other language that identifies the type of practice for which he is licensed. No person regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in § 18.2-247, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this subsection shall prevent a person from including in any advertisement that such person is registered with the Board of ~~Pharmacy~~ *Directors of the Virginia Cannabis Control Authority* to issue written certifications for the use of cannabis products, as defined in § ~~54.1-3408.3~~ *4.1-1600*.

§ 54.1-3408.3. Certification for use of cannabis for treatment.

A. As used in this section~~: "Botanical~~*, "botanical* cannabis*,"* ~~means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant~~ *"cannabis oil," "cannabis product," and "practitioner" mean the same as those terms are defined in § 4.1-1600*.

~~"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.~~

~~"Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical cannabis.~~

~~"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.~~

~~"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.~~

~~"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.~~

~~"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.~~

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use *in accordance with the provisions of § 4.1-1601*. ~~The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audio-visual technology. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.~~

~~C. The written certification shall be on a form provided by the Board of Pharmacy. Such written certification shall contain the name, address, and telephone number of the practitioner; the name and address of the patient issued the written certification; the date on which the written certification was made; and the signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration. A written certification shall not be issued to a patient by more than one practitioner during any given time period.~~

~~D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.~~

~~E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board and shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients. The Board shall not limit the number of patients to whom a practitioner may issue a written certification. The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.~~

~~F. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit, on a monthly basis, all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Board.~~

~~G. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.~~

~~H. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility, who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications, may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis product to the patient or resident as necessary.~~

~~I. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a registered agent, but only with respect to information related to such patient.~~

§ 59.1-200. Prohibited practices.

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;

2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;

4. Misrepresenting geographic origin in connection with goods or services;

5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;

6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";

8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516, or 3.2-6519 is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of $5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.);

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.);

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.);

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);
30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.);
31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;
36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
37. Violating any provision of § 8.01-40.2;
38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.);
42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
43. Violating any provision of § 59.1-443.2;
44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
47. Violating any provision of § 18.2-239;
48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";
50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
52. Violating any provision of § 8.2-317.1;
53. Violating subsection A of § 9.1-149.1;
54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;
55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
59. Violating any provision of subsection E of § 32.1-126;
60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
61. Violating any provision of § 2.2-2001.5;
62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
63. Violating any provision of § 6.2-312;
64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
67. Knowingly violating any provision of § 8.01-27.5;
68. Failing to make available a conspicuous online option to cancel a recurring purchase of a good or service as required by § 59.1-207.46;
69. Selling or offering for sale to a person younger than 21 years of age any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Article 4.2 of~~ Chapter ~~34~~ *16 (§ 4.1-1600 et seq.)* of Title ~~54.1 of the Code of Virginia~~ *4.1*;
70. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an inch, (a) that the substance contains

tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Article 4.2 of~~ Chapter ~~34~~ *16 (§ 4.1-1600 et seq.)* of Title ~~54.1 of the Code of Virginia~~ *4.1*;

71. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit; and

72. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance.

B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

§ 63.2-1803.01. Possession or administration of cannabis oil.

Assisted living facility staff members who are authorized to possess, distribute, or administer medications to residents in accordance with the facility's written plan for medication management shall be permitted to store, dispense, or administer cannabis oil to a resident who has been issued a valid written certification for the use of cannabis oil in accordance with ~~subsection B of~~ § ~~54.1-3408.3~~ *4.1-1601* and has registered with the Board of ~~Pharmacy~~ *Directors of the Virginia Cannabis Control Authority*.

2. That Article 4.2 (§§ 54.1-3442.5 through 54.1-3442.8) of Chapter 34 of Title 54.1 of the Code of Virginia is repealed.

3. That the provisions of the first and second enactments of this act shall become effective on January 1, 2024.

4. That the twenty-first enactment of Chapter 550 and the twenty-first enactment of Chapter 551 of the Acts of Assembly of 2021, Special Session I, are repealed.

5. That the Regulations Governing Pharmaceutical Processors (18VAC110-60) as promulgated or amended by the Board of Pharmacy prior to January 1, 2024, shall remain in full force and effect and shall be administered by the Virginia Cannabis Control Authority (the Authority) until the Board of Directors (the Board) of the Authority promulgates regulations to implement the provisions of this act, which shall model, to the greatest extent practicable, the Regulations Governing Pharmaceutical Processors (18VAC110-60) promulgated by the Board of Pharmacy. With the exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant thereto shall apply to the Board's initial adoption of regulations to implement the provisions of this act. The Authority shall be vested with all powers and duties held by the Board of Pharmacy prior to January 1, 2024, in its administration of the provisions set forth in § 54.1-3408.3 of the Code of Virginia, as amended by this act, Article 4.2 (§§ 54.1-3442.5 through 54.1-3442.8) of Chapter 34 of Title 54.1 of the Code of Virginia, as repealed by this act, and any regulations promulgated pursuant thereto.

6. That any valid, active permits, certifications, and registrations issued by the Board of Pharmacy pursuant to § 54.1-3408.3 of the Code of Virginia, as amended by this act, Article 4.2 (§§ 54.1-3442.5 through 54.1-3442.8) of Chapter 34 of Title 54.1 of the Code of Virginia, as repealed by this act, or regulations promulgated pursuant thereto prior to January 1, 2024, shall remain valid until their expiration date and be considered to have been issued by the Board of Directors of the Virginia Cannabis Control Authority.

7. That the Virginia Cannabis Control Authority may assess and collect regulatory fees from each pharmaceutical processor and cannabis dispensing facility in an amount sufficient to implement this act.

CHAPTER 741

An Act to amend and reenact §§ 8.01-626, 8.01-675.5, and 17.1-405 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 8.01-670.2, relating to review of injunction; petitions for review; appeal of interlocutory orders and decrees; emergency.

[S 810]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-626, 8.01-675.5, and 17.1-405 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 8.01-670.2 as follows:

§ 8.01-626. Review of injunction; petitions for review.

When a circuit court (i) grants a preliminary ~~or permanent~~ injunction, (ii) refuses such an injunction, (iii) having granted such an injunction, dissolves or refuses to enlarge it, or (iv) enters an order reviewable pursuant to ~~subsection B of § 8.01-675.5~~ *§ 8.01-670.2*, an aggrieved party may file a petition for review with the clerk of the Supreme Court within 15 days of the circuit court's order.

The clerk shall assign the petition to a three-justice panel of the Supreme Court. The aggrieved party shall serve a copy of the petition for review on the counsel for the opposing party, which may file a response within ~~seven~~ *15* days from the date of service unless *otherwise determined by* the court ~~determines a shorter time frame~~. The petition for review shall be accompanied by a copy of the proceedings before the circuit court, including the original papers and the circuit court's order respecting the injunction. The Supreme Court may take such action thereon as it considers appropriate under the circumstances of the case.

Nothing in this section shall be construed to prevent the Supreme Court from resolving a petition for review by an order joined by more than three justices.

§ 8.01-670.2. Appeal of interlocutory orders and decrees; immunity.

A. When, prior to the commencement of trial, the circuit court has entered in any pending civil action an order granting or denying a plea of sovereign, absolute, or qualified immunity that, if granted, would immunize the movant from compulsory participation in the proceeding, the order is eligible for immediate appellate review. Any person aggrieved by such order may, within 15 days of the entry of such order, file a petition for review with the Supreme Court in accordance with the procedures set forth in § 8.01-626.

B. No petition under this section shall stay proceedings in the circuit court unless the circuit court finds or the Supreme Court orders such a stay upon a finding that (i) the petition could be dispositive of the entire civil action or (ii) there exists good cause, other than the pending petition or appeal, to stay the proceedings.

C. The failure of a party to seek interlocutory review in accordance with this section shall not preclude review of the issue on appeal from a final order. An order by the Supreme Court denying interlocutory review in accordance with this section shall not preclude review of the issue on appeal from a final order, unless the order denying such interlocutory review provides for such preclusion.

§ 8.01-675.5. Appeal of interlocutory orders and decrees by permission; immunity.

A. When, prior to the commencement of trial, the circuit court has entered in any pending civil action an order or decree that is not otherwise appealable, any party may file in the circuit court a motion requesting that the circuit court certify such order or decree for interlocutory appeal.

The motion shall include a concise analysis of the statutes, rules, or cases believed to be determinative of the issues and request that the court certify in writing that the order or decree involves a question of law as to which (i) there is substantial ground for difference of opinion; (ii) there is no clear, controlling precedent on point in the decisions of the Supreme Court of Virginia or the Court of Appeals of Virginia; (iii) determination of the issues will be dispositive of a material aspect of the proceeding currently pending before the court; and (iv) it is in the parties' best interest to seek an interlocutory appeal. If the request for certification is opposed by any party, the parties may brief the motion in accordance with the Rules of Supreme Court of Virginia.

Within 15 days of the entry of an order by the circuit court granting such certification, a petition for appeal may be filed with the Court of Appeals. If the Court of Appeals determines that the certification by the circuit court has sufficient merit, it may, in its discretion, permit an appeal to be taken from the interlocutory order or decree and shall notify the certifying circuit court and counsel for the parties of its decision.

The consideration of any petition and appeal by the Court of Appeals shall be in accordance with the applicable provisions of the Rules of the Supreme Court of Virginia and shall not take precedence on the docket unless the court so orders.

B. ~~When, prior to the commencement of trial, the circuit court has entered in any pending civil action an order granting or denying a plea of sovereign, absolute, or qualified immunity that, if granted, would immunize the movant from compulsory participation in the proceeding, the order is eligible for immediate appellate review. Any person aggrieved by such order may, within 15 days of the entry of such order, file a petition for review with the Supreme Court in accordance with the procedures set forth in § 8.01-626.~~

~~C.~~ No petitions or appeals under this section shall stay proceedings in the circuit court unless the circuit court or appellate court orders such a stay upon a finding that (i) the petition or appeal could be dispositive of the entire civil action or (ii) there exists good cause, other than the pending petition or appeal, to stay the proceedings.

~~D.~~ *C.* The failure of a party to seek interlocutory review under this section shall not preclude review of the issue on appeal from a final order. An order by the Supreme Court or Court of Appeals denying interlocutory review under this section shall not preclude review of the issue on appeal from a final order, unless the order denying such interlocutory review provides for such preclusion.

§ 17.1-405. Appellate jurisdiction — Administrative agency, Virginia Workers' Compensation Commission, and civil matter appeals.

Unless otherwise provided by law, any aggrieved party may appeal to the Court of Appeals from:

1. Any final decision of a circuit court on appeal from (i) a decision of an administrative agency, or (ii) a grievance hearing decision issued pursuant to § 2.2-3005;

2. Any final decision of the Virginia Workers' Compensation Commission;

3. Except as provided in subsection B of § 17.1-406, any final judgment, order, or decree of a circuit court in a civil matter;

4. Any interlocutory decree or order pursuant to § 8.01-267.8 *or 8.01-675.5*;

5. Any interlocutory decree or order involving an equitable claim in which the decree or order (i) requires money to be paid or the possession or title of property to be changed or (ii) adjudicates the principles of a cause; or

6. Any final judgment, order, or decree of a circuit court (i) involving an application for a concealed weapons permit pursuant to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2, (ii) involving involuntary treatment of prisoners pursuant to § 53.1-40.1 or 53.1-133.04, or (iii) for declaratory or injunctive relief under § 57-2.02.

2. That the provisions of this act amending § 17.1-405 of the Code of Virginia are declarative of existing law.

3. That an emergency exists and this act is in force from its passage.

CHAPTER 742

An Act to amend and reenact §§ 16.1-279.1, 17.1-405, and 19.2-152.10 of the Code of Virginia, relating to appeals of certain interlocutory decrees or orders; report; emergency.

[S 895]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-279.1, 17.1-405, and 19.2-152.10 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-279.1. Protective order in cases of family abuse.

A. In cases of family abuse, including any case involving an incarcerated or recently incarcerated respondent against whom a preliminary protective order has been issued pursuant to § 16.1-253.1, the court may issue a protective order to protect the health and safety of the petitioner and family or household members of the petitioner. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property;

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons;

3. Granting the petitioner possession of the residence occupied by the parties to the exclusion of the respondent; however, no such grant of possession shall affect title to any real or personal property;

4. Enjoining the respondent from terminating any necessary utility service to the residence to which the petitioner was granted possession pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to that residence;

5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, exclusive use and possession of a cellular telephone number or electronic device. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate the petitioner;

6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the respondent and enjoining the respondent from terminating any insurance, registration, or taxes on the motor vehicle and directing the respondent to maintain the insurance, registration, and taxes, as appropriate; however, no such grant of possession or use shall affect title to the vehicle;

7. Requiring that the respondent provide suitable alternative housing for the petitioner and, if appropriate, any other family or household member and where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided;

8. Ordering the respondent to participate in treatment, counseling or other programs as the court deems appropriate;

9. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500; and

10. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner, including a provision for temporary custody or visitation of a minor child.

A1. If a protective order is issued pursuant to subsection A, the court may also issue a temporary child support order for the support of any children of the petitioner whom the respondent has a legal obligation to support. Such order shall terminate upon the determination of support pursuant to § 20-108.1.

B. The protective order may be issued for a specified period of time up to a maximum of two years. The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. If the petitioner was

a family or household member of the respondent at the time the initial protective order was issued, the court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

C. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

D. Except as otherwise provided in § 16.1-253.2, a violation of a protective order issued under this section shall constitute contempt of court.

E. The court may assess costs and attorneys' fees against either party regardless of whether an order of protection has been issued as a result of a full hearing.

F. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, including any of the conditions specified in subsection A, shall be accorded full faith and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law. A person entitled to protection under such a foreign order may file the order in any juvenile and domestic relations district court by filing with the court an attested or exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer information electronically to the Virginia Criminal Information Network.

Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy available of any foreign order filed with that court. A law-enforcement officer may, in the performance of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been provided to him by any source and may also rely upon the statement of any person protected by the order that the order remains in effect.

G. Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order. Proceedings to dissolve or modify a protective order shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

H. As used in this section:

"Copy" includes a facsimile copy; and

"Protective order" includes an initial, modified or extended protective order.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

J. No fee shall be charged for filing or serving any petition or order pursuant to this section.

K. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

L. An appeal of *final* protective order issued *by a circuit court* pursuant to this section shall be given expedited review by the Court of Appeals.

§ 17.1-405. Appellate jurisdiction — Administrative agency, Virginia Workers' Compensation Commission, and civil matter appeals.

A. Unless otherwise provided by law, any aggrieved party may appeal to the Court of Appeals from:

1. Any final decision of a circuit court on appeal from (i) a decision of an administrative agency, or (ii) a grievance hearing decision issued pursuant to § 2.2-3005;

2. Any final decision of the Virginia Workers' Compensation Commission;

3. Except as provided in subsection B of § 17.1-406, any final judgment, order, or decree of a circuit court in a civil matter;

4. Any interlocutory decree or order pursuant to § 8.01-267.8;

5. ~~Any~~ *Except as provided in subsection B, any* interlocutory decree or order involving an equitable claim in which the decree or order (i) requires money to be paid or the possession or title of property to be changed or (ii) adjudicates the principles of a cause; or

6. Any final judgment, order, or decree of a circuit court (i) involving an application for a concealed weapons permit pursuant to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2, (ii) involving involuntary treatment of prisoners pursuant to § 53.1-40.1 or 53.1-133.04, or (iii) for declaratory or injunctive relief under § 57-2.02.

B. No interlocutory decree or order shall be appealed if such decree or order involves:

1. Affirmance or annulment of a marriage;

2. Divorce;

3. Custody of a minor child;

4. Spousal or child support;

5. Control or disposition of a minor child;

6. Any other domestic relations matter arising under Title 16.1 or 20; or

7. Any protective order other than a final protective order issued by a circuit court.

§ 19.2-152.10. Protective order.

A. The court may issue a protective order pursuant to this chapter to protect the health and safety of the petitioner and family or household members of a petitioner upon (i) the issuance of a petition or warrant for, or a conviction of, any criminal offense resulting from the commission of an act of violence, force, or threat or (ii) a hearing held pursuant to subsection D of § 19.2-152.9. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to person or property;

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons;

3. Any other relief necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other contact of any kind by the respondent; and

4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

B. Except as provided in subsection C, the protective order may be issued for a specified period of time up to a maximum of two years. The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. The court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

C. Upon conviction for an act of violence as defined in § 19.2-297.1 and upon the request of the victim or of the attorney for the Commonwealth on behalf of the victim, the court may issue a protective order to the victim pursuant to this chapter to protect the health and safety of the victim. The protective order may be issued for any reasonable period of time, including up to the lifetime of the defendant, that the court deems necessary to protect the health and safety of the victim. The protective order shall expire at 11:59 p.m. on the last day specified in the protective order, if any. Upon a conviction for violation of a protective order issued pursuant to this subsection, the court that issued the original protective order may extend the protective order as the court deems necessary to protect the health and safety of the victim. The extension of the protective order shall expire at 11:59 p.m. on the last day specified, if any. Nothing herein shall limit the number of extensions that may be issued.

D. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order and containing any such

identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. Upon service, the agency making service shall enter the date and time of service and other appropriate information required into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

E. Except as otherwise provided, a violation of a protective order issued under this section shall constitute contempt of court.

F. The court may assess costs and attorneys' fees against either party regardless of whether an order of protection has been issued as a result of a full hearing.

G. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, including any of the conditions specified in subsection A, shall be accorded full faith and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law. A person entitled to protection under such a foreign order may file the order in any appropriate district court by filing with the court, an attested or exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer information electronically to the Virginia Criminal Information Network.

Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy available of any foreign order filed with that court. A law-enforcement officer may, in the performance of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been provided to him by any source and may also rely upon the statement of any person protected by the order that the order remains in effect.

H. Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order. Proceedings to modify or dissolve a protective order shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

J. No fees shall be charged for filing or serving petitions pursuant to this section.

K. As used in this section:

"Copy" includes a facsimile copy; and

"Protective order" includes an initial, modified or extended protective order.

L. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

M. An appeal of a *final* protective order issued *by a circuit court* pursuant to this section shall be given expedited review by the Court of Appeals.

2. That the Virginia Family Law Coalition (the Coalition) shall conduct a study on appeals of interlocutory decrees or orders involving domestic relations matters in the Commonwealth. The Coalition shall report the findings of such study to the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by October 1, 2024.

3. That an emergency exists and the provisions of the first enactment of this act are in force from its passage.

CHAPTER 743

An Act to amend and reenact §§ 28.2-601 and 28.2-625 of the Code of Virginia, relating to oyster-planting grounds; fees.

[S 899]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-601 and 28.2-625 of the Code of Virginia are amended and reenacted as follows:

§ 28.2-601. Riparian assignments; entitlements; obligations.

The riparian leaseholder shall have the exclusive right to the use of such ground for planting or gathering oysters and clams.

The assignment made pursuant to § 28.2-600 shall pass with the transfer of the adjacent highland to the subsequent owner of highland and cannot be held separated from the highland. A transfer of highland ownership shall require a transfer of the riparian assignment within ~~eighteen~~ *18* months after the transfer of the highland ownership under the following conditions:

1. The application for transfer shall be in the form prescribed by the Commission and shall be filed with the Commissioner.

2. The Commissioner shall require a new survey if there is not a survey of the exact parcel or parcels of grounds to be transferred.

3. The cost of any new surveys required under this section shall be borne by the person making the transfer, and the cost and fees shall be the same as for surveys of general oyster-planting ground.

4. The application shall be accompanied by a transfer fee of ~~five dollars~~ *$5*.

5. The Commissioner shall return the approved application for transfer and plat with any correction to the applicant. A copy of the transfer and plat shall be recorded at the Commissioner's office.

6. If no application for transfer is received by the Commissioner within ~~eighteen~~ *18* months after the transfer of the highland ownership, the riparian assignment shall become vacant and open to assignment.

§ 28.2-625. Transfer or assignment.

A person holding an existing lease of oyster-planting ground may transfer or assign all or any part of the lease to another under the following conditions and provisions:

1. The transfer or assignment may be made only to a resident of the Commonwealth, or a firm or corporation authorized by Virginia laws to occupy and hold oyster-planting ground.

2. The application for transfer or assignment shall be in the form prescribed by the Commissioner and shall be filed with the Commission.

3. The Commissioner shall require a new survey if no survey exists of the exact parcel or parcels of grounds to be transferred or assigned.

4. The cost of any new surveys required under this section shall be borne by the person making the transfer, and the cost and fees shall be the same as for surveys made by the Commissioner.

5. The application shall be accompanied by the transfer fee of $300 for each lease less than five acres, $500 for each lease of five to 25 acres, and $1,000 for each lease greater than 25 acres.

6. The Commissioner shall record in his office the application for transfer or assignment with any correction or new plat he deems necessary only if the Commissioner believes that the transfer or assignment is in the public interest ~~after considering the factors in subsection A of § 28.2-1205 and the public benefits and impacts of shellfish aquaculture~~. No lease shall be transferred if the leaseholder has been denied renewal under § 28.2-613.

7. The transfer or assignment shall constitute a new lease of the tract or parcel assigned and any ground remaining under the old lease.

CHAPTER 744

An Act to amend and reenact §§ 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4115, 3.2-4116, 3.2-4118, 3.2-4119, 3.2-4121, 3.2-5100, 3.2-5145.1, 3.2-5145.2:1, 3.2-5145.4, 3.2-5145.5, 4.1-600, 18.2-247, 18.2-251.1:3, 18.2-371.2, 54.1-3401, 54.1-3408.3, 54.1-3423, 54.1-3442.6, 54.1-3442.7, 54.1-3443, 54.1-3446, 59.1-200, 59.1-203, and 59.1-206 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 41.1 of Title 3.2 an article numbered 4, consisting of sections numbered 3.2-4122 through 3.2-4126, and by adding a section numbered 3.2-5145.4:1, relating to tetrahydrocannabinol; industrial hemp; regulated hemp products.

[S 903]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4115, 3.2-4116, 3.2-4118, 3.2-4119, 3.2-4121, 3.2-5100, 3.2-5145.1, 3.2-5145.2:1, 3.2-5145.4, 3.2-5145.5, 4.1-600, 18.2-247, 18.2-251.1:3, 18.2-371.2, 54.1-3401, 54.1-3408.3, 54.1-3423, 54.1-3442.6, 54.1-3442.7, 54.1-3443, 54.1-3446, 59.1-200, 59.1-203, and 59.1-206 of the Code of Virginia are

amended and reenacted and that the Code of Virginia is amended by adding in Chapter 41.1 of Title 3.2 an article numbered 4, consisting of sections numbered 3.2-4122 through 3.2-4126, and by adding a section numbered 3.2-5145.4:1 as follows:

Article 1.
General Provisions.

§ 3.2-4112. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Cannabis sativa product" means a product made from any part of the plant Cannabis sativa with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

~~"Deal" means to temporarily possess industrial hemp grown in compliance with state or federal law that (i) has not been processed and (ii) was not grown and will not be processed by the person temporarily possessing it.~~

~~"Dealer" means any person who is registered pursuant to subsection A of § 3.2-4115 to deal in industrial hemp. "Dealer" does not include a retail establishment that sells or offers for sale a hemp product.~~

~~"Dealership" means the location at which a dealer stores or intends to store the industrial hemp in which he deals.~~

"Edible hemp product" means any hemp product that is or includes an industrial hemp extract, as defined in § 3.2-5145.1, and that is intended to be consumed orally.

"Federally licensed hemp producer" means a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990.

"Grow" means to plant, cultivate, or harvest a plant or crop.

"Grower" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial hemp.

"Handle" means to temporarily possess industrial hemp grown in compliance with state or federal law that (i) has not been processed and (ii) was not grown by and will not be processed by the person temporarily possessing it.

"Handler" means any person who is registered pursuant to subsection A of § 3.2-4115 to handle industrial hemp. "Handler" does not include a retail establishment that sells or offers for sale a hemp product.

"Handler's storage site" means the location at which a handler stores or intends to store the industrial hemp he handles.

"Hemp product" means a product, including any raw materials from industrial hemp that are used for or added to a food or beverage ~~product~~, that *(i)* contains industrial hemp and has completed all stages of processing needed for the product *and (ii) when offered for retail sale (a) contains a total tetrahydrocannabinol concentration of no greater than 0.3 percent and (b) contains either no more than two milligrams of total tetrahydrocannabinol per package or an amount of cannabidiol that is no less than 25 times greater than the amount of total tetrahydrocannabinol per package.*

"Hemp product intended for smoking" means any hemp product intended to be consumed by inhalation.

"Industrial hemp" means any part of the plant Cannabis sativa, including seeds thereof, whether growing or not, with a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law. "Industrial hemp" includes an industrial hemp extract that has not completed all stages of processing needed to convert the extract into a hemp product.

"Process" means to convert industrial hemp into a hemp product.

"Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial hemp.

"Process site" means the location at which a processor processes or intends to process industrial hemp.

"Production field" means the land or area on which a grower or a federally licensed hemp producer is growing or intends to grow industrial hemp.

"Regulated hemp product" means a hemp product intended for smoking or an edible hemp product.

"Tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and geometric isomers.

"Topical hemp product" means a hemp product that (i) is intended to be rubbed, poured, sprinkled, or sprayed on or otherwise applied to the human body or any part thereof and (ii) is not intended to be consumed orally or by inhalation.

"Total tetrahydrocannabinol" means the sum, after the application of any necessary conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of tetrahydrocannabinolic acid.

Article 2.
Industrial Hemp Crop Production, Handling, and Processing.

§ 3.2-4113. Production of industrial hemp lawful.

A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a ~~dealer~~ *handler* or his agent to ~~deal in~~ *handle*, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 for the possession or growing of industrial hemp or any Cannabis sativa with a tetrahydrocannabinol concentration that does not exceed the total ~~delta-9~~ tetrahydrocannabinol concentration percentage established in federal regulations applicable to negligent violations located at 7 C.F.R. *§* 990.6(b)(3). No ~~dealer~~ *handler* or his agent or processor or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 or issued a summons or judgment for the

possession, ~~dealing~~ *handling*, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this ~~chapter~~ *article* or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

B. Nothing in this ~~chapter~~ *article* shall be construed to authorize any person to violate any federal law or regulation.

C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 for the involuntary growth of industrial hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, ~~dealership~~ *handler's storage site*, or process site.

§ 3.2-4114. Regulations.

A. The Board may adopt regulations pursuant to this ~~chapter~~ *article* as necessary to register persons to grow, ~~deal in~~ *handle*, or process industrial hemp or implement the provisions of this ~~chapter~~ *article*.

B. Upon publication by the U.S. Department of Agriculture in the Federal Register of any final rule regarding industrial hemp that materially expands opportunities for growing, producing, or ~~dealing in~~ *handling* industrial hemp in the Commonwealth, the Board shall immediately adopt amendments conforming Department regulations to such federal final rule. Such adoption of regulations by the Board shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 3.2-4114.2. Authority of Commissioner; notice to law enforcement; report.

A. The Commissioner may charge a nonrefundable fee not to exceed $250 for any application for registration or renewal of registration allowed under this ~~chapter~~ *article*. The Commissioner may charge a nonrefundable fee for the tetrahydrocannabinol testing allowed under this ~~chapter~~ *article*. All fees collected by the Commissioner shall be deposited in the state treasury.

B. The Commissioner shall adopt regulations establishing a fee structure for *a* registration *issued pursuant to § 3.2-4115*. With the exception of § 2.2-4031, no provision of the Administrative Process Act (§ 2.2-4000 et seq.) or public participation guideline adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this subsection. However, prior to adopting any regulation pursuant to this subsection, the Commissioner shall review the recommendation of an advisory panel that shall consider the economic impact of any proposed fee amount on the Commonwealth's industrial hemp industry. The advisory panel shall, at a minimum, include (i) an agribusiness representative or organization, (ii) a farming representative or organization, and (iii) a hemp industry representative or organization. Prior to adopting any regulation pursuant to this subsection, the Commissioner shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice shall contain (a) a summary of the proposed regulation; (b) the text of the proposed regulation; and (c) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice of submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process of regulations pursuant to this subsection. The Commissioner shall consider and keep on file all public comments received for any regulation adopted pursuant to this subsection.

C. The Commissioner may establish an application period for a registration or renewal of registration allowed under this ~~chapter~~ *article*.

D. The Commissioner shall notify the Superintendent of State Police of each registration issued by the Commissioner under this ~~chapter~~ *article* and each license submitted to the Commissioner by a federally licensed hemp producer.

E. The Commissioner shall forward a copy or appropriate electronic record of each registration issued by the Commissioner under this ~~chapter~~ *article* and each license submitted to the Commissioner by a federally licensed hemp producer to the chief law-enforcement officer of the county or city where industrial hemp will be grown, ~~dealt~~ *handled*, or processed.

F. The Commissioner may monitor the industrial hemp grown, ~~dealt~~ *handled*, or processed by a person registered pursuant to ~~subsection A of~~ § 3.2-4115 and provide for random sampling and testing of the industrial hemp in accordance with any criteria established by the Commissioner and at the cost of the grower, ~~dealer~~ *handler*, or processor, for compliance with tetrahydrocannabinol limits and for other appropriate purposes established pursuant to § 3.2-4114. In addition to any routine inspection and sampling, the Commissioner may inspect and sample the industrial hemp at any production field, ~~dealership~~ *handler's storage site*, or process site during normal business hours without advance notice if he has reason to believe a violation of this ~~chapter~~ *article* is occurring or has occurred.

G. The Commissioner may require a grower, ~~dealer~~ *handler*, or processor to destroy, at the cost of the grower, ~~dealer~~ *handler*, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, ~~in which the dealer deals~~ *the handler handles*, or ~~that~~ the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

H. Notwithstanding the provisions of subsection G, if the provisions of subdivisions 1 and 2 are included in a plan that (i) is submitted by the Department pursuant to § 10113 of the federal Agriculture Improvement Act of 2018, P.L. 115-334, (ii) requires the Department to monitor and regulate the production of industrial hemp in the Commonwealth, and (iii) is approved by the U.S. Secretary of Agriculture:

1. The Commissioner may require a grower, ~~dealer~~ *handler*, or processor to destroy, at the cost of the grower, ~~dealer~~ *handler*, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, ~~in which the dealer deals~~ *the handler handles*, or ~~that~~ the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than 0.6 percent.

2. If such a test of Cannabis sativa indicates a concentration of tetrahydrocannabinol that is greater than 0.6 percent but less than one percent, the Commissioner shall allow the grower, ~~dealer~~ *handler*, or processor to request that the Cannabis sativa be sampled and tested again before he requires its destruction.

I. The Commissioner shall advise the Superintendent of State Police or the chief law-enforcement officer of the appropriate county or city when, with a culpable mental state greater than negligence, a grower grows, ~~a dealer deals in~~ *a handler handles*, or a processor processes any Cannabis sativa with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law or a processor produces a Cannabis sativa product.

J. The Commissioner may pursue any permits or waivers from the U.S. Drug Enforcement Administration or appropriate federal agency that he determines to be necessary for the advancement of the industrial hemp industry.

K. The Commissioner may establish a corrective action plan to address a negligent violation of any provision of this ~~chapter~~ *article*.

§ 3.2-4115. Issuance of registrations; exemption.

A. The Commissioner shall establish a registration program to allow a person to grow, ~~deal in~~ *handle*, or process industrial hemp in the Commonwealth.

B. Any person seeking to grow, ~~deal in~~ *handle*, or process industrial hemp in the Commonwealth shall apply to the Commissioner for a registration on a form provided by the Commissioner. At a minimum, the application shall include:

1. The name and mailing address of the applicant;

2. The legal description and geographic data sufficient for locating (i) the land on which the applicant intends to grow industrial hemp, (ii) the site at which the applicant intends to ~~deal in~~ *handle* industrial hemp, or (iii) the site at which the applicant intends to process industrial hemp. A registration shall authorize industrial hemp growth, ~~dealing in~~ *handling*, or processing only at the location specified in the registration;

3. A signed statement indicating whether the applicant has ever been convicted of a felony. A person with a prior felony drug conviction within 10 years of applying for a registration under this section shall not be eligible to be registered;

4. Written consent allowing the sheriff's office, police department, or Department of State Police, if a registration is ultimately issued to the applicant, to enter the premises on which the industrial hemp is grown, ~~dealt in~~ *handled*, or processed to conduct physical inspections of the industrial hemp and to ensure compliance with the requirements of this ~~chapter~~ *article*. No more than two physical inspections shall be conducted under this subdivision per year, unless a valid search warrant for an inspection has been issued by a court of competent jurisdiction;

5. Written consent allowing the Commissioner or his designee to enter the premises on which the industrial hemp is grown, ~~dealt in~~ *handled*, or processed to conduct inspections and sampling of the industrial hemp to ensure compliance with the requirements of this ~~chapter~~ *article*;

6. A statement of the approximate square footage or acreage of the location he intends to use as a production field, ~~dealership~~ *handler's storage site*, or process site;

7. Any other information required by the Commissioner; and

8. The payment of a nonrefundable application fee, in an amount set by the Commissioner.

C. Each registration issued pursuant to this section shall be valid for a period of one year from the date of issuance and may be renewed in successive years. Each annual renewal shall require the payment of a registration renewal fee, in an amount set by the Commissioner.

D. All records, data, and information filed in support of a registration application submitted pursuant to this section and all information on a hemp producer license issued by the U.S. Department of Agriculture submitted to the Commissioner pursuant to this section shall be considered proprietary and excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

E. Notwithstanding the provisions of subsection B, no federally licensed hemp producer shall be required to apply to the Commissioner for a registration to grow industrial hemp in the Commonwealth. Each federally licensed hemp producer shall submit to the Commissioner a copy of his hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990.

§ 3.2-4116. Registration conditions.

A. A person who is not a federally licensed hemp producer shall obtain a registration pursuant to subsection A of § 3.2-4115 prior to growing, ~~dealing in~~ *handling*, or processing any industrial hemp in the Commonwealth.

B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

1. Maintain records that reflect compliance with this ~~chapter~~ *article*;

2. Retain all industrial hemp growing, ~~dealing~~ *handling*, or processing records for at least three years;

3. Allow his production field, ~~dealership~~ *handler's storage site*, or process site to be inspected by and at the discretion of the Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer of the locality in which the production field, or ~~dealership~~ *handler's storage site,* or process site exists;

4. Allow the Commissioner or his designee to monitor and test the grower's, ~~dealer's~~ *handler's*, or processor's industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes established pursuant to § 3.2-4114, at the cost of the grower, ~~dealer~~ *handler*, or processor; and

5. If required by the Commissioner, destroy, at the cost of the grower, ~~dealer~~ *handler*, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, the ~~dealer deals in~~ *handler handles*, or the processor processes that has been tested and, following any re-sampling and retesting as authorized pursuant to the provisions of § 3.2-4114.2, is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

C. A processor shall not sell industrial hemp or a substance containing an industrial hemp extract, as defined in § 3.2-5145.1, to a person if the processor knows or has reason to know that such person will use the industrial hemp or substance containing an industrial hemp extract in a substance that (i) contains a total tetrahydrocannabinol concentration that is greater than 0.3 percent or (ii) contains more than two milligrams of total tetrahydrocannabinol per package and does not contain an amount of cannabidiol that is at least 25 times greater than the amount of total tetrahydrocannabinol per package.

§ 3.2-4118. Forfeiture of industrial hemp grower, handler, or processor registration; violations.

A. The Commissioner shall deny the application, or suspend or revoke the registration, of any person who, with a culpable mental state greater than negligence, violates any provision of this ~~chapter~~ *article*. The Commissioner shall provide reasonable notice of an informal fact-finding conference pursuant to § 2.2-4019 to any person in connection with the denial, suspension, or revocation of a registration.

B. If a registration is revoked as the result of an informal hearing, the decision may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The grower, ~~dealer~~ *handler*, or processor may appeal a final order to the circuit court in accordance with the Administrative Process Act.

C. A person issued a registration pursuant to ~~subsection A of~~ § 3.2-4115 who negligently (i) fails to provide a description and geographic data sufficient for locating his production field, ~~dealership~~ *handler's storage site*, or process site; (ii) grows, ~~deals in~~ *handles*, or processes Cannabis sativa with a tetrahydrocannabinol concentration greater than that allowed by federal law; or (iii) produces a Cannabis sativa product shall comply with any corrective action plan established by the Commissioner in accordance with the provisions of subsection E. The Commissioner shall not deem a grower negligent if such grower makes reasonable efforts to grow industrial hemp and grows Cannabis sativa with a tetrahydrocannabinol concentration that does not exceed the total ~~delta-9~~ tetrahydrocannabinol concentration percentage established in federal regulations applicable to negligent violations located at 7 C.F.R. *§* 990.6(b)(3).

D. A person who grows, ~~deals in~~ *handles*, or processes industrial hemp and who negligently fails to register pursuant to ~~subsection A of~~ § 3.2-4115 shall comply with any corrective action plan established by the Commissioner in accordance with the provisions of subsection E.

E. A corrective action plan established by the Commissioner in response to a negligent violation of a provision of this ~~chapter~~ *article* shall identify a reasonable date by which the person who is the subject of the plan shall correct the negligent violation and shall require such person to report periodically for not less than two calendar years to the Commissioner on the person's compliance with the provisions of this ~~chapter~~ *article*.

F. No person who negligently violates the provisions of this ~~chapter~~ *article* three times in a five-year period shall be eligible to grow, ~~deal in~~ *handle*, or process industrial hemp for a period of five years beginning on the date of the third violation.

§ 3.2-4119. Eligibility to receive tobacco settlement funds.

Industrial hemp growers, ~~dealers~~ *handlers*, or processors registered under this ~~chapter~~ *article* or federally licensed hemp producers may be eligible to receive funds from the Tobacco Indemnification and Community Revitalization Fund established pursuant to § 3.2-3106.

Article 3.

Virginia Industrial Hemp Fund.

§ 3.2-4121. Virginia Industrial Hemp Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Industrial Hemp Fund, hereafter referred to as "the Fund~~.~~*,"* *for the purposes of this article.* The Fund shall be established on the books of the Comptroller. All moneys levied and collected under the provisions of this chapter shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used by the Department solely for carrying out the purposes of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

Article 4.

Regulated Hemp Products.

§ 3.2-4122. Regulated hemp product retail facility registration; fee.

A. No person shall offer for sale or sell at retail (i) a regulated hemp product or (ii) a substance intended for human consumption, orally or by inhalation, that is advertised or labeled as containing an industrial hemp-derived cannabinoid without a regulated hemp product retail facility registration.

B. A nonrefundable annual registration fee of $1,000 shall be required with each application for a regulated hemp product retail facility registration.

C. Each registration issued pursuant to this section shall be valid for a period of one year from the date of issuance and may be renewed in successive years. Each annual renewal shall require the payment of the nonrefundable annual registration fee prescribed in subsection B.

D. A regulated hemp product retail facility registration shall be required for each location that offers for sale or sells at retail regulated hemp products.

E. Any person seeking a regulated hemp product retail facility registration shall apply to the Commissioner on a form provided by the Commissioner. At a minimum, the application shall include:

1. The name and mailing address of the applicant;

2. The physical address of the facility from which the applicant intends to offer for sale or sell at retail a regulated hemp product. A registration shall authorize the offering for sale or sale of regulated hemp products only at the location specified in the registration;

3. Written consent allowing the Commissioner or his designee to enter the location from which the regulated hemp product is offered for sale or sold to ensure compliance with the requirements of this article;

4. If the applicant intends to offer for sale or sell an edible hemp product, a copy of the permit issued by the Commissioner pursuant to § 3.2-5100;

5. Any other information required by the Commissioner; and

6. The payment of a nonrefundable application fee.

F. This section shall not apply to products that are (i) approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) dispensed pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

§ 3.2-4123. Product packaging, labeling, and testing.

A. No person shall offer for sale or sell at retail a regulated hemp product unless the product is:

1. Contained in child-resistant packaging, as defined in § 4.1-600, if the product contains tetrahydrocannabinol;

2. Equipped with a label that states, in English and in a font no less than 1/16 of an inch, (i) all ingredients contained in the substance; (ii) the amount of such substance that constitutes a single serving; (iii) the total percentage and milligrams of all tetrahydrocannabinols included in the substance and the total number of milligrams of all tetrahydrocannabinols that are contained in each serving; and (iv) if the substance contains tetrahydrocannabinol, that the product may not be sold to persons younger than 21 years of age; and

3. Accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body, that states the total tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of the batch from which the substance originates. The certificate of accreditation to standard ISO/IEC 17025 issued by the third-party accrediting body to the independent laboratory shall be available for review at the location at which the regulated hemp product is offered for sale or sold.

This subsection shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.

B. No person shall offer for sale or sell a regulated hemp product that depicts or is in the shape of a human, animal, vehicle, or fruit.

C. No person shall offer for sale or sell a regulated hemp product that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance.

§ 3.2-4124. Topical hemp products; civil penalty.

A. A topical hemp product that is offered for sale or sold at retail must bear a label stating that the product is not intended for human consumption.

B. A person that offers for sale or sells at retail a topical hemp product that does not bear a label stating that the product is not intended for human consumption is subject to a civil penalty not to exceed $500 for each day a violation occurs. Such penalty shall be collected by the Commissioner and the proceeds shall be payable to the State Treasurer for remittance to the Department.

C. Notwithstanding the provisions of subsection A, a person may offer for sale or sell a topical hemp product that does not bear a label stating that the product is not intended for human consumption if that person provides, upon request by the Commissioner, documentation that the topical hemp product was manufactured prior to July 1, 2023.

D. This section shall not apply to products that are (i) approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) dispensed pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.

§ 3.2-4125. Commissioner to have access to retail facilities.

A. The Commissioner shall have access during business hours to a registered regulated hemp product retail facility and to a business that offers for sale or sells at retail a substance intended for human consumption, orally or by inhalation, that is advertised or labeled as containing a cannabinoid for the purpose of:

1. Inspecting to determine if any of the provisions of this article are being violated; and

2. Securing samples of any regulated hemp product or substance intended for human consumption, orally or by inhalation, that is advertised or labeled as containing a cannabinoid. It shall be the duty of the Commissioner to make or cause to be made examinations or laboratory analysis of samples secured under the provisions of this section to determine whether any provision of this article is being violated.

B. This section shall not apply to products that are (i) approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) dispensed pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.

§ 3.2-4126. Civil penalties.

A. The Commissioner may, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), deny the application for a regulated hemp product retail facility registration or suspend or revoke the regulated hemp product retail facility registration of any person that violates a provision of this article.

B. Any person that (i) offers for sale or sells at retail a regulated hemp product without first obtaining a registration to do so from the Commissioner in accordance with § 3.2-4122, (ii) continues to offer for sale or sell at retail a regulated hemp product after revocation or suspension of such registration, (iii) offers for sale or sells at retail a substance intended for human consumption, orally or by inhalation, that (a) contains a total tetrahydrocannabinol concentration that is greater than 0.3 percent or (b) contains more than two milligrams of total tetrahydrocannabinol per package and does not contain an amount of cannabidiol that is at least 25 times greater than the amount of total tetrahydrocannabinol per package, (iv) offers for sale or sells at retail a regulated hemp product in violation of § 3.2-4123, or (v) offers for sale or sells at retail a substance intended for human consumption, orally or by inhalation, that is advertised or labeled as containing an industrial hemp-derived cannabinoid without a regulated hemp product retail facility registration is, in addition to any other penalties provided, subject to a civil penalty not to exceed $10,000 for each day a violation occurs. Such penalty shall be collected by the Commissioner and the proceeds shall be payable to the State Treasurer for remittance to the Department.

§ 3.2-5100. Duties of Commissioner.

A. The Commissioner shall inquire into the dairy and food and drink products, and the articles that are food or drinks, or the necessary constituents of the food or drinks, that are manufactured, sold, exposed, or offered for sale in the Commonwealth.

B. The Commissioner may procure samples of the dairy and food products covered by this chapter and may have the samples analyzed.

C. The Commissioner shall issue a permit to any food manufacturer, food storage warehouse, or retail food establishment that, after inspection, is determined to be in compliance with all applicable provisions of this chapter and any regulations adopted thereunder. *Any person that intends to manufacture, store, sell, or offer for sale an industrial hemp extract, as defined in § 3.2-5145.1, or food containing an industrial hemp extract (i) shall be subject to such permit requirement and (ii) shall indicate the person's intent to manufacture, store, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract on its permit application.* The Commissioner shall notify any applicant denied a permit of the reason for such denial. Any food manufacturer, food storage warehouse, or retail food establishment issued a permit pursuant to this subsection shall be exempt from any other license, permit, or inspection required for the sale, preparation, or handling of food unless such food manufacturer, food storage warehouse, or retail food establishment is operating as ~~(i)~~ *(a)* a restaurant as defined in Title 35.1, as jointly determined by the State Health Commissioner and the Commissioner; ~~(ii)~~ *(b)* a plant that processes and distributes Grade A milk as referenced in this title, as determined by the State Health Commissioner; or ~~(iii)~~ *(c)* a shellfish establishment as defined in Title 28.2, as determined by the State Health Commissioner.

D. The Commissioner shall make a complaint against the manufacturer or vendor of any food or drink or dairy products that are adulterated, impure, or unwholesome, in contravention of the laws of the Commonwealth, and furnish all evidence to obtain a conviction of the offense charged. The Commissioner may make complaint and cause proceedings to be commenced against any person for enforcement of the laws relative to adulteration, impure, or unwholesome food or drink, and in such cases he shall not be obliged to furnish security for costs.

E. The Commissioner may develop criteria to determine if food manufacturers that are operating in a building deemed, in consultation with the Director of the Department of Historic Resources, to be historic are producing food products that are low risk of being adulterated. If, pursuant to such criteria, any such manufacturer is producing food products that are deemed to be low risk, the Commissioner may exempt the food manufacturer from specified provisions of this chapter, or regulations adopted thereunder, that pertain to the structure of the building, provided that the Commissioner determines that such exemption is unlikely to result in the preparation for sale, manufacture, packing, storage, sale, or distribution of any food that is adulterated, as defined in § 3.2-5122.

§ 3.2-5145.1. Definitions.

As used in this article, unless the context requires a different meaning:

"Food" means any article that is intended for human consumption and introduction into commerce, whether the article is simple, mixed, or compound, and all substances or ingredients used in the preparation thereof. "Food" does not mean drug as defined in § 54.1-3401.

"Industrial hemp" means a Cannabis sativa plant that has a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law.

"Industrial hemp extract" means an extract (i) of ~~a Cannabis sativa plant that has a concentration of tetrahydrocannabinol that is no greater than that allowed for~~ *industrial* hemp ~~by federal law and~~, (ii) that is intended for human consumption*, and (iii) except as otherwise provided in subsection M of § 54.1-3442.6, when offered for retail sale, that (a) contains a total tetrahydrocannabinol concentration that is no greater than 0.3 percent and (b) contains either no more than two milligrams of total tetrahydrocannabinol per package or an amount of cannabidiol that is no less than 25 times greater than the amount of total tetrahydrocannabinol per package. "Industrial hemp extract" is not a hemp seed-derived ingredient that is approved by the U.S. Food and Drug Administration or is the subject of a generally recognized as safe notice for which the U.S. Food and Drug Administration had no questions*.

"Tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

"Total tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

§ 3.2-5145.2:1. Sellers or manufacturers of industrial hemp extract; penalties.

A. Any person who *manufactures,* sells*,* or offers for sale an industrial hemp extract or food containing an industrial hemp extract shall be subject to the requirements of this chapter and regulations adopted pursuant to this chapter.

B. Any person who (i) manufactures, sells, or offers for sale an industrial hemp extract or food containing an industrial hemp extract without first obtaining a permit to do so from the Commissioner pursuant to § 3.2-5100, unless exempt from a permit pursuant to subdivision C 6 of § 3.2-5130; (ii) continues to manufacture, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract after revocation or suspension of such permit; (iii) fails to disclose on a form prescribed by the Commissioner that he intends to manufacture, sell, or offer for sale a substance intended to be consumed orally that contains an industrial hemp-derived cannabinoid; (iv) sells or offers for sale at retail a food that (a) contains a total tetrahydrocannabinol concentration that is greater than 0.3 percent or (b) contains more than two milligrams of total tetrahydrocannabinol per package and does not contain an amount of cannabidiol that is at least 25 times greater than the amount of total tetrahydrocannabinol per package; (v) manufactures, offers for sale, or sells in violation of this chapter or a regulation adopted pursuant to this chapter a substance intended to be consumed orally that is advertised or labeled as containing an industrial hemp-derived cannabinoid; or (vi) otherwise violates any provision of this chapter or a regulation adopted pursuant to this chapter, in addition to any other penalties provided, is subject to a civil penalty not to exceed $10,000 for each day a violation occurs. Such penalty shall be collected by the Commissioner and the proceeds shall be payable to the State Treasurer for remittance to the Department.

C. Any person who (i) manufactures, sells, or offers for sale an industrial hemp extract or food containing an industrial hemp extract without first obtaining a permit to do so from the Commissioner pursuant to § 3.2-5100, unless exempt from a permit pursuant to subdivision C 6 of § 3.2-5130; (ii) continues to manufacture, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract after revocation or suspension of such permit; (iii) fails to disclose on a form prescribed by the Commissioner that he intends to manufacture, sell, or offer for sale a substance intended to be consumed orally that contains an industrial hemp-derived cannabinoid; (iv) manufactures, offers for sale, or sells in violation of this chapter or a regulation adopted pursuant to this chapter a substance intended to be consumed orally that is advertised or labeled as containing an industrial hemp-derived cannabinoid; or (v) otherwise violates any provision of this chapter or a regulation adopted pursuant to this chapter, in addition to any other penalties provided, is guilty of a Class 1 misdemeanor. Each day in which a violation occurs shall constitute a separate offense.

D. The Commissioner may, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), deny, suspend, or revoke a permit issued pursuant to § 3.2-5100 if the permitted entity is found to have violated subdivision A 69, 70, 71, 72, 73, or 74 of § 59.1-200 by a court of competent jurisdiction.

E. This section shall not apply to products that are (i) approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) dispensed pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.

§ 3.2-5145.4. Industrial hemp extract requirements.

A. An industrial hemp extract shall (i) be produced from industrial hemp grown in compliance with applicable law and (ii) ~~notwithstanding any authority under federal law to have a greater concentration of tetrahydrocannabinol, have~~ *when offered for retail sale, (a) contain* a *total* tetrahydrocannabinol concentration of no greater than 0.3 percent *and (b) contain either no more than two milligrams of total tetrahydrocannabinol per package or an amount of cannabidiol that is no less than 25 times greater than the amount of total tetrahydrocannabinol per package*.

B. In addition to the requirements of this chapter, an industrial hemp extract or food containing an industrial hemp extract shall comply with regulations adopted by the Board pursuant to § 3.2-5145.5.

§ 3.2-5145.4:1. Labeling and packaging requirements.

A. An industrial hemp extract or food containing an industrial hemp extract that contains tetrahydrocannabinol shall be contained in child-resistant packaging, as defined in § 4.1-600.

B. An industrial hemp extract or food containing an industrial hemp extract shall be packaged and equipped with a label that states, in English and in a font no less than 1/16 of an inch, (i) all ingredients contained in the industrial hemp extract or food containing an industrial hemp extract, (ii) the amount of such industrial hemp extract or food containing an industrial hemp extract that constitutes a single serving, and (iii) if such industrial hemp extract or food containing an industrial hemp extract contains tetrahydrocannabinol, the number of milligrams of total tetrahydrocannabinol per serving and number of milligrams and percent of total tetrahydrocannabinol per package.

C. Any industrial hemp extract or food containing an industrial hemp extract that contains tetrahydrocannabinol shall be equipped with a label that states that the industrial hemp extract or food containing an industrial hemp extract contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age.

D. An industrial hemp extract or food containing an industrial hemp extract, when offered for sale, shall be accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body, that states the total tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of the batch from which the substance originates. The certificate of accreditation pursuant to standard ISO/IEC 17025 issued by the third-party accrediting body to the independent laboratory shall be available for review at the location at which the industrial hemp extract or food containing an industrial hemp extract is offered for sale or sold.

E. A manufacturer shall identify each batch of an industrial hemp extract or a food containing an industrial hemp extract with a unique code for traceability. Julian date coding or any other system developed and documented by the manufacturer for assigning a unique code to a batch may be used. The batch identification shall appear and be legible on the label of an industrial hemp extract or food containing an industrial hemp extract.

F. The label of an industrial hemp extract or food containing an industrial hemp extract shall not contain a claim indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease, which shall render the product a drug, as that term is defined in 21 U.S.C. § 321(g)(1). An industrial hemp extract or food containing an industrial hemp extract with a label that contains a claim indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease shall be considered misbranded.

§ 3.2-5145.5. Regulations.

A. The Board is authorized to adopt regulations for the efficient enforcement of this article.

B. The Board shall adopt regulations identifying contaminants of an industrial hemp extract or a food containing an industrial hemp extract and establishing tolerances for such identified contaminants.

C. ~~The Board shall adopt regulations establishing labeling requirements for an industrial hemp extract or a food containing an industrial hemp extract. Such regulations shall require that any industrial hemp extract or food containing an industrial hemp extract that contains tetrahydrocannabinol be equipped with a label that states (i) that the industrial hemp extract or food containing an industrial hemp extract contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (ii) all ingredients contained in the industrial hemp extract or food containing an industrial hemp extract, (iii) the amount of such industrial hemp extract or food containing an industrial hemp extract that constitutes a single serving, and (iv) the total percentage and milligrams of tetrahydrocannabinol included in the industrial hemp extract or food containing an industrial hemp extract and the number of milligrams of tetrahydrocannabinol that are contained in each serving.~~

~~D.~~ The Board shall adopt regulations establishing batch testing requirements for industrial hemp extracts. The Board shall require that batch testing of industrial hemp extracts be conducted by an independent testing laboratory that meets criteria established by the Board.

~~E.~~ *D.* With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

§ 4.1-600. Definitions.

As used in this subtitle, unless the context requires a different meaning:

"Advertisement" or " advertising" means any written or verbal statement, illustration, or depiction that is calculated to induce sales of retail marijuana, retail marijuana products, marijuana plants, or marijuana seeds, including any written, printed, graphic, digital, electronic, or other material, billboard, sign, or other outdoor display, publication, or radio or television broadcast.

"Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

"Board" means the Board of Directors of the Virginia Cannabis Control Authority.

"Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

"Child-resistant" means, with respect to packaging or a container, (i) specially designed or constructed to be significantly difficult for a typical child under five years of age to open and not to be significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more than a single use or that contains multiple servings, resealable.

"Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading, trimming, or other similar processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include manufacturing or testing.

"Edible marijuana product" means a marijuana product intended to be consumed orally, including marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

"Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Manufacturing" or "manufacture" means the production of marijuana products or the blending, infusing, compounding, or other preparation of marijuana and marijuana products, including marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

"Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include *(i)* the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis~~. "Marijuana" does not include (i)~~*; (ii)* industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent ~~or (ii)~~*; (iii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv)* a hemp product, as defined in § 3.2-4112~~, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law~~*; (v) an industrial hemp extract, as defined in § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.*

"Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant is a concentrate for purposes of this subtitle.

"Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use.

"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana manufacturing facility, a marijuana wholesaler, or a retail marijuana store.

"Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture, label, and package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores, or other marijuana manufacturing facilities.

"Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana.

"Marijuana products" means (i) products that are composed of marijuana and other ingredients and are intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

"Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test marijuana, marijuana products, and other substances.

"Marijuana wholesaler" means a facility licensed under this subtitle to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana store, or another marijuana wholesaler.

"Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed marijuana establishment.

"Non-retail marijuana products" means marijuana products that are not manufactured and sold by a licensed marijuana establishment.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the cultivation, manufacture, sale, or testing of retail marijuana or retail marijuana products shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building that is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed marijuana establishment.

"Retail marijuana products" means marijuana products that are manufactured and sold by a licensed marijuana establishment.

"Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale; peddling, exchanging, or bartering; or delivering otherwise than gratuitously, by any means, retail marijuana or retail marijuana products.

"Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has designated as a law-enforcement officer pursuant to this subtitle.

"Testing" or "test" means the research and analysis of marijuana, marijuana products, or other substances for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or manufacturing.

"Tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

"Total tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

§ 18.2-247. Use of terms "controlled substances," "marijuana," "Schedules I, II, III, IV, V, and VI," "imitation controlled substance," and "counterfeit controlled substance" in Title 18.2.

A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et seq.).

B. The term "imitation controlled substance" when used in this article means (i) a counterfeit controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a controlled substance subject to abuse, and:

1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other form whatsoever will be mistaken for a controlled substance unless such substance was introduced into commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate; or

2. Which by express or implied representations purports to act like a controlled substance as a stimulant or depressant of the central nervous system and which is not commonly used or recognized for use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an "imitation controlled substance," there shall be considered, in addition to all other relevant factors, comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the drug and its appearance in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the public.

D. The term "marijuana" when used in this article means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. *"*Marijuana*"* does not include *(i)* the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus Cannabis~~. Marijuana does not include (i)~~*; (ii)* industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; ~~(ii)~~ *(iii)* industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; ~~or (iii)~~ *(iv)* a hemp product, as defined in § 3.2-4112~~, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law~~*; (v) an industrial hemp extract, as defined in § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt or salts of such isomer, ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443*.

E. The term "counterfeit controlled substance" means a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying

mark, imprint or device or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug.

F. *The term "tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and geometric isomers.*

G. The term "total tetrahydrocannabinol" means the sum, after the application of any necessary conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of tetrahydrocannabinolic acid.

H. The Department of Forensic Science shall determine the proper methods for detecting the concentration of ~~delta-9-tetrahydrocannabinol (THC)~~ *tetrahydrocannabinol* in substances for the purposes of this title*, Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1,* and ~~§§~~ *§* 54.1-3401 ~~and 54.1-3446~~. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider the potential conversion of ~~delta-9-tetrahydrocannibinol~~ *tetrahydrocannabinolic* acid ~~(THC-A)~~ into ~~THC~~ *tetrahydrocannabinol*. ~~The test result shall include the total available THC derived from the sum of the THC and THC-A content.~~

§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories; Department of Agriculture and Consumer Services, Department of Law employees.

A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower, a federally licensed hemp producer, or a registered industrial hemp processor for the purpose of performing required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or industrial hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with regulations promulgated by the Board of Pharmacy and the Board of Agriculture and Consumer Services.

B. No employee of the Department of Agriculture and Consumer Services *or of the Department of Law* shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 for the possession or distribution of industrial hemp *or any substance containing tetrahydrocannabinol* when possession of industrial hemp *or any substance containing tetrahydrocannabinol* is necessary in the performance of his duties.

§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking by a person under 21 years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking to persons under 21 years of age; civil penalties.

A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person less than 21 years of age, knowing or having reason to believe that such person is less than 21 years of age, any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking.

Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking may be sold from a vending machine only if the machine is (i) posted with a notice, in a conspicuous manner and place, indicating that the purchase or possession of such products by persons under 21 years of age is unlawful and (ii) located in a place that is not open to the general public and is not generally accessible to persons under 21 years of age. An establishment that prohibits the presence of persons under 21 years of age unless accompanied by a person 21 years of age or older is not open to the general public.

B. No person less than 21 years of age shall attempt to purchase, purchase, or possess any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking. The provisions of this subsection shall not be applicable to the possession of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking by a person less than 21 years of age (i) making a delivery of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking in pursuance of his employment or (ii) as part of a scientific study being conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation, provided that such medical research has been approved by an institutional review board pursuant to applicable federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to purchase, attempt to purchase, or possession by a law-enforcement officer or his agent when the same is necessary in the performance of his duties.

C. No person shall sell a tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least 21 years of age. Such identification is not required from an individual whom the person has reason to believe is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the person demanded, was shown, and reasonably relied upon a photo identification stating that the individual was at least 21 years of age shall be a defense to any action brought under this subsection. In determining whether a person had reason to believe an individual is at least 21 years of age, the trier of fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior, and manner of the individual.

This subsection shall not apply to mail order or Internet sales, provided that the person offering the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product

intended for smoking verifies that the purchaser is at least 21 years of age through a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking will be released to the purchaser.

D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking to any active duty military personnel who are 18 years of age or older. An identification card issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.

E. A violation of subsection A or C by an individual or by a separate retail establishment that involves a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product other than a bidi is punishable by a civil penalty not to exceed $100 for a first violation, a civil penalty not to exceed $200 for a second violation, and a civil penalty not to exceed $500 for a third or subsequent violation.

A violation of subsection A or C by an individual or by a separate retail establishment that involves the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of $500 for a first violation, a civil penalty in the amount of $1,000 for a second violation, and a civil penalty in the amount of $2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it has trained its employees concerning the requirements of this section, the court shall suspend all of the penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so train its employees, the court may impose a civil penalty not to exceed $1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product other than a bidi.

A violation of subsection B is punishable by a civil penalty not to exceed $100 for a first violation and a civil penalty not to exceed $250 for a second or subsequent violation. A court may, as an alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community service for a first violation of subsection B and up to 40 hours of community service for a second or subsequent violation. If the defendant fails or refuses to complete the community service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant to subdivision A 9 of § 16.1-278.8.

Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer may issue a summons for a violation of subsection A, B, or C.

F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for sale any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking to any person under 21 years of age is prohibited by law. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed ~~$50~~ *$500*. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed ~~$100~~ *$500*. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

G. Nothing in this section shall be construed to create a private cause of action.

H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may issue a summons for any violation of this section.

I. As used in this section:

"Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Bidi" means a product containing tobacco that is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by, consumers as a bidi or beedie.

"Hemp product" means the same as that term is defined in § 3.2-4112.

"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for smoking in a manner similar to a cigarette or cigar.

§ 54.1-3401. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § 54.1-3443.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouser, nonresident warehouser, third-party logistics provider, or nonresident third-party logistics provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic prescription" means a written prescription that is generated on an electronic application and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be transmitted in accordance with 21 C.F.R. Part 1300.

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include *(i)* the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis~~. Marijuana does not include (i)~~*; (ii)* industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent~~, (ii)~~*; (iii)* industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990~~, or (iii)~~*; (iv)* a hemp product, as defined in § 3.2-4112~~, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law~~*; (v) an industrial hemp extract, as defined in § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443*.

"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning — may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and geometric isomers.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"Total tetrahydrocannabinol" means the sum, after the application of any necessary conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of tetrahydrocannabinolic acid.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

§ 54.1-3408.3. Certification for use of cannabis oil for treatment.

A. As used in this section:

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains no more than 10 milligrams of ~~delta-9-tetrahydrocannabinol~~ *tetrahydrocannabinol* per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, ~~dealt~~ *handled*, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.

"Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical cannabis.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audio-visual technology. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.

C. The written certification shall be on a form provided by the Board of Pharmacy. Such written certification shall contain the name, address, and telephone number of the practitioner; the name and address of the patient issued the written certification; the date on which the written certification was made; and the signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration. A written certification shall not be issued to a patient by more than one practitioner during any given time period.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board and shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients. The

Board shall not limit the number of patients to whom a practitioner may issue a written certification. The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.

F. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit, on a monthly basis, all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Board.

G. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

H. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility, who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications, may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis product to the patient or resident as necessary.

I. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a registered agent, but only with respect to information related to such patient.

§ 54.1-3423. Board to issue registration unless inconsistent with public interest; authorization to conduct research; application and fees.

A. The Board shall register an applicant to manufacture or distribute controlled substances included in Schedules I through V unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the Board shall consider the following factors:

1. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

2. Compliance with applicable state and local law;

3. Any convictions of the applicant under any federal and state laws relating to any controlled substance;

4. Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

5. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

6. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

7. Any other factors relevant to and consistent with the public health and safety.

B. Registration under subsection A does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

C. Practitioners must be registered to conduct research or laboratory analysis with controlled substances in Schedules II through VI~~, tetrahydrocannabinol,~~ or marijuana. Practitioners registered under federal law to conduct research with Schedule I substances, other than ~~tetrahydrocannabinol~~ *marijuana*, may conduct research with Schedule I substances within ~~this~~ *the* Commonwealth upon furnishing the evidence of that federal registration.

D. The Board may register other persons or entities to possess controlled substances listed on Schedules II through VI upon a determination that (i) there is a documented need, (ii) the issuance of the registration is consistent with the public interest, (iii) the possession and subsequent use of the controlled substances complies with applicable state and federal laws and regulations, and (iv) the subsequent storage, use, and recordkeeping of the controlled substances will be under the general supervision of a licensed pharmacist, practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as specified in the Board's regulations. The Board shall consider, at a minimum, the factors listed in subsection A ~~of this section~~ in determining whether the registration shall be issued. Notwithstanding the exceptions listed in § 54.1-3422 A, the Board may mandate a controlled substances registration for sites maintaining certain types and quantities of Schedules II through VI controlled substances as it may specify in its regulations. The Board shall promulgate regulations related to requirements or criteria for the issuance of such controlled substances registration, storage, security, supervision, and recordkeeping.

E. The Board may register a public or private animal shelter as defined in § 3.2-6500 to purchase, possess, and administer certain Schedule II through VI controlled substances approved by the State Veterinarian for the purpose of euthanizing injured, sick, homeless, and unwanted domestic pets and animals and to purchase, possess, and administer certain Schedule VI drugs and biological products for the purpose of preventing, controlling, and treating certain communicable diseases that failure to control would result in transmission to the animal population in the shelter.

Controlled substances used for euthanasia shall be administered only in accordance with protocols established by the State Veterinarian and only by persons trained in accordance with instructions by the State Veterinarian. The list of Schedule VI drugs and biological products used for treatment and prevention of communicable diseases within the shelter shall be determined by the supervising veterinarian of the shelter and the drugs and biological products shall be administered only pursuant to written protocols established or approved by the supervising veterinarian of the shelter and only by persons who have been trained in accordance with instructions established or approved by the supervising veterinarian. The shelter shall maintain a copy of the approved list of drugs and biological products, written protocols for administering, and training records of those persons administering drugs and biological products on the premises of the shelter.

F. The Board may register a crisis stabilization unit established pursuant to § 37.2-500 or 37.2-601 and licensed by the Department of Behavioral Health and Developmental Services to maintain a stock of Schedule VI controlled substances necessary for immediate treatment of patients admitted to the crisis stabilization unit, which may be accessed and administered by a nurse pursuant to a written or oral order of a prescriber in the absence of a prescriber. Schedule II through Schedule V controlled substances shall only be maintained if so authorized by federal law and Board regulations.

G. The Board may register an entity at which a patient is treated by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically for the purpose of establishing a bona fide practitioner-patient relationship and is prescribed Schedule II through VI controlled substances when such prescribing is in compliance with federal requirements for the practice of telemedicine and the patient is not in the physical presence of a practitioner registered with the U.S. Drug Enforcement Administration. In determining whether the registration shall be issued, the Board shall consider (i) the factors listed in subsection A, (ii) whether there is a documented need for such registration, and (iii) whether the issuance of the registration is consistent with the public interest.

H. Applications for controlled substances registration certificates and renewals thereof shall be made on a form prescribed by the Board and such applications shall be accompanied by a fee in an amount to be determined by the Board.

I. Upon (i) any change in ownership or control of a business, (ii) any change of location of the controlled substances stock, (iii) the termination of authority by or of the person named as the responsible party on a controlled substances registration, or (iv) a change in the supervising practitioner, if applicable, the registrant or responsible party shall immediately surrender the registration. The registrant shall, within 14 days following surrender of a registration, file a new application and, if applicable, name the new responsible party or supervising practitioner.

§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling, including the potency of each botanical cannabis product and the amounts recommended by the practitioner or dispensing pharmacist, and packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis oil that provide that each dispensed dose of cannabis oil not exceed 10 milligrams of ~~delta-9-tetrahydrocannabinol~~ *tetrahydrocannabinol*; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors, between a pharmaceutical processors and a cannabis dispensing facility, and between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection M; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue written certifications and patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for producing cannabis products, (b) the secure disposal of agricultural waste, and (c) a process for registering cannabis oil products.

D. The Board shall require that, after processing and before dispensing any cannabis products, a pharmaceutical processor shall make a sample available from each batch of cannabis product for testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of

0.5 percent of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD); total tetrahydrocannabinol (THC); terpenes; pesticide chemical residue; heavy metals; mycotoxins; moisture; and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or cannabis oil shall be subject to laboratory testing and approved upon satisfaction of applicable testing standards, which shall not be more stringent than initial testing prior to remediation. If a batch of botanical cannabis fails retesting after remediation, it shall be considered usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any cannabis product with an expiration date assigned by the pharmaceutical processor of six months or less from the date of the cannabis product registration approval. Stability testing required for assignment of an expiration date longer than six months shall be limited to microbial testing, on a pass/fail basis, and potency testing, on a 10 percent deviation basis, of active ingredients.

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board in regulation.

F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. The pharmaceutical processor shall ensure that security measures are adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have concurrent responsibility for preventing diversion from the dispensing area.

Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and production areas of the pharmaceutical processor and shall provide such information to the Board. The Board shall direct all communications related to enforcement of requirements related to cultivation and production of cannabis oil products by the pharmaceutical processor to such designated person.

G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant's material owners. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a certification recognized by the Board or who has at least two years of experience cultivating plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and (iii) to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician.

I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

J. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

L. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's dispensing area or cannabis dispensing facility.

M. A pharmaceutical processor may acquire *from a registered industrial hemp handler or processor* industrial hemp extracts *that (i) are* grown and processed in Virginia~~, and~~ in compliance with state or federal law~~, from a registered industrial hemp dealer or processor~~ *and (ii) notwithstanding the tetrahydrocannabinol limits set forth in the definition of "industrial hemp extract" in § 3.2-5145.1, contain a total tetrahydrocannabinol concentration of no greater than 0.3 percent*. A pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products. The industrial hemp ~~dealer~~ *handler* or

processor shall provide such third-party testing results to the pharmaceutical processor before industrial hemp extracts may be acquired.

N. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board of Pharmacy shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board of Pharmacy shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

O. The Board shall register all cannabis products that meet testing, labeling, and packaging standards.

§ 54.1-3442.7. Dispensing cannabis products; report.

A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis products only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia and has been issued a valid written certification; (ii) such patient's registered agent; or (iii) if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or temporarily resides in Virginia. A companion may accompany a patient into a pharmaceutical processor's dispensing area or cannabis dispensing facility. Prior to the initial dispensing of cannabis products pursuant to each written certification, a pharmacist or pharmacy technician employed by the pharmaceutical processor or cannabis dispensing facility shall make and maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view, in person or by audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian; and shall verify current board registration of the practitioner and the corresponding registered agent if applicable. Thereafter, an initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated caregiver facility. Prior to any subsequent dispensing of cannabis products pursuant to each written certification, an employee or delivery agent shall view a current photo identification of the patient, registered agent, parent, or legal guardian and the current board registration issued to the registered agent if applicable. No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply, as determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period. A pharmaceutical processor or cannabis dispensing facility may dispense less than a 90-day supply of a cannabis product for any patient during any 90-day period; however, a pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. The Board shall establish in regulation an amount of cannabis oil that constitutes a 90-day supply to treat or alleviate the symptoms of a patient's diagnosed condition or disease. In determining the appropriate amount of a cannabis product to be dispensed to a patient, a pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the patient and adjust the amount dispensed accordingly.

B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis products produced on the premises of a pharmaceutical processor permitted by the Board or cannabis products that have been formulated with extracts from industrial hemp acquired by a pharmaceutical processor from a registered industrial hemp ~~dealer~~ *handler* or processor pursuant to § 54.1-3442.6. A pharmaceutical processor may begin cultivation upon being issued a permit by the Board.

C. The Board shall report annually by December 1 to the Chairmen of the House Committee for Health, Welfare and Institutions and the Senate Committee on Education and Health on the operation of pharmaceutical processors and cannabis dispensing facilities issued a permit by the Board.

D. The concentration of ~~delta-9-tetrahydrocannabinol~~ *tetrahydrocannabinol* in any cannabis product on site may be up to 10 percent greater than or less than the level of ~~delta-9-tetrahydrocannabinol~~ *tetrahydrocannabinol* measured for labeling. A pharmaceutical processor and cannabis dispensing facility shall ensure that such concentration in any cannabis product on site is within such range. A pharmaceutical processor producing cannabis products shall establish a stability testing schedule of cannabis products.

§ 54.1-3443. Board to administer article.

A. The Board shall administer this article and may add substances to or deschedule or reschedule all substances enumerated in the schedules in this article pursuant to the procedures of the Administrative Process Act (§ 2.2-4000 et seq.). In making a determination regarding a substance, the Board shall consider the following:

1. The actual or relative potential for abuse;
2. The scientific evidence of its pharmacological effect, if known;
3. The state of current scientific knowledge regarding the substance;
4. The history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. The risk to the public health;
7. The potential of the substance to produce psychic or physical dependence; and

8. Whether the substance is an immediate precursor of a substance already controlled under this article.

B. After considering the factors enumerated in subsection A, the Board shall make findings and issue a regulation controlling the substance if it finds the substance has a potential for abuse.

C. If the Board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

D. If the Board, in consultation with the Department of Forensic Science, determines the substance shall be placed into Schedule I or II pursuant to § 54.1-3445 or 54.1-3447, the Board may amend its regulations pursuant to Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such amendments, the Board shall conduct a public hearing. At least 30 days prior to conducting such hearing, it shall post notice of the hearing on the Virginia Regulatory Town Hall and shall send notice of the hearing to any persons requesting to be notified of a regulatory action. In the notice, the Board shall include a list of all substances it intends to schedule by regulation. The Board shall notify the House Committee for Courts of Justice and the Senate Committee on the Judiciary of any new substance added to Schedule I or II pursuant to this subsection. Any substance added to Schedule I or II pursuant to this subsection shall remain on Schedule I or II for a period of 18 months. Upon expiration of such 18-month period, such substance shall be descheduled unless a general law is enacted adding such substance to Schedule I or II. Nothing in this subsection shall preclude the Board from adding substances to or descheduling or rescheduling all substances enumerated in the schedules pursuant to the provisions of subsections A, B, and E.

E. If any substance is designated, rescheduled, or descheduled as a controlled substance under federal law and notice of such action is given to the Board, the Board may similarly control the substance under this chapter after the expiration of 30 days from publication in the Federal Register of a final or interim final order or rule designating a substance as a controlled substance or rescheduling or descheduling a substance by amending its regulations in accordance with the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such amendments, the Board shall post notice of the hearing on the Virginia Regulatory Town Hall and shall send notice of the hearing to any persons requesting to be notified of a regulatory action. The Board shall include a list of all substances it intends to schedule by regulation in such notice.

F. Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 4.1.

G. The Board shall exempt any nonnarcotic substance from a schedule if such substance may, under the provisions of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) or state law, be lawfully sold over the counter without a prescription.

H. Any tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether scheduled pursuant to this section shall not be included in the definition of marijuana set forth in § 4.1-600, 18.2-247, or 54.1-3401.

§ 54.1-3446. Schedule I.

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

1-{1-[1-(4-bromophenyl)ethyl]-4-piperidinyl}-1,3-dihydro-2H-benzimidazol-2-one (other name: Brorphine);

1-[2-methyl-4-(3-phenyl-2-propen-1-yl)-1-piperazinyl]-1-butanone (other name: 2-methyl AP-237);

1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);

1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);

2-[(4-methoxyphenyl)methyl]-N,N-diethyl-5-nitro-1H-benzimidazole-1-ethanamine (other name: Metonitazene);

2-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl fentanyl);

3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);

3,4-dichloro-N-{[1-(dimethylamino)cyclohexyl]methyl}benzamide (other name: AH-7921);

Acetyl fentanyl (other name: desmethyl fentanyl);

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Benzethidine;

Betacetylmethadol;

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;
Dimenoxadol;
Dimepheptanol;
Dimethylthiambutene;
Dioxaphetylbutyrate;
Dipipanone;
Ethylmethylthiambutene;
Etonitazene;
Etoxeridine;
Furethidine;
Hydroxypethidine;
Ketobemidone;
Levomoramide;
Levophenacylmorphan;
Morpheridine;
MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuranyl fentanyl);
N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl);
N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl);
N-{1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl}-N-phenylpropanamide (other name: beta-hydroxythiofentanyl);
N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl);
N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names: 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);
N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: 2-fluorofentanyl, ortho-fluorofentanyl);
N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 3-fluorofentanyl);
N-[3-methyl-1-(2-hydroxy-2-phenylethyl)4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxy-3-methylfentanyl);
N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl);
N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl);
N-(4-chlorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: para-chlorofentanyl, 4-chlorofentanyl);
N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluoroisobutyryl fentanyl);
N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: para-fluorobutyrylfentanyl);
N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluorofentanyl);
N,N-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine (other name: Isotonitazene);
N,N-diethyl-2-{[(4-ethoxyphenyl) methyl]-1H-benzimidazol-1-yl}-ethan-1-amine (other names: Etazene, Desnitroetonitazene);
N,N-diethyl-2-[(4-methoxyphenyl)methyl]-1H-benzimidazole-1-ethanamine (other name: Metodesnitazene);
N-phenyl-N-[1-(2-phenylmethyl)-4-piperidinyl]-2-furancarboxamide (other name: N-benzyl Furanyl norfentanyl);
N-phenyl-N-(4-piperidinyl)-propanamide (other name: Norfentanyl);
Noracymethadol;
Norlevorphanol;
Normethadone;
Norpipanone;
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-furancarboxamide (other name: Furanyl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-propenamide (other name: Acryl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: butyryl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (other name: Pentanoyl fentanyl);
N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide (other name: thiofentanyl);
Phenadoxone;
Phenampromide;
Phenomorphan;
Phenoperidine;
Piritramide;
Proheptazine;
Properidine;
Propiram;
Racemoramide;

Tilidine;
Trimeperidine;
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-1,3-benzodioxole-5-carboxamide (other name: Benzodioxole fentanyl);
3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methylbenzamide (other name: U-49900);
2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-48800);
2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-51754);
N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Ocfentanil);
N-(4-methoxyphenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: 4-methoxybutyrylfentanyl);
N-phenyl-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: Isobutyryl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-cyclopentanecarboxamide (other name: Cyclopentyl fentanyl);
N-phenyl-N-(1-methyl-4-piperidinyl)-propanamide (other name: N-methyl norfentanyl);
N-[2-(dimethylamino)cyclohexyl]-N-methyl-1,3-benzodioxole-5-carboxamide (other names: 3,4-methylenedioxy U-47700 or 3,4-MDO-U-47700);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-butenamide (other name: Crotonyl fentanyl);
N-phenyl-N-[4-phenyl-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 4-phenylfentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-benzamide (other names: Phenyl fentanyl, Benzoyl fentanyl);
N-[2-(dimethylamino)cyclohexyl]-N-phenylfuran-2-carboxamide (other name: Furanyl UF-17);
N-[2-(dimethylamino)cyclohexyl]-N-phenylpropionamide (other name: UF-17);
3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-isopropyl-benzamide (other name: Isopropyl U-47700).

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:
Acetorphine;
Acetyldihydrocodeine;
Benzylmorphine;
Codeine methylbromide;
Codeine-N-Oxide;
Cyprenorphine;
Desomorphine;
Dihydromorphine;
Drotebanol;
Etorphine;
Heroin;
Hydromorphinol;
Methyldesorphine;
Methyldihydromorphine;
Morphine methylbromide;
Morphine methylsulfonate;
Morphine-N-Oxide;
Myrophine;
Nicocodeine;
Nicomorphine;
Normorphine;
Pholcodine;
Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):
Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);
4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane;alpha-desmethyl DOB; 2C-B; Nexus);
3,4-methylenedioxy amphetamine;
5-methoxy-3,4-methylenedioxy amphetamine;
3,4,5-trimethoxy amphetamine;
Alpha-methyltryptamine (other name: AMT);
Bufotenine;
Diethyltryptamine;
Dimethyltryptamine;
4-methyl-2,5-dimethoxyamphetamine;
2,5-dimethoxy-4-ethylamphetamine (DOET);

4-fluoro-N-ethylamphetamine;
2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);
Ibogaine;
5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);
Lysergic acid diethylamide;
Mescaline;
Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl);
Peyote;
N-ethyl-3-piperidyl benzilate;
N-methyl-3-piperidyl benzilate;
Psilocybin;
Psilocyn;
Salvinorin A;
~~Tetrahydrocannabinols, except as present in (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law; (iii) marijuana; (iv) dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration; or (v) industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990;~~
2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);
3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;
3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);
N-hydroxy-3,4-methylenedioxyamphetamine (some other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);
4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);
4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);
Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);
Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);
Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);
1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);
3,4-methylenedioxypyrovalerone (other name: MDPV);
4-methylmethcathinone (other names: mephedrone, 4-MMC);
3,4-methylenedioxymethcathinone (other name: methylone);
Naphthylpyrovalerone (other name: naphyrone);
4-fluoromethcathinone (other names: flephedrone, 4-FMC);
4-methoxymethcathinone (other names: methedrone; bk-PMMA);
Ethcathinone (other name: N-ethylcathinone);
3,4-methylenedioxyethcathinone (other name: ethylone);
Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);
N,N-dimethylcathinone (other name: metamfepramone);
Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);
4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);
3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);
Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);
6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);
3-fluoromethcathinone (other name: 3-FMC);
4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);
4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);
4-Methylethcathinone (other name: 4-MEC);
4-Ethylmethcathinone (other name: 4-EMC);
N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);
Beta-keto-methylbenzodioxolylpentanamine (other names: Pentylone, bk-MBDP);
Alpha-methylamino-butyrophenone (other name: Buphedrone);

Alpha-methylamino-valerophenone (other name: Pentedrone);
3,4-Dimethylmethcathinone (other name: 3,4-dmmc);
4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);
4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe, 2C-I-NBOMe);
Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);
4-Fluoromethamphetamine (other name: 4-FMA);
4-Fluoroamphetamine (other name: 4-FA);
2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);
2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);
2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);
2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);
2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);
2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);
2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);
(2-aminopropyl)benzofuran (other name: APB);
(2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);
4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-C-NBOMe, 25C-NBOMe, 25C);
4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-B-NBOMe, 25B-NBOMe, 25B);
Acetoxydimethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);
Benocyclidine (other names: BCP, BTCP);
Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);
3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);
4-bromomethcathinone (other name: 4-BMC);
4-chloromethcathinone (other name: 4-CMC);
4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);
Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);
Alpha-Pyrrolidinoheptiophenone (other name: PV8);
5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);
Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);
Beta-keto-4-bromo-2,5-dimethoxyphenethylamine (other name: bk-2C-B);
1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);
1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);
1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);
4-Chloroethcathinone (other name: 4-CEC);
3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);
1-propionyl lysergic acid diethylamide (other name: 1P-LSD);
(2-Methylaminopropyl)benzofuran (other name: MAPB);
1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone, Dipentylone);
1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9);
3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);
4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);
4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);
4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);
4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);
4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);
4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);
4-methyl-alpha-ethylaminopentiophenone;
4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);
5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);
5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);
6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);
6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);
(N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB);
2-(methylamino)-2-phenyl-cyclohexanone (other name: Deschloroketamine);
2-(ethylamino)-2-phenyl-cyclohexanone (other name: deschloro-N-ethyl-ketamine);
2-methyl-1-(4-(methylthio)phenyl)-2-morpholinopropiophenone (other name: MMMP);
Alpha-ethylaminohexanophenone (other name: N-ethylhexedrone);
N-ethyl-1-(3-methoxyphenyl)cyclohexylamine (other name: 3-methoxy-PCE);

4-fluoro-alpha-pyrrolidinohexiophenone (other name: 4-fluoro-alpha-PHP);
N-ethyl-1,2-diphenylethylamine (other name: Ephenidine);
2,5-dimethoxy-4-chloroamphetamine (other name: DOC);
3,4-methylenedioxy-N-tert-butylcathinone;
Alpha-pyrrolidinoisohexiophenone (other name: alpha-PiHP);
1-[1-(3-hydroxyphenyl)cyclohexyl]piperidine (other name: 3-hydroxy PCP);
4-acetyloxy-N,N-diallyltryptamine (other name: 4-AcO-DALT);
4-hydroxy-N,N-methylisopropyltryptamine (other name: 4-hydroxy-MiPT);
3,4-Methylenedioxy-alpha-pyrrolidinohexanophenone (other name: MDPHP);
5-methoxy-N,N-dibutyltryptamine (other name: 5-methoxy-DBT);
1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-butanone (other names: Eutylone, bk-EBDB);
1-(1,3-benzodioxol-5-yl)-2-(butylamino)-1-pentanone (other name: N-butylpentylone);
N-benzyl-3,4-dimethoxyamphetamine (other name: N-benzyl-3,4-DMA);
1-(benzo[d][1,3]dioxol-5-yl)-2-(sec-butylamino)pentan-1-one (other name: N-sec-butyl Pentylone);
1-cyclopropionyl lysergic acid diethylamide (other name: 1cP-LSD);
2-(ethylamino)-1-phenylheptan-1-one (other name: N-ethylheptedrone);
(2-ethylaminopropyl)benzofuran (other name: EAPB);
4-ethyl-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25E-NBOH);
2-fluoro-Deschloroketamine (other name: 2-(2-fluorophenyl)-2-(methylamino)-cyclohexanone);
4-hydroxy-N-ethyl-N-propyltryptamine (other name: 4-hydroxy-EPT);
2-(isobutylamino)-1-phenylhexan-1-one (other names: N-Isobutyl Hexedrone, alpha-isobutylaminohexanphenone);
1-(4-methoxyphenyl)-N-methylpropan-2-amine (other names: para-Methoxymethamphetamine, PMMA);
N-ethyl-1-(3-hydroxyphenyl)cyclohexylamine (other name: 3-hydroxy-PCE);
N-heptyl-3,4-dimethoxyamphetamine (other name: N-heptyl-3,4-DMA);
N-hexyl-3,4-dimethoxyamphetamine (other name: N-hexyl-3,4-DMA);
4-fluoro-3-methyl-alpha-pyrrolidinovalerophenone (other name: 4-fluoro-3-methyl-alpha-PVP);
4-fluoro-alpha-methylamino-valerophenone (other name: 4-fluoropentedrone);
N-(1,4-dimethylpentyl)-3,4-dimethoxyamphetamine (other name: N-(1,4-dimethylpentyl)-3,4-DMA);
4,5-methylenedioxy-N,N-diisopropyltryptamine (other name: 4,5-MDO-DiPT);
Alpha-pyrrolidinocyclohexanophenone (other name: alpha-PCYP);
3,4-methylenedioxy-alpha-pyrrolidinoheptiophenone (other name: MDPV8);
4-chloro-alpha-methylaminobutiophenone (other name: 4-chloro Buphedrone).

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

5-(2-chlorophenyl)-1,3-dihydro-3-methyl-7-nitro-2H-1,4-benzodiazepin-2-one (other name: Meclonazepam);
7-chloro-5-(2-fluorophenyl)-1,3-dihydro-1,4-benzodiazepin-2-one (other name: Norfludiazepam);
Bromazolam;
Clonazolam;
Deschloroetizolam;
Etizolam;
Flualprazolam;
Flubromazepam;
Flubromazolam;
Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
Mecloqualone;
Methaqualone.

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);
Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine);
Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;
Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
Ethylamphetamine;
Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);
Fenethylline;

Methcathinone (some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)-propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

N,N-dimethylamphetamine (other names: N,N-alpha-trimethyl-benzeneethanamine, N,N-alpha-trimethylphenethylamine);

Methyl 2-(4-fluorophenyl)-2-(2-piperidinyl)acetate (other name: 4-fluoromethylphenidate);

Isopropyl-2-phenyl-2-(2-piperidinyl)acetate (other name: Isopropylphenidate);

4-chloro-N,N-dimethylcathinone;

3,4-methylenedioxy-N-benzylcathinone (other name: BMDP).

6. Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

a. "Cannabimimetic agents" includes any substance that is within any of the following structural classes:

2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;

3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; and

N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

b. The term "cannabimimetic agents" includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tet rahydrobenzo[c]chromen-1-ol (other name: HU-210);

1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);

1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);

Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);

1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);

1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);

1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);

1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11, 5-fluoro-UR-144);

N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);
N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);
1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);
(8-quinolinyl)(1-pentylindol-3-yl)carboxylate (other name: PB-22);
(8-quinolinyl)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);
(8-quinolinyl)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name: AB-FUBINACA);
1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-PINACA);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AB-PINACA);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names: ADB-CHMINACA, MAB-CHMINACA);
Methyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);
1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);
1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);
1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);
N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (other name: ADB-FUBINACA);
Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: MDMB-FUBINACA);
Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);
Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other names: AMB-FUBINACA, FUB-AMB);
N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other names: FUB-AKB48, 5F-APINACA);
N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);
N-(adamantanyl)-1-(5-chloropentyl) indazole-3-carboxamide (other name: 5-chloro-AKB48);
Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name: AB-CHMICA);
1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);
Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);
Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-ADB-PINACA);
1-(4-cyanobutyl)-N-(1-methyl-1-phenylethyl)-1H-indazole-3-carboxamide (other name: 4-cyano CUMYL-BUTINACA);
Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro MDMB-PICA, 5F-MDMB-PICA);
Ethyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other name: EMB-FUBINACA);
Methyl 2-[1-4-fluorobutyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: 4-fluoro-MDMB-BUTINACA);
1-(5-fluoropentyl)-N-(1-methyl-1-phenylethyl)-1H-indole-3-carboxamide (other name: 5-fluoro CUMYL-PICA);
Methyl 2-[1-(pent-4-enyl)-1H-indazole-3-carboxamindo]-3,3-dimethylbutanoate (other name: MDMB-4en-PINACA);
Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indole-3-carbonyl}amino)-3-methylbutanoate (other names: MMB-FUBICA, AMB-FUBICA);
Methyl 2-[1-(4-penten-1-yl)-1H-indole-3-carboxamido]-3-methylbutanoate (other names: MMB022, MMB-4en-PICA);
Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-methylbutanoate (other name: MMB 2201);
Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-phenylpropanoate (other name: 5-fluoro-MPP-PICA);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butylindazole-3-carboxamide (other name: ADB-BUTINACA);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-chloropentyl)indazole-3-carboxamide (other name: 5-chloro-AB-PINACA);
1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (other names: 5F-CUMYL-PINACA, 5-fluoro CUMYL-PINACA, CUMYL-5F-PINACA);
Ethyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5F-EDMB-PINACA, 5-fluoro EDMB-PINACA);

Ethyl-2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3-methylbutanoate (other names: 5-fluoro-EMB-PINACA, 5F-AEB);

Ethyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-methylbutanoate (other name: 5-fluoro-EMB-PICA);

Ethyl-2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other name: 5-fluoro EDMB-PICA);

Methyl 2-[1-(4-fluorobutyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other name: 4-fluoro-MDMB-BUTICA);

Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (other names: MDMB-CHMICA, MMB-CHMINACA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(pent-4-enyl)indazole-3-carboxamide (other name: ADB-4en-PINACA).

§ 59.1-200. Prohibited practices.

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;

2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;

4. Misrepresenting geographic origin in connection with goods or services;

5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;

6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";

8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516, or 3.2-6519 is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or

brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of $5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.);

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.);

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.);

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.);

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

37. Violating any provision of § 8.01-40.2;

38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);

40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.);

42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);

43. Violating any provision of § 59.1-443.2;

44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);

45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;

46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;

47. Violating any provision of § 18.2-239;

48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);

49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";

50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);

51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;

52. Violating any provision of § 8.2-317.1;

53. Violating subsection A of § 9.1-149.1;

54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;

55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from

the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;

56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;

58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);

59. Violating any provision of subsection E of § 32.1-126;

60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

61. Violating any provision of § 2.2-2001.5;

62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;

63. Violating any provision of § 6.2-312;

64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;

65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;

66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);

67. Knowingly violating any provision of § 8.01-27.5;

68. Failing to make available a conspicuous online option to cancel a recurring purchase of a good or service as required by § 59.1-207.46;

69. *Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic derivative" means a chemical compound produced by man through a chemical transformation to turn a compound into a different compound by adding or subtracting molecules to or from the original compound. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.*

70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 *(§ 54.1-3442.5 et seq.)* of Chapter 34 of Title 54.1 ~~of the Code of Virginia~~;

~~70.~~ *71.* Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 *(§ 54.1-3442.5 et seq.)* of Chapter 34 of Title 54.1 ~~of the Code of Virginia~~;

~~71.~~ *72.* Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit; ~~and~~

~~72.~~ *73.* Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance*; and*

74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1, or (iii) apply to topical hemp products that were manufactured prior to July 1, 2023, provided that the person provides documentation of the date of manufacture if requested.

B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

§ 59.1-203. Restraining prohibited acts.

A. Notwithstanding any other provisions of law to the contrary, the Attorney General, any attorney for the Commonwealth, or the attorney for any city, county, or town may cause an action to be brought in the appropriate circuit court in the name of the Commonwealth, or of the county, city, or town to enjoin any violation of § 59.1-200 or 59.1-200.1. The circuit court having jurisdiction may enjoin such violations notwithstanding the existence of an adequate remedy at law. In any action under this section, it shall not be necessary that damages be proved.

B. Unless the Attorney General, any attorney for the Commonwealth, or the attorney for any county, city, or town determines that a person subject to the provisions of this chapter intends to depart from this Commonwealth or to remove his property herefrom, or to conceal himself or his property herein, or on a reasonable determination that irreparable harm may occur if immediate action is not taken, he shall, before initiating any legal proceedings as provided in this section, give notice in writing that such proceedings are contemplated, and allow such person a reasonable opportunity to appear before said attorney and show that a violation did not occur or execute an assurance of voluntary compliance, as provided in § 59.1-202.

C. The circuit courts are authorized to issue temporary or permanent injunctions to restrain and prevent violations of § 59.1-200 or 59.1-200.1.

D. The Commissioner of the Department of Agriculture and Consumer Services, or his duly authorized representative, shall have the power to inquire into possible violations of subdivisions A 18, 28, 29, 31, 39, ~~and~~ 41, as it relates to motor fuels, *69, 70, 71, 72, 73, and 74* of § 59.1-200 and § 59.1-335.12, and, if necessary, to request, but not to require, an appropriate legal official to bring an action to enjoin such violation.

E. The Board of Directors of the Virginia Cannabis Control Authority, or its duly authorized representative, shall, upon the referral or request of the Attorney General or the Department of Agriculture and Consumer Services, have the power to inquire into possible violations of subdivisions A 69, 70, 71, 72, 73, and 74 of § 59.1-200 and, if necessary, to request, but not require, an appropriate legal official to bring an action to enjoin such violation.

§ 59.1-206. Civil penalties; attorney fees.

A. In any action brought under this chapter, if the court finds that a person has willfully engaged in an act or practice in violation of § 59.1-200 or 59.1-200.1, the Attorney General, the attorney for the Commonwealth, or the attorney for the county, city, or town may recover for the Literary Fund, upon petition to the court, a civil penalty of not more than $2,500 per violation. *If the court finds that a person has willfully committed a second or subsequent violation of subdivision A 69, 70, 71, 72, 73, or 74 of § 59.1-200, the Attorney General, the attorney for the Commonwealth, or the attorney for the county, city, or town may recover for the Literary Fund, upon petition to the court, a civil penalty of not more than $5,000 per violation.*

B. For purposes of this section, prima facie evidence of a willful violation may be shown when the Attorney General, the attorney for the Commonwealth, or the attorney for the county, city, or town notifies the alleged violator by certified mail that an act or practice is a violation of § 59.1-200 or 59.1-200.1, and the alleged violator, after receipt of said notice, continues to engage in the act or practice.

~~B.~~ *C.* Any person who willfully violates the terms of an assurance of voluntary compliance or an injunction issued under § 59.1-203 shall forfeit and pay to the Literary Fund a civil penalty of not more than $5,000 per violation. For purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General, the attorney for the Commonwealth, or the attorney for the county, city, or town may petition for recovery of civil penalties.

~~C.~~ *D.* In any action pursuant to subsection A ~~or~~, B*, or C* and in addition to any other amount awarded, the Attorney General, the attorney for the Commonwealth, or the attorney for the county, city, or town may recover any applicable civil penalty or penalties, costs, reasonable expenses incurred by the state or local agency in investigating and preparing the case not to exceed $1,000 per violation, and attorney's fees. Such civil penalty or penalties, costs, reasonable expenses, and attorney's fees shall be paid into the general fund of the Commonwealth or of the county, city, or town which such attorney represented.

~~D.~~ *E.* Nothing in this section shall be construed as limiting the power of the court to punish as contempt the violation of any order issued by the court, or as limiting the power of the court to enter other orders under § 59.1-203 or 59.1-205.

~~E.~~ *F.* The right of trial by jury as provided by law shall be preserved in actions brought under this section.

2. That the provisions of Article 4 (§§ 3.2-4122 through 3.2-4126) of Chapter 41.1 of Title 3.2 of the Code of Virginia, as created by this act, shall become effective when the Commissioner of the Department of Agriculture and Consumer Services (the Department) provides notice to the Virginia Code Commission that the Department has established the registration process necessary to implement the provisions of such article.

3. That the Department of Agriculture and Consumer Services (the Department) shall collect and compile information regarding enforcement actions taken by the Department pursuant to § 3.2-5145.2:1 of the Code of Virginia, as amended by this act, and the nature of the products manufactured, sold, or offered for sale in violation of § 3.2-5145.2:1 of the Code of Virginia, as amended by this act. The Department shall report its findings to the Governor and the Chairmen of the Senate Committee on Rehabilitation and Social Services and the House Committee on General Laws by November 1, 2023.

4. That the Virginia Cannabis Control Authority (the Authority) shall, in consultation with the Department of Agriculture and Consumer Services, conduct a study regarding edible hemp products and hemp products intended for smoking and report the following: (i) a summary of the approaches taken by other states to address the public

safety and health challenges posed by the online and in-person sale of hemp-derived products and a recommendation as to whether the Commonwealth may benefit from adopting one or more of these approaches or another approach and (ii) a summary and the implications of any pending federal legislation on hemp-derived products. The Authority shall report its findings to the Governor and the Chairmen of the Senate Committee on Rehabilitation and Social Services and the House Committee on General Laws by November 1, 2023.

5. That notwithstanding any other provision of law, Article 4.2 (§§ 54.1-3442.5 through 54.1-3442.8) of Chapter 34 of Title 54.1 of the Code of Virginia shall remain effective until January 1, 2024.

6. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is $0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 745

An Act to amend the Code of Virginia by adding in Chapter 24 of Title 15.2 an article numbered 4, consisting of sections numbered 15.2-2413.12 through 15.2-2413.21, relating to localities; business improvement and recruitment districts.

[S 956]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 24 of Title 15.2 an article numbered 4, consisting of sections numbered 15.2-2413.12 through 15.2-2413.21, as follows:

Article 4.

Business Improvement and Recruitment Districts.

§ 15.2-2413.12. Definitions.

As used in this article, unless the context requires a different meaning:

"Activities" means any programs or services provided for (i) the purposes of recruiting businesses to relocate in the business improvement and recruitment district and (ii) conferring specific benefits upon the businesses that are located in the business improvement and recruitment district and to which a fee is charged.

"Benefited business" means a business located within a business improvement and recruitment district that benefits, directly or indirectly, by business improvement and recruitment district activities provided by such business improvement and recruitment district. "Benefited business" includes one or more types of businesses, one or more segments of businesses, or businesses within one or more industries, as set forth in a business improvement and recruitment district plan.

"Benefit zone" means an apportioned area designated within a business improvement and recruitment district in which businesses pay a fee based upon the degree of benefit derived from activities to be provided.

"Business" means a business of any kind located in a business improvement and recruitment district.

"Business fee" means any fee charged to a benefited business pursuant to this article.

"Business improvement and recruitment district" means a district established by a locality under the provisions of this article within a Main Street District.

"Business improvement and recruitment district plan" means a proposal for a business improvement and recruitment district under the provisions of this article.

"Business owner" means any person recognized by a locality as the owner of a business subject to a business fee. A business may appoint an authorized agent to act as its representative for the purposes of this article. Such agent shall be considered the business owner for the purposes of any signature required under this article or for any other purpose authorized by the business owner. A locality shall have no obligation to obtain other information as to the ownership of businesses, and its determination of ownership shall be final and conclusive for the purposes of this article.

"Capital improvement" means an improvement to tangible personal property with an estimated useful life of five years or more.

"Fee" means a fee charged by a locality in accordance with a business improvement and recruitment district plan.

"Lead locality" means the locality in which the business improvement and recruitment district plan is filed for the establishment of a business improvement and recruitment district where such district includes more than one locality.

"Locality" means any county, city, or town in the Commonwealth.

"Main Street District" means a physical setting that includes a commercial area focusing on economic development through locally owned businesses and structures that would benefit from rehabilitation.

"Majority share of benefited businesses" means one or more benefited businesses within a business improvement and recruitment district or proposed business improvement and recruitment district that cumulatively comprise a simple majority.

§ 15.2-2413.13. Filing of business improvement and recruitment district plan.

Any prospective benefited business may file a business improvement and recruitment district plan with the clerk of a locality. The business improvement and recruitment district plan shall contain the following:

1. A map of the proposed business improvement and recruitment district;

2. A description of the boundaries of the business improvement and recruitment district proposed for establishment or extension in a manner sufficient to identify the businesses included;

3. The activities proposed and the projected cost thereof;

4. A description of how businesses included within the business improvement and recruitment district or who may relocate to such district will benefit;

5. The total estimated annual amount proposed to be expended for all costs relating to business improvement and recruitment district operation and implementation of activities and the manner in which benefited businesses will be charged a fee;

6. The proposed source or sources of financing;

7. The proposed time for implementation and completion of the business improvement and recruitment district plan;

8. The weighting methodology for calculating a majority share of benefited businesses for the business improvement and recruitment district;

9. Any proposals for rules and regulations to be applicable to the business improvement and recruitment district;

10. Identification of an entity charged with promoting business activity in that locality or region;

11. Identification of businesses in the business improvement and recruitment district who may be eligible for a reduction in any taxes levied pursuant to Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 and a process to effectuate any such reduction, if deemed; and

12. Any other item or matter that the locality requires to be included in the business improvement and recruitment district plan.

§ 15.2-2413.14. Petition for a proposed business improvement and recruitment district.

Upon the submission to the clerk of a locality of a written petition, signed by a majority of the business owners in the proposed business improvement and recruitment district who will pay more than 50 percent of the fees proposed to be charged, a locality may initiate proceedings to form a business improvement and recruitment district. The amount of the fees attributable to a business owned by the same business owner that is in excess of 40 percent of the amount of all fees proposed to be charged shall not be included in determining whether the petition is signed by business owners who will pay more than 50 percent of the total amount of fees proposed to be charged.

Any petition shall include a summary of the business improvement and recruitment district plan. The summary shall include a map showing the boundaries of the business improvement and recruitment district, information specifying where the complete business improvement and recruitment district plan can be obtained, and information specifying that the complete business improvement and recruitment district plan shall be furnished by the signatories of the petition upon request.

§ 15.2-2413.15. Hearing on a proposed business improvement and recruitment district.

A. After the filing of the business improvement and recruitment district plan pursuant to § 15.2-2413.13 and the submission of a petition pursuant to § 15.2-2413.14, a locality may adopt a resolution containing:

1. A copy of the business improvement and recruitment district plan;

2. A statement that the business improvement and recruitment district plan is on file in the clerk's office for public inspection;

3. The time and place the locality will meet and hold a public hearing to hear all persons interested in the subject of the business improvement and recruitment district plan;

4. A statement that any business owner who is to be charged a fee under the business improvement and recruitment district plan who objects to the plan shall file an objection with the clerk within 30 days of the conclusion of the hearing on forms made available by the clerk; and

5. The place, if any, other than the clerk's office, where the business improvement and recruitment district plan may be inspected in advance of the hearing if the locality determines that, in the public interest, any additional place of inspection is necessary or desirable.

B. Any objection shall be made orally or in writing by any interested person. Every written objection shall be filed with the clerk at or before the time fixed for the public hearing. The locality may waive any irregularity in the form or content of any written objection. A written objection may be withdrawn in writing at any time before the conclusion of the public hearing. Each written objection shall contain a description of the business in which the person filing the objection is interested, sufficient to identify the business, and, if a person filing is not shown on the official records of the locality as the owner of the business, the objection shall contain or be accompanied by written evidence that the person subscribing is the owner of the business or the authorized representative. A written objection that does not comply with this section shall not be counted in determining a majority objection. If written objections are received from the owners or authorized representatives of businesses in the proposed business improvement and recruitment district that will pay 50 percent or more of the fees proposed to be charged and objections are not withdrawn so as to reduce the objections to less than 50 percent, no further proceedings to charge the proposed fee against such businesses, as contained in the proposed business improvement and recruitment district plan, shall be taken for a period of one year from the date of the finding by the locality of such majority objection.

C. The locality shall cause a copy of the resolution adopted under subsection A, or a summary thereof, to be published at least once in a newspaper in general circulation in the locality, the first publication to be not less than 10 days and not more than 30 days before the date set for the hearing. Not less than 10 days and not more than 30 days before the date set

for the hearing, the locality shall mail a copy of the resolution or a summary thereof to each owner of a business that is proposed to be charged a fee within the proposed business improvement and recruitment district at the address shown on the locality's most recent list of businesses. If the locality publishes or mails a summary of the resolution, such summary shall include the address of the clerk, a statement that copies of the resolution shall be made available free of charge to the public, the activities proposed, the total estimated annual amount proposed to be expended for activities, and a statement indicating the rights of owners to object pursuant to subsection B.

D. If a business improvement and recruitment district includes multiple localities or portions thereof, the notice and hearing process set forth in this section shall be conducted by the lead locality. A lead locality may not form a business improvement and recruitment district within the territorial jurisdiction of another locality without that locality granting by majority vote of the governing body consent to the lead locality.

§ 15.2-2413.16. Establishment or extension of the business improvement and recruitment district.

A. Not earlier than 30 days after the conclusion of the last day of the public hearing held pursuant to § 15.2-2413.15, the governing body of the locality that conducted the hearing process shall determine:

1. Whether the notice of hearing for all hearings required to be held was published and mailed as required by law and is otherwise sufficient;

2. Whether all the businesses charged a fee within the boundaries of the proposed business improvement and recruitment district or extension will benefit from the establishment or extension of the business improvement and recruitment district; and

3. Whether the establishment or extension of the business improvement and recruitment district is in the public interest.

B. If the locality determines the question of subdivision A 3 in the negative, or if the requisite number of owners file objections as provided in subsection B of § 15.2-2413.15, the locality shall not establish or extend the business improvement and recruitment district, as applicable. Thereafter, no plan for the establishment or extension of a business improvement and recruitment district to include any business proposed to be included in the disapproved business improvement and recruitment district may be submitted until the expiration of at least one year from the date of disapproval.

C. If the locality shall find that notice was incorrectly or insufficiently given or that any business charged a fee within the boundaries of the proposed business improvement and recruitment district or extension is not benefited thereby or that certain businesses benefited thereby had not been included therein, it shall call a further hearing at a definite place and time not less than 10 days and not more than 30 days after this determination. In the resolution calling such hearing, it shall specify the necessary changes, if any, to the boundaries of the proposed business improvement and recruitment district or extension to be made in order that all of the benefited businesses are included in the general business improvement and recruitment district, and only those businesses deemed benefited shall be subject to fees within such business improvement and recruitment district. Notice of the further hearing shall be published and mailed in the manner provided in § 15.2-2413.15, except that, where boundaries are to be altered, this notice shall also specify the manner in which it is proposed to alter the boundaries of the proposed business improvement and recruitment district or extension. The further hearing shall be conducted in the same manner as the original hearing.

D. If a locality determines in the affirmative all questions in subsection A, it may by ordinance establish a business improvement and recruitment district and any ordinances provided for in § 15.2-2413.17.

§ 15.2-2413.17. Local ordinances related to business improvement and recruitment districts.

A. Any locality establishing a business improvement and recruitment district may enact ordinances on any of the following subjects that provide for:

1. Activities and other additional services required for business promotion, improvements to existing businesses, economic development, encouragement and recruitment for businesses to locate or relocate, as applicable, into the business improvement and recruitment district, or for enhancement of the business improvement and recruitment district;

2. Activities in the business improvement and recruitment district that will fund the activities and other additional services of subdivision 1;

3. Operation and maintenance of any business improvement and recruitment district activity;

4. The charging of fees on all benefited businesses within a business improvement and recruitment district;

5. A process by which businesses charged a fee pursuant to this article may be eligible for a reduction in the taxes levied by a locality pursuant to Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 in the business improvement and recruitment district;

6. A process for the collection of revenues from fees from benefited businesses; and

7. Formation of a business improvement and recruitment district in cooperation with, and that includes, other localities.

B. After establishing a business improvement and recruitment district, a locality shall not decrease the level of publicly funded business services and business recruitment services in a business improvement and recruitment district existing prior to the creation of such district.

C. Nothing in this article shall be construed to prevent a locality from using the provisions of Article 1 (§ 15.2-2400 et seq.) to establish a business improvement district or business improvement and recruitment district.

§ 15.2-2413.18. Amendment to the business improvement and recruitment district plan.

A. At any time after the establishment or extension of a business improvement and recruitment district pursuant to the provisions of this article, the business improvement and recruitment district plan upon which the establishment or extension was based may be amended by the locality after compliance with the procedures set forth in this section.

B. Amendments to the business improvement and recruitment district plan that provide for changes to the boundaries of such district or any change in the method of determining fees upon which the business fee is based may be adopted by ordinance, provided that the locality shall, after a public hearing, determine that it is in the public interest to authorize the changes to the boundaries of such district or the changes to the method of determining fees. The locality shall give notice of the hearing by publication of a notice on the locality's website or in at least one newspaper having general circulation in the business improvement and recruitment district specifying the time and place of the hearing and stating any changes to the boundaries of such district or any change in the method of determining fees upon which the business fee is based. The notice shall be published at least 10 days prior to the date specified for the hearing.

C. Amendments to the business improvement and recruitment district plan that provide for such district to incur indebtedness in order to provide for additional activities, that provide for an increase only in the amount to be expended annually for activities, or that provide for an increase in the total maximum amount to be expended for activities in the business improvement and recruitment district may be adopted by ordinance. Prior to the adoption of an ordinance making one or more of the amendments as described in this subsection, the governing body shall, after a public hearing, determine that it is in the public interest to authorize the business improvement and recruitment district to incur indebtedness to provide for additional activities, to increase the amount to be expended annually, or to increase the total maximum amount to be expended for activities in the business improvement and recruitment district, or any applicable combination of the foregoing. Notice of the hearing shall be published and mailed in the manner provided in § 15.2-2413.15.

§ 15.2-2413.19. Establishment of separate benefit zones within business improvement and recruitment district; categories of businesses.

The locality may establish one or more separate benefit zones within the business improvement and recruitment district based upon the degree of benefit derived from the activities to be provided within the benefit zone and may impose a different fee within each benefit zone. The locality may also define categories of businesses based upon the degree of benefit that each will derive from the activities to be provided within the business improvement and recruitment district and may impose a different fee or rate of fee on each category of business, or on each category of business within each zone.

§ 15.2-2413.20. Expenses of the business improvement and recruitment district.

A. A locality may appropriate funds to pay expenses associated with the business improvement and recruitment district.

B. A locality may issue bonds and other obligations subject to the provisions of the Public Finance Act of 1991 (§ 15.2-2600 et seq.) for the purpose of funding the costs of the business improvement and recruitment district plan. Principal and interest payments on such bonds may be paid from the proceeds of any fees imposed under this article.

C. No funds raised pursuant to this article shall be used by the locality for any purposes other than funding the expenses of the business improvement and recruitment district.

§ 15.2-2413.21. Dissolution.

A. Any business improvement and recruitment district established or extended pursuant to the provisions of this article, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the business improvement and recruitment district, may be dissolved by majority vote of the local governing body. The business improvement and recruitment district may be dissolved if the locality determines there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the business improvement and recruitment district. In the event of dissolution of a business improvement and recruitment district, any remaining revenues, after all outstanding debts are paid, derived from the charge of fees, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be appropriated for the purposes of the business improvement and recruitment district plan or shall be refunded to the businesses that are charged a fee by applying the same method and basis that was used to determine the business improvement and recruitment district fees that were charged.

B. During the operation of the business improvement and recruitment district, there shall be a 30-day period each year in which owners of benefited businesses may request dissolution of the business improvement and recruitment district. The first such period shall begin one year after the date of establishment of the business improvement and recruitment district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the business improvement and recruitment district. Each successive year of operation of the business improvement and recruitment district shall have such a 30-day period. Upon the written petition of the owners or authorized representatives of businesses in the business improvement and recruitment district that pay 50 percent or more of the fees charged, the locality may by majority vote of the local governing body dissolve the business improvement and recruitment district.

C. The locality shall hold a hearing on any proposed dissolution.

CHAPTER 746

An Act to amend and reenact § 19.2-11.01 of the Code of Virginia, relating to crime victim rights; notification from the attorney for the Commonwealth.

[S 989]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-11.01 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-11.01. Crime victim and witness rights.

A. In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of the Commonwealth; that crime victims and witnesses are treated with dignity, respect and sensitivity; and that their privacy is protected to the extent permissible under law. It is the further purpose of this chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws of the Commonwealth; that they receive authorized services as appropriate; and that they have the opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible under law. Unless otherwise stated and subject to the provisions of § 19.2-11.1, it shall be the responsibility of a locality's crime victim and witness assistance program to provide the information and assistance required by this chapter, including verification that the standardized form listing the specific rights afforded to crime victims has been received by the victim.

As soon as practicable after identifying a victim of a crime, the investigating law-enforcement agency shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims, the name, address and telephone number of the office of the attorney for the Commonwealth, the name, address and telephone number of the investigating law-enforcement agency, and a summary of the victim's rights under § 40.1-28.7:2.

1. Victim and witness protection and law-enforcement contacts.

a. In order that victims and witnesses receive protection from harm and threats of harm arising out of their cooperation with law-enforcement, or prosecution efforts, they shall be provided with information as to the level of protection which may be available pursuant to § 52-35 or to any other federal, state or local program providing protection, and shall be assisted in obtaining this protection from the appropriate authorities.

b. Victims and witnesses shall be provided, where available, a separate waiting area during court proceedings that affords them privacy and protection from intimidation, and that does not place the victim in close proximity to the defendant or the defendant's family.

2. Financial assistance.

a. Victims shall be informed of financial assistance and social services available to them as victims of a crime, including information on their possible right to file a claim for compensation from the Crime Victims' Compensation Fund pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) and on other available assistance and services.

b. Victims shall be assisted in having any property held by law-enforcement agencies for evidentiary purposes returned promptly in accordance with §§ 19.2-270.1 and 19.2-270.2.

c. Victims shall be advised that restitution is available for damages or loss resulting from an offense and shall be assisted in seeking restitution in accordance with §§ 19.2-305 and 19.2-305.1, Chapter 21.1 (§ 19.2-368.1 et seq.), Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1, and other applicable laws of the Commonwealth.

3. Notices.

a. Victims and witnesses shall be (i) provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances and (ii) advised that pursuant to § 18.2-465.1 it is unlawful for an employer to penalize an employee for appearing in court pursuant to a summons or subpoena.

b. Victims shall receive advance notification when practicable from the attorney for the Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of any change in court dates in accordance with § 19.2-265.01 if they have provided their names, current addresses and telephone numbers.

c. Victims shall receive notification, if requested, subject to such reasonable procedures as the Attorney General may require pursuant to § 2.2-511, from the Attorney General of the filing and disposition of any appeal or habeas corpus proceeding involving their case.

d. Victims shall be notified by the Department of Corrections or a sheriff or jail superintendent (i) in whose custody an escape, change of name, transfer, release or discharge of a prisoner occurs pursuant to the provisions of §§ 53.1-133.02 and 53.1-160 or (ii) when an accused is released on bail, if they have provided their names, current addresses and telephone numbers in writing. Such notification may be provided through the Virginia Statewide VINE (Victim Information and Notification Everyday) System or other similar electronic or automated system.

e. Victims shall be advised that, in order to protect their right to receive notices and offer input, all agencies and persons having such duties must have current victim addresses and telephone numbers given by the victims. Victims shall also be advised that any such information given shall be confidential as provided by § 19.2-11.2.

f. Victims of sexual assault, as defined in § 19.2-11.5, shall be advised of their rights regarding physical evidence recovery kits as provided in Chapter 1.2 (§ 19.2-11.5 et seq.).

g. Upon the victim's request, the victim shall be notified by the Commissioner of Behavioral Health and Developmental Services or his designee of the release of a defendant (i) who was found to be unrestorably incompetent and was committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, or certified pursuant to § 37.2-806 or (ii) who was acquitted by reason of insanity and committed pursuant to § 19.2-182.3.

4. Victim input.

a. Victims shall be given the opportunity, pursuant to § 19.2-299.1, to prepare a written victim impact statement prior to sentencing of a defendant and may provide information to any individual or agency charged with investigating the social history of a person or preparing a victim impact statement under the provisions of §§ 16.1-273 and 53.1-155 or any other applicable law.

b. Victims shall have the right to remain in the courtroom during a criminal trial or proceeding pursuant to the provisions of § 19.2-265.01.

c. On motion of the attorney for the Commonwealth, victims shall be given the opportunity, pursuant to § 19.2-295.3, to testify prior to sentencing of a defendant regarding the impact of the offense.

d. In a felony case, the attorney for the Commonwealth~~, upon the victim's written request,~~ shall consult with the victim either verbally or in writing (i) to inform the victim of the contents of a proposed plea agreement and (ii) to obtain the victim's views about the disposition of the case, including the victim's views concerning dismissal, pleas, plea negotiations and sentencing. However, nothing in this section shall limit the ability of the attorney for the Commonwealth to exercise his discretion on behalf of the citizens of the Commonwealth in the disposition of any criminal case. The court shall not accept the plea agreement unless it finds that, except for good cause shown, the Commonwealth has complied with clauses (i) and (ii). Good cause shown shall include, but not be limited to, the unavailability of the victim due to incarceration, hospitalization, failure to appear at trial when subpoenaed, ~~or~~ change of address without notice*, or failure to provide an address or phone number as required in subdivision A 3 b.*

~~Upon the victim's written request, the~~ *The* victim shall be notified in accordance with subdivision A 3 b of any proceeding in which the plea agreement will be tendered to the court. *The attorney for the Commonwealth may satisfy his responsibility under this provision by consulting with a parent or guardian of an unemancipated minor victim, if the parent or guardian is not a suspect, person of interest, or defendant in the criminal investigation of the proceeding.*

The responsibility to consult with the victim under this subdivision shall not confer upon the defendant any substantive or procedural rights and shall not affect the validity of any plea entered by the defendant.

5. Courtroom assistance.

a. Victims and witnesses shall be informed that their addresses, any telephone numbers, and email addresses may not be disclosed, pursuant to the provisions of §§ 19.2-11.2 and 19.2-269.2, except when necessary for the conduct of the criminal proceeding.

b. Victims and witnesses shall be advised that they have the right to the services of an interpreter in accordance with §§ 19.2-164 and 19.2-164.1.

c. Victims and witnesses of certain sexual offenses shall be advised that there may be a closed preliminary hearing in accordance with § 18.2-67.8 and, if a victim was 14 years of age or younger on the date of the offense and is 16 or under at the time of the trial, or a witness to the offense is 14 years of age or younger at the time of the trial, that two-way closed-circuit television may be used in the taking of testimony in accordance with § 18.2-67.9.

6. Post trial assistance.

a. Within 30 days of receipt of a victim's written request after the final trial court proceeding in the case, the attorney for the Commonwealth shall notify the victim in writing, of (i) the disposition of the case, (ii) the crimes of which the defendant was convicted, (iii) the defendant's right to appeal, if known, and (iv) the telephone number of offices to contact in the event of nonpayment of restitution by the defendant.

b. If the defendant has been released on bail pending the outcome of an appeal, the agency that had custody of the defendant immediately prior to his release shall notify the victim as soon as practicable that the defendant has been released.

c. If the defendant's conviction is overturned, and the attorney for the Commonwealth decides to retry the case or the case is remanded for a new trial, the victim shall be entitled to the same rights as if the first trial did not take place.

B. For purposes of this chapter, "victim" means (i) a person who has suffered physical, psychological, or economic harm as a direct result of the commission of (a) a felony, (b) assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, a violation of a protective order in violation of § 16.1-253.2 or 18.2-60.4, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or maiming or driving while intoxicated in violation of § 18.2-51.4 or 18.2-266, or (c) a delinquent act that would be a felony or a misdemeanor violation of any offense enumerated in clause (b) if committed by an adult; (ii) a spouse or child of such a person; (iii) a parent or legal guardian of such a person who is a minor; (iv) for the purposes of subdivision A 4 only, a current or former foster parent or other person who has or has had physical custody of such a person who is a minor, for six months or more or for the majority of the minor's life; or (v) a spouse, parent, sibling, or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim" does not mean a parent, child, spouse, sibling, or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in clause (i).

C. Officials and employees of the judiciary, including court services units, law-enforcement agencies, the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness assistance program. Each agency, officer or employee who has a responsibility or responsibilities to victims under this chapter or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that victims and witnesses receive such information and services to which they may be entitled under applicable law, provided that no liability or cause of action

shall arise from the failure to make such efforts or from the failure of such victims or witnesses to receive any such information or services.

CHAPTER 747

An Act to amend and reenact § 28.2-542 of the Code of Virginia, relating to Oyster Replenishment Fund.

[S 997]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 28.2-542 of the Code of Virginia is amended and reenacted as follows:

§ 28.2-542. Oyster Replenishment Fund.

A. All oyster resource user fees collected by the Commission *and any gifts, donations, grants, bequests, and other funds received in support of oyster recycling and replenishment and all funds appropriated for such purpose* shall be deposited in the state treasury and credited to the Oyster Replenishment Fund, to be used only *(i)* for administration of the program ~~and~~*; (ii)* for *oyster* replenishment *projects*, *including recycling,* planting, and replanting the public oyster rocks, beds, and shoals of the Commonwealth~~,~~ with seed oysters, oyster shells, or other material that will catch, support, and grow oysters *and oyster populations; and (iii) to encourage donations of oyster shells for such oyster replenishment projects*. These funds shall be withdrawn and expended for such purposes on the order of the Commission. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrant of the Comptroller issued on vouchers signed by persons designated by the Commission.

B. The method of distribution of funds available for the encouragement of oyster shell donations shall be determined by the Commission. The Commission shall consider providing grants to any person who donates oyster shells to an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is engaged in oyster replenishment projects. Such grants may be awarded in an amount equal to $4 per bushel of oyster shells, as described in § 28.2-526, donated during a calendar year but not to exceed an aggregate grant of $1,500 for all such donations made by such person during such year. The aggregate amount of funds available for such encouragement of oyster shell donations for each calendar year shall be determined by the Commission, but shall not exceed $250,000.

CHAPTER 748

An Act to amend and reenact §§ 22.1-299 and 22.1-305.2 of the Code of Virginia, relating to Advisory Board on Teacher Education and Licensure; teacher licensure, recruitment, and retention.

[S 1052]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-299 and 22.1-305.2 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-299. License required of teachers; provisional licenses; exceptions.

A. No teacher shall be regularly employed by a school board or paid from public funds unless such teacher holds a license or provisional license issued by the Board.

B. Notwithstanding the provision in § 22.1-298.1 that the provisional license is limited to three years, the following exceptions shall apply:

1. If a teacher employed in the Commonwealth under a provisional license is activated or deployed for military service within a school year (July 1-June 30), an additional year shall be added to the teacher's provisional license for each school year or portion thereof during which the teacher is activated or deployed. The additional year shall be granted the year following the return of the teacher from deployment or activation.

2. The Board shall extend for at least one additional year, but for no more than two additional years, the three-year provisional license of a teacher upon receiving from the division superintendent (i) a recommendation for such extension and (ii) satisfactory performance evaluations for such teacher for each year ~~of~~ *during* the original three-year provisional license *that such teacher was actually employed and received a filed performance evaluation*.

3. The Board shall extend for at least one additional year, but for no more than two additional years, the three-year provisional license of a teacher employed in an accredited private elementary or secondary school or a school for students with disabilities that is licensed pursuant to Chapter 16 (§ 22.1-319 et seq.) upon receiving from the school administrator of such school (i) a recommendation for such extension and (ii) satisfactory performance evaluations for such teacher for each year of the original three-year provisional license.

C. In accordance with regulations prescribed by the Board, a person not meeting the requirements for a license or provisional license may be employed and paid from public funds by a school board temporarily as a substitute teacher to meet an emergency.

§ 22.1-305.2. Advisory Board on Teacher Education and Licensure.

There is hereby established the Advisory Board on Teacher Education and Licensure (the Advisory Board), which shall consist of three legislative members to be appointed as follows: two members of the House of Delegates to be appointed by the Speaker of the House of Delegates, one member of the Senate to be appointed by the Senate Committee on Rules, and 21 nonlegislative citizen members to be appointed by the Board of Education. Ten nonlegislative citizen members of the Advisory Board shall be classroom teachers, with at least the following representation: three elementary school teachers, three middle school teachers, and three high school teachers. Three nonlegislative citizen members of the Advisory Board shall be school administrators, one of whom shall be a school principal, one of whom shall be a division superintendent, and one of whom shall be a school personnel administrator. Four nonlegislative citizen members of the Advisory Board shall be faculty members in teacher preparation programs in public or private institutions of higher education, who may represent the arts and sciences. One nonlegislative citizen member of the Advisory Board shall be a member of a school board. One nonlegislative citizen member of the Advisory Board shall be a member of a parent-teacher association. One nonlegislative citizen member of the Advisory Board shall be a representative of the business community, and one nonlegislative citizen member shall be a citizen at large. The Chancellor of the Virginia Community College System or his designee shall serve as an ex officio member of the Advisory Board. The Superintendent of Public Instruction or his designee and the Director of the State Council of Higher Education for Virginia or his designee shall serve as nonvoting ex officio members of the Advisory Board.

The Superintendent of Public Instruction shall designate a staff liaison to coordinate the activities of the Advisory Board. The Advisory Board shall meet five times per year or upon the request of its chairman or the Board of Education. The Advisory Board shall annually elect a chairman from its membership. Nonlegislative citizen members are not entitled to compensation for their services. Legislative members of the Advisory Board shall be compensated as provided in § 30-19.12. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as members of the Advisory Board as provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses of the members shall be provided by the Department of Education.

The nonlegislative citizen members of the Advisory Board shall be appointed for three-year terms. Legislative members shall serve terms coincident with their terms of office. No person may be appointed to serve for more than two consecutive terms. Members shall hold office after expiration of their terms until their successors are duly appointed. Appointments to fill vacancies of members, other than by expiration of a term, shall be for the unexpired terms. Such vacancies shall be filled in the same manner as the original appointments.

The Advisory Board ~~on Teacher Education and Licensure~~ shall advise the Board of Education and submit recommendations on policies applicable to the qualifications, examination, licensure, and regulation of school personnel, including *(i)* revocation, suspension, denial, cancellation, reinstatement, and renewals of licensure~~;~~*; (ii)* fees for processing applications~~;~~*; (iii)* standards for the approval of preparation programs~~;~~*; (iv)* reciprocal approval of preparation programs~~;~~*; (v) strategies for helping school divisions more effectively recruit and retain licensed teachers;* and *(vi)* other related matters as the Board of Education may request or the Advisory Board may deem necessary. The final authority for licensure of school personnel shall remain with the Board of Education.

CHAPTER 749

An Act to amend and reenact §§ 56-585.1 and 56-597 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 56-249.6:1 and 56-585.8, relating to Phase I Utilities; deferred fuel costs; biennial reviews.

[S 1075]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-585.1 and 56-597 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 56-249.6:1 and 56-585.8 as follows:

§ 56-249.6:1. Financing for certain deferred fuel costs.

A. Notwithstanding the provisions of § 56-249.6 or Chapter 3 (§ 56-55 et seq.), an electric utility may petition the Commission for a financing order and the Commission shall either issue (i) such financing order or (ii) an order rejecting the petition, no more than four months from the date of filing such petition and in accordance with the requirements of subdivision 2.

1. The petition shall include (i) an estimate of the total amount of deferred fuel costs that the electric utility has incurred over the time period noted in the petition; (ii) an indication of whether the electric utility proposes to finance all or a portion of the deferred fuel costs using one or more series or tranches of deferred fuel cost bonds; (iii) an estimate and details of the financing costs related to the deferred fuel costs to be financed through the deferred fuel cost bonds; (iv) an estimate of the deferred fuel cost charges necessary to recover the deferred fuel costs and all financing costs and the proposed period for recovery of such costs; (v) a description of any benefits expected to result from the issuance of deferred fuel cost bonds, including the avoidance of or significant mitigation of abrupt and significant increases in rates to the electric utility's customers for the applicable time period; and (vi) direct testimony and exhibits supporting the petition. If the electric utility proposes to finance a portion of the deferred fuel costs, the electric utility shall identify in the petition the specific amount of deferred fuel costs for the applicable time period to be financed using deferred fuel cost bonds. By

electing not to finance a portion of the deferred fuel costs for an applicable time period using deferred fuel cost bonds, an electric utility shall not be deemed to waive its right to recover such costs pursuant to a separate proceeding with the Commission.

2. a. If an electric utility petitions the Commission for a financing order pursuant to this section, following notice and an opportunity for hearing, the Commission shall either issue (i) a financing order or (ii) an order rejecting the petition, not more than four months from the date of filing such petition.

b. A financing order issued by the Commission pursuant to this section shall include:

(1) The amount of deferred fuel costs to be financed using deferred fuel cost bonds. The Commission shall describe and estimate the amount of financing costs that may be recovered through deferred fuel cost charges. The financing order shall also specify the period over which deferred fuel costs and financing costs may be recovered and whether the deferred fuel cost bonds may be offered and issued in one or more series or tranches during a fixed period not to exceed one year after the date of the financing order;

(2) A finding that the proposed issuance of deferred fuel cost bonds is in the public interest and the associated deferred fuel cost charges are just and reasonable;

(3) A finding that the structuring and pricing of the deferred fuel cost bonds are reasonably expected to result in reasonable deferred fuel cost charges consistent with market conditions at the time the deferred fuel cost bonds are priced and the terms set forth in such financing order;

(4) A requirement that, for so long as the deferred fuel cost bonds are outstanding and until all financing costs have been paid in full, the imposition and collection of deferred fuel cost charges authorized under a financing order shall be non-bypassable and paid by all retail customers of the electric utility, irrespective of the generation supplier of such customer, except for an exempt retail access customer;

(5) A formula-based true-up mechanism for making annual adjustments to the deferred fuel cost charges that customers are required to pay pursuant to the financing order and for making any adjustments that are necessary to correct for any overcollection or undercollection of the charges or to otherwise ensure the timely payment of deferred fuel cost bonds and financing costs and other required amounts and charges payable in connection with the deferred fuel cost bonds;

(6) The deferred fuel cost property that is, or shall be, created in favor of an electric utility or its successors or assignees and that shall be used to pay or secure deferred fuel cost bonds and all financing costs;

(7) The authority of the electric utility to establish the terms and conditions of the deferred fuel cost bonds, including repayment schedules, expected interest rates, the issuance in one or more series or tranches with different maturity dates, and other financing costs;

(8) A finding that the deferred fuel cost charges shall be allocated among customer classes in accordance with the methodology approved in the electric utility's last fuel factor proceeding;

(9) A requirement that after the final terms of an issuance of deferred fuel cost bonds have been established and before the issuance of deferred fuel cost bonds, the electric utility determines the resulting initial deferred fuel cost charge in accordance with the financing order and that such initial deferred fuel cost charge be final and effective upon the issuance of such deferred fuel cost bonds without further Commission action so long as such initial deferred fuel cost charge is consistent with the financing order;

(10) A method of tracing funds collected as deferred fuel cost charges, or other proceeds of deferred fuel cost property, and a requirement that such method be the method of tracing such funds and determining the identifiable cash proceeds of any deferred fuel cost property subject to the financing order under applicable law; and

(11) Any other conditions not otherwise inconsistent with this section that the Commission determines are appropriate.

c. A financing order issued to an electric utility may provide that creation of the electric utility's deferred fuel cost property is conditioned upon, and simultaneous with, the sale or other transfer for the deferred fuel cost property to an assignee and the pledge of the deferred fuel cost property to secure deferred fuel cost bonds.

d. If the Commission issues a financing order, the Commission shall establish a protocol for the electric utility to annually file a petition or, in the Commission's discretion, a letter setting out application of the formula-based mechanism and, based on estimates of consumption for each rate class and other mathematical factors, requesting administrative approval to make applicable adjustments. The review of the filing shall be limited to determining whether there are any mathematical or clerical errors in the application of the formula-based mechanism relating to the appropriate amount of any overcollection or undercollection of deferred fuel cost charges and the amount of an adjustment. The adjustments shall ensure the recovery of revenues sufficient to provide for the payment of principal, interest, acquisition, defeasance, financing costs, or redemption premium and other fees, costs, and charges in respect of deferred fuel cost bonds approved under the financing order. Within 30 days after receiving an electric utility's request pursuant to this subdivision d, the Commission shall either approve the request or inform the electric utility of mathematical or clerical errors in its calculation. If the Commission informs the electric utility of mathematical or clerical errors in its calculation, the electric utility may correct its error and refile its request. The time frames previously described in this subdivision d shall apply to a refiled request.

e. Subsequent to the transfer of deferred fuel cost property to an assignee or the issuance of deferred fuel cost bonds authorized thereby, whichever is earlier, a financing order shall be irrevocable and, except for changes made pursuant to the formula-based mechanism authorized in this section, the Commission shall not amend, modify, or terminate the financing order by any subsequent action or reduce, impair, postpone, terminate, or otherwise adjust deferred fuel cost

charges approved in the financing order. After the issuance of a financing order, the electric utility shall retain sole discretion regarding whether to assign, sell, or otherwise transfer deferred fuel cost property or to cause deferred fuel cost bonds to be issued, including the right to defer or postpone such assignment, sale, transfer, or issuance.

3. At the request of an electric utility, the Commission may commence a proceeding and issue a subsequent financing order that provides for refinancing, retiring, or refunding deferred fuel cost bonds issued pursuant to the original financing order if the Commission finds that the subsequent financing order satisfies all of the criteria specified in this section for a financing order. Effective upon retirement of the refunded deferred fuel cost bonds and the issuance of new deferred fuel cost bonds, the Commission shall adjust the related deferred fuel cost charges accordingly.

4. a. A financing order shall remain in effect and deferred fuel cost property under the financing order shall continue to exist until deferred fuel cost bonds issued pursuant to the financing order have been paid in full or defeased and, in each case, all Commission-approved financing costs of such deferred fuel cost bonds have been recovered in full.

b. A financing order issued to an electric utility shall remain in effect and unabated notwithstanding the reorganization, bankruptcy or other insolvency proceedings, merger, or sale of the electric utility or its successors or assignees.

B. 1. The Commission shall not, in exercising its powers and carrying out its duties regarding any matter within its authority pursuant to this chapter, and notwithstanding any other provision of law, consider the deferred fuel cost bonds issued pursuant to a financing order to be the debt of the electric utility other than for federal income tax purposes, consider the deferred fuel cost charges paid under the financing order to be the revenue of the electric utility for any purpose, or consider the deferred fuel costs or financing costs specified in the financing order to be the costs of the electric utility, nor shall the Commission determine any action taken by an electric utility that is consistent with the financing order to be unjust or unreasonable.

2. The Commission shall not order or otherwise directly or indirectly require an electric utility to use deferred fuel cost bonds to finance any project, addition, plant, facility, extension, capital improvement, equipment, or any other expenditure. After the issuance of a financing order, the electric utility shall retain sole discretion regarding whether to cause the deferred fuel cost bonds to be issued, including the right to defer or postpone such sale, assignment, transfer, or issuance. Nothing shall prevent the electric utility from abandoning the issuance of deferred fuel cost bonds under the financing order by filing with the Commission a statement of abandonment and the reasons therefor. The Commission shall not deny an electric utility its right to recover deferred fuel costs as otherwise provided in this section, or refuse or condition authorization or approval of the issuance and sale by an electric utility of securities or the assumption by the electric utility of liabilities or obligations, solely because of the potential availability of deferred fuel cost bond financing.

C. The electric bills of an electric utility that has obtained a financing order and caused deferred fuel cost bonds to be issued shall comply with the provisions of this subsection; however, the failure of an electric utility to comply with this subsection does not invalidate, impair, or affect any financing order, deferred fuel cost property, deferred fuel cost charge, or deferred fuel cost bonds. The electric utility shall:

1. Explicitly reflect that a portion of the charges on any electric bill represents deferred fuel cost charges approved in a financing order issued to the electric utility and, if the deferred fuel cost property has been transferred to an assignee, such bill shall include a statement to the effect that the assignee is the owner of the rights to deferred fuel cost charges and that the electric utility or another entity, if applicable, is acting as a collection agent or servicer for the assignee. The tariff applicable to customers must indicate the deferred fuel cost charge and the ownership of the charge; and

2. Include the deferred fuel cost charge on each customer's bill as a separate line item and include both the rate and the amount of the charge on each bill.

D. 1. The following provisions shall be applicable to deferred fuel cost property:

a. All deferred fuel cost property that is specified in a financing order shall constitute an existing, present intangible property right or interest therein, notwithstanding that the imposition and collection of deferred fuel cost charges depends on the electric utility, to which the financing order is issued, performing its servicing functions relating to the collection of deferred fuel cost charges and on future electricity consumption. The deferred fuel cost property shall exist (i) regardless of whether or not the revenues or proceeds arising from the deferred fuel cost property have been billed, have accrued, or have been collected and (ii) notwithstanding the fact that the value or amount of the deferred fuel cost property is dependent on the future provision of service to customers by the electric utility or its successors or assignees and the future consumption of electricity by customers;

b. Deferred fuel cost property specified in a financing order shall exist until deferred fuel cost bonds issued pursuant to the financing order are paid in full and all financing costs and other costs of such deferred fuel cost bonds have been recovered in full;

c. All or any portion of deferred fuel cost property specified in a financing order issued to an electric utility may be transferred, sold, conveyed, or assigned to a successor or assignee that is wholly owned, directly or indirectly, by the electric utility and created for the limited purpose of acquiring, owning, or administering deferred fuel cost property or issuing deferred fuel cost bonds under the financing order. All or any portion of deferred fuel cost property may be pledged to secure deferred fuel cost bonds issued pursuant to the financing order, amounts payable to financing parties and to counterparties under any ancillary agreements, and other financing costs. Any transfer, sale, conveyance, assignment, grant of a security interest in or pledge of deferred fuel cost property by an electric utility, or an affiliate of the electric utility, to

an assignee, to the extent previously authorized in a financing order, shall not require the prior consent and approval of the Commission;

d. If an electric utility defaults on any required payment of charges arising from deferred fuel cost property specified in a financing order, a court, upon application by an interested party, and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the revenues arising from the deferred fuel cost property to the financing parties or their assignees. Any such financing order shall remain in full force and effect notwithstanding any reorganization, bankruptcy, or other insolvency proceedings with respect to the electric utility or its successors or assignees;

e. The interest of a transferee, purchaser, acquirer, assignee, or pledgee in deferred fuel cost property specified in a financing order issued to an electric utility, and in the revenue and collections arising from that property, shall not be subject to setoff, counterclaim, surcharge, or defense by the electric utility or any other person or in connection with the reorganization, bankruptcy, or other insolvency of the electric utility or any other entity;

f. Any successor to an electric utility, whether pursuant to any reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any merger or acquisition, sale, or other business combination, or transfer by operation of law, as a result of electric utility restructuring or otherwise, shall perform and satisfy all obligations of, and have the same rights under a financing order as, the electric utility under the financing order in the same manner and to the same extent as the electric utility, including collecting and paying to the person entitled to receive the revenues, collections, payments, or proceeds of the deferred fuel cost property. Nothing in this subdivision f is intended to limit or impair any authority of the Commission concerning the transfer or succession of interests of public utilities; and

g. Deferred fuel cost bonds shall be nonrecourse to the credit or any assets of the electric utility other than the deferred fuel cost property as specified in the financing order and any rights under any ancillary agreement.

2. The following provisions shall be applicable to security interests:

a. The creation, perfection, and enforcement of any security interest in deferred fuel cost property to secure the repayment of the principal and interest and other amounts payable in respect of deferred fuel cost bonds; amounts payable under any indenture, ancillary agreement, or other financing documents in respect of the deferred fuel costs; and other financing costs shall be governed by this subsection and not by the provisions of the Uniform Commercial Code (Titles 8.1A through 8.9A);

b. A security interest in deferred fuel cost property shall be created and enforceable when all of the following have occurred: (i) a financing order is issued, (ii) value is received by the debtor or seller for such deferred fuel cost property, (iii) the debtor or seller has rights in such deferred fuel cost property or the power to transfer rights in such deferred fuel cost property, and (iv) a security agreement granting such security interest is executed and delivered by the debtor or seller. The description of deferred fuel cost property in a security agreement shall be sufficient if the description refers to this section and the financing order creating the deferred fuel cost property;

c. A security interest shall attach without any physical delivery of collateral or other act and, upon the filing of a financing statement with the Commission, the lien of the security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the person granting the security interest, regardless of whether the parties have notice of the lien. Also upon this filing, a transfer of an interest in the deferred fuel cost property shall be perfected against all parties having claims of any kind, including any judicial lien or other lien creditors or any claims of the transferor or creditors of the transferor, and shall have priority over all competing claims other than any prior security interest, ownership interest, or assignment in the property previously perfected in accordance with this section;

d. The Commission shall maintain any financing statement filed to perfect any security interest under this section in the same manner that the Commission maintains financing statements filed by transmitting utilities under the Uniform Commercial Code (Titles 8.1A through 8.9A). The filing of a financing statement under this section shall be governed by the provisions regarding the filing of financing statements in the Uniform Commercial Code (Titles 8.1A through 8.9A);

e. The priority of a security interest in deferred fuel cost property shall not be affected by the commingling of deferred fuel cost charges with other amounts. Any pledgee or secured party shall have a perfected security interest in the amount of all deferred fuel cost charges that are deposited in any cash or deposit account of the qualifying utility in which deferred fuel cost charges have been commingled with other funds and any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the assignee or a financing party;

f. No application of the formula-based adjustment mechanism as provided in this section shall affect the validity, perfection, or priority of a security interest in or transfer of deferred fuel cost property; and

g. If a default or termination occurs under the deferred fuel cost bonds, the financing parties or their representatives may foreclose on or otherwise enforce their lien and security interest in any deferred fuel cost property as if they were secured parties with a perfected and prior lien under the Uniform Commercial Code (Titles 8.1A through 8.9A), and the Commission may order that amounts arising from deferred fuel cost charges be transferred to a separate account for the financing parties' benefit, to which their lien and security interest shall apply. On application by or on behalf of the financing parties, the Commission shall order the sequestration and payment to them of revenues arising from the deferred fuel cost charges.

3. a. Any sale, assignment, or other transfer of deferred fuel cost property shall be an absolute transfer and true sale of and not a pledge of, or secured transaction relating to, the transferor's right, title, and interest in, to, and under the deferred fuel cost property if the documents governing the transaction expressly state that the transaction is a sale or other absolute

transfer other than for federal and state income tax purposes. For all purposes other than federal and state income tax purposes, the parties' characterization of a transaction as a sale of an interest in deferred fuel cost property shall be conclusive that the transaction is a true sale and that ownership has passed to the party characterized as the purchaser, regardless of any fact or circumstance that might support characterization of the transfer as a secured transaction. A transfer of an interest in deferred fuel cost property shall occur only when all of the following have occurred: (i) the financing order creating the deferred fuel cost property has become effective, (ii) the documents evidencing the transfer of deferred fuel cost property have been executed by the transferor and delivered to the assignee, and (iii) value is received by the transferor for the deferred fuel cost property. After such a transaction, the deferred fuel cost property shall not be subject to any claims of the transferor or the transferor's creditors, other than creditors holding a prior security interest in the deferred fuel cost property perfected in accordance with subdivision 2.

b. The characterization of the sale, assignment, or other transfer as an absolute transfer and true sale, and the corresponding characterization of the interest of the assignee as an ownership interest, shall not be affected or impaired by the occurrence of any of the following factors:

(1) Commingling of deferred fuel cost charges with other amounts;

(2) The retention by the seller of (i) a partial or residual interest, including an equity interest, in the deferred fuel cost property, whether direct or indirect, or whether subordinate or otherwise, or (ii) the right to recover costs associated with taxes, franchise fees, or license fees imposed on the collection of deferred fuel cost charges;

(3) Any recourse that the assignee may have against the seller;

(4) Any right or obligation that the seller may have to repurchase the deferred fuel cost charges;

(5) Any indemnification obligations of the seller;

(6) The obligation of the seller to collect deferred fuel cost charges on behalf of the assignee;

(7) The transferor acting as the servicer of the deferred fuel cost charges or the existence of any contract that authorizes or requires the electric utility, to the extent that any interest in deferred fuel cost property is sold or assigned, to agree with the assignee or any financing party that it will continue to operate its system to provide service to its customers, will collect amounts in respect of the deferred fuel cost charges for the benefit and account of such assignee or financing party, and will account for and remit such amounts to or for the account of such assignee or financing party;

(8) The treatment of the sale, conveyance, assignment, or other transfer for tax, financial reporting, or other purposes;

(9) The granting or providing to bondholders of a preferred right to the deferred fuel cost property or credit enhancement by the electric utility or its affiliates with respect to the deferred fuel cost bonds; or

(10) Any application of the formula-based adjustment mechanism as provided in this section.

c. Any right that an electric utility has in the deferred fuel cost property before its pledge, sale, or transfer or any other right created under this section or created in the financing order and assignable under this section or assignable pursuant to a financing order shall be property in the form of a contract right or a chose in action. Transfer of an interest in deferred fuel cost property to an assignee shall be enforceable only when all of the following have occurred: (i) a financing order is issued, (ii) value is received by the transferor for such deferred fuel cost property, (iii) the transferor has rights in such deferred fuel cost property or the power to transfer rights in such deferred fuel cost property, and (iv) transfer documents in connection with the issuance of deferred fuel cost bonds are executed and delivered by the transferor. An enforceable transfer of an interest in deferred fuel cost property to an assignee shall be perfected against all third parties, including subsequent judicial or other lien creditors, when a notice of that transfer has been given by the filing of a financing statement in accordance with subdivision 2 c. The transfer shall be perfected against third parties as of the date of filing.

d. The Commission shall maintain any financing statement filed to perfect any sale, assignment, or transfer of deferred fuel cost property under this section in the same manner that the Commission maintains financing statements filed by transmitting utilities under the Uniform Commercial Code (Titles 8.1A through 8.9A). The filing of any financing statement under this section shall be governed by the provisions regarding the filing of financing statements in the Uniform Commercial Code (Titles 8.1A through 8.9A). The filing of such a financing statement shall be the only method of perfecting a transfer of deferred fuel cost property.

e. The priority of a transfer perfected under this section shall not be impaired by any later modification of the financing order or deferred fuel cost property or by the commingling of funds arising from deferred fuel cost property with other funds. Any other security interest that may apply to those funds, other than a security interest perfected under subdivision 2, shall be terminated when they are transferred to a segregated account for the assignee or a financing party. If deferred fuel cost property has been transferred to an assignee or financing party, any proceeds of that property shall be held in trust for the assignee or financing party.

f. The priority of the conflicting interests of assignees in the same interest or rights in any deferred fuel cost property shall be determined as follows:

(1) Conflicting perfected interests or rights of assignees shall rank according to priority in time of perfection. Priority shall date from the time a filing covering the transfer is made in accordance with subdivision 2 c;

(2) A perfected interest or right of an assignee shall have priority over a conflicting unperfected interest or right of an assignee; and

(3) A perfected interest or right of an assignee shall have priority over a person who becomes a lien creditor after the perfection of such assignee's interest or right.

E. The description of deferred fuel cost property being transferred to an assignee in any sale agreement, purchase agreement, or other transfer agreement, granted or pledged to a pledgee in any security agreement, pledge agreement, or other security document, or indicated in any financing statement, shall only be sufficient if such description or indication refers to the financing order that created the deferred fuel cost property and states that the agreement or financing statement covers all or part of the property described in the financing order. This section shall apply to all purported transfers of, and all purported grants or liens or security interests in, deferred fuel cost property, regardless of whether the related sale agreement, purchase agreement, other transfer agreement, security agreement, pledge agreement, or other security document was entered into, or any financing statement was filed.

F. All financing statements referenced in this section shall be subject to Part 5 of Title 8.9A (§ 8.9A-501 et seq.) of the Uniform Commercial Code, except that the requirement as to continuation statements shall not apply.

G. The laws of the Commonwealth shall govern the validity, enforceability, attachment, perfection, priority, and exercise of remedies with respect to the transfer of an interest or right or the pledge or creation of a security interest in any deferred fuel cost property.

H. Neither the Commonwealth nor its political subdivisions shall be liable on any deferred fuel cost bonds, and the bonds shall not be a debt or a general obligation of the Commonwealth or any of its political subdivisions, agencies, or instrumentalities, nor shall they be special obligations or indebtedness of the Commonwealth or any of its agencies or political subdivisions. An issue of deferred fuel cost bonds shall not, directly, indirectly, or contingently, obligate the Commonwealth or any agency, political subdivision, or instrumentality of the Commonwealth to levy any tax or make any appropriation for payment of the deferred fuel cost bonds, other than in their capacity as consumers of electricity. All deferred fuel cost bonds shall contain on the face thereof a statement to the following effect: "NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, OR INTEREST ON, THIS BOND."

I. All of the following entities may legally invest any sinking funds, moneys, or other funds in deferred fuel cost bonds:

1. Subject to applicable statutory restrictions on state or local investment authority, the Commonwealth, units of local government, political subdivisions, public bodies, and public officers, except for members of the Commission;

2. Banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations, and other persons carrying on a banking or insurance business;

3. Personal representatives, guardians, trustees, and other fiduciaries; and

4. All other persons authorized to invest in bonds or other obligations of a similar nature.

J. 1. The Commonwealth and its agencies, including the Commission, pledge and agree with bondholders, the owners of the deferred fuel cost property, and other financing parties that the Commonwealth and its agencies shall not take any action listed in this subdivision. This subsection does not preclude limitation or alteration if full compensation is made by law for the full protection of the deferred fuel cost charges collected pursuant to a financing order and of the bondholders and any assignee or financing party entering into a contract with the electric utility. The Commonwealth and its agencies, including the Commission, shall not:

a. Alter the provisions of this section that authorize the Commission to create an irrevocable contract right or chose in action by the issuance of a financing order, to create deferred fuel cost property, and to make the deferred fuel cost charges imposed by a financing order irrevocable, binding, or nonbypassable charges;

b. Take or permit any action that impairs or would impair the value of deferred fuel cost property or the security for the deferred fuel cost bonds or revises the deferred fuel costs for which recovery is authorized;

c. In any way impair the rights and remedies of the bondholders, assignees, and other financing parties; or

d. Except for changes made pursuant to the formula-based adjustment mechanism authorized under this section, reduce, alter, or impair deferred fuel cost charges that are to be imposed, billed, charged, collected, and remitted for the benefit of the bondholders, any assignee, and any other financing parties until any and all principal, interest, premium, financing costs and other fees, expenses, or charges incurred, and any contracts to be performed, in connection with the related deferred fuel cost bonds have been paid and performed in full.

2. Any person that issues deferred fuel cost bonds may include the language specified in subdivision 1 in the deferred fuel cost bonds and related documentation.

K. An assignee or financing party shall not be considered an electric utility or person providing electric service by virtue of engaging in the transactions described in this section.

L. If there is a conflict between this section and any other law regarding the attachment, assignment, or perfection, or the effect of perfection, or priority of, assignment or transfer of, or security interest in deferred fuel cost property, this section shall govern.

M. In making determinations under this section, the Commission may engage an outside consultant and counsel.

N. If any provision of this section is held invalid or is invalidated, superseded, replaced, repealed, or expires for any reason, that occurrence shall not affect the validity of any action allowed under this section that is taken by an electric utility, an assignee, a financing party, a collection agent, or a party to an ancillary agreement, and any such action shall remain in full force and effect with respect to all deferred fuel cost bonds issued or authorized in a financing order issued under this section before the date that such provision is held invalid or is invalidated, superseded, replaced, or repealed, or expires for any reason.

O. As used in this section:

"Ancillary agreement" means a bond, insurance policy, letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, hedging arrangement, liquidity or credit support arrangement, or other financial arrangement entered into in connection with deferred fuel cost bonds.

"Assignee" means a legally recognized entity to which an electric utility assigns, sells, or transfers, other than as a security, all or a portion of its interest in or right to deferred fuel cost property. "Assignee" includes a corporation, limited liability company, general partnership or limited partnership, public authority trust, financing entity, or other entity to which an assignee assigns, sells, or transfers, other than as a security, all or a portion of its interest in or right to deferred fuel cost property.

"Bondholder" means a person who holds a deferred fuel cost bond.

"Deferred fuel cost bonds" means bonds debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership, or other evidences of indebtedness or ownership that are issued in one or more series or tranches by an electric utility or its assignee pursuant to a financing order, the proceeds of which are used directly or indirectly to recover, finance, or refinance Commission-approved deferred fuel costs and financing costs, and that are secured by or payable from deferred fuel cost property. If certificates of participation or ownership are issued, references in this section to principal, interest, or premium shall be construed to refer to comparable amounts under those certificates.

"Deferred fuel cost charge" means the nonbypassable charges authorized by the Commission to repay, finance, or refinance deferred fuel costs and financing costs (i) imposed on and part of all retail customer bills, except those of exempt retail access customers; (ii) collected by an electric utility or its successor or assignees, or a collection agent, in full, separate and apart from the electric utility's base rates; and (iii) paid by all retail customers of the electric utility, irrespective of the generation supplier of such customer, except for an exempt retail access customer.

"Deferred fuel cost property" includes:

1. All rights and interests of an electric utility or successor or assignee of the electric utility under a financing order, including the right to impose, bill, charge, collect, and receive deferred fuel cost charges authorized under the financing order and to obtain periodic adjustments to such charges as provided in the financing order; and

2. All revenues, collections, claims, rights to payments, payments, money, or proceeds arising from the rights and interests specified in the financing order, regardless of whether such revenues, collections, claims, rights to payment, payments, money, or proceeds are imposed, billed, received, collected, or maintained together with or commingled with other revenues, collections, rights to payment, payments, money, or proceeds.

"Deferred fuel costs" means the unrecovered amounts of previously incurred costs of fuel used to generate electricity, including the costs of purchased power, that have been deferred by an electric utility for future recovery from the utility's customers, along with financing costs on the utility's fuel deferral balance.

"Electric utility" means a Phase I Utility.

"Exempt retail access customer" means a retail customer of an electric utility that, pursuant to the provisions of § 56-577 or 56-577.1, purchased electric energy exclusively from a supplier of electric energy licensed to sell retail electric energy exclusively within the Commonwealth other than the electric utility, or that purchased electric energy from the electric utility pursuant to a Commission-approved market-based tariff, during the period when the deferred fuel costs to be financed were incurred. Such exemption shall be prorated to the extent an otherwise exempt retail customer purchased electric energy from the electric utility, in which case the retail customer shall be responsible for its pro rata share of deferred fuel cost charges authorized under a financing order.

"Financing costs" means:

1. Interest and any premium, including any acquisition, defeasance, or redemption premium, payable on deferred fuel cost bonds;

2. Any payment required under any indenture, ancillary agreement, or other financing documents pertaining to deferred fuel cost bonds and any amount required to fund or replenish a reserve account or other accounts established under the terms of any indenture, ancillary agreement, or other financing documents pertaining to deferred fuel cost bonds;

3. Any other costs related to structuring, offering, issuing, supporting, repaying, refunding, servicing, and complying with deferred fuel cost bonds, including service fees, accounting and auditing fees, trustee fees, legal fees, consulting fees, structuring adviser fees, administrative fees, placement and underwriting fees, independent director and manager fees, capitalized interest, rating agency fees, stock exchange listing and compliance fees, security registration fees, filing fees, information technology programming costs, and any other costs necessary to otherwise ensure the timely payment of deferred fuel cost bonds or other amounts or charges payable in connection with the bonds, including costs related to obtaining the financing order;

4. Any taxes and license fees or other fees imposed on the revenues generated from the collection of deferred fuel cost charges or otherwise resulting from the collection of deferred fuel cost charges, in any such case whether paid, payable, or accrued;

5. Any state and local taxes, franchise, gross receipts, and other taxes or similar charges, including regulatory assessment fees, whether paid, payable, or accrued;

6. Any costs incurred by the Commission for any outside consultants or counsel retained in connection with the securitization of deferred fuel costs; and

7. Any financing costs on the utility's fuel deferral balance prior to issuance of any fuel cost bonds, calculated at the utility's approved weighted average cost of capital.

"Financing order" means an order that authorizes the issuance of deferred fuel cost bonds; the imposition, collection, and periodic adjustments of a deferred fuel cost charge; the creation of deferred fuel cost property; the sale, assignment, or transfer of deferred fuel cost property to an assignee; and any other actions necessary or advisable to take actions described in the financing order.

"Financing party" means bondholders and trustees, collateral agents, any party under an ancillary agreement, or any other person acting for the benefit of bondholders.

"Financing statement" has the same meaning as provided in § 8.9A-102 of the Uniform Commercial Code.

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Pledgee" means a financing party to which an electric utility or its successors or assignees mortgages, negotiates, pledges, or creates a security interest or lien on all or any portion of its interest in or right to deferred fuel cost property.

§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase I Utility in 2020, utilizing the three successive 12-month test periods beginning January 1, 2017, and ending December 31, 2019. Thereafter, reviews for a Phase I Utility will be on a triennial basis with subsequent proceedings utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase II Utility in 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and ending December 31, 2020, with subsequent reviews on a triennial basis utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. All such reviews occurring after December 31, 2017, shall be referred to as triennial reviews. For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, the fair rate of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, and for any rate adjustment clauses approved under subdivision 5 or 6, shall be determined by the Commission during each such triennial review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest, but for applications received by the Commission on or after January 1, 2020, such return shall not be set lower than the average

of either (i) the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such triennial review or (ii) the authorized returns on common equity that are set by the applicable regulatory commissions for the same selected peer group, nor shall the Commission set such return more than 150 basis points higher than such average.

b. In selecting such majority of peer group investor-owned electric utilities for applications received by the Commission on or after January 1, 2020, the Commission shall first remove from such group the two utilities within such group that have the lowest reported or authorized, as applicable, returns of the group, as well as the two utilities within such group that have the highest reported or authorized, as applicable, returns of the group, and the Commission shall then select a majority of the utilities remaining in such peer group. In its final order regarding such triennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission and distribution services whose facilities and operations are subject to state public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test period subject to such triennial review, and (iv) it is not an affiliate of the utility subject to such triennial review.

c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be

conducted in accordance with the provisions of this section. The provisions of this subdivision are subject to the provisions of subdivision 8.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent triennial review.

3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021, consisting of the schedules contained in the Commission's rules governing utility rate increase applications. Such filing shall encompass the three successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, except that the filing for a Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending December 31, 2020, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future triennial review proceedings. In a triennial filing under this subdivision that does not result in an overall rate change a utility may propose an adjustment to one or more tariffs that are revenue neutral to the utility.

4. (Expires December 31, 2023) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission; (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member; and (iii) costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service; charges for new and existing transmission facilities, including costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park; administrative charges; and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

4. (Effective January 1, 2024) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission, and (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service, charges for new and existing transmission facilities, administrative charges, and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs or pilot programs. The Commission shall approve such a petition if it finds that the program is in the public interest, provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs or pilot programs. Any such petition shall include a proposed budget for the design, implementation, and operation of the energy efficiency program, including anticipated savings from and spending on each program, and the Commission shall grant a final order on such petitions within eight months of initial filing. The Commission shall only approve such a petition if it finds that the program is in the public interest. If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program that has bearing upon the Commission's determination. Such order shall adhere to existing protocols for extraordinarily sensitive information.

Energy efficiency pilot programs are in the public interest provided that the pilot program is (i) of limited scope, cost, and duration and (ii) intended to determine whether a new or substantially revised program would be cost-effective.

Prior to January 1, 2022, the Commission shall award a margin for recovery on operating expenses for energy efficiency programs and pilot programs, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. Beginning January 1, 2022, and thereafter, if the Commission determines that the utility meets in any year the annual energy efficiency standards set forth in § 56-596.2, in the following year, the Commission shall award a margin on energy efficiency program operating expenses in that year, to be recovered through a rate adjustment clause, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. If the Commission does not approve energy efficiency programs that, in the aggregate, can achieve the annual energy efficiency standards, the Commission shall award a margin on energy efficiency operating expenses in that year for any programs the Commission has approved, to be recovered through a rate adjustment clause under this subdivision, which margin shall equal the general rate of return on common equity determined as described in subdivision 2. Any margin awarded pursuant to this subdivision shall be applied as part of the utility's next rate adjustment clause true-up proceeding. The Commission shall also award an additional 20 basis points for each additional incremental 0.1 percent in annual savings in any year achieved by the utility's energy efficiency programs approved by the Commission pursuant to this subdivision, beyond the annual requirements set forth in § 56-596.2, provided that the total performance incentive awarded in any year shall not exceed 10 percent of that utility's total energy efficiency program spending in that same year.

The Commission shall annually monitor and report to the General Assembly the performance of all programs approved pursuant to this subdivision, including each utility's compliance with the total annual savings required by § 56-596.2, as well as the annual and lifecycle net and gross energy and capacity savings, related emissions reductions, and other quantifiable benefits of each program; total customer bill savings that the programs produce; utility spending on each program, including any associated administrative costs; and each utility's avoided costs and cost-effectiveness results.

Notwithstanding any other provision of law, unless the Commission finds in its discretion and after consideration of all in-state and regional transmission entity resources that there is a threat to the reliability or security of electric service to the utility's customers, the Commission shall not approve construction of any new utility-owned generating facilities that emit carbon dioxide as a by-product of combusting fuel to generate electricity unless the utility has already met the energy savings goals identified in § 56-596.2 and the Commission finds that supply-side resources are more cost-effective than demand-side or energy storage resources.

As used in this subdivision, "large general service customer" means a customer that has a verifiable history of having used more than one megawatt of demand from a single site.

Large general service customers shall be exempt from requirements that they participate in energy efficiency programs if the Commission finds that the large general service customer has, at the customer's own expense, implemented energy efficiency programs that have produced or will produce measured and verified results consistent with industry standards and other regulatory criteria stated in this section. The Commission shall, no later than June 30, 2021, adopt rules or regulations (a) establishing the process for large general service customers to apply for such an exemption, (b) establishing the administrative procedures by which eligible customers will notify the utility, and (c) defining the standard criteria that shall be satisfied by an applicant in order to notify the utility, including means of evaluation measurement and verification and confidentiality requirements. At a minimum, such rules and regulations shall require that each exempted large general service customer certify to the utility and Commission that its implemented energy efficiency programs have delivered measured and verified savings within the prior five years. In adopting such rules or regulations, the Commission shall also specify the timing as to when a utility shall accept and act on such notice, taking into consideration the utility's integrated resource planning process, as well as its administration of energy efficiency programs that are approved for cost recovery by the Commission. Savings from large general service customers shall be accounted for in utility reporting in the standards in § 56-596.2.

The notice of nonparticipation by a large general service customer shall be for the duration of the service life of the customer's energy efficiency measures. The Commission may on its own motion initiate steps necessary to verify such nonparticipant's achievement of energy efficiency if the Commission has a body of evidence that the nonparticipant has knowingly misrepresented its energy efficiency achievement.

A utility shall not charge such large general service customer for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of compliance with renewable energy portfolio standard requirements pursuant to § 56-585.5 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs incurred as required by § 56-585.5, provided that the Commission does not otherwise find such costs were unreasonably or imprudently incurred;

e. Projected and actual costs of projects that the Commission finds to be necessary to mitigate impacts to marine life caused by construction of offshore wind generating facilities, as described in § 56-585.1:11, or to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load

obligations, including the costs of allowances purchased through a market-based trading program for carbon dioxide emissions. The Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations;

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility; and

g. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission to provide incentives to (i) low-income, elderly, and disabled individuals or (ii) organizations providing residential services to low-income, elderly, and disabled individuals for the installation of, or access to, equipment to generate electric energy derived from sunlight, provided the low-income, elderly, and disabled individuals, or organizations providing residential services to low-income, elderly, and disabled individuals, first participate in incentive programs for the installation of measures that reduce heating or cooling costs.

Any rate adjustment clause approved under subdivision 5 c by the Commission shall remain in effect until the utility exhausts the approved budget for the energy efficiency program. The Commission shall have the authority to determine the duration or amortization period for any other rate adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, including the costs of any system or equipment upgrade, system or equipment replacement, or other cost reasonably appropriate to extend the combined operating license for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, (v) one or more pumped hydroelectricity generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, or (vi) one or more electric distribution grid transformation projects; however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv) or (vi), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv) or (vi), as applicable. As of December 1, 2028, any costs recovered by a utility pursuant to clause (iv) shall be limited to any remaining costs associated with conversions of overhead distribution facilities to underground facilities that have been previously approved or are pending approval by the Commission through a petition by the utility under this subdivision. Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs or makes modifications to any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility that emits carbon dioxide shall demonstrate that it has already met the energy savings goals identified in § 56-596.2 and that the identified need cannot be met more affordably

through the deployment or utilization of demand-side resources or energy storage resources and that it has considered and weighed alternative options, including third-party market alternatives, in its selection process.

The costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service. In any application to construct a new generating facility, the utility shall include, and the Commission shall consider, the social cost of carbon, as determined by the Commission, as a benefit or cost, whichever is appropriate. The Commission shall ensure that the development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on historically economically disadvantaged communities. The Commission may adopt any rules it deems necessary to determine the social cost of carbon and shall use the best available science and technology, including the Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, published by the Interagency Working Group on Social Cost of Greenhouse Gases from the United States Government in August 2016, as guidance. The Commission shall include a system to adjust the costs established in this section with inflation.

Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities or new electric distribution grid transformation projects are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) or (v) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, that use energy derived from sunlight or from onshore wind and are located in the Commonwealth or off the Commonwealth's Atlantic shoreline, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. The replacement of any subset of a utility's existing overhead distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric service reliability is in the public interest. In determining whether to approve petitions for rate adjustment clauses for such new underground facilities that meet this criteria, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title.

The conversion of any such facilities on or after September 1, 2016, is deemed to provide local and system-wide benefits and to be cost beneficial, and the costs associated with such new underground facilities are deemed to be reasonably and prudently incurred and, notwithstanding the provisions of subsection C or D, shall be approved for recovery by the Commission pursuant to this subdivision, provided that the total costs associated with the replacement of any subset of existing overhead distribution tap lines proposed by the utility with new underground facilities, exclusive of financing costs, shall not exceed an average cost per customer of $20,000, with such customers, including those served directly by or downline of the tap lines proposed for conversion, and, further, such total costs shall not exceed an average cost per mile of tap lines converted, exclusive of financing costs, of $750,000. A utility shall, without regard for whether it has petitioned for any rate adjustment clause pursuant to clause (vi), petition the Commission, not more than once annually, for approval of a plan for electric distribution grid transformation projects. Any plan for electric distribution grid transformation projects shall include both measures to facilitate integration of distributed energy resources and measures to enhance physical

electric distribution grid reliability and security. In ruling upon such a petition, the Commission shall consider whether the utility's plan for such projects, and the projected costs associated therewith, are reasonable and prudent. Such petition shall be considered on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility; without regard to whether the costs associated with such projects will be recovered through a rate adjustment clause under this subdivision or through the utility's rates for generation and distribution services; and without regard to whether such costs will be the subject of a customer credit offset, as applicable, pursuant to subdivision 8 d. The Commission's final order regarding any such petition for approval of an electric distribution grid transformation plan shall be entered by the Commission not more than six months after the date of filing such petition. The Commission shall likewise enter its final order with respect to any petition by a utility for a certificate to construct and operate a generating facility or facilities utilizing energy derived from sunlight, pursuant to subsection D of § 56-580, within six months after the date of filing such petition. The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years
Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

Only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014. Thirty percent of all costs of a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore or offshore wind are in the public interest.

Notwithstanding any provision of Chapter 296 of the Acts of Assembly of 2018, construction, purchasing, or leasing activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore wind with an aggregate capacity of 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, together with a utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 3,000 megawatts, are in the public interest. Additionally, energy storage facilities with an aggregate capacity of 2,700 megawatts are in the public interest. To the extent that a utility elects to recover the costs of any such new generation or energy storage facility or facilities through its rates for generation and distribution services and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (ii), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding pursuant to subsection D of § 56-580 or in a triennial review proceeding.

Electric distribution grid transformation projects are in the public interest. To the extent that a utility elects to recover the costs of such electric distribution grid transformation projects through its rates for generation and distribution services, and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (vi), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding for approval of a plan for electric distribution grid transformation projects pursuant to subdivision 6 or in a triennial review proceeding.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.2-1600, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission for such utility pursuant to subdivision 2.

Notwithstanding any other provision of this subdivision, if the Commission finds during the triennial review conducted for a Phase II Utility in 2021 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from the Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or demonstration project involving a generation facility utilizing energy from offshore wind, and such utility has not, as of July 1, 2023, commenced construction as defined for federal income tax purposes of an offshore wind generation facility or facilities with a minimum aggregate capacity of 250 megawatts, then the Commission, if it finds it in the public interest, may direct that the costs associated with any such rate adjustment clause involving said test or demonstration project shall thereafter no longer be recovered through a rate adjustment clause pursuant to subdivision 6 and shall instead be recovered through the utility's rates for generation and distribution services, with no change in such rates for generation and distribution services as a result of the combination of such costs with the other costs, revenues, and investments included in the utility's rates for generation and distribution services. Any such costs shall remain combined with the utility's other costs, revenues, and investments included in its rates for generation and distribution services until such costs are fully recovered.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a regulatory asset for regulatory accounting and

ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with respect to triennial filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later. *At any time, the Commission may, in its discretion, for a Phase I Utility, upon petition by such a utility or upon its own initiated proceeding, direct the consolidation of any one or more subsets of rate adjustment clauses previously implemented pursuant to subdivision 5 or 6 in the interest of judicial economy, customer transparency, or other factors the Commission determines to be appropriate. Any subset of rate adjustment clauses so consolidated shall continue to be considered by the Commission without regard to the other costs, revenues, investments, or earnings of the utility and remain as a cost recovery mechanism independent from the utility's rates for generation and distribution services pursuant to § 56-585.8 and subdivisions 5 and 6, but will be combined as a single rate adjustment clause for cost recovery and review purposes. Any rate adjustment clause or subset of rate adjustment clauses so consolidated shall be named in a manner, as determined by the Commission, that reasonably informs customers as to the nature of the costs recovered by the consolidated rate adjustment clause.*

8. In any triennial review proceeding, for the purposes of reviewing earnings on the utility's rates for generation and distribution services, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review and deemed fully recovered in the period recorded: costs associated with asset impairments related to early retirement determinations made by the utility for utility generation facilities fueled by coal, natural gas, or oil or for automated meter reading electric distribution service meters; costs associated with projects necessary to comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to coal combustion by-product management that the utility does not petition to recover through a rate adjustment clause pursuant to subdivision 5 e; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such triennial review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a triennial review, for normalization of nonrecurring test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of such triennial review that:

a. Revenue reductions related to energy efficiency measures or programs approved and deployed since the utility's previous triennial review have caused the utility, as verified by the Commission, during the test period or periods under review, considered as a whole, to earn more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates for

generation and distribution services necessary to recover such revenue reductions. If the Commission finds, for reasons other than revenue reductions related to energy efficiency measures, that the utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the amount of the rate increase necessary. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, the Commission may not order a rate increase, and in all triennial reviews of a Phase I or Phase II utility, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate increase under the standards of this sentence, and the amount thereof; and provided that, solely in connection with making its determination concerning the necessity for such a rate increase or the amount thereof, the Commission shall, in any triennial review proceeding conducted prior to July 1, 2028, exclude from this most recently ended 12-month test period any remaining investment levels associated with a prior customer credit reinvestment offset pursuant to subdivision d.

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivisions 8 d and 9, direct that 60 percent of the amount of such earnings that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. In any triennial review proceeding conducted after January 1, 2020, for a Phase I Utility or after January 1, 2021, for a Phase II Utility in which the utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, and the combined aggregate level of capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test periods under review in that triennial review proceeding in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and in electric distribution grid transformation projects, as determined pursuant to subdivision 8 d, does not equal or exceed 100 percent of the earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the combined test periods under review in that triennial review proceeding, the Commission shall, subject to the provisions of subdivision 9 and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, any reduction to the utility's rates ordered by the Commission pursuant to this subdivision shall not exceed $50 million in annual revenues, with any reduction allocated to the utility's rates for generation services, and in each triennial review of a Phase I or Phase II Utility, the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof; and

d. (Expires July 1, 2028) In any triennial review proceeding conducted after December 31, 2017, upon the request of the utility, the Commission shall determine, prior to directing that 70 percent of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the test period or periods under review be credited to customer bills pursuant to subdivision 8 b, the aggregate level of prior capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to

a rate adjustment clause pursuant to subdivision 6 made by the utility during the test period or periods under review in both (i) new utility-owned generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, and (ii) electric distribution grid transformation projects, as determined by the utility's plant in service and construction work in progress balances related to such investments as recorded per books by the utility for financial reporting purposes as of the end of the most recent test period under review. Any such combined capital investment amounts shall offset any customer bill credit amounts, on a dollar for dollar basis, up to the aggregate level of invested or committed capital under clauses (i) and (ii). The aggregate level of qualifying invested or committed capital under clauses (i) and (ii) is referred to in this subdivision as the customer credit reinvestment offset, which offsets the customer bill credit amount that the utility has invested or will invest in new solar or wind generation facilities or electric distribution grid transformation projects for the benefit of customers, in amounts up to 100 percent of earnings that are more than 70 basis points above the utility's fair rate of return on its generation and distribution services, and thereby reduce or eliminate otherwise incremental rate adjustment clause charges and increases to customer bills, which is deemed to be in the public interest. If 100 percent of the amount of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services, as determined in subdivision 2, exceeds the aggregate level of invested capital in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and electric distribution grid transformation projects, as provided in clauses (i) and (ii), during the test period or periods under review, then 70 percent of the amount of such excess shall be credited to customer bills as provided in subdivision 8 b in connection with the triennial review proceeding. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is the subject of any customer credit reinvestment offset pursuant to this subdivision shall not thereafter be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall not thereafter be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 and shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is not the subject of any customer credit reinvestment offset pursuant to this subdivision may be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 until such costs are fully recovered, and if such costs are recovered through the utility's rates for generation and distribution services, they shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. Only the portion of such costs of new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that has not been included in any customer credit reinvestment offset pursuant to this subdivision, and not otherwise recovered through the utility's rates for generation and distribution services, may be the subject of a rate adjustment clause petition by the utility pursuant to subdivision 6.

The Commission's final order regarding such triennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such triennial review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire three successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent triennial review filing under subdivision 3 and shall apply to applicable rate adjustment clauses under subdivisions 5 and 6 prospectively from the date the Commission's final order in the triennial review proceeding, utilizing rate adjustment clause true-up protocols as the Commission in its discretion may determine.

9. If, as a result of a triennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently ended 12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c, provided that no credits shall be provided pursuant to this subdivision in connection with any triennial review unless such bill credits would be payable pursuant to the provisions of subdivision 8 d, and any credits

under this subdivision shall be calculated net of any customer credit reinvestment offset amounts under subdivision 8 d. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, excluding any debt associated with securitized bonds that are the obligation of non-Virginia jurisdictional customers, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by customers.

E. Notwithstanding any other provision of law, the Commission shall determine the amortization period for recovery of any appropriate costs due to the early retirement of any electric generation facilities owned or operated by any Phase I Utility or Phase II Utility. In making such determination, the Commission shall (i) perform an independent analysis of the remaining undepreciated capital costs; (ii) establish a recovery period that best serves ratepayers; and (iii) allow for the recovery of any carrying costs that the Commission deems appropriate.

F. *The Commission shall include in its report required by subsection B of § 56-596 any information concerning the reliability impacts of generation unit additions and retirement determinations by a Phase I or Phase II Utility along with the potential impact on the purchase of power from generation assets outside the Virginia jurisdiction used to serve the utility's native load, utilizing information from the respective utility's integrated resource plan or information from the respective utility's plan filed pursuant to subsection D of § 56-585.5.*

G. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

§ 56-585.8. Biennial rate reviews.

A. For the purposes of this section:

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Utility" means a Phase I Utility.

B. With the first review commencing on March 31, 2024, and biennially thereafter, the Commission shall conduct rate reviews of the rates, terms, and conditions for the provision of generation and distribution services by a Phase I Utility that

participated in triennial review proceedings in 2020 and 2023, and such Phase I Utility shall no longer be subject to triennial review proceedings pursuant to § 56-585.1.

C. In each biennial review, the Commission shall conduct a proceeding to review all rates, terms, and conditions for generation and distribution services with such proceeding utilizing the two successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted. Such biennial review shall be conducted in a single, combined proceeding, except for review of the following costs, which the utility shall continue to recover and the Commission shall continue to review separately, pursuant to the applicable statutory provisions: costs that are recovered pursuant to (i) § 56-249.6, (ii) subdivisions A 4, 5, and 6 of § 56-585.1, and (iii) § 56-585.6.

D. Each biennial rate review proceeding shall commence on or before March 31 of the biennial review year with the filing of a petition by each Phase I Utility subject to the provisions of this section. The Commission, after providing notice and an opportunity for hearing, shall grant a final order on such petition no later than November 20. Any revisions in rates ordered by the Commission pursuant to the rate review shall take effect no later than January 1 of the subsequent year.

E. In each biennial review proceeding, the Commission shall set the fair rate of return on common equity applicable to the generation and distribution services of the utility for the two such services combined and for any rate adjustment clauses approved under subdivision A 5 or 6 of § 56-585.1. The Commission may use any methodology it finds consistent with the public interest to determine the Phase I Utility's fair rate of return on common equity. The Commission may increase or decrease the combined rate of return for generation and distribution services by up to 50 basis points based on factors that may include reliability, generating plant performance, customer service, and operating efficiency of a utility. Any such adjustment to the combined rate of return for generation and distribution services shall include consideration of nationally recognized standards determined by the Commission to be appropriate for such purposes.

F. In any biennial review for a Phase I Utility, if the Commission determines in its sole discretion that the utility's existing rates for generation and distribution services will, on a going-forward basis, either produce (i) revenues in excess of the utility's authorized rate of return or (ii) revenues below the utility's authorized rate of return, then the Commission shall order any reductions or increases, as applicable and necessary, to such rates for generation and distribution services that it deems appropriate to ensure the resulting rates for generation and distribution services (a) are just and reasonable and (b) provide the utility an opportunity to recover its costs of providing services over the rate period ending on December 31 of the year of the utility's succeeding review and earn a fair rate of return authorized pursuant to this section. Such determination shall be limited to the Phase I Utility's rates for generation and distribution services and shall not consider the costs or revenues recovered in any rate adjustment clause authorized pursuant to this chapter.

G. In any biennial review of rates for generation and distribution services, if the combined rate of return on common equity earned is no more than 100 basis points above or below the fair combined rate of return, as determined by the Commission, for the test period under review, then such combined return shall not be considered either excessive or insufficient, respectively.

1. If in any biennial review, the Commission finds that, during the test period under review, considered as a whole, the utility has earned more than 100 basis points above the authorized fair combined rate of return on its generation or distribution services, the Commission shall direct that 100 percent of the amount of such earnings that were more than 100 basis points above such fair combined rate of return for the test period under review, considered as a whole, be credited to customers' bills. Any such credits shall be applied to customers' bills, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

2. The Commission shall authorize deferred recovery for reasonable (i) actual costs associated with severe weather events and (ii) actual costs associated with natural disasters, not currently in rates, and the Commission shall allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The amount of any such deferral shall not exceed an amount that would, together with the utility's other costs, revenues, and investments recovered through rates for generation and distribution services for the test period under review, cause the utility's earned return on its generation and distribution services to exceed 100 basis points above the fair combined rate of return applicable to the test period under review. For the purposes of determining any amount of costs that are associated with severe weather events, the Commission shall consider nationally recognized standards such as those published by the Institute of Electrical and Electronics Engineers (IEEE).

Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this subsection shall not be considered for the purpose of determining the utility's earnings in any subsequent biennial review.

H. In any proceeding under this title, including each biennial review, to determine the prior two years' excess or deficiency for the purposes of subsection F, the Commission shall use an average rate base using the actual starting and end-of-test period capital structure of the utility, excluding any debt associated with any securitized bonds and without regard to the cost of capital, capital structure, or investments of any other entities with which the utility is affiliated. To determine a revenue requirement in any proceeding under this title, the Commission shall use the utility's actual end-of-test period capital structure and cost of capital without regard to the cost of capital, capital structure, or investments of any other entities with which the utility is affiliated, including debt associated with any securitized bonds, unless the Commission makes a finding, based on evidence in the record, that the debt to equity ratio of the actual end-of-test period

capital structure of such utility is unreasonable, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable.

In a rate review for a Phase I Utility that is part of a publicly traded, consolidated group, the Commission shall determine federal and state income tax costs as follows: (i) the utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) the utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

I. The Commission is authorized to determine during any biennial review the reasonableness or prudence of any cost subject to the rate review incurred or projected to be incurred by the utility, and a Phase I Utility shall recover such costs that the Commission finds to be reasonable and prudent.

J. In any biennial review conducted pursuant to this section, a Phase I Utility or any other party may propose changes to its terms and conditions and the Commission may approve, reject, or amend any changes and may propose any special rates, contracts, or incentives pursuant to § 56-235.2.

K. Nothing in this section shall alter a Phase I Utility's obligations pursuant to §§ 56-585.5 and 56-596.2.

L. To the extent that the provisions of this section are inconsistent with the provisions of § 56-585.1, the provisions of this section shall control.

§ 56-597. Definitions.

As used in this chapter:

"Affiliate" means a person that controls, is controlled by, or is under common control with an electric utility.

"Electric utility" means any investor-owned public utility that provides electric energy for use by retail customers, *except investor-owned utilities subject to the provisions of § 56-585.8.*

"Integrated resource plan" or "IRP" means a document developed by an electric utility that provides a forecast of its load obligations and a plan to meet those obligations by supply side and demand side resources over the ensuing 15 years to promote reasonable prices, reliable service, energy independence, and environmental responsibility.

"Retail customer" means any person that purchases retail electric energy for its own consumption at one or more metering points or non-metered points of delivery located in the Commonwealth.

2. That for the biennial review of a Phase I Utility, as that term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, as amended by this act, conducted by the State Corporation Commission (the Commission) in 2024, the Commission shall, in determining any excess or deficiency in the utility's earnings in accordance with § 56-585.8 of the Code of Virginia, as created by this act, utilize a 12-month test period beginning January 1, 2023, and ending December 31, 2023.

3. That a Phase I Utility, as that term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, as amended by this act, in connection with any financing order petition filed with the State Corporation Commission (the Commission) prior to December 31, 2023, pursuant to § 56-249.6:1 of the Code of Virginia, as created by this act, shall permit any retail customer that is receiving electric supply service from the utility and whose demand exceeded five megawatts during the calendar year prior to such petition to opt out of financing its pro rata obligation for deferred fuel cost charges through deferred fuel cost bonds. The utility shall notify such eligible customers of their eligibility to opt out of the deferred fuel cost financing through its annual petition with the Commission pursuant to § 56-249.6 of the Code of Virginia, and any election to opt out of the deferred fuel cost financing by an eligible customer shall be provided in writing to the utility within 30 days of the filing of such petition. Upon such election, the eligible customer shall fully satisfy such customer's pro rata obligation for the deferred fuel cost charges subject to financing, as determined based on such customer's electric usage over the period that such charges were incurred, over the 12-month period prescribed by subsection C of § 56-249.6 of the Code of Virginia that is associated with such annual petition. In the event of such election, any deferred fuel cost charges approved for recovery through deferred fuel cost bonds shall not include the obligations of eligible customers opting out of the deferred fuel cost financing.

4. That for purposes of considering future performance-based adjustments to the combined rate of return in accordance with subsection E of § 56-585.8 of the Code of Virginia, as created by this act, the State Corporation Commission (the Commission), before December 31, 2023, shall direct the initiation of a proceeding to review and determine the appropriate protocols and standards applicable to implementing any such performance-based adjustments. The protocols and standards established as a result of such a proceeding shall apply to biennial review filings occurring on or after January 1, 2026. However, if the Commission determines that the public interest would be better served by implementing such protocols and standards for biennial review filings occurring on or after January 1, 2027, then such performance standards and protocols shall be applicable to all biennial rate review filings made on or after January 1, 2027. Beginning January 1, 2024, and until such standards and protocols are applicable, the Commission shall retain existing authority under subsection A of § 56-585.1 of the Code of Virginia, as amended by this act, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, to increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

CHAPTER 750

An Act to amend and reenact §§ 2.2-438 through 2.2-448 of the Code of Virginia and to repeal § 2.2-449 of the Code of Virginia, relating to the Office of the Children's Ombudsman.

[S 1081]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-438 through 2.2-448 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-438. Definitions.

As used in this chapter, unless context requires another meaning:

"Abused or neglected child" means the same as that term is defined in § 63.2-100.

"Administrative act" includes an action, omission, decision, recommendation, practice, or other procedure of the Department, a local department~~, an adoption attorney~~, or a child-placing agency with respect to a particular child related to adoption, foster care, or protective services.

~~"Adoption attorney" means an attorney acting as counsel in an adoption proceeding or case.~~

"Central registry" means the system maintained at the Department of Social Services pursuant to § 63.2-1515.

"Child" means an individual under the age of 18.

~~"Child abuse" means harm or threatened harm to a child's health or welfare that occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, abandonment, or maltreatment by a parent, a legal guardian, or any other person responsible for the child's health or welfare or by a teacher, a teacher's aide, or a member of the clergy.~~

~~"Child-caring institution" means a child care facility that is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in buildings maintained by the child-caring institution for that purpose, and that operates throughout the year. An educational program may be provided, but the educational program shall not be the primary purpose of the facility. "Child-caring institution" includes a maternity home for the care of mothers who are minors, an inpatient substance use disorder treatment facility for minors, and an agency group home that is described as a small child-caring institution, owned, leased, or rented by a licensed agency providing care for more than four but less than 13 minor children. "Child-caring institution" also includes institutions for developmentally disabled or emotionally disturbed minor children. "Child-caring institution" does not include (i) a licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation; (ii) an establishment required to be licensed as a summer camp by § 35.1-18; or (iii) a licensed or accredited hospital legally maintained as such.~~

~~"Child neglect" means harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following:~~

~~1. Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care, though financially able to do so, or the failure to seek financial or other reasonable means to provide adequate food, clothing, shelter, or medical care; or~~

~~2. Putting the child's health or welfare at unreasonable risk through failure of the parent, legal guardian, or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of any such risk.~~

"Child-placing agency" means (i) any person who places children in foster homes, adoptive homes, or independent living arrangements pursuant to § 63.2-1819; (ii) a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221; or (iii) an entity that assists parents with the process of delegating parental and legal custodial powers of their children pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. Officers, employees, or agents of the Commonwealth or any locality thereof, acting within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be licensed.

"Children's Ombudsman" or "Ombudsman" means the individual appointed to head the Office of the Children's Ombudsman under § 2.2-439.

"Children's residential facility" means the same as that term is defined in § 63.2-100.

"Child-serving agency" means (i) a state agency that provides services to children, including the Department of Behavioral Health and Developmental Services, the Department of Education, the Department of Health, the Department of Juvenile Justice, the Department of Social Services, and the Office of Children's Services, and (ii) a local entity that provides services to children and that receives funding from a state agency under clause (i). "Child-serving agency" does not include any law-enforcement agency.

"Complainant" means an individual who makes a complaint pursuant to § 2.2-441.

"Department" means the Department of Social Services.

"Foster care" means care provided to a child by ~~a child-caring institution or~~ a foster parent, children's residential facility, or group home licensed or approved by the Department under Chapter 9 (§ 63.2-900) of Title 63.2; care provided to a child in a relative's home under a court order; or any other care provided at the time the child's custody has been given to a government agency.

"Law-enforcement agency" means any crime victim and witness assistance program whose funding is provided in whole or in part by grants administered by the Department of Criminal Justice Services pursuant to § 9.1-104, any state or local police or sheriff's department, any office of an attorney for the Commonwealth, or the Office of the Attorney General.

"Local department" means the local department of social services of any county or city in the Commonwealth.

"Office" means the Office of the Children's Ombudsman established under § 2.2-439.

§ 2.2-439. Children's Ombudsman; establishment; appointment; removal.

A. There is hereby created the Office of the Children's Ombudsman as a means of effecting changes in policy, procedure, and legislation; educating the public; investigating and reviewing actions of the Department, local departments, child-placing agencies, or ~~child-caring institutions~~ *children's residential facilities*; and monitoring and ensuring compliance with relevant statutes, rules, and policies pertaining to child protective services and the placement, supervision, and treatment of, and improvement of delivery of care to, children in foster care and adoptive homes.

B. The Office of the Children's Ombudsman shall be headed by the Children's Ombudsman, who shall be appointed by the Governor, subject to confirmation by the General Assembly. The individual shall be qualified by training and experience to perform the duties and exercise the powers of the Children's Ombudsman and the Office of the Children's Ombudsman as provided in this chapter.

C. The appointment shall be for a term of four years. The Governor may remove the Ombudsman for cause in accordance with § 2.2-108. Vacancies shall be filled by appointment by the Governor for the unexpired term.

~~D. The operation and administration of the Office shall be funded by the Children's Advocacy Fund established pursuant to § 2.2-449.~~

§ 2.2-440. Procedures; training; notification of safety concerns.

A. The Ombudsman shall establish procedures for the Office for budget, expenditures, and employment. Subject to annual appropriations, the Ombudsman shall employ sufficient personnel to carry out the duties and powers prescribed by this chapter.

B. The Ombudsman shall establish procedures for receiving and processing complaints from complainants and individuals not meeting the definition of complainant, conducting investigations, holding informal hearings, and reporting findings and recommendations resulting from investigations.

C. Personnel employed by the Office shall receive mandatory training in domestic violence and in handling complaints ~~of~~ *alleging that a* child ~~abuse or child neglect~~ that ~~include a history of domestic violence~~ *is an abused or neglected child*.

D. ~~Any individual may submit a complaint to the Ombudsman. The Ombudsman has the sole discretion and authority to determine if a complaint falls within the Ombudsman's duties and powers to investigate and if a complaint involves an administrative act. The Ombudsman may initiate an investigation without receiving a complaint. The Ombudsman may initiate an investigation upon receipt of a complaint from an individual not meeting the definition of complainant. An individual not meeting the definition of complainant is not entitled to receive information under this chapter as if such individual is a complainant. The individual is entitled to receive the recommendations of the Ombudsman and the Department or local department's response to the recommendations of the Ombudsman in accordance with state and federal law. During the course of an investigation, the Ombudsman may refer a case to a child-serving agency if the Ombudsman determines that such agency received a complaint on the case but did not conduct an investigation. If the Ombudsman refers a case to a child-serving agency, such agency shall conduct an investigation of the case or provide notice to the Ombudsman explaining why an investigation was not conducted or what alternative steps may have been taken to address the situation. If an investigation has been conducted, the child-serving agency shall report the results to the Ombudsman.~~

~~E.~~ The Ombudsman shall notify a child-serving agency of any immediate safety concerns regarding a child or children who are part of an active or open child protective services or foster care case. This notification shall occur as soon as possible, but not later than one business day after the Ombudsman becomes aware of the concerns.

§ 2.2-441. Individuals making complaint to Children's Ombudsman.

A. Any of the following individuals may make a complaint to the Ombudsman with respect to a particular child, alleging that an administrative act is contrary to law, rule, or policy; imposed without an adequate statement of reason; or based on irrelevant, immaterial, or erroneous grounds:

1. The child, if the child is able to articulate a complaint;
2. A biological parent of the child;
3. A foster parent of the child;
4. An adoptive parent or a prospective adoptive parent of the child;
5. A legally appointed guardian of the child;
6. A guardian ad litem ~~of~~ *for* the child;
7. A relative of the child or any person with a legitimate interest as defined in § 20-124.1;
8. A Virginia legislator;
9. An individual required to report *that a* child ~~abuse or child neglect~~ *is alleged to be an abused or neglected child* under § 63.2-1509; and
10. An attorney for any individual described in subdivisions 1 through 7.

B. Any individual may submit a complaint to the Ombudsman. The Ombudsman has the sole discretion and authority to determine if a complaint falls within the Ombudsman's duties and powers to investigate and if a complaint involves an administrative act. The Ombudsman may initiate an investigation upon receipt of a complaint from an individual not

meeting the definition of complainant. An individual not meeting the definition of complainant is not entitled to receive information under this chapter as if such individual is a complainant. The individual is entitled to receive the recommendations of the Ombudsman and the Department or local department's response to the recommendations of the Ombudsman in accordance with state and federal law. During the course of an investigation, the Ombudsman may refer a case to a child-serving agency if the Ombudsman determines that such agency received a complaint on the case but did not conduct an investigation. If the Ombudsman refers a case to a child-serving agency, such agency shall conduct an investigation of the case or provide notice to the Ombudsman explaining why an investigation was not conducted or what alternative steps may have been taken to address the situation. If an investigation has been conducted, the child-serving agency shall report the results to the Ombudsman.

§ 2.2-442. Children's Ombudsman; powers and duties.

~~The~~ *In addition to any powers described in this chapter, the* Children's Ombudsman has the authority to do all of the following with regard to children receiving child-protective services, in foster care, or placed for adoption *and children who may have died as a result of alleged abuse or neglect*:

1. Pursue all necessary action, including legal action, to protect the rights and welfare of such children;

2. Pursue legislative advocacy in the best interest of such children;

3. Review policies and procedures relating to any child-serving agency's involvement with such children *upon the Ombudsman's own initiative or upon receipt of a complaint* and make recommendations for improvement; ~~and~~

4. *Initiate investigations of administrative acts of the Department, a local department, or a child-placing agency in cases relating to such children upon the Ombudsman's own initiative or upon receipt of a complaint; and*

5. Subject to an appropriation of funds, commence and conduct investigations into alleged violations of the rights of a foster parent.

§ 2.2-443. Abused or neglected children; children receiving child-protective services, in foster care, or placed for adoption; powers of Children's Ombudsman; child fatality cases; investigation.

A. The Ombudsman may do all of the following ~~in relation to a child who may be a victim of child abuse or child neglect, including a child who may have died as a result of suspected child abuse or child neglect~~:

1. ~~Upon the Ombudsman's own initiative or upon receipt of a complaint, investigate an administrative act that is alleged to be contrary to law or rule; contrary to any policy of the Department, a local department, or a child-placing agency; imposed without an adequate statement of reason; or based on irrelevant, immaterial, or erroneous grounds. The Ombudsman has~~ *Determine, in the Ombudsman's* sole discretion*,* ~~to determine~~ if a complaint involves an administrative act.

2. Decide, in the Ombudsman's discretion, whether to investigate an administrative act.

3. Upon the Ombudsman's own initiative or upon receipt of a complaint and subject to an appropriation of funds, investigate an alleged violation of the rights of a foster parent.

4. Except as otherwise provided in this subdivision, access records and reports necessary to carry out the Ombudsman's powers and duties under this chapter to the same extent and in the same manner as provided to the Department. The Ombudsman shall be provided access to medical and mental health disorder records in the same manner as access is provided to the Department. The Ombudsman may request substance use disorder records if the Ombudsman obtains a valid consent or a court order under 42 C.F.R. Part 2. In the course of a child fatality investigation, the Ombudsman may access records from the court of jurisdiction, Attorney General, prosecuting attorney, or any attorney retained by the Department or local department and reports from a county child fatality review team to the same extent and in the same manner as provided to the Department or local department under state law.

5. Request a subpoena from a court requiring the production of a record or report necessary to carry out the Ombudsman's duties and powers, including a child fatality investigation. If the person to whom a subpoena is issued fails or refuses to produce the record or report, the Ombudsman may petition the court for enforcement of the subpoena.

6. Hold informal hearings and request that individuals appear before the Ombudsman and give testimony or produce documentary or other evidence that the Ombudsman considers relevant to a matter under investigation.

7. Make recommendations to the Governor and the General Assembly concerning the need for child protective services, adoption, or foster care legislation, policy, or practice without prior review by other offices, departments, or agencies in the executive branch in order to facilitate rapid implementation of recommendations or for suggested improvements to the recommendations. No other office, department, or agency shall prohibit the release of an Ombudsman's recommendation to the Governor or the General Assembly.

B. The Ombudsman may investigate all child fatality cases that occurred or are alleged to have occurred due to ~~child~~ abuse or ~~child~~ neglect *of a child* in the following situations:

1. A child died during an active child protective services investigation or open services case, or there was a valid or invalid child protective services complaint within 12 months immediately preceding the child's death.

2. A child died while in foster care, unless the death is determined to have resulted from natural causes and there were no prior child protective services or licensing complaints concerning the foster home.

3. A child was returned home from foster care and there is an active foster care case.

4. A foster care case involving the deceased child or sibling was closed within 24 months immediately preceding the child's death.

C. Subject to state appropriations, an investigation under subsection B shall be completed within 12 months after the Ombudsman opens a child fatality case for investigation.

D. The Ombudsman is subject to the same standards for safeguarding the confidentiality of information under this section and the same sanctions for unauthorized release of information as the Department.

§ 2.2-444. Decision to investigate; notice; pursuing administrative remedies or channels of complaint; further investigation; violation of state or federal criminal law; complaint against child-placing agency; petition requesting court jurisdiction or termination of parental rights.

A. Upon deciding to investigate a complaint from a complainant or an individual not meeting the definition of complainant, the Ombudsman shall notify the complainant or the individual not meeting the definition of complainant of the decision to investigate and shall notify the Department or local department~~, adoption attorney,~~ *or children's residential facility,* or child-placing agency of the intention to investigate. If the Ombudsman declines to investigate a complaint or continue an investigation, the Ombudsman shall notify the complainant or the individual not meeting the definition of complainant and the Department or local department*, or children's residential facility,* or child-placing agency of the decision and of the reasons for the Ombudsman's action.

B. The Ombudsman shall advise a complainant of administrative remedies and may advise the individual to pursue all administrative remedies or channels of complaint open to the complainant before pursuing a complaint with the Ombudsman. Subsequent to the administrative processing of a complaint, the Ombudsman may conduct further investigations of a complaint upon the request of the complainant or upon the Ombudsman's own initiative.

C. If the Ombudsman finds in the course of an investigation that an individual's action is in violation of state or federal criminal law, the Ombudsman shall immediately report that fact to the local attorney for the Commonwealth or the Attorney General. If the complaint is against a child-placing agency, the Ombudsman shall refer the matter to the Department or local department for further action with respect to licensing or approval.

§ 2.2-445. Department and child-placing agency; duties; information to be provided to biological parent, adoptive parent, or foster parent; access to departmental computer networks.

A. The Department or local department and a child-placing agency shall do all of the following:

1. Upon the Ombudsman's request, grant the Ombudsman or the ~~Ombudsman's designee~~ *Office* access to all information, records, and documents in the possession of the Department or local department*, children's residential facility,* or child-placing agency that the Ombudsman considers relevant and necessary in an investigation.

2. Assist the Ombudsman *or the Office* to obtain the necessary releases of those documents that are specifically restricted.

3. Upon the Ombudsman's request, provide the Ombudsman *or the Office* with progress reports concerning the administrative processing of a complaint.

4. Upon the Ombudsman's request, provide the Ombudsman *or the Office* the information requested under subdivision 1 or notification within 10 business days after the request that the Department or local department has determined that release of the information would violate federal or state law.

B. The Department or local department, an attorney involved with an adoption, and a child-placing agency shall provide information to a biological parent, prospective adoptive parent, or foster parent regarding the provisions of this chapter.

C. The Ombudsman *and the Office* shall have access, in the Ombudsman's own office, to departmental computer networks pertaining to protective services, foster care, adoption, juvenile delinquency, and the central registry, unless otherwise prohibited by state or federal law or if the release of the information to the Ombudsman would jeopardize federal funding. The cost of implementing this subsection shall be negotiated among the Office and the custodians of such networks.

§ 2.2-446. Confidentiality of record of Children's Ombudsman; disclosure; limitations; release of certain information.

A. ~~Subject to subsections B through F, a record of~~ *All statements, documentation, and other evidence received or maintained by* the Office ~~is~~ *or its agents in connection with complaints made to or investigations undertaken pursuant to the Ombudsman's powers enumerated in § 2.2-442 shall be* confidential~~, shall only be used for purposes set forth in this chapter, is~~ *and* not subject to ~~court subpoena,~~ *the Virginia Freedom of Information Act (§ 2.2-3700 et seq.)* and ~~is~~ *are* not discoverable in ~~a~~ legal ~~proceeding~~ *proceedings*. If the Ombudsman identifies action or inaction by the state through its agencies or services that failed to protect children, the Ombudsman shall provide any findings and recommendations to the agency affected by those findings *and to the General Assembly upon request*, and ~~make~~ *may provide* those findings and recommendations ~~available~~ to the complainant ~~and the General Assembly upon request~~, to the extent consistent with state or federal law. The Ombudsman shall not disclose any information that impairs the rights of the child or the child's parents or guardians.

B. Unless otherwise part of the public record, the Office shall not release any of the following confidential information to the general public:

1. Records relating to a mental health evaluation or treatment of a parent or child;

2. Records relating to the evaluation or treatment of a substance abuse-related disorder of a parent or child;

3. Records relating to a medical diagnosis or treatment of a parent or child;

4. Records relating to domestic violence-related services and sexual assault services provided to a parent or child; or

5. Records relating to educational services provided to a parent or child.

C. Notwithstanding subsection B, if the Ombudsman determines that disclosure of confidential information is necessary to identify, prevent, or respond to the abuse or neglect of a child, the Ombudsman may disclose such information to the Department or local department, a court, a law-enforcement agency, or a prosecuting attorney investigating a report of known or suspected ~~child~~ abuse or ~~child~~ neglect *of a child*. The Ombudsman shall not release the address, telephone number, or other information regarding the whereabouts of a victim or suspected victim of domestic violence unless ordered to by a court.

D. Except as provided in subsection C, the Ombudsman shall not disclose information relating to an ongoing law-enforcement investigation or an ongoing child protective services investigation. The Ombudsman may release the results of its investigation to a complainant, or an individual not meeting the definition of complainant, if the Ombudsman receives notification *of and determines* that releasing the results of its investigation is not related to and will not interfere with an ongoing law-enforcement investigation or ongoing child protective services investigation.

E. The Ombudsman shall not disclose the identity of an individual making a ~~child abuse or child neglect~~ complaint *alleging that a child is an abused or neglected child* unless that individual's written permission is obtained first or a court has ordered the Ombudsman to release such information.

F. The Ombudsman may release an individual's identity who makes an intentionally false report ~~of child abuse or child neglect~~ *alleging that a child is an abused or neglected child*, subject to other laws relating to such disclosure.

§ 2.2-447. Report of findings; recommendations; consultation with individual, Department, local department, or child-placing agency; publication of adverse report; notice of actions; information provided to complainant; child fatality investigation; report.

A. The Ombudsman shall prepare a report of the factual findings of an investigation and make recommendations to the Department, local department, *children's residential facility,* or child-placing agency if the Ombudsman finds any of the following:

1. A matter should be further considered by the Department, local department, or child-placing agency.

2. An administrative act or omission should be modified, canceled, or corrected.

3. Reasons should be given for an administrative act or omission.

4. Other action should be taken by the Department, local department, *children's residential facility,* or child-placing agency.

B. ~~Before announcing~~ *At least 30 calendar days before publishing* a ~~conclusion or recommendation~~ *report* that ~~expressly or by implication criticizes an individual,~~ *is adverse to* the Department, the local department, ~~or~~ *a children's residential facility,* a child-placing agency*, or the individual that is or was the subject of an investigation by the Ombudsman*, the Ombudsman shall ~~consult with that individual,~~ *inform* the Department, the local department, ~~or~~ *the children's residential facility,* the child-placing agency*, or the individual*. When publishing ~~an opinion~~ *a report* adverse to the Department, local department, ~~or~~ *children's residential facility,* child-placing agency, *or individual,* the Ombudsman shall include in the publication any statement of reasonable length made to the Ombudsman by the Department, local department, ~~or~~ *children's residential facility,* child-placing agency*, or individual* in defense or mitigation of the action. The Ombudsman may request to be notified by the Department, local department, ~~or~~ *children's residential facility,* child-placing agency, *or individual,* within a specified time, of any action taken on any recommendation presented.

C. The Ombudsman shall notify the complainant of the actions taken by the Ombudsman and by the Department, local department, *children's residential facility,* or child-placing agency.

D. The Ombudsman may provide to the complainant the following information:

1. A copy of the Ombudsman's report regarding the investigation's findings, recommendations to the Department or local department made according to the investigation, the Department or local department's response to the Ombudsman's findings and recommendations, and any epilogue to the Ombudsman's report and the Department or local department's response; or

2. Information that has otherwise been made public.

E. The Ombudsman shall not release information to the individual making the complaint if doing so could endanger the health or welfare of a child or another individual.

F. With respect to a child fatality case investigated under subsection B of § 2.2-443 and upon review of records or other information received under subdivision A 3 or 4 of § 2.2-443 in the course of a child fatality investigation, if there is no ongoing child protection proceeding involving a sibling of the child who died, the Ombudsman shall provide any necessary recommendations for improving systemic issues that are discovered during the investigation of the child fatality. The recommendations may be provided to the court of jurisdiction, the state court administrative office, the county child fatality review team, medical professionals, or attorneys or other legal professionals involved with the particular child who died. The recommendations shall also be summarized and included in the annual report referenced in subsection G.

G. The Ombudsman shall submit to the Governor, the director of the Department, and the General Assembly an annual report on the Ombudsman's activities, including any recommendations regarding the need for legislation or for a change in rules or policies.

§ 2.2-448. Penalty for filing complaint or cooperating in investigation prohibited.

A. An official, the Department, a local department, a child-serving agency, *a children's residential facility,* or a child-placing agency shall not penalize any person for filing a complaint or cooperating with the Ombudsman in investigating a complaint.

B. An individual, the Department, a local department~~, an adoption attorney~~, a child-serving agency, *a children's residential facility,* or a child-placing agency shall not hinder the lawful actions of the Ombudsman or employees of the Ombudsman.

C. A report by the Ombudsman is not subject to prior approval by a person outside of the Office.

2. That § 2.2-449 of the Code of Virginia is repealed.

CHAPTER 751

An Act to amend the Code of Virginia by adding in Chapter 3 of Title 40.1 an article numbered 2.2, consisting of sections numbered 40.1-33.7 through 40.1-33.12, relating to unpaid organ donation leave; required; civil penalty.

[S 1086]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 3 of Title 40.1 an article numbered 2.2, consisting of sections numbered 40.1-33.7 through 40.1-33.12, as follows:

Article 2.2.

Organ Donation Leave.

§ 40.1-33.7. Definitions.

As used in this article, unless the context requires a different meaning:

"Eligible employee" means an individual who has requested that an employer provide organ donation leave and who, as of the date that the requested organ donation leave begins, will have been employed by that employer for at least (i) a 12-month period and (ii) 1,250 hours during the previous 12 months.

"Employer" means any employer as defined in § 40.1-2 that employs 50 or more employees. Notwithstanding § 40.1-2.1, "employer" includes the Commonwealth and its agencies, institutions, and political subdivisions. "Employer" does not include any agency of the federal government.

"Organ donation leave" means leave of an eligible employee for the purpose of donating one or more of such employee's human organs, including bone marrow, to be medically transplanted into the body of another individual.

§ 40.1-33.8. Organ donation leave.

A. An employer shall provide an eligible employee (i) up to 60 business days of unpaid organ donation leave in any 12-month period to serve as an organ donor and (ii) up to 30 business days of unpaid organ donation leave in any 12-month period to serve as a bone marrow donor.

B. To receive organ donation leave, the eligible employee shall provide written physician verification to the employer that (i) the eligible employee is an organ donor or a bone marrow donor and (ii) there is a medical necessity for the donation of the organ or bone marrow.

C. No employee shall take organ donation leave concurrently with leave taken under the federal Family and Medical Leave Act (29 U.S.C. § 2601 et seq.).

D. Nothing in this article shall be construed to:

1. Discourage an employer from adopting or retaining leave policies more generous than required by this article;

2. Except as provided in subsection C, prohibit an employee from taking paid sick leave or other paid time off to which the employee is otherwise entitled in addition to or in lieu of organ donation leave; or

3. Diminish the obligation of an employer to comply with a collective bargaining agreement or an employment benefit program or plan that provides an amount of organ donation leave sufficient to meet the requirements of this article and that may be used for the same purposes and under the same conditions as organ donation leave under this article.

§ 40.1-33.9. Employee's right to benefits; restoration of position.

A. No employer shall consider any period of time during which an eligible employee takes organ donation leave to be a break in the eligible employee's continuous service for the purpose of the eligible employee's right to salary adjustments, sick leave, vacation, paid time off, annual leave, seniority, or other employee benefits.

B. An eligible employee who returns to work after taking organ donation leave shall be entitled to restoration by the employer of (i) the position of employment held by the eligible employee when the organ donation leave began or (ii) an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. An employer may deny restoration of the eligible employee's position of employment under this subsection because of conditions unrelated to the exercise of rights established under this article.

§ 40.1-33.10. Health benefit plan; commission.

A. During any period that an eligible employee takes organ donation leave, an employer shall maintain coverage of a health benefit plan for the duration of the organ donation leave and in the same manner that coverage would have been provided if the eligible employee had continued in employment continuously for the duration of the organ donation leave.

B. If an eligible employee works on a commission basis, an employer shall pay to the eligible employee during any period of organ donation leave any commission that becomes due because of work the eligible employee performed before taking organ donation leave.

§ 40.1-33.11. Retaliatory action prohibited.

No employer shall discharge, discipline, threaten, discriminate against, or penalize an employee, or take other retaliatory action regarding an employee's compensation, terms, conditions, location, or privileges of employment, because the employee (i) has requested or exercised the benefits provided for in this article or (ii) has alleged a violation of this article.

§ 40.1-33.12. Enforcement; civil penalty.

A. The Commissioner shall enforce the provisions of this article and shall adopt appropriate guidance for the implementation and enforcement of this article.

B. Any person alleging a violation of this article shall have the right to file a complaint with the Commissioner within one year of the date the person knew or should have known of the alleged violation. The Commissioner shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or other person reporting the violation, provided, however, that with the authorization of such person, the Commissioner may disclose the person's name and identifying information as necessary to enforce this article or for other appropriate purposes.

C. Upon receiving a complaint alleging a violation of this article, the Commissioner shall investigate such complaint and attempt to resolve it through mediation between the complainant and the subject of the complaint, or other means. The Commissioner shall keep complainants notified regarding the status of their complaint and any resultant investigation. If the Commissioner believes that a violation has occurred, he shall issue to the offending person or employer a notice of violation and the relief required of the offending person or entity. The Commissioner shall prescribe the form and wording of such notices of violation, including any method of appealing a decision of the Commissioner.

D. The Commissioner shall notify any employer who he alleges has violated any provision of this article by certified mail. Such notice shall contain a description of the alleged violation. Within 15 days of receipt of notice of the alleged violation, the employer may request an informal conference with the Commissioner regarding such violation.

E. Any such employer who knowingly violates this article shall be subject to a civil penalty not to exceed $1,000 for the first violation and, for subsequent violations that occur within two years of any previous violation, not to exceed $2,500 for the second violation and not to exceed $5,000 for each successive violation. In determining the amount of any civil penalty to be imposed, the Commissioner shall consider the size of the business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be final.

F. Civil penalties owed under this article shall be paid to the Commissioner for deposit into the general fund. The Commissioner shall prescribe procedures for the payment of proposed assessments of civil penalties that are not contested by employers.

CHAPTER 752

An Act to require the Board of Education to make recommendations to the General Assembly for amendments to the Standards of Quality to establish standards for the maintenance and operations, renovation, and new construction of public elementary and secondary school buildings.

[S 1124]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The Board of Education (the Board) shall make recommendations to the General Assembly for amendments to the Standards of Quality to establish standards for the maintenance and operations, renovation, and new construction of public elementary and secondary school buildings. Such recommendations shall include standards for the percentage of the current replacement value of a public school building that a school board should budget for the maintenance and operations of the building and such other standards as the Board deems appropriate. In developing such recommendations, the Board shall solicit the input of relevant stakeholders and the public. The Board shall submit its recommendations to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than July 1, 2024.*

CHAPTER 753

An Act to amend and reenact §§ 30-202 through 30-206, 30-209, 45.2-1712, 45.2-1713, and 56-599 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 30-205.1, relating to energy planning and electric utility oversight; Commission on Electric Utility Regulation; membership, meetings, powers and duties, staffing, and ratepayer impact statements; Virginia Energy Plan; electric utilities; integrated resource plans.

[S 1166]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 30-202 through 30-206, 30-209, 45.2-1712, 45.2-1713, and 56-599 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 30-205.1 as follows:

§ 30-202. (Expires July 1, 2024) Membership; terms.

The Commission *shall have a total membership of 14 members that* shall consist of 10 legislative members*, three nonlegislative citizen members, and one ex officio member*. Members shall be appointed as follows: four members of the Senate to be appointed by the Senate Committee on Rules ~~and~~ *that consist of three members from the majority party and one member from the minority party or an equal number from each in the event the chamber is evenly divided;* six members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates*; one nonlegislative citizen member with expertise in economic development and ratepayer advocacy to be appointed by the Senate Committee on Rules; one nonlegislative citizen member with expertise in energy affordability and ratepayer advocacy to be appointed by the Speaker of the House of Delegates; and one nonlegislative citizen member with expertise in public utility regulation and ratepayer advocacy to be appointed by the Governor. The Attorney General or his designee shall serve ex officio. Any such designee shall be an attorney employed within the Department of Law's Division of Consumer Counsel. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth. Each member of the Commission shall annually complete an orientation on electric utility regulation provided by the State Corporation Commission.*

~~Members~~ *Legislative members* of the Commission *and the ex officio member* shall serve terms coincident with their terms of office. *Nonlegislative citizen members shall be appointed for a term of two years.* All members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall *annually* elect a chairman and vice-chairman from among its membership*, who shall be members of the General Assembly*. The chairman of the Commission shall be authorized to designate one or more members of the Commission to observe and participate in the discussions of any work group convened by the State Corporation Commission in furtherance of its duties under the Virginia Electric Utility Regulation Act (§ 56-576 et seq.) and this chapter. Members participating in such discussions shall be entitled to compensation and reimbursement provided in § 30-204, if approved by the Joint Rules Committee or its Budget Oversight Subcommittee.

§ 30-203. (Expires July 1, 2024) Quorum; meetings; voting on recommendations.

A majority of the members shall constitute a quorum. The *Commission shall meet at least twice per year;* meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members so request.

No recommendation of the Commission shall be adopted if a majority of the Senate members or a majority of the House members appointed to the Commission (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the Commission.

§ 30-204. (Expires July 1, 2024) Compensation; expenses.

~~Members~~ *Legislative members* of the Commission shall receive such compensation as provided in § 30-19.12 and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. *Unless otherwise approved in writing by the chairman of the Commission and the executive director of the Commission, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth for the purpose of attending meetings.* However, all such compensation and expenses shall be paid from existing appropriations to the Commission or, if unfunded, shall be approved by the Joint Rules Committee.

§ 30-205. (Expires July 1, 2024) Powers and duties of the Commission.

The Commission shall have the following powers and duties:

1. Monitor the work of the State Corporation Commission in implementing Chapter 23 (§ 56-576 et seq.) of Title 56~~, receiving~~. *The Commission shall receive an annual report from the State Corporation Commission by November 1 regarding such implementation and shall receive* such *other* reports as the Commission may be required to make ~~pursuant thereto~~, including reviews, analyses, and impact on consumers of electric utility regulation in other states;

2. Examine generation, transmission and distribution systems reliability concerns;

3. Establish one or more subcommittees, composed of its membership, persons with expertise in the matters under consideration by the Commission, or both, to meet at the direction of the chairman of the Commission, for any purpose within the scope of the duties prescribed to the Commission by this section, provided that such persons who are not members of the Commission shall serve without compensation but shall be entitled to be reimbursed from funds appropriated or otherwise available to the Commission for reasonable and necessary expenses incurred in the performance of their duties; ~~and~~

4. *Monitor applications by the Commonwealth for grants and awards for energy projects from the federal government;*

5. Consider legislation referred to it during any session of the General Assembly or other requests by members of the General Assembly;

6. Conduct studies and gather information and data in order to accomplish its purposes set forth in § 30-201 and in connection with the faithful execution of the laws of the Commonwealth;

7. Issue ratepayer impact statements pursuant to § 30-205.1; and

8. Report annually to the General Assembly and the Governor with such recommendations as may be appropriate for legislative and administrative consideration in order to maintain reliable service in the Commonwealth while preserving the Commonwealth's position as a low-cost electricity market.

§ 30-205.1. Ratepayer impact statements for electric utility regulation.

A. As used in this section:

"Ratepayer" means a residential, commercial, or industrial customer who is billed for the consumption of electricity by an electric utility in the Commonwealth.

"Ratepayer impact statement" means a statement prepared using data or other relevant information to estimate the potential impact on ratepayers' electric bills of proposed legislation related to electric utilities.

B. Upon the request by the Chairman for the House Committee on Commerce and Energy or the Senate Committee on Commerce and Labor, the Commission shall prepare a ratepayer impact statement for any proposed legislation related to electric utility regulation specified by such Chairman. Each such Chairman may request up to five ratepayer impact statements in any given regular or special session of the General Assembly. Additionally, upon the request of any other member of the General Assembly, the Commission, at the Commission's discretion, may prepare a ratepayer impact statement for any proposed legislation related to electric utility regulation specified by such member.

C. The Commission shall provide any such ratepayer impact statement to the requesting Chairman or member, the patron of the legislation, and the members of any committee considering the legislation.

D. Upon request of the Commission, the State Corporation Commission, the Office of the Attorney General, and all agencies of the Commonwealth shall expeditiously provide the Commission with assistance in the preparation of any ratepayer impact statement including providing the Commission with any necessary data or other relevant information.

E. The Commission shall ensure that any ratepayer impact statement provides a neutral and accurate analysis of the potential impact on ratepayers' electric bills of the proposed legislation. Any ratepayer impact statement shall include the methodology used by the Commission to prepare such ratepayer impact statement.

§ 30-206. (Expires July 1, 2024) Staffing.

~~Administrative staff support shall be provided by the Office of the Clerk of the Senate or the Office of Clerk of the House of Delegates as may be appropriate for the house in which the chairman of the Commission serves. The Division of Legislative Services shall provide legal, research, policy analysis and other services as requested by the Commission.~~ *The Commission may appoint, employ, and remove an executive director and such other persons as it deems necessary, subject to funding in the appropriation act, and shall determine the duties and fix the salaries or compensation of such executive director and other persons, within the amounts appropriated for such purpose. The Commission may also employ experts who have knowledge of the issues before it.* All agencies of the Commonwealth shall provide assistance to the Commission, upon request*, subject to funding in the appropriation act*.

§ 30-209. (Expires July 1, 2024) Sunset.

This chapter shall expire on July 1, ~~2024~~ *2029*.

§ 45.2-1712. Annual reporting by investor-owned public utilities.

Each investor-owned public utility providing electric service in the Commonwealth shall prepare an annual report disclosing its efforts to conserve energy, including (i) its implementation of customer demand-side management programs and (ii) efforts by the utility to improve efficiency and conserve energy in its internal operations pursuant to § 56-235.1. The utility shall submit each annual report to the Division *and the Commission on Electric Utility Regulation* by November 1 of each year, and the Division shall compile the reports of the utilities and submit the compilation to the Governor and the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

§ 45.2-1713. Submission of the Plan.

Upon completion, the Division shall submit the Plan, including periodic updates thereto, to the Governor, the Commissioners of the State Corporation Commission, and the General Assembly *and shall present the Plan to the Commission on Electric Utility Regulation at a public meeting*. The Plan shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents. The Plan's executive summary shall be posted on the General Assembly's website.

§ 56-599. Integrated resource plan required.

A. Each electric utility shall file an updated integrated resource plan by ~~July 1, 2015. Thereafter, each electric utility shall file an updated integrated resource plan by May 1~~ *October 15*, in each year immediately preceding the year the utility is subject to a ~~triennial~~ review *of rates for generation and distribution services* filing. A copy of each integrated resource plan shall be provided to the Chairman of the House Committee on ~~Labor and~~ Commerce *and Energy*, the Chairman of the Senate Committee on Commerce and Labor, and ~~to~~ the Chairman of the Commission on Electric Utility Regulation. *After January 1, 2024, each electric utility not subject to an annual review shall file an annual update to the integrated resource plan by October 15, in each year that the utility is subject to review of rates for generation and distribution services filing.* All updated integrated resource plans shall comply with the provisions of any relevant order of the Commission establishing guidelines for the format and contents of updated and revised integrated resource plans. Each integrated resource plan shall consider options for maintaining and enhancing rate stability, energy independence, economic development including retention and expansion of energy-intensive industries, and service reliability.

B. In preparing an integrated resource plan, each electric utility shall systematically evaluate and may propose:

1. Entering into short-term and long-term electric power purchase contracts;
2. Owning and operating electric power generation facilities;
3. Building new generation facilities;
4. Relying on purchases from the short term or spot markets;
5. Making investments in demand-side resources, including energy efficiency and demand-side management services;

6. Taking such other actions, as the Commission may approve, to diversify its generation supply portfolio and ensure that the electric utility is able to implement an approved plan;

7. The methods by which the electric utility proposes to acquire the supply and demand resources identified in its proposed integrated resource plan;

8. The effect of current and pending state and federal environmental regulations upon the continued operation of existing electric generation facilities or options for construction of new electric generation facilities;

9. The most cost effective means of complying with current and pending state and federal environmental regulations, including compliance options to minimize effects on customer rates of such regulations;

10. Long-term electric distribution grid planning and proposed electric distribution grid transformation projects;

11. Developing a long-term plan for energy efficiency measures to accomplish policy goals of reduction in customer bills, particularly for low-income, elderly, and disabled customers; reduction in emissions; and reduction in carbon intensity; and

12. Developing a long-term plan to integrate new energy storage facilities into existing generation and distribution assets to assist with grid transformation.

C. As part of preparing any integrated resource plan pursuant to this section, each utility shall conduct a facility retirement study for owned facilities located in the Commonwealth that emit carbon dioxide as a byproduct of combusting fuel and shall include the study results in its integrated resource plan. Upon filing the integrated resource plan with the Commission, the utility shall contemporaneously disclose the study results to each planning district commission, county board of supervisors, and city and town council where such electric generation unit is located, the Department of Energy, the Department of Housing and Community Development, the Virginia Employment Commission, and the Virginia Council on Environmental Justice. The disclosure shall include (i) the driving factors of the decision to retire and (ii) the anticipated retirement year of any electric generation unit included in the plan. Any electric generating facility with an anticipated retirement date that meets the criteria of § 45.2-1701.1 shall comply with the public disclosure requirements therein.

D. *As part of preparing any integrated resource plan pursuant to this section, each utility shall conduct outreach to engage the public in a stakeholder review process and provide opportunities for the public to contribute information, input, and ideas on the utility's integrated resource plan, including the plan's development methodology, modeling inputs, and assumptions, as well as the ability for the public to make relevant inquiries, to the utility when formulating its integrated resource plan. Each utility shall report its public outreach efforts to the Commission. The stakeholder review process shall include representatives from multiple interest groups, including residential and industrial classes of ratepayers. Each utility shall, at the time of the filing of its integrated resource plan, report on any stakeholder meetings that have occurred prior to the filing date.*

E. The Commission shall analyze and review an integrated resource plan and, after giving notice and opportunity to be heard, the Commission shall make a determination within nine months after the date of filing as to whether such an integrated resource plan is reasonable and is in the public interest.

CHAPTER 754

An Act to amend and reenact §§ 37.2-203, 37.2-508, and 37.2-608 of the Code of Virginia, relating to community services boards; behavioral health authorities; performance contracts.

[S 1169]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-203, 37.2-508, and 37.2-608 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-203. Powers and duties of Board.

The Board shall have the following powers and duties:

1. To develop and establish programmatic and fiscal policies governing the operation of state hospitals, training centers, community services boards, and behavioral health authorities;

2. To ensure the development of long-range programs and plans for mental health, developmental, and substance abuse services provided by the Department, community services boards, and behavioral health authorities;

3. To review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Governor and on all applications for federal funds;

4. To monitor the activities of the Department and its effectiveness in implementing the policies of the Board;

5. To advise the Governor, Commissioner, and General Assembly on matters relating to mental health, developmental, and substance abuse services;

6. To adopt regulations that may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Commissioner or the Department;

7. To ensure the development of programs to educate citizens about and elicit public support for the activities of the Department, community services boards, and behavioral health authorities;

8. To ensure that the Department assumes the responsibility for providing for education and training of school-age individuals receiving services in state facilities, pursuant to § 37.2-312;

9. To change the names of state facilities; ~~and~~

10. To adopt regulations that establish the qualifications, education, and experience for registration of peer recovery specialists by the Board of Counseling*; and*

11. To monitor the Department's performance regarding its regular, ongoing monitoring of community services boards' and behavioral health authorities' compliance with the performance contract requirements set forth in §§ 37.2-508 and 37.2-608 and to make recommendations, as applicable, to the Department regarding improvement of such monitoring activities.

Prior to the adoption, amendment, or repeal of any regulation regarding substance abuse services, the Board shall, in addition to the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.), present the proposed regulation to the Substance Abuse Services Council, established pursuant to § 2.2-2696, at least 30 days prior to the Board's action for the Council's review and comment.

§ 37.2-508. Performance contract for mental health, developmental, and substance abuse services.

A. The Department shall develop and initiate negotiation of the performance contracts through which it provides funds to community services boards to accomplish the purposes set forth in this chapter. In the case of operating boards, the Department may, notwithstanding any provision of law to the contrary, disburse state and federal funds appropriated to it for mental health, developmental, or substance abuse services directly to the operating board, when that operating board is authorized by the governing body of each city or county that established it to receive such funds. Six months prior to the end of an existing contract or, if no contract exists, six months prior to the beginning of each fiscal year, the Department shall make available to the public the standard performance contract form that it intends to use as the performance contract for that fiscal year and solicit public comments for a period of 60 days. Such contracts shall be for a fixed term and shall provide for annual renewal by the Board if the term exceeds one year.

B. Any community services board may apply for the assistance provided in this chapter by submitting to the Department its proposed performance contract together with (i) the approval of its board of directors for operating and administrative policy boards or the comments of the local government department's policy-advisory board and (ii) the approval of the contract by formal vote of the governing body of each city or county that established it. The community services board shall make its proposed performance contract available for public review and solicit public comments for a period of 30 days prior to submitting its proposed contract for the approval of its board of directors for operating and administrative policy boards or the comments of the local government department's policy-advisory board. To avoid disruptions in service continuity and allow sufficient time to complete public review and comment about the contract and negotiation and approval of the contract, the Department may provide semi-monthly payments of state-controlled funds to the community services board. If the governing body of each city or county does not approve the proposed performance contract by September 30 of each year, the performance contract shall be deemed approved or renewed.

C. The performance contract shall ~~(i) delineate~~*:*

1. Delineate the responsibilities of the Department and the community services board; ~~(ii) specify~~

2. Specify conditions that must be met for the receipt of state-controlled funds; ~~(iii) identify~~

3. Identify the groups of individuals to be served with state-controlled funds; ~~(iv) contain~~

4. Contain specific outcome measures for individuals receiving services, provider performance measures, satisfaction measures for individuals receiving services, and participation and involvement measures for individuals receiving services and their family members; ~~(v) contain~~

5. Contain mechanisms that have been identified or developed jointly by the Department and community services board and that will be employed collaboratively by the community services board and the state hospital to manage the utilization of state hospital beds; ~~(vi) establish an enforcement mechanism, should a~~

6. Contain provisions that enable the Department to enforce the performance contract in the event that the community services board ~~fail~~ *fails* to ~~be in substantial compliance~~ *substantially comply* with *the requirements of* its performance contract, ~~including notice and appeal processes and provisions for~~ *which shall include:*

a. Provisions to ensure that the executive director and chairman of the community services board are notified when the community services board fails to substantially comply with the requirements of its performance contract;

b. A remediation~~,~~ *process to allow the community services board, after failing to substantially comply with its performance contract, to come into substantial compliance with its performance contract;*

c. Provisions for withholding or reducing funds, ~~methods of~~ repayment of funds, ~~and the Department's exercise of~~ *or termination of all or part of a performance contract in accordance with* the provisions of subsection E *in the event that the community services board fails to come into substantial compliance with the provisions of its performance contract despite utilization of the remediation process described in subdivision b; and*

d. Provisions for appeal of an enforcement action undertaken by the Department; and ~~(vii) include reporting~~

7. Include requirements ~~and~~ *for the community services board to report specific* information about *(i) its* revenues, costs, *and* services~~, and~~*; (ii)* individuals ~~receiving services~~ *served; and (iii) any other information deemed necessary by the Department, which shall be* displayed in a consistent, comparable format ~~determined~~ *developed* by the Department.

D. The Department ~~may provide for performance~~ *shall develop and implement a process for regular, ongoing* monitoring ~~in order to determine whether the~~ *of the performance of* community services boards ~~are in substantial~~ *to ensure* compliance with ~~their~~ *the requirements of* performance contracts *entered into pursuant to this section*.

~~D. No community services board shall be eligible to receive state-controlled funds for mental health, developmental, or substance abuse services after September 30 of each year unless (i) its performance contract has been approved or renewed by the governing body of each city or county that established it and by the Department; (ii) it provides service, cost, and revenue data and information and aggregate and individual data and information about individuals receiving services, notwithstanding the provisions of § 37.2-400 or any regulations adopted thereunder, to the Department in the format prescribed by the Department; and (iii) it uses standardized cost accounting and financial management practices approved by the Department.~~

E. If~~,~~ ~~after unsuccessful use of a remediation process described in the performance contract,~~ a community services board ~~remains in substantial noncompliance with~~ *fails to substantially comply with the requirements of* its performance contract ~~with the Department~~, the Department ~~may~~ *shall utilize the remediation process described in the performance contract to allow the community services board to come into substantial compliance. The Department shall notify the Board and the chairman of the community services board upon initiation of the remediation process and provide to the Board and chairman regular updates regarding the community services board's progress toward coming into substantial compliance.*

If a community services board fails to come into substantial compliance after utilization of the remediation process, the Department shall, after affording the community services board an adequate opportunity to use the appeal process described in the performance contract, terminate all or a portion of the *performance* contract. ~~Using~~

F. Upon terminating all or a portion of a performance contract pursuant to subsection E, the Department may, using the state-controlled resources associated with that *performance* contract~~, the Department,~~ *and* after consulting with the governing body of each city or county that established the *community services* board *that was a party to the performance contract*, ~~may~~ negotiate a performance contract with another *community services* board, a behavioral health authority, or a private nonprofit or for-profit organization or organizations to obtain services that were the subject of the terminated performance contract.

G. No community services board shall be eligible to receive state-controlled funds for mental health, developmental, or substance abuse services after September 30 of each year unless (i) its performance contract has been approved or renewed by the governing body of each city or county that established it and by the Department; (ii) it provides service, cost, and revenue data and information, and aggregate and individual data and information about individuals receiving services, notwithstanding the provisions of § 37.2-400 or any regulations adopted thereunder, to the Department in the format prescribed by the Department; (iii) it uses standardized cost accounting and financial management practices approved by the Department, and (iv) the community services board is in substantial compliance with its performance contract or is making progress to become in substantial compliance through the Department's remediation process.

§ 37.2-608. Performance contract for mental health, developmental, and substance abuse services.

A. The Department shall develop and initiate negotiation of the performance contracts through which it provides funds to behavioral health authorities to accomplish the purposes set forth in this chapter. The Department may, notwithstanding any provision of law to the contrary, disburse state and federal funds appropriated to it for mental health, developmental, and substance abuse services directly to the behavioral health authority. Six months prior to the beginning of each fiscal year, the Department shall make available to the public the standard performance contract form that it intends to use as the performance contract for that fiscal year and solicit public comments for a period of 60 days.

B. Any behavioral health authority may apply for the assistance provided in this chapter by submitting annually to the Department its proposed performance contract for the next fiscal year together with the approval of its board of directors and the approval by formal vote of the governing body of the city or county that established it. The behavioral health authority shall make its proposed performance contract available for public review and solicit public comments for a period of 30 days prior to submitting its proposed contract for the approval of its board of directors. To avoid disruptions in service continuity and allow sufficient time to complete public review and comment about the contract and negotiation and approval of the contract, the Department may provide up to six semi-monthly payments of state-controlled funds to the *behavioral health* authority. If the governing body of the city or county does not approve the proposed performance contract by September 30 of each year, the performance contract shall be deemed approved.

C. The performance contract shall ~~(i) delineate~~*:*

1. Delineate the responsibilities of the Department and the behavioral health authority; ~~(ii) specify~~

2. Specify conditions that must be met for the receipt of state-controlled funds; ~~(iii) identify~~

3. Identify the groups of individuals to be served with state-controlled funds; ~~(iv) contain~~

4. Contain specific outcome measures for individuals receiving services, provider performance measures, satisfaction measures for individuals receiving services, and participation and involvement measures for individuals receiving services and their family members; ~~(v) contain~~

5. Contain mechanisms that have been identified or developed jointly by the Department and the behavioral health authority and that will be employed collaboratively by the behavioral health authority and the state hospital to manage the utilization of state hospital beds; ~~(vi) establish an enforcement mechanism, should~~

6. Contain provisions that enable the Department to enforce the performance contract in the event that the behavioral health authority ~~fail~~ *fails* to ~~be in substantial compliance~~ *substantially comply* with *the requirements of* its performance contract, ~~including notice and appeal processes and provisions for~~ *which shall include:*

a. Provisions to ensure that the executive director and chairman of the behavioral health authority are notified when the behavioral health authority fails to substantially comply with the requirements of its performance contract;

b. A remediation~~,~~ *process to allow the behavioral health authority, after failing to substantially comply with its performance contract, to come into substantial compliance with its performance contract;*

c. Provisions for withholding or reducing funds, ~~methods of~~ repayment of funds, ~~and the Department's exercise of~~ *or termination of all or part of a performance contract in accordance with* the provisions of subsection E *in the event that the behavioral health authority fails to come into substantial compliance with the provisions of its performance contract despite utilization of the remediation process described in subdivision b; and*

d. Provisions for appeal of an enforcement action undertaken by the Department; and ~~(vii) include reporting~~

7. Include requirements ~~and~~ *for the behavioral health authority to report specific* information about *(i) its* revenues, costs, *and* services~~, and~~*; (ii)* individuals ~~receiving services~~ *served; and (iii) any other information deemed necessary by the Department, which shall be* displayed in a consistent, comparable format ~~determined~~ *developed* by the Department.

D. The Department ~~may provide for performance~~ *shall develop and implement a process for regular, ongoing* monitoring ~~to determine whether~~ *of the performance of* behavioral health authorities ~~are in substantial~~ *to ensure* compliance with ~~their~~ *the requirements of* performance contracts *entered into pursuant to this section*.

~~D. No behavioral health authority shall be eligible to receive state-controlled funds for mental health, developmental, or substance abuse services after September 30 of each year unless (i) its performance contract has been approved by the governing body of the city or county that established it and by the Department; (ii) it provides service, cost, and revenue data and information, and aggregate and individual data and information about individuals receiving services, notwithstanding § 37.2-400 or any regulations adopted thereunder, to the Department in the format prescribed by the Department; and (iii), it uses standardized cost accounting and financial management practices approved by the Department.~~

E. If~~, after unsuccessful use of a remediation process described in the performance contract,~~ a behavioral health authority ~~remains in substantial noncompliance with~~ *fails to substantially comply with the requirements of* its performance contract ~~with the Department~~, the Department ~~may~~ *shall utilize the remediation process described in the performance contract to allow the behavioral health authority to come into substantial compliance. The Department shall notify the Board and the chairman of the behavioral health authority upon initiation of the remediation process and provide to the Board and chairman regular updates regarding the behavioral health authority's progress toward coming into substantial compliance.*

If a behavioral health authority fails to come into substantial compliance after utilization of the remediation process, the Department shall, after affording the *behavioral health* authority an adequate opportunity to use the appeal process described in the performance contract, terminate all or a portion of the *performance* contract. ~~Using~~

F. Upon terminating all or a portion of a performance contract pursuant to subsection E, the Department may, using the state-controlled resources associated with that *performance* contract~~, the Department,~~ *and* after consulting with the governing body of the city or county that established the behavioral health authority *that was a party to the performance contract*, ~~may~~ negotiate a performance contract with a community services board, another behavioral health authority, or a private nonprofit or for-profit organization or organizations to obtain services that were the subject of the terminated performance contract.

G. No behavioral health authority shall be eligible to receive state-controlled funds for mental health, developmental, or substance abuse services after September 30 of each year unless (i) its performance contract has been approved by the governing body of the city or county that established it and by the Department; (ii) it provides service, cost, and revenue data and information, and aggregate and individual data and information about individuals receiving services, notwithstanding § 37.2-400 or any regulations adopted thereunder, to the Department in the format prescribed by the Department; (iii) it uses standardized cost accounting and financial management practices approved by the Department, and (iv) the behavioral health authority is in substantial compliance with its performance contract or is making progress to become in substantial compliance through the Department's remediation process.

2. That the provisions of subsection C of §§ 37.2-508 and 37.2-608 of the Code of Virginia, as amended by this act, shall become effective July 1, 2024.

CHAPTER 755

An Act to amend and reenact §§ 18.2-340.25, 18.2-340.26:1, and 18.2-340.28 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.25:2, relating to charitable gaming; temporary permits; limitations.

[S 1209]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.25, 18.2-340.26:1, and 18.2-340.28 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-340.25:2 as follows:

§ 18.2-340.25. Permit required; application fee; form of application.

A. Except as provided for in § 18.2-340.23, prior to the commencement of any charitable game, an organization shall obtain a permit from the Department.

B. All complete applications for a permit shall be acted upon by the Department within 45 days from the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the discretion of the Department, a permit may be issued. All permits when issued shall be valid for the period specified in the permit unless it is sooner suspended or revoked. No permit shall be valid for longer than two years. The application shall be a matter of public record.

All permits shall be subject to regulation by the Department to ensure the public safety and welfare in the operation of charitable games. The permit shall only be granted after a reasonable investigation has been conducted by the Department. The Department may require any prospective employee, permit holder, or applicant to submit to fingerprinting and to provide personal descriptive information to be forwarded along with employee's, licensee's, or applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purposes of obtaining criminal history record information regarding such prospective employee, permit holder, or applicant. The Central Criminal Records Exchange upon receipt of a prospective employee, licensee, or applicant record or notification that no record exists, shall forward the report to the Commissioner of the Department or his designee, who shall belong to a governmental entity. However, nothing in this subsection shall be construed to require the routine fingerprinting of volunteer bingo workers.

C. In no case shall an organization receive more than one permit allowing it to conduct charitable gaming*; except that an organization may also apply for and receive a temporary permit pursuant to § 18.2-340.25:2.*

D. Application for a charitable gaming permit shall be made on forms prescribed by the Department and shall be accompanied by payment of the fee for processing the application.

E. Applications for renewal of permits shall be made in accordance with Department regulations. If a complete renewal application is received 45 days or more prior to the expiration of the permit, the permit shall continue to be effective until such time as the Department has taken final action. Otherwise, the permit shall expire at the end of its term.

F. The failure to meet any of the requirements of § 18.2-340.24 shall cause the automatic denial of the permit, and no organization shall conduct any charitable gaming until the requirements are met and a permit is obtained.

§ 18.2-340.25:2. Temporary permits authorized; limitations.

A. Any qualified organization described in subdivision 4 or 5 of the definition of "organization" in § 18.2-340.16 may obtain a temporary permit from the Department allowing such organization to sell instant bingo, pull tabs, or seal cards upon premises located anywhere in the Commonwealth during a convention, conference, or related event lasting no more than seven consecutive days held by such organization's affiliated state, regional, or national organization up to once per quarter as designated in the permit.

B. All complete applications for a permit shall be acted upon by the Department within 45 days from the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the discretion of the Department, a temporary permit may be issued. All temporary permits when issued shall be valid for the period specified in the permit unless it is sooner suspended or revoked. No permit shall be valid for longer than one year. The application shall be a matter of public record.

All temporary permits shall be subject to regulation by the Department to ensure the public safety and welfare in the operation of charitable games. The temporary permit shall only be granted after a reasonable investigation has been conducted by the Department. The Department may require any prospective employee, permit holder, or applicant to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the employee's, permit holder's, or applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purposes of obtaining criminal history record information regarding such prospective employee, permit holder, or applicant. The Central Criminal Records Exchange upon receipt of a prospective employee, permit holder, or applicant record or notification that no record exists shall forward the report to the Commissioner of the Department or his designee, who shall belong to a governmental entity. However, nothing in this subsection shall be construed to require the routine fingerprinting of volunteer bingo workers.

C. In no case shall an organization receive more than one temporary permit allowing it to conduct charitable gaming; however, an organization may also receive a permit in accordance with the provisions of § 18.2-340.25.

D. Application for a temporary permit shall be made on forms prescribed by the Department and shall be accompanied by payment of the fee for processing the application.

E. Applications for renewal of temporary permits shall be made in accordance with Department regulations. If a complete renewal application is received 45 days or more prior to the expiration of the temporary permit, the temporary permit shall continue to be effective until such time as the Department has taken final action. Otherwise, the temporary permit shall expire at the end of its term.

F. The failure to meet any of the requirements of § 18.2-340.24 shall cause the automatic denial of the temporary permit, and no organization shall conduct any charitable gaming in accordance with the provisions of subsection A until such requirements are met and a temporary permit is obtained.

§ 18.2-340.26:1. Sale of instant bingo, pull tabs, or seal cards.

A. ~~Instant~~ *Except as provided in subsection D, instant* bingo, pull tabs, or seal cards may be sold only (i) by a qualified organization, as defined in § 18.2-340.16, (ii) upon premises that are owned or exclusively and entirely leased by the qualified organization or leased by the qualified organization pursuant to subsection C, and (iii) at such times that the premises in which the instant bingo, pull tabs, or seal cards are sold is open only to members and their guests via controlled access. Except as provided in ~~subsection~~ *subsections* C *and D*, no organization may sell instant bingo, pull tabs, or seal cards (a) at a location outside of the county, city, or town in which the organization's principal office, as registered with the

State Corporation Commission, is located or in an adjoining county, city, or town or (b) at an establishment that has been granted a license pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1 unless such license is held by the organization. Nothing in this article shall be construed to prohibit the conduct of games of chance involving the sale of pull tabs, or seal cards, commonly known as last sale games, conducted in accordance with this section or, if such games are electronic games, in accordance with § 18.2-340.26:3.

B. It is prohibited to use an electronic device to conduct instant bingo, pull tabs, or seal cards except as permitted under § 18.2-340.26:3.

C. Notwithstanding the provisions of subsection A, a qualified organization may lease the premises of any social organization authorized pursuant to § 18.2-340.26:3 for the purpose of selling instant bingo, pull tabs, or seal cards.

D. Notwithstanding the provisions of subsection A, instant bingo, pull tabs, or seal cards may be sold by a qualified organization that has received a temporary permit from the Department pursuant to § 18.2-340.25:2 upon premises located anywhere in the Commonwealth during a convention, conference, or related event lasting no more than seven consecutive days held by such organization's affiliated state, regional, or national organization up to once per quarter as designated in the temporary permit.

§ 18.2-340.28. Conduct of instant bingo, network bingo, pull tabs, and seal cards.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may also play instant bingo, network bingo, pull tabs, or seal cards; however, such games shall be played only at such times designated in the permit for regular bingo games and only at locations at which the organization is authorized to conduct regular bingo games pursuant to subsections E and F of § 18.2-340.27*, except that a qualified organization that is issued a temporary permit pursuant to § 18.2-340.25:2 shall be authorized to play instant bingo, pull tabs, or seal cards in accordance with subsection D of § 18.2-340.26:1*. It is prohibited to use an electronic device to conduct instant bingo, pull tabs, or seal cards except as permitted under § 18.2-340.26:3.

B. Any organization conducting instant bingo, network bingo, pull tabs, or seal cards shall maintain a record of the date, quantity, and card value of instant bingo supplies purchased as well as the name and address of the supplier of such supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection. Such supplies shall be paid for only by check drawn on the gaming account of the organization. A complete inventory of all such gaming supplies shall be maintained by the organization on the premises where the gaming is being conducted.

C. No qualified organization shall sell any instant bingo, network bingo, pull tabs, or seal cards to any individual younger than 18 years of age. No individual younger than 18 years of age shall play or redeem any instant bingo, network bingo, pull tabs, or seal cards.

D. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or other electronic fund transfer other than debit cards in payment of any charges or assessments for players to participate in instant bingo, network bingo, pull tabs, or seal cards.

CHAPTER 756

An Act to amend and reenact §§ 2.2-3106, 2.2-3705.4, 2.2-3711, 2.2-4343, 2.2-4345, 22.1-209.2, 23.1-608, 23.1-608.1, 23.1-809, 23.1-1100, 23.1-1200, 23.1-2001, 23.1-2002, 32.1-69.3, 32.1-279, 38.2-5008, and 54.1-2961 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 20 of Title 23.1 sections numbered 23.1-2005, 23.1-2006, and 23.1-2007; and to repeal Chapter 30 (§§ 23.1-3000 through 23.1-3014) of Title 23.1 of the Code of Virginia, relating to Eastern Virginia Medical School; establishment of Eastern Virginia Health Sciences Center at Old Dominion University.

[S 1211]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3106, 2.2-3705.4, 2.2-3711, 2.2-4343, 2.2-4345, 22.1-209.2, 23.1-608, 23.1-608.1, 23.1-809, 23.1-1100, 23.1-1200, 23.1-2001, 23.1-2002, 32.1-69.3, 32.1-279, 38.2-5008, and 54.1-2961 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 20 of Title 23.1 sections numbered 23.1-2005, 23.1-2006, and 23.1-2007 as follows:

§ 2.2-3106. Prohibited contracts by officers and employees of state government.

A. No officer or employee of any governmental agency of state government ~~or~~ ~~Eastern~~ ~~Virginia~~ ~~Medical~~ ~~School~~ shall have a personal interest in a contract with the governmental agency of which he is an officer or employee, other than his own contract of employment.

B. No officer or employee of any governmental agency of state government ~~or~~ ~~Eastern~~ ~~Virginia~~ ~~Medical~~ ~~School~~ shall have a personal interest in a contract with any other governmental agency of state government unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee's personal interest in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided *that* the employee does not exercise any control over the employment or the employment activities of the member of his immediate family and the employee is not in a position to influence those activities;

2. The personal interest of an officer or employee of a public institution of higher education ~~or the Eastern Virginia Medical School~~ in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided *that* (i) the officer or employee and the immediate family member are engaged in teaching, research, or administrative support positions at the educational institution ~~or the Eastern Virginia Medical School,~~*;* (ii) the governing board of the educational institution finds that it is in the best interests of the institution ~~or the Eastern Virginia Medical School~~ and the Commonwealth for such dual employment to exist~~,~~*;* and (iii) after such finding, the governing board of the educational institution ~~or the Eastern Virginia Medical School~~ ensures that the officer or employee, or the immediate family member, does not have sole authority to supervise, evaluate, or make personnel decisions regarding the other;

3. An officer's or employee's personal interest in a contract of employment with any other governmental agency of state government;

4. Contracts for the sale by a governmental agency ~~or the Eastern Virginia Medical School~~ of services or goods at uniform prices available to the general public;

5. An employee's personal interest in a contract between a public institution of higher education in the Commonwealth ~~or the Eastern Virginia Medical School~~ and a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he has authored or otherwise created such textbooks or materials;

6. An employee's personal interest in a contract with his or her employing public institution of higher education to acquire the collections or scholarly works owned by the employee, including manuscripts, musical scores, poetry, paintings, books or other materials, writings, or papers of an academic, research, or cultural value to the institution, provided *that* the president of the institution approves the acquisition of such collections or scholarly works as being in the best interests of the institution's public mission of service, research, or education;

7. Subject to approval by the board of visitors, an employee's personal interest in a contract between ~~the Eastern Virginia Medical School or~~ a public institution of higher education in the Commonwealth that operates a school of medicine or dentistry and a not-for-profit nonstock corporation that operates a clinical practice within such public institution of higher education ~~or the Eastern Virginia Medical School~~ and of which such employee is a member or employee;

8. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract for research and development or commercialization of intellectual property between a public institution of higher education in the Commonwealth ~~or the Eastern Virginia Medical School~~ and a business in which the employee has a personal interest, if (i) the employee's personal interest has been disclosed to and approved by such public institution of higher education ~~or the Eastern Virginia Medical School~~ prior to the time at which the contract is entered into; (ii) the employee promptly files a disclosure statement pursuant to § 2.2-3117 and thereafter files such statement annually on or before January 15; (iii) the institution has established a formal policy regarding such contracts, approved by the State Council of Higher Education ~~or, in the case of the Eastern Virginia Medical School, a formal policy regarding such contracts in conformity with any applicable federal regulations that has been approved by its board of visitors~~ *for Virginia*; and (iv) no later than December 31 of each year, the institution ~~or the Eastern Virginia Medical School~~ files an annual report with the Secretary of the Commonwealth disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's ~~or the Eastern Virginia Medical School's~~ employee responsible for administering each contract, the details of the institution's ~~or the Eastern Virginia Medical School's~~ commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth; or

9. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract between a public institution of higher education in the Commonwealth ~~or the Eastern Virginia Medical School~~ and a business in which the employee has a personal interest, if (i) the personal interest has been disclosed to the institution ~~or the Eastern Virginia Medical School~~ prior to the time the contract is entered into; (ii) the employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually on or before January 15; (iii) the employee does not participate in the institution's ~~or the Eastern Virginia Medical School's~~ decision to contract; (iv) the president of the institution ~~or the Eastern Virginia Medical School~~ finds and certifies in writing that the contract is for goods and services needed for quality patient care, including related medical education or research, by the institution's medical center ~~or the Eastern Virginia Medical School~~, its affiliated teaching hospitals and other organizations necessary for the fulfillment of its mission, including the acquisition of drugs, therapies and medical technologies; and (v) no later than December 31 of each year, the institution ~~or the Eastern Virginia Medical School~~ files an annual report with the Secretary of the Commonwealth disclosing each open contract entered subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's ~~or the Eastern Virginia Medical School's~~ employee responsible for administering each contract, the details of the institution's ~~or the Eastern Virginia Medical School's~~ commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth.

D. Notwithstanding the provisions of subdivisions C 8 and C 9, if the research and development or commercialization of intellectual property or the employee's personal interest in a contract with a business is subject to policies and regulations governing conflicts of interest promulgated by any agency of the United States government, including the adoption of policies requiring the disclosure and management of such conflicts of interests, the policies established by the Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University* pursuant to such federal requirements shall constitute compliance with subdivisions C 8 and C 9, upon notification by the Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University* to the Secretary of the Commonwealth by January 31 of each year of evidence of their compliance with such federal policies and regulations.

E. The board of visitors may delegate the authority granted under subdivision C 8 to the president of the institution. If the board elects to delegate such authority, the board shall include this delegation of authority in the formal policy required by clause (iii) of subdivision C 8. In those instances where the board has delegated such authority, on or before December 1 of each year, the president of the relevant institution shall file a report with the relevant board of visitors disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's ~~or the Eastern Virginia Medical School's~~ employee responsible for administering each contract, the details of the institution's ~~or the Eastern Virginia Medical School's~~ commitment or investment of resources or finances for each contract, the details of how revenues are to be ~~dispersed~~ *disbursed*, and any other information requested by the board of visitors.

§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions.

A. The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except as provided in subsection B or where such disclosure is otherwise prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of 18 years. For scholastic records of students under the age of 18 years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a public institution of higher education in the Commonwealth, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such records shall be disclosed.

2. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment or promotion, or (iii) receipt of an honor or honorary recognition.

3. Information held by the Brown v. Board of Education Scholarship Committee that would reveal personally identifiable information, including scholarship applications, personal financial information, and confidential correspondence and letters of recommendation.

4. Information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such information has not been publicly released, published, copyrighted or patented.

5. Information held by the University of Virginia ~~or~~, the University of Virginia Medical Center ~~or~~, *Old Dominion University, or the* Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be, that contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or *the* Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or *the* Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the University of Virginia Medical Center or Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be.

6. Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College Savings Plan or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, including personal information related to (i) qualified beneficiaries as that term is defined in § 23.1-700, (ii) designated survivors, or (iii) authorized individuals. Nothing in this subdivision shall be construed to prevent disclosure or publication of

information in a statistical or other form that does not identify individuals or provide personal information. Individuals shall be provided access to their own personal information.

For purposes of this subdivision:

"Authorized individual" means an individual who may be named by the account owner to receive information regarding the account but who does not have any control or authority over the account.

"Designated survivor" means the person who will assume account ownership in the event of the account owner's death.

7. Information maintained in connection with fundraising activities by or for a public institution of higher education that would reveal (i) personal fundraising strategies relating to identifiable donors or prospective donors or (ii) wealth assessments; estate, financial, or tax planning information; health-related information; employment, familial, or marital status information; electronic mail addresses, facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or prospective donors. The exclusion provided by this subdivision shall not apply to protect from disclosure (a) information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor or (b) the identities of sponsors providing grants to or contracting with the institution for the performance of research services or other work or the terms and conditions of such grants or contracts. For purposes of clause (a), the identity of the donor may be withheld if (1) the donor has requested anonymity in connection with or as a condition of making a pledge or donation and (2) the pledge or donation does not impose terms or conditions directing academic decision-making.

8. Information held by a threat assessment team established by a local school board pursuant to § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the assessment or intervention with a specific individual. However, in the event an individual who has been under assessment commits an act, or is prosecuted for the commission of an act that has caused the death of, or caused serious bodily injury, including any felony sexual assault, to another person, such information of the threat assessment team concerning the individual under assessment shall be made available as provided by this chapter, with the exception of any criminal history records obtained pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined in § 22.1-289. The public body providing such information shall remove personally identifying information of any person who provided information to the threat assessment team under a promise of confidentiality.

9. Records provided to the Governor or the designated reviewers by a qualified institution, as those terms are defined in § 23.1-1239, related to a proposed memorandum of understanding, or proposed amendments to a memorandum of understanding, submitted pursuant to Chapter 12.1 (§ 23.1-1239 et seq.) of Title 23.1. A memorandum of understanding entered into pursuant to such chapter shall be subject to public disclosure after it is agreed to and signed by the Governor.

B. The custodian of a scholastic record shall not release the address, phone number, or email address of a student in response to a request made under this chapter without written consent. For any student who is (i) 18 years of age or older, (ii) under the age of 18 and emancipated, or (iii) attending an institution of higher education, written consent of the student shall be required. For any other student, written consent of the parent or legal guardian of such student shall be required.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided *that* the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of

the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided *that* the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local

finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or ~~the Eastern Virginia Medical School Board of Visitors~~ *Old Dominion University*, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or *the* Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or *the* Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or *the* Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the *University of Virginia* Medical Center or *the* Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 2.2-4343. Exemption from operation of chapter for certain transactions.

A. The provisions of this chapter shall not apply to:

1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10 (§ 62.1-128 et seq.) of Title 62.1, provided *that* the Authority implements, by policy or regulation adopted by the Board of Commissioners, procedures to ensure fairness and competitiveness in the procurement of goods and services and in the administration of its capital outlay program. This exemption shall be applicable only so long as such policies and procedures meeting the requirements remain in effect.

2. The Virginia Retirement System for selection of services related to the management, purchase or sale of authorized investments, actuarial services, and disability determination services. Selection of these services shall be governed by the standard set forth in § 51.1-124.30.

3. The State Treasurer in the selection of investment management services related to the external management of funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by the Department of General Services.

4. The Department of Social Services or local departments of social services for the acquisition of motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

5. The College of William and Mary in Virginia, Virginia Commonwealth University, the University of Virginia, and Virginia Polytechnic Institute and State University in the selection of services related to the management and investment of their endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, or local funds of or held by the respective public institution of higher education pursuant to § 23.1-2210, 23.1-2306, 23.1-2604, or 23.1-2803. However, selection of these services shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.) as required by §§ 23.1-2210, 23.1-2306, 23.1-2604, and 23.1-2803.

6. The Board of the Virginia College Savings Plan for the selection of services related to the operation and administration of the Plan, including, but not limited to, contracts or agreements for the management, purchase, or sale of authorized investments or actuarial, record keeping, or consulting services. However, such selection shall be governed by the standard set forth in § 23.1-706.

7. Public institutions of higher education for the purchase of items for resale at retail bookstores and similar retail outlets operated by such institutions. However, such purchase procedures shall provide for competition where practicable.

8. The purchase of goods and services by agencies of the legislative branch that may be specifically exempted therefrom by the Chairman of the Committee on Rules of either the House of Delegates or the Senate. Nor shall the contract review provisions of § 2.2-2012 apply to such procurements. The exemption shall be in writing and kept on file with the agency's disbursement records.

9. Any town with a population of less than 3,500, except as stipulated in the provisions of §§ 2.2-4305, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377 and Chapter 43.1 (§ 2.2-4378 et seq.).

10. Any county, city or town whose governing body has adopted, by ordinance or resolution, alternative policies and procedures which are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by such governing body and its agencies, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town. Such policies and standards may provide for incentive contracting that offers a contractor whose bid is accepted the opportunity to share in any cost savings realized by the locality when project costs are reduced by such contractor, without affecting project quality, during construction of the project. The fee, if any, charged by the project engineer or architect for determining such cost savings shall be paid as a separate cost and shall not be calculated as part of any cost savings.

11. Any school division whose school board has adopted, by policy or regulation, alternative policies and procedures that are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by the school board, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies or procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This provision shall not exempt any school division from any centralized purchasing ordinance duly adopted by a local governing body.

12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of subsections B, C, and D of § 2.2-4303, §§ 2.2-4305, 2.2-4311, 2.2-4315, 2.2-4317, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4342, 2.2-4343.1, and 2.2-4367 through 2.2-4377, Chapter 43.1 (§ 2.2-4378 et seq.), and § 58.1-1902 shall apply to all counties, cities, and school divisions and to all towns having a population greater than 3,500 in the Commonwealth.

The method for procurement of professional services through competitive negotiation set forth in §§ 2.2-4302.2, 2.2-4303.1, and 2.2-4303.2 shall also apply to all counties, cities, and school divisions, and to all towns having a population greater than 3,500, where the cost of the professional service is expected to exceed $80,000 in the aggregate or for the sum of all phases of a contract or project. A school board that makes purchases through its public school foundation or purchases educational technology through its educational technology foundation, either as may be established pursuant to § 22.1-212.2:2 shall be exempt from the provisions of this chapter, except, relative to such purchases, the school board shall comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

13. A public body that is also a utility operator may purchase services through or participate in contracts awarded by one or more utility operators that are not public bodies for utility marking services as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of services under this subdivision may deviate from the procurement procedures set forth in this chapter upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is awarded based on competitive principles.

14. Procurement of any construction or planning and design services for construction by a Virginia nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design or construction is funded by state appropriations of $10,000 or less or (ii) the Virginia nonprofit corporation or organization is obligated to conform to procurement procedures that are established by federal statutes or regulations, whether those federal procedures are in conformance with the provisions of this chapter.

15. Purchases, exchanges, gifts or sales by the Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion.

16. ~~The Eastern Virginia Medical School in the selection of services related to the management and investment of its endowment and other institutional funds. The selection of these services shall, however, be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).~~

~~17.~~ The Department of Corrections in the selection of pre-release and post-incarceration services and the Department of Juvenile Justice in the selection of pre-release and post-commitment services.

~~18.~~ *17.* The University of Virginia Medical Center to the extent provided by subdivision A 3 of § 23.1-2213.

~~19.~~ *18.* The purchase of goods and services by a local governing body or any authority, board, department, instrumentality, institution, agency or other unit of state government when such purchases are made under a remedial plan established by the Governor pursuant to subsection C of § 2.2-4310 or by a chief administrative officer of a county, city or town pursuant to § 15.2-965.1.

~~20.~~ *19.* The contract by community services boards or behavioral health authorities with an administrator or management body pursuant to a joint agreement authorized by § 37.2-512 or 37.2-615.

~~21. [Expired].~~

~~22.~~ *20.* The purchase of Virginia-grown food products for use by a public body where the annual cost of the product is not expected to exceed $100,000, provided that the procurement is accomplished by (i) obtaining written informal solicitation of a minimum of three bidders or offerors if practicable and (ii) including a written statement regarding the basis for awarding the contract.

~~23.~~ *21.* The Virginia Industries for the Blind when procuring components, materials, supplies, or services for use in commodities and services furnished to the federal government in connection with its operation as an AbilityOne

Program-qualified nonprofit agency for the blind under the Javits-Wagner-O'Day Act, 41 U.S.C. §§ 8501-8506, provided that the procurement is accomplished using procedures that ensure that funds are used as efficiently as practicable. Such procedures shall require documentation of the basis for awarding contracts. Notwithstanding the provisions of § 2.2-1117, no public body shall be required to purchase such components, materials, supplies, services, or commodities.

~~24.~~ *22.* The purchase of personal protective equipment for private, nongovernmental entities by the Governor pursuant to subdivision (11) of § 44-146.17 during a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared. However, such purchase shall provide for competition where practicable and include a written statement regarding the basis for awarding any contract.

B. Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of this chapter, a public body may comply with such federal requirements, notwithstanding the provisions of this chapter, only upon the written determination of the Governor, in the case of state agencies, or the governing body, in the case of political subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of this chapter in conflict with the conditions of the grant or contract.

§ 2.2-4345. Exemptions from competitive sealed bidding and competitive negotiation for certain transactions; limitations.

A. The following public bodies may enter into contracts without competitive sealed bidding or competitive negotiation:

1. The Director of the Department of Medical Assistance Services for special services provided for eligible recipients pursuant to subsection H of § 32.1-325, provided that the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public, or would constitute an imminent threat to the health or welfare of such recipients. The writing shall document the basis for this determination.

2. The State Health Commissioner for the compilation, storage, analysis, evaluation, and publication of certain data submitted by health care providers and for the development of a methodology to measure the efficiency and productivity of health care providers pursuant to Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1, if the Commissioner has made a determination in advance, after reasonable notice to the public and set forth in writing, that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public. The writing shall document the basis for this determination. Such agreements and contracts shall be based on competitive principles.

3. The Virginia Code Commission when procuring the services of a publisher, pursuant to §§ 30-146 and 30-148, to publish the Code of Virginia or the Virginia Administrative Code.

4. The Virginia Alcoholic Beverage Control Authority for the purchase of alcoholic beverages.

5. The Department for Aging and Rehabilitative Services, for the administration of elder rights programs, with (i) nonprofit Virginia corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code with statewide experience in Virginia in conducting a state long-term care ombudsman program or (ii) designated area agencies on aging.

6. The Department of Health for (a) child restraint devices, pursuant to § 46.2-1097; (b) health care services with Virginia corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services in a community (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge; or (c) contracts with laboratories providing cytology and related services if competitive sealed bidding and competitive negotiations are not fiscally advantageous to the public to provide quality control as prescribed in writing by the Commissioner of Health.

7. Virginia Correctional Enterprises, when procuring materials, supplies, or services for use in and support of its production facilities, provided *that* the procurement is accomplished using procedures that ensure as efficient use of funds as practicable and, at a minimum, includes obtaining telephone quotations. Such procedures shall require documentation of the basis for awarding contracts under this section.

8. The Virginia Baseball Stadium Authority for the operation of any facilities developed under the provisions of Chapter 58 (§ 15.2-5800 et seq.) of Title 15.2, including contracts or agreements with respect to the sale of food, beverages and souvenirs at such facilities.

9. With the consent of the Governor, the Jamestown-Yorktown Foundation for the promotion of tourism through marketing with private entities provided a demonstrable cost savings, as reviewed by the Secretary of Education, can be realized by the Foundation and such agreements or contracts are based on competitive principles.

10. The Chesapeake Hospital Authority in the exercise of any power conferred under Chapter 271, as amended, of the Acts of Assembly of 1966, provided that it does not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

11. Richmond Eye and Ear Hospital Authority, any authorities created under Chapter 53 (§ 15.2-5300 et seq.) of Title 15.2 and any hospital or health center commission created under Chapter 52 (§ 15.2-5200 et seq.) of Title 15.2 in the exercise of any power conferred under their respective authorizing legislation, provided that these entities shall not

discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

12. The Patrick Hospital Authority sealed in the exercise of any power conferred under the Acts of Assembly of 2000, provided that it does not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

13. Public bodies for insurance or electric utility services if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided *that* such association has procured the insurance or electric utility services by use of competitive principles and ~~provided~~ that the public body has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

14. Public bodies administering public assistance and social services programs as defined in § 63.2-100, community services boards as defined in § 37.2-100, or any public body purchasing services under the Children's Services Act (§ 2.2-5200 et seq.) or the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.) for goods or personal services for direct use by the recipients of such programs if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted from the requirements of § 2.2-4303.

~~15. The Eastern Virginia Medical School in the exercise of any power conferred pursuant to Chapter 471, as amended, of the Acts of Assembly of 1964.~~

B. No contract for the construction of any building or for an addition to or improvement of an existing building by any local government or subdivision of local government for which state funds of not more than $50,000 in the aggregate or for the sum of all phases of a contract or project either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation as provided under subsection D of § 2.2-4303 or Chapter 43.1 (§ 2.2-4378 et seq.). The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this chapter.

§ 22.1-209.2. Programs and teachers in regional detention homes, certain local detention homes and state agencies and institutions.

The Board shall prepare and supervise the implementation in regional detention homes and local detention homes a program designed to educate and train the children detained in the homes. In addition, the Board shall supervise those programs of evaluation, education, and training provided to school-age children by the Department of Health, the Department of Behavioral Health and Developmental Services, the children's teaching hospital associated with the Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, the Virginia Commonwealth University Health System Authority, the children's teaching hospital associated with the Virginia Commonwealth University Health System Authority, and the University of Virginia Hospitals pursuant to the Board's standards and regulations as required by § 22.1-7.

The Board shall promulgate such rules and regulations as may be necessary to conform these programs with the applicable federal and state laws and regulations including teacher/student ratios and special education requirements for children with disabilities. The education programs in the relevant detention homes and state agencies and institutions shall be approved by the Board, and the Board shall prepare a budget for these educational programs that shall be solely supported by such general funds as are appropriated by the General Assembly for this purpose. Teacher staffing ratios for regional or local detention homes shall be based on a ratio of one teacher for every 12 beds based on the capacity of the facility; however, if the previous year's average daily attendance exceeds this bed capacity, the ratio shall be based on the average daily attendance at the facility as calculated by the Department from the previous school year.

The Board shall enter into contracts with the relevant state agency or institution or detention facility or the local school divisions in which the state agencies or institutions or the regional detention homes and the relevant local detention homes are located for the hiring and supervision of teachers.

In any case in which the Board enters into a contract with the relevant state agency or institution, the Department of Human Resource Management shall establish salary schedules for the teachers that are competitive with those in effect for the school divisions in which the agency or institution is located.

§ 23.1-608. Virginia Military Survivors and Dependents Education Program; tuition and fee waivers.

A. As used in this section, unless the context requires a different meaning:

"Domicile" has the same meaning as provided in § 23.1-500.

"Program" means the Virginia Military Survivors and Dependents Education Program.

"Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 (i) of a military service member who, while serving as an active duty member in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, during military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or in any armed conflict, was killed, became missing in action, or became a prisoner of war or (ii) of a veteran who served in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard and, due to such service, has been rated by the U.S. Department of Veterans Affairs as totally and permanently disabled or at least 90 percent permanently disabled and has been discharged or released under conditions other than dishonorable. However, the Commissioner of Veterans Services may certify dependents above

the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30. For purposes of this section, a child who is a stepchild of a deceased military service member described in this section shall receive all benefits described in this section as a child of such military service member if the military service member claimed the stepchild on his tax return or on his Defense Enrollment Eligibility Reporting System while serving on active duty.

B. The Virginia Military Survivors and Dependents Education Program is established for the purpose of waiving tuition and mandatory fees at a public institution of higher education ~~or Eastern Virginia Medical School~~ for qualified survivors and dependents who have been admitted to such institution and meet the requirements of subsection C, as certified by the Commissioner of Veterans Services.

C. Admitted qualified survivors and dependents are eligible for a waiver of tuition and mandatory fees pursuant to this section if the military service member who was killed, became missing in action, became a prisoner of war, or is disabled (i) established domicile (a) at the time of entering such active military service or called to active duty as a member of the Reserves of the Armed Forces of the United States or Virginia National Guard; (b) at least five years immediately prior to, or had a physical presence in the Commonwealth for at least five years immediately prior to, the date on which the admission application was submitted by or on behalf of such qualified survivor or dependent for admission to such institution of higher education ~~or Eastern Virginia Medical School~~; or (c) on the date of his death and for at least five years immediately prior to his death or had a physical presence in the Commonwealth on the date of his death and had a physical presence in the Commonwealth for at least five years immediately prior to his death; (ii) in the case of a qualified child, is deceased and the surviving parent, at some time previous to marrying the deceased parent, established domicile for at least five years, or established domicile or had a physical presence in the Commonwealth for at least five years immediately prior to the date on which the admission application was submitted by or on behalf of such child; or (iii) in the case of a qualified spouse, is deceased and the surviving spouse, at some time previous to marrying the deceased spouse, established domicile for at least five years or had a physical presence in the Commonwealth for at least five years prior to the date on which the admission application was submitted by such qualified spouse. In any case under this subsection, the Commissioner of the Department of Veterans Services shall have the authority to consider the domicile or physical presence requirements under clause (i) (c) through the surviving spouse or under clause (iii) through the surviving student if the military service member or surviving spouse dies after having established physical presence within the Commonwealth but before such requirements can be met.

D. The Department of Veterans Services shall disseminate information about the Program to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of Veterans Services shall include in the annual report submitted to the Governor and the General Assembly pursuant to § 2.2-2004 an overview of the agency's policies and strategies relating to dissemination of information about the Program and Fund.

E. Each public institution of higher education ~~and Eastern Virginia Medical School~~ shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

§ 23.1-608.1. Virginia Military Survivors and Dependents Education Fund; stipends.

A. As used in this section:

"Fund" means the Virginia Military Survivors and Dependents Education Fund.

"Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 (i) of a military service member who, while serving as an active duty member in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, during military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or in any armed conflict, was killed, became missing in action, or became a prisoner of war or (ii) of a veteran who, as a direct result of such service, has been rated by the U.S. Department of Veterans Affairs as totally and permanently disabled or at least 90 percent permanently disabled and has been discharged or released under conditions other than dishonorable. However, the Commissioner of Veterans Services may certify dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30.

B. From such funds as may be appropriated and from such gifts, bequests, and any gifts, grants, or donations from public or private sources, the Virginia Military Survivors and Dependents Education Fund is established for the sole purpose of providing financial assistance, in an amount (i) up to $2,000 or (ii) as provided in the general appropriation act, for room and board charges, books and supplies, and other expenses at any public institution of higher education ~~or Eastern Virginia Medical School~~ for the use and benefit of qualified survivors and dependents, provided that the maximum amount to be expended for each such survivor or dependent pursuant to this subsection shall not exceed, when combined with any other form of scholarship, grant, or waiver, the actual costs relating to the survivor's or dependent's educational expenses allowed under this subsection.

C. Each year, from the funds available in the Fund, the Council and each public institution of higher education ~~and Eastern Virginia Medical School~~ shall determine the amount and the manner in which financial assistance shall be made available to beneficiaries and shall make that information available to the Commissioner of Veterans Services for distribution.

D. The Council shall disburse to each public institution of higher education ~~and Eastern Virginia Medical School~~ the funds appropriated or otherwise made available by the Commonwealth to support the Fund and shall report to the Commissioner of Veterans Services the beneficiaries' completion rate.

E. The Department of Veterans Services shall disseminate information about the Fund to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of Veterans Services shall include in the annual report submitted to the Governor and the General Assembly pursuant to § 2.2-2004 an overview of the agency's policies and strategies relating to dissemination of information about the Fund.

F. Each public institution of higher education ~~and Eastern Virginia Medical School~~ shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

§ 23.1-809. Public institutions of higher education; establishment of campus police departments authorized; employment of officers.

A. The governing board of each public institution of higher education may establish a campus police department and employ campus police officers and auxiliary police forces upon appointment as provided in §§ 23.1-811 and 23.1-812. Such employment is governed by the Virginia Personnel Act (§ 2.2-2900 et seq.), except that the governing board of a public institution of higher education may direct that the employment of the chief of the campus police department is not governed by the Virginia Personnel Act.

B. The Virginia Commonwealth University Health System Authority ~~and Eastern Virginia Medical School~~ may employ police officers and auxiliary police forces as provided in this article and~~, in the case of the Authority,~~ in § 23.1-2406, except that the employment of such officers and forces is not governed by the Virginia Personnel Act (§ 2.2-2900 et seq.).

§ 23.1-1100. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the members of the board of visitors, board of trustees, or other governing board of an institution.

"Bond" means any bond, note, or other evidence of indebtedness or obligation of an institution issued by an institution pursuant to this chapter.

"Erect" includes building, constructing, reconstructing, erecting, demolishing, extending, bettering, equipping, installing, modifying, and improving.

"Institution" means each public institution of higher education, as that term is defined in § 23.1-100~~;~~ ~~Eastern Virginia Medical School;~~, the Institute for Advanced Learning and Research~~;~~, the New College Institute~~;~~, the Roanoke Higher Education Authority~~;~~, the Southern Virginia Higher Education Center~~;~~, the Southwest Virginia Higher Education Center~~;~~, the Virginia School for the Deaf and the Blind~~;~~, and the Wilson Workforce and Rehabilitation Center.

"Project" means (i) any (a) building, facility, addition, extension, or improvement of a capital nature that is necessary or convenient to carry out the purposes of an institution, including administration and teaching facilities, lecture and exhibition halls, libraries, dormitories, student apartments, faculty dwellings, dining halls, cafeterias, snack bars, laundries, hospitals, laboratories, research centers, infirmaries, field houses, gymnasiums, auditoriums, student unions, recreation centers, stadiums, athletics facilities, garages, parking facilities, warehouses and storage buildings, and book and student supplies centers, or (b) building, land, appurtenance, furnishing, or equipment necessary or desirable in connection with or incidental to a project or (ii) any personal property at an institution.

§ 23.1-1200. Definitions; findings.

A. As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia College Building Authority.

"Bond" means any bond, note, or other evidences of indebtedness or obligation of the Authority pursuant to this article.

"Eligible institution" means public institutions of higher education, as that term is defined in § 23.1-100~~;~~ ~~Eastern Virginia Medical School;~~, the Institute for Advanced Learning and Research~~;~~, the New College Institute~~;~~, the Roanoke Higher Education Authority~~;~~, the Southern Virginia Higher Education Center~~;~~, the Southwest Virginia Higher Education Center~~;~~, the Virginia School for the Deaf and the Blind~~;~~, and the Wilson Workforce and Rehabilitation Center.

"Equipment" means any personal property, including computer hardware and software, and any other improvements, including infrastructure improvements relating to equipment, used to support academic instruction and research at eligible institutions.

"Project" has the same meaning as set forth in § 23.1-1100.

B. Providing funds for the construction of projects at eligible institutions is or may be hindered, impeded, and delayed by the high financing costs resulting from the sale of bonds of such eligible institutions in the open market, and it is desirable that the Authority may (i) serve the purposes of eligible institutions by purchasing such bonds and financing the construction of projects at a lower cost, which facilitates such construction and (ii) issue its own revenue bonds for the purpose of paying the costs of such projects.

C. There is an urgent need to provide substantial amounts of new scientific, technical, and other equipment for academic instruction, research, and related activities at eligible institutions so that they may remain competitive in attracting high-quality faculty and obtaining research grants, and it is desirable that the Authority may finance the purchase of such equipment to provide eligible institutions with such equipment at the lowest possible cost, which facilitates the acquisition and supply of such equipment to eligible institutions and increases the purchasing power of their funds, including funds provided by tuition and fees and appropriations from the General Assembly.

§ 23.1-2001. Membership.

A. The board shall consist of 17 members appointed by the Governor, of whom at least *(i)* 14 shall be residents of the Commonwealth*, (ii) four shall be physicians or other medical or health professionals with administrative or clinical experience in an academic medical center,* and ~~at least~~ *(iii)* three shall be alumni of the University.

B. The alumni association of the University may submit to the Governor a list of at least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. *The Eastern Virginia Medical School Foundation or any successor foundation may submit to the Governor a list of at least three nominees for each vacancy on the board that is required to be filled by a physician or other medical or health professional with administrative or clinical experience in an academic medical center pursuant to clause (ii) of subsection A.* The Governor may appoint a member from the *relevant* list of nominees.

§ 23.1-2002. Meetings; officers; committees.

A. The board shall meet at the University once a year and at such other times as it determines. Special meetings of the board may be called by the rector or any three members. The secretary shall provide notice of any special meeting to each member.

B. A majority of members shall constitute a quorum.

C. In every even-numbered year, the board shall elect from its membership a rector to preside at its meetings, a vice-rector to preside at its meetings in the absence of the rector, and a secretary to preside at its meetings in the absence of the rector and vice-rector. Such officers shall assume their duties on July 1 of such year.

D. The board may appoint a pro tempore officer to preside at its meetings in the absence of the rector, vice-rector, and secretary.

E. Vacancies in the offices of rector, vice-rector, and secretary may be filled by the board for the unexpired term.

F. At every regular annual meeting of the board, an executive committee for the transaction of business in the recess of the board may be appointed, consisting of at least five members. The executive committee shall consist of the officers of the board and such other members as the rector may appoint.

G. The board shall have a standing committee to serve as the board of directors of the Eastern Virginia Health Sciences Center at the University, which shall oversee the Eastern Virginia Health Sciences Center at the University and exercise such decision-making authority over the Eastern Virginia Health Sciences Center at the University as the standing committee deems necessary or appropriate under the authority of and in accordance with the bylaws of the board. The standing committee shall oversee financial management of the Eastern Virginia Health Sciences Center at the University and approve and recommend to the board the budget for the Eastern Virginia Health Sciences Center at the University. The standing committee shall consist of no more than 17 members who are appointed as follows: one nonlegislative citizen member appointed by the Governor; one nonlegislative citizen member appointed by the Senate Committee on Rules; one nonlegislative citizen member appointed by the Speaker of the House of Delegates; one nonlegislative citizen member appointed by the primary teaching hospital affiliated with the University; four members of the board appointed by the rector of the board; and no more than nine members appointed by the Eastern Virginia Medical School Foundation or any successor foundation.

§ 23.1-2005. Property and liabilities of Eastern Virginia Medical School.

All real estate and personal property in the name of the corporate body designated "Eastern Virginia Medical School" transferred to, known and taken as standing in the name of, and under the control of the University is the property of the Commonwealth. The University is vested with all rights, duties, contracts, and agreements and is responsible and liable for all the liabilities and obligations of Eastern Virginia Medical School.

§ 23.1-2006. Eastern Virginia Health Sciences Center at the University.

The schools and divisions previously existing as Eastern Virginia Medical School and such other academic units of the University related to the health sciences as may be identified by the board are hereby designated as the Eastern Virginia Health Sciences Center at the University.

§ 23.1-2007. Operations of Health Sciences Center.

A. The University may provide medical and health sciences education and related research through teaching hospitals and related health care and health maintenance facilities, collectively referred to in this section as the Eastern Virginia Health Sciences Center at the University or the Health Sciences Center. The Eastern Virginia Health Sciences Center at the University may participate in cooperative arrangements reflective of changes in health care delivery.

B. The University shall ensure that all tuition, funds appropriated, and clinical-affiliated financial support for the continued operation of the schools and divisions previously existing as the Eastern Virginia Medical School shall remain with those schools and divisions for their continued operation. Such funds shall remain separate from funds for the other academic units identified by the board to be part of the Eastern Virginia Health Sciences Center at the University.

C. The University may create, own in whole or in part, or otherwise control corporations, partnerships, insurers, or other entities whose activities promote the operations of the Health Sciences Center and its mission, cooperate or enter into joint ventures with such entities, and enter into contracts in connection with such joint ventures.

§ 32.1-69.3. Virginia Cord Blood Bank Initiative established.

A. There is hereby established the Virginia Cord Blood Bank Initiative (~~hereinafter referred to as~~ the Initiative) as a public resource for the treatment of patients with life-threatening diseases or debilitating conditions, for use in advancing basic and clinical research, and, in the event of a terrorist attack, to be used in the treatment of the injured.

The Initiative shall be established as a nonprofit legal entity to collect, screen for infectious and genetic diseases, perform tissue typing on, cryopreserve, and store umbilical cord blood as a public resource and shall be formed as a collaborative consortium that covers all geographical regions of Virginia.

B. The State Health Commissioner shall develop or shall arrange for or contract with a nonprofit entity for the development of the collaborative consortium to be known as the Initiative, which may consist of any entity having the expertise or experience or willingness to develop the expertise or experience necessary to participate in the Initiative.

C. In developing the consortium, the Commissioner shall ensure that all geographical areas of the Commonwealth are included in the Initiative. To accomplish this goal, the Commissioner shall contact Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University* and its participating hospitals, Virginia Commonwealth University School of Medicine, Virginia Commonwealth University Health System, the University of Virginia School of Medicine, the University of Virginia Health System, and other entities located in Virginia, such as hospitals and hospital systems, biotechnology companies, regional blood banks, laboratories, or other health care providers or medical researchers, or local coalitions of health care providers that could provide coverage of the various geographical regions of Virginia, to request their participation in the Initiative consortium and assist in the design and implementation of the Initiative.

D. Any nonprofit entity having an arrangement or contract with the Commissioner for the development of the Initiative and any medical school, hospital, or other health care provider choosing to participate in the Initiative shall submit an estimate of the costs of implementing the Initiative for the region in which it is located. The Commissioner shall assist in the development of the cost estimates, compare and evaluate such estimates, and negotiate with the various entities to implement the Initiative.

Further, the Commissioner shall coordinate (i) appropriate contact with pregnant women to provide information about umbilical cord blood donations; (ii) the development of procedures for obtaining informed consent for cord blood donations; (iii) the design of the Initiative, including the period of years for storage of the cord blood to ensure the integrity of the cells; (iv) a system for recycling the blood at the end of the established storage period that provides for the sale or transfer of the cord blood samples being taken out of storage to be used in basic or clinical research development at reasonable rates and fees for cord blood products.

E. The entities joining the Initiative shall work collaboratively, each with the community resources in its local or regional area. The Initiative participants shall align their outreach programs and activities to all geographic areas and ethnic and racial groups of the Commonwealth, and shall conduct specific and culturally appropriate outreach and research to identify potential donors among all ethnic and racial groups.

F. The Commissioner shall disseminate information about the Initiative, focusing on hospitals, birthing facilities, physicians, midwives, and nurses, and providing information through local health departments.

Initiative consortium participants shall also be encouraged to disseminate information about the Initiative.

In addition, the Director of the Department of Medical Assistance Services shall include information about the Initiative in printed materials distributed by the Department to recipients of medical assistance services and persons enrolled in the Family Access to Medical Insurance Security Plan.

G. Any woman admitted to a hospital or birthing facility for obstetrical services may be offered the opportunity to donate umbilical cord blood to the Initiative. However, no woman shall be required to make a cord blood donation.

H. Any health care facility or health care provider receiving financial remuneration for the collection of umbilical cord blood shall, prior to harvesting the umbilical cord blood, disclose this information in writing to any woman postpartum or to the parent of a newborn from whom the umbilical cord blood is to be collected.

I. This section shall not be construed to require participation in the Initiative on the part of any health care facility or health care provider who objects to transfusion or transplantation of blood on the basis of bona fide religious beliefs.

J. The Initiative shall be implemented with such funds as may be appropriated or otherwise provided for its purpose. Upon implementation, the Commissioner shall initiate the development of a nonprofit entity to assume the operation and administration of the Initiative and may seek federal, state, and private grant funds for its continuation.

§ 32.1-279. Duties of Chief Medical Examiner; teaching legal medicine.

A. The Chief Medical Examiner shall carry out the provisions of this article under the direction of the Commissioner. The Chief Medical Examiner may, with the approval of the Commissioner, employ forensic pathologists to serve as Assistant Chief Medical Examiners in the central and district offices established pursuant to § 32.1-277.

B. The Chief Medical Examiner and Assistant Chief Medical Examiners shall be available to Virginia Commonwealth University, the University of Virginia, ~~the Eastern Virginia Medical School~~ *Old Dominion University*, and other institutions of higher education providing instruction in health science or law for teaching legal medicine and other subjects related to their duties.

§ 38.2-5008. Determination of claims; presumption; finding of Virginia Workers' Compensation Commission binding on participants; medical advisory panel.

A. The Commission shall determine, on the basis of the evidence presented to it, the following issues:

1. Whether the injury claimed is a birth-related neurological injury as defined in § 38.2-5001.

a. A rebuttable presumption shall arise that the injury alleged is a birth-related neurological injury where it has been demonstrated, to the satisfaction of the Virginia Workers' Compensation Commission, that the infant has sustained a brain or spinal cord injury caused by oxygen deprivation or mechanical injury, and that the infant was thereby rendered permanently

motorically disabled and (i) developmentally disabled or (ii) for infants sufficiently developed to be cognitively evaluated, cognitively disabled.

If either party disagrees with such presumption, that party shall have the burden of proving that the injuries alleged are not birth-related neurological injuries within the meaning of the chapter.

b. A rebuttable presumption of fetal distress, an element of a birth-related injury, shall arise if the hospital fails to provide the fetal heart monitor tape to the claimant, as required by subsection E of § 38.2-5004.

2. Whether obstetrical services were delivered by a participating physician at the birth.

3. Whether the birth occurred in a participating hospital.

4. How much compensation, if any, is awardable pursuant to § 38.2-5009.

5. If the Commission determines (i) that the injury alleged is not a birth-related neurological injury as defined in § 38.2-5001, or (ii) that obstetrical services were not delivered by a participating physician at the birth and that the birth did not occur in a participating hospital, it shall dismiss the petition and cause a copy of its order of dismissal to be sent immediately to the parties by registered or certified mail.

6. All parties are bound for all purposes including any suit at law against a participating physician or participating hospital, by the finding of the Virginia Workers' Compensation Commission (or any appeal therefrom) with respect to whether such injury is a birth-related neurological injury.

B. The deans of the schools of medicine of the Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, University of Virginia School of Medicine, and Medical College of Virginia of Virginia Commonwealth University shall develop a plan whereby each claim filed with the Commission is reviewed by a panel of three qualified and impartial physicians drawn from the fields of obstetrics, pediatrics, pediatric neurology, neonatology, physical medicine and rehabilitation, or any other specialty particularly appropriate to the facts of a particular case. Such plan shall provide that each of the three aforementioned medical schools shall maintain a review panel of physicians to review claims, with responsibility for reviewing claims rotating among each medical school's panel on a case-by-case basis. The chair of the panel shall be determined by the school's dean. In no event shall the panel contain more than one panel member from the field of obstetrics. The Commission shall direct the Program to pay to the medical school that performed the assessment and prepared a report in conformity with this provision the sum of $3,000 per claim reviewed.

C. The panel created pursuant to subsection B shall prepare a report that provides a detailed statement of the opinion of the panel's members regarding whether the infant's injury does or does not satisfy each of the criteria of a birth-related neurological injury enumerated in such term's definition in § 38.2-5001. The report shall include the panel's basis for its determination of whether each such criteria was or was not satisfied. In addition, the report shall include such supporting documentation as the board of directors of the program may reasonably request. The panel shall file its report with the Commission 60 days from the date the petition was filed with the Commission. At the same time that the panel files its report with the Commission, the panel shall send copies thereof to the Program and all parties in the proceeding. At the request of the Commission, at least one member of the panel shall be available to testify at the hearing. The Commission shall consider, but shall not be bound by, the recommendation of the panel.

§ 54.1-2961. Interns and residents in hospitals.

A. Interns and residents holding temporary licenses may be employed in a legally established and licensed hospital, medical school or other organization operating an approved graduate medical education program when their practice is confined to persons who are bona fide patients within the hospital or other organization or who receive treatment and advice in an outpatient department of the hospital or an institution affiliated with the graduate medical education program.

B. Such intern or resident shall be responsible and accountable at all times to a licensed member of the staff. The training of interns and residents shall be consistent with the requirements of the agencies cited in subsection D and the policies and procedures of the hospital, medical school or other organization operating a graduate medical education program. No intern or resident holding a temporary license may be employed by any hospital or other organization operating an approved graduate medical education program unless he has completed successfully the preliminary academic education required for admission to examinations given by the Board in his particular field of practice.

C. No intern or resident holding a temporary license shall serve in any hospital or other organization operating an approved graduate medical education program in this Commonwealth for longer than the time prescribed by the graduate medical education program. The Board may prescribe regulations not in conflict with existing law and require such reports from hospitals or other organizations in the Commonwealth as may be necessary to carry out the provisions of this section.

D. Such employment shall be a part of an internship or residency training program approved by the Accreditation Council for Graduate Medical Education or American Osteopathic Association or American Podiatric Medical Association or Council on Chiropractic Education. No unlicensed intern or resident may be employed as an intern or resident by any hospital or other organization operating an approved graduate medical education program. The Board may determine the extent and scope of the duties and professional services which may be rendered by interns and residents.

E. The Board of Medicine shall adopt guidelines concerning the ethical practice of physicians practicing in emergency rooms, surgeons, and interns and residents practicing in hospitals, particularly hospital emergency rooms, or other organizations operating graduate medical education programs. These guidelines shall not be construed to be or to establish standards of care or to be regulations and shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.). The Medical College of Virginia of Virginia Commonwealth University, the University of Virginia School of Medicine, the Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, the Medical

Society of Virginia, and the Virginia Hospital and Health Care Association shall cooperate with the Board in the development of these guidelines.

The guidelines shall include, but need not be limited to (i) the obtaining of informed consent from all patients or from the next of kin or legally authorized representative, to the extent practical under the circumstances in which medical care is being rendered, when the patient is incapable of making an informed decision, after such patients or other persons have been informed as to which physicians, residents, or interns will perform the surgery or other invasive procedure; (ii) except in emergencies and other unavoidable situations, the need, consistent with the informed consent, for an attending physician to be present during the surgery or other invasive procedure; (iii) policies to avoid situations, unless the circumstances fall within an exception in the Board's guidelines or the policies of the relevant hospital, medical school or other organization operating the graduate medical education program, in which a surgeon, intern or resident represents that he will perform a surgery or other invasive procedure that he then fails to perform; and (iv) policies addressing informed consent and the ethics of appropriate care of patients in emergency rooms. Such policies shall take into consideration the nonbinding ban developed by the American Medical Association in 2000 on using newly dead patients as training subjects without the consent of the next of kin or other legal representative to extent practical under the circumstances in which medical care is being rendered.

F. The Board shall publish and distribute the guidelines required by subsection E to its licensees.

2. That Chapter 30 (§§ 23.1-3000 through 23.1-3014) of Title 23.1 of the Code of Virginia is repealed.

3. That the Governor's 2024 appointments to the Old Dominion University Board of Visitors shall include at least two physicians or other medical or health professionals with administrative or clinical experience in an academic medical center in accordance with the requirements set forth in § 23.1-2001 of the Code of Virginia, as amended by this act. The Governor's 2025 appointments to the Old Dominion University Board of Visitors shall ensure that the composition of such board aligns with the membership requirements set forth in § 23.1-2001 of the Code of Virginia, as amended by this act.

4. That notwithstanding the requirements set forth in subsection G of § 23.1-2002 of the Code of Virginia, as amended by this act, the initial board of directors of the Eastern Virginia Health Sciences Center at Old Dominion University shall be composed of the existing members of the Eastern Virginia Medical School Board of Visitors, who shall serve for the remainder of their current terms. Upon the expiration of such member terms, appointments to the board of directors of the Eastern Virginia Health Sciences Center at Old Dominion University shall be made in accordance with the requirements set forth in subsection G of § 23.1-2002 of the Code of Virginia, as amended by this act, and the bylaws of Old Dominion University.

5. That the provisions of this act shall become effective on the date after July 1, 2023, on which the Governor and the chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations provide written approval for Old Dominion University and Eastern Virginia Medical School to complete a merger to create the Eastern Virginia Health Sciences Center at Old Dominion University.

CHAPTER 757

An Act to amend and reenact §§ 56-581, 56-585.1, 56-585.1:4, and 56-599 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-249.6:1, relating to Virginia Electric Utility Regulation Act; financing for certain deferred fuel costs; review proceedings; rates; return on common equity; rate adjustment clauses; capitalization ratio.

[S 1265]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-581, 56-585.1, 56-585.1:4, and 56-599 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-249.6:1 as follows:

§ 56-249.6:1. Financing for certain deferred fuel costs.

A. Notwithstanding the provisions of § 56-249.6 or Chapter 3 (§ 56-55 et seq.), an electric utility, on or before July 1, 2024, may petition the Commission for a financing order and the Commission shall either issue (i) such financing order or (ii) an order rejecting the petition, no more than four months from the date of filing such petition and in accordance with the requirements of subdivision 2.

1. The petition shall include (i) an estimate of the total amount of deferred fuel costs that the electric utility has incurred over the time period noted in the petition; (ii) an indication of whether the electric utility proposes to finance all or a portion of the deferred fuel costs using one or more series or tranches of deferred fuel cost bonds; (iii) an estimate and details of the financing costs related to the deferred fuel costs to be financed through the deferred fuel cost bonds; (iv) an estimate of the deferred fuel cost charges necessary to recover the deferred fuel costs and all financing costs and the proposed period for recovery of such costs; (v) a description of any benefits expected to result from the issuance of deferred fuel cost bonds, including the avoidance of or significant mitigation of abrupt and significant increases in rates to the electric utility's customers for the applicable time period; and (vi) direct testimony and exhibits supporting the petition. If the electric utility proposes to finance a portion of the deferred fuel costs, the electric utility shall identify in the petition the

specific amount of deferred fuel costs for the applicable time period to be financed using deferred fuel cost bonds. By electing not to finance a portion of the deferred fuel costs for an applicable time period using deferred fuel cost bonds, an electric utility shall not be deemed to waive its right to recover such costs pursuant to a separate proceeding with the Commission.

2. a. If an electric utility petitions the Commission for a financing order pursuant to this section, following notice and an opportunity for hearing, the Commission shall either issue (i) a financing order or (ii) an order rejecting the petition, not more than four months from the date of filing such petition.

b. A financing order issued by the Commission pursuant to this section shall include:

(1) The amount of deferred fuel costs to be financed using deferred fuel cost bonds. The Commission shall describe and estimate the amount of financing costs that may be recovered through deferred fuel cost charges. The financing order shall also specify the period over which deferred fuel costs and financing costs may be recovered and whether the deferred fuel cost bonds may be offered and issued in one or more series or tranches during a fixed period not to exceed one year after the date of the financing order;

(2) A finding that the proposed issuance of deferred fuel cost bonds is in the public interest and the associated deferred fuel cost charges are just and reasonable;

(3) A finding that the structuring and pricing of the deferred fuel cost bonds are reasonably expected to result in reasonable deferred fuel cost charges consistent with market conditions at the time the deferred fuel cost bonds are priced and the terms set forth in such financing order;

(4) A requirement that, for so long as the deferred fuel cost bonds are outstanding and until all financing costs have been paid in full, the imposition and collection of deferred fuel cost charges authorized under a financing order shall be non-bypassable and paid by all retail customers of the electric utility, irrespective of the generation supplier of such customer, except for an exempt retail access customer;

(5) A formula-based true-up mechanism for making annual adjustments to the deferred fuel cost charges that customers are required to pay pursuant to the financing order and for making any adjustments that are necessary to correct for any overcollection or undercollection of the charges or to otherwise ensure the timely payment of deferred fuel cost bonds and financing costs and other required amounts and charges payable in connection with the deferred fuel cost bonds;

(6) The deferred fuel cost property that is, or shall be, created in favor of an electric utility or its successors or assignees and that shall be used to pay or secure deferred fuel cost bonds and all financing costs;

(7) The authority of the electric utility to establish the terms and conditions of the deferred fuel cost bonds, including repayment schedules, expected interest rates, the issuance in one or more series or tranches with different maturity dates, and other financing costs;

(8) A finding that the deferred fuel cost charges shall be allocated among customer classes in accordance with the methodology approved in the electric utility's last fuel factor proceeding;

(9) A requirement that after the final terms of an issuance of deferred fuel cost bonds have been established and before the issuance of deferred fuel cost bonds, the electric utility determines the resulting initial deferred fuel cost charge in accordance with the financing order and that such initial deferred fuel cost charge be final and effective upon the issuance of such deferred fuel cost bonds without further Commission action so long as such initial deferred fuel cost charge is consistent with the financing order;

(10) A method of tracing funds collected as deferred fuel cost charges, or other proceeds of deferred fuel cost property, and a requirement that such method be the method of tracing such funds and determining the identifiable cash proceeds of any deferred fuel cost property subject to the financing order under applicable law; and

(11) Any other conditions not otherwise inconsistent with this section that the Commission determines are appropriate.

c. A financing order issued to an electric utility may provide that creation of the electric utility's deferred fuel cost property is conditioned upon, and simultaneous with, the sale or other transfer for the deferred fuel cost property to an assignee and the pledge of the deferred fuel cost property to secure deferred fuel cost bonds.

d. If the Commission issues a financing order, the Commission shall establish a protocol for the electric utility to annually file a petition or, in the Commission's discretion, a letter setting out application of the formula-based mechanism and, based on estimates of consumption for each rate class and other mathematical factors, requesting administrative approval to make applicable adjustments. The review of the filing shall be limited to determining whether there are any mathematical or clerical errors in the application of the formula-based mechanism relating to the appropriate amount of any overcollection or undercollection of deferred fuel cost charges and the amount of an adjustment. The adjustments shall ensure the recovery of revenues sufficient to provide for the payment of principal, interest, acquisition, defeasance, financing costs, or redemption premium and other fees, costs, and charges in respect of deferred fuel cost bonds approved under the financing order. Within 30 days after receiving an electric utility's request pursuant to this subdivision d, the Commission shall either approve the request or inform the electric utility of mathematical or clerical errors in its calculation. If the Commission informs the electric utility of mathematical or clerical errors in its calculation, the electric utility may correct its error and refile its request. The time frames previously described in this subdivision d shall apply to a refiled request.

e. Subsequent to the transfer of deferred fuel cost property to an assignee or the issuance of deferred fuel cost bonds authorized thereby, whichever is earlier, a financing order shall be irrevocable and, except for changes made pursuant to the formula-based mechanism authorized in this section, the Commission shall not amend, modify, or terminate the

financing order by any subsequent action or reduce, impair, postpone, terminate, or otherwise adjust deferred fuel cost charges approved in the financing order. After the issuance of a financing order, the electric utility shall retain sole discretion regarding whether to assign, sell, or otherwise transfer deferred fuel cost property or to cause deferred fuel cost bonds to be issued, including the right to defer or postpone such assignment, sale, transfer, or issuance.

3. At the request of an electric utility, the Commission may commence a proceeding and issue a subsequent financing order that provides for refinancing, retiring, or refunding deferred fuel cost bonds issued pursuant to the original financing order if the Commission finds that the subsequent financing order satisfies all of the criteria specified in this section for a financing order. Effective upon retirement of the refunded deferred fuel cost bonds and the issuance of new deferred fuel cost bonds, the Commission shall adjust the related deferred fuel cost charges accordingly.

4. a. A financing order shall remain in effect and deferred fuel cost property under the financing order shall continue to exist until deferred fuel cost bonds issued pursuant to the financing order have been paid in full or defeased and, in each case, all Commission-approved financing costs of such deferred fuel cost bonds have been recovered in full.

b. A financing order issued to an electric utility shall remain in effect and unabated notwithstanding the reorganization, bankruptcy or other insolvency proceedings, merger, or sale of the electric utility or its successors or assignees.

B. 1. The Commission shall not, in exercising its powers and carrying out its duties regarding any matter within its authority pursuant to this chapter, and notwithstanding any other provision of law, consider the deferred fuel cost bonds issued pursuant to a financing order to be the debt of the electric utility other than for federal income tax purposes, consider the deferred fuel cost charges paid under the financing order to be the revenue of the electric utility for any purpose, or consider the deferred fuel costs or financing costs specified in the financing order to be the costs of the electric utility, nor shall the Commission determine any action taken by an electric utility that is consistent with the financing order to be unjust or unreasonable.

2. The Commission shall not order or otherwise directly or indirectly require an electric utility to use deferred fuel cost bonds to finance any project, addition, plant, facility, extension, capital improvement, equipment, or any other expenditure. After the issuance of a financing order, the electric utility shall retain sole discretion regarding whether to cause the deferred fuel cost bonds to be issued, including the right to defer or postpone such sale, assignment, transfer, or issuance. Nothing shall prevent the electric utility from abandoning the issuance of deferred fuel cost bonds under the financing order by filing with the Commission a statement of abandonment and the reasons therefor. The Commission shall not deny an electric utility its right to recover deferred fuel costs as otherwise provided in this section, or refuse or condition authorization or approval of the issuance and sale by an electric utility of securities or the assumption by the electric utility of liabilities or obligations, solely because of the potential availability of deferred fuel cost bond financing.

C. The electric bills of an electric utility that has obtained a financing order and caused deferred fuel cost bonds to be issued shall comply with the provisions of this subsection; however, the failure of an electric utility to comply with this subsection does not invalidate, impair, or affect any financing order, deferred fuel cost property, deferred fuel cost charge, or deferred fuel cost bonds. The electric utility shall:

1. Explicitly reflect that a portion of the charges on any electric bill represents deferred fuel cost charges approved in a financing order issued to the electric utility and, if the deferred fuel cost property has been transferred to an assignee, such bill shall include a statement to the effect that the assignee is the owner of the rights to deferred fuel cost charges and that the electric utility or another entity, if applicable, is acting as a collection agent or servicer for the assignee. The tariff applicable to customers must indicate the deferred fuel cost charge and the ownership of the charge; and

2. Include the deferred fuel cost charge on each customer's bill as a separate line item and include both the rate and the amount of the charge on each bill.

D. 1. The following provisions shall be applicable to deferred fuel cost property:

a. All deferred fuel cost property that is specified in a financing order shall constitute an existing, present intangible property right or interest therein, notwithstanding that the imposition and collection of deferred fuel cost charges depends on the electric utility, to which the financing order is issued, performing its servicing functions relating to the collection of deferred fuel cost charges and on future electricity consumption. The deferred fuel cost property shall exist (i) regardless of whether or not the revenues or proceeds arising from the deferred fuel cost property have been billed, have accrued, or have been collected and (ii) notwithstanding the fact that the value or amount of the deferred fuel cost property is dependent on the future provision of service to customers by the electric utility or its successors or assignees and the future consumption of electricity by customers;

b. Deferred fuel cost property specified in a financing order shall exist until deferred fuel cost bonds issued pursuant to the financing order are paid in full and all financing costs and other costs of such deferred fuel cost bonds have been recovered in full;

c. All or any portion of deferred fuel cost property specified in a financing order issued to an electric utility may be transferred, sold, conveyed, or assigned to a successor or assignee that is wholly owned, directly or indirectly, by the electric utility and created for the limited purpose of acquiring, owning, or administering deferred fuel cost property or issuing deferred fuel cost bonds under the financing order. All or any portion of deferred fuel cost property may be pledged to secure deferred fuel cost bonds issued pursuant to the financing order, amounts payable to financing parties and to counterparties under any ancillary agreements, and other financing costs. Any transfer, sale, conveyance, assignment, grant of a security interest in or pledge of deferred fuel cost property by an electric utility, or an affiliate of the electric utility, to

an assignee, to the extent previously authorized in a financing order, shall not require the prior consent and approval of the Commission;

d. If an electric utility defaults on any required payment of charges arising from deferred fuel cost property specified in a financing order, a court, upon application by an interested party, and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the revenues arising from the deferred fuel cost property to the financing parties or their assignees. Any such financing order shall remain in full force and effect notwithstanding any reorganization, bankruptcy, or other insolvency proceedings with respect to the electric utility or its successors or assignees;

e. The interest of a transferee, purchaser, acquirer, assignee, or pledgee in deferred fuel cost property specified in a financing order issued to an electric utility, and in the revenue and collections arising from that property, shall not be subject to setoff, counterclaim, surcharge, or defense by the electric utility or any other person or in connection with the reorganization, bankruptcy, or other insolvency of the electric utility or any other entity;

f. Any successor to an electric utility, whether pursuant to any reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any merger or acquisition, sale, or other business combination, or transfer by operation of law, as a result of electric utility restructuring or otherwise, shall perform and satisfy all obligations of, and have the same rights under a financing order as, the electric utility under the financing order in the same manner and to the same extent as the electric utility, including collecting and paying to the person entitled to receive the revenues, collections, payments, or proceeds of the deferred fuel cost property. Nothing in this subdivision f is intended to limit or impair any authority of the Commission concerning the transfer or succession of interests of public utilities; and

g. Deferred fuel cost bonds shall be nonrecourse to the credit or any assets of the electric utility other than the deferred fuel cost property as specified in the financing order and any rights under any ancillary agreement.

2. The following provisions shall be applicable to security interests:

a. The creation, perfection, and enforcement of any security interest in deferred fuel cost property to secure the repayment of the principal and interest and other amounts payable in respect of deferred fuel cost bonds; amounts payable under any indenture, ancillary agreement, or other financing documents in respect of the deferred fuel costs; and other financing costs shall be governed by this subsection and not by the provisions of the Uniform Commercial Code (Titles 8.1A through 8.9A);

b. A security interest in deferred fuel cost property shall be created and enforceable when all of the following have occurred: (i) a financing order is issued, (ii) value is received by the debtor or seller for such deferred fuel cost property, (iii) the debtor or seller has rights in such deferred fuel cost property or the power to transfer rights in such deferred fuel cost property, and (iv) a security agreement granting such security interest is executed and delivered by the debtor or seller. The description of deferred fuel cost property in a security agreement shall be sufficient if the description refers to this section and the financing order creating the deferred fuel cost property;

c. A security interest shall attach without any physical delivery of collateral or other act and, upon the filing of a financing statement with the Commission, the lien of the security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the person granting the security interest, regardless of whether the parties have notice of the lien. Also upon this filing, a transfer of an interest in the deferred fuel cost property shall be perfected against all parties having claims of any kind, including any judicial lien or other lien creditors or any claims of the transferor or creditors of the transferor, and shall have priority over all competing claims other than any prior security interest, ownership interest, or assignment in the property previously perfected in accordance with this section;

d. The Commission shall maintain any financing statement filed to perfect any security interest under this section in the same manner that the Commission maintains financing statements filed by transmitting utilities under the Uniform Commercial Code (Titles 8.1A through 8.9A). The filing of a financing statement under this section shall be governed by the provisions regarding the filing of financing statements in the Uniform Commercial Code (Titles 8.1A through 8.9A);

e. The priority of a security interest in deferred fuel cost property shall not be affected by the commingling of deferred fuel cost charges with other amounts. Any pledgee or secured party shall have a perfected security interest in the amount of all deferred fuel cost charges that are deposited in any cash or deposit account of the qualifying utility in which deferred fuel cost charges have been commingled with other funds and any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the assignee or a financing party;

f. No application of the formula-based adjustment mechanism as provided in this section shall affect the validity, perfection, or priority of a security interest in or transfer of deferred fuel cost property; and

g. If a default or termination occurs under the deferred fuel cost bonds, the financing parties or their representatives may foreclose on or otherwise enforce their lien and security interest in any deferred fuel cost property as if they were secured parties with a perfected and prior lien under the Uniform Commercial Code (Titles 8.1A through 8.9A), and the Commission may order that amounts arising from deferred fuel cost charges be transferred to a separate account for the financing parties' benefit, to which their lien and security interest shall apply. On application by or on behalf of the financing parties, the Commission shall order the sequestration and payment to them of revenues arising from the deferred fuel cost charges.

3. a. Any sale, assignment, or other transfer of deferred fuel cost property shall be an absolute transfer and true sale of and not a pledge of, or secured transaction relating to, the transferor's right, title, and interest in, to, and under the deferred fuel cost property if the documents governing the transaction expressly state that the transaction is a sale or other absolute

transfer other than for federal and state income tax purposes. For all purposes other than federal and state income tax purposes, the parties' characterization of a transaction as a sale of an interest in deferred fuel cost property shall be conclusive that the transaction is a true sale and that ownership has passed to the party characterized as the purchaser, regardless of any fact or circumstance that might support characterization of the transfer as a secured transaction. A transfer of an interest in deferred fuel cost property shall occur only when all of the following have occurred: (i) the financing order creating the deferred fuel cost property has become effective, (ii) the documents evidencing the transfer of deferred fuel cost property have been executed by the transferor and delivered to the assignee, and (iii) value is received by the transferor for the deferred fuel cost property. After such a transaction, the deferred fuel cost property shall not be subject to any claims of the transferor or the transferor's creditors, other than creditors holding a prior security interest in the deferred fuel cost property perfected in accordance with subdivision 2.

b. The characterization of the sale, assignment, or other transfer as an absolute transfer and true sale, and the corresponding characterization of the interest of the assignee as an ownership interest, shall not be affected or impaired by the occurrence of any of the following factors:

(1) Commingling of deferred fuel cost charges with other amounts;

(2) The retention by the seller of (i) a partial or residual interest, including an equity interest, in the deferred fuel cost property, whether direct or indirect, or whether subordinate or otherwise, or (ii) the right to recover costs associated with taxes, franchise fees, or license fees imposed on the collection of deferred fuel cost charges;

(3) Any recourse that the assignee may have against the seller;

(4) Any right or obligation that the seller may have to repurchase the deferred fuel cost charges;

(5) Any indemnification obligations of the seller;

(6) The obligation of the seller to collect deferred fuel cost charges on behalf of the assignee;

(7) The transferor acting as the servicer of the deferred fuel cost charges or the existence of any contract that authorizes or requires the electric utility, to the extent that any interest in deferred fuel cost property is sold or assigned, to agree with the assignee or any financing party that it will continue to operate its system to provide service to its customers, will collect amounts in respect of the deferred fuel cost charges for the benefit and account of such assignee or financing party, and will account for and remit such amounts to or for the account of such assignee or financing party;

(8) The treatment of the sale, conveyance, assignment, or other transfer for tax, financial reporting, or other purposes;

(9) The granting or providing to bondholders of a preferred right to the deferred fuel cost property or credit enhancement by the electric utility or its affiliates with respect to the deferred fuel cost bonds; or

(10) Any application of the formula-based adjustment mechanism as provided in this section.

c. Any right that an electric utility has in the deferred fuel cost property before its pledge, sale, or transfer or any other right created under this section or created in the financing order and assignable under this section or assignable pursuant to a financing order shall be property in the form of a contract right or a chose in action. Transfer of an interest in deferred fuel cost property to an assignee shall be enforceable only when all of the following have occurred: (i) a financing order is issued, (ii) value is received by the transferor for such deferred fuel cost property, (iii) the transferor has rights in such deferred fuel cost property or the power to transfer rights in such deferred fuel cost property, and (iv) transfer documents in connection with the issuance of deferred fuel cost bonds are executed and delivered by the transferor. An enforceable transfer of an interest in deferred fuel cost property to an assignee shall be perfected against all third parties, including subsequent judicial or other lien creditors, when a notice of that transfer has been given by the filing of a financing statement in accordance with subdivision 2 c. The transfer shall be perfected against third parties as of the date of filing.

d. The Commission shall maintain any financing statement filed to perfect any sale, assignment, or transfer of deferred fuel cost property under this section in the same manner that the Commission maintains financing statements filed by transmitting utilities under the Uniform Commercial Code (Titles 8.1A through 8.9A). The filing of any financing statement under this section shall be governed by the provisions regarding the filing of financing statements in the Uniform Commercial Code (Titles 8.1A through 8.9A). The filing of such a financing statement shall be the only method of perfecting a transfer of deferred fuel cost property.

e. The priority of a transfer perfected under this section shall not be impaired by any later modification of the financing order or deferred fuel cost property or by the commingling of funds arising from deferred fuel cost property with other funds. Any other security interest that may apply to those funds, other than a security interest perfected under subdivision 2, shall be terminated when they are transferred to a segregated account for the assignee or a financing party. If deferred fuel cost property has been transferred to an assignee or financing party, any proceeds of that property shall be held in trust for the assignee or financing party.

f. The priority of the conflicting interests of assignees in the same interest or rights in any deferred fuel cost property shall be determined as follows:

(1) Conflicting perfected interests or rights of assignees shall rank according to priority in time of perfection. Priority shall date from the time a filing covering the transfer is made in accordance with subdivision 2 c;

(2) A perfected interest or right of an assignee shall have priority over a conflicting unperfected interest or right of an assignee; and

(3) A perfected interest or right of an assignee shall have priority over a person who becomes a lien creditor after the perfection of such assignee's interest or right.

E. The description of deferred fuel cost property being transferred to an assignee in any sale agreement, purchase agreement, or other transfer agreement, granted or pledged to a pledgee in any security agreement, pledge agreement, or other security document, or indicated in any financing statement, shall only be sufficient if such description or indication refers to the financing order that created the deferred fuel cost property and states that the agreement or financing statement covers all or part of the property described in the financing order. This section shall apply to all purported transfers of, and all purported grants or liens or security interests in, deferred fuel cost property, regardless of whether the related sale agreement, purchase agreement, other transfer agreement, security agreement, pledge agreement, or other security document was entered into, or any financing statement was filed.

F. All financing statements referenced in this section shall be subject to Part 5 of Title 8.9A (§ 8.9A-501 et seq.) of the Uniform Commercial Code, except that the requirement as to continuation statements shall not apply.

G. The laws of the Commonwealth shall govern the validity, enforceability, attachment, perfection, priority, and exercise of remedies with respect to the transfer of an interest or right or the pledge or creation of a security interest in any deferred fuel cost property.

H. Neither the Commonwealth nor its political subdivisions shall be liable on any deferred fuel cost bonds, and the bonds shall not be a debt or a general obligation of the Commonwealth or any of its political subdivisions, agencies, or instrumentalities, nor shall they be special obligations or indebtedness of the Commonwealth or any of its agencies or political subdivisions. An issue of deferred fuel cost bonds shall not, directly, indirectly, or contingently, obligate the Commonwealth or any agency, political subdivision, or instrumentality of the Commonwealth to levy any tax or make any appropriation for payment of the deferred fuel cost bonds, other than in their capacity as consumers of electricity. All deferred fuel cost bonds shall contain on the face thereof a statement to the following effect: "NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, OR INTEREST ON, THIS BOND."

I. All of the following entities may legally invest any sinking funds, moneys, or other funds in deferred fuel cost bonds:

1. Subject to applicable statutory restrictions on state or local investment authority, the Commonwealth, units of local government, political subdivisions, public bodies, and public officers, except for members of the Commission;

2. Banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations, and other persons carrying on a banking or insurance business;

3. Personal representatives, guardians, trustees, and other fiduciaries; and

4. All other persons authorized to invest in bonds or other obligations of a similar nature.

J. 1. The Commonwealth and its agencies, including the Commission, pledge and agree with bondholders, the owners of the deferred fuel cost property, and other financing parties that the Commonwealth and its agencies shall not take any action listed in this subdivision. This subsection does not preclude limitation or alteration if full compensation is made by law for the full protection of the deferred fuel cost charges collected pursuant to a financing order and of the bondholders and any assignee or financing party entering into a contract with the electric utility. The Commonwealth and its agencies, including the Commission, shall not:

a. Alter the provisions of this section that authorize the Commission to create an irrevocable contract right or chose in action by the issuance of a financing order, to create deferred fuel cost property, and to make the deferred fuel cost charges imposed by a financing order irrevocable, binding, or nonbypassable charges;

b. Take or permit any action that impairs or would impair the value of deferred fuel cost property or the security for the deferred fuel cost bonds or revises the deferred fuel costs for which recovery is authorized;

c. In any way impair the rights and remedies of the bondholders, assignees, and other financing parties; or

d. Except for changes made pursuant to the formula-based adjustment mechanism authorized under this section, reduce, alter, or impair deferred fuel cost charges that are to be imposed, billed, charged, collected, and remitted for the benefit of the bondholders, any assignee, and any other financing parties until any and all principal, interest, premium, financing costs and other fees, expenses, or charges incurred, and any contracts to be performed, in connection with the related deferred fuel cost bonds have been paid and performed in full.

2. Any person that issues deferred fuel cost bonds may include the language specified in subdivision 1 in the deferred fuel cost bonds and related documentation.

K. An assignee or financing party shall not be considered an electric utility or person providing electric service by virtue of engaging in the transactions described in this section.

L. If there is a conflict between this section and any other law regarding the attachment, assignment, or perfection, or the effect of perfection, or priority of, assignment or transfer of, or security interest in deferred fuel cost property, this section shall govern.

M. In making determinations under this section, the Commission may engage an outside consultant and counsel.

N. If any provision of this section is held invalid or is invalidated, superseded, replaced, repealed, or expires for any reason, that occurrence shall not affect the validity of any action allowed under this section that is taken by an electric utility, an assignee, a financing party, a collection agent, or a party to an ancillary agreement, and any such action shall remain in full force and effect with respect to all deferred fuel cost bonds issued or authorized in a financing order issued under this section before the date that such provision is held invalid or is invalidated, superseded, replaced, or repealed, or expires for any reason.

O. As used in this section:

"Ancillary agreement" means a bond, insurance policy, letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, hedging arrangement, liquidity or credit support arrangement, or other financial arrangement entered into in connection with deferred fuel cost bonds.

"Assignee" means a legally recognized entity to which an electric utility assigns, sells, or transfers, other than as a security, all or a portion of its interest in or right to deferred fuel cost property. "Assignee" includes a corporation, limited liability company, general partnership or limited partnership, public authority trust, financing entity, or other entity to which an assignee assigns, sells, or transfers, other than as a security, all or a portion of its interest in or right to deferred fuel cost property.

"Bondholder" means a person who holds a deferred fuel cost bond.

"Deferred fuel cost bonds" means bonds debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership, or other evidences of indebtedness or ownership that are issued in one or more series or tranches by an electric utility or its assignee pursuant to a financing order, the proceeds of which are used directly or indirectly to recover, finance, or refinance Commission-approved deferred fuel costs and financing costs, and that are secured by or payable from deferred fuel cost property. If certificates of participation or ownership are issued, references in this section to principal, interest, or premium shall be construed to refer to comparable amounts under those certificates.

"Deferred fuel cost charge" means the nonbypassable charges authorized by the Commission to repay, finance, or refinance deferred fuel costs and financing costs (i) imposed on and part of all retail customer bills, except those of exempt retail access customers; (ii) collected by an electric utility or its successor or assignees, or a collection agent, in full, separate and apart from the electric utility's base rates; and (iii) paid by all retail customers of the electric utility, irrespective of the generation supplier of such customer, except for an exempt retail access customer.

"Deferred fuel cost property" includes:

1. All rights and interests of an electric utility or successor or assignee of the electric utility under a financing order, including the right to impose, bill, charge, collect, and receive deferred fuel cost charges authorized under the financing order and to obtain periodic adjustments to such charges as provided in the financing order; and

2. All revenues, collections, claims, rights to payments, payments, money, or proceeds arising from the rights and interests specified in the financing order, regardless of whether such revenues, collections, claims, rights to payment, payments, money, or proceeds are imposed, billed, received, collected, or maintained together with or commingled with other revenues, collections, rights to payment, payments, money, or proceeds.

"Deferred fuel costs" means the unrecovered amounts of previously incurred costs of fuel used to generate electricity, including the costs of purchased power, that have been deferred by an electric utility for future recovery from the utility's customers, along with financing costs on the utility's fuel deferral balance.

"Electric utility" means a Phase II Utility.

"Exempt retail access customer" means a retail customer of an electric utility that, pursuant to the provisions of § 56-577 or 56-577.1, purchased electric energy exclusively from a supplier of electric energy licensed to sell retail electric energy exclusively within the Commonwealth other than the electric utility, or that purchased electric energy from the electric utility pursuant to a Commission-approved market-based tariff, during the period when the deferred fuel costs to be financed were incurred. Such exemption shall be prorated to the extent an otherwise exempt retail customer purchased electric energy from the electric utility, in which case the retail customer shall be responsible for its pro rata share of deferred fuel cost charges authorized under a financing order.

"Financing costs" means:

1. Interest and any premium, including any acquisition, defeasance, or redemption premium, payable on deferred fuel cost bonds;

2. Any payment required under any indenture, ancillary agreement, or other financing documents pertaining to deferred fuel cost bonds and any amount required to fund or replenish a reserve account or other accounts established under the terms of any indenture, ancillary agreement, or other financing documents pertaining to deferred fuel cost bonds;

3. Any other costs related to structuring, offering, issuing, supporting, repaying, refunding, servicing, and complying with deferred fuel cost bonds, including service fees, accounting and auditing fees, trustee fees, legal fees, consulting fees, structuring adviser fees, administrative fees, placement and underwriting fees, independent director and manager fees, capitalized interest, rating agency fees, stock exchange listing and compliance fees, security registration fees, filing fees, information technology programming costs, and any other costs necessary to otherwise ensure the timely payment of deferred fuel cost bonds or other amounts or charges payable in connection with the bonds, including costs related to obtaining the financing order;

4. Any taxes and license fees or other fees imposed on the revenues generated from the collection of deferred fuel cost charges or otherwise resulting from the collection of deferred fuel cost charges, in any such case whether paid, payable, or accrued;

5. Any state and local taxes, franchise, gross receipts, and other taxes or similar charges, including regulatory assessment fees, whether paid, payable, or accrued;

6. Any costs incurred by the Commission for any outside consultants or counsel retained in connection with the securitization of deferred fuel costs; and

7. Any financing costs on the utility's fuel deferral balance prior to issuance of any fuel cost bonds, calculated at the utility's approved weighted average cost of capital.

"Financing order" means an order that authorizes the issuance of deferred fuel cost bonds; the imposition, collection, and periodic adjustments of a deferred fuel cost charge; the creation of deferred fuel cost property; the sale, assignment, or transfer of deferred fuel cost property to an assignee; and any other actions necessary or advisable to take actions described in the financing order.

"Financing party" means bondholders and trustees, collateral agents, any party under an ancillary agreement, or any other person acting for the benefit of bondholders.

"Financing statement" has the same meaning as provided in § 8.9A-102 of the Uniform Commercial Code.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Pledgee" means a financing party to which an electric utility or its successors or assignees mortgages, negotiates, pledges, or creates a security interest or lien on all or any portion of its interest in or right to deferred fuel cost property.

§ 56-581. Regulation of rates subject to Commission's jurisdiction.

A. ~~After the expiration or termination of capped rates except as provided in § 56-585.1, the~~ *The* Commission shall regulate the rates of investor-owned incumbent electric utilities for the transmission of electric energy, to the extent not prohibited by federal law, and for the generation of electric energy and the distribution of electric energy to retail customers pursuant to *this section and* § 56-585.1.

B. In any proceeding to review base rates for a Phase I Utility that commences after July 1, 2023, if the Commission determines in its sole discretion that the utility's existing base rates will, on a going-forward basis, either produce (i) revenues in excess of the utility's authorized rate of return or (ii) revenues below the utility's authorized rate of return, then, notwithstanding any provision of law governing rate proceedings, the Commission shall order any reductions or increases, as applicable and necessary, to such base rates that it deems appropriate to ensure the resulting base rates (a) are just and reasonable and (b) provide the utility an opportunity to recover its costs of providing services over the rate period ending on December 31 of the year of the utility's succeeding review and earn a fair rate of return authorized pursuant to the provisions governing such review proceeding. Such determination shall be limited to the Phase I Utility's base rates and shall not consider the costs or revenues recovered in any rate adjustment clause authorized pursuant to this chapter.

C. In any proceeding to review base rates for a Phase II Utility that commences after July 1, 2023, if the Commission determines in its sole discretion that the utility's existing base rates will, on a going-forward basis, either produce (i) revenues in excess of the utility's authorized rate of return or (ii) revenues below the utility's authorized rate of return, then, notwithstanding any provision of subdivision A 8 of § 56-585.1, the Commission shall order any reductions or increases, as applicable and necessary, to such base rates that it deems appropriate to ensure the resulting base rates (a) are just and reasonable and (b) provide the utility an opportunity to recover its costs of providing services over the rate period ending on December 31 of the year of the utility's succeeding review and earn a fair rate of return on its base rates as determined in subdivision A 2 of § 56-585.1. Such determination shall be limited to the Phase II Utility's base rates and shall not consider the costs or revenues recovered in any rate adjustment clause authorized pursuant to subdivision A 6 of § 56-585.1 that has not been combined with the utility's base rates. The Commission shall use the most recently ended 12-month test period, along with normalization of nonrecurring test period costs and annualized adjustments for future costs, as the basis for determining the appropriateness of any rate adjustment. In any such filing to review base rates, a Phase II Utility shall separately project future costs over each 12-month period ending on December 31 of the year of the utility's succeeding rate periods. The Commission may, to the extent it finds such action aligns with the utility's projected cost of service, direct that any reduction or increase to the utility's rates for generation and distribution services be implemented on a staggered basis at the commencement and midpoint of the succeeding rate period.

~~B.~~ *D.* Beginning July 1, 1999, and thereafter, no cooperative that was a member of a power supply cooperative on January 1, 1999, shall be obligated to file any rate rider as a consequence of an increase or decrease in the rates, other than fuel costs, of its wholesale supplier, nor must any adjustment be made to such cooperative's rates as a consequence thereof.

~~C.~~ *E.* Except for the provision of default services under § 56-585 or emergency services in § 56-586, nothing in this chapter shall authorize the Commission to regulate the rates or charges for electric service to the Commonwealth and its municipalities.

F. As used in this section:

"Base rates" means rates for generation and distribution services.

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most

recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase I Utility in 2020, utilizing the three successive 12-month test periods beginning January 1, 2017, and ending December 31, 2019. Thereafter, reviews for a Phase I Utility will be on a triennial basis with subsequent proceedings utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase II Utility in 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and ending December 31, 2020, with subsequent reviews on a ~~triennial~~ *biennial* basis *commencing in 2023, with such proceedings* utilizing the ~~three~~ *two* successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. ~~All such reviews occurring after December 31, 2017, shall be referred to as triennial reviews.~~ For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, the fair rate of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, and for any rate adjustment clauses approved under subdivision 5 or 6, shall be determined by the Commission during each such ~~triennial~~ review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest~~, but~~. *However, for a Phase I Utility,* for applications received by the Commission on or after January 1, 2020, such return shall not be set lower than the average of either (i) the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such triennial review or (ii) the authorized returns on common equity that are set by the applicable regulatory commissions for the same selected peer group, nor shall the Commission set such return more than 150 basis points higher than such average.

b. ~~In~~ *For a Phase I Utility, in* selecting such majority of peer group investor-owned electric utilities for applications received by the Commission on or after January 1, 2020, the Commission shall first remove from such group the two utilities within such group that have the lowest reported or authorized, as applicable, returns of the group, as well as the two utilities within such group that have the highest reported or authorized, as applicable, returns of the group, and the Commission shall then select a majority of the utilities remaining in such peer group. In its final order regarding such triennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. ~~For~~ *With respect to a Phase I Utility, for* purposes of this subdivision *2*, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission, and distribution services whose facilities and operations are subject to state public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test

period subject to such ~~triennial~~ review, and (iv) it is not an affiliate of the utility subject to such ~~triennial~~ review *or a utility whose fair rate of return on common equity is determined by the Commission*.

c. The Commission may~~, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007,~~ increase or decrease the utility's combined rate of return ~~based on the Commission's consideration of the utility's performance~~ *for generation and distribution services by up to 50 basis points based on factors that may include reliability, generating plant performance, customer service, and operating efficiency of a utility. Any such adjustment to the combined rate of return for generation and distribution services shall include consideration of nationally recognized standards determined by the Commission to be appropriate for such purposes*.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this section. The provisions of this subdivision are subject to the provisions of subdivision 8.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent ~~triennial~~ review.

3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021~~, consisting of the schedules contained in the Commission's rules governing utility rate increase applications~~ *and terminating thereafter*. Such filing shall encompass the three successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, except that the filing for a Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending December 31, 2020*. After 2021, each Phase II Utility shall make a biennial filing by March 31 of every second year, except that the 2023 filing for a Phase II Utility shall be made on or after July 1, 2023. All biennial filings shall encompass the two successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. All such filings shall consist of the schedules contained in the Commission's rules governing utility*

rate increase applications, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. *In a filing under this subdivision that does not result in an overall rate change, a utility may propose an adjustment to one or more tariffs that are revenue neutral to the utility.*

If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or ~~9~~ *10*, any rate adjustment clauses previously implemented related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues, and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues, and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as ~~herein~~ specified *in this paragraph*, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future ~~triennial~~ review proceedings. ~~In a triennial filing under this subdivision that does not result in an overall rate change a utility may propose an adjustment to one or more tariffs that are revenue neutral to the utility.~~

As of July 1, 2023, a Phase II Utility shall select a subset of rate adjustment clauses previously implemented pursuant to subdivision 5 or 6 having a combined annual revenue requirement, as of July 1, 2023, of at least $350 million and combine such rate adjustment clauses with the utility's costs, revenues, and investments for generation and distribution services. After such rate adjustment clauses are combined as specified in this paragraph, such rate adjustment clauses shall be considered part of the utility's costs, revenues, and investments for the purposes of future biennial review proceedings, and the combination of such rate adjustment clauses shall be specifically subject to audit by the Commission in the utility's 2023 biennial review filing. Notwithstanding the provisions of subsection C of § 56-581, such combination shall not serve as the basis for an increase in a Phase II Utility's rates for generation and distribution services in its 2023 biennial proceeding.

4. (Expires December 31, 2023) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission; (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member; and (iii) costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service; charges for new and existing transmission facilities, including costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park; administrative charges; and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

4. (Effective January 1, 2024) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission, and (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service, charges for new and existing transmission facilities, administrative charges, and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs or pilot programs. The Commission shall approve such a petition if it finds that the program is in the public interest, provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs or pilot programs. Any such petition shall include a proposed budget for the design, implementation, and operation of the energy efficiency program, including anticipated savings from and spending on each program, and the Commission shall grant a final order on such petitions within eight months of initial filing. The Commission shall only approve such a petition if it finds that the program is in the public interest. If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the

Commission's staff in relation to that program that has bearing upon the Commission's determination. Such order shall adhere to existing protocols for extraordinarily sensitive information.

Energy efficiency pilot programs are in the public interest provided that the pilot program is (i) of limited scope, cost, and duration and (ii) intended to determine whether a new or substantially revised program would be cost-effective.

Prior to January 1, 2022, the Commission shall award a margin for recovery on operating expenses for energy efficiency programs and pilot programs, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. Beginning January 1, 2022, and thereafter, if the Commission determines that the utility meets in any year the annual energy efficiency standards set forth in § 56-596.2, in the following year, the Commission shall award a margin on energy efficiency program operating expenses in that year, to be recovered through a rate adjustment clause, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. If the Commission does not approve energy efficiency programs that, in the aggregate, can achieve the annual energy efficiency standards, the Commission shall award a margin on energy efficiency operating expenses in that year for any programs the Commission has approved, to be recovered through a rate adjustment clause under this subdivision, which margin shall equal the general rate of return on common equity determined as described in subdivision 2. Any margin awarded pursuant to this subdivision shall be applied as part of the utility's next rate adjustment clause true-up proceeding. The Commission shall also award an additional 20 basis points for each additional incremental 0.1 percent in annual savings in any year achieved by the utility's energy efficiency programs approved by the Commission pursuant to this subdivision, beyond the annual requirements set forth in § 56-596.2, provided that the total performance incentive awarded in any year shall not exceed 10 percent of that utility's total energy efficiency program spending in that same year.

The Commission shall annually monitor and report to the General Assembly the performance of all programs approved pursuant to this subdivision, including each utility's compliance with the total annual savings required by § 56-596.2, as well as the annual and lifecycle net and gross energy and capacity savings, related emissions reductions, and other quantifiable benefits of each program; total customer bill savings that the programs produce; utility spending on each program, including any associated administrative costs; and each utility's avoided costs and cost-effectiveness results.

Notwithstanding any other provision of law, unless the Commission finds in its discretion and after consideration of all in-state and regional transmission entity resources that there is a threat to the reliability or security of electric service to the utility's customers, the Commission shall not approve construction of any new utility-owned generating facilities that emit carbon dioxide as a by-product of combusting fuel to generate electricity unless the utility has already met the energy savings goals identified in § 56-596.2 and the Commission finds that supply-side resources are more cost-effective than demand-side or energy storage resources.

As used in this subdivision, "large general service customer" means a customer that has a verifiable history of having used more than one megawatt of demand from a single site.

Large general service customers shall be exempt from requirements that they participate in energy efficiency programs if the Commission finds that the large general service customer has, at the customer's own expense, implemented energy efficiency programs that have produced or will produce measured and verified results consistent with industry standards and other regulatory criteria stated in this section. The Commission shall, no later than June 30, 2021, adopt rules or regulations (a) establishing the process for large general service customers to apply for such an exemption, (b) establishing the administrative procedures by which eligible customers will notify the utility, and (c) defining the standard criteria that shall be satisfied by an applicant in order to notify the utility, including means of evaluation measurement and verification and confidentiality requirements. At a minimum, such rules and regulations shall require that each exempted large general service customer certify to the utility and Commission that its implemented energy efficiency programs have delivered measured and verified savings within the prior five years. In adopting such rules or regulations, the Commission shall also specify the timing as to when a utility shall accept and act on such notice, taking into consideration the utility's integrated resource planning process, as well as its administration of energy efficiency programs that are approved for cost recovery by the Commission. Savings from large general service customers shall be accounted for in utility reporting in the standards in § 56-596.2.

The notice of nonparticipation by a large general service customer shall be for the duration of the service life of the customer's energy efficiency measures. The Commission may on its own motion initiate steps necessary to verify such nonparticipant's achievement of energy efficiency if the Commission has a body of evidence that the nonparticipant has knowingly misrepresented its energy efficiency achievement.

A utility shall not charge such large general service customer for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of compliance with renewable energy portfolio standard requirements pursuant to § 56-585.5 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs incurred as required by § 56-585.5, provided that the Commission does not otherwise find such costs were unreasonably or imprudently incurred;

e. Projected and actual costs of projects that the Commission finds to be necessary to mitigate impacts to marine life caused by construction of offshore wind generating facilities, as described in § 56-585.1:11, or to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load obligations, including the costs of allowances purchased through a market-based trading program for carbon dioxide emissions. The Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations;

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility; and

g. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission to provide incentives to (i) low-income, elderly, and disabled individuals or (ii) organizations providing residential services to low-income, elderly, and disabled individuals for the installation of, or access to, equipment to generate electric energy derived from sunlight, provided the low-income, elderly, and disabled individuals, or organizations providing residential services to low-income, elderly, and disabled individuals, first participate in incentive programs for the installation of measures that reduce heating or cooling costs.

Any rate adjustment clause approved under subdivision 5 c by the Commission shall remain in effect until the utility exhausts the approved budget for the energy efficiency program. The Commission shall have the authority to determine the duration or amortization period for any other rate adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, including the costs of any system or equipment upgrade, system or equipment replacement, or other cost reasonably appropriate to extend the combined operating license for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, (v) one or more pumped hydroelectricity generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, or (vi) one or more electric distribution grid transformation projects; however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv) or (vi), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv) or (vi), as applicable. As of December 1, 2028, any costs recovered by a utility pursuant to clause (iv) shall be limited to any remaining costs associated with conversions of overhead distribution facilities to underground facilities that have been previously approved or are pending approval by the Commission through a petition by the utility under this subdivision. Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs or makes modifications to any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia

businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility that emits carbon dioxide shall demonstrate that it has already met the energy savings goals identified in § 56-596.2 and that the identified need cannot be met more affordably through the deployment or utilization of demand-side resources or energy storage resources and that it has considered and weighed alternative options, including third-party market alternatives, in its selection process.

The costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), (iii), or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service. In any application to construct a new generating facility, the utility shall include, and the Commission shall consider, the social cost of carbon, as determined by the Commission, as a benefit or cost, whichever is appropriate. The Commission shall ensure that the development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on historically economically disadvantaged communities. The Commission may adopt any rules it deems necessary to determine the social cost of carbon and shall use the best available science and technology, including the Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, published by the Interagency Working Group on Social Cost of Greenhouse Gases from the United States Government in August 2016, as guidance. The Commission shall include a system to adjust the costs established in this section with inflation.

Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), (iii), or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities or new electric distribution grid transformation projects are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) or (v) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, that use energy derived from sunlight or from onshore wind and are located in the Commonwealth or off the Commonwealth's Atlantic shoreline, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. The replacement of any subset of a utility's existing overhead distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric service reliability is in the public interest. In determining whether to approve petitions for rate adjustment clauses for such new underground facilities that meet this criteria, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title.

The conversion of any such facilities on or after September 1, 2016, is deemed to provide local and system-wide benefits and to be cost beneficial, and the costs associated with such new underground facilities are deemed to be reasonably and prudently incurred and, notwithstanding the provisions of subsection C or D, shall be approved for recovery by the Commission pursuant to this subdivision, provided that the total costs associated with the replacement of any subset of existing overhead distribution tap lines proposed by the utility with new underground facilities, exclusive of financing costs, shall not exceed an average cost per customer of $20,000, with such customers, including those served directly by or downline of the tap lines proposed for conversion, and, further, such total costs shall not exceed an average cost per mile of tap lines converted, exclusive of financing costs, of $750,000. A utility shall, without regard for whether it has petitioned for

any rate adjustment clause pursuant to clause (vi), petition the Commission, not more than once annually, for approval of a plan for electric distribution grid transformation projects. Any plan for electric distribution grid transformation projects shall include both measures to facilitate integration of distributed energy resources and measures to enhance physical electric distribution grid reliability and security. In ruling upon such a petition, the Commission shall consider whether the utility's plan for such projects, and the projected costs associated therewith, are reasonable and prudent. Such petition shall be considered on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility; without regard to whether the costs associated with such projects will be recovered through a rate adjustment clause under this subdivision or through the utility's rates for generation and distribution services; and without regard to whether such costs will be the subject of a customer credit offset, as applicable, pursuant to subdivision 8 d. The Commission's final order regarding any such petition for approval of an electric distribution grid transformation plan shall be entered by the Commission not more than six months after the date of filing such petition. The Commission shall likewise enter its final order with respect to any petition by a utility for a certificate to construct and operate a generating facility or facilities utilizing energy derived from sunlight, pursuant to subsection D of § 56-580, within six months after the date of filing such petition. The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years
Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

Only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014. Thirty percent of all costs of a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore or offshore wind are in the public interest.

Notwithstanding any provision of Chapter 296 of the Acts of Assembly of 2018, construction, purchasing, or leasing activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore wind with an aggregate capacity of 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, together with a utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 3,000 megawatts, are in the public interest. Additionally, energy storage facilities with an aggregate capacity of 2,700 megawatts are in the public interest. To the extent that a utility elects to recover the costs of any such new generation or energy storage facility or facilities through its rates for generation and distribution services and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in

clause (ii), the Commission shall, upon the request of the utility in a ~~triennial~~ review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding pursuant to subsection D of § 56-580 or in a ~~triennial~~ review proceeding.

Electric distribution grid transformation projects are in the public interest. To the extent that a utility elects to recover the costs of such electric distribution grid transformation projects through its rates for generation and distribution services, and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (vi), the Commission shall, upon the request of the utility in a ~~triennial~~ review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding for approval of a plan for electric distribution grid transformation projects pursuant to subdivision 6 or in a ~~triennial~~ review proceeding.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.2-1600, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission for such utility pursuant to subdivision 2.

Notwithstanding any other provision of this subdivision, if the Commission finds during the triennial review conducted for a Phase II Utility in 2021 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from the Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or demonstration project involving a generation facility utilizing energy from offshore wind, and such utility has not, as of July 1, 2023, commenced construction as defined for federal income tax purposes of an offshore wind generation facility or facilities with a minimum aggregate capacity of 250 megawatts, then the Commission, if it finds it in the public interest, may direct that the costs associated with any such rate adjustment clause involving said test or demonstration project shall thereafter no longer be recovered through a rate adjustment clause pursuant to subdivision 6 and shall instead be recovered through the utility's rates for generation and distribution services, with no change in such rates for generation and distribution services as a result of the combination of such costs with the other costs, revenues, and investments included in the utility's rates for generation and distribution services. Any such costs shall remain combined with the utility's other costs, revenues, and investments included in its rates for generation and distribution services until such costs are fully recovered.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or

termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with respect to ~~triennial~~ filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later. *At any time, the Commission may, in its discretion, for a Phase II Utility, upon petition by such a utility or upon its own initiated proceeding, direct the consolidation of any one or more subsets of rate adjustment clauses previously implemented pursuant to subdivision 5 or 6 in the interest of judicial economy, customer transparency, or other factors the Commission determines to be appropriate. Any subset of rate adjustment clauses so consolidated shall continue to be considered by the Commission without regard to the other costs, revenues, investments, or earnings of the utility and remain as a cost recovery mechanism independent from the utility's rates for generation and distribution services pursuant to this subdivision and subdivisions 5 and 6, but will be combined as a single rate adjustment clause for cost recovery and review purposes. Any rate adjustment clause or subset of rate adjustment clauses so consolidated shall be named in a manner, as determined by the Commission, that reasonably informs customers as to the nature of the costs recovered by the consolidated rate adjustment clause.*

8. ~~In any triennial~~ *For a Phase I Utility in any triennial review proceeding filed on or before June 30, 2023 or for a Phase II Utility in any biennial* review proceeding, for the purposes of reviewing earnings on the utility's rates for generation and distribution services, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review and deemed fully recovered in the period recorded: costs associated with asset impairments related to early retirement determinations made by the utility for utility generation facilities fueled by coal, natural gas, or oil or for automated meter reading electric distribution service meters; costs associated with projects necessary to comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to coal combustion by-product management that the utility does not petition to recover through a rate adjustment clause pursuant to subdivision 5 e; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such ~~triennial~~ review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. *Notwithstanding the prior sentence, the aggregate amount of actual and reasonable costs associated with severe weather events eligible for such deferral shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized for the combined test periods under review. For the purposes of determining any amount of costs that are associated with severe weather events, the Commission shall consider nationally recognized standards such as those published by the Institute of Electrical and Electronics Engineers (IEEE).* Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a ~~triennial~~ review, for normalization of nonrecurring

test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of ~~such~~ *any* triennial review *initiated prior to July 1, 2023* that:

a. Revenue reductions related to energy efficiency measures or programs approved and deployed since the utility's previous triennial review have caused the utility, as verified by the Commission, during the test period or periods under review, considered as a whole, to earn more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates for generation and distribution services necessary to recover such revenue reductions. If the Commission finds, for reasons other than revenue reductions related to energy efficiency measures, that the utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the amount of the rate increase necessary. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, the Commission may not order a rate increase, and in all triennial reviews of a Phase I or Phase II utility, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate increase under the standards of this sentence, and the amount thereof; and provided that, solely in connection with making its determination concerning the necessity for such a rate increase or the amount thereof, the Commission shall, in any triennial review proceeding conducted prior to July 1, 2028, exclude from this most recently ended 12-month test period any remaining investment levels associated with a prior customer credit reinvestment offset pursuant to subdivision d.

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivisions 8 d and 9, direct that 60 percent of the amount of such earnings that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. ~~In any triennial review proceeding conducted after January 1, 2020, for a Phase I Utility or after January 1, 2021, for a Phase II Utility in which the~~ *The* utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, and the combined aggregate level of capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test periods under review in that triennial review proceeding in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and in electric distribution grid transformation projects, as determined pursuant to subdivision 8 d, does not equal or exceed 100 percent of the earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the combined test periods under review in that triennial review proceeding, the Commission shall, subject to the provisions of subdivision ~~9~~ *10* and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, any reduction to the utility's rates ordered by the Commission pursuant to this subdivision shall not exceed $50 million in annual revenues, with any reduction allocated to the utility's rates for generation services, and in each triennial review of a Phase I or Phase II Utility, the Commission may not order such rate reduction unless it finds that the resulting rates will

provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof; and

d. (Expires July 1, 2028) In any ~~triennial~~ review proceeding conducted after December 31, 2017, upon the request of the utility, the Commission shall determine, prior to directing that 70 percent of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the test period or periods under review be credited to customer bills pursuant to subdivision 8 b, the aggregate level of prior capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test period or periods under review in both (i) new utility-owned generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, and (ii) electric distribution grid transformation projects, as determined by the utility's plant in service and construction work in progress balances related to such investments as recorded per books by the utility for financial reporting purposes as of the end of the most recent test period under review. Any such combined capital investment amounts shall offset any customer bill credit amounts, on a dollar for dollar basis, up to the aggregate level of invested or committed capital under clauses (i) and (ii). The aggregate level of qualifying invested or committed capital under clauses (i) and (ii) is referred to in this subdivision as the customer credit reinvestment offset, which offsets the customer bill credit amount that the utility has invested or will invest in new solar or wind generation facilities or electric distribution grid transformation projects for the benefit of customers, in amounts up to 100 percent of earnings that are more than 70 basis points above the utility's fair rate of return on its generation and distribution services, and thereby reduce or eliminate otherwise incremental rate adjustment clause charges and increases to customer bills, which is deemed to be in the public interest. If 100 percent of the amount of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services, as determined in subdivision 2, exceeds the aggregate level of invested capital in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and electric distribution grid transformation projects, as provided in clauses (i) and (ii), during the test period or periods under review, then 70 percent of the amount of such excess shall be credited to customer bills as provided in subdivision 8 b in connection with the ~~triennial~~ review proceeding. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is the subject of any customer credit reinvestment offset pursuant to this subdivision shall not thereafter be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall not thereafter be included in the utility's costs, revenues, and investments in future ~~triennial~~ review proceedings conducted pursuant to subdivision 2 and shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is not the subject of any customer credit reinvestment offset pursuant to this subdivision may be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall be included in the utility's costs, revenues, and investments in future ~~triennial~~ review proceedings conducted pursuant to subdivision 2 until such costs are fully recovered, and if such costs are recovered through the utility's rates for generation and distribution services, they shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. Only the portion of such costs of new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that has not been included in any customer credit reinvestment offset pursuant to this subdivision, and not otherwise recovered through the utility's rates for generation and distribution services, may be the subject of a rate adjustment clause petition by the utility pursuant to subdivision 6.

~~The~~ *e. In any biennial review of a Phase II Utility, the* Commission's final order regarding such ~~triennial~~ review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such ~~triennial~~ review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire *two or* three*, as applicable,* successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent ~~triennial~~ review filing under subdivision 3 and shall apply to applicable rate adjustment clauses under subdivisions 5 and 6 prospectively from the date the Commission's final order in the ~~triennial~~ review proceeding, utilizing rate adjustment clause true-up protocols as the Commission in its discretion may determine.

9. *a. In any biennial review for a Phase II Utility filed on or prior to December 31, 2023, if the Commission determines that the utility has during the test period or test periods under review, considered as a whole, earned more than 70 basis points above a fair combined rate of return on its generation and distribution services previously authorized by the Commission, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, which have not been combined with the utility's costs, revenues, and investments for generation and distribution services, the Commission shall direct that 85 percent of the amount of such earnings that were more than 70 basis points above such fair combined rate of return for the test period or periods under review, considered as a whole, be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and*

shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates.

b. In any biennial review for a Phase II Utility filed on or after January 1, 2024, if the Commission determines that the utility has during the test period or test periods under review, considered as a whole, earned above its fair combined rate of return on its generation and distribution services previously authorized by the Commission, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, which have not been combined with the utility's costs, revenues, and investments for generation and distribution services, the Commission shall direct that 85 percent of the amount of such earnings above such fair combined rate of return for the test period or periods under review, considered as a whole, be credited to customers' bills. Further, if the Commission determines that during the test period or test periods under review, considered as a whole, a Phase II Utility earned more than 150 basis points above a fair combined rate of return on its generation and distribution services previously authorized by the Commission, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, which have not been combined with the utility's costs, revenues, and investments for generation and distribution services, the Commission shall direct that all such earnings that were more than 150 basis points above such fair combined rate of return for the test period or periods under review, considered as a whole, be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates.

10. If, as a result of a triennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently ended 12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c, provided that no credits shall be provided pursuant to this subdivision in connection with any triennial review unless such bill credits would be payable pursuant to the provisions of subdivision 8 d, and any credits under this subdivision shall be calculated net of any customer credit reinvestment offset amounts under subdivision 8 d. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

~~10.~~ *11.* For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, excluding any debt associated with securitized bonds that are the obligation of non-Virginia jurisdictional customers, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded,

consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by customers.

E. Notwithstanding any other provision of law, the Commission shall determine the amortization period for recovery of any appropriate costs due to the early retirement of any electric generation facilities owned or operated by any Phase I Utility or Phase II Utility. In making such determination, the Commission shall (i) perform an independent analysis of the remaining undepreciated capital costs; (ii) establish a recovery period that best serves ratepayers; and (iii) allow for the recovery of any carrying costs that the Commission deems appropriate.

F. *The Commission shall include in its report required by subsection B of § 56-596 any information concerning the reliability impacts of generation unit additions and retirement determinations by a Phase I or Phase II Utility, along with the potential impact on the purchase of power from generation assets outside the Virginia jurisdiction used to serve the utility's native load, utilizing information from the respective utility's integrated resource plan or information from the respective utility's plan filed pursuant to subsection D of § 56-585.5.*

*G. T*he Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

§ 56-585.1:4. Development of solar and wind generation and energy storage capacity in the Commonwealth.

A. Prior to January 1, 2024, (i) the construction or purchase by a public utility of one or more solar or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic shoreline, each having a rated capacity of at least one megawatt and having in the aggregate a rated capacity that does not exceed 5,000 megawatts, or (ii) the purchase by a public utility of energy, capacity, and environmental attributes from solar facilities described in clause (i) owned by persons other than a public utility is in the public interest, and the Commission shall so find if required to make a finding regarding whether such construction or purchase is in the public interest.

B. Prior to January 1, 2024, (i) the construction or purchase by a public utility of one or more solar or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic shoreline, each having a rated capacity of less than one megawatt, including rooftop solar installations with a capacity of not less than 50 kilowatts, and having in the aggregate a rated capacity that does not exceed 500 megawatts, or (ii) the purchase by a public utility of energy, capacity, and environmental attributes from solar facilities described in clause (i) owned by persons other than a public utility is in the public interest, and the Commission shall so find if required to make a finding regarding whether such construction or purchase is in the public interest.

C. The aggregate cap of 5,000 megawatts of rated capacity described in clause (i) of subsection A, the aggregate cap of 500 megawatts of rated capacity described in clause (i) of subsection B, and the aggregate cap of 200 megawatts of rated capacity described in subsection I are separate and independent from each other. The capacity of facilities in subsection B shall not be counted in determining the capacity of facilities in subsection A or I; the capacity of facilities in subsection A shall not be counted in determining the capacity of facilities in subsection B or I; and the capacity of facilities in subsection I shall not be counted in determining the capacity of facilities in subsection A or B.

D. Twenty-five percent of the solar generation capacity placed in service on or after July 1, 2018, located in the Commonwealth, and found to be in the public interest pursuant to subsection A or B shall be from the purchase by a public utility of energy, capacity, and environmental attributes from solar facilities owned by persons other than a public utility. The remainder shall be construction or purchase by a public utility of one or more solar generation facilities located in the Commonwealth. All of the solar generation capacity located in the Commonwealth and found to be in the public interest pursuant to subsection A or B shall be subject to competitive procurement, provided that a public utility may select solar generation capacity without regard to whether such selection satisfies price criteria if the selection of the solar generating capacity materially advances non-price criteria, including favoring geographic distribution of generating capacity, areas of

higher employment, or regional economic development, if such non-price solar generating capacity selected does not exceed 25 percent of the utility's solar generating capacity.

E. Construction, purchasing, or leasing activities for a test or demonstration project for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 16 megawatts are in the public interest.

F. Prior to January 1, 2035, (i) the construction by a public utility of one or more energy storage facilities located in the Commonwealth, having in the aggregate a rated capacity that does not exceed 2,700 megawatts, or (ii) the purchase by a public utility of energy storage facilities described in clause (i) owned by persons other than a public utility or the capacity from such facilities is in the public interest, and the Commission shall so find if required to make a finding regarding whether such construction or purchase is in the public interest.

G. At least 35 percent of the energy storage capacity placed in service on or after July 1, 2020, located in the Commonwealth and found to be in the public interest pursuant to subsection F shall be from the purchase by a public utility of energy storage facilities owned by persons other than a public utility or the capacity from such facilities. All of the energy storage facilities located in the Commonwealth and found to be in the public interest pursuant to subsection F shall be subject to competitive procurement, provided that a public utility may select energy storage facilities without regard to whether such selection satisfies price criteria if the selection of the energy storage facilities materially advances non-price criteria, including favoring geographic distribution of generating facilities, areas of higher employment, or regional economic development, if such energy storage facilities selected for the advancement of non-price criteria do not exceed 25 percent of the utility's energy storage capacity.

H. A utility may elect to petition the Commission, outside of a triennial *or biennial* review proceeding conducted pursuant to § 56-585.1, at any time for a prudency determination with respect to the construction or purchase by the utility of one or more solar or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic Shoreline or the purchase by the utility of energy, capacity, and environmental attributes from solar or wind facilities owned by persons other than the utility. The Commission's final order regarding any such petition shall be entered by the Commission not more than three months after the date of the filing of such petition.

I. Prior to January 1, 2024, (i) the construction or purchase by a public utility of one or more solar or wind generation facilities located on a previously developed project site in the Commonwealth having in the aggregate a rated capacity that does not exceed 200 megawatts or (ii) the purchase by a public utility of energy, capacity, and environmental attributes from solar facilities described in clause (i) owned by persons other than a public utility, is in the public interest.

§ 56-599. Integrated resource plan required.

A. Each electric utility shall file an updated integrated resource plan by July 1, 2015. Thereafter, each electric utility shall file an updated integrated resource plan by May 1, in each year immediately preceding the year the utility is subject to a triennial *or biennial* review filing. A copy of each integrated resource plan shall be provided to the Chairman of the House Committee on Labor and Commerce, the Chairman of the Senate Committee on Commerce and Labor, and to the Chairman of the Commission on Electric Utility Regulation. All updated integrated resource plans shall comply with the provisions of any relevant order of the Commission establishing guidelines for the format and contents of updated and revised integrated resource plans. Each integrated resource plan shall consider options for maintaining and enhancing rate stability, energy independence, economic development including retention and expansion of energy-intensive industries, and service reliability.

B. In preparing an integrated resource plan, each electric utility shall systematically evaluate and may propose:

1. Entering into short-term and long-term electric power purchase contracts;

2. Owning and operating electric power generation facilities;

3. Building new generation facilities;

4. Relying on purchases from the short term or spot markets;

5. Making investments in demand-side resources, including energy efficiency and demand-side management services;

6. Taking such other actions, as the Commission may approve, to diversify its generation supply portfolio and ensure that the electric utility is able to implement an approved plan;

7. The methods by which the electric utility proposes to acquire the supply and demand resources identified in its proposed integrated resource plan;

8. The effect of current and pending state and federal environmental regulations upon the continued operation of existing electric generation facilities or options for construction of new electric generation facilities;

9. The most cost effective means of complying with current and pending state and federal environmental regulations, including compliance options to minimize effects on customer rates of such regulations;

10. Long-term electric distribution grid planning and proposed electric distribution grid transformation projects;

11. Developing a long-term plan for energy efficiency measures to accomplish policy goals of reduction in customer bills, particularly for low-income, elderly, and disabled customers; reduction in emissions; and reduction in carbon intensity; and

12. Developing a long-term plan to integrate new energy storage facilities into existing generation and distribution assets to assist with grid transformation.

C. As part of preparing any integrated resource plan pursuant to this section, each utility shall conduct a facility retirement study for owned facilities located in the Commonwealth that emit carbon dioxide as a byproduct of combusting

fuel and shall include the study results in its integrated resource plan. Upon filing the integrated resource plan with the Commission, the utility shall contemporaneously disclose the study results to each planning district commission, county board of supervisors, and city and town council where such electric generation unit is located, the Department of Energy, the Department of Housing and Community Development, the Virginia Employment Commission, and the Virginia Council on Environmental Justice. The disclosure shall include (i) the driving factors of the decision to retire and (ii) the anticipated retirement year of any electric generation unit included in the plan. Any electric generating facility with an anticipated retirement date that meets the criteria of § 45.2-1701.1 shall comply with the public disclosure requirements therein.

D. The Commission shall analyze and review an integrated resource plan and, after giving notice and opportunity to be heard, the Commission shall make a determination within nine months after the date of filing as to whether such an integrated resource plan is reasonable and is in the public interest.

2. That, notwithstanding the provisions of subdivision A 2 a or c of § 56-585.1 of the Code of Virginia, as amended by this act, in any biennial review initiated by a Phase II Utility, as that term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, as amended by this act, on or prior to December 31, 2023, the State Corporation Commission shall set the combined fair rate of return at 9.70 percent, which is based on the simple average of the authorized returns for vertically integrated electric utilities by the applicable regulatory commissions in the peer group jurisdictions of Florida, Georgia, Texas, Tennessee, West Virginia, Kentucky, and North Carolina. Such combined fair rate of return on common equity shall be applicable separately to the generation and distribution services of such utility, and for the two such services combined, and for any rate adjustment clauses approved under subdivision A 5 or 6 of § 56-585.1 of the Code of Virginia, as amended by this act. For any review initiated by such a utility after December 31, 2023, the Commission may use any methodology to determine such return it finds consistent with the public interest pursuant to its authority under subdivision A 2 a of § 56-585.1 of the Code of Virginia, as amended by this act.

3. That a Phase II Utility, as that term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, as amended by this act, shall, through December 31, 2024, undertake reasonable efforts to maintain, subject to audit by the State Corporation Commission, its common equity capitalization to total capitalization ratio at a level equal to 52.10 percent.

4. That a Phase II Utility, as that term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, as amended by this act, in connection with any financing order petition filed with the State Corporation Commission (the Commission) prior to December 31, 2023, pursuant to § 56-249.6:1 of the Code of Virginia, as created by this act, shall permit any retail customer that is receiving electric supply service from the utility and whose demand exceeded five megawatts during the calendar year prior to such petition to opt out of financing its pro rata obligation for deferred fuel cost charges through deferred fuel cost bonds. The utility shall notify such eligible customers of their eligibility to opt out of the deferred fuel cost financing through its annual petition with the Commission pursuant to § 56-249.6 of the Code of Virginia, and any election to opt out of the deferred fuel cost financing by an eligible customer shall be provided in writing to the utility within 30 days of the filing of such petition. Upon such election, the eligible customer shall fully satisfy such customer's pro rata obligation for the deferred fuel cost charges subject to financing, as determined based on such customer's electric usage over the period that such charges were incurred, over the 12-month period prescribed by subsection C of § 56-249.6 of the Code of Virginia that is associated with such annual petition. In the event of such election, any deferred fuel cost charges approved for recovery through deferred fuel cost bonds shall not include the obligations of eligible customers opting out of the deferred fuel cost financing.

5. That for purposes of considering future performance-based adjustments to the combined rate of return in accordance with subdivision A 2 c of § 56-585.1 of the Code of Virginia, as amended by this act, the State Corporation Commission (the Commission), before December 31, 2023, shall direct the initiation of a proceeding to review and determine the appropriate protocols and standards applicable to implementing any such performance-based adjustments. The protocols and standards established as a result of such a proceeding shall apply to biennial review filings occurring on or after January 1, 2025. However, if the Commission determines that the public interest would be better served by implementing such protocols and standards for biennial review filings occurring on or after January 1, 2027, then such performance standards and protocols shall be applicable to all biennial rate review filings made on or after January 1, 2027. Beginning January 1, 2024, and until such standards and protocols are applicable, the Commission shall have the authority, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, to increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

CHAPTER 758

An Act to amend the Code of Virginia by adding in Article 3 of Chapter 9 of Title 23.1 a section numbered 23.1-906.1, relating to public institutions of higher education; degree programs; integration of internship or work-based learning experiences; policies.

[S 1280]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 9 of Title 23.1 a section numbered 23.1-906.1 as follows:

§ 23.1-906.1. Degree programs; integration of internship or work-based learning experiences; policies.

The governing board of each baccalaureate public institution of higher education shall adopt policies requiring that participation in an internship or work-based learning experience be integrated into a student's degree program so as not to extend the time to complete the degree.

2. That the State Council of Higher Education for Virginia shall convene a work group for the purpose of making recommendations on the development, adoption, and implementation of the policies required pursuant to this act. In making its recommendations, the work group shall (i) first prioritize internship experience and next prioritize degree-related work-based learning experience to fulfill the requirement of the policies developed pursuant to § 23.1-906.1 of the Code of Virginia, as created by this act, but also permit non-degree work-based learning experience to fulfill the requirement of such policies; (ii) provide a structure for non-degree work-based learning experiences that will enable the development of successful workforce skills; (iii) determine the viability of and costs associated with setting a minimum number of essential work hours to be equivalent to a minimum of three Carnegie credits and to the maximum extent practicable applying such credits toward the total credits required for the completion of a bachelor's degree; (iv) consider what criteria in experiential learning might meet the definition of work-based learning experience; and (v) define exceptions to the policies developed pursuant to § 23.1-906.1 of the Code of Virginia, as created by this act. The work group shall submit its recommendations to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than June 30, 2024.

3. That the provisions of the first enactment of this act shall not become effective unless the work group convened pursuant to the second enactment of this act determines that the adoption of the policies required by § 23.1-906.1 of the Code of Virginia, as created by this act, is logistically and fiscally viable for each baccalaureate public institution of higher education in the Commonwealth, and in the event that such work group makes such determination, the provisions of the first enactment of this act shall become effective on July 1, 2025.

CHAPTER 759

An Act to amend and reenact § 33.2-1526.3 of the Code of Virginia, as it is currently effective and as it shall become effective, relating to Transit Ridership Incentive Program; funds; improving accessibility and safety.

[S 1326]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-1526.3, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 33.2-1526.3. (Effective until July 1, 2024) Transit Ridership Incentive Program.

A. The Board shall establish the Transit Ridership Incentive Program (the Program) to promote improved transit service in urbanized areas of the Commonwealth with a population in excess of 100,000 and to reduce barriers to transit use for low-income individuals.

B. The goal of the Program shall be to encourage the identification and establishment of routes of regional significance, the development and implementation of a regional subsidy allocation model, implementation of integrated fare collection, establishment of bus-only lanes on routes of regional significance, and other actions and service determined by the Board to improve transit service.

C. The Board shall establish guidelines for the implementation of the Program and review such guidelines, at a minimum, every five years. The funds in the Program shall be awarded such that on a five-year rolling average, the amount of funds awarded to each urbanized area shall be equal to a ratio of the population within the Commonwealth of such urbanized area compared to the total population within the Commonwealth of all eligible urbanized areas. The Board may through an affirmative vote of a majority of the members vote to waive this requirement for a period not to exceed two years when they find there is a need that justifies such waiver.

D. Notwithstanding the provisions of this section, the Board shall use at least 25 percent of the funds available to support the establishment of programs to reduce the impact of fares on low-income individuals, including reduced-fare programs and elimination of fares. The restrictions in subsection A shall not apply to funds used pursuant to this subsection, nor shall the funds used pursuant to this subsection be used to calculate the rolling average described in subsection C.

E. The Board shall use at least 25 percent of the funds available to support regional transit initiatives. The Board shall use its discretion in allocating the remaining funds available as authorized pursuant to this section and based on the programs and initiatives submitted during the application process.

F. Notwithstanding the provisions of this section, the Board shall use an amount not to exceed 30 percent of the funds available to support local, regional, and state entities in improving the accessibility of transit bus passenger facilities and improving crime prevention and public safety for transit passengers, operators, and employees. The Board shall develop guidelines for applications, including relevant criteria and any requirement for matching funds, including any private

grants and donations, for grants to any local, regional, or state public entity that supports a transit system. The restrictions in subsection A shall not apply to funds used pursuant to this subsection, nor shall the funds used pursuant to this subsection be used to calculate the rolling average described in subsection C.

~~F.~~ *G.* The Board shall report annually to the Governor and the General Assembly on the projects and services funded by the Program. The report shall, at a minimum, include an analysis of the performance of the funded projects, the performance of the identified routes of regional significance, transit ridership, efforts funded pursuant to subsection D, and any other information the Board determines to be appropriate.

§ 33.2-1526.3. (Effective July 1, 2024) Transit Ridership Incentive Program.

A. The Board shall establish the Transit Ridership Incentive Program (the Program) to promote improved transit service in urbanized areas of the Commonwealth with a population in excess of 100,000 and to reduce barriers to transit use for low-income individuals.

B. The goal of the Program shall be to encourage the identification and establishment of routes of regional significance, the development and implementation of a regional subsidy allocation model, implementation of integrated fare collection, establishment of bus-only lanes on routes of regional significance, and other actions and service determined by the Board to improve transit service.

C. The Board shall establish guidelines for the implementation of the Program and review such guidelines, at a minimum, every five years. The funds in the Program shall be awarded such that on a five-year rolling average, the amount of funds awarded to each urbanized area shall be equal to a ratio of the population within the Commonwealth of such urbanized area compared to the total population within the Commonwealth of all eligible urbanized areas. The Board may through an affirmative vote of a majority of the members vote to waive this requirement for a period not to exceed two years when they find there is a need that justifies such waiver.

D. Notwithstanding the provisions of this section, the Board shall use an amount not to exceed 25 percent of the funds available to support the establishment of programs to reduce the impact of fares on low-income individuals, including reduced-fare programs and elimination of fares. The restrictions in subsection A shall not apply to funds used pursuant to this subsection, nor shall the funds used pursuant to this subsection be used to calculate the rolling average described in subsection C.

E. The Board shall use at least 25 percent of the funds available to support regional transit initiatives. The Board shall use its discretion in allocating the remaining funds available as authorized pursuant to this section and based on the programs and initiatives submitted during the application process.

F. Notwithstanding the provisions of this section, the Board shall use an amount not to exceed 30 percent of the funds available to support local, regional, and state entities in improving the accessibility of transit bus passenger facilities and improving crime prevention and public safety for transit passengers, operators, and employees. The Board shall develop guidelines for applications, including relevant criteria and any requirement for matching funds, including any private grants and donations, for grants to any local, regional, or state public entity that supports a transit system. The restrictions in subsection A shall not apply to funds used pursuant to this subsection, nor shall the funds used pursuant to this subsection be used to calculate the rolling average described in subsection C.

~~F.~~ *G.* The Board shall report annually to the Governor and the General Assembly on the projects and services funded by the Program. The report shall, at a minimum, include an analysis of the performance of the funded projects, the performance of the identified routes of regional significance, transit ridership, efforts funded pursuant to subsection D, and any other information the Board determines to be appropriate.

CHAPTER 760

An Act to amend and reenact §§ 54.1-3408.3, 54.1-3442.5, 54.1-3442.6, and 54.1-3442.7 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 54.1-3442.7:1, 54.1-3442.7:2, and 54.1-3442.7:3, relating to medical marijuana program; product, registration, dispensing, and recordkeeping requirements; advertising.

[S 1337]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3408.3, 54.1-3442.5, 54.1-3442.6, and 54.1-3442.7 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 54.1-3442.7:1, 54.1-3442.7:2, and 54.1-3442.7:3 as follows:

§ 54.1-3408.3. Certification for use of cannabis products for treatment.

A. As used in this section:

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis dispensing facility" means the same as that term is defined in § 54.1-3442.5.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains*, except as otherwise provided in Article 4.2 (§ 54.1-3442.5 et seq.),* no more

than 10 milligrams of ~~delta-9-tetrahydrocannabinol~~ *tetrahydrocannabinol* per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.

"Cannabis product" means a product that ~~is~~ (i) *is formulated with cannabis oil or botanical cannabis; (ii) is* produced by a pharmaceutical processor~~,~~ *and sold by a pharmaceutical processor or cannabis dispensing facility; (iii) is* registered with the Board~~,~~*; (iv) contains, except as otherwise provided in Article 4.2 (§ 54.1-3442.5 et seq.), no more than 10 milligrams of tetrahydrocannabinol per dose;* and *(v) is* compliant with testing requirements ~~and (ii) composed of cannabis oil or botanical cannabis~~.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

"Pharmaceutical processor" means the same as that term is defined in § 54.1-3442.5.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audio-visual technology. *No practitioner may issue a written certification while such practitioner is on the premises of a pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor shall not endorse or promote any practitioner who issues certifications to patients.* If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing. *A practitioner who issues written certifications shall not directly or indirectly accept, solicit, or receive anything of value from a pharmaceutical processor, cannabis dispensing facility, or any person associated with a pharmaceutical processor, cannabis dispensing facility, or provider of paraphernalia, excluding information on products or educational materials on the benefits and risks of cannabis products.*

C. The written certification shall be on a form provided by the Board of Pharmacy. Such written certification shall contain the name, address, and telephone number of the practitioner; the name and address of the patient issued the written certification; the date on which the written certification was made; and the signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection B shall expire ~~no later than~~ one year after its issuance unless the practitioner provides in such written certification an earlier expiration. A written certification shall not be issued to a patient by more than one practitioner during any given time period.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude ~~the Board of Medicine~~ *a practitioner's professional licensing board* from sanctioning ~~a~~ *the* practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section ~~shall register with the Board and~~ *(i)* shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients*; (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian, or registered agent that is contingent on or encourages the person's decision to use a particular pharmaceutical processor or cannabis product; (iii) shall not issue a certification to himself or his family members, employees, or coworkers; (iv) shall not provide product samples containing cannabis other than those approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a pharmaceutical processor or cannabis dispensing facility*. The Board shall not limit the number of patients to whom a practitioner may issue a written certification. The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.

F. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit, on a monthly basis, all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Board.

G. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

H. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility, who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications, may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis product to the patient or resident as necessary.

I. Information obtained under the *patient certification or agent* registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a registered agent, but only with respect to information related to such patient.

§ 54.1-3442.5. Definitions.

As used in this article:

"Botanical cannabis," "cannabis oil," "cannabis product," *"designated caregiver facility," "practitioner," "registered agent,"* and "usable cannabis" have the same meanings as specified in § 54.1-3408.3.

"Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant to § 54.1-3442.6; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses cannabis products produced by a pharmaceutical processor to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

~~"Designated caregiver facility" has the same meaning as defined in § 54.1-3408.3.~~

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § ~~54.1-3408.3~~ *54.1-3442.6* and (ii) cultivates Cannabis plants intended only for the production of cannabis oil, botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a patient pursuant to a written certification, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

~~"Practitioner" has the same meaning as specified in § 54.1-3408.3.~~

~~"Registered agent" has the same meaning as specified in § 54.1-3408.3.~~

§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling, including the potency of each botanical cannabis product and the amounts recommended by the practitioner or dispensing pharmacist, and packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis ~~oil~~ *products* that provide that each dispensed dose of *a* cannabis ~~oil~~ *product* not exceed 10 milligrams of ~~delta-9-tetrahydrocannabinol~~ *total tetrahydrocannabinol, except as permitted under § 54.1-3442.7:2*; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors, between a pharmaceutical processors and a cannabis dispensing facility, and between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection M; (xii) an allowance for the use and distribution of inert product

samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue written certifications and patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for producing cannabis products, (b) the ~~secure~~ disposal of agricultural waste, and (c) a process for registering cannabis ~~oil~~ products.

D. The Board shall require that, after processing and before dispensing any cannabis products, a pharmaceutical processor shall make a sample available from each batch of cannabis product for testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD); total tetrahydrocannabinol (THC); terpenes; pesticide chemical residue; heavy metals; mycotoxins; moisture; and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or cannabis oil shall be subject to laboratory testing ~~and approved upon satisfaction of applicable testing standards~~, which shall not be more stringent than initial testing prior to remediation. *Remediated botanical cannabis or cannabis oil that passes such quality testing may be packaged and labeled.* If a batch of botanical cannabis fails retesting after remediation, it shall be considered usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any cannabis product with an expiration date assigned by the pharmaceutical processor of six months or less from the date of the cannabis product registration approval. Stability testing required for assignment of an expiration date longer than six months shall be limited to microbial testing, on a pass/fail basis, and potency testing, on a ~~10~~ *15* percent deviation basis, of ~~active ingredients~~ *total THC and total CBD. No cannabis product shall have an expiration date longer than six months from the date of the cannabis product registration approval unless supported by stability testing.*

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board in regulation.

F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility *unless all cannabis products are contained in a vault or other similar container to which only the pharmacist has access controls*. The pharmaceutical processor shall ensure that security measures are adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have concurrent responsibility for preventing diversion from the dispensing area.

Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and production areas of the pharmaceutical processor and shall provide such information to the Board. The Board shall direct all communications related to enforcement of requirements related to cultivation and production of cannabis ~~oil~~ *and cannabis* products by the pharmaceutical processor to such designated person.

G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant's material owners. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a certification recognized by the Board or who has at least two years of experience cultivating plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and (iii) to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician.

I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

J. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

L. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's dispensing area or cannabis dispensing facility.

M. A pharmaceutical processor may acquire industrial hemp extracts grown and processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before industrial hemp extracts may be acquired.

N. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board of Pharmacy shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board of Pharmacy shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

~~O. The Board shall register all cannabis products that meet testing, labeling, and packaging standards.~~

§ 54.1-3442.7. Dispensing cannabis products; report.

A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis products only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia and has been issued a valid written certification; (ii) such patient's registered agent; or (iii) if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or temporarily resides in Virginia. A companion may accompany a patient into a pharmaceutical processor's dispensing area or cannabis dispensing facility. Prior to the initial dispensing of cannabis products pursuant to each written certification, a pharmacist or pharmacy technician employed by the pharmaceutical processor or cannabis dispensing facility shall make and maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view, in person or by audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian; and shall verify current board registration of ~~the practitioner and~~ the corresponding registered agent if applicable. Thereafter, an initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated caregiver facility. Prior to any subsequent dispensing of cannabis products pursuant to each written certification, an employee or delivery agent shall view a current photo identification of the patient, registered agent, parent, or legal guardian and the current board registration issued to the registered agent if applicable. No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply, as determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period. A pharmaceutical processor or cannabis dispensing facility may dispense less than a 90-day supply of a cannabis product for any patient during any 90-day period; however, a pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. ~~The Board shall establish in regulation an amount of cannabis oil that constitutes a 90-day supply to treat or alleviate the symptoms of a patient's diagnosed condition or disease.~~ In determining the appropriate amount of a cannabis product to be dispensed to a patient, a pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the patient and adjust the amount dispensed accordingly.

B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis products produced on the premises of a pharmaceutical processor permitted by the Board or cannabis products that have been formulated with extracts from industrial hemp acquired by a pharmaceutical processor from a registered industrial hemp dealer or processor pursuant to § 54.1-3442.6. A pharmaceutical processor may begin cultivation upon being issued a permit by the Board.

C. The Board shall report annually by December 1 to the Chairmen of the House Committee for Health, Welfare and Institutions and the Senate Committee on Education and Health on the operation of pharmaceutical processors and cannabis dispensing facilities issued a permit by the Board.

D. The concentration of ~~delta-9-tetrahydrocannabinol~~ *total tetrahydrocannabinol* in any cannabis product on site may be up to ~~10~~ *15* percent greater than or less than the level of ~~delta-9-tetrahydrocannabinol measured for labeling~~ *total tetrahydrocannabinol listed in the approved cannabis product registration*. A pharmaceutical processor and cannabis dispensing facility shall ensure that such concentration in any cannabis product on site is within such range. A

pharmaceutical processor producing cannabis products shall establish a stability testing schedule of cannabis products *that have an expiration date longer than six months*.

§ 54.1-3442.7:1. Packaging and labeling; corrections; records.

A. Pharmaceutical processors shall comply with all packaging and labeling requirements set forth in this article and Board regulations.

B. No cannabis product shall be packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such cannabis product.

C. Pharmaceutical processors may correct typographical errors made on cannabis product labels and any documents generated as the result of a wholesale transaction.

§ 54.1-3442.7:2. Cannabis product registration; approval, deviation, and modification.

A. A pharmaceutical processor shall register with the Board each cannabis product it manufactures. Applications for cannabis product registration shall be submitted to the Board on a form prescribed by the Board.

B. An application for cannabis product registration shall include:

1. The total tetrahydrocannabinol and total cannabidiol in such cannabis product, based on laboratory testing results for the cannabis product formulation;

2. A product name;

3. A proposed product package; and

4. A proposed product label, which shall not be required to contain an expiration date at the time of application.

C. The Board shall register all cannabis products that meet testing, labeling, and packaging standards after an application for registration is submitted. If the cannabis product fails to meet such standards or the application was deficient, the Board shall notify the applicant of the specific reasons for such failure or deficiency.

D. Within two business days of the Board's approval or deemed approval, the Board shall enter the cannabis product's national drug code number into the Prescription Monitoring Program.

E. The following cannabis product deviations from an approved cannabis product registration shall be permitted without any requirement for a new cannabis product registration or notice to the Board:

1. A deviation in the concentration of total tetrahydrocannabinol (THC) or total cannabidiol (CBD) in a cannabis product or dose thereof of up to 15 percent greater than or less than the concentration of total tetrahydrocannabinol or total cannabidiol, either or both, listed in the approved cannabis product registration; however, for a cannabis product with five milligrams or less of total THC or total CBD per dose, the total THC or total CBD concentration shall be within 0.5 milligrams of the single dose total THC or total CBD concentrations approved for that cannabis product;

2. A variation in packaging, provided that the packaging is substantially similar to the approved packaging and otherwise complies with applicable packaging requirements;

3. A deviation in labeling, including a variation made in accordance with § 54.1-3442.7:1, that reflects allowable deviations in total THC or total CBD or that makes a minor text, font, design, or similar modification, provided that the labeling is substantially similar to the approved labeling and otherwise complies with applicable labeling requirements; and

4. Any other insignificant changes.

F. A pharmaceutical processor may submit a request to modify an existing cannabis product registration in the event of a cannabis product deviation that is not set forth in subsection E. Upon receipt, the Board shall respond to such request. The Board may grant or deny the request, propose a reasonable revision, or require the pharmaceutical processor to provide additional information.

§ 54.1-3442.7:3. Advertising and marketing.

A. Pharmaceutical processors and cannabis dispensing facilities may (i) advertise and promote products and operations and (ii) provide educational material to practitioners, patients, and the public.

B. Pharmaceutical processors and cannabis dispensing facilities may engage in advertising or marketing that does not:

1. Include false or misleading statements;

2. Promote overconsumption;

3. Depict a person younger than 21 years of age;

4. Appeal particularly to persons younger than 21 years of age, including by using cartoons in any way;

5. Associate cannabis products with candy or similar products or depicts any images that bear a reasonable resemblance to a candy or similar product; or

6. Contain any seal, flag, crest, coat of arms, or other insignia that is likely to mislead patients or the public to believe that the cannabis product is made or endorsed by the Commonwealth.

C. All advertising and marketing by pharmaceutical processors and cannabis dispensing facilities shall (i) accurately and legibly identify the pharmaceutical processor or cannabis dispensing facility responsible for its content, (ii) include a statement that cannabis products are for use by certified patients only, and (iii) comply with Board regulations.

2. That pharmaceutical processors and cannabis dispensing facilities shall collect and provide to the Board of Pharmacy by July 1, 2024, data regarding the impact of this act on program participation, reductions in the price of cannabis products, and improved operational efficiencies.

3. That the Board of Pharmacy shall amend its regulations, including 18VAC110-60-270, 18VAC110-60-285, 18VAC110-60-290, and 18VAC110-60-310, to replace any references to "brand" with "registered cannabis product name."

4. That the Board of Pharmacy may assess and collect regulatory fees from each pharmaceutical processor and cannabis dispensing facility in an amount sufficient to implement the provisions of this act.

CHAPTER 761

An Act directing the Virginia Alcoholic Beverage Control Authority to assess a licensing scheme for liquid nicotine; report.

[S 1350]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Virginia Alcoholic Beverage Control Authority (the Authority), in consultation with stakeholders, including public and community health organizations, retailers, tobacco and vaporized nicotine companies, and wholesalers, shall assess a potential licensing scheme for manufacturers, distributors, and retail dealers of liquid nicotine in the Commonwealth and the most appropriate manner and entity to enforce and administer licensing, age verification, product verification, and advertising restrictions related to the sale of liquid nicotine. The Authority shall report its findings and any recommendations to the Chairmen of the Senate Committee on Finance and Appropriations, the House Committee on Finance, and the House Committee on Appropriations by November 1, 2023.*

CHAPTER 762

An Act to amend and reenact § 10.1-603 of the Code of Virginia, relating to state agency compliance with flood plain management regulations.

[S 1392]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-603 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-603. State agency compliance.

A. All agencies and departments of the Commonwealth shall comply with ~~the flood plain regulations established pursuant to this article when planning for facilities in flood plains~~ *the following when undertaking development activities, including the construction or rehabilitation of buildings and structures, on state-owned property located in a flood plain:*

1. Adhere to all local flood plain management regulations as defined in § 10.1-600; or

2. Receive formal approval from the Department regarding compliance with the applicable state standard for development in a flood plain, provided that such standard does not jeopardize a locality's participation in the National Flood Insurance Program.

B. Compliance with the provisions of subsection A shall be documented and provided in the form of a permit by the Department to the applicant prior to preliminary design approval of a project by the Department of General Services, if such approval by the Department of General Services is otherwise applicable. If any changes are made to the preliminary design during the review conducted by the Department of General Services, the Department of General Services will coordinate with the Department to ensure the permit issued is still appropriate.

C. A permit may be issued by the Department if no feasible alternative to development in a flood plain exists. However, such permit shall be issued only if:

1. Issuing the permit will not result in increased flood heights in excess of the state standard, additional threats to public safety, or extraordinary public expense;

2. The development activities, including the construction or rehabilitation of a building or structure, is demonstrated to be a functionally dependent use, such as water treatment facilities, boat houses, fish hatcheries, or other similar uses;

3. The facility is historic and requires repair or rehabilitation and it has been demonstrated that the proposed repair or rehabilitation will not preclude the facility's continued designation as a historic structure and the permit is the minimum necessary to preserve the historic character and design of the facility; or

4. The development activity is demonstrated to be necessary to protect public health, safety, and welfare.

D. If the Department does not issue a permit for a project, the Department of General Services shall not approve such project.

E. The Department shall provide all permits in writing to the applicant and the locality and shall maintain all documentation associated with permits issued by the Department in perpetuity.

F. The Department may enter into a memorandum of understanding with a state agency to outline procedures and processes to review proposed development activities, including the construction or rehabilitation of buildings and structures, on state-owned property located in a flood plain. A memorandum of understanding with a state agency may also establish alternative approvals and processes for compliance with the applicable state standard pursuant to subsection A.

Alternative approvals and processes may include the development and issuance of permits by the Department for certain eligible activities.

2. That, no later than September 30, 2023, the Department of Conservation and Recreation, in cooperation with the Secretaries of Administration, Agriculture and Forestry, Commerce and Trade, Education, Health and Human Resources, Natural and Historic Resources, Public Safety and Homeland Security, and Transportation, or their designees, the Special Assistant to the Governor for Coastal Adaptation and Protection, or his designee, and any additional state officials designated by the Chief Resilience Officer, shall establish state standards for development in a flood plain for all state agencies and departments of the Commonwealth. At a minimum, such standards shall require compliance with the National Flood Insurance Program and require all development by state agencies or departments of the Commonwealth that occurs in a Special Flood Hazard Area on state-owned land to be protected or flood-proofed against flooding and flood damage.

CHAPTER 763

An Act to amend and reenact § 58.1-301 of the Code of Virginia and to amend Chapter 1 of the Acts of Assembly of 2023 by adding a fourth enactment, relating to income tax; rolling conformity; report.

[S 1405]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-301 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-301. Conformity to Internal Revenue Code.

A. Any term used in this chapter shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes~~, as they existed on December 31, 2021~~, except for:

1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m), 1400L, and 1400N of the Internal Revenue Code;

2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal Revenue Code;

3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the Internal Revenue Code;

4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument";

5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation on itemized deductions under § 68(f) of the Internal Revenue Code;

6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross income;

7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the limitation on business interest; ~~and~~

10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2), 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9673(2), 9673(3), 9672(2), and 9672(3) of the federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax attributes, and basis increases for certain loan forgiveness and other business financial assistance*; and*

11. a. (1) Any amendment enacted on or after January 1, 2023, with a projected impact that would increase or decrease general fund revenues by greater than $15 million in the fiscal year in which the amendment was enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall not apply to any amendment to federal income tax law that is either subsequently adopted by the General Assembly or a federal tax extender as defined in subdivision b.

(2) All amendments enacted on or after January 1, 2023, and occurring between adjournment sine die of the previous regular session of the General Assembly and the first day of the subsequent regular session of the General Assembly if the cumulative projected impact of such amendments would increase or decrease general fund revenues by greater than $75 million in the fiscal year in which the amendments were enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall not apply to any amendment to federal income tax law that is (i) subsequently adopted by the General Assembly, (ii) a federal tax extender as defined in subdivision b, or (iii) enacted before the date on which the cumulative projected impact is met. However, any amendment conformed to pursuant to clause (iii) shall be included in the calculation of the $75 million threshold for purposes of determining whether such threshold has been met.

(3) Beginning January 1, 2024, the threshold provided by subdivision (1) shall be adjusted annually based on the preceding change in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor or any successor index for the previous year.

b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income tax law or a group of such amendments enacted in the same act of Congress that collectively surpass the threshold impact, and "federal tax extender" means an amendment to federal tax law that extends the expiration date of a federal tax provision to which Virginia conforms or has previously conformed.

c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on Finance and Appropriations and the House Committees on Appropriations and Finance, shall be responsible for determining whether the criteria of subdivision a are met.

d. The Secretary of Finance shall annually provide a report on or before November 15 of each year on the fiscal impact of amendments to federal income tax law occurring since the adjournment sine die of the preceding regular session of the General Assembly to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committees on Appropriations and Finance. The Secretary of Finance shall also provide updates to the same Chairmen on any further amendments to federal income tax law occurring between submission of the required report and the first day of the subsequent regular session of the General Assembly.

C. The Department of Taxation is hereby authorized to develop procedures or guidelines for implementation of the provisions of this section, which procedures or guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

2. That the provisions of this act shall apply to taxable years beginning on and after January 1, 2023.

3. That Chapter 1 of the Acts of Assembly of 2023 is amended by adding a fourth enactment as follows:

4. That the provisions of the first enactment of this act shall apply only to taxable years beginning on or after January 1, 2022, but before January 1, 2023.

CHAPTER 764

An Act to amend and reenact §§ 24.2-949.6, 24.2-949.7, and 24.2-953.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-949.7:1, relating to campaign finance; political action committees; certain large pre-election expenditures.

[S 1427]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-949.6, 24.2-949.7, and 24.2-953.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-949.7:1 as follows:

§ 24.2-949.6. Filing schedule for political action committees.

A. Political action committees shall file the prescribed campaign finance reports with the State Board in accordance with the applicable provisions of this section. The first filed report shall be complete for the entire period from the time the committee was organized or contributions were received.

B. The reporting requirements shall continue in effect for each committee until a final report is filed.

C. Political action committees shall file the prescribed campaign finance reports as follows:

1. Not later than April 15 complete from the preceding report through March 31;

2. Not later than ~~July 15~~ *June 1* complete from the preceding report through ~~June 30~~ *May 25*;

3. Not later than ~~October~~ *September* 15 complete from the preceding report through ~~September 30~~ *August 31*; ~~and~~

4. *Not later than October 15 complete from the preceding report through October 7; and*

5. Not later than January 15 complete from the preceding report through December 31, and then continuing in accordance with this subsection until a final report is filed.

D. *A political action committee that files its statement of organization on or after March 15 and before the third Tuesday in June in any odd-numbered year shall file with its statement of organization a campaign finance report as*

provided in § 24.2-949.5 for that year, complete through the date that it files its statement of organization, and if such political action committee files its statement of organization before May 25, such political action committee shall file its next campaign finance report in accordance with subdivision C 2.

E. A political action committee that files its statement of organization on or after August 15 and before the November election day in any odd-numbered year shall file with its statement of organization a campaign finance report as provided in § 24.2-949.5 for that year, complete through the date that it files its statement of organization, and if such political action committee files its statement of organization before ~~September 30~~ *October 7*, such political action committee shall file its next campaign finance report in accordance with subdivision C ~~3~~ *4*. ~~After September 30, or after the date a political action committee has filed its statement of organization if the political action committee has filed its statement of organization on or after October 1, and until the November election day, the political action committee shall report any single contribution of $500 or more to the State Board in writing or electronically pursuant to § 24.2-946.1, and the report shall be received by the State Board by 11:59 p.m. on the following day, or, for a contribution received on a Saturday, by 11:59 p.m. on the following Monday. However, any such contribution received within the 24 hours prior to the election day shall be reported and a report thereof received on the day prior to the election. Any activity reported pursuant to this subsection shall also be reported on the report required to be filed for activity through December 31.~~

§ 24.2-949.7. Large dollar contribution reporting requirement for political action committees.

In addition to the ~~quarterly~~ *scheduled* reports required by § 24.2-949.6, political action committees shall report any single contribution or loan of $10,000 or more received at any time during the calendar year within three business days of receipt of the contribution or loan.

1. The report shall be filed on a "large dollar contribution report" form prescribed by the State Board and shall be filed in writing or electronically in the same manner as the political action committee files its ~~quarterly disclosure~~ *scheduled* reports.

2. Any contribution or loan reported pursuant to this section shall also be reported on the next subsequent report required under § 24.2-949.6 following receipt of the contribution or loan.

3. For the purposes of this section, political action committees shall report as one contribution multiple contributions from a single source that have been subdivided into smaller amounts or given through different bank accounts for the purpose of evading the $10,000 threshold. A political action committee that receives contributions from affiliated organizations shall not be deemed to be receiving contributions from a single source.

§ 24.2-949.7:1. Special report required of certain large pre-election expenditures.

A. Any contribution or expenditure reported pursuant to this section shall also be reported on the first report required by this article after any election.

B. Political action committees shall report any single contribution received or expenditure made of $1,000 or more between May 26 and the third Tuesday in June in odd-numbered years. Such contribution or expenditure shall be reported electronically pursuant to § 24.2-946.1, and the report shall be received by the State Board by 11:59 p.m. on the following day or, for a contribution received or expenditure made on a Saturday, by 11:59 p.m. on the following Monday. However, any such contribution received or expenditure made within the 24 hours prior to the third Tuesday in June shall be reported and a report thereof received on the day prior to the third Tuesday in June.

C. Political action committees shall report any single contribution received or expenditure made of $1,000 or more between October 8 and the date of the November general election. Such contribution or expenditure shall be reported electronically pursuant to § 24.2-946.1, and the report shall be received by the State Board by 11:59 p.m. on the following day or, for a contribution received or expenditure made on a Saturday, by 11:59 p.m. on the following Monday. However, any such contribution received or expenditure made within the 24 hours prior to the election day shall be reported and a report thereof received on the day prior to the election.

§ 24.2-953.1. Failure to file the required reports.

A. In the case of a failure to file the statement of organization for a candidate campaign committee or political committee required by this chapter, there shall be a civil penalty not to exceed $500.

B. In the case of the failure to file a required report, the candidate campaign committee or political committee shall be assessed a civil penalty not to exceed $500. In the case of the failure to file a report required pursuant to subsection D *or E* of § 24.2-949.6, the political action committee shall be assessed a civil penalty not to exceed $500. In the case of a second or any subsequent such violation pertaining to one election cycle, the candidate campaign committee or political committee shall be assessed a civil penalty of $1,000 for each such failure to file.

C. In the case of a failure to file the report of any large pre-election contribution required by § 24.2-947.9 *or 24.2-949.7:1* or a report required pursuant to subsection D *or E* of § 24.2-949.6, there shall be a rebuttable presumption that the violation was willful.

CHAPTER 765

An Act to amend and reenact § 3.2-102 of the Code of Virginia and to amend the Code of Virginia by adding in Title 55.1 a chapter numbered 5.1, consisting of sections numbered 55.1-507, 55.1-508, and 55.1-509, relating to agricultural land; ownership by foreign adversaries prohibited.

[S 1438]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 3.2-102 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 55.1 a chapter numbered 5.1, consisting of sections numbered 55.1-507, 55.1-508, and 55.1-509, as follows:

§ 3.2-102. General powers and duties of the Commissioner.

A. The Commissioner shall be vested with the powers and duties set out in § 2.2-601, the powers and duties herein provided, and such other powers and duties as may be prescribed by law, including those prescribed in Title 59.1. He shall be the executive officer of the Board, and shall see that its orders are carried out. He shall see to the proper execution of laws relating to the Department. Unless the Governor expressly reserves such power to himself, the Commissioner shall promote, protect, and develop the agricultural interests of the Commonwealth. The Commissioner shall develop, implement, and maintain programs within the Department including those that promote the development and marketing of the Commonwealth's agricultural products in domestic and international markets, including promotions, market development and research, marketing assistance, market information, and product grading and certification; promote the creation of new agribusiness including new crops, biotechnology and new uses of agricultural products, and the expansion of existing agribusiness within the Commonwealth; develop, promote, and maintain consumer protection programs that protect the safety and quality of the Commonwealth's food supply through food and dairy inspection activities, industry and consumer education, and information on food safety; preserve the Commonwealth's agricultural lands; ensure animal health and protect the Commonwealth's livestock industries through disease control and surveillance, maintaining animal health diagnostic laboratories, and encouraging the humane treatment and care of animals; protect public health and the environment through regulation and proper handling of pesticides, agricultural stewardship, and protection of endangered plant and insect species; protect crop and plant health and productivity; ensure consumer protection and fair trade practices in commerce; develop plans and emergency response protocols to protect the agriculture industry from bioterrorism, plant and animal diseases, and agricultural pests; assist as directed by the Governor in the Commonwealth's response to natural disasters; develop and implement programs and inspection activities to ensure that the Commonwealth's agricultural products move freely in trade domestically and internationally; and enter into agreements with federal, state, and local governments, land grant universities, and other organizations that include marketing, plant protection, pest control, pesticides, and meat and poultry inspection.

B. In addition, the Commissioner shall:

1. Establish and maintain a farm-to-school website. The purpose of the website shall be to facilitate and promote the purchase of Virginia farm products by schools, universities, and other educational institutions under the jurisdiction of the State Department of Education. The website shall present such current information as the availability of Virginia farm products, including the types and amount of products, and the names of and contact information for farmers, farm organizations, and businesses marketing such products;

2. Establish and operate a nonprofit, nonstock corporation under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 as a public instrumentality exercising public and essential governmental functions to promote, develop, and sustain markets for licensed Virginia wineries and farm wineries, as defined in § 4.1-100. Such corporation shall provide wholesale wine distribution services for wineries and farm wineries licensed in accordance with § 4.1-206.1. The board of directors of such corporation shall be composed of the Commissioner and four members appointed by the Board, including one owner or manager of a winery or farm winery licensee that is not served by a wholesaler when the owner or manager is appointed to the board; one owner or manager of a winery or farm winery licensee that produces no more than 10,000 cases per year; and two owners or managers of wine wholesaler licensees. In making appointments to the board of directors, the Board shall consider nominations of winery and farm winery licensees submitted by the Virginia Wineries Association and wine wholesale licensees submitted by the Virginia Wine Wholesalers Association. The Commissioner shall require such corporation to report to him at least annually on its activities, including reporting the quantity of wine distributed for each winery and farm winery during the preceding year. The provisions of the Virginia Public Procurement Act shall not apply to the establishment of such corporation nor to the exercise of any of its powers granted under this section; ~~and~~

3. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) not inconsistent with the laws of Virginia necessary to carry out the provisions of Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2. Such regulations may include penalties for violations*; and*

4. Ensure that the Department compiles and publishes the annual report relating to foreign adversary ownership of agricultural land required under § 55.1-509.

CHAPTER 5.1.

FOREIGN ENTITIES AND PROPERTY OWNERSHIP.

§ 55.1-507. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agricultural land" means real estate in the Commonwealth used or zoned in a manner that would permit the use of the real estate for an agricultural operation.

"Agricultural operation" means any operation devoted to the bona fide production of crops, animals, or fowl, including the production of fruits and vegetables of any kind; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silvicultural activity.

"Department" means the Department of Agriculture and Consumer Services.

"Foreign adversary" means any foreign government or nongovernment person determined by the U.S. Secretary of Commerce to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons, as set forth in 15 C.F.R. § 7.4 or such successor regulation, declaration, or statute as may exist from time to time.

"Interest in agricultural land" means any right, title, or interest, direct or indirect, in and to (i) agricultural land or (ii) any entity or other organization that holds any right, title, or interest, direct or indirect, in and to agricultural land. For purposes of this definition, any interest that taken on its own or together with any other interest held in common or under common control does not give the holder of the interest the ability to possess or occupy the agricultural land in any manner or the power or authority to direct the conduct of the agricultural operation being conducted on the agricultural land.

§ 55.1-508. Foreign adversary acquisition of agricultural land prohibited.

A. Notwithstanding any other provision of law, in order to protect the health, safety, and welfare of all citizens of the Commonwealth, on and after July 1, 2023, no foreign adversary shall acquire any interest in agricultural land in the Commonwealth.

B. Any acquisition of any interest in agricultural land in violation of this section shall be void, and title to such interest in agricultural land shall be deemed to have vested as of the date of such purported acquisition in the name of the Commonwealth without any payment of consideration of any kind by the Commonwealth. The foreign adversary purporting to acquire such interest in agricultural land shall be barred from making a claim against any party for restitution of the purchase price paid by such foreign adversary in connection with such interest in agricultural land or for any other kind of payment relating to the foreign adversary's loss or lack of title to such interest in agricultural land. Any lien that has attached to such interest in agricultural land during the foreign adversary's purported acquisition or ownership shall remain a valid lien against the interest during such time as the interest is held by the Commonwealth except that such lien shall not be subject to foreclosure during the period of the Commonwealth's ownership nor shall the Commonwealth be subject to the terms of any agreement giving rise to the lien. The Commonwealth may hold or dispose of such interest in agricultural land in any proper manner.

C. Notwithstanding the provisions in subsection B, if the foreign adversary has subsequently sold or transferred the interest in agricultural land to a person or entity that is not a foreign adversary, title to such interest in agricultural land shall be vested in the subsequent non-foreign adversary purchaser or transferee and shall be valid as if the purported acquisition of such interest in agricultural land by a foreign adversary has not occurred.

D. If an interest in agricultural land has been acquired in violation of this section, a county, city, or town attorney for the locality in which the agricultural land is located, the Attorney General, or any non-foreign adversary person that was a party to the void transaction or is a subsequent holder of such interest may file an action (i) to eject the foreign adversary from possession, (ii) to quiet title to such property, or (iii) for any other appropriate action to ratify the nullification of the transaction. Any action brought pursuant to this subsection shall be filed in the circuit court where the subject property is located.

E. This section shall not be applied in a manner inconsistent with any provision of any treaty between the United States and another country.

§ 55.1-509. Reporting requirements.

A. Based on the reports submitted to it pursuant to the federal Agricultural Foreign Investment Disclosure Act, 7 U.S.C. § 3501 et seq., and other information the Department, at its discretion, deems appropriate, the Department shall compile an annual report in consultation with the appropriate state agencies and boards for each calendar year containing all of the following, if available:

1. The total amount of agricultural land that is under foreign ownership;

2. The percentage change in foreign ownership of agricultural land in the Commonwealth for each year over the prior 10 years;

3. The purpose for which foreign-owned agricultural land in the Commonwealth is being used currently. To the extent such information is available, the Department shall also include any significant recent changes or trends in the uses of foreign-owned agricultural land in the Commonwealth;

4. With the assistance of relevant state agencies, information regarding the extent of, and any recent changes in, foreign ownership of energy production, storage, or distribution facilities in the Commonwealth to the extent such information is available; and

5. Any legislative, regulatory, or administrative policy changes the Department recommends in light of the information in this report.

B. The Department shall publish its inaugural report pursuant to subsection A on its website no later than July 1, 2023, and each subsequent report pursuant to subsection A no later than July 1 of each following year. The Department shall also deliver copies of such report to the Governor, the General Assembly, and the Chairmen of the Senate Committee on Agriculture, Conservation and Natural Resources and the House Committee on Agriculture, Chesapeake and Natural Resources.

CHAPTER 766

An Act to exempt certain nursing home services in Amherst County from the requirements of a certificate of public need.

[S 1452]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. Notwithstanding Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32 of the Code of Virginia and any applicable regulations, the State Health Commissioner shall accept and review applications and shall issue a certificate of public need for a new 90-bed nursing home facility, given the unique and extenuating circumstances of this potential facility, provided that such facility is located on the property of the former Central Virginia Training Center in Amherst County and is owned by the Commonwealth as of July 1, 2023. Such beds may be transferred by the Commonwealth upon sale of the property.*

2. That when Central Virginia Training Center (CVTC) property is declared surplus to the needs of the Commonwealth and offered for sale by the Department of General Services (the Department), the Department shall include in any CVTC property sale request for offer (RFO) information on the availability of funding, if any, for costs associated with the demolition or renovation of existing structures on such property. The RFO shall require offerors to demolish all existing structures on such property, except those structures that an offeror has identified to be renovated for use as part of its proposed development plan. Any funds made available from the Commonwealth to the successful offeror for the demolition or renovation of such existing structures shall only be available provided that the successful offeror demolishes and renovates all existing structures identified in a resulting purchase agreement within 36 months of such property's closing date. The Department shall require from the successful offeror a performance bond to complete the demolition and renovation of the structures identified in its proposed development plan. In addition, the Department's RFO will address any certificate of public need authority approved by the Department of Health that may be available to a developer for the purposes of providing a 90-bed nursing home facility on such property. If the Department does not receive an offer to develop such property that includes complete demolition and renovation of such identified structures and obtain the required performance bond, then such property shall not be sold.

CHAPTER 767

An Act to amend and reenact § 22.1-274.4 of the Code of Virginia, relating to public elementary and secondary schools; automated external defibrillators required.

[S 1453]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-274.4 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-274.4. Public elementary and secondary schools; automated external defibrillators required.

Each local school board ~~may~~ *shall* develop a plan ~~to allow~~ for the placement, care, and use~~, and funding~~ of an automated external defibrillator in every *public elementary and secondary* school *in the local school division and shall place an automated external defibrillator in every public elementary and secondary school in the local school division.*

2. That the Department of Education shall compile and make publicly available on its website by August 1, 2024 a list of available public and private programs, grants, or funding sources for fulfilling the requirements of this act.

CHAPTER 768

An Act to amend and reenact § 2.2-2009 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 55.3 of Title 2.2 a section numbered 2.2-5514.1, relating to administration of state government; prohibited applications and websites.

[S 1459]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2009 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 55.3 of Title 2.2 a section numbered 2.2-5514.1 as follows:

§ 2.2-2009. Additional duties of the CIO relating to security of government information.

A. To provide for the security of state government electronic information from unauthorized uses, intrusions or other security threats, the CIO shall direct the development of policies, standards, and guidelines for assessing security risks, determining the appropriate security measures and performing security audits of government electronic information. Such policies, standards, and guidelines shall apply to the Commonwealth's executive, legislative, and judicial branches and independent agencies. The CIO shall work with representatives of the Chief Justice of the Supreme Court and Joint Rules Committee of the General Assembly to identify their needs. Such policies, standards, and guidelines shall, at a minimum:

1. Address the scope and frequency of security audits. In developing and updating such policies, standards, and guidelines, the CIO shall designate a government entity to oversee, plan, and coordinate the conduct of periodic security audits of all executive branch agencies and independent agencies. The CIO shall coordinate these audits with the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission. The Chief Justice of the Supreme Court and the Joint Rules Committee of the General Assembly shall determine the most appropriate methods to review the protection of electronic information within their branches;

2. Control unauthorized uses, intrusions, or other security threats;

3. Provide for the protection of confidential data maintained by state agencies against unauthorized access and use in order to ensure the security and privacy of citizens of the Commonwealth in their interaction with state government. Such policies, standards, and guidelines shall include requirements that (i) any state employee or other authorized user of a state technology asset provide passwords or other means of authentication to use a technology asset and access a state-owned or state-operated computer network or database and (ii) a digital rights management system or other means of authenticating and controlling an individual's ability to access electronic records be utilized to limit access to and use of electronic records that contain confidential information to authorized individuals;

4. Address the creation and operation of a risk management program designed to identify information technology security gaps and develop plans to mitigate the gaps. All agencies in the Commonwealth shall cooperate with the CIO, including (i) providing the CIO with information required to create and implement a Commonwealth risk management program, (ii) creating an agency risk management program, and (iii) complying with all other risk management activities; and

5. Require that any contract for information technology entered into by the Commonwealth's executive, legislative, and judicial branches and independent agencies require compliance with applicable federal laws and regulations pertaining to information security and privacy.

B. 1. The CIO shall annually report to the Governor, the Secretary, and General Assembly on the results of security audits, the extent to which security policy, standards, and guidelines have been adopted by executive branch and independent agencies, and a list of those executive branch agencies and independent agencies that have not implemented acceptable security and risk management regulations, policies, standards, and guidelines to control unauthorized uses, intrusions, or other security threats. For any executive branch agency or independent agency whose security audit results and plans for corrective action are unacceptable, the CIO shall report such results to (i) the Secretary, (ii) any other affected cabinet secretary, (iii) the Governor, and (iv) the Auditor of Public Accounts. Upon review of the security audit results in question, the CIO may take action to suspend the executive branch agency's or independent agency's information technology projects pursuant to subsection B of § 2.2-2016.1, limit additional information technology investments pending acceptable corrective actions, and recommend to the Governor and Secretary any other appropriate actions.

2. Executive branch agencies and independent agencies subject to such audits as required by this section shall fully cooperate with the entity designated to perform such audits and bear any associated costs. Public bodies that are not required to but elect to use the entity designated to perform such audits shall also bear any associated costs.

C. In addition to coordinating security audits as provided in subdivision B 1, the CIO shall conduct an annual comprehensive review of cybersecurity policies of every executive branch agency, with a particular focus on any breaches in information technology that occurred in the reviewable year and any steps taken by agencies to strengthen cybersecurity measures. Upon completion of the annual review, the CIO shall issue a report of his findings to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations. Such report shall not contain technical information deemed by the CIO to be security sensitive or information that would expose security vulnerabilities.

D. The provisions of this section shall not infringe upon responsibilities assigned to the Comptroller, the Auditor of Public Accounts, or the Joint Legislative Audit and Review Commission by other provisions of the Code of Virginia.

E. The CIO shall promptly receive reports from public bodies in the Commonwealth made in accordance with § 2.2-5514 and shall take such actions as are necessary, convenient, or desirable to ensure the security of the Commonwealth's electronic information and confidential data.

F. The CIO shall provide technical guidance to the Department of General Services in the development of policies, standards, and guidelines for the recycling and disposal of computers and other technology assets. Such policies, standards, and guidelines shall include the expunging, in a manner as determined by the CIO, of all confidential data and personal identifying information of citizens of the Commonwealth prior to such sale, disposal, or other transfer of computers or other technology assets.

G. The CIO shall provide all directors of agencies and departments with all such information, guidance, and assistance required to ensure that agencies and departments understand and adhere to the policies, standards, and guidelines developed pursuant to this section.

H. The CIO shall promptly notify all public bodies as defined in § 2.2-5514 of hardware, software, or services that have been prohibited pursuant to Chapter 55.3 (§ 2.2-5514 *et seq.*). *The CIO shall restrict access to prohibited applications and websites in accordance with the provisions of § 2.2-5514.1.*

I. 1. This subsection applies to the Commonwealth's executive, legislative, and judicial branches and independent agencies.

2. In collaboration with the heads of executive branch and independent agencies and representatives of the Chief Justice of the Supreme Court and the Joint Rules Committee of the General Assembly, the CIO shall develop and annually update a curriculum and materials for training all state employees in information security awareness and in proper procedures for detecting, assessing, reporting, and addressing information security threats. The curriculum shall include activities, case studies, hypothetical situations, and other methods of instruction (i) that focus on forming good information security habits and procedures among state employees and (ii) that teach best practices for detecting, assessing, reporting, and addressing information security threats.

3. Every state agency shall provide annual information security training for each of its employees using the curriculum and materials developed by the CIO pursuant to subdivision 2. Employees shall complete such training within 30 days of initial employment and by January 31 each year thereafter.

State agencies may develop additional training materials that address specific needs of such agency, provided that such materials do not contradict the training curriculum and materials developed by the CIO.

The CIO shall coordinate with and assist state agencies in implementing the annual information security training requirement.

4. Each state agency shall (i) monitor and certify the training activity of its employees to ensure compliance with the annual information security training requirement, (ii) evaluate the efficacy of the information security training program, and (iii) forward to the CIO such certification and evaluation, together with any suggestions for improving the curriculum and materials, or any other aspects of the training program. The CIO shall consider such evaluations when it annually updates its curriculum and materials.

§ 2.2-5514.1. Prohibited applications and websites.

A. For the purposes of this section, unless the context requires a different meaning:

"ByteDance Ltd." means the Chinese internet technology company founded by Zhang Yiming and Liang Rubo in 2012, and any successor company or entity owned by such company.

"Public body" means the same as that term is defined in § 2.2-5514.

"Tencent Holdings Ltd." means the Chinese multinational technology and entertainment conglomerate and holding company headquartered in Shenzhen, China, and any successor company or entity owned by such company.

"TikTok" means the video-sharing application developed by ByteDance Ltd. that hosts user-submitted videos.

"WeChat" means the multipurpose social media, messaging, and payment application developed by Tencent Holdings Ltd.

B. Except as provided in subsection C, no employee or agent of any public body or person or entity contracting with any such public body shall download or use any application, including TikTok or WeChat, or access any website developed by ByteDance Ltd. or Tencent Holdings Ltd. (i) on any government-issued device or government-owned or government-leased equipment, including mobile phones, desktop computers, laptop computers, tablets, or other devices capable of connecting to the Internet, or (ii) while connected to any wired or wireless Internet network owned, operated, or maintained by the Commonwealth.

C. The Superintendent of State Police or the chief law-enforcement officer of the appropriate locality or institution of higher education may grant an exception to the provisions of subsection B for the purpose of allowing any employee, agent, person, or entity to participate in any law-enforcement-related matters.

CHAPTER 769

An Act to amend and reenact Enactment 1 and Items 267, 269, and 341 of Chapter 2 of the Acts of Assembly of 2022, Special Session I, which appropriates the public revenues for two years ending, respectively, on June 30, 2023, and June 30, 2024, and to amend Chapter 2 of the Acts of Assembly of 2022, Special Session I, which appropriates the public revenues for two years ending, respectively, on June 30, 2023, and June 30, 2024, by adding items numbered 138.10, 486.10, C-36.50, and C-79.50, relating to general appropriation act.

[H 1400]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That Enactment 1 and Items 267, 269, and 341 of Chapter 2 of the Acts of Assembly of 2022, Special Session I are amended and reenacted and that Chapter 2 of the Acts of Assembly of 2022, Special Session I is amended and reenacted by adding items numbered 138.10, 486.10, C-36.50, and C-79.50, as follows:

1. §1. The following are hereby appropriated, for the current biennium, as set forth in succeeding parts, sections and items, for the purposes stated and for the years indicated:

A. The balances of appropriations made by previous acts of the General Assembly which are recorded as unexpended, as of the close of business on the last day of the previous biennium, on the final records of the State Comptroller; and

B. The public taxes and arrears of taxes, as well as moneys derived from all other sources, which shall come into the state treasury prior to the close of business on the last day of the current biennium. The term "moneys" means nontax revenues of all kinds, including but not limited to fees, licenses, services and contract charges, gifts, grants, and donations, and projected revenues derived from proposed legislation contingent upon General Assembly passage.

§ 2. Such balances, public taxes, arrears of taxes, and monies derived from all other sources as are not segregated by law to other funds, which funds are defined by the State Comptroller, pursuant to § 2.2-803, Code of Virginia, shall establish and constitute the general fund of the state treasury.

§ 3. The appropriations made in this act from the general fund are based upon the following:

	First Year	Second Year	Total
Unreserved Beginning Balance	~~$4,733,050,478~~ *$10,684,532,497*	$0	~~$4,733,050,478~~ *$10,684,532,497*
Additions to Balance	~~$1,440,246,365~~ *($3,078,628,035)*	~~($500,000)~~ *$405,452,425*	~~$1,439,746,365~~ *($2,673,175,610)*
Official Revenue Estimates	~~$24,871,345,500~~ *$24,871,135,500*	~~$27,263,014,900~~ *$27,286,414,900*	~~$52,134,360,400~~ *$52,157,550,400*
Transfer	$714,716,804	$733,205,420	$1,447,922,224
Total General Fund Resources Available for Appropriation	~~$31,759,359,147~~ *$33,191,756,766*	~~$27,995,720,320~~ *$28,425,072,745*	~~$59,755,079,467~~ *$61,616,829,511*

The appropriations made in this act from nongeneral fund revenues are based upon the following:

	First Year	Second Year	Total
Balance, June 30, 2022	$8,383,240,878	$0	$8,383,240,878
Official Revenue Estimates	$45,429,302,663	$45,043,705,919	$90,473,008,582
Lottery Proceeds Fund	$784,671,715	$764,671,715	$1,549,343,430
Internal Service Fund	$2,404,388,342	$2,413,968,065	$4,818,356,407
Bond Proceeds	$157,296,000	$0	$157,296,000
Total Nongeneral Fund Revenues Available for Appropriation	$57,158,899,598	$48,222,345,699	$105,381,245,297
TOTAL PROJECTED REVENUES	~~$88,918,258,745~~ *$90,350,656,364*	~~$76,218,066,019~~ *$76,647,418,444*	~~$165,136,324,764~~ *$166,998,074,808*

§ 4. Nongeneral fund revenues which are not otherwise segregated pursuant to this act shall be segregated in accordance with the acts respectively establishing them.

§ 5. The sums herein appropriated are appropriated from the fund sources designated in the respective items of this act.

§ 6. When used in this act the term:

A. "Current biennium" means the period from the first day of July two thousand twenty-two, through the thirtieth day of June two thousand twenty-four, inclusive.

B. "Previous biennium" means the period from the first day of July two thousand twenty, through the thirtieth day of June two thousand twenty-two, inclusive.

C. "Next biennium" means the period from the first day of July two thousand twenty-four, through the thirtieth day of June two thousand twenty-six, inclusive.

D. "State agency" means a court, department, institution, office, board, council or other unit of state government located in the legislative, judicial, or executive departments or group of independent agencies, or central appropriations, as shown in this act, and which is designated in this act by title and a three-digit agency code.

E. "Nonstate agency" means an organization or entity as defined in § 2.2-1505 C, Code of Virginia.

F. "Authority" sets forth the general enabling statute, either state or federal, for the operation of the program for which appropriations are shown.

G. "Discretionary" means there is no continuing statutory authority which infers or requires state funding for programs for which the appropriations are shown.

H. "Appropriation" shall include both the funds authorized for expenditure and the corresponding level of full-time equivalent employment.

I. "Sum sufficient" identifies an appropriation for which the Governor is authorized to exceed the amount shown in the Appropriation Act if required to carry out the purpose for which the appropriation is made.

J. "Item Details" indicates that, except as provided in § 6 H above, the numbers shown under the columns labeled Item Details are for information reference only.

K. Unless otherwise defined, terms used in this act dealing with budgeting, planning and related management actions are defined in the instructions for preparation of the Executive Budget.

§ 7. The total appropriations from all sources in this act have been allocated as follows:

BIENNIUM 2022 - 24

	General Fund	Nongeneral Fund	Total
OPERATING EXPENSES	~~$57,589,938,865~~ *$58,519,699,502*	~~$101,887,858,668~~ *$101,892,431,498*	~~$159,477,797,533~~ *$160,412,131,000*
LEGISLATIVE DEPARTMENT	$235,368,778	$10,164,648	$245,533,426
JUDICIAL DEPARTMENT	$1,164,608,959	$75,913,598	$1,240,522,557
EXECUTIVE DEPARTMENT	~~$56,156,398,852~~ *$57,086,159,489*	~~$99,483,361,090~~ *$99,487,933,920*	~~$155,639,759,942~~ *$156,574,093,409*
INDEPENDENT AGENCIES	$33,562,276	$2,318,419,332	$2,351,981,608
STATE GRANTS TO NONSTATE AGENCIES	$0	$0	$0
CAPITAL OUTLAY	~~$2,149,179,488~~ *$2,249,179,488*	$1,134,983,221	~~$3,284,162,709~~ *$3,384,162,709*
TOTAL	~~$59,739,118,353~~ *$60,768,878,990*	~~$103,022,841,889~~ *$103,027,414,719*	~~$162,761,960,242~~ *$163,796,293,709*

§ 8. This chapter shall be known and may be cited as the "~~2022~~ *2023* Appropriation Act."

		Item Details($)		Appropriations($)	
		First Year FY2023	Second Year FY2024	First Year FY2023	Second Year FY2024
267.	Revenue Stabilization Fund (73500)			$1,127,733,028	~~$0~~ *$405,952,425*
	Payments to the Revenue Stabilization Fund (73501)	$1,127,733,028	~~$0~~ *$405,952,425*		
	Fund Sources: General	$1,127,733,028	~~$0~~ *$405,952,425*		

Authority: Title 2.2, Chapter 18, Article 4, Code of Virginia.

A. On or before November 1 of each year, the Auditor of Public Accounts shall report to the General Assembly the certified tax revenues collected in the most recently ended fiscal year. The auditor shall, at the same time, provide his report on the 15 percent limitation and the amount that could be paid into the fund in order to satisfy the mandatory deposit

requirement of Article X, Section 8 of the Constitution of Virginia as well as the additional deposit requirement of § 2.2-1829, Code of Virginia.

B. Out of this appropriation, $1,127,733,028 the first year from the general fund attributable to actual tax collections for fiscal year 2021 shall be paid by the State Comptroller on or before June 30, 2023, into the Revenue Stabilization Fund pursuant to § 2.2-1829, Code of Virginia. This amount is based on the certification of the Auditor of Public Accounts of actual tax revenues for fiscal year 2021. This appropriation meets the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia.

C. 1. Notwithstanding the provisions of subsection E of § 2.2-1829 and subsection F of § 2.2-1831.3, Code of Virginia, through June 30, 2024, the combined amount in the Revenue Stabilization Fund and the Revenue Reserve Fund shall not exceed 20 percent of the Commonwealth's average annual tax revenues derived from taxes on income and retail sales as certified by the Auditor of Public Accounts for the three fiscal years immediately preceding.

2. The Secretary of Finance shall prepare a report to include recommendations for consideration of any adjustments to, or a removal of, the existing cap on the combined balance of the Revenue Stabilization Fund and the Revenue Reserve Fund, pursuant to subsection E of § 2.2-1829 and subsection F of § 2.2-1831.3, Code of Virginia, which shall be delivered to the Governor and the Chairs of the House Appropriations Committee and Senate Finance and Appropriations Committee by September 1, 2022.

D.1. Out of this appropriation, $405,952,425 the second year from the general fund attributable to actual tax collections for fiscal year 2022 shall be paid by the State Comptroller on or before June 30, 2024, into the Revenue Stabilization Fund pursuant to §2.2-1829, Code of Virginia.

2. Notwithstanding the provisions of §2.2-1831.3 and §2.2-1831.4, Code of Virginia, the State Comptroller shall transfer $498,700,000 from the Revenue Reserve Fund to the Revenue Stabilization Fund on or before June 30, 2024. This amount was provided in Chapter 1, 2022 Acts of Assembly, Special Session I, as an advanced reservation for the mandatory deposit to the Revenue Stabilization Fund required in fiscal year 2024.

3. The combined total of the actions authorized in this paragraph, $904,652,425, is based on the certification of the Auditor of Public Accounts of actual tax revenues for fiscal year 2022. These actions meet the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia.

		Item Details($)		Appropriations($)	
		First Year FY2023	Second Year FY2024	First Year FY2023	Second Year FY2024
269.	Personnel Management Services (70400)			~~$31,359,934~~ *$281,359,934*	$31,359,934
	Administration of Retirement and Insurance Programs (70415)	*$250,000,000*	*$0*		
	Employee Flexible Benefits Services (70420)	$31,359,934	$31,359,934		
	Fund Sources:				
	General	*$250,000,000*	*$0*		
	Trust and Agency	$31,359,934	$31,359,934		

Authority: Title 2.2, Chapter 8, Code of Virginia.

Pursuant to the amounts contingently appropriated in Item 485, paragraph L of this act, on or before June 30, 2023, the State Comptroller shall deposit $250,000,000 from the general fund into the Virginia Retirement System trust fund. The Virginia Retirement System shall allocate these funds in the following manner in an effort to address the unfunded liabilities associated with each plan:

1. An amount estimated at $73,052,105 to the state employee plan.

2. An amount estimated at $147,457,029 to the public school teacher plan.

3. An amount estimated at $3,652,605 to the State Police Officers' Retirement System.

4. An amount estimated at $6,628,802 to the Virginia Law Officers' Retirement System.

5. An amount estimated at $2,083,338 to the Judicial Retirement System.

6. An amount estimated at $2,840,915 to the health insurance credit plan for state employees.

7. An amount estimated at $4,004,338 to the health insurance credit plan for public school teachers.

8. An amount estimated at $10,146,126 to the group life insurance plan.

9. An amount estimated at $91,992 to the health insurance credit plan for Constitutional Officers and their employees.
10. An amount estimated at $40,585 to the health insurance credit plan for local social services employees.
11. An amount estimated at $2,165 to health insurance credit plan for the Registrars and their employees.

	Item Details($)		Appropriations($)	
	First Year FY 2023	Second Year FY 2024	First Year FY 2023	Second Year FY 2024
341. Financial Assistance for Self-Sufficiency Programs and Services (45200)			~~$154,487,484~~	~~$155,158,373~~
			$163,668,940	*$161,265,129*
Temporary Assistance for Needy Families (TANF) Cash Assistance (45201)	$85,759,181	$86,357,163		
Temporary Assistance for Needy Families (TANF) Employment Services (45212)	$17,045,689	$17,045,689		
Supplemental Nutrition Assistance Program Employment and Training (SNAPET) Services (45213)	$2,205,341	$2,205,341		
Temporary Assistance for Needy Families (TANF) Child Care Subsidies (45214)	$38,707,424	$38,707,424		
At-Risk Child Care Subsidies (45215)	$2,864,671	$2,864,671		
Unemployed Parents Cash	~~$7,905,178~~	~~$7,978,085~~		
Assistance (45216)	*$17,086,634*	*$14,084,841*		
Fund Sources:				
General	~~$82,548,802~~	~~$82,621,709~~		
	$91,730,258	*$88,728,465*		
Federal Trust	$71,938,682	$72,536,664		

Authority: Title 2.2, Chapter 54; Title 63.2, Chapters 1 through 7, Code of Virginia; Title VI, Subtitle B, P.L. 97 -35, as amended; P.L. 103 -252, as amended; P.L. 104 -193, as amended, Federal Code.

A. It is hereby acknowledged that as of June 30, 2021 there existed with the federal government an unexpended balance of $130,397,626 in federal Temporary Assistance for Needy Families (TANF) block grant funds which are available to the Commonwealth of Virginia to reimburse expenditures incurred in accordance with the adopted State Plan for the TANF program. Based on projected spending levels and appropriations in this act, the Commonwealth's accumulated balance for authorized federal TANF block grant funds is estimated at $79,652,390 on June 30, 2022; $49,119,392 on June 30, 2023; and $17,988,412 on June 30, 2024.

B. No less than 30 days prior to submitting any amendment to the federal government related to the State Plan for the Temporary Assistance for Needy Families program, the Commissioner of the Department of Social Services shall provide the Chairmen of the House Appropriations and Senate Finance an Appropriations Committees as well as the Director, Department of Planning and Budget written documentation detailing the proposed policy changes. This documentation shall include an estimate of the fiscal impact of the proposed changes and information summarizing public comment that was received on the proposed changes.

C. Notwithstanding any other provision of state law, the Department of Social Services shall maintain a separate state program, as that term is defined by federal regulations governing the Temporary Assistance for Needy Families (TANF) program, 45 C.F.R. § 260.30, for the purpose of providing welfare cash assistance payments to able-bodied two-parent families. The separate state program shall be funded by state funds and operated outside of the TANF program. Able-bodied two-parent families shall not be eligible for TANF cash assistance as defined at 45 C.F.R. § 260.31 (a)(1), but shall receive benefits under the separate state program provided for in this paragraph. Although various conditions and eligibility

requirements may be different under the separate state program, the basic benefit payment for which two-parent families are eligible under the separate state program shall not be less than what they would have received under TANF. The Department of Social Services shall establish regulations to govern this separate state program.

D. As a condition of this appropriation, the Department of Social Services shall disregard the value of one motor vehicle per assistance unit in determining eligibility for cash assistance in the Temporary Assistance for Needy Families (TANF) program and in the separate state program for able-bodied two-parent families.

E. The Department of Social Services, in collaboration with local departments of social services, shall maintain minimum performance standards for all local departments of social services participating in the Virginia Initiative for Education and Work (VIEW) program. The department shall allocate VIEW funds to local departments of social services based on these performance standards and VIEW caseloads. The allocation formula shall be developed and revised in cooperation with the local social services departments and the Department of Planning and Budget.

F. A participant whose Temporary Assistance for Needy Families (TANF) financial assistance is terminated due to the receipt of 24 months of assistance as specified in § 63.2-612, Code of Virginia, or due to the closure of the TANF case prior to the completion of 24 months of TANF assistance, excluding cases closed with a sanction for noncompliance with the Virginia Initiative for Education and Work program, shall be eligible to receive employment and training assistance for up to 12 months after termination, if needed, in addition to other transitional services provided pursuant to § 63.2-611, Code of Virginia.

G. The Department of Social Services, in conjunction with the Department of Correctional Education, shall identify and apply for federal, private and faith-based grants for pre-release parenting programs for non-custodial incarcerated parent offenders committed to the Department of Corrections, including but not limited to the following grant programs: Promoting Responsible Fatherhood and Healthy Marriages, State Child Access and Visitation Block Grant, Serious and Violent Offender Reentry Initiative Collaboration, Special Improvement Projects, § 1115 Social Security Demonstration Grants, and any new grant programs authorized under the federal Temporary Assistance for Needy Families (TANF) block grant program.

H. Out of this appropriation, $2,647,305 the first year and $2,647,305 the second year from the general fund shall be provided to support state child care programs.

I. Out of this appropriation, the Department of Social Services shall use $4,800,000 the first year and $4,800,000 the second year from the federal Temporary Assistance to Needy Families (TANF) block grant to provide to each TANF recipient with two or more children in the assistance unit a monthly TANF supplement equal to the amount the Division of Child Support Enforcement collects up to $200, less the $100 disregard passed through to such recipient. The TANF child support supplement shall be paid within two months following collection of the child support payment or payments used to determine the amount of such supplement. For purposes of determining eligibility for medical assistance services, the TANF supplement described in this paragraph shall be disregarded. In the event there are sufficient federal TANF funds to provide all other assistance required by the TANF State Plan, the Commissioner may use unobligated federal TANF block grant funds in excess of this appropriation to provide the TANF supplement described in this paragraph.

J. The Board of Social Services shall combine Groups I and II for the purposes of Temporary Assistance to Needy Families cash benefits and use the Group II rates for the new group.

K. The Department of Social Services shall develop a plan to increase the standards of assistance by 10 percent annually until they equal 50 percent of the federal poverty level.

L.1. The Department of Social Services (DSS) and the Department of Education (DOE) shall ensure that the Temporary Assistance for Needy Families (TANF) Virginia Initiative for Employment and Work (VIEW) mandated child care forecast is funded through a combination of general fund, TANF, and Child Care Development Fund (CCDF) grant dollars. The amount of needed CCDF dollars identified in the Memorandum of Agreement (MOA) between the agencies shall be transferred from DOE to DSS within the first thirty days of the fiscal year. DSS shall notify DOE of the required amount of the next fiscal year transfer upon the enrollment of the budget. This amount shall reflect the need identified in the official forecast as well as changes resulting from actions in the final budget.

2. The MOA shall reflect the full cost of the VIEW mandated child care program. From this amount, $38,707,424 the first year and $38,707,424 the second year is appropriated at DSS and the balance shall be transferred from DOE from the CCDF grant to support the VIEW mandated child care program as specified in L.1.

M. Out of this appropriation, $2,120,420 the first year and $2,120,420 the second year from the Temporary Assistance to Needy Families (TANF) block grant shall be provided for the Department of Social Services to implement a program so that TANF-eligible individuals may save funds in an individual development account established for the purposes of home purchase, education, starting a business, transportation, or self-sufficiency. The TANF funds shall be deposited to the individual development accounts at a match rate determined by the department.

N. The Department of Social Services shall increase the Temporary Assistance for Needy Families (TANF) cash benefits and income eligibility threshold by five percent effective July 1, 2022.

486.10 Central Appropriations

1. Notwithstanding the provisions of Item 486 of this act, the funding provided pursuant to paragraph A.2.l.1) of Item 486 shall be reallocated in the following manner:

2. $28,057,684 in the first year to the Department of Medical Assistance Services (602) to procure a one-time vendor to assist in the redetermination of Medicaid enrollees over the twelve months following the end of the federal continuous Medicaid coverage requirement.

3. $10,000,000 in the first year to the Department of Social Services (765) to cover the one-time cost of supporting local departments of social services staff with efforts to perform benefit program redeterminations and appeals work in the twelve months following the end of the federal continuous Medicaid coverage requirement.

4. All funds allocated in paragraphs 2 and 3 shall only be used to support one-time eligibility redetermination efforts necessary to meet federal post public health emergency (unwinding) requirements. Prior to the transfer of any funds, impacted agencies shall provide the Department of Planning and Budget and Task Force on Eligibility Redetermination with an accounting of all agency unwinding activities and how any transferred funds will supplement those efforts.

C-36.50 Education

After the Governor has certified that the U.S. Department of Energy has approved a project to establish a high performance data facility associated with the Thomas Jefferson National Accelerator Facility (Jefferson Lab), the Director, Department of Planning and Budget, shall approve a short-term, interest-free, state-supported treasury loan in the amount of $43,305,379 to the Southeastern Universities Research Association Doing Business for Jefferson Science Associates, LLC., to construct the infrastructure and a building in support of said high performance data facility. The Secretary of Finance shall issue guidelines on regular reporting required for the use of these funds if the contingency is met.

		Item Details($)		Appropriations($)
	First Year FY2023	Second Year FY2024	First Year FY2023	Second Year FY2024
C-79.50	2022 Capital Supplement Pool (18646)		$100,000,000	$0
	Fund Sources:			
	General	$100,000,000	$0	

A. Included in this Item is $100,000,000 the first year from the general fund that is designated for project supplements to address shortfalls for projects and central capital construction pools.

1. In fulfillment of the requirement in paragraph L, Item 485 of this act, there is included $100,000,000 from the general fund in the first year.

2. Funding provided in this Item and remaining from Item C-69.60 of Chapter 1, 2022 Acts of Assembly, Special Session I, may be transferred and used for the purposes described in paragraph B. of this Item, pursuant to the approval process and requirements in paragraph C. of this Item.

B.1. Notwithstanding § 2.2-1519 E.1., Code of Virginia., funding may be used to address shortfalls for capital projects that (i) were previously authorized for construction in a central construction pool subject to the process delineated in § 2.2-1515 et. seq., Code of Virginia; (ii) have satisfied the requirements of § 2.2-1519 C. and E.2., Code of Virginia; and (iii) have received a funding report from the Department of General Services prior to April 1, 2022.

2. Funding may be used for projects, within the limits of the 105 percent cost threshold set forth in § 2.2-1519 E.1., Code of Virginia, that (i) were authorized for construction in a central construction pool subject to the process delineated in § 2.2-1515 et. seq., Code of Virginia; (ii) have satisfied the requirements of § 2.2-1519 C. and E.2., Code of Virginia; and (iii) had not received a funding report as of April 1, 2022.

3. Funding may be used to address shortfalls for projects that have been authorized in an Appropriation Act or other authorizing legislation for construction that were not budgeted in a central construction pool, provided that the agency is unable to use additional value engineering or reduce the size or scope of the project to remain within available appropriation while meeting the original programmatic intent of the appropriation.

4. Funding may be used to address shortfalls in central capital construction pools that have insufficient funding remaining to meet the outstanding needs of projects authorized within a given pool.

C.1. A transfer authorized by this Item may only be effectuated if (i) the Director of the Department of Planning and Budget provides notice of the amount and purpose of any such proposed transfer to the Six-Year Capital Outlay Plan Advisory Committee; and (ii) no member of the committee or their designee objects, in writing or via email, to the transfer within 14 days of receiving such notice. If an objection is received, the committee may discuss such proposed transfer at its next meeting and vote as to whether to recommend such transfer.

2. Specific project allocations for transfer from this Item shall be based upon recommendations from the Department of General Services.

3. Supplemental amounts determined in accordance with paragraph B.1., B.2., and B.3. of this Item shall be adjusted to match the proportion of a project's total cost supported by general fund as set forth in the funding report, Appropriation Act, or other authorizing legislation.

4. After receiving funds pursuant to paragraphs B.1. or B.3. of this Item, projects shall comply with the provisions of paragraph K. of § 2.0 of this act.

Direct Aid to Public Education

				Item Details($)	*Appropriations($)*
		First Year FY2023	*Second Year FY2024*	*First Year FY2023*	*Second Year FY2024*
138.10	*State Education Programs (17700)*			*$132,813,671*	*$130,279,159*
	Distribution of State Education Assistance (17701) Fund Sources:	*$132,813,671*	*$130,279,159*		
	General	*$132,703,671*	*$125,816,329*		
	Special	*$110,000*	*$125,00*		
	Trust and Agency	*$0*	*$4,337,830*		

A. The appropriations within this agency shall be adjusted as follows:

General Fund Appropriations	*First Year FY2023*	*Second Year FY2024*
Update Average Daily Membership projections based on Fall Membership	*$28,389,627*	*$42,826,514*
Update costs of Categorical programs	*$1,233,501*	*$1,241,783*
Update costs of Incentive programs	*($16,271,483)*	*($6,450,403)*
Update Fall Membership data in Direct Aid program formulas	*$97,384*	*$214,336*
Update Lottery proceeds for public education	*$9,499,460*	*($4,337,838)*
Update program participation for Remedial Summer School	*$9,139,785*	*$9,139,785*
Update sales tax distribution for school age population	*$0*	*($93,912)*
Update sales tax revenue for public education	*$90,474,422*	*$77,507,889*
Update Supplemental Education accounts	*($335,000)*	*$0*
Update the cost of Lottery-funded programs	*($104,903)*	*$0*
Update the state cost for English as a Second Language	*$2,147,022*	*$4,647,991*
Update Academic Year Governor's School per pupil amounts	*$1,104,051*	*$1,120,184*
Use Lottery fund balances to support existing appropriation	*($9,499,465)*	*$0*
General Fund Total:	*$115,874,401*	*$125,816,329*

Nongeneral Fund Appropriations	*First Year FY2023*	*Second Year FY2024*
Increase nongeneral fund appropriation for Summer Residential Governor's World Language Academies	*$110,000*	*$125,000*
Update Lottery proceeds for public education	*($9,499,462)*	*$4,337,830*
Use Lottery fund balances to support existing appropriation	*$9,499,462*	*$0*
Nongeneral Fund Total:	*$110,000*	*$4,462,830*

B. Out of this appropriation, $16,829,270 the first year from the general fund is provided to ensure that the sum of basic aid and sales tax payments a school division receives in fiscal year 2023 is at least the sum of basic aid and sales tax payments that was communicated to school divisions in Superintendents Memo #133-22.

2. That this act is effective on its passage as provided in § 1-214 of the Code of Virginia.

CHAPTER 770

An Act to amend and reenact § 28.2-542 of the Code of Virginia, relating to Oyster Replenishment Fund.

[H 1438]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 28.2-542 of the Code of Virginia is amended and reenacted as follows:

§ 28.2-542. Oyster Replenishment Fund.

A. All oyster resource user fees collected by the Commission *and any gifts, donations, grants, bequests, and other funds received in support of oyster recycling and replenishment and all funds appropriated for such purpose* shall be deposited in the state treasury and credited to the Oyster Replenishment Fund, to be used only *(i)* for administration of the program ~~and~~*; (ii)* for *oyster* replenishment *projects*, *including recycling,* planting, and replanting the public oyster rocks, beds, and shoals of the Commonwealth~~;~~ with seed oysters, oyster shells, or other material that will catch, support, and grow oysters *and oyster populations; and (iii) to encourage donations of oyster shells for such oyster replenishment projects*. These funds shall be withdrawn and expended for such purposes on the order of the Commission. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrant of the Comptroller issued on vouchers signed by persons designated by the Commission.

B. The method of distribution of funds available for the encouragement of oyster shell donations shall be determined by the Commission. The Commission shall consider providing grants to any person who donates oyster shells to an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is engaged in oyster replenishment projects. Such grants may be awarded in an amount equal to $4 per bushel of oyster shells, as described in § 28.2-526, donated during a calendar year but not to exceed an aggregate grant of $1,500 for all such donations made by such person during such year. The aggregate amount of funds available for such encouragement of oyster shell donations for each calendar year shall be determined by the Commission, but shall not exceed $250,000.

CHAPTER 771

An Act to amend and reenact §§ 22.1-298.1, as it is currently effective and as it shall become effective, and 63.2-1526 of the Code of Virginia, relating to child abuse or neglect; findings of local department of social services; appeal; reinstatement of teacher licensure in certain cases.

[H 1550]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-298.1, as it is currently effective and as it shall become effective, and 63.2-1526 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-298.1. (For Expiration Date, see 2022 Acts cc. 549, 550, cl. 2) Regulations governing licensure.

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the guidelines developed pursuant to subsection N or regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework, pass additional assessments, or meet alternative evaluation standards to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for 10 years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include procedures for (i) the denial, suspension,

cancellation, revocation, and reinstatement of licensure; (ii) written reprimand of license holders on grounds established by the Board, in accordance with law, notice of which shall be made by the Superintendent of Public Instruction to division superintendents or their designated representatives; and (iii) the immediate and thorough investigation by the division superintendent or his designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. At a minimum, such procedures for investigations contained in such regulations shall require (a) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that there is reasonable cause to believe that the license holder has engaged in conduct that forms the basis for revocation of a license; (b) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with Board regulations; and (c) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted. *In the case of a teacher who is the subject of a founded complaint of child abuse or neglect and whose license has been revoked pursuant to this subsection, in the event that a court reverses such finding of abuse or neglect and the individual submits to the Department an application for the reinstatement of his license as a teacher, the Board shall consider and act upon such application no later than 90 days after the date of submission.* Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a 10-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Demonstrate proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternative evaluation standards as prescribed by the Board;

2. Complete study in attention deficit disorder;

3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and

4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

2. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;

3. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

4. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

5. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential;

6. Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia;

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse;

8. Every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of § 23.1-902 shall receive instruction or training on positive behavior interventions and supports; crisis prevention and

de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion;

9. Every person seeking initial licensure or renewal of a license shall complete instruction or training in cultural competency;

10. Every person seeking initial licensure or renewal of a license with an endorsement in history and social sciences shall complete instruction in African American history, as prescribed by the Board; and

11. Every person seeking renewal of a license as a teacher shall complete training in the instruction of students with disabilities that includes (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students.

E. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision D 1, 3, 6, or 8 as a condition of such licensure, but each such teacher shall complete each such requirement during the first year of provisional licensure.

F. The Board shall issue a license to an individual seeking initial licensure who has not completed professional assessments as prescribed by the Board, if such individual (i) holds a provisional license that will expire within three months or, at the discretion of the school board and division superintendent, within six months if the individual has received a satisfactory mid-year performance review in the current school year; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the Board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.

G. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 2, 4, or 6.

H. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

I. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations. Such alternate routes shall include eligibility for any individual to receive, notwithstanding any provision of law to the contrary, a renewable one-year license to teach in public high schools in the Commonwealth if he has:

1. Received a graduate degree from a regionally accredited institution of higher education;

2. Completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education;

3. Received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought; and

4. Met the requirements set forth in subdivisions D 1 and 3.

J. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 5 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law; (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license; and (iii) may provide for the issuance of a provisional license, valid for a period not to exceed three years, to any individual who has held within the last five years a valid and officially issued and recognized license or certification to teach issued by an entity outside of the United States but does not meet the requirements for a renewable license if the individual's license or certification to teach has been evaluated and verified by an entity approved by the Department.

K. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For any spouse of an active duty or reserve member of the Armed Forces of the United States or a member of the Virginia National Guard who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department. Each such individual shall establish a file in the Department by submitting a complete application packet, which shall include official student transcripts and an official copy of the military permanent assignment orders of the individual's spouse. No service requirements or licensing assessments shall be required for any such individual. The Department shall determine and communicate such individual's eligibility for licensure by reciprocity within 15 business days of receipt of the complete application packet; and

3. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department. Each such individual shall establish a file in the Department by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

L. The Board shall include in its regulations an alternate route to licensure for elementary education preK-6 and an alternate route to licensure for special education general curriculum K-12. Each such alternate route to licensure shall require individuals to (i) meet the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought and (ii) complete an alternative certification program that provides training in the pedagogy and methodology of the respective content or special education areas prescribed by the Board. The curriculum of any such alternative certification program shall be approved by the Board. Nothing in this subsection shall preclude the Board from establishing other alternate routes to licensure.

M. The Board, in its regulations providing for licensure by reciprocity established pursuant to subsection K, shall (i) permit applicants to submit third-party employment verification forms and (ii) grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation.

N. The Board shall develop guidelines that establish a process to permit a school board or any organization sponsored by a school board to petition the Board for approval of an alternate route to licensure that may be used to meet the requirements for a provisional or renewable license or any endorsement. Any such alternate route may include alternatives to the regulatory requirements for teacher preparation, including alternative professional assessments and coursework. The petitioner may proffer or the Board may impose conditions in conjunction with the approval of such petition.

§ 22.1-298.1. (For Effective Date, see 2022 Acts cc. 549, 550, cl. 2) Regulations governing licensure.

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the guidelines developed pursuant to subsection N or regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework, pass additional assessments, or meet alternative evaluation standards to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for 10 years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include procedures for (i) the denial, suspension, cancellation, revocation, and reinstatement of licensure; (ii) written reprimand of license holders on grounds established by the Board, in accordance with law, notice of which shall be made by the Superintendent of Public Instruction to division superintendents or their designated representatives; and (iii) the immediate and thorough investigation by the division superintendent or his designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. At a minimum, such procedures for investigations contained in such regulations shall require (a) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that there is reasonable cause to believe that the license holder has engaged in conduct that forms the basis for revocation of a license; (b) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with Board regulations; and (c) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted. *In the case of a teacher who is the subject of a founded complaint of child abuse or neglect and whose license has been revoked pursuant to this subsection, in the event that a court reverses such finding of abuse or neglect and the individual submits to the Department an application for the reinstatement of his license as a teacher, the Board shall consider and act upon such application no later than 90 days after the date of submission.* Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a 10-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Demonstrate proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternative evaluation standards as prescribed by the Board. The literacy assessment for any individual seeking initial licensure with an endorsement in early/primary education preschool through grade three, elementary education preschool through grade six, special education general curriculum kindergarten through grade 12, special education deaf and hard of hearing preschool through grade 12, or special education blindness/visual impairments preschool through grade 12 or as a reading specialist shall include a rigorous test of science-based reading research and evidence-based literacy instruction;

2. Complete study in attention deficit disorder;

3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and

4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

2. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;

3. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

4. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

5. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential;

6. Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia;

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse;

8. Every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of § 23.1-902 shall receive instruction or training on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion;

9. Every person seeking initial licensure or renewal of a license shall complete instruction or training in cultural competency;

10. Every person seeking initial licensure or renewal of a license with an endorsement in history and social sciences shall complete instruction in African American history, as prescribed by the Board;

11. Every person seeking renewal of a license as a teacher shall complete training in the instruction of students with disabilities that includes (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students; and

12. Every person seeking initial licensure with an endorsement in early/primary education preschool through grade three, elementary education preschool through grade six, special education general curriculum kindergarten through grade 12, special education deaf and hard of hearing preschool through grade 12, or special education blindness/visual impairments preschool through grade 12 or as a reading specialist shall complete study in science-based reading research and evidence-based literacy instruction.

E. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision D 1, 3, 6, or 8 as a condition of such licensure, but each such teacher shall complete each such requirement during the first year of provisional licensure.

F. The Board shall issue a license to an individual seeking initial licensure who has not completed professional assessments as prescribed by the Board, if such individual (i) holds a provisional license that will expire within three months or, at the discretion of the school board and division superintendent, within six months if the individual has received a satisfactory mid-year performance review in the current school year; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the Board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.

G. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 2, 4, or 6.

H. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

I. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations. Such alternate routes shall include eligibility for any individual to receive, notwithstanding any provision of law to the contrary, a renewable one-year license to teach in public high schools in the Commonwealth if he has:

1. Received a graduate degree from a regionally accredited institution of higher education;

2. Completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education;

3. Received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought. The literacy assessment for any individual seeking initial licensure through an alternate route with an endorsement in early/primary education preschool through grade three, elementary education preschool through grade six, special education general curriculum kindergarten through grade 12, special education deaf and hard of hearing preschool through grade 12, or special education blindness/visual impairments preschool through grade 12 or as a reading specialist shall include a rigorous test of science-based reading research and evidence-based literacy instruction; and

4. Met the requirements set forth in subdivisions D 1 and 3.

J. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 5 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law; (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license; and (iii) may provide for the issuance of a provisional license, valid for a period not to exceed three years, to any individual who has held within the last five years a valid and officially issued and recognized license or certification to teach issued by an entity outside of the United States but does not meet the requirements for a renewable license if the individual's license or certification to teach has been evaluated and verified by an entity approved by the Department.

K. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For any spouse of an active duty or reserve member of the Armed Forces of the United States or a member of the Virginia National Guard who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department. Each such individual shall establish a file in the Department by submitting a complete application packet, which shall include official student transcripts and an official copy of the military permanent assignment orders of the individual's spouse. No service requirements or licensing assessments shall be required for any such individual. The Department shall determine and communicate such individual's eligibility for licensure by reciprocity within 15 business days of receipt of the complete application packet; and

3. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department. Each such individual shall establish a file in the Department by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

L. The Board shall include in its regulations an alternate route to licensure for elementary education preschool through grade six and an alternate route to licensure for special education general curriculum kindergarten through grade 12. Each such alternate route to licensure shall require individuals to (i) meet the qualifying scores on the content area assessment

prescribed by the Board for the endorsements sought and (ii) complete an alternative certification program that provides training in the pedagogy and methodology of the respective content or special education areas prescribed by the Board. The curriculum of any such alternative certification program shall be approved by the Board. Nothing in this subsection shall preclude the Board from establishing other alternate routes to licensure.

M. The Board, in its regulations providing for licensure by reciprocity established pursuant to subsection K, shall (i) permit applicants to submit third-party employment verification forms and (ii) grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation.

N. The Board shall develop guidelines that establish a process to permit a school board or any organization sponsored by a school board to petition the Board for approval of an alternate route to licensure that may be used to meet the requirements for a provisional or renewable license or any endorsement. Any such alternate route may include alternatives to the regulatory requirements for teacher preparation, including alternative professional assessments and coursework. The petitioner may proffer or the Board may impose conditions in conjunction with the approval of such petition.

§ 63.2-1526. Appeals of certain actions of local departments.

A. A person who is suspected of or is found to have committed abuse or neglect may, within 30 days of being notified of that determination, request the local department rendering such determination to amend the determination and the local department's related records. Upon written request, the local department shall provide the appellant all information used in making its determination. Disclosure of the reporter's name or information which may endanger the well-being of a child shall not be released. The identity of a collateral witness or any other person shall not be released if disclosure may endanger his life or safety. Information prohibited from being disclosed by state or federal law or regulation shall not be released. The local department shall hold an informal conference or consultation where such person, who may be represented by counsel, shall be entitled to informally present testimony of witnesses, documents, factual data, arguments or other submissions of proof to the local department. With the exception of the local director, no person whose regular duties include substantial involvement with child abuse and neglect cases shall preside over the informal conference. If the local department refuses the request for amendment or fails to act within 45 days after receiving such request, the person may, within 30 days thereafter, petition the Commissioner, who shall grant a hearing to determine whether it appears, by a preponderance of the evidence, that the determination or record contains information which is irrelevant or inaccurate regarding the commission of abuse or neglect by the person who is the subject of the determination or record and therefore shall be amended. A person who is the subject of a report who requests an amendment to the record, as provided above, has the right to obtain an extension for an additional specified period of up to 60 days by requesting in writing that the 45 days in which the local department must act be extended. The extension period, which may be up to 60 days, shall begin at the end of the 45 days in which the local department must act. When there is an extension period, the 30-day period to request an administrative hearing shall begin on the termination of the extension period.

B. The Commissioner shall designate and authorize one or more members of his staff to conduct such hearings. The decision of any staff member so designated and authorized shall have the same force and effect as if the Commissioner had made the decision. The hearing officer shall have the authority to issue subpoenas for the production of documents and the appearance of witnesses. The hearing officer is authorized to determine the number of depositions that will be allowed and to administer oaths or affirmations to all parties and witnesses who plan to testify at the hearing. The Board shall adopt regulations necessary for the conduct of such hearings. Such regulations shall include provisions stating that the person who is the subject of the report has the right (i) to submit oral or written testimony or documents in support of himself and (ii) to be informed of the procedure by which information will be made available or withheld from him. In case of any information withheld, such person shall be advised of the general nature of such information and the reasons, for reasons of privacy or otherwise, that it is being withheld. Upon giving reasonable notice, either party at his own expense may depose a nonparty and submit such deposition at the hearing pursuant to Board regulation. Upon good cause shown, after a party's written motion, the hearing officer may issue subpoenas for the production of documents or to compel the attendance of witnesses at the hearing, except that alleged child victims of the person and their siblings shall not be subpoenaed, deposed or required to testify. The person who is the subject of the report may be represented by counsel at the hearing. Upon petition, the court shall have the power to enforce any subpoena that is not complied with or to review any refusal to issue a subpoena. Such decisions may not be further appealed except as part of a final decision that is subject to judicial review. Such hearing officers are empowered to order the amendment of such determination or records as is required to make them accurate and consistent with the requirements of this chapter or the regulations adopted hereunder. If, after hearing the facts of the case, the hearing officer determines that the person who is the subject of the report has presented information that was not available to the local department at the time of the local conference and which if available may have resulted in a different determination by the local department, he may remand the case to the local department for reconsideration. The local department shall have 14 days in which to reconsider the case. If, at the expiration of 14 days, the local department fails to act or fails to amend the record to the satisfaction of the appellant, the case shall be returned to the hearing officer for a determination. If aggrieved by the decision of the hearing officer, such person may obtain further review of the decision in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.). *Should the person aggrieved by the hearing officer's decision be a teacher licensed by the Board of Education or through an alternative pathway and employed by a local school board, the aggrieved person may petition the circuit court for a trial de novo, by judge or jury. Such petition shall be filed within 30 days of the aggrieved person's receipt of the hearing officer's decision in*

the circuit court in the jurisdiction where the applicable local department is located. Such aggrieved person is barred from filing any action for judicial review of the agency action or the hearing officer's decision under the Administrative Processes Act (§ 2.2-4025 et seq.).

C. Whenever an appeal of the local department's finding is made and a criminal charge or investigation is also filed or commenced against the appellant for the same conduct involving the same victim as investigated by the local department, the appeal process shall automatically be stayed until the criminal prosecution in the trial court is completed, until the criminal investigation is closed, or, in the case of a criminal investigation that is not completed within 180 days of the appellant's request for an appeal of the local department's finding, for 180 days after the appellant's request for appeal. During such stay, the appellant's right of access to the records of the local department regarding the matter being appealed shall also be stayed. Once the criminal prosecution in the trial court has been completed, the criminal investigation is closed, or, in the case of a criminal investigation that is not completed within 180 days of the appellant's request for an appeal of the local department's finding, 180 days have passed, the local department shall advise the appellant in writing of his right to resume his appeal within the time frames provided by law and regulation.

CHAPTER 772

An Act to amend and reenact § 58.1-301 of the Code of Virginia, relating to conformity of the Commonwealth's taxation system with the Internal Revenue Code; emergency.

[H 1595]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-301 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-301. Conformity to Internal Revenue Code.

A. Any term used in this chapter shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as they existed on December 31, ~~2021~~ *2022*, except for:

1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m), 1400L, and 1400N of the Internal Revenue Code;

2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal Revenue Code;

3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the Internal Revenue Code;

4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument";

5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation on itemized deductions under § 68(f) of the Internal Revenue Code;

6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross income;

7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the limitation on business interest; and

10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2), 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9673(2), 9673(3), 9672(2), and 9672(3) of the federal American Rescue Plan Act,

P.L. 117-2 (2021) related to deductions, tax attributes, and basis increases for certain loan forgiveness and other business financial assistance.

The Department of Taxation is hereby authorized to develop procedures or guidelines for implementation of the provisions of this section, which procedures or guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

2. That the provisions of Chapters 6 and 18 of the Acts of Assembly of 2022, Special Session I, shall become effective upon passage of this act.

3. That the provisions of this act shall prevail over any conflicting provisions of the second enactment of Chapter 2 of the Acts of Assembly of 2022, Special Session I, and § 4-13.00 of Chapter 2 of the Acts of Assembly of 2022, Special Session I, shall not be applicable with respect to any such conflict.

4. That an emergency exists and this act is in force from its passage.

CHAPTER 773

An Act to amend and reenact §§ 4.1-604, 4.1-605, 4.1-627, 18.2-251.1:1, 18.2-251.1:2, 22.1-277, 32.1-127, 32.1-162.6:1, 40.1-27.4, 46.2-341.20:7, 54.1-2522.1, as it is currently effective and as it shall become effective, 54.1-2903, 54.1-3408.3, 59.1-200, and 63.2-1803.01 of the Code of Virginia; to amend the Code of Virginia by adding in Title 4.1 a chapter numbered 16, consisting of sections numbered 4.1-1600 through 4.1-1605; and to repeal Article 4.2 (§§ 54.1-3442.5 through 54.1-3442.8) of Chapter 34 of Title 54.1 of the Code of Virginia and the twenty-first enactment of Chapter 550 and the twenty-first enactment of Chapter 551 of the Acts of Assembly of 2021, Special Session I, relating to medical cannabis program; transition from Board of Pharmacy to Virginia Cannabis Control Authority.

[H 1598]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-604, 4.1-605, 4.1-627, 18.2-251.1:1, 18.2-251.1:2, 22.1-277, 32.1-127, 32.1-162.6:1, 40.1-27.4, 46.2-341.20:7, 54.1-2522.1, as it is currently effective and as it shall become effective, 54.1-2903, 54.1-3408.3, 59.1-200, and 63.2-1803.01 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 4.1 a chapter numbered 16, consisting of sections numbered 4.1-1600 through 4.1-1605, as follows:

§ 4.1-604. Powers and duties of the Board.

The Board shall have the following powers and duties:

1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-606;

2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;

3. Grant, suspend, ~~and~~ *restrict,* revoke ~~licenses for the cultivation, manufacture, distribution, sale, and testing of marijuana and marijuana products as provided by law~~*, or refuse to grant or renew any license or permit issued or authorized pursuant to this subtitle*;

4. Determine the nature, form, and capacity of all containers used for holding marijuana products to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;

5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;

6. Establish standards and implement an online course for employees of retail marijuana stores that trains employees on how to educate consumers on the potential risks of marijuana use;

7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or similar document regarding the potential risks of marijuana use to be prominently displayed and made available to consumers;

8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business Equity and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on matters related to diversity, equity, and inclusion standards in the marijuana industry;

9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop requirements for the creation and submission of diversity, equity, and inclusion plans by persons who wish to possess a license in more than one license category pursuant to subsection C of § 4.1-805, which may include a requirement that the licensee participate in social equity apprenticeship plan, and an approval process and requirements for implementation of such plans; (ii) be responsible for conducting an analysis of potential barriers to entry for small, women-owned, and minority-owned businesses and veteran-owned businesses interested in participating in the marijuana industry and recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with business planning for potential marijuana establishment licensees; (iv) spread awareness of business opportunities related to the marijuana marketplace in areas disproportionately impacted by marijuana prohibition and enforcement; (v) provide technical assistance in navigating the administrative process to potential marijuana establishment licensees; and (vi) conduct other outreach initiatives in areas disproportionately impacted by marijuana prohibition and enforcement as necessary;

10. Establish a position for an individual with professional experience in a health related field who shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the Office of the Secretary of

Health and Human Resources and relevant health and human services agencies and organizations, and perform other duties as needed.

11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and the Director of Diversity, Equity, and Inclusion to promote and encourage participation in the marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and to positively impact those communities;

12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

13. Adopt, use, and alter at will a common seal;

14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;

15. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including agreements with any person or federal agency;

16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

17. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;

19. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;

20. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;

21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;

22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this subtitle;

23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and processing plants;

24. Appoint every agent and employee required for its operations, require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of experts and professionals;

25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers, and other documents before the Board or any agent of the Board, and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant ~~or~~, licensee*, or permittee* a consent agreement in lieu of proceedings on (i) objections to the issuance of a license *or permit* or (ii) disciplinary action. Any such consent agreement *(a)* shall include findings of fact *and provisions regarding whether the terms of the consent agreement are confidential* and *(b)* may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the

provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

26. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

27. ~~Assess~~ *Take appropriate disciplinary action and assess* and collect civil penalties and civil charges for violations of this subtitle and Board regulations;

28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this subtitle;

30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with applications for such permits;

31. Develop and make available on its website guidance documents regarding compliance and safe practices for persons who cultivate marijuana at home for personal use, which shall include information regarding cultivation practices that promote personal and public safety, including child protection, and discourage practices that create a nuisance;

32. Develop and make available on its website a resource that provides information regarding (i) responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana consumption, including inability to operate a motor vehicle and other types of transportation and equipment; and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment opportunities. The Board shall require that the web address for such resource be included on the label of all retail marijuana and retail marijuana product as provided in § 4.1-1402; and

33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

§ 4.1-605. Additional powers; mediation; alternative dispute resolution; confidentiality.

A. As used in this section:

"Appropriate case" means any alleged license *or permit* violation or objection to the application for a license *or permit* in which it is apparent that there are significant issues of disagreement among interested persons and for which the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.

"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.

"Mediation" means the same as that term is defined in § 8.01-576.4.

"Neutral" means the same as that term is defined in § 8.01-576.4.

B. The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding may be used for an objection to the issuance of a license *or permit* only with the consent of, and participation by, the applicant for ~~licensure~~ *a license or permit* and shall be terminated at the request of such applicant.

C. Any resolution of a contested issue accepted by the Board under this section shall be considered a consent agreement as provided in § 4.1-604. The decision to use mediation or a dispute resolution proceeding is in the Board's sole discretion and shall not be subject to judicial review.

D. The Board may adopt rules and regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of this section. Such rules and regulations may include (i) standards and procedures for the conduct of mediation and dispute resolution proceedings, including an opportunity for interested persons identified by the Board to participate in the proceeding; (ii) the appointment and function of a neutral to encourage and assist parties to voluntarily compromise or settle contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or other materials.

E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute resolution proceeding shall govern all such proceedings held pursuant to this section except where the Board uses or relies on information obtained in the course of such proceeding in granting ~~a license~~, suspending*, restricting,* or revoking a license *or permit*, or *in* accepting payment of a civil penalty or investigative costs. ~~However, a consent agreement~~ *Consent agreements shall be* signed by ~~the~~ *all* parties *and* shall ~~not be~~ *include provisions regarding whether the terms of the consent agreement are* confidential.

§ 4.1-627. Hearings; representation by counsel.

Any licensee*, permittee,* or applicant for ~~any~~ *a* license ~~granted by the Board~~ *or permit authorized by this subtitle* shall have the right to be represented by counsel at any Board hearing for which he has received notice. The licensee*, permittee,* or applicant shall not be required to be represented by counsel during such hearing. Any officer or director of a corporation may examine, cross-examine, and question witnesses, present evidence on behalf of the corporation, and draw conclusions and make arguments before the Board or hearing officers without being in violation of the provisions of § 54.1-3904.

CHAPTER 16.

MEDICAL CANNABIS PROGRAM.

§ 4.1-1600. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant to § 4.1-1602; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses cannabis products produced by a pharmaceutical processor to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to § 4.1-1602, or a dilution of the resin of the Cannabis plant that contains no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.

"Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical cannabis.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

"Dispense" means the same as that term is defined in § 54.1-3300.

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § 4.1-1602 and (ii) cultivates Cannabis plants intended only for the production of cannabis oil, botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a patient pursuant to a written certification, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Pharmacist" means the same as that term is defined in § 54.1-3300.

"Pharmacy intern" means the same as that term is defined in § 54.1-3300.

"Pharmacy technician" means the same as that term is defined in § 54.1-3300.

"Pharmacy technician trainee" means the same as that term is defined in § 54.1-3300.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Boards of Nursing and Medicine.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection F of § 4.1-1601.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

§ 4.1-1601. Certification for use of cannabis for treatment.

A. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audiovisual technology. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.

B. The written certification shall be on a form provided by the Authority. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection A shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration. A written certification shall not be issued to a patient by more than one practitioner during any given time period.

C. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection A. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

D. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board and shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients. The Board shall not limit the number of patients to whom a practitioner may issue a written certification. The

Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.

E. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit on a monthly basis all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Authority.

F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis product to the patient or resident as necessary.

H. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a patient's registered agent, but only with respect to information related to such patient.

§ 4.1-1602. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Authority and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling, including the potency of each botanical cannabis product and the amounts recommended by the practitioner or dispensing pharmacist, and packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis oil that provide that each dispensed dose of cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors, between a pharmaceutical processor and a cannabis dispensing facility, and between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection N; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue written certifications and patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating cannabis plants intended for producing cannabis products, (b) the secure disposal of agricultural waste, and (c) a process for registering cannabis products.

D. The Board shall require pharmaceutical processors, after processing and before dispensing any cannabis products, to make a sample available from each batch of cannabis product for testing by an independent laboratory that is located in Commonwealth and meets Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for

analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD), total tetrahydrocannabinol (THC), terpenes, pesticide chemical residue, heavy metals, mycotoxins, moisture, and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or cannabis oil shall be subject to laboratory testing and approved upon satisfaction of applicable testing standards, which shall not be more stringent than initial testing prior to remediation. If a batch of botanical cannabis fails retesting after remediation, it shall be considered usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any cannabis product with an expiration date assigned by the pharmaceutical processor of six months or less from the date of the cannabis product registration approval. Stability testing required for assignment of an expiration date longer than six months shall be limited to microbial testing, on a pass/fail basis, and potency testing, on a 10 percent deviation basis, of active ingredients.

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board of Pharmacy in regulation.

F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. The pharmaceutical processor shall ensure that security measures are adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have concurrent responsibility for preventing diversion from the dispensing area.

Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and production areas of the pharmaceutical processor and shall provide such information to the Board. The Board shall direct all communications related to enforcement of requirements related to cultivation and production of cannabis oil products by the pharmaceutical processor to such designated person.

G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant's material owners. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity.

H. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

I. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a certification recognized by the Board or who has at least two years of experience cultivating plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and (iii) to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician.

J. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

K. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

L. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

M. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's dispensing area or cannabis dispensing facility.

N. A pharmaceutical processor may acquire industrial hemp extracts grown and processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before industrial hemp extracts may be acquired.

O. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of

opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

P. The Board shall register all cannabis products that meet testing, labeling, and packaging standards.

§ 4.1-1603. Dispensing cannabis products; report.

A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis products only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia and has been issued a valid written certification; (ii) such patient's registered agent; or (iii) if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or temporarily resides in Virginia. A companion may accompany a patient into a pharmaceutical processor's dispensing area or cannabis dispensing facility. Prior to the initial dispensing of cannabis products pursuant to each written certification, a pharmacist or pharmacy technician employed by the pharmaceutical processor or cannabis dispensing facility shall make and maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view, in person or by audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian; and shall verify current board registration of the practitioner and the corresponding registered agent if applicable. Thereafter, an initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated caregiver facility. Prior to any subsequent dispensing of cannabis products pursuant to each written certification, an employee or delivery agent shall view a current photo identification of the patient, registered agent, parent, or legal guardian and the current board registration issued to the registered agent if applicable. No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply, as determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period. A pharmaceutical processor or cannabis dispensing facility may dispense less than a 90-day supply of a cannabis product for any patient during any 90-day period; however, a pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. The Board shall establish in regulation an amount of cannabis oil that constitutes a 90-day supply to treat or alleviate the symptoms of a patient's diagnosed condition or disease. In determining the appropriate amount of a cannabis product to be dispensed to a patient, a pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the patient and adjust the amount dispensed accordingly.

B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis products produced on the premises of a pharmaceutical processor permitted by the Board or cannabis products that have been formulated with extracts from industrial hemp acquired by a pharmaceutical processor from a registered industrial hemp dealer or processor pursuant to § 4.1-1602. A pharmaceutical processor may begin cultivation upon being issued a permit by the Board.

C. The Board shall report annually by December 1 to the Chairmen of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services on the operation of pharmaceutical processors and cannabis dispensing facilities issued a permit by the Board.

D. The concentration of delta-9-tetrahydrocannabinol in any cannabis product on site may be up to 10 percent greater than or less than the level of delta-9-tetrahydrocannabinol measured for labeling. A pharmaceutical processor and cannabis dispensing facility shall ensure that such concentration in any cannabis product on site is within such range. A pharmaceutical processor producing cannabis products shall establish a stability testing schedule of cannabis products.

§ 4.1-1604. Criminal liability; exceptions.

No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248, 18.2-248.1, or 18.2-250 for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis products, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis products in accordance with the provisions of this chapter and Board regulations or (ii) possessed, manufactured, or distributed such cannabis products that are consistent with generally accepted cannabis industry standards in accordance with the provisions of this chapter and Board regulations.

§ 4.1-1605. Summary suspensions and restrictions.

A. The Board may summarily suspend or restrict a permit issued pursuant to § 4.1-1602 without a hearing if the Board finds that such suspension or restriction is necessary to prevent substantial danger to public health or safety. The Board shall make decisions to summarily suspend or restrict a permit only during an in-person meeting in which a quorum is present; however, if, after a good faith effort, the Board is unable to assemble a quorum and a majority of the Board members determine that continued operation by the permittee constitutes a substantial danger to public health or safety, the Board may summarily suspend the permit during a telephone, video, or other electronic conference. Institution of proceedings for a hearing shall be provided simultaneously with a summary suspension. The Board may summarily restrict a permit without proceeding simultaneously with notification of an informal conference pursuant to § 2.2-4019 or Board

regulations. Such hearing or conference shall be held within a reasonable amount of time after the summary suspension or restriction is issued.

B. Allegations of violations of this subtitle shall be submitted to the Board in writing.

§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.

No school nurse employed by a local school board, person employed by a local health department who is assigned to the public school pursuant to an agreement between the local health department and the school board, or other person employed by or contracted with a local school board to deliver health-related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering cannabis oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid written certification for the use of cannabis oil in accordance with ~~subsection B of~~ § ~~54.1-3408.3~~ *4.1-1601*.

§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing facilities; hospice and hospice facilities; assisted living facilities.

No person employed by a nursing home, hospice, hospice facility, or assisted living facility and authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250 for the possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient or resident who has been issued a valid written certification for the use of cannabis oil in accordance with ~~subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy~~ *§ 4.1-1601*.

§ 22.1-277. Suspensions and expulsions of students generally.

A. Students may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

B. Except as provided in subsection C or § 22.1-277.07 or 22.1-277.08, no student in preschool through grade three shall be suspended for more than three school days or expelled from attendance at school, unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department.

C. Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance pursuant to this article.

D. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

E. Notwithstanding the provisions of § 22.1-277.08, no school board shall be required to suspend or expel any student who holds a valid written certification for the use of cannabis oil issued by a practitioner in accordance with ~~subsection B of~~ § ~~54.1-3408.3~~ *4.1-1601* for the possession or use of such oil in accordance with the student's individualized health plan and in compliance with a policy adopted by the school board.

§ 32.1-127. Regulations.

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities;

2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval,

processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye bank community and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement organization in educating the staff responsible for contacting the organ procurement organization's personnel on donation issues, the proper review of death records to improve identification of potential donors, and the proper procedures for maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, and no donor card or other relevant document, such as an advance directive, can be found;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the other parent of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person is not available within the period of time specified, co-signed by another physician or other person authorized to give the order;

12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

15. Shall require that each licensed hospital include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including, but not limited to, those related to the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. No family member of a resident or other resident representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of $1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations;

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician and (ii) a patient for whom there is a question regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal communication, either in person or via telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information employed by a poison control center that is accredited by the American Association of Poison Control Centers to review the results of the toxicology screen and determine whether a medical reason for refusing admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the referring physician;

21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision reached by the interdisciplinary medical review committee, which shall be included in the patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other remedies available at law, including seeking court review, provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days of the date on which the physician's determination that proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department to establish protocols to ensure that security personnel of the emergency department, if any, receive training appropriate to the populations served by the emergency department, which may include training based on a trauma-informed approach in identifying and safely addressing situations involving patients or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis;

23. Shall require that each hospital establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized representative with written or electronic notice that the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such

transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan;

24. Shall establish an exemption from the requirement to obtain a license to add temporary beds in an existing hospital or nursing home, including beds located in a temporary structure or satellite location operated by the hospital or nursing home, provided that the ability remains to safely staff services across the existing hospital or nursing home, (i) for a period of no more than the duration of the Commissioner's determination plus 30 days when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds or (ii) for a period of no more than the duration of the emergency order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the Board, pursuant to § 32.1-13, or the Commissioner, pursuant to § 32.1-20, has entered an emergency order for the purpose of suppressing a nuisance dangerous to public health or a communicable, contagious, or infectious disease or other danger to the public life and health;

25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical therapy as a follow-up treatment and (ii) will be required to select a physical therapy provider prior to being discharged from the hospital;

26. Shall permit nursing home staff members who are authorized to possess, distribute, or administer medications to residents to store, dispense, or administer cannabis oil to a resident who has been issued a valid written certification for the use of cannabis oil in accordance with ~~subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy~~ *§ 4.1-1601*;

27. Shall require each hospital with an emergency department to establish a protocol for the treatment and discharge of individuals experiencing a substance use-related emergency, which shall include provisions for (i) appropriate screening and assessment of individuals experiencing substance use-related emergencies to identify medical interventions necessary for the treatment of the individual in the emergency department and (ii) recommendations for follow-up care following discharge for any patient identified as having a substance use disorder, depression, or mental health disorder, as appropriate, which may include, for patients who have been treated for substance use-related emergencies, including opioid overdose, or other high-risk patients, (a) the dispensing of naloxone or other opioid antagonist used for overdose reversal pursuant to subsection X of § 54.1-3408 at discharge or (b) issuance of a prescription for and information about accessing naloxone or other opioid antagonist used for overdose reversal, including information about accessing naloxone or other opioid antagonist used for overdose reversal at a community pharmacy, including any outpatient pharmacy operated by the hospital, or through a community organization or pharmacy that may dispense naloxone or other opioid antagonist used for overdose reversal without a prescription pursuant to a statewide standing order. Such protocols may also provide for referrals of individuals experiencing a substance use-related emergency to peer recovery specialists and community-based providers of behavioral health services, or to providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

28. During a public health emergency related to COVID-19, shall require each nursing home and certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with guidance from the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the conditions, including conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and community, under which in-person visits will be allowed and under which in-person visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be required to comply to protect the health and safety of the patients and staff of the nursing home or certified nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing home or certified nursing facility will take in the event of a technology failure, service interruption, or documented emergency that prevents visits from occurring as required by this subdivision. Such protocol shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided that such waiver or limitation is included in the patient's health record; and (c) a requirement that each nursing home and certified nursing facility publish on its website or communicate to each patient or the patient's authorized representative, in writing or via electronic means, the nursing home's or certified nursing facility's plan for providing visits to patients as required by this subdivision;

29. Shall require each hospital, nursing home, and certified nursing facility to establish and implement policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient, in accordance with such regulations, while receiving inpatient services. Such policies shall ensure protection of health information in accordance with the requirements of the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended. For the purposes of this subdivision, "intelligent personal assistant" means a combination of an electronic device and a specialized software application designed to assist users with basic tasks using a combination of natural language processing and artificial intelligence, including such combinations known as "digital assistants" or "virtual assistants";

30. During a declared public health emergency related to a communicable disease of public health threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to allow patients to receive visits from a

rabbi, priest, minister, or clergy of any religious denomination or sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for Medicare and Medicaid Services and subject to compliance with any executive order, order of public health, Department guidance, or any other applicable federal or state guidance having the effect of limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits to be conducted virtually using interactive audio or video technology. Any such protocol may require the person visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the hospital, nursing home, or certified nursing facility adopted to protect the health and safety of the person, patients, and staff of the hospital, nursing home, or certified nursing facility; and

31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients who are minors available to such patients through a secure website shall make such health records available to such patient's parent or guardian through such secure website, unless the hospital cannot make such health record available in a manner that prevents disclosure of information, the disclosure of which has been denied pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of § 54.1-2969 has not been provided.

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot that is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for the provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal.

§ 32.1-162.6:1. Possession or administration of cannabis oil.

Hospice and hospice facility employees who are authorized to possess, distribute, or administer medications to patients shall be permitted to store, dispense, or administer cannabis oil to a patient who has been issued a valid written certification for the use of cannabis oil in accordance with ~~subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy~~ *§ 4.1-1601*.

§ 40.1-27.4. Discipline for employee's medicinal use of cannabis oil prohibited.

A. As used in this section, "cannabis oil" means the same as that term is defined in § ~~54.1-3408.3~~ *4.1-1600*.

B. No employer shall discharge, discipline, or discriminate against an employee for such employee's lawful use of cannabis oil pursuant to a valid written certification issued by a practitioner for the treatment or to eliminate the symptoms of the employee's diagnosed condition or disease pursuant to § ~~54.1-3408.3~~ *4.1-1601*.

C. Notwithstanding the provisions of subsection B, nothing in this section shall (i) restrict an employer's ability to take any adverse employment action for any work impairment caused by the use of cannabis oil or to prohibit possession during work hours, (ii) require an employer to commit any act that would cause the employer to be in violation of federal law or that would result in the loss of a federal contract or federal funding, or (iii) require any defense industrial base sector employer or prospective employer, as defined by the U.S. Cybersecurity and Infrastructure Security Agency, to hire or retain any applicant or employee who tests positive for tetrahydrocannabinol (THC) in excess of 50 ng/ml for a urine test or 10 pg/mg for a hair test.

§ 46.2-341.20:7. Possession of marijuana in commercial motor vehicle unlawful; civil penalty.

A. It is unlawful for any person to knowingly or intentionally possess marijuana in a commercial motor vehicle as defined in § 46.2-341.4. The attorney for the Commonwealth or the county, city, or town attorney may prosecute such a case.

Upon the prosecution of a person for a violation of this section, ownership or occupancy of the vehicle in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section is subject to a civil penalty of no more than $25. A violation of this section is a civil offence. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. Violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

B. Any violation of this section shall be charged by summons. A summons for a violation of this section may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs shall be assessed for violations of this section. A person's criminal history record information as defined in § 9.1-101 shall not include records of any charges or judgments for a violation of this section, and records of such charges or judgments shall not be reported to the Central Criminal Records Exchange; however, such violation shall be reported to the Department of Motor Vehicles and shall be included on such individual's driving record.

C. The procedure for appeal and trial of any violation of this section shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4

(§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

D. The provisions of this section shall not apply to members of state, federal, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

E. The provisions of this section involving marijuana in the form of cannabis products as that term is defined in § ~~54.1-3408.3~~ *4.1-1600* shall not apply to any person who possesses such cannabis product pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § ~~54.1-3408.3~~ *4.1-1601* for treatment or to alleviate the symptoms of (i) the person's diagnosed condition or disease, (ii) if such person is the parent or guardian of a minor or of a vulnerable adult as defined in § 18.2-369, such minor's or vulnerable adult's diagnosed condition or disease, or (iii) if such person has been designated as a registered agent pursuant to § ~~54.1-3408.3~~ *4.1-1601*, the diagnosed condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of a vulnerable adult as defined in § 18.2-369, such minor's or vulnerable adult's diagnosed condition or disease.

§ 54.1-2522.1. (Effective until July 1, 2027) Requirements of practitioners.

A. Any prescriber who is licensed in the Commonwealth to treat human patients and is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered with the Prescription Monitoring Program by the Department of Health Professions.

B. A prescriber registered with the Prescription Monitoring Program or a person to whom he has delegated authority to access information in the possession of the Prescription Monitoring Program pursuant to § 54.1-2523.2 shall, at the time of initiating a new course of treatment to a human patient that includes the prescribing of opioids anticipated at the onset of treatment to last more than seven consecutive days, request information from the Director for the purpose of determining what, if any, other covered substances are currently prescribed to the patient. In addition, any prescriber who holds a special identification number from the Drug Enforcement Administration authorizing the prescribing of controlled substances approved for use in opioid addiction therapy shall, prior to or as a part of execution of a treatment agreement with the patient, request information from the Director for the purpose of determining what, if any, other covered substances the patient is currently being prescribed. Nothing in this section shall prohibit prescribers from making additional periodic requests for information from the Director as may be required by routine prescribing practices.

C. A prescriber shall not be required to meet the provisions of subsection B if:

1. The opioid is prescribed to a patient currently receiving hospice or palliative care;

2. The opioid is prescribed to a patient during an inpatient hospital admission or at discharge;

3. The opioid is prescribed to a patient in a nursing home or a patient in an assisted living facility that uses a sole source pharmacy;

4. The Prescription Monitoring Program is not operational or available due to temporary technological or electrical failure or natural disaster; or

5. The prescriber is unable to access the Prescription Monitoring Program due to emergency or disaster and documents such circumstances in the patient's medical record.

D. Prior to issuing a written certification for the use of cannabis oil in accordance with § ~~54.1-3408.3~~ *4.1-1601*, a practitioner shall request information from the Director for the purpose of determining what, if any, other covered substances have been dispensed to the patient.

§ 54.1-2522.1. (Effective July 1, 2027) Requirements of practitioners.

A. Any prescriber who is licensed in the Commonwealth to treat human patients and is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered with the Prescription Monitoring Program by the Department of Health Professions.

B. Prescribers registered with the Prescription Monitoring Program shall, at the time of initiating a new course of treatment to a human patient that includes the prescribing of benzodiazepine or an opiate anticipated at the onset of treatment to last more than 90 consecutive days, request information from the Director for the purpose of determining what, if any, other covered substances are currently prescribed to the patient. In addition, any prescriber who holds a special identification number from the Drug Enforcement Administration authorizing the prescribing of controlled substances approved for use in opioid addiction therapy shall, prior to or as a part of execution of a treatment agreement with the patient, request information from the Director for the purpose of determining what, if any, other covered substances the patient is currently being prescribed. Nothing in this section shall prohibit prescribers from making additional periodic requests for information from the Director as may be required by routine prescribing practices.

C. The Secretary of Health and Human Resources may identify and publish a list of benzodiazepines or opiates that have a low potential for abuse by human patients. Prescribers who prescribe such identified benzodiazepines or opiates shall not be required to meet the provisions of subsection B. In addition, a prescriber shall not be required to meet the provisions of subsection B if the course of treatment arises from pain management relating to dialysis or cancer treatments.

D. Prior to issuing a written certification for the use of cannabis oil in accordance with § ~~54.1-3408.3~~ *4.1-1601*, a practitioner shall request information from the Director for the purpose of determining what, if any, other covered substances have been dispensed to the patient.

§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.

A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

Signing a birth or death certificate, or signing any statement certifying that the person so signing has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the healing arts within the meaning of this chapter except where persons other than physicians are required to sign birth certificates.

B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation or designation, or other language that identifies the type of practice for which he is licensed. No person regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in § 18.2-247, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this subsection shall prevent a person from including in any advertisement that such person is registered with the Board of ~~Pharmacy~~ *Directors of the Virginia Cannabis Control Authority* to issue written certifications for the use of cannabis products, as defined in § ~~54.1-3408.3~~ *4.1-1600*.

§ 54.1-3408.3. Certification for use of cannabis for treatment.

A. As used in this section~~: "Botanical~~*, "botanical* cannabis,*"* ~~means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant~~ *"cannabis oil," "cannabis product," and "practitioner" mean the same as those terms are defined in § 4.1-1600*.

~~"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.~~

~~"Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical cannabis.~~

~~"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.~~

~~"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.~~

~~"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.~~

~~"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.~~

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use *in accordance with the provisions of § 4.1-1601*. ~~The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audio-visual technology. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.~~

~~C. The written certification shall be on a form provided by the Board of Pharmacy. Such written certification shall contain the name, address, and telephone number of the practitioner; the name and address of the patient issued the written certification; the date on which the written certification was made; and the signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration. A written certification shall not be issued to a patient by more than one practitioner during any given time period.~~

~~D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from~~

~~sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.~~

~~E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board and shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients. The Board shall not limit the number of patients to whom a practitioner may issue a written certification. The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.~~

~~F. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit, on a monthly basis, all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Board.~~

~~G. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.~~

~~H. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility, who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications, may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis product to the patient or resident as necessary.~~

~~I. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a registered agent, but only with respect to information related to such patient.~~

§ 59.1-200. Prohibited practices.

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;

2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;

4. Misrepresenting geographic origin in connection with goods or services;

5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;

6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";

8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516, or 3.2-6519 is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of $5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.);

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.);

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.);

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.);

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

37. Violating any provision of § 8.01-40.2;

38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);

40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.);

42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);

43. Violating any provision of § 59.1-443.2;

44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);

45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;

46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;

47. Violating any provision of § 18.2-239;

48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);

49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";

50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);

51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;

52. Violating any provision of § 8.2-317.1;

53. Violating subsection A of § 9.1-149.1;

54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;

55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;

56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;

58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);

59. Violating any provision of subsection E of § 32.1-126;

60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

61. Violating any provision of § 2.2-2001.5;

62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;

63. Violating any provision of § 6.2-312;

64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;

65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;

66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);

67. Knowingly violating any provision of § 8.01-27.5;

68. Failing to make available a conspicuous online option to cancel a recurring purchase of a good or service as required by § 59.1-207.46;

69. Selling or offering for sale to a person younger than 21 years of age any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Article 4.2 of~~ Chapter ~~34~~ *16 (§ 4.1-1600 et seq.)* of Title ~~54.1 of the Code of Virginia~~ *4.1*;

70. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Article 4.2 of~~ Chapter ~~34~~ *16 (§ 4.1-1600 et seq.)* of Title ~~54.1 of the Code of Virginia~~ *4.1*;

71. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit; and

72. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human

consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance.

B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

§ 63.2-1803.01. Possession or administration of cannabis oil.

Assisted living facility staff members who are authorized to possess, distribute, or administer medications to residents in accordance with the facility's written plan for medication management shall be permitted to store, dispense, or administer cannabis oil to a resident who has been issued a valid written certification for the use of cannabis oil in accordance with ~~subsection B of~~ § ~~54.1-3408.3~~ *4.1-1601* and has registered with the Board of ~~Pharmacy~~ *Directors of the Virginia Cannabis Control Authority*.

2. That Article 4.2 (§§ 54.1-3442.5 through 54.1-3442.8) of Chapter 34 of Title 54.1 of the Code of Virginia is repealed.

3. That the provisions of the first and second enactments of this act shall become effective on January 1, 2024.

4. That the twenty-first enactment of Chapter 550 and the twenty-first enactment of Chapter 551 of the Acts of Assembly of 2021, Special Session I, are repealed.

5. That the Regulations Governing Pharmaceutical Processors (18VAC110-60) as promulgated or amended by the Board of Pharmacy prior to January 1, 2024, shall remain in full force and effect and shall be administered by the Virginia Cannabis Control Authority (the Authority) until the Board of Directors (the Board) of the Authority promulgates regulations to implement the provisions of this act, which shall model, to the greatest extent practicable, the Regulations Governing Pharmaceutical Processors (18VAC110-60) promulgated by the Board of Pharmacy. With the exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant thereto shall apply to the Board's initial adoption of regulations to implement the provisions of this act. The Authority shall be vested with all powers and duties held by the Board of Pharmacy prior to January 1, 2024, in its administration of the provisions set forth in § 54.1-3408.3 of the Code of Virginia, as amended by this act, Article 4.2 (§§ 54.1-3442.5 through 54.1-3442.8) of Chapter 34 of Title 54.1 of the Code of Virginia, as repealed by this act, and any regulations promulgated pursuant thereto.

6. That any valid, active permits, certifications, and registrations issued by the Board of Pharmacy pursuant to § 54.1-3408.3 of the Code of Virginia, as amended by this act, Article 4.2 (§§ 54.1-3442.5 through 54.1-3442.8) of Chapter 34 of Title 54.1 of the Code of Virginia, as repealed by this act, or regulations promulgated pursuant thereto prior to January 1, 2024, shall remain valid until their expiration date and be considered to have been issued by the Board of Directors of the Virginia Cannabis Control Authority.

7. That the Virginia Cannabis Control Authority may assess and collect regulatory fees from each pharmaceutical processor and cannabis dispensing facility in an amount sufficient to implement this act.

CHAPTER 774

An Act to amend and reenact §§ 4.1-225, 4.1-325, 4.1-325.2, and 4.1-509.1 of the Code of Virginia, relating to alcoholic beverage control; grounds for suspension or revocation of license; exception.

[H 1730]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-225, 4.1-325, 4.1-325.2, and 4.1-509.1 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-225. Grounds for which Board may suspend or revoke licenses; exception.

A. The Board may suspend or revoke any license other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Has misrepresented a material fact in applying to the Board for such license;

b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227, has (i) been convicted of a violation of any law, ordinance, or regulation of the Commonwealth, of any county, city, or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture, transportation, possession, use, or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-300 et seq.); (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule, or order of the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;

d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business which have not been disclosed;

e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;

f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;

g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

h. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other than a busboy, cook, or other kitchen help, any person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation, possession, use, or sale of alcoholic beverages;

i. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect for law and order;

j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii) intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as provided under this subtitle;

l. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

m. Has allowed any obscene literature, pictures, or materials upon the licensed premises;

n. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

o. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use marijuana, controlled substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision shall also apply to any conduct related to the operation of the licensed business that facilitates the commission of any of the offenses set forth herein;

p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety; or

q. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises.

2. The place occupied by the licensee:

a. Does not conform to the requirements of the governing body of the county, city, or town in which such establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;

b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

3. The licensee or any employee of the licensee discriminated against any member of the armed forces of the United States by prices charged or otherwise.

4. The licensee, his employees, or any entertainer performing on the licensed premises has been convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed premises and the licensee allowed such conduct to occur.

5. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.

6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.

7. Any other cause authorized by this subtitle.

B. Notwithstanding the provisions of subdivision A 1 h, a licensee may employ a person who has been convicted of a felony or a crime involving moral turpitude if (i) except for violations of § 18.2-54.1 or 18.2-54.2, two years have elapsed following the conviction and the person has completed and been released from the term of any probation or parole, if applicable, or (ii) the licensee has obtained written approval for such employment from the Authority and, in instances in which the person has not completed or been released from the term of any probation or parole, the Authority has consulted with the person's probation and parole officer.

§ 4.1-325. Prohibited acts by mixed beverage licensees; penalty.

A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

1. Sell or serve any alcoholic beverage other than as authorized by law;

2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;

3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this subtitle;

4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;

5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;

6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to which spirits may be added, to be served and sold for consumption on the licensed premises;

7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted pursuant to subdivision B 11 of § 4.1-111;

8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;

9. Remove or obliterate any label, mark, or stamp affixed to any container of alcoholic beverages offered for sale;

10. Deliver or sell the contents of any container if the label, mark, or stamp has been removed or obliterated;

11. Allow any obscene conduct, language, literature, pictures, performance, or materials on the licensed premises;

12. Allow any striptease act on the licensed premises;

13. Allow persons connected with the licensed business to appear nude or partially nude;

14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision *A* 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;

15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § 4.1-206.3.

The provisions of this subdivision shall not apply to the delivery of:

a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage distilled from rice, barley or sweet potatoes; or

b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;

16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

17. Conceal any sale or consumption of any alcoholic beverages;

18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;

19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;

20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling;

21. Keep on the licensed premises, except for the premises of a mixed beverage casino licensee, a slot machine or any prohibited gambling or gaming device, machine, or apparatus;

22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subdivision; (iii) pursuant to subsection B of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; (v) by a mixed beverage casino licensee to a patron of such licensee in accordance with the provisions of subdivision A 15 of § 4.1-206.3; or (vi) pursuant to any Board regulation. Any gift permitted by this subdivision shall be subject to the taxes imposed by this subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision; or

23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

§ 4.1-325.2. Prohibited acts by employees of wine or beer licensees; penalty.

A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision *A* 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.

B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be agents of the retail wine or beer licensee.

C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subsection; (iii) pursuant to subsection B of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall be subject to the taxes imposed by this subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subsection.

D. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed $500.

§ 4.1-509.1. Board proceedings; contemplated actions by brewery or wholesaler.

A. For purposes of this section, "contemplated action" means an action proposed by a brewery or wholesaler that (i) if carried out would violate any provision of this chapter or *clause (v) of* subdivision *A* 1 b ~~(v)~~ of § 4.1-225 and (ii) is demonstrated by a specific written statement authored by a brewery or an employee of a wholesaler who is specifically authorized by virtue of job title and responsibility to make such statement and such other evidence as may be required by the Board pursuant to the facts of any given circumstance.

B. Subsequent to compliance with subsection D, any wholesaler may file a petition against a brewery, and any brewery may file a petition against a wholesaler, in which the petitioner alleges that the respondent named in the petition as a matter of past or present fact has contemplated action that if carried out would violate any provision of this chapter or *clause (v) of* subdivision *A* 1 b ~~(v)~~ of § 4.1-225. Any such petition filed shall identify with specificity the alleged contemplated action, the document in which such contemplated action is described or authorized, and specify the provision of law or regulation that the contemplated action would violate if carried out. The petition shall include a statement that a controversy as to the lawfulness of the contemplated action exists. The statement shall be supported by evidence of the petitioner's good faith effort to resolve the controversy in accordance with subsection D. The petitioner shall have the burden of establishing that the contemplated actions identified in the petition, if carried out, would violate any provision of law or regulation enumerated in this subsection. The Board may, if it finds that a brewery or wholesaler has frivolously maintained a petition or defense to a proceeding pursuant to this chapter, award reasonable costs and attorney fees to the prevailing party.

C. Any petition filed by a brewery or wholesaler pursuant to this section shall be delivered to the Secretary of the Board. The Board shall promptly issue a written determination as to whether a violation or attempted violation as alleged in the petition has occurred. In addition, the Board shall promptly issue a written determination as to whether a violation alleged in the petition would occur if the contemplated action identified in the petition were to be carried out.

D. Prior to filing a petition, a party shall communicate with the party alleged to be considering a contemplated action and initiate a good faith attempt to resolve the issue in question. If within 21 days of initiating the communication required by this subsection, or such longer period of time if mutually agreed upon, there is no resolution, either party may proceed to file a petition in accordance with subsection B.

CHAPTER 775

An Act to amend and reenact §§ 56-581, 56-585.1, 56-585.1:4, and 56-599 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-249.6:1, relating to Virginia Electric Utility Regulation Act; financing for certain deferred fuel costs; review proceedings; rates; return on common equity; rate adjustment clauses; capitalization ratio.

[H 1770]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-581, 56-585.1, 56-585.1:4, and 56-599 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-249.6:1 as follows:

§ 56-249.6:1. Financing for certain deferred fuel costs.

A. Notwithstanding the provisions of § 56-249.6 or Chapter 3 (§ 56-55 et seq.), an electric utility, on or before July 1, 2024, may petition the Commission for a financing order and the Commission shall either issue (i) such financing order or (ii) an order rejecting the petition, no more than four months from the date of filing such petition and in accordance with the requirements of subdivision 2.

1. The petition shall include (i) an estimate of the total amount of deferred fuel costs that the electric utility has incurred over the time period noted in the petition; (ii) an indication of whether the electric utility proposes to finance all or a portion of the deferred fuel costs using one or more series or tranches of deferred fuel cost bonds; (iii) an estimate and details of the financing costs related to the deferred fuel costs to be financed through the deferred fuel cost bonds; (iv) an estimate of the deferred fuel cost charges necessary to recover the deferred fuel costs and all financing costs and the proposed period for recovery of such costs; (v) a description of any benefits expected to result from the issuance of deferred fuel cost bonds, including the avoidance of or significant mitigation of abrupt and significant increases in rates to the electric utility's customers for the applicable time period; and (vi) direct testimony and exhibits supporting the petition. If the electric utility proposes to finance a portion of the deferred fuel costs, the electric utility shall identify in the petition the specific amount of deferred fuel costs for the applicable time period to be financed using deferred fuel cost bonds. By electing not to finance a portion of the deferred fuel costs for an applicable time period using deferred fuel cost bonds, an electric utility shall not be deemed to waive its right to recover such costs pursuant to a separate proceeding with the Commission.

2. a. If an electric utility petitions the Commission for a financing order pursuant to this section, following notice and an opportunity for hearing, the Commission shall either issue (i) a financing order or (ii) an order rejecting the petition, not more than four months from the date of filing such petition.

b. A financing order issued by the Commission pursuant to this section shall include:

(1) The amount of deferred fuel costs to be financed using deferred fuel cost bonds. The Commission shall describe and estimate the amount of financing costs that may be recovered through deferred fuel cost charges. The financing order shall also specify the period over which deferred fuel costs and financing costs may be recovered and whether the deferred fuel cost bonds may be offered and issued in one or more series or tranches during a fixed period not to exceed one year after the date of the financing order;

(2) A finding that the proposed issuance of deferred fuel cost bonds is in the public interest and the associated deferred fuel cost charges are just and reasonable;

(3) A finding that the structuring and pricing of the deferred fuel cost bonds are reasonably expected to result in reasonable deferred fuel cost charges consistent with market conditions at the time the deferred fuel cost bonds are priced and the terms set forth in such financing order;

(4) A requirement that, for so long as the deferred fuel cost bonds are outstanding and until all financing costs have been paid in full, the imposition and collection of deferred fuel cost charges authorized under a financing order shall be non-bypassable and paid by all retail customers of the electric utility, irrespective of the generation supplier of such customer, except for an exempt retail access customer;

(5) A formula-based true-up mechanism for making annual adjustments to the deferred fuel cost charges that customers are required to pay pursuant to the financing order and for making any adjustments that are necessary to correct for any overcollection or undercollection of the charges or to otherwise ensure the timely payment of deferred fuel cost bonds and financing costs and other required amounts and charges payable in connection with the deferred fuel cost bonds;

(6) The deferred fuel cost property that is, or shall be, created in favor of an electric utility or its successors or assignees and that shall be used to pay or secure deferred fuel cost bonds and all financing costs;

(7) The authority of the electric utility to establish the terms and conditions of the deferred fuel cost bonds, including repayment schedules, expected interest rates, the issuance in one or more series or tranches with different maturity dates, and other financing costs;

(8) A finding that the deferred fuel cost charges shall be allocated among customer classes in accordance with the methodology approved in the electric utility's last fuel factor proceeding;

(9) A requirement that after the final terms of an issuance of deferred fuel cost bonds have been established and before the issuance of deferred fuel cost bonds, the electric utility determines the resulting initial deferred fuel cost charge in accordance with the financing order and that such initial deferred fuel cost charge be final and effective upon the issuance of such deferred fuel cost bonds without further Commission action so long as such initial deferred fuel cost charge is consistent with the financing order;

(10) A method of tracing funds collected as deferred fuel cost charges, or other proceeds of deferred fuel cost property, and a requirement that such method be the method of tracing such funds and determining the identifiable cash proceeds of any deferred fuel cost property subject to the financing order under applicable law; and

(11) Any other conditions not otherwise inconsistent with this section that the Commission determines are appropriate.

c. A financing order issued to an electric utility may provide that creation of the electric utility's deferred fuel cost property is conditioned upon, and simultaneous with, the sale or other transfer for the deferred fuel cost property to an assignee and the pledge of the deferred fuel cost property to secure deferred fuel cost bonds.

d. If the Commission issues a financing order, the Commission shall establish a protocol for the electric utility to annually file a petition or, in the Commission's discretion, a letter setting out application of the formula-based mechanism and, based on estimates of consumption for each rate class and other mathematical factors, requesting administrative approval to make applicable adjustments. The review of the filing shall be limited to determining whether there are any mathematical or clerical errors in the application of the formula-based mechanism relating to the appropriate amount of any overcollection or undercollection of deferred fuel cost charges and the amount of an adjustment. The adjustments shall ensure the recovery of revenues sufficient to provide for the payment of principal, interest, acquisition, defeasance, financing costs, or redemption premium and other fees, costs, and charges in respect of deferred fuel cost bonds approved under the financing order. Within 30 days after receiving an electric utility's request pursuant to this subdivision d, the Commission shall either approve the request or inform the electric utility of mathematical or clerical errors in its calculation. If the Commission informs the electric utility of mathematical or clerical errors in its calculation, the electric utility may correct its error and refile its request. The time frames previously described in this subdivision d shall apply to a refiled request.

e. Subsequent to the transfer of deferred fuel cost property to an assignee or the issuance of deferred fuel cost bonds authorized thereby, whichever is earlier, a financing order shall be irrevocable and, except for changes made pursuant to the formula-based mechanism authorized in this section, the Commission shall not amend, modify, or terminate the financing order by any subsequent action or reduce, impair, postpone, terminate, or otherwise adjust deferred fuel cost charges approved in the financing order. After the issuance of a financing order, the electric utility shall retain sole discretion regarding whether to assign, sell, or otherwise transfer deferred fuel cost property or to cause deferred fuel cost bonds to be issued, including the right to defer or postpone such assignment, sale, transfer, or issuance.

3. At the request of an electric utility, the Commission may commence a proceeding and issue a subsequent financing order that provides for refinancing, retiring, or refunding deferred fuel cost bonds issued pursuant to the original financing order if the Commission finds that the subsequent financing order satisfies all of the criteria specified in this section for a financing order. Effective upon retirement of the refunded deferred fuel cost bonds and the issuance of new deferred fuel cost bonds, the Commission shall adjust the related deferred fuel cost charges accordingly.

4. a. A financing order shall remain in effect and deferred fuel cost property under the financing order shall continue to exist until deferred fuel cost bonds issued pursuant to the financing order have been paid in full or defeased and, in each case, all Commission-approved financing costs of such deferred fuel cost bonds have been recovered in full.

b. A financing order issued to an electric utility shall remain in effect and unabated notwithstanding the reorganization, bankruptcy or other insolvency proceedings, merger, or sale of the electric utility or its successors or assignees.

B. 1. The Commission shall not, in exercising its powers and carrying out its duties regarding any matter within its authority pursuant to this chapter, and notwithstanding any other provision of law, consider the deferred fuel cost bonds issued pursuant to a financing order to be the debt of the electric utility other than for federal income tax purposes, consider the deferred fuel cost charges paid under the financing order to be the revenue of the electric utility for any purpose, or consider the deferred fuel costs or financing costs specified in the financing order to be the costs of the electric utility, nor shall the Commission determine any action taken by an electric utility that is consistent with the financing order to be unjust or unreasonable.

2. The Commission shall not order or otherwise directly or indirectly require an electric utility to use deferred fuel cost bonds to finance any project, addition, plant, facility, extension, capital improvement, equipment, or any other expenditure. After the issuance of a financing order, the electric utility shall retain sole discretion regarding whether to cause the deferred fuel cost bonds to be issued, including the right to defer or postpone such sale, assignment, transfer, or issuance. Nothing shall prevent the electric utility from abandoning the issuance of deferred fuel cost bonds under the financing order by filing with the Commission a statement of abandonment and the reasons therefor. The Commission shall not deny an

electric utility its right to recover deferred fuel costs as otherwise provided in this section, or refuse or condition authorization or approval of the issuance and sale by an electric utility of securities or the assumption by the electric utility of liabilities or obligations, solely because of the potential availability of deferred fuel cost bond financing.

C. The electric bills of an electric utility that has obtained a financing order and caused deferred fuel cost bonds to be issued shall comply with the provisions of this subsection; however, the failure of an electric utility to comply with this subsection does not invalidate, impair, or affect any financing order, deferred fuel cost property, deferred fuel cost charge, or deferred fuel cost bonds. The electric utility shall:

1. Explicitly reflect that a portion of the charges on any electric bill represents deferred fuel cost charges approved in a financing order issued to the electric utility and, if the deferred fuel cost property has been transferred to an assignee, such bill shall include a statement to the effect that the assignee is the owner of the rights to deferred fuel cost charges and that the electric utility or another entity, if applicable, is acting as a collection agent or servicer for the assignee. The tariff applicable to customers must indicate the deferred fuel cost charge and the ownership of the charge; and

2. Include the deferred fuel cost charge on each customer's bill as a separate line item and include both the rate and the amount of the charge on each bill.

D. 1. The following provisions shall be applicable to deferred fuel cost property:

a. All deferred fuel cost property that is specified in a financing order shall constitute an existing, present intangible property right or interest therein, notwithstanding that the imposition and collection of deferred fuel cost charges depends on the electric utility, to which the financing order is issued, performing its servicing functions relating to the collection of deferred fuel cost charges and on future electricity consumption. The deferred fuel cost property shall exist (i) regardless of whether or not the revenues or proceeds arising from the deferred fuel cost property have been billed, have accrued, or have been collected and (ii) notwithstanding the fact that the value or amount of the deferred fuel cost property is dependent on the future provision of service to customers by the electric utility or its successors or assignees and the future consumption of electricity by customers;

b. Deferred fuel cost property specified in a financing order shall exist until deferred fuel cost bonds issued pursuant to the financing order are paid in full and all financing costs and other costs of such deferred fuel cost bonds have been recovered in full;

c. All or any portion of deferred fuel cost property specified in a financing order issued to an electric utility may be transferred, sold, conveyed, or assigned to a successor or assignee that is wholly owned, directly or indirectly, by the electric utility and created for the limited purpose of acquiring, owning, or administering deferred fuel cost property or issuing deferred fuel cost bonds under the financing order. All or any portion of deferred fuel cost property may be pledged to secure deferred fuel cost bonds issued pursuant to the financing order, amounts payable to financing parties and to counterparties under any ancillary agreements, and other financing costs. Any transfer, sale, conveyance, assignment, grant of a security interest in or pledge of deferred fuel cost property by an electric utility, or an affiliate of the electric utility, to an assignee, to the extent previously authorized in a financing order, shall not require the prior consent and approval of the Commission;

d. If an electric utility defaults on any required payment of charges arising from deferred fuel cost property specified in a financing order, a court, upon application by an interested party, and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the revenues arising from the deferred fuel cost property to the financing parties or their assignees. Any such financing order shall remain in full force and effect notwithstanding any reorganization, bankruptcy, or other insolvency proceedings with respect to the electric utility or its successors or assignees;

e. The interest of a transferee, purchaser, acquirer, assignee, or pledgee in deferred fuel cost property specified in a financing order issued to an electric utility, and in the revenue and collections arising from that property, shall not be subject to setoff, counterclaim, surcharge, or defense by the electric utility or any other person or in connection with the reorganization, bankruptcy, or other insolvency of the electric utility or any other entity;

f. Any successor to an electric utility, whether pursuant to any reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any merger or acquisition, sale, or other business combination, or transfer by operation of law, as a result of electric utility restructuring or otherwise, shall perform and satisfy all obligations of, and have the same rights under a financing order as, the electric utility under the financing order in the same manner and to the same extent as the electric utility, including collecting and paying to the person entitled to receive the revenues, collections, payments, or proceeds of the deferred fuel cost property. Nothing in this subdivision f is intended to limit or impair any authority of the Commission concerning the transfer or succession of interests of public utilities; and

g. Deferred fuel cost bonds shall be nonrecourse to the credit or any assets of the electric utility other than the deferred fuel cost property as specified in the financing order and any rights under any ancillary agreement.

2. The following provisions shall be applicable to security interests:

a. The creation, perfection, and enforcement of any security interest in deferred fuel cost property to secure the repayment of the principal and interest and other amounts payable in respect of deferred fuel cost bonds; amounts payable under any indenture, ancillary agreement, or other financing documents in respect of the deferred fuel costs; and other financing costs shall be governed by this subsection and not by the provisions of the Uniform Commercial Code (Titles 8.1A through 8.9A);

b. A security interest in deferred fuel cost property shall be created and enforceable when all of the following have occurred: (i) a financing order is issued, (ii) value is received by the debtor or seller for such deferred fuel cost property, (iii) the debtor or seller has rights in such deferred fuel cost property or the power to transfer rights in such deferred fuel cost property, and (iv) a security agreement granting such security interest is executed and delivered by the debtor or seller. The description of deferred fuel cost property in a security agreement shall be sufficient if the description refers to this section and the financing order creating the deferred fuel cost property;

c. A security interest shall attach without any physical delivery of collateral or other act and, upon the filing of a financing statement with the Commission, the lien of the security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the person granting the security interest, regardless of whether the parties have notice of the lien. Also upon this filing, a transfer of an interest in the deferred fuel cost property shall be perfected against all parties having claims of any kind, including any judicial lien or other lien creditors or any claims of the transferor or creditors of the transferor, and shall have priority over all competing claims other than any prior security interest, ownership interest, or assignment in the property previously perfected in accordance with this section;

d. The Commission shall maintain any financing statement filed to perfect any security interest under this section in the same manner that the Commission maintains financing statements filed by transmitting utilities under the Uniform Commercial Code (Titles 8.1A through 8.9A). The filing of a financing statement under this section shall be governed by the provisions regarding the filing of financing statements in the Uniform Commercial Code (Titles 8.1A through 8.9A);

e. The priority of a security interest in deferred fuel cost property shall not be affected by the commingling of deferred fuel cost charges with other amounts. Any pledgee or secured party shall have a perfected security interest in the amount of all deferred fuel cost charges that are deposited in any cash or deposit account of the qualifying utility in which deferred fuel cost charges have been commingled with other funds and any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the assignee or a financing party;

f. No application of the formula-based adjustment mechanism as provided in this section shall affect the validity, perfection, or priority of a security interest in or transfer of deferred fuel cost property; and

g. If a default or termination occurs under the deferred fuel cost bonds, the financing parties or their representatives may foreclose on or otherwise enforce their lien and security interest in any deferred fuel cost property as if they were secured parties with a perfected and prior lien under the Uniform Commercial Code (Titles 8.1A through 8.9A), and the Commission may order that amounts arising from deferred fuel cost charges be transferred to a separate account for the financing parties' benefit, to which their lien and security interest shall apply. On application by or on behalf of the financing parties, the Commission shall order the sequestration and payment to them of revenues arising from the deferred fuel cost charges.

3. a. Any sale, assignment, or other transfer of deferred fuel cost property shall be an absolute transfer and true sale of and not a pledge of, or secured transaction relating to, the transferor's right, title, and interest in, to, and under the deferred fuel cost property if the documents governing the transaction expressly state that the transaction is a sale or other absolute transfer other than for federal and state income tax purposes. For all purposes other than federal and state income tax purposes, the parties' characterization of a transaction as a sale of an interest in deferred fuel cost property shall be conclusive that the transaction is a true sale and that ownership has passed to the party characterized as the purchaser, regardless of any fact or circumstance that might support characterization of the transfer as a secured transaction. A transfer of an interest in deferred fuel cost property shall occur only when all of the following have occurred: (i) the financing order creating the deferred fuel cost property has become effective, (ii) the documents evidencing the transfer of deferred fuel cost property have been executed by the transferor and delivered to the assignee, and (iii) value is received by the transferor for the deferred fuel cost property. After such a transaction, the deferred fuel cost property shall not be subject to any claims of the transferor or the transferor's creditors, other than creditors holding a prior security interest in the deferred fuel cost property perfected in accordance with subdivision 2.

b. The characterization of the sale, assignment, or other transfer as an absolute transfer and true sale, and the corresponding characterization of the interest of the assignee as an ownership interest, shall not be affected or impaired by the occurrence of any of the following factors:

(1) Commingling of deferred fuel cost charges with other amounts;

(2) The retention by the seller of (i) a partial or residual interest, including an equity interest, in the deferred fuel cost property, whether direct or indirect, or whether subordinate or otherwise, or (ii) the right to recover costs associated with taxes, franchise fees, or license fees imposed on the collection of deferred fuel cost charges;

(3) Any recourse that the assignee may have against the seller;

(4) Any right or obligation that the seller may have to repurchase the deferred fuel cost charges;

(5) Any indemnification obligations of the seller;

(6) The obligation of the seller to collect deferred fuel cost charges on behalf of the assignee;

(7) The transferor acting as the servicer of the deferred fuel cost charges or the existence of any contract that authorizes or requires the electric utility, to the extent that any interest in deferred fuel cost property is sold or assigned, to agree with the assignee or any financing party that it will continue to operate its system to provide service to its customers, will collect amounts in respect of the deferred fuel cost charges for the benefit and account of such assignee or financing party, and will account for and remit such amounts to or for the account of such assignee or financing party;

(8) The treatment of the sale, conveyance, assignment, or other transfer for tax, financial reporting, or other purposes;

(9) The granting or providing to bondholders of a preferred right to the deferred fuel cost property or credit enhancement by the electric utility or its affiliates with respect to the deferred fuel cost bonds; or

(10) Any application of the formula-based adjustment mechanism as provided in this section.

c. Any right that an electric utility has in the deferred fuel cost property before its pledge, sale, or transfer or any other right created under this section or created in the financing order and assignable under this section or assignable pursuant to a financing order shall be property in the form of a contract right or a chose in action. Transfer of an interest in deferred fuel cost property to an assignee shall be enforceable only when all of the following have occurred: (i) a financing order is issued, (ii) value is received by the transferor for such deferred fuel cost property, (iii) the transferor has rights in such deferred fuel cost property or the power to transfer rights in such deferred fuel cost property, and (iv) transfer documents in connection with the issuance of deferred fuel cost bonds are executed and delivered by the transferor. An enforceable transfer of an interest in deferred fuel cost property to an assignee shall be perfected against all third parties, including subsequent judicial or other lien creditors, when a notice of that transfer has been given by the filing of a financing statement in accordance with subdivision 2 c. The transfer shall be perfected against third parties as of the date of filing.

d. The Commission shall maintain any financing statement filed to perfect any sale, assignment, or transfer of deferred fuel cost property under this section in the same manner that the Commission maintains financing statements filed by transmitting utilities under the Uniform Commercial Code (Titles 8.1A through 8.9A). The filing of any financing statement under this section shall be governed by the provisions regarding the filing of financing statements in the Uniform Commercial Code (Titles 8.1A through 8.9A). The filing of such a financing statement shall be the only method of perfecting a transfer of deferred fuel cost property.

e. The priority of a transfer perfected under this section shall not be impaired by any later modification of the financing order or deferred fuel cost property or by the commingling of funds arising from deferred fuel cost property with other funds. Any other security interest that may apply to those funds, other than a security interest perfected under subdivision 2, shall be terminated when they are transferred to a segregated account for the assignee or a financing party. If deferred fuel cost property has been transferred to an assignee or financing party, any proceeds of that property shall be held in trust for the assignee or financing party.

f. The priority of the conflicting interests of assignees in the same interest or rights in any deferred fuel cost property shall be determined as follows:

(1) Conflicting perfected interests or rights of assignees shall rank according to priority in time of perfection. Priority shall date from the time a filing covering the transfer is made in accordance with subdivision 2 c;

(2) A perfected interest or right of an assignee shall have priority over a conflicting unperfected interest or right of an assignee; and

(3) A perfected interest or right of an assignee shall have priority over a person who becomes a lien creditor after the perfection of such assignee's interest or right.

E. The description of deferred fuel cost property being transferred to an assignee in any sale agreement, purchase agreement, or other transfer agreement, granted or pledged to a pledgee in any security agreement, pledge agreement, or other security document, or indicated in any financing statement, shall only be sufficient if such description or indication refers to the financing order that created the deferred fuel cost property and states that the agreement or financing statement covers all or part of the property described in the financing order. This section shall apply to all purported transfers of, and all purported grants or liens or security interests in, deferred fuel cost property, regardless of whether the related sale agreement, purchase agreement, other transfer agreement, security agreement, pledge agreement, or other security document was entered into, or any financing statement was filed.

F. All financing statements referenced in this section shall be subject to Part 5 of Title 8.9A (§ 8.9A-501 et seq.) of the Uniform Commercial Code, except that the requirement as to continuation statements shall not apply.

G. The laws of the Commonwealth shall govern the validity, enforceability, attachment, perfection, priority, and exercise of remedies with respect to the transfer of an interest or right or the pledge or creation of a security interest in any deferred fuel cost property.

H. Neither the Commonwealth nor its political subdivisions shall be liable on any deferred fuel cost bonds, and the bonds shall not be a debt or a general obligation of the Commonwealth or any of its political subdivisions, agencies, or instrumentalities, nor shall they be special obligations or indebtedness of the Commonwealth or any of its agencies or political subdivisions. An issue of deferred fuel cost bonds shall not, directly, indirectly, or contingently, obligate the Commonwealth or any agency, political subdivision, or instrumentality of the Commonwealth to levy any tax or make any appropriation for payment of the deferred fuel cost bonds, other than in their capacity as consumers of electricity. All deferred fuel cost bonds shall contain on the face thereof a statement to the following effect: "NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, OR INTEREST ON, THIS BOND."

I. All of the following entities may legally invest any sinking funds, moneys, or other funds in deferred fuel cost bonds:

1. Subject to applicable statutory restrictions on state or local investment authority, the Commonwealth, units of local government, political subdivisions, public bodies, and public officers, except for members of the Commission;

2. Banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations, and other persons carrying on a banking or insurance business;

3. Personal representatives, guardians, trustees, and other fiduciaries; and

4. All other persons authorized to invest in bonds or other obligations of a similar nature.

J. 1. The Commonwealth and its agencies, including the Commission, pledge and agree with bondholders, the owners of the deferred fuel cost property, and other financing parties that the Commonwealth and its agencies shall not take any action listed in this subdivision. This subsection does not preclude limitation or alteration if full compensation is made by law for the full protection of the deferred fuel cost charges collected pursuant to a financing order and of the bondholders and any assignee or financing party entering into a contract with the electric utility. The Commonwealth and its agencies, including the Commission, shall not:

a. Alter the provisions of this section that authorize the Commission to create an irrevocable contract right or chose in action by the issuance of a financing order, to create deferred fuel cost property, and to make the deferred fuel cost charges imposed by a financing order irrevocable, binding, or nonbypassable charges;

b. Take or permit any action that impairs or would impair the value of deferred fuel cost property or the security for the deferred fuel cost bonds or revises the deferred fuel costs for which recovery is authorized;

c. In any way impair the rights and remedies of the bondholders, assignees, and other financing parties; or

d. Except for changes made pursuant to the formula-based adjustment mechanism authorized under this section, reduce, alter, or impair deferred fuel cost charges that are to be imposed, billed, charged, collected, and remitted for the benefit of the bondholders, any assignee, and any other financing parties until any and all principal, interest, premium, financing costs and other fees, expenses, or charges incurred, and any contracts to be performed, in connection with the related deferred fuel cost bonds have been paid and performed in full.

2. Any person that issues deferred fuel cost bonds may include the language specified in subdivision 1 in the deferred fuel cost bonds and related documentation.

K. An assignee or financing party shall not be considered an electric utility or person providing electric service by virtue of engaging in the transactions described in this section.

L. If there is a conflict between this section and any other law regarding the attachment, assignment, or perfection, or the effect of perfection, or priority of, assignment or transfer of, or security interest in deferred fuel cost property, this section shall govern.

M. In making determinations under this section, the Commission may engage an outside consultant and counsel.

N. If any provision of this section is held invalid or is invalidated, superseded, replaced, repealed, or expires for any reason, that occurrence shall not affect the validity of any action allowed under this section that is taken by an electric utility, an assignee, a financing party, a collection agent, or a party to an ancillary agreement, and any such action shall remain in full force and effect with respect to all deferred fuel cost bonds issued or authorized in a financing order issued under this section before the date that such provision is held invalid or is invalidated, superseded, replaced, or repealed, or expires for any reason.

O. As used in this section:

"Ancillary agreement" means a bond, insurance policy, letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, hedging arrangement, liquidity or credit support arrangement, or other financial arrangement entered into in connection with deferred fuel cost bonds.

"Assignee" means a legally recognized entity to which an electric utility assigns, sells, or transfers, other than as a security, all or a portion of its interest in or right to deferred fuel cost property. "Assignee" includes a corporation, limited liability company, general partnership or limited partnership, public authority trust, financing entity, or other entity to which an assignee assigns, sells, or transfers, other than as a security, all or a portion of its interest in or right to deferred fuel cost property.

"Bondholder" means a person who holds a deferred fuel cost bond.

"Deferred fuel cost bonds" means bonds debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership, or other evidences of indebtedness or ownership that are issued in one or more series or tranches by an electric utility or its assignee pursuant to a financing order, the proceeds of which are used directly or indirectly to recover, finance, or refinance Commission-approved deferred fuel costs and financing costs, and that are secured by or payable from deferred fuel cost property. If certificates of participation or ownership are issued, references in this section to principal, interest, or premium shall be construed to refer to comparable amounts under those certificates.

"Deferred fuel cost charge" means the nonbypassable charges authorized by the Commission to repay, finance, or refinance deferred fuel costs and financing costs (i) imposed on and part of all retail customer bills, except those of exempt retail access customers; (ii) collected by an electric utility or its successor or assignees, or a collection agent, in full, separate and apart from the electric utility's base rates; and (iii) paid by all retail customers of the electric utility, irrespective of the generation supplier of such customer, except for an exempt retail access customer.

"Deferred fuel cost property" includes:

1. All rights and interests of an electric utility or successor or assignee of the electric utility under a financing order, including the right to impose, bill, charge, collect, and receive deferred fuel cost charges authorized under the financing order and to obtain periodic adjustments to such charges as provided in the financing order; and

2. All revenues, collections, claims, rights to payments, payments, money, or proceeds arising from the rights and interests specified in the financing order, regardless of whether such revenues, collections, claims, rights to payment,

payments, money, or proceeds are imposed, billed, received, collected, or maintained together with or commingled with other revenues, collections, rights to payment, payments, money, or proceeds.

"Deferred fuel costs" means the unrecovered amounts of previously incurred costs of fuel used to generate electricity, including the costs of purchased power, that have been deferred by an electric utility for future recovery from the utility's customers, along with financing costs on the utility's fuel deferral balance.

"Electric utility" means a Phase II Utility.

"Exempt retail access customer" means a retail customer of an electric utility that, pursuant to the provisions of § 56-577 or 56-577.1, purchased electric energy exclusively from a supplier of electric energy licensed to sell retail electric energy exclusively within the Commonwealth other than the electric utility, or that purchased electric energy from the electric utility pursuant to a Commission-approved market-based tariff, during the period when the deferred fuel costs to be financed were incurred. Such exemption shall be prorated to the extent an otherwise exempt retail customer purchased electric energy from the electric utility, in which case the retail customer shall be responsible for its pro rata share of deferred fuel cost charges authorized under a financing order.

"Financing costs" means:

1. Interest and any premium, including any acquisition, defeasance, or redemption premium, payable on deferred fuel cost bonds;

2. Any payment required under any indenture, ancillary agreement, or other financing documents pertaining to deferred fuel cost bonds and any amount required to fund or replenish a reserve account or other accounts established under the terms of any indenture, ancillary agreement, or other financing documents pertaining to deferred fuel cost bonds;

3. Any other costs related to structuring, offering, issuing, supporting, repaying, refunding, servicing, and complying with deferred fuel cost bonds, including service fees, accounting and auditing fees, trustee fees, legal fees, consulting fees, structuring adviser fees, administrative fees, placement and underwriting fees, independent director and manager fees, capitalized interest, rating agency fees, stock exchange listing and compliance fees, security registration fees, filing fees, information technology programming costs, and any other costs necessary to otherwise ensure the timely payment of deferred fuel cost bonds or other amounts or charges payable in connection with the bonds, including costs related to obtaining the financing order;

4. Any taxes and license fees or other fees imposed on the revenues generated from the collection of deferred fuel cost charges or otherwise resulting from the collection of deferred fuel cost charges, in any such case whether paid, payable, or accrued;

5. Any state and local taxes, franchise, gross receipts, and other taxes or similar charges, including regulatory assessment fees, whether paid, payable, or accrued;

6. Any costs incurred by the Commission for any outside consultants or counsel retained in connection with the securitization of deferred fuel costs; and

7. Any financing costs on the utility's fuel deferral balance prior to issuance of any fuel cost bonds, calculated at the utility's approved weighted average cost of capital.

"Financing order" means an order that authorizes the issuance of deferred fuel cost bonds; the imposition, collection, and periodic adjustments of a deferred fuel cost charge; the creation of deferred fuel cost property; the sale, assignment, or transfer of deferred fuel cost property to an assignee; and any other actions necessary or advisable to take actions described in the financing order.

"Financing party" means bondholders and trustees, collateral agents, any party under an ancillary agreement, or any other person acting for the benefit of bondholders.

"Financing statement" has the same meaning as provided in § 8.9A-102 of the Uniform Commercial Code.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Pledgee" means a financing party to which an electric utility or its successors or assignees mortgages, negotiates, pledges, or creates a security interest or lien on all or any portion of its interest in or right to deferred fuel cost property.

§ 56-581. Regulation of rates subject to Commission's jurisdiction.

A. ~~After the expiration or termination of capped rates except as provided in § 56-585.1, the~~ *The* Commission shall regulate the rates of investor-owned incumbent electric utilities for the transmission of electric energy, to the extent not prohibited by federal law, and for the generation of electric energy and the distribution of electric energy to retail customers pursuant to *this section and* § 56-585.1.

B. In any proceeding to review base rates for a Phase I Utility that commences after July 1, 2023, if the Commission determines in its sole discretion that the utility's existing base rates will, on a going-forward basis, either produce (i) revenues in excess of the utility's authorized rate of return or (ii) revenues below the utility's authorized rate of return, then, notwithstanding any provision of law governing rate proceedings, the Commission shall order any reductions or increases, as applicable and necessary, to such base rates that it deems appropriate to ensure the resulting base rates (a) are just and reasonable and (b) provide the utility an opportunity to recover its costs of providing services over the rate period ending on December 31 of the year of the utility's succeeding review and earn a fair rate of return authorized pursuant to the provisions governing such review proceeding. Such determination shall be limited to the Phase I Utility's base rates and shall not consider the costs or revenues recovered in any rate adjustment clause authorized pursuant to this chapter.

C. In any proceeding to review base rates for a Phase II Utility that commences after July 1, 2023, if the Commission determines in its sole discretion that the utility's existing base rates will, on a going-forward basis, either produce

(i) revenues in excess of the utility's authorized rate of return or (ii) revenues below the utility's authorized rate of return, then, notwithstanding any provision of subdivision A 8 of § 56-585.1, the Commission shall order any reductions or increases, as applicable and necessary, to such base rates that it deems appropriate to ensure the resulting base rates (a) are just and reasonable and (b) provide the utility an opportunity to recover its costs of providing services over the rate period ending on December 31 of the year of the utility's succeeding review and earn a fair rate of return on its base rates as determined in subdivision A 2 of § 56-585.1. Such determination shall be limited to the Phase II Utility's base rates and shall not consider the costs or revenues recovered in any rate adjustment clause authorized pursuant to subdivision A 6 of § 56-585.1 that has not been combined with the utility's base rates. The Commission shall use the most recently ended 12-month test period, along with normalization of nonrecurring test period costs and annualized adjustments for future costs, as the basis for determining the appropriateness of any rate adjustment. In any such filing to review base rates, a Phase II Utility shall separately project future costs over each 12-month period ending on December 31 of the year of the utility's succeeding rate periods. The Commission may, to the extent it finds such action aligns with the utility's projected cost of service, direct that any reduction or increase to the utility's rates for generation and distribution services be implemented on a staggered basis at the commencement and midpoint of the succeeding rate period.

~~B.~~ *D.* Beginning July 1, 1999, and thereafter, no cooperative that was a member of a power supply cooperative on January 1, 1999, shall be obligated to file any rate rider as a consequence of an increase or decrease in the rates, other than fuel costs, of its wholesale supplier, nor must any adjustment be made to such cooperative's rates as a consequence thereof.

~~C.~~ *E.* Except for the provision of default services under § 56-585 or emergency services in § 56-586, nothing in this chapter shall authorize the Commission to regulate the rates or charges for electric service to the Commonwealth and its municipalities.

F. As used in this section:

"Base rates" means rates for generation and distribution services.

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase I Utility in 2020, utilizing the three successive 12-month test periods beginning January 1, 2017, and ending December 31, 2019. Thereafter, reviews for a Phase I Utility will be on a triennial basis with subsequent proceedings utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. Pursuant to subsection A of § 56-585.1:1, the Commission shall

conduct a review for a Phase II Utility in 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and ending December 31, 2020, with subsequent reviews on a ~~triennial~~ *biennial* basis *commencing in 2023, with such proceedings* utilizing the ~~three~~ *two* successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. ~~All such reviews occurring after December 31, 2017, shall be referred to as triennial reviews.~~ For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, the fair rate of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, and for any rate adjustment clauses approved under subdivision 5 or 6, shall be determined by the Commission during each such ~~triennial~~ review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest~~, but~~. *However, for a Phase I Utility,* for applications received by the Commission on or after January 1, 2020, such return shall not be set lower than the average of either (i) the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such triennial review or (ii) the authorized returns on common equity that are set by the applicable regulatory commissions for the same selected peer group, nor shall the Commission set such return more than 150 basis points higher than such average.

b. ~~In~~ *For a Phase I Utility, in* selecting such majority of peer group investor-owned electric utilities for applications received by the Commission on or after January 1, 2020, the Commission shall first remove from such group the two utilities within such group that have the lowest reported or authorized, as applicable, returns of the group, as well as the two utilities within such group that have the highest reported or authorized, as applicable, returns of the group, and the Commission shall then select a majority of the utilities remaining in such peer group. In its final order regarding such triennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. ~~For~~ *With respect to a Phase I Utility, for* purposes of this subdivision *2*, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission, and distribution services whose facilities and operations are subject to state public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test period subject to such ~~triennial~~ review, and (iv) it is not an affiliate of the utility subject to such ~~triennial~~ review *or a utility whose fair rate of return on common equity is determined by the Commission*.

c. The Commission may~~, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007,~~ increase or decrease the utility's combined rate of return ~~based on the Commission's consideration of the utility's performance~~ *for generation and distribution services by up to 50 basis points based on factors that may include reliability, generating plant performance, customer service, and operating efficiency of a utility. Any such adjustment to the combined rate of return for generation and distribution services shall include consideration of nationally recognized standards determined by the Commission to be appropriate for such purposes*.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this section. The provisions of this subdivision are subject to the provisions of subdivision 8.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent ~~triennial~~ review.

3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021~~, consisting of the schedules contained in the Commission's rules governing utility rate increase applications~~ *and terminating thereafter*. Such filing shall encompass the three successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, except that the filing for a Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending December 31, 2020. *After 2021, each Phase II Utility shall make a biennial filing by March 31 of every second year, except that the 2023 filing for a Phase II Utility shall be made on or after July 1, 2023. All biennial filings shall encompass the two successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. All such filings shall consist of the schedules contained in the Commission's rules governing utility rate increase applications*, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. *In a filing under this subdivision that does not result in an overall rate change, a utility may propose an adjustment to one or more tariffs that are revenue neutral to the utility.*

If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or ~~9~~ *10*, any rate adjustment clauses previously implemented related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues, and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues, and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as ~~herein~~ specified *in this paragraph*, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future ~~triennial~~ review proceedings. ~~In a triennial filing under this subdivision that does not result in an overall rate change a utility may propose an adjustment to one or more tariffs that are revenue neutral to the utility.~~

As of July 1, 2023, a Phase II Utility shall select a subset of rate adjustment clauses previously implemented pursuant to subdivision 5 or 6 having a combined annual revenue requirement, as of July 1, 2023, of at least $350 million and combine such rate adjustment clauses with the utility's costs, revenues, and investments for generation and distribution services. After such rate adjustment clauses are combined as specified in this paragraph, such rate adjustment clauses shall be considered part of the utility's costs, revenues, and investments for the purposes of future biennial review proceedings, and the combination of such rate adjustment clauses shall be specifically subject to audit by the Commission in the utility's 2023 biennial review filing. Notwithstanding the provisions of subsection C of § 56-581, such combination shall not serve as the basis for an increase in a Phase II Utility's rates for generation and distribution services in its 2023 biennial proceeding.

4. (Expires December 31, 2023) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission; (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member; and (iii) costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such

costs, including, without limitation, costs for transmission service; charges for new and existing transmission facilities, including costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park; administrative charges; and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

4. (Effective January 1, 2024) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission, and (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service, charges for new and existing transmission facilities, administrative charges, and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs or pilot programs. The Commission shall approve such a petition if it finds that the program is in the public interest, provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs or pilot programs. Any such petition shall include a proposed budget for the design, implementation, and operation of the energy efficiency program, including anticipated savings from and spending on each program, and the Commission shall grant a final order on such petitions within eight months of initial filing. The Commission shall only approve such a petition if it finds that the program is in the public interest. If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program that has bearing upon the Commission's determination. Such order shall adhere to existing protocols for extraordinarily sensitive information.

Energy efficiency pilot programs are in the public interest provided that the pilot program is (i) of limited scope, cost, and duration and (ii) intended to determine whether a new or substantially revised program would be cost-effective.

Prior to January 1, 2022, the Commission shall award a margin for recovery on operating expenses for energy efficiency programs and pilot programs, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. Beginning January 1, 2022, and thereafter, if the Commission determines that the utility meets in any year the annual energy efficiency standards set forth in § 56-596.2, in the following year, the Commission shall award a margin on energy efficiency program operating expenses in that year, to be recovered through a rate adjustment clause, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. If the Commission does not approve energy efficiency programs that, in the aggregate, can achieve the annual energy efficiency standards, the Commission shall award a margin on energy efficiency operating expenses in that year for any programs the Commission has approved, to be recovered through a rate adjustment clause under this subdivision, which margin shall equal the general rate of return on common equity determined as described in subdivision 2. Any margin awarded pursuant to this subdivision shall be applied as part of the utility's next rate adjustment clause true-up proceeding. The Commission shall also award an additional 20 basis points for each additional incremental 0.1 percent in annual savings in any year achieved by the utility's energy efficiency programs approved by the Commission pursuant to this subdivision, beyond the annual requirements set forth in § 56-596.2, provided that the total performance incentive awarded in any year shall not exceed 10 percent of that utility's total energy efficiency program spending in that same year.

The Commission shall annually monitor and report to the General Assembly the performance of all programs approved pursuant to this subdivision, including each utility's compliance with the total annual savings required by § 56-596.2, as well as the annual and lifecycle net and gross energy and capacity savings, related emissions reductions, and other quantifiable benefits of each program; total customer bill savings that the programs produce; utility spending on each program, including any associated administrative costs; and each utility's avoided costs and cost-effectiveness results.

Notwithstanding any other provision of law, unless the Commission finds in its discretion and after consideration of all in-state and regional transmission entity resources that there is a threat to the reliability or security of electric service to the utility's customers, the Commission shall not approve construction of any new utility-owned generating facilities that emit carbon dioxide as a by-product of combusting fuel to generate electricity unless the utility has already met the energy

savings goals identified in § 56-596.2 and the Commission finds that supply-side resources are more cost-effective than demand-side or energy storage resources.

As used in this subdivision, "large general service customer" means a customer that has a verifiable history of having used more than one megawatt of demand from a single site.

Large general service customers shall be exempt from requirements that they participate in energy efficiency programs if the Commission finds that the large general service customer has, at the customer's own expense, implemented energy efficiency programs that have produced or will produce measured and verified results consistent with industry standards and other regulatory criteria stated in this section. The Commission shall, no later than June 30, 2021, adopt rules or regulations (a) establishing the process for large general service customers to apply for such an exemption, (b) establishing the administrative procedures by which eligible customers will notify the utility, and (c) defining the standard criteria that shall be satisfied by an applicant in order to notify the utility, including means of evaluation measurement and verification and confidentiality requirements. At a minimum, such rules and regulations shall require that each exempted large general service customer certify to the utility and Commission that its implemented energy efficiency programs have delivered measured and verified savings within the prior five years. In adopting such rules or regulations, the Commission shall also specify the timing as to when a utility shall accept and act on such notice, taking into consideration the utility's integrated resource planning process, as well as its administration of energy efficiency programs that are approved for cost recovery by the Commission. Savings from large general service customers shall be accounted for in utility reporting in the standards in § 56-596.2.

The notice of nonparticipation by a large general service customer shall be for the duration of the service life of the customer's energy efficiency measures. The Commission may on its own motion initiate steps necessary to verify such nonparticipant's achievement of energy efficiency if the Commission has a body of evidence that the nonparticipant has knowingly misrepresented its energy efficiency achievement.

A utility shall not charge such large general service customer for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of compliance with renewable energy portfolio standard requirements pursuant to § 56-585.5 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs incurred as required by § 56-585.5, provided that the Commission does not otherwise find such costs were unreasonably or imprudently incurred;

e. Projected and actual costs of projects that the Commission finds to be necessary to mitigate impacts to marine life caused by construction of offshore wind generating facilities, as described in § 56-585.1:11, or to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load obligations, including the costs of allowances purchased through a market-based trading program for carbon dioxide emissions. The Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations;

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility; and

g. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission to provide incentives to (i) low-income, elderly, and disabled individuals or (ii) organizations providing residential services to low-income, elderly, and disabled individuals for the installation of, or access to, equipment to generate electric energy derived from sunlight, provided the low-income, elderly, and disabled individuals, or organizations providing residential services to low-income, elderly, and disabled individuals, first participate in incentive programs for the installation of measures that reduce heating or cooling costs.

Any rate adjustment clause approved under subdivision 5 c by the Commission shall remain in effect until the utility exhausts the approved budget for the energy efficiency program. The Commission shall have the authority to determine the duration or amortization period for any other rate adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, including the costs of any system or equipment upgrade, system or equipment replacement, or other cost reasonably appropriate to extend the combined operating license for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, (v) one or more pumped hydroelectricity

generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, or (vi) one or more electric distribution grid transformation projects; however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv) or (vi), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv) or (vi), as applicable. As of December 1, 2028, any costs recovered by a utility pursuant to clause (iv) shall be limited to any remaining costs associated with conversions of overhead distribution facilities to underground facilities that have been previously approved or are pending approval by the Commission through a petition by the utility under this subdivision. Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs or makes modifications to any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility that emits carbon dioxide shall demonstrate that it has already met the energy savings goals identified in § 56-596.2 and that the identified need cannot be met more affordably through the deployment or utilization of demand-side resources or energy storage resources and that it has considered and weighed alternative options, including third-party market alternatives, in its selection process.

The costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), (iii), or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service. In any application to construct a new generating facility, the utility shall include, and the Commission shall consider, the social cost of carbon, as determined by the Commission, as a benefit or cost, whichever is appropriate. The Commission shall ensure that the development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on historically economically disadvantaged communities. The Commission may adopt any rules it deems necessary to determine the social cost of carbon and shall use the best available science and technology, including the Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, published by the Interagency Working Group on Social Cost of Greenhouse Gases from the United States Government in August 2016, as guidance. The Commission shall include a system to adjust the costs established in this section with inflation.

Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), (iii), or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight

and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities or new electric distribution grid transformation projects are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) or (v) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, that use energy derived from sunlight or from onshore wind and are located in the Commonwealth or off the Commonwealth's Atlantic shoreline, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. The replacement of any subset of a utility's existing overhead distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric service reliability is in the public interest. In determining whether to approve petitions for rate adjustment clauses for such new underground facilities that meet this criteria, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title.

The conversion of any such facilities on or after September 1, 2016, is deemed to provide local and system-wide benefits and to be cost beneficial, and the costs associated with such new underground facilities are deemed to be reasonably and prudently incurred and, notwithstanding the provisions of subsection C or D, shall be approved for recovery by the Commission pursuant to this subdivision, provided that the total costs associated with the replacement of any subset of existing overhead distribution tap lines proposed by the utility with new underground facilities, exclusive of financing costs, shall not exceed an average cost per customer of $20,000, with such customers, including those served directly by or downline of the tap lines proposed for conversion, and, further, such total costs shall not exceed an average cost per mile of tap lines converted, exclusive of financing costs, of $750,000. A utility shall, without regard for whether it has petitioned for any rate adjustment clause pursuant to clause (vi), petition the Commission, not more than once annually, for approval of a plan for electric distribution grid transformation projects. Any plan for electric distribution grid transformation projects shall include both measures to facilitate integration of distributed energy resources and measures to enhance physical electric distribution grid reliability and security. In ruling upon such a petition, the Commission shall consider whether the utility's plan for such projects, and the projected costs associated therewith, are reasonable and prudent. Such petition shall be considered on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility; without regard to whether the costs associated with such projects will be recovered through a rate adjustment clause under this subdivision or through the utility's rates for generation and distribution services; and without regard to whether such costs will be the subject of a customer credit offset, as applicable, pursuant to subdivision 8 d. The Commission's final order regarding any such petition for approval of an electric distribution grid transformation plan shall be entered by the Commission not more than six months after the date of filing such petition. The Commission shall likewise enter its final order with respect to any petition by a utility for a certificate to construct and operate a generating facility or facilities utilizing energy derived from sunlight, pursuant to subsection D of § 56-580, within six months after the date of filing such petition. The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years
Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

Only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014. Thirty percent of all costs of a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore or offshore wind are in the public interest.

Notwithstanding any provision of Chapter 296 of the Acts of Assembly of 2018, construction, purchasing, or leasing activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore wind with an aggregate capacity of 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, together with a utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 3,000 megawatts, are in the public interest. Additionally, energy storage facilities with an aggregate capacity of 2,700 megawatts are in the public interest. To the extent that a utility elects to recover the costs of any such new generation or energy storage facility or facilities through its rates for generation and distribution services and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (ii), the Commission shall, upon the request of the utility in a ~~triennial~~ review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding pursuant to subsection D of § 56-580 or in a ~~triennial~~ review proceeding.

Electric distribution grid transformation projects are in the public interest. To the extent that a utility elects to recover the costs of such electric distribution grid transformation projects through its rates for generation and distribution services, and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (vi), the Commission shall, upon the request of the utility in a ~~triennial~~ review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding for approval of a plan for electric distribution grid transformation projects pursuant to subdivision 6 or in a ~~triennial~~ review proceeding.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.2-1600, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission for such utility pursuant to subdivision 2.

Notwithstanding any other provision of this subdivision, if the Commission finds during the triennial review conducted for a Phase II Utility in 2021 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if

all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from the Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or demonstration project involving a generation facility utilizing energy from offshore wind, and such utility has not, as of July 1, 2023, commenced construction as defined for federal income tax purposes of an offshore wind generation facility or facilities with a minimum aggregate capacity of 250 megawatts, then the Commission, if it finds it in the public interest, may direct that the costs associated with any such rate adjustment clause involving said test or demonstration project shall thereafter no longer be recovered through a rate adjustment clause pursuant to subdivision 6 and shall instead be recovered through the utility's rates for generation and distribution services, with no change in such rates for generation and distribution services as a result of the combination of such costs with the other costs, revenues, and investments included in the utility's rates for generation and distribution services. Any such costs shall remain combined with the utility's other costs, revenues, and investments included in its rates for generation and distribution services until such costs are fully recovered.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with respect to ~~triennial~~ filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later. *At any time, the Commission may, in its discretion, for a Phase II Utility, upon petition by such a utility or upon its own initiated proceeding, direct the consolidation of any one or more subsets of rate adjustment clauses previously implemented pursuant to subdivision 5 or 6 in the interest of judicial economy, customer transparency, or other factors the Commission determines to be appropriate. Any subset of rate adjustment clauses so consolidated shall continue to be considered by the Commission without regard to the other costs, revenues, investments, or earnings of the utility and remain as a cost recovery mechanism independent from the utility's rates for generation and distribution services pursuant to this subdivision and subdivisions 5 and 6, but will be combined as a single rate adjustment clause for cost recovery and review purposes. Any rate adjustment clause or subset of rate adjustment clauses so consolidated shall be named in a manner, as determined by the Commission, that reasonably informs customers as to the nature of the costs recovered by the consolidated rate adjustment clause.*

8. ~~In any triennial~~ *For a Phase I Utility in any triennial review proceeding filed on or before June 30, 2023 or for a Phase II Utility in any biennial* review proceeding, for the purposes of reviewing earnings on the utility's rates for

generation and distribution services, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review and deemed fully recovered in the period recorded: costs associated with asset impairments related to early retirement determinations made by the utility for utility generation facilities fueled by coal, natural gas, or oil or for automated meter reading electric distribution service meters; costs associated with projects necessary to comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to coal combustion by-product management that the utility does not petition to recover through a rate adjustment clause pursuant to subdivision 5 e; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such ~~triennial~~ review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. *Notwithstanding the prior sentence, the aggregate amount of actual and reasonable costs associated with severe weather events eligible for such deferral shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized for the combined test periods under review. For the purposes of determining any amount of costs that are associated with severe weather events, the Commission shall consider nationally recognized standards such as those published by the Institute of Electrical and Electronics Engineers (IEEE).* Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a ~~triennial~~ review, for normalization of nonrecurring test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of ~~such~~ *any* triennial review *initiated prior to July 1, 2023* that:

a. Revenue reductions related to energy efficiency measures or programs approved and deployed since the utility's previous triennial review have caused the utility, as verified by the Commission, during the test period or periods under review, considered as a whole, to earn more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates for generation and distribution services necessary to recover such revenue reductions. If the Commission finds, for reasons other than revenue reductions related to energy efficiency measures, that the utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the amount of the rate increase necessary. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, the Commission may not order a rate increase, and in all triennial reviews of a Phase I or Phase II utility, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate increase under the standards of this sentence, and the amount thereof; and provided that, solely in connection with making its determination concerning the necessity for such a rate increase or the amount thereof, the Commission shall, in any triennial review proceeding conducted prior to July 1, 2028, exclude from this most recently ended 12-month test period any remaining investment levels associated with a prior customer credit reinvestment offset pursuant to subdivision d.

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivisions 8 d and 9, direct that 60 percent of the amount of such earnings that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. ~~In any triennial review proceeding conducted after January 1, 2020, for a Phase I Utility or after January 1, 2021, for a Phase II Utility in which the~~ *The* utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, and the combined aggregate level of capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test periods under review in that triennial review proceeding in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and in electric distribution grid transformation projects, as determined pursuant to subdivision 8 d, does not equal or exceed 100 percent of the earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the combined test periods under review in that triennial review proceeding, the Commission shall, subject to the provisions of subdivision ~~9~~ *10* and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, any reduction to the utility's rates ordered by the Commission pursuant to this subdivision shall not exceed $50 million in annual revenues, with any reduction allocated to the utility's rates for generation services, and in each triennial review of a Phase I or Phase II Utility, the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof; and

d. (Expires July 1, 2028) In any ~~triennial~~ review proceeding conducted after December 31, 2017, upon the request of the utility, the Commission shall determine, prior to directing that 70 percent of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the test period or periods under review be credited to customer bills pursuant to subdivision 8 b, the aggregate level of prior capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test period or periods under review in both (i) new utility-owned generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, and (ii) electric distribution grid transformation projects, as determined by the utility's plant in service and construction work in progress balances related to such investments as recorded per books by the utility for financial reporting purposes as of the end of the most recent test period under review. Any such combined capital investment amounts shall offset any customer bill credit amounts, on a dollar for dollar basis, up to the aggregate level of invested or committed capital under clauses (i) and (ii). The aggregate level of qualifying invested or committed capital under clauses (i) and (ii) is referred to in this subdivision as the customer credit reinvestment offset, which offsets the customer bill credit amount that the utility has invested or will invest in new solar or wind generation facilities or electric distribution grid transformation projects for the benefit of customers, in amounts up to 100 percent of earnings that are more than 70 basis points above the utility's fair rate of return on its generation and distribution services, and thereby reduce or eliminate otherwise incremental rate adjustment clause charges and increases to customer bills, which is deemed to be in the public interest. If 100 percent of the amount of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services, as determined in subdivision 2, exceeds the aggregate level of invested capital in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and electric distribution grid transformation projects, as provided in clauses (i) and (ii), during the test period or periods under review, then 70 percent of the amount of such excess shall be credited to customer bills as provided in subdivision 8 b in connection with the ~~triennial~~ review proceeding. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is the subject of any customer credit reinvestment offset pursuant to this subdivision shall not thereafter be recovered through the utility's rates for generation and distribution

services over the service life of such facilities and shall not thereafter be included in the utility's costs, revenues, and investments in future ~~triennial~~ review proceedings conducted pursuant to subdivision 2 and shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is not the subject of any customer credit reinvestment offset pursuant to this subdivision may be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall be included in the utility's costs, revenues, and investments in future ~~triennial~~ review proceedings conducted pursuant to subdivision 2 until such costs are fully recovered, and if such costs are recovered through the utility's rates for generation and distribution services, they shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. Only the portion of such costs of new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that has not been included in any customer credit reinvestment offset pursuant to this subdivision, and not otherwise recovered through the utility's rates for generation and distribution services, may be the subject of a rate adjustment clause petition by the utility pursuant to subdivision 6.

e. *In any biennial review of a Phase II Utility, the* Commission's final order regarding such ~~triennial~~ review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such ~~triennial~~ review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire *two or* three*, as applicable,* successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent ~~triennial~~ review filing under subdivision 3 and shall apply to applicable rate adjustment clauses under subdivisions 5 and 6 prospectively from the date the Commission's final order in the ~~triennial~~ review proceeding, utilizing rate adjustment clause true-up protocols as the Commission in its discretion may determine.

9. *a. In any biennial review for a Phase II Utility filed on or prior to December 31, 2023, if the Commission determines that the utility has during the test period or test periods under review, considered as a whole, earned more than 70 basis points above a fair combined rate of return on its generation and distribution services previously authorized by the Commission, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, which have not been combined with the utility's costs, revenues, and investments for generation and distribution services, the Commission shall direct that 85 percent of the amount of such earnings that were more than 70 basis points above such fair combined rate of return for the test period or periods under review, considered as a whole, be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates.*

b. In any biennial review for a Phase II Utility filed on or after January 1, 2024, if the Commission determines that the utility has during the test period or test periods under review, considered as a whole, earned above its fair combined rate of return on its generation and distribution services previously authorized by the Commission, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, which have not been combined with the utility's costs, revenues, and investments for generation and distribution services, the Commission shall direct that 85 percent of the amount of such earnings above such fair combined rate of return for the test period or periods under review, considered as a whole, be credited to customers' bills. Further, if the Commission determines that during the test period or test periods under review, considered as a whole, a Phase II Utility earned more than 150 basis points above a fair combined rate of return on its generation and distribution services previously authorized by the Commission, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, which have not been combined with the utility's costs, revenues, and investments for generation and distribution services, the Commission shall direct that all such earnings that were more than 150 basis points above such fair combined rate of return for the test period or periods under review, considered as a whole, be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates.

10. If, as a result of a triennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently ended

12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c, provided that no credits shall be provided pursuant to this subdivision in connection with any triennial review unless such bill credits would be payable pursuant to the provisions of subdivision 8 d, and any credits under this subdivision shall be calculated net of any customer credit reinvestment offset amounts under subdivision 8 d. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

~~10.~~ *11.* For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, excluding any debt associated with securitized bonds that are the obligation of non-Virginia jurisdictional customers, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by customers.

E. Notwithstanding any other provision of law, the Commission shall determine the amortization period for recovery of any appropriate costs due to the early retirement of any electric generation facilities owned or operated by any Phase I Utility or Phase II Utility. In making such determination, the Commission shall (i) perform an independent analysis of the remaining undepreciated capital costs; (ii) establish a recovery period that best serves ratepayers; and (iii) allow for the recovery of any carrying costs that the Commission deems appropriate.

F. *The Commission shall include in its report required by subsection B of § 56-596 any information concerning the reliability impacts of generation unit additions and retirement determinations by a Phase I or Phase II Utility, along with the potential impact on the purchase of power from generation assets outside the Virginia jurisdiction used to serve the*

utility's native load, utilizing information from the respective utility's integrated resource plan or information from the respective utility's plan filed pursuant to subsection D of § 56-585.5.

*G. T*he Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

§ 56-585.1:4. Development of solar and wind generation and energy storage capacity in the Commonwealth.

A. Prior to January 1, 2024, (i) the construction or purchase by a public utility of one or more solar or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic shoreline, each having a rated capacity of at least one megawatt and having in the aggregate a rated capacity that does not exceed 5,000 megawatts, or (ii) the purchase by a public utility of energy, capacity, and environmental attributes from solar facilities described in clause (i) owned by persons other than a public utility is in the public interest, and the Commission shall so find if required to make a finding regarding whether such construction or purchase is in the public interest.

B. Prior to January 1, 2024, (i) the construction or purchase by a public utility of one or more solar or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic shoreline, each having a rated capacity of less than one megawatt, including rooftop solar installations with a capacity of not less than 50 kilowatts, and having in the aggregate a rated capacity that does not exceed 500 megawatts, or (ii) the purchase by a public utility of energy, capacity, and environmental attributes from solar facilities described in clause (i) owned by persons other than a public utility is in the public interest, and the Commission shall so find if required to make a finding regarding whether such construction or purchase is in the public interest.

C. The aggregate cap of 5,000 megawatts of rated capacity described in clause (i) of subsection A, the aggregate cap of 500 megawatts of rated capacity described in clause (i) of subsection B, and the aggregate cap of 200 megawatts of rated capacity described in subsection I are separate and independent from each other. The capacity of facilities in subsection B shall not be counted in determining the capacity of facilities in subsection A or I; the capacity of facilities in subsection A shall not be counted in determining the capacity of facilities in subsection B or I; and the capacity of facilities in subsection I shall not be counted in determining the capacity of facilities in subsection A or B.

D. Twenty-five percent of the solar generation capacity placed in service on or after July 1, 2018, located in the Commonwealth, and found to be in the public interest pursuant to subsection A or B shall be from the purchase by a public utility of energy, capacity, and environmental attributes from solar facilities owned by persons other than a public utility. The remainder shall be construction or purchase by a public utility of one or more solar generation facilities located in the Commonwealth. All of the solar generation capacity located in the Commonwealth and found to be in the public interest pursuant to subsection A or B shall be subject to competitive procurement, provided that a public utility may select solar generation capacity without regard to whether such selection satisfies price criteria if the selection of the solar generating capacity materially advances non-price criteria, including favoring geographic distribution of generating capacity, areas of higher employment, or regional economic development, if such non-price solar generating capacity selected does not exceed 25 percent of the utility's solar generating capacity.

E. Construction, purchasing, or leasing activities for a test or demonstration project for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 16 megawatts are in the public interest.

F. Prior to January 1, 2035, (i) the construction by a public utility of one or more energy storage facilities located in the Commonwealth, having in the aggregate a rated capacity that does not exceed 2,700 megawatts, or (ii) the purchase by a public utility of energy storage facilities described in clause (i) owned by persons other than a public utility or the capacity from such facilities is in the public interest, and the Commission shall so find if required to make a finding regarding whether such construction or purchase is in the public interest.

G. At least 35 percent of the energy storage capacity placed in service on or after July 1, 2020, located in the Commonwealth and found to be in the public interest pursuant to subsection F shall be from the purchase by a public utility of energy storage facilities owned by persons other than a public utility or the capacity from such facilities. All of the energy storage facilities located in the Commonwealth and found to be in the public interest pursuant to subsection F shall be subject to competitive procurement, provided that a public utility may select energy storage facilities without regard to whether such selection satisfies price criteria if the selection of the energy storage facilities materially advances non-price criteria, including favoring geographic distribution of generating facilities, areas of higher employment, or regional economic development, if such energy storage facilities selected for the advancement of non-price criteria do not exceed 25 percent of the utility's energy storage capacity.

H. A utility may elect to petition the Commission, outside of a triennial *or biennial* review proceeding conducted pursuant to § 56-585.1, at any time for a prudency determination with respect to the construction or purchase by the utility of one or more solar or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic Shoreline or the purchase by the utility of energy, capacity, and environmental attributes from solar or wind facilities owned by persons other than the utility. The Commission's final order regarding any such petition shall be entered by the Commission not more than three months after the date of the filing of such petition.

I. Prior to January 1, 2024, (i) the construction or purchase by a public utility of one or more solar or wind generation facilities located on a previously developed project site in the Commonwealth having in the aggregate a rated capacity that does not exceed 200 megawatts or (ii) the purchase by a public utility of energy, capacity, and environmental attributes from solar facilities described in clause (i) owned by persons other than a public utility, is in the public interest.

§ 56-599. Integrated resource plan required.

A. Each electric utility shall file an updated integrated resource plan by July 1, 2015. Thereafter, each electric utility shall file an updated integrated resource plan by May 1, in each year immediately preceding the year the utility is subject to a triennial *or biennial* review filing. A copy of each integrated resource plan shall be provided to the Chairman of the House Committee on Labor and Commerce, the Chairman of the Senate Committee on Commerce and Labor, and to the Chairman of the Commission on Electric Utility Regulation. All updated integrated resource plans shall comply with the provisions of any relevant order of the Commission establishing guidelines for the format and contents of updated and revised integrated resource plans. Each integrated resource plan shall consider options for maintaining and enhancing rate stability, energy independence, economic development including retention and expansion of energy-intensive industries, and service reliability.

B. In preparing an integrated resource plan, each electric utility shall systematically evaluate and may propose:

1. Entering into short-term and long-term electric power purchase contracts;

2. Owning and operating electric power generation facilities;

3. Building new generation facilities;

4. Relying on purchases from the short term or spot markets;

5. Making investments in demand-side resources, including energy efficiency and demand-side management services;

6. Taking such other actions, as the Commission may approve, to diversify its generation supply portfolio and ensure that the electric utility is able to implement an approved plan;

7. The methods by which the electric utility proposes to acquire the supply and demand resources identified in its proposed integrated resource plan;

8. The effect of current and pending state and federal environmental regulations upon the continued operation of existing electric generation facilities or options for construction of new electric generation facilities;

9. The most cost effective means of complying with current and pending state and federal environmental regulations, including compliance options to minimize effects on customer rates of such regulations;

10. Long-term electric distribution grid planning and proposed electric distribution grid transformation projects;

11. Developing a long-term plan for energy efficiency measures to accomplish policy goals of reduction in customer bills, particularly for low-income, elderly, and disabled customers; reduction in emissions; and reduction in carbon intensity; and

12. Developing a long-term plan to integrate new energy storage facilities into existing generation and distribution assets to assist with grid transformation.

C. As part of preparing any integrated resource plan pursuant to this section, each utility shall conduct a facility retirement study for owned facilities located in the Commonwealth that emit carbon dioxide as a byproduct of combusting fuel and shall include the study results in its integrated resource plan. Upon filing the integrated resource plan with the Commission, the utility shall contemporaneously disclose the study results to each planning district commission, county board of supervisors, and city and town council where such electric generation unit is located, the Department of Energy, the Department of Housing and Community Development, the Virginia Employment Commission, and the Virginia Council on Environmental Justice. The disclosure shall include (i) the driving factors of the decision to retire and (ii) the anticipated retirement year of any electric generation unit included in the plan. Any electric generating facility with an anticipated retirement date that meets the criteria of § 45.2-1701.1 shall comply with the public disclosure requirements therein.

D. The Commission shall analyze and review an integrated resource plan and, after giving notice and opportunity to be heard, the Commission shall make a determination within nine months after the date of filing as to whether such an integrated resource plan is reasonable and is in the public interest.

2. That, notwithstanding the provisions of subdivision A 2 a or c of § 56-585.1 of the Code of Virginia, as amended by this act, in any biennial review initiated by a Phase II Utility, as that term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, as amended by this act, on or prior to December 31, 2023, the State Corporation Commission shall set the combined fair rate of return at 9.70 percent, which is based on the simple average of the authorized returns for vertically integrated electric utilities by the applicable regulatory commissions in the peer group jurisdictions of Florida, Georgia, Texas, Tennessee, West Virginia, Kentucky, and North Carolina. Such combined fair rate of return on common equity shall be applicable separately to the generation and distribution services of such utility, and for the two such services combined, and for any rate adjustment clauses approved under subdivision A 5 or 6 of § 56-585.1 of the Code of Virginia, as amended by this act. For any review initiated by such a utility after December 31, 2023, the Commission may use any methodology to determine such return it finds consistent with the public interest pursuant to its authority under subdivision A 2 a of § 56-585.1 of the Code of Virginia, as amended by this act.

3. That a Phase II Utility, as that term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, as amended by this act, shall, through December 31, 2024, undertake reasonable efforts to maintain, subject to audit by the State Corporation Commission, its common equity capitalization to total capitalization ratio at a level equal to 52.10 percent.

4. That a Phase II Utility, as that term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, as amended by this act, in connection with any financing order petition filed with the State Corporation Commission (the Commission) prior to December 31, 2023, pursuant to § 56-249.6:1 of the Code of Virginia, as created by this act,

shall permit any retail customer that is receiving electric supply service from the utility and whose demand exceeded five megawatts during the calendar year prior to such petition to opt out of financing its pro rata obligation for deferred fuel cost charges through deferred fuel cost bonds. The utility shall notify such eligible customers of their eligibility to opt out of the deferred fuel cost financing through its annual petition with the Commission pursuant to § 56-249.6 of the Code of Virginia, and any election to opt out of the deferred fuel cost financing by an eligible customer shall be provided in writing to the utility within 30 days of the filing of such petition. Upon such election, the eligible customer shall fully satisfy such customer's pro rata obligation for the deferred fuel cost charges subject to financing, as determined based on such customer's electric usage over the period that such charges were incurred, over the 12-month period prescribed by subsection C of § 56-249.6 of the Code of Virginia that is associated with such annual petition. In the event of such election, any deferred fuel cost charges approved for recovery through deferred fuel cost bonds shall not include the obligations of eligible customers opting out of the deferred fuel cost financing.

5. That for purposes of considering future performance-based adjustments to the combined rate of return in accordance with subdivision A 2 c of § 56-585.1 of the Code of Virginia, as amended by this act, the State Corporation Commission (the Commission, before December 31, 2023, shall direct the initiation of a proceeding to review and determine the appropriate protocols and standards applicable to implementing any such performance-based adjustments. The protocols and standards established as a result of such a proceeding shall apply to biennial review filings occurring on or after January 1, 2025. However, if the Commission determines that the public interest would be better served by implementing such protocols and standards for biennial review filings occurring on or after January 1, 2027, then such performance standards and protocols shall be applicable to all biennial rate review filings made on or after January 1, 2027. Beginning January 1, 2024, and until such standards and protocols are applicable, the Commission shall have the authority, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, to increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

CHAPTER 776

An Act to amend and reenact §§ 56-585.1 and 56-597 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 56-249.6:1 and 56-585.8, relating to Phase I Utilities; deferred fuel costs; biennial reviews.

[H 1777]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-585.1 and 56-597 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 56-249.6:1 and 56-585.8 as follows:

§ 56-249.6:1. Financing for certain deferred fuel costs.

A. Notwithstanding the provisions of § 56-249.6 or Chapter 3 (§ 56-55 et seq.), an electric utility may petition the Commission for a financing order and the Commission shall either issue (i) such financing order or (ii) an order rejecting the petition, no more than four months from the date of filing such petition and in accordance with the requirements of subdivision 2.

1. The petition shall include (i) an estimate of the total amount of deferred fuel costs that the electric utility has incurred over the time period noted in the petition; (ii) an indication of whether the electric utility proposes to finance all or a portion of the deferred fuel costs using one or more series or tranches of deferred fuel cost bonds; (iii) an estimate and details of the financing costs related to the deferred fuel costs to be financed through the deferred fuel cost bonds; (iv) an estimate of the deferred fuel cost charges necessary to recover the deferred fuel costs and all financing costs and the proposed period for recovery of such costs; (v) a description of any benefits expected to result from the issuance of deferred fuel cost bonds, including the avoidance of or significant mitigation of abrupt and significant increases in rates to the electric utility's customers for the applicable time period; and (vi) direct testimony and exhibits supporting the petition. If the electric utility proposes to finance a portion of the deferred fuel costs, the electric utility shall identify in the petition the specific amount of deferred fuel costs for the applicable time period to be financed using deferred fuel cost bonds. By electing not to finance a portion of the deferred fuel costs for an applicable time period using deferred fuel cost bonds, an electric utility shall not be deemed to waive its right to recover such costs pursuant to a separate proceeding with the Commission.

2. a. If an electric utility petitions the Commission for a financing order pursuant to this section, following notice and an opportunity for hearing, the Commission shall either issue (i) a financing order or (ii) an order rejecting the petition, not more than four months from the date of filing such petition.

b. A financing order issued by the Commission pursuant to this section shall include:

(1) The amount of deferred fuel costs to be financed using deferred fuel cost bonds. The Commission shall describe and estimate the amount of financing costs that may be recovered through deferred fuel cost charges. The financing order shall also specify the period over which deferred fuel costs and financing costs may be recovered and whether the deferred fuel

cost bonds may be offered and issued in one or more series or tranches during a fixed period not to exceed one year after the date of the financing order;

(2) A finding that the proposed issuance of deferred fuel cost bonds is in the public interest and the associated deferred fuel cost charges are just and reasonable;

(3) A finding that the structuring and pricing of the deferred fuel cost bonds are reasonably expected to result in reasonable deferred fuel cost charges consistent with market conditions at the time the deferred fuel cost bonds are priced and the terms set forth in such financing order;

(4) A requirement that, for so long as the deferred fuel cost bonds are outstanding and until all financing costs have been paid in full, the imposition and collection of deferred fuel cost charges authorized under a financing order shall be non-bypassable and paid by all retail customers of the electric utility, irrespective of the generation supplier of such customer, except for an exempt retail access customer;

(5) A formula-based true-up mechanism for making annual adjustments to the deferred fuel cost charges that customers are required to pay pursuant to the financing order and for making any adjustments that are necessary to correct for any overcollection or undercollection of the charges or to otherwise ensure the timely payment of deferred fuel cost bonds and financing costs and other required amounts and charges payable in connection with the deferred fuel cost bonds;

(6) The deferred fuel cost property that is, or shall be, created in favor of an electric utility or its successors or assignees and that shall be used to pay or secure deferred fuel cost bonds and all financing costs;

(7) The authority of the electric utility to establish the terms and conditions of the deferred fuel cost bonds, including repayment schedules, expected interest rates, the issuance in one or more series or tranches with different maturity dates, and other financing costs;

(8) A finding that the deferred fuel cost charges shall be allocated among customer classes in accordance with the methodology approved in the electric utility's last fuel factor proceeding;

(9) A requirement that after the final terms of an issuance of deferred fuel cost bonds have been established and before the issuance of deferred fuel cost bonds, the electric utility determines the resulting initial deferred fuel cost charge in accordance with the financing order and that such initial deferred fuel cost charge be final and effective upon the issuance of such deferred fuel cost bonds without further Commission action so long as such initial deferred fuel cost charge is consistent with the financing order;

(10) A method of tracing funds collected as deferred fuel cost charges, or other proceeds of deferred fuel cost property, and a requirement that such method be the method of tracing such funds and determining the identifiable cash proceeds of any deferred fuel cost property subject to the financing order under applicable law; and

(11) Any other conditions not otherwise inconsistent with this section that the Commission determines are appropriate.

c. A financing order issued to an electric utility may provide that creation of the electric utility's deferred fuel cost property is conditioned upon, and simultaneous with, the sale or other transfer for the deferred fuel cost property to an assignee and the pledge of the deferred fuel cost property to secure deferred fuel cost bonds.

d. If the Commission issues a financing order, the Commission shall establish a protocol for the electric utility to annually file a petition or, in the Commission's discretion, a letter setting out application of the formula-based mechanism and, based on estimates of consumption for each rate class and other mathematical factors, requesting administrative approval to make applicable adjustments. The review of the filing shall be limited to determining whether there are any mathematical or clerical errors in the application of the formula-based mechanism relating to the appropriate amount of any overcollection or undercollection of deferred fuel cost charges and the amount of an adjustment. The adjustments shall ensure the recovery of revenues sufficient to provide for the payment of principal, interest, acquisition, defeasance, financing costs, or redemption premium and other fees, costs, and charges in respect of deferred fuel cost bonds approved under the financing order. Within 30 days after receiving an electric utility's request pursuant to this subdivision d, the Commission shall either approve the request or inform the electric utility of mathematical or clerical errors in its calculation. If the Commission informs the electric utility of mathematical or clerical errors in its calculation, the electric utility may correct its error and refile its request. The time frames previously described in this subdivision d shall apply to a refiled request.

e. Subsequent to the transfer of deferred fuel cost property to an assignee or the issuance of deferred fuel cost bonds authorized thereby, whichever is earlier, a financing order shall be irrevocable and, except for changes made pursuant to the formula-based mechanism authorized in this section, the Commission shall not amend, modify, or terminate the financing order by any subsequent action or reduce, impair, postpone, terminate, or otherwise adjust deferred fuel cost charges approved in the financing order. After the issuance of a financing order, the electric utility shall retain sole discretion regarding whether to assign, sell, or otherwise transfer deferred fuel cost property or to cause deferred fuel cost bonds to be issued, including the right to defer or postpone such assignment, sale, transfer, or issuance.

3. At the request of an electric utility, the Commission may commence a proceeding and issue a subsequent financing order that provides for refinancing, retiring, or refunding deferred fuel cost bonds issued pursuant to the original financing order if the Commission finds that the subsequent financing order satisfies all of the criteria specified in this section for a financing order. Effective upon retirement of the refunded deferred fuel cost bonds and the issuance of new deferred fuel cost bonds, the Commission shall adjust the related deferred fuel cost charges accordingly.

4. a. A financing order shall remain in effect and deferred fuel cost property under the financing order shall continue to exist until deferred fuel cost bonds issued pursuant to the financing order have been paid in full or defeased and, in each case, all Commission-approved financing costs of such deferred fuel cost bonds have been recovered in full.

b. A financing order issued to an electric utility shall remain in effect and unabated notwithstanding the reorganization, bankruptcy or other insolvency proceedings, merger, or sale of the electric utility or its successors or assignees.

B. 1. The Commission shall not, in exercising its powers and carrying out its duties regarding any matter within its authority pursuant to this chapter, and notwithstanding any other provision of law, consider the deferred fuel cost bonds issued pursuant to a financing order to be the debt of the electric utility other than for federal income tax purposes, consider the deferred fuel cost charges paid under the financing order to be the revenue of the electric utility for any purpose, or consider the deferred fuel costs or financing costs specified in the financing order to be the costs of the electric utility, nor shall the Commission determine any action taken by an electric utility that is consistent with the financing order to be unjust or unreasonable.

2. The Commission shall not order or otherwise directly or indirectly require an electric utility to use deferred fuel cost bonds to finance any project, addition, plant, facility, extension, capital improvement, equipment, or any other expenditure. After the issuance of a financing order, the electric utility shall retain sole discretion regarding whether to cause the deferred fuel cost bonds to be issued, including the right to defer or postpone such sale, assignment, transfer, or issuance. Nothing shall prevent the electric utility from abandoning the issuance of deferred fuel cost bonds under the financing order by filing with the Commission a statement of abandonment and the reasons therefor. The Commission shall not deny an electric utility its right to recover deferred fuel costs as otherwise provided in this section, or refuse or condition authorization or approval of the issuance and sale by an electric utility of securities or the assumption by the electric utility of liabilities or obligations, solely because of the potential availability of deferred fuel cost bond financing.

C. The electric bills of an electric utility that has obtained a financing order and caused deferred fuel cost bonds to be issued shall comply with the provisions of this subsection; however, the failure of an electric utility to comply with this subsection does not invalidate, impair, or affect any financing order, deferred fuel cost property, deferred fuel cost charge, or deferred fuel cost bonds. The electric utility shall:

1. Explicitly reflect that a portion of the charges on any electric bill represents deferred fuel cost charges approved in a financing order issued to the electric utility and, if the deferred fuel cost property has been transferred to an assignee, such bill shall include a statement to the effect that the assignee is the owner of the rights to deferred fuel cost charges and that the electric utility or another entity, if applicable, is acting as a collection agent or servicer for the assignee. The tariff applicable to customers must indicate the deferred fuel cost charge and the ownership of the charge; and

2. Include the deferred fuel cost charge on each customer's bill as a separate line item and include both the rate and the amount of the charge on each bill.

D. 1. The following provisions shall be applicable to deferred fuel cost property:

a. All deferred fuel cost property that is specified in a financing order shall constitute an existing, present intangible property right or interest therein, notwithstanding that the imposition and collection of deferred fuel cost charges depends on the electric utility, to which the financing order is issued, performing its servicing functions relating to the collection of deferred fuel cost charges and on future electricity consumption. The deferred fuel cost property shall exist (i) regardless of whether or not the revenues or proceeds arising from the deferred fuel cost property have been billed, have accrued, or have been collected and (ii) notwithstanding the fact that the value or amount of the deferred fuel cost property is dependent on the future provision of service to customers by the electric utility or its successors or assignees and the future consumption of electricity by customers;

b. Deferred fuel cost property specified in a financing order shall exist until deferred fuel cost bonds issued pursuant to the financing order are paid in full and all financing costs and other costs of such deferred fuel cost bonds have been recovered in full;

c. All or any portion of deferred fuel cost property specified in a financing order issued to an electric utility may be transferred, sold, conveyed, or assigned to a successor or assignee that is wholly owned, directly or indirectly, by the electric utility and created for the limited purpose of acquiring, owning, or administering deferred fuel cost property or issuing deferred fuel cost bonds under the financing order. All or any portion of deferred fuel cost property may be pledged to secure deferred fuel cost bonds issued pursuant to the financing order, amounts payable to financing parties and to counterparties under any ancillary agreements, and other financing costs. Any transfer, sale, conveyance, assignment, grant of a security interest in or pledge of deferred fuel cost property by an electric utility, or an affiliate of the electric utility, to an assignee, to the extent previously authorized in a financing order, shall not require the prior consent and approval of the Commission;

d. If an electric utility defaults on any required payment of charges arising from deferred fuel cost property specified in a financing order, a court, upon application by an interested party, and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the revenues arising from the deferred fuel cost property to the financing parties or their assignees. Any such financing order shall remain in full force and effect notwithstanding any reorganization, bankruptcy, or other insolvency proceedings with respect to the electric utility or its successors or assignees;

e. The interest of a transferee, purchaser, acquirer, assignee, or pledgee in deferred fuel cost property specified in a financing order issued to an electric utility, and in the revenue and collections arising from that property, shall not be

subject to setoff, counterclaim, surcharge, or defense by the electric utility or any other person or in connection with the reorganization, bankruptcy, or other insolvency of the electric utility or any other entity;

f. Any successor to an electric utility, whether pursuant to any reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any merger or acquisition, sale, or other business combination, or transfer by operation of law, as a result of electric utility restructuring or otherwise, shall perform and satisfy all obligations of, and have the same rights under a financing order as, the electric utility under the financing order in the same manner and to the same extent as the electric utility, including collecting and paying to the person entitled to receive the revenues, collections, payments, or proceeds of the deferred fuel cost property. Nothing in this subdivision f is intended to limit or impair any authority of the Commission concerning the transfer or succession of interests of public utilities; and

g. Deferred fuel cost bonds shall be nonrecourse to the credit or any assets of the electric utility other than the deferred fuel cost property as specified in the financing order and any rights under any ancillary agreement.

2. The following provisions shall be applicable to security interests:

a. The creation, perfection, and enforcement of any security interest in deferred fuel cost property to secure the repayment of the principal and interest and other amounts payable in respect of deferred fuel cost bonds; amounts payable under any indenture, ancillary agreement, or other financing documents in respect of the deferred fuel costs; and other financing costs shall be governed by this subsection and not by the provisions of the Uniform Commercial Code (Titles 8.1A through 8.9A);

b. A security interest in deferred fuel cost property shall be created and enforceable when all of the following have occurred: (i) a financing order is issued, (ii) value is received by the debtor or seller for such deferred fuel cost property, (iii) the debtor or seller has rights in such deferred fuel cost property or the power to transfer rights in such deferred fuel cost property, and (iv) a security agreement granting such security interest is executed and delivered by the debtor or seller. The description of deferred fuel cost property in a security agreement shall be sufficient if the description refers to this section and the financing order creating the deferred fuel cost property;

c. A security interest shall attach without any physical delivery of collateral or other act and, upon the filing of a financing statement with the Commission, the lien of the security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the person granting the security interest, regardless of whether the parties have notice of the lien. Also upon this filing, a transfer of an interest in the deferred fuel cost property shall be perfected against all parties having claims of any kind, including any judicial lien or other lien creditors or any claims of the transferor or creditors of the transferor, and shall have priority over all competing claims other than any prior security interest, ownership interest, or assignment in the property previously perfected in accordance with this section;

d. The Commission shall maintain any financing statement filed to perfect any security interest under this section in the same manner that the Commission maintains financing statements filed by transmitting utilities under the Uniform Commercial Code (Titles 8.1A through 8.9A). The filing of a financing statement under this section shall be governed by the provisions regarding the filing of financing statements in the Uniform Commercial Code (Titles 8.1A through 8.9A);

e. The priority of a security interest in deferred fuel cost property shall not be affected by the commingling of deferred fuel cost charges with other amounts. Any pledgee or secured party shall have a perfected security interest in the amount of all deferred fuel cost charges that are deposited in any cash or deposit account of the qualifying utility in which deferred fuel cost charges have been commingled with other funds and any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the assignee or a financing party;

f. No application of the formula-based adjustment mechanism as provided in this section shall affect the validity, perfection, or priority of a security interest in or transfer of deferred fuel cost property; and

g. If a default or termination occurs under the deferred fuel cost bonds, the financing parties or their representatives may foreclose on or otherwise enforce their lien and security interest in any deferred fuel cost property as if they were secured parties with a perfected and prior lien under the Uniform Commercial Code (Titles 8.1A through 8.9A), and the Commission may order that amounts arising from deferred fuel cost charges be transferred to a separate account for the financing parties' benefit, to which their lien and security interest shall apply. On application by or on behalf of the financing parties, the Commission shall order the sequestration and payment to them of revenues arising from the deferred fuel cost charges.

3. a. Any sale, assignment, or other transfer of deferred fuel cost property shall be an absolute transfer and true sale of and not a pledge of, or secured transaction relating to, the transferor's right, title, and interest in, to, and under the deferred fuel cost property if the documents governing the transaction expressly state that the transaction is a sale or other absolute transfer other than for federal and state income tax purposes. For all purposes other than federal and state income tax purposes, the parties' characterization of a transaction as a sale of an interest in deferred fuel cost property shall be conclusive that the transaction is a true sale and that ownership has passed to the party characterized as the purchaser, regardless of any fact or circumstance that might support characterization of the transfer as a secured transaction. A transfer of an interest in deferred fuel cost property shall occur only when all of the following have occurred: (i) the financing order creating the deferred fuel cost property has become effective, (ii) the documents evidencing the transfer of deferred fuel cost property have been executed by the transferor and delivered to the assignee, and (iii) value is received by the transferor for the deferred fuel cost property. After such a transaction, the deferred fuel cost property shall not be subject to any claims of the transferor or the transferor's creditors, other than creditors holding a prior security interest in the deferred fuel cost property perfected in accordance with subdivision 2.

b. The characterization of the sale, assignment, or other transfer as an absolute transfer and true sale, and the corresponding characterization of the interest of the assignee as an ownership interest, shall not be affected or impaired by the occurrence of any of the following factors:

(1) Commingling of deferred fuel cost charges with other amounts;

(2) The retention by the seller of (i) a partial or residual interest, including an equity interest, in the deferred fuel cost property, whether direct or indirect, or whether subordinate or otherwise, or (ii) the right to recover costs associated with taxes, franchise fees, or license fees imposed on the collection of deferred fuel cost charges;

(3) Any recourse that the assignee may have against the seller;

(4) Any right or obligation that the seller may have to repurchase the deferred fuel cost charges;

(5) Any indemnification obligations of the seller;

(6) The obligation of the seller to collect deferred fuel cost charges on behalf of the assignee;

(7) The transferor acting as the servicer of the deferred fuel cost charges or the existence of any contract that authorizes or requires the electric utility, to the extent that any interest in deferred fuel cost property is sold or assigned, to agree with the assignee or any financing party that it will continue to operate its system to provide service to its customers, will collect amounts in respect of the deferred fuel cost charges for the benefit and account of such assignee or financing party, and will account for and remit such amounts to or for the account of such assignee or financing party;

(8) The treatment of the sale, conveyance, assignment, or other transfer for tax, financial reporting, or other purposes;

(9) The granting or providing to bondholders of a preferred right to the deferred fuel cost property or credit enhancement by the electric utility or its affiliates with respect to the deferred fuel cost bonds; or

(10) Any application of the formula-based adjustment mechanism as provided in this section.

c. Any right that an electric utility has in the deferred fuel cost property before its pledge, sale, or transfer or any other right created under this section or created in the financing order and assignable under this section or assignable pursuant to a financing order shall be property in the form of a contract right or a chose in action. Transfer of an interest in deferred fuel cost property to an assignee shall be enforceable only when all of the following have occurred: (i) a financing order is issued, (ii) value is received by the transferor for such deferred fuel cost property, (iii) the transferor has rights in such deferred fuel cost property or the power to transfer rights in such deferred fuel cost property, and (iv) transfer documents in connection with the issuance of deferred fuel cost bonds are executed and delivered by the transferor. An enforceable transfer of an interest in deferred fuel cost property to an assignee shall be perfected against all third parties, including subsequent judicial or other lien creditors, when a notice of that transfer has been given by the filing of a financing statement in accordance with subdivision 2 c. The transfer shall be perfected against third parties as of the date of filing.

d. The Commission shall maintain any financing statement filed to perfect any sale, assignment, or transfer of deferred fuel cost property under this section in the same manner that the Commission maintains financing statements filed by transmitting utilities under the Uniform Commercial Code (Titles 8.1A through 8.9A). The filing of any financing statement under this section shall be governed by the provisions regarding the filing of financing statements in the Uniform Commercial Code (Titles 8.1A through 8.9A). The filing of such a financing statement shall be the only method of perfecting a transfer of deferred fuel cost property.

e. The priority of a transfer perfected under this section shall not be impaired by any later modification of the financing order or deferred fuel cost property or by the commingling of funds arising from deferred fuel cost property with other funds. Any other security interest that may apply to those funds, other than a security interest perfected under subdivision 2, shall be terminated when they are transferred to a segregated account for the assignee or a financing party. If deferred fuel cost property has been transferred to an assignee or financing party, any proceeds of that property shall be held in trust for the assignee or financing party.

f. The priority of the conflicting interests of assignees in the same interest or rights in any deferred fuel cost property shall be determined as follows:

(1) Conflicting perfected interests or rights of assignees shall rank according to priority in time of perfection. Priority shall date from the time a filing covering the transfer is made in accordance with subdivision 2 c;

(2) A perfected interest or right of an assignee shall have priority over a conflicting unperfected interest or right of an assignee; and

(3) A perfected interest or right of an assignee shall have priority over a person who becomes a lien creditor after the perfection of such assignee's interest or right.

E. The description of deferred fuel cost property being transferred to an assignee in any sale agreement, purchase agreement, or other transfer agreement, granted or pledged to a pledgee in any security agreement, pledge agreement, or other security document, or indicated in any financing statement, shall only be sufficient if such description or indication refers to the financing order that created the deferred fuel cost property and states that the agreement or financing statement covers all or part of the property described in the financing order. This section shall apply to all purported transfers of, and all purported grants or liens or security interests in, deferred fuel cost property, regardless of whether the related sale agreement, purchase agreement, other transfer agreement, security agreement, pledge agreement, or other security document was entered into, or any financing statement was filed.

F. All financing statements referenced in this section shall be subject to Part 5 of Title 8.9A (§ 8.9A-501 et seq.) of the Uniform Commercial Code, except that the requirement as to continuation statements shall not apply.

G. The laws of the Commonwealth shall govern the validity, enforceability, attachment, perfection, priority, and exercise of remedies with respect to the transfer of an interest or right or the pledge or creation of a security interest in any deferred fuel cost property.

H. Neither the Commonwealth nor its political subdivisions shall be liable on any deferred fuel cost bonds, and the bonds shall not be a debt or a general obligation of the Commonwealth or any of its political subdivisions, agencies, or instrumentalities, nor shall they be special obligations or indebtedness of the Commonwealth or any of its agencies or political subdivisions. An issue of deferred fuel cost bonds shall not, directly, indirectly, or contingently, obligate the Commonwealth or any agency, political subdivision, or instrumentality of the Commonwealth to levy any tax or make any appropriation for payment of the deferred fuel cost bonds, other than in their capacity as consumers of electricity. All deferred fuel cost bonds shall contain on the face thereof a statement to the following effect: "NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, OR INTEREST ON, THIS BOND."

I. All of the following entities may legally invest any sinking funds, moneys, or other funds in deferred fuel cost bonds:

1. Subject to applicable statutory restrictions on state or local investment authority, the Commonwealth, units of local government, political subdivisions, public bodies, and public officers, except for members of the Commission;

2. Banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations, and other persons carrying on a banking or insurance business;

3. Personal representatives, guardians, trustees, and other fiduciaries; and

4. All other persons authorized to invest in bonds or other obligations of a similar nature.

J. 1. The Commonwealth and its agencies, including the Commission, pledge and agree with bondholders, the owners of the deferred fuel cost property, and other financing parties that the Commonwealth and its agencies shall not take any action listed in this subdivision. This subsection does not preclude limitation or alteration if full compensation is made by law for the full protection of the deferred fuel cost charges collected pursuant to a financing order and of the bondholders and any assignee or financing party entering into a contract with the electric utility. The Commonwealth and its agencies, including the Commission, shall not:

a. Alter the provisions of this section that authorize the Commission to create an irrevocable contract right or chose in action by the issuance of a financing order, to create deferred fuel cost property, and to make the deferred fuel cost charges imposed by a financing order irrevocable, binding, or nonbypassable charges;

b. Take or permit any action that impairs or would impair the value of deferred fuel cost property or the security for the deferred fuel cost bonds or revises the deferred fuel costs for which recovery is authorized;

c. In any way impair the rights and remedies of the bondholders, assignees, and other financing parties; or

d. Except for changes made pursuant to the formula-based adjustment mechanism authorized under this section, reduce, alter, or impair deferred fuel cost charges that are to be imposed, billed, charged, collected, and remitted for the benefit of the bondholders, any assignee, and any other financing parties until any and all principal, interest, premium, financing costs and other fees, expenses, or charges incurred, and any contracts to be performed, in connection with the related deferred fuel cost bonds have been paid and performed in full.

2. Any person that issues deferred fuel cost bonds may include the language specified in subdivision 1 in the deferred fuel cost bonds and related documentation.

K. An assignee or financing party shall not be considered an electric utility or person providing electric service by virtue of engaging in the transactions described in this section.

L. If there is a conflict between this section and any other law regarding the attachment, assignment, or perfection, or the effect of perfection, or priority of, assignment or transfer of, or security interest in deferred fuel cost property, this section shall govern.

M. In making determinations under this section, the Commission may engage an outside consultant and counsel.

N. If any provision of this section is held invalid or is invalidated, superseded, replaced, repealed, or expires for any reason, that occurrence shall not affect the validity of any action allowed under this section that is taken by an electric utility, an assignee, a financing party, a collection agent, or a party to an ancillary agreement, and any such action shall remain in full force and effect with respect to all deferred fuel cost bonds issued or authorized in a financing order issued under this section before the date that such provision is held invalid or is invalidated, superseded, replaced, or repealed, or expires for any reason.

O. As used in this section:

"Ancillary agreement" means a bond, insurance policy, letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, hedging arrangement, liquidity or credit support arrangement, or other financial arrangement entered into in connection with deferred fuel cost bonds.

"Assignee" means a legally recognized entity to which an electric utility assigns, sells, or transfers, other than as a security, all or a portion of its interest in or right to deferred fuel cost property. "Assignee" includes a corporation, limited liability company, general partnership or limited partnership, public authority trust, financing entity, or other entity to which an assignee assigns, sells, or transfers, other than as a security, all or a portion of its interest in or right to deferred fuel cost property.

"Bondholder" means a person who holds a deferred fuel cost bond.

"Deferred fuel cost bonds" means bonds debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership, or other evidences of indebtedness or ownership that are issued in one or more series or tranches by an electric utility or its assignee pursuant to a financing order, the proceeds of which are used directly or indirectly to recover, finance, or refinance Commission-approved deferred fuel costs and financing costs, and that are secured by or payable from deferred fuel cost property. If certificates of participation or ownership are issued, references in this section to principal, interest, or premium shall be construed to refer to comparable amounts under those certificates.

"Deferred fuel cost charge" means the nonbypassable charges authorized by the Commission to repay, finance, or refinance deferred fuel costs and financing costs (i) imposed on and part of all retail customer bills, except those of exempt retail access customers; (ii) collected by an electric utility or its successor or assignees, or a collection agent, in full, separate and apart from the electric utility's base rates; and (iii) paid by all retail customers of the electric utility, irrespective of the generation supplier of such customer, except for an exempt retail access customer.

"Deferred fuel cost property" includes:

1. All rights and interests of an electric utility or successor or assignee of the electric utility under a financing order, including the right to impose, bill, charge, collect, and receive deferred fuel cost charges authorized under the financing order and to obtain periodic adjustments to such charges as provided in the financing order; and

2. All revenues, collections, claims, rights to payments, payments, money, or proceeds arising from the rights and interests specified in the financing order, regardless of whether such revenues, collections, claims, rights to payment, payments, money, or proceeds are imposed, billed, received, collected, or maintained together with or commingled with other revenues, collections, rights to payment, payments, money, or proceeds.

"Deferred fuel costs" means the unrecovered amounts of previously incurred costs of fuel used to generate electricity, including the costs of purchased power, that have been deferred by an electric utility for future recovery from the utility's customers, along with financing costs on the utility's fuel deferral balance.

"Electric utility" means a Phase I Utility.

"Exempt retail access customer" means a retail customer of an electric utility that, pursuant to the provisions of § 56-577 or 56-577.1, purchased electric energy exclusively from a supplier of electric energy licensed to sell retail electric energy exclusively within the Commonwealth other than the electric utility, or that purchased electric energy from the electric utility pursuant to a Commission-approved market-based tariff, during the period when the deferred fuel costs to be financed were incurred. Such exemption shall be prorated to the extent an otherwise exempt retail customer purchased electric energy from the electric utility, in which case the retail customer shall be responsible for its pro rata share of deferred fuel cost charges authorized under a financing order.

"Financing costs" means:

1. Interest and any premium, including any acquisition, defeasance, or redemption premium, payable on deferred fuel cost bonds;

2. Any payment required under any indenture, ancillary agreement, or other financing documents pertaining to deferred fuel cost bonds and any amount required to fund or replenish a reserve account or other accounts established under the terms of any indenture, ancillary agreement, or other financing documents pertaining to deferred fuel cost bonds;

3. Any other costs related to structuring, offering, issuing, supporting, repaying, refunding, servicing, and complying with deferred fuel cost bonds, including service fees, accounting and auditing fees, trustee fees, legal fees, consulting fees, structuring adviser fees, administrative fees, placement and underwriting fees, independent director and manager fees, capitalized interest, rating agency fees, stock exchange listing and compliance fees, security registration fees, filing fees, information technology programming costs, and any other costs necessary to otherwise ensure the timely payment of deferred fuel cost bonds or other amounts or charges payable in connection with the bonds, including costs related to obtaining the financing order;

4. Any taxes and license fees or other fees imposed on the revenues generated from the collection of deferred fuel cost charges or otherwise resulting from the collection of deferred fuel cost charges, in any such case whether paid, payable, or accrued;

5. Any state and local taxes, franchise, gross receipts, and other taxes or similar charges, including regulatory assessment fees, whether paid, payable, or accrued;

6. Any costs incurred by the Commission for any outside consultants or counsel retained in connection with the securitization of deferred fuel costs; and

7. Any financing costs on the utility's fuel deferral balance prior to issuance of any fuel cost bonds, calculated at the utility's approved weighted average cost of capital.

"Financing order" means an order that authorizes the issuance of deferred fuel cost bonds; the imposition, collection, and periodic adjustments of a deferred fuel cost charge; the creation of deferred fuel cost property; the sale, assignment, or transfer of deferred fuel cost property to an assignee; and any other actions necessary or advisable to take actions described in the financing order.

"Financing party" means bondholders and trustees, collateral agents, any party under an ancillary agreement, or any other person acting for the benefit of bondholders.

"Financing statement" has the same meaning as provided in § 8.9A-102 of the Uniform Commercial Code.

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Pledgee" means a financing party to which an electric utility or its successors or assignees mortgages, negotiates, pledges, or creates a security interest or lien on all or any portion of its interest in or right to deferred fuel cost property.

§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase I Utility in 2020, utilizing the three successive 12-month test periods beginning January 1, 2017, and ending December 31, 2019. Thereafter, reviews for a Phase I Utility will be on a triennial basis with subsequent proceedings utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase II Utility in 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and ending December 31, 2020, with subsequent reviews on a triennial basis utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. All such reviews occurring after December 31, 2017, shall be referred to as triennial reviews. For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, the fair rate of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, and for any rate adjustment clauses approved under subdivision 5 or 6, shall be determined by the Commission during each such triennial review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest, but for applications received by the Commission on or after January 1, 2020, such return shall not be set lower than the average of either (i) the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such triennial review or (ii) the authorized returns on common equity that are set by the applicable regulatory commissions for the same selected peer group, nor shall the Commission set such return more than 150 basis points higher than such average.

b. In selecting such majority of peer group investor-owned electric utilities for applications received by the Commission on or after January 1, 2020, the Commission shall first remove from such group the two utilities within such group that have the lowest reported or authorized, as applicable, returns of the group, as well as the two utilities within such group that have the highest reported or authorized, as applicable, returns of the group, and the Commission shall then select

a majority of the utilities remaining in such peer group. In its final order regarding such triennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission and distribution services whose facilities and operations are subject to state public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test period subject to such triennial review, and (iv) it is not an affiliate of the utility subject to such triennial review.

c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this section. The provisions of this subdivision are subject to the provisions of subdivision 8.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent triennial review.

3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021, consisting of the schedules contained in the Commission's rules governing utility rate increase applications. Such filing shall encompass the three successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, except that the filing for a Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending

December 31, 2020, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future triennial review proceedings. In a triennial filing under this subdivision that does not result in an overall rate change a utility may propose an adjustment to one or more tariffs that are revenue neutral to the utility.

4. (Expires December 31, 2023) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission; (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member; and (iii) costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service; charges for new and existing transmission facilities, including costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park; administrative charges; and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

4. (Effective January 1, 2024) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission, and (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service, charges for new and existing transmission facilities, administrative charges, and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs or pilot programs. The Commission shall approve such a petition if it finds that the program is in the public interest, provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs or pilot programs. Any such petition shall include a proposed budget for the design, implementation, and operation of the energy efficiency program, including anticipated savings from and spending on each program, and the Commission shall grant a final order on such petitions within eight months of initial filing. The Commission shall only approve such a petition if it finds that the program is in the public interest. If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program that has bearing upon the Commission's determination. Such order shall adhere to existing protocols for extraordinarily sensitive information.

Energy efficiency pilot programs are in the public interest provided that the pilot program is (i) of limited scope, cost, and duration and (ii) intended to determine whether a new or substantially revised program would be cost-effective.

Prior to January 1, 2022, the Commission shall award a margin for recovery on operating expenses for energy efficiency programs and pilot programs, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. Beginning January 1, 2022, and thereafter, if the Commission determines that the utility meets in any year the annual energy efficiency standards set forth in § 56-596.2, in the following year, the Commission shall award a margin on energy efficiency program operating expenses in that year, to be recovered through a rate adjustment clause, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. If the Commission does not approve energy efficiency programs that, in the aggregate, can achieve the

annual energy efficiency standards, the Commission shall award a margin on energy efficiency operating expenses in that year for any programs the Commission has approved, to be recovered through a rate adjustment clause under this subdivision, which margin shall equal the general rate of return on common equity determined as described in subdivision 2. Any margin awarded pursuant to this subdivision shall be applied as part of the utility's next rate adjustment clause true-up proceeding. The Commission shall also award an additional 20 basis points for each additional incremental 0.1 percent in annual savings in any year achieved by the utility's energy efficiency programs approved by the Commission pursuant to this subdivision, beyond the annual requirements set forth in § 56-596.2, provided that the total performance incentive awarded in any year shall not exceed 10 percent of that utility's total energy efficiency program spending in that same year.

The Commission shall annually monitor and report to the General Assembly the performance of all programs approved pursuant to this subdivision, including each utility's compliance with the total annual savings required by § 56-596.2, as well as the annual and lifecycle net and gross energy and capacity savings, related emissions reductions, and other quantifiable benefits of each program; total customer bill savings that the programs produce; utility spending on each program, including any associated administrative costs; and each utility's avoided costs and cost-effectiveness results.

Notwithstanding any other provision of law, unless the Commission finds in its discretion and after consideration of all in-state and regional transmission entity resources that there is a threat to the reliability or security of electric service to the utility's customers, the Commission shall not approve construction of any new utility-owned generating facilities that emit carbon dioxide as a by-product of combusting fuel to generate electricity unless the utility has already met the energy savings goals identified in § 56-596.2 and the Commission finds that supply-side resources are more cost-effective than demand-side or energy storage resources.

As used in this subdivision, "large general service customer" means a customer that has a verifiable history of having used more than one megawatt of demand from a single site.

Large general service customers shall be exempt from requirements that they participate in energy efficiency programs if the Commission finds that the large general service customer has, at the customer's own expense, implemented energy efficiency programs that have produced or will produce measured and verified results consistent with industry standards and other regulatory criteria stated in this section. The Commission shall, no later than June 30, 2021, adopt rules or regulations (a) establishing the process for large general service customers to apply for such an exemption, (b) establishing the administrative procedures by which eligible customers will notify the utility, and (c) defining the standard criteria that shall be satisfied by an applicant in order to notify the utility, including means of evaluation measurement and verification and confidentiality requirements. At a minimum, such rules and regulations shall require that each exempted large general service customer certify to the utility and Commission that its implemented energy efficiency programs have delivered measured and verified savings within the prior five years. In adopting such rules or regulations, the Commission shall also specify the timing as to when a utility shall accept and act on such notice, taking into consideration the utility's integrated resource planning process, as well as its administration of energy efficiency programs that are approved for cost recovery by the Commission. Savings from large general service customers shall be accounted for in utility reporting in the standards in § 56-596.2.

The notice of nonparticipation by a large general service customer shall be for the duration of the service life of the customer's energy efficiency measures. The Commission may on its own motion initiate steps necessary to verify such nonparticipant's achievement of energy efficiency if the Commission has a body of evidence that the nonparticipant has knowingly misrepresented its energy efficiency achievement.

A utility shall not charge such large general service customer for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of compliance with renewable energy portfolio standard requirements pursuant to § 56-585.5 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs incurred as required by § 56-585.5, provided that the Commission does not otherwise find such costs were unreasonably or imprudently incurred;

e. Projected and actual costs of projects that the Commission finds to be necessary to mitigate impacts to marine life caused by construction of offshore wind generating facilities, as described in § 56-585.1:11, or to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load obligations, including the costs of allowances purchased through a market-based trading program for carbon dioxide emissions. The Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations;

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility; and

g. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission to provide incentives to (i) low-income, elderly, and disabled individuals or (ii) organizations providing residential services to low-income, elderly, and disabled individuals for the installation of, or access to, equipment to generate electric energy derived from sunlight, provided the low-income, elderly, and disabled individuals, or organizations providing residential services to low-income, elderly, and disabled individuals, first participate in incentive programs for the installation of measures that reduce heating or cooling costs.

Any rate adjustment clause approved under subdivision 5 c by the Commission shall remain in effect until the utility exhausts the approved budget for the energy efficiency program. The Commission shall have the authority to determine the duration or amortization period for any other rate adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, including the costs of any system or equipment upgrade, system or equipment replacement, or other cost reasonably appropriate to extend the combined operating license for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, (v) one or more pumped hydroelectricity generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, or (vi) one or more electric distribution grid transformation projects; however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv) or (vi), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv) or (vi), as applicable. As of December 1, 2028, any costs recovered by a utility pursuant to clause (iv) shall be limited to any remaining costs associated with conversions of overhead distribution facilities to underground facilities that have been previously approved or are pending approval by the Commission through a petition by the utility under this subdivision. Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs or makes modifications to any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility that emits carbon dioxide shall demonstrate that it has already met the energy savings goals identified in § 56-596.2 and that the identified need cannot be met more affordably through the deployment or utilization of demand-side resources or energy storage resources and that it has considered and weighed alternative options, including third-party market alternatives, in its selection process.

The costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service. In any application to construct a new

generating facility, the utility shall include, and the Commission shall consider, the social cost of carbon, as determined by the Commission, as a benefit or cost, whichever is appropriate. The Commission shall ensure that the development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on historically economically disadvantaged communities. The Commission may adopt any rules it deems necessary to determine the social cost of carbon and shall use the best available science and technology, including the Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, published by the Interagency Working Group on Social Cost of Greenhouse Gases from the United States Government in August 2016, as guidance. The Commission shall include a system to adjust the costs established in this section with inflation.

Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities or new electric distribution grid transformation projects are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) or (v) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, that use energy derived from sunlight or from onshore wind and are located in the Commonwealth or off the Commonwealth's Atlantic shoreline, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. The replacement of any subset of a utility's existing overhead distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric service reliability is in the public interest. In determining whether to approve petitions for rate adjustment clauses for such new underground facilities that meet this criteria, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title.

The conversion of any such facilities on or after September 1, 2016, is deemed to provide local and system-wide benefits and to be cost beneficial, and the costs associated with such new underground facilities are deemed to be reasonably and prudently incurred and, notwithstanding the provisions of subsection C or D, shall be approved for recovery by the Commission pursuant to this subdivision, provided that the total costs associated with the replacement of any subset of existing overhead distribution tap lines proposed by the utility with new underground facilities, exclusive of financing costs, shall not exceed an average cost per customer of $20,000, with such customers, including those served directly by or downline of the tap lines proposed for conversion, and, further, such total costs shall not exceed an average cost per mile of tap lines converted, exclusive of financing costs, of $750,000. A utility shall, without regard for whether it has petitioned for any rate adjustment clause pursuant to clause (vi), petition the Commission, not more than once annually, for approval of a plan for electric distribution grid transformation projects. Any plan for electric distribution grid transformation projects shall include both measures to facilitate integration of distributed energy resources and measures to enhance physical electric distribution grid reliability and security. In ruling upon such a petition, the Commission shall consider whether the utility's plan for such projects, and the projected costs associated therewith, are reasonable and prudent. Such petition shall be considered on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility; without regard to whether the costs associated with such projects will be recovered through a rate adjustment clause under this subdivision or through the utility's rates for generation and distribution services; and without regard to whether such costs will be the subject of a customer credit offset, as applicable, pursuant to subdivision 8 d. The Commission's final order regarding any such petition for approval of an electric distribution grid transformation plan shall be entered by the Commission not more than six months after the date of filing such petition. The Commission shall likewise enter its final

order with respect to any petition by a utility for a certificate to construct and operate a generating facility or facilities utilizing energy derived from sunlight, pursuant to subsection D of § 56-580, within six months after the date of filing such petition. The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years
Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

Only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014. Thirty percent of all costs of a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore or offshore wind are in the public interest.

Notwithstanding any provision of Chapter 296 of the Acts of Assembly of 2018, construction, purchasing, or leasing activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore wind with an aggregate capacity of 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, together with a utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 3,000 megawatts, are in the public interest. Additionally, energy storage facilities with an aggregate capacity of 2,700 megawatts are in the public interest. To the extent that a utility elects to recover the costs of any such new generation or energy storage facility or facilities through its rates for generation and distribution services and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (ii), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding pursuant to subsection D of § 56-580 or in a triennial review proceeding.

Electric distribution grid transformation projects are in the public interest. To the extent that a utility elects to recover the costs of such electric distribution grid transformation projects through its rates for generation and distribution services, and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (vi), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding for approval of a plan for electric distribution grid transformation projects pursuant to subdivision 6 or in a triennial review proceeding.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.2-1600, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission for such utility pursuant to subdivision 2.

Notwithstanding any other provision of this subdivision, if the Commission finds during the triennial review conducted for a Phase II Utility in 2021 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from the Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or demonstration project involving a generation facility utilizing energy from offshore wind, and such utility has not, as of July 1, 2023, commenced construction as defined for federal income tax purposes of an offshore wind generation facility or facilities with a minimum aggregate capacity of 250 megawatts, then the Commission, if it finds it in the public interest, may direct that the costs associated with any such rate adjustment clause involving said test or demonstration project shall thereafter no longer be recovered through a rate adjustment clause pursuant to subdivision 6 and shall instead be recovered through the utility's rates for generation and distribution services, with no change in such rates for generation and distribution services as a result of the combination of such costs with the other costs, revenues, and investments included in the utility's rates for generation and distribution services. Any such costs shall remain combined with the utility's other costs, revenues, and investments included in its rates for generation and distribution services until such costs are fully recovered.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered

generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with respect to triennial filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later. *At any time, the Commission may, in its discretion, for a Phase I Utility, upon petition by such a utility or upon its own initiated proceeding, direct the consolidation of any one or more subsets of rate adjustment clauses previously implemented pursuant to subdivision 5 or 6 in the interest of judicial economy, customer transparency, or other factors the Commission determines to be appropriate. Any subset of rate adjustment clauses so consolidated shall continue to be considered by the Commission without regard to the other costs, revenues, investments, or earnings of the utility and remain as a cost recovery mechanism independent from the utility's rates for generation and distribution services pursuant to § 56-585.8 and subdivisions 5 and 6, but will be combined as a single rate adjustment clause for cost recovery and review purposes. Any rate adjustment clause or subset of rate adjustment clauses so consolidated shall be named in a manner, as determined by the Commission, that reasonably informs customers as to the nature of the costs recovered by the consolidated rate adjustment clause.*

8. In any triennial review proceeding, for the purposes of reviewing earnings on the utility's rates for generation and distribution services, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review and deemed fully recovered in the period recorded: costs associated with asset impairments related to early retirement determinations made by the utility for utility generation facilities fueled by coal, natural gas, or oil or for automated meter reading electric distribution service meters; costs associated with projects necessary to comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to coal combustion by-product management that the utility does not petition to recover through a rate adjustment clause pursuant to subdivision 5 e; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such triennial review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a triennial review, for normalization of nonrecurring test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of such triennial review that:

a. Revenue reductions related to energy efficiency measures or programs approved and deployed since the utility's previous triennial review have caused the utility, as verified by the Commission, during the test period or periods under review, considered as a whole, to earn more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates for generation and distribution services necessary to recover such revenue reductions. If the Commission finds, for reasons other than revenue reductions related to energy efficiency measures, that the utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates

necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the amount of the rate increase necessary. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, the Commission may not order a rate increase, and in all triennial reviews of a Phase I or Phase II utility, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate increase under the standards of this sentence, and the amount thereof; and provided that, solely in connection with making its determination concerning the necessity for such a rate increase or the amount thereof, the Commission shall, in any triennial review proceeding conducted prior to July 1, 2028, exclude from this most recently ended 12-month test period any remaining investment levels associated with a prior customer credit reinvestment offset pursuant to subdivision d.

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivisions 8 d and 9, direct that 60 percent of the amount of such earnings that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. In any triennial review proceeding conducted after January 1, 2020, for a Phase I Utility or after January 1, 2021, for a Phase II Utility in which the utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, and the combined aggregate level of capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test periods under review in that triennial review proceeding in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and in electric distribution grid transformation projects, as determined pursuant to subdivision 8 d, does not equal or exceed 100 percent of the earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the combined test periods under review in that triennial review proceeding, the Commission shall, subject to the provisions of subdivision 9 and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, any reduction to the utility's rates ordered by the Commission pursuant to this subdivision shall not exceed $50 million in annual revenues, with any reduction allocated to the utility's rates for generation services, and in each triennial review of a Phase I or Phase II Utility, the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof; and

d. (Expires July 1, 2028) In any triennial review proceeding conducted after December 31, 2017, upon the request of the utility, the Commission shall determine, prior to directing that 70 percent of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the test period or periods under review be credited to customer bills pursuant to subdivision 8 b, the aggregate level of prior capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test period or periods under review in both (i) new utility-owned generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, and (ii) electric distribution grid transformation projects, as determined by the utility's plant in service and construction work in progress balances related to such investments as recorded per books by the utility for financial reporting purposes as of the end of the most recent test period under review. Any such combined capital investment amounts shall offset any customer bill credit amounts, on a dollar for dollar basis, up to the aggregate level of invested or committed capital under clauses (i) and (ii). The aggregate level of qualifying invested or committed capital under clauses (i) and (ii) is referred to in this

subdivision as the customer credit reinvestment offset, which offsets the customer bill credit amount that the utility has invested or will invest in new solar or wind generation facilities or electric distribution grid transformation projects for the benefit of customers, in amounts up to 100 percent of earnings that are more than 70 basis points above the utility's fair rate of return on its generation and distribution services, and thereby reduce or eliminate otherwise incremental rate adjustment clause charges and increases to customer bills, which is deemed to be in the public interest. If 100 percent of the amount of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services, as determined in subdivision 2, exceeds the aggregate level of invested capital in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and electric distribution grid transformation projects, as provided in clauses (i) and (ii), during the test period or periods under review, then 70 percent of the amount of such excess shall be credited to customer bills as provided in subdivision 8 b in connection with the triennial review proceeding. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is the subject of any customer credit reinvestment offset pursuant to this subdivision shall not thereafter be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall not thereafter be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 and shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is not the subject of any customer credit reinvestment offset pursuant to this subdivision may be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 until such costs are fully recovered, and if such costs are recovered through the utility's rates for generation and distribution services, they shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. Only the portion of such costs of new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that has not been included in any customer credit reinvestment offset pursuant to this subdivision, and not otherwise recovered through the utility's rates for generation and distribution services, may be the subject of a rate adjustment clause petition by the utility pursuant to subdivision 6.

The Commission's final order regarding such triennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such triennial review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire three successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent triennial review filing under subdivision 3 and shall apply to applicable rate adjustment clauses under subdivisions 5 and 6 prospectively from the date the Commission's final order in the triennial review proceeding, utilizing rate adjustment clause true-up protocols as the Commission in its discretion may determine.

9. If, as a result of a triennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently ended 12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c, provided that no credits shall be provided pursuant to this subdivision in connection with any triennial review unless such bill credits would be payable pursuant to the provisions of subdivision 8 d, and any credits under this subdivision shall be calculated net of any customer credit reinvestment offset amounts under subdivision 8 d. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, excluding any debt associated with securitized bonds that are the obligation of non-Virginia jurisdictional customers, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by customers.

E. Notwithstanding any other provision of law, the Commission shall determine the amortization period for recovery of any appropriate costs due to the early retirement of any electric generation facilities owned or operated by any Phase I Utility or Phase II Utility. In making such determination, the Commission shall (i) perform an independent analysis of the remaining undepreciated capital costs; (ii) establish a recovery period that best serves ratepayers; and (iii) allow for the recovery of any carrying costs that the Commission deems appropriate.

F. *The Commission shall include in its report required by subsection B of § 56-596 any information concerning the reliability impacts of generation unit additions and retirement determinations by a Phase I or Phase II Utility along with the potential impact on the purchase of power from generation assets outside the Virginia jurisdiction used to serve the utility's native load, utilizing information from the respective utility's integrated resource plan or information from the respective utility's plan filed pursuant to subsection D of § 56-585.5.*

G. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

§ 56-585.8. Biennial rate reviews.

A. For the purposes of this section:

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Utility" means a Phase I Utility.

B. With the first review commencing on March 31, 2024, and biennially thereafter, the Commission shall conduct rate reviews of the rates, terms, and conditions for the provision of generation and distribution services by a Phase I Utility that participated in triennial review proceedings in 2020 and 2023, and such Phase I Utility shall no longer be subject to triennial review proceedings pursuant to § 56-585.1.

C. In each biennial review, the Commission shall conduct a proceeding to review all rates, terms, and conditions for generation and distribution services with such proceeding utilizing the two successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted. Such biennial review shall be conducted in a single, combined proceeding, except for review of the following costs, which the utility shall continue to recover and the Commission shall continue to review separately, pursuant to the applicable statutory provisions: costs that are recovered pursuant to (i) § 56-249.6, (ii) subdivisions A 4, 5, and 6 of § 56-585.1, and (iii) § 56-585.6.

D. Each biennial rate review proceeding shall commence on or before March 31 of the biennial review year with the filing of a petition by each Phase I Utility subject to the provisions of this section. The Commission, after providing notice and an opportunity for hearing, shall grant a final order on such petition no later than November 20. Any revisions in rates ordered by the Commission pursuant to the rate review shall take effect no later than January 1 of the subsequent year.

E. In each biennial review proceeding, the Commission shall set the fair rate of return on common equity applicable to the generation and distribution services of the utility for the two such services combined and for any rate adjustment clauses approved under subdivision A 5 or 6 of § 56-585.1. The Commission may use any methodology it finds consistent with the public interest to determine the Phase I Utility's fair rate of return on common equity. The Commission may increase or decrease the combined rate of return for generation and distribution services by up to 50 basis points based on factors that may include reliability, generating plant performance, customer service, and operating efficiency of a utility. Any such adjustment to the combined rate of return for generation and distribution services shall include consideration of nationally recognized standards determined by the Commission to be appropriate for such purposes.

F. In any biennial review for a Phase I Utility, if the Commission determines in its sole discretion that the utility's existing rates for generation and distribution services will, on a going-forward basis, either produce (i) revenues in excess of the utility's authorized rate of return or (ii) revenues below the utility's authorized rate of return, then the Commission shall order any reductions or increases, as applicable and necessary, to such rates for generation and distribution services that it deems appropriate to ensure the resulting rates for generation and distribution services (a) are just and reasonable and (b) provide the utility an opportunity to recover its costs of providing services over the rate period ending on December 31 of the year of the utility's succeeding review and earn a fair rate of return authorized pursuant to this section. Such determination shall be limited to the Phase I Utility's rates for generation and distribution services and shall not consider the costs or revenues recovered in any rate adjustment clause authorized pursuant to this chapter.

G. In any biennial review of rates for generation and distribution services, if the combined rate of return on common equity earned is no more than 100 basis points above or below the fair combined rate of return, as determined by the Commission, for the test period under review, then such combined return shall not be considered either excessive or insufficient, respectively.

1. If in any biennial review, the Commission finds that, during the test period under review, considered as a whole, the utility has earned more than 100 basis points above the authorized fair combined rate of return on its generation or distribution services, the Commission shall direct that 100 percent of the amount of such earnings that were more than 100 basis points above such fair combined rate of return for the test period under review, considered as a whole, be credited to customers' bills. Any such credits shall be applied to customers' bills, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

2. The Commission shall authorize deferred recovery for reasonable (i) actual costs associated with severe weather events and (ii) actual costs associated with natural disasters, not currently in rates, and the Commission shall allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The amount of any such deferral shall not exceed an amount that would, together with the utility's other costs, revenues, and investments recovered through rates for generation and distribution services for the test period under review, cause the utility's earned return on its generation and distribution services to exceed 100 basis points above the fair combined rate of return applicable to the test period under review. For the purposes of determining any amount of costs that are associated with severe weather events, the Commission shall consider nationally recognized standards such as those published by the Institute of Electrical and Electronics Engineers (IEEE).

Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this subsection shall not be considered for the purpose of determining the utility's earnings in any subsequent biennial review.

H. In any proceeding under this title, including each biennial review, to determine the prior two years' excess or deficiency for the purposes of subsection F, the Commission shall use an average rate base using the actual starting and end-of-test period capital structure of the utility, excluding any debt associated with any securitized bonds and without regard to the cost of capital, capital structure, or investments of any other entities with which the utility is affiliated. To determine a revenue requirement in any proceeding under this title, the Commission shall use the utility's actual end-of-test period capital structure and cost of capital without regard to the cost of capital, capital structure, or investments of any other entities with which the utility is affiliated, including debt associated with any securitized bonds, unless the Commission makes a finding, based on evidence in the record, that the debt to equity ratio of the actual end-of-test period capital structure of such utility is unreasonable, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable.

In a rate review for a Phase I Utility that is part of a publicly traded, consolidated group, the Commission shall determine federal and state income tax costs as follows: (i) the utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) the utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

I. The Commission is authorized to determine during any biennial review the reasonableness or prudence of any cost subject to the rate review incurred or projected to be incurred by the utility, and a Phase I Utility shall recover such costs that the Commission finds to be reasonable and prudent.

J. In any biennial review conducted pursuant to this section, a Phase I Utility or any other party may propose changes to its terms and conditions and the Commission may approve, reject, or amend any changes and may propose any special rates, contracts, or incentives pursuant to § 56-235.2.

K. Nothing in this section shall alter a Phase I Utility's obligations pursuant to §§ 56-585.5 and 56-596.2.

L. To the extent that the provisions of this section are inconsistent with the provisions of § 56-585.1, the provisions of this section shall control.

§ 56-597. Definitions.

As used in this chapter:

"Affiliate" means a person that controls, is controlled by, or is under common control with an electric utility.

"Electric utility" means any investor-owned public utility that provides electric energy for use by retail customers, *except investor-owned utilities subject to the provisions of § 56-585.8.*

"Integrated resource plan" or "IRP" means a document developed by an electric utility that provides a forecast of its load obligations and a plan to meet those obligations by supply side and demand side resources over the ensuing 15 years to promote reasonable prices, reliable service, energy independence, and environmental responsibility.

"Retail customer" means any person that purchases retail electric energy for its own consumption at one or more metering points or non-metered points of delivery located in the Commonwealth.

2. That for the biennial review of a Phase I Utility, as that term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, as amended by this act, conducted by the State Corporation Commission (the Commission) in 2024, the Commission shall, in determining any excess or deficiency in the utility's earnings in accordance with § 56-585.8 of the Code of Virginia, as created by this act, utilize a 12-month test period beginning January 1, 2023, and ending December 31, 2023.

3. That a Phase I Utility, as that term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, as amended by this act, in connection with any financing order petition filed with the State Corporation Commission (the Commission) prior to December 31, 2023, pursuant to § 56-249.6:1 of the Code of Virginia, as created by this act, shall permit any retail customer that is receiving electric supply service from the utility and whose demand exceeded five megawatts during the calendar year prior to such petition to opt out of financing its pro rata obligation for deferred fuel cost charges through deferred fuel cost bonds. The utility shall notify such eligible customers of their eligibility to opt out of the deferred fuel cost financing through its annual petition with the Commission pursuant to § 56-249.6 of the Code of Virginia, and any election to opt out of the deferred fuel cost financing by an eligible customer shall be provided in writing to the utility within 30 days of the filing of such petition. Upon such election, the eligible customer shall fully satisfy such customer's pro rata obligation for the deferred fuel cost charges subject to financing, as determined based on such customer's electric usage over the period that such charges were incurred, over the 12-month period prescribed by subsection C of § 56-249.6 of the Code of Virginia that is associated with such annual petition. In the event of such election, any deferred fuel cost charges approved for recovery through deferred fuel cost bonds shall not include the obligations of eligible customers opting out of the deferred fuel cost financing.

4. That for purposes of considering future performance-based adjustments to the combined rate of return in accordance with subsection E of § 56-585.8 of the Code of Virginia, as created by this act, the State Corporation Commission (the Commission), before December 31, 2023, shall direct the initiation of a proceeding to review and determine the appropriate protocols and standards applicable to implementing any such performance-based adjustments. The protocols and standards established as a result of such a proceeding shall apply to biennial review filings occurring on or after January 1, 2026. However, if the Commission determines that the public interest would be better served by implementing such protocols and standards for biennial review filings occurring on or after January 1, 2027, then such performance standards and protocols shall be applicable to all biennial rate review filings made on or after January 1, 2027. Beginning January 1, 2024, and until such standards and protocols are applicable, the Commission shall retain existing authority under subsection A of § 56-585.1 of the Code of Virginia, as amended by this act, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, to increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

CHAPTER 777

An Act to amend and reenact § 10.1-603 of the Code of Virginia, relating to state agency compliance with flood plain management regulations.

[H 1807]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-603 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-603. State agency compliance.

A. All agencies and departments of the Commonwealth shall comply with ~~the flood plain regulations established pursuant to this article when planning for facilities in flood plains~~ *the following when undertaking development activities, including the construction or rehabilitation of buildings and structures, on state-owned property located in a flood plain:*

1. Adhere to all local flood plain management regulations as defined in § 10.1-600; or

2. Receive formal approval from the Department regarding compliance with the applicable state standard for development in a flood plain, provided that such standard does not jeopardize a locality's participation in the National Flood Insurance Program.

B. Compliance with the provisions of subsection A shall be documented and provided in the form of a permit by the Department to the applicant prior to preliminary design approval of a project by the Department of General Services, if such approval by the Department of General Services is otherwise applicable. If any changes are made to the preliminary design during the review conducted by the Department of General Services, the Department of General Services will coordinate with the Department to ensure the permit issued is still appropriate.

C. A permit may be issued by the Department if no feasible alternative to development in a flood plain exists. However, such permit shall be issued only if:

1. Issuing the permit will not result in increased flood heights in excess of the state standard, additional threats to public safety, or extraordinary public expense;

2. The development activities, including the construction or rehabilitation of a building or structure, is demonstrated to be a functionally dependent use, such as water treatment facilities, boat houses, fish hatcheries, or other similar uses;

3. The facility is historic and requires repair or rehabilitation and it has been demonstrated that the proposed repair or rehabilitation will not preclude the facility's continued designation as a historic structure and the permit is the minimum necessary to preserve the historic character and design of the facility; or

4. The development activity is demonstrated to be necessary to protect public health, safety, and welfare.

D. If the Department does not issue a permit for a project, the Department of General Services shall not approve such project.

E. The Department shall provide all permits in writing to the applicant and the locality and shall maintain all documentation associated with permits issued by the Department in perpetuity.

F. The Department may enter into a memorandum of understanding with a state agency to outline procedures and processes to review proposed development activities, including the construction or rehabilitation of buildings and structures, on state-owned property located in a flood plain. A memorandum of understanding with a state agency may also establish alternative approvals and processes for compliance with the applicable state standard pursuant to subsection A. Alternative approvals and processes may include the development and issuance of permits by the Department for certain eligible activities.

2. That, no later than September 30, 2023, the Department of Conservation and Recreation, in cooperation with the Secretaries of Administration, Agriculture and Forestry, Commerce and Trade, Education, Health and Human Resources, Natural and Historic Resources, Public Safety and Homeland Security, and Transportation, or their designees, the Special Assistant to the Governor for Coastal Adaptation and Protection, or his designee, and any additional state officials designated by the Chief Resilience Officer, shall establish state standards for development in a flood plain for all state agencies and departments of the Commonwealth. At a minimum, such standards shall require compliance with the National Flood Insurance Program and require all development by state agencies or departments of the Commonwealth that occurs in a Special Flood Hazard Area on state-owned land to be protected or flood-proofed against flooding and flood damage.

CHAPTER 778

An Act to amend and reenact §§ 2.2-3106, 2.2-3705.4, 2.2-3711, 2.2-4343, 2.2-4345, 22.1-209.2, 23.1-608, 23.1-608.1, 23.1-809, 23.1-1100, 23.1-1200, 23.1-2001, 23.1-2002, 32.1-69.3, 32.1-279, 38.2-5008, and 54.1-2961 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 20 of Title 23.1 sections numbered 23.1-2005, 23.1-2006, and 23.1-2007; and to repeal Chapter 30 (§§ 23.1-3000 through 23.1-3014) of Title 23.1 of the Code of Virginia, relating to Eastern Virginia Medical School; establishment of Eastern Virginia Health Sciences Center at Old Dominion University.

[H 1840]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3106, 2.2-3705.4, 2.2-3711, 2.2-4343, 2.2-4345, 22.1-209.2, 23.1-608, 23.1-608.1, 23.1-809, 23.1-1100, 23.1-1200, 23.1-2001, 23.1-2002, 32.1-69.3, 32.1-279, 38.2-5008, and 54.1-2961 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 20 of Title 23.1 sections numbered 23.1-2005, 23.1-2006, and 23.1-2007 as follows:

§ 2.2-3106. Prohibited contracts by officers and employees of state government.

A. No officer or employee of any governmental agency of state government ~~or Eastern Virginia Medical School~~ shall have a personal interest in a contract with the governmental agency of which he is an officer or employee, other than his own contract of employment.

B. No officer or employee of any governmental agency of state government ~~or Eastern Virginia Medical School~~ shall have a personal interest in a contract with any other governmental agency of state government unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee's personal interest in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided *that* the employee does not exercise any control over the employment or the employment activities of the member of his immediate family and the employee is not in a position to influence those activities;

2. The personal interest of an officer or employee of a public institution of higher education ~~or the Eastern Virginia Medical School~~ in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided *that* (i) the officer or employee and the immediate family member are engaged in teaching, research, or administrative support positions at the educational institution ~~or the Eastern Virginia Medical School,~~*;* (ii) the governing board of the educational institution finds that it is in the best interests of the institution ~~or the Eastern Virginia Medical School~~ and the Commonwealth for such dual employment to exist~~,~~*;* and (iii) after such finding, the governing board of the educational institution ~~or the Eastern Virginia Medical School~~ ensures that the officer or employee, or the immediate family member, does not have sole authority to supervise, evaluate, or make personnel decisions regarding the other;

3. An officer's or employee's personal interest in a contract of employment with any other governmental agency of state government;

4. Contracts for the sale by a governmental agency ~~or the Eastern Virginia Medical School~~ of services or goods at uniform prices available to the general public;

5. An employee's personal interest in a contract between a public institution of higher education in the Commonwealth ~~or the Eastern Virginia Medical School~~ and a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he has authored or otherwise created such textbooks or materials;

6. An employee's personal interest in a contract with his or her employing public institution of higher education to acquire the collections or scholarly works owned by the employee, including manuscripts, musical scores, poetry, paintings, books or other materials, writings, or papers of an academic, research, or cultural value to the institution, provided *that* the president of the institution approves the acquisition of such collections or scholarly works as being in the best interests of the institution's public mission of service, research, or education;

7. Subject to approval by the board of visitors, an employee's personal interest in a contract between ~~the Eastern Virginia Medical School or~~ a public institution of higher education in the Commonwealth that operates a school of medicine or dentistry and a not-for-profit nonstock corporation that operates a clinical practice within such public institution of higher education ~~or the Eastern Virginia Medical School~~ and of which such employee is a member or employee;

8. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract for research and development or commercialization of intellectual property between a public institution of higher education in the Commonwealth ~~or the Eastern Virginia Medical School~~ and a business in which the employee has a personal interest, if (i) the employee's personal interest has been disclosed to and approved by such public institution of higher education ~~or the Eastern Virginia Medical School~~ prior to the time at which the contract is entered into; (ii) the employee promptly files a disclosure statement pursuant to § 2.2-3117 and thereafter files such statement annually on or before January 15; (iii) the institution has established a formal policy regarding such contracts, approved by the State Council of Higher Education ~~or, in the case of the Eastern Virginia Medical School, a formal policy regarding such contracts in conformity with any applicable federal regulations that has been approved by its board of visitors~~ *for Virginia*; and (iv) no later than December 31 of each year, the institution ~~or the Eastern Virginia Medical School~~ files an annual report with the Secretary of the Commonwealth disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's ~~or the Eastern Virginia Medical School's~~ employee responsible for administering each contract, the details of the institution's ~~or the Eastern Virginia Medical School's~~ commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth; or

9. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract between a public institution of higher education in the Commonwealth ~~or the Eastern Virginia Medical School~~ and a business in which the employee has a personal interest, if (i) the personal interest has been disclosed to the institution ~~or the Eastern Virginia Medical School~~ prior to the time the contract is entered into; (ii) the employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually on or before January 15; (iii) the employee does not participate in the institution's ~~or the Eastern Virginia Medical School's~~ decision to contract; (iv) the president of the institution ~~or the Eastern Virginia Medical School~~ finds and certifies in writing that the contract is for goods and services needed for quality patient care, including

related medical education or research, by the institution's medical center ~~or the Eastern Virginia Medical School~~, its affiliated teaching hospitals and other organizations necessary for the fulfillment of its mission, including the acquisition of drugs, therapies and medical technologies; and (v) no later than December 31 of each year, the institution ~~or the Eastern Virginia Medical School~~ files an annual report with the Secretary of the Commonwealth disclosing each open contract entered subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's ~~or the Eastern Virginia Medical School's~~ employee responsible for administering each contract, the details of the institution's ~~or the Eastern Virginia Medical School's~~ commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth.

D. Notwithstanding the provisions of subdivisions C 8 and C 9, if the research and development or commercialization of intellectual property or the employee's personal interest in a contract with a business is subject to policies and regulations governing conflicts of interest promulgated by any agency of the United States government, including the adoption of policies requiring the disclosure and management of such conflicts of interests, the policies established by the Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University* pursuant to such federal requirements shall constitute compliance with subdivisions C 8 and C 9, upon notification by the Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University* to the Secretary of the Commonwealth by January 31 of each year of evidence of their compliance with such federal policies and regulations.

E. The board of visitors may delegate the authority granted under subdivision C 8 to the president of the institution. If the board elects to delegate such authority, the board shall include this delegation of authority in the formal policy required by clause (iii) of subdivision C 8. In those instances where the board has delegated such authority, on or before December 1 of each year, the president of the relevant institution shall file a report with the relevant board of visitors disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's ~~or the Eastern Virginia Medical School's~~ employee responsible for administering each contract, the details of the institution's ~~or the Eastern Virginia Medical School's~~ commitment or investment of resources or finances for each contract, the details of how revenues are to be ~~dispersed~~ *disbursed*, and any other information requested by the board of visitors.

§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions.

A. The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except as provided in subsection B or where such disclosure is otherwise prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of 18 years. For scholastic records of students under the age of 18 years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a public institution of higher education in the Commonwealth, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such records shall be disclosed.

2. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment or promotion, or (iii) receipt of an honor or honorary recognition.

3. Information held by the Brown v. Board of Education Scholarship Committee that would reveal personally identifiable information, including scholarship applications, personal financial information, and confidential correspondence and letters of recommendation.

4. Information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such information has not been publicly released, published, copyrighted or patented.

5. Information held by the University of Virginia ~~or~~, the University of Virginia Medical Center ~~or~~, *Old Dominion University, or the* Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be, that contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or *the* Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or

other parties with whom the University of Virginia Medical Center or *the* Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the University of Virginia Medical Center or Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be.

6. Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College Savings Plan or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, including personal information related to (i) qualified beneficiaries as that term is defined in § 23.1-700, (ii) designated survivors, or (iii) authorized individuals. Nothing in this subdivision shall be construed to prevent disclosure or publication of information in a statistical or other form that does not identify individuals or provide personal information. Individuals shall be provided access to their own personal information.

For purposes of this subdivision:

"Authorized individual" means an individual who may be named by the account owner to receive information regarding the account but who does not have any control or authority over the account.

"Designated survivor" means the person who will assume account ownership in the event of the account owner's death.

7. Information maintained in connection with fundraising activities by or for a public institution of higher education that would reveal (i) personal fundraising strategies relating to identifiable donors or prospective donors or (ii) wealth assessments; estate, financial, or tax planning information; health-related information; employment, familial, or marital status information; electronic mail addresses, facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or prospective donors. The exclusion provided by this subdivision shall not apply to protect from disclosure (a) information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor or (b) the identities of sponsors providing grants to or contracting with the institution for the performance of research services or other work or the terms and conditions of such grants or contracts. For purposes of clause (a), the identity of the donor may be withheld if (1) the donor has requested anonymity in connection with or as a condition of making a pledge or donation and (2) the pledge or donation does not impose terms or conditions directing academic decision-making.

8. Information held by a threat assessment team established by a local school board pursuant to § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the assessment or intervention with a specific individual. However, in the event an individual who has been under assessment commits an act, or is prosecuted for the commission of an act that has caused the death of, or caused serious bodily injury, including any felony sexual assault, to another person, such information of the threat assessment team concerning the individual under assessment shall be made available as provided by this chapter, with the exception of any criminal history records obtained pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined in § 22.1-289. The public body providing such information shall remove personally identifying information of any person who provided information to the threat assessment team under a promise of confidentiality.

9. Records provided to the Governor or the designated reviewers by a qualified institution, as those terms are defined in § 23.1-1239, related to a proposed memorandum of understanding, or proposed amendments to a memorandum of understanding, submitted pursuant to Chapter 12.1 (§ 23.1-1239 et seq.) of Title 23.1. A memorandum of understanding entered into pursuant to such chapter shall be subject to public disclosure after it is agreed to and signed by the Governor.

B. The custodian of a scholastic record shall not release the address, phone number, or email address of a student in response to a request made under this chapter without written consent. For any student who is (i) 18 years of age or older, (ii) under the age of 18 and emancipated, or (iii) attending an institution of higher education, written consent of the student shall be required. For any other student, written consent of the parent or legal guardian of such student shall be required.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided *that* the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided *that* the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion

of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or ~~the Eastern Virginia Medical School Board of Visitors~~ *Old Dominion University*, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or *the* Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or *the* Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or *the* Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the *University of Virginia* Medical Center or *the* Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or

conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 2.2-4343. Exemption from operation of chapter for certain transactions.

A. The provisions of this chapter shall not apply to:

1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10 (§ 62.1-128 et seq.) of Title 62.1, provided *that* the Authority implements, by policy or regulation adopted by the Board of Commissioners, procedures to ensure fairness and competitiveness in the procurement of goods and services and in the administration of its capital outlay program. This exemption shall be applicable only so long as such policies and procedures meeting the requirements remain in effect.

2. The Virginia Retirement System for selection of services related to the management, purchase or sale of authorized investments, actuarial services, and disability determination services. Selection of these services shall be governed by the standard set forth in § 51.1-124.30.

3. The State Treasurer in the selection of investment management services related to the external management of funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by the Department of General Services.

4. The Department of Social Services or local departments of social services for the acquisition of motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

5. The College of William and Mary in Virginia, Virginia Commonwealth University, the University of Virginia, and Virginia Polytechnic Institute and State University in the selection of services related to the management and investment of their endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, or local funds of or held by the respective public institution of higher education pursuant to § 23.1-2210, 23.1-2306, 23.1-2604, or 23.1-2803.

However, selection of these services shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.) as required by §§ 23.1-2210, 23.1-2306, 23.1-2604, and 23.1-2803.

6. The Board of the Virginia College Savings Plan for the selection of services related to the operation and administration of the Plan, including, but not limited to, contracts or agreements for the management, purchase, or sale of authorized investments or actuarial, record keeping, or consulting services. However, such selection shall be governed by the standard set forth in § 23.1-706.

7. Public institutions of higher education for the purchase of items for resale at retail bookstores and similar retail outlets operated by such institutions. However, such purchase procedures shall provide for competition where practicable.

8. The purchase of goods and services by agencies of the legislative branch that may be specifically exempted therefrom by the Chairman of the Committee on Rules of either the House of Delegates or the Senate. Nor shall the contract review provisions of § 2.2-2012 apply to such procurements. The exemption shall be in writing and kept on file with the agency's disbursement records.

9. Any town with a population of less than 3,500, except as stipulated in the provisions of §§ 2.2-4305, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377 and Chapter 43.1 (§ 2.2-4378 et seq.).

10. Any county, city or town whose governing body has adopted, by ordinance or resolution, alternative policies and procedures which are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by such governing body and its agencies, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town. Such policies and standards may provide for incentive contracting that offers a contractor whose bid is accepted the opportunity to share in any cost savings realized by the locality when project costs are reduced by such contractor, without affecting project quality, during construction of the project. The fee, if any, charged by the project engineer or architect for determining such cost savings shall be paid as a separate cost and shall not be calculated as part of any cost savings.

11. Any school division whose school board has adopted, by policy or regulation, alternative policies and procedures that are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by the school board, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies or procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This provision shall not exempt any school division from any centralized purchasing ordinance duly adopted by a local governing body.

12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of subsections B, C, and D of § 2.2-4303, §§ 2.2-4305, 2.2-4311, 2.2-4315, 2.2-4317, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4342, 2.2-4343.1, and 2.2-4367 through 2.2-4377, Chapter 43.1 (§ 2.2-4378 et seq.), and § 58.1-1902 shall apply to all counties, cities, and school divisions and to all towns having a population greater than 3,500 in the Commonwealth.

The method for procurement of professional services through competitive negotiation set forth in §§ 2.2-4302.2, 2.2-4303.1, and 2.2-4303.2 shall also apply to all counties, cities, and school divisions, and to all towns having a population greater than 3,500, where the cost of the professional service is expected to exceed $80,000 in the aggregate or for the sum of all phases of a contract or project. A school board that makes purchases through its public school foundation or purchases educational technology through its educational technology foundation, either as may be established pursuant to § 22.1-212.2:2 shall be exempt from the provisions of this chapter, except, relative to such purchases, the school board shall comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

13. A public body that is also a utility operator may purchase services through or participate in contracts awarded by one or more utility operators that are not public bodies for utility marking services as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of services under this subdivision may deviate from the procurement procedures set forth in this chapter upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is awarded based on competitive principles.

14. Procurement of any construction or planning and design services for construction by a Virginia nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design or construction is funded by state appropriations of $10,000 or less or (ii) the Virginia nonprofit corporation or organization is obligated to conform to procurement procedures that are established by federal statutes or regulations, whether those federal procedures are in conformance with the provisions of this chapter.

15. Purchases, exchanges, gifts or sales by the Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion.

16. ~~The Eastern Virginia Medical School in the selection of services related to the management and investment of its endowment and other institutional funds. The selection of these services shall, however, be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).~~

~~17.~~ The Department of Corrections in the selection of pre-release and post-incarceration services and the Department of Juvenile Justice in the selection of pre-release and post-commitment services.

~~18.~~ *17.* The University of Virginia Medical Center to the extent provided by subdivision A 3 of § 23.1-2213.

~~19.~~ *18.* The purchase of goods and services by a local governing body or any authority, board, department, instrumentality, institution, agency or other unit of state government when such purchases are made under a remedial plan established by the Governor pursuant to subsection C of § 2.2-4310 or by a chief administrative officer of a county, city or town pursuant to § 15.2-965.1.

~~20.~~ *19.* The contract by community services boards or behavioral health authorities with an administrator or management body pursuant to a joint agreement authorized by § 37.2-512 or 37.2-615.

~~21. [Expired].~~

~~22.~~ *20.* The purchase of Virginia-grown food products for use by a public body where the annual cost of the product is not expected to exceed $100,000, provided that the procurement is accomplished by (i) obtaining written informal solicitation of a minimum of three bidders or offerors if practicable and (ii) including a written statement regarding the basis for awarding the contract.

~~23.~~ *21.* The Virginia Industries for the Blind when procuring components, materials, supplies, or services for use in commodities and services furnished to the federal government in connection with its operation as an AbilityOne Program-qualified nonprofit agency for the blind under the Javits-Wagner-O'Day Act, 41 U.S.C. §§ 8501-8506, provided that the procurement is accomplished using procedures that ensure that funds are used as efficiently as practicable. Such procedures shall require documentation of the basis for awarding contracts. Notwithstanding the provisions of § 2.2-1117, no public body shall be required to purchase such components, materials, supplies, services, or commodities.

~~24.~~ *22.* The purchase of personal protective equipment for private, nongovernmental entities by the Governor pursuant to subdivision (11) of § 44-146.17 during a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared. However, such purchase shall provide for competition where practicable and include a written statement regarding the basis for awarding any contract.

B. Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of this chapter, a public body may comply with such federal requirements, notwithstanding the provisions of this chapter, only upon the written determination of the Governor, in the case of state agencies, or the governing body, in the case of political subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of this chapter in conflict with the conditions of the grant or contract.

§ 2.2-4345. Exemptions from competitive sealed bidding and competitive negotiation for certain transactions; limitations.

A. The following public bodies may enter into contracts without competitive sealed bidding or competitive negotiation:

1. The Director of the Department of Medical Assistance Services for special services provided for eligible recipients pursuant to subsection H of § 32.1-325, provided that the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public, or would constitute an imminent threat to the health or welfare of such recipients. The writing shall document the basis for this determination.

2. The State Health Commissioner for the compilation, storage, analysis, evaluation, and publication of certain data submitted by health care providers and for the development of a methodology to measure the efficiency and productivity of health care providers pursuant to Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1, if the Commissioner has made a determination in advance, after reasonable notice to the public and set forth in writing, that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public. The writing shall document the basis for this determination. Such agreements and contracts shall be based on competitive principles.

3. The Virginia Code Commission when procuring the services of a publisher, pursuant to §§ 30-146 and 30-148, to publish the Code of Virginia or the Virginia Administrative Code.

4. The Virginia Alcoholic Beverage Control Authority for the purchase of alcoholic beverages.

5. The Department for Aging and Rehabilitative Services, for the administration of elder rights programs, with (i) nonprofit Virginia corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code with statewide experience in Virginia in conducting a state long-term care ombudsman program or (ii) designated area agencies on aging.

6. The Department of Health for (a) child restraint devices, pursuant to § 46.2-1097; (b) health care services with Virginia corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services in a community (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge; or (c) contracts with laboratories providing cytology and related services if competitive sealed bidding and competitive negotiations are not fiscally advantageous to the public to provide quality control as prescribed in writing by the Commissioner of Health.

7. Virginia Correctional Enterprises, when procuring materials, supplies, or services for use in and support of its production facilities, provided *that* the procurement is accomplished using procedures that ensure as efficient use of funds as practicable and, at a minimum, includes obtaining telephone quotations. Such procedures shall require documentation of the basis for awarding contracts under this section.

8. The Virginia Baseball Stadium Authority for the operation of any facilities developed under the provisions of Chapter 58 (§ 15.2-5800 et seq.) of Title 15.2, including contracts or agreements with respect to the sale of food, beverages and souvenirs at such facilities.

9. With the consent of the Governor, the Jamestown-Yorktown Foundation for the promotion of tourism through marketing with private entities provided a demonstrable cost savings, as reviewed by the Secretary of Education, can be realized by the Foundation and such agreements or contracts are based on competitive principles.

10. The Chesapeake Hospital Authority in the exercise of any power conferred under Chapter 271, as amended, of the Acts of Assembly of 1966, provided that it does not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

11. Richmond Eye and Ear Hospital Authority, any authorities created under Chapter 53 (§ 15.2-5300 et seq.) of Title 15.2 and any hospital or health center commission created under Chapter 52 (§ 15.2-5200 et seq.) of Title 15.2 in the exercise of any power conferred under their respective authorizing legislation, provided that these entities shall not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

12. The Patrick Hospital Authority sealed in the exercise of any power conferred under the Acts of Assembly of 2000, provided that it does not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

13. Public bodies for insurance or electric utility services if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided *that* such association has procured the insurance or electric utility services by use of competitive principles and ~~provided~~ that the public body has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

14. Public bodies administering public assistance and social services programs as defined in § 63.2-100, community services boards as defined in § 37.2-100, or any public body purchasing services under the Children's Services Act (§ 2.2-5200 et seq.) or the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.) for goods or personal services for direct use by the recipients of such programs if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted from the requirements of § 2.2-4303.

~~15. The Eastern Virginia Medical School in the exercise of any power conferred pursuant to Chapter 471, as amended, of the Acts of Assembly of 1964.~~

B. No contract for the construction of any building or for an addition to or improvement of an existing building by any local government or subdivision of local government for which state funds of not more than $50,000 in the aggregate or for the sum of all phases of a contract or project either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation as provided under subsection D of § 2.2-4303 or Chapter 43.1 (§ 2.2-4378 et seq.). The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this chapter.

§ 22.1-209.2. Programs and teachers in regional detention homes, certain local detention homes and state agencies and institutions.

The Board shall prepare and supervise the implementation in regional detention homes and local detention homes a program designed to educate and train the children detained in the homes. In addition, the Board shall supervise those programs of evaluation, education, and training provided to school-age children by the Department of Health, the Department of Behavioral Health and Developmental Services, the children's teaching hospital associated with the Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, the Virginia Commonwealth University Health System Authority, the children's teaching hospital associated with the Virginia Commonwealth University Health System Authority, and the University of Virginia Hospitals pursuant to the Board's standards and regulations as required by § 22.1-7.

The Board shall promulgate such rules and regulations as may be necessary to conform these programs with the applicable federal and state laws and regulations including teacher/student ratios and special education requirements for children with disabilities. The education programs in the relevant detention homes and state agencies and institutions shall be approved by the Board, and the Board shall prepare a budget for these educational programs that shall be solely supported by such general funds as are appropriated by the General Assembly for this purpose. Teacher staffing ratios for regional or local detention homes shall be based on a ratio of one teacher for every 12 beds based on the capacity of the facility; however, if the previous year's average daily attendance exceeds this bed capacity, the ratio shall be based on the average daily attendance at the facility as calculated by the Department from the previous school year.

The Board shall enter into contracts with the relevant state agency or institution or detention facility or the local school divisions in which the state agencies or institutions or the regional detention homes and the relevant local detention homes are located for the hiring and supervision of teachers.

In any case in which the Board enters into a contract with the relevant state agency or institution, the Department of Human Resource Management shall establish salary schedules for the teachers that are competitive with those in effect for the school divisions in which the agency or institution is located.

§ 23.1-608. Virginia Military Survivors and Dependents Education Program; tuition and fee waivers.

A. As used in this section, unless the context requires a different meaning:

"Domicile" has the same meaning as provided in § 23.1-500.

"Program" means the Virginia Military Survivors and Dependents Education Program.

"Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 (i) of a military service member who, while serving as an active duty member in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, during military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or in any armed conflict, was killed, became missing in action, or became a prisoner of war or (ii) of a veteran who served in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard and, due to such service, has been rated by the U.S. Department of Veterans Affairs as totally and permanently disabled or at least 90 percent permanently disabled and has been discharged or released under conditions other than dishonorable. However, the Commissioner of Veterans Services may certify dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30. For purposes of this section, a child who is a stepchild of a deceased military service member described in this section shall receive all benefits described in this section as a child of such military service member if the military service member claimed the stepchild on his tax return or on his Defense Enrollment Eligibility Reporting System while serving on active duty.

B. The Virginia Military Survivors and Dependents Education Program is established for the purpose of waiving tuition and mandatory fees at a public institution of higher education ~~or Eastern Virginia Medical School~~ for qualified survivors and dependents who have been admitted to such institution and meet the requirements of subsection C, as certified by the Commissioner of Veterans Services.

C. Admitted qualified survivors and dependents are eligible for a waiver of tuition and mandatory fees pursuant to this section if the military service member who was killed, became missing in action, became a prisoner of war, or is disabled (i) established domicile (a) at the time of entering such active military service or called to active duty as a member of the Reserves of the Armed Forces of the United States or Virginia National Guard; (b) at least five years immediately prior to, or had a physical presence in the Commonwealth for at least five years immediately prior to, the date on which the admission application was submitted by or on behalf of such qualified survivor or dependent for admission to such institution of higher education ~~or Eastern Virginia Medical School~~; or (c) on the date of his death and for at least five years immediately prior to his death or had a physical presence in the Commonwealth on the date of his death and had a physical presence in the Commonwealth for at least five years immediately prior to his death; (ii) in the case of a qualified child, is deceased and the surviving parent, at some time previous to marrying the deceased parent, established domicile for at least five years, or established domicile or had a physical presence in the Commonwealth for at least five years immediately prior to the date on which the admission application was submitted by or on behalf of such child; or (iii) in the case of a qualified spouse, is deceased and the surviving spouse, at some time previous to marrying the deceased spouse, established domicile for at least five years or had a physical presence in the Commonwealth for at least five years prior to the date on which the admission application was submitted by such qualified spouse. In any case under this subsection, the Commissioner of the Department of Veterans Services shall have the authority to consider the domicile or physical presence requirements under clause (i) (c) through the surviving spouse or under clause (iii) through the surviving student if the military service member or surviving spouse dies after having established physical presence within the Commonwealth but before such requirements can be met.

D. The Department of Veterans Services shall disseminate information about the Program to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of Veterans Services shall include in the annual report submitted to the Governor and the General Assembly pursuant to § 2.2-2004 an overview of the agency's policies and strategies relating to dissemination of information about the Program and Fund.

E. Each public institution of higher education ~~and Eastern Virginia Medical School~~ shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

§ 23.1-608.1. Virginia Military Survivors and Dependents Education Fund; stipends.

A. As used in this section:

"Fund" means the Virginia Military Survivors and Dependents Education Fund.

"Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 (i) of a military service member who, while serving as an active duty member in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, during military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or in any armed conflict, was killed, became missing in action, or became a prisoner of war or (ii) of a veteran who, as a direct result of such service, has been rated by the U.S. Department of Veterans Affairs as totally and permanently disabled or at least 90 percent permanently disabled and has been discharged or released under conditions other than dishonorable. However, the Commissioner of Veterans Services may certify

dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30.

B. From such funds as may be appropriated and from such gifts, bequests, and any gifts, grants, or donations from public or private sources, the Virginia Military Survivors and Dependents Education Fund is established for the sole purpose of providing financial assistance, in an amount (i) up to $2,000 or (ii) as provided in the general appropriation act, for room and board charges, books and supplies, and other expenses at any public institution of higher education ~~or Eastern Virginia Medical School~~ for the use and benefit of qualified survivors and dependents, provided that the maximum amount to be expended for each such survivor or dependent pursuant to this subsection shall not exceed, when combined with any other form of scholarship, grant, or waiver, the actual costs relating to the survivor's or dependent's educational expenses allowed under this subsection.

C. Each year, from the funds available in the Fund, the Council and each public institution of higher education ~~and Eastern Virginia Medical School~~ shall determine the amount and the manner in which financial assistance shall be made available to beneficiaries and shall make that information available to the Commissioner of Veterans Services for distribution.

D. The Council shall disburse to each public institution of higher education ~~and Eastern Virginia Medical School~~ the funds appropriated or otherwise made available by the Commonwealth to support the Fund and shall report to the Commissioner of Veterans Services the beneficiaries' completion rate.

E. The Department of Veterans Services shall disseminate information about the Fund to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of Veterans Services shall include in the annual report submitted to the Governor and the General Assembly pursuant to § 2.2-2004 an overview of the agency's policies and strategies relating to dissemination of information about the Fund.

F. Each public institution of higher education ~~and Eastern Virginia Medical School~~ shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

§ 23.1-809. Public institutions of higher education; establishment of campus police departments authorized; employment of officers.

A. The governing board of each public institution of higher education may establish a campus police department and employ campus police officers and auxiliary police forces upon appointment as provided in §§ 23.1-811 and 23.1-812. Such employment is governed by the Virginia Personnel Act (§ 2.2-2900 et seq.), except that the governing board of a public institution of higher education may direct that the employment of the chief of the campus police department is not governed by the Virginia Personnel Act.

B. The Virginia Commonwealth University Health System Authority ~~and Eastern Virginia Medical School~~ may employ police officers and auxiliary police forces as provided in this article and~~, in the case of the Authority,~~ in § 23.1-2406, except that the employment of such officers and forces is not governed by the Virginia Personnel Act (§ 2.2-2900 et seq.).

§ 23.1-1100. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the members of the board of visitors, board of trustees, or other governing board of an institution.

"Bond" means any bond, note, or other evidence of indebtedness or obligation of an institution issued by an institution pursuant to this chapter.

"Erect" includes building, constructing, reconstructing, erecting, demolishing, extending, bettering, equipping, installing, modifying, and improving.

"Institution" means each public institution of higher education, as that term is defined in § 23.1-100~~; Eastern Virginia Medical School;~~, the Institute for Advanced Learning and Research~~;~~, the New College Institute~~;~~, the Roanoke Higher Education Authority~~;~~, the Southern Virginia Higher Education Center~~;~~, the Southwest Virginia Higher Education Center~~;~~, the Virginia School for the Deaf and the Blind~~;~~, and the Wilson Workforce and Rehabilitation Center.

"Project" means (i) any (a) building, facility, addition, extension, or improvement of a capital nature that is necessary or convenient to carry out the purposes of an institution, including administration and teaching facilities, lecture and exhibition halls, libraries, dormitories, student apartments, faculty dwellings, dining halls, cafeterias, snack bars, laundries, hospitals, laboratories, research centers, infirmaries, field houses, gymnasiums, auditoriums, student unions, recreation centers, stadiums, athletics facilities, garages, parking facilities, warehouses and storage buildings, and book and student supplies centers, or (b) building, land, appurtenance, furnishing, or equipment necessary or desirable in connection with or incidental to a project or (ii) any personal property at an institution.

§ 23.1-1200. Definitions; findings.

A. As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia College Building Authority.

"Bond" means any bond, note, or other evidences of indebtedness or obligation of the Authority pursuant to this article.

"Eligible institution" means public institutions of higher education, as that term is defined in § 23.1-100~~; Eastern Virginia Medical School;~~, the Institute for Advanced Learning and Research~~;~~, the New College Institute~~;~~, the Roanoke Higher Education Authority~~;~~, the Southern Virginia Higher Education Center~~;~~, the Southwest Virginia Higher Education Center~~;~~, the Virginia School for the Deaf and the Blind~~;~~, and the Wilson Workforce and Rehabilitation Center.

"Equipment" means any personal property, including computer hardware and software, and any other improvements, including infrastructure improvements relating to equipment, used to support academic instruction and research at eligible institutions.

"Project" has the same meaning as set forth in § 23.1-1100.

B. Providing funds for the construction of projects at eligible institutions is or may be hindered, impeded, and delayed by the high financing costs resulting from the sale of bonds of such eligible institutions in the open market, and it is desirable that the Authority may (i) serve the purposes of eligible institutions by purchasing such bonds and financing the construction of projects at a lower cost, which facilitates such construction and (ii) issue its own revenue bonds for the purpose of paying the costs of such projects.

C. There is an urgent need to provide substantial amounts of new scientific, technical, and other equipment for academic instruction, research, and related activities at eligible institutions so that they may remain competitive in attracting high-quality faculty and obtaining research grants, and it is desirable that the Authority may finance the purchase of such equipment to provide eligible institutions with such equipment at the lowest possible cost, which facilitates the acquisition and supply of such equipment to eligible institutions and increases the purchasing power of their funds, including funds provided by tuition and fees and appropriations from the General Assembly.

§ 23.1-2001. Membership.

A. The board shall consist of 17 members appointed by the Governor, of whom at least *(i)* 14 shall be residents of the Commonwealth*, (ii) four shall be physicians or other medical or health professionals with administrative or clinical experience in an academic medical center,* and ~~at least~~ *(iii)* three shall be alumni of the University.

B. The alumni association of the University may submit to the Governor a list of at least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. *The Eastern Virginia Medical School Foundation or any successor foundation may submit to the Governor a list of at least three nominees for each vacancy on the board that is required to be filled by a physician or other medical or health professional with administrative or clinical experience in an academic medical center pursuant to clause (ii) of subsection A.* The Governor may appoint a member from the *relevant* list of nominees.

§ 23.1-2002. Meetings; officers; committees.

A. The board shall meet at the University once a year and at such other times as it determines. Special meetings of the board may be called by the rector or any three members. The secretary shall provide notice of any special meeting to each member.

B. A majority of members shall constitute a quorum.

C. In every even-numbered year, the board shall elect from its membership a rector to preside at its meetings, a vice-rector to preside at its meetings in the absence of the rector, and a secretary to preside at its meetings in the absence of the rector and vice-rector. Such officers shall assume their duties on July 1 of such year.

D. The board may appoint a pro tempore officer to preside at its meetings in the absence of the rector, vice-rector, and secretary.

E. Vacancies in the offices of rector, vice-rector, and secretary may be filled by the board for the unexpired term.

F. At every regular annual meeting of the board, an executive committee for the transaction of business in the recess of the board may be appointed, consisting of at least five members. The executive committee shall consist of the officers of the board and such other members as the rector may appoint.

G. The board shall have a standing committee to serve as the board of directors of the Eastern Virginia Health Sciences Center at the University, which shall oversee the Eastern Virginia Health Sciences Center at the University and exercise such decision-making authority over the Eastern Virginia Health Sciences Center at the University as the standing committee deems necessary or appropriate under the authority of and in accordance with the bylaws of the board. The standing committee shall oversee financial management of the Eastern Virginia Health Sciences Center at the University and approve and recommend to the board the budget for the Eastern Virginia Health Sciences Center at the University. The standing committee shall consist of no more than 17 members who are appointed as follows: one nonlegislative citizen member appointed by the Governor; one nonlegislative citizen member appointed by the Senate Committee on Rules; one nonlegislative citizen member appointed by the Speaker of the House of Delegates; one nonlegislative citizen member appointed by the primary teaching hospital affiliated with the University; four members of the board appointed by the rector of the board; and no more than nine members appointed by the Eastern Virginia Medical School Foundation or any successor foundation.

§ 23.1-2005. Property and liabilities of Eastern Virginia Medical School.

All real estate and personal property in the name of the corporate body designated "Eastern Virginia Medical School" transferred to, known and taken as standing in the name of, and under the control of the University is the property of the Commonwealth. The University is vested with all rights, duties, contracts, and agreements and is responsible and liable for all the liabilities and obligations of Eastern Virginia Medical School.

§ 23.1-2006. Eastern Virginia Health Sciences Center at the University.

The schools and divisions previously existing as Eastern Virginia Medical School and such other academic units of the University related to the health sciences as may be identified by the board are hereby designated as the Eastern Virginia Health Sciences Center at the University.

§ 23.1-2007. Operations of Health Sciences Center.

A. The University may provide medical and health sciences education and related research through teaching hospitals and related health care and health maintenance facilities, collectively referred to in this section as the Eastern Virginia Health Sciences Center at the University or the Health Sciences Center. The Eastern Virginia Health Sciences Center at the University may participate in cooperative arrangements reflective of changes in health care delivery.

B. The University shall ensure that all tuition, funds appropriated, and clinical-affiliated financial support for the continued operation of the schools and divisions previously existing as the Eastern Virginia Medical School shall remain with those schools and divisions for their continued operation. Such funds shall remain separate from funds for the other academic units identified by the board to be part of the Eastern Virginia Health Sciences Center at the University.

C. The University may create, own in whole or in part, or otherwise control corporations, partnerships, insurers, or other entities whose activities promote the operations of the Health Sciences Center and its mission, cooperate or enter into joint ventures with such entities, and enter into contracts in connection with such joint ventures.

§ 32.1-69.3. Virginia Cord Blood Bank Initiative established.

A. There is hereby established the Virginia Cord Blood Bank Initiative (~~hereinafter referred to as~~ the Initiative) as a public resource for the treatment of patients with life-threatening diseases or debilitating conditions, for use in advancing basic and clinical research, and, in the event of a terrorist attack, to be used in the treatment of the injured.

The Initiative shall be established as a nonprofit legal entity to collect, screen for infectious and genetic diseases, perform tissue typing on, cryopreserve, and store umbilical cord blood as a public resource and shall be formed as a collaborative consortium that covers all geographical regions of Virginia.

B. The State Health Commissioner shall develop or shall arrange for or contract with a nonprofit entity for the development of the collaborative consortium to be known as the Initiative, which may consist of any entity having the expertise or experience or willingness to develop the expertise or experience necessary to participate in the Initiative.

C. In developing the consortium, the Commissioner shall ensure that all geographical areas of the Commonwealth are included in the Initiative. To accomplish this goal, the Commissioner shall contact Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University* and its participating hospitals, Virginia Commonwealth University School of Medicine, Virginia Commonwealth University Health System, the University of Virginia School of Medicine, the University of Virginia Health System, and other entities located in Virginia, such as hospitals and hospital systems, biotechnology companies, regional blood banks, laboratories, or other health care providers or medical researchers, or local coalitions of health care providers that could provide coverage of the various geographical regions of Virginia, to request their participation in the Initiative consortium and assist in the design and implementation of the Initiative.

D. Any nonprofit entity having an arrangement or contract with the Commissioner for the development of the Initiative and any medical school, hospital, or other health care provider choosing to participate in the Initiative shall submit an estimate of the costs of implementing the Initiative for the region in which it is located. The Commissioner shall assist in the development of the cost estimates, compare and evaluate such estimates, and negotiate with the various entities to implement the Initiative.

Further, the Commissioner shall coordinate (i) appropriate contact with pregnant women to provide information about umbilical cord blood donations; (ii) the development of procedures for obtaining informed consent for cord blood donations; (iii) the design of the Initiative, including the period of years for storage of the cord blood to ensure the integrity of the cells; (iv) a system for recycling the blood at the end of the established storage period that provides for the sale or transfer of the cord blood samples being taken out of storage to be used in basic or clinical research development at reasonable rates and fees for cord blood products.

E. The entities joining the Initiative shall work collaboratively, each with the community resources in its local or regional area. The Initiative participants shall align their outreach programs and activities to all geographic areas and ethnic and racial groups of the Commonwealth, and shall conduct specific and culturally appropriate outreach and research to identify potential donors among all ethnic and racial groups.

F. The Commissioner shall disseminate information about the Initiative, focusing on hospitals, birthing facilities, physicians, midwives, and nurses, and providing information through local health departments.

Initiative consortium participants shall also be encouraged to disseminate information about the Initiative.

In addition, the Director of the Department of Medical Assistance Services shall include information about the Initiative in printed materials distributed by the Department to recipients of medical assistance services and persons enrolled in the Family Access to Medical Insurance Security Plan.

G. Any woman admitted to a hospital or birthing facility for obstetrical services may be offered the opportunity to donate umbilical cord blood to the Initiative. However, no woman shall be required to make a cord blood donation.

H. Any health care facility or health care provider receiving financial remuneration for the collection of umbilical cord blood shall, prior to harvesting the umbilical cord blood, disclose this information in writing to any woman postpartum or to the parent of a newborn from whom the umbilical cord blood is to be collected.

I. This section shall not be construed to require participation in the Initiative on the part of any health care facility or health care provider who objects to transfusion or transplantation of blood on the basis of bona fide religious beliefs.

J. The Initiative shall be implemented with such funds as may be appropriated or otherwise provided for its purpose. Upon implementation, the Commissioner shall initiate the development of a nonprofit entity to assume the operation and administration of the Initiative and may seek federal, state, and private grant funds for its continuation.

§ 32.1-279. Duties of Chief Medical Examiner; teaching legal medicine.

A. The Chief Medical Examiner shall carry out the provisions of this article under the direction of the Commissioner. The Chief Medical Examiner may, with the approval of the Commissioner, employ forensic pathologists to serve as Assistant Chief Medical Examiners in the central and district offices established pursuant to § 32.1-277.

B. The Chief Medical Examiner and Assistant Chief Medical Examiners shall be available to Virginia Commonwealth University, the University of Virginia, ~~the Eastern Virginia Medical School~~ *Old Dominion University*, and other institutions of higher education providing instruction in health science or law for teaching legal medicine and other subjects related to their duties.

§ 38.2-5008. Determination of claims; presumption; finding of Virginia Workers' Compensation Commission binding on participants; medical advisory panel.

A. The Commission shall determine, on the basis of the evidence presented to it, the following issues:

1. Whether the injury claimed is a birth-related neurological injury as defined in § 38.2-5001.

a. A rebuttable presumption shall arise that the injury alleged is a birth-related neurological injury where it has been demonstrated, to the satisfaction of the Virginia Workers' Compensation Commission, that the infant has sustained a brain or spinal cord injury caused by oxygen deprivation or mechanical injury, and that the infant was thereby rendered permanently motorically disabled and (i) developmentally disabled or (ii) for infants sufficiently developed to be cognitively evaluated, cognitively disabled.

If either party disagrees with such presumption, that party shall have the burden of proving that the injuries alleged are not birth-related neurological injuries within the meaning of the chapter.

b. A rebuttable presumption of fetal distress, an element of a birth-related injury, shall arise if the hospital fails to provide the fetal heart monitor tape to the claimant, as required by subsection E of § 38.2-5004.

2. Whether obstetrical services were delivered by a participating physician at the birth.

3. Whether the birth occurred in a participating hospital.

4. How much compensation, if any, is awardable pursuant to § 38.2-5009.

5. If the Commission determines (i) that the injury alleged is not a birth-related neurological injury as defined in § 38.2-5001, or (ii) that obstetrical services were not delivered by a participating physician at the birth and that the birth did not occur in a participating hospital, it shall dismiss the petition and cause a copy of its order of dismissal to be sent immediately to the parties by registered or certified mail.

6. All parties are bound for all purposes including any suit at law against a participating physician or participating hospital, by the finding of the Virginia Workers' Compensation Commission (or any appeal therefrom) with respect to whether such injury is a birth-related neurological injury.

B. The deans of the schools of medicine of the Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, University of Virginia School of Medicine, and Medical College of Virginia of Virginia Commonwealth University shall develop a plan whereby each claim filed with the Commission is reviewed by a panel of three qualified and impartial physicians drawn from the fields of obstetrics, pediatrics, pediatric neurology, neonatology, physical medicine and rehabilitation, or any other specialty particularly appropriate to the facts of a particular case. Such plan shall provide that each of the three aforementioned medical schools shall maintain a review panel of physicians to review claims, with responsibility for reviewing claims rotating among each medical school's panel on a case-by-case basis. The chair of the panel shall be determined by the school's dean. In no event shall the panel contain more than one panel member from the field of obstetrics. The Commission shall direct the Program to pay to the medical school that performed the assessment and prepared a report in conformity with this provision the sum of $3,000 per claim reviewed.

C. The panel created pursuant to subsection B shall prepare a report that provides a detailed statement of the opinion of the panel's members regarding whether the infant's injury does or does not satisfy each of the criteria of a birth-related neurological injury enumerated in such term's definition in § 38.2-5001. The report shall include the panel's basis for its determination of whether each such criteria was or was not satisfied. In addition, the report shall include such supporting documentation as the board of directors of the program may reasonably request. The panel shall file its report with the Commission 60 days from the date the petition was filed with the Commission. At the same time that the panel files its report with the Commission, the panel shall send copies thereof to the Program and all parties in the proceeding. At the request of the Commission, at least one member of the panel shall be available to testify at the hearing. The Commission shall consider, but shall not be bound by, the recommendation of the panel.

§ 54.1-2961. Interns and residents in hospitals.

A. Interns and residents holding temporary licenses may be employed in a legally established and licensed hospital, medical school or other organization operating an approved graduate medical education program when their practice is confined to persons who are bona fide patients within the hospital or other organization or who receive treatment and advice in an outpatient department of the hospital or an institution affiliated with the graduate medical education program.

B. Such intern or resident shall be responsible and accountable at all times to a licensed member of the staff. The training of interns and residents shall be consistent with the requirements of the agencies cited in subsection D and the policies and procedures of the hospital, medical school or other organization operating a graduate medical education program. No intern or resident holding a temporary license may be employed by any hospital or other organization operating an approved graduate medical education program unless he has completed successfully the preliminary academic education required for admission to examinations given by the Board in his particular field of practice.

C. No intern or resident holding a temporary license shall serve in any hospital or other organization operating an approved graduate medical education program in this Commonwealth for longer than the time prescribed by the graduate medical education program. The Board may prescribe regulations not in conflict with existing law and require such reports from hospitals or other organizations in the Commonwealth as may be necessary to carry out the provisions of this section.

D. Such employment shall be a part of an internship or residency training program approved by the Accreditation Council for Graduate Medical Education or American Osteopathic Association or American Podiatric Medical Association or Council on Chiropractic Education. No unlicensed intern or resident may be employed as an intern or resident by any hospital or other organization operating an approved graduate medical education program. The Board may determine the extent and scope of the duties and professional services which may be rendered by interns and residents.

E. The Board of Medicine shall adopt guidelines concerning the ethical practice of physicians practicing in emergency rooms, surgeons, and interns and residents practicing in hospitals, particularly hospital emergency rooms, or other organizations operating graduate medical education programs. These guidelines shall not be construed to be or to establish standards of care or to be regulations and shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.). The Medical College of Virginia of Virginia Commonwealth University, the University of Virginia School of Medicine, the Eastern Virginia ~~Medical School~~ *Health Sciences Center at Old Dominion University*, the Medical Society of Virginia, and the Virginia Hospital and Health Care Association shall cooperate with the Board in the development of these guidelines.

The guidelines shall include, but need not be limited to (i) the obtaining of informed consent from all patients or from the next of kin or legally authorized representative, to the extent practical under the circumstances in which medical care is being rendered, when the patient is incapable of making an informed decision, after such patients or other persons have been informed as to which physicians, residents, or interns will perform the surgery or other invasive procedure; (ii) except in emergencies and other unavoidable situations, the need, consistent with the informed consent, for an attending physician to be present during the surgery or other invasive procedure; (iii) policies to avoid situations, unless the circumstances fall within an exception in the Board's guidelines or the policies of the relevant hospital, medical school or other organization operating the graduate medical education program, in which a surgeon, intern or resident represents that he will perform a surgery or other invasive procedure that he then fails to perform; and (iv) policies addressing informed consent and the ethics of appropriate care of patients in emergency rooms. Such policies shall take into consideration the nonbinding ban developed by the American Medical Association in 2000 on using newly dead patients as training subjects without the consent of the next of kin or other legal representative to extent practical under the circumstances in which medical care is being rendered.

F. The Board shall publish and distribute the guidelines required by subsection E to its licensees.

2. That Chapter 30 (§§ 23.1-3000 through 23.1-3014) of Title 23.1 of the Code of Virginia is repealed.

3. That the Governor's 2024 appointments to the Old Dominion University Board of Visitors shall include at least two physicians or other medical or health professionals with administrative or clinical experience in an academic medical center in accordance with the requirements set forth in § 23.1-2001 of the Code of Virginia, as amended by this act. The Governor's 2025 appointments to the Old Dominion University Board of Visitors shall ensure that the composition of such board aligns with the membership requirements set forth in § 23.1-2001 of the Code of Virginia, as amended by this act.

4. That notwithstanding the requirements set forth in subsection G of § 23.1-2002 of the Code of Virginia, as amended by this act, the initial board of directors of the Eastern Virginia Health Sciences Center at Old Dominion University shall be composed of the existing members of the Eastern Virginia Medical School Board of Visitors, who shall serve for the remainder of their current terms. Upon the expiration of such member terms, appointments to the board of directors of the Eastern Virginia Health Sciences Center at Old Dominion University shall be made in accordance with the requirements set forth in subsection G of § 23.1-2002 of the Code of Virginia, as amended by this act, and the bylaws of Old Dominion University.

5. That the provisions of this act shall become effective on the date after July 1, 2023, on which the Governor and the chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations provide written approval for Old Dominion University and Eastern Virginia Medical School to complete a merger to create the Eastern Virginia Health Sciences Center at Old Dominion University.

CHAPTER 779

An Act to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 27.2, consisting of sections numbered 2.2-2760 through 2.2-2764, relating to economic development; Virginia Business Ready Sites Acquisition Fund and Program.

[H 1842]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 27.2, consisting of sections numbered 2.2-2760 through 2.2-2764, as follows:

CHAPTER 27.2.

VIRGINIA BUSINESS READY SITES ACQUISITION FUND AND PROGRAM.

§ 2.2-2760. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Economic Development Partnership Authority.

"Commission" means the MEI Project Approval Commission established by § 30-309.

"Department" means the Department of General Services.

"Development" means improvements designed to prepare a site for construction or higher use than was possible in the site's natural state or its state at the time of acquisition.

"Due diligence" means undertaking (i) necessary land title, valuation, environmental, engineering, or technical studies; (ii) professional or consulting services related to a site or site selection; or (iii) any other similar activities.

"Eligible acquisition site" means a site suitable to be marketed for economic development purposes. An eligible acquisition site shall meet, or be expected to meet, each of the following criteria: (i) the site is at least 500 contiguous acres and (ii) the site presents a significant opportunity for the Commonwealth to attract a large-scale economic development project. An eligible acquisition site need not be zoned for an economic development use to be considered an eligible acquisition site.

"Fund" means the Virginia Business Ready Sites Acquisition Fund established by § 2.2-2762.

"Large-scale economic development project" means an economic development project that involves a capital investment of at least $250 million and that creates at least 250 new jobs.

"Program" means the Virginia Business Ready Sites Acquisition Program established by § 2.2-2761.

"Project development agreement" means an agreement by which the Authority sells, leases, transfers, or otherwise disposes of an eligible acquisition site to a private employer for a large-scale economic development project. A project development agreement shall require that the new jobs created by the large-scale economic development project pay at least 100 percent of the prevailing wage for the locality in which the project is located.

"Region" means the same as that term is defined in § 2.2-2484.

"Site acquisition activities" means the completion of due diligence activities, as well as the purchasing or optioning of an eligible acquisition site for purposes of the Program.

"Site development activities" means development of a site. Site development activities include clearing, grading, improving drainage, constructing pads, mitigating environmental concerns, providing road or rail access to the site, securing rights-of-way and easements, extending utilities to the site, and undertaking other similar activities.

§ 2.2-2761. Virginia Business Ready Sites Acquisition Program.

A. There is hereby established the Virginia Business Ready Sites Acquisition Program for the purpose of disbursing moneys from the Fund to (i) acquire or option eligible acquisition sites for the purpose of creating and maintaining a portfolio of project-ready sites to promote economic development in all regions of the Commonwealth, (ii) conduct site development activities to improve such sites in order to increase their marketability for large-scale economic development projects, or (iii) enter into project development agreements with private employers for large-scale economic development projects. Eligible acquisition sites may be acquired from public or private owners, provided that any such acquisition shall be a bona fide arm's length transaction freely entered into by the parties and that such acquisition shall not involve any property or interests owned by a member of the General Assembly or by local government officials in the proposed site locality. Site acquisition activities, site development activities, and project development agreements shall be conducted in accordance with the guidelines, procedures, and objective criteria established pursuant to subsection C and the objective of the Program established in § 2.2-2763.

B. Administration of the Program shall be conducted by the Authority in cooperation with the Department in the manner provided by this subsection and subject to review by the Commission pursuant to § 2.2-2764.

1. The Authority, in cooperation with the Department, shall be responsible for identifying potential eligible acquisition sites and initiating, on behalf of the Commonwealth and in a manner that protects the Commonwealth's economic interests, the process of negotiating the purchase or option of a site. Any proposal for the purchase or option of a site shall be reviewed by the Department and approved by the Governor pursuant to § 2.2-1149 prior to review of such proposal by the Commission pursuant to § 2.2-2764 and prior to completing any such purchase or option of a site.

2. The Department shall be responsible for completing the purchase or option of a site and holding the property or option on behalf of the Commonwealth. The Department shall be responsible for conducting all site development activities, in cooperation with the Authority.

3. The Authority shall be responsible for marketing sites to private employers to enter into project development agreements for large-scale economic development projects.

C. The Authority, in consultation with the Department and the Office of the Attorney General, shall establish guidelines, procedures, and objective criteria for conducting the activities described in clauses (i), (ii), and (iii) of subsection A and the division of responsibilities described in subsection B. Such guidelines, procedures, and objective criteria shall be designed to meet the objective of the Program described in § 2.2-2763, shall include an overview of eligible expenses and payment schedules, including a detailed listing of administrative expenses eligible for reimbursement from the Fund, and shall be submitted to the Senate Committee on Finance and Appropriations and the House Committee on Appropriations, which may provide feedback on such guidelines, procedures, and objective criteria before they are

established. The preparation of the guidelines shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act.

D. Any funds received from the sale or long-term lease of properties purchased pursuant to this chapter shall be deposited to the general fund.

E. Prior to the acquisition or optioning of any site pursuant to subsection B, the Authority and the Department shall notify the locality in which the site is located of the Commonwealth's interest in purchasing or optioning the site. Upon receipt of such notice, the locality or its economic development authority may elect, within 14 days of receipt of such notice, to attempt to purchase or option such site in lieu of the Department. If the locality or its economic development authority elects to attempt to purchase or option such site, but does not within 90 days of such election either (i) purchase or option such site or (ii) have a contract in place indicating an intent to purchase or option such site, the Department may purchase the site pursuant to subsection B.

F. The Authority shall report annually by November 1 on site acquisition activities, site development activities, and project development agreements. The report shall include total appropriations made or transferred to the Fund, an itemized list of administrative costs incurred by the Program, total acquisitions made, number and performance of project development agreements, cash balances, and balances available for future commitments. The Authority shall prepare the report required by this subsection in conjunction with the reports required under § 2.2-2237.1.

G. The Auditor of Public Accounts or his authorized representative shall audit the accounts of the Fund in accordance with generally accepted auditing standards as determined necessary by the Auditor of Public Accounts. The cost of such audit services shall be borne by the Fund.

§ 2.2-2762. Virginia Business Ready Sites Acquisition Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Business Ready Sites Acquisition Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys appropriated by the General Assembly for the Fund, and from any other sources, public or private, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of this chapter, which may include administrative costs for due diligence, site acquisition activities, or site development activities, as those terms are defined in § 2.2-2760. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department, pursuant to subdivision B 2 of § 2.2-2761, or the Authority, pursuant to subdivision B 1 or 3 of § 2.2-2761.

§ 2.2-2763. Objective of the Program.

The objective of the Program shall be to identify and fill gaps in the Commonwealth's current portfolio of industrial properties available for large-scale economic development projects in order to accelerate economic growth in all regions of the Commonwealth. In evaluating sites to acquire, option, develop, or market for purposes of the Program, the Authority shall consider (i) the potential of the site to fill a gap in the inventory of needed project-ready sites in the Commonwealth, (ii) the scope and cost of the work required to make the site project ready, (iii) the potential return on investment for the Commonwealth for the cost of acquiring and developing the site, and (iv) the type of industry or business for which the site would be suitable.

§ 2.2-2764. Review by MEI Commission.

A. 1. Before entering into an agreement to acquire, option, or develop any site, the Authority and the Department shall jointly submit a proposal detailing their plans for acquisition and development to the Commission. The Commission shall review such proposal and determine whether the plan is consistent with the objective described in § 2.2-2763, addresses a demonstrated need of the Commonwealth, and was approved by the Governor after a recommendation from the Department pursuant to § 2.2-1149. If the Commission finds that the proposal meets such objective, addresses such need, and was approved pursuant to § 2.2-1149, the Commission shall certify the proposal. If the Commission finds that such proposal does not meet the objective of the Program, does not address such need, or was not approved pursuant to § 2.2-1149, (i) the Commission shall communicate its findings to the Governor and to the General Assembly and (ii) the Authority shall not implement the proposal unless the proposal, either in its original or revised form, is authorized by the General Assembly at its next session and enacted into law.

2. Before entering into any project development agreement, the Authority shall submit a proposal detailing such agreement to the Commission. The Commission shall review such proposal and determine whether the proposal is consistent with the objective described in § 2.2-2763. If the Commission finds that the proposal meets such objective, the Commission shall certify the proposal. If the Commission finds that such proposal does not meet the objective of the Program, (i) the Commission shall communicate its findings to the Governor and to the General Assembly and (ii) the Authority shall not implement the proposal unless either (a) the Authority resubmits a revised proposal to the Commission and receives a favorable recommendation or (b) the proposal, either in its original or revised form, is authorized by the General Assembly at its next session and enacted into law.

B. The Authority shall submit the guidelines, procedures, and objective criteria required by subsection C of § 2.2-2761, and any subsequent changes to such policies, to the Commission. The Commission may provide feedback on such guidelines, procedures, and objective criteria and recommend proposed changes to the Authority.

C. Notwithstanding the provisions of subsection B of § 30-310, an affirmative vote by a simple majority of the legislative members of the Commission shall be sufficient to render a decision of the Commission for purposes of subsection A or B.

D. A project development agreement subject to review pursuant to this section shall also be subject to review pursuant to Chapter 47 (§ 30-309 et seq.) of Title 30 if the project development agreement provides incentives that exceed the review thresholds prescribed by that chapter. The value of any property sold, leased, transferred, or otherwise provided to a private employer at below fair market value as part of a project development agreement shall be included in calculating the amount of incentives for purposes of review under Chapter 47 (§ 30-309 et seq.) of Title 30.

E. The chairman of the Commission shall report annually by the first day of each regular session of the General Assembly on all decisions made by the Commission in the previous year.

CHAPTER 780

An Act to amend and reenact §§ 54.1-3408.3, 54.1-3442.5, 54.1-3442.6, and 54.1-3442.7 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 54.1-3442.7:1, 54.1-3442.7:2, and 54.1-3442.7:3, relating to medical marijuana program; product, registration, dispensing, and recordkeeping requirements; advertising.

[H 1846]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3408.3, 54.1-3442.5, 54.1-3442.6, and 54.1-3442.7 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 54.1-3442.7:1, 54.1-3442.7:2, and 54.1-3442.7:3 as follows:

§ 54.1-3408.3. Certification for use of cannabis products for treatment.

A. As used in this section:

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis dispensing facility" means the same as that term is defined in § 54.1-3442.5.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains*, except as otherwise provided in Article 4.2 (§ 54.1-3442.5 et seq.),* no more than 10 milligrams of ~~delta-9-tetrahydrocannabinol~~ *tetrahydrocannabinol* per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.

"Cannabis product" means a product that ~~is~~ (i) *is formulated with cannabis oil or botanical cannabis; (ii) is* produced by a pharmaceutical processor~~,~~ *and sold by a pharmaceutical processor or cannabis dispensing facility; (iii) is* registered with the Board~~,~~*; (iv) contains, except as otherwise provided in Article 4.2 (§ 54.1-3442.5 et seq.), no more than 10 milligrams of tetrahydrocannabinol per dose;* and *(v) is* compliant with testing requirements ~~and (ii) composed of cannabis oil or botanical cannabis~~.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

"Pharmaceutical processor" means the same as that term is defined in § 54.1-3442.5.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audio-visual technology. *No practitioner may issue a written certification while*

such practitioner is on the premises of a pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor shall not endorse or promote any practitioner who issues certifications to patients. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing. *A practitioner who issues written certifications shall not directly or indirectly accept, solicit, or receive anything of value from a pharmaceutical processor, cannabis dispensing facility, or any person associated with a pharmaceutical processor, cannabis dispensing facility, or provider of paraphernalia, excluding information on products or educational materials on the benefits and risks of cannabis products.*

C. The written certification shall be on a form provided by the Board of Pharmacy. Such written certification shall contain the name, address, and telephone number of the practitioner; the name and address of the patient issued the written certification; the date on which the written certification was made; and the signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection B shall expire ~~no later than~~ one year after its issuance unless the practitioner provides in such written certification an earlier expiration. A written certification shall not be issued to a patient by more than one practitioner during any given time period.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude ~~the Board of Medicine~~ *a practitioner's professional licensing board* from sanctioning ~~a~~ *the* practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section ~~shall register with the Board and~~ *(i)* shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients*; (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian, or registered agent that is contingent on or encourages the person's decision to use a particular pharmaceutical processor or cannabis product; (iii) shall not issue a certification to himself or his family members, employees, or coworkers; (iv) shall not provide product samples containing cannabis other than those approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a pharmaceutical processor or cannabis dispensing facility*. The Board shall not limit the number of patients to whom a practitioner may issue a written certification. The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.

F. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit, on a monthly basis, all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Board.

G. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

H. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility, who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications, may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis product to the patient or resident as necessary.

I. Information obtained under the *patient certification or agent* registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a registered agent, but only with respect to information related to such patient.

§ 54.1-3442.5. Definitions.

As used in this article:

"Botanical cannabis," "cannabis oil," "cannabis product," *"designated caregiver facility," "practitioner," "registered agent,"* and "usable cannabis" have the same meanings as specified in § 54.1-3408.3.

"Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant to § 54.1-3442.6; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses cannabis products produced by a pharmaceutical processor to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

~~"Designated caregiver facility" has the same meaning as defined in § 54.1-3408.3.~~

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § ~~54.1-3408.3~~ *54.1-3442.6* and (ii) cultivates Cannabis plants intended only for the production of cannabis oil, botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a patient pursuant to a written certification, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

~~"Practitioner" has the same meaning as specified in § 54.1-3408.3.~~

~~"Registered agent" has the same meaning as specified in § 54.1-3408.3.~~

§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling, including the potency of each botanical cannabis product and the amounts recommended by the practitioner or dispensing pharmacist, and packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis ~~oil~~ *products* that provide that each dispensed dose of *a* cannabis ~~oil~~ *product* not exceed 10 milligrams of ~~delta-9-tetrahydrocannabinol~~ *total tetrahydrocannabinol, except as permitted under § 54.1-3442.7:2*; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors, between a pharmaceutical processors and a cannabis dispensing facility, and between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection M; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue written certifications and patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for producing cannabis products, (b) the ~~secure~~ disposal of agricultural waste, and (c) a process for registering cannabis ~~oil~~ products.

D. The Board shall require that, after processing and before dispensing any cannabis products, a pharmaceutical processor shall make a sample available from each batch of cannabis product for testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD); total tetrahydrocannabinol (THC); terpenes; pesticide chemical residue; heavy metals; mycotoxins; moisture; and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or cannabis oil shall be subject to laboratory testing ~~and approved upon satisfaction of applicable testing standards~~, which shall not be more stringent than initial testing prior to remediation. *Remediated botanical cannabis or cannabis oil that passes such quality testing may be packaged and labeled.* If a batch of botanical cannabis fails retesting after remediation, it shall be considered usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any cannabis product with an expiration date assigned by the pharmaceutical processor of six months or less from the date of the cannabis product registration approval. Stability testing required for assignment of an expiration date longer than six months shall be limited to microbial testing, on a pass/fail basis, and potency testing, on a ~~10~~ *15* percent deviation basis, of ~~active ingredients~~ *total THC and total CBD. No cannabis product shall have an expiration date longer than six months from the date of the cannabis product registration approval unless supported by stability testing.*

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board in regulation.

F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility *unless all cannabis products are contained in a vault or other similar container to which only the pharmacist has access controls*. The pharmaceutical processor shall ensure that security measures are adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have concurrent responsibility for preventing diversion from the dispensing area.

Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and production areas of the pharmaceutical processor and shall provide such information to the Board. The Board shall direct all communications related to enforcement of requirements related to cultivation and production of cannabis ~~oil~~ *and cannabis* products by the pharmaceutical processor to such designated person.

G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant's material owners. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a certification recognized by the Board or who has at least two years of experience cultivating plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and (iii) to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician.

I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

J. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

L. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's dispensing area or cannabis dispensing facility.

M. A pharmaceutical processor may acquire industrial hemp extracts grown and processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before industrial hemp extracts may be acquired.

N. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board of Pharmacy shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board of Pharmacy shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

~~O. The Board shall register all cannabis products that meet testing, labeling, and packaging standards.~~

§ 54.1-3442.7. Dispensing cannabis products; report.

A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis products only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia and has been issued a valid written certification; (ii) such patient's registered agent; or (iii) if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or temporarily resides in Virginia. A companion may accompany a patient into a pharmaceutical processor's dispensing area or cannabis dispensing facility. Prior

to the initial dispensing of cannabis products pursuant to each written certification, a pharmacist or pharmacy technician employed by the pharmaceutical processor or cannabis dispensing facility shall make and maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view, in person or by audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian; and shall verify current board registration of ~~the practitioner and~~ the corresponding registered agent if applicable. Thereafter, an initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated caregiver facility. Prior to any subsequent dispensing of cannabis products pursuant to each written certification, an employee or delivery agent shall view a current photo identification of the patient, registered agent, parent, or legal guardian and the current board registration issued to the registered agent if applicable. No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply, as determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period. A pharmaceutical processor or cannabis dispensing facility may dispense less than a 90-day supply of a cannabis product for any patient during any 90-day period; however, a pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. ~~The Board shall establish in regulation an amount of cannabis oil that constitutes a 90-day supply to treat or alleviate the symptoms of a patient's diagnosed condition or disease.~~ In determining the appropriate amount of a cannabis product to be dispensed to a patient, a pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the patient and adjust the amount dispensed accordingly.

B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis products produced on the premises of a pharmaceutical processor permitted by the Board or cannabis products that have been formulated with extracts from industrial hemp acquired by a pharmaceutical processor from a registered industrial hemp dealer or processor pursuant to § 54.1-3442.6. A pharmaceutical processor may begin cultivation upon being issued a permit by the Board.

C. The Board shall report annually by December 1 to the Chairmen of the House Committee for Health, Welfare and Institutions and the Senate Committee on Education and Health on the operation of pharmaceutical processors and cannabis dispensing facilities issued a permit by the Board.

D. The concentration of ~~delta-9-tetrahydrocannabinol~~ *total tetrahydrocannabinol* in any cannabis product on site may be up to ~~10~~ *15* percent greater than or less than the level of ~~delta-9-tetrahydrocannabinol measured for labeling~~ *total tetrahydrocannabinol listed in the approved cannabis product registration*. A pharmaceutical processor and cannabis dispensing facility shall ensure that such concentration in any cannabis product on site is within such range. A pharmaceutical processor producing cannabis products shall establish a stability testing schedule of cannabis products *that have an expiration date longer than six months*.

§ 54.1-3442.7:1. Packaging and labeling; corrections; records.

A. Pharmaceutical processors shall comply with all packaging and labeling requirements set forth in this article and Board regulations.

B. No cannabis product shall be packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such cannabis product.

C. Pharmaceutical processors may correct typographical errors made on cannabis product labels and any documents generated as the result of a wholesale transaction.

§ 54.1-3442.7:2. Cannabis product registration; approval, deviation, and modification.

A. A pharmaceutical processor shall register with the Board each cannabis product it manufactures. Applications for cannabis product registration shall be submitted to the Board on a form prescribed by the Board.

B. An application for cannabis product registration shall include:

1. The total tetrahydrocannabinol and total cannabidiol in such cannabis product, based on laboratory testing results for the cannabis product formulation;

2. A product name;

3. A proposed product package; and

4. A proposed product label, which shall not be required to contain an expiration date at the time of application.

C. The Board shall register all cannabis products that meet testing, labeling, and packaging standards after an application for registration is submitted. If the cannabis product fails to meet such standards or the application was deficient, the Board shall notify the applicant of the specific reasons for such failure or deficiency.

D. Within two business days of the Board's approval or deemed approval, the Board shall enter the cannabis product's national drug code number into the Prescription Monitoring Program.

E. The following cannabis product deviations from an approved cannabis product registration shall be permitted without any requirement for a new cannabis product registration or notice to the Board:

1. A deviation in the concentration of total tetrahydrocannabinol (THC) or total cannabidiol (CBD) in a cannabis product or dose thereof of up to 15 percent greater than or less than the concentration of total tetrahydrocannabinol or total cannabidiol, either or both, listed in the approved cannabis product registration; however, for a cannabis product with five

milligrams or less of total THC or total CBD per dose, the total THC or total CBD concentration shall be within 0.5 milligrams of the single dose total THC or total CBD concentrations approved for that cannabis product;

2. A variation in packaging, provided that the packaging is substantially similar to the approved packaging and otherwise complies with applicable packaging requirements;

3. A deviation in labeling, including a variation made in accordance with § 54.1-3442.7:1, that reflects allowable deviations in total THC or total CBD or that makes a minor text, font, design, or similar modification, provided that the labeling is substantially similar to the approved labeling and otherwise complies with applicable labeling requirements; and

4. Any other insignificant changes.

F. A pharmaceutical processor may submit a request to modify an existing cannabis product registration in the event of a cannabis product deviation that is not set forth in subsection E. Upon receipt, the Board shall respond to such request. The Board may grant or deny the request, propose a reasonable revision, or require the pharmaceutical processor to provide additional information.

§ 54.1-3442.7:3. Advertising and marketing.

A. Pharmaceutical processors and cannabis dispensing facilities may (i) advertise and promote products and operations and (ii) provide educational material to practitioners, patients, and the public.

B. Pharmaceutical processors and cannabis dispensing facilities may engage in advertising or marketing that does not:

1. Include false or misleading statements;

2. Promote overconsumption;

3. Depict a person younger than 21 years of age;

4. Appeal particularly to persons younger than 21 years of age, including by using cartoons in any way;

5. Associate cannabis products with candy or similar products or depicts any images that bear a reasonable resemblance to a candy or similar product; or

6. Contain any seal, flag, crest, coat of arms, or other insignia that is likely to mislead patients or the public to believe that the cannabis product is made or endorsed by the Commonwealth.

C. All advertising and marketing by pharmaceutical processors and cannabis dispensing facilities shall (i) accurately and legibly identify the pharmaceutical processor or cannabis dispensing facility responsible for its content, (ii) include a statement that cannabis products are for use by certified patients only, and (iii) comply with Board regulations.

2. That pharmaceutical processors and cannabis dispensing facilities shall collect and provide to the Board of Pharmacy by July 1, 2024, data regarding the impact of this act on program participation, reductions in the price of cannabis products, and improved operational efficiencies.

3. That the Board of Pharmacy shall amend its regulations, including 18VAC110-60-270, 18VAC110-60-285, 18VAC110-60-290, and 18VAC110-60-310, to replace any references to "brand" with "registered cannabis product name."

4. That the Board of Pharmacy may assess and collect regulatory fees from each pharmaceutical processor and cannabis dispensing facility in an amount sufficient to implement the provisions of this act.

CHAPTER 781

An Act to amend and reenact § 37.2-415 of the Code of Virginia, relating to provisional licenses for providers of behavioral health and developmental services; notice requirement; waiver of appeal right by consent agreement.

[H 1900]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-415 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-415. Provisional and conditional licenses.

The Commissioner may issue a provisional license at any time to a provider that has previously been fully licensed when the provider is temporarily unable to comply with all licensing standards. The maximum term of a provisional license shall be six months. A provisional license may be renewed for a period not to exceed six months if the provider is not able to demonstrate compliance with all licensing regulations but demonstrates progress towards compliance. However, in no case shall the total period of provisional licensure exceed 12 successive months. A provisional license shall be prominently displayed by the provider in a format determined by the Commissioner at the site of the affected service and shall indicate thereon the violations of licensing standards to be corrected and the expiration date of the license. *The Department shall direct any provider who is issued a provisional license to review all pertinent state and federal regulations and other contractual agents with payor sources to determine any limitations that may be placed on such provider by any other agency of the Commonwealth, including restrictions on reimbursement that may be imposed by the Department of Medical Assistance Services.* Whenever the Commissioner issues a provisional license, the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall apply. Any person aggrieved by the final decision of the Commissioner to issue a provisional license shall be entitled to judicial review of such decision in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). *If the provider waives his right to appeal by signing a consent agreement, the consent agreement shall direct the provider to review all pertinent state and federal regulations and contractual agents to determine any*

restrictions on reimbursement that may be imposed by other state agencies or payor sources, and the Commissioner shall provide a copy of the consent agreement to the Department of Medical Assistance Services.

The Commissioner may issue a conditional license to a provider to operate a new service in order to permit the provider to demonstrate compliance with all licensing standards. The maximum term of a conditional license shall be six months. A conditional license may be renewed, but in no case, whether renewed or not, shall the total period of conditional licensing be longer than 12 successive months.

CHAPTER 782

An Act to amend and reenact § 40.1-28.9 of the Code of Virginia, relating to minimum wage; certain employees with disabilities; report.

[H 1924]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 40.1-28.9 of the Code of Virginia is amended and reenacted as follows:

§ 40.1-28.9. Definitions; determining wage of tipped employee.

A. As used in this article:

"Adjusted state hourly minimum wage" means the amount established by the Commissioner pursuant to subsection H of § 40.1-28.10.

"Domestic service" means services related to the care of an individual in a private home or the maintenance of a private home or its premises, on a permanent or temporary basis, including services performed by individuals such as companions, cooks, waiters, butlers, maids, valets, and chauffeurs.

"Employee" includes any individual employed by an employer. "Employee" includes a home care provider. "Employee" does not include the following:

1. Any person employed as a farm laborer or farm employee;

2. Any person engaged in the activities of an educational, charitable, religious, or nonprofit organization where the relationship of employer-employee does not, in fact, exist or where the services rendered to such organization are on a voluntary basis;

3. Caddies on golf courses;

4. Traveling salesmen or outside salesmen working on a commission basis; taxicab drivers and operators;

5. Any person under the age of 18 in the employ of his parent or legal guardian;

6. Any person confined in any penal or corrective institution of the Commonwealth or any of its political subdivisions or admitted to a state hospital or training center operated by the Department of Behavioral Health and Developmental Services;

7. Any person employed by a summer camp for boys, girls, or both boys and girls;

8. Any person under the age of 16, regardless of by whom employed;

9. Any ~~person who is paid~~ *individual with disabilities employed by an employer that was authorized, prior to July 1, 2023, to employ individuals with disabilities at a subminimum wage* pursuant to *a special certificate issued under* 29 U.S.C. § 214(c) of the Fair Labor Standards Act of 1938, as amended*, provided that such individual was employed by and paid a subminimum wage by such employer pursuant to 29 U.S.C. § 214(c) of the Fair Labor Standards Act of 1938, as amended, prior to July 1, 2023*;

10. Students participating in a bona fide educational program;

11. Any person who is less than 18 years of age and who is currently enrolled on a full-time basis in any secondary school, institution of higher education, or trade school, provided that the person is not employed more than 20 hours per week;

12. Any person of any age who is currently enrolled on a full-time basis in any secondary school, institution of higher education, or trade school and is in a work-study program or its equivalent at the institution at which he is enrolled as a student;

13. Any person who works as a babysitter for fewer than 10 hours per week;

14. Any person participating as an au pair in the U.S. Department of State's Exchange Visitor Program governed by 22 C.F.R. § 62.31;

15. Any individual employed as a temporary foreign worker as governed by 20 C.F.R. Part 655; and

16. Any person who is exempt from the federal minimum wage pursuant to 29 U.S.C. § 213(a)(3).

"Employer" includes any individual, partnership, association, corporation, or business trust or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee. "Employer" includes the Commonwealth, any of its agencies, institutions, or political subdivisions, and any public body.

"Federal minimum wage" means the minimum wage or, if applicable, the federal training wage prescribed by the U.S. Fair Labor Standards Act, 29 U.S.C. § 201 et seq.

"Home care provider" means an individual who provides (i) home health services, including services provided by or under the direct supervision of any health care professional under a medical plan of care in a patient's residence on a visit or

hourly basis to patients who have or are at risk of injury, illness, or a disabling condition and require short-term or long-term interventions, or (ii) personal care services, including assistance in personal care to include activities of a daily living provided in an individual's residence on a visit or hourly basis to individuals who have or are at risk of an illness, injury, or disabling condition.

"Tipped employee" means an employee who in the course of employment customarily and regularly receives tips totaling more than $30 each month from persons other than the employee's employer.

"Wages" means legal tender of the United States or checks or drafts on banks negotiable into cash on demand or upon acceptance at full value. "Wages" includes the reasonable cost to the employer of furnishing meals and lodging to an employee if such board or lodging is customarily furnished by the employer and used by the employee.

B. In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, except in the case of an employee who establishes by clear and convincing evidence that the actual amount of tips received by him was less than the amount determined by the employer. In such case, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount. An employer shall not classify an individual as a tipped employee if the individual is prohibited by applicable federal or state law or regulation from soliciting tips.

2. That § 40.1-28.9 of the Code of Virginia is amended and reenacted as follows:

§ 40.1-28.9. Definitions; determining wage of tipped employee.

A. As used in this article:

"Adjusted state hourly minimum wage" means the amount established by the Commissioner pursuant to subsection H of § 40.1-28.10.

"Domestic service" means services related to the care of an individual in a private home or the maintenance of a private home or its premises, on a permanent or temporary basis, including services performed by individuals such as companions, cooks, waiters, butlers, maids, valets, and chauffeurs.

"Employee" includes any individual employed by an employer. "Employee" includes a home care provider. "Employee" does not include the following:

1. Any person employed as a farm laborer or farm employee;

2. Any person engaged in the activities of an educational, charitable, religious, or nonprofit organization where the relationship of employer-employee does not, in fact, exist or where the services rendered to such organization are on a voluntary basis;

3. Caddies on golf courses;

4. Traveling salesmen or outside salesmen working on a commission basis; taxicab drivers and operators;

5. Any person under the age of 18 in the employ of his parent or legal guardian;

6. Any person confined in any penal or corrective institution of the Commonwealth or any of its political subdivisions or admitted to a state hospital or training center operated by the Department of Behavioral Health and Developmental Services;

7. Any person employed by a summer camp for boys, girls, or both boys and girls;

8. Any person under the age of 16, regardless of by whom employed;

9. ~~Any person who is paid pursuant to 29 U.S.C. § 214(c) of the Fair Labor Standards Act of 1938, as amended;~~

~~10.~~ Students participating in a bona fide educational program;

~~11.~~ *10.* Any person who is less than 18 years of age and who is currently enrolled on a full-time basis in any secondary school, institution of higher education, or trade school, provided that the person is not employed more than 20 hours per week;

~~12.~~ *11.* Any person of any age who is currently enrolled on a full-time basis in any secondary school, institution of higher education, or trade school and is in a work-study program or its equivalent at the institution at which he is enrolled as a student;

~~13.~~ *12.* Any person who works as a babysitter for fewer than 10 hours per week;

~~14.~~ *13.* Any person participating as an au pair in the U.S. Department of State's Exchange Visitor Program governed by 22 C.F.R. § 62.31;

~~15.~~ *14.* Any individual employed as a temporary foreign worker as governed by 20 C.F.R. Part 655; and

~~16.~~ *15.* Any person who is exempt from the federal minimum wage pursuant to 29 U.S.C. § 213(a)(3).

"Employer" includes any individual, partnership, association, corporation, or business trust or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee. "Employer" includes the Commonwealth, any of its agencies, institutions, or political subdivisions, and any public body.

"Federal minimum wage" means the minimum wage or, if applicable, the federal training wage prescribed by the U.S. Fair Labor Standards Act, 29 U.S.C. § 201 et seq.

"Home care provider" means an individual who provides (i) home health services, including services provided by or under the direct supervision of any health care professional under a medical plan of care in a patient's residence on a visit or hourly basis to patients who have or are at risk of injury, illness, or a disabling condition and require short-term or long-term interventions, or (ii) personal care services, including assistance in personal care to include activities of a daily living provided in an individual's residence on a visit or hourly basis to individuals who have or are at risk of an illness, injury, or disabling condition.

"Tipped employee" means an employee who in the course of employment customarily and regularly receives tips totaling more than $30 each month from persons other than the employee's employer.

"Wages" means legal tender of the United States or checks or drafts on banks negotiable into cash on demand or upon acceptance at full value. "Wages" includes the reasonable cost to the employer of furnishing meals and lodging to an employee if such board or lodging is customarily furnished by the employer and used by the employee.

B. In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, except in the case of an employee who establishes by clear and convincing evidence that the actual amount of tips received by him was less than the amount determined by the employer. In such case, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount. An employer shall not classify an individual as a tipped employee if the individual is prohibited by applicable federal or state law or regulation from soliciting tips.

3. That the provisions of the first enactment of this act shall expire on July 1, 2030.

4. That the provisions of the second enactment of this act shall become effective on July 1, 2030.

5. That the Department for Aging and Rehabilitative Services and the Department of Behavioral Health and Developmental Services shall prioritize efforts to support individuals with disabilities who desire to transition from subminimum wage employment to competitive integrated employment.

6. That the Department for Aging and Rehabilitative Services and the Department of Behavioral Health and Developmental Services shall submit a report by May 1, 2024, to the Governor and the General Assembly on the number of individuals with disabilities employed in subminimum wage employment and the movement of individuals from subminimum wage employment to competitive integrated employment.

CHAPTER 783

An Act to amend the Code of Virginia by adding in Title 22.1 a chapter numbered 27, containing articles numbered 1 through 7, consisting of sections numbered 22.1-369 through 22.1-380, relating to educational opportunities for children of certain federal employees.

[H 1929]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 22.1 a chapter numbered 27, containing articles numbered 1 through 7, consisting of sections numbered 22.1-369 through 22.1-380, as follows:

CHAPTER 27.

EDUCATIONAL OPPORTUNITIES FOR CHILDREN OF CERTAIN FEDERAL EMPLOYEES.

Article 1.

Purpose.

§ 22.1-369. Purpose.

It is the purpose of this chapter to remove barriers to educational success imposed on school-age children of federal employees serving under orders pursuant to Title 22 or 50 of the United States Code because of frequent moves and service of their parents by:

1. Facilitating the timely enrollment in school divisions of children of federal employees serving under orders pursuant to Title 22 or 50 of the United States Code and ensuring that such children are not placed at a disadvantage due to difficulty in the transfer of educational records from a local education agency in a sending state or variations in entrance or age requirements between local education agencies in sending states and school divisions;

2. Facilitating the student placement process in school divisions through which children of federal employees serving under orders pursuant to Title 22 or 50 of the United States Code are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment between local education agencies in sending states and school divisions;

3. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities in school divisions;

4. Facilitating the on-time graduation in the Commonwealth of children of federal employees serving under orders pursuant to Title 22 or 50 of the United States Code; and

5. Promoting flexibility and cooperation between local education agencies, parents, and students in order to achieve educational success for students.

Article 2.

Definitions.

§ 22.1-370. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Children of federal employees serving under orders pursuant to Title 22 or 50 of the United States Code" means school-age children, enrolled in kindergarten through grade 12, in the household of a federal employee serving under orders pursuant to Title 22 or 50 of the United States Code.

"Educational records" means those official records, files, and data directly related to a student and maintained by a school or local education agency, including records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

"Extracurricular activities" means voluntary activities sponsored by a school division or public school therein or an organization sanctioned by a school division. "Extracurricular activities" includes preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

"Local education agency" means a public authority legally constituted by a state as an administrative agency to provide control of and direction for kindergarten through grade 12 public schools.

"Sending state" means the state from which a child of a federal employee serving under orders pursuant to Title 22 or 50 of the United States Code is sent, brought, or caused to be sent or brought. "Sending state" does not include the Commonwealth.

"State" means one of 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, any other U.S. territory, and any Department of Defense Educational Activity school.

"Student" means the child of a federal employee serving under orders pursuant to Title 22 or 50 of the United States Code and who is formally enrolled in kindergarten through grade 12.

"Transition" means (i) the formal and physical process of transferring from school to school or (ii) the period of time in which a student moves from one school in the sending state to another school in the Commonwealth.

Article 3.

Applicability.

§ 22.1-371. Applicability.

A. Except as otherwise provided in subsection B, the provisions of this chapter shall apply to school-age children who are dependents of federal employees serving under orders pursuant to Title 22 or 50 of the United States Code when the parent produces documentation indicating that he is required to move in order to perform his job responsibilities and such move results in the student's relocation from a sending state to a school division.

B. The provisions of this chapter shall only apply to local education agencies.

Article 4.

Educational Records and Enrollment.

§ 22.1-372. Unofficial educational records.

In the event that official educational records cannot be released to the parents for the purpose of transfer from a local education agency in a sending state to a school division, the custodian of the records in the sending state may prepare and furnish to the parent a complete set of unofficial educational records. Upon receipt of the unofficial educational records by a school in a school division, such school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

§ 22.1-373. Enrollment.

Students shall be allowed to enroll in the school division of the student's intended residence if documentation is provided, at the time of enrollment, of Title 22 or 50 orders of the federal employee parent. Documentation indicating a permanent address within the school division shall be provided to the school division within 120 days of a student's enrollment or tuition may be charged, including tuition for the days since the student's enrollment. In the event that the federal employee parent is ordered to relocate under Title 22 or Title 50 orders before the one hundred twentieth day following the student's enrollment, the school division shall not charge tuition. Students eligible to enroll in a school division pursuant to this section may register, remotely or in person, for courses and other academic programs and participate in the lottery process for charter schools and college partnership laboratory schools in the school division in which such student will reside at the same time and in the same manner as students who reside in the local school division. The assignment of the school that such student will attend shall be determined by the school division.

§ 22.1-374. Kindergarten and first grade entrance age.

Students shall be allowed to continue their enrollment at the grade level in a school division commensurate with their grade level, including kindergarten, in the local education agency in the sending state at the time of transition, regardless of minimum age. A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in a school division, regardless of minimum age. A student transferring after the start of the school year into a school division shall enter the school on his validated grade level from the local education agency in the sending state.

Article 5.

Placement and Attendance.

§ 22.1-375. Course placement.

When a student transfers into a school division before or during the school year, such school division shall initially honor placement of the student in educational courses based on the student's enrollment in the school in the sending state or educational assessments conducted at the school in the sending state if such courses are offered. Such courses include honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the school in the sending state and promoting placement in academically challenging

and career-challenging courses should be paramount when considering course placement. Nothing in this section shall be construed to preclude school divisions from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in educational courses.

§ 22.1-376. Educational program placement.

School divisions shall initially honor placement of a student who transfers into the school division in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include gifted and talented programs and English as a second language programs. Nothing in this section shall be construed to preclude school divisions from performing subsequent evaluations to ensure appropriate placement of the student in educational programs.

§ 22.1-377. Placement flexibility.

School division administrative officials shall have flexibility in waiving course or program prerequisites or other preconditions for placement in courses or programs offered in the school division.

Article 6.
Eligibility.

§ 22.1-378. Eligibility for enrollment.

Children of federal employees serving under orders pursuant to Title 22 or 50 of the United States Code shall be eligible for enrollment in a school division provided that the documents required by §§ 22.1-3.1 and 22.1-3.2 are provided and subject to the authority of the school division to exclude such children from attendance pursuant to § 22.1-277.2 or if such children have been found guilty or adjudicated delinquent for any offense listed in subsection G of § 16.1-260 or any substantially similar offense under the laws of any state.

§ 22.1-379. Eligibility for extracurricular activities participation.

School divisions shall facilitate the opportunity for the participation of students in extracurricular activities, regardless of application deadlines, to the extent that such students are otherwise qualified.

Article 7.
Graduation.

§ 22.1-380. Graduation; waivers and exit exams.

In order to facilitate the on-time graduation of students, school division administrative officials shall incorporate the following procedures:

1. School division administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in a local education agency in a sending state or shall provide reasonable justification for denial of such waiver. Should a waiver not be granted to a student who would qualify to graduate in a sending state, the school division shall provide an alternative means of acquiring required coursework so that graduation may occur on time; and

2. School division administrative officials shall accept, in lieu of testing requirements for graduation in the Commonwealth, (i) exit or end-of-course exams required for graduation from the sending state, (ii) national norm-referenced achievement tests, or (iii) alternative testing acceptable in the Commonwealth.

CHAPTER 784

An Act to amend and reenact § 19.2-11.01 of the Code of Virginia, relating to crime victim rights; notification from the attorney for the Commonwealth.

[H 1943]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-11.01 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-11.01. Crime victim and witness rights.

A. In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of the Commonwealth; that crime victims and witnesses are treated with dignity, respect and sensitivity; and that their privacy is protected to the extent permissible under law. It is the further purpose of this chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws of the Commonwealth; that they receive authorized services as appropriate; and that they have the opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible under law. Unless otherwise stated and subject to the provisions of § 19.2-11.1, it shall be the responsibility of a locality's crime victim and witness assistance program to provide the information and assistance required by this chapter, including verification that the standardized form listing the specific rights afforded to crime victims has been received by the victim.

As soon as practicable after identifying a victim of a crime, the investigating law-enforcement agency shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims, the name, address and telephone number of the office of the attorney for the Commonwealth, the name, address and telephone number of the investigating law-enforcement agency, and a summary of the victim's rights under § 40.1-28.7:2.

1. Victim and witness protection and law-enforcement contacts.

a. In order that victims and witnesses receive protection from harm and threats of harm arising out of their cooperation with law-enforcement, or prosecution efforts, they shall be provided with information as to the level of protection which may be available pursuant to § 52-35 or to any other federal, state or local program providing protection, and shall be assisted in obtaining this protection from the appropriate authorities.

b. Victims and witnesses shall be provided, where available, a separate waiting area during court proceedings that affords them privacy and protection from intimidation, and that does not place the victim in close proximity to the defendant or the defendant's family.

2. Financial assistance.

a. Victims shall be informed of financial assistance and social services available to them as victims of a crime, including information on their possible right to file a claim for compensation from the Crime Victims' Compensation Fund pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) and on other available assistance and services.

b. Victims shall be assisted in having any property held by law-enforcement agencies for evidentiary purposes returned promptly in accordance with §§ 19.2-270.1 and 19.2-270.2.

c. Victims shall be advised that restitution is available for damages or loss resulting from an offense and shall be assisted in seeking restitution in accordance with §§ 19.2-305 and 19.2-305.1, Chapter 21.1 (§ 19.2-368.1 et seq.), Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1, and other applicable laws of the Commonwealth.

3. Notices.

a. Victims and witnesses shall be (i) provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances and (ii) advised that pursuant to § 18.2-465.1 it is unlawful for an employer to penalize an employee for appearing in court pursuant to a summons or subpoena.

b. Victims shall receive advance notification when practicable from the attorney for the Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of any change in court dates in accordance with § 19.2-265.01 if they have provided their names, current addresses and telephone numbers.

c. Victims shall receive notification, if requested, subject to such reasonable procedures as the Attorney General may require pursuant to § 2.2-511, from the Attorney General of the filing and disposition of any appeal or habeas corpus proceeding involving their case.

d. Victims shall be notified by the Department of Corrections or a sheriff or jail superintendent (i) in whose custody an escape, change of name, transfer, release or discharge of a prisoner occurs pursuant to the provisions of §§ 53.1-133.02 and 53.1-160 or (ii) when an accused is released on bail, if they have provided their names, current addresses and telephone numbers in writing. Such notification may be provided through the Virginia Statewide VINE (Victim Information and Notification Everyday) System or other similar electronic or automated system.

e. Victims shall be advised that, in order to protect their right to receive notices and offer input, all agencies and persons having such duties must have current victim addresses and telephone numbers given by the victims. Victims shall also be advised that any such information given shall be confidential as provided by § 19.2-11.2.

f. Victims of sexual assault, as defined in § 19.2-11.5, shall be advised of their rights regarding physical evidence recovery kits as provided in Chapter 1.2 (§ 19.2-11.5 et seq.).

g. Upon the victim's request, the victim shall be notified by the Commissioner of Behavioral Health and Developmental Services or his designee of the release of a defendant (i) who was found to be unrestorably incompetent and was committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, or certified pursuant to § 37.2-806 or (ii) who was acquitted by reason of insanity and committed pursuant to § 19.2-182.3.

4. Victim input.

a. Victims shall be given the opportunity, pursuant to § 19.2-299.1, to prepare a written victim impact statement prior to sentencing of a defendant and may provide information to any individual or agency charged with investigating the social history of a person or preparing a victim impact statement under the provisions of §§ 16.1-273 and 53.1-155 or any other applicable law.

b. Victims shall have the right to remain in the courtroom during a criminal trial or proceeding pursuant to the provisions of § 19.2-265.01.

c. On motion of the attorney for the Commonwealth, victims shall be given the opportunity, pursuant to § 19.2-295.3, to testify prior to sentencing of a defendant regarding the impact of the offense.

d. In a felony case, the attorney for the Commonwealth~~, upon the victim's written request,~~ shall consult with the victim either verbally or in writing (i) to inform the victim of the contents of a proposed plea agreement and (ii) to obtain the victim's views about the disposition of the case, including the victim's views concerning dismissal, pleas, plea negotiations and sentencing. However, nothing in this section shall limit the ability of the attorney for the Commonwealth to exercise his discretion on behalf of the citizens of the Commonwealth in the disposition of any criminal case. The court shall not accept the plea agreement unless it finds that, except for good cause shown, the Commonwealth has complied with clauses (i) and (ii). Good cause shown shall include, but not be limited to, the unavailability of the victim due to incarceration, hospitalization, failure to appear at trial when subpoenaed, ~~or~~ change of address without notice*, or failure to provide an address or phone number as required in subdivision A 3 b.*

~~Upon the victim's written request, the~~ *The* victim shall be notified in accordance with subdivision A 3 b of any proceeding in which the plea agreement will be tendered to the court. *The attorney for the Commonwealth may satisfy his responsibility under this provision by consulting with a parent or guardian of an unemancipated minor victim, if the parent or guardian is not a suspect, person of interest, or defendant in the criminal investigation of the proceeding.*

The responsibility to consult with the victim under this subdivision shall not confer upon the defendant any substantive or procedural rights and shall not affect the validity of any plea entered by the defendant.

5. Courtroom assistance.

a. Victims and witnesses shall be informed that their addresses, any telephone numbers, and email addresses may not be disclosed, pursuant to the provisions of §§ 19.2-11.2 and 19.2-269.2, except when necessary for the conduct of the criminal proceeding.

b. Victims and witnesses shall be advised that they have the right to the services of an interpreter in accordance with §§ 19.2-164 and 19.2-164.1.

c. Victims and witnesses of certain sexual offenses shall be advised that there may be a closed preliminary hearing in accordance with § 18.2-67.8 and, if a victim was 14 years of age or younger on the date of the offense and is 16 or under at the time of the trial, or a witness to the offense is 14 years of age or younger at the time of the trial, that two-way closed-circuit television may be used in the taking of testimony in accordance with § 18.2-67.9.

6. Post trial assistance.

a. Within 30 days of receipt of a victim's written request after the final trial court proceeding in the case, the attorney for the Commonwealth shall notify the victim in writing, of (i) the disposition of the case, (ii) the crimes of which the defendant was convicted, (iii) the defendant's right to appeal, if known, and (iv) the telephone number of offices to contact in the event of nonpayment of restitution by the defendant.

b. If the defendant has been released on bail pending the outcome of an appeal, the agency that had custody of the defendant immediately prior to his release shall notify the victim as soon as practicable that the defendant has been released.

c. If the defendant's conviction is overturned, and the attorney for the Commonwealth decides to retry the case or the case is remanded for a new trial, the victim shall be entitled to the same rights as if the first trial did not take place.

B. For purposes of this chapter, "victim" means (i) a person who has suffered physical, psychological, or economic harm as a direct result of the commission of (a) a felony, (b) assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, a violation of a protective order in violation of § 16.1-253.2 or 18.2-60.4, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or maiming or driving while intoxicated in violation of § 18.2-51.4 or 18.2-266, or (c) a delinquent act that would be a felony or a misdemeanor violation of any offense enumerated in clause (b) if committed by an adult; (ii) a spouse or child of such a person; (iii) a parent or legal guardian of such a person who is a minor; (iv) for the purposes of subdivision A 4 only, a current or former foster parent or other person who has or has had physical custody of such a person who is a minor, for six months or more or for the majority of the minor's life; or (v) a spouse, parent, sibling, or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim" does not mean a parent, child, spouse, sibling, or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in clause (i).

C. Officials and employees of the judiciary, including court services units, law-enforcement agencies, the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness assistance program. Each agency, officer or employee who has a responsibility or responsibilities to victims under this chapter or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that victims and witnesses receive such information and services to which they may be entitled under applicable law, provided that no liability or cause of action shall arise from the failure to make such efforts or from the failure of such victims or witnesses to receive any such information or services.

CHAPTER 785

An Act to amend and reenact §§ 24.2-404, 24.2-702.1, 24.2-704, 24.2-706, and 24.2-707 of the Code of Virginia, relating to absentee voting; witness requirement; required information on return ballot envelope; unique identifier.

[H 1948]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-404, 24.2-702.1, 24.2-704, 24.2-706, and 24.2-707 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-404. Duties of Department of Elections.

A. The Department of Elections shall provide for the continuing operation and maintenance of a central recordkeeping system, the Virginia voter registration system, for all voters registered in the Commonwealth.

In order to operate and maintain the system, the Department shall:

1. Maintain a complete, separate, and accurate record of all registered voters in the Commonwealth. Such system shall automatically register a person who has preregistered pursuant to § 24.2-403.1 upon that person becoming eligible for

registration under § 24.2-403 or reaching 18 years of age, whichever comes first. *Such system shall also assign a unique identifier to each voter registered in the system.*

2. Require the general registrars to enter the names of all registered voters into the system and to change or correct registration records as necessary.

3. Provide to each general registrar voter confirmation documents for newly registered voters, including voters who were automatically registered pursuant to subdivision 1, and for notice to registered voters on the system of changes and corrections in their registration records and polling places.

4. Require the general registrars to delete from the record of registered voters the name of any voter who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due to removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated, (v) is known not to be a United States citizen by reason of reports from the Department of Motor Vehicles pursuant to § 24.2-410.1 or from the Department of Elections based on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E, or (vi) is otherwise no longer qualified to vote as may be provided by law. Such action shall be taken no later than 30 days after notification from the Department. The Department shall promptly provide the information referred to in this subdivision, upon receiving it, to general registrars.

5. Retain on the system for four years a separate record for registered voters whose names have been deleted, with the reason for deletion.

6. Retain on the system permanently a separate record for information received regarding deaths, felony convictions, and adjudications of incapacity pursuant to §§ 24.2-408 through 24.2-410.

7. Provide to each general registrar, at least 16 days prior to a general or primary election and three days prior to a special election, an alphabetical list of all registered voters in each precinct or portion of a precinct in which the election is being held in the county, city, or town. These precinct lists shall be used as the official lists of qualified voters and shall constitute the pollbooks. The Department shall provide instructions for the division of the pollbooks and precinct lists into sections to accommodate the efficient processing of voter lines at the polls. Prior to any general, primary, or special election, the Department shall provide any general registrar, upon his request, with a separate electronic list of all registered voters in the registrar's county or city. If electronic pollbooks are used in the locality or electronic voter registration inquiry devices are used in precincts in the locality, the Department shall provide a regional or statewide list of registered voters to the general registrar of the locality. The Department shall determine whether regional or statewide data is provided. Neither the pollbook nor the regional or statewide list of registered voters shall include the day and month of birth of the voter, but shall include the voter's year of birth.

8. Acquire by purchase, lease, or contract equipment necessary to execute the duties of the Department.

9. Use any source of information that may assist in carrying out the purposes of this section. All agencies of the Commonwealth shall cooperate with the Department in procuring and exchanging identification information for the purpose of maintaining the voter registration system. The Department may share any information that it receives from another agency of the Commonwealth with any Chief Election Officer of another state for the maintenance of the voter registration system.

10. Cooperate with other states and jurisdictions to develop systems to compare voters, voter history, and voter registration lists to ensure the accuracy of the voter registration rolls, to identify voters whose addresses have changed, to prevent duplication of registration in more than one state or jurisdiction, and to determine eligibility of individuals to vote in Virginia.

11. Reprint and impose a reasonable charge for the sale of any part of Title 24.2, lists of precincts and polling places, statements of election results by precinct, and any other items required of the Department by law. Receipts from such sales shall be credited to the Board for reimbursement of printing expenses.

B. The Department shall be authorized to provide for the production, distribution, and receipt of information and lists through the Virginia voter registration system by any appropriate means including, but not limited to, paper and electronic means. The Virginia Freedom of Information Act (§ 2.2-3700 et seq.) shall not apply to records about individuals maintained in this system.

C. The State Board shall institute procedures to ensure that each requirement of this section is fulfilled. As part of its procedures, the State Board shall provide that the general registrar shall mail notice of any cancellation pursuant to clause (v) of subdivision A 4 to the person whose registration is cancelled.

D. The State Board shall promulgate rules and regulations to ensure the uniform application of the law for determining a person's residence.

E. The Department shall apply to participate in the Systematic Alien Verification for Entitlements Program (SAVE Program) operated by U.S. Citizenship and Immigration Services of the U.S. Department of Homeland Security for the purposes of verifying that voters listed in the Virginia voter registration system are United States citizens. Upon approval of the application, the Department shall enter into any required memorandum of agreement with U.S. Citizenship and Immigration Services. The State Board shall promulgate rules and regulations governing the use of the immigration status and citizenship status information received from the SAVE Program.

F. The Department shall report annually by October 1 for the preceding 12 months ending August 31 to the Committees on Privileges and Elections on each of its activities undertaken to maintain the Virginia voter registration system and the results of those activities. The Department's report shall be governed by the provisions of § 2.2-608 and shall

encompass activities undertaken pursuant to subdivisions A 9 and 10 and subsection E and pursuant to §§ 24.2-404.3, 24.2-404.4, 24.2-408, 24.2-409, 24.2-409.1, 24.2-410, 24.2-410.1, 24.2-427, and 24.2-428. This report shall contain the methodology used in gathering and analyzing the data. The Commissioner of Elections shall certify that the data included in the report is accurate and reliable.

§ 24.2-702.1. Federal write-in absentee ballots.

A. Notwithstanding any other provision of this title, a covered voter, as defined in § 24.2-452, may use a federal write-in absentee ballot in any election. Such ballot shall be submitted and processed in the manner provided by the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) and this article.

B. Notwithstanding any other provision of this title, a federal write-in absentee ballot submitted pursuant to subsection A shall be considered valid for purposes of simultaneously satisfying both an absentee ballot application and a completed absentee ballot, provided that the ballot is received no later than the deadline for the return of absentee ballots as provided in § 24.2-709 for the election in which the voter offers to vote, and the application contains the following information: (i) the voter's signature; however, if the voter is unable to sign, the person assisting the voter will note this fact in the voter signature box; (ii) the voter's printed name; (iii) *the voter's birth year; (iv) the last four digits of the voter's social security number; (v)* the county or city in which ~~he~~ *the voter* is registered and offers to vote; ~~(iv)~~ *(vi)* the residence address at which ~~he~~ *the voter* is registered to vote; ~~(v)~~ ~~his~~ *and (vii) the voter's* current military or overseas address~~; and (vi) the signature of a witness who shall sign the same application~~. *For purposes of this section, the unique identifier assigned to the voter in the voter registration system pursuant to subdivision A 1 of § 24.2-404 shall be accepted in place of the last four digits of the voter's social security number for those voters whose registration includes a statement of affirmation that they have never been issued a social security number.*

C. This section shall not be construed to require that an absentee ballot be sent to the absentee voter on receipt of a federal write-in absentee ballot unless the voter has also submitted an absentee ballot application pursuant to § 24.2-701.

§ 24.2-704. Applications and ballots for persons requiring assistance in voting; penalty.

A. The application for an absentee ballot shall provide space for the applicant to indicate that he will require assistance to vote his absentee ballot by reason of blindness, disability, or inability to read or write.

B. On receipt of an application from an applicant who indicated that he will require assistance due to a visual impairment or print disability, the general registrar shall offer to provide to the applicant a ballot marking tool with screen reader assistive technology made available pursuant to § 24.2-103.2. If the applicant opts to use such tool, the general registrar shall send by mail to him a ballot return envelope and accessible instructions provided by the Department for using such tool and returning the marked ballot. The general registrar shall cause the outer envelope containing the ballot return envelope and accessible instructions to have a tactile marking that identifies the outer envelope as the outer envelope to the voter. For purposes of this section, "tactile marking" includes a hole punch, a cut corner, or a tactile sticker.

An absentee voter using such tool shall return the marked absentee ballot in accordance with the instructions provided by the Department.

No ballot marked with the electronic ballot marking tool shall be rejected because the ballot was printed on regular paper. No ballot marked with the electronic ballot marking tool shall be rejected on the basis of the position of the voter's signature or address on the ballot return envelope as long as the voter's signature or address is anywhere on the ballot return envelope.

C. On receipt of an application from an applicant marked to indicate that he will require assistance due to any other disability or if an applicant offered the ballot marking tool pursuant to subsection B declines to use such tool, the general registrar shall deliver, with the items required by § 24.2-706, the voter assistance form furnished by the State Board pursuant to § 24.2-649. The voter and any person assisting him shall complete the form by signing the request for assistance and statement required of the assistant. If the voter is unable to sign the request, the ~~witness~~ *person assisting him* will note this fact on the line for signature of voter. The provisions of § 24.2-649 shall apply to absentee voting and assistance for absentee voters. Any person who willfully violates the provisions of this section or § 24.2-649 in providing assistance to a person who is voting absentee shall be guilty of a Class 5 felony.

§ 24.2-706. Duty of general registrar on receipt of application; statement of voter.

A. On receipt of an application for an absentee ballot, the general registrar shall enroll the name and address of each registered applicant on an absentee voter applicant list that shall be maintained in the office of the general registrar with a file of the applications received. The list shall be available for inspection and copying and the applications shall be available for inspection only by any registered voter during regular office hours. Upon request and for a reasonable fee, the Department of Elections shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list shall be used only for campaign and political purposes. Any list made available for inspection and copying under this section shall contain the post office box address in lieu of the residence street address for any individual who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address pursuant to subsection B of § 24.2-418.

No list or application containing an individual's social security number, or any part thereof, or the individual's day and month of birth, shall be made available for inspection or copying by anyone. The Department of Elections shall prescribe procedures for general registrars to make the information in the lists and applications available in a manner that does not reveal social security numbers or parts thereof, or an individual's day and month of birth.

B. The completion and timely delivery of an application for an absentee ballot shall be construed to be an offer by the applicant to vote in the election.

The general registrar shall note on each application received whether the applicant is or is not a registered voter. In reviewing the application for an absentee ballot, the general registrar shall not reject the application of any individual because of an error or omission on any record or paper relating to the application, if such error or omission is not material in determining whether such individual is qualified to vote absentee.

C. If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the general registrar shall, at the time when the printed ballots for the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate or other evidence of either first-class or expedited mailing or delivery from the United States Postal Service or other commercial delivery provider, or deliver to him in person in the office of the registrar, the following items and nothing else:

1. An envelope containing the folded ballot, sealed and marked "Ballot within. ~~Do not open except in presence of a witness.~~"

2. An envelope for resealing the marked ballot, on which envelope is printed the following:

"Statement of Voter."

"I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that my FULL NAME is (last, first, middle); that I am now or have been at some time since last November's general election a legal resident of ____ (STATE YOUR LEGAL RESIDENCE IN VIRGINIA including the house number, street name or rural route address, city, zip code); that I received the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the envelope marked 'ballot within' and marked the ballot(s) ~~in the presence of the witness~~, without assistance or knowledge on the part of anyone as to the manner in which I marked it (or I am returning the form required to report how I was assisted); that I then sealed the ballot(s) in this envelope; and that I have not voted and will not vote in this election at any other time or place.

Signature of Voter _____

Last four digits of voter's social security number _____

Voter's birth year _____

Date _____

~~Signature of witness _____~~ "

For elections held after January 1, 2004, instead of the envelope containing the above oath, an envelope containing the standard oath prescribed by the presidential designee under § 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) shall be sent to voters who are qualified to vote absentee under that Act.

For purposes of properly completing this statement, the unique identifier assigned to the voter in the voter registration system pursuant to subdivision A 1 of § 24.2-404 shall be accepted in place of the last four digits of the voter's social security number for those voters whose registration includes a statement of affirmation that they have never been issued a social security number.

When this statement has been properly completed and signed by the registered voter ~~and witnessed~~, his ballot shall not be subject to challenge pursuant to § 24.2-651.

3. An envelope, properly addressed and postage prepaid, for the return of the ballot to the general registrar by mail or by the applicant in person, or to a drop-off location.

4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot. Such instructions shall include information on the sites of all drop-off locations in the county or city. Whenever there is a proposed constitutional amendment or a statewide referendum to be voted on by the voters, these instructions shall also include the website address where the explanation of the proposed amendment prepared pursuant to § 30-19.9 or the information about the referendum prepared pursuant to § 30-19.10 is posted on the Department's website.

For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with his ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as a provisional ballot under the provisions of § 24.2-653.01. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to § 24.2-653.01 and this section.

5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.), information provided by the Department of Elections specific to the voting rights and responsibilities for such citizens, or information provided by the registrar specific to the status of the voter registration and absentee ballot application of such voter, may be included.

The envelopes and instructions shall be in the form prescribed by the Department of Elections.

D. The general registrar may contract with a third party for the printing, assembly, and mailing of the items set forth in subsection C. The general registrar shall provide to the contractor in a timely manner the names, addresses, precincts, and

ballot styles of voters requesting an absentee ballot by mail. The vendor shall provide to the general registrar a report of the voters to whom the absentee ballot materials have been sent.

E. If the applicant completes his application in person under § 24.2-701 at a time when the printed ballots for the election are available, he may request that the general registrar send to him by mail the items set forth in subdivisions C 1 through 4, instead of casting the ballot in person. Such request shall be made no later than 5:00 p.m. on the eleventh day prior to the election in which the applicant offers to vote, and the general registrar shall send those items to the applicant by mail, obtaining a certificate or other evidence of mailing.

F. If the applicant is a covered voter, as defined in § 24.2-452, the general registrar, at the time when the printed ballots for the election are available, shall mail by the deadline set forth in § 24.2-612 or deliver in person to the applicant in the office of the general registrar the items as set forth in subdivisions C 1 through 4 and, if necessary, an application for registration. A certificate or other evidence of mailing shall not be required. If the applicant requests that such items be sent by electronic transmission, the general registrar, at the time when the printed ballots for the election are available but not later than the deadline set forth in § 24.2-612, shall send by electronic transmission the blank ballot, the form for the envelope for returning the marked ballot, and instructions to the voter. Such materials shall be sent using the official email address or fax number of the office of the general registrar published on the Department of Elections website. The State Board of Elections may prescribe by regulation the format of the email address used for transmitting ballots to eligible voters. A general registrar may also use electronic transmission facilities provided by the Federal Voting Assistance Program. The voted ballot shall be returned to the general registrar as otherwise required by this chapter.

G. The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur, or (iii) the campaign committee or the appropriate district political party chairman of such candidate. Any person who fails to discharge his duty as provided in this section through willful neglect of duty and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of § 24.2-1001.

§ 24.2-707. How ballots marked and returned.

A. On receipt of a mailed absentee ballot, the voter shall~~, in the presence of a witness,~~ (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ 24.2-644 and 24.2-646 without assistance and without making known how he marked the ballot, except as provided by § 24.2-704.

After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope ~~in the presence of a witness, who shall sign the same envelope~~, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the general registrar, and (e) seal that envelope. A voter's failure to provide in the statement on the back of the envelope his full middle name or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to provide in the statement on the back of the envelope his full first and last name. A voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope shall not be considered a material omission and shall not render his ballot void. ~~A voter's failure to have a witness sign the absentee ballot return envelope for any election held during a declared state of emergency related to a communicable disease of public health threat shall not be considered a material omission and shall not render his ballot void.~~

B. A mailed absentee ballot shall be returned (i) by mail to the office of the general registrar, (ii) by the voter in person to the general registrar, or (iii) to a drop-off location established pursuant to § 24.2-707.1. For purposes of this subsection, "mail" includes a delivery by a commercial delivery service but does not include delivery by a personal courier service or other individual except as provided by §§ 24.2-703.2 and 24.2-705.

C. Failure to follow the procedures set forth in this section shall render the applicant's ballot void.

CHAPTER 786

An Act to amend and reenact §§ 28.2-601 and 28.2-625 of the Code of Virginia, relating to oyster-planting grounds; fees.

[H 1949]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-601 and 28.2-625 of the Code of Virginia are amended and reenacted as follows:

§ 28.2-601. Riparian assignments; entitlements; obligations.

The riparian leaseholder shall have the exclusive right to the use of such ground for planting or gathering oysters and clams.

The assignment made pursuant to § 28.2-600 shall pass with the transfer of the adjacent highland to the subsequent owner of highland and cannot be held separated from the highland. A transfer of highland ownership shall require a transfer of the riparian assignment within ~~eighteen~~ *18* months after the transfer of the highland ownership under the following conditions:

1. The application for transfer shall be in the form prescribed by the Commission and shall be filed with the Commissioner.

2. The Commissioner shall require a new survey if there is not a survey of the exact parcel or parcels of grounds to be transferred.

3. The cost of any new surveys required under this section shall be borne by the person making the transfer, and the cost and fees shall be the same as for surveys of general oyster-planting ground.

4. The application shall be accompanied by a transfer fee of ~~five dollars~~ *$5*.

5. The Commissioner shall return the approved application for transfer and plat with any correction to the applicant. A copy of the transfer and plat shall be recorded at the Commissioner's office.

6. If no application for transfer is received by the Commissioner within ~~eighteen~~ *18* months after the transfer of the highland ownership, the riparian assignment shall become vacant and open to assignment.

§ 28.2-625. Transfer or assignment.

A person holding an existing lease of oyster-planting ground may transfer or assign all or any part of the lease to another under the following conditions and provisions:

1. The transfer or assignment may be made only to a resident of the Commonwealth, or a firm or corporation authorized by Virginia laws to occupy and hold oyster-planting ground.

2. The application for transfer or assignment shall be in the form prescribed by the Commissioner and shall be filed with the Commission.

3. The Commissioner shall require a new survey if no survey exists of the exact parcel or parcels of grounds to be transferred or assigned.

4. The cost of any new surveys required under this section shall be borne by the person making the transfer, and the cost and fees shall be the same as for surveys made by the Commissioner.

5. The application shall be accompanied by the transfer fee of $300 for each lease less than five acres, $500 for each lease of five to 25 acres, and $1,000 for each lease greater than 25 acres.

6. The Commissioner shall record in his office the application for transfer or assignment with any correction or new plat he deems necessary only if the Commissioner believes that the transfer or assignment is in the public interest ~~after considering the factors in subsection A of § 28.2-1205 and the public benefits and impacts of shellfish aquaculture~~. No lease shall be transferred if the leaseholder has been denied renewal under § 28.2-613.

7. The transfer or assignment shall constitute a new lease of the tract or parcel assigned and any ground remaining under the old lease.

CHAPTER 787

An Act to amend and reenact §§ 18.2-340.16, 18.2-340.23, 18.2-340.25, 18.2-340.26:1, and 18.2-340.28 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.25:2, relating to charitable gaming; temporary permits; limitations; definitions.

[H 1987]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.16, 18.2-340.23, 18.2-340.25, 18.2-340.26:1, and 18.2-340.28 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-340.25:2 as follows:

§ 18.2-340.16. Definitions.

As used in this article, unless the context requires a different meaning:

"Bingo" means a specific game of chance played with (i) individual cards having randomly numbered squares ranging from one to 75, (ii) Department-approved electronic devices that display facsimiles of bingo cards and are used for the purpose of marking and monitoring players' cards as numbers are called, or (iii) Department-approved cards, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random.

"Bona fide member" means an individual who participates in activities of a qualified organization other than such organization's charitable gaming activities.

"Charitable gaming" or "charitable games" means those raffles, Texas Hold'em poker tournaments, and games of chance explicitly authorized by this article. Unless otherwise specified, "charitable gaming" includes electronic gaming authorized by this article.

"Charitable gaming permit" or "permit" means a permit issued by the Department to an organization that authorizes such organization to conduct charitable gaming, and if such organization is qualified as a social organization, electronic gaming.

"Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers, instant bingo cards, pull-tab cards and seal cards, playing cards for Texas Hold'em poker, poker chips, and any other equipment or product manufactured for or intended to be used in the conduct of charitable games. However, for the purposes of this article, charitable gaming supplies shall not include items incidental to the conduct of charitable gaming such as markers, wands, or tape.

"Commissioner" means the Commissioner of the Department of Agriculture and Consumer Services.

"Conduct" means the actions associated with the provision of a gaming operation during and immediately before or after the permitted activity, which may include (i) selling bingo cards or packs, electronic devices, instant bingo or pull-tab cards, or raffle tickets, (ii) calling bingo games, (iii) distributing prizes, and (iv) any other services provided by volunteer workers.

"Department" means the Department of Agriculture and Consumer Services.

"Electronic gaming" or "electronic games" means any instant bingo, pull tabs, or seal card gaming that is conducted primarily by use of an electronic device. "Electronic gaming" does not include (i) the game of chance identified in clause (ii) of the definition of "bingo" or (ii) network bingo.

"Electronic gaming adjusted gross receipts" means the gross receipts derived from electronic gaming less the total amount in prize money paid out to players.

"Electronic gaming manufacturer" means a manufacturer of electronic devices used to conduct electronic gaming.

"Fair market rental value" means the rent that a rental property will bring when offered for lease by a lessor who desires to lease the property but is not obligated to do so and leased by a lessee under no necessity of leasing.

"Gaming expenses" means prizes, supplies, costs of publicizing gaming activities, audit and administration or permit fees, and a portion of the rent, utilities, accounting and legal fees, and such other reasonable and proper expenses as are directly incurred for the conduct of charitable gaming.

"Gross receipts" means the total amount of money generated by an organization from charitable gaming before the deduction of expenses, including prizes.

"Instant bingo," "pull tabs," or "seal cards" means specific games of chance played by the random selection of one or more individually prepacked cards with winners being determined by the preprinted or predetermined appearance of concealed letters, numbers, or symbols that must be exposed by the player to determine wins and losses and may include the use of a seal card that conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by mechanical equipment.

"Jackpot" means a bingo game that the organization has designated on its game program as a jackpot game in which the prize amount is greater than $100.

"Landlord" means any person or his agent, firm, association, organization, partnership, or corporation, employee, or immediate family member thereof, which owns and leases, or leases any premises devoted in whole or in part to the conduct of bingo games or other charitable gaming pursuant to this article, and any person residing in the same household as a landlord.

"Management" means the provision of oversight of a gaming operation, which may include the responsibilities of applying for and maintaining a permit or authorization, compiling, submitting, and maintaining required records and financial reports, and ensuring that all aspects of the operation are in compliance with all applicable statutes and regulations.

"Network bingo" means a specific bingo game in which pari-mutuel play is permitted.

"Network bingo provider" means a person licensed by the Department to operate network bingo.

"Operation" means the activities associated with production of a charitable gaming or electronic gaming activity, which may include (i) the direct on-site supervision of the conduct of charitable gaming and electronic gaming; (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming and electronic gaming designated by the organization's management.

"Organization" means any one of the following:

1. A volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being a part of the safety program of such political subdivision;

2. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code, is operated, and has always been operated, exclusively for educational purposes, and awards scholarships to accredited public institutions of higher education or other postsecondary schools licensed or certified by the Board of Education or the State Council of Higher Education for Virginia;

3. An athletic association or booster club or a band booster club established solely to raise funds for school-sponsored athletic or band activities for a public school or private school accredited pursuant to § 22.1-19 or to provide scholarships to students attending such school;

4. An association of war veterans or auxiliary units thereof organized in the United States;

5. A fraternal association or corporation operating under the lodge system;

6. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to provide services and other resources to older Virginians, as defined in § 51.5-116;

7. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to foster youth amateur sports;

8. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to provide health care services or conduct medical research;

9. An accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

10. A church or religious organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

11. An organization that is exempt from income tax pursuant to § 501(c)(3) or 501(c)(4) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) create and foster a spirit of understanding among the people of the world; (ii) promote the principles of good government and citizenship; (iii) take an active interest in the civic, cultural, social, and moral welfare of the community; (iv) provide a forum for the open discussion of matters of public interest; (v) encourage individuals to serve the community without personal financial reward; and (vi) encourage efficiency and promote high ethical standards in commerce, industries, professions, public works, and private endeavors;

12. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) raise awareness of law-enforcement officers who died in the line of duty; (ii) raise funds for the National Law Enforcement Officers Memorial and Museum; and (iii) raise funds for the charitable causes of other organizations that are exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

13. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) promote the conservation of the environment, caves, or other natural resources; (ii) promote or develop opportunities for the use of science and technology to advance the conservation of the environment, caves, or other natural resources; and (iii) raise funds for the conservation of the environment, caves, or other natural resources or provide grant opportunities to other nonprofit organizations that are devoted to such conservation efforts;

14. *An organization (i) established on or before December 31, 1963, as a result of its members being prohibited from joining similar existing organizations because of laws such as the Public Assemblages Act of 1926, which required the racial segregation of all public events in the Commonwealth; (ii) that is exempt from income tax pursuant to § 501(c)(7) of the Internal Revenue Code; and (iii) that is operated, and has always been operated, for community awareness and action through educational, economic, and cultural service activities;*

15. An organization established on or before December 31, 1977, that is exempt from income tax pursuant to § 501(c)(7) of the Internal Revenue Code and is incorporated, in part, to raise funds for donation to organizations whose missions include promoting early detection of and public education about and supporting research and treatment options for heart disease and various cancers;

16. A local chamber of commerce; or

~~15.~~ *17.* Any other nonprofit organization that is exempt from income tax pursuant to § 501(c) of the Internal Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or seal cards that generate annual gross receipts of $40,000 or less, provided that such gross receipts, less expenses and prizes, are used exclusively for charitable, educational, religious, or community purposes. Notwithstanding § 18.2-340.26:1, proceeds from instant bingo, pull tabs, and seal cards shall be included when calculating an organization's annual gross receipts for the purposes of this subdivision.

"Pari-mutuel play" means an integrated network operated by a licensee of the Department comprised of participating charitable organizations for the conduct of network bingo games in which the purchase of a network bingo card by a player automatically includes the player in a pool with all other players in the network, and where the prize to the winning player is awarded based on a percentage of the total amount of network bingo cards sold in a particular network.

"Qualified organization" means any organization to which a valid permit has been issued by the Department to conduct charitable gaming or any organization that is exempt pursuant to § 18.2-340.23.

"Raffle" means a lottery in which the prize is won by (i) a random drawing of the name or prearranged number of one or more persons purchasing chances or (ii) a random contest in which the winning name or preassigned number of one or more persons purchasing chances is determined by a race involving inanimate objects floating on a body of water, commonly referred to as a "duck race."

"Reasonable and proper business expenses" means business expenses actually incurred by a qualified organization in the conduct of charitable gaming and not otherwise allowed under this article or under Department regulations on real estate and personal property tax payments, travel expenses, payments of utilities and trash collection services, legal and accounting fees, costs of business furniture, fixtures and office equipment and costs of acquisition, maintenance, repair, or construction of an organization's real property. For the purpose of this definition, salaries and wages of employees whose primary responsibility is to provide services for the principal benefit of an organization's members may qualify as a business expense, if so determined by the Department. However, payments made pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund shall be deemed a reasonable and proper business expense.

"Social organization" means any qualified organization that provides certification to the Department that it is:

1. An accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia qualified under § 501(c)(3) of the Internal Revenue Code;

2. *An organization established on or before December 31, 1963, as a result of its members being prohibited from joining similar existing organizations because of laws such as the Public Assemblages Act of 1926, which required the racial segregation of all public events in the Commonwealth, that is qualified under § 501(c)(7) of the Internal Revenue Code;*

3. An organization established on or before December 31, 1977, that is qualified under § 501(c)(7) of the Internal Revenue Code and is incorporated, in part, to raise funds for donation to organizations whose missions include promoting early detection of and public education about and supporting research and treatment options for heart disease and various cancers;

4. A fraternal beneficiary society, order, or association qualified under § 501(c)(8) of the Internal Revenue Code;

~~3.~~ *5.* A domestic fraternal society, order, or association qualified under § 501(c)(10) of the Internal Revenue Code; or

~~4.~~ *6.* A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization qualified under § 501(c)(19) of the Internal Revenue Code.

"Social quarters" means, in addition to any specifications prescribed by the Department, an area at a social organization's primary location that (i) such organization designates to be used predominantly by its members for social and recreational activities, (ii) is accessible exclusively to members of the social organization and their guests, and (iii) is not advertised or open to the general public. It shall not disqualify the area from being considered social quarters if guests occasionally accompany members into the area, so long as such guests do not spend their own funds to participate in charitable gaming or electronic gaming activities conducted in the area. In determining if an area is social quarters for purposes of § 18.2-340.26:3, the Department may rely on publications of the Internal Revenue Service regarding the allowable participation of guests in an organization's social and recreational activities for purposes of § 501 of the Internal Revenue Code.

"Supplier" means any person who offers to sell, sells, or otherwise provides charitable gaming supplies to any qualified organization.

"Texas Hold'em poker game" means a variation of poker in which (i) players receive two cards facedown that may be used individually, (ii) five cards shown face up are shared among all players in the game, (iii) players combine any number of their individual cards with the shared cards to make the highest five-card hand to win the value wagered during the game, and (iv) the ranking of hands and the rules of the game are governed by the official rules of the Poker Tournament Directors Association.

"Texas Hold'em poker tournament" or "tournament" means an organized competition of players (i) who pay a fixed fee for entry into the competition and for a certain amount of poker chips for use in the competition; (ii) who may be allowed to pay an additional fee, during set preannounced times of the competition, to receive additional poker chips for use in the competition; (iii) who may be seated at one or more tables simultaneously playing Texas Hold'em poker games; (iv) who upon running out of poker chips are eliminated from the competition; and (v) a pre-set number of whom are awarded prizes of value according to how long such players remain in the competition.

§ 18.2-340.23. Organizations exempt from certain fees and reports.

A. No organization that reasonably expects, based on prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of $40,000 or less in any 12-month period from raffles conducted in accordance with the provisions of this article shall be required to (i) notify the Department of its intention to conduct raffles or (ii) comply with Department regulations governing raffles. If any organization's actual gross receipts from raffles for the 12-month period exceed $40,000, the Department shall require the organization to file by a specified date the report required by § 18.2-340.30.

B. Any (i) organization described in subdivision ~~15~~ *17* of the definition of "organization" in § 18.2-340.16 or (ii) volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being part of the safety program of such political subdivision shall be exempt from the payment of application fees required by § 18.2-340.25 and the payment of audit fees required by § 18.2-340.31. Any such organization, department, agency, or unit that conducts electronic gaming shall be subject to such application fees and audit fees for its electronic gaming activities; however, in accordance with the provisions of § 18.2-340.31, any audit fees may be paid by either the organization or the electronic gaming manufacturer whose electronic gaming devices are present on the premises of the organization, department, agency, or unit. Nothing in this subsection shall be construed as exempting any organizations described in subdivision ~~15~~ *17* of the definition of "organization" in § 18.2-340.16, volunteer fire departments, or volunteer emergency medical services agencies from any other provisions of this article or other Department regulations.

C. Nothing in this section shall prevent the Department from conducting any investigation or audit it deems appropriate to ensure an organization's compliance with the provisions of this article and, to the extent applicable, Department regulations.

§ 18.2-340.25. Permit required; application fee; form of application.

A. Except as provided for in § 18.2-340.23, prior to the commencement of any charitable game, an organization shall obtain a permit from the Department.

B. All complete applications for a permit shall be acted upon by the Department within 45 days from the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the discretion of the Department, a permit may

be issued. All permits when issued shall be valid for the period specified in the permit unless it is sooner suspended or revoked. No permit shall be valid for longer than two years. The application shall be a matter of public record.

All permits shall be subject to regulation by the Department to ensure the public safety and welfare in the operation of charitable games. The permit shall only be granted after a reasonable investigation has been conducted by the Department. The Department may require any prospective employee, permit holder, or applicant to submit to fingerprinting and to provide personal descriptive information to be forwarded along with employee's, licensee's, or applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purposes of obtaining criminal history record information regarding such prospective employee, permit holder, or applicant. The Central Criminal Records Exchange upon receipt of a prospective employee, licensee, or applicant record or notification that no record exists, shall forward the report to the Commissioner of the Department or his designee, who shall belong to a governmental entity. However, nothing in this subsection shall be construed to require the routine fingerprinting of volunteer bingo workers.

C. In no case shall an organization receive more than one permit allowing it to conduct charitable gaming*; except that an organization may also apply for and receive a temporary permit pursuant to § 18.2-340.25:2*.

D. Application for a charitable gaming permit shall be made on forms prescribed by the Department and shall be accompanied by payment of the fee for processing the application.

E. Applications for renewal of permits shall be made in accordance with Department regulations. If a complete renewal application is received 45 days or more prior to the expiration of the permit, the permit shall continue to be effective until such time as the Department has taken final action. Otherwise, the permit shall expire at the end of its term.

F. The failure to meet any of the requirements of § 18.2-340.24 shall cause the automatic denial of the permit, and no organization shall conduct any charitable gaming until the requirements are met and a permit is obtained.

§ 18.2-340.25:2. Temporary permits authorized; limitations.

A. Any qualified organization described in subdivision 4 or 5 of the definition of "organization" in § 18.2-340.16 may obtain a temporary permit from the Department allowing such organization to sell instant bingo, pull tabs, or seal cards upon premises located anywhere in the Commonwealth during a convention, conference, or related event lasting no more than seven consecutive days held by such organization's affiliated state, regional, or national organization up to once per quarter as designated in the permit.

B. All complete applications for a permit shall be acted upon by the Department within 45 days from the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the discretion of the Department, a temporary permit may be issued. All temporary permits when issued shall be valid for the period specified in the permit unless it is sooner suspended or revoked. No permit shall be valid for longer than one year. The application shall be a matter of public record.

All temporary permits shall be subject to regulation by the Department to ensure the public safety and welfare in the operation of charitable games. The temporary permit shall only be granted after a reasonable investigation has been conducted by the Department. The Department may require any prospective employee, permit holder, or applicant to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the employee's, permit holder's, or applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purposes of obtaining criminal history record information regarding such prospective employee, permit holder, or applicant. The Central Criminal Records Exchange upon receipt of a prospective employee, permit holder, or applicant record or notification that no record exists shall forward the report to the Commissioner of the Department or his designee, who shall belong to a governmental entity. However, nothing in this subsection shall be construed to require the routine fingerprinting of volunteer bingo workers.

C. In no case shall an organization receive more than one temporary permit allowing it to conduct charitable gaming; however, an organization may also receive a permit in accordance with the provisions of § 18.2-340.25.

D. Application for a temporary permit shall be made on forms prescribed by the Department and shall be accompanied by payment of the fee for processing the application.

E. Applications for renewal of temporary permits shall be made in accordance with Department regulations. If a complete renewal application is received 45 days or more prior to the expiration of the temporary permit, the temporary permit shall continue to be effective until such time as the Department has taken final action. Otherwise, the temporary permit shall expire at the end of its term.

F. The failure to meet any of the requirements of § 18.2-340.24 shall cause the automatic denial of the temporary permit, and no organization shall conduct any charitable gaming in accordance with the provisions of subsection A until such requirements are met and a temporary permit is obtained.

§ 18.2-340.26:1. Sale of instant bingo, pull tabs, or seal cards.

A. ~~Instant~~ *Except as provided in subsection D, instant* bingo, pull tabs, or seal cards may be sold only (i) by a qualified organization, as defined in § 18.2-340.16, (ii) upon premises that are owned or exclusively and entirely leased by the qualified organization or leased by the qualified organization pursuant to subsection C, and (iii) at such times that the premises in which the instant bingo, pull tabs, or seal cards are sold is open only to members and their guests via controlled access. Except as provided in ~~subsection~~ *subsections* C *and D*, no organization may sell instant bingo, pull tabs, or seal cards (a) at a location outside of the county, city, or town in which the organization's principal office, as registered with the State Corporation Commission, is located or in an adjoining county, city, or town or (b) at an establishment that has been granted a license pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1 unless such license is held by the organization.

Nothing in this article shall be construed to prohibit the conduct of games of chance involving the sale of pull tabs, or seal cards, commonly known as last sale games, conducted in accordance with this section or, if such games are electronic games, in accordance with § 18.2-340.26:3.

B. It is prohibited to use an electronic device to conduct instant bingo, pull tabs, or seal cards except as permitted under § 18.2-340.26:3.

C. Notwithstanding the provisions of subsection A, a qualified organization may lease the premises of any social organization authorized pursuant to § 18.2-340.26:3 for the purpose of selling instant bingo, pull tabs, or seal cards.

D. Notwithstanding the provisions of subsection A, instant bingo, pull tabs, or seal cards may be sold by a qualified organization that has received a temporary permit from the Department pursuant to § 18.2-340.25:2 upon premises located anywhere in the Commonwealth during a convention, conference, or related event lasting no more than seven consecutive days held by such organization's affiliated state, regional, or national organization up to once per quarter as designated in the temporary permit.

§ 18.2-340.28. Conduct of instant bingo, network bingo, pull tabs, and seal cards.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may also play instant bingo, network bingo, pull tabs, or seal cards; however, such games shall be played only at such times designated in the permit for regular bingo games and only at locations at which the organization is authorized to conduct regular bingo games pursuant to subsections E and F of § 18.2-340.27*, except that a qualified organization that is issued a temporary permit pursuant to § 18.2-340.25:2 shall be authorized to play instant bingo, pull tabs, or seal cards in accordance with subsection D of § 18.2-340.26:1*. It is prohibited to use an electronic device to conduct instant bingo, pull tabs, or seal cards except as permitted under § 18.2-340.26:3.

B. Any organization conducting instant bingo, network bingo, pull tabs, or seal cards shall maintain a record of the date, quantity, and card value of instant bingo supplies purchased as well as the name and address of the supplier of such supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection. Such supplies shall be paid for only by check drawn on the gaming account of the organization. A complete inventory of all such gaming supplies shall be maintained by the organization on the premises where the gaming is being conducted.

C. No qualified organization shall sell any instant bingo, network bingo, pull tabs, or seal cards to any individual younger than 18 years of age. No individual younger than 18 years of age shall play or redeem any instant bingo, network bingo, pull tabs, or seal cards.

D. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or other electronic fund transfer other than debit cards in payment of any charges or assessments for players to participate in instant bingo, network bingo, pull tabs, or seal cards.

CHAPTER 788

An Act to amend and reenact § 16.1-296 of the Code of Virginia, relating to juvenile and domestic relations district courts; notice of appeal to the circuit court.

[H 1992]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-296 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-296. Jurisdiction of appeals; procedure.

A. From any final order or judgment of the juvenile court affecting the rights or interests of any person coming within its jurisdiction, an appeal may be taken to the circuit court within 10 days from the entry of a final judgment, order, or conviction and shall be heard de novo. ~~However, in~~ *In any such case, a copy of the notice of appeal shall be served consistent with Rule 1:12 of the Rules of Supreme Court of Virginia by the appealing party upon the opposing party or each counsel of record. The failure of the appealing party to properly serve the notice of appeal shall not affect the validity of an otherwise proper appeal. However, if the court determines that the appealing party failed to properly serve a copy of the notice of appeal upon an opposing party, the court may, on its own motion, (i) continue any hearing on such appeal or (ii) dismiss such appeal absent a showing of good cause by the appealing party.*

A1. In a case arising under the Uniform Interstate Family Support Act (§ 20-88.32 et seq.), a party may take an appeal pursuant to this section within 30 days from entry of a final order or judgment. Protective orders issued pursuant to § 16.1-279.1 in cases of family abuse and orders entered pursuant to § 16.1-278.2 are final orders from which an appeal may be taken.

B. Upon receipt of notice of such appeal the juvenile court shall forthwith transmit to the attorney for the Commonwealth a report incorporating the results of any investigation conducted pursuant to § 16.1-273, which shall be confidential in nature and made available only to the court and the attorney for the defendant (i) after the guilt or innocence of the accused has been determined or (ii) after the court has made its findings on the issues subject to appeal. After final determination of the case, the report and all copies thereof shall be forthwith returned to such juvenile court.

C. Where an appeal is taken by a child on a finding that he or she is delinquent and on a disposition pursuant to § 16.1-278.8, trial by jury on the issue of guilt or innocence of the alleged delinquent act may be had on motion of the child, the attorney for the Commonwealth or the circuit court judge. If the alleged delinquent act is one which, if committed by an adult, would constitute a felony, the child shall be entitled to a jury of 12 persons. In all other cases, the jury shall consist of seven persons. If the jury in such a trial finds the child guilty, disposition shall be by the judge pursuant to the provisions of § 16.1-278.8 after taking into consideration the report of any investigation made pursuant to § 16.1-237 or 16.1-273.

C1. In any hearing held upon an appeal taken by a child on a finding that he is delinquent and on a disposition pursuant to § 16.1-278.8, the provisions of § 16.1-302 shall apply mutatis mutandis, except in the case of trial by jury which shall be open. If proceedings in the circuit court are closed pursuant to this subsection, any records or portions thereof relating to such closed proceedings shall remain confidential.

C2. Where an appeal is taken by a juvenile on a finding that he is delinquent and on a disposition pursuant to § 16.1-278.8 and the juvenile is in a secure facility pending the appeal, the circuit court, when practicable, shall hold a hearing on the merits of the case within 45 days of the filing of the appeal. Upon receipt of the notice of appeal from the juvenile court, the circuit court shall provide a copy of the order and a copy of the notice of appeal to the attorney for the Commonwealth within seven days after receipt of notice of an appeal. The time limitations shall be tolled during any period in which the juvenile has escaped from custody. A juvenile held continuously in secure detention shall be released from confinement if there is no hearing on the merits of his case within 45 days of the filing of the appeal. The circuit court may extend the time limitations for a reasonable period of time based upon good cause shown, provided the basis for such extension is recorded in writing and filed among the papers of the proceedings.

D. When an appeal is taken in a case involving termination of parental rights brought under § 16.1-283, the circuit court shall hold a hearing on the merits of the case within 90 days of the perfecting of the appeal. An appeal of the case to the Court of Appeals shall take precedence on the docket of the Court.

E. Where an appeal is taken by an adult on a finding of guilty of an offense within the jurisdiction of the juvenile and domestic relations district court, the appeal shall be dealt with in all respects as is an appeal from a general district court pursuant to §§ 16.1-132 through 16.1-137; however, where an appeal is taken by any person on a charge of nonsupport, the procedure shall be as is provided for appeals in prosecutions under Chapter 5 (§ 20-61 et seq.) of Title 20.

F. In all other cases on appeal, proceedings in the circuit court shall be heard without a jury; however, hearing of an issue by an advisory jury may be allowed, in the discretion of the judge, upon the motion of any party. An appeal from an order of protection issued pursuant to § 16.1-279.1 shall be given precedence on the docket of the court over other civil appeals taken to the circuit court from the district courts and shall be assigned a case number within two business days of receipt of such appeal.

If a party files an appeal of a district court order of protection entered pursuant to § 16.1-279.1, such notice of appeal shall be on a form prescribed by the Office of the Executive Secretary. The district court clerk shall contact the appellate court to determine whether the hearing on the appeal shall be set by the appellate court on (i) a date scheduled by the district court clerk with the court, (ii) on the next docket call date, or (iii) a date set for district court appeals. Once the hearing date is set and the appeal documents have been transmitted, the appellate court shall have the parties served with notice of the appeal stating the date and time of the hearing in accordance with subdivision 1 of § 8.01-296. No such hearing on the appeal shall be heard in the appellate court unless the appellee has been so served with such notice or notice has been waived by the non-moving party.

G. Costs, taxes and fees on appealed cases shall be assessed only in those cases in which a trial fee could have been assessed in the juvenile and domestic relations court and shall be collected in the circuit court, except that the appeal to circuit court of any case in which a fee either was or could have been assessed pursuant to § 16.1-69.48:5 shall also be in accordance with § 16.1-296.2.

H. No appeal bond shall be required of a party appealing from an order of a juvenile and domestic relations district court except for that portion of any order or judgment establishing a support arrearage or suspending payment of support during pendency of an appeal. In cases involving support, no appeal shall be allowed until the party applying for the same or someone for him gives bond, in an amount and with sufficient surety approved by the judge or by his clerk if there is one, to abide by such judgment as may be rendered on appeal if the appeal is perfected or, if not perfected, then to satisfy the judgment of the court in which it was rendered. Upon appeal from a conviction for failure to support or from a finding of civil or criminal contempt involving a failure to support, the juvenile and domestic relations district court may require the party applying for the appeal or someone for him to give bond, with or without surety, to insure his appearance and may also require bond in an amount and with sufficient surety to secure the payment of prospective support accruing during the pendency of the appeal. An appeal will not be perfected unless such appeal bond as may be required is filed within 30 days from the entry of the final judgment or order. However, no appeal bond shall be required of the Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict or an insane person, or the interest of a county, city or town.

If bond is furnished by or on behalf of any party against whom judgment has been rendered for money, the bond shall be conditioned for the performance and satisfaction of such judgment or order as may be entered against the party on appeal, and for the payment of all damages which may be awarded against him in the appellate court. If the appeal is by a party against whom there is no recovery, the bond shall be conditioned for the payment of any damages as may be awarded against him on the appeal. The provisions of § 16.1-109 shall apply to bonds required pursuant to this subsection.

This subsection shall not apply to release on bail pursuant to other subsections of this section or § 16.1-298.

I. In all cases on appeal, the circuit court in the disposition of such cases shall have all the powers and authority granted by the chapter to the juvenile and domestic relations district court. Unless otherwise specifically provided by this Code, the circuit court judge shall have the authority to appoint counsel for the parties and compensate such counsel in accordance with the provisions of Article 6 (§ 16.1-266 et seq.) of this chapter.

J. In any case which has been referred or transferred from a circuit court to a juvenile court and an appeal is taken from an order or judgment of the juvenile court, the appeal shall be taken to the circuit court in the same locality as the juvenile court to which the case had been referred or transferred.

CHAPTER 789

An Act to amend and reenact § 20-25 of the Code of Virginia, relating to persons other than ministers who may perform rites of marriage; clerk; issuance of order; bond requirement.

[H 2071]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 20-25 of the Code of Virginia is amended and reenacted as follows:

§ 20-25. Persons other than ministers who may perform rites.

Upon petition filed with the clerk and payment of applicable clerk's fees, any circuit court judge may issue an order authorizing one or more persons resident in the circuit in which the judge sits to celebrate the rites of marriage in the Commonwealth. Any person so authorized shall, before acting, enter into bond in the penalty of $500, with or without surety, as the court may direct*; however, upon a showing that the person would otherwise be qualified for in forma pauperis status, the court may waive such bond*. Any order made under this section may be rescinded at any time. No oath shall be required of a person authorized to celebrate the rites of marriage, nor shall such person be considered an officer of the Commonwealth by virtue of such authorization.

Any judge or justice of a court of record, any judge of a district court, any retired judge or justice of the Commonwealth, any active, senior, or retired federal judge or justice who is a resident of the Commonwealth, ~~and~~ *or* any current (i) member of the General Assembly, (ii) Governor of Virginia, (iii) Lieutenant Governor of Virginia, ~~and~~ *or* (iv) Attorney General of Virginia may celebrate the rites of marriage anywhere in the Commonwealth without the necessity of bond or order of authorization.

2. That the State Registrar shall amend the form furnished for a marriage license to include as the celebrant on such marriage license any person authorized by § 20-25 of the Code of Virginia, as amended by this act, to perform rites of marriage.

CHAPTER 790

An Act to amend and reenact §§ 37.2-203, 37.2-508, and 37.2-608 of the Code of Virginia, relating to community services boards; behavioral health authorities; performance contracts.

[H 2185]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-203, 37.2-508, and 37.2-608 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-203. Powers and duties of Board.

The Board shall have the following powers and duties:

1. To develop and establish programmatic and fiscal policies governing the operation of state hospitals, training centers, community services boards, and behavioral health authorities;

2. To ensure the development of long-range programs and plans for mental health, developmental, and substance abuse services provided by the Department, community services boards, and behavioral health authorities;

3. To review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Governor and on all applications for federal funds;

4. To monitor the activities of the Department and its effectiveness in implementing the policies of the Board;

5. To advise the Governor, Commissioner, and General Assembly on matters relating to mental health, developmental, and substance abuse services;

6. To adopt regulations that may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Commissioner or the Department;

7. To ensure the development of programs to educate citizens about and elicit public support for the activities of the Department, community services boards, and behavioral health authorities;

8. To ensure that the Department assumes the responsibility for providing for education and training of school-age individuals receiving services in state facilities, pursuant to § 37.2-312;

9. To change the names of state facilities; ~~and~~

10. To adopt regulations that establish the qualifications, education, and experience for registration of peer recovery specialists by the Board of Counseling*; and*

11. To monitor the Department's performance regarding its regular, ongoing monitoring of community services boards' and behavioral health authorities' compliance with the performance contract requirements set forth in §§ 37.2-508 and 37.2-608 and to make recommendations, as applicable, to the Department regarding improvement of such monitoring activities.

Prior to the adoption, amendment, or repeal of any regulation regarding substance abuse services, the Board shall, in addition to the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.), present the proposed regulation to the Substance Abuse Services Council, established pursuant to § 2.2-2696, at least 30 days prior to the Board's action for the Council's review and comment.

§ 37.2-508. Performance contract for mental health, developmental, and substance abuse services.

A. The Department shall develop and initiate negotiation of the performance contracts through which it provides funds to community services boards to accomplish the purposes set forth in this chapter. In the case of operating boards, the Department may, notwithstanding any provision of law to the contrary, disburse state and federal funds appropriated to it for mental health, developmental, or substance abuse services directly to the operating board, when that operating board is authorized by the governing body of each city or county that established it to receive such funds. Six months prior to the end of an existing contract or, if no contract exists, six months prior to the beginning of each fiscal year, the Department shall make available to the public the standard performance contract form that it intends to use as the performance contract for that fiscal year and solicit public comments for a period of 60 days. Such contracts shall be for a fixed term and shall provide for annual renewal by the Board if the term exceeds one year.

B. Any community services board may apply for the assistance provided in this chapter by submitting to the Department its proposed performance contract together with (i) the approval of its board of directors for operating and administrative policy boards or the comments of the local government department's policy-advisory board and (ii) the approval of the contract by formal vote of the governing body of each city or county that established it. The community services board shall make its proposed performance contract available for public review and solicit public comments for a period of 30 days prior to submitting its proposed contract for the approval of its board of directors for operating and administrative policy boards or the comments of the local government department's policy-advisory board. To avoid disruptions in service continuity and allow sufficient time to complete public review and comment about the contract and negotiation and approval of the contract, the Department may provide semi-monthly payments of state-controlled funds to the community services board. If the governing body of each city or county does not approve the proposed performance contract by September 30 of each year, the performance contract shall be deemed approved or renewed.

C. The performance contract shall ~~(i) delineate~~*:*

1. Delineate the responsibilities of the Department and the community services board; ~~(ii) specify~~

2. Specify conditions that must be met for the receipt of state-controlled funds; ~~(iii) identify~~

3. Identify the groups of individuals to be served with state-controlled funds; ~~(iv) contain~~

4. Contain specific outcome measures for individuals receiving services, provider performance measures, satisfaction measures for individuals receiving services, and participation and involvement measures for individuals receiving services and their family members; ~~(v) contain~~

5. Contain mechanisms that have been identified or developed jointly by the Department and community services board and that will be employed collaboratively by the community services board and the state hospital to manage the utilization of state hospital beds; ~~(vi) establish an enforcement mechanism, should a~~

6. Contain provisions that enable the Department to enforce the performance contract in the event that the community services board ~~fail~~ *fails* to ~~be in substantial compliance~~ *substantially comply* with *the requirements of* its performance contract, ~~including notice and appeal processes and provisions for~~ *which shall include:*

a. Provisions to ensure that the executive director and chairman of the community services board are notified when the community services board fails to substantially comply with the requirements of its performance contract;

b. A remediation~~,~~ *process to allow the community services board, after failing to substantially comply with its performance contract, to come into substantial compliance with its performance contract;*

c. Provisions for withholding or reducing funds, ~~methods of~~ repayment of funds, ~~and the Department's exercise of~~ *or termination of all or part of a performance contract in accordance with* the provisions of subsection E *in the event that the community services board fails to come into substantial compliance with the provisions of its performance contract despite utilization of the remediation process described in subdivision b; and*

d. Provisions for appeal of an enforcement action undertaken by the Department; and ~~(vii) include reporting~~

7. Include requirements ~~and~~ *for the community services board to report specific* information about *(i) its* revenues, costs, *and* services~~, and~~*; (ii)* individuals ~~receiving services~~ *served; and (iii) any other information deemed necessary by the Department, which shall be* displayed in a consistent, comparable format ~~determined~~ *developed* by the Department.

D. The Department ~~may provide for performance~~ *shall develop and implement a process for regular, ongoing* monitoring ~~in order to determine whether the~~ *of the performance of* community services boards ~~are in substantial~~ *to ensure* compliance with ~~their~~ *the requirements of* performance contracts *entered into pursuant to this section*.

~~D. No community services board shall be eligible to receive state-controlled funds for mental health, developmental, or substance abuse services after September 30 of each year unless (i) its performance contract has been approved or renewed by the governing body of each city or county that established it and by the Department; (ii) it provides service, cost, and revenue data and information and aggregate and individual data and information about individuals receiving services, notwithstanding the provisions of § 37.2-400 or any regulations adopted thereunder, to the Department in the format prescribed by the Department; and (iii) it uses standardized cost accounting and financial management practices approved by the Department.~~

E. If~~,~~ ~~after unsuccessful use of a remediation process described in the performance contract,~~ a community services board ~~remains in substantial noncompliance with~~ *fails to substantially comply with the requirements of* its performance contract ~~with the Department~~, the Department ~~may~~ *shall utilize the remediation process described in the performance contract to allow the community services board to come into substantial compliance. The Department shall notify the Board and the chairman of the community services board upon initiation of the remediation process and provide to the Board and chairman regular updates regarding the community services board's progress toward coming into substantial compliance.*

If a community services board fails to come into substantial compliance after utilization of the remediation process, the Department shall, after affording the community services board an adequate opportunity to use the appeal process described in the performance contract, terminate all or a portion of the *performance* contract. ~~Using~~

F. Upon terminating all or a portion of a performance contract pursuant to subsection E, the Department may, using the state-controlled resources associated with that *performance* contract~~, the Department,~~ *and* after consulting with the governing body of each city or county that established the *community services* board *that was a party to the performance contract*, ~~may~~ negotiate a performance contract with another *community services* board, a behavioral health authority, or a private nonprofit or for-profit organization or organizations to obtain services that were the subject of the terminated performance contract.

G. No community services board shall be eligible to receive state-controlled funds for mental health, developmental, or substance abuse services after September 30 of each year unless (i) its performance contract has been approved or renewed by the governing body of each city or county that established it and by the Department; (ii) it provides service, cost, and revenue data and information, and aggregate and individual data and information about individuals receiving services, notwithstanding the provisions of § 37.2-400 or any regulations adopted thereunder, to the Department in the format prescribed by the Department; (iii) it uses standardized cost accounting and financial management practices approved by the Department, and (iv) the community services board is in substantial compliance with its performance contract or is making progress to become in substantial compliance through the Department's remediation process.

§ 37.2-608. Performance contract for mental health, developmental, and substance abuse services.

A. The Department shall develop and initiate negotiation of the performance contracts through which it provides funds to behavioral health authorities to accomplish the purposes set forth in this chapter. The Department may, notwithstanding any provision of law to the contrary, disburse state and federal funds appropriated to it for mental health, developmental, and substance abuse services directly to the behavioral health authority. Six months prior to the beginning of each fiscal year, the Department shall make available to the public the standard performance contract form that it intends to use as the performance contract for that fiscal year and solicit public comments for a period of 60 days.

B. Any behavioral health authority may apply for the assistance provided in this chapter by submitting annually to the Department its proposed performance contract for the next fiscal year together with the approval of its board of directors and the approval by formal vote of the governing body of the city or county that established it. The behavioral health authority shall make its proposed performance contract available for public review and solicit public comments for a period of 30 days prior to submitting its proposed contract for the approval of its board of directors. To avoid disruptions in service continuity and allow sufficient time to complete public review and comment about the contract and negotiation and approval of the contract, the Department may provide up to six semi-monthly payments of state-controlled funds to the *behavioral health* authority. If the governing body of the city or county does not approve the proposed performance contract by September 30 of each year, the performance contract shall be deemed approved.

C. The performance contract shall ~~(i) delineate~~*:*

1. Delineate the responsibilities of the Department and the behavioral health authority; ~~(ii) specify~~

2. Specify conditions that must be met for the receipt of state-controlled funds; ~~(iii) identify~~

3. Identify the groups of individuals to be served with state-controlled funds; ~~(iv) contain~~

4. Contain specific outcome measures for individuals receiving services, provider performance measures, satisfaction measures for individuals receiving services, and participation and involvement measures for individuals receiving services and their family members; ~~(v) contain~~

5. Contain mechanisms that have been identified or developed jointly by the Department and the behavioral health authority and that will be employed collaboratively by the behavioral health authority and the state hospital to manage the utilization of state hospital beds; ~~(vi) establish an enforcement mechanism, should~~

6. Contain provisions that enable the Department to enforce the performance contract in the event that the behavioral health authority ~~fail~~ *fails* to ~~be in substantial compliance~~ *substantially comply* with *the requirements of* its performance contract, ~~including notice and appeal processes and provisions for~~ *which shall include:*

a. Provisions to ensure that the executive director and chairman of the behavioral health authority are notified when the behavioral health authority fails to substantially comply with the requirements of its performance contract;

b. A remediation~~,~~ *process to allow the behavioral health authority, after failing to substantially comply with its performance contract, to come into substantial compliance with its performance contract;*

c. Provisions for withholding or reducing funds, ~~methods of~~ repayment of funds, ~~and the Department's exercise of~~ *or termination of all or part of a performance contract in accordance with* the provisions of subsection E *in the event that the behavioral health authority fails to come into substantial compliance with the provisions of its performance contract despite utilization of the remediation process described in subdivision b; and*

d. Provisions for appeal of an enforcement action undertaken by the Department; and ~~(vii) include reporting~~

7. Include requirements ~~and~~ *for the behavioral health authority to report specific* information about *(i) its* revenues, costs, *and* services~~, and~~*; (ii)* individuals ~~receiving services~~ *served; and (iii) any other information deemed necessary by the Department, which shall be* displayed in a consistent, comparable format ~~determined~~ *developed* by the Department.

D. The Department ~~may provide for performance~~ *shall develop and implement a process for regular, ongoing* monitoring ~~to determine whether~~ *of the performance of* behavioral health authorities ~~are in substantial~~ *to ensure* compliance with ~~their~~ *the requirements of* performance contracts *entered into pursuant to this section*.

~~D. No behavioral health authority shall be eligible to receive state-controlled funds for mental health, developmental, or substance abuse services after September 30 of each year unless (i) its performance contract has been approved by the governing body of the city or county that established it and by the Department; (ii) it provides service, cost, and revenue data and information, and aggregate and individual data and information about individuals receiving services, notwithstanding § 37.2-400 or any regulations adopted thereunder, to the Department in the format prescribed by the Department; and (iii), it uses standardized cost accounting and financial management practices approved by the Department.~~

E. If~~, after unsuccessful use of a remediation process described in the performance contract,~~ a behavioral health authority ~~remains in substantial noncompliance with~~ *fails to substantially comply with the requirements of* its performance contract ~~with the Department~~, the Department ~~may~~ *shall utilize the remediation process described in the performance contract to allow the behavioral health authority to come into substantial compliance. The Department shall notify the Board and the chairman of the behavioral health authority upon initiation of the remediation process and provide to the Board and chairman regular updates regarding the behavioral health authority's progress toward coming into substantial compliance.*

If a behavioral health authority fails to come into substantial compliance after utilization of the remediation process, the Department shall, after affording the *behavioral health* authority an adequate opportunity to use the appeal process described in the performance contract, terminate all or a portion of the *performance* contract. ~~Using~~

F. Upon terminating all or a portion of a performance contract pursuant to subsection E, the Department may, using the state-controlled resources associated with that *performance* contract~~, the Department,~~ *and* after consulting with the governing body of the city or county that established the behavioral health authority *that was a party to the performance contract*, ~~may~~ negotiate a performance contract with a community services board, another behavioral health authority, or a private nonprofit or for-profit organization or organizations to obtain services that were the subject of the terminated performance contract.

G. No behavioral health authority shall be eligible to receive state-controlled funds for mental health, developmental, or substance abuse services after September 30 of each year unless (i) its performance contract has been approved by the governing body of the city or county that established it and by the Department; (ii) it provides service, cost, and revenue data and information, and aggregate and individual data and information about individuals receiving services, notwithstanding § 37.2-400 or any regulations adopted thereunder, to the Department in the format prescribed by the Department; (iii) it uses standardized cost accounting and financial management practices approved by the Department, and (iv) the behavioral health authority is in substantial compliance with its performance contract or is making progress to become in substantial compliance through the Department's remediation process.

2. That the provisions of subsection C of §§ 37.2-508 and 37.2-608 of the Code of Virginia, as amended by this act, shall become effective July 1, 2024.

CHAPTER 791

An Act to amend and reenact § 58.1-301 of the Code of Virginia and to amend Chapter 1 of the Acts of Assembly of 2023 by adding a fourth enactment, relating to income tax; rolling conformity; report.

[H 2193]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-301 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-301. Conformity to Internal Revenue Code.

A. Any term used in this chapter shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes~~, as they existed on December 31, 2021~~, except for:

1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m), 1400L, and 1400N of the Internal Revenue Code;

2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal Revenue Code;

3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the Internal Revenue Code;

4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument";

5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation on itemized deductions under § 68(f) of the Internal Revenue Code;

6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross income;

7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the limitation on business interest; ~~and~~

10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2), 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9673(2), 9673(3), 9672(2), and 9672(3) of the federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax attributes, and basis increases for certain loan forgiveness and other business financial assistance*; and*

11. a. (1) Any amendment enacted on or after January 1, 2023, with a projected impact that would increase or decrease general fund revenues by greater than $15 million in the fiscal year in which the amendment was enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall not apply to any amendment to federal income tax law that is either subsequently adopted by the General Assembly or a federal tax extender as defined in subdivision b.

(2) All amendments enacted on or after January 1, 2023, and occurring between adjournment sine die of the previous regular session of the General Assembly and the first day of the subsequent regular session of the General Assembly if the cumulative projected impact of such amendments would increase or decrease general fund revenues by greater than $75 million in the fiscal year in which the amendments were enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall not apply to any amendment to federal income tax law that is (i) subsequently adopted by the General Assembly, (ii) a federal tax extender as defined in subdivision b, or (iii) enacted before the date on which the cumulative projected impact is met. However, any amendment conformed to pursuant to clause (iii) shall be included in the calculation of the $75 million threshold for purposes of determining whether such threshold has been met.

(3) Beginning January 1, 2024, the threshold provided by subdivision (1) shall be adjusted annually based on the preceding change in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor or any successor index for the previous year.

b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income tax law or a group of such amendments enacted in the same act of Congress that collectively surpass the threshold impact, and "federal tax extender" means an amendment to federal tax law that extends the expiration date of a federal tax provision to which Virginia conforms or has previously conformed.

c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on Finance and Appropriations and the House Committees on Appropriations and Finance, shall be responsible for determining whether the criteria of subdivision a are met.

d. The Secretary of Finance shall annually provide a report on or before November 15 of each year on the fiscal impact of amendments to federal income tax law occurring since the adjournment sine die of the preceding regular session of the General Assembly to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committees on

Appropriations and Finance. The Secretary of Finance shall also provide updates to the same Chairmen on any further amendments to federal income tax law occurring between submission of the required report and the first day of the subsequent regular session of the General Assembly.

C. The Department of Taxation is hereby authorized to develop procedures or guidelines for implementation of the provisions of this section, which procedures or guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

2. That the provisions of this act shall apply to taxable years beginning on and after January 1, 2023.

3. That Chapter 1 of the Acts of Assembly of 2023 is amended by adding a fourth enactment as follows:

4. That the provisions of the first enactment of this act shall apply only to taxable years beginning on or after January 1, 2022, but before January 1, 2023.

CHAPTER 792

An Act to amend and reenact §§ 54.1-2956.12 and 54.1-2956.13 of the Code of Virginia, relating to surgical technologists and surgical assistants; practice prior to certification of licensure.

[H 2222]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2956.12 and 54.1-2956.13 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2956.12. Registered surgical technologist; use of title; registration.

A. No person shall hold himself out to be a surgical technologist or use or assume the title of "surgical technologist" or "certified surgical technologist," or use the designation "S.T." or any variation thereof, unless such person is certified by the Board. No person shall use the designation "C.S.T." or any variation thereof unless such person (i) is certified by the Board and (ii) has successfully completed an accredited surgical technologist training program and holds a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor.

B. The Board shall certify as a surgical technologist any applicant who presents satisfactory evidence that he (i) has successfully completed an accredited surgical technologist training program and holds a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor, (ii) has successfully completed a training program for surgical technology during the person's service as a member of any branch of the armed forces of the United States, ~~or~~ (iii) *has successfully completed a surgical technologist apprenticeship program registered with the U.S. Department of Labor, (iv) has successfully completed a hospital-based surgical technologist training program approved by the Board, (v) has successfully completed a surgical technologist training program through an institution or program accredited by a nationally recognized accreditation organization and holds a current credential as a surgical technologist from an entity approved by the Board, or (vi)* has practiced as a surgical technologist or attended a surgical technologist training program at any time prior to October 1, 2022, provided he registers with the Board by December 31, ~~2022~~ *2023*.

§ 54.1-2956.13. Licensure of surgical assistant; practice of surgical assisting; use of title.

A. No person shall engage in the practice of surgical assisting or use or assume the title "surgical assistant" unless such person holds a license as a surgical assistant issued by the Board. Nothing in this section shall be construed as prohibiting any professional licensed, certified, or registered by a health regulatory board from acting within the scope of his practice.

B. The Board shall establish criteria for licensure as a surgical assistant, which shall include evidence that the applicant:

1. Holds a current credential as a surgical assistant or surgical first assistant issued by the National Board of Surgical Technology and Surgical Assisting, or the National Commission for Certification of Surgical Assistants or their successors;

2. Has successfully completed a surgical assistant training program during the person's service as a member of any branch of the armed forces of the United States; or

3. Has practiced as a surgical assistant in the Commonwealth at any time in the six months immediately prior to July 1, 2020.

C. For renewal of a license, a surgical assistant who was licensed based on a credential as a surgical assistant or surgical first assistant issued by the National Board of Surgical Technology and Surgical Assisting, or the National Commission for the Certification of Surgical Assistants or their successors shall attest that the credential is current at the time of renewal.

D. Notwithstanding the provisions of subsection A, a person who has graduated from a surgical assistant training program and is required to take a national certification examination given by any entity listed in subdivision B 1 may practice with the title "surgical assistant, license applicant" until he has received a failing score on the national certification examination or six months from the date of graduation, whichever occurs sooner. Any person practicing pursuant to this subsection shall be identified with the title "surgical assistant, license applicant" on any identification issued by an employer and in conjunction with any signature in the course of his practice.

2. That the Board of Medicine shall communicate to stakeholders, including hospitals and related practitioner organizations, the availability of the certification grandfathering process for surgical technologists that have

practiced as a surgical technologist or attended a surgical technologist training program at any time prior to October 1, 2022.

CHAPTER 793

An Act to amend and reenact §§ 30-202 through 30-206, 30-209, 45.2-1712, 45.2-1713, and 56-599 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 30-205.1, relating to energy planning and electric utility oversight; Commission on Electric Utility Regulation; membership, meetings, powers and duties, staffing, and ratepayer impact statements; Virginia Energy Plan; electric utilities; integrated resource plans.

[H 2275]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 30-202 through 30-206, 30-209, 45.2-1712, 45.2-1713, and 56-599 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 30-205.1 as follows:

§ 30-202. (Expires July 1, 2024) Membership; terms.

The Commission *shall have a total membership of 14 members that* shall consist of 10 legislative members*, three nonlegislative citizen members, and one ex officio member*. Members shall be appointed as follows: four members of the Senate to be appointed by the Senate Committee on Rules ~~and~~ *that consist of three members from the majority party and one member from the minority party or an equal number from each in the event the chamber is evenly divided;* six members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates*; one nonlegislative citizen member with expertise in economic development and ratepayer advocacy to be appointed by the Senate Committee on Rules; one nonlegislative citizen member with expertise in energy affordability and ratepayer advocacy to be appointed by the Speaker of the House of Delegates; and one nonlegislative citizen member with expertise in public utility regulation and ratepayer advocacy to be appointed by the Governor. The Attorney General or his designee shall serve ex officio. Any such designee shall be an attorney employed within the Department of Law's Division of Consumer Counsel. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth. Each member of the Commission shall annually complete an orientation on electric utility regulation provided by the State Corporation Commission.*

~~Members~~ *Legislative members* of the Commission *and the ex officio member* shall serve terms coincident with their terms of office. *Nonlegislative citizen members shall be appointed for a term of two years.* All members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall *annually* elect a chairman and vice-chairman from among its membership*, who shall be members of the General Assembly*. The chairman of the Commission shall be authorized to designate one or more members of the Commission to observe and participate in the discussions of any work group convened by the State Corporation Commission in furtherance of its duties under the Virginia Electric Utility Regulation Act (§ 56-576 et seq.) and this chapter. Members participating in such discussions shall be entitled to compensation and reimbursement provided in § 30-204, if approved by the Joint Rules Committee or its Budget Oversight Subcommittee.

§ 30-203. (Expires July 1, 2024) Quorum; meetings; voting on recommendations.

A majority of the members shall constitute a quorum. The *Commission shall meet at least twice per year;* meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members so request.

No recommendation of the Commission shall be adopted if a majority of the Senate members or a majority of the House members appointed to the Commission (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the Commission.

§ 30-204. (Expires July 1, 2024) Compensation; expenses.

~~Members~~ *Legislative members* of the Commission shall receive such compensation as provided in § 30-19.12 and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. *Unless otherwise approved in writing by the chairman of the Commission and the executive director of the Commission, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth for the purpose of attending meetings.* However, all such compensation and expenses shall be paid from existing appropriations to the Commission or, if unfunded, shall be approved by the Joint Rules Committee.

§ 30-205. (Expires July 1, 2024) Powers and duties of the Commission.

The Commission shall have the following powers and duties:

1. Monitor the work of the State Corporation Commission in implementing Chapter 23 (§ 56-576 et seq.) of Title 56~~, receiving~~. *The Commission shall receive an annual report from the State Corporation Commission by November 1 regarding such implementation and shall receive* such *other* reports as the Commission may be required to make ~~pursuant thereto~~, including reviews, analyses, and impact on consumers of electric utility regulation in other states;

2. Examine generation, transmission and distribution systems reliability concerns;

3. Establish one or more subcommittees, composed of its membership, persons with expertise in the matters under consideration by the Commission, or both, to meet at the direction of the chairman of the Commission, for any purpose

within the scope of the duties prescribed to the Commission by this section, provided that such persons who are not members of the Commission shall serve without compensation but shall be entitled to be reimbursed from funds appropriated or otherwise available to the Commission for reasonable and necessary expenses incurred in the performance of their duties; ~~and~~

4. *Monitor applications by the Commonwealth for grants and awards for energy projects from the federal government;*

5. Consider legislation referred to it during any session of the General Assembly or other requests by members of the General Assembly;

6. Conduct studies and gather information and data in order to accomplish its purposes set forth in § 30-201 and in connection with the faithful execution of the laws of the Commonwealth;

7. Issue ratepayer impact statements pursuant to § 30-205.1; and

8. Report annually to the General Assembly and the Governor with such recommendations as may be appropriate for legislative and administrative consideration in order to maintain reliable service in the Commonwealth while preserving the Commonwealth's position as a low-cost electricity market.

§ 30-205.1. Ratepayer impact statements for electric utility regulation.

A. As used in this section:

"Ratepayer" means a residential, commercial, or industrial customer who is billed for the consumption of electricity by an electric utility in the Commonwealth.

"Ratepayer impact statement" means a statement prepared using data or other relevant information to estimate the potential impact on ratepayers' electric bills of proposed legislation related to electric utilities.

B. Upon the request by the Chairman for the House Committee on Commerce and Energy or the Senate Committee on Commerce and Labor, the Commission shall prepare a ratepayer impact statement for any proposed legislation related to electric utility regulation specified by such Chairman. Each such Chairman may request up to five ratepayer impact statements in any given regular or special session of the General Assembly. Additionally, upon the request of any other member of the General Assembly, the Commission, at the Commission's discretion, may prepare a ratepayer impact statement for any proposed legislation related to electric utility regulation specified by such member.

C. The Commission shall provide any such ratepayer impact statement to the requesting Chairman or member, the patron of the legislation, and the members of any committee considering the legislation.

D. Upon request of the Commission, the State Corporation Commission, the Office of the Attorney General, and all agencies of the Commonwealth shall expeditiously provide the Commission with assistance in the preparation of any ratepayer impact statement including providing the Commission with any necessary data or other relevant information.

E. The Commission shall ensure that any ratepayer impact statement provides a neutral and accurate analysis of the potential impact on ratepayers' electric bills of the proposed legislation. Any ratepayer impact statement shall include the methodology used by the Commission to prepare such ratepayer impact statement.

§ 30-206. (Expires July 1, 2024) Staffing.

~~Administrative staff support shall be provided by the Office of the Clerk of the Senate or the Office of Clerk of the House of Delegates as may be appropriate for the house in which the chairman of the Commission serves. The Division of Legislative Services shall provide legal, research, policy analysis and other services as requested by the Commission.~~ *The Commission may appoint, employ, and remove an executive director and such other persons as it deems necessary, subject to funding in the appropriation act, and shall determine the duties and fix the salaries or compensation of such executive director and other persons, within the amounts appropriated for such purpose. The Commission may also employ experts who have knowledge of the issues before it.* All agencies of the Commonwealth shall provide assistance to the Commission, upon request*, subject to funding in the appropriation act*.

§ 30-209. (Expires July 1, 2024) Sunset.

This chapter shall expire on July 1, ~~2024~~ *2029*.

§ 45.2-1712. Annual reporting by investor-owned public utilities.

Each investor-owned public utility providing electric service in the Commonwealth shall prepare an annual report disclosing its efforts to conserve energy, including (i) its implementation of customer demand-side management programs and (ii) efforts by the utility to improve efficiency and conserve energy in its internal operations pursuant to § 56-235.1. The utility shall submit each annual report to the Division *and the Commission on Electric Utility Regulation* by November 1 of each year, and the Division shall compile the reports of the utilities and submit the compilation to the Governor and the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

§ 45.2-1713. Submission of the Plan.

Upon completion, the Division shall submit the Plan, including periodic updates thereto, to the Governor, the Commissioners of the State Corporation Commission, and the General Assembly *and shall present the Plan to the Commission on Electric Utility Regulation at a public meeting*. The Plan shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents. The Plan's executive summary shall be posted on the General Assembly's website.

§ 56-599. Integrated resource plan required.

A. Each electric utility shall file an updated integrated resource plan by ~~July 1, 2015. Thereafter, each electric utility shall file an updated integrated resource plan by May 1~~ *October 15*, in each year immediately preceding the year the utility

is subject to a ~~triennial~~ review *of rates for generation and distribution services* filing. A copy of each integrated resource plan shall be provided to the Chairman of the House Committee on ~~Labor and~~ Commerce *and Energy*, the Chairman of the Senate Committee on Commerce and Labor, and ~~to~~ the Chairman of the Commission on Electric Utility Regulation. *After January 1, 2024, each electric utility not subject to an annual review shall file an annual update to the integrated resource plan by October 15, in each year that the utility is subject to review of rates for generation and distribution services filing.* All updated integrated resource plans shall comply with the provisions of any relevant order of the Commission establishing guidelines for the format and contents of updated and revised integrated resource plans. Each integrated resource plan shall consider options for maintaining and enhancing rate stability, energy independence, economic development including retention and expansion of energy-intensive industries, and service reliability.

B. In preparing an integrated resource plan, each electric utility shall systematically evaluate and may propose:

1. Entering into short-term and long-term electric power purchase contracts;

2. Owning and operating electric power generation facilities;

3. Building new generation facilities;

4. Relying on purchases from the short term or spot markets;

5. Making investments in demand-side resources, including energy efficiency and demand-side management services;

6. Taking such other actions, as the Commission may approve, to diversify its generation supply portfolio and ensure that the electric utility is able to implement an approved plan;

7. The methods by which the electric utility proposes to acquire the supply and demand resources identified in its proposed integrated resource plan;

8. The effect of current and pending state and federal environmental regulations upon the continued operation of existing electric generation facilities or options for construction of new electric generation facilities;

9. The most cost effective means of complying with current and pending state and federal environmental regulations, including compliance options to minimize effects on customer rates of such regulations;

10. Long-term electric distribution grid planning and proposed electric distribution grid transformation projects;

11. Developing a long-term plan for energy efficiency measures to accomplish policy goals of reduction in customer bills, particularly for low-income, elderly, and disabled customers; reduction in emissions; and reduction in carbon intensity; and

12. Developing a long-term plan to integrate new energy storage facilities into existing generation and distribution assets to assist with grid transformation.

C. As part of preparing any integrated resource plan pursuant to this section, each utility shall conduct a facility retirement study for owned facilities located in the Commonwealth that emit carbon dioxide as a byproduct of combusting fuel and shall include the study results in its integrated resource plan. Upon filing the integrated resource plan with the Commission, the utility shall contemporaneously disclose the study results to each planning district commission, county board of supervisors, and city and town council where such electric generation unit is located, the Department of Energy, the Department of Housing and Community Development, the Virginia Employment Commission, and the Virginia Council on Environmental Justice. The disclosure shall include (i) the driving factors of the decision to retire and (ii) the anticipated retirement year of any electric generation unit included in the plan. Any electric generating facility with an anticipated retirement date that meets the criteria of § 45.2-1701.1 shall comply with the public disclosure requirements therein.

D. *As part of preparing any integrated resource plan pursuant to this section, each utility shall conduct outreach to engage the public in a stakeholder review process and provide opportunities for the public to contribute information, input, and ideas on the utility's integrated resource plan, including the plan's development methodology, modeling inputs, and assumptions, as well as the ability for the public to make relevant inquiries, to the utility when formulating its integrated resource plan. Each utility shall report its public outreach efforts to the Commission. The stakeholder review process shall include representatives from multiple interest groups, including residential and industrial classes of ratepayers. Each utility shall, at the time of the filing of its integrated resource plan, report on any stakeholder meetings that have occurred prior to the filing date.*

E. The Commission shall analyze and review an integrated resource plan and, after giving notice and opportunity to be heard, the Commission shall make a determination within nine months after the date of filing as to whether such an integrated resource plan is reasonable and is in the public interest.

CHAPTER 794

An Act to amend and reenact §§ 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4115, 3.2-4116, 3.2-4118, 3.2-4119, 3.2-4121, 3.2-5100, 3.2-5145.1, 3.2-5145.2:1, 3.2-5145.4, 3.2-5145.5, 4.1-600, 18.2-247, 18.2-251.1:3, 18.2-371.2, 54.1-3401, 54.1-3408.3, 54.1-3423, 54.1-3442.6, 54.1-3442.7, 54.1-3443, 54.1-3446, 59.1-200, 59.1-203, and 59.1-206 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 41.1 of Title 3.2 an article numbered 4, consisting of sections numbered 3.2-4122 through 3.2-4126, and by adding a section numbered 3.2-5145.4:1, relating to tetrahydrocannabinol; industrial hemp; regulated hemp products.

[H 2294]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4115, 3.2-4116, 3.2-4118, 3.2-4119, 3.2-4121, 3.2-5100, 3.2-5145.1, 3.2-5145.2:1, 3.2-5145.4, 3.2-5145.5, 4.1-600, 18.2-247, 18.2-251.1:3, 18.2-371.2, 54.1-3401, 54.1-3408.3, 54.1-3423, 54.1-3442.6, 54.1-3442.7, 54.1-3443, 54.1-3446, 59.1-200, 59.1-203, and 59.1-206 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 41.1 of Title 3.2 an article numbered 4, consisting of sections numbered 3.2-4122 through 3.2-4126, and by adding a section numbered 3.2-5145.4:1 as follows:

Article 1.

General Provisions.

§ 3.2-4112. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Cannabis sativa product" means a product made from any part of the plant Cannabis sativa with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

~~"Deal" means to temporarily possess industrial hemp grown in compliance with state or federal law that (i) has not been processed and (ii) was not grown and will not be processed by the person temporarily possessing it.~~

~~"Dealer" means any person who is registered pursuant to subsection A of § 3.2-4115 to deal in industrial hemp. "Dealer" does not include a retail establishment that sells or offers for sale a hemp product.~~

~~"Dealership" means the location at which a dealer stores or intends to store the industrial hemp in which he deals.~~

"Edible hemp product" means any hemp product that is or includes an industrial hemp extract, as defined in § 3.2-5145.1, and that is intended to be consumed orally.

"Federally licensed hemp producer" means a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990.

"Grow" means to plant, cultivate, or harvest a plant or crop.

"Grower" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial hemp.

"Handle" means to temporarily possess industrial hemp grown in compliance with state or federal law that (i) has not been processed and (ii) was not grown by and will not be processed by the person temporarily possessing it.

"Handler" means any person who is registered pursuant to subsection A of § 3.2-4115 to handle industrial hemp. "Handler" does not include a retail establishment that sells or offers for sale a hemp product.

"Handler's storage site" means the location at which a handler stores or intends to store the industrial hemp he handles.

"Hemp product" means a product, including any raw materials from industrial hemp that are used for or added to a food or beverage ~~product~~, that *(i)* contains industrial hemp and has completed all stages of processing needed for the product *and (ii) when offered for retail sale (a) contains a total tetrahydrocannabinol concentration of no greater than 0.3 percent and (b) contains either no more than two milligrams of total tetrahydrocannabinol per package or an amount of cannabidiol that is no less than 25 times greater than the amount of total tetrahydrocannabinol per package*.

"Hemp product intended for smoking" means any hemp product intended to be consumed by inhalation.

"Industrial hemp" means any part of the plant Cannabis sativa, including seeds thereof, whether growing or not, with a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law. "Industrial hemp" includes an industrial hemp extract that has not completed all stages of processing needed to convert the extract into a hemp product.

"Process" means to convert industrial hemp into a hemp product.

"Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial hemp.

"Process site" means the location at which a processor processes or intends to process industrial hemp.

"Production field" means the land or area on which a grower or a federally licensed hemp producer is growing or intends to grow industrial hemp.

"Regulated hemp product" means a hemp product intended for smoking or an edible hemp product.

"Tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and geometric isomers.

"Topical hemp product" means a hemp product that (i) is intended to be rubbed, poured, sprinkled, or sprayed on or otherwise applied to the human body or any part thereof and (ii) is not intended to be consumed orally or by inhalation.

"Total tetrahydrocannabinol" means the sum, after the application of any necessary conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of tetrahydrocannabinolic acid.

Article 2.

Industrial Hemp Crop Production, Handling, and Processing.

§ 3.2-4113. Production of industrial hemp lawful.

A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a ~~dealer~~ *handler* or his agent to ~~deal in~~ *handle*, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 for the possession or growing of industrial hemp or

any Cannabis sativa with a tetrahydrocannabinol concentration that does not exceed the total ~~delta-9~~ tetrahydrocannabinol concentration percentage established in federal regulations applicable to negligent violations located at 7 C.F.R. *§* 990.6(b)(3). No ~~dealer~~ *handler* or his agent or processor or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 or issued a summons or judgment for the possession, ~~dealing~~ *handling*, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this ~~chapter~~ *article* or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

B. Nothing in this ~~chapter~~ *article* shall be construed to authorize any person to violate any federal law or regulation.

C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 for the involuntary growth of industrial hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, ~~dealership~~ *handler's storage site*, or process site.

§ 3.2-4114. Regulations.

A. The Board may adopt regulations pursuant to this ~~chapter~~ *article* as necessary to register persons to grow, ~~deal in~~ *handle*, or process industrial hemp or implement the provisions of this ~~chapter~~ *article*.

B. Upon publication by the U.S. Department of Agriculture in the Federal Register of any final rule regarding industrial hemp that materially expands opportunities for growing, producing, or ~~dealing in~~ *handling* industrial hemp in the Commonwealth, the Board shall immediately adopt amendments conforming Department regulations to such federal final rule. Such adoption of regulations by the Board shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 3.2-4114.2. Authority of Commissioner; notice to law enforcement; report.

A. The Commissioner may charge a nonrefundable fee not to exceed $250 for any application for registration or renewal of registration allowed under this ~~chapter~~ *article*. The Commissioner may charge a nonrefundable fee for the tetrahydrocannabinol testing allowed under this ~~chapter~~ *article*. All fees collected by the Commissioner shall be deposited in the state treasury.

B. The Commissioner shall adopt regulations establishing a fee structure for *a* registration *issued pursuant to § 3.2-4115*. With the exception of § 2.2-4031, no provision of the Administrative Process Act (§ 2.2-4000 et seq.) or public participation guideline adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this subsection. However, prior to adopting any regulation pursuant to this subsection, the Commissioner shall review the recommendation of an advisory panel that shall consider the economic impact of any proposed fee amount on the Commonwealth's industrial hemp industry. The advisory panel shall, at a minimum, include (i) an agribusiness representative or organization, (ii) a farming representative or organization, and (iii) a hemp industry representative or organization. Prior to adopting any regulation pursuant to this subsection, the Commissioner shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice shall contain (a) a summary of the proposed regulation; (b) the text of the proposed regulation; and (c) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice of submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process of regulations pursuant to this subsection. The Commissioner shall consider and keep on file all public comments received for any regulation adopted pursuant to this subsection.

C. The Commissioner may establish an application period for a registration or renewal of registration allowed under this ~~chapter~~ *article*.

D. The Commissioner shall notify the Superintendent of State Police of each registration issued by the Commissioner under this ~~chapter~~ *article* and each license submitted to the Commissioner by a federally licensed hemp producer.

E. The Commissioner shall forward a copy or appropriate electronic record of each registration issued by the Commissioner under this ~~chapter~~ *article* and each license submitted to the Commissioner by a federally licensed hemp producer to the chief law-enforcement officer of the county or city where industrial hemp will be grown, ~~dealt~~ *handled*, or processed.

F. The Commissioner may monitor the industrial hemp grown, ~~dealt~~ *handled*, or processed by a person registered pursuant to ~~subsection A of~~ § 3.2-4115 and provide for random sampling and testing of the industrial hemp in accordance with any criteria established by the Commissioner and at the cost of the grower, ~~dealer~~ *handler*, or processor, for compliance with tetrahydrocannabinol limits and for other appropriate purposes established pursuant to § 3.2-4114. In addition to any routine inspection and sampling, the Commissioner may inspect and sample the industrial hemp at any production field, ~~dealership~~ *handler's storage site*, or process site during normal business hours without advance notice if he has reason to believe a violation of this ~~chapter~~ *article* is occurring or has occurred.

G. The Commissioner may require a grower, ~~dealer~~ *handler*, or processor to destroy, at the cost of the grower, ~~dealer~~ *handler*, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, ~~in which the dealer deals~~ *the handler handles*, or ~~that~~ the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

H. Notwithstanding the provisions of subsection G, if the provisions of subdivisions 1 and 2 are included in a plan that (i) is submitted by the Department pursuant to § 10113 of the federal Agriculture Improvement Act of 2018, P.L. 115-334, (ii) requires the Department to monitor and regulate the production of industrial hemp in the Commonwealth, and (iii) is approved by the U.S. Secretary of Agriculture:

1. The Commissioner may require a grower, ~~dealer~~ *handler*, or processor to destroy, at the cost of the grower, ~~dealer~~ *handler*, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, ~~in which the dealer deals~~ *the handler handles*, or ~~that~~ the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than 0.6 percent.

2. If such a test of Cannabis sativa indicates a concentration of tetrahydrocannabinol that is greater than 0.6 percent but less than one percent, the Commissioner shall allow the grower, ~~dealer~~ *handler*, or processor to request that the Cannabis sativa be sampled and tested again before he requires its destruction.

I. The Commissioner shall advise the Superintendent of State Police or the chief law-enforcement officer of the appropriate county or city when, with a culpable mental state greater than negligence, a grower grows, ~~a dealer deals in~~ *a handler handles*, or a processor processes any Cannabis sativa with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law or a processor produces a Cannabis sativa product.

J. The Commissioner may pursue any permits or waivers from the U.S. Drug Enforcement Administration or appropriate federal agency that he determines to be necessary for the advancement of the industrial hemp industry.

K. The Commissioner may establish a corrective action plan to address a negligent violation of any provision of this ~~chapter~~ *article*.

§ 3.2-4115. Issuance of registrations; exemption.

A. The Commissioner shall establish a registration program to allow a person to grow, ~~deal in~~ *handle*, or process industrial hemp in the Commonwealth.

B. Any person seeking to grow, ~~deal in~~ *handle*, or process industrial hemp in the Commonwealth shall apply to the Commissioner for a registration on a form provided by the Commissioner. At a minimum, the application shall include:

1. The name and mailing address of the applicant;

2. The legal description and geographic data sufficient for locating (i) the land on which the applicant intends to grow industrial hemp, (ii) the site at which the applicant intends to ~~deal in~~ *handle* industrial hemp, or (iii) the site at which the applicant intends to process industrial hemp. A registration shall authorize industrial hemp growth, ~~dealing in~~ *handling*, or processing only at the location specified in the registration;

3. A signed statement indicating whether the applicant has ever been convicted of a felony. A person with a prior felony drug conviction within 10 years of applying for a registration under this section shall not be eligible to be registered;

4. Written consent allowing the sheriff's office, police department, or Department of State Police, if a registration is ultimately issued to the applicant, to enter the premises on which the industrial hemp is grown, ~~dealt in~~ *handled*, or processed to conduct physical inspections of the industrial hemp and to ensure compliance with the requirements of this ~~chapter~~ *article*. No more than two physical inspections shall be conducted under this subdivision per year, unless a valid search warrant for an inspection has been issued by a court of competent jurisdiction;

5. Written consent allowing the Commissioner or his designee to enter the premises on which the industrial hemp is grown, ~~dealt in~~ *handled*, or processed to conduct inspections and sampling of the industrial hemp to ensure compliance with the requirements of this ~~chapter~~ *article*;

6. A statement of the approximate square footage or acreage of the location he intends to use as a production field, ~~dealership~~ *handler's storage site*, or process site;

7. Any other information required by the Commissioner; and

8. The payment of a nonrefundable application fee, in an amount set by the Commissioner.

C. Each registration issued pursuant to this section shall be valid for a period of one year from the date of issuance and may be renewed in successive years. Each annual renewal shall require the payment of a registration renewal fee, in an amount set by the Commissioner.

D. All records, data, and information filed in support of a registration application submitted pursuant to this section and all information on a hemp producer license issued by the U.S. Department of Agriculture submitted to the Commissioner pursuant to this section shall be considered proprietary and excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

E. Notwithstanding the provisions of subsection B, no federally licensed hemp producer shall be required to apply to the Commissioner for a registration to grow industrial hemp in the Commonwealth. Each federally licensed hemp producer shall submit to the Commissioner a copy of his hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990.

§ 3.2-4116. Registration conditions.

A. A person who is not a federally licensed hemp producer shall obtain a registration pursuant to subsection A of § 3.2-4115 prior to growing, ~~dealing in~~ *handling*, or processing any industrial hemp in the Commonwealth.

B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

1. Maintain records that reflect compliance with this ~~chapter~~ *article*;

2. Retain all industrial hemp growing, ~~dealing~~ *handling*, or processing records for at least three years;

3. Allow his production field, ~~dealership~~ *handler's storage site*, or process site to be inspected by and at the discretion of the Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer of the locality in which the production field, or ~~dealership~~ *handler's storage site,* or process site exists;

4. Allow the Commissioner or his designee to monitor and test the grower's, ~~dealer's~~ *handler's*, or processor's industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes established pursuant to § 3.2-4114, at the cost of the grower, ~~dealer~~ *handler*, or processor; and

5. If required by the Commissioner, destroy, at the cost of the grower, ~~dealer~~ *handler*, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, the ~~dealer deals in~~ *handler handles*, or the processor processes that has been tested and, following any re-sampling and retesting as authorized pursuant to the provisions of § 3.2-4114.2, is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

C. A processor shall not sell industrial hemp or a substance containing an industrial hemp extract, as defined in § 3.2-5145.1, to a person if the processor knows or has reason to know that such person will use the industrial hemp or substance containing an industrial hemp extract in a substance that (i) contains a total tetrahydrocannabinol concentration that is greater than 0.3 percent or (ii) contains more than two milligrams of total tetrahydrocannabinol per package and does not contain an amount of cannabidiol that is at least 25 times greater than the amount of total tetrahydrocannabinol per package.

§ 3.2-4118. Forfeiture of industrial hemp grower, handler, or processor registration; violations.

A. The Commissioner shall deny the application, or suspend or revoke the registration, of any person who, with a culpable mental state greater than negligence, violates any provision of this ~~chapter~~ *article*. The Commissioner shall provide reasonable notice of an informal fact-finding conference pursuant to § 2.2-4019 to any person in connection with the denial, suspension, or revocation of a registration.

B. If a registration is revoked as the result of an informal hearing, the decision may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The grower, ~~dealer~~ *handler*, or processor may appeal a final order to the circuit court in accordance with the Administrative Process Act.

C. A person issued a registration pursuant to ~~subsection A of~~ § 3.2-4115 who negligently (i) fails to provide a description and geographic data sufficient for locating his production field, ~~dealership~~ *handler's storage site*, or process site; (ii) grows, ~~deals in~~ *handles*, or processes Cannabis sativa with a tetrahydrocannabinol concentration greater than that allowed by federal law; or (iii) produces a Cannabis sativa product shall comply with any corrective action plan established by the Commissioner in accordance with the provisions of subsection E. The Commissioner shall not deem a grower negligent if such grower makes reasonable efforts to grow industrial hemp and grows Cannabis sativa with a tetrahydrocannabinol concentration that does not exceed the total ~~delta-9~~ tetrahydrocannabinol concentration percentage established in federal regulations applicable to negligent violations located at 7 C.F.R. *§* 990.6(b)(3).

D. A person who grows, ~~deals in~~ *handles*, or processes industrial hemp and who negligently fails to register pursuant to ~~subsection A of~~ § 3.2-4115 shall comply with any corrective action plan established by the Commissioner in accordance with the provisions of subsection E.

E. A corrective action plan established by the Commissioner in response to a negligent violation of a provision of this ~~chapter~~ *article* shall identify a reasonable date by which the person who is the subject of the plan shall correct the negligent violation and shall require such person to report periodically for not less than two calendar years to the Commissioner on the person's compliance with the provisions of this ~~chapter~~ *article*.

F. No person who negligently violates the provisions of this ~~chapter~~ *article* three times in a five-year period shall be eligible to grow, ~~deal in~~ *handle*, or process industrial hemp for a period of five years beginning on the date of the third violation.

§ 3.2-4119. Eligibility to receive tobacco settlement funds.

Industrial hemp growers, ~~dealers~~ *handlers*, or processors registered under this ~~chapter~~ *article* or federally licensed hemp producers may be eligible to receive funds from the Tobacco Indemnification and Community Revitalization Fund established pursuant to § 3.2-3106.

Article 3.

Virginia Industrial Hemp Fund.

§ 3.2-4121. Virginia Industrial Hemp Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Industrial Hemp Fund, hereafter referred to as "the Fund~~.~~," *for the purposes of this article.* The Fund shall be established on the books of the Comptroller. All moneys levied and collected under the provisions of this chapter shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used by the Department solely for carrying out the purposes of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

Article 4.

Regulated Hemp Products.

§ 3.2-4122. Regulated hemp product retail facility registration; fee.

A. No person shall offer for sale or sell at retail (i) a regulated hemp product or (ii) a substance intended for human consumption, orally or by inhalation, that is advertised or labeled as containing an industrial hemp-derived cannabinoid without a regulated hemp product retail facility registration.

B. A nonrefundable annual registration fee of $1,000 shall be required with each application for a regulated hemp product retail facility registration.

C. Each registration issued pursuant to this section shall be valid for a period of one year from the date of issuance and may be renewed in successive years. Each annual renewal shall require the payment of the nonrefundable annual registration fee prescribed in subsection B.

D. A regulated hemp product retail facility registration shall be required for each location that offers for sale or sells at retail regulated hemp products.

E. Any person seeking a regulated hemp product retail facility registration shall apply to the Commissioner on a form provided by the Commissioner. At a minimum, the application shall include:

1. The name and mailing address of the applicant;

2. The physical address of the facility from which the applicant intends to offer for sale or sell at retail a regulated hemp product. A registration shall authorize the offering for sale or sale of regulated hemp products only at the location specified in the registration;

3. Written consent allowing the Commissioner or his designee to enter the location from which the regulated hemp product is offered for sale or sold to ensure compliance with the requirements of this article;

4. If the applicant intends to offer for sale or sell an edible hemp product, a copy of the permit issued by the Commissioner pursuant to § 3.2-5100;

5. Any other information required by the Commissioner; and

6. The payment of a nonrefundable application fee.

F. This section shall not apply to products that are (i) approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) dispensed pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

§ 3.2-4123. Product packaging, labeling, and testing.

A. No person shall offer for sale or sell at retail a regulated hemp product unless the product is:

1. Contained in child-resistant packaging, as defined in § 4.1-600, if the product contains tetrahydrocannabinol;

2. Equipped with a label that states, in English and in a font no less than 1/16 of an inch, (i) all ingredients contained in the substance; (ii) the amount of such substance that constitutes a single serving; (iii) the total percentage and milligrams of all tetrahydrocannabinols included in the substance and the total number of milligrams of all tetrahydrocannabinols that are contained in each serving; and (iv) if the substance contains tetrahydrocannabinol, that the product may not be sold to persons younger than 21 years of age; and

3. Accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body, that states the total tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of the batch from which the substance originates. The certificate of accreditation to standard ISO/IEC 17025 issued by the third-party accrediting body to the independent laboratory shall be available for review at the location at which the regulated hemp product is offered for sale or sold.

This subsection shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.

B. No person shall offer for sale or sell a regulated hemp product that depicts or is in the shape of a human, animal, vehicle, or fruit.

C. No person shall offer for sale or sell a regulated hemp product that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance.

§ 3.2-4124. Topical hemp products; civil penalty.

A. A topical hemp product that is offered for sale or sold at retail must bear a label stating that the product is not intended for human consumption.

B. A person that offers for sale or sells at retail a topical hemp product that does not bear a label stating that the product is not intended for human consumption is subject to a civil penalty not to exceed $500 for each day a violation occurs. Such penalty shall be collected by the Commissioner and the proceeds shall be payable to the State Treasurer for remittance to the Department.

C. Notwithstanding the provisions of subsection A, a person may offer for sale or sell a topical hemp product that does not bear a label stating that the product is not intended for human consumption if that person provides, upon request by the Commissioner, documentation that the topical hemp product was manufactured prior to July 1, 2023.

D. This section shall not apply to products that are (i) approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) dispensed pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.

§ 3.2-4125. Commissioner to have access to retail facilities.

A. The Commissioner shall have access during business hours to a registered regulated hemp product retail facility and to a business that offers for sale or sells at retail a substance intended for human consumption, orally or by inhalation, that is advertised or labeled as containing a cannabinoid for the purpose of:

1. Inspecting to determine if any of the provisions of this article are being violated; and

2. Securing samples of any regulated hemp product or substance intended for human consumption, orally or by inhalation, that is advertised or labeled as containing a cannabinoid. It shall be the duty of the Commissioner to make or cause to be made examinations or laboratory analysis of samples secured under the provisions of this section to determine whether any provision of this article is being violated.

B. This section shall not apply to products that are (i) approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) dispensed pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.

§ 3.2-4126. Civil penalties.

A. The Commissioner may, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), deny the application for a regulated hemp product retail facility registration or suspend or revoke the regulated hemp product retail facility registration of any person that violates a provision of this article.

B. Any person that (i) offers for sale or sells at retail a regulated hemp product without first obtaining a registration to do so from the Commissioner in accordance with § 3.2-4122, (ii) continues to offer for sale or sell at retail a regulated hemp product after revocation or suspension of such registration, (iii) offers for sale or sells at retail a substance intended for human consumption, orally or by inhalation, that (a) contains a total tetrahydrocannabinol concentration that is greater than 0.3 percent or (b) contains more than two milligrams of total tetrahydrocannabinol per package and does not contain an amount of cannabidiol that is at least 25 times greater than the amount of total tetrahydrocannabinol per package, (iv) offers for sale or sells at retail a regulated hemp product in violation of § 3.2-4123, or (v) offers for sale or sells at retail a substance intended for human consumption, orally or by inhalation, that is advertised or labeled as containing an industrial hemp-derived cannabinoid without a regulated hemp product retail facility registration is, in addition to any other penalties provided, subject to a civil penalty not to exceed $10,000 for each day a violation occurs. Such penalty shall be collected by the Commissioner and the proceeds shall be payable to the State Treasurer for remittance to the Department.

§ 3.2-5100. Duties of Commissioner.

A. The Commissioner shall inquire into the dairy and food and drink products, and the articles that are food or drinks, or the necessary constituents of the food or drinks, that are manufactured, sold, exposed, or offered for sale in the Commonwealth.

B. The Commissioner may procure samples of the dairy and food products covered by this chapter and may have the samples analyzed.

C. The Commissioner shall issue a permit to any food manufacturer, food storage warehouse, or retail food establishment that, after inspection, is determined to be in compliance with all applicable provisions of this chapter and any regulations adopted thereunder. *Any person that intends to manufacture, store, sell, or offer for sale an industrial hemp extract, as defined in § 3.2-5145.1, or food containing an industrial hemp extract (i) shall be subject to such permit requirement and (ii) shall indicate the person's intent to manufacture, store, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract on its permit application.* The Commissioner shall notify any applicant denied a permit of the reason for such denial. Any food manufacturer, food storage warehouse, or retail food establishment issued a permit pursuant to this subsection shall be exempt from any other license, permit, or inspection required for the sale, preparation, or handling of food unless such food manufacturer, food storage warehouse, or retail food establishment is operating as ~~(i)~~ *(a)* a restaurant as defined in Title 35.1, as jointly determined by the State Health Commissioner and the Commissioner; ~~(ii)~~ *(b)* a plant that processes and distributes Grade A milk as referenced in this title, as determined by the State Health Commissioner; or ~~(iii)~~ *(c)* a shellfish establishment as defined in Title 28.2, as determined by the State Health Commissioner.

D. The Commissioner shall make a complaint against the manufacturer or vendor of any food or drink or dairy products that are adulterated, impure, or unwholesome, in contravention of the laws of the Commonwealth, and furnish all evidence to obtain a conviction of the offense charged. The Commissioner may make complaint and cause proceedings to be commenced against any person for enforcement of the laws relative to adulteration, impure, or unwholesome food or drink, and in such cases he shall not be obliged to furnish security for costs.

E. The Commissioner may develop criteria to determine if food manufacturers that are operating in a building deemed, in consultation with the Director of the Department of Historic Resources, to be historic are producing food products that are low risk of being adulterated. If, pursuant to such criteria, any such manufacturer is producing food products that are deemed to be low risk, the Commissioner may exempt the food manufacturer from specified provisions of this chapter, or regulations adopted thereunder, that pertain to the structure of the building, provided that the Commissioner determines that such exemption is unlikely to result in the preparation for sale, manufacture, packing, storage, sale, or distribution of any food that is adulterated, as defined in § 3.2-5122.

§ 3.2-5145.1. Definitions.

As used in this article, unless the context requires a different meaning:

"Food" means any article that is intended for human consumption and introduction into commerce, whether the article is simple, mixed, or compound, and all substances or ingredients used in the preparation thereof. "Food" does not mean drug as defined in § 54.1-3401.

"Industrial hemp" means a Cannabis sativa plant that has a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law.

"Industrial hemp extract" means an extract (i) of ~~a Cannabis sativa plant that has a concentration of tetrahydrocannabinol that is no greater than that allowed for~~ *industrial* hemp ~~by federal law and~~, (ii) that is intended for human consumption*, and (iii) except as otherwise provided in subsection M of § 54.1-3442.6, when offered for retail sale, that (a) contains a total tetrahydrocannabinol concentration that is no greater than 0.3 percent and (b) contains either no more than two milligrams of total tetrahydrocannabinol per package or an amount of cannabidiol that is no less than 25 times greater than the amount of total tetrahydrocannabinol per package. "Industrial hemp extract" is not a hemp seed-derived ingredient that is approved by the U.S. Food and Drug Administration or is the subject of a generally recognized as safe notice for which the U.S. Food and Drug Administration had no questions.*

"Tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

"Total tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

§ 3.2-5145.2:1. Sellers or manufacturers of industrial hemp extract; penalties.

A. Any person who *manufactures,* sells*,* or offers for sale an industrial hemp extract or food containing an industrial hemp extract shall be subject to the requirements of this chapter and regulations adopted pursuant to this chapter.

B. Any person who (i) manufactures, sells, or offers for sale an industrial hemp extract or food containing an industrial hemp extract without first obtaining a permit to do so from the Commissioner pursuant to § 3.2-5100, unless exempt from a permit pursuant to subdivision C 6 of § 3.2-5130; (ii) continues to manufacture, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract after revocation or suspension of such permit; (iii) fails to disclose on a form prescribed by the Commissioner that he intends to manufacture, sell, or offer for sale a substance intended to be consumed orally that contains an industrial hemp-derived cannabinoid; (iv) sells or offers for sale at retail a food that (a) contains a total tetrahydrocannabinol concentration that is greater than 0.3 percent or (b) contains more than two milligrams of total tetrahydrocannabinol per package and does not contain an amount of cannabidiol that is at least 25 times greater than the amount of total tetrahydrocannabinol per package; (v) manufactures, offers for sale, or sells in violation of this chapter or a regulation adopted pursuant to this chapter a substance intended to be consumed orally that is advertised or labeled as containing an industrial hemp-derived cannabinoid; or (vi) otherwise violates any provision of this chapter or a regulation adopted pursuant to this chapter, in addition to any other penalties provided, is subject to a civil penalty not to exceed $10,000 for each day a violation occurs. Such penalty shall be collected by the Commissioner and the proceeds shall be payable to the State Treasurer for remittance to the Department.

C. Any person who (i) manufactures, sells, or offers for sale an industrial hemp extract or food containing an industrial hemp extract without first obtaining a permit to do so from the Commissioner pursuant to § 3.2-5100, unless exempt from a permit pursuant to subdivision C 6 of § 3.2-5130; (ii) continues to manufacture, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract after revocation or suspension of such permit; (iii) fails to disclose on a form prescribed by the Commissioner that he intends to manufacture, sell, or offer for sale a substance intended to be consumed orally that contains an industrial hemp-derived cannabinoid; (iv) manufactures, offers for sale, or sells in violation of this chapter or a regulation adopted pursuant to this chapter a substance intended to be consumed orally that is advertised or labeled as containing an industrial hemp-derived cannabinoid; or (v) otherwise violates any provision of this chapter or a regulation adopted pursuant to this chapter, in addition to any other penalties provided, is guilty of a Class 1 misdemeanor. Each day in which a violation occurs shall constitute a separate offense.

D. The Commissioner may, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), deny, suspend, or revoke a permit issued pursuant to § 3.2-5100 if the permitted entity is found to have violated subdivision A 69, 70, 71, 72, 73, or 74 of § 59.1-200 by a court of competent jurisdiction.

E. This section shall not apply to products that are (i) approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) dispensed pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.

§ 3.2-5145.4. Industrial hemp extract requirements.

A. An industrial hemp extract shall (i) be produced from industrial hemp grown in compliance with applicable law and (ii) ~~notwithstanding any authority under federal law to have a greater concentration of tetrahydrocannabinol, have~~ *when offered for retail sale, (a) contain* a *total* tetrahydrocannabinol concentration of no greater than 0.3 percent *and (b) contain either no more than two milligrams of total tetrahydrocannabinol per package or an amount of cannabidiol that is no less than 25 times greater than the amount of total tetrahydrocannabinol per package.*

B. In addition to the requirements of this chapter, an industrial hemp extract or food containing an industrial hemp extract shall comply with regulations adopted by the Board pursuant to § 3.2-5145.5.

§ 3.2-5145.4:1. Labeling and packaging requirements.

A. An industrial hemp extract or food containing an industrial hemp extract that contains tetrahydrocannabinol shall be contained in child-resistant packaging, as defined in § 4.1-600.

B. An industrial hemp extract or food containing an industrial hemp extract shall be packaged and equipped with a label that states, in English and in a font no less than 1/16 of an inch, (i) all ingredients contained in the industrial hemp extract or food containing an industrial hemp extract, (ii) the amount of such industrial hemp extract or food containing an industrial hemp extract that constitutes a single serving, and (iii) if such industrial hemp extract or food containing an industrial hemp extract contains tetrahydrocannabinol, the number of milligrams of total tetrahydrocannabinol per serving and number of milligrams and percent of total tetrahydrocannabinol per package.

C. Any industrial hemp extract or food containing an industrial hemp extract that contains tetrahydrocannabinol shall be equipped with a label that states that the industrial hemp extract or food containing an industrial hemp extract contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age.

D. An industrial hemp extract or food containing an industrial hemp extract, when offered for sale, shall be accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body, that states the total tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of the batch from which the substance originates. The certificate of accreditation pursuant to standard ISO/IEC 17025 issued by the third-party accrediting body to the independent laboratory shall be available for review at the location at which the industrial hemp extract or food containing an industrial hemp extract is offered for sale or sold.

E. A manufacturer shall identify each batch of an industrial hemp extract or a food containing an industrial hemp extract with a unique code for traceability. Julian date coding or any other system developed and documented by the manufacturer for assigning a unique code to a batch may be used. The batch identification shall appear and be legible on the label of an industrial hemp extract or food containing an industrial hemp extract.

F. The label of an industrial hemp extract or food containing an industrial hemp extract shall not contain a claim indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease, which shall render the product a drug, as that term is defined in 21 U.S.C. § 321(g)(1). An industrial hemp extract or food containing an industrial hemp extract with a label that contains a claim indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease shall be considered misbranded.

§ 3.2-5145.5. Regulations.

A. The Board is authorized to adopt regulations for the efficient enforcement of this article.

B. The Board shall adopt regulations identifying contaminants of an industrial hemp extract or a food containing an industrial hemp extract and establishing tolerances for such identified contaminants.

C. ~~The Board shall adopt regulations establishing labeling requirements for an industrial hemp extract or a food containing an industrial hemp extract. Such regulations shall require that any industrial hemp extract or food containing an industrial hemp extract that contains tetrahydrocannabinol be equipped with a label that states (i) that the industrial hemp extract or food containing an industrial hemp extract contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (ii) all ingredients contained in the industrial hemp extract or food containing an industrial hemp extract, (iii) the amount of such industrial hemp extract or food containing an industrial hemp extract that constitutes a single serving, and (iv) the total percentage and milligrams of tetrahydrocannabinol included in the industrial hemp extract or food containing an industrial hemp extract and the number of milligrams of tetrahydrocannabinol that are contained in each serving.~~

~~D.~~ The Board shall adopt regulations establishing batch testing requirements for industrial hemp extracts. The Board shall require that batch testing of industrial hemp extracts be conducted by an independent testing laboratory that meets criteria established by the Board.

~~E.~~ *D.* With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

§ 4.1-600. Definitions.

As used in this subtitle, unless the context requires a different meaning:

"Advertisement" or " advertising" means any written or verbal statement, illustration, or depiction that is calculated to induce sales of retail marijuana, retail marijuana products, marijuana plants, or marijuana seeds, including any written, printed, graphic, digital, electronic, or other material, billboard, sign, or other outdoor display, publication, or radio or television broadcast.

"Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

"Board" means the Board of Directors of the Virginia Cannabis Control Authority.

"Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

"Child-resistant" means, with respect to packaging or a container, (i) specially designed or constructed to be significantly difficult for a typical child under five years of age to open and not to be significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more than a single use or that contains multiple servings, resealable.

"Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading, trimming, or other similar processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include manufacturing or testing.

"Edible marijuana product" means a marijuana product intended to be consumed orally, including marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

"Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Manufacturing" or "manufacture" means the production of marijuana products or the blending, infusing, compounding, or other preparation of marijuana and marijuana products, including marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

"Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include *(i)* the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis~~. "Marijuana" does not include (i)~~*; (ii)* industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent ~~or (ii)~~*; (iii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv)* a hemp product, as defined in § 3.2-4112~~, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law~~*; (v) an industrial hemp extract, as defined in § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.*

"Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant is a concentrate for purposes of this subtitle.

"Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use.

"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana manufacturing facility, a marijuana wholesaler, or a retail marijuana store.

"Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture, label, and package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores, or other marijuana manufacturing facilities.

"Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana.

"Marijuana products" means (i) products that are composed of marijuana and other ingredients and are intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

"Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test marijuana, marijuana products, and other substances.

"Marijuana wholesaler" means a facility licensed under this subtitle to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana store, or another marijuana wholesaler.

"Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed marijuana establishment.

"Non-retail marijuana products" means marijuana products that are not manufactured and sold by a licensed marijuana establishment.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the cultivation, manufacture, sale, or testing of retail marijuana or retail marijuana products shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building that is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed marijuana establishment.

"Retail marijuana products" means marijuana products that are manufactured and sold by a licensed marijuana establishment.

"Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale; peddling, exchanging, or bartering; or delivering otherwise than gratuitously, by any means, retail marijuana or retail marijuana products.

"Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has designated as a law-enforcement officer pursuant to this subtitle.

"Testing" or "test" means the research and analysis of marijuana, marijuana products, or other substances for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or manufacturing.

"Tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

"Total tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

§ 18.2-247. Use of terms "controlled substances," "marijuana," "Schedules I, II, III, IV, V, and VI," "imitation controlled substance," and "counterfeit controlled substance" in Title 18.2.

A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et seq.).

B. The term "imitation controlled substance" when used in this article means (i) a counterfeit controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a controlled substance subject to abuse, and:

1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other form whatsoever will be mistaken for a controlled substance unless such substance was introduced into commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate; or

2. Which by express or implied representations purports to act like a controlled substance as a stimulant or depressant of the central nervous system and which is not commonly used or recognized for use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an "imitation controlled substance," there shall be considered, in addition to all other relevant factors, comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the drug and its appearance in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the public.

D. The term "marijuana" when used in this article means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include *(i)* the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus Cannabis~~. Marijuana does not include (i)~~*; (ii)* industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; ~~(ii)~~ *(iii)* industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; ~~or (iii)~~ *(iv)* a hemp product, as defined in § 3.2-4112~~, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law~~*; (v) an industrial hemp extract, as defined in § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt or salts of such isomer, ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443*.

E. The term "counterfeit controlled substance" means a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying

mark, imprint or device or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug.

F. *The term "tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and geometric isomers.*

G. The term "total tetrahydrocannabinol" means the sum, after the application of any necessary conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of tetrahydrocannabinolic acid.

H. The Department of Forensic Science shall determine the proper methods for detecting the concentration of ~~delta-9-tetrahydrocannabinol (THC)~~ *tetrahydrocannabinol* in substances for the purposes of this title*, Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1,* and ~~§§~~ *§* 54.1-3401 ~~and 54.1-3446~~. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider the potential conversion of ~~delta-9-tetrahydrocannibinol~~ *tetrahydrocannabinolic* acid ~~(THC-A)~~ into ~~THC~~ *tetrahydrocannabinol*. ~~The test result shall include the total available THC derived from the sum of the THC and THC-A content.~~

§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories; Department of Agriculture and Consumer Services, Department of Law employees.

A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower, a federally licensed hemp producer, or a registered industrial hemp processor for the purpose of performing required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or industrial hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with regulations promulgated by the Board of Pharmacy and the Board of Agriculture and Consumer Services.

B. No employee of the Department of Agriculture and Consumer Services *or of the Department of Law* shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 for the possession or distribution of industrial hemp *or any substance containing tetrahydrocannabinol* when possession of industrial hemp *or any substance containing tetrahydrocannabinol* is necessary in the performance of his duties.

§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking by a person under 21 years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking to persons under 21 years of age; civil penalties.

A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person less than 21 years of age, knowing or having reason to believe that such person is less than 21 years of age, any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking.

Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking may be sold from a vending machine only if the machine is (i) posted with a notice, in a conspicuous manner and place, indicating that the purchase or possession of such products by persons under 21 years of age is unlawful and (ii) located in a place that is not open to the general public and is not generally accessible to persons under 21 years of age. An establishment that prohibits the presence of persons under 21 years of age unless accompanied by a person 21 years of age or older is not open to the general public.

B. No person less than 21 years of age shall attempt to purchase, purchase, or possess any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking. The provisions of this subsection shall not be applicable to the possession of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking by a person less than 21 years of age (i) making a delivery of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking in pursuance of his employment or (ii) as part of a scientific study being conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation, provided that such medical research has been approved by an institutional review board pursuant to applicable federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to purchase, attempt to purchase, or possession by a law-enforcement officer or his agent when the same is necessary in the performance of his duties.

C. No person shall sell a tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least 21 years of age. Such identification is not required from an individual whom the person has reason to believe is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the person demanded, was shown, and reasonably relied upon a photo identification stating that the individual was at least 21 years of age shall be a defense to any action brought under this subsection. In determining whether a person had reason to believe an individual is at least 21 years of age, the trier of fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior, and manner of the individual.

This subsection shall not apply to mail order or Internet sales, provided that the person offering the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking for sale through mail order or

the Internet (i) prior to the sale of the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking verifies that the purchaser is at least 21 years of age through a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking will be released to the purchaser.

D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking to any active duty military personnel who are 18 years of age or older. An identification card issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.

E. A violation of subsection A or C by an individual or by a separate retail establishment that involves a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product other than a bidi is punishable by a civil penalty not to exceed $100 for a first violation, a civil penalty not to exceed $200 for a second violation, and a civil penalty not to exceed $500 for a third or subsequent violation.

A violation of subsection A or C by an individual or by a separate retail establishment that involves the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of $500 for a first violation, a civil penalty in the amount of $1,000 for a second violation, and a civil penalty in the amount of $2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it has trained its employees concerning the requirements of this section, the court shall suspend all of the penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so train its employees, the court may impose a civil penalty not to exceed $1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product other than a bidi.

A violation of subsection B is punishable by a civil penalty not to exceed $100 for a first violation and a civil penalty not to exceed $250 for a second or subsequent violation. A court may, as an alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community service for a first violation of subsection B and up to 40 hours of community service for a second or subsequent violation. If the defendant fails or refuses to complete the community service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant to subdivision A 9 of § 16.1-278.8.

Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer may issue a summons for a violation of subsection A, B, or C.

F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for sale any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking to any person under 21 years of age is prohibited by law. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed ~~$50~~ *$500*. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed ~~$100~~ *$500*. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

G. Nothing in this section shall be construed to create a private cause of action.

H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may issue a summons for any violation of this section.

I. As used in this section:

"Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Bidi" means a product containing tobacco that is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by, consumers as a bidi or beedie.

"Hemp product" means the same as that term is defined in § 3.2-4112.

"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic

cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for smoking in a manner similar to a cigarette or cigar.

§ 54.1-3401. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or

Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § 54.1-3443.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouser, nonresident warehouser, third-party logistics provider, or nonresident third-party logistics provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic prescription" means a written prescription that is generated on an electronic application and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be transmitted in accordance with 21 C.F.R. Part 1300.

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include *(i)* the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. ~~Marijuana does not include (i);~~ *(ii)* industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent~~, (ii);~~ *(iii)* industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990~~, or (iii);~~ *(iv)* a hemp product, as defined in § 3.2-4112~~, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law~~*; (v) an industrial hemp extract, as defined in § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443*.

"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning — may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and geometric isomers.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"Total tetrahydrocannabinol" means the sum, after the application of any necessary conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of tetrahydrocannabinolic acid.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

§ 54.1-3408.3. Certification for use of cannabis oil for treatment.

A. As used in this section:

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains no more than 10 milligrams of ~~delta-9-tetrahydrocannabinol~~ *tetrahydrocannabinol* per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, ~~dealt~~ *handled*, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.

"Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical cannabis.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audio-visual technology. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.

C. The written certification shall be on a form provided by the Board of Pharmacy. Such written certification shall contain the name, address, and telephone number of the practitioner; the name and address of the patient issued the written certification; the date on which the written certification was made; and the signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration. A written certification shall not be issued to a patient by more than one practitioner during any given time period.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board and shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients. The

Board shall not limit the number of patients to whom a practitioner may issue a written certification. The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.

F. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit, on a monthly basis, all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Board.

G. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

H. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility, who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications, may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis product to the patient or resident as necessary.

I. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a registered agent, but only with respect to information related to such patient.

§ 54.1-3423. Board to issue registration unless inconsistent with public interest; authorization to conduct research; application and fees.

A. The Board shall register an applicant to manufacture or distribute controlled substances included in Schedules I through V unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the Board shall consider the following factors:

1. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

2. Compliance with applicable state and local law;

3. Any convictions of the applicant under any federal and state laws relating to any controlled substance;

4. Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

5. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

6. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

7. Any other factors relevant to and consistent with the public health and safety.

B. Registration under subsection A does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

C. Practitioners must be registered to conduct research or laboratory analysis with controlled substances in Schedules II through VI~~, tetrahydrocannabinol,~~ or marijuana. Practitioners registered under federal law to conduct research with Schedule I substances, other than ~~tetrahydrocannabinol~~ *marijuana*, may conduct research with Schedule I substances within ~~this~~ *the* Commonwealth upon furnishing the evidence of that federal registration.

D. The Board may register other persons or entities to possess controlled substances listed on Schedules II through VI upon a determination that (i) there is a documented need, (ii) the issuance of the registration is consistent with the public interest, (iii) the possession and subsequent use of the controlled substances complies with applicable state and federal laws and regulations, and (iv) the subsequent storage, use, and recordkeeping of the controlled substances will be under the general supervision of a licensed pharmacist, practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as specified in the Board's regulations. The Board shall consider, at a minimum, the factors listed in subsection A ~~of this section~~ in determining whether the registration shall be issued. Notwithstanding the exceptions listed in § 54.1-3422 A, the Board may mandate a controlled substances registration for sites maintaining certain types and quantities of Schedules II through VI controlled substances as it may specify in its regulations. The Board shall promulgate regulations related to requirements or criteria for the issuance of such controlled substances registration, storage, security, supervision, and recordkeeping.

E. The Board may register a public or private animal shelter as defined in § 3.2-6500 to purchase, possess, and administer certain Schedule II through VI controlled substances approved by the State Veterinarian for the purpose of euthanizing injured, sick, homeless, and unwanted domestic pets and animals and to purchase, possess, and administer certain Schedule VI drugs and biological products for the purpose of preventing, controlling, and treating certain communicable diseases that failure to control would result in transmission to the animal population in the shelter.

Controlled substances used for euthanasia shall be administered only in accordance with protocols established by the State Veterinarian and only by persons trained in accordance with instructions by the State Veterinarian. The list of Schedule VI drugs and biological products used for treatment and prevention of communicable diseases within the shelter shall be determined by the supervising veterinarian of the shelter and the drugs and biological products shall be administered only pursuant to written protocols established or approved by the supervising veterinarian of the shelter and only by persons who have been trained in accordance with instructions established or approved by the supervising veterinarian. The shelter shall maintain a copy of the approved list of drugs and biological products, written protocols for administering, and training records of those persons administering drugs and biological products on the premises of the shelter.

F. The Board may register a crisis stabilization unit established pursuant to § 37.2-500 or 37.2-601 and licensed by the Department of Behavioral Health and Developmental Services to maintain a stock of Schedule VI controlled substances necessary for immediate treatment of patients admitted to the crisis stabilization unit, which may be accessed and administered by a nurse pursuant to a written or oral order of a prescriber in the absence of a prescriber. Schedule II through Schedule V controlled substances shall only be maintained if so authorized by federal law and Board regulations.

G. The Board may register an entity at which a patient is treated by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically for the purpose of establishing a bona fide practitioner-patient relationship and is prescribed Schedule II through VI controlled substances when such prescribing is in compliance with federal requirements for the practice of telemedicine and the patient is not in the physical presence of a practitioner registered with the U.S. Drug Enforcement Administration. In determining whether the registration shall be issued, the Board shall consider (i) the factors listed in subsection A, (ii) whether there is a documented need for such registration, and (iii) whether the issuance of the registration is consistent with the public interest.

H. Applications for controlled substances registration certificates and renewals thereof shall be made on a form prescribed by the Board and such applications shall be accompanied by a fee in an amount to be determined by the Board.

I. Upon (i) any change in ownership or control of a business, (ii) any change of location of the controlled substances stock, (iii) the termination of authority by or of the person named as the responsible party on a controlled substances registration, or (iv) a change in the supervising practitioner, if applicable, the registrant or responsible party shall immediately surrender the registration. The registrant shall, within 14 days following surrender of a registration, file a new application and, if applicable, name the new responsible party or supervising practitioner.

§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling, including the potency of each botanical cannabis product and the amounts recommended by the practitioner or dispensing pharmacist, and packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis oil that provide that each dispensed dose of cannabis oil not exceed 10 milligrams of ~~delta-9-tetrahydrocannabinol~~ *tetrahydrocannabinol*; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors, between a pharmaceutical processors and a cannabis dispensing facility, and between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection M; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue written certifications and patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for producing cannabis products, (b) the secure disposal of agricultural waste, and (c) a process for registering cannabis oil products.

D. The Board shall require that, after processing and before dispensing any cannabis products, a pharmaceutical processor shall make a sample available from each batch of cannabis product for testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of

0.5 percent of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD); total tetrahydrocannabinol (THC); terpenes; pesticide chemical residue; heavy metals; mycotoxins; moisture; and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or cannabis oil shall be subject to laboratory testing and approved upon satisfaction of applicable testing standards, which shall not be more stringent than initial testing prior to remediation. If a batch of botanical cannabis fails retesting after remediation, it shall be considered usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any cannabis product with an expiration date assigned by the pharmaceutical processor of six months or less from the date of the cannabis product registration approval. Stability testing required for assignment of an expiration date longer than six months shall be limited to microbial testing, on a pass/fail basis, and potency testing, on a 10 percent deviation basis, of active ingredients.

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board in regulation.

F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. The pharmaceutical processor shall ensure that security measures are adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have concurrent responsibility for preventing diversion from the dispensing area.

Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and production areas of the pharmaceutical processor and shall provide such information to the Board. The Board shall direct all communications related to enforcement of requirements related to cultivation and production of cannabis oil products by the pharmaceutical processor to such designated person.

G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant's material owners. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a certification recognized by the Board or who has at least two years of experience cultivating plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and (iii) to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician.

I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

J. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

L. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's dispensing area or cannabis dispensing facility.

M. A pharmaceutical processor may acquire *from a registered industrial hemp handler or processor* industrial hemp extracts *that (i) are* grown and processed in Virginia~~, and~~ in compliance with state or federal law~~, from a registered industrial hemp dealer or processor~~ *and (ii) notwithstanding the tetrahydrocannabinol limits set forth in the definition of "industrial hemp extract" in § 3.2-5145.1, contain a total tetrahydrocannabinol concentration of no greater than 0.3 percent*. A pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products. The industrial hemp ~~dealer~~ *handler* or

processor shall provide such third-party testing results to the pharmaceutical processor before industrial hemp extracts may be acquired.

N. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board of Pharmacy shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board of Pharmacy shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

O. The Board shall register all cannabis products that meet testing, labeling, and packaging standards.

§ 54.1-3442.7. Dispensing cannabis products; report.

A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis products only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia and has been issued a valid written certification; (ii) such patient's registered agent; or (iii) if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or temporarily resides in Virginia. A companion may accompany a patient into a pharmaceutical processor's dispensing area or cannabis dispensing facility. Prior to the initial dispensing of cannabis products pursuant to each written certification, a pharmacist or pharmacy technician employed by the pharmaceutical processor or cannabis dispensing facility shall make and maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view, in person or by audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian; and shall verify current board registration of the practitioner and the corresponding registered agent if applicable. Thereafter, an initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated caregiver facility. Prior to any subsequent dispensing of cannabis products pursuant to each written certification, an employee or delivery agent shall view a current photo identification of the patient, registered agent, parent, or legal guardian and the current board registration issued to the registered agent if applicable. No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply, as determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period. A pharmaceutical processor or cannabis dispensing facility may dispense less than a 90-day supply of a cannabis product for any patient during any 90-day period; however, a pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. The Board shall establish in regulation an amount of cannabis oil that constitutes a 90-day supply to treat or alleviate the symptoms of a patient's diagnosed condition or disease. In determining the appropriate amount of a cannabis product to be dispensed to a patient, a pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the patient and adjust the amount dispensed accordingly.

B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis products produced on the premises of a pharmaceutical processor permitted by the Board or cannabis products that have been formulated with extracts from industrial hemp acquired by a pharmaceutical processor from a registered industrial hemp ~~dealer~~ *handler* or processor pursuant to § 54.1-3442.6. A pharmaceutical processor may begin cultivation upon being issued a permit by the Board.

C. The Board shall report annually by December 1 to the Chairmen of the House Committee for Health, Welfare and Institutions and the Senate Committee on Education and Health on the operation of pharmaceutical processors and cannabis dispensing facilities issued a permit by the Board.

D. The concentration of ~~delta-9-tetrahydrocannabinol~~ *tetrahydrocannabinol* in any cannabis product on site may be up to 10 percent greater than or less than the level of ~~delta-9-tetrahydrocannabinol~~ *tetrahydrocannabinol* measured for labeling. A pharmaceutical processor and cannabis dispensing facility shall ensure that such concentration in any cannabis product on site is within such range. A pharmaceutical processor producing cannabis products shall establish a stability testing schedule of cannabis products.

§ 54.1-3443. Board to administer article.

A. The Board shall administer this article and may add substances to or deschedule or reschedule all substances enumerated in the schedules in this article pursuant to the procedures of the Administrative Process Act (§ 2.2-4000 et seq.). In making a determination regarding a substance, the Board shall consider the following:

1. The actual or relative potential for abuse;
2. The scientific evidence of its pharmacological effect, if known;
3. The state of current scientific knowledge regarding the substance;
4. The history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. The risk to the public health;
7. The potential of the substance to produce psychic or physical dependence; and

8. Whether the substance is an immediate precursor of a substance already controlled under this article.

B. After considering the factors enumerated in subsection A, the Board shall make findings and issue a regulation controlling the substance if it finds the substance has a potential for abuse.

C. If the Board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

D. If the Board, in consultation with the Department of Forensic Science, determines the substance shall be placed into Schedule I or II pursuant to § 54.1-3445 or 54.1-3447, the Board may amend its regulations pursuant to Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such amendments, the Board shall conduct a public hearing. At least 30 days prior to conducting such hearing, it shall post notice of the hearing on the Virginia Regulatory Town Hall and shall send notice of the hearing to any persons requesting to be notified of a regulatory action. In the notice, the Board shall include a list of all substances it intends to schedule by regulation. The Board shall notify the House Committee for Courts of Justice and the Senate Committee on the Judiciary of any new substance added to Schedule I or II pursuant to this subsection. Any substance added to Schedule I or II pursuant to this subsection shall remain on Schedule I or II for a period of 18 months. Upon expiration of such 18-month period, such substance shall be descheduled unless a general law is enacted adding such substance to Schedule I or II. Nothing in this subsection shall preclude the Board from adding substances to or descheduling or rescheduling all substances enumerated in the schedules pursuant to the provisions of subsections A, B, and E.

E. If any substance is designated, rescheduled, or descheduled as a controlled substance under federal law and notice of such action is given to the Board, the Board may similarly control the substance under this chapter after the expiration of 30 days from publication in the Federal Register of a final or interim final order or rule designating a substance as a controlled substance or rescheduling or descheduling a substance by amending its regulations in accordance with the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such amendments, the Board shall post notice of the hearing on the Virginia Regulatory Town Hall and shall send notice of the hearing to any persons requesting to be notified of a regulatory action. The Board shall include a list of all substances it intends to schedule by regulation in such notice.

F. Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 4.1.

G. The Board shall exempt any nonnarcotic substance from a schedule if such substance may, under the provisions of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) or state law, be lawfully sold over the counter without a prescription.

H. Any tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether scheduled pursuant to this section shall not be included in the definition of marijuana set forth in § 4.1-600, 18.2-247, or 54.1-3401.

§ 54.1-3446. Schedule I.

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

1-{1-[1-(4-bromophenyl)ethyl]-4-piperidinyl}-1,3-dihydro-2H-benzimidazol-2-one (other name: Brorphine);

1-[2-methyl-4-(3-phenyl-2-propen-1-yl)-1-piperazinyl]-1-butanone (other name: 2-methyl AP-237);

1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);

1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);

2-[(4-methoxyphenyl)methyl]-N,N-diethyl-5-nitro-1H-benzimidazole-1-ethanamine (other name: Metonitazene);

2-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl fentanyl);

3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);

3,4-dichloro-N-{[1-(dimethylamino)cyclohexyl]methyl}benzamide (other name: AH-7921);

Acetyl fentanyl (other name: desmethyl fentanyl);

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Benzethidine;

Betacetylmethadol;

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;
Dimenoxadol;
Dimepheptanol;
Dimethylthiambutene;
Dioxaphetylbutyrate;
Dipipanone;
Ethylmethylthiambutene;
Etonitazene;
Etoxeridine;
Furethidine;
Hydroxypethidine;
Ketobemidone;
Levomoramide;
Levophenacylmorphan;
Morpheridine;
MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuranyl fentanyl);
N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl);
N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl);
N-{1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl}-N-phenylpropanamide (other name: beta-hydroxythiofentanyl);
N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl);
N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names: 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);
N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: 2-fluorofentanyl, ortho-fluorofentanyl);
N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 3-fluorofentanyl);
N-[3-methyl-1-(2-hydroxy-2-phenylethyl)4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxy-3-methylfentanyl);
N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl);
N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl);
N-(4-chlorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: para-chlorofentanyl, 4-chlorofentanyl);
N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluoroisobutyryl fentanyl);
N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: para-fluorobutyrylfentanyl);
N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluorofentanyl);
N,N-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine (other name: Isotonitazene);
N,N-diethyl-2-{[(4-ethoxyphenyl) methyl]-1H-benzimidazol-1-yl}-ethan-1-amine (other names: Etazene, Desnitroetonitazene);
N,N-diethyl-2-[(4-methoxyphenyl)methyl]-1H-benzimidazole-1-ethanamine (other name: Metodesnitazene);
N-phenyl-N-[1-(2-phenylmethyl)-4-piperidinyl]-2-furancarboxamide (other name: N-benzyl Furanyl norfentanyl);
N-phenyl-N-(4-piperidinyl)-propanamide (other name: Norfentanyl);
Noracymethadol;
Norlevorphanol;
Normethadone;
Norpipanone;
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-furancarboxamide (other name: Furanyl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-propenamide (other name: Acryl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: butyryl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (other name: Pentanoyl fentanyl);
N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide (other name: thiofentanyl);
Phenadoxone;
Phenampromide;
Phenomorphan;
Phenoperidine;
Piritramide;
Proheptazine;
Properidine;
Propiram;
Racemoramide;

Tilidine;
Trimeperidine;
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-1,3-benzodioxole-5-carboxamide (other name: Benzodioxole fentanyl);
3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methylbenzamide (other name: U-49900);
2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-48800);
2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-51754);
N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Ocfentanil);
N-(4-methoxyphenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: 4-methoxybutyrylfentanyl);
N-phenyl-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: Isobutyryl fentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-cyclopentanecarboxamide (other name: Cyclopentyl fentanyl);
N-phenyl-N-(1-methyl-4-piperidinyl)-propanamide (other name: N-methyl norfentanyl);
N-[2-(dimethylamino)cyclohexyl]-N-methyl-1,3-benzodioxole-5-carboxamide (other names: 3,4-methylenedioxy U-47700 or 3,4-MDO-U-47700);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-butenamide (other name: Crotonyl fentanyl);
N-phenyl-N-[4-phenyl-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 4-phenylfentanyl);
N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-benzamide (other names: Phenyl fentanyl, Benzoyl fentanyl);
N-[2-(dimethylamino)cyclohexyl]-N-phenylfuran-2-carboxamide (other name: Furanyl UF-17);
N-[2-(dimethylamino)cyclohexyl]-N-phenylpropionamide (other name: UF-17);
3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-isopropyl-benzamide (other name: Isopropyl U-47700).

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:
Acetorphine;
Acetyldihydrocodeine;
Benzylmorphine;
Codeine methylbromide;
Codeine-N-Oxide;
Cyprenorphine;
Desomorphine;
Dihydromorphine;
Drotebanol;
Etorphine;
Heroin;
Hydromorphinol;
Methyldesorphine;
Methyldihydromorphine;
Morphine methylbromide;
Morphine methylsulfonate;
Morphine-N-Oxide;
Myrophine;
Nicocodeine;
Nicomorphine;
Normorphine;
Pholcodine;
Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):
Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);
4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane;alpha-desmethyl DOB; 2C-B; Nexus);
3,4-methylenedioxy amphetamine;
5-methoxy-3,4-methylenedioxy amphetamine;
3,4,5-trimethoxy amphetamine;
Alpha-methyltryptamine (other name: AMT);
Bufotenine;
Diethyltryptamine;
Dimethyltryptamine;
4-methyl-2,5-dimethoxyamphetamine;
2,5-dimethoxy-4-ethylamphetamine (DOET);

4-fluoro-N-ethylamphetamine;
2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);
Ibogaine;
5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);
Lysergic acid diethylamide;
Mescaline;
Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl);
Peyote;
N-ethyl-3-piperidyl benzilate;
N-methyl-3-piperidyl benzilate;
Psilocybin;
Psilocyn;
Salvinorin A;
~~Tetrahydrocannabinols, except as present in (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law; (iii) marijuana; (iv) dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration; or (v) industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990;~~
2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);
3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;
3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);
N-hydroxy-3,4-methylenedioxyamphetamine (some other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);
4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);
4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);
Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);
Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);
Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);
1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);
3,4-methylenedioxypyrovalerone (other name: MDPV);
4-methylmethcathinone (other names: mephedrone, 4-MMC);
3,4-methylenedioxymethcathinone (other name: methylone);
Naphthylpyrovalerone (other name: naphyrone);
4-fluoromethcathinone (other names: flephedrone, 4-FMC);
4-methoxymethcathinone (other names: methedrone; bk-PMMA);
Ethcathinone (other name: N-ethylcathinone);
3,4-methylenedioxyethcathinone (other name: ethylone);
Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);
N,N-dimethylcathinone (other name: metamfepramone);
Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);
4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);
3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);
Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);
6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);
3-fluoromethcathinone (other name: 3-FMC);
4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);
4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);
4-Methylethcathinone (other name: 4-MEC);
4-Ethylmethcathinone (other name: 4-EMC);
N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);
Beta-keto-methylbenzodioxolylpentanamine (other names: Pentylone, bk-MBDP);
Alpha-methylamino-butyrophenone (other name: Buphedrone);

Alpha-methylamino-valerophenone (other name: Pentedrone);
3,4-Dimethylmethcathinone (other name: 3,4-dmmc);
4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);
4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe, 2C-I-NBOMe);
Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);
4-Fluoromethamphetamine (other name: 4-FMA);
4-Fluoroamphetamine (other name: 4-FA);
2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);
2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);
2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);
2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);
2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);
2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);
2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);
(2-aminopropyl)benzofuran (other name: APB);
(2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);
4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-C-NBOMe, 25C-NBOMe, 25C);
4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-B-NBOMe, 25B-NBOMe, 25B);
Acetoxydimethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);
Benocyclidine (other names: BCP, BTCP);
Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);
3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);
4-bromomethcathinone (other name: 4-BMC);
4-chloromethcathinone (other name: 4-CMC);
4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);
Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);
Alpha-Pyrrolidinoheptiophenone (other name: PV8);
5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);
Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);
Beta-keto-4-bromo-2,5-dimethoxyphenethylamine (other name: bk-2C-B);
1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);
1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);
1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);
4-Chloroethcathinone (other name: 4-CEC);
3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);
1-propionyl lysergic acid diethylamide (other name: 1P-LSD);
(2-Methylaminopropyl)benzofuran (other name: MAPB);
1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone, Dipentylone);
1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9);
3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);
4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);
4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);
4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);
4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);
4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);
4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);
4-methyl-alpha-ethylaminopentiophenone;
4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);
5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);
5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);
6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);
6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);
(N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB);
2-(methylamino)-2-phenyl-cyclohexanone (other name: Deschloroketamine);
2-(ethylamino)-2-phenyl-cyclohexanone (other name: deschloro-N-ethyl-ketamine);
2-methyl-1-(4-(methylthio)phenyl)-2-morpholinopropiophenone (other name: MMMP);
Alpha-ethylaminohexanophenone (other name: N-ethylhexedrone);
N-ethyl-1-(3-methoxyphenyl)cyclohexylamine (other name: 3-methoxy-PCE);

4-fluoro-alpha-pyrrolidinohexiophenone (other name: 4-fluoro-alpha-PHP);
N-ethyl-1,2-diphenylethylamine (other name: Ephenidine);
2,5-dimethoxy-4-chloroamphetamine (other name: DOC);
3,4-methylenedioxy-N-tert-butylcathinone;
Alpha-pyrrolidinoisohexiophenone (other name: alpha-PiHP);
1-[1-(3-hydroxyphenyl)cyclohexyl]piperidine (other name: 3-hydroxy PCP);
4-acetyloxy-N,N-diallyltryptamine (other name: 4-AcO-DALT);
4-hydroxy-N,N-methylisopropyltryptamine (other name: 4-hydroxy-MiPT);
3,4-Methylenedioxy-alpha-pyrrolidinohexanophenone (other name: MDPHP);
5-methoxy-N,N-dibutyltryptamine (other name: 5-methoxy-DBT);
1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-butanone (other names: Eutylone, bk-EBDB);
1-(1,3-benzodioxol-5-yl)-2-(butylamino)-1-pentanone (other name: N-butylpentylone);
N-benzyl-3,4-dimethoxyamphetamine (other name: N-benzyl-3,4-DMA);
1-(benzo[d][1,3]dioxol-5-yl)-2-(sec-butylamino)pentan-1-one (other name: N-sec-butyl Pentylone);
1-cyclopropionyl lysergic acid diethylamide (other name: 1cP-LSD);
2-(ethylamino)-1-phenylheptan-1-one (other name: N-ethylheptedrone);
(2-ethylaminopropyl)benzofuran (other name: EAPB);
4-ethyl-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25E-NBOH);
2-fluoro-Deschloroketamine (other name: 2-(2-fluorophenyl)-2-(methylamino)-cyclohexanone);
4-hydroxy-N-ethyl-N-propyltryptamine (other name: 4-hydroxy-EPT);
2-(isobutylamino)-1-phenylhexan-1-one (other names: N-Isobutyl Hexedrone, alpha-isobutylaminohexanphenone);
1-(4-methoxyphenyl)-N-methylpropan-2-amine (other names: para-Methoxymethamphetamine, PMMA);
N-ethyl-1-(3-hydroxyphenyl)cyclohexylamine (other name: 3-hydroxy-PCE);
N-heptyl-3,4-dimethoxyamphetamine (other name: N-heptyl-3,4-DMA);
N-hexyl-3,4-dimethoxyamphetamine (other name: N-hexyl-3,4-DMA);
4-fluoro-3-methyl-alpha-pyrrolidinovalerophenone (other name: 4-fluoro-3-methyl-alpha-PVP);
4-fluoro-alpha-methylamino-valerophenone (other name: 4-fluoropentedrone);
N-(1,4-dimethylpentyl)-3,4-dimethoxyamphetamine (other name: N-(1,4-dimethylpentyl)-3,4-DMA);
4,5-methylenedioxy-N,N-diisopropyltryptamine (other name: 4,5-MDO-DiPT);
Alpha-pyrrolidinocyclohexanophenone (other name: alpha-PCYP);
3,4-methylenedioxy-alpha-pyrrolidinoheptiophenone (other name: MDPV8);
4-chloro-alpha-methylaminobutiophenone (other name: 4-chloro Buphedrone).

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

5-(2-chlorophenyl)-1,3-dihydro-3-methyl-7-nitro-2H-1,4-benzodiazepin-2-one (other name: Meclonazepam);
7-chloro-5-(2-fluorophenyl)-1,3-dihydro-1,4-benzodiazepin-2-one (other name: Norfludiazepam);
Bromazolam;
Clonazolam;
Deschloroetizolam;
Etizolam;
Flualprazolam;
Flubromazepam;
Flubromazolam;
Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
Mecloqualone;
Methaqualone.

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);
Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine);
Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;
Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
Ethylamphetamine;
Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);
Fenethylline;

Methcathinone (some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)-propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

N,N-dimethylamphetamine (other names: N,N-alpha-trimethyl-benzeneethanamine, N,N-alpha-trimethylphenethylamine);

Methyl 2-(4-fluorophenyl)-2-(2-piperidinyl)acetate (other name: 4-fluoromethylphenidate);

Isopropyl-2-phenyl-2-(2-piperidinyl)acetate (other name: Isopropylphenidate);

4-chloro-N,N-dimethylcathinone;

3,4-methylenedioxy-N-benzylcathinone (other name: BMDP).

6. Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

a. "Cannabimimetic agents" includes any substance that is within any of the following structural classes:

2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;

3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; and

N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

b. The term "cannabimimetic agents" includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tet rahydrobenzo[c]chromen-1-ol (other name: HU-210);

1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);

1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);

Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);

1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);

1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);

1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);

1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11, 5-fluoro-UR-144);

N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);
N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);
1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);
(8-quinolinyl)(1-pentylindol-3-yl)carboxylate (other name: PB-22);
(8-quinolinyl)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);
(8-quinolinyl)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name: AB-FUBINACA);
1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-PINACA);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AB-PINACA);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names: ADB-CHMINACA, MAB-CHMINACA);
Methyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);
1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);
1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);
1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);
N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (other name: ADB-FUBINACA);
Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: MDMB-FUBINACA);
Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);
Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other names: AMB-FUBINACA, FUB-AMB);
N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other names: FUB-AKB48, 5F-APINACA);
N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);
N-(adamantanyl)-1-(5-chloropentyl) indazole-3-carboxamide (other name: 5-chloro-AKB48);
Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name: AB-CHMICA);
1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);
Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);
Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-ADB-PINACA);
1-(4-cyanobutyl)-N-(1-methyl-1-phenylethyl)-1H-indazole-3-carboxamide (other name: 4-cyano CUMYL-BUTINACA);
Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro MDMB-PICA, 5F-MDMB-PICA);
Ethyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other name: EMB-FUBINACA);
Methyl 2-[1-4-fluorobutyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: 4-fluoro-MDMB-BUTINACA);
1-(5-fluoropentyl)-N-(1-methyl-1-phenylethyl)-1H-indole-3-carboxamide (other name: 5-fluoro CUMYL-PICA);
Methyl 2-[1-(pent-4-enyl)-1H-indazole-3-carboxamindo]-3,3-dimethylbutanoate (other name: MDMB-4en-PINACA);
Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indole-3-carbonyl}amino)-3-methylbutanoate (other names: MMB-FUBICA, AMB-FUBICA);
Methyl 2-[1-(4-penten-1-yl)-1H-indole-3-carboxamido]-3-methylbutanoate (other names: MMB022, MMB-4en-PICA);
Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-methylbutanoate (other name: MMB 2201);
Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-phenylpropanoate (other name: 5-fluoro-MPP-PICA);
N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butylindazole-3-carboxamide (other name: ADB-BUTINACA);
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-chloropentyl)indazole-3-carboxamide (other name: 5-chloro-AB-PINACA);
1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (other names: 5F-CUMYL-PINACA, 5-fluoro CUMYL-PINACA, CUMYL-5F-PINACA);
Ethyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5F-EDMB-PINACA, 5-fluoro EDMB-PINACA);

Ethyl-2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3-methylbutanoate (other names: 5-fluoro-EMB-PINACA, 5F-AEB);

Ethyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-methylbutanoate (other name: 5-fluoro-EMB-PICA);

Ethyl-2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other name: 5-fluoro EDMB-PICA);

Methyl 2-[1-(4-fluorobutyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other name: 4-fluoro-MDMB-BUTICA);

Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (other names: MDMB-CHMICA, MMB-CHMINACA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(pent-4-enyl)indazole-3-carboxamide (other name: ADB-4en-PINACA).

§ 59.1-200. Prohibited practices.

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;

2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;

4. Misrepresenting geographic origin in connection with goods or services;

5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;

6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";

8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516, or 3.2-6519 is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or

brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of $5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.);

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.);

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.);

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.);

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

37. Violating any provision of § 8.01-40.2;

38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);

40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.);

42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);

43. Violating any provision of § 59.1-443.2;

44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);

45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;

46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;

47. Violating any provision of § 18.2-239;

48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);

49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";

50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);

51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;

52. Violating any provision of § 8.2-317.1;

53. Violating subsection A of § 9.1-149.1;

54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;

55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from

the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;

56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;

58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);

59. Violating any provision of subsection E of § 32.1-126;

60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

61. Violating any provision of § 2.2-2001.5;

62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;

63. Violating any provision of § 6.2-312;

64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;

65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;

66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);

67. Knowingly violating any provision of § 8.01-27.5;

68. Failing to make available a conspicuous online option to cancel a recurring purchase of a good or service as required by § 59.1-207.46;

69. *Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic derivative" means a chemical compound produced by man through a chemical transformation to turn a compound into a different compound by adding or subtracting molecules to or from the original compound. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.*

70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 *(§ 54.1-3442.5 et seq.)* of Chapter 34 of Title 54.1 ~~of the Code of Virginia~~;

~~70.~~ *71.* Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 *(§ 54.1-3442.5 et seq.)* of Chapter 34 of Title 54.1 ~~of the Code of Virginia~~;

~~71.~~ *72.* Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit; ~~and~~

~~72.~~ *73.* Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance*; and*

74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1, or (iii) apply to topical hemp products that were manufactured prior to July 1, 2023, provided that the person provides documentation of the date of manufacture if requested.

B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

§ 59.1-203. Restraining prohibited acts.

A. Notwithstanding any other provisions of law to the contrary, the Attorney General, any attorney for the Commonwealth, or the attorney for any city, county, or town may cause an action to be brought in the appropriate circuit court in the name of the Commonwealth, or of the county, city, or town to enjoin any violation of § 59.1-200 or 59.1-200.1. The circuit court having jurisdiction may enjoin such violations notwithstanding the existence of an adequate remedy at law. In any action under this section, it shall not be necessary that damages be proved.

B. Unless the Attorney General, any attorney for the Commonwealth, or the attorney for any county, city, or town determines that a person subject to the provisions of this chapter intends to depart from this Commonwealth or to remove his property herefrom, or to conceal himself or his property herein, or on a reasonable determination that irreparable harm may occur if immediate action is not taken, he shall, before initiating any legal proceedings as provided in this section, give notice in writing that such proceedings are contemplated, and allow such person a reasonable opportunity to appear before said attorney and show that a violation did not occur or execute an assurance of voluntary compliance, as provided in § 59.1-202.

C. The circuit courts are authorized to issue temporary or permanent injunctions to restrain and prevent violations of § 59.1-200 or 59.1-200.1.

D. The Commissioner of the Department of Agriculture and Consumer Services, or his duly authorized representative, shall have the power to inquire into possible violations of subdivisions A 18, 28, 29, 31, 39, ~~and~~ 41, as it relates to motor fuels, *69, 70, 71, 72, 73, and 74* of § 59.1-200 and § 59.1-335.12, and, if necessary, to request, but not to require, an appropriate legal official to bring an action to enjoin such violation.

E. The Board of Directors of the Virginia Cannabis Control Authority, or its duly authorized representative, shall, upon the referral or request of the Attorney General or the Department of Agriculture and Consumer Services, have the power to inquire into possible violations of subdivisions A 69, 70, 71, 72, 73, and 74 of § 59.1-200 and, if necessary, to request, but not require, an appropriate legal official to bring an action to enjoin such violation.

§ 59.1-206. Civil penalties; attorney fees.

A. In any action brought under this chapter, if the court finds that a person has willfully engaged in an act or practice in violation of § 59.1-200 or 59.1-200.1, the Attorney General, the attorney for the Commonwealth, or the attorney for the county, city, or town may recover for the Literary Fund, upon petition to the court, a civil penalty of not more than $2,500 per violation. *If the court finds that a person has willfully committed a second or subsequent violation of subdivision A 69, 70, 71, 72, 73, or 74 of § 59.1-200, the Attorney General, the attorney for the Commonwealth, or the attorney for the county, city, or town may recover for the Literary Fund, upon petition to the court, a civil penalty of not more than $5,000 per violation.*

B. For purposes of this section, prima facie evidence of a willful violation may be shown when the Attorney General, the attorney for the Commonwealth, or the attorney for the county, city, or town notifies the alleged violator by certified mail that an act or practice is a violation of § 59.1-200 or 59.1-200.1, and the alleged violator, after receipt of said notice, continues to engage in the act or practice.

~~B.~~ *C.* Any person who willfully violates the terms of an assurance of voluntary compliance or an injunction issued under § 59.1-203 shall forfeit and pay to the Literary Fund a civil penalty of not more than $5,000 per violation. For purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General, the attorney for the Commonwealth, or the attorney for the county, city, or town may petition for recovery of civil penalties.

~~C.~~ *D.* In any action pursuant to subsection A ~~or~~, B*, or C* and in addition to any other amount awarded, the Attorney General, the attorney for the Commonwealth, or the attorney for the county, city, or town may recover any applicable civil penalty or penalties, costs, reasonable expenses incurred by the state or local agency in investigating and preparing the case not to exceed $1,000 per violation, and attorney's fees. Such civil penalty or penalties, costs, reasonable expenses, and attorney's fees shall be paid into the general fund of the Commonwealth or of the county, city, or town which such attorney represented.

~~D.~~ *E.* Nothing in this section shall be construed as limiting the power of the court to punish as contempt the violation of any order issued by the court, or as limiting the power of the court to enter other orders under § 59.1-203 or 59.1-205.

~~E.~~ *F.* The right of trial by jury as provided by law shall be preserved in actions brought under this section.

2. That the provisions of Article 4 (§§ 3.2-4122 through 3.2-4126) of Chapter 41.1 of Title 3.2 of the Code of Virginia, as created by this act, shall become effective when the Commissioner of the Department of Agriculture and Consumer Services (the Department) provides notice to the Virginia Code Commission that the Department has established the registration process necessary to implement the provisions of such article.

3. That the Department of Agriculture and Consumer Services (the Department) shall collect and compile information regarding enforcement actions taken by the Department pursuant to § 3.2-5145.2:1 of the Code of Virginia, as amended by this act, and the nature of the products manufactured, sold, or offered for sale in violation of § 3.2-5145.2:1 of the Code of Virginia, as amended by this act. The Department shall report its findings to the Governor and the Chairmen of the Senate Committee on Rehabilitation and Social Services and the House Committee on General Laws by November 1, 2023.

4. That the Virginia Cannabis Control Authority (the Authority) shall, in consultation with the Department of Agriculture and Consumer Services, conduct a study regarding edible hemp products and hemp products intended for smoking and report the following: (i) a summary of the approaches taken by other states to address the public

safety and health challenges posed by the online and in-person sale of hemp-derived products and a recommendation as to whether the Commonwealth may benefit from adopting one or more of these approaches or another approach and (ii) a summary and the implications of any pending federal legislation on hemp-derived products. The Authority shall report its findings to the Governor and the Chairmen of the Senate Committee on Rehabilitation and Social Services and the House Committee on General Laws by November 1, 2023.

5. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is $0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 795

An Act directing the Virginia Alcoholic Beverage Control Authority to assess a licensing scheme for liquid nicotine; report.

[H 2296]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Virginia Alcoholic Beverage Control Authority (the Authority), in consultation with stakeholders, including public and community health organizations, retailers, tobacco and vaporized nicotine companies, and wholesalers, shall assess a potential licensing scheme for manufacturers, distributors, and retail dealers of liquid nicotine in the Commonwealth and the most appropriate manner and entity to enforce and administer licensing, age verification, product verification, and advertising restrictions related to the sale of liquid nicotine. The Authority shall report its findings and any recommendations to the Chairmen of the Senate Committee on Finance and Appropriations, the House Committee on Finance, and the House Committee on Appropriations by November 1, 2023.*

CHAPTER 796

An Act to amend and reenact § 3.2-102 of the Code of Virginia and to amend the Code of Virginia by adding in Title 55.1 a chapter numbered 5.1, consisting of sections numbered 55.1-507, 55.1-508, and 55.1-509, relating to agricultural land; ownership by foreign adversaries prohibited.

[H 2325]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 3.2-102 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 55.1 a chapter numbered 5.1, consisting of sections numbered 55.1-507, 55.1-508, and 55.1-509, as follows:

§ 3.2-102. General powers and duties of the Commissioner.

A. The Commissioner shall be vested with the powers and duties set out in § 2.2-601, the powers and duties herein provided, and such other powers and duties as may be prescribed by law, including those prescribed in Title 59.1. He shall be the executive officer of the Board, and shall see that its orders are carried out. He shall see to the proper execution of laws relating to the Department. Unless the Governor expressly reserves such power to himself, the Commissioner shall promote, protect, and develop the agricultural interests of the Commonwealth. The Commissioner shall develop, implement, and maintain programs within the Department including those that promote the development and marketing of the Commonwealth's agricultural products in domestic and international markets, including promotions, market development and research, marketing assistance, market information, and product grading and certification; promote the creation of new agribusiness including new crops, biotechnology and new uses of agricultural products, and the expansion of existing agribusiness within the Commonwealth; develop, promote, and maintain consumer protection programs that protect the safety and quality of the Commonwealth's food supply through food and dairy inspection activities, industry and consumer education, and information on food safety; preserve the Commonwealth's agricultural lands; ensure animal health and protect the Commonwealth's livestock industries through disease control and surveillance, maintaining animal health diagnostic laboratories, and encouraging the humane treatment and care of animals; protect public health and the environment through regulation and proper handling of pesticides, agricultural stewardship, and protection of endangered plant and insect species; protect crop and plant health and productivity; ensure consumer protection and fair trade practices in commerce; develop plans and emergency response protocols to protect the agriculture industry from bioterrorism, plant and animal diseases, and agricultural pests; assist as directed by the Governor in the Commonwealth's response to natural disasters; develop and implement programs and inspection activities to ensure that the Commonwealth's agricultural products move freely in trade domestically and internationally; and enter into agreements with federal, state, and local governments, land grant universities, and other organizations that include marketing, plant protection, pest control, pesticides, and meat and poultry inspection.

B. In addition, the Commissioner shall:

1. Establish and maintain a farm-to-school website. The purpose of the website shall be to facilitate and promote the purchase of Virginia farm products by schools, universities, and other educational institutions under the jurisdiction of the State Department of Education. The website shall present such current information as the availability of Virginia farm products, including the types and amount of products, and the names of and contact information for farmers, farm organizations, and businesses marketing such products;

2. Establish and operate a nonprofit, nonstock corporation under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 as a public instrumentality exercising public and essential governmental functions to promote, develop, and sustain markets for licensed Virginia wineries and farm wineries, as defined in § 4.1-100. Such corporation shall provide wholesale wine distribution services for wineries and farm wineries licensed in accordance with § 4.1-206.1. The board of directors of such corporation shall be composed of the Commissioner and four members appointed by the Board, including one owner or manager of a winery or farm winery licensee that is not served by a wholesaler when the owner or manager is appointed to the board; one owner or manager of a winery or farm winery licensee that produces no more than 10,000 cases per year; and two owners or managers of wine wholesaler licensees. In making appointments to the board of directors, the Board shall consider nominations of winery and farm winery licensees submitted by the Virginia Wineries Association and wine wholesale licensees submitted by the Virginia Wine Wholesalers Association. The Commissioner shall require such corporation to report to him at least annually on its activities, including reporting the quantity of wine distributed for each winery and farm winery during the preceding year. The provisions of the Virginia Public Procurement Act shall not apply to the establishment of such corporation nor to the exercise of any of its powers granted under this section; ~~and~~

3. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) not inconsistent with the laws of Virginia necessary to carry out the provisions of Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2. Such regulations may include penalties for violations*; and*

4. Ensure that the Department compiles and publishes the annual report relating to foreign adversary ownership of agricultural land required under § 55.1-509.

CHAPTER 5.1.

FOREIGN ENTITIES AND PROPERTY OWNERSHIP.

§ 55.1-507. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agricultural land" means real estate in the Commonwealth used or zoned in a manner that would permit the use of the real estate for an agricultural operation.

"Agricultural operation" means any operation devoted to the bona fide production of crops, animals, or fowl, including the production of fruits and vegetables of any kind; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silvicultural activity.

"Department" means the Department of Agriculture and Consumer Services.

"Foreign adversary" means any foreign government or nongovernment person determined by the U.S. Secretary of Commerce to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons, as set forth in 15 C.F.R. § 7.4 or such successor regulation, declaration, or statute as may exist from time to time.

"Interest in agricultural land" means any right, title, or interest, direct or indirect, in and to (i) agricultural land or (ii) any entity or other organization that holds any right, title, or interest, direct or indirect, in and to agricultural land. For purposes of this definition, any interest that taken on its own or together with any other interest held in common or under common control does not give the holder of the interest the ability to possess or occupy the agricultural land in any manner or the power or authority to direct the conduct of the agricultural operation being conducted on the agricultural land.

§ 55.1-508. Foreign adversary acquisition of agricultural land prohibited.

A. Notwithstanding any other provision of law, in order to protect the health, safety, and welfare of all citizens of the Commonwealth, on and after July 1, 2023, no foreign adversary shall acquire any interest in agricultural land in the Commonwealth.

B. Any acquisition of any interest in agricultural land in violation of this section shall be void, and title to such interest in agricultural land shall be deemed to have vested as of the date of such purported acquisition in the name of the Commonwealth without any payment of consideration of any kind by the Commonwealth. The foreign adversary purporting to acquire such interest in agricultural land shall be barred from making a claim against any party for restitution of the purchase price paid by such foreign adversary in connection with such interest in agricultural land or for any other kind of payment relating to the foreign adversary's loss or lack of title to such interest in agricultural land. Any lien that has attached to such interest in agricultural land during the foreign adversary's purported acquisition or ownership shall remain a valid lien against the interest during such time as the interest is held by the Commonwealth except that such lien shall not be subject to foreclosure during the period of the Commonwealth's ownership nor shall the Commonwealth be subject to the terms of any agreement giving rise to the lien. The Commonwealth may hold or dispose of such interest in agricultural land in any proper manner.

C. Notwithstanding the provisions in subsection B, if the foreign adversary has subsequently sold or transferred the interest in agricultural land to a person or entity that is not a foreign adversary, title to such interest in agricultural land shall be vested in the subsequent non-foreign adversary purchaser or transferee and shall be valid as if the purported acquisition of such interest in agricultural land by a foreign adversary has not occurred.

D. If an interest in agricultural land has been acquired in violation of this section, a county, city, or town attorney for the locality in which the agricultural land is located, the Attorney General, or any non-foreign adversary person that was a party to the void transaction or is a subsequent holder of such interest may file an action (i) to eject the foreign adversary from possession, (ii) to quiet title to such property, or (iii) for any other appropriate action to ratify the nullification of the transaction. Any action brought pursuant to this subsection shall be filed in the circuit court where the subject property is located.

E. This section shall not be applied in a manner inconsistent with any provision of any treaty between the United States and another country.

§ 55.1-509. Reporting requirements.

A. Based on the reports submitted to it pursuant to the federal Agricultural Foreign Investment Disclosure Act, 7 U.S.C. § 3501 et seq., and other information the Department, at its discretion, deems appropriate, the Department shall compile an annual report in consultation with the appropriate state agencies and boards for each calendar year containing all of the following, if available:

1. The total amount of agricultural land that is under foreign ownership;

2. The percentage change in foreign ownership of agricultural land in the Commonwealth for each year over the prior 10 years;

3. The purpose for which foreign-owned agricultural land in the Commonwealth is being used currently. To the extent such information is available, the Department shall also include any significant recent changes or trends in the uses of foreign-owned agricultural land in the Commonwealth;

4. With the assistance of relevant state agencies, information regarding the extent of, and any recent changes in, foreign ownership of energy production, storage, or distribution facilities in the Commonwealth to the extent such information is available; and

5. Any legislative, regulatory, or administrative policy changes the Department recommends in light of the information in this report.

B. The Department shall publish its inaugural report pursuant to subsection A on its website no later than July 1, 2023, and each subsequent report pursuant to subsection A no later than July 1 of each following year. The Department shall also deliver copies of such report to the Governor, the General Assembly, and the Chairmen of the Senate Committee on Agriculture, Conservation and Natural Resources and the House Committee on Agriculture, Chesapeake and Natural Resources.

CHAPTER 797

An Act to amend and reenact § 33.2-1526.3 of the Code of Virginia, as it is currently effective and as it shall become effective, relating to Transit Ridership Incentive Program; funds; improving accessibility and safety.

[H 2338]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-1526.3, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 33.2-1526.3. (Effective until July 1, 2024) Transit Ridership Incentive Program.

A. The Board shall establish the Transit Ridership Incentive Program (the Program) to promote improved transit service in urbanized areas of the Commonwealth with a population in excess of 100,000 and to reduce barriers to transit use for low-income individuals.

B. The goal of the Program shall be to encourage the identification and establishment of routes of regional significance, the development and implementation of a regional subsidy allocation model, implementation of integrated fare collection, establishment of bus-only lanes on routes of regional significance, and other actions and service determined by the Board to improve transit service.

C. The Board shall establish guidelines for the implementation of the Program and review such guidelines, at a minimum, every five years. The funds in the Program shall be awarded such that on a five-year rolling average, the amount of funds awarded to each urbanized area shall be equal to a ratio of the population within the Commonwealth of such urbanized area compared to the total population within the Commonwealth of all eligible urbanized areas. The Board may through an affirmative vote of a majority of the members vote to waive this requirement for a period not to exceed two years when they find there is a need that justifies such waiver.

D. Notwithstanding the provisions of this section, the Board shall use at least 25 percent of the funds available to support the establishment of programs to reduce the impact of fares on low-income individuals, including reduced-fare programs and elimination of fares. The restrictions in subsection A shall not apply to funds used pursuant to this subsection, nor shall the funds used pursuant to this subsection be used to calculate the rolling average described in subsection C.

E. The Board shall use at least 25 percent of the funds available to support regional transit initiatives. The Board shall use its discretion in allocating the remaining funds available as authorized pursuant to this section and based on the programs and initiatives submitted during the application process.

F. Notwithstanding the provisions of this section, the Board shall use an amount not to exceed 30 percent of the funds available to support local, regional, and state entities in improving the accessibility of transit bus passenger facilities and improving crime prevention and public safety for transit passengers, operators, and employees. The Board shall develop guidelines for applications, including relevant criteria and any requirement for matching funds, including any private grants and donations, for grants to any local, regional, or state public entity that supports a transit system. The restrictions in subsection A shall not apply to funds used pursuant to this subsection, nor shall the funds used pursuant to this subsection be used to calculate the rolling average described in subsection C.

~~F.~~ *G.* The Board shall report annually to the Governor and the General Assembly on the projects and services funded by the Program. The report shall, at a minimum, include an analysis of the performance of the funded projects, the performance of the identified routes of regional significance, transit ridership, efforts funded pursuant to subsection D, and any other information the Board determines to be appropriate.

§ 33.2-1526.3. (Effective July 1, 2024) Transit Ridership Incentive Program.

A. The Board shall establish the Transit Ridership Incentive Program (the Program) to promote improved transit service in urbanized areas of the Commonwealth with a population in excess of 100,000 and to reduce barriers to transit use for low-income individuals.

B. The goal of the Program shall be to encourage the identification and establishment of routes of regional significance, the development and implementation of a regional subsidy allocation model, implementation of integrated fare collection, establishment of bus-only lanes on routes of regional significance, and other actions and service determined by the Board to improve transit service.

C. The Board shall establish guidelines for the implementation of the Program and review such guidelines, at a minimum, every five years. The funds in the Program shall be awarded such that on a five-year rolling average, the amount of funds awarded to each urbanized area shall be equal to a ratio of the population within the Commonwealth of such urbanized area compared to the total population within the Commonwealth of all eligible urbanized areas. The Board may through an affirmative vote of a majority of the members vote to waive this requirement for a period not to exceed two years when they find there is a need that justifies such waiver.

D. Notwithstanding the provisions of this section, the Board shall use an amount not to exceed 25 percent of the funds available to support the establishment of programs to reduce the impact of fares on low-income individuals, including reduced-fare programs and elimination of fares. The restrictions in subsection A shall not apply to funds used pursuant to this subsection, nor shall the funds used pursuant to this subsection be used to calculate the rolling average described in subsection C.

E. The Board shall use at least 25 percent of the funds available to support regional transit initiatives. The Board shall use its discretion in allocating the remaining funds available as authorized pursuant to this section and based on the programs and initiatives submitted during the application process.

F. Notwithstanding the provisions of this section, the Board shall use an amount not to exceed 30 percent of the funds available to support local, regional, and state entities in improving the accessibility of transit bus passenger facilities and improving crime prevention and public safety for transit passengers, operators, and employees. The Board shall develop guidelines for applications, including relevant criteria and any requirement for matching funds, including any private grants and donations, for grants to any local, regional, or state public entity that supports a transit system. The restrictions in subsection A shall not apply to funds used pursuant to this subsection, nor shall the funds used pursuant to this subsection be used to calculate the rolling average described in subsection C.

~~F.~~ *G.* The Board shall report annually to the Governor and the General Assembly on the projects and services funded by the Program. The report shall, at a minimum, include an analysis of the performance of the funded projects, the performance of the identified routes of regional significance, transit ridership, efforts funded pursuant to subsection D, and any other information the Board determines to be appropriate.

CHAPTER 798

An Act to amend and reenact § 55.1-202 of the Code of Virginia and to repeal § 8.01-220.2 of the Code of Virginia, relating to mutual liability for necessaries; furnishing of medical care.

[H 2343]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-202 of the Code of Virginia is amended and reenacted as follows:

§ 55.1-202. Spouse not responsible for other spouse's contracts, etc.; mutual liability for necessaries; exception; responsibility of personal representative.

Except as otherwise provided in this section, a spouse shall not be responsible for the other spouse's contract or tort liability to a third party, whether such liability arose before or after the marriage. The doctrine of necessaries as it existed at common law shall apply equally to both spouses, except where they are permanently living separate and apart, but shall in no event create any liability between such spouses as to each other. *For the purposes of this section, liability shall not be imposed upon one spouse for health care furnished to the patient spouse who predeceases the nonpatient spouse.* No lien

arising out of a judgment under this section shall attach to the judgment debtors' principal residence held by them as tenants by the entirety or that was held by them as tenants by the entirety prior to the death of either spouse where the tenancy terminated as a result of the death of either spouse.

2. That § 8.01-220.2 of the Code of Virginia is repealed.

CHAPTER 799

An Act to amend and reenact §§ 54.1-2521, 54.1-3408.3, and 54.1-3442.6 of the Code of Virginia, relating to medical marijuana program; product requirements; certifications; reporting.

[H 2368]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2521, 54.1-3408.3, and 54.1-3442.6 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2521. Reporting requirements.

A. The failure by any person subject to the reporting requirements set forth in this section and the Department's regulations to report the dispensing of covered substances shall constitute grounds for disciplinary action by the relevant health regulatory board.

B. Upon dispensing a covered substance, a dispenser of such covered substance shall report the following information:

1. The recipient's name and address.

2. The recipient's date of birth.

3. The covered substance that was dispensed to the recipient*, which, in the case of a cannabis product, shall be listed as the primary cannabinoid of such cannabis product*.

4. The quantity of the covered substance that was dispensed.

5. The date of the dispensing.

6. The prescriber's identifier number and, in cases in which the covered substance is a cannabis product, the *product's national drug code and the* expiration date of the written certification.

7. The dispenser's identifier number.

8. The method of payment for the prescription.

9. Any other non-clinical information that is designated by the Director as necessary for the implementation of this chapter in accordance with the Department's regulations.

10. Any other information specified in regulations promulgated by the Director as required in order for the Prescription Monitoring Program to be eligible to receive federal funds.

C. Except as provided in subdivision 7 of § 54.1-2522, in cases where the ultimate user of a covered substance is an animal, the dispenser shall report the relevant information required by subsection B for the owner of the animal.

D. The reports required herein shall be made to the Department or its agent within 24 hours or the dispenser's next business day, whichever comes later, and shall be made and transmitted in such manner and format and according to the standards and schedule established in the Department's regulations.

§ 54.1-3408.3. Certification for use of cannabis oil for treatment.

A. As used in this section:

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.

"Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical cannabis.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.

"Registered agent" means an individual *(i)* designated by a patient who has been issued a written certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and *(ii)* registered with the Board *or listed on the patient's written certification* pursuant to subsection G.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audio-visual technology. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.

C. The written certification shall be on a form provided by the Board of Pharmacy. Such written certification shall contain the name, address, and telephone number of the practitioner; the name and address of the patient issued the written certification; the date on which the written certification was made; and the signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration. A written certification shall not be issued to a patient by more than one practitioner during any given time period.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board and shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients. The Board shall not limit the number of patients to whom a practitioner may issue a written certification. The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.

F. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit, on a monthly basis, all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Board.

G. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board *unless the individual's name is listed on the patient's written certification. An individual may, on the basis of medical need and in the discretion of the patient's registered practitioner, be listed on the patient's written certification upon the patient's request*. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

H. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility, who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications, may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis product to the patient or resident as necessary.

I. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a registered agent, but only with respect to information related to such patient.

§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling~~, including the potency of each botanical cannabis product and the amounts recommended by the practitioner or dispensing pharmacist,~~ and packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis oil that provide that each dispensed dose of cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors, between a pharmaceutical processors and a cannabis dispensing facility, and between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection M; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue written certifications and patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for producing cannabis products, (b) the secure disposal of agricultural waste, and (c) a process for registering cannabis oil products.

D. The Board shall require that, after processing and before dispensing any cannabis products, a pharmaceutical processor shall make a sample available from each batch of cannabis product for testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD); total tetrahydrocannabinol (THC); terpenes; pesticide chemical residue; heavy metals; mycotoxins; moisture; and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or cannabis oil shall be subject to laboratory testing and approved upon satisfaction of applicable testing standards, which shall not be more stringent than initial testing prior to remediation. If a batch of botanical cannabis fails retesting after remediation, it shall be considered usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any cannabis product with an expiration date assigned by the pharmaceutical processor of six months or less from the date of the cannabis product registration approval. Stability testing required for assignment of an expiration date longer than six months shall be limited to microbial testing, on a pass/fail basis, and potency testing, on a 10 percent deviation basis, of active ingredients.

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board in regulation.

F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. The pharmaceutical processor shall ensure that security measures are adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have concurrent responsibility for preventing diversion from the dispensing area.

Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and production areas of the pharmaceutical processor and shall provide such information to the Board. The Board shall direct all communications related to enforcement of requirements related to cultivation and production of cannabis oil products by the pharmaceutical processor to such designated person.

G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant's material owners. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a certification recognized by the Board or who has

at least two years of experience cultivating plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and (iii) to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician.

I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

J. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

L. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's dispensing area or cannabis dispensing facility.

M. A pharmaceutical processor may acquire industrial hemp extracts grown and processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before industrial hemp extracts may be acquired.

N. *Product labels for all cannabis products and botanical cannabis shall be complete, accurate, easily discernable, and uniform among different products and brands. Pharmaceutical processors shall affix to all cannabis products and botanical cannabis a label, which shall also be accessible on the pharmaceutical processor's website, that includes:*

1. The product name;

2. All active and inactive ingredients, including cannabinoids, terpenes, additives, preservatives, flavorings, sweeteners, and carrier oils;

3. The total percentage and milligrams of tetrahydrocannabinol and cannabidiol included in the product and the number of milligrams of tetrahydrocannabinol and cannabidiol in each serving;

4. The amount of product that constitutes a single serving and the amount recommended for use by the practitioner or dispensing pharmacist;

5. Information regarding the product's purpose and detailed usage directions;

6. Child and safety warnings in a conspicuous font; and

7. Such other information required by the Board.

O. A pharmaceutical processor or cannabis dispensing facility shall maintain an adequate supply of cannabis products that (i) contain cannabidiol as their primary cannabinoid and (ii) have low levels of or no tetrahydrocannabinol.

P. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board of Pharmacy shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board of Pharmacy shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

~~O.~~ *Q.* The Board shall register all cannabis products that meet testing, labeling, and packaging standards.

CHAPTER 800

An Act to amend and reenact § 22.1-299 of the Code of Virginia, relating to provisional teacher licensure; permissive extension; satisfactory performance evaluations during years of actual employment.

[H 2375]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-299 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-299. License required of teachers; provisional licenses; exceptions.

A. No teacher shall be regularly employed by a school board or paid from public funds unless such teacher holds a license or provisional license issued by the Board.

B. Notwithstanding the provision in § 22.1-298.1 that the provisional license is limited to three years, the following exceptions shall apply:

1. If a teacher employed in the Commonwealth under a provisional license is activated or deployed for military service within a school year (July 1-June 30), an additional year shall be added to the teacher's provisional license for each school year or portion thereof during which the teacher is activated or deployed. The additional year shall be granted the year following the return of the teacher from deployment or activation.

2. The Board shall extend for at least one additional year, but for no more than two additional years, the three-year provisional license of a teacher upon receiving from the division superintendent (i) a recommendation for such extension and (ii) satisfactory performance evaluations for such teacher for each year ~~of~~ *during* the original three-year provisional license *that such teacher was actually employed and received a filed performance evaluation*.

3. The Board shall extend for at least one additional year, but for no more than two additional years, the three-year provisional license of a teacher employed in an accredited private elementary or secondary school or a school for students with disabilities that is licensed pursuant to Chapter 16 (§ 22.1-319 et seq.) upon receiving from the school administrator of such school (i) a recommendation for such extension and (ii) satisfactory performance evaluations for such teacher for each year of the original three-year provisional license.

C. In accordance with regulations prescribed by the Board, a person not meeting the requirements for a license or provisional license may be employed and paid from public funds by a school board temporarily as a substitute teacher to meet an emergency.

CHAPTER 801

An Act to amend and reenact §§ 18.2-186.4, 18.2-186.4:1, and 24.2-418 of the Code of Virginia, relating to personal information of judges and magistrates; penalty.

[H 2024]

Approved May 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-186.4, 18.2-186.4:1, and 24.2-418 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-186.4. Use of a person's identity with the intent to coerce, intimidate, or harass; penalty.

It shall be unlawful for any person, with the intent to coerce, intimidate, or harass another person, to publish the person's name or photograph along with identifying information as defined in clauses (iii) through (ix), or clause (xii) of subsection C of § 18.2-186.3, or identification of the person's primary residence address. Any person who violates this section is guilty of a Class 1 misdemeanor.

Any person who violates this section knowing or having reason to know that person is a law-enforcement officer, as defined in § 9.1-101, *or an active or retired federal or Virginia justice, judge, or magistrate* is guilty of a Class 6 felony. The sentence shall include a mandatory minimum term of confinement of six months.

§ 18.2-186.4:1. Internet publication of personal information of certain public officials.

A. The Commonwealth shall not publish on the Internet the personal information of any public official if a court has, pursuant to subsection B, ordered that the official's personal information is prohibited from publication and the official has made a demand in writing to the Commonwealth, accompanied by the order of the court, that the Commonwealth not publish such information.

B. Any public official may petition a circuit court for an order prohibiting the publication on the Internet, by the Commonwealth, of the official's personal information. The petition shall set forth the specific reasons that the official seeks the order. The court shall issue such an order only if it finds that (i) there exists a threat to the official or a person who resides with him that would result from publication of the information or (ii) the official has demonstrated a reasonable fear of a risk to his safety or the safety of someone who resides with him that would result from publication of the information on the Internet.

C. If the Commonwealth publishes the public official's personal information on the Internet prior to receipt of a written demand by the official under subsection A *or E*, it shall remove the information from publication on the Internet within 48 hours of receipt of the written demand.

D. A written demand made by any public official pursuant to this section shall be effective for four years as follows:

1. For a law-enforcement officer, if the officer remains continuously employed as a law-enforcement officer throughout the four-year period; *and*

2. ~~For a federal or state judge or justice, if such public official continuously serves throughout the four-year period; and~~

~~3.~~ For an attorney for the Commonwealth, if such public official continuously serves throughout the four-year period.

E. *The Commonwealth shall not publish on the Internet the personal information of any active or retired federal or Virginia justice, judge, or magistrate who has made a demand in writing to the Commonwealth that the Commonwealth not publish such information. A written demand made pursuant to this subsection shall be effective until such demand is rescinded in writing by such judge, justice, or magistrate.*

F. For purposes of this section:

"Commonwealth" means any agency or political subdivision of the Commonwealth of Virginia.

"Law-enforcement officer" means the same as that term is defined in § 9.1-101, 5 U.S.C. § 8331(20), excluding officers whose duties relate to detention as defined in 5 U.S.C. § 8331(20), and any other federal officer or agent who is credentialed with the authority to enforce federal law.

"Personal information" means home address, home telephone numbers, personal cell phone numbers, or personal email address.

"Publication" and "publishes" means intentionally communicating personal information to, or otherwise making personal information available to, and accessible by, the general public through the Internet or other online service.

"Public official" means any ~~state or federal judge or justice,~~ law-enforcement officer~~,~~ or attorney for the Commonwealth.

~~F.~~ *G.* No provision of this section shall apply to lists of registered voters and persons who voted, voter registration records, or lists of absentee voters prepared or provided under Title 24.2.

§ 24.2-418. Application for registration.

A. Each applicant to register shall provide, subject to felony penalties for making false statements pursuant to § 24.2-1016, the information necessary to complete the application to register. Unless physically disabled, he shall sign the application. The application to register shall be only on a form or forms prescribed by the State Board.

The form of the application to register shall require the applicant to provide the following information: full name; gender; date of birth; social security number, if any; whether the applicant is presently a United States citizen; address of residence in the precinct; place of last previous registration to vote; and whether the applicant has ever been adjudicated incapacitated and disqualified to vote or convicted of a felony, and if so, whether the applicant's right to vote has been restored. The form shall contain a statement that whoever votes more than once in any election in the same or different jurisdictions is guilty of a Class 6 felony. Unless directed by the applicant or as permitted in § 24.2-411.2 or 24.2-411.3, the registration application shall not be pre-populated with information the applicant is required to provide.

The form of the application to register shall request that the applicant provide his telephone number and email address, but no application shall be denied for failure to provide such information.

B. The form shall permit any individual, as follows, or member of his household, to furnish, in addition to his residence street address, a post office box address located within the Commonwealth to be included in lieu of his street address on the lists of registered voters and persons who voted, which are furnished pursuant to §§ 24.2-405 and 24.2-406, on voter registration records made available for public inspection pursuant to § 24.2-444, or on lists of absentee voter applicants furnished pursuant to § 24.2-706 or 24.2-710. The voter shall comply with the provisions of § 24.2-424 for any change in the post office box address provided under this subsection.

1. Any active or retired law-enforcement officer, as defined in § 9.1-101 and in 5 U.S.C. § 8331(20), but excluding officers whose duties relate to detention as defined in 5 U.S.C. § 8331(20);

2. Any party granted a protective order issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia;

3. Any party who has furnished a signed written statement by the party that he is in fear for his personal safety from another person who has threatened or stalked him;

4. Any party participating in the address confidentiality program pursuant to § 2.2-515.2;

5. Any active or retired federal or Virginia justice ~~or~~, judge*, or magistrate* and any active or retired attorney employed by the United States Attorney General or Virginia Attorney General; and

6. Any person who has been approved to be a foster parent pursuant to Chapter 9 (§ 63.2-900 et seq.) of Title 63.2.

C. If the applicant formerly resided in another state, the general registrar shall send the information contained in the applicant's registration application to the appropriate voter registration official or other authority of another state where the applicant formerly resided, as prescribed in subdivision 15 of § 24.2-114.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is $0 for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 802

An Act to amend and reenact §§ 18.2-186.4, 18.2-186.4:1, and 24.2-418 of the Code of Virginia, relating to personal information of judges and magistrates; penalty.

[S 1310]

Approved May 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-186.4, 18.2-186.4:1, and 24.2-418 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-186.4. Use of a person's identity with the intent to coerce, intimidate, or harass; penalty.

It shall be unlawful for any person, with the intent to coerce, intimidate, or harass another person, to publish the person's name or photograph along with identifying information as defined in clauses (iii) through (ix), or clause (xii) of subsection C of § 18.2-186.3, or identification of the person's primary residence address. Any person who violates this section is guilty of a Class 1 misdemeanor.

Any person who violates this section knowing or having reason to know that person is a law-enforcement officer, as defined in § 9.1-101, *or an active or retired federal or Virginia justice, judge, or magistrate* is guilty of a Class 6 felony. The sentence shall include a mandatory minimum term of confinement of six months.

§ 18.2-186.4:1. Internet publication of personal information of certain public officials.

A. The Commonwealth shall not publish on the Internet the personal information of any public official if a court has, pursuant to subsection B, ordered that the official's personal information is prohibited from publication and the official has made a demand in writing to the Commonwealth, accompanied by the order of the court, that the Commonwealth not publish such information.

B. Any public official may petition a circuit court for an order prohibiting the publication on the Internet, by the Commonwealth, of the official's personal information. The petition shall set forth the specific reasons that the official seeks the order. The court shall issue such an order only if it finds that (i) there exists a threat to the official or a person who resides with him that would result from publication of the information or (ii) the official has demonstrated a reasonable fear of a risk to his safety or the safety of someone who resides with him that would result from publication of the information on the Internet.

C. If the Commonwealth publishes the public official's personal information on the Internet prior to receipt of a written demand by the official under subsection A *or E*, it shall remove the information from publication on the Internet within 48 hours of receipt of the written demand.

D. A written demand made by any public official pursuant to this section shall be effective for four years as follows:

1. For a law-enforcement officer, if the officer remains continuously employed as a law-enforcement officer throughout the four-year period; *and*

2. ~~For a federal or state judge or justice, if such public official continuously serves throughout the four-year period; and~~

~~3.~~ For an attorney for the Commonwealth, if such public official continuously serves throughout the four-year period.

E. *The Commonwealth shall not publish on the Internet the personal information of any active or retired federal or Virginia justice, judge, or magistrate who has made a demand in writing to the Commonwealth that the Commonwealth not publish such information. A written demand made pursuant to this subsection shall be effective until such demand is rescinded in writing by such judge, justice, or magistrate.*

F. For purposes of this section:

"Commonwealth" means any agency or political subdivision of the Commonwealth of Virginia.

"Law-enforcement officer" means the same as that term is defined in § 9.1-101, 5 U.S.C. § 8331(20), excluding officers whose duties relate to detention as defined in 5 U.S.C. § 8331(20), and any other federal officer or agent who is credentialed with the authority to enforce federal law.

"Personal information" means home address, home telephone numbers, personal cell phone numbers, or personal email address.

"Publication" and "publishes" means intentionally communicating personal information to, or otherwise making personal information available to, and accessible by, the general public through the Internet or other online service.

"Public official" means any ~~state or federal judge or justice,~~ law-enforcement officer~~,~~ or attorney for the Commonwealth.

~~F.~~ *G.* No provision of this section shall apply to lists of registered voters and persons who voted, voter registration records, or lists of absentee voters prepared or provided under Title 24.2.

§ 24.2-418. Application for registration.

A. Each applicant to register shall provide, subject to felony penalties for making false statements pursuant to § 24.2-1016, the information necessary to complete the application to register. Unless physically disabled, he shall sign the application. The application to register shall be only on a form or forms prescribed by the State Board.

The form of the application to register shall require the applicant to provide the following information: full name; gender; date of birth; social security number, if any; whether the applicant is presently a United States citizen; address of residence in the precinct; place of last previous registration to vote; and whether the applicant has ever been adjudicated incapacitated and disqualified to vote or convicted of a felony, and if so, whether the applicant's right to vote has been restored. The form shall contain a statement that whoever votes more than once in any election in the same or different jurisdictions is guilty of a Class 6 felony. Unless directed by the applicant or as permitted in § 24.2-411.2 or 24.2-411.3, the registration application shall not be pre-populated with information the applicant is required to provide.

The form of the application to register shall request that the applicant provide his telephone number and email address, but no application shall be denied for failure to provide such information.

B. The form shall permit any individual, as follows, or member of his household, to furnish, in addition to his residence street address, a post office box address located within the Commonwealth to be included in lieu of his street address on the lists of registered voters and persons who voted, which are furnished pursuant to §§ 24.2-405 and 24.2-406, on voter registration records made available for public inspection pursuant to § 24.2-444, or on lists of absentee voter applicants

furnished pursuant to § 24.2-706 or 24.2-710. The voter shall comply with the provisions of § 24.2-424 for any change in the post office box address provided under this subsection.

1. Any active or retired law-enforcement officer, as defined in § 9.1-101 and in 5 U.S.C. § 8331(20), but excluding officers whose duties relate to detention as defined in 5 U.S.C. § 8331(20);

2. Any party granted a protective order issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia;

3. Any party who has furnished a signed written statement by the party that he is in fear for his personal safety from another person who has threatened or stalked him;

4. Any party participating in the address confidentiality program pursuant to § 2.2-515.2;

5. Any active or retired federal or Virginia justice ~~or~~, judge*, or magistrate* and any active or retired attorney employed by the United States Attorney General or Virginia Attorney General; and

6. Any person who has been approved to be a foster parent pursuant to Chapter 9 (§ 63.2-900 et seq.) of Title 63.2.

C. If the applicant formerly resided in another state, the general registrar shall send the information contained in the applicant's registration application to the appropriate voter registration official or other authority of another state where the applicant formerly resided, as prescribed in subdivision 15 of § 24.2-114.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is $0 for periods of commitment to the custody of the Department of Juvenile Justice.

CHAPTER 803

An Act to amend and reenact § 56-585.5 of the Code of Virginia, relating to renewable energy; biomass-fired facilities; Department of Forestry advisory panel; report.

[H 2026]

Approved May 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.5 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.5. Generation of electricity from renewable and zero carbon sources.

A. As used in this section:

"Accelerated renewable energy buyer" means a commercial or industrial customer of a Phase I or Phase II Utility, irrespective of generation supplier, with an aggregate load over 25 megawatts in the prior calendar year, that enters into arrangements pursuant to subsection G, as certified by the Commission.

"Aggregate load" means the combined electrical load associated with selected accounts of an accelerated renewable energy buyer with the same legal entity name as, or in the names of affiliated entities that control, are controlled by, or are under common control of, such legal entity or are the names of affiliated entities under a common parent.

"Control" has the same meaning as provided in § 56-585.1:11.

"Falling water" means hydroelectric resources, including run-of-river generation from a combined pumped-storage and run-of-river facility. "Falling water" does not include electricity generated from pumped-storage facilities.

"Low-income qualifying projects" means a project that provides a minimum of 50 percent of the respective electric output to low-income utility customers as that term is defined in § 56-576.

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Previously developed project site" means any property, including related buffer areas, if any, that has been previously disturbed or developed for non-single-family residential, nonagricultural, or nonsilvicultural use, regardless of whether such property currently is being used for any purpose. "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977, or any lands upon which extraction activities have been permitted by the Department of Energy under Title 45.2; (v) for quarrying; or (vi) as a landfill.

"Total electric energy" means total electric energy sold to retail customers in the Commonwealth service territory of a Phase I or Phase II Utility, other than accelerated renewable energy buyers, by the incumbent electric utility or other retail supplier of electric energy in the previous calendar year, excluding an amount equivalent to the annual percentages of the electric energy that was supplied to such customer from nuclear generating plants located within the Commonwealth in the previous calendar year, provided such nuclear units were operating by July 1, 2020, or from any zero-carbon electric generating facilities not otherwise RPS eligible sources and placed into service in the Commonwealth after July 1, 2030.

"Zero-carbon electricity" means electricity generated by any generating unit that does not emit carbon dioxide as a by-product of combusting fuel to generate electricity.

B. 1. By December 31, 2024, except for any coal-fired electric generating units (i) jointly owned with a cooperative utility or (ii) owned and operated by a Phase II Utility located in the coalfield region of the Commonwealth that co-fires with biomass, any Phase I and Phase II Utility shall retire all generating units principally fueled by oil with a rated capacity in excess of 500 megawatts and all coal-fired electric generating units operating in the Commonwealth.

2. ~~By December 31, 2028, each Phase I and II Utility shall retire all biomass-fired electric generating units that do not co-fire with coal.~~

~~3.~~ By December 31, 2045, *except for biomass-fired electric generating units that do not co-fire with coal,* each Phase I and II Utility shall retire all other electric generating units located in the Commonwealth that emit carbon as a by-product of combusting fuel to generate electricity.

~~4.~~ *3.* A Phase I or Phase II Utility may petition the Commission for relief from the requirements of this subsection on the basis that the requirement would threaten the reliability or security of electric service to customers. The Commission shall consider in-state and regional transmission entity resources and shall evaluate the reliability of each proposed retirement on a case-by-case basis in ruling upon any such petition.

C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard program (RPS Program) that establishes annual goals for the sale of renewable energy to all retail customers in the utility's service territory, other than accelerated renewable energy buyers pursuant to subsection G, regardless of whether such customers purchase electric supply service from the utility or from suppliers other than the utility. To comply with the RPS Program, each Phase I and Phase II Utility shall procure and retire Renewable Energy Certificates (RECs) originating from renewable energy standard eligible sources (RPS eligible sources). For purposes of complying with the RPS Program from 2021 to 2024, a Phase I and Phase II Utility may use RECs from any renewable energy facility, as defined in § 56-576, provided that such facilities are located in the Commonwealth or are physically located within the PJM Interconnection, LLC (PJM) region. However, at no time during this period or thereafter may any Phase I or Phase II Utility use RECs from (i) renewable thermal energy, (ii) renewable thermal energy equivalent, *or* (iii) biomass-fired facilities that are outside the Commonwealth~~, or (iv) biomass-fired facilities operating in the Commonwealth as of January 1, 2020, that supply 10 percent or more of their annual net electrical generation to the electric grid or more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected~~. From compliance year 2025 and all years after, each Phase I and Phase II Utility may only use RECs from RPS eligible sources for compliance with the RPS Program.

In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources that generate electric energy derived from solar or wind located in the Commonwealth or off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth or physically located within the PJM region; (b) falling water resources located in the Commonwealth or physically located within the PJM region that were in operation as of January 1, 2020, that are owned by a Phase I or Phase II Utility or for which a Phase I or Phase II Utility has entered into a contract prior to January 1, 2020, to purchase the energy, capacity, and renewable attributes of such falling water resources; (c) non-utility-owned resources from falling water that (1) are less than 65 megawatts, (2) began commercial operation after December 31, 1979, or (3) added incremental generation representing greater than 50 percent of the original nameplate capacity after December 31, 1979, provided that such resources are located in the Commonwealth or are physically located within the PJM region; (d) waste-to-energy or landfill gas-fired generating resources located in the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use waste heat from fossil fuel combustion ~~or forest or woody biomass as fuel~~; or (e) biomass-fired facilities in operation in the Commonwealth and in operation as of January 1, ~~2020~~ *2023*, that *(1)* supply no more than 10 percent of their annual net electrical generation to the electric grid or no more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected *and are fueled by forest-product manufacturing residuals, including pulping liquor, bark, paper recycling residuals, biowastes, or biomass, as described in subdivisions A 1, 2, and 4 of § 10.1-1308.1, provided that biomass as described in subdivision A 1 of § 10.1-1308.1 results from harvesting in accordance with best management practices for the sustainable harvesting of biomass developed and enforced by the State Forester pursuant to § 10.1-1105, or (2) are owned by a Phase I or Phase II Utility, have less than 52 megawatts capacity, and are fueled by forest-product manufacturing residuals, biowastes, or biomass, as described in subdivisions A 1, 2, and 4 of § 10.1-1308.1, provided that biomass as described in subdivision A 1 of § 10.1-1308.1 results from harvesting in accordance with best management practices for the sustainable harvesting of biomass developed and enforced by the State Forester pursuant to § 10.1-1105*. Regardless of any future maintenance, expansion, or refurbishment activities, the total amount of RECs that may be sold by any RPS eligible source using biomass in any year shall be no more than the number of megawatt hours of electricity produced by that facility in ~~2019~~ *2022*; however, in no year may any RPS eligible source using biomass sell RECs in excess of the actual megawatt-hours of electricity generated by such facility that year. In order to comply with the RPS Program, each Phase I and Phase II Utility may use and retire the environmental attributes associated with any existing owned or contracted solar, wind, ~~or~~ falling water*, or biomass* electric generating resources in operation, or proposed for operation, in the Commonwealth or *solar, wind, or falling water resources* physically located within the PJM region, with such resource qualifying as a Commonwealth-located resource for purposes of this subsection, as of January 1, 2020, provided *that* such renewable attributes are verified as RECs consistent with the PJM-EIS Generation Attribute Tracking System.

The RPS Program requirements shall be a percentage of the total electric energy sold in the previous calendar year and shall be implemented in accordance with the following schedule:

Phase I Utilities		Phase II Utilities	
Year	RPS Program Requirement	Year	RPS Program Requirement
2021	6%	2021	14%
2022	7%	2022	17%
2023	8%	2023	20%
2024	10%	2024	23%
2025	14%	2025	26%
2026	17%	2026	29%
2027	20%	2027	32%
2028	24%	2028	35%
2029	27%	2029	38%
2030	30%	2030	41%
2031	33%	2031	45%
2032	36%	2032	49%
2033	39%	2033	52%
2034	42%	2034	55%
2035	45%	2035	59%
2036	53%	2036	63%
2037	53%	2037	67%
2038	57%	2038	71%
2039	61%	2039	75%
2040	65%	2040	79%
2041	68%	2041	83%
2042	71%	2042	87%
2043	74%	2043	91%
2044	77%	2044	95%
2045	80%	2045 and thereafter	100%
2046	84%		
2047	88%		
2048	92%		
2049	96%		
2050 and thereafter	100%		

A Phase II Utility shall meet one percent of the RPS Program requirements in any given compliance year with solar, wind, or anaerobic digestion resources of one megawatt or less located in the Commonwealth, with not more than 3,000 kilowatts at any single location or at contiguous locations owned by the same entity or affiliated entities and, to the extent that low-income qualifying projects are available, then no less than 25 percent of such one percent shall be composed of low-income qualifying projects.

Beginning with the 2025 compliance year and thereafter, at least 75 percent of all RECs used by a Phase II Utility in a compliance period shall come from RPS eligible resources located in the Commonwealth.

Any Phase I or Phase II Utility may apply renewable energy sales achieved or RECs acquired in excess of the sales requirement for that RPS Program to the sales requirements for RPS Program requirements in the year in which it was generated and the five calendar years after the renewable energy was generated or the RECs were created. To the extent that a Phase I or Phase II Utility procures RECs for RPS Program compliance from resources the utility does not own, the utility shall be entitled to recover the costs of such certificates at its election pursuant to § 56-249.6 or subdivision A 5 d of § 56-585.1.

D. Each Phase I or Phase II Utility shall petition the Commission for necessary approvals to procure zero-carbon electricity generating capacity as set forth in this subsection and energy storage resources as set forth in subsection E. To the

extent that a Phase I or Phase II Utility constructs or acquires new zero-carbon generating facilities or energy storage resources, the utility shall petition the Commission for the recovery of the costs of such facilities, at the utility's election, either through its rates for generation and distribution services or through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1. All costs not sought for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 associated with generating facilities provided by sunlight or onshore or offshore wind are also eligible to be applied by the utility as a customer credit reinvestment offset as provided in subdivision A 8 of § 56-585.1. Costs associated with the purchase of energy, capacity, or environmental attributes from facilities owned by the persons other than the utility required by this subsection shall be recovered by the utility either through its rates for generation and distribution services or pursuant to § 56-249.6.

1. Each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 600 megawatts of generating capacity using energy derived from sunlight or onshore wind.

a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

b. By December 31, 2027, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

c. By December 31, 2030, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to (i) construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, which shall include 1,100 megawatts of solar generation of a nameplate capacity not to exceed three megawatts per individual project and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar facilities owned by persons other than a utility, including utility affiliates and deregulated affiliates and (ii) pursuant to § 56-585.1:11, construct or purchase one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth with an aggregate capacity of up to 5,200 megawatts. At least 200 megawatts of the 16,100 megawatts shall be placed on previously developed project sites.

a. By December 31, 2024, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 3,000 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

b. By December 31, 2027, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 3,000 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

c. By December 31, 2030, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 4,000 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes

from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

d. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 6,100 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring, or entering into agreements to purchase the energy, capacity, and environmental attributes of more than 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

3. Nothing in this section shall prohibit a utility from petitioning the Commission to construct or acquire zero-carbon electricity or from entering into contracts to procure the energy, capacity, and environmental attributes of zero-carbon electricity generating resources in excess of the requirements in subsection B. The Commission shall determine whether to approve such petitions on a stand-alone basis pursuant to §§ 56-580 and 56-585.1, provided that the Commission's review shall also consider whether the proposed generating capacity (i) is necessary to meet the utility's native load, (ii) is likely to lower customer fuel costs, (iii) will provide economic development opportunities in the Commonwealth, and (iv) serves a need that cannot be more affordably met with demand-side or energy storage resources.

Each Phase I and Phase II Utility shall, at least once every year, conduct a request for proposals for new solar and wind resources. Such requests shall quantify and describe the utility's need for energy, capacity, or renewable energy certificates. The requests for proposals shall be publicly announced and made available for public review on the utility's website at least 45 days prior to the closing of such request for proposals. The requests for proposals shall provide, at a minimum, the following information: (a) the size, type, and timing of resources for which the utility anticipates contracting; (b) any minimum thresholds that must be met by respondents; (c) major assumptions to be used by the utility in the bid evaluation process, including environmental emission standards; (d) detailed instructions for preparing bids so that bids can be evaluated on a consistent basis; (e) the preferred general location of additional capacity; and (f) specific information concerning the factors involved in determining the price and non-price criteria used for selecting winning bids. A utility may evaluate responses to requests for proposals based on any criteria that it deems reasonable but shall at a minimum consider the following in its selection process: (1) the status of a particular project's development; (2) the age of existing generation facilities; (3) the demonstrated financial viability of a project and the developer; (4) a developer's prior experience in the field; (5) the location and effect on the transmission grid of a generation facility; (6) benefits to the Commonwealth that are associated with particular projects, including regional economic development and the use of goods and services from Virginia businesses; and (7) the environmental impacts of particular resources, including impacts on air quality within the Commonwealth and the carbon intensity of the utility's generation portfolio.

4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall, commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the development of new solar and onshore wind generation capacity. Such plan shall reflect, in the aggregate and over its duration, the requirements of subsection D concerning the allocation percentages for construction or purchase of such capacity. Such petition shall contain any request for approval to construct such facilities pursuant to subsection D of § 56-580 and a request for approval or update of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities. Such plan shall also include the utility's plan to meet the energy storage project targets of subsection E, including the goal of installing at least 10 percent of such energy storage projects behind the meter. In determining whether to approve the utility's plan and any associated petition requests, the Commission shall determine whether they are reasonable and prudent and shall give due consideration to (i) the RPS and carbon dioxide reduction requirements in this section, (ii) the promotion of new renewable generation and energy storage resources within the Commonwealth, and associated economic development, and (iii) fuel savings projected to be achieved by the plan. Notwithstanding any other provision of this title, the Commission's final order regarding any such petition and associated requests shall be entered by the Commission not more than six months after the date of the filing of such petition.

5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the RPS Program requirements or if the cost of RECs necessary to comply with RPS Program requirements exceeds $45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to $45 for each megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment for any shortfall in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth shall be $75 per megawatts hour for resources one megawatt and lower. The amount of any deficiency payment shall increase by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled to recover the costs of such payments as a cost of compliance with the requirements of this subsection pursuant to subdivision A 5 d of § 56-585.1. All proceeds from the deficiency payments shall be deposited into an interest-bearing account administered by the Department of Energy. In administering this account, the Department of Energy shall manage the account as follows: (i) 50 percent of total revenue shall be directed to job training programs in historically economically disadvantaged communities; (ii) 16 percent of total revenue shall be directed to energy efficiency measures for public

facilities; (iii) 30 percent of total revenue shall be directed to renewable energy programs located in historically economically disadvantaged communities; and (iv) four percent of total revenue shall be directed to administrative costs.

For any project constructed pursuant to this subsection or subsection E, a utility shall, subject to a competitive procurement process, procure equipment from a Virginia-based or United States-based manufacturer using materials or product components made in Virginia or the United States, if reasonably available and competitively priced.

E. To enhance reliability and performance of the utility's generation and distribution system, each Phase I and Phase II Utility shall petition the Commission for necessary approvals to construct or acquire new, utility-owned energy storage resources.

1. By December 31, 2035, each Phase I Utility shall petition the Commission for necessary approvals to construct or acquire 400 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a Phase I Utility from constructing or acquiring more than 400 megawatts of energy storage, provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to construct or acquire 2,700 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a Phase II Utility from constructing or acquiring more than 2,700 megawatts of energy storage, provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

3. No single energy storage project shall exceed 500 megawatts in size, except that a Phase II Utility may procure a single energy storage project up to 800 megawatts.

4. All energy storage projects procured pursuant to this subsection shall meet the competitive procurement protocols established in subdivision D 3.

5. After July 1, 2020, at least 35 percent of the energy storage facilities placed into service shall be (i) purchased by the public utility from a party other than the public utility or (ii) owned by a party other than a public utility, with the capacity from such facilities sold to the public utility. By January 1, 2021, the Commission shall adopt regulations to achieve the deployment of energy storage for the Commonwealth required in subdivisions 1 and 2, including regulations that set interim targets and update existing utility planning and procurement rules. The regulations shall include programs and mechanisms to deploy energy storage, including competitive solicitations, behind-the-meter incentives, non-wires alternatives programs, and peak demand reduction programs.

F. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of this section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight or onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or Phase II Utility after July 1, 2020, (ii) costs of capacity, energy, or environmental attributes from generation facilities powered by sunlight or onshore or offshore wind, or falling water, or energy storage facilities purchased by the utility from persons other than the utility through agreements after July 1, 2020, and (iii) all other costs of compliance, including costs associated with the purchase of RECs associated with RPS Program requirements pursuant to this section shall be recovered from all retail customers in the service territory of a Phase I or Phase II Utility as a non-bypassable charge, irrespective of the generation supplier of such customer, except (a) as provided in subsection G for an accelerated renewable energy buyer or (b) as provided in subdivision C 3 of § 56-585.1:11, with respect to the costs of an offshore wind generation facility, for a PIPP eligible utility customer or an advanced clean energy buyer or qualifying large general service customer, as those terms are defined in § 56-585.1:11. If a Phase I or Phase II Utility serves customers in more than one jurisdiction, such utility shall recover all of the costs of compliance with the RPS Program requirements from its Virginia customers through the applicable cost recovery mechanism, and all associated energy, capacity, and environmental attributes shall be assigned to Virginia to the extent that such costs are requested but not recovered from any system customers outside the Commonwealth.

By September 1, 2020, the Commission shall direct the initiation of a proceeding for each Phase I and Phase II Utility to review and determine the amount of such costs, net of benefits, that should be allocated to retail customers within the utility's service territory which have elected to receive electric supply service from a supplier of electric energy other than the utility, and shall direct that tariff provisions be implemented to recover those costs from such customers beginning no later than January 1, 2021. Thereafter, such charges and tariff provisions shall be updated and trued up by the utility on an annual basis, subject to continuing review and approval by the Commission.

G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a person other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii) bundled capacity, energy, and RECs from solar or wind generation resources located within the PJM region and initially placed in commercial operation after January 1, 2015, including any contract with a utility for such generation resources that does not allocate to or recover from any other customer of the utility the cost of such resources. Such an accelerated renewable energy buyer may offset all or a portion of its electric load for purposes of RPS compliance through such arrangements. An accelerated renewable energy buyer shall be exempt from the assignment of non-bypassable RPS compliance costs pursuant to subsection F, with the exception of the costs of an offshore wind generating facility pursuant to § 56-585.1:11, based on the amount of RECs obtained pursuant to this subsection in proportion to the customer's total electric energy consumption, on an annual basis. An accelerated renewable energy buyer obtaining RECs only shall not be exempt from costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities, by the utility pursuant to subsections D and E, however, an accelerated renewable energy buyer that is a customer of a Phase II Utility and was subscribed, as of March 1, 2020, to a voluntary companion experimental tariff offering of the utility for the purchase of

renewable attributes from renewable energy facilities that requires a renewable facilities agreement and the purchase of a minimum of 2,000 renewable attributes annually, shall be exempt from allocation of the net costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities, by the utility pursuant to subsections D and E, based on the amount of RECs associated with the customer's renewable facilities agreements associated with such tariff offering as of that date in proportion to the customer's total electric energy consumption, on an annual basis. To the extent that an accelerated renewable energy buyer contracts for the capacity of new solar or wind generation resources pursuant to this subsection, the aggregate amount of such nameplate capacity shall be offset from the utility's procurement requirements pursuant to subsection D. All RECs associated with contracts entered into by an accelerated renewable energy buyer with the utility, or a person other than the utility, for an RPS Program shall not be credited to the utility's compliance with its RPS requirements, and the calculation of the utility's RPS Program requirements shall not include the electric load covered by customers certified as accelerated renewable energy buyers.

2. Each Phase I or Phase II Utility shall certify, and verify as necessary, to the Commission that the accelerated renewable energy buyer has satisfied the exemption requirements of this subsection for each year, or an accelerated renewable energy buyer may choose to certify satisfaction of this exemption by reporting to the Commission individually. The Commission may promulgate such rules and regulations as may be necessary to implement the provisions of this subsection.

3. Provided that no incremental costs associated with any contract between a Phase I or Phase II Utility and an accelerated renewable energy buyer is allocated to or recovered from any other customer of the utility, any such contract with an accelerated renewable energy buyer that is a jurisdictional customer of the utility shall not be deemed a special rate or contract requiring Commission approval pursuant to § 56-235.2.

H. No customer of a Phase II Utility with a peak demand in excess of 100 megawatts in 2019 that elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to April 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be included in the utility's RPS Program requirements. No customer of a Phase I Utility that elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to February 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be included in the utility's RPS Program requirements.

I. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).

J. The Commission shall adopt such rules and regulations as may be necessary to implement the provisions of this section, including a requirement that participants verify whether the RPS Program requirements are met in accordance with this section.

2. That the Department of Forestry (the Department) shall convene an advisory panel to examine the use of forest-related materials, agricultural-related materials, and solid woody waste materials, as those terms are described in § 10.1-1308.1 of the Code of Virginia, for biomass-fired electric generating units in the Commonwealth. The advisory panel shall consist of representatives from the Department of Environmental Quality, the Department of Energy, industry, environmental organizations, and the Virginia Cooperative Extension, and other stakeholders as the Department deems appropriate. The advisory panel shall examine the following factors related to the use of forest-related materials, agricultural-related materials, and solid woody waste materials for biomass-fired electric generating units: (i) policies in the southeastern United States and other states participating in the PJM regional transmission organization interchange as they relate to the use of biomass for electricity generation; (ii) potential benefits for the Commonwealth's hardwood forest health as a result of using biomass resources for electricity generation; (iii) the amount of forest-related materials, agricultural-related materials, and solid woody waste materials that can be sustainably consumed annually without disrupting existing markets; (iv) consideration of technological advances in biomass energy generation; and (v) a life-cycle carbon analysis, developed in coordination with the Department of Environmental Quality and relevant stakeholders, that includes all carbon emissions, including supply chain emissions, forgone sequestration, and the emissions from burning biomass resources for electricity generation. The advisory panel may consider other factors as the Department deems necessary. The Department shall submit a report of the advisory panel's findings and any recommendations to the Chairmen of the House Committee on Commerce and Energy and the Senate Committee on Commerce and Labor no later than December 1, 2024.

3. That the Department of Forestry shall develop, no later than December 1, 2023, best management practices for the sustainable harvesting of biomass, as described in subdivision A 1 of § 10.1-1308.1 of the Code of Virginia, for biomass-fired electric generating units that are subject to the provisions of § 56-585.5 of the Code of Virginia, as amended by this act. The best management practices shall include a life-cycle carbon analysis, developed in coordination with the Department of Environmental Quality and relevant stakeholders, that includes all carbon emissions, including supply chain emissions, forgone sequestration, and the emissions from burning biomass resources for electricity generation.

CHAPTER 804

An Act to amend and reenact § 56-585.5 of the Code of Virginia, relating to renewable energy; biomass-fired facilities; Department of Forestry advisory panel; report.

[S 1231]

Approved May 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.5 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.5. Generation of electricity from renewable and zero carbon sources.

A. As used in this section:

"Accelerated renewable energy buyer" means a commercial or industrial customer of a Phase I or Phase II Utility, irrespective of generation supplier, with an aggregate load over 25 megawatts in the prior calendar year, that enters into arrangements pursuant to subsection G, as certified by the Commission.

"Aggregate load" means the combined electrical load associated with selected accounts of an accelerated renewable energy buyer with the same legal entity name as, or in the names of affiliated entities that control, are controlled by, or are under common control of, such legal entity or are the names of affiliated entities under a common parent.

"Control" has the same meaning as provided in § 56-585.1:11.

"Falling water" means hydroelectric resources, including run-of-river generation from a combined pumped-storage and run-of-river facility. "Falling water" does not include electricity generated from pumped-storage facilities.

"Low-income qualifying projects" means a project that provides a minimum of 50 percent of the respective electric output to low-income utility customers as that term is defined in § 56-576.

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Previously developed project site" means any property, including related buffer areas, if any, that has been previously disturbed or developed for non-single-family residential, nonagricultural, or nonsilvicultural use, regardless of whether such property currently is being used for any purpose. "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977, or any lands upon which extraction activities have been permitted by the Department of Energy under Title 45.2; (v) for quarrying; or (vi) as a landfill.

"Total electric energy" means total electric energy sold to retail customers in the Commonwealth service territory of a Phase I or Phase II Utility, other than accelerated renewable energy buyers, by the incumbent electric utility or other retail supplier of electric energy in the previous calendar year, excluding an amount equivalent to the annual percentages of the electric energy that was supplied to such customer from nuclear generating plants located within the Commonwealth in the previous calendar year, provided such nuclear units were operating by July 1, 2020, or from any zero-carbon electric generating facilities not otherwise RPS eligible sources and placed into service in the Commonwealth after July 1, 2030.

"Zero-carbon electricity" means electricity generated by any generating unit that does not emit carbon dioxide as a by-product of combusting fuel to generate electricity.

B. 1. By December 31, 2024, except for any coal-fired electric generating units (i) jointly owned with a cooperative utility or (ii) owned and operated by a Phase II Utility located in the coalfield region of the Commonwealth that co-fires with biomass, any Phase I and Phase II Utility shall retire all generating units principally fueled by oil with a rated capacity in excess of 500 megawatts and all coal-fired electric generating units operating in the Commonwealth.

2. ~~By December 31, 2028, each Phase I and II Utility shall retire all biomass-fired electric generating units that do not co-fire with coal.~~

~~3.~~ By December 31, 2045, *except for biomass-fired electric generating units that do not co-fire with coal,* each Phase I and II Utility shall retire all other electric generating units located in the Commonwealth that emit carbon as a by-product of combusting fuel to generate electricity.

~~4.~~ *3.* A Phase I or Phase II Utility may petition the Commission for relief from the requirements of this subsection on the basis that the requirement would threaten the reliability or security of electric service to customers. The Commission shall consider in-state and regional transmission entity resources and shall evaluate the reliability of each proposed retirement on a case-by-case basis in ruling upon any such petition.

C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard program (RPS Program) that establishes annual goals for the sale of renewable energy to all retail customers in the utility's service territory, other than accelerated renewable energy buyers pursuant to subsection G, regardless of whether such customers purchase electric supply service from the utility or from suppliers other than the utility. To comply with the RPS Program, each Phase I and Phase II Utility shall procure and retire Renewable Energy Certificates (RECs) originating from renewable energy standard eligible sources (RPS eligible sources). For purposes of complying with the RPS Program from 2021 to 2024, a Phase I and Phase II Utility may use RECs from any renewable energy facility, as defined in § 56-576, provided that such facilities are located in the Commonwealth or are physically located within the PJM Interconnection, LLC (PJM) region. However, at no time during this period or thereafter may any Phase I or Phase II Utility use RECs from (i) renewable thermal energy,

(ii) renewable thermal energy equivalent, *or* (iii) biomass-fired facilities that are outside the Commonwealth~~, or (iv) biomass-fired facilities operating in the Commonwealth as of January 1, 2020, that supply 10 percent or more of their annual net electrical generation to the electric grid or more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected~~. From compliance year 2025 and all years after, each Phase I and Phase II Utility may only use RECs from RPS eligible sources for compliance with the RPS Program.

In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources that generate electric energy derived from solar or wind located in the Commonwealth or off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth or physically located within the PJM region; (b) falling water resources located in the Commonwealth or physically located within the PJM region that were in operation as of January 1, 2020, that are owned by a Phase I or Phase II Utility or for which a Phase I or Phase II Utility has entered into a contract prior to January 1, 2020, to purchase the energy, capacity, and renewable attributes of such falling water resources; (c) non-utility-owned resources from falling water that (1) are less than 65 megawatts, (2) began commercial operation after December 31, 1979, or (3) added incremental generation representing greater than 50 percent of the original nameplate capacity after December 31, 1979, provided that such resources are located in the Commonwealth or are physically located within the PJM region; (d) waste-to-energy or landfill gas-fired generating resources located in the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use waste heat from fossil fuel combustion ~~or forest or woody biomass as fuel~~; or (e) biomass-fired facilities in operation in the Commonwealth and in operation as of January 1, ~~2020~~ *2023*, that *(1)* supply no more than 10 percent of their annual net electrical generation to the electric grid or no more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected *and are fueled by forest-product manufacturing residuals, including pulping liquor, bark, paper recycling residuals, biowastes, or biomass, as described in subdivisions A 1, 2, and 4 of § 10.1-1308.1, provided that biomass as described in subdivision A 1 of § 10.1-1308.1 results from harvesting in accordance with best management practices for the sustainable harvesting of biomass developed and enforced by the State Forester pursuant to § 10.1-1105, or (2) are owned by a Phase I or Phase II Utility, have less than 52 megawatts capacity, and are fueled by forest-product manufacturing residuals, biowastes, or biomass, as described in subdivisions A 1, 2, and 4 of § 10.1-1308.1, provided that biomass as described in subdivision A 1 of § 10.1-1308.1 results from harvesting in accordance with best management practices for the sustainable harvesting of biomass developed and enforced by the State Forester pursuant to § 10.1-1105*. Regardless of any future maintenance, expansion, or refurbishment activities, the total amount of RECs that may be sold by any RPS eligible source using biomass in any year shall be no more than the number of megawatt hours of electricity produced by that facility in ~~2019~~ *2022*; however, in no year may any RPS eligible source using biomass sell RECs in excess of the actual megawatt-hours of electricity generated by such facility that year. In order to comply with the RPS Program, each Phase I and Phase II Utility may use and retire the environmental attributes associated with any existing owned or contracted solar, wind, ~~or~~ falling water*, or biomass* electric generating resources in operation, or proposed for operation, in the Commonwealth or *solar, wind, or falling water resources* physically located within the PJM region, with such resource qualifying as a Commonwealth-located resource for purposes of this subsection, as of January 1, 2020, provided *that* such renewable attributes are verified as RECs consistent with the PJM-EIS Generation Attribute Tracking System.

The RPS Program requirements shall be a percentage of the total electric energy sold in the previous calendar year and shall be implemented in accordance with the following schedule:

Phase I Utilities		Phase II Utilities	
Year	RPS Program Requirement	Year	RPS Program Requirement
2021	6%	2021	14%
2022	7%	2022	17%
2023	8%	2023	20%
2024	10%	2024	23%
2025	14%	2025	26%
2026	17%	2026	29%
2027	20%	2027	32%
2028	24%	2028	35%
2029	27%	2029	38%
2030	30%	2030	41%
2031	33%	2031	45%
2032	36%	2032	49%
2033	39%	2033	52%
2034	42%	2034	55%

2035	45%	2035	59%
2036	53%	2036	63%
2037	53%	2037	67%
2038	57%	2038	71%
2039	61%	2039	75%
2040	65%	2040	79%
2041	68%	2041	83%
2042	71%	2042	87%
2043	74%	2043	91%
2044	77%	2044	95%
2045	80%	2045 and thereafter	100%
2046	84%		
2047	88%		
2048	92%		
2049	96%		
2050 and thereafter	100%		

A Phase II Utility shall meet one percent of the RPS Program requirements in any given compliance year with solar, wind, or anaerobic digestion resources of one megawatt or less located in the Commonwealth, with not more than 3,000 kilowatts at any single location or at contiguous locations owned by the same entity or affiliated entities and, to the extent that low-income qualifying projects are available, then no less than 25 percent of such one percent shall be composed of low-income qualifying projects.

Beginning with the 2025 compliance year and thereafter, at least 75 percent of all RECs used by a Phase II Utility in a compliance period shall come from RPS eligible resources located in the Commonwealth.

Any Phase I or Phase II Utility may apply renewable energy sales achieved or RECs acquired in excess of the sales requirement for that RPS Program to the sales requirements for RPS Program requirements in the year in which it was generated and the five calendar years after the renewable energy was generated or the RECs were created. To the extent that a Phase I or Phase II Utility procures RECs for RPS Program compliance from resources the utility does not own, the utility shall be entitled to recover the costs of such certificates at its election pursuant to § 56-249.6 or subdivision A 5 d of § 56-585.1.

D. Each Phase I or Phase II Utility shall petition the Commission for necessary approvals to procure zero-carbon electricity generating capacity as set forth in this subsection and energy storage resources as set forth in subsection E. To the extent that a Phase I or Phase II Utility constructs or acquires new zero-carbon generating facilities or energy storage resources, the utility shall petition the Commission for the recovery of the costs of such facilities, at the utility's election, either through its rates for generation and distribution services or through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1. All costs not sought for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 associated with generating facilities provided by sunlight or onshore or offshore wind are also eligible to be applied by the utility as a customer credit reinvestment offset as provided in subdivision A 8 of § 56-585.1. Costs associated with the purchase of energy, capacity, or environmental attributes from facilities owned by the persons other than the utility required by this subsection shall be recovered by the utility either through its rates for generation and distribution services or pursuant to § 56-249.6.

1. Each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 600 megawatts of generating capacity using energy derived from sunlight or onshore wind.

a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

b. By December 31, 2027, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

c. By December 31, 2030, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to (i) construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, which shall include 1,100 megawatts of solar generation of a nameplate capacity not to exceed three megawatts per individual project and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar facilities owned by persons other than a utility, including utility affiliates and deregulated affiliates and (ii) pursuant to § 56-585.1:11, construct or purchase one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth with an aggregate capacity of up to 5,200 megawatts. At least 200 megawatts of the 16,100 megawatts shall be placed on previously developed project sites.

a. By December 31, 2024, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 3,000 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

b. By December 31, 2027, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 3,000 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

c. By December 31, 2030, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 4,000 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

d. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 6,100 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring, or entering into agreements to purchase the energy, capacity, and environmental attributes of more than 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

3. Nothing in this section shall prohibit a utility from petitioning the Commission to construct or acquire zero-carbon electricity or from entering into contracts to procure the energy, capacity, and environmental attributes of zero-carbon electricity generating resources in excess of the requirements in subsection B. The Commission shall determine whether to approve such petitions on a stand-alone basis pursuant to §§ 56-580 and 56-585.1, provided that the Commission's review shall also consider whether the proposed generating capacity (i) is necessary to meet the utility's native load, (ii) is likely to lower customer fuel costs, (iii) will provide economic development opportunities in the Commonwealth, and (iv) serves a need that cannot be more affordably met with demand-side or energy storage resources.

Each Phase I and Phase II Utility shall, at least once every year, conduct a request for proposals for new solar and wind resources. Such requests shall quantify and describe the utility's need for energy, capacity, or renewable energy certificates. The requests for proposals shall be publicly announced and made available for public review on the utility's website at least 45 days prior to the closing of such request for proposals. The requests for proposals shall provide, at a minimum, the following information: (a) the size, type, and timing of resources for which the utility anticipates contracting; (b) any minimum thresholds that must be met by respondents; (c) major assumptions to be used by the utility in the bid evaluation

process, including environmental emission standards; (d) detailed instructions for preparing bids so that bids can be evaluated on a consistent basis; (e) the preferred general location of additional capacity; and (f) specific information concerning the factors involved in determining the price and non-price criteria used for selecting winning bids. A utility may evaluate responses to requests for proposals based on any criteria that it deems reasonable but shall at a minimum consider the following in its selection process: (1) the status of a particular project's development; (2) the age of existing generation facilities; (3) the demonstrated financial viability of a project and the developer; (4) a developer's prior experience in the field; (5) the location and effect on the transmission grid of a generation facility; (6) benefits to the Commonwealth that are associated with particular projects, including regional economic development and the use of goods and services from Virginia businesses; and (7) the environmental impacts of particular resources, including impacts on air quality within the Commonwealth and the carbon intensity of the utility's generation portfolio.

4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall, commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the development of new solar and onshore wind generation capacity. Such plan shall reflect, in the aggregate and over its duration, the requirements of subsection D concerning the allocation percentages for construction or purchase of such capacity. Such petition shall contain any request for approval to construct such facilities pursuant to subsection D of § 56-580 and a request for approval or update of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities. Such plan shall also include the utility's plan to meet the energy storage project targets of subsection E, including the goal of installing at least 10 percent of such energy storage projects behind the meter. In determining whether to approve the utility's plan and any associated petition requests, the Commission shall determine whether they are reasonable and prudent and shall give due consideration to (i) the RPS and carbon dioxide reduction requirements in this section, (ii) the promotion of new renewable generation and energy storage resources within the Commonwealth, and associated economic development, and (iii) fuel savings projected to be achieved by the plan. Notwithstanding any other provision of this title, the Commission's final order regarding any such petition and associated requests shall be entered by the Commission not more than six months after the date of the filing of such petition.

5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the RPS Program requirements or if the cost of RECs necessary to comply with RPS Program requirements exceeds $45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to $45 for each megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment for any shortfall in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth shall be $75 per megawatts hour for resources one megawatt and lower. The amount of any deficiency payment shall increase by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled to recover the costs of such payments as a cost of compliance with the requirements of this subsection pursuant to subdivision A 5 d of § 56-585.1. All proceeds from the deficiency payments shall be deposited into an interest-bearing account administered by the Department of Energy. In administering this account, the Department of Energy shall manage the account as follows: (i) 50 percent of total revenue shall be directed to job training programs in historically economically disadvantaged communities; (ii) 16 percent of total revenue shall be directed to energy efficiency measures for public facilities; (iii) 30 percent of total revenue shall be directed to renewable energy programs located in historically economically disadvantaged communities; and (iv) four percent of total revenue shall be directed to administrative costs.

For any project constructed pursuant to this subsection or subsection E, a utility shall, subject to a competitive procurement process, procure equipment from a Virginia-based or United States-based manufacturer using materials or product components made in Virginia or the United States, if reasonably available and competitively priced.

E. To enhance reliability and performance of the utility's generation and distribution system, each Phase I and Phase II Utility shall petition the Commission for necessary approvals to construct or acquire new, utility-owned energy storage resources.

1. By December 31, 2035, each Phase I Utility shall petition the Commission for necessary approvals to construct or acquire 400 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a Phase I Utility from constructing or acquiring more than 400 megawatts of energy storage, provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to construct or acquire 2,700 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a Phase II Utility from constructing or acquiring more than 2,700 megawatts of energy storage, provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

3. No single energy storage project shall exceed 500 megawatts in size, except that a Phase II Utility may procure a single energy storage project up to 800 megawatts.

4. All energy storage projects procured pursuant to this subsection shall meet the competitive procurement protocols established in subdivision D 3.

5. After July 1, 2020, at least 35 percent of the energy storage facilities placed into service shall be (i) purchased by the public utility from a party other than the public utility or (ii) owned by a party other than a public utility, with the capacity from such facilities sold to the public utility. By January 1, 2021, the Commission shall adopt regulations to achieve the deployment of energy storage for the Commonwealth required in subdivisions 1 and 2, including regulations that set interim targets and update existing utility planning and procurement rules. The regulations shall include programs and mechanisms

to deploy energy storage, including competitive solicitations, behind-the-meter incentives, non-wires alternatives programs, and peak demand reduction programs.

F. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of this section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight or onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or Phase II Utility after July 1, 2020, (ii) costs of capacity, energy, or environmental attributes from generation facilities powered by sunlight or onshore or offshore wind, or falling water, or energy storage facilities purchased by the utility from persons other than the utility through agreements after July 1, 2020, and (iii) all other costs of compliance, including costs associated with the purchase of RECs associated with RPS Program requirements pursuant to this section shall be recovered from all retail customers in the service territory of a Phase I or Phase II Utility as a non-bypassable charge, irrespective of the generation supplier of such customer, except (a) as provided in subsection G for an accelerated renewable energy buyer or (b) as provided in subdivision C 3 of § 56-585.1:11, with respect to the costs of an offshore wind generation facility, for a PIPP eligible utility customer or an advanced clean energy buyer or qualifying large general service customer, as those terms are defined in § 56-585.1:11. If a Phase I or Phase II Utility serves customers in more than one jurisdiction, such utility shall recover all of the costs of compliance with the RPS Program requirements from its Virginia customers through the applicable cost recovery mechanism, and all associated energy, capacity, and environmental attributes shall be assigned to Virginia to the extent that such costs are requested but not recovered from any system customers outside the Commonwealth.

By September 1, 2020, the Commission shall direct the initiation of a proceeding for each Phase I and Phase II Utility to review and determine the amount of such costs, net of benefits, that should be allocated to retail customers within the utility's service territory which have elected to receive electric supply service from a supplier of electric energy other than the utility, and shall direct that tariff provisions be implemented to recover those costs from such customers beginning no later than January 1, 2021. Thereafter, such charges and tariff provisions shall be updated and trued up by the utility on an annual basis, subject to continuing review and approval by the Commission.

G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a person other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii) bundled capacity, energy, and RECs from solar or wind generation resources located within the PJM region and initially placed in commercial operation after January 1, 2015, including any contract with a utility for such generation resources that does not allocate to or recover from any other customer of the utility the cost of such resources. Such an accelerated renewable energy buyer may offset all or a portion of its electric load for purposes of RPS compliance through such arrangements. An accelerated renewable energy buyer shall be exempt from the assignment of non-bypassable RPS compliance costs pursuant to subsection F, with the exception of the costs of an offshore wind generating facility pursuant to § 56-585.1:11, based on the amount of RECs obtained pursuant to this subsection in proportion to the customer's total electric energy consumption, on an annual basis. An accelerated renewable energy buyer obtaining RECs only shall not be exempt from costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities, by the utility pursuant to subsections D and E, however, an accelerated renewable energy buyer that is a customer of a Phase II Utility and was subscribed, as of March 1, 2020, to a voluntary companion experimental tariff offering of the utility for the purchase of renewable attributes from renewable energy facilities that requires a renewable facilities agreement and the purchase of a minimum of 2,000 renewable attributes annually, shall be exempt from allocation of the net costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities, by the utility pursuant to subsections D and E, based on the amount of RECs associated with the customer's renewable facilities agreements associated with such tariff offering as of that date in proportion to the customer's total electric energy consumption, on an annual basis. To the extent that an accelerated renewable energy buyer contracts for the capacity of new solar or wind generation resources pursuant to this subsection, the aggregate amount of such nameplate capacity shall be offset from the utility's procurement requirements pursuant to subsection D. All RECs associated with contracts entered into by an accelerated renewable energy buyer with the utility, or a person other than the utility, for an RPS Program shall not be credited to the utility's compliance with its RPS requirements, and the calculation of the utility's RPS Program requirements shall not include the electric load covered by customers certified as accelerated renewable energy buyers.

2. Each Phase I or Phase II Utility shall certify, and verify as necessary, to the Commission that the accelerated renewable energy buyer has satisfied the exemption requirements of this subsection for each year, or an accelerated renewable energy buyer may choose to certify satisfaction of this exemption by reporting to the Commission individually. The Commission may promulgate such rules and regulations as may be necessary to implement the provisions of this subsection.

3. Provided that no incremental costs associated with any contract between a Phase I or Phase II Utility and an accelerated renewable energy buyer is allocated to or recovered from any other customer of the utility, any such contract with an accelerated renewable energy buyer that is a jurisdictional customer of the utility shall not be deemed a special rate or contract requiring Commission approval pursuant to § 56-235.2.

H. No customer of a Phase II Utility with a peak demand in excess of 100 megawatts in 2019 that elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to April 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be included in the utility's RPS Program requirements. No customer of a Phase I Utility that elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a

competitive service provider prior to February 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be included in the utility's RPS Program requirements.

I. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).

J. The Commission shall adopt such rules and regulations as may be necessary to implement the provisions of this section, including a requirement that participants verify whether the RPS Program requirements are met in accordance with this section.

2. That the Department of Forestry (the Department) shall convene an advisory panel to examine the use of forest-related materials, agricultural-related materials, and solid woody waste materials, as those terms are described in § 10.1-1308.1 of the Code of Virginia, for biomass-fired electric generating units in the Commonwealth. The advisory panel shall consist of representatives from the Department of Environmental Quality, the Department of Energy, industry, environmental organizations, and the Virginia Cooperative Extension, and other stakeholders as the Department deems appropriate. The advisory panel shall examine the following factors related to the use of forest-related materials, agricultural-related materials, and solid woody waste materials for biomass-fired electric generating units: (i) policies in the southeastern United States and other states participating in the PJM regional transmission organization interchange as they relate to the use of biomass for electricity generation; (ii) potential benefits for the Commonwealth's hardwood forest health as a result of using biomass resources for electricity generation; (iii) the amount of forest-related materials, agricultural-related materials, and solid woody waste materials that can be sustainably consumed annually without disrupting existing markets; (iv) consideration of technological advances in biomass energy generation; and (v) a life-cycle carbon analysis, developed in coordination with the Department of Environmental Quality and relevant stakeholders, that includes all carbon emissions, including supply chain emissions, forgone sequestration, and the emissions from burning biomass resources for electricity generation. The advisory panel may consider other factors as the Department deems necessary. The Department shall submit a report of the advisory panel's findings and any recommendations to the Chairmen of the House Committee on Commerce and Energy and the Senate Committee on Commerce and Labor no later than December 1, 2024.

3. That the Department of Forestry shall develop, no later than December 1, 2023, best management practices for the sustainable harvesting of biomass, as described in subdivision A 1 of § 10.1-1308.1 of the Code of Virginia, for biomass-fired electric generating units that are subject to the provisions of § 56-585.5 of the Code of Virginia, as amended by this act. The best management practices shall include a life-cycle carbon analysis, developed in coordination with the Department of Environmental Quality and relevant stakeholders, that includes all carbon emissions, including supply chain emissions, forgone sequestration, and the emissions from burning biomass resources for electricity generation.

CHAPTER 805

An Act to amend and reenact §§ 2.2-3703, 53.1-136, 53.1-154, and 53.1-155 of the Code of Virginia, relating to Parole Board; eligibility determinations; reports.

[H 2169]

Approved May 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3703, 53.1-136, 53.1-154, and 53.1-155 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and election records; access by persons incarcerated in a state, local, or federal correctional facility.

A. The provisions of this chapter shall not apply to:

1. ~~The Virginia Parole Board (the Board), except that (i) information from the Board providing the number of inmates considered by the Board for discretionary parole, the number of inmates granted or denied parole, and the number of parolees returned to the custody of the Department of Corrections solely as a result of a determination by the Board of a violation of parole shall be open to inspection and available for release, on a monthly basis, as provided by § 2.2-3704; (ii) all guidance documents, as defined in § 2.2-4101, shall be public records and subject to the provisions of this chapter; (iii) all records concerning the finances of the Board shall be public records and subject to the provisions of this chapter; and (iv) individual Board member votes shall be public records and subject to the provisions of this chapter. The information required by clause (i) shall be furnished by offense, sex, race, age of the inmate, and the locality in which the conviction was obtained, upon the request of the party seeking the information. The information required by clause (ii) shall include all documents establishing the policy of the Board or any change in or clarification of such policy with respect to grant, denial, deferral, revocation, or supervision of parole or geriatric release or the process for consideration thereof, and shall be clearly and conspicuously posted on the Board's website. However, such information shall not include any portion of any document reflecting the application of any policy or policy change or clarification of such policy to an individual inmate;~~

~~2.~~ Petit juries and grand juries;

~~3.~~ *2.* Family assessment and planning teams established pursuant to § 2.2-5207;

~~4.~~ *3.* Sexual assault response teams established pursuant to § 15.2-1627.4, except that records relating to (i) protocols and policies of the sexual assault response team and (ii) guidelines for the community's response established by the sexual assault response team shall be public records and subject to the provisions of this chapter;

~~5.~~ *4.* Multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5;

~~6.~~ *5.* The Virginia State Crime Commission; and

~~7.~~ *6.* The records maintained by the clerks of the courts of record, as defined in § 1-212, for which clerks are custodians under § 17.1-242, and courts not of record, as defined in § 16.1-69.5, for which clerks are custodians under § 16.1-69.54, including those transferred for storage, maintenance, or archiving. Such records shall be requested in accordance with the provisions of §§ 16.1-69.54:1 and 17.1-208, as appropriate. However, other records maintained by the clerks of such courts shall be public records and subject to the provisions of this chapter.

B. Public access to voter registration and election records shall be governed by the provisions of Title 24.2 and this chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to afford any rights to any person (i) incarcerated in a state, local or federal correctional facility, whether or not such facility is (a) located in the Commonwealth or (b) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.) or (ii) civilly committed pursuant to the Sexually Violent Predators Act (§ 37.2-900 et seq.). However, this subsection shall not be construed to prevent such persons from exercising their constitutionally protected rights, including, but not limited to, their right to call for evidence in their favor in a criminal prosecution.

§ 53.1-136. Powers and duties of Board; notice of release of certain inmates.

In addition to the other powers and duties imposed upon the Board by this article, the Board shall:

1. Adopt, subject to approval by the Governor, general rules governing the granting of parole and eligibility requirements, which shall be published and posted for public review. *Such eligibility rules shall require consideration of the prisoner's demonstrated rehabilitation, economic and educational development, commitment to prosocial behavior, and community and family supports*;

2. Adopt, subject to approval by the Governor, rules providing for the granting of parole to those prisoners who are eligible for parole pursuant to § 53.1-165.1 on the basis of demonstrated maturity and rehabilitation and the lesser culpability of juvenile offenders;

3. a. Release on parole for such time and upon such terms and conditions as the Board shall prescribe, persons convicted of felonies and confined under the laws of the Commonwealth in any correctional facility in Virginia when those persons become eligible and are found suitable for parole, according to those rules adopted pursuant to subdivisions 1 and 2;

b. Establish the conditions of postrelease supervision authorized pursuant to § 18.2-10 and subsection A of § 19.2-295.2;

c. Notify the Department of Corrections of its decision to grant discretionary parole or conditional release to an inmate. The Department of Corrections shall set the release date for such inmate no sooner than 30 business days from the date that the Department of Corrections receives such notification from the Chairman of the Board, except that the Department of Corrections may set an earlier release date in the case of an inmate granted conditional release pursuant to § 53.1-40.02. In the case of an inmate granted parole who was convicted of a felony and sentenced to a term of 10 or more years, or an inmate granted conditional release, the Board shall notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced (i) by electronic means at least 21 business days prior to such inmate's release that such inmate has been granted discretionary parole or conditional release pursuant to § 53.1-40.01 or 53.1-40.02 or (ii) by telephone or other electronic means prior to such inmate's release that such inmate has been granted conditional release pursuant to § 53.1-40.02 where death is imminent. Nothing in this section shall be construed to alter the obligations of the Board under § 53.1-155 for investigation prior to release on discretionary parole;

d. Provide that in any case where a person who is released on parole or postrelease supervision has been committed to the Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 the conditions of his parole or postrelease supervision shall include the requirement that the person comply with all conditions given him by the Department of Behavioral Health and Developmental Services and that he follow all of the terms of his treatment plan;

4. Revoke parole and any period of postrelease and order the reincarceration of any parolee or felon serving a period of postrelease supervision or impose a condition of participation in any component of the Statewide Community-Based Corrections System for State-Responsible Offenders (§ 53.1-67.2 et seq.) on any eligible parolee, when, in the judgment of the Board, he has violated the conditions of his parole or postrelease supervision or is otherwise unfit to be on parole or on postrelease supervision;

5. Issue final discharges to persons released by the Board on parole when the Board is of the opinion that the discharge of the parolee will not be incompatible with the welfare of such person or of society. *Final discharges granted prior to the expiration of a period of parole shall be granted only upon approval by a majority of Board members. The Board shall publish an annual report regarding final discharges issued by the Board during the previous 12 months. The report shall include (i) the name of each prisoner granted final discharge, (ii) the offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was committed, (iv) the length of the prisoner's sentence and the date such sentence was imposed, (v) the amount of time the prisoner has been on parole or postrelease supervision in the community, (vi) the basis for the final discharge, and (vii) the vote of each Board member*;

6. Make investigations and reports with respect to any commutation of sentence, pardon, reprieve or remission of fine, or penalty when requested by the Governor;

7. Publish a statement *by the fifteenth day of each month* regarding the ~~action~~ *actions* taken by the Board on the parole of prisoners ~~within 30 days of such action~~ *during the prior month*. The statement shall list (i) the name of each prisoner considered for parole, (ii) the offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was committed, (iv) the length of the prisoner's sentence and the date such sentence was imposed, (v) the amount of time the prisoner has served, (vi) whether the prisoner was granted or denied parole, ~~and~~ (vii) ~~the basis~~ *individualized reasons* for the grant or denial of parole*, and (viii) the final vote and the names of the Board members who voted in favor of granting parole and those who voted against*. However, in the case of a prisoner granted parole, the information set forth in clauses (i) through ~~(vii)~~ *(viii)* regarding such prisoner shall be included in the statement published in the month immediately succeeding the month in which notification of the decision to grant parole was given to the attorney for the Commonwealth and any victims; ~~and~~

8. *Publish an annual report regarding actions taken by the Board on the parole of prisoners during the prior year. Such report shall contain each monthly statement published by the Board pursuant to subdivision 7 and a summary that identifies (i) the total number of prisoners considered for parole, (ii) the number of persons granted parole, (iii) the number of persons denied parole, and (iv) the most common reasons for which parole was granted or denied;*

9. Ensure that each person eligible for parole receives a timely and thorough review of his suitability for release on parole, including a review of any relevant post-sentencing information. If parole is denied, the basis for the denial of parole shall be in writing and shall give specific*, individualized* reasons for such denial to such inmate*; and*

10. Convene a public meeting, either in person or via video conference, when conducting the final deliberation and vote regarding whether the Board will grant parole to a prisoner. The prisoner being considered for parole or his attorney shall be permitted to attend such meeting either, in the Board's discretion, in person or via video conference. The victim shall be permitted to attend and participate in such meeting either, in the Board's discretion, in person or via video or phone conference or to provide written or recorded testimony. No decision to grant discretionary parole shall be made by the Board unless such decision was discussed and debated at a meeting at which a majority of the Board members were present. Whether the Board grants or denies discretionary parole to an inmate, each Board member shall identify his reasoning for such decision at the time such member's vote is cast.

§ 53.1-154. Times at which Virginia Parole Board to review cases.

The Virginia Parole Board shall by regulation divide each calendar year into such equal parts as it may deem appropriate to the efficient administration of the parole system. Unless there be reasonable cause for extension of the time within which to review and decide a case, the Board shall review and decide the case of each prisoner no later than that part of the calendar year in which he becomes eligible for parole, and at least annually thereafter, until he is released on parole or discharged, except that upon any such review the Board may schedule the next review as much as three years thereafter, provided there are ten years or more or life imprisonment remaining on the sentence in such case. *Such reviews shall include a live interview of the prisoner by a Board member or a staff member designated by the Board. Such interviews may be conducted in person or by videoconference or telephone at the discretion of the Board. Absent imminent death of the prisoner or other extraordinary circumstances, which shall be documented by the Board in the prisoner's file, the Board shall not grant parole to any prisoner who has not received a live interview within the prior calendar year.* Notwithstanding any other provision of this article, in the case of a parole revocation, if such person is otherwise eligible for parole, the Board shall review and decide his case no later than that part of the calendar year one year subsequent to the part of the calendar year in which he was returned to a facility as provided in § 53.1-161. Thereafter, his case shall be reviewed as specified in this section. The Board, in addition, may review the case of any prisoner eligible for parole at any other time and may review the case of any prisoner prior to that part of the year otherwise specified. In the discretion of the Board, interviews may be conducted by the Board or its representatives and may be either public or private.

§ 53.1-155. Investigation prior to release; transition assistance.

A. No person shall be released on parole by the Board until a thorough investigation has been made into the prisoner's history, physical and mental condition and character*,* and his conduct, employment*,* and attitude while in prison. *All information collected through such investigation shall be made available to the prisoner or his attorney, provided that (i) neither the prisoner nor his attorney shall further disclose, reproduce, copy, or disseminate such information in any way and (ii) the Board shall redact all personal information of the victim.* The Board shall also determine that his release on parole will not be incompatible with the interests of society or of the prisoner. The provisions of this section shall not be applicable to persons released on parole pursuant to § 53.1-159.

B. An investigation conducted pursuant to this section shall include notification that a victim may submit to the Virginia Parole Board evidence concerning the impact that the release of the prisoner will have on such victim. This notification shall be sent to the last address provided to the Board by any victim of a crime for which the prisoner was incarcerated. If additional victim research is necessary, electronic notification shall be sent to the attorney for the Commonwealth and the director of the victim/witness program, if one exists, of the jurisdiction in which the offense occurred. The Board shall endeavor diligently to contact the victim prior to making any decision to release any inmate on discretionary parole. The victim of a crime for which the prisoner is incarcerated may present to the Board oral*, including by virtual means,* or written testimony concerning the impact that the release of the prisoner will have on the victim, and the Board shall consider such testimony in its review. Once testimony is submitted by a victim, such testimony shall remain in

the prisoner's parole file and shall be considered by the Board at every parole review. The victim of a crime for which the prisoner is incarcerated may submit a request in writing or by electronic means to the Board to be notified of (i) the prisoner's parole eligibility date and mandatory release date as determined by the Department of Corrections, (ii) any parole-related interview dates, and (iii) the Board's decision regarding parole for the prisoner. The victim may request that the Board only notify the victim if, following its review, the Board is inclined to grant parole to the prisoner, in which case the victim shall have ~~forty-five~~ *45* days to present written or oral testimony for the Board's consideration. If the victim has requested to be notified only if the Board is inclined to grant parole and no testimony, either written or oral, is received from the victim within at least ~~forty-five~~ *45* days of the date of the Board's notification, the Board shall render its decision based on information available to it in accordance with subsection A. The definition of victim in § 19.2-11.01 shall apply to this section.

Although any information presented by the victim of a crime for which the prisoner is incarcerated shall be retained in the prisoner's parole file and considered by the Board, such information shall not infringe on the Board's authority to exercise its decision-making authority.

C. Notwithstanding the provisions of subsection A, if a physical or mental examination of a prisoner eligible for parole has been conducted within the last ~~twelve~~ *12* months, and the prisoner has not required medical or psychiatric treatment within a like period while incarcerated, the prisoner may be released on parole by the Parole Board directly from a local correctional facility.

The Department shall offer each prisoner to be released on parole or under mandatory release who has been sentenced to serve a term of imprisonment of at least three years the opportunity to participate in a transition program within six months of such prisoner's projected or mandatory release date. The program shall include advice for job training opportunities, recommendations for living a law-abiding life, and financial literacy information. The Secretary of Public Safety and Homeland Security shall prescribe guidelines to govern these programs.

2. That the provisions of this act shall become effective on July 1, 2024.

CHAPTER 806

An Act to amend and reenact §§ 2.2-3703, 53.1-136, 53.1-154, and 53.1-155 of the Code of Virginia, relating to Parole Board; eligibility determinations; reports.

[S 1361]

Approved May 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3703, 53.1-136, 53.1-154, and 53.1-155 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and election records; access by persons incarcerated in a state, local, or federal correctional facility.

A. The provisions of this chapter shall not apply to:

1. ~~The Virginia Parole Board (the Board), except that (i) information from the Board providing the number of inmates considered by the Board for discretionary parole, the number of inmates granted or denied parole, and the number of paroles returned to the custody of the Department of Corrections solely as a result of a determination by the Board of a violation of parole shall be open to inspection and available for release, on a monthly basis, as provided by § 2.2-3704; (ii) all guidance documents, as defined in § 2.2-4101, shall be public records and subject to the provisions of this chapter; (iii) all records concerning the finances of the Board shall be public records and subject to the provisions of this chapter; and (iv) individual Board member votes shall be public records and subject to the provisions of this chapter. The information required by clause (i) shall be furnished by offense, sex, race, age of the inmate, and the locality in which the conviction was obtained, upon the request of the party seeking the information. The information required by clause (ii) shall include all documents establishing the policy of the Board or any change in or clarification of such policy with respect to grant, denial, deferral, revocation, or supervision of parole or geriatric release or the process for consideration thereof, and shall be clearly and conspicuously posted on the Board's website. However, such information shall not include any portion of any document reflecting the application of any policy or policy change or clarification of such policy to an individual inmate;~~

~~2.~~ Petit juries and grand juries;

~~3.~~ *2.* Family assessment and planning teams established pursuant to § 2.2-5207;

~~4.~~ *3.* Sexual assault response teams established pursuant to § 15.2-1627.4, except that records relating to (i) protocols and policies of the sexual assault response team and (ii) guidelines for the community's response established by the sexual assault response team shall be public records and subject to the provisions of this chapter;

~~5.~~ *4.* Multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5;

~~6.~~ *5.* The Virginia State Crime Commission; and

~~7.~~ *6.* The records maintained by the clerks of the courts of record, as defined in § 1-212, for which clerks are custodians under § 17.1-242, and courts not of record, as defined in § 16.1-69.5, for which clerks are custodians under § 16.1-69.54, including those transferred for storage, maintenance, or archiving. Such records shall be requested in accordance with the provisions of §§ 16.1-69.54:1 and 17.1-208, as appropriate. However, other records maintained by the clerks of such courts shall be public records and subject to the provisions of this chapter.

B. Public access to voter registration and election records shall be governed by the provisions of Title 24.2 and this chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to afford any rights to any person (i) incarcerated in a state, local or federal correctional facility, whether or not such facility is (a) located in the Commonwealth or (b) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.) or (ii) civilly committed pursuant to the Sexually Violent Predators Act (§ 37.2-900 et seq.). However, this subsection shall not be construed to prevent such persons from exercising their constitutionally protected rights, including, but not limited to, their right to call for evidence in their favor in a criminal prosecution.

§ 53.1-136. Powers and duties of Board; notice of release of certain inmates.

In addition to the other powers and duties imposed upon the Board by this article, the Board shall:

1. Adopt, subject to approval by the Governor, general rules governing the granting of parole and eligibility requirements, which shall be published and posted for public review. *Such eligibility rules shall require consideration of the prisoner's demonstrated rehabilitation, economic and educational development, commitment to prosocial behavior, and community and family supports*;

2. Adopt, subject to approval by the Governor, rules providing for the granting of parole to those prisoners who are eligible for parole pursuant to § 53.1-165.1 on the basis of demonstrated maturity and rehabilitation and the lesser culpability of juvenile offenders;

3. a. Release on parole for such time and upon such terms and conditions as the Board shall prescribe, persons convicted of felonies and confined under the laws of the Commonwealth in any correctional facility in Virginia when those persons become eligible and are found suitable for parole, according to those rules adopted pursuant to subdivisions 1 and 2;

b. Establish the conditions of postrelease supervision authorized pursuant to § 18.2-10 and subsection A of § 19.2-295.2;

c. Notify the Department of Corrections of its decision to grant discretionary parole or conditional release to an inmate. The Department of Corrections shall set the release date for such inmate no sooner than 30 business days from the date that the Department of Corrections receives such notification from the Chairman of the Board, except that the Department of Corrections may set an earlier release date in the case of an inmate granted conditional release pursuant to § 53.1-40.02. In the case of an inmate granted parole who was convicted of a felony and sentenced to a term of 10 or more years, or an inmate granted conditional release, the Board shall notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced (i) by electronic means at least 21 business days prior to such inmate's release that such inmate has been granted discretionary parole or conditional release pursuant to § 53.1-40.01 or 53.1-40.02 or (ii) by telephone or other electronic means prior to such inmate's release that such inmate has been granted conditional release pursuant to § 53.1-40.02 where death is imminent. Nothing in this section shall be construed to alter the obligations of the Board under § 53.1-155 for investigation prior to release on discretionary parole;

d. Provide that in any case where a person who is released on parole or postrelease supervision has been committed to the Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 the conditions of his parole or postrelease supervision shall include the requirement that the person comply with all conditions given him by the Department of Behavioral Health and Developmental Services and that he follow all of the terms of his treatment plan;

4. Revoke parole and any period of postrelease and order the reincarceration of any parolee or felon serving a period of postrelease supervision or impose a condition of participation in any component of the Statewide Community-Based Corrections System for State-Responsible Offenders (§ 53.1-67.2 et seq.) on any eligible parolee, when, in the judgment of the Board, he has violated the conditions of his parole or postrelease supervision or is otherwise unfit to be on parole or on postrelease supervision;

5. Issue final discharges to persons released by the Board on parole when the Board is of the opinion that the discharge of the parolee will not be incompatible with the welfare of such person or of society. *Final discharges granted prior to the expiration of a period of parole shall be granted only upon approval by a majority of Board members. The Board shall publish an annual report regarding final discharges issued by the Board during the previous 12 months. The report shall include (i) the name of each prisoner granted final discharge, (ii) the offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was committed, (iv) the length of the prisoner's sentence and the date such sentence was imposed, (v) the amount of time the prisoner has been on parole or postrelease supervision in the community, (vi) the basis for the final discharge, and (vii) the vote of each Board member*;

6. Make investigations and reports with respect to any commutation of sentence, pardon, reprieve or remission of fine, or penalty when requested by the Governor;

7. Publish a statement *by the fifteenth day of each month* regarding the ~~action~~ *actions* taken by the Board on the parole of prisoners ~~within 30 days of such action~~ *during the prior month*. The statement shall list (i) the name of each prisoner considered for parole, (ii) the offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was committed, (iv) the length of the prisoner's sentence and the date such sentence was imposed, (v) the amount of time the prisoner has served, (vi) whether the prisoner was granted or denied parole, ~~and~~ (vii) ~~the basis~~ *individualized reasons* for the grant or denial of parole*, and (viii) the final vote and the names of the Board members who voted in favor of granting parole and those who voted against*. However, in the case of a prisoner granted parole, the information set forth in clauses (i) through ~~(vii)~~ *(viii)* regarding such prisoner shall be included in the statement published in the month immediately

succeeding the month in which notification of the decision to grant parole was given to the attorney for the Commonwealth and any victims; ~~and~~

8. *Publish an annual report regarding actions taken by the Board on the parole of prisoners during the prior year. Such report shall contain each monthly statement published by the Board pursuant to subdivision 7 and a summary that identifies (i) the total number of prisoners considered for parole, (ii) the number of persons granted parole, (iii) the number of persons denied parole, and (iv) the most common reasons for which parole was granted or denied;*

9. Ensure that each person eligible for parole receives a timely and thorough review of his suitability for release on parole, including a review of any relevant post-sentencing information. If parole is denied, the basis for the denial of parole shall be in writing and shall give specific*, individualized* reasons for such denial to such inmate*; and*

10. Convene a public meeting, either in person or via video conference, when conducting the final deliberation and vote regarding whether the Board will grant parole to a prisoner. The prisoner being considered for parole or his attorney shall be permitted to attend such meeting either, in the Board's discretion, in person or via video conference. The victim shall be permitted to attend and participate in such meeting either, in the Board's discretion, in person or via video or phone conference or to provide written or recorded testimony. No decision to grant discretionary parole shall be made by the Board unless such decision was discussed and debated at a meeting at which a majority of the Board members were present. Whether the Board grants or denies discretionary parole to an inmate, each Board member shall identify his reasoning for such decision at the time such member's vote is cast.

§ 53.1-154. Times at which Virginia Parole Board to review cases.

The Virginia Parole Board shall by regulation divide each calendar year into such equal parts as it may deem appropriate to the efficient administration of the parole system. Unless there be reasonable cause for extension of the time within which to review and decide a case, the Board shall review and decide the case of each prisoner no later than that part of the calendar year in which he becomes eligible for parole, and at least annually thereafter, until he is released on parole or discharged, except that upon any such review the Board may schedule the next review as much as three years thereafter, provided there are ten years or more or life imprisonment remaining on the sentence in such case. *Such reviews shall include a live interview of the prisoner by a Board member or a staff member designated by the Board. Such interviews may be conducted in person or by videoconference or telephone at the discretion of the Board. Absent imminent death of the prisoner or other extraordinary circumstances, which shall be documented by the Board in the prisoner's file, the Board shall not grant parole to any prisoner who has not received a live interview within the prior calendar year.* Notwithstanding any other provision of this article, in the case of a parole revocation, if such person is otherwise eligible for parole, the Board shall review and decide his case no later than that part of the calendar year one year subsequent to the part of the calendar year in which he was returned to a facility as provided in § 53.1-161. Thereafter, his case shall be reviewed as specified in this section. The Board, in addition, may review the case of any prisoner eligible for parole at any other time and may review the case of any prisoner prior to that part of the year otherwise specified. In the discretion of the Board, interviews may be conducted by the Board or its representatives and may be either public or private.

§ 53.1-155. Investigation prior to release; transition assistance.

A. No person shall be released on parole by the Board until a thorough investigation has been made into the prisoner's history, physical and mental condition and character*,* and his conduct, employment*,* and attitude while in prison. *All information collected through such investigation shall be made available to the prisoner or his attorney, provided that (i) neither the prisoner nor his attorney shall further disclose, reproduce, copy, or disseminate such information in any way and (ii) the Board shall redact all personal information of the victim.* The Board shall also determine that his release on parole will not be incompatible with the interests of society or of the prisoner. The provisions of this section shall not be applicable to persons released on parole pursuant to § 53.1-159.

B. An investigation conducted pursuant to this section shall include notification that a victim may submit to the Virginia Parole Board evidence concerning the impact that the release of the prisoner will have on such victim. This notification shall be sent to the last address provided to the Board by any victim of a crime for which the prisoner was incarcerated. If additional victim research is necessary, electronic notification shall be sent to the attorney for the Commonwealth and the director of the victim/witness program, if one exists, of the jurisdiction in which the offense occurred. The Board shall endeavor diligently to contact the victim prior to making any decision to release any inmate on discretionary parole. The victim of a crime for which the prisoner is incarcerated may present to the Board oral*, including by virtual means,* or written testimony concerning the impact that the release of the prisoner will have on the victim, and the Board shall consider such testimony in its review. Once testimony is submitted by a victim, such testimony shall remain in the prisoner's parole file and shall be considered by the Board at every parole review. The victim of a crime for which the prisoner is incarcerated may submit a request in writing or by electronic means to the Board to be notified of (i) the prisoner's parole eligibility date and mandatory release date as determined by the Department of Corrections, (ii) any parole-related interview dates, and (iii) the Board's decision regarding parole for the prisoner. The victim may request that the Board only notify the victim if, following its review, the Board is inclined to grant parole to the prisoner, in which case the victim shall have ~~forty-five~~ *45* days to present written or oral testimony for the Board's consideration. If the victim has requested to be notified only if the Board is inclined to grant parole and no testimony, either written or oral, is received from the victim within at least ~~forty-five~~ *45* days of the date of the Board's notification, the Board shall render its decision based on information available to it in accordance with subsection A. The definition of victim in § 19.2-11.01 shall apply to this section.

Although any information presented by the victim of a crime for which the prisoner is incarcerated shall be retained in the prisoner's parole file and considered by the Board, such information shall not infringe on the Board's authority to exercise its decision-making authority.

C. Notwithstanding the provisions of subsection A, if a physical or mental examination of a prisoner eligible for parole has been conducted within the last ~~twelve~~ *12* months, and the prisoner has not required medical or psychiatric treatment within a like period while incarcerated, the prisoner may be released on parole by the Parole Board directly from a local correctional facility.

The Department shall offer each prisoner to be released on parole or under mandatory release who has been sentenced to serve a term of imprisonment of at least three years the opportunity to participate in a transition program within six months of such prisoner's projected or mandatory release date. The program shall include advice for job training opportunities, recommendations for living a law-abiding life, and financial literacy information. The Secretary of Public Safety and Homeland Security shall prescribe guidelines to govern these programs.

2. That the provisions of this act shall become effective on July 1, 2024.

CHAPTER 807

An Act to amend the Code of Virginia by adding in Article 6 of Chapter 6 of Title 10.1 a section numbered 10.1-660, relating to coastal resilience policy; research university collaborative.

[H 2393]

Approved May 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 6 of Chapter 6 of Title 10.1 a section numbered 10.1-660 as follows:

§ 10.1-660. Coastal resilience policy; research university collaborative.

The Secretary of Natural and Historic Resources (the Secretary) and all relevant agencies, when setting coastal resilience policies, may seek input and consultation from the Commonwealth's research university collaborative, including the Virginia Coastal Policy Center, Virginia Sea Grant, Virginia Cooperative Extension, and the Institute for Coastal Adaptation and Resilience. The Secretary and all relevant agencies may utilize such research university collaborative's expertise, research, and data analysis for the implementation of water management techniques and coastal resilience strategies.

CHAPTER 808

An Act to amend and reenact § 56-585.1:11 of the Code of Virginia, relating to development of offshore wind capacity; cost recovery.

[H 2444]

Approved May 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.1:11 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.1:11. Development of offshore wind capacity.

A. As used in this section:

"Advanced clean energy buyer" means a commercial or industrial customer of a Phase II Utility, irrespective of generation supplier, (i) with an aggregate load over 100 megawatts; (ii) with an aggregate amount of at least 200 megawatts of solar or wind energy supply under contract with a term of 10 years or more from facilities located within the Commonwealth by January 1, 2024; and (iii) that directly procures from the utility the electric supply and environmental attributes of the offshore wind facility associated with the lesser of 50 megawatts of nameplate capacity or 15 percent of the commercial or industrial customer's annual peak demand for a contract period of 15 years.

"Aggregate load" means the combined electrical load associated with selected accounts of an advanced clean energy buyer with the same legal entity name as, or in the names of affiliated entities that control, are controlled by, or are under common control of, such legal entity or are the names of affiliated entities under a common parent.

"Control" means the legal right, directly or indirectly, to direct or cause the direction of the management, actions, or policies of an affiliated entity, whether through the ability to exercise voting power, by contract, or otherwise. "Control" does not include control of an entity through a franchise or similar contractual agreement.

"Qualifying large general service customer" means a customer of a Phase II Utility, irrespective of general supplier, (i) whose peak demand during the most recent calendar year exceeded five megawatts and (ii) that contracts with the utility to directly procure electric supply and environmental attributes associated with the offshore wind facility in amounts commensurate with the customer's electric usage for a contract period of 15 years or more.

"Wind turbine generator" means a structure composed of a tower, a rotor with blades connected at the hub, and nacelle and ancillary electrical and other equipment that is affixed to a foundation of which multiple structures comprise a generating facility.

B. In order to meet the Commonwealth's clean energy goals, prior to December 31, ~~2034~~ *2032*, the construction or purchase by a public utility of one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth, with an aggregate capacity of up to 5,200 megawatts, is in the public interest and the Commission shall so find, provided that no customers of the utility shall be responsible for costs of any such facility in a proportion greater than the utility's share of the facility.

C. 1. Pursuant to subsection B, construction by a Phase II Utility of one or more new utility-owned and utility-operated generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's Atlantic shoreline, with an aggregate rated capacity of not less than 2,500 megawatts and not more than 3,000 megawatts, along with electrical transmission or distribution facilities associated therewith for interconnection is in the public interest. In acting upon any request for cost recovery by a Phase II Utility for costs associated with such a facility, the Commission shall determine the reasonableness and prudence of any such costs, provided that such costs shall be presumed to be reasonably and prudently incurred if the Commission determines that (i) the utility has complied with the competitive solicitation and procurement requirements pursuant to subsection E; (ii) the project's projected total levelized cost of energy, including any tax credit, on a cost per megawatt hour basis, inclusive of the costs of transmission and distribution facilities associated with the facility's interconnection, does not exceed 1.4 times the comparable cost, on an unweighted average basis, of a conventional simple cycle combustion turbine generating facility as estimated by the U.S. Energy Information Administration in its Annual Energy Outlook 2019; and (iii) the utility has commenced construction of such facilities for U.S. income taxation purposes prior to January 1, 2024, or has a plan for such facility or facilities to be in service prior to January 1, 2028. The Commission shall disallow costs, or any portion thereof, only if they are otherwise unreasonably and imprudently incurred. In its review, the Commission shall give due consideration to (a) the Commonwealth's renewable portfolio standards and carbon reduction requirements, (b) the promotion of new renewable generation resources, and (c) the economic development benefits of the project for the Commonwealth, including capital investments and job creation*, arising from project construction and operation and the manufacture of wind turbine generator components and subcomponents*.

2. Notwithstanding the provisions of § 56-585.1, the Commission shall not grant an enhanced rate of return to a Phase II Utility for the construction of one or more new utility-owned and utility-operated generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's Atlantic shoreline pursuant to this section.

3. Any such costs proposed for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, regardless of the generation supplier of any such customer, other than (i) PIPP eligible utility customers, (ii) advanced clean energy buyers, and (iii) qualifying large general service customers. No electric cooperative customer of the utility shall be assigned, nor shall the utility collect from any such cooperative, any of the costs of such facilities, including electrical transmission or distribution facilities associated therewith for interconnection. The Commission may promulgate such rules, regulations, or other directives necessary to administer the eligibility for these exemptions.

4. The Commission shall permit a portion of the nameplate capacity of any such facility, in the aggregate, to be allocated to (i) advanced clean energy buyers or (ii) qualifying large general service customers, provided that no more than 10 percent of the offshore wind facility's capacity is allocated to qualifying large general service customers. A Phase II Utility shall petition the Commission for approval of a special contract with any advanced clean energy buyer, or any special rate applicable to qualifying large general service customers, pursuant to § 56-235.2, no later than 15 months prior to the projected commercial operation date of the facility, and all customer enrollments associated with such special contracts or rates shall be completed prior to commercial operation of the facility. Any such special contract or rate may include provisions for levelized rates of service over the duration of the customer's contracted agreement with the utility, and the Commission shall determine that such special contract or rate is designed to hold nonparticipating customers harmless over its term in connection with any petition for approval by the utility. The utility may petition for approval of such special contracts or rates in connection with any petition for approval of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of the facility, and the Commission shall rule upon any such petitions in its final order in such proceeding within nine months from the date of filing.

D. In constructing any such facility contemplated in subsection B, the utility shall develop and submit a plan to the Commission for review that includes the following considerations: (i) options for utilizing local workers; (ii) the economic development benefits of the project for the Commonwealth, including capital investments and job creation; (iii) consultation with the Commonwealth's Chief Workforce Development Officer, the Chief Diversity, Equity, and Inclusion Officer, and the Virginia Economic Development Partnership on opportunities to advance the Commonwealth's workforce and economic development goals, including furtherance of apprenticeship and other workforce training programs; (iv) giving priority to the hiring, apprenticeship, and training of veterans, as that term is defined in § 2.2-2000.1, local workers, and workers from historically economically disadvantaged communities; and (v) procurement of equipment from Virginia-based or United States-based manufacturers using materials or product components made in Virginia or the United States, if reasonably available and competitively priced.

E. Any project constructed or purchased pursuant to subsection B shall (i) be subject to competitive procurement or solicitation for a substantial majority of the services and equipment, exclusive of interconnection costs, associated with the

facility's construction; (ii) involve at least one experienced developer; and (iii) demonstrate the economic development benefits within the Commonwealth, including capital investments and job creation. A utility may give appropriate consideration to suppliers and developers that have demonstrated successful experience in offshore wind.

F. Any project *constructed or purchased pursuant to subsection B* shall include an environmental and fisheries mitigation plan submitted to the Commission for the construction and operation of such offshore wind facilities, provided that such plan includes an explicit description of the best management practices the bidder will employ that considers the latest science at the time the proposal is made to mitigate adverse impacts to wildlife, natural resources, ecosystems, and traditional or existing water-dependent uses. The plan shall include a summary of pre-construction assessment activities, consistent with federal requirements, to determine the spatial and temporal presence and abundance of marine mammals, sea turtles, birds, and bats in the offshore wind lease area.

CHAPTER 809

An Act to amend and reenact § 56-585.1:11 of the Code of Virginia, relating to development of offshore wind capacity; cost recovery.

[S 1441]

Approved May 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.1:11 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.1:11. Development of offshore wind capacity.

A. As used in this section:

"Advanced clean energy buyer" means a commercial or industrial customer of a Phase II Utility, irrespective of generation supplier, (i) with an aggregate load over 100 megawatts; (ii) with an aggregate amount of at least 200 megawatts of solar or wind energy supply under contract with a term of 10 years or more from facilities located within the Commonwealth by January 1, 2024; and (iii) that directly procures from the utility the electric supply and environmental attributes of the offshore wind facility associated with the lesser of 50 megawatts of nameplate capacity or 15 percent of the commercial or industrial customer's annual peak demand for a contract period of 15 years.

"Aggregate load" means the combined electrical load associated with selected accounts of an advanced clean energy buyer with the same legal entity name as, or in the names of affiliated entities that control, are controlled by, or are under common control of, such legal entity or are the names of affiliated entities under a common parent.

"Control" means the legal right, directly or indirectly, to direct or cause the direction of the management, actions, or policies of an affiliated entity, whether through the ability to exercise voting power, by contract, or otherwise. "Control" does not include control of an entity through a franchise or similar contractual agreement.

"Qualifying large general service customer" means a customer of a Phase II Utility, irrespective of general supplier, (i) whose peak demand during the most recent calendar year exceeded five megawatts and (ii) that contracts with the utility to directly procure electric supply and environmental attributes associated with the offshore wind facility in amounts commensurate with the customer's electric usage for a contract period of 15 years or more.

"Wind turbine generator" means a structure composed of a tower, a rotor with blades connected at the hub, and nacelle and ancillary electrical and other equipment that is affixed to a foundation of which multiple structures comprise a generating facility.

B. In order to meet the Commonwealth's clean energy goals, prior to December 31, ~~2034~~ *2032*, the construction or purchase by a public utility of one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth, with an aggregate capacity of up to 5,200 megawatts, is in the public interest and the Commission shall so find, provided that no customers of the utility shall be responsible for costs of any such facility in a proportion greater than the utility's share of the facility.

C. 1. Pursuant to subsection B, construction by a Phase II Utility of one or more new utility-owned and utility-operated generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's Atlantic shoreline, with an aggregate rated capacity of not less than 2,500 megawatts and not more than 3,000 megawatts, along with electrical transmission or distribution facilities associated therewith for interconnection is in the public interest. In acting upon any request for cost recovery by a Phase II Utility for costs associated with such a facility, the Commission shall determine the reasonableness and prudence of any such costs, provided that such costs shall be presumed to be reasonably and prudently incurred if the Commission determines that (i) the utility has complied with the competitive solicitation and procurement requirements pursuant to subsection E; (ii) the project's projected total levelized cost of energy, including any tax credit, on a cost per megawatt hour basis, inclusive of the costs of transmission and distribution facilities associated with the facility's interconnection, does not exceed 1.4 times the comparable cost, on an unweighted average basis, of a conventional simple cycle combustion turbine generating facility as estimated by the U.S. Energy Information Administration in its Annual Energy Outlook 2019; and (iii) the utility has commenced construction of such facilities for U.S. income taxation purposes prior to January 1, 2024, or has a plan for such facility or facilities to be in service prior to January 1, 2028. The Commission shall disallow costs, or any portion thereof, only if they are otherwise unreasonably and imprudently incurred. In its review, the Commission shall give due consideration to (a) the Commonwealth's renewable portfolio standards and

carbon reduction requirements, (b) the promotion of new renewable generation resources, and (c) the economic development benefits of the project for the Commonwealth, including capital investments and job creation*, arising from project construction and operation and the manufacture of wind turbine generator components and subcomponents*.

2. Notwithstanding the provisions of § 56-585.1, the Commission shall not grant an enhanced rate of return to a Phase II Utility for the construction of one or more new utility-owned and utility-operated generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's Atlantic shoreline pursuant to this section.

3. Any such costs proposed for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, regardless of the generation supplier of any such customer, other than (i) PIPP eligible utility customers, (ii) advanced clean energy buyers, and (iii) qualifying large general service customers. No electric cooperative customer of the utility shall be assigned, nor shall the utility collect from any such cooperative, any of the costs of such facilities, including electrical transmission or distribution facilities associated therewith for interconnection. The Commission may promulgate such rules, regulations, or other directives necessary to administer the eligibility for these exemptions.

4. The Commission shall permit a portion of the nameplate capacity of any such facility, in the aggregate, to be allocated to (i) advanced clean energy buyers or (ii) qualifying large general service customers, provided that no more than 10 percent of the offshore wind facility's capacity is allocated to qualifying large general service customers. A Phase II Utility shall petition the Commission for approval of a special contract with any advanced clean energy buyer, or any special rate applicable to qualifying large general service customers, pursuant to § 56-235.2, no later than 15 months prior to the projected commercial operation date of the facility, and all customer enrollments associated with such special contracts or rates shall be completed prior to commercial operation of the facility. Any such special contract or rate may include provisions for levelized rates of service over the duration of the customer's contracted agreement with the utility, and the Commission shall determine that such special contract or rate is designed to hold nonparticipating customers harmless over its term in connection with any petition for approval by the utility. The utility may petition for approval of such special contracts or rates in connection with any petition for approval of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of the facility, and the Commission shall rule upon any such petitions in its final order in such proceeding within nine months from the date of filing.

D. In constructing any such facility contemplated in subsection B, the utility shall develop and submit a plan to the Commission for review that includes the following considerations: (i) options for utilizing local workers; (ii) the economic development benefits of the project for the Commonwealth, including capital investments and job creation; (iii) consultation with the Commonwealth's Chief Workforce Development Officer, the Chief Diversity, Equity, and Inclusion Officer, and the Virginia Economic Development Partnership on opportunities to advance the Commonwealth's workforce and economic development goals, including furtherance of apprenticeship and other workforce training programs; (iv) giving priority to the hiring, apprenticeship, and training of veterans, as that term is defined in § 2.2-2000.1, local workers, and workers from historically economically disadvantaged communities; and (v) procurement of equipment from Virginia-based or United States-based manufacturers using materials or product components made in Virginia or the United States, if reasonably available and competitively priced.

E. Any project constructed or purchased pursuant to subsection B shall (i) be subject to competitive procurement or solicitation for a substantial majority of the services and equipment, exclusive of interconnection costs, associated with the facility's construction; (ii) involve at least one experienced developer; and (iii) demonstrate the economic development benefits within the Commonwealth, including capital investments and job creation. A utility may give appropriate consideration to suppliers and developers that have demonstrated successful experience in offshore wind.

F. Any project *constructed or purchased pursuant to subsection B* shall include an environmental and fisheries mitigation plan submitted to the Commission for the construction and operation of such offshore wind facilities, provided that such plan includes an explicit description of the best management practices the bidder will employ that considers the latest science at the time the proposal is made to mitigate adverse impacts to wildlife, natural resources, ecosystems, and traditional or existing water-dependent uses. The plan shall include a summary of pre-construction assessment activities, consistent with federal requirements, to determine the spatial and temporal presence and abundance of marine mammals, sea turtles, birds, and bats in the offshore wind lease area.

CHAPTER 810

An Act to amend and reenact § 18.2-283.2 of the Code of Virginia, relating to carrying a firearm or explosive material within Capitol Square and the surrounding area; exceptions for State Police officers.

[S 1492]

Approved May 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-283.2 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-283.2. Carrying a firearm or explosive material within Capitol Square and the surrounding area, into a building owned or leased by the Commonwealth, etc.; penalty.

A. For the purposes of this section, "Capitol Square and the surrounding area" means (i) the grounds, land, real property, and improvements in the City of Richmond bounded by Bank, Governor, Broad, and Ninth Streets, and the sidewalks of Bank Street extending from 50 feet west of the Pocahontas Building entrance to 50 feet east of the entrance of the Capitol of Virginia.

B. It is unlawful for any person to carry any firearm as defined in § 18.2-308.2:2 or explosive material as defined in § 18.2-308.2 within (i) the Capitol of Virginia; (ii) Capitol Square and the surrounding area; (iii) any building owned or leased by the Commonwealth or any agency thereof; or (iv) any office where employees of the Commonwealth or any agency thereof are regularly present for the purpose of performing their official duties.

C. A violation of this section is punishable as a Class 1 misdemeanor. Any firearm or explosive material carried in violation of this section shall be subject to seizure by a law-enforcement officer and forfeited to the Commonwealth and disposed of as provided in § 19.2-386.28.

D. The provisions of this section shall not apply to the following while acting in the conduct of such person's official duties: (i) any law-enforcement officer as defined in § 9.1-101; (ii) any authorized security personnel; (iii) any active military personnel; (iv) any fire marshal appointed pursuant to § 27-30 when such fire marshal has police powers provided by § 27-34.2:1; or (v) any member of a cadet corps who is recognized by a public institution of higher education while such member is participating in an official ceremonial event for the Commonwealth.

E. *The provisions of clause (ii) of subsection B shall not apply to (i) any State Police officer who is off-duty or (ii) any retired State Police officer who has participated in annual firearms training and has qualified to the standards required of active law-enforcement officers in the Commonwealth, in accordance with subsection C of § 18.2-308.016.*

The provisions of clauses (iii) and (iv) of subsection B shall not apply to ~~(i)~~ *(a) any State Police officer who is off-duty; (b) any retired State Police officer who has participated in annual firearms training and has qualified to the standards required of active law-enforcement officers in the Commonwealth, in accordance with subsection C of § 18.2-308.016; (c)* any retired law-enforcement officer *who has participated in annual firearms training, has* qualified pursuant to subsection C of § 18.2-308.016 ~~who~~*, and* is visiting a gun range owned or leased by the Commonwealth; ~~(ii)~~ *(d)* any of the following employees authorized to carry a firearm while acting in the conduct of such employee's official duties: ~~(a)~~ *(1)* a bail bondsman as defined in § 9.1-185, ~~(b)~~ *(2)* an employee of the Department of Corrections or a state juvenile correctional facility, ~~(c)~~ *(3)* an employee of the Department of Conservation and Recreation, or ~~(d)~~ *(4)* an employee of the Department of Wildlife Resources; ~~(iii)~~ *(e)* any individual carrying a weapon into a courthouse who is exempt under § 18.2-283.1; ~~(iv)~~ *(f)* any property owned or operated by a public institution of higher education; ~~(v)~~ *(g)* any state park; or ~~(vi)~~ *(h)* any magistrate acting in the conduct of the magistrate's official duties.

F. Notice of the provisions of this section shall be posted conspicuously along the boundary of Capitol Square and the surrounding area and at the public entrance of each location listed in subsection B, and no person shall be convicted of an offense under subsection B if such notice is not posted at such public entrance, unless such person had actual notice of the prohibitions in subsection B.

CHAPTER 811

An Act to amend and reenact § 18.2-390 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 8.01-40.5, relating to civil liability for publishing or distributing material harmful to minors on the Internet.

[S 1515]

Approved May 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-390 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 8.01-40.5 as follows:

§ 8.01-40.5. Publishing or distributing material harmful to minors on the Internet.

A. For the purposes of this section:

"Interactive computer service" means the same as that term is defined in § 8.01-49.1.

"Material harmful to minors" means any description or representation of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it (i) appeals to the prurient, shameful, or morbid interest of minors; (ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and (iii) is, when taken as a whole, lacking in serious literary, artistic, political, or scientific value for minors.

"Sexual conduct" means the same as that term is defined in § 18.2-390.

"Substantial portion" means more than 33 and one-third percent of total material on a website that meets the definition of material harmful to minors.

B. Any commercial entity that knowingly or intentionally publishes or distributes material harmful to minors on the Internet from a website that contains a substantial portion of such material shall, through the use of (i) a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification or (ii) another commercially reasonable method of age and identity verification, verify that any person attempting to access such material harmful to minors is 18 years of age or older.

C. Any commercial entity that violates the provisions of this section shall be subject to civil liability for damages resulting from a minor's access to such material harmful to a minor and reasonable attorney fees and costs.

D. Nothing in this section shall be construed to impose an obligation or liability on a provider or user of an interactive computer service on the Internet.

§ 18.2-390. Definitions.

As used in this article:

(1) "Juvenile" means a person less than 18 years of age.

(2) "Nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

(3) "Sexual conduct" means actual or explicitly simulated acts of masturbation, ~~homosexuality,~~ sexual intercourse, or physical contact in an act of apparent sexual stimulation or gratification with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such be female, breast.

(4) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(5) "Sadomasochistic abuse" means actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(6) "Harmful to juveniles" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it (a) predominantly appeals to the prurient, shameful or morbid interest of juveniles, (b) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for juveniles, and (c) is, when taken as a whole, lacking in serious literary, artistic, political or scientific value for juveniles.

(7) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both (a) the character and content of any material described herein which is reasonably susceptible of examination by the defendant, and (b) the age of the juvenile, provided however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such juvenile.

(8) "Video or computer game" means an object or device that stores recorded data or instructions, receives data or instructions generated by a person who uses it, and, by processing the data or instructions, creates an interactive game capable of being played, viewed, or experienced on or through a computer, television gaming system, console, or other technology.

CHAPTER 812

An Act to amend and reenact § 54.1-3442.6 of the Code of Virginia, relating to medical marijuana program; additional cultivation facility.

[S 1533]

Approved May 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3442.6 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling, including the potency of each botanical cannabis product and the amounts recommended by the practitioner or dispensing pharmacist, and packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis oil that provide that each dispensed dose of cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors, between a pharmaceutical processors and

a cannabis dispensing facility, and between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection M; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue written certifications and patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for producing cannabis products, (b) the secure disposal of agricultural waste, and (c) a process for registering cannabis oil products.

D. The Board shall require that, after processing and before dispensing any cannabis products, a pharmaceutical processor shall make a sample available from each batch of cannabis product for testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD); total tetrahydrocannabinol (THC); terpenes; pesticide chemical residue; heavy metals; mycotoxins; moisture; and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or cannabis oil shall be subject to laboratory testing and approved upon satisfaction of applicable testing standards, which shall not be more stringent than initial testing prior to remediation. If a batch of botanical cannabis fails retesting after remediation, it shall be considered usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any cannabis product with an expiration date assigned by the pharmaceutical processor of six months or less from the date of the cannabis product registration approval. Stability testing required for assignment of an expiration date longer than six months shall be limited to microbial testing, on a pass/fail basis, and potency testing, on a 10 percent deviation basis, of active ingredients.

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board in regulation.

F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. The pharmaceutical processor shall ensure that security measures are adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have concurrent responsibility for preventing diversion from the dispensing area.

Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and production areas of the pharmaceutical processor and shall provide such information to the Board. The Board shall direct all communications related to enforcement of requirements related to cultivation and production of cannabis oil products by the pharmaceutical processor to such designated person.

G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant's material owners. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a certification recognized by the Board or who has at least two years of experience cultivating plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and (iii) to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician.

I. A pharmaceutical processor to whom a permit has been issued by the Board may *(i)* establish up to five cannabis dispensing facilities*, subject to the permit requirement set forth in subsection B,* for the dispensing of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board *and (ii) establish, if authorized by the Board, one additional location at which the pharmaceutical processor may cultivate cannabis plants*. Each cannabis dispensing facility *and the additional cultivation location* shall be located within the same health service area as the pharmaceutical processor.

J. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

L. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's dispensing area or cannabis dispensing facility.

M. A pharmaceutical processor may acquire industrial hemp extracts grown and processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before industrial hemp extracts may be acquired.

N. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board of Pharmacy shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board of Pharmacy shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

O. The Board shall register all cannabis products that meet testing, labeling, and packaging standards.

2. That the Board of Pharmacy (the Board) shall consider the following factors when determining whether to authorize an additional cannabis cultivation location: (i) the location of the proposed additional cannabis cultivation location, (ii) the distance of the proposed additional cannabis cultivation location from the pharmaceutical processor, (iii) access to a secure transportation network between the proposed additional cannabis cultivation location and the pharmaceutical processor, (iv) whether the proposed location for the additional cannabis cultivation facility is economically viable, (v) whether there is a demonstrated demand for additional cannabis cultivation, and (vi) any additional factors determined by the Board to be relevant in making its determination.

CERTIFICATION OF THE ACTS OF ASSEMBLY

2023 REGULAR SESSION

I, G. Paul Nardo, Clerk of the House of Delegates and Keeper of the Rolls of the Commonwealth, do hereby certify that the 2023 Regular Session of the General Assembly of the Commonwealth of Virginia, at which the Acts of Assembly herein printed were enacted, convened on Wednesday, January 11, 2023, and adjourned sine die on Saturday, February 25, 2023, and the Reconvened Session, pursuant to Section 6 of Article IV of the Constitution of Virginia, convened on Wednesday, April 12, 2023, and adjourned sine die on Wednesday, April 12, 2023.

G. PAUL NARDO
Clerk of the House of Delegates
and
Keeper of the Rolls of the Commonwealth

Note: Except as otherwise provided therein, all Acts of the 2023 Regular Session of the General Assembly, including the Reconvened Session, became effective at the first moment of July 1, 2023.

The Act contained in Chapter 739 became a chapter of the Acts of Assembly on March 27, 2023, pursuant to Section 1 of Article XII of the Constitution of Virginia and §§ 30-13, 30-14, and 30-19 of the Code of Virginia. This chapter, agreed to by the General Assembly as Senate Joint Resolutions, is not subject to presentation, review, and action by the Governor pursuant to Section 6 of Article V of the Constitution of Virginia.

The Acts contained in Chapters 740-800 became law without the signature of the Governor on April 12, 2023, pursuant to Section 6 (c) (iii) of Article V of the Constitution of Virginia.

The Acts contained in Chapters 801-812 were signed by the Governor on May 12, 2023, all having been returned to the Governor by the Reconvened Session, pursuant to Section 6 (c) (iii) of Article V of the Constitution of Virginia.

RESOLUTIONS OF THE GENERAL ASSEMBLY
2023 REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 463

Celebrating the life of John Tilghman Hazel, Jr.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, John Tilghman Hazel, Jr., a beloved member of the Fauquier County community who made an indelible impact on Northern Virginia as an attorney and developer, died on March 15, 2022; and

WHEREAS, John Tilghman "Til" Hazel, Jr., graduated from the former Washington-Lee High School in Arlington in 1947 before earning a bachelor's degree from Harvard College in 1951 and a juris doctor degree from Harvard Law School in 1954; and

WHEREAS, after graduation, Til Hazel served with the Judge Advocate General's Corps of the United States Army for three years before leaving for the Northern Virginia law firm of Jesse, Phillips, Klinge, and Kendrick in 1957, where he started as a general practicing attorney but soon honed a specialty in real estate and zoning law; and

WHEREAS, after a brief tenure as a general district court judge in Fairfax County from 1961 to 1963, Til Hazel returned to private practice, forming the firm Hazel, Beckhorn & Hanes in 1966, which was headquartered in Fairfax County and specialized in all aspects of real estate law; and

WHEREAS, under Til Hazel's leadership, Hazel, Beckhorn & Hanes grew to employ 65 lawyers by 1987, the same year that the firm merged with Thomas & Fiske of Alexandria to form the firm Hazel, Thomas, Fiske, Beckhorn & Hanes, which was later shortened to Hazel & Thomas PC in 1990; and

WHEREAS, Til Hazel facilitated the merger of Hazel & Thomas PC with the Pittsburgh-based Reed Smith Shaw & McClay LLP in 1999, forming what is now known as Reed Smith, an international law firm that employs more than 1,000 attorneys worldwide; and

WHEREAS, recognized during his career as one of the preeminent zoning lawyers in the Commonwealth, Til Hazel represented developers responsible for the creation of the Capital Beltway, Tysons Corner Center, and other regional landmarks; and

WHEREAS, becoming a developer in his own right in the 1970s with the founding of the real estate development firm Hazel/Peterson Companies, Til Hazel helped to transform Northern Virginia into one of the strongest regional economies in the nation by building highways, shopping centers, and suburban subdivisions such as Burke Centre, Franklin Farm, and Fair Lakes; and

WHEREAS, Til Hazel was the first Virginian to serve as the president of the Greater Washington Board of Trade, the founder and chairman of the Virginia Business Higher Education Council, and a board member for various organizations, including the University of Virginia's Miller Center Foundation, the National Air and Space Museum, the Corcoran Gallery, and the Washington Airports Task Force; and

WHEREAS, Til Hazel was a tireless education advocate whose philanthropic efforts included supporting George Mason University as it grew into the world-class institution that it is today and guiding elite secondary schools such as Flint Hill School in Oakton, St. Stephen's and St. Agnes School in Alexandria, Thomas Jefferson High School of Science and Technology in Alexandria, and Fredericksburg Academy in Spotsylvania County; and

WHEREAS, Til Hazel's accomplishments have been recognized by myriad honors over the years, including the 1987 Community Leadership Award from the Community Foundation for Northern Virginia, induction into the Washington Business Hall of Fame, and honorary degrees from The College of William & Mary, Christopher Newport University, and the Virginia Community College System; and

WHEREAS, preceded in death by his first wife, Marion, and his second wife, Anne, Til Hazel will be fondly remembered and dearly missed by his children, Leigh Ann, John III, James, Richard, Randolph, and William, and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of John Tilghman Hazel, Jr., a pillar of the Northern Virginia community whose tireless dedication shaped the region for years to come; and, be it

RESOLVED FURTHER, That the House of Delegates prepare a copy of this resolution for presentation to the family of John Tilghman Hazel, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 465

Commending James Douglas Butler, Sr.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, James Douglas Butler, Sr., an honorable veteran who achieved the rank of sergeant with the United States Army Air Corps during World War II, has demonstrated extraordinary dedication to his community, state, and country throughout his life; and

WHEREAS, James Douglas "Doug" Butler, Sr., grew up on his family's apple farm along U.S. Route 522 north of Winchester, where he would often help by pitching hay, picking apples, and plowing the fields with a team of horses; and

WHEREAS, in May 1943, a year after he graduated from Handley High School in Winchester, Doug Butler and his brother, Robert, were drafted into the United States Army; and

WHEREAS, without adequate technical training, Doug Butler was first assigned to the infantry, but through great determination and perseverance he soon earned a spot in Officer Candidate School and a commission in the United States Army Air Corps, a precursor to the United States Air Force; and

WHEREAS, recognizing the United States Army Air Corps' need for more gunners, Doug Butler applied to gunnery school and shortly thereafter became a nose-turret gunner with the 461st Bombardment Group (Heavy) of the Fifteenth Air Force; and

WHEREAS, Doug Butler safely flew in 35 high-risk bombing missions with a B-24 bomber crew based in Southern Italy, contributing greatly to the Allied war effort against the German Luftwaffe during World War II; and

WHEREAS, Doug Butler has maintained perfect attendance with the Kiwanis Club of Winchester since joining in 1949 and is also a founding and current member of the Kiwanis Club of Old Town and a 20-year member of the Kiwanis Club of Strasburg; and

WHEREAS, Doug Butler received a Legion of Honor award from Kiwanis International in 2018 for his many decades of service on behalf of the organization; and

WHEREAS, Doug Butler can often be seen driving around Winchester in his beautiful 1949 Willys-Overland Jeepster, which he has lovingly maintained in pristine condition; and

WHEREAS, Doug Butler often reflects on the life of his brother, Staff Sergeant Robert Butler, who died in combat during World War II, and honors his memory by placing flowers on his grave at Mount Hebron Cemetery in Winchester; and

WHEREAS, the courage and sacrifice exhibited by Doug Butler and his fellow veterans during World War II exemplify the exceptional character of his generation and serve as an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend James Douglas Butler, Sr., an honorable veteran of the United States Army Air Corps, for his noteworthy commitment to the well-being of his community, state, and nation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James Douglas Butler, Sr., as an expression of the General Assembly's respect and admiration for his service.

HOUSE JOINT RESOLUTION NO. 466

Commending Howard E. Robinson, Sr.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, Howard E. Robinson, Sr., a distinguished former educator in Mecklenburg County and member of the Greatest Generation who served the nation during World War II, celebrated his 100th birthday in 2022; and

WHEREAS, born on February 1, 1922, Howard Robinson was the youngest of 10 children and grew up in the segregation era, when a free public education was not guaranteed for Black Americans; and

WHEREAS, Howard Robinson worked at and attended the Thyne Institute, one of the only schools in the area open to Black students, and ultimately graduated as valedictorian of his class; he went on to attend Virginia State College, where he earned a full four-year scholarship and met his wife Anna Smith; and

WHEREAS, upon graduation with a degree in biology, Howard Robinson returned to the Thyne Institute as a teacher, before being drafted into the United States Army in 1942; and

WHEREAS, after his honorable military service during World War II, Howard Robinson resumed his position at Thyne Institute and taught biology, chemistry, and general science until September 1953, when he transferred to East End High School, the first free public secondary school for Black students in Mecklenburg County; and

WHEREAS, Howard Robinson continued his education with graduate-level coursework at The George Washington University and Virginia State College and earned a master's degree in guidance from the Hampton Institute in 1962; and

WHEREAS, Howard Robinson inspired young people at East End High School as a teacher and guidance counselor for 35 years until his retirement in 1987; over the course of his exceptional career, he touched the lives of more than

10,000 students, giving them the tools and support they needed to achieve success in higher education and careers and become good citizens of the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That Howard E. Robinson, Sr., hereby be commended on the occasion of his 100th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Howard E. Robinson, Sr., as an expression of the General Assembly's admiration for his personal and professional achievements.

HOUSE JOINT RESOLUTION NO. 467

Commending Robert Selden Duvall.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, Robert Selden Duvall, one of the greatest American actors of the past century and a longtime resident of the Commonwealth, has made a lasting impact on the art of filmmaking over a career spanning more than seven decades; and

WHEREAS, after graduating from Principia College in 1953, Robert Duvall honorably served his country as a member of the United States Army during the Korean War before studying acting at the Neighborhood Playhouse in New York with renowned teacher Sanford Meisner; and

WHEREAS, beginning his acting career in Off-Broadway and Broadway plays in the 1950s, Robert Duvall transitioned to television and film shortly thereafter, debuting as Boo Radley in the 1962 production of *To Kill a Mockingbird*; and

WHEREAS, Robert Duvall has since starred in some of the most acclaimed and popular films and television shows of all time, including *The Twilight Zone*, *The Outer Limits*, *THX 1138*, *Joe Kidd*, *The Godfather*, *The Godfather: Part II*, *M*A*S*H*, *True Grit*, *Tender Mercies*, *Falling Down*, *The Natural*, *Lonesome Dove*, and *Stalin*, one of his personal favorite performances; and

WHEREAS, Robert Duvall has been nominated for six Academy Awards, winning for his performance in *Tender Mercies*, as well as six Golden Globe Awards, winning four; he also received a National Medal of Arts from the National Endowment for the Arts in 2005; and

WHEREAS, Robert Duvall's father, Rear Admiral Lower Half William Howard Duvall, USN, Ret, hailed from Lorton, and Robert Duvall has called the Commonwealth home for more than two decades, first in Loudoun County and today in Fauquier County, where he and his wife, Luciana Pedraza, manage a horse farm from the 18th century named Byrnley Farm; and

WHEREAS, Robert Duvall has advocated ardently in the past in support of protecting the Wilderness Battlefield, a unit of the Fredericksburg and Spotsylvania National Battlefield Park, helping to ensure that visitors may appreciate the historical significance and natural beauty of this area for generations to come; and

WHEREAS, in recognition of his efforts to support farmland, scenic, and historic land preservation in the Commonwealth, Robert Duvall was presented the Richmonds Medal by Scenic Virginia and the Thames Landscape Strategy in 2018, becoming the first recipient from the United States to receive this distinguished honor; and

WHEREAS, Robert Duvall inspires his legions of fans not only through his stellar work as an actor, director, producer, and screenwriter and the sheer magnitude of his career filmography, but through the wholehearted and intentional way in which he lives his life, earning him the esteem and respect of all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Robert Selden Duvall, acclaimed actor and longtime resident of the Commonwealth, for his extraordinary impact on the art of filmmaking; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert Selden Duvall as an expression of the General Assembly's admiration for his work and for his contributions to the preservation of the Commonwealth's unparalleled beauty.

HOUSE JOINT RESOLUTION NO. 468

Commending Gillfield Baptist Church.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, Gillfield Baptist Church, one of the oldest African American congregations in Petersburg, celebrated its 225th anniversary in 2022; and

WHEREAS, Gillfield Baptist Church was first known as Davenport Church, which was founded in Prince George County in 1788 under the mission of the local First Baptist Church; and

WHEREAS, the congregation that would later become Gillfield Baptist Church achieved autonomy in 1797, marking the date of the church's founding, and relocated to Petersburg six years later; and

WHEREAS, known at various times in its earlier years as the Church of Our Lord Jesus Christ of Petersburg or Sandy Beach Church, Gillfield Baptist Church assumed its current name in 1878 upon the completion of its current church building, which was spearheaded by the Reverend Henry W. Williams, D.D., who led the congregation from 1865 to 1900; and

WHEREAS, Gillfield Baptist Church has been subsequently led by the Reverend George B. Howard (1900-1912), the Reverend Samuel Allen Brown (1913-1951), the Reverend Wyatt Tee Walker (1952-1960), the Reverend Grady Wilson Powell, Sr. (1961-1997), the Reverend Glenn Eugene Porter, Sr. (2000-2003), and Dr. George Washington Carter Lyons, Jr., who has been the pastor of the congregation since 2007; and

WHEREAS, under the leadership of the Reverend Wyatt Tee Walker, future chief of staff to the Reverend Dr. Martin Luther King, Jr., at the Southern Christian Leadership Conference, many members of Gillfield Baptist Church supported the civil rights movement in Petersburg in the 1950s and 1960s, participating in sit-ins at the local public library that helped to bring integrationist reforms to the city; and

WHEREAS, Gillfield Baptist Church has grown and developed over the years to enhance its ability to provide uplifting and meaningful opportunities for worship and outreach in the community, with the acquisition of an adjacent property in 2018 representing the third major expansion in the church's history; and

WHEREAS, over the past 225 years, Gillfield Baptist Church has offered spiritual guidance and comfort to its many members and extended ample aid and support to the community, becoming a vital part of what makes Petersburg a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Gillfield Baptist Church on the occasion of its 225th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. George Washington Carter Lyons, Jr., pastor of Gillfield Baptist Church, as an expression of the General Assembly's admiration for the church's history and its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 469

Designating the first Monday in October, in 2023 and in each succeeding year, as School Security Officer Day in Virginia.

Agreed to by the House of Delegates, February 3, 2023
Agreed to by the Senate, February 14, 2023

WHEREAS, school security officers play a vital role in schools throughout the Commonwealth and the United States by providing security and public safety services, as well as informal counseling and education; and

WHEREAS, school security officers help promote positive interactions between law enforcement and school children and school communities and have touched countless young lives through their integrity and dedication to duty; and

WHEREAS, school security officers in the Commonwealth work with students, educators, parents, other public safety organizations, and community partners to ensure safe learning environments, provide valuable resources to school staff members, and develop strategies to resolve problems that affect young people with the goal of protecting all children, allowing them to reach their fullest potential in and out of the classroom; and

WHEREAS, school security officers, along with school resource officers, play a critical role in the initial response to a school shooting or other acts of violence in or around a school; and

WHEREAS, school security officers are valuable and essential members of the education community and deserve respect and support from the public in the pursuit of their goals to keep schools and students safe; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the first Monday in October, in 2023 and in each succeeding year, as School Security Officer Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Virginia Department of Criminal Justice Services so that members of the agency may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 470

Designating October 4, in 2023 and in each succeeding year, as Henrietta Lacks Day in Virginia.

Agreed to by the House of Delegates, February 16, 2023
Agreed to by the Senate, February 14, 2023

WHEREAS, Henrietta Lacks, a native of Roanoke, unknowingly played a consequential role in the history of medical science as the source of the immortal HeLa line of cancer cells that have been used in critical research and the development of lifesaving treatments for decades; and

WHEREAS, Henrietta Lacks was born Loretta Pleasant on August 1, 1920, in Roanoke, and was raised by her grandfather on a tobacco farm in Clover, where their ancestors had worked as slaves; and

WHEREAS, Henrietta Lacks married her husband, David, in Halifax County in 1941, and the couple ultimately settled in the Turner Station area of what was then Baltimore County, Maryland, and which was one of the oldest and largest Black communities in the region at the time; and

WHEREAS, in January 1951, a few months after giving birth to her fifth child, Henrietta Lacks had a severe hemorrhage and sought treatment at Johns Hopkins Hospital, the only medical facility in the area that accepted Black patients; she learned that she had a large, malignant cervical tumor that was growing at an accelerated rate; and

WHEREAS, although radiation treatments initially appeared to be effective, the tumor was growing faster than the radiation could treat it, and Henrietta Lacks succumbed to cervical cancer on October 4, 1951, at the age of 31; she was buried in an unmarked grave in a family cemetery in Clover; and

WHEREAS, unbeknownst to her and her family, doctors at Johns Hopkins Hospital had taken samples of Henrietta Lacks' tumor during her treatment without her permission, a common practice in that era; and

WHEREAS, Henrietta Lacks' cells were cultured by Dr. George Gey, who for decades had unsuccessfully attempted to grow cancer cells outside of the human body without success; Henrietta Lacks' cells doubled every 24 hours and would divide and replenish themselves indefinitely, creating an immortal line of cells to be used for research, enabling researchers to conduct research without experimenting on humans; and

WHEREAS, this breakthrough provided Dr. Gey and other researchers with a strand of cancer cells, named "HeLa" for Henrietta Lacks, that survived outside of the human body for far longer than previously recorded; HeLa cells were the first human cells successfully cloned in 1955; the cells were distributed freely around the world to researchers who requested them, and millions of tons of the cells have been grown over the past 70 years; and

WHEREAS, HeLa cells were used to gauge the effects of radiation on human cells, research that led to the development of an HPV vaccine and helped to explain why Henrietta Lacks' cancer was so aggressive and resistant to radiation treatments; and

WHEREAS, HeLa cells have traveled in space, advanced medical research in fertility and genetics, expanded the understanding and treatment of cancer and AIDS, contributed to the invention of the first effective polio vaccine by Jonas Salk, and played a crucial role in the development of the COVID-19 vaccines; and

WHEREAS, the story of Henrietta Lacks is simultaneously fascinating and heartbreaking; what has been achieved through the use of HeLa cells is remarkable and cannot be understated; however, the cells were obtained without her knowledge or consent and without compensation paid to her or her family; and

WHEREAS, Henrietta Lacks' children learned the details of her medical records not from Johns Hopkins Hospital but from Bobbette Lacks, the wife of Henrietta's oldest son, Lawrence, who uncovered the truth by chance; and

WHEREAS, Bobbette Lacks was having lunch with a friend, who was a medical researcher, and after recognizing the Lacks name, the medical researcher explained to Bobbette that he and other scientists had been working with HeLa cells for years; and

WHEREAS, for decades, Henrietta Lacks' children had been kept in the dark about their mother's legacy after she visited Johns Hopkins Hospital in 1951, and since Bobbette Lacks learned the truth, they have worked diligently to publicize their mother's role in this pivotal chapter of medical history; and

WHEREAS, Henrietta Lacks Day provides an opportunity for Virginians to gain a better understanding of the study and use of HeLa cells, support cancer research, and provide help and hope to people with cancer and their families, as well as learn more about patient confidentiality and patients' rights in the health care field; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate October 4, in 2023 and in each succeeding year, as Henrietta Lacks Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to surviving descendants of Henrietta Lacks so that they may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 471

Providing for a Joint Assembly and establishing a schedule for the conduct of business coming before the 2023 Regular Session of the General Assembly of Virginia.

Agreed to by the House of Delegates, January 11, 2023
Agreed to by the Senate, January 11, 2023

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly shall meet in joint session in the Hall of the House of Delegates on Wednesday, January 11, 2023, at such time as specified by the Speaker of the House of Delegates, to receive the Governor of Virginia, and such address as he may desire to make, and that the rules for the government of the House of Delegates and the Senate, when convened in joint session for such purpose, shall be as follows:

Rule I. At the hour fixed for the meeting of the Joint Assembly, the Senators, accompanied by the President and the Clerk of the Senate, shall proceed to the Hall of the House of Delegates and shall be received by the Delegates standing.

Appropriate seats shall be assigned to the Senators by the Sergeant at Arms of the House. The Speaker of the House of Delegates shall assign an appropriate seat for the President of the Senate.

Rule II. The Speaker of the House of Delegates shall be President of the Joint Assembly. In case it shall be necessary for the Speaker to vacate the Chair, the President of the Senate shall serve as the presiding officer.

Rule III. The Clerk of the House of Delegates shall be Clerk of the Joint Assembly and shall be assisted by the Clerk of the Senate. The Clerk of the Joint Assembly shall enter the proceedings of the Joint Assembly in the Journal of the House and shall certify a copy of the same to the Clerk of the Senate, who shall enter the same in the Journal of the Senate.

Rule IV. The Sergeant at Arms and Doorkeepers of the House shall act as such for the Joint Assembly.

Rule V. The Rules of the House of Delegates, as far as applicable, shall be the rules of the Joint Assembly.

Rule VI. In calling the roll of the Joint Assembly, the names of the Senators shall be called in alphabetical order, then the names of the Delegates in like order, except that the name of the Speaker of the House of Delegates shall be called last.

Rule VII. If, when the Joint Assembly meets, it shall be ascertained that a majority of each house is not present, the Joint Assembly may take measures to secure the attendance of absentees, or adjourn to a succeeding day, as a majority of those present may determine.

Rule VIII. When the Joint Assembly adjourns, the Senators, accompanied by the President and the Clerk of the Senate, shall return to their chamber, and the business of the House shall be continued in the same order as at the time of the entrance of the Senators; and, be it

RESOLVED FURTHER, That notwithstanding any other provision of this resolution and in accordance with the practices of each house, with the exception of commending and memorial joint resolutions, a request to be added as a co-patron shall be received prior to the first vote on the passage of a bill or agreement to a joint resolution or, if the bill or joint resolution is not reported from committee, then prior to the last action on such legislation. A request to be removed as a co-patron shall be received no later than 3:00 p.m., Friday, February 17, 2023; and, be it

RESOLVED FURTHER, That any joint resolution creating or continuing a study shall require a vote of two-thirds of the members voting in each house and any resolution creating or continuing a study shall require a vote of two-thirds of the members voting in the respective house; and, be it

RESOLVED FURTHER, That any member offering for introduction a bill or joint resolution not submitted to the Division of Legislative Services for drafting is encouraged to submit an electronic version no later than 5:00 p.m. on the day the legislation is introduced; and, be it

RESOLVED FURTHER, That for purposes of the procedural deadlines established herein for the 2023 Regular Session of the General Assembly:

"Budget Bill" means the general appropriation bill introduced in each house that authorizes the biennial expenditure of public revenues for the period from July 1, 2022, through June 30, 2024.

"Debt bill" means any bill that authorizes the issuance of debt.

"Legislative day" means the period of time that begins with the call to order by the presiding officer and ends when declared adjourned by the presiding officer. Unless another time is specified, any deadline established in this resolution shall expire at the end of the legislative day.

"Prefiled legislation" means any bill or joint resolution requested from the Division of Legislative Services no later than 5:00 p.m., Thursday, December 1, 2022, and prefiled no later than 10:00 a.m., Wednesday, January 11, 2023, or any bill or joint resolution not requested from the Division of Legislative Services and prefiled no later than 10:00 a.m., Wednesday, January 11, 2023.

"Revenue bill" means any bill, except the Budget Bill and debt bills, that increases or decreases the total revenues available for appropriation.

"Unanimous consent" means the affirmation of all the members present in the house of origin. Any legislation intended to be offered for introduction with unanimous consent or with the written request of the Governor shall not require the consent of the house in order for the member to request the Division of Legislative Services to draft such legislation. The Division of Legislative Services shall return such legislation after the original introduction deadline.

"Virginia Retirement System bill" means any bill that amends, adds, repeals, or modifies any provision of any retirement system established in Title 51.1 of the Code of Virginia; and, be it

RESOLVED FINALLY, That the 2023 Regular Session of the General Assembly shall be governed by the following procedural rules, which establish introduction limits and time limitations for elections and for all legislation prefiled and introduced for or continued to the 2023 Regular Session except:

(i) House and Senate resolutions, except for the time limitations established in Rules 19 and 21;

(ii) Bills and joint resolutions affecting the rules of procedure or the schedule of business of the General Assembly, either of its houses, or any of its committees;

(iii) Bills and joint resolutions introduced with unanimous consent to exceed the introduction limits in Rule 1 or to exceed the time limitations in Rules 3, 4, 7, and 17;

(iv) Joint resolutions confirming appointments subject to the confirmation of the General Assembly;

(v) Joint commending and memorial resolutions, except for the time limitations established in Rules 15 and 17;

(vi) Bills, joint resolutions, or resolutions regarding elections held by the General Assembly during the 2023 Regular Session; or

(vii) Bills and joint resolutions requested in writing by the Governor.

Rule 1. After the deadline for filing prefiled legislation established by House Joint Resolution 22 (2022), no member of the House of Delegates shall introduce more than a combined total of five bills and referred joint resolutions and no member of the Senate shall introduce more than a combined total of six bills and joint resolutions. Notwithstanding the provisions of this rule and in accordance with House Rule 37, no member of the House of Delegates may introduce more than 15 bills during the 2023 Regular Session.

Rule 2. Neither house of the General Assembly shall receive from any committee any bill or joint resolution that was continued on the agenda of such committee and acted upon later than midnight, Monday, November 21, 2022. For purposes of this rule, a motion to refer a measure to another committee shall be treated as an action by a committee.

Rule 3. No bill or joint resolution creating or continuing a study shall be offered in either house after adjournment of that house on Wednesday, January 11, 2023.

Rule 4. No Virginia Retirement System bill shall be offered in either house after adjournment of that house on Wednesday, January 11, 2023.

Rule 5. Except for bills and joint resolutions required to be requested earlier, requests for the drafting, redrafting, or correction of any bill or joint resolution shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Friday, January 13, 2023.

Rule 6. No later than Monday, January 16, 2023, each house shall begin its consideration of any election to fill any judicial seat in the courts of the Commonwealth, or to fill a seat on any commission or office elected by the General Assembly. In the event that the houses cannot agree on such election before Tuesday, January 17, 2023, such election shall become the subject of a special and continuing joint order in each house, and such special and continuing joint order shall have precedence over all other business of either house, until such time as both houses reach agreement on such election or agree to hold it at another specific time. The Rules of each house, as far as applicable, shall be the rules governing such election.

Rule 7. Except for bills required to be filed earlier, no bill or joint resolution shall be offered in either house after 3:00 p.m., Friday, January 20, 2023.

Rule 8. No later than Friday, January 20, 2023, the Board of Trustees of the Virginia Retirement System shall submit, in accordance with § 30-19.1:7, impact statements for all Virginia Retirement System bills filed by the first day of session. For any Virginia Retirement System bill filed later than the first day of session, the Board of Trustees shall use due diligence in preparing the impact statement in time for review by the standing committees.

Rule 9. Except for the Budget Bill, beginning Wednesday, February 8, 2023, the House of Delegates shall consider only Senate bills, Senate joint resolutions, House bills with Senate amendments, and House joint resolutions with Senate amendments; the Senate shall consider only House bills, House joint resolutions, Senate bills with House amendments, and Senate joint resolutions with House amendments; and each house may consider conference reports and other privileged matters relating thereto to the end that the work of each house may be disposed of by the other.

Rule 10. The committees responsible for the consideration of the Budget Bill in the houses of introduction shall complete their work on such bill no later than midnight, Sunday, February 5, 2023, and any amendments proposed by such committees shall be made available to their respective houses no later than noon, Tuesday, February 7, 2023.

Rule 11. The houses of introduction shall complete their consideration of the Budget Bill, except for conference reports and other privileged matters relating thereto, no later than Thursday, February 9, 2023.

Rule 12. The committees responsible for the consideration of revenue bills of the other house shall complete their consideration of such bills no later than Tuesday, February 14, 2023.

Rule 13. No later than midnight, Wednesday, February 15, 2023, each house shall complete its consideration of the Budget Bill and all revenue bills of the other house, except for conference reports and other privileged matters relating thereto, and the appointing authority shall appoint the conferees to such bills.

Rule 14. No later than Wednesday, February 15, 2023, each house shall begin its consideration of any election to fill any judicial seat in the courts of the Commonwealth, or to fill a seat on any commission or office elected by the General Assembly. In the event that the houses cannot agree on such election before Thursday, February 16, 2023, such election shall become the subject in each house of a special and continuing joint order, and such special and continuing joint order shall have precedence over all other business of either house until such time as both houses reach agreement on such election, or either house votes to suspend or discharge the order. The Rules of each house, as far as applicable, shall be the rules governing any such election.

Rule 15. Requests for the drafting, redrafting, or correction of any joint commending or memorial resolution shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Thursday, February 16, 2023.

Rule 16. Any conference committee on any revenue bills shall complete its deliberations and make the report of such conference available to the General Assembly as soon as practicable.

Rule 17. No joint commending or memorial resolution shall be offered in either house after 5:00 p.m., Monday, February 20, 2023.

Rule 18. Beginning Tuesday, February 21, 2023, neither house shall receive from any committee any bill or joint resolution acted on by any committee later than midnight, Monday, February 20, 2023.

Rule 19. Requests for the drafting, redrafting, or correction of any single-house commending or memorial resolution shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Tuesday, February 21, 2023.

Rule 20. Any conference committee on the Budget Bill shall complete its deliberations and make the report of such conference available to the General Assembly as soon as practicable. Neither house shall consider such conference report earlier than 48 hours after receipt, unless both houses respectively determine to proceed earlier by a vote of two-thirds of the members voting in each house. No engrossment of the Budget Bill shall be required in either house, and any conference on the Budget Bill shall consider, as the basis of its deliberations, the Budget Bill as recommended by the Governor and introduced in the House and the amendments thereto proposed by each house. A report shall be issued concurrently with the report of the conference committee that identifies the following by item number, narrative description, and dollar amount: (i) any nonstate agency appropriation, (ii) any item in the conference report that was not included in a general appropriation bill as passed by either the House or the Senate, and (iii) any item that represents legislation that failed in either house during the regular or a special session.

Rule 21. No single-house commending or memorial resolution shall be offered in either house after 5:00 p.m., Thursday, February 23, 2023.

Rule 22. Except for joint resolutions affecting the rules of procedure or the schedule of business of the General Assembly, beginning Friday, February 24, 2023, the House shall consider only Senate joint resolutions and House joint resolutions with Senate amendments; the Senate shall consider only House joint resolutions and Senate joint resolutions with House amendments; and each house may consider conference reports or joint resolutions and other privileged matters relating thereto, to the end that the work of each house may be disposed of by the other.

Rule 23. This session of the General Assembly shall be extended beyond the 30-day period provided in Section 6 of Article IV of the Constitution of Virginia and shall adjourn sine die no later than Saturday, February 25, 2023.

Rule 24. Pursuant to Section 6 of Article IV of the Constitution of Virginia, the General Assembly shall reconvene Wednesday, April 12, 2023, for the purpose of considering bills and items of appropriation bills that may have been returned by the Governor with recommendations for their amendment, and bills and items of appropriation bills, including the general appropriation act, that may have been returned by the Governor with his objections.

Rule 25. The conduct of the business of any subcommittee of any House committee, any joint subcommittee of House and Senate committees, and any interim study commission created pursuant to a House measure shall be governed by the Rules of the House of Delegates; the conduct of the business of any subcommittee of any Senate committee, any joint subcommittee of Senate and House committees, and any interim study commission created pursuant to a Senate measure shall be governed by the Rules of the Senate. If a House measure and a Senate measure create the same study, the conduct of business of the study shall be governed by the rules of the house of the chairman of the study, or in the case of co-chairmen, the rules of the house as agreed upon by the co-chairmen.

Rule 26. Interim meetings of any standing committee, joint committee, joint subcommittee, legislative commission, or any other interim study subcommittee or study commission shall be held on Monday, Tuesday, or Wednesday during the first and third full weeks of the month, unless otherwise authorized by the Speaker of the House of Delegates or the Chairman of the Senate Committee on Rules, as may be appropriate for the house in which the chairman serves.

Rule 27. Any staff member assigned to work for, and support the efforts of, any committee of the House or Senate, any subcommittee of any such committee, any joint subcommittee of House and Senate committees, or any interim study commission shall work under the direction of the chairman of such committee, subcommittee, joint subcommittee, or interim study commission.

HOUSE JOINT RESOLUTION NO. 472

Establishing a schedule for the conduct of business for the prefiling period of the 2024 Regular Session of the General Assembly of Virginia.

Agreed to by the House of Delegates, January 11, 2023
Agreed to by the Senate, January 11, 2023

RESOLVED by the House of Delegates, the Senate concurring, That the prefiling period of the 2024 Regular Session of the General Assembly shall be governed by the following rules:

Rule 1. Requests for drafts of any bill or joint resolution to be prefiled shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Thursday, November 30, 2023. The Division shall make such drafts available for review no later than midnight, Friday, December 29, 2023.

Rule 2. Requests for the drafting, redrafting, or correction of any bill or joint resolution creating or continuing a study shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Friday, January 5, 2024, in order to be filed on the first day of the 2024 Regular Session.

Rule 3. Requests for redrafts and corrections of any draft prepared for prefiling shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Friday, January 5, 2024. The Division shall make such drafts available no later than noon, Tuesday, January 9, 2024.

Rule 4. Bills and joint resolutions offered for prefiling shall be prefiled in either house no later than 10:00 a.m., Wednesday, January 10, 2024. Any member offering for prefiling a bill or joint resolution not submitted to the Division of

Legislative Services for drafting is encouraged to submit an electronic version no later than 5:00 p.m. on the day the legislation is prefiled.

HOUSE JOINT RESOLUTION NO. 475

Designating the fourth Wednesday in April, in 2023 and in each succeeding year, as Career and Technical Education Letter of Intent Signing Day in Virginia.

Agreed to by the House of Delegates, February 3, 2023
Agreed to by the Senate, February 14, 2023

WHEREAS, school systems throughout the Commonwealth are committed to ensuring that students are enrolled in a two-year or four-year college, enlisted in the military, or employed when they graduate from high school; and

WHEREAS, career and technical education programs provide an alternative to two-year or four-year colleges, and millions of American students are currently enrolled in such programs; and

WHEREAS, career and technical education (CTE) courses allow students to directly enter the workforce or post-secondary training connected to workforce development through apprenticeship in a variety of occupational fields, including agriculture, construction, manufacturing, information technology, and health science; and

WHEREAS, in addition to gaining specific career-related knowledge, participants in CTE programs learn essential skills like time management, problem solving, and critical thinking to help them prepare for the challenges and opportunities of the workplace; and

WHEREAS, CTE programs motivate and engage students by providing hands-on activities in which they can further their expertise and interact with community members, potential employers, and students and teachers who share their vocational interests; and

WHEREAS, similar to the signing day celebrations that are held when young athletes declare which college they will attend, CTE Letter of Intent Signing Day recognizes the same important commitment made by career and technical education students; and

WHEREAS, CTE Letter of Intent Signing Day creates an opportunity for businesses to engage directly with students and provide essential information on training requirements and expectations, as well as employment benefits and compensation; and

WHEREAS, Henrico County Public Schools has already started CTE Letter of Intent Signing Day in 2018, which it continued in 2019, 2021, and 2022, gaining national attention by being featured on CNN Headline News, Fox News, and Today.com, and earning first place among large Virginia school divisions in the 2019 Excellence in Workforce Readiness Awards for its CTE Letter of Intent Signing Day program; and

WHEREAS, school systems throughout the Commonwealth are encouraged to develop their own public CTE Letter of Intent Signing Day events, where parents, teachers, friends, and members of the media can observe students and employer sponsors signing letters of intent; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the fourth Wednesday in April, in 2023 and in each succeeding year, as Career and Technical Education Letter of Intent Signing Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Virginia Association of Career and Technical Education so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 477

Commending the Amelia Dixie Youth Major League All-Star Team.

Agreed to by the House of Delegates, January 23, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, the Amelia Dixie Youth Major League All-Star Team, a baseball program in Amelia County for boys between the ages of 11 and 12, won the Dixie Youth Division II Majors World Series in 2022; and

WHEREAS, Dixie Youth Baseball currently provides youth baseball opportunities in 11 states, including Virginia, and the Amelia Dixie Youth organization has provided recreational and athletic opportunities for thousands of young people in Amelia County since 1958; and

WHEREAS, the Amelia Dixie Youth Major League All-Star Team advanced to the Dixie Youth Division II Majors World Series as the runner-up team from Virginia; the six-day tournament took place in Anderson, South Carolina, and began on July 29, 2022; and

WHEREAS, the Amelia Dixie Youth Major League All-Star Team made history with an unprecedented 5-0 run in the tournament and secured the world series title with a 10-5 victory over the team from Lunenburg County on August 3, 2022; and

WHEREAS, the Amelia Dixie Youth Major League All-Star Team benefited from the outstanding leadership of manager Mark Borum and coaches Peter Dietz and Tead Harvie, as well as the support of family, friends, and members of the Amelia County community; and

WHEREAS, each of the young athletes—Levi Borum, Carson Dietz, Evan Fisher, Taylor Harvie, Jordan Hathaway, Austin Miracle, Carson Roberts, Anthony Rudge, Ben Schenck, Lucas Stocks, and Matthew Williams—worked diligently throughout the season and contributed to the championship victory; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Amelia Dixie Youth Major League All-Star Team on winning the 2022 Dixie Youth Division II Majors World Series; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Amelia Dixie Youth Major League All-Star Team as an expression of the General Assembly's admiration for the team's achievements and best wishes for the future.

HOUSE JOINT RESOLUTION NO. 479

Commemorating the 50th anniversary of Secretariat's Triple Crown victory.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, Secretariat, one of the best-known thoroughbred racehorses in the history of the sport, was born on March 30, 1970, at Meadow Farm, in Caroline County; and

WHEREAS, Secretariat, a strapping chestnut colt, was unanimously voted America's Horse of the Year as a two-year-old in 1972, the first juvenile ever so honored; and

WHEREAS, as a three-year-old in 1973, Secretariat became the first thoroughbred in 25 years to win racing's coveted Triple Crown—the Kentucky Derby in Louisville, the Preakness Stakes in Baltimore, and the Belmont Stakes in New York—in the brief span of five weeks; and

WHEREAS, Secretariat accomplished the unprecedented feat of breaking the stakes' record in all three Triple Crown races, including the one and one-quarter mile Kentucky Derby in one minute and 59 and two-fifths seconds, the one and three-sixteenths mile Preakness Stakes in one minute and 53 seconds, and the one and one-half mile Belmont Stakes in two minutes and 24 seconds flat; and

WHEREAS, Secretariat's astonishing 31-length victory in the Belmont Stakes is widely perceived as the single greatest performance in the history of the ancient sport of kings; and

WHEREAS, Secretariat was again voted America's Horse of the Year at the conclusion of the 1973 season; and

WHEREAS, as a breeding stallion, Secretariat had a lasting impact on the thoroughbred breed, especially through his daughters from whom additional champions have been issued; and

WHEREAS, Secretariat, who died in 1989, is today considered by many equestrians to be the greatest thoroughbred in the modern history of American horse racing, and is the standard of excellence against which all other racehorses have been measured for a half of a century; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commemorate Secretariat's Triple Crown victory on the 50th anniversary of the races in 2023; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Caroline County Board of Supervisors, representing the citizens of Caroline County, as an expression of the esteem in which the memory of Secretariat, among the finest athletes ever born in the Commonwealth, is held by the members of the General Assembly.

HOUSE JOINT RESOLUTION NO. 480

Commending Heart of Virginia Free Clinic.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, for 10 years, Heart of Virginia Free Clinic has provided outstanding primary medical care to uninsured residents of Farmville and the surrounding region at no cost; and

WHEREAS, established in 2012, Heart of Virginia Free Clinic serves uninsured individuals between the ages of 18 and 64, some of whom have an annual income that is 300 percent below the poverty level, from the Counties of Amelia, Appomattox, Buckingham, Charlotte, Cumberland, Lunenburg, Mecklenburg, Nottoway, and Prince Edward; and

WHEREAS, over the course of its history, Heart of Virginia Free Clinic has provided treatment to more than 500 individual patients representing more than 8,000 visits; and

WHEREAS, Heart of Virginia Free Clinic has filled more than $1 million worth of prescriptions for patients and covered lab tests worth nearly $150,000; and

WHEREAS, Heart of Virginia Free Clinic has conducted dozens of eye exams and over 300 dental exams and provided free eyeglasses and dentures when necessary; in addition, the clinic has provided dozens of glucometers and blood pressure cuffs to allow patients to monitor their blood sugar levels and blood pressure at home; and

WHEREAS, Heart of Virginia Free Clinic has been a leader in women's health in the region, conducting hundreds of screenings for breast cancer and cervical cancer; and

WHEREAS, Heart of Virginia Free Clinic has achieved its mission through the hard work and dedication of its licensed volunteer doctors, nurses, nurse practitioners, and pharmacists; and

WHEREAS, Heart of Virginia Free Clinic has received limited federal funding and support from some of the localities it serves and Centra Health; it has also benefited from generous contributions by local civic organizations, churches, private businesses, private foundation grants, and individuals; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Heart of Virginia Free Clinic on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Heart of Virginia Free Clinic as an expression of the General Assembly's admiration for the clinic's contributions to the good health and wellness of Virginians of the highest need.

HOUSE JOINT RESOLUTION NO. 481

Commending Dorothy Lipsitz Robinson.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, Dorothy Lipsitz Robinson, a former member of the Chase City Town Council and an active volunteer in her community, received the 2022 Elizabeth Statuta Baker '70 Public Service Award from her alma mater, Goucher College, for her outstanding contributions to leadership in public service; and

WHEREAS, a proud native of Chase City, Dorothy Robinson attended Goucher College in Towson, Maryland, and graduated with the Class of 1942; and

WHEREAS, during World War II, Dorothy Robinson served the nation as a junior clerk in what was then the United States Department of War and subsequently worked at Sinai Hospital in Baltimore as a volunteer coordinator; and

WHEREAS, in 1952, Dorothy Robinson and her husband, George, returned to her hometown of Chase City and worked in her parents' department store, which was well known for its exceptional customer service and contributions to local life; and

WHEREAS, Dorothy Robinson volunteered her leadership and expertise to many community organizations; she notably served as a board member and twice as president of the Mecklenburg County chapter of the American Red Cross and as an active member and three-term president of the Fortnightly Club; and

WHEREAS, desirous to be of further service, in 1984 Dorothy Robinson ran for and was elected to the Chase City Town Council; during her two terms in local government, she helped attract new businesses to the area and advocated for the revitalization of downtown Chase City; and

WHEREAS, Dorothy Robinson helped preserve and promote the history of the region as a docent at the MacCallum More Museum and Gardens; a passionate lifelong learner with a keen appreciation for the importance of literacy, she also tutored students in reading, was president of Friends of the Library, and raised money to build a new local library; and

WHEREAS, Dorothy Robinson touched countless lives through her commitment to excellence in servant leadership and served the Chase City community with the utmost dedication; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Dorothy Lipsitz Robinson on her selection as the winner of the 2022 Elizabeth Statuta Baker '70 Public Service Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dorothy Lipsitz Robinson as an expression of the General Assembly's admiration for her achievements and service to the Chase City community.

HOUSE JOINT RESOLUTION NO. 483

Celebrating the life of Janet Bennett Martin.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, Janet Bennett Martin of Great Falls, a passionate educator who touched countless lives during her distinguished career at Langley High School, died on October 11, 2022; and

WHEREAS, Janet Martin grew up in Greenville, South Carolina, and graduated from Furman University with degrees in English and history; and

WHEREAS, Janet Martin relocated to the Washington, D.C., area in 1963 and began her career in education at W.T. Woodson High School, where she met her future husband, Arthur, a fellow teacher; the couple spent their first year of marriage in England after Arthur won a scholarship with the Fulbright Program; and

WHEREAS, in 1971, Janet Martin joined the faculty of Langley High School, where she served and supported young people for the next 24 years as an inspirational teacher and a trusted mentor; and

WHEREAS, Janet Martin brought joy to others through her genuine warmth, kindness, and sense of humor, and she earned the admiration of her colleagues for her vast knowledge of history and impeccable command of current events; and

WHEREAS, during her long tenure at Langley High School, Janet Martin and two other teachers established the American Civilization course, an interdisciplinary humanities program for students in 11th grade that integrated history and literature studies with philosophy, music, art, theater, and dance; and

WHEREAS, Janet Martin was an avid patron of the musical and performing arts, attending productions at Wolf Trap, Arena Stage at the Mead Center for American Theater, and the John F. Kennedy Center for the Performing Arts; and

WHEREAS, Janet Martin also volunteered her time to support a wide range of charitable organizations, including the Sierra Club, Habitat for Humanity, and several local food banks and shelters; and

WHEREAS, predeceased by her beloved husband of 44 years, Arthur, Janet Martin will be fondly remembered and greatly missed by her children, Thomas, Shannon, and Mark, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Janet Bennett Martin, a devoted educator in Fairfax County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Janet Bennett Martin as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 486

Commending the Reverend Dr. Martin Luther King, Jr., Planning Committee.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, the Reverend Dr. Martin Luther King, Jr., Planning Committee, an organization that spearheads the City of Alexandria's annual Martin Luther King, Jr., Memorial Program, celebrates its 50th anniversary in 2023; and

WHEREAS, for the first 35 years of its existence, the Reverend Dr. Martin Luther King, Jr., Planning Committee was chaired by Alexandria civic leader and activist Alice P. Morgan, who organized the inaugural memorial program to honor the life and legacy of the Reverend Dr. Martin Luther King, Jr., in 1973; and

WHEREAS, a decade before President Ronald Reagan established a federal holiday honoring the birthday of the Reverend Dr. Martin Luther King, Jr., and nearly three decades prior to official designation of the holiday by every state, the Reverend Dr. Martin Luther King, Jr., Planning Committee convinced Charles Beatley, mayor of the City of Alexandria, to endorse a citywide memorial program on King's birthday; and

WHEREAS, the Reverend Dr. Martin Luther King, Jr., Planning Committee takes great effort to develop a diverse, interfaith, and intergenerational memorial program that exemplifies the principles and ideals of both the committee's founder, Alice P. Morgan, and the Reverend Dr. Martin Luther King, Jr.; and

WHEREAS, over the past half-century, the Reverend Dr. Martin Luther King, Jr., Planning Committee's memorial program has featured some of Alexandria's most beloved musicians and a wide array of distinguished speakers, including local elected officials, dignitaries, faith leaders, civic leaders, activists, and journalists; and

WHEREAS, since Alice P. Morgan's tenure, the Reverend Dr. Martin Luther King, Jr., Planning Committee has been helmed by Jo J. Butler, Mabel T. Lyles, and, most recently, Rosa Byrd, who has been chair of the organization since 2016; and

WHEREAS, the Reverend Dr. Martin Luther King, Jr., Planning Committee is supported by more than a dozen volunteers who meet monthly in preparation for each year's memorial program; and

WHEREAS, many notable citizens have volunteered with the Reverend Dr. Martin Luther King, Jr., Planning Committee over the years, including Lawrence P. "Robbie" Robinson, who is the longest serving member in the committee's history and who remains active with the committee as its official photographer; and

WHEREAS, the efforts of the Reverend Dr. Martin Luther King, Jr., Planning Committee are facilitated by many youth in the community, who serve as hosts and hostesses for the memorial program beginning in elementary school and continuing through their high school graduation, as well as various places of worship, which serve as venues for the day's activities; and

WHEREAS, the Reverend Dr. Martin Luther King, Jr., Planning Committee collaborates with the City of Alexandria and various local religious, spiritual, civic, and social organizations to bring glory to the memory of the Reverend Dr. Martin Luther King, Jr., and to foster greater appreciation for his pursuit of racial, social, and economic justice; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Reverend Dr. Martin Luther King, Jr., Planning Committee on the occasion of its 50th anniversary in 2023; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rosa Byrd, chair of the Reverend Dr. Martin Luther King, Jr., Planning Committee, as an expression of the General Assembly's admiration for the organization's history and its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 488

Designating October, in 2023 and in each succeeding year, as Dyslexia Awareness Month in Virginia.

Agreed to by the House of Delegates, February 3, 2023
Agreed to by the Senate, February 14, 2023

WHEREAS, a specific learning disability related to a deficit in the phonological component of language, dyslexia is neurobiological in origin and causes problems with decoding and identifying speech sounds and understanding how they relate to words and letters; and

WHEREAS, approximately one in five students in the United States are affected by a language-based learning disability, and dyslexia is the most common of the language-based learning disabilities in the country; and

WHEREAS, the achievement gap between typical readers and dyslexic readers occurs as early as first grade, and it is critical to provide effective teaching approaches and related clinical educational intervention strategies for individuals with dyslexia; and

WHEREAS, early screening for and early diagnosis of dyslexia can ensure that individuals with dyslexia receive focused, evidence-based intervention that leads to fluent reading, the promotion of self-awareness and self-empowerment, and the provision of necessary accommodations to build success in school and in life; and

WHEREAS, many successful individuals, including people in business, government, sports, and entertainment, have overcome learning difficulties related to dyslexia; and

WHEREAS, the Commonwealth has many regulations and programs in place to improve the lives of individuals with dyslexia through intervention, screening, and service requirements; and

WHEREAS, Dyslexia Awareness Month provides an opportunity to acknowledge educators specializing in effective teaching strategies and to celebrate the many achievements of adolescents, students, and adults with dyslexia; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate October, in 2023 and in each succeeding year, as Dyslexia Awareness Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Virginia Branch of the International Dyslexia Association so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this month on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 491

Celebrating the life of Arthur David Toth, Jr.

Agreed to by the House of Delegates, January 23, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, Arthur David Toth, Jr., a devoted community leader in Richmond, accomplished small businessman and fashion retailer, noted animal lover, and loving son, brother, and friend, died on April 24, 2022; and

WHEREAS, Arthur "Art" David Toth, Jr., was well known in many different fields for his leadership, dedication, and passion to that to which he applied himself, achieving success in the worlds of fashion, dog handling, and small business ownership; and

WHEREAS, Art Toth was a close and supportive friend to many and was appreciated for his mentorship and unwavering commitment to equity and inclusion, especially for the LGBTQIA+ community; and

WHEREAS, a proud and loyal graduate of Michigan State University, Art Toth was a member of Psi Upsilon Fraternity and was an unwavering supporter of Spartan athletics, most recently traveling to Atlanta to see the school's football team prevail at the 54th Peach Bowl in 2021; and

WHEREAS, upon graduating from Michigan State University, Art Toth began a long and rewarding career in retail, first working for the J.L. Hudson Department Store in Detroit before finding his way to the Commonwealth and assuming vice president leadership positions at Miller & Rhoads and Thalhimers in Richmond; and

WHEREAS, declining to join the May Department Stores Company upon its purchase of Thalhimers, Art Toth opted instead to stay in his adopted and beloved hometown of Richmond to forge his way as a small business entrepreneur; and

WHEREAS, Art Toth opened La Grande Dame in Richmond's Stony Point Shopping Center in 1991, creating one of the nation's first fashion boutiques designed for women sizes 14 and up; and

WHEREAS, Art Toth cultivated a long list of dedicated, loyal customers that basked in his positive and loving energy, and this community grew even stronger when the business moved to Richmond's Libbie and Grove corridor in 2000; and

WHEREAS, Art Toth was known and respected in New York City's Garment District, establishing lasting relationships with women's clothing vendors that would serve him and his customers throughout his retail career; and

WHEREAS, a passionate animal lover, Art Toth bred and showed dogs and won "Best in Breed" at the Westminster Kennel Club in 2006 with his beloved Welsh Terrier; and

WHEREAS, Art Toth was very involved in and loved the Richmond community, serving on the board of directors and as chair and chair emeritus of Diversity Richmond, where he helped to promote a vision for a more inclusive Richmond; and

WHEREAS, Art Toth is lovingly remembered by his life partner, Steve; his siblings, Joseph and Gloria, and their families; and legions of loyal customers and devoted friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Arthur David Toth, Jr., a dedicated and exceptional community leader in Richmond whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Arthur David Toth, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 492

Celebrating the life of the Reverend Dr. Robert L. Pettis, Sr.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, the Reverend Dr. Robert L. Pettis, Sr., an inspirational spiritual leader who strengthened the Richmond community, died on March 19, 2022; and

WHEREAS, Robert Pettis was born in San Francisco, California, and began to cultivate his deep faith at a young age; he was licensed to preach at the age of 16 and was ordained in 1976; and

WHEREAS, Robert Pettis graduated from Ravenswood High School in East Palo Alto and attended what is now Biola University; he subsequently earned a bachelor's degree from Bishop College in Texas, where he was an active member of Concord Baptist Church; and

WHEREAS, Robert Pettis relocated to the Commonwealth and enrolled at the Samuel DeWitt Proctor School of Theology of Virginia Union University, from which he earned a master of divinity degree; he was later selected as one of the first candidates for the institution's doctor of divinity program and graduated with a focus in church management; and

WHEREAS, in May 1981, Robert Pettis became the pastor of Zion Baptist Church and helped the church grow in faith and number during more than 40 years of leadership; he established a wide range of ministries and outreach programs that helped empower and uplift members of the congregation and the wider community; and

WHEREAS, in 2016, Robert Pettis joined the Parliamentary Law Club of Richmond and served as president of the organization for three years, as well as recently serving as chaplain; and

WHEREAS, Robert Pettis will be fondly remembered and greatly missed by his wife of 39 years, Palma; his children, Nichole, Ashley, and Robert, Jr.; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Dr. Robert L. Pettis, Sr., a highly admired faith leader in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Dr. Robert L. Pettis, Sr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 493

Commending the Library of Virginia.

Agreed to by the House of Delegates, January 24, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, for 200 years, the Library of Virginia has acquired, preserved, and provided access to unique collections of documents and other media related to the history of Virginia while advancing the fields of library science and records management throughout the Commonwealth; and

WHEREAS, originally located on the third floor of the State Capitol, the Library of Virginia was established by the General Assembly in 1823 to organize, care for, and manage the Commonwealth's collection of books and official records, many of which dated back to the early colonial period; and

WHEREAS, as its collection continued to expand over the years, the Library of Virginia relocated to what is now the Oliver Hill Building in 1895 and to what is now the Patrick Henry Building in 1940; the institution moved to its current location on East Broad Street in 1997; and

WHEREAS, with the largest and most comprehensive collection of materials on Virginia government, history, and culture, the Library of Virginia highlights the people, places, and events that have made Virginia unique and demonstrates the Commonwealth's contributions to the United States and the world; and

WHEREAS, the Library of Virginia features highly regarded manuscript, map, and photographic collections that have attracted researchers from around the globe, and many of its resources are available online through digital collections; the institution hosts a wide array of exhibitions, lectures, and other educational programs for members of the public; and

WHEREAS, the Library of Virginia provides critical research and reference assistance to members of state government and manages the State Records Center, which houses inactive, non-permanent records of state agencies and local governments; and

WHEREAS, the Library of Virginia has also offered consulting services to public library systems in the Commonwealth and administers numerous local, state, and federal grant programs; and

WHEREAS, over the course of its history, the Library of Virginia has inspired a passion for learning and creativity among countless patrons, facilitated understanding of the past, and helped state officials and agencies build a stronger future; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Library of Virginia on the occasion of its 200th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Library of Virginia as an expression of the General Assembly's admiration for the institution's work to preserve the history and heritage of the Commonwealth and contributions to state government, education, and library science.

HOUSE JOINT RESOLUTION NO. 494

Celebrating the life of Perry Lee Briggs, Jr.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, Perry Lee Briggs, Jr., a highly admired community leader who touched many lives through his mentorship and generosity, died on July 2, 2022; and

WHEREAS, a native of Richmond, Perry Briggs began cultivating his deep faith early in life and was baptized at St. Paul's Baptist Church, of which his great-grandparents had been co-founders; and

WHEREAS, Perry Briggs attended Richmond Public Schools and graduated from Maggie L. Walker High School in 1968; he continued his education at what is now Morgan State University and Virginia Union University before earning a bachelor's degree from Ferrum College; and

WHEREAS, during his school years, Perry Briggs was a talented athlete and a gifted singer who helped establish several local singing groups and was a member of the Virginia Union University choir; and

WHEREAS, in later life, Perry Briggs relocated to Martinsville, where he joined Mount Olive East Christian Church; he held many leadership positions in the congregation and continued to bring joy to others through his musical abilities as a member of the church choir; and

WHEREAS, Perry Briggs also served and inspired young people in the Martinsville area as a Scout leader; and

WHEREAS, Perry Briggs will be fondly remembered and greatly missed by his children, Monica, Lakiesha, and Nigel, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Perry Lee Briggs, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Perry Lee Briggs, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 495

Commending the Black History Museum and Cultural Center of Virginia.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, the Black History Museum and Cultural Center of Virginia, an organization dedicated to promoting and advancing greater understanding of the history and culture of Black people and African Americans in the Commonwealth through educational resources, service, and opportunities, celebrated its 40th anniversary in 2021; and

WHEREAS, the Black History Museum and Cultural Center of Virginia (BHMVA) was founded by Carroll Anderson, Sr., in 1981 and officially opened to the public in 1991; and

WHEREAS, the first iteration of the BHMVA was located at 100 Clay Street in the historic district of Jackson Ward in Richmond in a home that was purchased by the Council of Colored Women in 1922 and that had also served as the Black branch of the Richmond Public Library after 1932; and

WHEREAS, the BHMVA relocated to Richmond's Leigh Street Armory in 2016 after a grant from the national historical preservation program Save America's Treasures supported the armory's rehabilitation; and

WHEREAS, visitors to the BHMVA's new modern and inviting space are drawn by permanent galleries exploring major periods and themes from Black history, temporary traveling exhibitions and exhibitions by local artists and community organizations, interactive exhibitions and educational nooks for children, a 35-foot digital timeline, large-scale contemporary art pieces depicting Arthur Ashe and the Emancipation Oak at Hampton University, and a cafe; and

WHEREAS, the BHMVA's children's programming has attracted families from throughout the Richmond area while its annual Children's Book Festival is attended by more than 600 local first and second graders each year; and

WHEREAS, to commemorate its 40th anniversary, the BHMVA presented a special exhibition titled *Forging Freedom, Justice and Equality: A Survey of the History of the Black Experience in Virginia*, exemplifying how the BHMVA shines light on untold or forgotten stories in an effort to enlighten future generations and encourage a more diverse and inclusive society; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Black History Museum and Cultural Center of Virginia on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Black History Museum and Cultural Center of Virginia as an expression of the General Assembly's admiration for the museum's history and its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 496

Commending the Alexandria City High School girls' volleyball team.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, the Alexandria City High School girls' volleyball team won the Virginia High School League Class 6 state championship on November 19, 2022, at the Stuart C. Siegel Center in Richmond; and

WHEREAS, the Alexandria City High School Titans defeated the Charles J. Colgan Sr. High School Sharks in five sets, with a final score of 25-22, 25-20, 22-25, 19-25, and 15-13, to claim the program's second state title in three years and to finish the season with an impressive 32-2 record; and

WHEREAS, the Alexandria City Titans opened the match strong by taking the first two sets, then conceded the next two to the Colgan Sharks; the two teams then went point for point in the final set before a shot into the net by Colgan High School and a hit from Milan Rex sealed the win for Alexandria City High School; and

WHEREAS, the Alexandria City Titans' victory was a total team effort, led by seniors Chloe Wilmot, the program's all-time leader in digs and assists, and Milan Rex, who had a team-high 26 kills in the match and who was also named MaxPreps Player of the Year for the Commonwealth in 2022; and

WHEREAS, the championship win was a thrilling and unexpected end for the Alexandria City Titans, who started the season with a largely new roster and uncertainty as to how the season would progress; and

WHEREAS, the accomplishments of the Alexandria City Titans notably marked the first time that a team had won a district championship, regional championship, and state championship under the Alexandria City High School banner; and

WHEREAS, the success of the Alexandria City Titans is the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches, and the unwavering support of their parents and the entire Alexandria City High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Alexandria City High School girls' volleyball team for winning the 2022 Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Danielle Thorne, head coach of the Alexandria City High School girls' volleyball team, as an expression of the General Assembly's admiration for the team's achievement.

HOUSE JOINT RESOLUTION NO. 499

Celebrating the life of Richard Wilson.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, Richard Wilson, a highly admired coach, teacher, and school administrator who touched the lives of countless young people in Norton, died on August 29, 2022; and

WHEREAS, a proud native of Norton, Richard "Stan" Wilson was a standout member of the John I. Burton High School basketball team, scoring a record 43 points in one game in 1962; he continued his education at Tusculum University, where he continued playing basketball, and subsequently earned a master's degree from East Tennessee State University; and

WHEREAS, Stan Wilson returned to his alma mater, John I. Burton High School, and served as teacher, athletic director, assistant principal, and principal; he also enjoyed a distinguished career as head coach of the boys' basketball team; and

WHEREAS, Stan Wilson recorded 541 career wins as a coach, the most by any coach at the same school in Virginia High School League Class 1 programs; his teams won seven Region D championships, five Coal Classic championships, five regular season Lonesome Pine District titles, and 14 Lonesome Pine District tournament championships; and

WHEREAS, Stan Wilson coached 14 players who scored more than 1,000 career points, and he was a trusted mentor, who worked diligently to ensure that the student-athletes in his care achieved success in the classroom as well as on the basketball court; and

WHEREAS, among many awards and accolades for his careers as both a player and a coach, Stan Wilson was selected by the Virginia High School League as the Boys' Basketball Coach of the Year in 1993 and Athletic Director of the Year for the 1994-1995 school year; and

WHEREAS, Stan Wilson was also inducted into the halls of fame of John I. Burton High School and Tusculum University, and the gymnasium at John I. Burton High School was renamed in his honor; and

WHEREAS, Stan Wilson further served Norton City Schools in various capacities, including as food services director, transportation director, and truant officer; and

WHEREAS, Stan Wilson enjoyed fellowship and worship with the Norton community as a lifelong member of Norton United Methodist Church, where he held several leadership roles over the years; and

WHEREAS, Stan Wilson will be fondly remembered and greatly missed by his beloved wife of 51 years, Linda; his daughters, Deidre and Jacque, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Richard Wilson; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Richard Wilson as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 502

Celebrating the life of Gunnery Sergeant Francis Jack Weeks, USMC, Ret.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, Gunnery Sergeant Francis Jack Weeks, USMC, Ret., an honorable veteran and beloved member of the Boston community, died on October 12, 2022; and

WHEREAS, a native of The Plains, Jack Weeks served his country with honor and distinction for 23 years as a member of the United States Marine Corps and was a veteran of the Vietnam War; and

WHEREAS, Jack Weeks admirably supported his fellow veterans as a member of American Legion Post 157 in Madison and of Vietnam Veterans of America Chapter 752 in Culpeper; and

WHEREAS, Jack Weeks advanced efforts to conserve the rivers and streams of the Commonwealth through his involvement with the Randy Carter Chapter of the Float Fishermen of Virginia in Remington; and

WHEREAS, in recognition of his service to the nation, Jack Weeks was interred at Quantico National Cemetery, with military honors provided by a United States Marine Corps honor guard; and

WHEREAS, Jack Weeks will be fondly remembered and dearly missed by his loving wife of 43 years, Greta; his children, Clinton, Anderson, and Kristie, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Gunnery Sergeant Francis Jack Weeks, USMC, Ret., a cherished member of the Boston community whose dedication to the nation and his fellow veterans touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Gunnery Sergeant Francis Jack Weeks, USMC, Ret., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 503

Celebrating the life of the Reverend Carl Douglas Farmer.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, the Reverend Carl Douglas Farmer, an accomplished spiritual leader and active and beloved member of the Madison community, died on September 28, 2022; and

WHEREAS, a graduate of what was then Pulaski High School, where he was an all-state quarterback, the Reverend Carl Douglas "Doug" Farmer received a football scholarship to attend the University of North Carolina at Chapel Hill and graduated in 1957; and

WHEREAS, Doug Farmer subsequently studied at the Southeastern Baptist Theological Seminary and later in the School of Pastoral Care at what was then North Carolina Baptist Hospital and the Bowman Gray School of Medicine, where he completed an internship in pastoral counseling and hospital chaplaincy; and

WHEREAS, Doug Farmer provided uplifting and sagacious spiritual guidance to various congregations in different capacities over the years and was a source of comfort and strength to many; and

WHEREAS, Doug Farmer formerly held pastorships at First Baptist Church of Erwin in Erwin, North Carolina; Winter Park Baptist Church in Wilmington, North Carolina; and Plymouth Haven Baptist Church in Alexandria, and was a frequent speaker at revival meetings throughout the region; and

WHEREAS, Doug Farmer nurtured the growth and development of young people as a coach, including two years as head football coach and teacher at the former Hugh Morson High School in Raleigh, North Carolina, and the former South High School in Charlotte, North Carolina; and

WHEREAS, Doug Farmer had an outsized impact on the lives of young people and families in Madison County as a member of the Madison County School Board and as the founder and owner of Camp Shenandoah Springs, an independent, interdenominational Christian summer camp and retreat center visited by countless individuals and families since its founding in the early 1980s; and

WHEREAS, Doug Farmer gave generously of his time and talents through his involvement with various boards and organizations, including the Fellowship of Christian Athletes, local and state denominational boards, and the Wilmington Police Department; and

WHEREAS, Doug Farmer will be fondly remembered and dearly missed by his loving wife, Anne; his children, Mark, Beth, and Jeffrey, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Carl Douglas Farmer, a cherished member of the Madison community whose legacy of service will inspire many for years to come; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Carl Douglas Farmer as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 504

Celebrating the life of Douglas William Rogers.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, Douglas William Rogers, an honorable veteran, accomplished business executive, and beloved member of the Locust Grove community, died on September 10, 2022; and

WHEREAS, after attending Midlothian High School in Chesterfield County and the Virginia Polytechnic Institute and State University, Douglas "Doug" William Rogers served his country with honor and distinction as a member of the United States Air Force; and

WHEREAS, following his time in the service, Doug Rogers earned a master's degree in business administration from Loyola University Maryland and embarked upon an illustrious 30-year career in the management division of IBM; and

WHEREAS, Doug Rogers lived throughout the country during his career and later settled in Orange County, where he took a leading role in the community, including as president of the Lake of the Woods Association and as chairman and interim director of the Germanna Community College Board of Directors; and

WHEREAS, Doug Rogers greatly fostered the prosperity of Orange County as president of the Orange County Chamber of Commerce, chairman of the Orange County Economic Development Authority, and facilitator for the Orange County East End Economic Development Group; and

WHEREAS, Doug Rogers was a dedicated advocate who was committed to his conservative values, serving nine years as chairman of the Orange County Republican Party; and

WHEREAS, beyond his family, Doug Rogers took immense joy in education, football, literature, woodworking, and cheering on the Dallas Cowboys and Virginia Tech sports teams; and

WHEREAS, guided through his life by his faith, Doug Rogers enjoyed worship and fellowship with his community at Lake of the Woods Church in Locust Grove for many years; and

WHEREAS, Doug Rogers will be fondly remembered and dearly missed by his high school sweetheart and loving wife of 59 years, Brenda; their children, Donna and Kelley, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Douglas William Rogers, a cherished member of the Locust Grove community whose strength, courage, resilience, and love for his family and country were an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Douglas William Rogers as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 510

Designating March, in 2023 and in each succeeding year, as Trisomy Awareness Month in Virginia.

Agreed to by the House of Delegates, February 3, 2023
Agreed to by the Senate, February 14, 2023

WHEREAS, trisomy is a genetic condition characterized by the presence of extra partial or full chromosomes in addition to the typical number of 23 pairs of chromosomes in a diploid cell; and

WHEREAS, hundreds of thousands of individuals and their families throughout the United States are affected by trisomy, which can cause a range of health problems, learning difficulties, and delays in physical development; and

WHEREAS, the most common forms of autosomal abnormalities among newborns are trisomy 21, trisomy 18, and trisomy 13; and

WHEREAS, trisomy 21, better known as Down Syndrome, affects one in 700 babies born in the United States and occurs when an individual develops an extra copy of chromosome 21; and

WHEREAS, trisomy 18, also known as Edwards Syndrome, affects one in 5,000 babies in the United States, and affected infants that live past the first year usually develop severe intellectual disabilities; trisomy 13, or Patau Syndrome, affects 16,000 newborns in the United States, most of whom die in the first few weeks of life; and

WHEREAS, more rare forms of the condition include trisomy 9, in which the ninth chromosome appears three times in some cells, causing physical and mental growth deficiencies, congenital heart defects, and craniofacial abnormalities; and

WHEREAS, during Trisomy Awareness Month, Virginians are encouraged to learn more about or raise further awareness of these conditions and seek opportunities to support individuals with trisomy and their families, as well as organizations that enable people with developmental disabilities to stay engaged with their communities and lead fulfilling lives; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate March, in 2023 and in each succeeding year, as Trisomy Awareness Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to families of individuals living with these conditions so that they may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this month on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 512

Commending the Wildlife Center of Virginia.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, for four decades, the Wildlife Center of Virginia in Waynesboro has provided high-quality health care services, including emergency procedures, to native wildlife, building a reputation for excellence and expertise in the field; and

WHEREAS, established in 1982, the Wildlife Center of Virginia has become the world's leading teaching and research hospital for wildlife conservation medicine; and

WHEREAS, over the course of its history, the Wildlife Center of Virginia has treated nearly 100,000 patients, representing more than 350 species of native mammals, birds, reptiles, and amphibians; and

WHEREAS, the Wildlife Center of Virginia has shared valuable lessons learned from its cases with millions of students and wildlife medical professionals throughout the Commonwealth, the United States, and the world; and

WHEREAS, the Wildlife Center of Virginia has educated countless veterinarians, veterinary technicians, and volunteer wildlife rehabilitators through its cutting-edge training programs, including electronic courses; and

WHEREAS, the Wildlife Center of Virginia is equipped with a veterinary clinic, diagnostics laboratory, operating suite, radiology room, and a wide range of outdoor enclosures for recovering patients and non-releasable animals; the center plans to significantly expand its facility to better serve wildlife in need; and

WHEREAS, the Wildlife Center of Virginia produced, in partnership with Virginia Public Media, the television series *Untamed*, which previously won three Telly Awards and was nominated for a regional Emmy Award; and

WHEREAS, among many national and international accolades, the Wildlife Center of Virginia was selected as the 2007 Conservation Organization of the Year and received the National Conservation Achievement Award from the National Wildlife Federation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Wildlife Center of Virginia on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Wildlife Center of Virginia as an expression of the General Assembly's admiration for the center's legacy of contributions to conservation medicine.

HOUSE JOINT RESOLUTION NO. 514

Commending Bryna Addair.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, Bryna Addair, a doctor of pharmacy degree recipient in the Class of 2021 at Appalachian College of Pharmacy, received the 2021 Harvey B. Morgan Award for Advancing Health Policy from the Harvey B. Morgan Institute of Government and Public Service on July 26, 2021; and

WHEREAS, Bryna Addair has demonstrated exceptional service and commitment to public policy by organizing a campus-wide grassroots campaign to advocate for policies supported by the Virginia Pharmacists Association; and

WHEREAS, Bryna Addair served as a team leader for a pharmacist-led diabetes initiative that served three counties in Southwest Virginia; and

WHEREAS, Bryna Addair was a founding member and national board member of the Carter's Christmas Foundation, which provides Christmas presents to underprivileged children in the Appalachian region; and

WHEREAS, Bryna Addair served as the president of the National Community Pharmacists Association (NCPA): ACP student chapter and vice president of the college's Student Government Association; and

WHEREAS, Bryna Addair was awarded the 2019-2020 Appalachian College of Pharmacy Community Service Award for outstanding service through the Pharmacists in Community Service program; and

WHEREAS, Bryna Addair has applied her knowledge of pharmacy and policy to provide education and information to patients, citizens, public officials, pharmacists, and future pharmacists; and

WHEREAS, Bryna Addair exemplifies the ideals of the pharmacy profession, the Harvey B. Morgan Institute of Government and Public Service, and the Appalachian College of Pharmacy, which has given countless students the tools to support good health and wellness and advocate for patient care; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Bryna Addair on receiving the 2021 Harvey B. Morgan Award for Advancing Health Policy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bryna Addair as an expression of the General Assembly's admiration for her achievements and best wishes for continued success in her future endeavors in public service and public policy for patient care.

HOUSE JOINT RESOLUTION NO. 515

Celebrating the life of James D. Campbell.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, James D. Campbell, a respected expert in local government administration who served as the longtime executive director of the Virginia Association of Counties, died on August 17, 2022; and

WHEREAS, James "Jim" D. Campbell grew up in Henrico County and graduated from Douglas S. Freeman High School; he carried on a proud family legacy of attending Virginia Polytechnic Institute and State University (Virginia Tech) and graduated with a bachelor's degree in business management; and

WHEREAS, Jim Campbell continued his education at the University of Northern Colorado, from which he earned a master's degree in urban and regional planning, then began his long and distinguished career in local government in Henrico County; and

WHEREAS, Jim Campbell worked as an assistant county administrator in Warren County, then became the county administrator of Fluvanna County and held the distinction of being the youngest county administrator in the Commonwealth at the time; and

WHEREAS, in 1990, Jim Campbell was selected as the executive director of the Virginia Association of Counties (VACo), and he led the organization through periods of significant change and growth for 26 years; and

WHEREAS, during his tenure as executive director, Jim Campbell was a staunch advocate for the interests and advancement of all 95 counties in Virginia, building strong partnerships with local government officials across the Commonwealth to achieve significant state policy victories on tax, finance, and other policy issues; and

WHEREAS, among his many accomplishments, Jim Campbell formed an Other Post-Employment Benefits Trust (OPEB) that pools funds from at least 50 counties, cities, and towns, to earn a higher return on investment and better serve employees and is the largest OPEB pooled trust in the United States; he also helped establish the Virginia Investment Pool, which has helped at least 30 localities enhance their return on reserve funds; and

WHEREAS, Jim Campbell oversaw the renovation and opening of VACo's permanent headquarters on East Main Street in Richmond; he ensured that the project preserved the unique historic character of the building while incorporating environmentally conscious enhancements to achieve a Leadership in Energy & Environmental Design Gold certification from the U.S. Green Building Council, and the building is now considered one of the most environmentally friendly buildings in Richmond; and

WHEREAS, admired for his peerless financial acumen and collaborative, supportive leadership style, Jim Campbell was a trusted friend and mentor to fellow members of VACo and stakeholders throughout the Commonwealth; and

WHEREAS, upon his well-earned retirement from VACo in 2016, Jim Campbell was the longest-serving executive director in the history of the organization; and

WHEREAS, Jim Campbell was a civic-minded leader who volunteered his time and wise insights to local fire departments, churches, homeowners' associations, youth organizations, professional societies, and committees; and

WHEREAS, Jim Campbell was a proud and active alumnus of Virginia Tech throughout his life and relished every opportunity to support the Virginia Tech Hokies and organize alumni events with the Class of 1971; and

WHEREAS, predeceased by his daughter, Amy, Jim Campbell will be fondly remembered and greatly missed by his loving wife of 48 years, Christine; his son, Michael, and his family; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of James D. Campbell; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James D. Campbell as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 527

Commending Ann Pesiri Swanson.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 19, 2023

WHEREAS, Ann Pesiri Swanson, who worked with state officials in Virginia, Pennsylvania, and Maryland to restore the environmental health and sustainability of the Chesapeake Bay watershed for nearly 35 years, retired as the executive director of the Chesapeake Bay Commission in November 2022; and

WHEREAS, Ann Swanson holds degrees in wildlife biology from the University of Vermont and environmental science from Yale University, and she previously served as board chair of the University of Vermont's School of Natural Resources Advisory Council; and

WHEREAS, after becoming the executive director of the Chesapeake Bay Commission in 1988, Ann Swanson advised local and state officials in the 64,000-square-mile area of the watershed and advocated for planning and policies to benefit local residents and stakeholders while ensuring the proper conservation of vital natural resources; and

WHEREAS, during her tenure as executive director, Ann Swanson helped create the Bi-State Blue Crab Advisory Committee in 1996, bringing together key stakeholders and scientists to provide expert advice and coordination for the management of the Chesapeake Bay's blue crab fisheries; and

WHEREAS, Ann Swanson provided her unique insights to the development of a comprehensive framework for a watershed-wide ecosystem management strategy to restore the Chesapeake Bay and its living resources as a partner of the Chesapeake Bay Program and a significant contributor to the success of the 2000 Chesapeake Bay Agreement and subsequent Agreements; and

WHEREAS, in 2003 Ann Swanson played a critical role in the establishment of the Chesapeake Bay Funders' Network, which comprises more than 100 philanthropic organizations that foster collaborative opportunities for watershed restoration projects throughout the region; and

WHEREAS, Ann Swanson worked at state and local levels to coordinate management of Chesapeake Bay issues and successfully secured significant federal conservation funds for farmers in the Chesapeake Bay watershed through the 2007 Federal Farm Bill and subsequent Farm Bills; and

WHEREAS, throughout her career, Ann Swanson collaborated in a bipartisan manner with legislators, nonprofit advocacy organizations, governmental organizations, farmers and farming interests, and other stakeholders in the passage of numerous pieces of natural resources legislation, significant funding initiatives and the accomplishment of various land conservation initiatives; and

WHEREAS, Ann Swanson has been a trusted mentor and friend to countless fellow conservation professionals; she inspired others through her expertise, personal integrity, and her passion for public service and natural resources; and

WHEREAS, Ann Swanson's strategies for large-scale ecosystem restoration have earned national and international recognition, and the success of the Chesapeake Bay Commission has become a model for other regional partnerships; and

WHEREAS, among many awards and accolades, Ann Swanson has been honored with the Chesapeake Executive Council Salute to Excellence Award in 1992 and 1999, the Chesapeake Bay Foundation Conservationist of the Year award in 2001, the Sierra Club Outstanding Achievement Award in 2004, the University of Vermont Outstanding Alumni of the Year award in 1989 and 2007, and the Lifetime Achievement Award from the Chesapeake Conservancy in 2019; and

WHEREAS, in addition to her other accolades, Ann Swanson was named as an Admiral of the Chesapeake, the highest award for accomplishments in environmental conservation presented by the Governor of Maryland; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ann Pesiri Swanson on the occasion of her retirement as executive director of the Chesapeake Bay Commission; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ann Pesiri Swanson as an expression of the General Assembly's admiration for her achievements in the protection and preservation of the Commonwealth's valuable natural resources.

HOUSE JOINT RESOLUTION NO. 536

Celebrating the lives of Randall Blevins, Fernando Chavez-Barron, Lorenzo Gamble, Tyneka Johnson, Brian Pendleton, and Kellie Pyle.

Agreed to by the House of Delegates, January 16, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, Randall Blevins, Fernando Chavez-Barron, Lorenzo Gamble, Tyneka Johnson, Brian Pendleton, and Kellie Pyle, admired and beloved members of the Chesapeake community, were killed on November 22, 2022, at the Chesapeake Walmart Supercenter; and

WHEREAS, Randall Blevins was born in Glade Springs and relocated to South Norfolk at a young age; after graduating from Oscar Smith High School, he worked at local stores in the area before joining the staff of the Chesapeake Walmart Supercenter, where he was well-liked as an attentive and helpful coworker; and

WHEREAS, Fernando Chavez-Barron, who was only 16 years old, was a new employee at the Chesapeake Walmart Supercenter and had recently used his first paycheck to buy a gift for his mother; and

WHEREAS, Lorenzo Gamble had worked at the Chesapeake Walmart Supercenter for 15 years; he was a loving father who relished every opportunity to spend time with his sons and care for his family; and

WHEREAS, Tyneka Johnson was a native of Portsmouth who graduated from Indian River High School in 2020 and brightened the lives of others through her love of fashion and affinity for music and dancing; and

WHEREAS, Brian Pendleton grew up in Hampton Roads and also graduated from Oscar Smith High School; he was well known in the Wilmund Place neighborhood for his kindness and willingness to help others and had worked at the Chesapeake Walmart Supercenter for more than 10 years; and

WHEREAS, Kellie Pyle graduated from Norfolk Catholic High School in 1988; she lived in Indiana and Kentucky before returning to the Commonwealth and inspired others through her selflessness and grace; and

WHEREAS, these six individuals each made significant contributions to the community and will be fondly remembered and greatly missed by their family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Randall Blevins, Fernando Chavez-Barron, Lorenzo Gamble, Tyneka Johnson, Brian Pendleton, and Kellie Pyle; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the families of each of the six individuals whose lives were tragically lost on November 22, 2022, as an expression of the General Assembly's respect for their memories.

HOUSE JOINT RESOLUTION NO. 542

Notifying the Governor of organization.

Agreed to by the House of Delegates, January 11, 2023
Agreed to by the Senate, January 11, 2023

RESOLVED by the House of Delegates, the Senate concurring, That a committee be appointed, composed of six on the part of the House of Delegates and five on the part of the Senate, to notify the Governor that the General Assembly is duly organized and is ready to receive any communication he may desire to make.

HOUSE JOINT RESOLUTION NO. 543

Designating May, in 2023 and in each succeeding year, as Jewish American Heritage Month in Virginia.

Agreed to by the House of Delegates, February 3, 2023
Agreed to by the Senate, February 14, 2023

WHEREAS, Jewish American history spans more than 350 years, dating back to the colonial era and early European settlements in Virginia, and is woven through every part of American history through to the present day; and

WHEREAS, Virginia is home to one of the oldest synagogues in the United States, Beth Ahabah in Richmond, founded in 1789 as Kahal Kadosh Beth Shalome, and Virginia's Jewish community is among the fastest-growing Jewish communities in the nation; and

WHEREAS, Jews played an integral role in supporting American independence and the religious freedom guaranteed in the establishment of the new nation; in Virginia, Jewish citizens freely participated in all aspects of civil and political life under the Virginia Statute for Religious Freedom; even so, in parts of the United States, Jews could not vote or hold office for several more decades; and

WHEREAS, in the mid-1800s, a wave of German Jewish immigrants, fleeing persecution and economic hardship in search of new opportunity, arrived in the United States; this wave of immigration led to the expansion of Jewish communities across the nation and the founding of B'nai B'rith, the American Jewish Committee, and the National Council of Jewish Women; and

WHEREAS, in the late 1800s and early 1900s, Jewish immigration to the United States increased in response to rising anti-Semitism in Europe, and particularly in response the pogroms in the Russian Empire; more than two million Eastern European Jews immigrated to the United States during this time; and

WHEREAS, restrictive immigration policies beginning in the 1920s stemmed the flow of new immigrants to the United States; many Jewish Americans opposed these policies, but they remained in place, leading to the United States' tragic refusal to accept refugees from Nazi Germany and leaving many of them unable to escape the Holocaust; and

WHEREAS, Jewish Americans and Jewish immigrants to America have contributed to every aspect of American culture and history, including education, science, business, philanthropy, politics, civil rights, and the arts; among them are key figures in American and world history, including Jonas Salk, Albert Einstein, and Ruth Bader Ginsberg; and

WHEREAS, in light of continuing and reemerging anti-Semitism in America, expressed openly and violently, it is crucial that the history, heritage, and culture of Jewish Americans be fully known, understood, and valued; and

WHEREAS, Jewish American Heritage Month is an opportunity to celebrate the vibrancy and importance of Virginia's Jewish American citizens, whose accomplishments and contributions strengthen and enrich culture, governance, the economy, education, and all aspects of community life in the Commonwealth; and

WHEREAS, during Jewish American Heritage Month, Virginians are encouraged to commemorate and celebrate the essential contributions, sacrifices, and accomplishments that Jewish Americans have made and continue to make in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate May, in 2023 and in each succeeding year, as Jewish American Heritage Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates post the designation of this month on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 546

Commending Colonel Anthony Steven Pike.

Agreed to by the House of Delegates, January 18, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, Colonel Anthony Steven Pike retired as chief of the Virginia Division of Capitol Police in December 2022, as one of the longest-serving chiefs in the division's history, after more than a decade of exceptional service to state officials and visitors to the Virginia Capitol; and

WHEREAS, a native of Wythe County, Anthony Steven "Steve" Pike has dedicated his life to public service, beginning in 1983, when he joined the United States Army; he was stationed at Fort Ord, California, as a light infantry soldier and was selected as the honor graduate of the Basic Noncommissioned Officer Course, then served a short time in the United States Army Reserve, from which he was honorably discharged with the rank of staff sergeant; and

WHEREAS, in January 1988, Steve Pike began a 22-year career with the Virginia Department of Game and Inland Fisheries, where he steadily worked his way up the ranks to become assistant chief; in 1994, he was the first recipient from the agency to receive the Law Enforcement Award from Mothers Against Drunk Drivers, and in 1999, he was selected as Virginia Game Warden of the Year; and

WHEREAS, Steve Pike graduated from the 227th session of the FBI National Academy and served in various capacities with the Virginia Chapter of the FBI National Academy Associates, including as president in 2012; he also graduated from

the 64th session of the FBI Law Enforcement Executive Development Seminar, the Northwestern University Center for Public Safety Executive Management Program, and the Commonwealth Management Institute; and

WHEREAS, on December 25, 2010, Steve Pike joined the Virginia Division of Capitol Police as the assistant chief, and on October 11, 2011, he was appointed as the chief of police by the Legislative Support Commission; his distinguished tenure as chief capped a 34-year career in public safety throughout which he devoted himself fully to the service of the Commonwealth and its citizens; and

WHEREAS, the Virginia Capitol Police is responsible for 24-hour public safety services to members of the Virginia General Assembly, the governor and the first family of the Commonwealth, the lieutenant governor; the attorney general; the justices of the Virginia Supreme Court and judges of the Virginia Court of Appeals, thousands of state employees, and more than 100,000 annual visitors to the Capitol complex; Steve Pike earned high praise from leaders on both sides of the aisle for his calm, steady leadership style and his ability to adapt to significant changes in the security climate of the Commonwealth and the United States, as well as navigating the effects of a global pandemic; and

WHEREAS, Steve Pike used national best practices to modernize Capitol Square security and build up to its current enhanced posture; he held various leadership positions within the National Conference of State Legislatures (NCSL), serving on numerous committees and task forces, and served as both vice president and president of the National Legislative Services and Security Association (NLSSA); and

WHEREAS, Steve Pike received the NCSL Legislative Staff Achievement Award in 2017, the NLSSA John Everhardt "Trooper" Award in 2018, and the NLSSA Tony Beard Memorial Award in 2019, and he is a graduate of the NCSL Legislative Staff Management Institute; and

WHEREAS, Steve Pike helped the Virginia Capitol Police earn three consecutive reaccreditations from the Virginia Law Enforcement Professional Standards Commission; he also served on the Virginia Law Enforcement Professional Standards Commission for several years, including terms as vice chair and chair; and

WHEREAS, Steve Pike elevated the professionalism of the Virginia Capitol Police in many ways, expanding the number of both sworn officers and professional staff and leading aggressive recruiting measures to ensure high quality applicants and maintain officer retention; he led the agency to become certified as a Virginia Values Veterans Program by focusing on hiring military veterans and joined the 30 x 30 Pledge, a nationwide initiative to increase the recruitment, retention, and promotion of women in policing; and

WHEREAS, Steve Pike oversaw enhancements in law-enforcement training, technology, and techniques; he implemented the agency's first body-worn camera program; and he upgraded and expanded the agency's K-9 division, constructing a state-of-the-art new facility at Capitol Square to serve as the leading establishment in the region for training police dogs and their handlers; and

WHEREAS, under Steve Pike's outstanding leadership the Virginia Capitol Police provided safety planning and law-enforcement services for three gubernatorial inaugurations and other major events, including the filming of the movie *Lincoln* in 2011, public auditions for the show *American Idol* in 2014, and the UCI Road World Championships in 2015; and

WHEREAS, during Steve Pike's tenure as chief, the Virginia Capitol Police ably responded to the unique challenges of providing law-enforcement services for more than 700 rallies and similar events on Capitol Square, some of which drew more than 20,000 participants and many of which were spontaneous, unpermitted rallies, including a steady stream of large protests in the spring and summer of 2020; and

WHEREAS, in 2017, Steve Pike was selected by Governor Terence R. McAuliffe to serve on the Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest, to which he offered critical insights; and

WHEREAS, Steve Pike guided the Virginia Capitol Police's efforts to obtain citywide jurisdiction, enabling the Virginia Capitol Police to become a more effective participant with its regional law-enforcement partners; he also advocated for changes to allow the agency to provide law-enforcement services to the governor-elect, attorney general-elect, the lieutenant governor-elect, and judges of the Virginia Court of Appeals; and

WHEREAS, Steve Pike is an exemplar of the dedication to duty, professionalism, and leadership displayed by law-enforcement officers throughout the Commonwealth and across the United States; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Colonel Anthony Steven Pike on the occasion of his retirement as chief of the Virginia Division of Capitol Police; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colonel Anthony Steven Pike as an expression of the General Assembly's admiration for his achievements in service to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 548

Establishing a joint subcommittee to study the feasibility of establishing the Virginia Gaming Commission to regulate and oversee all forms of gaming in the Commonwealth. Report.

Agreed to by the House of Delegates, February 3, 2023
Agreed to by the Senate, February 21, 2023

WHEREAS, there are currently six forms of legalized gaming in the Commonwealth, and there has been an increased interest in the legalization of games of skill and electronic video game terminals; and

WHEREAS, there are currently three separate entities governing the oversight of legalized gaming in the Commonwealth; and

WHEREAS, several states have established a central gaming agency to regulate and oversee all forms of legal gaming; and

WHEREAS, a central gaming agency can focus on gaming regulation as its core mission and more readily develop the expertise to understand and react appropriately to the rapidly changing gaming industry; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee of the Senate Committee on General Laws and Technology, the Senate Committee on Finance and Appropriations, the House Committee on General Laws, and the House Committee on Appropriations be established to study the feasibility of establishing the Virginia Gaming Commission to regulate and oversee all forms of gaming in the Commonwealth. The joint subcommittee shall have a total membership of eight members that shall consist of two members from each committee, to be appointed by the respective committee chairmen. The joint subcommittee shall elect a chairman and vice-chairman from among its membership.

In conducting its study, the joint subcommittee shall analyze and make recommendations, as appropriate, with respect to (i) the feasibility of establishing a new agency in the executive branch of state government, to be known as the Virginia Gaming Commission (the Commission), under which all legal forms of gaming in the Commonwealth, except for the state lottery established and operated pursuant to the Virginia Lottery Law (§ 58.1-4000 et seq.), shall be consolidated for the purposes of regulation and oversight; (ii) the timely and orderly transition of the regulatory authority over casino gaming and sports betting, charitable gaming, and pari-mutuel wagering on horse racing from the Virginia Lottery, the Virginia Department of Agriculture and Consumer Services, and the Virginia Racing Commission, respectively, to the Commission; and (iii) ways to effectively prioritize problem gambling prevention and treatment efforts. The joint subcommittee may take into consideration gaming oversight models used by other states and shall consider the feasibility, costs, and benefits of creating the Commission.

Administrative staff support shall be provided by the Office of the Clerk of the House of Delegates. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be provided by the Division of Legislative Services. All agencies of the Commonwealth, including (i) the Virginia Lottery, (ii) the Department of Agriculture and Consumer Services' Office of Charitable and Regulatory Programs, and (iii) the Virginia Racing Commission, shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2023 interim. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint subcommittee shall be adopted if a majority of the Senate members or a majority of the House members appointed to the joint subcommittee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the joint subcommittee.

The joint subcommittee shall complete its meetings by November 30, 2023, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2024 Regular Session of the General Assembly. The executive summary shall state whether the joint subcommittee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during the 2023 interim.

HOUSE JOINT RESOLUTION NO. 549

Celebrating the life of Joe Samuel Frank.

Agreed to by the House of Delegates, January 23, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, Joe Samuel Frank, an esteemed attorney and public servant who was the longest serving mayor in the history of Newport News and a key figure in the city's growth over the past several decades, died on October 27, 2022; and

WHEREAS, Joe Frank was a lifelong resident of Newport News; in his early years, he graduated from the former Newport News High School, became president of the Young Leadership Council of the local Jewish community, and achieved the prestigious rank of Eagle Scout with the Boy Scouts of America; and

WHEREAS, after earning a bachelor's degree and juris doctor degree from the University of Virginia in 1964 and 1967, respectively, Joe Frank embarked upon his legal career as an intern at the firm of Battle, Neal, Harris, Minor and Williams and ultimately became a partner at the firm of David, Kamp and Frank; and

WHEREAS, Joe Frank admirably represented businesses, individuals, public bodies and agencies, and a variety of charitable, nonprofit, public service, and cultural arts organizations over his more than a half century practicing law, touching on a broad range of legal matters, including insurance defense, eminent domain, personal injury, medical malpractice, estate planning, business entity formation, and more; and

WHEREAS, for many years, Joe Frank honorably served his country and the Commonwealth as a member of the Virginia Army National Guard, which awarded him the Bronze Star Medal for his service; and

WHEREAS, cultivating an interest in politics and public policy from a young age, Joe Frank would go on to chair his local chapter of the Democratic Party and to serve on the Newport News City Council from 1988 to 2010, including two terms as vice mayor and 14 years as the city's first directly elected mayor; and

WHEREAS, approaching public service with great honor, integrity, and devotion, Joe Frank's efforts proved vital to the economic success of Newport News, as several important objectives, such as the development of City Center, the protection of Fort Eustis, and the development of the Applied Research Center adjacent to the Thomas Jefferson National Accelerator Facility, were fulfilled during his tenure; and

WHEREAS, following his career as a public servant, Joe Frank remained highly involved with many projects and organizations dedicated to the betterment and growth of Newport News, including Christopher Newport University, where he served as a member of the Campaign Executive Council and facilitated the creation of the Bertram and Gladys Aaron Endowed Professorship in Jewish Studies; and

WHEREAS, Joe Frank was the recipient of various accolades over the years in recognition of his service to the community; in 2009, he received the Distinguished Eagle Scout Award from the Boy Scouts of America and, in 2022, Christopher Newport University dedicated the Jane Susan and Joe Frank Atrium at the Ferguson Center for the Arts in his and his wife's honor; and

WHEREAS, predeceased by his loving wife of 47 years, Jane Susan, Joe Frank will be fondly remembered and dearly missed by his children, Shelly Ann, Melissa, and Jason, and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Joe Samuel Frank, a beloved member of the Newport News community whose accomplishments as an attorney and public servant will continue to benefit countless individuals for generations to come; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joe Samuel Frank as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 550

Commending Beth Lovain.

Agreed to by the House of Delegates, January 23, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, Beth Lovain, an esteemed community leader in Alexandria, has admirably served as executive director of the Scholarship Fund of Alexandria from 2013 to 2022; and

WHEREAS, under Beth Lovain's tenure at the Scholarship Fund of Alexandria, the organization increased services to Alexandria City High School graduates, in terms of both the number of scholarships awarded and the total amount of money awarded, providing $1.1 million to 420 students in 2021 alone; and

WHEREAS, in Beth Lovain's final year with the Scholarship Fund of Alexandria, the organization awarded the largest amount of new scholarships in its history, providing $600,000 to 205 seniors and surpassing its record of $523,700 in new scholarships from the previous year; and

WHEREAS, the Scholarship Fund of Alexandria's efforts to expand its services, which included extending its program to middle school students, were facilitated by Beth Lovain's exceptional ability to bring in new donors and raise funds; and

WHEREAS, as a result of Beth Lovain's sterling leadership of the Scholarship Fund of Alexandria, Alexandria City High School earned top honors from the State Council of Higher Education for Virginia three times for having the highest Free Application for Federal Student Aid completion rate in the Commonwealth; and

WHEREAS, prior to joining the Scholarship Fund of Alexandria, Beth Lovain advanced meaningful initiatives in the community through her work as director of employer partnerships for Computer CORE, executive director of Rebuilding Together Alexandria, and board member and executive director of the former Alexandria Volunteer Bureau; and

WHEREAS, Beth Lovain has also made a notable impact through her service as executive director of the George Mason-Westminster tutoring program, as a board member of the Northern Virginia AIDS Ministry and Wright to Read program, and as a member of the Alexandria Commission on HIV/AIDS; and

WHEREAS, in recognition of her accomplishments in service to others, Beth Lovain has been the recipient of the Alexandria Commission for Women Salute to Women Award and an honoree of the United States Junior Chamber of

Commerce's Ten Outstanding Young Americans program and the Virginia Junior Chamber of Commerce's Ten Outstanding Young Virginians program; and

WHEREAS, by demonstrating an extraordinary dedication to her community and to helping young people achieve their academic dreams by attending college, Beth Lovain serves as an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Beth Lovain, executive director of the Scholarship Fund of Alexandria, on the occasion of her retirement from the organization; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Beth Lovain as an expression of the General Assembly's admiration for her contributions to the Commonwealth and best wishes in her future endeavors.

HOUSE JOINT RESOLUTION NO. 551

Commending Karen Pallansch.

Agreed to by the House of Delegates, January 23, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, in 2023, Karen Pallansch, a clean water professional, will retire as general manager and chief executive officer of AlexRenew, a publicly owned advanced water resource recovery public utility company in Alexandria, after nearly 30 years of exceptional service and leadership; and

WHEREAS, a native of Philadelphia, Karen Pallansch holds bachelor's and master's degrees from the University of Pittsburgh and Texas A&M University-Texarkana, respectively; in the 1980s, she worked for the United States Department of the Army on research, design, and construction projects in China, where she gained an appreciation for the importance of environmental improvements and pollution control; and

WHEREAS, Karen Pallansch returned to the United States and settled in the Commonwealth and joined the Department of Environmental Quality as a senior environmental engineer; she was responsible for implementing the requirements of federal environmental statutes, as well as construction inspections and funding management; and

WHEREAS, in 1994, Karen Pallansch was hired as a staff engineer at the Alexandria Sanitation Authority and subsequently worked her way up through the ranks, serving as director of engineering and technical services, director of treatment, and director of environmental services; and

WHEREAS, Karen Pallansch became the general manager and chief executive officer of the Alexandria Sanitation Authority in 2005 and ably oversaw day-to-day operations, maintenance, fiscal management, regulatory functions, and human resources; she worked diligently to ensure that the utility had access to the latest technology and best practices to serve the community in an efficient and effective manner; and

WHEREAS, in addition, Karen Pallansch led efforts in 2012 to rebrand the Alexandria Sanitation Authority as Alexandria Renew Enterprises, better known as AlexRenew, to reflect the organization's evolving mission and further emphasis on resource recovery and good environmental stewardship; and

WHEREAS, as general manager and chief executive officer, Karen Pallansch has led a team of more than 100 AlexRenew employees, who contributed to the reclamation of 13 billion gallons of wastewater in Alexandria and Fairfax County each year; and

WHEREAS, under Karen Pallansch's leadership, AlexRenew assumed responsibility for one of the largest infrastructure projects in Alexandria history, the $615 million RiverRenew program, which will curb the existing combined sewer overflow system and prevent an estimated 120 million gallons of sewage-tainted stormwater from entering local waterways each year and is scheduled for completion in 2025; the project has remained on track despite a federal government shutdown, a pandemic, and supply chain issues; and

WHEREAS, Karen Pallansch has guided the program from its inception, including by holding an online contest for members of the public to name the project's 380-ton digging machine, now known as "Hazel" after environmental justice advocate Hazel Johnson; and

WHEREAS, over the course of her career, Karen Pallansch skillfully interfaced with experts, government officials, and other stakeholders; she also implemented Water Discovery Days, a popular annual open house program at the 35-acre facility, to interface with and educate members of the public; and

WHEREAS, a highly qualified professional, Karen Pallansch has been a national leader in water reclamation and has offered her expertise to many national organizations, including as a board member for the Virginia Municipal League Insurance Pool, president of the National Association of Clean Water Agencies, board member of the WateReuse Association, and chair of the former Water Environment and Reuse Foundation, now the Water Research Foundation; and

WHEREAS, among many awards and accolades over the course of her career, Karen Pallansch was named as the 2017 Northern Virginian of the Year by *Northern Virginia Magazine*, and she was the first female winner of the annual award presented by *Water Finance & Management Magazine* in 2018; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Karen Pallansch on the occasion of her retirement as general manager and chief executive officer of AlexRenew; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Karen Pallansch as an expression of the General Assembly's admiration for her achievements in service to the residents of Alexandria and Fairfax County.

HOUSE JOINT RESOLUTION NO. 552

Celebrating the life of Chester Pike Avery, Jr.

Agreed to by the House of Delegates, January 23, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, Chester Pike Avery, Jr., an esteemed executive with the federal government, prominent advocate for individuals with disabilities, and beloved member of the Alexandria community, died on September 8, 2022; and

WHEREAS, after losing his vision at the age of 17, Chester "Chet" Pike Avery, Jr., went on to earn a bachelor's degree in history and a master's degree in counseling and education from Harvard University; and

WHEREAS, Chet Avery joined the federal government in 1964, working first in the United States Department of Health, Education, and Welfare and later in the United States Department of Education until his retirement in 1996; and

WHEREAS, Chet Avery's accomplishments in public service included overseeing the development of a federal student financial aid handbook, monitoring the implementation of Section 504 of the Rehabilitation Act of 1973, and serving in leadership and executive positions with various offices; and

WHEREAS, Chet Avery was an active and influential leader in the Alexandria community for many years, serving on the Alexandria Human Rights Commission for three decades and with the Special Education Advisory Committee for Alexandria City Public Schools; and

WHEREAS, Chet Avery was the first appointee to the Alexandria Commission on Persons with Disabilities and served with the organization for more than 35 years, spearheading various initiatives designed to improve the accessibility of public services in Alexandria, including a human rights ordinance recognizing individuals with disabilities as a protected class; and

WHEREAS, Chet Avery was at the forefront of the movement to develop descriptive videos that would enable individuals with vision impairments to more fully experience plays and films, working closely with the American Council of the Blind's Audio Description Project; and

WHEREAS, Chet Avery's service and expertise led to his membership on the Board of Directors of the Metropolitan Washington Ear Inc., and his appointment by Governor Mark R. Warner to the Virginia State Rehabilitation Council; and

WHEREAS, in recognition of his outsized impact in the community, Chet Avery was the recipient of many honors and accolades over the years, including the John Duty Collins III Outstanding Advocate for Persons with Disabilities Award in 1998 from the Alexandria Commission on Persons with Disabilities; and

WHEREAS, Chet Avery will be fondly remembered and dearly missed by his loving wife of more than 50 years, Sabra; his son, Bradford, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Chester Pike Avery, Jr., a cherished member of the Alexandria community and a forceful voice for disability justice and welfare; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Chester Pike Avery, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 554

Commending Patricia Zissios.

Agreed to by the House of Delegates, January 23, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, after five decades of service to young people as an educator and school administrator, Patricia Zissios will retire as principal of Lyles-Crouch Traditional Academy in Old Town Alexandria in 2023; and

WHEREAS, Patricia Zissios holds master's and doctoral degrees from George Mason University and gained more than 30 years of teaching and leadership experience in Northern Virginia schools before joining Lyles-Crouch Traditional Academy in 2004; and

WHEREAS, Patricia Zissios previously spent six years developing an innovative and engaging curriculum based on the Core Knowledge system at an elementary school in Fairfax County and established a similar curriculum at Lyles-Crouch Traditional Academy; her vision and dedication helped the institution become one of the highest-achieving schools in the region, the Commonwealth, and the nation; and

WHEREAS, under Patricia Zissios' leadership, Lyles-Crouch Traditional Academy was recognized by the Core Knowledge Foundation as a Core Knowledge School of Distinction in 2006, 2015, and 2021, and the school earned the

prestigious Virginia Board of Education Excellence Award for its high performance on state exams for the 10th straight year in 2019; and

WHEREAS, Patricia Zissios also helped Lyles-Crouch Traditional Academy become a seven-time gold-status winner in the Governor's Award for Best Practices in Nutrition and Physical Fitness, achieve recognition for its environmentally friendly practices through the Virginia Naturally program, and earn the 2012–2014 National School of Character award from the Character Education Partnership, demonstrating her emphasis on developing the whole child, beyond academics; and

WHEREAS, Patricia Zissios was selected as the Springfield Citizen of the Year in 2001, the first runner-up for Virginia's National Distinguished Principal in 2003 and 2007, and Alexandria City Public Schools Principal of the Year in 2009, among many other awards and accolades; and

WHEREAS, Patricia Zissios has also offered her wisdom and expertise to other educators and administrators as a member of the board of the Virginia Association of Elementary School Principals, from which she received the 2017 Don Lacey Award for Excellence, recognizing her unwavering commitment to student achievement and instructional leadership; and

WHEREAS, Patricia Zissios has touched countless lives through her personal integrity and passion for lifelong learning, and she has given generations of students the tools and support they need to achieve success in higher education and careers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Patricia Zissios on the occasion of her retirement as principal of Lyles-Crouch Traditional Academy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Patricia Zissios as an expression of the General Assembly's admiration for her outstanding achievements in service to students in Alexandria.

HOUSE JOINT RESOLUTION NO. 556

Celebrating the life of Earl Murray Tebault.

Agreed to by the House of Delegates, January 23, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, Earl Murray Tebault, an esteemed public servant and beloved member of the communities of the former Princess Anne County and Virginia Beach, died on December 20, 2022; and

WHEREAS, a native and lifelong resident of the former Princess Anne County, which was incorporated into the City of Virginia Beach in 1963, Earl Tebault served on the Virginia Beach City Council from 1963 to 1972, working tirelessly to support the city's growth and development for the benefit of its citizens; and

WHEREAS, Earl Tebault gave generously of his time and talents in service to others in Virginia Beach through his membership with the Creeds Ruritan Club and the Princess Anne Lions Club; and

WHEREAS, guided by his faith, Earl Tebault enjoyed worship and fellowship with his community at Blackwater Baptist Church of Virginia Beach for many years, serving the congregation as a deacon and trustee; and

WHEREAS, Earl Tebault will be fondly remembered and dearly missed by his loving wife of 66 years, Laura; his children, Carolyn, Rebecca, and Terry, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Earl Murray Tebault, a cherished member of the former Princess Anne County and Virginia Beach communities whose service and dedication touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Earl Murray Tebault as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 557

Celebrating the life of F. Woodrow Harris.

Agreed to by the House of Delegates, January 26, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, F. Woodrow Harris, esteemed public servant, accomplished chess champion, and beloved member of the Emporia community, died on September 9, 2022; and

WHEREAS, F. Woodrow "Woody" Harris graduated from Greensville County High School before earning a bachelor's degree with a double major in political science and sociology from the University of Richmond in 1979; and

WHEREAS, in his professional life, Woody Harris most recently held the position of director of the 6th District Court Service Unit of the Virginia Department of Juvenile Justice, overseeing the provision of domestic and delinquent intake services and services relating to juvenile probation and parole in Emporia, Hopewell, and the Counties of Brunswick, Greensville, Prince George, Surry, and Sussex; and

WHEREAS, Woody Harris proudly and tirelessly served his constituents as a member of the Emporia City Council representing District 4 since 1988 and as vice mayor of the city, contributing greatly to the municipality's growth and development over the past 34 years; and

WHEREAS, Woody Harris supported the efforts of and served on various local, state, and regional boards and commissions, including the State Executive Council for Comprehensive Services for At-Risk Youth and Families, to which he was appointed by Governor James S. Gilmore III in 2001; and

WHEREAS, Woody Harris generously offered his leadership and expertise to several prominent organizations dedicated to bettering the community, including the Crater Planning District Commission and the Southside Regional Jail Authority, and he served as president of the Virginia Municipal League from 2001 to 2002; and

WHEREAS, Woody Harris was a noted chess champion who fostered the success of the sport by providing leadership for state, national, and international chess federations, including as secretary of the United States Chess Federation from 1984 to 1987; and

WHEREAS, in honor of Woody Harris' memory and the impact he had on the Emporia community, flags at all City of Emporia facilities were flown at half-staff following the announcement of his death; and

WHEREAS, Woody Harris will be fondly remembered and dearly missed by his loving wife of 23 years, Carla, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of F. Woodrow Harris, a treasured member of the Emporia community whose commitment to his city, the Commonwealth, and the country inspired all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of F. Woodrow Harris as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 558

Election of a Supreme Court of Virginia Justice, Court of Appeals of Virginia Judges, Circuit Court Judges, General District Court Judges, Juvenile and Domestic Relations District Court Judges, and members of the Judicial Inquiry and Review Commission.

Agreed to by the House of Delegates, January 23, 2023
Agreed to by the Senate, January 23, 2023

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly shall proceed today

To the election of a Supreme Court of Virginia justice for a term of twelve years commencing August 1, 2023.

To the election of Court of Appeals of Virginia judges for terms of eight years commencing as follows:

One judge, term commencing February 1, 2023.

One judge, term commencing February 1, 2023.

To the election of Circuit Court judges for terms of eight years commencing as follows:

One judge for the Third Judicial Circuit, term commencing February 1, 2023.

One judge for the Seventh Judicial Circuit, term commencing July 1, 2023.

One judge for the Ninth Judicial Circuit, term commencing July 1, 2023.

One judge for the Eleventh Judicial Circuit, term commencing July 1, 2023.

One judge for the Fourteenth Judicial Circuit, term commencing July 1, 2023.

One judge for the Fifteenth Judicial Circuit, term commencing April 1, 2023.

One judge for the Sixteenth Judicial Circuit, term commencing April 1, 2023.

One judge for the Nineteenth Judicial Circuit, term commencing July 1, 2023.

One judge for the Nineteenth Judicial Circuit, term commencing July 1, 2023.

One judge for the Twentieth Judicial Circuit, term commencing July 1, 2023.

One judge for the Twenty-sixth Judicial Circuit, term commencing July 1, 2023.

One judge for the Twenty-seventh Judicial Circuit, term commencing July 1, 2023.

One judge for the Thirty-first Judicial Circuit, term commencing July 1, 2023.

One judge for the Thirty-first Judicial Circuit, term commencing July 1, 2023.

To the election of General District Court judges for terms of six years commencing as follows:

One judge for the Fifth Judicial District, term commencing July 1, 2023.

One judge for the Eighth Judicial District, term commencing July 1, 2023.

One judge for the Twelfth Judicial District, term commencing July 1, 2023.

One judge for the Nineteenth Judicial District, term commencing April 1, 2023.

One judge for the Nineteenth Judicial District, term commencing February 1, 2023.

One judge for the Twenty-third Judicial District, term commencing February 1, 2023.

One judge for the Twenty-fifth Judicial District, term commencing February 1, 2023.

To the election of Juvenile and Domestic Relations District Court judges for terms of six years commencing as follows:

One judge for the First Judicial District, term commencing May 1, 2023.

One judge for the Third Judicial District, term commencing July 1, 2023.
One judge for the Fifth Judicial District, term commencing July 1, 2023.
One judge for the Fifteenth Judicial District, term commencing July 1, 2023.
One judge for the Fifteenth Judicial District, term commencing April 1, 2023.
One judge for the Eighteenth Judicial District, term commencing April 1, 2023.
One judge for the Nineteenth Judicial District, term commencing May 1, 2023.
One judge for the Twentieth Judicial District, term commencing July 1, 2023.
One judge for the Twentieth Judicial District, term commencing July 1, 2023.
One judge for the Twenty-fifth Judicial District, term commencing July 1, 2023.

To the election of members of the Judicial Inquiry and Review Commission for terms of four years commencing as follows:

One member, term commencing July 1, 2023.
One member, term commencing July 1, 2023.

And that in the execution of the joint order nominations shall be made in the order herein named, and that each house shall be notified of said nominations, and when the rolls shall be called for the whole number, the presiding officers of each house shall appoint a committee of three, which together shall constitute the joint committee to count the vote of each house in each case and report the results to their respective houses. The joint order may be suspended by the presiding officer of either house at any time but for no longer than twenty-four hours to receive the report of the joint committee.

HOUSE JOINT RESOLUTION NO. 560

Celebrating the life of Carlyle Conwell Ring, Jr.

Agreed to by the House of Delegates, January 23, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, Carlyle Conwell Ring, Jr., who represented Virginia as a longtime member of the Uniform Law Commission, died on August 19, 2021; and

WHEREAS, Carlyle Conwell "Connie" Ring, Jr., grew up in Chautauqua, New York, and graduated from Jamestown High School and Hamilton College; he enrolled in Columbia Law School, but transferred to Duke University School of Law to be closer to his future wife, Jane, after the couple met while working at a resort in his hometown; and

WHEREAS, Connie and Jane Ring relocated to Alexandria in 1956 and quickly became active members of the community; he was appointed to the Alexandria School Board where he served as a member for nine years, two of which he was chair of the board, playing a critical role in school integration; he also was a member of the Alexandria Redevelopment and Housing Authority for 11 years, and served on the Alexandria City Council for nine years; and

WHEREAS, in 1970, Connie Ring was appointed by Governor Linwood Holton to serve as a Virginia commissioner for the Uniform Law Commission, a nonprofit organization that provides states with model legislation to create legal clarity and stability across jurisdictions; and

WHEREAS, Connie Ring proudly served as a commissioner for over 50 years, during which time he became chair of the Scope and Program Committee, the Executive Committee, and several nominating committees; chaired, co-chaired, or participated in drafting committees on a wide range of subjects; and was elected president of the Uniform Law Commission from 1983 to 1985; and

WHEREAS, Connie Ring took a special interest in the Uniform Commercial Code Committee and chaired it for over 25 years, helping the Uniform Commercial Code become one of the most widely adopted Uniform Acts in the United States; and

WHEREAS, Connie Ring was a driving force and de facto chair in the Virginia Delegation even before he was officially selected as delegation chair, keeping the delegation on track and effective for over 30 years; during his tenure, Virginia adopted 50 of the 129 Uniform Acts recommended by the Uniform Law Commission; and

WHEREAS, Connie Ring inspired others through his genuine warmth and grace, civility, attention to detail, and incomparable work ethic; he was a trusted mentor and friend to countless colleagues in the Uniform Law Commission and helped build camaraderie and esprit de corps in both the Virginia Delegation and throughout the organization as a whole; and

WHEREAS, among many awards and accolades for his accomplishments, Connie Ring was selected as a Living Legend of Alexandria in 2011, and he received the inaugural Charles S. Murphy Award for Achievement in Civic Service from Duke University; and

WHEREAS, Connie Ring will be fondly remembered and greatly missed by his beloved wife of 67 years, Jane; his children, Donna, Libby, Rusty, and Roddy, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Carlyle Conwell Ring, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Carlyle Conwell Ring, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 561

Commending the Town of McKenney.

Agreed to by the House of Delegates, January 23, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, the Town of McKenney, a thriving rural community in Central Virginia, celebrated the 100th anniversary of its incorporation as a town in 2022; and

WHEREAS, located in the southern part of Dinwiddie County, McKenney traces its roots to the late 19th century and the creation of a tavern known as San Marino; and

WHEREAS, in 1900, the Seaboard Air Line Railroad established a new line to support the logging industry in the region, and several mills, stables, saloons, and stores developed around the new station, Negley; and

WHEREAS, William Robertson McKenney, an attorney for the railroad, convinced his employer to rename the station McKenney, and the local post office adopted the name after relocating from San Marino; and

WHEREAS, early businesses in the community included the Wiley-Harker Lumber Company, the McKenney Planing Mill, and what was then known as the Bank of Dinwiddie, as well as numerous stores and other small businesses; and

WHEREAS, McKenney was officially incorporated as a town on March 22, 1922, and it remains the only incorporated town in Dinwiddie County; and

WHEREAS, in 1927, the Baskerville family began generating electricity at their mill on the Nottoway River, and McKenney was electrified shortly thereafter; the community was further enhanced in the 1930s and 1940s, when the Works Progress Administration led projects to construct a new town hall, sidewalks, and a water system with a water tower; and

WHEREAS, several buildings in McKenney are included on the National Register of Historic Places, including the Montrose House, Sappony Church, and Zehmer Farm; and

WHEREAS, in 1999, McKenney adopted its current town seal, which features a striking image of the town hall with the water tower in the background; and

WHEREAS, McKenney has continued to grow over the years and has maintained its small-town charms while developing new amenities for residents, ensuring that the community is a great place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Town of McKenney on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Town of McKenney as an expression of the General Assembly's admiration for the town's contributions to the history and heritage of the Commonwealth.

HOUSE JOINT RESOLUTION NO. 562

Commending the Brunswick Academy varsity football team.

Agreed to by the House of Delegates, January 23, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, the Brunswick Academy varsity football team won the Virginia Independent Schools Division II state championship on November 12, 2022, at the Dinwiddie Sports Complex in Sutherland; and

WHEREAS, the Brunswick Academy Vikings defeated the Blessed Sacrament-Huguenot Knights by a score of 35-20 to bring home the eight-man football program's first state title and the fourth state title in school history, while also capping an impressive 11-1 season; and

WHEREAS, leading their opponent 21-14 in the waning minutes of the third quarter, the Brunswick Vikings posted two consecutive touchdowns in the fourth quarter to seal the win; and

WHEREAS, the Brunswick Vikings' victory was a total team effort, led by standout performances from DeMarion Whitfield-Smith, who notched 185 yards and two touchdowns on 19 rushes, and Jerry Powell, Jr., who tallied 149 yards and two touchdowns on 15 carries; and

WHEREAS, the Brunswick Vikings were also carried by its strong offensive and defensive lines and by the reliable touch of kicker Carter Early, who was perfect on points after touchdown attempts in the game; and

WHEREAS, the success of the Brunswick Vikings is the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of their parents and the entire Brunswick Academy community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Brunswick Academy varsity football team for winning the 2022 Virginia Independent Schools Division II state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bubba Weidman, head coach of the Brunswick Academy varsity football team, as an expression of the General Assembly's admiration for the team's achievement.

HOUSE JOINT RESOLUTION NO. 563

Commending HealthWorks for Northern Virginia.

Agreed to by the House of Delegates, January 23, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, for more than 15 years, HealthWorks for Northern Virginia has provided comprehensive medical, behavioral, and dental services to residents of Northern Virginia regardless of their ability to pay; and

WHEREAS, HealthWorks was established in 2007 after a merger between the Jeannie Schmidt Free Clinic and the Loudoun Community Health Center and now serves patients in Fairfax County and Loudoun County from five locations; and

WHEREAS, in 2021, HealthWorks provided a wide range of services to more than 18,000 patients, representing more than 63,000 individual visits; more than 60 percent of the organization's patients are uninsured and most fall 100 percent below the federal poverty level; and

WHEREAS, HealthWorks strives to ensure that patients have access to affordable medications, referrals to specialists, and assistance with insurance and Medicaid enrollment; and

WHEREAS, HealthWorks has also built strong community partnerships to address social determinants of health by offering resources for patients related to nutritious food, affordable permanent housing, tax preparation, childhood education, workforce development, and transportation; and

WHEREAS, during the COVID-19 pandemic, HealthWorks remained open to provide testing and vaccination along with its regular services; as of late 2022, the organization has administered more than 8,000 COVID-19 tests and more than 12,550 doses of COVID-19 vaccines; and

WHEREAS, HealthWorks has fulfilled its mission through the hard work of its 115 staff members and the generosity of volunteers who have donated thousands of hours of service to ensure that people in need receive the highest quality care; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend HealthWorks for Northern Virginia on the occasion of its 15th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to HealthWorks for Northern Virginia as an expression of the General Assembly's admiration for the organization's achievements in service to the residents of Northern Virginia.

HOUSE JOINT RESOLUTION NO. 564

Commending Thomas Trant.

Agreed to by the House of Delegates, January 23, 2023
Agreed to by the Senate, January 26, 2023

WHEREAS, Thomas Trant, an honorable veteran of World War II and a beloved member of the Fredericksburg community, celebrated his 100th birthday on November 19, 2022; and

WHEREAS, growing up during the Great Depression in Wilmerding, Pennsylvania, Thomas "Tom" Trant passed his days playing baseball with friends at a local park and swimming at a nearby dam; and

WHEREAS, on May 15, 1944, at the age of 21, Tom Trant entered the United States Navy and became one of four motor machinist's mates aboard the motor patrol torpedo boat USS *PT-186*, where he was responsible for maintaining the boat's engines and manning a .50-caliber machine gun during patrols; and

WHEREAS, Tom Trant served on a naval base known as "Soemoe," located approximately 800 miles north of Australia and near the coast of Morotai Island, which is today part of Indonesia, where an estimated 40,000 Imperial Japanese Marines were stationed at the time; and

WHEREAS, under the cover of darkness, Tom Trant and his crewmates regularly patrolled the strait between the Morotai and Halmahera islands to monitor the enemy's movements and activities; and

WHEREAS, during one patrol, Tom Trant was hit by a piece of shrapnel from enemy fire, though he did not realize it until six years later, when a visit to a doctor revealed the fragment lodged in his chest; and

WHEREAS, in recognition of his meritorious service as a motor machinist's mate 3rd class petty officer, Tom Trant was awarded the Combat Action Ribbon by the United States Navy; and

WHEREAS, following two years and two months of active duty, Tom Trant returned to the United States and was ultimately discharged on May 16, 1946, in Bainbridge, Maryland; and

WHEREAS, Tom Trant married Jean Fallecker shortly after completing his service and ultimately settled in Fredericksburg to work at what is now the Naval Surface Warfare Center Dahlgren Division, where he retired in 1978; and

WHEREAS, Tom Trant recently celebrated his 100th birthday at the Paradise Diner in southern Stafford with his five sons and their families, a joyous event befitting a man who has greatly served both the Commonwealth and the nation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Thomas Trant, a distinguished veteran of World War II and a member of America's Greatest Generation, on the occasion of his centennial birthday; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Thomas Trant as an expression of the General Assembly's admiration for his life and his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 565

Designating March 6, in 2023 and in each succeeding year, as Lymphedema Awareness Day in Virginia.

Agreed to by the House of Delegates, February 3, 2023
Agreed to by the Senate, February 14, 2023

WHEREAS, lymphedema occurs when there is a blockage in the lymphatic system, a network of vessels that transport lymph fluid throughout the body and that is an integral part of the immune system; and

WHEREAS, the most common causes of lymphedema include a traumatic event such as sports injuries or deep cuts and bruises; cancer, radiation treatment for cancer, or cancer surgery; and infection from parasites; risk factors include older age, excess weight, rheumatoid or psoriatic arthritis, and inherited conditions; and

WHEREAS, the signs and symptoms associated with lymphedema, which can range from mild to severe, include swelling of the arm or leg, a feeling of heaviness or tightness, restricted range of motion, recurring infections, or a hardening and thickening of the skin; and

WHEREAS, lymphedema may present complications, such as cellulitis, sepsis, leakage through or changes to the skin, and cancer, and should be monitored closely in consultation with a physician; and

WHEREAS, although there is no cure for lymphedema, the recognized standard of care is Complete Decongestive Therapy, which includes lymph drainage exercises, manual lymph drainage, compression therapy to include compression bandages or garments, and skin care; sequential pneumatic pumping is also recommended; in extreme cases, surgery may be required; and

WHEREAS, in addition to primary and secondary lymphedema, there are several other diseases that can impact the lymphatic system, including lipedema, lymphatic filariasis, and lymphatic malformations; and

WHEREAS, the Lymphedema Treatment Act is a federal law that passed on December 23, 2022, that improves insurance coverage for the medically necessary and prescribed compression supplies that are essential for the treatment of lymphedema; and

WHEREAS, World Lymphedema Day was established in 2016 by the United States Senate in response to a bill written by the Lymphatic Education & Research Network, providing an occasion to promote awareness and understanding of lymphedema and other lymphatic diseases; and

WHEREAS, establishing Lymphedema Awareness Day in the Commonwealth will shine light on this incurable but treatable disease, contributing to the health and well-being of countless Virginians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate March 6, in 2023 and in each succeeding year, as Lymphedema Awareness Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Lymphatic Education & Research Network so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

HOUSE JOINT RESOLUTION NO. 566

Commending Waller Mill Park.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Waller Mill Park, a cherished destination in Williamsburg offering visitors exceptional opportunities to immerse themselves in the beauty and grandeur of nature, celebrated its 50th anniversary in 2022; and

WHEREAS, Waller Mill Park spans 2,705 wooded acres close to downtown Williamsburg, James City County, and York County and contains the Waller Mill Reservoir, a 360-acre lake where many enjoy fishing and boating; and

WHEREAS, approximately three decades after the City of Williamsburg purchased the Waller Mill Reservoir, Waller Mill Park was established with the support of a federal grant in 1972, and the city continues to invest in the park's development; and

WHEREAS, Waller Mill Park has picnic areas and a dog park in which families and the community can gather, as well as playgrounds, a disc golf course, and hiking trails for those seeking recreation in nature; and

WHEREAS, Waller Mill Park waived vehicle entrance fees and provided 50 complimentary boat rentals and disc golf rentals on both Saturday and Sunday of its weekend celebration to encourage community members to come to the park to join in the festivities; and

WHEREAS, as Williamsburg and the surrounding areas continue to grow and thrive, Waller Mill Park's value as a refuge in nature increases, attracting many who seek the peace and serenity of the great outdoors; and

WHEREAS, today, the Waller Mill Reservoir at Waller Mill Park greatly supports the water needs of the City of Williamsburg, making the locality one of the only jurisdictions in the Virginia Peninsula that owns its own water supply; and

WHEREAS, the natural beauty of Waller Mill Park and the opportunities for recreation that it supports are an integral part of what makes Williamsburg a wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Waller Mill Park on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the staff of Waller Mill Park as an expression of the General Assembly's admiration for the park and its history.

HOUSE JOINT RESOLUTION NO. 567

Commending James Pest Control.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, James Pest Control, a family-owned business relied upon by countless citizens of the Virginia Peninsula for their pest control needs, celebrates its 50th anniversary of serving the Williamsburg area in 2023; and

WHEREAS, James Pest Control was founded in 1967 by John and Sonia James and began operating in the Williamsburg area six years later, earning a reputation over the years for its quality service and dependability; and

WHEREAS, James Pest Control has more than 50 years of experience in integrated pest management and is a leader in its industry, with founder John James serving previously as vice president of the National Pest Management Association and as president of the Virginia Pest Management Association and the Tidewater Pest Control Association; and

WHEREAS, James Pest Control has nurtured several generations of pest control specialists, earning John James a Lifetime Stewardship Award from the Virginia Pest Management Association in 2005 in recognition of his long-standing efforts to enhance the standards and protocols of the pest control industry; and

WHEREAS, the accomplishments of James Pest Control have been made possible by the tireless efforts of its licensed technicians and staff, who demonstrate mastery of their trade every day while exemplifying the company's principles of honesty, integrity, and fairness; and

WHEREAS, James Pest Control supports the economic vitality of Williamsburg and the surrounding areas and the businesses that call it home through its involvement with the Greater Williamsburg Chamber of Commerce; and

WHEREAS, as a testament to its reputation in the community, James Pest Control has been named Best Pest Control Company for 22 consecutive years by *The Virginia Gazette* in its annual "Best of Williamsburg" feature; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend James Pest Control on the occasion of its 50th anniversary serving the Williamsburg area; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James Pest Control as an expression of the General Assembly's admiration for the company's contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 568

Commending Joe & Mimma's Italian Restaurant & Pizzeria.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Joe & Mimma's Italian Restaurant & Pizzeria, a venerable dining establishment in York County beloved by guests for its exceptional food and service, celebrated its 50th anniversary in November 2022; and

WHEREAS, Joe & Mimma's Italian Restaurant & Pizzeria was founded by Rosaria Buffa, affectionately known by many as "Mama," and her husband, Girolamo, who moved from Sicily to New York in 1968 before settling in the Commonwealth two years later; and

WHEREAS, the Buffas opened Joe & Mimma's Italian Restaurant & Pizzeria in November 1972 in a former Western Auto store located along U.S. Route 17 in York County, sharing recipes from their native Italy to the delight of residents and visitors of the Virginia Peninsula; and

WHEREAS, shortly after the restaurant's founding, Bui Quan Hung, who escaped the war in Vietnam in the 1970s, found employment at Joe & Mimma's Italian Restaurant & Pizzeria and quickly became a vital member of the restaurant staff; and

WHEREAS, in 2014, after serving in the roles of busboy, cook, server, and host for nearly four decades and learning the secrets of Italian cooking from Rosaria Buffa, Bui Quan Hung, known by many as Harold, assumed ownership of Joe & Mimma's Italian Restaurant & Pizzeria from Mario Buffa, son of Rosaria and Girolamo Buffa, who had taken control of the restaurant following his parents' retirement in 2003; and

WHEREAS, with help from his family, Bui Quan Hung, who has been with Joe & Mimma's Italian Restaurant & Pizzeria for 47 of its 50 years in existence, upholds the traditions of quality and service that have been central to the restaurant's success over the past half-century; and

WHEREAS, the accomplishments and popularity of Joe & Mimma's Italian Restaurant & Pizzeria are the result of the dedication of its staff, including Suzie Baumm, who has been a server and manager with the restaurant for the past 27 years; and

WHEREAS, Joe & Mimma's Italian Restaurant & Pizzeria weathered the challenges of the COVID-19 pandemic and emerged ready to enjoy another half-century as one of York County's favorite places for friends and family to gather to share a meal; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Joe & Mimma's Italian Restaurant & Pizzeria of York County on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bui Quan Hung, owner of Joe & Mimma's Italian Restaurant & Pizzeria, as an expression of the General Assembly's admiration for the restaurant's contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 570

Celebrating the life of Priscilla Juliette Davenport.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Priscilla Juliette Davenport, former Middlesex County Commissioner of the Revenue and a cherished member of the Middlesex County community, died on October 26, 2022; and

WHEREAS, born in Manhattan, New York City, Priscilla Davenport, affectionately known as "Bonnie," was an accountant for Columbia Pictures for two decades and later a representative of the New York State Federal Credit Union League; and

WHEREAS, upon settling in Middlesex in 1987, Bonnie Davenport became an active member of her community, serving on the Middlesex Planning Commission for 14 years and with the Middlesex Red Cross; and

WHEREAS, Bonnie Davenport joined the office of the Middlesex County Commissioner of the Revenue in 1997 as a part-time employee and, over 11 years, worked her way up through the ranks of chief deputy and master deputy before ultimately running for the position of commissioner of the revenue; and

WHEREAS, first elected as commissioner of the revenue in 2008, Bonnie Davenport became the first African American woman to hold a county constitutional office in Middlesex and went on to serve three terms; and

WHEREAS, certified as a Master Commissioner of the Revenue by the Commissioners of the Revenue Association of Virginia and the University of Virginia's Weldon Cooper Center for Public Service, Bonnie Davenport worked tirelessly to ensure the proper and responsible administration of her duties as Middlesex County Commissioner of the Revenue, greatly benefiting the county's residents; and

WHEREAS, guided throughout her life by her abiding faith, Bonnie Davenport enjoyed worship and fellowship with her community at Grafton Baptist Church in Hartfield; and

WHEREAS, preceded in death by her son, Wayne, Bonnie Davenport will be fondly remembered and greatly missed by her beloved husband of more than 65 years, John; her eldest son, John, and her sons' families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Priscilla Juliette Davenport, a dedicated public servant and former Middlesex County Commissioner of the Revenue; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Priscilla Juliette Davenport as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 571

Commending Historic Huntley.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Historic Huntley, a 19th century Federal-style villa in Fairfax County, celebrates its 50th anniversary on the Virginia Landmarks Register and the National Register of Historic Places; and

WHEREAS, Historic Huntley was built in the 1820s to serve as a summer retreat for Thomson Francis Mason, mayor of the City of Alexandria from 1827 to 1830 and grandson of founding father George Mason; and

WHEREAS, originally, Historic Huntley was a retreat in the form of a country villa, with associated farmlands tended year-round by African Americans enslaved by the Mason family; and

WHEREAS, in later years, Historic Huntley served as a grain farm, an encampment for troops of the 3rd Michigan Infantry during the Civil War, and a dairy farm; and

WHEREAS, following an advocacy campaign by local preservationists and historians and the home's owner at the time, Marguerite Amlong, Historic Huntley was added to the Virginia Landmarks Register on March 21, 1972, and the National Register of Historic Places on November 3, 1972; and

WHEREAS, Historic Huntley was ultimately acquired by the Fairfax County Park Authority in 1989 and was used in a limited capacity for semiannual events and school and scout trips for many years; and

WHEREAS, following a renovation of the manor house in 2012, Historic Huntley is now regularly open for scheduled programs and tours, including Saturday tours from late April through October, offering visitors the opportunity to appreciate the estate's Federal-period architecture and to imagine life as it was in the early years of the nation's history; and

WHEREAS, the renovation of Historic Huntley was made possible in part by a $100,000 grant from the National Park Service's Save America's Treasures program, which helped to fund extensive structural restoration work at the site, as well as two bond programs managed by the Fairfax County Park Authority, which raised several million dollars for the preservation and redevelopment of the site; and

WHEREAS, in 2017, the tenant house at Historic Huntley was renovated and adapted to serve as a visitor center, enhancing the site's ability to support meaningful historic and cultural programming for the benefit of visitors; and

WHEREAS, during the renovation of the tenant house at Historic Huntley, signs were discovered suggesting that the building may have originally served as quarters for enslaved people; this supposition was confirmed following an investigation by then University of Maryland School of Architecture, Planning, and Preservation associate research professor Dr. Dennis Pogue and the site was listed in the Virginia Slave Housing project database in August 2022; and

WHEREAS, for more than 30 years, the nonprofit organization Friends of Historic Huntley has worked tirelessly to preserve and protect Historic Huntley for the enjoyment of future generations; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Historic Huntley on the occasion of its 50th anniversary on the Virginia Landmarks Register and the National Register of Historic Places; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Friends of Historic Huntley as an expression of the General Assembly's admiration for the site's place in the history of the Commonwealth.

HOUSE JOINT RESOLUTION NO. 572

Commending Transurban.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Transurban, a road operator company that is one of the Commonwealth's and the Department of Transportation's partners of choice for developing and operating large-scale transportation projects, celebrated the 10th anniversary of its Interstate 495 Express Lanes in 2022; and

WHEREAS, in November 2012, Transurban's 495 Express Lanes became the first managed lanes public-private partnership (P3) in the Commonwealth and the first truly dynamically priced toll lanes in the United States, with variable toll prices adjusted in accordance with real-time traffic conditions; and

WHEREAS, Transurban's 495 Express Lanes set the largest Disadvantaged Business Enterprise (DBE) and Small, Women-owned, and Minority-owned Business (SWaM) investment for a transportation project in the Commonwealth at the time; and

WHEREAS, today, Transurban, in partnership with the Department of Transportation, operates a growing system of dynamic Express Lanes that has served nearly 10 million customers; and

WHEREAS, it is estimated that Transurban's Express Lanes network has saved customers more than 33 million hours of their time while also creating $4 billion in modern transportation solutions largely funded by private capital, generating more than 50,000 jobs, producing an $8 billion economic impact, and investing $1 billion in DBE and SWaM businesses; and

WHEREAS, Transurban's Express Lanes network has generated more than 105 percent growth in both HOV-3 and bus trips and 1.5 million hours saved by transit users each year; and

WHEREAS, Transurban's innovative partnership has helped the Commonwealth meet its goals by investing in more sustainable, equitable travel choices; and

WHEREAS, Transurban's $15 million annual commitment to the Commonwealth's Commuter Choice program as part of the Interstate 395 Express Lanes project has provided $45 million to date and will help divert over 2.4 million trips to transit every year, resulting in more than 20.5 million passenger miles off regional roads and a reduction in Northern Virginia's greenhouse gas emissions by more than 3,000 metric tons annually; and

WHEREAS, Transurban's partnership with the Commonwealth and its 495 NEXT project spurred funding for the new American Legion Bridge bus service, with $2.2 million annually from Transurban's toll revenue supplementing the project's initial $5.2 million commitment to support a new fleet for the bus line; and

WHEREAS, Transurban's support of the American Legion Bridge bus line fleet will generate over 172,000 transit trips annually, resulting in removing nearly 4.7 million passenger miles from regional roadways and reducing greenhouse gas emissions by over 1,650 metric tons; and

WHEREAS, Transurban is more than their roads, as the company focuses on strengthening communities along the corridors it serves by investing in the health of the Commonwealth's communities; and

WHEREAS, Transurban has donated $2.3 million through its community grant program to approximately 350 organizations, improving the lives of hundreds of thousands of community members, as well as $25,000 as part of a 495 Express Lanes 10-year anniversary award intended to help veterans complete their education in the Northern Virginia Community College system; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Transurban on the occasion of the 10th anniversary of the Interstate 495 Express Lanes; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Transurban as an expression of the General Assembly's admiration for the company's contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 573

Celebrating the life of Carl E. McAfee.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Carl E. McAfee, an honorable veteran, accomplished attorney, and beloved member of the Norton community, died on November 3, 2022; and

WHEREAS, Carl McAfee graduated from Norton High School, where he helped the basketball team win back-to-back state championships in 1947 and 1948, and he later earned degrees from Lincoln Memorial University and the University of Richmond School of Law; and

WHEREAS, after completing law school, Carl McAfee served the country with honor and distinction as a member of the United States Navy, serving as a Judge Advocate General officer at Naval Air Station Pensacola; and

WHEREAS, following his service, Carl McAfee returned to his hometown of Norton and embarked upon a successful career in private practice that would span more than 60 years; and

WHEREAS, Carl McAfee engaged in a wide variety of legal issues throughout his career while serving clients both locally in Southwest Virginia and Eastern Tennessee and internationally in countries as distant as Iran and the former Soviet Union; and

WHEREAS, Carl McAfee was dedicated to the study and the practice of the law and gave generously of his time to mentor new or aspiring attorneys or to assist his colleagues; and

WHEREAS, Carl McAfee took great strength from his faith and was a lifelong member of Norton Presbyterian Church, where he served variously over the years as elder, deacon, trustee, and more; and

WHEREAS, Carl McAfee will be fondly remembered and dearly missed by his loving wife of 43 years, Julia; his children, Jane, Nancy, Ronald, and Tim, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Carl E. McAfee, a cherished member of the Norton community whose commitment to serving others touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Carl E. McAfee as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 574

Celebrating the life of James E. Manicure.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, James E. Manicure, an honorable veteran, esteemed educator, accomplished public servant, and lifelong and beloved member of the Wise community, died on November 8, 2022; and

WHEREAS, after graduating from the former Coeburn High School, James "Jim" E. Manicure earned a bachelor's degree in business from Union College before serving the country with honor and distinction as a member of the United States Marine Corps; and

WHEREAS, following his service, Jim Manicure went on to make a meaningful impact on the Southwest Virginia community through various endeavors, including teaching driver's education at the former Pound High School; and

WHEREAS, throughout his career, Jim Manicure's leadership and professionalism benefitted myriad organizations across several industries, such as the design firm Thompson & Litton, Lonesome Pine International Raceway, the Virginia Interagency Coordination Center, Ringley and Mancuso Coal Producers, and more; and

WHEREAS, as Coeburn town manager, Jim Manicure worked tirelessly to ensure the safety and success of Coeburn and the health and prosperity of its residents; and

WHEREAS, Jim Manicure's positive and enduring influence was also felt through his efforts as founder and board member of Norton Community Hospital and as a board member of both the VA-KY District Fair and Mountain Empire Community College; and

WHEREAS, Jim Manicure gave generously of his time and talents in service to others through his involvement with his local chapters of Kiwanis International and Shriners International and through his service as director of the Rapha Foundation, an organization dedicated to empowering health and education in Southwest Virginia; and

WHEREAS, guided by his faith, Jim Manicure enjoyed worship and fellowship with his community at Gladeville Presbyterian Church in Wise for many years, where he served as deacon and elder; and

WHEREAS, preceded in death by his loving wife, Wanda, Jim Manicure will be fondly remembered and dearly missed by his daughters, Jamie and Kim, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of James E. Manicure, a cherished member of the Wise community whose devotion to serving others touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James E. Manicure as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 576

Celebrating the life of Johnny Plummer Johnson.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Johnny Plummer Johnson, a devoted educator and a talented artist who touched countless lives in the Fredericksburg community through his mentorship and commitment to philanthropy, died on November 5, 2022; and

WHEREAS, a native of North Carolina, Johnny P. Johnson began to cultivate his passion for the arts at a young age; and

WHEREAS, Johnny P. Johnson graduated from Virginia State College (now Virginia State University (VSU)), where he was the captain of the basketball team and was inducted into the VSU Sports Hall of Fame; he continued his education by earning a master's degree from Howard University, and he conducted other postgraduate studies at Corcoran School of Art; and

WHEREAS, in 1959, Johnny P. Johnson relocated to the Fredericksburg area and began teaching sixth grade at Walker-Grant School, the city's first publicly funded school for Black students; and

WHEREAS, in addition to his work as a sixth-grade teacher, over the course of his career as an educator Johnny P. Johnson taught high school art, coached basketball, and served as an assistant principal for no additional compensation; and

WHEREAS, Johnny P. Johnson helped countless students achieve their fullest potential as an inspirational leader in and out of the classroom; during the 1960s, he played a critical role in the local civil rights movement; and

WHEREAS, Johnny P. Johnson also taught art at James Monroe High School and became the first Black faculty member at Mary Washington College (now the University of Mary Washington) in 1968, and later served as an adjunct professor of art at Germanna Community College; and he retired from the Fredericksburg City Public Schools in the 1990s; and

WHEREAS, Johnny P. Johnson opened an art studio on Charles Street in Fredericksburg and became a founding member of Art First Gallery, which is now the oldest continually operating art cooperative in the city; and

WHEREAS, Johnny P. Johnson motivated his fellow residents to cultivate their personal sense of artistic creativity and channel their abilities into outlets for positive community growth; he worked with inmates in Stafford County to help young men in need gain self-confidence and a better understanding of self-worth through art programs; and

WHEREAS, Johnny P. Johnson also volunteered his leadership and wise insights to the Fredericksburg Branch NAACP and various city organizations related to human rights and community relations; he also donated hundreds of thousands of dollars' worth of paintings to support community organizations; and

WHEREAS, Johnny P. Johnson expanded his outreach beyond the Commonwealth and created the Benin Art Support Project to enhance arts education in West Africa; and

WHEREAS, Johnny P. Johnson lived his faith through his actions and enjoyed fellowship and worship with the congregation of Shiloh Baptist Church (Old Site), where he served as a Sunday school teacher and superintendent and a deacon; and

WHEREAS, among many awards and accolades over the course of his career, Johnny P. Johnson was selected as the Virginia Teacher of the Year in 1977, the first time an art teacher received the honor; and

WHEREAS, Johnny P. Johnson will be fondly remembered and greatly missed by numerous family members, friends, and former students; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Johnny Plummer Johnson, an artist, educator, and local legend among the members of the Fredericksburg community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Johnny Plummer Johnson as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 577

Celebrating the life of Barbara Jean Smith Taylor.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Barbara Jean Smith Taylor, former first lady of the City of Roanoke and an active and beloved member of the Roanoke community, died on November 15, 2022; and

WHEREAS, affectionately known by friends and family as "B.J.," Barbara Taylor graduated from Clifton Forge High School, where she excelled at various activities, including cheerleading and music; and

WHEREAS, Barbara Taylor was a talented pianist and vocalist who taught herself to play piano at an early age and who took great joy in performing before others throughout her adult life; and

WHEREAS, Barbara Taylor married the Reverend Noel C. Taylor in 1955 and devoted herself to supporting his work as a pastor, both through her music ministry and otherwise, initially at First Baptist Church in Clifton Forge, then at First Baptist Church in Norfolk, and ultimately at High Street Baptist Church in Roanoke, where the Taylors settled in 1961; and

WHEREAS, Barbara Taylor and her husband Noel led High Street Baptist Church for 37 years, helping to develop it into one of the most prominent and influential churches in the Roanoke Valley; and

WHEREAS, Barbara Taylor became the first lady of the City of Roanoke in 1975 when Noel Taylor assumed the office of mayor, notably becoming the first African American mayor in the city's history and the city's longest-serving mayor, and she proudly carried out the duties and responsibilities of her role until he left office in 1992; and

WHEREAS, guided throughout her life by her faith, Barbara Taylor enjoyed worship and fellowship with her community at High Street Baptist Church, where, in addition to supporting her husband in his position as pastor, she was involved in the Sanctuary Choir and the annual seasonal holiday decorations and also served as the caretaker of the church's Upper Room; and

WHEREAS, preceded in death by her loving husband, Noel, Barbara Taylor will be fondly remembered and dearly missed by her children, Sabrina and Deseree, and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Barbara Jean Smith Taylor, a cherished member of the Roanoke community whose poise, grace, and commitment to caring for others was a great unifying force in the city for many years; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Barbara Jean Smith Taylor as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 578

Celebrating the life of Charlene Adele Curtis.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Charlene Adele Curtis, an esteemed basketball player and coach who made history as the first African American to serve as head coach of a women's basketball team in the Atlantic Coast Conference, died on August 18, 2022; and

WHEREAS, Charlene Curtis excelled at academics, music, and sports from a young age, graduating with honors from William Fleming High School in Roanoke in 1972, becoming the first African American to perform with the Roanoke Youth Symphony, and leading her high school basketball team to win the city-county championship her senior year; and

WHEREAS, Charlene Curtis attended Radford University, where she scored 1,043 career points as a member of the women's basketball team and became the first basketball player in school history to surpass 1,000 career points; and

WHEREAS, Charlene Curtis graduated with honors and earned a bachelor's degree in music education from Radford University in 1976 and later earned a master's degree in secondary education administration from the University of Virginia in 1982; and

WHEREAS, following graduation from Radford University, Charlene Curtis served as a teacher, coach, and band director at Staunton River High School in Bedford County, where she contributed greatly to the maturation and success of her students; she was also notably the first African American teacher or coach in Staunton River High School's history; and

WHEREAS, Charlene Curtis would go on to hold assistant coaching positions at the University of Virginia, Georgetown University, and the University of Connecticut and to serve as head coach at Radford University, Temple University, and Wake Forest University; and

WHEREAS, while head coach at Radford University, Charlene Curtis' teams went 121-53 and captured several Big South Conference titles, earning her Big South Conference Coach of the Year honors in 1988 and 1990; and

WHEREAS, upon taking the reins at Wake Forest University, Charlene Curtis became the first African American women's basketball head coach in the history of the Atlantic Coast Conference (ACC); and

WHEREAS, beyond college basketball, Charlene Curtis served as an assistant coach to the Charlotte Sting of the Women's National Basketball Association and as a television analyst and also had several stints on the coaching staff for USA Basketball; and

WHEREAS, at the culmination of her storied career in women's collegiate basketball, Charlene Curtis served as supervisor of women's basketball officials for the ACC, as well as coordinator of women's basketball officials for the Southern Conference, the Big South Conference, and the Colonial Athletic Association; and

WHEREAS, in recognition of her accomplishments as a player and coach, Charlene Curtis was inducted into the Radford University Hall of Fame and the Big South Conference Hall of Fame; and

WHEREAS, guided throughout life by her faith, Charlene Curtis was a lay leader at St. Paul United Methodist Church in Winston-Salem, North Carolina, where she served as a member of the Church Council and the Committee on Finance, as well as a Sunday school teacher and GriefShare leader; and

WHEREAS, Charlene Curtis will be fondly remembered and dearly missed by her loving partner of 24 years, Sharolyn; her sister, Millicent, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charlene Adele Curtis, a trailblazing basketball player and coach whose legacy will inspire others for generations to come; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charlene Adele Curtis as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 579

Commending Hill Street Baptist Church.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, for 130 years, Hill Street Baptist Church of Roanoke has provided spiritual guidance, generous community outreach, and opportunities for joyful worship to members of the community; and

WHEREAS, Hill Street Baptist Church traces its origins to 1892, when a congregation of five individuals gathered under the leadership of the Reverend M.L. Minter and formed what was then known as Park Street Baptist Church; and

WHEREAS, following the brief tenure of the Reverend William Greene, the Reverend R.R. Henry led the congregation from 1896 to 1904, during which time the church changed locations and was renamed Hill Street Baptist Church; and

WHEREAS, the Reverend Mosses E. Johnson served faithfully as pastor of Hill Street Baptist Church from 1904 until 1907 and was subsequently replaced by the Reverend J.Y. King, who led the congregation from 1908 to 1916; and

WHEREAS, from 1917 to 1955, Hill Street Baptist Church was led by the Reverend David R. Powell, during which time the church building was remodeled extensively and the congregation swelled to approximately 500 parishioners; and

WHEREAS, after the brief tenures of the Reverend Thomas E. Crews and the Reverend Robert Johnson Smith, Hill Street Baptist Church benefited from the long tenure of the Reverend Raymond R. Wilkinson, who led the congregation from 1958 to 1991 and who served as an advocate and leader for various causes in the community during that time; and

WHEREAS, following urban renewal efforts of the City of Roanoke in the mid-1970s, Hill Street Baptist Church built a new church building in the area of its former church, which opened its doors to the congregation on March 1, 1981; and

WHEREAS, Hill Street Baptist Church was led in the early 1990s by the Reverend Perry W. Medley and then Deacon Woodrow Walker, Sr., before the Reverend Johnny R. Stone was unanimously elected to serve as pastor on June 25, 1995; and

WHEREAS, Hill Street Baptist Church is currently led by the Reverend Preston Tyler, who has eagerly embraced the responsibility of shepherding the congregation through the next chapter in the church's long and illustrious history; and

WHEREAS, over the past 130 years, Hill Street Baptist Church has been a source of solace for the many individuals who have found a sense of greater purpose and belonging within its walls; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Hill Street Baptist Church of Roanoke on the occasion of its 130th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Preston Tyler, pastor of Hill Street Baptist Church, as an expression of the General Assembly's admiration for the church's history and its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 580

Commending Heather Harper Gunn.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Heather Harper Gunn, a licensed professional counselor and the director of community-based services for child, youth, and family services at Blue Ridge Behavioral Healthcare, was honored at the Virginia Health Care Foundation's Cheers for Champions event in 2022; and

WHEREAS, Heather Gunn was celebrated by the Virginia Health Care Foundation (VHCF) and various state leaders who had gathered to commemorate VHCF's 30th anniversary and to recognize behavioral health organizations and professionals who have demonstrated extraordinary skill and dedication in addressing the mental health needs of Virginians; and

WHEREAS, Heather Gunn embarked upon her noble career as a behavioral health specialist as an intern at Blue Ridge Behavioral Healthcare and, over the past 18 years, rose through the ranks to now serve as the organization's director of community-based services for child, youth, and family services; and

WHEREAS, to address the ever increasing demand for behavioral health care, Heather Gunn has spearheaded the launch of several new programs and services designed to meet the needs of at-risk youth in the Roanoke Valley; and

WHEREAS, Heather Gunn has served as a mentor to her fellow colleagues at Blue Ridge Behavioral Healthcare, working tirelessly to support the organization's growth and development and to ensure that others have the resources they need to succeed; and

WHEREAS, Heather Gunn's efforts have led her to become a valued advocate for marginalized communities in the region and for the children and families in the community she serves; and

WHEREAS, by demonstrating an unwavering commitment to the well-being of youth and families in the Roanoke Valley, Heather Gunn serves as an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Heather Harper Gunn, a licensed professional counselor and the director of community-based services for child, youth, and family services at Blue Ridge Behavioral Healthcare, for being honored by the Virginia Health Care Foundation in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Heather Harper Gunn as an expression of the General Assembly's admiration for her contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 581

Commending Sunni Purviance.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Sunni Purviance, an esteemed community advocate and leader dedicated to supporting the neighborhoods of Southeast Roanoke, was named Citizen of the Year by the City of Roanoke in 2022; and

WHEREAS, a resident of Southeast Roanoke, Sunni Purviance has given generously of her time and talents to foster community and to improve her neighbors' quality of life; and

WHEREAS, Sunni Purviance serves as director of the community organization I Heart SE, spearheading efforts to highlight and promote stories and events that reflect the positive and convivial spirit of Southeast Roanoke; and

WHEREAS, as president of the Southeast Action Forum, a successor to the Belmont Neighborhood Watch Group, Sunni Purviance promotes the safety and well-being of individuals and families in the Roanoke neighborhoods of Belmont, Fallon, Waverly, and Morningside; and

WHEREAS, since July 2021, Sunni Purviance has served as a member of Roanoke Neighborhood Advocates, a committee created by the Roanoke City Council, representing the interests of residents of Southeast Roanoke and the city at large with great passion and enthusiasm; and

WHEREAS, Sunni Purviance regularly organizes events in Southeast Roanoke for the benefit of residents and visitors, including the Good Neighbors 5k, which she developed in collaboration with the Clean Valley Council to commemorate Earth Day; and

WHEREAS, Sunni Purviance inspires her neighbors and friends to commit time to "plawking," or picking up trash while walking, which has helped to beautify the streets, walkways, and parks of Southeast Roanoke; and

WHEREAS, Sunni Purviance brought holiday cheer to Southeast Roanoke by purchasing and hanging Christmas lights for homeowners without the means to do so on their own; and

WHEREAS, through extraordinary kindness, care, and thoughtfulness, Sunni Purviance has helped to make Southeast Roanoke a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sunni Purviance, a community advocate and leader in Southeast Roanoke, for being named Citizen of the Year by the City of Roanoke in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sunni Purviance as an expression of the General Assembly's admiration for her contributions to the Commonwealth and best wishes in her future endeavors.

HOUSE JOINT RESOLUTION NO. 582

Commending the Reverend Dr. Wayne D. Faison.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, the Reverend Dr. Wayne D. Faison, senior pastor of East End Baptist Church in Suffolk, was elected to serve as executive director of the Baptist General Association of Virginia on November 16, 2022; and

WHEREAS, a native of Ocala, Florida, Wayne Faison earned a bachelor's degree in mathematics from the University of Florida in Gainesville and spent more than 15 years in the banking industry, beginning as a teller at the former Mid-State Federal Savings Bank and rising through the ranks to ultimately serve as vice president of commercial banking at the former AmSouth Bank of Florida; and

WHEREAS, hearing the call to the ministry in 1992, Wayne Faison was licensed in 1993 and ordained in 1997 at New St. John Baptist Church in Ocala, Florida; he then assumed the position of senior pastor of Canaan Missionary Baptist Church in Flemington, Florida, from 1997 to 2001; and

WHEREAS, Wayne Faison cultivated his abilities as a spiritual leader by attending the Southern Baptist Theological Seminary, earning a master's degree in missions, evangelism, and church growth from what is now the Billy Graham School of Missions, Evangelism, and Ministry in 1996 and a doctor of ministry degree in Black church leadership from the seminary's School of Theology in 2001; and

WHEREAS, Wayne Faison settled in the Commonwealth in 2001 after taking a position with the Baptist General Association of Virginia (BGAV) as part of its Virginia Baptist Mission Board, providing training and assistance to churches and pastors within the organization's network; and

WHEREAS, Wayne Faison served as the pastor of East End Baptist Church in Suffolk in an interim capacity beginning in 2013 and was later confirmed as the church's full-time pastor in 2014, while he also continued to carry out his duties with the BGAV on a part-time basis; and

WHEREAS, as pastor of East End Baptist Church, Wayne Faison has provided his congregation with uplifting spiritual guidance and abundant opportunities for community outreach, including a local food bank, school partnerships, and global mission trips to distant locales such as South Africa, Haiti, and Central America; and

WHEREAS, Wayne Faison's background in architecture and banking proved especially valuable at East End Baptist Church in recent years as the historic church was in the process of constructing a new building on its property; and

WHEREAS, upon being elected executive director of the BGAV, Wayne Faison made history as the first African American to lead the organization in its 199-year history; and

WHEREAS, Wayne Faison has worked tirelessly to be a positive and transformative influence in his community, helping to make Suffolk and the Commonwealth a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Reverend Dr. Wayne D. Faison, senior pastor at East End Baptist Church in Suffolk, on the occasion of being named the executive director of the Baptist General Association of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Dr. Wayne D. Faison as an expression of the General Assembly's admiration for his leadership and service.

HOUSE JOINT RESOLUTION NO. 583

Celebrating the life of Joseph Edward Carey, Sr.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, Joseph Edward Carey, Sr., chief of the Brodnax Police Department and a beloved member of the Wylliesburg community, died in the line of duty on December 16, 2022; and

WHEREAS, Joseph "Joe" Edward Carey, Sr., devoted more than 40 years to protecting and serving his community as a law-enforcement officer, working tirelessly to ensure the safety and well-being of others; and

WHEREAS, Joe Carey was with the Brodnax Police Department for over two decades, serving the citizens of both Mecklenburg and Brunswick Counties as police chief of a town that is part of both localities; and

WHEREAS, Joe Carey was also actively involved in safeguarding the community in his home of Wylliesburg, maintaining memberships with both the Charlotte County Volunteer Rescue Squad and the Bacon District Volunteer Fire Department; and

WHEREAS, Joe Carey served for eight years on the Charlotte County Board of Supervisors, where his leadership and expertise helped to guide the locality's growth and development; and

WHEREAS, a lifelong supporter of the Future Farmers of America, Joe Carey managed the arduous task of operating a cattle farm alongside his career in law enforcement; and

WHEREAS, guided throughout his life by his faith, Joe Carey enjoyed worship and fellowship with his community at Wylliesburg Evangelical Presbyterian Church for many years; he was also a member of his local masonic lodge; and

WHEREAS, Joe Carey's friendly and personable nature endeared him to all who knew him and was a reflection of his deep commitment to caring for and supporting the communities where he worked and lived; and

WHEREAS, Joe Carey will be fondly remembered and greatly missed by his loving wife of 40 years, Beverly; his sons, Joey, Matthew, and Jonathan, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Joseph Edward Carey, Sr., chief of the Brodnax Police Department and a cherished member of the Wylliesburg community whose service and dedication made a profound and lasting impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joseph Edward Carey, Sr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 584

Commending Black Horse Forge.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Black Horse Forge, a veteran-owned business in Fredericksburg, helps veterans, active-duty service members, first responders, and other members of the community develop a sense of accomplishment and hone their mental and physical well-being through an exploration of the traditional art of blacksmithing, toolmaking, and bladesmithing; and

WHEREAS, Black Horse Forge was established in 2018 by Steve Hotz, a retired member of the United States Army's 82nd Airborne Division and an experienced blacksmith who is studying to achieve journeyman and master bladesmith ratings from the American Bladesmith Society; and

WHEREAS, Black Horse Forge is a nonprofit that offers a range of classes, including a basic blacksmith class to learn different techniques to craft useful household items, a toolmaking class, and multi-day knife making classes; the forge also offers courses for individuals with limited strength due to injury or disability; and

WHEREAS, Black Horse Forge offers most of its classes to veterans, active-duty members of the military, and public safety officers at no cost, supported by the proceeds from its paid courses for members of the public; and

WHEREAS, Black Horse Forge provides hands-on therapy, advocates for individuals with post-traumatic stress disorder, promotes suicide prevention awareness, and builds a sense of community between professionals and grassroots volunteers so that veterans can get the help they need; and

WHEREAS, Black Horse Forge has developed several affiliate forges throughout the United States and built strong ties with other blacksmiths around the world, including Veterans Forges in the United Kingdom and Australia; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That Black Horse Forge, a unique, veteran-owned business, hereby be commended for its service to the residents of Fredericksburg and visitors from around the world; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Black Horse Forge as an expression of the House of Delegates' admiration for the shop's achievements and contributions to the community.

HOUSE JOINT RESOLUTION NO. 585

Commending Regent University.

Agreed to by the House of Delegates, January 25, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Regent University, an institution of higher education in Virginia Beach that has provided academic instruction and spiritual guidance to multitudes around the world, celebrated its 45th anniversary in 2022; and

WHEREAS, Regent University's founder, Dr. M.G. "Pat" Robertson, envisioned his plans for Christian Broadcasting Network University (CBN University), which would later become Regent University, in 1977 and dedicated the university to a unique pursuit of academics that would blend the highest spirituality and the richest scholarship; and

WHEREAS, in 1978, Pat Robertson was officially appointed president of CBN University, and 77 students began studying under the tutelage of seven faculty members; and

WHEREAS, CBN University held its first commencement in May 1980, and received accreditation from the Southern Association of Colleges and Schools in 1984; and

WHEREAS, CBN University was renamed Regent University in 1990, reflecting the institution's rapid growth and continued commitment to world-class academics; and

WHEREAS, Regent University has become a recognized and respected leader in higher education, and has received numerous prestigious accolades and awards, including selection as the number one accredited online college in America in 2020, the number one safest college campus in Virginia in 2021, and the number one online bachelor's degree program in Virginia for 10 consecutive years from 2013 to 2022; and

WHEREAS, Regent University currently has 10,380 total students enrolled on campus and online and has expanded its academic offerings over the years by incorporating new areas of study while establishing schools of business, communication and the arts, divinity, education, government, health and behavioral sciences, law, nursing, and psychology and counseling, among others; and

WHEREAS, the 45th anniversary of Regent University offers an opportunity to reflect on the school's legacy and to envision its future; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Regent University on the occasion of its 45th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. M.G. Robertson, founder, chancellor, and chief executive officer of Regent University, as an expression of the General Assembly's admiration for the institution's contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 586

Celebrating the life of Freda Jenay Tate.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Freda Jenay Tate of Norton, a passionate journalist and trailblazing news executive who served as the longtime editor and publisher of *The Coalfield Progress*, died on January 15, 2022; and

WHEREAS, Jenay Tate was a graduate of John I. Burton High School and continued her education at the University of Kentucky; she spent most of her career as a newspaper writer and editor in the coalfields region, working at her family's newspapers, *The Post* in Big Stone Gap, the *Dickenson Star* in Clintwood, and primarily and most notably, *The Coalfield Progress* in Norton; and

WHEREAS, during Jenay Tate's 40-year tenure with the newspaper, *The Coalfield Progress* earned countless awards and accolades for writing, design, and photography, and it was consistently selected as one of the top newspapers of its size in the Commonwealth; and

WHEREAS, Jenay Tate was highly respected in the newspaper industry and held numerous leadership roles in the Virginia Press Association; she helped plan award conferences and judged countless writing and photography competitions; and

WHEREAS, Jenay Tate was a passionate advocate for her fellow residents of the coalfields region and worked to preserve the history and heritage of the region by writing extensively about the coal industry, including coal camps and the critical importance of coal to the local economy; and

WHEREAS, outside of her career, Jenay Tate helped establish the Best Friend Festival in Norton and served as its chair for many years; she was well known for her artistic talents, passion for gardening, and love of cooking good food; her kindness and generosity were exemplified through the many stray cats she cared for and adopted over the years; and

WHEREAS, predeceased by her parents, Carroll and Robbie, and her brother, Michael, all of whom worked with her in the family newspaper business; Jenay Tate will be fondly remembered and greatly missed by her sister, Carol; many beloved nieces and nephews; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Freda Jenay Tate; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Freda Jenay Tate as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 587

Commending James E. Camm.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, James E. Camm, a spiritual leader in Lynchburg, has served the community for more than 20 years as the founding pastor of Living Word Ministries; and

WHEREAS, a native of Lynchburg, James Camm served his country as a member of the United States Army, then furthered his education by earning a bachelor's degree in personal finance, a master's degree in organizational management, and a doctoral degree in divinity; and

WHEREAS, after living in Alaska for several years, James Camm returned to the Commonwealth and established Living World Ministries in Lynchburg to provide wise spiritual guidance and community leadership; and

WHEREAS, James Camm has helped Living World Ministries grow in faith and number, expanding the ministry to serve communities in other parts of the Commonwealth, as well as North Carolina, Maryland, Georgia, and Alaska; and

WHEREAS, James Camm has worked diligently to enhance the quality of life in Lynchburg by supporting initiatives to reduce crime and gang violence and volunteering his time to provide meals, housing, personal grooming facilities, and laundry services to homeless men in the region; and

WHEREAS, in 2016, James Camm worked with other faith leaders and local law-enforcement officers to establish One Community One Voice to raise local communities out of poverty, enhance access to educational programs and human services, and build a sense of hope, belonging, and encouragement; and

WHEREAS, One Community One Voice has helped provide winter coats, glasses, and other necessities to young people in need, and its B.I.K.E. (Believe in Kids Excelling) awards bicycles to young people who excel in school; and

WHEREAS, through One Community One Voice, James Camm also launched an award-winning outreach program, E.N.O.U.G.H. (Empowering Neighborhoods to Overcome Undesirable behaviors Gives us Hope), which hosts regular community events to allow law-enforcement officers and local government officials to build strong bonds of fellowship with residents of high-risk neighborhoods; and

WHEREAS, E.N.O.U.G.H. helps maintain transparency and accountability in policing and builds trust between law-enforcement officers and members of the public by promoting positive interactions in an informal setting; and

WHEREAS, James Camm's achievements with One Community One Voice and E.N.O.U.G.H. have helped make Lynchburg a state and national model for effective, compassionate community policing; and

WHEREAS, James Camm has also mentored and supported young people at R.S. Payne Elementary School by helping to provide tablet computers for students in need and participating in the Big Brothers Big Sisters Lunch Buddy Program; and

WHEREAS, among many awards and accolades for his vital work, James Camm received the 2017 Mayor's Award of Excellence and the 2018 College Hill Neighborhood Hero Award; he was part of the delegation that represented Lynchburg when it received the 2018 Innovation Award for Quality of Life from the Virginia Municipal League; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend James E. Camm for his service to the Lynchburg community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James E. Camm as an expression of the General Assembly's admiration for his achievements.

HOUSE JOINT RESOLUTION NO. 588

Commending the Town of Leesburg.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, the Town of Leesburg, county seat of Loudoun and home to more than 48,000 citizens of the Commonwealth, was named one of the "Best Places to Live for Families" by *Fortune* magazine in 2022; and

WHEREAS, Leesburg placed eighth in *Fortune* magazine's ranking, which evaluated nearly 2,000 localities from across the nation with populations between 25,000 and 750,000 residents; and

WHEREAS, Leesburg and the other localities were assessed by *Fortune* magazine across the categories of education, resources for aging residents, general wellness, and financial health to measure their suitability for families responsible for both raising children and caring for aging parents; and

WHEREAS, Leesburg was selected for this distinction as a result of its proximity to Virginia wine country; its active and family-friendly downtown area, including charming shops, galleries, and historical landmarks; its top-ranked schools; and its plethora of senior living options; and

WHEREAS, Leesburg has benefited recently from its designation as an Exploring Main Street community with the Department of Housing and Community Development, which provides valuable resources to support long-term revitalization efforts in the area; and

WHEREAS, Leesburg hosts a number of festivals and events throughout the year, including the Flower and Garden Festival, the Art Festival, and the Holiday Fine Arts and Crafts Show, giving countless visitors the opportunity to enjoy the locality's vibrant spirit and small-town charm; and

WHEREAS, Leesburg was also recently named the "Most Beautiful Town in Virginia" by TheTravel.com and cited as the sixth safest locality in the Commonwealth by Ramsey Solutions; and

WHEREAS, Leesburg's selection as one of *Fortune* magazine's "Best Places to Live for Families" serves as testament to the well-known fact that the town is a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Town of Leesburg for being named one of *Fortune* magazine's 2022 "Best Places to Live for Families"; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Town of Leesburg as an expression of the General Assembly's admiration for the town's accolade.

HOUSE JOINT RESOLUTION NO. 589

Commending CyrusOne Sterling campus and Loudoun County Toys for Tots.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, in 2022, the CyrusOne Sterling campus and Loudoun County Toys for Tots worked together to provide hope and joy to local children during the holidays; and

WHEREAS, established in 1947, the Marine Toys for Tots program, administered by the United States Marine Corps Reserve, collects and distributes toys and gifts to thousands of children in need each year; and

WHEREAS, Loudoun County Toys for Tots and Toys for Tots programs throughout the country rely on the dedication of volunteers and the generosity of community partners and local businesses to fulfill their mission; Toys for Tots programs have overcome numerous challenges as a result of the COVID-19 pandemic; and

WHEREAS, in 2022, the CyrusOne Sterling campus, a data center company headquartered in Dallas, Texas, donated 10,000 square feet of unused office space to accommodate the collection, storage, and distribution of toys for Loudoun County Toys for Tots, helping the program return to in-person volunteering and toy distribution after the COVID-19 pandemic; and

WHEREAS, in early December, members of Loudoun County Toys for Tots began preparing the space at the CyrusOne Sterling campus by laying down pallets to assist with the organization of the donated toys, which would be sorted and bagged according to children's ages; and

WHEREAS, Loudoun County Toys for Tots also received assistance from local fire and rescue departments, which hosted donation drives; a team of volunteers accepted the donations at the CyrusOne Sterling campus on December 9 delivered by Loudoun County Fire and Rescue services; and

WHEREAS, CyrusOne promotes good corporate citizenship across all of its locations, and the employees at the Sterling campus have previously volunteered at local schools and with other charitable youth organizations; and

WHEREAS, thanks to the hard work and generosity of the members of the CyrusOne Sterling campus and Loudoun County Toys for Tots, more than 14,300 toys were distributed to 9,262 children in 2022; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend CyrusOne Sterling campus and Loudoun County Toys for Tots for their service to local young people in need; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the CyrusOne Sterling campus and Loudoun County Toys for Tots as an expression of the General Assembly's appreciation for the importance of their work during the holiday season.

HOUSE JOINT RESOLUTION NO. 590

Commending the Loudoun County Chamber of Commerce.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, the Loudoun County Chamber of Commerce, a premier network of business and community leaders in one of the nation's most economically vibrant counties, achieved 5-Star Accreditation status from the United States Chamber of Commerce in 2022; and

WHEREAS, incorporated on December 18, 1968, the Loudoun County Chamber of Commerce has become the largest and one of the most effective chambers in Northern Virginia with more than 1,000 members; and

WHEREAS, the Loudoun County Chamber of Commerce's diverse membership includes businesses, nonprofits, and public-sector partners of every size and industry, as well as visionary entrepreneurs and leaders who are dedicated to making Loudoun a world-class community to live, work, and grow a business; and

WHEREAS, the Loudoun County Chamber of Commerce is an effective advocate for and partner with the Loudoun County Department of Economic Development and Visit Loudoun, partnerships that have earned local, national, and international recognition, including for their collaboration on the "Loudoun Is Ready" COVID-19 response campaign; and

WHEREAS, the Association of Chamber of Commerce Executives (ACCE), the nation's leading association for chamber industry executives, named the Loudoun County Chamber of Commerce as one of four finalists for Chamber of the Year in 2021, recognizing the organization for its performance and community impact; and

WHEREAS, Loudoun County Chamber of Commerce president and chief executive officer Tony Howard has earned highly valued industry certifications from the United States Chamber of Commerce's Institute for Organization Management as well as ACCE's Certified Chamber Executive distinction, the chamber industry's top recognition for professional excellence; and

WHEREAS, Tony Howard of the Loudoun County Chamber of Commerce was also named the Commonwealth's Chamber Executive of the Year in 2015 by the Virginia Association of Chamber of Commerce Executives; and

WHEREAS, in recognition of the Loudoun County Chamber of Commerce's many years of industry leading programs, business advocacy, and community impact, the United States Chamber of Commerce awarded the organization its 5-Star Accreditation in 2022; and

WHEREAS, the 5-Star Accreditation is the United States Chamber of Commerce's highest endorsement for a local chamber's performance and places the Loudoun County Chamber of Commerce among the top two percent of 7,000 chambers nationwide for the quality of its programs, policies, and impact on the community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Loudoun County Chamber of Commerce for receiving 5-Star Accreditation status from the United States Chamber of Commerce in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Loudoun County Chamber of Commerce as an expression of the General Assembly's admiration for the organization's achievement and appreciation for its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 591

Commending Loudoun County High School.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Loudoun County High School greatly supported female cancer patients across the country through its involvement in the Barnett-Searing National Cancer Foundation's Smile Kits project in 2022; and

WHEREAS, in recent years, different clubs at Loudoun County High School, including the National Honor Society, Future Business Leaders of America, and Interact, have organized fundraisers to participate in the Smile Kits project of the Barnett-Searing National Cancer Foundation (BSNCF); and

WHEREAS, the BSNCF Smile Kits project involves sending care packages of items such as clothing, lip balm, art supplies, blankets, handmade holiday ornaments, and notes of encouragement to cheer up women of all ages across the nation who are battling cancer; and

WHEREAS, despite losing school partners in the early stages of the Smile Kits drive, Loudoun County High School students managed to raise enough money to produce 758 care packages, far surpassing their total of 400 care packages from the previous year; and

WHEREAS, the accomplishments of Loudoun County High School were made possible through the generous support of individuals in the community, the Daybreak Rotary Club, and members of The Church of Jesus Christ of Latter-day Saints in the Leesburg area, including a single donation of $3,000; and

WHEREAS, Loudoun County High School's efforts were facilitated by the school's self-contained special education program, which helped to organize, inventory, and sort donations as they arrived; and

WHEREAS, on December 10, 2022, more than 70 students gathered at Loudoun County High School to arrange the Smile Kits care packages, with approximately 175 kits going in the mail that day; and

WHEREAS, many of the care packages assembled by Loudoun County High School students were ultimately donated to cancer treatment centers in Northern Virginia, bringing a touch of brightness to an untold number of local families' holiday seasons; and

WHEREAS, by demonstrating great compassion and concern for the well-being of others, students and staff at Loudoun County High School serve as an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Loudoun County High School for its participation in the Barnett-Searing National Cancer Foundation's Smile Kits project in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the students and staff of Loudoun County High School as an expression of the General Assembly's admiration for their achievements and their contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 592

Commending the 2023 inductees into the Virginia Sports Hall of Fame.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, in 1996, the Virginia Sports Hall of Fame was designated the official Sports Hall of Fame of the Commonwealth; and

WHEREAS, the Virginia Sports Hall of Fame, located in Virginia Beach, has honored hundreds of Virginia's exceptional athletes, coaches, and media personalities since its inception; and

WHEREAS, the Virginia Sports Hall of Fame celebrates athletic excellence in the Commonwealth, highlights philanthropy through sports, and inspires sports fans through engaging and entertaining programs; and

WHEREAS, the Virginia Sports Hall of Fame will celebrate its 50th Induction Weekend by honoring the Class of 2023 and the 2023 Distinguished Virginian Award recipient on Saturday, April 22, 2023; and

WHEREAS, the Virginia Sports Hall of Fame is honored to present the Class of 2023 inductees as follows:

The Class of 2023

DeAngelo Hall

DeAngelo Hall graduated from Deep Creek High School in Chesapeake, then became a first team All-American defensive back for the Virginia Polytechnic Institute and State University football team in the early 2000s. He was drafted by the Atlanta Falcons with the eighth overall pick in the first round of the 2004 National Football League (NFL) Draft, and went on to play 14 seasons in the NFL with the Atlanta Falcons, the Oakland Raiders, and the Washington Commanders. A three-time Pro Bowl selection, he recorded 43 interceptions, forced 11 fumbles, and scored 10 defensive touchdowns over the course of his career. He has previously been inducted into the Virginia Tech Sports Hall of Fame and has been recognized as one of the Commanders' 90 Greatest Players of All-Time.

Jimmye Laycock

Originally from Loudoun County, Jimmye Laycock attended Loudoun Valley High School, earning 12 varsity letters, before heading to The College of William & Mary, where he quarterbacked the Tribe football team in the late 1960s. After a decade as an assistant coach, he returned to his alma mater in 1980 as head coach and led the football program for the next 39 seasons, amassing 249 wins, seven conference championships, and 10 National Collegiate Athletic Association (NCAA) Football Championship Subdivision playoff appearances. He has previously been inducted into the Hampton Roads Sports Hall of Fame.

Francena McCorory

Francena McCorory grew up in Hampton and graduated from Bethel High School, where she starred on the indoor and outdoor track teams, setting numerous Virginia High School League indoor and outdoor track and field records. Running for her hometown Hampton University Pirates, McCorory would win three NCAA Championships in the 400-meter dash, and be named a four-time NCAA All-American. After college, her success continued on the international level where she represented her country in the 2012 and 2016 Summer Olympic Games, bringing home the gold both years as a member of the 4x400-meter relay teams.

Shawn Moore

A Martinsville native, Shawn Moore attended Martinsville High School before committing to play football for the University of Virginia (UVA). During his three seasons under center for the Cavaliers, he rewrote the offensive record books. He finished his career in 1990 holding 41 school, Atlantic Coast Conference, and NCAA individual records, and his 83 total touchdowns still stand as a school record to this day. As the 1990 ACC Player of the Year, he led the Cavaliers to the program's first ever national number one ranking, and finished fourth in the voting for the Heisman Trophy in 1990. His career statistics include 6,629 passing yards and 55 touchdowns and 1,268 rushing yards with 28 touchdowns.

Jerry Ratcliffe

Jerry Ratcliffe has been a longtime fixture in sports media in Central Virginia, with a focus on UVA athletics. Over the course of four decades at the *Daily Progress*, he was selected as Virginia Sportswriter of the Year four times, and received numerous other recognitions from the Associated Press Sports Editors Association, the Virginia Press Association, the Football Writers of America, and the United States Basketball Writers of America. He has also been recognized for his golf coverage with the prestigious Earle Hellen Sports Media Award by the Middle Atlantic Section of the PGA of America. Since 2018, he has managed and provided content on UVA Athletics through his website, JerryRatcliffe.com.

Bob Rotanz

Bob Rotanz came to Roanoke College in the mid-1970s and immediately enhanced the Maroons' rich lacrosse tradition. A three-time All-American during his time at Roanoke College, he is one of just two players in school history to earn National Player of the Year honors, doing so in 1978. In the same year, he was named National Defensive Player of the Year and helped lead Roanoke College to the NCAA Championship by scoring the winning goal in the title game. He is a 2022 recipient of the Roanoke College medal, the highest honor awarded by the institution.

Sheila Trice-Myers

A graduate of Louisa County High School in Mineral, Sheila Trice-Myers matriculated at Christopher Newport University (CNU), where she set numerous school and NCAA records. During her four years on the Peninsula, she became one of the most decorated athletes in NCAA track and field history, finishing her career with 32 All-American honors and 15 national championships. Her first national title came in 1987 as part of CNU's winning 4x100-meter relay team. She continued to set the track on fire, winning four more national titles in 1988, six in 1989, and four in 1990. She remains the NCAA Division III record holder in the 55-meter indoor hurdles.

Ryan Zimmerman

A native of Virginia Beach, Ryan Zimmerman achieved success at all levels of baseball. He is an inductee into the UVA Baseball Hall of Fame, ranks in the top 10 in multiple offensive categories in Cavaliers history, and was a 2005 All-ACC and All-American selection. He became the first ever draft pick in Washington Nationals history when the franchise selected him fourth overall in the 2005 Major League Baseball entry draft. After 16 seasons, he retired as the franchise leader in hits (1,846), home runs (284), RBI (1,061), and games played (1,799). Nicknamed "Mr. National," the two time National League All-Star helped lead the Nationals to their first World Series title in 2019, and his number 11 jersey has been retired by the team.

WHEREAS, the Virginia Sports Hall of Fame is also honored to present the 2023 Distinguished Virginian Award recipient:

Joe Montgomery

Joe Montgomery grew up in Lynchburg, where he graduated from Brookville High School, and in the 1970s, he became a standout center for The College of William & Mary football team. The 1973 All-American and 1985 William & Mary Athletics Hall of Fame inductee has experienced success both on and off the field. His commitment to his alma mater and the greater community has seen him appointed to The College of William & Mary Board of Visitors, Colonial Williamsburg Foundation Board of Trustees, and Virginia Retirement System Board of Trustees, among others. In 2017, he was presented with the Gerald R. Ford Legends Award by the Rimington Trophy for his significant contributions to the football and business communities and his philanthropic endeavors; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend DeAngelo Hall, Jimmye Laycock, Francena McCorory, Shawn Moore, Jerry Ratcliffe, Bob Rotanz, Sheila Trice-Myers, Ryan Zimmerman, and Joe Montgomery for their outstanding achievements in athletics and philanthropy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the Virginia Sports Hall of Fame and its 2023 inductees as an expression of the General Assembly's congratulations and admiration for their many contributions to the world of sports.

HOUSE JOINT RESOLUTION NO. 593

Commending Washington Gas Light Company.

Agreed to by the House of Delegates, January 30, 2023
Agreed to by the Senate, February 2, 2023

WHEREAS, Washington Gas Light Company, a leading purveyor of energy services in the Washington, D.C., metropolitan area, celebrates its 175th anniversary in 2023; and

WHEREAS, on July 8, 1848, the Washington Gas Light Company, known commonly as Washington Gas, was founded through a charter of the United States Congress that was signed into law by President James K. Polk, making it the first Congressionally chartered gas company in the country; and

WHEREAS, in the beginning, Washington Gas was responsible for installing gas lights in the United States Capitol, the White House, and along Pennsylvania Avenue in Washington, D.C.; and

WHEREAS, Washington Gas expanded into the Commonwealth and Maryland around the turn of the 20th century and today provides safe and reliable natural gas service to more than 1.2 million residential, commercial, and industrial customers in the national capital region; and

WHEREAS, restructured as WGL Holdings, Inc., in 2000, Washington Gas and other companies under the WGL banner have been indirect, wholly-owned subsidiaries of AltaGas Ltd. since 2018, helping to make the company a leader in North America for clean, efficient, and diverse energy solutions; and

WHEREAS, Washington Gas has earned a reputation among its customers for its reliability and dependability, as its 1,611 employees, including 956 residents of the Commonwealth, take great pains to ensure the company provides continuous service through a variety of challenges and circumstances; and

WHEREAS, Washington Gas has supported various nonprofit, community, civic, and charitable organizations over the years, enhancing the quality of life for countless individuals and families in the Commonwealth; and

WHEREAS, since its founding, Washington Gas has worked tirelessly to foster a strong and thriving business climate in its service territory, offering support and leadership to local chambers of commerce and other business organizations; and

WHEREAS, through its commitment to excellence and its unwavering dedication to its customers over the past 175 years, Washington Gas has presented a model to which all companies may aspire; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Washington Gas Light Company on the occasion of its 175th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Washington Gas Light Company as an expression of the General Assembly's admiration for the company's history and appreciation for its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 594

Commending Blue Ridge Pregnancy Center.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, Blue Ridge Pregnancy Center, a nonprofit organization in Lynchburg, has helped women in Central Virginia make informed decisions about their pregnancies for more than 23 years; and

WHEREAS, Blue Ridge Pregnancy Center was founded in 1999 to provide educational information and support to women with unplanned pregnancies and has served generations of clients with compassion and integrity; and

WHEREAS, Blue Ridge Pregnancy Center is one of more than 2,500 pregnancy care centers across the United States that provide comprehensive care to women facing unplanned pregnancies, including resources to meet their physical, psychological, emotional, and spiritual needs; and

WHEREAS, Blue Ridge Pregnancy Center and other such centers throughout the Commonwealth and the nation have had a positive impact on the women, families, and communities they serve; and

WHEREAS, the services that Blue Ridge Pregnancy Center offers include pregnancy testing, limited obstetrical ultrasounds, information on all pregnancy options, pregnancy and post-partum counseling, pregnancy and life coaching classes, and post-abortion support; and

WHEREAS, Blue Ridge Pregnancy Center offers information and support on single parenting or co-parenting, and clients in need may also receive baby diapers, clothes, toiletries, toys, and other necessities; the center also offers information and referrals about adoption services; and

WHEREAS, Blue Ridge Pregnancy Center has helped women make positive life choices by equipping them with complete and accurate information regarding their pregnancy options and the development of their unborn children, as well as compassionate and confidential peer counseling in a nonjudgmental manner regardless of their pregnancy outcomes; and

WHEREAS, by providing education and important support and resources for women, Blue Ridge Pregnancy Center encourages choosing childbirth over abortion; and

WHEREAS, in 2022, Blue Ridge Pregnancy Center performed 289 pregnancy tests and 249 ultrasounds and distributed more than 900 donated diapers; as a result of the center's work, 204 mothers were assisted in their decisions to choose childbirth over abortion; and

WHEREAS, Blue Ridge Pregnancy Center is funded through the generosity of individuals, businesses, and organizations in the community; Blue Ridge Pregnancy Center has fulfilled its mission through the hard work of its staff members and volunteers and generous donations from individuals and community partners and provides all services free of charge; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Blue Ridge Pregnancy Center for more than two decades of service to women in Central Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Blue Ridge Pregnancy Center as an expression of the General Assembly's admiration for the organization's commitment to building happy, healthy families.

HOUSE JOINT RESOLUTION NO. 595

Commending Jeffrey C. Michaels, O.D.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, Jeffrey C. Michaels, O.D., a distinguished doctor of optometry and co-owner of Family Vision Care of Richmond, was named Optometrist of the Year by the American Optometric Association in 2022; and

WHEREAS, after graduating from the Michigan College of Optometry in 1998 and completing a residency in low vision at Johns Hopkins University, Jeffrey Michaels settled in the Richmond area, served 13 years as the director of a low vision clinic at Stony Point, and most recently became a co-owner and practicing optometrist at Family Vision Care of Richmond in Glen Allen; and

WHEREAS, at the outset of the COVID-19 pandemic, Jeffrey Michaels supported his fellow optometrists by presenting a series of webinars explaining the federal relief programs that were created in response to the historic public health crisis; these webinars were attended by thousands and have since been restreamed over 10,000 times; and

WHEREAS, Jeffrey Michaels' efforts helped optometrists nationwide receive a collective $1.6 billion from federal relief funds and programs such as the Paycheck Protection Program, Employee Retention Credit, and Provider Relief Fund, allowing many to maintain their practices throughout this difficult and uncertain time; and

WHEREAS, Jeffrey Michaels went above and beyond the call of duty following these webinars by personally speaking with dozens of optometrists by phone, email, or text to help them navigate the myriad federal programs and their complex regulations; and

WHEREAS, Jeffrey Michaels has advanced the optometry industry through leadership positions with various organizations, including the Richmond Optometric Society, which he served as president from 2003 to 2005; the Virginia Optometric Association (VOA), which he served as president and legislative committee co-chair; and the American Optometric Association (AOA), which he served as a Quality Improvement and Data Committee member; and

WHEREAS, over the years, Jeffrey Michaels has participated in numerous clinical trials to improve the quality of vision care and has spoken many times at local, state, regional, and national optometric educational events; he has also appeared before many non-optometric groups to raise public awareness of vision care best practices; and

WHEREAS, beyond his work as an optometrist, Jeffrey Michaels fosters the well-being of an untold number of young people by teaching mental conditioning to sports teams at the travel, high school, and collegiate levels; and

WHEREAS, in addition to his recent distinction from the AOA, Jeffrey Michaels has received several prestigious accolades over his career, including Virginia Optometrist of the Year honors from the VOA in 2008 and 2021 and the President's Award from the AOA in 2015 and 2020, all of which serve as testaments to a productive and meaningful career in service to others; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jeffrey C. Michaels, O.D., for being named the American Optometric Association's 2022 Optometrist of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jeffrey C. Michaels, O.D., as an expression of the General Assembly's admiration for his award and appreciation for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 596

Celebrating the life of Martin L. Williams.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, Martin L. Williams, a dedicated law-enforcement officer and a highly admired community leader in Chesapeake, died on December 1, 2022; and

WHEREAS, a proud, lifelong resident of Chesapeake, Martin "Marty" L. Williams graduated from Western Branch High School, where he supported his classmates as the school mascot, Barney Bruin; and

WHEREAS, after graduation, Marty Williams fulfilled his longtime dream to protect and serve the community as a law-enforcement officer when he joined the Chesapeake Police Department; and

WHEREAS, over the course of his 25-year career, Marty Williams served as a patrol officer, a detective, and a sergeant, and in recognition of his outstanding achievements, he was selected as the Officer of the Year in 1984; and

WHEREAS, during his time as a detective, Marty Williams solved a high-profile murder case that became the subject of a book, was featured in two true crime television series, and will be covered with a special on CNN; and

WHEREAS, Marty Williams was a member of Fraternal Order of Police Chesapeake Lodge No. 9 and served as treasurer and president of the Fraternal Order of Police Virginia State Lodge after his retirement as a police officer; and

WHEREAS, desirous to be of further service to the community, Marty Williams worked to enhance the quality of life in the region as a member of the Chesapeake Planning Commission for 11 years; he also served as the president and chair of the Virginia Charitable Gaming Council, overseeing more than a million dollars of donations to worthy causes; and

WHEREAS, Marty Williams was a passionate volunteer for many civic organizations and fundraisers; in later years he became president of a local animal shelter, Reba's Rescue; and

WHEREAS, Marty Williams enjoyed fellowship and worship with the community as a member of New Creation United Methodist Church, to which he generously provided technical support; and

WHEREAS, Marty Williams will be fondly remembered and greatly missed by his wife of 28 years, Kathy, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Martin L. Williams; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Martin L. Williams as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 597

Commending J. Reese Jackson.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, J. Reese Jackson, a highly respected health care strategist with more than two decades of leadership experience, received the 2022 First Citizen of Chesapeake award for his outstanding contributions to the health and wellness of the Chesapeake community; and

WHEREAS, the Rotary Club of Chesapeake selects a First Citizen of Chesapeake each year to recognize exceptional individuals, like Reese Jackson, who exemplify the Rotary motto of "Service Above Self" and who have enhanced the quality of life in the community through their personal and professional achievements; and

WHEREAS, Reese Jackson holds a master's degree in health administration from Virginia Commonwealth University and a law degree from the University of Richmond; he previously served as president and chief executive officer of Forbes Hospital in Monroeville, Pennsylvania, and helped the hospital earn a certification as a Level II Trauma Center; and

WHEREAS, in 2016, Reese Jackson became the president and chief executive officer of Chesapeake Regional Healthcare, the Commonwealth's only non-state-owned public hospital; and

WHEREAS, during his tenure, Reese Jackson has guided the health system's $135 million facility improvement project to enhance and expand its services and capabilities; and

WHEREAS, known for his collaborative leadership style, Reese Jackson has fostered a work culture that promotes mutual respect, accountability, and high performance; and

WHEREAS, Reese Jackson has worked diligently to improve health and wellness across the Hampton Roads Region through strategic planning and the implementation of clinical services tailored to the unique needs of the community; and

WHEREAS, Reese Jackson has also volunteered his leadership and expertise to numerous community organizations, including as chair of the American Heart Association's Hampton Roads Heart & Stroke Ball in 2019 and chair of the 2022 Hampton Roads Heart Walk; and

WHEREAS, in all his endeavors, Reese Jackson enjoys the love and support of his wife of nearly 30 years, Mary Ann, and their daughters Isabella and Lacee; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend J. Reese Jackson on the occasion of his selection as the Rotary Club of Chesapeake's 2022 First Citizen of Chesapeake; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to J. Reese Jackson as an expression of the General Assembly's admiration for his contributions to the health care field in the Commonwealth.

HOUSE JOINT RESOLUTION NO. 598

Commending Lake of the Woods Volunteer Fire and Rescue Company.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, in addition to providing outstanding fire and rescue services, Lake of the Woods Volunteer Fire and Rescue Company strives to enhance community life in Locust Grove through a number of outreach programs, including an annual food drive; and

WHEREAS, established in 1971 with eight original members, Lake of the Woods Volunteer Fire and Rescue Company has grown to comprise 150 highly trained firefighters, who in 2021 responded to more than 800 calls for service in Locust Grove, Germanna, and eastern Orange County; and

WHEREAS, Lake of the Woods Volunteer Fire and Rescue Company stays engaged with members of the public through risk reduction events to raise fire safety awareness and strives to enhance the quality of life in the region through community service initiatives; and

WHEREAS, in 2022, Lake of the Woods Volunteer Fire and Rescue Company collected more than 1,840 pounds of food during its annual food drive to benefit the Wilderness Food Pantry; the company also collected monetary donations for the food pantry totaling more than $1,750; and

WHEREAS, Lake of the Woods Volunteer Fire and Rescue Company fulfilled its mission to reduce food insecurity during the holiday season through the generosity of local residents and community partners, including the Walmart Supercenter and Food Lion in Locust Grove; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Lake of the Woods Volunteer Fire and Rescue Company for its work to support members of the community in need through its annual food drive and other outreach programs; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lake of the Woods Volunteer Fire and Rescue Company as an expression of the General Assembly's admiration for the organization's exceptional service to the community.

HOUSE JOINT RESOLUTION NO. 599

Commending the 246 Years Project.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, the 246 Years Project, a collaboration between the historic Morven Park and the Loudoun County Circuit Court Clerk's Office, is striving to make pre-Civil War historical records about enslaved people more accessible to amateur genealogists and members of the public; and

WHEREAS, the 246 Years Project was originally conceived in 2016 by Jana Shafagoj, the director of preservation for Morven Park in Loudoun County, the historic home of former Governor Westmoreland Davis, when she recognized that many Black amateur genealogists encountered difficulties obtaining family records prior to 1865; and

WHEREAS, the 246 Years Project takes its name from the period between the arrival of the first enslaved Africans in Jamestown in 1619, to the ratification of the Thirteenth Amendment to the Constitution of the United States and the abolition of slavery in 1865; during this time, enslaved people were excluded from government records and census data, making it difficult to trace family lineages before the Civil War; and

WHEREAS, Jana Shafagoj discussed the project with historians, genealogy experts, local officials, and the Historic House Museum Consortium of Washington, D.C., which represents 40 historic homes and sites open to the public in the national capital region of Virginia, Maryland, and the District of Columbia; however, work on the project was delayed due to the COVID-19 pandemic; and

WHEREAS, when Stacey Metcalfe became the executive director of Morven Park in December 2020, she made the completion of the 246 Years Project a priority and sought the assistance of Gary Clemens, the clerk of the Loudoun County Circuit Court, who, with his Historic Records Division team, maintains one of the most complete collections of historical records in the Commonwealth and has established beneficial partnerships with local libraries and museums; and

WHEREAS, the 246 Years Project is developing a free-to-access online database that helps members of the public trace their family history further back than has typically been possible by supplementing official government records with unofficial data on enslaved people that was kept by private households throughout the region; and

WHEREAS, the 246 Years Project expects to be fully operational by the end of 2023, and there are plans to expand the database to include not only former residents of Loudoun County, but other areas of Northern Virginia and the Commonwealth in the future; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the 246 Years Project for its work to make historical and family records more accessible; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the 246 Years Project as an expression of the General Assembly's appreciation for the project's important mission.

HOUSE JOINT RESOLUTION NO. 600

Commending Jim Hudson.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, Jim Hudson is a proud member of the West Point community who has served in local government for nearly four decades, including a distinguished 16-year tenure as mayor; and

WHEREAS, a native of Halifax, Jim Hudson settled in West Point and began practicing law with the firm Sutton and Causey in 1976; and

WHEREAS, Jim Hudson served as town attorney of West Point from 1984 to 1998, during which time he helped Middle Peninsula Regional Airport expand its facilities and achieve its designation as a regional airport, updated the town building code, worked to make Beach Park a public beach, and oversaw improvements to local roadways; and

WHEREAS, desirous to be of further service, Jim Hudson was elected to the West Point Town Council in 1998 and was reelected in 2002, serving through June 2006; he served as chair of the council's Community Development Committee and chair of the Education Committee, and he represented the council before the West Point Planning Commission; and

WHEREAS, Jim Hudson was elected by his peers on the West Point Town Council to serve as vice mayor from July 2005 to June 2006, and he was elected as mayor in July 2006; and

WHEREAS, during his tenure as mayor, Jim Hudson enhanced communication and fostered cooperation between his fellow members of the West Point Town Council; and

WHEREAS, among his major accomplishments as mayor, Jim Hudson implemented the split levy school tax agreement between King William County and West Point, oversaw the West Point town officials' move to new offices, and helped the community endure the challenges of the COVID-19 pandemic; and

WHEREAS, Jim Hudson did not seek reelection as mayor in 2022, but plans to continue serving the community as an attorney and develop new opportunities to enhance the quality of life in West Point; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jim Hudson for his outstanding service as mayor of West Point; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jim Hudson as an expression of the General Assembly's admiration for his achievements in service to the residents of West Point.

HOUSE JOINT RESOLUTION NO. 601

Celebrating the life of the Honorable Aston Donald McEachin.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, the Honorable Aston Donald McEachin, a former member of the Virginia House of Delegates and the Senate of Virginia who represented the residents of Central Virginia in the United States House of Representatives for three terms, and a trailblazing leader who inspired others through his determination and passion for public service, died on November 28, 2022; and

WHEREAS, the child of a military family, Donald McEachin was born in Nuremberg, Germany, and briefly lived in Italy before settling in the Richmond area; he graduated from St. Christopher's School, where he was a member of the basketball team, and subsequently earned a bachelor's degree from American University and a law degree from the University of Virginia School of Law; and

WHEREAS, in 1990, Donald McEachin cofounded the law firm McEachin and Gee, now known as the Gee Law Firm, and enjoyed a long and fulfilling career as a personal injury attorney; and

WHEREAS, desirous to be of further service to the community, Donald McEachin ran for and was elected to the Virginia House of Delegates in 1995 and ably represented the residents of the 74th District until 2002; though ultimately unsuccessful, he made history in 2001 as the first Black American to run as a major party's nominee for attorney general in Virginia; and

WHEREAS, Donald McEachin returned to the Virginia House of Delegates for one additional term representing the 74th District again from 2006 to 2008, then continued his service to the Commonwealth as a member of the Senate of Virginia representing the 9th District from 2008 through the end of 2016, when he became the third-ever Black American from Virginia elected to the United States House of Representatives; and

WHEREAS, as the representative for the 4th Congressional District from 2017 until the time of his passing, Donald McEachin served the residents of 15 cities and counties in Central Virginia, including all of Richmond, parts of Henrico County and Chesterfield County, and the Tri-Cities; and

WHEREAS, Donald McEachin introduced and supported many important pieces of legislation to enhance the lives of Virginians and people around the country; he was a champion for human rights, affordable health care, environmental justice, reproductive rights, and economic equality; and

WHEREAS, among his many achievements, Donald McEachin helped preserve and restore Black cemeteries through the African American Burial Grounds Preservation Act; due to his successful efforts, Fort Lee will be renamed as Fort Gregg-Adams after Lieutenant General Arthur J. Gregg and Lieutenant Colonel Charity Adams Earley, two prominent Black members of the United States Armed Forces; and

WHEREAS, during his tenure in the House of Representatives, Donald McEachin offered his leadership and expertise to the Committee on Energy and Commerce, the Committee on Natural Resources, the Select Committee on the Climate Crisis, and the Armed Services Committee; and

WHEREAS, Donald McEachin earned the admiration of his colleagues as a humble, principled, and deeply dedicated legislator; he strove to build bipartisan consensus and respect and served the Commonwealth and the nation with the utmost dignity, integrity, and distinction; and

WHEREAS, Donald McEachin volunteered his leadership to many other civic and service organizations; he was a life member of Kappa Alpha Psi Fraternity, Inc., and the NAACP; and

WHEREAS, in 2014, Donald McEachin underwent treatment for colorectal cancer and struggled courageously with secondary effects from the disease until his passing; he encouraged others to be vigilant about cancer detection and learn more about early diagnosis and treatment; and

WHEREAS, Donald McEachin lived his devout faith through his compassionate actions; he held a master's degree in divinity from the Samuel DeWitt Proctor School of Theology at Virginia Union University and enjoyed fellowship and worship with the community at Ebenezer Baptist Church in Beaverdam; and

WHEREAS, Donald McEachin will be fondly remembered and greatly missed by his wife, Colette; his children, Mac, Briana, and Alexandra, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Aston Donald McEachin, a consummate public servant who touched countless lives in the Richmond region and throughout the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Aston Donald McEachin as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 602

Commending the 2022 Virginia 4-H National Muzzleloader Development Team.

Agreed to by the House of Delegates, February 2, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, the 2022 Virginia 4-H National Muzzleloader Development Team won the National 4-H Shooting Sports Championship on July 1, 2022; and

WHEREAS, the 2022 Virginia 4-H National Muzzleloader Development Team is the first muzzleloading team from Virginia to compete in the National 4-H Shooting Sports Championship; and

WHEREAS, the 2022 Virginia 4-H National Muzzleloader Development Team brought prestige and pride to Virginia with dominant performances in all three events; and

WHEREAS, the 2022 Virginia 4-H National Muzzleloader Development Team earned first place in the Muzzleloading 50-yard Bullseye Competition, first place in the Muzzleloading 25-yard Novelty Competition, and second place in the Muzzleloading Silhouettes Competition; and

WHEREAS, the 2022 Virginia 4-H National Muzzleloader Development Team achieved these results through the talent, skill, expertise, and dedication of its team members, including Lauren Murphy of Patrick County, Haley Berry of Rockingham County, Justin Berry of Rockingham County, and Caleb Rector of Smyth County; and

WHEREAS, the members of the 2022 Virginia 4-H National Muzzleloader Development Team benefited from the leadership and guidance of their coaches and assistants, Ben Berry, Mindy Berry, and Ted Greer; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the 2022 Virginia 4-H National Muzzleloader Development Team for its outstanding efforts, memorable performance, and conclusive victory in the 2022 National 4-H Shooting Sports Championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the 2022 Virginia 4-H National Muzzleloader Development Team as an expression of the General Assembly's admiration for the team's achievements.

HOUSE JOINT RESOLUTION NO. 603

Commending the Salem Museum and Historical Society.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, the Salem Museum and Historical Society, an institution dedicated to preserving and presenting the rich history of Salem and its surrounding communities, celebrated its 30th anniversary in 2022; and

WHEREAS, the origins of the Salem Museum and Historical Society date to the 1970s, when Save Old Salem, a precursor to the organization, was founded to spearhead efforts to preserve historic buildings in the Salem area; and

WHEREAS, in order to fulfill an early goal of creating a local history museum, the Salem Museum and Historical Society acquired the historic Williams-Brown House in 1987 with the understanding that it would be relocated and converted into a museum; and

WHEREAS, the Salem Museum officially opened on June 27, 1992, and was enjoyed strictly as a historical house for many years until a remodeling in 2010 allowed the institution to incorporate additional gallery space, modern features, and handicap accessibility; and

WHEREAS, the Salem Museum today showcases both permanent and rotating exhibitions and the Logan Research Library, offering visitors an exceptional means by which to explore and learn more about the local history and culture of Salem; and

WHEREAS, from a display of archaeological artifacts found in a former indigenous American settlement to an interactive exhibition on local sports, the Salem Museum presents objects and stories that both engage and entertain visitors, fostering a greater understanding of how the region has grown and developed over the past several centuries; and

WHEREAS, in addition to its exhibitions, the Salem Museum regularly hosts talks for the benefit of members and visitors, providing deeper examinations of the stories and personalities that made the region what it is today; and

WHEREAS, the Salem Museum and Historical Society commemorated its 30th anniversary with an exhibition titled *Cheers for 30 Years at the Salem Museum*, which highlighted prized and rarely seen artifacts from the museum's permanent collection; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Salem Museum and Historical Society on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Salem Museum and Historical Society as an expression of the General Assembly's admiration for the organization's history and its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 604

Commending Adam Armstrong.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, Adam Armstrong of Harrisonburg has greatly supported the youth in his community for many years by providing toys to children in need each Christmas; and

WHEREAS, Adam Armstrong was formerly homeless as a young teenager and lived on the streets for some time; he also lived for several years in low-income housing at Harris Gardens Apartments in Harrisonburg; and

WHEREAS, while living in public housing, Adam Armstrong witnessed first-hand children going without during the Christmas season; and

WHEREAS, like many young adults with no guidance, Adam Armstrong came in touch with the criminal justice system as a juvenile; and

WHEREAS, Adam Armstrong later met Pastor Josh Shifflett and embraced Christianity and its teachings, becoming a successful businessman guided by the tenets of his faith; and

WHEREAS, since 2013, Adam Armstrong has given away over $250,000 worth of toys to underprivileged children in the Harrisonburg area; and

WHEREAS, Adam Armstrong's daughter, Alivia, has donated her allowance for the past five years to help purchase toys for children in need; and

WHEREAS, Adam Armstrong held his 10th annual Santa Armstrong's Christmas Hope Toy Giveaway on December 3, 2022, at the historic Lucy F. Simms Continuing Education Center in Harrisonburg; and

WHEREAS, Adam Armstrong gave away $20,000 worth of toys following a recent faith service, a powerful gesture that underscores his deep commitment to the community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Adam Armstrong for instilling hope in the Harrisonburg community through his extraordinary displays of faith and charity; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Adam Armstrong as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 605

Commending Janet Rainey.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, during her distinguished 47-year career in public service, Janet Rainey has protected the health and promoted the well-being of people across the Commonwealth; and

WHEREAS, Janet Rainey joined the Division of Vital Records as a typist in April 1975 and subsequently rose through the ranks of the organization, now known as the Office of Vital Records, becoming State Registrar of Vital Records in 2004; and

WHEREAS, during her tenure, Janet Rainey has administered Virginia's system of vital records and laws and regulations pertaining to vital records, and ensured the uniform and consistent governance of that system; and

WHEREAS, Janet Rainey has represented the Commonwealth on the National Association for Public Health Statistics and Information Systems' Security Committee, enhancing the security and integrity of vital records across the nation; and

WHEREAS, Janet Rainey has applied her knowledge of public health policy to ensure equal opportunities and access for residents of the Commonwealth through her dedicated work to eliminate discrimination; and

WHEREAS, Janet Rainey's work on birth registration, in coordination with the Virginia Equality Bar Association in 2015, helped to ensure that all children of the Commonwealth receive equal protection under Virginia law; and

WHEREAS, Janet Rainey helped modernize the Office of Vital Records by leading projects to automate records systems, enhancing efficiency and public access to records; and

WHEREAS, Janet Rainey exemplifies the ideals of public service and the profession of vital records administration; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Janet Rainey for her contributions to the health, welfare, and safety of Virginians on the occasion of her retirement as State Registrar of the Office of Vital Records; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Janet Rainey as an expression of the General Assembly's admiration for her professional achievements and best wishes on her well-earned retirement.

HOUSE JOINT RESOLUTION NO. 606

Celebrating the life of Louis Ray Jones.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, Louis Ray Jones, a highly admired local business leader and a consummate public servant who made many contributions to the residents of Virginia Beach as a longtime member of the city council and a former mayor, died on June 18, 2022; and

WHEREAS, a graduate of The College of William & Mary and the Echols College of Mortuary Science, Louis Jones served the community as the owner of Hollomon-Brown Funeral Home & Crematory, ensuring that local families were treated with the utmost dignity, care, and professionalism in their times of need; and

WHEREAS, desirous to be of further service to the Virginia Beach community, Louis Jones sought election to the Virginia Beach City Council and was campaigning for his ninth term on the council at the time of his passing; and

WHEREAS, Louis Jones represented the residents of the Bayside District as a council member for more than 35 years and had served as mayor from July 1982 to June 1984 and again from May 2018 to November 2018; he also served as vice mayor from 2001 to 2018; and

WHEREAS, during his long tenure on the Virginia Beach City Council, Louis Jones was a trusted friend and mentor to numerous other local government officials and earned the admiration of his colleagues for his decisive leadership style, integrity, commitment to excellence, and unwavering passion for service; and

WHEREAS, Louis Jones strove to enhance the quality of life of all residents of his beloved Virginia Beach by balancing responsible growth with the protection of the community's natural resources, and he was a critical source of institutional knowledge in the region; and

WHEREAS, among his many achievements, Louis Jones played a vital role in the completion of the Lake Gaston pipeline project, which provides more than 60 million gallons of fresh water to Virginia Beach every day; and

WHEREAS, Louis Jones represented the council and the community on a range of local and regional bodies, including the Hampton Roads Planning District Commission, the Hampton Roads Metropolitan Planning Organization, the Bayfront Advisory Commission, the Virginia Beach Development Authority, and many others; and

WHEREAS, Louis Jones will be fondly remembered and greatly missed by his beloved wife of 68 years, Ellen; his four children and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Louis Ray Jones, a pillar of the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Louis Ray Jones as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 607

Commending Dave Prescott.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, Dave Prescott has enhanced the quality of life for seniors in Mount Vernon as a dedicated volunteer at Mount Vernon at Home; and

WHEREAS, Dave Prescott holds bachelor's and master's degrees in computer science from Cornell University and served the nation as a member of the United States Army; and

WHEREAS, after his honorable discharge from the military, Dave Prescott's passion for computers led him to pursue a long and successful career with IBM; and

WHEREAS, in 2010, after his well-earned retirement, Dave Prescott and his wife, Barbara, became charter members and enthusiastic volunteers of Mount Vernon at Home, an organization that helps local residents 55 years of age and older who choose to remain in their homes and communities as they age; and

WHEREAS, for 10 years, Dave Prescott has served as Mount Vernon at Home's volunteer coordinator, and he stepped up to become the acting office manager during the COVID-19 pandemic and during the organization's transition to a new executive director, providing stability in times of change; and

WHEREAS, with his boundless energy and willingness to help others, Dave Prescott has been instrumental to the ongoing success of Mount Vernon at Home's mission to enhance the lives of senior residents in the area; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Dave Prescott for his outstanding service to the members, volunteers, and Board of Directors of Mount Vernon at Home; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dave Prescott as an expression of the General Assembly's admiration for his achievements in service to the Mount Vernon community.

HOUSE JOINT RESOLUTION NO. 608

Commending the Southside Senior Citizens Center, Inc.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, on November 5, 2022, the Southside Senior Citizens Center, Inc., celebrated 50 years of outstanding contributions to the lives of seniors in Brunswick County; and

WHEREAS, since its opening in 1972, the Southside Senior Citizens Center has been an integral part of the lives of countless senior citizens throughout Brunswick County and the surrounding region; and

WHEREAS, senior citizens make up a large portion of the population in Southside Virginia and many have lived and supported communities there for their entire lives; the Southside Senior Citizens Center helps give back to these cherished individuals by offering a place to receive essential services, socialize with friends, and stay engaged in community life; and

WHEREAS, the Southside Senior Citizens Center works to empower and serve seniors with low to moderate incomes through educational, social, recreational, and cultural activities; and

WHEREAS, the Southside Senior Citizens Center provides many engaging programs for its members, including informational seminars, referral programs, exercise and nutrition programs, religious events, and other activities that enhance the experiences of senior citizens in their life journeys; and

WHEREAS, the Southside Senior Citizens Center is currently led by its dedicated acting director, Louise Mont-Adams, who also serves as board chair; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Southside Senior Citizens Center, Inc., for more than 50 years of dedication to enhancing the lives of senior citizens in and around Brunswick County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Louise Mont-Adams, acting director of the Southside Senior Citizens Center, Inc., as an expression of the General Assembly's admiration for the organization's contributions to the Southside Virginia community and the Commonwealth as a whole.

HOUSE JOINT RESOLUTION NO. 609

Celebrating the life of the Reverend Monsignor Joseph Patrick Lehman III.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, the Reverend Monsignor Joseph Patrick Lehman III, pastor of Saint Bede Catholic Church and rector of the National Shrine of Our Lady of Walsingham, both in Williamsburg, died on December 13, 2022; and

WHEREAS, known by his parishes as "Father Joe," Joe Lehman grew up attending Saint Mary Star of the Sea School in Hampton, where he first heard the call to preach; and

WHEREAS, Joe Lehman would go on to graduate from the former St. John Vianney Minor Seminary in Richmond in 1972, earn a bachelor's degree from Saint Meinrad Seminary and School of Theology in Indiana in 1976, and complete his formation at the Pontifical North American College in Rome in 1980; and

WHEREAS, Joe Lehman was ordained a priest for the Catholic Diocese of Richmond on August 16, 1980, devoting the next 42 years to providing spiritual leadership and counsel to communities throughout the Commonwealth; and

WHEREAS, Joe Lehman was actively involved in both the Virginia Lutheran-Anglican-Roman Catholic-United Methodist Committee, which he served as ecumenical and interreligious officer, and the Virginia Council of Churches; in

recognition of his interfaith work, he received the pontifical honor of being named a monsignor from Pope John Paul II in 2002; and

WHEREAS, Joe Lehman became both pastor of Saint Bede Catholic Church and rector of the National Shrine of Our Lady of Walsingham in 2019, where he took great joy in supporting the faith of his parishioners; and

WHEREAS, Joe Lehman previously served as pastor of Holy Cross Catholic Church in Lynchburg from 1980 to 1984, Holy Name of Mary Catholic Church in Bedford and Resurrection Catholic Church in Moneta from 1984 to 1988, Christ the King Catholic Church in Norfolk from 1988 to 1997, and Our Lady of Nazareth Catholic Church in Roanoke from 1997 to 2019; and

WHEREAS, Joe Lehman additionally served as associate director of St. Francis of Assisi Catholic Church in Rocky Mount and as pastor of Resurrection Catholic Church in Moneta from 2005 to 2009 and as administrator of Our Lady of Perpetual Help Catholic Church in Salem in 2016; and

WHEREAS, preceded in death by his father, Joseph, Jr., Joe Lehman will be fondly remembered and dearly missed by his mother, Beverly; his siblings, Ann, Chris, Teresa, John, and Tim, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Monsignor Joseph Patrick Lehman III, a cherished faith leader of the Catholic Diocese of Richmond, whose service in communities throughout the Commonwealth benefited countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Monsignor Joseph Patrick Lehman III as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 610

Celebrating the life of Nancy Houck Rothfuss.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, Nancy Houck Rothfuss of Newport News, a respected educator who was an active member of her community, died on November 15, 2022; and

WHEREAS, Nancy "Nan" Houck Rothfuss grew up in Illinois and graduated from Downers Grove North High School, then received a bachelor's degree and obtained a teaching certificate from North Central College in Naperville, Illinois; and

WHEREAS, Nan Rothfuss continued her education by earning a master's degree from the University of Illinois, and she subsequently completed more than 70 hours of postgraduate credit hours at Christopher Newport University; and

WHEREAS, Nan Rothfuss helped countless students build a strong foundation for lifelong learning as an English teacher at K.D. Waldo Middle School in Aurora, Illinois; she also taught water safety instructors, small boat safety, and first aid classes for the Chicago Chapter of the American Red Cross for two years; and

WHEREAS, in 1971, Nan Rothfuss married her husband, and she proudly supported him while he completed a medical degree at Eastern Virginia Medical School; when he became a doctor of internal medicine, she served as his lab manager and office manager; and

WHEREAS, after settling in Newport News, Nan Rothfuss continued her teaching career at Warwick High School and joined the Newport News Republicans and the 1st Congressional District Republican Committee, serving as secretary of both for more than 30 years; and

WHEREAS, Nan Rothfuss will be fondly remembered and greatly missed by her husband, Hank, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Nancy Houck Rothfuss, a vibrant member of the Newport News community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Nancy Houck Rothfuss as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 611

Celebrating the life of James Winston Adams, Jr.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, James Winston Adams, Jr., a former educator and coach in Norton, died on May 23, 2022; and

WHEREAS, James Adams, known to family and friends as "Jimbo," graduated from John I. Burton High School and earned a bachelor's degree from what was then known as Clinch Valley College; and

WHEREAS, James Adams returned to his high school alma mater as a teacher and coach; as the head football coach from 1998 to 2018, he compiled a 174-91 record and led the team to six regional titles and several state championship appearances; and

WHEREAS, James Adams' greatest joy in life was his beloved family, and he relished every opportunity to spend time with his children and grandson; and

WHEREAS, James Adams will be fondly remembered and greatly missed by his beloved wife of 32 years, Stephanie; his children, James III and Jazlyn, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of James Winston Adams, Jr., a former teacher and coach in Norton; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James Winston Adams, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 612

Commending the Norfolk State University Spartan "Legion" Marching Band.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, the Norfolk State University Spartan "Legion" Marching Band, one of the premier marching bands in the country, performed at the Tournament of Roses Parade in Pasadena, California, in 2023; and

WHEREAS, founded in 1975, the "Legion" has energized and entertained fans across the Commonwealth and nation for nearly a half-century; and

WHEREAS, the "Legion" has recruited students from around the world due to its legendary music education program; and

WHEREAS, the highly proficient musical numbers of the "Legion" are elevated by the band's regal attire and by the synchronicity and precision of its marching, which incorporates high-stepping, the rigid strut, the glide, and military style; and

WHEREAS, the various honors and accolades the "Legion" has earned over the years serve as testaments to the power of the band's performances and the "Spartan-like" discipline and devotion of its members; and

WHEREAS, the performance of the "Legion" in the 2023 Tournament of Roses Parade marked the program's first appearance at the storied and prestigious national event and was a source of great pride and jubilation for the Norfolk community; and

WHEREAS, in addition to the Tournament of Roses Parade, the "Legion" has performed at many high-profile events in recent years, including President Barack Obama's campaign rally in Norfolk and the Honda Battle of the Bands invitational showcase; and

WHEREAS, the "Legion" was notably the inaugural host of the annual Historically Black Colleges and Universities (HBCU) Band Battlefest, which showcases the top HBCU marching bands in the country; and

WHEREAS, the success of the "Legion" is the result of the leadership of band director William H. Beathea and the hard work and dedication of the band's 250 staff and student musicians, dancers, and flags; and

WHEREAS, the "Legion" promises to continue its tradition of excellence and its ever upward ascent to musical mastery, engendering tremendous respect and adulation among members of the communities of Norfolk State University, Norfolk, and the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Norfolk State University Spartan "Legion" Marching Band for its performance at the 2023 Tournament of Roses Parade in Pasadena, California; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to William H. Beathea, director of the Norfolk State University Spartan "Legion" Marching Band as an expression of the General Assembly's admiration for the band's achievements and best wishes in its future endeavors.

HOUSE JOINT RESOLUTION NO. 613

Celebrating the life of Kerry Joseph Donley.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, Kerry Joseph Donley, an accomplished banker, esteemed public servant, former mayor of the City of Alexandria, and beloved member of the Alexandria community, died on July 13, 2022; and

WHEREAS, born in Elk Point, South Dakota, Kerry Donley moved with his family at a young age to Alexandria, graduating from Bishop Ireton High School before earning a bachelor's degree in political science from Marquette University; and

WHEREAS, throughout a successful career in the banking industry, Kerry Donley worked tirelessly for the benefit of his clients, ultimately retiring as senior vice president of John Marshall Bank in 2021; and

WHEREAS, Kerry Donley's distinguished career in politics began in 1988 with his election to the Alexandria City Council; after serving as vice-mayor from 1994 to 1996, he was mayor of the City of Alexandria from 1996 to 2003; he then served as chair of the Democratic Party of Virginia for two years and later held the position of vice-mayor again from 2009 to 2012 following a return to politics; and

WHEREAS, during his tenure as mayor and on the Alexandria City Council, Kerry Donley accomplished many monumental endeavors for Alexandria, including leading the resolution for the reconstruction of the Woodrow Wilson Bridge, attracting the U.S. Patent and Trademark Office to the city, working to save 500 market-rate affordable housing units, and building the first elementary school in the city in 35 years; and

WHEREAS, motivated by his love for sports, Kerry Donley served for three years as the athletic director for what is now Alexandria City High School, contributing greatly to the success and well-being of countless young people; and

WHEREAS, Kerry Donley's commitment to his community was demonstrated through his leadership as vice-chair of the Alexandria Transit Company Board, co-chair of the Cameron Station development task force, and chair of both the Alexandria Campaign on Adolescent Pregnancy and the Alexandria Economic Development Partnership; and

WHEREAS, with great compassion for his fellow Alexandrians, Kerry Donley served on the boards of several local organizations, including Carpenter's Shelter, the Scholarship Fund of Alexandria, the Center for Alexandria's Children, Senior Services of Alexandria, and Alexandria Renew Enterprises; and

WHEREAS, Kerry Donley's efforts as a civic leader earned him a trove of accolades and awards, including the Elizabeth and David Scull Metropolitan Public Service Award in 2002 from the Metropolitan Washington Council of Governments, the Marian Van Landingham Lifetime Achievement Award in 2016 from Volunteer Alexandria, and recognition as a Living Legend of Alexandria in 2017; and

WHEREAS, Kerry Donley will be fondly remembered and dearly missed by his loving wife of 40 years, Eva; his children, Kristin, Kaitlin, Colleen, Cara, and Kelsey, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Kerry Joseph Donley, former mayor of the City of Alexandria, whose legacy in the community will endure for generations to come; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Kerry Joseph Donley as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 614

Celebrating the life of Thomas Lewis Darden, Sr.

Agreed to by the House of Delegates, February 6, 2023
Agreed to by the Senate, February 9, 2023

WHEREAS, Thomas Lewis Darden, Sr., a highly admired farmer, successful small business owner, and active member of the Isle of Wight community, died on September 5, 2022; and

WHEREAS, Thomas "Tommy" Lewis Darden, Sr., was a lifelong resident of Isle of Wight County where he graduated from Smithfield High School, lettering in three sports; and

WHEREAS, Tommy Darden worked as a farmer for more than 50 years, and local schoolchildren traveled by the busload to his farm each fall to learn about local farming; his 400-acre family farm just south of Smithfield boasted peanuts, soybeans, corn, beef, cotton, and ham; and

WHEREAS, Tommy Darden was also the owner of Darden's Country Store, a beloved local landmark and community meeting place, which was founded by his father in 1952; and

WHEREAS, Tommy Darden was well known for his outstanding customer service and commitment to providing high quality products, with customers traveling from far and wide to purchase his exceptional cured and smoked country hams; his family has cured ham for over 70 years, appearing in *The New York Times* in 2018; and

WHEREAS, Tommy Darden was active in several community organizations; he served on the board of directors at Isle of Wight Academy, was past chairman of the County Committee for the Farm Service Agency, was a charter member and past president of Darden's Store Hunt Club, and was a member and past president of the Virginia Peanut Grower's Association; and

WHEREAS, Tommy Darden brought joy to others through his positivity, sense of humor, and generosity; he never failed to help a friend or neighbor in need and relished every opportunity to brighten someone's day; and

WHEREAS, Tommy Darden will be fondly remembered and greatly missed by his wife, DeeDee; his children, Ellen, Thomas, Jr., and Carrie, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Thomas Lewis Darden, Sr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thomas Lewis Darden, Sr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 615

Celebrating the life of John Victor Moeser.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, John Victor Moeser, a respected expert in urban studies and planning who helped create more inclusive and equitable communities in Richmond, died on October 17, 2022; and

WHEREAS, John Moeser grew up in Lubbock, Texas, at a time when communities were rigidly segregated along racial lines; and

WHEREAS, John Moeser graduated from Texas Tech University and the University of Colorado Boulder, then pursued a doctoral degree from the George Washington University in Washington, D.C., where he witnessed pivotal events in the civil rights movement firsthand; and

WHEREAS, after John Moeser settled in Richmond and continued to witness segregation and instances of overt racism, he was inspired to document inequities in the region and effect changes that would enhance the quality of life for all of his fellow residents; and

WHEREAS, John Moeser joined the faculty of Virginia Commonwealth University and became a founding member of the Urban and Regional Studies and Planning program, focusing his groundbreaking research on racial politics, poverty, and regional cooperation; and

WHEREAS, John Moeser taught thousands of students during his tenure as a professor and coauthored two major works, *The Politics of Annexation: Oligarchic Power in a Southern City* about the racially motivated annexation of more than 47,000 residents in Chesterfield County and *The Separate City: Black Communities in the Urban South, 1940-1968*; and

WHEREAS, John Moeser worked with students, fellow academics, local and state officials, and other stakeholders to raise awareness of racial segregation in urban development and its effects on housing, transportation, education, and health; he built strong relationships based on honesty, integrity, trust, and respect and was adept at diffusing tensions during potentially uncomfortable discussions; and

WHEREAS, in 2005, John Moeser retired from Virginia Commonwealth University as professor emeritus, then became a senior fellow of the Bonner Center for Civic Engagement at the University of Richmond, where he continued to study racial trends and demographics until he retired for a second time in 2015; and

WHEREAS, John Moeser worked diligently to build a more equitable, compassionate, and just Richmond, earning a reputation as a moral compass among city officials and community leaders; he received countless awards and accolades for his achievements; and

WHEREAS, outside of his career, John Moeser volunteered his leadership and expertise to many local organizations, including Housing Opportunities Made Equal of Virginia, William Byrd Community House, Richmond Habitat for Humanity, Virginia Interfaith Center for Public Policy, and Richmond Memorial Health Foundation, among others; and

WHEREAS, John Moeser lived his deep faith through his actions, and he was a longtime member of Second Presbyterian Church, where he served as an elder and a member of the Mission Council; and

WHEREAS, John Moeser's greatest joy in life was his beloved family; he relished every opportunity to pass along his lifetime of wisdom and spend quality time with them; and

WHEREAS, John Moeser will be fondly remembered and greatly missed by his wife of 56 years, Sharon; his sons, Jeremy and David; his grandchildren, John Charles and Caroline; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of John Victor Moeser, a pillar of the Richmond community who touched countless lives through his advocacy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John Victor Moeser as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 617

Commending the Highland Springs High School football team.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, the Highland Springs High School football team won the Virginia High School League Class 5 state championship in December 2022; and

WHEREAS, the Highland Springs High School Springers defeated the Maury High School Commodores by a score of 33-19; and

WHEREAS, in the first quarter, the Highland Springs Springers returned an interception to take an early 6-0 lead and dominated the pace of the game from there; and

WHEREAS, heading into the state final, the Highland Springs Springers were ranked 75th in the nation on the High School Football America 300 rankings by NFL Play Football; and

WHEREAS, the 2022 championship victory, which capped off a perfect 15-0 season, was the fifth state title in eight years for the Highland Springs Springers; and

WHEREAS, the successful season was a tribute to the skill and hard work of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire Highland Springs High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Highland Springs High School football team on winning the Virginia High School League Class 5 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Loren Johnson, head coach of the Highland Springs High School football team, as an expression of the General Assembly's admiration for the team's achievements and best wishes for the future.

HOUSE JOINT RESOLUTION NO. 618

Commending the Lynchburg Regional Business Alliance.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, the Lynchburg Regional Business Alliance, a regional economic development organization and chamber of commerce serving Lynchburg and the Counties of Amherst, Appomattox, Bedford, and Campbell, celebrates its 140th anniversary in 2023; and

WHEREAS, the origins of the Lynchburg Regional Business Alliance (LRBA) date to 1883, when 50 local business leaders joined together on Main Street in Lynchburg to organize the area's first chamber of commerce, the Greater Lynchburg Chamber of Commerce; and

WHEREAS, reorganized in 1909 as the Lynchburg Chamber of Commerce, the LRBA would become known as the Lynchburg Regional Chamber of Commerce after 2000 and ultimately assume its current name when the organization merged with the Region 2000 Business and Economic Alliance in 2016; and

WHEREAS, from 50 members to more than 780 today, the LRBA is the largest and oldest business association in Central Virginia and a leading organization for promoting business in the Lynchburg region, figuring prominently in the area's history and success over the past century; and

WHEREAS, the Greater Lynchburg Chamber of Commerce that preceded the LRBA was a founding member of the U.S. Chamber of Commerce that was established by President William Howard Taft in 1912 and also supported the creation of the Virginia Chamber of Commerce; and

WHEREAS, various developments and initiatives that have transformed Lynchburg over the years may be attributed to the work of the LRBA, including the United Way of Central Virginia, the Eagle Eyrie Baptist Conference Center, and the baseball club now known as the Lynchburg Hillcats; and

WHEREAS, after occupying several different offices over the years, the LRBA recently established its headquarters at 300 Lucado Place in Lynchburg, offering a commanding view of downtown as well as a central location to serve the organization's members; and

WHEREAS, the LRBA has been continuously accredited by the U.S. Chamber of Commerce since 1973, earning national recognition for its more than 20 years of accreditation, and has maintained a Five-Star Rating since 2006; and

WHEREAS, today, LRBA members employ nearly half of all working individuals in Lynchburg and the surrounding counties, touching a wide array of industries and services that are vital to the region's prosperity; and

WHEREAS, the LRBA's five longest continuous members include Virginia Eagle Distributing Company, Schewels Home, Campbell Insurance, John Stewart Walker, Inc., and Aylor's Farm & Garden, a representation of the variety of businesses and industries the organization serves; and

WHEREAS, over the past 140 years, the LRBA has remained dedicated to supporting its members and to cultivating a region where both businesses and individuals can thrive; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Lynchburg Regional Business Alliance on the occasion of its 140th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Lynchburg Regional Business Alliance as an expression of the General Assembly's admiration for its history of contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 619

Celebrating the life of Mary Elizabeth Baker Stuart.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Mary Elizabeth Baker Stuart, a vibrant member of the Abingdon community and a beloved mother and grandmother, died on January 13, 2023; and

WHEREAS, born in Knoxville, Tennessee, Mary Stuart lived in Huntsville, Tennessee, in her youth, then graduated from what is now the Westminster Schools in Atlanta, Georgia, going on to attend the University of Tennessee; after her father, the Honorable Howard H. Baker, was elected to the United States House of Representatives, she moved to Washington, D.C., with her family; and

WHEREAS, Mary Stuart worked as a professional model and was a former Miss Tennessee, appearing at the National Cherry Blossom Festival in 1951; and

WHEREAS, Mary Stuart married the late Honorable William C. Wampler, Sr., in 1953 and the couple moved to Bristol in 1956; she became an active member of the community through the Border Guild of Bristol, now the Junior League, the Child Study Club, and the Hill and Dale Garden Club, and she worked with the 9th District Republican Party while her husband served in the United States House of Representatives; and

WHEREAS, in 1977, Mary Stuart remarried to G.R.C. Stuart and settled in Abingdon, where she hosted countless events and home and garden tours at her historic home which was named "The Bank" as part of the building used to be a commercial bank; and

WHEREAS, Mary Stuart was a patron of the arts, who helped create the Vaten School of Crafts in Bristol, and served on the founding board of the William King Museum of Art and the board of historic White's Mill in Abingdon; she also helped preserve the heritage of the region as a member of the Washington County Historical Society; and

WHEREAS, in the late 1980s, Mary Stuart proudly campaigned for her son, the Honorable William C. Wampler, Jr., who ultimately served in the Senate of Virginia from 1988 to 2012; and

WHEREAS, Mary Stuart enjoyed fellowship and worship with the Bristol community as a member of Central Presbyterian Church, where she taught Sunday school, and with the Abingdon community as a member of Sinking Spring Presbyterian Church; and

WHEREAS, Mary Stuart will be fondly remembered and greatly missed by her children, Barbara and William Jr., and their families; her stepdaughters, Lane and Ellen, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Mary Elizabeth Baker Stuart; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Mary Elizabeth Baker Stuart as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 620

Celebrating the life of K. Donald Nicewonder.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, K. Donald Nicewonder of Bristol, a longtime independent coal mine owner, a highly admired businessman, and a generous philanthropist, died on November 12, 2022; and

WHEREAS, after briefly attending Emory & Henry College, K. Donald "Don" Nicewonder began working for his brother's surface coal mine; after years of working at his brother's companies, he then began operating his own coal companies in Kentucky; and

WHEREAS, after 15 years, Don Nicewonder sold his original mines to McCulloch Oil Corporation; with a few partners, he later purchased approximately 36,000 acres of property in Buchanan County, Virginia, and McDowell County, West Virginia, and managed a highly productive mine that is still shipping coal nearly 50 years later; and

WHEREAS, in the mid-1980s, during a difficult period for the coal industry, Don Nicewonder started four new surface mines that produced millions of tons of marketable coal each year; and

WHEREAS, throughout his career as a mine owner, Don Nicewonder was a visionary pioneer in surface mine reclamation projects, establishing Twisted Gun Golf Club in Wharncliffe, West Virginia, and a new airport in Ragland, West Virginia, as well as overseeing the construction of 15 miles of the King Coal Highway project; and

WHEREAS, after years of successful operations as an independent family-owned mining operation, Don Nicewonder and his family sold their mines to Alpha Natural Resources in 2005; and

WHEREAS, Don Nicewonder formed the Nicewonder Group to diversify his business holdings, and acquired two large clay deposits in Virginia and Vermont, one of which produces material for manufacturing cat litter and the other of which produces unique, hand-molded clay bricks to match historic architecture in restoration projects; and

WHEREAS, the Nicewonder Group's portfolio includes multiple shopping centers, office buildings, condominiums, and other undeveloped properties in Virginia and southern Florida; Don Nicewonder also established The Virginian Golf Club community in Bristol in 1992; the club has expanded significantly over the years through the addition of its sister property, Nicewonder Farm and Vineyards, a resort destination that includes a winery, yurts, and a 37-room inn; and

WHEREAS, Don Nicewonder worked diligently to enhance the quality of education and health care in Southwest Virginia; he supported several local colleges and state universities and two local private institutions that served students from preschool through high school; he helped acquire cutting edge technology for Bristol Regional Medical Center, ensuring that the center was able to provide some of the most comprehensive service in the region; and

WHEREAS, admired as a true southern gentleman, Don Nicewonder inspired others through his humble leadership, incomparable work ethic, and unfailing courtesy; he touched countless lives through his commitment to excellence in all of his endeavors; and

WHEREAS, Don Nicewonder will be fondly remembered and greatly missed by his wife of 65 years, Etta; his children, Kenny, Kevin, and Kim, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of K. Donald Nicewonder; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of K. Donald Nicewonder as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 621

Commending John Randolph Nelson.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, John Randolph Nelson, an esteemed attorney and public servant who has served on the Lynchburg City Council since 2010, retired from public service in 2022; and

WHEREAS, a native of Lynchburg, John Randolph "Randy" Nelson has been politically minded dating back to the 1960s, when his observations of the civil rights movement at the time transformed his outlook on the world; and

WHEREAS, after attending Randolph-Macon College, where he was a standout player on the school's soccer team, Randy Nelson coached soccer briefly at the University of Richmond while earning his juris doctor degree; and

WHEREAS, Randy Nelson has practiced law in Lynchburg for many years, earning several honors and awards for his service, including a Tradition of Excellence Award from the Board of Governors of the General Practice Section of the Virginia State Bar in 2019, the Mayor's Award of Excellence from the City of Lynchburg in 2008, and the Pro Bono Award from the Virginia Legal Aid Society in 2004; and

WHEREAS, Randy Nelson was the head coach of the soccer team at E.C. Glass High School of Lynchburg in the 1970s, where he led the program to its first Western District title and became inspired to focus on improving the skills of young soccer players in Lynchburg by helping to develop local soccer camps and leagues, an endeavor that led to the founding of Central Virginia United Soccer; and

WHEREAS, tapped for an appointment to the Lynchburg City Council in 2010 following the departure of the Honorable T. Scott Garrett to the General Assembly, Randy Nelson was elected to a full term the same year and served the body until November 7, 2022; and

WHEREAS, during his tenure on the Lynchburg City Council, Randy Nelson advanced several worthy initiatives for the betterment of Lynchburg, including development of the Bluffwalk downtown, renovation of the Virginian Hotel, and restoration of the historic theater at the Academy Center of the Arts; and

WHEREAS, Randy Nelson was valued by his colleagues on the Lynchburg City Council as a mentor, and for the courteous, attentive, and thoughtful manner in which he conducted himself in public service; and

WHEREAS, Randy Nelson graciously resigned from the Lynchburg City Council in November 2022 instead of January 2023 to allow his successor to have adequate time to become oriented to the nature and responsibilities of the job, underscoring his deep commitment to the city's well-being; and

WHEREAS, after stepping away from his role as councilman, Randy Nelson looks forward to spending more time with his wife and family and to supporting Central Virginia United Soccer and other community organizations that have long been near and dear to his heart; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend John Randolph Nelson, a public servant of great integrity and purpose, on the occasion of his retirement from the Lynchburg City Council; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John Randolph Nelson as an expression of the General Assembly's admiration for his contributions to Lynchburg and the Commonwealth.

HOUSE JOINT RESOLUTION NO. 622

Commending Marta M. Keane.

Agreed to by the House of Delegates, February 23, 2023
Agreed to by the Senate, February 25, 2023

WHEREAS, in 2022, Marta M. Keane, an esteemed health care industry professional, celebrated her 10th anniversary as chief executive officer of the Jefferson Area Board for Aging, an organization serving older individuals, individuals with disabilities, and caregivers in Charlottesville and the Counties of Albemarle, Fluvanna, Greene, Louisa, and Nelson; and

WHEREAS, Marta Keane has epitomized the qualities of an effective leader as chief executive officer of the Jefferson Area Board for Aging (JABA), burnishing the organization's reputation as a leading Area Agency on Aging in the Commonwealth; and

WHEREAS, with both a deep passion for JABA's mission and a thorough understanding of organizational best practices, Marta Keane has fostered the success of both her employees and the communities they serve; and

WHEREAS, Marta Keane has enhanced the efforts of JABA through her limitless energy and compassion, as well as her commitment to pursuing innovation, promoting team-building, and setting and achieving goals; and

WHEREAS, during Marta Keane's tenure as chief executive officer, JABA both increased and improved the programs and services it offers to elderly individuals in the Central Virginia region, greatly supporting their quality of life; and

WHEREAS, in recognition of her leadership abilities and dedication to her profession, Marta Keane has been elected by her peers to serve as president of both the Virginia Association of Area Agencies on Aging and the Charlottesville Area Alliance and as board member of the Center for Nonprofit Excellence; and

WHEREAS, Marta Keane has also given generously of her time and talents as chair of the Council on Professional Ethics of the American Speech-Language-Hearing Association and as president of both the Speech-Language-Hearing Association of Virginia and the Communication Disorders Foundation of Virginia; and

WHEREAS, prior to being named JABA's chief executive officer, Marta Keane served briefly as the organization's chief operating officer and before that held positions as vice president of rehab and wellness at Encore Healthcare, LLC, president of The Strategies Group, LLC, and region vice president of NovaCare, Inc.; and

WHEREAS, Marta Keane has shared her knowledge and expertise broadly as a guest lecturer at the University of Virginia and James Madison University, as a speaker at events of the American Society on Aging and the World Future Society, as well as conferences for skilled nursing and assisted living facility professionals, and as a published author who has appeared in *The Christian Science Monitor* among other publications; and

WHEREAS, with great vision and enthusiasm for her cause, Marta Keane has made a profound and lasting impact on the lives of many in Central Virginia and serves as an inspiration to all citizens of the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Marta M. Keane on the occasion of her 10th anniversary as chief executive officer of the Jefferson Area Board for Aging; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marta M. Keane as an expression of the General Assembly's admiration for her contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 623

Commending John Handley High School.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, John Handley High School, an endowed public high school in Winchester that has educated more than 20,000 students since its founding, celebrates its 100th anniversary in 2023; and

WHEREAS, the impetus for the establishment of John Handley High School came through a generous bequest in 1895 from the school's namesake, John Handley of Pennsylvania, a judge and philanthropist who was a frequent visitor of Winchester; and

WHEREAS, the John Handley High School building was designed by architect Walter R. McCornack of Cleveland, Ohio, and its grounds by the Olmstead Brothers of Brookline, Massachusetts; construction began in 1921 and the cornerstone was placed on June 13, 1923; and

WHEREAS, four years after John Handley High School opened, the former Douglas School building, a school for the Black children of Winchester, was built with the support of John Handley's endowment; Douglas School was the only school serving Black students in the city until 1966, when it was closed after the integration of Winchester's schools; and

WHEREAS, listed on both the National Register of Historic Places and the Virginia Landmarks Register in 1998, John Handley High School was heralded by *Architectural Digest* in 2017 as both the most beautiful public high school in the Commonwealth and one of the 20 most beautiful public high schools in the country in appreciation of its neoclassical revival architecture and grounds; and

WHEREAS, John Handley High School today boasts a new library and state-of-the-art physics labs, chemistry labs, and biology labs following a major modernization and expansion effort in recent years that was made possible through the support of the Handley Board of Trustees, as well as parents and alumni of the school and other donors; and

WHEREAS, John Handley High School is able to offer its students a world-class education, including a wide array of Advanced Placement courses, through the tireless efforts and dedication of its exceptional teachers and staff; and

WHEREAS, over the years, John Handley High School has hosted historic concerts, supported new citizens and immigrants, cultivated world-renowned artists, championed public servants, won 49 athletic state championships and 10 state championships in forensics, and served as home to the most honored school band in the area; and

WHEREAS, John Handley High School will recognize the graduating class of 2023 as the school's 100th class, commencing a year of celebratory activities including a rededication of the school's cornerstone, charity 5k race, gala finale, and pictorial history book preserving the school's first 100 years; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend John Handley High School of Winchester on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John Handley High School as an expression of the General Assembly's admiration for the school's history of contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 624

Commending New York Deli and Pizza Restaurant.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, for 55 years, New York Deli and Pizza Restaurant, a second-generation family-owned establishment, has served delicious meals and fostered a strong sense of community in Williamsburg; and

WHEREAS, originally known as College Delly, New York Deli and Pizza Restaurant was founded by James and Kiki Lappas in Williamsburg in 1968 and was a staple of community life at The College of William & Mary for many years; and

WHEREAS, now owned by James and Kiki's son, Bobby, New York Deli and Pizza Restaurant has served patrons under its current name and at its current location in Lightfoot since 1987; a third generation of the Lappas family, Bobby's daughter, has also joined the business; and

WHEREAS, over the years, New York Deli and Pizza Restaurant has welcomed countless residents, college students, alumni, tourists, and other high-profile visitors, becoming a treasured local landmark and beloved community gathering place in the Williamsburg area; and

WHEREAS, New York Deli and Pizza Restaurant has also developed strong partnerships with other local businesses to better serve residents and visitors and further enhance the local economy; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend New York Deli and Pizza Restaurant on the occasion of its 55th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to New York Deli and Pizza Restaurant as an expression of the General Assembly's admiration for its contributions to the Williamsburg community.

HOUSE JOINT RESOLUTION NO. 625

Commending Joyce Waugh.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, on December 31, 2022, Joyce Waugh retired as president and chief executive officer of the Roanoke Regional Chamber of Commerce after 22 years of exceptional service to the organization and the region; and

WHEREAS, Joyce Waugh previously served as public relations director for the Roanoke Valley Psychiatric Center, now part of LewisGale Health System, and as assistant director of Roanoke County's Department of Economic Development; and

WHEREAS, in July 2000, Joyce Waugh joined the Roanoke Regional Chamber of Commerce, one of the oldest and largest business advocacy organizations in the Commonwealth, as vice president of public policy and strategic issues; and

WHEREAS, Joyce Waugh became president and chief executive officer of the Roanoke Regional Chamber of Commerce in October 2008; her visionary leadership has helped the region endure economic downturns and the effects of the COVID-19 pandemic to remain one of the Commonwealth's premier places to live, work, and play; and

WHEREAS, Joyce Waugh's contributions have enhanced the Roanoke region's reputation as a hub for cutting-edge health care, higher education, technological advancement, and outdoor recreation; and

WHEREAS, Joyce Waugh has also provided her expertise to the Roanoke Regional Partnership, Visit Virginia's Blue Ridge, Downtown Roanoke, Inc., and many other civic organizations; and

WHEREAS, among many awards and accolades over the course of her career, Joyce Waugh was selected as the 2012 Chamber Executive of the Year by the Virginia Association of Chamber of Commerce Executives; she was also the first woman in the Roanoke region to earn a certified economic developer designation from the International Economic Development Council; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Joyce Waugh on the occasion of her retirement as president and chief executive officer of the Roanoke Regional Chamber of Commerce; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Joyce Waugh as an expression of the General Assembly's admiration for her work to enhance the quality of life in and around Roanoke and enhance the economic vitality of the region.

HOUSE JOINT RESOLUTION NO. 626

Commending Sappony Baptist Church.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Sappony Baptist Church in Sussex County's Stony Creek, one of the oldest Baptist churches in the Commonwealth, has provided spiritual leadership, opportunities for joyful worship, and support for generous community outreach and mission programs for 250 years; and

WHEREAS, originally known as Sappony Meeting House, Sappony Baptist Church was established in 1773 by two elders who wished to create a Baptist church in the area, John Rivers and Issac Robinson, with John Rivers becoming the church's first pastor; the church predates by the incorporation of Stony Creek as a town by more than 100 years; and

WHEREAS, Sappony Baptist Church played a role in the development of religious liberty in the early days of the Commonwealth and cultivated fellowship between the two major groups of Baptists in the region, Separatists and Regular Baptists, with Sappony Baptist Church being Regular Baptist; and

WHEREAS, Sappony Baptist Church was originally part of the Kehukee Association, which was based in North Carolina, but by 1791, the Baptist community in the Commonwealth had grown significantly, and Sappony Baptist Church became one of the 21 founding churches in the Portsmouth Baptist Association; and

WHEREAS, the Portsmouth Baptist Association helped establish the Baptist General Association of Virginia in 1823, further supporting the growth and development of the local Baptist community; and

WHEREAS, during the Civil War, Sappony Baptist Church hosted one of only two meetings held by the Portsmouth Baptist Association for the duration of the war; in 1864, the sanctuary sustained damage during the Battle of Sappony Church, some of which is still visible, including holes from cannonballs and the altar Bible that was shot; during the battle the sanctuary served as a hospital; and

WHEREAS, after the war, the Portsmouth Baptist Association continued to thrive and needed to be divided into smaller associations; as a member of Portsmouth Baptist Association, Sappony Baptist Church became one of the 21 founding churches in the Petersburg Baptist Association and remains a member of the association to this day; and

WHEREAS, the original Sappony Baptist Church building is still intact and has been modernized and enhanced numerous times over the years; the building was wired for electricity in 1943, construction for an education building began in 1953, the pulpit area was remodeled and new choir and baptismal areas were added in 1957, and vinyl siding was installed in 1976; and

WHEREAS, Sappony Baptist Church supports state and national missionary work through the Southern Baptist Convention and has enhanced the quality of life in Sussex County and the Commonwealth by supporting ministries to feed the homeless and the less fortunate in Petersburg, and providing Christmas gifts and school supplies to children; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sappony Baptist Church on the occasion of its 250th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sappony Baptist Church as an expression of the General Assembly's admiration for the church's contributions to the Stony Creek community and the growth of the Baptist faith in the Commonwealth.

HOUSE JOINT RESOLUTION NO. 627

Commending Virginia CyberSlam.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Virginia CyberSlam, an initiative to teach students of the Commonwealth more about cybersecurity and its applications in the world, held its second annual conference on January 9, 2023, at George Mason University; and

WHEREAS, CyberSlam was developed by Chris Starke, a cyber educator at Briar Woods High School in Ashburn, alongside Jen Marden of Loudoun County High School, and several other teachers in the area, who recognized that there were limited opportunities for students to engage with the field of cybersecurity; and

WHEREAS, after an impressive turnout of 175 students in its inaugural session, this year's CyberSlam drew 419 students from 22 high schools across five counties, who participated in four cybersecurity workshops and heard from leaders in the cybersecurity field, including Aliscia Andrews, Deputy Secretary of Homeland Security and the Assistant Homeland Security Advisor of the Commonwealth; and

WHEREAS, CyberSlam's four workshops were led by David Raymond, director of the Virginia Cyber Range and the U.S. Cyber Range; Chuck Gardner, senior director of government and nonprofit engagement for CYBER.org; Mary Kim from Raytheon Technologies with Riverside High School student Ishan Jadhwani; and Lord Fairfax Community College interim cybersecurity program lead Melissa Stange with George Mason University associate professor of cybersecurity engineering Henry Coffman; and

WHEREAS, CyberSlam's workshops gave students the opportunity to test their cybersecurity knowledge, experiment with cryptography and encryption, fly drones, attempt ethical hacking, and connect with cybersecurity professionals across a wide range of industries; and

WHEREAS, CyberSlam enabled students with an interest in cybersecurity to hone their skills and to envision the potential of a career in cybersecurity, a field that will prove vital to the defense of the Commonwealth and the nation for years to come; and

WHEREAS, CyberSlam was made possible through the vision of its founders, the remarkable efforts of the educators who organized the conference, and the generous support of George Mason University and local sponsors; and

WHEREAS, CyberSlam promises to have a positive and lasting impact on the next generation of cybersecurity professionals and is a shining example of why the Commonwealth is a leader in cybersecurity education; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Virginia CyberSlam on the occasion of its second annual conference; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to Chris Starke and Jen Marden, organizers of Virginia CyberSlam, as an expression of the General Assembly's admiration for their efforts and best wishes for their continued success.

HOUSE JOINT RESOLUTION NO. 628

Commending John R. Charboneau.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, John R. Charboneau, a dedicated law-enforcement officer who has served and protected the residents of King and Queen County for 40 years, retired as the sheriff of King and Queen County on December 31, 2022; and

WHEREAS, John Charboneau began his career as a police officer in 1982 and served the community in many capacities, including as a dispatcher, deputy, investigator, and chief deputy; he was first elected as sheriff in 2012; and

WHEREAS, during his long and distinguished career, John Charboneau has witnessed significant technological advancements and changes in the field of law enforcement; he played an instrumental role in many notable achievements by the King and Queen County Sheriff's Office, including the implementation of a regional radio system and the modernization of the dispatch center with the introduction of a computer-aided dispatch system; and

WHEREAS, John Charboneau also oversaw the implementation of a reports management system that included the first e-ticket system in the area, ensured his deputies had the best tools and equipment, and developed active attack and active shooter training for law-enforcement personnel; and

WHEREAS, highly respected in the law-enforcement profession, John Charboneau has been a member of the Virginia Sheriffs' Association for over 40 years and previously served on the Board of Directors of the Middle Peninsula Regional Security Center; and

WHEREAS, John Charboneau has upheld the laws of the Commonwealth and served the residents of King and Queen County with the utmost integrity and distinction; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend John R. Charboneau on the occasion of his retirement as sheriff of King and Queen County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John R. Charboneau as an expression of the General Assembly's admiration for his service to the members of the King and Queen County community and best wishes on his well-earned retirement.

HOUSE JOINT RESOLUTION NO. 629

Celebrating the life of Eric J. Maybach, M.D.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Eric J. Maybach, M.D., a skillful engineer who worked on consequential projects throughout the nation and a trusted local physician in Fauquier County who served generations of community members, died on March 15, 2008; and

WHEREAS, Eric Maybach grew up in Bowmansville, New York, where he attended St. Mary's High School, and later moved to Edina, Minnesota, with his family; and

WHEREAS, in his college years, Eric Maybach studied both engineering and medicine and earned bachelor's and medical degrees from the University of Minnesota; and

WHEREAS, after graduation, Eric Maybach traveled to Alaska, where he put his engineering skills to use during the construction of the Alaska Highway; he also panned for gold, which he used to make a wedding ring for his wife, Georgian, and later supported his family by working as a fur trapper; and

WHEREAS, Eric Maybach completed a medical internship in Sioux Falls, South Dakota, then served his country as a lieutenant commander in the United States Navy; and

WHEREAS, Eric Maybach subsequently worked for the National Institutes of Health in Bethesda, Maryland, where he participated in the development of kidney dialysis machines; during that time, he also helped design a joystick for the lunar landing module in the Apollo program; and

WHEREAS, in 1970, Eric Maybach began working a second job in the emergency department of Fauquier Hospital, and in 1973, he and his family settled in Warrenton, where he established a private medical practice on Stuyvesant Street; and

WHEREAS, Eric Maybach was highly admired for his bedside manner and unparalleled care for his patients, putting people at ease through his compassion and breadth of knowledge; and

WHEREAS, Eric Maybach often served three or more generations of the same family; he made regular house calls to patients who were unable to travel, and he welcomed patients in need into his home at any time; and

WHEREAS, Eric Maybach inspired future generations of medical professionals by providing internships in his office, and he trained volunteer medics for local fire and rescue companies; and

WHEREAS, in addition to his medical practice, Eric Maybach also became the director of the emergency department at Fauquier Hospital and served as medical director in a local jail, where he strove to help inmates find a path to reintegrate into society at the end of their sentences; and

WHEREAS, outside of his career, Eric Maybach was an avid outdoorsman, who enjoyed bird watching, caring for sick or injured wild animals, and farming; and

WHEREAS, a devout Catholic, Eric Maybach enjoyed fellowship and worship with the Warrenton community as a member of St. John's Catholic Church and led fundraising to build a new Catholic school in the area; and

WHEREAS, Eric Maybach was related to the founders of the German luxury car brand, Maybach, which is now owned by Mercedes-Benz; he proudly restored a 1939 vintage Maybach and traveled to Germany several times to participate in celebrations of his family's history in the automotive industry; and

WHEREAS, Eric Maybach's wife, Georgian, passed away in 2016; he is fondly remembered and greatly missed by his children, Mary, Jill, Julie, Peter, Anita, Eric II, and Sarah, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Eric J. Maybach, M.D., a highly admired engineer and family doctor who touched countless lives in Fauquier County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Eric J. Maybach, M.D., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 630

Celebrating the life of Ellsworth L.B. Weaver, Sr.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Ellsworth L.B. Weaver, Sr., of Bealeton, in Fauquier County, a licensed building contractor, musician, actor, educator, and passionate advocate for equity and social justice, died on January 6, 2023; and

WHEREAS, Ellsworth Weaver was born in Fauquier County and attended the former W.C. Taylor High School; and

WHEREAS, a passionate lifelong learner, Ellsworth Weaver earned degrees and certifications from what is now Hampton University, the Carolina University of Theology, California Coast University, National Louis University, Virginia University of Lynchburg, and the Wentworth Institute of Technology; and

WHEREAS, Ellsworth Weaver was a Class A licensed building contractor and worked on three major construction projects in foreign countries, two in Saudi Arabia and one in Gambia; and

WHEREAS, Ellsworth Weaver was also a technology instructor in Fauquier County Public Schools, an adjunct professor at what is now Reynolds Community College, and a communication skills instructor at Virginia Union University; and

WHEREAS, after realizing that there were African American teachers in the region being paid far less than their white counterparts, Ellsworth Weaver dedicated his visionary leadership skills to the pursuit of civil rights and social justice and ultimately became president of the Fauquier County Branch of the NAACP, a position he held at the time of his death; and

WHEREAS, Ellsworth Weaver earned a reputation for speaking truth to power and built strong relationships founded on trust, respect, and mutual understanding with law-enforcement officers, government officials, and other local leaders to enhance community life; and

WHEREAS, Ellsworth Weaver inspired others to strive to bridge racial divides and build a better society for all Virginians; and

WHEREAS, outside of his careers and community leadership, Ellsworth Weaver was the co-organizer and music director of the River Bank Choir, which performed at venues in Culpeper County and Rappahannock County, as well as at James Madison's Montpelier, and the Afro-American Historical Association of Fauquier County's museum in The Plains, where he also performed in theater productions; and

WHEREAS, Ellsworth Weaver enjoyed fellowship and worship with the community as a member of St. James Baptist Church in Bealeton, where he was an ordained deacon, a Bible study teacher, and a musician for the combined choir; and

WHEREAS, Ellsworth Weaver also expressed his faith through his contributions to the Northern Virginia Baptist Association as president of the organization's men's ministry and a member of the education commission and the executive board; and

WHEREAS, Ellsworth Weaver will be fondly remembered and greatly missed by his beloved wife, Taryn; his children, Ellsworth, Jr., and DeBorah, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Ellsworth L.B. Weaver, Sr., a community leader who touched countless lives throughout the Commonwealth and the world; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ellsworth L.B. Weaver, Sr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 631

Commending the Stafford High School competitive cheer team.

Agreed to by the House of Delegates, February 8, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, the Stafford High School competitive cheer team secured its first state title in program history with a victory in the Virginia High School League Class 5 state championship; and

WHEREAS, the Stafford High School Indians also won the district and regional titles on the road to the state championship, which took place at Virginia Commonwealth University's Siegel Center on November 5, 2022; and

WHEREAS, the Stafford Indians scored 257 points in the state final, defeating the runners-up from Stone Bridge School by 14 points; and

WHEREAS, the members of the team were seniors Kayleigh Dovell, Hannah Grau, Destini Gray, Emily Hyde, Ashley Proudfoot, Sophia Robbins, Allison Snyder and Peyton Van Dyk; juniors Reese Barbee, Kennedy Beggan, Natalie Beggan, Lily Bonner, and Brooke Lowry; sophomores MacKenzie Barham, Addison Cooper, Nyra Fooseness, Dalton Gallahan, Malaya Johnson, Cassidy Lagasse, and Riley Proudfoot; and freshmen Lauren Harris, Jayda Jones, Ava Lengle, and Ella Pefoubou; and

WHEREAS, the Stafford Indians were led by coaches Janet Barham and Kristi Proudfoot; assistant coaches Ashley Dingus, Alyssa Guthrie, and Taylor Rossi; and manager Kaitlin Griego; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Stafford High School competitive cheer team; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Stafford High School competitive cheer team as an expression of the General Assembly's admiration for the team's achievements.

HOUSE JOINT RESOLUTION NO. 632

Commending Operation Smile.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, for more than four decades, Operation Smile, a medical nonprofit service organization currently headquartered in Virginia Beach, has enhanced the health and wellness of communities around the world by providing and increasing local access to reconstructive facial surgery to repair cleft lips, cleft palates, burns, tumors, and other birth defects; and

WHEREAS, Operation Smile traces its roots to 1982, when Dr. William "Bill" P. Magee, Jr., a craniofacial surgeon, and his wife, Kathleen "Kathy" S. Magee, a clinical social worker and nurse, joined a group of medical volunteers traveling to the Philippines to provide cleft lip and cleft palate repair surgeries to children and youth; and

WHEREAS, when several patients were still in need of treatment at the end of the mission, Bill and Kathy Magee were inspired to create Operation Smile and return to complete the work they had started; between 1983 and 1985 they conducted two additional trips to the Philippines and treated an additional 400 children; and

WHEREAS, within its first few years, Operation Smile expanded its services by launching its first of many student clubs, creating the Physicians' Training Program, which still brings surgeons from around the world to the United States to learn best practices and new techniques in craniofacial surgery, and launching the World Care Program, through which patients with conditions too serious to be treated in their home countries can receive care in the United States; and

WHEREAS, in the late 1980s, Operation Smile deployed medical mission teams to Kenya, Colombia, Ghana, and Vietnam; it was the first United States-based nongovernmental organization to return to Vietnam since the Vietnam War, and ultimately played a role in opening communications on the return of the remains of American soldiers; and

WHEREAS, Operation Smile conducted its first missions to China, Panama, Nicaragua, Russia, Venezuela, Ecuador, Brazil, Honduras, Thailand, Morocco, Bolivia, and Peru in the 1990s; the organization further expanded its operations through a fellowship program, domestic medical programs, and medical student and faculty exchange programs; and

WHEREAS, in 1999, Operation Smile launched the World Journey of Hope, a nine-week mission aboard a Lockheed L-1011 TriStar airplane converted into a flying hospital that provided 5,300 free surgeries to patients in 18 countries in Africa, Asia, the Middle East, Europe, and South America; World Journey of Hope '99 also provided medical equipment to each mission country, allowing them to take care of more children on their own; and

WHEREAS, in the new millennium, Operation Smile completed missions to Jordan, India, Ethiopia, Paraguay, South Africa, Mexico, Egypt, the Democratic Republic of Congo, Rwanda, Myanmar, Guatemala, Ghana, the United Arab Emirates, and Malawi; and

WHEREAS, in 2006, Operation Smile hosted its first Global Standards of Care meeting to establish an international standard of care for all Operation Smile affiliates around the world; the following year, it commemorated its 25th anniversary by opening comprehensive care centers in four countries and initiating World Journey of Smiles that served more than 4,000 patients at 40 locations; and

WHEREAS, in 2014, Operation Smile held its first NEXT Medical Conference at its recently constructed global headquarters in Virginia Beach and brought together medical professionals from 45 countries to discuss gaps in global surgical care and develop strategies to overcome barriers to care and enhance health infrastructure and increase surgical capacity in their communities; and

WHEREAS, as part of its 35th anniversary campaign in 2017, Operation Smile created the United We Heal campaign to encourage global leaders to increase access to safe surgery and advocate for government engagement and the establishment of medical programs to create long-term solutions; and

WHEREAS, during the recent COVID-19 pandemic, Operation Smile redirected critical supplies and protective equipment to frontline health workers across the globe; Operation Smile continued its commitment to patients and used technology to safely provide consultations like speech therapy and psychosocial counseling; and

WHEREAS, since its establishment, Operation Smile has helped more than 346,000 children and youths in more than 60 countries worldwide receive life-changing surgical and dental care; the organization has established local affiliates in Vietnam, Australia, Italy, the United Kingdom, Ireland, Sweden, Canada, and Switzerland, among others; and

WHEREAS, Operation Smile's exceptional accomplishments have been featured in national and international news programs and publications, and the organization has been recognized by Pope John Paul II, Mother Theresa, multiple United States presidents, and heads of state in numerous other countries; and

WHEREAS, among many accolades and humanitarian awards, Operation Smile was the inaugural recipient of the Conrad N. Hilton Humanitarian Prize in 1996 and was named the Nonprofit Organization of the Year by the Direct Marketing Association Nonprofit Federation in 2009; William and Kathleen Magee have personally received many other awards for their commitment to excellence and contributions to health and wellness worldwide; and

WHEREAS, Operation Smile maintains longstanding partnerships with the American Heart Association, the General Federation of Women's Clubs, Rotary International, and other civic and service organizations that have generously supported its mission; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Operation Smile for its exceptional service to communities around the world on the occasion of its 40th anniversary in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. William P. Magee, Jr., and Kathleen S. Magee, founders of Operation Smile, as an expression of the General Assembly's appreciation for the organization's vital mission and admiration for its global achievements.

HOUSE JOINT RESOLUTION NO. 633

Commending Melwood.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Melwood, a leading employer, advocate, and preferred provider for people with disabilities in the Washington, D.C., metropolitan area that employs innovative strategies and programs to empower people with disabilities to live, work, and play in the community, celebrates its 60th anniversary in 2023; and

WHEREAS, Melwood was founded in 1963 by a small group of parents and community supporters in Upper Marlboro, Maryland, who decided to teach plant care to young adults with disabilities and to provide them with jobs; and

WHEREAS, known as the Melwood Horticultural Training Center in its early years, Melwood initially operated out of a surplus Army tent on seven acres of unimproved land donated by Andrews Air Force Base in Prince George's County, Maryland, cultivating plants and selling them to work sites around the Washington, D.C., metropolitan area; and

WHEREAS, in the 1970s, Melwood purchased property in Nanjemoy, Maryland, where a fully functioning farm was used as a training site for individuals with disabilities to gain skills in agriculture, farming, landscaping, and horticulture; and

WHEREAS, 25 years ago, Melwood opened Camp Accomplish, a fully inclusive summer camp serving kids with and without disabilities that today provides hundreds of kids across Maryland and the Commonwealth with day camp and overnight camp options; and

WHEREAS, in the 1980s, Melwood became one of the first nonprofit agencies to hold a contract under the expanded Javits-Wagner-O'Day Act, also known as the AbilityOne Program, one of the nation's largest providers of jobs for people who are blind or who have significant disabilities; and

WHEREAS, today, Melwood serves federal clients at more than 60 federal sites, delivering high-quality total facility management, custodial, ground keeping, and recycling services and more across Maryland, the Commonwealth, and Washington, D.C.; and

WHEREAS, Melwood provides competitive integrated employment, job placement, job training, independent life skills training, and support services to more than 2,500 people each year; and

WHEREAS, Melwood operates the Fairfax County Workforce, Innovation, and Skills Hub in Hybla Valley, a groundbreaking community-based service designed to train, upskill, and empower individuals to find employment, no matter what barriers they face; and

WHEREAS, in 2017, Melwood combined with Linden Resources in Arlington to establish one of the largest regional nonprofits dedicated to empowering people with disabilities; and

WHEREAS, Melwood's integrated workforce is composed of more than 1,400 employees, including 900 employees with disabilities, serving as a national model for a successfully integrated workforce; and

WHEREAS, today, Melwood remains unwavering in its founding vision—a world where people with disabilities are fully included in their communities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Melwood on the occasion of its 60th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Melwood as an expression of the General Assembly's admiration for its history of contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 634

Celebrating the life of Bruce Hunter Neilson.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Bruce Hunter Neilson, an esteemed member of the United States Department of Justice, treasurer of the Fairfax County Democratic Committee, and active and beloved member of the Fairfax County community; died on December 17, 2022; and

WHEREAS, Bruce Neilson graduated from Hopewell High School in 1970 and then earned a bachelor's degree in environmental science in 1974 and a master's degree in public administration in 1975, each from The Pennsylvania State University; and

WHEREAS, Bruce Neilson enjoyed a fulfilling 31-year career at the United States Department of Justice, where he supported the agency's bankruptcy oversight program until his retirement in 2008; and

WHEREAS, Bruce Neilson devoted 20 years to Social Action Linking Together, helping the organization advance its mission through legislative achievements in prison reform and increases to the minimum wage, as well as through Temporary Assistance for Needy Families grants and homelessness prevention efforts; and

WHEREAS, in recognition of his record of service and expertise, Bruce Neilson was appointed by the former chair of the Fairfax County Board of Supervisors, Sharon Bulova, to represent Fairfax County on the Northern Virginia Community College Board, where he chaired the Finance Committee for several years; and

WHEREAS, Bruce Neilson served the Fairfax County Democratic Committee as treasurer from 2002 to 2009 and then as communications advisor from 2014 to 2017, earning "Unsung Hero" honors in 2017 for his lifetime of dedicated service to the organization; and

WHEREAS, Bruce Neilson supported causes near and dear to him as treasurer both for the Honorable Richard Saslaw and for various nonprofit organizations, including Bringing Resources to Aid Women's Shelters, and he also gave generously of his time and talents to organizations such as the Northern Virginia Literary Council and the Alliance for Human Services; and

WHEREAS, in his personal life, Bruce Neilson ardently cheered on his favorite team, the Pittsburgh Steelers, and took immense pleasure in cooking, gardening, traveling, antiquing, and making a difference in the lives of others, especially those in need; and

WHEREAS, Bruce Neilson will be fondly remembered and dearly missed by his loving wife, Kathleen; his children, Paul, Stephen, Kelly, and Christopher, and their families; his brothers, David and Robert; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Bruce Hunter Neilson, a cherished member of the Fairfax County community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Bruce Hunter Neilson as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 635

Celebrating the life of Hylah Haile Boyd.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Hylah Haile Boyd, a highly admired member of the Richmond community and a leader in conservation who was passionate about safeguarding the Commonwealth's beautiful, natural scenic vistas, died on September 20, 2022; and

WHEREAS, Hylah Boyd cultivated her love of the great outdoors while growing up on the Elton Farm in Essex County; and

WHEREAS, after graduating from Tappahannock High School and Longwood University, Hylah Boyd worked as a correspondent bank investment analyst at what was then State Planters Bank and Trust; and

WHEREAS, in 1998, Hylah Boyd founded Scenic Virginia, a nonprofit organization dedicated to the preservation, protection, and enhancement of the Commonwealth's natural beauty, particularly in the form of significant views and vistas; and

WHEREAS, guided by Hylah Boyd's visionary leadership, Scenic Virginia built strong partnerships with public and private entities to fulfill its mission and advocated for conservation at local, regional, and state levels; the organization has also worked to identify the Commonwealth's scenic areas and support state designations for such areas; and

WHEREAS, Hylah Boyd also served as president of the Tuckahoe Garden Club of Westhampton and held leadership positions in the Northern Neck Land Conservancy, the Garden Club of Virginia, the Garden Club of America, the Virginia Conservation Network, the Essex County Conservation Alliance, and Capital Trees; and

WHEREAS, among many awards and accolades, Hylah Boyd received the Conservationist of the Decade award from the Essex County Conservation Alliance, the de Lacy Gray Memorial Medal for Conservation from the Garden Club of Virginia, and the Cynthia Pratt Laughlin Medal for Conservation from the Garden Club of America; and

WHEREAS, Hylah Boyd will be fondly remembered and greatly missed by her beloved husband, McGuire; her children, Hylah, McGuire, Jr., and Jack, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Hylah Haile Boyd; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Hylah Haile Boyd as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 636

Celebrating the life of Bonnalynn Bugg Pritchard.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Bonnalynn Bugg Pritchard, a successful real estate professional and a highly admired resident of the Northern Neck, died on November 5, 2022; and

WHEREAS, Bonnalynn "Lynn" Bugg Pritchard grew up in Richmond, where she graduated from the Collegiate School; she continued her education at what is now Hollins University, then worked as an elementary school teacher in Charlottesville and the Richmond area; and

WHEREAS, in 1977, while still teaching school, Lynn Pritchard obtained a real estate license and began a second career in real estate on a part-time basis; and

WHEREAS, after spending a few years living in South Carolina and focusing on raising her sons, Lynn Pritchard returned to Richmond and became a full-time Realtor in 1988; and

WHEREAS, Lynn Pritchard earned the respect of colleagues and clients alike for her professionalism, integrity, work ethic, and engaging personality; she helped countless individuals and families find the right home and mentored many other Realtors until her well-earned retirement in 2017; and

WHEREAS, Lynn Pritchard offered her leadership and expertise to the Junior League of Richmond, the Junior League of Columbia, South Carolina, the Historic Richmond Foundation, Richmond's Three Chopt Garden Club, and the Garden Club of the Northern Neck; and

WHEREAS, outside of her career and community service, Lynn Pritchard was an accomplished boater, who once traveled by boat from Sturgeon Bay, Wisconsin, to her home on Carter's Creek in Irvington; and

WHEREAS, Lynn Pritchard enjoyed fellowship and worship with the community as a member of Wicomico Parish Church; and

WHEREAS, Lynn Pritchard will be fondly remembered and greatly missed by her husband, Austin; her sons, Austin III and Barrett, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Bonnalynn Bugg Pritchard; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Bonnalynn Bugg Pritchard as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 637

Commending Hollin Hills.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Hollin Hills, a vibrant community in the Hybla Valley of Fairfax County known for its innovative architectural and landscaping designs, celebrates its 75th anniversary in 2024; and

WHEREAS, Hollin Hills was one of the area's first new residential developments after World War II and traces its roots to 1946, when developer Robert Davenport purchased 225 acres of undeveloped land just south of Alexandria; the community took its name from the nearby Hollin Hall Plantation, which had originally been owned by George Mason; and

WHEREAS, Robert Davenport built several partnerships with investors to support the fledgling community and hired Charles Goodman, the architect who designed Ronald Reagan Washington National Airport; the neighborhood is still known for its unique aesthetics and commitment to striking midcentury modern architecture; and

WHEREAS, rather than use a grid pattern, the developers of Hollin Hills sited houses to fit the area's rolling woodland hillsides to promote senses of both individuality and openness, as well as integrate the region's natural beauty into the plan; and

WHEREAS, in 1949, Charles Goodman unveiled the first of his unit designs that became the trademark of the Hollin Hills community, the split-level Unit No. 1; that same year, a one-story Unit No. 2 was completed and purchased by John and Kitty Nettles, the neighborhood's first homeowners; and

WHEREAS, the Hollin Hills Community Association, now known as the Civic Association of Hollin Hills, was established in 1950 to serve the growing community, and a lively community newsletter was launched in 1951; and

WHEREAS, in 1956, Hollin Hills purchased an additional 101 acres, which became known as the New Hollin Hills; the entire community now encompasses more than 450 homes built on eight distinct unit plans, and despite being only 20 minutes from Washington, D.C., the neighborhood maintains a distinctly rural character through its flowing, park-like arrangement; and

WHEREAS, the last house built in Hollin Hills was completed in 1971, and the community commemorated the event with a block party in honor of the visionary leadership of Robert Davenport, who retired shortly thereafter; and

WHEREAS, in 1987, Hollin Hills formed the Design Review Committee to allow for modernization and enhancements to homes that are consistent with the neighborhood's character and heritage; and

WHEREAS, Hollin Hills has earned numerous awards and accolades for its design, including a Revere Quality House Award from the Southwest Research Institute in 1950 and two Test of Time Awards from the Virginia Society of the American Institute of Architects in 1982; and

WHEREAS, Hollin Hills is listed on the Fairfax County Inventory of Historic Sites and was added to the Virginia Landmarks Register and the National Register of Historic Places in 2013; and

WHEREAS, over the course of its history, Hollin Hills has been home to prominent government officials, journalists, authors, performers, artists, attorneys, and many others who have made a wealth of contributions to the Commonwealth and the nation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Hollin Hills on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Civic Association of Hollin Hills as an expression of the General Assembly's admiration for the community's history and contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 638

Commending Generation Joshua.

Agreed to by the House of Delegates, February 9, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Generation Joshua, a youth civics and leadership program organized by the Home School Legal Defense Association and headquartered in Purcellville, celebrates its 20th anniversary in 2023; and

WHEREAS, Generation Joshua was founded in December 2003 by Michael Farris, Home School Legal Defense Association (HSLDA) President Mike Smith, and the HSLDA Board of Trustees; and

WHEREAS, the mission of Generation Joshua is "to inspire and equip young leaders and citizens to influence the political and civic process for good"; and

WHEREAS, since its first event in 2004, Generation Joshua has trained more than 28,000 students through a variety of programs and initiatives, including online courses, immersive simulations, and in-person advocacy groups; and

WHEREAS, Generation Joshua's programs are utilized by public schools, private schools, and home schools and provide students with a forum in which they can strengthen their beliefs and put them to practice; and

WHEREAS, Generation Joshua's online civics courses were instrumental for many students during the COVID-19 pandemic, helping them navigate the challenges posed by the historic public health crisis; and

WHEREAS, Generation Joshua runs immersive simulations, including its iGovern leadership camps and government intensives, to give students valuable experience as they imagine themselves in the positions of government executives and politicians; and

WHEREAS, Generation Joshua supports student-led "GenJ Clubs" across the nation, which offer students the opportunity to learn more about their country, discuss current events, build relationships with their elected officials, and serve their local communities; and

WHEREAS, Generation Joshua aspires to establish a local GenJ Club in every congressional district in the nation to allow the organization to more fully achieve its mission and objectives; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Generation Joshua, a youth civics and leadership program supporting students and families in the Commonwealth and beyond, on the occasion of its 20th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Generation Joshua as an expression of the General Assembly's admiration for the organization's contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 639

Commending Nancy B. Welch.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, after a distinguished 27-year career in education, Nancy B. Welch will retire as superintendent of Mathews County Public Schools in 2023; and

WHEREAS, a graduate of what is now Longwood University and of George Washington University, Nancy Welch began her distinguished tenure with Mathews County Public Schools as a teacher at Lee-Jackson Elementary School; and

WHEREAS, over the course of nine years, Nancy Welch taught kindergarten, third grade, and fourth grade and was selected as the school's Teacher of the Year in 2005; she also helped develop the division's teacher-mentor program; and

WHEREAS, Nancy Welch subsequently served Mathews County Public Schools as director of testing, professional development coordinator, instructional technology resource teacher, and education information management system administrator; and

WHEREAS, Nancy Welch was selected as assistant superintendent of Mathews County Public Schools in 2009 and became superintendent on July 1, 2015; and

WHEREAS, Nancy Welch has served the faculty and staff of Mathews County Public Schools with the utmost dedication and has given countless students the tools they needed to achieve success in and out of the classroom; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Nancy B. Welch on the occasion of her retirement as superintendent of Mathews County Public Schools; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Nancy B. Welch as an expression of the General Assembly's admiration for her legacy of service to students in Mathews County.

HOUSE JOINT RESOLUTION NO. 640

Commending Thomas J. Swartzwelder.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Thomas J. Swartzwelder, an intrepid public servant who concurrently held the offices of county administrator, zoning administrator, and county attorney for King and Queen County, retired in 2022; and

WHEREAS, Thomas Swartzwelder joined the staff of King and Queen County in December 2007 as outside counsel, and in November of 2008, he began his distinguished service in the unprecedented combined position as county administrator, zoning administrator, and county attorney; and

WHEREAS, as county administrator and county attorney, Thomas Swartzwelder honorably and tirelessly served the residents of King and Queen County and guided and supported many local government staff and elected officials; he ably administered the policies established by the Board of Supervisors and provided outstanding legal advice when called upon to do so; and

WHEREAS, during his tenure, Thomas Swartzwelder identified, designed, and managed many innovative projects for King and Queen County, including the installation of a state-of-the-art regional emergency radio system, the cultivation of unique business opportunities at the regional airport, and the establishment of a local broadband authority to deploy the Fiber to the Home project, which brought broadband internet to all county residents; and

WHEREAS, Thomas Swartzwelder joined the Middle Peninsula Planning District Commission in January 2009, became vice-chair in January 2016, and served as chair from July 2016 until his retirement on September 1, 2022; and

WHEREAS, Thomas Swartzwelder served on the Middle Peninsula Chesapeake Bay Public Access Authority as an alternate from March 2011 to September 1, 2022, and was a member of the Middle Peninsula Regional Security Center Jail Authority from January 2011 to September 2022, most of which time he served as chair; and

WHEREAS, Thomas Swartzwelder served the residents of King and Queen County and the Middle Peninsula with the utmost dedication and distinction; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Thomas J. Swartzwelder on the occasion of his retirement from King and Queen County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Thomas J. Swartzwelder as an expression of the General Assembly's admiration for his contributions to the King and Queen County community and service to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 641

Celebrating the life of Elizabeth Lewis Beamer.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Elizabeth Lewis Beamer, esteemed educator, cherished wife, mother, grandmother, great-grandmother, sister, and friend, and a beloved member of the Christiansburg community, died on May 13, 2022; and

WHEREAS, Elizabeth "Libby" Lewis Beamer was born on April 21, 1930, in Chilhowie to John William Lewis and Lady Maupin Lewis and shared a special childhood with her brothers, James and William, before proudly graduating from Virginia Intermont College and Radford College; and

WHEREAS, Libby Beamer captured the attention and heart of George L. Beamer, Jr., and during their 49-year marriage, they raised four loving and devoted sons, George, John, James, and Richard; and

WHEREAS, Libby Beamer was a longtime teacher with Montgomery County Public Schools, retiring as an earth science teacher at Christiansburg Middle School; and

WHEREAS, Libby Beamer was an active member of Christiansburg Presbyterian Church, holding numerous leadership positions throughout the years, including deacon and ruling elder; and

WHEREAS, Libby Beamer was involved in Presbyterian Women at the local level and served Presbyterian Women in the Presbytery as moderator; and

WHEREAS, Libby Beamer had a special place in her heart for the Presbyterian Children's Home of the Highlands in Wytheville and served on its Board of Directors; and

WHEREAS, Libby Beamer served on the Board of Directors of Sunnyside Presbyterian Home in Harrisonburg and the former Montgomery County Regional Hospital; and

WHEREAS, for over 40 years, Libby Beamer was an active member of the Christiansburg Book Club; and

WHEREAS, Libby Beamer was a unifying voice in the Republican Party of Virginia, having represented the Ninth Congressional District on the State Central Committee; and

WHEREAS, at the local level, the Montgomery County Republican Party and Montgomery County Republican Women's Club were strengthened by Libby Beamer's leadership; and

WHEREAS, Libby Beamer was appointed by Governor George Allen to the Advisory Board on the Aging, on which she served with pride and appreciation; and

WHEREAS, preceded in death by her loving husband, George, Jr., Libby Beamer will be dearly missed and held deeply in the hearts of her four sons, George III, John, James, and Richard, and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Elizabeth Lewis Beamer, a highly admired and respected wife, mother, grandmother, great-grandmother, and friend, who will always be remembered for her passion, grace, and love for her family; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the children of Elizabeth Lewis Beamer, George, John, James, and Richard, as an expression of the General Assembly's respect for her memory and her many contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 642

Commending G. Gilmer Minor III.

Agreed to by the House of Delegates, February 9, 2023
Agreed to by the Senate, February 10, 2023

WHEREAS, G. Gilmer Minor III, chairman emeritus of Owens & Minor, Inc., and an accomplished leader in education who has admirably served his community and the Commonwealth for many years, was presented the Outstanding Virginian Award in 2023; and

WHEREAS, Gilmer Minor attended St. Christopher's School in Richmond, where he was co-captain of the football, basketball, and baseball teams his senior year, receiving all-metro honors in each sport; and

WHEREAS, Gilmer Minor graduated from Virginia Military Institute (VMI) with a bachelor's degree in 1963 and went on to earn a master's degree in 1966 in business administration from the Darden School of Business at the University of Virginia; and

WHEREAS, while a student at VMI, Gilmer Minor was a standout athlete on the school's football and baseball teams, serving as co-captain of each team his senior year and later earning an induction into the VMI Sports Hall of Fame for both sports; he also played basketball for the school in his freshman year; and

WHEREAS, Gilmer Minor joined Owens & Minor, Inc., a global health care logistics company headquartered in Richmond, in 1963, serving in sales, operations, and management roles until he was named president and chief operating officer in 1981; and

WHEREAS, Gilmer Minor continued to take on greater responsibility at Owens & Minor over the years, becoming chief executive officer in 1984 and chairman of the board in 1994; he then gradually relinquished these responsibilities in the later part of his career, retiring as chairman and chief executive officer in 2005, and continuing as the non-executive chairman until he was named chairman emeritus in 2013; and

WHEREAS, under Gilmer Minor's leadership, Owens & Minor provided vital supply chain services nationally to health care providers, health care product manufacturers, and other entities, greatly supporting the health and well-being of countless individuals; and

WHEREAS, Gilmer Minor gave generously of his time to various civic, professional, educational, and charitable organizations, serving as chair of the State Council of Higher Education for Virginia and as a member and chair of the Virginia Business Higher Education Council; and

WHEREAS, in 2010, Gilmer Minor was appointed by Governor Robert F. McDonnell to serve on the Governor's Commission on Higher Education Reform, Innovation, and Investment; his service in education also included terms on the

board of governors of St. Christopher's School in Richmond and as president of both the VMI Board of Visitors and the VMI Foundation; and

WHEREAS, in recognition of his professional and civic accomplishments, Gilmer Minor has been honored with numerous accolades and awards over the years, including the Distinguished Service Award from the VMI Foundation in 2008, induction into the Junior Achievement of Central Virginia's Greater Richmond Business Hall of Fame in 2003, and the Flame Bearer of Education Award from the United Negro College Fund in 1998; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend G. Gilmer Minor III on his selection as the Outstanding Virginian for 2023; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to G. Gilmer Minor III as an expression of the General Assembly's appreciation for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 643

Commending the Honorable Robert H. Brink.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, the Honorable Robert H. Brink completed his service to the Commonwealth as chair of the Virginia State Board of Elections in January 2023; and

WHEREAS, Robert "Bob" H. Brink has a distinguished record of public service as the former delegate of the 48th District in the Virginia House of Delegates, as the deputy commissioner for the Department for Aging and Rehabilitative Services, and as a senior legislative advisor to Governor Terence R. McAuliffe; and

WHEREAS, Bob Brink joined the Virginia State Board of Elections as chair in 2019; and

WHEREAS, Bob Brink guided the Virginia State Board of Elections through the challenges of adapting to changes in the election processes due to the effects of the COVID-19 pandemic; and

WHEREAS, seeing the need for a cohesive and focused source of study and recommendations regarding the electoral process, Bob Brink led the establishment of the Advisory Review Workgroup, which provides valuable input to the board from the Virginia elections community and members of the public; and

WHEREAS, recognizing the public's need to participate fully in the electoral process, Bob Brink gave every opportunity for members of the public to be heard both during meetings and through the exchange letters sent from his desk; and

WHEREAS, Bob Brink has served the residents of the Commonwealth with fairness, dedication, integrity, and a high degree of professionalism in his role as chair of the Virginia State Board of Elections; and

WHEREAS, Bob Brink is the devoted father of two adult children and has been blessed with four grandchildren; he looks forward to spending more time with his beloved family after his retirement; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Honorable Robert H. Brink for his service as chair of the Virginia State Board of Elections; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable Robert H. Brink as an expression of the General Assembly's admiration for his achievement in service to the residents of the Commonwealth and contributions to the democratic process and best wishes on his well-earned retirement.

HOUSE JOINT RESOLUTION NO. 644

Commending the Fredericksburg Regional Food Bank.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, in 2022, the Fredericksburg Regional Food Bank served more than 30,000 individuals through regular programs and seasonal food drives and special events, providing enough food for more than five million meals; and

WHEREAS, the Fredericksburg Regional Food Bank serves the Counties of Caroline, King George, Spotsylvania, and Stafford, as well as the City of Fredericksburg and the community of Locust Grove, and is the leading charitable food distribution organization in the region; and

WHEREAS, the Fredericksburg Regional Food Bank is a member of the Feeding America network and works with more than 150 community partners to extend its reach throughout the community; the organization has fulfilled its mission of uniting the Central Rappahannock Region in its commitment to fight hunger through generous donations from individuals, businesses, foundations, and grants, and the hard work and dedication of countless volunteers; and

WHEREAS, each year, the Fredericksburg Regional Food Bank rescues more than 1,600 tons of safe, surplus food from going to waste so that it can instead help nourish those struggling with hunger; retail grocers, farmers, producers, distributors, and foodservice operators donate food that is not profitable to sell, close-dated, overstock, seasonal, or cosmetically damaged; and

WHEREAS, the Fredericksburg Regional Food Bank offers specific programs for children and seniors, assists in the enrollment of those eligible for benefits through the Supplemental Nutrition Assistance Program, and operates direct distribution activities through its OrderAhead Program, Mobile Pantry, and drive-through distributions; and

WHEREAS, during the holiday season alone, the Fredericksburg Regional Food Bank distributes tens of thousands of pounds of food and works diligently to provide hope and support to local families through its Turkeys and Toys event, which provides hundreds of Thanksgiving turkeys and gifts for children; and

WHEREAS, during the 2022 holiday season, the Fredericksburg Regional Food Bank met its end-of-year fundraising goal, allowing the organization to provide more than 300,000 meals in the holiday months; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Fredericksburg Regional Food Bank for its achievements in support of the community in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Fredericksburg Regional Food Bank as an expression of the General Assembly's admiration for the organization's commitment to ending hunger in the Fredericksburg region.

HOUSE JOINT RESOLUTION NO. 645

Commending the Friends of Wilderness Battlefield.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, the Friends of Wilderness Battlefield, a nonprofit organization dedicated to preserving, protecting, and interpreting the Wilderness Battlefield, a unit of the Fredericksburg and Spotsylvania National Battlefield Park located in the Counties of Spotsylvania and Orange, received a Historic Preservation Recognition Award from the Washington-Lewis Chapter of the National Society Daughters of the American Revolution in 2022; and

WHEREAS, Susan Wachter and Beth Stenstrom, regent and first vice regent, respectively, of the Washington-Lewis Chapter of the National Society Daughters of the American Revolution (NSDAR) presented the award to Friends of Wilderness Battlefield (FoWB) president Bob Lookabill at the FoWB annual meeting on November 12, 2022; and

WHEREAS, the NSDAR award was presented to FoWB to recognize the organization for its accomplishments in creating a hospital room exhibit at the historic Ellwood Manor, a circa 1790 home on the grounds of the Wilderness Battlefield that served as a convalescent hospital during the Civil War; and

WHEREAS, to create the exhibit, FoWB volunteers devoted hundreds of hours of their time researching Civil War medicine and hospitals, including travel to various other museums and meetings with experts in the field; and

WHEREAS, FoWB volunteers also consulted extensively with retired Fredericksburg and Spotsylvania National Military Park chief historian John Hennessy during the development of the exhibition, facilitating their efforts to meet National Park Service standards for museum displays; and

WHEREAS, the origins of FoWB date to September 23, 1995, when a group of ten residents of the Counties of Spotsylvania and Orange held the organization's first meeting; the organization has since grown to include more than 200 members; and

WHEREAS, in addition to assisting the Fredericksburg and Spotsylvania National Military Park's efforts to preserve the Wilderness Battlefield, the FoWB also organizes advocacy, educational programs, and service projects for the benefit of the site and its visitors; and

WHEREAS, the success of FoWB is the result of the hard work and dedication of the organization's volunteers, whose efforts to support interpretation and site maintenance at Ellwood Manor, along with battlefield maintenance, event planning, community outreach, and other educational programming, have made a profound and lasting impact on historic preservation in the Spotsylvania and Orange communities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Friends of Wilderness Battlefield for receiving a 2022 Historic Preservation Recognition Award from the Washington-Lewis Chapter of the National Society Daughters of the American Revolution; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Friends of Wilderness Battlefield as an expression of the General Assembly's admiration for the organization's achievements and appreciation for its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 646

Commending Jay T. Braxton.

Agreed to by the House of Delegates, February 14, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Jay T. Braxton, assistant clerk of the House of Delegates, was presented with the Legislative Staff Achievement Award from the American Society of Legislative Clerks and Secretaries in 2022; and

WHEREAS, the American Society of Legislative Clerks and Secretaries (ASLCS) recognized Jay Braxton for the impact he has made through his dedication, service, and leadership to both the House of Delegates and the ASLCS; and

WHEREAS, Jay Braxton has facilitated operations at the House of Delegates for the past 25 years and has been assistant clerk since his appointment in 2011, managing the support services area of the Office of the Clerk of the House of Delegates and overseeing a staff of 70 individuals; and

WHEREAS, Jay Braxton has advanced his profession through his longstanding involvement with the ASLCS, chairing several of the organization's committees and serving on its executive committee since 2016, including two years as associate vice president; and

WHEREAS, Jay Braxton has adeptly fulfilled the duties of key liaison and coordinator for several of the Office of the Clerk of the House of Delegates' major activities and projects in recent years, such as the development of the new General Assembly Building in Richmond; and

WHEREAS, Jay Braxton proved instrumental to the successful operation of the legislature during the COVID-19 pandemic by helping to orchestrate sessions that were carried out virtually, outdoors, and at Virginia Commonwealth University's Siegel Center to accommodate public health requirements in place at the time; he also coordinated the 2022 gubernatorial inauguration; and

WHEREAS, Jay Braxton's profound commitment to the House of Delegates is evident in the effort he puts forth daily to assist delegates, his colleagues, and the public and in the care he takes to ensure the traditions and practices of the chamber are dutifully observed; and

WHEREAS, Jay Braxton is a reliable mentor and friend to his colleagues at the Office of the Clerk of the House of Delegates, all of whom have benefited greatly from his knowledge and expertise; and

WHEREAS, with great integrity and distinction, Jay Braxton has exemplified the virtues of public service over his past quarter century with the Office of the Clerk of the House of Delegates and serves as an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jay T. Braxton, assistant clerk of the House of Delegates, for receiving the 2022 Legislative Staff Achievement Award from the American Society of Legislative Clerks and Secretaries; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jay T. Braxton as an expression of the General Assembly's admiration for his service to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 647

Celebrating the life of Braylon Edward Meade.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Braylon Edward Meade, a 17-year-old student at Washington-Liberty High School, who was an inspirational member of the Arlington community and a beloved son, brother, and friend, died on November 11, 2022; and

WHEREAS, Braylon Meade was a diligent student who maintained a 4.3 grade point average at Washington-Liberty High School, where he was pursuing an International Baccalaureate diploma; and

WHEREAS, Braylon Meade volunteered his time to tutor younger students in mathematics, and he was a mentor for students learning English as a second language in the Readers for Leaders program at Barrett Elementary School; and

WHEREAS, Braylon Meade was a talented multisport athlete, who ran on the Washington-Liberty High School cross country team as a freshman and was a member of the varsity football and basketball teams; and

WHEREAS, Braylon Meade served as a coach for a recreational basketball league, and as co-president of Hoops for Cancer, he organized a basketball tournament that raised money for melanoma research; and

WHEREAS, for more than 10 years, Braylon Meade also participated in swim events at Donaldson Run Recreation Association; he helped set an association record in the 200-meter freestyle relay for boys age 13 to 14, and he worked there as a lifeguard for two summers; and

WHEREAS, Braylon Meade was an active member of DECA, a nonprofit business association that helps students learn about entrepreneurship, and he created a website to sell vintage LEGO sets; and

WHEREAS, Braylon Meade enjoyed fellowship and worship with the Arlington community as a member of Our Lady Queen of Peace Catholic Church; and

WHEREAS, Braylon Meade brought joy to others with his kindness, generosity, compassion, and sense of humor, and he touched countless lives in the community through his commitment to servant leadership; and

WHEREAS, Braylon Meade will be fondly remembered and greatly missed by his parents, Rose Mary Kehoe and Kris David Meade; his siblings, Bryan Kehoe Meade and Kerry Ruth Meade; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Braylon Edward Meade; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Braylon Edward Meade as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 648

Commending Carpenter's Shelter.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Carpenter's Shelter, a noble and distinguished organization providing shelter and the widest array of services to unhoused families, single women, and single men in the Alexandria community, is celebrating its 35th anniversary in 2023; and

WHEREAS, Carpenter's Shelter activates 1,200 volunteers each year to work directly in various aspects of sheltering and rehousing people that are homeless; and

WHEREAS, Carpenter's Shelter began in a church basement and relocated sequentially to two consecutive warehouses, a decommissioned Department of Motor Vehicles building, and a defunct shopping center before finally coming home to a purpose-built shelter on the north end of Old Town Alexandria; and

WHEREAS, Carpenter's Shelter, through the hard work and dedication of its passionate staff, offers customized supports to meet the individual needs of those it serves; and

WHEREAS, Carpenter's Shelter operates a year-round emergency shelter, a day shelter for people who are chronically homeless, a hypothermia shelter, a rapid rehousing program, a medical clinic, and other supports to help people move toward regaining permanent housing; and

WHEREAS, Carpenter's Shelter raises the majority of the annual revenue it needs to maintain its operations from sources other than the government and considers itself an expression of the community's generosity; and

WHEREAS, in the future that Carpenter's Shelter envisions and works toward, homelessness in the Alexandria community is rare, brief, and nonrecurring; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Carpenter's Shelter on the occasion of its 35th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Shannon Steene, executive director of Carpenter's Shelter, as an expression of the General Assembly's admiration for the organization's contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 649

Commending Senior Services of Alexandria.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, the nonprofit organization Senior Services of Alexandria and its dedicated volunteers and staff will celebrate the organization's 55th anniversary in 2023; and

WHEREAS, since 1968, Senior Services of Alexandria has been serving older adult residents of Alexandria with programs and services to enable them to age with dignity in their own homes; and

WHEREAS, Senior Services of Alexandria offers residents improved nutrition through Meals on Wheels and Groceries to Go programs, companionship through its Friendly Visitor and "AniMeals" on Wheels programs, transportation through its DOT paratransit program, and a robust education and outreach program that includes over 100 senior ambassadors in the community; and

WHEREAS, the dedicated volunteers and staff of Senior Services of Alexandria provide the necessary leadership and experience to help older adults residing in Alexandria live a full and enriched life; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Senior Services of Alexandria on the occasion of its 55th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Senior Services of Alexandria as an expression of the General Assembly's gratitude to the organization for its commitment to the residents of Alexandria.

HOUSE JOINT RESOLUTION NO. 650

Commending the Alexandria Harmonizers.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, for 75 years, the Alexandria Harmonizers have promoted excellence in the performing arts, supported musical education, enhanced community life in Northern Virginia, and won numerous awards as one of the finest a cappella choruses in the nation; and

WHEREAS, established in 1948 as a harmony club, the Alexandria Harmonizers have grown to become one of Northern Virginia's premier nonprofit musical arts organizations with more than 160 active members; and

WHEREAS, the Alexandria Harmonizers stage performances with small ensembles of four to 12 singers, mini-chorus groups of 30 to 45 singers, or large chorus groups of 65 to 75 singers or more; and

WHEREAS, the Alexandria Harmonizers have performed at many prestigious venues, including the John F. Kennedy Center for the Performing Arts, Carnegie Hall, Constitution Hall, the Lincoln Theatre, Independence Hall, Wolf Trap National Park for the Performing Arts, Disneyland, the United States Capitol Building, the Supreme Court Building, and the White House; and

WHEREAS, the Alexandria Harmonizers have represented the Commonwealth and the United States at performances in Europe and Asia, including performances at the Notre-Dame de Paris and atop the Great Wall of China; and

WHEREAS, many high-profile artists, including Elizabeth Taylor, Dick Van Dyke, and Kristin Chenoweth have performed with the Alexandria Harmonizers, and the organization has cultivated strong relationships with other choral associations throughout the country; and

WHEREAS, over the course of its history, the Alexandria Harmonizers have participated in 26 international competitions, earning 19 top-five finishes and four gold medal or first-place finishes; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Alexandria Harmonizers on the occasion of the organization's 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Alexandria Harmonizers as an expression of the General Assembly's admiration for the organization's contributions to the performing arts and commitment to community outreach.

HOUSE JOINT RESOLUTION NO. 651

Commending the George Washington Masonic National Memorial.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, for 100 years, the George Washington Masonic National Memorial has honored the legacy of George Washington while serving as a research library, a cultural space, a community and performing arts center, and an important regional landmark, as well as an active Masonic temple; and

WHEREAS, George Washington was a native son of Virginia and resident of Alexandria who changed the world as a military leader during the American Revolution and the first president of the new United States; and

WHEREAS, as one of the most prominent founding fathers of the nation, George Washington has been revered by generations of Americans for both his actions on the battlefield and his visionary public service, which left a powerful legacy of expanding civil liberties that has reverberated across the world; and

WHEREAS, George Washington was an active member of the Freemasons and established Masonic lodge Alexandria-Washington Lodge No. 22 in the late 1780s as its charter master; he is regarded by the organization as one of its foremost members; and

WHEREAS, in 1910, Masonic leaders formed the George Washington Masonic National Memorial Association to plan the construction of a memorial temple in his honor; and

WHEREAS, the cornerstone of the George Washington Masonic National Memorial was laid on November 1, 1923, and was accompanied by a formal ceremony attended by civic leaders, Masonic officials, thousands of Masons, and other visitors; and

WHEREAS, constructed from granite and designed in a Greek and Romanesque Revival style with a striking, terraced tower that evokes the Lighthouse of Alexandria in Egypt, the George Washington Masonic National Memorial was dedicated in 1932; and

WHEREAS, the George Washington Masonic National Memorial is one of the most impressive public monuments erected by the Freemasons and represents the high esteem in which George Washington is held both by members of the order and people throughout the Commonwealth, the nation, and the world; and

WHEREAS, in 2015, the George Washington Masonic National Memorial was added to the National Register of Historic Places and designated as a National Historic Landmark by the U.S. National Park Service; and

WHEREAS, the George Washington Masonic National Memorial will commemorate the 100th anniversary of the laying of the memorial's cornerstone with a rededication ceremony on February 20, 2023; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the George Washington Masonic National Memorial on the occasion of the 100th anniversary of the laying of the memorial's cornerstone; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the George Washington Masonic National Memorial Association as an expression of the General Assembly's admiration for the George Washington Masonic National Memorial's contributions to the study and preservation of the achievements of George Washington.

HOUSE JOINT RESOLUTION NO. 652

Commending White Oak Primitive Baptist Church.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, for more than 230 years, White Oak Primitive Baptist Church has served the Stafford County community and provided opportunities for joyful worship in the Baptist tradition; and

WHEREAS, White Oak Primitive Baptist Church was originally known as White Oak Church of Christ, and traces its roots to 1789, when it was established as a branch of Chopawamsic Baptist Church; and

WHEREAS, White Oak Church of Christ held services in a white clapboard structure that was deeded to the congregation along with an acre of land for $1 in 1835; the early church was clad in unpainted wainscoting, heated by wood stoves, and lit by oil lanterns, and all singing was conducted a cappella; and

WHEREAS, White Oak Primitive Baptist Church adopted its current name to better represent the congregation's preference for humble services that emphasized the strong bonds of the community and the simple beauty of faith without adornment; and

WHEREAS, White Oak Primitive Baptist Church was also notable in that there were no racial prohibitions on memberships, and White and Black members of the congregation worshipped together under the same roof; and

WHEREAS, during the Civil War, White Oak Primitive Baptist Church suspended regular services and was at the center of a major encampment by the Army of the Potomac for several months in 1862; and

WHEREAS, during that time, the United States Christian Commission used White Oak Primitive Baptist Church to hold prayer meetings and worship services, as well as distribute Bibles and other supplies to Union soldiers; and

WHEREAS, White Oak Primitive Baptist Church also served as a studio for processing battlefield photography and as a field hospital for wounded troops; after the war, several veterans from New Jersey that had served in the area gifted an organ to the church and later returned to assist with repairs; and

WHEREAS, White Oak Primitive Baptist Church continued to serve the community but was on the verge of closing in 2020, when a group of local residents, Charles Bullock, David Carpenter, Price Jett, and Bruce Sullivan, led efforts to establish a nonprofit organization that has preserved and maintained the church in recognition of its historical significance; and

WHEREAS, White Oak Primitive Baptist Church is listed on the Virginia Landmarks Register and the National Register of Historic Places and is a site on the Civil War Trails program; and

WHEREAS, White Oak Primitive Baptist Church is open to the public once a month, offering candlelight services, opportunities for prayer and reflection, and a cappella singing; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend White Oak Primitive Baptist Church for its legacy of contributions to the residents of Stafford County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to White Oak Primitive Baptist Church as an expression of the General Assembly's admiration for the church's storied history.

HOUSE JOINT RESOLUTION NO. 653

Commending Grace Anne Braxton.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, Grace Anne Braxton, a world-class golfer whose accomplishments in Special Olympics events and other tournaments have made her a living legend of the sport, was inducted into the Virginia Golf Hall of Fame on October 19, 2022; and

WHEREAS, Grace Anne Braxton's early forays into sports included track and field, swimming, basketball, ice skating, and skiing, and she won gold and bronze medals in swimming at the 1991 Special Olympics World Games in Minneapolis-St. Paul just after graduating from high school; and

WHEREAS, Grace Anne Braxton took up the game of golf in her adolescence and has been playing for more than 30 years, honing her skills first alongside her father, H. Harrison Braxton, Jr., and now with a coach who closely studies her shots and instructs her on ways to improve; and

WHEREAS, Grace Anne Braxton's meticulous devotion to her game has produced a plethora of championship wins and awards and made her the top-ranked Special Olympics women's golfer in the world since 2007; and

WHEREAS, Grace Anne Braxton is a three-time Special Olympics USA Games women's golf champion, winning in New Jersey in 2014, in Seattle in 2018, and in Orlando in 2022; and

WHEREAS, Grace Anne Braxton is also a three-time Special Olympics World Games women's golf champion, placing first in China in 2007, in Greece in 2011, and in the United Arab Emirates in 2019; and

WHEREAS, a member of the Solheim Diversity Cup team at Gleneagles in Scotland in 2019, Grace Anne Braxton was also the U.S. Disabled Golf Association women's champion in 2019 and 2021; and

WHEREAS, Grace Anne Braxton was invited this past year to the inaugural U.S. Adaptive Open at Pinehurst, where she finished first among women participants with an intellectual disability and fourth among all disabled women participants; and

WHEREAS, Grace Anne Braxton's induction into the Virginia Golf Hall of Fame places her achievements on the links alongside those of golf greats Sam Snead, Curtis Strange, Lanny Wadkins, and Donna Andrews; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Grace Anne Braxton, world-champion golfer, for her induction into the Virginia Golf Hall of Fame in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Grace Anne Braxton as an expression of the General Assembly's admiration for her achievements and best wishes for her continued success.

HOUSE JOINT RESOLUTION NO. 654

Commending the Fredericksburg City Public Schools Transportation Department.

Agreed to by the House of Delegates, February 13, 2023
Agreed to by the Senate, February 16, 2023

WHEREAS, the Fredericksburg City Public Schools Transportation Department has gone above and beyond to ensure that students receive safe and efficient transport to and from school; and

WHEREAS, the Fredericksburg City Public Schools (FCPS) Transportation Department works diligently to ensure that its bus drivers have the tools and support to provide exceptional service to students; and

WHEREAS, for the 2022–2023 school year, the FCPS Transportation Department reviewed and modified all bus routes to increase daily efficiency; and

WHEREAS, the FCPS Transportation Department recently acquired and enhanced new facilities equipped with office spaces, a training room, bathrooms, and a kitchen to better serve its employees; and

WHEREAS, the FCPS Transportation Department has created and expanded professional development opportunities for all of its employees, and full-time employees were offered benefits through the Virginia Retirement System; and

WHEREAS, during the COVID-19 pandemic, the FCPS Transportation Department developed innovative cleaning procedures and offered weekly incentives to the drivers with the cleanest buses; and

WHEREAS, the FCPS Transportation Department modified routes to accommodate social distancing and hybrid learning schedules during the pandemic and has worked diligently to maintain full staffing levels during a period when school districts around the country are struggling to do so; and

WHEREAS, during the pandemic, members of the FCPS Transportation Department also generously volunteered to deliver meals to students and their families; and

WHEREAS, in an effort to reduce its carbon footprint, the FCPS Transportation Department acquired 10 electric buses and 10 electric charging stations through grant funding; the department is also studying new software to further enhance efficiency and ensure that buses are used to their full capacity; and

WHEREAS, to enhance its ability to serve the school district and the community, the FCPS Transportation Department became a third-party tester through the Virginia Department of Motor Vehicles, which allows the department to conduct tests for Commercial Driver's Licenses; and

WHEREAS, the FCPS Transportation Department has fulfilled its mission through the hard work and dedication of its staff members and drivers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Fredericksburg City Public Schools Transportation Department for its outstanding service to students; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Fredericksburg City Public Schools Transportation Department as an expression of the General Assembly's admiration for the department's critical contributions to public education.

HOUSE JOINT RESOLUTION NO. 655

Commending the Rescue Mission of Roanoke.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 24, 2023

WHEREAS, the Rescue Mission of Roanoke, a comprehensive crisis intervention center offering lifesaving services to support individuals' transformation and restoration, celebrates its 75th anniversary in 2023; and

WHEREAS, the origins of the Rescue Mission of Roanoke date to August 3, 1942, when future founder Gus Johnson underwent a life-changing experience at the Chicago United Mission; and

WHEREAS, in July 1948, Gus Johnson and his wife, Lois, opened the Rescue Mission of Roanoke on 111 East Salem Avenue, providing shelter and meals to men in the community in need; and

WHEREAS, two years later, the board of the Rescue Mission of Roanoke was formed and the organization was officially incorporated; then shortly thereafter, the organization began accepting women and operating a children's ministry; and

WHEREAS, after a period of growth and transition, the Rescue Mission of Roanoke settled in its current facility at the intersection of 4th Street and Tazewell Avenue, where it has tended to countless men, women, and children ever since; and

WHEREAS, the Rescue Mission of Roanoke supports an emergency shelter that is the only overnight shelter in Roanoke that is open 24 hours a day, 365 days a year, providing a vital lifeline to homeless members of the community; and

WHEREAS, in addition to serving approximately 600 prepared meals on a daily basis with the support of more than 70 corporate food donors and various churches, organizations, and individuals, the Rescue Mission of Roanoke also operates its Manna food pantry to give struggling families a regular supply of groceries, helping to ensure that no one in the community goes without; and

WHEREAS, the Rescue Mission Foundation was established in 1991 to create an endowment fund for the Rescue Mission of Roanoke, enabling the organization to broaden its services and increase its impact in the community; and

WHEREAS, since 1994, the Way Forward Residential Recovery Program at the Rescue Mission of Roanoke has helped men and women overcome their addictions to drugs and alcohol through coaching, spiritual guidance, and education; and

WHEREAS, the Rescue Mission of Roanoke opened the G. Wayne Fralin Free Clinic for the Homeless in 2010 to provide primary and preventative care, behavioral health services, medication assistance, dental and vision care, vaccinations, and more to individuals experiencing homelessness or transitioning into permanent housing; and

WHEREAS, in December 2016, Joy Sylvester-Johnson, daughter of Gus and Lois Johnson, retired after 31 years of service to the Rescue Mission of Roanoke, marking the first time in the organization's history that it was not led by a member of the Johnson family; and

WHEREAS, through the tireless efforts of its volunteers and staff and the multi-faceted nature of its programs, the Rescue Mission of Roanoke empowers many in the Roanoke Valley community to escape homelessness and achieve independence in their lives; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Rescue Mission of Roanoke on the occasion of the organization's 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to C. Lee Clark, chief executive officer of the Rescue Mission of Roanoke, as an expression of the General Assembly's admiration for the organization's history of contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 656

Celebrating the life of Carnis L. Poindexter.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Carnis L. Poindexter, an honorable veteran, esteemed educator, beloved member of the Roanoke community, and legendary tennis coach who opened doors for many young Black student-athletes, died on September 21, 2022; and

WHEREAS, in the summer before his senior year at the former Lucy Addison High School in Roanoke, Carnis Poindexter taught himself the sport of tennis; without access to formal training or tennis clubs due to segregationist policies in place at the time, he relied solely on books and individual practice sessions at the local Springwood Park courts to develop as a player; and

WHEREAS, after playing in a regional junior developmental American Tennis Association (ATA) tournament in 1957, Carnis Poindexter drew the attention of local dentist and tennis player Dr. E.D. Downing, who helped Carnis Poindexter earn a tennis scholarship to what was formally Arkansas Agricultural, Mechanical and Normal College, today known as the University of Arkansas at Pine Bluff (UAPB); and

WHEREAS, Carnis Poindexter went on to earn a bachelor's degree in health and physical education with a minor in general science from UAPB and later a master's degree in biology from North Carolina Agricultural and Technical State University; and

WHEREAS, while at UAPB, Carnis Poindexter won the ATA national intercollegiate singles championship in 1959, was a singles and doubles finalist in the Southwest Athletic Conference in 1960, and capped off his collegiate career by winning the ATA national intercollegiate tournament during his senior year in 1961; and

WHEREAS, upon graduating, Carnis Poindexter served the country with honor and distinction as a member of the United States Army before embarking on a career as an educator in 1964 at the former Jackson P. Burley High School in Charlottesville, where he founded the school's first tennis team; and

WHEREAS, Carnis Poindexter won the annual Roanoke City-County tennis tournament three consecutive times between 1964 and 1966 and would also win various other local competitions over the years at venues such as Washington Park, the Salem Civic Center, and Crystal Spring; and

WHEREAS, returning to his hometown of Roanoke in 1965, Carnis Poindexter devoted himself to teaching and coaching youth in Roanoke City Public Schools, including as a tennis coach at both Lucy Addison High School and Patrick Henry High School, steering the team of the former to a Virginia Interscholastic Association (VIA) state tennis championship in 1967; and

WHEREAS, through his tireless efforts and thoughtful guidance, Carnis Poindexter helped more than 25 student-athletes earn scholarships to play tennis at UAPB over his career, building a legacy that continues to reverberate through the community to this day; and

WHEREAS, as a testament to his accomplishments on the court and his impact on the communities he served, Carnis Poindexter was inducted into the UAPB Hall of Fame, the VIA Hall of Fame, and the Roanoke Regional Tennis Hall of Fame; in 2018, the tennis courts at the River's Edge Sports Complex in Roanoke were named the Carnis Poindexter Tennis Courts in his honor; and

WHEREAS, motivated throughout his life by his faith, Carnis Poindexter was a member of Fifth Avenue Presbyterian Church in Roanoke, serving as an elder and mentor for more than 50 years and receiving Man of the Year awards from the congregation several times; and

WHEREAS, preceded in death by his loving wife, Vera, and his son, Carnis, Carnis Poindexter will be fondly remembered and dearly missed by his son, Clifton, and his family and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Carnis L. Poindexter, a treasured member of the Roanoke community whose compassionate and selfless commitment to serving others enriched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Carnis L. Poindexter as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 657

Commending Adria Cintron.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 24, 2023

WHEREAS, Adria Cintron, an eighth-grade English teacher at Woodrow Wilson Middle School in Roanoke, was named 2023 Teacher of the Year by Roanoke City Public Schools on November 29, 2022; and

WHEREAS, Adria Cintron was selected for the Teacher of the Year honor by a committee that included Roanoke City Public Schools (RCPS) employees and retirees and last year's Teacher of the Year; and

WHEREAS, Adria Cintron has been an educator for 25 years, including the past six years with RCPS, and has fostered the well-being and success of students across various grade levels and subjects; and

WHEREAS, Adria Cintron recently taught RCPS students who were English language learners, first at John P. Fishwick Middle School and later at Woodrow Wilson Middle School, serving as the head of the latter's English Learners Program from 2018 to 2022; and

WHEREAS, Adria Cintron, who transitioned to teaching eighth-grade English in the 2022–2023 school year, works tirelessly to adapt her teaching methods to the evolving needs of her students, bringing fresh energy and perspectives to her classroom each and every year; and

WHEREAS, Adria Cintron enthusiastically provides direction and encouragement to her students so that they may confront the challenges they face and achieve their dreams, both in and out of the classroom; and

WHEREAS, Adria Cintron supports her students' interest in reading and literature as the founder and leader of the Woodrow Wilson Literacy Committee, which organizes literacy nights for families, and as the spelling bee coordinator for Woodrow Wilson Middle School; and

WHEREAS, in addition to her work as an educator, Adria Cintron has supported the students of Roanoke City Public Schools by leading a community writing project in collaboration with the organization Local Colors and by creating an afterschool tutoring program; and

WHEREAS, in preparation for her career as an educator, Adria Cintron earned a bachelor's degree from the University of Central Florida and a master's degree from East Carolina University; and

WHEREAS, Adria Cintron's steadfast dedication to her students and unwavering commitment to satisfying their academic, social, and emotional needs serve as an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Adria Cintron, eighth-grade teacher at Woodrow Wilson Middle School in Roanoke, for being named the 2023 Roanoke City Public Schools Teacher of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Adria Cintron as an expression of the General Assembly's admiration for her contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 658

Celebrating the life of Gordon Locke Kendall.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Gordon Locke Kendall, a noted wine aficionado and beloved member of the Roanoke community whose gift for storytelling enchanted all who knew him, died on December 27, 2022; and

WHEREAS, Gordon Kendall earned a bachelor's degree in political science from the University of South Carolina in 1975 and married his wife, Pamela, in Columbia, South Carolina, in 1979 before relocating to Roanoke a year later; and

WHEREAS, Gordon Kendall later acquired a degree in electronic engineering from Virginia Western Community College and worked for some time at Ricoh as a fax and copier technician; and

WHEREAS, Gordon Kendall's passion for wine ultimately inspired him to find work as a wine buyer and merchant at various local establishments, including Harris Teeter, Lee & Edwards Wine Merchants, and Wine Gourmet, providing him ample opportunity to broaden his knowledge of wine, beer, and other spirits; and

WHEREAS, for the past 15 years, Gordon Kendall worked as a technical writer and technology support analyst at Allstate, where his talent for storytelling proved vital to his success in helping customers; and

WHEREAS, since 2005, Gordon Kendall wrote the "Good Libations" column for *The Roanoke Times*, offering readers a bounty of anecdotes and insights to heighten their understanding of and appreciation for wine, beer, and spirits; and

WHEREAS, Gordon Kendall found exceptional joy in regaling his family and friends with stories from his life, which never failed to amuse, entertain, and educate those who were fortunate enough to hear them; and

WHEREAS, Gordon Kendall savored every chance he had to bask in the beauty and grandeur of the great outdoors, often embarking on camping adventures in his family's Shasta camper or setting out for early morning hikes in the mountains surrounding Roanoke; and

WHEREAS, Gordon Kendall will be fondly remembered and dearly missed by his loving wife of 43 years, Pamela; his sister, Jacqueline, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Gordon Locke Kendall, a cherished member of the Roanoke community whose bonhomie and good cheer brought happiness to the countless friends and strangers he encountered throughout his life; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Gordon Locke Kendall as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 659

Commending Iron-Bound Gym.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, for 40 years, Iron-Bound Gym has helped generations of Williamsburg residents maintain good health and achieve their physical fitness goals; and

WHEREAS, Iron-Bound Gym was founded by Warren Simon Crammer in 1983 with a mission to create opportunities for physical fitness and personal improvement while building a strong sense of community in the area; and

WHEREAS, Scott Grafton, who had been a member of Iron-Bound Gym during his college years in the 1990s, became the new owner of the gym in 2001 and has helped the business grow and expand; he oversaw the gym's relocation to New Town in 2006; and

WHEREAS, over the years, Iron-Bound Gym has witnessed numerous changes in the fitness industry and adapted to the evolving needs of its clients; and

WHEREAS, during the COVID-19 pandemic, Iron-Bound Gym continued to serve the community by offering remote classes over Facebook; the gym has since returned to in-person instruction and offers more than 70 in-person classes each week; and

WHEREAS, in addition to traditional options like weight training and cardio workouts, Iron-Bound Gym offers cycling programs with top-of-the-line technology, barre and yoga courses, and personal trainers; and

WHEREAS, Iron-Bound Gym has touched the lives of countless Williamsburg residents through its commitment to excellence and dedication to enhancing community wellness; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Iron-Bound Gym on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Scott Grafton, owner of Iron-Bound Gym, as an expression of the General Assembly's admiration for the gym's contributions to health and fitness in Williamsburg.

HOUSE JOINT RESOLUTION NO. 660

Commending the Frank Batten School of Leadership and Public Policy at the University of Virginia.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, 2022 marked the 15th anniversary of the founding of the Frank Batten School of Leadership and Public Policy at the University of Virginia, a school dedicated to serving the greater good by developing outstanding future leaders and creating new knowledge to solve our greatest policy challenges; and

WHEREAS, in 2007, Frank Batten, Sr., chairman and chief executive officer of Landmark Communications, Inc., founder of The Weather Channel, and a forward-thinking philanthropist, dedicated $100 million for the creation of the Batten School at the University of Virginia (UVA) to meet the urgent need for a new generation of enlightened and ethical leaders who could affect transformational change; and

WHEREAS, the Batten School at UVA is committed to solving difficult policy challenges, guided by the recognition that the complex issues of our time demand innovative, collaborative, cross-sector leadership; and

WHEREAS, in response, the Batten School at UVA has developed an innovative approach to teaching, research, and public engagement on leadership and public policy in order to empower current and future leaders to drive positive change in our communities and the world at large; and

WHEREAS, the Batten School educates and trains students through a portfolio of globally recognized programs, including its bachelor of arts in public policy and leadership degree program, its master of public policy degree program, and its BattenX programs for lifelong learning and executive education; and

WHEREAS, the Batten School's award-winning faculty, who represent the leading minds in evidence-based policy and leadership science, bridge theory, data, and practice to provide new insights and learning in a wide range of subject areas, including health, education, global development, energy and the environment, national security, race and justice, humanitarian policy, and more; and

WHEREAS, these scholar-practitioners at the Batten School bring their work to bear on the most pressing policy and leadership challenges, working with local, state, federal, and global policymakers; nonprofit leaders; scholars; advocates; philanthropists; thought-leaders; and the engaged public to enact change; and

WHEREAS, the Batten School believes that a preeminent, forward-looking leadership and public policy school will only flourish in an environment that includes individuals with different backgrounds, perspectives, and experiences, and that is committed to being an inclusive, welcoming, and supportive community; and

WHEREAS, the nearly 1,500 individuals who have completed a Batten School degree are serving as leaders of consequence in the public, private, and nonprofit sectors, including senior positions in city, state, and federal government; international agencies; educational institutions; and many leading private businesses in the Commonwealth and across the globe; and

WHEREAS, the Batten School, which began with 25 students, a handful of faculty members, and three administrators, is today a vibrant community that boasts nearly 400 students, more than 60 faculty members and affiliates, and about 40 staff, all of whom are united in spirit and common purpose by the Batten School's mission to serve our communities, our nation, and our world; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Frank Batten School of Leadership and Public Policy at the University of Virginia on the occasion of its 15th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Frank Batten School of Leadership and Public Policy at the University of Virginia as an expression of the General Assembly's admiration for its many contributions to the Commonwealth and its unparalleled commitment to preparing future generations of public leaders.

HOUSE JOINT RESOLUTION NO. 661

Commending the Columbia Gas of Virginia's NiVets.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, the Columbia Gas of Virginia's NiVets consists of employees who are currently serving or have served in the United States Armed Forces and who remain committed to enhancing their communities through generous outreach; and

WHEREAS, the Columbia Gas of Virginia's NiVets (NiVets) is one of several of Columbia Gas' employee resource groups; the group enlightens and empowers veterans and their supporters to build strong partnerships and seek opportunities to enhance the quality of life of their friends and neighbors through good community stewardship; and

WHEREAS, NiVets is organized into regional chapters and participates in community service efforts focused on veterans' issues that impact individuals and communities; and

WHEREAS, NiVets coordinated a care package drive for deployed troops in the Virginia Army National Guard unit in Lynchburg; and

WHEREAS, NiVets has a tradition of supporting two women's shelters, Project Horizon in Lexington and New Directions in Staunton, during the organizations' annual Thanksgiving celebrations; during the COVID-19 pandemic, NiVets donated gift cards and cash to help fund the dinners; and

WHEREAS, NiVets also reached out to Project Horizon and asked if it needed supplies for everyday operations, then collected and donated toilet paper, paper towels, laundry detergent, and cleaning supplies; and

WHEREAS, the Staunton NiVets collected school supplies to benefit students in Augusta County, Staunton, and Harrisonburg and received the Golden Bus Award for a successful Stuff the Bus campaign; and

WHEREAS, NiVets in the City of Lexington and in Giles County participated in the seasonal red kettle bell ringing to raise funds for the Salvation Army; in addition, the Staunton NiVets collected toys, clothes, and linens to benefit 70 children during the holidays through the Salvation Army's Angel Tree project; and

WHEREAS, in 2022, NiVets members participated in National Wreaths Across America Day and were among the 200 volunteers who placed wreaths on 800 headstones at the Staunton National Cemetery; there was also a group of NiVets who placed wreaths at Sunset Memorial Park in Chester, and Columbia Gas provided funding to donate 980 wreaths for the annual wreath laying; and

WHEREAS, NiVets helped the Columbia Gas' Eternal Flames raise funds for the Walk to End Alzheimer's by designing and constructing a fire pit that was raffled off, and as a result, the Walk to End Alzheimer's team exceeded its fundraising goal; and

WHEREAS, the Staunton-based Piedmont Got Your Six NiVets received recognition in fall of 2022 from the United Way of Staunton, Augusta County, and Waynesboro for being the Overall Fundraising Community Leader in Volunteerism; and

WHEREAS, the Piedmont Got Your Six NiVets also received the 2021 Virginia Department of Energy Community Service Award for its dedication to community service and veterans' issues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Columbia Gas of Virginia's NiVets for its dedication to community service and support for veterans and veterans' issues; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Columbia Gas of Virginia's NiVets as an expression of the General Assembly's admiration for the group's contributions to communities in the Commonwealth.

HOUSE JOINT RESOLUTION NO. 663

Celebrating the life of Michael John Wassmer.

Agreed to by the House of Delegates, February 17, 2023
Agreed to by the Senate, February 21, 2023

WHEREAS, Michael John Wassmer, a successful business executive, accomplished athlete, and outstanding father, husband, son, brother, and friend, died on June 16, 2022; and

WHEREAS, Michael Wassmer was born to Larry and Betty Wassmer in Pequannock, New Jersey, and attended Vernon High School, where he was an outstanding student and a multisport athlete, who excelled in football, track, and wrestling; and

WHEREAS, Michael Wassmer was a first-generation college student, who earned a bachelor's degree in mathematics from Lafayette College, where he was a walk-on to the football team; he subsequently earned a master's degree in mathematics from Duke University; and

WHEREAS, Michael Wassmer felt a strong, personal connection with people and empathized with their struggles to build stronger financial lives; in 1994, he was personally hired at Capital One by its founder, chair, and chief executive officer, Richard Fairbank, as one of the company's first business analysts; and

WHEREAS, Michael Wassmer spent his entire 28-year career at Capital One in increasingly broad, complex, and impactful roles, including head of the United Kingdom Card business, Mainstreet Card business, and Branded Card business before becoming president of Card in 2016; and

WHEREAS, Michael Wassmer was passionate about the Richmond community and served as Capital One's Central Virginia Market president, in which capacity he was the driving force behind the company's philanthropy, volunteerism, and 1717 Innovation Center; he also served on the boards of several nonprofit organizations, including Friends Association for Care and Protection of Children, The Faison Center, Virginia Learns, and Full Circle Grief Center; and

WHEREAS, Michael Wassmer was passionate about fitness and sports, constantly challenging himself to achieve new heights; he enjoyed competing in CrossFit and Ironman competitions and recently achieved his longtime goal of running the Boston Marathon; and

WHEREAS, Michael Wassmer was most proud of his three children and spent countless hours at swim meets and cheerleading events and along with his wife, Andrea, instilled in them great values and an appreciation for the importance of striving to make a difference in the broader world; and

WHEREAS, Michael Wassmer will be fondly remembered and dearly missed by his wife of 21 years, Andrea; their children, Zach, Owen, and Allie; his mother, Betty; his colleagues at Capital One; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Michael John Wassmer, whose intelligence, determination, passion for the Richmond community, and love for his family were an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Michael John Wassmer as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 664

Celebrating the life of Muhammed Jafar Imam.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Muhammed Jafar Imam, an esteemed, beloved, and pioneering member of the All Dulles Area Muslim Society community in Sterling, died on December 5, 2022; and

WHEREAS, a native of India and a 47-year resident of Sterling, Muhammed Jafar Imam walked to school for miles barefoot in a small village in Bihar, India, and later graduated with a master's degree from Karachi University in Pakistan; and

WHEREAS, Muhammed Jafar Imam came to the United States in 1975, settling in Sterling, where he established his home and family and personally invited countless people to join the community of the All Dulles Area Muslim Society (ADAMS) Center, which is now one of the largest Muslim American communities in the country; in a beautiful blessing, the ADAMS mosque was built next to his home in Sterling; and

WHEREAS, Muhammed Jafar Imam had the spirit of a lion and never forgot his roots; he passionately volunteered to make a positive impact locally and around the world for those less fortunate, doing so with no need for recognition; he believed in the rights and dignity of all and made it his mission to serve the people; and

WHEREAS, Muhammed Jafar Imam was a key leader and volunteer with ADAMS Civic Engagement and in voter education and voter registration efforts, and he believed sincerely in grassroots civic engagement; and

WHEREAS, Muhammed Jafar Imam loved people and modeled what it means to put relationships first; he made one feel like they were his best friend, and he made many friends over the years, keeping them all close; and

WHEREAS, Muhammed Jafar Imam was fearless, a free spirit, and never broke his promises; he lived by the words "*Agar may vadha karta hu, may pura kartha hu*"—"If I make a promise, I fulfill it in its entirety"; and

WHEREAS, Muhammed Jafar Imam will be fondly remembered and dearly missed by his loving wife, Zeenat; his children, Shazia and Imran, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Muhammed Jafar Imam, a dedicated member of the communities of the All Dulles Area Muslim Society and Sterling, who left a profound and lasting impression on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Muhammed Jafar Imam as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 665

Commending the South Hampton Roads Bar Association.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, for 100 years, the South Hampton Roads Bar Association has served and supported the African American legal community in the region; and

WHEREAS, the South Hampton Roads Bar Association is mostly made up of African Americans who work as judges, attorneys, and legal students in the Hampton Roads area and is the oldest predominantly African American bar association in Virginia and the United States; and

WHEREAS, originally known as the Tidewater Bar Association, the South Hampton Roads Bar Association was established in October 1923 by a group of local African American attorneys. The original officers were Walter L. Davis as

president, R.H. Pree as vice president, D.H. Edwards as recording secretary, V.C. Hodges as corresponding secretary, and A. Rainey as treasurer; and

WHEREAS, facing prejudice against African American attorneys and judges by other local bar associations, the Tidewater Bar Association reorganized multiple times, becoming the Twin City Bar Association and finally the South Hampton Roads Bar Association; and

WHEREAS, the South Hampton Roads Bar Association persevered and increased its influence in African American communities despite discriminatory stances by other regional and national bar associations and ultimately succeeded in achieving diversity on the bench in Hampton Roads; and

WHEREAS, after the South Hampton Roads Bar Association was founded, its members continued to fight against the legal segregation and discrimination established at the local and state levels; they also collaborated with regional groups like the NAACP Legal Defense Fund to address important issues such as residential segregation, inadequate funding for public schools, and unequal teacher salaries; and

WHEREAS, the South Hampton Roads Bar Association gives its members the tools and support they need to succeed professionally and personally, and it has embraced its duties to represent and empower underrepresented and underserved members of the community; and

WHEREAS, the South Hampton Roads Bar Association has earned its reputation as a dependable advocate for Hampton Roads legal professionals and strives to always be a voice for social justice and community involvement; and

WHEREAS, during its 100th year, the South Hampton Roads Bar Association will honor the legacies of those who founded and have made significant contributions to the organization, including President Emeritus William T. Mason, Jr., who was one of its longest living members and who was dedicated to the betterment of the legal community in the Commonwealth and beyond; and

WHEREAS, the South Hampton Roads Bar Association will commemorate its decades of achievements and honor the life and legacy of President Emeritus William T. Mason, Jr., at a gala event on April 15, 2023; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the South Hampton Roads Bar Association on the occasion of its 100th anniversary on April 15, 2023; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the South Hampton Roads Bar Association as an expression of the General Assembly's admiration for the organization's achievements in service to the residents of Hampton Roads, the Commonwealth, and the United States.

HOUSE JOINT RESOLUTION NO. 667

Commending Reginald T. Daye.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Reginald T. Daye, who dedicated his time, talents, and energy to the Office of Human Rights within the Department of Behavioral Health and Developmental Services, providing a vital catalyst to the Commonwealth's efforts to build a system of assured rights and protection for individuals with behavioral health and developmental disabilities, retired after nearly 40 years of service; and

WHEREAS, during his tenure, Reginald Daye represented the interests of individuals with behavioral health and developmental disabilities to ensure their human dignity and freedom from harm; and

WHEREAS, countless individuals have benefited from the steadfast leadership, professionalism, and commitment of Reginald Daye during his service to the Commonwealth; and

WHEREAS, Reginald Daye has helped to ensure a safe environment for others through his diligent utilization of the Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services; and

WHEREAS, Reginald Daye supported the development of meaningful system structures, such as local human rights committees, to preserve and promote the dignity of individuals receiving services from the Department of Behavioral Health and Developmental Services; and

WHEREAS, Reginald Daye has exemplified the best virtues of public service through his work both with colleagues at all levels of his agency and with a wide range of stakeholders, approaching every interaction with honesty and integrity and in a forthright manner; and

WHEREAS, Reginald Daye's decades of service as an advocate and regional advocate manager and his many other actions supporting individuals with behavioral health and developmental disabilities serve as an inspiration to all Virginians; and

WHEREAS, all Virginians have benefited from Reginald Daye's dedication, personal commitment, and conscientious influence to defend the self-determination, empowerment, and recovery of individuals and to ultimately improve public behavioral health and developmental services statewide; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Reginald T. Daye for his leadership and service with the Office of Human Rights within the Department of Behavioral Health and Developmental Services on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Reginald T. Daye as an expression of the General Assembly's admiration and appreciation for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 668

Commending Deborah Cheesebro, Ph.D.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Deborah Cheesebro, Ph.D., the Associate Vice President for Public Safety and Chief of Police at The College of William & Mary, who has greatly served the university's students and faculty for more than eight years, will retire in 2023; and

WHEREAS, Deborah Cheesebro's training for a career in law enforcement included a bachelor's degree in criminal justice from West Virginia State University, a master's degree in criminal justice from Michigan State University, and a doctoral degree in organizational behavior and development from Union Institute and University; and

WHEREAS, Deborah Cheesebro was notably the first female Chief of Police in the history of The College of William & Mary (W&M); prior to joining the university in 2014, she served as senior director of police, public safety, and emergency management and as chief of police at the University of North Carolina School of the Arts and as deputy director of the Department of Police and Public Safety at the University of Michigan; and

WHEREAS, Deborah Cheesebro oversaw the W&M Police Department (WMPD), including 24 sworn police officers, in her capacity as Chief of Police and was later promoted to also serve as Associate Vice President for Public Safety, incorporating her existing responsibilities with overseeing the offices of emergency management, risk management, and environmental health and safety; and

WHEREAS, during her tenure at W&M, Deborah Cheesebro was instrumental in revitalizing the culture of the police department and modernizing its operations, largely by revising policies and procedures, including recruiting, hiring, and promotional processes; enhancing training and career development for officers and staff; and emphasizing the qualitative aspects of the department's responses to the community's needs; and

WHEREAS, Deborah Cheesebro spearheaded several initiatives to improve the WMPD's ability to respond to emergencies, including an overhaul of the department's emergency communications center and the integration of all safety-related offices under the Office of Public Safety; and

WHEREAS, Deborah Cheesebro fostered strong ties between the WMPD and neighboring agencies and supported university police departments across the Commonwealth; in 2020, she served as the president of the Virginia Association of Campus Law Enforcement Administrators; and

WHEREAS, of her many noteworthy accomplishments, Deborah Cheesebro was most proud of the community-based culture she instilled in her department and the relationships she built with W&M students over the years; and

WHEREAS, in her retirement, Deborah Cheesebro looks forward to spending more quality time with her husband, son, and grandchildren, a fitting reward for one who has dedicated more than a half-century to ensuring others' safety and security as a law-enforcement officer and administrator; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Deborah Cheesebro, Ph.D., the Associate Vice President for Public Safety and Chief of Police at The College of William & Mary, on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Deborah Cheesebro, Ph.D., as an expression of the General Assembly's admiration for her contributions to the Commonwealth and best wishes for a happy and fulfilling retirement.

HOUSE JOINT RESOLUTION NO. 669

Commending The Coffeehouse.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, The Coffeehouse, a local eatery in Williamsburg, has served members of the community, students, and visitors for 30 years; and

WHEREAS, Charles Benbow and his late wife, Adrienne, purchased The Coffeehouse in March 2007; and

WHEREAS, The Coffeehouse, located in the Williamsburg Crossing Shopping Center, offers delicious coffee made from beans that are freshly roasted in-house, as well as a wide range of other refreshing drinks and seasonal specialties; and

WHEREAS, The Coffeehouse allows customers to order its sought-after coffee beans and offers pickup, local delivery, and shipping straight to customers' homes; and

WHEREAS, a popular stop for lunch, breakfast, or a quick snack, The Coffeehouse also serves sandwiches on freshly baked bread, quiches, soups, salads, and pastries, and other daily specials made on-site; and

WHEREAS, The Coffeehouse is well-known for its friendly atmosphere and gracious, highly experienced staff members; and

WHEREAS, The Coffeehouse supports its fellow tenants in the Williamsburg Crossing Shopping Center and partners with the nearby Colonial Eye Care to offer a free beverage when you purchase a new pair of glasses; and

WHEREAS, while Adrienne Benbow passed away in July 2016, her legacy of service to the community lives on through The Coffeehouse; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend The Coffeehouse, a beloved local business in Williamsburg, on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Charles Benbow, owner of The Coffeehouse, as an expression of the General Assembly's admiration for its contributions to local life in Williamsburg.

HOUSE JOINT RESOLUTION NO. 670

Commending Michael J. Oesterling.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Michael J. Oesterling, who worked with state and federal officials in Virginia and Washington, D.C., to promote and advocate for the shellfish industry in the Commonwealth, will retire as the executive director of the Shellfish Growers of Virginia in June 2023 after 11 years of service; and

WHEREAS, Michael Oesterling holds degrees in biology from the University of Miami and zoology from the University of Florida; and

WHEREAS, since becoming the first executive director of the Shellfish Growers of Virginia in 2012, Michael Oesterling has also served as chair of the Virginia Marine Products Board, where he has presided over the marketing of Virginia's seafood industry; and

WHEREAS, Michael Oesterling has provided knowledge and guidance while sitting on the Aquaculture Advisory Committee at the Virginia Marine Resources Commission and the Aquaculture Advisory Board at the Virginia Department of Agriculture and Consumer Services; and

WHEREAS, at the national level, Michael Oesterling has enhanced the Commonwealth's standing in the shellfish industry while serving on the National Aquaculture Association's Marine Aquaculture Committee; and

WHEREAS, in 2008, Michael Oesterling co-authored the marine resource report "Best Management Practices for the Virginia Shellfish Culture Industry" for the Virginia Institute of Marine Science at The College of William & Mary; and

WHEREAS, Michael Oesterling has served on several Interstate Shellfish Sanitation Conference committees and has been active at biennial meetings since 2013; and

WHEREAS, Michael Oesterling has promoted new and exciting concepts for the seafood industry through his service on the Fisheries Resources Grant committee at the Virginia Institute of Marine Science; and

WHEREAS, throughout his career, Michael Oesterling developed bipartisan consensus with legislators, nonprofit advocacy organizations, government organizations, shellfish farmers and farming interests, and other stakeholders in the passage of numerous pieces of natural resources legislation; and

WHEREAS, Michael Oesterling was part of the team that successfully initiated November as Virginia Oyster Month in November 2022; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Michael J. Oesterling on the occasion of his retirement as executive director of the Shellfish Growers of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael J. Oesterling as an expression of the General Assembly's admiration for his achievements in the protection and advancement of the Commonwealth's valuable shellfish industry.

HOUSE JOINT RESOLUTION NO. 671

Commending Jian-Ping Chen.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Jian-Ping Chen of Yorktown earned a national title playing competitive bridge, winning a victory in the Summer 2022 North American Bridge Championship; and

WHEREAS, a lifelong fan of games of the mind, Jian-Ping Chen began playing competitively as a college student and joined the American Contract Bridge League around the time he was attending graduate school at the University of Virginia in the 1980s; and

WHEREAS, Jian-Ping Chen regularly plays bridge at clubs in Hampton, Williamsburg, Virginia Beach, Norfolk, and Richmond and is a member of North American Bridge Championship District 6, which encompasses Virginia, Maryland, and Washington, D.C.; and

WHEREAS, Jian-Ping Chen and the other three members of his team, Weizhong Bao, Huailin Chen, and Shihong You, won the District 6 title to advance to the national tournament, where they faced worthy opponents from around the country in five days of matches; and

WHEREAS, after winning the national title, Jian-Ping Chen also placed second in an open pairs event against professional players; and

WHEREAS, Jian-Ping Chen intends to continue honing his skills to defend his title or advance to higher levels of play; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jian-Ping Chen for winning a national title in the Summer 2022 North American Bridge Championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jian-Ping Chen as an expression of the General Assembly's admiration for his achievements and best wishes for the future.

HOUSE JOINT RESOLUTION NO. 672

Commemorating the life and legacy of Arthur William Crudup.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Arthur William Crudup, a singer, songwriter, guitarist, bluesman, and one of the founding fathers of rock and roll, inspired generations of musicians through his spellbinding rhythms, soulful voice, and captivating presence; and

WHEREAS, Arthur "Big Boy" William Crudup was born in 1905 in Forest, Mississippi, to a family of migrant workers who were traveling throughout the American South and Midwest; he began to hone his musical talents singing gospel music and later played in dance halls in and around his hometown; and

WHEREAS, in 1939, Big Boy Crudup traveled to Chicago, Illinois, as a member of a quartet called the Harmonizing Four and stayed in the area as a solo musician; he was discovered by record producer Lester Melrose while working as a street singer and later signed with the RCA Victor label Bluebird Records; and

WHEREAS, Big Boy Crudup recorded numerous songs in the late 1940s and gained popularity as a club performer in the southern United States in the 1950s; and

WHEREAS, in 1954, Elvis Presley recorded Big Boy Crudup's "That's All Right" as "That's All Right, Mama" for his debut single; the release was an instant hit, is now hailed as one of the greatest songs of all time, and is often considered one of the first songs in the rock and roll genre; and

WHEREAS, Elvis Presley subsequently recorded two other songs by Big Boy Crudup, "My Baby Left Me" and "So Glad You're Mine," and other big name artists like Elton John and Rod Stewart followed suit in later years; and

WHEREAS, despite being credited as a composer, like other African American bluesmen at the time Big Boy Crudup struggled to recoup royalties from the use of his work and stopped recording new music due to royalty disputes; and

WHEREAS, Big Boy Crudup relocated to Nassawadox where he raised his family and worked as a field laborer and bootlegger; he was known to sing at many drinking establishments on the Eastern Shore, including the Do-Drop Inn in Northampton County, one of the oldest continually owned and operated Black-owned businesses on the Eastern Shore, where he played every weekend in the late 1960s; and

WHEREAS, in 1968, blues promoter Dick Waterman signed as Big Boy Crudup's manager and began a largely unsuccessful campaign to secure unpaid royalties on Big Boy Crudup's behalf; in the early 1970s, Big Boy Crudup recorded his final album, "Roebuck Man," and toured as the opening act for blues artist Bonnie Raitt; and

WHEREAS, Big Boy Crudup died in Northampton County in March 1974 and was laid to rest in Franktown; he has been honored with a marker on the Mississippi Blues Trail, and his accomplishments received renewed attention with the release of the major motion picture *Elvis* in 2022; and

WHEREAS, after Big Boy Crudup's death Dick Waterman continued to pursue legal action on behalf of his estate; he ultimately settled with the record label, and the estate has received approximately $3 million to date; and

WHEREAS, though best known as a blues artist for his early career, Big Boy Crudup's timeless style laid the foundation for the growth of rock and roll, and his legacy endures decades later through his sweeping influence on the genre; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commemorate the life and legacy of Arthur William Crudup, a longtime resident of the Eastern Shore who left an indelible mark on the blues and rock and roll music; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Arthur William Crudup as an expression of the General Assembly's admiration for his contributions to the American cultural landscape.

HOUSE JOINT RESOLUTION NO. 673

Commending the Virginia National Guard State Partnership Program.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, the National Guard's State Partnership Program provides unique partnership capacity-building capabilities to combatant commanders and U.S. ambassadors through formal relationships between U.S. states, territories, the District of Columbia, and foreign nations; since its creation in 1993, the program has grown to 87 partnerships with 95 nations; and

WHEREAS, the National Guard's State Partnership Program (SPP) supports national interests and security cooperation goals by engaging partner nations through military, socio-political, and economic conduits at the local, state, and national levels; and

WHEREAS, the Republic of Tajikistan gained independence from the Soviet Union on September 9, 1991, and since then has remained a sovereign and independent nation that makes numerous contributions to world affairs; and

WHEREAS, Tajikistanis have made many sacrifices to secure their independence and unity within their nation and continue striving to build a strong and prosperous society; and

WHEREAS, the Republic of Tajikistan has extended the hand of friendship to nations around the world and has worked diligently to resist and repel extremist forces that sought to undermine the sovereignty and stability of the Tajik people; and

WHEREAS, the Republic of Tajikistan has endeavored to support the peacekeeping efforts of international organizations and has demonstrated its willingness to send its citizens to help secure the peace of peoples who are strangers to them and live in distant lands; and

WHEREAS, the Republic of Tajikistan entered into the National Guard's State Partnership Program with the Virginia National Guard on July 31, 2003, and has remained an active and valued participant in the program for the past two decades; and

WHEREAS, the armed forces of the Republic of Tajikistan have developed camaraderie with the members of the Virginia National Guard and have done so as representatives of a sovereign independent nation for 20 years; and

WHEREAS, the armed forces of the Republic of Tajikistan have worked hand in hand with the Virginia National Guard, to the benefit of both military forces; and

WHEREAS, members of the Virginia National Guard have been instrumental in supporting counterterrorism efforts in Tajikistan by training members of Tajikistan's ministry of defense in areas such as infantry tactics and military police operations; the Virginia National Guard's professionalism and combat expertise have led the way in building the capability and capacity of Tajikistan military forces; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia National Guard State Partnership Program for its achievements in security cooperation and peace in the Central Asian region on the occasion of the 20th anniversary of the Virginia National Guard's partnership with the Republic of Tajikistan; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia National Guard State Partnership Program as an expression of the General Assembly's admiration for the Virginia National Guard's professionalism during its 20-year partnership with the Republic of Tajikistan.

HOUSE JOINT RESOLUTION NO. 674

Celebrating the life of K9 Odin.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, K9 Odin, a distinguished law-enforcement canine officer and member of the Windsor Police Department, died in the line of duty on February 1, 2023; and

WHEREAS, after serving the Newport News Sheriff's Office for five years, Odin joined the Windsor Police Department, where he was a valued member of the law-enforcement team for the past three years; and

WHEREAS, Odin, a Dutch Shepherd that was trained and dual certified in narcotics detection and patrol and apprehension, was notably the first canine officer in the history of the Windsor Police Department, and he greatly enhanced the department's ability to conduct searches and seizures and other investigative work; and

WHEREAS, during Odin's career with the Windsor Police Department, he supported multiple narcotics seizures and helped to track and apprehend several suspects both in Windsor and in many different surrounding jurisdictions; and

WHEREAS, Odin will be fondly remembered and dearly missed by his partner and handler, C.J. Griffin, and his family, as well as the other members of the Windsor Police Department; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of K9 Odin, a law-enforcement canine officer with the Windsor Police Department who contributed to the safety and well-being of the residents of Windsor and who made a meaningful impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to C.J. Griffin, partner and handler of K9 Odin, as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 675

Commending CloudFit Software.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, CloudFit Software, an information technology company in Lynchburg that offers innovative cloud computing services to a wide range of clients, has enhanced the quality of life in the region through its outreach programs and community leadership; and

WHEREAS, CloudFit Software was co-founded by Carroll Moon, a Pittsylvania County native who previously worked for Microsoft for more than 17 years, serving on the team that developed Microsoft Office 365 in various leadership roles, including Senior Director and Senior Service Management Architect for Cloud Service Management; and

WHEREAS, while considering how best to serve customers and the community by starting their own business, CloudFit's founders were inspired to create KidFit, a nonprofit organization that provides mentorship and athletic opportunities to young people; and

WHEREAS, KidFit operates a facility in Lynchburg where young people between the ages of six and 18 can hone their speed, strength, agility, and physical fitness through different training courses; the organization also sponsors a football program each spring as well as other travel sports teams; and

WHEREAS, in March 2018, CloudFit's founders incorporated CloudFit Software with the help of the Lynchburg Regional Business Alliance and Opportunity Lynchburg; the company offers a tiered system to ensure that clients receive the proper level of support with management of cloud computing solutions, custom applications, or niche consulting; and

WHEREAS, CloudFit Software delivers exceptional service and visionary strategies to clients of all sizes and currently manages cloud applications for Carroll Moon's former employer, Microsoft; and

WHEREAS, the success of CloudFit Software has enabled the company to provide funding to KidFit, further expanding the organization's ability to serve and inspire young people; and

WHEREAS, CloudFit Software also developed the JobFit program to help high school students, college students, and adults seeking a career change gain experience in the information technology arena; and

WHEREAS, JobFit offers a senior-year capstone program for students at Liberty University, partners with local schools and academies to help students understand the needs of the industry, and offers an immersive, paid internship program for high school students, for college students, and for career changers to help individuals gain hands-on experience; and

WHEREAS, JobFit interns have gone on to work as full time employees and/or interns for CloudFit, Hewlett Packard, Google, Tesla, Amazon Web Services, United States Space Force, United States intelligence agencies, and other positions for which they needed real experience to apply; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend CloudFit Software for its exceptional service to its clients and outstanding contributions to the Lynchburg community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to CloudFit Software as an expression of the General Assembly's admiration for the company's achievements as well as the achievements of the nonprofit organizations KidFit and JobFit, which have made a significant impact on the community and the individuals therein.

HOUSE JOINT RESOLUTION NO. 676

Commending John J. Jones.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, John J. Jones, the general superintendent of public works for the Town of Louisa, has served the community for more than 50 years; and

WHEREAS, a lifelong resident of Louisa, John Jones began working for the town on September 1, 1970; and

WHEREAS, over the course of his distinguished career, John Jones rose through the ranks and has held multiple positions within the Louisa Public Works Department; and

WHEREAS, as general superintendent of public works, John Jones oversees the many critical functions of the Louisa Department of Public Works on a daily basis and has helped ensure that Louisa remains a wonderful place to live and work; and

WHEREAS, John Jones has demonstrated unwavering dedication to the community, responding to countless after-hours emergencies that affected essential services to the residents of Louisa; and

WHEREAS, in all his endeavors, John Jones has enjoyed the love and support of his wife, Terry, and the couple have proudly raised three children, who have given them 10 grandchildren and five great-grandchildren; and

WHEREAS, in October 2020, the Louisa Town Council renamed the access road leading to the town's maintenance shop as John Jones Way in recognition of his outstanding service to his fellow residents; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend John J. Jones for his legacy of achievements as a member of the Louisa Public Works Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John J. Jones as an expression of the General Assembly's admiration for his commitment and dedication to serving the members of the Louisa community.

HOUSE JOINT RESOLUTION NO. 677

Commending the Vienna Wireless Society, Inc.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, in 2023, the Vienna Wireless Society, Inc., one of the largest and most active amateur radio clubs in Northern Virginia, celebrates its 60th anniversary of providing communications and emergency response support to organizations and individuals in the Northern Virginia area; and

WHEREAS, the Vienna Wireless Society (VWS) was established in 1963 and is affiliated with the American Radio Relay League, a nonprofit organization that is the largest membership association of amateur radio enthusiasts in the United States; and

WHEREAS, the licensed amateur radio operators of the VWS are dedicated to serving the public and promoting the art of radio in the Northern Virginia area and throughout the nation; and

WHEREAS, the VWS has a continuous program of radio-related activities and public service resting on three main pillars, including scientific, technological, and educational activities; recreational operating activities; and emergency service activities; and

WHEREAS, the VWS is an effective and reliable organization that is capable of providing multimode communications for the agencies it serves during emergencies, disasters, and public events; and

WHEREAS, the VWS has provided communications support to many local events in Northern Virginia over the years, such as the Marine Corps Marathon and James Madison High School Turkey Trot races, and this service continues to be a vital part of its mission; and

WHEREAS, the VWS has provided support to local Boy Scouts of America troops to expand their knowledge and proficiency of amateur radio practices; and

WHEREAS, the VWS encourages people interested in becoming amateur radio operators to sign up for beginner classes and to take tests for federal amateur radio operator's certifications; and

WHEREAS, the VWS radio repeaters K4HTA and K4XY support major events, such as presidential inaugurations in coordination with the United States Department of Homeland Security; when an emergency is declared, either one or both of the repeaters may be dedicated for use by the Fairfax County Amateur Radio Emergency Service and the Radio Amateur Civil Emergency Service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Vienna Wireless Society, Inc., hereby be commended on the occasion of its 60th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Vienna Wireless Society, Inc., as an expression of the General Assembly's admiration and respect for its many services to the Northern Virginia region.

HOUSE JOINT RESOLUTION NO. 678

Celebrating the life of Charles Berton Mulligan.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Charles Berton Mulligan, a distinguished veteran of World War II and highly admired member of the Kents Store community, died on September 27, 2022; and

WHEREAS, a native of Ridgeley, West Virginia, Charles Mulligan graduated from Ridgeley High School, then joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Marine Corps; and

WHEREAS, Charles Mulligan deployed to the Pacific theater and fought in the Battle of Iwo Jima, where he witnessed the raising of the American flag over Mount Suribachi; and

WHEREAS, Charles Mulligan pursued a career as a brakeman with Western Maryland Railway, from which he retired after many years of dedicated service; and

WHEREAS, Charles Mulligan also served and safeguarded members of his community as a lifetime member of the Ridgeley Volunteer Fire Company; and

WHEREAS, Charles Mulligan supported his fellow veterans as a member of the Fort Ashby Veterans of Foreign Wars Post 6667 and the Western Maryland Marine Corps League, and after settling in the Commonwealth, he enjoyed many trips to the Marine Corps Museum in Quantico; and

WHEREAS, predeceased by his wife, Edie, and two sons, Wayne and Charles, Charles Mulligan will be fondly remembered and greatly missed by his children, Terry and Debra, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charles Berton Mulligan; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Berton Mulligan as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 679

Celebrating the life of the Honorable James P. Massie III.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, the Honorable James P. Massie III, a respected financial professional and a distinguished public servant who represented the residents of parts of Henrico County as a member of the Virginia House of Delegates for 10 years, died on January 25, 2023; and

WHEREAS, born in Norfolk, James "Jimmie" P. Massie III graduated from the Collegiate School in Richmond and continued his education at the University of Virginia, earning a bachelor's degree in economics; he developed strong friendships in his school years that endured throughout his life; and

WHEREAS, Jimmie Massie pursued a career as a private equity investor and was highly respected for his business acumen; and

WHEREAS, desirous to be of further service, Jimmie Massie ran for and was elected to the House of Delegates in 2007; he ably represented the residents of parts of Henrico County in the 72nd District for five consecutive terms from 2008 to 2017; and

WHEREAS, during his tenure as a state lawmaker, Jimmie Massie introduced and supported many important pieces of legislation to benefit all Virginians; he took a special interest in education policy and played a role in the creation of the Virginia Education Improvement Scholarships Tax Credits Program; and

WHEREAS, Jimmie Massie offered his leadership and expertise to the House Committees on Appropriations, Education, and Rules and served on the Medicaid Innovation and Reform Commission; he served the residents of Henrico County and the Commonwealth with the utmost professionalism, dedication, and integrity; and

WHEREAS, Jimmie Massie enjoyed fellowship and worship with the Richmond community as an active member of Third Church; and

WHEREAS, Jimmie Massie lived his faith through his actions and volunteered with Needle's Eye Ministries, Inc., a nondenominational organization that promotes Christian values in business in the Richmond region; and

WHEREAS, Jimmie Massie relished every opportunity to spend time with his beloved family, especially enjoying Sunday family dinners, and he never failed to appreciate the importance of simple activities like going for a walk with a friend or loved one; and

WHEREAS, Jimmie Massie will be fondly remembered and greatly missed by his wife, Elizabeth; his children, James IV, William, Rebecca, and John, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable James P. Massie III; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable James P. Massie III as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 680

Commemorating the life and legacy of Reuben E. Lawson.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Reuben E. Lawson was an accomplished civil rights attorney from Roanoke who represented the Roanoke branch of the NAACP and local plaintiffs in many pivotal civil rights cases in Southwest Virginia in the 1950s and 1960s; and

WHEREAS, Reuben Lawson graduated from the Howard University School of Law in 1945 and thereafter began practicing law in his hometown of Roanoke out of an office building he built for himself, which stands to this day; and

WHEREAS, as an attorney with the Roanoke branch of the NAACP, Reuben Lawson worked closely with the organization's executive board to advocate for desegregation before the Roanoke City School Board; and

WHEREAS, in his quest for social justice, Reuben Lawson filed and argued a number of significant cases in the United States District Court for the Western District of Virginia challenging the de facto segregation enabled by the Commonwealth's policy of Massive Resistance; and

WHEREAS, Reuben Lawson notably filed the first desegregation suit in Southwest Virginia with *Walker v. Floyd County School Board*, a case that resulted in 13 African American students gaining admittance to schools that had previously only enrolled white students; and

WHEREAS, Reuben Lawson subsequently achieved similar success in the Cities of Roanoke and Lynchburg and the Counties of Pulaski, Grayson, and Roanoke, contributing greatly to the integration of schools in Southwest Virginia; and

WHEREAS, Reuben Lawson's tenacious advocacy helped bring an end to segregation at the former Victory Stadium in Roanoke after a 1961 National Football League exhibition game prompted him to take the matter before the Roanoke City Council while other community leaders affiliated with the NAACP organized a boycott; and

WHEREAS, Reuben Lawson held prominent positions in various social and fraternal organizations in the Roanoke community over the years, including the Roanoke Civic League, for which he served as vice president; and

WHEREAS, Reuben Lawson was a mentor to many over his career and gave educational talks for the benefit of others at locations such as the Gainsboro Branch of the Roanoke City Public Library; and

WHEREAS, though less heralded today than some of his contemporaries in the civil rights movement, Reuben Lawson's efforts to end segregation in Southwest Virginia are worthy of the highest regard; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commemorate the life and legacy of Reuben E. Lawson, a champion for racial justice and equality whose steadfast dedication to his cause had a transformative impact on the communities of Southwest Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Reuben E. Lawson as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 681

Commending the Virginia Beach Amateur Radio Club.

Agreed to by the House of Delegates, February 15, 2023
Agreed to by the Senate, February 21, 2023

WHEREAS, the Virginia Beach Amateur Radio Club, an American Radio Relay League Special Service Club, has greatly served the Virginia Beach community for many years by volunteering its time and equipment for emergency and public services; and

WHEREAS, the Virginia Beach Amateur Radio Club (VBARC) has earned Special Service Club status with the American Radio Relay League by providing exceptional aid to both local amateur radio enthusiasts and the community at large through training classes, technical projects, and other activities; and

WHEREAS, VBARC supports its members' interest in the amateur radio hobby, also known as ham radio, through various events and services designed to share knowledge and to bring the local amateur radio community together; and

WHEREAS, volunteers with VBARC provided emergency communications support at several marquee events in Virginia Beach in 2022, including festivals, bicycle races, holiday parades, and more; and

WHEREAS, members of VBARC were responsible in establishing the Virginia Beach Emergency Amateur Repeater Society, which operates and maintains repeaters on behalf of the City of Virginia Beach to facilitate the municipality's emergency communications; and

WHEREAS, volunteer examiners with VBARC regularly administer the license testing required for individuals to participate in the hobby of amateur radio, enabling the local amateur radio community to continue to grow and thrive; and

WHEREAS, VBARC demonstrates the community values of selflessness and service that have helped to make Virginia Beach a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Beach Amateur Radio Club for its generous support of emergency and public services in the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Beach Amateur Radio Club as an expression of the General Assembly's admiration for the organization's contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 682

Commending the Veterans of Foreign Wars Department of Virginia.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, for 100 years, the Veterans of Foreign Wars Department of Virginia has served and supported veterans and active duty service members and their families throughout the Commonwealth; and

WHEREAS, the Veterans of Foreign Wars (VFW) was originally established in 1899 when veterans of the Spanish-American War and the Philippine Insurrection, many of whom returned home sick or wounded, banded together to advocate for their rights and benefits; and

WHEREAS, the VFW was designed to foster camaraderie among veterans and provide vital support, outreach, and advocacy on their behalf; from humble beginnings with a few chapters in Colorado, Ohio, and Pennsylvania, the organization grew to more than 5,000 members by 1915; and

WHEREAS, the VFW Department of Virginia was chartered in February 1923, and members met in Norfolk the following month to formally organize the department, which began with 13 posts and 663 members; and

WHEREAS, the VFW Department of Virginia has since grown to encompass 127 posts, with 40,000 members of those posts or their auxiliaries; members of the VFW Department of Virginia have served in all branches of the United States Armed Forces and every war over the past 100 years; and

WHEREAS, the VFW Department of Virginia has established an extensive network of service claims agents to assist veterans in navigating the sometimes difficult and confusing process of filing claims for their earned benefits; the organization has helped Virginia veterans secure more than $13 million in earned benefits; and

WHEREAS, the VFW Department of Virginia has advocated for many pieces of legislation essential to veterans at both the state and federal levels, including the establishment of the U.S. Department of Veterans Affairs and the Montgomery GI Bill, the passage of the Blue Water Navy Vietnam Veterans Act and the PACT Act, the elimination of the Survivor Benefit Plan/Dependency and Indemnity Compensation offset, and much more; and

WHEREAS, the Virginia Veterans Foundation, the official nonprofit foundation of the VFW Department of Virginia, supports many programs and initiatives to enhance the lives of active duty service members and veterans, including grants for community service projects, scholarships, and improvements to base housing; and

WHEREAS, the posts and members of the VFW Department of Virginia actively support their surrounding communities through volunteer service and donations to charitable organizations; in the last five years alone, the VFW Department of Virginia and its members have performed 1,233,783 volunteer hours and donated $9,155,822 to worthy causes; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Veterans of Foreign Wars Department of Virginia on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Veterans of Foreign Wars Department of Virginia as an expression of the General Assembly's admiration for the organization's achievements on behalf of the men and women who have served and sacrificed in defense of the nation.

HOUSE JOINT RESOLUTION NO. 683

Commending Tamara Derenak Kaufax.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Tamara Derenak Kaufax, a longtime resident of Franconia and esteemed advocate for children's causes and education issues, will retire from the Fairfax County School Board at the expiration of her term on December 31, 2023; and

WHEREAS, Tamara "Tammy" Derenak Kaufax has demonstrated an extraordinary commitment to the youth of Fairfax County through her work with various organizations and committees, including as former chair of the Fairfax County Child Care Advisory Council and as a member of the Fairfax County Superintendent's Business and Community Advisory Council and the Fairfax County School Board's Advanced Academic Programs Advisory Committee; and

WHEREAS, Tammy Kaufax has been closely involved with the growth and development of Fairfax County Public Schools (FCPS) through her role as vice president and cultural arts chair of the Springfield Estates Elementary School Parent-Teacher Association (PTA) and as cultural arts chair with the Bush Hill Elementary School PTA; and

WHEREAS, Tammy Kaufax joined the Fairfax County School Board in January 2012, serving as the chair for the Public Engagement Committee that year before being elected vice chair then chair of the board in 2013 and 2014, respectively; and

WHEREAS, in addition to serving again as vice chair for the 2019-2020 school year, Tammy Kaufax also provided leadership to the Fairfax County School Board by serving as its budget chair in 2015 and 2018, as the co-chair of the Successful Children and Youth Policy Team in 2016 and 2018, as chair of the Governance Committee in 2017, and as the board's national legislative liaison and state legislative liaison; and

WHEREAS, as the owner of Altamat Marketing Solutions with 20 years of experience in marketing and small business ownership, Tammy Kaufax has brought valuable knowledge and expertise to bear during her tenure with the Fairfax County School Board; and

WHEREAS, Tammy Kaufax's proudest accomplishments with the Fairfax County School Board include implementing later high school start times and instituting full day Mondays, restoring honors classes, developing the FCPS Portrait of a Graduate program, constructing FCPS' first strategic plan, providing healthier food for FCPS students and implementing a summer meals program; reforming the FCPS discipline system, and establishing an independent Office of the Auditor General; and

WHEREAS, Tammy Kaufax's steadfast dedication to the youth of Fairfax County has made a positive and lasting impression on the community that will endure for years to come; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Tamara Derenak Kaufax on the occasion of her retirement from the Fairfax County School Board; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tamara Derenak Kaufax as an expression of the General Assembly's admiration for her contributions to the Commonwealth and best wishes in her future endeavors.

HOUSE JOINT RESOLUTION NO. 684

Commending the Saint Michael the Archangel Catholic High School football team.

Agreed to by the House of Delegates, February 15, 2023
Agreed to by the Senate, February 21, 2023

WHEREAS, the Saint Michael the Archangel Catholic High School football team won the Virginia Independent Schools Athletic Association Division III championship on November 18, 2022; and

WHEREAS, the Saint Michael the Archangel Catholic High School Warriors played the toughest schedule in all divisions of the Virginia Independent Schools Athletic Association Division (VISAA) in 2022 and were so dominant in the postseason that all of their Division III opponents forfeited the playoffs, giving the Saint Michael Warriors their second football state title in three years; and

WHEREAS, the Saint Michael the Archangel Catholic High School is the smallest school in all of VISAA and played eight Division I teams in 2022, defeating six of them; the Saint Michael Warriors were the first team in the history of Division III to defeat six Division I opponents in one season; and

WHEREAS, Saint Michael's Melvin Spriggs was named the Division III State Player of the Year, racking up over 1,500 yards of offense and 20 touchdowns in nine games played, and accounting for 12 sacks and 45 tackles on defense; and

WHEREAS, sophomore 1st Team All-State quarterback Nahshon Wilson led the Saint Michael Warriors high-powered offense behind All-State offensive linemen Guan Price, Jordan Crawford, Barchie Hazelwood, Xavier Hernandez, and Adrian Fridie, with the support of All-State wide receivers Cam Attard and Donte Johnson, and All-State running backs Melvin Spriggs and Caleb Davis; and

WHEREAS, the Saint Michael Warriors defense, led by All-State linebackers Jeremiah Pugh and Jeremiah Crawford; All-State defensive backs Remington Moss and Donte Johnson; and All-State defensive linemen Josh Jackson, Barchie Hazelwood, Ethan Bissoon, Christian Hancock, Melvin Spriggs, and Sidney Coleman, were dominant throughout the season; and

WHEREAS, Alex Cruz, Elijah Hernandez, Tyler Gladden, Shawn Turner, Ky'Mani Carpenter, Erroll Washington, Deionte Johnson, Randall Annino, Carlos De Jesus Molina-Bruzual, Andreas Ferguson, Michael Matthews-Canty, Issiah Kelley, Sean James, Nigel Asamoah, All-State punter Aiden McReynolds, and All-State kicker Peter Knapp also made critical contributions to the victorious season; and

WHEREAS, the Saint Michael Warriors demonstrated a commitment to excellence on and off the field, and the team's year-round effort is an inspirational tribute to the high character and selflessness of this group of young men led by VISAA Division III Coach of the Year Hugh Brown; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Saint Michael the Archangel Catholic High School football team for winning the 2022 Virginia Independent Schools Athletic Association Division III championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Hugh Brown, head coach of the Saint Michael the Archangel Catholic High School football team, as an expression of the General Assembly's admiration for the team's achievements and best wishes for the future.

HOUSE JOINT RESOLUTION NO. 685

Commending Janice B. Miller.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Janice B. Miller ably served the Fairfax community as a member of the Fairfax City Council from July 1, 1992, to December 31, 2022; and

WHEREAS, a graduate of the University of Kansas, Janice Miller began her career as a middle school teacher; she currently works as a travel consultant for a virtual travel agency, The Travel Gals; and

WHEREAS, Janice Miller settled in Fairfax in 1970 and was appointed to the Fairfax School Board in 1977; she served on the board for three decades, including terms as chair and vice chair, and provided leadership to committees that supported additions and renovations for several city schools; and

WHEREAS, Janice Miller represented the Fairfax School Board before the city's Park and Recreation Advisory Board and subsequently became a member of the Virginia School Board Association; and

WHEREAS, Janice Miller further supported young people as the first woman president of the Fairfax Little League and a founding member of Northern Virginia Project Graduation, and she organized several graduation night events for Fairfax High School; and

WHEREAS, Janice Miller has served as secretary of the Friends of Fairfax, chair of the Chocolate Lovers Festival Committee, and a member of Historic Fairfax City, Inc., and the Historic Fairfax Neighborhood Association; and

WHEREAS, as a member of the Fairfax City Council, Janice Miller represented her fellow residents of the city before a number of boards and commissions, including the Metropolitan Washington Council of Governments Human Services and Public Safety Policy Committee and the Virginia Municipal League Human Development and Education Committee; and

WHEREAS, throughout her career, Janice Miller has served the residents of Fairfax with the utmost dedication and integrity; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Janice B. Miller for her outstanding service to the City of Fairfax; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Janice B. Miller as an expression of the General Assembly's admiration for her personal and professional achievements.

HOUSE JOINT RESOLUTION NO. 686

Commending Sang H. Yi.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Sang H. Yi ably served the Fairfax community as a member of the Fairfax City Council from July 1, 2018, to December 31, 2022; and

WHEREAS, Sang Yi holds degrees from the United States Merchant Marine Academy, the United States Naval War College, and The George Washington University Law School; and

WHEREAS, Sang Yi previously worked in intelligence for the U.S. Department of Defense and is currently a senior congressional aide specializing in government oversight issues and policy; and

WHEREAS, before he was elected to the Fairfax City Council, Sang Yi represented the city on the Fairfax Alcohol Safety Action Program Advisory Board; and

WHEREAS, as a councilman, Sang Yi served on the Metropolitan Washington Council of Governments Climate, Energy, and Environmental Policy Committee and the Virginia Municipal League's General Laws Committee and Human Development and Education Committee; and

WHEREAS, Sang Yi is a lieutenant commander in the United States Navy Reserve and has supported his fellow veterans as a second vice commander of American Legion Post 177; and

WHEREAS, throughout his career, Sang Yi has served the residents of Fairfax with the utmost dedication and integrity; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sang H. Yi for his outstanding service to the City of Fairfax; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sang H. Yi as an expression of the General Assembly's admiration for his personal and professional achievements.

HOUSE JOINT RESOLUTION NO. 687

Commending Joseph D. Harmon.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Joseph D. Harmon ably served the Fairfax community as a member of the Fairfax City Council from July 1, 2020, to December 31, 2022; and

WHEREAS, originally from Washington state, Joseph Harmon holds bachelor's and master's degrees from Averett University and has lived in Fairfax since 1996; and

WHEREAS, Joseph Harmon previously served his country as a member of the United States Marine Corps and currently works as an information technology project manager for the U.S. Department of the Treasury and as a small business owner; and

WHEREAS, Joseph Harmon is a certified planning commissioner and has served the Fairfax community as a member of the Planning Commission and the Industrial Development Authority and chair of the Parks and Recreation Advisory Board; and

WHEREAS, Joseph Harmon has also volunteered his time to support and mentor young people as a basketball coach for the Fairfax Police Youth Club and the Fairfax Stars travel basketball team; and

WHEREAS, throughout his career, Joseph Harmon has served the residents of Fairfax with the utmost dedication and integrity; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Joseph D. Harmon for his outstanding service to the City of Fairfax; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Joseph D. Harmon as an expression of the General Assembly's admiration for his personal and professional achievements.

HOUSE JOINT RESOLUTION NO. 688

Commending Robert B. Lambeth, Jr.

Agreed to by the House of Delegates, February 17, 2023
Agreed to by the Senate, February 21, 2023

WHEREAS, Robert B. Lambeth, Jr., the innovative and highly respected president of the Council of Independent Colleges in Virginia, will retire as the longest-serving president of a private college consortium in the United States, having made an indelible impact on the lives of hundreds of thousands of students in the Commonwealth; and

WHEREAS, Robert Lambeth is a distinguished 1971 graduate of Randolph-Macon College, a member of the Council of Independent Colleges in Virginia (CICV), which represents 27 accredited, independent nonprofit colleges and universities in the Commonwealth; it was during his time at Randolph-Macon College that he began to understand the importance and value of a small, private college education; and

WHEREAS, after earning his law degree from the University of Richmond, another CICV member, Robert Lambeth initially joined CICV in a part-time capacity, then rose through the ranks to become president in 1983; and

WHEREAS, Robert Lambeth has worked tirelessly to advocate for Virginia's private colleges and universities, with the goal of keeping the Commonwealth's independent higher education institutions affordable and accessible for all Virginians; the State Council of Higher Education for Virginia reports that Virginia's private colleges, and not its public and community college counterparts, actually educate a higher percentage of underrepresented populations; and

WHEREAS, Robert Lambeth championed the development and expansion of the Tuition Assistance Grant program, which has benefited more than 300,000 Virginia students since its inception in 1972, and has been a staunch supporter of increased grant funding, with private college students in the Commonwealth receiving $4,500 toward their education during the 2022-2023 academic year; in total, more than $1 billion in grant funding has been provided through the program to Virginia students; and

WHEREAS, Robert Lambeth helped create the Virginia Private Colleges Benefits Consortium, an innovative, self-insured health insurance program that covers 3,300 CICV employees and 6,100 Virginians in all and provides financial stability to CICV member institutions; and

WHEREAS, Robert Lambeth helped orchestrate a program that pooled individual colleges' retirement plans into one multiple employer plan that not only lowered administrative costs but, with $1 billion in assets, allowed CICV to hire a financial planning firm to do face-to-face financial and retirement consulting with all employees of colleges and universities participating in the plan; the program was the first of its kind in the nation; and

WHEREAS, in 2017, Robert Lambeth was deeply involved in the creation of a solar initiative, funded by the U.S. Department of Energy Sunshot Initiative, a solar grant program that one day will reduce energy bills and the carbon footprint for independent colleges; more recently, he has led efforts to increase collaboration on information technology needs among CICV members; and

WHEREAS, in addition to his outstanding work on behalf of Virginia's independent colleges and universities, Robert Lambeth also has served on numerous higher education and civic boards and advisory committees, including service on the board of the Coalition for College Cost Savings, and he is the former chair of the board of the National Association of Independent College and University State Executives; and

WHEREAS, Robert Lambeth has developed meaningful and highly impactful relationships with local, regional, and state officials while building a network of support for Virginia's private colleges and universities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Robert B. Lambeth, Jr., on the occasion of his retirement as president of the Council of Independent Colleges in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert B. Lambeth, Jr., as an expression of the General Assembly's admiration for his highly effective longtime advocacy for the Commonwealth's students and its independent private colleges and universities.

HOUSE JOINT RESOLUTION NO. 689

Commending Pamela J. Grosvenor.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Pamela J. Grosvenor, a visionary local leader in Great Falls, received the 2022 Glen Sjoblom Award from the Great Falls Citizens Association for her legacy of achievements that have enhanced the quality of life in the community; and

WHEREAS, Pamela "Pam" J. Grosvenor is only the fourth person and the first woman to receive the Glen Sjoblom Award, which recognizes individuals who have had a lasting impact on the community through their commitment to innovative problem solving and collaborative, sustained leadership; and

WHEREAS, Pam Grosvenor served as a member of the board of the Great Falls Citizens Association for 11 years and held several leadership positions, including vice president and chair of both the Transportation Committee and the Membership and Outreach Committee; and

WHEREAS, as chair of the Transportation Committee, Pam Grosvenor increased safety in the community by developing cost estimates and preliminary plans for crosswalk and intersection improvement projects and advocated for initiatives to enhance pedestrian safety and reduce traffic congestion; and

WHEREAS, Pam Grosvenor built productive relationships with local and state officials, as well as members of the National Park Service and members of the United States Congress, to ensure that the community's needs were understood and addressed; and

WHEREAS, in all her endeavors, Pam Grosvenor strove to build consensus and create common sense, data-driven solutions; she has earned the admiration of her colleagues for her unparalleled work ethic, impeccable research skills, and attention to detail; and

WHEREAS, Pam Grosvenor received the award at a special ceremony hosted by the Great Falls Citizens Association on July 9, 2022; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Pamela J. Grosvenor for receiving the 2022 Glen Sjoblom Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Pamela J. Grosvenor as an expression of the General Assembly's admiration for her outstanding achievements in service to the residents of Great Falls.

HOUSE JOINT RESOLUTION NO. 690

Celebrating the life of Randall Wade Smith.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Randall Wade Smith of Abingdon, a former educator who inspired countless students through his passion for lifelong learning, and a beloved husband and father, died on January 19, 2023; and

WHEREAS, Randall "Randy" Wade Smith grew up in Winston-Salem, North Carolina, and graduated from R.J. Reynolds High School; he spent most of his childhood summers on his grandfather's farm in low country South Carolina, where he began to cultivate his lifelong love for the great outdoors; and

WHEREAS, Randy Smith graduated from Appalachian State University, where he served on the committee that organized live music performances on campus and attracted big-name acts like the band Mountain and The Allman Brothers Band; he was also a letterman on the soccer team and helped lead the team to the university's first Southern Conference Championship title; and

WHEREAS, Randy Smith pursued a career in education as a social studies teacher and began teaching government, economics, and the humanities at John S. Battle High School in Bristol in 1973; he gave countless students the tools they

needed to achieve success in higher education and careers and was well-known for incorporating song lyrics and poetry into his lectures; and

WHEREAS, Randy Smith established John S. Battle High School's boys' and girls' cross country programs, and runners from around the region still compete on the cross country course he designed in the Randy Smith Classic each fall; and

WHEREAS, Randy Smith also taught young men and women at the former Virginia Intermont College, where he led the convocation program, established a poetry club, and organized an annual Earth Day event for students; and

WHEREAS, Randy Smith received many awards and accolades for his commitment to excellence as both a teacher and coach before his retirement from John S. Battle High School in 2004; and

WHEREAS, outside of his career, Randy Smith volunteered his time to teach classes for older adults at Pleasant View United Methodist Church and served as an on-site director for the Special Olympics for many years; and

WHEREAS, Randy Smith was a master naturalist who started the Seed Saver program at the Washington County Library and relished every opportunity to explore the Commonwealth's state parks; he led many bird-watching programs and kept a list of every species of bird he had seen throughout his life; and

WHEREAS, Randy Smith will be fondly remembered and greatly missed by his wife of 51 years, Mary Sue; his daughters, Ashley and Sarah, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Randall Wade Smith; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Randall Wade Smith as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 691

Celebrating the life of Howard Montgomery Hougen.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Howard Montgomery Hougen of Mount Vernon, a patriotic veteran and a respected corporate attorney, died on January 24, 2023; and

WHEREAS, Howard Montgomery "Monty" Hougen was born in Nebraska and spent his youth in Iowa, where he ultimately earned a bachelor's degree and a law degree from the University of Iowa; he was a member of the institution's Reserve Officers' Training Corps program and was commissioned as an officer in the United States Army after graduation; and

WHEREAS, while stationed at Fort Leonard Wood in Missouri, Monty Hougen was invited to join a bowling team made up of Judge Advocate General's (JAG) Corps attorneys and subsequently joined the JAG Corps himself; and

WHEREAS, over the course of his 20-year career, Monty Hougen was stationed in Paris, served in Vietnam during the Tet Offensive, and was posted to Fort Knox, Fort Lee, and the Pentagon; he earned a master's degree in patents and trade regulation and handled international contract negotiations for the United States Army before his retirement as a lieutenant colonel; and

WHEREAS, Monty Hougen joined Dynalectron Corporation, now known as DynCorp, and happily continued to travel the world for work; he spent many years as deputy general counsel and corporate secretary, then retired at the age of 73 in 2008; and

WHEREAS, outside of his career, Monty Hougen volunteered with Meals on Wheels, relished every opportunity to support the University of Iowa Hawkeyes, and enjoyed annual trips to France with his family; and

WHEREAS, Monty Hougen enjoyed fellowship and worship with the Alexandria community as an active member of St. Luke's Episcopal Church, where he served as an usher, assisted with financial matters, and volunteered at the church's annual pumpkin patch fundraiser; and

WHEREAS, Monty Hougen will be fondly remembered and greatly missed by his beloved wife, Dixie; his children, Sarah and Eric, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Howard Montgomery Hougen, a highly admired member of the Mount Vernon community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Howard Montgomery Hougen as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 692

Commending Chapter 7 of the National Active and Retired Federal Employees Association.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, for 75 years, Chapter 7 of the National Active and Retired Federal Employees Association has worked to preserve and enhance the earned benefits of federal workers, retirees, and surviving spouses; and

WHEREAS, founded in 1921, the National Active and Retired Federal Employees Association (NARFE) is a national, nonprofit organization headquartered in Alexandria; there are more than 800 local chapters nationwide, including 38 in the Commonwealth; and

WHEREAS, NARFE Chapter 7 was established in Arlington on November 25, 1947, in response to growing membership in the region after the end of World War II; and

WHEREAS, at its monthly open meetings, NARFE Chapter 7 has hosted a wide variety of speakers from civic, educational, and philanthropic organizations, as well as provided a venue for local and state elected officials to engage with members of the public; and

WHEREAS, as a long-standing member of the Arlington County Civic Federation, NARFE Chapter 7 serves as a gateway to participation in civic affairs for the sizable community of federal employees and retirees living in Arlington; and

WHEREAS, in recognition of the advanced age of a significant portion of its membership, NARFE Chapter 7 has maintained an open channel of communication with Arlington's Commission on Aging in order to ensure its members are able to fully participate in community life; and

WHEREAS, along with its fellow Virginia-based chapters, NARFE Chapter 7 has helped to make the Commonwealth the leading contributor within NARFE for funding research sponsored by the Alzheimer's Association, with cumulative contributions since 1983 exceeding $15 million; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Chapter 7 of the National Active and Retired Federal Employees Association on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chapter 7 of the National Active and Retired Federal Employees Association as an expression of the General Assembly's admiration for its service to federal employees in the Commonwealth and commitment to community outreach.

HOUSE JOINT RESOLUTION NO. 693

Celebrating the life of Shaligram Shukla.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Shaligram Shukla, a respected professor of linguistics who helped others appreciate the beauty of language and the written word, died on September 6, 2022; and

WHEREAS, Shaligram Shukla was born in India and began to cultivate his love for the majesty of the natural world while growing up near the Himalayas; he earned bachelor's and master's degrees from Banaras Hindu University and conducted postgraduate research at Gorakhpur University; and

WHEREAS, Shaligram Shukla became a prolific and widely known author in India, authoring more than 100 short stories and countless poems and translating numerous works of English and Russian fiction into Hindi; and

WHEREAS, after briefly living in England, Shaligram Shukla came to the United States and earned a master's degree in anthropology and a doctorate in linguistics from Cornell University; and

WHEREAS, Shaligram Shukla joined the faculty of Georgetown University in 1967 and taught linguistics at the institution for 50 years; he was a trusted mentor and friend to many of his colleagues and inspired generations of students through his passion for lifelong learning; and

WHEREAS, Shaligram Shukla was a patron of the arts and a voracious reader of literature and poetry who once read the entire collected works of William Shakespeare during a sabbatical from Georgetown University; and

WHEREAS, during his time in the United States and on several visits to Japan, Shaligram Shukla continued to compose poetry inspired by the world around him, and he published many more works in both English and Hindi; and

WHEREAS, Shaligram Shukla will be fondly remembered and greatly missed by his wife of 65 years, Malti; his children, Kshama, Shakti, Prakriti, and Siddhartha, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Shaligram Shukla; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Shaligram Shukla as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 694

Commending Hartman Reed.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, for more than 70 years, Hartman Reed of Arlington has served and supported his fellow residents as both a dedicated firefighter and a hardworking business owner; and

WHEREAS, a native of Heidelberg, Pennsylvania, Hartman Reed served his country as a member of the United States Navy, then settled in the Commonwealth in the early 1950s; and

WHEREAS, at the time, many fire companies in the region refused to serve predominantly Black neighborhoods, which relied on all-volunteer departments, and in 1952, Hartman Reed became one of the first Black professional firefighters in the southern United States after Arlington County authorized the creation of Fire Station No. 8 in Halls Hill; and

WHEREAS, a few years later, another member of Fire Station No. 8, Buster Moten, established Crown Cab, a taxi service for local Black communities, and hired Hartman Reed as the company's first driver; and

WHEREAS, Hartman Reed used his travels with Crown Cab to better familiarize himself with the region, allowing him to more efficiently respond to fires and other emergencies, and since local hospitals would not treat Black patients, he and the other drivers often used cabs to take Black residents to hospitals in Washington, D.C.; and

WHEREAS, Hartman Reed and his wife purchased Crown Cab in 1974, and he subsequently retired from firefighting in 1979; their leadership helped expand the business, which served many high-profile clients over the years, including reporter Dan Rather, actor Richard Kiel, and the first Black woman elected to United States Congress, Shirley Chisholm; and

WHEREAS, Hartman Reed retired from driving cabs in 1992 and transitioned into an administrative role with Crown Cab, allowing other members to take a more active role in the company; and

WHEREAS, Hartman Reed's legacy of service enhanced the lives of countless residents of Black neighborhoods in Arlington, and Crown Cab continues to provide accessible transportation to all members of the community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Hartman Reed for his decades of service to the Arlington community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Hartman Reed as an expression of the General Assembly's admiration for his personal and professional achievements.

HOUSE JOINT RESOLUTION NO. 695

Celebrating the life of Joan Wilde Keene.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Joan Wilde Keene, a vibrant member of the North Chesterfield community and dedicated former employee of the Virginia House of Delegates, died on August 6, 2022; and

WHEREAS, Joan Keene grew up in Wisconsin, where she spent many happy summers during her childhood at the family cabin on Rolling Stone Lake; and

WHEREAS, Joan Keene married her husband, Michael, in 1975, and the couple lived in Colorado before ultimately settling in the Richmond area; and

WHEREAS, Joan Keene served the Commonwealth with great integrity as a supervisor of administrative staff for the Virginia House of Delegates; she took great care in the wellbeing of her delegates and administrative staff, ensuring they had the support they needed to fulfill their duties to the residents of the Commonwealth; and

WHEREAS, Joan Keene enjoyed fellowship and worship with the community as an active member of Cornerstone Assembly of God; and

WHEREAS, Joan Keene brightened the days of others through her generosity, wit, and passion for storytelling; her greatest joy in life was her beloved family, and she especially relished every opportunity to spend time with her grandchildren; and

WHEREAS, Joan Keene will be fondly remembered and greatly missed by her husband, Michael; her sons, Joshua and Christopher, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Joan Wilde Keene; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joan Wilde Keene as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 696

Commending April Pinch-Keeler.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, April Pinch-Keeler, President and Chief Executive Officer of MVLE, a nonprofit organization based in Northern Virginia that supports adults with disabilities and others facing barriers to employment, has admirably served her organization for 30 years; and

WHEREAS, April Pinch-Keeler discovered her passion for serving individuals with disabilities in her youth and went on to complete a Master's certificate program in Research Development and Independent Living in the pursuit of her goals and ambitions; and

WHEREAS, throughout her career, April Pinch-Keeler has advocated tirelessly to secure individuals with disabilities the opportunity to engage in meaningful work and to be supported as integral members of their communities; and

WHEREAS, April Pinch-Keeler was promoted to President and Chief Executive Officer of MVLE in 2003, and under her tenure MVLE has become a non-profit industry leader and expanded operations to a social enterprise model; and

WHEREAS, through April Pinch-Keeler's efforts, MVLE has partnered with more than 125 Washington, D.C., metropolitan area organizations and collaborated with local chambers of commerce to provide daily work opportunities and rehabilitation services to more than 450 adults with disabilities annually; and

WHEREAS, in 2010, April Pinch-Keeler forged a U.S. Department of Defense (DOD) Mentor-Protégé agreement with Northrop Grumman as part of the DOD's Mentor-Protégé Program (MPP), further developing MVLE's infrastructure and ability to manage federal contracts and making MVLE the first AbilityOne provider to participate in the MPP with a prime defense contractor; and

WHEREAS, as a result of the success of the MPP partnership forged by April Pinch-Keeler, the DOD presented MVLE and Northrop Grumman with its Nunn-Perry Award for Outstanding Performance in 2013; and

WHEREAS, April Pinch-Keeler's visionary leadership resulted in MVLE becoming part of The Fedcap Group in 2018, a global network of top-tier nonprofit agencies, "committed to creating opportunities and improving the lives of people with barriers to economic well-being"; and

WHEREAS, April Pinch-Keeler has notably served as a board member, president, and legislative chairperson for the Virginia Association of Community Rehabilitation Programs and is currently a board member of the Fairfax County Long Term Care Coordinating Council, volunteering countless hours to advocate in support of individuals with disabilities and their families; and

WHEREAS, April Pinch-Keeler has received numerous honors over the years in recognition of her accomplishments in her field, including being named Business Person of the Year by the Greater Springfield Chamber of Commerce in 2018 and receiving a Martha Glennan Disability Inclusion and Equality Award from Fairfax Area Disability Services that same year; and

WHEREAS, in 2009, former Speaker of the House and General Chairman of American Solutions, Newt Gingrich, honored April Pinch-Keeler as American Solutions' Entrepreneur of the Year from Virginia; she was also recognized on a national level by what was then the National Association of Professional Women, receiving the Woman of the Year award in 2011; and

WHEREAS, April Pinch-Keeler continues to identify new ways to improve MVLE's ability to serve its community, ensuring that the organization will remain a powerful force for good in the Washington, D.C., metropolitan area for many years to come; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend April Pinch-Keeler, President and Chief Executive Officer of MVLE, on the occasion of her 30th anniversary with the organization; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to April Pinch-Keeler as an expression of the General Assembly's admiration for her contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 697

Commending Sushmita Mazumdar.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Sushmita Mazumdar, a multidisciplinary artist, writer, and educator in Arlington, has touched countless lives in Northern Virginia through her creativity and commitment to celebrating the rich diversity of the community; and

WHEREAS, Sushmita Mazumdar grew up in Mumbai, India, where she earned a bachelor's degree in applied art, and worked as an art director in the advertising industry for 10 years before moving to the United States in 1999; she began serving as a docent at the Smithsonian's National Museum of Asian Art and helped visitors to the museum better engage with the collection through her personal experiences and expertise; and

WHEREAS, Sushmita Mazumdar began writing and illustrating stories to introduce her four-year-old son to Indian culture and share stories from her childhood; she subsequently founded Handmade Storybooks in 2007 after she received interest in the project from friends, neighbors, and a local nonprofit organization; and

WHEREAS, through Handmade Storybooks, Sushmita Mazumdar has worked with the Smithsonian Institution, Living Legends of Alexandria, Arlington Arts, and local public libraries to help children, families, and seniors create similar works about their own cultures and lived experiences to better preserve their heritage; and

WHEREAS, in 2013, Sushmita Mazumdar also established Studio PAUSE, an art and bookmaking studio located in the Gates of Ballston affordable housing community, where members of the public can learn from and collaborate with local artists; the studio supports personal and cultural wellness by encouraging clients to take the time to discover or enhance their sense of creativity in a positive and supportive atmosphere; and

WHEREAS, in 2020, Sushmita Mazumdar collaborated with AHC Inc., an affordable housing nonprofit organization, to address socio-emotional needs during the COVID-19 pandemic and create *We PAUSED!*, a community book project chronicling the effects of the pandemic on the Gates of Ballston; this book project was later transformed into an art exhibit; and

WHEREAS, among other projects, Sushmita Mazumdar was hired by Arlington Arts to create new artwork for its bus system and led an art workshop for local bus drivers; she was also commissioned by the Virginia Folklife Program to develop an interactive survey activity for the 2022 Richmond Folk Festival; and

WHEREAS, Sushmita Mazumdar is highly admired in the arts community and serves on the board of Arlington Arts and serves as a commissioner for the Virginia Commission for the Arts; and

WHEREAS, a passionate lifelong learner, Sushmita Mazumdar continues to discover more about her Bengali heritage, particularly the study of Bangla script, and is well-poised to continue serving the arts community and the residents of Arlington in the future; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sushmita Mazumdar for her contributions to the arts and cultural life in Arlington; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sushmita Mazumdar as an expression of the General Assembly's admiration for her personal and professional achievements.

HOUSE JOINT RESOLUTION NO. 698

Commending Beth Arthur.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Beth Arthur, a trailblazing leader for women in law enforcement who made history as the first female sheriff in Arlington County, has ably served as a member of the Arlington County Sheriff's Office for more than 36 years; and

WHEREAS, Beth Arthur began her law-enforcement career in 1986, joining the Arlington County Sheriff's Office as a budget and personnel analyst; two years later, she was promoted to director of administration and was responsible for human resources, training, budgeting, and information technology for the department; and

WHEREAS, in July 2000, Beth Arthur was appointed as sheriff of Arlington County by the Arlington Circuit Court, becoming the first female sheriff in the history of Arlington County; she won a special election later that same year and won re-election five times in 2003, 2007, 2011, 2015, and 2019; and

WHEREAS, as sheriff, Beth Arthur has provided outstanding public safety services to the residents of Arlington County, leading a staff of nearly 300 and managing a budget of more than $35 million; and

WHEREAS, among her many duties, Beth Arthur has overseen the security of the local courthouse, transportation of inmates, and the operation of the Arlington County Detention Center; she implemented upgrades to the prison library, launched the Community Readiness Unit to help inmates transition back into society, and worked with community partners on other programs to reduce recidivism; and

WHEREAS, during Beth Arthur's tenure, the Arlington County Sheriff's Office has responded to numerous high-profile incidents, including as first responders to the terrorist attack on the Pentagon on September 11, 2001, and she successfully guided the department through the adoption of new policies and procedures in response to the effects of the COVID-19 pandemic; and

WHEREAS, Beth Arthur has been a recognized leader in the field of law enforcement, and she was the first female board member and the first female president of the Virginia Sheriffs' Association, most recently serving on its board of directors and its legislative committee; and

WHEREAS, Beth Arthur has also served as chair of the Virginia Criminal Justice Services Board and as a member of the National Sheriffs' Association, the American Correctional Association, and the American Jail Association; as of November 2022 she is currently on the Board of Governors and Executive Committee of the American Correctional Association; and

WHEREAS, in 2022, Beth Arthur announced that she would not seek reelection as sheriff and plans to spend more time with her family and pursue other opportunities to serve the members of the Arlington County community and enhance the quality of life in Northern Virginia; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Beth Arthur for her decades of exceptional service as a member of the Arlington County Sheriff's Office; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Beth Arthur as an expression of the General Assembly's admiration for her achievements in service to the residents in Arlington County and the Commonwealth.

HOUSE JOINT RESOLUTION NO. 699

Celebrating the life of Amy Penny Appelbaum.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Amy Penny Appelbaum, a passionate activist and dedicated community leader in Arlington, died on December 20, 2022; and

WHEREAS, Amy Appelbaum grew up in the seaside community of Mattituck, New York, and earned bachelor's and master's degrees from Syracuse University, where she met her future husband, Hank; and

WHEREAS, Amy and Hank Appelbaum married in New Delhi, India, in 1964, and the couple lived in New York City, Uruguay, and Washington, D.C., before settling in Arlington; and

WHEREAS, Amy Appelbaum began volunteering in her children's schools in the 1970s, and she subsequently cofounded the Arlington County Association for Learning Disabled Children, which has since helped the county became a national leader in special education; and

WHEREAS, Amy Appelbaum supported the Democratic Party in Arlington for more than four decades and was honored numerous times by the Arlington County Democratic Committee for her work as an outstanding precinct captain and area chair; she campaigned for local candidates, donated to many worthy causes, and marched for social issues about which she cared deeply; and

WHEREAS, Amy Appelbaum also served the Commonwealth from 1984 to 2004 as a legislative aide to the Honorable James Almand, who represented the residents of Arlington in the Virginia House of Delegates; and

WHEREAS, Amy Appelbaum offered her leadership to the Arlington Board of Equalization for Real Estate Assessments, the Northern Virginia Mental Health Association, Meals on Wheels, and the Leeway Civic Association; in 2004, she was honored as a Person of Vision by the Arlington Commission on the Status of Women; and

WHEREAS, Amy Appelbaum brought joy to others through her kindness, generosity, and grace, and she touched countless lives through her dedication to servant leadership; and

WHEREAS, predeceased by her husband, Hank, Amy Appelbaum will be fondly remembered and greatly missed by her children, Nancy and Sam, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Amy Penny Appelbaum; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Amy Penny Appelbaum as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 700

Celebrating the life of Preston C. Caruthers.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Preston C. Caruthers, a respected community volunteer and generous philanthropist who significantly enhanced the quality of life in Arlington through his driven leadership, died on January 1, 2023; and

WHEREAS, Preston Caruthers was born in Oklahoma and learned the value of hard work and responsibility while growing up during the Great Depression; and

WHEREAS, at the age of 17, Preston Caruthers left high school to join many of the other young men of his generation in service to the nation during World War II and became a medical corpsman with the United States Navy; and

WHEREAS, after his honorable military service, Preston Caruthers settled in Arlington, where he attended The George Washington University through the G.I. Bill and learned homebuilding skills from his older sister Lorraine's husband, George Snell; and

WHEREAS, Preston Caruthers and George Snell ultimately worked together for many years and enjoyed successful careers in building and development; and

WHEREAS, Preston Caruthers volunteered his leadership and expertise to numerous community organizations, including the Arlington County School Board, the Mount Vernon Advisory Committee, and the Arlington Chamber of Commerce; and

WHEREAS, a champion for education, Preston Caruthers also served on the Virginia State Board of Education, the National Advisory Council on Vocational Education, and the Virginia Foundation for Independent Colleges, and he was a signatory to the original charter of George Mason University; and

WHEREAS, throughout his life, Preston Caruthers made generous donations to Marymount University, Shenandoah University, Arlington's Outdoor Lab, the Nature Conservancy, and St. Jude Children's Hospital; his contributions also helped save the Arlington Planetarium and led to the establishment of a Nursing Scholarship at Arlington Hospital; and

WHEREAS, outside of his career and community service, Preston Caruthers was an avid reader and accomplished traveler, who brought joy to others through his sense of humor and zest for life; and

WHEREAS, predeceased by his beloved wife, Jeanne; one daughter, Dana; and his younger sister, Gladys, Preston Caruthers will be fondly remembered and greatly missed by his children, Stephen, John, Lynn, and Lisa, and their families; his sister, Lorraine; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Preston C. Caruthers; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Preston C. Caruthers as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 701

Celebrating the life of William August Wildhack, Jr.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, William August Wildhack, Jr., a highly respected attorney in Arlington, died on January 9, 2023; and

WHEREAS, born in Maryland, William "Bill" August Wildhack, Jr., relocated to Arlington with his family when he was young and graduated from the former Washington-Lee High School; he continued his education at Miami University in Ohio; and

WHEREAS, Bill Wildhack worked as a special agent for the Internal Revenue Service while earning a law degree from The George Washington University Law School; and

WHEREAS, Bill Wildhack subsequently worked for the firm Morris, Pearce, Gardner & Beitel from 1965 to 1969, when he joined the B.F. Saul Company as vice president and corporate counsel; he oversaw the process to list the company on the New York Stock Exchange and helped create the B.F. Saul Real Estate Investment Trust; and

WHEREAS, in the 1990s, Bill Wildhack returned to private practice and worked in elder law and trust and estate law until his retirement; over the course of his career, he was admitted to practice law in Virginia, Maryland, and Washington, D.C., as well as before the Supreme Court of the United States; and

WHEREAS, Bill Wildhack volunteered his leadership and expertise to the Arlington Young Democrats, the Arlington Jaycees, the American Cancer Society, and the Arlington County Tenant-Landlord Commission; and

WHEREAS, as an active member of the Arlington Host Lions Club, Bill Wildhack served as club treasurer, volunteered at an eyeglass recycling center, and helped raise millions of dollars for the Lions Clubs International SightFirst campaign; and

WHEREAS, Bill Wildhack enjoyed fellowship and worship with the community as a longtime member of Little Falls Presbyterian Church, where he helped fund ministry programs through the creation of the Little Falls Presbyterian Church Foundation; and

WHEREAS, predeceased by his wife of 53 years, Martha, William Wildhack will be fondly remembered and greatly missed by his children, Elizabeth and William III, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William August Wildhack, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William August Wildhack, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 702

Commending the Honorable William T. Newman, Jr.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, the Honorable William T. Newman, Jr., a distinguished public servant and community leader in Arlington County, retired as a judge of the 17th Judicial Circuit of Virginia in 2023; and

WHEREAS, a native of Arlington, William Newman holds degrees from Ohio University and the Catholic University of America's Columbus School of Law; he began his legal career as a staff trademark attorney with the U.S. Department of Commerce from 1977 to 1980, then worked for the firm Carpenter, Newman, Martin, Berkowitz, and Garnes for several years, during which time he founded the Northern Virginia Black Attorneys Association; and

WHEREAS, desirous to be of further service to the community, William Newman ran for and was elected to the Arlington County Board in 1987; he was the first African American elected to the board since the reconstruction era and served as chair in 1991; and

WHEREAS, William Newman represented Arlington County in numerous capacities, serving the region as president of the Washington Metropolitan Council of Governments and as founder and president emeritus of the Arlington Community Foundation; and

WHEREAS, inspired by the San Francisco Community Foundation's role in responding to a city in need following the 1989 earthquake, William Newman worked with local business leaders and residents in Arlington to establish a similar foundation; since awarding its first two grants in 1993, the Arlington Community Foundation has continued to grow its assets in order to address community needs now and in the future; and

WHEREAS, in 1993, William Newman was appointed as a judge of the Arlington Circuit Court of the 17th Judicial Circuit of Virginia and presided over the court with great fairness and wisdom for the next three decades; and

WHEREAS, William Newman also volunteered his expertise to the Virginia Criminal Sentencing Commission, the Virginia Judicial Inquiry and Review Commission, and the Commission on Virginia Courts in the 21st Century; and

WHEREAS, among many awards and accolades for his accomplishments, William Newman has received the NAACP Community Service Award, the Urban League Rising Star Award, the William L. Winston Award from the Arlington County Bar Association, and the Harry L. Carrico Outstanding Career Service Award from the Judicial Council of Virginia; and

WHEREAS, outside of his career in public service, William Newman is an accomplished actor and a member of the Actors' Equity Association and Screen Actors Guild – American Federation of Television and Radio Artists; he recently portrayed the esteemed African American playwright August Wilson in a production of *How I Learned What I Learned*; and

WHEREAS, William Newman has served the Commonwealth with the utmost dedication, integrity, and distinction; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Honorable William T. Newman, Jr., on the occasion of his retirement as a judge of the 17th Judicial Circuit of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable William T. Newman, Jr., as an expression of the General Assembly's admiration for his achievements in service to the residents of Northern Virginia.

HOUSE JOINT RESOLUTION NO. 703

Celebrating the life of Bishop Levi Edgar Willis II.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Bishop Levi Edgar Willis II, a preacher, teacher, apostle, servant of God, and trusted community leader in Norfolk, died on January 13, 2023; and

WHEREAS, Levi Willis grew up in Chesapeake and graduated from Crestwood High School in 1971; he attended Washington Bible College in Lanham, Maryland, Virginia Union University, and Norfolk State University, where he majored in political science; and

WHEREAS, Levi Willis received an honorary doctorate of divinity from Norfolk Theological Seminary and College in Norfolk and an honorary doctorate in humanities from Midwest College and Seminary in Gary, Indiana; and

WHEREAS, the Virginia Third Ecclesiastical Jurisdiction of the Church of God in Christ, established in 1967 by the late Bishop L.E. Willis, Sr., has more than 40 churches and missions spread across 14 Virginia, Maryland, and North Carolina districts; Levi Willis began his pastoral ministry in the jurisdiction in 1973 and founded the Good News Family Worship Center in 1989; and

WHEREAS, guided by his faith, Levi Willis provided outstanding leadership and enjoyed worship and fellowship with his fellow members of the Virginia Third Ecclesiastical Jurisdiction for 50 years and was named pastor emeritus of the Garden of Prayer Worship Center; and

WHEREAS, through his dedication to ministry and his unwavering faith, Levi Willis inspired generations of congregants and left a legacy of excellence to his fellow religious leaders in Norfolk; and

WHEREAS, Levi Willis will be fondly remembered and dearly missed by his loving wife of 49 years, Judith Loretta Washington Willis; his children, Jasper M. Willis and his wife LaTonya, Jonathan G. Willis, Sr., and his wife Felicia, and Tiffani J. Willis; his daughter-in-law, Trelanie R. Johnson-Willis; his eight grandchildren, Jaylen, Jordin, Zoe, Niyah, David, Jonathan II, Jami, and Journi; his three sisters, Hortense Ernestine Willis, Christine L. Willis, and Celestine L. Willis-Brown and her husband Clyde; a host of nephews, nieces, and cousins; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Bishop Levi Edgar Willis II; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Bishop Levi Edgar Willis II as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 704

Celebrating the life of the Reverend Monsignor Joseph Patrick Lehman III.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, the Reverend Monsignor Joseph Patrick Lehman III, pastor of Saint Bede Catholic Church and rector of the National Shrine of Our Lady of Walsingham, both in Williamsburg, died on December 13, 2022; and

WHEREAS, known by his parishes as "Father Joe," Joe Lehman grew up attending Saint Mary Star of the Sea School in Hampton, where he first heard the call to the priesthood; and

WHEREAS, Joe Lehman would go on to graduate from the former St. John Vianney Minor Seminary in Richmond in 1972, earn a bachelor's degree from Saint Meinrad Seminary and School of Theology in Indiana in 1976, and complete his formation at the Pontifical North American College in Rome in 1980; and

WHEREAS, Joe Lehman was ordained a priest for the Catholic Diocese of Richmond on August 16, 1980, devoting the next 42 years to providing spiritual leadership and counsel to communities throughout the Commonwealth; and

WHEREAS, Joe Lehman was actively involved in both the Virginia Lutheran-Anglican-Roman Catholic-United Methodist Committee, which he served as ecumenical and interreligious officer, and the Virginia Council of Churches; in recognition of his interfaith work, he received the pontifical honor of being named a monsignor from Pope John Paul II in 2002; and

WHEREAS, Joe Lehman became both pastor of Saint Bede Catholic Church and rector of the National Shrine of Our Lady of Walsingham in 2019, where he took great joy in supporting the faith of his parishioners; and

WHEREAS, Joe Lehman previously served as pastor of Holy Cross Catholic Church in Lynchburg from 1980 to 1984, Holy Name of Mary Catholic Church in Bedford and Resurrection Catholic Church in Moneta from 1984 to 1988, Christ the King Catholic Church in Norfolk from 1988 to 1997, and Our Lady of Nazareth Catholic Church in Roanoke from 1997 to 2019; and

WHEREAS, Joe Lehman additionally served as associate director of St. Francis of Assisi Catholic Church in Rocky Mount and as pastor of Resurrection Catholic Church in Moneta from 2005 to 2009 and as administrator of Our Lady of Perpetual Help Catholic Church in Salem in 2016; and

WHEREAS, preceded in death by his father, Joseph, Jr., Joe Lehman will be fondly remembered and dearly missed by his mother, Beverly; his siblings, Ann, Chris, Teresa, John, and Tim, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Monsignor Joseph Patrick Lehman III, a cherished faith leader of the Catholic Diocese of Richmond, whose service in communities throughout the Commonwealth benefited countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Monsignor Joseph Patrick Lehman III as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 705

Commending Dr. Pamela R. Fox.

Agreed to by the House of Delegates, February 16, 2023
Agreed to by the Senate, February 21, 2023

WHEREAS, Dr. Pamela R. Fox will retire as president of Mary Baldwin University in 2023 after two decades of transformational student-focused leadership, the longest presidential tenure since the school became a four-year college in 1923; and

WHEREAS, a trained pianist, Pamela Fox holds a doctorate in musicology from the University of Cincinnati's College Conservatory of Music and previously taught music at Miami University in Ohio, where she also served as dean of the institution's art school and as an assistant vice president for strategic planning; and

WHEREAS, Pamela Fox was selected as the ninth president of what was then Mary Baldwin College in April 2003 and began her distinguished tenure on July 1 of that year; she promptly developed a 10-year strategic plan, Composing Our Future, which was unanimously endorsed by the Board of Trustees in 2004; and

WHEREAS, Pamela Fox directed significant campus improvement projects through the Transforming Our Environment initiative and built a strong sense of community at Mary Baldwin College, reinvigorating campus traditions like Apple Day and the Capstone Festival; and

WHEREAS, during her tenure as president, Pamela Fox oversaw the creation of more than 30 degrees and programs, including bachelor of health sciences, master of business administration program, and doctor of nursing practice program, as well as the nationally accredited bachelor of social work program, which is now one of the institution's most popular undergraduate majors, and the bachelor of autism studies and applied behavior analysis, which was the first program of its kind in the Commonwealth; and

WHEREAS, Pamela Fox developed new opportunities for students by guiding the creation of the Murphy Deming College of Health Sciences and the Palmer College of Professional Studies and working with the Heifetz International Music Institute to create a summer residency program for exceptional violin, viola, and cello students; and

WHEREAS, in 2014, Pamela Fox crafted a new strategic plan, Mary Baldwin 2020, which included months of collaborative input from the school community; two years later, she celebrated Mary Baldwin College's 175th anniversary and announced that the institution would be renamed as Mary Baldwin University to better reflect its evolving mission and advanced academic offerings; and

WHEREAS, under Pamela Fox's leadership, Mary Baldwin University welcomed its first class of residential undergraduate men in the fall of 2017; the following year, the university launched a men's soccer program as the first men's athletics team in Mary Baldwin history, and has since expanded men's athletics to include track and field, cross country, baseball, basketball, and tennis; and

WHEREAS, Pamela Fox has worked to enhance diversity and equity on campus, guiding the adoption of an inclusivity pledge and creating the Coalition for Racial and Social Justice to elevate and coordinate such efforts; and

WHEREAS, thanks to Pamela Fox's visionary strategies, Mary Baldwin achieved record growth in enrollment and enrolled the largest incoming class in university history in 2019; and

WHEREAS, during the COVID-19 pandemic, Pamela Fox and university leadership worked diligently to help students return to in-person instruction in a safe and timely manner; the university was one of the first in the Commonwealth to require COVID-19 vaccinations and achieved a 94 percent vaccination rate on campus; and

WHEREAS, Pamela Fox has also offered her leadership to the board of directors of the National Association of Independent Colleges and Universities and the American Council on Education; she has served as past chair of the Council of Independent Colleges in Virginia and the Virginia Foundation of Independent Colleges, trustee of the Frontier Culture Museum and the American Shakespeare Center, and as a member of Rotary International; and

WHEREAS, Dan Layman, Pamela Fox's husband and current president and chief executive officer of the Community Foundation of the Central Blue Ridge, has made invaluable contributions to both Mary Baldwin University and the entire region through his devoted civic leadership, community support, and wide-ranging leadership; and

WHEREAS, among many awards and accolades, Pamela Fox was selected as the Greater Augusta Regional Chamber of Commerce 2011 Citizen of the Year and the Teaching and Instructional Wing at the Murphy Deming College of Health Sciences was named in her honor; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Dr. Pamela R. Fox on the occasion of her retirement as president of Mary Baldwin University; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Pamela R. Fox as an expression of the General Assembly's admiration for her achievements in service to students and contributions to the field of higher education.

HOUSE JOINT RESOLUTION NO. 706

Commending An Achievable Dream, Inc.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, An Achievable Dream, Inc., in Newport News marked its 30th anniversary in 2022; and

WHEREAS, An Achievable Dream, Inc., was founded in 1992 when Newport News businessman Walter Segaloff assembled a coalition of corporate leaders, educators, city officials, and military partners to launch a summer education and tennis program for third graders facing a variety of social-risk factors; the program soon expanded to a nearby elementary school, which then became An Achievable Dream Academy; and

WHEREAS, An Achievable Dream, Inc., a public/private partnership beginning with Newport News Public Schools, pioneered a model of social and moral focus coupled with a unique education curriculum, proving that all children can learn and succeed; and

WHEREAS, while the program began as a summer and after-school tennis and tutoring program, An Achievable Dream, Inc., soon grew to a full K-12 program and now operates six schools in partnership with Newport News Public Schools, Virginia Beach City Public Schools, and Henrico County Schools, serving over 2,000 students to co-operate fully integrated An Achievable Dream, Inc., schools; and

WHEREAS, An Achievable Dream, Inc., partners with colleges and universities on research, and to provide An Achievable Dream graduates with financial and academic support, as well as maintains partnerships with military, law

enforcement, and first responders to provide positive role models for students, and foster the development of positive relationships and interactions between students and those in uniform; and

WHEREAS, An Achievable Dream, Inc., generates revenue to support annual operating costs through annual donations from individuals, corporations, and foundations; state and city funding; events; and funding through endowments; and

WHEREAS, the continued work of all those involved with An Achievable Dream, Inc., is a testament to their dedication to bring equity to education by providing opportunities for success in school and life; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend An Achievable Dream, Inc., for its more than 30 years of service to the Southeast Community of the City of Newport News and more recently Virginia Beach and Henrico County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to An Achievable Dream, Inc., as an expression of the General Assembly's admiration for its many years of service to the communities with which it works and the success it has had in educating students who might otherwise have not succeeded.

HOUSE JOINT RESOLUTION NO. 707

Celebrating the life of the Honorable Charles L. Waddell.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, the Honorable Charles L. Waddell, a distinguished public servant who represented the residents of the 33rd District in the Senate of Virginia for nearly three decades and transformed the transportation sector in the Commonwealth, died on July 19, 2022; and

WHEREAS, Charles "Charlie" L. Waddell was born in Georgia and grew up on his family's cotton farm; he developed an interest in government at a young age, after his father began taking him to watch trials and public meetings at the county seat; and

WHEREAS, after graduating high school, Charlie Waddell relocated to Northern Virginia, where he began a long and successful career with American Airlines, and over the next 38 years, he handled crew scheduling and worked as a ramp agent and a customer service assistant; in 1960, he also managed air travel logistics for Richard Nixon's first presidential campaign; and

WHEREAS, that same year, Charlie Waddell settled in eastern Loudoun County with his first wife, the late Marie Waddell; he pursued a career in politics as a member of the Loudoun Democratic Committee and ultimately became chair of the organization; and

WHEREAS, in 1967, Charlie Waddell was elected to the Loudoun County Board of Supervisors, defeating a longtime incumbent in the primary, and proudly kept his campaign promise to help provide free textbooks to children in local public schools; and

WHEREAS, desirous to be of further service to the Commonwealth, Charlie Waddell ran for and was elected to the Senate of Virginia in 1971 and represented the residents of Loudoun County and part of western Fairfax County in the 33rd District until 1998; and

WHEREAS, during his tenure as a state lawmaker, Charlie Waddell introduced and supported many important pieces of legislation to benefit all Virginians, including bills to enhance access to buildings for people with disabilities, create a land-use tax to preserve land in agriculture, require sprinklers in high-rise buildings, and establish a presumption that heart and lung ailments suffered by public safety officials resulted from their service; and

WHEREAS, as chair of the Senate Transportation Committee, Charlie Waddell played a major role in roadway improvements in Northern Virginia and enhancements to the transportation sector throughout the Commonwealth; he led efforts to widen Route 28, authorized construction of the Dulles Greenway and raised its speed limit to 65 miles per hour, required auto repair facilities to offer written estimates, and legalized right turns on red in the Commonwealth; and

WHEREAS, Charlie Waddell helped obtain funding for the Sterling campus of Northern Virginia Community College and the preservation of George C. Marshall's home in Leesburg, and he guided decisions to locate the National Guard Armory and the Marion DuPont Scott Equine Medical Center in Loudoun County; and

WHEREAS, in 1998, Charlie Waddell was appointed as deputy secretary of transportation under Governor James S. Gilmore III; that same year, he married his second wife, Jane Rankin Herring, whose son, the Honorable Mark Herring, later followed in Charlie Waddell's footsteps as the senator for the 33rd District from 2006 to 2014; and

WHEREAS, Charlie Waddell subsequently served two years on the Virginia Parole Board before his well-earned retirement from public life; and

WHEREAS, known to many as the singing senator, Charlie Waddell often delighted audiences at campaign events or other public appearances by singing country and bluegrass songs, particularly "Wabash Cannonball," into which he frequently ad-libbed lyrics to fit the occasion; and

WHEREAS, predeceased by his second wife, Jane, Charlie Waddell will be fondly remembered and greatly missed by his children, Jeffrey, Gregory, and Scott, and their families; his stepchildren, Susan and Mark, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Charles L. Waddell, a dedicated public servant who made numerous contributions to Northern Virginia and the Commonwealth as a whole; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Charles L. Waddell as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 708

Commending Discovery Elementary School.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Discovery Elementary School in Ashburn, a Loudoun County Public Schools institution that has provided a world-class education to hundreds of students and families, celebrated its 10th anniversary in 2022; and

WHEREAS, Discovery Elementary School opened in 2012 and has since that time offered a supportive learning environment to its students, ensuring their academic, social, and emotional well-being; and

WHEREAS, Discovery Elementary School currently serves a diverse student body of approximately 715 students, including many economically disadvantaged students, English language learners, and students receiving a special education curriculum; and

WHEREAS, Discovery Elementary School has been recognized by Loudoun County Public Schools Special Education Advisory Committee for its commitment to excellence and for its efforts to promote inclusivity at the school; and

WHEREAS, through endeavors such as Marvin's Club, an after-school social skills program, and Celebrating Differences Day, Discovery Elementary School has fostered a culture of inclusion at the school, encouraging adaptability, creativity, disability awareness, acceptance, and peer-to-peer interactions among its students; and

WHEREAS, Discovery Elementary School has participated in the Department of Education's Excellence in Co-Teaching Initiative for the past four years, with teachers opening their classroom doors for demonstrations and developing lesson plans and videos to benefit those wishing to learn more about quality and effective co-teaching practices and strategies; and

WHEREAS, students from Discovery Elementary School competed at the Odyssey of the Mind World Finals after placing first and second at the state competition in 2018 and 2022, respectively, a testament to the academic rigor of the school and the abilities of its educators; and

WHEREAS, Discovery Elementary School has performed exceedingly well over the years, becoming an accredited elementary school with all level-one school quality indicators in both reading and math; and

WHEREAS, the accomplishments of Discovery Elementary School are the results of the hard work and dedication of the school's faculty and staff and the unwavering support of the entire Discovery Elementary School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Discovery Elementary School on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Christopher Painter, principal of Discovery Elementary School, as an expression of the General Assembly's congratulations and best wishes for the school's continued success.

HOUSE JOINT RESOLUTION NO. 709

Commending Brian Hricik.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Brian Hricik, deputy chief of emergency medical services with the Alexandria Fire Department, who has served his community admirably for many years, retired on February 1, 2023; and

WHEREAS, Brian Hricik began his emergency medical services (EMS) career as a volunteer in Prince William County and was later hired by the Alexandria Fire Department on April 8, 1997; and

WHEREAS, over two and half decades, Brian Hricik proved himself an outstanding EMS leader, clinician, and educator, as well as a fierce advocate for developing and maintaining a high-performing EMS system; and

WHEREAS, Brian Hricik demonstrated a strong knowledge of EMS protocols and an extraordinary ability to care for his patients, doing so with professionalism, compassion, and empathy; and

WHEREAS, during his tenure with the Alexandria Fire Department, Brian Hricik served as an instructor for continuing education classes and other activities, contributing greatly to the success of the department's next generation of EMS technicians; and

WHEREAS, always seeking to improve, Brian Hricik was actively involved with the quality assurance and quality improvement (QA/QI) committee in his department; as a result of his dedication, he was promoted to field supervisor in 2002; and

WHEREAS, as an EMS field supervisor, Brian Hricik was engaged in being shift manager and had the daily operations of six units under his command, requiring regular coordination with other divisions within the fire department, city agencies, area hospitals, and other allied health professionals; and

WHEREAS, as a field supervisor, Brian Hricik was assigned to the Alexandria Fire Department's training academy, where he coordinated continuing education unit classes and recruit academies; and

WHEREAS, in 2007, Brian Hricik became the EMS operations manager, a role he quickly grew into as the overall leader for the department's EMS division; during his tenure, he would implement many processes to ensure a fair and consistent QA/QI process, constantly following the science and data to ensure that the providers on the streets had the necessary tools to perform at the highest level and to ensure that the latest protocols were followed; and

WHEREAS, Brian Hricik worked with city partners on various endeavors, including to foster an initiative where all advanced life support providers were trained in the Crisis Intervention Team program, to collect and evaluate data, to develop strategies to combat the opioid crisis, and to implement the Alexandria Fire Department's simulation lab, where providers could be challenged to address real-life scenarios; and

WHEREAS, Brian Hricik was not only actively engaged in running Alexandria's EMS system, but also supported EMS at the regional and state levels through participation in the Metropolitan Washington Council of Governments' EMS Subcommittee and as a member of the Northern Virginia EMS Council, which he joined in 2007 and previously served as president; and

WHEREAS, in 2010, Brian Hricik received a gubernatorial appointment to serve on the State EMS Advisory Board, which he served until 2013, including as a member of the board's Provider Health and Safety Committee; and

WHEREAS, Brian Hricik most recently served as president of the Virginia Association of Governmental EMS Administrators, completing his term in November 2022; and

WHEREAS, Brian Hricik's unwavering commitment to providing the highest level of patient care and to forging the best EMS that can be had for the Alexandria Fire Department, the Northern Virginia Region, and the Commonwealth is exemplified in all aspects of his work as a system leader; and

WHEREAS, Brian Hricik's primary goal is to continue moving the EMS community forward while advocating for its providers; in recognition of his efforts, the Northern Virginia EMS Council presented him its regional award for Outstanding EMS Leadership in 2022; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Brian Hricik, deputy chief of emergency medical services with the Alexandria Fire Department, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brian Hricik as an expression of the General Assembly's appreciation for his exemplary service and best wishes in his future endeavors.

HOUSE JOINT RESOLUTION NO. 710

Celebrating the life of Evangeline Carroll Brooks.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Evangeline Carroll Brooks, an esteemed educator and an active and beloved member of the Richmond community, died on November 8, 2022; and

WHEREAS, Evangeline Brooks graduated from Maggie L. Walker High School in Richmond before earning a degree from Virginia Union University; and

WHEREAS, Evangeline Brooks was a second grade educator at A.M. Davis Elementary School in Chesterfield County for many years, where she contributed greatly to her students' success both in and out of the classroom; and

WHEREAS, Evangeline Brooks gave generously of her time to the Greater Richmond community through her involvement with various groups, including the Deacons' Conference of Richmond and Vicinity; and

WHEREAS, Evangeline Brooks was a humble servant leader in her community whose mentorship and support was valued by many; and

WHEREAS, guided throughout her life by her faith, Evangeline Brooks was a dedicated member of First Baptist Church of South Richmond for 25 years, where she served as a deacon, Sunday school teacher, and member of the choir; and

WHEREAS, preceded in death by her loving husband of 47 years, Howard, Evangeline Brooks will be fondly remembered and dearly missed by her son, Howvard, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Evangeline Carroll Brooks, a cherished member of the Richmond community whose kind and generous spirit brightened countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Evangeline Carroll Brooks as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 711

Celebrating the life of Michael Gene Rhodes.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Michael Gene Rhodes, a respected entrepreneur, community leader, and youth athletics coach in Vienna, died on December 25, 2022; and

WHEREAS, a lifelong resident of Vienna, Michael Rhodes developed a passion for sports at a young age and played baseball, football, and lacrosse for Vienna Youth Incorporated (VYI) and Madison High School; and

WHEREAS, Michael Rhodes served the community as a business owner, but his true passion was mentoring young people as a coach on many of the same fields where he played as a youth; and

WHEREAS, over the course of more than 30 years, Michael Rhodes coached football, lacrosse, and softball teams, primarily at VYI's Waters Field and Madison High School, and helped generations of young men and women achieve their fullest potential; and

WHEREAS, Michael Rhodes was a dedicated leader who spent countless hours strategizing with his fellow coaches, and he brought joy to others through his sharp wit and sense of humor; and

WHEREAS, Michael Rhodes will be fondly remembered and greatly missed by his wife, Michelle; his sons, Jacob and Joshua; his parents, Brenda and Charles; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Michael Gene Rhodes, a highly admired resident of Vienna who made many contributions to young people in the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Michael Gene Rhodes as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 712

Commending Landon Jones.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Landon Jones, a student at Nansemond River High School in Suffolk, won two titles at the World Kickboxing Association world championships in the United Kingdom in 2022; and

WHEREAS, Landon Jones secured first place finishes in two different weight divisions at the World Kickboxing Association (WKA) world championships, demonstrating extraordinary strength, ability, and prowess as a fighter; and

WHEREAS, Landon Jones recently claimed a bronze medal at the World Boxing Council's Muay Thai world games in Canada, and he is currently the International Kickboxing Federation's East Coast champion for his weight class, posting an impressive record of nine wins, two losses, and one draw; and

WHEREAS, Landon Jones has pursued his interest in Muay Thai and kickboxing for several years and has kept a disciplined and rigorous schedule in high school to both prepare for international competition and maintain straight As in all of his classes; and

WHEREAS, Landon Jones currently trains at The House of Muay Thai in Norfolk with trainer Jake Chamberlain and is a member of the United States teams for the World Association of Kickboxing Organizations and the WKA; and

WHEREAS, along with Muay Thai and kickboxing, Landon Jones trains in Brazilian Jui Jitsu, developing an arsenal of moves and techniques to keep him a step ahead of his competition; and

WHEREAS, Landon Jones serves as a trainer for children ages 11 to 15 at Coastal Brazilian Jui Jitsu in Virginia Beach, helping countless others find the courage and confidence they need to succeed; and

WHEREAS, Landon Jones' achievements on the world stage are the result of his hard work and dedication, the guidance and encouragement of his coaches, and the unwavering support of his family, teammates, and the entire Suffolk community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Landon Jones for winning two titles at the 2022 World Kickboxing Association world championships; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Landon Jones as an expression of the General Assembly's admiration for his accomplishments and best wishes in his future endeavors.

HOUSE JOINT RESOLUTION NO. 713

Commending the Nansemond-Suffolk Academy softball team.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, the Nansemond-Suffolk Academy softball team won the Virginia Independent Schools Athletic Association Division II state championship on May 20, 2022, at the Dinwiddie Sports Complex; and

WHEREAS, the Nansemond-Suffolk Academy Saints narrowly defeated the Isle of Wight Academy Chargers by a score of 1-0 to bring home the program's third consecutive state title; and

WHEREAS, the game was tied going into the bottom of the sixth inning, when a double by senior Madison Inscoe set up freshman Marin McGowan to drive in the sole run of the contest; and

WHEREAS, the Nansemond-Suffolk Saints' victory was a total team effort led by Madison Inscoe's strong performance on the mound, as the North Carolina State University commit struck out 10 batters and allowed only three hits on her way to a complete game shutout; and

WHEREAS, the Nansemond-Suffolk Saints concluded their season with an impressive 24-2 record, a testament to the reign of dominance the team has enjoyed over the past few years; and

WHEREAS, the success of the Nansemond-Suffolk Saints is the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of the entire Nansemond-Suffolk Academy community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Nansemond-Suffolk Academy softball team for winning the 2022 Virginia Independent Schools Athletic Association Division II state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Nansemond-Suffolk Academy softball team as an expression of the General Assembly's admiration for the team's achievement.

HOUSE JOINT RESOLUTION NO. 714

Celebrating the life of Margaret J. Smith.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Margaret J. Smith, beloved wife, mother, grandmother, great-grandmother, and member of the Petersburg and Suffolk communities, died on August 31, 2022; and

WHEREAS, after a distinguished career, Margaret Smith retired from the former Louise Obici School of Nursing in Suffolk, where she had worked tirelessly for the benefit of the school's students; and

WHEREAS, Margaret Smith raised her children with great tenderness and affection and loved to spend time with her grandchildren and great-grandchildren in her later years; and

WHEREAS, Margaret Smith contributed to the vitality of her community through her involvement with garden clubs in Petersburg and Colonial Heights and as a founding member of the Suffolk Pilot Club; and

WHEREAS, a woman of deep faith, Margaret Smith enjoyed worship and fellowship with her community at Second Presbyterian Church in Petersburg for many years; and

WHEREAS, preceded in death by her loving husband, Ralph, Sr., Margaret Smith will be fondly remembered and dearly missed by her children, Barbara and Ralph, Jr., and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Margaret J. Smith, a cherished member of the Petersburg and Suffolk communities whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Margaret J. Smith as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 715

Commending Will Daniel.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Will Daniel, a Special Olympics athlete and sports super fan who has become known as the "Mayor of Richmond Sports" for his passionate support of local teams, was selected as the 2023 Fan of the Year at the RVA Sports Awards; and

WHEREAS, the RVA Sports Awards, established by the Richmond Region Tourism Foundation and presented by Rosie's Gaming Emporium and Colonial Downs Racetrack, recognizes athletes and local leaders like Will Daniel who have enhanced community life through sports; and

WHEREAS, born with Down syndrome, Will Daniel has competed in the Special Olympics as a powerlifter and a member of basketball and soccer teams; he is also a member of the Special Olympics Global Messenger program and has spoken publicly about the mission of the Special Olympics and the importance of accepting others as they are; and

WHEREAS, Will Daniel has become a fixture at Richmond Kickers soccer games and has traveled the country and the world to support the United States men's national soccer team; he has developed many friendships with players and coaches in USL League One and Major League Soccer; and

WHEREAS, Will Daniel is also an avid supporter of several local high school teams and the University of Richmond men's basketball team; he previously served as an unofficial manager of the University of Richmond women's basketball team, attending most practices and games to help with equipment and offer insightful advice to coaches and staff; and

WHEREAS, in addition to his contributions to the world of sports, Will Daniel has offered his expertise to the Virginia Board for People with Disabilities and works with medical and dental students at Virginia Commonwealth University; and

WHEREAS, through his accomplishments as an athlete, a fan, and a servant-leader, Will Daniel has set an excellent example for people in the community and inspired others with his positivity, enthusiasm, loyalty, sportsmanship, and spirit; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Will Daniel, an inspirational athlete and the "Mayor of Richmond Sports" on the occasion of his selection as the 2023 Fan of the Year at the RVA Sports Awards; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Will Daniel as an expression of the General Assembly's admiration for his exceptional contributions to the Richmond sports community.

HOUSE JOINT RESOLUTION NO. 716

Commending Darden's Country Store.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Darden's Country Store, a beloved purveyor of salt-cured Smithfield-style country ham located along Bowling Green Road in Isle of Wight County, celebrated its 70th anniversary in 2022; and

WHEREAS, established in 1952 by Seward and Vivian Darden, Darden's Country Store had been owned and operated since 1982 by their son Tommy, who passed away in 2022, and his wife, DeeDee; and

WHEREAS, though some of the merchandise at Darden's Country Store changed over the years, Tommy and DeeDee Darden preserved many family traditions to maintain what is one of the last home-based, commercial ham-curing operations in the Commonwealth; and

WHEREAS, Tommy and DeeDee Darden managed Darden's Country Store along with a farm spanning several hundred acres, where they have grown peanuts, corn, cotton, soybeans, wheat, and pumpkins and raised a variety of livestock; and

WHEREAS, at the heart of the Darden's Country Store operation is the smokehouse built by Seward Darden in the 1950s, where upwards of 1,000 finely cured and smoked hams are produced each year; and

WHEREAS, patrons have been returning to Darden's Country Store time and again over generations for the array of high-quality ham products the store has to offer, including its world-class ham biscuit; and

WHEREAS, Darden's Country Store has drawn the attention and praise of both local and national media, appearing in *Southern Living*, *Virginia Living*, *Hampton Roads Magazine*, and *The New York Times* and on an episode of The Food Network's "Tyler's Ultimate"; and

WHEREAS, Darden's Country Store and its famed ham products represent an important aspect of the history and culture of the Commonwealth and are a reminder of why Virginia is a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Darden's Country Store on the occasion of its 70th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Darden's Country Store as an expression of the General Assembly's admiration for the store's history of contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 717

Celebrating the life of Scott Blackford Meacham.

Agreed to by the House of Delegates, February 22, 2023
Agreed to by the Senate, February 24, 2023

WHEREAS, Scott Blackford Meacham, a senior attorney with the Division of Legislative Services and a beloved husband, father, son, brother, and friend, died on January 10, 2023; and

WHEREAS, Scott Meacham grew up in Anchorage, Alaska, where he attended Robert Service High School; he was a longtime trumpet player in various school bands and competed in the Junior Nordic cross-country skiing program for many years; and

WHEREAS, Scott Meacham was an avid outdoorsman from a young age and made many happy memories hiking and backpacking in Chugach State Park or simply enjoying a good book in the sun on the ridge overlooking Long Lake; and

WHEREAS, Scott Meacham continued his education at Dartmouth College in New Hampshire and graduated cum laude with a bachelor's degree in English; and

WHEREAS, guided by his lifelong appreciation for architecture, from the mystique of ancient ruins to the intricacies of modern urbanism, Scott Meacham earned a master's degree, as well as a certificate in historic preservation and the Frederick Doveton Nichols Award for outstanding academic achievement, from the University of Virginia School of Architecture; and

WHEREAS, after graduate school, Scott Meacham worked for historic preservation firms to research and nominate sites for the National Register of Historic Places, then pursued a law degree from the University of Virginia School of Law; and

WHEREAS, Scott Meacham began his legal career in 2004 as an analyst with LexisNexis, where he edited the first print edition of the Louisiana Revised Statutes produced by the organization; he subsequently worked for the National Legal Research Group, Inc., in Charlottesville, writing litigation memoranda and appellate briefs and completing specialized projects in the areas of insurance, torts, and real property; and

WHEREAS, Scott Meacham joined the Division of Legislative Services on October 10, 2011, and faithfully served the members of the General Assembly for more than a decade; and

WHEREAS, admired for his legal acumen and intellectual curiosity, Scott Meacham contributed to the research, preparation, and revision of hundreds of pieces of complex legislation related to agriculture and natural resources during regular and special sessions of the General Assembly and, notably, led the Virginia Code Commission's revision of Title 45.1 (Mines and Mining) of the Code of Virginia in 2021; and

WHEREAS, in the course of his duties, Scott Meacham staffed the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources; and

WHEREAS, since 2018, Scott Meacham also served on the executive committee of the Virginia Code Commission, with responsibility for communicating legal decisions of the Commission to the publishers of the Code of Virginia in the process of codifying the acts of assembly at the end of each legislative session; and

WHEREAS, Scott Meacham, a trusted friend and a vital source of institutional knowledge in state government, earned the admiration of public officials and colleagues alike for the breadth of his expertise, his wit and sense of humor, and his calm demeanor; and

WHEREAS, through his personal integrity, commitment to public service, and professional insights, Scott Meacham helped ensure the good and efficient functioning of state government and enabled the General Assembly to better serve the residents of the Commonwealth; and

WHEREAS, outside of his legal career, Scott Meacham published a definitive work on the architectural history of his alma mater, *Dartmouth College: The Campus Guide*, a comprehensive tour of the institution's picturesque campus and the surrounding neighborhoods; and

WHEREAS, Scott Meacham enjoyed returning to Alaska as often as possible and especially loved watching his daughter discover the majesty of his home state; and

WHEREAS, Scott Meacham will be fondly remembered and greatly missed by his beloved wife of more than 22 years, Sarah; their daughter, Camden; his parents, Tom and Jane; his brother, Brian, and his family; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Scott Blackford Meacham; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Scott Blackford Meacham as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 718

Commending Claire Guthrie Gasta-aga.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Claire Guthrie Gasta-aga, an esteemed advocate for civil rights and liberties and the executive director of the American Civil Liberties Union of Virginia, retired in 2021 after nearly nine years in the role and decades of service to the Commonwealth; and

WHEREAS, Claire Gasta-aga came to the American Civil Liberties Union (ACLU) of Virginia with a tenacious firebrand personality that is well-known at the General Assembly and a relentless energy for pursuing a fairer, more just, and more equitable Commonwealth that she has brought to every role, conversation, or debate; and

WHEREAS, under Claire Gasta-aga's leadership, the ACLU of Virginia expanded from a staff of six to a staff of more than 20 while its membership tripled, growing from 8,500 to more than 28,000 members; and

WHEREAS, the ACLU of Virginia's accomplishments during Claire Gasta-aga's tenure included successful litigation for LGBTQIA rights, passage of laws protecting individuals' privacy, and the publication of various reports examining the criminal justice system; and

WHEREAS, over her illustrious career, Claire Gasta-aga has been a tireless and visionary advocate, consistently urging organizations and people in power to fight for bold policy changes and to use their platforms to better their communities; and

WHEREAS, Claire Gasta-aga's influence can be seen in many meaningful social movements over her decades of service, from the pursuit of marriage equality to the fight for a fundamental right to vote for all Virginians, and she has been honored by many organizations for her dedication to LGBTQIA rights and for her commitment to racial justice; and

WHEREAS, Claire Gasta-aga has added immeasurable value and an untold number of accomplishments to the organizations she has supported, including Equality Virginia, the Virginia Coalition of Latino Organizations, and the Virginia Sexual and Domestic Violence Action Alliance; and

WHEREAS, throughout her professional life, Claire Gasta-aga has been a trailblazer and an inspiration to women across the Commonwealth, holding roles previously only occupied by men and always using her position to bring greater awareness and dignity to the disparities that cut our communities across lines of race and gender; and

WHEREAS, Claire Gasta-aga previously served as the chief of staff and special counsel to the Speaker of the House of Delegates and was the first female Chief Deputy Attorney General of the Commonwealth; and

WHEREAS, generations of state officials have benefited from Claire Gasta-aga's incomparable assistance and wise counsel, and her forceful advocacy has had a profound and positive impact on many lives throughout the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Claire Guthrie Gasta-aga, a true embodiment of what it means to commit one's life to serving the community and being an agent of change, on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Claire Guthrie Gasta-aga as an expression of the General Assembly's admiration and gratitude for her contributions to the Commonwealth and best wishes for a long and fulfilling retirement.

HOUSE JOINT RESOLUTION NO. 719

Celebrating the life of Lieutenant Colonel Justin Constantine, USMC, Ret.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Lieutenant Colonel Justin Constantine, USMC, Ret., a determined advocate for his fellow veterans who touched countless lives through his generosity, compassion, and inspirational resilience, died on May 5, 2022; and

WHEREAS, a graduate of James Madison University, Justin Constantine was commissioned as an officer in the United States Marine Corps after completing law school at the University of Denver; he served on active duty for six years, then transitioned to the United States Marine Corps Reserve; and

WHEREAS, Justin Constantine volunteered as a reservist for deployment to Iraq in 2006 and was wounded in action when he was shot through the side of the head by a sniper while on patrol in Iraq; the catastrophic injury required an emergency battlefield surgery, followed by months of reconstructive surgeries and recovery, and he accepted a medical retirement from the military in 2013; and

WHEREAS, Justin Constantine subsequently joined the U.S. Department of Justice and continued to serve his fellow veterans as counsel to the United States Senate Committee on Veterans' Affairs; he later joined the national security law branch of the Federal Bureau of Investigation, where he became assistant general counsel; and

WHEREAS, Justin Constantine cofounded a nonprofit organization that supports military spouse and veterans employment initiatives and authored the book *My Battlefield, Your Office; Leadership Lessons From the Front Lines* about applying military leadership skills to the private sector; and

WHEREAS, a sought-after motivational speaker, Justin Constantine's courage, strength, and unfailing optimism empowered others to overcome challenges both in their everyday lives and in extraordinary situations; he continued to inspire those around him even after his diagnosis with stage 4 cancer in 2020; and

WHEREAS, among many awards and accolades, Justin Constantine was selected as a Presidential Leadership Scholar and as a Champion of Change for Veterans by former President Barack H. Obama II; he was also featured in former President George W. Bush's book *Portraits of Courage: A Commander in Chief's Tribute to America's Warriors*; and

WHEREAS, Justin Constantine will be fondly remembered and greatly missed by his wife, Dahlia, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Lieutenant Colonel Justin Constantine, USMC, Ret.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Lieutenant Colonel Justin Constantine, USMC, Ret., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 720

Commending Charles Monroe.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Charles Monroe, a lifelong member of the Caroline County community and a longtime and dedicated staff member of the Fredericksburg Regional Food Bank, recently retired after serving countless families and individuals in need over many years; and

WHEREAS, in the first half of his career, Charles Monroe worked for a telephone company in Washington, D.C.; in 1999, he became a driver with the Fredericksburg Regional Food Bank, facilitating the mobile pantries that the organization operates throughout the Greater Fredericksburg region; and

WHEREAS, as the Fredericksburg Regional Food Bank increased its reach and the number of mobile pantries it runs, Charles Monroe remained indefatigable in his efforts to advance the organization's mission, often supporting multiple mobile pantries in one day; and

WHEREAS, Charles Monroe consistently provided valuable leadership to ensure that the Fredericksburg Regional Food Bank's mobile pantries were conducted in an organized and efficient manner; and

WHEREAS, Charles Monroe's good humor and friendly nature always brought a degree of levity and joy to the serious undertaking of the Fredericksburg Regional Food Bank, endearing him to fellow staff and volunteers and to the community he served; and

WHEREAS, in retirement, Charles Monroe plans to fish often and to complete longstanding house projects, but also to volunteer at the Fredericksburg Regional Food Bank whenever he can, a reflection of his deep and everlasting commitment to the well-being of others; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Charles Monroe, esteemed member of the Fredericksburg Regional Food Bank, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Charles Monroe as an expression of the General Assembly's admiration for his contributions to the Commonwealth and best wishes for a happy and fulfilling retirement.

HOUSE JOINT RESOLUTION NO. 721

Celebrating the life of Richard Hilton Collins.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Richard Hilton Collins, a longtime resident and leader of the business community in Harrisonburg and a beloved husband, father, grandfather, great-grandfather, and friend, died on August 10, 2021; and

WHEREAS, born at home in Churchville on December 4, 1934, Richard "Dick" Hilton Collins was the youngest of five children and graduated from the former Churchville High School in 1952, where he was a basketball and baseball standout; and

WHEREAS, after a year of post-graduate studies at Staunton Military Academy, Dick Collins began his career at Kroger Grocery Stores and with Southern Electric in Staunton; and

WHEREAS, in 1965, Dick Collins moved his family to Harrisonburg and established Electrical Wholesalers, the company he would successfully run until his retirement on December 1, 1987; and

WHEREAS, a leader in the Harrisonburg business community, Dick Collins was named the 1986 Entrepreneur of the Year by the Harrisonburg–Rockingham Chamber of Commerce; and

WHEREAS, an active and dedicated member of his community, Dick Collins supported a wide array of industry and community causes for many years; and

WHEREAS, Dick Collins supported educational institutions in his beloved Harrisonburg by funding scholarships at James Madison University and serving on various parent–teacher associations in the local school system; and

WHEREAS, the love of a good dog, any kind of hunting, and the great outdoors were high among Dick Collins' joys in life, and he served in leadership roles with various hunters associations and served on a task force for what is today the Department of Wildlife Resources; and

WHEREAS, a true family man, Dick Collins cherished his 31 years of marriage and remained devoted to his high school sweetheart and wife, Shirley, who preceded him in death on October 18, 1987; and

WHEREAS, Dick Collins took great pride in his daughters, Pamela and Patricia, and their families, including four grandchildren, English, Ralston, Graham, and Bryce, and three great-grandchildren, Preston, Buck, and Luke; and

WHEREAS, Dick Collins will be fondly remembered and greatly missed by his numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Richard Hilton Collins, a respected member of the Harrisonburg community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Richard Hilton Collins as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 722

Celebrating the life of the Honorable William Kyle Barlow.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 24, 2023

WHEREAS, the Honorable William Kyle Barlow, a brave veteran, esteemed attorney, and beloved member of the Isle of Wight County community who benevolently served the citizens of the Commonwealth for over two decades as a member of the Virginia House of Delegates, died on September 21, 2022; and

WHEREAS, William "Bill" Kyle Barlow, affectionately known by many as "Billy K.," was raised on a farm during the Great Depression and World War II and went on to graduate from Smithfield High School, where he was a captain of the football, basketball, and baseball teams; and

WHEREAS, Bill Barlow earned a degree in agricultural economics from the Virginia Polytechnic Institute and State University (Virginia Tech) and showed early signs of his potential to be a leader by serving as the regimental commander of the Corps of Cadets and as president of the Class of 1958; and

WHEREAS, after graduating from Virginia Tech, Bill Barlow served his country with honor and distinction for four years as an intelligence officer with the United States Air Force, including a tour in Taiwan during a particularly tense time in the Cold War; and

WHEREAS, in 1965, Bill Barlow earned a juris doctor degree from the University of Virginia School of Law and went on to practice law in Smithfield for more than 55 years, touching on wide-ranging issues in service to his clients and members of his community; and

WHEREAS, in addition to providing legal services for the Isle of Wight Volunteer Rescue Squad and other local organizations, Bill Barlow served as board member and chair of the Walter Cecil Rawls Regional Library in Courtland, as a board member of what is today Sentara Obici Hospital, and as a founding member of the organization Citizens for Better Public Schools in Isle of Wight County; and

WHEREAS, Bill Barlow's contributions to his community included his active involvement with local chapters of Rotary International and Ruritan International and his tenures coaching youth tee ball and baseball, to which he lovingly dedicated many hours of his time; and

WHEREAS, Bill Barlow won a seat in the Virginia House of Delegates in 1991 and for the next 20 years represented the 64th District, which during his terms always included parts of the Counties of Isle of Wight, Surry, Franklin, and Southampton, and at various times parts of the Counties of Prince George, James City, Charles City, and Henrico and the City of Williamsburg; and

WHEREAS, Bill Barlow made public education his top priority in the Virginia House of Delegates, and he demonstrated an exceptional ability for meeting people and building relationships across the various communities he served; and

WHEREAS, Bill Barlow stayed connected to his alma mater, Virginia Tech, throughout his life, serving as president of the Alumni Board of Directors for the Virginia Tech Alumni Association, receiving a Distinguished Alumni Award, and visiting Blacksburg whenever possible; and

WHEREAS, a man of deep faith, Bill Barlow was a lifelong member of Smithfield Baptist Church, where he taught Sunday school and served as a church trustee, as a member and chair of the board of deacons, and as church moderator for many years; and

WHEREAS, preceded in death by his son, Kyle, Bill Barlow will be fondly remembered and dearly missed by his loving wife, Taylor; his children, Amy and Todd, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable William Kyle Barlow, former member of the House of Delegates and a cherished citizen of Isle of Wight County whose service and dedication to his community leave a legacy that will endure for years to come; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable William Kyle Barlow as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 723

Commending the West Springfield High School girls' cross country team.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, the West Springfield High School girls' cross country team won the Virginia High School League Class 6 state championship in 2022; and

WHEREAS, the West Springfield High School girls' cross country team was led by Coach Christopher Pellegrini; seniors Lexi Stein and Kenza Elakari; juniors Aidan MacGrath, Grace Wevley, Chloe Miller, and Katherine Len; and sophomore Adeline Barker; and

WHEREAS, the West Springfield High School Spartans scored 51 points, defeating the second-place team from Langley High School by eight points; and

WHEREAS, junior Aidan MacGrath led the West Springfield Spartans with a finishing time of 18:50; and

WHEREAS, three other West Springfield Spartans finished in the top 15, Kenza Elakari with a time of 19:06, Adeline Barker with a time of 19:27, and Chloe Miller with a time of 19:53; and

WHEREAS, the victory was a tribute to the hard work and determination of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire West Springfield High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the West Springfield High School girls' cross country team on winning the Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Christopher Pellegrini, head coach of the West Springfield High School girls' cross country team as an expression of the General Assembly's admiration for the team's achievements.

HOUSE JOINT RESOLUTION NO. 724

Commending Sebastian Haworth.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Sebastian Haworth, a student at West Springfield High School in Fairfax County, achieved a Guinness World Record for building one of the largest LEGO sets ever produced in less than nine hours; and

WHEREAS, the LEGO Titanic, part of the LEGO Icons line of highly detailed builds with complex techniques, is based on the luxury passenger ship that infamously sank in 1912; just as the RMS *Titanic* was the largest ship afloat at the time, the LEGO Titanic was the largest set ever released at its time in 2021, with 9,090 pieces; and

WHEREAS, Sebastian Haworth saved money from gifts and his lawn service work to purchase the LEGO Titanic, which currently retails for nearly $700; he decided to attempt a world record build after watching a video of a similar attempt; and

WHEREAS, on May 22, 2022, Sebastian Haworth began building the LEGO Titanic before a supportive audience of family members and friends; he received assistance from his parents, Michelle and Pedro, who set up cameras and timers to record the feat; and

WHEREAS, at around 4:40 p.m., Sebastian Haworth placed the final brick on the 53-inch-long model after eight hours, 42 minutes, and 12 seconds of work; and

WHEREAS, Sebastian Haworth broke the previous building record for the LEGO Titanic by more than two hours; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sebastian Haworth for achieving a Guinness World Record for the fastest build of the LEGO Titanic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sebastian Haworth as an expression of the General Assembly's admiration for his incredible accomplishment.

HOUSE JOINT RESOLUTION NO. 725

Commending the Wakefield High School rowing program.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, the Wakefield High School rowing program saw both its boys' and girls' varsity eight boats place first at the Virginia Scholastic Rowing Association state championship regatta on the Occoquan River on May 14, 2022; and

WHEREAS, the Wakefield High School girls' rowing team finished their race with an impressive time of 5:07.2, narrowly defeating runner-up Oakton High School by less than a second to capture the program's second consecutive state title; and

WHEREAS, the Wakefield High School girls' rowing team was led by its senior class, who also won a Virginia Scholastic Rowing Association (VASRA) novice title in 2019 and who went undefeated in VASRA races throughout their high school careers; and

WHEREAS, the Wakefield High School boys' rowing team claimed their title by a margin of three seconds with a time of 4:32.0, a triumphant and redemptive turnaround from the previous season when an undermanned team placed last at the event; and

WHEREAS, the accomplishments of the Wakefield High School rowing program are a reflection of a years-long investment on the part of its coaches to promote the program in local middle schools in Arlington to generate greater interest in the sport of rowing; and

WHEREAS, the coaches of the Wakefield High School rowing program have made laudatory efforts to develop a team that is diverse and representative of the student body, providing financial assistance and other forms of support as needed to ensure that the program is available to anyone who wishes to participate; and

WHEREAS, the Wakefield High School rowing program willed victory through the hard work and determination of its student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of their families and the entire Wakefield High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Wakefield High School rowing program for its sweep of the boys' and girls' eight boat events at the 2022 Virginia Scholastic Rowing Association state championship regatta; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Wakefield High School rowing program as an expression of the General Assembly's admiration for the program's achievements and best wishes for its continued success.

HOUSE JOINT RESOLUTION NO. 726

Commending Chris Jenkins.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Chris Jenkins, a distinguished law-enforcement officer with more than 45 years of experience, retired as chief of the Culpeper Police Department on January 1, 2023; and

WHEREAS, after graduating from Culpeper County High School in 1977, Chris Jenkins joined the Culpeper Police Department as a dispatcher at the age of 18; two years later, he became a certified police officer and subsequently rose through the ranks, fulfilling numerous roles in the department; and

WHEREAS, prior to becoming chief, Chris Jenkins served as a commander of the Culpeper Police Department Operations Division, overseeing patrol units, special operations, the K-9 unit, and reserve officers; he also assisted with the development of the department's budget and conducted public relations activities; and

WHEREAS, Chris Jenkins guided the department as interim chief in 2001, 2007, and just before he was officially appointed as chief in 2010; and

WHEREAS, during his tenure as chief, Chris Jenkins built strong relationships based on trust and mutual respect with members of the public and implemented a community policing model, with an emphasis on less-lethal force and the use of body cameras; and

WHEREAS, Chris Jenkins served as executive chair of the Central Shenandoah Criminal Justice Training Academy and executive board member of the Blue Ridge Narcotics and Gang Task Force and was a member of other local task forces related to auto theft and insurance fraud; he also represented Culpeper County on the board of Rappahannock-Rapidan Community Services; and

WHEREAS, a respected leader in the field of law enforcement, Chris Jenkins was a member of the Virginia Association of Chiefs of Police and the International Association of Chiefs of Police; he graduated from the FBI National Academy with Session 218 and was a member of the FBI National Academy Alumni Association; and

WHEREAS, Chris Jenkins played a vital role in the creation and leadership of Team Jordan, a nonprofit organization that raises awareness of suicide prevention and provides support to survivors; and

WHEREAS, among many awards and accolades for his service, Chris Jenkins received the Advocacy Award from the Culpeper Witness/Victim Program for his work to ensure the rights and safety of people who have witnessed or been the victim of a crime; and

WHEREAS, Chris Jenkins served the Culpeper community and the Commonwealth with the utmost dedication, integrity, and distinction; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Chris Jenkins on the occasion of his retirement as chief of the Culpeper Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chris Jenkins as an expression of the General Assembly's admiration for his exceptional service to the Culpeper community.

HOUSE JOINT RESOLUTION NO. 727

Commending Arlington Public Schools' recipients of The Posse Foundation or QuestBridge scholarships.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, in the 2022–2023 school year, The Posse Foundation and QuestBridge collectively awarded nine students in Arlington Public Schools four-year, full-ride college scholarships; and

WHEREAS, The Posse Foundation presented full-ride scholarships to Amy Fabara of Arlington Tech, who will attend Lafayette College in the fall, and Kamel Barghouti of Yorktown High School, who will attend the University of Virginia, both of which are partnering colleges and universities with The Posse Foundation; and

WHEREAS, in addition to their scholarships, The Posse Foundation will also provide these students with comprehensive programmatic support over their next four years in college; and

WHEREAS, seven Arlington Public Schools (APS) seniors were named QuestBridge Scholars and were awarded full-ride scholarships to partnering colleges and universities, including Adriana Sparks of Arlington Tech; Luliya Tewelde and Eva Zidan of Wakefield High School; Meryem Khadrouni and Henessis Umacata of Washington-Liberty High School; and Ribka Desta and Franklin Claure of Yorktown High School; and

WHEREAS, the APS QuestBridge scholarship recipients will represent Arlington and the Commonwealth at some of the most prestigious institutions of higher education in the country, including Columbia University, the University of Notre Dame, the University of Pennsylvania, Stanford University, and Dartmouth College; and

WHEREAS, in addition to their scholarships, QuestBridge scholarship recipients who attend its college and university partners are supported in their college years and beyond through on-campus chapters and nationwide opportunities offered through the QuestBridge Scholars Network and QuestBridge Alumni Association; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Arlington Public Schools students receiving scholarships from The Posse Foundation and QuestBridge for their hard work and dedication to their studies; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the Arlington Public Schools students receiving scholarships from The Posse Foundation and QuestBridge as an expression of the General Assembly's heartfelt congratulations and best wishes in their future endeavors.

HOUSE JOINT RESOLUTION NO. 728

Commending Southern States Cooperative.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, for 100 years, Southern States Cooperative, a farmer-owned agricultural cooperative, has provided products, services, and growing solutions for Virginian farmers; and

WHEREAS, the sobriquet Virginian has for centuries implied a life lived on the land cultivating crops or at least a life informed by the virtues of an agrarian culture; and

WHEREAS, Southern States Cooperative was founded in 1923 as Virginia Seed Service to supply to Virginian farmers seeds suitable for the growing conditions of the Commonwealth; and

WHEREAS, Virginia Seed Service quickly expanded its endeavors to include feed, fertilizer, and crop protection; wishing to extend its benefits to farmers in surrounding states, Virginia Seed Service assumed its present wide-range of purposes and, in the 1930s, became known as Southern States Cooperative; and

WHEREAS, Southern States Cooperative provides Virginian farmers and rural communities with agronomically sound, cost-effective, and environmentally responsible products and services to enable farmers to produce crops efficiently and to feed livestock well, to the benefit of the Commonwealth, the nation, and, indeed, the world; and

WHEREAS, Southern States Cooperative currently serves its farmer-members in eight states of the South; and

WHEREAS, in cooperation with locally owned cooperatives, Southern States Cooperative operates 34 locations in the Commonwealth and, combined with its central office in Henrico County, employs nearly 750 individuals throughout the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Southern States Cooperative for having achieved the notable milestone of 100 years of service to farmers and agribusinesses; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Southern States Cooperative as an expression of the General Assembly's admiration for its legacy of contributions to Virginia's farmers and rural communities.

HOUSE JOINT RESOLUTION NO. 729

Commending the Burke Volunteer Fire and Rescue Department.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, for 75 years, the Burke Volunteer Fire and Rescue Department has safeguarded the lives and property of the residents of the Burke community in Fairfax County; and

WHEREAS, the Burke Volunteer Fire and Rescue Department traces its roots to 1947, when a group of local residents recognized the need for a more conveniently located fire station; at the time, the nearest departments were located in Annandale and what was then the Town of Fairfax; and

WHEREAS, the Burke Volunteer Fire Department was incorporated on January 29, 1948, with a service area of 91 square miles, representing about 9,000 residents; the community raised money to build a fire station that spring, and the building remained in use by the community for the next 50 years, including as the Burke Post Office; and

WHEREAS, the Burke Volunteer Fire Department's first apparatus was a 1932 Ford fire truck purchased by the Burke Communities Civic Association from the Annandale Volunteer Fire Department that became affectionately known as "Old Red"; and

WHEREAS, in 1949, the Burke Volunteer Fire Department had 47 active volunteers and responded to 26 calls for service; and

WHEREAS, as Fairfax County grew and more fire departments were established, the county implemented a numbering system to enhance coordination, and the Burke Volunteer Fire Department became known as Company 14; and

WHEREAS, in the 1950s, the county also began assigning paid, professional firefighters to volunteer stations; by the time of its 15th anniversary in 1963, the Burke Volunteer Fire Department had 56 total staff members, 47 of whom were operational firefighters, including three professional members; and

WHEREAS, in 1963, the Burke Volunteer Fire Department also constructed a new fire station, much of which was built by members of the department who worked in construction or other relevant professions; and

WHEREAS, in the aftermath of Hurricane Camille in 1969, the Burke Volunteer Fire Department responded to extensive flooding in low-lying areas of Burke and assisted with numerous evacuations and water rescues; and

WHEREAS, in 1971, the Burke Volunteer Fire Department responded to more than 1,000 calls for emergency service, including structure fires, brush fires, vehicle crashes, water rescues, and medical emergencies; and

WHEREAS, calls for service increased steadily as the community expanded, reaching more than 2,000 calls per year in the late 1980s; by 1989, the Burke Volunteer Fire Department had become the largest volunteer fire department in Fairfax County with seven vehicles, 70 volunteers, and 30 career staff serving an 11-square-mile area with a population of 47,000 people; and

WHEREAS, in 1991, the Burke Volunteer Fire Department received approval to purchase an innovative hybrid vehicle known as a "Quint" that incorporated the functions of a pumper truck and an aerial ladder in one platform; and

WHEREAS, recognizing the way its mission had evolved over the years, the Burke Volunteer Fire Department changed its name to the Burke Volunteer Fire and Rescue Department in 1992; the department continued to grow with the community and hired its first female firefighters in the mid-1990s; and

WHEREAS, in 1997, the Burke Volunteer Fire and Rescue Department experienced a disaster when an electrical short in a truck started a fire in the station, which sustained significant damage despite assistance from surrounding departments; the station was razed and rebuilt, and the department began operating from a brand new, highly advanced facility on December 4, 2001; and

WHEREAS, by 2014, the Burke Volunteer Fire and Rescue Department had grown to 100 active members, who recorded 31,003 hours answering 3,432 calls for service, the majority of which were for emergency medical service; and

WHEREAS, the courageous, highly trained members of the Burke Volunteer Fire and Rescue Department have served residents with dedication and distinction and helped make the Burke community a great place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Burke Volunteer Fire and Rescue Department on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Burke Volunteer Fire and Rescue Department as an expression of the General Assembly's admiration for its service and contributions to the residents of Fairfax County.

HOUSE JOINT RESOLUTION NO. 730

Commending Megan McLaughlin.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, for more than a decade, Megan McLaughlin has served the students, faculty, and administrators of Fairfax County Public Schools as a member of the Fairfax County School Board; and

WHEREAS, Megan McLaughlin holds degrees from the University of Pennsylvania and the University of Maryland; she previously worked in college admissions and has served the community in various capacities as a community leader and education advocate; and

WHEREAS, a champion for good education, Megan McLaughlin was elected to the Fairfax County School Board in 2012 and won reelection to two additional terms; she has worked diligently to strengthen Fairfax County Public Schools and ensure that every student has the tools and support they need to achieve their fullest potential; and

WHEREAS, Megan McLaughlin has promoted continuous improvement in Fairfax County Public Schools and has overseen a wide range of programs to enhance the educational process; and

WHEREAS, Megan McLaughlin helped ensure the strategic deployment of the school system's annual budget of more than $3 billion and implemented more competitive compensation to attract and retain high-quality teachers and staff; and

WHEREAS, during her tenure, Megan McLaughlin hired or supervised the work of five superintendents, established an independent Office of the Auditor General, and crafted the school system's first strategic plan; and

WHEREAS, Megan McLaughlin oversaw the implementation of later start times for high school students, full-day Mondays for elementary school students, and a recess period for middle school students; and

WHEREAS, during Megan McLaughlin's tenure, the Fairfax County School Board has improved early literacy and dyslexia education, improved instruction and delivery of the Advanced Academic Program and Young Scholars Program, restored upper-level high school honors courses in English and social studies, instituted curriculum enhancements for English for speakers of other languages (ESOL) courses, and added more than 35 pre-kindergarten classrooms; and

WHEREAS, Megan McLaughlin also played a role in projects that reformed the student discipline system of Student Rights and Responsibilities (SR&R) and implemented the Restorative Justice Practices (RJP) project, provided healthier school meals for students and launched a summer meals program, implemented environmentally friendly operational practices, and strove to protect LGBTQIA+ students and staff through a non-discrimination policy; and

WHEREAS, Megan McLaughlin has served the residents of Fairfax County with distinction and helped ensure that the Fairfax County Public Schools system offers rigorous instruction in a safe, caring, and inclusive learning environment; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Megan McLaughlin on her retirement and for her outstanding service as a member of the Fairfax County School Board; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Megan McLaughlin as an expression of the General Assembly's admiration for her contributions to young people in Fairfax County.

HOUSE JOINT RESOLUTION NO. 731

Commending Kathleen Burke Barrett.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Kathleen Burke Barrett, the longtime chief executive officer of St. Joseph's Villa in Henrico County, has worked diligently to provide help and hope to children with special needs and their families for 17 years; and

WHEREAS, a graduate of Virginia Commonwealth University, Kathleen Barrett has decades of experience in fundraising and management of nonprofit organizations; before joining St. Joseph's Villa in 2006, she served as chief executive officer of the Greater Richmond Chapter of the American Red Cross; and

WHEREAS, under Kathleen Barrett's leadership, St. Joseph's Villa more than tripled its capacity, cultivated significant community partnerships, and pioneered industry best practices to help children and families gain the tools and resources they need to reach their potential and live fuller, more independent lives; and

WHEREAS, Kathleen Barrett's commitment to service and innovation helped St. Joseph's Villa develop a full suite of 18 integrated support services, including specialized education and in-home behavioral health services; and

WHEREAS, Kathleen Barrett oversaw the establishment of the region's first Crisis Stabilization Unit for children's mental health and a community-based rapid rehousing program designed to reduce chronic homelessness in Richmond and the Tri-Cities; and

WHEREAS, Kathleen Barrett launched the first series of capital campaigns in the 188-year history of St. Joseph's Villa, resulting in more than $77 million in donations; the campaigns have supported the opening of the state-of-the-art Sarah Dooley Center for Autism as well as enhancements to St. Joseph's Villa's garden, recreational areas, and pedestrian paths; and

WHEREAS, Kathleen Barrett has also offered her leadership and expertise to the Executive Committee of ChamberRVA, the Estate Planning Council of Richmond, the Bon Secours Mercy Health Foundation Board of Directors, and the Benedictine Foundation Board; and

WHEREAS, among many awards and accolades, Kathleen Barrett has received the 2009 Henrico County Community Leader of the Year Award; the 2011 Outstanding Woman Award from the YWCA, the 2013 Humanitarian Award from the Virginia Center for Inclusive Communities, and the 2017 Ukrop Community Vision Award from Leadership Metro Richmond; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Kathleen Burke Barrett for her service as chief executive officer of St. Joseph's Villa; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kathleen Burke Barrett as an expression of the General Assembly's admiration for her personal and professional achievements and best wishes for the future.

HOUSE JOINT RESOLUTION NO. 732

Celebrating the life of Richard Eugene Bradshaw.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Richard Eugene Bradshaw, an honorable veteran, accomplished farmer, and beloved member of the Covington community, died on January 17, 2023; and

WHEREAS, a native of Monroe County, West Virginia, Eugene Bradshaw served his country with honor and distinction in the United States Army; and

WHEREAS, Eugene Bradshaw worked tirelessly for many years as a farmer, operating two farms in Alleghany County and Monroe County, West Virginia, first with his father, Richard, and later with his son, Michael; and

WHEREAS, Eugene Bradshaw was at peace in the outdoors and had great affection for classic country music and cars; and

WHEREAS, Eugene Bradshaw's greatest joy was spending time with his grandchildren, and he savored every moment he had with them; and

WHEREAS, preceded in death by his wife, Carol Ann, Eugene Bradshaw will be fondly remembered and dearly missed by his children, Michael and Teresa, and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Richard Eugene Bradshaw, a cherished member of the Covington community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Richard Eugene Bradshaw as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 733

Commending Donald M. Dinse.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Donald M. Dinse, an honorable veteran and longtime firefighter, is retiring from his role as president and service representative of the International Association of Fire Fighters Local 2498 in 2023; and

WHEREAS, Donald "Don" M. Dinse served his country with honor and distinction as a member of the United States Navy for five years, retiring at the rank of radioman (E-5); and

WHEREAS, from 1990 to 2015, Don Dinse worked tirelessly to protect life and property in York County as a firefighter and emergency medical technician (EMT) with York County Fire & Life Safety; and

WHEREAS, for the past 33 years, Don Dinse has been a member of the International Association of Fire Fighters (IAFF) Local 2498, representing professional firefighters, EMTs, paramedics, and 911 dispatchers, in the Cities of Williamsburg and Poquoson and the Counties of York and James City; and

WHEREAS, as service representative and president of the IAFF Local 2498, Don Dinse has advocated passionately at every level of government on behalf of the members of his union and their families, addressing public safety issues and other matters impacting the lives of firefighters and other emergency personnel; and

WHEREAS, Don Dinse has pursued his mission with great dedication and sense of purpose, securing better working conditions for the emergency response professionals that are integral to the safety of the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Donald M. Dinse on the occasion of his retirement as president and service representative of the International Association of Fire Fighters Local 2498; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Donald M. Dinse as an expression of the General Assembly's admiration for his contributions to the Commonwealth and best wishes in his future endeavors.

HOUSE JOINT RESOLUTION NO. 734

Celebrating the life of Gerald K. Haines.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Gerald K. Haines, a highly respected historian who served the nation as an archivist and a historian for several United States agencies, died on April 8, 2022; and

WHEREAS, Gerald "Gerry" K. Haines grew up in Detroit, Michigan, and graduated from Mackenzie High School, where he was a standout multisport athlete; he attended Wayne State University on a baseball scholarship and earned bachelor's and master's degrees from the institution; and

WHEREAS, Gerry Haines taught high school in the Detroit area, then earned a doctorate in United States diplomatic history from the University of Wisconsin-Madison, moved to Arlington, and began his long and distinguished career in federal government in 1974 as an archivist at the National Archives; and

WHEREAS, during his tenure at the National Archives, Gerry Haines specialized in records related to the U.S. Department of State and participated in a major task force that reviewed and evaluated Federal Bureau of Investigation (FBI) records; and

WHEREAS, over the next several years, Gerry Haines served as the historian at the National Security Agency (NSA) and the Central Intelligence Agency (CIA), and he became the first chief historian of the National Reconnaissance Office (NRO) and authored the first official unclassified history of the agency; and

WHEREAS, Gerry Haines returned to the CIA in 1997 as chief historian and retired from government work in 2005; during that period, he joined the University of Virginia's history faculty as an Officer in Residence and began teaching courses on the history of the United States' intelligence work and Latin American history; his classes were some of the most popular history courses at the institution where he continued teaching until 2013; in addition to teaching, he was a founding member of the "Haines Seminar," an informal gathering of historians that continues to meet regularly; and

WHEREAS, over the course of his career, Gerry Haines wrote many comprehensive books and articles, classified histories for multiple intelligence agencies, and award-winning reference guides for State Department special files and the FBI records and classification system; and

WHEREAS, Gerry Haines also promoted history programs among federal agencies as a member and president of the Society for History in the Federal Government and as a founding member of the Society for Historians of American Foreign Relations; in addition, he helped establish the National Archives Assembly and advocated for the independence of the National Archives; and

WHEREAS, after his well-earned retirement, Gerry Haines offered his wisdom and expertise to the Arlington Historical Society, serving as vice president and as a member of the board of directors; and

WHEREAS, Gerry Haines brought joy to others through his sense of humor, his enjoyment of art, his talents as a chef, and his beautifully decorated Christmas trees; he loved spending time at his farm in Madison Heights, named Winchcombe as a tribute to his family's English origins, and worked diligently to protect and preserve the land for future generations; and

WHEREAS, Gerry Haines will be fondly remembered and greatly missed by his wife of 52 years, Joanne, and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Gerald K. Haines; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Gerald K. Haines as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 735

Commending Billsburg Brewery.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Billsburg Brewery, an accomplished purveyor of traditional lagers, pilsners, ales, and other quality spirits, has become a favored gathering place for members of the Williamsburg and James City County communities over the past five years; and

WHEREAS, Billsburg Brewery was founded by David Baum, whose passion for home brewing and craft beer inspired him to leave his day job and start a brewery; after securing a location and investors, his vision became a reality in late 2017; and

WHEREAS, Billsburg Brewery is devoted to the art of small-batch brewing and serves an ever-rotating variety of beers that are prepared in-house, including its Fly Away India pale ale, Grand Hallucination imperial rye porter, and Happy Pils Czech pilsner; and

WHEREAS, Billsburg Brewery has expanded its offerings to include frozen drinks and hard seltzer craft cocktails, providing a wealth of options for the benefit of its customers; and

WHEREAS, situated on a 10-acre marina close to the James River and the Jamestown Settlement, Billsburg Brewery provides a place where people can take in the beauty and history of the Commonwealth in the company of family and friends; and

WHEREAS, Billsburg Brewery hosts the Billsburg Cycling and Running Club, providing taproom specials and other incentives to foster a community of active beer lovers; and

WHEREAS, Billsburg Brewery toasted its fifth anniversary with an all-day event on October 29, 2022, where it released five beers that were staff favorites in honor of the brewery's first five years; and

WHEREAS, Billsburg Brewery recently finished a pavilion on its grounds for the enjoyment of its guests and has plans to continue developing the space, promising many more years of growth and success; and

WHEREAS, through the dedication of its staff and its brewers' commitment to excellence, Billsburg Brewery has produced a plethora of world-class beers and helped to make Williamsburg and James City County wonderful places to live, work, and play; and

WHEREAS, while David Baum passed away in February 2020, his legacy of service to the community lives on through Billsburg Brewery; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Billsburg Brewery on the occasion of its fifth anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Billsburg Brewery as an expression of the General Assembly's admiration for the brewery's contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 736

Commending St. Martin's Episcopal Church.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, in 2023, St. Martin's Episcopal Church in Williamsburg celebrates the 60th anniversary of its founding and the positive and lasting impact it has made on the community over more than a half-century; and

WHEREAS, St. Martin's Episcopal Church was established on September 23, 1963, when its founders gathered for their first service in the 17th century church tower in Jamestown, which is regarded as the one of the first sites of Anglican worship in North America; and

WHEREAS, the members of the first congregation of St. Martin's Episcopal Church were united in their shared vision of a church that would embrace people of all races, backgrounds, ages, and abilities and serve the community by giving away half of its proceeds; and

WHEREAS, this spirit of generosity that compelled the creation of St. Martin's Episcopal Church was inspired by St. Martin of Tours, the church's namesake, who was known to have given half his cloak to a person in need; and

WHEREAS, today, St. Martin's Episcopal Church provides its members with 40 different opportunities for outreach through various programs and services in Greater Williamsburg and beyond, supporting local food and clothing ministries, interfaith homeless ministries, mentorship ministries, and international and food ministries; and

WHEREAS, through the humble and steadfast efforts of its parishioners, St. Martin's Episcopal Church seeks to promote justice, love, and kindness in the world and to serve the vulnerable without exception or compromise; and

WHEREAS, through outreach programs and partnerships with other local congregations and organizations, the members of St. Martin's Episcopal Church have developed myriad worthwhile projects, including projects addressing homelessness, hunger, and racial healing and working with children with special needs and newly arrived Afghan refugees; and

WHEREAS, St. Martin's Episcopal Church is an active member of Historic Area Religions Together, a local multifaith network of Jewish, Muslim, Christian, Unitarian, and Buddhist faith groups in the Historic Triangle area that fosters meaningful connections and positive relationships between communities of different faiths; and

WHEREAS, St. Martin's Episcopal Church and its congregation look forward to another 60 years of serving the community with generosity, grace, and joy; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend St. Martin's Episcopal Church of Williamsburg on the occasion of its 60th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to St. Martin's Episcopal Church as an expression of the General Assembly's admiration for its history and legacy of service.

HOUSE JOINT RESOLUTION NO. 737

Commending the James City County Williamsburg Master Gardener Association.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, the James City County Williamsburg Master Gardener Association, a volunteer-driven nonprofit organization that supports the outreach mission of the Virginia Cooperative Extension in Williamsburg and the Counties of James City and New Kent, celebrates its 40th anniversary in 2023; and

WHEREAS, the Extension Master Gardener Program was established in 1972 in the state of Washington and has since spread to all 50 states and the District of Columbia, four Canadian provinces, and South Korea, operating in the Commonwealth through the Virginia Cooperative Extension and master gardener associations like the James City County Williamsburg Master Gardener Association (JCCWMGA); and

WHEREAS, the JCCWMGA is instrumental to the Virginia Cooperative Extension's efforts to enhance horticultural practices and land and resource management in the Commonwealth by providing members of the community with reliable information on how to maintain healthy and sustainable landscapes around their homes and businesses; and

WHEREAS, the JCCWMGA offers a wide variety of outreach and educational programs to share its expertise with the public, including clinics on turf and lawn management, landscaping, and plant disease; therapeutic gardening activities; its extension help desk; and a range of gardening projects for children; and

WHEREAS, the JCCWMGA endeavors to improve and protect local watersheds by promoting responsible water use and other conservation practices, fostering the vitality of the region for the benefit of future generations; and

WHEREAS, the accomplishments of the JCCWMGA have been made possible by its more than 200 master gardeners, who give generously of their time to educate the public in the areas of sustainable horticulture and environmental stewardship, including instruction on appropriate plant selection and efficient irrigation and fertilization methods; and

WHEREAS, the JCCWMGA and the Virginia Cooperative Extension help researchers at Virginia Polytechnic Institute and State University and Virginia State University share their knowledge and new findings with everyday gardeners, cultivating a more beautiful and environmentally sound Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the James City County Williamsburg Master Gardener Association, an educational gardening program of the Virginia Cooperative Extension serving Williamsburg and the Counties of James City and New Kent, on the occasion of the organization's 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the James City County Williamsburg Master Gardener Association as an expression of the General Assembly's admiration for the organization's legacy of service in the Commonwealth.

HOUSE JOINT RESOLUTION NO. 738

Commending The College of William & Mary football team.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, The College of William & Mary football team won the Colonial Athletic Association conference championship with a 37-26 win over the University of Richmond on November 19, 2022; and

WHEREAS, the contest between the The College of William & Mary Tribe and the University of Richmond Spiders, known as the Capital Cup since 2009, marked the 133rd time the programs have played one another since 1898, making it one of the longest-standing rivalries in college football; and

WHEREAS, the William & Mary Tribe's victory was a total team effort, led by a strong performance from quarterback Darius Wilson, who accounted for 269 yards and three touchdowns and who was named the Capital Cup Most Valuable Player; and

WHEREAS, after a loss to Elon University early in the season, the William & Mary Tribe rallied to post a program best 10-1 regular season record on its way to claiming its 13th conference championship in program history; and

WHEREAS, the William & Mary Tribe appeared in the National Collegiate Athletic Association Division I Football Championship Subdivision playoffs for the first time in seven years, defeating Gardner-Webb University in the second round before falling to Montana State University in the quarterfinals; and

WHEREAS, the William & Mary Tribe has been led since 2019 by head coach Mike London, who has successfully motivated his players not only to perform their best on the gridiron but to excel academically in the classroom; and

WHEREAS, the William & Mary Tribe had a league-high 13 players receive all-conference honors in 2022, while sophomore linebacker John Pius was named Colonial Athletic Association (CAA) Defensive Player of the Year and a top-three finalist for the Buck Buchanan Award and freshman cornerback Jalen Jones was named CAA Defensive Rookie of the Year; and

WHEREAS, the accomplishments of the William & Mary Tribe are the results of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and professors, and the unwavering support of the entire community of The College of William & Mary; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend The College of William & Mary football team for winning the 2022 Colonial Athletic Association conference championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mike London, head coach of The College of William & Mary football team, as an expression of the General Assembly's admiration for the team's achievements and best wishes for its future success.

HOUSE JOINT RESOLUTION NO. 739

Celebrating the life of Master Sergeant Jan Willem Wierenga, USA, Ret.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Master Sergeant Jan Willem Wierenga, USA, Ret., of Williamsburg, a distinguished veteran who served with the elite Green Berets and former member of the Central Intelligence Agency who served the United States with the utmost dedication, died on January 9, 2023; and

WHEREAS, Jan Willem "Dutch" Wierenga was raised in the Dutch East Indies, now Indonesia, and was the child of a Dutch planter; after the Japanese invaded during World War II, he and his family were sent to an internment camp and later imprisoned by the local government during the Indonesian National Revolution; and

WHEREAS, Dutch Wierenga ultimately escaped captivity and gained combat experience in the jungles of Indonesia in the early 1950s, then immigrated to the Netherlands, where he joined the military in 1955; and

WHEREAS, in 1960, Dutch Wierenga fulfilled a longtime dream to move to the United States, then became a naturalized citizen and volunteered to join the United States Army; and

WHEREAS, over the course of three tours of duty in the Vietnam War, Dutch Wierenga served with the 101st Airborne Division, the 82nd Airborne Division, and the 5th Special Forces Group before joining the Military Assistance Command, Vietnam - Studies and Observations Group (MACV-SOG); and

WHEREAS, as a member of MACV-SOG, a highly classified special operations and intelligence unit, Dutch Wierenga participated in some of the most daring and dangerous missions of the war, often far behind enemy lines with little support; and

WHEREAS, Dutch Wierenga also served as a special forces instructor and a high-altitude, low-opening parachute instructor, and he was the senior noncommissioned officer at the founding of the Survival, Evasion, Resistance, and Escape training program; and

WHEREAS, for his meritorious service, Dutch Wierenga earned the Silver Star, four Bronze Stars, and at least two Purple Hearts; and

WHEREAS, in 1986, Dutch Wierenga retired from the United States Army and began a 36-year career with the Central Intelligence Agency as a paramilitary operations officer and a contract training officer; he officially retired at the age of 85 in the spring of 2022 after six decades of service to the nation; and

WHEREAS, Dutch Wierenga was highly admired by his fellow Williamsburg residents for his kindness, generosity, humility, and grace; and

WHEREAS, predeceased by his first wife, Cathy, Dutch Wierenga will be fondly remembered and greatly missed by his wife, Kathy; his daughter, Dina, and her family; and numerous other family members, friends, and fellow veterans; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Master Sergeant Jan Willem Wierenga, USA, Ret., a decorated veteran and respected member of the Williamsburg community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Master Sergeant Jan Willem Wierenga, USA, Ret., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 740

Commending John Peterson.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, John Peterson had a distinguished 40-year career with the U.S. Department of Agriculture's Soil Conservation Service, now known as the Natural Resources Conservation Service, holding positions as director of watershed programs and deputy chief for administration before retiring as assistant chief; and

WHEREAS, during his career in federal government, John Peterson further served the country with over 30 years of active and reserve duty in the United States Army and retired with the rank of colonel; and

WHEREAS, after retirement from federal service, John Peterson served as the executive director of the National Watershed Coalition, where he was the initial drafter and lead champion of the Small Watershed Rehabilitation Act of 2000, the first major U.S. Department of Agriculture water resources legislation passed in over 22 years and the vehicle by which federal funding was provided to several major dam rehabilitation projects in Virginia; and

WHEREAS, John Peterson held leadership positions in many other conservation organizations, including EnviroCert, the International Erosion Control Association, and the Soil and Water Conservation Society; and

WHEREAS, John Peterson gave much of his time and attention to the wise management of Virginia's natural resources by serving on the Potomac Council, on the Dam Safety Committee of the Virginia Soil and Water Conservation Board, and as a Senate appointee to the Chesapeake Bay Restoration Fund Advisory Committee; and

WHEREAS, John Peterson was particularly devoted to the work of Virginia's soil and water conservation districts, serving as the Commonwealth's alternate representative to the National Association of Conservation Districts and serving his home district—the Northern Virginia Soil and Water Conservation District in Fairfax County—on the board of directors for 16 years through the end of 2022 and as an associate director thereafter; and

WHEREAS, for his exemplary achievements, John Peterson received the Virginia Association of Soil and Water Conservation Districts Bobby Wilkinson Outstanding Director Award in 2011, and he was inducted into the National Association of Conservation Districts Southeast Region Conservation Hall of Fame in 2012 and national Hall of Distinction in 2022; and

WHEREAS, John Peterson's lifetime of selfless efforts to advance the cause of resource management at the local, state, national, and international levels should be recognized and applauded; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend John Peterson for his achievements in the stewardship of the nation's natural resources and his outstanding work on behalf of Virginia's soil and water conservation districts; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John Peterson as an expression of the General Assembly's admiration for his contributions to the Commonwealth and the United States.

HOUSE JOINT RESOLUTION NO. 741

Commending Michael Pettaway Tomlin.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, during his 16-year tenure as head coach of the Pittsburgh Steelers in the National Football League, Hampton native Michael Pettaway Tomlin has never finished the regular season with a losing record and currently maintains the longest streak for consecutive non-losing seasons at the start of a coaching career; and

WHEREAS, Michael "Mike" Pettaway Tomlin grew up in Hampton and graduated from Denbigh High School in Newport News and The College of William & Mary, where he played as a wide receiver on the Tribe football team; he began his coaching career as a wide receivers coach at Virginia Military Institute in 1995; and

WHEREAS, Mike Tomlin gained experience as a position coach at the University of Memphis, the University of Tennessee at Martin, Arkansas State University, and the University of Cincinnati before joining the National Football League (NFL) in 2001; and

WHEREAS, Mike Tomlin served as the defensive backs coach for the Tampa Bay Buccaneers from 2001 to 2005, during which time the team led the league in overall defense twice and won Super Bowl XXXVII, where the Buccaneers set a new Super Bowl record with five interceptions, three of which were returned for touchdowns; and

WHEREAS, Mike Tomlin spent the 2006 season as the defensive coordinator of the Minnesota Vikings, then became the 16th head coach of the Pittsburgh Steelers in January 2007; and

WHEREAS, in his first season as head coach of the Steelers, Mike Tomlin led the team to a 10-6 record, first place in the American Football Conference Northern Division (AFC North), and an appearance in the playoffs; and

WHEREAS, one year later, Mike Tomlin oversaw a 12-4 campaign in which the Steelers held the AFC North crown, won the AFC Championship, and defeated the Arizona Cardinals 27-23 in Super Bowl XLIII, a thrilling game that entered Steeler lore for its defensive heroics, when outside linebacker James Harrison intercepted a pass on the goal line and returned it 100 yards for a touchdown, then the longest play in Super Bowl history; and

WHEREAS, Mike Tomlin was the first head coach in Steelers franchise history to win divisional titles in his first two seasons, and at 36 years old, he was the youngest head coach to win a Super Bowl at the time; and

WHEREAS, now one of the longest-tenured coaches with a single team in the NFL, Mike Tomlin has led the Steelers to 10 playoff runs, seven divisional titles, three AFC Championship Games, and two Super Bowl appearances counting the victory in Super Bowl XLIII; and

WHEREAS, after the conclusion of the 2022 NFL season, Mike Tomlin's regular season record stood at 163-93-2, the third most wins for an active head coach in the league; and

WHEREAS, when he was hired, Mike Tomlin was the 10th Black head coach in NFL history and only the first in Steelers franchise history; as one of the few minority head coaches in the league, he is influential to the ongoing development of the NFL's Rooney Rule, which requires teams to interview at least one minority candidate for a vacant head coaching position and was adjusted in 2022 to enhance opportunities for people of color and women for nearly all league and team jobs; and

WHEREAS, throughout his career, Mike Tomlin has inspired colleagues, players, and fans through his passion for the game and uniquely quotable catchphrases and commentary, better known to Steeler Nation as "Tomlinisms"; and

WHEREAS, among many awards and accolades, Mike Tomlin was selected as the Motorola NFL Coach of the Year in 2008 and was inducted into the William & Mary Athletics Hall of Fame in 2012; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Michael Pettaway Tomlin for his record-setting achievements as head coach of the Pittsburgh Steelers in the National Football League; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael Pettaway Tomlin as an expression of the General Assembly's admiration for his accomplishments.

HOUSE JOINT RESOLUTION NO. 742

Commending the Kingsmill Community Services Association.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, the Kingsmill Community Services Association, a world-class homeowner community located along the James River in Williamsburg, celebrates its 50th anniversary in October 2023; and

WHEREAS, Kingsmill was conceived a half-century ago when August Busch II, the president and chief executive officer of Anheuser-Busch, was searching for a new location for a brewery; and

WHEREAS, Kingsmill was developed along with other Anheuser-Busch endeavors in the Williamsburg area, and its original plan called for 40 percent of the property to be green space, a dictum that is still in effect today; and

WHEREAS, Kingsmill is certified by Audubon International's Audubon Cooperative Sanctuary Program, and the grounds are home to bald eagles, hawks, and other endangered birds; and

WHEREAS, the House Democratic Caucus, the Republican House Conference, and several presidents, including William J. Clinton, George W. Bush, and Barack H. Obama II, have held meetings at Kingsmill; and

WHEREAS, a number of properties at Kingsmill date back to 1619, and archaeological digs at 15 sites at Kingsmill over three years revealed important insights into colonial Virginia and plantation life; and

WHEREAS, the success of Kingsmill over the past half-century is a product of the tireless dedication and professionalism of its leadership, volunteers, and staff; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Kingsmill Community Services Association on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Kingsmill Community Services Association as an expression of the General Assembly's admiration for its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 743

Celebrating the life of Doris Carson.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Doris Carson, a respected financial professional and community leader in Lee County, died on January 28, 2023; and

WHEREAS, Doris "Jill" Carson grew up in Hartford, Connecticut, and began her career with the insurance company Prudential Financial in Boston, Massachusetts; and

WHEREAS, Jill Carson relocated to Southwest Virginia to raise her family and accepted a new job as financial officer of Lee County's Head Start program and later contracted with the U.S. Department of Health and Human Services to review Head Start programs across the country; and

WHEREAS, in the late 1980s, Jill Carson and her husband, Ron, cofounded the Appalachian African-American Cultural Center in Pennington Gap; in 1995, she became a founding member of the Virginia Organizing Project, a nonpartisan, grassroots community service organization based in Charlottesville; and

WHEREAS, through the Virginia Organizing Project, Jill Carson participated in efforts to reform the jury selection process in the region, restore voting rights to nonviolent felons in the Commonwealth, and reopen the only hospital in Lee County; and

WHEREAS, Jill Carson maintained her commitment to public service in later life; she was a founding member of the Pennington Gap Industrial Development Authority in 2012, was first elected to the Pennington Gap Town Council in 2014, and served as vice mayor of Pennington Gap in 2019; and

WHEREAS, most recently, Jill Carson was appointed to the executive committee of the Virginia Municipal League, served as vice president of the organization, and then became its president in 2022; and

WHEREAS, among many awards and accolades, Jill Carson received the President's Volunteer Service Award from President Joseph R. Biden and recognition from the 400 Years of African American History Commission; and

WHEREAS, Jill Carson enjoyed fellowship and worship with the congregation of Wells Chapel Church in Pennington Gap, where she sang in the choir; and

WHEREAS, Jill Carson will be fondly remembered and greatly missed by her husband of 45 years, Ron; her children, Kevin and Alexis, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Doris Carson; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Doris Carson as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 744

Celebrating the life of Brenda Buchanan Epes.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Brenda Buchanan Epes, a vibrant member of the Newport News community who touched countless lives through her generosity and grace, died on December 17, 2022; and

WHEREAS, a lifelong resident of the Commonwealth, Brenda Epes was born in Norfolk, then relocated to Yorktown with her family as a teenager; she attended Oscar Smith High School and graduated from York High School, and continued her education at Christopher Newport Community College; and

WHEREAS, Brenda Epes married her husband, Cary, in 1969, and after he returned from a tour of duty in Vietnam, the couple settled in Newport News, where they raised their family; and

WHEREAS, Brenda Epes retired as a media director for Waters Advertising Agency, but her true passion in life was supporting and advocating for children in the community; and

WHEREAS, Brenda Epes cared for several foster children in the 1970s and served as a board member of the former Safehaven, a nonprofit shelter for children from abusive homes; and

WHEREAS, Brenda Epes relished every opportunity to spend time with her own children and impart to them her sense of compassion and community spirit; she often volunteered at their schools as a classroom reader; and

WHEREAS, predeceased by her husband of 53 years, Cary, Brenda Epes will be fondly remembered and greatly missed by her children, Cary, Jr., and Karla, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Brenda Buchanan Epes, a beloved resident of Newport News; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Brenda Buchanan Epes as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 745

Celebrating the life of Albert Jack Stodghill.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Albert Jack Stodghill, the longtime planning director of the City of Newport News who helped the community become one of the Commonwealth's largest cities, died on October 2, 2022; and

WHEREAS, born in Georgia, Jack Stodghill grew up on his family's farm between Atlanta and Macon and graduated from Jackson High School in 1944; he joined many of the other young men of his generation in service to the nation during World War II, when he enlisted in the United States Army Air Corps after graduating high school; and

WHEREAS, during his military training, Jack Stodghill studied at Davidson College and at what is now the University of North Georgia, then deployed to Germany as part of the occupation force; and

WHEREAS, following his military service, Jack Stodghill earned a bachelor's degree in landscape architecture from the University of Georgia, then returned to Atlanta, where he began a lifelong career in city planning and raised his family; and

WHEREAS, early in his career, Jack Stodghill developed comprehensive plans for Miami Beach, Naples, Vero Beach, Fort Pierce, and Clearwater in Florida, as well as Waynesboro, Virginia, and Toccoa, Georgia; and

WHEREAS, in 1961, Jack Stodghill accepted a position as the planning director of the newly expanded City of Newport News; over the next 14 years, he created the city's first zoning ordinance, planned Newport News Park, established Hilton Village as a historic district and created the Hilton Village Architectural Review Board, and developed City Center at Oyster Point; and

WHEREAS, during that time, Jack Stodghill also earned a master's degree from George Washington University, and in 1975, he opened a planning consulting firm originally known as Jack Stodghill & Associates, where he continued to perform professional planning and management services for the next 35 years; the business was later reorganized as Planning Management Associates and still serves the community today as PMA Architecture; and

WHEREAS, highly respected in his field, Jack Stodghill established the Virginia Chapter of the American Planning Association wherein he served as the chapter's first president; in 2014 he received the prestigious honor of being admitted into the College of Fellows of the American Institute of Certified Planners; and

WHEREAS, Jack Stodghill enjoyed fellowship and worship with the Newport News community as a member of First United Methodist Church, where he helped lead the Sunday school program and guided projects to replace the church organ and install an elevator; and

WHEREAS, guided by his faith to help others, Jack Stodghill led members of his church to Florida to assist in rebuilding in the aftermath of Hurricane Andrew in 1992, and later became involved in constructing houses with the local affiliate of Habitat for Humanity in Newport News; and

WHEREAS, outside of his career and community service, Jack Stodghill was a skilled amateur guitarist who began playing in his youth; only 10 days before his death, his final song was played in a talent show at Warwick Forest and he was awarded first place; and

WHEREAS, predeceased by his wife of 57 years, Nancy, Jack Stodghill will be fondly remembered and greatly missed by his sons, Jeff, Carl, and David, and their families, and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Albert Jack Stodghill; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Albert Jack Stodghill as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 746

Celebrating the life of Jane Hazelwood Cooper.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Jane Hazelwood Cooper, a beloved wife, mother, and grandmother and an active member of the Newport News community, died on September 26, 2022; and

WHEREAS, growing up in the Brandon Heights neighborhood of Newport News, Jane Cooper graduated from Warwick High School and later earned a bachelor's degree from what was formerly Christopher Newport College in 1976; and

WHEREAS, Jane Cooper married her husband, Marc, in 1979 and took great care and found immense joy in raising their three children, Jack, Nathalie, and Marcus; and

WHEREAS, Jane Cooper's vibrant and nurturing light drew others to her, as she gladly opened her home and her heart to all; and

WHEREAS, Jane Cooper was dedicated to her community and volunteered with various local organizations, serving for years as a member and eventually as president of the Hampton Roads Garden Club and as a member of the Junior League of Hampton Roads; and

WHEREAS, in recognition of her accomplishments in service to others, Jane Cooper was presented the Christopher Newport University Distinguished Alumni Award in 2011; and

WHEREAS, preceded in death by her husband, Marc, Jane Cooper will be fondly remembered and dearly missed by her children, Jack, Nathalie, and Marcus, and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Jane Hazelwood Cooper, a treasured member of the Newport News community whose loving kindness and generosity made an impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jane Hazelwood Cooper as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 747

Commending Jamie Jill.

Agreed to by the House of Delegates, February 22, 2023
Agreed to by the Senate, February 24, 2023

WHEREAS, Jamie Jill, a firefighter and emergency medical technician with the Arlington County Fire Department, helped save the life of an individual who went into cardiac arrest during a baseball game at Nationals Park in June 2022; and

WHEREAS, on June 11, 2022, John Clements of Wisconsin was visiting the nation's capital with his wife and two adult sons and attended a Washington Nationals game against the Milwaukee Brewers; during the sixth inning, he experienced trouble breathing and speaking, then lost consciousness; and

WHEREAS, Jamie Jill was sitting in a nearby section when he noticed a disturbance and went to investigate; he lowered John Clements to the ground and began performing chest compressions; and

WHEREAS, Lindy Prevatt, an emergency room nurse who had also been sitting nearby, arrived and called for an automated external defibrillator (AED), then helped Jamie Jill perform chest compressions until the device arrived; and

WHEREAS, using the AED, Jamie Jill and Lindy Prevatt shocked John Clements three times, at which point on-site first responders reached the scene; and

WHEREAS, Jamie Jill and Lindy Prevatt helped carry John Clements up the stairs to the concourse, where he was placed on a stretcher and taken to the hospital for further treatment; and

WHEREAS, thanks to Jamie Jill's actions, John Clements survived and got to go home to his family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jamie Jill for helping to save the life of an individual who experienced cardiac arrest at Nationals Park in June 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jamie Jill as an expression of the General Assembly's admiration for his quick thinking and heroic actions.

HOUSE JOINT RESOLUTION NO. 748

Commending Lindy Prevatt.

Agreed to by the House of Delegates, February 22, 2023
Agreed to by the Senate, February 24, 2023

WHEREAS, Lindy Prevatt, at the time an emergency room nurse at Virginia Hospital Center, helped save the life of an individual who went into cardiac arrest during a baseball game at Nationals Park in Washington, D.C., in June 2022; and

WHEREAS, on June 11, 2022, John Clements of Wisconsin was visiting the nation's capital with his wife and two adult sons and attended a Washington Nationals game against the Milwaukee Brewers; during the sixth inning, he experienced trouble breathing and speaking, then lost consciousness; and

WHEREAS, Lindy Prevatt was sitting in a nearby section when she noticed a man in distress and went to investigate; by the time she arrived, Jamie Jill, an off-duty firefighter and emergency medical technician with the Arlington County Fire Department, had already begun chest compressions; and

WHEREAS, Lindy Prevatt called for an automated external defibrillator (AED) and helped Jamie Jill perform chest compressions until the device arrived; and

WHEREAS, using the AED, Lindy Prevatt and Jamie Jill shocked John Clements three times, at which point on-site first responders reached the scene; and

WHEREAS, Lindy Prevatt and Jamie Jill helped carry John Clements up the stairs to the concourse, where he was placed on a stretcher and taken to the hospital for further treatment; and

WHEREAS, thanks to Lindy Prevatt's actions, John Clements survived and got to go home to his family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Lindy Prevatt for helping to save the life of an individual who experienced cardiac arrest at Nationals Park in June 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lindy Prevatt as an expression of the General Assembly's admiration for her quick thinking and heroic actions.

HOUSE JOINT RESOLUTION NO. 749

Celebrating the life of Gary Oelze.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Gary Oelze, owner of the Birchmere in Alexandria, one of the most celebrated music venues in the country and a cornerstone of cultural life in the Washington, D.C., metropolitan area, died on January 23, 2023; and

WHEREAS, a native of Owensboro, Kentucky, Gary Oelze learned the guitar as a teenager and performed with groups at local dances; after a stint in the United States Air Force, he settled in the Washington, D.C., area and found work managing a drugstore in Arlington; and

WHEREAS, after a friend purchased the Birchmere Restaurant in Arlington, which was at the time a German restaurant, Gary Oelze took over management of the establishment and quickly gave the business a lift by changing its menu to better appeal to its clientele; and

WHEREAS, with an eye toward drawing in more business and celebrating a thriving bluegrass scene in Washington, D.C., that had become, at the time, increasingly relegated to smaller venues, Gary Oelze began hosting bluegrass acts at the Birchmere, finding great success with the group The Seldom Scene, which began a Thursday night residency at the venue in 1974 that would last for the next two decades; and

WHEREAS, as The Seldom Scene's star rose and the band gained recognition from leading musicians of the day, Gary Oelze's Birchmere became a necessary stop for both local music fans and national acts; and

WHEREAS, Gary Oelze took great pains to ensure that the music was the focus at the Birchmere, discouraging talking during sets and investing considerably in the venue's sound system over the years, which enabled him to cultivate a unique and intimate listening experience that was cherished by musicians and fans alike; and

WHEREAS, as the Birchmere cemented its reputation as the heart of the Washington, D.C., bluegrass scene, Gary Oelze moved the venue to a larger space in Alexandria in 1981 and continued looking for ways to innovate, which would lead the club to diversify its programming by featuring performers in the genres of jazz, rhythm and blues, pop, soul, country, and more; and

WHEREAS, Gary Oelze's Birchmere has hosted a wide range of performers through the years, from legendary artists like Ray Charles, Johnny Cash, Emmylou Harris, and Gordon Lightfoot, to former teen sensation David Cassidy, to the alt-folk musician Suzanne Vega, to outlaw country singer-songwriter Jerry Jeff Walker, who played the venue 133 times; and

WHEREAS, Gary Oelze moved the Birchmere again in 1997 to a 500-seat space to better accommodate its ever-expanding roster of world-class musicians and its growing legion of patrons and fans; and

WHEREAS, Gary Oelze was a champion of local musicians throughout his time operating the Birchmere, giving many young performers their first break, as well as guidance and support that would steer them toward successful careers; he notably helped former Alexandria resident and platinum-selling artist Mary Chapin Carpenter on her path to success; and

WHEREAS, in 2022, Gary Oelze, along with co-author Stephen Moore, published the book *All Roads Lead to the Birchmere: America's Legendary Music Hall*, preserving his memory of the venue for the benefit of future music historians and fans; and

WHEREAS, Gary Oelze will be fondly remembered and dearly missed by his loving wife of 10 years, Susan; his children, Carrie, Cheryl, and Vick, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Gary Oelze, a cherished member of the Alexandria community whose legacy as the owner of the Birchmere has left an indelible mark on the culture of the Commonwealth and the nation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Gary Oelze as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 750

Celebrating the life of Lillie Miller Finklea.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Lillie Miller Finklea, an accomplished community activist and beloved member of the Alexandria community whose steadfast efforts preserved hundreds of African American gravesites in Alexandria and led to the establishment of the Alexandria Contrabands and Freedmen Cemetery Memorial, died on December 27, 2022; and

WHEREAS, born in Washington, D.C., and raised in Alexandria, Lillie Finklea learned through the work of local historians that a cemetery existed on the south side of the Potomac River in Alexandria, where more than 1,800 African Americans had been interred around the time of the Civil War; and

WHEREAS, though the site had been compromised by the construction of the George Washington Memorial Parkway and a gas station, Lillie Finklea was determined to see the remainder of the site preserved and its legacy remembered; and

WHEREAS, Lillie Finklea took her cause to local African American churches and city officials in Alexandria and, on Memorial Day in 1997, she and fellow activist Louise Massoud held a wreath-laying ceremony at the site to honor the dead and raise awareness of the cemetery's existence; and

WHEREAS, following an official proclamation declaring the last week of May a week of remembrance for the Freedmen's Cemetery and the creation of the Friends of Freedmen's Cemetery organization, Lillie Finklea returned to the cemetery each Memorial Day, drawing increasing interest and support from local politicians, organizations, and media; and

WHEREAS, after securing a grant from the Virginia Foundation for the Humanities, Lillie Finklea and Louise Massoud produced a website and pamphlet to educate the public about the history of the cemetery; and

WHEREAS, Lillie Finklea installed a sign at the site recognizing its importance, raised money for a Virginia historical highway marker, and supported the creation of an exhibition about the cemetery at the Alexandria Black History Museum; and

WHEREAS, in 2007, after years of advocacy on the part of Lillie Finklea, the City of Alexandria purchased the land encompassing the historical cemetery and rededicated it, leading to the discovery and preservation of nearly 500 graves; and

WHEREAS, shortly thereafter, the Alexandria Contrabands and Freedmen Cemetery Memorial was established, and the cemetery was placed on the National Register of Historic Places, ensuring that the memory of this significant historical site will endure for generations to come; and

WHEREAS, in recognition of the important role she played in preserving the history of African Americans in Alexandria, Lillie Finklea was named a Living Legend of Alexandria in 2009 and inducted into the Alexandria African American Hall of Fame; and

WHEREAS, preceded in death by her loving husband, Earl, Lillie Finklea will be fondly remembered and dearly missed by her sister, Bernice, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Lillie Miller Finklea, a cherished member of the Alexandria community whose advocacy made a difference in the lives of many; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Lillie Miller Finklea as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 751

Celebrating the life of the Reverend George A. Pera.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, the Reverend George A. Pera, an esteemed faith leader and former pastor at Westminster Presbyterian Church in Alexandria and an active and beloved member of the Alexandria community, died on January 17, 2023; and

WHEREAS, after graduating from the former Peabody High School in Pittsburgh, George Pera earned a bachelor's degree from the University of Pittsburgh before matriculating at Princeton Theological Seminary, where he was notably the first degree candidate to ever serve as a teaching fellow; and

WHEREAS, dedicated to honing his abilities as a chaplain and pastor, George Pera trained in clinical pastoral counseling at Bellevue Hospital in New York City; with Dr. Paul Tournier, the famed Swiss physician and psychiatrist, in Geneva; with Dame Cicely Saunders, the founder of the modern hospice movement; and with a public speaking coach from the Royal Academy of Dramatic Art; and

WHEREAS, George Pera began his career as a chaplain at The Ohio State University and New York University before taking a position as associate pastor at Central Presbyterian Church in New York City; and

WHEREAS, George Pera transferred to First Presbyterian Church in Greenwich in 1964 and a year later became its senior pastor and head of staff, drawing a following over the years through his insightful sermons and his active engagement in civic and community affairs; and

WHEREAS, George Pera next served as the senior pastor of the American International Church in London from 1977 to 1980, during which time he enjoyed the unique distinction of leading the first American Thanksgiving Day services ever held in Westminster Abbey, St. Paul's Cathedral, and Westminster Cathedral; and

WHEREAS, George Pera became the senior pastor at Westminster Presbyterian Church in Alexandria in 1980, providing the congregation with sage counsel and ample opportunities for community outreach until his retirement in 1995, thereafter receiving the title pastor-emeritus from the church; and

WHEREAS, George Pera would continue to preach in his retirement, including as guest preacher at the American Church in Paris and as an interim pastor at Calvary Presbyterian Church of Alexandria, while also devoting considerable time and leadership to local service organizations and nonprofits, including Senior Services of Alexandria, Elder Crafters of Alexandria, Agenda: Alexandria, Inova Alexandria Hospital Foundation, ALIVE!, and The Call to Community; and

WHEREAS, in recognition of his accomplishments in service to the community of Alexandria, George Pera was named a Living Legend of Alexandria in 2009 and was presented with the Annie B. Rose Lifetime Achievement Award from the Alexandria Commission on Aging in 2003; he was also the recipient of an honorary doctor of divinity degree, an honorary doctor of humane letters degree, and an honorary doctor of literature degree; and

WHEREAS, preceded in death by his wife of 58 years, Nancy, George Pera will be fondly remembered and dearly missed by his children, Tracey and David, and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Reverend George A. Pera, a cherished member of the Alexandria community whose inspired leadership and compassionate service touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend George A. Pera as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 752

Commending Randy Johnson.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Randy Johnson, the president and founder of God's Pit Crew, a disaster relief organization based in Danville, was named the Danville Kiwanis Citizen of the Year in 2022, one of the city's highest honors; and

WHEREAS, a native of Appalachia and a member of the Fries High School Class of 1980, Randy Johnson began his career in a local textile mill before working as a tractor-trailer driver hauling cattle for several years; and

WHEREAS, upon settling in Mount Airy, North Carolina, for a time, Randy Johnson worked for Leonard Buildings and Truck Accessories, rising through the ranks to become manager of operations for the Danville division of the company; and

WHEREAS, about a decade later, Randy Johnson set out on his own, founding the used car dealership Piedmont Custom Conversions, as well as a driving school that operated at the South Boston Speedway race track; and

WHEREAS, in 1999, following the news of a devastating tornado in Oklahoma City, Randy Johnson and his wife, Terri, set out to deliver supplies to help families and individuals in need, a journey that would inspire Randy Johnson to found God's Pit Crew shortly thereafter; and

WHEREAS, under Randy Johnson's leadership, God's Pit Crew has grown into an organization with more than 800 volunteers, in Danville and across the nation, who mobilize whenever disasters strike to help families and individuals cope and rebuild after the upheaval in their lives; and

WHEREAS, since Randy Johnson founded God's Pit Crew, the organization has ably responded to more than 160 natural disasters worldwide, as its volunteers give generously and selflessly of their time to tend to the needs of others; and

WHEREAS, Randy Johnson also directs the focus of God's Pit Crew locally, supporting the Danville community through various endeavors designed to assist the area's first responders, schools, churches, veterans, shelters, and more; and

WHEREAS, in addition to his work with God's Pit Crew, Randy Johnson is also actively involved with White Oak Worship Center in Blairs, where he has served on the Deacon's Board and as director of Operation Compassion; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Randy Johnson for being named the 2022 Danville Kiwanis Citizen of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Randy Johnson as an expression of the General Assembly's admiration for his contributions to the Commonwealth and the nation.

HOUSE JOINT RESOLUTION NO. 753

Commending Danville-Pittsylvania Community Services.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Danville-Pittsylvania Community Services, the community services board providing various essential services to the residents of the City of Danville and the County of Pittsylvania, commemorated its 50th anniversary in 2022; and

WHEREAS, Danville-Pittsylvania Community Services was established in 1972 by a joint resolution of the Danville City Council and the Pittsylvania County Board of Supervisors; and

WHEREAS, Danville-Pittsylvania Community Services has grown from a staff of only a few into one of the largest employers in Southside Virginia, with nearly 300 staff members and an annual operating budget in excess of $23 million; and

WHEREAS, Danville-Pittsylvania Community Services is guided by a 15-member board of directors, appointed by the Danville City Council and the Pittsylvania County Board of Supervisors, that determines policy and direction for the agency and that contracts with its executive director to lead, direct, and supervise the agency's day-to-day operations; and

WHEREAS, Danville-Pittsylvania Community Services offers an array of behavioral health, developmental, and prevention services to meet the unique needs of the individuals it serves, empowering many to unlock their full potential and to become fully engaged in community life; and

WHEREAS, Danville-Pittsylvania Community Services achieves its objectives by meeting those it serves where they are, providing its services at more than 10 different sites in Danville and Pittsylvania County; and

WHEREAS, in fiscal year 2020 alone, Danville-Pittsylvania Community Services directly served more than 5,000 individuals through more than 50 unique behavioral health and developmental services programs; and

WHEREAS, Danville-Pittsylvania Community Services' prevention services have reached more than 20,000 residents in Pittsylvania County and Danville, helping them on their path to recovery and toward more vibrant and fulfilling lives; and

WHEREAS, Danville-Pittsylvania Community Services continues to grow and to develop new ways to meet the needs of the individuals it serves, helping to make Danville and Pittsylvania County healthier and more supportive places to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Danville-Pittsylvania Community Services on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James F. Bebeau, LPC, executive director of Danville-Pittsylvania Community Services, as an expression of the General Assembly's admiration for the organization's history of contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 754

Commending Ascension Lutheran Church.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Ascension Lutheran Church of Danville, which has provided generations of congregants with edifying spiritual guidance and abundant opportunities for community outreach, celebrated its 100th anniversary in October 2022; and

WHEREAS, the origins of Ascension Lutheran Church date to April 19, 1922, when a small group of Lutherans gathered at the home of E.C. Cadwallader to observe Holy Week using the liturgy of the Lutheran Church; and

WHEREAS, after several other small worship gatherings in the succeeding months, a group of 32 Lutherans in Danville decided to charter the city's first evangelical Lutheran church on June 18, 1922, naming it the Evangelical Lutheran Church of the Ascension; and

WHEREAS, the Reverend John Link became the first pastor of what is now Ascension Lutheran Church on October 18, 1922, and the church was admitted into the Southwest Virginia Synod on September 7, 1923; and

WHEREAS, in the early years of Ascension Lutheran Church, the congregation lacked its own church building and worshipped at various places in the community, including the YMCA, a local church, and Beth Shalom Temple; and

WHEREAS, Ascension Lutheran Church moved its services to Hylton Hall in the Schoolfield area of Danville in 1928 until its church building on West Main Street was completed in 1935, with the first services in the building being held on May 26, 1935; and

WHEREAS, the congregation at Ascension Lutheran Church continued to grow over the years and by the 1960s was in need of a larger facility for the church's services; this new building, located across the street from the first church building, held its first service on October 1, 1972; and

WHEREAS, Ascension Lutheran Church has been led by 16 different pastors over its history, who have each provided the congregation with instructive and comforting spiritual counsel and opportunities to engage with and support the broader Danville community; and

WHEREAS, in 1957, Frances Kipps Spencer and the women of Ascension Lutheran Church developed the first Chrismons, short for "Christ monograms," which served as ornaments on the church's Christmas tree; and

WHEREAS, the practice of decorating Christmas trees with Chrismons has since spread to other denominations and around the globe, earning Ascension Lutheran Church great renown as the birthplace of this joyous and meaningful tradition; and

WHEREAS, Ascension Lutheran Church commemorated its 100th anniversary in October 2022 with services led by former pastors, including a special worship service led by former Pastor Jim Utt on October 30, 2022, which was accompanied by music written by former director of music Robert Shaver; and

WHEREAS, in its anniversary year, members of Ascension Lutheran Church worked toward producing a history of the church, as well as a pictorial timeline and collection of old church documents and pictures, honoring the legacy of Ascension Lutheran Church and its impact on the Danville community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ascension Lutheran Church of Danville on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ascension Lutheran Church as an expression of the General Assembly's admiration for the church's history and its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 755

Celebrating the life of Robert C. Marsh, Jr.

Agreed to by the House of Delegates, February 20, 2023
Agreed to by the Senate, February 22, 2023

WHEREAS, Robert C. Marsh, Jr., of Danville, the longest-serving faculty member of Averett University and a distinguished artist whose work earned national acclaim, died on October 12, 2022; and

WHEREAS, a native of Alabama, Robert Marsh earned a bachelor's degree from the University of North Alabama and a master's degree from the University of Mississippi; and

WHEREAS, in 1969, Robert Marsh relocated to Danville and accepted a position as an art professor at Averett University; over the course of his 54-year career, he inspired generations of students through his joyful optimism and zest for life; and

WHEREAS, Robert Marsh's art was beloved locally and well-known throughout the Commonwealth and the nation; his work was displayed in galleries and museums across the country, including in the Library of Congress and the National Collection of Fine Arts of the Smithsonian Institution; and

WHEREAS, Robert Marsh earned renown for the graceful storytelling of his pieces and for his technical skill, including his control of color and organization of white space; and

WHEREAS, in January 2023, Averett University honored Robert Marsh's legacy of contributions to the institution and the art world at its Founders' Day celebration; and

WHEREAS, Robert Marsh will be fondly remembered and greatly missed by his wife of 52 years, Sandra; his sons, Clinton and Andrew, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Robert C. Marsh, Jr., a talented artist and passionate educator; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert C. Marsh, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 756

Commending Amina Luqman-Dawson.

Agreed to by the House of Delegates, February 24, 2023
Agreed to by the Senate, February 25, 2023

WHEREAS, Amina Luqman-Dawson, an accomplished author based in Arlington, won both the John Newbery Medal and the Coretta Scott King Book Award, both from the American Library Association, in 2023 for her debut novel, *Freewater*; and

WHEREAS, the John Newbery Medal is annually presented by the Association for Library Service to Children, a division of the American Library Association, to "the author of the most distinguished contribution to American literature for children"; the Coretta Scott King Book Award is given annually "to outstanding African American authors and illustrators of books for children and young adults"; Amina Luqman-Dawson holds the distinction of being the first woman to receive both honors; and

WHEREAS, following two enslaved children who escape their plantation and ultimately discover a community of formerly enslaved people and freeborn children, Amina Luqman-Dawson's *Freewater* is a novel of historical fiction for middle-grade students that tells an inspiring story of love, courage, and survival; and

WHEREAS, Amina Luqman-Dawson's *Freewater* is inspired by the history of Maroons, formerly enslaved individuals who escaped slavery and formed their own communities in previously uninhabited areas like the Great Dismal Swamp in the Commonwealth, shining light on this important and often overlooked chapter from the past; and

WHEREAS, after coming to the idea for *Freewater* during a Latin American studies class in college and writing a few chapters, Amina Luqman-Dawson set the project aside for more than a decade, at which point the urge to share the story and the history of the Maroons with her son led her to pick it up again; and

WHEREAS, prior to her success as an author, Amina Luqman-Dawson earned a bachelor's degree in political science from Vassar College and a master's degree in public policy from the University of California, Berkeley, then worked for some time as a policy professional, researcher, and consultant on issues of education and criminal justice; and

WHEREAS, *Freewater* is Amina Luqman-Dawson's first novel after authoring numerous newspaper op-eds, magazine articles, works of travel writing, book reviews, and the pictorial history book, *Images of America: African Americans of Petersburg*; and

WHEREAS, Amina Luqman-Dawson's extraordinary accomplishments in her early attempts at children's literature foretell a bright and promising career writing stories that will entertain and illuminate countless young minds; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Amina Luqman-Dawson for receiving both the John Newbery Medal and the Coretta Scott King Book Award in 2023; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Amina Luqman-Dawson as an expression of the General Assembly's admiration for her achievements and best wishes for her continued success.

HOUSE JOINT RESOLUTION NO. 757

Commending the Reverend Lois Bias.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, the Reverend Lois Bias, co-pastor of Bringing God's Word to Life Ministries in Richmond and owner and principal of Precious Blessing Academy and Rhema Preparatory Academy in Richmond, has greatly served the community for many years; and

WHEREAS, as a faith leader at Bringing God's Word to Life Ministries, Lois Bias has provided her congregation with uplifting guidance, wise leadership, and abundant opportunities for community outreach, including food distributions in collaboration with the Feed More food bank; and

WHEREAS, Lois Bias has led Precious Blessing Academy and Rhema Preparatory Academy in Richmond for 23 years, contributing greatly to her students' academic, emotional, and spiritual growth; and

WHEREAS, Lois Bias emphasizes individualized learning at her schools, wherein teachers develop a deeper understanding of their students to aid in their efforts to educate them, enabling the students to achieve their full potential; and

WHEREAS, though sharing a campus, Precious Blessing Academy and Rhema Preparatory Academy are designed and operated independently, facilitating Lois Bias' goal of promoting individualized learning in the classroom; and

WHEREAS, through her steadfast dedication to both her congregation and her students, Lois Bias has demonstrated extraordinary compassion and concern for the well-being of others; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Reverend Lois Bias for her legacy of service in the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Lois Bias as an expression of the General Assembly's admiration for her contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 758

Celebrating the life of Elisabeth Lewis Crutchfield.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Elisabeth Lewis Crutchfield, a beloved wife, mother, grandmother, and great-grandmother and a valued member of the Newport News community, died on August 4, 2022; and

WHEREAS, a native of Whitmire, South Carolina, Elisabeth "Libby" Lewis Crutchfield earned a bachelor's degree from the University of South Carolina in 1953 and the next year married Robert Crutchfield; and

WHEREAS, after first settling in Fishersville, Libby Crutchfield ultimately made her home in Newport News, supporting her husband and his ministry as pastor at Hilton Presbyterian Church for many years; and

WHEREAS, Libby Crutchfield also went on to attain a master's degree in sociology from The College of William & Mary in Virginia and to be a highly active member of her community; and

WHEREAS, while her sons were enrolled in Newport News Public Schools, Libby Crutchfield became involved in her local Parent Teacher Association; she was later appointed by the Newport News City Council to the Newport News School Board, contributing greatly to the academic, social, and emotional well-being of the division's students; and

WHEREAS, in recognition of her extraordinary leadership, Libby Crutchfield was appointed by the Newport News School Board to the Board of Directors of WHRO Public Media, which she served as chair, enhancing the organization's programming for the benefit of Hampton Roads' citizens; and

WHEREAS, Libby Crutchfield will be fondly remembered and dearly missed by her loving husband of 68 years, the Reverend Dr. Robert S. Crutchfield; her children, Will, Rob, Jim, and Charles, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Elisabeth Lewis Crutchfield, a cherished member of the Newport News community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Elisabeth Lewis Crutchfield as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 759

Commending Colonel D'Anne Emmett Spence, USAF, Ret.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Colonel D'Anne Emmett Spence, USAF, Ret., honorably served the nation in the United States Air Force and retired in October 2022 following an impressive 25-year career; and

WHEREAS, D'Anne Spence was nominated to the United States Air Force Academy by former Congressman Charlie Wilson of Texas and enrolled in 1995; and

WHEREAS, as a United States Air Force Academy cadet, D'Anne Spence excelled both academically and as a member of the institution's tennis team; and

WHEREAS, after graduating in 1999, D'Anne Spence began her journey as an officer in the United States Air Force and four years later was invited back to teach chemistry at the academy; and

WHEREAS, D'Anne Spence's impressive career in the United States Air Force included numerous decorations, including the Bronze Star, the Defense Meritorious Service Medal with three oak leaf clusters, the Afghanistan Campaign Medal, and the National Nuclear Security Administration Administrator Excellence Medal; and

WHEREAS, over the course of her distinguished career in the United States Air Force, D'Anne Spence served in critical positions for the Secretary of Defense and Chairman of the Joint Chiefs of Staff and as a legislative liaison to the United States Congress; and

WHEREAS, D'Anne Spence's last duty assignment was as the United States Air Force Academy liaison to the national capital region, where she assisted the Secretary of the Air Force and the Chief of Staff of the Air Force and their staffs on all matters pertaining to the academy; and

WHEREAS, in her personal life, D'Anne Spence has served in various leadership roles in organizations such as the Military Benefit Association and the Army Navy Country Club, where she currently serves as the club secretary; and

WHEREAS, D'Anne Spence resides in Arlington and has enjoyed the love and support of her family in all her endeavors, including that of her parents, Joe and Judy Emmett, and her children, Samantha and Emmett; now, therefore, be it

RESOLVED by House of Delegates, the Senate concurring, That the General Assembly hereby commend Colonel D'Anne Emmett Spence, USAF, Ret., an honorable servant to the United States and resident of the Commonwealth, for her service to the nation as an officer in the United States Air Force; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colonel D'Anne Emmett Spence, USAF, Ret., as an expression of the General Assembly's admiration for her work and for her service to the nation.

HOUSE JOINT RESOLUTION NO. 760

Commending Essy Saedi.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Essy Saedi, a successful restaurateur who has provided exceptional service to members of the Arlington County community for 48 years, will retire as the owner of Essy's Carriage House in 2023; and

WHEREAS, Essy Saedi was born in Iran and immigrated to the United States in 1962; he established Essy's Carriage House in the 1970s to provide upscale steakhouse fare in a comfortable, refined atmosphere; and

WHEREAS, located at the intersection of Quincy Street and Langston Boulevard in Cherrydale, Essy's Carriage House, a family owned and operated restaurant, offers a view of the Washington, D.C., skyline and has welcomed many high-profile customers, including judges, attorneys, government officials, and generals; and

WHEREAS, a beloved institution in the Cherrydale community, Essy's Carriage House became one of the longest continually operating full-service restaurants in Arlington; and

WHEREAS, Essy Saedi operates Essy's Carriage House with the help of his wife, Janet, who also plans to retire from her role as executive chef; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Essy Saedi on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Essy Saedi as an expression of the General Assembly's admiration for his contributions to the residents of Arlington County and the region.

HOUSE JOINT RESOLUTION NO. 761

Commending Rahman Harper.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Rahman Harper, a celebrity chef and owner and head chef of Queen Mother's Fried Chicken in Arlington, was named a Best Chef: Mid-Atlantic semifinalist by the James Beard Foundation in 2023; and

WHEREAS, a graduate of what is now Alexandria City High School, Rahman "Rock" Harper discovered a love for cooking in his adolescence and went on to earn a culinary degree in 1996 from Johnson & Wales University, where he developed the skills that would provide the foundation for a successful career in the culinary arts; and

WHEREAS, Rock Harper worked at several restaurants in Washington, D.C., including BET on Jazz Restaurant and Planet Hollywood, before becoming executive chef at the former B. Smith's Restaurant in Union Station; and

WHEREAS, Rock Harper appeared on the third season of Fox network's reality cooking television show *Hell's Kitchen* in 2007, winning the competition, which included the opportunity to serve as head chef at the former Terra Verde Restaurant at Green Valley Ranch Resort Spa and Casino in Henderson, Nevada, where he worked for a year; and

WHEREAS, following this venture, Rock Harper served briefly as executive chef at Ben's Next Door in Washington, D.C., before becoming a chef instructor at Stratford University, guiding an untold number of aspiring chefs toward promising and fulfilling careers; and

WHEREAS, after creating and implementing menus at multiple restaurants in the Washington, D.C., metropolitan area, Rock Harper opened Queen Mother's Fried Chicken, a fast-casual restaurant specializing in premium fried chicken sandwiches, in 2020, inside the incubator Kitchen of Purpose; and

WHEREAS, Rock Harper opened Queen Mother's Fried Chicken as a tribute to his mother Carole Harper, using high-quality, fresh ingredients to create an exceptional fried chicken sandwich that keeps customers coming back time and again; and

WHEREAS, Rock Harper has given generously of his time and talents as a volunteer chef with DC Central Kitchen, the Marine Fish Conservation Network, and the March of Dimes, which he served as National Celebrity Chef from 2008 to 2012; and

WHEREAS, Rock Harper's recognition from the James Beard Foundation is a testament to his commitment to excellence and to his extraordinary abilities as a chef and restaurateur; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Rahman Harper for being named a Best Chef: Mid-Atlantic semifinalist by the James Beard Foundation in 2023; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rahman Harper as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 762

Commending Jose Quiroz.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Jose Quiroz made history as the first Latino to be appointed as chief deputy of the Arlington County Sheriff's Office in August 2022 and subsequently became the first Latino acting sheriff in county history in January 2023; and

WHEREAS, the child of Honduran immigrants, Jose Quiroz grew up in Arlington County, where he graduated from Bishop O'Connell High School in 1997; after subsequently serving the nation as a member of the United States Marine Corps for four years, he joined the Arlington County Sheriff's Office in September 2001; and

WHEREAS, Jose Quiroz served as a deputy sheriff in the detention center and the local courthouse and was promoted to sergeant in 2015; as a sergeant he was responsible for all four shifts at the detention center and served as the administrative sergeant for two sections; and

WHEREAS, in 2018, Jose Quiroz was assigned to the newly created position of training sergeant in the Training Section of the Arlington County Sheriff's Office, where he oversaw the field training program and supervised newly hired deputy sheriff recruits; and

WHEREAS, Jose Quiroz was promoted to lieutenant in 2019 and oversaw all training functions for the department as training coordinator until he was promoted again to captain in 2022 and placed in charge of the department's third-party contracts; and

WHEREAS, Jose Quiroz is a member of the Virginia Sheriffs' Association, the American Jail Association, and the American Correctional Association; and

WHEREAS, outside of his regular law-enforcement duties, Jose Quiroz created the Arlington County Sheriff's Office's annual breast cancer awareness campaign, which has donated more than $15,000 to a local clinic, and served as director of the Arlington 9/11 Memorial 5K race from 2019 to 2022; and

WHEREAS, Jose Quiroz is proud of his Latin American heritage and has supported the Arlington-based nonprofit organization Edu-Futuro, which offers mentorship, education, and leadership development opportunities to immigrant and underserved youths; and

WHEREAS, Jose Quiroz has served Arlington County with integrity, professionalism, and dedication and became acting sheriff upon the retirement of the previous sheriff in January 2023; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jose Quiroz for his historic achievements in the Arlington County Sheriff's Office; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jose Quiroz as an expression of the General Assembly's admiration for his service to the residents of Arlington County.

HOUSE JOINT RESOLUTION NO. 763

Commending Matt Hill.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Matt Hill, owner and chef of Ruthie's All-Day, a new American restaurant in Arlington, was named a Best Chef: Mid-Atlantic semifinalist by the James Beard Foundation in 2022; and

WHEREAS, Matt Hill received an early culinary education growing up on his grandparent's farm in North Carolina, an experience that cultivated a lifelong interest in handcrafted rustic cuisine; and

WHEREAS, after graduating from the Culinary Institute of America in 2000, Matt Hill worked at several notable restaurants in New York City, including Craft and Theo; and

WHEREAS, Matt Hill next worked for nearly 10 years with the Charlie Palmer Group, first at Chef Palmer's flagship restaurant Aureole in New York City and next as the executive chef at Charlie Palmer Steak on Capitol Hill in Washington, D.C.; and

WHEREAS, under Matt Hill's leadership, Charlie Palmer Steak received numerous accolades, including a three-star review from *Washingtonian* magazine and recognition from *The Washington Post* as one of the region's top five steak houses; and

WHEREAS, Matt Hill next served as chef de cuisine of Range in Washington, D.C., guiding the creative development of the modern American restaurant and helping it to earn a three-star review from *The Washington Post*; and

WHEREAS, as executive chef and partner with the Liberty Tavern Restaurant Group from 2014 to 2020, Matt Hill oversaw several beloved Northern Virginia eateries, including the Liberty Tavern, Northside Social, Lyon Hall, Leonora Bakery, and Liberty Barbecue; and

WHEREAS, Matt Hill opened Ruthie's All-Day in 2020, where he emphasizes locally sourced, seasonal ingredients and homemade in-house production while drawing inspiration both from culinary traditions and modern trends; and

WHEREAS, Matt Hill has given generously of his time and talents by volunteering as a culinary partner with various philanthropic events and charitable organizations, including Share Our Strength, Heart's Delight, St. Jude Children's Research Hospital, American Cancer Society, VHC Health, and Doorways for Women and Families; and

WHEREAS, Matt Hill's recognition from the James Beard Foundation is a testament to his commitment to excellence and to his extraordinary abilities as a chef and restaurateur; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Matt Hill for being named a Best Chef: Mid-Atlantic semifinalist by the James Beard Foundation in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Matt Hill as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 764

Commending the James City-Bruton Volunteer Fire Department.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, for 75 years, the James City-Bruton Volunteer Fire Department has safeguarded the lives and property of James City County and western York County-Bruton District residents and provided exceptional outreach to the community; and

WHEREAS, the James City-Bruton Volunteer Fire Department was founded on March 2, 1948, and was the first fire department in James City County; that March, a group of 68 community members came forward as the company's first volunteers; and

WHEREAS, originally headquartered in Somers Garage and Madisons Store, the James City-Bruton Volunteer Fire Department built its first station in 1950 on Ironbound Road, before moving into a larger station in 1950 in Toano, then relocating in 1952 and again in 1963, both times in Toano; and

WHEREAS, the James City-Bruton Volunteer Fire Department hired the firms Guernsey Tingle Architects and Stewart-Cooper-Newell Architects to construct a new facility, fully equipped with five double-deep drive-through apparatus bays, bunks, office spaces, a radio room, a day room, training facilities, and equipment storage, as well as a meeting room and a commercial kitchen available for use by the public; and

WHEREAS, located in Toano, the James City-Bruton Volunteer Fire Department is responsible for the largest service area of all five fire stations in James City County, which includes residential developments, farms, commercial and industrial areas, a major interstate highway, and two major rivers; and

WHEREAS, with both volunteer and professional firefighters and emergency medical personnel, the James City-Bruton Volunteer Fire Department is equipped to respond with state-of-the-art equipment and training to fires, vehicle crashes, technical rescues, maritime emergencies, hazardous material spills, and emergency medical events 24 hours a day, seven days a week; and

WHEREAS, the highly trained members of the James City-Bruton Volunteer Fire Department respond to approximately 1,500 such calls annually; and

WHEREAS, the James City-Bruton Volunteer Fire Department maintains extensive mutual aid agreements with departments in neighboring York County, New Kent County, Charles City County, and the City of Williamsburg to ensure continuation of service in any eventuality; and

WHEREAS, the James City-Bruton Volunteer Fire Department works diligently to enhance community life outside of its regular duties by building strong ties with members of the public and by generously assisting civic organization and churches with service projects; and

WHEREAS, in 2009, the James City-Bruton Volunteer Fire Department also opened the James City-Bruton Farmer's Market across the street from Station No. 1 in Toano, which provides local produce vendors and crafters with a convenient location to sell their wares from April through December each year; and

WHEREAS, throughout its history, the James City-Bruton Volunteer Fire Department has demonstrated a commitment to honesty, integrity, good communication, innovation, and overall excellence in its mission to serve and safeguard members of the public; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the James City-Bruton Volunteer Fire Department on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the James City-Bruton Volunteer Fire Department as an expression of the General Assembly's admiration for its legacy of service to the James City County community.

HOUSE JOINT RESOLUTION NO. 765

Commending the Beyer Auto Group.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, the Beyer Auto Group, a distinguished consortium of new and used automobile dealerships serving the Northern Virginia community, celebrates its 50th anniversary in 2023; and

WHEREAS, the Beyer Auto Group got its start when Don and Nancy Beyer opened a small Volvo dealership in Falls Church in 1973, pursuing their vision of a business where customers were treated like family, with care, honesty, and respect; and

WHEREAS, the Beyer Auto Group's commitment to its customers has led to tremendous success over the past half-century, allowing the company to expand beyond Don Beyer Volvo Falls Church into seven additional locations; and

WHEREAS, today, the Beyer Auto Group's dealerships include Beyer Volvo Cars of Falls Church, Beyer Volvo Cars of Dulles, Beyer Volvo Cars of Winchester, Beyer Mazda in Winchester, Beyer Volkswagen in Winchester, Beyer Subaru in Alexandria, Beyer Kia in Falls Church, and Land Rover Alexandria; and

WHEREAS, the Beyer Auto Group's staff and sales associates continue to honor the legacy of Don and Nancy Beyer by cultivating genuine, personal connections with everyone who walks through its showrooms and by valuing customer satisfaction above all else; and

WHEREAS, through straightforward pricing and a tireless commitment to resolving any problems that may occur, the Beyer Auto Group's dealerships have earned the esteem of their customers and built a reputation for perfection that is known throughout the Northern Virginia community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Beyer Auto Group on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Beyer Auto Group as an expression of the General Assembly's admiration for the company's history and its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 766

Commending Marcus Weinstein.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Marcus Weinstein, a distinguished University of Richmond alumnus and pillar of the Richmond community, became the second-ever recipient of the institution's Paragon Medal in 2023; and

WHEREAS, inspired by a medallion that hangs from the "chain of office" that is passed down between successive presidents of the University of Richmond, the Paragon Medal is the institution's highest honor and recognizes individuals like Marcus Weinstein who have demonstrated unparalleled commitment to the university community; and

WHEREAS, the Paragon Medal has only been awarded once before and will not be awarded again in Marcus Weinstein's lifetime; the first Paragon Medal was presented to E. Claiborne Robins, who gifted $50 million to the University of Richmond in 1969; and

WHEREAS, Marcus Weinstein graduated from the University of Richmond in 1949 and is well-known in the Richmond community as the owner of Weinstein Properties and as a generous philanthropist who has enhanced the quality of life in the region through his charitable giving and wise leadership; his wife, Carole, is also a University of Richmond graduate; and

WHEREAS, Marcus and Carole Weinstein's contributions to the University of Richmond have helped improve campus facilities, increased access and affordability for students, supported the health and well-being of students, and enhanced academic offerings to transform the institution into a global center for learning; and

WHEREAS, Marcus and Carole Weinstein's support for the University of Richmond has resulted in the creation of the Carole Weinstein International Center, the Weinstein Center for Recreation, and Weinstein Hall; they have also supported several endowed professorships and scholarships, as well as programming like the Weinstein-Rosenthal Forum and other initiatives; and

WHEREAS, Marcus Weinstein previously received an honorary doctorate in commercial science from the University of Richmond in 2002 and the institution's Alumni Award for Distinguished Service in 2005; and

WHEREAS, the University of Richmond Board of Trustees voted to confer the Paragon Medal to Marcus Weinstein in August 2022, and he officially received the award at a special ceremony on January 19, 2023; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Marcus Weinstein, the second-ever recipient of the University of Richmond's Paragon Medal; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marcus Weinstein as an expression of the General Assembly's admiration for his commitment to philanthropy and servant leadership.

HOUSE JOINT RESOLUTION NO. 767

Commending Meg Medina.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Meg Medina of Henrico County, an award-winning, *New York Times* best-selling author who writes picture books for children as well as middle-grade and young adult fiction, was selected as the National Ambassador for Young People's Literature for 2023-2024 by the Library of Congress and Every Child a Reader; and

WHEREAS, Meg Medina began writing at age 40 after the oldest of her three children began attending elementary school; many of her stories are influenced by her Cuban American heritage and her own life experiences; and

WHEREAS, Meg Medina previously received the 2019 John Newbery Medal for her children's book, *Merci Suárez Changes Gears*; her most recent picture book, *Evelyn Del Rey is Moving Away* has received multiple accolades, including the 2021-2022 Charlotte Zolotow Award; and

WHEREAS, Meg Medina also established the program "¡Cuéntame!: Let's talk books" to encourage discussions about books and literacy among families and in classrooms, libraries, and communities; and

WHEREAS, Meg Medina is the eighth person to serve as the National Ambassador for Young People's Literature, and she is the first Latina author to be selected; in this capacity, she will travel the country to engage with young people and promote the joys of reading and the power of storytelling; and

WHEREAS, Meg Medina was inaugurated as the National Ambassador for Young People's Literature by Dr. Carla Hayden, the Librarian of Congress, at a special ceremony on January 24, 2023, at the Library of Congress; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Meg Medina on the occasion of her selection as National Ambassador for Young People's Literature for 2023-2024; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Meg Medina as an expression of the General Assembly's admiration for her achievements as an author and contributions to young people throughout the Commonwealth and across the nation.

HOUSE JOINT RESOLUTION NO. 768

Commending the Brafferton Indian School.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, since the founding in 1693 of The College of William & Mary in Virginia, colonial officials encouraged Native American tribes that signed treaty agreements with the English to send young men to be educated in reading and writing, the arts and sciences, and Christian theology; and

WHEREAS, for more than 65 years between 1723 and 1790, the Brafferton Building at The College of William & Mary served as the primary residential and instructional building for Native American students; and

WHEREAS, most tribes were hesitant to send students to the institution, and it was not until Lt. Governor Alexander Spotswood began to remit annual tribute payments for tribes that maintained a student or two in residence that the number of students attending the school increased; and

WHEREAS, by 1712, The College of William & Mary hosted 24 students from multiple tribes, and during the following decades, Native American students consistently made up a substantial percentage of the total student population; and

WHEREAS, between 1705 and 1716, when the main college building, now known as the Sir Christopher Wren Building, was being reconstructed due to a fire, all students were taught and housed in auxiliary facilities in Williamsburg; when the Wren Building reopened in 1716, there may have been separate residential quarters for Native and non-Native students, but evidence indicates that the dining hall and classrooms in the Wren Building were spaces shared by all students; and

WHEREAS, to better accommodate the growing population of Indigenous students, the Brafferton Building was constructed in 1723; the first floor was divided into a large classroom area and an apartment for the Indian School instructor and student dormitories were located on the second floor; and

WHEREAS, the Brafferton Building took its name from the Brafferton Estate, an agricultural manor in Yorkshire, England, that supported the construction and ongoing funding of the Indian School at The College of William & Mary and similar schools in the colonies; and

WHEREAS, in 1732, the Brafferton Building underwent renovations, and half the second floor was outfitted as a library for use by all students and faculty; students' dormitories for the Indian School were relocated to the third floor of the building; and

WHEREAS, Brafferton Indian School alumni were emissaries and interpreters for Virginia governors and military officers, most notably George Washington, Patrick Henry, and Thomas Jefferson; and

WHEREAS, Brafferton Indian School alumni made significant contributions to Virginia society, the Seven Years War, the American Revolution, and United States history, acting as warriors, guides, translators, and liaisons; and

WHEREAS, during the Revolutionary War, funding from the Brafferton Estate was withheld and the Indian School, along with the entire college closed temporarily; and

WHEREAS, after the conclusion of the war, The College of William & Mary took legal action in England to reinstate the Brafferton Estate's funding for the Indian School; however, in 1790 the lawsuit was unsuccessful, and the school closed permanently; and

WHEREAS, the Brafferton Building was subsequently repurposed as a dining hall, faculty residence, dormitory, and classroom building; in the 1950s and 1960s, the Brafferton housed offices for what is now the William & Mary Alumni Association, and it currently serves as the office building for the president and provost; and

WHEREAS, over the course of its history, the Brafferton Indian School at The College of William & Mary hosted students from Virginia's Powhatan Chiefdom, such as the Pamunkey, Chickahominy, and Nansemond; and those of the Six Nations (Haudenosaunee) Cayuga, Mohawk, Oneida, Onondaga, Seneca, and Tuscarora; as well as others from the Catawba, Cherokee, Delaware, Meherrin, Nottoway, Occaneechi, Saponi, Tutelo, and Wyandot; The College of William & Mary has worked with representatives of multiple tribes to honor the legacy of the Brafferton Indian School; and

WHEREAS, in 2023, The College of William & Mary will commemorate the 300th anniversary of the Brafferton Building's legacy by engaging with the heritage of the Indian School and the role it played in early American history

through cross-disciplinary scholarship and applied research and further strengthening ties with the tribal community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend The College of William & Mary in Virginia on the occasion of the 300th anniversary of the construction of the Brafferton Indian School on its campus; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to The College of William & Mary in Virginia as an expression of the General Assembly's appreciation for the important historical legacy of the Brafferton Indian School and the institution's ongoing work to contextualize its early history and strengthen relationships with Native communities.

HOUSE JOINT RESOLUTION NO. 769

Commending the Chesapeake Bay Foundation's environmental education programs.

Agreed to by the House of Delegates, February 21, 2023

Agreed to by the Senate, February 23, 2023

WHEREAS, the Chesapeake Bay Foundation, a nonprofit, multistate organization dedicated to ensuring the health of the Chesapeake Bay watershed, has been a regional and national leader in environmental education since the early 1970s; and

WHEREAS, the Chesapeake Bay Foundation began its environmental education programs in 1973, and the following year the Chesapeake Bay Foundation in Virginia developed its first educational program on the Commonwealth's rivers and streams with one teacher and about a dozen canoes; and

WHEREAS, for 50 years, the Chesapeake Bay Foundation has provided meaningful watershed educational experiences to more than 1.5 million students and thousands of teachers; environmental education programs have reached schools in rural, urban, and suburban communities across the watershed, about 25 percent of which are under-resourced; and

WHEREAS, with the assistance and support of state agencies and officials in Virginia, and in partnership with the Department of Conservation and Recreation and the Virginia Department of Education, the Chesapeake Bay Foundation's environmental education programs reach more than 10,000 teachers and students in the Commonwealth each year; and

WHEREAS, the Chesapeake Bay Foundation's environmental education programs offer meaningful experiences like field trips, teacher training, curriculum materials, and restoration programs that have inspired generations of citizens to become lifelong stewards of the Chesapeake Bay watershed; and

WHEREAS, the Chesapeake Bay Foundation's environmental education programs create opportunities to link the natural environment with everyday life, enabling students and teachers to conduct their own research, use critical thinking skills, and gain a valuable perspective on the relationship between water quality, fisheries, and economics; courses combine many academic disciplines and are structured to support the Standards of Learning for Virginia Public Schools; and

WHEREAS, the Chesapeake Bay Foundation operates seven environmental education programs for middle and high school-aged students; two residential programs on an island, two boat programs, two canoe programs, and the student leadership summer program; The Foundation also provides professional development for teachers through Chesapeake Classrooms, a year-long program that offers several options, including a five-day immersion course, grant writing training, classroom curriculum development, and standards-based, meaningful watershed experiences; and

WHEREAS, the Chesapeake Bay Foundation has established deep partnerships with rural, urban, and suburban school districts, as well as many private schools across the Commonwealth; and

WHEREAS, in 2011, Governor Robert F. McDonnell recognized the Chesapeake Bay Foundation's environmental education programs with the Governor's Environmental Excellence Award; the Chesapeake Bay Foundation has also received two of the nation's top environmental honors, the President's Environment and Conservation Challenge Medal, and the National Geographic Society Chairman's Award; and

WHEREAS, the Chesapeake Bay Foundation has led efforts to educate students, teachers, and residents of the Commonwealth for 50 years and is dedicated to increasing knowledge about the restoration and protection of the Chesapeake Bay, a national treasure and one of the Commonwealth's greatest natural resources; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Chesapeake Bay Foundation's environmental education programs on their anniversary for five decades of outstanding service to the public in the Commonwealth and the Chesapeake Bay watershed; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Peggy Sanner, the Virginia executive director of the Chesapeake Bay Foundation, as an expression of the General Assembly's admiration for the Foundation's contributions to students, teachers, and local residents through its environmental education programs.

HOUSE JOINT RESOLUTION NO. 770

Commending Hobnob.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, for more than five years, Hobnob, a neighborhood restaurant in Henrico County, has provided delicious food and exceptional service and fostered a strong sense of community in the Lakeside area; and

WHEREAS, Kristin and Tracey Thoroman purchased the former Hermitage Grill in 2017 and renamed the restaurant Hobnob as a reference to the "hob nob" in William Shakespeare's *Twelfth Night*, an occasion for friends to eat and be merry; and

WHEREAS, Kristin and Tracey Thoroman conducted major renovations to craft a welcoming and intimate dining room that encourages good cheer; and

WHEREAS, as head chef, Tracey Thoroman has developed an exciting menu that has delighted neighborhood regulars and local foodies alike, complemented by an array of homemade sweets and desserts made by pastry chef Mary Lou Bakewell; and

WHEREAS, Hobnob has become a beloved community meeting place that is known throughout the area for its delightful fare and cozy atmosphere; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Hobnob on the occasion of its fifth anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kristin and Tracey Thoroman, co-owners of Hobnob, as an expression of the General Assembly's admiration for their service to residents of Henrico County and the region.

HOUSE JOINT RESOLUTION NO. 771

Commending Final Gravity Brewing Company.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Final Gravity Brewing Company, a craft beer brewery in the Lakeside area of Henrico County, has served the community for more than seven years; and

WHEREAS, Final Gravity Brewing Company was established in 2015 by Tony Ammendolia, an experienced home beer brewer and the owner of Original Gravity Homebrew Supplies, which has been providing a full range of tools and equipment for local home brewers since 2011; and

WHEREAS, Final Gravity Brewing Company began as a nanobrewery inside the Original Gravity Homebrew Supplies shop, with a modest selection of small-batch beers available only by the glass, flight, or growler; and

WHEREAS, Final Gravity Brewing Company has grown and expanded over the years and currently offers between 15 and 20 beers on tap at all times; the varied selection reflects the company's roots as home brewers of classic beer styles such as lager, blonde ale, hefeweizen, amber ale, porter, and stout; and

WHEREAS, with its convenient location, welcoming indoor taproom, and pet-friendly outdoor seating, Final Gravity Brewing Company has become a beloved community meeting place and helped invigorate the local economy; and

WHEREAS, among many awards and accolades, Final Gravity Brewing Company has been a favorite in the Virginia Craft Beer Cup Competition, with its beers winning four gold medals, two silver medals, and one bronze medal since 2016; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Final Gravity Brewing Company for its service to the Lakeside community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Final Gravity Brewing Company for its contributions to the craft beer brewing industry.

HOUSE JOINT RESOLUTION NO. 772

Celebrating the life of Ellalee Fountain Flowers.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Ellalee Fountain Flowers, an esteemed educator at Richmond Public Schools, professor at Virginia Union University, and beloved member of the Richmond community, died on May 15, 2022; and

WHEREAS, Ellalee Flowers grew up in the Jackson Ward neighborhood of Richmond and excelled academically in her youth, graduating at the top of her class from Armstrong High School in 1939 at the age of 15; and

WHEREAS, Ellalee Flowers earned a bachelor's degree in business administration from what is now Virginia State University in 1943, where she once again graduated at the top of her class and was a member of the Alpha Eta Chapter of Delta Sigma Theta Sorority, Inc.; and

WHEREAS, Ellalee Flowers began her career in the president's office of Southern Aid Life Insurance Company, which was the first Black-owned insurance company in the nation; she later earned a master's degree in education from Columbia University in 1947, which was paid for by the Commonwealth pursuant to the Dovell Act of 1935 at a time when Virginia's institutions of higher education were still segregated; and

WHEREAS, in 1945, Ellalee Flowers began teaching business courses at Maggie L. Walker High School, formerly of Richmond Public Schools (RPS), where she contributed greatly to the success of countless young people; she would ultimately become head of the school's business department before retiring from RPS in 1979; and

WHEREAS, Ellalee Flowers subsequently took a faculty position in the Sydney Lewis School of Business at Virginia Union University, working tirelessly for the benefit of her students until her retirement in 1987; and

WHEREAS, Ellalee Flowers was a passionate educator who, in addition to her roles at Maggie L. Walker High School and Virginia Union University, also found time to teach night school for adults and to instruct elementary school students; and

WHEREAS, Ellalee Flowers was an 80-year member of Delta Sigma Theta Sorority, Inc., actively serving in its Richmond Alumnae chapter for many years, including as chair of its Habitat for Humanity and political awareness committees; and

WHEREAS, Ellalee Flowers devoted herself to the fight for racial and social justice as a lifelong member of the NAACP, serving as secretary of the Richmond branch of the organization; and

WHEREAS, guided throughout her life by her faith, Ellalee Flowers enjoyed worship and fellowship with her community at Ebenezer Baptist Church in Richmond from an early age; and

WHEREAS, preceded in death by her husband, Stafford, Ellalee Flowers will be fondly remembered and dearly missed by her children, Jan and Gary, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Ellalee Fountain Flowers, a cherished member of the Richmond community whose efforts as an educator and in other endeavors inspired all who knew her; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ellalee Fountain Flowers as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 773

Commending I-66 Express Mobility Partners.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, I-66 Express Mobility Partners is a consortium of private developers including Cintra, Meridiam, and APG, doing business in the Commonwealth under the public-private partnership model with the Virginia Department of Transportation, and FAM Construction LLC, the Project's design-build contractor, a joint venture of Ferrovial Construction and Allan Myers; and

WHEREAS, in November 2022, the I-66 Express Lanes outside the Beltway between I-495 (Capital Beltway) and I-66 (Gainesville) opened ahead of schedule in the midst of the global pandemic; and

WHEREAS, the I-66 Express Lanes are a transformative 22.5-mile multi-modal mega-project featuring seamless pavement, dedicated access ramps, 11 miles of shared-use path paralleling the lanes, and sufficient median space for constructing future transit infrastructure; and

WHEREAS, the I-66 Express Lanes, a component of the Transform 66 Outside the Beltway project, was among the largest public-private partnership (P3) infrastructure projects in the United States this century; and

WHEREAS, the lanes provide Northern Virginia commuters, businesses, and mass transit with a reliable option to move people, goods, and services throughout the I-66 corridor, allowing drivers to "Sit Less, Live More"; and

WHEREAS, I-66 Express Mobility Partners returned $600 million to the Commonwealth in anticipated public subsidy to be used for other projects; and

WHEREAS, throughout the project, a total of 63 bridges have been renovated or newly constructed and two new park-and-ride lots were constructed to provide more than 4,000 spaces for commuters; and

WHEREAS, the project also includes safety and operational improvements at key interchanges, new and expanded commuter bus service, and bicycle and pedestrian paths and connections throughout the corridor, including the new I-66 Parallel Trail; and

WHEREAS, the project has already benefited the local economy by engaging more than 400 local and regional subcontractors and suppliers, while exceeding its goal of hiring Disadvantaged Business Enterprises (DBE), committing more than 20 percent in construction contracts to DBE contractors; and

WHEREAS, sustainable practices were used in construction, including repurposing more than 430,000 tons of rubblized concrete and one million tons of rubblized stone from the existing highway; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend I-66 Express Mobility Partners on the occasion of the opening of the I-66 Express Lanes; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to I-66 Express Mobility Partners as an expression of the General Assembly's admiration for the company's contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 774

Commending the First Baptist Church of Manassas.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, for 150 years, the First Baptist Church of Manassas has provided its congregation with joyful and uplifting spiritual guidance and abundant opportunities for community outreach; and

WHEREAS, the origins of the First Baptist Church of Manassas date to July 1872, when the American Baptist Home Mission Society sent the Reverend Marshall Downing Williams to Manassas to meet with a group of African Americans who were recently freed from slavery and who were looking to organize a community around their faith; and

WHEREAS, under the leadership of the Reverend Marshall Downing Williams, this group held the first service of the First Baptist Church of Manassas on October 13, 1872; Reverend Williams would then continue to lead the church well into the 20th century; and

WHEREAS, the first site of the First Baptist Church of Manassas was dedicated on July 27, 1879, and served the congregation until the dedication of the church's second and present church site on July 29, 1905; both sites were secured through the beneficence of Isaac Baldwin; and

WHEREAS, the First Baptist Church of Manassas would continue to grow in numbers and to make improvements to the church's facilities as needed under the wise leadership of several pastors, including the church's 12th and present pastor, the Reverend Keith A. Savage, who joined the church on June 2, 2002; and

WHEREAS, the Reverend Keith A. Savage has inspired the congregation at the First Baptist Church of Manassas with his vision of "Moving the Kingdom Forward through Faith," developing several ministries and outreach programs to serve the community locally, nationally, and internationally; and

WHEREAS, from its humble beginnings, the First Baptist Church of Manassas has blossomed into a thriving community of parishioners united by their faith, and it will continue to make a positive and profound impact on the world for many years to come; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the First Baptist Church of Manassas on the occasion of its 150th anniversary in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the First Baptist Church of Manassas as an expression of the General Assembly's admiration for the church's history and its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 775

Celebrating the life of Mary Elyn McNichols.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Mary Elyn McNichols, an incredible wife, mother, grandmother, friend, instructor, administrator, and leader who dedicated her life to serving others, died on Saturday, October 15, 2022; and

WHEREAS, a native of Chicago and the eldest of five siblings, Mary Elyn McNichols put herself through college, earning a bachelor's degree in English and secondary education at the University of Illinois, where she collected many honors, including Phi Beta Kappa and numerous scholarships and leadership positions, of which serving as president of the Independent Women's Association was a special source of pride; and

WHEREAS, Mary Elyn McNichols continued her education at The Ohio State University, receiving a master's degree in counseling psychology while serving as a resident advisor and later receiving a promotion to head advisor; upon graduating, she took a job as assistant dean of students at the University of Maryland; and

WHEREAS, Mary Elyn McNichols then married and became a loving mother to her precious children; she effectively balanced her home life while working as an instructor of clinical and counseling psychology at Northern Virginia Community College and while founding and developing two nonprofit childcare centers for student-parents of the college; and

WHEREAS, Mary Elyn McNichols later took on a position as executive director of the New River Agency on Aging for five years, creating, providing, and coordinating a diverse range of services for the elderly; and

WHEREAS, at this time, Mary Elyn McNichols met Robert, her husband of 42 years, and together they founded the ventures McNichols and Associates and Coordinated Services Management, Inc., (CSM) in 1980 and 1981, respectively; and

WHEREAS, Mary Elyn McNichols served as management administrator of 16 elderly retirement facilities in her role as executive vice president of CSM; and

WHEREAS, as executive vice president of McNichols and Associates, Mary Elyn McNichols served as technical advisor and development consultant for 27 facilities, relishing putting together multimillion-dollar financing deals and crafting facility budgets; and

WHEREAS, Mary Elyn McNichols demonstrated her kind heart through her work in nonprofit care communities for the Catholic Diocese of Richmond and others, as a gracious leader who saw her staff as her company's greatest resource and true heroes throughout the COVID-19 pandemic, and through her co-creation of the Amy Elizabeth Lauth Foundation, which allowed her to directly help those most in need and where she always ensured that all donations went directly to charity; and

WHEREAS, Mary Elyn McNichols always put her family and friends first, never missing birthdays, weddings, funerals, and reunions, and she took any opportunity to bring her family together; and

WHEREAS, preceded in death by her daughter, Amy, Mary Elyn McNichols will be fondly remembered and dearly missed by her loving husband of 42 years, Robert; her children, Larry, Laura, and Wade, and their families; her siblings, Susan, Ralph, Nancy, and John; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Mary Elyn McNichols, a loving wife, caring mother, generous grandmother, and an incredible friend; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Mary Elyn McNichols as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 776

Commending Annie Walker.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Annie Walker, a retired United States Army veteran, has supported her fellow veterans in the Commonwealth for over two decades, including 17 years as a deputy commissioner of the Department of Veterans Services; and

WHEREAS, over the course of her distinguished military career, Annie Walker served as a fire control instrument repairer, Pershing missile electronics material specialist, multiple launch rocket systems repairer, and a unit supply specialist; her last duty assignment was at Fort Lee as a drill sergeant and she completed her military career in 1997 as the director for the Instructor Development Course at the United States Army Quartermaster Center and School; and

WHEREAS, among her many awards and accolades, Annie Walker has received the Meritorious Service Medal, the Army Commendation Medal, the National Defense Service Medal, the Humanitarian Service Medal, the Good Conduct Award, the Overseas Service Ribbon, and the Distinguished Instructor Award; and

WHEREAS, Annie Walker gained experience in education and social services in Petersburg, then began working for the Commonwealth as an education specialist with the Virginia State Approving Agency (SAA) for Veterans Education and Training (GI Bill) under the Virginia Department of Education; the SAA subsequently moved to the Department of Veterans Services in 2004; and

WHEREAS, as a deputy commissioner of the Department of Veterans Services, Annie Walker provides general counsel and guidance to the commissioner on agency strategy and administration and connects veterans and their families to federal and state benefits, recognition, and quality care; and

WHEREAS, Annie Walker oversees numerous programs, including Benefits, Virginia Veterans and Family Support, the Veterans Education, and the Transition & Employment (VETE) directorate, which includes the SAA, the Virginia Military Survivors and Dependents Education Program, the Virginia Values Veterans Employment (V3) Program, the V3 Transition Program, the Military Medics and Corpsmen Program, the Virginia Women Veterans Program, and the Military Spouse Liaison; and

WHEREAS, at the national level, Annie Walker served as a past president of the National Association of State Approving Agencies (NASAA), a past member of the Department of Veterans Affairs (DVA) Veterans Advisory Council on Education, and a past member of the DVA/NASAA Joint Advisory Council; and

WHEREAS, Annie Walker has touched countless lives and helped make the Commonwealth one of the best places for veterans to live, work, and thrive; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Annie Walker for her service as a deputy commissioner of the Department of Veterans Services; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Annie Walker as an expression of the General Assembly's admiration for her contributions to the men and women who have served and sacrificed in defense of the nation.

HOUSE JOINT RESOLUTION NO. 777

Commending the South County High School girls' outdoor track and field team.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, the South County High School girls' outdoor track and field team won the Virginia High School League Class 6 state championship in 2022; and

WHEREAS, the South County High School Stallions dominated the competition, scoring 80 points and defeating the second-place team from Oscar Smith High School by an incredible 41 points; and

WHEREAS, Catalina Sanchious won the 100-meter race in 11.86 seconds; she also ran on the 4x100 relay team that finished second with a time of 47.38, along with Mianna Mason, Jaidyn Curry, and U'Riah Pack; and

WHEREAS, Victoria Higgins won the 200-meter race with a time of 24.98 and the 400-meter race with a time of 55.90 moments before her teammate Jaidyn Curry's second place finish with a time of 56.51; and

WHEREAS, Jaidyn Curry, Victoria Higgins, Jordan Salisbury, and Naomi Clarke also won the 4x400 relay with a time of 3:56.88; and

WHEREAS, the victory was a complete team effort and a tribute to the skill and hard work of all the student-athletes, the leadership and guidance of coaches and staff, and the enthusiastic support of the entire South County High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the South County High School girls' outdoor track and field team on winning the Virginia High School League Class 6 state championship in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the South County High School girls' outdoor track and field team as an expression of the General Assembly's admiration for the team's achievements.

HOUSE JOINT RESOLUTION NO. 778

Commending the W.T. Woodson High School boys' cross country team.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, the W.T. Woodson High School boys' cross country team won the Virginia High School League Class 6 state championship in 2022; and

WHEREAS, the W.T. Woodson High School boys' cross country team was led by Coach Garrett Kroner; senior captains Samik Bhinge, Daniel Cassata, Caleb Hymans, and Luke Schools; junior Stephen Wolf; and sophomores Jibran Hutchins and Zain Elcock; and

WHEREAS, the W.T. Woodson High School Cavaliers scored 57 points, defeating the defending champions from Oakton High School by 13 points to claim their first state title since 2018; and

WHEREAS, senior Samik Bhinge led the W.T. Woodson Cavaliers, finishing in 11th place with a time of 16:36, followed by Daniel Cassata in 14th place with a time of 16:41; and

WHEREAS, three other W.T. Woodson Cavaliers finished in the top 25, contributing to the final tally: Jibran Hutchins with a time of 17:03, Luke Schools with a time of 17:04, and Stephen Wolf with a time of 17:10; and

WHEREAS, the victory is a tribute to the skill and hard work of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire W.T. Woodson High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the W.T. Woodson High School boys' cross country team on winning the Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Garrett Kroner, head coach of the W.T. Woodson High School boys' cross country team, as an expression of the General Assembly's admiration for the team's achievements.

HOUSE JOINT RESOLUTION NO. 779

Celebrating the life of Charles Taliaferro Lindsay, Jr.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Charles Taliaferro Lindsay, Jr., a longtime auto dealer and leader of the business community in Alexandria and Arlington and a beloved husband, father, grandfather, and friend, died on July 18, 2022; and

WHEREAS, born on Valentine's Day, February 14, 1935, in Washington, D.C., Charles Taliaferro "Terry" Lindsay, Jr., grew up in Washington, D.C., graduating from Woodrow Wilson High School before attending Duke University, where he earned a degree in civil engineering in 1958; and

WHEREAS, a loyal patriot, Terry Lindsay, served in the United States Army, working at the Army Rocket and Guided Missile Agency, a forerunner of the U.S. space program, and completing his military career at the rank of first lieutenant; and

WHEREAS, after finishing his service with the United States Army, Terry Lindsay worked for the civil engineering firm Ammann & Whitney, supervising the runways of and access road to Dulles International Airport; and

WHEREAS, in 1963, Terry Lindsay joined his father at Lindsay Oldsmobile Cadillac in Alexandria and, along with his brother Jack, who joined the company in 1966, grew the business to become one of the leading Cadillac dealerships in the country; and

WHEREAS, in 1988, Terry Lindsay was selected to be one of the first Lexus dealers in the United States and developed the dealership into one of the top Lexus dealerships nationwide; and

WHEREAS, Terry Lindsay's sons, Chip, Michael, and Chris, now run Lindsay Automotive Group with 15 different franchises and with numerous locations in Northern Virginia and Maryland; and

WHEREAS, an active and dedicated member of his community, Terry Lindsay supported a wide array of industry and community causes for many years; and

WHEREAS, Terry Lindsay served in the leadership of many organizations, including the Saint Luke Institute, Marymount University, the Arlington chapter of the American Red Cross, the Virginia Foundation for Independent Colleges, what is now Dunbar-Alexandria Olympic Boys & Girls Club, the Arlington district of the Boy Scouts of America, the Arlington Community Foundation, and First American Bank; and

WHEREAS, true to his faith as a devout Catholic, Terry Lindsay was a lifelong parishioner at St. Agnes Catholic Church in Arlington and a 2015 recipient of a medal from the John Carroll Society of the Archdiocese of Washington, D.C., that is presented to distinguished Catholics in recognition of lifetime achievement, public service, outstanding leadership, and commitment to their faith; and

WHEREAS, a fan of all sports, Terry Lindsay truly loved the game of golf and played many courses throughout the world but mostly enjoyed the camaraderie of the game; and

WHEREAS, an active and dedicated member of his industry, Terry Lindsay served his customers and his community with a generous spirit and was an example to dealers in his community and around the Commonwealth; and

WHEREAS, Terry Lindsay served as chair of the Virginia Automobile Dealers Association in 1983 and of the Washington Area New Automobile Dealers Association, leading all his fellow franchise dealers as their top elected officer; and

WHEREAS, while enjoying success in business, Terry Lindsay believed his family was his passion and greatest achievement, and he was never happier than being with his wife of 61 years and love of his life, Jeannie Lindsay, his three devoted sons, and his 12 grandchildren whom he loved beyond measure; and

WHEREAS, Terry Lindsay will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charles Taliaferro Lindsay, Jr., a respected member of the Alexandria and Arlington communities; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Taliaferro Lindsay, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 780

Commending Karen Corbett Sanders.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, during her two terms on the Fairfax County School Board, Karen Corbett Sanders has worked diligently to support teachers, staff members, and students and promote excellence in and out of the classroom; and

WHEREAS, a Mount Vernon native, Karen Corbett Sanders attended Fairfax County Public Schools and graduated from Groveton High School in 1979; she holds degrees from the University of Notre Dame and Boston University; and

WHEREAS, Karen Corbett Sanders is a retired international business executive who served as a senior vice president of Verizon Communications; she is also a co-owner of Four Sales, Ltd., a local estate auction company, and has been a community advocate for health care and education issues; and

WHEREAS, before running for Fairfax County School Board, Karen Corbett Sanders was an active parent, volunteer, and leader in a parent teacher association, school booster club, and the Girl Scouts of the USA; and

WHEREAS, Karen Corbett Sanders was elected to her first term on the Fairfax County School Board in 2015 and subsequently served as the board chair and as legislative liaison; she ably met the unique challenges faced by Fairfax County Public Schools as the largest school division in the Commonwealth, serving more than 185,000 students; and

WHEREAS, during her tenure on the Fairfax County School Board, Karen Corbett Sanders prioritized equity in excellence, ensuring that all children had the best opportunities to learn and succeed; and

WHEREAS, Karen Corbett Sanders oversaw numerous enhancements to Fairfax County Public Schools and helped guide the school division through the COVID-19 pandemic; and

WHEREAS, Karen Corbett Sanders has also served the Mount Vernon community on the THRIVE Advisory Committee for the Fairfax County Redevelopment and Housing Authority, the Quality Board of Inova Children's Hospital, and the Regional Board for Virginia Odyssey of the Mind; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Karen Corbett Sanders for her service as a member of the Fairfax County School Board; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Karen Corbett Sanders as an expression of the General Assembly's admiration for her achievements in service to young people in Fairfax County.

HOUSE JOINT RESOLUTION NO. 781

Commending Daniel P. Cortez.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Daniel P. Cortez is a respected Hispanic media pioneer and veteran who has served the Commonwealth and the nation in war and peace for over 50 years; and

WHEREAS, in the 1940s and 1950s, Daniel Cortez's extended family developed KCOR radio and television and the Spanish International Network, which grew into UNIVISION, the nation's largest provider of Spanish language media; and

WHEREAS, Daniel Cortez joined the United States Marine Corps and was a fifth-generation veteran in his family; he served a tour in combat in Vietnam, where he was wounded in action and decorated for his extraordinary heroism; and

WHEREAS, after coming home from Vietnam, Daniel Cortez served as a drill instructor and later worked in public affairs; and

WHEREAS, Daniel Cortez ably represented the United States Armed Forces when he appeared in two movies, *No Way Out* with actor Kevin Costner, and *MacArthur* with actor Gregory Peck, while still serving on active duty; and

WHEREAS, Daniel Cortez served as a public affairs chief in the 12th Marine Corps District in San Francisco, California, and was recognized by the mayor of San Francisco, California, who proclaimed June 15, 1983, as Daniel P. Cortez Day for his remarkable outreach and service to the community; and

WHEREAS, Daniel Cortez relocated to the Commonwealth in 1984 while still a member of the United States Marines Corps, and ultimately served nearly 30 years in the military, retiring in 1990; and

WHEREAS, Daniel Cortez continues his media outreach by working as a broadcaster, news writer, and opinion columnist for various Virginia and national publications; and

WHEREAS, Daniel Cortez continues to appear on various network news programs, promoting independent political positions in support of community needs and local, state, and national candidates; and

WHEREAS, Daniel Cortez was recognized for his Virginia media achievements as part of the Outstanding News Operation of the Year and for his Outstanding Effort as an Individual Reporter by the Virginia Association of Press Broadcasters in 1990; and

WHEREAS, Daniel Cortez has promoted patriotism and the American dream by mentoring veterans and members of the immigrant community; and

WHEREAS, Daniel Cortez works to aid in the rehabilitation of the veteran community suffering from post-war and training trauma as a mentor for the Commonwealth's Veterans Treatment Docket; and

WHEREAS, Daniel Cortez created the National Vet Court Alliance, Inc., in 2020, for which he currently serves as chair, and has donated thousands of dollars in funding and provided media awareness and mentors to support the Veterans Treatment Docket throughout the Commonwealth and the nation; and

WHEREAS, through the National Vet Court Alliance, Daniel Cortez worked with local, state, and national officials to help pass the bipartisan Veterans Treatment Court Coordination Act of 2019; and

WHEREAS, because of his respected leadership, integrity, and high moral and ethical standing, Daniel Cortez was chosen along with 17 other national Hispanic leaders to serve on the President's Advisory Commission on Hispanic Prosperity from 2020 to 2021; and

WHEREAS, Daniel Cortez has promoted national pride as a vocalist performing patriotic openings for the president of the United States at the White House, Virginia governors, and other officials, as well as sporting events across the nation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Daniel P. Cortez for his contributions to the Commonwealth and the United States as an advocate for veterans and the Hispanic community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Daniel P. Cortez as an expression of the General Assembly's admiration for his personal and professional achievements.

HOUSE JOINT RESOLUTION NO. 782

Commending Patton Oswalt.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 24, 2023

WHEREAS, Patton Oswalt, an actor and comedian who was born in Portsmouth, donated $250,000 to the Mount Vernon-based nonprofit organization Alice's Kids after an appearance on *Celebrity Jeopardy!*; and

WHEREAS, siblings Ron Fitzsimmons and Laura Fitzsimmons Peters were inspired to create Alice's Kids based on their own experiences of growing up in poverty; they named the organization after their mother, who worked diligently to provide for them and build a happy home life; and

WHEREAS, through a referral network of teachers, counselors, social workers, and others, Alice's Kids fulfills hundreds of requests each year for items or services that will make a difference in a child's life, including prom fees, soccer cleats, hygiene products, uniforms, glasses, and many other items that have helped children participate in their school's activities and fit in among their peers; and

WHEREAS, Alice's Kids initially served young people only in the Mount Vernon area but has expanded to support young people in communities throughout the Commonwealth and in other states; and

WHEREAS, Patton Oswalt, who graduated from Broad Run High School in Ashburn and The College of William & Mary, has previously donated $5,000 to Alice's Kids and spurred additional donations after posting about the organization on his Twitter feed; and

WHEREAS, during his *Celebrity Jeopardy!* championship round appearance, which aired on February 7, 2023, Patton Oswalt raised additional awareness of Alice's Kids and donated his second-place prize of $250,000 to the organization in addition to his winnings from previous rounds; and

WHEREAS, Alice's Kids received many additional donations after the *Celebrity Jeopardy!* episode aired, now totaling at least $329,000, or nearly one-third of its 2023 fundraising goal, thanks to Patton Oswalt's advocacy and generosity; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Patton Oswalt for supporting the vital mission of Alice's Kids; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Patton Oswalt as an expression of the General Assembly's admiration for his contributions in support of young people in the Commonwealth and around the nation.

HOUSE JOINT RESOLUTION NO. 783

Commending Teddy D. Martin II.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Teddy D. Martin II, an esteemed public servant who has been a member of the Henry County School Board since 2017 and is currently serving as chair, served as the Virginia School Boards Association president for 2021-2022; and

WHEREAS, Teddy Martin was named president of the Virginia School Boards Association (VSBA) during the organization's annual conference from November 17-19, 2021, in Williamsburg; and

WHEREAS, Teddy Martin previously served the VSBA as Blue Ridge Region chair and as president-elect, providing valued leadership that helped the organization fulfill its mission of promoting excellence in public education through leadership, advocacy, and services; and

WHEREAS, Teddy Martin was VSBA's representative on the COVID-19 Education Response and Recovery Work Group, helping to guide the Commonwealth through an unprecedented public health crisis that had an outsized impact on students in public schools; and

WHEREAS, beyond his work with the VSBA and the Henry County School Board, Teddy Martin is the human resources director of the GENEDGE Alliance, the Commonwealth's only manufacturing and economic development organization partnered with the Manufacturing Extension Partnership, in Martinsville; and

WHEREAS, Teddy Martin has received the VSBA's highest level of recognition, the Award of Distinction, each year he has served on his local board and was recognized as the 2020 VSBA Blue Ridge Regional Member of the Year; and

WHEREAS, a graduate of Patrick & Henry Community College, Old Dominion University, and Western Governors University, Teddy Martin semiannually organizes a Red Cross blood drive that is one of the largest in the Henry County area; and

WHEREAS, Teddy Martin currently serves the VSBA as immediate past president and as co-chair of the VSBA Task Force on Workforce Readiness, steering the organization toward more successful years working on behalf of students and families in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Teddy D. Martin II for his tenure as president of the Virginia School Boards Association; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Teddy D. Martin II as an expression of the General Assembly's admiration for his contributions to the Commonwealth and best wishes in his future endeavors.

HOUSE JOINT RESOLUTION NO. 784

Commending Gregory L. Robinson.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Gregory L. Robinson, deputy director at the National Aeronautics and Space Administration's Glenn Research Center in Cleveland, Ohio, spearheaded the launch of the James Webb Space Telescope as the project's program director; and

WHEREAS, born in Danville and raised by parents who were hard-working and resourceful tobacco sharecroppers, Gregory Robinson excelled both academically and athletically in his youth, graduating from Dan River High School in Pittsylvania County in 1978 and earning a football scholarship to Virginia Union University, where he received a bachelor's degree in mathematics; and

WHEREAS, Gregory Robinson's subsequent educational pursuits included a bachelor's degree in electrical engineering from Howard University and a master's degree in business administration from what was then Averett College, and he also attended Harvard University's Senior Executive Fellow Program at the Kennedy School of Government and the Federal Executive Institute; and

WHEREAS, Gregory Robinson joined the National Aeronautics and Space Administration (NASA) full time in 1989 and worked for several years at the Goddard Space Flight Center in Greenbelt, Maryland, until he was assigned to NASA Headquarters in 1999; and

WHEREAS, beginning in 2005, Gregory Robinson served as NASA deputy chief engineer, with the responsibility of developing and implementing NASA's Engineering Excellence and Engineering Technical Authority, and then, from May 2011 to June 2012, he served as acting deputy assistant administrator for systems with the National Environmental Satellite, Data, and Information Service, overseeing the National Oceanic and Atmospheric Administration's satellite acquisitions; and

WHEREAS, Gregory Robinson was selected for the position of deputy director at NASA's Glenn Research Center in January 2013, assuming the task of planning, organizing, and managing the center's programs and projects while overseeing more than 3,000 federal employees and contractors; and

WHEREAS, as a result of his leadership abilities and expertise, Gregory Robinson was assigned as program director of the James Webb Space Telescope in 2018, and he thereafter guided the project to its successful launch on December 25, 2021; and

WHEREAS, the James Webb Space Telescope, the largest optical telescope in space, will be transmitting glimpses of the universe back to Earth for years to come, expanding Gregory Robinson's legacy with each new discovery it unveils; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Gregory L. Robinson, deputy director at the National Aeronautics and Space Administration's Glenn Research Center, for his accomplishments as program director of the James Webb Space Telescope; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gregory L. Robinson as an expression of the General Assembly's admiration for his contributions to space exploration and best wishes in his future endeavors.

HOUSE JOINT RESOLUTION NO. 785

Celebrating the life of Charles Somerville Harris.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Charles Somerville Harris, a trailblazing education administrator who inspired, mentored, and helped shape the careers of hundreds of students, colleagues, and friends, most recently as executive vice president of Averett University, died on December 7, 2022; and

WHEREAS, a graduate of West End High School in Mecklenburg County, Charles Harris earned a bachelor's degree in mass media arts from what is now Hampton University in 1973, then began his career with the university as a media services employee at the nursing school; and

WHEREAS, after a brief internship at *Newsweek*, Charles Harris enrolled in the University of Michigan's graduate program in journalism in 1974 and concurrently took a position in the university's Department of Intercollegiate Athletics, rising to the position of assistant director of athletics; and

WHEREAS, in 1979, Charles Harris joined the University of Pennsylvania as its director of intercollegiate athletics and recreation, becoming the first Black athletic director at an Ivy League school and the youngest person to serve in that capacity in the history of the conference; and

WHEREAS, Charles Harris next became the director of athletics at Arizona State University, making history again as the first Black athletic director of a National Collegiate Athletic Association (NCAA) Division I program; and

WHEREAS, Charles Harris and his wife, Lenora, formed the consulting practice Excel Development Systems, Inc., now UbuntuGlobal, in 1986 to promote diversity, equity, and inclusion worldwide; and

WHEREAS, from 1996 to 2003, Charles Harris served as commissioner of the Mid-Eastern Athletic Conference, greatly supporting historically Black colleges and universities throughout the southeastern and mid-Atlantic United States; and

WHEREAS, Charles Harris was named director of athletics at Averett University in 2004, and he subsequently took on the additional title of vice president of student services three years later and then the title of executive vice president shortly thereafter, becoming the first Black person to hold these titles in the history of the institution; and

WHEREAS, Charles Harris retired from Averett University in 2021, leaving a storied career in which he served on nearly 30 NCAA committees, including as chair of the NCAA Division I Management Council in 2002 and as a member of the NCAA men's basketball selection committee from 1992 to 1999; and

WHEREAS, in recognition of his professional accomplishments, Charles Harris was presented with a plethora of accolades over his career, including the Pioneer Award from the National Association of College Directors of Athletics' McLendon Foundation in 2010; to preserve his legacy at the institution, Averett University announced in 2016 that its new athletic field house will be named the Charles S. Harris Field House in his honor; and

WHEREAS, Charles Harris was an active member of his community, serving on the boards of several local banks, as well as with organizations such as Big Brothers Big Sisters, the Greensboro Sports Commission, the Danville-Pittsylvania County chapter of Habitat for Humanity, and the Foundation Board of the Danville Science Center; and

WHEREAS, Charles Harris will be fondly remembered and dearly missed by his loving wife of 48 years, Lenora; his sister, Lillian; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charles Somerville Harris, whose pioneering spirit and steadfast leadership affected countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Somerville Harris as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 786

Commending the Aviation Institute of Maintenance.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, founded in Norfolk in 1969, the Aviation Institute of Maintenance is part of a successful group of companies that has grown to become a network of campuses across the nation; and

WHEREAS, the Aviation Institute of Maintenance (AIM) is well-known for providing high-quality, hands-on training to its students through its programs and has gone beyond aviation by developing related industry technician programs; and

WHEREAS, AIM seeks to provide valuable science, technology, education, and mathematics education through summer youth programs serving five different age groups, helping countless young people achieve careers in aerospace; and

WHEREAS, AIM's education programs include the Young Flyers program, the Flying Ace program, the Norfolk Aviators program, and the Certified Drone Pilot program, which culminates in a Federal Aviation Administration certification in professional unmanned aircraft systems operation; and

WHEREAS, AIM continues to offer programs for military spouses, active duty service members, and veterans to increase the workforce in aviation across multiple job paths; from maintenance technicians to drone piloting, AIM works for and with the community to increase access for all; and

WHEREAS, AIM and its highly qualified staff provide classroom and laboratory instruction in actual airplane hangars, workshops, and other professional environments, ensuring that students become well-trained and skilled professionals; and

WHEREAS, AIM provided insight and valuable assistance in securing space, volunteers, and funding for the inaugural "Norfolk Can Fly" event held in Norfolk in May 2022 to promote aviation careers and aviation workforce development; and

WHEREAS, AIM's outstanding work ethic and willingness to begin the creation of a new, annual endeavor to encourage and foster the aviation industry within the Norfolk area and throughout the nation makes it a welcome partner and a valued institution in the City of Norfolk; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Aviation Institute of Maintenance for its legacy of service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Aviation Institute of Maintenance as an expression of the General Assembly's admiration for the organization's contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 787

Celebrating the life of Charles Kirtland.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Charles Kirtland, an accomplished restaurateur and advocate and a beloved member of the Hampton Roads community, died in January 2023; and

WHEREAS, Charles Kirtland was born in San Antonio, Texas, to a United States Naval family and had lived in Bermuda, Illinois, California, Texas, and the Commonwealth before ultimately settling in Norfolk in 2007; and

WHEREAS, Charles Kirtland was a successful entrepreneur, having gone from bartending to becoming the principal owner at Gershwin's, a fine dining restaurant in downtown Norfolk; and

WHEREAS, Charles Kirtland was the chair of the board of directors at the LGBT Life Center in Norfolk, where he worked tirelessly to empower the LGBTQIA+ community and all people affected by human immunodeficiency virus by promoting health and wellness, strengthening families and communities, and providing transformative education and advocacy; and

WHEREAS, Charles Kirtland was a founding member of the Stonewall Sports league in Norfolk, an LGBTQIA+, community-based, nonprofit sports organization founded in 2010 that strives to raise funds for local nonprofit organizations through organized sports; and

WHEREAS, Charles Kirtland was a longtime volunteer and sponsor of Hampton Roads Pride and a staunch advocate for LGBTQIA+ equality; and

WHEREAS, Charles Kirtland will be fondly remembered and dearly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charles Kirtland, a cherished member of the Hampton Roads community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Kirtland as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 788

Celebrating the life of Jailynn A'Rihana Santiful.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Jailynn A'Rihana Santiful, a Norfolk resident who was seven years of age and a beloved daughter, beautiful sister, and bright light to all, died on September 3, 2022; and

WHEREAS, Jailynn A'Rihana Santiful was born April 14, 2015, and was a very sweet, beautiful little girl and very loving child and sister; and

WHEREAS, Jailynn A'Rihana Santiful was a vegetarian who loved animals and wanted to be a veterinarian when she grew up; and

WHEREAS, Jailynn A'Rihana Santiful was a rising second grader in the gifted program at Chesterfield Academy in Norfolk; and

WHEREAS, Jailynn A'Rihana Santiful was a daredevil who loved swimming, zip-lining, and riding roller coasters and dark, scary water slides; and

WHEREAS, Jailynn A'Rihana Santiful loved to tumble and to do splits and back and front handsprings; and

WHEREAS, Jailynn A'Rihana Santiful will be fondly remembered and dearly missed by her mother, Sierra, her sisters, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Jailynn A'Rihana Santiful, a beloved daughter, beautiful sister, and bright light to all; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jailynn A'Rihana Santiful as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 789

Celebrating the life of Jayne Francis Gourley Karsten.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Jayne Francis Gourley Karsten, an accomplished educator and beloved wife, mother, grandmother, and great-grandmother, whose efforts to develop innovative curriculums over the years enhanced the educational experiences of countless students, died on February 9, 2023; and

WHEREAS, born in Oklahoma City, Oklahoma, and raised in the Dust Bowl during the Great Depression, Jayne Karsten enjoyed a glamorous career as a dancer in her teenage years, traveling the country with Katheryn Duffy's dance troupe and performing alongside some of the biggest stars of the day; she would go on to share her knowledge of dance throughout her life as both an instructor and choreographer in various settings; and

WHEREAS, Jayne Karsten enrolled at the University of Michigan in 1942 and later became the first woman to pursue graduate studies in the university's English department and the first woman to teach in the department, making a connection with the famous playwright Arthur Miller, a classmate of hers, along the way; and

WHEREAS, Jayne Karsten was involved with education at both the high school and college levels while moving between Grass Lake, Michigan; Kansas City, Missouri; Chagrin Falls, Ohio; and Westport, Connecticut, where she first taught concurrently at both levels and where she began to create a dynamic, multidisciplinary curriculum around the history of American civilization, an endeavor she would continue to develop alongside professors from some of the country's most prestigious institutions of higher education; and

WHEREAS, upon settling in Great Falls in 1972, Jayne Karsten joined the faculty at Langley High School in McLean and began collaborating with fellow teachers to further develop her American civilization curriculum; these efforts led to a new world civilization course and the Seminars on American Reality program, a series that brought students face-to-face with the country's leaders and that would be replicated by other school districts throughout the region; and

WHEREAS, after a brief sojourn in Cairo, Egypt, and some time attending graduate programs at the American University of Cairo, Jayne Karsten rejoined the Langley High School faculty and went on to coauthor with members of the National Endowment for the Humanities (NEH) and the National Archives and Records Administration a primary source history book titled *Our Mothers Before Us: Women and Democracy, 1789-1920*; and

WHEREAS, in the 1980s, Jayne Karsten supported the activities of several United States institutions in various capacities, including the NEH as a grants program officer, the Hirshhorn Museum as a member of its design committee, and the John F. Kennedy Center for the Performing Arts as a consultant; and

WHEREAS, Jayne Karsten concluded her illustrious career as an educator at the Key School in Annapolis, Maryland, working indefatigably for the benefit of her students at the school for more than 25 years before retiring in 2017 at the age of 92; and

WHEREAS, preceded in death by her husband, Harold; and her son, Scott; Jayne Karsten will be fondly remembered and dearly missed by her children, Tracey, Jill, and Kurt, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Jayne Francis Gourley Karsten, an exceptional educator who made a profound and lasting impact on the communities of McLean and Annapolis; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jayne Francis Gourley Karsten as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 790

Commending the staff of the Office of the Chief Medical Examiner.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, the staff of the Office of the Chief Medical Examiner, an agency responsible for determining the cause and manner of deaths that occur under certain circumstances in the Commonwealth, operate a statewide medical examiner system with four district offices located in Norfolk, Richmond, Manassas, and Roanoke; and

WHEREAS, the staff of the Office of the Chief Medical Examiner (OCME) investigated 19,943 deaths in 2022, accepting 2,998 for autopsy and 6,695 for external examination and referring 10,250 back to local treating physicians to certify the cause of death; and

WHEREAS, the staff of the Tidewater District of the OCME were notified of a mass casualty event with mass fatalities at a Chesapeake Walmart on November 22, 2022, at 11:00 p.m.; and

WHEREAS, the staff of the Tidewater District of the OCME dispatched multiple medicolegal death investigators to the Walmart at 11:17 p.m., who worked with law-enforcement personnel on scene documentation and processing, as well as on the positive identification requirements for final disposition and release; and

WHEREAS, although November 23, 2022, was a scheduled half-day state holiday with several staff members of the Tidewater District of the OCME scheduled to either use approved leave or depart at the 12:00 p.m. closure time, forensic autopsy staff reported to the office at 5:00 a.m. to begin the initial processing of cases; they also received rapid and ongoing support from OCME staff throughout the statewide system, both in person and virtually; and

WHEREAS, all OCME staff worked to ensure that routine cases were accepted and processed as usual with no delays while evidence collection for the mass fatality incident proceeded, allowing for the proper collection and documentation of evidence and the preparation of reports for law enforcement and the local attorney for the Commonwealth; personal effects were then returned to the families' funeral industry partner representatives; and

WHEREAS, the two OCME forensic pathologists on duty worked closely with forensic autopsy team members to externally examine, document, and autopsy all seven decedents from the mass fatality incident by 5:00 p.m. on November 23, 2022, as other district and state staff disciplines provided administrative support and guidance; and

WHEREAS, OCME forensic autopsy staff reported to the office over the Thanksgiving holiday to ensure that affected family members were able to have their loved ones transferred to their chosen funeral industry partner without delay; non-mass fatality event cases were also processed during these times per standard procedures; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the staff of the Office of the Chief Medical Examiner for their dedication and service to the citizens of the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to William T. Gormley, MD, chief medical examiner, as an expression of the General Assembly's appreciation for and recognition of the work of the staff of the Office of the Chief Medical Examiner.

HOUSE JOINT RESOLUTION NO. 791

Commending Quiara Jackson.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Quiara Jackson, a student at the historically black Norfolk State University, has achieved great success as a musician, artist, and pioneer; and

WHEREAS, Quiara Jackson made history when named as "Cap ‘N Soul" of the Norfolk State University Spartan "Legion" Marching Band, making her the program's first-ever female drum major; and

WHEREAS, as drum major of the "Legion," Quiara Jackson leads a group of approximately 250 student musicians and what is widely regarded as one of the premier college marching bands in the country; and

WHEREAS, a sociology major and senior at Norfolk State University, Quiara Jackson is an active and engaged member of the Epsilon Sigma chapter of the Tau Beta Sigma honorary band sorority and contributes significantly as a member of its executive board; and

WHEREAS, Quiara Jackson's accomplishments are a testament to her hard work and dedication and serve as an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Quiara Jackson for her academic, civic, and musical accomplishments; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Quiara Jackson as an expression of the General Assembly's admiration for her contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 792

Commending Bernard Jerome Thompson.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Bernard Jerome Thompson, a member of the outreach ministry We Take Care of Our Own in Norfolk, has achieved great success as an activist, neighborhood counselor, and civic leader; and

WHEREAS, affectionately known by many as "Pee Wee," Bernard Thompson advocates on behalf of his neighbors as an outreach minister and mentor to the youth of the community and as a longtime volunteer at the Berkley Neighborhood Center; and

WHEREAS, Bernard Thompson supports his neighborhood and its legacy as a member of the Berkley Historical Society; and

WHEREAS, Bernard Thompson is a beloved friend and provider of youth services who serves the community by raising awareness of opportunities and inequalities and by acting as a mentor to children; and

WHEREAS, Bernard Thompson's accomplishments in service to others are a testament to his dedication to the Norfolk community and serve as inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Bernard Jerome Thompson, a member of the outreach ministry We Take Care of Our Own, for his social, cultural, and civic accomplishments; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bernard Jerome Thompson as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 793

Celebrating the life of Thomas Ellis Welch, Jr.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Thomas Ellis Welch, Jr., an honorable veteran and treasured member of the Norfolk community, who ensured the safety of students at Norfolk Public Schools for many years, died on January 2, 2022; and

WHEREAS, Thomas Welch attended Booker T. Washington High School before enlisting in the United States Army and serving the country with honor and distinction; and

WHEREAS, as a specialist sixth class for the United States Army, Thomas Welch saw action in Vietnam, and he had many amazing stories of his time there, especially about his helicopter; and

WHEREAS, Thomas Welch received many awards and certifications during his time in the United States Army, including his aviation license, which allowed him to fly his beloved helicopter; and

WHEREAS, after the Vietnam War, Thomas Welch returned home, married Evelyn Johnson in 1967, and went to work for the Norfolk Public Schools security department; and

WHEREAS, Thomas Welch served for 40 years as a security officer at schools such as James Monroe Elementary School, Azalea Gardens Middle School, and many others, contributing greatly to the safety and well-being of students and faculty; and

WHEREAS, preceded in death by his wife, Evelyn, Thomas Welch will be fondly remembered and dearly missed by his younger siblings, Elizabeth and Stephen, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Thomas Ellis Welch, Jr., a cherished member of the Norfolk community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thomas Ellis Welch, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 794

Celebrating the life of Roger Dale Boles.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Roger Dale Boles, a beloved husband, father, grandfather, and member of the Waynesboro and Staunton communities, died on September 5, 2022; and

WHEREAS, Roger Boles was raised in Shreveport, Louisiana, where he immersed himself in various activities in the great outdoors, and went on to graduate from Tennessee Temple University; and

WHEREAS, after starting his career at the paper company Top Flight in Chattanooga, Tennessee, Roger Boles devoted 25 years to companies providing dialysis services in Tennessee, Pennsylvania, South Carolina, Maryland, and the Commonwealth, rising through the ranks from reuse technician to regional vice president; and

WHEREAS, Roger Boles' enterprising spirit and concern for the health and well-being of others led him to dedicate the last 12 years of his career to improving the lives of aging individuals and their families as a franchise owner of Home Instead; and

WHEREAS, Roger Boles gave generously of his time in support of various community organizations, serving with the chapters of Rotary International in Waynesboro and Staunton and on the board of the Central and Western Virginia chapter of the Alzheimer's Association; and

WHEREAS, Roger Boles enjoyed golfing with friends whenever he could and was a valued member of the board at The Club at Ironwood in Staunton; and

WHEREAS, guided from a young age by his faith, Roger Boles was an active member of Staunton Alliance Church, where he found immense joy in greeting and welcoming those who arrived for the church's worship services; and

WHEREAS, Roger Boles will be fondly remembered and dearly missed by his loving wife of 41 years, Pam; his children, Stephen, John, and Ethan, and their families; his father, Horace; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Roger Dale Boles, a cherished member of the Waynesboro and Staunton communities whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Roger Dale Boles as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 795

Celebrating the life of Ronkeith Adkins.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Ronkeith Adkins, an accomplished small business owner, United States Army reservist, and active and beloved member of the Roanoke community, died on November 23, 2022; and

WHEREAS, after graduating from the former Southwestern High School in Detroit, Michigan, Ronkeith Adkins attended what was then the Nashville Auto Diesel College before going on to a career as a small business owner across various industries; and

WHEREAS, as a member of the United States Army Reserve and the Michigan National Guard, Ronkeith Adkins contributed greatly to the readiness and defense of the nation; and

WHEREAS, Ronkeith Adkins was highly involved with the Republican Party in the Roanoke Valley, maintaining membership with the Roanoke County Republican Committee for more than six decades; and

WHEREAS, Ronkeith Adkins served on the Roanoke County Electoral Board from 1994 to 2018, working tirelessly to ensure the integrity of the locality's elections; and

WHEREAS, Ronkeith Adkins' service to the community included fundraising efforts for the Edinburgh Square affordable retirement community in Roanoke, as well as support of Meals on Wheels and other programs assisting senior citizens and children with disabilities; and

WHEREAS, guided throughout his life by his faith, Ronkeith Adkins enjoyed worship and fellowship with his community at St. Mark's Lutheran Church in Roanoke; and

WHEREAS, Ronkeith Adkins will be fondly remembered and dearly missed by his loving wife of 55 years, Judy; his children, Ulysses and Alexander, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Ronkeith Adkins, a cherished member of the Roanoke community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ronkeith Adkins as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 796

Commending Lieutenant General Joseph R. Inge, USA, Ret.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Lieutenant General Joseph R. Inge, USA, Ret., is an honorable and distinguished veteran who contributed to the safety and security of the nation as deputy commander of the United States Northern Command and in other high-ranking posts; and

WHEREAS, a native of Mecklenburg County, Joseph Inge earned a bachelor's degree in agricultural economics from Virginia Polytechnic Institute and State University in 1969, where he was also commissioned as a second lieutenant of armor with the school's Reserve Officers' Training Corps; and

WHEREAS, Joseph Inge later honed his abilities as a military leader by earning a master's degree in personnel management and administration from Central Michigan University, while also getting a military education through armor basic and advanced courses and at the United States Army Command and General Staff College and the United States Army War College; and

WHEREAS, between 1970 and 1975, Joseph Inge served in the United States Army as a company commander in the 33rd Armor Regiment of the 3rd Armored Division in Germany and in the 73rd Armor Regiment of the 2nd Infantry Division in Korea; and

WHEREAS, after a series of transfers to domestic posts and subsequent assignments with the 3rd Infantry Division in Germany, Joseph Inge held multiple positions in the Office of the Chief of Staff between 1987 and 1991 and was later appointed a brigade commander in the 1st Cavalry Division at Fort Hood in Texas in April of that year; and

WHEREAS, after serving as executive assistant to the chairman of the Joint Chiefs of Staff from 1993 to 1995, Joseph Inge held various command positions both domestically and abroad before becoming commander of the First United States Army at Fort Gillem in Georgia in 2001; and

WHEREAS, in June 2004, Joseph Inge was confirmed as deputy commander of the United States Northern Command and as vice commander of the United States element of the North American Aerospace Defense Command; and

WHEREAS, Joseph Inge retired from the United States Army in 2007, closing a military career that spanned 38 years, during which time he demonstrated an unflagging commitment to defending the homeland; and

WHEREAS, Joseph Inge was awarded numerous military ribbons, badges, and medals for his service, including the U.S. Army Distinguished Service Medal with bronze oak leaf cluster, the Defense Superior Service Medal, the Legion of Merit with three oak leaf clusters, the National Defense Service Medal with two bronze service stars, the Southwest Asia Service Medal with service star, and the Kuwait Liberation Medal; and

WHEREAS, Joseph Inge has continued his service to the country in recent years as a private consultant, with a diverse portfolio that includes endeavors supporting industry, government, and the military; and

WHEREAS, in recognition of his leadership and expertise, Governor Robert F. McDonnell appointed Joseph Inge to serve both on what is now the Secure and Resilient Commonwealth Panel and on the Base Realignment and Closure Act panel, advising the governor and his staff at a time when the BRAC process was threatening the closure of military facilities in the Commonwealth; and

WHEREAS, Joseph Inge has given generously of his time by serving on the boards of several foundations and nonprofit organizations, including the Virginia War Memorial Foundation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Lieutenant General Joseph R. Inge, USA, Ret., for his service to the nation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lieutenant General Joseph R. Inge, USA, Ret., as an expression of the General Assembly's admiration for his contributions to both the country and the Commonwealth.

HOUSE JOINT RESOLUTION NO. 797

Celebrating the life of David Carlton Witt.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, David Carlton Witt, a fourth-generation farmer and respected member of the Botetourt County community, died on November 10, 2022; and

WHEREAS, David Witt grew up in Botetourt County and began to cultivate a lifelong passion for agriculture while working on his family's farm; and

WHEREAS, after graduating from Lord Botetourt High School, David Witt began a 33-year career working for UPS; in 2006, he and his wife, Debbie, started a Home Instead franchise to provide home care to local seniors, and he joined the business full time in 2010 after his retirement from UPS; and

WHEREAS, in addition to his career, David Witt continued to work as a farmer; he raised beef cattle, grew hay for livestock, and loved taking family members and friends for horseback rides; and

WHEREAS, David Witt enjoyed fellowship and worship with the congregation of Fincastle Baptist Church, where he played trombone in the church orchestra and served as a Sunday school teacher, deacon, and trustee; and

WHEREAS, David Witt will be fondly remembered and greatly missed by his wife of 43 years, Debbie; his children, Josh and Krisha, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of David Carlton Witt; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of David Carlton Witt as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 798

Celebrating the life of Juliette Carolyn Brooks Herring.

Agreed to by the House of Delegates, February 23, 2023
Agreed to by the Senate, February 25, 2023

WHEREAS, Juliette Carolyn Brooks Herring, a devoted educator who shared her love of music with countless students and a beloved mother and grandmother, died on May 11, 2022; and

WHEREAS, Carolyn Herring was born to Julius Caesar and Parmis Blane Brooks in Hopkinsville, Kentucky, in 1940; she began to develop a lifelong passion for music at a young age and began playing the piano when she was eight years old; and

WHEREAS, Carolyn Herring began studying performance piano in 1958 at what is now Tennessee State University, where she was also a member of Alpha Kappa Alpha Sorority, Inc.; and

WHEREAS, a deeply driven learner, Carolyn Herring changed her major to music education and earned her bachelor's degree in music education in less than four years and started her master's studies before graduating in 1962; later in life she continued her studies by taking master's level education classes at George Mason University; and

WHEREAS, in the 1960s, Carolyn Herring was a traveling teacher and taught music to children at segregated schools in Tennessee, developing an appreciation for the freedom of the open road while driving from school to school in her pink and white Dodge; and

WHEREAS, many of Carolyn Herring's students studied in underequipped one-room schoolhouses, and she often used her own salary to purchase instruments to enhance their learning experiences; and

WHEREAS, in the 1970s and 1980s, Carolyn Herring traveled with her husband, Charles, while he served in the military; as some states did not recognize out-of-state teaching certificates for military spouses at the time, she served as a private piano instructor when she was unable to find work in local schools; and

WHEREAS, Carolyn Herring advocated on behalf of her fellow military spouses and worked to secure health care benefits for former spouses and children of military service members; she contributed to the passage of the Uniformed Services Former Spouses' Protection Act enacted by the United States Congress in 1982; and

WHEREAS, Carolyn Herring enjoyed traveling, especially making trips around the country to watch her son play football for Duke University, and she visited Scotland to conduct genealogy research on her family's heritage; and

WHEREAS, Carolyn Herring's love of music extended to dance and she often attended dance classes with her daughter until she was 75 years old; and

WHEREAS, Carolyn Herring will be fondly remembered and greatly missed by her children, Charles L. Herring, Jr., MD, and the Honorable Charniele L. Herring, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Juliette Carolyn Brooks Herring; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Juliette Carolyn Brooks Herring as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 799

Commending the Creeds Ruritan Club.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, for 75 years, the Creeds Ruritan Club has promoted fellowship, good will, and community service and enhanced the quality of life for all residents of Virginia Beach; and

WHEREAS, on August 24, 1948, the Creeds Ruritan Club was chartered by Ruritan National, Inc., as club number 245 with 23 original members in what was then part of Princess Anne County; and

WHEREAS, the Creeds Ruritan Club builds partnerships with individuals, businesses, and organizations in Virginia Beach to promote the importance of civic service and leadership, while building fellowship, mutual respect, and understanding between different groups and communities; and

WHEREAS, the Creeds Ruritan Club has inspired generations of Virginia Beach residents to achieve their fullest potential in service to others; and

WHEREAS, Creeds Ruritan Club member Robin Davenport was elected and installed as the 2023 National President-elect at the 2023 Ruritan National Convention in January 2023; and

WHEREAS, in 2022, the Creeds Ruritan Club awarded thousands of dollars in college scholarships, made donations to Creeds Elementary School, 4-H, and the local Cub Scouts, supported church groups and the Creeds Athletic Association, and provided direct assistance to 26 families through its Christmas Food Basket Program; and

WHEREAS, the Creeds Ruritan Club has fulfilled its mission through the hard work of volunteers and generous donations from community members; every year, the organization hosts its Annual BBQ and Spring Craft Fair, which not only supports its service initiatives but has become a beloved local tradition; and

WHEREAS, through its commitment to excellence in civic leadership, the Creeds Ruritan Club has touched the lives of countless Virginia Beach residents over the course of its history; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Creeds Ruritan Club on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Creeds Ruritan Club as an expression of the General Assembly's admiration for the organization's work to strengthen and enhance the Virginia Beach community and the Commonwealth.

HOUSE JOINT RESOLUTION NO. 800

Commending Ruritan National, Inc.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, for 95 years, Ruritan National, Inc., has promoted fellowship, good will, and community service in communities across the Commonwealth and the United States; and

WHEREAS, Ruritan National was established by Tom Downing and Jack Gwaltney, and the first local club, the Holland Ruritan Club, was chartered in Nansemond County on May 21, 1928; and

WHEREAS, Ruritan clubs were originally designed to provide community outreach in small towns and rural areas, and the organization took its name from the Latin words for open county, "ruri," and small town, "tan"; the organization has since expanded to include clubs in urban areas; and

WHEREAS, Ruritan National oversees local clubs that are largely autonomous and free to pursue service opportunities and partnerships that allow them to best serve the unique needs of their communities; and

WHEREAS, Ruritan clubs work with Scouting organizations, 4-H, National FFA, youth athletics leagues, local clubs and recreational centers, and other local initiatives like anti-litter campaigns and programs to help seniors or other people in need; and

WHEREAS, Ruritan clubs strive to represent a cross-section of the communities they serve and are not restrictive with regard to occupation, social position, or any other specific criteria; and

WHEREAS, now headquartered in Pulaski County, Ruritan National has grown to encompass nearly 25,000 members in nearly 1,000 clubs nationwide and has become known as "America's Leading Community Service Organization"; and

WHEREAS, through its commitment to excellence in civic leadership, Ruritan National and its local clubs have touched the lives of generations of Virginians and Americans; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ruritan National, Inc., for its service to people throughout the Commonwealth and the United States on the occasion of its 95th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ruritan National, Inc., as an expression of the General Assembly's admiration for the organization's work to create and support thriving communities across America.

HOUSE JOINT RESOLUTION NO. 801

Commending Patricia A. Cake.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, for over 20 years, Patricia A. Cake has treated animals with dignity, grace, and love and enhanced the quality of life in her community through her work with the Humane Society of Fairfax County; and

WHEREAS, a passionate advocate for all animals, Patricia "Patty" A. Cake has played an instrumental role in community engagement for the Humane Society of Fairfax County, from planning volunteer appreciation events and successful fundraisers to organizing dog walks and working in the organization's thrift shop; and

WHEREAS, Patty Cake has been a leader in the Humane Society of Fairfax County's community cat program; she has been an active supporter of the trap-neuter-return program and helps care for and feed several cat colonies in the area; and

WHEREAS, in addition, Patty Cake has coordinated medical care for sick and injured abandoned cats and has fostered several cats that have been abandoned or were in need of care after surgery; and

WHEREAS, Patty Cake's skill in grant writing has resulted in the Humane Society of Fairfax County receiving numerous grants to financially assist with the medical needs of the society's animals, and her comprehensive approach to problem solving has allowed the organization to serve the community more efficiently and effectively; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Patricia A. Cake for her outstanding service as a member of the Humane Society of Fairfax County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Patricia A. Cake as an expression of the General Assembly's admiration for her contributions to the community.

HOUSE JOINT RESOLUTION NO. 802

Celebrating the life of George Thomas Savage, Jr.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, George Thomas Savage, Jr., an esteemed educator and an active and beloved member of the Staunton community, died on January 7, 2023; and

WHEREAS, a native of Wilmington, North Carolina, George Savage earned a bachelor's degree from Campbell College before embarking on a noble career as an educator that spanned nearly 38 years; and

WHEREAS, George Savage taught at both Beverley Manor Elementary School and Beverley Manor Middle School in Staunton, contributing greatly to the academic, social, and emotional well-being of his students; and

WHEREAS, George Savage was a lifetime member of the Staunton-Augusta Rescue Squad, serving the community with great compassion and care for several decades after joining the organization in 1975; and

WHEREAS, George Savage devoted himself to mentoring the Staunton-Augusta Rescue Squad's younger members and helped a number of the organization's emergency medical technician teams win state awards at rescue squad conventions over the years; and

WHEREAS, George Savage made an indelible impact in his community through his long-standing involvement with the Virginia Wheelchair Games, the Special Olympics, and Augusta Health Hospice of the Shenandoah's Camp Dragonfly; and

WHEREAS, guided by his faith, George Savage enjoyed worship and fellowship with the community of Calvary Baptist Church in Staunton for many years, where he served in various leadership roles, including as deacon and head of the medical team; and

WHEREAS, George Savage will be fondly remembered and dearly missed by his loving wife of 56 years, Lannette; his children, George III, Timothy, Susan, and Emily, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of George Thomas Savage, Jr., a cherished member of the Staunton community whose legacy of service is an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of George Thomas Savage, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 803

Celebrating the life of Cecil Gordon Layman, Jr.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Cecil Gordon Layman, Jr., who touched countless lives as a teacher, youth athletics coach, and longtime principal of Riverheads High School, died on January 24, 2023; and

WHEREAS, Cecil Layman was born in Waynesboro to the late Cecil and Anna Layman; he served the nation as a member of the United States Army in the 1950s and taught English to students in Japan; and

WHEREAS, Cecil Layman spent most of his career in education and served as a teacher and coach at Riverheads High School before becoming principal for 26 years; he gave countless students the tools and support they needed to achieve success in and out of the classroom; and

WHEREAS, Cecil Layman offered his leadership to his fellow school administrators, serving two terms as president of the Virginia Association of Secondary School Principals; he also served the Augusta County community as a member of the Board of Equalization and chair of the Board of Assessors; and

WHEREAS, after his retirement as principal of Riverheads High School, Cecil Layman worked for the U.S. Census Bureau and as an usher for events at the University of Virginia; and

WHEREAS, among many accolades, Cecil Layman was inducted into the Riverheads High School Red Pride Hall of Fame in 2000 and the Virginia High School League Hall of Fame in 2003; and

WHEREAS, predeceased by his wife, Ruth, Cecil Layman will be fondly remembered and greatly missed by his children, Douglas, Scott, and Deborah, and their families and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Cecil Gordon Layman, Jr., a dedicated educator, coach, and administrator in Augusta County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Cecil Gordon Layman, Jr., as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 804

Celebrating the life of Eugene N. Hodnett.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Eugene N. Hodnett, a trailblazing law-enforcement officer who served and protected the residents of Chatham for many years, died on June 24, 2022; and

WHEREAS, a native of Pittsylvania County, Eugene Hodnett broke down barriers as the first African American police officer ever hired by the Town of Chatham; and

WHEREAS, during his career as a law-enforcement officer, Eugene Hodnett led by example and was a trusted mentor to many other members of the Chatham Police Department, having received the rank of sergeant, in which capacity he led the department until his retirement; and

WHEREAS, Eugene Hodnett fostered strong relationships between the Chatham Police Department and members of the public, and he took a special interest in serving and supporting local young people; and

WHEREAS, Eugene Hodnett left behind a legacy of excellence to his fellow officers when he retired from the Chatham Police Department in 1994, having served the community with the utmost dedication, integrity, and distinction; and

WHEREAS, Eugene Hodnett also volunteered his time and leadership to the Pittsylvania County branch of the NAACP, and he enjoyed fellowship and worship with the community as a member of Hopel Chapel Baptist Church in Dry Fork; and

WHEREAS, predeceased by his only acquainted son, Jeffrey, Eugene Hodnett will be fondly remembered and greatly missed by his wife, Audrey; his children, Michael, Harvey, Juliet, Marilyn, Janett, Pamela, and their families; three acquainted daughters, Cynthia, Rosalyn, and Angela, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Eugene N. Hodnett, a highly admired law-enforcement officer in Chatham; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Eugene N. Hodnett as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 805

Commending James Michael Tobin.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, James Michael Tobin, an esteemed community organizer and longtime executive director of Piedmont Community Services, who has advocated for and supported individuals coping with addiction and other mental health issues over a career spanning a half century, retired in 2021; and

WHEREAS, after briefly serving as a community relations officer with the School District of Philadelphia and as an instructor at Belmont Abbey College, James "Jim" Michael Tobin settled in Martinsville and started the Patrick Henry Drug and Alcohol Council (PHDAC) to assist individuals and families battling addiction; and

WHEREAS, in 1989, Jim Tobin assumed the role of executive director of Piedmont Mental Health, which later incorporated the PHDAC and assumed the name Piedmont Community Services, masterfully leading the organization until his retirement in 2016; and

WHEREAS, during his tenure with Piedmont Community Services, Jim Tobin worked indefatigably to ensure the success of the region's comprehensive system for addressing the needs of individuals dealing with mental health issues, intellectual disabilities, or substance abuse; and

WHEREAS, from 1988 to 1992, Jim Tobin played an active role in CADRE of Henry County and Martinsville, co-chairing a coalition of community leaders drawn from the areas of law enforcement, education, and substance abuse rehabilitation services that was organized to foster cooperation and collaboration among stakeholders in an effort to better address the region's problems and needs; and

WHEREAS, Jim Tobin was a founding member and chairman of Virginia's Voice, leading the coalition of eight statewide substance abuse advocacy groups in its pursuit of legislation that would meaningfully improve the lives of those suffering from addiction; and

WHEREAS, with funding from the Harvest Foundation, Jim Tobin developed the Community Recovery Program, an innovative initiative that utilizes a recovery-oriented, case management approach to provide individuals reintegrating into society with support in the areas of employment, education, housing, finances, mental health, physical health, and more; and

WHEREAS, Jim Tobin's tireless efforts to promote mental health in the community have included acting in the role of mediator between local boards and organizations, organizing local health fairs, and establishing a suicide survivors support group, among other activities; and

WHEREAS, Jim Tobin's leadership and expertise have benefitted numerous boards and organizations over the years, including most recently the boards of the Harvest Foundation, the Virginia Museum of Natural History, the Dan River Basin Association, and his local chapter of the United Way; and

WHEREAS, in recognition of his consummate skills as a mental health advocate and professional, Jim Tobin received a gubernatorial appointment to serve on the statewide Substance Abuse Services Council from 2012 to 2016 and was awarded a Champion Award from the Martinsville Area Disability Employment Network in 2010; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend James Michael Tobin on the occasion of his retirement for his dedication to serving the communities of Martinsville and Henry County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James Michael Tobin as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 806

Commending Guy Edward Cassady.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Guy Edward Cassady, an outstanding law-enforcement officer, retired as chief of the Martinsville Police Department on January 1, 2023; and

WHEREAS, Guy Edward "Eddie" Cassady dreamed of becoming a police officer from a young age and participated in a law-enforcement explorer program with the Henry County Sheriff's Office in his youth; and

WHEREAS, after graduating from George Washington Carver High School, Eddie Cassady studied police science at Danville Community College, then applied to join the Martinsville Police Department in 1985; and

WHEREAS, Eddie Cassady officially joined the department on October 20, 1985, and was assigned to the patrol division upon graduation from the police academy; and

WHEREAS, in 1989, Eddie Cassady earned a position on the Martinsville Police Department's special weapons and tactics (SWAT) team and later served as team commander; and

WHEREAS, the following year, Eddie Cassady worked as an undercover officer for the City of Lynchburg's Department of Public Works; he subsequently served in the traffic and street crimes divisions of the Martinsville Police Department; he then transferred to the Special Investigations Unit as an investigator, and later became captain of investigations; and

WHEREAS, Eddie Cassady served as interim chief in 2013, was promoted to deputy chief in 2014, and became chief of police in 2017; and

WHEREAS, during his tenure as chief, Eddie Cassady worked diligently to ensure that the officers of the Martinsville Police Department had the tools and training they needed to serve and protect members of the community; and

WHEREAS, over the course of his career, Eddie Cassady earned degrees from Patrick Henry Community College, Old Dominion University, and Longwood University, and he pursued numerous law-enforcement certifications to better serve and lead the officers of the Martinsville Police Department; and

WHEREAS, Eddie Cassady served the Martinsville community with the utmost integrity, dedication, and distinction; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Guy Edward Cassady on the occasion of his retirement as chief of the Martinsville Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Guy Edward Cassady as an expression of the General Assembly's admiration for his achievements in service to the residents of Martinsville.

HOUSE JOINT RESOLUTION NO. 807

Celebrating the life of James Lawrence Eason.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, James Lawrence Eason, an esteemed leader of the Hampton community who served as the city's mayor for 16 years as well as in various other capacities for the benefit of the city and its residents, died on February 14, 2023; and

WHEREAS, James "Jimmy" Lawrence Eason was a star of the football team at Hampton High School, earning first team all-state and honorable mention all-American honors before going on to play for the University of North Carolina at Chapel Hill, where he received a bachelor's degree in accounting in 1965; and

WHEREAS, Jimmy Eason returned to Hampton after college and joined the local accounting firm of Daniels, Turnbull & Freeman, where he rose through the ranks to become manager of the Hampton office before leaving to start his own firm, Eason, Lawson & Westphal, which would grow into the largest Hampton-based accounting firm by the time of his retirement from the industry in 1992; and

WHEREAS, Jimmy Eason was elected mayor of Hampton in 1982 and proudly served his constituents until 1998, during which time he transformed the city through various development projects and revitalization efforts; and

WHEREAS, after stepping down from his position as mayor, Jimmy Eason served as president and chief executive officer of the Hampton Roads Partnership from 1998 to 2004, helping to unify the localities of Hampton Roads so that the region could better compete both nationally and globally; and

WHEREAS, from 2004 until his second retirement in 2012, Jimmy Eason was the director of economic development for the City of Hampton, employing his deep knowledge and understanding of his hometown to improve the quality of life of its residents; and

WHEREAS, beyond his public service, Jimmy Eason gave generously of his time in support of the community through his involvement with various local civic and service organizations, including the Hampton Rotary Club, which he had been a member of since 1973; and

WHEREAS, Jimmy Eason was a devoted family man who never let his many professional responsibilities and obligations compromise the time he had set aside to be with his wife and daughters; and

WHEREAS, guided throughout his life by his faith, Jimmy Eason enjoyed worship and fellowship with his community at First United Methodist Church of Hampton for many years; and

WHEREAS, Jimmy Eason will be fondly remembered and dearly missed by his loving wife of 57 years, Midge; his children, Nancy and Katherine, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of James Lawrence Eason, a pillar of the Hampton community whose commitment to serving others touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James Lawrence Eason as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 808

Celebrating the life of the Honorable Albert Charles Eisenberg.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 24, 2023

WHEREAS, the Honorable Albert Charles Eisenberg, a champion for human rights who served on the Arlington County Board and represented the Arlington community as a member of the Virginia House of Delegates, died on November 15, 2022; and

WHEREAS, a native of Jersey City, New Jersey, Albert "Al" Charles Eisenberg was educated in Virginia, earning a bachelor's degree from the University of Richmond and master's degree from what is now Hampton University; he served the country in the United States Navy; and

WHEREAS, Al Eisenberg began his career in government as a legislative aide in the United States Senate from 1975 to 1979, and served as a staff director for the United States Senate Subcommittee on Housing and Urban Affairs from 1979 to 1982; and

WHEREAS, Al Eisenberg served as a member of the Arlington County Board from 1984 to 1999, during which time he offered his wise leadership to several committees and commissions, including the Northern Virginia Regional Commission and the Virginia Housing Development Authority; and

WHEREAS, Al Eisenberg was a titan in local government who earned the respect of his colleagues for his wide breadth of knowledge and staunch advocacy on behalf of the county's less fortunate residents; his commitment to transit-oriented solutions helped make Arlington a model for urban smart-growth policies; and

WHEREAS, Al Eisenberg, a Democrat, worked diligently to build bipartisan consensus, often reserving seats on county boards and commissions for Republican members to ensure there was proper representation of the community; and

WHEREAS, in 1999, Al Eisenberg was appointed to a post in the U.S. Department of Transportation by President William J. Clinton; he served as chair of the President's Mississippi Delta Initiative and as a member of both the White House Community Empowerment Board and the White House Task Force on Livable Communities; and

WHEREAS, desirous to be of further service to the Commonwealth, Al Eisenberg ran for and was elected to the Virginia House of Delegates in 2003; he ably represented the residents of the 47th District for the next six years, introducing or supporting many important pieces of legislation to benefit all Virginians; and

WHEREAS, during his tenure as a state lawmaker, Al Eisenberg held seats on the Agriculture, Chesapeake and Natural Resources Committee, the Science and Technology Committee, and the General Laws Committee; and

WHEREAS, throughout his time in local and state government, Al Eisenberg was a mentor to countless fellow public servants, and he challenged colleagues and opponents alike to better defend their positions and develop thoughtful solutions to issues at hand; and

WHEREAS, a creative and original thinker, who was devoted to the idea of expanding housing opportunities to all residents of the Commonwealth, Al Eisenberg was a founding member of both the Northern Virginia and Virginia Housing Coalitions and an originator of the concept that grew into the Virginia Housing Trust Fund; and

WHEREAS, Al Eisenberg had an amazing knowledge and passion for history and was a devoted and recognized amateur historian of the Civil War, which he attributed to growing up surrounded by Civil War sites in the Tidewater region; and

WHEREAS, in addition to serving on the Virginia Sesquicentennial of the American Civil War Commission, Al Eisenberg was the author and editor of '*If I am alive next Summer': The Civil War Letters of Captain Charles Robinson Johnson of the 16th Massachusetts Infantry* and the originator of the James I. Robertson Jr. Civil War Sesquicentennial Legacy Collection; and

WHEREAS, Al Eisenberg served the Commonwealth with dedication, integrity, and distinction, and he left behind a legacy of excellence that continues to inspire new generations of public servants in Northern Virginia; and

WHEREAS, Al Eisenberg will be fondly remembered and greatly missed by his wife, Sharon; his children, Matthew and Alex; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Albert Charles Eisenberg; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Albert Charles Eisenberg as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 809

Celebrating the life of Robert Earl Bryant.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Robert Earl Bryant of New Canton, who enhanced critical infrastructure in Central Virginia as the founder of the Buckingham Branch Railroad, died on May 8, 2022; and

WHEREAS, Robert "Bob" Earl Bryant was born in Arvonia and graduated from the former Marshall District High School in Buckingham County, where he met his future wife, Annie; and

WHEREAS, at age 18, Bob Bryant began working for the Chesapeake and Ohio Railroad (C&O) as a Telegraph Messenger; he rose through the ranks and ultimately became a Market Manager in Baltimore for CSX Transportation, which had acquired C&O in 1987; and

WHEREAS, after almost 35 years of service, Bob Bryant retired from CSX Transportation, then purchased 17.3 miles of soon-to-be abandoned track in Central Virginia to establish his own railroad; and

WHEREAS, Bob and Annie Bryant founded Buckingham Branch Railroad in 1988 and subsequently used state grant fund matches to rebuild and refurbish the track, now known as the Buckingham Division, which runs from Dillwyn to Bremo Bluff; Buckingham Branch Railroad operated its first train on March 6, 1989; and

WHEREAS, Bob and Annie Bryant grew the Buckingham Branch Railroad into the largest short-line railroad in the Commonwealth, a network of over 280 miles of strategic and historic trackage and 80 employees; and

WHEREAS, Bob Bryant was highly admired by his peers in the railroad industry and served as a founding member and longtime president of the Virginia Railroad Association, a fellow in the Virginia Rail Policy Institute, and a member of both the Old Dominion Chapter of the National Railway Historical Society and the C&O Historical Society; and

WHEREAS, outside of his career, Bob Bryant enjoyed gardening, farming and caring for a small herd of Angus cattle, and annually producing and bottling sorghum syrup as a gift for family friends, and neighbors; and

WHEREAS, Bob Bryant brought joy to others through his musical talents and sense of humor, and was also skilled as an inventor, always finding easier and better ways to do things, and could fix nearly anything; and

WHEREAS, Bob Bryant enjoyed fellowship and worship with the community as a member of Mt. Zion Baptist Church, where he served as a deacon; and

WHEREAS, Bob Bryant will be fondly remembered and greatly missed by his beloved wife of 66 years, Annie; his children, Mark and Lois, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Robert Earl Bryant, a respected member of the Buckingham County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert Earl Bryant as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 810

Commending Cindy Downing.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Cindy Downing, a history and social studies teacher at South County Middle School in Lorton, was named the South County Pyramid Outstanding Secondary Teacher in 2023; and

WHEREAS, Cindy Downing has fostered a learning environment at South County Middle School that nurtures the academic, social, and emotional well-being of her students; and

WHEREAS, through an emphasis on organizational methods and executive skills, Cindy Downing has prepared her students for successful futures and lifetime learning; and

WHEREAS, Cindy Downing developed a peer-tutoring program that has been a valuable resource for many students, particularly during the COVID-19 pandemic when public health protocols disrupted normal classroom activities; and

WHEREAS, Cindy Downing has given her students the opportunity to learn through service; under her leadership, students supported the Honor Flight program by preparing fleece blankets to show their appreciation for the nation's veterans; and

WHEREAS, Cindy Downing has conducted outreach and developed international partnerships, including with schools in Japan, Vietnam, the Philippines, and France, through projects exploring the United Nations' Sustainable Development Goals, leaving her students with broader and more global perspectives; and

WHEREAS, Cindy Downing has built lasting and supportive relationships with her colleagues at South County Middle School, providing many with support and guidance that have helped them succeed in their own classrooms; and

WHEREAS, Cindy Downing has demonstrated an ability to continually adapt to the diverse needs of her students while remaining apprised of educational best practices, becoming a valued contributor to curriculum development at both the district and state levels; and

WHEREAS, through her steadfast dedication to her students and colleagues and an unwavering commitment to excellence, Cindy Downing embodies the ideals of the education profession and serves as an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Cindy Downing for being named the 2023 South County Pyramid Outstanding Secondary Teacher; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cindy Downing as an expression of the General Assembly's admiration for her contributions to education in the Commonwealth.

HOUSE JOINT RESOLUTION NO. 811

Commending the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority, Inc.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority, Inc., a distinguished chapter of one of the nation's leading historically Black sororities, celebrated its 30th anniversary in 2022; and

WHEREAS, the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority was founded in 1992 by Darlene Faltz, Carol Bradley, Sue Briggs, Arlene Donnelly, Robin Flannagan, Linda Kemp, and Susan Wallace and has grown over the years to count 165 members on its rolls today; and

WHEREAS, the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority received its charter on May 23, 1993, from former South Atlantic regional director Sharon Reed, former regional secretary Roberta Duff, and former regional representative Alicia Smith; and

WHEREAS, the objectives of the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority are to develop innovative programs, develop partnerships with key stakeholders, and positively impact local, regional, national, and international communities; and

WHEREAS, the principles of the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority are to endow a legacy of leadership and service; develop creative outreach and instruction; develop corporate and community partnerships; pursue education, economic, welfare, political, and civil rights reform; and focus on support programs for underserved communities; and

WHEREAS, the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority provides scholarship opportunities for Fairfax County high school students and supports the local community with clothing drives, educational programs, and healthy living events; and

WHEREAS, the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority is an integral part of what makes Fairfax County a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority, Inc., on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority, Inc., as an expression of the General Assembly's admiration for the organization's legacy of service and its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 812

Commending Virginia Commonwealth University School of Pharmacy.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Virginia Commonwealth University School of Pharmacy, a world-class and respected institution of higher education for the study of pharmaceutical science, celebrates its 125th anniversary in 2023; and

WHEREAS, Virginia Commonwealth University (VCU) School of Pharmacy was founded in Richmond in 1898 as part of the Medical College of Virginia (MCV), now the VCU School of Medicine; and

WHEREAS, since its founding, VCU School of Pharmacy has consistently been recognized as one of the nation's best pharmacy schools, ranking among the top 20 in the nation, and currently offers students doctor of pharmacy, master of science, and doctor of philosophy degree programs; and

WHEREAS, among VCU School of Pharmacy's many esteemed and successful graduates are the Commonwealth's first licensed female pharmacist and two recipients of the Remington Medal, the pharmacy industry's highest honor; and

WHEREAS, VCU School of Pharmacy's thousands of graduates have served communities and treated patients with great skill and medical competency across the Commonwealth, the nation, and the world; and

WHEREAS, along with its flagship MCV Campus facilities in Richmond, the VCU School of Pharmacy operates satellite campuses at the University of Virginia and at Inova Health System in Northern Virginia; and

WHEREAS, as health care and the pharmacy profession have evolved, the VCU School of Pharmacy, which started as a two-year program, has kept pace by expanding its curriculum, extending its program to three, four, and five years in 1925, 1932, and 1960, respectively, before adopting its six-year doctor of pharmacy program in 1995; and

WHEREAS, since its founding and still today, pharmaceutical researchers and graduate students at VCU School of Pharmacy have provided important insights into the treatment of illnesses, ranging from childhood asthma and sickle cell disease to eye disorders, heart disease, and cancer; and

WHEREAS, for many years, VCU School of Pharmacy faculty have ranked among VCU's most productive in terms of inventions and patent disclosures; and

WHEREAS, over its history, VCU School of Pharmacy has benefited from the extraordinary leadership of nine different deans, and it is currently under the leadership of Kelechi "K.C." Ogbonna, Pharm.D., M.S.H.A., who promises to position the institution for many years of continued success; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Virginia Commonwealth University School of Pharmacy on the occasion of its 125th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kelechi "K.C." Ogbonna, dean of Virginia Commonwealth University School of Pharmacy, as an expression of the General Assembly's high regard for the institution and its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 813

Commending the Washington County Agriculture Appreciation Event.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, on March 14, 2023, the Washington County Agriculture Appreciation Event will honor local farmers and agriculture professionals and highlight the contributions of the agriculture sector to Washington County and beyond; and

WHEREAS, agriculture is the largest industry in Washington County with a local economic impact of more than $400 million; and

WHEREAS, Washington County accounts for over $69 million in agriculture products sold each year and is the largest egg producer in the Commonwealth; and

WHEREAS, farmers in Washington County pay between $8 million and $9 million in wages each year, and dealers sell approximately $90 million in farming equipment each year; and

WHEREAS, agriculture in Washington County is a community effort involving farmers, suppliers, students, volunteers, and a wide range of specialists and other professionals; and

WHEREAS, the Washington County Board of Supervisors and the Washington County School Board are both supportive of the local agriculture industry and have incorporated National Future Farmers of America (FFA) Organization programs, as well as agricultural components in K–12 education; and

WHEREAS, organized by the agriculture advisory committees of the Washington County Board of Supervisors and the Washington County Chamber of Commerce, the Washington County Agriculture Appreciation Event will be held at the Southwest Virginia Higher Education Center and will feature keynote speaker Ray Starling; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Washington County Agriculture Appreciation Event for promoting and celebrating the significance of agriculture in Washington County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Washington County Agriculture Appreciation Event as an expression of the General Assembly's appreciation for the importance of the agricultural sector to Washington County and communities around the Commonwealth.

HOUSE JOINT RESOLUTION NO. 814

Commending Barter Theatre.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Barter Theatre in Abingdon, the State Theatre of Virginia and the longest running professional Actors' Equity Association theater in the United States, proudly celebrates its 90th anniversary in 2023; and

WHEREAS, the earliest known theatrical event at the Barter Theatre was a production of *The Virginian* on January 14, 1876, but it wasn't until 1933, during the Great Depression, when actor and Southwest Virginia native Robert Porterfield had the idea to open a theater that invited patrons to barter for admission with fresh produce, that the Barter Theatre was born; and

WHEREAS, the Barter Theatre opened on June 10, 1933, with a production of *After Tomorrow*, earning its name by welcoming patrons with the slogan, "With vegetables you cannot sell, you can buy a good laugh," accepting either 40 cents or an equivalent amount of produce for admission; and

WHEREAS, Robert Porterfield and his crew furnished the Barter Theatre with seats, lighting fixtures, carpeting, paintings, tapestries, and more that had been salvaged from the Empire Theatre in New York City prior to its destruction, including a lighting system that had been designed and installed by Thomas Edison; and

WHEREAS, in 1946, the Barter Theatre was designated the State Theatre of Virginia, becoming the first professional theatre to attain this status; 15 years later, the Barter Theatre opened a second stage across the street in what came to be known as the Barter Stage II building, now called Barter's Smith Theatre; and

WHEREAS, the Barter Theatre produced plays by such notable playwrights as Noel Coward, Tennessee Williams, and Thornton Wilder, all of whom accepted Virginia hams as payment for royalties, as well as George Bernard Shaw, a vegetarian, who received spinach as his royalty; and

WHEREAS, the Barter Theatre now offers a wide range of educational opportunities for individuals of all ages and hosts the annual Appalachian Festival of Plays and Playwrights to share the area's rich cultural heritage; and

WHEREAS, the Barter Theatre has won numerous accolades and awards over the years, including an Antoinette Perry "Tony" Award for regional theater in 1948 and a Virginia Governor's Award for excellence in art in 1979, and is the only organization in the Commonwealth to have been recognized twice by Dominion Energy ArtStars Awards; and

WHEREAS, the Barter Theatre has been an integral part of the Southwest Virginia cultural landscape for nearly a century, garnering esteem and admiration from Virginians throughout the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Barter Theatre on the occasion of its 90th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Barter Theatre as an expression of the General Assembly's admiration for the theater's history of contributions to Southwest Virginia and the Commonwealth.

HOUSE JOINT RESOLUTION NO. 815

Celebrating the life of Nicholas D. Street.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Nicholas D. Street, an honorable veteran, esteemed attorney, accomplished executive, and beloved member of the Grundy community, died on February 4, 2023; and

WHEREAS, a native of Southwest Virginia, Nicholas Street graduated from Grundy High School before earning a bachelor's degree in 1953 from what was then Virginia Polytechnic Institute (Virginia Tech), where he was a member of the Corps of Cadets; and

WHEREAS, Nicholas Street proudly served his country with honor and distinction during his four years of active service in the United States Air Force and his additional years in the United States Air Force Reserve; and

WHEREAS, Nicholas Street's love of flying was firmly established through his experience with the United States Air Force, and he continued to fly for many years in both personal and corporate roles; and

WHEREAS, following his service, Nicholas Street graduated from the University of Richmond School of Law and then returned to Grundy in the early 1960s, ultimately establishing the law firm of Street, Street & Street with his brothers, H. A. and Eugene; and

WHEREAS, Nicholas Street became involved in the coal industry and was a founding partner in the United Coal Company, which later became The United Company, supporting the energy needs of the Commonwealth and beyond; and

WHEREAS, Nicholas Street enjoyed rewarding and successful careers in both law and energy until his retirement in 2009, making an impact in the lives of countless individuals and families; and

WHEREAS, Nicholas Street was a longtime advocate for his hometown of Grundy and Southwest Virginia, generously supporting charitable causes in the arts, health care, and education; and

WHEREAS, in 2022, Virginia Tech awarded Nicholas Street its highest honor, the Ut Prosim Medal, for his longstanding support of and service to the university; and

WHEREAS, Nicholas Street will be fondly remembered and dearly missed by his wife, Fay; his children, Robert, David, and Lauren, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Nicholas D. Street, a cherished member of the Grundy community whose legacy of service was an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Nicholas D. Street as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 816

Commending CodeVA.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, CodeVA, a nonprofit organization in Richmond that partners with schools, parents, and communities to develop computer science education opportunities for students throughout the Commonwealth, received a grant from Google to create a network of computer science lab schools; and

WHEREAS, established in 2013, CodeVA was based on the CodeRVA regional high school model that built partnerships with 15 school divisions in the Richmond region to provide a rigorous computer science education through a combination of academic content, project-based learning, and internship opportunities; and

WHEREAS, by advocating for computer science literacy, CodeVA plays a critical role in workforce development for technology-based jobs of the present and future; and

WHEREAS, in 2023, CodeVA received a $250,000 grant from Google to establish a network of computer science lab schools, where students can access comprehensive computer sciences resources, teachers can find professional development opportunities, and workers seeking a career change can develop new skills; and

WHEREAS, through this innovative partnership with Google, CodeVA will promote the Commonwealth as a leader in the knowledge economy by helping new generations of learners prepare for jobs in computer science and information technology; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend CodeVA for its ongoing work to create and expand computer science education opportunities for Virginia students; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to CodeVA as an expression of the General Assembly's admiration for the organization's visionary leadership in computer science education.

HOUSE JOINT RESOLUTION NO. 817

Celebrating the life of Carla Jonah Holland.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Carla Jonah Holland, an active and beloved member of the Richmond community who was a leader at the city's Lewis Ginter Botanical Garden for many years, died on August 13, 2022; and

WHEREAS, born in Washington, D.C., and raised in Springfield, Jonah Holland graduated from Virginia Commonwealth University and followed her career to Lewis Ginter Botanical Garden in Richmond, where she served as digital content manager for 14 years; and

WHEREAS, Jonah Holland passionately promoted Lewis Ginter through social media, developing engaging posts and other content that led the organization's social media following to blossom to 2.4 million people, bolstering the institution's reputation nationally; and

WHEREAS, Jonah Holland cultivated a welcoming and inclusive environment at Lewis Ginter and gladly shared her knowledge and expertise with garden interns and others seeking mentorship; and

WHEREAS, Jonah Holland's efforts at Lewis Ginter and in the community were celebrated through various honors over the years, including a Shorty Award for effective Twitter content in the cultural institution category and recognition from *Style Weekly* as a member of the "Top 40 Under 40" for her role as a community influencer; and

WHEREAS, Jonah Holland was an avid swimmer and cyclist, competing in several major swimming events around the country and maintaining memberships with clubs such as the Richmond Triathlon Club, Richmond Area Bicycling Association, and Wolf Pack Alpha Cycling; and

WHEREAS, Jonah Holland was known among friends and family for her random acts of kindness and for her compassionate, open-hearted, and loving nature, which drew people to her throughout her life; and

WHEREAS, Jonah Holland will be fondly remembered and dearly missed by her mother, Susan; her children, Josie and Grayson; her sister, Elisa; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Carla Jonah Holland, a cherished member of the Richmond community whose joy and positivity illuminated countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Carla Jonah Holland as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 818

Commending the Carole and Marcus Weinstein Jewish Community Center.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, for 75 years, the Carole and Marcus Weinstein Jewish Community Center has promoted the cultural and ethical values of Judaism while providing outstanding educational, physical, and spiritual wellness programs and experiences for people of all faiths, backgrounds, ages, and abilities in the Richmond area; and

WHEREAS, the Carole and Marcus Weinstein Jewish Community Center (Weinstein JCC) traces its roots to 1941, when a group of Jewish residents began developing plans for a local community center; interest in the project increased significantly after World War II, and the center was officially established in 1946; and

WHEREAS, Weinstein JCC was originally located on Idlewood Avenue and opened with about 300 members; within three years, the center expanded membership to all members of the community, regardless of religious affiliation, race, age, or demographic; and

WHEREAS, Weinstein JCC relocated to its current building in 1959 and subsequently added numerous amenities, including an early childhood education wing, an auditorium, a cafe, and a state-of-the-art fitness facility; and

WHEREAS, Weinstein JCC continued to thrive over the years and now supports more than 8,000 members; the center also operates a summer camp in Goochland County, Camp Hilbert, which has allowed many local children to experience the great outdoors and foster their creativity through engaging activities; and

WHEREAS, guided by its core principles of excellence, inclusion, education, and responsibility, Weinstein JCC has built a strong sense of fellowship in the community and provided a safe haven for its members to grow in mind, body, and spirit; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Carole and Marcus Weinstein Jewish Community Center on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Carole and Marcus Weinstein Jewish Community Center as an expression of the General Assembly's admiration for the center's work to provide opportunities for personal, cultural, social, and physical enrichment to Jewish and non-Jewish members of the Richmond community.

HOUSE JOINT RESOLUTION NO. 819

Commending Larkin Garbee and Todd Nuckols.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, in 2013, Larkin Garbee and Todd Nuckols founded Lighthouse Labs, a nonprofit accelerator organization that supports start-up businesses in Central Virginia; and

WHEREAS, Lighthouse Labs is a provisional member of the Global Accelerator Network and provides short-term, mentor-driven accelerator services for high-growth companies in Richmond and beyond; and

WHEREAS, Lighthouse Labs offers a 15-week program that pairs start-ups with mentors who are experienced entrepreneurs; the organization helps new business owners create a business plan, raise capital, and start making money; and

WHEREAS, Lighthouse Labs has successfully launched several new companies in the region, ranging from big data and technology enterprises to small businesses offering consumer-focused products and services; and

WHEREAS, by founding Lighthouse Labs, Larkin Garbee and Todd Nuckols transformed the business ecosystem in Richmond and laid the foundation for other accelerator organizations such as StartUp Virginia; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Larkin Garbee and Todd Nuckols for their achievements as founders of Lighthouse Labs; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Larkin Garbee and Todd Nuckols for their contributions to entrepreneurship in Central Virginia.

HOUSE JOINT RESOLUTION NO. 820

Commending Luis A. Rivas Anduray.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Luis A. Rivas Anduray first came to the United States as a political asylee in 1987 from Nicaragua during a time of great unrest under the Sandinista regime, which installed an 11-year dictatorship in Nicaragua; and

WHEREAS, Rivas Anduray, valuing the principles of freedom and democracy, received his residency in the United States and obtained a doctorate in economics from Cornell University before returning to Nicaragua to work as an economic advisor to the democratic government of President Enrique Bolanos; and

WHEREAS, most of Rivas Anduray's family stayed in the United States where they eventually became citizens; and

WHEREAS, Rivas Anduray's decision to return to Nicaragua was out of a deep and abiding love for his native homeland and a desire to contribute to Nicaragua's economic and social development under the democratic leadership of President Bolanos; and

WHEREAS, after returning to Nicaragua, Rivas Anduray played a key role in the development of Nicaragua's banking industry as an economic advisor to President Bolanos; and

WHEREAS, Rivas Anduray served as the chief executive officer of Nicaragua's largest bank for 15 years and then moved on to lead a large banking conglomerate known for its focus on innovation and technology along with its commitment to social responsibility and sustainability; and

WHEREAS, beginning in 2018, Nicaragua faced a social and political crisis, which ultimately culminated in a violent response from the government, resulting in the detention of thousands of citizens, including opposition leaders, activists, journalists, and students; and

WHEREAS, as the 2021 presidential election was approaching, the Nicaraguan government arrested all presidential candidates and other leaders from the political opposition as well as private sector leaders; and

WHEREAS, given Rivas Anduray's pivotal role in forming a united primary process for the opposition who intended to run for president, he was detained, charged, and found guilty of conspiracy; and

WHEREAS, according to human rights organizations, the conditions in which Rivas Anduray and other prisoners were held have been criticized as inhumane, and many of the prisoners have reported being subjected to torture and ill-treatment; and

WHEREAS, the Nicaraguan government had denied the existence of political prisoners, claiming that those in custody had broken the law; international organizations and governments rejected this argument and continued to pressure the Nicaraguan government to release political prisoners and respect human rights; and

WHEREAS, after prolonged discussions, the Nicaraguan government finally released over 200 political prisoners, who were delivered to the United States following an unprecedented operation by the U.S. Department of State; among these political prisoners was Rivas Anduray, who was granted humanitarian parole to obtain political asylum by the United States; and

WHEREAS, immediately following their release, the Nicaraguan government altered the constitution to strip these individuals, including Rivas Anduray, of their nationality and confiscate all their property; and

WHEREAS, despite this prolonged detainment and mistreatment, Rivas Anduray continues to have a deep and abiding commitment to his native homeland; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Luis A. Rivas Anduray for his commitment to freedom and the values that all Virginians and Americans hold so dear; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Luis A. Rivas Anduray as an expression of the General Assembly's admiration for his dedication to freedom and democratic values.

HOUSE JOINT RESOLUTION NO. 821

Celebrating the life of Theodore Nathan Lerner.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Theodore Nathan Lerner, a prominent real estate developer and philanthropist and principal owner of the Washington Nationals of Major League Baseball, died on February 12, 2023; and

WHEREAS, after graduating from Theodore Roosevelt High School in Washington, D.C., in 1944 and serving with the United States Army in Texas during World War II, Theodore "Ted" Nathan Lerner received an associate's degree from The George Washington University (GWU) in 1948 and graduated from the university's law school two years later; and

WHEREAS, Ted Lerner saw quick success in real estate, developing subdivisions in the Washington, D.C., metropolitan area for several years and later developing shopping malls, including Wheaton Plaza and White Flint Mall in Maryland, and Dulles Town Center, Tysons Corner Center, and Tysons II in Virginia; and

WHEREAS, with his company Lerner Enterprises of Rockville, Maryland, Ted Lerner oversaw the construction of over 30,000 homes and apartments in the Washington, D.C., area, providing quality homes to an untold number of individuals and families; and

WHEREAS, Ted Lerner purchased the Washington Nationals in 2006 and over several years developed the organization into one of the best in baseball, winning the World Series in 2019 and bringing a championship title back to Washington, D.C., for the first time in almost a century; and

WHEREAS, guided by his faith, Ted Lerner enjoyed worship and fellowship with his community at Ohr Kodesh Congregation in Chevy Chase, Maryland; and

WHEREAS, through the Annette M. Lerner and Theodore N. Lerner Family Foundation, Ted Lerner gave generously to various institutions and organizations in the community over the years, including GWU, Children's National Hospital, and Ohr Kodesh; and

WHEREAS, Ted Lerner will be fondly remembered and dearly missed by his loving wife, Annette; his children, Mark, Debra, and Marla, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Theodore Nathan Lerner, a respected developer and philanthropist who left an indelible mark on the Greater Washington, D.C., community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Theodore Nathan Lerner as an expression of the General Assembly's appreciation of his contribution to our community and respect for his memory.

HOUSE JOINT RESOLUTION NO. 822

Commending the Sickle Cell Association, Inc.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, for five decades, the Sickle Cell Association, Inc., a member of Sickle Cell Chapters of Virginia, Inc., has advocated on behalf of sickle cell disease patients and their families, while providing comprehensive education, counseling, and support services; and

WHEREAS, a nonprofit, community-based organization, the Sickle Cell Association was founded in Norfolk in 1972 to educate the public, encourage support for research, and empower people living with sickle cell disease, an incurable red blood cell disorder that can cause chronic pain and other severe health complications; and

WHEREAS, in 1977, representatives from the Sickle Cell Association and four other sickle cell chapters from Danville, Fredericksburg, Hampton, and Richmond met to discuss plans for a joint statewide conference; the chapters held their first annual conference on September 22-23, 1978, in Norfolk, and subsequently agreed to incorporate into a statewide organization, Sickle Cell Chapters of Virginia, to better serve their communities; and

WHEREAS, sickle cell disease affects approximately 100,000 people nationwide and thousands of people in the Commonwealth, as many as half of whom live in Hampton Roads; as of 2019, the Sickle Cell Association worked directly with 230 families in the region; and

WHEREAS, sickle cell disease can result in debilitating pain necessitating emergency room and doctor visits, as well as time off work or school, and treatments can cost tens of thousands of dollars per year; the Sickle Cell Association provides a critical support system to help patients and their families navigate options for treatment and care; and

WHEREAS, the Sickle Cell Association works diligently to raise awareness of ways that community members can help those in need, such as through blood donations; the organization has built strong local partnerships with churches, civic groups, fraternities and sororities, corporations, and small businesses to spread its message and support fundraising events like its annual Walk for Sickle Cell; and

WHEREAS, Judy Anderson has provided exceptional leadership to the Sickle Cell Association as its executive director for the past 40 years; and

WHEREAS, the Sickle Cell Association continues to fulfill its vital mission through the guidance of its board of directors, the hard work of its staff members, and the generosity of its countless volunteers and donors; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Sickle Cell Association, Inc., on the occasion of its 50th anniversary of service to the Hampton Roads community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Judy Anderson, executive director of the Sickle Cell Association, Inc., as an expression of the General Assembly's admiration for the organization's life-changing contributions to people with sickle cell disease and their families.

HOUSE JOINT RESOLUTION NO. 823

Celebrating the life of Ethel Ann Grandy.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Ethel Ann Grandy, a vibrant member of the Norfolk community and a beloved daughter and sister, died on January 5, 2023; and

WHEREAS, born in the former Norfolk County, Ann Grandy graduated from the former Crestwood High School in what is now Chesapeake; and

WHEREAS, Ann Grandy continued her education at North Carolina Central University, then began a long career in federal government with the United States Census Bureau; and

WHEREAS, Ann Grandy subsequently worked for the U.S. Department of the Treasury, U.S. Department of Agriculture, and U.S. Department of Housing and Urban Development, from which she retired as a member of the senior executive service; and

WHEREAS, Ann Grandy later settled in Hampton Roads and served as an assistant to the president of Old Dominion University; and

WHEREAS, a woman of deep and abiding faith, Ann Grandy attended Little Zion Baptist Church in her youth, and after returning to Hampton Roads, she was a devout member of New Life Church, where she served as an usher and the leader of the Victorious Christian Living group; and

WHEREAS, Ann Grandy's greatest joy in life was her beloved family, and she was a compassionate caregiver to her 100-year-old mother, Ethel Lee Grandy, better known in the community as Mother Grandy; and

WHEREAS, Ann Grandy will be fondly remembered and greatly missed by her mother, Ethel Lee; her siblings, Eva, Brenda, Lillian, Lisa, and George, Jr.; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Ethel Ann Grandy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ethel Ann Grandy as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 824

Commending Josh Sweat.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Josh Sweat, a native of Chesapeake who currently plays defensive end for the Philadelphia Eagles in the National Football League, competed in Super Bowl LVII on February 12, 2023; and

WHEREAS, Josh Sweat was a member of the Oscar F. Smith High School football team in Chesapeake that won the Virginia High School League AAA Division 6 state championship in 2011 and that was runner-up in 2013; and

WHEREAS, Josh Sweat tallied 94 tackles and 22 sacks during his junior year at Oscar F. Smith High School and was widely regarded as one of the top high school recruits in the country when he suffered a season-ending injury in the third game of his senior year; and

WHEREAS, demonstrating extraordinary grit and determination, Josh Sweat battled back from his injury to start for Florida State University in his first year with the team; he went on to play three seasons with the Florida State Seminoles from 2015 to 2017, leading the team in sacks in his final year and making the watch list for the Football Writers Association of America's Bronko Nagurski Trophy for best defensive player in the National Collegiate Athletic Association; and

WHEREAS, Josh Sweat was selected 130th overall by the Philadelphia Eagles in the 2018 National Football League Draft and has been a dominating presence on the gridiron over his five seasons with the team; and

WHEREAS, Josh Sweat has developed into one of the top defensive ends in the National Football League, earning a trip to the Pro Bowl in the 2021-2022 season and posting career high numbers in sacks and total tackles in the 2022-2023 season; and

WHEREAS, Josh Sweat's appearance in Super Bowl LVII marks the first time an Oscar F. Smith High School alumnus has reached football's highest stage, providing inspiration and motivation to countless young athletes in Chesapeake and throughout the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Josh Sweat, a Chesapeake native and a premier defensive end in the National Football League, for competing in Super Bowl LVII in 2023; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Josh Sweat as an expression of the General Assembly's admiration for his achievements and best wishes for his continued success.

HOUSE JOINT RESOLUTION NO. 825

Celebrating the life of Barbara Curtistine Robinson.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Barbara Curtistine Robinson, a distinguished member of the Naval Supply Systems Command, a social justice advocate, and an active and beloved member of the Hampton Roads community, died on September 1, 2022; and

WHEREAS, Barbara Robinson began her career at the Norfolk Naval Shipyard as a woodcrafter apprentice in 1986 and rose through the ranks to ultimately retire as a command supervisor of the Naval Supply Systems Command in 2020; and

WHEREAS, in recognition of her exceptional logistical support of the USS *Carter Hall*, Barbara Robinson was presented the Navy Meritorious Civilian Service Award, one of the United States Navy's highest civilian honors, in 2014; and

WHEREAS, Barbara Robinson worked tirelessly to ensure the emotional, physical, and spiritual well-being of her children and grandchildren over the years, providing them both with safety and security and an example by which they could live their lives; and

WHEREAS, guided by her abiding faith, Barbara Robinson enjoyed worship and fellowship with the community at Faith Deliverance Christian Center in Norfolk, where she led the Political Action Ministry, partnering with various politicians and grassroots organizations to advance social justice causes; and

WHEREAS, preceded in death by her son, Terrence, Barbara Robinson will be fondly remembered and dearly missed by her daughter, Towanda, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Barbara Curtistine Robinson, a cherished member of the Hampton Roads community whose passion and grace were an inspiration to all who knew her; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Barbara Curtistine Robinson as an expression of the General Assembly's respect for her memory.

HOUSE JOINT RESOLUTION NO. 826

Commending David Rosado.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, David Rosado, a respected law-enforcement officer, became undersheriff of the Chesapeake Sheriff's Office on October 4, 2022; and

WHEREAS, David Rosado is a 21-year veteran of the Chesapeake Sheriff's Office and has served the department across various sections, including corrections, support services, court services, administration, training, and public information; and

WHEREAS, David Rosado made history with his appointment to undersheriff, becoming the first Hispanic American to fill that role in the history of the department; and

WHEREAS, as undersheriff of the Chesapeake Sheriff's Office, David Rosado helps to oversee more than 400 deputies and civilian staff members who process hundreds of thousands of individuals through the locality's court system each year; and

WHEREAS, David Rosado's mission priorities include protecting Chesapeake's senior citizens and mentoring its youth; he works closely with the local attorney for the Commonwealth to investigate crimes affecting elderly individuals and supports Special Olympics Virginia by coordinating the sheriff's flagship Elite Unit program and Dancing with the Athletes; and

WHEREAS, one of David Rosado's strengths as a law-enforcement officer is his ability to communicate effectively in public and with a wide variety of individuals, which he credits to past professional experience in the television industry and his Spanish language fluency; and

WHEREAS, David Rosado has received numerous awards in recognition of his exceptional service to the community, including a Public Service Award from the City of Chesapeake in 2015 for his "Be a Buddy, Not a Bully" magic shows, an anti-bullying magic show that he performed before more than 30,000 students in Chesapeake Public Schools and throughout the Hampton Roads area; and

WHEREAS, through his dedication and leadership, David Rosado has helped to secure the safety and well-being of the residents of Chesapeake and has earned the esteem of all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend David Rosado for being named undersheriff of the Chesapeake Sheriff's Office; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David Rosado as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 827

Celebrating the life of Edward Leroy Beard.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 24, 2023

WHEREAS, Edward Leroy Beard, an honorable veteran, accomplished athlete, and beloved member of the Chesapeake community, whose success in the National Football League made him a local sports legend, died on January 15, 2023; and

WHEREAS, Edward "Ed" Leroy Beard attended Oscar F. Smith High School in what was then South Norfolk in the late 1950s, where he was a standout on the football team and a state champion heavyweight wrestler despite his school not having a wrestling program; and

WHEREAS, Ed Beard went on to attend Staunton Military Academy and then played football for two years at the University of Tennessee before joining the semi-professional football team the Wheeling Ironmen; and

WHEREAS, Ed Beard was drafted into the United States Army, serving his country with honor and distinction and earning recognition as the Most Outstanding Player on the United States Army football team; and

WHEREAS, Ed Beard was drafted by the San Francisco 49ers of the National Football League (NFL) in 1964 and went on to play eight seasons from 1965 to 1972 as a middle linebacker and on special teams, starting in 53 games and helping the team to National Football Conference - Western Division titles in 1970, 1971, and 1972; and

WHEREAS, Ed Beard, affectionately known by his teammates as "Biggie" for his ability to play bigger than his size, was notably the first special teams captain in the history of the NFL; and

WHEREAS, in recognition of his exceptional play and the respect he inspired among his fellow teammates, Ed Beard was presented the Len Eshmont Award in 1971 by the San Francisco 49ers; and

WHEREAS, after suffering a career-ending injury in a playoff game against the Dallas Cowboys, Ed Beard found a calling in coaching, serving for over a decade as a coach in the NFL with the San Francisco 49ers, the New Orleans Saints, and the Detroit Lions; and

WHEREAS, after his career in football, Ed Beard went into the construction business, starting Ed Beard Home Improvements, and he also worked for some time with the Chesapeake Sheriff's Office and as a bondsman in Chesapeake; and

WHEREAS, Ed Beard's football legacy was enshrined with his induction into the Virginia Sports Hall of Fame in 2002 and with Oscar F. Smith High School's football field, Beard-DeLong-Easley Field, being named in his honor; and

WHEREAS, Ed Beard was a well-known lover of country & western music and a talented singer and musician; he joined the famed Virginia Rounders with his wife, Bobbie, who was daughter of one of the group's founders, Willie Phelps, and performed with the group at various local events over many years; and

WHEREAS, Ed Beard will be fondly remembered and dearly missed by his loving wife of 55 years, Bobbie; his daughter, Ashley, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Edward Leroy Beard, a cherished member of the Chesapeake community whose success in the National Football League brings great pride to the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Edward Leroy Beard as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 828

Commending Pancakes-N-Things.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, for nearly five decades, the family-owned restaurant Pancakes-N-Things has provided delicious home-cooked meals to residents of and visitors to Chesapeake; and

WHEREAS, Nick Manolakas established Pancakes-N-Things in 1976 to serve the community by making meals with fresh, high-quality ingredients and to celebrate his heritage by offering Greek cuisine alongside regional favorites; and

WHEREAS, Pancakes-N-Things is open seven days a week, and while breakfast is available all day, the restaurant also offers a full menu of lunch and dinner options, featuring American Southern classics and Greek and Italian specialties; and

WHEREAS, over the years, Pancakes-N-Things has become a beloved local landmark and a cherished community meeting place in the Indian River area of Chesapeake; and

WHEREAS, the current owners of Pancakes-N-Things, Alex Angelos and Arati Manolakas, have maintained the restaurant's proud tradition of community engagement and look to continue serving new generations of residents and visitors; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Pancakes-N-Things for its nearly five decades of service to the region; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Nick Manolakas, Alex Angelos, and Arati Manolakas as an expression of the General Assembly's admiration for Pancakes-N-Things' contributions to the Chesapeake community.

HOUSE JOINT RESOLUTION NO. 829

Commending Cameron Bouchea Thomas.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Cameron Bouchea Thomas, a Chesapeake native and rising star of the Brooklyn Nets of the National Basketball Association, became the youngest player in the history of the National Basketball Association to score more than 40 points in three consecutive games on February 7, 2023; and

WHEREAS, Cameron "Cam" Bouchea Thomas perfected his shot in his youth through daily practice with his mom at the South Norfolk Community Center in Chesapeake; and

WHEREAS, in high school, Cam Thomas played one year at Oscar F. Smith High School in Chesapeake then at the powerhouse Oak Hill Academy in Mouth of Wilson; and

WHEREAS, as a freshman at Louisiana State University in the 2020-2021 season, Cam Thomas was the fourth leading scorer in men's college basketball nationwide, averaging 23 points per game; and

WHEREAS, Cam Thomas' dominant year at Louisiana State University earned him numerous honors, including first-team All-Southeastern Conference (SEC), All-SEC Freshman, *USA Today* SEC Newcomer of the Year, and more; and

WHEREAS, as the 27th pick in the 2021 National Basketball Association (NBA) Draft, Cam Thomas joined an elite group of players from Hampton Roads to be selected in the first round, including J.R. Reid, Alonzo Mourning, Joe Smith, and Allen Iverson; and

WHEREAS, with 43 points against the Phoenix Suns on February 7, 2023, Cam Thomas became the youngest player in the history of the NBA to score more than 40 points in three consecutive games; and

WHEREAS, Cam Thomas set this impressive record at 21 years and 117 days old, having scored 44 points against the Washington Wizards on February 4, 2023, and 47 points against the Los Angeles Clippers on February 6, 2023, in his two prior outings; and

WHEREAS, during this streak, Cam Thomas shot a combined 42-for-75 from the field for a remarkable 56 percent shooting accuracy; he also went 18-for-20 in free throws on the day of his historic achievement; and

WHEREAS, Cam Thomas has demonstrated that he is ready to compete at the highest level in the NBA, and Virginians everywhere look forward to watching his promising career unfold; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Cameron Bouchea Thomas of Chesapeake for becoming the youngest player in the history of the National Basketball Association to score more than 40 points in three consecutive games; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cameron Bouchea Thomas as an expression of the General Assembly's admiration for his historic achievement.

HOUSE JOINT RESOLUTION NO. 830

Commending Kwame Alexander.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 24, 2023

WHEREAS, Kwame Alexander, an award-winning children's author, poet, and educator, recently produced a television series, *The Crossover*, based on his Newbery Medal–winning novel-in-verse of the same name, which premieres on the Disney Channel and the Disney+ streaming service in April 2023; and

WHEREAS, Kwame Alexander is a Chesapeake native, a seventh-generation Virginian, and the descendant of an African American patriot and hero who served with the Union Army during the Civil War; and

WHEREAS, Kwame Alexander is a best-selling author of more than 35 books, which have earned him numerous awards over the years, including the Lee Bennett Hopkins Poetry Award, a Coretta Scott King Award honor book mention, three NAACP Image Award nominations, and the inaugural Conroy Legacy Award; and

WHEREAS, Kwame Alexander produced *The Crossover* television series, a coming-of-age drama that centers around teen brothers and basketball phenoms Josh and Jordan Bell as they grow and mature both on and off the court, alongside basketball superstar LeBron James; and

WHEREAS, in 2019, Kwame Alexander launched Versify, an imprint of Houghton Mifflin Harcourt Books for Young Readers, to champion a diverse array of unconventional authors and stories deserving of wider readership; and

WHEREAS, Kwame Alexander's other recent endeavors include a John F. Kennedy Center for the Performing Arts-commissioned national tour of his children's musical *Acoustic Rooster's Barnyard Boogie: Starring Indigo Blume* and

the founding of the Barbara E. Alexander Memorial Library and Health Clinic in Ghana in 2018 as a part of his Livelihood Empowerment Against Poverty for Ghana international literacy program; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Kwame Alexander for his eagerly awaited television series *The Crossover* and for his many other initiatives to promote literacy and empower young readers and writers; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kwame Alexander as an expression of the General Assembly's admiration for his achievements and for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 831

Commending E. Curtis Alexander, Ph.D.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, E. Curtis Alexander, Ph.D., a noted historian, educator, author, and entrepreneur in Hampton Roads, has worked indefatigably to preserve local history and to honor the legacy of the African American patriots and heroes who fought during the Civil War; and

WHEREAS, the great-grandson of Sergeant March Corprew, who enlisted with the Union Army and was a member of the 2nd United States Colored Cavalry during the Civil War, E. Curtis Alexander was instilled with an appreciation for history from a young age; and

WHEREAS, E. Curtis Alexander oversees the Unknown and Known Afro-Union Civil War Soldiers Memorial in Chesapeake, a site dedicated to saluting Afro-Union soldiers and sailors for their patriotism and heroism; and

WHEREAS, E. Curtis Alexander regularly organizes events at the Unknown and Known Afro-Union Civil War Soldiers Memorial to provide others with the opportunity to learn more about this important chapter of history and to honor the Afro-Union patriots who played a vital role in securing the freedom of all African Americans; and

WHEREAS, E. Curtis Alexander has lectured internationally on the histories of people of African descent in the Americas and on the Afro-Union soldiers of the Civil War, fostering greater awareness and understanding of how these groups shaped the trajectory of the United States; and

WHEREAS, E. Curtis Alexander, who holds a doctoral degree in educational psychology from Columbia University and is the founder of the Bells Mill Historical Research and Restoration Society, has earned renown throughout the Hampton Roads community for his wealth of knowledge regarding the area's history and its heroes; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend E. Curtis Alexander, Ph.D., for his tireless efforts to uncover and share the local history of Hampton Roads and to commemorate the service and valor of African American soldiers who fought during the Civil War; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to E. Curtis Alexander, Ph.D., as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 832

Commending Ravensworth Elementary School.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, for 60 years, Ravensworth Elementary School, an outstanding public primary school in Springfield, has given students the tools and support they need to become lifelong learners and achieve their fullest potential in and out of the classroom; and

WHEREAS, Ravensworth Elementary School was organized under its first principal, Alice Tolliver, during the 1962-1963 academic year, at which time students from the Ravensworth Farms community were bussed to the former Lincolnia Elementary School; and

WHEREAS, Ravensworth Elementary School officially opened at its permanent location on September 3, 1963; the school was designed by the architecture firm of Victor B. Spector & Associates and was constructed by general contractor M. L. Whitlow, Inc.; and

WHEREAS, Ravensworth Elementary School originally had only 16 classrooms, a multipurpose room that functioned as the cafeteria, and a library on the second floor above the main office; and

WHEREAS, due to rapid growth in Fairfax County at the time, Ravensworth Elementary School quickly added four additional classrooms, two on each floor, on the northeast end of the building, and a single-story addition of six classrooms was constructed in 1966, increasing student capacity to 780; and

WHEREAS, Ravensworth Elementary School began offering a kindergarten program in 1968, and in 1977, the school's service area expanded to include the newly established and planned neighborhoods of Fox Lair and Signal Hill in Burke; and

WHEREAS, in 1988, Ravensworth Elementary School completed construction of a gymnasium and music rooms and later began a building renewal project that added a media room and air conditioning; and

WHEREAS, in the early 1990s, Ravensworth Elementary School tested a unique Spanish Partial-Immersion Foreign Language program; the program proved so popular that, by 2003, it was one of 14 public schools offering Spanish immersion learning in Fairfax County; and

WHEREAS, throughout the 1990s, Ravensworth Elementary School also adapted to numerous changes in technology and opened its first computer lab; and

WHEREAS, due to overcrowding, Ravensworth Elementary School began in 2013 to utilize a set of modular classrooms that became known as "Ravens Town" to better serve students; three years later, the school completed a major renovation project to add 12,000 square feet of space, including classrooms and a new library; and

WHEREAS, Ravensworth Elementary School has fulfilled its mission to serve young people in Springfield through the hard work and dedication of its teachers, administrators, and staff and the support of parents, families, and community partners; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ravensworth Elementary School on the occasion of its 60th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ravensworth Elementary School as an expression of the General Assembly's admiration for the school's legacy of contributions to young people in Springfield.

HOUSE JOINT RESOLUTION NO. 833

Commending Peter F. Murphy.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, on February 1, 2023, Peter F. Murphy stepped down as chair of the Fairfax County Planning Commission after more than three decades of visionary leadership; and

WHEREAS, Peter "Pete" F. Murphy was appointed to the Fairfax County Planning Commission by the Fairfax County Board of Supervisors in 1982 and became chair in 1989; and

WHEREAS, Pete Murphy's steady leadership and breadth of expertise helped transform Fairfax County from a residential commuter area to an economic powerhouse that is home to some of the fastest-growing companies in the Commonwealth; and

WHEREAS, Pete Murphy has built strong working relationships with local, regional, and state officials, companies and community organizations, land-use experts, and attorneys to fulfill his mission on behalf of the residents of Fairfax County, and he is highly respected and admired by his colleagues; and

WHEREAS, among many awards and accolades for his accomplishments, Pete Murphy has received the Department of the Army Commander's Award for Public Service, the Katherine Hanley Public Service Award, and the Fairfax County Volunteer of the Year award in the Community Leader category; he was also named Lord Fairfax for the Springfield District; and

WHEREAS, outside of his work with the Fairfax County Planning Commission, Pete Murphy has held many other leadership roles on local task forces, committees, and community organizations, including honorary chief of the Burke Volunteer Fire and Rescue Department; and

WHEREAS, a trusted source of institutional knowledge, Pete Murphy will continue to serve as a member of the Fairfax County Planning Commission, providing his mentorship and decades of expertise to his colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Peter F. Murphy for his distinguished service as chair of the Fairfax County Planning Commission; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Peter F. Murphy as an expression of the General Assembly's admiration for his legacy of contributions to the Fairfax County community.

HOUSE JOINT RESOLUTION NO. 834

Commending Ayuda.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, for five decades, Ayuda, a nonprofit organization with offices in Fairfax County, Maryland, and Washington, D.C., has supported low-income immigrants in Northern Virginia and throughout the region by providing legal, social, and language access services; and

WHEREAS, Ayuda traces its deepest roots to the 1960s when the Ayuda Para El Consumidor (consumer help) law clinic was established at the George Washington Law School to assist immigrants that had been targeted and victimized by consumer fraud; and

WHEREAS, the program expanded to provide general legal assistance to immigrants, and Ayuda was incorporated as a nonprofit organization in 1973; the organization's mission is to support low-income immigrants through direct legal aid, social outreach and case management, and language interpretation; and

WHEREAS, Ayuda maintains a staff of full-time, bilingual attorneys and social workers and has cultivated relationships with specialized interpreters who are fluent in over 40 languages; the organization strives to break down barriers and ensure that immigrants have full access to the legal system and social supports; and

WHEREAS, Ayuda provides a wide range of assistance to immigrants, including legal consultations, help with completing and filing forms, and family law services; the organization has helped clients apply for and obtain visas and work authorizations and provided representation at asylum interviews and in immigration courts; and

WHEREAS, Ayuda also offers support and protection for immigrant victims of domestic violence, sexual assault, stalking, and human trafficking, including access to emergency and transitional shelter, food, clothing, or medical and trauma-informed mental health care for themselves and their children; and

WHEREAS, over the course of its history, Ayuda has helped approximately 150,000 clients more fully participate in their communities and better support themselves and their families; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ayuda on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ayuda as an expression of the General Assembly's admiration for the organization's longstanding service to members of the immigrant community in the Washington, D.C., metropolitan area.

HOUSE JOINT RESOLUTION NO. 835

Commending James Aaron Boyd.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, James Aaron Boyd is a native of Hampton Roads who went on to reach the highest echelons of football as a member of the National Football League; and

WHEREAS, as the quarterback of the Indian River High School football team of Chesapeake, James Boyd threw the decisive fourth-quarter touchdown pass that secured the team's 1995 Virginia High School League Group AAA, Division 6 state title; and

WHEREAS, James Boyd posted remarkable numbers both on offense and defense at Indian River High School, earning first-team All-American honors from *USA Today* and *Parade*, as well as two first-team All-State selections from the Associated Press; and

WHEREAS, James Boyd played free safety for the Penn State University Nittany Lions, where his exceptional play in the 2000 season gained him recognition as one of 12 semifinalists for the Jim Thorpe Award, which is presented annually to the best defensive back in college football, as well as All-American third-team accolades; and

WHEREAS, James Boyd recorded 233 tackles while playing for the Penn State Nittany Lions and became only the thirteenth player in school history to record more than 100 tackles in a season with 109 tackles, a school record for defensive backs at the time; and

WHEREAS, James Boyd was selected by the Jacksonville Jaguars in the third round of the 2001 National Football League Draft and over two seasons with the team recorded 11 solo tackles; and

WHEREAS, James Boyd's accomplishments are the results of his hard work and dedication and serve as inspiration to countless young athletes throughout the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend James Aaron Boyd for a successful football career at Indian River High School and Penn State University and in the National Football League; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James Aaron Boyd as an expression of the General Assembly's admiration for his achievements.

HOUSE JOINT RESOLUTION NO. 836

Commending the Mid-Atlantic Region of Alpha Kappa Alpha Sorority, Inc.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, the Mid-Atlantic Region of Alpha Kappa Alpha Sorority, Inc., has provided opportunities for leadership and generous outreach to members in the Commonwealth and North Carolina for 70 years; and

WHEREAS, Alpha Kappa Alpha Sorority was founded at Howard University in 1908 and is the oldest Greek-letter organization for African American women in the United States; and

WHEREAS, two founders of Alpha Kappa Alpha Sorority were born in Virginia; Joanna Berry Shields was born in Catharpin and Lucy Diggs Slowe was born in Berryville; and

WHEREAS, another founder of Alpha Kappa Alpha Sorority, Marjorie Hill, taught at Lynchburg's Morgan College, a satellite of Morgan State University, a historically Black university; and

WHEREAS, the Mid-Atlantic Region of Alpha Kappa Alpha Sorority is one of 10 regions that have been established according to geographical location and population density to effectively and efficiently govern the more than 900 chapters that are affiliated with the sorority; and

WHEREAS, since a regional realignment in 1953, Alpha Kappa Alpha Sorority chapters in the Commonwealth and North Carolina have been under the purview of the Mid-Atlantic Region; and

WHEREAS, the first director of the Mid-Atlantic Region of Alpha Kappa Alpha was Dr. Rose Butler Browne, who led the chapters under her stewardship with great determination and compassion; and

WHEREAS, the first conference of the Mid-Atlantic Region of Alpha Kappa Alpha was held in Newport News with the Lambda Omega chapter serving as host; and

WHEREAS, since 1953, the Mid-Atlantic Region of Alpha Kappa Alpha has been guided by 19 regional directors and has seen the chartering of 130 chapters, including 82 graduate chapters and 48 undergraduate chapters; and

WHEREAS, four of the 31 women who have served in the position of national/international president of Alpha Kappa Alpha Sorority are intricately connected to the Mid-Atlantic Region; and

WHEREAS, Pauline Sims Puryear, the fourth international president, chartered the Delta Omega Chapter in Petersburg, the oldest graduate chapter in the Mid-Atlantic Region; and

WHEREAS, Dr. Dorothy Boulding Ferebee, the 10th international president, was born in Norfolk and was a noted civil rights and public health advocate who served as the medical director of the Mississippi Health Project; and

WHEREAS, Arnetta G. Wallace, the 14th international president, was initiated at the Alpha Phi Omega Chapter in Danville; and

WHEREAS, Janet Jones Ballard, the 22nd international president, was initiated at the Alpha Eta Chapter at Virginia Union University and served as director of alumni affairs at both Virginia Union University and Virginia State University; there is a monument on the campus of Virginia Union University in her honor; and

WHEREAS, as a testament to the organization's impact, Dr. Norma S. White, the 25th international president of Alpha Kappa Alpha, dubbed the Mid-Atlantic Region of Alpha Kappa Alpha the "Marvelous Mid-Atlantic Region"; and

WHEREAS, members of the Mid-Atlantic Region of Alpha Kappa Alpha Sorority are active in many local civic and service organizations and serve as trusted mentors and leaders throughout their communities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Mid-Atlantic Region of Alpha Kappa Alpha Sorority, Inc., on its 70-year legacy of service in the Commonwealth and North Carolina; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Nadine Vargas Stewart, director of the Mid-Atlantic Region of Alpha Kappa Alpha Sorority, Inc., as an expression of the General Assembly's admiration for the organization's history and its contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 837

Celebrating the life of Christopher Sean Wiggins.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Christopher Sean Wiggins, a longtime state employee 12and a beloved husband and father in Woodbridge, died on August 1, 2022; and

WHEREAS, Christopher "Chris" Sean Wiggins was born in Woodbury, New Jersey, and moved to the Commonwealth with his family when he was young; and

WHEREAS, Chris Wiggins graduated from L.C. Bird High School, then earned a bachelor's degree in political science from Lycoming College, where he was a member of Alpha Sigma Phi Fraternity; and

WHEREAS, after graduation, Chris Wiggins joined the Virginia Department of Social Services and touched countless lives over the course of his 20-year career; and

WHEREAS, Chris Wiggins was an avid fan of the Philadelphia Phillies baseball team and volunteered his time to support young people in Prince William County as a baseball umpire and wrestling referee; and

WHEREAS, Chris Wiggins loved spending time near the water and especially enjoyed collecting shark teeth on the beach and canoeing and kayaking on the Occoquan River; and

WHEREAS, Chris Wiggins relished every opportunity to care for his beloved family, and he will be fondly remembered and greatly missed by his wife, Patience; his children, Piper, Prince Harry, Christopher, and Carter; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Christopher Sean Wiggins; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Christopher Sean Wiggins as an expression of the General Assembly's respect for his memory.

HOUSE JOINT RESOLUTION NO. 838

Commending Gunston Elementary School.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Gunston Elementary School was named a Purple Star School for the 2022-2023 academic year for its commitment to excellence in supporting military-connected children and their families, and this was its second time receiving this designation; and

WHEREAS, located in Lorton, Gunston Elementary School is committed to high academic standards in a child-centered environment that gives students the tools and support they need to imagine, believe, and achieve their goals in and out of the classroom; and

WHEREAS, Gunston Elementary School builds strong relationships with families and community partners to create a safe and nurturing space in which students can develop healthy minds and bodies, become caring and respectful citizens, and take ownership of their own progress and learning to maximize success; and

WHEREAS, the Purple Star School designation is presented by the Department of Education and the Council on the Interstate Compact on Educational Opportunity for Military Children; for the current academic year, Gunston Elementary School was one of 189 schools in the Commonwealth, and one of 40 schools in Fairfax County, to receive the designation; and

WHEREAS, the Department of Education and the Council on the Interstate Compact on Educational Opportunity for Military Children have been participating in the Purple Star School program since 2018; Purple Star Schools retain the designation for three years before being required to reapply; and

WHEREAS, to qualify for the Purple Star School designation, Gunston Elementary School has cultivated a military-friendly atmosphere and provides peer transition teams for incoming and outgoing students, as well as helpful resources and programming on issues important to military families; and

WHEREAS, as part of its qualification, Gunston Elementary School maintains a trained staff point of contact as a primary link between military families and the school; the point of contact also conducts professional development sessions regarding special considerations for military students and their families; and

WHEREAS, recognizing the sometimes transient nature of military postings, Gunston Elementary School maintains informational resources on the arrival of new students, records requests and transfer assistance for outgoing students, and long-term academic planning; and

WHEREAS, Gunston Elementary School has a student-led transition program, which includes a student transition team coordinator, to provide peer support for both newly enrolled and withdrawing students; and

WHEREAS, Gunston Elementary School also provides information on specialized subjects like special education, parental rights, parent-teacher associations, extracurricular activities, local community supports, and the Interstate Compact on Educational Opportunity for Military Children; and

WHEREAS, Gunston Elementary School celebrates members of the military and their families with ceremonies, breakfasts, and other events throughout the year and celebrates the Month of the Military Child and National Purple Up Day, both in April, to honor the service and sacrifices of the nation's veterans and show support for military students and their families; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Gunston Elementary School on its selection as a Purple Star School for the 2022-2023 academic year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gunston Elementary School as an expression of the General Assembly's admiration for the school's outstanding contributions to young people and support for military families in the Commonwealth.

HOUSE JOINT RESOLUTION NO. 839

Commending Claudia Llana.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Claudia Llana, an esteemed civil servant with the Virginia Department of Transportation who has most recently served as the director of transportation and land use for Fairfax and Arlington Counties, retires in 2023; and

WHEREAS, Claudia Llana joined the Virginia Department of Transportation (VDOT) in 1997 and rose through the ranks to become the Prince William County preliminary engineering manager in 2011, a position she held until becoming director of transportation and land use for Fairfax and Arlington Counties in 2019; and

WHEREAS, in her 25 years with VDOT, Claudia Llana has helped to shape and improve transportation safety in the Commonwealth through various projects and endeavors, including the SmartScale Program in Fairfax County and Prince William County, I-66, Route 1 widening and bus rapid transit project, Route 123 widening and interchange, and Route 1 widening in the Town of Dumfries; and

WHEREAS, through her exemplary leadership, Claudia Llana has engaged the community, state and local elected officials, and other stakeholders in Northern Virginia to quickly and proactively resolve issues involving traffic safety, pedestrian fatalities, and more; and

WHEREAS, Claudia Llana, who is fluent in Spanish, worked diligently to address questions from local residents and business owners who are Spanish speakers, ensuring that they received accurate information; and

WHEREAS, one of Claudia Llana's many notable achievements was the establishment of the first eruv in the Northern Virginia area, an initiative that has greatly improved the quality of life for the Northern Virginia Jewish community; and

WHEREAS, Claudia Llana has been a mentor to others while at VDOT, and through her generous leadership, she cultivated the Commonwealth's next generation of transportation leaders and prepared the department for further success in the future; and

WHEREAS, throughout her tenure at VDOT, Claudia Llana strove to meet the needs of all stakeholders, working exhaustively to develop relationships and to establish the amount of trust necessary to resolve challenging issues and concerns; and

WHEREAS, Claudia Llana's accomplishments at VDOT are the results of her collaborative, efficient, and highly effective approach and her unwavering dedication to the communities she serves; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Claudia Llana on the occasion of her retirement as the Virginia Department of Transportation's director of transportation and land use for Fairfax and Arlington Counties; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Claudia Llana as an expression of the General Assembly's admiration for her contributions to the Commonwealth.

HOUSE JOINT RESOLUTION NO. 840

Commending Cardinal Forest Elementary School.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Cardinal Forest Elementary School was named a Purple Star School for the 2022-2023 school year for its commitment to excellence in supporting military-connected children and their families; and

WHEREAS, located in West Springfield, Cardinal Forest Elementary School strives to promote excellence in academics, citizenship, and life and develop respectful, responsible leaders of the future; and

WHEREAS, Cardinal Forest Elementary School gives students the tools to achieve their fullest potential in and out of the classroom and build strong relationships with families and the community to create a safe, supportive environment; and

WHEREAS, the Purple Star School designation is presented by the Department of Education and the Council on the Interstate Compact on Educational Opportunity for Military Children; for the current academic year, Cardinal Forest Elementary School was one of 189 schools in the Commonwealth, and one of 40 schools in Fairfax County, to receive the designation; and

WHEREAS, the Department of Education and the Council on the Interstate Compact on Educational Opportunity for Military Children have been participating in the Purple Star School program since 2018; Purple Star Schools retain the designation for three years before being required to reapply; and

WHEREAS, to qualify for the Purple Star School designation, Cardinal Forest Elementary School has cultivated a military-friendly atmosphere and provides peer transition teams for incoming and outgoing students, as well as helpful resources and programming on issues important to military families; and

WHEREAS, as part of its qualification, Cardinal Forest Elementary School maintains a trained staff point of contact as a primary link between military families and the school; the point of contact also conducts professional development sessions regarding special considerations for military students and their families; and

WHEREAS, recognizing the sometimes transient nature of military postings, Cardinal Forest Elementary School maintains informational resources on the arrival of new students, records requests and transfer assistance for outgoing students, and long-term academic planning; and

WHEREAS, Cardinal Forest Elementary School has a student-led transition program, which includes a student transition team coordinator, to provide peer support for both newly enrolled and withdrawing students; and

WHEREAS, Cardinal Forest Elementary School also provides information on specialized subjects like special education, parental rights, parent-teacher associations, extracurricular activities, local community supports, and the Interstate Compact on Educational Opportunity for Military Children; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Cardinal Forest Elementary School on its selection as a Purple Star School for the 2022–2023 academic year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cardinal Forest Elementary School as an expression of the General Assembly's admiration for the school's outstanding contributions to young people and support for military families in the Commonwealth.

HOUSE JOINT RESOLUTION NO. 841

Commending Washington Mill Elementary School.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Washington Mill Elementary School was named a Purple Star School for the 2022-2023 academic year for its commitment to excellence in supporting military-connected children and their families, and this was its second time receiving this designation; and

WHEREAS, located in Mount Vernon on land once owned by George Washington, Washington Mill Elementary School strives to ignite a passion for lifelong learning by encouraging students to take risks in a safe, nurturing environment and develop the tools to become critical thinkers prepared for the future; and

WHEREAS, Washington Mill Elementary School celebrates its diverse school community and builds strong relationships with families and local community partners to create new opportunities for students; and

WHEREAS, the Purple Star School designation is presented by the Department of Education and the Council on the Interstate Compact on Educational Opportunity for Military Children; for the current academic year, Washington Mill Elementary School was one of 189 schools in the Commonwealth, and one of 40 schools in Fairfax County, to receive the designation; and

WHEREAS, the Department of Education and the Council on the Interstate Compact on Educational Opportunity for Military Children have been participating in the Purple Star School program since 2018; Purple Star Schools retain the designation for three years before being required to reapply; and

WHEREAS, to qualify for the Purple Star School designation, Washington Mill Elementary School has cultivated a military-friendly atmosphere and provides peer transition teams for incoming and outgoing students, as well as helpful resources and programming on issues important to military families; and

WHEREAS, as part of its qualification, Washington Mill Elementary School maintains a trained staff point of contact as a primary link between military families and the school; the point of contact also conducts professional development sessions regarding special considerations for military students and their families; and

WHEREAS, recognizing the sometimes transient nature of military postings, Washington Mill Elementary School maintains informational resources on the arrival of new students, records requests and transfer assistance for outgoing students, and long-term academic planning; and

WHEREAS, Washington Mill Elementary School has a student-led transition program, which includes a student transition team coordinator, to provide peer support for both newly enrolled and withdrawing students; and

WHEREAS, Washington Mill Elementary School also provides information on specialized subjects like special education, parental rights, parent-teacher associations, extracurricular activities, local community supports, and the Interstate Compact on Educational Opportunity for Military Children; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Washington Mill Elementary School on its selection as a Purple Star School for the 2022-2023 academic year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Washington Mill Elementary School as an expression of the General Assembly's admiration for the school's outstanding contributions to young people and support for military families in the Commonwealth.

HOUSE JOINT RESOLUTION NO. 842

Commending Orange Hunt Elementary School.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Orange Hunt Elementary School was named a Purple Star School for the 2022-2023 school year for its commitment to excellence in supporting military-connected children and their families, and this was its second time receiving this designation; and

WHEREAS, located in West Springfield with easy access to the Pentagon and Fort Belvoir, Orange Hunt Elementary School is home to one of the largest military populations in Fairfax County, and the school has a military family life counselor working with the active-duty student population; and

WHEREAS, Orange Hunt Elementary School produces meaningful opportunities for students to learn at the highest levels and acquire the tools they need to achieve success in and out of the classroom; the faculty and staff work with parents and local community partners to empower the students to become independent problem solvers, critical and creative thinkers, and empathetic, responsible members of the community; and

WHEREAS, the Purple Star School designation is presented by the Department of Education and the Council on the Interstate Compact on Educational Opportunity for Military Children; for the current academic year, Orange Hunt Elementary School was one of 189 schools in the Commonwealth, and one of 40 schools in Fairfax County, to receive the designation; and

WHEREAS, the Department of Education and the Council on the Interstate Compact on Educational Opportunity for Military Children have been participating in the Purple Star School program since 2018; Purple Star Schools retain the designation for three years before being required to reapply; and

WHEREAS, to qualify for the Purple Star School designation, Orange Hunt Elementary School has cultivated a military-friendly atmosphere and provides peer transition teams for incoming and outgoing students, as well as helpful resources and programming on issues important to military families; and

WHEREAS, as part of its qualification, Orange Hunt Elementary School maintains a trained staff point of contact as a primary link between military families and the school; the point of contact also conducts professional development sessions regarding special considerations for military students and their families; and

WHEREAS, recognizing the sometimes transient nature of military postings, Orange Hunt Elementary School maintains informational resources on the arrival of new students, records requests and transfer assistance for outgoing students, and long-term academic planning; and

WHEREAS, Orange Hunt Elementary School has a student-led transition program, which includes a student transition team coordinator, to provide peer support for both newly enrolled and withdrawing students; and

WHEREAS, Orange Hunt Elementary School also provides information on specialized subjects like special education, parental rights, parent-teacher associations, extracurricular activities, local community supports, and the Interstate Compact on Educational Opportunity for Military Children; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Orange Hunt Elementary School on its selection as a Purple Star School for the 2022-2023 academic year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Orange Hunt Elementary School as an expression of the General Assembly's admiration for the school's outstanding contributions to young people and support for military families in the Commonwealth.

HOUSE JOINT RESOLUTION NO. 843

Commending Silverbrook Elementary School.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Silverbrook Elementary School was named a Purple Star School for the 2022-2023 school year for its commitment to excellence in supporting military-connected children and their families; and

WHEREAS, located in Fairfax Station, Silverbrook Elementary School helps students achieve high academic standards while building strong character and a sense of community involvement; and

WHEREAS, Silverbrook Elementary School works with families and community partners to create a safe, supportive atmosphere for children to grow academically, socially, and emotionally, and become respectful, self-reliant, and responsible citizens who are prepared to lead in a global society; and

WHEREAS, the Purple Star School designation is presented by the Department of Education and the Council on the Interstate Compact on Educational Opportunity for Military Children; for the current academic year, Silverbrook Elementary School was one of 189 schools in the Commonwealth, and one of 40 schools in Fairfax County, to receive the designation; and

WHEREAS, the Department of Education and the Council on the Interstate Compact on Educational Opportunity for Military Children have been participating in the Purple Star School program since 2018; Purple Star Schools retain the designation for three years before being required to reapply; and

WHEREAS, to qualify for the Purple Star School designation, Silverbrook Elementary School has cultivated a military-friendly atmosphere and provides peer transition teams for incoming and outgoing students, as well as helpful resources and programming on issues important to military families; and

WHEREAS, as part of its qualification, Silverbrook Elementary School maintains a trained staff point of contact as a primary link between military families and the school; the point of contact also conducts professional development sessions regarding special considerations for military students and their families; and

WHEREAS, recognizing the sometimes transient nature of military postings, Silverbrook Elementary School maintains informational resources on the arrival of new students, records requests and transfer assistance for outgoing students, and long-term academic planning; and

WHEREAS, Silverbrook Elementary School has a student-led transition program, which includes a student transition team coordinator, to provide peer support for both newly enrolled and withdrawing students; and

WHEREAS, Silverbrook Elementary School also provides information on specialized subjects like special education, parental rights, parent-teacher associations, extracurricular activities, local community supports, and the Interstate Compact on Educational Opportunity for Military Children; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Silverbrook Elementary School on its selection as a Purple Star School for the 2022-2023 academic year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Silverbrook Elementary School as an expression of the General Assembly's admiration for the school's outstanding contributions to young people and support for military families in the Commonwealth.

HOUSE JOINT RESOLUTION NO. 844

Commending Washington Irving Middle School.

Agreed to by the House of Delegates, February 21, 2023
Agreed to by the Senate, February 23, 2023

WHEREAS, Washington Irving Middle School was named a Purple Star School for the 2022-2023 school year for its commitment to excellence in supporting military-connected children and their families; and

WHEREAS, located in West Springfield, Washington Irving Middle School strives to promote lifelong learning and give students a strong foundation for academic, behavioral, social, and emotional development for rigorous learning; the school builds strong relationships between students, faculty, staff, families, and the community to work toward continuous improvement; and

WHEREAS, Washington Irving Middle School helps young people become effective communicators, goal-directed and resilient individuals, critical thinkers who collaborate with others to solve problems creatively, and ethical, respectful citizens prepared to lead in a global society; and

WHEREAS, the Purple Star School designation is presented by the Department of Education and the Council on the Interstate Compact on Educational Opportunity for Military Children; for the current academic year, Washington Irving Middle School was one of 189 schools in the Commonwealth, and one of 40 schools in Fairfax County, to receive the designation; and

WHEREAS, the Department of Education and the Council on the Interstate Compact on Educational Opportunity for Military Children have been participating in the Purple Star School program since 2018; Purple Star Schools retain the designation for three years before being required to reapply; and

WHEREAS, to qualify for the Purple Star School designation, Washington Irving Middle School has cultivated a military-friendly atmosphere and provides peer transition teams for incoming and outgoing students, as well as helpful resources and programming on issues important to military families; and

WHEREAS, as part of its qualification, Washington Irving Middle School maintains a trained staff point of contact as a primary link between military families and the school; the point of contact also conducts professional development sessions regarding special considerations for military students and their families; and

WHEREAS, recognizing the sometimes transient nature of military postings, Washington Irving Middle School maintains informational resources on the arrival of new students, records requests and transfer assistance for outgoing students, and long-term academic planning; and

WHEREAS, Washington Irving Middle School has a student-led transition program, which includes a student transition team coordinator, to provide peer support for both newly enrolled and withdrawing students; and

WHEREAS, Washington Irving Middle School also provides information on specialized subjects like special education, parental rights, parent-teacher associations, extracurricular activities, local community supports, and the Interstate Compact on Educational Opportunity for Military Children; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Washington Irving Elementary School on its selection as a Purple Star School for the 2022-2023 academic year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Washington Irving Middle School as an expression of the General Assembly's admiration for the school's outstanding contributions to young people and support for military families in the Commonwealth.

HOUSE JOINT RESOLUTION NO. 845

Election of Circuit Court Judges, General District Court Judges, Juvenile and Domestic Relations District Court Judges, and a member of the Judicial Inquiry and Review Commission.

Agreed to by the House of Delegates, February 22, 2023
Agreed to by the Senate, February 22, 2023

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly shall proceed today

To the election of Circuit Court judges for terms of eight years commencing as follows:

One judge for the First Judicial Circuit, term commencing March 16, 2023.
One judge for the Second Judicial Circuit, term commencing March 16, 2023.
One judge for the Third Judicial Circuit, term commencing January 1, 2024.
One judge for the Fourth Judicial Circuit, term commencing July 1, 2023.
One judge for the Sixth Judicial Circuit, term commencing April 1, 2023.
One judge for the Eighth Judicial Circuit, term commencing March 16, 2023.
One judge for the Thirteenth Judicial Circuit, term commencing August 1, 2023.
One judge for the Seventeenth Judicial Circuit, term commencing July 1, 2023.
One judge for the Twenty-fourth Judicial Circuit, term commencing July 1, 2023.
One judge for the Twenty-fifth Judicial Circuit, term commencing July 1, 2023.
One judge for the Twenty-eighth Judicial Circuit, term commencing July 1, 2023.

To the election of General District Court judges for terms of six years commencing as follows:

One judge for the Second Judicial District, term commencing April 16, 2023.
One judge for the Third Judicial District, term commencing January 1, 2024.
One judge for the Fourth Judicial District, term commencing April 1, 2023.
One judge for the Fourth Judicial District, term commencing July 1, 2023.
One judge for the Ninth Judicial District, term commencing April 1, 2023.
One judge for the Thirteenth Judicial District, term commencing August 1, 2023.
One judge for the Fourteenth Judicial District, term commencing April 16, 2023.
One judge for the Seventeenth Judicial District, term commencing July 1, 2023.

To the election of Juvenile and Domestic Relations District Court judges for terms of six years commencing as follows:

One judge for the First Judicial District, term commencing March 16, 2023.
One judge for the Fourth Judicial District, term commencing January 1, 2024.
One judge for the Sixth Judicial District, term commencing April 16, 2023.
One judge for the Ninth Judicial District, term commencing April 16, 2023.
One judge for the Ninth Judicial District, term commencing April 16, 2023.
One judge for the Twenty-third Judicial District, term commencing May 1, 2023.
One judge for the Twenty-fourth Judicial District, term commencing July 1, 2023.

To the election of a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2023.

And that in the execution of the joint order nominations shall be made in the order herein named, and that each house shall be notified of said nominations, and when the rolls shall be called for the whole number, the presiding officers of each house shall appoint a committee of three, which together shall constitute the joint committee to count the vote of each house in each case and report the results to their respective houses. The joint order may be suspended by the presiding officer of either house at any time but for no longer than twenty-four hours to receive the report of the joint committee.

HOUSE RESOLUTION NO. 240

Commending Oak Grove Baptist Church.

Agreed to by the House of Delegates, January 16, 2023

WHEREAS, since 1890, Oak Grove Baptist Church of Suffolk has provided its members with uplifting spiritual counsel and opportunities for charitable outreach in the community; and

WHEREAS, for nearly four decades, Oak Grove Baptist Church has been sagaciously and compassionately led by the Reverend Dr. Anthony Copeland, who became pastor of the church on January 2, 1984; and

WHEREAS, Dr. Copeland helped to establish Oak Grove Baptist Church's Each One, Reach One Ministries, which is rooted in the church's commitment to sharing a love and understanding of the Bible with others; and

WHEREAS, under Dr. Copeland's "20/20 Vision" initiative, Oak Grove Baptist Church built a new, state-of-the-art sanctuary to adjoin the current church and aid in the fulfillment of the church's mission; and

WHEREAS, Oak Grove Baptist Church has also benefited greatly from the inspired leadership of its assistant pastor, Sylvia Copeland, who has supported myriad youth groups, women's ministries, conferences, and workshops on behalf of the church; and

WHEREAS, over the years, the congregation at Oak Grove Baptist Church has grown in faith and number and become an integral part of local community life in Suffolk, embodying the power of prayer and a wholehearted commitment to the teachings of the Bible; and

WHEREAS, Oak Grove Baptist Church has recently started to live stream one of its Sunday worship services on YouTube and Facebook, enabling greater numbers to join the members of the congregation as they honor and celebrate their faith in the Baptist tradition; and

WHEREAS, by cultivating joy and a greater sense of purpose in the community, Oak Grove Baptist Church has helped to make Suffolk a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, That Oak Grove Baptist Church hereby be commended for its years of service to its members and the Suffolk community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Dr. Anthony Copeland, senior pastor of Oak Grove Baptist Church, as an expression of the House of Delegates' admiration for the church's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 241

Celebrating the life of the Honorable Nancy Beth Firestone.

Agreed to by the House of Delegates, January 16, 2023

WHEREAS, the Honorable Nancy Beth Firestone, Senior Judge on the United States Court of Federal Claims and a beloved mother, partner, sister, daughter, friend, and member of the Lake Barcroft community, died on October 3, 2022; and

WHEREAS, a native of Manchester, New Hampshire, Nancy Firestone earned a Bachelor's degree from Washington University in 1973 and a Juris Doctor degree with honors from the University of Missouri–Kansas City School of Law in 1977 before embarking upon a distinguished career with the federal government; and

WHEREAS, rising quickly through the ranks as an attorney with the Department of Justice, Nancy Firestone later served as the Associate Deputy Administrator of the Environmental Protection Agency from 1989 to 1992, as a judge on its Environmental Appeals Board from 1992 to 1995, and as Deputy Assistant Attorney General in the Environment and Natural Resources Division at the Department of Justice from 1995 to 1998; and

WHEREAS, Nancy Firestone was then appointed by President William J. Clinton and confirmed as an Associate Judge on the United States Court of Federal Claims in 1998, which she served with a great sense of duty for 15 years, assuming Senior Judge status in 2013; and

WHEREAS, Nancy Firestone was an Adjunct Professor at Georgetown University Law Center for more than 35 years, where she relished the opportunity to mentor future attorneys and to explore with them the more complex and challenging topics of the day; and

WHEREAS, a lifelong learner, patron of the arts, and world traveler, Nancy Firestone brought tremendous insight, intellect, kindness, compassion, wit, and grace to every encounter and exchange; and

WHEREAS, Nancy Firestone's passion for both education and the arts led her to serve on both the Board of the Virginia Foundation for Community College Education and the Theatre J Council; and

WHEREAS, Nancy Firestone was deeply committed to the well-being of her community, serving six years on the Board of Directors of the Lake Barcroft Association; and

WHEREAS, Nancy Firestone will be fondly remembered and dearly missed by her loving spouse and partner of 38 years, Patricia; her daughter, Amanda; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable Nancy Beth Firestone, Senior Judge of the United States Court of Federal Claims and a cherished member of the Lake Barcroft community, whose caring and thoughtful nature was a light in many lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Nancy Beth Firestone as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 243

Commending Dr. Donald James Finley.

Agreed to by the House of Delegates, January 12, 2023

WHEREAS, Dr. Donald James Finley served with uncommon dedication and distinction as president of the Virginia Business Higher Education Council for a quarter century shortly after the organization's founding until his retirement in 2022; and

WHEREAS, Donald "Don" James Finley's tenure as president of the Virginia Business Higher Education Council was the culmination of a remarkable career defined by outstanding service to the Commonwealth and the field of higher education; and

WHEREAS, Don Finley served with the State Council of Higher Education for Virginia, served as a staff member and staff director of the House Appropriations Committee, served in Governor Charles Robb's administration as deputy secretary of finance and then as secretary of education, and served as secretary of education during all four years of Governor Gerald Baliles' administration; in addition, he served the nation in the United States Army; and

WHEREAS, Don Finley's work as president of the Virginia Business Higher Education Council was exceedingly fruitful and contributed to major advances for higher education in the Commonwealth, such as significant increases in state support of higher education operations, faculty compensation, and student financial aid, including the unprecedented $1 billion investment in the current biennium; and

WHEREAS, Don Finley's service also contributed significantly toward historic capital investments on campuses and landmark legislative measures to enable institutional advances, improve performance, enhance educational and employment opportunities for Virginians, and increase the positive impact on Virginia's economy, including the Restructured Higher Education Financial and Administrative Operations Act of 2005, the Top Jobs Act, the New Economy Workforce Credential Grant Fund and Program, the Tech Talent Investment Fund and Program, the Get Skilled, Get a Job, Give Back Fund and Program, the Innovative Internship Fund and Program, and numerous other instructional and research initiatives; and

WHEREAS, during Don Finley's tenure, the Virginia Business Higher Education Council became the preeminent state-level public-private partnership advocating for higher education in the nation, forging meaningful partnerships among business leaders, college presidents, governors, legislators, and other officials in both political parties, and demonstrating that a diverse coalition based on trust and mutual respect can still work together productively for the common good; and

WHEREAS, the innovative advocacy programs implemented under Don Finley's leadership, including the successive Grow By Degrees and Growth4VA campaigns, significantly increased public and political support for higher education in Virginia by communicating that the Commonwealth's top-ranked system of colleges, universities, and community colleges provides a competitive advantage in economic development, an exceptionally well-qualified workforce, and a strong catalyst for economic growth and job creation; and

WHEREAS, through Don Finley's determined advocacy, generations of young Virginians will enjoy significantly enhanced job and career opportunities and make greater contributions to the larger community because of the profound ways their lives have been enriched by Virginia's higher education system; and

WHEREAS, Don Finley's outstanding personal qualities, including his impeccable character and integrity, sound judgment, extensive knowledge and experience, affable manner, keen wit, generous spirit, and insistence upon giving credit to others rather than drawing attention to himself, have inspired and elevated all who have had the privilege of working with him; now, therefore, be it

RESOLVED by the House of Delegates, That Dr. Donald James Finley hereby be commended for his exemplary service to the Virginia Business Higher Education Council; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Donald James Finley as an expression of the House of Delegates' admiration for his personal and professional achievements and best wishes for the future.

HOUSE RESOLUTION NO. 244

Salaries, contingent and incidental expenses.

Agreed to by the House of Delegates, January 11, 2023

RESOLVED by the House of Delegates, That the Comptroller is directed to issue his warrants on the Treasurer, payable from the contingent fund of the House to accomplish the work of the House of Delegates during the 2023 Regular Session of the General Assembly. Necessary payments to cover salaries of temporary employees, as well as contingent and incidental expenses, will be certified by the Clerk or his designee.

HOUSE RESOLUTION NO. 245

Celebrating the life of Robert Halstead DeFord, Jr.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Robert Halstead DeFord, Jr., a highly admired farmer, businessman, and community leader in Virginia Beach, died on October 29, 2022; and

WHEREAS, Robert "Bob" Halstead DeFord, Jr., grew up in Norfolk, where he attended Maury High School, and after graduating from Virginia Polytechnic Institute and State University, he returned home to help his father run the family dairy farm; and

WHEREAS, during his time as a farmer, Bob DeFord was an active leader in the Virginia Farm Bureau, Southern States Co-op, and the Dairy Council of Virginia, and in 1969, he was selected as Virginia Farmer of the Year; and

WHEREAS, in 1972, Bob DeFord sold the dairy and became a respected local businessman with interests in the construction and real estate development industries, as well as several automobile dealerships; and

WHEREAS, Bob DeFord helped oversee the merger between Virginia Beach and the former Princess Anne County, and he was instrumental in the founding of the Virginia Aquarium, Virginia Wesleyan University, Virginia Beach Vision, and the Virginia Beach Neptune Festival; he was selected as King Neptune in 1979; and

WHEREAS, Bob DeFord was a champion for education, serving on the Virginia Beach School Board for 16 years, including nine years as chair, and serving on the Virginia State Board of Education for eight years, including two years as chair; he also served as founding president of the National Federation for Urban-Suburban School Districts; and

WHEREAS, Bob DeFord volunteered his leadership to many other civic and service organizations, including the Rotary Club of Virginia Beach, Kempsville Masonic Lodge No. 196, and local chapters of the Scottish Rite and the Shriners; and

WHEREAS, Bob DeFord was well known as a quintessential southern gentleman, who brought joy to others through his wisdom, witticisms, charm, and generosity; and

WHEREAS, Bob DeFord will be fondly remembered and greatly missed by his wife, Nancy; his children, Shelley, Lisa, and Robert III, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Robert Halstead DeFord, Jr., a pillar of the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert Halstead DeFord, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 246

Celebrating the life of Captain William F. Span, USN, Ret.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Captain William F. Span, USN, Ret., an honorable veteran, esteemed realtor, and beloved member of the Virginia Beach community, died on November 29, 2022; and

WHEREAS, William "Bill" F. Span graduated from Ambridge High School in Pennsylvania, where he was a standout athlete in football, track and field, and gymnastics; and

WHEREAS, attending Washington & Jefferson College on a football scholarship, Bill Span continued to excel academically and athletically, starting as both an offensive center and defensive lineman with the football team, while also competing in the pole vault, javelin, and discus events with the track and field team; and

WHEREAS, Bill Span never missed a quarter of play over his four years with the Washington & Jefferson College football team and helped to build one of the league's most dominant backfields, establishing a legacy that would earn him an induction into the school's athletics hall of fame as a Murphy Award honoree in 2001; and

WHEREAS, after graduation, Bill Span received his commission with the United States Navy in 1950 and served his country with honor and distinction for 27 years; as a naval aviator in the Vietnam War, he bravely flew 279 combat missions in an A-4 Skyhawk; over his career, he logged an impressive 5,125 flight hours and 1,020 carrier landings; and

WHEREAS, in recognition of his meritorious service with the United States Navy, Bill Span was the recipient of two Silver Stars, five Distinguished Flying Crosses, one Bronze Star, two United States Navy Commendation Medals, one Republic of Vietnam Gallantry Cross, and several other awards and decorations; and

WHEREAS, Bill Span went on to obtain a master's degree at the Naval Postgraduate School, to teach with the Naval Reserve Officers Training Corps at The Ohio State University, and to serve as an instructor at the U.S. Naval War College before retiring at the rank of captain in 1977; and

WHEREAS, following his military service, Bill Span and his family settled in Virginia Beach, where he launched a successful career in real estate with Professional Realty, owned and managed several dozen rental and commercial properties, and started an underground utility construction company, Kevcor Contracting Corporation, with his son, Gregory; and

WHEREAS, Bill Span's tireless pursuit of adventure took him around the world and led to many extraordinary and memorable experiences, including skiing in Chile, heli-skiing in Canada, scuba diving in Hawaii, and flying a Mikoyan MiG-29 jet in Russia; and

WHEREAS, preceded in death by his loving wife, Mary Irene, and his son, Kevin, Bill Span will be fondly remembered and dearly missed by his children, William and Gregory, and their families; his companion, Nancy; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Captain William F. Span, USN, Ret., an uncommon leader whose friendly and outgoing nature endeared him to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Captain William F. Span, USN, Ret., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 247

Celebrating the life of Kennon Caithness Whittle, Jr.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Kennon Caithness Whittle, Jr., an honorable veteran, esteemed investment manager, avid sportsman, and beloved member of the Richmond community, died on November 18, 2022; and

WHEREAS, a native of Martinsville, whose father and grandfather were Virginia Supreme Court justices, Kennon "K.C." Caithness Whittle, Jr., graduated from Martinsville High School and attended Hampden-Sydney College and the University of Virginia before ultimately graduating from Catawba College; and

WHEREAS, K.C. Whittle served his country with honor and distinction as a member of the United States Marine Corps, attaining the rank of first lieutenant with Marine Fighter Squadron (VMF) 451, assigned to the 1st Marine Aircraft Wing, in Atsugi, Japan; and

WHEREAS, following his service, K.C. Whittle worked for some time with what was then the Pittsburgh Plate Glass Company in Roanoke, Baltimore, and Philadelphia before returning home and serving as manager at the Martinsville office of the investment firm formerly known as Abbott, Proctor & Paine; and

WHEREAS, K.C. Whittle's dedication to the Martinsville community manifested in his interest and support of various local charities and his service as chairman of the Henry County chapter of the American Cancer Society; and

WHEREAS, K.C. Whittle was later assigned to Richmond by Abbott, Proctor & Paine and would remain there for the rest of his life, subsequently joining and retiring from the investment firm then known as Scott & Stringfellow; and

WHEREAS, K.C. Whittle gladly answered the call of the great outdoors throughout his life, whether by bird hunting, golfing, fishing, or swimming, and enjoyed the comradery he shared with members of the Country Club of Virginia, the Richmond Dove Association, the Black Duck Lodge on the Eastern Shore of Virginia, and other sporting clubs over the years; and

WHEREAS, K.C. Whittle exuded a love for his country and its history, proudly holding memberships with the Jamestowne Society, the Sons of the American Revolution, and the Society of the Cincinnati; and

WHEREAS, guided throughout his life by his faith, K.C. Whittle was a longtime member of Saint Mary's Episcopal Church in Richmond, where he served as an usher for years; and

WHEREAS, K.C. Whittle will be fondly remembered and dearly missed by his loving wife, Sigrid; his sons, Kennon III and John, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Kennon Caithness Whittle, Jr., a southern gentleman of great integrity and strength whose devotion to his family and others touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Kennon Caithness Whittle, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 248

Nominating a person to be elected to the Supreme Court of Virginia.

Agreed to by the House of Delegates, January 23, 2023

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected to the Supreme Court of Virginia as follows:

The Honorable Cleo E. Powell, of Chesterfield, as a justice of the Supreme Court of Virginia for a term of twelve years commencing August 1, 2023.

HOUSE RESOLUTION NO. 249

Nominating persons to be elected to the Court of Appeals of Virginia.

Agreed to by the House of Delegates, January 23, 2023

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the Court of Appeals of Virginia as follows:

The Honorable Mary Grace O'Brien, of Prince William, as a judge of the Court of Appeals of Virginia for a term of eight years commencing February 1, 2023.

The Honorable Richard Y. AtLee, Jr., of York, as a judge of the Court of Appeals of Virginia for a term of eight years commencing February 1, 2023.

HOUSE RESOLUTION NO. 250

Nominating persons to be elected to circuit court judgeships.

Agreed to by the House of Delegates, January 23, 2023

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Johnny E. Morrison, of Portsmouth, as a judge of the Third Judicial Circuit for a term of eight years commencing February 1, 2023.

The Honorable Gary A. Mills, of Newport News, as a judge of the Seventh Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Richard H. Rizk, of Williamsburg, as a judge of the Ninth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Dennis M. Martin, of Petersburg, as a judge of the Eleventh Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable John Marshall, of Henrico, as a judge of the Fourteenth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Gordon F. Willis, of Fredericksburg, as a judge of the Fifteenth Judicial Circuit for a term of eight years commencing April 1, 2023.

The Honorable Cheryl V. Higgins, of Albemarle, as a judge of the Sixteenth Judicial Circuit for a term of eight years commencing April 1, 2023.

The Honorable Penney S. Azcarate, of Fairfax, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Stephen C. Shannon, of Fairfax, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Douglas L. Fleming, Jr., of Loudoun, as a judge of the Twentieth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Alexander R. Iden, of Winchester, as a judge of the Twenty-sixth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable H. Lee Harrell, of Wythe, as a judge of the Twenty-seventh Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Tracy C. Hudson, of Manassas, as a judge of the Thirty-first Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Kimberly A. Irving, of Prince William, as a judge of the Thirty-first Judicial Circuit for a term of eight years commencing July 1, 2023.

HOUSE RESOLUTION NO. 251

Nominating persons to be elected to general district court judgeships.

Agreed to by the House of Delegates, January 23, 2023

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

The Honorable Alfred W. Bates, III, of Suffolk, as a judge of the Fifth Judicial District for a term of six years commencing July 1, 2023.

The Honorable Corry N. Smith, of Hampton, as a judge of the Eighth Judicial District for a term of six years commencing July 1, 2023.

The Honorable James J. O'Connell, III, of Chesterfield, as a judge of the Twelfth Judicial District for a term of six years commencing July 1, 2023.

John A. Kassabian, Esquire, of Fairfax, as a judge of the Nineteenth Judicial District for a term of six years commencing April 1, 2023.

The Honorable Susan J. S. Stoney, of Fairfax, as a judge of the Nineteenth Judicial District for a term of six years commencing February 1, 2023.

The Honorable Scott R. Geddes, of Roanoke County, as a judge of the Twenty-third Judicial District for a term of six years commencing February 1, 2023.

The Honorable Rupen R. Shah, of Augusta, as a judge of the Twenty-fifth Judicial District for a term of six years commencing February 1, 2023.

HOUSE RESOLUTION NO. 252

Nominating persons to be elected to juvenile and domestic relations district court judgeships.

Agreed to by the House of Delegates, January 23, 2023

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

The Honorable Larry D. Willis, Sr., of Chesapeake, as a judge of the First Judicial District for a term of six years commencing May 1, 2023.

The Honorable Bryan K. Meals, of Portsmouth, as a judge of the Third Judicial District for a term of six years commencing July 1, 2023.

The Honorable Stan Del Clark, of Isle of Wight, as a judge of the Fifth Judicial District for a term of six years commencing July 1, 2023.

The Honorable Shannon O. Hoehl, of Hanover, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2023.

The Honorable Julian W. Johnson, of Spotsylvania, as a judge of the Fifteenth Judicial District for a term of six years commencing April 1, 2023.

The Honorable Constance H. Frogale, of Alexandria, as a judge of the Eighteenth Judicial District for a term of six years commencing April 1, 2023.

Divani R. Nadaraja, Esquire, of Fairfax, as a judge of the Nineteenth Judicial District for a term of six years commencing May 1, 2023.

The Honorable Pamela L. Brooks, of Loudoun, as a judge of the Twentieth Judicial District for a term of six years commencing July 1, 2023.

The Honorable Melissa N. Cupp, of Rappahannock, as a judge of the Twentieth Judicial District for a term of six years commencing July 1, 2023.

The Honorable Paul A. Tucker, of Botetourt, as a judge of the Twenty-fifth Judicial District for a term of six years commencing July 1, 2023.

HOUSE RESOLUTION NO. 253

Nominating persons to be elected as members of the Judicial Inquiry and Review Commission.

Agreed to by the House of Delegates, January 23, 2023

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected as members of the Judicial Inquiry and Review Commission as follows:

The Honorable Shannon O. Hoehl, of Hanover, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2023.

Humes J. Franklin, III, Esquire, of Augusta, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2023.

HOUSE RESOLUTION NO. 254

Celebrating the life of Earl Murray Tebault.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Earl Murray Tebault, an esteemed public servant and beloved member of the communities of the former Princess Anne County and Virginia Beach, died on December 20, 2022; and

WHEREAS, a native and lifelong resident of the former Princess Anne County, which was incorporated into the City of Virginia Beach in 1963, Earl Tebault served on the Virginia Beach City Council from 1963 to 1972, working tirelessly to support the city's growth and development for the benefit of its citizens; and

WHEREAS, Earl Tebault gave generously of his time and talents in service to others in Virginia Beach through his membership with the Creeds Ruritan Club and the Princess Anne Lions Club; and

WHEREAS, guided by his faith, Earl Tebault enjoyed worship and fellowship with his community at Blackwater Baptist Church of Virginia Beach for many years, serving the congregation as a deacon and trustee; and

WHEREAS, Earl Tebault will be fondly remembered and dearly missed by his loving wife of 66 years, Laura; his children, Carolyn, Rebecca, and Terry, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Earl Murray Tebault, a cherished member of the former Princess Anne County and Virginia Beach communities whose service and dedication touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Earl Murray Tebault as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 255

Celebrating the life of Technical Sergeant Thomas Lee Jefferson, Jr., USAF, Ret.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Technical Sergeant Thomas Lee Jefferson, Jr., USAF, Ret., an honorable veteran, esteemed law-enforcement officer with the Hampton Sheriff's Office, and a beloved member of the Hampton community, died on October 6, 2022; and

WHEREAS, known affectionately by friends and family as "Jeff," Thomas Jefferson grew up in Brooklyn, New York, before joining the United States Air Force as an administration technician and clerical technician; and

WHEREAS, Thomas Jefferson bravely served his country with honor and distinction during the Vietnam War and was later stationed in California and Washington before ultimately taking a post at Langley Air Force Base in Hampton; and

WHEREAS, after 23 years with the United States Air Force, Thomas Jefferson retired at the rank of technical sergeant and shortly thereafter joined the Hampton Sheriff's Office; and

WHEREAS, during his 16 years with the Hampton Sheriff's Office, Thomas Jefferson worked diligently to protect and serve the community and honed his abilities as a law-enforcement professional by obtaining a dual degree with honors in criminology and sociology from what was then Saint Leo College in 1984; he ultimately retired from the force in 1995 after attaining the rank of lieutenant; and

WHEREAS, guided throughout his life by his faith in the Gospel, Thomas Jefferson enjoyed worship and fellowship with his community and served his congregation as a deacon, on the usher board, and in the sound room; and

WHEREAS, Thomas Jefferson greatly supported his fellow veterans through his involvement with Disabled American Veterans, including serving as commander of the organization's Murray-Rhea Peninsula Chapter 6; and

WHEREAS, Thomas Jefferson maintained membership with various Freemasonry chapters over the years and held several prominent positions in these organizations, such as worshipful master of Blooming Olive Lodge No. 94 in Newport News and district deputy grand master emeritus of the Grand Lodge of Virginia, among other leadership roles; and

WHEREAS, Thomas Jefferson will be fondly remembered and dearly missed by his loving wife of 54 years, Wenona; his children, Kenneth, Vanessa, and Valorie, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Technical Sergeant Thomas Lee Jefferson, Jr., USAF, Ret., a cherished member of the Hampton community whose dedication to serving the country and his community inspired all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Technical Sergeant Thomas Lee Jefferson, Jr., USAF, Ret., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 256

Celebrating the life of Gayle Marie Hill-Johnson.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Gayle Marie Hill-Johnson, an esteemed nurse, respected faith leader, and beloved member of the Newport News community, died on November 13, 2022; and

WHEREAS, after graduating from Menchville High School in Newport News, Gayle Hill-Johnson earned an associate's degree in licensed practical nursing in 1975 from what was then Christopher Newport College; and

WHEREAS, Gayle Hill-Johnson pursued her educational and professional ambitions throughout her life, obtaining a bachelor's degree in nursing from Old Dominion University in 1988 and a master's degree in nursing from Hampton University in 2003; and

WHEREAS, Gayle Hill-Johnson's accomplished career as a nurse spanned more than 45 years and included posts at the former Hampton General Hospital from 1975 to 1988, the former Newport News General Hospital from 1988 to 1992, and Bon Secours Maryview Medical Center in Portsmouth from 1992 to 2003; and

WHEREAS, Gayle Hill-Johnson served the country honorably as a nurse and member of the United States Army Reserves, contributing greatly to the nation's defense and readiness; and

WHEREAS, Gayle Hill-Johnson supported many future nurses as director of the Nursing Resource Center at the Hampton University School of Nursing from 2003 to 2007; and

WHEREAS, Gayle Hill-Johnson concluded her nursing career as a nurse practitioner with the Southeastern Virginia Health System, working tirelessly to ensure the well-being of her patients and retiring in 2019; and

WHEREAS, Gayle Hill-Johnson advanced her profession as an active and distinguished member of the Chi Eta Phi nursing sorority, the Sigma Theta Tau international honor society of nurses, and the American Association of Nurse Practitioners; and

WHEREAS, guided throughout her life by her faith, Gayle Hill-Johnson was a founding member and trustee of Holy Hills of Zion Church in Hampton and was licensed as a minister in 2010; and

WHEREAS, Gayle Hill-Johnson supported her church's congregation and its mission by serving as an adult Sunday school teacher for many years and by ministering to underprivileged and homeless families and individuals in the community; and

WHEREAS, Gayle Hill-Johnson will be fondly remembered and dearly missed by her loving husband of 48 years, Norman; her daughters, Leonda and Naneika, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Gayle Marie Hill-Johnson, a cherished member of the Newport News community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Gayle Marie Hill-Johnson as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 257

Celebrating the life of Bettie Lucille Bell.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Bettie Lucille Bell, an accomplished social worker, esteemed deacon, and beloved member of the Norfolk community, died on September 28, 2022; and

WHEREAS, Bettie Bell grew up in Chesapeake and graduated from the former George Washington Carver High School before earning a bachelor's degree in social work; she later earned a master's degree summa cum laude in urban affairs with an emphasis on gerontology from what is now Norfolk State University; and

WHEREAS, Bettie Bell's noble career as a social worker entailed service with various organizations, including Job Corps, Women in Community Service, and Samaritan House, enabling her to provide uplifting support to many individuals and families; and

WHEREAS, for more than a decade, Bettie Bell proudly and graciously served as the director of the food bank at Mount Lebanon Baptist Church in Norfolk, where she assisted underprivileged members of her congregation as well as individuals and families in need throughout the city; and

WHEREAS, Bettie Bell was celebrated by all who knew her for her hospitality and her cooking, especially by those fortunate enough to attend her holiday feasts or to try her sweet potato pie; and

WHEREAS, Bettie Bell was an avid reader and writer with an unquenchable thirst for knowledge, and she took great efforts to pass this enthusiasm on to her children; and

WHEREAS, Bettie Bell transformed her life when she committed herself to her faith at the age of 20 and she enjoyed worship and fellowship with her community at Mount Lebanon Baptist Church in Norfolk for many years; and

WHEREAS, Bettie Bell was ordained as a deacon by the Reverend Dr. Ronnie Joyner and later joined him when he assumed leadership of the Philadelphia Fellowship in Norfolk; and

WHEREAS, Bettie Bell will be fondly remembered and dearly missed by her children, Robert and Anton, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Bettie Lucille Bell, a cherished member of the Norfolk community whose gift for hospitality and devotion to serving others left a mark on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Bettie Lucille Bell as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 258

Celebrating the life of Cheryl Lavette Nixon.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Cheryl Lavette Nixon, an esteemed member of the Newport News Department of Parks, Recreation, and Tourism and the Hampton Redevelopment and Housing Authority and a beloved member of the Newport News community, died on July 2, 2022; and

WHEREAS, after graduating from Warwick High School in Newport News in 1986, Cheryl Nixon worked for many years in the Newport News Department of Parks, Recreation, and Tourism, where she was a center supervisor for the city's before and after school programs, contributing greatly to the growth and development of the area's young people; and

WHEREAS, Cheryl Nixon most recently worked in property management for the past 15 years with the Hampton Redevelopment and Housing Authority, helping to ensure that individuals and families in the area had a comfortable and quality place to call home; and

WHEREAS, Cheryl Nixon's dedication to serving others manifested itself in her participation with several community outreach organizations, such as Community Builders Network, the Strengthening Families Program, and Alternatives, Inc.; and

WHEREAS, an outgoing and vibrant individual who brightened every room she entered, Cheryl Nixon's greatest joys in life included spending time with her grandchildren, traveling with her husband and church family, coloring, doing puzzles, dancing, and serving others in any way she could; and

WHEREAS, guided by her faith throughout her life, Cheryl Nixon was notably one of the first members of Agape Hands Cathedral Church in Newport News, where she enjoyed worship and fellowship with her community for 32 years; and

WHEREAS, Cheryl Nixon gave generously of her time to support her church and its congregation by serving in various roles over the years, including assistant director of the children's church, head of the education department, deaconess, head of the missionary board, and food bank coordinator; and

WHEREAS, Cheryl Nixon will be fondly remembered and dearly missed by her loving husband, Dalton; her children, Crystal, Ernest, Jr., Dalton II, Danette, Toneshia, and Tonica, and their families; her mother, Roberta; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Cheryl Lavette Nixon, a cherished member of the Newport News community whose compassionate, positive, and selfless nature was a light in countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Cheryl Lavette Nixon as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 259

Commending the Richard Bland College of William & Mary's women's volleyball team.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, the Richard Bland College of William & Mary's women's volleyball team won the National Junior College Athletic Association Division II national championship on November 19, 2022, at the Alliant Energy PowerHouse Arena in Cedar Rapids, Iowa; and

WHEREAS, in the first title game appearance in program history, the Richard Bland College Statesmen defeated the Scottsdale Community College Artichokes in a gripping five-set match with the scores of 26-24, 25-23, 22-25, 19-25, and 16-14; and

WHEREAS, after winning the first two sets and dropping the third and fourth sets, the Richard Bland Statesmen went toe-to-toe with the Scottsdale Artichokes in the final set; facing elimination with the score at 14-13 in Scottdale's favor, the Statesmen rallied three points to seal the win; and

WHEREAS, the Richard Bland Statesmen's victory was a total team effort, led by standout performances from Karagyn Durco, who had 62 assists and 17 digs; Sarah Heath, Leilani Goggin, and Hailey Hopkins, with 17, 16, and 15 kills, respectively; and Silaulauinasimativa Aoelua, who notched 19 digs and four service aces; and

WHEREAS, in recognition of their accomplishments, Karagyn Durco was named tournament Most Valuable Player, Leilani Goggin and Hailey Hopkins earned All-Tournament honors, and Stephanie Champine was named Coach of the Tournament; and

WHEREAS, along with securing the program's first championship title, the Richard Bland Statesmen finished the season with an impressive 34-3 record, a remarkable start for head coaches Stephanie Champine and Shaun Dryden, who were in their first season with the program; and

WHEREAS, the success of the Richard Bland Statesmen is the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and professors, and the unwavering support of their families and the entire Richard Bland College community; now, therefore, be it

RESOLVED by the House of Delegates, That the Richard Bland College of William & Mary's women's volleyball team hereby be commended for winning the 2022 National Junior College Athletic Association Division II national championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Stephanie Champine and Shaun Dryden, head coaches of the Richard Bland College of William & Mary's women's volleyball team, as an expression of the House of Delegates' admiration for the team's achievement.

HOUSE RESOLUTION NO. 260

Celebrating the life of Nancy Lynn Finley Barbour.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Nancy Lynn Finley Barbour, a passionate philanthropist and respected community leader who touched countless lives in Northern Virginia, died on July 27, 2022; and

WHEREAS, Nancy Finley Barbour grew up in Winchester, where she attended Winchester Public Schools and graduated from John Handley High School in 1981; she was a standout member of her class who participated in many co-curricular activities, including student government, cheerleading, yearbook, and marching band, among others; and

WHEREAS, Nancy Finley Barbour continued her education at James Madison University, where she fostered strong, lifelong friendships as a member of the dance team, the gospel choir, and the Iota Alpha Chapter of Delta Sigma Theta Sorority, Inc.; and

WHEREAS, after receiving a bachelor's degree from James Madison University in 1985, Nancy Finley Barbour earned master's degrees in 2001 from what is now the University of Maryland Global Campus, then began a career at Grafton Integrated Health Network, and ultimately worked in information technology for more than three decades in a variety of skilled positions, most recently as a senior consultant with CGI since 2007; and

WHEREAS, in 2007, Nancy Finley Barbour established Code Success to provide career guidance, executive leadership training, and mentorship programs that inspired and empowered countless women; and

WHEREAS, outside of her career, Nancy Finley Barbour was an active volunteer who sought to enhance the lives of others through her servant leadership; in her hometown of Winchester, she worked with the Queens Court of the Shenandoah Apple Blossom Festival every year and supported the Winchester Black History and Heritage Committee for decades; and

WHEREAS, in honor of her late father, Nancy Finley Barbour established the Floyd R. Finley, III Scholarship Fund, which hosted an annual golf tournament that raised tens of thousands of dollars to support graduating John Handley High School students in their pursuit of higher education or technical training; and

WHEREAS, Nancy Finley Barbour established the Loudoun County Alumnae Chapter of Delta Sigma Theta Sorority, Inc., to advance scholarship, sisterhood, and charitable outreach in the region; she was a proud member of the Loudoun County Chapter of Jack and Jill of America, Inc., and she co-founded Mocha Entrepreneurs of Loudoun County, which supports Black-owned businesses; and

WHEREAS, Nancy Finley Barbour was a breast cancer survivor and worked with the Tigerlily Foundation to help provide education, awareness, advocacy, and support to women with breast cancer; in 2015, she was recognized as a Warrior Woman in *Loudoun Woman Magazine* sharing her personal story of hope after battling and defeating breast cancer; and

WHEREAS, among many awards and accolades, Nancy Finley Barbour received the 2020 Unsung Hero Award from Vote Lead Impact and the 2016 Citizen of the Year Award from the Sigma Mu Mu Chapter of Omega Psi Phi Fraternity, Inc.; and

WHEREAS, a woman of deep and abiding faith, Nancy Finley Barbour was an active member of Mount Carmel Baptist Church in Richmond in her youth and often returned to attend services there later in life; after moving to Northern Virginia, she joined Antioch Baptist Church in Fairfax Station, where she volunteered her leadership skills to the Usher Board; and

WHEREAS, Nancy Finley Barbour proudly sang as a member of a local gospel choir, the Celebration Delegation, that performed at the second inauguration of President William J. Clinton; and

WHEREAS, Nancy Finley Barbour will be fondly remembered and greatly missed by her husband, Paul; her daughter, Lindsey; her stepson, Steven; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Nancy Lynn Finley Barbour; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Nancy Lynn Finley Barbour as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 261

Commending Boy Scouts of America Troop 982.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, for 40 years, Boy Scouts of America Troop 982 in Leesburg has helped young boys gain important life and leadership skills and seek opportunities to serve their community; and

WHEREAS, established in 1982, Troop 982 is a boy-led troop that promotes a safe mentoring environment for boys to teach and learn from one another and has produced more than 150 Eagle Scouts in its history; and

WHEREAS, over the years, generations of the members of Troop 982 have significantly enhanced the quality of life in Leesburg and the surrounding area through Eagle Scout projects and other community service endeavors; and

WHEREAS, Troop 982 is sponsored by Leesburg Moose Lodge 1041, which provides meeting and storage space; the members of the troop participate in weekly meetings, including one weekend outing each month and one patrol event every six months; and

WHEREAS, Troop 982 is a High Adventure Troop and has sent Scouts to exciting adventure programs around the country, including in West Virginia, Minnesota, New Mexico, and Florida; and

WHEREAS, Troop 982 also participates in an annual week-long summer camp, which most recently took place at the Goshen Scout Reservation in the Blue Ridge Mountains in 2022, giving Scouts an opportunity to earn several merit badges through unique programs and events; and

WHEREAS, Troop 982 has succeeded and thrived through the hard work of its Scouts, the dedication of its adult leaders and committee members, and generous support from parents, volunteers, and community partners; now, therefore, be it

RESOLVED by the House of Delegates, That Boy Scouts of America Troop 982 hereby be commended on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Boy Scouts of America Troop 982 as an expression of the House of Delegates' admiration for its achievements in youth leadership development and contributions to the Leesburg community.

HOUSE RESOLUTION NO. 262

Commending Literacy Volunteers Winchester Area.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Literacy Volunteers Winchester Area works diligently to help individuals in Winchester and the surrounding region participate more fully in society by enhancing their language and literacy skills; and

WHEREAS, Literacy Volunteers Winchester Area provides one-on-one and small group tutoring for adults in English language skills for English Language Learners, computer skills, financial literacy, workplace literacy, citizenship test preparation, and basic reading, writing, and numeracy skills; and

WHEREAS, Literacy Volunteers Winchester Area has helped more than 529 adult students representing 54 countries gain the skills they need to participate more fully in the community and become successful lifelong learners; and

WHEREAS, Literacy Volunteers Winchester Area also leads the Winchester Campaign for Grade-Level Reading; a local affiliate of a national organization, the Winchester Campaign for Grade-Level Reading is a collaborative effort of local nonprofits, businesses, and community service organizations that strives to ensure that children in low-income families succeed in school and are better prepared for higher education, careers, and active citizenship; and

WHEREAS, Literacy Volunteers Winchester Area is a managing partner of Winchester Little Libraries, small community libraries where anyone can take or leave a book; a local affiliate of the Dolly Parton Imagination Library, which mails books to registered children under five years of age every month; and a partner of Just Neighbors, an organization that offers low-cost, family-based immigration legal services; and

WHEREAS, Literacy Volunteers Winchester Area fulfills its mission through the hard work and dedication of more than 180 qualified tutors and generous support from community partners; now, therefore, be it

RESOLVED by the House of Delegates, That Literacy Volunteers Winchester Area hereby be commended for its work to enhance the quality of life in the Winchester region through education and advocacy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Literacy Volunteers Winchester Area as an expression of the House of Delegates' admiration for the organization's achievements in service to the members of the Winchester community.

HOUSE RESOLUTION NO. 263

Commending Wheels for Wellness.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, for nearly 20 years, Wheels for Wellness has provided free, door-to-door transportation to medical appointments and treatment for people in Winchester and the surrounding counties; and

WHEREAS, originally known as Faith in Action, Wheels for Wellness was created as a result of a community roundtable and established through a $35,000 grant from the Robert Wood Johnson Foundation; and

WHEREAS, Wheels for Wellness has been in continuous operation since 2004 and adopted its current name in 2020; the organization serves individuals in the City of Winchester and the Counties of Clarke, Frederick, Shenandoah, and Warren; and

WHEREAS, Wheels for Wellness provides transportation for individuals who include those who do not qualify for social service programs, can no longer safely drive themselves, cannot afford to own a vehicle, or do not have a family member or friend to assist with transportation; and

WHEREAS, between 2016 and 2021, Wheels for Wellness completed 14,738 transports to medical appointments, radiation and chemotherapy treatments, and dialysis treatments, representing 323,558 miles traveled; and

WHEREAS, Wheels for Wellness has fulfilled its mission through the hard work of its executive director and scheduling manager and the dedication and generosity of its volunteer drivers, who use their own vehicles and gas to provide transportation for their fellow community members; now, therefore, be it

RESOLVED by the House of Delegates, That Wheels for Wellness hereby be commended for providing a vital service to residents of Winchester and the surrounding region; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Wheels for Wellness as an expression of the House of Delegates' admiration for the organization's important contributions to the community.

HOUSE RESOLUTION NO. 264

Commending Kaeley Boyle.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Kaeley Boyle, an artist and philanthropist, has made numerous contributions to her fellow Leesburg residents and communities around the country; and

WHEREAS, as the founder of the Fine Gallery in downtown Leesburg, Kaeley Boyle has featured numerous local artists and helped local residents explore and cultivate a passion for the fine arts; and

WHEREAS, Kaeley Boyle is also a co-founder and festival director for the Loudoun Arts Film Festival, an international platform for independent filmmaking, immersive entertainment, and creative expression, which debuted in September 2020 during the COVID-19 pandemic; and

WHEREAS, a respected local artist, Kaeley Boyle was commissioned to paint Leesburg's South King Street Bridge mural, which was dedicated in 2021; the mural joined the ranks of other sculptures, murals, and various other artworks that comprise the Leesburg Arts and Culture District; and

WHEREAS, Kaeley Boyle has contributed to The Hope Quilt, a memorial to commemorate the service and sacrifices of frontline workers during the COVID-19 pandemic and to honor those who have been affected by or lost their lives during the pandemic; and

WHEREAS, Kaeley Boyle is the programs director of The Artistic Fuel Foundation, which gives people the tools and resources to discover or rediscover artistic passions; during the COVID-19 pandemic, she offered free, live-streamed art classes to provide companionship and help people foster their artistic creativity; and

WHEREAS, more recently, in August 2022 Kaeley Boyle and her colleagues at The Artistic Fuel Foundation partnered with the American Arts Therapy Association to create Ties That Bind, a fundraising event to raise funds for creating an art therapy program for the residents of Uvalde, Texas; for the event they recruited eleven restaurants to donate ten percent of their one-day profits; now, therefore, be it

RESOLVED by the House of Delegates, That Kaeley Boyle hereby be commended for her work to promote the fine arts and use her talents to support individuals in need; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kaeley Boyle as an expression of the House of Delegates' admiration for her achievements and best wishes for the future.

HOUSE RESOLUTION NO. 265

Commending the Dental Clinic of Northern Shenandoah Valley.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, the Dental Clinic of Northern Shenandoah Valley has enhanced the quality of life in the region by providing outstanding oral health care at low costs to members of the community in need; and

WHEREAS, the Dental Clinic of Northern Shenandoah Valley provides basic dental care for patients of all ages who normally do not have regular access to dentistry; and

WHEREAS, the staff members of the Dental Clinic of Northern Shenandoah Valley work diligently to build strong relationships with patients and remove barriers that may have prevented them from receiving dental care in the past; the clinic is almost entirely volunteer-run, with only one paid employee; and

WHEREAS, the Dental Clinic of Northern Shenandoah Valley has worked with several local nonprofit agencies and community partners, including the United Way of Northern Shenandoah Valley, Our Health, and Sinclair Health Clinic, to provide exceptional care at low costs to patients; and

WHEREAS, the Dental Clinic of Northern Shenandoah Valley has helped countless patients address oral pain or become more confident about their smiles, and it has fulfilled its mission through the hard work of its qualified volunteer staff members; now, therefore, be it

RESOLVED by the House of Delegates, That the Dental Clinic of Northern Shenandoah Valley hereby be commended for making affordable oral health care more accessible in the region; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Dental Clinic of Northern Shenandoah Valley as an expression of the House of Delegates' admiration for the organization's contributions to the health and wellness of the residents of the Shenandoah Valley.

HOUSE RESOLUTION NO. 266

Celebrating the life of Joan Gillette Rokus.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Joan Gillette Rokus, an esteemed educator and community activist, respected public servant who was a two-term Leesburg district representative on the Loudoun County Board of Supervisors, and a beloved member of the Leesburg community, died on December 9, 2022; and

WHEREAS, Joan Rokus graduated from the Pennsylvania State University, where she was a member of the Zeta Tau Alpha sorority, before earning a master's degree from West Chester University; and

WHEREAS, Joan Rokus' accomplished career as a physical education educator included tenures at Keuka College, Susquehanna University, West Chester University, various public schools in Loudoun County, and Foxcroft School in Middleburg and she made a lasting and positive impact on her students in each school she served; and

WHEREAS, Joan Rokus made history as the first woman to represent the Leesburg district on the Loudoun County Board of Supervisors, serving as vice chairman while also chairing various committees; and

WHEREAS, Joan Rokus was actively involved in her community and its schools, serving as president of the Parent Teacher Association (PTA) of Catoctin Elementary School in Leesburg and later as president of the Northern Virginia District Council of PTAs; and

WHEREAS, Joan Rokus was a tireless advocate for environmental and historic preservation, playing a pivotal role in the formation of the Mount Zion Baptist Church Preservation Society, the Friends of the Stone House at Harper Park, and Keep Loudoun Beautiful, which she served as president; and

WHEREAS, Joan Rokus made an impact throughout the region as Loudoun County's representative to the Northern Virginia Regional Park Authority for 23 years and as the Loudoun County Board of Supervisors' liaison to the Loudoun County Parks, Recreation and Community Advisory Services Board; and

WHEREAS, Joan Rokus supported Loudoun County through her service on myriad boards and committees, including Leadership Loudoun, the Loudoun County Volunteer Board, the local Business and Professional Women's Club, and the Loudoun United Way Executive Board; and

WHEREAS, in recognition of her accomplishments in service to others, Joan Rokus was named the 1999 Citizen of the Year by the *Loudoun Times-Mirror* and the 1993 Person of the Year by the Leesburg Daybreak Rotary Club; and

WHEREAS, an avid tennis player and sports enthusiast, Joan Rokus attained the highest United States Tennis Association rating sanctioned at the former Loudoun Indoor Tennis Club and later taught tennis at Northern Virginia Community College for several years; and

WHEREAS, embracing her belief that travel is an integral part of a person's education, Joan Rokus explored the world with a heart full of wonder and fascination, visiting such distant locales as Australia, New Zealand, Ireland, Argentina, Kenya, Panama, and more; and

WHEREAS, Joan Rokus will be fondly remembered and dearly missed by her daughters, Jennifer and Lori, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Joan Gillette Rokus, a cherished member of the Loudoun County community whose years of public service were an inspiration to all who knew her; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joan Gillette Rokus as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 267

Commending the James Wood High School girls' volleyball team.

Agreed to by the House of Delegates, January 23, 2023

WHEREAS, the James Wood High School girls' volleyball team earned its first state title in program history with a victory in the Virginia High School League Class 4 state championship in November 2022; and

WHEREAS, the James Wood High School Colonels started the regular season with a 3-0 upset over the Loudoun County High School Captains, who had previously won every Class 4 or Group AA title since 2012; and

WHEREAS, the James Wood Colonels subsequently finished the regular season undefeated and claimed their first regional championship title; and

WHEREAS, in the state final, the James Wood Colonels swept the Grafton High School Clippers in three sets, winning by scores of 25-19, 25-19, and 25-16; the victory was not only the first win in program history, but the third overall state title and the only overall state title for a girls' team in the school's 73-year history; and

WHEREAS, Kennedy Spaid of the James Wood Colonels led the match with 15 kills and recorded a team-high of 17 digs; and

WHEREAS, the victory was a complete team effort with Brenna Corbin recording 12 kills and 14 digs, Hannah McCullough recording 16 assists and six digs, Ashlynn Spence recording six kills, and Carsyn Vincent recording 15 digs and three aces; and

WHEREAS, the James Wood Colonels finished the season with a 26-1 overall record, and with numerous returning players, the team is well-poised to continue its success in the future; and

WHEREAS, in addition to the drive and determination of all the student-athletes, the James Wood Colonels benefited from the leadership and guidance of coaches and staff members and the passionate support of the entire James Wood High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the James Wood High School girls' volleyball team hereby be commended on winning the Virginia High School League Class 4 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Adrienne Patrick, head coach of the James Wood High School girls' volleyball team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 268

Commending Rick Nealis.

Agreed to by the House of Delegates, January 30, 2023

WHEREAS, in January 2023, Rick Nealis retired as race director of the Marine Corps Marathon after 30 years of exceptional service to both the United States Marine Corps and the running community as a whole; and

WHEREAS, Rick Nealis joined the United States Marine Corps, arriving in Quantico in 1972, and was on active duty as a supply officer, when he was given a logistical assignment as race director of the Marine Corps Marathon in 1993; and

WHEREAS, Rick Nealis retired from the military two years later, and while the position of race director was typically a two-year rotation, the Marine Corps changed the position to a permanent one and rehired him, making him the first civilian director of the race; and

WHEREAS, an avid runner with a personal best time of 3:09 from a previous Marine Corps Marathon, Rick Nealis was a natural fit to lead the event and quickly recognized its benefits and potential for growth; and

WHEREAS, Rick Nealis helped bring prominence to the Marine Corps Marathon after persuading Oprah Winfrey to run the race in 1994 and working with the torch relay for the 1996 Summer Olympics in Atlanta; and

WHEREAS, under Rick Nealis' leadership, the Marine Corps Marathon, which is hosted in the nation's capital with the start and finish in Arlington, has expanded to include an event series of more than a dozen races, including 10k and 50k races on marathon weekend, several trail races, a half marathon, a turkey trot, and a 17.75k race that commemorates the founding of the United States Marine Corps; and

WHEREAS, Rick Nealis ably managed both the logistical and public relations aspects of the Marine Corps Marathon, which draws thousands of participants from around the country and the world and has an estimated regional economic impact of $88 million each year; and

WHEREAS, Rick Nealis earned the admiration of his fellow race directors for his adaptability and eagerness to adopt new ideas and best practices; he became a nationally recognized leader in race running and generously provided his wise insights to organizers for races of every size; and

WHEREAS, during the COVID-19 pandemic, Rick Nealis developed a virtual race to allow runners to participate from the safety of their own homes or neighborhoods or on local trails and courses to allow for social distancing; and

WHEREAS, Rick Nealis oversaw his final Marine Corps Marathon on October 30, 2022, a triumphant return to an in-person event after two years of limitations due to the pandemic; now, therefore, be it

RESOLVED by the House of Delegates, That Rick Nealis hereby be commended on the occasion of his retirement as race director of the Marine Corps Marathon in 2023; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rick Nealis as an expression of the House of Delegates' admiration for his achievements in service to the United States Marine Corps and the race running community throughout the Commonwealth and the nation.

HOUSE RESOLUTION NO. 269

Commending David M. Poole.

Agreed to by the House of Delegates, January 30, 2023

WHEREAS, David M. Poole, founder and longtime executive director of the Virginia Public Access Project, a nonprofit organization dedicated to the mission of elevating public understanding of politics and government by organizing and presenting information in ways that are easily accessible and free of partisan bias, retired in 2022; and

WHEREAS, after graduating from the University of North Carolina at Chapel Hill with a bachelor's degree in Soviet and East European Studies, David Poole began a distinguished career in journalism with outlets such as *The Christian Science Monitor*, *The News & Advance* in Lynchburg, *The Tampa Tribune*, and *The Roanoke Times*; and

WHEREAS, in 1997, David Poole took a leave of absence from his post as a political reporter with *The Roanoke Times* to build a campaign finance database for a consortium of newspapers in the Commonwealth; and

WHEREAS, recognizing the database's value as a public resource, David Poole recruited a board of directors to expand its operations into a full-fledged organization; the Virginia Public Access Project held its first organizational meeting in January 1997 and brought a searchable database of campaign donors to legislative and statewide candidates online in June of that year; and

WHEREAS, over the past 25 years, David Poole has served as executive director of the Virginia Public Access Project, promoting transparency by fostering the development of various resources that have proven vital to the public's understanding of campaign financing and other facets of state and local government, including election results, lobbying, the legislative process, and redistricting; and

WHEREAS, David Poole's efforts with the Virginia Public Access Project have supported the integrity of elections in the Commonwealth and produced other reliable, nonpartisan information to promote transparency in government at both the state and local levels; and

WHEREAS, both through the Virginia Public Access Project and media interviews, David Poole has often provided educated analysis and commentary to facilitate the public's grasp of political trends and the inner workings of state and local politics; and

WHEREAS, with an informed citizenry being essential to democracy, David Poole's accomplishments with the Virginia Public Access Project have helped to uphold our highest ideals of governance and serve as an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, That David M. Poole, founder and executive director of the Virginia Public Access Project, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David M. Poole as an expression of the House of Delegates' admiration for his contributions to the Commonwealth and best wishes for a happy and fulfilling retirement.

HOUSE RESOLUTION NO. 270

Commending Boys & Girls Clubs in Virginia.

Agreed to by the House of Delegates, January 30, 2023

WHEREAS, Boys & Girls Clubs in Virginia have made significant contributions to their communities by matching young people with positive mentors and role models to help them realize their full potential as productive, responsible, and caring citizens; and

WHEREAS, Boys & Girls Clubs provide services to more than 20,700 school-aged youths through chapters in multiple counties, cities, and military installations; the organization strives to inspire and support all young people, especially those from disadvantaged backgrounds; and

WHEREAS, through strong, proven development programs, adult leaders in Boys & Girls Clubs stress character and leadership development, education and career advancement, and health and life skills; they encourage an appreciation for the arts and provide programs in sports, fitness, and recreation; and

WHEREAS, adult leaders in Boys & Girls Clubs promote a positive self-image and enhance academic, social, emotional, and cultural awareness, while encouraging community involvement, strong moral values, and life management skills; and

WHEREAS, through the years, Boys & Girls Clubs have encouraged young people to aspire to the highest level of personal development and to become good citizens who are involved in their communities; now, therefore, be it

RESOLVED by the House of Delegates, That Boys & Girls Clubs in Virginia hereby be commended for the outstanding services they provide young people and their families; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Alliance of Boys & Girls Clubs as an expression of the House of Delegates' admiration for their dedicated service to young people, especially those who need it most, and commitment to helping those young people reach their full potential as productive, caring, responsible citizens.

HOUSE RESOLUTION NO. 272

Commending the KLM Scholarship Foundation.

Agreed to by the House of Delegates, January 26, 2023

WHEREAS, for more than 20 years, the KLM Scholarship Foundation, an all-volunteer nonprofit organization in Henrico, has helped make higher education more affordable for students in need by awarding generous scholarships to cover the cost of college textbooks; and

WHEREAS, Kimberly L. Martin created the KLM Scholarship Foundation to honor the legacy of her maternal great-grandmother, Florence B. Bowser, a trailblazing leader in education who supported Black students in the Commonwealth in the 1920s; and

WHEREAS, a graduate of Virginia State University, Florence Bowser cultivated a partnership between the Sleepy Hole District School Improvement League and the Rosenwald rural school building program to establish a new school in Suffolk; and

WHEREAS, led by Booker T. Washington and Julius Rosenwald, the owner and president of Sears, Roebuck and Company, the Rosenwald program donated funds and contributed materials and labor to help build more than 5,000 schools serving Black communities across the South; and

WHEREAS, Florence Bowser oversaw construction of the Florence Graded School, now known as Florence Bowser Elementary School, which was one of 400 Rosenwald schools built in the Commonwealth and has served generations of Suffolk students for more than 100 years; and

WHEREAS, inspired by stories of her great-grandmother's passionate advocacy for equity in education, Kimberly Martin founded the KLM Scholarship Foundation in 2002; and

WHEREAS, during its 20-year history, the KLM Scholarship Foundation has distributed more than half a million dollars in book scholarships to students attending colleges and universities in the Commonwealth, ensuring that financial status is not a barrier to higher education for these students; now, therefore, be it

RESOLVED by the House of Delegates, That the KLM Scholarship Foundation hereby be commended for its commitment to helping students achieve their academic goals on the occasion of the organization's 20th anniversary and the 100th anniversary of Florence Bowser Elementary School; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kimberly L. Martin, founder of the KLM Scholarship Foundation, as an expression of the House of Delegates' admiration for the organization's achievements.

HOUSE RESOLUTION NO. 273

Commending Valerie Kay Brown.

Agreed to by the House of Delegates, January 30, 2023

WHEREAS, Valerie Kay Brown, executive pastor of the Mount Global Fellowship of Churches headquartered in Chesapeake and a respected faith leader and author, has greatly served her congregation and the Chesapeake community for more than 30 years; and

WHEREAS, Valerie Brown's educational pursuits have included a bachelor's degree in accounting from Virginia State University and a doctoral degree in management from the Weatherhead School of Management at Case Western Reserve University; and

WHEREAS, as a certified public accountant, Valerie Brown has helped numerous professionals, businesses, and churches in the Chesapeake area manage their finances and achieve their goals; and

WHEREAS, answering the call to share her faith and serve others, Valerie Brown was ordained as an elder of administration and licensed to preach the Gospel in 2002 and was later ordained as a minister of the Gospel in 2009; and

WHEREAS, affectionately known by partners at the Mount Global Fellowship of Churches as "Elder Valerie," Valerie Brown is responsible for managing and operating the church's eight satellite locations with six in the Commonwealth and two in North Carolina, including Signet Family Life Center, Signet Bowling Center, Summit Counseling and Wellness Center, and Key's Resource Center and Café; and

WHEREAS, Valerie Brown and her husband, Bishop Dr. Kim Walter Brown, founded K.W. Brown International Ministries, Inc., in the early 2000s with funds they had raised from various speaking engagements over the years; and

WHEREAS, Valerie Brown and K.W. Brown Ministries have greatly supported the community through numerous forms of outreach, including sending youth to summer camps and providing scholarships for graduating high school seniors; and

WHEREAS, Valerie Brown and K.W. Brown Ministries have organized the Issachar Leadership Conference, bringing internationally renowned preachers of the Gospel to the Commonwealth for the benefit of others; and

WHEREAS, Valerie Brown and her husband hosted two television shows on Fox 43-WVBT, *Marriage Talk* and *Keys to the Kingdom*, broadcasting their uplifting spiritual wisdom to thousands; and

WHEREAS, Valerie Brown has shared her message and understanding of the Gospel as author of the popular books *The Miseducation of the Christian: Your Guide to Understanding God's Original Plan of Financial Freedom*, *What's in a Title?: A New Leadership Paradigm*, *Creating Pastures: A Plan For Kingdom Legacy For The Church And Family*, and *You Can't Do What?: The Real Meaning of Your Salvation*; and

WHEREAS, prior to her ministerial work, Valerie Brown taught at Norfolk State University and at the Samuel Dewitt Proctor School of Theology at Virginia Union University and also held executive positions at The Elder's House, Inc., among other organizations; and

WHEREAS, Valerie Brown has given generously of her time and talents through her service on several boards, including the advisory board for the former SunTrust Bank and the Virginia State University Board of Visitors, on which she serves as rector; and

WHEREAS, in recognition of her extraordinary commitment to her community, Valerie Brown has received myriad accolades and awards over her career, including the 2017 Women in Business Award from *Inside Business* magazine and the 2018 Women of Distinction Award in the nonprofit category from YWCA South Hampton Roads; now, therefore, be it

RESOLVED by the House of Delegates, That Valerie Kay Brown, executive pastor of the Mount Global Fellowship of Churches, hereby be commended for more than 30 years of service in support of the Chesapeake community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Valerie Kay Brown as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 274

Commending Fabiana Parker.

Agreed to by the House of Delegates, January 27, 2023

WHEREAS, Fabiana Parker, a sixth through 12th grade English for speakers of other languages teacher at Thornburg Middle School and Spotsylvania High School in Spotsylvania County, was named the 2023 Virginia Teacher of the Year at a ceremony held in the Patrick Henry Building on Capitol Square in Richmond on September 30, 2022; and

WHEREAS, Fabiana Parker grew up as an English-language learner who experienced firsthand the accompanying challenges and triumphs alike; she traces the beginning of her education career to her childhood experience of teaching her grandmother to read and has been an educator professionally since 2003; and

WHEREAS, Fabiana Parker's higher education pursuits have spanned vast geographical regions; she earned a bachelor's degree in modern foreign language and education at King's College London in 2001 and a master's degree in education, curriculum, and instruction at Boise State University in 2003; and

WHEREAS, in addition to her degree programs, Fabiana Parker has also completed coursework to hone her skills as an educator at the University of Virginia, the University of Phoenix, the University of Granada, Oxford University, and the University of Cambridge; and

WHEREAS, Fabiana Parker's diverse community and civic involvement is a natural extension of her mission as a seasoned and globally minded educator; and

WHEREAS, Fabiana Parker was recognized by the Honorable Gerald E. Connolly in the Congressional Record of the United States Congress in 2012 for having proudly served the adult literacy needs of the Northern Virginia community as a volunteer with the nonprofit BEACON for Adult Literacy; and

WHEREAS, in 2021, Fabiana Parker received a Certificate of Appreciation from the Virginia Department of Health for her service as a translator assisting the department's response to the COVID-19 pandemic; and

WHEREAS, seeing her students achieve their educational goals and become productive members of society is the driving force behind Fabiana Parker's commitment to education; and

WHEREAS, using her personal and professional experiences to promote cultural diversity while building bridges of trust, respect, and understanding across cultures will always be counted among Fabiana Parker's greatest accomplishments; now, therefore, be it

RESOLVED by the House of Delegates, That Fabiana Parker, an English for speakers of other languages educator with Spotsylvania County Public Schools, hereby be commended for being named the 2023 Virginia Teacher of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Fabiana Parker as an expression of the House of Delegates' admiration for her contributions to the Commonwealth and best wishes in her future endeavors.

HOUSE RESOLUTION NO. 275

Commending Josephine Breckley.

Agreed to by the House of Delegates, January 30, 2023

WHEREAS, Josephine Breckley, a deputy with the Culpeper County Sheriff's Office, won seven medals at the World Police and Fire Games, held in Rotterdam, Netherlands, in July 2022; and

WHEREAS, in addition to her work as a law-enforcement officer, Josephine Breckley is the owner of the INAT USA Taekwondo center and the IMAS International Multilingual Academy; the academy teaches both English as a second language and martial arts to help local young people build discipline and self-confidence; and

WHEREAS, Josephine Breckley has practiced the Korean martial art of Taekwondo for more than 35 years and began representing the Culpeper County Sheriff's Office in martial arts and other events in 2015, when the World Police and Fire Games were held in Fairfax County; and

WHEREAS, Josephine Breckley subsequently participated in the 2016 European Police and Fire Games in Spain, the 2017 World Police and Fire Games in California, the 2017 and 2018 Latin American Police and Fire Games, and the 2019 World Police and Fire Games in China; and

WHEREAS, at the 2022 World Police and Fire Games, Josephine Breckley was one of more than 10,000 athletes representing all types of public safety departments from 70 nations; and

WHEREAS, Josephine Breckley earned gold medals in the Taekwondo sparring match, the Taekwondo forms competition, the discus throw event, and the 4x100-meter relay; and

WHEREAS, Josephine Breckley also earned a silver medal in the 4x400-meter relay and bronze medals in the 100-meter and 400-meter races; and

WHEREAS, Josephine Breckley has served the Culpeper County community with dedication and distinction, and she has been an outstanding ambassador for the Commonwealth and the United States at these national and international events; now, therefore, be it

RESOLVED by the House of Delegates, That Josephine Breckley of the Culpeper County Sheriff's Office hereby be commended for winning seven medals at the 2022 World Police and Fire Games; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Josephine Breckley as an expression of the House of Delegates' admiration for her achievements.

HOUSE RESOLUTION NO. 277

Celebrating the life of Freda Marlene Ratliff.

Agreed to by the House of Delegates, January 30, 2023

WHEREAS, Freda Marlene Ratliff, a vibrant member of the Grundy and Big Stone Gap communities and a beloved mother and grandmother, died on September 21, 2022; and

WHEREAS, Freda Ratliff was born in Iaeger, West Virginia, and grew up in the Little Prater area of Grundy, where she lived for more than 65 years, until 2004, when she moved to Big Stone Gap; and

WHEREAS, Freda Ratliff was a proud homemaker who relished every opportunity to care for her family and share her wisdom and insights with her children and grandchildren over a delicious home-cooked meal; and

WHEREAS, a woman of deep and abiding faith, Freda Ratliff enjoyed fellowship and worship with the congregation of Ratliff Chapel Baptist Church, where she served as a trustee and a Sunday school teacher; and

WHEREAS, predeceased by her husband of 54 years, Sparrel, and one son, Christopher, Freda Ratliff will be fondly remembered and greatly missed by her sons, Donnie and Randy, and their families; her daughter-in-law, Tammy, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Freda Marlene Ratliff, a highly admired member of the Grundy and Big Stone Gap communities; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Freda Marlene Ratliff as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 278

Commending the Graham High School football team.

Agreed to by the House of Delegates, January 30, 2023

WHEREAS, the Graham High School football team of Bluefield won the Virginia High School League Class 2 state championship on December 10, 2022, at Salem Stadium; and

WHEREAS, the Graham High School G-Men defeated the Central High School Falcons of Woodstock by a score of 34-7 to bring home the fifth state title in program history and the second under the leadership of head coach Tony Palmer; and

WHEREAS, the Graham G-Men's victory capped an impressive undefeated season, with the team going 15-0 in competition; and

WHEREAS, to celebrate their accomplishment, the Graham G-Men served as grand marshals at the Bluefield Christmas parade on December 17, 2022; and

WHEREAS, the success of the Graham G-Men is the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of their families and the entire Graham High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Graham High School football team hereby be commended for winning the 2022 Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tony Palmer, head coach of the Graham High School football team, as an expression of the House of Delegates' admiration for the team's achievements and best wishes for the future.

HOUSE RESOLUTION NO. 279

Celebrating the life of Vincent Edward Scully.

Agreed to by the House of Delegates, February 6, 2023

WHEREAS, Vincent Edward Scully, a highly admired sports broadcaster associated with the Los Angeles Dodgers baseball team who retired with distinction as the longest-serving announcer for a single professional sports team, died on August 2, 2022; and

WHEREAS, Vincent "Vin" Edward Scully was the child of Irish immigrants and grew up in New York City, where he discovered his passion for the game of baseball at a young age and was inspired to become a sports broadcaster after hearing football broadcasts on the radio in the 1930s; and

WHEREAS, after graduating high school in 1945, Vin Scully served his country in the United States Navy, then began his career in sports media as a student broadcaster and journalist at Fordham University; he played center field on the university's baseball team, but ultimately found his true calling as an announcer for college baseball, football, and basketball games on the local radio station WFUV; and

WHEREAS, after graduation, Vin Scully worked as a broadcaster at WTOP, a CBS affiliate in Washington, D.C., whose broadcast area includes the Northern Virginia area, the Shenandoah Valley, and Virginia's Piedmont Region; he was soon introduced to Red Barber, who was in charge of sports programs for CBS Radio, including broadcasts of what were then the Brooklyn Dodgers of Major League Baseball in 1950; and

WHEREAS, Vin Scully called his first game for the Brooklyn Dodgers in 1950, following the contest against the Boston Red Sox from the right-field roof because there was no room for him in the Fenway Park press box; and

WHEREAS, later that year, Vin Scully became the number three announcer for the Brooklyn Dodgers, and in 1953, at the age of 25, he became the youngest person to broadcast a World Series game, subsequently earning the top spot as the team's main announcer; and

WHEREAS, Vin Scully stayed with the Dodgers when the team moved to Los Angeles after the 1957 season, and fans often brought their own radios to enjoy his broadcasts from inside Los Angeles Memorial Coliseum; as baseball broadcasts transitioned from radio to television, he became both the familiar voice and trusted face of the franchise; and

WHEREAS, Vin Scully brought joy to listeners and viewers from the moment he delivered his signature opening line, "It's time for Dodger baseball!" to the end of every game, enhancing the proceedings with his wit, wisdom, expert analysis, and even the occasional moment of quiet reflection; and

WHEREAS, Vin Scully called several notable and historic events during his tenure, including the perfect game by Sandy Koufax in 1965, Hank Aaron breaking Babe Ruth's home run record in 1974, Bill Buckner's error in Game 6 of the 1986 World Series, and Kirk Gibson's game-winning home run in Game 1 of the 1988 World Series; and

WHEREAS, in addition to his distinguished tenure with Major League Baseball and the Los Angeles Dodgers, Vin Scully also called football games for the National Football League, Professional Golfers' Association of America Tour golf tournaments, and other nationally broadcast baseball games, including 25 World Series and 12 All-Star games; he also made appearances in or lent his recognizable narration to television shows, movies, and video games; and

WHEREAS, Vin Scully called his final game on October 2, 2016, before retiring after 67 incredible years behind the microphone; and

WHEREAS, among many awards and accolades, Vin Scully was inducted into the National Baseball Hall of Fame, the National Sportscasters and Sportswriters Association Hall of Fame, and the NAB Broadcasting Hall of Fame, and in 2016, the Los Angeles City Council renamed Elysian Park Avenue, the location of Dodger Stadium, as Vin Scully Avenue; also in 2016, he received a Presidential Medal of Freedom, the nation's highest civilian honor, from President Barack H. Obama II; and

WHEREAS, on August 5, 2022, at the first home game after his death, tens of thousands of Los Angeles Dodgers fans chanted, "It's time for Dodger baseball!" in a fitting tribute to both his contributions to the team and legacy of excellence in his profession; and

WHEREAS, predeceased by his first wife, Joan, his second wife, Sandra, and one son, Michael, Vin Scully will be fondly remembered and greatly missed by his children, Erin, Kelly, Catherine, Kevin, and Todd, and their families, and numerous family members, friends, and fans of the Los Angeles Dodgers and Major League Baseball; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Vincent Edward Scully, an icon in professional sports who entertained fans across the nation with his enlightening and engaging commentary for more than six decades; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Vincent Edward Scully as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 280

Celebrating the life of Grayson Thompson.

Agreed to by the House of Delegates, February 6, 2023

WHEREAS, Grayson Thompson, a man of deep and abiding faith and a beloved husband and grandfather in Fincastle, died on January 1, 2023; and

WHEREAS, a native of Lunenburg County, Grayson Thompson moved to Roanoke at a young age and raised his own family in the same neighborhood where he grew up; and

WHEREAS, Grayson Thompson graduated from William Fleming High School and worked with Norfolk and Western Railway, later known as Norfolk Southern Railway, for 38 years; and

WHEREAS, Grayson Thompson began his career as an entry-level clerk and rose through the ranks to become a systems supervisor in the company's computer services department before his retirement in 1987; and

WHEREAS, outside of his career, Grayson Thompson participated in local horse shows, played competitive volleyball, and was an avid runner, golfer, and fisherman; and

WHEREAS, Grayson Thompson enjoyed fellowship and worship with the community as a longtime member of Oakland Baptist Church; and

WHEREAS, Grayson Thompson's greatest joy in his life was his family, and he instilled his deep and abiding faith in his children and grandchildren; and

WHEREAS, predeceased by his wife, Doris, Grayson Thompson will be fondly remembered and greatly missed by his children, Sue and Randy, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Grayson Thompson, a highly admired member of the Fincastle community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Grayson Thompson as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 281

Commending the Woodstock Fire Department.

Agreed to by the House of Delegates, February 6, 2023

WHEREAS, the Woodstock Fire Department will celebrate 200 years of service to the community in 2023; and

WHEREAS, the Woodstock Fire Department traces its roots to a meeting of concerned citizens at what is now the Shenandoah County Historic Courthouse on February 8, 1823, who volunteered to become the first members of the Shenandoah Fire Company; in 1931 the department built a new brick building and changed its name to the Woodstock Fire Department; and

WHEREAS, the Woodstock Fire Department is an all-volunteer community organization committed to serving the residents of the Town of Woodstock, Shenandoah County, and the Commonwealth; and

WHEREAS, the Woodstock Fire Department spends thousands of hours each year responding to emergency incidents, training, fundraising, and serving their neighbors in other ways; and

WHEREAS, the members of the Woodstock Fire Department risk their lives to ensure the safety and well-being of their neighbors, saving more than $7 million worth of property and countless lives each year; and

WHEREAS, the Woodstock Fire Department owns and maintains a fire station, six emergency vehicles, and modern equipment valued at over $5 million and is funded entirely through donations and local fundraisers; and

WHEREAS, the first 200 years of the Woodstock Fire Department have been filled with countless stories of bravery, sacrifice, and dedication to duty; and

WHEREAS, throughout 2023, the Woodstock Fire Department will commemorate the organization's storied history and bright future; now, therefore, be it

RESOLVED by the House of Delegates, That the Woodstock Fire Department hereby be commended on the occasion of its historic 200th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Woodstock Fire Department as an expression of the House of Delegates' congratulations, admiration for the department's history, and contributions to the citizens of the Commonwealth, and best wishes in all its future endeavors.

HOUSE RESOLUTION NO. 282

Commending Davis Corner Volunteer Fire Department and Rescue Squad, Inc.

Agreed to by the House of Delegates, February 6, 2023

WHEREAS, in 2023, Davis Corner Volunteer Fire Department and Rescue Squad, Inc., celebrates 80 years of service to the Virginia Beach community; and

WHEREAS, Davis Corner Volunteer Fire Department and Rescue Squad traces its roots to 1942, when a group of citizens came together and determined that there was a need for fire service in the northern part of the former Princess Anne County; and

WHEREAS, in 1943, these citizens organized and began serving the community as Davis Corner Auxiliary Fire Department; and

WHEREAS, by raising funds through donations from the residents, Davis Corner Auxiliary Fire Department purchased its first fire truck from a United States Army base for $500; and

WHEREAS, in 1944, Davis Corner Auxiliary Fire Department purchased property at 316 Davis Street for $10, and a building was raised to establish a permanent location for the department in Princess Anne County, which subsequently merged into the City of Virginia Beach; and

WHEREAS, in the early 1950s, Davis Corner Auxiliary Fire Department added a rescue component, which was officially chartered in 1968 as Davis Corner Volunteer Rescue Squad; and

WHEREAS, in 1978, these two organizations merged and became Davis Corner Volunteer Fire Department and Rescue Squad, which continues to serve and safeguard the residents of and visitors to the City of Virginia Beach; now, therefore, be it

RESOLVED by the House of Delegates, That Davis Corner Volunteer Fire Department and Rescue Squad, Inc., hereby be commended for its 80 years of service to the former Princess Anne County and the City of Virginia Beach; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kay Laws, president of the Davis Corner Volunteer Fire Department and Rescue Squad, Inc., as an expression of the House of Delegates' admiration for the department's contributions to the health and welfare of the residents of the City of Virginia Beach and the Commonwealth.

HOUSE RESOLUTION NO. 283

Commending Dr. Walter R. Clemons.

Agreed to by the House of Delegates, February 6, 2023

WHEREAS, Dr. Walter R. Clemons, superintendent of Gloucester County Public Schools, was named the Virginia Superintendent of the Year at the annual awards luncheon of the Virginia Association of School Superintendents in Roanoke on May 2, 2022; and

WHEREAS, Dr. Walter R. "Rick" Clemons was selected for the honor by a consortium of education leaders, including presidents of the Virginia Board of Education, the Virginia Education Association, the Virginia Parent and Teacher Association, the Virginia School Boards Association, the Virginia Association for Supervision and Curriculum Development, the Virginia Association of Elementary School Principals, and the Virginia Association of Secondary School Principals, with support from board officers of the Virginia Association of School Superintendents; and

WHEREAS, Rick Clemons has been an education administrator since 1996 and served sequentially as an assistant middle school principal in Newport News Public Schools, assistant high school principal in Charlotte-Mecklenburg Public Schools, high school principal then assistant superintendent in Franklin City Public Schools, and superintendent of Northampton County Public Schools before serving as superintendent of Gloucester County Public Schools for the past eight years; and

WHEREAS, with a wealth of knowledge and expertise in the area of education administration, and unwavering compassion and generosity for the community he serves, Rick Clemons has fostered the success of his students and teachers both in and out of the classroom; and

WHEREAS, Rick Clemons has demonstrated exemplary leadership throughout the COVID-19 pandemic, gracefully balancing the educational and social needs of his students with the need to ensure public health and safety; and

WHEREAS, as a result of Rick Clemons' dedication and conscientious approach, Gloucester County Public Schools was one of the first divisions in the region to resume in-person learning, utilizing a phased-in hybrid approach that combined virtual and in-person learning; and

WHEREAS, Rick Clemons has successfully helped Gloucester County Public Schools navigate divisive issues in the community by emphasizing what's best for the students, maintaining transparency around curriculum and teaching resources, and providing a public forum for community members to express their opinions; and

WHEREAS, Rick Clemons is notably the first superintendent from Gloucester County Public Schools and only the second from Region III to receive the Virginia Superintendent of the Year honor since it was established in 1988; and

WHEREAS, as the Virginia Superintendent of the Year, Rick Clemons is the Commonwealth's nomination for the National Superintendent of the Year award, which will be presented in February 2023 by the American Association of School Superintendents; now, therefore, be it

RESOLVED by the House of Delegates, That Dr. Walter R. Clemons, superintendent of Gloucester County Public Schools, hereby be commended on the occasion of being named Virginia Superintendent of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Walter R. Clemons as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 284

Commending Nancy L. Israel.

Agreed to by the House of Delegates, February 6, 2023

WHEREAS, Nancy L. Israel will retire as president of the American Council of Engineering Companies of Virginia, the voice of the engineering firms within the Commonwealth, on October 1, 2023; and

WHEREAS, Nancy L. Israel's passion, vision, and leadership of the American Council of Engineering Companies of Virginia (ACEC Virginia) over an extraordinary 20-year period led to exponential growth and an enduring impact; and

WHEREAS, Nancy L. Israel helped build ACEC Virginia into the largest engineering firm association in the Commonwealth today, representing over 100 independent engineering firms and over 5,000 engineers and related professionals; and

WHEREAS, Nancy L. Israel has dedicated herself to supporting and successfully promoting the business of engineering throughout the Commonwealth through her involvement with ACEC Virginia, advocating for legislation and regulations of critical importance to the engineering, architecture, and construction industries; and

WHEREAS, over the course of her career, Nancy L. Israel skillfully interfaced with experts, government officials, and other stakeholders in her work as an advocate for consulting engineers within the Commonwealth; and

WHEREAS, Nancy L. Israel forever changed and enhanced the business of engineering through her involvement in advocacy, education, and leadership training on behalf of the engineering community; and

WHEREAS, Nancy L. Israel is a remarkable, positive, optimistic, and humble servant leader who has served as a role model for young leaders through her work developing the Enhanced Leadership Program and Emerging Leaders Institute for ACEC Virginia; and

WHEREAS, Nancy L. Israel's tireless dedication, exemplary service, and noteworthy contributions within ACEC Virginia provided a positive regulatory and business environment for the consulting engineering firms of the Commonwealth and protected the role of qualifications-based selection for the procurement of professional services; now, therefore, be it

RESOLVED by the House of Delegates, That Nancy L. Israel hereby be commended on the occasion of her retirement as president of the American Council of Engineering Companies of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Nancy L. Israel as an expression of the House of Delegates' admiration for her achievements in service to the American Council of Engineering Companies of Virginia and the Commonwealth's engineering community.

HOUSE RESOLUTION NO. 285

Commending the Texas Inn.

Agreed to by the House of Delegates, February 6, 2023

WHEREAS, the Texas Inn, a classic American diner that is the oldest and one of the most cherished restaurants in Lynchburg, celebrated its 86th anniversary in 2021 with a food drive to support the Blue Ridge Area Food Bank; and

WHEREAS, the Texas Inn, affectionately known by many as the "T-Room," was founded as the Texas Tavern in 1935, when restaurateur Isaac Nick Bullington franchised his Roanoke business in Lynchburg; and

WHEREAS, later renamed the Texas Inn, the Lynchburg restaurant moved to its current downtown address at 422 Main Street in the 1970s, followed by a second location at 110 Cornerstone Street in 2012, and a third location recently established in Harrisonburg in August 2022 at 95 South Main Street; and

WHEREAS, millions have passed through the doors of the Texas Inn since its founding, as its straightforward and consistent menu of hamburgers, hot dogs, homemade relish, famous "chile," all-day breakfast fare, and the restaurant's beloved Cheesy Western, has kept generations of customers coming back year after year; and

WHEREAS, the Texas Inn restaurants have served "1,500 people, 15 at a time," since the Great Depression, becoming the nation's #1 seller of Jesse Jones' Southern Style hot dogs; in 2022 alone, the restaurants served almost 400,000 Cheesy Westerns and sold more than 30,000 quarts of relish and 100,000 gallons of chili; and

WHEREAS, the classic red dining stools and retro decor of the Texas Inn and the warm and congenial service of its staff provides a transporting dining experience for both newcomers and regulars; and

WHEREAS, well known as a 24-hour establishment, and now open until 12:00 midnight and 2:00 a.m., the Texas Inn has long been a popular haunt for students from Liberty University, the University of Lynchburg, and Randolph College, and is a place where many fond memories have been made; and

WHEREAS, since 2018, the Texas Inn has been owned by Lynchburg native Dave Saunders, whose love and nostalgia for the restaurant from his experiences there as a child inspired him to acquire the business; and

WHEREAS, the success of the Texas Inn has been made possible through the care and professionalism of its employees, including legendary server Ms. Debbie, who have become fixtures in the lives of Lynchburg residents over the years; and

WHEREAS, the Texas Inn's 86th anniversary celebration is a nod to the restaurant slang "86," meaning a menu item is unavailable or sold out, and was embraced by the restaurant as an opportunity to participate in the #86Hunger initiative aimed at bringing an end to hunger in Lynchburg; and

WHEREAS, the Texas Inn sold $0.86 hot dogs on October 11, 2021, to encourage its patrons to join staff in their 86th anniversary festivities and to bring attention to the commencement of the restaurant's 86-day food drive in support of the Blue Ridge Area Food Bank; and

WHEREAS, after 86 years, the history and lore of the Texas Inn continues to be an integral part of the life and culture of Lynchburg and a major reason why the city endears itself to its residents and visitors; now, therefore, be it

RESOLVED by the House of Delegates, That the Texas Inn hereby be commended on the occasion of its 86th anniversary and for its #86Hunger food drive to end hunger in Lynchburg; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dave Saunders, owner of the Texas Inn, as an expression of the House of Delegates' admiration for the restaurant's history of contributions to the Commonwealth.

HOUSE RESOLUTION NO. 286

Commending the University of Lynchburg.

Agreed to by the House of Delegates, February 6, 2023

WHEREAS, the University of Lynchburg, a renowned institution of higher education and one of the first coeducational colleges in the Commonwealth, celebrates its 120th anniversary in 2023; and

WHEREAS, the University of Lynchburg was founded as Virginia Christian College in 1903 by Dr. Josephus Hopwood, a pioneer in Christian coeducation, with support from ministers and businessmen of the Christian Church (Disciples of Christ); and

WHEREAS, Virginia Christian College was renamed Lynchburg College in 1919 to represent the school's growing constituency and was later renamed again to the University of Lynchburg in 2018; and

WHEREAS, the University of Lynchburg and its founding building, Westover Hall, were established in the former West Lynchburg Inn, with the resort's facilities being converted to serve the needs of students and faculty; and

WHEREAS, for 67 years, Westover Hall was the heart of the University of Lynchburg, providing dining services, health services, administrative offices, student activities facilities, and even a gymnasium; and

WHEREAS, the University of Lynchburg underwent its first expansion in 1909 with the construction of its Main Hall; the first academic building, later named Hopwood Hall; and Carnegie Hall, a men's residence hall; the university has since grown significantly, today boasting more than 40 buildings on its campus; and

WHEREAS, the University of Lynchburg opened with 55 students and 11 faculty members but grew rapidly over the years as a result of the popularity of coeducation; today, the school has 190 full-time faculty members teaching approximately 2,800 undergraduate and graduate students from around the country and the world; and

WHEREAS, the University of Lynchburg has embarked on several worthwhile initiatives to offer engaging educational experiences to its students, including the Claytor Nature Study Center, a 470-acre outdoor classroom for environmental study in nearby Bedford County, and partnerships with the island nation of St. Lucia and the Civil War site Historic Sandusky in Lynchburg; and

WHEREAS, in 2014, the University of Lynchburg captured the first team national championship in school history when the women's soccer team won the National Collegiate Athletic Association Division III championship; and

WHEREAS, through its commitment to both the liberal arts and the professional preparation of its students, the University of Lynchburg maintains the faith-based and enterprising spirit of its founder, Dr. Josephus Hopwood, helping thousands of students to achieve their academic dreams and succeed; now, therefore, be it

RESOLVED by the House of Delegates, That the University of Lynchburg hereby be commended on the occasion of its 120th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Alison Morrison-Shetlar, president of the University of Lynchburg, as an expression of the House of Delegates' admiration for the school's history and best wishes for its continued success.

HOUSE RESOLUTION NO. 287

Commending Zeta Phi Beta Sorority, Inc.

Agreed to by the House of Delegates, February 13, 2023

WHEREAS, for 103 years, Zeta Phi Beta Sorority, Inc., has promoted leadership development, sisterhood, and a commitment to community outreach among women in the Commonwealth and around the nation; and

WHEREAS, a historically Black sorority, Zeta Phi Beta was founded by Arizona Cleaver Stemons, Pearl Anna Neal, Myrtle Tyler Faithful, Viola Tyler Goings, and Fannie Pettie Watts on January 16, 1920, in Washington, D.C., on the campus of Howard University; and

WHEREAS, Zeta Phi Beta has since chartered hundreds of chapters worldwide and has a membership of over 100,000 women; and

WHEREAS, Zeta Phi Beta is an international service-driven organization that takes pride in its continued participation in transforming communities through volunteer service by members of its chapters and auxiliaries; and

WHEREAS, Zeta Phi Beta's national and local programs include the endowment of its National Educational Foundation, community outreach projects, and support for multiple affiliate organizations; Zeta Phi Beta chapters and auxiliaries have given countless hours of volunteer service to educate the public, assist youths, provide scholarships, support organized charities, and promote legislation advancing social and civic change; and

WHEREAS, Zeta Phi Beta works in partnership with the U.S. Fish and Wildlife Service's National Wildlife Refuge System, AARP, the American Cancer Society, March of Dimes, St. Jude Children's Research Hospital, and Women Veterans Rock; and

WHEREAS, Zeta Phi Beta has also formed many outstanding community-based partnerships, such as administering the Z-HOPE (Zetas Helping Other People Excel) program or giving financial assistance through its National Educational Foundation; and

WHEREAS, Zeta Phi Beta's other initiatives include Eldercare, Autism Awareness Education, Stork's Nest, Zeta Prematurity Awareness Program, Adopt-A-School, World Elder Abuse Awareness Day, International Women of Color, and Triple Negative Breast Cancer Awareness; and

WHEREAS, the members of Zeta Phi Beta have touched countless lives throughout the Commonwealth through their hard work, generosity, and visionary community leadership; now, therefore, be it

RESOLVED by the House of Delegates, That Zeta Phi Beta Sorority, Inc., hereby be commended on the occasion of its 103rd Founders' Day celebration in 2023; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Zeta Phi Beta Sorority, Inc., as an expression of the House of Delegates' admiration for the organization's legacy of achievements.

HOUSE RESOLUTION NO. 288

Commending Paula Bandy.

Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Paula Bandy, an accomplished business and marketing educator at Richlands High School and longtime advisor to the District 2 chapter of Virginia DECA, Inc., has greatly served the Richlands community for more than 40 years; and

WHEREAS, a member of the Richlands High School Class of 1964, Paula Bandy studied at East Tennessee State University and the Southwestern College of Business and graduated from Milligan University in 1968; and

WHEREAS, Paula Bandy's first stint as a business educator at Richlands High School was from 1969 to 1973; she then taught marketing at the school from 1984 to today, contributing greatly to the future success of her students; and

WHEREAS, over her years at Richlands High School, Paula Bandy coached the cheer team, leading the program to a second place finish at the James Madison University cheer competition in 1989; and

WHEREAS, Paula Bandy has promoted the field of marketing education as a former member of the Virginia Education Association, the National Education Association, and the Virginia Association of Marketing Educators; and

WHEREAS, Paula Bandy was an advisor to the District 2 chapter of Virginia DECA, Inc., formerly Distributive Education Clubs of America, garnering a tremendous array of accolades and awards over her tenure, including 13 state wins between 1989 and 2016 and national finalist honors in 2007; and

WHEREAS, under Paula Bandy's leadership, District 2 was a national DECA promotional campaign winner and earned recognition from Virginia DECA on several occasions, including as a platinum chapter in 2015 and with a membership award in 2022; and

WHEREAS, in recognition of her 40 years of service as a DECA advisor, Paula Bandy was honored and awarded a commemorative plaque by the National DECA Association during the organization's International Career Development Conference in Atlanta in 2022; and

WHEREAS, outside of the classroom, Paula Bandy has served as the pianist and choir director at Jewell Ridge Presbyterian Church since 1996, providing beautiful and uplifting music for the benefit of the congregation; and

WHEREAS, Paula Bandy has demonstrated an unwavering dedication to her students' academic, social, and emotional well-being over an extraordinary career spanning more than four decades, earning the esteem of all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, That Paula Bandy, a beloved educator at Richlands High School and advisor to the District 2 chapter of Virginia DECA, hereby be commended for her service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Paula Bandy as an expression of the House of Delegates' appreciation for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 289

Commending Seth Gillen.

Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Seth Gillen, a doctor of pharmacy degree candidate in the Class of 2023 at the Virginia Commonwealth University School of Pharmacy, received the 2022 Harvey B. Morgan Award for Advancing Health Policy from the Harvey B. Morgan Institute of Government and Public Service in August 2022; and

WHEREAS, Seth Gillen has demonstrated exceptional service and commitment to public policy by leading the Virginia Commonwealth University (VCU) School of Pharmacy's chapter of the American Pharmacists Association's Academy of Student Pharmacists (APhA-ASP) as policy vice president; and

WHEREAS, Seth Gillen's service with the APhA-ASP included cowriting and presenting a policy resolution at the organization's Midyear Regional Meeting, as well as regularly informing chapter members of current policy topics in pharmacy, providing resources to colleagues, and advocating for federal issues; and

WHEREAS, Seth Gillen has advocated for pharmacy-related bills before the General Assembly and has served as the VCU School of Pharmacy Class of 2023's representative to the Industry Pharmacists Organization; and

WHEREAS, in recognition of his service and achievements, Seth Gillen was the recipient of the 2021-2022 H. Remington Slifka Scholarship from the VCU School of Pharmacy; and

WHEREAS, Seth Gillen has participated in numerous community vaccination clinics, including those at community pharmacies and through VCU Vaccine Corps, and given generously of his time with Feed More, Inc.; and

WHEREAS, Seth Gillen has volunteered his services at Legacy Farm's summer camp in Richmond and Blossom and Bloom Thrift Shop and Loudoun Volunteer Caregivers, both in Leesburg; and

WHEREAS, Seth Gillen exemplifies the ideals of the pharmacy profession, the Harvey B. Morgan Institute of Government and Public Service, and the VCU School of Pharmacy; now, therefore, be it

RESOLVED by the House of Delegates, That Seth Gillen hereby be commended on receiving the 2022 Harvey B. Morgan Award for Advancing Health Policy from the Harvey B. Morgan Institute of Government and Public Service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Seth Gillen as an expression of the House of Delegates' congratulations and best wishes for his continued success in public service and public policy for patient care.

HOUSE RESOLUTION NO. 290

Celebrating the life of Colonel Vance Justin Klosinski, USA.

Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Colonel Vance Justin Klosinski, USA, an honorable and respected veteran of the United States Army Special Forces whose unwavering sense of duty and purpose earned him the admiration of many, died on September 24, 2022; and

WHEREAS, a native of Stevens Point, Wisconsin, Vance Klosinski embarked upon his distinguished military career when he joined the Wisconsin National Guard at the age of 17, and he received his commission through the Reserve Officers' Training Corps at the University of Wisconsin-Stevens Point in 1997, where he also earned a bachelor's degree in political science and public administration; and

WHEREAS, Vance Klosinski's first assignment in the United States Army was as the infantry platoon leader of the 10th Mountain Division in Fort Drum, New York, and he later qualified to serve with the United States Army Special Forces, earning his Green Beret in 2003; and

WHEREAS, Vance Klosinski spent the majority of his military career with the 1st Special Forces Group (Airborne) at Joint Base Lewis-McChord in Washington, where his exceptional professionalism and talents as a leader and mentor were evident to all; and

WHEREAS, Vance Klosinski's honorable service to his country entailed assignments to both the Pentagon and the United States Army staff, as well as several special operations commands around the globe; his deployments over the years included Bosnia-Herzegovina, the Philippines, the Republic of Korea, Thailand, Iraq, India, Afghanistan, and elsewhere; his final command was of United States Army Garrison Rheinland-Pfalz in Kaiserslautern, Germany, in July 2020; and

WHEREAS, Vance Klosinski's exemplary courage and sacrifice in service to his country were recognized through myriad military awards and decorations, including the Legion of Merit, two Bronze Stars, three Joint Meritorious Unit Awards, an Army Valorous Unit Citation, an Army Superior Unit Award, two National Defense Service Medals, an Armed Forces Expeditionary Medal, and various other campaign medals, service medals, and badges; and

WHEREAS, Vance Klosinski's lifelong passion for learning led to a master's degree in defense analysis from the Naval Postgraduate School in 2009 and a master's degree in national security strategy from the National War College in 2020; and

WHEREAS, in recognition of his service to the nation, Vance Klosinski will be interred at Arlington National Cemetery in January 2023; and

WHEREAS, Vance Klosinski will be fondly remembered and dearly missed by his loving wife of 16 years, Abigail; his children, Vance and Samuel; his parents, Gary and Patricia; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Colonel Vance Justin Klosinski, USA, a consummate family man, loyal friend, and dedicated soldier whose honor and integrity were an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Colonel Vance Justin Klosinski, USA, as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 291

Commending An Achievable Dream, Inc.

Agreed to by the House of Delegates, February 13, 2023

WHEREAS, An Achievable Dream, Inc., an educational program based in Newport News, marked its 30th anniversary of service to students in 2022; and

WHEREAS, An Achievable Dream, Inc., was founded in 1992 when Newport News businessman Walter Segaloff assembled a coalition of corporate leaders, educators, city officials, and military partners to launch a summer education and tennis program for third graders facing a variety of social-risk factors; and

WHEREAS, the program soon expanded to a nearby elementary school, which then became An Achievable Dream Academy; and

WHEREAS, An Achievable Dream, Inc., initially developed a public/private partnership with Newport News Public Schools, which pioneered a model of social and moral focus coupled with a unique academic curriculum, proving that all children can learn and succeed; and

WHEREAS, An Achievable Dream, Inc., has grown to become a full kindergarten through 12th-grade program and partners with public school districts and their participating schools in primarily under-served communities; the organization now operates in six schools in partnership with Newport News Public Schools, Virginia Beach City Public Schools, and Henrico County Schools, serving more than 2,000 students; and

WHEREAS, An Achievable Dream, Inc., partners with colleges and universities to conduct research and to provide its graduates with financial and academic support; it also maintains partnerships with military, law enforcement, and first responders to provide positive role models for students and foster the development of positive relationships and interactions between students and those in uniform; and

WHEREAS, An Achievable Dream, Inc., generates revenue to support annual operating costs through generous donations from individuals, corporations, and foundations and receives additional support from state and city organizations, fundraising events, and endowments; and

WHEREAS, the continued work of all those involved with An Achievable Dream, Inc., is a testament to their dedication to create equity in education by providing students with opportunities for success in and out of the classroom; now, therefore, be it

RESOLVED by the House of Delegates, That An Achievable Dream, Inc., hereby be commended for its more than 30 years of service to the Southeast Community of Newport News and more recently to Virginia Beach and Henrico County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to An Achievable Dream, Inc., as an expression of the House of Delegates' admiration for its many years of service to the communities with which it works and the success it has had in educating students who might otherwise have not succeeded.

HOUSE RESOLUTION NO. 292

Celebrating the life of Lieutenant Commander Kevin Raynard Williams, Sr., USN, Ret.

Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Lieutenant Commander Kevin Raynard Williams, Sr., USN, Ret., an honorable veteran, esteemed member of the Internal Revenue Service, and beloved member of the Spotsylvania County community, died on August 8, 2019; and

WHEREAS, in his youth, Kevin Williams attained the rank of Eagle Scout with the Boy Scouts of America, notably becoming the first African American in the Fredericksburg area to achieve this award; he also attended Courtland High School in Spotsylvania County, where he was a member of the football team that won a state championship in the early 1980s; and

WHEREAS, Kevin Williams enlisted with the United States Navy in 1984 at the age of 17, working as a dental technician and as the leading petty officer of a command located in Parris Island, South Carolina, before returning to school in pursuit of an officer's commission; and

WHEREAS, Kevin Williams earned a bachelor's degree from what is now Park University and a master's degree from Regent University before ultimately graduating from the United States Navy's Officer Candidate School; he held the notable distinction of being a "mustang officer" for having begun his career as an enlisted service member before receiving his officer's commission; and

WHEREAS, Kevin Williams spent most of his 23-year naval career aboard aircraft carriers in defense of the nation and was deployed for combat tours during Operation Desert Storm and Operation Iraqi Freedom before retiring in 2007; and

WHEREAS, following his service, Kevin Williams worked for many years as a human relations officer with the Internal Revenue Service and was recently trained for a position at Angelo Recovery and Counseling Services in Spotsylvania County to work alongside his wife, Dr. Bridgette Y. Williams, coaching veterans as they transition back to civilian life; and

WHEREAS, Kevin Williams loved spending time with family and devoting himself to his hobbies, including founding an organization to represent the 23rd United States Colored Infantry Regiment at Civil War reenactments in the Fredericksburg area, playing golf, and woodworking; and

WHEREAS, Kevin Williams is fondly remembered and dearly missed by his loving wife, Bridgette; his children, Kevin, Jr., Marcellus, and Elijah, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Lieutenant Commander Kevin Raynard Williams, Sr., USN, Ret., a cherished member of the Spotsylvania County community whose service and dedication were an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Lieutenant Commander Kevin Raynard Williams, Sr., USN, Ret., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 293

Commending Major General Thomas Tyler Thompson, USA, Ret.

Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Major General Thomas Tyler Thompson, USA, Ret., a patriotic veteran and a respected community leader, has served the residents of Hampton, the Commonwealth, and the United States with dedication and distinction; and

WHEREAS, a native of Hampton, Thomas Thompson earned a bachelor's degree from Virginia Polytechnic Institute and State University, where he served as a cadet colonel and regimental commander in the Virginia Tech Corps of Cadets; and

WHEREAS, Thomas Thompson was commissioned as a second lieutenant in the United States Army in 1956; he trained at the Field Artillery School at Fort Sill and earned the coveted Ranger tab after graduating from the Army Ranger School at Fort Benning; and

WHEREAS, in the late 1950s, Thomas Thompson served as an artillery officer and completed a deployment to the Republic of Korea; after completing his active duty military service, he settled in Hampton and joined the Virginia National Guard in 1959; and

WHEREAS, over the course of his military career, Thomas Thompson served as an artillery battery commander, was the assistant superintendent and commandant of the Virginia National Guard Officer Candidate School, and commanded the 329th Regional Support Group and the 176th Engineer Group; and

WHEREAS, Thomas Thompson retired in 1992 from the military as the commanding officer of the 29th Infantry Division (Light), the storied "Blue and Gray Division" that was first constituted in 1917 and consists of National Guard units from the Commonwealth and multiple nearby states; and

WHEREAS, in recognition of his distinguished service, Thomas Thompson received three Meritorious Service Medals, two Army Commendation Medals, four Army Reserve Components Achievement Medals, the Virginia Legion of Merit, and the Virginia Bronze Star, among many others; and

WHEREAS, Thomas Thompson spent much of his professional career with the real estate company Harrison and Lear, Inc., and became president of the company in 1980; highly regarded in the profession, he received two Salesman of the Year awards and a Realtor of the Year award, and he served as president of what was then known as the Newport News-Hampton Board of Realtors; and

WHEREAS, Thomas Thompson also volunteered his leadership and expertise to the Hampton School Board for a decade, including five years as chair; and

WHEREAS, for more than three decades, Thomas Thompson has served and supported his fellow veterans as a founding member and president of the Virginia National Guard Foundation, Inc., a nonprofit organization that provides emergency financial assistance in the form of no-interest loans or grants to Virginia National Guard service members or civilian employees and their families; now, therefore, be it

RESOLVED by the House of Delegates, That Major General Thomas Tyler Thompson, USA, Ret., hereby be commended for his outstanding service to the Commonwealth and the nation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Major General Thomas Tyler Thompson, USA, Ret., as an expression of the House of Delegates' admiration for his professional achievements and contributions to national defense.

HOUSE RESOLUTION NO. 294

Commending Paul Ellis Cook.

Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Paul Ellis Cook, an esteemed member of the Richlands community whose distinctive announcements at Richlands High School football games over the past half-century were a revered tradition at the school, retired in 2022; and

WHEREAS, a member of the Richlands High School Class of 1953, Paul "Slick" Ellis Cook was a proud member of the Blue Tornado football team, sporting the number 46; and

WHEREAS, Slick Cook attended what is now King University and was drafted into the United States Army in 1957, serving with the military police; thereafter he enjoyed a successful career as a longtime employee at the Richlands insurance agency Lindsey & Associates and as a funeral director assistant at the Hurst-Scott Funeral Home in Richlands for more than 40 years; and

WHEREAS, Slick Cook has given generously of his time for the benefit of his community, serving as mayor of the Town of Richlands in the 1980s and with the Richlands Town Council and in leadership positions with the Richlands Masonic Lodge, Richlands Presbyterian Church, and Jewell Ridge Presbyterian Church; and

WHEREAS, Slick Cook began his career as an announcer with the Richlands youth football league in 1968 and briefly called games for the Richlands High School junior varsity football team before becoming the public-address announcer and in-stadium voice at Richlands High School varsity football games in 1970; and

WHEREAS, for the past 52 years, Slick Cook has demonstrated remarkable dedication to the students, faculty, and staff of Richlands High School, missing only two games throughout his tenure, which was made possible through the loving support of his wife, Bonnie, and their daughters; and

WHEREAS, Slick Cook has consistently demonstrated his love for the country in his capacity as announcer at Richlands Blue Tornado football games, demonstrating great reverence toward the National Anthem and respect toward the nation's service members; and

WHEREAS, Slick Cook called the first game of the Richlands High School football season in August 2022 as a touching farewell to the fans of Blue Tornado football who have admired his work over the years; and

WHEREAS, Slick Cook was honored as grand marshal at the Richlands High School homecoming parade in 2022, a fitting tribute to a man who has helped to make Richlands a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, That Paul Ellis Cook, a true Blue Tornado icon, hereby be commended on the occasion of his retirement as the announcer of Richlands High School varsity football games; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Paul Ellis Cook as an expression of the House of Delegates' admiration for his distinguished career and meritorious leadership and service and sincere wishes for his continued success and joy in the lighter days ahead.

HOUSE RESOLUTION NO. 295

Celebrating the life of William L. Prentiss, Jr.

Agreed to by the House of Delegates, February 9, 2023

WHEREAS, William L. Prentiss, Jr., of Richmond, a distinguished educator and band director who helped countless young people hone their musical talents and a beloved husband, father, and friend, died on January 27, 2023; and

WHEREAS, a native of Richmond, William Prentiss, known by many as "BB," began to cultivate his passion for music at a young age and began playing the flute in fifth grade; he was a talented multi-instrumentalist, also playing tuba, piano, and saxophone, and in middle school he joined a friend's band called The Brass Connection; and

WHEREAS, after graduating from what is now Huguenot High School, where he was a member of the junior varsity football team and a drum major in the marching band, William Prentiss earned a bachelor's degree in music media and an endorsement and master's degree in music education from Norfolk State University; and

WHEREAS, while at Norfolk State University, William Prentiss played in the Spartan Legion marching band, the pep band, the saxophone quartet, and the symphonic wind ensemble; he also joined the Pi Gamma Chapter of Omega Psi Phi Fraternity, Inc., where he served as dean of pledges and chapter president (basileus), and forged many lifelong friendships with his brothers; and

WHEREAS, William Prentiss continued his studies at Shenandoah University and subsequently earned an endorsement in administration and supervision from Longwood University; and

WHEREAS, over the course of 27 years, William Prentiss mentored and inspired young people as a band director at schools in Prince William County, Isle of Wight County, Portsmouth, Washington, D.C., Richmond, Norfolk, and his last assignment in Chesterfield County; and

WHEREAS, William Prentiss was recognized as an elite adjudicator, conductor, and clinician throughout the Commonwealth; his marching, concert, and jazz bands received more than 23 superior assessment ratings at district and state levels, and one of his bands was the only marching band from a public school in Richmond to be named as a Virginia Honor Band; and

WHEREAS, William Prentiss served as an assistant band director and adjunct professor at Virginia Union University; he also helped many of his high school students audition for and receive scholarships to various institutions of higher education; and

WHEREAS, William Prentiss was a valued member of several peer organizations and honor societies related to the musical arts, and he cofounded two professional bands, Opium Jazz in Tidewater and Quintessential Jazz in Richmond; and

WHEREAS, outside of his career, William Prentiss remained active with Omega Psi Phi Fraternity, Inc., serving as basileus of the Gamma Xi Chapter in Virginia Beach and the Phi Phi Chapter in Richmond; he was the chair of the fraternity's International Talent Hunt for 15 years, and president of the fraternity's P&G Foundation; and

WHEREAS, William Prentiss received many awards and accolades from Omega Psi Phi Fraternity, Inc., including Basileus of the Year, Founders' Lifetime Achievement Award, and several Omega Man of the Year awards; and

WHEREAS, throughout his life, William Prentiss brought joy to others through his generosity, humility, and quick wit; his greatest joy in life was his beloved family, and he relished every opportunity to spend time with them and pass down his lifetime of wisdom to his daughters; and

WHEREAS, William Prentiss will be fondly remembered and greatly missed by his wife of 31 years, Diana; his daughters, Maya, Dara, and Jana; his mother, Rosa; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of William L. Prentiss, Jr., an influential leader in music education who touched the lives of countless young people throughout the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William L. Prentiss, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 296

Commending John B. Gordon III.

Agreed to by the House of Delegates, February 13, 2023

WHEREAS, John B. Gordon III, a dedicated educator and the current superintendent of Suffolk Public Schools, has given students throughout the Commonwealth the tools they need to achieve their fullest potential in and out of the classroom; and

WHEREAS, John Gordon is a passionate lifelong learner and holds degrees from the University of Virginia, Virginia Commonwealth University, and Virginia Polytechnic Institute and State University; and

WHEREAS, John Gordon began his career in education in 1995 as a teacher and basketball coach in Maryland; after relocating to the Commonwealth, he worked as a high school history teacher at schools in Richmond and Chesterfield and won several state titles as head basketball coach at Armstrong High School and Meadowbrook High School; and

WHEREAS, in 2005, John Gordon was appointed as the dean of students at Meadowbrook High School and was subsequently promoted to assistant principal; he later served as assistant principal of Monacan High School until 2009, when he became the first Black principal of James Monroe High School in Fredericksburg; and

WHEREAS, during his tenure at James Monroe High School, John Gordon worked diligently to close achievements gaps and help minority students achieve success in advanced placement and honors classes; in his final year as principal, the school was ranked in the top seven percent of high schools in the nation by *U.S. News and World Report*; and

WHEREAS, from 2014 to 2017, John Gordon served as director of administrative services for Fredericksburg City Public Schools; he helped bring the International Baccalaureate program to the school district and led the renovation of the Walker-Grant Center; and

WHEREAS, John Gordon next served as the chief of schools for Chesterfield County Public Schools from 2017 to 2019; he helped the school district to maintain full accreditation and promoted leadership development among his fellow educators and administrators; and

WHEREAS, John Gordon joined Suffolk Public Schools as superintendent in October 2019 and has continued his commitment to excellence in service to the teachers, administrators, and young people and their families; and

WHEREAS, John Gordon is the author of *The Teacher's Lounge: The Real Role of Educators in Your Schools*, and the president of Schools That Inspire, LLC, an educational consulting firm; he has shared his expertise with others in the field as an engaging speaker and presenter and has inspired future generations of educators as an adjunct professor at Eastern Mennonite University, the University of Mary Washington, and the University of Virginia; now, therefore, be it

RESOLVED by the House of Delegates, That John B. Gordon III hereby be commended for his outstanding achievements as an educator and school administrator; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John B. Gordon III as an expression of the House of Delegates' admiration for his contributions to young people in Suffolk, Chesterfield, Fredericksburg, and Richmond.

HOUSE RESOLUTION NO. 297

Celebrating the life of Joe Milton Adair, DDS.

Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Joe Milton Adair, DDS, of Cedar Bluff, a trusted dentist who touched countless lives in Tazewell County through his community service, died on August 15, 2020; and

WHEREAS, Joe Adair graduated from Richlands High School and was interested in pursuing a career in dentistry from a young age; he attended a dental training program at the University of Tennessee and graduated from what was then the Medical College of Virginia (MCV) School of Dentistry in 1957; and

WHEREAS, Joe Adair practiced dentistry with a fellow MCV alumnus in Richlands for a short period, then served his country as a member of the United States Air Force stationed in North Africa; and

WHEREAS, after returning to the Commonwealth, Joe Adair accepted a teaching position at the MCV School of Dentistry, then set up his own dental practice in Richlands and served the community for many years; and

WHEREAS, outside of his career, Joe Adair enhanced community life by volunteering at the Good Samaritan Food Pantry and Habitat for Humanity, and he could often be seen picking up litter on the side of the highway between Richlands and his home in Cedar Bluff; and

WHEREAS, Joe Adair enjoyed fellowship and worship with the community as a devout member of Cedar Bluff United Methodist Church; and

WHEREAS, predeceased by his beloved wife, Jane, Joe Adair will be fondly remembered and greatly missed by his daughters, Beth and Anne, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Joe Milton Adair, DDS, a respected dental professional and community leader in Tazewell County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joe Milton Adair, DDS, as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 298

Celebrating the life of Archie Goodwyn.

Agreed to by the House of Delegates, February 13, 2023

WHEREAS, in every community and county of the Commonwealth there are ancient families whose descendants in every generation lead lives of dignity and quiet virtue that contribute to the well-being of all; and

WHEREAS, in Powhatan, the Goodwyns are such a family, and Archie Goodwyn led such a life; and

WHEREAS, Archie Goodwyn, aged 85, passed away on September 14, 2022, surrounded by his family, at home in Powhatan, not far from the land that had likewise nourished the bodies and souls of his forebears; and

WHEREAS, Archie Goodwyn was born in Powhatan on March 24, 1937, the son of Richard C. and Mary W. Goodwyn, who preceded him in death, together with three of his brothers, "Kaiser" and Jean Worsham Goodwyn, N.B. "Tootie" and Jean Goodwyn, and Royce Goodwyn, and also by his devoted brother-in-law, J.A. Ransone, Jr.; and

WHEREAS, surviving to cherish the memory of Archie Goodwyn are his wife of 63 years, Mary Ann; his son, Archie Howard Goodwyn, Jr., and his wife, Wendy; his daughter, Mary Elizabeth (Mrs. Joe) Whitney; his brother, R.C. "Pal" Goodwyn, Jr., and his wife, Patsy; and his sister, Mary Jane (Mrs. J.A., Jr.) Ransone; and

WHEREAS, Archie Goodwyn is survived, too, by four grandchildren, Brittany Goodwyn (Mrs. Cory) Fridley, Landis Clayton Goodwyn, Joseph Paul Whitney, Jr., and Anne Elizabeth Whitney, and two great-grandchildren, Easton and Caroline Fridley, as well as numerous nieces and nephews; and

WHEREAS, Archie Goodwyn graduated from Powhatan High School in 1957 and attended the University of Richmond, where he continued his athletic competitiveness in both baseball and football; and

WHEREAS, Archie Goodwyn spent the entirety of his adult life working with his brothers in the family business, R.C. Goodwyn and Sons Lumber Company, in the Goodwyn's beloved Powhatan County; and

WHEREAS, even in retirement—which came in 2002—Archie Goodwyn continued work on the family's Branchway Subdivisions on part of the Goodwyn's family farm acreage; and

WHEREAS, Archie Goodwyn was a life-long and faithful member and deacon of Red Lane Baptist Church and of the church's Brotherhood Small Group; and

WHEREAS, Archie Goodwyn served on the board of directors of Huguenot Academy, which has in recent years grown to become Blessed Sacrament Huguenot School, located on land donated for the purpose by the Goodwyn family; and

WHEREAS, Archie Goodwyn served, too, on the board of directors for the Virginia Building Material Dealers Association and was a member of both the Powhatan Lions and Powhatan Ruritan clubs; and

WHEREAS, Archie Goodwyn embodied, and left as his principal legacy, the virtues he also inherited—faith, devotion to family, neighborliness, and a love of what is well and rightly deemed to be, in a term of endearment, "Old Powhatan"; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Archie Goodwyn, a Virginia gentleman of the Old School whose life was well and joyfully lived and whose passing is rightly and widely mourned; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Archie Goodwyn as an expression of the House of Delegates' admiration for his noble life and communal bequest and respect for his memory.

HOUSE RESOLUTION NO. 299

Celebrating the life of Clint Clifton.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Clint Clifton, an esteemed pastor and church planter with the North American Missionary Board and a beloved member of the Dumfries community, died on January 12, 2023; and

WHEREAS, Clint Clifton served in many ministry positions across the Southeastern United States over the years, including recently as an elder at Pillar Church of Dumfries, of which he was the founding pastor; and

WHEREAS, Clint Clifton's leadership and enthusiasm for his cause inspired the best in many, and his mentorship guided an untold number of fellow church planters in their endeavors; and

WHEREAS, Clint Clifton provided listeners with sage and practical advice as host of the *New Churches* podcast and was also involved in the development of the website newchurches.com and the preparation of a forthcoming publication titled *How to Start a Residency*; and

WHEREAS, Clint Clifton was the consummate family man whose devotion to his wife and children was boundless, and his friendship was valued by many; and

WHEREAS, Clint Clifton will be fondly remembered and dearly missed by his loving wife, Jennifer; his children, Noah, Ruthe, Isaiah, Betchina, and Moses; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Clint Clifton, a treasured member of the Dumfries community whose legacy as a pastor and church planter will continue to grow for generations to come; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Clint Clifton as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 300

Celebrating the life of Kenneth Wayne Blevins, Sr.

Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Kenneth Wayne Blevins, Sr., an honorable veteran, esteemed law-enforcement officer, and beloved member of the Greater Fredericksburg community, died on December 8, 2022; and

WHEREAS, Kenneth Blevins proudly served with the United States Navy, spending a short time enlisted due to an injury and receiving an honorable discharge; and

WHEREAS, Kenneth Blevins dedicated more than 40 years to a distinguished career in law enforcement, both in and around Fredericksburg, beginning his career with the Department of Corrections before working with the Fredericksburg Sheriff's Office, the Aquia Harbour Police Department, and the Stafford County Sheriff's Office; and

WHEREAS, after leaving the Stafford County Sheriff's Office at the rank of detective, Kenneth Blevins transferred to the Spotsylvania Sheriff's Office and attained the rank of captain; and

WHEREAS, following a stint with the Orange County Sheriff's Office, Kenneth Blevins joined the Colonial Beach Police Department, where he rose through the ranks to become chief of police, a position he held until his retirement in 2013; and

WHEREAS, in retirement, Kenneth Blevins' devotion to his community was unflagging, and he resumed working at the Spotsylvania Sheriff's Office as a part-time deputy in the Courts and Civil Process Division, ultimately achieving the rank of senior deputy; and

WHEREAS, Kenneth Blevins also promoted the safety and well-being of the Stafford community as a volunteer firefighter with Company #01 of what is now the Stafford County Fire and Rescue Department; and

WHEREAS, Kenneth Blevins was passionate about music from a young age and would often sing and play a variety of instruments for the enjoyment of friends and family, while also regularly supporting local music venues and bands; and

WHEREAS, Kenneth Blevins was active in the community as a longtime member of the Fraternal Order of the Eagles Aerie #4123 in Fredericksburg; and

WHEREAS, preceded in death by his loving wife of 47 years, Rose Marie, Kenneth Blevins will be fondly remembered and dearly missed by his children, Conrad, Rebekah, and Kenneth, Jr., and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Kenneth Wayne Blevins, Sr., a respected veteran and law-enforcement officer whose kindness and generosity brightened countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Kenneth Wayne Blevins, Sr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 301

Celebrating the life of the Honorable Garry Glenn DeBruhl.

Agreed to by the House of Delegates, February 13, 2023

WHEREAS, the Honorable Garry Glenn DeBruhl, a former member of the Virginia House of Delegates who ably represented communities in the Blue Ridge Mountains, died on December 24, 2022; and

WHEREAS, a native of Alexander, North Carolina, Garry DeBruhl received his bachelor's degree from The University of North Carolina at Chapel Hill and subsequently earned a master's degree in education from the University of Virginia; and

WHEREAS, Garry DeBruhl settled in Virginia and served as a teacher and a coach at the former Drewry Mason High School in Henry County; and

WHEREAS, both as an educator and as a member of the Patrick County School Board, Garry DeBruhl worked diligently to provide young people with the tools they needed to achieve success in higher education and careers and become good citizens of the Commonwealth; and

WHEREAS, Garry DeBruhl also served the community as a prominent business owner in Patrick County; and

WHEREAS, desirous to be of further service to the Commonwealth, Garry DeBruhl ran for and was elected to the Virginia House of Delegates in 1967 and represented the residents of the City of Martinsville and the Counties of Henry, Patrick, and Pittsylvania for 10 years; and

WHEREAS, during his tenure as a state lawmaker, Garry DeBruhl introduced and supported many important pieces of legislation to benefit all Virginians and served as chair of the Militia and Police Committee and as a member of the Finance, Education, and Transportation Committees; and

WHEREAS, after leaving the General Assembly, Garry DeBruhl provided his expertise to many organizations, including the Virginia State Police Association and the Virginia Wholesalers and Distributors Association; and

WHEREAS, a dedicated member of his community who loved his family, friends, and fellow church members, Garry DeBruhl enjoyed fellowship and worship at Stuart Baptist Church in Patrick County, where he taught Sunday school, and he was a loyal member of Mountain Home Masonic Lodge No. 263 for 50 years, also in Stuart; and

WHEREAS, predeceased by his wife of 62 years, Carol, and his son, Mark, Garry DeBruhl will be fondly remembered and greatly missed by his children, Traci and Christopher, daughter-in-law, Jennifer; beloved grandchildren, Casey, CJ, Wesley, Jordan, Riley, and Ashley; great-grandchildren, Camden, Magnolia, and Trae; and several nieces and nephews; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable Garry Glenn DeBruhl; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Garry Glenn DeBruhl as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 302

Commending Hsiao Bi-khim.

Agreed to by the House of Delegates, February 10, 2023

WHEREAS, Hsiao Bi-khim, the representative of the Republic of China (Taiwan) to the United States has worked diligently to enhance relations between the two nations and to ensure that her country is able to participate more fully in world affairs; and

WHEREAS, Taiwan, an independent and sovereign nation, has a dynamic and growing economy that produces many of the items necessary for 21st century life, a strong innovation culture, the infrastructure to support cutting edge innovation in a variety of sectors, and a longstanding reputation as a trusted global presence; and

WHEREAS, Taiwan, a thriving democracy of 23.5 million people, is a close economic and strategic partner to the United States and to many of America's closest allies, and Hsiao Bi-khim has advocated the country's inclusion in the United Nations (UN); and

WHEREAS, Taiwan's absence from UN specialized agencies, like the International Civil Aviation Organization (ICAO) has had adverse effects on Taiwan's development, has deprived these entities of Taiwan's valuable experience, and is inconsistent with Chapter 1 of the UN Charter's stated Purposes and Principles; and

WHEREAS, Taiwan makes meaningful contributions to the world community through foreign aid and its position as a major transport hub, both of which could be facilitated by an ability to work within UN frameworks; and

WHEREAS, the inclusion of Taiwan in the ICAO is consistent with the ICAO's stated purpose of ensuring that "international civil aviation be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically"; and

WHEREAS, Taiwan's Taoyuan International Airport is a key air transport hub in the Asia-Pacific region and in 2018 was ranked the world's eighth largest airport by cargo volume and world's 11th busiest airport by passenger traffic; and

WHEREAS, the Taipei Flight Information Region (FIR) is adjacent to the Fukuoka, Manila, Hong Kong, and Shanghai FIRs, situating it among the busiest FIRs in the world, and in 2019 the Taipei FIR provided more than 1.85 million services to aircraft carrying more than 1.72 million passengers; and

WHEREAS, aviation safety is a global issue that requires all members of the global community to take part in the ICAO in order to best serve the interests of every passenger; and

WHEREAS, 605,000 Americans traveled to Taiwan for business and leisure during 2019, making aviation safety in Taiwan a priority for Americans' safety and best interests, as well; and

WHEREAS, Taiwan was a founding member of the ICAO and despite losing its UN membership, and by extension its ICAO membership in 1971, has continued to abide by the convention and to obtain information on ICAO decisions from countries friendly to Taiwan; and

WHEREAS, Taiwan's exclusion from other cooperative international organizations such as Interpol is inconsistent with the organization's vision of "a world where law enforcement can securely access, share and communicate vital police information whenever and wherever needed, thereby supporting the security of the world's citizens" and deprives these people of the very information needed to ensure their security for reasons that are geopolitical rather than practical; and

WHEREAS, Taiwan has a strong willingness and ability to contribute to fighting transnational crime including cybercrime for which Taiwan is especially well suited given its robust information and communications technology sector; and

WHEREAS, Taiwan's experience and notable achievements give the country much to contribute in discussions with world international bodies on a wide array of international challenges; and

WHEREAS, Hsiao Bi-khim and other Taiwanese officials have fought to end policies of isolation and ensure that Taiwan is accorded the same access as other sovereign countries around the world to join international organizations including but not limited to the ICAO and Interpol; now, therefore, be it

RESOLVED by the House of Delegates, That Hsiao Bi-khim hereby be commended for her outstanding advocacy on behalf of the Republic of China (Taiwan) in international affairs and her work to enhance global, health, safety, and security through the nation's participation in international bodies; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Hsiao Bi-khim as an expression of the House of Delegates' admiration for her achievements on behalf of the Taiwanese people.

HOUSE RESOLUTION NO. 303

Commending Renalda Pamela Yeung.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Renalda Pamela Yeung, a dedicated public servant, has enhanced the quality of life in Stafford County through her accomplishments as a member of the Stafford County School Board and the Stafford County Board of Supervisors; and

WHEREAS, Pamela Yeung holds degrees from Howard University, Johns Hopkins University, and Baylor University and works in the information technology industry as a cybersecurity and cloud computing specialist; and

WHEREAS, Pamela Yeung was elected to the Stafford County School Board in 2017 and provided her expertise to the school system as a member and chair of several committees related to technology, finance and budgeting, and capital improvements; and

WHEREAS, as a school board member, Pamela Yeung helped ensure equal access to education for students throughout the community; she oversaw the expansion of the Head Start program to the northern part of the county, championed diversity initiatives in local schools, and helped ensure that faculty and staff members in county schools received pay increases; and

WHEREAS, Pamela Yeung also guided infrastructure enhancements and restoration projects at North Stafford High School, including the completion of the library and art wing; and

WHEREAS, desirous to be of further service to the community, Pamela Yeung ran for and was elected to the Stafford County Board of Supervisors representing the Garrisonville District; in 2022, she was elected by her fellow board members as vice chair, and in 2023, she began serving as the board's first Black chair; and

WHEREAS, Pamela Yeung's commitment to civil rights, racial equity, and self-empowerment has touched the lives of countless individuals and families in Stafford County; now, therefore, be it

RESOLVED by the House of Delegates, That Renalda Pamela Yeung hereby be commended for her service to the residents of Stafford County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Renalda Pamela Yeung as an expression of the House of Delegates' admiration for her personal and professional achievements.

HOUSE RESOLUTION NO. 304

Commending the Central High School football team.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, the Central High School football team of Woodstock won the Virginia High School League Region 2B championship on November 25, 2022, in Strasburg; and

WHEREAS, the Central High School Falcons defeated the Strasburg High School Rams by a score of 34-7 to bring home the program's second consecutive regional title after reaching that milestone for the first time in program history the previous season; and

WHEREAS, the Central Falcons finished the 2022 season with an impressive 12-3 record and became the first football team in school history to appear in the state championship after defeating the Poquoson High School Bull Islanders by a score of 37-10 in the state semifinal on December 3, 2022; and

WHEREAS, going into the state championship game, the Central Falcons' offense was averaging more than 285 yards and nearly 33 points per game, while its defense, under the guidance of defensive coordinator Rowdy Hoover, was allowing only 11.7 points per game; and

WHEREAS, in recognition of his exemplary leadership, Central Falcons head coach Mike Yew was named the Virginia High School League (VHSL) Region 2B Coach of the Year in 2022; and

WHEREAS, several members of the Central Falcons were selected for VHSL Class 2 all-state honors, including Gaige Lewis, Luc Retrosi, Cully Neese, Nathan Lopez, Tyler Forbes, Ben Walters, and James Bland; and

WHEREAS, the success of the Central Falcons is the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of the families, volunteers, and supporters that comprise the Central High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Central High School football team hereby be commended for reaching the 2022 Virginia High School League Class 2 state championship game; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mike Yew, head coach of the Central High School football team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 305

Commending the James Madison High School softball team.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, on June 11, 2022, the James Madison High School softball team of Vienna won the Virginia High School League Class 6 state championship; and

WHEREAS, during the regular season, the James Madison High School Warhawks dominated the Concorde District, entered the playoffs with only one loss, and won the Concorde District and Region 6D North titles; and

WHEREAS, in the state championship game, the James Madison Warhawks defeated the Cosby High School Titans by a score of 7-6; and

WHEREAS, the James Madison Warhawks trailed for only the first time in the postseason when the Cosby Titans struck first in the state final, but the Warhawks rallied in the third inning with Ayla Condill's RBI single to score Rain Castro; and

WHEREAS, the James Madison Warhawks came alive in the top of the seventh inning; Graciela Dominguez recorded an RBI double and Rachel Schlueter had an RBI single to tie the game at five, then 6D North Region Player of the Year Katrina Swan scored the game winner with a one-out, two-run, line-drive home run to left field; and

WHEREAS, the James Madison Warhawks finished the season with an impressive 24-3 record to earn their third state title in five years; and

WHEREAS, the victory was a tribute to the skill and dedication of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire James Madison High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the James Madison High School softball team hereby be commended on winning the Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the James Madison High School softball team as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 306

Confirming a nomination by the Speaker of the House of Delegates to the House Ethics Advisory Panel.

Agreed to by the House of Delegates, February 17, 2023

RESOLVED by the House of Delegates, That the House confirm the following nomination made by the Speaker of the House of Delegates to the House Ethics Advisory Panel pursuant to § 30-112 of the Code of Virginia:

The Honorable J. Randall Minchew of **Leesburg,** Virginia, Member, for a term of four years beginning July 1, 2022, and ending June 30, 2026.

HOUSE RESOLUTION NO. 307

Commending the City of Virginia Beach.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, the City of Virginia Beach, the most populous city in the Commonwealth and a vibrant tourism destination, is a hub for culture, education, business, and national defense; and

WHEREAS, situated where the southern mouth of the Chesapeake Bay meets the Atlantic Ocean, Virginia Beach traces its deepest roots to the earliest days of the nation, with Cape Henry serving as the initial landing site in the New World for the Jamestown settlers; and

WHEREAS, from Colonial America through the founding of the United States to the Reconstruction Era, the area around what is now Virginia Beach remained largely rural, but with the arrival of the railroad in 1883, a resort community began to develop near the coast in Princess Anne County, and Virginia Beach was incorporated as a town in 1906; and

WHEREAS, Virginia Beach continued to grow and became a well-known seasonal vacation destination for families throughout the Commonwealth and the eastern United States; and

WHEREAS, Virginia Beach was incorporated as an independent city in 1952, but maintained strong ties with the surrounding Princess Anne County, and in 1963, residents of both localities passed a referendum to merge; and

WHEREAS, at the time, Virginia Beach was only about two square miles in area, and with the addition of the 253 square miles that represented Princess Anne County, the new city was divided into seven boroughs, then known as Bayside, Blackwater, Kempsville, Lynnhaven, Princess Anne, Pungo, and Virginia Beach; and

WHEREAS, tourism accounts for a significant share of Virginia Beach's vibrant economy, with millions of annual visitors accounting for billions of dollars in spending, which supports thousands of local jobs; Virginia Beach is listed in the

Guinness World Records as the longest pleasure beach in the world, with 38 miles of coastline dedicated to outdoor recreation and family-friendly activities; and

WHEREAS, Virginia Beach also maintains a significant agribusiness sector and is home to a variety of industries, advanced manufacturers, and national and global corporations, as well as several United States military installations, including Naval Air Station Oceana; and

WHEREAS, Virginia Beach is home to Regent University and Virginia Wesleyan University, and offers numerous opportunities for educational and cultural enrichment through the Virginia Museum of Contemporary Art, the Virginia Aquarium and Marine Science Center, and the Military Aviation Museum, among other shows and venues; and

WHEREAS, Virginia Beach has preserved the history and heritage of the Commonwealth and the United States as the location of 18 sites on the National Register of Historic Places, including one of the oldest surviving colonial homes in Virginia, the Adam Thoroughgood House, and the Cape Henry Lighthouses; and

WHEREAS, Virginia Beach supports conservation of the Commonwealth's valuable natural resources; within city limits, there are more than 210 city parks, two state parks, and the Back Bay National Wildlife Refuge; and

WHEREAS, to commemorate the 60th anniversary of the creation of the modern incarnation of Virginia Beach, Mayor Bobby Dyer launched the Helping Our People Excel (H.O.P.E.) Initiative to recognize individuals, civic organizations, and religious groups that have enhanced community life in the city through their generosity and commitment to service; and

WHEREAS, Virginia Beach has reimagined the city's branding and developed a commemorative 60th anniversary logo and media toolkit for local businesses and organizations; city agencies also have a wide range of special events and activities to celebrate the landmark year; now, therefore, be it

RESOLVED by the House of Delegates, That the City of Virginia Beach hereby be commended on the occasion of the 60th anniversary of the city's merger with the former Princess Anne County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to representatives of the Virginia Beach community as an expression of the House of Delegates' admiration for the incredible contributions by the City of Virginia Beach to the heritage, culture, and economic vitality of the Commonwealth.

HOUSE RESOLUTION NO. 308

Celebrating the life of Maureen T. Norman.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Maureen T. Norman, an esteemed professor of mathematics at Patrick Henry Community College and a beloved member of the Martinsville and Petersburg communities, died on January 14, 2021; and

WHEREAS, Maureen Norman attended the historic Peabody High School in Petersburg and later Matoaca High School in Chesterfield County, where she graduated in 1966; and

WHEREAS, Maureen Norman studied diligently and earned both a bachelor's degree and a master's degree from Virginia State University in 1970 and 1974, respectively, becoming a proud member of the Alpha Eta Chapter of Delta Sigma Theta Sorority, Inc., along the way; and

WHEREAS, Maureen Norman embarked upon an illustrious career as a math teacher at Thompson Middle School in Richmond in 1970 and taught at J. Sargeant Reynolds Community College for approximately five years before continuing her postgraduate education at Virginia Polytechnic Institute and State University; and

WHEREAS, Maureen Norman ultimately joined the faculty at Patrick Henry Community College (PHCC) in the early 1980s, working tirelessly for the benefit of her students until her retirement in 2009; and

WHEREAS, Maureen Norman was a compassionate and dedicated educator who found immense joy in helping her students learn and understand new and unfamiliar mathematical concepts; and

WHEREAS, Maureen Norman took great pride in serving as advisor to the Black Student Association at PHCC and cherished the many positive relationships she developed with her students over her career; and

WHEREAS, in honor of her professional accomplishments, Maureen Norman was recognized as a National Teacher of the Year for Community College Professors; in May 2018, she received professor emeritus status from PHCC; and

WHEREAS, Maureen Norman was notably the first African American professor hired at PHCC, a distinction that was commemorated by the Martinsville–Henry County Historical Society; and

WHEREAS, Maureen Norman was a life member of Delta Sigma Theta Sorority who was active over the years with both the Martinsville Alumnae Chapter and later the Petersburg Alumnae Chapter, serving a term with the former as chapter president; and

WHEREAS, Maureen Norman was a person of deep faith who enjoyed worship and fellowship with her community at Saint Paul's Episcopal Church in Martinsville for more than 25 years and then with her community at Saint Stephen's Episcopal Church in Petersburg for the past 12 years, serving both congregations in various capacities; and

WHEREAS, Maureen Norman will be fondly remembered and dearly missed by her loving husband, James; her children, Yvette, Brent, Nakeshia, Tonya, Brandi, and Jami, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Maureen T. Norman, a cherished member of the Martinsville and Petersburg communities whose light brightened countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Maureen T. Norman as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 309

Celebrating the life of Fred Knaysi, DDS.

Agreed to by the House of Delegates, February 17, 2023

WHEREAS, Fred Knaysi, DDS, an accomplished dentist and beloved member of the Richmond community who earned the respect of many through the exceptional care and attention he gave his patients, died on July 11, 2022; and

WHEREAS, a native of Ithaca, New York, Fred Knaysi's educational journey included Ithaca High School, Cornell University, and ultimately the Virginia Commonwealth University School of Dentistry, where he was elected president of the senior class; and

WHEREAS, following a dental fellowship in Norfolk, Fred Knaysi established a thriving dental practice in Richmond, building a loyal following of patients over the years through his gentle and generous nature and his commitment to high quality care at a reasonable price; and

WHEREAS, Fred Knaysi had a special ability to bring people together and was an integral member of every community that he was a part of, from his immediate family to his large dental practice; and

WHEREAS, Fred Knaysi's devotion to his dental practice and his penchant for acquiring real estate was evident in his tendency to eschew more traditional hobbies and pastimes in favor of working during his moments of leisure; and

WHEREAS, Fred Knaysi found great joy in spending time with family, whether at home, at Virginia Beach, or at far-off destinations around the world, and in giving extravagant and thoughtful gifts to his loved ones; and

WHEREAS, Fred Knaysi will be fondly remembered and dearly missed by his loving wife of 32 years, Dolores; his children, George, Christopher, and Bradley; and numerous other family members, friends, colleagues, and patients; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Fred Knaysi, DDS, a cherished member of the Richmond community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Fred Knaysi, DDS, as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 310

Celebrating the life of Edward Godfrey West.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Edward Godfrey West, a highly admired member of the Richmond community, died on January 2, 2023; and

WHEREAS, Edward "Ed" Godfrey West grew up in Newport News, where he graduated from the former Huntington High School; he was a talented saxophonist who played in the school's marching and jazz bands and cultivated a love of music throughout his life; and

WHEREAS, Ed West continued his education by earning a bachelor's degree from Johnson C. Smith University, where he was a proud member of Omega Psi Phi Fraternity, Inc., and a standout football player, and a master's degree from Averett University; and

WHEREAS, Ed West served his country as a member of the United States Army during the Vietnam War era and was stationed in Germany as a military policeman; and

WHEREAS, Ed West pursued a long career for over 30 years with the Defense Logistics Agency and he broke down racial barriers as the first African American to hold several leadership posts within the agency; and

WHEREAS, after his retirement from the Defense Logistics Agency, Ed West served as a senior advisor and analyst for M.H. West & Co., Inc.; and

WHEREAS, Ed West volunteered his leadership and expertise to many civic and service organizations, including the Richmond chapters of The Links, Inc., and Continental Societies, Inc., and the boards of the Central Virginia Coalition of Healthcare Providers and the National Kidney Foundation; and

WHEREAS, Ed West supported and inspired young people through his work with Jack & Jill of America, the Boy Scouts of America, the Girl Scouts of the USA, and the Chamberlayne Youth Athletic Association; and

WHEREAS, a man of deep and abiding faith, Ed West attended St. Augustine's Episcopal Church in Newport News as a youth; in later life, he enjoyed fellowship and worship with the congregation of St. Philip's Episcopal Church in Richmond, where he was a member of the choir and the hand bell choir and served with many other ministries; and

WHEREAS, Ed West will be fondly remembered and greatly missed by his loving wife of 46 years, Marilyn; his children, Meaghan and Brennan, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Edward Godfrey West; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Edward Godfrey West as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 311

Commending Viki Wellershaus.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Viki Wellershaus, the longest-serving town clerk in the history of Herndon, retired on August 31, 2022, after more than 29 years of exceptional service to the community; and

WHEREAS, Viki Wellershaus began her career with Fairfax County in 1975 and served as clerk to the Board of Zoning Appeals and deputy clerk to the Board of Supervisors; she received the highly respected Certified Municipal Clerk designation in January of 1990; and

WHEREAS, Viki Wellershaus played a critical role in the comprehensive reorganization of the offices of the clerk to the Board of Zoning Appeals and the clerk to the Board of Supervisors; she also served as a panelist for courses offered by Fairfax County and the Virginia Municipal Clerks Association; and

WHEREAS, Viki Wellershaus provided instrumental support to the composition of legislative actions of the Board of Supervisors, specifically actions regarding budgets and bond sales, and the execution of code amendments; and

WHEREAS, in July 1993, Viki Wellershaus was appointed as the Herndon town clerk, in which capacity she maintained her high level of professionalism in service to the Herndon Town Council, town staff, and local residents; and

WHEREAS, Viki Wellershaus worked diligently to increase the efficiency of operations in the town clerk's office to ensure good communication between local residents and the governing body, while upholding the principles and values of the role of town clerk; and

WHEREAS, during her distinguished tenure with the town, Viki Wellershaus worked with 15 terms of town council members, seven mayors, five town managers, and countless staff members and citizens; and

WHEREAS, Viki Wellershaus was an invaluable source of institutional knowledge who benefited the Herndon community in myriad ways and selflessly gave of her time, experience, and expertise to serve the local residents; and

WHEREAS, Viki Wellershaus was a trusted mentor and friend to her colleagues and was well-known for her attention to detail and willingness to always help others; now, therefore, be it

RESOLVED by the House of Delegates, That Viki Wellershaus hereby be commended on the occasion of her retirement as the town clerk of Herndon; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Viki Wellershaus as an expression of the House of Delegates' admiration for her personal and professional achievements.

HOUSE RESOLUTION NO. 312

Commending Unity in the Community.

Agreed to by the House of Delegates, February 14, 2023

WHEREAS, Unity in the Community, an organization dedicated to cultivating an appreciation for and understanding of cultural heritage and diversity, and bringing an end to hate crimes and intolerance, has greatly served the communities of Prince William County, Manassas, and Manassas Park for many years; and

WHEREAS, Unity in the Community was founded in 1995 when Illana Naylor and the Manassas Church of the Brethren brought local interfaith clergy and residents of the Greater Prince William Area together to honor the joy and richness of diversity in the community and to confront intolerance; and

WHEREAS, after the Prince William County Board of Supervisors declared Prince William County a hate-free and bigot-free zone, Illana Naylor and Debbie Rubenstein of Congregation Ner Shalom in Prince William County co-chaired a Unity in the Community event on March 16, 1996, entitled "Celebrating Diversity," which brought together more than 600 people to honor this important cause; and

WHEREAS, since its earliest events, Unity in the Community has continued to advocate for laws related to hate crimes, to educate the community about cultural diversity and basic human rights, and to celebrate the differences that contribute to the richness and vibrancy of the Greater Prince William Area community; and

WHEREAS, Unity in the Community has pursued various endeavors toward the realization of its goals, including annual International Day of Prayer for Peace events, educational forums and film screenings, collaborations with local service groups and community task forces, and numerous other initiatives of advocacy and support designed to care for and protect vulnerable and underrepresented populations in the community; and

WHEREAS, in recognition of its impact, Unity in the Community received the Prince William County Human Rights Award in 2003, along with six of its members who have also received this distinguished honor in previous and subsequent years; and

WHEREAS, through major events, public forums, and advocacy, Unity in the Community members continue to learn about and appreciate the diverse cultural and religious expressions found in their shared neighborhoods; now, therefore, be it

RESOLVED by the House of Delegates, That Unity in the Community hereby be commended for its efforts to promote cross-cultural and interfaith tolerance and understanding in the communities of Prince William County, Manassas, and Manassas Park; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Unity in the Community as an expression of the House of Delegates' admiration for the organization's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 313

Commending William Edward Wagner.

Agreed to by the House of Delegates, February 14, 2023

WHEREAS, William Edward Wagner is a native of the Commonwealth who is celebrated for having one of the most successful pitching careers in the history of Major League Baseball and for giving back to the community through his involvement with the Miller School of Albemarle and the 2nd Chance Learning Center of Southwest Virginia; and

WHEREAS, born and raised in the Marion area, William "Billy" Edward Wagner, a natural right-hander, remarkably taught himself to throw with his left hand after breaking his right arm twice at a young age; and

WHEREAS, Billy Wagner later moved to the Tazewell area and graduated from Tazewell High School, where in his senior season he posted a .451 batting average, 23 stolen bases, 29 runs batted in, 116 strikeouts in 46 innings, a 7-1 pitching record, and a 1.52 earned run average (ERA); and

WHEREAS, Billy Wagner attended Ferrum College to play both football and baseball, but ultimately decided to dedicate himself to the latter; he would increase the speed of his fastball to 95 miles per hour, and in 1992, set National Collegiate Athletic Association records by averaging an astounding 19.3 strikeouts and 1.88 hits over nine innings; and

WHEREAS, Billy Wagner was selected in the first round of the Major League Baseball (MLB) draft by the Houston Astros and worked his way through the team's minor league system before debuting in the MLB on September 13, 1995; and

WHEREAS, in 1997, Billy Wagner struck out an Astros relief-record 106 batters and made his first of seven All-Star teams in 1998; his pitches were now topping out at 100 miles per hour; and

WHEREAS, following his nine-year tenure with the Houston Astros, where he compiled a club record 225 saves, Billy Wagner also pitched with the Philadelphia Phillies, New York Mets, Boston Red Sox, and Atlanta Braves, retiring in 2010 with a career 47-40 record, a 2.31 ERA, and 1,196 strikeouts over 853 games played; and

WHEREAS, Billy Wagner's 422 career saves record is the second highest for a left-handed pitcher in the history of the MLB, while his 11.92 strikeouts per nine innings and .187 opponents' batting average are the best career totals of any pitcher with at least 900 innings pitched; and

WHEREAS, during his MLB career, Billy Wagner was named an All-Star seven times and was presented the National League Rolaids Relief Man Award following his 1999 season, in which he accomplished 39 saves and a 1.57 ERA; and

WHEREAS, in recognition of his extraordinary achievements on the baseball diamond, Billy Wagner was inducted into the National College Baseball Hall of Fame in 2019 and the Virginia Sports Hall of Fame in 2012; and

WHEREAS, after his retirement from Major League Baseball, Billy Wagner settled in Crozet and became a baseball coach at the Miller School of Albemarle, leading the team to three back-to-back Virginia Independent Schools Athletic Association Division II championship wins in 2017, 2018, and 2019; and

WHEREAS, Billy Wagner has given generously of his time to the 2nd Chance Learning Center of Southwestern Virginia, an organization that provides tutoring, mentoring, and counseling services to students in grades six through 12 to support them on their path to a college education; now, therefore, be it

RESOLVED by the House of Delegates, That William Edward Wagner hereby be commended for his Hall of Fame-caliber baseball career and for his efforts to assist young people in both Central and Southwest Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to William Edward Wagner as an expression of the House of Delegates' admiration for his exceptional career and his notable contributions to the Commonwealth.

HOUSE RESOLUTION NO. 314

Commending Geoffrey Pohanka.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Geoffrey Pohanka of the Pohanka Auto Group, was selected as the 2023 chair of the National Automobile Dealers Association; and

WHEREAS, the Pohanka Automotive Group was founded by Geoffrey "Geoff" Pohanka's grandfather, Frank Pohanka, in 1919, and has grown to become a vibrant business with locations in the Commonwealth, Delaware, Maryland, and Texas,

employing more than 1,400 people and representing 15 makes of vehicles, including Honda, Lexus, Acura, Hyundai, Nissan, Chevrolet, Mercedes-Benz, Toyota, Volkswagen, Ford, Chrysler-Dodge-Jeep-RAM, and Kia; and

WHEREAS, Geoff Pohanka, whose career in the auto industry has spanned over five decades, got his start in the business in 1971, becoming the third generation of his family to lead the Pohanka Automotive Group; and

WHEREAS, an active and dedicated member of his community, Geoff Pohanka has supported a wide array of industry and community causes for many years, maintaining the Pohanka family's long tradition as a well-recognized and respected advocate for numerous community events; and

WHEREAS, Geoff Pohanka has been a leader in his community through his support for numerous worthy causes and organizations, including the Northern Virginia Athletic Directors, Administrators, and Coaches Association; the Wounded Warrior Project; what is now the Children's National Hospital; the Foundation for Applied Technical Education; Girls on the Run of Northern Virginia; the Fairfax Partnership for Youth; the Fairfax County D.A.R.E. program; and the Virginia State Police Association; and

WHEREAS, Geoff Pohanka has offered his leadership and expertise to military organizations in his community, including as a Joint Base Andrews honorary commander and ambassador and a United States Air Force Air Mobility Command civic leader; and

WHEREAS, Geoff Pohanka has been honored with numerous awards, including the Community Foundation Vision Award, the Collective Empowerment Group Small Business Award, the Mission of Love Charity Candle of Service Award, the Clean Cities Coalition Dealership of the Year, and the Boy Scouts of America Good Scouting Award; and

WHEREAS, an active and dedicated member of his industry, Geoff Pohanka has served his customers and his community with a generous spirit and has been an example to dealers in his community and around the Commonwealth; and

WHEREAS, Geoff Pohanka has served his industry as an active member of the National Automobile Dealers Association for many years, as well as by serving on the Isuzu National Dealer Council, the Honda Service Parts Dealer Council, the Maryland Department of Motor Vehicles Dealer Advisory Board, the Washington Area New Automobile Dealers Association, and the National Institute for Automotive Service Excellence; and

WHEREAS, as the 2023 chair of the National Automobile Dealers Association, Geoff Pohanka will ably lead his fellow franchise dealers as their top national elected officer; now, therefore, be it

RESOLVED by the House of Delegates, That Geoffrey Pohanka hereby be commended on his selection as the 2023 chair of the National Automobile Dealers Association; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Geoffrey Pohanka as an expression of the House of Delegates' admiration for his achievements and best wishes.

HOUSE RESOLUTION NO. 315

Commending Patti G. Meire.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Patti G. Meire, an esteemed attorney and coordinator of the Virginia Public Guardian and Conservator Program within the Department for Aging and Rehabilitative Services, retired on February 1, 2023; and

WHEREAS, Patti Meire was a distinguished graduate of the University of Mary Washington, and she continued her studies at Georgetown University Law Center, where she attended night classes while working full-time in the office of United States Senator Lawton Chiles, graduating magna cum laude; and

WHEREAS, Patti Meire was admitted to the Virginia State Bar and spent over 15 years as an attorney in the private sector in the Commonwealth, including as an associate at the former Hunton & Williams LLP and later as an attorney for the former Reynolds Metals Company; and

WHEREAS, Patti Meire was an active participant in the betterment of her community, serving for several years as a Cub Scout troop leader with the Boy Scouts of America, a Sunday school teacher at Second Presbyterian Church in Richmond, and a leader of The Gayton Kirk Presbyterian Church in Henrico County; and

WHEREAS, Patti Meire continued her legal career as a guardian ad litem in Henrico County for over seven years and was a dedicated, fair, and zealous advocate for the children she was appointed to represent, devoting uncounted additional hours to achieving successful outcomes for children and families of Henrico County; and

WHEREAS, Patti Meire served as coordinator for the Virginia Public Guardian and Conservator Program within the Department for Aging and Rehabilitative Services; under her leadership, she oversaw successful efforts to modernize and streamline the regulations, policies, and contracts governing the program and helped to increase the program's capacity by over 20 percent; and

WHEREAS, Patti Meire masterfully led the Virginia Public Guardian and Conservator Program through the COVID-19 pandemic, an unprecedented crisis that required significant additional engagement with service providers, rapid decision-making, and sustained periods of meritorious service;

WHEREAS, Patti Meire's efforts over the last six years have contributed greatly to the growth and development of the Virginia Public Guardian and Conservator Program; now, therefore, be it

RESOLVED by the House of Delegates, That Patti G. Meire, a respected attorney and coordinator of the Virginia Public Guardian and Conservator Program within the Department for Aging and Rehabilitative Services, hereby be commended on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Patti G. Meire as an expression of the House of Delegates' admiration for her personal and professional achievements.

HOUSE RESOLUTION NO. 316

Celebrating the life of Billie Jean Tauber.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Billie Jean Tauber, a beloved wife, mother, and grandmother and an active member of the Northern Virginia community, died on April 18, 2022; and

WHEREAS, Jean Tauber was a multitalented woman who gave generously of her time in service to others, including as a driver for a local preschool, a volunteer at what is now VHC Health in Arlington, and a longtime scout leader; and

WHEREAS, Jean Tauber often volunteered at Westlawn Elementary School in Falls Church, contributing greatly to the success and well-being of the school's students and teachers; and

WHEREAS, Jean Tauber was a wonderful and caring person who was always willing to help anyone in need, regardless of who they were or what she was personally going through; and

WHEREAS, with an uncanny ability to draw people to her, Jean Tauber quickly made friends wherever she went, and her companionship was valued by all who knew her; and

WHEREAS, preceded in death by her son William, Jean Tauber will be fondly remembered and dearly missed by her loving husband, Thomas; her children, Michael, Amanda, Helen, Joe, and Ben, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Billie Jean Tauber, a cherished member of the Northern Virginia community whose kindness and compassion touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Billie Jean Tauber as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 317

Commending the Humane Society of Fairfax County.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, the Humane Society of Fairfax County, an organization dedicated to promoting humane education and the welfare of animals and to preventing all forms of animal cruelty, has served the Northern Virginia community for more than 50 years; and

WHEREAS, founded in 1965, the Humane Society of Fairfax County has long provided a vital service by rescuing, sheltering, and finding homes for both domestic and wild animals that are either abused, neglected, or unwanted; and

WHEREAS, the Humane Society of Fairfax County takes great efforts to support the health and well-being of the animals in its care, offering exceptional rehabilitation and professional training services, as well as medical services through either its veterinary mobile clinic or local veterinarian hospitals; and

WHEREAS, the Humane Society of Fairfax County operates its Ani-Meals pet food pantry to distribute cat and dog food and supplies to Fairfax County pet owners in need, helping to ensure that no animal in the community goes without; and

WHEREAS, the Humane Society of Fairfax County works to address the homeless cat population in the community through its feral cat program and its Trap-Neuter-Release project, preventing innumerable cats from needlessly suffering pain or death; and

WHEREAS, the Humane Society of Fairfax County regularly engages with local schools, civic groups, neighborhood community associations, scout troops, and other organizations to share informative humane education and to promote the welfare of all animals; and

WHEREAS, the accomplishments of the Humane Society of Fairfax County are the result of the boundless devotion and compassion of its staff and volunteers and the generous support of the community; now, therefore, be it

RESOLVED by the House of Delegates, That the Humane Society of Fairfax County hereby be commended for providing an invaluable service to the Northern Virginia community for more than a half-century; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Humane Society of Fairfax County as an expression of the House of Delegates' admiration for the organization's history of contributions to the Commonwealth.

HOUSE RESOLUTION NO. 318

Commending the Virginia Conservation Police.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, the Virginia Conservation Police, a unit of the Department of Wildlife Resources that has greatly served the Commonwealth by promoting the management of inland fisheries, wildlife, and recreational boating, celebrates its 120th anniversary in 2023; and

WHEREAS, the Virginia Conservation Police was created on May 14, 1903, when the General Assembly enacted legislation during a special session to establish a statewide system of law-enforcement officers devoted specifically to wildlife crime; and

WHEREAS, in the early days of the Virginia Conservation Police, officers, known then as game wardens, were political appointees serving at the pleasure of local officials in their areas of assignment; with minimal training, they learned what they could on the job and from local sheriffs and police departments; and

WHEREAS, in 1916, the Department of Game and Inland Fisheries was created by the General Assembly with a mandate to manage the fisheries and wildlife resources of the Commonwealth, and the Virginia Conservation Police fell under its purview; in 2007, game wardens became conservation police officers and 13 years later the Department of Game and Inland Fisheries became the Department of Wildlife Resources; and

WHEREAS, the Virginia Conservation Police patrols a vast and expansive jurisdiction to enforce the Commonwealth's laws regulating hunting, fishing, boating, and other wildlife matters and to ensure that both citizens and visitors in the Commonwealth safely and responsibly enjoy the area's exceptional natural resources; and

WHEREAS, conservation police officers of the Virginia Conservation Police are fully certified through the Department of Criminal Justice Services, with authority to enforce all of the laws of the Commonwealth, and they also serve as deputy U.S. Fish and Wildlife Service special agents, enabling them to conduct investigations and cross state lines when violations of federal wildlife laws have occurred; and

WHEREAS, members of the Virginia Conservation Police possess a unique array of skills that enable them to greatly assist other state and local agencies in a number of circumstances, from tracking suspects through difficult terrain to responding in the wake of a natural disaster; and

WHEREAS, education and public outreach is a major component of the work of the Virginia Conservation Police, as the department places a strong emphasis on serving the community while working to fulfill its mission; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Conservation Police hereby be commended for its dedication and professionalism in protecting the Commonwealth's wildlife and natural resources on the occasion of its 120th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Conservation Police as an expression of the House of Delegates' admiration for the department's history of contributions to the Commonwealth.

HOUSE RESOLUTION NO. 319

Commending the Honorable Judith Williams Jagdmann.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, the Honorable Judith Williams Jagdmann, an esteemed and respected commissioner of the State Corporation Commission, served in that capacity for almost 17 years; and

WHEREAS, Judith "Judy" Williams Jagdmann was elected as the 33rd Commissioner of the State Corporation Commission (SCC) by the General Assembly in 2006 and was reelected in 2012 and 2016; and

WHEREAS, Judy Jagdmann adapted to the unique challenges of working for the SCC, which is an independent department of state government with delegated administrative and judicial powers; and

WHEREAS, Judy Jagdmann has had a long and distinguished career, serving the Commonwealth for more than 37 years; and

WHEREAS, prior to joining the SCC, the General Assembly unanimously elected Judy Jagdmann as the 43rd Attorney General of Virginia in January 2005, filling a vacancy in the office; and

WHEREAS, Judy Jagdmann served as the Deputy Attorney General for the Office of the Attorney General's Civil Litigation Division from 1998 to 2005, where she supervised the operations of sectors specializing in trial, real estate, land use and construction, employment law, antitrust and consumer litigation, and insurance and utilities; and

WHEREAS, Judy Jagdmann served as counsel to the SCC from 1985 to 1998, representing the department and its staff on securities and utility matters; and

WHEREAS, Judy Jagdmann has taught regulatory and utility matters as an adjunct professor at the University of Virginia School of Law; and

WHEREAS, Judy Jagdmann received her undergraduate degree in history from the University of Virginia and received a law degree from the University of Richmond; and

WHEREAS, Judy Jagdmann earned the respect of her fellow state utility regulators throughout the United States, who elected her to serve as president of the National Association of Regulatory Utility Commissioners from 2021 to 2022, the first Virginian to serve in that prestigious national position; and

WHEREAS, during her long tenure of service as Commissioner of the SCC, Judy Jagdmann was regarded by all parties and persons who appeared before the department as a fair, intelligent, hard-working, and even-handed regulator and judge, one who listened to all sides of every issue and who never forgot that in all matters and cases the SCC's most important job was to advocate for and defend the public interest; now, therefore, be it

RESOLVED by the House of Delegates, That the Honorable Judith Williams Jagdmann hereby be commended for her judicial acumen and her long and exemplary career in public service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable Judith Williams Jagdmann as an expression of the House of Delegates' admiration for her outstanding service with the State Corporation Commission and best wishes for her continued success.

HOUSE RESOLUTION NO. 320

Commending Deborah Pratt.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, Deborah Pratt, a longtime member of the Middlesex County community, is known throughout the Commonwealth as a world-champion oyster shucker and as one of the icons of the sport; and

WHEREAS, Deborah Pratt grew up immersed in the oyster industry, with parents and other family members who worked in the trade; and

WHEREAS, Deborah Pratt started shucking oysters professionally in 1975 in the same oyster house where her parents met in the 1950s, and she worked tirelessly at the job to support her family while also managing a 35-year career as a nurse; and

WHEREAS, over the past several years, Deborah Pratt and her sister, Clementine Macon Boyd, have established themselves as the competition to beat at local oyster shucking competitions, with the ability to cleanly shuck and present two dozen oysters each in less than three minutes; and

WHEREAS, Deborah Pratt has been declared champion at the annual Urbanna Oyster Festival's Virginia State Oyster Shucking Competition multiple times and also achieved success at the U.S. National Oyster Shucking Championship Contest in St. Mary's County, Maryland, and the World Oyster Opening Championship in Galway, Ireland, where she competed four times; and

WHEREAS, Deborah Pratt and her sister, Clementine, were fixtures at the annual Richmond Folk Festival over several years as their "Shucking Smackdown" competition became one of the event's biggest draws; and

WHEREAS, Deborah Pratt competed at the 65th annual Urbanna Oyster Festival in November 2022 before a large crowd of adoring fans, winning the professional women's competition true to form; now, therefore, be it

RESOLVED by the House of Delegates, That Deborah Pratt, a superstar of the world of oyster-shucking, hereby be commended for her legacy as a champion and ambassador of the sport; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Deborah Pratt as an expression of the House of Delegates' admiration for her remarkable accomplishments and her many contributions to the Commonwealth.

HOUSE RESOLUTION NO. 321

Commending Samuel W. Tate, DVM.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Samuel W. Tate, DVM, has ably served the Commonwealth as a veterinarian member of the Virginia State Animal Response Team since its inception in 2007 and has served as secretary since 2008; and

WHEREAS, Samuel Tate has been a major contributor to the Commonwealth of Virginia Pet Evacuation and Shelter Plan; and

WHEREAS, Samuel Tate served as a veterinarian member with the Virginia Department of Emergency Management annex to the Virginia Emergency Operations Plan; and

WHEREAS, the mission of the Virginia State Animal Response Team (VASART) includes assisting localities in establishing Community Animal Response Teams (CARTS); Samuel Tate participated in the organization and training of 17 pet shelter teams and 11 CARTS, which responded to shelter needs in eight declared states of emergencies; and

WHEREAS, Samuel Tate has been a featured speaker on disaster preparedness for numerous organizational conferences hosted by the Virginia Veterinary Medical Association, Virginia Federation of Humane Societies, Virginia Animal Control

Association, Virginia State Employees Disaster Preparedness Expo, United States Navy Disaster Preparedness Expo, USDA Disaster Preparedness Expo, Metropolitan Washington Council of Governments, and U.S. Department of Justice; and

WHEREAS, Samuel Tate has also served as a veterinarian on the Virginia Pet Sheltering Working Group, as a member of the Virginia Veterinary Reserve Corps, and as an augmentee to Emergency Support Function 11 (Agriculture) in the Virginia Emergency Operations Center; and

WHEREAS, Samuel Tate committed his professional and personal passion to the future of animal health and emergency preparedness with great resolve and dedication; now, therefore, be it

RESOLVED by the House of Delegates, That Samuel W. Tate, DVM, hereby be commended for his lifetime commitment to veterinary services and emergency preparedness on the occasion of his retirement from the Virginia State Animal Response Team after 16 years of exceptional leadership; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Samuel W. Tate, DVM, as an expression of the House of Delegates' gratitude for his outstanding service to the Commonwealth.

HOUSE RESOLUTION NO. 322

Celebrating the life of Melanie Morrison Chambers.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Melanie Morrison Chambers, a vibrant member of the Culpeper community, died on January 30, 2023; and

WHEREAS, Melanie Chambers grew up in Hawaii and graduated from Kailua High School; she enjoyed body surfing in her youth and brought a few rays of Hawaiian sunshine to everyone she met over the course of her life; and

WHEREAS, Melanie Chambers continued her education at Michigan State University, where she built strong friendships, then returned to Hawaii and worked for Pan American World Airways; she subsequently worked for the American Automobile Association in Boston; and

WHEREAS, Melanie Chambers met her husband, Robert, in 1968; they married in New Hampshire the following year and settled in Victor, New York, to raise their family; and

WHEREAS, in 2002, Melanie and Robert Chambers relocated to Culpeper to be closer to their daughter, and she was an active member of the community for the next two decades, serving as a civic leader, an advocate for women and girls, a travel agent, and a volunteer emergency medical services and hospice care provider; and

WHEREAS, Melanie Chambers was an avid traveler who loved every opportunity to explore new places with her family and had visited six of seven continents in her lifetime; and

WHEREAS, Melanie Chambers will be fondly remembered and greatly missed by her husband of 53 years, Robert; her two children, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Melanie Morrison Chambers, a highly admired resident of Culpeper; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Melanie Morrison Chambers as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 324

Commending the City of Manassas.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, the City of Manassas and its residents will celebrate the city's historic 150th anniversary as an active and involved community on April 1, 2023, at Dean Park; and

WHEREAS, originally called Manassas Junction and located at the intersection of the Orange and Alexandria and Manassas Gap railroad lines, the Town of Manassas was incorporated in 1873 by the General Assembly, and its first law-enforcement officer, Jacob W. Hornbaker, was named town sergeant the same year; and

WHEREAS, a strategic location for growth after the Civil War, Manassas was later selected to serve as the county seat of Prince William County, and the construction of the county courthouse in 1894 spurred a building and population boom that would further the development of the town; and

WHEREAS, seven of Manassas' historic treasures are listed on the National Register of Historic Places, including Liberia plantation, Mayfield Earthwork Fort, Cannon Branch Fort, Annaburg Manor, the iconic 1914 Manassas Water Tower, the nationally recognized site of the Manassas Industrial School for Colored Youth, and the Manassas Local Historic District, which includes 300 architecturally and historically significant structures both downtown and in the surrounding neighborhoods; and

WHEREAS, the Manassas Volunteer Fire Company, the first fire company in Manassas and Prince William County, was founded in 1892 to improve community safety; in 1914, the first fire station was built, which later relocated to its current location at 9322 Centreville Road; and

WHEREAS, in 1895, telephone service was established in Manassas to support the needs of the blossoming town and 18 years later the first electricity was generated and run by the municipality; and

WHEREAS, in 1905, a horrendous fire swept through Manassas and burned approximately 30 buildings; afterwards, these buildings were reconstructed and by town ordinance were built with brick and fire-resistant materials; and

WHEREAS, the first Greater Manassas Christmas Parade, which is today one of the largest Christmas parades in the area, was held in 1945; and

WHEREAS, the first airport in Manassas was established in 1930 and the Manassas Regional Airport, which is currently the busiest General Aviation Airport in the Commonwealth with over 400 based aircraft and more than $275 million in economic benefit generated for the surrounding region, opened at its current location in 1964; and

WHEREAS, in 1964, using funds from donations by the community, what is now the UVA Prince William Medical Center was established to aid in the health care of Manassas area residents; and

WHEREAS, the visionary town council of Manassas passed an ambitious $5 million bond referendum to purchase land on Broad Run in order to construct a dam that would ultimately create the Lake Manassas reservoir in 1969, providing a dedicated water supply to Manassas and Prince William County; and

WHEREAS, as early as 1897, town father George Carr Round recognized the strength of Manassas' diverse population and its newcomers, writing of the town, "It is especially cosmopolitan"; today, the city is one of the most diverse localities in the Commonwealth, with more than 27 different languages represented by the students and families served by Manassas City Public Schools; and

WHEREAS, Manassas is a regional employment center, and its robust history of major corporate investment and job creation includes IBM notably opening a new facility in the locality in the late 1960s and Micron Technologies, Inc., recently making one of the largest capital investments in the history of the Commonwealth; and

WHEREAS, the Manassas Museum opened in its first location in 1974 to document and display Manassas' history and culture and to provide free cultural exhibits to residents and visitors alike; and

WHEREAS, with a population of 12,800 people, Manassas became an independent city in 1975, making it one of only 41 independent cities in the United States at the time; and

WHEREAS, the Virginia Railway Express began operations in Manassas on June 22, 1992, improving residents' access to Northern Virginia and Washington, D.C.; and

WHEREAS, the Loy E. Harris Pavilion in Manassas was completed in 2000 and has since grown to become the leading event center for the area, hosting concerts and more throughout the year; and

WHEREAS, Manassas' leaders adopted the logo and tagline "Historic Heart. Modern Beat." in 2015 and the promotional campaign has since been heartily embraced by the community; and

WHEREAS, the Manassas City Police Department is one of the most highly accredited departments in the country, having recently received a gold standard with excellence accreditation from the Commission on Accreditation for Law Enforcement; and

WHEREAS, Manassas has grown from a city of 12,800 people in 1975 into a 10-square-mile city of more than 43,000 people in 2023, close to the urban amenities of Washington, D.C., but with the comfort and feel of a small town; now, therefore, be it

RESOLVED by the House of Delegates, That the City of Manassas hereby be commended on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the mayor of the City of Manassas, Michelle Davis-Younger, and the Manassas City Council as an expression of the House of Delegates' congratulations on 150 years as a community.

HOUSE RESOLUTION NO. 325

Commending Valentine DaDamio.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Valentine DaDamio, a veteran of World War II and a highly respected member of the Springfield community, celebrates his 100th birthday in 2023; and

WHEREAS, born on February 16, 1923, Valentine "Val" DaDamio has witnessed countless historical events throughout his life, from the Great Depression to the moon landing and the dawn of the Internet era; and

WHEREAS, Val DaDamio joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Army; he was assigned to the 11th Armored Division under General George S. Patton's Third Army; and

WHEREAS, after the war, Val DaDamio pursued a long and successful career in insurance and financial advising; and

WHEREAS, Val DaDamio subsequently worked for the United States Mint for 23 years until his well-earned retirement; and

WHEREAS, Val DaDamio was a loving husband to his wife Hazel, who passed away in 2001, and is a devoted father, grandfather, and great-grandfather; and

WHEREAS, Val DaDamio is highly admired as a true Virginia gentleman and a wise leader in the Springfield community; now, therefore, be it

RESOLVED by the House of Delegates, That Valentine DaDamio hereby be commended on the occasion of his 100th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Valentine DaDamio as an expression of the House of Delegates' admiration for his personal and professional achievements.

HOUSE RESOLUTION NO. 326

Commending Americorps Seniors RSVP Senior Volunteer Program at the Clinch Valley Community Action Agency.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Americorps Seniors RSVP Senior Volunteer Program at the Clinch Valley Community Action Agency celebrated its 50th anniversary in 2022; and

WHEREAS, the Clinch Valley Community Action Agency (CVCAA), located in North Tazewell, has been in existence since 1965, starting as the Tazewell Development Corporation; and

WHEREAS, in 1972, CVCAA became one of the first agencies in the nation to receive a grant for the Americorps Seniors RSVP Senior Volunteer Program; and

WHEREAS, the Americorps Seniors RSVP Senior Volunteer Program at CVCAA serves senior citizens age 55 and over in the Counties of Buchanan, Russell, and Tazewell; and

WHEREAS, the Americorps Seniors RSVP Senior Volunteer Program at CVCAA has volunteers who focus on independent living, helping people stay in their homes by assisting with household needs and projects, offering transportation to and from needed appointments, and bringing in meals regularly; and

WHEREAS, the Americorps Seniors RSVP Senior Volunteer Program at CVCAA has volunteers in eight community food pantries, thereby addressing food insecurity; and

WHEREAS, the Americorps Seniors RSVP Senior Volunteer Program at CVCAA has volunteers who aid in capacity building and fundraising in five community organizations, including two food pantries and one library; and

WHEREAS, the Americorps Seniors RSVP Senior Volunteer Program at CVCAA currently has 256 active volunteers, including 27 veterans, who contribute over $2 million worth of volunteer service annually; and

WHEREAS, the Americorps Seniors RSVP Senior Volunteer Program at CVCAA currently has 11 volunteers who have been serving for more than 20 years; and

WHEREAS, the Americorps Seniors RSVP Senior Volunteer Program at CVCAA has made a positive difference in the communities it supports and in the lives of the senior volunteers serving in the program; now, therefore, be it

RESOLVED by the House of Delegates, That Americorps Seniors RSVP Senior Volunteer Program at the Clinch Valley Community Action Agency hereby be commended for its 50 years of service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Americorps Seniors RSVP Senior Volunteer Program at the Clinch Valley Community Action Agency as an expression of the House of Delegates' appreciation for the organization's incredible work helping those in the Counties of Buchanan, Russell, and Tazewell and best wishes for its continued success.

HOUSE RESOLUTION NO. 327

Commending the Trinity Episcopal School football team.

Agreed to by the House of Delegates, February 17, 2023

WHEREAS, the Trinity Episcopal School football team of Richmond won the Virginia Independent Schools Athletic Association Division I state championship on November 19, 2022, at the school's Aycock Stadium; and

WHEREAS, the Trinity Episcopal School Titans defeated the Benedictine College Preparatory Cadets of Goochland County by a score of 35-0 to cap an undefeated 11-0 season and to bring home the program's second consecutive state title and fourth state title overall; and

WHEREAS, the Trinity Episcopal Titans put up 14 points in the first six minutes of play and never let up, amassing 293 yards on offense while limiting the Benedictine offense to only 74 yards and one first down; and

WHEREAS, the Trinity Episcopal Titans were dominant all season on both sides of the ball, with an offense that had many options at its disposal and a defense that could stymie any team; and

WHEREAS, the Trinity Episcopal Titans' head coach, Sam Mickens, has seen nine of his players in the last four years go on to enjoy National Collegiate Athletic Association Division I football careers, a reflection of his expertise and commitment to the program; and

WHEREAS, the success of the Trinity Episcopal Titans is the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of their families and the entire Trinity Episcopal School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Trinity Episcopal School football team hereby be commended for winning the 2022 Virginia Independent Schools Athletic Association Division I state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sam Mickens, head coach of the Trinity Episcopal School football team, as an expression of the House of Delegates' admiration for the team's achievement.

HOUSE RESOLUTION NO. 328

Celebrating the life of RaChel Ruth Minerva McKenzie.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, RaChel Ruth Minerva McKenzie, a vibrant member of the Richmond community who touched many lives through her kindness and grace, died on October 26, 2022; and

WHEREAS, RaChel McKenzie was born to Ray and the late Ingrid McKenzie in Richmond in 1982; she attended Richmond Public Schools and graduated from Huguenot High School, then continued her education at Virginia College, from which she earned an associate's degree in business administration; and

WHEREAS, RaChel McKenzie subsequently earned a certification as a massage technician and promoted mental and physical healing and relaxation by pursuing a career as a masseuse; and

WHEREAS, RaChel McKenzie inherited a passion for music from her mother and could often be heard singing at Highway of Faith Holy Church, where her father served as pastor, and at conventions held by Mt. Sinai Holy Church of America, Inc.; and

WHEREAS, RaChel McKenzie's greatest joy in life was her beloved daughter, Alana; they formed close bonds and enjoyed getting their hair and nails done together, completing arts and crafts projects, traveling, and sharing their love of music; and

WHEREAS, RaChel McKenzie will be fondly remembered and greatly missed by her daughter, Alana; her father, Ray; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of RaChel Ruth Minerva McKenzie; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of RaChel Ruth Minerva McKenzie as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 329

Celebrating the life of Dorothy L. Hughes.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Dorothy L. Hughes, an esteemed faith leader and caregiver, the founder and senior pastor of Victory Christian Center RVA, and a beloved member of the Richmond community, died on June 20, 2022; and

WHEREAS, a native of Richmond, Dorothy Hughes was certified in supporting and providing care to individuals with mental disabilities and launched Joshua Home Family Services, LLC, which established therapeutic group homes in Chesterfield County and Danville for the benefit of an untold number of residents and families; and

WHEREAS, in 2004, Dorothy Hughes founded the Bread of Life Family Worship Center along Hull Street in the Southside of Richmond, which later relocated to Midlothian Turnpike and took the name of Victory Christian Center RVA; and

WHEREAS, for nearly two decades, Dorothy Hughes provided her parishioners with edifying spiritual guidance and ample opportunities for community outreach; and

WHEREAS, Dorothy Hughes was an accomplished church singer and writer of short church plays who developed the gospel production *How I Got Over*, which previously featured the Grammy Award-winning gospel singer Shirley Caesar; and

WHEREAS, preceded in death by her husband, Ernest, Dorothy Hughes will be fondly remembered and dearly missed by her children, Deborah, Cynthia, Earnestine, Darryl, and Kizzy, and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Dorothy L. Hughes, a cherished member of the Richmond community whose dedication to serving others touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Dorothy L. Hughes as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 330

Celebrating the life of William Irvin Kellum.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, William Irvin Kellum, an honorable veteran, accomplished businessman, and beloved member of the Weems community, died on October 23, 2022; and

WHEREAS, William "Bill" Irvin Kellum was a member of the Lancaster High School Class of 1966 and graduated from DeVry Institute of Technology; and

WHEREAS, Bill Kellum served his country with honor and distinction as a member of the United States Navy; and

WHEREAS, Bill Kellum was a part of the family business at W. E. Kellum, Inc., a renowned seafood supplier in Weems, until his retirement in 1996; and

WHEREAS, Bill Kellum gave generously of his time, serving with several professional organizations dedicated to supporting and promoting the seafood industry; and

WHEREAS, Bill Kellum later became owner and operator of W. I. Kellum Trucking, ably serving the freight needs of his customers; and

WHEREAS, guided by his faith, Bill Kellum was a lifelong member of Claybrook Baptist Church in Weems, where he served as deacon and Sunday school director; and

WHEREAS, preceded in death by his first wife, Hope, Bill Kellum will be fondly remembered and dearly missed by his wife, Norma; her children, Collin and Bonnie, and their families; his sons, Thomas and Jeffrey, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of William Irvin Kellum, a cherished member of the Weems community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Irvin Kellum as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 331

Commending Katherine Doctor.

Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Katherine Doctor, an educator in the Health Professions and Therapies Specialty Center at Monacan High School, was named the Chesterfield County Public Schools Teacher of the Year for 2023; and

WHEREAS, Katherine "Kate" Doctor was selected as Chesterfield County High School Teacher of the Year on her way to receiving her districtwide honor and will now represent the division in the Department of Education's competition for Region 1 Teacher of the Year later this year; and

WHEREAS, Kate Doctor is a product of Chesterfield County Public Schools and has been an educator with the division since 2005 after discovering a passion for teaching while working as a certified athletic trainer; and

WHEREAS, on her path to becoming an educator, Kate Doctor graduated from Midlothian High School and earned a bachelor's degree in athletic training from East Carolina University and a bachelor's degree in education from Virginia Commonwealth University; and

WHEREAS, as an educator in the Health Professions and Therapies Specialty Center at Monacan High School, Kate Doctor teaches sports medicine, exercise science, and introduction to health and medical science; and

WHEREAS, Kate Doctor has demonstrated extraordinary care and compassion in her work and has placed an emphasis on fostering positive relationships with her students, contributing greatly to their academic, social, and emotional success; and

WHEREAS, Kate Doctor helps her students engage with and better understand the concepts they are learning by connecting their classroom instruction with real-world experiences and applications, including shadowing Monacan High School's certified athletic trainer at home football games; and

WHEREAS, Kate Doctor has often drawn on her extensive professional network to incorporate seminars and guest speakers into her curriculum, amplifying her lessons for the benefit of her students; and

WHEREAS, beyond the classroom, Kate Doctor is active with HOSA–Future Health Professionals, guiding students through the organization's co-curricular program at the school, state, and national levels and preparing them to become leaders in their future endeavors; and

WHEREAS, in recognition of her efforts as an educator, Kate Doctor was recently named Athletic Training Educator of the Year by the Virginia Athletic Trainers' Association, notably becoming the first secondary school educator to win the award; now, therefore, be it

RESOLVED by the House of Delegates, That Katherine Doctor hereby be commended for being named the 2023 Chesterfield County Public Schools Teacher of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Katherine Doctor as an expression of the House of Delegates' admiration for her contributions to the Commonwealth and her dedication to her students.

HOUSE RESOLUTION NO. 332

Celebrating the life of Nicholas D. Street.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Nicholas D. Street, an honorable veteran, esteemed attorney, accomplished executive, and beloved member of the Grundy community, died on February 4, 2023; and

WHEREAS, a native of Southwest Virginia, Nicholas Street graduated from Grundy High School before earning a bachelor's degree in 1953 from what was then Virginia Polytechnic Institute (Virginia Tech), where he was a member of the Corps of Cadets; and

WHEREAS, Nicholas Street proudly served his country with honor and distinction during his four years of active service in the United States Air Force and his additional years in the United States Air Force Reserve; and

WHEREAS, Nicholas Street's love of flying was firmly established through his experience with the United States Air Force, and he continued to fly for many years in both personal and corporate roles; and

WHEREAS, following his service, Nicholas Street graduated from the University of Richmond School of Law and then returned to Grundy in the early 1960s, ultimately establishing the law firm of Street, Street & Street with his brothers, H. A. and Eugene; and

WHEREAS, Nicholas Street became involved in the coal industry and was a founding partner in the United Coal Company, which later became The United Company, supporting the energy needs of the Commonwealth and beyond; and

WHEREAS, Nicholas Street enjoyed rewarding and successful careers in both law and energy until his retirement in 2009, making an impact in the lives of countless individuals and families; and

WHEREAS, Nicholas Street was a longtime advocate for his hometown of Grundy and Southwest Virginia, generously supporting charitable causes in the arts, health care, and education; and

WHEREAS, in 2022, Virginia Tech awarded Nicholas Street its highest honor, the Ut Prosim Medal, for his longstanding support of and service to the university; and

WHEREAS, Nicholas Street will be fondly remembered and dearly missed by his wife, Fay; his children, Robert, David, and Lauren, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Nicholas D. Street, a cherished member of the Grundy community whose legacy of service was an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Nicholas D. Street as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 333

Commending Steve W. Edwards.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Steve W. Edwards, deputy attorney for the Commonwealth in Isle of Wight County and executive director of the Gwaltney Frontier Farm Educational Foundation, Inc., was named Smithfield Citizen of the Year by the Smithfield Ruritan Club and the Smithfield Rotary Club in 2022; and

WHEREAS, a graduate of The College of William & Mary and The William & Mary Law School, Steve Edwards has practiced law in and around Isle of Wight County for more than 30 years; and

WHEREAS, as a prosecutor, first in Southampton County and then in Isle of Wight County since 2009, Steve Edwards has worked tirelessly to bring justice to victims of child abuse or molestation, taking great care to attend to the particular needs and sensitivities of those he serves; and

WHEREAS, Steve Edwards' early forays into public service included an appointment to the former Isle of Wight Parks and Public Recreational Facilities Authority when he was 21 years of age and his election to the Isle of Wight County Board of Supervisors six years later, which he went on to chair; and

WHEREAS, Steve Edwards is a founding member and executive director of the Gwaltney Frontier Farm Educational Foundation, Inc., a nonprofit organization that administers the Mill Swamp Indian Horses program; and

WHEREAS, through the Mill Swamp Indian Horses program, Steve Edwards seeks to promote conservation efforts to prevent the extinction of the Spanish Corolla Mustang horse breed and to instruct others in the techniques of natural horsemanship as a means to demonstrate how to assist and communicate with those who have experienced trauma; and

WHEREAS, Steve Edwards has conducted a number of trauma-informed horse programs designed to comfort different populations in need, including adolescents suffering from depression, anxiety, or suicidal ideation; Hampton Veterans

Affairs Medical Center patients with post-traumatic stress disorder; and emergency first responders emotionally impacted by the COVID-19 pandemic; and

WHEREAS, Steve Edwards has had an outsized impact on his community in many ways, serving as a founding board member of what is now the Family Assessment and Planning Team for Isle of Wight County, as a founding member and past president of the Moonlight Ruritan Club in Smithfield, and as a coach for youth soccer and girls softball teams; and

WHEREAS, Steve Edwards is an accomplished musician who takes great joy in sharing his talents with others, both by teaching folk, blues, and other American forms of music to local children and adults and by performing at open mic nights and with his group, Pasture #3; and

WHEREAS, in recognition of his service, Steve Edwards has garnered awards from many notable organizations and offices over the years, including the Virginia Foster Parent Association, the Southampton County Commonwealth's Attorney Office, the Office of the Attorney General of the Commonwealth, and the Horse of the Americas Registry; now, therefore, be it

RESOLVED by the House of Delegates, That Steve W. Edwards hereby be commended for being named the 2022 Smithfield Citizen of the Year by the Smithfield Ruritan Club and the Smithfield Rotary Club; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Steve W. Edwards as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 334

Commending the Divine Inspirations Center for the Arts.

Agreed to by the House of Delegates, February 17, 2023

WHEREAS, the Divine Inspirations Center for the Arts is an arts organization in Prince William County dedicated to improving access to dance instruction and other mentorship programs in order to support future generations of dancers and leaders in the Commonwealth; and

WHEREAS, the Divine Inspirations Center for the Arts (DICA) was founded by Capriece Piper, whose passion for cultivating social equality, academic success, and physical and mental wellness was ignited after she recognized a lack of opportunities in her community for girls to engage in the recreational and competitive dance activities she had enjoyed in her youth; and

WHEREAS, DICA was created to provide underprivileged and at-risk girls access to affordable arts and mentorship programs, increasing their self-esteem and building their character; and

WHEREAS, DICA offers scholarships and other alternative funding methods to girls that have never been exposed to the arts, removing the financial barriers that had previously limited their access to formal dance instruction; since its inception, the organization has raised more than $25,000 in scholarships for the benefit of its students; and

WHEREAS, DICA not only improves its students' physical fitness, but it also supports their social and emotional well-being by connecting them with women who care for them in their daily lives through the organization's mentorship program; and

WHEREAS, students of DICA have demonstrated an exemplary commitment to their community by volunteering their time with various local organizations, including the Beverly Warren Family Shelter, the General Heiser Boys and Girls Club of America, the Panamerican-Panafrican Association of Dumfries, Prince William County Schools, and Action in Community Through Service, to which DICA recently donated more than 100 pounds of nonperishable food and coats; and

WHEREAS, DICA's partnerships with businesses and organizations such as Macy's, the Washington Commanders, and the National Cherry Blossom Festival, Inc., have presented opportunities for its students to participate in many diverse activities and events that they may not have been exposed to otherwise; and

WHEREAS, the phenomenal dance talent of DICA's students has been showcased in several spectacular fundraising events, while its impact in the community has earned the organization endorsements from various leaders in the Town of Dumfries and Prince William County; and

WHEREAS, through its unwavering devotion to the principles of family, teamwork, and mentorship, DICA has helped to make Dumfries and Prince William County both wonderful places to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, That the Divine Inspirations Center for the Arts hereby be commended for its accomplishments in training future generations of dancers and leaders in the Town of Dumfries and Prince William County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Divine Inspirations Center for the Arts as an expression of the House of Delegates' admiration for the program's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 335

Commending Sergeant First Class Garland Stevenson, Sr., USA, Ret.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Sergeant First Class Garland Stevenson, Sr., USA, Ret., who served honorably for 20 years with the United States Army before a distinguished career with the federal government, retired in July 2022; and

WHEREAS, a native of New Orleans, Garland Stevenson enlisted into the United States Army in 1988, attending basic training in Fort Dix, New Jersey, and advanced individual training as a motor transportation operator in Fort Leonard Wood, Missouri; and

WHEREAS, Garland Stevenson was hand selected to receive a nominative position within the United States Army Signal Corps, which led him to pursue a career in information technology and earn a bachelor's degree in information systems with a concentration in homeland security; he would ultimately retire from the United States Army in 2009 as a sergeant first class with 20 years of service; and

WHEREAS, Garland Stevenson's military awards and decorations include the Defense Meritorious Service Medal, Meritorious Service Medal (2nd award), Army Commendation Medal, Joint Service Achievement Medal, Army Achievement Medal (6th award), Army Good Conduct Medal (6th award), National Defense Service Medal (2nd award), Global War on Terrorism Service Medal, Humanitarian Service Medal, Army Service Ribbon, and the Overseas Service Ribbon; during his career, he was notably selected to represent the All-Army boxing team; and

WHEREAS, Garland Stevenson formerly served as a branch chief for the Department of the Army, where his responsibilities included ensuring unauthorized websites were not accessed on government-furnished equipment; and

WHEREAS, Garland Stevenson served as a security operations center analyst with the Environmental Protection Agency from February 2012 until his retirement in 2022, overseeing the agency's eDiscovery service and the forensic collection of digital information and data to support reports used in the agency's litigation; and

WHEREAS, Garland Stevenson has given generously of his time by spearheading Christmas toy drives and initiatives to feed the homeless, volunteering at the Eleanor U. Kennedy Shelter in Fort Belvoir, and coordinating back-to-school drives for families in his community in need; and

WHEREAS, Garland Stevenson is the owner and chief executive officer of New Orleans Style Snowballs and Daiquiris, providing an authentic taste of New Orleans to communities in Virginia, Maryland, and the District of Columbia since 2007; and

WHEREAS, Garland Stevenson has been supported throughout his career by his loving wife, Shayla, and his children, Shantell, Gabrielle, Garland, Marissa, Max, and Micah, and looks forward to spending more quality time with them in his retirement; now, therefore, be it

RESOLVED by the House of Delegates, That Sergeant First Class Garland Stevenson, Sr., USA, Ret., hereby be commended on the occasion of his retirement from the federal government; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sergeant First Class Garland Stevenson, Sr., USA, Ret., as an expression of the House of Delegates' admiration for his service to the country and best wishes for a happy and fulfilling retirement.

HOUSE RESOLUTION NO. 336

Commending the Vienna Girls Softball League.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, in 2022, the Vienna Girls Softball League launched a fundraiser to support repairs and renovations at Caffi Fields; and

WHEREAS, since the 1960s the Vienna Girls Softball League has provided opportunities for school-age girls in Northern Virginia to play softball at all levels from recreational teams to club softball and national tournaments; and

WHEREAS, the Vienna Girls Softball League hosts games at Caffi Fields, which is typically maintained through a partnership between the league and the Town of Vienna; and

WHEREAS, after recognizing that extensive repairs were necessary to ensure a high quality of play, the Vienna Girls Softball League launched a community fundraiser with a goal to raise $10,000 to help address several issues causing the fields to retain water, making them less usable after a rainfall; and

WHEREAS, the Vienna Girls Softball League developed a plan to regrade infields to reduce water retention, level the ground between infields and outfields, and put sod between the dugouts and diamonds, as well as seek additional long-term town funding for a complete overhaul of the fields; now, therefore, be it

RESOLVED by the House of Delegates, That the Vienna Girls Softball League hereby be commended for its work to rally community support for young athletes; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Vienna Girls Softball League as an expression of the House of Delegates' admiration for the organization's service to young people in Vienna.

HOUSE RESOLUTION NO. 337

Commending the Ghanaian American community in Virginia.

Agreed to by the House of Delegates, February 17, 2023

WHEREAS, the Ghanaian American community in Virginia has over the years become an essential thread in the fabric of the Commonwealth; and

WHEREAS, in 1957, Ghana became the first sub-Saharan country in colonial Africa to gain its independence; and

WHEREAS, since its first post-independence population census in 1960 that counted approximately 6.7 million inhabitants, Ghana has grown into a country with a population of nearly 33 million; and

WHEREAS, originally formed from the merger of the British colony of the Gold Coast and the Trust Territory of Togoland, Ghana is home to more than 100 different ethnic groups, yet has remained relatively peaceful throughout its history; and

WHEREAS, Virginia is currently home to one of the largest Ghanaian American communities in the nation, with a majority of the members of this community immigrating around 2000, making it one of the more recently settled populations in the Commonwealth; and

WHEREAS, the Ghanaian American community has played a particularly important role in the academia, health care, and social services sectors of the Commonwealth, with many of its members serving on the frontlines of the state's response to the COVID-19 pandemic; and

WHEREAS, several Ghanaian American organizations in the Commonwealth, such as the Virginia Association of Ghanaian Nurses, have demonstrated extraordinary dedication to the well-being of others through their service in the community; and

WHEREAS, the Ghanaian American community's experience in Virginia is a testament to why the Commonwealth is a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, That the Ghanaian American community in Virginia hereby be commended for its place in the history and culture of the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to representatives of the Ghanaian American community in Virginia as an expression of the House of Delegates' admiration for its contributions to the Commonwealth.

HOUSE RESOLUTION NO. 338

Commending Metrobus.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Metrobus, a bus service operated by the Washington Metropolitan Area Transit Authority and a critical component of the transit system in the Washington, D.C., metropolitan area, celebrated its 50th anniversary on February 4, 2023; and

WHEREAS, Metrobus was founded on February 4, 1973, following the acquisition and merger of several local transit companies, including DC Transit; the Washington, Virginia and Maryland Coach Company; the Alexandria, Barcroft and Washington Transit Company; and the Washington, Marlboro and Annapolis Motor Lines; and

WHEREAS, Metrobus has dedicated operators who take pride in providing reliable and trusted service daily throughout the national capital region; and

WHEREAS, Metrobus serves customers who depend on public transit for work, leisure, and essential services; and

WHEREAS, Metrobus maintains a fleet of 1,600 buses and serves customers across an area spanning more than 1,500 square miles throughout Washington, D.C., Maryland, and the Commonwealth; and

WHEREAS, Metrobus is currently transitioning to a zero-emission fleet and plans to be 100 percent emission-free by 2045, with all new buses entering service utilizing electric or other zero-emission technology by 2030; and

WHEREAS, Metrobus is grateful to its federal, state, and local funding partners for ensuring that safe, reliable service continues to be provided throughout the national capital region; and

WHEREAS, Metrobus celebrates the community and its staff and regional stakeholders on its 50th anniversary and wishes for many more years of service to come; now, therefore, be it

RESOLVED by the House of Delegates, That Metrobus hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Metrobus as an expression of the House of Delegates' admiration for its history of contributions to the Commonwealth.

HOUSE RESOLUTION NO. 339

Celebrating the life of the Reverend Dr. William Alexander Jenkins.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, the Reverend Dr. William Alexander Jenkins, longtime pastor of New Bridge Baptist Church in Richmond and interim pastor of Mount Olive Baptist Church in Wicomico and First Antioch Baptist Church in Powhatan, died on May 25, 2022; and

WHEREAS, born in Hertford, North Carolina, and baptized at Galatia Baptist Church in Seaboard, North Carolina, William Jenkins moved with his family to Brooklyn, New York, when he was 15 years of age, where he joined Cornerstone Baptist Church; and

WHEREAS, William Jenkins was licensed to preach under the pastorate of Dr. Sandy F. Ray at Cornerstone Baptist Church, and he received a bachelor's degree from what is today Virginia University of Lynchburg in 1962; and

WHEREAS, William Jenkins was ordained in 1971 and became the pastor at New Bridge Baptist Church, leading the congregation in establishing a food ministry, a men and women's fellowship, a community outreach program, and a child care center over the years and in relocating to a new church building in 2004; and

WHEREAS, William Jenkins furthered his divinity studies, earning a master of divinity degree from what is now the Samuel DeWitt Proctor School of Theology at Virginia Union University in 1974 and a doctoral degree in divinity from Infinity Bible Seminary in 2005; and

WHEREAS, in addition to New Bridge Baptist Church, William Jenkins lent his services to Mount Olive Baptist Church and First Antioch Baptist Church, providing the congregations with uplifting spiritual guidance and abundant opportunities for community outreach; and

WHEREAS, William Jenkins was a highly involved member of the Greater Richmond community, participating with various organizations, including the Baptist Ministers' Conference of Richmond and Vicinity, the Star of the East Baptist Association, the Interfaith Services of Henrico, and the Henrico County branch of the NAACP; and

WHEREAS, William Jenkins will be fondly remembered and dearly missed by his loving wife of 31 years, Margaret; his children, Desiree and Sharon, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Reverend Dr. William Alexander Jenkins, a cherished faith leader whose selfless devotion to serving others touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Dr. William Alexander Jenkins as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 340

Celebrating the life of Bettye Anne Brown Jenkins.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Bettye Anne Brown Jenkins, an esteemed educator and a beloved member of the communities of Roanoke, King and Queen County, and Henrico County, died on November 17, 2022; and

WHEREAS, a native of Roanoke and a graduate of the Allen School in Asheville, North Carolina, Bettye Jenkins attended what is now Bluefield State University in West Virginia before earning a bachelor's degree from what is now Virginia Theological Seminary and College in Lynchburg; subsequently, she also earned a bachelor's degree in education from Virginia Union University in 1974; and

WHEREAS, Bettye Jenkins embarked upon a noble career as an educator, first at Washington District Elementary School in Westmoreland County and later at Lawson-Marriott Elementary School in King and Queen County, where she contributed to her students' success both in and out of the classroom; and

WHEREAS, while serving the educational and developmental needs of her students in King and Queen County, Bettye Jenkins was steadfast in her commitment to the community, serving as president of the King & Queen Education Association, as president and vice president of her local parent-teacher association, and as a board member with the local district of the Boy Scouts of America; and

WHEREAS, Bettye Jenkins returned to Roanoke to care for her parents in the early 1990s and later opened and operated the day care center Bundles of Joy Family Day Home, devoting considerable time, energy, and resources to ensure the well-being of the infants and children in her care; and

WHEREAS, after relocating to Richmond in 2004 to live closer to her daughter, Bettye Jenkins was guided once again by her compassion and concern for area youth, leading her to take a position as a nutritionist with Henrico County Public Schools; and

WHEREAS, Bettye Jenkins will be fondly remembered and dearly missed by her loving and devoted daughter, Desiree, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Bettye Anne Brown Jenkins, a cherished member of the Roanoke, King and Queen County, and Henrico County communities whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Bettye Anne Brown Jenkins as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 341

Commending Black-owned businesses in Virginia.

Agreed to by the House of Delegates, February 17, 2023

WHEREAS, Black-owned businesses in Virginia form an integral part of local economies and communities and are an embodiment of the Commonwealth's enterprising spirit; and

WHEREAS, the National Negro Business League, later the National Business League, was founded in 1900 by Booker T. Washington to support the efforts of Black entrepreneurs and Black-owned businesses; and

WHEREAS, the United States saw a golden age of Black-owned businesses from approximately 1900 to 1930 as many Black entrepreneurs stepped up to serve the needs of their communities as they became increasingly segregated and insulated due to the Jim Crow laws of the time; and

WHEREAS, Black-owned businesses thrived in urban areas in the United States where the majority of Black people lived and helped contribute to the quality of life in these communities; and

WHEREAS, despite facing blatant racism and injustice, Black-owned businesses have achieved great success over the years through exceptional persistence and determination; and

WHEREAS, the history of Black entrepreneurism in the United States goes back centuries, from Thomas L. Jennings, who became the first Black patent holder in 1821, to Ursula Burns, who became the first Black female to lead a Standard and Poor's 500 company when she was named chief executive officer of Xerox in 2009; and

WHEREAS, over the years, Black-owned businesses have drawn inspiration from the richness of African American culture, while many have been created to improve access to certain services and to fulfil certain needs; and

WHEREAS, through the tireless efforts and visionary leadership of many Black entrepreneurs, Black-owned businesses have helped to lift up countless individuals and families and to instill a sense of pride among the communities they serve; now, therefore, be it

RESOLVED by the House of Delegates, That Black-owned businesses in Virginia be commended for their accomplishments and legacy of service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to representatives of the Virginia Black Business Directory as an expression of the House of Delegates' admiration for the history and contributions of Black-owned businesses in Virginia.

HOUSE RESOLUTION NO. 342

Commending Audrey Furness.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Audrey Furness, a passionate advocate for young people, retired from the Accomack County School Board in 2019, after 36 years of outstanding service; and

WHEREAS, Audrey Furness grew up in Accomack County and graduated from what was then known as Parksley High School and later became Parksley Middle School; and

WHEREAS, Audrey Furness served on the parent-teacher associations of what is now Kegotank Elementary School and Parksley Middle School, where she supported efforts to build a school gym; and

WHEREAS, Audrey Furness was inspired to run for the Accomack County School Board to help students throughout the county receive the best possible education; and

WHEREAS, in 1983, Audrey Furness was sworn in as a member of the Accomack County School Board by her father, J. Fulton Ayres, who was the clerk of the Accomack Circuit Court at the time, and began a long and distinguished tenure as a champion for students in the county; and

WHEREAS, over the course of her career, Audrey Furness worked with eight superintendents and countless principals, administrators, and teachers; she worked diligently to enhance the academic process and ensure students had the tools to become lifelong learners and achieve their fullest potential; and

WHEREAS, Audrey Furness oversaw the opening of numerous new schools, including Nandua High School, Nandua Middle School, Arcadia Middle School, Chincoteague Elementary School, Accawmacke Elementary School, Metompkin Elementary School, and Tangier Combined School; and

WHEREAS, Audrey Furness helped create innovative programs to better serve students, including Reconnect, which allows students who have been expelled from school to continue their studies electronically with adult supervision; now, therefore, be it

RESOLVED by the House of Delegates, That Audrey Furness hereby be commended on the occasion of her retirement from the Accomack County School Board; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Audrey Furness as an expression of the House of Delegates' admiration for her achievements in service to students in Accomack County.

HOUSE RESOLUTION NO. 343

Commending the Virginia Polytechnic Institute and State University men's basketball team.

Agreed to by the House of Delegates, February 20, 2023

WHEREAS, the Virginia Polytechnic Institute and State University men's basketball team won the Atlantic Coast Conference tournament championship at the Barclays Center in Brooklyn, New York, on March 12, 2022; and

WHEREAS, the Virginia Tech Hokies defeated the Duke University Blue Devils by a score of 82-67 to secure the university's first-ever Atlantic Coast Conference (ACC) men's basketball tournament championship title; and

WHEREAS, after going into the half narrowly ahead 42–39, the Virginia Tech Hokies quickly jumped out to a double-digit advantage early in the second half and held at least a five-point lead for the remainder of the contest; and

WHEREAS, the ACC tournament's Most Valuable Player, Hunter Cattoor, led the team with a career-high 31 points while shooting seven for nine from beyond the arc; he finished the tournament with a total of 49 points, 14 rebounds, and six assists across four games; and

WHEREAS, the Virginia Tech Hokies' historic win was a total team effort, with another standout performance from senior Keve Aluma, who had 19 points, 10 rebounds, and seven assists in the final and scored 76 points, 26 rebounds, and 13 assists in the tournament; and

WHEREAS, Virginia Tech senior Storm Murphy scored a total of 47 points, seven rebounds, and 18 assists in the four tournament games, and sophomore Darius Maddox recorded 38 points, 13 rebounds, and one assist; and

WHEREAS, the ACC championship win marked a triumphant end to a historic season for the Virginia Tech Hokies, with Hunter Cattoor and Keve Aluma becoming the first-ever Hokies to be named to the ACC All-Tournament First Team; Storm Murphy and Darius Maddox were also named to the ACC All-Tournament Second Team; and

WHEREAS, entering the ACC tournament as the seventh seed, the Virginia Tech Hokies, with the outstanding leadership of head coach Mike Young, pulled off four wins in four straight days to become the lowest-seeded team to win the championship in the history of the tournament; and

WHEREAS, by also winning 13 of 15 games in the run-up to the ACC tournament championship, the Virginia Tech Hokies punched their ticket to the 2022 National Collegiate Athletic Association tournament in commanding fashion; and

WHEREAS, the success of the Virginia Tech Hokies is the result of the dedication and hard work of the student-athletes; the leadership and guidance of their coaches, trainers, and professors; and the unwavering support of the entire Virginia Tech community; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Polytechnic Institute and State University men's basketball team hereby be commended for winning the 2022 Atlantic Coast Conference tournament championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to Mike Young, head coach of the Virginia Polytechnic Institute and State University men's basketball team, and Whit Babcock, Virginia Tech athletic director, as an expression of the House of Delegates' admiration for the team's achievement.

HOUSE RESOLUTION NO. 344

Commending the Charles J. Colgan Sr. High School cheer team.

Agreed to by the House of Delegates, February 22, 2023

WHEREAS, the Charles J. Colgan Sr. High School cheer team of Prince William County won the Virginia High School League Class 6 state championship on November 5, 2022, at the Stuart C. Siegel Center in Richmond; and

WHEREAS, the Colgan High School Sharks finished the competition with 250 points, surpassing the runner-up Patriot High School of Prince William County by 10 points to bring home the program's first title on its first trip to the state competition; and

WHEREAS, after sitting in third place after their preliminary round, the Colgan Sharks put together a flawless routine in the second round of competition to claim the lead and win the day; and

WHEREAS, in recognition of their accomplishments, the Colgan Sharks' Riley Owen was named Virginia High School League (VHSL) Class 6 state competition Cheerleader of the Year and Matthew Allen received all-state second team honors, while head coach Michelle Bordelon was named VHSL Coach of the Year; and

WHEREAS, the Colgan Sharks were motivated to progress throughout the year by head coach Michelle Bordelon, who consistently set new goals for the team as they advanced in their abilities; and

WHEREAS, the success of the Colgan Sharks is the result of the hard work and dedication of the cheer team's members, the leadership and guidance of their coaches and teachers, and the unwavering support of the entire Charles J. Colgan Sr. High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Charles J. Colgan Sr. High School cheer team hereby be commended for winning the 2022 Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michelle Bordelon, head coach of the Charles J. Colgan Sr. High School cheer team, as an expression of the House of Delegates' admiration for the team's achievement.

HOUSE RESOLUTION NO. 345

Commending the C.D. Hylton High School automotive team.

Agreed to by the House of Delegates, February 22, 2023

WHEREAS, in November 2022, the C.D. Hylton High School automotive engine team won the Hot Rodders of Tomorrow Engine Challenge at the Specialty Equipment Market Association Show; and

WHEREAS, the C.D. Hylton High School automotive team, led by automotive technology instructor Ed Stevens, traveled to Las Vegas to participate in the challenge, in which a team of five students was tasked with disassembling a Chevy 350 engine to the crankshaft and reassembling it; and

WHEREAS, for the challenge, the C.D. Hylton High School automotive team could use only hand tools and was required to lubricate components, make all proper adjustments, and use proper torque procedures to ensure that the engine was in working order; and

WHEREAS, over the course of three days, the members of the C.D. Hylton High School automotive engine team completed four perfect runs, a feat never before accomplished in the history of the engine challenge; they were also the only team in the challenge with an average time under 20 minutes; and

WHEREAS, the victory was a tribute to the hard work and skill of the students, the leadership and guidance of their teacher, and the support of parents, friends, and the entire C.D. Hylton High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the C.D. Hylton High School automotive engine team hereby be commended on winning the Hot Rodders of Tomorrow Engine Challenge at the Specialty Equipment Market Association Show in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ed Stevens as an expression of the General Assembly's admiration for the C.D. Hylton High School automotive team's achievements.

HOUSE RESOLUTION NO. 346

Commending J. Christopher Ludwig.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, the Commonwealth of Virginia is known for its beautiful natural landscapes, sweeping vistas, and outstanding public parks and is recognized as having one of the most diverse inventories of plants and natural areas in the United States; and

WHEREAS, the Commonwealth was for decades without a flora to identify and describe the more than 3,200 plants that thrive in Virginia; and

WHEREAS, decades of research and work culminated in the publication in 2012 of the first modern flora, including thousands of species descriptions, illustrations, and maps of the area of the Commonwealth in which each species thrives; and

WHEREAS, J. Christopher Ludwig of Goochland was instrumental in producing the *Flora of Virginia*, being a co-author of the work and having served as executive director of the Flora of Virginia Project Foundation, of which he served as president of the foundation board for 21 years, from 2001 through 2022; and

WHEREAS, because of the knowledge and leadership of J. Christopher Ludwig, the *Flora of Virginia* continues to provide accurate and highly accessible information electronically through its digital app; and

WHEREAS, the *Flora of Virginia*, now regarded as the most important and accessible comprehensive botanical guide in Virginia, is being used by federal, state, and local agencies, private businesses, schools, professional botanists, and thousands of plant enthusiasts for recreation, conservation, and management; and

WHEREAS, Virginia's vegetation is dynamic, meaning that plants evolve, shift ranges, and adapt to new conditions, and the *Flora of Virginia* helps identify all species, maintain the ecological integrity of natural communities, mitigate development to wetlands, and protect vulnerable plants; now, therefore, be it

RESOLVED by the House of Delegates, That J. Christopher Ludwig hereby be commended for his indispensable contribution to the science of botany in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to J. Christopher Ludwig as an expression of the House of Delegates' gratitude for his legacy in making the *Flora of Virginia* available for all residents of the Commonwealth.

HOUSE RESOLUTION NO. 347

Celebrating the life of William T. Mason, Jr.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, William T. Mason, Jr., a pioneering civil rights attorney who left a legacy of contributions to the Norfolk community, the Commonwealth, and the United States, died on February 1, 2023; and

WHEREAS, William Mason was born on July 27, 1926, in Norfolk and was the only child of the late Vivian Carter Mason, a well-known social worker and civic leader who was the first African American woman appointed to the Norfolk School Board, and the late William T. Mason, Sr., a well-known real estate dealer, insurance executive, and administrator of Norfolk Community Hospital; and

WHEREAS, William Mason attended Virginia Union University for his first year of college, then transferred to Colby College in Waterville, Maine, on the advice of one of his high school teachers; and

WHEREAS, after receiving his bachelor's degree from Colby College in 1947, William Mason earned a law degree from Howard University School of Law in Washington, D.C., in 1950, then became a member of the Virginia State Bar in 1951; he started his practice of real estate law after moving back to Norfolk, where he also served as counsel for the Attucks Theatre; and

WHEREAS, in 1963, William Mason was appointed by President John F. Kennedy to serve as the first African American assistant United States Attorney in the Eastern District of Virginia, in which capacity he was based in Norfolk and worked on school desegregation cases as well as criminal and civil matters; he was employed there until July 1972; and

WHEREAS, William Mason participated in the founding of Norfolk's first prominent multiracial legal practice, Mason, Robinson, Eichler and Zaleskie; Oliver Hill and Samuel Tucker, two renowned civil rights attorneys from Richmond, sought his wise advice on civil rights cases, and he worked as a cooperating attorney for the NAACP Legal Defense and Educational Fund, Inc., a civil rights litigation firm Thurgood Marshall established in New York before becoming a justice of the Supreme Court of the United States; and

WHEREAS, William Mason was the oldest living member of the Old Dominion Bar Association and president emeritus of the South Hampton Roads Bar Association, and he fulfilled his duties as the living historian; he was also a member of the Virginia State Bar for 71 years and is considered one of the many unsung heroes of the civil rights movement for his promotion of democratic values and his commitment to removing barriers to fair elections like the poll tax; and

WHEREAS, William Mason's passion for community leadership guided him to become a board member of the Norfolk Community Hospital Association, the Norfolk United Way, the Urban League of Hampton Roads, Inc., the Twin City Bar Association, the Old Dominion Bar Association, the Southern Regional Council, the Norfolk State University Foundation, Inc., and the Board of Visitors for Colby College and a director of the Crispus Attucks Cultural Center, Inc.; and

WHEREAS, William Mason has received numerous awards and accolades for his contributions to the Hampton Roads legal community and his dedication to justice, including the Old Dominion Bar Association's Lifetime Achievement Award, a proclamation from Norfolk Mayor Kenneth Cooper Alexander, recognition in the Supreme Court of Virginia's Judicial Learning Center, the *New Journal and Guide*'s Impacting Lives Award, and the Member of the Year Award from the South Hampton Roads Bar Association; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of William T. Mason, Jr., a trailblazing attorney who touched countless lives through his kindness and legal acumen; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William T. Mason, Jr., as an expression of the House of Delegates' respect for his memory and admiration for his personal and professional achievements and many years of service and dedication to the Norfolk community, the Commonwealth, and the United States.

HOUSE RESOLUTION NO. 348

Commending the Riverheads High School football team.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, the Riverheads High School football team of Staunton earned its seventh consecutive state title with a victory in the Virginia High School League Class 1 state championship in December 2022; and

WHEREAS, the Riverheads High School Gladiators defeated the George Wythe High School Maroons by a score of 49-27 to finish the season with an impressive 12-1 record; and

WHEREAS, the Riverheads Gladiators never trailed in the state final and controlled the pace of the game with a relentless ground attack, rushing for more than 480 total yards and all seven touchdowns; and

WHEREAS, Cayden Cash-Cook, who was named the Class 1 Offensive Player of the Year, led the Riverheads Gladiators with five touchdowns, followed by Luke Bryant with two touchdowns; and

WHEREAS, the victory was the 10th state title in program history for the Riverheads Gladiators; and

WHEREAS, the successful season was a tribute to the skill and determination of all the student-athletes, the leadership and guidance of the coaches and staff, and the enthusiastic support of the entire Riverheads High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Riverheads High School football team hereby be commended on winning the Virginia High School League Class 1 state championship in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ray Norcross, head coach of the Riverheads High School football team, as an expression of the House of Delegates' admiration for the team's achievements and best wishes for the future.

HOUSE RESOLUTION NO. 349

Commending Robin Randolph Lind.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, though Plato was not alone among the ancients in believing that democracy was the final phase in the descent of political disorder into tyranny; and

WHEREAS, though Tocqueville, in *Democracy in America*, contemplated with "a kind of religious dread" the effects he foresaw for the original American ideal of liberty of the seemingly irresistible forces of the democratic revolution of the 18th and early 19th centuries; and

WHEREAS, nevertheless, there are countless men and women of goodwill who devote their energies to expanding the franchise by which democratic numbers continue to reshape the forms bequeathed by the founders alike of the American republic and the Commonwealth of Virginia; and

WHEREAS, for 20 years, Robin Randolph Lind has been such a man of goodwill, serving variously as secretary, vice chairman, and chairman of the Electoral Board of Goochland County; and

WHEREAS, the devotion to democratic principles and the integrity of elections that has characterized the public service of Robin Randolph Lind has become well-known throughout the Commonwealth through his service, too, as president of the Virginia Electoral Board; and

WHEREAS, Robin Randolph Lind is a born Democrat, though his kinsman of the 19th century, the redoubtable John Randolph of Roanoke, was a sworn opponent of what he denounced as "King Numbers"; and

WHEREAS, Robin Randolph Lind, son of a courageous British naval officer, has, in all of his professional and civic endeavors, drawn upon the loving and collaborative support of his wife, Kitty, daughter of the late Honorable Murat Willis Williams, a longtime member of the United States Foreign Service and the American Ambassador to El Salvador during the Kennedy Administration; and

WHEREAS, during his long tenure on the Electoral Board of Goochland County, Robin Randolph Lind was, in his own words, wholly engaged "…on 34 separate Election Day cycles, conducting 186 individual elections, with separate certifications for every contest," and he noted that his signature on the requisite official documents "has been my sworn promise to go to prison if the results were not accurate, and the election was not free, fair, and transparent. I have been true to my oath"; and

WHEREAS, in concluding his career on the Electoral Board, Robin Randolph Lind has been able to declare that "democracy is strong and flourishing in Goochland County," where many hands have established the integrity of the electoral process, resulting in "the highest percentage turnout of voters all across the Commonwealth, year after year"; and

WHEREAS, Robin Randolph Lind is a learnèd and inimitable man given to apposite quotations from ancient scribes, and gifted with honorable centricities and delightful eccentricities, evidenced in the brilliant journalism of his early years and enriched by his regular retreats into the Tesseract; now, therefore, be it

RESOLVED by the House of Delegates, That Robin Randolph Lind hereby be commended for his long and honorable service as an officer of the Goochland and Virginia electoral boards; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robin Randolph Lind in recognition of—in the words of the elected officials of his community—his "invaluable service to the citizens of Goochland County."

HOUSE RESOLUTION NO. 350

Commending Alejandro Buxton.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Alejandro Buxton, founder and chief executive officer of Smell of Love Candles, a candle company based in Northern Virginia, opened his company's first brick and mortar shop with a stand at Tysons Corner Center in Fairfax County in 2022; and

WHEREAS, Alejandro Buxton started making candles in his kitchen to develop a high-quality, all-natural product for use around his home; and

WHEREAS, as Alejandro Buxton's burgeoning candle-making operation expanded from his kitchen to his basement, the Smell of Love Candles company took root; and

WHEREAS, at 12 years of age, Alejandro Buxton became the youngest entrepreneur to open a venture at Tysons Corner Center, one of the country's premier shopping destinations; and

WHEREAS, Alejandro Buxton first put proceeds from Smell of Love Candles toward books and savings for college and now donates profits each month to charity, while also developing a scholarship fund to send other kids to college; and

WHEREAS, Alejandro Buxton's success has been celebrated on numerous local news programs, bringing greater attention to his worthy endeavor; and

WHEREAS, through a YouTube channel and podcast, both titled *Lessons from a Kidpreneur*, Alejandro Buxton shares business tips and lessons he has learned along the way for the benefit of other aspiring young entrepreneurs; and

WHEREAS, Alejandro Buxton's accomplishments are a testament to his hard work and dedication and serve as inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, That Alejandro Buxton hereby be commended for his entrepreneurial achievements with Smell of Love Candles and for his service to the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Alejandro Buxton as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 351

Celebrating the life of Maeronia Blathers Arrington.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, Maeronia Blathers Arrington, a beloved wife, mother, grandmother, and member of the Henrico County community, died on November 16, 2022; and

WHEREAS, Maeronia Arrington made a positive difference in the lives of many people and was happiest when spending time with her children and grandchildren; and

WHEREAS, guided throughout her life by her faith, Maeronia Arrington enjoyed worship and fellowship with her community at Cedar Street Baptist Church of God in Richmond, where she served as a deaconess; and

WHEREAS, preceded in death by her husband, Christopher, Sr., Maeronia Arrington will be fondly remembered and dearly missed by her children, Patrese and Christopher, Jr., and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Maeronia Blathers Arrington, a cherished member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Maeronia Blathers Arrington as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 352

Celebrating the life of Shawn C. Williams.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, Shawn C. Williams, a beloved son and father and treasured member of the Richmond community, died on August 18, 2022; and

WHEREAS, Shawn Williams made a positive difference in the lives of many people and was happiest when spending time with his daughters, Carisma and Cameron; and

WHEREAS, Shawn Williams will be fondly remembered and dearly missed by his daughters, Carisma and Cameron; his parents, Melvin and Jacquelynne; his brothers, Damon and Benjamin; his special friend, Ann-Frances; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Shawn C. Williams, a cherished member of the Richmond community whose light brightened countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Shawn C. Williams as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 353

Commending the Radford University women's soccer team.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, the Radford University women's soccer team battled their way to a Big South Conference Championship on November 6, 2022, at the SportsPlex in Matthews, North Carolina; and

WHEREAS, the Radford University Highlanders defeated the Gardner-Webb University Runnin' Bulldogs 3-0 in the fifth straight shutout victory for the Highlanders; and

WHEREAS, the Radford University Highlanders' victory was a total team effort; in recognition of their accomplishments, Helena Willson was named the tournament's Most Valuable Player, while Jillian Silverstone, Katelyn O'Donnell, and Amy Swain earned all-tournament honors; and

WHEREAS, along with securing the program's eighth championship title and ninth National Collegiate Athletic Association tournament trip, the Radford University Highlanders finished the season with an impressive 12-4-4 record; and

WHEREAS, the success of the Radford University Highlanders is the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and professors, and the unwavering support of their families and the entire Radford University community; now, therefore, be it

RESOLVED by the House of Delegates, That the Radford University women's soccer team hereby be commended for winning the 2022 Big South Conference Championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ben Sohrabi, head coach of the Radford University women's soccer team, as an expression of the House of Delegates' admiration for the team's achievement.

HOUSE RESOLUTION NO. 354

Celebrating the life of the Reverend Paulis Ervin Johnson, Sr.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, the Reverend Paulis Ervin Johnson, Sr., a respected faith leader and beloved member of the Roanoke community, died on January 30, 2023; and

WHEREAS, born in Baltimore, Paulis "Paul" Ervin Johnson, Sr., moved to Roanoke and worked at The Hotel Roanoke for some time, where he met his first wife, Roberta; and

WHEREAS, Paul Johnson then served as a mail sorter with the United States Postal Service from 1966 to 1988, while also managing a small farm where he raised hogs and later cattle; and

WHEREAS, after years of faithful service as a Sunday school teacher and deacon at Ebenezer Baptist Church in Roanoke, Paul Johnson was called to the ministry at Rising Mt. Zion Baptist Church in Gala and Chestnut Grove Baptist Church in Bedford County; and

WHEREAS, Paul Johnson would then serve at First Missionary Baptist Church in New River and at Wake Forest Baptist Church in Blacksburg before becoming the first pastor of the Williams Memorial Baptist Church in Roanoke in 1979, where he would serve until his retirement in 2009; and

WHEREAS, over the years, Paul Johnson provided his congregations with uplifting and edifying spiritual counsel and bountiful opportunities for outreach, bringing many closer to their faith and their communities; and

WHEREAS, preceded in death by his first wife, Roberta; his second wife, Margaret; and his son, Frank, Paul Johnson will be fondly remembered and dearly missed by his children, Paula, Paulis, Jr., and Lesley, and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Reverend Paulis Ervin Johnson, Sr., a cherished member of the Roanoke community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Paulis Ervin Johnson, Sr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 355

Commending Bethlehem Bible College.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, Bethlehem Bible College, a faith-based institution in Roanoke providing students with spiritual guidance and instruction, celebrated its 35th anniversary on January 28, 2023, at the Greater Prayer Temple Outreach Ministries in Roanoke; and

WHEREAS, Bethlehem Bible College was founded in 1987 with the goals of educating students in the teachings of the gospel and imparting wisdom that would make a positive impact on their lives; and

WHEREAS, Bethlehem Bible College's 35th anniversary celebration brought past, present, and future members of the institution's community together and included a special tribute to the institution's beloved founder, the late Reverend Dr. Thomas A. Woods, Sr.; and

WHEREAS, the accomplishments of Bethlehem Bible College are the result of the hard work and dedication of the institution's students and staff, who have built a solid foundation for many years of continued success; now, therefore, be it

RESOLVED by the House of Delegates, That Bethlehem Bible College hereby be commended on the occasion of its 35th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bethlehem Bible College as an expression of the House of Delegates' admiration for the institution's history and its contributions to the Commonwealth.

HOUSE RESOLUTION NO. 356

Celebrating the lives of George and Dorothy Ftikas.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, George and Dorothy Ftikas were generous patrons of the arts who enhanced cultural life in Northern Virginia by supporting access to the theater and to symphonic and chamber music as donors to the Arena Stage, the National Symphony Orchestra, and the John F. Kennedy Center for the Performing Arts; and

WHEREAS, George Ftikas grew up in Thessaloniki, Greece, where he began to cultivate a passion for the power of music at a young age after hearing Ludwig van Beethoven's Egmont Overture on his cousin's gramophone; and

WHEREAS, during World War II, George Ftikas produced a monthly publication documenting the abuses of the Nazis during their occupation of his country; his firsthand account of life in Greece during the war was recorded by the National Holocaust Museum and remains available on the museum's website; and

WHEREAS, Dorothy "Duffy" Ftikas also developed a love of music at a young age by listening to her mother play piano in their home and collecting concert tickets and records with the help of her grandfather; and

WHEREAS, after graduating from Columbia University, Duffy Ftikas pursued a career as an occupational therapist and helped disabled children learn self-care skills; she was a trusted mentor to many other occupational therapists over the years; and

WHEREAS, in 1986, George and Duffy Ftikas settled in the Washington, D.C., area and quickly became subscribers to the Arena Stage and the National Symphony Orchestra at the John F. Kennedy Center for the Performing Arts; the couple enjoyed countless performances over the years and proudly sponsored productions at Arena Stage and promoted the National Symphony Orchestra as one of the finest in the world; and

WHEREAS, after they retired from their respective careers, George and Duffy Ftikas continued to enjoy opportunities to hear acclaimed musical performances in the nation's capital, but also traveled the world, visiting destinations like Fiji, Tahiti, Bali, Tasmania, and New Zealand; and

WHEREAS, George and Duffy Ftikas will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of George and Dorothy Ftikas, who left a legacy of contributions to the musical arts community in Northern Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of George and Dorothy Ftikas as an expression of the House of Delegates' respect for their memory.

HOUSE RESOLUTION NO. 357

Commending the Reverend Jack C. Stewart.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, the Reverend Jack C. Stewart, senior pastor at Grace Southern Baptist Church in Virgilina, celebrated 40 years of leading the church's congregation in January 2023; and

WHEREAS, after hearing the call to preach and attending Southeastern Baptist Theological Seminary, Jack Stewart accepted the opportunity to serve as pastor of what is now Grace Southern Baptist Church in 1983, graduating from the seminary a year later; and

WHEREAS, through Sunday services and a Wednesday night Bible study, Jack Stewart provides his congregation with edifying and uplifting spiritual counsel to guide them in their faith; and

WHEREAS, Jack Stewart has seen the congregation at Grace Southern Baptist Church grow and thrive over the years, nearly quadrupling its membership during his tenure; and

WHEREAS, Jack Stewart has served the mission of Grace Southern Baptist Church by steering various renovation and construction projects at the church, updating the sanctuary and other facilities for the benefit of the congregation; and

WHEREAS, Jack Stewart has fostered numerous ministries and outreach programs at Grace Southern Baptist Church to enable members of the congregation to look deeper into their faith and to make meaningful contributions to their community; and

WHEREAS, Jack Stewart has given generously of his time in service to others, previously serving on the recreation committee for Halifax County, as chaplain for Halifax Christian School, and as parent-teacher organization president at the former Virgilina Elementary School; and

WHEREAS, Jack Stewart is currently serving as chaplain for Sentara Halifax Regional Hospital and on his community's American Rescue Plan Act board, helping to make Halifax County a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, That the Reverend Jack C. Stewart hereby be commended on the occasion of his 40th anniversary at Grace Southern Baptist Church; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Jack C. Stewart as an expression of the House of Delegates' admiration for his legacy of service and best wishes in his future endeavors.

HOUSE RESOLUTION NO. 358

Commending Elwood Williams.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, for 40 years, Elwood Williams has made numerous contributions to young people in Norfolk as a program director and executive director of local Boys & Girls Clubs; and

WHEREAS, Elwood Williams, best known to generations of local young people as "Coach," worked with the former Colonial Boys & Girls Club and Southside Boys & Girls Club; he became the longest-serving executive director of a Boys & Girls Club program in the Commonwealth during his tenure with the Southside Boys & Girls Club Diggs Town Unit; and

WHEREAS, Elwood Williams is the creator of Streetology 101, a course for helping adults and juveniles transition from gang life to civilian life in a way that is safe, healthy, life-preserving, and sustaining; and

WHEREAS, Elwood Williams expanded the Streetology 101 course to Tidewater Community College and Norfolk State University, where sociology students learned how to better build partnerships with community members, hear people as they hurt, and be open to valuing the human before them, however imperfect; and

WHEREAS, Elwood Williams has helped young people build relationships based on trust and mutual respect with friends, neighbors, and other individuals in the community; by honoring those around him and meeting people "where they are," he was able to share his valuable perspectives and insights to those most in need, while broadening perspectives for all involved; and

WHEREAS, Elwood Williams has inspired young people through his tenacious leadership, unwavering kindness and compassion, and fearless empathy; now, therefore, be it

RESOLVED by the House of Delegates, That Elwood Williams hereby be commended for his 40 years of service to Boys & Girls Clubs in Hampton Roads; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Elwood Williams as an expression of the House of Delegates' admiration for his personal and professional achievements.

HOUSE RESOLUTION NO. 359

Commending the Office of the Chief Medical Examiner, LifeNet Health, Wendy M. Gunther, MD, Edward Ferreol, MD, and the late Raymond J. Murray.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, the Office of the Chief Medical Examiner operates a statewide medical examiner system with four district offices located in Norfolk, Richmond, Manassas, and Roanoke; and

WHEREAS, the Office of the Chief Medical Examiner, in accordance with the Code of Virginia, conducts investigations "Upon the death of any person from trauma, injury, violence, poisoning, accident, suicide or homicide, or suddenly when in apparent good health, or when unattended by a physician, or in jail, prison, other correctional institution or in police custody, or who is an individual receiving services in a state hospital or training center operated by the Department of Behavioral Health and Developmental Services, or suddenly as an apparent result of fire, or in any suspicious, unusual or unnatural manner, or the sudden death of any infant…"; and

WHEREAS, the Office of the Chief Medical Examiner, following the national standard of care upon investigating the death of an infant or child, would historically deny the donation of hearts prior to the forensic examination and autopsy; and

WHEREAS, working collaboratively with the organ and tissue procurement organization LifeNet Health, OCME recognized and accepted that pediatric cases could not successfully receive non-human heart valves for the medical correction of cardiac issues; and

WHEREAS, Wendy Gunther, MD, assistant chief medical examiner in the Tidewater District, Edward Ferreol, MD, senior manager of technical training and development with LifeNet Health, and Raymond J. Murray, medical examiner and funeral liaison officer with LifeNet Health, coordinated, developed, and introduced "the Virginia Protocol" as an approved method to examine and harvest donated pediatric hearts for valves and return the heart to the forensic pathologist for further study and review after harvest; and

WHEREAS, Dr. Gunther, Dr. Ferreol, and Raymond Murray presented "Pediatric Cadaver Heart Valve Donation in the Medical Examiner System: A Resource-Conserving Method" at the National Association of Medical Examiners Annual Meeting in September 2004 in Nashville, Tennessee; and

WHEREAS, Dr. Gunther published a check sample in *Forensic Pathology*, Volume 47, Number 6, a learning tool used nationally by the forensic pathology community, providing the history and development of the Virginia Protocol by the Virginia Office of the Chief Medical Examiner and LifeNet Health; and

WHEREAS, since 2005, through the profound generosity of Virginia families, valves from donated pediatric hearts have replaced absent, damaged, or diseased heart valves in infants, children, and youth in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That the Office of the Chief Medical Examiner, LifeNet Health, Wendy M. Gunther, MD, Edward Ferreol, MD, and the late Raymond J. Murray hereby be commended for their dedication, expertise, and work to change the lives and improve the health of infants, children, and youths in the Commonwealth and beyond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Wendy Gunther, MD, Edward Ferreol, MD, and Laura Murray, on behalf of Raymond J. Murray, as an expression of the House of Delegates' admiration for their achievements with the Office of the Chief Medical Examiner and LifeNet Health.

HOUSE RESOLUTION NO. 360

Celebrating the life of Charles Stuart Legum.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, Charles Stuart Legum, a respected veteran and entrepreneur in Norfolk, died on June 3, 2022; and

WHEREAS, Charles "Sonny" Stuart Legum was born on May 10, 1927, in Norfolk to the late Harry and Alma Legum; and

WHEREAS, Sonny Legum was a graduate of Fork Union Military Academy and the United States Coast Guard Officer Candidate School and attended what was then Richmond Polytechnic Institute and State University; and

WHEREAS, after serving the nation for many years, Sonny Legum retired from the United States Coast Guard Reserve as a commander; and

WHEREAS, Sonny Legum was well known as the longtime owner and proprietor of Stark and Legum, a haberdashery that first opened its doors in 1924; he served the community as a business owner until his well-earned retirement at age 87; and

WHEREAS, outside of his career, Sonny Legum enjoyed tennis, bridge, and spending time with his family; and

WHEREAS, Sonny Legum enjoyed fellowship and worship with the community at Beth El in Norfolk, where he was an active member of the Beth El Men's Club; and

WHEREAS, predeceased by his daughter, Robin, Sonny Legum will be fondly remembered and greatly missed by his loving wife of 71 years, Betty Lou; his son, Jason, and his family; the family of his daughter, Robin; and numerous other family members, friends, and members of the community he served; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Charles Stuart Legum; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Stuart Legum as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 361

Commending Miss Anne Boone.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, Miss Anne Boone, a resident and community activist of Norfolk, has achieved great success as an advocate, organizer, and volunteer; and

WHEREAS, Miss Anne Boone was recognized with the NAACP ACT-SO Award for her exceptional and sustained level of success and was also recognized for her volunteer activism by what was formerly Campostella Elementary School in Norfolk; and

WHEREAS, as a community organizer, Miss Anne Boone received special recognition and an award from the *New Journal and Guide*, one of the oldest Black newspapers in the country; and

WHEREAS, Miss Anne Boone, an active member of the community, organized and led the charge to advocate for reducing water overflow in flood-prone areas by installing new sewer piping and for improving the quality of life of area youth by installing new playground equipment in local schools; and

WHEREAS, as a founding member of the Southside Coalition and member of two civic leagues, Miss Anne Boone was instrumental in the fight to keep a much-needed local post office open for the community and influential within her community in voter registration efforts to increase voter turnout; and

WHEREAS, Miss Anne Boone is a founding member of a social group of elders, known as the "Jolly Bunch," that has grown into a political powerhouse in Norfolk, endorsing candidates for local and state elections and functioning as a forceful community group throughout the city; and

WHEREAS, Miss Anne Boone is a mentor, coach, and fighter for youth and senior citizens within her community, which is evidenced by her creation of the Annual Recognition of Youth Excellence Achievement Awards, her fundraising and successful installation of a historical monument in Mount Olive Cemetery, and her steadfast devotion to the opening of the Horace C. Downing Senior Center, all in the city she cares for deeply, Norfolk; now, therefore, be it

RESOLVED by the House of Delegates, That Miss Anne Boone of Norfolk hereby be commended for her outreach and her social, civic, and faith-based activities; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Miss Anne Boone as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 362

Commending James Washington.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, in 2022, James Washington, a community journalist, went above and beyond to help locate a missing child in Norfolk; and

WHEREAS, on May 22, 2022, 13-year-old Mayra Caraballo-Rodriguez and her dog were reported missing in Norfolk; and

WHEREAS, on the morning of the following day, Norfolk resident and neighborhood journalist James Washington spotted Mayra Caraballo-Rodriguez and her dog at Lafayette Park; and

WHEREAS, James Washington broadcast live on Facebook the role he played in ensuring the safe return of Mayra Caraballo-Rodriguez and her dog to her family; and

WHEREAS, James Washington regularly uses his Facebook page to cover local news that goes unnoticed by major news outlets in Hampton Roads; and

WHEREAS, James Washington consistently engages in community activism and mentorship to prevent gun violence and deal with its aftermath; now, therefore, be it

RESOLVED by the House of Delegates, That James Washington hereby be commended for his efforts to serve and inform the members of the Norfolk community and his efforts to help locate a missing child in May 2022 and return her safely to her family; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James Washington as an expression of the House of Delegates' admiration for his contributions to the residents of Norfolk and the Commonwealth.

HOUSE RESOLUTION NO. 363

Commending Laurie Rosalind Bailey Newsome.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, Laurie Rosalind Bailey Newsome, a treasured member of the Suffolk community, admirably served the country during World War II as a member of the United States Cadet Nurse Corps; and

WHEREAS, in response to a shortage of nurses during World War II, the United States Congress created the United States Cadet Nurse Corps in 1943, offering young women a subsidized education in nursing in exchange for their service; and

WHEREAS, born in Wakefield, Laurie "Laura" Rosalind Bailey Newsome attended Suffolk High School before enlisting with the United States Cadet Nurse Corps sometime between 1943 and 1944; and

WHEREAS, after completing her training at the Norfolk General Hospital School of Nursing, Laura Newsome was assigned to a United States veterans' hospital in Tuscaloosa, Alabama, where she tended to the health and well-being of countless wounded service members; and

WHEREAS, after the war, Laura Newsome enjoyed a 40-year career as a nurse, serving at Riverside Hospital in Newport News, Obici Hospital in Suffolk, and Maryview Hospital in Portsmouth; and

WHEREAS, Laura Newsome's service to the country during World War II required dedication and courage and deserves the high praise and esteem of all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, That Laurie Rosalind Bailey Newsome, a member of the United States Cadet Nurse Corps and the country's "Greatest Generation," hereby be commended for her legacy of service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Laurie Rosalind Bailey Newsome as an expression of the House of Delegates' admiration for her contributions to the nation.

HOUSE RESOLUTION NO. 364

Commending Bishop Samuel L. Carruth.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for more than 55 years, Bishop Samuel L. Carruth, the head pastor of Holy Light Church of Deliverance in Portsmouth, has provided wise spiritual leadership and helped enhance the quality of life in the community through generous outreach; and

WHEREAS, Samuel Carruth spent his young adulthood in Philadelphia, Pennsylvania, where he attended Benjamin Franklin High School and Temple University; he served his country as a member of the United States Army, and after his recovery from a traumatic event and an illness, he was inspired to answer the call to the ministry; and

WHEREAS, Samuel Carruth cofounded and served as assistant pastor of Deliverance Evangelistic Church in Philadelphia, during which time he earned his doctor of divinity degree; and

WHEREAS, in 1967, Samuel Carruth relocated to Portsmouth and became the pastor of Holy Light Church of Deliverance; he helped the congregation grow from humble beginnings with only 13 members to one of the most dynamic church congregations in the city; and

WHEREAS, Samuel Carruth launched initiatives to bring a spirit of joy and hope to communities outside the church; he hosted community events in low-income housing neighborhoods, developed educational programs and a summer camp for young people, and created a telephone ministry to stay engaged with the homebound; and

WHEREAS, Samuel Carruth reaches audiences far and wide through a daily television broadcast, and he hosts one of the largest, longest-airing Christian radio ministries in the region; and

WHEREAS, Samuel Carruth has served as chaplain of the Portsmouth Police Department and offered his leadership and expertise to several local organizations and committees; now, therefore, be it

RESOLVED by the House of Delegates, That Bishop Samuel L. Carruth hereby be commended for his more than 55 years of service as a spiritual and community leader in Portsmouth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bishop Samuel L. Carruth as an expression of the House of Delegates' admiration for his contributions to the Portsmouth community.

HOUSE RESOLUTION NO. 365

Celebrating the life of Samuel Irving Blake.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Samuel Irving Blake, an esteemed coach and youth mentor and an active and beloved member of the Portsmouth community, died on October 18, 2022; and

WHEREAS, Samuel Blake graduated in 2000 from Deep Creek High School in Chesapeake, where he was a standout on both the football team and in the marching band, and later attended Virginia State University and Tidewater Community College; and

WHEREAS, Samuel Blake's love for music led him to work as a disc jockey, providing quality entertainment at various local events, and to become a radio announcer at WPCE Peace 1400 AM in Portsmouth; and

WHEREAS, with a servant's heart, Samuel Blake took great pride in caring for his grandfather, Bishop Samuel Carruth, while serving as his armorbearer and driver; and

WHEREAS, Samuel Blake's activism made him a regular presence at local school board and city council meetings and a reliable volunteer for political campaigns and initiatives to improve area youth centers; and

WHEREAS, Samuel Blake notably served the City of Portsmouth as a member of the former Youth Advisory Commission, where his hard work, influence, and commitment were instrumental to the development of the long-awaited Portsmouth Sportsplex community center; and

WHEREAS, in recent years, Samuel Blake had served as a security officer at Park View Elementary School in Portsmouth, leveraging his talent for working with youth to benefit and support the school's students; and

WHEREAS, Samuel Blake coached both the junior varsity football team and the varsity girls' basketball team at I.C. Norcom High School in Portsmouth, mentoring and inspiring his student-athletes to overcome adversity and achieve success; and

WHEREAS, guided throughout his life by his faith, Samuel Blake enjoyed worship and fellowship with the community of Holy Light Church of Deliverance in Portsmouth, where he sang with several of the church's choirs and served as a youth leader; and

WHEREAS, Samuel Blake will be fondly remembered and dearly missed by his father, Thomas; his brother, Roderick; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Samuel Irving Blake, a cherished member of the Portsmouth community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Samuel Irving Blake as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 366

Commending Ilia Malinin.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, Ilia Malinin, a world-class figure skater and senior at George C. Marshall High School in Falls Church, won the gold medal at the Toyota U.S. Figure Skating Championships at the SAP Center in San Jose, California, on January 29, 2023; and

WHEREAS, Ilia Malinin first took to the ice in 2010 under the guidance of his parents, Tatiana Malinina and Roman Skorniakov, who both skated in the Olympics for Uzbekistan; currently, he represents the Washington Figure Skating Club and trains at SkateQuest in Reston; and

WHEREAS, Ilia Malinin saw early success on his rise to figure skating stardom, becoming the 2016 U.S. national juvenile champion, the 2017 U.S. national intermediate champion, and the 2019 U.S. national novice bronze medalist; and

WHEREAS, Ilia Malinin currently holds world junior records for the men's short program, free skate, and combined score following his performances at the 2022 World Junior Figure Skating Championships, where he claimed the gold medal by a margin of nearly 42 points; and

WHEREAS, prior to his victory at the 2023 U.S. Figure Skating Championships, Ilia Malinin placed first at several international senior-level competitions, including the 2022 Grand Prix of Espoo, the 2022 CS U.S. International Figure Skating Classic, and the 2022 Skate America, where he became the youngest men's champion in the history of the event; and

WHEREAS, Ilia Malinin is famously the first and only skater to land a quadruple axel in international competition, a maneuver that involves four and a half revolutions and that is widely regarded as the most difficult jump in figure skating; he accomplished the feat for the first time at the 2022 CS U.S. International Figure Skating Classic; and

WHEREAS, Ilia Malinin was named to the Time100 Next list by *Time* magazine in September 2022 in recognition of his role as an emerging leader in the world of figure skating and as one who will have a transformative influence on the future of the sport; and

WHEREAS, through his tremendous dedication and hard work, as well as the unwavering support of his parents, coaches, and fans, Ilia Malinin has risen to the top of men's figure skating, garnering the esteem and respect of all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, That Ilia Malinin hereby be commended for winning the gold medal at the 2023 Toyota U.S. Figure Skating Championships; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ilia Malinin as an expression of the House of Delegates' admiration for his accomplishments and best wishes in his future competitions.

HOUSE RESOLUTION NO. 367

Commending Chunyan Wang.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, Chunyan Wang, a resident of Northern Virginia, began practicing Falun Gong in China in 1998, strictly conducting herself according to the principles of Falun Gong—Truthfulness-Compassion-Forbearance—from which she benefited physically, mentally, and spiritually; and

WHEREAS, from July 1999, shortly after Chunyan Wang began practicing Falun Gong, to the present day, the Chinese Communist Party (CCP) has brutally persecuted Falun Gong practitioners in China through surveillance, harassment, arrest, imprisonment, physical and psychological torture, slave labor, and live organ harvesting; and

WHEREAS, the CCP twice imprisoned Chunyan Wang for printing Falun Gong leaflets, sentenced her to a total of seven years of slave labor, forced her to work ten hours a day making products for export to the United States and Europe, and subjected her to unexplained blood tests three different times, which were suspected of being conducted as part of a program that harvests organs from prisoners of conscience; and

WHEREAS, Chunyan Wang courageously maintained her faith in Falun Gong despite the profound losses she suffered at the hands of the CCP, including the loss of her husband, who was tortured to death for trying to protect her; the loss of her daughter, who was forced to flee China to escape the CCP's harassment; and the loss of her business, her livelihood, and her considerable life savings; and

WHEREAS, since 2020, Chunyan Wang and her fellow Falun Gong practitioners have traveled to over 40 counties and cities throughout the Commonwealth, and back and forth to Richmond over ten times, to raise awareness about Falun Gong among state and local officials who are unknowingly and unintentionally facilitating the CCP's practices of slave labor and live organ harvesting from prisoners of conscience in China; and

WHEREAS, responding to the efforts of Chunyan Wang and her fellow practitioners, the Virginia House of Delegates adopted HR 9 during the 2022 Session of the General Assembly, condemning the persecution of Falun Gong practitioners by the CCP and its practices of slave labor and live organ harvesting from prisoners of conscience; now, therefore, be it

RESOLVED by the House of Delegates, That Chunyan Wang, an advocate with the courage to expose the tyranny of the Chinese Communist Party, hereby be commended for her efforts to promote the cause of human rights and religious liberty and to encourage more people in the Commonwealth to make their own contributions to help maintain our current freedoms; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chunyan Wang as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 368

Commending Virginia Dog Army.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, Virginia Dog Army is an advocacy group dedicated to ensuring all dogs in the Commonwealth are cared for responsibly; and

WHEREAS, Virginia Dog Army aims to educate the public about the practices of the commercial dog-breeding industry and the sale of puppies and other live animals at pet stores; and

WHEREAS, Virginia Dog Army works to advance legislation that will improve the quality of life for animals in the Commonwealth and beyond; and

WHEREAS, the founders of Virginia Dog Army were inspired to start the organization by the story of two puppies, Faith and Manny, who had arrived at a pet store in Fairfax in 2017 suffering from giardiasis and other health disorders before being rescued by a service group in the local dog community who cared for the dogs and found them permanent homes; and

WHEREAS, Virginia Dog Army has helped to make the Commonwealth a more compassionate and humane home for countless dogs and animals; now, therefore, be it

RESOLVED by the House of Delegates, That Virginia Dog Army hereby be commended for its service and advocacy on behalf of all canines in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Virginia Dog Army as an expression of the House of Delegates' admiration for the organization's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 369

Commending the Lynchburg Association of REALTORS®.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, for 110 years, the Lynchburg Association of REALTORS® has promoted and supported real estate professionals throughout the region; and

WHEREAS, established in 1913, the Lynchburg Association of REALTORS® has grown to represent more than 900 real estate professionals in the Counties of Amherst, Appomattox, Bedford, and Campbell and the City of Lynchburg; and

WHEREAS, the Lynchburg Association of REALTORS® empowers its members through advocacy and education and provides opportunities for them to develop their professional skills and knowledge in an ever-changing field; and

WHEREAS, during its long and thriving history, the Lynchburg Association of REALTORS® has evolved to reflect the population growth and economic development in the City of Lynchburg and surrounding counties; and

WHEREAS, the Lynchburg Association of REALTORS® actively promotes affordable housing, homeownership, and property rights and strives to make the region one of the best places to live in the Commonwealth and the United States; and

WHEREAS, members of the Lynchburg Association of REALTORS® adhere to the National Association of REALTORS® Code of Ethics and serve the public with the utmost professionalism and integrity; members further enhance community life by supporting local organizations through outreach, volunteerism, and fundraising efforts; now, therefore, be it

RESOLVED by the House of Delegates, That the Lynchburg Association of REALTORS® hereby be commended on the occasion of its 110th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Lynchburg Association of REALTORS® as an expression of the House of Delegates' admiration for the organization's legacy of contributions to the Lynchburg community and the region.

HOUSE RESOLUTION NO. 370

Commending St. Margaret's School.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, for more than 100 years, St. Margaret's School, an Episcopal all-girls school in Tappahannock, has helped generations of students develop into young women of confidence, resilience, and high character; and

WHEREAS, St. Margaret's School was established by the Episcopal Diocese of Virginia in 1921 to create new opportunities in the region for a quality education in a Christian environment; and

WHEREAS, St. Margaret's School opened with 14 girls and three boys and offered a kindergarten through 11th-grade curriculum; the school held its first classes above a local pharmacy in Tappahannock; and

WHEREAS, at the time, many students at St. Margaret's School arrived in Tappahannock by steamboat as there was no bridge to the Northern Neck and no major roadways linking the area with either Richmond or Washington, D.C.; and

WHEREAS, within its first decade of operations, St. Margaret's School grew to serve 20 day students and 70 boarding students and began to develop its picturesque campus along the Rappahannock River; and

WHEREAS, the Rappahannock River plays an essential role in campus life and academics; at each grade level, students visit different parts of the river, from the headwaters in the Blue Ridge Mountains to the Chesapeake Bay and the ocean at Virginia Beach, to gain a greater appreciation for the local ecology and participate in a wide range of activities related to the river, including kayaking and swimming, art projects, raising oysters, and more; and

WHEREAS, in 1991 St. Margaret's School became one of the first boarding schools in the southeast United States to establish a comprehensive program for international students; and

WHEREAS, St. Margaret's School currently maintains an enrollment of around 100 students in grades eight through 12, and the diverse student body represents girls from 17 states and the District of Columbia, as well as 18 foreign countries; and

WHEREAS, St. Margaret's School continues to fulfill its mission to help girls develop a sense of belonging, believe in their abilities, and become the best version of themselves through the hard work and dedication of its faculty and staff members; now, therefore, be it

RESOLVED by the House of Delegates, That St. Margaret's School hereby be commended on the occasion of its 100th anniversary in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to St. Margaret's School as an expression of the House of Delegates' admiration for the school's history and contributions to young women from the Commonwealth and around the world.

HOUSE RESOLUTION NO. 371

Celebrating the life of Blanche Holmes Moore.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, Blanche Holmes Moore, a beloved wife, mother, and grandmother and longtime member of the Henrico County community, who notably served as Henrico Christmas Mother in 2021, died on January 8, 2023; and

WHEREAS, a graduate of Virginia Union University, Blanche Moore greatly served Henrico County Public Schools as an account clerk in the division's central office for many years, assisting with the Title I program and managing nearly $8 million in grant funds for the benefit of countless students; and

WHEREAS, for more than 40 years, Blanche Moore gave generously of her time and talents with various local civic and church organizations, including Senior Connections, the Capital Area Agency on Aging, and First Shiloh Baptist Church of Mechanicsville, where she supported the church's youth and finance ministries; and

WHEREAS, in 2021, Blanche Moore was named Henrico Christmas Mother by the Henrico Christmas Mother Council, an organization she had served in various leadership positions since 2015, becoming only the fourth African American to fill this important and distinguished role since the council was founded in 1942; and

WHEREAS, as Henrico Christmas Mother, Blanche Moore oversaw efforts to distribute toys, books, new clothing, food, and other items to more than a thousand families, senior citizens, and disabled adults in need during the holidays, while also spearheading the council's fundraising and promotional endeavors; and

WHEREAS, to bring awareness to the work of the Henrico Christmas Mother Council, Blanche Moore appeared often before schools, churches, and community organizations and also participated in a number of parades in the Greater Richmond area; and

WHEREAS, guided throughout her life by her faith, Blanche Moore enjoyed worship and fellowship with her community at St. Peter Baptist Church in Glen Allen for many years, helping the church's missions and evangelism ministry and its work with the homeless; and

WHEREAS, Blanche Moore will be fondly remembered and dearly missed by her devoted husband of 53 years, Roland; her children, Tamra and Chris, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Blanche Holmes Moore, a cherished member of the Henrico County community whose legacy of service is an inspiration to all who knew her; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Blanche Holmes Moore as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 372

Commending EatLoco, LLC.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, EatLoco, LLC, the Commonwealth's largest farmers market dedicated to promoting healthy eating and lifestyles in Northern Virginia, has greatly served the community for the past six years; and

WHEREAS, in 2016, EatLoco's founder, Dan Hine, generously lent his support to Loudoun County farmers and vendors by providing free marketing services to achieve specific business goals; and

WHEREAS, in 2017, EatLoco held its first farmers market at One Loudoun, attracting more than 20 committed farmers, bakers, food producers, artisans, and other vendors; and

WHEREAS, the EatLoco Farmers Market at One Loudoun has grown to more than 130 vendors in 2023, becoming the most visited farmers market in the Commonwealth; and

WHEREAS, in 2018, EatLoco established a year-round farmers market in the Brambleton community that hosts more than 45 vendors every Sunday; and

WHEREAS, EatLoco is establishing a seasonal farmers market, set to open in March 2023, in the Loudoun Station community, which is expected to host more than 75 vendors every Sunday; and

WHEREAS, EatLoco is establishing a seasonal farmers market, set to open in June 2023, in the Metropolitan Park community of Arlington, which is expected to host more than 75 vendors every Sunday; and

WHEREAS, since its founding, EatLoco has been recognized by the Loudoun Chamber of Commerce as the 2018 Loudoun Destination Business of the Year and as a finalist for 2019 Loudoun Small Business of the Year and 2022 Loudoun Destination Business of the Year; now, therefore, be it

RESOLVED by the House of Delegates, That EatLoco, LLC, hereby be commended for its promotion of eating locally, healthily, and sustainably; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to EatLoco, LLC, as an expression of the House of Delegates' admiration for the small business' commitment to collaborating with local businesses within the community to improve the quality of health for the Loudoun community.

HOUSE RESOLUTION NO. 373

Commending the Honorable Karen Rollins Jackson.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, the Honorable Karen Rollins Jackson, former Secretary of Technology and an accomplished technology consultant, concluded her term as interim executive director of the New College Institute in 2022; and

WHEREAS, Karen Jackson served as the first director of the Office of Telework Promotion and Broadband Assistance under Governor Timothy M. Kaine and as the deputy secretary of technology under Governor Robert F. McDonnell, with a leading role in the Commonwealth's establishment of the Mid-Atlantic Aviation Partnership (MAAP) and the selection of the MAAP as one of the initial seven Federal Aviation Administration–designated test sites for unmanned aerial systems; and

WHEREAS, as Secretary of Technology from 2014 to 2018 under Governor Terence R. McAuliffe, the only woman to have held the position, Karen Jackson advocated for technology matters, including innovation, data analytics, telecommunications cybersecurity, autonomous systems, and smart communities, and for women and rural community engagement in science, technology, engineering, and mathematics (STEM) related opportunities and employment; and

WHEREAS, as the primary advisor for Governor McAuliffe's cybersecurity initiatives, Karen Jackson built a world-class cybersecurity ecosystem in the Commonwealth, including initiatives and policies in the areas of education, workforce development, public safety, cybercrime, economic development, infrastructure, and public awareness; and

WHEREAS, over a distinguished career, Karen Jackson's accomplishments include advancing Internet and other computer technologies, improving broadband access in rural and underserved areas of the Commonwealth, and attracting technology companies and other ventures to Virginia, including Amazon HQ2 in Arlington; and

WHEREAS, in 2019, Karen Jackson was appointed interim executive director of the New College Institute (NCI), an institution of higher education in Martinsville established by the Commonwealth in 2006 with a vision of supporting the region's economy by expanding educational and workforce training opportunities; and

WHEREAS, during her three-year tenure at NCI, Karen Jackson developed several new programs and initiatives, cultivated institutional partnerships, and guided the institution through the challenges of the COVID-19 pandemic; and

WHEREAS, Karen Jackson worked closely with state government agencies and the General Assembly to establish NCI as a leading institution of higher education in Southside Virginia; and

WHEREAS, Karen Jackson will continue to make an impact as president of Apogee Strategic Partners, LLC, providing technology consulting and advisory services to benefit companies, universities, governmental entities, and nonprofits in the Commonwealth and beyond; and

WHEREAS, in 2020 Karen Jackson was elected chair of the Unmanned Systems Association of Virginia, where she has helped guide the nonprofit coalition's efforts to promote a legal and regulatory framework that fosters the unmanned systems industry in the Commonwealth; and

WHEREAS, Karen Jackson's exceptional leadership and vision have propelled the New College Institute forward and prepared the institution for many years of future success; now, therefore, be it

RESOLVED by the House of Delegates, That the Honorable Karen Rollins Jackson, former interim executive director of the New College Institute, hereby be commended for her service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable Karen Rollins Jackson as an expression of the House of Delegates' admiration for her contributions to the Commonwealth and best wishes in her future endeavors.

HOUSE RESOLUTION NO. 374

Commending James Aaron Boyd.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, James Aaron Boyd is a native of Hampton Roads who went on to reach the highest echelons of football as a member of the National Football League; and

WHEREAS, as the quarterback of the Indian River High School football team of Chesapeake, James Boyd threw the decisive fourth-quarter touchdown pass that secured the team's 1995 Virginia High School League Group AAA, Division 6 state title; and

WHEREAS, James Boyd posted remarkable numbers both on offense and defense at Indian River High School, earning first-team All-American honors from *USA Today* and *Parade*, as well as two first-team All-State selections from the Associated Press; and

WHEREAS, James Boyd played free safety for the Penn State University Nittany Lions, where his exceptional play in the 2000 season gained him recognition as one of 12 semifinalists for the Jim Thorpe Award, which is presented annually to the best defensive back in college football, as well as All-American third-team accolades; and

WHEREAS, James Boyd recorded 233 tackles while playing for the Penn State Nittany Lions and became only the thirteenth player in school history to record more than 100 tackles in a season with 109 tackles, a school record for defensive backs at the time; and

WHEREAS, James Boyd was selected by the Jacksonville Jaguars in the third round of the 2001 National Football League Draft and over two seasons with the team recorded 11 solo tackles; and

WHEREAS, James Boyd's accomplishments are the results of his hard work and dedication and serve as inspiration to countless young athletes throughout the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That James Aaron Boyd hereby be commended for a successful football career at Indian River High School and Penn State University and in the National Football League; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James Aaron Boyd as an expression of the House of Delegates' admiration for his achievements.

HOUSE RESOLUTION NO. 375

Commending Virginia Voice, Inc.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, Virginia Voice, Inc., an organization that advances its mission by connecting individuals with blindness, vision impairment, and other print disabilities to news, information, community, culture, and the arts using technology and the human voice, celebrates its 45th anniversary in 2023; and

WHEREAS, incorporated in 1978 as a 501(c)(3) nonprofit organization, Virginia Voice operates to serve the needs of individuals who reside in Central Virginia, Hampton Roads, and other parts of the Commonwealth; and

WHEREAS, Virginia Voice is a radio-reading, audio information service that makes print material accessible for individuals who are blind, visually impaired, or severely handicapped; and

WHEREAS, Virginia Voice serves 11,500 subscribers with its audio broadcast; this broadcast is made available on radios that are pretuned to a specific frequency that receives the Virginia Voice 24/7 broadcast; radios or smart speakers are loaned to listeners who sign up as official subscribers to Virginia Voice, and all services are free of charge to subscribers; and

WHEREAS, Virginia Voice builds its broadcast from 200 publications that are read aloud by volunteers, including local, regional, and national newspapers and magazines and other publications that provide perspectives and information on topics such as health, history, education, current events, the environment, arts, culture, gardening, and more, in addition to inspirational commentary; and

WHEREAS, Virginia Voice recruits, trains, and manages more than 120 dedicated and talented volunteers whose voices help to create the Virginia Voice broadcast of scheduled programs and podcasts, which often feature local subject matter experts; and

WHEREAS, Virginia Voice creates equitable access to live theater, museum exhibitions, movies, and other art forms, as well as sporting events, through live audio description programming that describes the critical visual elements for individuals who are blind, vision impaired, or otherwise disabled; and

WHEREAS, Virginia Voice, through community engagement and fundraising activities, promotes awareness of and advocates for the need to support individuals who are blind, vision impaired, or otherwise disabled; the organization seeks support in the form of tangible services and monetary assistance from every level of government, corporations, service organizations, and foundations, as well as through donations from individuals throughout the Commonwealth; and

WHEREAS, Virginia Voice partners with organizations in the community to promote awareness, raise vital funds, increase listenership, and recruit volunteers to assist in the delivery of services to Virginians with disabilities; and

WHEREAS, Virginia Voice promotes goodwill and the ideal that serving others and bettering communities is an attainable goal that improves quality of life and helps to make the Commonwealth a place where individuals seek to live, work, and raise their families; and

WHEREAS, Virginia Voice supports the choice of blind, vision impaired, and print disabled Virginians to live and thrive independently and their desire to have equitable access to all their community has to offer; and

WHEREAS, the success of Virginia Voice is a result of the hard work and dedication of the organization's staff, volunteers, and board members and the unwavering support of the listeners and their families; now, therefore, be it

RESOLVED by the House of Delegates, That Virginia Voice, Inc., hereby be commended for its 45 years of service to its listeners and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Virginia Voice, Inc., as an expression of the House of Delegates' appreciation for the organization's history and its contributions to the Commonwealth.

HOUSE RESOLUTION NO. 376

Celebrating the life of the Reverend Canon Dr. Joseph N. Green, Jr.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, the Reverend Canon Dr. Joseph N. Green, Jr., a highly admired spiritual leader and community leader in Norfolk, died on January 14, 2023; and

WHEREAS, during World War II, Father Green served the nation as a United States Navy hospital corpsman; in 1949, he graduated from St. Augustine's College, now St. Augustine's University, where he majored in English, history, and literature, with an emphasis on Biblical literature; and

WHEREAS, in 1953, Father Green earned a master of divinity degree from the Philadelphia Divinity School, and in 1965, he earned a master of sacred theology degree from the University of the South, where he was one of the first two African Americans to graduate from the University of the South's School of Theology; and

WHEREAS, Father Green served the Episcopal Church for 70 years, leaving a lasting influence on many generations of congregants; he served as interim priest, rector, and supply at nine parishes; and

WHEREAS, in 1953, Father Green was ordained as a deacon at St. Barnabas Episcopal Church in Jenkinsville, South Carolina; then in 1954, he was ordained as a priest and spent two years at St. Barnabas before moving on to two other churches in South Carolina, the Episcopal Church of the Epiphany in Spartanburg and St. Philip's Episcopal Church in Greenville; and

WHEREAS, Father Green was appointed as chaplain at Saint Augustine's College in 1958, and he was a mentor to many young people who wanted to be priests; and

WHEREAS, Father Green served as the Union of Black Episcopalians' sixth national president from 1975 to 1978, and he established the James Solomon Russell Chapter of the organization in Hampton Roads, where he was a life member; and

WHEREAS, for 30 years, Father Green served as rector of Grace Episcopal Church in Norfolk, where he oversaw one of the Episcopal Diocese of Southern Virginia's most active congregations; after retirement, he continued to serve at Trinity in South Hill, St. Mark's in Suffolk, and St. James in Portsmouth; and

WHEREAS, Father Green was appointed canon theologian for the Episcopal Diocese of Southern Virginia in 2021 by the Bishop Susan B. Haynes; he worked at Norfolk's Christ & St. Luke's Episcopal Church in that capacity; and

WHEREAS, after serving on the Norfolk School Board, Father Green was elected to the Norfolk City Council, where he served for 20 years, including 10 years as vice mayor; as a civil rights activist and a champion of justice and equal rights, he played a pivotal role in shaping a transformative moment in the city's history and was in charge of preserving Church Street Historic District; and

WHEREAS, Father Green's initiatives to promote affordable and accessible housing and education have permanently enhanced the city; he was a strong supporter of mass transit, advocated for the inclusion of a public housing tenant on the Housing Commission, and was influential in the development of Tidewater Community College's downtown campus; Tidewater Community College's administrative building bears his name in recognition of his accomplishments; and

WHEREAS, Father Green's photograph sits in the lobby of University of the South's School of Theology's administration building, a fitting memorial to one of the school's most notable graduates; he received five honorary degrees and other awards and recognitions from colleges, universities, religious institutions, and organizations and served as an emeritus trustee of St. Augustine's University; and

WHEREAS, Father Green enjoyed reading, gardening, fishing, listening to music, and watching sports, especially baseball, basketball and football; he was a member of several professional and social organizations, including Phi Beta Sigma Fraternity, Inc., Metro Anglers Club, Prince Hall Masons, and Sigma Pi Phi Boule; and

WHEREAS, Father Green is survived by his wife of 67 years, Evelyn Grant Green; children, Angela Green Middleton and Joseph N. Green III; two grandchildren, Charles Middleton IV and Eric Sawyer; one great-grandson, Jalen Sawyer; two brothers, Adolph Green (Joan) and Leon Green (Ann); and a host of other family members and friends who will miss him dearly; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Reverend Canon Dr. Joseph N. Green, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Canon Dr. Joseph N. Green, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 377

Celebrating the life of Wilford Joseph Green, Jr.

Agreed to by the House of Delegates, February 21, 2023

WHEREAS, Wilford Joseph Green, Jr., a highly admired public servant and community leader in Colonial Heights and a beloved husband, father, and grandfather, died on September 18, 2022; and

WHEREAS, a native of Petersburg, Wilford "Joe" Green was a member of the Colonial Heights High School Class of 1975, then joined the Church of Jesus Christ of Latter-Day Saints as a teenager and served the California Fresno Mission for two years; and

WHEREAS, Joe Green returned to the Commonwealth in 1980 and subsequently graduated from Virginia State University; and

WHEREAS, Joe Green spent most of his professional career as a contractor at Fort Lee; he further served the community as a longtime member of the Colonial Heights School Board from 1996 to 2009 and a member of the Colonial Heights City Council from 2009 to 2020; and

WHEREAS, during his tenure on the Colonial Heights City Council, Joe Green participated in the hiring of two city managers and oversaw many enhancements to make Colonial Heights an even better place to live, work, and raise a family; and

WHEREAS, Joe Green guided roadway improvements and beautification projects, helped obtain several historic designations in the city, supported the construction of a new courthouse and enhancements to local schools, and ensured that public safety officers in the city had competitive pay and access to the finest training and equipment; and

WHEREAS, in addition, Joe Green offered his leadership and expertise to many other local boards and organizations, including the District 19 Community Services Board, Colonial Heights Historical Commission, Colonial Heights Youth Advisory Council, and the Virginia High School League; he served as a board member and membership director of the Colonial Heights Swim and Yacht Club, and he mentored and inspired young people as a leader in the Boy Scouts of America and the Girl Scouts of the USA; and

WHEREAS, Joe Green loved the freedom of the open road and never missed an opportunity to travel, from cross-country trips to helping friends and neighbors with local transportation; and

WHEREAS, Joe Green brought joy to others through his wit and wisdom and touched countless lives through his generosity; and

WHEREAS, Joe Green will be fondly remembered and greatly missed by his wife of 40 years, Clestelle; his daughters, Mary, Emily, and Mollie, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Wilford Joseph Green, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Wilford Joseph Green, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 378

Commemorating the life and legacy of the Honorable Richard Gault Leslie Paige.

Agreed to by the House of Delegates, February 22, 2023

WHEREAS, the Honorable Richard Gault Leslie Paige was a Republican member of the Virginia House of Delegates from 1871 to 1875 and 1879 to 1882 and was possibly one of the first African American lawyers in the City of Norfolk and in the Commonwealth; and

WHEREAS, R.G.L. Paige was born into slavery on May 31, 1846, in the City of Norfolk; in 1857, he fled to freedom and headed to Philadelphia, where he adopted the middle name "Leslie" in appreciation of the abolitionist who assisted him on his journey; and

WHEREAS, R.G.L. Paige reached his final destination in Boston; during his 10 years there, he received an education and began to acquire knowledge about the law from George Stillman Hillard, an abolitionist who sponsored him, as well as attorney George L. Ruffin, a Richmonder who was one of the first African Americans to graduate from Harvard and the first African American judge in Massachusetts; and

WHEREAS, R.G.L. Paige returned to the Commonwealth in 1870 with his new family, including his wife, Lillie, and his nine children, settling in Norfolk County's small town of Berkley, which would be annexed by the City of Norfolk in 1906; and

WHEREAS, R.G.L. Paige and his two brothers had collaborated on purchasing land in Norfolk County in 1868; around this time they bought and sold various lots of land that led to the purchase of what is now the historical African American burial ground Mount Olive Cemetery, which had once been known as Paige Cemetery; and

WHEREAS, R.G.L. Paige ran and won an election in 1871 to the Virginia House of Delegates for a two-year term representing Norfolk County and served on the Committee on Propositions and Grievances; once reelected for his second term in 1873, he served on the Committee on Retrenchment and Economy; and

WHEREAS, on January 17, 1872, R.G.L. Paige presided over a meeting of African American legislators that appointed a six-member committee, of which he was a member, to travel to Washington, D.C., and petition the United States Congress to pass a pending civil rights bill; and

WHEREAS, R.G.L. Paige was one of the secretaries of the Republican State Convention in April 1872, and was a delegate to the Republican National Convention that met in Philadelphia and nominated Ulysses S. Grant for president; he was also elected president of the party's state convention in July 1873; and

WHEREAS, R.G.L. Paige was given a patronage appointment on June 1, 1874, as an assistant clerk at the customs house in Norfolk; he remained there for several years and advanced to the positions of clerk and inspector; and

WHEREAS, in a three-person race, R.G.L. Paige again received the majority of the votes and was reelected to the Virginia House of Delegates in 1879; he gave a speech against lynching in 1880 that was extensively reproduced, but no law came of it; he also vowed to sue a Richmond theatrical group that turned him away that year, but ultimately decided against it; and

WHEREAS, R.G.L. Paige worked as secretary of the curators at what was then Hampton Normal and Agricultural Institute, now Hampton University, from 1882 until 1885; he was a founding member of the board of directors of the Virginia Building and Savings Association and assisted with the implementation of the legislation that had established the association in 1882; and

WHEREAS, R.G.L. Paige served on many committees and in many prominent roles for the duration of his career, while remaining active in Republican Party politics; he was selected as an alternate delegate to the 1888 Republican National Convention at the state convention that same year; and

WHEREAS, R.G.L. Paige's reputation was such that several individuals from the Commonwealth and North Carolina nominated him for the job of promoting an exhibition for the 1893 World's Columbian Exposition in Chicago, which was being lobbied for by African Americans across the nation; and

WHEREAS, in September 1904, R.G.L. Paige died of peritonitis at his home in Berkley; he owned at least 10 properties and five buildings in Berkley and Norfolk County with a total taxable value of more than $6,500 at the time of his death; and

WHEREAS, R.G.L. Paige was laid to rest in the nearby Mount Olive Cemetery; his wife, Lillie, erected a 12-foot tall engraved obelisk over his grave and cherished his memory until she died as well, on April 27, 1913; now, therefore, be it

RESOLVED by the House of Delegates, That the life and legacy of the Honorable Richard Gault Leslie Paige hereby be commemorated to honor the attorney and delegate's contributions and dedicated service to the former Norfolk County, now the Hampton Roads Region, the House of Delegates, and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Richard Gault Leslie Paige as an expression of the House of Delegates' high regard for his place in the history of the Commonwealth.

HOUSE RESOLUTION NO. 379

Commending Insight Into Action Therapy.

Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Insight Into Action Therapy, an outpatient practice dedicated to providing exceptional therapeutic services in Northern Virginia and Washington, D.C., has greatly served the community since 2015; and

WHEREAS, Insight Into Action Therapy provides individual, couples, family, play, and group therapy for individuals with mental health and addictive behaviors and is welcoming new clients at all times; and

WHEREAS, Insight Into Action Therapy's services in support of its patients include psychological testing, psychiatric evaluation, medication monitoring, medication assisted treatment, court ordered evaluation, and treatment with an emphasis on timely accessibility; and

WHEREAS, since its founding, Insight Into Action Therapy has received numerous honors from the Loudoun Chamber of Commerce, such as 2022 Small Business of the Year and 2022 Health and Wellness Business of the Year; and

WHEREAS, Insight Into Action Therapy has also been recognized by the Loudoun Chamber of Commerce as a finalist for a 2019 Community Leadership Award and for 2018 Health and Wellness Business of the Year and 2017 Service Business of the Year accolades; now, therefore, be it

RESOLVED by the House of Delegates, That Insight Into Action Therapy hereby be commended for its tenacity and compassion in ensuring the health and safety of its community's residents; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the founders of Insight Into Action Therapy as an expression of the House of Delegates' admiration for the practice's commitment to supporting communities in need.

HOUSE RESOLUTION NO. 380

Commending the Woodbridge Senior High School boys' indoor track and field team.

Agreed to by the House of Delegates, February 22, 2023

WHEREAS, the Woodbridge Senior High School boys' indoor track and field team won the Virginia High School League Class 6 Cardinal District championship in 2023; and

WHEREAS, the Woodbridge Senior High School Vikings faced worthy opponents from multiple schools in the two-day district tournament meet held at Charles J. Colgan Sr. High School on February 7-8, 2023; and

WHEREAS, after securing the district title, the Woodbridge Vikings advanced to the regional championship, where the 4x800-meter relay team of Gavin Kegler, Nate McMahon, Hayden Goodman, and Jaiden Lockhart won the gold medal with a time of 8:01; and

WHEREAS, the successful season is a tribute to the hard work and dedication of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire Woodbridge Senior High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Woodbridge Senior High School boys' indoor track and field team hereby be commended on winning the Virginia High School League Class 6 Cardinal District championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Woodbridge Senior High School boys' indoor track and field team as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 381

Commending the Woodbridge Senior High School softball team.

Agreed to by the House of Delegates, February 22, 2023

WHEREAS, the Woodbridge Senior High School softball team won the Virginia High School League Region 6B championship in June 2022; and

WHEREAS, the Woodbridge Senior High School Vikings defeated the Battlefield High School Bobcats with a score of 6-5 to claim the regional title; and

WHEREAS, the Battlefield Bobcats took an early lead, but the Woodbridge Vikings responded to tie the game in the fifth inning and scored four runs in the seventh inning to secure the comeback victory; and

WHEREAS, the Woodbridge Vikings finished the season with a 15-6 overall record and advanced to the Class 6 state quarterfinal; and

WHEREAS, the regional tournament win was a tribute to the skill and hard work of all the student-athletes, the leadership and dedication of coaches and staff, and the passionate support of the entire Woodbridge Senior High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Woodbridge Senior High School softball team hereby be commended; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Woodbridge Senior High School softball team as an expression of the House of Delegates' admiration for the team's achievements and best wishes for the future.

HOUSE RESOLUTION NO. 382

Commending the Woodbridge Senior High School wrestling team.

Agreed to by the House of Delegates, February 22, 2023

WHEREAS, the Woodbridge Senior High School wrestling team won the Virginia High School League Cardinal District title on February 2, 2023; and

WHEREAS, the Woodbridge Senior High School Vikings posted 233.5 points to outscore the runner-up Charles J. Colgan Senior High School of Prince William County by 32.5 points and bring home the program's fifth consecutive district title; and

WHEREAS, the accomplishments of the Woodbridge Vikings are the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of their families and the entire Woodbridge Senior High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Woodbridge Senior High School wrestling team hereby be commended for winning the 2023 Virginia High School League Cardinal District title; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Woodbridge Senior High School wrestling team as an expression of the House of Delegates' admiration for the team's achievement and best wishes for its continued success.

HOUSE RESOLUTION NO. 383

Commending the Brentsville District High School football team.

Agreed to by the House of Delegates, February 22, 2023

WHEREAS, the Brentsville District High School football team of Nokesville won the Virginia High School League Region 3B championship in November 2022; and

WHEREAS, the Brentsville District High School Tigers dominated the flow of the game in the regional final and defeated the Warren County High School Wildcats by a score of 35-7; and

WHEREAS, the Brentsville Tigers advanced to the Class 3 state semifinal and finished the season with an impressive 12-2 overall record; and

WHEREAS, the successful season was a tribute to the skill and hard work of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire Brentsville District High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Brentsville District High School football team hereby be commended on winning the Virginia High School League Region 3B championship in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Brentsville District High School football team as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 384

Commending the Brentsville District High School competitive cheer team.

Agreed to by the House of Delegates, February 22, 2023

WHEREAS, the Brentsville District High School competitive cheer team won the Virginia High School League Class 3 state championship in 2022; and

WHEREAS, the Brentsville District High School Tigers earned the state title with a final score of 252.5, defeating the runner-up team from Lord Botetourt High School by six points; and

WHEREAS, the Brentsville Tigers have now earned four state titles, 10 regional titles, and 21 district titles in the competitive cheer program's history; and

WHEREAS, throughout the season, head coach Taryn Witt motivated members of the team to meet individual goals and provided constructive feedback, insights, and analysis after each routine to achieve continual improvement; and

WHEREAS, the victory is a tribute to the skill and dedication of all the student-athletes, the leadership and guidance of coaches and staff, and the enthusiastic support of the entire Brentsville District High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Brentsville District High School competitive cheer team hereby be commended on winning the Virginia High School League Class 3 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Taryn Witt, head coach of the Brentsville District High School competitive cheer team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 385

Commending the Brentsville District High School softball team.

Agreed to by the House of Delegates, February 22, 2023

WHEREAS, the Brentsville District High School softball team won the Virginia High School League Region 3B championship in 2022; and

WHEREAS, the Brentsville District High School Tigers won their first regular season district title since 2016 to advance to the regional tournament as the number one seed in May 2022; and

WHEREAS, in the regional final, the Brentsville Tigers defeated the William Monroe High School Dragons by a score of 12-11; and

WHEREAS, the Brentsville Tigers advanced to the semifinals of the state tournament and finished the season with an impressive 17-4 record; and

WHEREAS, the successful season is a tribute to the skill and hard work of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire Brentsville District High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Brentsville District High School softball team hereby be commended on winning the Virginia High School League Region 3B championship in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Brentsville District High School softball team as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 386

Commending the Brentsville District High School girls' soccer team.

Agreed to by the House of Delegates, February 22, 2023

WHEREAS, the Brentsville District High School girls' soccer team of Nokesville won the Virginia High School League Region 3B championship on June 3, 2022, at home; and

WHEREAS, the Brentsville District High School Tigers defeated the Meridian High School Mustangs of Falls Church by a score of 2-1 to bring home the regional title; and

WHEREAS, the Brentsville Tigers' victory was a total team effort, led by Madison Fitzpatrick, who scored both of the team's goals; Peyton McGovern, who provided an assist on the first goal; and Carly O'Leary, who was selected the Brentsville District Girls Soccer Player of the Game; and

WHEREAS, the Brentsville Tigers had 10 starters returning this season who were motivated by a tough loss in last year's regional tournament final to play at the top of their game; and

WHEREAS, the Brentsville Tigers demonstrated exceptional intelligence and maturity through their ability to play together as a unit and stymied opponents all season with their strong defense, posting a regular season goal differential of 125-4; and

WHEREAS, the accomplishments of the Brentsville Tigers are the results of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of their families and the entire Brentsville District High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Brentsville District High School girls' soccer team hereby be commended for winning the 2022 Virginia High School League Region 3B championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sonny Barrickman, head coach of the Brentsville District High School girls' soccer team, as an expression of the House of Delegates' admiration for the team's achievement and best wishes for its continued success.

HOUSE RESOLUTION NO. 387

Commending the Thomas Jefferson High School football team.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, the Thomas Jefferson High School football team set a school record in 2022 with the longest undefeated streak to start a season; and

WHEREAS, the Thomas Jefferson High School Vikings began the season with an impressive 7-0 record; and

WHEREAS, the Thomas Jefferson Vikings advanced to the Region 2A semifinal and finished the season with a record of 8-4; and

WHEREAS, the Thomas Jefferson Vikings have been led by head coach Josef Harrison since 2016; and

WHEREAS, the successful season was a tribute to the skill and hard work of all the student-athletes, the leadership and guidance of coaches and staff, and the enthusiastic support of the entire Thomas Jefferson High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Thomas Jefferson High School football team hereby be commended for its achievements during the 2022 season; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Josef Harrison, head coach of the Thomas Jefferson High School football team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 388

Celebrating the life of John Oscar Little, Jr.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, John Oscar Little, Jr., a former educator in Newport News, died on February 5, 2023; and

WHEREAS, John Little grew up in Newport News and attended Newport News High School from 1969 to 1971, when he transferred to Ferguson High School after the school became racially integrated; and

WHEREAS, after graduating high school, John Little attended The College of William & Mary and helped build a strong sense of community between Black students at the college; he was one of the first Black students to graduate from the institution with a degree in education; and

WHEREAS, John Little pursued a career as a teacher in Newport News and gave generations of elementary school students and kindergarteners the tools they needed to become lifelong learners; and

WHEREAS, John Little notably taught at the former Magruder Elementary School, which later became the Discovery STEM Academy; and

WHEREAS, John Little retired as an educator after more than three decades of service to young people in the Newport News community; and

WHEREAS, John Little will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of John Oscar Little, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John Oscar Little, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 389

Commending Joseph D. Wilkins.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Joseph D. Wilkins, president of Bon Secours St. Francis Medical Center in Chesterfield County, has been named one of the 2023 Black Business Leaders by *Virginia Business* magazine; and

WHEREAS, a native of Halifax County, Joseph Wilkins earned a bachelor's degree in kinesiology in 1998 from The College of William & Mary and then a master's degree and doctoral degree in physical therapy from Virginia Commonwealth University in 2001 and 2006, respectively; and

WHEREAS, Joseph Wilkins embarked upon a noble career in health care as a physical therapist at Sheltering Arms Physical Rehabilitation Center in Mechanicsville and then with the United States Department of Veterans Affairs, specializing in spinal cord injuries and helping his patients regain the ability to walk; and

WHEREAS, seeing health administration as a way to broaden his impact, Joseph Wilkins returned to Virginia Commonwealth University and attained a master's degree in health care administration before shifting his career to hospital management; and

WHEREAS, Joseph Wilkins subsequently served with health systems throughout the Commonwealth and in West Virginia, including as director of rehabilitation services for Henrico Doctors' Hospital, assistant chief executive officer of Southside Medical Center in Petersburg, vice president and chief executive officer of Raleigh General Hospital in Beckley, West Virginia, and as chief executive officer of Wythe County Community Hospital in Wytheville; and

WHEREAS, Joseph Wilkins assumed the role of president of the St. Francis Medical Center in December 2020, stepping in during a critical time of the COVID-19 pandemic and working tirelessly to ensure the hospital's patients received the highest quality care; and

WHEREAS, although primarily involved with the administrative tasks of running a hospital, Joseph Wilkins did not hesitate to employ his expertise as a physical therapist to fill staffing gaps as needed at the height of the COVID-19 pandemic; and

WHEREAS, beyond his professional life, Joseph Wilkins has given generously of his time and talents to several community agencies and organizations, including the Virginia Health Workforce Development Authority, the Virginia High School League Foundation, and the Chesterfield Chamber of Commerce; and

WHEREAS, Joseph Wilkins has demonstrated an extraordinary dedication to his patients, colleagues, and staff and is an embodiment of the ideals of the health care profession; now, therefore, be it

RESOLVED by the House of Delegates, That Joseph D. Wilkins hereby be commended for being named a 2023 Black Business Leader by *Virginia Business* magazine; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Joseph D. Wilkins as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 390

Commending Commander Claudia D. Flores, USN, Ret.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Commander Claudia D. Flores, USN, Ret., an honorable veteran and current director of policy and planning at the Virginia Department of Veterans Services, has greatly served the Commonwealth and the nation; and

WHEREAS, Claudia Flores began her 28-year career in the United States Navy as an enlisted cryptologist, serving as a linguist before earning her commission as an intelligence officer; and

WHEREAS, Claudia Flores' tours of duty with the United States Navy have supported assignments overseas, combatant commands, the National Security Agency, the Office of Naval Intelligence, and the Joint Chiefs of Staff; and

WHEREAS, Claudia Flores completed combat deployments aboard the USS *Dwight D. Eisenhower* aircraft carrier in service to the country before retiring from active duty in 2017; and

WHEREAS, Claudia Flores joined the Virginia Department of Veterans Services (DVS) in 2017 as a veterans service representative, helping veterans and their families in the Commonwealth receive benefits and services to which they were entitled; and

WHEREAS, Claudia Flores next served as regional director for the Northern and Eastern regions of DVS, managing more than 15 offices, before becoming the deputy director of benefits, supporting the management and operation of 34 DVS offices throughout the Commonwealth; and

WHEREAS, Claudia Flores was promoted to director of policy and planning for DVS in 2020, assuming a role in which she coordinates legislative efforts with various offices and agencies, including the Office of the Secretary of Veterans and Defense Affairs, the Office of the Governor, the Department of Planning and Budget, and the military; and

WHEREAS, Claudia Flores regularly communicates with the Military and Veterans Caucus and other members of the General Assembly to promote legislation that will benefit veterans and their families; and

WHEREAS, as director of policy and planning for DVS, Claudia Flores is integral to the development of the agency's legislative proposals and is highly involved in the analysis and evaluation of all state and federal legislation affecting veterans in the Commonwealth; and

WHEREAS, Claudia Flores embodies the ideals of both the military and public service and has made a profound and positive impact on the lives of countless veterans; now, therefore, be it

RESOLVED by the House of Delegates, That Commander Claudia D. Flores, USN, Ret., hereby be commended for her service with the United States Navy and the Virginia Department of Veterans Services; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Commander Claudia D. Flores, USN, Ret., as an expression of the House of Delegates' admiration for her contributions to the Commonwealth and the nation.

HOUSE RESOLUTION NO. 391

Commending Beverly VanTull.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Beverly VanTull, an honorable veteran of the United States Army Medical Service Corps, has greatly served female veterans in the Commonwealth since 2018 in her capacity as women veterans program manager for the Department of Veterans Services; and

WHEREAS, Beverly VanTull graduated from Howard University and earned her commission into the United States Army Medical Service Corps through the university's Reserve Officers' Training Corps; and

WHEREAS, Beverly VanTull served the country with honor and distinction from 1995 to 2013; she received various assignments between Germany and Texas and was deployed twice to Iraq for combat tours before retiring from the service as chief of patient administration at Kenner Army Health Clinic in Fort Lee; and

WHEREAS, in recognition of her service, Beverly VanTull's military awards include the Meritorious Service Medal with two Oak Leaf Clusters, Army Commendation Medal with five Oak Leaf Clusters, Army Achievement Medal, National Defense Service Medal, Global War on Terrorism Service Medal, Global War on Terrorism Expeditionary Medal, and Iraq Campaign Medal; and

WHEREAS, Beverly VanTull founded Freedom Vision Consulting, LLC, in 2014 with the goal of helping her clients develop innovative programs benefiting local veteran communities and families; and

WHEREAS, Beverly VanTull has supported veterans as a lifetime member of the Military Officers Association of America, Disabled American Veterans, and Women Veterans Interactive Foundation and generously volunteers her time at Hunter Holmes McGuire Veterans Affairs Medical Center in Richmond and elsewhere with the American Red Cross and the U.S. Department of Veterans Affairs; and

WHEREAS, Beverly VanTull joined the Department of Veterans Services (DVS) in 2016 and assumed the position of women veterans program manager in the fall of 2018, becoming the first individual to hold this newly created position full time; and

WHEREAS, in her capacity as women veterans program manager, Beverly VanTull serves the diverse and unique needs of women veterans in the Commonwealth, connecting DVS with numerous veterans service organizations and nonprofits to establish programs assisting women veterans and their families; and

WHEREAS, Beverly VanTull has demonstrated unwavering dedication to the more than 100,000 women veterans now living in the Commonwealth, earning the esteem and praise of all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, That Beverly VanTull hereby be commended for her service to the country and her efforts as women veterans program manager for the Department of Veterans Services; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Beverly VanTull as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 392

Commending Ryan Alam.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Ryan Alam is a Loudoun County teenager who was diagnosed with a type of neurodegeneration with brain iron accumulation called mitochondrial-membrane protein-associated neurodegeneration, an extremely rare condition occurring in less than 100 people around the world; and

WHEREAS, in the face of this challenge, Ryan Alam has devoted himself to helping others, volunteering his time in myriad ways, including through toy and clothes drives, fundraising campaigns and events, and other charitable endeavors; and

WHEREAS, Ryan Alam has supported a local homeless shelter by organizing drives to collect clothing, toys, food, and hygienic products for the individuals and families the shelter serves; and

WHEREAS, while living in Nairobi, Kenya, Ryan Alam regularly volunteered at a local orphanage, providing reading, arts and crafts, physical education, music, and yoga programs for the enjoyment of the children there, as well as clothing, toys, and other items they needed; and

WHEREAS, Ryan Alam and his family showed their appreciation for his teachers at Potomac Falls High School by hosting and funding two coffee carts stocked with breakfast sandwiches, coffee, tea, fruits, and other snacks; and

WHEREAS, Ryan Alam has spearheaded a campaign to raise money to support research to find a cure for his rare neurodegenerative disease, organizing Zumba events, restaurant nights, raffles, private auctions, and more for this important cause; and

WHEREAS, as the face of Children's National Hospital's Race for Every Child Campaign and in other capacities, Ryan Alam has garnered support for various members of the community, including other children with rare disorders and the families impacted by the fire at the Chase Heritage Apartments in Sterling; and

WHEREAS, Ryan Alam's loving, caring, and empathetic nature has brightened countless lives, and his unwavering positivity and willingness to help others is an inspiration to all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, That Ryan Alam hereby be commended for his selfless dedication to serving others; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ryan Alam as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 393

Commending John William Foust.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, John William Foust, an esteemed public servant who has represented the Dranesville District on the Fairfax County Board of Supervisors for the past 16 years, will step down on December 31, 2023; and

WHEREAS, a graduate of The George Washington University School of Law who has practiced law in Northern Virginia for more than 30 years, John Foust became actively involved in local civic associations and advisory committees after moving to McLean in 1987; and

WHEREAS, John Foust's leadership roles in service to the community included president of the McLean Citizens Association and the McLean Planning Committee, chair of the Fairfax County Environmental Quality Advisory Council's Legislative Committee, chair of the Chain Bridge District of the Boy Scouts of America, and chair of the Advocacy Committee of Fairfax County's Medical Care for Children Partnership; and

WHEREAS, John Foust was first elected to the Fairfax County Board of Supervisors in November 2007 and was subsequently reelected three times for additional four-year terms, proudly representing his constituents in the Dranesville District, which includes McLean, Great Falls, and Herndon and portions of the Vienna and Falls Church areas; and

WHEREAS, John Foust currently supports the work of the Fairfax County Board of Supervisors as chair of its Housing Committee and Economic Advisory Commission and as vice chair of its Budget Policy Committee and Health and Human Services Committee; he also represents Fairfax County on several regional boards and commissions, including the Northern Virginia Transportation Commission; and

WHEREAS, John Foust's various accomplishments as a member of the Fairfax County Board of Supervisors includes expanding full-day kindergarten countywide, supporting funding for significant teacher pay increases, obtaining funds to widen Route 7, and facilitating the construction of numerous road and pedestrian improvements and other capital projects in Dranesville, including three new fire stations and two renovated and expanded libraries; and

WHEREAS, John Foust advanced Fairfax County's efforts to address climate change and to preserve the county's beauty and sustainability through his support of several stream and stormwater projects, the construction of sound walls along the beltway and other major roadways to prevent noise pollution in neighborhoods, and the improvement and expansion of county parks and recreational facilities; and

WHEREAS, John Foust consistently advocated on behalf of seniors in his district and encouraged the development of the new Lewinsville Center in McLean and the creation of The Fallstead, a senior independent living residence with 82 affordable housing units for seniors; and

WHEREAS, through hard work, visionary leadership, and steadfast dedication to his constituents, John Foust has helped to make Northern Virginia a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, That John William Foust hereby be commended for his 16 years of service as Dranesville District representative on the Fairfax County Board of Supervisors; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John William Foust as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 394

Celebrating the life of Katherine Hendricks Thomas, PhD.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Katherine Hendricks Thomas, PhD, an honorable veteran, accomplished behavioral health researcher, educator, and author, and a prominent veterans' health advocate, died on April 5, 2022; and

WHEREAS, a member of the University of Virginia Class of 2002, Katherine "Kate" Hendricks Thomas served her country with honor and distinction for several years, including a deployment to Iraq as a United States Marine Corps military police officer and a stint training young women aspiring to be marines at Parris Island; and

WHEREAS, with a heart for helping veterans, Kate Hendricks Thomas earned a doctoral degree from the University of Alabama and then embarked upon a successful career as a behavior health researcher, educator, and author; and

WHEREAS, previously an assistant professor of public health at Charleston Southern University, Kate Hendricks Thomas later taught in George Mason University's Department of Global and Community Health; and

WHEREAS, Kate Hendricks Thomas was published in leading behavioral health research journals, including *Best Practices in Mental Health*, the *Journal of Environmental Psychology*, and *Military Behavioral Health*, as well as by several respected newspapers, media outlets, and blogs; and

WHEREAS, Kate Hendricks Thomas authored several publications exploring behavioral health issues impacting veterans, including co-authoring the books *Stopping Military Suicides: Veteran Voices to Help Prevent Deaths* and *Invisible Veterans: What Happens When Military Women Become Civilians Again*; and

WHEREAS, Kate Hendricks Thomas was an indefatigable advocate for promoting greater awareness of veterans' health issues, even as her own health began to decline in the later years of her life; and

WHEREAS, as a result of Kate Hendricks Thomas' tireless efforts, the Dr. Kate Hendricks Thomas Supporting Expanded Review for Veterans In Combat Environments Act, or the Dr. Kate Hendricks Thomas SERVICE Act, was signed into law by President Joseph R. Biden, Jr., on June 7, 2022, expanding eligibility for Veterans Health Administration mammography screenings to certain veterans who served in certain locations during specified periods, including those who were exposed to toxic substances at such locations; and

WHEREAS, on June 15, 2022, the Virginia Department of Veterans Services recognized Kate Hendricks Thomas during the 2022 Virginia Women Veterans Summit in Richmond, posthumously awarding her the 2022 Change Maker Award; and

WHEREAS, Kate Hendricks Thomas' dedication to fostering health and wellness among veterans and in her community was also evident in her distinction as a Master Certified Health Education Specialist and her work as an experienced registered yoga teacher; and

WHEREAS, Kate Hendricks Thomas will be fondly remembered and dearly missed by her loving husband, Shane; her son, Matthew; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Katherine Hendricks Thomas, PhD, a cherished member of the Northern Virginia community whose leadership and advocacy made an impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Katherine Hendricks Thomas, PhD, as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 395

Commending the Freedom High School football team.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, capping off an undefeated season, the Freedom High School football team of Woodbridge secured the school's first ever state title with a victory in the Virginia High School League Class 6 state championship in 2022; and

WHEREAS, the Freedom High School Eagles defeated the James Madison High School Warhawks by a score of 48-14 to take the state crown, becoming the first Prince William County school to win a state football final in more than a decade and the first Prince William County football team to finish undefeated since 2006; and

WHEREAS, the Freedom Eagles dominated the game from the start, scoring on their first three possessions to build an insurmountable lead; and

WHEREAS, sophomore running back Jeffrey Overton, Jr., racked up 212 yards and three touchdowns on 23 carries for the Freedom Eagles; he finished the season with an incredible 2,599 total rushing yards, the most in school history; and

WHEREAS, junior quarterback Tristan Evans completed 14 of 20 passing attempts for 155 yards and two touchdowns and finished the season as the state record holder for the most touchdown passes in a single season with 61 touchdowns; he was also named 2022 MaxPreps Virginia High School Football Player of the Year; and

WHEREAS, the Freedom Eagles' defense and special teams consistently scored on returns and turnovers throughout the season, first-year starter Isaiah Harper added another score in the state final when he returned an interception 68 yards for a touchdown; and

WHEREAS, the state championship victory was the crowning moment of a perfect 15-0 season in which the Freedom Eagles set a state single-season record for total points with 952; and

WHEREAS, the record-breaking season is a tribute to the skill and resilience of all the student-athletes, the leadership and dedication of the coaches and staff, and the passionate support of the entire Freedom High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Freedom High School football team of Woodbridge hereby be commended on winning the Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Darryl Overton, head coach of the Freedom High School football team, as an expression of the House of Delegates' admiration for the team's achievements and best wishes for the future.

HOUSE RESOLUTION NO. 396

Commemorating the life and legacy of Ella Louise Stokes Hunter, Ed.D.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Ella Louise Stokes Hunter, Ed.D., a trailblazing mathematics educator and longtime professor at Virginia State University, made history as the first Black woman to earn a degree from the University of Virginia; and

WHEREAS, Louise Hunter was born and raised in Petersburg, where she excelled academically from an early age, drawing the attention of her teachers and peers; and

WHEREAS, Louise Hunter graduated magna cum laude with a bachelor's degree in mathematics from Howard University before earning a master's degree in education from Harvard University in 1925, becoming perhaps the first Black woman to graduate from that institution; and

WHEREAS, at the University of Virginia (UVA), Louise Hunter developed research focused on helping high school students transition to college-level mathematics, successfully defending her doctoral dissertation, "Pre-freshman Mathematics in State Colleges and Universities," in 1953 and graduating that same year; and

WHEREAS, Louise Hunter began teaching mathematics at what is today Virginia State University in 1920, remaining with the institution until her retirement in 1968; and

WHEREAS, Louise Hunter and her husband, John McNeile Hunter, who was also on the faculty at Virginia State University, were compassionate and caring mentors to many students at the school, guiding them not only in their academic pursuits but also through the challenges they would face during the Jim Crow era; and

WHEREAS, Louise Hunter was a charter member of the Delta Omega graduate chapter of Alpha Kappa Alpha Sorority, Inc., in Petersburg and remained actively involved with the organization throughout her life; and

WHEREAS, Louise Hunter's legacy has been preserved in part through the Hunter Student Research Conference, an annual student research conference at UVA's School of Education and Human Development that was renamed in her honor in 2020; and

WHEREAS, the steely persistence and unwavering commitment to serving others that Louise Hunter demonstrated in her life will continue to inspire Virginians for generations to come; now, therefore, be it

RESOLVED by the House of Delegates, That the life and legacy of Ella Louise Stokes Hunter, Ed.D., the first Black woman to graduate from the University of Virginia and an influential member of the Virginia State University community, hereby be commemorated on the 70th anniversary of her historic achievement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ella Louise Stokes Hunter as an expression of the House of Delegates' high regard for her place in history and her many contributions to the Commonwealth.

HOUSE RESOLUTION NO. 397

Commemorating the life and legacy of Walter Nathaniel Ridley, Ed.D.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Walter Nathaniel Ridley, Ed.D., a pioneering educator and education administrator, made history as the first Black graduate from the University of Virginia and as the first Black student to receive an academic doctoral degree from a traditionally white college or university in the South; and

WHEREAS, born in Newport News to the son of a formerly enslaved person, Walter Ridley graduated cum laude with a bachelor's degree in psychology from Howard University in 1931, then earned a master's degree in educational administration from the institution two years later; and

WHEREAS, Walter Ridley joined the faculty at what is now Virginia State University as a professor of psychology and director of extension, where he fostered the academic pursuits of an untold number of students over the next 21 years; and

WHEREAS, Walter Ridley sought admission to the University of Virginia (UVA) as early as the 1940s, but was initially denied, leading him to further his studies at the University of Minnesota, where he studied how audiovisual materials used in classrooms impacted Black students; and

WHEREAS, in 1950, the case *Swanson v. Rector of Visitors* was judged in favor of Gregory Swanson, who became the first Black student to be admitted to UVA; health issues compelled Walter Ridley to return to the Commonwealth around the same time, and when he subsequently applied for admission to UVA he was accepted, matriculating at the institution in 1951; and

WHEREAS, Walter Ridley became a member of the Kappa Delta Pi honor society at UVA and graduated with a doctoral degree in education in 1953, an historic accomplishment that drew the attention of local and national media; and

WHEREAS, after briefly serving as the academic dean at the former Saint Paul's College, Walter Ridley became president of what was then Elizabeth City State College in 1958, helping the institution grow in significant ways over his tenure toward becoming a fully accredited institution in the University of North Carolina system by 1969, a year after he left the institution; in honor of his contributions, he was named president emeritus of the institution in 1988; and

WHEREAS, Walter Ridley devoted himself to advancing education in the nation, serving at different times as president, treasurer, and trustee of the American Teachers Association (ATA) between 1941 and 1966, before the ATA was merged with the National Education Association (NEA) following the desegregation of the organizations; he also served on the commission that oversaw the merger of the ATA and NEA, notably providing a keynote address at the historic merger dinner; and

WHEREAS, in the final years of his career, Walter Ridley served as a professor at West Chester University in Pennsylvania, where he chaired the Department of Secondary Education and Professional Studies and retired in 1980, thereafter becoming professor emeritus; and

WHEREAS, Walter Ridley's notable professional, academic, and civic affiliations over the years included the Alpha Kappa Mu honor society, for which he served as national president; the American Association of Colleges for Teacher Education; the Antioch College Board of Trustees; the Save the Children Federation; Virginia Academy of Science; and the Central Intercollegiate Athletic Association's Presidents Council, which he served for 10 years and led for four; and

WHEREAS, in addition to receiving the Meritorious Service Award for his 25 years as a national officer of ATA, Walter Ridley was also recognized with UVA's Distinguished Curry School Alumnus Award in 1988; today, the Ridley Scholars Program and Ridley Hall at UVA serve to honor his achievements at the institution; and

WHEREAS, Walter Ridley died on September 26, 1996, leaving his wife, Henrietta, and his children, Yolanda and Don, and their families to cherish his memory, as well as an extraordinary legacy that will inspire others for generations to come; now, therefore, be it

RESOLVED by the House of Delegates, That the life and legacy of Walter Nathaniel Ridley, Ed.D., the first Black graduate of the University of Virginia, hereby be commemorated on the 70th anniversary of his historic achievement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Walter Nathaniel Ridley, Ed.D., as an expression of the House of Delegates' high regard for his place in history and his many contributions to the Commonwealth.

HOUSE RESOLUTION NO. 398

Commending Chris Jenkins.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Chris Jenkins, a distinguished law-enforcement officer with more than 45 years of experience, retired as chief of the Culpeper Police Department on January 1, 2023; and

WHEREAS, after graduating from Culpeper County High School in 1977, Chris Jenkins joined the Culpeper Police Department as a dispatcher at the age of 18; two years later, he became a certified police officer and subsequently rose through the ranks, fulfilling numerous roles in the department; and

WHEREAS, prior to becoming chief, Chris Jenkins served as a commander of the Culpeper Police Department Operations Division, overseeing patrol units, special operations, the K-9 unit, and reserve officers; he also assisted with the development of the department's budget and conducted public relations activities; and

WHEREAS, Chris Jenkins guided the department as interim chief in 2001, 2007, and just before he was officially appointed as chief in 2010; and

WHEREAS, during his tenure as chief, Chris Jenkins built strong relationships based on trust and mutual respect with members of the public and implemented a community policing model, with an emphasis on less-lethal force and the use of body cameras; and

WHEREAS, Chris Jenkins served as executive chair of the Central Shenandoah Criminal Justice Training Academy and executive board member of the Blue Ridge Narcotics and Gang Task Force and was a member of other local task forces related to auto theft and insurance fraud; he also represented Culpeper County on the board of Rappahannock-Rapidan Community Services; and

WHEREAS, a respected leader in the field of law enforcement, Chris Jenkins was a member of the Virginia Association of Chiefs of Police and the International Association of Chiefs of Police; he graduated from the FBI National Academy with Session 218 and was a member of the FBI National Academy Alumni Association; and

WHEREAS, Chris Jenkins played a vital role in the creation and leadership of Team Jordan, a nonprofit organization that raises awareness of suicide prevention and provides support to survivors; and

WHEREAS, among many awards and accolades for his service, Chris Jenkins received the Advocacy Award from the Culpeper Witness/Victim Program for his work to ensure the rights and safety of people who have witnessed or been the victim of a crime; and

WHEREAS, Chris Jenkins served the Culpeper community and the Commonwealth with the utmost dedication, integrity, and distinction; now, therefore, be it

RESOLVED by the House of Delegates, That Chris Jenkins hereby be commended on the occasion of his retirement as chief of the Culpeper Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chris Jenkins as an expression of the House of Delegates' admiration for his exceptional service to the Culpeper community.

HOUSE RESOLUTION NO. 399

Commending the John Marshall High School boys' basketball team.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, the John Marshall High School boys' basketball team of Richmond was ranked the number one team in the country by the high school sports web publication MaxPreps after winning the Chick-fil-A Classic American Division tournament championship in December 2022; and

WHEREAS, the John Marshall High School Justices rose 15 spots in MaxPreps' rankings after knocking off a series of elite teams on their way to becoming Chick-fil-A Classic American Division tournament champions; and

WHEREAS, after facing a 10-point deficit in the third quarter of the tournament semifinals, the John Marshall Justices rallied to win and move on to the championship game, where the team defeated Wheeler High School of Marietta, Georgia, by a score of 68-55; and

WHEREAS, the John Marshall Justices were led in the tournament by Damon Thompson, Jr., the Chick-fil-A Classic American Division tournament Most Valuable Player; Dennis Parker, Jr., who has committed to play at North Carolina State University; senior Jason Rivera; and freshman Latrell Allmond; and

WHEREAS, with an 87-36 win over Hermitage High School of Richmond on February 7, 2023, the John Marshall High School Justices improved to 21-0 on the season, as the team, which is ranked number one locally by the *Richmond Times-Dispatch*, sets its sights on finishing the season with a perfect record and winning its third Virginia High School League Class 2 state championship since 2020; and

WHEREAS, the success of the John Marshall Justices is the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of their families and the entire John Marshall High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the John Marshall High School boys' basketball team hereby be commended on winning the Chick-fil-A Classic American Division tournament and becoming MaxPreps' number one-ranked team in the nation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ty White, head coach of the John Marshall High School boys' basketball team, as an expression of the House of Delegates' admiration for the team's achievements and best wishes for the remainder of its season.

HOUSE RESOLUTION NO. 400

Commending the Virginia Nanotechnology Networked Infrastructure.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, the Virginia Nanotechnology Networked Infrastructure is a consortium of universities across the Commonwealth seeking to promote the development and success of Virginia's nanotechnology and semiconductor industries; and

WHEREAS, the Virginia Nanotechnology Networked Infrastructure (VNNI) seeks to establish strategic partnerships between VNNI nodes and technology and science organizations in the Commonwealth, including the Virginia Microelectronics Consortium; the Virginia Economic Development Partnership; the Virginia Academy of Science, Engineering and Medicine; and other education and industry partners; and

WHEREAS, VNNI aims to create centralized training materials for the development of workforce skills in the nanotechnology and semiconductor manufacturing industries; and

WHEREAS, VNNI is committed to establishing its Startup Accelerator Program to facilitate access to VNNI facilities and training programs for startups with the goal of increasing the number of Virginia small businesses in the semiconductor, biomedical device, and quantum computing industries and related fields; and

WHEREAS, VNNI plans to establish its High-School Advanced Teaching in Chips program to create a more balanced approach to education between hardware and software by establishing focused programs tailored for high school students and teachers on chip fabrication, semiconductor packaging, and microelectronics; and

WHEREAS, VNNI seeks to establish a Fast Track to Semiconductor Careers program to facilitate the training and reemployment of veterans in essential microchip, semiconductor, and other nanotechnology manufacturing and maintenance skills; and

WHEREAS, VNNI plans to promote these training materials and opportunities across the Commonwealth to increase the public awareness of and grow the nanotechnology and semiconductor industries; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Nanotechnology Networked Infrastructure hereby be commended for its dedication to the growth of the nanotechnology and semiconductor industries in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Nanotechnology Networked Infrastructure as an expression of the House of Delegates' admiration and support for the organization and its goals in the Commonwealth.

HOUSE RESOLUTION NO. 401

Commending Rappahannock-Rapidan Community Services.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Rappahannock-Rapidan Community Services, an agency dedicated to improving the quality of life in the Counties of Culpeper, Fauquier, Madison, Orange, and Rappahannock through comprehensive behavioral health, developmental disability, substance use disorder, housing, and aging services, celebrated its 50th anniversary in 2022; and

WHEREAS, the Rappahannock–Rapidan Community Services Board was established in 1972 by the local governments of Planning District 9, including the Counties of Culpeper, Fauquier, Madison, Orange, and Rappahannock; and

WHEREAS, from the beginning, what is now Rappahannock–Rapidan Community Services (RRCS) combined the responsibilities of an area agency on aging and a community services board, creating a unique, multifaceted organization that remains the only one of its kind in the Commonwealth; and

WHEREAS, under the aegis of the Department of Behavioral Health and Developmental Services, the Department of Aging and Rehabilitative Services, and Virginia Housing, RRCS implements more than 80 programs with a staff of more than 400 employees, making it the largest agency in its service area; and

WHEREAS, the marquee programs of RRCS include the Boxwood Recovery Center, an in-patient treatment center in Culpeper for individuals with substance use disorders; its Area Agency on Aging senior centers in each of the five counties it serves; and its Support, Encourage, Empower (S.E.E.) Recovery Center in Culpeper, where essential resources for mental health wellness are made readily available to the public; and

WHEREAS, RRCS supports individuals of all ages and backgrounds, from its infant-toddler connection program, which helps to ensure the youngest members of the community meet their developmental milestones, to its Senior Cool Care program and meal delivery services designed for the benefit and comfort of senior citizens in the area; and

WHEREAS, RRCS provides a vital safety net for individuals and families in need through various programs and services, including group homes for adults with developmental and intellectual disabilities, affordable housing for low-income seniors, and outpatient rapid access services for those suffering from mental health or substance use disorders; and

WHEREAS, from assisting with Medicare and Medicaid enrollment, to supporting a crisis services hotline, to embedding mental health professionals within local law-enforcement agencies, to organizing peer support programs, RRCS

deploys a plethora of strategies to protect the most vulnerable in society, helping to make the region it serves a healthier and more accommodating place to live, work, and raise a family; now, therefore, be it

RESOLVED by the House of Delegates, That Rappahannock-Rapidan Community Services hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James LaGraffe, executive director of Rappahannock-Rapidan Community Services, as an expression of the House of Delegates' admiration for the organization's history of contributions to the Commonwealth.

HOUSE RESOLUTION NO. 402

Commending the National Wild Turkey Federation, Inc.

Agreed to by the House of Delegates, February 23, 2023

WHEREAS, for five decades, the National Wild Turkey Federation, Inc., has supported science-based wildlife management, research, and habitat conservation; and

WHEREAS, the National Wild Turkey Federation was incorporated on March 28, 1973, in Fredericksburg; and

WHEREAS, over the course of 50 years, the National Wild Turkey Federation and its chapters and millions of members across the nation have worked with state, federal, and nongovernmental partners to promote the conservation of the wild turkey and the preservation of the nation's hunting heritage, contributing to one of the greatest conservation success stories in American history, the return of the wild turkey from the brink of extinction; and

WHEREAS, members of the National Wild Turkey Federation have played a critical role in reversing the decline in hunting participation through nationwide investment in hunter recruitment, retention, and reactivation efforts and by partnering with states to develop opportunities to engage people from all walks of life in outdoor activities; since 2012, the organization has recruited and reactivated more than 1.5 million hunters; and

WHEREAS, the National Wild Turkey Federation and its members have invested more than half a billion dollars to conserve or enhance more than 22 million acres of critical wildlife habitat, forests, and grasslands across public and private lands since 1985, while also providing more than $8.5 million in research throughout North America to ensure healthy wild turkey populations into the future; and

WHEREAS, the National Wild Turkey Federation is the largest and longest-serving nongovernmental stewardship partner of the United States Department of Agriculture (USDA) Forest Service, conserving habitat on National Forest System lands for more than 40 years and heavily engaging in the development and implementation of the USDA's wildfire crisis strategy for protecting communities and improving resilience in forests across America; and

WHEREAS, the National Wild Turkey Federation also works across land-ownership boundaries to increase clean and abundant water and promote healthy forests and wildlife habitat, resilient communities, and robust recreational opportunities across the country; now, therefore, be it

RESOLVED by the House of Delegates, That the National Wild Turkey Federation, Inc., hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the National Wild Turkey Federation, Inc., as an expression of the House of Delegates' admiration for the tireless and selfless work of the organization and its members to further science-based, state-led wildlife management and the conservation of America's wild turkey and its habitat.

HOUSE RESOLUTION NO. 403

Nominating persons to be elected to circuit court judgeships.

Agreed to by the House of Delegates, February 22, 2023

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Andrew D. Kubovcik, of Chesapeake, as a judge of the First Judicial Circuit for a term of eight years commencing March 16, 2023.

The Honorable Afshin Farashahi, of Virginia Beach, as a judge of the Second Judicial Circuit for a term of eight years commencing March 16, 2023.

The Honorable Douglas B. Ottinger, of Portsmouth, as a judge of the Third Judicial Circuit for a term of eight years commencing January 1, 2024.

The Honorable Joseph C. Lindsey, of Norfolk, as a judge of the Fourth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Wallace W. Brittle, Jr., of Sussex, as a judge of the Sixth Judicial Circuit for a term of eight years commencing April 1, 2023.

The Honorable Tonya R. Henderson-Stith, of Hampton, as a judge of the Eighth Judicial Circuit for a term of eight years commencing March 16, 2023.

The Honorable Tracy W. J. Thorne-Begland, of Richmond, as a judge of the Thirteenth Judicial Circuit for a term of eight years commencing August 1, 2023.

The Honorable Daniel T. C. Lopez, of Arlington, as a judge of the Seventeenth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Jeffrey P. Bennett, of Amherst, as a judge of the Twenty-fourth Judicial Circuit for a term of eight years commencing July 1, 2023.

Shannon T. Sherrill, Esquire, of Staunton, as a judge of the Twenty-fifth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Eric R. Thiessen, of Washington, as a judge of the Twenty-eighth Judicial Circuit for a term of eight years commencing July 1, 2023.

HOUSE RESOLUTION NO. 404

Nominating persons to be elected to general district court judgeships.

Agreed to by the House of Delegates, February 22, 2023

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

Wanda J. Cooper, Esquire, of Virginia Beach, as a judge of the Second Judicial District for a term of six years commencing April 16, 2023.

Jon M. Babineau, Sr., Esquire, of Portsmouth, as a judge of the Third Judicial District for a term of six years commencing January 1, 2024.

Robert L. Foley, Esquire, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing April 1, 2023.

Erikka M. Massie, Esquire, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing July 1, 2023.

The Honorable Wade A. Bowie, of James City County, as a judge of the Ninth Judicial District for a term of six years commencing April 1, 2023.

Victoria N. Pearson, Esquire, of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing August 1, 2023.

Nicole L. Fox, Esquire, of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing April 16, 2023.

Cari M. Steele, Esquire, of Arlington, as a judge of the Seventeenth Judicial District for a term of six years commencing July 1, 2023.

HOUSE RESOLUTION NO. 405

Nominating persons to be elected to juvenile and domestic relations district court judgeships.

Agreed to by the House of Delegates, February 22, 2023

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

David L. Jones, Esquire, of Chesapeake, as a judge of the First Judicial District for a term of six years commencing March 16, 2023.

Michael A. Beverly, Esquire, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing January 1, 2024.

Robert J. Fierro, Jr., Esquire, of Prince George, as a judge of the Sixth Judicial District for a term of six years commencing April 16, 2023.

Richard G. Collins, Jr., Esquire, of James City County, as a judge of the Ninth Judicial District for a term of six years commencing April 16, 2023.

Matthew R. Kite, Esquire, of King William, as a judge of the Ninth Judicial District for a term of six years commencing April 16, 2023.

Adam H. Moseley, Esquire, of Roanoke, as a judge of the Twenty-third Judicial District for a term of six years commencing May 1, 2023.

Eugene N. Butler, Esquire, of Lynchburg, as a judge of the Twenty-fourth Judicial District for a term of six years commencing July 1, 2023.

HOUSE RESOLUTION NO. 406

Nominating a person to be elected as a member of the Judicial Inquiry and Review Commission.

Agreed to by the House of Delegates, February 22, 2023

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected as a member of the Judicial Inquiry and Review Commission as follows:

The Honorable Gino W. Williams, of Floyd, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2023.

HOUSE RESOLUTION NO. 407

Commending Kathleen Jacoby.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Kathleen Jacoby of Sterling, a music education teacher and band director at Herndon High School, was selected as the 2022 Outstanding Secondary Teacher of the Year by Fairfax County Public Schools; and

WHEREAS, Kathleen Jacoby teaches advanced placement music theory, leads three concert ensembles, the percussion ensemble, and the Pride of Herndon Marching Band, and is the sponsor of the Herndon High School chapter of the Tri-M Music Honor Society; and

WHEREAS, under Kathleen Jacoby's direction, the Pride of Herndon Marching Band has performed in the NATO Parade in 2018, the Philadelphia Thanksgiving Parade in 2017, the National Cherry Blossom Parade in 2016, Macy's Holiday Parade at Universal Studios in 2016, and the Disney Electric Light Parade in April 2014; and

WHEREAS, during Kathleen Jacoby's distinguished tenure, the Pride of Herndon Marching Band represented the United States at the 75th anniversary commemoration of D-Day in Normandy, France, won the grand champion award at the Pearl Harbor Memorial Parade in Honolulu, Hawaii, and became the only band to ever perform at the Central Intelligence Agency headquarters; and

WHEREAS, Kathleen Jacoby is an active adjudicator for marching and concert band assessments in Virginia and Maryland, and she has worked diligently to diversify clinician and adjudication panels; and

WHEREAS, Kathleen Jacoby is a member of the executive board of the Virginia Band and Orchestra Directors Association and previously served as the creator and chair of the association's inclusion committee, which developed solutions to diversify leadership, create resources to enhance hiring practices, and address inclusion of all types of marching styles at state events; and

WHEREAS, in June 2018, Kathleen Jacoby and a group of other women educators launched the Virginia Band Director Toolkit, a website that promotes best practices for programming and hiring and offers information on grant and scholarship opportunities for both students and teachers; and

WHEREAS, among many other awards and accolades, Kathleen Jacoby has received the Dr. Alice M. Hammel Inclusion in Music Education Award from James Madison University, the Scroll of Excellence from Women Band Directors International, and commendations from the Town of Herndon, the Fairfax County School Board, and the Virginia Department of Education; she has been listed twice on the 50 Music Teachers to Watch list by *School Band and Orchestra Magazine*; now, therefore, be it

RESOLVED by the House of Delegates, That Kathleen Jacoby hereby be commended on her selection as the 2022 Outstanding Secondary Teacher of the Year by Fairfax County Public Schools; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kathleen Jacoby as an expression of the House of Delegates' admiration for her contributions to music education and service to students and educators in Fairfax County and across the Commonwealth.

HOUSE RESOLUTION NO. 408

Celebrating the life of Robert Joseph Robertory.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Robert Joseph Robertory, a federal administrative judge who specialized in contract and construction law and a dedicated community leader in Fairfax County, died on November 9, 2022; and

WHEREAS, Robert "Bob" Joseph Robertory grew up in New Jersey and graduated from what is now Saint Peter's University and Boston College Law School; and

WHEREAS, Bob Robertory served his country as an officer in the United States Army and worked at the Pentagon as a member of the Judge Advocate General's Corps; and

WHEREAS, as a civilian, Bob Robertory worked in the Office of the Chief of Engineers in the Army Corps of Engineers, in the Naval Facilities Engineering Systems Command, and as an attorney in the U.S. Government Accountability Office; and

WHEREAS, after his well-earned retirement as a deputy chief judge of the U.S. Department of Transportation Board of Contract Appeals in 1997, he continued to serve as an arbitrator and mediator for major construction disputes and was a sought-after lecturer on dispute resolution; and

WHEREAS, outside of his career, Bob Robertory served as a trustee of the Crosspointe Homeowners Association and represented the Crosspointe community before the South County Federation for more than a decade; and

WHEREAS, at the local level, Bob Robertory was also involved in many construction and development matters, including the construction of South County Secondary School and South County Middle School, the development of the Shoppes at Lorton Valley, and the closure of the Lorton Landfill; and

WHEREAS, Bob Robertory also served as a past commodore of the Fairfax Yacht Club and enjoyed spending time on his boat on the Chesapeake Bay; he was an avid model train collector and loved sharing his hobby with his children and grandchildren, while encouraging them to achieve their fullest potential in their own pursuits; and

WHEREAS, Bob Robertory will be fondly remembered and greatly missed by his wife, Ruth; his sons, Robert, Peter, and Keith, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Robert Joseph Robertory, a respected member of the Fairfax County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert Joseph Robertory as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 409

Commending ReadyKids.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for more than 100 years, ReadyKids has provided early learning opportunities, counseling, and family support to young people in Charlottesville and the surrounding region; and

WHEREAS, established in 1921, ReadyKids is one of the oldest nonprofit organizations in Charlottesville; it was originally known as the Children's Home and cared for young people who had been orphaned by the 1918 flu pandemic; and

WHEREAS, by the 1940s, the Children's Home had expanded its mission to provide care for adolescents and support for young people whose families were in crisis; and

WHEREAS, to better reflect its evolving mission, the organization changed its name to Child and Family Services of Charlottesville and Albemarle in the 1950s, to the Office for Children and Youth in the 1970s, and to Children, Youth and Family Services in the 1990s; and

WHEREAS, ReadyKids adopted its current name in 2014; the organization provides a wide range of programs for young people with adverse childhood experiences, children from low-income families, children in unsafe living conditions, or any other child in need; and

WHEREAS, among the many programs offered by ReadyKids, Inside Out Counseling provides trauma counseling, primarily in person, to children between the ages of two and 18, and the Teen Counseling Program provides short-term intensive counseling services to teens and their families; and

WHEREAS, the ReadyKids program ReadySteps provides in-person and virtual early learning playgroups in English and Spanish to various communities in Charlottesville and Albemarle County; and

WHEREAS, Healthy Families, a ReadyKids comprehensive family support program, provides children from infancy to five years of age and their parents with in-person visits and phone, text, and video calls, with programming offered in English, Spanish, Dari, and Pashto; and

WHEREAS, ReadyKids' Growing Minds provides quality improvement activities for child care providers, including coaching, training, technical assistance, and consultation, while STAR Kids provides lessons that teach social-emotional development and problem-solving skills; and

WHEREAS, through the REAL Dads program, ReadyKids provides coaching to fathers who want to build strong, secure relationships with their families; and

WHEREAS, Jacki Bryant has led ReadyKids as its executive director since 2005 and has demonstrated a thoughtful approach to enhancing the diversity of the staff, effective teamwork, and shared leadership; and

WHEREAS, during her tenure, Jacki Bryant has cultivated an optimal environment for the organization's growth and promoted the core value of ReadyKids that every child has the right to grow up in a world that honors their whole self and offers every opportunity to secure their health and well-being; and

WHEREAS, in fiscal year 2022, ReadyKids provided services to 6,840 children, their families, and early childhood educators in Charlottesville and Albemarle, Nelson, Louisa, Fluvanna, and Green Counties; now, therefore, be it

RESOLVED by the House of Delegates, That ReadyKids hereby be commended on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jacki Bryant, executive director of ReadyKids, as an expression of the House of Delegates' admiration for the organization's achievements in service to young people in Charlottesville and throughout the region.

HOUSE RESOLUTION NO. 410

Celebrating the life of Wanda Fay Slemp.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Wanda Fay Slemp, a beloved wife, mother, grandmother, great-grandmother, and member of the Lee County community, died on February 6, 2023; and

WHEREAS, born in Chad, Kentucky, and later moving to Lee County, Fay Slemp graduated from the former Dryden High School before working as the bookkeeper of the Lonesome Pine Regional Library in Wise for nearly 20 years, contributing greatly to the success of the institution throughout Dickenson, Lee, Wise, and Scott Counties and the City of Norton; and

WHEREAS, after retiring from the Lonesome Pine Regional Library and relocating to the beaches of North and South Carolina with her husband, Charles, Fay Slemp served as a librarian assistant at Southeastern Community College for some time before ultimately returning to Lee County, where she worked indefatigably as a tax preparer until her retirement at 83 years of age; and

WHEREAS, Fay Slemp could often be found in her garden among her treasured flowers, reading the latest John Grisham novel, collecting lighthouses, basket weaving, or sewing, yet her greatest joy was spending time with her family, who knew her as an engrossing storyteller, a fierce Duke University Blue Devils fan, and an expert sandcastle maker; and

WHEREAS, preceded in death by her husband, Charles, Fay Slemp will be fondly remembered and dearly missed by her son, Charles, Jr., and his family and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Wanda Fay Slemp, a cherished member of the Lee County community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Wanda Fay Slemp as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 411

Commending Loudoun Cubs Cricket Academy.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Loudoun Cubs Cricket Academy, a competitive sports organization dedicated to growing the sport of cricket and providing the opportunity for individuals of all ages to participate in the athletic community, has greatly served Loudoun County and the Commonwealth; and

WHEREAS, Loudoun Cubs Cricket Academy has more than 2,000 registered members, including more than 150 youth members, competing on the state, regional, and national level; and

WHEREAS, Loudoun Cubs Cricket Academy players participated in Virginia's under-13 and under-15 teams, which defeated New Jersey in the state final competition, becoming the USA Cricket Mid-Atlantic Regional Tournament champions; and

WHEREAS, Loudoun Cubs Cricket Academy was the first organization in the Washington, D.C., area to develop a full girls team, from which players were selected to participate on the under-19 team that represented the United States in the 2023 International Cricket Council Women's Under-19 Cricket World Cup in South Africa; and

WHEREAS, Loudoun Cubs Cricket Academy takes pride in promoting diversity, integrity, respect, healthy living, and a passion for cricket; now, therefore, be it

RESOLVED by the House of Delegates, That Loudoun Cubs Cricket Academy hereby be commended for its contributions to the cricket community in Loudoun County and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Loudoun Cubs Cricket Academy as an expression of the House of Delegates' admiration for its mission and best wishes for its continued success.

HOUSE RESOLUTION NO. 412

Commending Gem Bingol.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Gem Bingol, a senior land use field representative for the Piedmont Environmental Council, has tirelessly served Loudoun County and the Commonwealth for 25 years, since December 19, 1997; and

WHEREAS, Gem Bingol has been a strong advocate for smart growth, promoting outdoor recreation, conservation of agricultural spaces, and preservation of natural places; and

WHEREAS, Gem Bingol has consistently provided critical expertise on land use, transportation, and zoning issues and has served as an important resource for officials as they make decisions regarding land; and

WHEREAS, Gem Bingol is a dedicated public servant who has devoted many hours in service to her community, serving on multiple boards and committees in Loudoun County; now, therefore, be it

RESOLVED by the House of Delegates, That Gem Bingol hereby be commended for her commitment to promoting sustainable and smart land use and conservation policies in Loudoun County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gem Bingol as an expression of the House of Delegates' admiration and gratitude for her commitment to thoughtful and informed land use in the Commonwealth.

HOUSE RESOLUTION NO. 413

Commending Kindra Dionne.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Kindra Dionne, a Virginia native, has greatly served and inspired the people of the Commonwealth by sharing her dedicated work ethic and entrepreneurial experiences with others; and

WHEREAS, Kindra Dionne has made many contributions to her community as an entrepreneur, including founding Purpose WorX, LLC, a business consultant development company, writing *Conquering the Emotional Roller Coaster of Entrepreneurship*, and becoming the owner of the Fifty Leven™ Wine Collection; and

WHEREAS, Kindra Dionne was awarded the Loudoun Chamber of Commerce 2022 Community Leadership Award in the young professionals category for her work as founder of Purpose WorX, LLC; and

WHEREAS, Kindra Dionne serves on the board of directors and as the program coordinator of Leadership Loudoun, a nonprofit dedicated to cultivating networks of current and future community leaders in Loudoun County; and

WHEREAS, Kindra Dionne succeeded in launching the Fifty Leven™ Wine Collection without formal wine training, but instead through mentorship, endless hours of research, and a desire to share wine with an underserved consumer group; now, therefore, be it

RESOLVED by the House of Delegates, That Kindra Dionne hereby be commended for her legacy of service as a visionary entrepreneur; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kindra Dionne as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 414

Commending Cox Farms.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Cox Farms was originally founded on 40 acres near Herndon in 1972, and the business was expanded in 1979 following the farm's co-owners' purchase of 116 acres in Centreville; and

WHEREAS, since its founding, Cox Farms' fall and winter festivities have been considered among the largest and most popular seasonal events in the Washington, D.C., area, offering countless unique activities that attract hundreds of attendees each day; and

WHEREAS, Cox Farms values the importance of community engagement and has established partnerships and cultivated community initiatives to provide local families and organizations with resources and activities that lead to healthier, happier communities; and

WHEREAS, in July 2022, Cox Farms celebrated its 50th anniversary, where co-owners Eric Cox and Gina Richard paid homage to their family and the thousands of employees, vendors, suppliers, and community members who have helped the business grow exponentially over the past half-century; now, therefore, be it

RESOLVED by the House of Delegates, That Cox Farms hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cox Farms as an expression of the House of Delegates' admiration for the family business' commitment to creating events and programs for the community.

HOUSE RESOLUTION NO. 415

Commending Ashby Ponds.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Ashby Ponds, a premier senior living community dedicated to providing exceptional services and amenities in Loudoun County, has greatly served the Commonwealth since 2008; and

WHEREAS, Ashby Ponds offers a plethora of activities and amenities, including libraries, game rooms, state-of-the-art fitness centers and swimming pools, pickleball courts, a golf simulator, and much more to create an exclusive, resort-like experience for an affordable value, all while providing health benefits like an on-campus medical center with dedicated primary and specialty physicians; and

WHEREAS, in addition to Ashby Ponds' tremendous services, the senior living community offers a wide range of maintenance-free homes that are customizable to fit residents' styles and budgets; and

WHEREAS, Ashby Ponds was named the Best Senior Living Facility around the Ashburn area by *Ashburn Magazine* in its "Best of Ashburn" series for 2021 and 2022, recognizing the beautiful senior living community and its commitment to higher levels of care and wellness services; now, therefore, be it

RESOLVED by the House of Delegates, That Ashby Ponds hereby be commended on the occasion of its 15th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ashby Ponds as an expression of the House of Delegates' admiration for the community's commitment to senior living and health care.

HOUSE RESOLUTION NO. 416

Commending Jack and Jill of America, Inc.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for 85 years, Jack and Jill of America, Inc., an organization of mothers with children ages 2-19, has been dedicated to nurturing future African American leaders by strengthening children through leadership development, volunteer service, philanthropic giving, and civic outreach; and

WHEREAS, Jack and Jill was founded in Philadelphia, Pennsylvania, by the late Marion Stubbs Thomas on January 24, 1938, when 20 local mothers came together to discuss creating an organization to provide social, cultural, and educational opportunities for young people; and

WHEREAS, in 1946, 10 Jack and Jill chapters were involved in a national restructuring process, the organization's National Constitution and Bylaws were created, and the organization was incorporated in Delaware; and

WHEREAS, there are now more than 254 Jack and Jill chapters nationwide, representing more than 40,000 family members, with a headquarters in Washington, D.C.; in the Mid-Atlantic Region, there are 32 chapters in Virginia, North Carolina, South Carolina, and West Virginia that are "fit, focused and ready" to serve their families; and

WHEREAS, each Jack and Jill chapter plans annual programming activities guided by a national theme; the current national theme is "The Power to Make a Difference For All Children: On Mission. On Purpose"; and

WHEREAS, Jack and Jill also promotes public awareness of child development issues through advocacy, educational programming and materials, and the organization of community and charitable events; and

WHEREAS, the philanthropic arm of Jack and Jill, the Jack and Jill of America Foundation, fulfills its shared vision to invest in the future of children by supporting programs that create opportunities and challenges for children to learn and practice leadership skills and build character; now, therefore, be it

RESOLVED by the House of Delegates, That Jack and Jill of America, Inc., hereby be commended on the occasion of its 85th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Greater Fredericksburg Chapter of Jack and Jill of America, Inc., as an expression of the House of Delegates' admiration for the achievements of Jack and Jill of America, Inc., chapters across the Commonwealth and the United States.

HOUSE RESOLUTION NO. 417

Commending the Stafford County Branch of the NAACP.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for 67 years, the Stafford County Branch of the NAACP has worked to ensure the political, educational, social, and economic equality of rights for all members of the community and to eliminate racial hatred and racial discrimination; and

WHEREAS, the Stafford County Branch of the NAACP was established at Bethlehem Primitive Baptist Church in 1956, with Frank White, Sr., as its first president; and

WHEREAS, Yolanda Roussell currently serves as the 11th president of the Stafford County Branch of the NAACP and has increased membership and financial stability and promoted many community events, both virtual and in-person, during her tenure; and

WHEREAS, during the past several years, the Stafford County Branch of the NAACP has participated in numerous events to fulfill its vital mission, including Stafford Night Out, fundraisers and holiday events, political forums, a virtual panel discussion on racism and men's mental health, and a virtual town hall on the inclusion of Black History education; and

WHEREAS, the Stafford County Branch of the NAACP also recently formed the WIN (Women in the NAACP) Committee to promote and empower local women leaders; and

WHEREAS, in 2022, the Stafford County Branch of the NAACP hosted a celebration of Juneteenth that attracted more than 1,000 attendees and was sponsored by local agencies, businesses, and other community organizations; and

WHEREAS, the Stafford County Branch of the NAACP has significantly enhanced the quality of life in Stafford County and continues to serve the community with dedication and integrity; now, therefore, be it

RESOLVED by the House of Delegates, That the Stafford County Branch of the NAACP hereby be commended for 67 years of promoting political, educational, social, and economic equality and working to eliminate racial hatred and racial discrimination; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Yolanda Roussell, president of the Stafford County Branch of the NAACP, as an expression of the House of Delegates' admiration for the organization's contributions to the Stafford County community and the Commonwealth.

HOUSE RESOLUTION NO. 418

Celebrating the life of Doris Brunette Harris Watson.

Agreed to by the House of Delegates, February 25, 2023

WHEREAS, Doris Brunette Harris Watson, a dedicated educator and vibrant community leader in Newport News, died on March 25, 2022; and

WHEREAS, Doris Watson grew up in Kenbridge, in Lunenburg County, and graduated with honors from the former Collis P. Huntington High School in Newport News; and

WHEREAS, Doris Watson earned a bachelor's degree in English with a minor in German from what was then Virginia State College, and a master's degree in elementary education from what was then the Hampton Institute; and

WHEREAS, Doris Watson pursued a career as a teacher and, over the course of 35 years, she gave students the tools and support to become lifelong learners at Newsome Park Elementary School, Carver Elementary School, Magruder Elementary School, and the former Dunbar-Erwin Elementary School; she also taught at Peninsula Business College; and

WHEREAS, Doris Watson proudly offered her leadership to the Newport News Alumnae Chapter of Delta Sigma Theta Sorority, Inc., for more than 56 years; and

WHEREAS, Doris Watson enjoyed fellowship and worship with the community as a member of St. Augustine's Episcopal Church in Newport News, where she served in various leadership capacities over the course of five decades; and

WHEREAS, at St. Augustine's Episcopal Church, Doris Watson served as president of the Progressive Women's Club, St. Augustine's chapter of the Daughters of the King, and the Episcopal Church Women, and she participated in the church choir; she notably organized the church's Saturday lunch program for over 30 years; and

WHEREAS, in recognition of her legacy of contributions to the congregation, the parish hall at St. Augustine's Episcopal Church was renamed in Doris Watson's honor; and

WHEREAS, predeceased by her husband, Roger, Doris Watson will be fondly remembered and greatly missed by her son, Roger, Jr., and his family, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Doris Brunette Harris Watson; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Doris Brunette Harris Watson as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 419

Commending Wesley Grove United Church of Christ.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for 135 years, Wesley Grove United Church of Christ has provided spiritual leadership, generous community outreach, and opportunities for joyful worship to the residents of Newport News; and

WHEREAS, originally known as Wesley Grove Christian Church, Wesley Grove United Church of Christ was established in 1887 at a place known as "The Acre"; in its early years, the church held services in various places around Newport News, then constructed its first permanent building at the corner of 19th Street and Ivy Avenue in 1892; after paying off the debt of that building, the church built a larger building in 1895, and within four years the church had paid off all of its debt again; and

WHEREAS, around the turn of the century, due to another increase in membership, the church built a larger building; and Wesley Grove United Church of Christ then grew to include more than 1,000 members; and

WHEREAS, Wesley Grove United Church of Christ raised funds to purchase the former First United Church of Christ at the corner of 23rd Street and Roanoke Avenue and held its first service in the building, which is its current location, on November 22, 1964; and

WHEREAS, after a transitional period with different pastors and gaps of time without pastors, the church found new leadership, and in the late 1970s and through the 1980s, Wesley Grove United Church of Christ increased its membership and created several new ministries to better serve and stay engaged with members of the community; and

WHEREAS, over the course of its history, Wesley Grove United Church of Christ has benefited from the leadership of 12 pastors, the Reverend J.H. Edlow, the Reverend James M. Parson, the Reverend Smith A. Howell, the Reverend J.B. Jones, the Reverend Thomas J. Moore, the Reverend Zander P. Jenkins, the Reverend Vernon Harris, the Reverend G. Wesley Raney III, the Reverend Dr. Isaac L. McDonald, the Reverend Prince Raney Rivers, the Reverend Dr. Alexander Jamison, Sr., and the current pastor, the Reverend Antonio L. Newsome; and

WHEREAS, since 2013, Reverend Newsome has helped Wesley Grove United Church of Christ continue to grow in faith and number; he invigorated its ministries while creating new initiatives, events, and opportunities for congregants and the wider community; and

WHEREAS, Wesley Grove United Church of Christ has played an integral role in local history, providing stability and guidance to countless residents over the years, with many generations of the same families worshipping under the same roof or serving as church leaders; now, therefore, be it

RESOLVED by the House of Delegates, That Wesley Grove United Church of Christ hereby be commended on the occasion of its 135th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Wesley Grove United Church of Christ as an expression of the House of Delegates' admiration for the church's long history and legacy of contributions to the Newport News community.

HOUSE RESOLUTION NO. 420

Commending Criner Remodeling.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Criner Remodeling, an award-winning home remodeling company serving residents of Newport News and the Peninsula, celebrated its 45th anniversary in 2022; and

WHEREAS, from concept to delivery, Criner Remodeling combines exquisite design, exacting standards, and unparalleled customer service to help its customers adapt their homes to meet their changing needs; and

WHEREAS, after several years working for a remodeling contractor, Robert Criner was inspired to start his own remodeling business; in 1977, he founded Criner Construction, then Criner Remodeling, and embarked on his first project, a tear-off roof replacement, as a one-person operation; and

WHEREAS, over the past 45 years, Criner Remodeling has grown into a thriving and profitable business with a team of 14 highly qualified remodeling professionals; and

WHEREAS, Criner Remodeling is a family-run business, with Robert Criner's son, Paul, taking the lead of managing the company's day-to-day operations as co-owner and vice president of the company; and

WHEREAS, in recognition of its quality workmanship and service, Criner Remodeling has earned numerous local and national awards, including the National Association of Home Builders Remodeler of the Year; and

WHEREAS, the success of Criner Remodeling is the result of its commitment to excellence, its concern for the well-being of its employees, and its unwavering dedication to the clients it serves; now, therefore, be it

RESOLVED by the House of Delegates, That Criner Remodeling hereby be commended on the occasion of its 45th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert Criner, president and owner of Criner Remodeling, as an expression of the House of Delegates' admiration for the company's history and its contributions to the Commonwealth.

HOUSE RESOLUTION NO. 421

Commending Rikki S. Epstein.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, on December 31, 2022, Rikki S. Epstein completed her tenure as executive director of The Arc of Northern Virginia, completing 11 years of outstanding service to the disability community; and

WHEREAS, Rikki Epstein focused her career on working to ensure that people with disabilities had access to recreation, transportation, and community resources, and she was hired by the board of directors for The Arc of Northern Virginia in 2011; and

WHEREAS, during Rikki Epstein's tenure as executive director, The Arc of Northern Virginia became a statewide leader in providing information, resources, and assistance to people with disabilities and their loved ones, promoting and protecting the human rights of people with intellectual and developmental disabilities and supporting their full inclusion and participation in the community; and

WHEREAS, under Rikki Epstein's leadership, The Arc of Northern Virginia created, launched, and grew the program Transition POINTS (Providing Opportunities, Information, Networking and Transition Support), a network of resource guides available in seven languages, webinars, workshops, toolkits, and direct assistance for families of an individual with developmental disabilities, aiding them in decision-making for key life stages; and

WHEREAS, Rikki Epstein helped The Arc of Northern Virginia assume a position of national prominence in addressing the problem of the overrepresentation of people with disabilities in the justice system; and

WHEREAS, Rikki Epstein's contributions have been numerous and significant, her dedication exemplary, her years of service memorable, and her impact lasting; now, therefore, be it

RESOLVED by the House of Delegates, That Rikki S. Epstein hereby be commended for her exceptional leadership of The Arc of Northern Virginia on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rikki S. Epstein as an expression of the House of Delegates' admiration for her years of service on behalf of the disability community in the Commonwealth.

HOUSE RESOLUTION NO. 422

Commending Penny Kelly.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Penny Kelly, an emergency medical technician and fire science instructor in Fairfax County Public Schools and at the Fairfax County Fire and Rescue Academy, received the 2022 Regional Award for Outstanding Achievement in EMS "Outstanding Pre-Hospital Educator" from the Northern Virginia EMS Council in 2022; and

WHEREAS, fully licensed as an emergency medical technician (EMT), EMT instructor, and Community Emergency Response Team trainer, Penny Kelly was the first fire science and EMT instructor at Falls Church Academy, one of six high school academy programs in the Fairfax County Public Schools system; and

WHEREAS, Penny Kelly received the prestigious award in recognition of her loyal service to her students and her diligent work to ensure that they are well prepared to safeguard the lives and property of Fairfax County residents; and

WHEREAS, Penny Kelly has overseen significant growth in the enrollment of Falls Church Academy during her tenure; she regularly updates the curriculum to reflect best practices and helps students engage with complex concepts by applying them to real-world scenarios; and

WHEREAS, working with regional fire and emergency services professionals, Penny Kelly has created unique learning opportunities for her students by arranging flight medic helicopter visits to the academy and field trips to the Fairfax County Fire and Rescue Academy and the Northern Virginia Community College medical education campus; and

WHEREAS, Penny Kelly routinely visits high school guidance departments to promote the benefits of academy programs and the public safety profession, and she has supported her students after graduation by helping them obtain certifications and seek opportunities for employment and postsecondary education; and

WHEREAS, Penny Kelly was previously awarded the Regional Award for Outstanding Achievement in EMS "Outstanding Pre-Hospital Educator" in both 2015 and 2016; now, therefore, be it

RESOLVED by the House of Delegates, That Penny Kelly hereby be commended for being awarded the 2022 Regional Award for Outstanding Achievement in EMS "Outstanding Pre-Hospital Educator"; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Penny Kelly as an expression of the House of Delegates' admiration for her professional achievements in service to students and residents of Northern Virginia.

HOUSE RESOLUTION NO. 423

Commending the Great Bridge High School wrestling team.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the Great Bridge High School wrestling team of Chesapeake won the Virginia High School League Class 4 state championship on February 18, 2023, at the Virginia Beach Sports Center; and

WHEREAS, the Great Bridge High School Wildcats tallied 202.5 points to outscore the runner-up Eastern View High School Cyclones of Culpeper by 100.5 points and to bring home the program's 22nd state championship; and

WHEREAS, the Great Bridge High School Wildcats included Jack Sawyer, Thomas Egley, Kyle Kuhlmey, William Marsh, Myrin Nixon, Caleb Neal, Beau Lewis, Eric Doran, Aaron Turner, TJ Howell, Noah Lawrence, Robert Thompson, Grayson Ringwald, and Jayden Cuevas; and

WHEREAS, the Great Bridge Wildcats were motivated all season by head coach Steve Martin, son of Virginia high school wrestling legend Billy Martin, Sr., who won 21 state wrestling championships at Granby High School in Norfolk, and assistant coaches Bart Sawyer, Kevin Johnson, Tyler Hazard, AJ Foreman, and Caleb Chandler; and

WHEREAS, the Great Bridge Wildcats' victory adds to the Martin family's legacy in the world of Virginia wrestling, as it is the program's 19th championship under the leadership of either Steve Martin or his brother, Wayne, as coach; and

WHEREAS, the accomplishments of the Great Bridge Wildcats are the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of the entire Great Bridge High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Great Bridge High School wrestling team hereby be commended for winning the 2023 Virginia High School League Class 4 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Steve Martin, head coach of the Great Bridge High School wrestling team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 424

Commending James W. McGlothlin.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, James W. McGlothlin, a highly admired business leader in Southwest Virginia and a patron of the arts who has supported the Virginia Museum of Fine Arts through his generous philanthropy, received the 2022 Business Person of the Year award from *Virginia Business*; and

WHEREAS, James "Jim" W. McGlothlin grew up in Buchanan County and excelled in math at the former Garden High School, where he was also a multisport athlete; and

WHEREAS, Jim McGlothlin continued his education at The College of William & Mary in Virginia and supported himself by working as a school bus driver and as a waiter at King's Arms Tavern; he was accepted into William & Mary Law School after switching his major to jurisprudence and achieving high marks during his senior year; and

WHEREAS, after graduation, Jim McGlothlin established the firm Street, Street & McGlothlin with two of his cousins, and practiced law in Grundy in the 1960s; and

WHEREAS, by happenstance, in 1970, Jim McGlothlin attended an auction for a coal mine at the local courthouse, and seeing the Buchanan County property's potential, placed the opening bid on what would ultimately become United Coal Company; and

WHEREAS, Jim McGlothlin took what he believed would be a six-month leave of absence from his law firm, but which turned out to be the beginning of a long and fulfilling second career; under his leadership, United Coal Company acquired dozens of smaller coal companies in the region, as well as several steel mills, and began buying, selling, and distributing mining equipment; and

WHEREAS, Jim McGlothlin helped United Coal Company expand beyond the Appalachian region, with oil wells in Texas, oil and gas holdings in Canada, and a gold mine in Tanzania, among several other ventures; and

WHEREAS, in 2009, Jim McGlothlin divested his coal mine holdings, but remained the chair and sole owner of The United Company, which diversified into hospitality, wealth management, real estate development, and coal, oil, and gas exploration services; and

WHEREAS, in an effort to enhance the economy and offset the loss of local jobs due to the decline in the coal industry, Jim McGlothlin advocated for the legalization of casino gaming, and in 2020, Bristol became one of five cities in the Commonwealth authorized to hold a referendum on the construction of casinos in their localities; and

WHEREAS, through The United Company, Jim McGlothlin is a major partner in the Commonwealth's first casino, Bristol Casino, soon to be the Hard Rock Hotel & Casino Bristol, which opened at a temporary location in July 2022 and has already hired about 600 people and welcomed more than 25,000 visitors from across the country; the resort casino is expected to employ between 1,200 and 1,500 staff members by its grand opening at its permanent space in the summer of 2024; and

WHEREAS, Jim McGlothlin and his wife, Fran, manage The United Company Foundation, the philanthropic arm of The United Company that supports the Bristol community through charitable outreach; the couple also has their own charitable foundation, The McGlothlin Foundation, that supports higher education, health care institutions, and the arts; and

WHEREAS, Jim and Fran McGlothlin have also taken a special interest in the Mountain Mission School, an institute in Grundy that houses and educates children in need; The United Company Foundation provides college scholarships for these students, and in 2018, Jim McGlothlin hosted a celebrity golf tournament that raised $56.6 million for the school; and

WHEREAS, shortly after they married in 1996, Jim and Fran McGlothlin developed a passion for art collecting, and subsequently donated to the Virginia Museum of Fine Arts nearly 90 pieces of artwork worth more than $250 million, including works by John Singer Sargent, Childe Hassam, Andrew Wyeth, and Norman Rockwell; the couple also funded a $30 million expansion of the museum in 2010, donated an additional 73 pieces in 2015, and donated 15 pieces in 2022; and

WHEREAS, in January 2022, Jim McGlothlin stepped down as the chief executive officer of The United Company to spend more time with his beloved family; he continues to serve as chair to ensure that the company remains poised to meet the challenges of the future and maintain its legacy of contributions to the Bristol community; now, therefore, be it

RESOLVED by the House of Delegates, That James W. McGlothlin hereby be commended as the recipient of the *Virginia Business* 2022 Business Person of the Year award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James W. McGlothlin as an expression of the House of Delegates' admiration for his professional achievements and service to the Bristol community and the Commonwealth.

HOUSE RESOLUTION NO. 425

Commending the Fairfax County Redevelopment and Housing Authority.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for more than five and a half decades, the Fairfax County Redevelopment and Housing Authority has helped individuals and families find safe, affordable housing; and

WHEREAS, the Fairfax County Redevelopment and Housing Authority is led by 11 commissioners, one representative from each county district and two at-large members, and receives staff support from the Fairfax County Department of Housing and Community Development; and

WHEREAS, over the course of its history, Fairfax County Redevelopment and Housing Authority has helped thousands of people achieve stable housing and has developed, preserved, and revitalized many local communities; and

WHEREAS, the Fairfax County Redevelopment and Housing Authority administers a variety of short-term and long-term programs to enhance access to safe, affordable housing and maintains a strategic plan to focus on its comprehensive vision for housing in Fairfax County while responding to current needs and trends; and

WHEREAS, the Fairfax County Redevelopment and Housing Authority has been recognized as a "Moving to Work" agency for its commitment to developing a framework that not only provides affordable and attractive housing but also connects residents with services and support to help them become self-sufficient; now, therefore, be it

RESOLVED by the House of Delegates, That Fairfax County Redevelopment and Housing Authority hereby be commended for its legacy of service to individuals and families in Fairfax County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Fairfax County Redevelopment and Housing Authority as an expression of the House of Delegates' admiration for the organization's achievements.

HOUSE RESOLUTION NO. 426

Celebrating the life of Cecilia Suyat Marshall.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Cecilia Suyat Marshall, former legal secretary of the NAACP, esteemed civil rights activist, devoted wife of the late United States Supreme Court Justice Thurgood Marshall, and a beloved member of the Falls Church community, died on November 22, 2022; and

WHEREAS, born in Maui, Hawaii, to Philippine immigrants, Cecilia "Cissy" Suyat Marshall went to live with relatives in New York in 1948, where she attended night classes in stenography at Columbia University; and

WHEREAS, Cissy Marshall began her professional career at the NAACP shortly thereafter, working as a stenographer and as the private secretary to then deputy executive director Dr. Gloster B. Current, who managed approximately 15,000 branches of the organization nationwide at that time; and

WHEREAS, Cissy Marshall took on greater responsibilities by supporting what was then known as the NAACP Legal Defense and Educational Fund, the arm of the NAACP that became Legal Defense Fund (LDF), including typing briefs for landmark school desegregation cases such as *Brown v. Board of Education* and accompanying NAACP lawyers on perilous trips to the Deep South; and

WHEREAS, on December 17, 1955, shortly after the *Brown v. Board of Education* decision, Cissy Marshall and Thurgood Marshall, the lead attorney in that case, founder, and then director-counsel of the NAACP Legal Defense and Educational Fund, were married at the historic St. Philip's Episcopal Church in Harlem; and

WHEREAS, Cissy Marshall and her family relocated to Falls Church in 1965 after Thurgood Marshall was appointed by President Lyndon B. Johnson to serve as United States solicitor general; after his confirmation to the United States Supreme Court two years later, they made the Commonwealth their home for many years to come; and

WHEREAS, with her husband burdened by the considerable professional duties before him, Cissy Marshall spearheaded the guidance and care of her sons, Thurgood, Jr., and John, who would go on to hold prominent positions in state and national government; and

WHEREAS, in later years, Cissy Marshall fostered her husband's legacy as the first Black American to serve on the United States Supreme Court through her work with the Supreme Court Historical Society, on which she served for many years as vice president of the organization's executive committee; and

WHEREAS, after her husband's death, Cissy Marshall kept his legacy alive through interviews, speaking engagements, and service on LDF's Board of Directors, which she joined in 1988; proud of what her husband and his colleagues achieved, she always emphasized the work that was left to be done; she remained an active member of LDF's board of directors for many years and served over the tenure of five of the organization's eight presidents and directors-counsel; and

WHEREAS, Cissy Marshall was the recipient of numerous awards from LDF and lent her name and support to their efforts to support young civil rights lawyers, most recently through the launch of LDF's Marshall-Motley Scholars Program; and

WHEREAS, predeceased by her husband, Thurgood, Cissy Marshall will be fondly remembered and dearly missed by her sons, Thurgood, Jr., and John, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Cecilia Suyat Marshall, a cherished member of the Falls Church community whose outsized role in the civil rights movement impacted countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Cecilia Suyat Marshall as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 427

Commending Urban Search and Rescue Virginia Task Force 1.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Urban Search and Rescue Virginia Task Force 1, a Federal Emergency Management Agency task force based in Fairfax County, deployed to Turkey and Syria to assist an international rescue and recovery effort after two major earthquakes in 2023; and

WHEREAS, on February 6, 2023, a 7.8Mw earthquake, one of the worst seismic events in the region in 100 years, occurred in the Gaziantep Province, Turkey; a few hours later a 7.5Mw earthquake struck the nearby Kahramanmaras Province; and

WHEREAS, communities in southeastern Turkey and northern Syria were severely affected, with more than 5,000 reported building collapses and initial casualty estimates in the thousands; and

WHEREAS, Urban Search and Rescue Virginia Task Force 1 is sponsored by the Fairfax County Fire and Rescue Department and comprises about 200 specially trained career and volunteer firefighters with expertise in excavation and rescue operations in collapsed structures; and

WHEREAS, working with the U.S. Agency for International Development's Bureau for Humanitarian Assistance, Urban Search and Rescue Virginia Task Force 1 deployed a team of 79 people and six dogs, who arrived in Turkey on February 8 for this international mission; and

WHEREAS, Urban Search and Rescue Virginia Task Force 1 will coordinate with a multinational coalition of rescue workers to enhance the response to this catastrophic event; now, therefore, be it

RESOLVED by the House of Delegates, That Urban Search and Rescue Virginia Task Force 1 hereby be commended for its deployment in response to the 2023 Turkey-Syria earthquakes; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Urban Search and Rescue Virginia Task Force 1 as an expression of the House of Delegates' admiration for the unit's service and sacrifices.

HOUSE RESOLUTION NO. 428

Commending Bethany House of Northern Virginia.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Bethany House of Northern Virginia, an organization dedicated to empowering women and children by helping them to escape domestic abuse and violence, held its 10th annual Garden of Light Gala and Auction on October 13, 2022, at the Westwood Country Club in Vienna; and

WHEREAS, based in Fairfax County since 1979, Bethany House of Northern Virginia provides safe, short-term housing and trauma-informed services to women and children from both the Commonwealth and around the country; and

WHEREAS, the Four H's of Bethany House of Northern Virginia—housing, help, healing, and hope for the future—encompass the organization's mission and the ways in which its staff and volunteers connect women and children with resources so that they may achieve greater security and independence; and

WHEREAS, Bethany House of Northern Virginia has grown over the years to better serve its community and is currently converting a donated home into an additional safe house to aid in the protection of women and children fleeing abuse; and

WHEREAS, through its Garden of Light Gala and Auction, Bethany House of Northern Virginia promotes awareness of domestic violence and abuse and raises funds to help the organization further its mission; and

WHEREAS, the accomplishments of Bethany House of Northern Virginia over the years have been the result of the noble and inspiring efforts of its staff and volunteers, who have worked tirelessly to ensure brighter futures for an untold number of women and children in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That Bethany House of Northern Virginia hereby be commended on the occasion of its 10th annual Garden of Light Gala and Auction; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tiffany Santana, executive director of Bethany House of Northern Virginia, as an expression of the House of Delegates' admiration for the organization's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 429

Commending the ENDependence Center of Northern Virginia.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for more than 40 years, the ENDependence Center of Northern Virginia, a resource and advocacy center based in Arlington, has given people with disabilities critical support to help them live independently and remain active members of the community; and

WHEREAS, the ENDependence Center of Northern Virginia traces its roots to 1981, when members of Handicaps Unlimited of Northern Virginia, a coalition of individuals with disabilities, were serving on Fairfax County's International Year of Disabled Persons committee; the committee had the goal to establish an independent living center for Northern Virginia, and ultimately a group was formed which created the independent living center; and

WHEREAS, the ENDependence Center of Northern Virginia was officially founded in 1982 and incorporated as a nonprofit organization in 1985; it is one of 23 centers for independent living, including satellites, in the Commonwealth and one of more than 400 such centers nationwide; and

WHEREAS, the ENDependence Center of Northern Virginia is a cross-disability organization that works with people of all ages who have every type of disability in the Counties of Arlington, Fairfax, and Loudoun and the Cities of Alexandria, Fairfax, and Falls Church; and

WHEREAS, the ENDependence Center of Northern Virginia is run by and for people with disabilities and has developed a unique combination of peer-based self-help services, including peer counseling, independent living skills training, and education on community resources and services; and

WHEREAS, the ENDependence Center of Northern Virginia works with local and state entities and community partners to provide a comprehensive range of services, most of which are offered to clients at no cost; and

WHEREAS, the ENDependence Center of Northern Virginia helps members of the community improve the quality of their lives, determine their own lifestyles, participate in all aspects of society, and secure their human and civil rights; the center advocates for people with disabilities at local, state, and national levels; and

WHEREAS, the ENDependence Center of Northern Virginia will commemorate its 40th anniversary with a special reception on March 3, 2023; now, therefore, be it

RESOLVED by the House of Delegates, That the ENDependence Center of Northern Virginia hereby be commended on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the ENDependence Center of Northern Virginia as an expression of the House of Delegates' admiration for the organization's achievements in helping people with disabilities participate more fully in community life.

HOUSE RESOLUTION NO. 430

Celebrating the life of David Caldwell Reynolds.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, David Caldwell Reynolds, a respected business leader in Richmond and a beloved husband, father, and grandfather, died on January 29, 2023; and

WHEREAS, David Reynolds was born in Washington, D.C., and grew up in Raleigh, North Carolina, where he graduated from Broughton High School; and

WHEREAS, David Reynolds continued his education at the University of North Carolina at Chapel Hill, developing a lifelong love of Tar Heels basketball; he served as president of Phi Gamma Delta fraternity and was a member of the Naval Reserve Officers Training Corps; and

WHEREAS, after graduation, David Reynolds was commissioned as an officer in the United States Navy and served his country during the Vietnam War; he subsequently earned a master's degree from Emory University in Atlanta, then moved to New York City, where he met his future wife, Beverly; and

WHEREAS, David Reynolds moved to Richmond in 1975 and worked as an executive at the accounting and consulting firm Arthur Young & Company, now part of Ernst & Young, until 1984, when he joined Miller Manufacturing as president; and

WHEREAS, David Reynolds subsequently became chief executive officer of Miller Manufacturing and strove to grow the business while providing good jobs and fair wages until his retirement in 2004; and

WHEREAS, outside of his career, David Reynolds supported his wife when she founded the Reynolds Gallery, a contemporary art gallery with two locations in Richmond; he was deeply involved in every aspect of operations, from serving as chief financial officer to coat valet, to ensure that the business thrived and succeeded; and

WHEREAS, after he was diagnosed with Parkinson's disease, David Reynolds co-founded the Movers and Shakers patient advocacy group and was instrumental in the establishment of the Parkinson's and Movement Disorders Center at Virginia Commonwealth University; and

WHEREAS, predeceased by his wife of 45 years, Beverly, David Reynolds will be fondly remembered and greatly missed by his children, Quentin, Alec, Alice, and Margaret, and their families and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of David Caldwell Reynolds, a highly admired member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of David Caldwell Reynolds as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 431

Commending Homeward.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for 25 years, Homeward has worked to prevent, reduce, and end homelessness in Richmond through innovative programs and collaborative partnerships; and

WHEREAS, Homeward was created in 1998 by a diverse group of community stakeholders in the Richmond region who were interested in understanding and addressing the crisis of homelessness; and

WHEREAS, Homeward talks directly to people experiencing homelessness about their needs to inform its analysis and recommendations and produces materials for community partners to use in their communications, reporting, presentations, and various needs; and

WHEREAS, Homeward empowers more than 35 community partners in the Richmond region to collaborate strategically, integrate with other systems, and maximize limited resources to address homelessness so that this coordinated and compassionate system of homelessness service providers can meet the needs of more vulnerable individuals in the community; and

WHEREAS, Homeward engages with both public and private sector partners to ensure that data on homelessness is actionable, to deliver demonstrated solutions, and to support proven programs to ensure that all residents in the Greater Richmond Region have a safe place to call home; and

WHEREAS, Homeward will commemorate its 25th anniversary with collaborative learning opportunities and special events throughout 2023; now, therefore, be it

RESOLVED by the House of Delegates, That Homeward hereby be commended on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kelly King Horne, executive director of Homeward, as an expression of the House of Delegates' admiration for Homeward's significant contributions to reducing homelessness in the Richmond region.

HOUSE RESOLUTION NO. 432

Commending Cole Jennings Christiansen.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Cole Jennings Christiansen, a Suffolk native, helped the Kansas City Chiefs of the National Football League win Super Bowl LVII on February 12, 2023; and

WHEREAS, Cole Christiansen graduated from Nansemond-Suffolk Academy, where he was the vice president of the school honor council and a standout member of the football team; he served as team captain for years and helped lead the team to a Virginia Independent Schools Athletic Association (VISAA) state championship in 2015; and

WHEREAS, during his high school career, Cole Christiansen was a two-time VISAA Defensive Player of the Year, a two-time Tidewater Conference Defensive Player of the Year, and a three-time All State and All Conference team selection; he received the VISAA Most Valuable Player award and set a league record as the all-time tackle leader with 436 career stops; and

WHEREAS, Cole Christiansen attended the United States Military Academy, where he spent four years on the active roster of the football team and was team captain in 2018 and 2019; he was also an All-Independent first team selection in 2018 and 2019 and a finalist for the Lott IMPACT (Integrity, Maturity, Performance, Academics, Community, and Tenacity) Trophy; and

WHEREAS, in 2020, Cole Christiansen signed as an undrafted free agent with the Los Angeles Chargers of the National Football League; he was on the active roster for four games during the 2020 season and three games in 2021; and

WHEREAS, Cole Christiansen joined the Kansas City Chiefs as a member of the practice squad in September 2022 and was promoted to the active roster as a linebacker the following month; he recorded his first tackle with the team on October 16, 2022, against the Buffalo Bills; and

WHEREAS, in Super Bowl LVII, Cole Christiansen and the Kansas City Chiefs defeated the Philadelphia Eagles by a score of 38-35; now, therefore, be it

RESOLVED by the House of Delegates, That Cole Jennings Christiansen hereby be commended on winning Super Bowl LVII with the Kansas City Chiefs; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cole Jennings Christiansen as an expression of the House of Delegates' admiration for his athletic achievements and best wishes for the future.

HOUSE RESOLUTION NO. 433

Commending the Strasburg High School wrestling team.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the Strasburg High School wrestling team won the Virginia High School League Class 2 state championship on February 18, 2023, at the Salem Civic Center; and

WHEREAS, the Strasburg High School Rams tallied 209.5 points to outscore the runner-up Glenvar High School Highlanders of Salem by 72 points and to bring home the program's second consecutive state championship; and

WHEREAS, the Strasburg Rams' victory was a total team effort, led by Ethan Asher, David Burks, Heath Burks, and Chuck Fake, who all triumphed over their opponents to secure individual state championship titles in their respective weight classes; and

WHEREAS, the Strasburg Rams saw quality performances from Donovan Burks, Hutson Conrad, Conner Miller, Jadon Shanholtz, and Braden Stern, who each had strong finishes in the competition; and

WHEREAS, with many of its wrestlers returning next season, the Strasburg Rams look poised to make another run at a state championship title in 2024; and

WHEREAS, the accomplishments of the Strasburg Rams are the results of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of the entire Strasburg High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Strasburg High School wrestling team hereby be commended for winning the 2023 Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Daniel Reynolds, head coach of the Strasburg High School wrestling team, as an expression of the House of Delegates' admiration for the team's achievements.

HOUSE RESOLUTION NO. 434

Celebrating the life of Alphonso Hugo Bowers, Jr.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Alphonso Hugo Bowers, Jr., an experienced and highly admired contractor who promoted the inclusion of Black-owned businesses in government building projects, died on December 10, 2022; and

WHEREAS, a native of Clarksville, Alphonso "Al" Hugo Bowers, Jr., acquired sound knowledge of construction and valuable skills from his father, a carpenter, and his grandfather, a brick mason; and

WHEREAS, Al Bowers graduated from Virginia Union University, where he excelled in mathematics, was a member of Omega Psi Phi Fraternity, and helped lead the golf team to three Central Intercollegiate Athletic Association conference championships in the 1960s; and

WHEREAS, after college, Al Bowers worked for Burlington Industries as a computer analyst; he met his wife, Marva, in North Carolina in 1972 and ultimately changed his career to construction after they built a house together; in 1975, he started a construction firm in Greensboro that was one of the first Black-owned companies to undertake a subdivision project in the area; and

WHEREAS, Al Bowers and his family moved to Richmond in 1992; he worked at a car dealership for a time before returning to construction along with three of his children, operating several businesses under Bowers Family Enterprises, LLC; and

WHEREAS, among many significant projects, Al Bowers developed the 70-home subdivision known as Randolph West for the Richmond Redevelopment and Housing Authority in 2005; at the time, it was the largest project the agency had ever awarded to a Black-owned company; and

WHEREAS, throughout his career, Al Bowers strove to ensure that other Black-owned businesses received subcontracts, and he promoted the importance of diversity and inclusion in the construction field as a member of the Central Virginia Business and Construction Association and the Black Business Alliance of Virginia; and

WHEREAS, in 2014, Al Bowers served on a task force organized by Governor Robert F. McDonnell to study and recommend solutions to increase the inclusion of Black-owned businesses in state construction contracts; and

WHEREAS, Al Bowers will be fondly remembered and greatly missed by his wife, Marva; his children, Farrah, Alphonso III, Dawn, Sean, Travis, Julian, Laio, and Katina, and their families; his mother, Virginia; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Alphonso Hugo Bowers, Jr., a highly respected leader in the construction industry who made many contributions to the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Alphonso Hugo Bowers, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 435

Commending the Mohanji Foundation.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, in 2013, Mohanji, a spiritual guide and humanitarian, established the Mohanji Foundation in the Commonwealth for spiritual, charitable, religious, educational, and cultural purposes; and

WHEREAS, in 2023, the Mohanji Foundation celebrates 10 years of making a difference in the lives of people throughout the Commonwealth, the nation, and the world; Mohanji believes that people can add value to the communities in which they live through selfless actions and thereby add value to the world; and

WHEREAS, in 2022, the Mohanji Foundation was active in 43 countries representing 41 different languages; it conducted over 2,600 programs, both online and in-person, bringing stability and harmony to more than 24,000 participants; and

WHEREAS, in addition to the Mohanji Foundation, Mohanji has founded many other charitable organizations, including Ammucare Charitable Trust (ACT), the ACT Foundation, and ACT 4 Hunger, among others; and

WHEREAS, in 2022, the Mohanji Foundation and the more than 15 other platforms founded by Mohanji served almost 454,000 meals and distributed over 290 tons in rations to people in need and planted over 55,000 fruit; and

WHEREAS, the Mohanji Foundation has made tremendous contributions to philanthropy, volunteerism, and community service across the Commonwealth, the United States, and the world; now, therefore, be it

RESOLVED by the House of Delegates, That the Mohanji Foundation hereby be commended on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Mohanji Foundation as an expression of the House of Delegates' admiration for Mohanji's efforts to help the communities in the Commonwealth, and beyond.

HOUSE RESOLUTION NO. 436

Commending the Community Foundation for Loudoun and Northern Fauquier Counties.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the Community Foundation for Loudoun and Northern Fauquier Counties and its Loudoun Community Cabinet announced its Workforce Housing Now initiative in 2022; and

WHEREAS, the Community Foundation for Loudoun and Northern Fauquier Counties' Workforce Housing Now initiative seeks to raise community awareness of the need for greater workforce housing in Loudoun County; and

WHEREAS, the Community Foundation for Loudoun and Northern Fauquier Counties' Workforce Housing Now initiative is committed to the principle that those who work in Loudoun County should be able to afford to live in Loudoun County; and

WHEREAS, in 2022, the Community Foundation for Loudoun and Northern Fauquier Counties, alongside the Loudoun Community Cabinet, announced a $350,000 grant to the Arlington Partnership for Affordable Housing to advance the production of workforce housing in Loudoun County; now, therefore, be it

RESOLVED by the House of Delegates, That the Community Foundation for Loudoun and Northern Fauquier Counties hereby be commended for its commitment to the goal of creating affordable housing for the Loudoun County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Community Foundation for Loudoun and Northern Fauquier Counties as an expression of the House of Delegates' admiration for its work.

HOUSE RESOLUTION NO. 437

Commending Jayanth Challa.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Jayanth Challa founded Ace Info Solutions in 2000, which has since grown into an industry leader in the field of federal information technology contracting; and

WHEREAS, Jayanth "Jay" Challa has been honored numerous times for his excellence in business and service to the community in Northern Virginia; and

WHEREAS, Jay Challa has devoted many hours of his time throughout his career to mentoring more than 50 small businesses and promoting innovation in his field; and

WHEREAS, Jay Challa has taken the initiative of recognizing and promoting talent from rural Virginia, providing training and entrepreneurial opportunities to the underserved; and

WHEREAS, in 2020, Jay Challa was appointed to the Small Business Commission, and he has served faithfully and well in advising on issues of concern to the Commonwealth's small business community; and

WHEREAS, in 2022, the American Telugu Association, a national organization of Telugu-speaking people across the United States, named Jay Challa its president-elect; now, therefore, be it

RESOLVED by the House of Delegates, That Jayanth Challa hereby be commended for his appointment as the president-elect of the American Telugu Association and for his many contributions to the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jayanth Challa as an expression of the House of Delegates' congratulations on the occasion of this honor.

HOUSE RESOLUTION NO. 438

Celebrating the life of James Kulchar.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, James Kulchar of North Tazewell, a veteran and a longtime coal miner and mine inspector, died on December 29, 2022; and

WHEREAS, James Kulchar was born in Caretta, West Virginia, and joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Navy; and

WHEREAS, James Kulchar began his long career in the coal industry as a miner in West Virginia; he later served as a section boss at Bishop Coal Company and as a federal mine safety and health inspector; and

WHEREAS, James Kulchar supported his fellow veterans as a member of the American Legion and volunteered his time and leadership to the North Tazewell Lions Club for five decades; and

WHEREAS, James Kulchar enjoyed fellowship and worship with the congregation of Tazewell Christian Church for more than 70 years; and

WHEREAS, predeceased by one son, AG, James Kulchar will be fondly remembered and greatly missed by his wife of 73 years, Margaret; his children, James and Mary, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of James Kulchar; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James Kulchar as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 439

Celebrating the life of the Honorable Herbert Cogbill Gill, Jr.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the Honorable Herbert Cogbill Gill, Jr., a respected judge of the 12th Judicial Circuit of Virginia, died on January 6, 2023; and

WHEREAS, Herbert Gill grew up in the Ettrick and Matoaca areas of Chesterfield County and later attended Petersburg City Public Schools; and

WHEREAS, Herbert Gill received a bachelor's degree from Hampden-Sydney College, worked for the U.S. Department of Defense for two years, and then earned a law degree from the T.C. Williams School of Law at the University of Richmond; and

WHEREAS, after completing his education, Herbert Gill practiced law with his friend and mentor, Oliver D. Rudy, from 1971 to 1987, when he was appointed as a judge of the 12th Judicial Circuit of Virginia; and

WHEREAS, Herbert Gill presided over the court with great fairness and wisdom and served the Colonial Heights and Chesterfield County communities and the Commonwealth with the utmost dedication, integrity, and distinction; he also played an instrumental role in the construction of a new courthouse in Colonial Heights; and

WHEREAS, Herbert Gill offered his leadership and expertise to several professional and civic organizations; he was a member of the United Methodist Church and enjoyed fellowship and worship with several congregations over the course of his life; and

WHEREAS, Herbert Gill will be fondly remembered and greatly missed by his beloved wife, Judith; his daughters, Sherry and Rachel, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable Herbert Cogbill Gill, Jr., a judge of the 12th Judicial Circuit of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Herbert Cogbill Gill, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 440

Commending the Stafford County Branch NAACP Youth Council.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the Stafford County Branch NAACP Youth Council, an organization that strives to inspire an appreciation for Black culture, advance civil rights for minority groups, give back to the community through service, and foster effective youth leadership, has greatly served the community for many years; and

WHEREAS, on February 12, 1909, a group of citizens committed to social justice founded the NAACP, and 27 years later, after young people challenged the organization to provide youth with a vehicle to address civil rights, the organization's Youth and College Division was created; and

WHEREAS, as a part of the NAACP Youth and College Division, the Stafford NAACP Youth Council supports the NAACP's mission "to achieve equity, political rights, and social inclusion by advancing policies and practices that expand human and civil rights, eliminate discrimination, and accelerate the well-being, education, and economic security of Black people and all persons of color"; and

WHEREAS, in the past two years, the Stafford NAACP Youth Council has worked to accomplish these goals through various events and initiatives, including by organizing and executing food distributions that have provided more than 15,000 pounds of food to families in need; and

WHEREAS, the Stafford NAACP Youth Council has organized voter registrations, vaccine drives, toy collections for the United States Marine Corps' yearly Toys for Tots program, and food collections for a local food pantry where members volunteer monthly; and

WHEREAS, the Stafford NAACP Youth Council has partnered with myriad organizations to provide programs that educate the public about Black history, mental health, the political process, and other important issues; and

WHEREAS, members of the Stafford NAACP Youth Council ensure that their voices are heard by sending emails to or by speaking before the Stafford County Board of Supervisors regarding issues that affect them; and

WHEREAS, the Stafford NAACP Youth Council continues to empower youths by reinforcing the importance of public service and activism; now, therefore, be it

RESOLVED by the House of Delegates, That the Stafford County Branch NAACP Youth Council hereby be commended for its legacy of service in the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Stafford County Branch NAACP Youth Council as an expression of the House of Delegates' admiration for the organization's contributions to the Commonwealth.

HOUSE RESOLUTION NO. 441

Commending the Newport News Green Foundation.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the Newport News Green Foundation, a nonprofit organization dedicated to enhancing the quality of life in Newport News by preserving, transforming, and promoting green spaces throughout the city, celebrates its 25th anniversary in 2023; and

WHEREAS, recognizing the impact of urban development on the appearance of Newport News, the Newport News City Council established the Newport News Green Foundation in June 1998; and

WHEREAS, five months later, the Newport News Green Foundation became an independently chartered nonprofit charitable organization; and

WHEREAS, the Newport News Green Foundation acquired its first property in April 2001 and has since that time preserved more than 50 acres of land in the city; and

WHEREAS, the Newport News Green Foundation has begun to expand its mission beyond preservation to include improving public access to the extraordinary green spaces and natural beauty that Newport News has to offer; and

WHEREAS, the Newport News Green Foundation's more prominent initiatives in the community include the development of Chatham Trail, the restoration of the Hilton Ravine, and the establishment of the Virginia Peninsula's first food forest; and

WHEREAS, the Newport News Green Foundation has cultivated successful and strategic partnerships with various like-minded organizations and institutions to achieve its goals and to support projects that complement its mission; and

WHEREAS, by protecting the natural beauty of Newport News and fostering connections across the community, the Newport News Green Foundation has contributed greatly to the well-being of countless individuals and families; now, therefore, be it

RESOLVED by the House of Delegates, That the Newport News Green Foundation hereby be commended on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Newport News Green Foundation as an expression of the House of Delegates' admiration for the organization's history and legacy of service.

HOUSE RESOLUTION NO. 442

Commending Jennifer Redford.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Jennifer Redford, assistant principal at Sangster Elementary School in Springfield, was named the Fairfax County Public Schools Region 4 Outstanding School-Based Leader in 2022; and

WHEREAS, Jennifer Redford leads by partnering with members of the Sangster Elementary School community, driven by a deeply rooted passion for the community's well-being and guided by her innate ability to foster connections that support and elevate all stakeholders; and

WHEREAS, Jennifer Redford's commitment to enhancing students' creative and critical thinking skills inspired her to found the beloved Sangster Musical Theater program and to develop Sangster Elementary School's purposeful science, technology, engineering, arts, and mathematics (STEAM) curriculum; and

WHEREAS, Jennifer Redford spearheads family engagement events like Math Night to generate excitement for learning and strengthen partnerships between home and school; and

WHEREAS, Jennifer Redford has been known to cultivate school spirit by proudly donning the school's falcon mascot costume during Friday dance party dismissals; and

WHEREAS, Jennifer Redford's recent recognition is a testament to her unwavering commitment to the students, staff, and families of Sangster Elementary School and to advancing the school's mission: Engage-Inspire-Thrive; now, therefore, be it

RESOLVED by the House of Delegates, That Jennifer Redford hereby be commended for being named the Fairfax County Public Schools 2022 Region 4 Outstanding School-Based Leader; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jennifer Redford as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 443

Celebrating the life of Clarence Nathaniel Swanner, Jr.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Clarence Nathaniel Swanner, Jr., a respected member of the Alexandria community, died on December 23, 2022; and

WHEREAS, born in the former Norfolk County, Clarence Swanner graduated from Great Bridge High School, where he played football and baseball, and subsequently attended Old Dominion University; and

WHEREAS, Clarence Swanner served his country as a member of the United States Army for four years, and was stationed in Germany for part of his service; and

WHEREAS, after his honorable discharge, Clarence Swanner settled in Chesapeake and managed Swanner's Market for more than two decades; he then relocated to North Carolina, where he worked as a meat cutter for South Mills Supermarket for 23 years; and

WHEREAS, outside of his career, Clarence Swanner continued to enjoy playing football and baseball, as well as waterskiing and golf; and

WHEREAS, Clarence Swanner inspired others through his strong work ethic, great sense of humor, and unfailing kindness; and

WHEREAS, predeceased by a son, Scott, Clarence Swanner will be fondly remembered and greatly missed by his beloved wife, Christel; his son, Craig; his daughter-in-law Anh Phan; his granddaughters, Kelly and Megan, and their families; his sister, Faye, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Clarence Nathaniel Swanner, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Clarence Nathaniel Swanner, Jr., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 444

Commending Stuart Russ.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for more than five and a half decades, Stuart Russ served young people in Sussex County and Southampton County as an educator, school administrator, and athletics coach; and

WHEREAS, Stuart Russ began his career in education in 1967 and served as a teacher and assistant principal at Wakefield Elementary School until 1969, when he joined Annie B. Jackson Elementary School in Waverly as a fifth grade teacher and head coach of the girls' basketball team; and

WHEREAS, from 1970 to 2003, Stuart Russ worked at Tidewater Academy in Wakefield, serving as a business and driver's education teacher, athletic director, and coach of the girls' basketball team, softball team, and football team; and

WHEREAS, Stuart Russ led the Tidewater Academy girls' basketball team to a conference championship in 1994 and was selected as the conference coach of the year; and

WHEREAS, Stuart Russ joined Southampton Academy in Courtland in 2003 and taught physical education in the lower school, in addition to coaching the girls' volleyball team and the boys' junior varsity basketball team, which he led to an undefeated season in 2004-2005; and

WHEREAS, Stuart Russ recorded more than 300 career wins in various sports and gave countless young people the tools and support they needed to achieve their fullest potential in and out of the classroom; now, therefore, be it

RESOLVED by the House of Delegates, That Stuart Russ hereby be commended for his service as a teacher, administrator, and coach; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Stuart Russ as an expression of the House of Delegates' admiration for his achievements on behalf of young people in the Commonwealth.

HOUSE RESOLUTION NO. 445

Celebrating the life of Johnny West Monaco.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Johnny West Monaco, an esteemed civil servant with the United States Census Bureau and an active and beloved member of the West Springfield community, died on February 4, 2023; and

WHEREAS, born and raised in Seaford, Delaware, Johnny Monaco earned a bachelor's degree from the University of Delaware before enjoying a successful 43-year career at the United States Census Bureau, where he was a great manager and mentor to many and respected by his peers; and

WHEREAS, Johnny Monaco nurtured a deep love for baseball throughout his life; after going to New York as a young boy and watching the New York Yankees in the World Series, winning a state championship with his Little League team, and playing baseball on his high school team, he discovered the great joy of coaching when he led his son's West Springfield Little League team in 1981 and 1982; and

WHEREAS, Johnny Monaco became an integral member of West Springfield Little League, coaching with his best friend, Charlie Philips, for 41 years and serving on the organization's board and in other capacities since 1983 until this past season; and

WHEREAS, Johnny Monaco's commitment to innovation and his dedication to the West Springfield Little League earned him numerous accolades and awards over the years, including the Anthony D. Musco Award from District 9 Little League; and

WHEREAS, Johnny Monaco will be fondly remembered and dearly missed by his wife, Darlene; his first wife, Patricia; his children, Richard and Sarah; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Johnny West Monaco, a cherished member of the West Springfield community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Johnny West Monaco as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 446

Commending the staff of Central Community Library.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the staff of Central Community Library in Prince William County successfully reopened the library's facilities in November 2020 after a period of renovations, an achievement that will contribute greatly to how patrons experience the library for years to come; and

WHEREAS, the staff of Central Community Library facilitated the nearly year-long renovation process, which has enhanced the library's existing services and expanded its programs and technological amenities for children, teenagers, and adults; and

WHEREAS, the staff of Central Community Library are committed to providing quality services to patrons, gladly offering suggestions about new books to try, assisting with access to online databases, cataloging new inventory, developing fun and educational programs, researching new reading trends, and ordering new inventory from book suppliers for the benefit of the library community; and

WHEREAS, the staff of Central Community Library have demonstrated exceptional creativity and vision in designing and delivering programs, events, and services that promote literacy and lifelong learning; and

WHEREAS, the dedicated staff of Central Community Library have played a vital role in making the library a welcoming and inclusive space that is responsive to the needs and interests of the community; and

WHEREAS, the staff of Central Community Library have shown remarkable empathy, patience, and compassion in helping patrons navigate complex issues, find resources, and improve their skills and knowledge; and

WHEREAS, the staff of Central Community Library approached the tremendous challenge of renovating a currently existing library with passion and professionalism, and their efforts have helped to make Prince William County a more wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That the staff of Central Community Library hereby be commended for their service to the Prince William County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the staff of Central Community Library as an expression of the House of Delegates' admiration for their contributions to the Commonwealth.

HOUSE RESOLUTION NO. 447

Commending Chrissy Kelly.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Chrissy Kelly, head coach of the Osbourn Park High School varsity girls' basketball team of Prince William County, won her 300th career game as a public school women's basketball coach on January 4, 2023; and

WHEREAS, in six years under Chrissy Kelly to date, the Osbourn Park High School Yellow Jackets have gone 113-30 overall and 61-3 in the regular-season, with four state tournament appearances, two state runner-up finishes in 2021 and 2022, two straight regional titles, and five outright Cedar Run District regular-season titles; and

WHEREAS, Chrissy Kelly amassed her career 300 wins over three different tenures as a head coach; in addition to her time at Osbourn Park High School, she went 143-43 and won state titles in 2004 and 2006 at Forest Park High School in Woodbridge and 51-24 at South County High School in Lorton; and

WHEREAS, in recognition of her accomplishments, Chrissy Kelly was named the Virginia High School League Class 6 state girls basketball Coach of the Year in 2022; and

WHEREAS, Chrissy Kelly's accomplishments are the results of her hard work and dedication and serve as a testament to her commitment to her student-athletes and the entire Osbourn Park High School community; now, therefore, be it

RESOLVED by the House of Delegates, That Chrissy Kelly, head coach of the Osbourn Park High School varsity girls' basketball team, hereby be commended for winning her 300th career game as a public school women's basketball coach; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chrissy Kelly as an expression of the House of Delegates' admiration for her achievement and best wishes for her continued success.

HOUSE RESOLUTION NO. 448

Commending the Osbourn Park High School Competition Robotics Team 2068.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the Osbourn Park High School Competition Robotics Team 2068 of Manassas in Prince William County won Trophy Class honors at the Virginia High School League robotics state championship showcase on May 23, 2022; and

WHEREAS, the Osbourn Park Competition Robotics Team 2068 was one of only three teams to earn Trophy Class honors at the first-ever robotics competition to be held under the purview of the Virginia High School League (VHSL); and

WHEREAS, the Osbourn Park Competition Robotics Team 2068, or the Metal Jackets, were initially organized as the school's For Inspiration and Recognition of Science and Technology (FIRST) Robotics Competition team; and

WHEREAS, Osbourn Park Metal Jackets played a pivotal role in advocating for robotics to be regarded as a sport by the VHSL, and team president Jack Palmer and Prince William County Public Schools' robotics and science, technology, engineering, and mathematics (STEM) coordinator Denyse Carroll sat on the panel that developed the rules and rubrics for the league's robotics events; and

WHEREAS, the VHSL robotics championship evaluates each competing school by their body of work in robotics over a single school year; teams submit a portfolio to be judged by a panel of experts in the field and are recognized with either Trophy Class, First Class, or Second Class awards based on the established rubric; and

WHEREAS, the accomplishments of the Osbourn Park Metal Jackets are the results of the hard work and dedication of the student-engineers, the leadership and guidance of their teachers, and the unwavering support of their families and the Osbourn Park High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Osbourn Park High School Competition Robotics Team 2068 hereby be commended for placing in the Trophy Class at the 2022 Virginia High School League robotics state championship showcase; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Osbourn Park High School Competition Robotics Team 2068 as an expression of the House of Delegates' admiration for their achievements.

HOUSE RESOLUTION NO. 449

Commending Philip Daniel.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, on April 2, 2022, Philip Daniel, a recent graduate of Manassas Park High School, placed first in the triple jump event at the 2021-2022 Handley Invitational, breaking the meet record and setting his personal best with a distance of 47 feet and two inches; and

WHEREAS, at the Virginia High School League (VHSL) Class 3 outdoor track state championship on June 4, 2022, Philip Daniel placed second with a distance of 45 feet and 11 inches; and

WHEREAS, Philip Daniel received all-state honors for track and field in recognition of his accomplishments in the triple jump in the 2021-2022 season; and

WHEREAS, Philip Daniel is a gifted and dedicated athlete who pairs remarkable natural ability with a strong work ethic and meticulous attention to perfecting every aspect of his performance; and

WHEREAS, Philip Daniel had only trained in the triple jump for one season before achieving a second-place finish in the event at the 2021 VHSL outdoor track and field state championship; and

WHEREAS, Philip Daniel's accomplishments are the results of his hard work and dedication, the leadership and guidance of his coaches and teachers, and the unwavering support of his family and the Manassas Park High School community; now, therefore, be it

RESOLVED by the House of Delegates, That Philip Daniel hereby be commended for breaking the Handley Invitational triple jump record; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Philip Daniel as an expression of the House of Delegates' admiration for his achievements and best wishes in his future endeavors.

HOUSE RESOLUTION NO. 450

Commending the staff of Manassas Park City Library.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the staff of Manassas Park City Library successfully opened the library's permanent facilities in September 2022 after the City of Manassas Park committed to establishing its first public library, which will contribute greatly to Manassas Park residents' access to library services for years to come; and

WHEREAS, conveniently co-located with Manassas Park City Hall and operated completely under the purview of the City of Manassas Park, the new Manassas Park City Library offers the community a new place to gather for learning, discovering, creating, and connecting and represents a major milestone in the development of downtown Manassas Park; and

WHEREAS, the staff of Manassas Park City Library facilitated the relocation process and the opening of the new library, which has meaningfully enhanced the availability of library services, programs, and technological amenities for children, teenagers, and adults in the area; and

WHEREAS, the staff of Manassas Park City Library are committed to providing quality services to patrons, gladly offering suggestions about new books to try, assisting with access to online databases, cataloging new inventory, developing fun and educational programs, researching new reading trends, and ordering new inventory from book suppliers for the benefit of the library community; and

WHEREAS, the staff of Manassas Park City Library have demonstrated exceptional creativity and vision in designing and delivering programs, events, and services that promote literacy and lifelong learning; and

WHEREAS, the staff of Manassas Park City Library have played a vital role in making the library a welcoming and inclusive space that is responsive to the needs and interests of the community; and

WHEREAS, the staff of Manassas Park City Library have shown empathy, patience, and compassion in helping patrons navigate complex issues, find resources, and improve their skills and knowledge; and

WHEREAS, the staff of Manassas Park City Library approached the tremendous challenge of opening a new library with passion and professionalism, and their efforts have helped to make the city a more wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That the staff of Manassas Park City Library hereby be commended for their service to the Manassas Park community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the staff of Manassas Park City Library as an expression of the House of Delegates' admiration for their contributions to the Commonwealth.

HOUSE RESOLUTION NO. 451

Commending Kimberly Wilson.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Kimberly Wilson, an administrative assistant at Laurel Hill Elementary School in Lorton, was named the Fairfax County Public Schools Region 4 Outstanding School-Based Operational Employee in 2022; and

WHEREAS, Laurel Hill Elementary School was opened in September 2009 to support the growing community of Lorton and currently serves more than 900 students; and

WHEREAS, Laurel Hill Elementary School believes that each child is important and entitled to the opportunity to realize his or her fullest potential and that a dynamic partnership among students, parents, teachers, staff members, and the community is critical to exceptional student achievement; and

WHEREAS, Kimberly "Missy" Wilson has served Laurel Hill Elementary School in various roles, including as an instructional assistant, library aid, and front office staff, and currently serves the school as an administrative assistant; and

WHEREAS, Missy Wilson has earned a reputation for being a tireless problem-solver, faithful friend, and champion for students and educators in the Laurel Hill Elementary School community; and

WHEREAS, Missy Wilson's efforts are guided by her kindness and compassion, as she goes above and beyond what is expected of her to cultivate a learning environment at Laurel Hill Elementary School in which students, families, and educators can thrive; and

WHEREAS, by building and maintaining strong relationships at Laurel Hill Elementary School and throughout the surrounding community, Missy Wilson has supported the success of the school's students both in and out of the classroom; and

WHEREAS, Missy Wilson's recent recognition is a testament to her unwavering commitment to the students, staff, and families of Laurel Hill Elementary School; now, therefore, be it

RESOLVED by the House of Delegates, That Kimberly Wilson hereby be commended for being named the Fairfax County Public Schools 2022 Region 4 Outstanding School-Based Operational Employee; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kimberly Wilson as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 452

Commending Cheryl Sanavaitis.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Cheryl Sanavaitis, a kindergarten teacher at Laurel Hill Elementary School in Lorton, was named the Fairfax County Public Schools Region 4 Outstanding Elementary Teacher in 2022; and

WHEREAS, Laurel Hill Elementary School prepares its students to be confident, respectful, contributing citizens who create direction for their learning, think critically, work together, and problem solve to acquire knowledge and skills for the 21st century; and

WHEREAS, Laurel Hill Elementary School engages and challenges its students to become critical thinkers and responsible citizens; builds collaborative and respectful relationships with its students, staff, and families; uses best practices to ensure optimal student learning; and refines its teaching and learning through teamwork and professional development; and

WHEREAS, Cheryl Sanavaitis cultivates a learning environment in her classroom that challenges and engages her students and encourages them to make new discoveries and to grow to love learning; and

WHEREAS, Cheryl Sanavaitis is a loving, nurturing, and dedicated teacher who instills ownership of learning in her students; and

WHEREAS, Cheryl Sanavaitis' greatest attributes as a teacher are her eagerness to include and guide every child forward, her creativity, and her genuine care for her students; and

WHEREAS, a lifelong learner in her own right, Cheryl Sanavaitis is always searching for new ideas and strategies to help her students grow; and

WHEREAS, Cheryl Sanavaitis builds relationships with her students so that they know she cares about their well-being, that they are safe, and that they can trust her, motivating them to become risk-takers and active participants in a classroom community of dedicated learners; and

WHEREAS, Cheryl Sanavaitis' recent recognition is a testament to her unwavering commitment to the students, staff, and families of Laurel Hill Elementary School; now, therefore, be it

RESOLVED by the House of Delegates, That Cheryl Sanavaitis hereby be commended for being named the Fairfax County Public Schools 2022 Region 4 Outstanding Elementary Teacher; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cheryl Sanavaitis as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 453

Commending Highland Springs High School.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for more than 130 years, Highland Springs High School has provided an outstanding education to students in Henrico County; and

WHEREAS, Highland Springs High School traces its roots to 1891, when it was merely a one-room schoolhouse with five students and one teacher; by 1905, the school had expanded to about 25 students between the ages of seven and 16; and

WHEREAS, in 1907, Highland Springs High School moved to a newly built four-room building, which was replaced with a modern building on Oak Avenue that served the community from 1952 to 2021; the current building on Airport Drive opened during the 2021-2022 school year; and

WHEREAS, the faculty and staff of Highland Springs High School work diligently to provide a safe and supportive environment in which students can develop the tools they need to succeed in higher education and careers and become responsible citizens; and

WHEREAS, alumni of Highland Springs High School have gone on to achieve success in a wide range of professions and career fields and have become leaders of their communities throughout the Commonwealth and beyond, guided by the values they learned at their alma mater; now, therefore, be it

RESOLVED by the House of Delegates, That Highland Springs High School hereby be commended for its legacy of service to students in Henrico County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation at the 50th Reunion of the Class of 1973 of Highland Springs High School as an expression of the House of Delegates' admiration for the achievements of current and former students of Highland Springs High School.

HOUSE RESOLUTION NO. 454

Celebrating the life of Master Sergeant James Richard Phillips, USAF, Ret.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Master Sergeant James Richard Phillips, USAF, Ret., an honorable veteran and an active and beloved member of the Winchester community, died on November 11, 2022; and

WHEREAS, James "Jim" Richard Phillips graduated from Clarke County High School before earning an associate's degree from Lord Fairfax Community College and bachelor's degrees at both Shenandoah University and Mount Saint Mary's College; and

WHEREAS, Jim Phillips served with honor and distinction in the United States Air Force on active duty from 1955-1959 and active reserve duty for 17 years in the United States Air Force Reserve from 1959-1976, serving 12 years of on-fly status with over 2,000 flight hours as an instructor and loadmaster on Fairchild C-119 Flying Boxcar, Douglas C-124 Globemaster II, and C-130 Hercules aircraft; he retired at the rank of master sergeant; and

WHEREAS, over his military career, Jim Phillips earned his Senior Aircrew Badge, Air Force Presidential Unit Citation, Air Force Outstanding Unit Award with one Oak Leaf Cluster, Combat Readiness Medal, Air Force Good Conduct Medal, Air Force Longevity Service Award, Air Reserve Forces Meritorious Service Medal, Armed Forces Reserve Medal, Small Arms Expert Marksmanship Ribbon, and the Republic of Vietnam Gallantry Cross with Palm Ribbon unit award; and

WHEREAS, while a reservist, Jim Phillips enjoyed a long career, first at the manufacturer Ashworth Brothers, Inc., in Winchester, beginning in 1960, and then at General Motors in Martinsburg, West Virginia, from 1968 until his retirement in 1992; and

WHEREAS, along with serving in various leadership capacities with the Winchester Royals baseball club since the Valley Baseball League's founding, Jim Phillips devoted himself to the Winchester community through his involvement with the Kiwanis Club, the Winchester City Parks and Recreation Board, the local Salvation Army Advisory Board, the American Legion Post 141, the Air Force Sergeants Association, and several other veterans' organizations; and

WHEREAS, Jim Phillips' contributions to the community were recognized with many accolades and awards over the years, including induction into the Handley High School Hunter Maddex Hall of Fame in 2011 and the charter class of the Valley Baseball League Hall of Fame in 2016; and

WHEREAS, guided by his faith, Jim Phillips was a faithful member of St. Michael the Archangel Anglican Church in Frederick County, where he served as treasurer for many years; and

WHEREAS, Jim Phillips will be fondly remembered and dearly missed by his wife of 62 years, Betty Lou; his son, Richard, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Master Sergeant James Richard Phillips, USAF, Ret., a cherished member of the Winchester community whose legacy of service was an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Master Sergeant James Richard Phillips, USAF, Ret., as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 455

Commending Walter Cunningham.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Walter Cunningham, an esteemed firefighter, emergency medical technician, and safety instructor, has served the Frederick community for 50 years as a member of Greenwood Volunteer Fire and Rescue; and

WHEREAS, Walter "Walt" Cunningham joined what was then the Greenwood Volunteer Fire Company in 1973, shortly after the organization was founded; he would rise through the ranks while helping the company develop its standard operating procedures and training programs and later serve as both company fire chief and president for several years; and

WHEREAS, Walt Cunningham's work with Greenwood Volunteer Fire and Rescue has brought him into the community, both as a public education director leading fire safety classes at local schools and as a chair of several fundraising committees helping the department provide world-class firefighting services at little cost to taxpayers; and

WHEREAS, Walt Cunningham has served as president of the Frederick County Volunteer Fire and Rescue Association and as a member of the Winchester–Frederick County Metropolitan Planning Organization as a part of its Citizens Advisory Committee; and

WHEREAS, Walt Cunningham was an original member of the Winchester–Frederick County Community Emergency Response Team, educating community members in disaster preparedness and basic disaster response skills; and

WHEREAS, Walt Cunningham's commitment to the well-being of residents of Frederick County extends to his service as a certified lay speaker at Greenwood United Methodist Church, where he offers his life of service as inspiration to the entire church community; now, therefore, be it

RESOLVED by the House of Delegates, That Walter Cunningham hereby be commended for his legacy of service as a member of Greenwood Volunteer Fire and Rescue on the occasion of his 50th anniversary with the organization; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Walter Cunningham as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 456

Celebrating the life of Bobby F. Griffin.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Bobby F. Griffin of Bristol, a veteran, entrepreneur, and highly admired community leader, died on February 20, 2023; and

WHEREAS, a lifelong resident of Bristol, Bobby Griffin attended local public schools and enlisted in the United States Army before graduating high school; he deployed to Korea, where he was wounded in action, then returned to the Commonwealth to become a well-known civic and business leader; and

WHEREAS, Bobby Griffin owned coin-operated, high-pressure car washes and self-storage rental units and was involved in advertising and promotional products and real estate development and sales; and

WHEREAS, Bobby Griffin was best known for developing and patenting disposable automobile floor mats, which have been used by dealerships nationwide for decades; and

WHEREAS, Bobby Griffin was a philanthropist who helped establish Second Harvest Food Bank, served on the advisory board of the YWCA Bristol, and was treasurer of Haven of Rest Rescue Mission; he proudly served as a member and leader of the Rotary Club of Bristol for five decades and earned many accolades from the organization, including recognition as a Paul Harris Fellow from Rotary International; and

WHEREAS, Bobby Griffin was a champion for higher education and served on the Board of Visitors of Emory and Henry College and the University of the Cumberlands, the board of Virginia Highlands Community College Foundation and Tennessee Temple University, and the Round Table of King University and as a trustee of Gardner-Webb University; and

WHEREAS, Bobby Griffin enjoyed fellowship and worship with the community for many years at Abingdon United Methodist Church and had more recently attended Celebration Church; he was a co-founder of the Bristol Community Prayer Breakfast in 1999 and served as a co-chair until 2022; and

WHEREAS, Bobby Griffin was well-known in the community for his boundless generosity, unfailing commitment to servant leadership, and his bright and bold fashion sense; and

WHEREAS, predeceased by his wife, Frieda, and one son, David, Bobby Griffin will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Bobby F. Griffin, a pillar of the Bristol community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Bobby F. Griffin as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 457

Commending Michael Louis Chapman.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Michael Louis Chapman, an esteemed law-enforcement officer and sheriff of Loudoun County, will be presented the 2023 Ferris E. Lucas Sheriff of the Year award at the Annual Conference of the National Sheriffs' Association in Grand Rapids, Michigan; and

WHEREAS, citing his approach to leadership, stewardship, and innovation, the National Sheriffs' Association has recognized Michael "Mike" Louis Chapman with the National Sheriff of the Year award for his efforts to elevate the Office of Sheriff on the local, state, and national level and for his extraordinary involvement in the community; and

WHEREAS, Mike Chapman was elected sheriff of Loudoun County in November 2011 and has since been reelected in 2015 and 2019; he oversees the largest full-service sheriff's office in the Commonwealth, with more than 600 sworn deputies and 200 civilian personnel; and

WHEREAS, during his tenure as sheriff, Mike Chapman has implemented several initiatives that have had a positive and transformative impact on the community, including his STEP-Up initiative to promote service, technology, efficiency, and professionalism agency-wide; and

WHEREAS, Mike Chapman has provided invaluable leadership to several law-enforcement boards and organizations, including serving as the vice president of Homeland Security for the Major County Sheriffs of America and as chair of the Washington Baltimore High Intensity Trafficking Area Executive Board and on the National Sheriffs' Association Board of Directors and the Criminal Justice Services Board of the Virginia Department of Criminal Justice Services; and

WHEREAS, with the support of his peers, Mike Chapman was selected to serve as the Region VI director of the Virginia Sheriffs' Association Board of Directors, and he is currently serving on the organization's Legislative Committee and has served on its Congressional Committee; and

WHEREAS, Mike Chapman has been a tireless advocate for preserving sheriffs' offices across the country, helping to ensure that citizens maintain their right to elect their chief law-enforcement officer; now, therefore, be it

RESOLVED by the House of Delegates, That Michael Louis Chapman, sheriff of Loudoun County, hereby be commended for receiving the 2023 Ferris E. Lucas Sheriff of the Year award from the National Sheriffs' Association; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael Louis Chapman as an expression of the House of Delegates' admiration for his achievements in service to the Commonwealth.

HOUSE RESOLUTION NO. 458

Celebrating the life of Stanley Burton Kronstedt.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Stanley Burton Kronstedt, a retired federal employee and highly admired member of the Alexandria community, died on February 16, 2023; and

WHEREAS, Stanley Burton "Burt" Kronstedt grew up in Minneapolis, Minnesota, and earned bachelor's and master's degrees from the University of Minnesota; he was drafted into the military in 1953 and served his country as a member of the United States Army for two years, with postings at Fort Bliss and Fort Hood; and

WHEREAS, Burt Kronstedt worked briefly in Baltimore before moving to the Washington, D.C., area where he spent most of his career working on budget issues for the federal government; he worked for the United States Department of the Interior, the United States Census Bureau, the United States Department of Commerce, and the former United States Department of Health, Education, and Welfare; and

WHEREAS, Burt Kronstedt spent the majority and last part of his career with the United States Department of Justice, where he was in the Office of Management and Finance and retired as an appropriations liaison officer in 1993; and

WHEREAS, in later life, Burt Kronstedt worked on government projects as an independent contractor and was an active volunteer leader in his community; and

WHEREAS, Burt Kronstedt enjoyed fellowship and worship with the community as a longtime member of Saint Luke's Episcopal Church in Alexandria, where he served on the vestry committee for many years; and

WHEREAS, Burt Kronstedt will be fondly remembered and greatly missed by his wife of nearly 66 years, Vivian; his children, Teresa, Roger, Sharon, and Erika, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Stanley Burton Kronstedt; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Stanley Burton Kronstedt as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 459

Commending THRIVE Peninsula.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, THRIVE Peninsula, a nonprofit in the Virginia Peninsula dedicated to encouraging, educating, and empowering individuals and families in need toward transformed and self-sustaining lives, celebrates its 50th anniversary in 2023; and

WHEREAS, THRIVE, formerly Denbigh United Christian Outreach, was formed in 1973 by members of churches in the Denbigh neighborhood of Newport News who united to help families in need; working out of their homes, volunteers provided counsel, aid, and resource referrals to their local community; and

WHEREAS, today, THRIVE serves more than 18,000 people annually who are facing hardships in Newport News, Hampton, and York County, partnering with 80 churches and hundreds of donors, foundations, and businesses; and

WHEREAS, THRIVE has expanded its services to offer emergency financial assistance to keep families stably housed and employed, one-on-one financial coaching services, and a robust on-site food pantry with produce, dairy, meats, and more; and

WHEREAS, using its team of 100 weekly volunteers, THRIVE distributes over $1 million in aid back to the community annually, providing a vital safety net that has helped an untold number of individuals and families overcome crises and achieve financial stability; and

WHEREAS, in every aspect of their work, THRIVE's volunteers focus on providing services in a way that is dignifying and accessible, incorporating an ongoing feedback loop with the families they serve; and

WHEREAS, for its 50th year anniversary in 2023, THRIVE will open The Market at THRIVE, a free food grocery store, targeting food insecure families who, due to stigma, would never visit a food pantry; The Market will also house THRIVE's other services to facilitate a multifaceted approach to supporting struggling families; and

WHEREAS, it is expected that by 2025, the organization will be serving 30,000 people annually in its new space, making an impact that will resonate throughout the Virginia Peninsula community for many years to come; now, therefore, be it

RESOLVED by the House of Delegates, That THRIVE Peninsula hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to THRIVE Peninsula as an expression of the House of Delegates' admiration for the organization's history and its contributions to the Commonwealth.

HOUSE RESOLUTION NO. 460

Celebrating the life of Constance Rochelle Hope Tynes.

Agreed to by the House of Delegates, February 25, 2023

WHEREAS, Constance Rochelle Hope Tynes, a beloved wife and daughter and treasured member of the Hampton Roads community, died on June 24, 2022; and

WHEREAS, Constance "Connie" Rochelle Hope Tynes excelled academically from as early as preschool and came up through the Talented and Gifted program in Newport News Public Schools, graduating from Warwick High School's International Baccalaureate program with highest honors in 2007 and earning a full scholarship to Hampton University; and

WHEREAS, Connie Tynes was a skilled vocalist and choreographer who sang in school and church choirs and who served as choreographer and director of the praise dance and mime ministries at her church; and

WHEREAS, Connie Tynes grew up at Second Baptist Church East End in Newport News, where she was instilled with a deep and unwavering faith that guided her throughout her life; she had recently served as a deaconess while her husband, Lamar, was a minister-in-training; and

WHEREAS, Connie Tynes was known by friends and family for her boundless compassion and positivity, which enabled her to easily connect with people on any level; and

WHEREAS, Connie Tynes will be fondly remembered and dearly missed by her loving husband, Lamar; her parents, Herbert and Janine; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Constance Rochelle Hope Tynes, a cherished member of the Hampton Roads community who was a bright and shining light in countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Constance Rochelle Hope Tynes as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 461

Commending the Ashland Garden Club.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for more than 100 years, the Ashland Garden Club has promoted a knowledge and love of gardening among members of the community; and

WHEREAS, established on October 12, 1922, in its early years the Ashland Garden Club engaged the public's interest through events such as flower shows; and

WHEREAS, in 1924, the Ashland Garden Club led beautification efforts in Ashland by planting dogwood trees in numerous locations; the club planted a garden at the Ashland Train Station and Visitor Center in 1927 and has created and maintained new gardens there in recent years; and

WHEREAS, over the course of its history, the Ashland Garden Club has also added plantings at Randolph-Macon College, Ashland Town Hall, the Ashland Police Department, Liberty Middle School, Patrick Henry High School, Henry Clay Elementary School, John M. Gandy Elementary School, the Hanover County School Board offices, the Hanover Arts and Activities Center, the Ashland Library, and local parks; and

WHEREAS, the Ashland Garden Club officially joined the Garden Club of Virginia on May 19, 1948; and

WHEREAS, along with 29 other Garden Club of Virginia member clubs, the Ashland Garden Club hosts a Historic Garden Week tour each April, the proceeds of which fund restoration of Virginia's historic public gardens and a research fellowship program; after Historic Garden Week in 1971, the Garden Club of Virginia funded a plan to restore the grounds at Scotchtown; and

WHEREAS, since 1987, the Ashland Garden Club has participated in the annual Fine Arts and Flowers exhibition at the Virginia Museum of Fine Arts in Richmond by creating floral designs inspired by the works of art in the museum's collection; and

WHEREAS, each year, the Ashland Garden Club awards a $2,000 scholarship to a Patrick Henry High School senior who is planning to pursue an education in horticulture, agriculture, environmental sciences, or other related fields; the organization has also awarded scholarships to participants in outdoor programs, such as Nature Camp, 4-H, and Camp Bloom; and

WHEREAS, the Ashland Garden Club established the Roots & Shoots project in collaboration with teachers at Henry Clay Elementary School and other civic groups to teach students about flower and vegetable gardening and healthy eating; and

WHEREAS, the Ashland Garden Club remains active in the community and decorates the Hanover Tavern and Scotchtown during the holiday season each year; and

WHEREAS, in November 2022, the Ashland Garden Club planted daffodil bulbs around town to commemorate the club's centennial; now, therefore, be it

RESOLVED by the House of Delegates, That the Ashland Garden Club hereby be commended on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Ashland Garden Club as an expression of the House of Delegates' admiration for the club's contributions to the Ashland community.

HOUSE RESOLUTION NO. 462

Commending Thea Fraser.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Thea Fraser, a first grade teacher at Hunt Valley Elementary School in Springfield, was named the Fairfax County Public Schools Region 4 Outstanding Elementary New Teacher in 2022; and

WHEREAS, Hunt Valley Elementary School encourages its students to explore their talents, strengths, and passions; to achieve their highest academic potential; and to become productive, empathetic, responsible, and well-rounded members of the community and empowers them to be ready for the 21st century; and

WHEREAS, the needs of students are a top priority at Hunt Valley Elementary School, where dedicated professionals work exceptionally hard to foster a collaborative learning environment that motivates students and prepares them to effectively meet the challenges of the future; and

WHEREAS, Thea Fraser joined Fairfax County Public Schools in July 2019 after earning a bachelor's degree in interdisciplinary studies and a master's degree in elementary education and teaching from James Madison University in 2018 and 2019, respectively; and

WHEREAS, Thea Fraser builds a foundation for her teaching by developing nurturing relationships among students, families, and staff, and she works tirelessly to ensure that her students feel valued and that they have a strong sense of belonging and community; and

WHEREAS, Thea Fraser holds each of her students to high standards and cultivates a learning environment in her classroom that empowers, supports, and encourages them to thrive; and

WHEREAS, Thea Fraser approaches her students as both learners and people and strives to provide equitable opportunities for all members of her classroom; and

WHEREAS, Thea Fraser employs pioneering practices aligned with the science of reading in her classroom, fostering the growth and maturation of her students as readers and learners; and

WHEREAS, Thea Fraser challenges herself to better serve her students by seeking professional learning experiences, collaborating with staff and families, implementing feedback, and trying new strategies; and

WHEREAS, Thea Fraser's recent recognition is a testament to her unwavering commitment to the students, staff, and families of Hunt Valley Elementary School; now, therefore, be it

RESOLVED by the House of Delegates, That Thea Fraser hereby be commended for being named the Fairfax County Public Schools 2022 Region 4 Outstanding Elementary New Teacher; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Thea Fraser as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 463

Commending the Albemarle County Public Schools Child Nutrition Program.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the Albemarle County Public Schools Child Nutrition Program successfully continued the essential distribution of meals to Albemarle County Public Schools' students despite the challenges presented by distance learning and the COVID-19 pandemic; and

WHEREAS, the provision of nutritious school meals has been shown to improve academic performance, increase equitability in learning outcomes, and shape lifelong healthy eating habits; and

WHEREAS, the Albemarle County Public Schools (ACPS) Child Nutrition Program resolved to ensure that no student would face food insecurity at home after the school system transitioned to distance learning at the outset of the COVID-19 pandemic in response to the health risks posed by in-person instruction; and

WHEREAS, the ACPS Child Nutrition Program reworked its entire service model, opening sites across the county where students could receive meals through the end of the summer of 2020; and

WHEREAS, during the height of the COVID-19 pandemic, the ACPS Child Nutrition Program continued to feed students at a variety of school locations across the county; from March through July 2020, it served 93,602 breakfasts and 93,849 lunches over the course of 97 days; after a short summer break, the staff began serving again in August for the 2020-2021 school year; and

WHEREAS, throughout the 2020-2021 school year, the ACPS Child Nutrition Program, in conjunction with the division's transportation department, delivered free meals along school bus routes, ensuring that students were fed and that drivers remained employed despite school closures; and

WHEREAS, throughout the 2021-2022 school year, the ACPS Child Nutrition Program continued its free meal service at no cost to the students or their families, contributing greatly to their health and well-being; now, therefore, be it

RESOLVED by the House of Delegates, That the Albemarle County Public Schools Child Nutrition Program hereby be commended for its dedicated and distinguished service to the students and families at Albemarle County Public Schools during the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Albemarle County Public Schools Child Nutrition Program as an expression of the House of Delegates' admiration for the program's commitment to excellence in nurturing students and providing a foundation for lifelong learning.

HOUSE RESOLUTION NO. 464

Commending Sarah and Grey McLean.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Sarah and Grey McLean have served communities throughout the Commonwealth for more than a decade through their philanthropic work; and

WHEREAS, Sarah and Grey McLean founded the Adiuvans Foundation in Charlottesville in 2015 and have since expanded the foundation to support initiatives across the Commonwealth, with a focus on early childhood intervention and climate change; and

WHEREAS, Sarah McLean founded the Early Childhood Funders Network, which brings together individuals, funds, and foundations to make meaningful contributions in the area of early childhood development; and

WHEREAS, Grey McLean established the Charlottesville Climate Collaborative, which seeks to impact the Commonwealth by building partnerships for climate action at the community level and by engaging citizens, businesses, and local governments to reduce their emissions and develop climate leadership; and

WHEREAS, Sarah and Grey McLean have created and participated in numerous other initiatives for change with a spirit of grace and hospitality; and

WHEREAS, Sarah and Grey McLean have selflessly served their community and sought to improve Virginia for all of its residents, contributing their resources and their time toward the Commonwealth's present and future success; now, therefore, be it

RESOLVED by the House of Delegates, That Sarah and Grey McLean hereby be commended for their dedication to the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sarah and Grey McLean as an expression of the House of Delegates' admiration for their contributions to their community and the Commonwealth.

HOUSE RESOLUTION NO. 465

Commending Literacy Volunteers of Charlottesville/Albemarle.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for 40 years, Literacy Volunteers of Charlottesville/Albemarle has fulfilled its mission to promote adult literacy through equitable, inclusive, free, confidential, one-to-one English language and citizenship test tutoring; and

WHEREAS, in 1983, local residents in the area recognized a need for a program to improve adult literacy in Charlottesville and Albemarle County, leading to the formation of a small volunteer group that wrote organizational guidelines and bylaws and elected a board of directors; and

WHEREAS, George C. Tramontin, a former superintendent of Charlottesville City Schools and an inaugural member of the board, provided instrumental leadership in the early years of the program; and

WHEREAS, in 1986, Jeannie Baliles prioritized adult literacy in the Commonwealth and oversaw the establishment of the Virginia Literacy Foundation, which provided grants to relevant organizations like the adult reading program serving the Charlottesville and Albemarle County communities; and

WHEREAS, from its humble beginnings in a small office space on Water Street that was shared with the Charlottesville Office of Economic Development, the reading program continued to grow and provide outstanding services to adults with poor literacy and subsequently became an affiliate of Literacy Volunteers of America; and

WHEREAS, as the number of students served continued to increase, Literacy Volunteers of Charlottesville/Albemarle hired a program director and an executive director to better serve the community and ultimately moved to its current location at the Jefferson School City Center; and

WHEREAS, in 2000, the Virginia Literacy Foundation presented the Jeannie P. Baliles Award to Literacy Volunteers of Charlottesville/Albemarle in recognition of its outstanding achievements; and

WHEREAS, Literacy Volunteers of Charlottesville/Albemarle strives to create a welcoming, thoughtful, and encouraging multicultural environment in which all learners can improve their ability to understand, speak, read, write, and communicate in English, allowing them to more fully participate in community life; and

WHEREAS, Literacy Volunteers of Charlottesville/Albemarle has fulfilled its mission over the years through the hard work of its staff members and the generosity and dedication of its volunteers; now, therefore, be it

RESOLVED by the House of Delegates, That Literacy Volunteers of Charlottesville/Albemarle hereby be commended on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Literacy Volunteers of Charlottesville/Albemarle as an expression of the House of Delegates' admiration for the organization's contributions to adult literacy among underserved communities.

HOUSE RESOLUTION NO. 466

Commending Mary Beth Coya.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for 35 years, Mary Beth Coya has served and represented her fellow members of the real estate profession as a member of the Northern Virginia Association of Realtors; and

WHEREAS, Mary Beth Coya grew up in the Richmond area and worked for the House of Delegates, providing staff support to the House Committee on Appropriations for five years; and

WHEREAS, after relocating to Northern Virginia, Mary Beth Coya joined the Northern Virginia Association of Realtors (NVAR) and has ably represented its 14,000 members; and

WHEREAS, under Mary Beth Coya's leadership, NVAR was the first local Realtor association in the country to develop its own political action committee, and she was inducted into the NVAR Hall of Fame for her legacy of contributions to the organization; and

WHEREAS, Mary Beth Coya has also served the board of directors of the Northern Virginia Transportation Alliance, the board of directors of Celebrate Fairfax, and the development committee for Inova Health System; she has also offered her leadership and expertise to the Northern Virginia Chamber of Commerce; now, therefore, be it

RESOLVED by the House of Delegates, That Mary Beth Coya hereby be commended for her service as senior vice president of public and government affairs of the Northern Virginia Association of Realtors; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mary Beth Coya as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 467

Commending the Blue Ridge Health District.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the Blue Ridge Health District, a health district under the Virginia Department of Health that provides health services to more than 250,000 people in the City of Charlottesville and in Albemarle, Fluvanna, Greene, Louisa, and Nelson Counties, greatly served the community throughout the COVID-19 pandemic; and

WHEREAS, the Blue Ridge Health District hired 122 staff members to support its mission and its response to the COVID-19 pandemic, who launched one of the first COVID-19 resource hotlines in the Commonwealth in April 2020 and who have administered more than 25,000 free COVID-19 tests and more than 48,000 COVID-19 vaccinations to date; and

WHEREAS, the Blue Ridge Health District's staff worked tirelessly to combat the transmission of this highly infectious disease, conducting extensive contact-tracking investigations and outbreak investigations, while continuing to address the health care needs of other patients; and

WHEREAS, the Blue Ridge Health District staff members have educated, collaborated, innovated, and communicated to keep the community safe during the pandemic, assisting residents in isolation due to COVID-19 infections and providing critical COVID-19-related statistics through its local data portal; and

WHEREAS, the Blue Ridge Health District team continually learned and flexed in response to an ever-changing situation, persevering to provide public health services that were vital to the health and safety of individuals and families in the Blue Ridge region; now, therefore, be it

RESOLVED by the House of Delegates, That the Blue Ridge Health District of the Virginia Department of Health hereby be commended for its service throughout the COVID-19 pandemic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Blue Ridge Health District as an expression of the House of Delegates' admiration for its staff and their contributions to the Commonwealth.

HOUSE RESOLUTION NO. 468

Celebrating the life of Anne Murphy O'Neil.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Anne Murphy O'Neil, a beloved resident of Lake Barcroft, died on November 22, 2022; and

WHEREAS, Anne O'Neil, born Anne Frances Murphy, was the fourth of seven children born to Elvira Johann Murphy and Leo Joseph Murphy and grew up in Appleton, Wisconsin, where her father worked as a chiropractor; and

WHEREAS, Anne O'Neil attended Catholic parochial schools in Appleton and Prairie du Chien, Wisconsin, before studying at what is now Mount Mary University in Milwaukee; she enjoyed golfing and swimming in her youth and studied dance and piano, developing a lifelong love of music, especially movie musicals; and

WHEREAS, Anne O'Neil followed in the footsteps of her older sister, Mary, and became a teaching nun in the School Sisters of Notre Dame after graduating from college; however, after three years teaching sixth-graders as a nun, she came to realize that she did not feel a true religious calling and left the order; and

WHEREAS, Anne O'Neil grew deeply interested in Montessori education with its strongly scientific and child-centric orientation; she became a successful Montessori teacher, then was recruited to become a trainer of Montessori teachers, which led her to Los Angeles, where she met her future husband, William "Will" O'Neil III; and

WHEREAS, the couple was married in 1968 and the following year moved to Northern Virginia after Will accepted a position in the office of the Secretary of the Navy at the Pentagon; and

WHEREAS, Anne and Will O'Neil eventually bought a prewar center-hall Colonial style home on Braddock Road in Alexandria, and Anne, inspired by visits to Colonial Williamsburg and restored historic houses, began to study Colonial American and classical English and French design to aid her in remodeling their home; and

WHEREAS, after the birth of their son, William "Billy" O'Neil IV in 1973, Anne and Will O'Neil decided to seek a more child-centered neighborhood; they ultimately chose the Lake Barcroft community and purchased a house in need of extensive renovations, which Anne skillfully handled; and

WHEREAS, Anne O'Neil's accomplishments in design attracted a number of residential and commercial clients; among her most notable works was the design of The Kandahar, an elegant Afghan restaurant on M Street in Georgetown, for which restaurant reviewers for the region's major newspapers raved at length about the beauties of its décor; and

WHEREAS, when her son began attending Sleepy Hollow Elementary School and Anne O'Neil learned that there was no funding for a theater program, she developed a program for third and fifth graders to present classics of American musical theater like "The Wizard of Oz," "Oliver," and "Annie Get Your Gun"; and

WHEREAS, Anne O'Neil prepared scripts suitable for the children, obtained copyright permission, recruited adults to support the plays, and served as producer and director; every child who wanted to participate received a part and experienced teachers exclaimed that they had never seen school drama with such enthusiasm and energy; and

WHEREAS, in 1985, Anne and Will O'Neil moved to Burbank, California, where Anne renovated yet another home, working with a Native American artist and craftsman to create a modernized version of a traditional California Spanish home; while in California, she took on several home design projects for local clients and continued her musical theater workshops for children, putting on productions of "Scrooge!" and "My Fair Lady"; and

WHEREAS, after a few years, the couple returned to Northern Virginia and settled again in Lake Barcroft; they found a lakeside home dating from 1960, and working with Anne O'Neil's plans and under her day-to-day direction, contractors altered the floorplan, modernized all of the house's systems and major appliances, and applied all new finishes in just three months; and

WHEREAS, the great room at the O'Neil house was the site of many musical events, including performances by the Riverbend Opera, a local professional opera company, and many fundraisers for community organizations and local leaders; and

WHEREAS, in 2012, Anne O'Neil joined the staff of the Lake Barcroft Newsletter and began a series of monthly interviews with residents; she was active in the Lake Barcroft Woman's Club and was elected as its president in 2013, leading the club to record fundraising in support of local Northern Virginia charities during her term; and

WHEREAS, during the early period of the COVID-19 pandemic, with masks in very short supply, Anne O'Neil led community mask-sewing efforts; she subsequently took the lead in other initiatives to support community members who had been affected by the pandemic; and

WHEREAS, Anne O'Neil was a bright light in the community and brought joy to others through her creativity, generosity, and grace; and

WHEREAS, Anne O'Neil will be fondly remembered and greatly missed by her husband, Will; her son, Billy; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Anne Murphy O'Neil; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Anne Murphy O'Neil as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 469

Commending the Central Virginia Farm Workers Initiative.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the Central Virginia Farm Workers Initiative advocates on behalf of migrant farmworkers in the region and provides vital access to health care and educational resources; and

WHEREAS, thousands of people travel to Central Virginia each year via temporary work visas to labor in fields and orchards, making profound personal sacrifices to better support their families; and

WHEREAS, migrant farmworkers, most of whom travel from Mexico, are integral to the agriculture and dining industries in the Commonwealth; and

WHEREAS, the Central Virginia Farm Workers Initiative provides health and education services to migrant farmworkers living in Albemarle, Amherst, and Nelson Counties; founder and president Vanessa Hale is a Nelson County native and University of Virginia (UVA) alumna who has partnered with migrant farmworkers, growers, and government agencies to advocate for migrant farmworkers' welfare; and

WHEREAS, during the COVID-19 pandemic, the Central Virginia Farm Workers Initiative secured high-quality cloth face masks crafted by local sewists for each of its members and organized mass vaccination sites in coordination with the Blue Ridge Health District and the UVA Latino Health Initiative, achieving a 95 percent vaccination rate for Nelson County farmworkers; and

WHEREAS, the Central Virginia Farm Workers Initiative also assists workers with ongoing acute and chronic health care issues and administers the Fresh Farmacy produce program in partnership with the Local Food Hub; and

WHEREAS, the Central Virginia Farm Workers Initiative also offers community education programs, including English-language instruction, digital literacy, and tax preparation workshops through its community tax law project; and

WHEREAS, the Central Virginia Farm Workers Initiative celebrates the vital contributions of migrant farmworkers to the diverse and vibrant communities of Central Virginia; now, therefore, be it

RESOLVED by the House of Delegates, That the Central Virginia Farm Workers Initiative hereby be commended for its work to serve and support migrant farmworkers; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Central Virginia Farm Workers Initiative as an expression of the House of Delegates' admiration for the organization's achievements in service to migrant farmworkers in the region.

HOUSE RESOLUTION NO. 470

Celebrating the life of Virginia Lee Germino.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Virginia Lee Germino, née Roseborough, an accomplished writer and editor, world traveler, and active and beloved member of the Charlottesville community, died on March 2, 2022; and

WHEREAS, after paying her way through Allied-occupied Germany in her teenage years selling cigarettes to soldiers, Virginia Germino studied at Duke University, Harvard University, and Wellesley College before making her home in Charlottesville and raising her family; and

WHEREAS, Virginia Germino was a composition instructor at the University of Virginia Darden School of Business for many years and a contributor to and editor of the Bridge Builders Project publication *Bridge Builders: 2001-2016 Charlottesville, VA*; and

WHEREAS, Virginia Germino was a fierce advocate for justice and equality over the years, working closely with organizations such as Offender Aid and Restoration and the local Arc to assist populations in the community in need; and

WHEREAS, guided by her faith, Virginia Germino was most recently a member of St. Paul's Memorial Church in Charlottesville, where she sang enthusiastically in the choir; and

WHEREAS, preceded in death by her daughter Margaret, Virginia Germino will be fondly remembered and dearly missed by her children Helen, Ruskin, Laura, Renata, and Monica and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Virginia Lee Germino, a cherished member of the Charlottesville community whose generosity, passion, intellect, and humor brightened countless lives; and be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Virginia Lee Germino as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 471

Celebrating the life of Judith Ann Pfennig.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Judith Ann Pfennig, a longtime employee of Mobil Oil and ExxonMobil and a vibrant member of the Clifton community, died on January 25, 2023; and

WHEREAS, Judith Pfennig was born in Bismarck, North Dakota, and learned the value of hard work and responsibility growing up on her family's homestead farm near Driscoll; and

WHEREAS, Judith Pfennig excelled in academics and graduated as valedictorian of her high school; she also cultivated a passion for music at a young age and brought joy to the community as the organist at Grace Lutheran Church; and

WHEREAS, Judith Pfennig moved to Washington, D.C., to work for the Honorable Quentin Burdick, the United States senator from North Dakota, and subsequently earned a bachelor's degree in international relations from James Madison College at Michigan State University; and

WHEREAS, after graduation, Judith Pfennig was recruited by Mobil oil company and went on to hold a variety of leadership roles, often serving as the first woman to ever hold a certain post; and

WHEREAS, while working for Mobil, Judith Pfennig lived in 14 cities over the course of 16 years; she audited gas stations, ran pipelines, and ultimately managed a staff of over 25 people responsible for the corporation's global billing system, involving more than 130,000 annual transactions between New York City, London, Jakarta, Lagos, and other business centers, and representing $24 billion; and

WHEREAS, when Mobil was acquired by Exxon in 1999, Judith Pfennig briefly worked in real estate before returning to the newly formed ExxonMobil as an independent consultant and served in that capacity until 2020; and

WHEREAS, with her comprehensive understanding of the people, places, and processes that made up the corporation, Judith Pfennig was an unparalleled source of institutional knowledge at ExxonMobil; and

WHEREAS, outside of her over 40-year career with Mobil, Judith Pfennig enjoyed collecting stamps and coins and spending time with friends and family on her boat, Mom's Promise, and on her Lone Magnolia Farm in Clifton; and

WHEREAS, Judith Pfennig will be fondly remembered and greatly missed by her husband, David; her children, Elizabeth and Daniel; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Judith Ann Pfennig; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Judith Ann Pfennig as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 472

Commending the Blacksburg Fire Department on its 100th Anniversary.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the Blacksburg Volunteer Fire Department was founded by volunteer citizens of the Town of Blacksburg in 1922 with little more than their dedication and a single fire apparatus; and

WHEREAS, in the early twentieth century, when the Blacksburg Fire Department first formed, firefighting apparatuses used motor engines, wooden ladders, and single-jacketed cotton hoses; and

WHEREAS, members wore natural fiber based long coats, rubber boots, and plastic helmets, which provided minimal protection for firefighters; and

WHEREAS, the level of dedication, call to service, and selflessness required to operate in those initial days have become inspirational to firefighters today; and

WHEREAS, from bucket brigades and horse-drawn apparatuses used by the first crews, firefighting has continued to evolve over the years; and

WHEREAS, when the department was founded in 1922, Blacksburg had a population of less than 1,400 people and now, a century later, the town's population is estimated at nearly 45,000 residents with an additional 10,000 citizens living on the Virginia Tech campus; and

WHEREAS, the Blacksburg Fire Department currently has 80 members covering three strategically located stations that house 15 primary apparatuses and multiple support vehicles; and

WHEREAS, the Blacksburg Fire Department responds annually to over 1,200 incidents that include fires, alarms, motor vehicle accidents, gas leaks, carbon monoxide alerts, technical rescues, hazardous materials incidents, service calls, and anything else that Blacksburg, Montgomery County, or Virginia Tech requests and/or requires; and

WHEREAS, in contrast to when the Blacksburg Fire Department was founded, members now wear head-to-toe protective turnout gear that includes hoods, jackets, and pants made of fire-resistant, super-insulative synthetic fibers; and

WHEREAS, in 2023, the Blacksburg Fire Department uses aluminum ladders, double-jacketed hoses, and sophisticated apparatuses that carry necessary tools and equipment; and

WHEREAS, each active member today also carries an assigned radio and a breathing air mask for use with advanced breathing devices; and

WHEREAS, the Blacksburg Fire Department has dedicated hundreds of hours annually to training programs and is capable of addressing additional types of emergencies; and

WHEREAS, the Blacksburg Fire Department has shown commitment to the community in which it has served since its inception; now, therefore, be it

RESOLVED by the House of Delegates, That the General Assembly hereby join the Blacksburg community in celebration of 100 years of fire prevention and response by the Blacksburg Fire Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Blacksburg Fire Department as an expression of the General Assembly's gratitude for its commitment to the fire prevention and response to the Blacksburg community and the citizens of the Commonwealth.

HOUSE RESOLUTION NO. 473

Commending Virginia's Rail Heritage Region in the Commonwealth.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Virginia's Rail Heritage Region in the Commonwealth was created to promote and celebrate railroad history in areas with high concentrations of rail facilities in the past and present; and

WHEREAS, in 2009 and 2015, the General Assembly authorized the designation and recognition of Virginia's Rail Heritage Region within the Commonwealth, consisting of Allegheny, Amherst, Bedford, Botetourt, Campbell, and Roanoke Counties, the Cities of Bedford, Covington, Lynchburg, Roanoke, and Salem, and the Towns of Amherst, Buchanan, Clifton Forge, Iron Gate, Troutville, and Vinton; and

WHEREAS, Giles, Montgomery, and Pulaski Counties, the City of Radford, and the Towns of Blacksburg, Christiansburg, Dublin, Glen Lyn, Narrows, Pearisburg, Pembroke, Pulaski, and Rich Creek have also each benefited from the significant contributions of rail services in their respective communities and have been proposed as new members of Virginia's Rail Heritage Region in the Commonwealth; and

WHEREAS, it is important that succeeding generations be equipped to share the history and understanding of the significant role that rail service played in developing the region; and

WHEREAS, examples of this heritage today include the New River Train Observatory and rail heritage-themed farmer's market in Radford, New River Trail State Park in Pulaski County, The Huckleberry Trail connecting the Towns of Blacksburg and Christiansburg and Montgomery County, and the quintessential essence of the railroad traveling along the meanders of the New River in Giles County; now, therefore, be it

RESOLVED by the House of Delegates, That Virginia's Rail Heritage Region in the Commonwealth hereby be commended for its role in promoting and preserving railroad history; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution to the county boards and city and town councils of each proposed new locality in Virginia's Rail Heritage Region in the Commonwealth as an expression of the House of Delegates' appreciation for the rich history of the region.

HOUSE RESOLUTION NO. 474

Commending Sonya Erickson.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Sonya Erickson, a student at Lake Braddock Secondary School in Burke, received the Daughters of the American Revolution Bronze Junior Reserve Officers' Training Corps Medal in 2022; and

WHEREAS, Sonya Erickson received the prestigious honor from the Daughters of the American Revolution for showing exceptional leadership skills while serving in numerous positions with Lake Braddock High School's Junior Reserve Officers' Training Corps (JROTC), including Bruin Battalion training officer, while also maintaining an excellent academic record; and

WHEREAS, in December 2022, Sonya Erickson organized a visit and tour of the White House in Washington, D.C., for members of the Lake Braddock JROTC, which gave her fellow cadets the opportunity to learn more about United States history and government; and

WHEREAS, Sonya Erickson's accomplishments are the results of her hard work and dedication, the leadership and guidance of her teachers, and the unwavering support of the entire Lake Braddock Secondary School community; now, therefore, be it

RESOLVED by the House of Delegates, That Sonya Erickson hereby be commended for receiving the Daughters of the American Revolution Bronze Junior Reserve Officers' Training Corps Medal in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sonya Erickson as an expression of the House of Delegates' admiration for her achievements and best wishes in her future endeavors.

HOUSE RESOLUTION NO. 475

Celebrating the life of Kent DeWayne Carter.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Kent DeWayne Carter, the highly respected first vice president of the Arlington Branch of the NAACP and an active leader in the Arlington community, died on October 2, 2022; and

WHEREAS, a native of Tennessee, Kent Carter graduated from Clinton High School and joined the United States Army as a military police officer in 2000; and

WHEREAS, Kent Carter served as a member of a protective detail at the Pentagon after the attacks on September 11, 2001, then completed two deployments to Afghanistan in support of Operation Enduring Freedom; and

WHEREAS, during his time in the military, Kent Carter received an associate's degree from Methodist University, then subsequently earned bachelor's and master's degrees in criminal justice from the University of Phoenix; and

WHEREAS, in 2009, Kent Carter settled in Virginia and worked as a special investigator for several federal agencies before starting a new career as a real estate broker with Keller Williams Metro Center; and

WHEREAS, in addition to serving as the first vice president for the local NAACP, Kent Carter was the chair of the criminal justice committee and represented the organization on Arlington's Police Practices Group; and

WHEREAS, Kent Carter used his unique insights as a former law-enforcement officer to help develop more than 100 policing reforms, including the creation of a community oversight board; and

WHEREAS, Kent Carter was well known in the Arlington community for his wit, generosity, compassion, and humility, and he built strong partnerships based on mutual trust and respect that enhanced local life for all residents; and

WHEREAS, Kent Carter will be fondly remembered and greatly missed by his daughter, Kennedi; his daughter's mother, Melanie; his partner of eight years, Alonia; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Kent DeWayne Carter, a champion for civil rights and police reform in Northern Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Kent DeWayne Carter as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 476

Commending Paul R. Riddick.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Paul R. Riddick ably served the residents of Norfolk as a member of the Norfolk City Council from July 1992 to December 2022; and

WHEREAS, a graduate of John Tyler Community College, Paul Riddick is the owner and operator of Riddick Funeral Service in Norfolk; and

WHEREAS, Paul Riddick represented the city as a member of the Southeastern Tidewater Opportunity Project and previously served on the Board of the Transportation District Commission of Hampton Roads, the Southside Task Force, and the Church Street/Huntersville Development Committee; and

WHEREAS, representing Ward 4 on the Norfolk City Council, Paul Riddick strove to be an advocate for city workers and local residents in need during his three decades in local government; and

WHEREAS, Paul Riddick further served the community as a former president of the Norfolk Branch of the NAACP and a member of the Freemasons; he has offered his leadership to the Norfolk Funeral Directors and Embalmers Association, the Virginia Morticians' Association, and many other civic and service organizations; and

WHEREAS, Paul Riddick was selected as the Omega Psi Phi Citizen of the Year by the Lambda Omega Chapter of Omega Psi Phi fraternity and was honored by Zeta Phi Beta Sorority as a "Citizen of Tomorrow"; and

WHEREAS, Paul Riddick enjoys fellowship and worship with the community as a member of Grace Episcopal Church, where he serves on the vestry; and

WHEREAS, throughout his career, Paul Riddick has enjoyed the love and support of his family; he has raised five children and proudly welcomed nine grandchildren; now, therefore, be it

RESOLVED by the House of Delegates, That Paul R. Riddick hereby be commended for his 30 years of service to the community as a member of the Norfolk City Council; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Paul R. Riddick as an expression of the House of Delegates' admiration for his contributions to the Norfolk community.

HOUSE RESOLUTION NO. 477

Commending the Southwestern Youth Association.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for 50 years, the Southwestern Youth Association, a nonprofit organization, has promoted healthy, safe, and fun athletic opportunities for young people in Centreville, Clifton, and the surrounding areas of southwestern Fairfax County; and

WHEREAS, the Southwestern Youth Association was established in 1973 through a generous donation from its founder, Carl Mullins; the association began with 350 participants in a spring soccer program that included 10 teams and soon expanded to other sports; and

WHEREAS, the Southwestern Youth Association is open to all young people in the community, regardless of their financial status or athletic ability, and strives to build strong character while promoting the values of teamwork, skill development, and respect; and

WHEREAS, in 2023, the Southwestern Youth Association serves more than 13,000 children between the ages of four and 19 from Centreville, Clifton, and throughout the region; the association offers year-round opportunities in 13 different sports, including baseball, softball, track and field, soccer, football, volleyball, rugby, field hockey, lacrosse, cheerleading, wrestling, cricket, and basketball; and

WHEREAS, the Southwestern Youth Association has fulfilled its mission through the hard work and dedication of more than 2,500 volunteers, who serve as board members, coaches, assistants, referees, umpires, team parents, maintenance staff, scorekeepers, fundraisers, and program coordinators; now, therefore, be it

RESOLVED by the House of Delegates, That the Southwestern Youth Association hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Southwestern Youth Association as an expression of the House of Delegates' admiration for its service to young people in Northern Virginia.

HOUSE RESOLUTION NO. 478

Commending Blair Smith.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Blair Smith, assistant director of student activities at Centreville High School, was named the Fairfax County Public Schools Outstanding School-Based Professional Employee in 2022; and

WHEREAS, Blair Smith has greatly supported the students, staff, and families of Centreville High School both as assistant director of student activities and in various other leadership capacities; and

WHEREAS, Blair Smith has earned a reputation for being genuine and good-hearted and for being a champion of all students and educators in the Centreville High School community; and

WHEREAS, Blair Smith's efforts are guided by his kindness and compassion as he goes above and beyond what is expected of him to cultivate a learning environment at Centreville High School in which students, families, and educators can thrive; and

WHEREAS, Blair Smith has built and maintains strong relationships at Centreville High School and throughout the surrounding community to enable students, families, and staff to feel supported and heard; and

WHEREAS, Blair Smith devoted countless hours to fostering a collaborative environment with stakeholders in order to ensure student-athletes were given the time, space, support, and resources they needed to safely return to competitive play during the seasons impacted by the COVID-19 pandemic; and

WHEREAS, Blair Smith's recent recognition is a testament to his unwavering commitment to the students, staff, and families of Centreville High School; now, therefore, be it

RESOLVED by the House of Delegates, That Blair Smith hereby be commended for being named the Fairfax County Public Schools 2022 Outstanding School-Based Professional Employee; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Blair Smith as an expression of the House of Delegates' admiration for his contributions to the Commonwealth.

HOUSE RESOLUTION NO. 479

Commending Liz Reed.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Liz Reed, head coach of the Lake Braddock Secondary School girls' varsity basketball team of Burke, recently notched her 100th win in her high school coaching career; and

WHEREAS, Liz Reed has led the Lake Braddock Secondary School Bruins since 2019, motivating her players to hone their skills and to compete at their highest level; and

WHEREAS, with great compassion and empathy, Liz Reed has cared for the social and emotional well-being of her players as they handle the challenges and demands of life as a student-athlete; and

WHEREAS, Liz Reed's accomplishments are the result of her hard work and dedication, the heart and devotion of her players, and the unwavering support of the entire Lake Braddock Secondary School community; now, therefore, be it

RESOLVED by the House of Delegates, That Liz Reed, head coach of the Lake Braddock Secondary School girls' varsity basketball team, hereby be commended for her 100th career win as a high school coach; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Liz Reed as an expression of the House of Delegates' admiration for her achievements.

HOUSE RESOLUTION NO. 480

Commending the Lake Braddock Secondary School chamber orchestra.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the Lake Braddock Secondary School chamber orchestra, under the direction of Clayton Allen, enjoyed the honor and privilege of performing during the 2022 National Association for Music Education National Conference on November 4, 2022; and

WHEREAS, each year, the National Association for Music Education (NAfME) holds a prestigious national conference where high-level elementary, middle, and high school ensembles and university groups are selected to perform based on unmarked recordings of previous performances; and

WHEREAS, the Lake Braddock Secondary School chamber orchestra, one of the school's middle school orchestra groups, performed at The Gaylord National Resort and Convention Center in National Harbor, Maryland, on the outside main stage as part of the NAfME conference festivities; and

WHEREAS, the accomplishments of the Lake Braddock Secondary School chamber orchestra are the results of the hard work and dedication of the students, the leadership and guidance of their director and teachers, and the unwavering support of the entire Lake Braddock Secondary School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Lake Braddock Secondary School chamber orchestra hereby be commended for being selected to perform at the 2022 National Association for Music Education National Conference; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Clayton Allen, director of the Lake Braddock Secondary School chamber orchestra, as an expression of the House of Delegates' admiration for the orchestra's achievements.

HOUSE RESOLUTION NO. 481

Commending Robert Lester Houghton.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Robert Lester Houghton served the country with honor and distinction as a member of the United States Navy from 1961 to 1970 and with the United States Navy Reserve from 1970 to 1989; and

WHEREAS, after training, Robert "Bob" Lester Houghton was stationed at Naval Station Norfolk beginning in September 1962, where he would serve on the USS *Randolph* and USS *Intrepid* aircraft carriers over the next three and a half years; and

WHEREAS, Bob Houghton served with Anti-Submarine Squadron VS-26 as an aviation electronics technician, and he had deployments to South America, the Mediterranean, and the North Atlantic region; and

WHEREAS, while stationed at Naval Station Norfolk, Bob Houghton served on a flight crew with the commanding officer of the squadron and flew more than 120 aircraft carrier flights; and

WHEREAS, Bob Houghton continued his active duty military career until February 1970, at which point he transferred to the United States Navy Reserve until his retirement in 1989, when he concluded his 28 years of honorable and distinguished service; and

WHEREAS, in his retirement, Bob Houghton has enjoyed the opportunity to spend more time with his wife of 60 years, Marcia, and his children and grandchildren; now, therefore, be it

RESOLVED by the House of Delegates, That Robert Lester Houghton hereby be commended for his legacy of service as a veteran of the United States Navy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert Lester Houghton as an expression of the House of Delegates' admiration for his contributions to the Commonwealth and the nation.

HOUSE RESOLUTION NO. 482

Commending Ashleigh Clyde.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Ashleigh Clyde, a recent graduate of Osbourn Park High School in Manassas, won first place in original oratory at the Virginia High School League forensics state championship in the spring of 2022; and

WHEREAS, Ashleigh Clyde began competing in forensics as a freshman and advanced to the state competition each year, while also serving as president and captain of the Osbourn Park High School speech and debate team for two years; and

WHEREAS, from in-person to virtual tournaments, Ashleigh Clyde always brought her best to each performance and consistently finished at the top of the competition; and

WHEREAS, as captain of the Osbourn Park forensics team, Ashleigh Clyde coached and inspired her fellow students and helped them effectively research and review materials so that they would be prepared to excel in competitions; and

WHEREAS, Ashleigh Clyde was a member of the National Honor Society and also participated in Youth Salute, George Mason University's Courageous Conversations program, and BridgeUSA; and

WHEREAS, Ashleigh Clyde cultivated her interest in public speaking through journalism and broadcasting activities that encouraged her to hone her abilities as a communicator; and

WHEREAS, Ashleigh Clyde's accomplishments are the results of her hard work and dedication, the leadership and guidance of her coaches and teachers, and the unwavering support of her family and the Osbourn Park High School community; now, therefore, be it

RESOLVED by the House of Delegates, That Ashleigh Clyde hereby be commended for winning first place in original oratory at the 2022 Virginia High School League forensics state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ashleigh Clyde as an expression of the House of Delegates' admiration for her achievements and best wishes for her continued success.

HOUSE RESOLUTION NO. 483

Commending George Bishop.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, George Bishop, a technology teacher at Battlefield High School, was selected as an Outstanding Engineering Teacher of the Year by Project Lead The Way, Inc.; and

WHEREAS, Project Lead The Way is a premier engineering program for high school students, and George Bishop was one of only 16 educators nationwide to receive the award for his commitment to unlocking students' fullest potential; and

WHEREAS, a graduate of the University of Holy Cross and George Mason University, George Bishop is certified by Project Lead The Way to instruct courses in engineering, digital electronics, civil engineering architecture, and engineering design and development; and

WHEREAS, George Bishop has been teaching at Battlefield High School since 2014; he leads several unique courses that give students opportunities to apply lessons to real-world applications, such as a civil engineering and architecture class where students conduct surveying around the school building and their homes to gain practical experience; and

WHEREAS, George Bishop was previously recognized as the 2020 High School Teacher of the Year by the Virginia Technology and Engineering Education Association; now, therefore, be it

RESOLVED by the House of Delegates, That George Bishop hereby be commended on his selection as an Outstanding Engineering Teacher of the Year by Project Lead The Way, Inc.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to George Bishop as an expression of the House of Delegates' admiration for his achievements in service to young people in Prince William County.

HOUSE RESOLUTION NO. 484

Commending Margaret Fisher.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Margaret Fisher of Clifton, a coordinator at Plant NOVA Trees, works diligently to enhance the landscape and culture of Northern Virginia to better support local wildlife and protect the region's natural resources; and

WHEREAS, Plant NOVA Trees was established in 2021 and is a subset of the Plant NOVA Natives campaign, where Margaret Fisher previously served as an outreach coordinator for six years; and

WHEREAS, through Plant NOVA Trees, Margaret Fisher promotes awareness of invasive vines and plants that can harm native trees and helps coordinate with other organizations to arrange safe removal; and

WHEREAS, Margaret Fisher has enhanced the local ecosystem by helping to preserve and protect numerous tree species in the region; and

WHEREAS, Margaret Fisher also volunteers as an Audubon at Home ambassador and is a Fairfax master naturalist; now, therefore, be it

RESOLVED by the House of Delegates, That Margaret Fisher hereby be commended for her work with Plant NOVA Trees; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Margaret Fisher as an expression of the House of Delegates' admiration for her achievements in service to the community.

HOUSE RESOLUTION NO. 485

Commending Millette Wardell.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for 12 years, Millette Wardell has helped seniors stay active and stay engaged with their community by teaching specialized Zumba courses; and

WHEREAS, Millette Wardell was working as a coach at Curves when she discovered Zumba, a fitness program that focuses on cardio routines inspired by Latin American music and dance; she officially became a Zumba instructor in 2011 and taught her first class only two days after receiving her license; and

WHEREAS, Millette Wardell typically teaches Zumba Gold, a Zumba style with lower intensity workouts that can be modified to fit different paces and ability levels; she began her career teaching classes at local senior centers and was invited to teach regular classes at Wakefield Senior Center and Little River Glen Senior Center; and

WHEREAS, about five years ago, Millette Wardell also began teaching Zumba classes for Stay Active and Independent for Life (SAIL), Fairfax County's fitness program for adults 65 years of age and older; she helps participants dance to the

best of their ability, no matter their age or physical condition, and can even accommodate participants in wheelchairs and with walkers; and

WHEREAS, during the COVID-19 pandemic, Millette Wardell set up a Zumba studio in her home and hosted courses electronically via Zoom; many of her regular senior clients joined in, along with participants from across the country and around the world; now, therefore, be it

RESOLVED by the House of Delegates, That Millette Wardell hereby be commended for her service to senior residents of Fairfax County as a Zumba instructor; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Millette Wardell as an expression of the House of Delegates' admiration for her work to promote good health and fitness in the community.

HOUSE RESOLUTION NO. 486

Celebrating the life of deSaussure Parker Moore III, MD.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, deSaussure Parker Moore III, MD, a trusted family physician in Hopewell, died on December 28, 2022; and

WHEREAS, deSaussure "deS" Parker Moore III, MD, was born in North Carolina and briefly lived in Columbus, Ohio, before settling in Hopewell, where he spent the rest of his life; and

WHEREAS, deS Moore was inspired to become a doctor from a young age and graduated cum laude from the pre-med program at Duke University after attending Hopewell High School; and

WHEREAS, deS Moore earned a medical degree from what was then the Medical College of Virginia and subsequently joined the practice of Moore, Miller, Weathington & Associates in Hopewell; and

WHEREAS, deS Moore also worked in the emergency department at the former John Randolph Medical Center for a short time, but his true passion was caring for families in an outpatient setting; and

WHEREAS, deS Moore was an avid fisherman who relished every opportunity to spend time on the water with family and friends, from catching catfish on the James River to deep water billfishing trips, and once set an International Game Fish Association record for a Quadruple Grand Slam in the Pacific Ocean off Cocos Island; and

WHEREAS, deS Moore will be fondly remembered and greatly missed by his wife of 22 years, Marsha, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of deSaussure Parker Moore III, MD, who touched countless lives through his medical practice in Hopewell; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of deSaussure Parker Moore III, MD, as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 487

Celebrating the life of G. Robert Maitland.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, G. Robert Maitland of Delta, Pennsylvania, a dedicated public servant and former mayor of the City of Manassas Park, died on January 14, 2023; and

WHEREAS, G. Robert "Bob" Maitland was born in Cleveland, Ohio, and served the nation as a member of the United States Army; and

WHEREAS, Bob Maitland served as an engineer in Fairfax County for 30 years, worked as a plan reviewer in Prince William County, then relocated to Manassas Park, where he became a well-known civic leader; and

WHEREAS, Bob Maitland enhanced the quality of life in the city as mayor and as a member of the Manassas Park Governing Body and the Manassas Park School Board; and

WHEREAS, a man of faith, Bob Maitland was a member of the Knights of Columbus, and he and his wife cared for foster children through Catholic Charities USA; and

WHEREAS, Bob Maitland was an avid bowler and relished every opportunity to share his passion for the game with new generations of bowlers by giving lessons at a local bowling alley; and

WHEREAS, predeceased by his wife, Peggy, and two children, Lisa and Robert, Bob Maitland will be fondly remembered and greatly missed by his daughter, Cathy; his children's families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of G. Robert Maitland; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of G. Robert Maitland as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 488

Commending the Blacksburg Volunteer Fire Department.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the Blacksburg Volunteer Fire Department was founded by volunteer citizens of the Town of Blacksburg in 1922 with little more than dedication and a single fire apparatus; and

WHEREAS, in the early 20th century, when the Blacksburg Volunteer Fire Department first formed, firefighting apparatuses used motor engines, wooden ladders, and single-jacketed cotton hoses; and

WHEREAS, members wore natural fiber-based long coats, rubber boots, and plastic helmets, which provided minimal protection for firefighters; and

WHEREAS, the level of dedication, call to service, and selflessness required to operate in those initial days have become inspirational to firefighters today; and

WHEREAS, from bucket brigades and horse-drawn apparatuses used by the first crews, firefighting has continued to evolve over the years; and

WHEREAS, when the Blacksburg Volunteer Fire Department was founded in 1922, Blacksburg had a population of fewer than 1,400 people, and now, a century later, the town's population is estimated at nearly 45,000 residents with an additional 10,000 people living on the Virginia Polytechnic Institute and State University (Virginia Tech) campus; and

WHEREAS, the Blacksburg Volunteer Fire Department currently has 80 members covering three strategically located stations that house 15 primary apparatuses and multiple support vehicles; and

WHEREAS, the Blacksburg Volunteer Fire Department responds annually to more than 1,200 incidents that include fires, alarms, motor vehicle accidents, gas leaks, carbon monoxide alerts, technical rescues, hazardous materials incidents, service calls, and anything else that Blacksburg, Montgomery County, or Virginia Tech requests or requires; and

WHEREAS, in contrast to when the Blacksburg Volunteer Fire Department was founded, members now wear head-to-toe protective turnout gear that includes hoods, jackets, and pants made of fire-resistant, super-insulative synthetic fibers; and

WHEREAS, in 2023, the Blacksburg Volunteer Fire Department uses aluminum ladders, double-jacketed hoses, and sophisticated apparatuses that carry necessary tools and equipment; each active member today also carries an assigned radio and a breathing air mask for use with advanced breathing devices; and

WHEREAS, the Blacksburg Volunteer Fire Department has dedicated hundreds of hours annually to training programs and is capable of addressing additional types of emergencies; and

WHEREAS, the Blacksburg Volunteer Fire Department has shown commitment to the community in which it has served since its inception; now, therefore, be it

RESOLVED by the House of Delegates, That the Blacksburg Volunteer Fire Department hereby be commended on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Blacksburg Volunteer Fire Department as an expression of the House of Delegates' admiration for the department's commitment to fire prevention and response and for a legacy of service to the Blacksburg community and the Commonwealth.

HOUSE RESOLUTION NO. 489

Celebrating the life of Karen Sabrina Hardy-Newby.

Agreed to by the House of Delegates, February 25, 2023

WHEREAS, Karen Sabrina Hardy-Newby, who provided compassionate service to families in need as a funeral director at Poole's Funeral Home, died on December 2, 2022; and

WHEREAS, born in Surry, Karen Sabrina "Brina" Hardy-Newby attended Surry County Public Schools and graduated from Denbigh High School in Newport News; and

WHEREAS, Brina Hardy-Newby studied at what is now Virginia State University, then transferred to John Tyler Community College to pursue a degree in mortuary science; she completed an internship with Bland Funeral Homes and worked there for a few years before pursuing other career opportunities; and

WHEREAS, Brina Hardy-Newby ultimately returned to the funeral profession and worked at Cooke Brothers Funeral Chapel in Newport News before joining the family business, Poole's Funeral Home in Surry County; and

WHEREAS, Brina Hardy-Newby was the fourth generation in her family to work at Poole's Funeral Home, which was founded in 1890 and is the oldest Black-owned business in Surry County; she served members of the community with the utmost kindness, dignity, and respect; and

WHEREAS, Brina Hardy-Newby offered her leadership and expertise to the Virginia Morticians' Association, and she received many awards and accolades for her professional achievements, including the 2022 Distinguished Service Award from the Peninsula Funeral Directors Association; and

WHEREAS, a woman of deep faith, Brina Hardy-Newby was a member of Mt. Nebo Baptist Church in her youth and joined the United House of Prayer for All People in later life; she was passionate about music and shared her joyful singing voice with others as a member of several church and community choirs; and

WHEREAS, Brina Hardy-Newby will be fondly remembered and greatly missed by the Poole, Hardy, and Newby families and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Karen Sabrina Hardy-Newby; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Karen Sabrina Hardy-Newby as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 490

Commending Carver Memorial Presbyterian Church.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for more than 130 years, Carver Memorial Presbyterian Church has provided opportunities for joyful worship, wise spiritual guidance, and generous community outreach to the residents of Newport News; and

WHEREAS, Carver Memorial Presbyterian Church traces its roots to the late 1800s, when two local residents, Mr. and Mrs. Archie McEachin began hosting a Sunday school class in their home; the class grew in popularity, and the couple worked with Mr. and Mrs. George Banks, Carrie Fields, Ida Parker, and the Reverend H. H. Boone to formally organize the group and petition for membership in the Presbytery of Southern Virginia; and

WHEREAS, the Reverend J. C. Harris of the Presbytery of Southern Virginia arrived in Newport News in October 1892 and organized the group as Antioch Presbyterian Church; he served as the pulpit supply pastor until the Reverend G. T. Jones became the church's first full-time pastor in 1898; and

WHEREAS, in 1902, Antioch Presbyterian Church changed its name to Carver Memorial Presbyterian Church to honor the memory of an individual whose widow had made a sizable contribution that helped the church construct its building; and

WHEREAS, Carver Memorial Presbyterian Church held worship services at its location in the 600 block of 24th Street, then moved to the corner of 24th Street and Marshall Avenue in 1921, and finally relocated to its current location on 25th Street in 1991; and

WHEREAS, in the 1950s and the 1960s, Carver Memorial Presbyterian Church inspired its members to participate in the civil rights movement, and the congregation grew to become the second largest in the Presbytery of Southern Virginia; and

WHEREAS, in the following years, Carver Memorial Presbyterian Church remained an active part of the Presbyterian Church at regional and national levels, while invigorating its ministries to better serve and support members of the local community in need; and

WHEREAS, members of Carver Memorial Presbyterian Church have gone on to achieve success in a wide range of professions, including education, law, medicine, government service, the military, and community leadership, inspiring others through the values they cultivated at their home church; and

WHEREAS, Carver Memorial Presbyterian Church has had many notable members of its congregation, including George Austin, the first Black chief of police in Newport News; Jessie Rattley, the first woman and the first Black person to be elected mayor of Newport News; Katherine Johnson, a trailblazing mathematician who played an important role in the nation's space program; and Hazel O'Leary, the first woman and the first Black person to serve as United States Secretary of Energy; and

WHEREAS, under the leadership of its current pastor, the Reverend Dr. Brian J. Wells, the Carver Memorial Presbyterian Church congregation continues to grow in faith and number; now, therefore, be it

RESOLVED by the House of Delegates, That Carver Memorial Presbyterian Church hereby be commended on the occasion of its 130th anniversary in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Carver Memorial Presbyterian Church as an expression of the House of Delegates' admiration for the church's long history and contributions to the Newport News community.

HOUSE RESOLUTION NO. 491

Commending Jackie Martin.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Jackie Martin, a respected law-enforcement officer, will retire as the chief of the Pearisburg Police Department in April 2023; and

WHEREAS, Jackie Martin dedicated 39 years of his professional career to law enforcement and began his career as a police officer in Roanoke; and

WHEREAS, Jackie Martin held eight different positions within the Pearisburg Police Department and has served as chief for 24 years; and

WHEREAS, in numerous leadership roles, Jackie Martin has had great success on behalf of the Pearisburg Police Department; he expanded the department from five to eight officers, recruited new law-enforcement hires, and secured both approval and funding for station upgrades in addition to a new building; and

WHEREAS, Jackie Martin is celebrated for always giving his best to each of his many endeavors; and

WHEREAS, as a police officer, Jackie Martin believes strongly that his ability to reach out to others has always had a positive and effective impact, and he places a high emphasis on community policing; and

WHEREAS, in 2018, Jackie Martin added the Pearisburg Police Department to National Night Out, a national program that promotes police-community partnerships to make neighborhoods safe and caring places to live; and

WHEREAS, Jackie Martin has been instrumental in raising awareness of and procuring funds for FOCUS (Focus on Community Utilizing Services) through events such as the Pearisburg Police Department's annual Community Pool Party and Community Kids Christmas program; and

WHEREAS, under Jackie Martin's leadership, the Pearisburg Police Department has worked closely with the Downtown Merchants Association on special programs such as the Downtown Trick-or-Treat Trail and, one of his personal favorites, the Scarecrow Festival; and

WHEREAS, Jackie Martin has attended every Pearisburg Festival in the Park program since its inception 37 years ago; and

WHEREAS, Jackie Martin has been active with and has served in numerous leadership roles for the New River Criminal Justice Training Academy; he has been an involved member of other boards and programs, such as the New River Community College Advisory Board of the Police Science Curriculum; and

WHEREAS, following in his grandfather's footsteps, Jackie Martin is also a lifetime volunteer member of the Pearisburg Fire Department; and

WHEREAS, Jackie Martin and his loving wife, Babette, have been married for 35 years and have three wonderful adult children, Cassie, Cole, and Conner; and

WHEREAS, Jackie Martin has been a committed advocate for the Town of Pearisburg, and his tireless and selfless work has left a distinct and lasting impact on the community; now, therefore, be it

RESOLVED by the House of Delegates, That Jackie Martin hereby be commended for his extensive law-enforcement career and service to the Town of Pearisburg on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jackie Martin as an expression of the House of Delegates' gratitude for his commitment to the safety and protection of the Pearisburg community and the citizens of the Commonwealth.

HOUSE RESOLUTION NO. 492

Commending the Sikh Center of Virginia.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, established in 2009, the Sikh Center of Virginia in Manassas is a gurdwara that serves as a house of worship for people of the Sikh faith, provides educational programs, and celebrates Sikh traditions and holy days; and

WHEREAS, on April 14, 2023, the Sikh Center of Virginia will celebrate Vaisakhi, also pronounced Baisakhi, which marks the first day of the month of Vaisakh and is traditionally held on April 13 or April 14 each year; Vaisakhi is primarily celebrated in Northern India as a spring harvest festival, but other Indian cultures and members of the Indian diaspora celebrate this festival around the world as well; and

WHEREAS, Vaisakhi is one of the most historically significant days of the year for Sikhs, who commemorate the day by holding kirtans, visiting local gurdwaras, attending community fairs, holding Nagar Kirtan processions, raising the Nishan Sahib, and gathering to socialize and share festive foods; and

WHEREAS, for the Sikh Center of Virginia and other members of the Sikh community, Vaisakhi is also a day of remembrance for events in the history of Sikhism that occurred in the Punjab region of the Indian subcontinent; the festival marks the birth of the Khalsa order initiated by Guru Gobind Singh, the 10th guru of Sikhism, on April 13, 1699; and

WHEREAS, Sikhs have been living in the United States for more than 100 years, and during the early 20th century, thousands of Sikh Americans worked on farms, in lumber mills and mines, and on the Oregon, Pacific and Eastern Railroad; and

WHEREAS, Sikhism is the fifth largest religion in the world, and today there are more than 30 million Sikhs worldwide and an estimated 500,000 Sikh Americans; Vaisakhi is one of the most important dates in the Sikh calendar for Sikhs throughout the Commonwealth and the United States; and

WHEREAS, Sikh Americans pursue diverse professions and make rich contributions to the social, cultural, and economic vibrancy of the United States and the Commonwealth, including service as members of the United States Armed Forces and significant contributions to the nation in agriculture, information technology, small businesses, the hospitality industry, trucking, medicine, and technology; and

WHEREAS, Sikh Americans have distinguished themselves by fostering respect among all people through faith and service, and the Sikh Center of Virginia has played a vital role in community leadership in Northern Virginia; now, therefore, be it

RESOLVED by the House of Delegates, That the Sikh Center of Virginia hereby be commended on the occasion of Vaisakhi on April 14, 2023; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Sikh Center of Virginia as an expression of the House of Delegates' admiration for the center's contributions to the community.

HOUSE RESOLUTION NO. 493

Commending Meaghan Gruber.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Meaghan Gruber, an esteemed firefighter with the Loudoun County Combined Fire and Rescue System, was named the 2022 Virginia Firefighter of the Year by Governor Glenn A. Youngkin as a part of the Governor's Fire Service Awards; and

WHEREAS, established in 2002, the Governor's Fire Service Awards honor excellence in Virginia's fire service and are facilitated by the Department of Fire Programs in collaboration with the Virginia Fire Services Board; and

WHEREAS, as a member of the Loudoun County Combined Fire and Rescue System, Meaghan Gruber responded to several key critical incidents in the past year in an efficient and effective manner, leading to the protection of lives and property in Loudoun County; and

WHEREAS, during a fire in Purcellville this year, Meaghan Gruber's quick and decisive actions saved the lives of her captain, who had made a mayday call due to low air, and a 15-year-old girl, who she had located in a second floor bedroom during the incident; and

WHEREAS, Meaghan Gruber's heroism and service have earned her recognition through awards such as Loudoun County Combined Fire and Rescue System's CPR-Life Saving Award, also known as the Walking Heart Award; and

WHEREAS, Meaghan Gruber has championed the Loudoun County Combined Fire and Rescue System over the years and always seeks to positively impact those around her, both in the community and in her fire rescue family; and

WHEREAS, outside of shift work, Meaghan Gruber routinely volunteers to help train the Loudoun County Combined Fire and Rescue System's career and volunteer recruits, demonstrating a passion for helping others develop their careers in the fire service; now, therefore, be it

RESOLVED by the House of Delegates, That Meaghan Gruber, a distinguished member of the Loudoun County Combined Fire and Rescue System, hereby be commended for being named the 2022 Virginia Firefighter of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Meaghan Gruber as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 494

Commending the staff of Bull Run Library.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, the staff of Bull Run Library in Prince William County successfully reopened the library's facilities in September 2022 after a period of renovations, a remarkable achievement that will contribute greatly to how patrons experience the library for years to come; and

WHEREAS, the staff of Bull Run Library facilitated the nearly year-long renovation process, which has enhanced the library's existing services and expanded its programs and technological amenities for children, teenagers, and adults; and

WHEREAS, the staff of Bull Run Library are committed to providing quality services to patrons, gladly offering suggestions about new books to try, assisting with access to online databases, cataloging new inventory, developing fun and educational programs, researching new reading trends, and ordering new inventory from book suppliers for the benefit of the library community; and

WHEREAS, the staff of Bull Run Library have demonstrated exceptional creativity and vision in designing and delivering programs, events, and services that promote literacy and lifelong learning; and

WHEREAS, the dedicated staff of Bull Run Library have played a vital role in making the library a welcoming and inclusive space that is responsive to the needs and interests of the community; and

WHEREAS, the staff of Bull Run Library have shown remarkable empathy, patience, and compassion in helping patrons navigate complex issues, find resources, and improve their skills and knowledge; and

WHEREAS, the staff of Bull Run Library approached the tremendous challenge of renovating a currently existing library with passion and professionalism, and their efforts have helped to make Prince William County a more wonderful place to live, work, and play; now, therefore, be it

RESOLVED by the House of Delegates, That the staff of Bull Run Library hereby be commended for their service to the Prince William County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the staff of Bull Run Library as an expression of the House of Delegates' admiration for their contributions to the Commonwealth.

HOUSE RESOLUTION NO. 495

Celebrating the life of Miya Yman Maeling Marcano.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Miya Yman Maeling Marcano, a beloved daughter and sister and a vibrant member of her community, died on September 24, 2021; and

WHEREAS, Miya Marcano was born in Pembroke Pines, Florida, and lived in the British Virgin Islands and the U.S. Virgin Islands when she was young; and

WHEREAS, after her family returned to Florida, Miya Marcano attended Charles W. Flanagan High School and graduated in 2020; and

WHEREAS, Miya Marcano matriculated at the University of Central Florida and studied nursing, then transferred to Valencia College to study sports medicine; and

WHEREAS, Miya Marcano was known as a "Jane of all trades" who excelled in all of her endeavors, including modeling, cheerleading, pageants, dancing, horseback riding, and much more; and

WHEREAS, Miya Marcano was an avid world traveler who loved meeting new people and learning about other cultures; she had visited Canada, Mexico, the Bahamas, Trinidad, and Dubai, among other destinations; and

WHEREAS, Miya Marcano could light up a room with her warmth, kindness, and positive energy; her smile and laughter were both infectious, and she took great joy in entertaining family members and friends; and

WHEREAS, Miya Marcano will be fondly remembered and greatly missed by her parents, Marlon and Yma; her brother, Marlon, Jr.; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Miya Yman Maeling Marcano; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Miya Yman Maeling Marcano as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 496

Commending Matthew McClung.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Matthew McClung, a basketball phenom from Gate City who currently plays for the Philadelphia 76ers of the National Basketball Association (NBA) and the Delaware Blue Coats of the NBA G League, won the 2023 NBA Slam Dunk Contest on February 18, 2023; and

WHEREAS, Matthew "Mac" McClung did not start playing basketball seriously until the seventh grade but quickly devoted himself to the sport, perfecting a shot that would make him the first Virginia High School League (VHSL) player to score more than 1,000 points in a single season; and

WHEREAS, Mac McClung led the Gate City Blue Devils to a VHSL Class 2 state championship in 2018, when his 47 points broke the VHSL scoring record for most points in a state final; and

WHEREAS, after tallying 2,801 points at Gate City, Mac McClung played for two seasons with the Georgetown University Hoyas and then transferred to Texas Tech University for a year, where he averaged 15.5 points per game, 2.7 rebounds per game, and 2.1 assists per game; and

WHEREAS, the 2021-2022 NBA G League Rookie of the Year in his first year of professional basketball, Mac McClung has spent time on the rosters of the NBA's Chicago Bulls and Los Angeles Lakers and the NBA G League's South Bay Lakers and Delaware Blue Coats and recently signed a two-way contract with the Philadelphia 76ers on February 14, 2023; and

WHEREAS, Mac McClung won the 2023 NBA Slam Dunk Contest in resounding fashion, posting a nearly perfect score over the event with four show-stopping dunks; and

WHEREAS, Mac McClung proudly wore his Gate City High School jersey for his final dunk of the contest, bringing his alma matter to the attention of basketball fans around the world; and

WHEREAS, Mac McClung has catapulted to national stardom with his extraordinary performance in this year's dunk contest, providing an inspirational example to young athletes of the Commonwealth of what one can achieve through hard work and dedication; now, therefore, be it

RESOLVED by the House of Delegates, That Matthew McClung hereby be commended for winning the 2023 National Basketball Association Slam Dunk Contest; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Matthew McClung as an expression of the House of Delegates' admiration for his achievements.

HOUSE RESOLUTION NO. 497

Celebrating the life of Eileen Kay Hessek.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Eileen Kay Hessek of Newport News, a compassionate advocate for women and children who worked to reduce instances of sudden infant death syndrome, died on August 1, 2022; and

WHEREAS, Eileen Hessek was born in New York City in 1944 and relocated to Virginia in 1970; and

WHEREAS, throughout her life, Eileen Hessek experienced three miscarriages and the stillborn death of one daughter; after a second daughter died from sudden infant death syndrome (SIDS), Eileen Hessek made it her personal mission to save lives by raising awareness of SIDS; and

WHEREAS, Eileen Hessek used her own experiences with loss to provide comfort, strength, and support to other mothers and families, and she became known as the "mom of a million" for her success in reducing SIDS worldwide; and

WHEREAS, Eileen Hessek will be fondly remembered and greatly missed by her husband of 60 years, Scott, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Eileen Kay Hessek, an inspirational servant leader, who touched countless lives through her advocacy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Eileen Kay Hessek as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 498

Commending Gwen P. Washington.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Gwen P. Washington, a behavior specialist at Dumfries Elementary School, has shown great dedication to her community while serving on the Town Council of Dumfries; and

WHEREAS, Gwen Washington has served on the Town Council of Dumfries for six years, where she works tirelessly to address the needs and concerns of her constituents; and

WHEREAS, in honor of her service, Gwen Washington was recognized at the Mayor's Choice Awards as part of the Dumfries Inaugural Mayor's Ball on April 13, 2019; and

WHEREAS, Gwen Washington hails from a family of trailblazers; she is the daughter of John Wilmer Porter, who also served on the Town Council of Dumfries and who was the first African American in Virginia since Reconstruction to be elected to public office, and Mary G. Porter, who was a teacher in Prince William County and part of the "Courageous Four" who were the first African American educators to teach in the county's previously all-white schools; and

WHEREAS, as a behavior specialist at Dumfries Elementary School, Gwen Washington equips her students with the knowledge and skills they need to grow and thrive both in and out of the classroom; and

WHEREAS, in training for her career, Gwen Washington earned a bachelor's degree from Virginia State University and a master's degree in education from George Mason University; and

WHEREAS, guided by her faith, Gwen Washington is an active member of Little Union Baptist Church in Dumfries, where she serves as a deaconess and in various other leadership capacities; and

WHEREAS, Gwen Washington has supported the education profession as a lifetime member of the National Education Association and the Virginia Education Association and numerous other worthwhile causes through her involvement with the NAACP, the Virginia Municipal League, Delta Sigma Theta Sorority, Inc., Women In Community Action, Inc., and the AARP; now, therefore, be it

RESOLVED by the House of Delegates, That Gwen P. Washington hereby be commended for her legacy of service as a member of the Town Council of Dumfries; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gwen P. Washington as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

HOUSE RESOLUTION NO. 499

Commending Batestown.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Batestown, a former settlement in Prince William County, was one of the largest autonomous African American communities in Northern Virginia; and

WHEREAS, Batestown traces its roots to the late 18th century and early 19th century, when several African American landowners in Prince William County began dividing large tracts of property into smaller lots for their children to settle, resulting in the formation of a small community; and

WHEREAS, Batestown was named for Sally Bates, a freed slave who was an early settler in the area; and

WHEREAS, for many years, the residents of Batestown practiced subsistence agriculture, but in 1889, the Cabin Branch Pyrite Mine opened in the area and transformed the local economy; the mine was a major employer in the area until it closed in 1920; and

WHEREAS, after the Civil War, Batestown rapidly expanded as many freed slaves relocated to the area; the residents of Batestown established and maintained their own church and school and cultivated a strong sense of community; and

WHEREAS, in the 1930s, the Resettlement Administration purchased or condemned most of the lots in Batestown and forcibly removed community residents; and

WHEREAS, the site of Batestown was used as a training ground for the Office of Strategic Services during World War II and is now part of Prince William Forest Park; two historical markers about Batestown are located at the nearby Little Union Baptist Church; now, therefore, be it

RESOLVED by the House of Delegates, That Batestown hereby be commended for its unique role in the history of Prince William County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Little Union Baptist Church as an expression of the House of Delegates' appreciation for the historical significance of the Batestown community.

HOUSE RESOLUTION NO. 500

Celebrating the life of Mary Ann Price Bergeron.

Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Mary Ann Price Bergeron, the longtime executive director of the Virginia Association of Community Services Boards, died on December 15, 2021; and

WHEREAS, Mary Ann Bergeron was born in New Jersey and graduated from Seton Hall University; and

WHEREAS, Mary Ann Bergeron worked as a teacher, a corporate consultant, and a human resources professional before becoming the executive director of the Virginia Association of Community Services Boards in 1989; and

WHEREAS, under Mary Ann Bergeron's leadership, the Virginia Association of Community Services Boards promoted and advocated for the highest quality public and private care for mental health, intellectual disabilities, and substance use disorders in the Commonwealth; she led the movement to prioritize community-based behavioral health and developmental disability services in the minds of public policy makers; and

WHEREAS, during Mary Ann Bergeron's 25-year tenure as executive director, the Virginia Association of Community Services Boards built consensus on important issues, led statewide advocacy efforts, and ably represented the interests of community services consumers, their family members, and related organizations; and

WHEREAS, Mary Ann Bergeron provided her leadership and expertise to several state and local boards, commissions, and work groups on mental health law, Medicaid reform, civil detention and commitment reform, and public guardianship; and

WHEREAS, at the national level, Mary Ann Bergeron was an appointed member of the Public Policy Committee of the National Council for Behavioral Health, now the National Council for Mental Wellbeing, and served on the board of directors of the National Association of County Behavioral Health and Developmental Disability Directors (NACBHDD) for over 10 years and as the organization's treasurer for four years; and

WHEREAS, among many awards and accolades, Mary Ann Bergeron was recognized for her leadership and advocacy to secure funding for services for infants and toddlers with disabilities, received the NACBHDD's National Award for Leadership and Advocacy, was named to the Hampton-Newport News Community Services Board Hall of Fame, and was awarded the "Key to the Community" by the Virginia Network of Private Providers; and

WHEREAS, after her well-earned retirement in 2014, Mary Ann Bergeron enjoyed traveling and playing bridge with friends and especially loved every opportunity to spend time with her grandchildren; and

WHEREAS, Mary Ann Bergeron will be fondly remembered and greatly missed by her children, Nicole and Christopher, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Mary Ann Bergeron; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Mary Ann Price Bergeron as an expression of the House of Delegates' respect for her memory.

HOUSE RESOLUTION NO. 501

Celebrating the life of Michael Lamont Perkins.

Agreed to by the House of Delegates, February 25, 2023

WHEREAS, Michael Lamont Perkins of Richmond, a respected attorney and a beloved husband and father, died on February 19, 2023; and

WHEREAS, Michael Perkins earned a bachelor's degree from the College of Humanities and Science at Virginia Commonwealth University, where he was a member of Alpha Phi Alpha Fraternity; and

WHEREAS, Michael Perkins continued his education at the David A. Clarke School of Law at the University of the District of Columbia; and

WHEREAS, while earning his law degree, Michael Perkins served as a legal fellow of the Council of the District of Columbia, supported the Subcommittee on Crime, Terrorism, and Homeland Security of the U.S. House of Representatives Committee on the Judiciary, and represented clients in an immigration and human rights clinic as a student attorney; and

WHEREAS, Michael Perkins subsequently worked as a contract attorney for Capital One and was responsible for drafting, reviewing, negotiating, structuring, interpreting, and executing a wide range of contractual documents; and

WHEREAS, in 2017, Michael Perkins joined the U.S. Government Accountability Office as an analyst, where he planned and executed complex legal and policy audits of multi-agency programs and the internal operations of individual government agencies; and

WHEREAS, Michael Perkins also served the Commonwealth and the Louisa County community as an assistant Commonwealth's attorney; and

WHEREAS, Michael Perkins will be fondly remembered and greatly missed by his wife, Taylor; children, Mila and Mason; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Michael Lamont Perkins; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Michael Lamont Perkins as an expression of the House of Delegates' respect for his memory.

HOUSE RESOLUTION NO. 502

Commending Tom Biesiadny.

Agreed to by the House of Delegates, February 25, 2023

WHEREAS, Tom Biesiadny, Director of the Fairfax County Department of Transportation (FCDOT), will retire from his position in May 2023; and

WHEREAS, Tom Biesiadny has worked in public service for Fairfax County for 34 years, and has served as the FCDOT Director since 2011; and

WHEREAS, Tom Biesiadny has served in various roles throughout his years with Fairfax County government, including transportation planner, legislative liaison, Coordination and Funding Division Chief, and Director, working with surrounding jurisdictional partners and elected leaders to shape regional transportation policy and processes for selecting and funding projects and programs in Northern Virginia; and

WHEREAS, Tom Biesiadny is a strong supporter of transit, overseeing the growth of the Fairfax Connector as it has become the largest local bus system in the Commonwealth, helping maintain Fairfax County's relationship with the Virginia Railway Express (VRE) and Washington Metropolitan Area Transit Authority (WMATA), and playing a crucial role in the continued success of vital transit service; and

WHEREAS, Tom Biesiadny, as Director, has been at the helm of FCDOT for some of the largest transportation projects in the nation, including the completion of the Metrorail Silver Line, the expansion of the Express Lanes network throughout Northern Virginia, and the Richmond Highway Bus Rapid Transit scheduled for completion in 2031; and

WHEREAS, Tom Biesiadny has brought to fruition numerous infrastructure projects, including roadway, bicycle, sidewalk, and intersection improvements, as well as transit programs, including the Free Student Pass Program, enhancing the transportation network for those driving, bicycling, walking, and using transit; and

WHEREAS, as a genial and pragmatic leader who builds consensus, has strengthened relationships with regional transportation partners, and champions creative, multimodal transportation solutions for the people of Fairfax County and the region, Tom Biesiadny has received the A. Heath Onthank Award, which recognizes accomplishments of outstanding worth by an individual County employee in advancing and improving public service in Fairfax County government; now, therefore, be it

RESOLVED by the House of Delegates, That the General Assembly hereby commend Tom Biesiadny on the occasion of his retirement as Director of the Fairfax County Department of Transportation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tom Biesiadny as an expression of the General Assembly's admiration for his contributions to the residents of Fairfax County.

HOUSE RESOLUTION NO. 503

Commending Colin Bridges.

Agreed to by the House of Delegates, February 25, 2023

WHEREAS, Colin Bridges, a member of the Frank W. Cox High School Class of 2022 and a current student-athlete at Washington and Lee University, won first place in the 152-pound weight class at the Virginia High School League state wrestling tournament at the Virginia Beach Sports Center held February 18-19, 2022; and

WHEREAS, Colin Bridges pinned Tyler Inghram of First Colonial High School of Virginia Beach in the 152-pound weight class final at the Virginia High School League (VHSL) Region 5A tournament on February 5, 2022;

WHEREAS, at the VHSL Class 5 state wrestling tournament, Colin Bridges defeated Jackson Bissessar of Briar Woods High School of Ashburn to secure first place in the 152-pound weight class; and

WHEREAS, Colin Bridges was named Most Outstanding Wrestler in the Black and Blue High School Division at the Peninsula Wrestling Association's Virginia Duals competition in January 2022; and

WHEREAS, Colin Bridges committed to wrestle at Washington and Lee University, where he helped the team win the 2023 Old Dominion Athletic Conference (ODAC) Wrestling Tournament team title with a third place finish in the 149-pound weight class, earning third team All-ODAC honors; and

WHEREAS, Colin Bridges has remained focused on his academics while excelling in his sport, receiving the Scholar-Athlete Award from Washington and Lee University in the fall of 2022 for compiling a grade-point average of at least 3.5 points in the most recent term; and

WHEREAS, Colin Bridges' accomplishments are the result of his hard work and dedication, the leadership and guidance of his coaches and professors, and the unwavering support of his family and the communities of Washington and Lee University and Frank W. Cox High School; now, therefore, be it

RESOLVED by the House of Delegates, That Colin Bridges hereby be commended for winning the 2022 Virginia High School League Class 5 state championship and for his success at Washington and Lee University; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colin Bridges as an expression of the House of Delegates' admiration for his achievements.

HOUSE RESOLUTION NO. 504

Commending Addison Froehlich.

Agreed to by the House of Delegates, February 25, 2023

WHEREAS, Addison Froehlich, a senior at Frank W. Cox High School in Virginia Beach and a standout on the school's field hockey team, received a Student-Athlete Achievement Award from the Virginia Sports Hall of Fame on February 5, 2023; and

WHEREAS, the Virginia Sports Hall of Fame's Student-Athlete Achievement Award honors Addison Froehlich's academic and athletic efforts, along with her volunteer and community service; and

WHEREAS, Addison Froehlich was recognized as one of the top junior field hockey players in the country when she was selected to participate in the field hockey event at the 2021 American Athletic Union Junior Olympic Games at Houston Sports Park in Houston in August 2021; and

WHEREAS, Addison Froehlich notably scored the first and go-ahead goal in the Frank W. Cox High School field hockey team's 2-0 win over Nansemond River High School of Suffolk in the Virginia High School League Class 5 state championship on November 13, 2022, at Courtland High School in Spotsylvania County; and

WHEREAS, Addison Froehlich committed to playing field hockey at Villanova University on National Signing Day, February 1, 2023, and will take her skills to the National Collegiate Athletic Association Division I level this fall; and

WHEREAS, Addison Froehlich's accomplishments are the results of her hard work and dedication, the leadership and guidance of her coaches and teachers, and the unwavering support of her family and the entire Frank W. Cox High School community; now, therefore, be it

RESOLVED by the House of Delegates, That Addison Froehlich hereby be commended for receiving a 2023 Student-Athlete Achievement Award from the Virginia Sports Hall of Fame; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Addison Froehlich as an expression of the House of Delegates' admiration for her achievements and best wishes for her continued success.

SENATE JOINT RESOLUTION NO. 225

Celebrating the life of Carl Fletcher Flemer III.

Agreed to by the Senate, January 12, 2023
Agreed to by the House of Delegates, January 16, 2023

WHEREAS, Carl Fletcher Flemer III, an esteemed nurseryman and businessman, honorable veteran, and active and beloved member of the Northern Neck community, died on June 30, 2022; and

WHEREAS, Carl "Fletch" Flemer attended Fork Union Military Academy and graduated from Christchurch School before attending The College of William and Mary and earning a degree in horticulture from North Carolina State University; and

WHEREAS, Fletch Flemer joined the United States Army in 1969 and served his country with honor and distinction for three years as a commissioned rotary wing aviator with the 174th Assault Helicopter Company; and

WHEREAS, while in the service, Fletch Flemer flew more than 1,000 hours of helicopter missions during the Vietnam War and was recognized with the Silver Star, the Bronze Star, the Army Commendation Medal, and 22 Air Medals; and

WHEREAS, Fletch Flemer would support his fellow veterans over the years as a dedicated member of the Combat Helicopter Pilots Association and a life member of the Vietnam Helicopter Pilots Association; and

WHEREAS, in 1972, Fletch Flemer joined his family's business at Ingleside Nurseries, known by many as the largest and finest plant nursery in the Commonwealth; and

WHEREAS, Fletch Flemer became president of Ingleside Nurseries upon the retirement of his father, Carl Flemer, Jr., in 1985 and sagaciously led the operation until his own retirement in 2022, developing the nursery into one of the biggest on the east coast of the United States; and

WHEREAS, Fletch Flemer actively supported the nursery industry as president of the former Virginia Nurserymen's Association, the former Southern Nurserymen's Association, the former American Association of Nurserymen, and the Mid-Atlantic Nursery Trade Show; and

WHEREAS, Fletch Flemer's commitment to his community manifested itself through his service as a board member of the Virginia Farm Bureau, Peoples Community Bank, Christchurch School, St. Margaret's School in Tappahannock, and the Westmoreland County Wetlands Board; he was also notably one of the founders of the Oak Grove Volunteer Fire Department; and

WHEREAS, Fletch Flemer was an accomplished horseman and fox hunter who regularly rode with Commonwealth Foxhounds, Casanova Hunt, and Caroline Hunt, and he could often be found on the Rappahannock River captaining his pontoon boat, the "Fun Ship"; and

WHEREAS, guided throughout his life by his faith, Fletch Flemer enjoyed worship and fellowship with his community at St. Peter's Episcopal Church in Oak Grove, where he served as a lay reader and warden and on various committees; and

WHEREAS, Fletch Flemer will be fondly remembered and dearly missed by his mother, Shirley; his siblings, Doug, Christopher, Sherri, Sara, and John, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Carl Fletcher Flemer III, a treasured member of the Northern Neck community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Carl Fletcher Flemer III as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 227

Commending Birddogs Country Store.

Agreed to by the Senate, January 12, 2023
Agreed to by the House of Delegates, January 16, 2023

WHEREAS, Birddogs Country Store, a cherished establishment in Montross that provided a variety of goods and merchandise and served as a focal point for the community for more than 13 years, regrettably closed its doors in 2022; and

WHEREAS, Birddogs Country Store was founded in 2009 by Darlene Dyer, who, alongside her mother, Delores Wathen, has operated country stores in the area since the early 1990s; and

WHEREAS, Birddogs Country Store's wide array of goods and merchandise ran the gamut from spark plugs, camping items, and fishing bait to groceries, beer, and wine, while its homemade chicken salad and other delicious deli items drew patrons from throughout the Northern Neck; and

WHEREAS, located along Route 3 near Westmoreland State Park, Birddogs Country Store fostered a greater sense of community in the region by creating a space in which individuals, particularly local watermen and farmers, could gather and converse; and

WHEREAS, Birddogs Country Store has supported numerous members of the community over the years by offering them gainful employment and the opportunity to succeed; and

WHEREAS, Darlene Dyer helped many throughout the COVID-19 pandemic by keeping Birddogs Country Store open to those in need, by initiating a delivery service for those who could not safely visit the store in person, and by providing sick leave to her employees; and

WHEREAS, through a steadfast commitment to quality and service, Birddogs Country Store exemplified why the Commonwealth is a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Birddogs Country Store for its many years of service to the Montross community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Darlene Dyer, owner of Birddogs Country Store, as an expression of the General Assembly's admiration for the store's contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 232

Designating March, in 2023 and in each succeeding year, as Problem Gambling Awareness Month in Virginia.

Agreed to by the Senate, January 25, 2023
Agreed to by the House of Delegates, February 17, 2023

WHEREAS, problem gambling is a public health issue that impacts Americans of all ages, ethnicities, races, and genders; and

WHEREAS, problem gambling has significant societal and economic costs to individuals, families, businesses, and communities; and

WHEREAS, problem gambling is treatable, and treatment is effective in minimizing the harm to both individuals and society; and

WHEREAS, the Virginia Council on Problem Gambling and the Virginia Lottery are working to raise awareness and provide education about problem gambling, along with the availability and effectiveness of treatment; and

WHEREAS, several organizations in the Commonwealth have joined the cause as members of the Virginia Council on Problem Gambling to help mitigate the risk to the estimated two percent of Americans that experience gambling problems; and

WHEREAS, the National Council on Problem Gambling has designated March as Problem Gambling Awareness Month; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate March, in 2023 and in each succeeding year, as Problem Gambling Awareness Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the Virginia Council on Problem Gambling so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this month on the General Assembly's website.

SENATE JOINT RESOLUTION NO. 233

Celebrating the life of John Tilghman Hazel, Jr.

Agreed to by the Senate, January 12, 2023
Agreed to by the House of Delegates, January 16, 2023

WHEREAS, John Tilghman Hazel, Jr., a beloved member of the Fauquier County community who made an indelible impact on Northern Virginia as an attorney and developer, died on March 15, 2022; and

WHEREAS, John "Til" Hazel graduated from the former Washington-Lee High School in Arlington in 1947 before earning a bachelor's degree from Harvard College in 1951 and a juris doctor degree from Harvard Law School in 1954; and

WHEREAS, after graduation, Til Hazel served with the Judge Advocate General's Corps of the United States Army for three years before leaving for the Northern Virginia law firm of Jesse, Phillips, Klinge, and Kendrick in 1957, where he started as a general practicing attorney but soon honed a specialty in real estate and zoning law; and

WHEREAS, after a brief tenure as a general district court judge in Fairfax County from 1961 to 1963, Til Hazel returned to private practice, forming the firm Hazel, Beckhorn & Hanes in 1966, which was headquartered in Fairfax County and specialized in all aspects of real estate law; and

WHEREAS, under Til Hazel's leadership, Hazel, Beckhorn & Hanes grew to employ 65 lawyers by 1987, the same year that the firm merged with Thomas & Fiske of Alexandria to form the firm Hazel, Thomas, Fiske, Beckhorn & Hanes, which was later shortened to Hazel & Thomas PC in 1990; and

WHEREAS, Til Hazel facilitated the merger of Hazel & Thomas PC with the Pittsburgh-based Reed Smith Shaw & McClay LLP in 1999, forming what is now known as Reed Smith, an international law firm that employs more than 1,000 attorneys worldwide; and

WHEREAS, recognized during his career as one of the preeminent zoning lawyers in the Commonwealth, Til Hazel represented developers responsible for the creation of the Capital Beltway, Tysons Corner Center, and other regional landmarks; and

WHEREAS, becoming a developer in his own right in the 1970s with the founding of the real estate development firm Hazel/Peterson Companies, Til Hazel helped to transform Northern Virginia into one of the strongest regional economies in the nation by building highways, shopping centers, and suburban subdivisions such as Burke Centre, Franklin Farm, and Fair Lakes; and

WHEREAS, Til Hazel was the first Virginian to serve as the president of the Greater Washington Board of Trade, the founder and chairman of the Virginia Business Higher Education Council, and a board member for various organizations, including the University of Virginia's Miller Center Foundation, the National Air and Space Museum, the Corcoran Gallery, and the Washington Airports Task Force; and

WHEREAS, Til Hazel was a tireless education advocate whose philanthropic efforts included supporting George Mason University as it grew into the world-class institution that it is today and guiding elite secondary schools such as Flint Hill School in Oakton, St. Stephen's School in Alexandria, Thomas Jefferson High School of Science and Technology in Alexandria, and Fredericksburg Academy in Spotsylvania County; and

WHEREAS, Til Hazel's accomplishments have been recognized by myriad honors over the years, including the 1987 Community Leadership Award from the Community Foundation for Northern Virginia, induction into the Washington Business Hall of Fame, and honorary degrees from The College of William and Mary, Christopher Newport University, and the Virginia Community College System; and

WHEREAS, preceded in death by his first wife, Marion, and his second wife, Anne, Til Hazel will be fondly remembered and dearly missed by his children, Leigh Ann, John III, James, Richard, Randolph, and William, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of John Tilghman Hazel, Jr., a pillar of the Northern Virginia community whose tireless dedication shaped the region for years to come; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of John Tilghman Hazel, Jr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 234

Celebrating the life of Wilbert McKinley Bland, Sr.

Agreed to by the Senate, January 12, 2023
Agreed to by the House of Delegates, January 16, 2023

WHEREAS, Wilbert McKinley Bland, Sr., a successful business owner in Petersburg who touched countless lives through his generosity and commitment to servant leadership, died on September 9, 2022; and

WHEREAS, a native of Prince George County, Wilbert Bland graduated from J.E.J. Moore High School and continued his education at what is now Virginia State University; and

WHEREAS, while working with his brother, William Nelson Bland, Sr., at Bland Funeral Homes, Wilbert Bland decided to pursue a career as a florist and apprenticed under the late L.L. Meredith at The Flower Mart; and

WHEREAS, after honing his craft, Wilbert Bland opened Bland's Florist, which has provided beautiful floral arrangements for any occasion to the residents of Petersburg for more than 59 years and became one of the oldest continually operating Black-owned businesses in the city; and

WHEREAS, Wilbert Bland served his peers in the floral industry as president of the National Florist Association and offered his expertise to the Petersburg Economic Development Authority, the Petersburg Jaycees, the Petersburg Chamber of Commerce, and the advisory committee to the Petersburg chief of police; and

WHEREAS, Wilbert Bland also volunteered his time and wise leadership to various civic and social clubs, including the Petersburg chapters of The Links, Inc., The Drifters, Inc., and the National Epicureans; and

WHEREAS, Wilbert Bland began to cultivate his deep and abiding faith at a young age; he was baptized at Loving Union Baptist Church in Disputanta and became an active member of First Baptist Church in Petersburg in later life; and

WHEREAS, Wilbert Bland will be fondly remembered and greatly missed by his devoted wife of 56 years, Vivian; his children, Sylinda and Kenny, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Wilbert McKinley Bland, Sr., a highly admired entrepreneur and community leader in Petersburg; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Wilbert McKinley Bland, Sr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 236

Celebrating the life of Francis E. Zehr.

Agreed to by the Senate, January 12, 2023
Agreed to by the House of Delegates, January 16, 2023

WHEREAS, Francis E. Zehr, a passionate educator and longtime member of the Henry County Board of Supervisors, died on July 29, 2022; and

WHEREAS, Francis Zehr grew up in upstate New York and graduated from Beaver River Central School; he continued his education at Eastern Mennonite College in Harrisonburg, taught social studies in Henry County Public Schools for 35 years; and

WHEREAS, desirous to be of further service to the community, Francis Zehr ran for and was elected to the Henry County Board of Supervisors and ably represented the residents of the Ridgeway District for 16 years and served a term as chair; and

WHEREAS, during his tenure in local government, Francis Zehr was a staunch advocate for the needs of teachers and students in local public schools, and he was a trusted friend and mentor to many other local officials; and

WHEREAS, Francis Zehr also volunteered his time and leadership to the Henry County School Board for more than a decade, presiding as chair for one year and vice-chair for two, and serving on the Ridgeway Rescue Squad Board of Directors for many years; and

WHEREAS, Francis Zehr's greatest joy in life was his beloved family, and he relished every opportunity to share his lifetime of wisdom with his children and grandchildren; and

WHEREAS, Francis Zehr enjoyed fellowship and worship with the Ridgeway community as a member of Fontaine Baptist Church; and

WHEREAS, Francis Zehr will be fondly remembered and greatly missed by his wife of 47 years, Karen; his children, Tonia, Ryan, and Kyle, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Francis E. Zehr, a dedicated public servant and active member of the Ridgeway community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Francis E. Zehr as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 237

Commending the Wildlife Center of Virginia.

Agreed to by the Senate, January 12, 2023
Agreed to by the House of Delegates, January 16, 2023

WHEREAS, for four decades, the Wildlife Center of Virginia in Waynesboro has provided high-quality health care services, including emergency procedures, to native wildlife, building a reputation for excellence and expertise in the field; and

WHEREAS, established in 1982, the Wildlife Center of Virginia has become the world's leading teaching and research hospital for wildlife conservation medicine; and

WHEREAS, over the course of its history, the Wildlife Center of Virginia has treated nearly 100,000 patients, representing more than 350 species of native mammals, birds, reptiles, and amphibians; and

WHEREAS, the Wildlife Center of Virginia has shared valuable lessons learned from its cases with millions of students and wildlife medical professionals throughout the Commonwealth, the United States, and the world; and

WHEREAS, the Wildlife Center of Virginia has educated countless veterinarians, veterinary technicians, and volunteer wildlife rehabilitators through its cutting-edge training programs, including electronic courses; and

WHEREAS, the Wildlife Center of Virginia is equipped with a veterinary clinic, diagnostics laboratory, operating suite, radiology room, and a wide range of outdoor enclosures for recovering patients and non-releasable animals; the center plans to significantly expand its facility to better serve wildlife in need; and

WHEREAS, the Wildlife Center of Virginia produced, in partnership with Virginia Public Media, the television series *Untamed*, which previously won three Telly Awards and was nominated for a regional Emmy Award; and

WHEREAS, among many national and international accolades, the Wildlife Center of Virginia was selected as the 2007 Conservation Organization of the Year and received the National Conservation Achievement Award from the National Wildlife Federation; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Wildlife Center of Virginia on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Wildlife Center of Virginia as an expression of the General Assembly's admiration for the center's legacy of contributions to conservation medicine.

SENATE JOINT RESOLUTION NO. 238

Commending Vivian Cheatham.

Agreed to by the Senate, January 19, 2023
Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Vivian Cheatham, a respected professional and dedicated public servant from Chesterfield, will retire from the Virginia Department of Motor Vehicles in February 2023; and

WHEREAS, Vivian Cheatham grew up in Chesterfield, graduated from Manchester High School, and shortly thereafter married her husband of more than 45 years, Keith; together they have raised two children, Charles Keith and Hunter, and today have five adored grandchildren; and

WHEREAS, Vivian Cheatham began her career with the Commonwealth at the Virginia Department of Transportation in 1980 and transferred to the Department of Motor Vehicles (DMV) in 1983; and

WHEREAS, over the course of her career, Vivian Cheatham worked closely with four Commissioners of the DMV, becoming a trusted source of institutional knowledge for state and local officials and the public; and

WHEREAS, Vivian Cheatham specialized in customer service during her 43-year tenure as an employee of the Commonwealth and was regarded as an invaluable member of the DMV's staff due to her effortless interactions with the public and members of the General Assembly; and

WHEREAS, Vivian Cheatham, a cherished and admired staff member of the DMV, has become well-known and respected by many through her distinguished and dedicated service; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Vivian Cheatham, longtime employee of the Virginia Department of Motor Vehicles, on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Vivian Cheatham as an expression of the General Assembly's admiration for her service to the Commonwealth.

SENATE JOINT RESOLUTION NO. 241

Requesting the Office of the Children's Ombudsman to continue its study of legal representation in child dependency cases. Report.

Agreed to by the Senate, February 6, 2023
Agreed to by the House of Delegates, February 17, 2023

WHEREAS, the third enactment of Chapter 305 of the Acts of Assembly of 2022 directed the Office of the Children's Ombudsman to convene a work group to consider issues relating to the Commonwealth's model of court-appointed legal counsel in child dependency cases and to make recommendations for legislative and budgetary changes to address such issues; and

WHEREAS, the work group convened by the Office of the Children's Ombudsman met eight times in 2022 and identified key issues relating to the appointment of legal counsel in child dependency cases, including compensation, standards, training, accountability, and workforce challenges; and

WHEREAS, the work group convened by the Office of the Children's Ombudsman made recommendations for legislative and budgetary changes to address such key issues to the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice in a report dated November 1, 2022; and

WHEREAS, the work group convened by the Office of the Children's Ombudsman reported that, if implemented, such recommendations would require additional action, including the development of qualification and performance standards for attorneys appointed as counsel for parents and the appropriation of funds for the establishment of a pilot program for multidisciplinary offices staffed by attorneys, social workers, and parent advocates to serve diverse jurisdictions in the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Office of the Children's Ombudsman be requested to continue its study of legal representation in child dependency cases.

In conducting its study, the Office of the Children's Ombudsman shall direct the work group convened pursuant to Chapter 305 of the Acts of Assembly of 2022 to continue its work regarding the implementation of the recommendations made in its November 1, 2022, report.

The work group shall complete its meetings by November 30, 2023, and shall submit to the Governor and General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2024 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

SENATE JOINT RESOLUTION NO. 243

Increasing the membership of the Joint Subcommittee on Recurrent Flooding.

Agreed to by the Senate, February 6, 2023
Agreed to by the House of Delegates, February 17, 2023

WHEREAS, House Joint Resolution No. 50 and Senate Joint Resolution No. 76 (2012) directed the Virginia Institute of Marine Science (VIMS) to study strategies for adaptation to prevent recurrent flooding in Virginia's Tidewater and Eastern Shore localities; and

WHEREAS, House Joint Resolution No. 16 and Senate Joint Resolution No. 3 (2014) established the Joint Subcommittee to Formulate Recommendations to Address Recurrent Flooding, as recommended by the report issued by VIMS following its initial study; and

WHEREAS, House Joint Resolution No. 16 and Senate Joint Resolution No. 35 (2022) last continued this study as the Joint Subcommittee on Recurrent Flooding to recommend short-term and long-term strategies for minimizing the impact of flooding and further study and address major concerns of riverine flooding and flooding from stormwater in the Commonwealth; and

WHEREAS, the current membership of the joint subcommittee consists of a total membership of 11 members that consists of five members of the House of Delegates appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate appointed by the Senate Committee on Rules; and three nonlegislative citizen members, one of whom is a business leader and one of whom is a representative of the environmental community appointed by the Speaker of the House of Delegates, and one of whom is a local official representing Virginia's flood-prone communities appointed by the Senate Committee on Rules; and

WHEREAS, the significant economic, social, infrastructural, and environmental challenges posed by flooding in the Commonwealth necessitate additional expertise; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the membership of the Joint Subcommittee on Recurrent Flooding be increased. The current membership shall be increased by adding two members, who shall be local elected officials from separate regions of the Commonwealth representing Virginia's flood-prone communities, one of whom shall be from an urban area impacted by stormwater flooding and one of whom shall be from a rural area impacted by riverine flooding, both of whom shall be appointed by the Speaker of the House of Delegates.

The current member of the joint subcommittee who is a local official representing Virginia's flood-prone communities appointed by the Senate Committee on Rules shall, upon the next appointment period, be replaced by a local official representing an area impacted by coastal flooding appointed by the Senate Committee on Rules.

The additional direct costs of this study shall not exceed $2,400.

SENATE JOINT RESOLUTION NO. 244

Commending Ann Pesiri Swanson.

Agreed to by the Senate, January 19, 2023
Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Ann Pesiri Swanson, who worked with state officials in Virginia, Pennsylvania, and Maryland to restore the environmental health and sustainability of the Chesapeake Bay watershed for nearly 35 years, retired as the executive director of the Chesapeake Bay Commission in November 2022; and

WHEREAS, Ann Swanson holds degrees in wildlife biology from the University of Vermont and environmental science from Yale University, and she previously served as board chair of the University of Vermont's School of Natural Resources Advisory Council; and

WHEREAS, after becoming the executive director of the Chesapeake Bay Commission in 1988, Ann Swanson advised local and state officials in the 64,000-square-mile area of the watershed and advocated for planning and policies to benefit local residents and stakeholders while ensuring the proper conservation of vital natural resources; and

WHEREAS, during her tenure as executive director, Ann Swanson helped create the Bi-State Blue Crab Advisory Committee in 1996, bringing together key stakeholders and scientists to provide expert advice and coordination for the management of the Chesapeake Bay's blue crab fisheries; and

WHEREAS, Ann Swanson provided her unique insights to the development of a comprehensive framework for a watershed-wide ecosystem management strategy to restore the Chesapeake Bay and its living resources as a partner of the Chesapeake Bay Program and a significant contributor to the success of the 2000 Chesapeake Bay Agreement and subsequent agreements; and

WHEREAS, in 2003 Ann Swanson played a critical role in the establishment of the Chesapeake Bay Funders' Network, which comprises more than 100 philanthropic organizations that foster collaborative opportunities for watershed restoration projects throughout the region; and

WHEREAS, Ann Swanson worked at state and local levels to coordinate management of Chesapeake Bay issues and successfully secured significant federal conservation funds for farmers in the Chesapeake Bay watershed through the 2007 Federal Farm Bill and subsequent Farm Bills; and

WHEREAS, throughout her career, Ann Swanson collaborated in a bipartisan manner with legislators, nonprofit advocacy organizations, governmental organizations, farmers and farming interests, and other stakeholders in the passage of numerous pieces of natural resources legislation, significant funding initiatives and the accomplishment of various land conservation initiatives; and

WHEREAS, Ann Swanson has been a trusted mentor and friend to countless fellow conservation professionals; she inspired others through her expertise, personal integrity, and her passion for public service and natural resources; and

WHEREAS, Ann Swanson's strategies for large-scale ecosystem restoration have earned national and international recognition, and the success of the Chesapeake Bay Commission has become a model for other regional partnerships; and

WHEREAS, among many awards and accolades, Ann Swanson has been honored with the Chesapeake Executive Council Salute to Excellence Award in 1992 and 1999, the Chesapeake Bay Foundation Conservationist of the Year award in 2001, the Sierra Club Outstanding Achievement Award in 2004, the University of Vermont Outstanding Alumni of the Year award in 1989 and 2007, and the Lifetime Achievement Award from the Chesapeake Conservancy in 2019; and

WHEREAS, in addition to her other accolades, Ann Swanson was named as an Admiral of the Chesapeake, the highest award for accomplishments in environmental conservation presented by the Governor of Maryland; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Ann Pesiri Swanson on the occasion of her retirement as executive director of the Chesapeake Bay Commission; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ann Pesiri Swanson as an expression of the General Assembly's admiration for her achievements in the protection and preservation of the Commonwealth's valuable natural resources.

SENATE JOINT RESOLUTION NO. 245

Commending Viki Wellershaus.

Agreed to by the Senate, January 12, 2023

Agreed to by the House of Delegates, January 16, 2023

WHEREAS, Viki Wellershaus, the longest-serving town clerk in the history of Herndon, retired on August 31, 2022, after more than 29 years of exceptional service to the community; and

WHEREAS, Viki Wellershaus began her career with Fairfax County in 1975 and served as clerk to the Board of Zoning Appeals and deputy clerk to the Board of Supervisors; she received the highly respected Certified Municipal Clerk designation in January of 1990; and

WHEREAS, Viki Wellershaus played a critical role in the comprehensive reorganization of the offices of the clerk to the Board of Zoning Appeals and the clerk to the Board of Supervisors; she also served as a panelist for courses offered by Fairfax County and the Virginia Municipal Clerks Association; and

WHEREAS, Viki Wellershaus provided instrumental support to the composition of legislative actions of the Board of Supervisors, specifically actions regarding budgets and bond sales, and the execution of code amendments; and

WHEREAS, in July 1993, Viki Wellershaus was appointed as the Herndon town clerk, in which capacity she maintained her high level of professionalism in service to the Herndon Town Council, town staff, and local residents; and

WHEREAS, Viki Wellershaus worked diligently to increase the efficiency of operations in the town clerk's office to ensure good communication between local residents and the governing body, while upholding the principles and values of the role of town clerk; and

WHEREAS, during her distinguished tenure with the town, Viki Wellershaus worked with 15 terms of town council members, seven mayors, five town managers, and countless staff members and citizens; and

WHEREAS, Viki Wellershaus was an invaluable source of institutional knowledge who benefited the Herndon community in myriad ways and selflessly gave of her time, experience, and expertise to serve the local residents; and

WHEREAS, Viki Wellershaus was a trusted mentor and friend to her colleagues and was well-known for her attention to detail and willingness to always help others; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Viki Wellershaus on the occasion of her retirement as the town clerk of Herndon; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Viki Wellershaus as an expression of the General Assembly's admiration for her personal and professional achievements.

SENATE JOINT RESOLUTION NO. 248

Celebrating the life of Gregory Lee Kees.

Agreed to by the Senate, January 12, 2023
Agreed to by the House of Delegates, January 16, 2023

WHEREAS, Gregory Lee Kees, a dedicated law-enforcement officer and beloved husband and father, died on September 15, 2022; and

WHEREAS, Gregory "Greg" Kees grew up in West Virginia, where he graduated from Cedar Grove High School and earned an undergraduate degree from West Virginia State University; and

WHEREAS, Greg Kees joined the Kanawha County Sheriff's Office in Charleston, West Virginia, and served the community as a deputy sheriff for more than 12 years, rising to the rank of sergeant; and

WHEREAS, Greg Kees subsequently worked as an insurance fraud and arson investigator, leading special investigation teams in West Virginia, Florida, and Alabama, then retired as a staff coordinator for Northside Medical Associates in Pell City, Alabama; and

WHEREAS, outside of his career, Greg Kees volunteered his time and leadership to support young people as the district chair of the Buckskin Council of the Boy Scouts of America; and

WHEREAS, the greatest joy in Greg Kees's life was his beloved family, and he relished every opportunity to impart his wisdom to his children and grandchildren; and

WHEREAS, Greg Kees will be fondly remembered and greatly missed by his wife of 52 years, Rebecca; his children, April and Scot, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Gregory Lee Kees; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Gregory Lee Kees as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 249

Celebrating the life of Walker Leland Mitchell.

Agreed to by the Senate, January 12, 2023
Agreed to by the House of Delegates, January 16, 2023

WHEREAS, Walker Leland Mitchell of Sontag, a hardworking farmer and a respected member of the Franklin County Board of Supervisors, died on July 30, 2022; and

WHEREAS, Leland Mitchell attended Sontag Elementary School and Franklin County High School; he was a lifelong farmer who farmed tobacco and beef cattle and served as president for the Franklin County Farm Bureau; and

WHEREAS, desirous to be of further service to the community, Leland Mitchell ran for and was elected to the Franklin County Board of Supervisors in 2006; he ably represented the residents of the Snow Creek District and served a term as chair in 2020; and

WHEREAS, outside of his career and public service, Leland Mitchell enjoyed playing slow pitch softball and hunting, and he volunteered his wise leadership to the Sontag Ruritan Club as president; and

WHEREAS, Leland Mitchell will be fondly remembered and greatly missed by his loving wife of 58 years, Janet; his children, William, Walter, and Leigh Anne, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Walker Leland Mitchell, a dedicated public servant and highly admired member of the Franklin County community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Walker Leland Mitchell as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 252

Celebrating the life of the Honorable Jane Haycock Woods.

Agreed to by the Senate, January 19, 2023
Agreed to by the House of Delegates, January 30, 2023

WHEREAS, the Honorable Jane Haycock Woods, a respected public servant, a champion for affordable health care in the Commonwealth, and an active community leader in Fairfax, died on July 18, 2022; and

WHEREAS, born in Maryland, Jane Woods earned a bachelor's degree in education from American University and worked as an educator in Fairfax County Public Schools for almost two decades; and

WHEREAS, desirous to be of further service to the Commonwealth, Jane Woods ran for and was elected to the House of Delegates in 1987 and represented the residents of the 37th District until 1992; and

WHEREAS, Jane Woods subsequently served as a member of the Senate of Virginia, representing the residents of the 34th District from 1992 to 2000; during that time she also served as chair of the Senate Committee on Education and Health and was a member of the Joint Commission on Health Care, as well as numerous other commissions and joint committees; and

WHEREAS, over the course of her career, Jane Woods introduced and supported many important pieces of legislation to benefit all Virginians; and

WHEREAS, after her time as a state lawmaker, Jane Woods served as the Secretary of Health and Human Services under Governor Mark Warner, then joined the Department for Health Administration and Policy at George Mason University's College of Health and Human Services and established her own consulting firm, Driftwood Consulting, LLC; and

WHEREAS, Jane Woods also served as vice chair of the Fairfax-Falls Church Community Services Board and was a board member of the Virginia Health Quality Center and the Northern Virginia Health Foundation; and

WHEREAS, in later life, Jane Woods advocated for seniors on behalf of the Virginia Association of Area Agencies on Aging and the Virginia Association for Adult Day Health Care, and she offered her expertise and wise insights to several other organizations; and

WHEREAS, Jane Woods worked diligently to enhance the quality of life in Fairfax as a member or officer of several local boards and commissions, and she supported the arts as a leader in the City of Fairfax Band Association and the Fairfax Spotlight on the Arts; and

WHEREAS, among many awards and accolades, Jane Woods was selected as the City of Fairfax Woman of the Year in 1986, the City of Fairfax Commission for Women's Outstanding Woman in 1987, and Central Fairfax Chamber of Commerce Woman of the Year in 1988; and

WHEREAS, Jane Woods was highly admired for her kindness and humility; she served the Commonwealth with integrity and distinction and touched countless lives throughout the Commonwealth through her generosity, compassion, and wisdom; and

WHEREAS, predeceased by her husband, James, Jane Woods will be fondly remembered and deeply missed by her siblings, Michael and Anne, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Jane Haycock Woods, a dedicated public servant who made many contributions to Northern Virginia and the Commonwealth as a whole; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Jane Haycock Woods as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 253

Celebrating the life of Cecilia Suyat Marshall.

Agreed to by the Senate, January 12, 2023
Agreed to by the House of Delegates, January 16, 2023

WHEREAS, Cecilia Suyat Marshall, former legal secretary of the NAACP, esteemed civil rights activist, devoted wife of the late U.S. Supreme Court Justice Thurgood Marshall, and a beloved member of the Falls Church community, died on November 22, 2022; and

WHEREAS, born in Maui, Hawaii, to Philippine immigrants, Cecilia "Cissy" Marshall went to live with relatives in New York in 1948, where she attended night classes in stenography at Columbia University; and

WHEREAS, Cissy Marshall began her professional career at the NAACP shortly thereafter, working as a stenographer and as the private secretary to then deputy executive director Dr. Gloster B. Current, who managed approximately 15,000 branches of the organization nationwide at that time; and

WHEREAS, Cissy Marshall took on greater responsibilities by supporting what was then known as the NAACP Legal Defense and Educational Fund, the arm of the NAACP that became Legal Defense Fund (LDF), including typing briefs for landmark school desegregation cases such as *Brown v. Board of Education* and accompanying NAACP lawyers on perilous trips to the Deep South; and

WHEREAS, on December 17, 1955, shortly after the *Brown v. Board of Education* decision, Cissy Marshall and Thurgood Marshall, the lead attorney in that case, founder, and then director-counsel of the NAACP Legal Defense and Educational Fund, were married in a wedding at the historic St. Philip's Episcopal Church in Harlem; and

WHEREAS, Cissy Marshall and her family relocated to Falls Church in 1965 after Thurgood Marshall was appointed by President Lyndon B. Johnson to serve as U.S. solicitor general; after his confirmation to the United States Supreme Court two years later, they made the Commonwealth their home for many years to come; and

WHEREAS, with her husband burdened by the considerable professional duties before him, Cissy Marshall spearheaded the guidance and care of her sons, Thurgood, Jr., and John, who would go on to hold prominent positions in state and national government; and

WHEREAS, in later years, Cissy Marshall fostered her husband's legacy as the first Black American to serve on the United States Supreme Court through her work with the Supreme Court Historical Society, on which she served for many years as vice president of the organization's executive committee; and

WHEREAS, after her husband's death, Cissy Marshall kept his legacy alive through interviews, speaking engagements, and service on LDF's Board of Directors, which she joined in 1988; proud of what her husband and his colleagues achieved, she always emphasized the work that was left to be done; she remained an active member of LDF's board of directors for many years and served over the tenure of five of the organization's eight presidents and directors-counsel; and

WHEREAS, Cissy Marshall was the recipient of numerous awards from LDF and lent her name and support to their efforts to support young civil rights lawyers, most recently through the launch of LDF's Marshall-Motley Scholars Program; and

WHEREAS, predeceased by her husband, Thurgood, Cissy Marshall will be fondly remembered and dearly missed by her sons, Thurgood, Jr., and John, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Cecilia Suyat Marshall, a cherished member of the Falls Church community whose outsized role in the civil rights movement impacted countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Cecilia Suyat Marshall as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 256

Designating the first Sunday after Veterans Day, in 2023 and in each succeeding year, as Warrior Call Day in Virginia.

Agreed to by the Senate, February 1, 2023
Agreed to by the House of Delegates, February 17, 2023

WHEREAS, the rate of suicide for members of the United States Armed Forces serving on active duty increased from 20.3 suicides per 100,000 individuals in 2015 to 28.7 suicides per 100,000 individuals in 2020; and

WHEREAS, the suicide rate for veterans has steadily increased since 2006, with 6,261 veterans dying by suicide in 2019; and

WHEREAS, after adjusting for sex and age, the rate of veteran suicide in 2019 was 31.6 suicides per 100,000 individuals, substantially higher than the rate among adults in the United States who are not veterans at 16.8 suicides per 100,000 individuals; and

WHEREAS, more veterans have died by suicide in the last 10 years than members of the United States Armed Forces who died from combat in Vietnam; and

WHEREAS, many of these veterans who died by suicide had no previous contact with the Department of Veterans Affairs; and

WHEREAS, the effects of the COVID–19 pandemic have resulted in increased isolation and disconnection, further exacerbating mental and physical ailments such as post-traumatic stress disorder and traumatic brain injury; and

WHEREAS, invisible wounds linked to an underlying and undiagnosed traumatic brain injury can mirror many mental health conditions, a problem that can be addressed through appropriate medical treatment; and

WHEREAS, additional research is needed to highlight the connection between traumatic brain injury as a root cause of invisible wounds and suicide by active duty members of the United States Armed Forces and veterans; and

WHEREAS, Warrior Call Day provides an opportunity to raise awareness of the high rates of death by suicide among veterans and reach out to service members who may be struggling with mental health or feeling disconnected from family, friends, and support systems; and

WHEREAS, on Warrior Call Day, all Virginians, especially members of the Armed Forces serving on active duty and veterans, are encouraged to call up a warrior, have an honest conversation, and connect them with support, understanding that making a warrior call could save a life; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate the first Sunday after Veterans Day, in 2023 and in each succeeding year, as Warrior Call Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to Feherty's Troops First Foundation so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this day on the General Assembly's website.

SENATE JOINT RESOLUTION NO. 257

Commending the Honorable Glenn L. Clayton II.

Agreed to by the Senate, January 12, 2023
Agreed to by the House of Delegates, January 16, 2023

WHEREAS, the Honorable Glenn L. Clayton II, a highly respected former chief judge of the Fairfax County Juvenile and Domestic Relations District Court, will retire from the bench on April 1, 2023; and

WHEREAS, a native of Ohio, Glenn Clayton holds degrees from Bucknell University and the University of Toledo College of Law; he was admitted to practice law in Ohio, Washington, D.C., and Virginia, and worked as an attorney in Northern Virginia for 28 years; and

WHEREAS, over the course of his career, Glenn Clayton represented both adults and juveniles and served as a guardian ad litem; was an active member of the Fairfax Bar Association; co-authored several legal publications; and was a sought-after speaker on juvenile law; and

WHEREAS, Glenn Clayton was appointed as a judge of the Fairfax County Juvenile and Domestic Relations District Court of the 19th Judicial District of Virginia in October 2006, when the court expanded from seven to eight judges; and

WHEREAS, Glenn Clayton presided over the court with great fairness and wisdom; served as a liaison on matters of criminal procedure, technology, and foreign language interpretation; and was elected as chief judge of the court in July 2012 and ably served the court in that capacity for two years; and

WHEREAS, Glenn Clayton earned many awards and accolades, including two President's Awards from the Fairfax Bar Association for his efforts to retain eight judges in the Fairfax County Juvenile and Domestic Relations District Court; and

WHEREAS, in 2017, Glenn Clayton was appointed by the chief justice of the Virginia Supreme Court to the Judicial Needs Advisory Committee, which oversaw a statewide study of weighted caseloads; and

WHEREAS, at the state level, Glenn Clayton also served for 11 years as treasurer of the Executive Committee of the Virginia Council of Juvenile and Domestic Relations District Court Judges, and was an active member of the National Council of Juvenile and Family Court Judges; and

WHEREAS, Glenn Clayton shared his wise insights with countless students as an adjunct professor of family law at the Antonin Scalia Law School at George Mason University; and

WHEREAS, outside of his profession, Glenn Clayton has held leadership positions in numerous youth organizations, coached youth athletics, and volunteered his time as president of the Robinson High School Athletic Boosters, president of the Bucknell University Alumni Association, and a member of the Bucknell University Board of Trustees; and

WHEREAS, Glenn Clayton served the Commonwealth with the utmost dedication, integrity, and distinction and after his well-earned retirement, plans to spend more time with his beloved family, travel, and nurture his passion for photography; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commends the Honorable Glenn L. Clayton II on the occasion of his retirement as a judge of the Fairfax County Juvenile and Domestic Relations District Court; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Glenn L. Clayton II as an expression of the General Assembly's admiration for his exceptional service to the residents of Fairfax County and the Commonwealth.

SENATE JOINT RESOLUTION NO. 258

Requesting the Department of Energy to study the economic and environmental impacts of eliminating waste coal piles in Southwest Virginia. Report.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 17, 2023

WHEREAS, the material left over from coal mining has resulted in garbage of bituminous (GOB) piles that contain mining waste and waste coal throughout Southwest Virginia; and

WHEREAS, the 1977 Surface Mining Control and Reclamation Act (SMCRA) federalized regulatory control over coal surface mining, but also held landowners harmless for abandoned mine land features created prior to the SMCRA, which include waste coal piles otherwise known as waste coal or GOB piles; and

WHEREAS, the result of holding landowners harmless for these "pre-law" sites is that the Commonwealth is ultimately responsible for cleaning up the nearly 152 known GOB piles that are ubiquitous in Southwest Virginia at an estimated liability as high as $2.4 billion just to reclaim the sites; and

WHEREAS, the estimated 80 million cubic yards of material spread over 3,300 acres contributes over 20,000 tons of sediment to Virginia's waterways, annually discharging acidic water into watersheds that can include iron, manganese, and aluminum in some of the most biodiverse rivers in the United States; and

WHEREAS, these GOB piles are subject to random uncontrolled fires and the United States Geological Survey reports that these coal fires pose multiple threats to the global environment because they emit greenhouse gases and other toxic substances that threaten human and environmental health; and

WHEREAS, currently, the only viable option to eliminate this hazard permanently is to combust the material at the Virginia City Hybrid Energy Center (VCHEC) or other approved facilities, while non-permanent solutions include capping or interring the material, exposing the Commonwealth to a long-term maintenance liability that would exceed the initial liability to reclaim the sites; and

WHEREAS, since VCHEC's commissioning, it has burned over 10 million tons of material and has spurred a self-sustaining industry, GOB reclamation, that supports over 100 jobs; and

WHEREAS, the Commonwealth must fully evaluate both the economic and environmental impacts of GOB piles to Southwest Virginia versus the impact of a fully operating VCHEC facility or other approved facilities and gauge the complete economic impact to the Commonwealth should VCHEC or other approved facilities be idled and the full liability of the cleanup be shouldered by taxpayers; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Department of Energy be requested to study the economic and environmental impacts of eliminating waste coal piles in Southwest Virginia.

In conducting its study, the Department of Energy (the Department) shall convene a work group of stakeholders featuring representatives from state and local governments, investor-owned utilities, environmental organizations, the waste coal reclamation industry, and others deemed appropriate by the Department. The Department shall hold at least one public meeting and shall create a mechanism to receive public comment for consideration during the study.

The Department shall examine various use case scenarios ranging from capping all existing waste coal piles in place to combusting all the material at VCHEC or other approved facilities. Each scenario considered by the Department shall contain an analysis of the direct and indirect economic and environmental benefits of that particular scenario.

All agencies of the Commonwealth shall provide assistance to the Department for this study, upon request.

The Department shall complete its meetings by November 30, 2023, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations, if any, for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2024 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

SENATE JOINT RESOLUTION NO. 259

Commending the Library of Virginia.

Agreed to by the Senate, January 12, 2023
Agreed to by the House of Delegates, January 16, 2023

WHEREAS, for 200 years, the Library of Virginia has acquired, preserved, and provided access to unique collections of documents and other media related to the history of Virginia while advancing the fields of library science and records management throughout the Commonwealth; and

WHEREAS, originally located on the third floor of the State Capitol, the Library of Virginia was established by the General Assembly in 1823 to organize, care for, and manage the Commonwealth's collection of books and official records, many of which dated back to the early Colonial period; and

WHEREAS, as its collection continued to expand over the years, the Library of Virginia relocated to what is now the Oliver Hill Building in 1895 and to what is now the Patrick Henry Building in 1940; the institution moved to its current location on East Broad Street in 1997; and

WHEREAS, with the largest and most comprehensive collection of materials on Virginia government, history, and culture, the Library of Virginia highlights the people, places, and events that have made Virginia unique and demonstrates the Commonwealth's contributions to the United States and the world; and

WHEREAS, the Library of Virginia features highly regarded manuscript, map, and photographic collections that have attracted researchers from around the globe and many of its resources are available online through digital collections; the institution hosts a wide array of exhibitions, lectures, and other educational programs for members of the public; and

WHEREAS, the Library of Virginia provides critical research and reference assistance to members of state government and manages the State Records Center, which houses inactive, non-permanent records of state agencies and local governments; and

WHEREAS, the Library of Virginia has also offered consulting services to public library systems in the Commonwealth and administers numerous local, state, and federal grant programs; and

WHEREAS, over the course of its history, the Library of Virginia has inspired a passion for learning and creativity among countless patrons, facilitated understanding of the past, and helped state officials and agencies build a stronger future; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Library of Virginia on the occasion of its 200th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Library of Virginia as an expression of the General Assembly's admiration for the institution's work to preserve the history and heritage of the Commonwealth and contributions to state government, education, and library science.

SENATE JOINT RESOLUTION NO. 260

Commending Colonel Anthony Steven Pike.

Agreed to by the Senate, January 26, 2023
Agreed to by the House of Delegates, January 30, 2023

WHEREAS, Colonel Anthony Steven Pike retired as chief of the Virginia Division of Capitol Police in December 2022, as one of the longest-serving chiefs in the division's history, after more than a decade of exceptional service to state officials and visitors to the Virginia Capitol; and

WHEREAS, a native of Wythe County, Anthony "Steve" Pike has dedicated his life to public service, beginning in 1983, when he joined the United States Army; he was stationed at Fort Ord, California, as a light infantry soldier and was selected as the honor graduate of the Basic Noncommissioned Officer Course, then served a short time in the United States Army Reserve, from which he was honorably discharged with the rank of staff sergeant; and

WHEREAS, in January 1988, Steve Pike began a 22-year career with the Virginia Department of Game and Inland Fisheries, where he steadily worked his way up the ranks to become assistant chief; in 1994, he was the first recipient from the agency to receive the Law Enforcement Award from Mothers Against Drunk Drivers, and in 1999, he was selected as Virginia Game Warden of the Year; and

WHEREAS, Steve Pike graduated from the 227th session of the FBI National Academy and served in various capacities with the Virginia Chapter of the FBI National Academy Associates, including as president in 2012; he also graduated from the 64th session of the FBI Law Enforcement Executive Development Seminar, the Northwestern University Center for Public Safety Executive Management Program, and the Commonwealth Management Institute; and

WHEREAS, on December 25, 2010, Steve Pike joined the Virginia Division of Capitol Police as the assistant chief and, on October 11, 2011, was appointed as the chief of police by the Legislative Support Commission; his distinguished tenure as chief capped a 34-year career in public safety throughout which he devoted himself fully to the service of the Commonwealth and its citizens; and

WHEREAS, the Virginia Capitol Police is responsible for 24-hour public safety services to members of the Virginia General Assembly; the governor and the first family of the Commonwealth; the lieutenant governor; the attorney general; the justices of the Virginia Supreme Court; judges of the Virginia Court of Appeals; thousands of state employees; and more than 100,000 annual visitors to the Capitol complex; Steve Pike earned high praise from leaders on both sides of the aisle for his calm, steady leadership style and his ability to adapt to significant changes in the security climate of the Commonwealth and the United States; as well as navigating the effects of a global pandemic; and

WHEREAS, Steve Pike used national best practices to modernize Capitol Square security and build up to its current enhanced posture; he held various leadership positions within the National Conference of State Legislatures (NCSL), serving on numerous committees and task forces, and served as both vice president and president of the National Legislative Services and Security Association (NLSSA); and

WHEREAS, Steve Pike received the NCSL Legislative Staff Achievement Award in 2017, the NLSSA John Everhardt "Trooper" Award in 2018, and the NLSSA Tony Beard Memorial Award in 2019, and is a graduate of the NCSL Legislative Staff Management Institute; and

WHEREAS, Steve Pike helped the Virginia Capitol Police earn three consecutive accreditations from the Virginia Law Enforcement Professional Standards Commission; he also served on the Virginia Law Enforcement Professional Standards Commission for several years, including terms as vice chair and chair; and

WHEREAS, Steve Pike elevated the professionalism of the Virginia Capitol Police in many ways; by expanding the number of both sworn officers and professional staff and leading aggressive recruiting measures to ensure high quality applicants and maintain officer retention; he led the agency to become certified as a Virginia Values Veterans Program by focusing on hiring military veterans and joined the 30 x 30 Pledge, a nationwide initiative to increase the recruitment, retention, and promotion of women in policing; and

WHEREAS, Steve Pike oversaw enhancements in law-enforcement training, technology, and techniques; he implemented the agency's first body-worn camera program; and he upgraded and expanded the agency's K-9 division, constructing a state-of-the-art new facility at Capitol Square to serve as the leading establishment in the region for training police dogs and their handlers; and

WHEREAS, under Steve Pike's outstanding leadership the Virginia Capitol Police provided safety planning and law-enforcement services for three gubernatorial inaugurations and other major events, including the filming of the movie "Lincoln" in 2011, public auditions for the show "American Idol" in 2014, and the UCI Road World Championships in 2015; and

WHEREAS, during Steve Pike's tenure as chief, the Virginia Capitol Police ably responded to the unique challenges of providing law-enforcement services for more than 700 rallies and similar events on Capitol Square, some of which drew

more than 20,000 participants and many of which were spontaneous, unpermitted rallies, including a steady stream of large protests in the spring and summer of 2020; and

WHEREAS, in 2017, Steve Pike was selected by Governor Ralph Northam to serve on the Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest, to which he offered critical insights; and

WHEREAS, Steve Pike guided the Virginia Capitol Police's efforts to obtain citywide jurisdiction, enabling the Virginia Capitol Police to become a more effective participant with its regional law-enforcement partners; he also advocated for changes to allow the agency to provide law-enforcement services to the governor-elect, attorney general-elect, the lieutenant governor-elect, and judges of the Virginia Court of Appeals; and

WHEREAS, Steve Pike is an exemplar of the dedication to duty, professionalism, and leadership displayed by law-enforcement officers throughout the Commonwealth and across the United States; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Colonel Anthony Steven Pike on the occasion of his retirement as chief of the Virginia Division of Capitol Police; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Colonel Anthony Steven Pike as an expression of the General Assembly's admiration for his achievements in service to the Commonwealth.

SENATE JOINT RESOLUTION NO. 262

Commending the Freedom High School football team.

Agreed to by the Senate, January 19, 2023
Agreed to by the House of Delegates, January 23, 2023

WHEREAS, capping off an undefeated season, the Freedom High School football team of Woodbridge secured the school's first ever state title with a victory in the Virginia High School League Class 6 state championship in 2022; and

WHEREAS, the Freedom High School Eagles defeated the James Madison High School Warhawks by a score of 48-14 to take the state crown, becoming the first Prince William County school to win a state football final in more than a decade and the first Prince William County football team to finish undefeated since 2006; and

WHEREAS, the Freedom Eagles dominated the game from the start, scoring on their first three possessions to build an insurmountable lead; and

WHEREAS, sophomore running back Jeffrey Overton, Jr., racked up 212 yards and three touchdowns on 23 carries for the Freedom Eagles; he finished the season with an incredible 2,599 total rushing yards, the most in school history; and

WHEREAS, junior quarterback Tristan Evans completed 14 of 20 passing attempts for 155 yards and two touchdowns and finished the season as the state record holder for the most touchdown passes in a single season with 61 touchdowns; he was also named 2022 MaxPreps Virginia High School Football Player of the Year; and

WHEREAS, the Freedom Eagles' defense and special teams consistently scored on returns and turnovers throughout the season, first-year starter Isaiah Harper added another score in the state final when he returned an interception 68 yards for a touchdown; and

WHEREAS, the state championship victory was the crowning moment of a perfect 15–0 season in which the Freedom Eagles set a state single-season record for total points with 952; and

WHEREAS, the record-breaking season is a tribute to the skill and resilience of all the student-athletes, the leadership and dedication of the coaches and staff, and the passionate support of the entire Freedom High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Freedom High School football team of Woodbridge on winning the Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Darryl Overton, head coach of the Freedom High School football team, as an expression of the General Assembly's admiration for the team's achievements and best wishes for the future.

SENATE JOINT RESOLUTION NO. 263

Commending Ronald D. Schmitz.

Agreed to by the Senate, January 19, 2023
Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Ronald D. Schmitz retired as chief investment officer at the Virginia Retirement System on January 1, 2023, after more than 11 years of dedicated service to the Commonwealth's public employees, employers, and retirees; and

WHEREAS, Ronald "Ron" Schmitz holds a master's degree in finance and marketing from Northwestern University and a bachelor's degree in finance from Western Illinois University; and

WHEREAS, prior to his public fund experience, Ron Schmitz worked for the Illinois-based Kraft Foods, where he got his start in fund management in 1982; he also served on the staff of the chief financial officer at Sears Roebuck & Co., as an industry expert on pension fund management activities, as well as employee benefits and executive compensation, and at the Blue Cross Blue Shield Association, where he was managing director for a decade; and

WHEREAS, before joining the Virginia Retirement System (VRS), Ron Schmitz served as chief investment officer of the Illinois State Board of Investment and subsequently served with the Oregon Public Employees Retirement Fund, the State Accident Insurance Fund, and the cash management account for state and local governments, where he further demonstrated his investment acumen; and

WHEREAS, the VRS Board of Trustees engaged Ron Schmitz in 2011 to lead the agency's investment program as it continued to ensure an efficient portfolio from a risk and reward perspective with the target portfolio expected to generate returns within an acceptable level of risk; and

WHEREAS, Ron Schmitz led the investment team with distinction during a number of challenging financial environments, steadily guiding the system through these periods of market fluctuation while exercising calm, steady leadership; and

WHEREAS, during Ron Schmitz's tenure, the VRS Trust Fund almost doubled in size, increasing from $51 billion in 2011 when he first arrived at the agency to more than $100 billion as of June 30, 2021, marking a significant milestone for the fund; and

WHEREAS, under Ron Schmitz's leadership and guidance, the VRS Trust Fund experienced an outstanding fiscal year return of 27.5 percent in 2021, a fiscal year performance not seen in the past 30 years; and

WHEREAS, Ron Schmitz was instrumental in leading, challenging, and inspiring his team to provide the fund over the last 10 years with a value-add compared to the policy benchmark of more than $10.2 billion in the portfolio, equating to $1 billion a year coming from strong relative performance at the total fund level; and

WHEREAS, Ron Schmitz was so keenly focused on reducing fees that CEM, an international pension fund benchmarking service, calculated that in-house investment management has saved VRS $61 million a year that would otherwise have been spent on external manager fees; and

WHEREAS, Ron Schmitz ensured that his team deploy the best execution in transactions and increases in efficiency under his leadership, having saved the agency approximately $55 million per year; and

WHEREAS, Ron Schmitz exercised his ability to leverage his experience and expert leadership skills to develop strategies that have enabled the growth of the fund and the maximizing of investment returns, while minimizing risk; and

WHEREAS, Ron Schmitz served the Commonwealth with the utmost integrity, dedication, and distinction, and was wholly committed to the high achievement of VRS members and beneficiaries; and

WHEREAS, after more than 11 years of distinguished service to the Commonwealth, Ron Schmitz now looks forward to traveling and enjoying time with family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Ronald D. Schmitz for his innumerable contributions to the Commonwealth on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ronald D. Schmitz as an expression of the General Assembly's admiration for his exemplary service to the Commonwealth, its public employees and retirees, and offers its best wishes in his future endeavors.

SENATE JOINT RESOLUTION NO. 264

Celebrating the life of Buddy Rogers Arrington.

Agreed to by the Senate, January 19, 2023
Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Buddy Rogers Arrington, a longtime independent owner and driver in the top series of the National Association for Stock Car Auto Racing and a local legend in Martinsville, died on August 2, 2022; and

WHEREAS, a native of Martinsville, Buddy Arrington was a mechanic at a Chrysler dealership when he began racing in 1964, and over the course of the next 25 years, he made 560 starts in what is now the National Association for Stock Car Auto Racing (NASCAR) Cup Series; and

WHEREAS, using his extensive experience with Chrysler vehicles, Buddy Arrington began his racing career with Plymouth and Dodge cars and remained loyal to Chrysler brands, even during periods when the company was less involved in auto racing; and

WHEREAS, Buddy Arrington stockpiled Dodge and Chrysler parts, frequently running outdated equipment as a means to save money and driving his obsolete Chrysler Imperial until it became ineligible in 1985; he then raced Ford and Chevrolet cars before retiring from auto racing in 1988; and

WHEREAS, Buddy Arrington's red and blue No. 67 Dodge was a mainstay at the front of the pack; he posted 15 top-five finishes in his career and achieved two third-place finishes at Nashville Speedway in 1965 and Talladega Speedway in 1979; and

WHEREAS, from his start in 1964 to his retirement in 1988, Buddy Arrington maintained a winning attitude and was an exceptional ambassador for NASCAR and the sport of auto racing; he inspired countless other drivers and made many contributions to the Martinsville community throughout his life; and

WHEREAS, Buddy Arrington will be fondly remembered and greatly missed by his wife, Patsy Ann; his children, Joey and Todd, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Buddy Rogers Arrington, a successful racing driver and highly admired member of the Martinsville community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Buddy Rogers Arrington as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 265

Commending Rhonda Howdyshell.

Agreed to by the Senate, January 19, 2023
Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Rhonda Howdyshell of Middlebrook, an inspirational community leader who has touched countless lives through her generosity and grace, was crowned as Ms. Virginia Senior America in 2022; and

WHEREAS, the Ms. Virginia Senior America pageant was established in 1984 to honor the dignity, maturity, and elegance of exceptional women in the Commonwealth like Rhonda Howdyshell and to recognize how seniors help create a strong foundation upon which younger generations can achieve greatness; and

WHEREAS, Rhonda Howdyshell overcame numerous health challenges in her youth, including aggressive cancer in her sinuses and complications from underlying Lyme disease that would not be diagnosed until years later; and

WHEREAS, after Rhonda Howdyshell graduated from high school, she began working in the fashion industry and was encouraged to compete in a Miss USA pageant, in which she finished as runner-up; and

WHEREAS, in 1986, Rhonda Howdyshell was part of the inaugural staff upon the opening of the Frontier Culture Museum, an open air living history museum in Staunton that celebrates Colonial American life, and served as director of marketing and public relations until 2002, when she joined the Habitat for Humanity of Staunton-Augusta-Waynesboro as executive director; and

WHEREAS, Rhonda Howdyshell ultimately returned to pageant competition, participating in a Mrs. America pageant and winning a Mrs. Virginia pageant; and

WHEREAS, after an incident that resulted in a broken crown during her tenure as Mrs. Virginia, Rhonda Howdyshell established CrownClips, which developed and manufactured a product to help pageant winners keep their crowns secure; and

WHEREAS, in 2004, Rhonda Howdyshell founded the Cinderella Project of the Shenandoah Valley, which continues to collect donated gowns and dresses for high school students in need of prom or graduation outfits; and

WHEREAS, Rhonda Howdyshell has also volunteered her leadership and expertise to many other organizations, including the Augusta Regional Free Clinic and the Ride with Pride equestrian therapy organization; and

WHEREAS, Rhonda Howdyshell broke down barriers as the first female member of her local Ruritan Club and overcame discrimination to become the first female president of the chapter; and

WHEREAS, drawing from her own experiences, Rhonda Howdyshell has raised awareness of the dangers of Lyme disease as an ambassador for the Global Lyme Alliance, and she authored an educational coloring book for children about the disease; and

WHEREAS, Rhonda Howdyshell has earned numerous awards and accolades for her commitment to servant-leadership, her unwavering generosity, and her earnest efforts to build a better world for her friends, family members, and everyone around her; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Rhonda Howdyshell on her selection as the 2022 Ms. Virginia Senior America; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Rhonda Howdyshell as an expression of the General Assembly's admiration for her personal and professional achievements and best wishes for the future.

SENATE JOINT RESOLUTION NO. 266

Commending Nancy A. Creech.

Agreed to by the Senate, January 19, 2023
Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Nancy A. Creech has dedicated a lifetime of service to the City of Virginia Beach, the Virginia Beach Neptune Festival, and the arts community, which has immeasurably improved the quality of life for all residents across Hampton Roads; and

WHEREAS, Nancy Creech's passion, vision, and leadership of the Virginia Beach Neptune Festival over an extraordinary 48-year period led to exponential growth and enduring impact, such that the annual celebration of Virginia Beach heritage, tourism, arts, culture, and diversity is ranked among the top festivals in the southeastern United States, contributing more than $23 million annually to the local economy; and

WHEREAS, Nancy Creech began working with the Virginia Beach Neptune Festival in 1974 and ultimately became both chief executive officer and president of the organization; and

WHEREAS, Nancy Creech has dedicated herself to supporting and successfully promoting arts and culture in the region through her involvement with the Virginia Symphony Orchestra, the Virginia Aquarium and Marine Science Center, Virginia Musical Theatre, the Sandler Center for the Performing Arts, Zeiders American Dream Theater, the Foundation Board and the Executive Committee of the Governor's School for the Arts, and numerous other local arts agencies, programs, and commissions; and

WHEREAS, Nancy Creech forever changed and enhanced the Virginia Beach oceanfront through her involvement in the design, commissioning, and funding of the iconic King Neptune Statue dedicated in 2005 and the Virginia Beach Law Enforcement Memorial dedicated in 2012; and

WHEREAS, Nancy Creech has served as a member of the Virginia Beach City Council and the Virginia Beach Planning Commission; has been a member of countless boards and commissions, including the Navy League of Hampton Roads, Tidewater Health Care, Sentara Healthcare, the former Sovran Bank, Resource Bank, Seton House, Eastern Virginia Medical Authority, and Norfolk Airport Authority; was a founding member of Virginia Beach Vision, Inc.; and served as the first chairwoman of both the Virginia Beach Chamber of Commerce and the Hampton Roads Chamber of Commerce; and

WHEREAS, Nancy Creech is a remarkable, positive, optimistic, and humble servant leader who serves as a role model to young leaders throughout the Commonwealth, modeling how to serve others with passion and achieve results; and

WHEREAS, Nancy Creech's tireless dedication, exemplary service, and noteworthy contributions to the promotion of the arts, culture, and civic engagement have immeasurably improved the quality of life in Virginia Beach and Hampton Roads; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Nancy A. Creech for her long and dedicated service to the Virginia Beach community and the Hampton Roads region; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Nancy A. Creech as an expression of the General Assembly's admiration and gratitude for her lifetime of manifold contributions to the residents of and visitors to Virginia Beach.

SENATE JOINT RESOLUTION NO. 267

Commending Debbie Jones.

Agreed to by the Senate, January 19, 2023
Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Debbie Jones, esteemed president and chief executive officer of the Prince William Chamber of Commerce, retired on December 31, 2022, after 32 years in service to the residents and businesses of the greater Prince William County area; and

WHEREAS, in 1990, Debbie Jones began her career as a communications coordinator with what was then the Prince William County-Greater Manassas (PWC-GM) Chamber of Commerce, earning a promotion to the position of president and chief executive officer three years later; and

WHEREAS, during Debbie Jones' tenure with the PWC-GM Chamber of Commerce, the organization grew to over 1,000 members while advancing various initiatives to support the development of western Prince William County, Manassas, and Manassas Park; and

WHEREAS, Debbie Jones continued to cultivate her abilities as a business development advocate, becoming a 2007 graduate of Lead Virginia and 2010 graduate of Leadership Prince William, a regional leadership program spearheaded by what were then the PWC-GM Chamber of Commerce and the Prince William Regional Chamber of Commerce; and

WHEREAS, Debbie Jones was subsequently named chief operating officer of the newly formed Prince William Chamber of Commerce, which was created in 2010 following the merger of the PWC-GM Chamber of Commerce and the Prince William Regional Chamber of Commerce; and

WHEREAS, Debbie Jones was then named president and chief executive officer of the Prince William Chamber of Commerce in 2014, leading thousands of member businesses and employees through a period of robust growth and development despite historic challenges such as the COVID-19 pandemic; and

WHEREAS, Debbie Jones' commitment to her community has led to her service on numerous boards, including the Virginia Association of Chamber of Commerce Executives, the Prince William County Police Department Citizen Advisory Board, and the Benedictine Sisters of Virginia Advisory Board; and

WHEREAS, in recognition of her tireless efforts, Debbie Jones has received myriad honors and accolades over her career, including being named one of *Prince William Living* magazine's Most Influential Women in 2021 and receiving the College of Visual and Performing Arts' Thomas W. Iszard IV Distinguished Alumni Award from the George Mason University Alumni Association in 2019; and

WHEREAS, by cultivating partnerships and community support that have helped businesses in Prince William County, Manassas, and Manassas Park to thrive, Debbie Jones has made an indelible impact on the region she has served while leaving the Prince William Chamber of Commerce poised to continue its important work for many years to come; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Debbie Jones on the occasion of her retirement as president and chief executive officer of the Prince William Chamber of Commerce; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Debbie Jones as an expression of the General Assembly's admiration for her contributions to the Commonwealth and best wishes for a happy and fulfilling retirement.

SENATE JOINT RESOLUTION NO. 268

Celebrating the life of Radioman Chief Petty Officer James Delaverson, USN, Ret.

Agreed to by the Senate, January 19, 2023
Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Radioman Chief Petty Officer James Delaverson, USN, Ret., an honorable veteran, esteemed research analyst with the FBI National Academy in Quantico, and a longtime and cherished member of the Dale City Volunteer Fire Department and the Dale City community, died on November 19, 2022; and

WHEREAS, from 1959 to 1979, James "Jim" Delaverson proudly served his country and traveled the world as a member of the United States Navy, attaining the rank of radioman chief petty officer; and

WHEREAS, following his service, Jim Delaverson became a research analyst at the FBI National Academy, where he contributed to the agency's efforts to enhance the training and caliber of the next generation of staff-level law-enforcement officers over the next two decades; and

WHEREAS, Jim Delaverson joined the Dale City Volunteer Fire Department (DCVFD) as an emergency medical technician in 1989 and rose through the ranks to ultimately serve as deputy chief of administration; and

WHEREAS, in recognition of his faithful service to the department and his dedication to the community, Jim Delaverson was approved as a life member of the DCVFD in 2000; and

WHEREAS, preceded in death by his beloved wife, Margaret, Jim Delaverson will be fondly remembered and dearly missed by his loving daughters, Jacki, Terri, and Charmane, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Radioman Chief Petty Officer James Delaverson, USN, Ret., whose kind heart, everlasting love for his family, and passion for serving others impacted countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Radioman Chief Petty Officer James Delaverson, USN, Ret., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 269

Celebrating the life of Adarsh Deepak, PhD.

Agreed to by the Senate, January 19, 2023
Agreed to by the House of Delegates, January 23, 2023

WHEREAS, Adarsh Deepak, PhD, an esteemed scientist, founder and president of the Science and Technology Corporation in Hampton, and a beloved member of the Poquoson community, died on December 5, 2022; and

WHEREAS, born in India, Adarsh Deepak earned a bachelor's degree with honors in physics and a master's degree in solid state physics from the University of Delhi before traveling to the United States and receiving a doctoral degree from the University of Florida in Gainesville; and

WHEREAS, early in his career, Adarsh Deepak taught physics at two colleges in Delhi, India, and the history and philosophy of science at the University of Florida, and he later served as a research associate professor of physics and meteorology at Old Dominion University and as an adjunct professor of physics at The College of William and Mary; and

WHEREAS, Adarsh Deepak founded the Institute for Atmospheric Optical Remote Sensing in 1976, a nonprofit education research organization that specialized in the field of remote sensing; later, the organization became the Takshashila Institute, providing symposia, workshops, research, and publications on various topics of current interest in the areas of science and wellness; and

WHEREAS, in 1979, Adarsh Deepak founded the Science and Technology Corporation (STC), a high-technology small business providing advanced research, engineering services, and operational support to a host of United States government agencies, including the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and the Department of Defense; and

WHEREAS, over his 43 years at the helm of STC, Adarsh Deepak led pioneering research on problems related to natural and man-made aerosols and other technical fields while overseeing hundreds of employees across several states; and

WHEREAS, Adarsh Deepak worked tirelessly to foster and promote scientific and academic discourse, organizing and chairing more than 30 national and international conferences, authoring or editing dozens of technical papers and proceedings, including the *Journal of Small Satellites*, for which he was the founding publisher, and sponsoring several free educational programs, such as mentorships and scholarships for students; and

WHEREAS, Adarsh Deepak demonstrated his dedication to his community through his service with several local civic and professional organizations, including the Peninsula Fine Arts Center and the Virginia Air and Space Science Center; and

WHEREAS, guided by his faith, Adarsh Deepak was actively involved with the Hindu Temple of Hampton Roads, the Sangeet Sargam musical society, and other aspects of cultural and religious life within the Asian Indian community of Hampton Roads; and

WHEREAS, a practitioner of yoga, Adarsh Deepak co-founded the Dharma Academy of North America in 2002, creating an inclusive forum for academic discourse on Dharmic traditions; and

WHEREAS, Adarsh Deepak will be fondly remembered and dearly missed by his loving wife, Patricia; his sons, Shaunak and Ravi, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Adarsh Deepak, PhD, a cherished member of the Hampton Roads community whose unflagging passion and curiosity and indomitable spirit were admired by all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Adarsh Deepak, PhD as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 270

Confirming appointments by the Governor of certain persons communicated to the General Assembly December 1, 2022.

Agreed to by the Senate, February 7, 2023
Agreed to by the House of Delegates, February 9, 2023

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Glenn Youngkin and communicated to the General Assembly December 1, 2022.

ADMINISTRATION

Art and Architectural Review Board

Anne Smith of **Midlothian,** Virginia, Member, appointed October 25, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Thomas William Papa.

Cybersecurity Planning Committee

Aliscia Andrews of **Aldie,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

Diane Carnohan of **Richmond,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

Robbie Coates of **Chesterfield,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

Adrian Compton of **Altavista,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

Charles Dekeyser of **Powhatan,** Virginia, Member, appointed October 22, 2022, for a term four years of beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

Michael Dent of **Fairfax County,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

Brenna Doherty of **Richmond,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

Eric Gowin of **Amelia,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

John Harrison of **Roanoke,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

Derek Kestner of **New Kent County,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

Benjamin Shumaker of **Aylett,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

Beth Waller of **Roanoke,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

Mike Watson of **Chesterfield County,** Virginia, Member, appointed October 28, 2022, for a term of four years beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

Wesley Williams of **Roanoke,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

Stephanie Williams-Hayes of **Chesterfield County,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning November 1, 2022, and ending October 31, 2026, to fill a new seat.

AGRICULTURE AND FORESTRY

Cotton Board

Jason Hodges of **Drewryville,** Virginia, Member, appointed November 2, 2022, for a term of three years beginning September 26, 2022, and ending September 25, 2025, to succeed Martin L. Everett.

Clayton Lowe of **Wakefield,** Virginia, Member, appointed November 2, 2022, for a term of three years beginning September 26, 2022, and ending September 25, 2025, to succeed himself.

Milk Commission

Paula Martin of **New Kent,** Virginia, Member, appointed November 18, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2024, to succeed Brian Linney.

Small Grains Board

Ellen Davis of **New Kent County,** Virginia, Member, appointed November 1, 2022, for a term of three years beginning October 1, 2022, and ending September 30, 2025, to succeed herself.

Jay Jennings of **Chase City,** Virginia, Member, appointed November 2, 2022, for a term of three years beginning October 1, 2022, and ending September 30, 2025, to succeed himself.

Soybean Board

Raymond Keating of **Chesapeake,** Virginia, Member, appointed November 2, 2022, for a term of three years beginning October 1, 2022, and ending September 30, 2025, to succeed himself.

Linda Smith of **West Point,** Virginia, Member, appointed November 2, 2022, for a term of three years beginning October 1, 2022, and ending September 30, 2025, to succeed herself.

Thomas Taliaferro of **Suffolk,** Virginia, Member, appointed November 2, 2022, for a term of three years beginning October 1, 2022, and ending September 30, 2025, to succeed himself.

AUTHORITY

Opioid Abatement Authority

Michael Tillem of **Henrico,** Virginia, Member, appointed October 6, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Victor McKenzie.

Virginia Solar Energy Development and Energy Storage Authority

Michael Walsh of **Arlington,** Virginia, Member, appointed October 6, 2022, for a term of four years beginning July 1, 2021, and ending June 30, 2025, to succeed William Gathright.

COMMERCE AND TRADE

Board of Coal Mining Examiners

Mark McCoy of **Coeburn,** Virginia, Member, appointed October 7, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Larence Middleton.

Clean Energy Advisory Board

Douglas Lamb of **Henrico,** Virginia, Member, appointed October 6, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Hannah C. Coman.

Virginia Economic Development Partnership Committee on International Trade

Michael Coleman of **Virginia Beach,** Virginia, Member, appointed November 22, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed John Milliken.

Virginia Offshore Wind Development Authority

Bryan Stephens of **Norfolk,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Mark D. Mitchell.

COMPACTS

Interstate Compact on Educational Opportunity for Military Children

Christopher Gray of **Virginia Beach,** Virginia, Member, appointed October 27, 2022, to serve at the pleasure of the Governor, to succeed Charles W. Rock.

Potomac River Fisheries Commission

Ronald Owens of **Gloucester,** Virginia, Member, appointed November 4, 2022, for a term of four years beginning September 10, 2022, and ending September 9, 2026, to succeed Kyle Schick.

EDUCATION

American Revolution 250 Committee

Jean Ann Bolling of **Mechanicsville,** Virginia, Member, appointed October 25, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2027, to succeed Karin Wulf.

Board of Trustees of the A. L. Philpott Manufacturing Extension Partnership - GENEDGE Alliance

Jerry Wallace of **Danville,** Virginia, Member, appointed November 18, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed John Downey.

Board of Trustees of the Virginia Museum of Fine Arts

Kirsti Goodwin of **Richmond,** Virginia, Member, appointed October 5, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed David Goode.

Marianne Littel of **Virginia Beach,** Virginia, Member, appointed October 11, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed Satya Rangarajan.

Virginia Commission on Higher Education Board Appointments

Elizabeth Cline of **Fincastle,** Virginia, Member, appointed October 7, 2022, to serve at the pleasure of the Governor, to succeed Ron Miller.

Paul Harris of **Richmond,** Virginia, Member, appointed October 7, 2022, to serve at the pleasure of the Governor, to succeed Doug Wetmore.

HEALTH AND HUMAN RESOURCES

Advisory Board for the Virginia Department for the Deaf and Hard-of-Hearing

Carl Cline of **Roanoke,** Virginia, Member, appointed July 22, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Shantell Denise Lewis.

Kristin Karmon of **Richmond,** Virginia, Member, appointed July 22, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Colin Wells.

Advisory Board on Physician Assistants

Brian Hanrahan of **Midlothian,** Virginia, Member, appointed October 7, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Frazier Frantz.

Advisory Board on Polysomnographic Technology

Neil Widrick of **Earlysville,** Virginia, Member, appointed November 17, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Hannah Tyler.

Board of Audiology and Speech-Language Pathology

Melissa McNichol of **Charlottesville,** Virginia, Member, appointed October 6, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Bethany Rose of **Richmond,** Virginia, Member, appointed October 24, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed Erin Piker.

Laura Vencill of **Lebanon,** Virginia, Member, appointed October 11, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Angela W. Moss.

Board of Health Professions

Rebecca Duff of **Roanoke,** Virginia, Member, appointed October 7, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Allen Jones.

Sergio Hines of **Staunton,** Virginia, Member, appointed October 20, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Kenneth Hickey.

Karen Kimsey of **Hanover,** Virginia, Member, appointed October 11, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Martha Rackets.

Laura Vencill of **Lebanon,** Virginia, Member, appointed October 7, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Alison King.

Board of Nursing

Paul Hogan of **Reston,** Virginia, Member, appointed October 7, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Mark Monson.

Child Support Guidelines Review Panel

Albert Brandt of **Forest,** Virginia, Member, appointed November 4, 2022, to serve at the pleasure of the Governor, to succeed Valerie A. L'Herrou.

Commonwealth Council on Aging

Andrea Buck of **Glen Allen,** Virginia, Member, appointed October 7, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Deborah Davidson.

Cleopatra Kitt of **Roanoke,** Virginia, Member, appointed October 24, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed William Gorman.

Family and Children's Trust Fund Board of Trustees

Cindy Han of **McLean,** Virginia, Member, appointed October 14, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Judy A. Kurtz.

James Hart of **Chesterfield,** Virginia, Member, appointed October 14, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Yvonne Jones Bibbs.

Season Roberts of **Virginia Beach,** Virginia, Member, appointed October 25, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Cherie Short of **Alexandria,** Virginia, Member, appointed October 14, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Jennifer Gillyard.

Abigail Wescott of **Grundy,** Virginia, Member, appointed October 14, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Kenneth "Carter" Batey.

Rare Disease Council

Gregory Josephs of **Ashburn,** Virginia, Member, appointed October 20, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Shannon L. McNeil.

Elissa Pierson of **Virginia Beach,** Virginia, Member, appointed October 20, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Holly Kearl.

Elizabeth Scott of **Spotsylvania,** Virginia, Member, appointed October 21, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Rebecca Goldbach.

Renal Disease Council

Stephen Anderson of **Forest,** Virginia, Member, appointed October 26, 2022, for a term of one year beginning July 1, 2022, and ending June 30, 2023, to fill a new seat.

Pavan Annamaraju of **Abingdon,** Virginia, Member, appointed October 24, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to fill a new seat.

Renee Bova-Collis of **Calno,** Virginia, Member, appointed October 24, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

Kelly Cline of **Henrico,** Virginia, Member, appointed October 24, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to fill a new seat.

Paul Conway of **Falls Church,** Virginia, Chairman, appointed November 21, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to fill a new seat.

Stephen Huebner of **Toano,** Virginia, Member, appointed October 24, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to fill a new seat.

Franco Musio of **Oakton,** Virginia, Member, appointed October 25, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to fill a new seat.

Dave Prakash of **Dunn Loring,** Virginia, Member, appointed October 24, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

Daniel Rakowski of **Virginia Beach,** Virginia, Member, appointed October 24, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to fill a new seat.

Anthony Reed of **Stuarts Draft,** Virginia, Member, appointed October 24, 2022, for a term of one year beginning July 1, 2022, and ending June 30, 2023, to fill a new seat.

Jamie Rickman of **Midlothian,** Virginia, Member, appointed October 24, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

Christopher West of **Richmond,** Virginia, Member, appointed October 24, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to fill a new seat.

Idris Yakubu of **Richmond,** Virginia, Member, appointed October 31, 2022, for a term of three years beginning July 1, 2002, and ending June 30, 2025, to fill a new seat.

State Child Fatality Review Team

Kimberly Ayers of **Wytheville,** Virginia, Member, appointed October 6, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed herself.

Andre Beaulieu of **Hanover County,** Virginia, Member, appointed October 6, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Keeandra Wilson.

Joshua Easter of **Charlottesville,** Virginia, Member, appointed October 12, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Robin Foster.

Susan Fierro of **Prince George,** Virginia, Member, appointed October 11, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Megan Clark.

Joseph Hilbish of **Bedford,** Virginia, Member, appointed October 6, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Ryan Zuidema.

Jonathan Minter of **Hanover,** Virginia, Member, appointed October 7, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Scott Wilkes.

State Executive Council for Children's Services

Chad Logan of **Shenadoah County,** Virginia, Member, appointed November 14, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2023, to succeed Frank W. Somerville.

INDEPENDENT

Virginia Health Benefit Exchange Advisory Committee

Louis Rossiter of **Williamsburg,** Virginia, Member, appointed November 4, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Jane Kusiak.

LABOR

Apprenticeship Council

Grant Shmelzer of **Bethesda, MD,** Virginia, Member, appointed October 22, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Gerald W. Simpson.

Board for Contractors

Taylor Brannan of **Richmond,** Virginia, Member, appointed October 24, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Robin Christopher.

Caitlin King of **James City,** Virginia, Member, appointed November 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Francis McGonegal of **Midlothian,** Virginia, Member, appointed November 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Jeffrey Hux.

James Spencer of **Caret,** Virginia, Member, appointed November 7, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Jeffrey Shawn Mitchell.

Nathan Trice of **Staunton,** Virginia, Member, appointed November 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Alvin Pardo-Monell.

Common Interest Community Board

Thomas Mazzei of **Fairfax County,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Drew Mulhare.

Margaret Tunstall of **Henrico,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Amanda Jonas.

Fair Housing Board

Owen Morgan of **Alexandria,** Virginia, Member, appointed October 24, 2022, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Alyia Gaskins.

Safety and Health Codes Board

Lee Biedrycki of **Powhatan,** Virginia, Member, appointed October 22, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Michael A. Luce.

Robert Smith of **Leesburg,** Virginia, Member, appointed October 24, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed John Fulton.

PUBLIC SAFETY AND HOMELAND SECURITY

Board of Juvenile Justice

David Mick of **Chesapeake,** Virginia, Member, appointed October 6, 2022, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Gregory D. Underwood.

Criminal Justice Services Board

Bradley Marshall of **Manassas,** Virginia, Member, appointed October 25, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Michael HuYoung.

TRANSPORTATION

Aerospace Advisory Council

Nicholas Devereux of **Alexandria,** Virginia, Member, appointed July 6, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed himself.

SENATE JOINT RESOLUTION NO. 271

Confirming appointments by the Governor of certain persons communicated to the General Assembly January 1, 2023.

Agreed to by the Senate, February 7, 2023
Agreed to by the House of Delegates, February 9, 2023

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Glenn Youngkin and communicated to the General Assembly January 1, 2023.

OFFICE OF THE GOVERNOR

Martin Brown of **North Chesterfield,** Virginia, Chief Diversity, Equity, and Inclusion Officer, to serve at the pleasure of the Governor beginning November 7, 2022, to succeed Dr. Rosa Atkins.

AGENCY HEADS

Janet Lawson of **Williamsburg,** Virginia, Director of the Department of Human Resource Management, to serve at the pleasure of the Governor beginning June 13, 2022, to succeed Emily Elliott.

Rick Mitchell of **Richmond,** Virginia, Director of the Department for the Blind and Vision Impaired, to serve at the pleasure of the Governor beginning May 13, 2022, to succeed Raymond Hopkins.

Willis Morris of **Fredericksburg,** Virginia, Director of the Department of Small Business and Supplier Diversity, to serve at the pleasure of the Governor beginning October 14, 2022, to succeed Matthew James.

Arne Owens of **Richmond,** Virginia, Director of the Department of Health Professions, to serve at the pleasure of the Governor beginning November 1, 2022, to succeed David Brown.

Cheryl Roberts of **Richmond,** Virginia, Director of the Department of Medical Assistance Services, to serve at the pleasure of the Governor beginning October 3, 2022, to succeed Karen Kimsey.

AUTHORITIES

Fort Monroe Authority Board of Trustees

Brian Jackson of **Richmond,** Virginia, Member, appointed June 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

EDUCATION

American Revolution 250 Committee

Katherine Rowe of **Williamsburg,** Virginia, Member, appointed December 2, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2027, to succeed Spencer Crew.

Board of Trustees of the A.L. Philpott Manufacturing Extension Partnership - GENEDGE Alliance

Alexander Marcus of **Lovettsville,** Virginia, Member, appointed December 8, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Roy Irvine.

Abdelkarim Moharram of **Cabin John,** Virginia, Member, appointed December 8, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Lisa Papini of **Virginia Beach,** Virginia, Member, appointed December 8, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Marilynn Hanover.

Wesley Reid of **Roanoke,** Virginia, Member, appointed December 8, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Eileen Van Aken of **Blacksburg,** Virginia, Member, appointed December 8, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Brian Hemphill.

The College of William and Mary Board of Visitors

AnnaMaria DeSalva of **Greenwich, Connecticut,** Member, appointed December 2, 2022, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Mari C. Aponte.

FINANCE

Board of Accountancy

David Cotton of **Alexandria,** Virginia, Member, appointed April 14, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Brian Hemphill.

SENATE JOINT RESOLUTION NO. 272

Confirming appointments by the Governor of certain persons communicated to the General Assembly October 1, 2022.

Agreed to by the Senate, February 7, 2023
Agreed to by the House of Delegates, February 9, 2023

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Glenn Youngkin and communicated to the General Assembly October 1, 2022.

ADMINISTRATION

Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion

Patty Coleman of **McLean,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning April 1, 2021, and ending March 31, 2026, to succeed William F. Dellinger.

Melissa Stoltzfus of **Bridgewater,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning April 1, 2018, and ending March 31, 2023, to succeed Alexander Garden Reeves.

AGRICULTURE AND FORESTRY

Marine Products Board

Jonathan van Senten of **Newport News,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Hannah Kellum.

Tobacco Board

Kenny Barnard of **Amelia Court House,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2024, to succeed John Bledsoe.

Blair Hall of **Halifax,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2024, to succeed Douglas Crowder.

Virginia Spirits Board

Andrew Yancey of **Virginia Beach,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Brian E. Prewitt.

AUTHORITIES

Opioid Abatement Authority

Sarah Melton of **Bristol,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Virginia Solar Energy Development and Energy Storage Authority

Jo Anne Webb of **Chesterfield,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Careth C. Nystrom.

Skyler Zunk of **Chesterfield,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Damian R. Pitt.

COMMERCE AND TRADE

Commission on Local Government

Robert Lauterberg of **Richmond,** Virginia, Member, appointed August 2, 2022, for a term of five years beginning January 1, 2023, and ending December 31, 2027, to succeed Rosemary Mahan.

State Building Code Technical Review Board

James Moss of **Independence,** Virginia, Member, appointed August 2, 2022, to serve at the pleasure of the Governor, to succeed Richard C. Witt.

Virginia Economic Development Partnership

John Hewa of **Fredricksburg,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Xavier Richardson.

Virginia Growth and Opportunity Board

Kenneth Johnson of **Richmond,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Eva Hardy.

COMMONWEALTH

Virginia LGBTQ+ Advisory Board

Kerry Flynn of **Chesterfield,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2023, to succeed Bryan Price.

Jason Geske of **Alexandria,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2024, to succeed N. McKeller Crosby.

Collin Hite of **Henrico,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2024, to succeed Aurora Higgs.

COMPACT

Potomac River Fisheries Commission

Spencer Headley of **Reedville,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2021, and ending June 30, 2025, to succeed Christina Everett.

EDUCATION

Board of Directors, New College Institute

Richard Hall of **Martinsville,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Hubert Harris of **Chesterfield,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Naomi Lee Hodge-Muse.

Rebecca Horner of **Richmond,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Ellen Dyke.

Board of Trustees for the Frontier Culture Museum

Mona Kay Huffer of **Churchville,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed David Bushman.

Steve Landes of **Augusta County,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed John Welch.

Thomas Lester of **Cedar Bluff,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Nwachukwu Anakwenze.

Peter Lipsett of **Lexington,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Clifford Garstang.

Robert Orrison of **Dumfries,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Dianne Fulk.

Emmett Toms of **Waynesboro,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Board of Trustees of the Jamestown-Yorktown Foundation

Jamie Burke of **Vienna,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Diane Leopold.

Board of Trustees of the Virginia Museum of Fine Arts

Anne Smith of **Midlothian,** Virginia, Member, appointed August 2, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed Carol Ann Bischoff.

Board of Visitors of Radford University

Tyler Lester of **Abingdon,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Charlene Curtis.

Board of Visitors of the Virginia School for the Deaf and Blind

Christine Ogden of **Staunton,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2024, to succeed Ann O. Latham-Anderson.

Board of Visitors of Virginia Commonwealth University

Anthony Bedell of **Ashburn,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Pamela El.

Institute for Advanced Learning and Research

Betty Jo Foster of **Ringgold,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Petrina Anne Carter.

State Historical Records Advisory Board

Steve Landes of **Augusta County,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning November 1, 2022, and ending October 31, 2025, to succeed Amanda Lloyd.

The Library Board

Peter Broadbent of **Richmond,** Virginia, Member, appointed August 2, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed Robert C. Light.

Christopher P. Brockwell of **Richmond,** Virginia, Member, appointed August 2, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed himself.

Carol Finerty of **Alexandria,** Virginia, Member, appointed August 2, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed Mark Miller.

Virginia STEM Education Advisory Board

Victoria Chauh of **Ashburn,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Dr. Venicia Ferrell.

Edward Monroe of **McLean,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Damodar R. Ambur.

HEALTH AND HUMAN RESOURCES

Advisory Board for the Virginia Department for the Deaf and Hard-of-Hearing

Chris Gregory of **Roanoke,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Jason Zuccari.

Advisory Board on Art Therapy

Danika Henrich of **West Point,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Gretchen Graves.

Advisory Board on Athletic Training

Michael Goforth of **Blacksburg,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Deborah Corbatto.

William Powers of **Dayton,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Michael Puglia.

Advisory Board on Music Therapy

Miriam Smith of **Ashland,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Anthony Meadows.

Advisory Board on Physician Assistants

Justin Hepner of **Midlothian,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed James B. Carr.

Erin Myers of **Boones Mill,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Kathleen A. Scarbalis.

Lucy Treene of **Arlington,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Portia S. Tomlinson.

Advisory Board on Service and Volunteerism

Kim Luckabaugh of **Fairfax,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2024, to succeed Elizabeth Childress.

Joy Parker of **Virginia Beach,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2024, to succeed James Dilbert Underwood.

Reagan Polarek of **Richmond,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Lily Beres.

Board of Audiology and Speech-Language Pathology

Jennifer Radford Gay of **Danville,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Alison King.

Board of Funeral Directors and Embalmers

Steve Clemons of **Salem,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Kenneth Hickey.

Board of Veterinary Medicine

Steve Linas of **Goochland,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Mary Spencer.

Employment Organization Steering Committee

James Fenerty of **Glen Allen,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed himself.

Interagency Coordinating Counsel

Mary Bishop of **Mechanicsville,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning October 1, 2022, and ending September 30, 2025, to succeed Kristine PJ Torres Caalim.

Ashton Johnson of **Henrico,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning October 1, 2022, and ending September 30, 2025, to succeed Zipporah Shackleford.

Teddi Kenyear of **Chesterfield,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning October 1, 2022, and ending September 30, 2025, to succeed Bonita Grifa.

Katie Vance of **Henrico,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning October 1, 2022, and ending September 30, 2025, to succeed Kathleen McCauley.

Office of New Americans Advisory Board

James Gordon of **Halifax,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Amelia Smith.

Andrei Lipan of **Chesterfield,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed El Hadji Dj Niang.

Kris Ramsingh of **Roanoke,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Hannah Borja.

Eric-Michel Sossou-Gloh of **Alexandria,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Mi Young Yoon.

Rare Disease Council

Ijeoma Azubuko of **Alexandria,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

James Fisher of **Arlington,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Gregory Joseph.

Mike Friedlander of **Roanoke,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning July 1, 2021, and ending June 30, 2024, to fill a new seat.

State Emergency Medical Services Advisory Board

Brian Frankel of **Fredericksburg,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2023, to succeed Lisa Simba.

State Executive Council for Children's Services

Christopher Faraldi of **Lynchburg,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning July 1, 2021, and ending June 30, 2024, to succeed Michael Blumberg.

Natalie Handy of **Roanoke,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2024, to succeed Amanda N. Stanley.

Anahita Renner of **Fairfax,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Andelicia Neville.

Virginia Foundation for Healthy Youth Board of Trustees

Sarah Holland of **Glen Allen,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Tyler Johnson of **Richmond,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Vineeta Shah.

Andre Muelenaer of **Roanoke,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

John O'Bannon of **Henrico,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Gina Bellamy.

Randall Pearson of **Henrico,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed William Coleburn.

Leah Rowland of **Virginia Beach,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Lekeisha Terrell.

Paul Sciacchitano of **Weems,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed John O'Bannon.

INDEPENDENT

Board of Directors of the Virginia Birth-Related Neurological Injury Compensation Program

Catherine Slusher of **Harrisonburg,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2024, to succeed Rebecca Dawn Filla.

Virginia Foundation for the Humanities and Public Policy

Diane Atkinson of **Henrico,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed William Mark Habeeb.

Stefan Dibich of **Richmond,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Sylvester Johnson.

Grace Hughes of **Castleton,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Lemmeal Henderson.

David Rehr of **Arlington,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Iris Holliday.

JUDICIAL

Indigent Defense Commission

Kristi Wooten of **Chesapeake,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Nicholas Braswell.

LABOR

Auctioneers Board

Betty Bennett of **Staunton,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

LEGISLATIVE

Capitol Square Preservation Council

Neal Beasley of **Mechanicsville,** Virginia, Member, appointed August 2, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Missy Benson.

Commission on School Construction and Modernization

William Sroufe of **Colonial Heights,** Virginia, Member, appointed August 2, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed Keith Perrigan.

Commission on Youth

Jessica Jones-Healey of **Smithfield,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Deirdre Goldsmith.

Small Business Commission

Jay Atkinson of **Richmond,** Virginia, Member, appointed August 2, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed Kunal Kumar.

Melissa Ball of **Hanover,** Virginia, Member, appointed August 2, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed Matthew Nusbaum.

Lee Vogler of **Danville,** Virginia, Member, appointed August 2, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed Quan M. Boatman.

Virginia Housing Commission

Joshua Goldschmidt of **Henrico,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2024, to succeed Helen Hardiman.

NATURAL AND HISTORIC RESOURCES

Litter Control and Recycling Fund Advisory Board

Barry Custer of **Blue Ridge,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Larry E. Buckner.

Michael O'Connor of **Richmond,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

Beryl Wilson of **Fishersville,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2024, to succeed himself.

State Air Pollution Control Board

Russell Mait of **Northumberland County,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Kajal Budhwar Kapur.

Virginia Waste Management Board

Mike Benedetto of **Virginia Beach,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

PUBLIC SAFETY AND HOMELAND SECURITY

Advisory Committee on Juvenile Justice and Prevention

Sherri Blevins of **Christiansburg,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Lawrence Webb.

E 9-1-1 Services Board

Jeffrey Dodson of **Radford,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2025, to succeed Kelvin Wright.

TRANSPORTATION

Metropolitan Washington Airports Authority

Brett Gibson of **Arlington,** Virginia, Member, appointed August 2, 2022, for a term of six years beginning November 24, 2022, and ending November 23, 2028, to succeed Robert William Lazaro.

Motor Vehicle Dealer Board

Jeff Ballard of **Pulaski,** Virginia, Member, appointed August 2, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Donald Ja Sullivan.

Transportation District of Hampton Roads

Stephens Johnson of **Chesapeake,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Douglas Wayne Fuller.

Roland White of **Hampton,** Virginia, Member, appointed August 2, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Gaylene Chris Kanoyton.

SENATE JOINT RESOLUTION NO. 273

Confirming appointments by the Governor of certain persons communicated to the General Assembly June 1, 2022.

Agreed to by the Senate, February 7, 2023
Agreed to by the House of Delegates, February 9, 2023

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Glenn Youngkin and communicated to the General Assembly June 1, 2022.

AGENCY HEADS

Susan Beals of **Richmond,** Virginia, Commissioner, Department of Elections, to serve at the pleasure of the Governor beginning March 18, 2022, to succeed Christopher Piper.

Brad Creasy of **Glen Allen,** Virginia, Executive Director, Department of Fire Programs, to serve at the pleasure of the Governor beginning May 25, 2022, to succeed Garrett Dyer.

Shawn Crumlish of **Richmond,** Virginia, Executive Director, Virginia Resources Authority, to serve at the pleasure of the Governor beginning April 8, 2022, to succeed Stephanie Hamlett.

Michael Maul of **Richmond,** Virginia, Director, Department of Planning and Budget, to serve at the pleasure of the Governor beginning April 8, 2022, to succeed Daniel S. Timberlake.

Randy McCabe of **Goochland,** Virginia, State Comptroller, Department of Accounts, to serve at the pleasure of the Governor beginning April 8, 2022, to succeed David A. Von Moll.

Jackson Miller of **Manassas,** Virginia, Director, Department of Criminal Justice Services, to serve at the pleasure of the Governor beginning April 11, 2022, to succeed Shannon Dion Taylor.

Robert Osmond of **Richmond,** Virginia, Chief Information Officer, Virginia Information Technologies Agency, to serve at the pleasure of the Governor beginning April 18, 2022, to succeed Phil Wittmer.

David Richardson of **Richmond,** Virginia, State Treasurer, Department of the Treasury, to serve at the pleasure of the Governor beginning June 2, 2022, to succeed Manju S. Ganeriwala.

Matthew Wells of **Richmond,** Virginia, Director, Department of Conservation and Recreation, to serve at the pleasure of the Governor beginning March 14, 2022, to succeed Clyde E. Cristman.

ADMINISTRATION

Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion

Betsy Beamer of **Henrico,** Virginia, Member, appointed March 30, 2022, to serve an unexpired term beginning April 1, 2018, and ending March 31, 2023, to fill a new seat.

Judy Stovall Boland of **Richmond,** Virginia, Member, appointed March 30, 2022, to serve an unexpired term beginning April 1, 2018, and ending March 31, 2023, to fill a new seat.

David Botkins of **Henrico,** Virginia, Member, appointed March 30, 2022, to serve an unexpired term beginning April 1, 2018, and ending March 31, 2023, to fill a new seat.

Flora S. Cardwell of **Lynchburg,** Virginia, Member, appointed March 30, 2022, to serve an unexpired term beginning April 1, 2018, and ending March 31, 2023, to fill a new seat.

Gloria Marrero Chambers of **McLean,** Virginia, Member, appointed March 30, 2022, to serve an unexpired beginning April 1, 2018, and ending March 31, 2023, to fill a new seat.

Winona Coles of **Fredericksburg,** Virginia, Member, appointed March 30, 2022, to serve an unexpired term beginning April 1, 2018, and ending March 31, 2023, to fill a new seat.

Linda H. Garbee of **Salem,** Virginia, Member, appointed March 30, 2022, to serve an unexpired term beginning April 1, 2018, and ending March 31, 2023, to fill a new seat.

Ann Goettman of **McLean,** Virginia, Member, appointed March 30, 2022, to serve an unexpired term beginning April 1, 2018, and ending March 31, 2023, to fill a new seat.

Kirsti Goodwin of **Richmond,** Virginia, Member, appointed March 30, 2022, to serve an unexpired term beginning April 1, 2018, and ending March 31, 2023, to fill a new seat.

Sarah Scarbrough of **Richmond,** Virginia, Member, appointed March 30, 2022, to serve an unexpired term beginning April 1, 2018, and ending March 31, 2023, to fill a new seat.

State Board of Elections

Georgia Alvis-Long of **Augusta,** Virginia, Member, appointed May 4, 2022, to serve an unexpired term beginning February 1, 2019, and ending January 31, 2023, to succeed Jamilah D. LeCruise.

AGRICULTURE AND FORESTRY

Virginia Racing Commission

Bette Brand of **Roanoke,** Virginia, Member, appointed May 20, 2022, to serve an unexpired term beginning January 1, 2020, and ending December 31, 2025, to succeed Julian Reynolds.

COMPACTS

Breaks Interstate Park Commission

Rick Mullins of **Clintwood,** Virginia, Member, appointed April 13, 2022, for a term of four years beginning February 24, 2022, and ending February 23, 2026, to succeed himself.

EDUCATION

Virginia Commission on Higher Education Board Appointments

Edwin Feulner of **Alexandria,** Virginia, Chairman, appointed March 22, 2022, to serve at the pleasure of the Governor, to succeed James Michael Burke.

Ron Miller of **Forest,** Virginia, Member, appointed March 22, 2022, to serve at the pleasure of the Governor, to succeed Carlos Del Toro.

Debbie Petrine of **Moneta,** Virginia, Member, appointed March 22, 2022, to serve at the pleasure of the Governor, to succeed Eva Hardy.

Carlyle Ramsey of **Alton,** Virginia, Member, appointed March 22, 2022, to serve at the pleasure of the Governor, to succeed Joni Ivey.

Douglas N. Smith of **Lexington,** Virginia, Member, appointed March 22, 2022, to serve at the pleasure of the Governor, to succeed Cathy Lewis.

Doug Wetmore of **Glen Allen,** Virginia, Member, appointed March 22, 2022, to serve at the pleasure of the Governor, to succeed Charles Steger.

FINANCE

Board of Accountancy

Dale Mullen of **Hanover,** Virginia, Member, appointed April 14, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2024, to succeed Jay Bernas.

Treasury Board

Neil Amin of **Henrico,** Virginia, Member, appointed April 21, 2022, for a term of four years beginning April 20, 2022, and ending April 19, 2026, to succeed himself.

James Carney of **Midlothian,** Virginia, Member, appointed April 21, 2022, for a term of four years beginning April 20, 2022, and ending April 19, 2026, to succeed himself.

Charles King of **Rockingham,** Virginia, Member, appointed April 22, 2022, for a term of four years beginning April 20, 2022, and ending April 19, 2026, to succeed Douglas Densmore.

Joshua Weed of **McLean,** Virginia, Member, appointed April 22, 2022, for a term of four years beginning April 20, 2022, and ending April 19, 2026, to succeed Lou Mejia.

HEALTH AND HUMAN RESOURCES

Board of Medical Assistance Services

Tim Hanold of **Midlothian,** Virginia, Member, appointed May 2, 2022, for a term of four years beginning March 8, 2022, and ending March 7, 2026, to succeed Raziuddin Ali.

Paul F. Hogan of **Reston,** Virginia, Member, appointed April 27, 2022, for a term of four years beginning March 8, 2022, and ending March 7, 2026, to succeed Peter R. Kongstvedt.

Ashish Kachru of **McClean,** Virginia, Member, appointed April 27, 2022, to serve an unexpired term beginning March 8, 2021, and ending March 7, 2025, to succeed Elizabeth Coulter.

State Board of Behavioral Health and Developmental Services

Blake Andis of **Abingdon,** Virginia, Member, appointed April 22, 2022, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Jerome Hughes.

INDEPENDENT

Virginia Retirement System Board of Trustees

A. Scott Andrews of **Fauquier,** Virginia, Member, appointed on April 20, 2022, for a term of five years beginning March 1, 2022, and ending February 28, 2027, to succeed O'Kelly Edward McWilliams.

A. Scott Andrews of **Fauquier,** Virginia, Chair, appointed on April 20, 2022, for a term of two years beginning March 1, 2022, and ending February 28, 2024, to succeed O'Kelly Edward McWilliams.

NATURAL AND HISTORIC RESOURCES

Board of Wildlife Resources

Michael C. Formica of **McLean,** Virginia, Member, appointed March 30, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2024, to succeed Rovelle Corneil Brown.

State Air Pollution Control Board

John Holloway of **Richmond,** Virginia, Member, appointed March 30, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Roy A. Hoagland.

David Hudgins of **Richmond,** Virginia, Member, appointed March 30, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Richard D. Langford.

State Water Control Board

Scott Cameron of **Fairfax,** Virginia, Member, appointed April 15, 2022, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2022, to succeed Jack O'Lanier.

Robert Dunn of **Chester,** Virginia, Member, appointed April 11, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Timothy Hayes.

Virginia Marine Resources Commission

William Bransom of **Virginia Beach,** Virginia, Member, appointed April 29, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Christina Everett.

Jeremy Spencer Headley of **Reedville,** Virginia, Member, appointed March 31, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Kennedy Neill.

PUBLIC SAFETY AND HOMELAND SECURITY

Virginia Parole Board

Samuel Boone, Jr., of **Chesapeake,** Virginia, Member, to serve at the pleasure of the Governor beginning April 6, 2022, to succeed Lethia Hammond.

Michelle Dermyer of **Gloucester,** Virginia, Member, to serve at the pleasure of the Governor beginning April 1, 2022, to succeed Sherman Lea.

Howard "Toby" Vick of **Henrico,** Virginia, Member, to serve at the pleasure of the Governor beginning April 1, 2022, to succeed A. Lincoln James.

TRANSPORTATION

Commonwealth Transportation Board

Burwell W. Coleman of **Norfolk,** Virginia, Member, appointed April 13, 2022, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2022, to succeed W. Sheppard Miller III.

SENATE JOINT RESOLUTION NO. 275

Commending the City of Manassas.

Agreed to by the Senate, January 26, 2023
Agreed to by the House of Delegates, January 30, 2023

WHEREAS, the City of Manassas and its residents will celebrate the city's historic 150th anniversary as an active and involved community on April 1, 2023, at Dean Park; and

WHEREAS, originally called Manassas Junction and located at the intersection of the Orange and Alexandria and Manassas Gap railroad lines, the Town of Manassas was incorporated in 1873 by the General Assembly, and its first law-enforcement officer, Jacob W. Hornbaker, was named town sergeant the same year; and

WHEREAS, a strategic location for growth after the Civil War, Manassas was later selected to serve as the county seat of Prince William County, and the construction of the county courthouse in 1894 spurred a building and population boom that would further the development of the town; and

WHEREAS, seven of Manassas' historic treasures are listed on the National Register of Historic Places, including Liberia plantation, Mayfield Earthwork Fort, Cannon Branch Fort, Annaburg Manor, the iconic 1914 Manassas Water Tower, the nationally recognized site of the Manassas Industrial School for Colored Youth, and the Manassas Local Historic District, which includes 300 architecturally and historically significant structures both downtown and in the surrounding neighborhoods; and

WHEREAS, the Manassas Volunteer Fire Company, the first fire company in Manassas and Prince William County, was founded in 1892 to improve community safety; in 1914, the first fire station was built, which later relocated to its current location at 9322 Centreville Road; and

WHEREAS, in 1895, telephone service was established in Manassas to support the needs of the blossoming town and 18 years later the first electricity was generated and run by the municipality; and

WHEREAS, in 1905, a horrendous fire swept through Manassas and burned approximately 30 buildings; afterwards, these buildings were reconstructed and by town ordinance were built with brick and fire-resistant materials; and

WHEREAS, the first Greater Manassas Christmas Parade, which is today one of the largest Christmas parades in the area, was held in 1945; and

WHEREAS, the first airport in Manassas was established in 1930 and the Manassas Regional Airport, which is currently the busiest General Aviation Airport in the Commonwealth with over 400 based aircraft and more than $275 million in economic benefit generated for the surrounding region, opened at its current location in 1964; and

WHEREAS, in 1964, using funds from donations by the community, what is now the UVA Prince William Medical Center was established to aid in the health care of Manassas area residents; and

WHEREAS, the visionary town council of Manassas passed an ambitious $5 million bond referendum to purchase land on Broad Run in order to construct a dam that would ultimately create the Lake Manassas reservoir in 1969, providing a dedicated water supply to Manassas and Prince William County; and

WHEREAS, as early as 1897, town father George Carr Round recognized the strength of Manassas' diverse population and its newcomers, writing of the town, "It is especially cosmopolitan"; today, the city is one of the most diverse localities in the Commonwealth, with more than 27 different languages represented by the students and families served by Manassas City Public Schools; and

WHEREAS, Manassas is a regional employment center, and its robust history of major corporate investment and job creation includes IBM notably opening a new facility in the locality in the late 1960s and Micron Technologies, Inc., recently making one of the largest capital investments in the history of the Commonwealth; and

WHEREAS, the Manassas Museum opened in its first location in 1974 to document and display Manassas' history and culture and to provide free cultural exhibits to residents and visitors alike; and

WHEREAS, with a population of 12,800 people, Manassas became an independent city in 1975, making it one of only 41 independent cities in the United States at the time; and

WHEREAS, the Virginia Railway Express began operations in Manassas on June 22, 1992, improving residents' access to Northern Virginia and Washington, D.C.; and

WHEREAS, the Loy E. Harris Pavilion in Manassas was completed in 2000 and has since grown to become the leading event center for the area, hosting concerts and more throughout the year; and

WHEREAS, Manassas' leaders adopted the logo and tagline "Historic Heart. Modern Beat." in 2015 and the promotional campaign has since been heartily embraced by the community; and

WHEREAS, the Manassas City Police Department is one of the most highly accredited departments in the country, having recently received a gold standard with excellence accreditation from the Commission on Accreditation for Law Enforcement; and

WHEREAS, Manassas has grown from a city of 12,800 people in 1975 into a 10-square-mile city of more than 43,000 people in 2023, close to the urban amenities of Washington, D.C., but with the comfort and feel of a small town; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the City of Manassas on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the mayor of the City of Manassas, Michelle Davis-Younger, and the Manassas City Council as an expression of the General Assembly's congratulations on 150 years as a community.

SENATE JOINT RESOLUTION NO. 276

Confirming appointments by the Governor of certain persons communicated to the General Assembly August 1, 2022.

Agreed to by the Senate, February 7, 2023
Agreed to by the House of Delegates, February 9, 2023

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Glenn Youngkin and communicated to the General Assembly August 1, 2022.

OFFICE OF THE GOVERNOR

Rosa Atkins of **Richmond,** Virginia, Chief Diversity, Equity, and Inclusion Officer, to serve at the pleasure of the Governor beginning June 13, 2022, to succeed Angela Sailor.

AGENCY HEADS

Jennifer DeBruhl of **Richmond,** Virginia, Director, Department of Rail and Public Transportation, to serve at the pleasure of the Governor beginning June 25, 2022, to succeed Jennifer Mitchell.

Kelly Gee of **Hanover,** Virginia, Executive Director, Virginia Lottery, to serve at the pleasure of the Governor beginning June 6, 2022, to succeed Kevin Hall.

Jamie Green of **Chesterfield,** Virginia, Commissioner, Virginia Marine Resources Commission, to serve at the pleasure of the Governor beginning June 25, 2022, to succeed Steven Bowman.

Margaret Hancock of **Charlottesville,** Virginia, Director, Commission for the Arts, to serve at the pleasure of the Governor beginning June 15, 2022, to succeed Janet Starke.

ADMINISTRATION

9-1-1 Services Board

D. Terry Hall of **Yorktown,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2023, to succeed Jolena Young.

Judson W. Smith of **Bedford,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2024, to succeed Eddie Reyes.

Art and Architectural Review Board

Lynden Garland of **Midlothian,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Ian Vaughan.

Donna Jackson of **Aylett,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Aimee Jorjani of **Falls Church,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Burshell F. Pinncock.

Jill Nolt of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Helen Wilson.

Information Technology Advisory Council

John Craft of **Chesterfield,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

Goutam Gandhi of **Glen Allen,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to fill a new seat.

Anthony Terry Gitalado of **Stafford,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to fill a new seat.

Cherif Kane of **Glen Allen,** Virginia, Member, appointed on July 1, 2022, for a term of one year beginning July 1, 2022, and ending June 30, 2023, to fill a new seat.

Constantina Dena Kozanas of **Leesburg,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to fill a new seat.

James Kraemer of **Great Falls,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to fill a new seat.

Adam S. Lee of **Glen Allen,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

Phea Ram of **Powhatan,** Virginia, Member, appointed on July 1, 2022, for a term of one year beginning July 1, 2022, and ending June 30, 2023, to fill a new seat.

Timothy Tillman of **Hanover,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to fill a new seat.

Robert I. Turner of **Chester,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

AGRICULTURE AND FORESTRY

Agricultural Council

Keith Dunn of **Yale,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Joseph Barlow.

Rosalea Potter of **Lexington,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Tia Walbridge.

Sarah Thomsen of **Richmond,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Justin Minor.

Aquaculture Advisory Board

Kimberly Huskey of **Yorktown,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed herself.

Michael Schwarz of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed himself.

Board of Agriculture and Consumer Services

Allyson Jones-Brimmer of **Falls Church,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Kay Johnson Smith.

Board of Forestry

Ervin Bielmyer of **Dinwiddie,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Michael A. Hincher.

J. Clark Diehl lll of **Albemarle County,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Julian Kenneth Morgan.

Heather Richards of **Culpeper,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Cattle Industry Board

Perry Huffman of **Lexington,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Julia Jones of **Chilhowie,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Steven Furrow.

Carl McNeil of **Radford,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Paige J. Pratt.

Cecelia Moyer of **Amelia,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Walter Shelton of **Gretna,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Robert Threewitts of **Keezletown,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Jared A. Burner.

Corn Board

Ginny Pitman Barnes of **Kilmarnock,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed herself.

David W. Coleman of **Amelia,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed himself.

Lloyd Hayden Eicher of **Tappahannock,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed himself.

Wallick Harding of **Jetersville,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed himself.

Cotton Board

Joey Doyle of **Emporia,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning September 26, 2021, and ending September 25, 2024, to succeed Glenn R. Moore.

Egg Board

Ellen Baber of **Cartersville,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning January 15, 2022, and ending January 14, 2026, to succeed herself.

Hobey Bauhan of **Harrisonburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning January 15, 2022, and ending January 14, 2026, to succeed himself.

Kenneth Risser of **Hartfield,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning January 15, 2022, and ending January 14, 2026, to succeed himself.

Paul Ruszler of **Blacksburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning January 15, 2022, and ending January 14, 2026, to succeed himself.

Keith Sheets of **McGaheysville,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning January 15, 2022, and ending January 14, 2026, to succeed himself.

Rodney Wagner of **Abingdon,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning January 15, 2022, and ending January 14, 2026, to succeed himself.

William Lake Wagner of **Abingdon,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning January 15, 2022, and ending January 14, 2026, to succeed himself.

Horse Industry Board

Ernest Oare of **Warrenton,** Virginia, Member, appointed on June 19, 2022, for a term of three years beginning June 20, 2022, and ending June 19, 2025, to succeed John T. Wise.

Marine Products Board

Nathaniel Bussells of **White Stone,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed James R. Sowers.

Michael Congrove of **Gwynn,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Taylor Deihl of **Reedville,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed John Anthony Hall.

James Sowers of **Matthews,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Michael Schwarz.

Milk Commission

Jessica Jones of **Gladys,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Dennis Sugumele of **Chesterfield,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Bruce Edward Mayer.

Peanut Board

Donna N. Jones of **Windsor,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Robert C. Rogers of **Yale,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Sheep Industry Board

Donald Wright of **Purcellville,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning March 9, 2020, and ending March 8, 2024, to succeed Matthew I. Miller.

Virginia Spirits Board

Joshua Chandler of **Bland County,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Scott Harris of **Loudoun County,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Tim Nichols of **Abingdon,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Wine Board

Stephen Barnard of **Charlottesville,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Patrick G. Duffeler.

James King of **Crozet,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Tayloe M. Dameron.

Luca B. Paschina of **Barboursville,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

AUTHORITIES

Fort Monroe Authority Board of Trustees

Charletta Barringer-Brown of **Chesterfield,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed Edward L. Ayers.

Rex Ellis of **Williamsburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Hampton Roads Sanitation District Commission

Frederick Elofson of **Newport News,** Virginia, Member, appointed on June 6, 2022, for a term of four years beginning June 8, 2022, and ending June 7, 2026, to succeed himself.

Vishnukumar Lakdawala of **Virginia Beach,** Virginia, Member, appointed on June 6, 2022, for a term of four years beginning June 8, 2022, and ending June 7, 2026, to succeed himself.

Virginia Public School Authority Board of Commissioners

Maria J. Perrotte of **King George,** Virginia, Member, appointed on July 1, 2022, for a term of six years beginning July 1, 2022, and ending June 30, 2028, to succeed Vivek G. Murthy.

John R. Riley Jr., of **Spotsylvania County,** Virginia, Member, appointed on July 1, 2022, for a term of six years beginning July 1, 2022, and ending June 30, 2028, to succeed Connie M. France.

COMMERCE AND TRADE

Board of Housing and Community Development

Louie F. Berbert of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Andre M. Friedman.

J.M. Snell II of **Harrisonburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Paykon H. Sarmadi.

Mark D. Trostle of **Reston,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Azfar S. Abbasi.

Center for Rural Virginia

Marshall Pattie of **Augusta County,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Hope F. Cupit.

Coal Surface Mining Reclamation Fund Advisory Board

Gregory F. Baker of **Wise,** Virginia, Member, appointed on July 1, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed himself.

Southwest Virginia Energy Research and Development Authority

Michael Karmis of **Blacksburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Tobacco Region Revitalization Commission

Amanda Cox of **Franklin County,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Edward Owens.

Watt R. Foster of **Gladys,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Franklin D. Harris.

William Pace of **Chatham,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Alexis Ilene Ehrhardt.

Gary Walker of **Charlotte Court House,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Rebecca Carson Coleman.

Virginia Coal Mine Safety Board

Danny P. Mann of **Dungannon,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning January 18, 2019, and ending January 17, 2023, to succeed Larance E. Middleton.

Virginia Economic Development Partnership Authority Board of Directors

Mary Coles of **Roanoke,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Dan M. Pleasant.

William Hayter of **Washington County,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Gregory B. Fairchild.

Susan Lochte of **Charlottesville,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Deborah K. Flippo.

William Sessoms of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Vincent J. Mastracco.

Virginia Economic Development Partnership Committee on Business Development and Marketing

Emily Lampkin of **McLean,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Christina M. Winn.

Virginia Gas and Oil Board

Gus W. Janson of **Abingdon,** Virginia, Member, appointed on July 1, 2022, for a term of six years beginning July 1, 2022, and ending June 30, 2028, to succeed Donnie W. Rife.

Virginia Growth and Opportunity Board

John King of **Harrisonburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed John Sullenberger.

Virginia Housing Development Authority Commissioners

Donald E. Scoggins of **Woodbridge,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Shekar Narasimhan.

Dominique Hicks Whitaker of **Henrico,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Barbara Blackston.

Virginia Innovation Partnership Authority Board of Directors

Juan Pablo Segura of **McLean,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Chiedo John.

Virginia Offshore Wind Development Authority

Kathleen Owens of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Benjamin H. Framme.

Howard Shafferman of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Phillip S. Green.

Virginia Small Business Financing Authority Board of Directors

Ronald Bew of **Chesterfield,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Susana Marino.

Mary Margaret Kastleburg of **Henrico,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Sanjay Puri.

Victoria Vasques of **Alexandria,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Corey Holeman.

COMMONWEALTH

Latino Advisory Board

Rev. Jonathan Avendano of **Sterling,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Lourdes Morales.

Jo-Ann Chase of **Ashburn,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Max A. Luna-Jimenez.

Wendy K. Clavijo of **Vienna,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Gloria Maria Pena Rockhold.

Astrid M. Gámez, M.A., of **Reston,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Manuel E. Leiva.

Jennifer Fierro Kelly of **Moseley,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Diana Brown.

Ana Metzger of **Midlothian,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Edgar Aranda-Yanoc.

Emilio J. Revilla of **Glen Allen,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Carmen R. Romero.

Juan Vega of **Roanoke,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Aida Lupe Pacheco.

Virginia African American Advisory Board

Joe A. Chase, Jr., of **Chesapeake,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Yvonne J. Lewis.

Bill Cleveland of **Alexandria,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Gaylene Kanoyton.

Philomena Desmond-Ogugua of **Woodbridge,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Shirley A. Ginwright.

Clarence Neely of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Eduardo L. Lopez.

Virginia Council on Women

Katrina Chase of **Chesapeake,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Da'Shaun A. Joseph.

Valerie Rene' Coley of **Chesterfield,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Hyun J. Lee.

Anh Tu Do of **Centreville,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Marzia Abbasi.

Elizabeth J. Level of **Clifton,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Nicole Carry.

Georganne W. Long of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Lashawn R. Farmer.

Joely K. Mauck of **Fairfax,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Ramunda Young.

Teresa Pregnall of **Forest,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Holly Seibold.

Erin K. Rayner of **Purcellville,** Virginia, Member, appointed on July 1, 2022 to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Diana Gates.

Virginia LGBTQ+ Advisory Board

Phil Kazmierczak of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Amanda L. Goehring.

Preston Main of **Hanover,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Robert L. Keeling.

Thomas N. Turner of **Suffolk,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Michael J. Thorne-Begland.

EDUCATION

Board of Education

Grace Turner Creasey of **Goochland,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Keisha Lanell Pexton.

William D. Hansen of **McLean,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Francisco D. Duran.

Andrew J. Rotherham of **Madison,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Jamelle S. Wilson.

H. Alan Seibert of **Salem,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2024, to succeed Stewart D. Roberson.

Board of Trustees of the Roanoke Higher Education Authority

George L. Hayth, III, of **Botetourt,** Virginia, Member, appointed on June 6, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Charles Price.

Shatenita Horton of **Roanoke,** Virginia, Member, appointed on June 6, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed George Hayth.

Tracey Nester of **Vinton,** Virginia, Member, appointed on June 6, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Tracy Nester.

Board of Trustees of the Science Museum of Virginia

Kathy Lu of **Blacksburg,** Virginia, Member, appointed on June 6, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed Denise L. Walters.

Denise Walters of **Henrico,** Virginia, Member, appointed on June 6, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed Joanne Carter.

Board of Trustees of the Southern Virginia Higher Education Center

Jeffrey Davis of **South Boston,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning June 7, 2020, and ending June 6, 2024, to succeed John Charles Lee.

Stanley Jeffress, Jr., of **South Boston,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Charlette Woolridge.

Kathryn Watson of **Halifax,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Douglass E. Lee.

Board of Trustees of the Virginia Museum of Fine Arts

Rooz Dadabhoy of **Henrico,** Virginia, Member, appointed on June 6, 2022, for a term of five years beginning June 7, 2022, and ending June 6, 2027, to succeed Margaret Gottwald.

Ann Goettman of **McLean,** Virginia, Member, appointed on June 6, 2022, for a term of five years beginning June 7, 2022, and ending June 6, 2027, to succeed Edie H. Cabaniss.

Melinda Hardy of **Richmond,** Virginia, Member, appointed on June 6, 2022 for a term of five years beginning June 7, 2022, and ending June 6, 2027, to succeed Charles Whitaker.

Bill Keyes of **McLean,** Virginia, Member, appointed on June 6, 2022, for a term of five years beginning June 7, 2022, and ending June 6, 2027, to succeed Marland Buckner.

Board of Visitors for Gunston Hall

James Burnham of **Alexandria,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning October 1, 2022, and ending September 30, 2024, to succeed Edmund Graber.

Charles Hurt of **Chatham,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning October 1, 2022, and ending September 30, 2024, to succeed Eileen C. Rivera.

D'Andrea Wooten of **Woodbridge,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning October 1, 2022, and ending September 30, 2024, to succeed Tim Sargeant.

Christopher Newport University Board of Visitors

Richard Bray of **Chesapeake,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Gabe Morgan.

John Lawson, II, of **Newport News,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed William R. Ermatinger.

Kelli Meadows of **Henrico,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Maria Herbert.

Charles "Larry" Pope of **Williamsburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Ella P. Ward.

Boris Robinson of **Round Rock, Texas,** Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Maria Herbert.

The College of William and Mary Board of Visitors

Kendrick Ashton, Jr., of **McLean,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Sue H. Gerdelman.

Stephen Huebner of **Toano,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed William D. Payne.

C. Michael Petters of **Newport News,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Victor K. Branch.

Laura Rigas of **Alexandria,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Lisa E. Roday.

Eastern Virginia Medical School Board of Visitors

G. Robert "Bob" Aston, Jr., of **Portsmouth,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Paul D. Fraim.

George Mason University Board of Visitors

Reginald Brown of **Alexandria,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Paul J. Reagan.

Lindsey Burke of **Fairfax,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Denise Gale Turner.

Michael Meese of **Oak Hill,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Edward H. Rice.

Robert Pence of **Washington, D.C.,** Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Ignacia S. Moreno.

James Madison University Board of Visitors

Richard "Dickie" Bell of **Staunton,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Horace L. Blackman.

Teresa Edwards of **Chesapeake,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Nancy G. Prowitt.

Suzanne Obenshain of **Harrisonburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Robert V. Witeck.

Michael Stoltzfus of **Bridgewater,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Jacqueline Wendy Marquez.

Jack White of **Fairfax Station,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Dolly Oberoi.

Jamestown-Yorktown Foundation Board of Trustees

Gloria Chambers of **McLean,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Susan Reid Swecker.

Charles James of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Fred Thompson.

Longwood University Board of Visitors

Judith Lynch of **Christiansburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Eileen M. Anderson.

Kristie Proctor of **Hanover,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Lucia Anna Trigiani.

Ronald White of **Midlothian,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Larry I. Palmer.

Norfolk State University Board of Visitors

Dwayne Blake of **Hampton,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Terri L. Best.

Gilbert Bland of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Lawrence A. Griffith.

Katrina Chase of **Chesapeake,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Deborah DiCroce.

Conrad Mercer Hall of **Norfolk,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Delbert Parks.

James Jamison of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Joan G. Wilmer.

Delbert Parks of **Manassas,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Dwayne B. Blake.

Old Dominion University Board of Visitors

Dennis Ellmer of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Lisa B. Smith.

Brian Holland of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Alton Jacinto Harris.

E. G. Middleton, III, of **Norfolk,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Carlton Frank Bennett.

Elza Mitchum of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Unwanna Bellinger Dabney.

P. Murry Pitts of **Charlottesville,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Radford University Board of Visitors

Jeanne Armentrout of **Fincastle,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Thomas M. Brewster.

Jennifer Wishon Gilbert of **Mount Jackson,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Susan W. Johnston.

George Mendiola of **Manassas,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Nancy Rice.

James Turk of **Blacksburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Krisha Chachra.

Southwest Virginia Higher Education Center Board of Trustees

Keith Perrigan of **Bristol,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Sophie Chafin Vance of **Lebanon,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30,2026, to succeed Sandy Ratliff.

State Board for Community Colleges

Deborah DiCroce of **Chesapeake,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Nathaniel L. Bishop.

Bruce J. Meyer of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Adnan Bokhari.

Michael Wooten of **Woodbridge,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Eleanor Saslaw.

State Council of Higher Education for Virginia

Walter Curt of **Port Republic,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Henry D. Light.

William Harvey of **Hampton,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Maria Alexandria Arriaga.

Cheryl Oldham of **Alexandria,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Marge Connelly.

University of Mary Washington Board of Visitors

Andrew Lamar of **Midlothian,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Ed Houck.

William Lee Murray of **Fredericksburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Lisa Henry.

Davis Rennolds of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Martha G. Abbott.

Terri Suit of **Fredericksburg,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Allida Black.

University of Virginia and Affiliated Schools Board of Visitors

Bert Ellis, Jr., of **Hilton Head, South Carolina,** Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Barbara June Fried.

Stephen Long of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Frank Maxwell Conner.

Amanda Pillion of **Abingdon,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Charles E. Poston.

Doug Wetmore of **Glen Allen,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed L.D. Britt.

Virginia Commonwealth University Board of Visitors

Peter Farrell of **Henrico,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Ellen Fitzsimmons of **Atlanta, Georgia,** Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Stuart Charles Siegel.

Vernon Dale Jones of **Alexandria,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Colleen Santa Ana.

Clifton Peay of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Gopinath R. Jadhav.

Virginia Military Institute Board of Visitors

John Adams of **Midlothian,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Conrad M. Hall.

C. Ernest Edgar, IV, of **Tampa, Florida,** Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Richard Kennon Hines.

Thomas E. Gottwald of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Edward S. Lanier.

Meaghan Mobbs of **Fairfax,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Joe R. Reeder.

Virginia Polytechnic Institute and State University Board of Visitors

Edward Baine of **Moseley,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

David Calhoun of **Sunapee, New Hampshire,** Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Mehul Praful Sanghani.

Sandy Cupp Davis of **Blacksburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Preston M. White.

Charles "Brad" Hobbs of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Horacio A. Valeiras.

Virginia School for the Deaf and the Blind Board of Visitors

Carolyn Berry of **Charlottesville,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed John C. Pleasant.

Daphne Cox of **Staunton,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed herself.

Ronald Lanier of **Henrico,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Nia Taylor.

Vera Wilson of **Roanoke,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Judy S. Sorrell.

Virginia State University Board of Visitors

Victor Branch of **Chesterfield,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Raul R. Harrera.

Valerie Brown of **Chesapeake,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Thomas Cosgrove of **Williamsburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed- Xavier R. Richardson.

Robert Denton, Jr., of **Blacksburg,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2024, to succeed James J. L. Stegmaier.

Harold Green, Jr., of **Midlothian,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Charlie Wyatt Hill.

Leonard L. Haynes, III, of **Silver Springs, Maryland,** Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Thursa D. Crittenden.

FINANCE

Advisory Council on Revenue Estimates

Nancy Agee of **Salem,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed herself.

Neil Amin of **Henrico,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed himself.

Thomas Barkin of **Richmond,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed himself.

Bill G. Crutchfield, Jr., of **Albemarle,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Edward Whitmore.

Morgan Davis of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Nancy Bargranoff.

Chad Eisele of **Mechanicsville,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Robert Hardie.

Rob Estes of **Richmond,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Brooke Kintz.

Bryan Fairbanks of **Winchester,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Jennifer Bailey.

BK Fulton of **Richmond,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Jody M. Wagner.

Mark Hourigan of **Richmond,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Stephen Movius.

Howard Kern of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed himself.

Bill Kirk of **Roanoke,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Marc Katz.

Thomas Ransom of **Glen Allen,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Karen Campbell.

George "Jeff" Ricketts of **Palmyra,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed himself.

Warren Thompson of **Vienna,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed James Davis.

Kathy Warden of **Falls Church,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Robert M. Blue.

Debt Capacity Advisory Committee

Ronald L. Tillett of **Midlothian,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Joint Advisory Board of Economists

David Brat of **Lynchburg,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Ann Battle Macheras.

Edwin T. Burton of **Charlottesville,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Robert M. McNab.

Christine Chmura of **Richmond,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed herself.

David Kohl of **Blacksburg,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Gerald T. Prante.

Fletcher Mangum of **Henrico,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed himself.

Ryan Price of **Alexandria,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Alice Louise Kassens.

Kenneth D. Simonson of **Washington, D.C.,** Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Roy H. Webb.

Michelle Vachris of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed herself.

Justin Velez-Hagan of **Alexandria,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Roy L. Pearson.

Mark Vitner of **Charlotte, North Carolina,** Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed himself.

Sonya Ravindranath Waddell of **Richmond,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Stephen S. Fuller.

Virginia College Building Authority

William T Clarke, Jr., of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Stephanie A. Calliott.

Christine McIntyre of **Alexandria,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Tiffany M. Boyle.

Gary Ometer of **Henrico,** Virginia, Chairman, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Corynne S. Arnett.

Craig A. Robinson of **Washington, D.C.,** Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Lane Bryan Ramsey.

Virginia Public Building Authority

Sarah Williams of **Henrico,** Virginia, Chairman, appointed on July 1, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed herself.

Virginia Resources Authority Board of Directors

David Branscome of **Woodbridge,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Thomas Lloyd Hasty.

HEALTH AND HUMAN RESOURCES

Board of Counseling

Benjamin Allison of **Forest,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Vivian Y. Sanchez-Jones.

Matthew Scott of **Lynchburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Tiffinee S. Yancey.

Terry R. Tinsley of **Gainesville,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Board of Dentistry

William C. Bigelow of **Staunton,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Joshua W. Anderson.

Emelia H. McLennan of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Patricia B. Bonwell.

Board of Funeral Directors and Embalmers

Sergio Hines of **Staunton,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Robert Thomas Slusser.

Board of Medicine

Peter Apel of **Roanoke,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Brenda L. Stokes.

John Randolph Clements of **Roanoke,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed James R. Arnold.

Hazem Elariny of **McLean,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Milly Rambhia.

William Hutchens of **Great Falls,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Amanda L. Barner Welch.

Krishna Prasad Madiraju of **Ashburn,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Khalique S. Zahir.

Board of Nursing

Carol Cartte of **Glen Allen,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Teri C. Brown.

Helen Parke of **Lynchburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Marie Fiascone Gerdo.

Board of Optometry

Gerald "Jerry" Neidigh of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Helene Clayton-Jeter.

Board of Pharmacy

S. Lawrence Kocot of **Alexandria,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Bernard Henderson.

Yeh Ling Yuan Lee of **Henrico,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Cheryl H. Nelson.

Wendy Clary Nash of **Valentines,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Larry G. Bolyard.

Kristopher S. Ratliff of **Marion,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Patricia Lynn Richards-Spruill of **Suffolk,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Board of Physical Therapy

Rebecca Duff of **Roanoke,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Melissa Fox of **Charlottesville,** Virginia**,** Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Allen R. Jones.

Board of Psychology

William L. Hathaway of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Peter L. Sheras.

Gary A. Sibcy II of **Lynchburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed James L. Werth.

Cheryl Snyder of **Spotsylvania,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Stephanie T. Valentine.

Board of Social Work

Elke Cox of **Lynchburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Michael Edward Hayter.

Denise Purgold of **Henrico,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Maria Euginia Del Villar.

Sherwood Randolph, Jr., of **Richmond,** Virginia, Member, appointed on July 1, 2022, to serve at the pleasure of the Governor beginning July 1, 2022, to succeed Delores Sweeney Paulson.

Board of Veterinary Medicine

Richard Bailey of **Fincastle,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Ellen Hillyer.

Commonwealth Council on Aging

Jo-Ann Chase of **Ashburn,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Jennifer Disano.

Carla V. Hesseltine of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Ellen M. Nau of **Chesterfield,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Deborah Taylor.

Paige Wilson of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed John C. Countryman.

Radiation Advisory Board

Christopher Kondorossy of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Sebastiana Springmann.

State Board of Health

Michael Desjadon of **West Augusta,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed James Henry Edmonson.

Lee Jones of **Troutville,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Benita Atiyeh Miller.

Patricia O'Bannon of **Henrico,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Faye O. Prichard.

Ann Vaughters of **Manakin Sabot,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Linda Turner Hines.

State Board of Social Services

Maria Benjamin of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Lou Ali.

Don J. Carey III of **Chesapeake,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Robert Kent Willis.

Leslie Ford of **Alexandria,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Mona Malek.

DeRonda Miniard Short of **Williamsburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Clyde Santana.

Virginia Board for People with Disabilities

Jennifer Greene of **Potomac Falls,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Donna J. Lockwood.

Karen Grizzard of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Vassantha K. Rayman.

Jennifer Kelly of **Moseley,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Florence L. Jones.

Nadia Rauhala of **Strasburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Dawn Missory.

Gina Ryan of **Great Falls,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Frederique Vincent.

Nickolas Sladic of **Henrico,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Eric Mann.

Mary Vought of **Arlington,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Jocelyn A. Kilgore.

Virginia Health Workforce Development Authority Board of Directors

David Abraham of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Deborah Johnston.

Shannon Showalter of **Norton,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Wendy Welch.

Shelly Smith of **Powhatan,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Evelyn V. Whitehead.

Brian Yates of **Lynchburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Elayne K. Phillips.

INDEPENDENT

Board of Directors of the Virginia Cannabis Control Authority

John F. Keohane of **Chesterfield,** Virginia, Chairman, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Shane Emmett.

Chesapeake Bay Bridge and Tunnel Commission

Mark Bundy of **Northampton,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Jeffery Knee Walker.

Phillip Custis of **Northampton,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Paul E. Bibbins.

Stuart Keith Colonna of **Onancock,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Frederick T. Stant III of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed John F. Malbon.

Virginia College Savings Plan Board

Lisa N. Jennings of **Fairfax Station,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Edward Hugh Bersoff.

Virginia Commonwealth University Health System Authority Board of Directors

Steven Deluca of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed May H. Fox.

Wally Smith of **Glen Allen,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Michelle Y. Whitehurst.

LABOR

Apprenticeship Council

Patrick J. Dean of **Chantilly,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Laura L. Duckworth.

Jameo D. Pollock of **Henrico,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed himself.

J. Douglas Straley of **Louisa County,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Gerald W. Simpson.

Board for Barbers and Cosmetology

Marques Blackmon of **Ashburn,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Alfred O. Mayes.

Oanh Tina Dang of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Gregory L. Edwards of **Hampton Roads,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Gilda I. Acosta.

Claudia Espinoza of **Woodbridge,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Lonnie Eldon Quesenberry.

Board for Professional and Occupational Regulation

Grace Flores-Hughes of **Castleton,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Kim Cummings.

Jemmalyn Hewlett of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Ryan O'Toole.

Gaby Lopez Rengifo of **Yorktown,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Martin A. Mooradian.

Charlie Vaughters of **Manakin-Sabot,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Susan Conrad.

Cemetery Board

Charletta Barringer-Brown of **Chesterfield,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Enid Walker Butler.

Donald Wilson of **Roanoke,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Armistead W. Dudley.

Fair Housing Board

Amanda Buyalos of **Botetourt,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Amanda Christine Buyalos.

Stuart Gilchrist of **Goochland,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Tonya N. Hebbe.

Morton Marks III of **Moseley,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Linda R. Melton.

Real Estate Appraiser Board

Boyd T. Allison, Jr., of **Midlothian,** Virginia, Member, appointed on June 30, 2022, for a term of four years beginning May 3, 2022, and ending May 2, 2026, to succeed Fred E. Levine.

Mark R. Chapin of **Henrico,** Virginia, Member, appointed on June 30, 2022, for a term of four years beginning May 3, 2022, and ending May 2, 2026, to succeed himself.

Jean M. Gannon of **Powhatan County,** Virginia, Member, appointed on June 30, 2022, for a term of four years beginning May 3, 2022, and ending May 2, 2026, to succeed Edythe Frankel Kelleher.

Real Estate Board

Cavelle Mollineaux of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Mayra L. Pineda.

Anna Thronson of **McLean,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Candice C. Bower.

Virginia Board of Workforce Development

Cindy Free of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2024, to succeed Carrie Roth.

Don Haller of **Great Falls,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Julie Brown.

Hugh Joyce of **Montpelier,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

Fransisco Semiao of **Fairfax,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

Cheryl Spraberry of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

Virginia Manufactured Housing Board

Carey Allen of **Chesterfield,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed David C. Bridges.

Daniel McCormick of **James City County,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Shawna J. Cheney.

Robbie Rutherford of **Shipman,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Walter Cleaton.

Mark Sandkuhler of **Catharpin,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed John S. Montgomery.

LEGISLATIVE

Capital Square Preservation Council

Jamie Bosket of **Richmond,** Virginia, Member, appointed on June 6, 2022, for a term of four years beginning June 7, 2022, and ending June 6, 2026, to succeed Andrew Harris Talkov.

Virginia State Crime Commission

William Cleveland of **Alexandria,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed Lori H. Haas.

Robert Neira Tracci of **Albemarle,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed Larry D. Terry.

Patricia L. West of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed Larry D. Boone.

NATURAL AND HISTORIC RESOURCES

Alexandria Historical Restoration and Preservation Commission

Troy Magee Lyons of **Alexandria,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning August 1, 2022, and ending July 31, 2026, to succeed Taryn E. Anthony.

Penny Nance of **Alexandria,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning August 1, 2022, and ending July 31, 2026, to succeed Tiffany L. Pache.

Board of Conservation and Recreation

Chief Walt "Red Hawk" Brown of **Southampton County,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Nancy Hull Davidson.

Jim Cheng of **Charlottesville,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Clayton Lemonte Spruill.

Col. Eric A. Hoggard of **Fort Leavenworth, Kansas,** Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Patricia Anne Jackson.

Hunter Ihrmam of **Herndon,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Angela S. Henderson.

Jay Inge of **Roanoke,** Virginia, Member, appointed on July 1, 2022, for an unexpired term beginning July 1, 2020, and ending June 30, 2024, to succeed Vivek Shinde Patil.

Board of Historic Resources

Aimee Jorjani of **Falls Church,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed David. R. Ruth.

Board of Wildlife Resources

Jonathan Cooper of **Botetourt,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Karen A. Terwiliger.

George J. Terwilliger III of **Delaplane,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed William F. Adams.

Cave Board

Jason Carter of **Staunton,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Anthony R. Bessette.

Allen Louderback of **Luray,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Timothy Lindeman.

Soil and Water Conservation Board

Charles Newton of **Page,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Adam D. Wilson of **Abingdon,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Adam D. Wilson.

State Air Pollution Control Board

James Patrick Guy of **Saxe,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Gail Bush.

Jay Holloway of **Henrico,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Richard Dale Langford.

C. David Hudgins of **Henrico,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Joshua G. Behr.

State Water Control Board

Scott Cameron of **Alexandria,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed himself.

Jerry Kilgore of **Glen Allen,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Paula Jasinski.

Virginia Marine Resources Commission

Alan Erskine of **Weems,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed John Edward Zydron.

Lynn Kellum of **Reedville,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Carroll C. Ballard.

Virginia Museum of Natural History Board of Trustees

Thomas Benzing of **Augusta,** Virginia, Member, appointed on July 1, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed himself.

Nathan Sanford of **Roanoke,** Virginia, Member, appointed on July 1, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed himself.

Lauren Woodson of **Roanoke,** Virginia, Member, appointed on July 1, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed Michael Stephen Phillips.

Virginia Outdoors Foundation Board of Trustees

Elizabeth Copeland of **King William,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Raul E. Garcia Lopez.

V.B. "Tack" Richardson III of **Alexandria,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Thomas Slater.

Waste Management Board

Daniel Ciesla of **Midlothian,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Jeffrey Crate.

Jennifer Payne Johnson of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Eric K. Wallace.

PUBLIC SAFETY AND HOMELAND SECURITY

Advisory Committee on Juvenile Justice and Prevention

Stephanie M. Ayers of **Goodview,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Mary E. Langer.

Erik Conyers of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Victoria Baldwin.

Cecilia Gomez-Brown of **Mineral,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Lorenzo Collins.

Julianna Herbek of **Bristow,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Keith E. Farmer.

James Laster of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning on July 1, 2022, and ending June 30, 2026, to succeed Mary O'Brien.

Marie-Clare Matricardi of **Culpeper,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Nancy E. Campos.

Brooke Rudis of **Chesapeake,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Alana L. Corn.

Olivia Saunders of **Hanover,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Niyah White.

Alex White of **Luray,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Elaine G. Williams.

Criminal Justice Services Board

Mike Chapman of **Loudoun,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Robert Moiser.

Brian L. Hieatt of **Tazewell,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Paul Taylor.

Jeffrey S. Katz of **Chesterfield,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Kelvin L. Wright.

Renee Trent Maxey of **Prince Edward,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Patricia L. Smith.

William Smith of **Isle of Wight,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Anthony Williams of **Petersburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Carolyn W. Dull.

Scientific Advisory Committee

Randall Beaty of **Austin, Texas,** Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Christopher Bommarito of **San Diego, California,** Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Maureen Bottrell.

Marc Lebeau of **Fairfax,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Richard Meyers of **Herndon,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Secure and Resilient Commonwealth Panel

Daryl Borgquist of **Rockingham,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed Charles L. Werner.

James Calvert of **Moneta,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Karen R. Jackson.

Phillip Costin of **Nottoway,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed James Redick.

Michael Flynn of **Midlothian,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Michael L. Hamlar.

Tina Mapes of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Walter English.

Georgie Marquez-Andre of **Portsmouth,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed Aaron G. Hughs.

Jonathan Newmark of **Burke,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Andrew Ramsey.

Matthew P. Rhames of **Culpeper,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed Jonathan Newmark.

Marci Stone of **Bedford,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Michael Whiteaker of **Bristol,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to succeed John Lensey Bell.

State Board of Local and Regional Jails

Michael Carrera of **Manassas Park,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Bobby N. Vassar.

Tiffany Jenkins of **Gloucester,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Karen E. Nicely.

Anita M. Maybach of **Culpeper,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed heather S. Masters.

Christopher Strom of **Roanoke,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2024, to succeed Joanne M. Pena.

Amanda Trent of **Roanoke,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed John Anderson.

Virginia Fire Services Board

Walter Bailey of **Phenix,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Harry L. Day.

Keith Johnson of **Frederick,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Jess Rodzinka of **Fishersville,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed James Davis Poindexter.

Virginia Geographic Information Network Advisory Board

David Guynn of **Roanoke,** Virginia, Member, appointed on July 1, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed Margaret E. Montgomery.

Eric J. Maybach of **Fauquier,** Virginia, Member, appointed on July 1, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed Edgar J. Perrow.

Genaro Pedroarias of **Great Falls,** Virginia, Member, appointed on July 1, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed John C. Watkins.

Lawrence A. Presley of **Forest,** Virginia, Member, appointed on July 1, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed Hua Liu.

Dan Stell of **Fauquier,** Virginia, Member, appointed on July 1, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed Andy K Wells.

David Wells of **Chesapeake,** Virginia, Member, appointed on July 1, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed himself.

Clayton Wise of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed Elaine Roop.

Virginia Sexual and Domestic Violence Program Professional Standards Committee

Shel Bolyard-Douglas of **Fauquier**, Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to fill a new seat.

Judy Casteele of **Buena Vista,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

Cori Davis of **Amherst,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to fill a new seat.

Elvira De La Cruz of **Colonial Heights,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

Leonard Hall, Jr., of **Floyd,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

Tamytha Mann of **Giles,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

Teresa McKensie of **Radford,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to fill a new seat.

Jennifer Quitiquit of **Hanover,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to fill a new seat.

Heather Sellers of **Bedford,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

Michelle Strain of **Chincoteague,** Virginia, Member, appointed on July 1, 2022, for a term of three years beginning July 1, 2022, and ending June 30, 2025, to fill a new seat.

Ellen Wheeler of **Rockbridge,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to fill a new seat.

TRANSPORTATION

Aerospace Advisory Council

David Bowles of **Northampton County,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed himself.

Chris Goyne of **Charlottesville,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed himself.

Major General Roosevelt Mercer, Jr., of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed himself.

Thomas Michels of **Washington, D.C.,** Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed himself.

Michael Stoltzfus of **Bridgewater,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed himself.

Todd Yeatts of **Arlington,** Virginia, Member, appointed on July 1, 2022, for a term of two years beginning July 1, 2022, and ending June 30, 2024, to succeed himself.

Commonwealth Transportation Board

Darrell R. Byers of **Fluvanna,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Alison DeTuncq.

Burwell W. Coleman of **Norfolk,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

H. Randolph Laird of **Staunton,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Marty E. Williams.

Thomas Moore Lawson of **Winchester,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Stephen A. Johnsen.

Laura A. Sellers of **Stafford County,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Cedric B. Rucker.

Medical Advisory Board for the Department of Motor Vehicles

Susan R. DiGiovanni of **Midlothian,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Mark Sochor of **Charlottesville,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed himself.

Motor Vehicle Dealer Board

Charlie Barker of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026 David P. Duncan.

Thomas M. Bates of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Randall O. Harris.

Trevor Coley of **Mechanicsville,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Hamid Senior Saghafi.

Dennis Ellmer of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed himself.

David Lynn of **Richmond,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Larry Bailey.

Ronald Kody of **Rockville,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

Chris Maher of **Fairfax,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed himself.

Roman Robinson of **Richmond,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Elizabeth Myers Borches.

Nick Rush of **Blacksburg,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Mark Riblett.

Virginia Aviation Board

Randall Burdette of **Fredericksburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Derek M. Hardwick.

Cheryl McLeskey of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Maggie A. Ragon.

Virginia Passenger Rail Authority

John S. Delandro III of **Henrico,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2020, and ending June 30, 2023, to succeed Charles Moorman.

Patricia H. Doersch of **Falls Church,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed herself.

Thelma Drake of **Norfolk,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Deborah H. Butler.

Charlie Payne of **Fredericksburg,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Paul Nichols.

John Watkins of **Midlothian,** Virginia, Member, appointed on July 1, 2022, to serve an unexpired term beginning July 1, 2021, and ending June 30, 2025, to succeed Maria Zimmerman.

Virginia Port Authority Board of Commissioners

Shaza Andersen of **Great Falls,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed John Milliken.

Jim Burnett of **Newport News,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Joni Ivey.

Michael W. Coleman, Sr., of **Virginia Beach,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Louisa Maria Strayhorn.

John W. Kirk of **Roanoke,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Val. S. McWhorter.

VETERANS

Board of Veterans Services

Joe Campa of **Arlington,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed James O. Icenhour.

Jamie Inman of **Richmond,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Paige D. Cherry.

Carlton Kent of **Woodbridge,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Carl F. Bess.

Joint Leadership Council of Veterans Service Organizations

Ann L. Crittenden of **Stafford,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Judith Reid.

Jorge Ramos of **Great Falls,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to fill a new seat.

Veterans Services Foundation Board of Trustees

Brad Williamson of **Yorktown,** Virginia, Member, appointed on July 1, 2022, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed John Lesinski.

SENATE JOINT RESOLUTION NO. 277

Celebrating the life of Johnny Plummer Johnson.

Agreed to by the Senate, January 26, 2023
Agreed to by the House of Delegates, January 30, 2023

WHEREAS, Johnny Plummer Johnson, a devoted educator and a talented artist who touched countless lives in the Fredericksburg community through his mentorship and commitment to philanthropy, died on November 5, 2022; and

WHEREAS, a native of North Carolina, Johnny P. Johnson began to cultivate his passion for the arts at a young age; and

WHEREAS, Johnny P. Johnson graduated from Virginia State College, now Virginia State University (VSU), where he was the captain of the basketball team and was inducted into the VSU Sports Hall of Fame; he continued his education by earning a master's degree from Howard University, and he conducted other postgraduate studies at the Corcoran School of Art; and

WHEREAS, in 1959, Johnny P. Johnson relocated to the Fredericksburg area and began teaching sixth grade at Walker-Grant School, the city's first publicly funded school for Black students; and

WHEREAS, in addition to his work as a sixth-grade teacher, over the course of his career as an educator Johnny P. Johnson taught high school art, coached basketball, and served as an assistant principal for no additional compensation; and

WHEREAS, Johnny P. Johnson helped countless students achieve their fullest potential as an inspirational leader in and out of the classroom; during the 1960s, he played a critical role in the local civil rights movement; and

WHEREAS, Johnny P. Johnson also taught art at James Monroe High School, became the first Black faculty member at Mary Washington College, now the University of Mary Washington, in 1968, and later served as an adjunct professor of art at Germanna Community College; he retired from Fredericksburg City Public Schools in the 1990s; and

WHEREAS, Johnny P. Johnson opened an art studio on Charles Street in Fredericksburg and became a founding member of Art First Gallery, which is now the oldest continually operating art cooperative in the city; and

WHEREAS, Johnny P. Johnson motivated his fellow residents to cultivate their personal sense of artistic creativity and channel their abilities into outlets for positive community growth; he worked with inmates in Stafford County to help young men in need gain self-confidence and a better understanding of self-worth through art programs; and

WHEREAS, Johnny P. Johnson also volunteered his leadership and wise insights to the Fredericksburg Branch NAACP and various city organizations related to human rights and community relations; he also donated hundreds of thousands of dollars' worth of paintings to support community organizations; and

WHEREAS, Johnny P. Johnson expanded his outreach beyond the Commonwealth and created the Benin Art Support Project to enhance arts education in West Africa; and

WHEREAS, Johnny P. Johnson lived his faith through his actions and enjoyed fellowship and worship with the congregation of Shiloh Baptist Church (Old Site), where he served as a Sunday school teacher, superintendent and deacon; and

WHEREAS, among many awards and accolades over the course of his career, Johnny P. Johnson was selected as the Virginia Teacher of the Year in 1977, the first time an art teacher received the honor; and

WHEREAS, Johnny P. Johnson will be fondly remembered and greatly missed by numerous family members, friends, and former students; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Johnny Plummer Johnson, an artist, educator, and local legend among the members of the Fredericksburg community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Johnny Plummer Johnson as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 278

Celebrating the life of Mary Ann Cowan Baker.

Agreed to by the Senate, January 26, 2023
Agreed to by the House of Delegates, January 30, 2023

WHEREAS, Mary Ann Cowan Baker, a loving wife, mother, grandmother, and great-grandmother and a beloved member of the Richmond community, died on July 2, 2022; and

WHEREAS, the oldest of nine children, Mary Ann Cowan Baker's friendly and outgoing nature inspired laughter and joy everywhere she went and made a friend of every stranger; and

WHEREAS, Mary Ann Cowan Baker loved to sing for her children at home and before her congregation at church, filling the lives of all around her with the sweet and melodious sound of her voice; and

WHEREAS, Mary Ann Cowan Baker was active in the Richmond community, maintaining memberships with the Virginia Museum of Fine Arts, Lewis Ginter Botanical Garden, and the Windsor Farms Women's Garden Club; and

WHEREAS, Mary Ann Cowan Baker's greatest joy in life was spending time with her family, whether at her home in Richmond or her home on Gwynn's Island, taking particular delight in the games and hijinks that would transpire; and

WHEREAS, Mary Ann Cowan Baker and her husband, Glen, savored the twilight years of their lives by cruising on their yacht, The Two Honeys, and embarking on many adventures to Florida and other ports of interest; and

WHEREAS, guided by her faith throughout her life, Mary Ann Cowan Baker enjoyed worship and fellowship with her community at St. Bridget Catholic Church in Richmond for many years, and later at Saint Mary's Catholic Church, also in Richmond; and

WHEREAS, preceded in death by her first husband, James B. Cowan, Sr., and her second husband, Joseph Glenwood "Glen" Baker, Mary Ann Cowan Baker will be fondly remembered and dearly missed by her children, James, Jr., Catherine, Ryan, Mark, Mary Jo, and Sherryll Anne, and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Mary Ann Cowan Baker, a loving wife, mother, grandmother, and great-grandmother from Richmond, whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Mary Ann Cowan Baker as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 279

Commending the Honorable Mitchell I. Mutnick.

Agreed to by the Senate, January 26, 2023
Agreed to by the House of Delegates, January 30, 2023

WHEREAS, the Honorable Mitchell I. Mutnick retired as a judge of the Fairfax County General District Court of the 19th Judicial District of Virginia, after more than 18 years of outstanding service to the Commonwealth; and

WHEREAS, a graduate of American University, Mitchell Mutnick began his career as a budget analyst in the Congressional Budget Office while he was pursuing a law degree from what is now the Antonin Scalia Law School at George Mason University; and

WHEREAS, during that time Mitchell Mutnick helped develop innovative budget tracking systems and a computer-based system for tracking the expiration dates of sunset provisions in legislation; he also helped draft several publications on the federal budget process and was a lecturer on budget issues; and

WHEREAS, beginning in 1984, Mitchell Mutnick worked as an attorney in private practice; he participated in more than 100 jury trials and served as counsel to several hundred court-appointed cases prior to the creation of the public defender's office; and

WHEREAS, a trusted advocate for people in need, Mitchell Mutnick served as a court-appointed guardian to more than 30 incapacitated adults and was a guardian ad litem for 19 years; and

WHEREAS, Mitchell Mutnick subsequently established bankruptcy and domestic relations practices, as well as a title and escrow company that performed more than 200 transactions per year and later merged with a larger firm for whom he became legal counsel; and

WHEREAS, Mitchell Mutnick was appointed as a substitute judge in 2002 and was appointed as a judge of the Fairfax County General District Court in 2004; and

WHEREAS, Mitchell Mutnick presided over the court with great fairness and wisdom and implemented numerous programs that allowed the court to better serve the public; and

WHEREAS, Mitchell Mutnick helped create a tracking system to account for defendants that had been sent to Western State Hospital for mental health evaluations and ensure that their cases returned to the docket in a timely manner, a precursor to the current Compliance and Competency Docket in the Diversion First initiative; and

WHEREAS, Mitchell Mutnick created new procedures for pretrial review to limit the number of individuals who had been arrested and awaiting trial for four days or more during holiday weekends; he also created an advisement docket to ensure that defendants in driving while impaired (DWI) cases were either appointed an attorney or retained an attorney within two weeks of their arrest, reducing the average trial time by two months; and

WHEREAS, during the COVID-19 pandemic, Mitchell Mutnick obtained supplies and built protective barriers for clerks and staff members and developed procedures to facilitate safe reopening of the courts, including the use of video systems to facilitate communication between the courts and the local jail; and

WHEREAS, Mitchell Mutnick acquired funding for an Online Dispute Resolution pilot program for small claims court that allows litigants to communicate and resolve disputes online; the program significantly increased access to the justice system and is being considered statewide; and

WHEREAS, outside of his career, Mitchell Mutnick has mentored young people as a leader in local youth athletics programs and worked with the Mount Vernon Yacht Club to support programs benefiting the health of the Potomac River and the Chesapeake Bay; and

WHEREAS, Mitchell Mutnick has also served the nation for more than 40 years as an officer of the United States Coast Guard Auxiliary and has provided legal counsel, participated in search and rescue operations, and performed thousands of hours of maritime patrols; and

WHEREAS, Mitchell Mutnick served the Fairfax County community and the Commonwealth with the utmost dedication, integrity, and distinction, and he will seek new opportunities to enhance the quality of life in the region after his well-earned retirement; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable Mitchell I. Mutnick on the occasion of his retirement as a judge; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Mitchell I. Mutnick as an expression of the General Assembly's admiration for his personal and professional achievements.

SENATE JOINT RESOLUTION NO. 280

Commending Doreen Gentzler.

Agreed to by the Senate, January 26, 2023
Agreed to by the House of Delegates, January 30, 2023

WHEREAS, Doreen Gentzler, one of the most well-known and highly rated news anchors in the Washington, D.C., Metropolitan Area, retired in November 2022, completing a distinguished career in journalism of more than 40 years; and

WHEREAS, Doreen Gentzler spent part of her childhood in Arlington, then moved to South Carolina with her family at a young age; and

WHEREAS, Doreen Gentzler graduated from the Henry W. Grady College of Journalism and Mass Communication at the University of Georgia and began her career in journalism covering the Georgia State Legislature for Georgia Public Broadcasting; and

WHEREAS, Doreen Gentzler anchored television news programs in Tennessee, North Carolina, Ohio, and Pennsylvania before returning to the Washington, D.C. area as co-anchor of the weekday 6 p.m. and 11 p.m. editions of News4 on WRC-TV, also known as NBC4 Washington; and

WHEREAS, Doreen Gentzler served alongside local broadcasting legend Jim Vance, whom she had watched on the same station in her youth; the two anchors proved to be a perfect pairing, and they dominated local ratings during their 28 years together, often drawing more local primetime viewers than national networks CNN, Fox News, and MSNBC combined; and

WHEREAS, Doreen Gentzler's "News 4 Your Health" segments won numerous awards for their engaging coverage of medical breakthroughs and advances in health care; her reporting took her around the world to Ecuador, Bosnia, and the Persian Gulf, where she reported from a United States Navy hospital ship caring for American troops; and

WHEREAS, in 2014, Doreen Gentzler became the lead reporter for a station-wide project on mental health called "Changing Minds" that received local and national recognition for its in-depth reporting on issues related to mental illness; in addition, she led many community outreach programs for the station, including the NBC4 Health and Fitness Expo; and

WHEREAS, Doreen Gentzler and Jim Vance were one of the longest-tenured anchor teams in the country at the time of his passing in 2017; and

WHEREAS, Doreen Gentzler remained a trusted figure in local news and helped maintain high ratings for NBC4 Washington's evening and nightly news broadcasts with her new co-anchor, Jim Handly; and

WHEREAS, over the course of her distinguished career, Doreen Gentzler earned several Emmy awards for her writing, reporting, and anchoring; and

WHEREAS, after her well-earned retirement, Doreen Gentzler plans to travel and spend more time with her beloved family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Doreen Gentzler on the occasion of her retirement as a news anchor with NBC4 Washington; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Doreen Gentzler as an expression of the General Assembly's admiration for her contributions to journalism and her legacy of achievements.

SENATE JOINT RESOLUTION NO. 281

Commending Major General Vincent E. Falter, USA, Ret.

Agreed to by the Senate, January 26, 2023
Agreed to by the House of Delegates, January 30, 2023

WHEREAS, Major General Vincent E. Falter, USA, Ret., is a distinguished veteran of the United States Army who served the Commonwealth and the United States with the utmost dedication for 35 years; and

WHEREAS, Vincent Falter enlisted in the United States Army in 1953 during the Korean War and was commissioned as a second lieutenant after graduating from the Field Artillery Officer Candidate School at Fort Sill, Oklahoma; he served one tour of duty in Korea; and

WHEREAS, during the Vietnam War, Vincent Falter commanded the 2nd Battalion, 13th Field Artillery Regiment, held an assignment as a plans officer in the War Plans Division of the Office of the Deputy Chief of Staff for Operations and Plans (ODCSOPS) at the Pentagon, then returned to Vietnam, where he was attached to the 1st Cavalry Division; and

WHEREAS, Vincent Falter served as chief of staff of Task Force Shoemaker, which conducted the first official United States Army combat operation in Cambodia, then took command of the 2nd Battalion, 19th Field Artillery Regiment; and

WHEREAS, Vincent Falter returned to Washington, D.C., as executive officer of the Field Artillery Branch of the United States Army's Office of Personnel Operations, then transferred back to Fort Sill as a department director and later secretary of the Field Artillery School; and

WHEREAS, upon his promotion to colonel, Vincent Falter took command of the 75th Field Artillery Group at Fort Sill; he subsequently relocated to the Pentagon and became chief of the Firepower Division of the Force Development Directorate of the ODCSOPS where he directed the development of new cannon and missile artillery systems and was promoted to brigadier general; he then became director of the Nuclear and Chemical Directorate of ODCSOPS and concurrently commander of what was then the Army Nuclear and Chemical Agency; and

WHEREAS, Vincent Falter next deployed to Germany as commanding general of VII Corps Artillery, one of the largest nuclear-capable field artillery organizations in the world; and

WHEREAS, Vincent Falter finished his career as director of operations at what was then the Defense Nuclear Agency and as Deputy Assistant Secretary of Defense for Atomic Energy during the Reagan administration, then retired after 35 years of meritorious service; and

WHEREAS, over the course of his military career, Vincent Falter earned two Defense Distinguished Service Medals, the Army Distinguished Service Medal, four Bronze Stars, 16 Air Medals, and three Legion of Merit awards, as well as many other awards and decorations; and

WHEREAS, after his well-earned retirement, Vincent Falter settled in Madison County and became an active member of the community; he helped revitalize the local American Legion Post, supported young people by guiding the establishment of a local youth competitive shooting program, and was a devoted member of Our Lady of the Blue Ridge Catholic church; and

WHEREAS, Vincent Falter also led efforts to honor the life and legacy of Corporal Clinton Greaves, a former slave from Madison County, who had been presented the Medal of Honor for his service as a Buffalo Soldier during the Indian Wars, but whose accomplishments had been lost to history; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Major General Vincent E. Falter, USA, Ret., for his outstanding service to the Commonwealth and the nation; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Major General Vincent E. Falter, USA, Ret., as an expression of the General Assembly's admiration for his personal and professional achievements.

SENATE JOINT RESOLUTION NO. 282

Celebrating the life of the Reverend Carl Douglas Farmer.

Agreed to by the Senate, January 26, 2023
Agreed to by the House of Delegates, January 30, 2023

WHEREAS, the Reverend Carl Douglas Farmer, an accomplished spiritual leader and active and beloved member of the Madison community, died on September 28, 2022; and

WHEREAS, a graduate of what was then Pulaski High School, where he was an all-state quarterback, Carl "Doug" Farmer received a football scholarship to attend the University of North Carolina at Chapel Hill and graduated in 1957; and

WHEREAS, Doug Farmer subsequently studied at the Southeastern Baptist Theological Seminary and later in the School of Pastoral Care at what was then North Carolina Baptist Hospital and the Bowman Gray School of Medicine, where he completed an internship in pastoral counseling and hospital chaplaincy; and

WHEREAS, Doug Farmer provided uplifting and sagacious spiritual guidance to various congregations in different capacities over the years and was a source of comfort and strength to many; and

WHEREAS, Doug Farmer formerly held pastorships at First Baptist Church of Erwin in Erwin, North Carolina; Winter Park Baptist Church in Wilmington, North Carolina; and Plymouth Haven Baptist Church in Alexandria, and was a frequent speaker at revival meetings throughout the region; and

WHEREAS, Doug Farmer nurtured the growth and development of young people as a coach, including two years as head football coach and teacher at the former Hugh Morson High School in Raleigh, North Carolina, and the former South High School in Charlotte, North Carolina; and

WHEREAS, Doug Farmer had an outsized impact on the lives of young people and families in Madison County as a member of the Madison County School Board and as the founder and owner of Camp Shenandoah Springs, an independent, interdenominational Christian summer camp and retreat center visited by countless individuals and families since its founding in the early 1980s; and

WHEREAS, Doug Farmer gave generously of his time and talents through his involvement with various boards and organizations, including the Fellowship of Christian Athletes, local and state denominational boards, and the Wilmington Police Department; and

WHEREAS, Doug Farmer will be fondly remembered and dearly missed by his loving wife, Anne; his children, Mark, Beth, and Jeffrey, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Carl Douglas Farmer, a cherished member of the Madison community, whose legacy of service will inspire many for years to come; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Reverend Carl Douglas Farmer as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 283

Commending the Norfolk State University Spartan "Legion" Marching Band.

Agreed to by the Senate, January 26, 2023
Agreed to by the House of Delegates, January 30, 2023

WHEREAS, the Norfolk State University Spartan "Legion" Marching Band, one of the premier marching bands in the country, performed at the Tournament of Roses Parade in Pasadena, California, in 2023; and

WHEREAS, founded in 1975, the "Legion" has energized and entertained fans across the Commonwealth and nation for nearly a half-century; and

WHEREAS, the highly proficient musical numbers of the "Legion" are elevated by the band's regal attire and by the synchronicity and precision of its marching, which incorporates high-stepping, the rigid strut, the glide, and military style; and

WHEREAS, the various honors and accolades the "Legion" has earned over the years serve as testaments to the power of the band's performances and the "Spartan-like" discipline and devotion of its members; and

WHEREAS, the performance of the "Legion" in the 2023 Tournament of Roses Parade marked the program's first appearance at the storied and prestigious national event and was a source of great pride and jubilation for the Norfolk community; and

WHEREAS, in addition to the Tournament of Roses Parade, the "Legion" has performed at many high-profile events in recent years, including President Barack Obama's campaign rally in Norfolk and the Honda Battle of the Bands invitational showcase; and

WHEREAS, the "Legion" was notably the inaugural host of the annual Historically Black Colleges and Universities (HBCU) Band Battlefest, which showcases the top HBCU marching bands in the country; and

WHEREAS, the success of the "Legion" is the result of the leadership of band director William H. Beathea and the hard work and dedication of the band's 250 staff and student musicians, dancers, and flags; and

WHEREAS, the "Legion" promises to continue its tradition of excellence and its ever upward ascent to musical mastery, engendering tremendous respect and adulation among members of the communities of Norfolk State University, Norfolk, and the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Norfolk State University Spartan "Legion" Marching Band for its performance at the 2023 Tournament of Roses Parade in Pasadena, California; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to William H. Beathea, director of the Norfolk State University Spartan "Legion" Marching Band as an expression of the General Assembly's admiration for the band's achievements and best wishes in its future endeavors.

SENATE JOINT RESOLUTION NO. 284

Commending Chris Jenkins.

Agreed to by the Senate, January 26, 2023
Agreed to by the House of Delegates, January 30, 2023

WHEREAS, Chris Jenkins, a distinguished law-enforcement officer with more than 45 years of experience, retired as chief of the Culpeper Police Department on January 1, 2023; and

WHEREAS, after graduating from Culpeper County High School in 1977, Chris Jenkins joined the Culpeper Police Department as a dispatcher at the age of 18; two years later, he became a certified police officer and subsequently rose through the ranks, fulfilling numerous roles in the department; and

WHEREAS, prior to becoming chief, Chris Jenkins served as a commander of the Culpeper Police Department Operations Division, overseeing patrol units, special operations, the K-9 unit, and reserve officers; he also assisted with the development of the department's budget and conducted public relations activities; and

WHEREAS, Chris Jenkins guided the department as interim chief in 2001, 2007, and just before he was officially appointed as chief in 2010; and

WHEREAS, during his tenure as chief, Chris Jenkins built strong relationships based on trust and mutual respect with members of the public and implemented a community policing model, with an emphasis on less-lethal force and the use of body cameras; and

WHEREAS, Chris Jenkins served as executive chair of the Central Shenandoah Criminal Justice Training Academy and executive board member of the Blue Ridge Narcotics and Gang Task Force and was a member of other local task forces related to auto theft and insurance fraud; he also represented Culpeper County on the board of Rappahannock-Rapidan Community Services; and

WHEREAS, a respected leader in the field of law enforcement, Chris Jenkins was a member of the Virginia Association of Chiefs of Police and the International Association of Chiefs of Police; he graduated from the FBI National Academy with Session 218 and was a member of the FBI National Academy Alumni Association; and

WHEREAS, Chris Jenkins played a vital role in the creation and leadership of Team Jordan, a nonprofit organization that raises awareness of suicide prevention and provides support to survivors; and

WHEREAS, among many awards and accolades for his service, Chris Jenkins received the Advocacy Award from the Culpeper Witness/Victim Program for his work to ensure the rights and safety of people who have witnessed or been the victim of a crime; and

WHEREAS, Chris Jenkins served the Culpeper community and the Commonwealth with the utmost dedication, integrity, and distinction; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Chris Jenkins on the occasion of his retirement as chief of the Culpeper Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Chris Jenkins as an expression of the General Assembly's admiration for his exceptional service to the Culpeper community.

SENATE JOINT RESOLUTION NO. 285

Celebrating the life of Douglas William Rogers.

Agreed to by the Senate, January 26, 2023
Agreed to by the House of Delegates, January 30, 2023

WHEREAS, Douglas William Rogers, an honorable veteran, accomplished business executive, and beloved member of the Locust Grove community, died on September 10, 2022; and

WHEREAS, after attending Midlothian High School in Chesterfield County and the Virginia Polytechnic Institute and State University, Douglas "Doug" Rogers served his country with honor and distinction as a member of the United States Air Force; and

WHEREAS, following his time in the service, Doug Rogers earned a master's degree in business administration from Loyola University Maryland and embarked upon an illustrious 30-year career in the management division of IBM; and

WHEREAS, Doug Rogers lived throughout the country during his career and later settled in Orange County, where he took a leading role in the community, including as president of the Lake of the Woods Association and as chairman and interim director of the Germanna Community College Board of Directors; and

WHEREAS, Doug Rogers greatly fostered the prosperity of Orange County as president of the Orange County Chamber of Commerce, chairman of the Orange County Economic Development Authority, and facilitator for the Orange County East End Economic Development Group; and

WHEREAS, Doug Rogers was a dedicated advocate who was committed to his conservative values, serving nine years as chairman of the Orange County Republican Party; and

WHEREAS, beyond his family, Doug Rogers took immense joy in education, football, literature, woodworking, and cheering on the Dallas Cowboys and Virginia Tech sports teams; and

WHEREAS, guided through his life by his faith, Doug Rogers enjoyed worship and fellowship with his community at Lake of the Woods Church in Locust Grove for many years; and

WHEREAS, Doug Rogers will be fondly remembered and dearly missed by his high school sweetheart and loving wife of 59 years, Brenda; their children, Donna and Kelley, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Douglas William Rogers, a cherished member of the Locust Grove community whose strength, courage, resilience, and love for his family and country were an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Douglas William Rogers as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 287

Encouraging the Virginia Department of Veterans Services and the Virginia State Approving Agency to develop and implement new processes by which flight training and aircraft maintenance training schools in Virginia can adjust student for veterans pricing based on market conditions.

Agreed to by the Senate, February 6, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, since 1944, the GI Bill has helped qualifying veterans and their family members get money to cover all or some of the costs for school or training, including flight training; and

WHEREAS, flight training is considerably more expensive than most other funded training, which has historically attracted a small percentage of unscrupulous operators to target veterans by offering flight training in overly expensive aircraft or through deceptive financing scams; and

WHEREAS, to prevent abuse of veterans and misuse of U.S. Department of Veterans Affairs (VA) funds, the VA sought and was able to enact federal legislation to support review and control processes; and

WHEREAS, over time these control processes have become increasingly cumbersome and are now blocking legitimate aviation training opportunities from being available to the nation's veterans; to offer VA-funded training, a Virginia flight school must submit an application to the Virginia State Approving Agency (SAA) to gain approval for adding locations, adding training programs, or to change the rates they charge for their training services; the SAA reviews the application, then sends a letter to the VA with their determination and recommended approvals; and

WHEREAS, typically, the VA follows the SAA recommendations and issues a Web Enabled Approval Management System (WEAMS) document to the applying school; only at that time, may the school begin to train VA-funded students at a new location, offer training to VA-funded students in new programs, or begin to charge rates that they had been charging to non-VA funded patrons during the WEAMS approval process; and

WHEREAS, this approval process has traditionally taken between two and six months, or longer; and

WHEREAS, as a result of the COVID-19 pandemic and supply chain issues, all aspects related to operating a flight school have become more expensive, including the cost of fuel, parts for maintenance of aircraft, and other consumable supplies; and

WHEREAS, in addition to a pilot shortage, the United States is experiencing an equal shortage of aircraft maintenance technicians with Federal Aviation Administration aircraft and power frame (A&P) certifications; and

WHEREAS, all VA-approved flight schools in the Commonwealth are located near airline, charter, or military maintenance shops, and these maintenance facilities are feverishly attempting to recruit mechanics with A&P certification; mechanics holding this certification are also in great demand by non-aviation organizations, further depleting the available workforce to aviation facilities; and

WHEREAS, the current economic environment continues to drive industry costs up with no relief in sight; pricing changes occur as often as multiple times in the same week, based on both fuel, supply chain, and other market conditions, but VA-approved schools are contractually bound to charge only approved rates for VA-funded services; and

WHEREAS, the length of the VA and SAA approval process for price increases can make teaching VA-funded students unprofitable; the process is not reactive to existing market conditions, placing an undue burden on private sector schools and resulting in a loss of employment training opportunities for veterans; and

WHEREAS, most of the 66 public-use airports in the Commonwealth have at least one flight school at the airport, but counting the two university programs, there are only seven Virginia flight schools with approval to accept VA-funding; and

WHEREAS, the pilot and maintainer shortage is having a significant impact on the nation's ability to respond to and recover from shortages, and while veterans are a preferred source of pilots and maintainers for airlines and charter companies, the length of the VA and SAA approval process is continuously eroding flight training opportunities for veterans in the Commonwealth; and

WHEREAS, to address this critical issue, the VA and SAA should increase staffing to ensure timely approvals or establish rules that provide schools with the ability to adjust pricing based on a formula, as opposed to exact approved pricing; and

WHEREAS, such rules would reduce the excessive administrative burden involved with applying for WEAMS updates, increasing efficiency and allowing the SAA to reduce staffing required to approve pricing requests and processing of each WEAMS application, and random audits would ensure compliance with any such pricing formula; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Virginia Department of Veterans Services and the Virginia State Approval Agency be encouraged to develop and implement new processes by which flight training and aircraft maintenance training schools in Virginia can adjust student pricing for veterans based on market conditions; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit copies of this resolution to the Virginia Department of Veterans Services and the Virginia State Approval Agency, requesting that they further disseminate copies of this resolution to their respective constituents so that they may be apprised of the sense of the General Assembly of Virginia in this matter.

SENATE JOINT RESOLUTION NO. 288

Celebrating the life of Patricia Claire McGrady.

Agreed to by the Senate, February 2, 2023
Agreed to by the House of Delegates, February 6, 2023

WHEREAS, Patricia Claire McGrady of Springfield, a passionate advocate for social justice and a highly admired member of her community who brought joy to others through her boundless sense of adventure, died on October 11, 2022; and

WHEREAS, after graduating from Loyola University, Patricia "Pat" McGrady began her career as a market researcher for Proctor and Gamble, then worked as a first-grade teacher in Chicago; she subsequently worked for American Airlines

and as a hostess on the California Zephyr train before returning to education as dean and assistant dean of women for Quincy College, Loyola University, and DePaul University; and

WHEREAS, Pat McGrady worked at a ski resort in California while pursuing her master's degree in education, then worked as an administrator for a series of residential communities, serving children, the elderly, and people in need of mental health or disability support; and

WHEREAS, in 1974, Pat McGrady arrived in Northern Virginia, having lived at 19 previous addresses; she initially planned to stay for only a short period before moving on to Boulder, Colorado, but fell in love with the region and ultimately stayed for the rest of her life; and

WHEREAS, Pat McGrady joined the League of Women Voters shortly after arriving; she was a member for over 50 years and held numerous leadership positions in the organization for both the Arlington and Greenspring units; she became a passionate activist for racial and social justice in the region and took a special interest in advocacy for affordable housing; and

WHEREAS, Pat McGrady joined the Arlington Housing Corporation in 1975 and was inducted into the organization's hall of fame for her efforts to promote housing as a civil right and support community members in need; and

WHEREAS, in 1993, Pat McGrady further demonstrated her commitment to lifelong learning when she completed coursework to become a certified public accountant at Northern Virginia Community College and worked as an accountant for several companies; and

WHEREAS, Pat McGrady maintained her commitment to advocacy for affordable housing by serving as a board member of the Arlington Partnership for Affordable Housing, serving on the Arlington County Housing Commission, and as chair of the Arlington Community Housing Finance Corporation; and

WHEREAS, Pat McGrady finished her accounting career with Paradigm Companies, a real estate firm that collaborated with the Arlington Partnership for Affordable Housing to develop the 15-story Parc Rosslyn mixed-income apartment community, where she lived in later life; and

WHEREAS, Pat McGrady was an accomplished traveler and a dedicated amateur genealogist who relished every opportunity to bring her family together and share her lifetime of wisdom; and

WHEREAS, predeceased by her significant other of 38 years, Frank Haas, Pat McGrady will be fondly remembered and greatly missed by numerous friends and family members, including her beloved nieces and nephews; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Patricia Claire McGrady; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Patricia Claire McGrady as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 289

Celebrating the life of the Honorable John Spence Reid.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, the Honorable John Spence Reid, a longtime member of the House of Delegates who ably served the residents of Henrico County for 18 years, died on July 17, 2022; and

WHEREAS, John "Jack" Reid was born in Norfolk and lived in Suffolk, Emporia, and Chicago, Illinois, in his youth; he became a boarding student at St. Christopher's School in Richmond, where he excelled in athletics as a member of the basketball team and co-captain of the football team; and

WHEREAS, Jack Reid earned a bachelor's degree from Wofford College in South Carolina and a master's degree from the University of Virginia; he subsequently settled in Mechanicsville and began a career as a teacher and football coach at what is now Mechanicsville High School; and

WHEREAS, Jack Reid also coached football and track at the University of Richmond, bringing prestige to the university by helping to produce several world-class sprinters, marathoners, and decathlon competitors during his tenure; he proudly helped organize a unique series of track meets between athletes from the United States and the Soviet Union, a tremendous diplomatic achievement at the height of the Cold War; and

WHEREAS, Jack Reid guided Robious Middle School through a period of significant growth and change as principal, and he was highly admired as a passionate advocate for both teachers and students; he went on to partner with a fellow school administrator to manage both Henrico County Public Schools and Chesterfield County Public Schools; and

WHEREAS, in 1978, Jack Reid volunteered in the United States Senate campaign for the Honorable Richard D. Obenshain and ultimately became an active leader in the Virginia Republican Party, supporting countless statewide candidates before seeking office himself; and

WHEREAS, in 1989, Jack Reid defeated a longtime Democratic incumbent to become the first Republican to represent Henrico County in decades; he served nine terms until his retirement in 2008 and offered his leadership and expertise to several standing committees, including General Laws, of which he served as chair; and

WHEREAS, among many legislative achievements, Jack Reid brokered a compromise between environmental groups and energy executives and crafted landmark legislation, the Virginia Clean Smokestacks Act, to reduce emissions from smokestacks and improve air quality in the Commonwealth, for which he was recognized as Legislative Advocate of the Year by the American Lung Association of Virginia; he also focused on legislation to protect women and others from stalkers and domestic abuse; and

WHEREAS, a principled champion for limited government, Jack Reid supported fiscal responsibility and was often the only vote in opposition to otherwise unanimous legislation; and

WHEREAS, after his retirement as a state lawmaker, Jack Reid continued to provide his wise insights to many civic and service organizations; he served on the Board of the Alpha-1 Association in addition to the Virginia Leadership Board of the American Lung Association; and

WHEREAS, Jack Reid also enjoyed fellowship and worship with the community at West End Assembly of God church, where he was a member of the men's Bible study group and other ministries; and

WHEREAS, Jack Reid will be fondly remembered and greatly missed by his wife of 56 years, Judi; his children, John and Lisa, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable John Spence Reid; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable John Spence Reid as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 290

Celebrating the lives of Martha Louise Robey Derrick and Homer Edwin Derrick, Jr.

Agreed to by the Senate, February 2, 2023
Agreed to by the House of Delegates, February 6, 2023

WHEREAS, Martha Louise Robey Derrick and Homer Edwin Derrick, Jr., highly respected community leaders in Lexington and Rockbridge County, died on August 19, 2022, and September 5, 2022, respectively; and

WHEREAS, Martha Lou Derrick grew up in Buena Vista and graduated from the secondary school at Southern Seminary and Junior College; she continued her education at Hollins College, earning a bachelor's degree in fine arts; and

WHEREAS, Martha Lou Derrick worked as a child welfare advocate in Rockbridge County, then pursued her passion for the arts as an instructor of interior design and studio art at Southern Seminary and Junior College, where she served as a member of the board; and

WHEREAS, Martha Lou Derrick owned several local businesses over the years, most notably the College Town Shop, which served generations of students and residents alike; she played an active role in the establishment of CornerStone Bank in Lexington by assisting with the bank's interior design and subsequently hosting special events there; and

WHEREAS, Martha Lou Derrick also offered her leadership and expertise to Southern Virginia University, Project Horizon, and the Natural Bridge Garden Club, and she enjoyed fellowship and worship with the community as an active member of Lexington Presbyterian Church; and

WHEREAS, Homer "Buddy" Derrick was born in Columbia, South Carolina, and earned a bachelor's degree from the University of South Carolina, where he was a member of the United States Navy Reserve Officer Training Corps; and

WHEREAS, after serving his country as an officer in the United States Navy, Buddy Derrick settled in Lexington and worked at First National Bank before becoming the longtime owner and operator of Lexington Motor Sales; and

WHEREAS, Buddy Derrick was a trusted leader in the automobile sales industry, serving as president of the Virginia Automobile Dealers Association, director of the National Automobile Dealers Association, and treasurer of the NADA Charitable Foundation; and

WHEREAS, desirous to be of further service, Buddy Derrick ran for and was elected as mayor of Lexington and ably served the community from 1988 to 2000; among his many achievements as mayor, he oversaw the consolidation of Rockbridge County High School, helped establish the Virginia Horse Center, and created the Threshold program to acquire and rehabilitate homes for families in need; and

WHEREAS, Buddy Derrick also served as board chair of what is now Carilion Rockbridge Community Hospital and as president of the Lexington-Rockbridge Chamber of Commerce; and

WHEREAS, Martha Lou Derrick and Buddy Derrick enjoyed 52 happy years of marriage and were well known for their warmth, generosity, and Southern hospitality; they were accomplished travelers who visited several other countries through the Washington and Lee University Lifelong Learning program; and

WHEREAS, Martha Lou Derrick and Buddy Derrick will be fondly remembered and greatly missed by their six children, Beth, Lisa, Catherine, Beth, Clark, and Ellison, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Martha Louise Robey Derrick and Homer Edwin Derrick, Jr., pillars of the community in Lexington and Rockbridge County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Martha Louise Robey Derrick and Homer Edwin Derrick, Jr., as an expression of the General Assembly's respect for their memory.

SENATE JOINT RESOLUTION NO. 291

Commending students of the Old Dominion Association of Church Schools.

Agreed to by the Senate, February 2, 2023
Agreed to by the House of Delegates, February 6, 2023

WHEREAS, in April 2022, students of the Old Dominion Association of Church Schools representing the Commonwealth won the American Association of Christian Schools National Competition, the Old Dominion Association of Church Schools' 18th win at the competition in the past 20 years; and

WHEREAS, the American Association of Christian Schools (AACS) National Competition includes 76 categories related to the Bible, music, speech, art, and academics, with points awarded to the top three finishers in each category; and

WHEREAS, students of the Old Dominion Association of Church Schools competed against fellow high school students from more than 30 states in the 2022 AACS National Competition; and

WHEREAS, students from the Old Dominion Association of Church Schools tallied 60 points to bring home the 2022 AACS National Competition title, defeating the runner-up state by 19 points; and

WHEREAS, the Old Dominion Association of Church Schools holds the record for the most consecutive AACS national titles with 17 consecutive titles from 2003 to 2019; and

WHEREAS, students of the Old Dominion Association of Church Schools have won a total of 23 national titles in the 44 years of AACS competition history, meaning that students from the Commonwealth have won more titles than all other states combined; and

WHEREAS, students of the Old Dominion Association of Church Schools will defend their title from April 11-13, 2023, at Bob Jones University in South Carolina; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the students of the Old Dominion Association of Church Schools on winning the 2022 American Association of Christian Schools National Competition; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the students of the Old Dominion Association of Church Schools as an expression of the General Assembly's admiration for their legacy of national success.

SENATE JOINT RESOLUTION NO. 292

Commending the women's volleyball team of Richard Bland College of William and Mary.

Agreed to by the Senate, February 2, 2023
Agreed to by the House of Delegates, February 6, 2023

WHEREAS, the women's volleyball team of Richard Bland College of William and Mary won the National Junior College Athletic Association Division II national championship on November 19, 2022, at the Alliant Energy PowerHouse Arena in Cedar Rapids, Iowa; and

WHEREAS, in the first title game appearance in program history, the Richard Bland College Statesmen defeated the Scottsdale Community College Artichokes in a gripping five-set match with the scores of 26-24, 25-23, 22-25, 19-25, and 16-14; and

WHEREAS, after winning the first two sets and dropping the third and fourth sets, the Richard Bland Statesmen went toe-to-toe with the Scottsdale Artichokes in the final set; facing elimination with the score at 14-13 in Scottsdale's favor, the Statesmen rallied three points to seal the win; and

WHEREAS, the Richard Bland Statesmen's victory was a total team effort, led by standout performances from Karagyn Durco, who had 62 assists and 17 digs; Sarah Heath, Leilani Goggin, and Hailey Hopkins, with 17, 16, and 15 kills, respectively; and Silaulauinasimativa Aoelua, who notched 19 digs and four service aces; and

WHEREAS, in recognition of their accomplishments, Karagyn Durco was named tournament Most Valuable Player, Leilani Goggin and Hailey Hopkins earned All-Tournament honors, and Stephanie Champine was named Coach of the Tournament; and

WHEREAS, along with securing the program's first championship title, the Richard Bland Statesmen finished the season with an impressive 34-3 record, a remarkable start for head coaches Stephanie Champine and Shaun Dryden, who were in their first season with the program; and

WHEREAS, the success of the Richard Bland Statesmen is the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and professors, and the unwavering support of their families and the entire Richard Bland College community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the women's volleyball team of Richard Bland College of William and Mary for winning the 2022 National Junior College Athletic Association Division II national championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Stephanie Champine and Shaun Dryden, head coaches of the women's volleyball team of Richard Bland College of William and Mary, as an expression of the General Assembly's admiration for the team's achievement.

SENATE JOINT RESOLUTION NO. 293

Commending Rock Ridge High School Performing Arts.

Agreed to by the Senate, February 2, 2023
Agreed to by the House of Delegates, February 6, 2023

WHEREAS, Rock Ridge High School Performing Arts of Ashburn won the Virginia High School League Class 4 state championship on December 3, 2022, at Monticello High School in Charlottesville; and

WHEREAS, after achieving first place at the district and super-regional levels, Rock Ridge Performing Arts claimed the first state championship in program history with its production of "The Trench," a play by Oliver Lansley based on the true story of a miner who was trapped in a trench during World War I; and

WHEREAS, Rock Ridge Performing Arts saw its production's lead, A.J. Ruhnke, win one of three Outstanding Actor awards which helped to seal the program's historic win; and

WHEREAS, Rock Ridge Performing Arts developed its production in collaboration with the dual enrollment theatre class at Rock Ridge High School; the play was also presented at the Virginia Thespian Festival at Shenandoah University in January 2023; and

WHEREAS, the members of Rock Ridge Performing Arts were guided by the exceptional leadership of theatre director Anthony Cimino-Johnson, assistant director Rebekah Hess, and technical director Peter Johnson; and

WHEREAS, the success of Rock Ridge Performing Arts is the result of the hard work and dedication of the student actors and stage technicians, the leadership and guidance of their directors and teachers, and the unwavering support of their families and the entire Rock Ridge High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Rock Ridge High School Performing Arts for winning the 2022 Virginia High School League Class 4 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Anthony Cimino-Johnson, director of Rock Ridge High School Performing Arts, as an expression of the General Assembly's admiration for the program's achievements.

SENATE JOINT RESOLUTION NO. 294

Celebrating the life of Martin L. Williams.

Agreed to by the Senate, February 2, 2023
Agreed to by the House of Delegates, February 6, 2023

WHEREAS, Martin L. Williams, a dedicated law-enforcement officer and a highly admired community leader in Chesapeake, died on December 1, 2022; and

WHEREAS, a proud, lifelong resident of Chesapeake, Martin "Marty" Williams graduated from Western Branch High School, where he supported his classmates as the school mascot, Barney Bruin; and

WHEREAS, after graduation, Marty Williams fulfilled his longtime dream to protect and serve the community as a law-enforcement officer when he joined the Chesapeake Police Department; and

WHEREAS, over the course of his 25-year career, Marty Williams served as a patrol officer, a detective, and a sergeant, and in recognition of his outstanding achievements, he was selected as the Officer of the Year in 1984; and

WHEREAS, during his time as a detective, Marty Williams solved a high-profile murder case that became the subject of a book, was featured in two true crime television series, and will be covered with a special on CNN; and

WHEREAS, Marty Williams was a member of Fraternal Order of Police Chesapeake Lodge No. 9 and served as treasurer and president of the Fraternal Order of Police Virginia State Lodge after his retirement as a police officer; and

WHEREAS, desirous to be of further service to the community, Marty Williams worked to enhance the quality of life in the region as a member of the Chesapeake Planning Commission for 11 years; he also served as the president and chair of the Virginia Charitable Gaming Council, overseeing more than $1 million of donations to worthy causes; and

WHEREAS, Marty Williams was a passionate volunteer for many civic organizations and fundraisers; in later years he became president of a local animal shelter, Reba's Rescue; and

WHEREAS, Marty Williams enjoyed fellowship and worship with the community as a member of New Creation United Methodist Church, to which he generously provided technical support; and

WHEREAS, Marty Williams will be fondly remembered and greatly missed by his wife of 28 years, Kathy; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Martin L. Williams; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Martin L. Williams as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 295

Commending George Stone.

Agreed to by the Senate, February 2, 2023
Agreed to by the House of Delegates, February 6, 2023

WHEREAS, George Stone is a native Virginian and esteemed pitmaster whose accomplishments in major barbecue competitions, appearances on national television, and success as a restaurateur and mentor have earned him acclaim the world over; and

WHEREAS, George "Tuffy" Stone began his culinary career in the 1980s with training in French culinary technique at the former La Maisonette in Richmond, where he became sous chef and eventually partner, developing exacting methods and techniques that would lead him to be dubbed "the Professor"; and

WHEREAS, in the early 1990s, Tuffy Stone and his wife, Leslie, started a catering company, A Sharper Palate, which for the past three decades has successfully provided exceptional service at events throughout the Greater Richmond area; and

WHEREAS, Tuffy Stone's passion for barbecue was kindled in 2004 after he attended his first barbecue competition and, with great patience and persistence, he and his team, Cool Smoke, which included his father, George Stone, Sr., honed an approach to barbecue that would make them one of the winningest teams on the circuit; and

WHEREAS, demonstrating exceptional prowess at the pit, Tuffy Stone and Cool Smoke earned grand champion titles in nearly every major barbecue competition, including the American Royal World Series of Barbecue in 2014, the Kingsford Invitational in 2015, the Jack Daniel's World Championship Invitational Barbecue, where he earned the title a record-breaking three times in 2013, 2015, and 2016, and the Memphis in May International Festival in 2019; and

WHEREAS, as a reflection of the value of his opinion among connoisseurs of great barbecue, Tuffy Stone was selected to appear on Destination America's *BBQ Pitmasters* as both a judge and co-host over several seasons of the show; and

WHEREAS, Tuffy Stone established and formerly owned a chain of restaurants named Q Barbeque in Glen Allen and Midlothian to share his award-winning barbecue with the public and his adoring fans; and

WHEREAS, Tuffy Stone has generously served as a mentor to many aspiring pitmasters and chefs through classes, online tutorials, programs throughout the world, and his cookbook, *Cool Smoke: The Art of Great Barbecue*; and

WHEREAS, a former member of the United States Marine Corps, Tuffy Stone was honored to have the opportunity to travel to Kuwait to cook for troops stationed there; and

WHEREAS, in 2018, Tuffy Stone was inducted into the Barbecue Hall of Fame at the American Royal in recognition of his longstanding success and influence in the world of barbecue; also in 2018, in addition to dates in 2016 and 2017, he was a guest chef at the James Beard House in New York City; and

WHEREAS, Tuffy Stone's reputation as a sage of smoke has garnered him prestige throughout the Commonwealth and serves as an inspiration to all Virginians; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend George Stone, honored pitmaster and chef of Richmond, for his accomplishments in the art of barbecue; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to George Stone as an expression of the General Assembly's admiration for his achievements and for his contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 298

Commending the Rappahannock-Rapidan Regional Commission.

Agreed to by the Senate, February 2, 2023
Agreed to by the House of Delegates, February 6, 2023

WHEREAS, in 1966, the General Assembly created the Metropolitan Areas Study Commission, also known as the Hahn Commission, which found that a holistic approach to solving local and regional problems needed to be taken; the commission recommended a new concept, the creation of planning district commissions and service district commissions; and

WHEREAS, the Virginia Area Development Act passed in 1968, revised and retitled the Regional Cooperation Act in 1995, creating the planning district commission framework "to encourage and facilitate local government cooperation and state-local cooperation in addressing, on a regional basis, problems of greater than local significance"; and

WHEREAS, the Rappahannock-Rapidan Regional Commission serves Planning District 9, which includes the Counties of Culpeper, Fauquier, Madison, Orange, and Rappahannock and the Towns of Culpeper, Gordonsville, Madison, Orange, Remington, The Plains, Warrenton, and Washington; and

WHEREAS, the Rappahannock-Rapidan Regional Commission held its first meeting on January 16, 1973, and has successfully promoted opportunities for regional collaboration for 50 years; and

WHEREAS, the Rappahannock-Rapidan Regional Commission serves its member localities by providing professional planning and technical resources, a concerted approach to regional cooperation, planning assistance with program delivery, and a forum for the interaction of appointed and elected officials and citizen members; and

WHEREAS, the Rappahannock-Rapidan Regional Commission serves as a liaison between local and state governments, partnering with the Commonwealth to implement state initiatives at the local and regional levels; and

WHEREAS, the Rappahannock-Rapidan Regional Commission and its partners have worked on numerous projects impacting the region in the areas of agricultural development, environmental planning, transportation planning and coordination, regional tourism, criminal justice planning, housing development and services for the homeless, hazard mitigation planning, and regional growth issues; and

WHEREAS, the Rappahannock-Rapidan Regional Commission takes great pride in its 50 years of achievements, while recognizing the importance of looking ahead to the challenges of the future and expanding the types of services it provides to its member jurisdictions; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Rappahannock-Rapidan Regional Commission for the many important programs and services it has provided to the region on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Rappahannock-Rapidan Regional Commission as an expression of the General Assembly's admiration for the vital support provided by the commission to its member local governments and service to the Commonwealth and its residents.

SENATE JOINT RESOLUTION NO. 299

Commending the Honorable William J. Minor, Jr.

Agreed to by the Senate, February 2, 2023
Agreed to by the House of Delegates, February 6, 2023

WHEREAS, the Honorable William J. Minor, Jr., a judge of the Fairfax General District Court of the 19th Judicial District of Virginia, has ably served the residents of Northern Virginia and the Commonwealth as an attorney and a judge for four decades; and

WHEREAS, William Minor received his primary and secondary education in the Arlington County Public Schools and graduated from Washington-Lee High School; and

WHEREAS, William Minor attended the Virginia Military Institute (VMI), graduating with a bachelor's degree in history and an officer's commission in the United States Air Force; and

WHEREAS, after graduation from VMI, William Minor was selected to attend Undergraduate Pilot Training (UPT) at Laughlin Air Force Base in Del Rio, Texas, where he mastered the art and science of flying the T-37 and T-38 jet trainers, and from which he graduated and received the silver wings of a United States Air Force pilot; and

WHEREAS, William Minor successfully qualified as a co-pilot on the C-130 Hercules, and proudly flew as an air crew member with the 36th Tactical Airlift Squadron in support of its worldwide mission, primarily in Central America, South America, and the Caribbean, and later with the 37th Tactical Airlift Squadron in support of American and NATO forces in Europe; and

WHEREAS, William Minor was honorably discharged from the United States Air Force with the rank of captain, then earned a law degree from what is now the Antonin Scalia Law School at George Mason University; and

WHEREAS, William Minor began his legal career as an Assistant Commonwealth's Attorney for Fairfax County under the Honorable Robert F. Horan, Jr.; during his time in that office, William Minor prosecuted almost every type of crime, from traffic infractions to murder, including well over 100 jury trials; and

WHEREAS, in the years following his service in the Commonwealth's Attorney's Office, William Minor continued to practice trial law in both civil and criminal cases, with particular emphasis in personal injury litigation; it was during this period that he was appointed as a substitute judge by the Circuit Court of Fairfax County, and subsequently served actively for nine years in that capacity in both General District Courts and Juvenile and Domestic Relations Courts in Northern Virginia; and

WHEREAS, William Minor was appointed as a judge of the General District Court of the 19th Judicial District of Virginia in 2003, and in the 20 years since has served the court as a trial judge as well as in a number of other capacities,

including providing supervision of the Mental Commitment Hearing Process and as the supervising judge of the Criminal Division of the Fairfax County General District Court; and

WHEREAS, a man of great integrity, William Minor has served the Commonwealth with the utmost dedication and distinction, and after his well-earned retirement, he plans to continue serving as a recall judge; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable William J. Minor, Jr., on the occasion of his retirement as a judge; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable William J. Minor, Jr., as an expression of the General Assembly's admiration for his decades of service to the Commonwealth.

SENATE JOINT RESOLUTION NO. 300

Commending the Virginia Academy of Science.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, the Virginia Academy of Science, an organization dedicated to promoting the advancement of science in the Commonwealth, celebrates its 100th anniversary in 2023; and

WHEREAS, the science community of the Commonwealth founded the Virginia Academy of Science in 1923, with its first meeting being held at The College of William and Mary; and

WHEREAS, the early members of the Virginia Academy of Science sought to expand communication and cooperation across the Commonwealth among all branches of science and mathematics; and

WHEREAS, the Virginia Academy of Science helped to establish Virginia State Parks in 1936, fostering greater opportunities for individuals and families to enjoy the natural wonders of the Commonwealth; and

WHEREAS, the Virginia Academy of Science created the Junior Academy of Science in 1940 to promote and expand science education and research experiences for all middle and high school students; and

WHEREAS, the Virginia Academy of Science helped to establish the Science Museum of Virginia in 1970, creating a world-class institution where individuals and families could explore scientific concepts and ideas; and

WHEREAS, for the past 100 years, the Virginia Academy of Science has advised the Commonwealth's governors, legislators, and citizens; and

WHEREAS, the Virginia Academy of Science continues to fund scientific research for the good of our society, for the education of our students, and for the improvement of knowledge in the areas of science and mathematics; and

WHEREAS, the Virginia Academy of Science continues to pursue its mission to maintain in the Commonwealth an association for science across all branches and disciplines, including for scientific education and research; and

WHEREAS, the Virginia Academy of Science will celebrate its centennial during its annual meeting in May 2023 at The College of William and Mary; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Virginia Academy of Science on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Academy of Science as an expression of the General Assembly's admiration for the organization's history and its contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 301

Commending Joan Trumpauer Mulholland.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Joan Trumpauer Mulholland of Arlington played an iconic role in the civil rights movement as a prominent white member of numerous sit-ins, protests, and other historic events, enduring great personal hardship to stand up for equality and social justice; and

WHEREAS, a lifelong resident of Arlington, Joan Mulholland graduated from Annandale High School and attended Duke University, where she joined other students in demonstrations for civil rights; in the early 1960s, she joined the Nonviolent Action Group, an affiliate of the Student Nonviolent Coordinating Committee at Howard University in Washington, D.C.; and

WHEREAS, a passionate supporter of equality for all individuals as a matter of both faith and principle, Joan Mulholland participated in sit-ins in Virginia, Maryland, and South Carolina and faced ostracism from her community for her actions; and

WHEREAS, in 1961, Joan Mulholland joined a group of Freedom Riders from Washington, D.C., who flew to New Orleans, Louisiana, and then rode a train to Jackson, Mississippi; she was arrested and sent to Parchman Farm Penitentiary, where she served a two-month sentence; and

WHEREAS, after being released from prison, Joan Mulholland became the first white student to enroll at Tougaloo College, a historically Black institution in Mississippi, in an effort to promote racial integration in higher education; and

WHEREAS, in May 1963, Joan Mulholland was a participant in the Woolworth's lunch counter sit-in in Jackson, Mississippi and helped organize the March on Washington for Jobs and Freedom later that year; she subsequently worked on the early stages of Freedom Summer, a campaign in 1964 to encourage African Americans to register to vote, and was a member of the Selma to Montgomery March in 1965 and the March Against Fear in 1966; and

WHEREAS, Joan Mulholland ultimately participated in more than 50 demonstrations and sit-ins, drawing the ire of the Ku Klux Klan, which marked her for assassination; and

WHEREAS, Joan Mulholland later returned to Arlington to raise her five children; she worked in the Smithsonian Institution, the U.S. Department of Commerce, and the U.S. Department of Justice, before pursuing a fulfilling 30-year career as an elementary school teacher's assistant; and

WHEREAS, Joan Mulholland's story has been immortalized in award-winning documentaries, such as *An Ordinary Hero*, directed by her son, Loki, and in books by noted historians, such as *Breach of Peace* and *We Shall Not Be Moved*; she has appeared on national television programs and in magazines and newspapers and is a frequent speaker at local universities, charitable events, and meetings; and

WHEREAS, among awards and accolades for her work, Joan Mulholland has earned the Award of Honor from Delta Sigma Theta Sorority, Inc., the Heroes Against Hate Award from the Anti-Defamation League, the National Civil Rights Museum Freedom Award, the International Civil Rights Museum Trailblazer Award, and the Simeon Booker Award for Courage; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Joan Trumpauer Mulholland for her inimitable role in the civil rights movement of the 1960s and her ongoing commitment to educating others about equality and advocating for social justice; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Joan Trumpauer Mulholland as an expression of the General Assembly's admiration for her achievements during the civil rights movement and her contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 302

Celebrating the life of William Henry Gill.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, William Henry Gill, an esteemed public servant who was serving as mayor and town manager of the Town of La Crosse at the time of his passing, died on December 31, 2022; and

WHEREAS, a native of Lunenburg County, William "Billy" Gill worked for the Electrical Equipment Company in South Hill and later made his home in the Town of La Crosse; and

WHEREAS, Billy Gill had proudly served the Town of La Crosse since 2010, starting as a member of the La Crosse Planning Commission and Town Council, then taking the reins as mayor a few years later and ultimately acting in the capacity of both mayor and town manager; and

WHEREAS, Billy Gill's devotion to the Town of La Crosse was evident to all who knew him, and he worked tirelessly to help the town grow and develop and to support its citizens and employees; and

WHEREAS, for nearly 40 years, Billy Gill dedicated himself to the well-being and safety of his community as a member of the Southside Rescue Squad (SSRS), serving as a shock trauma tech and as one of the founding members of the SSRS dive team; and

WHEREAS, in recognition of his many years of service, Billy Gill was presented the Harvey Drew Crowder Memorial Award by the SSRS in 2010; and

WHEREAS, Billy Gill will be fondly remembered and dearly missed by his loving wife of 23 years, Julie Lynn; his children, Chris and Laure, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of William Henry Gill, a cherished member of the La Crosse community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of William Henry Gill as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 303

Celebrating the life of Nancy Hersch Ingram.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Nancy Hersch Ingram, an accomplished visual artist, influential advocate for historic preservation and the arts, and beloved member of the Manassas community, died on April 14, 2022; and

WHEREAS, a lifelong resident of Northern Virginia, Nancy Hersch Ingram grew up in Old Town Alexandria, where she developed her passion for design and historic buildings while walking among the area's 18th-century townhouses; and

WHEREAS, after graduating from the former George Washington High School in Alexandria, Nancy Hersch Ingram attended the former Abbott School of Fine and Commercial Art in Washington, D.C., and Northern Virginia Community College before ultimately earning a master of fine arts degree from American University; and

WHEREAS, in her 20s, Nancy Hersch Ingram produced her first portrait of a high-profile persona when she painted the likeness of Secretary of the Treasury Robert B. Anderson, a painting that today is in the collection of the Smithsonian National Portrait Gallery in Washington, D.C.; and

WHEREAS, Nancy Hersch Ingram was skilled in mixed media, printmaking, drawing, monoprint, and sculpture, and her life as an artist brought her into the circles of many famous individuals of the day and led to adventures around the world; and

WHEREAS, in addition to the Smithsonian National Portrait Gallery, Nancy Hersch Ingram's works may be found in the collections of the National Museum of Women in the Arts, the U.S. Department of the Treasury, and other public and corporate collections, as well as on display internationally in Moscow, Russia, and Montecatini Terme, Italy; and

WHEREAS, Nancy Hersch Ingram was a leading figure in the preservation of historic homes in Manassas, serving as an inaugural appointee and vice chairman of the City of Manassas Architectural Review Board, supporting the creation of the City of Manassas Historic District Handbook, and acting as a consultant for several restoration projects in the area; and

WHEREAS, Nancy Hersch Ingram advocated effectively for the arts as a member of the advisory board for the Manassas Ballet Theatre, the board of directors for the Center for the Arts of Greater Manassas and Prince William County, the national advisory board for the National Museum of Women in the Arts, and the board for ARTfactory in Manassas; and

WHEREAS, Nancy Hersch Ingram's service also included her efforts as a member of the Board of Visitors at Wake Forest University and on the advisory board for George Mason University's Science and Technology Campus in Manassas; and

WHEREAS, preceded in death by her first husband, Harold Harley Hersch, and their children, Marc and Leisa, and her second husband, James Berkley Ingram, Jr., Nancy Hersch Ingram will be fondly remembered and dearly missed by her sons, Huntly and Stephen; stepdaughters, Jane Berkley, Priscilla, and Jody; stepsons, John and Shea; goddaughter Diandra; godson Gary; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Nancy Hersch Ingram, a treasured member of the Manassas community whose legacy as an artist and as an advocate for historic preservation and the arts continues to inspire countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Nancy Hersch Ingram as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 304

Commending Brian Hricik.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Brian Hricik, deputy chief of emergency medical services with the Alexandria Fire Department, who has served his community admirably for many years, retired on February 1, 2023; and

WHEREAS, Brian Hricik began his emergency medical services (EMS) career as a volunteer in Prince William County and was later hired by the Alexandria Fire Department on April 8, 1997; and

WHEREAS, over two and a half decades, Brian Hricik proved himself an outstanding EMS leader, clinician, and educator, as well as a fierce advocate for developing and maintaining a high-performing EMS system; and

WHEREAS, Brian Hricik demonstrated a strong knowledge of EMS protocols and an extraordinary ability to care for his patients, doing so with professionalism, compassion, and empathy; and

WHEREAS, during his tenure with the Alexandria Fire Department, Brian Hricik served as an instructor for continuing education classes and other activities, contributing greatly to the success of the department's next generation of EMS technicians; and

WHEREAS, always seeking to improve, Brian Hricik was actively involved with the quality assurance and quality improvement (QA/QI) committee in his department; as a result of his dedication, he was promoted to field supervisor in 2002; and

WHEREAS, as an EMS field supervisor, Brian Hricik was engaged in being shift manager and had the daily operations of six units under his command, requiring regular coordination with other divisions within the fire department, city agencies, area hospitals, and other allied health professionals; and

WHEREAS, as a field supervisor, Brian Hricik was assigned to the Alexandria Fire Department's training academy, where he coordinated continuing education unit classes and recruit academies; and

WHEREAS, in 2007, Brian Hricik became the EMS operations manager, a role he quickly grew into as the overall leader for the department's EMS division; during his tenure, he would implement many processes to ensure a fair and consistent

QA/QI process, constantly following the science and data to ensure that the providers on the streets had the necessary tools to perform at the highest level and to ensure that the latest protocols were followed; and

WHEREAS, Brian Hricik worked with city partners on various endeavors, including to foster an initiative where all advanced life support providers were trained in the Crisis Intervention Team program, to collect and evaluate data, to develop strategies to combat the opioid crisis, and to implement the Alexandria Fire Department's simulation lab, where providers could be challenged to address real-life scenarios; and

WHEREAS, Brian Hricik was not only actively engaged in running Alexandria's EMS system, but also supported EMS at the regional and state levels through participation in the Metropolitan Washington Council of Governments' EMS Subcommittee and as a member of the Northern Virginia EMS Council, which he joined in 2007 and previously served as president; and

WHEREAS, in 2010, Brian Hricik received a gubernatorial appointment to serve on the State EMS Advisory Board, which he served until 2013, to include as a member of the board's Provider Health and Safety Committee; and

WHEREAS, Brian Hricik most recently served as president of the Virginia Association of Governmental EMS Administrators, completing his term in November 2022; and

WHEREAS, Brian Hricik's unwavering commitment to providing the highest level of patient care and forging the best EMS available for the Alexandria Fire Department, the Northern Virginia region, and the Commonwealth is exemplified in all aspects of his work as a system leader; and

WHEREAS, Brian Hricik's primary goal is to continue moving the EMS community forward while advocating for its providers; in recognition of his efforts, the Northern Virginia EMS Council presented him its regional award for Outstanding EMS Leadership in 2022; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Brian Hricik, deputy chief of emergency medical services with the Alexandria Fire Department, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Brian Hricik as an expression of the General Assembly's appreciation for his exemplary service and best wishes in his future endeavors.

SENATE JOINT RESOLUTION NO. 305

Celebrating the life of the Honorable Aston Donald McEachin.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, the Honorable Aston Donald McEachin, a former member of the House of Delegates and the Senate of Virginia who represented the residents of Central Virginia in the United States House of Representatives for three terms, and a trailblazing leader who inspired others through his determination and passion for public service, died on November 28, 2022; and

WHEREAS, the child of a military family, Donald McEachin was born in Nuremberg, Germany, and briefly lived in Italy before settling in the Richmond area; he graduated from St. Christopher's School, where he was a member of the basketball team, and subsequently earned a bachelor's degree from American University and a law degree from the University of Virginia School of Law; and

WHEREAS, in 1990, Donald McEachin cofounded the law firm McEachin and Gee, now known as the Gee Law Firm, and enjoyed a long and fulfilling career as a personal injury attorney; and

WHEREAS, desirous to be of further service to the community, Donald McEachin ran for and was elected to the House of Delegates in 1995 and ably represented the residents of the 74th District until 2002; though ultimately unsuccessful, he made history in 2001 as the first Black American to run as a major party's nominee for attorney general in Virginia; and

WHEREAS, Donald McEachin returned to the House of Delegates for one additional term representing the 74th District again from 2006 to 2008, then continued his service to the Commonwealth as a member of the Senate of Virginia representing the 9th District from 2008 through the end of 2016, when he became the third-ever Black American from Virginia elected to the United States House of Representatives; and

WHEREAS, as the representative for the 4th Congressional District from 2017 until the time of his passing, Donald McEachin served the residents of 15 cities and counties in Central Virginia, including all of Richmond, parts of Henrico County and Chesterfield County, and the Tri-Cities; and

WHEREAS, Donald McEachin introduced and supported many important pieces of legislation to enhance the lives of Virginians and people around the country; he was a champion for human rights, affordable health care, environmental justice, reproductive rights, and economic equality; and

WHEREAS, among his many achievements, Donald McEachin helped preserve and restore Black cemeteries through the African American Burial Grounds Preservation Act; due to his successful efforts, Fort Lee will be renamed as Fort Gregg-Adams after Lieutenant General Arthur J. Gregg and Lieutenant Colonel Charity Adams Earley, two prominent Black members of the United States Armed Forces; and

WHEREAS, during his tenure in the House of Representatives, Donald McEachin offered his leadership and expertise to the Committee on Energy and Commerce, the Committee on Natural Resources, the Select Committee on the Climate Crisis, and the Armed Services Committee; and

WHEREAS, Donald McEachin earned the admiration of his colleagues as a humble, principled, and deeply dedicated legislator; he strove to build bipartisan consensus and respect and served the Commonwealth and the nation with the utmost dignity, integrity, and distinction; and

WHEREAS, Donald McEachin volunteered his leadership to many other civic and service organizations; he was a life member of Kappa Alpha Psi Fraternity, Inc., and the NAACP; and

WHEREAS, in 2014, Donald McEachin underwent treatment for colorectal cancer and struggled courageously with secondary effects from the disease until his passing; he encouraged others to be vigilant about cancer detection and learn more about early diagnosis and treatment; and

WHEREAS, Donald McEachin lived his devout faith through his compassionate actions; he held a master's degree in divinity from the Samuel DeWitt Proctor School of Theology at Virginia Union University and enjoyed fellowship and worship with the community at Ebenezer Baptist Church in Beaverdam; and

WHEREAS, Donald McEachin will be fondly remembered and greatly missed by his wife, Colette; his children, Mac, Briana, and Alexandra, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Aston Donald McEachin, a consummate public servant who touched countless lives in the Richmond region and throughout the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Aston Donald McEachin as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 306

Commending the Columbia Gas of Virginia's NiVets.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, the Columbia Gas of Virginia's NiVets consists of employees who are currently serving or have served in the United States Armed Forces and who remain committed to enhancing their communities through generous outreach; and

WHEREAS, the Columbia Gas of Virginia's NiVets (NiVets) is one of several of Columbia Gas's employee resource groups; the group enlightens and empowers veterans and their supporters to build strong partnerships and seek opportunities to enhance the quality of life of their friends and neighbors through good community stewardship; and

WHEREAS, NiVets is organized into regional chapters and participates in community service efforts focused on veterans' issues that impact individuals and communities; and

WHEREAS, NiVets coordinated a care package drive for deployed troops in the Virginia Army National Guard unit in Lynchburg; and

WHEREAS, NiVets has a tradition of supporting two women's shelters, Project Horizon in Lexington and New Directions in Staunton, during the organizations' annual Thanksgiving celebrations; during the COVID-19 pandemic, NiVets donated gift cards and cash to help fund the dinners; and

WHEREAS, NiVets also reached out to Project Horizon and asked if it needed supplies for everyday operations, then collected and donated toilet paper, paper towels, laundry detergent, and cleaning supplies; and

WHEREAS, the Staunton NiVets collected school supplies to benefit students in Augusta County, Staunton, and Harrisonburg and received the Golden Bus Award for a successful Stuff the Bus campaign; and

WHEREAS, NiVets in the City of Lexington and in Giles County participated in the seasonal red kettle bell ringing to raise funds for the Salvation Army; in addition, the Staunton NiVets collected toys, clothes, and linens to benefit 70 children during the holidays through the Salvation Army's Angel Tree project; and

WHEREAS, in 2022, NiVets members participated in National Wreaths Across America Day and were among the 200 volunteers who placed wreaths on 800 headstones at the Staunton National Cemetery; there was also a group of NiVets who placed wreaths at Sunset Memorial Park in Chester, and Columbia Gas provided funding to donate 980 wreaths for the annual wreath laying; and

WHEREAS, NiVets helped the Columbia Gas's Eternal Flames raise funds for the Walk to End Alzheimer's by designing and constructing a fire pit that was raffled off, and as a result, the Walk to End Alzheimer's team exceeded its fundraising goal; and

WHEREAS, the Staunton-based Piedmont Got Your Six NiVets received recognition in the fall of 2022 from the United Way of Staunton, Augusta County, and Waynesboro for being the Overall Fundraising Community Leader in Volunteerism; and

WHEREAS, the Piedmont Got Your Six NiVets also received the 2021 Virginia Department of Energy Community Service Award for its dedication to community service and veterans' issues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Columbia Gas of Virginia's NiVets for its dedication to community service and support for veterans and veterans' issues; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Columbia Gas of Virginia's NiVets as an expression of the General Assembly's admiration for the group's contributions to communities in the Commonwealth.

SENATE JOINT RESOLUTION NO. 307

Celebrating the life of the Honorable Dale Hutter Harris.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, the Honorable Dale Hutter Harris, a trailblazing judge of the Lynchburg Juvenile and Domestic Relations District Court of the 24th Judicial District of Virginia and a passionate advocate for children, died on October 21, 2022; and

WHEREAS, a native of Lynchburg, Dale Harris earned a bachelor's degree from Sweet Briar College, where she was a talented multisport athlete, a member of Phi Beta Kappa, and student government president; and

WHEREAS, Dale Harris continued her education by earning a master's degree from Lynchburg College, then subsequently attending the University of Virginia School of Law in her 40s; and

WHEREAS, after receiving her law degree, Dale Harris worked for a law firm in Lynchburg and served as a substitute judge in the 24th Judicial District of Virginia; and

WHEREAS, in 1982, at a time when there were few women judges in the Commonwealth, Dale Harris was appointed as a judge of the Lynchburg Juvenile and Domestic Relations District Court; and

WHEREAS, Dale Harris presided over the court with great fairness and wisdom for the next 21 years and earned the admiration of her colleagues for her compassion, dedication, and commitment to common sense; and

WHEREAS, Dale Harris helped establish the Lynchburg Court-Appointed Special Advocate program, wherein specially trained adults act as advocates for children in the legal system, and she served as a judge for a family court pilot program; and

WHEREAS, after retiring from the bench at age 71, Dale Harris continued serving as a substitute judge for another seven years; and

WHEREAS, Dale Harris was an active leader in the Virginia State Bar and served as chair of the Special Committee on Access to Legal Services and co-chair of the Child Custody Education Committee; she also served on the Commission on the Future of the Judicial System from 1987 to 1989; and

WHEREAS, at the national level, Dale Harris was a member of the National Council of Juvenile and Family Court Judges, where she served as chair of the Child Custody and Visitation Committee and the Family Violence Committee and co-chair of the Advisory Committee that drafted model state domestic violence laws; and

WHEREAS, Dale Harris offered her leadership and expertise to many other civic and service organizations, and she earned several awards and accolades for her personal and professional accomplishments; and

WHEREAS, in 2011, Dale Harris and her husband, Ted, moved to The Forest at Duke, a retirement community in North Carolina, and she quickly became an active member of the community, serving as president of the Resident's Association; and

WHEREAS, Dale Harris will be fondly remembered and greatly missed by her husband of 68 years, Ted; her children, Mary, Frances, Jennifer, and Timothy, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Dale Hutter Harris; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Dale Hutter Harris as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 308

Commending Operation Smile.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, for more than four decades, Operation Smile, a medical nonprofit service organization currently headquartered in Virginia Beach, has enhanced the health and wellness of communities around the world by providing and increasing local access to reconstructive facial surgery to repair cleft lips, cleft palates, burns, tumors, and other birth defects; and

WHEREAS, Operation Smile traces its roots to 1982, when Dr. William "Bill" P. Magee, Jr., a craniofacial surgeon, and his wife, Kathleen "Kathy" S. Magee, a clinical social worker and nurse, joined a group of medical volunteers traveling to the Philippines to provide cleft lip and cleft palate repair surgeries to children and youth; and

WHEREAS, when several patients were still in need of treatment at the end of the mission, Bill and Kathy Magee were inspired to create Operation Smile and return to complete the work they had started; between 1983 and 1985 they conducted two additional trips to the Philippines and treated an additional 400 children; and

WHEREAS, within its first few years, Operation Smile expanded its services by launching its first of many student clubs, creating the Physicians' Training Program, which still brings surgeons from around the world to the United States to learn best practices and new techniques in craniofacial surgery, and launching the World Care Program, through which patients with conditions too serious to be treated in their home countries can receive care in the United States; and

WHEREAS, in the late 1980s, Operation Smile deployed medical mission teams to Kenya, Colombia, Ghana, and Vietnam; it was the first United States-based nongovernmental organization to return to Vietnam since the Vietnam War; Operation Smile ultimately played a role in opening communications on the return of the remains of American soldiers; and

WHEREAS, Operation Smile conducted its first missions to China, Panama, Nicaragua, Russia, Venezuela, Ecuador, Brazil, Honduras, Thailand, Morocco, Bolivia, and Peru in the 1990s; the organization further expanded its operations through a fellowship program, domestic medical programs, and medical student and faculty exchange programs; and

WHEREAS, in 1999, Operation Smile launched the World Journey of Hope, a nine-week mission aboard a Lockheed L-1011 TriStar airplane converted into a flying hospital that provided 5,300 free surgeries to patients in 18 countries in Africa, Asia, the Middle East, Europe, and South America; World Journey of Hope '99 also provided medical equipment to each mission country, allowing them to take care of more children on their own; and

WHEREAS, in the new millennium, Operation Smile completed missions to Jordan, India, Ethiopia, Paraguay, South Africa, Mexico, Egypt, the Democratic Republic of Congo, Rwanda, Myanmar, Guatemala, Ghana, the United Arab Emirates, and Malawi; and

WHEREAS, in 2006, Operation Smile hosted its first Global Standards of Care meeting to establish an international standard of care for all Operation Smile affiliates around the world; the following year, it commemorated its 25th anniversary by opening comprehensive care centers in four countries and initiating World Journey of Smiles that served more than 4,000 patients at 40 locations; and

WHEREAS, in 2014, Operation Smile held its first NEXT Medical Conference at its recently constructed global headquarters in Virginia Beach; they brought together medical professionals from 45 countries to discuss gaps in global surgical care and develop strategies to overcome barriers to care, enhance health infrastructure, and increase surgical capacity in their communities; and

WHEREAS, as part of its 35th anniversary campaign in 2017, Operation Smile created the United We Heal campaign to encourage global leaders to increase access to safe surgery and advocate for government engagement and the establishment of medical programs to create long-term solutions; and

WHEREAS, during the recent COVID-19 pandemic, Operation Smile redirected critical supplies and protective equipment to frontline health workers across the globe; Operation Smile continued its commitment to patients and used technology to safely provide consultations like speech therapy and psychosocial counseling; and

WHEREAS, since its establishment, Operation Smile has helped more than 346,000 children and youths in more than 60 countries worldwide receive life-changing surgical and dental care; the organization has established local affiliates in Vietnam, Australia, Italy, the United Kingdom, Ireland, Sweden, Canada, and Switzerland, among others; and

WHEREAS, Operation Smile's exceptional accomplishments have been featured in national and international news programs and publications, and the organization has been recognized by Pope John Paul II, Mother Theresa, multiple United States presidents, and heads of state in numerous other countries; and

WHEREAS, among many accolades and humanitarian awards, Operation Smile was the inaugural recipient of the Conrad N. Hilton Humanitarian Prize in 1996 and was named the Nonprofit Organization of the Year by the Direct Marketing Association Nonprofit Federation in 2009; William and Kathleen Magee have personally received many other awards for their commitment to excellence and contributions to health and wellness worldwide; and

WHEREAS, Operation Smile maintains longstanding partnerships with the American Heart Association, the General Federation of Women's Clubs, Rotary International, and other civic and service organizations that have generously supported its mission; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Operation Smile for its exceptional service to communities around the world on the occasion of its 40th anniversary in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Dr. William P. Magee, Jr. and Kathleen S. Magee, founders of Operation Smile, as an expression of the General Assembly's appreciation for the organization's vital mission and admiration for its global achievements.

SENATE JOINT RESOLUTION NO. 309

Commending John W. Jones.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, John W. Jones, esteemed criminal justice advocate and longtime executive director of the Virginia Sheriffs' Association, celebrated his 45th anniversary leading the organization in 2022; and

WHEREAS, at the age of 16, John Jones embarked on a distinguished public safety career that would span more than a half-century, becoming an emergency dispatcher for the South Hill Police Department, where he supported the area's law-enforcement services and emergency response system in a time before 9-1-1; and

WHEREAS, John Jones earned a degree in administration of justice and public safety from Virginia Commonwealth University and shortly thereafter served as a criminal justice planner with what was then the Rappahannock-Rapidan Planning District Commission, aiding criminal justice planning and services in the region around Culpeper; and

WHEREAS, as executive director of the Virginia Sheriffs' Association since 1977, John Jones has overseen one of the most influential criminal justice organizations in the Commonwealth, which currently supports 118 sheriffs and more than 9,800 deputy sheriffs; and

WHEREAS, John Jones' primary responsibilities with the Virginia Sheriffs' Association include managing the legislative priorities for his member sheriffs and deputy sheriffs and facilitating the passage of hundreds of bills and budget amendments intended to enhance criminal justice in the Commonwealth; and

WHEREAS, John Jones has demonstrated an extraordinary dedication to training and mentoring future generations of criminal justice professionals; each year, he delivers two training conferences to sheriffs and deputy sheriffs featuring the latest in trends and recent legislation; he also formerly served as an adjunct faculty member of Germanna Community College; and

WHEREAS, in recognition of his leadership and expertise, John Jones was appointed by the Senate Committee on Privileges and Elections to serve on a study that would recommend ways to improve the flow of legislation at the General Assembly, contributing to several recommendations that have been incorporated into the House and Senate rules; and

WHEREAS, John Jones has advanced his industry nationwide by maintaining a longstanding professional relationship with the National Sheriffs' Association, including terms as chairman of the organization and of its Committee of State Sheriffs' Associations, and by representing the nation's sheriffs as a member of the board of directors of the National Law Enforcement Officers Memorial Fund; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend John W. Jones, executive director of the Virginia Sheriffs' Association, on the occasion of his 45th anniversary leading the organization; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to John W. Jones as an expression of the General Assembly's admiration for his leadership and service.

SENATE JOINT RESOLUTION NO. 310

Commending William Kyger, Jr.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, William Kyger, Jr., a longstanding member of the Rockingham County Board of Supervisors, will retire in 2023 after 36 years of service to the community; and

WHEREAS, during his tenure on the Rockingham County Board of Supervisors, William "Bill" Kyger has served as supervisor of District 4, which currently includes the Towns of Bridgewater and Mt. Crawford and the communities of Briery Branch, Ottobine, Clover Hill, Montezuma, and Pleasant Valley; and

WHEREAS, Bill Kyger has led the Rockingham County Board of Supervisors as chair and vice chair on numerous occasions, has been active on countless board committees, and has supported multiple initiatives to enhance the quality of life in the area; and

WHEREAS, for many years, Bill Kyger offered his leadership and guidance to the Commonwealth as an active member and past president of the Virginia Association of Counties (VACo) Board of Directors; he also represented the Commonwealth as the VACo delegate to the National Association of Counties; and

WHEREAS, Bill Kyger is passionate about the study of history and government and served as a teacher at Turner Ashby High School; throughout his career, he has been a champion for the right to a good education for children in Rockingham County and throughout the Commonwealth; and

WHEREAS, through Bill Kyger's leadership, Rockingham County has been able to grow and develop in a responsible manner over the past three decades, while retaining the agricultural character that the county's residents and visitors cherish; and

WHEREAS, after his well-earned retirement, Bill Kyger plans to spend more time with his family, enjoy his love of music, and cheer on his University of Virginia Wahoos; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend William Kyger, Jr., a valued civic leader in the Rockingham County community, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to William Kyger, Jr., as an expression of the General Assembly's admiration for his contributions to Rockingham County and the Commonwealth.

SENATE JOINT RESOLUTION NO. 311

Celebrating the life of Keri Lynn Burkholder Marston.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13. 2023

WHEREAS, Keri Lynn Burkholder Marston, an accomplished communications executive with the United Methodist Church and a beloved member of the Mechanicsville community, died on April 22, 2022; and

WHEREAS, after graduating from Fuqua School in Farmville, Keri Marston earned a bachelor's degree with honors in communication studies with a focus in public relations from James Madison University; and

WHEREAS, Keri Marston applied her education and expertise in communications in support of various United Methodist churches and was most recently employed at Shady Grove United Methodist Church in Mechanicsville as its director of communications; and

WHEREAS, through her work with the United Methodist Church, Keri Marston encouraged others to go into their communities and find ways to care for and assist those in need; and

WHEREAS, with a deep commitment to supporting faith communities throughout the Commonwealth, Keri Marston served as a member and as president of the Board of Communications of the Virginia United Methodist Conference; and

WHEREAS, Keri Marston's pleasant and friendly nature brightened the lives of all who knew her, and her devotion to her faith was an inspiration to many; and

WHEREAS, Keri Marston's greatest joy in life was spending quality time with her family, and she reveled in playing with her girls and watching their imagination and creativity flourish; and

WHEREAS, Keri Marston will be fondly remembered and dearly missed by her loving husband, Chris; her daughters, Rebecca and Rachael; her parents, Gerry and Barry; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Keri Lynn Burkholder Marston, a cherished member of the Mechanicsville community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Keri Lynn Burkholder Marston as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 312

Commending David Meyer.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, David Meyer has served the residents of the City of Fairfax with integrity and dedication as a public servant for 15 years; and

WHEREAS, David Meyer first joined the Fairfax City Council in 2008 and was elected as mayor of the city in 2017; and

WHEREAS, during his tenure, David Meyer oversaw the adoption of a new comprehensive city plan, garnered $650 million in private capital investments, and secured $129 million in funding for transportation enhancements, including $20 million for city trails; and

WHEREAS, under David Meyer's sound fiscal leadership, Fairfax renewed its AAA bond rating and increased its reserve fund while maintaining the second-lowest overall tax burden in Northern Virginia; and

WHEREAS, during the COVID-19 pandemic, David Meyer strove to ensure that the Fairfax community remained safe and worked diligently to help the city endure the unprecedented effects of the global crisis; and

WHEREAS, David Meyer has also volunteered his leadership to his local civic association and parent-teacher association, and he has helped preserve the community's heritage as director of Historic Fairfax City, Inc., and as the leader of a citizen coalition to save the Historic Blenheim house; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend David Meyer for his service as mayor of the City of Fairfax; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to David Meyer as an expression of the General Assembly's admiration for his contributions to the Fairfax community.

SENATE JOINT RESOLUTION NO. 313

Commending Joseph D. Harmon.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Joseph D. Harmon ably served the Fairfax community as a member of the Fairfax City Council from July 1, 2020, to December 31, 2022; and

WHEREAS, originally from Washington state, Joseph Harmon holds bachelor's and master's degrees from Averett University and has lived in Fairfax since 1996; and

WHEREAS, Joseph Harmon previously served his country as a member of the United States Marine Corps and currently works as an information technology project manager for the U.S. Department of the Treasury and as a small business owner; and

WHEREAS, Joseph Harmon is a certified planning commissioner and has served the Fairfax community as a member of the Planning Commission and the Industrial Development Authority and chair of the Parks and Recreation Advisory Board; and

WHEREAS, Joseph Harmon has also volunteered his time to support and mentor young people as a basketball coach for the Fairfax Police Youth Club and the Fairfax Stars travel basketball team; and

WHEREAS, throughout his career, Joseph Harmon has served the residents of Fairfax with the utmost dedication and integrity; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Joseph D. Harmon for his outstanding service to the City of Fairfax; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Joseph D. Harmon as an expression of the General Assembly's admiration for his personal and professional achievements.

SENATE JOINT RESOLUTION NO. 314

Commending Janice B. Miller.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Janice B. Miller ably served the Fairfax community as a member of the Fairfax City Council from July 1, 1992, to December 31, 2022; and

WHEREAS, a graduate of the University of Kansas, Janice Miller began her career as a middle school teacher; she currently works as a travel consultant for a virtual travel agency, The Travel Gals; and

WHEREAS, Janice Miller settled in Fairfax in 1970 and was appointed to the Fairfax School Board in 1977; she served on the board for three decades, including terms as chair and vice chair, and provided leadership to committees that supported additions and renovations for several city schools; and

WHEREAS, Janice Miller represented the Fairfax School Board before the city's Park and Recreation Advisory Board and subsequently became a member of the Virginia School Board Association; and

WHEREAS, Janice Miller further supported young people as the first woman president of the Fairfax Little League and a founding member of Northern Virginia Project Graduation, and she organized several graduation night events for Fairfax High School; and

WHEREAS, Janice Miller has served as secretary of the Friends of Fairfax, chair of the Chocolate Lovers Festival Committee, a member of Historic Fairfax City, Inc., and the Historic Fairfax Neighborhood Association; and

WHEREAS, as a member of the Fairfax City Council, Janice Miller represented her fellow residents of the city before a number of boards and commissions, including the Metropolitan Washington Council of Governments Human Services and Public Safety Policy Committee and the Virginia Municipal League Human Development and Education Committee; and

WHEREAS, throughout her career, Janice Miller has served the residents of Fairfax with the utmost dedication and integrity; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Janice B. Miller for her outstanding service to the City of Fairfax; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Janice B. Miller as an expression of the General Assembly's admiration for her personal and professional achievements.

SENATE JOINT RESOLUTION NO. 315

Commending Sang H. Yi.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Sang H. Yi ably served the Fairfax community as a member of the Fairfax City Council from July 1, 2018, to December 31, 2022; and

WHEREAS, Sang Yi holds degrees from the United States Merchant Marine Academy, the United States Naval War College, and The George Washington University Law School; and

WHEREAS, Sang Yi previously worked in intelligence for the U.S. Department of Defense and is currently a senior congressional aide specializing in government oversight issues and policy; and

WHEREAS, before he was elected to the Fairfax City Council, Sang Yi represented the city on the Fairfax Alcohol Safety Action Program Advisory Board; and

WHEREAS, as a councilman, Sang Yi served on the Metropolitan Washington Council of Governments Climate, Energy, and Environmental Policy Committee and the Virginia Municipal League's General Laws Committee and Human Development and Education Committee; and

WHEREAS, Sang Yi is a lieutenant commander in the United States Navy Reserve and has supported his fellow veterans as a second vice commander of American Legion Post 177; and

WHEREAS, throughout his career, Sang Yi has served the residents of Fairfax with the utmost dedication and integrity; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Sang H. Yi for his outstanding service to the City of Fairfax; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Sang H. Yi as an expression of the General Assembly's admiration for his personal and professional achievements.

SENATE JOINT RESOLUTION NO. 316

Celebrating the life of Bruce Hunter Neilson.

Agreed to by the Senate, February 9, 2023
Agreed to by the House of Delegates, February 13, 2023

WHEREAS, Bruce Hunter Neilson, an esteemed member of the U.S. Department of Justice, treasurer of the Fairfax County Democratic Committee, and active and beloved member of the Fairfax County community, died on December 17, 2022; and

WHEREAS, Bruce Neilson graduated from Hopewell High School in 1970 and then earned a bachelor's degree in environmental science in 1974 and a master's degree in public administration in 1975, each from Penn State University; and

WHEREAS, Bruce Neilson enjoyed a fulfilling 31-year career at the U.S. Department of Justice, where he supported the agency's bankruptcy oversight program until his retirement in 2008; and

WHEREAS, Bruce Neilson devoted 20 years to Social Action Linking Together, helping the organization advance its mission through legislative achievements in prison reform and increases to the minimum wage, as well as through Temporary Assistance for Needy Families grants and homelessness prevention efforts; and

WHEREAS, in recognition of his record of service and expertise, Bruce Neilson was appointed by the former chair of the Fairfax County Board of Supervisors, Sharon Bulova, to represent Fairfax County on the Northern Virginia Community College Board, where he chaired the Finance Committee for several years; and

WHEREAS, Bruce Neilson served the Fairfax County Democratic Committee as treasurer from 2002 to 2009 and as communications advisor from 2014 to 2017, earning "Unsung Hero" honors in 2017 for his lifetime of dedicated service to the organization; and

WHEREAS, Bruce Neilson supported causes near and dear to him as treasurer both for the Honorable Richard Saslaw and various nonprofit organizations, including Bringing Resources to Aid Women's Shelters; he also gave generously of his time and talents to organizations such as the Northern Virginia Literary Council and the Alliance for Human Services; and

WHEREAS, in his personal life, Bruce Neilson ardently cheered on his favorite team, the Pittsburgh Steelers, and took immense pleasure in cooking, gardening, traveling, antiquing, and making a difference in the lives of others, especially those in need; and

WHEREAS, Bruce Neilson will be fondly remembered and dearly missed by his loving wife, Kathleen; her children, Paul, Stephen, Kelly, and Christopher, and their families; his brothers, David and Robert; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Bruce Hunter Neilson, a cherished member of the Fairfax County community whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Bruce Hunter Neilson as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 317

Confirming appointments by the Governor of certain persons communicated to the General Assembly February 1, 2023.

Agreed to by the Senate, February 20, 2023
Agreed to by the House of Delegates, February 23, 2023

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Glenn Youngkin and communicated to the General Assembly February 1, 2023.

ADMINISTRATION

State Board of Elections

Georgia Alvis-Long of **Augusta County,** Member, appointed January 26, 2023, for a term of four years beginning February 1, 2023, and ending January 31, 2027, to succeed herself.

John O'Bannon of **Henrico,** Member, appointed January 26, 2023, for a term of four years beginning February 1, 2023, and ending January 31, 2027, to succeed Robert Brink.

Matthew Weinstein of **Arlington,** Member, appointed January 26, 2023, for a term of four years beginning February 1, 2023, and ending January 31, 2027, to succeed John O'Bannon.

AGRICULTURE AND FORESTRY

Virginia Racing Commission

John Tanner of **Exmore,** Member, appointed January 26, 2023, for a term of five years beginning January 1, 2023, and ending December 31, 2027, to succeed himself.

AUTHORITIES

Board of Directors of the Virginia Alcoholic Beverage Control Authority

Tim Hugo of **Clifton,** Member, appointed January 26, 2023, for a term of five years beginning July 1, 2022, and ending June 30, 2027, to succeed Beth Hungate-Noland.

COMMERCE AND TRADE

Virginia Gas and Oil Board

Willart Cochran of **Christiansburg,** Member, appointed January 26, 2023, for a term of six years beginning July 1, 2022, and ending June 30, 2028, to succeed David Spears.

COMPACTS

Citizens Advisory Committee to the Chesapeake Executive Council

Tim Rupli of **McLean,** Member, appointed January 26, 2023, for a term of four years beginning January 1, 2023, and ending December 31, 2026, to succeed Anna M. Killius.

INDEPENDENT

Virginia Lottery Board

Adam Tolbert of **Saltville,** Member, appointed January 26, 2023, to serve an unexpired term beginning January 30, 2023, and ending January 14, 2024, to succeed Kimberley Martin.

JUDICIAL

Virginia Criminal Sentencing Commission

Robert Humphreys of **Virginia Beach,** Member, appointed January 26, 2023, for a term of four years beginning January 1, 2023, and ending December 31, 2026, to succeed Shannon Taylor.

LABOR

Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects

Frederick Townsend of **Fairfax County,** Member, appointed January 26, 2023, for a term of four years beginning July 1, 2022, and ending June 30, 2026, to succeed Christopher Stone.

SENATE JOINT RESOLUTION NO. 318

Celebrating the life of Frances Reed Jenkins.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Frances Reed Jenkins, a trailblazing educator and school administrator who inspired countless young people to achieve their fullest potential for five decades, died on December 30, 2022; and

WHEREAS, Frances Jenkins attended Westmoreland County Public Schools and graduated from A.T. Johnson High School; she subsequently earned a bachelor's degree from Saint Paul's College, where she was a member of Alpha Kappa Alpha Sorority, Inc., and later earned a master's degree from Virginia State University; and

WHEREAS, Frances Jenkins enjoyed a long and distinguished career at Westmoreland County Public Schools, teaching many grades over the course of more than 35 years; and

WHEREAS, Frances Jenkins made history as the first African American woman principal in Westmoreland County at Washington District Elementary School; she remained principal there for 19 years; and

WHEREAS, over the course of her career, Frances Jenkins helped countless students gain a strong foundation for lifelong learning and develop the skills they needed to achieve success in higher education and careers; she inspired her colleagues through her personal motto, "All children can learn"; and

WHEREAS, after her well-earned retirement as a teacher and school principal, Frances Jenkins continued to serve young people and the community as an elected at-large member of the Westmoreland County School Board for 12 years; and

WHEREAS, predeceased by her husband, Clarence, Frances Jenkins will be fondly remembered and greatly missed by her children, Sandra, Clarence, Jr., and Lisa, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Frances Reed Jenkins; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Frances Reed Jenkins as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 319

Commending Michael A. Breeden.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Michael A. Breeden, a longstanding member of the Rockingham County Board of Supervisors, will retire from public office at the end of 2023; and

WHEREAS, during his 23 years of service to Rockingham County, Michael "Mike" Breeden has served as supervisor of District 5, which currently includes the town of Elkton and the communities of McGaheysville, Massanutten, Stony Run, Swift Run, South Fork, and a portion of Penn Laird; and

WHEREAS, over the course of his career, Mike Breeden has acted with the highest level of professionalism, integrity, and respect in his interactions with other board members, county staff, and members of the public; and

WHEREAS, during his tenure, Mike Breeden has held the positions of chair and vice chair of the Rockingham County Board of Supervisors on numerous occasions, has been active on countless committees, and has championed multiple initiatives to enhance the quality of life in the community; and

WHEREAS, Mike Breeden has been a strong supporter of public education and supported numerous capital projects and initiatives for Rockingham County Public Schools; he proudly oversaw the opening of East Rockingham High School in 2010; and

WHEREAS, through Mike Breeden's leadership, Rockingham County has been able to grow and develop in a responsible manner over the past three decades while retaining the agricultural character that the county's residents and visitors cherish; and

WHEREAS, after his well-earned retirement, Mike Breeden will spend more time with his family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Michael A. Breeden, a valued civic leader in Rockingham County, on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Michael A. Breeden as an expression of the General Assembly's admiration and respect for his contributions to Rockingham County and the Commonwealth.

SENATE JOINT RESOLUTION NO. 320

Celebrating the life of the Honorable Charles L. Waddell.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, the Honorable Charles L. Waddell, a distinguished public servant who represented the residents of the 33rd District in the Senate of Virginia for nearly three decades and transformed the transportation sector in the Commonwealth, died on July 19, 2022; and

WHEREAS, Charles "Charlie" Waddell was born in Georgia and grew up on his family's cotton farm; he developed an interest in government at a young age after his father began taking him to watch trials and public meetings at the county seat; and

WHEREAS, after graduating high school, Charlie Waddell relocated to Northern Virginia, where he began a long and successful career with American Airlines, and over the next 38 years, he handled crew scheduling and worked as a ramp agent and a customer service assistant; in 1960, he also managed air travel logistics for Richard Nixon's first presidential campaign; and

WHEREAS, that same year, Charlie Waddell settled in eastern Loudoun County with his first wife, the late Marie Waddell; he pursued a career in politics as a member of the Loudoun Democratic Committee and ultimately became chair of the organization; and

WHEREAS, in 1967, Charlie Waddell was elected to the Loudoun County Board of Supervisors, defeating a longtime incumbent in the primary, and proudly kept his campaign promise to help provide free textbooks to children in local public schools; and

WHEREAS, desirous to be of further service to the Commonwealth, Charlie Waddell ran for and was elected to the Senate of Virginia in 1971 and represented the residents of Loudoun County and part of western Fairfax County in the 33rd District until 1998; and

WHEREAS, during his tenure as a state lawmaker, Charlie Waddell introduced and supported many important pieces of legislation to benefit all Virginians, including bills to enhance access to buildings for people with disabilities, create a land-use tax to preserve land in agriculture, require sprinklers in high-rise buildings, and establish a presumption that heart and lung ailments suffered by public safety officials resulted from their service; and

WHEREAS, as chair of the Senate Transportation Committee, Charlie Waddell played a major role in roadway improvements in Northern Virginia and enhancements to the transportation sector throughout the Commonwealth; he led efforts to widen Route 28, authorized construction of the Dulles Greenway and raised its speed limit to 65 miles per hour, required auto repair facilities to offer written estimates, and legalized right turns on red in the Commonwealth; and

WHEREAS, Charlie Waddell helped obtain funding for the Sterling campus of Northern Virginia Community College and the preservation of George C. Marshall's home in Leesburg, and he guided decisions to locate the National Guard Armory and the Marion DuPont Scott Equine Medical Center in Loudoun County; and

WHEREAS, in 1998, Charlie Waddell was appointed as deputy secretary of transportation under Governor James Gilmore; that same year, he married his second wife, Jane Rankin Herring, whose son, the Honorable Mark Herring, later followed in Charlie Waddell's footsteps as the senator for the 33rd District from 2006 to 2014; and

WHEREAS, Charlie Waddell subsequently served two years on the Virginia Parole Board before his well-earned retirement from public life; and

WHEREAS, known to many as the singing senator, Charlie Waddell often delighted audiences at campaign events or other public appearances by singing country and bluegrass songs, particularly "Wabash Cannonball," into which he frequently ad-libbed lyrics to fit the occasion; and

WHEREAS, predeceased by his second wife, Jane, Charlie Waddell will be fondly remembered and greatly missed by his children, Jeffrey, Gregory, and Scott, and their families; his stepchildren, Susan and Mark, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Charles L. Waddell, a dedicated public servant who made numerous contributions to Northern Virginia and the Commonwealth as a whole; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Charles L. Waddell as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 321

Celebrating the life of Muhammed Jafar Imam.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Muhammed Jafar Imam, an esteemed, beloved, and pioneering member of the All Dulles Area Muslim Society community in Sterling, died on December 5, 2022; and

WHEREAS, a native of India and a 47-year resident of Sterling, Muhammed Jafar Imam walked to school for miles barefoot in a small village in Bihar, India, and later graduated with a master's degree from Karachi University in Pakistan; and

WHEREAS, Muhammed Jafar Imam came to the United States in 1975, settling in Sterling, where he established his home and family and personally invited countless people to join the community of the All Dulles Area Muslim Society (ADAMS) Center, which is now one of the largest Muslim American communities in the country; in a beautiful blessing, the ADAMS mosque was built next to his home in Sterling; and

WHEREAS, Muhammed Jafar Imam had the spirit of a lion and never forgot his roots; he passionately volunteered to make a positive impact locally and around the world for those less fortunate, doing so with no need for recognition; he believed in the rights and dignity of all and made it his mission to serve the people; and

WHEREAS, Muhammed Jafar Imam was a key leader and volunteer with ADAMS Civic Engagement and in voter education and voter registration efforts, and he believed sincerely in grassroots civic engagement; and

WHEREAS, Muhammed Jafar Imam loved people and modeled what it means to put relationships first; he made everyone feel like they were his best friend; he made many friends over the years, keeping them all close; and

WHEREAS, Muhammed Jafar Imam was fearless, a free spirit, and never broke his promises; he lived by the words, "*Agar may vadha karta hu, may pura kartha hu*"—"If I make a promise, I fulfill it in its entirety"; and

WHEREAS, Muhammed Jafar Imam will be fondly remembered and dearly missed by his loving wife, Zeenat; his children, Shazia and Imran, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Muhammed Jafar Imam, a dedicated member of the communities of the All Dulles Area Muslim Society in Sterling, who left a profound and lasting impression on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Muhammed Jafar Imam as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 322

Commending Washington Dulles International Airport.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, for 60 years, Washington Dulles International Airport has enhanced the transportation sector in the Commonwealth, providing a critical gateway to the nation's capital and serving as an important economic driver in the region; and

WHEREAS, Dulles International Airport traces its history to the end of World War II when rapid growth in the Washington, D.C., area necessitated the creation of a second airport to complement what is now Ronald Reagan Washington National Airport; and

WHEREAS, the United States Congress passed the Washington Airport Act in 1950 to provide for the creation of such an airport; in 1958, President Dwight D. Eisenhower selected the 10,000-acre site in Fairfax County and Loudoun County that would become known as Dulles International Airport; and

WHEREAS, Dulles International Airport was the first airport in the nation designed specifically for commercial jets, and 7,000 acres of the 10,000-acre site were intended to serve as a buffer between the airport and the surrounding area, much of which was farmland at the time; and

WHEREAS, the engineering firm of Ammann and Whitney of New York was selected as the primary contractor for planning, design, and construction supervision of Dulles International Airport; Burns and McDonnell of Kansas City handled the design of the mechanical, electrical, and utility installations, while Ellery Husted of Washington, D.C., served as the master planning consultant; and

WHEREAS, Eero Saarinen and Associates of Connecticut was selected as the architect for the design of the control tower, service buildings, and terminal building, which ultimately became a well-known landmark for travelers worldwide and received a First Honor Award from the American Institute of Architects; the original cost of the terminal was $108.3 million; and

WHEREAS, Dulles International Airport held its grand opening on November 17, 1962, and dedication ceremonies included remarks by President John F. Kennedy and former President Dwight D. Eisenhower; the airport was a symbol of the stature and progress of the United States at the outset of the jet age and was named in honor of the late John Foster Dulles, who served as Secretary of State from 1953 to 1959; and

WHEREAS, through the end of 1962, Dulles International Airport served more than 52,000 travelers, including local residents, tourists, government officials, diplomats, and foreign dignitaries; passengers were delighted by the visually striking design of the tower and terminal building and the airport's unique mobile lounge vehicles that offered an unparalleled level of comfort and luxury between the terminal and a waiting aircraft; and

WHEREAS, by 1966, Dulles International Airport was serving more than one million passengers each year, and in 1977, the airport completed work on its first expansion; the airport continued to grow through the 1970s and 1980s, with the terminal building developing along the lines of the visionary original plan by Eero Saarinen and Associates; and

WHEREAS, in 1984, the airport was renamed Washington Dulles International Airport; and

WHEREAS, between 1985 and 1987, passenger traffic at Washington Dulles International Airport doubled from five million travelers to 10 million; the airport launched a major development program in the 1990s, and in 1999, the airport conducted nearly 470,000 aircraft operations and served 19.8 million passengers, including more than 3.5 million international passengers; and

WHEREAS, the Metropolitan Washington Airports Authority has operated Washington Dulles International Airport and what is now Ronald Reagan Washington National Airport since 1987; and

WHEREAS, on November 15, 2022, the Metropolitan Washington Airports Authority officially welcomed the Washington Metro Silver Line, which connects rail stations at Washington Dulles International Airport with stations in Loudoun and Fairfax counties and Washington, D.C.; and

WHEREAS, Washington Dulles International Airport remains one of the busiest airports on the east coast of the United States and is one of the fastest growing airports in the world; and

WHEREAS, after several expansions, the current land area of Washington Dulles International Airport is 11,184 acres, with approximately 3,831 acres in use for aircraft operations and four runways; the main terminal has grown from 600 feet in length with 500,000 square feet to 1,240 feet in length with 1.1 million square feet; and

WHEREAS, Washington Dulles International Airport is a gateway to the world for Virginians, offering nonstop flights to 40 world capitals, with plans to add service to Berlin, Germany, in the summer of 2023; and

WHEREAS, Washington Dulles International Airport has played an essential role in the economic vitality of Northern Virginia, providing approximately 14,000 direct jobs and billions of dollars in business revenue, and the Dulles Corridor has become synonymous with growth and future potential for the region; and

WHEREAS, to commemorate its milestone anniversary, Washington Dulles International Airport created a special exhibit with photographs and other historical artifacts for visitors to explore the creation and growth of the airport; and

WHEREAS, the Committee for Dulles hosted a gala event in November 2022 to celebrate the history and achievements of Washington Dulles International Airport with current and former airport employees and community partners; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Washington Dulles International Airport on the occasion of its 60th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to John Potter, president and chief executive officer of the Metropolitan Washington Airports Authority, as an expression of the General Assembly's appreciation for the history of Washington Dulles International Airport and admiration for its importance to the region and the Commonwealth.

SENATE JOINT RESOLUTION NO. 323

Commending Josephine Goodman.

Agreed to by the Senate, February 21, 2023

Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Josephine Goodman, who has deep family roots in Powhatan County and has served the Powhatan County community for many years, completed her term on the Powhatan County Electoral Board in December 2022; and

WHEREAS, in recognition of her many years of dedicated service to charitable causes in the Powhatan community, Josephine Goodman was honored as the 2017 Powhatan Christmas Mother; and

WHEREAS, for over 30 years, Josephine Goodman performed many functions on behalf of the Powhatan County Electoral Board in support of free and fair elections, serving as an officer of elections, precinct assistant chief, and chief of elections; and

WHEREAS, in February 2018, the Powhatan County Democratic Committee nominated Josephine Goodman to serve as a member of the Powhatan County Electoral Board; and

WHEREAS, the Powhatan Electoral Board performs critical functions to safeguard fair and free elections, the bedrock of American democracy, including the appointment of the director of elections and support staff; the supervision of training for precinct election officials, the monitoring of all election procedures, and the certification of election results; and

WHEREAS, Josephine Goodman made history as the first African American appointed to serve on the Powhatan County Electoral Board, being sworn in at Powhatan's historic courthouse on February 27, 2018; and

WHEREAS, Josephine Goodman provided exceptional service to the Powhatan County Electoral Board for four years and ably served the board as vice chair during her tenure; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Josephine Goodman for her service as a member of the Powhatan County Electoral Board; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Josephine Goodman as an expression of the General Assembly's admiration for her contributions to the residents of Powhatan County and the Commonwealth.

SENATE JOINT RESOLUTION NO. 324

Celebrating the life of Bryan Rall Becker.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Bryan Rall Becker, a teacher and school athletics coach who touched the lives of countless young people through his mentorship and commitment to excellence in education, died on December 9, 2021; and

WHEREAS, Bryan Becker grew up in Norfolk and graduated from Granby High School, where he excelled as a member of the football team; he continued playing football at Temple University while he earned his bachelor's degree in education; and

WHEREAS, after graduating from college, Bryan Becker joined the United States Merchant Marine and traveled the world aboard commercial vessels; and

WHEREAS, Bryan Becker returned to Norfolk and began a long and fulfilling 42-year tenure with Norfolk Public Schools; over the course of his career, he taught at Granby High School, Booker T. Washington High School, and Norview High School, giving generations of students the tools they needed to fulfill their potential in and out of the classroom; and

WHEREAS, Bryan Becker was a passionate lifelong learner and an avid reader who especially loved teaching history, psychology, government, and social studies courses; he served as the chair of the history department at Booker T. Washington High School; and

WHEREAS, Bryan Becker also coached high school football for several years, and many of his players went on to achieve success on college teams and in the National Football League; and

WHEREAS, Bryan Becker will be fondly remembered and greatly missed by his beloved wife, Mary; his children, Kristin and Jonathan; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Bryan Rall Becker, a highly admired educator and coach in Norfolk; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Bryan Rall Becker as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 325

Celebrating the life of Kent DeWayne Carter.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Kent DeWayne Carter, the highly respected first vice president of the Arlington Branch of the NAACP and an active leader in the Arlington community, died on October 2, 2022; and

WHEREAS, a native of Tennessee, Kent Carter graduated from Clinton High School and joined the United States Army as a military police officer in 2000; and

WHEREAS, Kent Carter served as a member of a protective detail at the Pentagon after the attacks on September 11, 2001, then completed two deployments to Afghanistan in support of Operation Enduring Freedom; and

WHEREAS, during his time in the military, Kent Carter received an associate's degree from Methodist University, then subsequently earned bachelor's and master's degrees in criminal justice from the University of Phoenix; and

WHEREAS, in 2009, Kent Carter settled in Virginia and worked as a special investigator for several federal agencies before starting a new career as a real estate broker with Keller Williams Metro Center; and

WHEREAS, in addition to serving as the first vice president for the local NAACP, Kent Carter was the chair of the criminal justice committee and represented the organization on Arlington's Police Practices Group; and

WHEREAS, Kent Carter used his unique insights as a former law-enforcement officer to help develop more than 100 policing reforms, including the creation of a community oversight board; and

WHEREAS, Kent Carter was well known in the Arlington community for his wit, generosity, compassion, and humility, and he built strong partnerships based on mutual trust and respect that enhanced local life for all residents; and

WHEREAS, Kent Carter will be fondly remembered and greatly missed by his daughter, Kennedi; his daughter's mother, Melanie; his partner of eight years, Alonia; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Kent DeWayne Carter, a champion for civil rights and police reform in Northern Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Kent DeWayne Carter as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 326

Commending Beth Lovain.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Beth Lovain, an esteemed community leader in Alexandria, has admirably served as executive director of the Scholarship Fund of Alexandria from 2013 to 2022; and

WHEREAS, under Beth Lovain's tenure at the Scholarship Fund of Alexandria, the organization increased services to Alexandria City High School graduates, in terms of both the number of scholarships awarded and the total amount of money awarded, providing $1.1 million to 420 students in 2021 alone; and

WHEREAS, in Beth Lovain's final year with the Scholarship Fund of Alexandria, the organization awarded the largest amount of new scholarships in its history, providing $600,000 to 205 seniors and surpassing its record of $523,700 in new scholarships from the previous year; and

WHEREAS, the Scholarship Fund of Alexandria's efforts to expand its services, which included extending its program to middle school students, were facilitated by Beth Lovain's exceptional ability to bring in new donors and raise funds; and

WHEREAS, as a result of Beth Lovain's sterling leadership of the Scholarship Fund of Alexandria, Alexandria City High School earned top honors from the State Council of Higher Education for Virginia three times for having the highest Free Application for Federal Student Aid completion rate in the Commonwealth; and

WHEREAS, prior to joining the Scholarship Fund of Alexandria, Beth Lovain advanced meaningful initiatives in the community through her work as director of employer partnerships for Computer CORE, executive director of Rebuilding Together Alexandria, and board member and executive director of the former Alexandria Volunteer Bureau; and

WHEREAS, Beth Lovain has also made a notable impact through her service as executive director of the George Mason-Westminster tutoring program, as a board member of the Northern Virginia AIDS Ministry and Wright to Read program, and as a member of the Alexandria Commission on HIV/AIDS; and

WHEREAS, in recognition of her accomplishments in service to others, Beth Lovain has been the recipient of the Alexandria Commission for Women Salute to Women Award and an honoree of the U.S. Junior Chamber of Commerce's Ten Outstanding Young Americans program and the Virginia Junior Chamber of Commerce's Ten Outstanding Young Virginians program; and

WHEREAS, by demonstrating an extraordinary dedication to her community and to helping young people achieve their academic dreams by attending college, Beth Lovain serves as an inspiration to all Virginians; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Beth Lovain, executive director of the Scholarship Fund of Alexandria, on the occasion of her retirement from the organization; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Beth Lovain as an expression of the General Assembly's admiration for her contributions to the Commonwealth and best wishes in her future endeavors.

SENATE JOINT RESOLUTION NO. 327

Celebrating the life of Barbara Ehrenreich.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Barbara Ehrenreich of Alexandria, a prolific author and essayist who raised awareness of economic inequality in the United States, died on September 1, 2022; and

WHEREAS, born in Butte, Montana, Barbara Ehrenreich lived in Pennsylvania, New York, Massachusetts, and California in her youth; she earned a bachelor's degree in chemistry from Reed College and a doctorate in cellular immunology from Rockefeller University; and

WHEREAS, Barbara Ehrenreich coauthored her first book, *Long March, Short Spring: The Student Uprising at Home and Abroad* with her first husband, John, in 1969; the couple followed up with an incisive look at the pharmaceutical industry in 1970 with *The American Health Empire: Power, Profits and Politics*; and

WHEREAS, in the early 1970s, while working as an assistant professor of health sciences at the State University of New York at Old Westbury, Barbara Ehrenreich began lecturing about women's health issues based on her own experiences with substandard conditions at a public health clinic where she gave birth to her first child; and

WHEREAS, in 1974, Barbara Ehrenreich left academia to pursue writing as a full-time career and focused her writing on the economic struggles of a declining middle class across the country and ultimately authored more than 20 nonfiction books and one novel; her freelance work appeared in many prominent national publications, including *The New York Times*, *The Los Angeles Times*, *The Wall Street Journal*, *The Washington Post*, *Vogue*, and *Harper's Magazine*; and

WHEREAS, one of Barbara Ehrenreich's best known works, *Nickel and Dimed: On (Not) Getting By in America*, was inspired by a conversation with her editor, Lewis Lapham, at *Harper's Magazine*, in which she wondered how a person could survive while only receiving minimum wage, and he encouraged her to find out; and

WHEREAS, beginning in 1998, Barbara Ehrenreich traveled around the country, working incognito in jobs that paid an average of $7 an hour, which included working as a waitress, hotel maid, house cleaner, and retail clerk; she often lived paycheck to paycheck and was only able to live in trailer parks or residential motels; and

WHEREAS, *Nickel and Dimed: On (Not) Getting By in America* spurred a national debate on sustainable wages and the plight of working individuals and families living significantly below the poverty level; she further expanded on themes of how economic inequality can exacerbate other forms of social justice with works like *Bait and Switch: The (Futile) Pursuit of the American Dream* in 2005 and *Bright-sided: How the Relentless Promotion of Positive Thinking has Undermined America* in 2009; and

WHEREAS, Barbara Ehrenreich offered her leadership and expertise to a number of civic organizations supporting women's health, mental health, workers' rights, and social justice advocacy; and

WHEREAS, in 2018, Barbara Ehrenreich published one of her final works, *Natural Causes: An Epidemic of Wellness, the Certainty of Dying, and Killing Ourselves to Live Longer*, which tied together many of the same themes of her earlier works, but was heavily influenced by her own diagnosis with breast cancer and insights on death with dignity; and

WHEREAS, Barbara Ehrenreich will be fondly remembered and greatly missed by her children, Rosa and Ben, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Barbara Ehrenreich, author and passionate advocate for social and economic justice; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Barbara Ehrenreich as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 328

Celebrating the life of Gary Charles Schroen.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Gary Charles Schroen, an honorable veteran, legendary member of the United States Central Intelligence Agency, and beloved member of the Alexandria community, died on August 1, 2022; and

WHEREAS, as a young man, Gary Schroen served his country with honor and distinction as part of the Army Security Agency, the United States Army's signals intelligence branch at the time, and was stationed in Heidelberg, Germany; and

WHEREAS, following his honorable discharge from the military in 1962, Gary Schroen attended Southern Illinois University Edwardsville, then worked as a fifth grade teacher in the Detroit Public Schools system, where he contributed greatly to the growth and development of his students; and

WHEREAS, Gary Schroen joined the United States Central Intelligence Agency (CIA) in 1969 and would go on to serve as station chief for both Afghanistan and Pakistan in the 1980s and 1990s and to become one of the agency's foremost experts on the Near East; and

WHEREAS, in the late 1990s, Gary Schroen was part of what is now called the CIA's Mission Center for Counterterrorism, where he was highly involved in the agency's attempts to kill or capture Osama bin Laden, the founder and leader of the terrorist organization al-Qaeda; he then also served for a time as deputy chief of the CIA's Near East Division in its Directorate of Operations from 1999 to 2001; and

WHEREAS, although preparing for retirement at the time, two weeks following 9/11, Gary Schroen famously led the first team of CIA officers to enter Afghanistan in order to establish connections with the United Islamic National Front for the Salvation of Afghanistan, also known as the Northern Alliance, and to search for Osama bin Laden, spearheading the United States' efforts to defeat al-Qaeda and the Taliban; and

WHEREAS, Gary Schroen memorialized his experiences from these early days of the invasion of Afghanistan in his best-selling book, *First In: An Insider's Account of How the CIA Spearheaded the War on Terror in Afghanistan*, which was published in 2005 to much acclaim; and

WHEREAS, Gary Schroen bravely faced many harrowing experiences during his time with the CIA in service to the country and ultimately retired in 2001 as one of the most decorated officers in the agency's history; and

WHEREAS, in his later years, Gary Schroen supported the CIA as a contractor by teaching tradecraft to new recruits, preparing the next generation of CIA officers for the task of defending the United States; and

WHEREAS, preceded in death by his son, Christopher, Gary Schroen will be fondly remembered and dearly missed by his loving wife, Anne; his children, Jennifer and Kate, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Gary Charles Schroen, an American hero and leading member of the United States Central Intelligence Agency whose dedication to the country serves as an inspiration to all Virginians; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Gary Charles Schroen as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 329

Celebrating the life of Marlin G. Lord.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Marlin G. Lord, an esteemed architect and an active and beloved member of the Del Ray and Alexandria communities, died on October 18, 2022; and

WHEREAS, shortly after earning architectural degrees from the University of Minnesota in 1960 and 1962, Marlin Lord settled in the Alexandria area and embarked upon an illustrious career as an architect; and

WHEREAS, one of Marlin Lord's major professional accomplishments as an architect involved developing a new design for Route 1, which promoted safety and the quality of life in Alexandria by straightening the Monroe Avenue Bridge, creating more parkland for Simpson Field, and enhancing the symmetry of the Potomac Yard development; and

WHEREAS, formerly president of the Del Ray Citizens Association and a founding member of Del Ray Artisans, Marlin Lord's indelible impact on the Del Ray community included revitalizing Mount Vernon Avenue; and

WHEREAS, Marlin Lord made significant contributions to the betterment of Alexandria through his involvement with the King Street Gardens Park Foundation, Chinquapin Organic Gardens, the Alexandria Arts Forum, and myriad city committees and task forces such as the Alexandria Park and Recreation Commission, on which he served for 20 years, including seven as chair; and

WHEREAS, in addition to his advocacy for the arts, Marlin Lord was also an accomplished photographer in his own right whose work was featured in several juried shows over the years; and

WHEREAS, as a testament to his lasting legacy in Del Ray and Alexandria, Marlin Lord was named a Living Legend of Alexandria in 2013; and

WHEREAS, Marlin Lord will be fondly remembered and dearly missed by his children, Denise, Steve, and Cara, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Marlin G. Lord, whose generous and philanthropic spirit touched countless lives in Del Ray, Alexandria, and beyond; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Marlin G. Lord as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 330

Commending the Virginia Space Flight Academy.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, the Virginia Space Flight Academy, a nonprofit organization located at Wallops Island, has provided innovative learning experiences to students and promoted a love of science and aeronautics for 25 years; and

WHEREAS, the Eastern Shore is an aerospace hub that supports the diverse missions of the National Aeronautics and Space Administration (NASA), the United States Navy, the National Oceanic and Atmospheric Administration, and the Virginia Commercial Space Flight Authority; and

WHEREAS, in 1997, the Eastern Shore Regional Partnership formed the Space Flight Academy Task Force to initiate a residential space camp pilot project to showcase and leverage the region's aerospace expertise; and

WHEREAS, the space camp evolved into the Virginia Space Flight Academy in 1998; the academy started as a pilot program in collaboration with NASA, the United States Navy, Old Dominion University, and Virginia Space; and

WHEREAS, the Virginia Space Flight Academy expanded quickly and has grown to offer six weeks of residential summer space camps at different levels and a year-round virtual science, technology, engineering, and mathematics (STEM) academy; these programs focus on aerospace, coding, robotics, and career pathways designed to advance equity and increase interest in STEM careers; and

WHEREAS, over the past 25 years, the Virginia Space Flight Academy has grown to provide its students with access to unique opportunities through multiple partnerships with NASA, Virginia Space, Rocket Lab, and other entities to forge continuous STEM learning pathways; to ensure access, Virginia Space Flight Academy offers financial needs-based scholarships and approximately 100 were awarded for the 2021-2022 season; and

WHEREAS, the Virginia Space Flight Academy has empowered thousands of students to see themselves as future STEM leaders, initiating change on a large scale to "ignite dreams and launch futures" that lead to diverse workforce representation; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Virginia Space Flight Academy on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Space Flight Academy as an expression of the General Assembly's admiration for its contributions to inspiring the next generation of scientists and engineers.

SENATE JOINT RESOLUTION NO. 331

Commending Susan V. Cable.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Susan V. Cable of Scottsville has made more than 35 years of contributions to the protection of the Commonwealth's natural and historic resources; and

WHEREAS, Susan Cable holds degrees from the University of California at Los Angeles and George Mason University and has cultivated a wide range of experience in project management and strategic planning at the local, state, and federal levels; and

WHEREAS, in 1973, Susan Cable began a long career with Fairfax County Park Authority and served the community in various capacities, including as a volunteer coordinator, district naturalist, and program coordinator for the Division of Conservation; among many duties, she initiated the agency's prehistoric archaeology program and conducted analyses to identify environmentally or culturally significant sites in local parklands; and

WHEREAS, from 1987 to 1998, Susan Cable served as a senior planner with the Fairfax County Park Authority's Division of Planning and Development; she oversaw the research, development, and adoption of a comprehensive plan for land acquisition and facility development to ensure that the 16,000-acre park system continued to meet the community's needs; and

WHEREAS, in the early 1980s, Susan Cable also worked for the Heritage Conservation and Recreation Service of the U.S. Department of the Interior, managing a nationwide technical assistance program for energy management in state and local parks, and from 1998 to 2000, she served as a consultant to the U.S. National Park Service on the realignment of the Potomac Heritage National Scenic Trail; and

WHEREAS, in 1998, Susan Cable founded the Blue Ridge Foothills Conservancy, a nonprofit land trust operating primarily in Madison County and Greene County; she advised the organization on how to best preserve the agricultural, scenic, natural, historic, and recreational resources that define these communities and served as executive director of the organization until 2006 and director of conservation policy until 2010; and

WHEREAS, working with Virginia's United Land Trusts, Susan Cable was instrumental in helping to coordinate a series of regional meetings to identify the priorities and needs of the conservation community, which became the basis for the Heritage Virginia Strategic Plan in 2003; and

WHEREAS, Susan Cable also served on the Virginia Historic Resources Board from 2009 to 2011 and offered her leadership and expertise to numerous other committees, commissions, and roundtables over the years; she earned many awards and accolades for her stewardship of the environment, protection of the Commonwealth's heritage, and commitment to excellence; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Susan V. Cable for her contributions to the Commonwealth in environmental conservation and historic preservation; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Susan V. Cable as an expression of the General Assembly's admiration for her personal and professional achievements.

SENATE JOINT RESOLUTION NO. 332

Commending Walter T. Bailey.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Walter T. Bailey, longtime chief of the Phenix Volunteer Fire Department and a life member of the Charlotte County Volunteer Rescue Squad, celebrates his 50th anniversary as a volunteer firefighter and rescue provider in Charlotte County in 2023; and

WHEREAS, a lifelong resident of Phenix in Charlotte County, Walt Bailey has been a member of the Phenix Volunteer Fire Department since 1973 and the department's chief for the last 40 years; and

WHEREAS, Walt Bailey was a founding member of the Charlotte County Fire & Rescue Association, ably serving the organization as president for 27 terms, and was a member of the Lynchburg Fire Department from 1981 to 2012, retiring as deputy chief of operations; and

WHEREAS, Walt Bailey has made an impact at the state level as president of the Virginia Fire Chiefs Association in 2012 and then as a member of the Virginia Fire Services Board since 2013, serving the board as chair for an unprecedented seven years and receiving appointment to his third term from Governor Glenn Youngkin in 2022; and

WHEREAS, Walt Bailey served as 1st vice president of the Virginia State Firefighters Association, and he is the incoming president of the organization in 2023; he is also a member of the Virginia Fire Service Council; and

WHEREAS, Walt Bailey's efforts on the regional level include serving on the board of directors of the Old Dominion Emergency Medical Services Alliance (ODEMSA) since 2016, including as president of the organization's South Central Sub-Council since 2018 and as vice-chair since 2019; and

WHEREAS, Walt Bailey was elected to the Charlotte County Board of Supervisors in 2022 and was appointed to its Public Safety Committee in recognition of his exceptional leadership and incomparable experience; and

WHEREAS, Walt Bailey has led many studies of fire and rescue organizations at the request of local government, helping localities and departments across the Commonwealth implement positive and lasting changes; and

WHEREAS, in recognition of his service, Walt Bailey received the Regional Award for Outstanding EMS Leadership from the ODEMSA in 2022; and

WHEREAS, Walt Bailey has benefited greatly throughout his career from the support of his loving wife of 43 years, Collette, and their three daughters, Lisa, Heather, and Julie; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Walter T. Bailey, chief of the Phenix Volunteer Fire Department, on the occasion of his 50th anniversary as a volunteer firefighter and rescue provider in Charlotte County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Walter T. Bailey as an expression of the General Assembly's high regard for his contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 333

Celebrating the life of Temple Lyman Kessinger, Jr.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Temple Lyman Kessinger, Jr., a longtime teacher, school administrator, coach, and dedicated public servant in Covington, died on January 6, 2023; and

WHEREAS, a native of Alleghany County, Temple Kessinger graduated from what is now Ferrum College where he helped lead the football team to a national championship in 1965 and was later inducted into the Ferrum College Athletic Hall of Fame; and

WHEREAS, Temple Kessinger also earned a degree from and played football at Tennessee Tech University; and

WHEREAS, during his distinguished professional career, Temple Kessinger inspired young people as a teacher, administrator, and coach at Covington High School, Lord Botetourt High School, Bath County High School, James River High School, and Galax High School, among others; and

WHEREAS, desirous to be of further service to the community, Temple Kessinger ran for and was elected to the Covington City Council and served from 1998 to 2004, including service as mayor; and

WHEREAS, during his tenure as a public servant, Temple Kessinger was a driving force behind the establishment of Olde Town Covington; he oversaw the creation of the Alleghany Highlands Economic Development Corporation, and he represented Covington as chair of the Roanoke Valley-Alleghany Regional Commission; and

WHEREAS, Temple Kessinger enjoyed fellowship and worship with the community as an active member of Good News Church on Main, where he served as a greeter and lay speaker, was a member of the prayer group and recovery program, and mentored young men as leader of the Men's Ministry; and

WHEREAS, a man of deep and abiding faith, Temple Kessinger also volunteered his leadership to the Promise Keepers, Gideons International, and the Salvation Army Advisory Board; and

WHEREAS, Temple Kessinger will be fondly remembered and greatly missed by his wife, Karen; his children, Temple III and Katie, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Temple Lyman Kessinger, Jr., a respected member of the Covington community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Temple Lyman Kessinger, Jr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 334

Commending the Community Investment Collaborative.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, for more than 10 years, the Community Investment Collaborative has helped entrepreneurs in the Charlottesville area start or expand their own businesses by providing critical financial assistance and support programs; and

WHEREAS, the Community Investment Collaborative was established as a result of a work group consisting of people with backgrounds in nonprofit organizations, businesses, and academia, led by the owner of C'Ville Coffee, Toan Nguyen; and

WHEREAS, the work group determined that small businesses in the region did not have appropriate financial solutions or a comprehensive support system; the group studied microenterprise models around the country to develop an organization that would offer financing as well as education, mentoring, and networking opportunities; and

WHEREAS, established in 2012, the Community Investment Collaborative offers a 16-week business education program to existing and prospective business owners; graduates of the program receive extensive mentoring and opportunities for peer discussion, support, and networking, and qualified graduates can receive startup financing or ongoing microfinancing to support their businesses; and

WHEREAS, the Community Investment Collaborative strengthens the community and contributes to economic development by fueling the success of under-resourced entrepreneurs and leverages community resources to provide capital and education to entrepreneurs who have difficulty accessing funding from traditional sources; and

WHEREAS, the Community Investment Collaborative currently serves more than 220 clients per year, and its 500th student graduated from the program in November 2022; and

WHEREAS, the Community Investment Collaborative has financed $2.4 million in loans to 180 businesses and helped open 131 new businesses, creating 288 full-time equivalent jobs; and

WHEREAS, the Community Investment Collaborative also hosts the top performing Small Business Development Center in the Commonwealth, which served 800 counseling or training clients in 2021 and helped them to access more than $25 million in capital to grow their businesses; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Community Investment Collaborative on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Community Investment Collaborative as an expression of the General Assembly's admiration for the organization's achievements and contributions to the economic vitality of the Charlottesville community.

SENATE JOINT RESOLUTION NO. 335

Celebrating the life of Braylon Edward Meade.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Braylon Edward Meade, a 17-year-old student at Washington-Liberty High School, who was an inspirational member of the Arlington community and a beloved son, brother, and friend, died on November 11, 2022, when his vehicle was struck by another driver who was under the influence of alcohol; and

WHEREAS, Braylon Meade was a diligent student who maintained a 4.3 grade point average at Washington-Liberty High School, where he was pursuing an International Baccalaureate diploma; and

WHEREAS, Braylon Meade volunteered his time to tutor younger students in mathematics, and he was a mentor for students learning English as a second language in the Readers for Leaders program at Barrett Elementary School; and

WHEREAS, Braylon Meade was a talented multisport athlete, who ran on the Washington-Liberty High School cross country team as a freshman and was a member of the varsity football and basketball teams; and

WHEREAS, Braylon Meade served as a coach for a recreational basketball league, as co-president of Hoops for Cancer and organized a basketball tournament that raised money for melanoma research; and

WHEREAS, for more than 10 years, Braylon Meade also participated in swim events at Donaldson Run Recreation Association; he helped set an association record in the 200-meter freestyle relay for boys aged 13-14, and he worked at Donaldson Run as a lifeguard for two summers; and

WHEREAS, Braylon Meade was an active member of DECA, a nonprofit business association that helps students learn about entrepreneurship, and he created a website to sell vintage LEGO sets; and

WHEREAS, Braylon Meade enjoyed fellowship and worship with the Arlington community as a member of Our Lady Queen of Peace Catholic Church; and

WHEREAS, Braylon Meade brought joy to others with his kindness, generosity, compassion, and sense of humor, and he touched countless lives in the community through his commitment to servant leadership; and

WHEREAS, Braylon Meade will be fondly remembered and greatly missed by his parents, Rose Mary Kehoe and Kris David Meade; his siblings, Bryan Kehoe Meade and Kerry Ruth Meade; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Braylon Edward Meade; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Braylon Edward Meade as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 336

Establishing a commission for the continuing preservation and development of the Virginia Women's Monument.

Agreed to by the Senate, February 17, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Senate Joint Resolution No. 11 (2010) established a commemorative commission to honor the contributions of the women of Virginia with a monument on the grounds of Capitol Square, which became known as the Virginia Women's Monument Commission; and

WHEREAS, on October 14, 2019, the Virginia Women's Monument Commission formally dedicated seven statues representing Anne Burras Laydon, Cockacoeske, Mary Draper Ingles, Elizabeth Keckly, Laura Copenhaver, Virginia Randolph, and Adèle Clark; and

WHEREAS, statues of Martha Washington, Clementina Rind, Sarah G. Jones, and Maggie L. Walker have since been installed at the site; and

WHEREAS, having unveiled 11 statues and the Wall of Honor, which recognizes hundreds of women who have shaped Virginia's history, the Women's Monument Commission has fulfilled its purpose; however, the continued maintenance and development of the Virginia Women's Monument site must be ensured; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That a commission for the continuing preservation and development of the Virginia Women's Monument be established; and, be it

RESOLVED FURTHER, That the commission consist of a total of eight members as follows: one member of the Senate appointed by the Senate Committee on Rules; one member of the House of Delegates appointed by the Speaker of the House of Delegates; the Clerk of the Senate; the Clerk of the House of Delegates; two nonlegislative citizen members, one of whom shall be appointed by the Senate Committee on Rules and one of whom shall be appointed by the Speaker of the House of Delegates; the Director of the Department of General Services; and the Librarian of Virginia; and, be it

RESOLVED FINALLY, That the commission meet annually to review names submitted for inclusion on the Wall of Honor. Names may be added to the Wall of Honor every five years, beginning in 2023. Staffing shall be provided by the Senate Clerk's Office.

SENATE JOINT RESOLUTION NO. 337

Designating July 10, in 2023 and in each succeeding year, as Earl Hamner, Jr., Day in Virginia.

Agreed to by the Senate, February 17, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Earl Hamner, Jr., a luminary author and television producer, inspired generations of Americans with his depictions of a wholesome mountain lifestyle in Virginia's Blue Ridge region through the long-running television program *The Waltons*; and

WHEREAS, Earl Hamner was born on July 10, 1923, in Schuyler, a small mining community in Nelson County; he was the eldest of eight children and learned the value of hard work and responsibility at a young age while growing up during the Great Depression; and

WHEREAS, Earl Hamner learned to read by the age of four and developed a passion for the written word; his first work, a poem titled "My Dog," was published on the children's page of the *Richmond Times-Dispatch*, when he was just six years of age; and

WHEREAS, Earl Hamner attended the University of Richmond on a scholarship, then during his sophomore year was drafted and joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Army; and

WHEREAS, after his honorable military service, Earl Hamner completed his education and graduated from the University of Cincinnati, where he interned at a local radio station, then went to work as a radio writer for NBC in New York City; and

WHEREAS, Earl Hamner published his first book *Fifty Roads to Town* in 1953 and wrote scripts for *The Twilight Zone* in the 1960s; his semi-autobiographical novel *Spencer's Mountain* was adapted into a feature film in 1963, and his book *The Homecoming* became a Christmas television special, both of which served as precursors to his hit television show, *The Waltons*; and

WHEREAS, set in the fictional Jefferson County, Virginia, *The Waltons* was based on many of Earl Hamner's real-life experiences and followed the daily life of John Walton, Jr., better known as John-Boy, as well as his parents, grandparents, and siblings on Walton's Mountain over a 37-year period, which included the Great Depression, World War II, the Kennedy assassination, and the moon landing; and

WHEREAS, Earl Hamner voiced the wise, reassuring narrator of *The Waltons*, providing an introduction and postscript to each episode; in what became an iconic ending to each episode, the Walton family members bid each other good night,

and the phrase "Good night, John-Boy" is now remembered as a beloved expression of the strong family values evoked by *The Waltons*; and

WHEREAS, through the hopeful and heartwarming stories of *The Waltons*, Earl Hamner crafted a work of timeless Americana that captivated audiences around the country and the world with its optimism and sentimentality for life's simple pleasures; and

WHEREAS, *The Waltons* built a loyal following and ultimately produced 221 episodes over nine seasons and six movie specials; the show was as acclaimed by critics as it was beloved by audiences, receiving 37 Emmy nominations and 13 Emmy awards, and 14 Golden Globe nominations and three Golden Globe awards; and

WHEREAS, possessing a wide range as a writer, Earl Hamner wrote and produced Falcon Crest, a show inspired by the story of a family ancestor, Anthony Giannini, an indentured servant from Fibbialla, Italy, who came to Virginia in 1773 to grow a New World wine industry, and became Thomas Jefferson's gardener and friend at Monticello; and

WHEREAS, never losing his affection for folkways, old stories, and a sense of community and tradition, Earl Hamner produced adaptations of *Heidi* and *Charlotte's Web*, in addition to several other movies and television series after *The Waltons* and *Falcon Crest*; and

WHEREAS, Earl Hamner earned many awards and accolades for his work, including five Christopher Awards, the 1972 George Foster Peabody Award, a Primetime Emmy Award for *The Waltons*, and the Frederic Ziv Award for outstanding achievement in telecommunication from the University of Cincinnati in 2004; and

WHEREAS, throughout his life, Earl Hamner held true to his personal vision for media as an affirmation of the innate goodness of the human spirit, the importance of learning from the past, and the power of childhood imagination and hopefulness; and

WHEREAS, Earl Hamner died on March 24, 2016, and he is fondly remembered and greatly missed by his wife of 61 years, Jane; their children, Scott and Caroline, and their families; and numerous other family members, friends, and fans of *The Waltons*; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate July 10, in 2023 and in each succeeding year, as Earl Hamner, Jr., Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the family of Earl Hamner, Jr., so that they may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this day on the General Assembly's website.

SENATE JOINT RESOLUTION NO. 338

Celebrating the life of Lindsay Gordon Dorrier, Jr.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Lindsay Gordon Dorrier, Jr., a loyal public servant who made many contributions to the Albemarle County community, died on January 30, 2023; and

WHEREAS, Lindsay Dorrier grew up at the Endfield farm outside Scottsville and graduated from St. Christopher's School in Richmond; he subsequently earned a bachelor's degree from Trinity College in Connecticut, a law degree from the University of Virginia, and a master's degree from James Madison University; and

WHEREAS, a proud patriot, Lindsay Dorrier dedicated 22 years of service to the nation as a member of the United States Army; he worked in intelligence and was a member of the Judge Advocate General's Corps, rising to the rank of lieutenant colonel; and

WHEREAS, Lindsay Dorrier devoted his life to public service; he was elected to two terms as Commonwealth's Attorney for Albemarle County, served as the director of the Department of Criminal Justice Services, and represented the residents of Scottsville on the Albemarle County Board of Supervisors for 16 years from 1976 to 1980 and 2000 to 2012; and

WHEREAS, Lindsay Dorrier supported numerous programs to reduce crime and enhance the quality of life in Scottsville and throughout Albemarle County; he earned the admiration of his colleagues for his commitment to fairness and determination to build bipartisan consensus on common sense solutions; and

WHEREAS, in later life, Lindsay Dorrier served as legal counsel to Scottsville local government and provided legal assistance and criminal defense representation to members of the community in need; and

WHEREAS, Lindsay Dorrier will be fondly remembered and greatly missed by his wife, Jane; his children, Margaret and Lindsay III, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Lindsay Gordon Dorrier, Jr., a respected public servant in Albemarle County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Lindsay Gordon Dorrier, Jr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 339

Commending Robin Reed.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Robin Reed, a meteorologist and television news anchor who served generations of Roanoke residents over the course of his 40-year career on WDBJ7, retired in December 2022; and

WHEREAS, after graduating from James Madison High School, Robin Reed considered a career in professional baseball and attended a private workout with the Texas Rangers; he ultimately chose to attend James Madison University, from which he earned a bachelor's degree in communications; and

WHEREAS, Robin Reed studied meteorology at Pennsylvania State University, Ball State University, Mississippi State University, Portland State University, and what are now Graduate School USA and the Lyndon Campus of Northern Vermont University; and

WHEREAS, in 1978, Robin Reed began his television career as a sports director and weathercaster for WHSV in Harrisonburg; four years later, he joined WDBJ7, where he served as chief meteorologist until 2017; and

WHEREAS, Robin Reed delivered life-saving information during many severe weather events, including blizzards, tornadoes, tropical storms, and other natural disasters, such as the Flood of 1985; and

WHEREAS, presenting weather forecasts during multiple daily broadcasts, Robin Reed was well-known in the community as a local celebrity; he was ranked by *The Roanoker* magazine as both the most trusted weather anchor in the region and the most attractive local news personality; and

WHEREAS, Robin Reed was highly respected in the field of meteorology, earning the Seal of Approval and Certified Broadcast Meteorologist designation from the American Meteorological Society; in 1997, he was invited to the White House to participate in a seminar with several fellow weathercasters, scientists from the National Oceanic and Atmospheric Association, President Bill Clinton, and Vice President Al Gore; and

WHEREAS, Robin Reed has mentored other meteorologists, including many who distinguished themselves at WDBJ7 and in newsrooms across the country, as well as in government service with the National Weather Service and the National Hurricane Center; and

WHEREAS, in 2017, Robin Reed stepped down as chief meteorologist and became the lead anchor of WDBJ7's 6:00 p.m. newscast; and

WHEREAS, Robin Reed is a sought-after speaker in Southwest Virginia and a champion for math and science education; he is a member of the advisory council for the School of Media Arts and Design at James Madison University, and he has inspired countless young people to pursue careers in broadcast journalism; and

WHEREAS, Robin Reed served on the board of the Science Museum of Western Virginia and played an instrumental role in the creation of the museum's weather exhibit; and

WHEREAS, Robin Reed served as a lecturer at Virginia Western Community College from 1998 until 2002, as an adjunct instructor at Virginia Tech beginning in 2013, and continues to influence the next generation of broadcast journalists as a full-time professor of practice at the Virginia Tech School of Communication; and

WHEREAS, Robin Reed has received numerous awards for his skill as a broadcaster and his involvement in the community including the Roanoke Branch NAACP Citizen of the Year Award – Media in 2012, the Virginia AP Broadcasters Gallimore Award in 2021, and the National Capital Chesapeake Bay Chapter of the National Academy of Television Arts and Sciences Silver Circle Award in 2021; and

WHEREAS, Robin Reed is a dedicated family man who often traveled home to have dinner with his wife and children in between broadcasts and was active in the community by supporting his children at school events and other activities; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Robin Reed on the occasion of his retirement as a meteorologist and news anchor with WDBJ7; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Robin Reed as an expression of the General Assembly's admiration for his legacy of service to Roanoke residents and best wishes on his well-earned retirement.

SENATE JOINT RESOLUTION NO. 340

Celebrating the life of Bruce Milton Scott.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Bruce Milton Scott, an honorable veteran, accomplished builder, valued mentor, and beloved member of the Northern Virginia community, died on January 16, 2023; and

WHEREAS, after living in Montana and Chicago, Bruce Scott moved with his family to Arlington at the age of 13, graduating from what was formerly Washington and Lee High School in 1953; and

WHEREAS, Bruce Scott worked in construction for some time before earning a degree in building construction from what was then Virginia Polytechnic Institute, where he served with the school's Corps of Cadets; and

WHEREAS, after graduating, Bruce Scott was commissioned in the United States Army, serving his country with honor and distinction at the Fort Bliss missile installation in El Paso, Texas, before receiving an honorable discharge at the rank of first lieutenant; and

WHEREAS, upon returning to the Commonwealth with his wife, Mary, Bruce Scott started a construction contracting company in Annandale and then for a few years worked in sales for his father-in-law's printing company, Cooper-Trent; and

WHEREAS, moving next from Falls Church to Arlington, Bruce Scott returned to the contracting business by reestablishing Bruce Scott Construction, Inc., which later became Scott–Long Construction, Inc.; and

WHEREAS, in the 1970s, Bruce Scott and his family made their home at the pastoral Oakspring Farm in Oakton, which became a hub for various community events and group gatherings over the years; and

WHEREAS, Bruce Scott was dedicated to advancing the construction industry and served with various professional organizations, notably founding the Northern Virginia chapter of the American Institute of Constructors and serving previously as president of the Northern Virginia Building Industry Association and the Annandale Junior Chamber of Commerce; and

WHEREAS, Bruce Scott was the recipient of many accolades and awards in recognition of his professional accomplishments, including being named Professional Constructor of the Year by the American Institute of Constructors; and

WHEREAS, Bruce Scott gave generously of his time to support various organizations in the community, including the Marymount University Board of Trustees, Young Life, and the Christian Stewardship Ministries Advisory Council, which he served as chair; and

WHEREAS, guided by his faith, Bruce Scott enjoyed worship and fellowship with his community at Truro Anglican Church in Fairfax County for many years, where he was a member of the vestry and sang in the choir; and

WHEREAS, Bruce Scott will be fondly remembered and dearly missed by his loving wife of 63 years, Mary; his children, Julie, Jeff, Susan, and John, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Bruce Milton Scott, a gentle, thoughtful, truthful, committed, and compassionate individual whose legacy of service in Northern Virginia will be cherished for years to come; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Bruce Milton Scott as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 341

Commending the Fairfax High School field hockey team.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, the Fairfax High School field hockey team won the Virginia High School League Class 6 state championship on November 13, 2022, at Courtland High School in Spotsylvania County; and

WHEREAS, the Fairfax High School Lions defeated the Yorktown High School Patriots of Arlington by a score of 1-0 to bring home the first state championship title in program history; and

WHEREAS, the Fairfax Lions posted an impressive 24-1-1 record in 2022 and remarkably yielded only one goal throughout the second half of its regular season and into the regional and state playoffs; and

WHEREAS, the Fairfax Lions' state championship victory was a redemptive moment for head coach Amber Beaudoin and a program that had reached the state semifinals seven times since 2001 without winning a title; and

WHEREAS, the Fairfax Lions will see many of its players return next season, promising an opportunity for the program to carry on its successful streak; and

WHEREAS, the accomplishments of the Fairfax Lions were made possible through the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of the families, alumni, and students that comprise the Fairfax High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Fairfax High School field hockey team for winning the 2022 Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Amber Beaudoin, head coach of the Fairfax High School field hockey team, as an expression of the General Assembly's admiration for the team's achievement.

SENATE JOINT RESOLUTION NO. 342

Commending Mitchell Allen Sutterfield, Ph.D.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Mitchell Allen Sutterfield, Ph.D., is an esteemed public servant who retired from the City of Fairfax School Board in 2022 after working tirelessly for the benefit of students and teachers in his community for many years; and

WHEREAS, Mitchell "Mitch" Sutterfield served six terms on the City of Fairfax School Board, overseeing Fairfax City's four schools and the Fairfax Academy for Communications and the Arts within Fairfax High School, which collectively serve more than 5,000 students; he was also reelected as the board's vice chair in July 2022; and

WHEREAS, Mitch Sutterfield has been a resident of Fairfax City since 1964 and is a product of the city's public schools, graduating from the former Fairfax Elementary School, what is now Katherine Johnson Middle School, and ultimately Fairfax High School in 1972; and

WHEREAS, after earning bachelor's and master's degrees in English at The College of William and Mary, Mitch Sutterfield received a doctoral degree in English from George Washington University in 1992; and

WHEREAS, in 1977, Mitch Sutterfield embarked upon an accomplished 32-year career as an English teacher and coach of football and wrestling at Fairfax High School, where he contributed greatly to the success of his students and retired in 2009; and

WHEREAS, Mitch Sutterfield's steadfast dedication to his students was honored in 2004 when he was selected by Rotary International as Teacher of the Year from among the four schools in the City of Fairfax; and

WHEREAS, Mitch Sutterfield was inducted into the Fairfax High School Sports Hall of Fame and the Virginia Chapter of the National Wrestling Hall of Fame, and in 2003, he was named Virginia Wrestling Coach of the Year by the Virginia High School League Coaches Association; and

WHEREAS, before joining the City of Fairfax School Board, Mitch Sutterfield was its representative to the Fairfax County Superintendent's Business and Community Advisory Council; his commitment to the City of Fairfax has also been reflected by his service on the board of the Mosby Woods Community Association; and

WHEREAS, since Mitch Sutterfield retired from being a full-time educator in 2009, he has continued to give generously of his talents and expertise as a substitute teacher for Fairfax County Public Schools; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Mitchell Allen Sutterfield, Ph.D., on the occasion of his retirement from the City of Fairfax School Board; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Mitchell Allen Sutterfield, Ph.D., as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 343

Commending Tobin Mary Sorensen.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Tobin Mary Sorensen is an esteemed public servant who retired from the City of Fairfax School Board in 2022 after working tirelessly for the benefit of students and teachers in her community for many years; and

WHEREAS, Tobin "Toby" Sorensen served seven terms on the City of Fairfax School Board, including as chair from 2014–2016 and as vice chair from 2018–2020, overseeing Fairfax City's four schools and the Fairfax Academy for Communications and the Arts within Fairfax High School, which collectively serve more than 5,000 students; and

WHEREAS, Toby Sorensen has also served as Fairfax City's representative to the Fairfax County School Board's Comprehensive Planning Development Committee and as one of the city's representatives to the Washington Area Boards of Education, and in July 2022 was appointed as one of the legislative liaisons; and

WHEREAS, Toby Sorensen has previously served as the City of Fairfax School Board's representative to both the city's Parks and Recreation Advisory Board and its Environmental Sustainability Committee; and

WHEREAS, Toby Sorensen represented Fairfax City on the Fairfax County Superintendent's Business and Community Advisory Council for three years and was also co-chair of the City of Fairfax School Board's Facilities Planning Advisory Council and a member of the Fairfax Community Coalition; and

WHEREAS, Toby Sorensen's dedication to students and teachers in Fairfax City has also been reflected through her prior service as a parent-teacher association president at Fairfax High School, at what is now Katherine Johnson Middle School, and at what is now Daniels Run Elementary School; and

WHEREAS, in addition to her service on the City of Fairfax School Board, Toby Sorensen has demonstrated an unwavering commitment to her community and neighborhood, serving as the Country Club Hills Civic Association treasurer and also as a block captain; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Tobin Mary Sorensen on the occasion of her retirement from the City of Fairfax School Board; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Tobin Mary Sorensen as an expression of the General Assembly's admiration for her contributions to the Commonwealth and best wishes in her future endeavors.

SENATE JOINT RESOLUTION NO. 344

Commending Robert Michael Reinsel.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Robert Michael Reinsel is an esteemed public servant who retired from the City of Fairfax School Board in 2022 after working tirelessly for the benefit of students and teachers in his community for many years; and

WHEREAS, Robert "Bob" Michael Reinsel served four terms on the City of Fairfax School Board, including a term as legislative liaison, overseeing Fairfax City's four schools and the Fairfax Academy for Communications and the Arts within Fairfax High School, which collectively serve more than 5,000 students; and

WHEREAS, Bob Reinsel has also served Fairfax City as president of the Mosby Woods Community Association and vice president of the Fairfax Spotlight on the Arts Board of Directors and on the City of Fairfax Parks and Recreation Advisory Board and the mayor's Committee on Housing; and

WHEREAS, Bob Reinsel grew up in Fairfax City, attending the former Westmore Elementary School and what is now Katherine Johnson Middle School before graduating from Fairfax High School; and

WHEREAS, Bob Reinsel returned to Fairfax City in 2006 so that his children could benefit from the outstanding educational opportunities available to them in the locality's schools; and

WHEREAS, in his professional life, Bob Reinsel is a senior business operations manager for a global internet information services and telecom firm, working tirelessly to support the success of his clients; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Robert Michael Reinsel on the occasion of his retirement from the City of Fairfax School Board; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Robert Michael Reinsel as an expression of the General Assembly's admiration for his contributions to the Commonwealth and best wishes in his future endeavors.

SENATE JOINT RESOLUTION NO. 345

Commending Jon Andrew Buttram.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Jon Andrew Buttram is an esteemed public servant who retired from the City of Fairfax School Board in 2022 after working tirelessly for the benefit of students and teachers in his community for many years; and

WHEREAS, Jon Buttram served nine terms on the City of Fairfax School Board, including as chair, vice chair, and legislative liaison, overseeing Fairfax City's four schools and the Fairfax Academy for Communications and the Arts within Fairfax High School, which collectively serve more than 5,000 students; and

WHEREAS, Jon Buttram has additionally provided leadership as the chair of the Northeastern Region of the Virginia School Boards Association and through his support of the most recent school bond referendum committee; and

WHEREAS, Jon Buttram has been active in Fairfax City schools through multiple parent-teacher associations, as an instructor for hands-on science after-school activities, as a high school science fair judge, and as an Odyssey of the Mind coach and judge, fostering the achievements of countless students; and

WHEREAS, Jon Buttram has given generously of his time and talents to a number of city and community organizations, including the Fairfax City Parks and Recreation Advisory Board, the Southeast Fairfax Citizens Association, an elementary school consolidation task force, and two Southeast Fairfax traffic calming task forces, helping to make Fairfax City a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Jon Andrew Buttram on the occasion of his retirement from the City of Fairfax School Board; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jon Andrew Buttram as an expression of the General Assembly's admiration for his contributions to the Commonwealth and best wishes in his future endeavors.

SENATE JOINT RESOLUTION NO. 346

Celebrating the life of Larry S. Buckner, Sr.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Larry S. Buckner, Sr., a business leader and active member of the King George County community, died on January 22, 2023; and

WHEREAS, Larry Buckner grew up in Alexandria and graduated from Mount Vernon High School, where he met his future wife, Joyce; and

WHEREAS, Larry Buckner joined Service Distributing, Inc., in Lorton in 1968 and ultimately purchased the company in 2006; and

WHEREAS, Larry Buckner provided exceptional service and leadership to Service Distributing, Inc., and helped it grow to become one of the top wine distributors in the Commonwealth; after more than 54 years of hard work and success, he sold the business in May 2022; and

WHEREAS, Larry Buckner also served and safeguarded members of the community as a past president of the Lorton Volunteer Fire Department and a member of Occoquan Lodge No. 310 of the Ancient Free and Accepted Masons; and

WHEREAS, predeceased by his wife of 48 years, Joyce, Larry Buckner will be fondly remembered and greatly missed by his children, Larry, Jr., Dennis, Vicky, and Terry, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Larry S. Buckner, Sr., a respected businessman in King George County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Larry S. Buckner, Sr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 347

Celebrating the life of Kevin Michael Raymond.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Kevin Michael Raymond, a respected public servant in Woodbridge, died on October 14, 2022; and

WHEREAS, Kevin Raymond offered his leadership and expertise to the community as the Neabsco representative for the Prince William County Board of Supervisors on the Social Services Advisory Board; and

WHEREAS, Kevin Raymond served the community in many other ways, including as a member of the Dale City Civic Association and the Prince William County Police Department Community Advisory Board; and

WHEREAS, Kevin Raymond served the Prince William County community with integrity and dedication, working diligently to enhance the quality of life of all his fellow residents; and

WHEREAS, Kevin Raymond will be fondly remembered and greatly missed by his loving wife of 53 years, Patricia; his children, Shannon, Monica, Michael, and Erin, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Kevin Michael Raymond, a public servant who made many contributions to the Prince William County community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Kevin Michael Raymond as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 348

Commending March of Dimes.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, for 85 years, the nonprofit organization March of Dimes has worked to enhance the health and wellness of families around the nation by supporting research, leading programs, and providing advocacy and education; and

WHEREAS, March of Dimes was founded by President Franklin D. Roosevelt in 1938 to fight polio and fund the development of two vaccines, still in use today, that virtually eliminated the crippling disease; and

WHEREAS, in 1958, having achieved its initial mission, March of Dimes shifted its attention from polio to the prevention of birth defects, and through federal and state advocacy, the organization led the way in establishing a nationwide network of birth defect-monitoring programs and research centers; and

WHEREAS, March of Dimes has undertaken decades of groundbreaking research in maternal and infant health, which has led to the discovery of lifesaving products and tests, such as surfactant therapy for premature infants and tests to identify life-threatening birth defects; and

WHEREAS, March of Dimes has developed a collaborative model to study and prevent preterm birth through groundbreaking research at its five Prematurity Research Centers; and

WHEREAS, March of Dimes was a pioneer in the support of newborn screening, urging the United States Congress to pass and fund the Newborn Screening Saves Lives Act, which in 2008 established national guidelines on the conditions states should include in newborn screening programs, and through state advocacy ensured that every state screens all newborns for that core set of conditions; and

WHEREAS, March of Dimes is a longtime advocate for access to health care for women of childbearing age, infants, children, and families, ensuring they have access to quality, affordable health care before, during, and after pregnancy through programs such as the Children's Health Insurance Program and Medicaid postpartum extension coverage, which provides coverage for one full year after childbirth; and

WHEREAS, March of Dimes was a leading advocate for bipartisan legislation to ensure reasonable accommodations for pregnant people in the workplace, which led to the passage and enactment of the Pregnant Workers Fairness Act; and

WHEREAS, in 2003, March of Dimes launched the Prematurity Campaign to address the crisis of premature birth and help families have full-term, healthy babies; the organization authored the Prematurity Research Expansion and Education Act for Mothers (PREEMIE) Act, which Congress enacted in 2006 to expand research, education, and services to fight premature births; and

WHEREAS, March of Dimes has set a national goal of reducing preterm birth to 8.1 percent in every state, which will result in a healthier start in life for tens of thousands of infants; and

WHEREAS, March of Dimes sponsors numerous programs to support healthy pregnancies and infants, such as its work to prevent early elective deliveries and maternal mortality, as well as its NICU Family Support program; and

WHEREAS, March of Dimes and its volunteers continue to advocate for national and state policies and programs to improve the health of women of childbearing age, infants, children, and families; and

WHEREAS, March of Dimes is committed to mobilizing the nation by amplifying the voices of pregnant people and families; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend March of Dimes on the occasion of its 85th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to March of Dimes as an expression of the General Assembly's appreciation for the organization's critical mission and admiration for the hard work of its staff members, volunteers, and supporters.

SENATE JOINT RESOLUTION NO. 349

Celebrating the life of Wes Freed.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Wes Freed, an accomplished visual artist, musician and beloved member of the Richmond community whose work with the celebrated Southern rock band Drive-By Truckers and other acts earned him considerable fame and renown, died on September 4, 2022; and

WHEREAS, a native of the Shenandoah Valley, Wes Freed graduated from Fort Defiance High School before studying art at Virginia Commonwealth University in Richmond, the city he would call home for the rest of his life; and

WHEREAS, Wes Freed sang and played guitar in many noteworthy Richmond bands over the years, including the alternative country band Dirt Ball, the Shiners, the Mag Bats, the Mutant Drones, and Mudd Helmet; and

WHEREAS, while performing with his various bands, Wes Freed illustrated posters to promote their concerts, developing a signature style and drawing the attention of other musicians and artists; and

WHEREAS, after meeting members of the Drive-By Truckers in 1997, Wes Freed supplied the album cover artwork for their breakout 2001 release *Southern Rock Opera*, starting a partnership that would span ten albums and become recognized as one of the most successful collaborations in modern rock n' roll history; and

WHEREAS, the Southern Gothic symbolism and iconic figures that Wes Freed used on Drive-By Truckers' albums became hallmarks of his distinctive and highly original aesthetic; and

WHEREAS, many of Wes Freed's best known works from his career as a visual artist were recently memorialized in 2019 in the publication *The Art of Wes Freed - Paints, Posters, Pin-ups and Possums*; and

WHEREAS, Wes Freed will be fondly remembered and dearly missed by his loving partner, Jackie, and by numerous other family members, friends, and fans; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Wes Freed, a true embodiment of rock n' roll and a cherished member of the Richmond community whose art will inspire others for many years to come; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Wes Freed as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 350

Celebrating the life of Frank Earl Barham.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, Frank Earl Barham of Charlottesville, a respected college professor and champion for public education, died on September 19, 2022; and

WHEREAS, Frank Barham grew up in North Carolina and earned bachelor's and master's degrees from East Carolina University; he continued his education at the University of Virginia, receiving a doctorate in education in 1973; and

WHEREAS, Frank Barham pursued a career with his alma mater and taught education law and finance at the University of Virginia's Curry School of Education, now known as the School of Education and Human Development; he served as a department chair and was named professor emeritus upon his retirement in 1992; and

WHEREAS, Frank Barham was a passionate advocate of equity in education and served as executive director of the Virginia School Boards Association until 2010; and

WHEREAS, in 2006, Frank Barham was inducted into the University of Virginia's Raven Society in recognition of his lifetime of contributions to education in the Commonwealth; and

WHEREAS, Frank Barham was an accomplished world traveler, an avid golfer, and a dedicated fan of the University of Virginia Cavaliers, attending as many football, basketball, and baseball games as he could; and

WHEREAS, Frank Barham enjoyed fellowship and worship with the Charlottesville community as a longtime member of Christ Episcopal Church, where he served on the vestry and as an usher; and

WHEREAS, Frank Barham will be fondly remembered and greatly missed by his wife, Martha; his children, Mary, Brian, and Jason, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Frank Earl Barham; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Frank Earl Barham as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 351

Commending LINK, Inc.

Agreed to by the Senate, February 16, 2023
Agreed to by the House of Delegates, February 20, 2023

WHEREAS, for 50 years, the nonprofit organization LINK, Inc., has enhanced the quality of life in Northern Virginia by providing access to free, nutritious food and emergency financial assistance to people in need; and

WHEREAS, established in 1972 by five local churches to provide nonperishable food to people in need, LINK was incorporated as a nonprofit organization in 1978 and has continued to expand its operations over the years; and

WHEREAS, LINK now comprises 15 churches of various denominations in Sterling, Herndon, Chantilly, and Reston; the organization's primary drop-off point and food pantry is located at Herndon United Methodist Church, with Christ the Redeemer Catholic Church in Sterling providing additional inventory space and hosting a monthly Mobile Food Pantry event with food donated by the Capital Area Food Bank; and

WHEREAS, due to the effects of the COVID-19 pandemic, the need for LINK's services more than quadrupled between 2019 and 2020; LINK currently delivers about 5,000 pounds of food to approximately 100 families each week; and

WHEREAS, in 2022 alone, LINK completed 3,338 food deliveries to 16,578 people, and nearly 1,609 families received 98,000 pounds of food through a monthly distribution program operated by LINK and the Capital Area Food Bank; and

WHEREAS, during the holiday season in 2022, LINK also provided food and grocery store gift cards to more than 6,560 people and provided toys and gifts to more than 2,900 children; and

WHEREAS, financial assistance is provided to individuals or families referred by the clergy of LINK member churches or specific county agencies in the areas of Herndon, Sterling, and Ashburn; assistance is provided to people in crisis where there is no other sufficient means of support and as funds allow, typically for utility costs if there is a cut-off notice or rental housing after an eviction notice; and

WHEREAS, LINK has fulfilled its mission entirely through the dedication and hard work of volunteers, with no paid staff, and through generous donations from local individuals and community partners; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend LINK, Inc., on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Lisa Lombardozzi, president of LINK, Inc., as an expression of the General Assembly's admiration for the organization's vital work to reduce food insecurity in Northern Virginia.

SENATE JOINT RESOLUTION NO. 352

Celebrating the life of the Honorable John Samuel Johnston, Jr.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, the Honorable John Samuel Johnston, Jr., a longtime judge of the 24th Judicial Circuit of Virginia, died on December 10, 2022; and

WHEREAS, Samuel "Sam" Johnston grew up in Alabama and attended public schools; he earned a bachelor's degree from the University of Alabama and remained a loyal fan of the Alabama Crimson Tide throughout his life; and

WHEREAS, Sam Johnston earned a law degree from the University of Virginia, where he was elected to the law school council as a third-year student, then served as a clerk for a federal judge in Alabama; and

WHEREAS, Sam Johnston practiced law with the firm Kizer, Phillips & Petty until he was selected as a judge in the Campbell County General District Court of the 24th Judicial District of Virginia in 1977; at the time, he was the youngest district court judge in the Commonwealth; and

WHEREAS, four years later, Sam Johnston was elevated to the Campbell County Circuit Court of the 24th Judicial Circuit of Virginia, becoming the youngest circuit court judge in the Commonwealth at the age of 34; and

WHEREAS, Sam Johnston presided over his courts with great fairness and wisdom and earned the admiration of his colleagues for his patience and professionalism; among his many achievements as a judge, he proudly oversaw the construction of a new courthouse in Campbell County in 1991; and

WHEREAS, Sam Johnston served the Commonwealth as a member of task forces related to drunk driving and parole and sentencing reform, and he was a charter member of the Virginia Sentencing Commission; and

WHEREAS, Sam Johnston was a sought-after lecturer and presenter who offered his wisdom and expertise to civic organizations and bar associations throughout the Commonwealth and the nation; he authored a humorous collection of anecdotes from his time on the bench, *Why Judges Wear Robes*, and coauthored, *The Art and Science of Mastering the Jury Trial*; and

WHEREAS, in later life, Sam Johnston was a founding member of Juridical Solutions, a mediation group staffed by retired judges from across the Commonwealth; and

WHEREAS, outside of his career, Sam Johnston was a voracious reader, an expert at crossword puzzles, and an avid outdoorsman who spent countless hours in his garden and was well known for his wild game dinners at the end of every hunting season; and

WHEREAS, predeceased by one son, Adam, Sam Johnston will be fondly remembered and greatly missed by his beloved wife of 54 years, Elizabeth; his children, Margaret, Whitaker, Mollie, Annie Gordon, and bonus daughter Page, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable John Samuel Johnston, Jr., a highly respected former judge in Campbell County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable John Samuel Johnston, Jr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 353

Commending Ray Beasley.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Ray Beasley, a longtime high school and college sports official and a highly admired member of his community, celebrates his 100th birthday in 2023; and

WHEREAS, born on April 22, 1923, Ray Beasley grew up in South Richmond and witnessed many historic events throughout his life, from the Great Depression and World War II to the moon landing and the rise of the Internet era; and

WHEREAS, Ray Beasley graduated from John Marshall High School, where he was a running back on the 1940 football team that finished the season undefeated, allowed no points, and won the state championship; and

WHEREAS, Ray Beasley married his high school sweetheart, the former Alice Lipscomb, and they enjoyed 77 years of marriage until her passing in 2018; the couple raised a daughter, Janet, and a son, Douglas, who died in 2017; and

WHEREAS, Ray Beasley turned down scholarship offers from several colleges; he worked at DuPont until 1942, when he accepted a football scholarship from what is now Virginia Polytechnic Institute and State University (Virginia Tech); and

WHEREAS, during World War II, Ray Beasley joined many of the other young men of his generation in service to the nation when he was drafted into the United States Army Air Corps; he ultimately served as a photographer with the 87th Infantry Division and was honorably discharged with the rank of corporal; and

WHEREAS, in 1945, Ray Beasley returned to Blacksburg to resume his studies and rejoined the football team; he was part of the first college football team from Virginia to participate in a New Year's Day bowl game, the 1947 Sun Bowl in El Paso, Texas; and

WHEREAS, while at Virginia Tech, Ray and Alice Beasley established a food cooperative to help support other veteran couples at the institution by increasing access to nutritious food; and

WHEREAS, Ray Beasley graduated from Virginia Tech with a bachelor's degree in business administration in 1949, then began a long career with Chesapeake and Potomac Telephone Company; he retired as a district manager in charge of directory operations after nearly 40 years of service; and

WHEREAS, beginning in 1950, Ray Beasley also mentored and supported young people as a high school and college sports official for 38 years; he officiated eight high school championship games as a member of the Central Virginia Football Officials Association and was a referee in the National Collegiate Athletic Association Division I Southern Conference; and

WHEREAS, Ray Beasley led numerous officiating crews and earned the admiration of colleagues, coaches, and players for his professionalism and extensive knowledge of the rules; and

WHEREAS, Ray Beasley earned the Silver Whistle Award as the top collegiate official in the Southern Conference in 1973 and 1981, and in 2022, he received the Gold Flag Award from the Touchdown Club of Richmond for his integrity, sportsmanship, and commitment to excellence in officiating; and

WHEREAS, since his well-earned retirement, Ray Beasley has stayed active in community life and enjoys playing golf and spending time with his daughter, Janet, his three grandchildren, and his five great-grandchildren; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Ray Beasley on the occasion of his 100th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ray Beasley as an expression of the General Assembly's admiration for his personal and professional achievements.

SENATE JOINT RESOLUTION NO. 354

Celebrating the life of Carol Pedersen.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Carol Pedersen, an esteemed acting coach and beloved member of the Charlottesville community who played an outsized role in the cultural life of the city through her involvement with the Live Arts performing space and other local theater productions, died on January 8, 2023; and

WHEREAS, a native of Bergenfield, New Jersey, Carol Pedersen went on to earn a bachelor's degree from Allegheny College then lived in New York City for some years, joining the Actors' Equity Association, performing in an off-Broadway production of *The Dragon*, and studying with the actress Tamara Daykarhanova; and

WHEREAS, after raising her children, Carol Pedersen returned to school, earning a master of fine arts degree in directing from Columbia University and a master's degree in theater from City University of New York; and

WHEREAS, Carol Pedersen taught theater for several years at Bronx Community College, Columbia University, and Marymount Manhattan College, contributing to the success of many aspiring actors, playwrights, and stage technicians; and

WHEREAS, Carol Pedersen devoted years to academic research on Shakespeare and on how Shakespeare festivals enrich communities both economically and culturally, gaining perspectives that would guide her own theater pursuits in the future; and

WHEREAS, shortly after relocating to Charlottesville in 2001, Carol Pedersen became a fixture of the city's cultural scene through her involvement with the performing arts center Live Arts; and

WHEREAS, Carol Pedersen started the Actor's Lab, the first formal educational offering at Live Arts, which has since evolved over the decades into a robust education program supporting an untold number of actors in the pursuit of their dreams; and

WHEREAS, as a faithful member of the Live Arts Playwrights' Lab for many years, Carol Pedersen encouraged playwrights and offered dramaturgical advice to foster the development of new plays; and

WHEREAS, Carol Pedersen touched every corner of the theater world in the greater Charlottesville area; she collaborated frequently over the years with her daughter, Boomie Pedersen, and the Hamner Theater; she was an invaluable dramaturgical resource for the Virginia Playwrights and Screenwriters Initiative and the International Playwrights Retreat and served as master of the text for the Hamner Theater's Shakespeare Tours; and

WHEREAS, Carol Pedersen's life was a manifestation of her personal motto, "Nothing ventured, nothing gained," and her longstanding belief in the value of the theater as a mainstay of a community's culture; and

WHEREAS, Carol Pedersen will be fondly remembered and dearly missed by her children, Boomie and Nym, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Carol Pedersen, a cherished member of the Charlottesville community whose encouragement and guidance brightened countless lives and left a lasting imprint on the cultural life of the city; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Carol Pedersen as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 355

Celebrating the life of Colonel Rayburn Gene Smith, USA, Ret.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Colonel Rayburn Gene Smith, USA, Ret., an honorable and distinguished veteran and an active and beloved member of the Hat Creek community, died on December 22, 2022; and

WHEREAS, Gene Smith graduated from William Campbell High School in Naruna and would go on to study over the years at Virginia Commonwealth University, Liberty University, the United States Army Command and General Staff College, and the United States Army War College; and

WHEREAS, Gene Smith served his country as a commissioned officer for more than 34 years, including during the Vietnam War as a Huey gunship pilot with C Troop, First Squadron, Ninth Cavalry, First Cavalry Division (Airmobile); and

WHEREAS, for his active service, Gene Smith was awarded the Meritorious Service Medal, Air Medal for Valor with 26 Oak Leaf Clusters, Presidential Unit Citation, Army Reserve Components Achievement Medal, National Defense Service Medal (2nd award), Vietnam Service Medal (3rd award), Armed Forces Reserve Medal (2nd award), Army Service Ribbon, Republic of Vietnam Gallantry Cross Unit Citation with Palm, Republic of Vietnam Campaign Medal, and Master Army Aviator Badge; and

WHEREAS, after retiring from active service, Gene Smith became the senior instructor for several Junior Reserve Officers' Training Corps units, as well as a history teacher and school administrator; and

WHEREAS, Gene Smith concluded his civilian career at Halifax County High School, where he contributed greatly to the academic, social, and emotional well-being of his students; and

WHEREAS, in his retirement, Gene Smith gave generously of his time and talents to support his most valued interests and causes, volunteering with several civic and historical organizations; and

WHEREAS, guided throughout his life by his faith, Gene Smith enjoyed worship and fellowship with his community at Hat Creek Presbyterian Church for many years; and

WHEREAS, Gene Smith will be fondly remembered and dearly missed by his loving wife of 51 years, Anne Gray; his children, Susan and Victoria, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Colonel Rayburn Gene Smith, USA, Ret., a cherished member of the Hat Creek community whose dedication to the country and his community inspired all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Colonel Rayburn Gene Smith, USA, Ret., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 356

Commending the Clarksville Ruritan Club.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, in 2022, the Clarksville Ruritan Club raised more than $235,000 through various endeavors and events to support more than 35 local organizations and countless members of the Clarksville community; and

WHEREAS, guided and motivated by the Ruritan slogan of "Fellowship, Goodwill, and Community Service," members of the Clarksville Ruritan Club volunteered thousands of hours to support the organization's thrift shop, Tuesday night bingo events, stew sales, Friday night dances, and other activities to raise money for the benefit of others; and

WHEREAS, the money raised by the Clarksville Ruritan Club was distributed to a wide array of entities and individuals, touching every corner of Clarksville and helping people of all ages; and

WHEREAS, the efforts of its members and the generosity of many enabled the Clarksville Ruritan Club to provide support to fire and rescue units responsible for public safety, thousands of dollars in scholarships for students and grants for

teachers, donations to local sports associations and events, and contributions to the local Society for the Prevention of Cruelty to Animals and Sweet Virginia Barn Cats; and

WHEREAS, the Clarksville Ruritan Club has tended to underserved families in the community by funding the Backpack Buddies program and a local food bank, while also providing thousands of dollars of aid to special needs families and other individuals in need; and

WHEREAS, the Clarksville Ruritan Club's munificence was also extended to the Mecklenburg County Cancer Association, the Clarksville Regional Museum, and other esteemed local organizations and institutions; and

WHEREAS, from Buffalo Road Park to the Clarksville 4th of July Parade, the imprint of the Clarksville Ruritan Club on its community is apparent to all and serves as a reminder of why Clarksville is a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Clarksville Ruritan Club for raising more than $235,000 in 2022 to improve the quality of life in Clarksville and the surrounding areas; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Clarksville Ruritan Club as an expression of the General Assembly's admiration for the organization's contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 357

Celebrating the life of Scott Blackford Meacham.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Scott Blackford Meacham, a senior attorney with the Division of Legislative Services and a beloved husband, father, son, brother, and friend, died on January 10, 2023; and

WHEREAS, Scott Meacham grew up in Anchorage, Alaska, where he attended Robert Service High School; he was a longtime trumpet player in various school bands and competed in the Junior Nordic cross-country skiing program for many years; and

WHEREAS, Scott Meacham was an avid outdoorsman from a young age and made many happy memories hiking and backpacking in Chugach State Park or simply enjoying a good book in the sun on the ridge overlooking Long Lake; and

WHEREAS, Scott Meacham continued his education at Dartmouth College in New Hampshire and graduated cum laude with a bachelor's degree in English; and

WHEREAS, guided by his lifelong appreciation for architecture, from the mystique of ancient ruins to the intricacies of modern urbanism, Scott Meacham earned a master's degree, as well as a certificate in historic preservation and the Frederick Doveton Nichols Award for outstanding academic achievement, from the University of Virginia School of Architecture; and

WHEREAS, after graduate school, Scott Meacham worked for historic preservation firms to research and nominate sites for the National Register of Historic Places, then pursued a law degree from the University of Virginia School of Law; and

WHEREAS, Scott Meacham began his legal career in 2004 as an analyst with LexisNexis, where he edited the first print edition of the Louisiana Revised Statutes produced by the organization; he subsequently worked for the National Legal Research Group, Inc., in Charlottesville, writing litigation memoranda and appellate briefs and completing specialized projects in the areas of insurance, torts, and real property; and

WHEREAS, Scott Meacham joined the Division of Legislative Services on October 10, 2011, and faithfully served the members of the General Assembly for more than a decade; and

WHEREAS, admired for his legal acumen and intellectual curiosity, Scott Meacham contributed to the research, preparation, and revision of hundreds of pieces of complex legislation related to agriculture and natural resources during regular and special sessions of the General Assembly and, notably, led the Virginia Code Commission's revision of Title 45.1 (Mines and Mining) of the Code of Virginia in 2021; and

WHEREAS, in the course of his duties, Scott Meacham staffed the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources; and

WHEREAS, since 2018, Scott Meacham also served on the executive committee of the Virginia Code Commission, with responsibility for communicating legal decisions of the Commission to the publishers of the Code of Virginia in the process of codifying the Acts of Assembly at the end of each legislative session; and

WHEREAS, Scott Meacham, a trusted friend and a vital source of institutional knowledge in state government, earned the admiration of public officials and colleagues alike for the breadth of his expertise, his wit and sense of humor, and his calm demeanor; and

WHEREAS, through his personal integrity, commitment to public service, and professional insights, Scott Meacham helped ensure the good and efficient functioning of state government and enabled the General Assembly to better serve the residents of the Commonwealth; and

WHEREAS, outside of his legal career, Scott Meacham published a definitive work on the architectural history of his alma mater, *Dartmouth College: The Campus Guide*, a comprehensive tour of the institution's picturesque campus and the surrounding neighborhoods; and

WHEREAS, Scott Meacham enjoyed returning to Alaska as often as possible and especially loved watching his daughter discover the majesty of his home state; and

WHEREAS, Scott Meacham will be fondly remembered and greatly missed by his beloved wife of more than 22 years, Sarah; their daughter, Camden; his parents, Tom and Jane; his brother, Brian, and his family; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Scott Blackford Meacham; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Scott Blackford Meacham as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 358

Celebrating the life of Ashby Page Entsminger.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Ashby Page Entsminger, an honorable veteran, esteemed leader in the field of emergency medical services, and beloved member of the Lexington community, died on July 25, 2022; and

WHEREAS, Page Entsminger was employed by Burlington Industries, formerly Lee's Carpets, for 43 years, retiring as a planning manager; during this time, he served his country with honor and distinction for two years as a military policeman with the United States Army in Albuquerque, New Mexico; and

WHEREAS, Page Entsminger joined the Lexington Life Saving and First Aid Crew in September 1970 and maintained his membership with the organization for the remainder of his life; and

WHEREAS, Page Entsminger held several offices with the Lexington Life Saving and First Aid Crew at different times, including captain, 1st lieutenant training, 1st lieutenant executive, and president, while also sitting on various committees; and

WHEREAS, in recognition of his service, Page Entsminger was elected a life member of the Lexington Life Saving and First Aid Crew in 1991; previously, on September 2, 1978, he had been granted honorary membership in the Russell County Rescue Squad Unit No.1; and

WHEREAS, Page Entsminger demonstrated his leadership skills with the Virginia Association of Volunteer Rescue Squads, Inc. (VAVRS) over the years as a District 1 officer, secretary, and vice president and, in 1977-1978, as VAVRS president; and

WHEREAS, Page Entsminger was presented by his peers with life membership in VAVRS in 1981 and in VAVRS District 1 in 2009; he was also selected to become a member of the VAVRS Virginia Life Saving and Rescue Hall of Fame in 1993; and

WHEREAS, Page Entsminger served a number of terms as chaplain of VAVRS, enriched the annual memorial service over the years, and was named chaplain emeritus in September 2013; and

WHEREAS, while active in both the Lexington Life Saving and First Aid Crew and VAVRS, Page Entsminger was a prolific lay instructor and instructor-trainer in many emergency medical services (EMS) courses and VAVRS training courses; and

WHEREAS, in 1991, Page Entsminger was named Virginia's Outstanding EMT Instructor of the Year and received certification as one of the first basic and light duty rescue instructors in the Commonwealth; and

WHEREAS, Page Entsminger was appointed to the State Emergency Medical Services Advisory Board in 1979 and again in 1980 by Governor John N. Dalton; and

WHEREAS, Page Entsminger also found time to support his community by serving on the board of directors of what is now Carillion Rockbridge Community Hospital, Rockbridge summer youth programs and coaching Little League baseball; and

WHEREAS, Page Entsminger was a member of Collierstown Baptist Church and Lexington Baptist Church, serving as an adult Sunday school teacher, superintendent of the Sunday school, and youth director; and

WHEREAS, through his later years, Page Entsminger continued to be a confidant and mentor to his lifelong friends from VAVRS, the Lexington Life Saving and First Aid Crew, and his church; and

WHEREAS, Page Entsminger will be fondly remembered and dearly missed by his wife of 63 years, Edith; his children, Steven, Michael, and Vicky, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Ashby Page Entsminger, a highly admired community leader and a leader in the field of emergency medical services who made many contributions to the residents of the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Ashby Page Entsminger as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 359

Commending the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority, Inc.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority, Inc., a distinguished chapter of one of the nation's leading historically Black sororities, will celebrate its 30th anniversary in 2023; and

WHEREAS, the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority was formed in 1992 by Darlene Faltz, Carol Bradley, Sue Briggs, Arlene Donnelly, Robin Flannagan, Linda Kemp, and Susan Wallace and has grown over the years to count 165 members on its rolls today; and

WHEREAS, the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority received its charter on May 23, 1993, from former South Atlantic regional director Sharon Reed, former regional secretary Roberta Duff, and former regional representative Alicia Smith; and

WHEREAS, the objectives of the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority are to develop innovative programs, develop partnerships with key stakeholders, and positively impact local, regional, national, and international communities; and

WHEREAS, the principles of the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority are to endow a legacy of leadership and service, develop creative outreach and instruction, and develop corporate and community partnerships; to pursue education, economic welfare, and political and civil rights reform; and to focus on support programs for underserved communities; and

WHEREAS, the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority provides scholarship opportunities for Fairfax County high school students and supports the local community with clothing drives, educational programs, and healthy living events; and

WHEREAS, the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority is an integral part of what makes Fairfax County a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority, Inc., on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Fairfax County Alumnae Chapter of Delta Sigma Theta Sorority, Inc., as an expression of the General Assembly's admiration for the organization's legacy of service and its contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 360

Commending St. Margaret's School.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, for more than 100 years, St. Margaret's School, an Episcopal all-girls school in Tappahannock, has helped generations of students develop into young women of confidence, resilience, and high character; and

WHEREAS, St. Margaret's School was established by the Episcopal Diocese of Virginia in 1921 to create new opportunities in the region for a quality education in a Christian environment; and

WHEREAS, St. Margaret's School opened with 14 girls and three boys and offered a kindergarten through 11th-grade curriculum; the school held its first classes above a local pharmacy in Tappahannock; and

WHEREAS, at the time, many students at St. Margaret's School arrived in Tappahannock by steamboat as there was no bridge to the Northern Neck and no major roadways linking the area with either Richmond or Washington, D.C.; and

WHEREAS, within its first decade of operations, St. Margaret's School grew to serve 20 day students and 70 boarding students and began to develop its picturesque campus along the Rappahannock River; and

WHEREAS, the Rappahannock River plays an essential role in campus life and academics; at each grade level, students visit different parts of the river, from the headwaters in the Blue Ridge Mountains to the Chesapeake Bay and the ocean at Virginia Beach, to gain a greater appreciation for the local ecology and participate in a wide range of activities related to the river, including kayaking and swimming, art projects, raising oysters, and more; and

WHEREAS, in 1991 St. Margaret's School became one of the first boarding schools in the southeast United States to establish a comprehensive program for international students; and

WHEREAS, St. Margaret's School currently maintains an enrollment of around 100 students in grades eight through 12, and the diverse student body represents girls from 17 states and the District of Columbia, as well as 18 foreign countries; and

WHEREAS, St. Margaret's School continues to fulfill its mission to help girls develop a sense of belonging, believe in their abilities, and become the best version of themselves through the hard work and dedication of its faculty and staff members; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend St. Margaret's School on the occasion of its 100th anniversary in 2021; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to St. Margaret's School as an expression of the General Assembly's admiration for the school's history and contributions to young women from the Commonwealth and around the world.

SENATE JOINT RESOLUTION NO. 361

Celebrating the life of Martin Deane Cheatham IV.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Martin Deane Cheatham IV, an accomplished athlete and coach on the high school and collegiate levels and a beloved member of the Hanover County community, died on January 7, 2023; and

WHEREAS, Deane Cheatham attended the Collegiate School in Richmond and later graduated from Hanover High School in 2011, where he was a standout on the football team as both a running back and punt returner and where he also excelled at lacrosse; and

WHEREAS, Deane Cheatham was notably a member of the Hanover High School football team that won the Capital District and Central Region titles for the first time in program history, and he twice received first team all-metro honors in football from the *Richmond Times-Dispatch*; and

WHEREAS, Deane Cheatham continued his football career at James Madison University (JMU), where he was a starting tight end and team captain, leading his team to the National Collegiate Athletic Association (NCAA) tournament twice; and

WHEREAS, after graduating from JMU in 2015, Deane Cheatham leveraged his tenacious spirit and passion for football into a coaching career, helping the JMU Duke Dogs win the NCAA Football Championship Subdivision national championship in 2017; and

WHEREAS, Deane Cheatham subsequently worked as an assistant coach at Marshall University, Western Carolina University, and Austin Peay State University, contributing greatly to the success and well-being of countless student-athletes; and

WHEREAS, Deane Cheatham returned home to Hanover County in 2020, where he found true happiness working and living near his many friends and family; and

WHEREAS, Deane Cheatham will be fondly remembered and dearly missed by his parents, Deane III and Cynthia; his grandparents, Peter and Virginia Clay; his siblings, Caroline and Clayton; his loving partner, Emily Porter; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Martin Deane Cheatham IV, a treasured member of the Hanover County community whose good nature and positivity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Martin Deane Cheatham IV as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 362

Celebrating the life of Colonel John Alan Pattison, USA, Ret.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Colonel John Alan Pattison, USA, Ret., a highly respected and decorated veteran and beloved husband, father, grandfather, and member of the Clarksville community, died on December 27, 2022; and

WHEREAS, a native of Detroit, John "Jack" Pattison graduated from Michigan State University in 1957, where he was a member of the Sigma Chi fraternity; and

WHEREAS, Jack Pattison honorably served the nation for 30 years as a member of the United States Army, primarily in tactical intelligence positions, earning the Ranger Tab and Master Parachutist Badge and retiring as a colonel in 1989; and

WHEREAS, Jack Pattison fulfilled two tours at what is now the United States Army Intelligence Center of Excellence during his career, contributing greatly to the United States Army's intelligence training in support of the nation's security and defense; and

WHEREAS, in recognition of his exemplary service, Jack Pattison was inducted into the Military Intelligence Corps Hall of Fame in 1991, where he was selected as the Honorary Colonel for the Military Intelligence (MI) Corps Regiment from 1998 to 2006 and designated as a Distinguished Member of the MI Corps; and

WHEREAS, Jack Pattison earned an array of military awards and decorations over the years, including the Legion of Merit with one Oak Leaf Cluster, the Bronze Star Medal with three Oak Leaf Clusters, the Meritorious Service Medal with

one Oak Leaf Cluster, the Air Medal, the Joint Service Commendation Medal, and the Army Commendation Medal, as well as service badges from the Defense Intelligence Agency and the United States Army Staff; and

WHEREAS, in his personal life, Jack Pattison took great joy in traveling the world with his wife, Marinelle, and savored every opportunity to spend time in the great outdoors, including regular hunting trips in Kansas with his close hunting companions; and

WHEREAS, Jack Pattison was guided throughout his life by his faith and was an active member of the Jamieson United Methodist Church in Clarksville, where he often contributed his resounding voice to the choir; and

WHEREAS, Jack Pattison will be fondly remembered and dearly missed by his loving wife of 62 years, Marinelle; his children, Susan, John, and Mike, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Colonel John Alan Pattison, USA, Ret., a skillful leader, hero, and man of great strength whose dedication to his family and the country were an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Colonel John Alan Pattison, USA, Ret., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 363

Commending Jerry Michael Schiro.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Jerry Michael Schiro, an esteemed local government administrator and former law-enforcement officer who served the Town of Luray for a combined 30 years as an employee and later on the town council, retired from the council in December 2022; and

WHEREAS, Jerry Schiro joined the Luray Police Department in September 1973 and became chief of police three years later, overseeing the town's public safety while also developing community policing programs and updating department policies and procedures to ensure best practices; and

WHEREAS, as an instructor at the regional police academy and as chair of the board of directors of the Central Shenandoah Criminal Justice Training Academy, Jerry Schiro contributed greatly to the education and mentorship of new recruits; and

WHEREAS, Jerry Schiro next served Luray as town manager and director of public safety from 1985 to 1988, embracing new responsibilities in his role as the town's chief administrative officer; he would later reprise his role as town manager of Luray from 2004 to 2007 and also serve the residents of Luray in his capacity as county administrator of Page County from 2003 to 2004; and

WHEREAS, throughout his distinguished career as a local government administrator and consultant, Jerry Schiro provided leadership and expertise to several other municipalities in the Commonwealth and Maryland, including Purcellville; Chevy Chase Village in Chevy Chase, Maryland; Middleburg; Hyattsville, Maryland; and Haymarket; and

WHEREAS, Jerry Schiro served on the Luray Town Council for a total of 12 years, first from July 2008 to June 2012, and then from July 2014 through December 2022, including a tenure as vice mayor from 2021 to 2022; and

WHEREAS, Jerry Schiro's years of experience as a town councilmember and as a government employee and administrator made him a chief source for institutional knowledge on local governance in Luray and an integral part of the locality's growth and success in recent years; and

WHEREAS, at the Luray Town Council meeting on December 12, 2022, Jerry Schiro's colleagues expressed their appreciation for his service with a proclamation recognizing his dedication and commitment to the community of Luray; and

WHEREAS, the incalculable investments of time and energy that Jerry Schiro has made to support the betterment of Luray and other localities over the past half-century serve as inspiration to all Virginians; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Jerry Michael Schiro on the occasion of his retirement from the Luray Town Council; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jerry Michael Schiro as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 364

Commending Ilia Malinin.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Ilia Malinin, a world-class figure skater and senior at George C. Marshall High School in Falls Church, won the gold medal at the Toyota U.S. Figure Skating Championships at the SAP Center in San Jose, California, on January 29, 2023; and

WHEREAS, Ilia Malinin first took to the ice in 2010 under the guidance of his parents, Tatiana Malinina and Roman Skorniakov, who both skated in the Olympics for Uzbekistan; currently, he represents the Washington Figure Skating Club and trains at SkateQuest in Reston; and

WHEREAS, Ilia Malinin saw early success on his rise to figure skating stardom, becoming the 2016 U.S. national juvenile champion, the 2017 U.S. national intermediate champion, and the 2019 U.S. national novice bronze medalist; and

WHEREAS, Ilia Malinin currently holds world junior records for the men's short program, free skate, and combined score following his performances at the 2022 World Junior Figure Skating Championships, where he claimed the gold medal by a margin of nearly 42 points; and

WHEREAS, prior to his victory at the 2023 U.S. Figure Skating Championships, Ilia Malinin placed first at several international senior-level competitions, including the 2022 Grand Prix of Espoo, the 2022 CS U.S. International Figure Skating Classic, and the 2022 Skate America, where he became the youngest men's champion in the history of the event; and

WHEREAS, Ilia Malinin is famously the first and only skater to land a quadruple axel in international competition, a maneuver that involves four and a half revolutions and that is widely regarded as the most difficult jump in figure skating; he accomplished the feat for the first time at the 2022 CS U.S. International Figure Skating Classic; and

WHEREAS, Ilia Malinin was named to the Time100 Next list by *Time* magazine in September 2022 in recognition of his role as an emerging leader in the world of figure skating and as one who will have a transformative influence on the future of the sport; and

WHEREAS, through his tremendous dedication and hard work, as well as the unwavering support of his parents, coaches, and fans, Ilia Malinin has risen to the top of men's figure skating, garnering the esteem and respect of all Virginians; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Ilia Malinin for winning the gold medal at the 2023 Toyota U.S. Figure Skating Championships; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ilia Malinin as an expression of the General Assembly's admiration for his accomplishments and best wishes in his future competitions.

SENATE JOINT RESOLUTION NO. 365

Commending Tony Rojas.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Tony Rojas, a star linebacker and running back on the Fairfax High School football team, was selected as the 2022 All-Met Offensive Player of the Year by the *Washington Post*; and

WHEREAS, a talented multisport athlete, Tony Rojas played soccer in his youth and enjoyed success as a basketball player before focusing on football in high school; and

WHEREAS, during his senior season, Tony Rojas rushed for 2,239 yards and scored an incredible 35 touchdowns, and on defense, he recorded 13 sacks and five forced fumbles; and

WHEREAS, Tony Rojas helped lead the Fairfax High School Lions to a 13-1 record and a trip to the state semifinal in the 2022 season; and

WHEREAS, Tony Rojas has impressed coaches and fans with his speed, instincts, and athleticism and inspired his fellow members of the Fairfax High School Lions as a dependable, hardworking teammate; and

WHEREAS, Tony Rojas received offers from several top schools across the country and has committed to play for the Pennsylvania State University Nittany Lions after graduating from Fairfax High School; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Tony Rojas on his selection as the 2022 All-Met Offensive Player of the Year by the *Washington Post*; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Tony Rojas as an expression of the General Assembly's admiration for his athletic achievements and best wishes for the future.

SENATE JOINT RESOLUTION NO. 366

Commending the River Basin Grand Winners of the Clean Water Farm Award.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, the Department of Conservation and Recreation and the Soil and Water Conservation Districts provide farmers throughout the Commonwealth with education, technical assistance, and incentive programs to encourage nutrient reduction and water quality improvement; and

WHEREAS, the General Assembly passed legislation in 1998 to establish the Clean Water Farm Award Program, which is administered by the Department of Conservation and Recreation; and

WHEREAS, the Clean Water Farm Award Program furthers the Commonwealth's water quality goals by recognizing farmers actively engaged in implementing important conservation practices that control nutrients, sediment, and other agricultural nonpoint source pollutants; and

WHEREAS, the Soil and Water Conservation Districts selected local farms across the Commonwealth for recognition in 2022 as winners of the Clean Water Farm Award; and

WHEREAS, farms have been selected to represent the Commonwealth's major river basins and to recognize the exemplary efforts of such farms in implementing best management practices; and

WHEREAS, the 2022 winners are:

Steve and Charlie Smith, Holston Vista Farm, Washington County, for the Big Sandy-Upper Tennessee River Basin;

John Shepherd, Shepherd Grain Farms, LLC, Nottoway County, for the Chowan River Basin;

Jim Evans, Evans Farms, Accomack County, for the Coastal Basin;

The Teel Family, Clover Green Farm, LLC, Albemarle County, for the James River Basin;

The Hudgins Family, DRH Farm, Wythe County, for the New River Basin;

Karla H. Evans, Creek Hill Farm, Loudoun County, for the Potomac River Basin;

Jacob and Jennifer Gilley, Heaven's Hollow Farm, Madison County, for the Rappahannock River Basin;

Brian Hall, IJN, LLC, Halifax County, for the Roanoke River Basin;

Weldon Heatwole, Cedar Ridge Dairy, Inc., Rockingham County, for the Shenandoah River Basin; and

The Sedwick Family, Lakeland Farm, Orange County, for the York River Basin; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend and congratulate the River Basin Grand Winners of the Clean Water Farm Award; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to the River Basin Grand Winners of the Clean Water Farm Award as an expression of the General Assembly's admiration for their commitment to conserving the Commonwealth's natural resources and their outstanding conservation achievements.

SENATE JOINT RESOLUTION NO. 367

Celebrating the life of John F. Swart, Jr.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, John F. Swart, Jr., of Oakton, a respected member of the Fairfax County community who owned several champion standardbred racing horses, died on January 28, 2022; and

WHEREAS, John Swart joined many of the other young men of his generation in service to the nation during World War II and participated in the Normandy landings on D-Day in 1944; and

WHEREAS, after the war, John Swart worked as a certified public accountant and businessman in Fairfax County for more than 60 years; and

WHEREAS, John Swart was well-known in the equestrian community as a successful owner and breeder of standardbred horses and won numerous events in Virginia, Maryland, New Jersey, and Pennsylvania; and

WHEREAS, among John Swart's most notable horses were stakes winners Pride of Windswept, Tara Windswept, Rebel Windswept, Miss Fairfax, and Czar Windswept, along with stakes producers Allwin Beauty and Sprocket Hanover; and

WHEREAS, predeceased by one son, James, John Swart will be fondly remembered and greatly missed by his wife, Sarah; his children, Lucy and Jay, and their families; his wife's children, Constance, Ralph, and Gordon, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of John F. Swart, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of John F. Swart, Jr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 368

Commending the Black History Museum and Cultural Center of Virginia.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, the Black History Museum and Cultural Center of Virginia, an organization dedicated to promoting and advancing greater understanding of the history and culture of Black people and African Americans in the Commonwealth through educational resources, service, and opportunities, celebrated its 40th anniversary in 2021; and

WHEREAS, the Black History Museum and Cultural Center of Virginia (BHMVA) was founded by Carroll Anderson, Sr., in 1981 and officially opened to the public in 1991; and

WHEREAS, the first iteration of the BHMVA was located at 100 Clay Street in the historic district of Jackson Ward in Richmond in a home that was purchased by the Council of Colored Women in 1922 and that had also served as the Black branch of the Richmond Public Library after 1932; and

WHEREAS, the BHMVA relocated to Richmond's Leigh Street Armory in 2016 after a grant from the national historical preservation program Save America's Treasures supported the armory's rehabilitation; and

WHEREAS, visitors to the BHMVA's new modern and inviting space are drawn by permanent galleries exploring major periods and themes from Black history, temporary traveling exhibitions and exhibitions by local artists and community organizations, interactive exhibitions and educational nooks for children, a 35-foot digital timeline, large-scale contemporary art pieces depicting Arthur Ashe and the Emancipation Oak at Hampton University, and a cafe; and

WHEREAS, the BHMVA's children's programming has attracted families from throughout the Richmond area while its annual Children's Book Festival is attended by more than 600 local first and second graders each year; and

WHEREAS, to commemorate its 40th anniversary, the BHMVA presented a special exhibition titled *Forging Freedom, Justice and Equality: A Survey of the History of the Black Experience in Virginia*, exemplifying how the BHMVA shines light on untold or forgotten stories in an effort to enlighten future generations and encourage a more diverse and inclusive society; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Black History Museum and Cultural Center of Virginia on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Black History Museum and Cultural Center of Virginia as an expression of the General Assembly's admiration for the museum's history and its contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 369

Commending Megan McLaughlin.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, for more than a decade, Megan McLaughlin has served the students, faculty, and administrators of Fairfax County Public Schools as a member of the Fairfax County School Board; and

WHEREAS, Megan McLaughlin holds degrees from the University of Pennsylvania and the University of Maryland; she previously worked in college admissions and has served the community in various capacities as a community leader and education advocate; and

WHEREAS, a champion for good education, Megan McLaughlin was elected to the Fairfax County School Board in 2012 and won reelection to two additional terms; she has worked diligently to strengthen Fairfax County Public Schools and ensure that every student has the tools and support they need to achieve their fullest potential; and

WHEREAS, Megan McLaughlin has promoted continuous improvement in Fairfax County Public Schools and has overseen a wide range of programs to enhance the educational process; and

WHEREAS, Megan McLaughlin helped ensure the strategic deployment of the school system's annual budget of more than $3 billion and implemented more competitive compensation to attract and retain high-quality teachers and staff; and

WHEREAS, during her tenure, Megan McLaughlin hired or supervised the work of five superintendents, established an independent Office of the Auditor General, and crafted the school system's first strategic plan; and

WHEREAS, Megan McLaughlin oversaw the implementation of later start times for high school students, full-day Mondays for elementary school students, and a recess period for middle school students; and

WHEREAS, during Megan McLaughlin's tenure, the Fairfax County School Board has improved early literacy and dyslexia education, improved instruction and delivery of the Advanced Academic Program and Young Scholars Program, restored upper-level high school honors courses in English and social studies, instituted curriculum enhancements for English for speakers of other languages (ESOL) courses, and added more than 35 pre-kindergarten classrooms; and

WHEREAS, Megan McLaughlin also played a role in projects that reformed the student discipline system of Student Rights and Responsibilities (SR&R) and implemented the Restorative Justice Practices (RJP) project, provided healthier school meals for students and launched a summer meals program, implemented environmentally friendly operational practices, and strove to protect LGBTQIA+ students and staff through a non-discrimination policy; and

WHEREAS, Megan McLaughlin has served the residents of Fairfax County with distinction and helped ensure that the Fairfax County Public Schools system offers rigorous instruction in a safe, caring, and inclusive learning environment; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Megan McLaughlin on her retirement and for her outstanding service as a member of the Fairfax County School Board; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Megan McLaughlin as an expression of the General Assembly's admiration for her contributions to young people in Fairfax County.

SENATE JOINT RESOLUTION NO. 370

Commending Southern States Cooperative.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, for 100 years, Southern States Cooperative, a farmer-owned agricultural cooperative, has provided products, services, and growing solutions for Virginia farmers; and

WHEREAS, the sobriquet Virginian has for centuries implied a life lived on the land cultivating crops or at least a life informed by the virtues of an agrarian culture; and

WHEREAS, Southern States Cooperative was founded in 1923 as Virginia Seed Service to supply to Virginia farmers seeds suitable for the growing conditions of the Commonwealth; and

WHEREAS, Virginia Seed Service quickly expanded its endeavors to include feed, fertilizer, and crop protection; wishing to extend its benefits to farmers in surrounding states, Virginia Seed Service assumed its present wide-range of purposes and, in the 1930s, became known as Southern States Cooperative; and

WHEREAS, Southern States Cooperative provides Virginia farmers and rural communities with agronomically sound, cost-effective, and environmentally responsible products and services to enable farmers to produce crops efficiently and to feed livestock well, to the benefit of the Commonwealth, the nation, and, indeed, the world; and

WHEREAS, Southern States Cooperative currently serves its farmer-members in eight states of the South; and

WHEREAS, in cooperation with locally owned cooperatives, Southern States Cooperative operates 34 locations in the Commonwealth and, combined with its central office in Henrico County, employs nearly 750 individuals throughout the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Southern States Cooperative for having achieved the notable milestone of 100 years of service to farmers and agribusinesses; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Southern States Cooperative as an expression of the General Assembly's admiration for its legacy of contributions to Virginia's farmers and rural communities.

SENATE JOINT RESOLUTION NO. 371

Commending the achievements of Ruth Coles Harris and Curtis C. Duke.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Ruth Coles Harris and Curtis C. Duke were the first female and male Black certified public accountants from the Commonwealth, paving the way for generations of professionals in the accounting field in the Commonwealth; and

WHEREAS, 2021 also marked the 100 year anniversary of the first Black certified public accountant (CPA) in the United States, John W. Cromwell, Jr., from New Hampshire, who was licensed in 1921; and

WHEREAS, a native of Louisa, Curtis Duke graduated from Goochland Central High School and served his country as a member of the United States Army during World War II; and

WHEREAS, after his honorable military service, Curtis Duke graduated from Virginia State College, now Virginia State University, and earned a master's degree from New York University; and

WHEREAS, Curtis Duke pursued a career in education and taught at Kentucky State College and what was then St. Paul's Polytechnic Institute, before joining the faculty of Virginia State University as an assistant professor of accounting; and

WHEREAS, in November 1956, Curtis Duke passed an examination in Richmond to become a CPA, making him the first Black CPA in the Commonwealth and one of fewer than 50 Black CPAs in the United States at the time; and

WHEREAS, Ruth Harris is the great-granddaughter of enslaved persons and grew up in Charlottesville during the Great Depression; she graduated at the top of her class from what is now Virginia State University, but as a Black woman in the South during the Jim Crow era, she was forced to travel out of state to further her education; and

WHEREAS, after receiving a master's degree from New York University in 1949, Ruth Harris returned to the Commonwealth and joined the faculty of Virginia Union University; and

WHEREAS, during her nearly 48-year career, Ruth Harris witnessed the expansion of Virginia Union University's commerce department into the Sydney Lewis School of Business, and as the business school's first director, she oversaw the development of the school's comprehensive curriculum and a significant growth in enrollment; and

WHEREAS, in 1962, hoping to motivate and inspire her students, Ruth Harris passed a two-day certification to become the first Black female CPA in Virginia; at that time, there were still fewer than 100 Black CPAs in the nation and fewer than five in the Commonwealth; and

WHEREAS, over the years, Ruth Harris offered her expertise to several other committees and civic organizations in the Commonwealth and around the country; upon her retirement from Virginia Union University in 1997, she was named distinguished professor emeritus for her exceptional contributions to academia and the business community; and

WHEREAS, the Virginia Society of Certified Public Accountants has developed a scholarship fund to honor the legacy of these two trailblazing professionals by helping racially and ethnically underrepresented college students achieve their fullest potential; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the achievements of Ruth Coles Harris and Curtis C. Duke, the first female and male Black certified public accountants in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ruth Coles Harris and the family of Curtis C. Duke as an expression of the General Assembly's admiration for their historic accomplishments.

SENATE JOINT RESOLUTION NO. 372

Commending David and Eunjoo Anderson.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, David and Eunjoo Anderson, highly admired faith leaders, have worked diligently to maintain a pastoral presence in and around the Virginia State Capitol through their work with Capitol Commission; and

WHEREAS, the son of a pastor, David Anderson grew up in Virginia Beach and began to cultivate his deep and abiding faith at a young age; he attended a Bible college and was first ordained while serving with his father as a youth pastor; and

WHEREAS, David Anderson moved to California, where he met his beloved wife, Eunjoo, and graduated from The Master's Seminary in California; and

WHEREAS, while considering work as foreign missionaries, David and Eunjoo Anderson were inspired by the writings of the Apostle Paul, who largely ministered in capital cities, and researched ways to help the nation's leaders grow in prayer; and

WHEREAS, David Anderson was appointed as a state chaplain with Capitol Commission, a nonprofit organization that coordinates ministries in capital communities around the country; and

WHEREAS, since 2003, David and Eunjoo Anderson have ministered to state legislators and other officials in the executive and judicial branches of government and hosted weekly expositional Bible studies at the Virginia State Capitol from January to June; and

WHEREAS, David Anderson has also offered his wise guidance to members of the Virginia Division of Capitol Police as chaplain; and

WHEREAS, David and Eunjoo Anderson have helped countless individuals at the Virginia State Capitol grow in faith and learn to better serve their constituents and the Commonwealth as a whole; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend David and Eunjoo Anderson for their work to support and inspire state officials through the power of prayer and ministry as members of Capitol Commission; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to David and Eunjoo Anderson as an expression of the General Assembly's admiration for their exceptional contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 373

Commending Robert L. Easter.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Robert L. Easter, an architect, advocate, educator, servant, and leader, who has demonstrated an enduring commitment to advancing those individuals who have traditionally been underrepresented in the profession of architecture, recently received the American Institute of Architects' Whitney M. Young Jr. Award; and

WHEREAS, Robert Easter has insisted that lesser-heard voices be regarded and respected and has passionately and actively promoted inclusion, diversity, and equity across the profession of architecture; and

WHEREAS, Robert Easter has embodied the values of the citizen architect through his efforts as a professor and chair within the Hampton University Department of Architecture; and

WHEREAS, Robert Easter has further embodied the values of the citizen architect through his service as an associate minister, pastor, and director of a jail and prison ministry; and

WHEREAS, Robert Easter has provided distinguished leadership as President of both AIA Virginia and the National Organization of Minority Architects; and

WHEREAS, Robert Easter's leadership has been recognized and celebrated through his having received a citation for leadership in architecture from Hampton University; and

WHEREAS, Robert Easter's cumulative contributions have been recognized by the American Institute of Architects through his promotion to the organization's College of Fellows; and

WHEREAS, Robert Easter's contributions have been most recently recognized by his having received AIA's Whitney M. Young Jr. Award, an award named in the memory of civil rights leader Whitney M. Young Jr., who challenged the architectural profession to pursue progressive values in architecture; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Robert L. Easter on the occasion of his receiving the American Institute of Architects' Whitney M. Young Jr. Award; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Robert L. Easter as an expression of the General Assembly's congratulations and best wishes for his future success.

SENATE JOINT RESOLUTION NO. 374

Commending Tamara Derenak Kaufax.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, Tamara Derenak Kaufax, a longtime resident of Franconia and esteemed advocate for children's causes and education issues, will retire from the Fairfax County School Board at the expiration of her term on December 31, 2023; and

WHEREAS, Tamara "Tammy" Derenak Kaufax modeled her activism on the tradition of her mother's involvement in local Johnstown, Pennsylvania, schools and was involved in local Fairfax County Public Schools (FCPS) while serving as a full-time working mom, a part-time working mom, and a stay-at-home mom; and

WHEREAS, Tammy Kaufax served as a "room mom" and "team mom" and Parent Teacher Association (PTA) vice president at Bush Hill Elementary School and Springfield Estates Elementary School; she also served as a PTA cultural arts coordinator for 10 years and volunteered for those who needed assistance in the local Franconia community through outreach groups and faith-based charities; and

WHEREAS, Tammy Kaufax has demonstrated an extraordinary commitment to the youth of Fairfax County through her work with various organizations and committees, including as former chair of the Fairfax County Child Care Advisory Council and as a member of the Fairfax County Superintendent's Business and Community Advisory Council and the Fairfax County School Board's Advanced Academic Programs Advisory Committee; and

WHEREAS, Tammy Kaufax joined the Fairfax County School Board in January 2012 as the Democratic-endorsed member serving Lee District, serving as the chair for the Public Engagement Committee that year before being elected vice chair then chair of the board in 2013 and 2014, respectively; and

WHEREAS, in addition to serving again as vice chair for the 2019-2020 school year, Tammy Kaufax also provided leadership to the Fairfax County School Board by serving as its budget chair in 2015 and 2018, as the co-chair of the Successful Children and Youth Policy Team in 2016 and 2018, as chair of the Governance Committee in 2017, and as the board's national legislative liaison and state legislative liaison; and

WHEREAS, as the owner of Altamat Marketing Solutions with 20 years of experience in marketing and small business ownership, Tammy Kaufax has brought valuable knowledge and expertise to bear during her tenure with the Fairfax County School Board; and

WHEREAS, Tammy Kaufax's proudest accomplishments with the Fairfax County School Board include implementing later high school start times and instituting full-day Mondays; restoring honors classes, developing the FCPS Portrait of a Graduate program and constructing FCPS' first strategic plan; providing healthier food for FCPS students and implementing a summer meals program; reforming the FCPS discipline system, establishing an independent Office of the Auditor General, instituting curriculum enhancements for ESOL students, and adding over 35 pre-kindergarten classrooms within FCPS schools; protecting LGBTQIA+ students and staff through a nondiscrimination policy, initiating funding for Advanced Academic Resources Teachers in every elementary school and updating the health and wellness policy to include middle school recess; renaming a Franconia District high school after civil rights activist and U.S. Representative John R. Lewis; advocating for fully funded budgets for teachers and staff; and hiring and managing the work of five superintendents; and

WHEREAS, Tammy Kaufax's steadfast dedication to the youth of Fairfax County has made a positive and lasting impression on the community that will endure for years to come; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Tamara Derenak Kaufax on the occasion of her retirement from the Fairfax County School Board; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Tamara Derenak Kaufax as an expression of the General Assembly's admiration for her contributions to the Commonwealth and best wishes in her future endeavors.

SENATE JOINT RESOLUTION NO. 375

Commending Stratford Landing Elementary School.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, in 2023, Stratford Landing Elementary School in Alexandria will proudly celebrate 60 years of providing a quality education to its students in its current building; and

WHEREAS, Stratford Landing Elementary School, built on land once owned by George Washington, officially opened its doors on September 3, 1963, with Eleanor N. Hollandsworth as principal; the previous year, students were housed at another local elementary school while the new building was constructed; and

WHEREAS, Stratford Landing Elementary School's initial enrollment of 301 students in grades one through six increased to an enrollment of 887 in the 1964-1965 school year; and

WHEREAS, Stratford Landing Elementary School underwent its first renovation in 1966 to add an additional hallway of classrooms in response to the rapidly growing community and the presence of many military families; and

WHEREAS, as schools across the nation also began to implement kindergarten classes in response to the federal Head Start initiative, Stratford Landing Elementary School opened its first half-day kindergarten program in 1968; and

WHEREAS, during the 1970s, Stratford Landing Elementary School opened one of the first Gifted and Talented Centers in Fairfax County Public Schools, a program developed to offer a unique academic program to qualifying students in grades three through six from multiple local elementary schools; and

WHEREAS, Stratford Landing Elementary School expanded to include two preschool programs, supporting early intervention for young children identified with autism and developmental delays; and

WHEREAS, over the years, Stratford Landing Elementary School underwent other renovations to add a gym, music room, day care facility, playground, 10-classroom modular unit, and seven learning environment trailers; it also created an English as a Second Language program to better meet the needs of students; and

WHEREAS, in 2009, Stratford Landing Elementary School developed a Discovery Garden to support environmental and science studies, a project it continues to cultivate and refine; and

WHEREAS, Stratford Landing Elementary School began offering a full-day kindergarten program with the last phase-in by Fairfax County Public Schools for the 2011-2012 school year; and

WHEREAS, Stratford Landing Elementary School continues to stay abreast of technological changes by adding Smart Board technology to all classrooms, increasing the number of mobile laptop carts, investing in hands-on voting systems, and using other technology tools to support 21st century learners; and

WHEREAS, Stratford Landing Elementary School, the parent-teacher association, and the school community continue to work in partnership to promote student success and achievement in the classroom, on the school grounds, and through diverse after-school programs; and

WHEREAS, throughout growth and change over the years, including the adoption of the Dolphins as the school mascot, Stratford Landing Elementary School has remained committed to providing an academically challenging and positive learning environment in which all students thrive; and

WHEREAS, in 2019, Stratford Landing Elementary School began using Level Four Curriculum and resources with all students; and

WHEREAS, in 2020, Stratford Landing Elementary School began offering advanced math to students in grades three through six; and

WHEREAS, in 2021, Stratford Landing Elementary School established a student-led literary magazine featuring writing and art produced by the students and established the Family Resource Center; and

WHEREAS, in 2022, Stratford Landing Elementary School began offering a full-day Head Start program, established Young Authors' Night, increased identification of Young Scholars and implemented a Young Scholars Conference, and started the Community Resource Fair; and

WHEREAS, in 2022, Stratford Landing Elementary School also established the Student Mentor Program to build and strengthen relationships with students and to provide guidance and emotional support, encouragement, and motivation for the students to be the best version of themselves; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Stratford Landing Elementary School on the occasion of its 60th anniversary of service to students from its current building; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Stratford Landing Elementary School as an expression of the General Assembly's admiration for the school's contributions to the Alexandria community.

SENATE JOINT RESOLUTION NO. 376

Commending Washington Mill Elementary School.

Agreed to by the Senate, February 21, 2023
Agreed to by the House of Delegates, February 22, 2023

WHEREAS, in 2023, Washington Mill Elementary School in Alexandria will proudly celebrate 60 years of providing a quality education to its students from its current building; and

WHEREAS, Washington Mill Elementary School, built on land once owned by George Washington and officially located in the backyard of Mount Vernon, is equally proud of its past, present, and future; and

WHEREAS, the land where George Washington once walked continues to serve as a farm, and Washington Mill Elementary School draws upon its close proximity for inspiration as it plants the seeds of a solid education for its students; and

WHEREAS, Washington Mill Elementary School began with an initial school enrollment of approximately 250 community students in grades one through six and today has an enrollment of 550 students; and

WHEREAS, Washington Mill Elementary School underwent a large renovation in 1996 to add an additional hallway, and in 2007, it also added a 10-room modular facility in response to the rapid growth of the community; and

WHEREAS, as schools across the nation also began to implement full-day kindergarten, Washington Mill Elementary School began offering full-day kindergarten classes in the 2003-2004 school year; and

WHEREAS, over the years, Washington Mill Elementary School continued to stay abreast of technological changes, added a playground, and created an English for Speakers of Other Languages program to better meet the needs of its students; and

WHEREAS, Washington Mill Elementary School continues to this day to work with students, parents, and the community to offer a continuum of services to meet each individual student's unique needs and to maximize their achievement; and

WHEREAS, in 2013 Washington Mill Elementary School implemented an English and Spanish Immersion Program to develop students' cross-cultural understanding and global perspectives; and

WHEREAS, Washington Mill Elementary School continues to use the latest technology with the help of its technology specialists; the school has interactive technology in every classroom and mobile labs available to all grade levels; and

WHEREAS, Washington Mill Elementary School also weaves technology into the curriculum, including computer, curriculum-based reading and math programs in grades four through six, while continuing to emphasize basic skills; and

WHEREAS, over the years Washington Mill Elementary School has offered and continues to offer advanced academic opportunities to identified students from all backgrounds, including the Young Scholars program and full-day programs, as well as a range of afterschool programs; and

WHEREAS, Washington Mill Elementary School enjoys rich diversity in its population, and the school community views diversity as a strength that adds to a multicultural educational program; the community celebrates family heritage through a yearly program focusing on each student's family history; and

WHEREAS, Washington Mill Elementary School underwent a large renovation in 2022 to improve and update the school grounds and classrooms; projects included a restructuring of the bus loop and student drop-off area, a new playground and field for students, and the addition of a new wing to the school building; and

WHEREAS, while the school mascot of Washington Mill Elementary School was changed by student vote in 2022 to the Wolves, the school colors remain red, white, and blue; and

WHEREAS, Washington Mill Elementary School works with the local parent-teacher association and community partners to build new opportunities for students and to enhance student success and achievement both in and out of the classroom; and

WHEREAS, Washington Mill Elementary School continues to fulfill its mission through the hard work of its dedicated leaders, supportive staff, and devoted teachers; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Washington Mill Elementary School on the occasion of its 60th anniversary in its current building; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Washington Mill Elementary School as an expression of the General Assembly's admiration for the school's history and legacy of service to young people in Alexandria.

SENATE JOINT RESOLUTION NO. 377

Celebrating the life of Jon Michael Freeze.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Jon Michael Freeze, an outstanding father, husband, son, brother, and friend, died on December 24, 2022; and

WHEREAS, Jon Michael Freeze was born on February 16, 1989, to Jon Kimball Freeze and Magdalena Astruc Freeze and attended Deep Run High School in Henrico County, where he participated on the cross country and track and field teams; and

WHEREAS, Jon Michael Freeze graduated with a bachelor's degree from the University of Richmond in 2011 and a master's degree in decision analytics from Virginia Commonwealth University in 2020, then worked as a data scientist at Markel Corporation; and

WHEREAS, Jon Michael Freeze was a faithful follower of Jesus Christ and served as an active member of West End Presbyterian Church in Richmond and as a leader with the ministry Young Life; and

WHEREAS, Jon Michael Freeze had a profound impact on many students and fellow leaders who experienced his character, faith, and friendship through Young Life; and

WHEREAS, Jon Michael Freeze was a lifelong learner and, beyond the formal education he received, spent many hours reading and listening to books, articles, and podcasts ranging in subjects from theology to statistics, cryptocurrency, and unidentified flying objects; and

WHEREAS, Jon Michael Freeze was devoted to his family and experienced the joy of being a loving, proud husband and father for a brief but meaningful time; and

WHEREAS, Jon Michael Freeze will be fondly remembered and dearly missed by his wife, Hillary; their son, Thomas; his father, Jon; his siblings, Kimmie, Carmen, and Matt; and numerous other family members, colleagues, and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Jon Michael Freeze, whose faith, intelligence, humor, passion, and love for his family were an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Jon Michael Freeze as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 378

Commending Anne McDonnell.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, in the spring of 2023, Anne McDonnell is stepping down from her position as executive director of the Brain Injury Association of Virginia after 17 years of outstanding leadership; and

WHEREAS, the Brain Injury Association of Virginia is a nonprofit organization dedicated to improving the quality of life for all people affected by brain injury by advancing education, awareness, support, treatment, and research; and

WHEREAS, Anne McDonnell graduated from the Medical College of Virginia in 1984 with a bachelor's degree in occupational therapy and provided rehabilitation services to brain injury patients for 16 years as an occupational therapist at Sheltering Arms Hospital; and

WHEREAS, in 1986, Anne McDonnell became involved with the Brain Injury Association of Virginia as a camp counselor at Camp Bruce McCoy, a nationally recognized residential summer camp and respite program for adult survivors of brain injury and their family members or caregivers; she was later promoted to camp program director; and

WHEREAS, in 2001, Anne McDonnell became the special projects director at the Brain Injury Association of Virginia and developed five regional resource centers to support brain injury survivors locally; and

WHEREAS, since 2006, Anne McDonnell has served as executive director of the Brain Injury Association of Virginia, advocating for expanded resources and funding to help vulnerable people in Virginia gain access to community-based services; and

WHEREAS, Anne McDonnell's efforts have resulted in the Brain Injury Association of Virginia becoming the preeminent brain injury advocacy organization in the Commonwealth; and

WHEREAS, in the last 17 years, Anne McDonnell has managed $9.7 million in grants, contracts, and donations; helped Virginia receive $4 million through the federal Traumatic Brain Injury Act; and was instrumental in other legislative victories, including the creation of the Traumatic Brain Injury Registry, the establishment of the Return to Learn Protocol for students, the creation of crisis intervention training on brain injury, and the update to the definition of "brain injury" in the Code of Virginia; and

WHEREAS, Anne McDonnell's efforts with the Brain Injury Association of Virginia have improved the lives of all those affected by brain injury in Virginia; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Anne McDonnell for her 39 years of service to the brain injury community of Virginia on the occasion of her retirement as executive director of the Brain Injury Association of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Anne McDonnell as an expression of the General Assembly's admiration for her achievements on behalf of people with brain injuries and their families.

SENATE JOINT RESOLUTION NO. 379

Celebrating the life of Rodney Lamont Lofton.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates. February 23, 2023

WHEREAS, Rodney Lamont Lofton, an advocate for people living with HIV and AIDS and a champion for the LGBTQIA+ community in Richmond, died on March 14, 2022; and

WHEREAS, a native of the Richmond area, Rodney Lofton relocated to New York, where he worked for a public relations firm with ties to the music and entertainment industry; he also wrote about issues facing the gay community as a columnist for the GBMNews website; and

WHEREAS, in 1993, Rodney Lofton tested positive for HIV and returned to Richmond, where he learned to live with the disease through help from his late mother, Mildred; he ultimately became a compassionate advocate for people with HIV and AIDS, leading awareness and prevention efforts in Richmond and Washington, D.C.; and

WHEREAS, Rodney Lofton moved to Albuquerque, New Mexico, where he created a support group for HIV-positive men; he returned to Richmond again in 2004 and worked as an HIV/AIDS case manager for the health center at Virginia Commonwealth University and the nonprofit organization Health Brigade; and

WHEREAS, Rodney Lofton next served as executive director of The Renewals Project, a nonprofit HIV/AIDS support organization, then joined Diversity Richmond as vice president and deputy director; and

WHEREAS, Rodney Lofton was the first Black person to serve in a senior leadership role at the community advocacy group Diversity Richmond and worked diligently to enhance outreach to "queer people of color" in the community and ensure racial diversity in the organization's programming and leadership; and

WHEREAS, Rodney Lofton created Diversity Richmond's Black and Bold Awards to recognize the contributions and achievements of Black LGBTQIA+ members of the community and later created a similar program for Latinos; and

WHEREAS, Rodney Lofton also served as member of the Richmond Human Rights Commission and built strong relationships with local, state, and national officials, and organizations to better serve, support, and represent the LGBTQIA+ community; and

WHEREAS, Rodney Lofton was a sought-after speaker and authored two novels, *The Day I Stopped Being Pretty: A Memoir* and *No More Tomorrows: Two Lives, Two Stories, One Love*, both nominees for the Lambda Literary Awards; and

WHEREAS, Rodney Lofton will be fondly remembered and greatly missed by his husband, Faron, and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Rodney Lamont Lofton, a trailblazing community leader in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Rodney Lamont Lofton as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 380

Commending Richmond Public Library.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Richmond Public Library, an institution dedicated to increasing access to information and promoting literacy for the benefit of the residents of Richmond, celebrated its 100th anniversary in 2022; and

WHEREAS, on November 16, 1922, the Richmond City Council passed an ordinance for a bond issue of $200,000 to support the creation of a public library for all; and

WHEREAS, the first physical location of the Richmond Public Library opened on October 13, 1924, at 901 W. Franklin Street, with an inventory composed of family libraries and other collections that had been donated to the institution; and

WHEREAS, in July 1925, what would be named the Rosa D. Bowser Branch Library of the Richmond Public Library opened at the YWCA on N. 7th Street to provide Black Richmonders with access to books and other reading materials; and

WHEREAS, what would become known as the Main Library of Richmond Public Library opened in 1930 at the corner of 1st Street and Franklin Street with the support of philanthropist Sallie May Dooley; the site would then undergo a major expansion beginning in 1967 and was reopened to the public on September 15, 1972; and

WHEREAS, Richmond Public Library extended its reach into the neighborhoods of Richmond through the development of new branches, including the Belmont branch in 1956, the Westover Hills branch in 1959, the Ginter Park branch in 1964, the East End branch in 1965, the Broad Rock branch in 1977, the West End branch in 1978, the North Avenue branch in 1983, and the Hull Street branch in 1987; and

WHEREAS, Richmond Public Library has deployed innovative strategies over the years to improve its ability to serve the residents of Richmond, including the use of bookmobiles and kiosks to make access to materials more convenient for patrons; and

WHEREAS, the Main Library and eight branches of the Richmond Public Library underwent modernizing renovations between 2002 and 2017, enhancing the capacity for these locations to offer programs and classes, event space, free wireless internet access, public computers, and other services to support the residents of Richmond; and

WHEREAS, with a new strategic plan in place that focuses on accessibility, early literacy, lifelong learning, and organizational strength, among other priorities, Richmond Public Library is poised to enjoy another century successfully serving the Richmond community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Richmond Public Library on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Richmond Public Library as an expression of the General Assembly's admiration for the institution's history and its contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 381

Commending Hamidullah Noori.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Hamidullah Noori is an accomplished chef, community leader, and advocate for refugees in the Greater Richmond community; and

WHEREAS, Hamidullah Noori was born and raised in Kabul, Afghanistan, before immigrating to the Commonwealth in 2015 with his family due to his culinary work with the United States Agency for International Development (USAID); and

WHEREAS, Hamidullah Noori has served in the culinary industry for many years; he began his culinary career at age 18, then joined the Intercontinental Hotel in Kabul in 2003; in 2004, he joined the Kabul Serena Hotel, a five-star hotel in Afghanistan, and would later return as executive chef, overseeing the cuisine of several restaurants in the hotel; and

WHEREAS, Hamidullah Noori was featured in several cooking show episodes on TOLO TV in Afghanistan and was later given the executive chef position at USAID; and

WHEREAS, Hamidullah Noori continued to dedicate himself to the culinary world with the dream of opening his own restaurant after arriving in the Commonwealth, moving to Richmond in 2016, and working at Ellwood Thompson and then as a featured chef at the Underground Kitchen; and

WHEREAS, Hamidullah Noori opened his first restaurant, The Mantu, which means "me and you," in Richmond's Carytown in May 2019, featuring the chef's modern take on classic Afghan cuisine; and

WHEREAS, Hamidullah Noori was invited and competed on The Food Network's *Beat Bobby Flay* in May 2019, and he has since been featured in numerous publications such as *The New York Times*, the *Richmond Times-Dispatch*, *Richmond Magazine*, and *Plate Magazine*, among others, not only highlighting his culinary achievements but also recognizing his commitment to building a community for those who need it most; and

WHEREAS, Hamidullah Noori has worked with the International Rescue Committee, Commonwealth Catholic Charities, and other organizations welcoming refugees arriving in the Commonwealth after the fall of the Afghan government in 2021; and

WHEREAS, in an effort to help provide authentic Afghani food for new refugees, on a single day in the fall of 2021, Hamidullah Noori cooked nearly 3,000 meals for refugees at a local military base; he has since set a goal of feeding every Afghan family resettling in Richmond their first meal in the United States; and

WHEREAS, Hamidullah Noori opened his second location, The Mantu Market, in Henrico County with his nephew, where they serve authentic Afghan bread and fresh kebabs, sell groceries and Afghan-style housewares, and employ other Afghan refugees, fulfilling their mission to serve humanity through their food; and

WHEREAS, Hamidullah Noori is employing refugees who have recently moved to Richmond from war-torn countries such as Afghanistan and Ukraine at his restaurant and market in an effort to help these individuals and their families realize the same American dream he has come to live every day; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Hamidullah Noori for his exceptional culinary skills, community commitment, and advocacy for refugees; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Hamidullah Noori as a testament to the General Assembly's appreciation for his outstanding achievements and his dedication to a supportive and stronger community.

SENATE JOINT RESOLUTION NO. 382

Commending Sixth Baptist Church.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 24, 2023

WHEREAS, for 100 years, Sixth Baptist Church in Richmond has provided its congregation with joyful and uplifting spiritual guidance and abundant opportunities for community outreach; and

WHEREAS, the origins of Sixth Baptist Church date to 1923, when Reverend E.D. Caffee and 25 members of the congregation at Mount Carmel Baptist Church in Richmond left the church to form St. Luke's Mission, which would become formally recognized as St. Luke Baptist Church on December 12, 1923; and

WHEREAS, the Reverend Joseph Arrington took leadership of St. Luke Baptist Church on Christmas Day in 1927, and the next month, the church officially changed its name to Sixth Street Baptist Church; and

WHEREAS, the congregation continued to grow and thrive under the Reverend Arrington, and in 1953, the church moved to its current location at the intersection of Addison Street and Idlewood Avenue in Richmond, at which point it became known as Sixth Baptist Church; and

WHEREAS, Sixth Baptist Church continued to grow and thrive over the years under the leadership of its third pastor, the Reverend Haywood G. Knight, who served from 1961 to 1968; its fourth pastor, the Reverend Dr. Emmett L. Fleming, Sr., who served from 1969 to 2000; and its fifth and current pastor, the Reverend Dr. Yvonne Jones Bibbs, who has served the congregation since 2001; and

WHEREAS, in recent years, the Reverend Bibbs has led Sixth Baptist Church with her thematic program, "Mobilizing for Ministry: Refreshing the Old and Emerging the New," energizing the congregation and inspiring many to look deeper into their faith; and

WHEREAS, through various ministries and outreach activities, Sixth Baptist Church has made a profound and lasting impact on the Richmond community, and the church promises to continue its benevolent mission for many years to come; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Sixth Baptist Church on the occasion of its 100th anniversary in 2023; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Sixth Baptist Church as an expression of the General Assembly's admiration for the church's history and its contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 383

Celebrating the life of Ellalee Fountain Flowers.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Ellalee Fountain Flowers, an esteemed educator at Richmond Public Schools, professor at Virginia Union University, and beloved member of the Richmond community, died on May 15, 2022; and

WHEREAS, Ellalee Flowers grew up in the Jackson Ward neighborhood of Richmond and excelled academically in her youth, graduating at the top of her class from Armstrong High School in 1939 at the age of 15; and

WHEREAS, Ellalee Flowers earned a bachelor's degree in business administration from what is now Virginia State University in 1943, where she once again graduated at the top of her class and was a member of the Alpha Eta Chapter of Delta Sigma Theta Sorority, Inc.; and

WHEREAS, Ellalee Flowers began her career in the president's office of Southern Aid Life Insurance Company, which was the first Black-owned insurance company in the nation; she later earned a master's degree in education from Columbia University in 1947, which was paid for by the Commonwealth pursuant to the Dovell Act of 1935 at a time when Virginia's institutions of higher education were still segregated; and

WHEREAS, in 1945, Ellalee Flowers began teaching business courses at Maggie L. Walker High School, formerly of Richmond Public Schools (RPS), where she contributed greatly to the success of countless young people; she would ultimately become head of the school's business department before retiring from RPS in 1979; and

WHEREAS, Ellalee Flowers subsequently took a faculty position in the Sydney Lewis School of Business at Virginia Union University, working tirelessly for the benefit of her students until her retirement in 1987; and

WHEREAS, Ellalee Flowers was a passionate educator who, in addition to her roles at Maggie L. Walker High School and Virginia Union University, also found time to teach night school for adults and to instruct elementary school students; and

WHEREAS, Ellalee Flowers was an 80-year member of Delta Sigma Theta Sorority, Inc., actively serving in its Richmond Alumnae chapter for many years, including as chair of its Habitat for Humanity and political awareness committees; and

WHEREAS, Ellalee Flowers devoted herself to the fight for racial and social justice as a lifelong member of the NAACP, serving as secretary of the Richmond branch of the organization; and

WHEREAS, guided throughout her life by her faith, Ellalee Flowers enjoyed worship and fellowship with her community at Ebenezer Baptist Church in Richmond from an early age; and

WHEREAS, preceded in death by her husband, Stafford, Ellalee Flowers will be fondly remembered and dearly missed by her children, Jan and Gary; and by numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Ellalee Fountain Flowers, a cherished member of the Richmond community whose efforts as an educator and in other endeavors inspired all who knew her; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Ellalee Fountain Flowers as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 384

Commending Internet service providers in Virginia.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Internet service providers in Virginia have worked diligently to bring universal broadband Internet coverage to all areas of the Commonwealth; and

WHEREAS, in today's digital age, it is important for students to have access to fast, reliable Internet service to complete school assignments, further their education, and prepare for future careers; and

WHEREAS, in order to achieve the goal of universal broadband coverage, the General Assembly created the Virginia Telecommunication Initiative, a public-private partnership with the goal of constructing this broadband network; and

WHEREAS, to reach underserved communities, including individuals and families in rural areas or low-to-moderate-income households, the General Assembly created the Line Extension Customer Assistance Program to extend existing broadband networks to these addresses; and

WHEREAS, in order to foster widespread adoption of broadband, Virginia Internet service providers have helped implement these initiatives and created low-cost broadband programs to bring the Internet to low-to-moderate-income households; and

WHEREAS, as a result of broadband adoption programs, thousands of Virginia students and eligible Virginia families now have bridged the digital divide by adopting broadband Internet; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Internet service providers in Virginia for their efforts to enhance broadband Internet infrastructure and increase the adoption of broadband Internet among low-to-moderate-income households; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to representatives of Internet service providers in Virginia as an expression of the General Assembly's admiration for the achievements of these organizations in service to Virginians.

SENATE JOINT RESOLUTION NO. 385

Commending Gregory C. Brown.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Gregory C. Brown, a trailblazing law-enforcement officer, retired as the chief of the Leesburg Police Department, following six successful years of service to the Leesburg community; and

WHEREAS, Gregory Brown began his law-enforcement career with the Metropolitan Washington Airports Authority in 1996; the following year, he joined the Loudoun County Sheriff's Office, where he held several important roles with the organization, ultimately achieving the rank of captain and serving as commander of the Eastern Loudoun substation; and

WHEREAS, Gregory Brown began serving as chief of the Leesburg Police Department on October 3, 2016, and was the first Black chief of police in town history; and

WHEREAS, Gregory Brown worked diligently to ensure that his officers had the finest tools, training, and technology; he expanded the department to 90 sworn officers and 13 staff members and created several new positions, including public information officer, crime and traffic analyst, and domestic violence detective, to better serve and protect members of the community; and

WHEREAS, under Gregory Brown's exemplary leadership, he brought further distinction to a law-enforcement organization that prides itself on community policing and, during his tenure, was an outspoken advocate for the town's community policing model; and

WHEREAS, during his tenure as chief, Gregory Brown's efforts to emphasize the importance of community policing helped Leesburg earn regional recognition; under his leadership, the department also achieved reaccreditation by the Virginia Department of Criminal Justice Services in 2018 and 2022; and

WHEREAS, highly admired by his peers in the law-enforcement profession, Gregory Brown has offered his leadership and expertise to many prominent national and regional law-enforcement boards and organizations; and

WHEREAS, Gregory Brown will continue to serve the local law-enforcement community as the new executive director of the Northern Virginia Criminal Justice Academy, having previously served as deputy director of basic training at the academy from 2013 to 2015; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Gregory C. Brown on the occasion of his retirement as chief of the Leesburg Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Gregory C. Brown as an expression of the General Assembly's admiration for his outstanding service to the residents of Leesburg and Loudoun County.

SENATE JOINT RESOLUTION NO. 386

Commending John William Foust.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, John William Foust, an esteemed public servant who has represented the Dranesville District on the Fairfax County Board of Supervisors for the past 16 years, will step down on December 31, 2023; and

WHEREAS, a graduate of George Washington University School of Law, who has practiced law in Northern Virginia for more than 30 years, John Foust became actively involved in local civic associations and advisory committees after moving to McLean in 1987; and

WHEREAS, John Foust's leadership roles in service to the community included president of the McLean Citizens Association and the McLean Planning Committee, chair of the Fairfax County Environmental Quality Advisory Council's Legislative Committee, chair of the Chain Bridge District of the Boy Scouts of America, and chair of the Advocacy Committee of Fairfax County's Medical Care for Children Partnership; and

WHEREAS, John Foust was first elected to the Fairfax County Board of Supervisors in November 2007 and was subsequently reelected three times for additional four-year terms, proudly representing his constituents in the Dranesville District, which includes McLean, Great Falls, and Herndon, and portions of the Vienna and Falls Church areas; and

WHEREAS, John Foust currently supports the work of the Fairfax County Board of Supervisors as chair of its Housing Committee and Economic Advisory Commission and as vice chair of its Budget Policy Committee and Health and Human Services Committee; he also represents Fairfax County on several regional boards and commissions, including the Northern Virginia Transportation Commission; and

WHEREAS, John Foust's various accomplishments as a member of the Fairfax County Board of Supervisors includes expanding full-day kindergarten countywide, supporting funding for significant teacher pay increases, obtaining funds to widen Route 7, and facilitating the construction of numerous road and pedestrian improvements and other capital projects in Dranesville, including three new fire stations and two renovated and expanded libraries; and

WHEREAS, John Foust advanced Fairfax County's efforts to address climate change and to preserve the county's beauty and sustainability through his support of several stream and stormwater projects, the construction of sound walls along the beltway and other major roadways to prevent noise pollution in neighborhoods, and the improvement and expansion of county parks and recreational facilities; and

WHEREAS, John Foust consistently advocated on behalf of seniors in his district and encouraged the development of the new Lewinsville Center in McLean and the creation of The Fallstead, a senior independent living residence with 82 affordable housing units for seniors; and

WHEREAS, through hard work, visionary leadership, and steadfast dedication to his constituents, John Foust has helped to make Northern Virginia a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend John William Foust for his 16 years of service as Dranesville District representative on the Fairfax County Board of Supervisors; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to John William Foust as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 387

Commending the Honorable Jeanette A. Irby.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, the Honorable Jeanette A. Irby ably served the Loudoun County community and the Commonwealth as a judge of the Loudoun Circuit Court of the 20th Judicial Circuit of Virginia from 2014 to 2022; and

WHEREAS, Jeanette Irby holds degrees from Central Michigan University and the Thomas M. Cooley Law School at Western Michigan University; she previously practiced law with the firm Walker Jones, PC, in Warrenton and developed a comprehensive experience in all areas of civil litigation; and

WHEREAS, Jeanette Irby was primarily focused on domestic relations but handled cases related to complex business disputes, personal injury claims, real estate, land use, medical malpractice, estate administration, and contract disputes; and

WHEREAS, Jeanette Irby served as an assistant county attorney for Fauquier County, then served as town attorney for Leesburg from 2007 to 2014, gaining invaluable experience in local government law, including laws on eminent domain, education, and elections; and

WHEREAS, in 2014, Jeanette Irby was appointed as a judge of the Loudoun Circuit Court of the 20th Judicial Circuit of Virginia and presided over the court with great fairness and wisdom; and

WHEREAS, Jeanette Irby has also offered her leadership and expertise to many other civic organizations; she is a Paul Harris Fellow of the Leesburg Rotary Club, an honorary regent at the Fauquier Court House Chapter of the National Society Daughters of the American Revolution, and a former member of the executive committee of the Judicial Conference of Virginia; and

WHEREAS, after her retirement from the bench, Jeanette Irby completed mediation training at the National Judicial College in Nevada and plans to continue serving the community by mediating family law disputes through alternative dispute resolution; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable Jeanette A. Irby for her service as a judge of the 20th Judicial Circuit of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Jeanette A. Irby as an expression of the General Assembly's admiration for her service to Loudoun County and the Commonwealth.

SENATE JOINT RESOLUTION NO. 388

Commending Colonel Paris Davis, USA, Ret.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Colonel Paris Davis, USA, Ret., of Arlington, an honorable veteran who bravely served the country as a member of the United States Army Special Forces during the Vietnam War, will receive the Medal of Honor in February 2023 for his extraordinary display of gallantry on June 18, 1965; and

WHEREAS, after studying political science on a Reserve Officers' Training Corps scholarship at Southern University, Paris Davis joined the United States Army and eventually earned a spot with the elite United States Army Special Forces, or the Green Berets; and

WHEREAS, Paris Davis arrived in Vietnam in 1965 at the rank of captain with the task of leading a 12-man team that was part of the distinguished 5th Special Forces Group; and

WHEREAS, as one of the first Black officers to serve with the Green Berets, Paris Davis overcame racial prejudice and discrimination to earn the respect of his men and effectively lead them in battle; and

WHEREAS, Paris Davis and his team were one of the first groups airdropped into the remote farming district of Binh Dinh Province, where they had a mission to train a force of local South Vietnamese volunteers; and

WHEREAS, in the early morning of June 18, 1965, Paris Davis and a few of his fellow Green Berets executed a raid of a Viet Cong regimental headquarters, which was quickly met with a massive counteroffensive; and

WHEREAS, Paris Davis and the volunteers took refuge on a small hill, and they fought off enemy attackers for the next 10 hours, waiting for the opportunity to rescue their fellow servicemen; and

WHEREAS, when American fighter jets bombed the enemy's positions, Paris Davis used the distraction and jumped into action, risking his life to save three wounded servicemen and refusing orders to evacuate until each man was safe, despite being shot five times during the rescue effort; and

WHEREAS, in recognition of his unquestionable heroism during this nearly 19-hour raid, Paris Davis was immediately nominated by his commanding officer for the Medal of Honor, the United States Armed Forces' highest military decoration, though his nomination paperwork would be inexplicably lost on multiple occasions, allowing nearly 60 years to pass before President Joseph R. Biden, Jr., signed the necessary approvals to grant the award this year; and

WHEREAS, Paris Davis later commanded the 10th Special Forces Group and attained the rank of colonel before retiring from the United States Army in 1985; he then went on to start the *Metro Herald*, a Greater Washington, D.C., area newspaper; it was published for more than 30 years; and

WHEREAS, Paris Davis is a true American hero whose selfless courage in the face of almost certain demise makes him deserving of both the Medal of Honor and the respect and high esteem of all Virginians; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Colonel Paris Davis, USA, Ret., for receiving the Medal of Honor; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Colonel Paris Davis, USA, Ret., as an expression of the General Assembly's admiration for his bravery and legacy of service.

SENATE JOINT RESOLUTION NO. 389

Commending the Eagle Festival.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, for 25 years, the Eagle Festival at Mason Neck State Park has celebrated the comeback of American bald eagles, a species that once neared extinction, promoted conservation, and provided educational opportunities to the community; and

WHEREAS, Mason Neck State Park was established in 1985, following a 1960s grassroots effort led by Elizabeth Hartwell and others to preserve the natural environment in the Mount Vernon area; the park encompasses 1,800 acres of land in southeast Fairfax County that is home to a diversity of plants and wildlife, including wintering tundra swans, breeding bald eagles, ospreys, and a great blue heron rookery; and

WHEREAS, the Department of Conservation and Recreation's Virginia State Parks program is dedicated to preserving the park's wetlands, forests, open water, ponds and open fields and offering many ranger-led and other opportunities for people to be stewards of our natural resources; and

WHEREAS, Rob Hartwell initiated and organized the Eagle Festival to honor the legacy of his mother, Elizabeth Hartwell, recognizing her efforts to preserve this unique environment; and

WHEREAS, Mason Neck State Park hosts the Eagle Festival every spring to encourage a renewed appreciation for the Commonwealth's natural resources and celebrate the national bird of the United States; and

WHEREAS, the Eagle Festival is supported by the Friends of Mason Neck State Park, a nonprofit volunteer organization formed to support the park's mission of conservation, education, and recreation; and

WHEREAS, the Eagle Festival features live wildlife, hands-on educational opportunities, and outdoor recreational and educational activities; and

WHEREAS, Eagle Festival attendees can learn about bald eagle conservation and habitat preservation, including protecting the Potomac River's ecological integrity; and

WHEREAS, exhibitors from a wide range of organizations as well as county, state, and federal agencies share information and provide activities to encourage good stewardship of the environment; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Eagle Festival on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Friends of Mason Neck State Park as an expression of the General Assembly's admiration for the Eagle Festival's contributions to the Commonwealth, to local life and to the important mission to enhance stewardship of our natural resources and conservation among all Virginians.

SENATE JOINT RESOLUTION NO. 390

Celebrating the life of Juliette Carolyn Brooks Herring.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Juliette Carolyn Brooks Herring, a devoted educator who shared her love of music with countless students and a beloved mother and grandmother, died on May 11, 2022; and

WHEREAS, Carolyn Herring was born to Julius Caesar and Parmis Blane Brooks in Hopkinsville, Kentucky, in 1940; she began to develop a lifelong passion for music at a young age and began playing the piano when she was eight years old; and

WHEREAS, Carolyn Herring began studying performance piano in 1958 at what is now Tennessee State University, where she was also a member of Alpha Kappa Alpha Sorority, Inc.; and

WHEREAS, a deeply driven learner, Carolyn Herring changed her major to music education and earned her bachelor's degree in music education in less than four years and started her master's studies before graduating in 1962; later in life she continued her studies by taking master's level education classes at George Mason University; and

WHEREAS, in the 1960s, Carolyn Herring was a traveling teacher and taught music to children at segregated schools in Tennessee, developing an appreciation for the freedom of the open road while driving from school to school in her pink and white Dodge; and

WHEREAS, many of Carolyn Herring's students studied in underequipped one-room schoolhouses, and she often used her own salary to purchase instruments to enhance their learning experiences; and

WHEREAS, in the 1970s and 1980s, Carolyn Herring traveled with her husband, Charles, while he served in the military; as some states did not recognize out-of-state teaching certificates for military spouses at the time, she served as a private piano instructor when she was unable to find work in local schools; and

WHEREAS, Carolyn Herring advocated on behalf of her fellow military spouses and worked to secure health care benefits for former spouses and children of military service members; she contributed to the passage of the Uniformed Services Former Spouses' Protection Act enacted by the United States Congress in 1982; and

WHEREAS, Carolyn Herring enjoyed traveling, especially making trips around the country to watch her son play football for Duke University, and she visited Scotland to conduct genealogy research on her family's heritage; and

WHEREAS, Carolyn Herring's love of music extended to dance and she often attended dance classes with her daughter until she was 75 years old; and

WHEREAS, Carolyn Herring will be fondly remembered and greatly missed by her children, Charles L. Herring, Jr., MD, and the Honorable Charniele L. Herring, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Juliette Carolyn Brooks Herring; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Juliette Carolyn Brooks Herring as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 391

Commending Penelope A. Gross.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Penelope A. Gross is an esteemed public servant who has shown extraordinary dedication to her community on the local, regional, state, and national levels for more than 25 years as Mason District Supervisor on the Fairfax County Board of Supervisors; and

WHEREAS, Penelope "Penny" Gross was first elected to the Fairfax County Board of Supervisors, representing the Mason District, in November 1995; she was reelected to her seventh term on November 5, 2019, and currently serves as vice chair of the Fairfax County Board of Supervisors and as chair of the Personnel Committee; and

WHEREAS, regionally, Penny Gross represents Fairfax County on the Metropolitan Washington Council of Governments Board of Directors, which she chaired in 2009; the Northern Virginia Regional Commission, which she also chaired; the INOVA Health System Board of Trustees; and the Potomac Watershed Roundtable; and

WHEREAS, on the state and national levels, Penny Gross is a past president of the Virginia Association of Counties; vice chair of the National Association of Counties' Energy, Environment, and Land Use Committee; and past president of the National Association of Regional Councils; and

WHEREAS, Penny Gross was first appointed by Governor Mark Warner to the Local Government Advisory Committee to the Chesapeake Executive Council, which she chaired from March 2006 until August 2008 and on which she continues to serve; and

WHEREAS, prior to her tenure as supervisor, Penny Gross worked for 20 years as a staff member in various congressional offices; she also served on the board of the Lincolnia Park Civic Association from 1985 to 1997 and on the executive board of the Mason District Council of Civic Associations from 1988 to 1995; and

WHEREAS, Penny Gross' commitment to the well-being of young people in her community is evident in her extensive involvement with her local parent-teacher association and her status as an honorary life member of the Virginia Parent Teacher Association; she also served as co-manager of Girl Scouts of the USA Service Unit 52-4 for nine years; and

WHEREAS, Penny Gross writes a weekly column in the *Falls Church News-Press* and hosts the monthly television show, *Mason Matters*, on the Fairfax County Government television channel; she is also a founding member of the Friends of Mason District Park and the National Capital Chapter of the University of Oregon Alumni Association; and

WHEREAS, as a result of her tireless work on behalf of Mason District and Fairfax County, Penny Gross has been honored with numerous awards and recognitions, including the 2014 Public Officials Award from the Virginia Water Environment Federation, the 2013 Public Officials Award from the Virginia Water Environment Association, and the 2009 Robert L. Bruggeman-Mary C. Michaud Lifetime Achievement Award from Central Fairfax Services, Inc.; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Penelope A. Gross for her service as Mason District Supervisor on the Fairfax County Board of Supervisors; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Penelope A. Gross as an expression of the General Assembly's admiration for her contributions to Fairfax County and the Commonwealth.

SENATE JOINT RESOLUTION NO. 392

Celebrating the life of Rhoda M. Dreyfus.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Rhoda M. Dreyfus, a longtime activist for civil liberties and civil rights and a beloved member of the Charlottesville community, died on November 7, 2022; and

WHEREAS, Rhoda Dreyfus attended Brandeis University and the University of Michigan and lived for some time in New Orleans, where she was one of the founding members of the Louisiana affiliate of the American Civil Liberties Union (ACLU); and

WHEREAS, Rhoda Dreyfus settled in the Charlottesville area in 1977 and became a highly engaged member of the community, serving as a board member with the Charlottesville Area Community Foundation, Virginia Foundation for the Humanities and Public Policy, and the Public Concern Foundation, which publishes *The Washington Spectator*; and

WHEREAS, Rhoda Dreyfus worked tirelessly for local, state, and national Democratic candidates her whole life, serving as chair of the Albemarle County Democratic Committee and as a member of the 7th Congressional District Democratic Committee; and

WHEREAS, Rhoda Dreyfus notably campaigned for President Barack Obama leading up to the 2008 primaries in South Carolina and was also a longstanding member of a weekly Albemarle–Charlottesville Democrat lunch group; and

WHEREAS, Rhoda Dreyfus was a strong supporter of the ACLU, African American Teaching Fellows, the NAACP, the Emily Couric Leadership Forum, the Charlottesville Free Clinic, and the Legal Aid Justice Center; and

WHEREAS, preceded in death by her husband, Leonard, her infant daughter, Julie Ann, and her son, Murray, Rhoda Dreyfus will be fondly remembered and dearly missed by her daughter, Barbara; and by numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Rhoda M. Dreyfus, a cherished member of the Charlottesville community whose passionate activism touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Rhoda M. Dreyfus as an expression of the General Assembly's respect for her memory.

SENATE JOINT RESOLUTION NO. 393

Commending WNRN radio station.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, WNRN radio station began broadcasting in Charlottesville on 91.9 FM more than 25 years ago and has since grown to broadcast on 13 different frequencies across the Commonwealth, including in Richmond, Lynchburg, Harrisonburg, and the Shenandoah Valley; and

WHEREAS, WNRN is a listener-supported independent music station featuring a signature programming blend of new music discovery, live in-studio sessions, and lesser known classics; and

WHEREAS, WNRN champions emerging artists and artists from the Commonwealth, giving many Virginia bands their first airplay on their journey from garages and clubs to arenas and major labels; and

WHEREAS, WNRN's mission is to connect and inspire listeners through music and community messages, and the station furthers that mission through the award-winning Hear Together series, which has donated over $1 million in free airtime to more than 200 Virginia nonprofit organizations; and

WHEREAS, in 2019, Greater Public, a national organization of public radio and TV stations, recognized WNRN as the Best Fundraising Station in the country; and

WHEREAS, over the last 25 years WNRN has grown from its one frequency in Charlottesville into Virginia's largest public radio music station with 85 percent of support coming directly from the community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend WNRN radio station for more than 25 years of service to Charlottesville and communities around the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to WNRN radio station as an expression of the General Assembly's admiration for its mission to strengthen communities through music, art, and education.

SENATE JOINT RESOLUTION NO. 394

Commending the Lexington–Rockbridge County Chamber of Commerce.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, for 100 years, the Lexington–Rockbridge County Chamber of Commerce, the chamber of commerce serving Lexington, Buena Vista, and Rockbridge County, has provided local businesses with the tools and support to succeed and grow and has worked to strengthen the entire community; and

WHEREAS, established by a group of local business owners in 1923, what was then known as the Lexington Chamber of Commerce set out to advance the commercial, industrial, civic, and social interests of the town under the leadership of the organization's first president, Dr. Robert H. Tucker; and

WHEREAS, having grown to serve businesses throughout the region, the Lexington Chamber of Commerce voted in 1937 to change its name to the Lexington-Rockbridge County Chamber of Commerce; and

WHEREAS, the Lexington-Rockbridge County Chamber of Commerce continued to expand and grow, helping to attract numerous new businesses to the area; and

WHEREAS, in 1979, the Lexington-Rockbridge County Chamber of Commerce founded what is now Leadership Rockbridge, which graduated more than 500 aspiring local leaders; and

WHEREAS, in 2014, the Lexington-Rockbridge County Chamber of Commerce initiated a program to discuss the future of the community and the region; the successful dialogue resulted in the creation of the Rockbridge 2020 program, an alumni-focused economic development program; and

WHEREAS, with nearly 500 members, an 18-member board of directors, and a dedicated staff, the Lexington-Rockbridge County Chamber of Commerce is one of the largest business associations in the Shenandoah Valley, and it has helped to make the greater Rockbridge region into a thriving, dynamic community that is full of opportunities for businesses and residents; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Lexington-Rockbridge County Chamber of Commerce on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Lexington-Rockbridge County Chamber of Commerce as an expression of the General Assembly's admiration for the organization's work to help the Cities of Lexington and Buena Vista and Rockbridge County grow and prosper.

SENATE JOINT RESOLUTION NO. 395

Commending Bob Wilbanks.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, for his achievements in sustainable pastureland management, Bob Wilbanks of Rapidan was selected by the Virginia division of the American Forage and Grassland Council to represent the Commonwealth at the organization's annual conference in January 2023; and

WHEREAS, Bob Wilbanks grew up on a hog and tobacco farm in Tennessee and owned a small ranch in Texas before settling in the Piedmont region; and

WHEREAS, when Bob Wilbanks purchased his farm for his beef cattle in Rapidan, it originally consisted of a 225-acre open grazing area with low soil fertility and several spots of naked ground; and

WHEREAS, working with the Culpeper Soil and Water Conservation District cost share programs, Bob Wilbanks developed a diversified grazing system; he added fences to allow for rotational grazing and created riparian buffers to protect the creek that runs through his property and create habitats for local wildlife; and

WHEREAS, Bob Wilbanks cultivated grasses that promote good health for both the environment and his cattle, and by cycling the cattle through certain pastures and rotating crops through others, he is able to keep his cattle grazing approximately 300 days a year, saving money by significantly reducing the need to grow or purchase hay; and

WHEREAS, with the cattle padding nutrients back into the soil naturally, the increased level of organic matter on the farm allowed Bob Wilbanks to stop purchasing nitrogen fertilizer; and

WHEREAS, Bob Wilbanks will continue to share his best management practices with other farmers in the Commonwealth and throughout the nation to help them produce better results for their businesses and safeguard valuable natural resources; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Bob Wilbanks, who represented Virginia at the American Forage and Grassland Council's annual conference in 2023; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Bob Wilbanks as an expression of the General Assembly's admiration for his contributions to the agriculture sector in the Commonwealth.

SENATE JOINT RESOLUTION NO. 396

Commending Jim Noel.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, after three decades of service to the residents of York County, Jim Noel retired as the county director of economic and tourism development in June 2022; and

WHEREAS, a native of Lancaster, Pennsylvania, Jim Noel graduated from Shippensburg University and began his career in local government with the City of Lancaster; he relocated to Virginia Beach and earned a master's degree in public administration from Old Dominion University while working for the City of Portsmouth; and

WHEREAS, after working for several city departments in Portsmouth, Jim Noel developed a passion for the complex and varied challenges of economic development and joined York County government as director of economic development in 1993; and

WHEREAS, Jim Noel built strong relationships with county officials, residents, local business leaders, corporations, and representatives from surrounding localities to drive the recruitment, retention and expansion of businesses in York County; and

WHEREAS, Jim Noel established York County's first formal business retention and expansion program and developed a strong working knowledge of myriad concepts, including commercial real estate, finance, marketing, and public relations to fulfill his mission to create jobs and enhance the quality of life in the community; and

WHEREAS, Jim Noel helped attract major retailers like Walmart and Lowes and helped small, local businesses succeed and thrive; he played a significant role in the opening of Great Wolf Lodge on Rochambeau Drive, which has become a major tourism attraction for the entire Historic Triangle region; and

WHEREAS, during Jim Noel's leadership, York County developed Riverwalk Landing, the Lightfoot Commercial Corridor, York River Commerce Park, and The Edge District, and initiated a revitalization project on Route 17; and

WHEREAS, Jim Noel has been an active member of the Virginia Economic Developers Association, serving as president of the organization in 2020 and receiving its prestigious Cardinal Award in 2021; and

WHEREAS, after his well-earned retirement, Jim Noel plans to spend more time with his beloved family and seek new opportunities to serve communities in the region by establishing his own economic development consulting firm; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Jim Noel on the occasion of his retirement as director of economic and tourism development for York County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jim Noel as an expression of the General Assembly's admiration for his achievements in service to the residents of York County.

SENATE JOINT RESOLUTION NO. 397

Commending the Tabb High School field hockey team.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, the Tabb High School field hockey team of Yorktown capped off an undefeated season and earned its second consecutive state title with a victory in the Virginia High School League Class 3 state championship in 2022; and

WHEREAS, the Tabb High School Tigers defeated the Poquoson High School Bull Islanders by a score of 3-0 to claim the state crown; and

WHEREAS, senior Kate Fiest struck first for the Tabb Tigers to give the team an early 1-0 lead, followed by Mika Hilburger, who scored near the end of the third period; and

WHEREAS, Kate Fiest added an exclamation point with another goal in the fourth period to seal the victory and finish the season with 55 goals and 28 assists; she was selected as the Class 3 Player of the Year and the All-Tidewater Field Hockey Player of the Year; and

WHEREAS, the Tabb Tigers finished the season with a 24-0 record, extended and scored 154 goals throughout the season while only allowing four; over the past two seasons, the team has been undefeated in 46 games; and

WHEREAS, head coach Wendy Wilson was awarded the Virginia High School League Class 3 Coach of the Year, and she and six of her players made the 2022 Class 3 All-State field hockey first team; and

WHEREAS, the successful season is a tribute to the hard work and determination of all the student-athletes, the leadership and guidance of the coaches and staff, and the enthusiastic support of the entire Tabb High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Tabb High School field hockey team on winning the Virginia High School League Class 3 state championship in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Wendy Wilson, head coach of the Tabb High School field hockey team, as an expression of the General Assembly's admiration for the team's achievements.

SENATE JOINT RESOLUTION NO. 398

Commending the Walsingham Academy boys' soccer team.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, the Walsingham Academy boys' soccer team earned the first state title in program history by winning the Virginia Independent Schools Athletic Association Division III state championship in 2022; and

WHEREAS, the Walsingham Academy Trojans entered the state tournament as the number one seed and faced the second-seeded team from Wakefield School in the state final, winning by a score of 3-2; and

WHEREAS, the Wakefield School Fighting Owls scored early in the second half to take a 1-0 lead, but Ethan Hayes, senior captain of the Walsingham Trojans, responded quickly to bring the game back level; and

WHEREAS, with 20 minutes remaining, senior Keith Cardenas was fouled in the box, and Ethan Hayes added another goal from the penalty spot; junior Will Patterson scored what would be the game-winning goal off a key assist from Danny Vantran with five minutes remaining; and

WHEREAS, Ethan Hayes was selected as the Division III Player of the Year for his outstanding performance; he also earned All-State honors, along with Cooper Bailey, Keith Cardenas, and Will Patterson; and

WHEREAS, head coach Brendan Cook was selected as the Division III Coach of the Year for his exceptional leadership of the Walsingham Trojans; and

WHEREAS, the victorious season is a tribute to the determination and hard work of all the student-athletes, the dedication and guidance of the coaches and staff, and the passionate support of the entire Walsingham Academy community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Walsingham Academy boys' soccer team on winning the Virginia Independent Schools Athletic Association Division III state championship in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Brendan Cook, head coach of the Walsingham Academy boys' soccer team, as an expression of the General Assembly's admiration for the team's achievements.

SENATE JOINT RESOLUTION NO. 399

Commending the Walsingham Academy boys' cross country team.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, the Walsingham Academy boys' cross country team secured the first state title in program history with a victory in the Virginia Independent Schools Athletic Association Division III state championship in November 2022; and

WHEREAS, Walsingham Academy scored 47 points in the state final, beating the runner-up team from Veritas School by 35 points; and

WHEREAS, Walsingham Academy's Jake Falcone and Brody Cox finished in fourth and fifth place, respectively, and led the team with times of 17:29.2 and 17:34.7; both runners received All-State honors; and

WHEREAS, four other Walsingham Academy runners were selected for the All-State team, Parker Shonka, who finished 10th; Nick Primich, who finished 11th; Andrew Robinson, who finished 17th; and Brendan Bouchard, who finished 19th; and

WHEREAS, the successful season is a tribute to the hard work and determination of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire Walsingham Academy community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Walsingham Academy boys' cross country team on winning the Virginia Independent Schools Athletic Association Division III state championship in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Rich Higgins, head coach of the Walsingham Academy boys' cross country team, as an expression of the General Assembly's admiration for the team's achievements.

SENATE JOINT RESOLUTION NO. 400

Commending Reginald T. Daye.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Reginald T. Daye, who dedicated his time, talents, and energy to the Office of Human Rights within the Department of Behavioral Health and Developmental Services, providing a vital catalyst to the Commonwealth's efforts to build a system of assured rights and protection for individuals with behavioral health and developmental disabilities, retired after nearly 40 years of service; and

WHEREAS, during his tenure, Reginald Daye represented the interests of individuals with behavioral health and developmental disabilities to ensure their human dignity and freedom from harm; and

WHEREAS, countless individuals have benefited from the steadfast leadership, professionalism, and commitment of Reginald Daye during his service to the Commonwealth; and

WHEREAS, Reginald Daye has helped to ensure a safe environment for others through his diligent utilization of the Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services; and

WHEREAS, Reginald Daye supported the development of meaningful system structures, such as local human rights committees, to preserve and promote the dignity of individuals receiving services from the Department of Behavioral Health and Developmental Services; and

WHEREAS, Reginald Daye has exemplified the best virtues of public service through his work both with colleagues at all levels of his agency and with a wide range of stakeholders, approaching every interaction with honesty and integrity and in a forthright manner; and

WHEREAS, Reginald Daye's decades of service as an advocate and regional advocate manager and his many other actions supporting individuals with behavioral health and developmental disabilities serve as an inspiration to all Virginians; and

WHEREAS, all Virginians have benefited from Reginald Daye's dedication, personal commitment, and conscientious influence to defend the self-determination, empowerment, and recovery of individuals and to ultimately improve public behavioral health and developmental services statewide; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Reginald T. Daye for his leadership and service with the Office of Human Rights within the Department of Behavioral Health and Developmental Services on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Reginald T. Daye as an expression of the General Assembly's admiration and appreciation for his contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 401

Commending the Brafferton Indian School.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, since the founding in 1693 of The College of William and Mary in Virginia, colonial officials encouraged Native American tribes that signed treaty agreements with the English to send young men to be educated in reading and writing, the arts and sciences, and Christian theology; and

WHEREAS, for more than 65 years between 1723 and 1790, the Brafferton Building at The College of William and Mary served as the primary residential and instructional building for Native American students; and

WHEREAS, most tribes were hesitant to send students to the institution, and it was not until Lt. Governor Alexander Spotswood began to remit annual tribute payments for tribes that maintained a student or two in residence that the number of students attending the school increased; and

WHEREAS, by 1712, The College of William and Mary hosted 24 students from multiple tribes, and during the following decades, Native American students consistently made up a substantial percentage of the total student population; and

WHEREAS, between 1705 and 1716, when the main college building, now known as the Sir Christopher Wren Building, was being reconstructed due to a fire, all students were taught and housed in auxiliary facilities in Williamsburg; when the Wren Building reopened in 1716, there may have been separate residential quarters for Native and non-Native students, but evidence indicates that the dining hall and classrooms in the Wren Building were spaces shared by all students; and

WHEREAS, to better accommodate the growing population of Indigenous students, the Brafferton Building was constructed in 1723; the first floor was divided into a large classroom area and an apartment for the Indian School instructor and student dormitories were located on the second floor; and

WHEREAS, the Brafferton Building took its name from the Brafferton Estate, an agricultural manor in Yorkshire, England, that supported the construction and ongoing funding of the Indian School at The College of William and Mary and similar schools in the colonies; and

WHEREAS, in 1732, the Brafferton Building underwent renovations, and half the second floor was outfitted as a library for use by all students and faculty; students' dormitories for the Indian School were relocated to the third floor of the building; and

WHEREAS, Brafferton Indian School alumni were emissaries and interpreters for Virginia governors and military officers, most notably George Washington, Patrick Henry, and Thomas Jefferson; and

WHEREAS, Brafferton Indian School alumni made significant contributions to Virginia society, the Seven Years War, the American Revolution, and United States history, acting as warriors, guides, translators, and liaisons; and

WHEREAS, during the Revolutionary War, funding from the Brafferton Estate was withheld and the Indian School, along with the entire college, closed temporarily; and

WHEREAS, after the conclusion of the war, The College of William and Mary took legal action in England to reinstate the Brafferton Estate's funding for the Indian School; however, in 1790 the lawsuit was unsuccessful, and the school closed permanently; and

WHEREAS, the Brafferton Building was subsequently repurposed as a dining hall, faculty residence, dormitory, and classroom building; in the 1950s and 1960s, the Brafferton housed offices for what is now the William & Mary Alumni Association, and it currently serves as the office building for the president and provost; and

WHEREAS, over the course of its history, the Brafferton Indian School at The College of William and Mary hosted students from Virginia's Powhatan Chiefdom, such as the Pamunkey, Chickahominy, and Nansemond; and those of the Six Nations (Haudenosaunee) Cayuga, Mohawk, Oneida, Onondaga, Seneca, and Tuscarora; as well as others from the Catawba, Cherokee, Delaware, Meherrin, Nottoway, Occaneechi, Saponi, Tutelo, and Wyandot; The College of William and Mary has worked with representatives of multiple tribes to honor the legacy of the Brafferton Indian School; and

WHEREAS, in 2023, The College of William and Mary will commemorate the 300th anniversary of the Brafferton Building's legacy by engaging with the heritage of the Indian School and the role it played in early American history through cross-disciplinary scholarship and applied research and further strengthening ties with the tribal community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend The College of William and Mary in Virginia on the occasion of the 300th anniversary of the construction of the Brafferton Indian School on its campus; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to The College of William and Mary in Virginia as an expression of the General Assembly's appreciation for the important historical legacy of the Brafferton Indian School and the institution's ongoing work to contextualize its early history and strengthen relationships with Native communities.

SENATE JOINT RESOLUTION NO. 402

Commending Deborah Cheesebro, Ph.D.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Deborah Cheesebro, Ph.D., the Associate Vice President for Public Safety and Chief of Police at The College of William and Mary, who has greatly served the university's students and faculty for more than eight years, will retire in 2023; and

WHEREAS, Deborah Cheesebro's training for a career in law enforcement included a bachelor's degree in criminal justice from West Virginia State University, a master's degree in criminal justice from Michigan State University, and a doctoral degree in organizational behavior and development from Union Institute and University; and

WHEREAS, Deborah Cheesebro was notably the first female Chief of Police in the history of The College of William and Mary (W&M); prior to joining the university in 2014, she served as senior director of police, public safety, and emergency management and as chief of police at the University of North Carolina School of the Arts and as deputy director of the Department of Police and Public Safety at the University of Michigan; and

WHEREAS, Deborah Cheesebro oversaw the W&M Police Department (WMPD), including 24 sworn police officers, in her capacity as Chief of Police and was later promoted to also serve as Associate Vice President for Public Safety, incorporating her existing responsibilities with overseeing the offices of emergency management, risk management, and environmental health and safety; and

WHEREAS, during her tenure at W&M, Deborah Cheesebro was instrumental in revitalizing the culture of the police department and modernizing its operations, largely by revising policies and procedures, including recruiting, hiring, and promotional processes; enhancing training and career development for officers and staff; and emphasizing the qualitative aspects of the department's responses to the community's needs; and

WHEREAS, Deborah Cheesebro spearheaded several initiatives to improve the WMPD's ability to respond to emergencies, including an overhaul of the department's emergency communications center and the integration of all safety-related offices under the Office of Public Safety; and

WHEREAS, Deborah Cheesebro fostered strong ties between the WMPD and neighboring agencies and supported university police departments across the Commonwealth; in 2020, she served as the president of the Virginia Association of Campus Law Enforcement Administrators; and

WHEREAS, of her many noteworthy accomplishments, Deborah Cheesebro was most proud of the community-based culture she instilled in her department and the relationships she built with W&M students over the years; and

WHEREAS, in her retirement, Deborah Cheesebro looks forward to spending more quality time with her husband, son, and grandchildren, a fitting reward for one who has dedicated more than a half-century to ensuring others' safety and security as a law-enforcement officer and administrator; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Deborah Cheesebro, Ph.D., the Associate Vice President for Public Safety and Chief of Police at The College of William and Mary, on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Deborah Cheesebro, Ph.D., as an expression of the General Assembly's admiration for her contributions to the Commonwealth and best wishes for a happy and fulfilling retirement.

SENATE JOINT RESOLUTION NO. 403

Commending Venerria Lucas Thomas.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, for eight years, Venerria Lucas Thomas has promoted the health, safety, and wellbeing of adults, children, and families in Newport News as director of the Newport News Department of Human Services; and

WHEREAS, a native of Chicago, Venerria "Ven" Thomas holds degrees from Northwestern University and Willamette University and has developed a wide range of expertise in advocacy, race relations, and social justice by working for nonprofit organizations, private companies, and public entities; and

WHEREAS, Ven Thomas lived in the Pacific Northwest for 30 years, relocated to Florida, then settled in the Hampton Roads area; on September 16, 2014, she became the director of the Newport News Department of Human Services (NNDHS) bringing vision, fresh energy, enthusiasm, and style to the department's leadership; and

WHEREAS, Ven Thomas increased NNDHS visibility at local, city, and state levels through her inspirational leadership and commitment to engagement with other city and state agencies and committees, and the National Forum for Black Public Administrators; and

WHEREAS, Ven Thomas developed initiatives to improve staff communication and involvement, including hosting quarterly director's forums, hosting open office hours, and establishing charter committees and affinity groups; and

WHEREAS, Ven Thomas led and participated in initiatives to provide services to members of the Newport News community, including the SAFE Program, the Choice Neighborhood Initiative Planning Grant, and assistance programs for residents of local mobile home parks; and

WHEREAS, in May 2018, Ven Thomas and her team successfully launched the 2019-2024 NNDHS Strategic Planning process in collaboration with Floricane, LLC; and

WHEREAS, Ven Thomas oversaw many facility and organizational enhancements during her tenure and successfully petitioned the city manager and leadership for approval to develop a permanent telework program for staff with a presentation by the NNDHS executive team; and

WHEREAS, outside of her work with the NNDHS, Ven Thomas served two terms as a member of the Hampton-Newport News Community Services Board from 2016 to 2022, including a term as chair from July 2021 to June 2022; she also provided her leadership and expertise to the Virginia Association of Local Human Services Officials and the Virginia League of Social Service Executives; and

WHEREAS, Ven Thomas retired as director of the NNDHS on December 30, 2022, having served the Newport News community with dedication, integrity, and distinction and inspired her colleagues through her leadership, grace, and commitment to excellence; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Venerria Lucas Thomas for her many contributions to the community on the occasion of her retirement as director of the Newport News Department of Human Services; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Venerria Lucas Thomas as an expression of the General Assembly's admiration for her personal and professional achievements.

SENATE JOINT RESOLUTION NO. 404

Celebrating the life of Joe Samuel Frank.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Joe Samuel Frank, an esteemed attorney and public servant who was the longest serving mayor in the history of Newport News and a key figure in the city's growth over the past several decades, died on October 27, 2022; and

WHEREAS, Joe Frank was a lifelong resident of Newport News; in his early years, he graduated from the former Newport News High School, became president of the Young Leadership Council of the local Jewish community, and achieved the prestigious rank of Eagle Scout with the Boy Scouts of America; and

WHEREAS, after earning a bachelor's degree and juris doctor degree from the University of Virginia in 1964 and 1967, respectively, Joe Frank embarked upon his legal career as an intern at the firm of Battle, Neal, Harris, Minor and Williams and ultimately became a partner at the firm of David, Kamp and Frank; and

WHEREAS, Joe Frank admirably represented businesses, individuals, public bodies and agencies, and a variety of charitable, nonprofit, public service, and cultural arts organizations over his more than a half century practicing law, touching on a broad range of legal matters, including insurance defense, eminent domain, personal injury, medical malpractice, estate planning, business entity formation, and more; and

WHEREAS, for many years, Joe Frank honorably served his country and the Commonwealth as a member of the Virginia Army National Guard, which awarded him the Bronze Star Medal for his service; and

WHEREAS, cultivating an interest in politics and public policy from a young age, Joe Frank would go on to chair his local chapter of the Democratic Party and to serve on the Newport News City Council from 1988 to 2010, including two terms as vice mayor and 14 years as the city's first directly elected mayor; and

WHEREAS, approaching public service with great honor, integrity, and devotion, Joe Frank's efforts proved vital to the economic success of Newport News, as several important objectives, such as the development of City Center, the protection of Fort Eustis, and the development of the Applied Research Center adjacent to the Thomas Jefferson National Accelerator Facility, were fulfilled during his tenure; and

WHEREAS, following his career as a public servant, Joe Frank remained highly involved with many projects and organizations dedicated to the betterment and growth of Newport News, including Christopher Newport University, where he served as a member of the Campaign Executive Council and facilitated the creation of the Bertram and Gladys Aaron Endowed Professorship in Jewish Studies; and

WHEREAS, Joe Frank was the recipient of various accolades over the years in recognition of his service to the community; in 2009, he received the Distinguished Eagle Scout Award from the Boy Scouts of America and, in 2022, Christopher Newport University dedicated the Jane Susan and Joe Frank Atrium at the Ferguson Center for the Arts in his and his wife's honor; and

WHEREAS, predeceased by his loving wife of 47 years, Jane Susan, Joe Frank will be fondly remembered and dearly missed by his children, Shelly Ann, Melissa, and Jason, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Joe Samuel Frank, a beloved member of the Newport News community whose accomplishments as an attorney and public servant will continue to benefit countless individuals for generations to come; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Joe Samuel Frank as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 405

Commending the Denbigh Alumnae Chapter of Delta Sigma Theta Sorority, Inc.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, the Denbigh Alumnae Chapter of Delta Sigma Theta Sorority, Inc., was chartered on December 21, 1997, under the direction of Nettie Faulcon, the former South Atlantic regional director, according to the guidelines of the Grand Chapter of Delta Sigma Theta Sorority, Inc.; and

WHEREAS, Denbigh Alumnae Chapter's initial membership of 31 college-educated women has grown to 90 active members, and they continue their commitment to provide public service in the region, which extends from J. Clyde Morris Boulevard in the City of Newport News to York County and in communities abroad; and

WHEREAS, Denbigh Alumnae Chapter has implemented local, national, and international initiatives in accordance with the Five-Point Programmatic Thrust of Delta Sigma Theta (DST): economic development, educational development, international awareness and involvement, physical and mental health, and political awareness and involvement; and

WHEREAS, Denbigh Alumnae Chapter's economic initiatives include maintaining an Adopt-A-Spot Community Clean-up site in Denbigh at Warwick Boulevard and Colony Road; co-sponsoring the One City Celebration, formerly known as the North District Food Drive; sponsoring Dashing Thru with the Deltas annual Christmas food drive and distribution; supporting the Virginia Peninsula Foodbank and Toys for Tots; participating annually in the Salvation Army's Red Kettle Campaign; providing food baskets and furnishing a room at the Menchville House, a shelter for women and their children; hosting a toiletry drive and financial fortitude workshops; and annual participation in Give Local 757; and

WHEREAS, Denbigh Alumnae Chapter's educational initiatives include partnering with Lutrelle F. Palmer Elementary School to support and provide tutoring programs, school supplies, clothing, and Christmas gifts in support of the school's Christmas Angel Tree, along with teacher appreciation gifts; co-sponsoring Megagenesis, a free college and career-ready experience for middle and high school students, in partnership with Zeta Lambda Education Foundation of Alpha Phi Alpha Fraternity, Inc., and Newport News City Schools; partnering with Peninsula READS; hosting an annual high tea and scholarship presentation, which has awarded over $130,000 in scholarships to deserving high school women; hosting the annual Jabberwock Beautillion Cotillion, which has awarded over $150,000 in scholarships to deserving high school students; sponsoring three youth programs: the Dr. Betty Shabazz Delta Academy for young ladies aged 11 to 14, Delta GEMS (Growing and Empowering Myself Successfully) for young ladies aged 14 to 18, and EMBODI (Empowering Males to Build Opportunities for Developing Independence) for young men aged 13 to 17; and

WHEREAS, Denbigh Alumnae Chapter also hosts an annual May Week, a national DST initiative that is set aside for programs such as college fairs and college preparation workshops, highlighting academic and professional achievements, and events that emphasize the importance of higher education, especially for African American women; and

WHEREAS, Denbigh Alumnae Chapter's public service initiatives extend beyond the City of Newport News, with international initiatives to include World AIDS Day; Stop Hunger Now; donating to Dollars for Darfur; helping to fund the digging of water wells in Africa and in Haiti; donating to Dolls for Haiti; supporting earthquake relief efforts in Haiti; providing clothing and toiletry items to students who transferred to Hampton University from the Bahamas due to being displaced by Hurricane Dorian; and supporting an orphanage in the Kingdom of Eswatini, formerly the Kingdom of Swaziland, Africa; and

WHEREAS, Denbigh Alumnae Chapter's physical and mental health initiatives include Circle of Sisterhood: Honoring Military Women; Delta Walk Against Domestic Violence; health fairs, blood drives, exercise programs, and workshops that focus on diabetes awareness and prevention, teen pregnancy, and mental health; and annual participation in Relay for Life, Making Strides Against Breast Cancer, and St. Jude Walk/Run to End Childhood Cancer; and

WHEREAS, Denbigh Alumnae Chapter is committed to service through social action and continues to advocate for the passage of laws and policies to sustain and expand the rights and privileges of all and to protect vulnerable citizens through attendance at Delta Day at the nation's capital, the General Assembly, local school board meetings, and local city council meetings; through monthly voter registration drives; and by co-sponsoring restoration of voting rights clinics; and

WHEREAS, Denbigh Alumnae Chapter has received numerous accolades and awards for its public service and social action initiatives, including the South Atlantic Region of DST's 2006-2007 Leadership Team Star Award and the 2010 Public Service Award; a public tribute in 2012 by the Newport News Chapter of the Links, Incorporated for outstanding service and leadership recognizing transformational services in Hampton Roads for the period 2009-2012; a community service award from the Zeta Lambda Education Foundation of Alpha Phi Alpha Fraternity, Inc., for participation in Megagenesis; and a certificate of achievement from Councilwoman Sharon Scott in recognition of significant contributions to the former North District Food Drive; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Denbigh Alumnae Chapter of Delta Sigma Theta Sorority, Inc., on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Denbigh Alumnae Chapter of Delta Sigma Theta Sorority, Inc., as an expression of the General Assembly's admiration for the chapter's accomplishments and contributions to Newport News, the Commonwealth, the United States, and communities around the world.

SENATE JOINT RESOLUTION NO. 406

Commending An Achievable Dream, Inc.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, An Achievable Dream, Inc., an educational program based in Newport News, marked its 30th anniversary of service to students in 2022; and

WHEREAS, An Achievable Dream, Inc., was founded in 1992 when Newport News businessman Walter Segaloff assembled a coalition of corporate leaders, educators, city officials, and military partners to launch a summer education and tennis program for third graders facing a variety of social-risk factors; and

WHEREAS, the program soon expanded to a nearby elementary school, which then became An Achievable Dream Academy; and

WHEREAS, An Achievable Dream, Inc., initially developed a public/private partnership with Newport News Public Schools, which pioneered a model of social and moral focus coupled with a unique academic curriculum, proving that all children can learn and succeed; and

WHEREAS, An Achievable Dream, Inc., has grown to become a full kindergarten through 12th-grade program and partners with public school districts and their participating schools in primarily underserved communities; the organization now cooperates in six schools in partnership with Newport News Public Schools, Virginia Beach City Public Schools, and Henrico County Schools, serving more than 2,000 students; and

WHEREAS, An Achievable Dream, Inc., partners with colleges and universities to conduct research and to provide its graduates with financial and academic support; it also maintains partnerships with military, law enforcement, and first responders to provide positive role models for students and foster the development of positive relationships and interactions between students and those in uniform; and

WHEREAS, An Achievable Dream, Inc., generates revenue to support annual operating costs through generous donations from individuals, corporations, and foundations and receives additional support from state and city organizations, fundraising events, and endowments; and

WHEREAS, the continued work of all those involved with An Achievable Dream, Inc., is a testament to their dedication to create equity in education by providing students with opportunities for success in and out of the classroom; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend An Achievable Dream, Inc., for its more than 30 years of service to the Southeast Community of Newport News and more recently to Virginia Beach and Henrico County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to An Achievable Dream, Inc., as an expression of the General Assembly's admiration for its many years of service to the communities with which it works and the success it has had in educating students who might otherwise have not succeeded.

SENATE JOINT RESOLUTION NO. 407

Commending Something in the Water festival.

Agreed to by the Senate, February 23, 2023
Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Something in the Water festival, a multi-day music festival hosted by singer, songwriter, producer, and Virginia Beach native Pharrell Williams that celebrates diversity and empowerment through music, will return to Virginia Beach on April 28-30, 2023; and

WHEREAS, the mission of Something in the Water festival is to unite the community and celebrate the diversity and magic of Virginia Beach; the festival blends different genres of music and provides an opportunity for Pharrell Williams to bring the best music he has encountered around the world back to his hometown; and

WHEREAS, Something in the Water festival includes music, education, sports, art and culture, health and wellness, and more, with activities for people of all ages and interests; the festival will take place in the Vibe Arts District and along a stretch of Atlantic Avenue and the beach; and

WHEREAS, Something in the Water festival was last held in Virginia Beach in 2019, its inaugural debut, and drew a significant number of visitors from around the world and generated tens of millions of dollars in economic impact for local businesses not only in Virginia Beach, but also across Hampton Roads; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Something in the Water festival, a vibrant music festival in Virginia Beach; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Pharrell Williams, organizer of Something in the Water festival, as an expression of the General Assembly's admiration for the festival's contributions to the Virginia Beach community.

SENATE JOINT RESOLUTION NO. 408

Commending David L. Holmes, PhD.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, David L. Holmes, PhD, Walter G. Mason Professor of Religious Studies Emeritus at The College of William and Mary, has greatly served the institution and the Greater Williamsburg community for more than 50 years; and

WHEREAS, David Holmes earned degrees from Michigan State University, Columbia University, and Princeton University and joined the faculty at The College of William and Mary in 1965; and

WHEREAS, David Holmes helped to found The College of William and Mary's modern-day religious studies department and became a well-known presence on the school's campus over his 48-year tenure with the school, retiring in 2013; and

WHEREAS, David Holmes' erudite yet humorous and engaging teaching style endeared him to countless students over the years, some of whom were inspired by his classes to become teachers in their own right; and

WHEREAS, David Holmes specialized in the religions of presidents of the United States and authored several acclaimed books, including *The Faiths of the Founding Fathers*, *A Brief History of the Episcopal Church*, and *The Faiths of the Postwar Presidents: From Truman to Obama*; and

WHEREAS, in recognition of his efforts in the classroom and the community, David Holmes received numerous accolades over the years, including two honorary degrees, the Thomas Jefferson Award from The College of William and Mary, and an Outstanding Faculty Award from the State Council of Higher Education for Virginia, the Commonwealth's highest honor for faculty at Virginia's public and private colleges and universities; and

WHEREAS, David Holmes recently authored *Glimpses of a Public Ivy: 50 Years at William and Mary* to preserve his memory of The College of William and Mary for posterity and to capture the spirit and character of this beloved institution; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend David L. Holmes, PhD, for his legacy of service to The College of William and Mary and the Greater Williamsburg community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to David L. Holmes, PhD, as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 409

Commending Karen Corbett Sanders.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, during her two terms on the Fairfax County School Board, Karen Corbett Sanders has worked diligently to support teachers, staff members, and students and promote excellence in and out of the classroom; and

WHEREAS, a Mount Vernon native, Karen Corbett Sanders attended Fairfax County Public Schools and graduated from Groveton High School in 1979; she holds degrees from the University of Notre Dame and Boston University; and

WHEREAS, Karen Corbett Sanders is a retired international business executive who served as a senior vice president of Verizon Communications; she is also a co-owner of Four Sales, Ltd., a local estate auction company, and has been a community advocate for health care and education issues; and

WHEREAS, before running for Fairfax County School Board, Karen Corbett Sanders was an active parent, volunteer, and leader in a parent-teacher association, school booster club, and the Girl Scouts of the USA; she chaired the visionary task force for the original Mount Vernon High School site; and

WHEREAS, Karen Corbett Sanders was elected to her first term on the Fairfax County School Board in 2015 and subsequently served as vice chair, chair, budget chair, and legislative liaison; she ably met the unique challenges faced by Fairfax County Public Schools as the largest school division in the Commonwealth, serving more than 185,000 students; and

WHEREAS, during her tenure on the Fairfax County School Board, Karen Corbett Sanders prioritized equity in excellence, ensuring that all children had the best opportunities to learn and succeed; she worked with the Fairfax County Board of Supervisors to develop and fund stadium bathrooms on the 15 school fields that did not have them; helped introduce new curricula on gun safety, the risks of opioids and other addictive substances, and on bystander awareness and intervention; and worked with colleagues to increase access to pre-kindergarten in the Route 1 Corridor; and

WHEREAS, as chair of the Fairfax County School Board, Karen Corbett Sanders created the joint environmental task force that established net-zero emissions goals, including the electrification of the school district's bus fleet and the installation of solar panels on schools; and

WHEREAS, during her tenure as chair, Karen Corbett Sanders also created a working group that reviewed and reformed the memorandum of understanding between the Fairfax County Police Department and Fairfax County Public Schools; worked with county and school staff members, Northern Virginia Community College, and George Mason University to launch the first college pathways program in the county at Mount Vernon High School; and enhanced the school district's approach to literacy with a focus on the science of reading, which was ultimately adopted as a statewide model; and

WHEREAS, as budget chair in 2022, Karen Corbett Sanders refined the process for establishing budget priorities and received full funding for the school district's budget; and

WHEREAS, Karen Corbett Sanders oversaw numerous other enhancements to Fairfax County Public Schools and helped guide the school division through the COVID-19 pandemic; and

WHEREAS, Karen Corbett Sanders currently serves as the northeastern region chair of the Virginia School Boards Association; and

WHEREAS, Karen Corbett Sanders has also served the Mount Vernon community on the THRIVE Advisory Committee for the Fairfax County Redevelopment and Housing Authority, the Quality Board of Inova Children's Hospital, and the Regional Board for Virginia Odyssey of the Mind; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Karen Corbett Sanders for her service as a member of the Fairfax County School Board; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Karen Corbett Sanders as an expression of the General Assembly's admiration for her achievements in service to young people in Fairfax County.

SENATE JOINT RESOLUTION NO. 410

Celebrating the life of Melvin Alexander Burruss.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Melvin Alexander Burruss, a highly respected member of the Louisa community, died on October 18, 2022; and

WHEREAS, Melvin Burruss grew up in Branford, Connecticut, and graduated from Branford High School, where he was a diligent student and excelled in basketball and football; and

WHEREAS, after graduation, Melvin Burruss joined the United States Navy and served the nation from 1965 to 1971; he subsequently earned a bachelor's degree from the University of California at Berkeley and was a recipient of a Ford Foundation Scholarship; and

WHEREAS, Melvin Burruss continued his education by earning a master's degree from the Stanford University School of Business and a law degree from the Florida State University College of Law; he also received a two-year grant through the Consortium for Graduate Study in Management; and

WHEREAS, over the course of his career, Melvin Burruss worked in sales, financial services, and real estate for several large companies; he was a passionate lifelong learner and an engaging critical thinker who loved to debate and discuss any topic; and

WHEREAS, Melvin Burruss offered his leadership and expertise to the Charlottesville Regional Chamber of Commerce, the Louisa County Public Schools Superintendent's Advisory Board, the Louisa County Branch of the NAACP, the Louisa County Broadband Authority, the Louisa County Historical Society, Louisa Veterans of Foreign Wars Post 8947, and many other civic and service organizations; and

WHEREAS, among several awards and accolades for his personal and professional achievements, Melvin Burruss received the Omicron Iota Chapter of Omega Psi Phi Fraternity, Inc. Uplift Award in 2006 and the Black Democrats of Westchester Judge Thurgood Marshall Award in 2013; and

WHEREAS, Melvin Burruss will be fondly remembered and greatly missed by his wife of 27 years, Diana; his children, Trisha, Timnetra, and Charles, and their families; his stepchildren, Evan and Lorena, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Melvin Alexander Burruss; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Melvin Alexander Burruss as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 411

Celebrating the life of D'Sean Emir Perry.

Agreed to by the Senate, February 23, 2023
Agreed to by the House of Delegates, February 24, 2023

WHEREAS, D'Sean Emir Perry, a beloved son, brother, friend and highly admired member of the University of Virginia community, died on November 13, 2022; and

WHEREAS, a native of Miami, Florida, D'Sean Perry began to cultivate his strong faith at a young age at Sweet Home Missionary Baptist Church and was baptized at Second Baptist Church of Miami at the age of 10; and

WHEREAS, D'Sean Perry graduated from the Upper School Campus of Gulliver Preparatory School (Gulliver Prep) and was deeply dedicated to the pursuit of academic excellence; and

WHEREAS, D'Sean Perry was passionate about football and played in Pop Warner youth leagues before joining the Gulliver Prep football team, where he impressed his coaches with his athletic ability, versatility, vision, and sportsmanship; and

WHEREAS, during his senior season, D'Sean Perry recorded 89 tackles, three sacks, and three interceptions and helped lead the Gulliver Prep Raiders to an 8-4 record and playoff berth; and

WHEREAS, in 2018, D'Sean Perry accepted a full scholarship to attend the University of Virginia; and

WHEREAS, D'Sean Perry made his debut for the University of Virginia Cavaliers against Abilene Christian University in 2020; he recorded one tackle and ran back an interception 84 yards for a touchdown, the second-longest return by a linebacker in program history; and

WHEREAS, D'Sean Perry appeared in six games in the 2022 season and recorded a career-high four tackles in a 16-14 win over Old Dominion University; and

WHEREAS, D'Sean Perry inspired others through his perseverance, resilience, and compassion, and brought joy to family and friends with his contagious smile and musical and artistic talents; and

WHEREAS, D'Sean Perry received a posthumous bachelor's degree from the University of Virginia in Studio Art and African American and African Studies; and

WHEREAS, D'Sean Perry will be fondly remembered and greatly missed by his parents, Happy and Sean; his sisters Dominique and D'Shaundra; and numerous other family members, friends, and teammates; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of D'Sean Emir Perry; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of D'Sean Emir Perry as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 412

Celebrating the life of Lavel Tyler Davis, Jr.

Agreed to by the Senate, February 23, 2023
Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Lavel Tyler Davis, Jr., a beloved son, brother, and friend and a highly admired member of the University of Virginia community, died on November 13, 2022; and

WHEREAS, Tyler Davis grew up in Ridgeville, South Carolina and graduated from Woodland High School, where he was a standout member of the football, soccer, basketball, and track teams; and

WHEREAS, Tyler Davis was recruited to play as a wide receiver for the University of Virginia Cavaliers and had an exceptional season as a freshman in 2020; he caught 20 passes for 515 yards and five touchdowns, and he was ranked second in the nation in yards per reception with 25.8; and

WHEREAS, injured during the 2021 season, Tyler Davis returned to the football field in 2022 as a member of the Come Back Player of the Year watch list and had recorded 16 catches for 372 yards and two touchdowns; and

WHEREAS, Tyler Davis was wise beyond his years and inspired others through his compassion, kindness, humility, and commitment to excellence on and off the football field; and

WHEREAS, Tyler Davis hoped to pursue a career in professional football, and the University of Virginia posthumously conferred on him a bachelor's degree in African American and African Studies; and

WHEREAS, Tyler Davis strove to enhance community life on campus and throughout the Charlottesville area as a member of the Groundskeepers, an outreach group that focused on addressing racial and social justice by building unity and mutual respect; and

WHEREAS, in the course of his service with the Groundskeepers, Tyler Davis helped produce a training video for incoming students and local law-enforcement officers, which remains in use; and

WHEREAS, Tyler Davis will be fondly remembered and greatly missed by his parents, Thaddeus and Fallom; his sister, Taniya; his brother, Teigan; and numerous other family members, friends, and teammates; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Lavel Tyler Davis, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Lavel Tyler Davis, Jr., as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 413

Celebrating the life of Devin Keith Chandler.

Agreed to by the Senate, February 23, 2023
Agreed to by the House of Delegates, February 24, 2023

WHEREAS, Devin Keith Chandler of Virginia Beach, a highly admired member of the University of Virginia community, died on November 13, 2022; and

WHEREAS, Devin Chandler was born to a military family and moved often in his youth, following his father to different postings for the United States Navy in Japan, Hawaii, Tennessee, North Carolina, and Virginia; and

WHEREAS, a talented multisport athlete, Devin Chandler played as wide receiver and defensive back on the football team at Arlington High School in Tennessee and was also the state track and field runner-up in the 110-meter hurdles event in 2019; and

WHEREAS, Devin Chandler transferred to William Amos Hough High School in North Carolina during his senior year and finished his high school football career with 128 receptions for 2,391 yards, as well as 33 touchdowns and seven interceptions; and

WHEREAS, Devin Chandler attended the University of Wisconsin-Madison, where he continued to excel in football as a wide receiver and kickoff returner; in 2020, he had two catches for 28 yards and returned six kickoffs for 156 yards, including a 59-yard return in the Duke's Mayo Bowl, and in 2021, he returned four kicks for 85 yards; and

WHEREAS, Devin Chandler transferred to the University of Virginia in December 2021 and was looking forward to contributing to the Cavaliers' football program; and

WHEREAS, Devin Chandler hoped to pursue a career in professional football, and he received a posthumous bachelor's degree in Interdisciplinary–American Studies from the University of Virginia; he brought joy to others through his kindness, compassion, infectious smile, and love of music; and

WHEREAS, predeceased by his father, Quentin, Sr., Devin Chandler relished every opportunity to care for his beloved family; he will be fondly remembered and greatly missed by his mother, Dalayna; his brother, Quentin, Jr.; his beautiful nieces, Zion and Jada; and a host of family members, friends, and teammates; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Devin Keith Chandler; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Devin Keith Chandler as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 414

Celebrating the life of Ronkeith Adkins.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Ronkeith Adkins, an accomplished small business owner, United States Army reservist, and active and beloved member of the Roanoke community, died on November 23, 2022; and

WHEREAS, after graduating from the former Southwestern High School in Detroit, Ronkeith Adkins attended what was then the Nashville Auto Diesel College before going on to a career as a small business owner across various industries; and

WHEREAS, as a member of the United States Army Reserve and the Michigan National Guard, Ronkeith Adkins contributed greatly to the readiness and defense of the nation; and

WHEREAS, Ronkeith Adkins was highly involved with the Republican Party in the Roanoke Valley, maintaining membership with the Roanoke County Republican Committee for more than six decades; and

WHEREAS, Ronkeith Adkins served on the Roanoke County Electoral Board from 1994 to 2018, working tirelessly to ensure the integrity of the locality's elections; and

WHEREAS, Ronkeith Adkins' service to the community included fundraising efforts for the Edinburgh Square affordable retirement community in Roanoke, as well as support of Meals on Wheels and other programs assisting senior citizens and children with disabilities; and

WHEREAS, guided throughout his life by his faith, Ronkeith Adkins enjoyed worship and fellowship with his community at St. Mark's Lutheran Church in Roanoke; and

WHEREAS, Ronkeith Adkins will be fondly remembered and dearly missed by his loving wife of 55 years, Judy; his children, Ulysses and Alexander, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Ronkeith Adkins, a cherished member of the Roanoke community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Ronkeith Adkins as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 415

Celebrating the life of Brody Alexander Watson.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Brody Alexander Watson, a beloved member of the Aldie community, died on February 24, 2022; and

WHEREAS, Brody Watson was born in Lansdowne and was a seventh grade student at Willard Middle School; and

WHEREAS, affectionately known to family and friends as "Big B," Brody Watson was a talented multisport athlete who enjoyed playing basketball, football, and many other sports; he loved cheering for the Dallas Cowboys, the Boston Celtics, the New York Yankees, and especially the University of North Carolina Tar Heels; and

WHEREAS, Brody Watson was adventurous and loved the outdoors; he loved spending time at the beach in the Outer Banks and at his family's property in North Carolina, and he spent a lot of time fishing, swimming, and riding the waves; and

WHEREAS, Brody Watson also loved the woods and enjoyed hunting, and he could ride dirt bikes all day with his twin brother, Avery; and

WHEREAS, Brody Watson had a knack for mechanical engineering and learned how to work on cars, trucks, and dirt bikes from his father and grandfather; and

WHEREAS, Brody Watson was very creative and expressed himself through art and music; he had begun playing the guitar and was an avid fan of country music; and

WHEREAS, Brody Watson will be fondly remembered and greatly missed by his parents, Ashley and Wendy; his twin brother, Avery; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Brody Alexander Watson; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Brody Alexander Watson as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 416

Celebrating the life of Elizabeth Lewis Beamer.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Elizabeth Lewis Beamer, esteemed educator, cherished wife, mother, grandmother, great-grandmother, sister, and friend, and a beloved member of the Christiansburg community, died on May 13, 2022; and

WHEREAS, Elizabeth "Libby" Beamer was born on April 21, 1930, in Chilhowie to John William Lewis and Lady Maupin Lewis and shared a special childhood with her brothers, James and William, before proudly graduating from Virginia Intermont College and Radford College; and

WHEREAS, Libby Beamer captured the attention and heart of George L. Beamer, Jr., and during their 49-year marriage, they raised four loving and devoted sons, George III, John, James, and Richard; and

WHEREAS, Libby Beamer was a longtime teacher with Montgomery County Public Schools, retiring as an earth science teacher at Christiansburg Middle School; and

WHEREAS, Libby Beamer was an active member of Christiansburg Presbyterian Church, holding numerous leadership positions throughout the years, including deacon and ruling elder; and

WHEREAS, Libby Beamer was involved in Presbyterian Women at the local level and served Presbyterian Women in the Presbytery as moderator; and

WHEREAS, Libby Beamer had a special place in her heart for the Presbyterian Children's Home of the Highlands in Wytheville and served on its Board of Directors; and

WHEREAS, Libby Beamer served on the Board of Directors of Sunnyside Presbyterian Home in Harrisonburg and the former Montgomery County Regional Hospital; and

WHEREAS, for over 40 years, Libby Beamer was an active member of the Christiansburg Book Club; and

WHEREAS, Libby Beamer was a unifying voice in the Republican Party of Virginia, having represented the Ninth Congressional District on the State Central Committee; and

WHEREAS, at the local level, the Montgomery County Republican Party and Montgomery County Republican Women's Club were strengthened by Libby Beamer's leadership; and

WHEREAS, for many years, Libby Beamer organized monthly Montgomery County Republican Party luncheons that made many national and statewide political figures accessible to her fellow citizens; and

WHEREAS, Libby Beamer was appointed by Governor George Allen to the Advisory Board on the Aging, on which she served with pride and appreciation; and

WHEREAS, preceded in death by her loving husband, George, Jr., Libby Beamer will be dearly missed and held deeply in the hearts of her four sons, George III, John, James, and Richard, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Elizabeth Lewis Beamer, a highly admired and respected wife, mother, grandmother, great-grandmother, and friend, who will always be remembered for her passion, grace, and love for her family; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to the children of Elizabeth Lewis Beamer—George III, John, James, and Richard— as an expression of the General Assembly's respect for her memory and her many contributions to the Commonwealth.

SENATE JOINT RESOLUTION NO. 417

Celebrating the life of Walter Kelvin Bowles.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Walter Kelvin Bowles, an honorable veteran, accomplished entrepreneur in the cable television industry, respected scout of Major League Baseball, and an active and beloved member of the Roanoke Valley community, died on February 20, 2022; and

WHEREAS, after graduating from Franklin County High School, Kelvin Bowles served the country with honor and distinction for four years as a member of the United States Air Force, including time in Tripoli, Libya, and at what was formerly McGuire Air Force Base in New Jersey; and

WHEREAS, following his service, Kelvin Bowles embarked on an illustrious career in the cable television industry, founding Atlantic Metrovision Corporation and later Eastern Communications Associates and building and operating more than 15 cable systems in various towns and counties throughout the Commonwealth, becoming at one time the largest independent cable television franchise holder in the state; and

WHEREAS, while pursuing his career in the cable television industry, Kelvin Bowles was concurrently a professional baseball scout with various organizations over more than 30 years, working with the Major League Baseball Scouting Bureau, Pittsburgh Pirates, Montreal Expos, Florida Marlins, and Boston Red Sox; one of his most prized possessions was the World Series ring he received when the Florida Marlins won the championship in 1997; and

WHEREAS, in 1985, Kelvin Bowles purchased the Salem Professional Baseball Club, Inc., today known as the Salem Red Sox, and operated the organization for 21 years, during which time he also served as vice president of the Carolina League and on the Minor League Baseball Board of Trustees for eight years; in 2001, he was inducted into the Salem-Roanoke Baseball Hall of Fame for his contributions to baseball in the Roanoke Valley; and

WHEREAS, Kelvin Bowles gladly served his community as a founding member of the board of directors of Franklin Community Bank and on the Franklin County Economic Development Commission; in 1996, he was appointed by Governor George Allen to the Southside Virginia Business and Education Commission, and in later years, he was also part of the ownership group of Conner-Bowman Funeral Home in Rocky Mount; and

WHEREAS, outside of baseball, business, and spending time with family on his farm in the Snow Creek area of Franklin County, Kelvin Bowles found great joy in flying airplanes and would earn his instrument rating license and rack up over 2,000 flight hours in his lifetime; and

WHEREAS, Kelvin Bowles will be fondly remembered and dearly missed by his loving wife, Jane; his son, Brian, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Walter Kelvin Bowles, a cherished member of the Roanoke Valley community whose legacy of service was an inspiration to all who knew him; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Walter Kelvin Bowles as an expression of the General Assembly's respect for his memory.

SENATE JOINT RESOLUTION NO. 418

Commending Jamael Orondé Barber.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Jamael Orondé Barber, a native of Roanoke who went on to play in the National Football League with the Tampa Bay Buccaneers for 16 seasons, was inducted into the Pro Football Hall of Fame in 2023; and

WHEREAS, after excelling as a safety at Cave Spring High School in Roanoke, Jamael "Ronde" Barber joined the University of Virginia Cavaliers, recording 15 interceptions between 1994 and 1996 and earning all-Atlantic Coast Conference (ACC) first-team honors each season, as well as ACC Rookie of the Year honors in 1994; and

WHEREAS, selected by the Tampa Bay Buccaneers in the third round of the 1997 National Football League (NFL) Draft, Ronde Barber would go on to spend his entire career with the team, retiring in 2012; and

WHEREAS, an integral part of the Tampa Bay defense throughout his career, Ronde Barber led the team to victory in Super Bowl XXXVII during the 2002-2003 season; and

WHEREAS, a three-time NFL All-Pro and five-time selection for the NFL Pro Bowl, Ronde Barber notched a franchise-record 47 interceptions, along with 28 sacks and 1,428 tackles, over his career; and

WHEREAS, with great versatility and knowledge of the game, Ronde Barber transformed the position of cornerback, notably becoming the only player in NFL history to record at least 45 interceptions and at least 25 sacks; and

WHEREAS, Ronde Barber's impact was also felt through the 14 non-offensive touchdowns he scored in his regular-season career, the fourth highest total in NFL history; and

WHEREAS, Ronde Barber showed impressive durability and longevity in his career, starting in 215 consecutive regular-season games and becoming the only NFL cornerback to have made at least 200 straight starts; and

WHEREAS, Ronde Barber's accomplishments are the results of his extraordinary dedication and hard work and serve as inspiration to countless young athletes in the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Jamael Orondé Barber for his induction into the Pro Football Hall of Fame; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jamael Orondé Barber as an expression of the General Assembly's admiration for his achievements.

SENATE JOINT RESOLUTION NO. 419

Commending the Chesapeake Bay Foundation's environmental education programs.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, the Chesapeake Bay Foundation, a nonprofit, multistate organization dedicated to ensuring the health of the Chesapeake Bay watershed, has been a regional and national leader in environmental education since the early 1970s; and

WHEREAS, the Chesapeake Bay Foundation began its environmental education programs in 1973, and the following year the Chesapeake Bay Foundation in Virginia developed its first educational program on the Commonwealth's rivers and streams with one teacher and about a dozen canoes; and

WHEREAS, for 50 years, the Chesapeake Bay Foundation has provided meaningful watershed educational experiences to more than 1.5 million students and thousands of teachers; environmental education programs have reached schools in rural, urban, and suburban communities across the watershed, about 25 percent of which are under-resourced; and

WHEREAS, with the assistance and support of state agencies and officials in Virginia, and in partnership with the Department of Conservation and Recreation and the Virginia Department of Education, the Chesapeake Bay Foundation's environmental education programs reach more than 10,000 teachers and students in the Commonwealth each year; and

WHEREAS, the Chesapeake Bay Foundation's environmental education programs offer meaningful experiences like field trips, teacher training, curriculum materials, and restoration programs that have inspired generations of citizens to become lifelong stewards of the Chesapeake Bay watershed; and

WHEREAS, the Chesapeake Bay Foundation's environmental education programs create opportunities to link the natural environment with everyday life, enabling students and teachers to conduct their own research, use critical thinking skills, and gain a valuable perspective on the relationship between water quality, fisheries, and economics; courses combine many academic disciplines and are structured to support the Standards of Learning for Virginia Public Schools; and

WHEREAS, the Chesapeake Bay Foundation operates seven environmental education programs for middle and high school-aged students; two residential programs on an island, two boat programs, two canoe programs, and the student leadership summer program; the foundation also provides professional development for teachers through Chesapeake Classrooms, a year-long program that offers several options, including a five-day immersion course, grant writing training, classroom curriculum development, and standards-based, meaningful watershed experiences; and

WHEREAS, the Chesapeake Bay Foundation has established deep partnerships with rural, urban, and suburban school districts, as well as many private schools across the Commonwealth; and

WHEREAS, in 2011, Governor Bob McDonnell recognized the Chesapeake Bay Foundation's environmental education programs with the Governor's Environmental Excellence Award; the Chesapeake Bay Foundation has also received two of the nation's top environmental honors, the President's Environment and Conservation Challenge Medal, and the National Geographic Society Chairman's Award; and

WHEREAS, the Chesapeake Bay Foundation has led efforts to educate students, teachers, and residents of the Commonwealth for 50 years and is dedicated to increasing knowledge about the restoration and protection of the Chesapeake Bay, a national treasure and one of the Commonwealth's greatest natural resources; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Chesapeake Bay Foundation's environmental education programs on their anniversary for five decades of outstanding service to the public in the Commonwealth and the Chesapeake Bay watershed; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Peggy Sanner, the Virginia executive director of the Chesapeake Bay Foundation, as an expression of the General Assembly's admiration for the foundation's contributions to students, teachers, and local residents through its environmental education programs.

SENATE JOINT RESOLUTION NO. 420

Celebrating the life of Theodore Nathan Lerner.

Agreed to by the Senate, February 22, 2023
Agreed to by the House of Delegates, February 23, 2023

WHEREAS, Theodore Nathan Lerner, a prominent real estate developer and philanthropist and principal owner of the Washington Nationals of Major League Baseball, died on February 12, 2023; and

WHEREAS, after graduating from Theodore Roosevelt High School in Washington, D.C., in 1944 and serving with the United States Army in Texas during World War II, Theodore "Ted" Lerner received an associate's degree from George Washington University (GWU) in 1948 and graduated from the university's law school two years later; and

WHEREAS, Ted Lerner saw quick success in real estate, developing subdivisions in the Washington, D.C., metropolitan area for several years and later developing shopping malls, including Wheaton Plaza and White Flint Mall in Maryland, and Dulles Town Center, Tysons Corner Center, and Tysons II in Virginia; and

WHEREAS, with his company Lerner Enterprises of Rockville, Maryland, Ted Lerner oversaw the construction of over 30,000 homes and apartments in the Washington, D.C., area, providing quality homes to an untold number of individuals and families; and

WHEREAS, Ted Lerner purchased the Washington Nationals in 2006 and over several years developed the organization into one of the best in baseball, winning the World Series in 2019 and bringing a championship title back to Washington, D.C., for the first time in almost a century; and

WHEREAS, guided by his faith, Ted Lerner enjoyed worship and fellowship with his community at Ohr Kodesh Congregation in Chevy Chase, Maryland; and

WHEREAS, through the Annette M. Lerner and Theodore N. Lerner Family Foundation, Ted Lerner gave generously to various institutions and organizations in the community over the years, including GWU, Children's National Hospital, and Ohr Kodesh; and

WHEREAS, Ted Lerner will be fondly remembered and dearly missed by his loving wife, Annette; his children, Mark, Debra, and Marla, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Theodore Nathan Lerner, a respected developer and philanthropist who left an indelible mark on the Greater Washington, D.C., community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Theodore Nathan Lerner as an expression of the General Assembly's appreciation of his contribution to our community and respect for his memory.

SENATE JOINT RESOLUTION NO. 421

Celebrating the life of Catherine Cummings Rennolds.

Agreed to by the Senate, February 24, 2023

Agreed to by the House of Delegates, February 25, 2023

WHEREAS, Catherine Cummings Rennolds, a passionate educator and a vibrant member of the Bristow community, died on November 24, 2022; and

WHEREAS, Catherine Rennolds was born to a military family in Stuttgart, Germany, and lived throughout the United States in her youth; and

WHEREAS, Catherine Rennolds received a bachelor's degree from what is now Mary Baldwin University and a master's degree from the Florida Institute of Technology; and

WHEREAS, Catherine Rennolds returned to Mary Baldwin University to earn a teaching certificate, then began a long and fulfilling 20-year career as an educator at Catholic schools in Virginia, notably Saint Mary Star of the Sea School in Hampton and Linton Hall School in Bristow; and

WHEREAS, Catherine Rennolds went above and beyond to ensure that her students had fun in the classroom and gained an appreciation for lifelong learning; and

WHEREAS, Catherine Rennolds brought joy to others through her sense of humor, infectious smile, and ability to make everyone she met feel special; and

WHEREAS, Catherine Rennolds will be fondly remembered and greatly missed by her husband of 19 years, Rich; her daughters, Sarah and Evelyn; her parents, John and Judy; her siblings, Brian and Cindie, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Catherine Cummings Rennolds; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Catherine Cummings Rennolds as an expression of the General Assembly's respect for her memory.

SENATE RESOLUTION NO. 86

Celebrating the life of Viviana Oxlaj Pérez.

Agreed to by the Senate, January 12, 2023

WHEREAS, Viviana Oxlaj Pérez, a beloved mother of six who brought comfort and relief to many over the years by providing homemade food and refreshments at locations throughout Arlington, died on August 1, 2022; and

WHEREAS, after moving to the United States from Guatemala, Viviana Oxlaj Pérez helped to support her family by selling food and drinks out of coolers that she transported around Arlington on the back of a large cargo tricycle; and

WHEREAS, as a longtime fixture at Thomas Jefferson Park in Arlington Heights, Viviana Oxlaj Pérez came into contact with many individuals and families who were grateful for her service and who will feel her absence from the park for a long time to come; and

WHEREAS, Viviana Oxlaj Pérez could often be seen traveling with her goods for sale, making her a recognizable presence in the neighborhood and earning her a reputation as a hard worker with a strong and indefatigable character; and

WHEREAS, despite modest means, Viviana Oxlaj Pérez regularly donated home-cooked tamales during teacher appreciation weeks at schools throughout Arlington and often provided customers who were in need with food free of charge; and

WHEREAS, as a testament to the inspiration that others drew from Viviana Oxlaj Pérez, a GoFundMe account established to help her family return her remains to Guatemala surpassed $30,000 in a matter of days; and

WHEREAS, Viviana Oxlaj Pérez will be fondly remembered and dearly missed by her loving husband, her children and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Viviana Oxlaj Pérez, a treasured member of the Arlington community whose kind and generous spirit touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Viviana Oxlaj Pérez as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 88

2023 Session operating resolution.

Agreed to by the Senate, January 11, 2023

RESOLVED by the Senate of Virginia, That the Comptroller is directed to issue his warrants on the Treasurer, payable from the contingent fund of the Senate, to accomplish the work of the Senate of Virginia as reported by the Clerk of the Senate to the Senate Committee on Rules during the 2023 Session. Necessary payments to cover salaries of temporary employees and the Pages, per diem for legislative assistants who establish a temporary residence, per diem for Pages and certain employees designated by the Clerk and reported to the Chair of the Senate Committee on Rules, as well as other contingent and incidental expenses, will be certified by the Clerk of the Senate or her designee. Per diem for orientation will be paid as approved by the Clerk.

SENATE RESOLUTION NO. 89

Commending Dr. Donald James Finley.

Agreed to by the Senate, January 12, 2023

WHEREAS, Dr. Donald James Finley served with uncommon dedication and distinction as president of the Virginia Business Higher Education Council for a quarter century from shortly after the organization's founding until his retirement in 2022; and

WHEREAS, Donald "Don" Finley's tenure as president of the Virginia Business Higher Education Council was the culmination of a remarkable career defined by outstanding service to the Commonwealth and the field of higher education; and

WHEREAS, Don Finley served with the State Council of Higher Education for Virginia, served as a staff member and staff director of the House Appropriations Committee, served in Governor Charles Robb's administration as deputy secretary of finance and then as secretary of education, and served as secretary of education during all four years of Governor Gerald Baliles's administration; in addition, he served the nation in the United States Army; and

WHEREAS, Don Finley's work as president of the Virginia Business Higher Education Council was exceedingly fruitful and contributed to major advances for higher education in the Commonwealth, such as significant increases in state support of higher education operations, faculty compensation, and student financial aid, including the unprecedented $1 billion investment in the current biennium; and

WHEREAS, Don Finley's service also contributed significantly toward historic capital investments on campuses and landmark legislative measures to enable institutional advances, improve performance, enhance educational and employment opportunities for Virginians, and increase the positive impact on Virginia's economy, including the Restructured Higher Education Financial and Administrative Operations Act of 2005, the Top Jobs Act, the New Economy Workforce Credential Grant Fund and Program, the Tech Talent Investment Fund and Program, the Get Skilled, Get a Job, Give Back Fund and Program, the Innovative Internship Fund and Program, and numerous other instructional and research initiatives; and

WHEREAS, during Don Finley's tenure, the Virginia Business Higher Education Council became the preeminent state-level public-private partnership advocating for higher education in the nation, forging meaningful partnerships among business leaders, college presidents, governors, legislators, and other officials in both political parties, and demonstrating that a diverse coalition based on trust and mutual respect can still work together productively for the common good; and

WHEREAS, the innovative advocacy programs implemented under Don Finley's leadership, including the successive Grow By Degrees and Growth4VA campaigns, significantly increased public and political support for higher education in Virginia by communicating that the Commonwealth's top-ranked system of colleges, universities, and community colleges provides a competitive advantage in economic development, an exceptionally well-qualified workforce, and a strong catalyst for economic growth and job creation; and

WHEREAS, through Don Finley's determined advocacy, generations of young Virginians will enjoy significantly enhanced job and career opportunities and make greater contributions to the larger community because of the profound ways their lives have been enriched by Virginia's higher education system; and

WHEREAS, Don Finley's outstanding personal qualities, including his impeccable character and integrity, sound judgment, extensive knowledge and experience, affable manner, keen wit, generous spirit, and insistence upon giving credit to others rather than drawing attention to himself, have inspired and elevated all who have had the privilege of working with him; now, therefore, be it

RESOLVED by the Senate of Virginia, That Dr. Donald James Finley hereby be commended for his exemplary service to the Virginia Business Higher Education Council; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Dr. Donald James Finley as an expression of the Senate of Virginia's admiration for his personal and professional achievements and best wishes for the future.

SENATE RESOLUTION NO. 90

Celebrating the life of Bobbie Louis Sutton.

Agreed to by the Senate, January 12, 2023

WHEREAS, Bobbie Louis Sutton, an esteemed longshoreman and beloved member of the Norfolk community, died on September 27, 2022; and

WHEREAS, a native of Buena Vista, Georgia, Bobbie Sutton and his family moved to Norfolk when he was a child, where he would later graduate from Booker T. Washington High School; and

WHEREAS, in his youth, Bobbie Sutton learned the game of golf and also worked for some time as a caddie at various golf clubs in the Norfolk area; and

WHEREAS, Bobbie Sutton later became a long-distance truck driver for Allied Trucking Company before embarking upon an accomplished career as a longshoreman in February 1968; and

WHEREAS, as a result of his dedication to his profession and his fellow longshoremen, Bobbie Sutton held various leadership positions as a longshoreman before dutifully retiring in February 1999; and

WHEREAS, later in life, Bobbie Sutton remained actively involved in various local organizations while also enjoying his favorite hobbies, including fishing and golfing; and

WHEREAS, an avid football fan, Bobbie Sutton never missed an opportunity to cheer on his favorite team, the Dallas Cowboys; and

WHEREAS, known for his flair for fashion, Bobbie Sutton could often be seen sporting his signature applejack hat; and

WHEREAS, Bobbie Sutton was the consummate family man, whose quiet and humble demeanor and commitment to providing for his loved ones endeared him to all who knew him; and

WHEREAS, Bobbie Sutton remained devoted to personal growth and exploration throughout his life, discovering a passion for new hobbies such as pier fishing in his later years; and

WHEREAS, predeceased by his first wife, Delores, Bobbie Sutton will be fondly remembered and dearly missed by his loving wife, Brenda; his children, Darryl, Donita, Deborah, and Pierre, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Bobbie Louis Sutton, a respected longshoreman and cherished member of the Norfolk community, whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Bobbie Louis Sutton as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 91

Commending the New Kent High School softball team.

Agreed to by the Senate, January 19, 2023

WHEREAS, the New Kent High School softball team won the Virginia High School League Class 3 state championship on June 11, 2022, at Spotsylvania High School; and

WHEREAS, the New Kent High School Trojans defeated the Lord Botetourt High School Cavaliers of Daleville by a score of 3-0 to bring home the first state championship title in program history; and

WHEREAS, the New Kent Trojans jumped out to an early 2-0 lead in the first inning of the game and never looked back, adding an insurance run in the sixth inning to seal the win; and

WHEREAS, the New Kent Trojans' victory was a total team effort, bolstered by a standout performance from pitcher Morgan Berg, who tallied 10 strikeouts and gave up only two hits on the way to pitching a complete-game shutout; and

WHEREAS, the New Kent Trojans' offense was supported by the exceptional play of Alline Alexander, Abbie Kegley, McKenna Mueller, and Norah Murray, who all had clutch hits in the game; and

WHEREAS, the New Kent Trojans were dominant at the plate throughout their 2022 campaign, slugging an impressive 23 home runs collectively as a team over the season; and

WHEREAS, the New Kent Trojans' title win was a redemptive moment for several members of last year's team, who had previously reached the state championship game only to finish runner-up; and

WHEREAS, the success of the New Kent Trojans is the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of their parents and the entire New Kent High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the New Kent High School softball team hereby be commended for winning the 2022 Virginia High School League Class 3 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Maria Bates, coach of the New Kent High School softball team, as an expression of the Senate of Virginia's admiration for the team's achievement.

SENATE RESOLUTION NO. 92

Commending the Virginia Petroleum and Convenience Marketers Association.

Agreed to by the Senate, January 26, 2023

WHEREAS, the Virginia Petroleum and Convenience Marketers Association, a nonprofit, statewide trade association for the petroleum and convenience store industries, celebrates its 75th anniversary in 2023; and

WHEREAS, the origins of the Virginia Petroleum and Convenience Marketers Association (VPCMA) date to 1948, when a group of enthusiastic, young Virginia business owners, many of whom were veterans recently returned from World War II, joined together with the aim to promote petroleum distributors, provide educational and enrichment opportunities, and advocate on behalf of the industry on the state and local level; they created the Virginia Petroleum Jobbers Association that same year; and

WHEREAS, for three quarters of a century, the Virginia Petroleum Jobbers Association, which changed its name to the Virginia Petroleum and Convenience Marketers Association in 2014, has been a model of stability, with only three individuals serving in the role of president, including Elijah Davis Catterton from 1948 to 1986, Frank C. Bedell from 1987 to 1999, and Michael J. O'Connor from 2000 to present; and

WHEREAS, the advocacy efforts of VPCMA have benefited the Commonwealth in many ways; the organization supported the establishment of the Virginia Petroleum Storage Tank Fund, which serves as a model for public-private partnerships and which has generated an excess of $710 million for environmental protection across the Commonwealth since its inception; and

WHEREAS, VPCMA works closely with its national partners, Energy Marketers of America and the National Association of Convenience Stores, to address federal legislative and regulatory issues impacting the organization's membership; and

WHEREAS, over the years, several members of the VPCMA have notably served as members in the General Assembly, including the Honorable L. Ray Ashworth of Wakefield, the Honorable Lewis W. Parker, Jr., of South Hill, and the Honorable Harry J. Parrish of Manassas; and

WHEREAS, VPCMA will celebrate its 75th anniversary with a series of events to be held September 24-27, 2023, where its members and their families will have the opportunity to reflect on the organization's many accomplishments over its history; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Virginia Petroleum and Convenience Marketers Association hereby be commended on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Petroleum and Convenience Marketers Association as an expression of the Senate of Virginia's admiration for the organization's history and its contributions to the Commonwealth.

SENATE RESOLUTION NO. 93

Nominating a person to be elected to the Supreme Court of Virginia.

Agreed to by the Senate, January 23, 2023

RESOLVED by the Senate of Virginia, That the following person is hereby nominated to be elected to the Supreme Court of Virginia as follows:

The Honorable Cleo E. Powell, of Chesterfield, as a justice of the Supreme Court of Virginia for a term of twelve years commencing August 1, 2023.

SENATE RESOLUTION NO. 94

Nominating persons to be elected to the Court of Appeals of Virginia.

Agreed to by the Senate, January 23, 2023

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the Court of Appeals of Virginia as follows:

The Honorable Mary Grace O'Brien, of Prince William, as a judge of the Court of Appeals of Virginia for a term of eight years commencing February 1, 2023.

The Honorable Richard Y. AtLee, Jr., of York, as a judge of the Court of Appeals of Virginia for a term of eight years commencing February 1, 2023.

SENATE RESOLUTION NO. 95

Nominating persons to be elected to circuit court judgeships.

Agreed to by the Senate, January 23, 2023

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Johnny E. Morrison, of Portsmouth, as a judge of the Third Judicial Circuit for a term of eight years commencing February 1, 2023.

The Honorable Gary A. Mills, of Newport News, as a judge of the Seventh Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Richard H. Rizk, of Williamsburg, as a judge of the Ninth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Dennis M. Martin, of Petersburg, as a judge of the Eleventh Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable John Marshall, of Henrico, as a judge of the Fourteenth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Gordon F. Willis, of Fredericksburg, as a judge of the Fifteenth Judicial Circuit for a term of eight years commencing April 1, 2023.

The Honorable Cheryl V. Higgins, of Albemarle, as a judge of the Sixteenth Judicial Circuit for a term of eight years commencing April 1, 2023.

The Honorable Penney S. Azcarate, of Fairfax, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Stephen C. Shannon, of Fairfax, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Douglas L. Fleming, Jr., of Loudoun, as a judge of the Twentieth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Alexander R. Iden, of Winchester, as a judge of the Twenty-sixth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable H. Lee Harrell, of Wythe, as a judge of the Twenty-seventh Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Tracy C. Hudson, of Manassas, as a judge of the Thirty-first Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Kimberly A. Irving, of Prince William, as a judge of the Thirty-first Judicial Circuit for a term of eight years commencing July 1, 2023.

SENATE RESOLUTION NO. 96

Nominating persons to be elected to general district court judgeships.

Agreed to by the Senate, January 23, 2023

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

The Honorable Alfred W. Bates, III, of Suffolk, as a judge of the Fifth Judicial District for a term of six years commencing July 1, 2023.

The Honorable Corry N. Smith, of Hampton, as a judge of the Eighth Judicial District for a term of six years commencing July 1, 2023.

The Honorable James J. O'Connell, III, of Chesterfield, as a judge of the Twelfth Judicial District for a term of six years commencing July 1, 2023.

John A. Kassabian, Esquire, of Fairfax, as a judge of the Nineteenth Judicial District for a term of six years commencing April 1, 2023.

The Honorable Susan J. S. Stoney, of Fairfax, as a judge of the Nineteenth Judicial District for a term of six years commencing February 1, 2023.

The Honorable Scott R. Geddes, of Roanoke County, as a judge of the Twenty-third Judicial District for a term of six years commencing February 1, 2023.

The Honorable Rupen R. Shah, of Augusta, as a judge of the Twenty-fifth Judicial District for a term of six years commencing February 1, 2023.

SENATE RESOLUTION NO. 97

Nominating persons to be elected to juvenile and domestic relations district court judgeships.

Agreed to by the Senate, January 23, 2023

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

The Honorable Larry D. Willis, Sr., of Chesapeake, as a judge of the First Judicial District for a term of six years commencing May 1, 2023.

The Honorable Bryan K. Meals, of Portsmouth, as a judge of the Third Judicial District for a term of six years commencing July 1, 2023.

The Honorable Stan Del Clark, of Isle of Wight, as a judge of the Fifth Judicial District for a term of six years commencing July 1, 2023.

The Honorable Shannon O. Hoehl, of Hanover, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2023.

The Honorable Julian W. Johnson, of Spotsylvania, as a judge of the Fifteenth Judicial District for a term of six years commencing April 1, 2023.

The Honorable Constance H. Frogale, of Alexandria, as a judge of the Eighteenth Judicial District for a term of six years commencing April 1, 2023.

Divani R. Nadaraja, Esquire, of Fairfax, as a judge of the Nineteenth Judicial District for a term of six years commencing May 1, 2023.

The Honorable Pamela L. Brooks, of Loudoun, as a judge of the Twentieth Judicial District for a term of six years commencing July 1, 2023.

The Honorable Melissa N. Cupp, of Rappahannock, as a judge of the Twentieth Judicial District for a term of six years commencing July 1, 2023.

The Honorable Paul A. Tucker, of Botetourt, as a judge of the Twenty-fifth Judicial District for a term of six years commencing July 1, 2023.

SENATE RESOLUTION NO. 98

Nominating persons to be elected as members of the Judicial Inquiry and Review Commission.

Agreed to by the Senate, January 23, 2023

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected as members of the Judicial Inquiry and Review Commission as follows:

The Honorable Shannon O. Hoehl, of Hanover, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2023.

Humes J. Franklin III, Esquire, of Augusta, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2023.

SENATE RESOLUTION NO. 99

Celebrating the life of Adris Albert Davis, Sr.

Agreed to by the Senate, January 26, 2023

WHEREAS, Adris Albert Davis, Sr., a patriot, honorable veteran, and beloved member of the Fairlawn community, died on September 13, 2022; and

WHEREAS, Adris "Al" Davis was born on December 28, 1949, to Albert and Blanche Davis, and graduated from the former Bramwell High School in Bramwell, West Virginia; and

WHEREAS, Al Davis served the country with honor and distinction as a member of the United States Marine Corps and the United States Army Reserve, earning two Purple Hearts during the Vietnam War; and

WHEREAS, as a veteran, Al Davis remained active in the Veterans of Foreign Wars Post #1184 in Pulaski and the American Legion Post #58 in Dublin; and

WHEREAS, a man of deep faith, Al Davis was a member of First Missionary Baptist Church in Fairlawn, where he served as an usher and trustee; and

WHEREAS, preceded in death by his loving wife, Constance, Al Davis will be fondly remembered and greatly missed by his children, Michael, Adris, Jr., Andrew, Yonnie, Maria, Somer, Darenisha, and Kendra, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Adris Albert Davis, Sr., a cherished member of the Southwest Virginia community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Adris Albert Davis, Sr., as an expression of the Senate of Virginia's respect for his memory and appreciation for his commitment to the United States of America and the Commonwealth.

SENATE RESOLUTION NO. 100

Commending the Eastside High School one-act play ensemble.

Agreed to by the Senate, January 26, 2023

WHEREAS, the Eastside High School one-act play ensemble of Coeburn won the Virginia High School League Class 1 state championship at Monticello High School in Charlottesville on December 10, 2022; and

WHEREAS, the Eastside High School one-act play ensemble performed "Walkin' Suzie" at the 2022-2023 Virginia High School League State Theatre Festival, bringing home the program's ninth consecutive state championship title; and

WHEREAS, the Eastside High School one-act play ensemble saw two of its student actors, Cassidy Funk and Austin McCoy, earn Outstanding Actor awards for their performances; and

WHEREAS, the longstanding success of the Eastside High School one-act play ensemble is the result of the hard work and dedication of the student actors and stage crew, the leadership and guidance of their director and teachers, and the unwavering support of their families and the entire Eastside High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Eastside High School one-act play ensemble hereby be commended for winning the 2022–2023 Virginia High School League Class 1 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Eastside High School one-act play ensemble as an expression of the Senate of Virginia's admiration for the ensemble's achievements and best wishes for the future.

SENATE RESOLUTION NO. 101

Commending Boys & Girls Clubs in Virginia.

Agreed to by the Senate, January 26, 2023

WHEREAS, Boys & Girls Clubs in Virginia have made significant contributions to their communities by matching young people with positive mentors and role models to help them realize their full potential as productive, responsible, and caring citizens; and

WHEREAS, Boys & Girls Clubs provide services to more than 20,700 school-aged youths through chapters in multiple counties, cities, and military installations; the organization strives to inspire and support all young people, especially those from disadvantaged backgrounds; and

WHEREAS, through strong, proven development programs, adult leaders in Boys & Girls Clubs stress character and leadership development, education and career advancement, and health and life skills; they encourage an appreciation for the arts and provide programs in sports, fitness, and recreation; and

WHEREAS, adult leaders in Boys & Girls Clubs promote a positive self-image and enhance academic, social, emotional, and cultural awareness, while encouraging community involvement, strong moral values, and life management skills; and

WHEREAS, through the years, Boys & Girls Clubs have encouraged young people to aspire to the highest level of personal development and to become good citizens who are involved in their communities; now, therefore, be it

RESOLVED by the Senate of Virginia, That Boys & Girls Clubs in Virginia hereby be commended for the outstanding services they provide young people and their families; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Alliance of Boys & Girls Clubs as an expression of the Senate of Virginia's admiration for their dedicated service to young people, especially those who need it most, and commitment to helping those young people reach their full potential as productive, caring, responsible citizens.

SENATE RESOLUTION NO. 102

Commending the Graham High School football team.

Agreed to by the Senate, January 26, 2023

WHEREAS, the Graham High School football team of Bluefield won the Virginia High School League Class 2 state championship on December 10, 2022, at Salem Stadium; and

WHEREAS, the Graham High School G-Men defeated the Central High School Falcons of Woodstock by a score of 34-7 to bring home the fifth state title in program history and the second under the leadership of head coach Tony Palmer; and

WHEREAS, the Graham G-Men's victory capped an impressive undefeated season, with the team going 15-0 in competition; and

WHEREAS, to celebrate their accomplishment, the Graham G-Men served as grand marshals at the Bluefield Christmas parade on December 17, 2022; and

WHEREAS, the success of the Graham G-Men is the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of their families and the entire Graham High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Graham High School football team hereby be commended for winning the 2022 Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Tony Palmer, head coach of the Graham High School football team, as an expression of the Senate of Virginia's admiration for the team's achievements and best wishes for the future.

SENATE RESOLUTION NO. 103

Celebrating the life of Jesse Walker Dove.

Agreed to by the Senate, January 26, 2023

WHEREAS, Jesse Walker Dove, an honorable veteran, esteemed law-enforcement officer with the United States Department of Homeland Security and the Warren County Sheriff's Office, and a beloved member of the Front Royal community, died on December 3, 2022; and

WHEREAS, a lifelong resident of Warren County and a member of the Warren County High School Class of 2009, Jesse Dove served his country with honor and distinction as a member of the United States Navy; and

WHEREAS, following his service, Jesse Dove embarked upon a noble career in law enforcement, devoting himself to protecting and serving the community as a member of the Strasburg Police Department, the Warren County Sheriff's Office, and, most recently, the United States Department of Homeland Security; and

WHEREAS, Jesse Dove was an avid hunter, fisherman, and farmer whose greatest joy aside from being with family and protecting his community was spending time in the great outdoors; and

WHEREAS, Jesse Dove's warm and personable nature drew others to him, and his commitment to his family and to serving others was an inspiration to all who knew him; and

WHEREAS, Jesse Dove will be fondly remembered and dearly missed by his loving wife, Marissa; his daughter, Wrenly; his parents, Jesse and Callie; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Jesse Walker Dove, a respected law-enforcement officer and cherished member of the Front Royal community whose dedication to serving others made an impact on countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Jesse Walker Dove as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 104

Commending Abigail Zwerner.

Agreed to by the Senate, February 2, 2023

WHEREAS, Abigail Zwerner, an educator at Richneck Elementary School in Newport News, demonstrated her devotion to the safety of her students during a school shooting in January 2023; and

WHEREAS, Abigail "Abby" Zwerner graduated from James Madison University in 2019 and earned a master's degree from James Madison University's College of Education the following year; and

WHEREAS, Abby Zwerner hails from a family of educators and teaches first grade at Richneck Elementary School, where she is highly admired by her colleagues for her enthusiasm in and out of the classroom and her passion for lifelong learning; and

WHEREAS, on January 6, 2023, Abby Zwerner sustained injuries to her hand and chest when she was shot while teaching class; and

WHEREAS, despite life-threatening injuries, Abby Zwerner ushered her students to safety in another room and was the last person to exit the classroom where the shooting took place; no students were injured; and

WHEREAS, Abby Zwerner then alerted the school administrator to call for assistance; she subsequently received care and has begun recovering from her injuries; now, therefore, be it

RESOLVED by the Senate of Virginia, That Abigail Zwerner hereby be commended for her heroic actions during a school shooting incident at Richneck Elementary School in January 2023; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Abigail Zwerner as an expression of the Senate of Virginia's admiration for her courage and dedication to the safety of her students.

SENATE RESOLUTION NO. 105

Commending Fabiana Parker.

Agreed to by the Senate, January 26, 2023

WHEREAS, Fabiana Parker, a sixth through 12th grade English for speakers of other languages educator at Thornburg Middle School and Spotsylvania High School in Spotsylvania County, was named the 2023 Virginia Teacher of the Year at a ceremony held in the Patrick Henry Building on Capitol Square in Richmond on September 30, 2022; and

WHEREAS, Fabiana Parker grew up as an English-language learner who experienced firsthand the accompanying challenges and triumphs alike; she traces the beginning of her education career to her childhood experience of teaching her grandmother to read and has been an educator professionally since 2003; and

WHEREAS, Fabiana Parker's higher education pursuits have spanned vast geographical regions; she earned a bachelor's degree in modern foreign language and education at King's College London in 2001 and a master's degree in education, curriculum, and instruction at Boise State University in 2003; and

WHEREAS, in addition to her degree programs, Fabiana Parker has also completed coursework to hone her skills as an educator at the University of Virginia, the University of Phoenix, the University of Granada, the University of Oxford, and the University of Cambridge; and

WHEREAS, Fabiana Parker's diverse community and civic involvement is a natural extension of her mission as a seasoned and globally-minded educator; and

WHEREAS, Fabiana Parker was recognized by the Honorable Gerald E. Connolly in the Congressional Record of the United States Congress in 2012 for having proudly served the adult literacy needs of the Northern Virginia community as a volunteer with the nonprofit BEACON for Adult Literacy; and

WHEREAS, in 2021, Fabiana Parker received a Certificate of Appreciation from the Virginia Department of Health for her service as a translator assisting the department's response to the COVID-19 pandemic; and

WHEREAS, seeing her students achieve their educational goals and become productive members of society is the driving force behind Fabiana Parker's commitment to education; and

WHEREAS, using her personal and professional experiences to promote cultural diversity while building bridges of trust, respect, and understanding across cultures will always be counted among Fabiana Parker's greatest accomplishments; now, therefore, be it

RESOLVED by the Senate of Virginia, That Fabiana Parker, an English for speakers of other languages educator with Spotsylvania County Public Schools, hereby be commended for being named the 2023 Virginia Teacher of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Fabiana Parker as an expression of the Senate of Virginia's admiration for her contributions to the Commonwealth and best wishes in her future endeavors.

SENATE RESOLUTION NO. 106

Celebrating the life of Wanda Driver Wilt.

Agreed to by the Senate, January 26, 2023

WHEREAS, Wanda Driver Wilt, an esteemed account executive, trailblazing public servant, and beloved member of the Rockingham County and Broadway communities, died October 12, 2022; and

WHEREAS, a native of Mount Jackson, Wanda Wilt dedicated 43 years to WHSV-TV in Harrisonburg as an account executive and also worked part-time for 14 years at the law firm Clark and Bradshaw, P.C.; and

WHEREAS, Wanda Wilt's pioneering spirit and commitment to her community led her to make history as the first woman to serve on the Rockingham County Board of Supervisors, the Broadway Town Council and as mayor of the Town of Broadway; and

WHEREAS, Wanda Wilt held the District 1 seat on the Rockingham County Board of Supervisors from 1976 to 1977, served on the Broadway Town Council for six years, and was mayor of the Town of Broadway for 10 years in the late 1990s and early 2000s; and

WHEREAS, with a servant's heart, Wanda Wilt helped establish both the Rotary Club of Broadway-Timberville and the Mt. Jackson-Edinburg Rotary Club and also devoted 16 years to volunteering as a driver for Meals on Wheels; and

WHEREAS, in recognition of her service and extraordinary impact on the community, Wanda Wilt was named Citizen of the Year by the Broadway-Timberville Chamber of Commerce in 2004 and Citizen of the Year by the Broadway-Timberville Ruritan Club in 2005; and

WHEREAS, Wanda Wilt's passions included gardening — for which she was known for her exceptional calla lilies and roses — and college and professional football, favoring the team now known as the Washington Commanders; and

WHEREAS, guided throughout her life by her faith, Wanda Wilt was a lifelong member of Trinity United Church of Christ in Timberville, where she served as a trustee; and

WHEREAS, preceded in death by her loving husband, Randolph, Wanda Wilt will be fondly remembered and dearly missed by her children, Randy, Matthew, and Beth, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Wanda Driver Wilt, a cherished and adored member of the Broadway community whose service and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Wanda Driver Wilt as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 107

Commending Nuckols Farm Elementary School.

Agreed to by the Senate, February 2, 2023

WHEREAS, Nuckols Farm Elementary School was selected as a National Blue Ribbon School in 2022, becoming the only school in Henrico County Public Schools to win the award twice; and

WHEREAS, the National Blue Ribbon Schools Program is administered by the U.S. Department of Education and recognizes schools across the country for their overall academic excellence or progress in closing achievement gaps among student subgroups; Nuckols Farm Elementary School was one of only 297 schools to receive the award in 2022; and

WHEREAS, established in 1997, Nuckols Farm Elementary School has served students in Henrico County for more than 25 years and is located adjacent to the historic Nuckols family farmhouse, which is one of the oldest buildings in Henrico County; and

WHEREAS, Nuckols Farm Elementary School has fulfilled its mission to help young people build a strong foundation for lifelong learning through the hard work of its teachers, administrators, and staff members and support of parents, guardians, and community partners; and

WHEREAS, through innovative curricula and teaching techniques, the faculty of Nuckols Farm Elementary School has given generations of students the tools and support they need to achieve success in higher education and careers and become good citizens of the Commonwealth; and

WHEREAS, during the COVID-19 pandemic, the Nuckols Farm Elementary School community worked diligently to ensure meaningful engagement between students and teachers and maintain a commitment to academic excellence in the face of unprecedented circumstances; and

WHEREAS, Nuckols Farm Elementary School and the other recipients of the National Blue Ribbon Schools awards were honored at a special ceremony in Washington, D.C., in November 2022; now, therefore, be it

RESOLVED by the Senate of Virginia, That Nuckols Farm Elementary School hereby be commended on the occasion of its selection as a 2022 National Blue Ribbon School; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Crystal Metzger, principal of Nuckols Farm Elementary School, as an expression of the Senate of Virginia's admiration for the school's achievements in service to young people in Henrico County.

SENATE RESOLUTION NO. 108

Celebrating the life of John Victor Moeser.

Agreed to by the Senate, February 2, 2023

WHEREAS, John Victor Moeser, a respected expert in urban studies and planning who helped create more inclusive and equitable communities in Richmond, died on October 17, 2022; and

WHEREAS, John Moeser grew up in Lubbock, Texas, at a time when communities were rigidly segregated along racial lines; and

WHEREAS, John Moeser graduated from Texas Tech University and the University of Colorado Boulder, then pursued a doctoral degree from George Washington University in Washington, D.C., where he witnessed pivotal events in the civil rights movement firsthand; and

WHEREAS, after John Moeser settled in Richmond and continued to witness segregation and instances of overt racism, he was inspired to document inequities in the region and effect changes that would enhance the quality of life for all of his fellow residents; and

WHEREAS, John Moeser joined the faculty of Virginia Commonwealth University and became a founding member of the Urban and Regional Studies and Planning program, focusing his groundbreaking research on racial politics, poverty, and regional cooperation; and

WHEREAS, John Moeser taught thousands of students during his tenure as a professor and coauthored two major works, *The Politics of Annexation: Oligarchic Power in a Southern City* about the racially motivated annexation of more than 47,000 residents in Chesterfield County and *The Separate City: Black Communities in the Urban South, 1940-1968*; and

WHEREAS, John Moeser worked with students, fellow academics, local and state officials, and other stakeholders to raise awareness of racial segregation in urban development and its effects on housing, transportation, education, and health; he built strong relationships based on honesty, integrity, trust, and respect and was adept at diffusing tensions during potentially uncomfortable discussions; and

WHEREAS, in 2005, John Moeser retired from Virginia Commonwealth University as professor emeritus, then became a senior fellow of the Bonner Center for Civic Engagement at the University of Richmond, where he continued to study racial trends and demographics until he retired for a second time in 2015; and

WHEREAS, John Moeser worked diligently to build a more equitable, compassionate, and just Richmond, earning a reputation as a moral compass among city officials and community leaders; he received countless awards and accolades for his achievements; and

WHEREAS, outside of his career, John Moeser volunteered his leadership and expertise to many local organizations, including William Byrd Community House, Richmond Habitat for Humanity, Virginia Interfaith Center for Public Policy, and Richmond Memorial Health Foundation, among others; and

WHEREAS, John Moeser lived his deep faith through his actions; he was a longtime member of Second Presbyterian Church, where he served as an elder and a member of the Mission Council; and

WHEREAS, John Moeser's greatest joy in life was his beloved family; he relished every opportunity to pass along his lifetime of wisdom and spend quality time with them; and

WHEREAS, John Moeser will be fondly remembered and greatly missed by his wife of 56 years, Sharon; his sons, Jeremy and David; his grandchildren, John Charles and Caroline; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of John Victor Moeser, a pillar of the Richmond community who touched countless lives through his advocacy; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of John Victor Moeser as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 109

Celebrating the life of James Latane Ware, M.D.

Agreed to by the Senate, February 2, 2023

WHEREAS, James Latane Ware, M.D., an esteemed general and plastic surgeon, honorable veteran, and beloved member of the Richmond community, died on December 26, 2021; and

WHEREAS, Latane Ware attended St. Christopher's School in Richmond and graduated from Episcopal High School in Alexandria before earning degrees from the University of Virginia and what was formerly the Medical College of Virginia; and

WHEREAS, Latane Ware completed his medical training at both Grady Hospital in Atlanta and what is now Duke University School of Medicine, becoming board certified in general and plastic surgery; and

WHEREAS, Latane Ware then served his country with honor and distinction from 1967 to 1969 as a member of the United States Navy, fulfilling his commitment at what is today the Walter Reed National Military Medical Center in Bethesda, ultimately attaining the rank of commander; and

WHEREAS, Latane Ware later settled in Richmond, where he practiced at multiple hospitals and ultimately rose to the position of clinical professor of surgery (plastic) at what is now the Virginia Commonwealth University Medical Center, providing exemplary care and support to foster the health and well-being of innumerable Virginians; and

WHEREAS, Latane Ware made meaningful contributions to the advancement of his profession as an active member of several medical societies, including as president of the Richmond Academy of Medicine; and

WHEREAS, Latane Ware's passion for history and travel led him to take many trips around the world and was most evident in the special care he took when planning itineraries for his family and friends; and

WHEREAS, from his first summer to his last, Latane Ware relished every moment he spent at his family's ancestral home, Ware's Wharf, on the Rappahannock River, where he swam, sailed, boated, and water-skied throughout his life and later took great pleasure in watching his children and grandchildren grow up; and

WHEREAS, guided by his faith, Latane Ware was baptized, confirmed, and married at St. James's Episcopal Church in Richmond, enjoying worship and fellowship with his community there throughout his life; and

WHEREAS, Latane Ware will be fondly remembered and dearly missed by his loving wife of 63 years, Betsy; his children Elizabeth and Latane, Jr., and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of James Latane Ware, M.D., a cherished member of the Richmond community whose dedication to serving and caring for others touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of James Latane Ware, M.D., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 110

Commending Paul Ellis Cook.

Agreed to by the Senate, February 2, 2023

WHEREAS, Paul Ellis Cook, an esteemed member of the Richlands community whose distinctive announcements at Richlands High School football games over the past half-century were a revered tradition at the school, retired in 2022; and

WHEREAS, a member of the Richlands High School Class of 1953, Paul "Slick" Cook was a proud member of the Blue Tornado football team, sporting the number 46; and

WHEREAS, Slick Cook attended what is now King University and was drafted into the United States Army in 1957, serving with the military police; thereafter he enjoyed a successful career as a longtime employee of the Richlands insurance agency, Lindsey & Associates; and as a funeral director assistant at the Hurst-Scott Funeral Home in Richlands for more than 40 years; and

WHEREAS, Slick Cook has given generously of his time for the benefit of his community, serving as mayor of the Town of Richlands in the 1980s and on the Richlands Town Council and in leadership positions with the Richlands Masonic Lodge, Richlands Presbyterian Church, and Jewell Ridge Presbyterian Church; and

WHEREAS, Slick Cook began his career as an announcer with the Richlands youth football league in 1968 and briefly called games for the Richlands High School junior varsity football team before becoming the public-address announcer and in-stadium voice at Richlands High School varsity football games in 1970; and

WHEREAS, for the past 52 years, Slick Cook has demonstrated remarkable dedication to the students, faculty, and staff of Richlands High School, missing only two games throughout his tenure, which was made possible through the loving support of his wife, Bonnie, and their daughters; and

WHEREAS, Slick Cook has consistently demonstrated his love for the country in his capacity as announcer at Richlands Blue Tornado football games, demonstrating great reverence toward the National Anthem and respect toward the nation's service members; and

WHEREAS, Slick Cook called the first game of the Richlands High School football season in August 2022 as a touching farewell to the fans of Blue Tornado football who have admired his work over the years; and

WHEREAS, Slick Cook was honored as grand marshal at the Richlands High School homecoming parade in 2022, a fitting tribute to a man who has helped to make Richlands a wonderful place to live, work, and raise a family; now, therefore, be it

RESOLVED by the Senate of Virginia, That Paul Ellis Cook, a true Blue Tornado icon, hereby be commended on the occasion of his retirement as the announcer of Richlands High School varsity football games; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Paul Ellis Cook as an expression of the Senate of Virginia's admiration for his distinguished career and meritorious leadership and service and sincere wishes for his continued success and joy in the lighter days ahead.

SENATE RESOLUTION NO. 111

Commending the Town of Berryville.

Agreed to by the Senate, February 2, 2023

WHEREAS, in 2023, the Town of Berryville, a vibrant community in the northern Shenandoah Valley and the longtime county seat of Clarke County, celebrated the 225th anniversary of its founding; and

WHEREAS, the land that became Berryville was originally granted to Isaac Pennington in 1734; over the next several decades, the land changed hands multiple times, and a small crossroads settlement known as Battletown developed at the intersection of Winchester Turnpike and Charlestown Road; and

WHEREAS, in 1798, Benjamin and Sarah Berry purchased 20 acres in the area and began dividing the property into lots for the creation of a town; and

WHEREAS, Berryville was officially incorporated as a town on January 15, 1798, and continued to grow and expand as an important stop along the turnpikes between Winchester and Alexandria; and

WHEREAS, when the General Assembly formed Clarke County from part of Frederick County in March 1836, Berryville was selected as the county seat, further enhancing the prosperity and local significance of the community; and

WHEREAS, during the Civil War, Berryville was used as an outpost during the Second Battle of Winchester in 1863, briefly served as the headquarters of Confederate General Jubal Early in 1864, and was the site of the Battle of Berryville during the Valley campaigns of 1864; and

WHEREAS, after the war, Berryville remained a critical part of the region's economy, and with the arrival of the Shenandoah Valley Railroad, it became a processing and shipping center for farmers in the northern Shenandoah Valley; and

WHEREAS, with its small-town charms and convenient access to the nation's capital, Berryville remains an outstanding place to live, work, and raise a family; and

WHEREAS, the residents of Berryville commemorated the town's 225th anniversary on January 15, 2022, with a special celebration at Johnson-Williams Middle School; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Town of Berryville hereby be commended on the occasion of its 225th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Town of Berryville as an expression of the Senate of Virginia's admiration for the community's long history and contributions to the Commonwealth.

SENATE RESOLUTION NO. 112

Commending Robert Selden Duvall.

Agreed to by the Senate, February 2, 2023

WHEREAS, Robert Selden Duvall, a resident of Fauquier County, a Hollywood icon, and one of the extraordinary actors of the last century, has made significant contributions to the art of acting and filmmaking for more than 70 years and to historic preservation in the Commonwealth; and

WHEREAS, after graduating from Principia College in 1953, Robert Duvall honorably served his country as a member of the United States Army during the Korean War before studying acting at the Neighborhood Playhouse in New York with renowned teacher Sanford Meisner; and

WHEREAS, beginning his acting career in Off-Broadway and Broadway plays in the 1950s, Robert Duvall transitioned to television and film shortly thereafter, debuting as Boo Radley in the 1962 production of *To Kill a Mockingbird*; and

WHEREAS, Robert Duvall later appeared notably as Major Frank Burns in the comedy blockbuster *M*A*S*H*, as Tom Hagen, the consiglieri, in the classics *The Godfather* and *The Godfather: Part II*, and as Gus McCrae in *Lonesome Dove*; and

WHEREAS, in recognition of his accomplishments as an actor, Robert Duvall has been honored with the industry's most prestigious awards, including an Academy Award for Best Actor for his role as Mac Sledge in *Tender Mercies*, four Golden Globe Awards, a BAFTA Award, two Primetime Emmy Awards, and a Screen Actors Guild Award; and

WHEREAS, Robert Duvall's father, Rear Admiral Lower Half William Howard Duvall, USN, Ret., hailed from Lorton; Robert Duvall has also made the Commonwealth his home for many years, today residing with his wife, Luciana Pedraza, in The Plains, where they manage a horse farm; and

WHEREAS, Robert Duvall has been a major supporter of historic preservation and conservation in the Commonwealth and fought ardently to protect many historic and open spaces, including the Wilderness Battlefield, a unit of the Fredericksburg and Spotsylvania National Battlefield Park, helping to ensure that visitors may appreciate the historical significance and natural beauty of this area for generations to come; and

WHEREAS, in recognition of his efforts to support farmland, scenic, and historic land preservation in the Commonwealth, Robert Duvall was presented the Richmonds Medal by Scenic Virginia and the Thames Landscape Strategy in 2018, becoming the first recipient from the United States to receive this distinguished honor; and

WHEREAS, Robert Duvall has inspired generations of fans through his stellar work as an actor, director, producer, and screenwriter and has permanently impacted the art of film through the sheer magnitude and quality of his body of work, which includes some of the most famous characters ever portrayed in film; he has also inspired his friends and community with his generous spirit and through the meaningful way he lives his life, earning him the esteem and respect of all Virginians; now, therefore, be it

RESOLVED by the Senate of Virginia, That Robert Selden Duvall, acclaimed actor and longtime resident of the Commonwealth, hereby be commended for his extraordinary impact on the art of filmmaking and on historic preservation in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Robert Selden Duvall as an expression of the General Assembly's admiration for his work and for his contributions to the preservation of the Commonwealth's unparalleled beauty.

SENATE RESOLUTION NO. 113

Commending Colonel D'Anne Emmett Spence, USAF, Ret.

Agreed to by the Senate, February 2, 2023

WHEREAS, Colonel D'Anne Emmett Spence, USAF, Ret., honorably served the nation in the United States Air Force and retired in October 2022 following an impressive 25-year career; and

WHEREAS, D'Anne Spence was nominated to the United States Air Force Academy by former Congressman Charlie Wilson of Texas and enrolled in 1995; and

WHEREAS, as a United States Air Force Academy cadet, D'Anne Spence excelled both academically and as a member of the institution's tennis team; and

WHEREAS, after graduating in 1999, D'Anne Spence began her journey as an officer in the United States Air Force and four years later was invited back to teach chemistry at the academy; and

WHEREAS, D'Anne Spence's impressive career in the United States Air Force included numerous decorations, including the Bronze Star, the Defense Meritorious Service Medal with three oak leaf clusters, the Afghanistan Campaign Medal, and the National Nuclear Security Administration Administrator Excellence Medal; and

WHEREAS, over the course of her distinguished career in the United States Air Force, D'Anne Spence served in critical positions for the Secretary of Defense and Chairman of the Joint Chiefs of Staff and as a legislative liaison to the United States Congress; and

WHEREAS, D'Anne Spence's last duty assignment was as the United States Air Force Academy liaison to the national capital region, where she assisted the Secretary of the Air Force and the Chief of Staff of the Air Force and their staffs on all matters pertaining to the academy; and

WHEREAS, in her personal life, D'Anne Spence has served in various leadership roles in organizations such as the Military Benefit Association and the Army Navy Country Club, where she currently serves as the club secretary; and

WHEREAS, D'Anne Spence resides in Arlington and has enjoyed the love and support of her family in all her endeavors, including that of her parents, Joe and Judy Emmett, and her children, Samantha and Emmett; now, therefore, be it

RESOLVED by the Senate of Virginia, That Colonel D'Anne Emmett Spence, USAF, Ret., an honorable servant to the United States and resident of the Commonwealth, hereby be commended for her service to the nation as an officer in the United States Air Force; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Colonel D'Anne Emmett Spence, USAF, Ret., as an expression of the Senate of Virginia's admiration for her work and for her service to the nation.

SENATE RESOLUTION NO. 114

Commending the 2023 inductees into the Virginia Sports Hall of Fame.

Agreed to by the Senate, February 2, 2023

WHEREAS, in 1996, the Virginia Sports Hall of Fame was designated the official Sports Hall of Fame of the Commonwealth; and

WHEREAS, the Virginia Sports Hall of Fame, located in Virginia Beach, has honored hundreds of Virginia's exceptional athletes, coaches, and media personalities since its inception; and

WHEREAS, the Virginia Sports Hall of Fame celebrates athletic excellence in the Commonwealth, highlights philanthropy through sports, and inspires sports fans through engaging and entertaining programs; and

WHEREAS, the Virginia Sports Hall of Fame will celebrate its 50th Induction Weekend by honoring the Class of 2023 and the 2023 Distinguished Virginian Award recipient on Saturday, April 22, 2023; and

WHEREAS, the Virginia Sports Hall of Fame is honored to present the Class of 2023 inductees as follows:

The Class of 2023

DeAngelo Hall

DeAngelo Hall graduated from Deep Creek High School in Chesapeake and went on to become a first team All-American defensive back for the Virginia Polytechnic Institute and State University football team in the early 2000s. He was drafted by the Atlanta Falcons with the eighth overall pick in the first round of the 2004 National Football League (NFL) Draft and went on to play 14 seasons in the NFL with the Atlanta Falcons, the Oakland Raiders, and the Washington Commanders. A three-time Pro Bowl selection, he recorded 43 interceptions, forced 11 fumbles, and scored 10 defensive touchdowns over the course of his career. He has previously been inducted into the Virginia Tech Sports Hall of Fame and has been recognized as one of the Commanders 90 Greatest Players of All-Time.

Jimmye Laycock

Originally from Loudoun County, Jimmye Laycock attended Loudoun Valley High School, earning 12 varsity letters before heading to The College of William and Mary, where he quarterbacked the Tribe football team in the late 1960s. After a decade as an assistant coach, he returned to his alma mater in 1980 as head coach and led the football program for the next 39 seasons, amassing 249 wins, seven conference championships, and 10 National Collegiate Athletic Association (NCAA) Football Championship Subdivision playoff appearances. He has previously been inducted into the Hampton Roads Sports Hall of Fame.

Francena McCorory

Francena McCorory grew up in Hampton and graduated from Bethel High School, where she starred on the indoor and outdoor track teams, setting numerous Virginia High School League indoor and outdoor track and field records. Running for her hometown Hampton University Pirates, McCorory would win three NCAA Championships in the 400-meter dash and be named a four-time NCAA All-American. After college her success continued on the international level where she represented her country in the 2012 and 2016 Summer Olympic Games, bringing home the gold both years as a member of the 4x400-meter relay teams.

Shawn Moore

A Martinsville native, Shawn Moore attended Martinsville High School before committing to play football for the University of Virginia (UVA). During his three seasons under center for the Cavaliers, he rewrote the offensive record books. He finished his career in 1990 holding 41 school, Atlantic Coast Conference, and NCAA individual records, and his 83 total touchdowns still stand as a school record to this day. As the 1990 ACC Player of the Year, he led the Cavaliers to the program's first ever national number one ranking and finished fourth in the voting for the Heisman Trophy in 1990. His career statistics include 6,629 passing yards and 55 touchdowns and 1,268 rushing yards with 28 touchdowns.

Jerry Ratcliffe

Jerry Ratcliffe has been a longtime fixture in sports media in Central Virginia, with a focus on UVA athletics. Over the course of four decades at the *Daily Progress*, he was selected as Virginia Sportswriter of the Year four times and received numerous other recognitions from the Associated Press Sports Editors Association, the Virginia Press Association, the Football Writers of America, and the United States Basketball Writers of America. He has also been recognized for his golf coverage with the prestigious Earle Hellen Sports Media Award by the Middle Atlantic Section of the PGA of America. Since 2018, he has managed and provided content on UVA Athletics through his website, JerryRatcliffe.com.

Bob Rotanz

Bob Rotanz came to Roanoke College in the mid-1970s and immediately enhanced the Maroons' rich lacrosse tradition. A three-time All-American during his time at Roanoke College, he is one of just two players in school history to earn National Player of the Year honors, doing so in 1978. In the same year, he was named National Defensive Player of the Year and helped lead Roanoke College to the NCAA Championship by scoring the winning goal in the title game. He is a 2022 recipient of the Roanoke College medal, the highest honor awarded by the institution.

Sheila Trice-Myers

A graduate of Louisa County High School in Mineral, Sheila Trice-Myers matriculated at Christopher Newport University (CNU), where she set numerous school and NCAA records. During her four years on the Peninsula, she became one of the most decorated athletes in NCAA track and field history, finishing her career with 32 All-American honors and 15 national championships. Her first national title came in 1987 as part of CNU's winning 4x100-meter relay team. She continued to set the track on fire, winning four more national titles in 1988, six in 1989, and four in 1990. She remains the NCAA Division III record holder in the 55-meter indoor hurdles.

Ryan Zimmerman

A native of Virginia Beach, Ryan Zimmerman achieved success at all levels of baseball. He is an inductee into the UVA Baseball Hall of Fame, ranks in the top 10 in multiple offensive categories in Cavaliers history, and was a 2005 All-ACC and All-American selection. He became the first ever draft pick in Washington Nationals history when the franchise selected him 4th overall in the 2005 Major League Baseball entry draft. After 16 seasons, he retired as the franchise leader in hits (1,846), home runs (284), RBI (1,061), and games played (1,799). Nicknamed "Mr. National," the two-time National League All-Star helped lead the Nationals to its first World Series title in 2019 and his number 11 jersey has been retired by the team.

WHEREAS, the Virginia Sports Hall of Fame is also honored to present the 2023 Distinguished Virginian Award recipient:

Joe Montgomery

Joe Montgomery grew up in Lynchburg, where he graduated from Brookville High School, and in the 1970s, he became a standout center for The College of William and Mary football team. The 1973 All-American and 1985 William and Mary Athletics Hall of Fame inductee has experienced success both on and off the field. His commitment to his alma mater and the greater community has seen him appointed to The College of William and Mary Board of Visitors, Colonial Williamsburg Foundation Board of Trustees, and Virginia Retirement System Board of Trustees, among others. In 2017, he was presented with the Gerald R. Ford Legends Award by the Rimington Trophy for his significant contributions to the football and business communities and his philanthropic endeavors; now, therefore, be it

RESOLVED by the Senate of Virginia, That DeAngelo Hall, Jimmye Laycock, Francena McCorory, Shawn Moore, Jerry Ratcliffe, Bob Rotanz, Sheila Trice-Myers, Ryan Zimmerman, and Joe Montgomery hereby be commended for their outstanding achievements in athletics and philanthropy; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to the Virginia Sports Hall of Fame and its 2023 inductees as an expression of the Senate of Virginia's congratulations and admiration for their many contributions to the world of sports.

SENATE RESOLUTION NO. 115

Commending the Martinsville Garden Club.

Agreed to by the Senate, February 2, 2023

WHEREAS, the Martinsville Garden Club, an organization dedicated to promoting interest in and knowledge of gardening, stimulating interest in civic planning, and aiding in the protection of native trees, shrubs, wild flowers, and birds, celebrates its 100th anniversary in 2023; and

WHEREAS, founded in April 1923, the Martinsville Garden Club joined the Garden Club of Virginia the following year and since that time has spearheaded numerous beautification and conservation efforts and landscaping projects in the communities of Martinsville and Henry County; and

WHEREAS, the Martinsville Garden Club's efforts over the years have benefited many prominent sites and organizations in the Martinsville area, including Oakwood Cemetery, the grounds of Memorial Hospital and the Historic Henry County Courthouse, local schools and service organizations, the Blue Ridge Regional Library, and Patrick Henry Community College; and

WHEREAS, in 2009, the Martinsville Garden Club had the notable distinction of co-sponsoring an exhibition at the Virginia Museum of Natural History titled Forgotten Garden; the organization also assisted with funding the installation of a garden surrounding the Big Chair in Uptown Martinsville; and

WHEREAS, the Martinsville Garden Club's recent endeavors include a collaboration with the Gateway Streetscape Foundation to beautify areas in Martinsville and Henry County and to create pollinator gardens at the Smith River Sports Complex in Axton and Fairy Stone State Park in Patrick County; and

WHEREAS, since its early years, the Martinsville Garden Club has participated in statewide Historic Garden Week programs sponsored by the Garden Club of Virginia, either through home tours or lectures, raising funds to support the renovation and preservation of historic gardens in the Commonwealth; and

WHEREAS, the Martinsville Garden Club, in conjunction with the Garden Club of Virginia, cultivates its members' interest in gardening, horticulture, and flower arranging through three annual flower shows devoted respectively to the daffodil, lily, and rose; and

WHEREAS, the accomplishments of the Martinsville Garden Club are the results of the tireless efforts of its members and their dedication to the organization's mission; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Martinsville Garden Club hereby be commended on the occasion of the organization's 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Martinsville Garden Club as an expression of the Senate of Virginia's admiration for the organization's history of contributions to the Commonwealth.

SENATE RESOLUTION NO. 116

Commending the Woodstock Fire Department.

Agreed to by the Senate, February 9, 2023

WHEREAS, the Woodstock Fire Department will celebrate 200 years of service to the community in 2023; and

WHEREAS, the Woodstock Fire Department traces its roots to a meeting of concerned citizens at what is now the Shenandoah County Historic Courthouse on February 8, 1823, who volunteered to become the first members of the Shenandoah Fire Company; in 1931 the department built a new brick building and changed its name to the Woodstock Fire Department; and

WHEREAS, the Woodstock Fire Department is an all-volunteer community organization committed to serving the residents of the Town of Woodstock, Shenandoah County, and the Commonwealth; and

WHEREAS, the Woodstock Fire Department spends thousands of hours each year responding to emergency incidents, training, fundraising, and serving its neighbors in other ways; and

WHEREAS, the members of the Woodstock Fire Department risk their lives to ensure the safety and well-being of their neighbors, saving more than $7 million worth of property and countless lives each year; and

WHEREAS, the Woodstock Fire Department owns and maintains a fire station, six emergency vehicles, and modern equipment valued at over $5 million and is funded entirely through donations and local fundraisers; and

WHEREAS, the first 200 years of the Woodstock Fire Department have been filled with countless stories of bravery, sacrifice, and dedication to duty; and

WHEREAS, throughout 2023, the Woodstock Fire Department will commemorate the organization's storied history and bright future; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Woodstock Fire Department hereby be commended on the occasion of its historic 200th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Woodstock Fire Department as an expression of the Senate of Virginia's congratulations, admiration for the department's history and contributions to the citizens of the Commonwealth, and best wishes in all its future endeavors.

SENATE RESOLUTION NO. 117

Commending Paula Bandy.

Agreed to by the Senate, February 9, 2023

WHEREAS, Paula Bandy, an accomplished business and marketing educator at Richlands High School and longtime advisor to the District 2 chapter of Virginia DECA, Inc., has greatly served the Richlands community for more than 40 years; and

WHEREAS, a member of the Richlands High School Class of 1964, Paula Bandy studied at East Tennessee State University and the Southwestern College of Business and graduated from Milligan University in 1968; and

WHEREAS, Paula Bandy's first stint as a business educator at Richlands High School was from 1969 to 1973; she then taught marketing at the school from 1984 to today, contributing greatly to the future success of her students; and

WHEREAS, over her years at Richlands High School, Paula Bandy coached the cheer team, leading the program to a second place finish at the James Madison University cheer competition in 1989; and

WHEREAS, Paula Bandy has promoted the field of marketing education as a former member of the Virginia Education Association, the National Education Association, and the Virginia Association of Marketing Educators; and

WHEREAS, Paula Bandy was an advisor to the District 2 chapter of Virginia DECA, Inc., formerly Distributive Education Clubs of America, garnering a tremendous array of accolades and awards over her tenure, including 13 state wins between 1989 and 2016 and national finalist honors in 2007; and

WHEREAS, under Paula Bandy's leadership, District 2 was a national DECA promotional campaign winner and earned recognition from Virginia DECA on several occasions, including as a platinum chapter in 2015 and with a membership award in 2022; and

WHEREAS, in recognition of her 40 years of service as a DECA advisor, Paula Bandy was honored and awarded a commemorative plaque by the National DECA Association during the organization's International Career Development Conference in Atlanta in 2022; and

WHEREAS, outside of the classroom, Paula Bandy has served as the pianist and choir director at Jewell Ridge Presbyterian Church since 1996, providing beautiful and uplifting music for the benefit of the congregation; and

WHEREAS, Paula Bandy has demonstrated an unwavering dedication to her students' academic, social, and emotional well-being over an extraordinary career spanning more than four decades, earning the esteem of all Virginians; now, therefore, be it

RESOLVED by the Senate of Virginia, That Paula Bandy, a beloved educator at Richlands High School and advisor to the District 2 chapter of Virginia DECA, hereby be commended for her service; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Paula Bandy as an expression of the Senate of Virginia's appreciation for her contributions to the Commonwealth.

SENATE RESOLUTION NO. 118

Celebrating the life of Glanzy Spain, Jr.

Agreed to by the Senate, February 9, 2023

WHEREAS, Glanzy Spain, Jr., a community leader in Chase City and the vice chair of the Mecklenburg County Board of Supervisors, died on December 5, 2022; and

WHEREAS, a native of Farmville, Glanzy Spain attended the former Thyne Institute and graduated from West End High School in Skipwith; he also served his country as a member of the United States Air Force and received an associate's degree from Southside Virginia Community College; and

WHEREAS, Glanzy Spain made his career with Burlington Industries in Clarksville and retired from the company after many years; and

WHEREAS, desirous to be of service, Glanzy Spain ran for and was elected to the Mecklenburg County Board of Supervisors, where he served the community for 27 years beginning in 1995; in addition to serving as vice chair, he was the longtime chair of the Personnel Committee and vice chair of the Budget and Finance Committee; and

WHEREAS, Glanzy Spain also offered his leadership and expertise to the Mecklenburg County Social Services Board, the Tri-County Community Action Agency Board, the Southside Planning Commission, and the local branch of the NAACP; and

WHEREAS, Glanzy Spain joined Bluestone Baptist Church at a young age and was ordained as a deacon there in 1973; he served the congregation in many other capacities, including as a trustee and in positions as a leader and teacher in youth and adult Sunday schools; and

WHEREAS, Glanzy Spain will be fondly remembered and greatly missed by his wife, Jean; his children, Glynnis, Antoine, and Corey, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Glanzy Spain, Jr., a highly admired member of the Chase City community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Glanzy Spain, Jr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 119

Commending Janet Rainey.

Agreed to by the Senate, February 9, 2023

WHEREAS, during her distinguished 47-year career in public service, Janet Rainey has protected the health and promoted the well-being of people across the Commonwealth; and

WHEREAS, Janet Rainey joined the Division of Vital Records as a typist in April 1975 and subsequently rose through the ranks of the organization, now known as the Office of Vital Records, becoming State Registrar of Vital Records in 2004; and

WHEREAS, during her tenure, Janet Rainey has administered Virginia's system of vital records and laws and regulations pertaining to vital records, and ensured the uniform and consistent governance of that system; and

WHEREAS, Janet Rainey has represented the Commonwealth on the National Association for Public Health Statistics and Information Systems' Security Committee, enhancing the security and integrity of vital records across the nation; and

WHEREAS, Janet Rainey has applied her knowledge of public health policy to ensure equal opportunities and access for residents of the Commonwealth through her dedicated work to eliminate discrimination; and

WHEREAS, Janet Rainey's work on birth registration, in coordination with the Virginia Equality Bar Association in 2015, helped to ensure that all children of the Commonwealth receive equal protection under Virginia law; and

WHEREAS, Janet Rainey helped modernize the Office of Vital Records by leading projects to automate records systems, enhancing efficiency and public access to records; and

WHEREAS, Janet Rainey exemplifies the ideals of public service and the profession of vital records administration; now, therefore, be it

RESOLVED by the Senate of Virginia, That Janet Rainey hereby be commended for her contributions to the health, welfare, and safety of Virginians on the occasion of her retirement as director of the Office of Vital Records; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Janet Rainey as an expression of the Senate of Virginia's admiration for her professional achievements and best wishes on her well-earned retirement.

SENATE RESOLUTION NO. 120

Commending Inez Violet Jones-King-Saddler.

Agreed to by the Senate, February 9, 2023

WHEREAS, Inez Violet Jones-King-Saddler, a vibrant member of the Chesapeake community, celebrated her 100th birthday in 2022; and

WHEREAS, born to Caribbean immigrants on July 26, 1922, Inez Jones-King-Saddler grew up in New York City and attended public schools in Brooklyn; she began to cultivate her strong faith at a young age and played the pump organ twice a week for the group her father pastored; and

WHEREAS, Inez Jones-King-Saddler learned the value of hard work and responsibility as a child of the Great Depression and worked odd jobs to help support her family, such as hand rolling and stitching handkerchiefs; and

WHEREAS, Inez Jones-King-Saddler subsequently worked as a nurse's aide at Kings County Hospital Center and as a tester for Western Electric Company, where she met her first husband, William King; and

WHEREAS, Inez Jones-King-Saddler and her husband settled on Long Island, living first in Queens, then in nearby Uniondale; she focused on raising her family, and the skills as a seamstress she honed as a teenager allowed her to sew clothes for her children and craft other household items; and

WHEREAS, during that time, Inez Jones-King-Saddler was an active member of St. John's Episcopal Church in Hempstead, serving as a Sunday school teacher, a member of the women's ministry, and a volunteer coordinator for bazaars, book and bake sales, dinners, dances, and other fundraisers; she was also a dedicated volunteer at her children's schools and strove to teach them the vital importance of community engagement; and

WHEREAS, Inez Jones-King-Saddler brought joy into her family's lives through her delicious home cooked meals, including a brunch and a formal family dinner every Sunday, and frequent trips into New York City to partake in all the musical, artistic, and cultural opportunities on their doorstep; and

WHEREAS, for much of her life, Inez Jones-King-Saddler was an avid traveler, who enjoyed visiting extended family members, experiencing her parents' home countries of St. Lucia and Barbados, and many family day trips, camping trips, and vacations across the country; and

WHEREAS, as her children grew older, Inez Jones-King-Saddler worked as a real estate agent and then worked for 20 years as a teacher's aide until she and her husband retired and moved to Punta Gorda, Florida; and

WHEREAS, after William King passed away, Inez Jones-King-Saddler married Ben Saddler, whom she met at the church they attended in Florida and later moved to Willow Creek Gracious Retirement Living in Chesapeake; they enjoyed 13 years of marriage before he passed away in 2021; and

WHEREAS, Inez Jones-King-Saddler, a cherished member of the Willow Creek community, has inspired others through her kindness, generosity, timeless elegance, and joyful faith; now, therefore, be it

RESOLVED by the Senate of Virginia, That Inez Violet Jones-King-Saddler hereby be commended on the occasion of her 100th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Inez Violet Jones-King-Saddler as an expression of the Senate of Virginia's admiration for her lifetime of achievements and best wishes.

SENATE RESOLUTION NO. 121

Commending Davis Corner Volunteer Fire Department and Rescue Squad, Inc.

Agreed to by the Senate, February 9, 2023

WHEREAS, in 2023, Davis Corner Volunteer Fire Department and Rescue Squad, Inc., celebrates 80 years of service to the Virginia Beach community; and

WHEREAS, Davis Corner Volunteer Fire Department and Rescue Squad traces its roots to 1942, when a group of citizens came together and determined that there was a need for fire service in the northern part of the former Princess Anne County; and

WHEREAS, in 1943, these citizens organized and began serving the community as Davis Corner Auxiliary Fire Department; and

WHEREAS, by raising funds through donations from the residents, Davis Corner Auxiliary Fire Department purchased its first fire truck from a United States Army base for $500; and

WHEREAS, in 1944, Davis Corner Auxiliary Fire Department purchased property at 316 Davis Street for $10, and a building was raised to establish a permanent location for the department in Princess Anne County, which subsequently merged into the City of Virginia Beach; and

WHEREAS, in the early 1950s, Davis Corner Auxiliary Fire Department added a rescue component, which was officially chartered in 1968 as Davis Corner Volunteer Rescue Squad; and

WHEREAS, in 1978, these two organizations merged and became Davis Corner Volunteer Fire Department and Rescue Squad, which continues to serve and safeguard the residents of and visitors to the City of Virginia Beach; now, therefore, be it

RESOLVED by the Senate of Virginia, That Davis Corner Volunteer Fire Department and Rescue Squad, Inc., hereby be commended for its 80 years of service to the former Princess Anne County and the City of Virginia Beach; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Kay Laws, president of the Davis Corner Volunteer Fire Department and Rescue Squad, Inc., as an expression of the Senate of Virginia's admiration for the department's contributions to the health and welfare of the residents of the City of Virginia Beach and the Commonwealth.

SENATE RESOLUTION NO. 122

Commending Steven C. Angle.

Agreed to by the Senate, February 16, 2023

WHEREAS, Steven C. Angle, an esteemed educator and education administrator who has greatly served his community for many years as mayor of the Town of Rocky Mount and as a member of the Rocky Mount Town Council, retired from public service in 2022; and

WHEREAS, over several decades at Franklin County High School, Steven "Steve" Angle contributed greatly to the academic, social, and emotional well-being of his students in his capacities as an educator, education administrator, basketball coach, and track and field coach; and

WHEREAS, Steve Angle has delighted fans at Franklin County High School football games for more than 40 years, serving as the "Voice of the Eagles" in his role as the stadium's public address announcer; and

WHEREAS, a native of Rocky Mount, Steve Angle was elected to the Rocky Mount Town Council in 1990, embarking upon an illustrious career in public service that spanned 32 years, including 15 years as mayor; and

WHEREAS, Steve Angle presided over more than 180 council meetings as mayor and more than 380 council meetings as councilmember with the Rocky Mount Town Council, conducting himself with the utmost professionalism and respect for his colleagues while always serving the interests of the town and its residents with a great sense of purpose and duty; and

WHEREAS, a shining achievement from Steve Angle's work with the Rocky Mount Town Council was the establishment of the Harvester Performance Center in downtown Rocky Mount, a world-class, award-winning music venue that has since attracted some of the nation's leading acts and generated significant cultural and economic benefits for the community; and

WHEREAS, whether introducing acts at the Harvester Performance Center or representing Rocky Mount at local and regional events, Steve Angle has been a passionate and enthusiastic advocate for the town, inviting countless people to take the opportunity to savor its wonders and charm; and

WHEREAS, in recognition of his service to Rocky Mount and his impact on the community over the past several decades, the Rocky Mount Town Council officially declared December 12, 2022, to be "Mayor Steven C. Angle Day"; and

WHEREAS, Steve Angle's unwavering dedication to Rocky Mount and his selfless commitment to its citizens leave a legacy of service that will be appreciated for many years to come; now, therefore, be it

RESOLVED by the Senate of Virginia, That Steven C. Angle, longtime mayor and councilmember of the Town of Rocky Mount, hereby be commended for his accomplishments in public service; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Steven C. Angle as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth and best wishes in his future endeavors.

SENATE RESOLUTION NO. 123

Commending G. Gilmer Minor III.

Agreed to by the Senate, February 10, 2023

WHEREAS, G. Gilmer Minor III, chairman emeritus of Owens & Minor, Inc., and an accomplished leader in education who has admirably served his community and the Commonwealth for many years, was presented the Outstanding Virginian Award in 2023; and

WHEREAS, Gilmer Minor attended St. Christopher's School in Richmond, where he was co-captain of the football, basketball, and baseball teams his senior year, receiving all-metro honors in each sport; and

WHEREAS, in 1963, Gilmer Minor graduated from Virginia Military Institute (VMI) with a bachelor's degree and went on to earn a master's degree in 1966 in business administration from the Darden School of Business at the University of Virginia; and

WHEREAS, while a student at VMI, Gilmer Minor was a standout athlete on the school's football and baseball teams, serving as co-captain of each team his senior year and later earning an induction into the VMI Sports Hall of Fame for both sports; he also played basketball for the school in his freshman year; and

WHEREAS, Gilmer Minor joined Owens & Minor, Inc., a global health care logistics company headquartered in Richmond, in 1963, serving in sales, operations, and management roles until he was named president and chief operating officer in 1981; and

WHEREAS, Gilmer Minor continued to take on greater responsibility at Owens & Minor over the years, becoming chief executive officer in 1984 and chairman of the board in 1994; he then gradually relinquished these responsibilities in the later part of his career, retiring as chairman and chief executive officer in 2005, and continuing as the non-executive chairman until he was named chairman emeritus in 2013; and

WHEREAS, under Gilmer Minor's leadership, Owens & Minor provided vital supply chain services nationally to health care providers, health care product manufacturers, and other entities, greatly supporting the health and well-being of countless individuals; and

WHEREAS, Gilmer Minor gave generously of his time to various civic, professional, educational, and charitable organizations, serving as chair of the State Council of Higher Education for Virginia and as member and chair of the Virginia Business Higher Education Council; and

WHEREAS, in 2010, Gilmer Minor was appointed by Governor Bob McDonnell to serve on the Governor's Commission on Higher Education Reform, Innovation, and Investment; his service in education also included terms on the board of governors of St. Christopher's School in Richmond and as president of both the VMI Board of Visitors and the VMI Foundation; and

WHEREAS, in recognition of his professional and civic accomplishments, Gilmer Minor has been honored with numerous accolades and awards over the years, including the Distinguished Service Award from the VMI Foundation in 2008, induction into the Junior Achievement of Central Virginia's Greater Richmond Business Hall of Fame in 2003, and the Flame Bearer of Education Award from the United Negro College Fund in 1998; now, therefore, be it

RESOLVED by the Senate of Virginia, That G. Gilmer Minor III hereby be commended on his selection as the Outstanding Virginian for 2023; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to G. Gilmer Minor III as an expression of the Senate of Virginia's appreciation for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 124

Commending the New Kent High School wrestling team.

Agreed to by the Senate, February 16, 2023

WHEREAS, the New Kent High School wrestling team secured its fourth consecutive state title in 2022, winning the Virginia High School League Class 3 state championship; and

WHEREAS, the New Kent High School Trojans earned 273 total points in the state final, defeating the second place team from Skyline High School by 100 points; the team fielded five individual state champions and one state runner-up; and

WHEREAS, New Kent High School's Nicholas Vafiadis became a four-time individual state champion with a win by decision in the 160-pound bracket; and

WHEREAS, three New Kent Trojans earned their second consecutive individual state title, Trace Ragland in the 132-pound bracket, Evan Holloway in the 145-pound bracket, and Domonic Baker in the 170-pound bracket; and

WHEREAS, Patrick Jordan added another individual state title for the New Kent Trojans in the 138-pound bracket, and Travis Ragland scored additional points with a second-place finish in the 152-pound category; and

WHEREAS, the victory was a tribute to the skill and hard work of all the student-athletes, the leadership and guidance of coaches and staff, and the enthusiastic support of the entire New Kent High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the New Kent High School wrestling team hereby be commended on winning the Virginia High School League Class 3 state championship in 2022; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to John Goodbody, head coach of the New Kent High School wrestling team, as an expression of the General Assembly's admiration for the team's achievements.

SENATE RESOLUTION NO. 125

Commending John R. Charboneau.

Agreed to by the Senate, February 16, 2023

WHEREAS, John R. Charboneau, a dedicated law-enforcement officer who has served and protected the residents of King and Queen County for 40 years, retired as the sheriff of King and Queen County on December 31, 2022; and

WHEREAS, John Charboneau began his career as a police officer in 1982 and served the community in many capacities, including as a dispatcher, deputy, investigator, and chief deputy; he was first elected as sheriff in 2012; and

WHEREAS, during his long and distinguished career, John Charboneau has witnessed significant technological advancements and changes in the field of law enforcement; he played an instrumental role in many notable achievements by the King and Queen County Sheriff's Office, including the implementation of a regional radio system and the modernization of the dispatch center with the introduction of a computer-aided dispatch system; and

WHEREAS, John Charboneau also oversaw the implementation of a reports management system that included the first e-ticket system in the area, ensured his deputies had the best tools and equipment, and developed active attack and active shooter training for law-enforcement personnel; and

WHEREAS, highly respected in the law-enforcement profession, John Charboneau has been a member of the Virginia Sheriffs' Association for over 40 years and previously served on the Board of Directors of the Middle Peninsula Regional Security Center; and

WHEREAS, John Charboneau has upheld the laws of the Commonwealth and served the residents of King and Queen County with the utmost integrity and distinction; now, therefore, be it

RESOLVED by the Senate of Virginia, That John R. Charboneau hereby be commended on the occasion of his retirement as sheriff of King and Queen County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to John R. Charboneau as an expression of the Senate of Virginia's admiration for his service to the members of the King and Queen County community and best wishes on his well-earned retirement.

SENATE RESOLUTION NO. 126

Commending Metrobus.

Agreed to by the Senate, February 16, 2023

WHEREAS, Metrobus, a bus service operated by the Washington Metropolitan Area Transit Authority and a critical component of the transit system in the Washington, D.C., metropolitan area, celebrated its 50th anniversary on February 4, 2023; and

WHEREAS, Metrobus was founded on February 4, 1973, following the acquisition and merger of several local transit companies, including DC Transit; the Washington, Virginia and Maryland Coach Company; the Alexandria, Barcroft and Washington Transit Company; and the Washington, Marlboro and Annapolis Motor Lines; and

WHEREAS, Metrobus has dedicated operators who take pride in providing reliable and trusted service daily throughout the national capital region; and

WHEREAS, Metrobus serves customers who depend on public transit for work, leisure, and essential services; and

WHEREAS, Metrobus maintains a fleet of 1,600 buses and serves customers across an area spanning more than 1,500 square miles throughout Washington, D.C., Maryland, and the Commonwealth; and

WHEREAS, Metrobus is currently transitioning to a zero-emission fleet and plans to be 100 percent emission-free by 2045, with all new buses entering service utilizing electric or other zero-emission technology by 2030; and

WHEREAS, Metrobus is grateful to its federal, state, and local funding partners for ensuring that safe, reliable service continues to be provided throughout the national capital region; and

WHEREAS, Metrobus celebrates the community and its staff and regional stakeholders on its 50th anniversary and wishes for many more years of service to come; now, therefore, be it

RESOLVED by the Senate of Virginia, That Metrobus hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Metrobus as an expression of the Senate of Virginia's admiration for its history of contributions to the Commonwealth.

SENATE RESOLUTION NO. 127

Commending Robert A. Smith.

Agreed to by the Senate, February 16, 2023

WHEREAS, Robert A. Smith, owner of Grand Springs, Inc., a world-class bottled water distribution company in Alton, was inducted into the International Bottled Water Association's Bottled Water Hall of Fame at the organization's annual meeting on October 26, 2022, in Chicago; and

WHEREAS, Robert Smith has owned and operated Grand Springs for more than 30 years, which sources its water from springs on the company's pristine 495-acre property in Alton to produce a high quality and truly exceptional bottle of water; and

WHEREAS, for more than 20 years, Robert Smith has greatly served the International Bottled Water Association (IBWA) in various leadership capacities including as chairman for the 2019-2020 term on the executive committee and board of directors; and

WHEREAS, Robert Smith has been instrumental to various committees, working groups, and task forces over his tenure with the IBWA, greatly supporting the advancement of his industry through these endeavors; and

WHEREAS, Robert Smith was inducted into the IBWA Bottled Water Hall of Fame in recognition of his remarkable accomplishments as an entrepreneur, his dedication to his community, and his unwavering devotion to the IBWA and the bottled water industry; and

WHEREAS, Robert Smith humbly accepted the exclusive and prestigious honor bestowed upon him by the IBWA, crediting his wife, Peggy, and her unflagging encouragement for his success; and

WHEREAS, Robert Smith is an embodiment of the spirit of entrepreneurialism that drives the Commonwealth and serves as inspiration to all Virginians; now, therefore, be it

RESOLVED by the Senate of Virginia, That Robert A. Smith, owner of Grand Springs, Inc., hereby be commended for his induction into the International Bottled Water Association's Bottled Water Hall of Fame; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Robert A. Smith as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 128

Celebrating the life of Emery L. Fears, Jr.

Agreed to by the Senate, February 16, 2023

WHEREAS, Emery L. Fears, Jr., of Portsmouth, a highly admired music educator and renowned band director and conductor, died on January 12, 2023; and

WHEREAS, a native of Alabama, Emery Fears joined many of the other young men of his generation in service to the nation during World War II and served as a musician with the United States Navy band; and

WHEREAS, after his honorable military service, Emery Fears earned a bachelor's degree from Howard University and eventually a master's degree from the University of Michigan; and

WHEREAS, Emery Fears pursued a career in education as a music teacher and band director and led bands from I.C. Norcom High School and Manor High School to earn a total of 18 consecutive superior ratings at Virginia Band and Orchestra Directors Association Festivals; I.C. Norcom High School was also elected to the John Philip Sousa Foundation's Historic Roll of Honor of High School Concert Bands during his tenure; and

WHEREAS, after years of success at the high school level, Emery Fears became the director of bands at Norfolk State University in 1974 and enjoyed a career there for 17 years; he helped the institution earn national recognition by creating its symphonic wind ensemble and Spartan Legion marching band; and

WHEREAS, affectionately known as "Chief," Emery Fears inspired his students to achieve greatness by teaching them self-discipline, instilling in them his boundless passion for music, and building an unrivaled esprit de corps in his bands; and

WHEREAS, actively committed to the enhancement of band programs in North America, Emery Fears served on the boards of the National Band Association and the American Bandmasters Association and as a past president of the Southern Division of the College Band Directors National Association; he was also a member of the John Philip Sousa Foundation's Flag of Honor Jury, which honors outstanding high school bands around the country; and

WHEREAS, Emery Fears earned a staggering number of awards and accolades over the course of his career, including the Diploma of the Sudler Order of Merit from the John Philip Sousa Foundation, the Citation of Excellence from the National Band Association, the Roy A. Woods Outstanding Teacher Award from Norfolk State University, the Distinguished Service to Music Medal from the Kappa Kappa Psi National Honorary Band Fraternity, and the National Award from the National Association for the Study and Performance of African-American Music; and

WHEREAS, Emery Fears will be fondly remembered and greatly missed by his wife of 43 years, Cheryl; his children, Cheryl, Jason, and Ashlyn, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Emery L. Fears, Jr., a music educator and conductor who touched countless lives throughout the Commonwealth and the world through his inspirational leadership and commitment to excellence; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Emery L. Fears, Jr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 129

Celebrating the life of the Honorable James P. Massie III.

Agreed to by the Senate, February 16, 2023

WHEREAS, the Honorable James P. Massie III, a financial professional and dedicated public servant who represented the residents of parts of Henrico County as a member of the House of Delegates for 10 years, died on January 25, 2023; and

WHEREAS, born in Norfolk, James "Jimmie" Massie graduated from the Collegiate School in Richmond and continued his education at the University of Virginia, earning a bachelor's degree in economics; he developed strong friendships in his school years that endured throughout his life; and

WHEREAS, Jimmie Massie pursued a career as a private equity investor and was highly respected for his business acumen; and

WHEREAS, desirous to be of further service, Jimmie Massie ran for and was elected to the House of Delegates in 2007; he ably represented the residents of parts of Henrico County in the 72nd District for five consecutive terms from 2008 to 2017; and

WHEREAS, during his tenure as a state lawmaker, Jimmie Massie introduced and supported many important pieces of legislation to benefit all Virginians; he took a special interest in education policy and played a role in the creation of the Virginia Education Improvement Scholarships Tax Credits Program; and

WHEREAS, Jimmie Massie offered his leadership and expertise to the House Committees on Appropriations, Education, and Rules and served on the Medicaid Innovation and Reform Commission; he served the residents of Henrico County and the Commonwealth with the utmost professionalism, dedication, and integrity; and

WHEREAS, Jimmie Massie enjoyed fellowship and worship with the Richmond community as an active member of Third Church; and

WHEREAS, Jimmie Massie lived his faith through his actions and volunteered with Needle's Eye Ministries, Inc., a nondenominational organization that promotes Christian values in business in the Richmond region; and

WHEREAS, Jimmie Massie relished every opportunity to spend time with his beloved family, especially enjoying Sunday family dinners, and he never failed to appreciate the importance of simple activities like going for a walk with a friend or loved one; and

WHEREAS, Jimmie Massie will be fondly remembered and greatly missed by his wife, Elizabeth; his children, James IV, William, Rebecca, and John, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of the Honorable James P. Massie III; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable James P. Massie III as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 130

Commending Anthony J. Panebianco.

Agreed to by the Senate, February 16, 2023

WHEREAS, Anthony J. Panebianco, a respected law-enforcement officer who has most recently served citizens of the Commonwealth as chief of the Middleburg Police Department, will retire on May 1, 2023; and

WHEREAS, Anthony "A.J." Panebianco has devoted more than 35 years to the protection and well-being of communities throughout the Commonwealth as a law-enforcement officer, including the past 11 years with the Middleburg Police Department; and

WHEREAS, A.J. Panebianco previously served as chief of the Louisa Police Department, where his emphasis on community-oriented policing was credited with bolstering the department's reputation; and

WHEREAS, A.J. Panebianco joined the Middleburg Police Department in 2012, overseeing a staff of five sworn officers and an administrative assistant and implementing an annual operating budget of $870,000; and

WHEREAS, throughout his tenure with the Middleburg Police Department, A.J. Panebianco has earned the esteem of leaders and citizens of Middleburg for his personal approach to policing and for his ability to build relationships between the department and the community it serves; and

WHEREAS, in recognition of his leadership and experience, A.J. Panebianco was named president of the Virginia Association of Chiefs of Police (VACP) for 2021–2022 at the organization's annual conference in 2021; and

WHEREAS, A.J. Panebianco has additionally served on the VACP Executive Committee for several years and recently as its first vice president, working tirelessly for the organization's members and for law-enforcement officers throughout the Commonwealth; and

WHEREAS, by placing the needs of the community above his own and by always conducting himself with the utmost professionalism and civility, A.J. Panebianco has embodied the ideals of the law-enforcement profession and served as an inspiration to all Virginians; now, therefore, be it

RESOLVED by the Senate of Virginia, That Anthony J. Panebianco hereby be commended on the occasion of his retirement as chief of the Middleburg Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Anthony J. Panebianco as an expression of the Senate of Virginia's admiration for his legacy of service.

SENATE RESOLUTION NO. 131

Commending the Honorable Judith Williams Jagdmann.

Agreed to by the Senate, February 21, 2023

WHEREAS, the Honorable Judith Williams Jagdmann, an esteemed and respected commissioner of the State Corporation Commission, served in that capacity for almost 17 years; and

WHEREAS, Judy Jagdmann was elected as the 33rd Commissioner of the State Corporation Commission (SCC) by the General Assembly in 2006 and was reelected in 2012 and 2016; and

WHEREAS, Judy Jagdmann adapted to the unique challenges of working for the SCC, which is an independent department of state government with delegated administrative and judicial powers; and

WHEREAS, Judy Jagdmann has had a long and distinguished career, serving the Commonwealth for more than 37 years; and

WHEREAS, prior to joining the SCC, the General Assembly unanimously elected Judy Jagdmann as the 43rd Attorney General of Virginia in January 2005, filling a vacancy in the office; and

WHEREAS, Judy Jagdmann served as the Deputy Attorney General for the Office of the Attorney General's Civil Litigation Division from 1998 to 2005, where she supervised the operations of sectors specializing in trial, real estate, land use and construction, employment law, antitrust and consumer litigation, and insurance and utilities; and

WHEREAS, Judy Jagdmann served as counsel to the SCC from 1985 to 1998, representing the department and its staff on securities and utility matters; and

WHEREAS, Judy Jagdmann has taught regulatory and utility matters as an adjunct professor at the University of Virginia School of Law; and

WHEREAS, Judy Jagdmann received her undergraduate degree in history from the University of Virginia and received a law degree from the University of Richmond; and

WHEREAS, Judy Jagdmann earned the respect of her fellow state utility regulators throughout the United States, who elected her to serve as president of the National Association of Regulatory Utility Commissioners from 2021 to 2022, the first Virginian to serve in that prestigious national position; and

WHEREAS, during her long tenure of service as Commissioner of the SCC, Judy Jagdmann was regarded by all parties and persons who appeared before the department as a fair, intelligent, hard-working, and even-handed regulator and judge, one who listened to all sides of every issue and who never forgot that in all matters and cases the SCC's most important job was to advocate for and defend the public interest; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Honorable Judith Williams Jagdmann hereby be commended for her judicial acumen and her long and exemplary career in public service; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Judith Williams Jagdmann as an expression of the Senate of Virginia's admiration for her outstanding service with the State Corporation Commission and best wishes for her continued success.

SENATE RESOLUTION NO. 132

Commending Missy Elliott.

Agreed to by the Senate, February 16, 2023

WHEREAS, Missy Elliott, a Portsmouth native and a luminary in the music industry who has earned international acclaim for her talents as a singer, rapper, songwriter, and producer, was nominated for induction into the Rock & Roll Hall of Fame in 2023; and

WHEREAS, born Melissa Arnette Elliott, Missy Elliott graduated from Portsmouth's Woodrow Wilson High School, now known as Manor High School, in 1990; the following year she established an all-female rhythm and blues (R&B) group, Fayze, later renamed Sista, and recruited her childhood friend, Timothy Mosley, better known as Timbaland, as the group's producer; and

WHEREAS, in the early 1990s, Missy Elliott relocated to New York City and joined the hip hop and R&B collective Swing Mob, where she contributed to numerous singles and albums; after the group disbanded, she and Timbaland worked as a songwriting and production duo for other artists, notably Aaliyah and the group Destiny's Child; and

WHEREAS, in 1997, Missy Elliott created her own record label, The Goldmind, Inc., and continued writing for other artists and making appearances as a guest vocalist until mid-1997, when she released her debut album *Supa Dupa Fly*; the album's lead single "The Rain (Supa Dupa Fly)" was an instant classic, and the music video, directed by Hype Williams, has earned high praise for its iconic visuals; and

WHEREAS, one of the most prolific rappers of all time, Missy Elliott has released six studio albums, all of which were platinum certified by the Recording Industry Association of America, along with three compilation albums, one extended play, 74 singles, and 20 solo music videos over the course of her career; she has been called the "Queen of Rap" and the "Queen of Hip Hop" and has been a direct influence on countless other artists; and

WHEREAS, among many awards and accolades, Missy Elliott was the first female hip hop artist to receive the Michael Jackson Video Vanguard Award from the MTV Video Music Awards, the first female hip hop artist to be inducted into the Songwriters Hall of Fame, and the first female hip hop artist to earn an honorary doctor of music degree from the prestigious Berklee College of Music in Boston, and is now the first female rapper to be nominated for induction to the historic Rock & Roll Hall of Fame; and

WHEREAS, Missy Elliott has maintained strong ties to the Commonwealth and has enhanced access to education for students in the Hampton Roads area by supporting Manor High School and by her foundation providing a gift to fund a scholarship for Hampton University students through the Atlanta Chapter of the National Hampton Alumni Association, Inc.; now, therefore, be it

RESOLVED by the Senate of Virginia, That Missy Elliott hereby be commended for her trailblazing achievements in music on the occasion of her nomination for induction into the Rock & Roll Hall of Fame; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Missy Elliott as an expression of the Senate of Virginia's admiration for her personal and professional accomplishments and contributions to the American musical landscape.

SENATE RESOLUTION NO. 133

Commending Korean Central Presbyterian Church.

Agreed to by the Senate, February 16, 2023

WHEREAS, for 50 years, Korean Central Presbyterian Church has provided opportunities for joyful worship and generous outreach to the members of the Centreville community; and

WHEREAS, Korean Central Presbyterian Church was founded on November 4, 1973, by the Reverend Myung Ho Yoon with 20 Korean-American families as the original congregation; and

WHEREAS, the Korean Central Presbyterian Church held its first service in a private home and later moved to a 12-acre campus in Vienna; in July 2010, it relocated to its current location, an 80-acre campus in Centreville; and

WHEREAS, over the course of its history, the Korean Central Presbyterian Church has grown to include approximately 10,000 members with an average of 4,600 attendees per week; the church remains engaged with the community through numerous outreach initiatives; and

WHEREAS, one of the pastors at Korean Central Presbyterian Church, the Reverend Eung Yul David Ryoo, has offered the opening prayer for the United States Congress and the invocation for the Virginia General Assembly on multiple occasions; and

WHEREAS, Korean Central Presbyterian Church created a senior center to offer meals, recreation, educational opportunities, and computer skills training for its senior members; now independently operated and known as Korean Central Senior Center under the direction of Heisung Lee, the center has been recognized by both the Commonwealth and the Republic of Korea as an outstanding volunteer organization; and

WHEREAS, during the COVID-19 pandemic, Korean Central Presbyterian Church provided groceries and other household necessities to families in need and raised money to support other local churches and businesses struggling with the effects of the pandemic; and

WHEREAS, in January 2021, Korean Central Presbyterian Church opened a satellite location in Arlington to better serve residents of the Washington, D.C., area; the church also operates the Culpeper Retreat Center in Sperryville; now, therefore, be it

RESOLVED by the Senate of Virginia, That Korean Central Presbyterian Church hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Korean Central Presbyterian Church as an expression of the Senate of Virginia's admiration for the church's contributions to the community.

SENATE RESOLUTION NO. 134

Celebrating the life of Brenda Ellen Cole Horton.

Agreed to by the Senate, February 16, 2023

WHEREAS, Brenda Ellen Cole Horton, an esteemed educator and beloved wife, mother, grandmother, and member of the Bristol community, died on January 16, 2023; and

WHEREAS, a native of Richlands, Brenda Horton graduated from the former Whitewood High School in 1968 before earning a degree from East Tennessee State University in 1971; and

WHEREAS, for more than 50 years, Brenda Horton cultivated young minds as an educator at various schools, including local elementary schools, Richlands Tabernacle Christian Academy, and Faith Academy in Cedar Bluff; and

WHEREAS, Brenda Horton devoted 46 years of her career as a Christian school principal and educator, working tirelessly without pay to foster the academic, emotional, and social well-being of her students; and

WHEREAS, Brenda Horton was a proud mother who raised her children with great love and affection, whether tending to them while sick, teaching them to read, or guiding them along their spiritual journeys; and

WHEREAS, Brenda Horton effused kindness and compassion wherever she went and demonstrated genuine concern for the members of her community, regularly offering comfort to those who were sick, elderly, or grieving; and

WHEREAS, Brenda Horton was an excellent cook and a gracious host, welcoming countless preachers, family members, and passersby to join her at her table over the years; and

WHEREAS, Brenda Horton was a versatile and accomplished musician, playing any number of gospel songs on the piano, organ, clarinet, and accordion, her preferred instrument; and

WHEREAS, guided throughout her life by her faith, Brenda Horton took great joy in supporting the work of her husband, the Reverend David S. Horton, singing gospel songs, both solo and in the choir, and teaching Sunday school; and

WHEREAS, Brenda Horton will be fondly remembered and dearly missed by her loving husband of 54 years, David; her children, Tonya, Hannah, and David, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Brenda Ellen Cole Horton, a cherished member of the Bristol community whose servant's heart was an inspiration to all who knew her; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Brenda Ellen Cole Horton as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 135

Commending Edward D. Martirosian, MD.

Agreed to by the Senate, February 24, 2023

WHEREAS, Edward D. Martirosian, MD, a highly respected cardiologist in the Richmond area who touched the lives of countless patients over the course of his long and fulfilling career, retired from Henrico Doctors' Hospital on December 22, 2022; and

WHEREAS, Edward Martirosian earned an associate's degree and a bachelor's degree from the George Washington University and subsequently received his medical degree from the Medical College of Virginia, where he also completed his internship and residencies; and

WHEREAS, in 1969, Edward Martirosian began serving the nation as a member of the United States Army Medical Corps; he was stationed in Germany and honorably discharged in 1972 with the rank of major and an Army Commendation Medal; and

WHEREAS, after his military service, Edward Martirosian began practicing cardiology in the Richmond region, serving patients at Richmond Memorial Hospital, Chippenham Hospital, St. Mary's Hospital, and Johnston-Willis Hospital; and

WHEREAS, Edward Martirosian played an important role in the establishment of Henrico Doctors' Hospital in 1974 and later served as president of medical staff and as a member and chair of the hospital's board of trustees; and

WHEREAS, over the course of his five decades of service with Henrico Doctors' Hospital, Edward Martirosian developed an extensive expertise in cardiovascular diseases, adult congenital heart conditions, and other aspects of general internal medicine; and

WHEREAS, Edward Martirosian offered his expertise to numerous committees at Henrico Doctors' Hospital relating to intensive care, pharmacy, therapeutics, and strategic planning, among other subjects; and

WHEREAS, a well-known leader in the medical community, Edward Martirosian continued to practice at other health systems in the Richmond area as needed, was an active member of several peer and professional organizations, and served as president of the Richmond Academy of Medicine, the Central Virginia Physician Network, and the Henrico Cardiology Associates of Richmond; and

WHEREAS, Edward Martirosian has enjoyed the love and support of his beloved wife, Tovia, and their children, Tovia, Alexis, and Natalie; now, therefore, be it

RESOLVED by the Senate of Virginia, That Edward D. Martirosian, MD, hereby be commended on the occasion of his retirement from Henrico Doctors' Hospital; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Edward D. Martirosian, MD, as an expression of the Senate of Virginia's admiration for his achievements in service to the Richmond community.

SENATE RESOLUTION NO. 136

Commending the Reverend Kelvin F. Jones.

Agreed to by the Senate, February 21, 2023

WHEREAS, the Reverend Kelvin F. Jones, the pastor of First Baptist Church Capeville and a well-known community leader on the Eastern Shore, organized and hosted a special celebration of the life and legacy of Dr. Martin Luther King, Jr., in Cape Charles in 2023; and

WHEREAS, Kelvin Jones has served as the pastor of First Baptist Church Capeville for more than three decades, providing wise spiritual guidance to generations of local residents and earning a reputation as a trusted civic leader; and

WHEREAS, inspired by his memories of local celebrations, when President Ronald Reagan designated the third Monday in January as a public holiday honoring the life of Dr. Martin Luther King, Jr., Kelvin Jones hosted a community event at the Historic Palace Theatre in Cape Charles on January 23, 2023; and

WHEREAS, the Dr. Martin Luther King, Jr. Day celebration featured appearances from local officials and performances by the Boys Choir of Hampton Roads, the Northampton High School chorus, the Northampton High School band, students from Kiptopeke Elementary School and Occohannock Elementary School, Jackie Faison-Elmandorf, and Master Sergeant Alvy Powell of the United States Army Chorus; and

WHEREAS, local leaders Charles Bell, Malik McCaskill, Matthew McCaskill, Sabrina Parker, and Willie Randall also received awards for their philanthropy and contributions to the community; and

WHEREAS, the celebration demonstrated the way Dr. Martin Luther King, Jr. Day can bring communities together and motivate individuals to make a difference in the lives of others, and Kelvin Jones has encouraged local government officials to further recognize the importance of the life and legacy of Dr. Martin Luther King, Jr.; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Reverend Kelvin F. Jones hereby be commended for his work to honor Dr. Martin Luther King, Jr., and inspire community members to fulfill Dr. Martin Luther King, Jr.'s legacy by pursuing leadership opportunities and advocating for social justice; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Kelvin F. Jones as an expression of the Senate of Virginia's admiration for his achievements and service to the residents of Northampton County.

SENATE RESOLUTION NO. 137

Celebrating the life of Willie Otis Walker, Sr.

Agreed to by the Senate, February 21, 2023

WHEREAS, Willie Otis Walker, Sr., an honorable veteran, beloved husband, father, brother, uncle, grandfather, great-grandfather, and great-great-grandfather, and cherished member of the Portsmouth community, died on November 29, 2022; and

WHEREAS, raised in Georgia, Willie Walker joined the United States Navy in 1945, proudly serving the country during World War II and the Korean War and earning several decorations and medals, including the American Campaign Medal, the World War II Victory Medal, and the Good Conduct Medal; and

WHEREAS, Willie Walker's travels with the United States Navy brought him to Portsmouth, where he met his wife, Gloria Mae Benton, whom he married on July 8, 1946; and

WHEREAS, Willie Walker attended what is now Norfolk State University in the early 1960s, earning a certificate in brick masonry and carpentry; over the years he enjoyed painting houses, planting vegetable gardens, and doing landscaping and other lawn services for a living; and

WHEREAS, in addition to spending time with family, Willie Walker liked to craft leather purses, play guitar and harmonica, read the local newspapers cover to cover, and catch the breeze on his front porch; and

WHEREAS, though quiet and soft-spoken, Willie Walker was known by friends and family to regularly offer sage and enlightening wisdom on a wide variety of topics; and

WHEREAS, Willie Walker was a man of deep abiding faith who had been a member of Third Baptist Church in Portsmouth since 1957, where he attended Sunday school and served as an usher; and

WHEREAS, preceded in death by his loving wife of nearly 75 years, Gloria, and his children Elton Leo, Kennith, and Raymond, Willie Walker will be fondly remembered and dearly missed by his children, Willie Jr., Evelyn, Ernest Morris, Yvette, and David, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Willie Otis Walker, Sr., a cherished member of the Portsmouth community whose dedication to the country as a veteran of World War II and the Korean War inspired many and whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Willie Otis Walker, Sr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 138

Celebrating the life of Richard N. Anderson, Sr.

Agreed to by the Senate, February 21, 2023

WHEREAS, Richard N. Anderson, Sr., a respected law-enforcement officer with the City of Chesapeake Police Department and a beloved member of the Chesapeake community, died on January 12, 2023; and

WHEREAS, born in Norfolk, Richard Anderson graduated from Great Bridge High School in Chesapeake in 1966 and joined the City of Chesapeake Police Department shortly thereafter, faithfully serving the city and its residents for 39 years before retiring in 2008; and

WHEREAS, Richard Anderson put his life on the line every day as a law-enforcement officer to ensure the safety of others and was wounded in service in 1974; and

WHEREAS, Richard Anderson's bravery and his legacy as a law-enforcement officer continue to inspire the citizens of Chesapeake and positively impact the community to this day; and

WHEREAS, in retirement, Richard Anderson gladly devoted his time and energy to his family, particularly his five grandchildren, who were his greatest source of love and joy; and

WHEREAS, Richard Anderson will be fondly remembered and dearly missed by his loving wife of 55 years, Connie; his children, Richard, Jr., and Wesley, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Richard N. Anderson, Sr., a distinguished member of the City of Chesapeake Police Department whose service and dedication to his community is deserving of the esteem of all Virginians; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Richard N. Anderson, Sr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 139

Celebrating the life of Linwood Linus Nelms, Jr.

Agreed to by the Senate, February 21, 2023

WHEREAS, Linwood Linus Nelms, Jr., an esteemed banker and active and beloved member of the Chesapeake community, died on January 8, 2023; and

WHEREAS, Linwood Nelms graduated from Oscar F. Smith High School, in what was formerly South Norfolk, in 1959, before earning a degree from what is today Old Dominion University; and

WHEREAS, Linwood Nelms enjoyed a successful career in banking and finance, approaching his work with great passion and dedication; and

WHEREAS, Linwood Nelms most recently served as a mortgage loan officer with C&F Mortgage Corporation, helping an untold number of individuals and families secure the homes of their dreams; and

WHEREAS, Linwood Nelms formerly served as senior vice president first at the former Bank of Hampton Roads and later at Fulton Financial Corporation, where he worked tirelessly to meet the financial needs of his clients; and

WHEREAS, Linwood Nelms gave generously of his time and talents to the Chesapeake community, serving as a trustee at Chesapeake Regional Healthcare from 1971 to 1989, as a commissioner with the Chesapeake Redevelopment and Housing Authority since 2007, and as a member of Chesapeake Jubilee, Inc., since 1988, which he also served as chair in 1995; and

WHEREAS, Linwood Nelms was a valued member of the Khedive Shrine Center in Chesapeake and the South Norfolk Masonic Lodge No. 339 of the Ancient Free and Accepted Masons for more than 35 years; and

WHEREAS, Linwood Nelms will be fondly remembered and dearly missed by his loving wife of 59 years, Nora; his children, Jennifer and Chris, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Linwood Linus Nelms, Jr., a cherished member of the Chesapeake community whose commitment to serving others touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Linwood Linus Nelms, Jr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 140

Celebrating the life of Edward Leroy Beard.

Agreed to by the Senate, February 21, 2023

WHEREAS, Edward Leroy Beard, an honorable veteran, accomplished athlete, and beloved member of the Chesapeake community, whose success in the National Football League made him a local sports legend, died on January 15, 2023; and

WHEREAS, Edward "Ed" Beard attended Oscar F. Smith High School in what was then South Norfolk in the late 1950s, where he was a standout on the football team and a state champion heavyweight wrestler despite his school not having a wrestling program; and

WHEREAS, Ed Beard went on to attend Staunton Military Academy and then played football for two years at the University of Tennessee before joining the semi-professional football team the Wheeling Ironmen; and

WHEREAS, Ed Beard was drafted into the United States Army, serving his country with honor and distinction and earning recognition as the Most Outstanding Player on the United States Army football team; and

WHEREAS, Ed Beard was drafted by the San Francisco 49ers of the National Football League (NFL) in 1964 and went on to play eight seasons from 1965 to 1972 as a middle linebacker and on special teams, starting in 53 games and helping the team to National Football Conference - Western Division titles in 1970, 1971, and 1972; and

WHEREAS, Ed Beard, affectionately known by his teammates as "Biggie" for his ability to play bigger than his size, was notably the first special teams captain in the history of the NFL; and

WHEREAS, in recognition of his exceptional play and the respect he inspired among his fellow teammates, Ed Beard was presented the Len Eshmont Award in 1971 by the San Francisco 49ers; and

WHEREAS, after suffering a career-ending injury in a playoff game against the Dallas Cowboys, Ed Beard found a calling in coaching, serving for over a decade as a coach in the NFL with the San Francisco 49ers, the New Orleans Saints, and the Detroit Lions; and

WHEREAS, after his career in football, Ed Beard went into the construction business, starting Ed Beard Home Improvements, and he also worked for some time with the Chesapeake Sheriff's Office and as a bondsman in Chesapeake; and

WHEREAS, Ed Beard's football legacy was enshrined with his induction into the Virginia Sports Hall of Fame in 2002 and with Oscar F. Smith High School's football field, Beard-DeLong-Easley Field, being named in his honor; and

WHEREAS, Ed Beard was a well-known lover of country western music and a talented singer and musician; he joined the famed Virginia Rounders with his wife, Bobbie, who was the daughter of one of the group's founders, Willie Phelps, and performed with the group at various local events over many years; and

WHEREAS, Ed Beard will be fondly remembered and dearly missed by his loving wife of 55 years, Bobbie; his daughter, Ashley, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Edward Leroy Beard, a cherished member of the Chesapeake community whose success in the National Football League brings great pride to the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Edward Leroy Beard as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 141

Celebrating the life of James C. Wofford.

Agreed to by the Senate, February 21, 2023

WHEREAS, James C. Wofford, a respected leader in equestrian sports who represented the United States in Olympic Games and other international competitions and inspired generations of athletes as a coach and mentor, died on February 2, 2023; and

WHEREAS, James "Jimmy" Wofford was born in Kansas to a family of equestrian athletes; his father, John W. Wofford, was a founding member of the United States Equestrian Team (USET), and his brothers both competed in international horseback riding events; and

WHEREAS, Jimmy Wofford graduated from Culver Military Academy and the School of Business at the University of Colorado, and at the age of 19, he traveled to Hamilton Farm in New Jersey to train with the USET; and

WHEREAS, Jimmy Wofford first competed with the U.S. Eventing Team in 1965 and became a member of the USET's three-day event squad for the next two decades; aboard his famed Irish Sport Horse, Kilkenny, he earned a team gold medal at the 1967 Pan American Games, team silver medals at the 1968 Summer Olympics and the 1972 Summer Olympics, and individual and team bronze medals at the World Eventing Championships in 1970 and 1978, respectively; and

WHEREAS, during the height of his career, Jimmy Wofford was also an avid foxhunter and steeplechase jockey; and

WHEREAS, Jimmy Wofford began coaching in 1978 and became a full-time coach after his official retirement in 1986; he helped dozens of equestrian athletes realize their dream to compete on the international stage; and

WHEREAS, from 1978 until the time of his passing, at least one rider on every U.S. Olympic, World Championship, and Pan American equestrian team had trained under Jimmy Wofford; and

WHEREAS, over the years, Jimmy Wofford offered his leadership and expertise to several equestrian sports organizations; he became the first professional horseman to serve as president of the American Horse Show Association, now the U.S. Equestrian Federation (USEF), and served USET as a vice president, senior vice president, and member of its Board of Trustees; and

WHEREAS, Jimmy Wofford was a sought-after speaker, clinician, and coach and authored multiple books and articles on horsemanship; he earned many accolades over the course of his career, including induction into the United States Eventing Association's Hall of Fame in 2003 and the USEF Lifetime Achievement Award in 2012; and

WHEREAS, Jimmy Wofford will be fondly remembered and greatly missed by his wife of 56 years, Gail; his daughters, Hilary and Jennifer, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of James C. Wofford, a skilled horseman who reshaped equestrian sports in the United States; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of James C. Wofford as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 142

Celebrating the life of Jeanette Crouch Moore.

Agreed to by the Senate, February 21, 2023

WHEREAS, Jeanette Crouch Moore of Midlothian, a longtime state employee who served the residents of the Commonwealth in numerous capacities, died on November 2, 2022; and

WHEREAS, Jeanette Moore grew up in Richmond and graduated from Manchester High School; and

WHEREAS, from 1961 to 1962, Jeanette Moore worked as secretary to the director of the accounting department at Cliff Weil, Inc., then began her long and fulfilling career with the Commonwealth as secretary to the director of the Market News Section of the Department of Agriculture and Commerce; and

WHEREAS, Jeanette Moore next worked in the Commissioner's Office of the Department of Agriculture and Commerce from 1966 until 1970, when she became the secretary to the senior executive assistant to Governor A. Linwood Holton; and

WHEREAS, Jeanette Moore continued her outstanding service to the Commonwealth as secretary to the senior executive assistant to Governor Mills E. Godwin, Jr., from 1974 to 1978; and

WHEREAS, from 1984 to 1988, Jeanette Moore worked as a secretary for various members of the Senate of Virginia, including James P. Jones; William F. Parkerson, Jr., and Hunter B. Andrews; and

WHEREAS, in 1988, Jeanette Moore further demonstrated her superior organizational skills by serving as a staff assistant in the Constituent Affairs Section of the Office of Governor Gerald L. Baliles, then joined the Senate Clerk's Office as a purchasing officer; and

WHEREAS, Jeanette Moore retired from the Senate Clerk's Office as administrator of support services on January 1, 2006, after 37 years of distinguished service to the Commonwealth; and

WHEREAS, Jeanette Moore's greatest joy in life was her beloved family, and she relished every opportunity to spend time with them and support her children and grandchildren in all their endeavors; and

WHEREAS, predeceased by her husband, James, Jeanette Moore will be fondly remembered and greatly missed by her children, James III and Michael, and their families; her dog, Brady; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Jeanette Crouch Moore, a longtime state employee who served the Commonwealth with the utmost integrity and dedication; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Jeanette Crouch Moore as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 143

Commemorating the lives and legacies of Janie and William Hoge.

Agreed to by the Senate, February 21, 2023

WHEREAS, Janie and William Hoge played an important role in the racial integration of Virginia Polytechnic Institute and State University by providing housing to the first African American students at the institution beginning in 1953; and

WHEREAS, Janie and William Hoge were both born in the 1880s to formerly enslaved parents; they settled in Blacksburg to raise their family and lived at 306 E. Clay Street; and

WHEREAS, in the 1940s, William Hoge worked as a cement layer and Janie Hoge was employed by what is now Virginia Polytechnic Institute and State University (Virginia Tech) as a chamber maid; and

WHEREAS, Janie and William Hoge routinely opened their home to African Americans in need of lodging, including veterans and other Virginia Tech employees; and

WHEREAS, in 1953, when Irving L. Peddrew III became the first African American student at Virginia Tech, he was restricted to the engineering program and disallowed from living in student dormitories or using any other nonacademic amenities on campus on racial grounds; and

WHEREAS, Irving Peddrew and five other African American students found lodging with Janie and William Hoge during the 1950s, paying $60 a month for room, board, and laundry services; the Hoges also hosted welcome parties and social functions and provided opportunities for the students to engage with other members of the African American community in and around Blacksburg; and

WHEREAS, the last of the original six African American students at Virginia Tech graduated in 1959; the care and support Janie and William Hoge demonstrated to these trailblazing students was essential to their personal success, and ultimately to the full integration of Virginia Tech; and

WHEREAS, the Hoges continued hosting boarders until Janie Hoge's death in 1960; at that time, William Hoge relocated to Norfolk and lived with his son until he passed away in 1964; and

WHEREAS, in 2020, Virginia Tech's Lee Hall was renamed as Hoge Hall in Janie and William Hoge's honor; with eight floors and a penthouse, Hoge Hall is currently the tallest building in Blacksburg and serves as a residence hall for 811 co-ed students; and

WHEREAS, Hoge Hall is also the location of two living-learning community residential programs, Galileo and Hypatia, that provide mentoring and community support for engineering students; now, therefore, be it

RESOLVED by the Senate of Virginia, That the lives and legacies of Janie and William Hoge hereby be commemorated on the occasion of the 70th anniversary of the first African American student attending Virginia Polytechnic Institute and State University; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to descendants of Janie and William Hoge and Virginia Polytechnic Institute and State University as an expression of the Senate of Virginia's admiration for the Hoge family's contributions to the racial integration of one of the Commonwealth's institutions of higher education and service to members of the Blacksburg community.

SENATE RESOLUTION NO. 144

Celebrating the life of William John Banis.

Agreed to by the Senate, February 21, 2023

WHEREAS, William John Banis, an esteemed education administrator and beloved member of the Virginia Beach community, served the students and faculty at Northwestern University for many years before his retirement in 2011, died on January 24, 2023; and

WHEREAS, a native of Pittsburgh, William "Bill" Banis graduated from Penn State University and later earned his doctoral degree from Old Dominion University; and

WHEREAS, Bill Banis enjoyed an illustrious career in higher education that spanned 44 years, beginning his tenure at Northwestern University in 1994 in what was then University Career Services and later spending 10 years at the helm of the Division of Student Affairs; and

WHEREAS, as vice president of student affairs at Northwestern University, Bill Banis guided the development of several new departments, many of which remain active today, including the Office of Student Conduct and Conflict Resolution; student affairs offices for Asian, Latino, and multicultural students; the Life Skills Center within Counseling and Psychological Services (CAPS); the Office of Fraternity and Sorority Life; and the LGBTQ Resource Center; and

WHEREAS, Bill Banis touched nearly every aspect of campus life while at Northwestern University, enhancing services for students with disabilities, CAPS, career services, the university chaplain's office, student housing, preorientation programs, community service initiatives, multicultural education, staff development, health education, and more; and

WHEREAS, Bill Banis' legacy at Northwestern University includes several facilities that were either built or upgraded under his leadership, such as Slivka Hall, Searle Hall, University Career Services, five dining halls, campus coffee shops and convenience stores, The Great Room, and the first floor of Norris University Center; and

WHEREAS, recognized throughout his career for his many accomplishments in higher education, Bill Banis was most proud of being elected to the National Association of Colleges and Employers Academy of Fellows in 1999; and

WHEREAS, Bill Banis was a mentor to students and colleagues alike and coauthored several books on topics related to career development, such as *High Impact Resumes and Letters: How to Communicate Your Qualifications to Employers*; and

WHEREAS, in addition to spending time with his family, Bill Banis enjoyed traveling with his wife, Lynn, and fishing, kayaking, and gardening; he was an active volunteer with the Virginia Beach Democratic Party and served the organization as chair; and

WHEREAS, Bill Banis will be fondly remembered and dearly missed by his loving wife of 34 years, Lynn; his children, Kristen, Melissa, and Heather, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of William John Banis, an accomplished higher education administrator and valued member of the Virginia Beach community whose leadership touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of William John Banis as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 145

Commending Stephen Snyder.

Agreed to by the Senate, February 21, 2023

WHEREAS, Stephen Snyder, of the Checkered Flag Auto Group in Virginia Beach, is the 2023 *TIME* Dealer of the Year nominee for Virginia; and

WHEREAS, the Checkered Flag Auto Group was founded by Stephen "Steve" Snyder's father, Edward Snyder, in 1964, continuing the family's impact on the retail industry in Hampton Roads that began with the family's L. Snyder's Department Store, which was founded in Norfolk in 1894; and

WHEREAS, Steve Snyder, whose career in the auto industry has spanned over five decades, got his start in his family's business by working various jobs during his summer breaks while a student at the University of Virginia; and

WHEREAS, Steve Snyder joined the family business full-time after graduating from college and attended the National Automobile Dealers Association Academy to further refine his skills in dealership management; and

WHEREAS, in 1987, Steve Snyder was named general manager of Checkered Flag Hyundai, and by 2009, he was president of the Checkered Flag dealership group; and

WHEREAS, Steve Snyder works with his sons, William and Benjamin, to lead his family's business of eight dealerships representing 17 different brands in the greater Hampton Roads area; and

WHEREAS, an active and dedicated member of his community, Steve Snyder has supported a wide array of industry and community causes for many years, continuing the Snyder family's long tradition of service in his capacity as a well-recognized and respected advocate for numerous community events; and

WHEREAS, Steve Snyder has been a leader in his community through his support for numerous causes and organizations that serve others in diverse ways, to include An Achievable Dream, Inc., and Access College Foundation, both of which provide educational assistance to at-risk youth; the Salvation Army in Hampton Roads; Virginia Beach 4-H; Horizons Hampton Roads; Norfolk Botanical Garden; Recovery for Life in Virginia Beach; and United Way of South Hampton Roads; and

WHEREAS, Steve Snyder provides leadership to various organizations in his community, including as a member of the Board of Trustees of the Eastern Virginia Medical School, where he donates matching funds up to $25,000 to fund scholarships, curriculum enhancements, research equipment, and more; and

WHEREAS, Steve Snyder also serves the community as a member of the Board of Trustees for the Virginia Aquarium and Marine Science Center Foundation in Virginia Beach, where the Checkered Flag Auto Group has set up a $2 million endowment fund to provide free admission in perpetuity to active-duty military members and their families; and

WHEREAS, an active and dedicated member of his industry, Steve Snyder has served his customers and his community with a generous spirit and has been an example to dealers both in his community and around the Commonwealth; and

WHEREAS, Steve Snyder has served his industry as an active member of the Virginia Automobile Dealers Association, including by serving as a member of its board of directors; and

WHEREAS, Steve Snyder served as chair of the Virginia Automobile Dealers Association in 2002, leading his fellow franchise dealers as their top elected officer; now, therefore, be it

RESOLVED by the Senate of Virginia, That Stephen Snyder hereby be commended on his selection as the 2023 *TIME* Dealer of the Year nominee for Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Stephen Snyder as an expression of the Senate of Virginia's congratulations and best wishes.

SENATE RESOLUTION NO. 146

Celebrating the life of Master Sergeant Jan Willem Wierenga, USA, Ret.

Agreed to by the Senate, February 21, 2023

WHEREAS, Master Sergeant Jan Willem Wierenga, USA, Ret., of Williamsburg, a distinguished veteran who served with the elite Green Berets and former member of the Central Intelligence Agency who served the United States with the utmost dedication, died on January 9, 2023; and

WHEREAS, Jan "Dutch" Wierenga was raised in the Dutch East Indies, now Indonesia, and was the child of a Dutch planter; after the Japanese invaded during World War II, he and his family were sent to an internment camp and later imprisoned by the local government during the Indonesian National Revolution; and

WHEREAS, Dutch Wierenga ultimately escaped captivity and gained combat experience in the jungles of Indonesia in the early 1950s, then immigrated to the Netherlands, where he joined the military in 1955; and

WHEREAS, in 1960, Dutch Wierenga fulfilled a longtime dream to move to the United States, then became a naturalized citizen and volunteered to join the United States Army; and

WHEREAS, over the course of three tours of duty in the Vietnam War, Dutch Wierenga served with the 101st Airborne Division, the 82nd Airborne Division, and the 5th Special Forces Group before joining the Military Assistance Command, Vietnam - Studies and Observations Group (MACV-SOG); and

WHEREAS, as a member of MACV-SOG, a highly classified special operations and intelligence unit, Dutch Wierenga participated in some of the most daring and dangerous missions of the war, often far behind enemy lines with little support; and

WHEREAS, Dutch Wierenga also served as a special forces instructor and a high-altitude, low-opening parachute instructor, and he was the senior noncommissioned officer at the founding of the Survival, Evasion, Resistance, and Escape training program; and

WHEREAS, for his meritorious service, Dutch Wierenga earned the Silver Star, four Bronze Stars, and at least two Purple Hearts; and

WHEREAS, in 1986, Dutch Wierenga retired from the United States Army and began a 36-year career with the Central Intelligence Agency as a paramilitary operations officer and a contract training officer; he officially retired at the age of 85 in the spring of 2022 after six decades of service to the nation; and

WHEREAS, Dutch Wierenga was highly admired by his fellow Williamsburg residents for his kindness, generosity, humility, and grace; and

WHEREAS, predeceased by his first wife, Cathy, Dutch Wierenga will be fondly remembered and greatly missed by his wife, Kathy; his daughter, Dina, and her family; and numerous other family members, friends, and fellow veterans; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Master Sergeant Jan Willem Wierenga, USA, Ret., a decorated veteran and respected member of the Williamsburg community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Master Sergeant Jan Willem Wierenga, USA, Ret., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 147

Celebrating the life of Lieutenant Edwin Carl Oyer, USN, Ret.

Agreed to by the Senate, February 21, 2023

WHEREAS, Lieutenant Edwin Carl Oyer, USN, Ret., an honorable veteran and active and beloved member of the Williamsburg community, died in 2023 at the age of 91; and

WHEREAS, affectionately known by friends and family as "Quill," Edwin Oyer was a graduate of Woodbridge High School in Woodbridge, New Jersey, and attended college for some time before serving his country with honor and distinction with the United States Navy; and

WHEREAS, Edwin Oyer actively served in the United States Navy for 22 years, moving from pay grade E-1 to O-3 while specializing in the field of underwater mines; and

WHEREAS, during his service, Edwin Oyer participated in Operation Castle, the hydrogen bomb test on Enewetak Atoll in the Marshall Islands, while also fulfilling tours on the USS *Minotaur* (ARL-15) landing craft repair ship and the USS *Shea* (DM-30) destroyer minelayer; and

WHEREAS, Edwin Oyer served at duty stations all over the country and abroad during his career with the United States Navy, including stops in Guam, Italy, Scotland, Iceland, and more; and

WHEREAS, after retiring from the military in 1973, Edwin enjoyed two subsequent careers, first in the automotive repair sector and later as a self-employed businessman spreading wisdom and cheer from Williamsburg to Newport News; and

WHEREAS, Edwin Oyer was the consummate family man, as well as an avid student of politics, a prolific writer, and a 67-year member of the Ancient Free and Accepted Masons; and

WHEREAS, later in his life, Edwin Oyer devoted himself to the business of local, state, and national government through various endeavors; and

WHEREAS, Edwin Oyer drew admiration and praise from friends and family over the years for his extraordinary abilities as a gardener, mole hunter, mechanic, and dialectician; and

WHEREAS, Edwin Oyer will be fondly remembered and dearly missed by his loving wife, Marion; his children, Brian and Steven, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Lieutenant Edwin Carl Oyer, USN, Ret., a cherished member of the Williamsburg community whose service to the nation is an inspiration to all; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Lieutenant Edwin Carl Oyer, USN, Ret., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 148

Celebrating the life of John Robert Thompson.

Agreed to by the Senate, February 21, 2023

WHEREAS, John Robert Thompson, an honorable veteran and beloved member of the West Point community who was notably one of the Montford Point Marines, the first Black recruits to serve with the United States Marine Corps, died on October 15, 2002; and

WHEREAS, a lifelong resident of West Point, John Thompson excelled in his studies at the former Beverly Allen High School in West Point and later attended what is now Virginia State University; and

WHEREAS, John Thompson joined the United States Marine Corps shortly after the branch began accepting Black recruits in 1942, and he served the nation with honor and distinction in Okinawa, Japan, during World War II; and

WHEREAS, after Public Law No: 112-59 was signed by President Barack Obama in 2011, John Thompson, along with the other approximately 20,000 Black service members who had trained at Montford Point in North Carolina between 1942 and 1949 when the camp was decommissioned, became eligible for the Congressional Gold Medal; and

WHEREAS, on September 11, 2022, John Thompson was posthumously awarded a Congressional Gold Medal in recognition of his dedicated service with the United States Marine Corps during World War II; and

WHEREAS, following his honorable discharge in 1945, John Thompson devoted 40 years to the Chesapeake Paper Corporation, now WestRock Company, in the company's power plant, retiring in 1985; and

WHEREAS, in addition to spending time with his family, John Thompson's favorite pastimes included fishing and deer hunting; and

WHEREAS, guided throughout his life by his faith, John Thompson enjoyed worship and fellowship with his community at Mt. Nebo Baptist Church in West Point, where he served as a trustee, in the Men's Fellowship, and as a deacon; and

WHEREAS, John Thompson will always be fondly remembered and dearly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of John Robert Thompson, a cherished member of the West Point community and a pioneering member of the United States Marine Corps whose service to the nation is an inspiration to all Virginians; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of John Robert Thompson as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 149

Celebrating the life of Laura Lee Booth Puffenbarger.

Agreed to by the Senate, February 21, 2023

WHEREAS, Laura Lee Booth Puffenbarger, a highly admired member of the Staunton community, died on January 19, 2023; and

WHEREAS, Laura Puffenbarger was born in Waynesboro in 1972 to Jerry and Lena Booth; and

WHEREAS, Laura Puffenbarger had recently worked at the Virginia School for the Deaf and the Blind for a little over a year; and

WHEREAS, Laura Puffenbarger was a vital asset to the Virginia School for the Deaf and the Blind, and she was a trusted mentor and friend to many colleagues; and

WHEREAS, Laura Puffenbarger inspired others through her kindness, compassion, and dedication to serving others; and

WHEREAS, Laura Puffenbarger will be fondly remembered and greatly missed by her husband, Dale; her son, Brandon; her parents, Jerry and Lena; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Laura Lee Booth Puffenbarger; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Laura Lee Booth Puffenbarger as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 150

Celebrating the life of Cindy Jackson.

Agreed to by the Senate, February 22, 2023

WHEREAS, Cindy Jackson, a library specialist and overseer of the Virginia Commonwealth University (VCU) Libraries' Comic Arts Collection for many years, has passed away at the age of 53; and

WHEREAS, overseer of a once modest collection of comics and newspapers, Cindy Jackson leaves behind not only one of the largest comic collections of its kind but a long legacy of inspiration and service to VCU; and

WHEREAS, after receiving a bachelor's degree in information systems and a master's degree in English from VCU, Cindy Jackson began her time at VCU Libraries as a student employee in 1996 and was then hired in 2005 to oversee a collection that, without her guidance, would be nowhere near what it has flourished to today; and

WHEREAS, during her tenure, Cindy Jackson nearly single-handedly pioneered the growth of the VCU Libraries Comic Arts Collection, making it known as one of the nation's most distinguished archives of comics, comic arts, and comic scholarship; and

WHEREAS, Cindy Jackson's deep knowledge of comics aided VCU Libraries in achieving its status as the official repository for the Will Eisner Comic Industry Awards, regarded as one of the highest honors in its field; and

WHEREAS, from maintaining the collection to conducting informational sessions and developing exhibits, Cindy Jackson served as the face of this great collection and not only preserved history on paper, but in altering the lives of those who will go on to make history as the result of having the privilege of knowing her; and

WHEREAS, Cindy Jackson will be fondly remembered and greatly missed by numerous family members, friends, colleagues, and comic book fans across the Commonwealth and the nation; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby commend Cindy Jackson and celebrate a life dedicated to service and passion to the field of comic arts and bettering the greater VCU community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Cindy Jackson as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 151

Commending Virginia Voice, Inc.

Agreed to by the Senate, February 22, 2023

WHEREAS, Virginia Voice, Inc., an organization that advances its mission by connecting individuals with blindness, vision impairment, and other print disabilities to news, information, community, culture, and the arts using technology and the human voice, celebrates its 45th anniversary in 2023; and

WHEREAS, incorporated in 1978 as a 501(c)(3) nonprofit organization, Virginia Voice operates to serve the needs of individuals who reside in Central Virginia, Hampton Roads, and other parts of the Commonwealth; and

WHEREAS, Virginia Voice is a radio-reading, audio information service that makes print material accessible for individuals who are blind, visually impaired, or severely handicapped; and

WHEREAS, Virginia Voice serves 11,500 subscribers with its audio broadcast; this broadcast is made available on radios that are pretuned to a specific frequency that receives the Virginia Voice 24/7 broadcast; radios or smart speakers are loaned to listeners who sign up as official subscribers to Virginia Voice, and all services are free of charge to subscribers; and

WHEREAS, Virginia Voice builds its broadcast from 200 publications that are read aloud by volunteers, including local, regional, and national newspapers and magazines and other publications that provide perspectives and information on topics such as health, history, education, current events, the environment, arts, culture, gardening, and more, in addition to inspirational commentary; and

WHEREAS, Virginia Voice recruits, trains, and manages more than 120 dedicated and talented volunteers whose voices help to create the Virginia Voice broadcast of scheduled programs and podcasts, which often feature local subject matter experts; and

WHEREAS, Virginia Voice creates equitable access to live theater, museum exhibitions, movies, and other art forms, as well as sporting events, through live audio description programming that describes the critical visual elements for individuals who are blind, vision impaired, or otherwise disabled; and

WHEREAS, Virginia Voice, through community engagement and fundraising activities, promotes awareness of and advocates for the need to support individuals who are blind, vision impaired, or otherwise disabled; the organization seeks support in the form of tangible services and monetary assistance from every level of government, corporations, service organizations, and foundations, as well as through donations from individuals throughout the Commonwealth; and

WHEREAS, Virginia Voice partners with organizations in the community to promote awareness, raise vital funds, increase listenership, and recruit volunteers to assist in the delivery of services to Virginians with disabilities; and

WHEREAS, Virginia Voice promotes goodwill and the ideal that serving others and bettering communities is an attainable goal that improves quality of life and helps to make the Commonwealth a place where individuals seek to live, work, and raise their families; and

WHEREAS, Virginia Voice supports the choice of blind, vision impaired, and print disabled Virginians to live and thrive independently and their desire to have equitable access to all their community has to offer; and

WHEREAS, the success of Virginia Voice is a result of the hard work and dedication of the organization's staff, volunteers, and board members, and the unwavering support of the listeners and their families; now, therefore, be it

RESOLVED by the Senate of Virginia, That Virginia Voice, Inc., hereby be commended for its 45 years of service to its listeners and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Virginia Voice, Inc., as an expression of the Senate of Virginia's appreciation for the organization's history and its contributions to the Commonwealth.

SENATE RESOLUTION NO. 152

Commending Commonwealth Catholic Charities.

Agreed to by the Senate, February 22, 2023

WHEREAS, Commonwealth Catholic Charities, an organization devoted to caring for individuals and families in need throughout the Commonwealth, celebrates its 100th anniversary in 2023; and

WHEREAS, Commonwealth Catholic Charities (CCC) was established in 1923 under the executive direction of Reverend Walter J. Nott in the basement of St. Peter's Catholic Church in Richmond, where it began offering adoption and counseling services; and

WHEREAS, in response to the Catholic mission to respect diversity, promote human dignity, and value families, CCC has been providing high-quality, compassionate human services to all people, especially the most vulnerable, ever since; and

WHEREAS, today, CCC has grown into one of the largest and most comprehensive human service providers in the Commonwealth, offering over 30 distinct programs and services in 11 office locations from far Southwest Virginia through Central Virginia and into the Eastern Shore; and

WHEREAS, CCC impacts the lives of over 34,000 men, women, and children each year, providing support and hope to individuals and families through a wide range of programs, including adoption and foster care, mental health counseling, refugee resettlement, food and financial support, and housing services; now, therefore, be it

RESOLVED by the Senate of Virginia, That Commonwealth Catholic Charities hereby be commended on the occasion of its 100th anniversary of service to the citizens of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Commonwealth Catholic Charities as an expression of the Senate of Virginia's admiration and gratitude for the extremely important work of this dedicated organization.

SENATE RESOLUTION NO. 153

Commending the Phoebus High School football team.

Agreed to by the Senate, February 22, 2023

WHEREAS, the Phoebus High School football team of Hampton won the Virginia High School League Class 3 state championship on December 10, 2022, at Liberty University; and

WHEREAS, the Phoebus High School Phantoms defeated the Heritage High School Pioneers of Lynchburg by a score of 48-7 to bring home the program's second consecutive state title and ninth state title overall since 2001; and

WHEREAS, while only possessing the ball for seven minutes and 19 seconds in the first half, the Phoebus Phantoms mounted a 34-0 lead by the break and never looked back; and

WHEREAS, the Phoebus Phantoms' victory capped an impressive 15–0 record for the season, marking the first time since 2010 that the program went undefeated; and

WHEREAS, after winning every regular season game by a margin of at least 26 points, the Phoebus Phantoms saw its players fill 15 spots on the all-district first team, including Jordan Bass, Jayden Earley, and Keyontae Gray, who each claimed two spots; and

WHEREAS, the Phoebus Phantoms also saw its members earn top all-district honors, including wide receiver Jordan Bass, lineman Mychal McMullin, and coach Jeremy Blunt, who were named Offensive Player of the Year, Defensive Player of the Year, and Coach of the Year, respectively; and

WHEREAS, the accomplishments of the Phoebus Phantoms are the result of the hard work and dedication of the student-athletes, the leadership and guidance of their coaches and teachers, and the unwavering support of the entire Phoebus High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Phoebus High School football team hereby be commended for winning the 2023 Virginia High School League Class 3 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jeremy Blunt, head coach of the Phoebus High School football team, as an expression of the Senate of Virginia's admiration for the team's achievements.

SENATE RESOLUTION NO. 154

Celebrating the life of James Lawrence Eason.

Agreed to by the Senate, February 22, 2023

WHEREAS, James Lawrence Eason, an esteemed leader of the Hampton community who served as the city's mayor for 16 years as well as in various other capacities for the benefit of the city and its residents, died on February 14, 2023; and

WHEREAS, James "Jimmy" Eason was a star of the football team at Hampton High School, earning first team all-state and honorable mention all-American honors before going on to play for the University of North Carolina, where he received a bachelor's degree in accounting in 1965; and

WHEREAS, Jimmy Eason returned to Hampton after college and joined the local accounting firm of Daniels, Turnbull & Freeman, where he rose through the ranks to become manager of the Hampton office before leaving to start his own firm, Eason, Lawson & Westphal, which would grow into the largest Hampton-based accounting firm by the time of his retirement from the industry in 1992; and

WHEREAS, Jimmy Eason was elected mayor of Hampton in 1982 and proudly served his constituents until 1998, during which time he transformed the city through various development projects and revitalization efforts; and

WHEREAS, after stepping down from his position as mayor, Jimmy Eason served as president and chief executive officer of the Hampton Roads Partnership from 1998 to 2004, helping to unify the localities of Hampton Roads so that the region could better compete both nationally and globally; and

WHEREAS, from 2004 until his second retirement in 2012, Jimmy Eason was the director of economic development for the City of Hampton, employing his deep knowledge and understanding of his hometown to improve the quality of life of its residents; and

WHEREAS, beyond his public service, Jimmy Eason gave generously of his time in support of the community through his involvement with various local civic and service organizations, including the Hampton Rotary Club, of which he had been a member since 1973; and

WHEREAS, Jimmy Eason was a devoted family man who never let his many professional responsibilities and obligations compromise the time he had set aside to be with his wife and daughters; and

WHEREAS, guided throughout his life by his faith, Jimmy Eason enjoyed worship and fellowship with his community at First United Methodist Church of Hampton for many years; and

WHEREAS, Jimmy Eason will be fondly remembered and dearly missed by his loving wife of 57 years, Midge; his children, Nancy and Katherine, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of James Lawrence Eason, a pillar of the Hampton community whose commitment to serving others touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of James Lawrence Eason as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 155

Commending Luck Companies.

Agreed to by the Senate, February 22, 2023

WHEREAS, for 100 years, Luck Companies has been about people—powering possibilities for associates, customers, and communities and continuing to make a positive impact on the lives of others for generations to come; and

WHEREAS, started in 1923 by Charles Luck, Jr., Luck Companies has been producing aggregates ever since, serving customers and communities across the Commonwealth and Mid-Atlantic region and now throughout the Southeastern United States; and

WHEREAS, Charles Luck, Jr., led Luck Companies with the belief that if you take care of your people, they will take care of you; and

WHEREAS, Charles Luck III continued to grow Luck Companies, always putting people first and living up to the company's motto of "We care"; and

WHEREAS, Charlie Luck IV established Luck Companies' mission to ignite human potential through the philosophy of values-based leadership; and

WHEREAS, Richard Luck is set to be a fourth-generation leader of Luck Companies, making the company part of the three percent of family-owned and operated companies globally to be in their fourth generation of family leadership; and

WHEREAS, Luck Companies began as Luck Stone with one quarry in Richmond and now operates 31 sites comprising quarries and offices across the Commonwealth, North Carolina, South Carolina, and Georgia and employs nearly one thousand people; and

WHEREAS, over the course of its history, Luck Companies has been committed to the communities in which it operates and dedicated to providing lasting partnerships, service, and simplicity to those it serves; now, therefore, be it

RESOLVED by the Senate of Virginia, That Luck Companies hereby be commended on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Luck Companies as an expression of the Senate of Virginia's admiration for the company's commitment to its employees and contributions to economic development and environmental stewardship in the Commonwealth.

SENATE RESOLUTION NO. 156

Celebrating the life of Edward Morris Levine.

Agreed to by the Senate, February 22, 2023

WHEREAS, Edward Morris Levine, an accomplished gun rights advocate and motorcycle safety educator and an active and beloved member of the Potomac Falls community, died on November 1, 2022; and

WHEREAS, Edward "Ed" Levine was born in Munich, Germany, and raised in Vienna, graduating from Oakton High School in 1981; and

WHEREAS, while still in high school, Ed Levine was a member of the Vienna Volunteer Fire Department, receiving Vienna Fireman of the Year honors in 1979; and

WHEREAS, Ed Levine joined the United States Marine Corps and, after a medical discharge, went on to pursue his interest in aviation at Embry-Riddle Aeronautical University; and

WHEREAS, Ed Levine was a passionate advocate for firearms education, rights, and safety, founding OpenCarry.org, serving the Virginia Citizens Defense League as a member of its board of directors and its social media director, and educating others as a certified firearms instructor; and

WHEREAS, Ed Levine loved to ride his 2006 Triumph Rocket III motorcycle and gave generously of his time riding for civic causes, including the Virginia Patriot Guard, which provides motorcycle escorts for veterans and their families, and the Ride for Jill's House, a fundraiser event supporting a respite center in Vienna for children with disabilities; and

WHEREAS, Ed Levine was dedicated to promoting motorcycle safety, both as a certified motorcycle safety instructor at Motorcycle Riding Concepts in Fairfax County and by uploading educational dash cam videos for the benefit of his followers on social media; and

WHEREAS, Ed Levine will be fondly remembered and dearly missed by his loving wife of 28 years, Teri; his daughter, Brooke Nicole; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Edward Morris Levine, a cherished member of the Potomac Falls community whose wisdom, kindness, and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Edward Morris Levine as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 157

Celebrating the life of Lieutenant Colonel Justin Constantine, USMC, Ret.

Agreed to by the Senate, February 22, 2023

WHEREAS, Lieutenant Colonel Justin Constantine, USMC, Ret., a determined advocate for his fellow veterans who touched countless lives through his generosity, compassion, and inspirational resilience, died on May 5, 2022; and

WHEREAS, a graduate of James Madison University, Justin Constantine was commissioned as an officer in the United States Marine Corps after completing law school at the University of Denver; he served on active duty for six years, then transitioned to the United States Marine Corps Reserve; and

WHEREAS, Justin Constantine volunteered as a reservist for deployment to Iraq in 2006 and was wounded in action when he was shot through the side of the head by a sniper while on patrol in Iraq; the catastrophic injury required an emergency battlefield surgery, followed by months of reconstructive surgeries and recovery, and he accepted a medical retirement from the military in 2013; and

WHEREAS, Justin Constantine subsequently joined the U.S. Department of Justice and continued to serve his fellow veterans as counsel to the United States Senate Committee on Veterans' Affairs; he later joined the national security law branch of the Federal Bureau of Investigation, where he became assistant general counsel; and

WHEREAS, Justin Constantine cofounded a nonprofit organization that supports military spouse and veterans employment initiatives and authored the book *My Battlefield, Your Office; Leadership Lessons From the Front Lines* about applying military leadership skills to the private sector; and

WHEREAS, a sought-after motivational speaker, Justin Constantine's courage, strength, and unfailing optimism empowered others to overcome challenges both in their everyday lives and in extraordinary situations; he continued to inspire those around him even after his diagnosis of stage 4 cancer in 2020; and

WHEREAS, among many awards and accolades, Justin Constantine was selected as a Presidential Leadership Scholar and as a Champion of Change for Veterans by former President Barack Obama; he was also featured in former President George W. Bush's book *Portraits of Courage: A Commander in Chief's Tribute to America's Warriors*; and

WHEREAS, Justin Constantine will be fondly remembered and greatly missed by his wife, Dahlia, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Lieutenant Colonel Justin Constantine, USMC, Ret.; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Lieutenant Colonel Justin Constantine, USMC, Ret., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 158

Commending the Newport News Green Foundation.

Agreed to by the Senate, February 22, 2023

WHEREAS, the Newport News Green Foundation, a nonprofit organization dedicated to enhancing the quality of life in Newport News by preserving, transforming, and promoting green spaces throughout the city, celebrates its 25th anniversary in 2023; and

WHEREAS, recognizing the impact of urban development on the appearance of Newport News, the Newport News City Council established the Newport News Green Foundation in June 1998; and

WHEREAS, five months later, the Newport News Green Foundation became an independently chartered nonprofit charitable organization; and

WHEREAS, the Newport News Green Foundation acquired its first property in April 2001 and has since that time preserved more than 50 acres of land in the city; and

WHEREAS, the Newport News Green Foundation has begun to expand its mission beyond preservation to include improving public access to the extraordinary green spaces and natural beauty that Newport News has to offer; and

WHEREAS, the Newport News Green Foundation's more prominent initiatives in the community include the development of Chatham Trail, the restoration of the Hilton Ravine, and the establishment of the Virginia Peninsula's first food forest; and

WHEREAS, the Newport News Green Foundation has cultivated successful and strategic partnerships with various like-minded organizations and institutions to achieve its goals and to support projects that complement its mission; and

WHEREAS, by protecting the natural beauty of Newport News and fostering connections across the community, the Newport News Green Foundation has contributed greatly to the well-being of countless individuals and families; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Newport News Green Foundation hereby be commended on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Newport News Green Foundation as an expression of the Senate of Virginia's admiration for the organization's history and legacy of service.

SENATE RESOLUTION NO. 159

Celebrating the life of James Michael Kokolis.

Agreed to by the Senate, February 25, 2023

WHEREAS, James Michael Kokolis, a successful restauranteur and businessman in Williamsburg who made many contributions to the campus community at The College of William and Mary, died on January 12, 2023; and

WHEREAS, James "Mike" Kokolis was born in Vasilika, Greece, and immigrated to the United States in 1955; he originally lived in Pennsylvania, then worked in restaurants in Winchester, before settling in Williamsburg in 1959; and

WHEREAS, Mike Kokolis opened a small snack shop on Scotland Street near The College of William and Mary, which quickly became popular with students; his first wholly owned restaurant was the Southern Pancake and Waffle House, still serving the Williamsburg community on Richmond Road; and

WHEREAS, Mike Kokolis worked with other members of the local Greek community to establish AJ&L, Inc., which operated a number of restaurants and hotels in the region from the 1970s to the 1990s; and

WHEREAS, over the course of his career, Mike Kokolis was involved with the former Colonial Deli, the former Gazebo Restaurant, and the former Country Inn, among other establishments, and touched the lives of generations of local residents and visitors to the Williamsburg area; and

WHEREAS, Mike Kokolis built strong relationships with students, faculty, and administrators at The College of William and Mary; he was an avid fan of the institution's football and soccer teams, which he supported through donations and fundraisers at his restaurants; and

WHEREAS, Mike Kokolis was proudly named an honorary alumnus of The College of William and Mary in 2005; and

WHEREAS, Mike Kokolis will be fondly remembered and greatly missed by his wife of 53 years, Paula; his children, Blake, Mario, Georganne, and Stephanie, and their families; and numerous other family members, friends, and customers; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of James Michael Kokolis, a pillar of the Williamsburg community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of James Michael Kokolis as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 160

Commending Lieutenant General Joseph R. Inge, USA, Ret.

Agreed to by the Senate, February 23, 2023

WHEREAS, Lieutenant General Joseph R. Inge, USA, Ret., is an honorable and distinguished veteran who contributed to the safety and security of the nation as deputy commander of the United States Northern Command and in other high-ranking posts; and

WHEREAS, a native of Mecklenburg County, Joseph Inge earned a bachelor's degree in agricultural economics from Virginia Polytechnic Institute and State University in 1969, where he was also commissioned as a second lieutenant of armor with the school's Reserve Officers' Training Corps; and

WHEREAS, Joseph Inge later honed his abilities as a military leader by earning a master's degree in personnel management and administration from Central Michigan University, while also getting a military education through armor basic and advanced courses and at the United States Army Command and General Staff College and the United States Army War College; and

WHEREAS, between 1970 and 1975, Joseph Inge served in the United States Army as a company commander in the 33rd Armor Regiment of the 3rd Armored Division in Germany and in the 73rd Armor Regiment of the 2nd Infantry Division in Korea; and

WHEREAS, after a series of transfers to domestic posts and subsequent assignments with the 3rd Infantry Division in Germany, Joseph Inge held multiple positions in the Office of the Chief of Staff between 1987 and 1991 and was later appointed a brigade commander in the 1st Cavalry Division at Fort Hood in Texas in April of that year; and

WHEREAS, after serving as executive assistant to the chairman of the Joint Chiefs of Staff from 1993 to 1995, Joseph Inge held various command positions both domestically and abroad before becoming commander of the First United States Army at Fort Gillem in Georgia in 2001; and

WHEREAS, in June 2004, Joseph Inge was confirmed as deputy commander of the United States Northern Command and as vice commander of the United States element of the North American Aerospace Defense Command; and

WHEREAS, Joseph Inge retired from the United States Army in 2007, closing a military career that spanned 38 years, during which time he demonstrated an unflagging commitment to defending the homeland; and

WHEREAS, Joseph Inge was awarded numerous military ribbons, badges, and medals for his service, including the U.S. Army Distinguished Service Medal with bronze oak leaf cluster, the Defense Superior Service Medal, the Legion of Merit with three oak leaf clusters, the National Defense Service Medal with two bronze service stars, the Southwest Asia Service Medal with service star, and the Kuwait Liberation Medal; and

WHEREAS, Joseph Inge has continued his service to the country in recent years as a private consultant, with a diverse portfolio that includes endeavors supporting industry, government, and the military; and

WHEREAS, in recognition of his leadership and expertise, Governor Bob McDonnell appointed Joseph Inge to serve both on what is now the Secure and Resilient Commonwealth Panel and on the Base Realignment and Closure Act panel, advising the governor and his staff at a time when the BRAC process was threatening the closure of military facilities in the Commonwealth; and

WHEREAS, Joseph Inge has given generously of his time by serving on the boards of several foundations and nonprofit organizations, including the Virginia War Memorial Foundation; now, therefore, be it

RESOLVED by the Senate of Virginia, That Lieutenant General Joseph R. Inge, USA, Ret., hereby be commended for his service to the nation; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Lieutenant General Joseph R. Inge, USA, Ret., as an expression of the Senate of Virginia's admiration for his contributions to both the country and the Commonwealth.

SENATE RESOLUTION NO. 161

Nominating persons to be elected to circuit court judgeships.

Agreed to by the Senate, February 22, 2023

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Andrew D. Kubovcik, of Chesapeake, as a judge of the First Judicial Circuit for a term of eight years commencing March 16, 2023.

The Honorable Afshin Farashahi, of Virginia Beach, as a judge of the Second Judicial Circuit for a term of eight years commencing March 16, 2023.

The Honorable Douglas B. Ottinger, of Portsmouth, as a judge of the Third Judicial Circuit for a term of eight years commencing January 1, 2024.

The Honorable Joseph C. Lindsey, of Norfolk, as a judge of the Fourth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Wallace W. Brittle, Jr., of Sussex, as a judge of the Sixth Judicial Circuit for a term of eight years commencing April 1, 2023.

The Honorable Tonya R. Henderson-Stith, of Hampton, as a judge of the Eighth Judicial Circuit for a term of eight years commencing March 16, 2023.

The Honorable Tracy W. J. Thorne-Begland, of Richmond, as a judge of the Thirteenth Judicial Circuit for a term of eight years commencing August 1, 2023.

The Honorable Daniel T. C. Lopez, of Arlington, as a judge of the Seventeenth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Jeffrey P. Bennett, of Amherst, as a judge of the Twenty-fourth Judicial Circuit for a term of eight years commencing July 1, 2023.

Shannon T. Sherrill, Esquire, of Staunton, as a judge of the Twenty-fifth Judicial Circuit for a term of eight years commencing July 1, 2023.

The Honorable Eric R. Thiessen, of Washington, as a judge of the Twenty-eighth Judicial Circuit for a term of eight years commencing July 1, 2023.

SENATE RESOLUTION NO. 162

Nominating persons to be elected to general district court judgeships.

Agreed to by the Senate, February 22, 2023

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

Wanda J. Cooper, Esquire, of Virginia Beach, as a judge of the Second Judicial District for a term of six years commencing April 16, 2023.

Jon M. Babineau, Sr., Esquire, of Portsmouth, as a judge of the Third Judicial District for a term of six years commencing January 1, 2024.

Robert L. Foley, Esquire, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing April 1, 2023.

Erikka M. Massie, Esquire, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing July 1, 2023.

The Honorable Wade A. Bowie, of James City County, as a judge of the Ninth Judicial District for a term of six years commencing April 1, 2023.

Victoria N. Pearson, Esquire, of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing August 1, 2023.

Nicole L. Fox, Esquire, of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing April 16, 2023.

Cari M. Steele, Esquire, of Arlington, as a judge of the Seventeenth Judicial District for a term of six years commencing July 1, 2023.

SENATE RESOLUTION NO. 163

Nominating persons to be elected to juvenile and domestic relations district court judgeships.

Agreed to by the Senate, February 22, 2023

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

David L. Jones, Esquire, of Chesapeake, as a judge of the First Judicial District for a term of six years commencing March 16, 2023.

Michael A. Beverly, Esquire, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing January 1, 2024.

Robert J. Fierro, Jr., Esquire, of Prince George, as a judge of the Sixth Judicial District for a term of six years commencing April 16, 2023.

Richard G. Collins, Jr., Esquire, of James City County, as a judge of the Ninth Judicial District for a term of six years commencing April 16, 2023.

Matthew R. Kite, Esquire, of King William, as a judge of the Ninth Judicial District for a term of six years commencing April 16, 2023.

Adam H. Moseley, Esquire, of Roanoke, as a judge of the Twenty-third Judicial District for a term of six years commencing May 1, 2023.

Eugene N. Butler, Esquire, of Lynchburg, as a judge of the Twenty-fourth Judicial District for a term of six years commencing July 1, 2023.

SENATE RESOLUTION NO. 164

Nominating a person to be elected as a member of the Judicial Inquiry and Review Commission.

Agreed to by the Senate, February 22, 2023

RESOLVED by the Senate of Virginia, That the following person is hereby nominated to be elected as a member of the Judicial Inquiry and Review Commission as follows:

The Honorable Gino W. Williams, of Floyd, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2023.

SENATE RESOLUTION NO. 165

Commending Lieutenant Colonel Robert Allen Diggs, Sr., USA, Ret.

Agreed to by the Senate, February 23, 2023

WHEREAS, Lieutenant Colonel Robert Allen Diggs, Sr., USA, Ret., an honorable veteran, esteemed faith leader, and pastor of Tabernacle Baptist Church in Petersburg, has provided joyful and uplifting spiritual counsel to his congregation and served the community through various initiatives; and

WHEREAS, between July 1975 to October 1998, Robert Diggs served the country with honor and distinction as a member of the United States Army, including as an army infantry officer for 11 years and later as a chaplain with the United States Army Chaplain Corps, achieving the rank of lieutenant colonel; and

WHEREAS, Robert Diggs received an extensive education over the years, earning several degrees and ultimately receiving a doctor of ministry degree from Howard University School of Divinity in May 1994; and

WHEREAS, over the course of his military career, Robert Diggs received many awards and decorations to include the Bronze Star and the Legion of Merit; and

WHEREAS, Robert Diggs became pastor of Tabernacle Baptist Church in July 1996 and has served the congregation ever since, guiding its worship services and organizing regular opportunities for outreach; and

WHEREAS, Robert Diggs founded Restoration of Petersburg Community Development Corporation in 1999 to redevelop and revitalize the Halifax community of Petersburg; the organization received a Virginia Housing Award for Best Housing Development at the Governor's Housing Conference in 2011; and

WHEREAS, Robert Diggs has maintained affiliations with various alumni, fraternal, community, and faith-based organizations over the years, including the Virginia Baptist State Convention and the National Baptist Convention, USA, Inc.; and

WHEREAS, in every aspect of his life, Robert Diggs exudes a servant's heart and is a source of inspiration, stability, and spiritual guidance to countless members of the Petersburg community; now, therefore, be it

RESOLVED by the Senate of Virginia, That Lieutenant Colonel Robert Allen Diggs, Sr., USA, Ret., hereby be commended for his legacy of service as a veteran and a spiritual leader; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Lieutenant Colonel Robert Allen Diggs, Sr., USA, Ret., as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth and the nation.

SENATE RESOLUTION NO. 166

Commending Michael Louis Chapman.

Agreed to by the Senate, February 24, 2023

WHEREAS, Michael Louis Chapman, an esteemed law-enforcement officer and sheriff of Loudoun County, will be presented the 2023 Ferris E. Lucas Sheriff of the Year award at the Annual Conference of the National Sheriffs' Association in Grand Rapids, Michigan; and

WHEREAS, citing his approach to leadership, stewardship, and innovation, the National Sheriffs' Association has recognized Michael "Mike" Chapman with the National Sheriff of the Year award for his efforts to elevate the Office of Sheriff on the local, state, and national level and for his extraordinary involvement in the community; and

WHEREAS, Mike Chapman was elected sheriff of Loudoun County in November 2011 and has since been reelected in 2015 and 2019; he oversees the largest full-service sheriff's office in the Commonwealth, with more than 600 sworn deputies and 200 civilian personnel; and

WHEREAS, during his tenure as sheriff, Mike Chapman has implemented several initiatives that have had a positive and transformative impact on the community, including his Step-Up initiative to promote service, technology, efficiency, and professionalism agency-wide; and

WHEREAS, Mike Chapman has provided invaluable leadership to several law-enforcement boards and organizations to include serving as vice president of Homeland Security for the Major County Sheriffs of America and as chair of the Washington/Baltimore High Intensity Trafficking Area Executive Board; and on the National Sheriffs' Association Board of Directors and the Criminal Justice Services Board of the Virginia Department of Criminal Justice Services; and

WHEREAS, with the support of his peers, Mike Chapman was selected to serve as the Region VI director of the Virginia Sheriffs' Association Board of Directors, and he is currently serving on the organization's Legislative Committee and has served on its Congressional Committee; and

WHEREAS, Mike Chapman has been a tireless advocate for preserving sheriffs' offices across the country, helping to ensure that citizens maintain their right to elect their chief law-enforcement officer; now, therefore, be it

RESOLVED by the Senate of Virginia, That Michael Louis Chapman, sheriff of Loudoun County, hereby be commended for receiving the 2023 Ferris E. Lucas Sheriff of the Year award from the National Sheriffs' Association; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Michael Louis Chapman as an expression of the Senate of Virginia's admiration for his achievements in service to the Commonwealth.

SENATE RESOLUTION NO. 167

Commending Donald L. Wells.

Agreed to by the Senate, February 24, 2023

WHEREAS, throughout his distinguished career, Donald L. Wells has worked diligently to protect the natural resources of both the Commonwealth and the nation as a conservationist; and

WHEREAS, Donald "Don" Wells currently serves as an elected member of the Hanover-Caroline Soil and Water Conservation District and is the secretary/treasurer of the Virginia Association of Soil and Water Conservation Districts; and

WHEREAS, earlier in his career, Don Wells worked as a certified professional engineer for more than 30 years and served as a water quality specialist with the National Association of Conservation Districts; and

WHEREAS, Don Wells has been active with many other organizations, including the Nature Conservancy, Soil and Water Conservation Society, and American Society of Agricultural Engineers; he has garnered respect and admiration from his peers for his thoughtful leadership and the breadth of his expertise; and

WHEREAS, Don Wells has developed strong working relationships with individual stakeholders, federal and state agencies, and corporate partners; he has been a trusted mentor to many colleagues and is an important source of institutional knowledge on a wide range of state and national conservation issues; and

WHEREAS, among many awards and accolades, Don Wells has received the Bobby Wilkinson Award, the highest honor of the Virginia Association of Soil and Water Conservation Districts, and he was inducted into the Hall of Distinction of the National Association of Conservation Districts; now, therefore, be it

RESOLVED by the Senate of Virginia, That Donald L. Wells hereby be commended for his service to the Commonwealth and the United States as a conservationist; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Donald L. Wells as an expression of the Senate of Virginia's admiration for his personal and professional accomplishments.

SENATE RESOLUTION NO. 168

Commending Donald Houston.

Agreed to by the Senate, February 24, 2023

WHEREAS, Donald Houston, a valued member of the team at Meriwether Godsey, an esteemed contract dining services company, has admirably served the members of the Senate of Virginia since 2008; and

WHEREAS, Donald Houston served for 30 years with the Richmond Fire Department before his first retirement, during which time he devoted himself to the responsibility of protecting lives and property in the city; and

WHEREAS, Donald Houston joined Meriwether Godsey in 2008 as a bartender and has since worked at several prominent institutions in Richmond, including the Virginia State Capitol, St. Catherine's School, The Steward School, the Roslyn Conference and Retreat Center, and the Lewis Ginter Botanical Garden; and

WHEREAS, Donald Houston has served at Capitol Square for every inauguration and session of the General Assembly since 2008, developing a rapport with many members of the Senate of Virginia in that time; and

WHEREAS, Donald Houston's friendly nature and attention to the needs of the Senators of the Commonwealth bring welcome respite to members as they work through the deliberations of session; and

WHEREAS, Donald Houston has endeared himself to his colleagues and others through his willingness and ability to resolve any issue that might arise; and

WHEREAS, Donald Houston enjoys spending time with his loving wife of 52 years, Wilnette, and his two daughters and three grandchildren, among many other favored pastimes; and

WHEREAS, Donald Houston's dedication and commitment to ensuring the well-being of others both at the Virginia State Capitol and with the Richmond Fire Department are deserving of the respect of all Virginians; now, therefore, be it

RESOLVED by the Senate of Virginia, That Donald Houston hereby be commended for his legacy of service; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Donald Houston as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 169

Commending Lorenzo Pellot-Vázquez.

Agreed to by the Senate, February 24, 2023

WHEREAS, in February 2023, Lorenzo Pellot-Vázquez of Fairfax High School won the Virginia High School League Class 6 individual wrestling state championship in the 190-pound weight class; and

WHEREAS, Lorenzo Pellot-Vázquez began his career in high school athletics as a basketball player and later switched to wrestling; after recovering from an injury during his sophomore year, he had his breakout season during his junior year; and

WHEREAS, Lorenzo Pellot-Vázquez finished his junior season with a 34-9 record and was a finalist in the regional tournament; he placed second in the Virginia Wrestling Association Freestyle State Championship and represented the Commonwealth at the 2022 ASICS/Vaughan Junior & Cadet National Championships, the largest and one of the most prestigious youth wrestling tournaments in the world; and

WHEREAS, during his senior season in 2023, Lorenzo Pellot-Vázquez finished with a 23-2 record, earning team and individual district titles, an individual regional title, and an individual state title; and

WHEREAS, Lorenzo Pellot-Vázquez plans to continue wrestling at the college level and pursue a four-year degree; now, therefore, be it

RESOLVED by the Senate of Virginia, That Lorenzo Pellot-Vázquez hereby be commended on winning a Virginia High School League Class 6 individual wrestling state championship in 2023; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Lorenzo Pellot-Vázquez as an expression of the Senate of Virginia's admiration for his athletic achievements and best wishes.

SENATE RESOLUTION NO. 170

Commending the Reverend Darrell Boggs.

Agreed to by the Senate, February 24, 2023

WHEREAS, for 10 years, the Reverend Darrell Boggs has provided wise spiritual counsel and leadership to the congregation of First Baptist Church of Hopewell; and

WHEREAS, after graduating from Mississippi College, Darrell Boggs earned his master of divinity degree from Southern Baptist Theological Seminary in Kentucky, where he also completed a doctoral residency in education and leadership; and

WHEREAS, Darrell Boggs served churches in Mississippi, New Mexico, Kentucky, and Indiana, then became the associate pastor of Second Baptist Church in Richmond; he later became the founding senior pastor of Gayton Baptist Church, also in Richmond; and

WHEREAS, Darrell Boggs joined First Baptist Church of Hopewell as the congregation's seventh senior pastor in July 2013 and has helped the church grow in faith and number for the past decade; and

WHEREAS, while at First Baptist Church, Darrell Boggs established Hope House, a community initiative that helps homeless members of the Hopewell community by securing housing and other assistance; and

WHEREAS, outside his career in ministry, Darrell Boggs has served as an adjunct professor, a chief executive officer of a company, and a project director for a nonprofit organization; he has offered his leadership and expertise to the boards of the Richmond Metropolitan Habitat for Humanity, New Look Youth Ministries, the Pan African Foundation, and many other civic and service organizations; and

WHEREAS, Darrell Boggs enjoys the love and support of his wife, Melanie, who is an integral member of several ministries at First Baptist Church; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Reverend Darrell Boggs hereby be commended for his service as senior pastor of First Baptist Church of Hopewell; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Darrell Boggs as an expression of the Senate of Virginia's admiration for his contributions to the Hopewell community.

SENATE RESOLUTION NO. 171

Commending Lamont Hobbs.

Agreed to by the Senate, February 24, 2023

WHEREAS, Lamont Hobbs, an esteemed faith leader and senior pastor of Metropolitan Baptist Church in Petersburg, has provided joyful and uplifting spiritual counsel to his congregation and served the community through various outreach initiatives; and

WHEREAS, a native of Petersburg, Lamont Hobbs earned a bachelor's degree from the former Saint Paul's College, a master's degree in business administration from Old Dominion University, and a master's degree in divinity from the Samuel DeWitt Proctor School of Theology at Virginia Union University; and

WHEREAS, Lamont Hobbs has been inspired to build bridges that connect others through Christ, the church, community, and commerce, and has made a difference in countless lives through his ability to minister in a relevant, realistic, and relational manner that meets people wherever they are in life; and

WHEREAS, Lamont Hobbs previously served as a senior district manager for Waste Management for nine years and is a licensed real estate broker and the owner of Hobbs Realty, LLC; and

WHEREAS, in every aspect of his life, Lamont Hobbs exudes a servant's heart and is a source of inspiration, stability, and spiritual guidance to countless members of the Petersburg community; now, therefore, be it

RESOLVED by the Senate of Virginia, That Lamont Hobbs hereby be commended for his legacy of service as a faith leader in Petersburg; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Lamont Hobbs as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 172

Commending the Reverend Robert Byrd Dawson.

Agreed to by the Senate, February 24, 2023

WHEREAS, for more than 15 years, the Reverend Robert Byrd Dawson has provided wise spiritual counsel and leadership to the congregation of First Baptist Church of Petersburg; and

WHEREAS, Robert "Rob" Dawson graduated from Randolph-Macon College, earned his master of divinity degree from Southwestern Baptist Theological Seminary in Texas, and then continued his pastoral studies at Virginia Commonwealth University; and

WHEREAS, for nearly four decades, Rob Dawson has served Baptist churches in the Commonwealth, beginning with Coan Baptist Church in Heathsville in 1984; he joined Bainbridge Street Baptist Church in Richmond in 1987, then became associate pastor for pastoral care and senior adults at First Baptist Church in Richmond in 2004; and

WHEREAS, in the fall of 2007, Rob Dawson joined First Baptist Church of Petersburg, where he is best known as "Pastor Rob"; he has helped the church grow in faith and number and led a campaign to raise $300,000 for repairs and renovations; and

WHEREAS, Rob Dawson is the proud father of his children, Lauren, Maryanne, Summer, and the late Morgan, and the proud grandfather of Isabella, Levi, and Dawson; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Reverend Robert Byrd Dawson be commended for his legacy of service as senior pastor of First Baptist Church of Petersburg; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Robert Byrd Dawson as an expression of the Senate of Virginia's admiration for his contributions to the Petersburg community.

SENATE RESOLUTION NO. 173

Celebrating the life of Wanda Fay Slemp.

Agreed to by the Senate, February 24, 2023

WHEREAS, Wanda Fay Slemp, a beloved wife, mother, grandmother, great-grandmother, and member of the Lee County community, died on February 6, 2023; and

WHEREAS, born in Chad, Kentucky, and later moving to Lee County, Fay Slemp graduated from the former Dryden High School before working as the bookkeeper of the Lonesome Pine Regional Library in Wise for nearly 20 years, contributing greatly to the success of the institution throughout Dickenson, Lee, Wise, and Scott Counties and the City of Norton; and

WHEREAS, after retiring from the Lonesome Pine Regional Library and relocating to the beaches of North and South Carolina with her husband, Charles, Fay Slemp served as a librarian assistant at Southeastern Community College for some time before ultimately returning to Lee County, where she worked indefatigably as a tax preparer until her retirement at 83 years of age; and

WHEREAS, Fay Slemp could often be found in her garden among her treasured flowers, reading the latest John Grisham novel, collecting lighthouses, basket weaving, or sewing, yet her greatest joy was spending time with her family, who knew her as an engrossing storyteller, a fierce Duke University Blue Devils fan, and an expert sandcastle maker; and

WHEREAS, preceded in death by her husband, Charles, Fay Slemp will be fondly remembered and dearly missed by her son, Charles, Jr., and his family; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Wanda Fay Slemp, a cherished member of the Lee County community, whose kindness and generosity touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Wanda Fay Slemp as an expression of the Senate of Virginia's respect for her memory.

SENATE RESOLUTION NO. 174

Commending Matthew McClung.

Agreed to by the Senate, February 24, 2023

WHEREAS, Matthew McClung, a basketball phenom from Gate City who currently plays for the Philadelphia 76ers of the National Basketball Association (NBA) and the Delaware Blue Coats of the NBA G League, won the 2023 NBA Slam Dunk Contest on February 18, 2023; and

WHEREAS, Matthew "Mac" McClung did not start playing basketball seriously until the seventh grade but quickly devoted himself to the sport, perfecting a shot that would make him the first Virginia High School League (VHSL) player to score more than 1,000 points in a single season; and

WHEREAS, Mac McClung led the Gate City Blue Devils to a VHSL Class 2 state championship in 2018, when his 47 points broke the VHSL scoring record for most points in a state final; and

WHEREAS, after tallying 2,801 points at Gate City, Mac McClung played for two seasons with the Georgetown University Hoyas and then transferred to Texas Tech University for a year, where he averaged 15.5 points per game, 2.7 rebounds per game, and 2.1 assists per game; and

WHEREAS, the 2021-2022 NBA G League Rookie of the Year in his first year of professional basketball, Mac McClung has spent time on the rosters of the NBA's Chicago Bulls and Los Angeles Lakers and the NBA G League's South Bay Lakers and Delaware Blue Coats and recently signed a two-way contract with the Philadelphia 76ers on February 14, 2023; and

WHEREAS, Mac McClung won the 2023 NBA Slam Dunk Contest in resounding fashion, posting a nearly perfect score over the event with four show-stopping dunks; and

WHEREAS, Mac McClung proudly wore his Gate City High School jersey for his final dunk of the contest, bringing his alma mater to the attention of basketball fans around the world; and

WHEREAS, Mac McClung has catapulted to national stardom with his extraordinary performance in this year's dunk contest, providing an inspirational example to young athletes of the Commonwealth of what one can achieve through hard work and dedication; now, therefore, be it

RESOLVED by the Senate of Virginia, That Matthew McClung hereby be commended for winning the 2023 National Basketball Association Slam Dunk Contest; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Matthew McClung as an expression of the Senate of Virginia's admiration for his achievements.

SENATE RESOLUTION NO. 175

Celebrating the life of the Honorable Walter S. Felton, Jr.

Agreed to by the Senate, February 24, 2023

WHEREAS, the Honorable Walter S. Felton, Jr., a former chief judge of the Court of Appeals of Virginia, died on April 29, 2022; and

WHEREAS, a native of Suffolk, Walter Felton earned a bachelor's degree from the University of Richmond, where he was a member of the Reserve Officers' Training Corps; he pursued a law degree from the University of Richmond's T.C. Williams School of Law, then was commissioned as an officer in the United States Army; and

WHEREAS, Walter Felton served in the United States Army Judge Advocate General's Corps and primarily represented soldiers who had been wounded during the Vietnam War, helping them to obtain benefits and transition back to civilian life; and

WHEREAS, after his military service, Walter Felton returned to Suffolk to practice law, then in 1982 joined the faculty of The College of William and Mary, where he mentored and inspired students for decades as a professor and adjunct professor; and

WHEREAS, Walter Felton was granted leaves of absence from The College of William and Mary to serve as Deputy Attorney General, senior counsel to the Attorney General, and counsel to Governor Jim Gilmore; and

WHEREAS, in 2002, Walter Felton was appointed as judge of the Court of Appeals of Virginia and served the Commonwealth with great integrity, dedication, and distinction; he went on to serve as chief judge from 2006 to 2014, when he retired from the bench; and

WHEREAS, after his retirement, Walter Felton joined the McCammon Group and worked as a mediator, arbitrator, judge pro tempore, and special master throughout the Commonwealth and beyond; and

WHEREAS, among many awards and accolades, Walter Felton received The William and Mary Law School's John Marshall Award and the Judicial Council of Virginia's Harry L. Carrico Outstanding Career Service Award; and

WHEREAS, Walter Felton will be fondly remembered and greatly missed by his wife of 28 years, Kay; his sons, Shep and Joe, and their families; his stepdaughters, Kristin and Cassie, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of the Honorable Walter S. Felton, Jr., a distinguished former chief judge of the Court of Appeals of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Walter S. Felton, Jr., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 176

Commending Stephen R. Adkins.

Agreed to by the Senate, February 24, 2023

WHEREAS, Stephen R. Adkins, chief of the Chickahominy Tribe and an esteemed public servant in Charles City County, has made significant contributions to the community through his leadership and advocacy; and

WHEREAS, Stephen Adkins has been chief of the Chickahominy Tribe for 12 years, leading a tribe with a rich cultural heritage and history in the region that has been recognized by the Commonwealth since 1983; and

WHEREAS, Stephen Adkins served on the Charles City County School Board, where he became aware of a void in the way the story of Virginia Indians was told in history classrooms in the Commonwealth and began working to rectify this shortcoming; and

WHEREAS, for 20 years, Stephen Adkins worked with lawmakers and other tribes to see that Indian tribes in the Commonwealth received federal recognition; and

WHEREAS, the culmination of Stephen Adkins' efforts came on January 29, 2018, when President Donald J. Trump signed the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, which extends federal recognition to the Chickahominy, Eastern Chickahominy, Upper Mattaponi, Rappahannock, Nansemond, and Monacan tribes in the Commonwealth; and

WHEREAS, Stephen Adkins helped the Chickahominy Tribe in its efforts to reacquire its ancestral lands on the 800-acre Mamanahunt peninsula in December 2021; and

WHEREAS, Stephen Adkins earned a bachelor's degree from Virginia Commonwealth University and was a UKROP Community Vision Award Winner in 1991; and

WHEREAS, with great dedication and sense of purpose, Stephen Adkins has helped to preserve the history, culture, and way of life of Virginia's Indian tribes for the benefit of generations to come; now, therefore, be it

RESOLVED by the Senate of Virginia, That Stephen R. Adkins, chief of the Chickahominy Tribe, hereby be commended for his legacy of service as a tribal leader, public servant, and advocate; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Stephen R. Adkins as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 177

Commending Bryan W. Briggs.

Agreed to by the Senate, February 24, 2023

WHEREAS, Bryan W. Briggs, an esteemed faith leader and lead pastor of Destination Church in Hopewell, has provided joyful and uplifting spiritual counsel to his congregation and served the community through various outreach initiatives; and

WHEREAS, Bryan Briggs moved across the country in 2009 with a vision to plant movie-theater style churches, and in 2011, Destination Church launched at the Colonial Heights Regal movie theater with 450 people in attendance on its first day; the church now has upwards of 3,000 adherents and has established itself at a permanent facility in Hopewell; and

WHEREAS, Bryan Briggs started a teaching series called Honor Roll, wherein his church honors two police chiefs at Sunday service; the church has also given the Hopewell Police Department a gift of over $10,000; and

WHEREAS, Bryan Briggs encourages generosity and faithful giving through its Dollar Club program, which currently generates $10,000 to $15,000 a month for distribution to bless people in crises and to support the foster care system, educational programs, or other ministry projects; and

WHEREAS, Bryan Briggs has previously canceled services at Destination Church so church-goers could go into the community and "be the church" by assisting organizations, such as the Dunlop House, the Petersburg Family YMCA, food pantries, and others that support the community; and

WHEREAS, Bryan Briggs is the consulting coordinator for The Church Multiplication Network of the Assemblies of God and a member of its lead team and is consistently looking for ways to support the growth of other churches; and

WHEREAS, in every aspect of his life, Bryan Briggs exudes a servant's heart and is a source of inspiration, stability, and spiritual guidance to countless members of the Hopewell community; now, therefore, be it

RESOLVED by the Senate of Virginia, That Bryan W. Briggs hereby be commended for his legacy of service as a faith leader in the Hopewell community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Bryan W. Briggs as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 178

Commending the Reverend Kevin M. Northam.

Agreed to by the Senate, February 24, 2023

WHEREAS, the Reverend Kevin M. Northam, honorable veteran, esteemed faith leader, and pastor of Olive Branch Baptist Church in Dinwiddie, has provided joyful and uplifting spiritual counsel to his congregation and served the community through various outreach initiatives; and

WHEREAS, after graduating from Accomack County Public Schools, Kevin Northam enlisted in the United States Army in June 1985, proudly serving the country for 20 years before retiring in July 2005; and

WHEREAS, while serving, Kevin Northam earned an associate's degree from Northern Virginia Community College, a bachelor's degree in business administration from Hawaii Pacific University, and a master's degree in business administration and finance from Baker College; and

WHEREAS, after serving in several ministries throughout his spiritual journey, Kevin Northam answered the call to congregational leadership, becoming pastor of Olive Branch Baptist Church in Dinwiddie in July 2003, where he has served the congregation faithfully ever since; and

WHEREAS, Kevin Northam honed his abilities as pastor by earning a master's degree in divinity from the Samuel DeWitt Proctor School of Theology at Virginia Union University in 2006 and a master's degree in Christian education in 2010; in 2015, he was the recipient of an honorary doctoral degree from Richmond Virginia Seminary; and

WHEREAS, Kevin Northam currently serves as the moderator of the Unified Shiloh Baptist Association of Southside Virginia, as secretary of the Dinwiddie branch of the NAACP, and as president of The Baptist Sunday School and Baptist Training Union (BTU) Congress of Virginia; and

WHEREAS, Kevin Northam is also the past president of the United Churches of Dinwiddie County and Vicinity and previously served as an instructor for the BTU Congress, Virginia Baptist State Convention (VBSC), and Baptist General Convention; and

WHEREAS, in recognition of his service, Kevin Northam was presented the 2018 VBSC Moderator of the Year Award in May 2018; and

WHEREAS, in every aspect of his life, Kevin Northam exudes a servant's heart and is a source of inspiration, stability, and spiritual guidance to countless members of the Dinwiddie community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Reverend Kevin M. Northam hereby be commended for his legacy of service as a faith leader in the Dinwiddie community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Kevin M. Northam as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 179

Commending the Reverend Pamela H. McLaughlin.

Agreed to by the Senate, February 24, 2023

WHEREAS, the Reverend Pamela H. McLaughlin, an esteemed educator and the first lady and senior member of Mount Olivet Baptist Church in Petersburg, has greatly served her congregation and her community through various endeavors; and

WHEREAS, Pamela McLaughlin attended Hampton Institute and earned a bachelor's degree in music education and a master's degree in educational administration and supervision from Virginia State University; and

WHEREAS, an educator for more than 20 years, Pamela McLaughlin taught choral music and drama in Petersburg Public Schools and Chesterfield County Public Schools; she was also the founding administrator and executive director of Olivet Christian Academy, Inc., for 12 years; and

WHEREAS, Pamela McLaughlin has been married for more than 43 years to the Reverend Dr. Wesley Keith McLaughlin, who has been senior pastor of Mount Olivet Baptist Church in Petersburg for more than 37 years; and

WHEREAS, Pamela McLaughlin serves as the director of education, performing arts, and women's ministries at Mount Olivet Baptist Church and as the director of Christian education and is a licensed and ordained member of the church's ministerial staff; and

WHEREAS, Pamela McLaughlin has ministered across the United States, Germany, Bermuda, the Caribbean, Suriname, Curacao, French Guyana, Kenya, Uganda, Malawi, and India, and has organized mission teams for her most cherished and frequented assignment, Ghana; and

WHEREAS, Pamela McLaughlin is an international evangelist for global women's conferences and church revivals in Ghana, and she co-founded Grace Village Ministries Intl., a new and thriving ministry that provides a place of worship, training, and outreach for residents of the inner city of Accra, Ghana; and

WHEREAS, Pamela McLaughlin's ministry projects and initiatives include the Global Literacy Project, now called Book Bridges; youth outreach and school partnerships; the Women of Divine Destiny Annual Conference at Mount Olivet Baptist Church; and more; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Reverend Pamela H. McLaughlin hereby be commended for her legacy of service as an educator and leader of Mount Olivet Baptist Church; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Pamela H. McLaughlin as an expression of the Senate of Virginia's admiration for her contributions to the Commonwealth.

SENATE RESOLUTION NO. 180

Commending Dovid Asher.

Agreed to by the Senate, February 24, 2023

WHEREAS, Dovid Asher, an esteemed faith leader and rabbi of Keneseth Beth Israel in Henrico County, has provided thought-provoking and uplifting spiritual counsel to his congregation and served the community through various outreach endeavors; and

WHEREAS, Dovid Asher grew up in Allentown, Pennsylvania, and was drawn to community service through his participation in the National Conference of Synagogue Youth (NCSY) and his synagogue; and

WHEREAS, Dovid Asher attended the Jewish Educational Center in Elizabeth, New Jersey, for high school, during which time he was the regional president of the New Jersey NCSY and led many chesed programs and Shabbos retreats; and

WHEREAS, Dovid Asher next went to Israel to study Torah at Yeshivat Sha'arei Mevaseret Tzion and then studied at Yeshiva University, where he received a bachelor's degree in psychology with a minor in business; and

WHEREAS, upon completion of his rabbinical studies, Dovid Asher received his rabbinic ordination, or Semicha, from Yeshiva University; and

WHEREAS, as part of his rabbinic training, Dovid Asher had several internships at Jewish organizations in New York, while he concurrently worked toward receiving a master's degree in mental health counseling from Pace University; and

WHEREAS, Dovid Asher later joined the Gruss Kollel, an affiliate of Yeshiva University, and after completing his studies moved to Chicago to take part in a fellowship that focused on community education; and

WHEREAS, Dovid Asher has served as rabbi at Keneseth Beth Israel since 2011, where he leads a thriving center of traditional Torah Judaism and a congregation with origins dating to the mid-nineteenth century; and

WHEREAS, Dovid Asher notably led an invocation prayer on the floor of the Virginia House of Delegates in 2019 and published *Outreach in the Torah; Weekly Inspiration and Examples of the Mitzvah of Reaching Out* in October 2021; and

WHEREAS, Dovid Asher is a source of inspiration, stability, and spiritual guidance to countless members of the Henrico County community; now, therefore, be it

RESOLVED by the Senate of Virginia, That Dovid Asher hereby be commended for his legacy of service as a faith leader in Henrico County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Dovid Asher as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 181

Commending the Reverend Dr. Larry D. Brown, Sr.

Agreed to by the Senate, February 24, 2023

WHEREAS, the Reverend Dr. Larry D. Brown, Sr., has served the Dinwiddie community for more than 25 years as pastor of Gravel Run Baptist Church; and

WHEREAS, Larry Brown holds degrees from Virginia State University, Richmond Virginia Seminary, and United Theological Seminary in Ohio; and

WHEREAS, Larry Brown previously worked as a radio announcer and served as an adjunct professor at Bryant & Stratton College, where he taught ethics; he holds a black belt in karate and is licensed as a bail bondsman in the Commonwealth; and

WHEREAS, Larry Brown enjoys the love and support of his wife, Cynthia; the couple has raised three children and welcomed one granddaughter; and

WHEREAS, Larry Brown has touched countless lives through his wise spiritual counsel and compassionate community leadership; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Reverend Dr. Larry D. Brown, Sr., hereby be commended for his service as pastor of Gravel Run Baptist Church; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Dr. Larry D. Brown, Sr., as an expression of the Senate of Virginia's admiration for his contributions to the Dinwiddie community.

SENATE RESOLUTION NO. 182

Commending Bishop Jeffrey L. Reaves.

Agreed to by the Senate, February 24, 2023

WHEREAS, Bishop Jeffrey L. Reaves, an esteemed faith leader and senior minister of Good Shepherd Baptist Church in Petersburg, has provided joyful and uplifting spiritual counsel to his congregation and served the community through various outreach initiatives; and

WHEREAS, after graduating from New York City Public Schools, Jeffrey Reaves furthered his education at Bronx Community College, Virginia State University, the New York Theological Seminary, and the University of Richmond; and

WHEREAS, accepting the call to the ministry in the fall of 1977 and licensed in January 1978, Jeffrey Reaves has been preaching the gospel for more than 41 years and pastoring for 25 years; and

WHEREAS, Jeffrey Reaves has provided wise and compassionate leadership to the congregations at Sharon Baptist Church in the Bronx, New York; Little Zion Baptist Church in Carson; and the Good Shepherd Baptist Church in Petersburg, where he has served as senior minister for the past 23 years; and

WHEREAS, Jeffrey Reaves has served on the board level of the Baptist General Convention of Virginia in the areas of Christian education and evangelism; and

WHEREAS, Jeffrey Reaves has been the recipient of numerous awards throughout his ministerial career; in July 2016, the Global United Fellowship and its presiding prelate, Bishop Neil C. Ellis, consecrated Jeffrey Reaves to the office of Bishop in the Lord's Church; and

WHEREAS, in every aspect of his life, Jeffrey Reaves exudes a servant's heart and is a source of inspiration, stability, and spiritual guidance to countless members of the Petersburg community; now, therefore, be it

RESOLVED by the Senate of Virginia, That Bishop Jeffrey L. Reaves hereby be commended for his legacy of service as a faith leader in Petersburg; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Bishop Jeffrey L. Reaves as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 183

Commending the Reverend Dr. Robert Rowland.

Agreed to by the Senate, February 24, 2023

WHEREAS, the Reverend Dr. Robert Rowland has ably served the Dinwiddie community for many years as lead pastor of Smyrna Baptist Church; and

WHEREAS, a native of Dinwiddie, Robert Rowland attended Virginia Polytechnic Institute and State University and graduated from Virginia Commonwealth University; he subsequently earned a master of divinity degree and a doctorate from Southeastern Baptist Theological Seminary in North Carolina; and

WHEREAS, Robert Rowland enjoys the love and support of his wife, Johanna, and their four children; the family previously worked in India as missionaries for two years; and

WHEREAS, Robert Rowland served as a guest speaker at the 58th baccalaureate commencement of Brunswick Academy; and

WHEREAS, Robert Rowland has touched countless lives in the Dinwiddie community through his wise spiritual counsel and dedicated servant leadership; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Reverend Dr. Robert Rowland hereby be commended for his service as lead pastor of Smyrna Baptist Church; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Dr. Robert Rowland as an expression of the Senate of Virginia's admiration for his contributions to the Dinwiddie community.

SENATE RESOLUTION NO. 184

Commending the Carter Family Fold.

Agreed to by the Senate, February 24, 2023

WHEREAS, the Carter Family Fold, a music venue in Hiltons dedicated to preserving the Carter Family legacy and presenting traditional bluegrass and old-time country music, has been a pinnacle of the Commonwealth's cultural landscape since its founding; and

WHEREAS, the Carter Family was a musical group comprising Sara Carter, her husband, A.P. Carter, and her cousin and sister-in-law, Maybelle Carter, whose recordings during the now legendary Bristol Sessions in 1927 earned Bristol recognition as the "birthplace of country music"; today, the Carter Family is regarded as one of the most influential groups in the history of American music; and

WHEREAS, in 1979, Janette Carter, daughter of Sara and A.P. Carter, established the Carter Family Fold as a concert venue dedicated to performances of old-time country and bluegrass music; and

WHEREAS, located in what is now Hiltons, the Carter Family Fold and its staff have worked to preserve traditional musical styles and support local artists, greatly enriching the culture of the Commonwealth; and

WHEREAS, the Carter Family Fold has hosted both local acts and national stars in the pursuit of its mission, including Johnny Cash, Ricky Scaggs, Marty Stuart, John Paul Jones of Led Zeppelin, and many more; and

WHEREAS, the Carter Family Fold is currently managed by Rita Carter Forrester, daughter of Janette Carter, who has served as executive director of the Carter Family Memorial Music Center, which includes the Carter Family Fold, since her mother's death in 2006; and

WHEREAS, the Carter Family Fold continues to blossom under Rita Carter Forrester's leadership, growing into a truly one-of-a-kind musical venue that captures the heart and soul of the Commonwealth's musical heritage; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Carter Family Fold hereby be commended for its role in preserving the Carter Family legacy and in celebrating old-time country and bluegrass music; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to representatives of the Carter Family Fold as an expression of the Senate of Virginia's admiration for the cultural institution's history and its contributions to the Commonwealth.

SENATE RESOLUTION NO. 185

Celebrating the life of Colonel Alfonso Victor Peña, USA, Ret.

Agreed to by the Senate, February 25, 2023

WHEREAS, Colonel Alfonso Victor Peña, USA, Ret., beloved member of the Charlottesville community, died on December 27, 2022; and

WHEREAS, a native of El Paso, Texas, where he attended Cathedral High School, Victor Peña went on to study at both Texas A&M University and the University of Texas at El Paso before fulfilling his childhood dream of becoming a soldier in the United States Army; and

WHEREAS, Victor Peña's assignments took him to Vietnam, Georgia, Germany, Spain, Kansas, Korea, the Commonwealth, and several posts in Washington, D.C.; and

WHEREAS, Victor Peña earned the high honor of a Bronze Star for his service in Vietnam, as well as many other awards, and rose to the rank of colonel in the United States Army; and

WHEREAS, Victor Peña had a passion for commanding troops and treated them like family; after a distinguished military career spanning 26 years, he retired from the service and worked in the private sector as a contractor for the Department of Defense; and

WHEREAS, Victor Peña valued his family above all else and was happiest when spending time with his six grandchildren; and

WHEREAS, Victor Peña supported his fellow veterans as an active member of the local Military Officers Association of America and could always be relied upon to have a United States flag flying proudly at his home; and

WHEREAS, guided by his faith, Victor Peña enjoyed worship and fellowship with his community at St. Thomas Aquinas University Parish in Charlottesville for many years; and

WHEREAS, preceded in death by his loving wife of 58 years, Ilse, Victor Peña will be fondly remembered and dearly missed by his daughters, Stefanie and Angelica, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Colonel Alfonso Victor Peña, USA, Ret., whose service to the country is an inspiration to all; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Colonel Alfonso Victor Peña, USA, Ret., as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 186

Celebrating the life of Michael Kornhoff.

Agreed to by the Senate, February 24, 2023

WHEREAS, Michael Kornhoff, a dedicated father and beloved member of his local community, died on February 17, 2023; and

WHEREAS, a native of Portsmouth, Ohio, Michael "Mick" Kornhoff was a devout member of his local community and an active member of Holy Redeemer Catholic Church, as well as a coach of local youth sports; and

WHEREAS, Mick Kornhoff was a graduate of Notre Dame High School and subsequently worked as a pipefitter; and

WHEREAS, as a member of the Knights of Columbus, Mick Kornhoff held several leadership positions within the organization, including grand knight, trustee, and district deputy; and

WHEREAS, Mick Kornhoff's greatest joy was spending time with his family, including his brother, Ted, and his three sisters, Karen, Karla, and Kristin; and

WHEREAS, preceded in death by his wife Carol Perry, Mick Kornhoff will be fondly remembered and dearly missed by his children, Raymond and Julie, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Michael Kornhoff, a devoted family man and active member of his local community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Michael Kornhoff as an expression of the Senate of Virginia's respect for his memory.

SENATE RESOLUTION NO. 187

Commending Guy King Tower.

Agreed to by the Senate, February 24, 2023

WHEREAS, Guy King Tower, an esteemed former attorney, mediator, educator, association executive, and public servant, stepped down from the Virginia Beach City Council on December 31, 2022; and

WHEREAS, Guy Tower assumed office to represent the Beach District on April 23, 2019, filling a vacancy on the Virginia Beach City Council, and on November 5, 2019, he was elected for a new term; and

WHEREAS, as a member of the Virginia Beach City Council, Guy Tower served his constituents with great dedication and concern for their success and well-being; and

WHEREAS, Guy Tower served on various boards and commissions as the Virginia Beach City Council's liaison to the City of Virginia Beach's Audit Committee, Advertising Advisory Commission, Atlantic Park Community Development Authority, Old Beach Design Review Board, Resort Advisory Commission, and Towing Advisory Board, as well as the Hampton Roads Planning District Commission and the Something in the Water Festival; and

WHEREAS, Guy Tower is a founding member of The McCammon Group, which provides mediation, arbitration, and other private dispute resolution services and is the largest organization of its kind in the Commonwealth; and

WHEREAS, Guy Tower's previous professional positions include executive director for the Virginia Bar Association; director of educational services for the Office of the Executive Secretary, Supreme Court of Virginia; shareholder and director at Kaufman & Canoles, P.C.; adjunct faculty at The College of William and Mary and Old Dominion University; partner and associate at what was formerly Hunton & Williams; and tax attorney for Norfolk and Western Railway Company; and

WHEREAS, Guy Tower has given generously of his time in service to the community as a charter member of the Virginia African American Cultural Center, a member of the Virginia Bar Association's Committee on Special Issues of National and State Importance, and on the boards of the Virginia Beach Library Foundation, Virginia Opera, Fort Norfolk Retirement Community, Inc., and the Democratic Business Alliance of South Hampton Roads; and

WHEREAS, Guy Tower has provided exemplary leadership as vice-chair of the Virginia Beach Public Library Board, chair of the Old Dominion University School of Business and Public Administration's Advisory Council, and member of the board of directors of the Hampton Roads Chamber of Commerce; now, therefore, be it

RESOLVED by the Senate of Virginia, That Guy King Tower hereby be commended for his legacy of service as a member of the Virginia Beach City Council; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Guy King Tower as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 188

Commemorating the life and legacy of Willis Augustus Hodges.

Agreed to by the Senate, February 24, 2023

WHEREAS, Willis Augustus Hodges was born a free Black man in Blackwater, now part of Virginia Beach, on February 12, 1815; and

WHEREAS, Willis Hodges grew up on his family's farm but spent part of his life moving back and forth between Virginia and New York to escape persecution, particularly in the period after Nat Turner's Rebellion in 1831 when free Black families were frequently harassed and arrested; and

WHEREAS, although education for Black children was illegal at the time, Willis Hodges, who had taught himself to read and write using the Bible, established a free school to develop academic opportunities for local Black youths; and

WHEREAS, Willis Hodges was also a passionate advocate for the abolition of slavery, racial integration of schools, and voting rights and property rights for Black residents of Princess Anne County; he further served the community as a minister, and he published his own newspaper, *The Ram's Horn*; and

WHEREAS, Willis Hodges established a town in New York called Blacksville that was used as a stop on the Underground Railroad, and during the Civil War, he served as a spy for the Union; after the war, he represented Princess Anne County at the Virginia Constitutional Convention of 1868 during the Reconstruction period; and

WHEREAS, in recognition of his service, Willis Hodges was appointed as night inspector of Old Point Comfort Lighthouse in Hampton; at the time, lighthouse keeper positions were federal jobs administered by the United States Lighthouse Service; and

WHEREAS, Willis Hodges was subsequently appointed head keeper of the Cape Henry Lighthouse in 1870; in that capacity, he lived at the lighthouse and was responsible for inspecting, cleaning, and maintaining the lens and lantern room equipment to ensure safe passage for ships in the Chesapeake Bay; and

WHEREAS, in the late 1870s, Willis Hodges authored an autobiography to provide insights on his life and inspire fellow members of the Black community in the Commonwealth and beyond; and

WHEREAS, Willis Hodges died on September 24, 1890, at the age of 75 and is buried in New York; now, therefore, be it

RESOLVED by the Senate of Virginia, That the life and legacy of Willis Augustus Hodges hereby be commemorated on the 133rd anniversary of his death; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to descendants of Willis Augustus Hodges as an expression of the Senate of Virginia's admiration for his contributions to the Commonwealth.

SENATE RESOLUTION NO. 189

Celebrating the life of George Robert Smith, Jr., MD.

Agreed to by the Senate, February 25, 2023

WHEREAS, George Robert Smith, Jr., MD, a country doctor in Shawsville who touched countless lives throughout Montgomery County, died on February 18, 2023; and

WHEREAS, a native of North Carolina, Robert "Bob" Smith served his country as a member of the United States Navy, then attended the University of North Carolina and Harvard Medical School; and

WHEREAS, while completing his residency at what was then the Medical College of Virginia, Bob Smith and his wife, Mildred, passed through Shawsville and asked if the town needed a doctor; they subsequently established a medical practice, the Alleghany Clinic, in the former Meadow Brook Home on U.S. 460; and

WHEREAS, Bob Smith convinced a friend and fellow doctor, Clarence W. Taylor, Jr., MD, to join the practice in 1957; the Smith and Taylor families later built homes nearby on a road now named Pair O'Docs Lane; and

WHEREAS, over the course of his 42-year career as a family physician, Bob Smith treated patients in need at all hours of the day, seven days a week, and commonly made house calls, serving different generations of the same local families; and

WHEREAS, in the 1960s, Bob Smith began construction on Meadowbrook Nursing Home, which served older residents of the community for decades and became Montgomery County's largest employer; and

WHEREAS, in 1982, Bob Smith established the Mountain Valley Charitable Foundation, which awarded scholarships to aspiring nurses; after Meadowbrook Nursing Home closed in 2001, the foundation led efforts to repurpose the building as the Meadowbrook Center, which houses a library, a wellness center, a museum, an art gallery, and the Dr. George R. Smith, Jr., Community Center; and

WHEREAS, with Bob Smith as president, the Mountain Valley Charitable Foundation also transformed an old fire station into a food pantry and thrift shop; and

WHEREAS, in addition, Bob Smith helped found the Shawsville Rescue Squad and the Shawsville Ruritan Club; and

WHEREAS, Bob Smith will be fondly remembered and greatly missed by his wife of 73 years, Mildred; his children, George III, Julia, Mary Beth, and Linda, and their families; and numerous other family members, friends, and former patients; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of George Robert Smith, Jr., MD, a pillar of the Shawsville community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of George Robert Smith, Jr., MD, as an expression of the Senate of Virginia's respect for his memory.

SUMMARY OF 2023 REGULAR SESSION LEGISLATION

TOTAL INTRODUCED LEGISLATION 2863

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Senate Bills 770

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TOTAL BILLS ENACTED INTO LAW 811

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Senate Bills 361

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BILLS VETOED BY GOVERNOR 8

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1368	164	342	1510	427	911	1640	371	796	1757	462	948
1369	643	1367	1511	673	1443	1641	56	103	1759	407	857
1374	385	810	1512	266	583	1643	495	996	1762	429	912
1375	682	1469	1514	7	4	1645	251	568	1765	237	541
1376	613	1276	1516	600	1265	1647	27	33	1768	170	349
1385	114	196	1517	688	1493	1649	323	694	1769	528	1090
1388	647	1393	1519	109	174	1659	269	601	1770	775	1787
1400	769	1750	1524	649	1393	1660	146	241	1775	243	556
1403	33	36	1525	138	223	1661	364	785	1776	704	1512
1404	32	36	1526	645	1369	1662	74	125	1777	776	1809
1405	520	1081	1539	58	104	1663	80	127	1778	543	1118
1408	204	498	1541	398	848	1664	133	218	1779	508	1065
1409	142	237	1542	433	914	1665	436	918	1781	720	1559
1410	104	167	1544	110	174	1671	438	919	1789	581	1209
1411	639	1364	1546	522	1083	1673	709	1545	1792	174	356
1412	72	123	1550	771	1758	1674	424	908	1804	245	558
1416	680	1467	1554	280	609	1675	76	125	1805	440	923
1418	106	169	1555	30	35	1676	422	907	1806	85	129
1419	605	1270	1563	516	1076	1677	35	37	1807	777	1829
1421	356	774	1567	654	1413	1678	71	122	1817	486	986
1422	93	147	1569	420	905	1679	54	102	1818	560	1156
1423	8	7	1572	22	30	1681	184	459	1820	524	1085
1425	107	169	1573	18 E	27	1682	383	809	1822	703	1511
1426	418	905	1575	111	176	1683	535	1101	1827	477	966
1433	684	1472	1577	121	208	1684	518	1080	1828	78	126
1438	770	1758	1581	17	24	1685	14	16	1832	238	541
1440	278	608	1582	13	15	1691	609	1273	1833	273	604
1442	410	887	1583	381	807	1698	10	12	1834	173	353
1446	482	968	1587	403	852	1699	359	777	1835	200	496
1447	267	593	1590	201	497	1700	285	618	1836	442	929
1449	15	23	1591	46	54	1701	253	568	1838	28	34
1450	148	242	1592	296	634	1702	706	1537	1839	177	359
1452	619	1280	1595	772 E	1765	1704	282	610	1840	778	1830
1456	686	1491	1598	773	1766	1706	651	1394	1842	779	1846
1457	451	939	1602	112	177	1709	115	197	1843	140	234
1459	26	33	1604	497	997	1712	472	957	1844	126	212
1463	11	13	1606	471	957	1713	254	570	1846	780	1849
1465	588	1234	1610	290	625	1723	382	807	1848	48	58
1469	310	662	1617	586	1224	1725	439	919	1857	304	651
1471	474	960	1619	394	844	1726	453	940	1859	40	43
1472	458	944	1620	601	1266	1727	303	650	1860	176	358
1477	529	1093	1622	191	483	1730	774	1783	1870	160	337
1478	396	846	1624	246	562	1735	450	937	1884	157	330
1481	405	853	1625	265	583	1737	268	598	1885	357	774
1485	735	1585	1627	20	27	1738	536	1102	1886	338	726
1486	344	737	1628	206	500	1739	527	1090	1888	493	995
1490	211	506	1629	652	1398	1744	340	732	1892	400	849
1492	4	3	1630	707	1538	1748	289	622	1895	511	1069
1494	319	689	1633	248	566	1752	713	1549	1896	50	93
1495	321	690	1634	353	770	1753	408 E	857	1897	620	1284
1496	362	781	1635	435	917	1754	150	319	1900	781	1854
1504	425	909	1636	128	213	1755	333	715	1907	287	618
1509	62	113	1638	249	567	1756	92	145	1908	229	522

Note: E signifies emergency status

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1911	291	626	2021	125	211	2172	513	1070	2294	794	1881
1912	161	338	2024	801	1923	2173	374	800	2296	795	1915
1916	226	518	2025	350	765	2175	199	496	2297	262	581
1924	782	1855	2026	803	1926	2178	509	1065	2298	611	1274
1927	163	339	2027	460	945	2179	100	159	2302	546	1123
1928	156	329	2028	540	1114	2180	2	2	2304	361	778
1929	783	1857	2029	476	964	2181	258	577	2305	732	1584
1930	180	368	2032	564	1164	2182	481	967	2312	446	933
1931	379	805	2033	337	717	2184	550	1128	2313	42	45
1932	616	1279	2034	316	687	2185	790	1873	2314	264	582
1940	632	1357	2037	467	955	2186	604	1269	2317	232	527
1941	97	155	2038	182	370	2187	347	741	2323	598	1263
1942	667	1428	2041	131	217	2189	276	608	2324	219	514
1943	784	1859	2046	715	1553	2190	335	716	2325	796	1915
1944	499	999	2054	217	512	2191	355	773	2330	549	1126
1945	373	797	2063	260	579	2193	791	1876	2334	144	238
1946	693	1503	2071	789	1873	2194	5	3	2336	551	1130
1948	785	1861	2077	307	658	2195	624	1299	2338	797	1917
1949	786	1865	2080	240	555	2198	271 E	602	2342	236	529
1950	334	716	2082	432	913	2199	698	1507	2343	798	1918
1951	60	111	2095	36	38	2200	582	1210	2344	487	987
1955	52	96	2096	153	325	2201	514	1070	2345	628	1342
1959	614	1277	2099	444	930	2204	660	1418	2348	532	1098
1961	370	792	2101	390	840	2211	579	1206	2354	490	990
1962	64	115	2104	84	128	2216	186	461	2359	136	221
1963	701	1511	2105	563	1163	2220	298	636	2362	366	789
1964	66	116	2110	292	628	2221	468	955	2364	188	466
1968	179	367	2113	662	1421	2222	792	1878	2368	799	1919
1972	456	941	2122	351	767	2223	129	213	2370	561	1156
1976	168	344	2124	348	742	2224	386	811	2371	207	501
1978	38	41	2125	592	1247	2225	158	330	2372	90	144
1979	213	507	2126	196	494	2230	618	1280	2373	584	1212
1982	523	1084	2128	494	996	2231	489	990	2374	368	790
1987	787	1866	2132	299	636	2235	387	811	2375	800	1922
1990	623	1298	2133	470	957	2238	154	326	2380	167	344
1991	622	1298	2137	124	210	2244	95	150	2381	325	695
1992	788	1871	2139	341	735	2246	539	1111	2383	16	23
1993	215	511	2140	122	209	2247	308	658	2386	504	1000
1995	401	850	2146	627	1342	2250	331	709	2387	220	514
1996	447	935	2147	630	1351	2251	485	986	2389	573	1190
1997	590	1242	2150	312	681	2254	537	1105	2390	665	1427
1998	193	485	2151	194	486	2255	491	994	2392	198	495
2005	70	118	2153	421	906	2256	209	502	2393	807	1945
2006	534	1099	2155	634	1359	2258	597	1258	2394	575	1193
2007	599	1264	2156	668	1428	2262	376	801	2398	612	1275
2008	120	208	2157	118	207	2266	152	325	2400	554	1134
2009	82	127	2158	343	737	2272	696	1506	2401	224	516
2010	102	165	2161	507	1033	2274	171	350	2403	430	913
2012	313	683	2165	314	683	2275	793	1879	2410	636	1359
2014	557	1152	2166	607	1272	2284	192	485	2411	231	526
2016	228	521	2168	700	1510	2285	68	117	2414	659	1418
2019	34	36	2169	805	1939	2289	663	1423	2415	655	1413
2020	24	32	2171	603	1267	2290	570	1187	2418	426	910

Note: E signifies emergency status

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2423	88	139			
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2428	711	1546			
2429	569	1177			
2433	574	1191			
2438	657	1417			
2441	679	1466			
2443	221	515			
2444	808	1945			
2445	165	342			
2449	279	609			
2450	726	1567			
2451	87	139			
2457	641	1366			
2467	464	948			
2469	525	1086			
2471	256	573			
2479	678	1460			
2482	501	999			
2487	392	841			
2492	190	482			
2494	733	1584			
2498	461	947			
2500	675	1454			

Note: E signifies emergency status

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784	552	1134	905	216	512	1027	395	845	1123	83	128
788	740	1597	906	205	499	1028	602	1266	1124	752	1688
789	233	527	910	227	519	1029	714	1551	1126	101	162
795	263	581	914	47	56	1031	329	708	1129	736	1587
796	521	1082	915	648	1393	1033	378	804	1131	577	1203
797	658	1417	924	367	790	1034	202	497	1132	43	49
798	149	281	927	691	1501	1038	105	168	1134	155	328
799	399	849	928	12	14	1040	135	220	1135	91	144
801	108	172	938	324	695	1042	21	29	1144	261	580
802	685	1481	942	208	501	1043	349	753	1145	300	642
807	132	218	943	281	609	1044	223	516	1146	123	210
809	214	509	944	306	657	1046	672	1439	1147	419	905
810	741 E	1614	945	702	1511	1050	503	1000	1149	37	39
812	457	943	948	172	352	1052	748	1660	1150	455	940
814	416	899	951	538	1106	1054	119	207	1151	506	1001
816	73	124	952	45	53	1055	75	125	1152	277	608
817	234	528	955	638	1363	1056	81	127	1153	544	1120
820	650	1394	956	745	1654	1057	86	134	1154	377	802
821	283	613	958	719	1558	1058	235	528	1155	492	995
822	67	117	959	723	1562	1059	69	117	1156	710	1545
824	466	953	961	59	107	1060	250	567	1160	195	488
825	670	1432	963	178	363	1061	130	214	1166	753	1688
826	428	911	964	255	572	1062	96	153	1168	666	1427
827	417	900	969	53	99	1063	309	660	1169	754	1691
829	65	116	970	19 E	27	1064	365	787	1170	669	1430
830	270	602	973	380	806	1065	79	126	1171	515	1073
836	589	1238	974	469	956	1068	141	236	1172	212	507
839	716	1555	975	183	376	1069	117	206	1175	646	1381
841	562	1160	976	181	369	1071	247	564	1178	197	494
845	463	948	978	317	688	1072	297	635	1182	51	94
846	139	229	981	89	142	1073	25	32	1183	41	44
855	689	1496	982	617	1279	1074	259	578	1185	423	907
860	210	504	983	731	1575	1075	749	1661	1187	354	772
861	738	1590	986	530	1095	1079	363	783	1188	384	809
865	548	1126	987	595	1254	1081	750	1682	1195	587	1229
867	99	157	988	452	939	1082	545	1123	1198	143	237
868	402	851	989	746	1657	1086	751	1687	1205	437	918
870	414	898	993	222	515	1087	526	1087	1207	397	847
871	311	671	995	558	1153	1089	443	930	1208	637	1363
872	327	704	996	252	568	1091	449	937	1209	755	1694
873	565	1164	997	747	1660	1094	162	338	1210	585	1218
874	55	103	999	633	1358	1097	286	618	1211	756	1696
882	1 E	1	1000	339	729	1099	610	1274	1212	591	1245
887	393	842	1002	293	630	1100	409 E	872	1213	3	2
891	434	915	1003	473	958	1106	547	1124	1215	725	1567
894	189	474	1005	137	222	1107	692	1501	1216	322	692
895	742 E	1616	1011	683	1470	1108	596	1256	1218	583	1210
896	608	1272	1014	642	1366	1114	445	931	1220	44	53
897	134	219	1016	375	800	1116	721	1560	1221	580	1207
898	94	149	1018	318	689	1119	151	322	1222	388	825
899	743	1620	1019	454	940	1120	103	166	1223	330	708
903	744	1620	1024	127	212	1121	496	997	1231	804	1933
904	244	557	1025	615	1278	1122	389	839	1232	566	1166

Note: E signifies emergency status

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1235	593	1249	1346	39	42	1457	185	460
1238	242	555	1347	187	464	1459	768	1748
1239	147	242	1349	406	855	1460	352	768
1240	517	1078	1350	761	1742	1464	505	1000
1241	29	35	1354	519	1080	1465	484	982
1244	559	1154	1357	391	841	1468	225	517
1246	459	944	1359	295	633	1470	625	1320
1249	305	654	1361	806	1942	1473	326	699
1253	159	334	1363	275	606	1476	687	1492
1254	369	791	1367	568	1170	1477	510	1066
1255	629	1347	1372	241	555	1478	61	112
1258	737	1588	1373	31	35	1479	708	1541
1259	315	685	1376	49	76	1486	328	707
1261	475	962	1381	635	1359	1491	727	1568
1262	98	156	1388	284	617	1492	810	1948
1263	448	935	1389	411	888	1495	553	1134
1264	677	1458	1390	500	999	1497	576	1198
1265	757	1712	1392	762	1742	1498	606	1271
1267	218	513	1394	724	1566	1499	734	1585
1270	336	717	1396	358	776	1501	718	1558
1271	533	1099	1397	699	1508	1507	230	524
1275	674	1448	1398	661	1419	1508	695	1505
1276	478	966	1399	272 E	603	1509	302	649
1277	145	241	1401	441	926	1511	345	738
1279	274	605	1402	555	1143	1513	567	1167
1280	758	1734	1404	9	9	1514	257	575
1281	479	967	1405	763	1743	1515	811	1949
1286	542	1117	1406	694	1504	1520	294	632
1289	690	1497	1409	372	796	1522	671	1434
1291	23	31	1411	722	1561	1525	166	343
1292	556	1152	1412	656	1415	1531	626	1341
1298	531	1097	1413	465	952	1532	621	1291
1299	169	346	1414	717	1557	1533	812	1950
1300	572	1189	1415	631	1351	1535	431	913
1302	175	357	1418	113	186	1536	63	114
1304	332	713	1420	705	1525	1537	57	104
1305	644	1367	1421	488	989	1538	412	888
1306	77	126	1422	6	4	1539	413	898
1310	802	1924	1424	116	201	1540	288	621
1313	676	1456	1426	729	1569	1541	502	999
1314	571	1188	1427	764	1744	1544	512	1070
1318	320	689	1430	480	967	1546	342 E	736
1320	640	1365	1431	664	1425	**SJR**	**Chapter**	**Page**
1321	498	998	1433	203	497	231	739	1596
1323	728	1569	1436	681	1468			
1326	759	1735	1438	765	1746			
1329	653	1406	1441	809	1947			
1337	760	1736	1443	730	1574			
1339	483	975	1448	697	1506			
1341	541	1116	1449	346 E	740			
1343	404	853	1452	766	1748			
1344	578	1205	1453	767	1748			

Note: E signifies emergency status

BILLS VETOED BY THE GOVERNOR

(Communications from the Governor, relating to the bills that were vetoed, may be found in the Journals of the House of Delegates and the Senate for the 2023 Regular Session.)

The following vetoed bills were returned unsigned by Governor Glenn Youngkin:

HOUSE BILLS

HB 1536 Grievance Procedure Manual; Department of Human Resources Management shall update Manual as it pertains to employees of Department of Corrections and Department of Juvenile Justice. Chief Patron: Jenkins

HB 1637 Electric utilities; pilot program for underground transmission or distribution lines, adds additional projects, sunset date. Chief Patron: Webert

HB 2332 Virginia Economic Development Partnership Authority; eligible site for site development grant, minimum acreage requirement. Chief Patron: Campbell, E.H.

SENATE BILLS

SB 1035 Bridges; state of good repair, allocation of funds, provisions shall apply to new project allocations made by Board. Chief Patron: McPike

SB 1051 Vehicles left on private property; public utility company and broadband service provider service vehicles, removal or towing prohibited. Chief Patron: McPike

SB 1085 Vehicle noise; Superintendent of State Police shall convene work group to examine issue, report. Chief Patron: Ebbin

SB 1308 Virginia Economic Development Partnership Authority; eligible site for site development grant, minimum acreage requirement. Chief Patron: Deeds

SB 1370 Electric utilities; pilot program for underground transmission or distribution lines, adds additional projects, sunset date. Chief Patron: Vogel

THE HOUSE OF DELEGATES
2023 REGULAR SESSION

District Number	Name	County and/or City Represented
68	Adams, Dawn M. (D)	Counties of Chesterfield (part) and Henrico (part); City of Richmond (part)
16	Adams, Leslie R. (R)	Counties of Henry (part) and Pittsylvania (part); City of Martinsville
83	Anderson, Timothy V. (R)††	Cities of Norfolk (part) and Virginia Beach (part)
19	Austin, Terry L. (R)	Counties of Alleghany, Bedford (part), and Botetourt (part); City of Covington
20	Avoli, G. John (R)	Counties of Augusta (part), Highland, and Nelson (part); Cities of Staunton and Waynesboro
74	Bagby, Lamont (D)†††	County of Henrico (part)
12	Ballard, Jason S. (R)	Counties of Giles, Montgomery (part), and Pulaski (part); City of Radford
96	Batten, Amanda E. (R)	Counties of James City (part) and York (part)
58	Bell, Robert B. (R)	Counties of Albemarle (part), Fluvanna (part), Greene, and Rockingham (part)
45	Bennett-Parker, Elizabeth B. (D)	Counties of Arlington (part) and Fairfax (part); City of Alexandria (part)
100	Bloxom, Robert S., Jr. (R)	Counties of Accomack and Northampton; Cities of Norfolk (part) and Virginia Beach (part)
71	Bourne, Jeffrey M. (D)	City of Richmond (part)
64	Brewer, Emily M. (R)	Counties of Isle of Wight, Prince George (part), and Surry; City of Suffolk (part)
37	Bulova, David L. (D)	County of Fairfax (part); City of Fairfax
22	Byron, Kathy J. (R)	Counties of Bedford (part), Campbell (part), and Franklin (part); City of Lynchburg (part)
24	Campbell, Ellen H. (R)	Counties of Amherst (part), Augusta (part), Bath, and Rockbridge; Cities of Buena Vista and Lexington
6	Campbell, Jeffrey L. (R)	Counties of Carroll, Smyth (part), and Wythe
69	Carr, Betsy B. (D)	City of Richmond (part)
66	Cherry, Michael A. (R)	County of Chesterfield (part); City of Colonial Heights
79	Clark, Nadarius E. (D)†	Cities of Chesapeake (part), Norfolk (part), and Portsmouth (part)
21	Convirs-Fowler, Kelly K. (D)	Cities of Chesapeake (part) and Virginia Beach (part)
91	Cordoza, A.C. (R)	County of York (part); Cities of Hampton (part) and Poquoson
62	Coyner, Carrie E. (R)	Counties of Chesterfield (part) and Prince George (part); City of Hopewell (part)

THE HOUSE OF DELEGATES
2023 REGULAR SESSION

District Number	Name	County and/or City Represented
84	Davis, Glenn R., Jr. (R)††††	City of Virginia Beach (part)
67	Delaney, Karrie K. (D)	Counties of Fairfax (part) and Loudoun (part)
28	Durant, Tara A. (R)	County of Stafford (part); City of Fredericksburg (part)
60	Edmunds, James E., II (R)	Counties of Campbell (part), Charlotte, Halifax, and Prince Edward
59	Fariss, C. Matthew (R)	Counties of Albemarle (part), Appomattox, Buckingham, Campbell (part), and Nelson (part)
41	Filler-Corn, Eileen (D)	County of Fairfax (part)
55	Fowler, Hyland F., Jr. (R)	Counties of Caroline (part), Hanover (part), and Spotsylvania (part)
30	Freitas, Nicholas J. (R)	Counties of Culpeper (part), Madison, and Orange
15	Gilbert, C. Todd (R)	Counties of Page, Rockingham (part), Shenandoah, and Warren (part)
89	Glass, Jackie Hope (D)	City of Norfolk (part)
10	Gooditis, Gwendolyn W. (D)	Counties of Clarke (part), Frederick (part), and Loudoun (part)
85	Greenhalgh, Karen S. (R)	City of Virginia Beach (part)
31	Guzman, Elizabeth R. (D)	Counties of Fauquier (part) and Prince William (part)
77	Hayes, C.E., Jr. (D)	City of Chesapeake (part)
17	Head, Christopher T. (R)	Counties of Botetourt (part) and Roanoke (part); City of Roanoke (part)
40	Helmer, Daniel I. (D)	Counties of Fairfax (part) and Prince William (part)
46	Herring, Charniele L. (D)	City of Alexandria (part)
98	Hodges, M. Keith (R)	Counties of Essex, Gloucester, King and Queen, King William (part), Mathews, and Middlesex
47	Hope, Patrick A. (D)	County of Arlington (part)
57	Hudson, Sally L. (D)	County of Albemarle (part); City of Charlottesville
76	Jenkins, Clinton L. (D)	Cities of Chesapeake (part) and Suffolk (part)
1	Kilgore, Terry G. (R)	Counties of Lee, Scott, and Wise (part); City of Norton
81	Knight, Barry D. (R)	Cities of Chesapeake (part) and Virginia Beach (part)
38	Kory, Kaye (D)	County of Fairfax (part)
44	Krizek, Paul E. (D)	County of Fairfax (part)

THE HOUSE OF DELEGATES
2023 REGULAR SESSION

District Number	Name	County and/or City Represented
33	LaRock, David A. (R)	Counties of Clarke (part), Frederick (part), and Loudoun (part)
78	Leftwich, James A., Jr. (R)	City of Chesapeake (part)
49	Lopez, Alfonso H. (D)	Counties of Arlington (part) and Fairfax (part)
50	Maldonado, Michelle Lopes (D)	County of Prince William (part); City of Manassas
7	March, Marie E. (R)	Counties of Floyd, Montgomery (part), and Pulaski (part)
14	Marshall, Daniel W., III (R)	Counties of Henry (part) and Pittsylvania (part); City of Danville
56	McGuire, John J., III (R)	Counties of Goochland (part), Henrico (part), Louisa, and Spotsylvania (part)
8	McNamara, Joseph P. (R)	Counties of Craig, Montgomery (part), and Roanoke (part); City of Salem
70	McQuinn, Delores L. (D)	Counties of Charles City, Chesterfield (part), and Henrico (part); City of Richmond (part)
3	Morefield, James W. (R)	Counties of Bland, Buchanan, Russell (part), and Tazewell
93	Mullin, Michael P. (D)	Counties of James City (part) and York (part); Cities of Newport News (part) and Williamsburg
2	Mundon King, Candi (D)	Counties of Prince William (part) and Stafford (part)
34	Murphy, Kathleen J. (D)	Counties of Fairfax (part) and Loudoun (part)
5	O'Quinn, Israel D. (R)	Counties of Grayson, Smyth (part), and Washington (part); Cities of Bristol and Galax
54	Orrock, Robert D., Sr. (R)	Counties of Caroline (part) and Spotsylvania (part)
36	Plum, Kenneth R. (D)	County of Fairfax (part)
95	Price, Marcia S. (D)	City of Newport News (part)
99	Ransone, Margaret B. (R)	Counties of Caroline (part), King George, Lancaster, Northumberland, Richmond, and Westmoreland
11	Rasoul, Sam (D)	City of Roanoke (part)
32	Reid, David A. (D)	County of Loudoun (part)
27	Robinson, Roxann L. (R)	County of Chesterfield (part)
13	Roem, Danica A. (D)	County of Prince William (part); City of Manassas Park
25	Runion, Chris (R)	Counties of Albemarle (part), Augusta (part), and Rockingham (part)
80	Scott, Don (D)	City of Portsmouth (part)

THE HOUSE OF DELEGATES
2023 REGULAR SESSION

District Number	Name	County and/or City Represented
88	Scott, Phillip A. (R)	Counties of Fauquier (part), Spotsylvania (part), and Stafford (part); City of Fredericksburg (part)
35	Seibold, Holly M. (D)	County of Fairfax (part)
51	Sewell, Briana D. (D)	County of Prince William (part)
86	Shin, Irene (D)	Counties of Fairfax (part) and Loudoun (part)
43	Sickles, Mark D. (D)	County of Fairfax (part)
53	Simon, Marcus B. (D)	County of Fairfax (part); City of Falls Church
94	Simonds, Shelly A. (D)	City of Newport News (part)
87	Subramanyam, Suhas (D)	Counties of Loudoun (part) and Prince William (part)
48	Sullivan, Richard C., Jr. (D)	Counties of Arlington (part) and Fairfax (part)
82	Tata, Anne Ferrell H. (R)	City of Virginia Beach (part)
63	Taylor, Kimberly A. (R)	Counties of Chesterfield (part) and Dinwiddie; City of Petersburg
52	Torian, Luke E. (D)	County of Prince William (part)
42	Tran, Kathy KL (D)	County of Fairfax (part)
72	VanValkenburg, Schuyler T. (D)	County of Henrico (part)
75	Wachsmann, Howard Otto, Jr. (R)	Counties of Brunswick, Greensville, Lunenburg (part), Southampton, and Sussex; Cities of Emporia and Franklin
23	Walker, Wendell S. (R)	Counties of Amherst (part) and Bedford (part); City of Lynchburg (part)
4	Wampler, William C., III (R)	Counties of Dickenson, Russell (part), Washington (part), and Wise (part)
92	Ward, Jeion A. (D)	City of Hampton (part)
65	Ware, R. Lee (R)	Counties of Chesterfield (part), Fluvanna (part), Goochland (part), and Powhatan
39	Watts, Vivian E. (D)	County of Fairfax (part)
18	Webert, Michael J. (R)	Counties of Culpeper (part), Fauquier (part), Rappahannock, and Warren (part)
29	Wiley, William D. (R)	Counties of Frederick (part) and Warren (part); City of Winchester
73	Willett, Rodney T. (D)	County of Henrico (part)
9	Williams, Wren M. (R)	Counties of Franklin (part), Henry (part), and Patrick
90	Williams Graves, Angelia (D)	City of Norfolk (part)
26	Wilt, Tony O. (R)	County of Rockingham (part); City of Harrisonburg

THE HOUSE OF DELEGATES
2023 REGULAR SESSION

District Number	Name	County and/or City Represented
61	Wright, Thomas C., Jr. (R)	Counties of Amelia, Cumberland, Lunenburg (part), Mecklenburg, and Nottoway
97	Wyatt, Scott A. (R)	Counties of Hanover (part), King William (part), and New Kent

†Resigned March 17, 2023
††Resigned April 3, 2023
†††Resigned April 12, 2023
††††Resigned April 25, 2023

THE SENATE
2023 REGULAR SESSION

District Number	Name	County and/or City Represented
9	Bagby, Lamont (D)‡	Counties of Charles City, Hanover (part), and Henrico (part); City of Richmond (part)
39	Barker, George L. (D)	Counties of Fairfax (part) and Prince William (part); City of Alexandria (part)
13	Bell, John J. (D)	Counties of Loudoun (part) and Prince William (part)
33	Boysko, Jennifer B. (D)	Counties of Fairfax (part) and Loudoun (part)
11	Chase, Amanda F. (R)	Counties of Amelia and Chesterfield (part); City of Colonial Heights
14	Cosgrove, John A., Jr. (R)	Counties of Isle of Wight (part) and Southampton (part); Cities of Chesapeake (part), Franklin (part), Portsmouth (part), Suffolk (part), and Virginia Beach (part)
25	Deeds, R. Creigh (D)	Counties of Albemarle (part), Alleghany, Bath, Highland, Nelson, and Rockbridge; Cities of Buena Vista, Charlottesville, Covington, and Lexington
8	DeSteph, Bill (R)	City of Virginia Beach (part)
12	Dunnavant, Siobhan S. (R)	Counties of Hanover (part) and Henrico (part)
30	Ebbin, Adam P. (D)	Counties of Arlington (part) and Fairfax (part); City of Alexandria (part)
21	Edwards, John S. (D)	Counties of Giles, Montgomery (part), and Roanoke (part); City of Roanoke
31	Favola, Barbara A. (D)	Counties of Arlington (part), Fairfax (part), and Loudoun (part)
38	Hackworth, T. Travis (R)	Counties of Bland, Buchanan, Dickenson, Montgomery (part), Pulaski, Russell, Smyth (part), Tazewell, and Wise (part); Cities of Norton and Radford
24	Hanger, Emmett W., Jr. (R)	Counties of Augusta, Culpeper (part), Greene, Madison, and Rockingham (part); Cities of Staunton and Waynesboro
10	Hashmi, Ghazala F. (D)	Counties of Chesterfield (part) and Powhatan; City of Richmond (part)
32	Howell, Janet D. (D)	Counties of Arlington (part) and Fairfax (part)
6	Lewis, Lynwood W., Jr. (D)	Counties of Accomack, Mathews, and Northampton; Cities of Norfolk (part) and Virginia Beach (part)
2	Locke, Mamie E. (D)	County of York (part); Cities of Hampton (part), Newport News (part), and Portsmouth (part)
18	Lucas, L. Louise (D)	Counties of Brunswick (part), Greensville, Isle of Wight (part), Southampton (part), Surry (part), and Sussex; Cities of Chesapeake (part), Emporia, Franklin (part), Portsmouth (part), and Suffolk (part)

THE SENATE
2023 REGULAR SESSION

District Number	Name	County and/or City Represented
37	Marsden, David W. (D)	County of Fairfax (part)
1	Mason, T. Montgomery (D)	Counties of James City (part) and York (part); Cities of Hampton (part), Newport News (part), Suffolk (part), and Williamsburg
9	McClellan, Jennifer L. (D)†	Counties of Charles City, Hanover (part), and Henrico (part); City of Richmond (part)
4	McDougle, Ryan T. (R)	Counties of Caroline, Essex, Hanover (part), King George (part), Lancaster, Middlesex, Northumberland, Richmond, Spotsylvania (part), and Westmoreland (part)
29	McPike, Jeremy S. (D)	County of Prince William (part); Cities of Manassas and Manassas Park
16	Morrissey, Joseph D. (D)	Counties of Chesterfield (part), Dinwiddie (part), and Prince George (part); Cities of Hopewell, Petersburg, and Richmond (part)
23	Newman, Stephen D. (R)	Counties of Bedford (part), Botetourt, Campbell (part), Craig, and Roanoke (part); City of Lynchburg (part)
3	Norment, Thomas K., Jr. (R)	Counties of Gloucester, Isle of Wight (part), James City (part), King and Queen, King William, New Kent, Surry (part), and York (part); Cities of Hampton (part), Poquoson, and Suffolk (part)
26	Obenshain, Mark D. (R)	Counties of Page, Rappahannock, Rockingham (part), Shenandoah, and Warren; City of Harrisonburg
22	Peake, Mark J. (R)	Counties of Amherst, Appomattox, Buckingham, Cumberland, Fluvanna, Goochland, Louisa (part), and Prince Edward; City of Lynchburg (part)
34	Petersen, J. Chapman (D)	County of Fairfax (part); City of Fairfax
40	Pillion, Todd E. (R)	Counties of Grayson, Lee, Scott, Smyth (part), Washington, Wise (part), and Wythe (part); City of Bristol
17	Reeves, Bryce E. (R)	Counties of Albemarle (part), Culpeper (part), Louisa (part), Orange, and Spotsylvania (part); City of Fredericksburg
7	Rouse, Aaron R. (D)	Cities of Norfolk (part) and Virginia Beach (part)
15	Ruff, Frank M., Jr. (R)	Counties of Brunswick (part), Campbell (part), Charlotte, Dinwiddie (part), Halifax (part), Lunenburg, Mecklenburg, Nottoway, Pittsylvania (part), and Prince George (part); City of Danville (part)
35	Saslaw, Richard L. (D)	County of Fairfax (part); Cities of Alexandria (part) and Falls Church
5	Spruill, Lionell, Sr. (D)	Cities of Chesapeake (part) and Norfolk (part)

THE SENATE
2023 REGULAR SESSION

District Number	Name	County and/or City Represented
20	Stanley, William M., Jr. (R)	Counties of Carroll (part), Franklin (part), Halifax (part), Henry, Patrick, and Pittsylvania (part); Cities of Danville (part), Galax, and Martinsville
28	Stuart, Richard H. (R)	Counties of King George (part), Prince William (part), Spotsylvania (part), Stafford (part), and Westmoreland (part)
19	Suetterlein, David R. (R)	Counties of Bedford (part), Carroll (part), Floyd, Franklin (part), Montgomery (part), Roanoke (part), and Wythe (part); City of Salem
36	Surovell, Scott A. (D)	Counties of Fairfax (part), Prince William (part), and Stafford (part)
27	Vogel, Jill Holtzman (R)	Counties of Clarke, Culpeper (part), Fauquier, Frederick, Loudoun (part), and Stafford (part); City of Winchester

†Resigned March 7, 2023
‡Elected to fill vacancy of Jennifer L. McClellan. Sworn in April 12, 2023.

SENATORS AND DELEGATES BY COUNTIES
2023 REGULAR SESSION

COUNTIES	SENATORS	DELEGATES
Accomack	Lynwood W. Lewis, Jr. (D)	Robert S. Bloxom, Jr. (R)
Albemarle	R. Creigh Deeds (D)	Robert B. Bell (R)
	Bryce E. Reeves (R)	C. Matthew Fariss (R)
		Sally L. Hudson (D)
		Chris Runion (R)
Alleghany	R. Creigh Deeds (D)	Terry L. Austin (R)
Amelia	Amanda F. Chase (R)	Thomas C. Wright, Jr. (R)
Amherst	Mark J. Peake (R)	Ellen H. Campbell (R)
		Wendell S. Walker (R)
Appomattox	Mark J. Peake (R)	C. Matthew Fariss (R)
Arlington	Adam P. Ebbin (D)	Elizabeth B. Bennett-Parker (D)
	Barbara A. Favola (D)	Patrick A. Hope (D)
	Janet D. Howell (D)	Alfonso H. Lopez (D)
		Richard C. Sullivan, Jr. (D)
Augusta	Emmett W. Hanger, Jr. (R)	G. John Avoli (R)
		Ellen H. Campbell (R)
		Chris Runion (R)
Bath	R. Creigh Deeds (D)	Ellen H. Campbell (R)
Bedford	Stephen D. Newman (R)	Terry L. Austin (R)
	David R. Suetterlein (R)	Kathy J. Byron (R)
		Wendell S. Walker (R)
Bland	T. Travis Hackworth (R)	James W. Morefield (R)
Botetourt	Stephen D. Newman (R)	Terry L. Austin (R)
		Christopher T. Head (R)
Brunswick	L. Louise Lucas (D)	Howard Otto Wachsmann, Jr. (R)
	Frank M. Ruff, Jr. (R)	
Buchanan	T. Travis Hackworth (R)	James W. Morefield (R)
Buckingham	Mark J. Peake (R)	C. Matthew Fariss (R)
Campbell	Stephen D. Newman (R)	Kathy J. Byron (R)
	Frank M. Ruff, Jr. (R)	James E. Edmunds II (R)
		C. Matthew Fariss (R)
Caroline	Ryan T. McDougle (R)	Hyland F. Fowler, Jr. (R)
		Robert D. Orrock, Sr. (R)
		Margaret B. Ransone (R)
Carroll	William M. Stanley, Jr. (R)	Jeffrey L. Campbell (R)
	David R. Suetterlein (R)	
Charles City	Lamont Bagby (D)‡	Delores L. McQuinn (D)
	Jennifer L. McClellan (D)††	
Charlotte	Frank M. Ruff, Jr. (R)	James E. Edmunds II (R)
Chesterfield	Amanda F. Chase (R)	Dawn M. Adams (D)
	Ghazala F. Hashmi (D)	Mike A. Cherry (R)
	Joseph D. Morrissey (D)	Carrie E. Coyner (R)
		Delores L. McQuinn (D)
		Roxann L. Robinson (R)
		Kimberly A. Taylor (R)
		R. Lee Ware (R)
Clarke	Jill Holtzman Vogel (R)	Gwendolyn W. Gooditis (D)
		David A. LaRock (R)
Craig	Stephen D. Newman (R)	Joseph P. McNamara (R)
Culpeper	Emmett W. Hanger, Jr. (R)	Nicholas J. Freitas (R)
	Bryce E. Reeves (R)	Michael J. Webert (R)
	Jill Holtzman Vogel (R)	
Cumberland	Mark J. Peake (R)	Thomas C. Wright, Jr. (R)
Dickenson	T. Travis Hackworth (R)	William C. Wampler III (R)

SENATORS AND DELEGATES BY COUNTIES
2023 REGULAR SESSION

COUNTIES	SENATORS	DELEGATES
Dinwiddie	Joseph D. Morrissey (D)	Kimberly A. Taylor (R)
	Frank M. Ruff, Jr. (R)	
Essex	Ryan T. McDougle (R)	M. Keith Hodges (R)
Fairfax	George L. Barker (D)	Elizabeth B. Bennett-Parker (D)
	Jennifer B. Boysko (D)	David L. Bulova (D)
	Adam P. Ebbin (D)	Karrie K. Delaney (D)
	Barbara A. Favola (D)	Eileen Filler-Corn (D)
	Janet D. Howell (D)	Daniel I. Helmer (D)
	David W. Marsden (D)	Kaye Kory (D)
	J. Chapman Petersen (D)	Paul E. Krizek (D)
	Richard L. Saslaw (D)	Alfonso H. Lopez (D)
	Scott A. Surovell (D)	Kathleen J. Murphy (D)
		Kenneth R. Plum (D)
		Holly M. Seibold (D)
		Irene Shin (D)
		Mark D. Sickles (D)
		Marcus B. Simon (D)
		Richard C. Sullivan, Jr. (D)
		Kathy KL Tran (D)
		Vivian E. Watts (D)
Fauquier	Jill Holtzman Vogel (R)	Phillip A. Scott (R)
		Elizabeth R. Guzman (D)
		Michael J. Webert (R)
Floyd	David R. Suetterlein (R)	Marie E. March (R)
Fluvanna	Mark J. Peake (R)	Robert B. Bell (R)
		R. Lee Ware (R)
Franklin	William M. Stanley, Jr. (R)	Kathy J. Byron (R)
	David R. Suetterlein (R)	Wren M. Williams (R)
Frederick	Jill Holtzman Vogel (R)	Gwendolyn W. Gooditis (D)
		David A. LaRock (R)
		William D. Wiley (R)
Giles	John S. Edwards (D)	Jason S. Ballard (R)
Gloucester	Thomas K. Norment, Jr. (R)	M. Keith Hodges (R)
Goochland	Mark J. Peake (R)	John J. McGuire III (R)
		R. Lee Ware (R)
Grayson	Todd E. Pillion (R)	Israel D. O'Quinn (R)
Greene	Emmett W. Hanger, Jr. (R)	Robert B. Bell (R)
Greensville	L. Louise Lucas (D)	Howard Otto Wachsmann, Jr. (R)
Halifax	Frank M. Ruff, Jr. (R)	James E. Edmunds II (R)
	William M. Stanley, Jr. (R)	
Hanover	Lamont Bagby (D)‡	Hyland F. Fowler, Jr. (R)
	Siobhan S. Dunnavant (R)	Scott A. Wyatt (R)
	Jennifer L. McClellan (D)††	
	Ryan T. McDougle (R)	
Henrico	Lamont Bagby (D)‡	Dawn M. Adams (D)
	Siobhan S. Dunnavant (R)	Lamont Bagby (D)†
	Jennifer L. McClellan (D)††	John J. McGuire III (R)
		Delores L. McQuinn (D)
		Schuyler T. VanValkenburg (D)
		Rodney T. Willett (D)
Henry	William M. Stanley, Jr. (R)	Leslie R. Adams (R)
		Daniel W. Marshall III (R)
		Wren M. Williams (R)
Highland	R. Creigh Deeds (D)	G. John Avoli (R)

SENATORS AND DELEGATES BY COUNTIES
2023 REGULAR SESSION

COUNTIES	SENATORS	DELEGATES
Isle of Wight	John A. Cosgrove, Jr. (R)	Emily M. Brewer (R)
	L. Louise Lucas (D)	
	Thomas K. Norment, Jr. (R)	
James City	T. Montgomery Mason (D)	Amanda E. Batten (R)
	Thomas K. Norment, Jr. (R)	Michael P. Mullin (D)
King and Queen	Thomas K. Norment, Jr. (R)	M. Keith Hodges (R)
King George	Ryan T. McDougle (R)	Margaret B. Ransone (R)
	Richard H. Stuart (R)	
King William	Thomas K. Norment, Jr. (R)	M. Keith Hodges (R)
		Scott A. Wyatt (R)
Lancaster	Ryan T. McDougle (R)	Margaret B. Ransone (R)
Lee	Todd E. Pillion (R)	Terry G. Kilgore (R)
Loudoun	John J. Bell (D)	Karrie K. Delaney (D)
	Jennifer B. Boysko (D)	Gwendolyn W. Gooditis (D)
	Barbara A. Favola (D)	David A. LaRock (R)
	Jill Holtzman Vogel (R)	Kathleen J. Murphy (D)
		David A. Reid (D)
		Irene Shin (D)
		Suhas Subramanyam (D)
Louisa	Mark J. Peake (R)	John J. McGuire III (R)
	Bryce E. Reeves (R)	
Lunenburg	Frank M. Ruff, Jr. (R)	Howard Otto Wachsmann, Jr. (R)
		Thomas C. Wright, Jr. (R)
Madison	Emmett W. Hanger, Jr. (R)	Nicholas J. Freitas (R)
Mathews	Lynwood W. Lewis, Jr. (D)	M. Keith Hodges (R)
Mecklenburg	Frank M. Ruff, Jr. (R)	Thomas C. Wright, Jr. (R)
Middlesex	Ryan T. McDougle (R)	M. Keith Hodges (R)
Montgomery	John S. Edwards (D)	Jason S. Ballard (R)
	T. Travis Hackworth (R)	Marie E. March (R)
	David R. Suetterlein (R)	Joseph P. McNamara (R)
Nelson	R. Creigh Deeds (D)	G. John Avoli (R)
		C. Matthew Fariss (R)
New Kent	Thomas K. Norment, Jr. (R)	Scott A. Wyatt (R)
Northampton	Lynwood W. Lewis, Jr. (D)	Robert S. Bloxom, Jr. (R)
Northumberland	Ryan T. McDougle (R)	Margaret B. Ransone (R)
Nottoway	Frank M. Ruff, Jr. (R)	Thomas C. Wright, Jr. (R)
Orange	Bryce E. Reeves (R)	Nicholas J. Freitas (R)
Page	Mark D. Obenshain (R)	C. Todd Gilbert (R)
Patrick	William M. Stanley, Jr. (R)	Wren M. Williams (R)
Pittsylvania	Frank M. Ruff, Jr. (R)	Leslie R. Adams (R)
	William M. Stanley, Jr. (R)	Daniel W. Marshall III (R)
Powhatan	Ghazala F. Hashmi (D)	R. Lee Ware (R)
Prince Edward	Mark J. Peake (R)	James E. Edmunds II (R)
Prince George	Joseph D. Morrissey (D)	Emily M. Brewer (R)
	Frank M. Ruff, Jr. (R)	Carrie E. Coyner (R)
Prince William	George L. Barker (D)	Elizabeth R. Guzman (D)
	John J. Bell (D)	Daniel I. Helmer (D)
	Jeremy S. McPike (D)	Michelle Lopes Maldonado (D)
	Richard H. Stuart (R)	Candi Mundon King (D)
	Scott A. Surovell (D)	Danica A. Roem (D)
		Briana D. Sewell (D)
		Suhas Subramanyam (D)
		Luke E. Torian (D)

SENATORS AND DELEGATES BY COUNTIES
2023 REGULAR SESSION

COUNTIES	SENATORS	DELEGATES
Pulaski	T. Travis Hackworth (R)	Jason S. Ballard (R)
		Marie E. March (R)
Rappahannock	Mark D. Obenshain (R)	Michael J. Webert (R)
Richmond	Ryan T. McDougle (R)	Margaret B. Ransone (R)
Roanoke	John S. Edwards (D)	Christopher T. Head (R)
	Stephen D. Newman (R)	Joseph P. McNamara (R)
	David R. Suetterlein (R)	
Rockbridge	R. Creigh Deeds (D)	Ellen H. Campbell (R)
Rockingham	Emmett W. Hanger, Jr. (R)	Robert B. Bell (R)
	Mark D. Obenshain (R)	C. Todd Gilbert (R)
		Chris Runion (R)
		Tony O. Wilt (R)
Russell	T. Travis Hackworth (R)	James W. Morefield (R)
		William C. Wampler III (R)
Scott	Todd E. Pillion (R)	Terry G. Kilgore (R)
Shenandoah	Mark D. Obenshain (R)	C. Todd Gilbert (R)
Smyth	T. Travis Hackworth (R)	Jeffrey L. Campbell (R)
	Todd E. Pillion (R)	Israel D. O'Quinn (R)
Southampton	John A. Cosgrove, Jr. (R)	Howard Otto Wachsmann, Jr. (R)
	L. Louise Lucas (D)	
Spotsylvania	Ryan T. McDougle (R)	Phillip A. Scott (R)
	Bryce E. Reeves (R)	Hyland F. Fowler, Jr. (R)
	Richard H. Stuart (R)	John J. McGuire III (R)
		Robert D. Orrock, Sr. (R)
Stafford	Richard H. Stuart (R)	Tara A. Durant (R)
	Scott A. Surovell (D)	Candi Mundon King (D)
	Jill Holtzman Vogel (R)	Phillip A. Scott (R)
Surry	L. Louise Lucas (D)	Emily M. Brewer (R)
	Thomas K. Norment, Jr. (R)	
Sussex	L. Louise Lucas (D)	Howard Otto Wachsmann, Jr. (R)
Tazewell	T. Travis Hackworth (R)	James W. Morefield (R)
Warren	Mark D. Obenshain (R)	C. Todd Gilbert (R)
		Michael J. Webert (R)
		William D. Wiley (R)
Washington	Todd E. Pillion (R)	Israel D. O'Quinn (R)
		William C. Wampler III (R)
Westmoreland	Ryan T. McDougle (R)	Margaret B. Ransone (R)
	Richard H. Stuart (R)	
Wise	T. Travis Hackworth (R)	Terry G. Kilgore (R)
	Todd E. Pillion (R)	William C. Wampler III (R)
Wythe	Todd E. Pillion (R)	Jeffrey L. Campbell (R)
	David R. Suetterlein (R)	
York	Mamie E. Locke (D)	Amanda E. Batten (R)
	T. Montgomery Mason (D)	A.C. Cordoza (R)
	Thomas K. Norment, Jr. (R)	Michael P. Mullin (D)

†Resigned April 12, 2023
††Resigned March 7, 2023
‡Elected to fill vacancy of Jennifer L. McClellan. Sworn in April 12, 2023.

SENATORS AND DELEGATES BY CITIES
2023 REGULAR SESSION

CITIES	SENATORS	DELEGATES
Alexandria	George L. Barker (D)	Elizabeth B. Bennett-Parker (D)
	Adam P. Ebbin (D)	Charniele L. Herring (D)
	Richard L. Saslaw (D)	
Bristol	Todd E. Pillion (R)	Israel D. O'Quinn (R)
Buena Vista	R. Creigh Deeds (D)	Ellen H. Campbell (R)
Charlottesville	R. Creigh Deeds (D)	Sally L. Hudson (D)
Chesapeake	John A. Cosgrove, Jr. (R)	Nadarius E. Clark (D)†
	L. Louise Lucas (D)	Kelly K. Convirs-Fowler (D)
	Lionell Spruill, Sr. (D)	C.E. Hayes, Jr. (D)
		Clinton L. Jenkins (D)
		Barry D. Knight (R)
		James A. Leftwich, Jr. (R)
Colonial Heights	Amanda F. Chase (R)	Mike A. Cherry (R)
Covington	R. Creigh Deeds (D)	Terry L. Austin (R)
Danville	Frank M. Ruff, Jr. (R)	Daniel W. Marshall III (R)
	William M. Stanley, Jr. (R)	
Emporia	L. Louise Lucas (D)	Howard Otto Wachsmann, Jr. (R)
Fairfax	J. Chapman Petersen (D)	David L. Bulova (D)
Falls Church	Richard L. Saslaw (D)	Marcus D. Simon (D)
Franklin	John A. Cosgrove, Jr. (R)	Howard Otto Wachsmann, Jr. (R)
	L. Louise Lucas (D)	
Fredericksburg	Bryce E. Reeves (R)	Tara A. Durant (R)
		Phillip A. Scott (R)
Galax	William M. Stanley, Jr. (R)	Israel D. O'Quinn (R)
Hampton	Mamie E. Locke (D)	A.C. Cordoza (R)
	T. Montgomery Mason (D)	Jeion A. Ward (D)
	Thomas K. Norment, Jr. (R)	
Harrisonburg	Mark D. Obenshain (R)	Tony O. Wilt (R)
Hopewell	Joseph D. Morrissey (D)	Carrie E. Coyner (R)
Lexington	R. Creigh Deeds (D)	Ellen H. Campbell (R)
Lynchburg	Stephen D. Newman (R)	Kathy J. Byron (R)
	Mark J. Peake (R)	Wendell S. Walker (R)
Manassas	Jeremy S. McPike (D)	Michelle Lopes Maldonado (D)
Manassas Park	Jeremy S. McPike (D)	Danica A. Roem (D)
Martinsville	William M. Stanley, Jr. (R)	Leslie R. Adams (R)
Newport News	Mamie E. Locke (D)	Michael P. Mullin (D)
	T. Montgomery Mason (D)	Marcia S. Price (D)
		Shelly A. Simonds (D)
Norfolk	Lynwood W. Lewis, Jr. (D)	Timothy V. Anderson (R)††
	Aaron R. Rouse (D)	Robert S. Bloxom, Jr. (R)
	Lionell Spruill, Sr. (D)	Nadarius E. Clark (D)†
		Jackie Hope Glass (D)
		Angelia Williams Graves (D)
Norton	T. Travis Hackworth (R)	Terry G. Kilgore (R)
Petersburg	Joseph D. Morrissey (D)	Kimberly A. Taylor (R)
Poquoson	Thomas K. Norment, Jr. (R)	A.C. Cordoza (R)
Portsmouth	John A. Cosgrove, Jr. (R)	Nadarius E. Clark (D)†
	Mamie E. Locke (D)	Don Scott (D)
	L. Louise Lucas (D)	
Radford	T. Travis Hackworth (R)	Jason S. Ballard (R)
Richmond	Lamont Bagby (D)‡	Dawn M. Adams (D)
	Ghazala F. Hashmi (D)	Jeffrey M. Bourne (D)
	Jennifer L. McClellan (D)††††	Betsy B. Carr (D)
	Joseph D. Morrissey (D)	Delores L. McQuinn (D)
Roanoke	John S. Edwards (D)	Christopher T. Head (R)
		Sam Rasoul (D)
Salem	David R. Suetterlein (R)	Joseph P. McNamara (R)
Staunton	Emmett W. Hanger, Jr. (R)	G. John Avoli (R)

SENATORS AND DELEGATES BY CITIES
2023 REGULAR SESSION

CITIES	SENATORS	DELEGATES
Suffolk	John A. Cosgrove, Jr. (R)	Emily M. Brewer (R)
	L. Louise Lucas (D)	Clinton L. Jenkins (D)
	T. Montgomery Mason (D)	
	Thomas K. Norment, Jr. (R)	
Virginia Beach	John A. Cosgrove, Jr. (R)	Timothy V. Anderson (R)††
	Bill DeSteph (R)	Robert S. Bloxom, Jr. (R)
	Lynwood W. Lewis, Jr. (D)	Kelly K. Convirs-Fowler (D)
	Aaron R. Rouse (D)	Glenn R. Davis, Jr. (R)†††
		Karen S. Greenhalgh (R)
		Barry D. Knight (R)
		Anne Ferrell H. Tata (R)
Waynesboro	Emmett W. Hanger, Jr. (R)	G. John Avoli (R)
Williamsburg	T. Montgomery Mason (D)	Michael P. Mullin (D)
Winchester	Jill Holtzman Vogel (R)	William D. Wiley (R)

†Resigned March 17, 2023
††Resigned April 3, 2023
†††Resigned April 25, 2023
††††Resigned March 7, 2023
‡Elected to fill vacancy of Jennifer L. McClellan. Sworn in April 12, 2023.

COUNTIES AND CITIES--RANKED BY POPULATION

United States Census of 2020 (As of December 21, 2021)

Population	County
2,232	Highland
4,209	Bath
4,892	Craig
6,270	Bland
6,608	King and Queen
6,651	Surry
6,773	Charles City
7,348	Rappahannock
8,533	Mathews
8,923	Richmond
9,675	Cumberland
10,599	Essex
10,625	Middlesex
10,829	Sussex
10,919	Lancaster
11,391	Greensville
11,529	Charlotte
11,839	Northumberland
11,936	Lunenburg
12,282	Northampton
13,265	Amelia
13,837	Madison
14,124	Dickenson
14,775	Nelson
14,783	Clarke
15,233	Alleghany
15,333	Grayson
15,476	Floyd
15,642	Nottoway
15,849	Brunswick
16,119	Appomattox
16,787	Giles
16,824	Buckingham
17,608	Patrick
17,810	King William
17,996	Southampton
18,477	Westmoreland
20,355	Buchanan
20,552	Greene
21,576	Scott
21,849	Prince Edward
22,173	Lee
22,650	Rockbridge
22,945	New Kent
23,709	Page
24,727	Goochland
25,781	Russell
27,249	Fluvanna
27,947	Dinwiddie
26,723	King George
28,290	Wythe
29,155	Carroll
29,800	Smyth
30,319	Mecklenburg
30,333	Powhatan
30,887	Caroline
31,307	Amherst
33,413	Accomack
33,596	Botetourt
33,800	Pulaski
34,022	Halifax
36,130	Wise
36,254	Orange
37,596	Louisa
38,606	Isle of Wight
38,711	Gloucester
40,429	Tazewell
40,727	Warren
43,010	Prince George
44,186	Shenandoah
50,948	Henry
52,552	Culpeper
53,935	Washington
54,477	Franklin
55,696	Campbell
60,501	Pittsylvania
70,045	York
72,972	Fauquier
77,487	Augusta
78,254	James City
79,462	Bedford
83,757	Rockingham
91,419	Frederick
96,929	Roanoke
99,721	Montgomery
109,979	Hanover
112,395	Albemarle
140,032	Spotsylvania
156,927	Stafford
238,643	Arlington
334,389	Henrico
364,548	Chesterfield
420,959	Loudoun
482,204	Prince William
1,150,309	Fairfax

Population	Cities
3,687	Norton
5,737	Covington
5,766	Emporia
6,641	Buena Vista
6,657	Bedford*
6,720	Galax
7,320	Lexington
8,180	Franklin
12,460	Poquoson
13,485	Martinsville
14,658	Falls Church
15,425	Williamsburg
16,070	Radford
17,219	Manassas Park
17,219	Bristol
18,170	Colonial Heights
22,196	Waynesboro
23,033	Hopewell
25,346	Salem
25,750	Staunton
24,146	Fairfax
27,982	Fredericksburg
28,120	Winchester
33,458	Petersburg
42,590	Danville
42,772	Manassas
46,553	Charlottesville
51,814	Harrisonburg
79,009	Lynchburg
94,324	Suffolk
97,915	Portsmouth
100,011	Roanoke
137,148	Hampton
159,467	Alexandria
186,247	Newport News
226,610	Richmond
238,005	Norfolk
249,422	Chesapeake
459,470	Virginia Beach

COUNTIES AND CITIES--LAND AREA AND POPULATION

United States Census of 2020 (December 21, 2021)

COUNTIES	Land Area in Square Miles	Population	COUNTIES	Land Area in Square Miles	Population
Accomack	449	33,413	Pittsylvania	969	60,501
Albemarle	720	112,395	Powhatan	260	30,333
Alleghany	446	15,233	Prince Edward	350	21,849
Amelia	355	13,265	Prince George	265	43,010
Amherst	474	31,307	Prince William	336	482,204
Appomattox	334	16,119	Pulaski	320	33,800
Arlington	26	238,643	Rappahannock	266	7,348
Augusta	967	77,487	Richmond	191	8,923
Bath	529	4,209	Roanoke	251	96,929
Bedford	760	79,462	Rockbridge	596	22,650
Bland	358	6,270	Rockingham	850	83,757
Botetourt	541	33,596	Russell	473	25,781
Brunswick	566	15,849	Scott	536	21,576
Buchanan	503	20,355	Shenandoah	508	44,186
Buckingham	580	16,824	Smyth	451	29,800
Campbell	503	55,696	Southampton	599	17,996
Caroline	528	30,887	Spotsylvania	401	140,032
Carroll	475	29,155	Stafford	269	156,927
Charles City	183	6,773	Surry	279	6,651
Charlotte	475	11,529	Sussex	490	10,829
Chesterfield	423	364,548	Tazewell	519	40,429
Clarke	176	14,783	Warren	215	40,727
Craig	328	4,892	Washington	561	53,935
Culpeper	379	52,552	Westmoreland	229	18,477
Cumberland	297	9,675	Wise	403	36,130
Dickenson	330	14,124	Wythe	462	28,290
Dinwiddie	504	27,947	York	105	70,045
Essex	257	10,599			
Fairfax	391	1,150,309			
Fauquier	648	72,972	**CITIES**		
Floyd	381	15,476	Alexandria	15	159,467
Fluvanna	287	27,249	Bristol	13	17,219
Franklin	690	54,477	Buena Vista	6	6,641
Frederick	413	91,419	Charlottesville	10	46,553
Giles	357	16,787	Chesapeake	338	249,422
Gloucester	218	38,711	Colonial Heights	8	18,170
Goochland	281	24,727	Covington	5	5,737
Grayson	442	15,333	Danville	43	42,590
Greene	156	20,552	Emporia	7	5,766
Greensville	295	11,391	Fairfax	6	24,146
Halifax	818	34,022	Falls Church	2	14,658
Hanover	469	109,979	Franklin	8	8,180
Henrico	234	334,389	Fredericksburg	10	27,982
Henry	382	50,948	Galax	8	6,720
Highland	415	2,232	Hampton	51	137,148
Isle of Wight	315	38,606	Harrisonburg	17	51,814
James City	142	78,254	Hopewell	10	23,033
King and Queen	315	6,608	Lexington	2	7,320
King George	180	26,723	Lynchburg	49	79,009
King William	273	17,810	Manassas	10	42,772
Lancaster	133	10,919	Manassas Park	3	17,219
Lee	435	22,173	Martinsville	11	13,485
Loudoun	515	420,959	Newport News	69	186,247
Louisa	496	37,596	Norfolk	53	238,005
Lunenburg	431	11,936	Norton	7	3,687
Madison	320	13,837	Petersburg	23	33,458
Mathews	86	8,533	Poquoson	15	12,460
Mecklenburg	625	30,319	Portsmouth	33	97,915
Middlesex	130	10,625	Radford	10	16,070
Montgomery	387	99,721	Richmond	60	226,610
Nelson	471	14,775	Roanoke	43	100,011
New Kent	210	22,945	Salem	14	25,346
Northampton	212	12,282	Staunton	20	25,750
Northumberland	191	11,839	Suffolk	399	94,324
Nottoway	314	15,642	Virginia Beach	245	459,470
Orange	341	36,254	Waynesboro	15	22,196
Page	310	23,709	Williamsburg	9	15,425
Patrick	483	17,608	Winchester	9	28,120

Population of Virginia, 2020 Census, 8,631,393.

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Table of Titles

CODE OF VIRGINIA

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